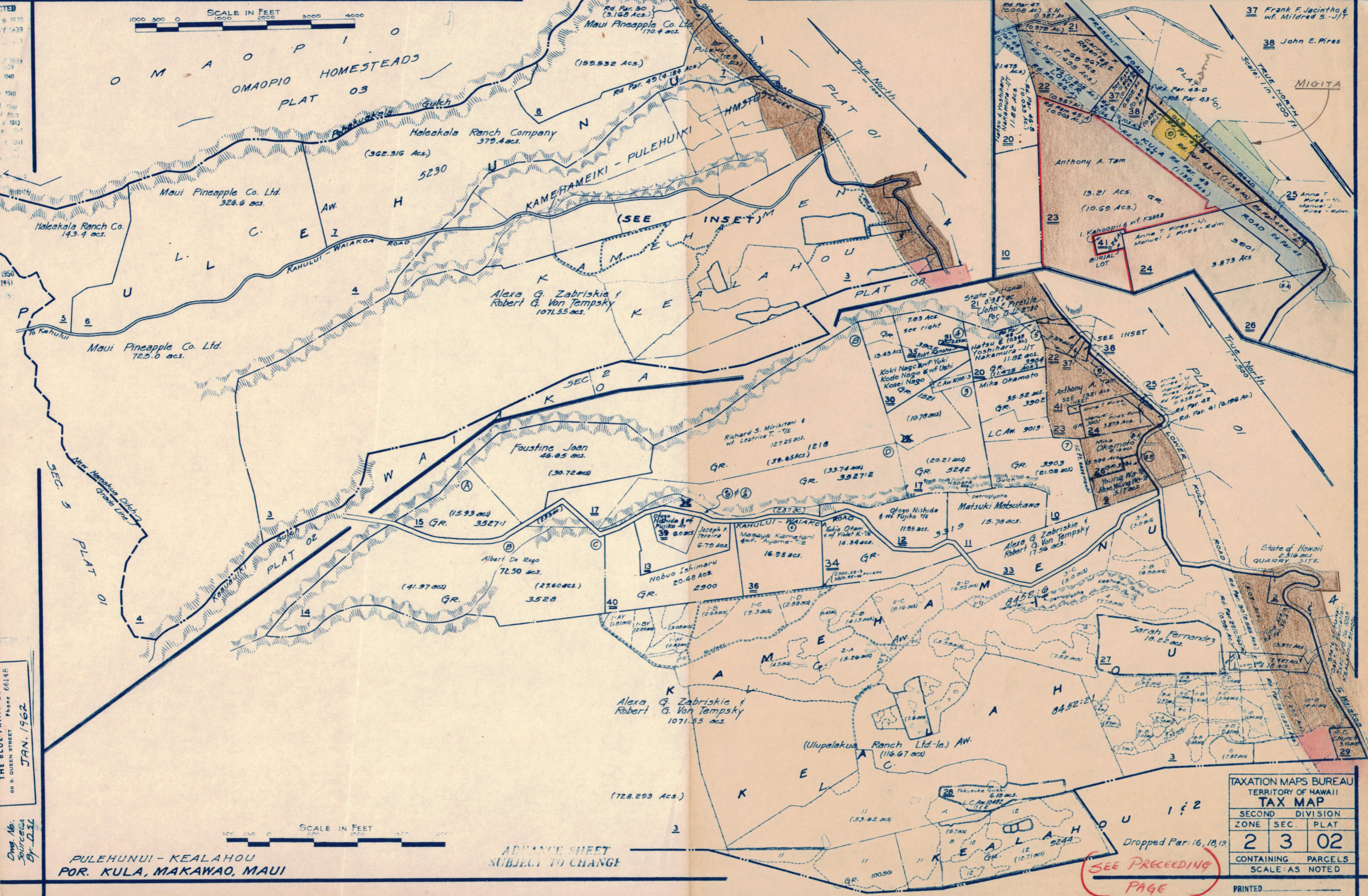
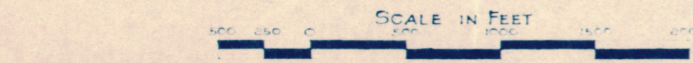
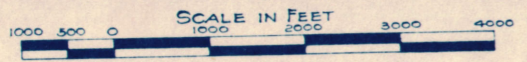


KUMAHARA, MICHAEL

SP64-6



THE BLUE PRINT CO.  
88 S. QUEEN STREET  
JAN. 1962

Div. No. 1  
Sources  
By D.S.L.

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		

SEE PRECEDING PAGE

Dropped Par: 16, 18, 19

STATE OF HAWAII  
LAND USE COMMISSION

Minutes of Public Hearing

LUC Hearing Room

Honolulu, Hawaii

1:00 P.M. - February 19, 1965

Commissioners

Present:

Myron B. Thompson  
Jim P. Ferry  
Shelley M. Mark  
Charles S. Ota  
Goro Inaba  
Shiro Nishimura  
Robert G. Wenkam  
Leslie E. L. Wung

Absent:

C.E.S. Burns

Staff

Present:

Raymond S. Yamashita, Executive Officer  
Roy Takeyama, Legal Counsel  
Gordon Soh, Associate Planner  
Alberta Kai, Stenographer

Chairman Thompson called the public hearing to order and opened it with a prayer. The Chairman outlined the procedures to be followed throughout the hearing and administered the oath to those persons who would be participating or testifying during the hearing.

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PETITION BY JOSEPH R. PAO FOR HAWAIIAN PACIFIC INDUSTRIES, INC. (A64-71) FOR AMENDMENT TO THE LAND USE DISTRICT BOUNDARIES TO EXTEND THE PRESENT LIMITS OF THE URBAN DISTRICT IN NIU VALLEY, OAHU TO INCORPORATE APPROXIMATELY SIXTEEN AND ONE-HALF ACRES OF PIA VALLEY CURRENTLY IN A CONSERVATION DISTRICT FOR A RESIDENTIAL SUBDIVISION: Described as Portion of 3-7-03, First Division

Mr. Gordon Soh presented the staff report (see report on file). The staff recommended that the amendment be granted only to the extent of incorporating areas of the proposed development which contain slopes of less than 20%. The City Planning Commission recommended that the boundary be amended to urban use for only that portion of land comprising approximately 5.4 acres with a slope of 20 per cent grade or less.

Mr. Joseph Pao stated that about 17 months ago, they were approached to purchase this land in Niu Valley. He had his engineer check with the State and County to investigate possibilities of putting this land into a subdivision. At that time the land use line was nowhere within the area they were purchasing. They started bulldozing and clearing the area. His engineer started developing plans for the area, and came up with a scheme for 246 lots. At this

point they closed the deal with Pflueger and Cassiday and paid a \$1,000,000 for the land. There would be 246 fee simple lots built in the area. The demand was so great that all 246 lots have been sold at this point.

Mr. Pao stated that when they started final engineering on this project, they learned that the Land Use Commission had moved the line down excluding 17 acres they had proposed to subdivide. He stated that the areas of flat land are loaded down with boulders. The 17 acres of land is just approximately in the 20% grade. They expect to take some of these fills or the slopes there, and fill soil over the rocks in the lower areas to beautify the area. The lots will be of 7,500 sq. ft. or better. They plan to put in a water reservoir, which is requested by the Board of Water Supply, and a pump station, pumping this water up to the water reservoir to take care of these lots over and above the first unit. There is a cost of \$250,000 or approximately \$1,000 a lot, just for the off-site water reservoir and pump station. Mr. Pao stated that as far as the cuts and slopes are concerned they will comply with the City ordinance, and still have suitable flat areas or living areas for these lots. The beautiful lots are in the mauka area which are placed in the Conservation classification and overlook the Niu Valley right out to the waterfront area.

Mr. Yasuo Arakaki, engineer for this development, was sworn in by the Chairman. He stated that he had their surveyor do a little "topo" work on the upper section under question. They found it to be similar to the land with little ridges coming out in the valley. Mr. Arakaki stated that the land is not too good, but still suitable for a subdivision. The upper flat lands over the 20% grade are better than those in the urban boundaries. The road planned is for the reservoir access. In order to make the best economic use of the steep areas and to utilize the road, they plan to build a few lots out of this area. He stated that though the lots are not suitable they can be developed. The lands on the lower section can be used for split level type homes. Mr. Arakaki submitted for the record, copies (2 maps) of their maps showing their development.

Commissioner Wenkam stated that in the last month there has been flooding in the area. He stated that this development has increased the run-off in the area. He wondered whether the facilities in the lower areas were adequate to handle this additional run-off which would incur from this development.

Mr. Arakaki stated that they have planned a lined ditch right in the center of the subdivision, 40 feet wide, with the drainage running into the ditch from the hillside. It is connected to the existing ditch which runs through the existing subdivision below. He stated that on this type of a terrain, whether it is developed or undeveloped, the run-off will still be the same. A development, however, tends to slow down the water. He stated that they have approved construction plans for the first unit, and will start construction in a few days.

Commissioner Wenkam requested that the petitioner submit data on the water run-off and the ability of the existing ditch to handle this additional run-off.

Mr. Pao stated that the City has required that they put in a 40 foot lined ditch for every 200 feet which drops into the stream to slow the water from rushing down the valley. He informed the Commission that Mr. Arakaki is one of the best hydraulic engineers in the islands. He stated that this has been proven by the City when the City permitted Mr. Arakaki to proceed with this development, after turning down other developers in this area.

Commissioner Ota asked how many lots are being projected in the upper portion of the subdivision. Mr. Pao replied 246 lots: 106 lots are in the first unit which have been approved by the City on which construction will start next week; over and above that are 140 lots. However, not all of the 140 lots are in Conservation.

Chairman Thompson asked, "How much are in Conservation?" Mr. Arakaki replied, "Approximately 17 acres or 60 lots."

Mr. Pao stated that in order to develop the other portions he would have to put in a reservoir and a pump station and that development cost is approximately \$250,000. The mauka lots are 7,500 sq. ft. or better. There are lots as big as 10,000, 15,000 and 18,000 sq. ft. Some are on slopes and will be cut and filled according to City ordinances. The minimum frontage of these lots will be 60 feet, and the majority of these lots are more than 60 feet. The number of lots that are being discussed are about 12 to 14 with a slope in back of 30 feet, which will be cut according to the contour of the land and nowhere like the Manoa subdivision.

Commissioner Wung asked, "What is the general grade in the Conservation area?" Mr. Arakaki replied, "A little more than 20%. The direct slope would be 30%."

Chairman Thompson asked, "You will end up with what kind of slope there?" Mr. Arakaki replied that the maximum is 13, but they are averaging about 12 to 14 and will try to keep it at a 10% slope.

The following entered testimonies against the petition for the record:

Miss Gertrude Humphries, a member of the Conservation Council and Outdoor Circle, spoke as an individual. She was interested in the cuts and fills, and the scenic aspects in the area. She stated that she has seen Pao's developments in the Manoa Valley and was prejudiced by them. He does not use good judgment about lands. To build on these very steep slopes would scar and demean the area. She stated that the use of the land was not in the best interest of the people of Hawaii. She stated that she was against building on the steep slopes.

Mrs. Kenneth Bankston, who was sworn in, stated that she lives at 5692 Kalaniana'ole Highway. She stated that she is in the original Niu Valley development and one of the first 11 homes to be built in Niu Valley on the Cassidy estate. She stated that she has lived

there for 11 years, and they had flash floods but never had they come to their house until this month. She stated that the damage of their house, in and out, amounted to \$2,360. The several people who were affected by this flood held a special meeting on this problem. She stated that they blame the Niu Valley Estates development in the upper valley areas for the cause of this flooding. She stated that Mr. Pao's engineer plans to let the water drain into the existing ditch. She stated that though they may not be engineers, they know that the ditch will never hold the water to prevent these floods. She stated that she and the people in the area object to this petition unless they can be assured there will be adequate drainage without causing any flash floods.

Mr. Ezra Wolfe, who was sworn in, stated that he lived in Niu Valley and was the president of Niu Valley Association. Mr. Wolfe stated that he was concerned with the type of homes that would be built in the area of the 30% grade. He stated that he was reminded of the houses in the Ainakoa section that are built up the side of mountains. He wondered whether some of the homes that have been built in the steep areas will be similar to that being built in Niu Valley.

Mr. Pao stated that the land there has been sold between \$15,750 and \$16,000 a lot. The builders that will buy these lots will not put cracker boxes in the area. Mr. Herbert Horita will be the builder, who is one of the foremost builders in the island. Mr. Pao stated that they don't have control of the houses in the area, and did not think that the City had that control either. He stated that he is assured from past subdivisions that he has done a wonderful job.

Mr. Pao stated that the idea is not to build on the 30% slope but rather they would cut where there won't be more than 4 or 5 feet back off the street, then go back with at least 4,500 to 5,000 sq. ft. of land, not more than 7 or 8% in grade. The back will be in slopes and will meet the City ordinances. There will not be any stilts like there are in the Ainakoa area.

Mr. Robert Brown, president of the Conservation Council for Hawaii, was sworn in. He stated that it has been mentioned that part of the soil in the area is Lualualei clay. Lualualei soil is highly hazardous for construction of houses because it has an extreme swell-shrink ratio, making it almost impossible to keep in place pipes for septic tanks or sewers. Sometimes there will be problems with water and foundations. The slopes in the area that get into the 12% or 20% (much of that area are 40 inches of soil or more over rock) would not allow you to have level houselots. He recommended that the area especially in the Conservation zone not be permitted for urban use development because of the hazards to the property owners that would be coming into the area, that it should be retained in an area that is satisfactory for the control of erosions, floods and such.

Mr. Frank Haines of the American Institute of Architects was sworn in. He stated that the pressure to build in a Conservation district is not justified. There are still many urban use areas which can support dwelling construction. He felt that it would establish a precedent to go into areas that have been set aside for conservation purposes at this time. It appeared to him that decisions as to what areas should be in conservation have been made rather sensibly and that if we start encroaching upon them, we would be defeating the plans that have been so conceived. He stated that when you have slopes that begin at 20% to 30% you would have a difficult time getting something that is not unsightly and would end up with something like Ainakoa. There would be tremendous cuts in the area which would take years to heal, and the scars will show on the hillside. Whichever approach is taken design-wise, as far as the buildings are concerned, it would be detrimental to the overall scene of the valley.

Mr. Tom Wells, Chairman of the Honolulu Chamber of Commerce Beautification Committee, was sworn in. He stated that they continually supported the Land Use Law and all matters pertaining to it. The basic issue was that the mountains, the streams and shorelines in the State were not for sale. In an area such as this, where it has been proven that lands are adequate below this slope - as determined by this Commission - and can be used, they would be unalterably opposed to this kind of subdivision. The kind of scars that are inevitable in this kind of development would take a long time to heal. He stated that just on the very standpoint of the philosophy of the Land Use Law to protect our mountainsides, a closer examination would only strengthen their point.

Mr. Lawrence Blodgett was sworn in. He spoke as a private citizen and a former property owner in Aina Haina. He invited the Commission to an actual eye view tour of the Lawilawi Street area to see how Lualualei soil clay acts in a subdivision. He stated there you will see futile attempts by property owners to improve their property, which this type of ground and type of soil is impossible to grow anything on.

Mr. Wolfe added that because the stream is low near the Bankston's residence, the stream will overflow, and that the additional run-off into this stream from this development will create a greater hazard to approximately 50 people at the mouth of the stream, just above the highway.

Mr. Pao stated that the remains from the storm are still there with 400 to 600 feet of silt which came from the adjacent subdivision. He stated that his engineer has stated that the stream is wide enough, if it is kept open, to take care all of the flood water in the area as it was designed by numerous engineers in the area. He stated that he did not think the City would have allowed this if it weren't wide enough - taking into account a projection that the whole valley would be developed some time. He recommended that this Commission have an engineer go up there and look at it. He stated that he did not want to build a subdivision that would be flooding the people

below. He is not an engineer and this is his reason for hiring engineers. His engineer has told him that it is adequate to have a little more water added provided the stream is kept opened. He informed the Commission that this fault lies with the people who live in the area - they throw their own rubbish in the stream and cause this overflow.

