LAND USE COMMISSION
STATE OF HAWAII

Minutes of Public Hearing

Board Chambers

Wailuku, Maui, Hawaii

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dec. 6, 1963

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 homes — 13 acres
1 home 6 acres

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,

D. TOKUNAGA"

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

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

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

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

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

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

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

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

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

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

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

Mr. Ogata submitted the following letters for the record:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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