

South Maui Citizens for Responsible Growth
a Hawaii nonprofit corporation
4320 E. Waiola Loop
Kihei, Hawaii 96753
(808) 874-3839

May 2, 2012

Mr. Ken Tatsuguchi
Head Planning Engineer
Planning Branch
Hawaii State Department of Transportation
869 Punchbowl Street, Room 301
Honolulu, HI 96813

Mr. Ferdinand Cajigal
Engineering Program Manager
650 Palapala Drive
Kahului, HI 96732

Ms. Charlene Shibuya
650 Palapala Drive
Kahului, HI 96732

RE: Pi'ilani Promenade Shopping Centers, Intersection of Pi'ilani
Highway and Kaonoulu Street

Dear Mr. Tatsuguchi, Mr., Cajigal and Ms. Shibuya,

I am writing to you on behalf of South Maui Citizens for Responsible Growth (SMCRG), a Hawaii nonprofit corporation dedicated to achieving smart growth for our community. SMCRG is deeply concerned about the above-mentioned highway improvements associated with construction of two huge shopping malls at the intersection of Pi'ilani Highway and Kaonoulu Street. The shopping malls are classic examples of urban sprawl eschewed in the Countywide Policy Plan adopted by Maui County two years ago. Making matters worse, the public has been denied any opportunity to weigh in on the appropriateness of the malls.

You may not be aware that the shopping mall property is subject to a decision and order made by the Hawaii Land Use Commission in 1995 that specifically conditions development of the land into a light industrial park, not retail shopping malls. Additionally, condition 5 of that order, which remains in effect, has not been modified or removed and is recorded against the property, requires construction of connector and frontage roads to create connectivity with other parcels of land on the mauka side of the highway. The Land Use Commission imposed this condition explicitly to reduce traffic on Pi'ilani Highway and to benefit the community in other ways, such as by providing a

“Q. (By Mr. Luna): Mr. Rice, I just had one or two final questions. I guess concern on maybe others in the room would be that the ranch would not be directly involved if a sale does take place with a developer. Can you make a commitment that the ranch will still be involved to make sure that all these conditions that may be imposed will be carried out?

“A. The ranch would absolutely make that commitment. It’s to our advantage that we keep the integrity of the park as we have been talking about with respect to the integrity of the properties we have around it for some generation after me, I presume.” (R.T., 128:23 – 129:9.)

Upon granting the petition for a boundary line amendment, the Land Use Commission imposed six conditions (14, 15, 16, 17, 18, and 19) aimed at realizing Mr. Rice’s commitment:

Condition 14 required deed restrictions that “run with the land” to inform successors that they must “comply with the terms and conditions set forth in the Commission’s Decision and Order.”

Condition 15 required the property to be developed as represented (into a light industrial park).

Condition 16 required notice to be given to the Land Use Commission in the event the property was sold, leased, assigned, placed in trust or otherwise transferred prior to development of the industrial park.

Condition 17 required annual status reports to be given to the Commission by the property owner and its successors.

Condition 18 required recordation of the conditions against the land.

Condition 19 required a statement to be filed with the Bureau of Conveyances that the property is subject to “conditions imposed herein.”

Subsequently, around 2005, the property was transferred from Kaonoulu Ranch to an entity known as Maui Industrial Partners, LLC, and, about a year and a half ago, in September 2010, from Maui Industrial Partners, LLC, to Pi’ilani Promenade South, LLC, and Pi’ilani Promenade North, LLC. These new owners immediately pursued development of retail shopping malls that you are now trying to accommodate with highway and intersection modifications.

You might wonder why the Land Use Commission did not object to a use not authorized by it in 1995, particularly since annual reports were required to be submitted, and were actually submitted, to the Commission. The answer lies in the fact that while annual reports have been filed, they continue to represent, incorrectly, that the property will be

developed as represented to the Commission in 1994. *No notice of new development intent has been given.*

The Land Use Commission Decision and Order remains in effect. It has not been modified or rescinded. While a land owner can petition the Land Use Commission for relief from a condition or conditions, none has been made here.

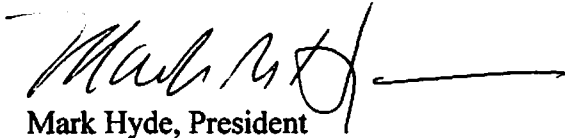
Given this, why is the Hawaii Department of Transportation facilitating a project that bears no resemblance to that presented to the Land Use Commission? In effect, your work challenges the authority and jurisdiction of the Land Use Commission.

Finally, to the extent you proceed with analysis of roadway modifications to accommodate a development that is not in compliance with the Land Use Commission's order, please recognize that several other projects, aside from this one, will severely impact south Maui traffic, including Wailea 670 and Makena Resort, not to mention the 250 workforce housing project destined for a parcel adjacent to the shopping centers. Also, please give the public an opportunity to participate in the process since it has been denied any opportunity to have a voice in a project that will significantly and negatively affect the south Maui community. We deserve a voice.

A copy of the Land Use Commission Findings of Fact, Conclusions of Law, Decision & Order can be readily found on line at: <http://luc.state.hi.us/comaui/a94-706kaonoulu.pdf>.

Please let me know what SMCRG can do to help you with this matter.

Sincerely,



Mark Hyde, President

cc. Highways Administrator
869 Punchbowl Street, Room 513
Honolulu, HI 96813