With no additional comments or testimonies from the public, Chairman Thompson informed the public that this Commission will receive additional written testimonies and comments within the next 15 days from this hearing, and will take action 45 to 90 days from this hearing.

The public hearing was closed.

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PETITION OF MICHAEL T. KUWAHARA (SP65-6) FOR A SPECIAL PERMIT TO CONSTRUCT A SERVICE STATION, AND AN AUTO AND FARM EQUIPMENT REPAIR SHOP IN THE PULEHU RURAL DISTRICT IN KULA, MAUI: Described as TMK 2-3-2: 23, Second Division, approximately 29,000 sq. ft.

Mr. Gordon Soh presented the staff report (see report on file). The staff recommended denial of the request because it could not determine, from the evidence presented and the guidelines set under the Commission's regulations, that the use was "unusual and reasonable."

Mr. Roy Migita, who was sworn in, spoke on behalf of his father, Mr. Robert Migita, Sr. He stated that his father had a letter on file with this Commission protesting this request. He could not understand why the County of Maui had granted this Special Permit. It seemed to him that this request was not an unusual circumstance. His father stated that since the new road was built, there was concern that new businesses would be permitted along the highway which would hinder the old businesses already established in the area. They were informed that the State would control all access on the new road. He stated that his father would not object if Mr. Kuwahara built a service station within the area where businesses are already established. He stated that if Mr. Kuwahara is granted his request, he would have a special advantage over those businesses already existing in the area. This is his father's main objection to this request. The Maui County recommended approval of this request because of the fact that a cluster of repair shops exists there.

Mr. Migita stated that his father had called him last night with additional information. Mr. Migita informed the Commission that the Tavares Motorcycle Repair Shop will be going out of business and therefore, it would not be necessary for Mr. Kuwahara to relocate. He could build right where he is right now and expand right in that area. Mr. Migita requested the Commission to defer action on this petition until he could substantiate this new information.

The Executive Officer explained to the Commission that Mr. Kuwahara wants to move his facilities in this yellow area here (pointing to colored area on map). The Tavares Motorcycle Repair Shop protrudes into the area. Should this petition be approved the motorcycle repair shop will be removed anyhow.

Commissioner Ferry inquired whether Mr. Kuwahara had a vested interest in this area. It was established by legal counsel that Mr. Kuwahara was the lessee (notarized document on file).

Commissioner Ota inquired whether the guidelines as enumerated by the staff in its report were from the Commission's regulations. The staff replied in the affirmative. Commissioner Ota stated that the staff's analysis and findings generally support the petitioner's request. However, the staff's recommendation is contrary to this.

Mr. Soh stated that he did not feel that the analysis was favorable to the petitioner. His intentions were to present two sides of the story for the Commission's consideration. He had hoped that the recommendation offered an explanation as to why it came out the way it did. He could not determine that the use was "unusual and reasonable" and in keeping with the objectives of the Land Use Law.

Commissioner Ferry stated that the best use of the land should be the basis to grant a special permit.

Legal counsel stated that a Special Permit is different from a variance. The objective of the Land Use Law is to make the highest and best use of the land, to:

- (1) prevent the shifting of prime agricultural lands into non-revenue producing residential uses, and
- (2) prevent the development of scattered subdivision with expensive, yet reduced, public services.

Commissioner Ota added, "to preserve scenic and aesthetic sites, etc."

The Executive Officer informed the Commission that the question is whether the highest and best use of the land is in the interest and welfare of the public, or in the interest of real estate.

Commissioner Ferry made the following motion:

"I move to approve on the basis that this is in keeping with the compatible use in the area and our objectives as we have set it for the land use pattern in the area. This is the real purpose of the Land Use Law. If we are going into it much deeper, and arbitrarily make decisions which would necessarily hinder development within proper and acceptable growth, I think we are not working in the best interest and welfare of our public."

The motion was seconded by Commissioner Ota and carried as follows:

Approval: Commissioners Wung, Inaba, Ota, Wenkam, Nishimura, Ferry, and Chairman Thompson

Disapproval: None.

Absent: Commissioner S. Mark.

The following is the motion briefly stated by Chairman Thompson:

"The request is compatible to the growth of the area."

ADOPTION OF MINUTES

The minutes of 10/23/64 public hearing in Hilo, Hawaii; 11/5/64 meeting in Lihue, Kauai; and 12/18/64 meeting in Honolulu, Hawaii were accepted as circulated by the Commission.

REQUEST BY COMMISSIONER ROBERT WENKAM

A written request by Commissioner Wenkam (copies circulated to each commissioner) to attend the Ninth Biennial Conservation Wilderness Conference sponsored by the Sierra Club of California in San Francisco, April 2-4, 1965 was presented to the Commission. Commissioner Wenkam requested that the Commission pay for his round trip air plane fare of \$200 to attend this conference. He stated that he would take care of his own incidental expenses.

The consensus of the Commission was in favor of sending a commissioner and a staff member to this conference.

Commissioner Ota moved to approve that two people - one staff member and one commissioner - go to this conference, subject to **further** information that will be coming in. Commissioner Wung seconded the motion and the motion was carried.

The staff was requested to do the following:

- (1) Check this request out with the Comptroller's, Personnel, Budget and Finance, Dr. Mark and Governor's Office.
- (2) Write a letter to the Sierra Club of California and get details on who will be attending (State, County, and private agencies); and other pertinent information that may be needed to justify attendance (fee, program etc.).
- (3) Report to the Commission at its next meeting, staff's findings as related to this request.

SCHEDULE FOR HILO MEETING

The schedule for March 19, 1965 in Hilo was approved by the Commission.

STATUS OF VACANT ASSISTANT PLANNER POSITION

The Executive Officer reported to the Commission that he **intends** to drop the names of the two women on the eligible list for this position because of the unusual duties required of this position which would preferably require the services of a man.

The staff was requested by the Commission to make a review of the staff requirements and to report this at the Commission's next meeting, or if necessary to call a special meeting.

CIRCULATION OF STAFF REPORT

The legal counsel informed the Commission that there is no provision under the statutes or regulations preventing the Commission from circulating the staff report to the petitioner, or its counsel and/or representative before a public hearing is held. He stated that the Section under the Administrative Procedures Act, relating to this subject refers to only the body or persons who make the decision.

The Commission requested that the staff send to the petitioner two days before a public hearing or meeting the staff report with a letter informing the petitioner that this is not the final decision of the Commission, but rather the recommendation of the staff to the Commission.

Permission was given to the Executive Officer by the Commission to provide as much administrative assistance to a petitioner (but using discretion) in order that the petitioner may proceed with his request to his best advantage and favor.

COMMUNICATION BETWEEN THE DEPARTMENT OF TAXATION AND THE LAND USE COMMISSION

Commissioner Nishimura inquired whether there was any change in the tax structure relating to lands dedicated to Agriculture.

Chairman Thompson stated that this poses the question whether another meeting with the Department of Taxation is in order.

The consensus of the Commission was that an open communication between the Department of Taxation and the Land Use Commission should be initiated to keep the Commission abreast of any new changes in the Tax Department.

CONSERVATION COUNCIL OF HAWAII CONFERENCE

Commissioner Wenkam informed the Commission that there will be a conference by the Conservation Council of Hawaii on March 20, 1965, at 8:30 a.m., in the Princess Kaiulani Hotel. The topic of discussion will be the Land Use Law.

All of the Commissioners were requested to attend this conference. Arrangements to accommodate the Neighbor Island Commissioners for this conference are to be made by the staff (except for G. Inaba). Per diem is to be allowed for those Neighbor Island Commissioners attending this conference.

MATTERS DEFERRED TO NEXT MEETING

1. Matters taken under advisement at Nov. 5 meeting with the Kauai Planning and Traffic Commission, in Lihue, Kauai.
2. Problems on the Land Use Law.

The meeting adjourned at 5:30 p.m.

MEMORANDUM TO FILES

FOR CROSS REFERENCE - See Maui County Protest files and  
Petition for Boundary Change by  
Michael Kuwahara (A(T)64-62)

DEPARTMENT OF REVENUE & GENERAL SERVICES  
STATE OF HAWAII

STATE OF HAWAII  
DEPARTMENT OF PLANNING & RESEARCH  
HONOLULU, HAWAII  
MEMORANDUM

Date \_\_\_\_\_

To \_\_\_\_\_

From \_\_\_\_\_

Subject \_\_\_\_\_

Michael Washers (A)(L)04-03)  
Legation for Donations Change PA  
See Mary Conroy Director office stg

FOR CROSS REFERENCE -

MINUTE TO FILE

February 23, 1965

Ref. No. LUC 586

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

Attention: Mr. Robert O. Ohata, Planning Director

Gentlemen:

At its meeting on February 19, 1965, the Land Use Commission voted to approve the grant of a special permit to Michael T. Kuwahara to relocate an auto and farm equipment repair shop onto a site 29,000 sq. ft. in size located on the northern portion of a 1.154 acre parcel described by TMK 2-3-02: 52, Second Division, and to construct a service station at that site.

Enclosed for your information is the staff report.

Sincerely,

RAYMOND S. YAMASHITA  
Executive Officer

GS:ak  
Enclosure - 1  
cc: Michael T. Kuwahara  
Dept. of Taxation  
Myron B. Thompson

STATE OF HAWAII  
LAND USE COMMISSION

VOTE RECORD

ITEM SP64-6 - Michael Totsu Kuwahara  
 DATE 2-19-65  
 PLACE LHG Hearing Room, 426 Queen St.  
Honolulu, Hawaii  
 TIME \_\_\_\_\_

NAMES	YES	NO	ABSTAIN	ABSENT
7 WUNG, L.	✓			
6 INABA, G.	✓			
5 OTA, C.	✓			
4 WENKAM, R.	✓			
BURNS, C.E.S.				✓
1 NISHIMURA, S.	✓			
✓ MARK, S.				
3 FERRY, J.	✓			
THOMPSON, M.	✓			

COMMENTS: Ferry - Oppose - Compatible use  
 Ota - see.

STATE OF HAWAII  
LAND USE COMMISSION

LUC Hearing Room  
426 Queen Street, Honolulu, Hawaii

1:30 P.M.  
February 19, 1965

STAFF REPORT

SP65-6 - MICHAEL TATSU KUWAHARA

District Classification: RURAL

Background

By letter dated January 28, 1965 the Maui Planning and Traffic Commission advised that it had voted to approve a special permit to Michael T. Kuwahara to construct a service station, and an auto and farm equipment repair shop in the Pulehu Rural District in Kula, Maui.

These facilities are to be located on 29,000 square feet of land bounded on the east by an old government road, on the west by the new Kula Highway, and on the north by a short road connecting the other two.

The site was formerly a portion of a 13.21 acre parcel described by TMK 2-3-2: 23. The parcel has been divided by construction of the new highway into two parcels 10.685 acres (TMK 2-3-2: 23) and 1.154 acres (TMK 2-3-2: 52) in size (another 1.135 acres were taken up by the highway, and 0.236 acres by the connecting road). The 29,000 sq. ft. site now forms the northern portion of the 1.154 acre parcel. Access rights from the parcel to the Kula highway and the connecting road have been acquired by the State.

Both parcels 23 and 52 are owned by Anthony A. Tam. The 29,000 sq. ft. site within parcel 52 was leased to Mr. Kuwahara for conducting a service station and garage business on June 22, 1964. The lease can be cancelled "without

penalty or further obligation, at any time prior to the commencement of the lease term" by a written notice. "Lessee shall not be obligated to pay any rent for the said premises before the commencement of the lease term." The lease is "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."

Parcel 52 lies just north of Hapapa Gulch between the Lower Kula Road and Kula Highway. The soils here are believed to be of the Waimea family, very shallow, less than 12 inches to bedrock but with infrequent outcrops. The soil is stony and cannot be cultivated unless the stones are removed. The land can be put to pasture but the carrying capacity would be low.<sup>1/</sup> The median annual rainfall is between 20 and 30 inches.<sup>2/</sup>

Maps of lands on Maui dedicated to agricultural use are presented at this point.<sup>3/</sup> It should be noted that most of the dedications on Maui are located in and around the Kula area. It should also be noted that several urban districts have been designated in Kula. Of these, Waiakoa lies a little more than a mile to the south and Jamestown less than a half mile to the northeast from the site in question. These urban areas are reportedly covered

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<sup>1/</sup> Cf. Soil Survey, T.H., U.S.D.A. and Hawaii Agricultural Experiment Station.

<sup>2/</sup> Cf. Rainfall of the Hawaiian Islands, Hawaii Water Authority, p. 18. Median computed for period 1933-57.

<sup>3/</sup> See files of the Dept. of Planning and Economic Development, petitions M-2 through M-22, and M-25 through M-34. Information on final processing of petitions M-35 through M-43 has not yet been provided by Dept. of Taxation as this report is being written.

under interim zoning provisions of the County of Maui. Except for a general plan covering the entire island, no detailed plans for these urban districts have been prepared in recent years.<sup>4/</sup>

Mr. Kuwahara now operates an auto and farm equipment repair shop on about a 10,000 sq. ft. site on parcel 52 about 200 or 300 feet south of the 29,000 sq. ft. site. The 10,000 sq. ft. site is the remnant of a 1/2 acre site partly taken up by construction of the Kula Highway. The substance of Mr. Kuwahara's application is that the reduction of the "1/2 acre" site on which he once operated has imposed a hardship on his business. He wishes to relocate his shop onto the 29,000 sq. ft. site. The present shop is of wooden construction. In addition he wishes "to construct a gasoline service station to expand business."

The applicant has operated a shop in Kula for the past 15 years. Before him his father operated the shop for 5 to 13 years.<sup>5/</sup> In a letter dated January 21, 1965 to the Maui Planning and Traffic Commission, Mr. Kuwahara wrote: "It is my hope to remain in business for many more years to come. It is with this thought in mind that I requested the special permit hoping to house my operations in a modern building that will not be an eyesore to this area."

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<sup>4/</sup> Exhibit XF, "Future Land Use and Zoning" of the Report of Land Use for the Island of Maui prepared in 1959 shows this land in agricultural use.

<sup>5/</sup> At the public hearing conducted by the Maui Planning and Traffic Commission on January 5, 1965, Nadao Yoshinaga, the attorney for Mr. Kuwahara indicated that the elder Mr. Kuwahara had operated the shop for 5 or 6 years before his son took over. Mr. Tam, however, indicated that the lease for the site of the present shop was executed in 1937.

The County Planning Director advises that the approval of the application by the Maui Planning and Traffic Commission contained the following stipulations:

- "1. The applicant's present repair shop and all other accessory buildings and structures be removed, and said area shall be used for only conforming rural uses.
- "2. The area where junks and damaged vehicles are to be kept or temporarily parked shall be bounded by a solid fence 6 feet in height.
- "3. There shall be no sign or billboard along the new Federal Aid Highway, nor along the access road.
- "4. Applicable provisions of the County of Maui's Comprehensive Zoning Ordinance as amended, shall apply."

The County Planning Director further advises:

"The Commission's reasons for approving are that an unusual situation exists whereby a cluster of repair shops are in existence in a rural district. These are the Migita Service Station, Tavares Motorcycle Repair Shop, and Kuwahara Repair Shop.<sup>6/</sup> Other residential developments nearby comprise an urban-like cluster. Relocation of service station into such residentially developed urban district in Kula such as the James Tract, would be detrimental to the Kula area."

The County staff report in this matter favors the applicant concluding that while it would be desirable to incorporate all non-rural uses into urban districts in Kula, centralization of such uses as repair shops in a single location, with a view toward preserving the "character" of towns in Kula, might be wiser.

The application has generated considerable interest. Petitions containing hundreds of signatures were directed to the Maui Planning and Traffic Commission both for and against the grant of a special permit. Letters were written to the County planning agency by Kenneth S. Willey, Robert T. Migita, Jitsumi Kunioki, Richard B. McGovney and Marcelino Calasa opposing the grant. The

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<sup>6/</sup> Kula Garage and Service, Tavares Cycle Repair and Kuwahara Garage.

law firm of Ogata and Ueoka submitted an opinion by Frederick K. F. Lee advising against the grant. Letters favoring the application were written by David D. F. William and Herbert M. Mann.

The petition favoring Mr. Kuwahara's application is signed by persons purporting to be patrons of his shop. The signatures attest to the need for his services in repairing farm mechanical equipment and support his desire for a large "work area for the convenience of his customers" and for "more modern equipment to handle all forms of mechanical emergencies."

Among the letters opposing the permit, Mr. Willey's contends that this is not an unusual case, that the request would hurt existing business, and that a grant would set a precedent working against community goals for orderly development. Robert T. Migita writes that the request would in effect create a new business; that a special permit in this case would constitute spot zoning; that the proposed use would adversely affect surrounding properties - specifically, businesses in Waiakoa; that the proposed use militates against planning objectives for Kula; and that the applicant should consider a location in the Waiakoa urban district. Jitsumi Kunioki strongly objects to the application on the grounds that the proposed use would have adverse effect on the neighborhood and on Waiakoa, and would establish a bad planning precedent. Richard B. McGovney reasons that the petitioner is requesting to establish a new business by adding a service station to his shop and maintains the request is not unusual and reasonable. He asserts that the proposed use adversely affects surrounding property and questions the need for a new service station since there are "at least six gasoline stations in a stretch of some ten miles along the lower Kula Road from Pukalani to Keokea." Marcelino N.

Calasa protests the proposal "for the protection of his and other businesses in the area" and raises the question of State limitations on accesses to the highway.

The opinion of Planner Frederick K. F. Lee states that a service station and an auto and repair shop do not constitute an unusual and reasonable use under Section 98H-6 of Act 205. He implied that the use sought is urban in nature and observed that the "arrangement of land uses along the Lower Kula Road emphasizes the rural atmosphere of the Kula area." He advised that a special permit for the urban uses sought can be utilized to spot and strip zone the entire Lower Kula Road and negate such planning concepts as integrated commercial developments, consolidated residential development and uniform agricultural zoning. He warned of damage to urban property values, infringement of rights, the precedent that a grant of this nature would establish, the violation of basic zoning principles and objectives, and the negation of powers to insure orderly and reasonable development. He recommended that the application be denied.

Herbert M. Mann of the Haleakala Observatory of the Hawaii Institute of Geophysics wrote of the need for the proposed relocation and expansion of Mr. Kuwahara's establishment. He cited the convenience of having a garage in Kula and cites the emergency services performed by the applicant. Mr. Mann writes that the Institute's program, including that of the University of Michigan, is undergoing "tremendous growth" and that "Mr. Kuwahara's proposed expansion becomes all the more necessary." Mr. David D. F. Williams, Superintendent of the Kula Experimental Farm, writes that Mr. Kuwahara provided prompt on the spot services and was the only repairman willing to provide such services when the farm was established in 1962. He writes that

Mr. Kuwahara's "desire to provide such service contributed in no small measure to the development and operation of the Hawaii Agricultural Experiment Station" on Maui. The concluding sentence of Mr. Williams' letter reads: "Inasmuch as his desire to provide service has caused his business to grow too large to be adequately handled at his present location, we at the Experiment Station wholeheartedly support his attempt to relocate his business on the large lot adjacent to his present shop."

The County hearing on Mr. Kuwahara's application was held on January 5, 1965. The transcript forwarded by the County is reproduced in its entirety at this point.<sup>2/</sup> Although your staff has ventured to summarize the various petitions and letters on file, the same was not attempted with the transcript of the County hearing.

#### Analysis

1. According to the record, the attorney representing the petitioner at the County hearing pointed out that the petitioner now and for a number of years has operated a repair business in Kula. It is reasonably clear from this that the business existed at the time the State Land Use District Regulations became effective.

The petitioner now applies for a special permit to relocate his business to another site on the same and to add a gas station. Both sites are on the same parcel, and the parcel is in the rural district.

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<sup>2/</sup> See Appendix A.

Staff analysis breaks the application down into two parts.<sup>8/</sup> The first element is the farm equipment and vehicle repair business. This apparently is a use existing at the time the Land Use District Regulations became effective. If this is a permissible use in a rural district, then no special permit is necessary. If it is not, then a non-conforming use may exist. The Commission's regulations state "Whether a non-conforming use exists shall be a question of fact and shall be decided by the County Planning Commission after public notice and hearing." It is not explicitly clear that such a finding was made.

If County action on the petitioner's application carries the presumption that the existing use is non-conforming, then Section 98H-8 of Act 205/SLH 1963 may apply. It provides that "no non-conforming building shall be replaced, reconstructed or enlarged or changed to another non-conforming use and no non-conforming use of land shall be expended or changed to another non-conforming use." It does not require, however, discontinuance of the use.

2. The petition is for a special permit and not for a boundary change. Hence the proposed use need not conform to rural district standards<sup>9/</sup> nor be cited among the permissible uses<sup>10/</sup> in rural districts. A petition for special permit implies that the proposed use is not anticipated or

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<sup>8/</sup> The second element, the proposal to establish a gas station is discussed later.

<sup>9/</sup> Cf. Sec. 2.10 "State Land Use District Regulations."

<sup>10/</sup> Cf. Sec. 2.16, Ibid.

included in the standards and is not currently permissible.

Section 2.24 of the State Land Use District Regulations provides that "The Commission may permit certain 'unusual and reasonable' uses within Agricultural and Rural districts other than those for which the District is classified." Guidelines have been established for determining "unusual and reasonable" uses.

The first guideline is that "Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations."

The objectives are implicit in other guidelines to follow:

- (a) "That the desired use would not adversely affect surrounding property."

County action on the petitioner's application contains the stipulation that "the area where junks and damaged vehicles are to be kept or temporarily parked shall be bounded by a solid fence 6 feet in height." This action should serve to minimize objections based on aesthetics to the proposed use. Moreover, modernization of petitioner's facilities appears to be indicated by the record.

The record further suggests that the proposed use would have some beneficial effect on the area by providing repair services for farm and scientific equipment and vehicles. Such services, however, are generally permissible in business and industrial areas zoned by County ordinances. Urban districts in Kula are covered by interim zoning. It is not clear why County plans and zoning have not provided adequate space in these districts to accommodate uses such as that proposed by the petitioner.

The record also indicates that the proposed use would adversely affect some businesses in Kula. Businesses similar to the proposed use could adversely be affected if the petitioner is granted a special advantage.

Consideration of what adverse effects - both aesthetic and economic - the proposed use would have should also take into account what would happen to rural uses if a precedent were established. Low density uses cannot compete on the open market against high density uses. The effect of commercial or industrial uses on land valuations in the area can not be disregarded.

- (b) "Such use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection."

The proposed use poses slight demand on public facilities as opposed to a large subdivision. Sewer, drainage and school requirements should be slight. Water service is already available; roadways are adequate.

- (c) "Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established."

Some change in conditions, trends and needs since the regulations became effective on August 23, 1963 can be noted. A highway has been built cutting off the petitioner's present storage yard. This presumably has left the petitioner little storage area and inflicts a hardship. The petitioner points out that "Another gasoline station, located about 2-3 miles away, was discontinued because of the Federal highway project." Expansion of Haleakala Observatory facilities will create some increase in demand for repair services.

- (d) "That the land upon which the proposed use is sought is unsuited for the uses permitted within the District."

The parcel lies in a rural district established by the Land Use Commission partly based on recommendations of the County General Plan. The parcel is not particularly suitable for many forms of agriculture; it is suitable for residential purposes.

- (e) "That the proposed use will not substantially alter or change the essential character of the land and the present use."

The relocation of a facility from one site to another site 200 or 300 feet away on the same parcel hardly constitutes a substantial change in the character of the land and the present use. The addition of a gas station is a different matter. However, the record implies that the proposed use could be regarded as a substitute for the gas station that was eliminated recently. The County staff report, moreover, indicates that there is another service station in the immediate vicinity.

By itself the proposed use will not substantially alter or change the essential character of the land and the present use. Consideration should be given, however, to the danger in establishing an example of a non-permissible use in a rural district. Continued seeding of urban uses within a rural district - particularly revenue producing, traffic generating

commercial or industrial uses - could quickly alter and change the character of a rural district. Legal sanctioning of such uses constitutes official approbation of change and would serve to guarantee the permanency of these changes.

- (f) "That the proposed use will make the highest and best use of the land involved for the public welfare."

The proposed use is a common commercial or industrial use found in many urban districts of the State. No reasons are apparent why such a use could not be accommodated in the urban districts existing in the Kula area, or why the land involved is especially suitable for the proposed use.

Examining the particular site in question, there is no apparent reason why the land could not be used for residential purposes. The staff recognizes that land rental under the proposed use would be significantly higher than in residential use.<sup>11/</sup> While this may reflect higher and better use of the site in question, it also reflects a more intensive use than a residential one. Rural districts were established for the express purpose of accommodating low density developments.

#### Recommendation

The record to date indicates that the proposed use is contested by certain residents of the area. The question as to whether the use is "reasonable" appears to have been raised. A special permit to relieve a hardship is not reasonable if it creates other difficulties.

Your staff has not been able to determine that the use is "unusual" under guidelines contained in Section 2.24 of the "State Land Use District Regulations."

Unless more persuasive evidence can be presented to substantiate that the proposed use is "unusual and reasonable," it is recommended that the application for special permit be denied.

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<sup>11/</sup> Cf. A(T)64-62 withdrawn, copy of lease by and between Tam and Kuwahara.

A P P E N D I X - A

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MAUI PLANNING AND TRAFFIC COMMISSION  
PUBLIC HEARING  
SPECIAL USE PERMIT - ACT 205, S.L.H. 1963  
Tuesday, January 5, 1965

RECEIVED

JAN 29 1965

APPLICATION NO. 16  
(Michael T. Kuwahara)

State of Hawaii  
LAND USE COMMISSION

The public hearing on the following request for SPECIAL USE PERMIT under provisions of SECTION 98H-6, REVISED LAWS OF HAWAII 1955, 1961 SUPPLEMENT, AS AMENDED BY ACT 205, SESSION LAWS OF HAWAII 1963, was opened by Chairman Joseph S. Medeiros, at 1:37 p.m. on Tuesday, January 5, 1965, in the Board of Supervisors Chambers, Wailuku, Maui, Hawaii:

**KULA, MAUI**

Construction of service station, and auto and farm repair shop to be situated on the old County Lower Kula Road, approximately 1/2 mile north of Waiakoa, in the vicinity of Migita Service Station in Kula, Maui, portion of Tax Map Key 2-3-2-23.

Applicant: Michael Tatsu Kuwahara

Area: About 29,000 square feet

A quorum of the Commission was in attendance. (See record of attendance.)

The Director read the Notice of Public Hearing, a copy of which is hereto annexed and made a part hereof with Affidavit of Publication published in the Maui News, a newspaper published and circulated in the County of Maui, being the County in which said Commission is located, on December 2, 1964, as required by Section 98H-6 of Act 205, S.L.H. 1963.

The Director read the Special Use Permit application dated November 27, 1964, signed by Michael Tatsu Kuwahara, attached hereto and made a part hereof.

The Director circulated and read the staff report attached hereto and made a part hereof.

There were no letters of approval as of 12:45 p.m. this date.

The following letters of protest, attached hereto and made a part hereof, were received and read at the public hearing.

1. Mr. Robert T. Migita, Waiakoa, Kula, Maui
2. Jitsumi Kunioki, Waiakoa, Maui
3. Richard B. McGovney, Rainbow Orchard, RR54-M, Waiakoa, Kula
4. Kenneth S. Willey, RR58, Waiakoa, Kula
5. Marcelino Calasa, Kula, Maui

The Chair then opened the hearing for testimony.

Speaking for the granting of the Special Use Permit:

ATTORNEY NADAO YOSHINAGA, representing Mr. Kuwahara, stated: "As presented here, this is an application for special permit. I would like to briefly explain the background of this application. The applicant has been operating this business within 100 yards of the location in question...he has been there for 15 years, and his father before him operated in the same location he is on for 5 or 6 years. The applicant is a small businessman. It is not a new business man coming into a district starting a new business

completely. As you know from the application and the various reports presented, he has a repair type of activity there, mostly in automobiles, trucks, and farm equipment. He has slowly expanded in business so that he is now ready to add other activities to his business, which is a service station in this case. As you already know, in this area across from him now is a combined activity of service station and repair service. The applicant has found that his activity has been heavily burdened because the Federal Highway project has taken away part of his land, as indicated in the application. He has also stated that this comes at a time when he plans to expand his business.

"The location that we are considering here is part and parcel of the same property owned by the same owners who own the land that he is operating under now, and as I indicated earlier, in the same vicinity, only 100 yards away. He is leasing this property, so that we find a small businessman who worked and lived in that area for all of his life, and what he is requesting is that he be allowed to move a short distance from where he is now.

"One of the factors involved here has not been explained in the application. The fact that the question of financing is involved here. The applicant has been assured, if he is able to relocate and get into a service station operation, that he will be allowed finances to integrate operations for service station and repair activities. With an added inducement for the relocation, and to have the subject financing, it is important that he has the service station as part of the overall operation. In the case of the applicant, it is in this situation that he finds himself in. It works out that this small businessman, through no fault of his own the land use has been cut in half, the land use for that area has been changed by law, but from where he has been operating on for many years he is able to get a lease and now has a chance to move a short distance and to expand his operation so that he can provide his customers with the same service as is provided by others along the way, especially one operation that is able to afford his customers both repair and the needs of a service station.

"I don't think this is such a gigantic change in a business operation. I don't think this involves a huge, multi-million dollar company coming in, and making drastic changes in the area. I think this is just a question of a small businessman who has operated for some 15 years, and who, under the law is entitled to make application, regardless of what kind of Master Plan, what kind of zoning plan is there, for special permit to operate what he has been operating for 15 years and hopes to expand his business as any small businessman hopes to expand his business operation. This operation is small enough in a community that it would not affect traffic, wipe out all the other existing businesses, or ruin all the scenery in Kula. I think that the applicant is entitled to serious consideration in this case. It is my understanding that he is there to help people, and to continue on half the land that he has now, using all the land along his area for parking purposes, is working a hardship on him. I have nothing more to add, Mr. Chairman."

Chairman Medeiros: "What about the statement on the 150' regulation that has been established by the State Highway Department for the Lower Kula Federal Aid Highway?"

Mr. Yoshinaga: "I am not familiar with any of the regulations imposed by the State government on this Federal Aid Project. I understand that the applicant's proposed construction will be within an area of the County road."

Chairman Medeiros: (To Director) "Bob, can you answer that?"

Director Ohata: "The State has bought access rights for a distance of 150 feet, but whether they bought the site for location purposes, that I'm not sure about."

Chairman Medeiros: "Here's another statement by Mr. Migita: 'He was then in a position that gave him an opportunity to move to a location already zoned for service station activities and there are many such locations within the urban areas of Waiakoa.' What has been done by the applicant?"

Mr. Yoshinaga: "As far as the applicant is concerned, he has not been able to get another location within the urban area that he felt was suitable for his needs. He has been working sometime with the owners of this property and he finds that ideal for him."

Chairman Medeiros: "You made the statement that 1/2 the land has gone to Federal Highway. Specifically, how much land was in the original deed and how much land now left."

Mr. Anthony Tam, owner of the property: "He had 1/2 acre under the original use. Now he has about 10,000 square feet."

Chairman Medeiros: "You presently have 2 homes within the site in question. Right?"

Mr. Tam: "One in conjunction with the repair shop and one goes with the motorcycle shop."

Chairman Medeiros: "What is your intention, are you going to continue the motorcycle shop?"

Mr. Tam: "The motorcycle shop will be under lease. This parcel is adjacent to the repair shop."

Chairman Medeiros: "In the area in question, is this where Mr. Migita originally had his repair shop?"

Mr. Tam: "Adjoining it."

Commissioner Nagasako: "Because of this letter that came through, would you say that if this request is granted it is spot zoning and spot zoning would set up a precedent of bad planning?"

Mr. Yoshinaga: "First of all I'm not in agreement that because the Master Plan is set up that it cannot change. I think it should change with conditions. We have set precedents in the past for spot zoning. It is not my impression that because one special use permit is granted in Kula or Wailuku, that automatically it requires the Commission to grant all future special use permits. I am sure the members of this Commission will examine each individual case on what is best for all the people in the community involved."

Commissioner Ueoka: "Now, supposing that the service station permit is granted, how many gallons of gas will he be able to sell?"

Mr. Michael T. Kuwahara: "I don't know, it's hard to tell."

Mr. Bob Worthington, District Sales Manager, Standard Oil Company of California: "About 3 years ago, and before my time, there was a service station up there that was knocked out by the new Kula highway. The volume that we would anticipate Mr. Kuwahara to sell would not be as much as that station."

Commissioner Ueoka: "I hate to see Mr. Kuwahara operating a service station and then go bankrupt. If there is enough volume to operate it would be all right, otherwise, I feel sorry for both of them. I would like to ask Mr. Migita how much business he is doing up there."

Mr. Yoshinaga: "No. 1, Mr. Kuwahara is not going in cold and new; No. 2, both Mr. Migita and Mr. Kuwahara have been in business for sometime, one with a larger operation in the sense that one has a service station, and the other has not. Considering the fact that there was a service station in the vicinity, I don't think this is a situation where both of them are going broke, or one does better than the other. This depends on the individual."

Commissioner Matsui: "Is this financing depending upon the gasoline station?"

Mr. Kuwahara: "yes. Right now my place is for repairs only."

Mr. Anthony Tam: "I would like to add that the piece that Mr. Kuwahara has under the lease has been under lease since 1937 and we have the papers to show. It is not only for the past 15 years. Where he has his present business it was leased by his parents long before he went into business. He inherited it from his parents. Now it is under his name. He had had it for the past 15 years."

Director Ohata: "The lease was questioned at one time, but subsequently Mr. Kuwahara proved that the lease was valid. This should not be brought up at this time."

No others spoke for the granting of the special use permit.

Speaking against the granting of the Special Use Permit:

Mr. Robert Migita, Jr.: (From blackboard sketch of the area.) "I hate to see this thing become a personal thing. A lot of times my father and I talked about it. It is nothing against Mr. Kuwahara. At the time the new road was being built the Highway Department said we would be protected against this sort of thing. That is why we had the 150 feet. If he wants to build in Waiakoa we have no objection. The main thing is that the Highway Department promised that the highway would be closed to new businesses to protect the old businesses. He feels that if this sort of thing is granted, all kinds of things could come up in the area. If this is granted there is no end to what other requests may be granted. We talk about free enterprise, and he has every right to build a gas pump, but at the same time the Highway Department promised existing businesses and it is transferring hardship from one to another. That is what my father is objecting."

Chairman Medeiros: (To Mr. Kuwahara.) "If you could put the pump adjoining the motorcycle shop would you consider removing the service station portion? You have 15 days to consider. I wonder if Mr. Worthington would consider this a worthy proposal."

Mr. Tam: "That particular spot is too elevated and would be too expensive to develop."

Mr. Worthington: "You mean he has 15 days? I'm a little confused about the American way of doing things. In other words, we must have every corner equal and opposite? There is a certain frontage there and certain usage for frontage there. To say it should be on the corner is probably wrong because that property is about 30,000 square feet and most certainly a greater portion of that property, the back portion, would be used for the garage and facilities. Other times it takes 150' back around the corner. You certainly are not in the corner."

Robert Migita, Sr.: "My protest has been read. May I add this is not personal. My boy said if it is to be on the present site I have no objection, or if it is going to be in a site already zoned as rural or urban, I have no objection. I say, give me a fair shake."

Commissioner Ueoka: "How wide is your frontage now?"

Mr. Kuwahara: "I would say about 30 feet or less."

Commissioner Ueoka: "I want to know the dimensions of the frontage and width, and whether there will be enough room for the cars to go in and out of the present site."

Chairman Medeiros: "(To Ueoka.) Did you have any other questions with regard to the matter of pumping?"

Commissioner Ueoka: "It is up to Mr. Migita if he wants to divulge this information or not."

Commissioner Lane: "It seems to me that the Commission is going into a matter that doesn't concern them. On this application, I think it isn't a matter of whether it's fair to be there or not, but whether it fits in with zoning in the buildup of the whole community. We are not interested in whether they sell 2 gallons of gas or one. In fact, as I understand it, the pumping station is an accessory use as a convenience to the parts and repair department. I don't think the Commission has any right to insist on whether it is fair or not in any business. I think that that's been ruled out a long time ago."

Commissioner Ueoka: "We have a perfect right to know whether they are in a position to stay there."

Commissioner Kage: "I think this matter was discussed before that we have no jurisdiction in the area of economics."

Mr. Richard McGovney: "I have a copy of my letter which was read. I was very interested in the argument by the State Senator Yoshinaga. I think the crux of this whole thing is being mixed up, as Chief Lane brought out. This is a case where he is going to start a new business in a rural area. That is what the petition says. They call it a related operation. This is a new business in relation to what they have going there, and that is not within the intent and thought of the State Land Use Commission or this Commission that we are appearing before now. That is zoned rural. The smallness of it doesn't count a bit. You start one little match and you start a forest fire, but they all started from a match."

"Of course, I'm a sucker here because I own stock in the Standard Oil Company of California and that's not good sense. But I am thinking of Kula where I live."

"It is a matter of hardship, according to the senator. He prefaced that by saying it is an expanding business after 15 years. An expanding business is not a hardship business. The real hardship would be on the adjacent present business. I am not carrying a torch for Mr. Migita, he does work for me. The hardship would not only be on him but from Seki's at Pukalani clear up to Keokea. There was talk about a service station being taken down when the new highway went in. It wasn't in this area, it was down by Charles Cooke's where the highway joins. It was no where near this area. It appears that this applicant wants to be on the new highway. I know he could have gone to Waiakoa in the urban area."

"Somebody mentioned that it would not be a precedent. Precedent means first, and this has to be the first action of what we are talking about. If the first isn't a precedence I don't know what is. We would like to keep the Kula-Waiakoa area in the land regulations that have been set up within the last year or so, and I see no reason to vacate it on this particular petition. A lot of thought was given to that and I don't see why we should negate."

Public Hearing, Luc Spec. Use Per. -- 6  
Appl. #16, Michael T. Kuwahara

Director Ohata: "You stated that in the Kula area you have no objection if the service station is put in an urban area. Would you have any objections to having a service station in James Tract?"

Mr. McGovney: "I didn't say that. I would object to putting it in James Tract. I would like to keep Kula rural up there too."

No others spoke against the granting of the Special Use Permit.

The public hearing was closed at 2:52 p.m. The Chair explained that Sub-Part E, Special Permits, paragraph 2.26 Decision, under Land Use Commission regulations provides that: "The County Planning Commission shall act on special permit petition not earlier than 15 days after the public hearing but within a reasonable time thereafter." Accordingly, the Commission would not act on the application at the regular meeting following, however, further testimony for or against the granting of the special use permit would be accepted by the Planning Commission.

*Eva M. Duponte*  
EVA M. DUPONTE  
Administrative Assistant -  
Planning Reporter

RECORD OF ATTENDANCE:

Maui Planning and Traffic Commission

Present: Joseph S. Medeiros, Chairman  
Kazuo Kage, Vice-Chairman  
Willard Eller, 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

Absent: William Hong, Member

In Attendance:  
Mr. Robert O. Ohata, Planning Director  
Charles Ota, Maui Member, Land Use Commission  
Attorney Nadao Yoshinaga  
Michael T. Kuwahara  
Robert Migita, Sr.  
Robert Migita, Jr.  
Bob Worthington, Standard Oil Company  
Anthony Tam, Kula, Maui  
Bob Allen, Maui News  
Robert Johnson, Honolulu Advertiser

February 5, 1965

Ref. No. LUC 585

Mr. Michael T. Kuwahara  
Kula, Maui, Hawaii

Dear Mr. Kuwahara:

The Land Use Commission next meets on February 19, 1965, at 1:30 p.m., in the hearing room of the second floor of the Kapuaiwa Building, at 426 Queen Street, Honolulu.

At that time the Commission will conduct a hearing on a petition by an Oahu developer. Shortly thereafter, it is expected that they will consider the action of the Maui Planning and Traffic Commission on your application for a special permit.

Although there is no requirement for you to be present, you may nevertheless wish to be.

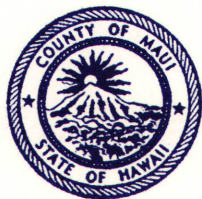
Sincerely,

RAYMOND S. YAMASHITA  
Executive Officer

GS/ak

cc: Chairman M. Thompson  
Maui Planning & Traffic Commission

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



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

*All Comm.*

PLANNING AND TRAFFIC COMMISSION  
COUNTY OF MAUI

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

January 28, 1965

RECEIVED

JAN 29 1965

State of Hawaii  
LAND USE COMMISSION

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

Gentlemen:

Re: Special Use Permit Application No. 16,  
from Michael T. Kuwahara to Construct  
Service Station, and Auto and Farm  
Repair Shop, Kula, Maui, Hawaii

The Maui Planning and Traffic Commission at its meeting of January 26, 1965, voted to approve special use permit pursuant to Section 98H-6, Revised Laws of Hawaii 1955, to Michael T. Kuwahara to construct service station, and auto and farm repair shop to be situated on the old County Lower Kula Road, approximately 1/2 mile north of Waiakoa, in the vicinity of Migita Service Station in Kula, Maui, portion of Tax Map Key 2-3-2:23, with the following proviso:

1. The applicant's present repair shop and all other accessory buildings and structures be removed, and said area shall be used for only conforming rural uses.
2. The area where junks and damaged vehicles are to be kept or temporarily parked shall be bounded by a solid fence 6 feet in height.
3. There shall be no sign or billboard along the new Federal Aid Highway, nor along the access road.
4. Applicable provisions of the County of Maui's Comprehensive Zoning Ordinance as amended, shall apply.

The vote to approve was as follows: 4 ayes; 2 noes; 1 absent.

Land Use Commission, Page 2  
M. Kuwahara, Spec. Use Per.

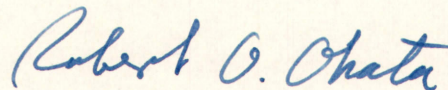
1/28/65

Attached herewith are copies of application, notice of public hearing, staff report, transcript of hearing, and various communications.

The Commission's reasons for approving are that an unusual situation exists whereby a cluster of repair shops are in existence in a rural district. These are the Migita Service Station, Tavares Motorcycle Repair Shop, and Kuwahara Repair Shop. Other residential developments nearby comprise an urban-like cluster. Relocation of service station into such residentially developed urban district in Kula such as the James Tract, would be detrimental to the Kula area.

Pursuant to Chapter 98H, Revised Laws of Hawaii, the action of the Planning Commission is transmitted to your Commission.

Yours very truly,



ROBERT O. OHATA  
Planning Director

cc Michael T. Kuwahara  
cc Charles Ota

RECEIVED

INSTRUCTIONS:

- 1. To be filed in triplicate.
- 2. Use black ink or typewriter with black ribbon.
- 3. Use additional sheets if necessary.

MAUI PLANNING & TRAFFIC COMMISSION  
P.O. BOX 1487, HANULUI, HAWAII

APPLICATION FOR SPECIAL PERMIT  
Special Permit is hereby requested:

DO NOT WRITE IN THIS SPACE

JAN 29 1965  
State of Hawaii  
LAND USE COMMISSION

Appl. & fee received 11/27/64  
 Notice published 12/2/64  
 Public hearing 1/5/65  
 Recommendation to LUC 1/28/65  
 Action by State LUC \_\_\_\_\_  
 County & Appl. notified \_\_\_\_\_

A. Description of Property: (1) Tax Map Key No. 2-3-2-23, portion of  
 (2) Lot Area 29,000 sq. ft. (3) Location Kula, Maui

B. Ownership: (1) Owner's name Anthony and Anna Tam  
 (2) Lessee's name Michael Mitchell Tatsu Kuwahara (3) Unexpired term 35 years

C. Request: (1) State request briefly and exactly: Special permit to relocate auto and farm equipment repair shop to a new location around 100 yards away. Also to construct a gasoline service station to expand business.

(2) Reasons justifying granting of request: New Federal highway project took away about 1/2 of the land of the present business site, resulting in extreme hardship because of insufficient space. The expansion of business to include the sale of gasoline is a related type of activity for my repair shop. Another gasoline station, located about 2-3 miles away, was discontinued because of the Federal highway project.

D. Applicant: (1) Name Michael Mitchell Tatsu Kuwahara  
 (2) Address Kula, Maui (3) Telephone 783923  
 (4) Signature Michael Tatsu Kuwahara

E. Planning Commission action: Approve Date 1/26/65 Vote: 4 ayes ✓ noes

Reasons: Urban-like cluster already existing. Other zoned urban are could be adversely affected if service station placed there.

F. State Land Use Commission's action: \_\_\_\_\_ Date: \_\_\_\_\_

G. Copies to: State LUC \_\_\_\_\_ Supervisors \_\_\_\_\_ Applicant \_\_\_\_\_ Owner & Lessee \_\_\_\_\_

*ak*

MAUI PLANNING AND TRAFFIC COMMISSION  
PUBLIC HEARING  
SPECIAL USE PERMIT - ACT 205, S.L.H. 1963  
Tuesday, January 5, 1965

RECEIVED

JAN 29 1965

APPLICATION NO. 16  
(Michael T. Kuwahara)

State of Hawaii  
LAND USE COMMISSION

The public hearing on the following request for SPECIAL USE PERMIT under provisions of SECTION 98H-6, REVISED LAWS OF HAWAII 1955, 1961 SUPPLEMENT, AS AMENDED BY ACT 205, SESSION LAWS OF HAWAII 1963, was opened by Chairman Joseph S. Medeiros, at 1:37 p.m. on Tuesday, January 5, 1965, in the Board of Supervisors Chambers, Wailuku, Maui, Hawaii:

**KULA, MAUI**

Construction of service station, and auto and farm repair shop to be situated on the old County Lower Kula Road, approximately 1/2 mile north of Waiakoa, in the vicinity of Migita Service Station in Kula, Maui, portion of Tax Map Key 2-3-2-23.

Applicant: Michael Tatsu Kuwahara

Area: About 29,000 square feet

A quorum of the Commission was in attendance. (See record of attendance.)

The Director read the Notice of Public Hearing, a copy of which is hereto annexed and made a part hereof with Affidavit of Publication published in the Maui News, a newspaper published and circulated in the County of Maui, being the County in which said Commission is located, on December 2, 1964, as required by Section 98H-6 of Act 205, S.L.H. 1963.

The Director read the Special Use Permit application dated November 27, 1964, signed by Michael Tatsu Kuwahara, attached hereto and made a part hereof.

The Director circulated and read the staff report attached hereto and made a part hereof.

There were no letters of approval as of 12:45 p.m. this date.

The following letters of protest, attached hereto and made a part hereof, were received and read at the public hearing.

1. Mr. Robert T. Migita, Waiakoa, Kula, Maui
2. Jitsumi Kunioki, Waiakoa, Maui
3. Richard B. McGovney, Rainbow Orchard, RR54-M, Waiakoa, Kula
4. Kenneth S. Willey, RR58, Waiakoa, Kula
5. Marcelino Calasa, Kula, Maui

The Chair then opened the hearing for testimony.

Speaking for the granting of the Special Use Permit:

ATTORNEY NADAO YOSHINAGA, representing Mr. Kuwahara, stated: "As presented here, this is an application for special permit. I would like to briefly explain the background of this application. The applicant has been operating this business within 100 yards of the location in question...he has been there for 15 years, and his father before him operated in the same location he is on for 5 or 6 years. The applicant is a small businessman... it is not a new business man coming into a district starting a new business

completely. As you know from the application and the various reports presented, he has a repair type of activity there, mostly in automobiles, trucks, and farm equipment. He has slowly expanded in business so that he is now ready to add other activities to his business, which is a service station in this case. As you already know, in this area across from him now is a combined activity of service station and repair service. The applicant has found that his activity has been heavily burdened because the Federal Highway project has taken away part of his land, as indicated in the application. He has also stated that this comes at a time when he plans to expand his business.

"The location that we are considering here is part and parcel of the same property owned by the same owners who own the land that he is operating under now, and as I indicated earlier, in the same vicinity, only 100 yards away. He is leasing this property, so that we find a small businessman who worked and lived in that area for all of his life, and what he is requesting is that he be allowed to move a short distance from where he is now.

"One of the factors involved here has not been explained in the application. The fact that the question of financing is involved here. The applicant has been assured, if he is able to relocate and get into a service station operation, that he will be allowed finances to integrate operations for service station and repair activities. With an added inducement for the relocation, and to have the subject financing, it is important that he has the service station as part of the overall operation. In the case of the applicant, it is in this situation that he finds himself in. It works out that this small businessman, through no fault of his own the land use has been cut in half, the land use for that area has been changed by law, but from where he has been operating on for many years he is able to get a lease and now has a chance to move a short distance and to expand his operation so that he can provide his customers with the same service as is provided by others along the way, especially one operation that is able to afford his customers both repair and the needs of a service station.

"I don't think this is such a gigantic change in a business operation. I don't think this involves a huge, multi-million dollar company coming in, and making drastic changes in the area. I think this is just a question of a small businessman who has operated for some 15 years, and who, under the law is entitled to make application, regardless of what kind of Master Plan, what kind of zoning plan is there, for special permit to operate what he has been operating for 15 years and hopes to expand his business as any small businessman hopes to expand his business operation. This operation is small enough in a community that it would not affect traffic, wipe out all the other existing businesses, or ruin all the scenery in Kula. I think that the applicant is entitled to serious consideration in this case. It is my understanding that he is there to help people, and to continue on half the land that he has now, using all the land along his area for parking purposes, is working a hardship on him. I have nothing more to add, Mr. Chairman."

Chairman Medeiros: "What about the statement on the 150' regulation that has been established by the State Highway Department for the Lower Kula Federal Aid Highway?"

Mr. Yoshinaga: "I am not familiar with any of the regulations imposed by the State government on this Federal Aid Project. I understand that the applicant's proposed construction will be within an area of the County road."

Chairman Medeiros: (To Director) "Bob, can you answer that?"

Director Ohata: "The State has bought access rights for a distance of 150 feet, but whether they bought the site for location purposes, that I'm not sure about."

Chairman Medeiros: "Here's another statement by Mr. Migita: 'He was then in a position that gave him an opportunity to move to a location already zoned for service station activities and there are many such locations within the urban areas of Waiakoa.' What has been done by the applicant?"

Mr. Yoshinaga: "As far as the applicant is concerned, he has not been able to get another location within the urban area that he felt was suitable for his needs. He has been working sometime with the owners of this property and he finds that ideal for him."

Chairman Medeiros: "You made the statement that 1/2 the land has gone to Federal Highway. Specifically, how much land was in the original deed and how much land now left."

Mr. Anthony Tam, owner of the property: "He had 1/2 acre under the original use. Now he has about 10,000 square feet."

Chairman Medeiros: "You presently have 2 homes within the site in question. Right?"

Mr. Tam: "One in conjunction with the repair shop and one goes with the motorcycle shop."

Chairman Medeiros: "What is your intention, are you going to continue the motorcycle shop?"

Mr. Tam: "The motorcycle shop will be under lease. This parcel is adjacent to the repair shop."

Chairman Medeiros: "In the area in question, is this where Mr. Migita originally had his repair shop?"

Mr. Tam: "Adjoining it."

Commissioner Nagasako: "Because of this letter that came through, would you say that if this request is granted it is spot zoning and spot zoning would set up a precedent of bad planning?"

Mr. Yoshinaga: "First of all I'm not in agreement that because the Master Plan is set up that it cannot change. I think it should change with conditions. We have set precedents in the past for spot zoning. It is not my impression that because one special use permit is granted in Kula or Wailuku, that automatically it requires the Commission to grant all future special use permits. I am sure the members of this Commission will examine each individual case on what is best for all the people in the community involved."

Commissioner Ueoka: "Now, supposing that the service station permit is granted, how many gallons of gas will he be able to sell?"

Mr. Michael T. Kuwahara: "I don't know, it's hard to tell."

Mr. Bob Worthington, District Sales Manager, Standard Oil Company of California: "About 3 years ago, and before my time, there was a service station up there that was knocked out by the new Kula highway. The volume that we would anticipate Mr. Kuwahara to sell would not be as much as that station."

Commissioner Ueoka: "I hate to see Mr. Kuwahara operating a service station and then go bankrupt. If there is enough volume to operate it would be all right, otherwise, I feel sorry for both of them. I would like to ask Mr. Migita how much business he is doing up there."

Mr. Yoshinaga: "No. 1, Mr. Kuwahara is not going in cold and new; No. 2, both Mr. Migita and Mr. Kuwahara have been in business for sometime, one with a larger operation in the sense that one has a service station, and the other has not. Considering the fact that there was a service station in the vicinity, I don't think this is a situation where both of them are going broke, or one does better than the other. This depends on the individual."

Commissioner Matsui: "Is this financing depending upon the gasoline station?"

Mr. Kuwahara: "yes. Right now my place is for repairs only."

Mr. Anthony Tam: "I would like to add that the piece that Mr. Kuwahara has under the lease has been under lease since 1937 and we have the papers to show. It is not only for the past 15 years. Where he has his present business it was leased by his parents long before he went into business. He inherited it from his parents. Now it is under his name. He had had it for the past 15 years."

Director Ohata: "The lease was questioned at one time, but subsequently Mr. Kuwahara proved that the lease was valid. This should not be brought up at this time."

No others spoke for the granting of the special use permit.

Speaking against the granting of the Special Use Permit:

Mr. Robert Migita, Jr.: (From blackboard sketch of the area.) "I hate to see this thing become a personal thing. A lot of times my father and I talked about it. It is nothing against Mr. Kuwahara. At the time the new road was being built the Highway Department said we would be protected against this sort of thing. That is why we had the 150 feet. If he wants to build in Waiakoa we have no objection. The main thing is that the Highway Department promised that the highway would be closed to new businesses to protect the old businesses. He feels that if this sort of thing is granted, all kinds of things could come up in the area. If this is granted there is no end to what other requests may be granted. We talk about free enterprise, and he has every right to build a gas pump, but at the same time the Highway Department promised existing businesses and it is transferring hardship from one to another. That is what my father is objecting."

Chairman Medeiros: (To Mr. Kuwahara.) "If you could put the pump adjoining the motorcycle shop would you consider removing the service station portion?" You have 15 days to consider. I wonder if Mr. Worthington would consider this a worthy proposal."

Mr. Tam: "That particular spot is too elevated and would be too expensive to develop."

Mr. Worthington: "You mean he has 15 days? I'm a little confused about the American way of doing things. In other words, we must have every corner equal and opposite? There is a certain frontage there and certain usage for frontage there. To say it should be on the corner is probably wrong because that property is about 30,000 square feet and most certainly a greater portion of that property, the back portion, would be used for the garage and facilities. Other times it takes 150' back around the corner. You certainly are not in the corner."

Robert Migita, Sr.: "My protest has been read. May I add this is not personal. My boy said if it is to be on the present site I have no objection, or if it is going to be in a site already zoned as rural or urban, I have no objection. I say, give me a fair shake."

Commissioner Ueoka: "How wide is your frontage now?"

Mr. Kuwahara: "I would say about 30 feet or less."

Commissioner Ueoka: "I want to know the dimensions of the frontage and width, and whether there will be enough room for the cars to go in and out of the present site."

Chairman Medeiros: "(To Ueoka.) Did you have any other questions with regard to the matter of pumping?"

Commissioner Ueoka: "It is up to Mr. Migita if he wants to divulge this information or not."

Commissioner Lane: "It seems to me that the Commission is going into a matter that doesn't concern them. On this application, I think it isn't a matter of whether it's fair to be there or not, but whether it fits in with zoning in the buildup of the whole community. We are not interested in whether they sell 2 gallons of gas or one. In fact, as I understand it, the pumping station is an accessory use as a convenience to the parts and repair department. I don't think the Commission has any right to insist on whether it is fair or not in any business. I think that that's been ruled out a long time ago."

Commissioner Ueoka: "We have a perfect right to know whether they are in a position to stay there."

Commissioner Kage: "I think this matter was discussed before that we have no jurisdiction in the area of economics."

Mr. Richard McGovney: "I have a copy of my letter which was read. I was very interested in the argument by the State Senator Yoshinaga. I think the crux of this whole thing is being mixed up, as Chief Lane brought out. This is a case where he is going to start a new business in a rural area. That is what the petition says. They call it a related operation. This is a new business in relation to what they have going there, and that is not within the intent and thought of the State Land Use Commission or this Commission that we are appearing before now. That is zoned rural. The smallness of it doesn't count a bit. You start one little match and you start a forest fire, but they all started from a match."

"Of course, I'm a sucker here because I own stock in the Standard Oil Company of California and that's not good sense. But I am thinking of Kula where I live."

"It is a matter of hardship, according to the senator. He prefaced that by saying it is an expanding business after 15 years. An expanding business is not a hardship business. The real hardship would be on the adjacent present business. I am not carrying a torch for Mr. Migita, he does work for me. The hardship would not only be on him but from Seki's at Pukalani clear up to Keokea. There was talk about a service station being taken down when the new highway went in. It wasn't in this area, it was down by Charles Cooke's where the highway joins. It was no where near this area. It appears that this applicant wants to be on the new highway. I know he could have gone to Waiakoa in the urban area."

"Somebody mentioned that it would not be a precedent. Precedent means first, and this has to be the first action of what we are talking about. If the first isn't a precedence I don't know what is. We would like to keep the Kula-Waiakoa area in the land regulations that have been set up within the last year or so, and I see no reason to vacate it on this particular petition. A lot of thought was given to that and I don't see why we should negate."

Public Hearing, Luc Spec. Use Per. -- 6  
Appl. #16, Michael T. Kuwahara

Director Ohata: "You stated that in the Kula area you have no objection if the service station is put in an urban area. Would you have any objections to having a service station in James Tract?"

Mr. McGovney: "I didn't say that. I would object to putting it in James Tract. I would like to keep Kula rural up there too."

No others spoke against the granting of the Special Use Permit.

The public hearing was closed at 2:52 p.m. The Chair explained that Sub-Part E, Special Permits, paragraph 2.26 Decision, under Land Use Commission regulations provides that: "The County Planning Commission shall act on special permit petition not earlier than 15 days after the public hearing but within a reasonable time thereafter." Accordingly, the Commission would not act on the application at the regular meeting following, however, further testimony for or against the granting of the special use permit would be accepted by the Planning Commission.

*Eva M. Duponte*  
EVA M. DUPONTE  
Administrative Assistant -  
Planning Reporter

RECORD OF ATTENDANCE:

Maui Planning and Traffic Commission

Present: Joseph S. Medeiros, Chairman  
Kazuo Kage, Vice-Chairman  
Willard Eller, 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

Absent: William Hong, Member

In Attendance:

Mr. Robert O. Ohata, Planning Director  
Charles Ota, Maui Member, Land Use Commission  
Attorney Nadao Yoshinaga  
Michael T. Kuwahara  
Robert Migita, Sr.  
Robert Migita, Jr.  
Bob Worthington, Standard Oil Company  
Anthony Tam, Kula, Maui  
Bob Allen, Maui News  
Robert Johnson, Honolulu Advertiser

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JAN 29 1965      December 30, 1964

State of Hawaii  
LAND USE COMMISSION

TO:            Maui Planning and Traffic Commission

FROM:         Planning Director Robert O. Ohata

SUBJECT:      Staff Report - Special Use Permit Application No. 16,  
               from Michael T. Kuwahara, Kula, Maui

The subject parcel is the southerly corner parcel bounded by the old and new Lower Kula Roads and the access road between them. The area is 29,000 square feet, and is presently vacant. The petitioner has a repair garage some 200 feet south of this site, and would like to relocate to this new site. In this immediate neighborhood, there are another service station, a motorcycle repair shop and farm homes.

The petitioner is the lessee and qualifies to make this application. He had previously applied for change of district boundary from "Agriculture" to "Urban", but before the Land Use Commission acted on his zoning request, said Commission placed this area in the "Rural" zone on the final map. This action prompted the petitioner to withdraw his request and apply for Special Use Permit.

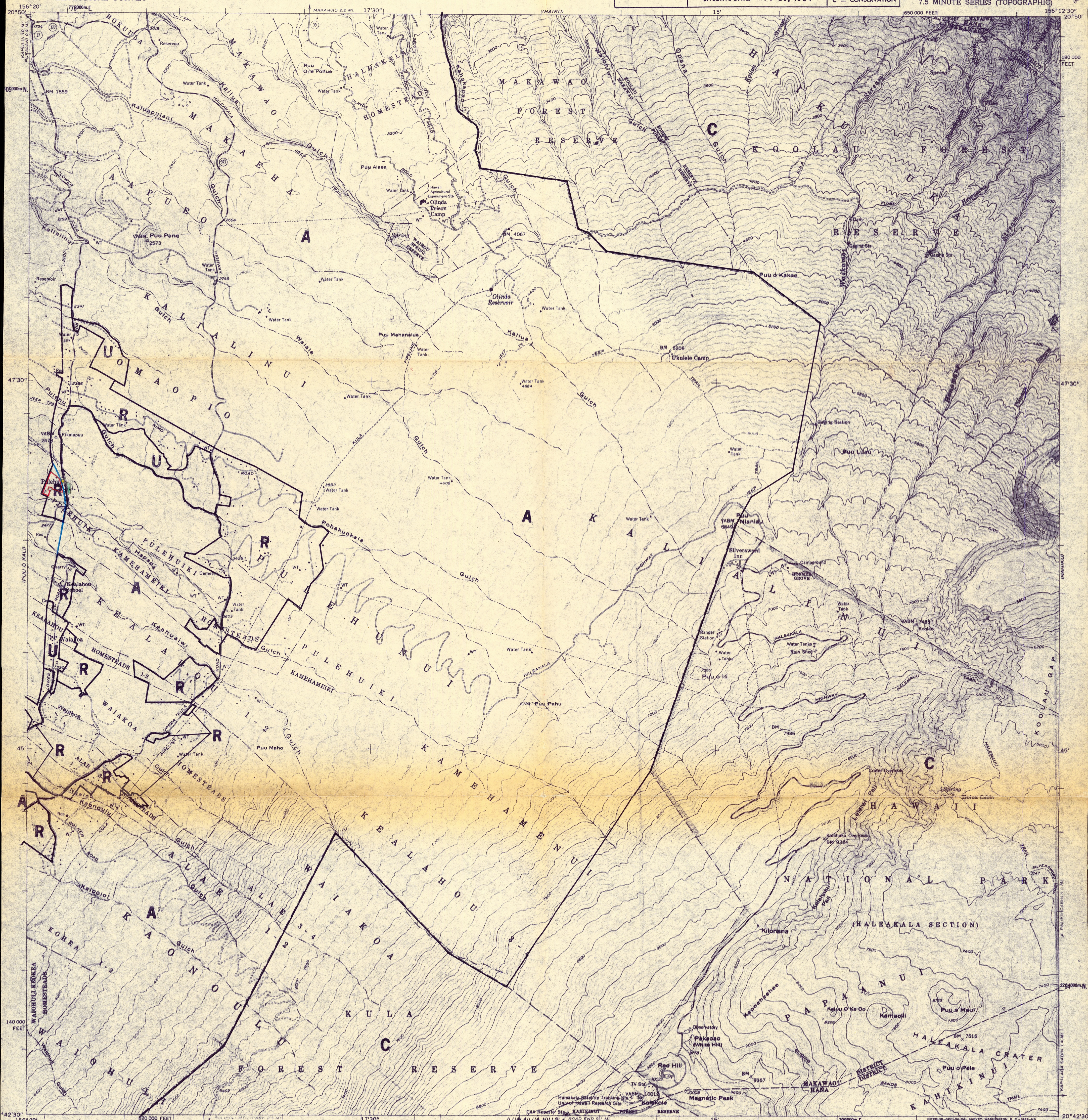
The General Plan of Maui shows this area as a vast rural district. In this rural district, the maximum density is one dwelling per 1/2 acre. The land use would be single family dwelling intermixed with agriculture. There are two urban districts in Kula, and it would be desirable to have all "non-rural" there. However, in this particular case, realizing the quaintness of Keokea and Waiakoa, it might be better to place such uses as repair shops in one location.

It is hereby recommended that the Special Use Permit be approved with the following proviso:

1. The applicant's present repair shop and all other accessory buildings and structures be removed and said area shall be used for only conforming "rural uses."
2. The area where junks and damaged vehicles are kept or temporarily parked shall be bounded by a solid fence 6 feet in height.
3. There shall be no sign or billboard along the new Federal Aid Highway, nor along the access road.
4. Applicable provisions of the Comprehensive Zoning Ordinance shall apply.

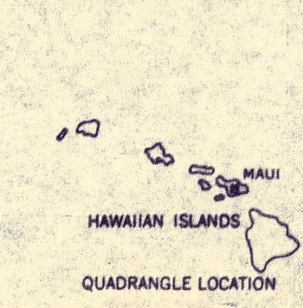
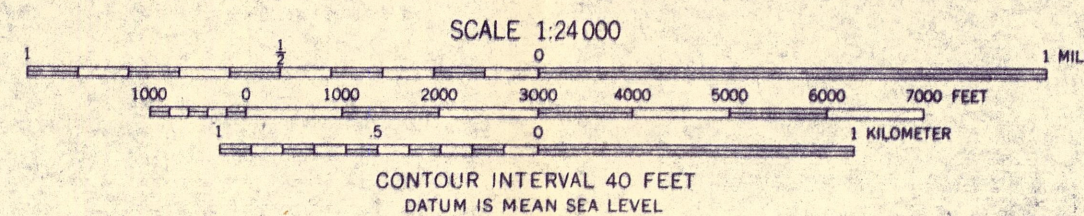
ROBERT O. OHATA

C



Mapped, edited, and published by the Geological Survey  
Control by USGS and USC&GS  
Topography from aerial photographs by multiplex methods  
Aerial photographs taken 1950. Field check 1957  
Polyconic projection. Old Hawaiian datum  
10,000-foot grid based on Hawaiian coordinate system, zone 2  
1000-meter Universal Transverse Mercator grid ticks,  
zone 4, shown in blue

APPROXIMATE MEAN  
DECLINATION, 1957



ROAD CLASSIFICATION  
Medium-duty \_\_\_\_\_ Light-duty \_\_\_\_\_  
Unimproved dirt \_\_\_\_\_  
State Route ○

Map of the Island of Maui, scale 1:62,500, from an earlier survey is available

81 oak  
54 Mini  
81 Ham  
4.5 Pen  
760



*Cur Comm.*

UNIVERSITY OF HAWAII  
HONOLULU 14, HAWAII

January 20, 1965

Maui Planning and Traffic Commission  
County of Maui  
P.O. Box 1487  
Kahului, Maui

RECEIVED

JAN 29 1965

State of Hawaii  
LAND USE COMMISSION

Gentlemen:

In regards to your decision as to the rezoning of a new site for the garage of Mr. Michael Tatsu Kuwahara on the lower Kula road.

We of the Haleakala Observatory, Hawaii Institute of Geophysics, feel there is a great need for Mr. Kuwahara's proposed move and expansion. He has handled all our repair and maintenance work since the inception of the Haleakala Observatory. The fact that his garage is located at a central point, half way up the mountain, has been a great saving in time and money for us. To say nothing of his willingness to be available for emergency work 24 hours a day and seven days a week.

Now that we are in the midst of a tremendous growth program, including that of the University of Michigan, our need of Mr. Kuwahara's proposed expansion becomes all the more necessary. As an item in point, we are adding four more vehicles to our motor pool in the coming month.

We strongly hope your decision will be a favorable one to Mr. Kuwahara. Thank you for your consideration.

Very truly yours,

Herbert M. Mann  
Hawaii Institute of Geophysics  
Haleakala Observatory



*All comm.*

UNIVERSITY OF HAWAII  
COLLEGE OF TROPICAL AGRICULTURE  
HAWAII AGRICULTURAL EXPERIMENT STATION  
HONOLULU, HAWAII 96822

January 20, 1965

RECEIVED

JAN 29 1965

State of Hawaii  
LAND USE COMMISSION

To Whomsoever It May Concern:

Tatsu Kuwahara has provided prompt on the spot service both at this farm and at his place of business whenever requested. He was the only local repairman willing to provide such service, when the University of Hawaii Kula Experimental Farm was established in 1962, and his willing cooperation and sincere desire to provide service have contributed in no small measure to the development and operation of the Hawaii Agricultural Experiment Station on this island.

Inasmuch as his desire to provide service has caused his business to grow too large to be adequately handled at his present location, we at the Experiment Station wholeheartedly support his attempt to relocate his business on the larger lot adjacent to his present shop.

*David D. F. Williams*

David D. F. Williams  
Superintendent  
Kula Experimental Farm

THOMAS S. OGATA  
MEYER M. UEOKA

2121 MAIN STREET  
Post Office Box 433  
Phone: 25-137 or 33-738

**OGATA & UEOKA**  
ATTORNEYS AT LAW  
WAILUKU, MAUI, HAWAII 96793

*See below.*

January 18, 1965

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JAN 29 1965

State of Hawaii  
LAND USE COMMISSION

Chairman and Members of the  
Maui Planning and Traffic Commission  
Kahului, Maui, Hawaii

Gentlemen:

We enclose a letter dated January 16, 1965, from Mr. Frederick V. F. Lee, who has in the past, served as Planning Director for the City and County of Honolulu, containing therein his comments as a professional planner, which we believe would be relevant in connection with the disposition of the application mentioned therein for a special use permit under the provisions of Act 205 of the Session Laws of Hawaii 1963.

Very truly yours,

OGATA & UEOKA

By Thomas S. Ogata

Encl.

cc: Mr. Joseph Medeiros  
Mr. Kazuo Kage  
Mr. Masao Nagasako  
Mr. Robert Ueoka  
Mr. Yoshikazu Matsui  
Mr. Willard Eller  
Mr. William Hong

*All copies.*

January 16, 1965

Mr. Thomas S. Ogata  
Attorney at Law  
2121 Main Street  
Wailuku, Maui, Hawaii

Dear Tom:

In answer to your request for an opinion as to the Application by Michael Tatsu Kuwahara for a special use permit before the Maui Planning and Traffic Commission published in the Maui News of December 2, 1964, re the construction of a service station and auto and farm repair shop to be situated on the old County Lower Kula Road, approximately 1/2 mile north of Waiakoa in the vicinity of Migita Service Station in Kula, Maui, portion of Tax Map Key 2-3-2-23, area about 29,000 square feet, I have investigated the circumstances surrounding the application and have also visited the site. It is my opinion as a professional planner that the application for special permit should be denied on the following basis:

Section 98H-6 of Act 205 entitled Special Permit states, "The County Planning Commission and the zoning board of appeals of the City and County of Honolulu may permit certain unusual and reasonable uses within agricultural and rural districts, other than those for which the district is classified."

The intent and purpose of this section of Act 205 was to permit certain uses which are unusual. The term "unusual" in the meaning of the Act means uses which are out of the ordinary, not merely because adjoining land uses are incompatible, but because the use is by itself a peculiar use requiring specific consideration not normally related to other uses which may be classified in general groups. As an example, an unusual use is that of an outdoor drive-in theater. The general classification of this use would be a business use, however, the requirements for large land areas, the amount of traffic generated at peak periods and the peculiar service it renders to the community dictates that a use such as this is incompatible within

Mr. Thomas S. Ogata

- 2.-

January 16, 1965

a commercial area such as a central business district or a regional shopping center. This type of use is more commonly found in the outer peripheral areas of the city, and in most cases only permitted through the use of a special permit. In the case of this application, it is specifically stated that the uses sought are that of a service station and auto and repair shop. These uses are definitely neither unusual nor incompatible with other commercial uses. On the basis of this, I cannot see where the uses sought would qualify as an unusual and reasonable use under Section 98H-6 of Act 205.

The land uses along the Lower Kula Road consists of farm land with residences. The urban uses are located mauka of the Lower Kula Road and must be reached by access road from Lower Kula Road. This arrangement of land uses along the Lower Kula Road emphasizes the rural atmosphere of the Kula area and is definitely a positive feature that will attract tourists and encourage travel along this route for sight seeing purposes. The argument I wish to present is not against the merits of the site as to whether the site should be utilized for urban use or for rural use, but an argument against the violation of the principle established by the special permit section of Act 205. If through the vehicle of a special permit the urban uses sought are permitted, then the same vehicle, that of a special permit, will be utilized to spot and strip zone the entire Lower Kula Road. The entire planning concept of integrated commercial developments, consolidated residential developments and a uniform agricultural zone will be frustrated. The resultant damage to property values of the urban areas as established by the Land Use Commission will be great. Waiakoa Town, James Tract and the other urban areas as established by the Land Use Commission are the specific areas which will be affected. The entire frame work of zoning which affords the land owner protection against infringement of rights and devaluation of property will be defeated by approval of this special permit application.

Without going into further detail, but merely reaffirming the concept of what a special permit is designed for, I wish

Mr. Thomas S. Ogata

- 3 -

January 16, 1965

to impress upon you the importance of this precedent setting application. If the vehicle of the special permit is utilized to establish uses in the Kula area which are neither unusual nor reasonable, then the basic principles of the zoning ordinance will have been violated. Once this precedence has been set, the entire effectiveness and the objectives of the zoning ordinance would be lost, and such a consequence is inconsistent with and in contravention to the provisions of Act 205, which provides:

"The planning commission or zoning board of appeals may, under such protective restrictions as may be deemed necessary, permit such desired use, but only when such use would promote the effectiveness and objectives of this chapter."

When this happens the police power utilized to insure orderly and reasonable development of land has been negated. For this reason, I would strongly recommend that the application for special permit in the Kula area be denied.

Very truly yours,

Frederick K. F. Lee

Waiakoa, Maui, Hawaii  
January 21, 1965

*All done.*

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

RECEIVED

JAN 29 1965

State of Hawaii  
LAND USE COMMISSION

Gentlemen:

Enclosed are petitions signed by my customers and nearby property owners. Each and everyone of the signatures is a bonafide customer and there are several more who could not be reached in time to have them sign the petitions. I would welcome any investigation as to the validity of the signatures by choosing names at random from the list and calling them to ascertain their motives.

In your deliberations on this matter may I point out once again that I seek no special favors based on sympathy or false pretenses. I am in business today where I have served the people of the surrounding areas for many years. It is my hope to remain in business for many more years to come. It is with this thought in my mind that I requested the special permit hoping to house my operations in a modern building that will not be an eyesore to this area. Furthermore, the retailing of gasoline will be an additional service to my many customers. Gasoline retailing would be an ancillary service to my customers who are even now not patronizing the services of the chief complainant to my request.

As proof positive that I am not starting a new business, may I refer you to Mr. Migita's statement in which he claims that he has no objection to my business activities as long as I remain at my present location.

In conclusion I submit that my request meets all of the conditions of the guidelines as set forth in the Land Use Act in determining "unusual and reasonable use" for which a special permit may be approved.

Sincerely,

MICHAEL T. KUWAHARA

encls.

*See Comm.*

A PETITION

We, the undersigned petitioners, urgently request that the Maui Planning and Traffic Commission support the special use permit sought by Michael Tatsu Kuwahara in order that he may relocate his garage to provide better and wider service to his patrons.

This petition is the only means we have to communicate with your commission as we are working men who are unable to take the time out to appear in person before your group. We are all bona fide customers of Mr. Kuwahara and in the event that a public hearing on this matter is held in the Waiakoa area, we would appear to give testimony supporting his request for a special use permit.

Mr. Kuwahara is vitally needed by the farmers in this area. He had provided us with the best of mechanical service which is vital to our operations. A breakdown of one of our mechanical farming implements and the subsequent delay before being able to use the equipment again means a great loss to any farmer. With Mr. Kuwahara available the repair time has been held to a minimum as he is ready to assist one and all by working nights and holidays whenever necessary. This service has meant much to our farmers in time and money and should Mr. Kuwahara be denied his permit, your decision would create a hardship among the many farmers who can depend on his ability and service.

Therefore, we request that your commission take into your favorable consideration of the fact that Mr. Kuwahara's special use permit is a desire to give his present patrons better service by: (a) Larger work area for the convenience of his customers; (b) Installing more modern equipment to handle all forms of mechanical emergencies; (c) The hardship it would cause to the many farmers who now, and before, have relied on Mr. Kuwahara as their troubleshooter for farming equipment.

<i>[Handwritten Signature]</i>	<i>[Handwritten Signature]</i>
<i>[Handwritten Signature]</i>	<i>[Handwritten Signature]</i>
<i>[Handwritten Signature]</i>	<i>[Handwritten Signature]</i>
<i>[Handwritten Signature]</i>	<i>[Handwritten Signature]</i>
<i>[Handwritten Signature]</i>	<i>[Handwritten Signature]</i>

(SIGNATURES OF 252 NAMES FOLLOWS)  
*[Signature]*



A PETITION

We, the undersigned petitioners, urgently request that the Maui Planning and Traffic Commission support the special use permit sought by Michael Tatsu Kuwahara in order that he may relocate his garage to provide better and wider service to his patrons.

This petition is the only means we have to communicate with your commission as we are working men who are unable to take the time out to appear in person before your group. We are all bona fide customers of Mr. Kuwahara and in the event that a public hearing on this matter is held in the Waialoa area, we would appear to give testimony supporting his request for a special use permit.

Mr. Kuwahara is vitally needed by the farmers in this area. He had provided us with the best of mechanical service which is vital to our operations. A breakdown of one of our mechanical farming implements and the subsequent delay before being able to use the equipment again means a great loss to any farmer. With Mr. Kuwahara available the repair time has been held to a minimum as he is ready to assist one and all by working nights and holidays whenever necessary. This service has meant much to our farmers in time and money and should Mr. Kuwahara be denied his permit, your decision would create a hardship among the many farmers who can depend on his ability and service.

Therefore, we request that your commission take into your favorable consideration of the fact that Mr. Kuwahara's special use permit is a desire to give his present patrons better service by: (a) Larger work area for the convenience of his customers; (b) Installing more modern equipment to handle all forms of mechanical emergencies; (c) The hardship it would cause to the many farmers who now, and before, have relied on Mr. Kuwahara as their troubleshooter for farming equipment.

Robert K. Smith  
Donald K. Kahanui  
Arthur L. Green  
Charles H. Taylor  
James H. ...

James H. ...  
George ...  
Wm. ...  
...  
Robert ...

Long Mountain

Charles K. ...

...

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Chute Kagal

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David H. ...

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Benjamin ...

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A PETITION

We, the undersigned petitioners, urgently request that the Maui Planning and Traffic Commission support the special use permit sought by Michael Tatsa Kuwahara in order that he may relocate his garage to provide better and wider service to his patrons.

This petition is the only means we have to communicate with your commission as we are working men who are unable to take the time out to appear in person before your group. We are all bona fide customers of Mr. Kuwahara and in the event that a public hearing on this matter is held in the Waiakoa area, we would appear with our testimony supporting his request for a special use permit.

Mr. Kuwahara is vitally needed by the farmers in this area. He had provided us with the best of mechanical service which is vital to our operations. A breakdown of one of our mechanical farming implements and the subsequent delay before being able to use the equipment again means a great loss to any farmer. With Mr. Kuwahara available the repair time has been held to a minimum as he is ready to assist one and all by working nights and holidays whenever necessary. This service has meant much to our farmers in time and money and should Mr. Kuwahara be denied his permit, your decision would create a hardship among the many farmers who can depend on his ability and service.

Therefore, we request that your commission take into your favorable consideration of the fact that Mr. Kuwahara's special use permit is a desire to give his present patrons better service by: (a) Larger work area for the convenience of his customers; (b) Installing more modern equipment to handle all forms of mechanical emergencies; (c) The hardship it would cause to the many farmers who now, and before, have relied on Mr. Kuwahara as their troubleshooter for farming equipment.

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A PETITION

We, the undersigned petitioners, urgently request that the Maui Planning and Traffic Commission support the special use permit sought by Michael Tatsu Kuwahara in order that he may relocate his garage to provide better and wider service to his patrons.

This petition is the only means we have to communicate with your commission as we are working men who are unable to take the time out to appear in person before your group. We are all bona fide customers of Mr. Kuwahara and in the event that a public hearing on this matter is held in the Waiakoa area, we would appear to give testimony supporting his request for a special use permit.

Mr. Kuwahara is vitally needed by the farmers in this area. He had provided us with the best of mechanical service which is vital to our operations. A breakdown of one of our mechanical farming implements and the subsequent delay before being able to use the equipment again means a great loss to any farmer. With Mr. Kuwahara available the repair time has been held to a minimum as he is ready to assist one and all by working nights and holidays whenever necessary. This service has meant much to our farmers in time and money and should Mr. Kuwahara be denied his permit, your decision would create a hardship among the many farmers who can depend on his ability and service.

Therefore, we request that your commission take into your favorable consideration of the fact that Mr. Kuwahara's special use permit is a desire to give his present patrons better service by: (a) Larger work area for the convenience of his customers; (b) Installing more modern equipment to handle all forms of mechanical emergencies; (c) The hardship it would cause to the many farmers who now, and before, have relied on Mr. Kuwahara as their troubleshooter for farming equipment.

Israel Kacyff  
Edward T. Kacyff  
Robert Kacyff  
Alfred Kacyff  
Blanche Kacyff

Edith Kacyff  
Mrs. Rose Kacyff  
John Kacyff  
Mrs. Mary Kacyff  
Phyllis Kacyff

Prof. Graham  
 John Lane  
 Louis Bryant Sr  
 Wesley Hall  
 Charles Gray  
 Robert Hamilton  
 Charles H. Mason  
 John B. Nichols

[Faint handwritten text, possibly names]

[Faint handwritten text, possibly names]

[Faint handwritten text, possibly names]

[Faint handwritten text, possibly names]

A PETITION

We, the undersigned petitioners, urgently request that the Maui Planning and Traffic Commission support the special use permit sought by Michael Tatsu Kuwahara in order that he may relocate his garage to provide better and wider service to his patrons.

This petition is the only means we have to communicate with your commission as we are working men who are unable to take the time out to appear in person before your group. We are all bona fide customers of Mr. Kuwahara and in the event that a public hearing on this matter is held in the Waiakoa area, we would appear to give testimony supporting his request for a special use permit.

Mr. Kuwahara is vitally needed by the farmers in this area. He had provided us with the best of mechanical service which is vital to our operations. A breakdown of one of our mechanical farming implements and the subsequent delay before being able to use the equipment again means a great loss to any farmer. With Mr. Kuwahara available the repair time has been held to a minimum as he is ready to assist one and all by working nights and holidays whenever necessary. This service has meant much to our farmers in time and money and should Mr. Kuwahara be denied his permit, your decision would create a hardship among the many farmers who can depend on his ability and service.

Therefore, we request that your commission take into your favorable consideration of the fact that Mr. Kuwahara's special use permit is a desire to give his present patrons better service by: (a) Larger work area for the convenience of his customers; (b) Installing more modern equipment to handle all forms of mechanical emergencies; (c) The hardship it would cause to the many farmers who now, and before, have relied on Mr. Kuwahara as their troubleshooter for farming equipment.

[Signature]  
[Signature]  
[Signature]  
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[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]

246 signatures

- 2 -

*[Faint, illegible handwriting on the left side of the page]*

*[Faint, illegible handwriting on the right side of the page]*



We, the undersigned, protest to the granting of the Special Use Permit for the building of a Service Station and Auto Repair Shop on portion of tax map key 2-3-2-23, situated at Paieha, Kula, Maui.

*Curran*

RECEIVED

JAN 29 1965

State of Hawaii  
LAND USE COMMISSION

*Yasuo Ogata*

*John H. Brown*

We, the undersigned, protest to the granting of the Special Use Permit for the building of a Service Station and Auto Repair Shop on portion of tax map key 2-3-2-23, situated at Palou, Sula, Maui.

Jakaste Sakumua

† 17 1/2

Lucas Sakumua

Louise Matsumura

Robert L. Bishop

Wang L. Bishop

Tomoko Poshico

Diane Poshico

Julia Carvalho

Norma Carvalho

Mary L. Spontis Skene

Hayashi

Kenjiro Hayashi

Harumi Hayashi

Mr. Kamekura

Mr. Ueno

Guzuko Hayashi

Miyoko Hayashi

0b

We, the undersigned, protest to the granting of the Special Use Permit for the building of a Service Station and Auto Repair Shop on portion of tax map key 2-3-2-13, situated at Palsau, Hale, Maui.

*Robert L. Tucker*

*John A. ...*

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We, the undersigned, protest to the granting of the Special Use Permit for the building of a Service Station and Auto Repair Shop on portion of tax map key 2-3-2-23, situated at Pulehu, Kula, Maui.

Robert Dwyer  
Barbara Dwyer  
Jack Clayton  
Kenneth W. Butler  
Marion F. Butler  
Richard B. McFarney  
Betty M. McFarney  
John A. Mascare  
Frank W. Mascare

We, the undersigned, protest to the granting of the Special Use Permit for the building of a Service Station and Auto Repair Shop on portion of tax map key 2-3-2-23, situated at Pulehu, Kula, Maui.

Ed Morse  
Violet Kile  
Frank Kile  
Mar Kenneth Willey  
Kenneth L Willey  
Anso. Miyamoto  
Yoshie Akahira

M. H. Cunningham

J. S. Corra  
Peggy Mae  
Dorothy Mae  
Yuki Nagao  
Koko Nagao  
George Kyo  
Johnnie Kyo  
Mrs. Thelma Kyo

We, the undersigned, protest to the granting of the Special Use  
Permit for the building of a Service Station and Auto Repair Shop on  
portion of tax map key 2-3-2-23, situated at Palapa, Hale, Maui.

Jean H. Magita

Wm. Horner

Matsujima S. S. S.

George Crowl

Dr. Arthur H. S. S.

Miner S. S.

Ruth C. Baldwin

Robert L. Ottum

Donald J. St.

Laura G. S.

Mrs. Eric R. Hartley

Oyachi Takuma

Radami Isobe

Glen Isobe

Gwen Rothrock

We, the undersigned, protest to the granting of the Special Use Permit for the building of a Service Station and Auto Repair Shop on portion of tax map key 2-3-2-73, situated at Puhi, Kula, Maui.

July 1964  
Walter A. Ste...

Richard ...

James ...  
Theresa G. Clark  
Warren Clark

Patsy ...

We, the undersigned, protest to the granting of the Special Use Permit for the building of a Service Station and Auto Repair Shop on portion of tax map key 2-3-2-23, situated at Palala, Hala, Hani.

Ida K. Kipohaka

Louis Hapukuka

Ben K. Kawakami

Uemura Amos

Mitsuo Honda

Wassanaka Yamashita

Robert Mizuta

Ward S. St.

McCoone

Edith S. Cooke

John P. Santos

Yama S. Suzuki

We, the undersigned, protest to the granting of the Special Use Permit for the building of a Service Station and Auto Repair Shop on portion of tax map key 2-3-2-23, situated at Palohu, Kala, Maui.

Mrs. Nellie Hew  
Haruko Watanabe  
Ah Fak Zami  
Julia Zami  
Sally K. Lehm  
Edmond Leke  
Elizabeth Leke  
Ichigo Nakayama  
Chiko Ito  
Yona Yabaki

Elsbeth P. Sterling  
Ruth V. Smith

We, the undersigned, protest to the granting of the Special Use Permit for the building of a Service Station and Auto Repair Shop on portion of tax map key 2-3-2-23, situated at Palaha, Kala, Maui.

*[Faint, illegible handwritten signatures and text, likely names of the undersigned protesters.]*

We, the undersigned, protest to the granting of the Special Use Permit for the building of a Service Station and Auto Repair Shop on portion of tax map key 2-2-2-23, situated at Palapa, Hale, Maui.

Sheldon de Ponte

Manuel de Ponte Jr.

Clifford DePonte

Rosaline C. Ventura

Ning Sang Kwai

Eliza Mendoza

M. W. Lacer

Lawrence M. Tavares

Almeida Tavares

J. F. Rodriguez

Johanna de

Manuel

D. S. Yamada

J. P. Gomes

Friedrich Ventura

Edward Gomes

H. H. Kobayashi

Ramona Torres

Patricia Ventura

Cecilia Calasa

John C. Miguel

J. M. Calasa

Waiakoa, Kula, Maui  
January 18, 1965

*Am c*

Maui Planning & Traffic Commission  
County of Maui  
P. O. Box 1487  
Kahului, Maui

RECEIVED

JAN 29 1965

State of Hawaii  
LAND USE COMMISSION

Gentlemen:

I am submitting this supplement in order to elaborate and clarify certain statements made at the public hearing held on January 5, 1965, and also to expand on my earlier protest submitted to the Maui Planning Commission.

During the public hearing the question of how many gallons of gasoline I normally sell in one month was brought up, and although I wanted to give this information at that time, I did not have the opportunity to do so.

I sell between 5,000 to 6,000 gallons of gasoline a month and Calasa Service Station normally sells 6,500 gallons of gasoline per month, and we make approximately 6½ cents per gallon. This is ½-cent per gallon less than what other stations in Maui are now making and is due to a ½-cent per gallon hauling charge, which we absorb instead of passing it on to the customer. This means that my gross receipts from gasoline sales would average around 350 dollars a month.

The majority of the farmers in this area purchase their gasoline directly through their farmer's cooperatives. Therefore, the bulk of our gasoline sales result through non-farming residents and motorists passing through the area.

It was brought out at the public hearing that the applicant had submitted a request for a Special Use Permit because construction of the new Kula Highway had taken away approximately half of the applicant's leased land causing extreme hardship on his present business.

I have submitted a map of the area in question (drawn to scale) showing the new and old highway and also the location of the applicant's present business. The map shows that although the new highway did take away approximately half of the applicant's land, this portion was in the back of his garage and was not used as part of his business operations. In fact, this portion was used primarily as the resting place for junked and wrecked cars.

Because the land lost to the new highway was never really used, I am contending that the new highway did not really impose an extreme hardship on the applicant's present business. This request, then, is really a request for the installation of gasoline pumps and for the creation of a new business (service station).

January 18, 1965

I am submitting this information in order to stress that this request is not an unusual request (Sub-Part E., 2.24) and does not meet the requirements for a Special Use Permit. It is not unusual because of the following reasons:

1. There is no real hardship imposed since the applicant's present business was not really hindered by the construction of the new highway.
2. This is a request for the construction of a service station which is not an unusual type of business. In fact, zoning restrictions were created specifically so that business establishments such as service stations, grocery stores, etc., could be built and located in a certain selected area.

For these reasons I feel that if this request is granted, it will lead to a precedence similar to that of spot zoning. Why? Because all requests for Special Use Permits must go to the Maui Planning Commission for approval and if the Planning Commission approves one request, which is not unusual or reasonable, then, how can it justifiably deny other similar requests? This would apply not only to areas along the new Kula Highway but in other areas of Maui as well.

I would like to emphasize once again that if such a precedence is set, then, there is no need for zoning and for orderly planning. Furthermore, the granting of such a request (service station along the new highway) will greatly favor and give an unfair advantage to the new establishment over other existing service stations off the highway. If this request is approved, then, it will undoubtedly affect the surrounding properties (Sub-Part E., 2.24 (b)).

As I stated at the public hearing, expansion and economic growth should be encouraged, but at the same time we should have such development in an orderly manner and without creating undue hardship on others.

I hope that the Maui Planning Commission will give careful consideration to my protests and the reasons thereto. I feel confident that the Commission will act wisely in this matter and will make a decision which will continue to insure orderly development and growth to the County of Maui. Thank you very much.

Very truly yours,

Robert T. Migita

*One copy*

5 January 1965

Maui Planning and Traffic Commission  
P O Box 1487  
Kapului, Maui

Gentlemen:

In view of recent application for a "Special Use Permit" of the service station site adjacent to the new Kula highway I wish to protest for the protection of my business and other existing businesses in our area.

Approval of this "Special Use Permit" will lead to additional openings to other stations. We feel that our location will become obsolete if Mr. Kuwahara is allowed to construct on the applied location.

We were assured at the time of construction of the new highway by the State Highway Dept. that no new businesses would be allowed within 150 feet of any access road.

Your consideration of our appeal due to proposed loss of business will be appreciated.

Sincerely yours

*M. N. Calasa*

Marcelino Calasa

Rainbow Orchard  
RR 54-K, Waiakoa  
Maui, Hawaii

30 December 1964

RECEIVED

JAN 29 1965

Maui Planning & Traffic Commission  
P. O. Box 1487  
Kahului, Maui

State of Hawaii  
LAND USE COMMISSION

Gentlemen:

It has been brought to my attention that there will be a public hearing on a SPECIAL USE PERMIT request by Michael Tatsu Kuwahara for the construction of a service station (which does not now exist on his present property)...and therefore would be a new business in this State Land Use Commission rural zoned area. Included in this is a request for construction of an auto and farm repair shop, a relocation as it were to a more advantageous location. This shop now exists and has for a number of years. The area for the establishment of this new business is not (approximately) mile north of Waiakoa (which is zoned as urban) but 1 1/2 miles north and to the east. This, of course, is an error of 200% (approximately) over the figure given in the applicants request.

My wife and I own property and reside in the area between the upper and lower Kula roads. Our property overlooks the area above mentioned and is, I estimate, a little over a mile from it "as the crow flies". We have reason to believe that our feelings in this matter are shared by a great many new and long time residents of this area. We can see no valid reason why a SPECIAL USE PERMIT such as is now requested should be granted.

This request is not an "unusual and reasonable" one within a State Land Use Commission Rural zoned area. It is contrary to the objectives of the Land Use Law and regulations. The granting of this request in its desired use would definitely adversely affect surrounding property. There are no unusual conditions or needs that have arisen since the district boundaries and regulations were established. There have been in existence for a number of years at least six gasoline stations in a stretch of some ten miles along the lower Kula road from Pukalani to Keokea. How many more do we need now or in the next twenty years with the present saturation.

The land upon which the proposed use is sought is not unsuited for the uses permitted within the district. The proposed use will definitely substantially alter and change the essential character of the land and the present use. This is a request for a two-thirds acre area on the new highway for a new unneeded and the relocation of a going business in auto and farm equipment repair, which we feel should be off highway now and in the future.

This protest has been much too long to effectively present our point. We realize that the rules and regulations of the State Lands Use District Regulations are minimum requirements only and that the County Ordinances and regulations shall be controlling. For that reason we sincerely request the Maui Planning & Traffic Commission to not grant this request which would set a precedent, not only for Waiakoa-Kula but for all of Maui.

Sincerely yours,

Richard B. Mc Govney

*All Comm.*

Waiakoa, Maui  
December 30, 1964

Maui Planning and Traffic Commission  
County of Maui  
P.O. Box 1487  
Kahului, Maui

RECEIVED

JAN 29 1965

State of Hawaii  
LAND USE COMMISSION

Gentlemen:

In reference to a Public Hearing notice appearing in the December 2, 1964 issue of the Maui News regarding the request for a Special Use Permit by M. Kuwahara for the construction of a service station, auto and farm repair shop to be located at Pulehu, Maui, I wish to voice my strong objections, as a resident and property owner in Kula, for the following reasons:

1. The area has been rezoned from agricultural to urban by the State Land Use Commission.
2. It would adversely affect the property in that particular neighborhood.
3. It would set a precedence for others to go about in submitting similar requests not only in Kula but other areas on Maui which would be contrary to good, sound master planning set up by the State Land Use Commission and your Maui Planning Commission.
4. Granting of this Special Use Permit along the New Kula Highway also would adversely affect the town of Waiakoa which is located approximately  $1\frac{1}{2}$  miles from this area.

Waiakoa town has been zoned as urban with several business establishments in existence and the granting of a Special Use Permit would adversely affect the community and leave the town in an unprotected position.

5. At the public hearing held prior to the construction of the new Lower Kula Highway it was specifically stated by the State Highway Department that there were to be no business establishments at least 150 feet on either side of the then proposed new highway.

Since then, the area (Pulehu) has been rezoned from agricultural to rural in July (1964) by the State Land Use Commission.

6. It is contrary to the Commission's Master Plans and to the interests and purpose of its objectives and intent in providing for a well planned community and neighborhood.

Thanking you for your consideration, may I ask for a favorable decision based on the above mentioned reasons.

Sincerely yours,

Jitsumi Kunioki

Waiakoa, Maui  
December 22, 1964

*Jul Ann*

RECEIVED

JAN 29 1965

State of Hawaii  
LAND USE COMMISSION

Maui Planning and Traffic Commission  
County of Maui  
P. O. Box 1487  
Kahului, Maui

Gentlemen:

I would like to file my protest to a request asking for a Special Use Permit by M. Kuwahara in order to construct a service station, auto, and farm repair shop on premises described by Tax Map Key 2-3-2-23 approximately 1.5 miles north of Waiakoa.

I am a resident, landowner, and the proprietor of an existing business (service station and garage) in the immediate vicinity of the area in question. In order to give a clearer picture of the situation I would like to reveal some background information behind my protest and the area in question.

The applicant had initially tried to obtain a change in the District Boundary of this particular area from rural to urban in order to relocate a garage and install gasoline pumps; thus, creating a new business (service station).

At that time I submitted a letter to the State Land Use Commission protesting a change in the District Boundary as requested by the applicant. My reasons for protesting such a change were:

1. This request for a change in zoning was for the specific purpose of creating a new business in an area zoned as rural by the State Land Use Commission.
2. If this request is granted, it would set a precedence of spot zoning merely to satisfy the wants of one or a few individuals. Such a request, therefore, would be contrary to a good sound master plan.
3. If new establishments are permitted in more favorable spots along the new Kula Highway, it would leave the existing establishments in the town of Waiakoa unprotected.

The State Land Use Commission held a public hearing on October 22, 1964 to consider this request. However, at the beginning of this hearing, the applicant withdrew his petition and indicated that he would submit a request for a Special Use Permit.

December 22, 1964

I do hereby protest such a request for a Special Use Permit because of the following reasons:

1. The intent of the applicant remains the same as in his initial request for a change in zoning -- and that is to create a new business in an area currently zoned as rural.
2. I, too, would like to have my present business located to a more favorable location along the new highway. For this reason, I feel that the granting of this request would eventually lead to similar requests without any regard to orderly development along the new Kula Highway.

In other words, the granting of this request would establish a precedence similar to that of spot zoning. And, according to good planners, spot zoning to satisfy a few is contrary to a good sound master plan.

3. One of the tests which must be met before a Special Use Permit may be granted is that the desired use for which the permit is requested will not adversely affect the surrounding properties.

The area in question is approximately 1.5 miles northeast of the town of Waiakoa and adjacent to the new Kula Highway. It is not, as stated in the Notice of Public Hearing,  $\frac{1}{2}$  mile from Waiakoa.

The town of Waiakoa, which is off the new highway, has a post-office, stores, and a service station. If this request and other requests similar to it are granted, these existing business establishments in Waiakoa would be left unprotected and would eventually be drawn out of business. This request, then, is contrary to the requirement which must be met before such a permit can be granted.

4. The area described in this request was rezoned from agricultural to rural just last July by the State Land Use Commission. The Commission's Master Plan also shows that the town of Waiakoa is presently zoned as urban. I believe that the Commission's purpose in zoning Waiakoa as urban was to provide for some sort of order to the growth and development of Kula.

In other words, this request is contrary to the Commission's Master Plan and to the objectives sought by the Land Use Law and Regulations.

Maui Planning and Traffic Commission

Page 3


December 22, 1964

5. I would have no ground or basis for a protest if the applicant were to start a garage and service station in Waiakoa, which is already zoned as urban. In other words, the applicant would be free to construct a service station in Waiakoa where a request such as this would not be necessary.

Therefore, I feel that this request is unreasonable in the sense that it affects orderly development, creates a burden on the existing business establishments off the new highway, and destroys the purpose of sound zoning and planning.

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

Yours very truly,



Robert T. Migita

RECEIVED

JAN 29 1965

*Jul Ann*

SUPPLEMENTAL STATEMENT  
BY ROBERT MIGITA

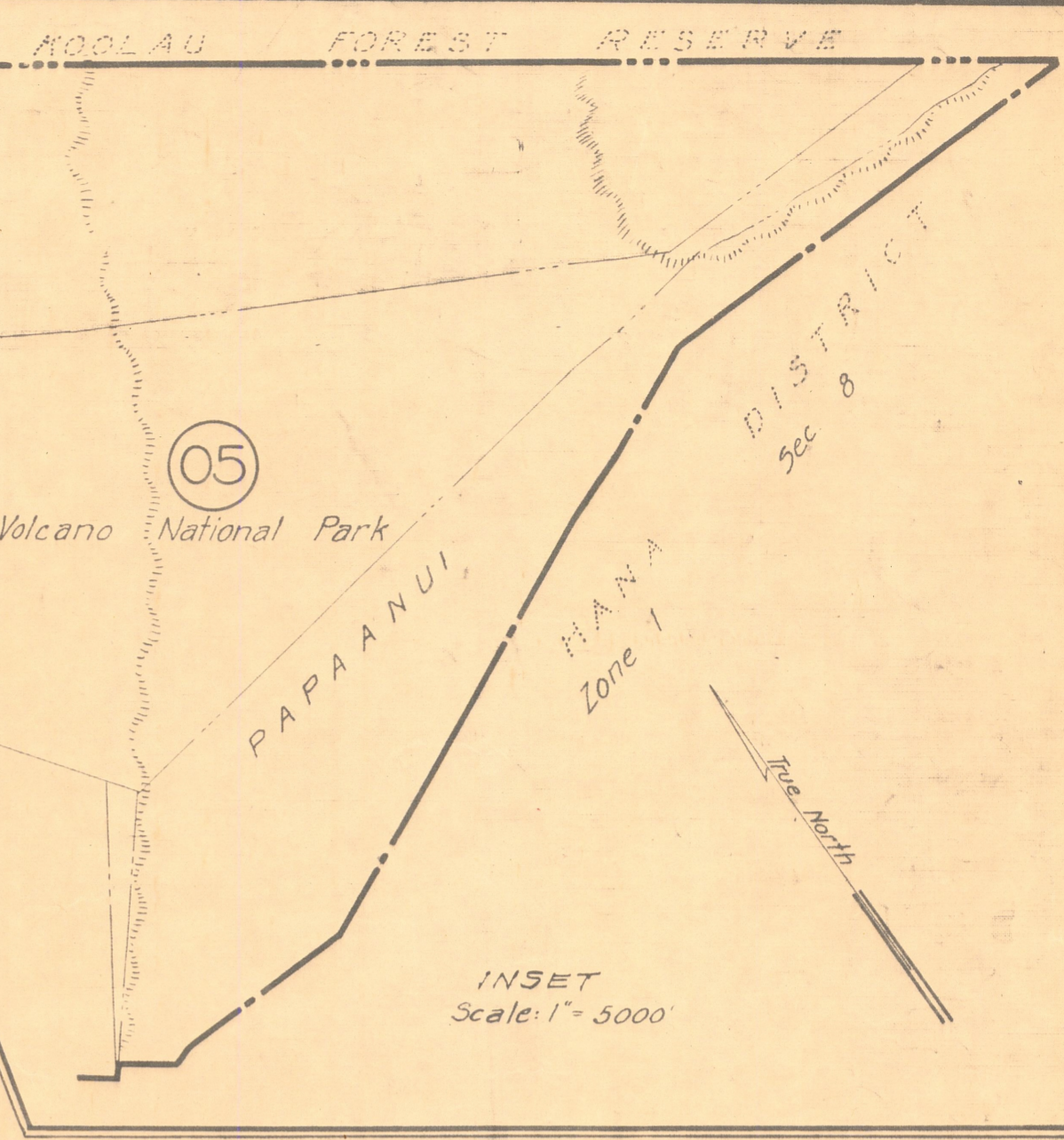
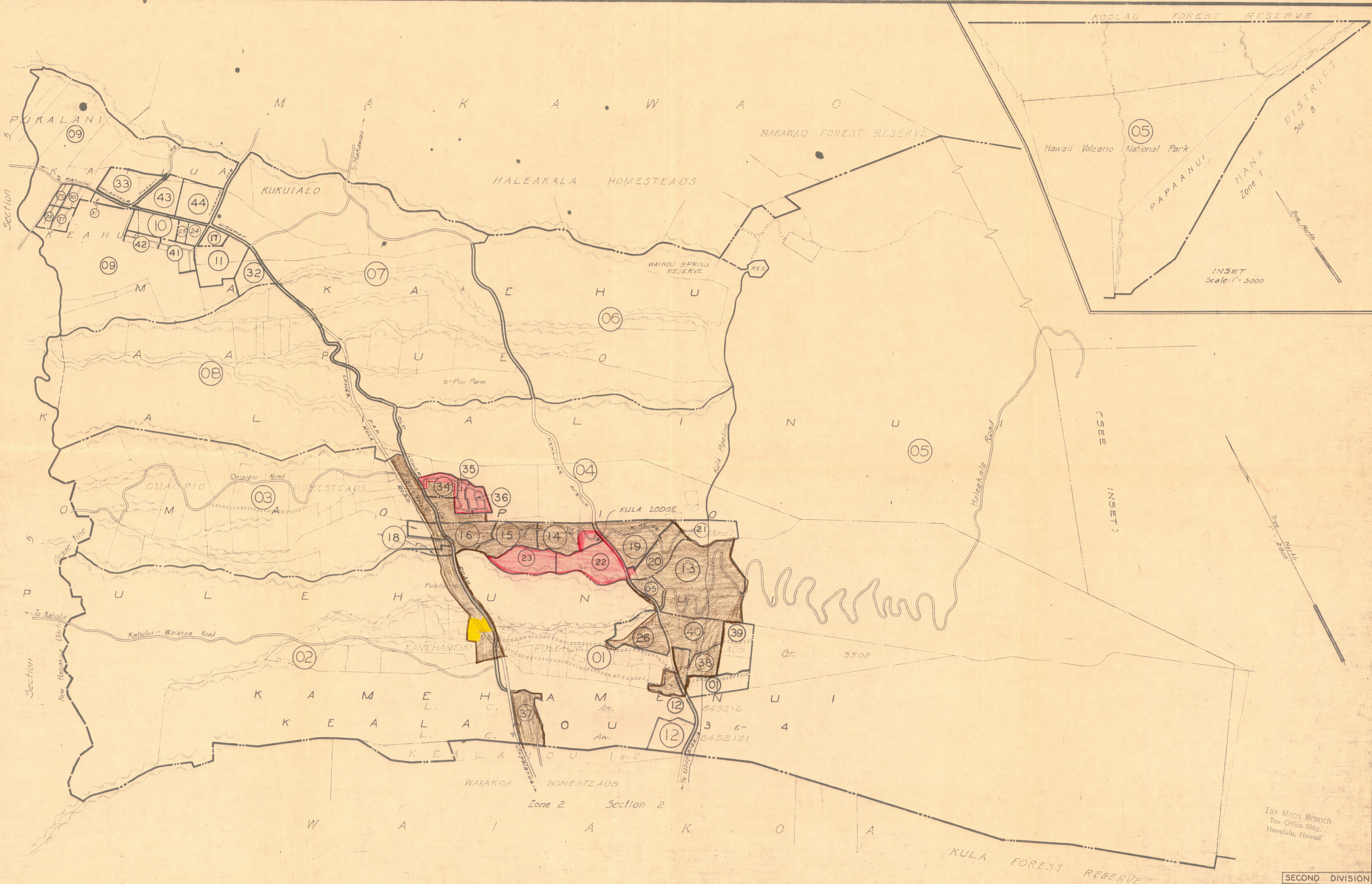
State of Hawaii  
LAND USE COMMISSION

The request of the applicant not only fails to meet the guidelines established by law and the rules and regulations of the Land Use Commission, but it is not one which presents a case of hardship on the part of the applicant.

The applicant does not own the land sought by him for the change in use by permit, and at the time he first applied to change the district boundary before the Land Use Commission so that this particular land could be zoned as urban, he did not even have a lease on the land. The background and history shows that the applicant would have a difficult and doubtful case for a change in use sought by him, and he was then in a position that gave him an opportunity to move to a location already zoned for service station activities and there are many such locations within the urban areas of Waiakoa. Nevertheless, he has refused to take advantage of the situation and has been persistent in his attempt to obtain an exception from the allowable use contrary to the purposes and intent of the land use law.

Under such circumstance there is no compelling reason to grant the permit requested by the applicant.

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Revised to  
 By: D.S.C. H.N. April 1944  
 Source: Tax Maps Bureau

Por. KULA, MAKAWAO, MAUI

Tax Maps Branch  
 Tax Office Bldg.  
 Honolulu, Hawaii

SECOND DIVISION	
ZONE	SEC.
2	3
CONTAINING PLATS	
SCALE: 1 in. = 2000 ft.	
AUG 28 1964	

ADVANCE SHEET  
 SUBJECT TO CHANGE

7466

Kurhara

RECEIVED

JAN 29 1965

State of Hawaii  
LAND USE COMMISSION

RR 58  
Waiakoa, Maui

December 29, 1964

Maui Planning and Traffic Commission  
County of Maui  
P. O. Box 1487  
Kahului, Maui

Gentlemen:

As a property owner and resident of Lower Kula, I am vitally interested in the orderly development of our community. Your Commission has already zoned the area so that such development can be carried forward.

Therefore, I protest the request for a "Special Use Permit" made by M. Kuwahara to build a new service station and garage in a parcel between the old and new Kula roads.

I do not believe this is an unusual case. Granting such a request would only hurt existing businesses and set a precedent that would work against your Commission's goals for the community.

Please give my protest your serious consideration.

Sincerely,

---

Kenneth S. Willey

KSW:ec