

From: <keytolyf@aol.com >
To: "wearewestmaui@mauicounty.gov" <wearewestmaui@mauicounty.gov>
Date: 5/16/2020 5:31 AM
Subject: ATTN: West Maui CPAC
Attachments: CPAC Final.docx

Gregory and Bernadette Owens
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May 16, 2020

DEPARTMENT OF PLANNING
2200 MAIN ST., SUITE 315
WAILUKU, HI 96793
wearewestmaui@mauicounty.gov
ATTN: West Maui CPAC

RE: Final West Maui CPAC Meeting/Draft West Maui Community Plan

Dear Honorable Members:

My wife and I reside in the Makila Plantation in Launiupoko. Our real property is located at 25 Haniu Street, Lahaina, HI 96761 (TMK (2) 4-7-001:005). We've written to your committee members numerous times seeking inclusion into the Maui Island Plan (MIP)/Urban Growth Boundary (UGB) for West Maui being updated and finalized by your very body. Although I have repeatedly asked for either inclusion of my property into the areas proposed for future development or for a change in zoning from Ag to Rural, review of the final draft proposed by your committee continues to exclude my property from such. A well-known developer whom we consulted believes it to be a deliberate attempt to keep my property and that of my neighbor Steven Brown out of consideration and inclusion. As your guidelines suggest, all properties bordered by Kai Hele Ku Street to the South, Hokiokio Street to the North, Haniu Street to the East and the Lahaina Bypass to the West are included in the MIP/UGB EXCEPT for mine and that of my neighbor. Although I have repeatedly submitted substantial documentation supportive of having this changed to allow for either inclusion of my property into the MIP/UGB or for a change in zoning, in reviewing the Final Version of your draft and maps on your website, it appears that I have yet again been left out of the process and am being excluded, as is my neighbor, from being included in the areas proposed for future development. Without the removal of the "sliding-scale" limitations encumbering our property and without additional water sources being made available to us, I believe it is the only feasible way to go forward in adhering to the recommendations made in HRS governing Land Use in our area.

Please note, not withstanding all the information I've submitted previously in support of my property's inclusion into the MIP/UGB or being allowed to seek a change in zoning, I am sending you additional information which I hope helps you in making the right determination to include my property into the MIP/UGB being currently proposed. In consideration of everything in front of you and what I've submitted previously, one of the main determining forces to be considered is the issue of water, or lack thereof. The decision of the CWRM (March 2018) to redirect the flows of the streams to our area has had a considerable detrimental impact to our ability to farm in the area. As a consequence, farming in our area has been made all but impossible. It is a well-known fact that, despite having adequate water, the resources, expertise, money, manpower, etc. HC&S tried to farm our area for over 134 years and couldn't make it profitably yet at least, they had the water to try. Please review the attached for reference and clarification. As such, I believe that, unless the CWRM ruling is reversed, our property should be considered for a change in zoning from Ag to Rural which best describes the current water situation in our area or to be included in the MIP/UGB. Farming without a readily available and inexpensive source of water is in direct opposition to the mandates explicitly laid out and described in County and State Charters for Ag Land Use. I and the attorneys with whom I've consulted believe it is the best way to adhere to recommendations made in HRS Land Use (19.30) and (Chapter 7: PURCHASING OF DEVELOPMENT RIGHTS) To do so otherwise would put us and our neighbor in difficult spot—having to farm without having adequate water from which to irrigate our fields. I sincerely hope you and your committee helps in making the right determination and finds the inclusion of our property into the MIP/UGB as the right thing to do.

Please review the attached document prior to making your determination. It is hoped after you review said document and what was submitted previously, that you are able to make the right determination and be of help. Please do not hesitate in contacting me should you have any questions regarding the aforementioned.

Mahalo for your Kokua and Sincerely,

Greg Owens, D.C.

Maui County Planning Department, Long Range Division
One Main Plaza Building
2200 Main Street, Suite 601
Wailuku, HI 96793
Phone (808) 270-7212
Attn: Planning Director: Michele McLean

RE: Lot #5 (TMK (2) 4-7-001: 0050001) Makila Plantation Subdivision, Subarea 4-Launiupoko

Dear Ms. McLean,

In reading the article "County proposes changes to zoning district" published in The Maui News May 13, I applaud your efforts to help tie-up what you see as loose ends in the Zoning laws. If you review the numerous letters I've sent you these past two years, you'll notice I've requested your help in doing the same thing with my property here in Launiupoko. If anything needs cleaning up it's our situation here in Launiupoko. What fire, floods, hurricanes and whatever else couldn't do to make farming in our area impossible the persistent lack of water due to drought and the CWRM ruling (March 2018) in taking away our above ground stream flows has made farming in our area virtually impossible. As you may know, Launiupoko literally means "shredded leaf" in Hawaiian. People have known for centuries that nothing grows here due to the extreme heat, lack of water and high "Kau'ula" winds in the area. In fact, before purchasing our property, I consulted prominent kupuna such as Reverend Nani Saffery, Reverend David (Papa) Kalakea, Charlie Maxwell, Kalua Kaiahua and others asking whether or not to purchase a lot in the area and they all thought I to be "nuts." Rev. Nani said it best, "You crazy you! You want to buy where Hawaiians know better not to live. You wonder why the Kanaka live up in the valleys? Because they smart! They learned over the centuries that you can't live where there is no water. You know what Launiupoko means? It's shredded (coconut) leaf for a reason. The Kau'ula winds blow like hurricanes. Nothing grows without water. Water exists only up in the valleys where the Kanaka live. The only way for you to live below is for them (the developers) to steal the water from the streams. You watch, the County will want you to do Ag but how can when no water?" How prophetic she was. Each of the Kupuna said the exact same thing. If you look at County records, you'll find a letter entitled "Chorus" which I wrote that helped get passage of the subdivisions here in Launiupoko where I indicated such.

Of course, when we purchased our land back in 2004, not only were we guaranteed adequate and inexpensive non-potable water from both the developer and the County for which to irrigate and cultivate our fields, we were highly encouraged to do so. Where once we had six acres under irrigation, we now have much less than one and I'm being asked to drastically reduce our water consumption to that one acre even more. If you look at the picture following this paragraph, you'll notice that we are in the "red" zone or "Level 4" and have been for well over 2 years since the CWRM ruling. In other words, there simply isn't enough water to irrigate 1 acre let alone the 16 acres my property represents. This sign was put up to help conserve water use:



In essence, we've been told by the Launiupoko Irrigation Company (LIC) that there is "0" availability of non-potable water from which to irrigate my fields and my water bills from the LIC over the past 2 years attest to that. What's even worse, even though pumped water is available, albeit at very limited levels, it is prohibitively more expensive (\$3.79/1,000 gallons vs. \$0.59/1,000 gallons). Over the past 2 years the LIC has rationed our consumption even further. To say that this has had a devastating effect on our ability to farm would be a gross understatement. Our fields are gone (see pictures below) and our plants dead. Yet we are still required to maintain farming which

puts us in a difficult position. In reviewing County and State charters governing Ag Land Use, we note the following obtained from Chapter 19.30A Agricultural Zoning District:

“A reliable and inexpensive source of water is particularly important to keep agricultural lands in production. Without it, farmers cannot predictably plant and harvest and the land may be good for other uses... Finally, where water is available it is often expensive, as it is treated to potable standards.”

In reviewing “PURCHASE OF DEVELOPMENT RIGHTS” of “Chapter 7: Land Use” on mauicounty.gov, I believe the “Diminished Production Capacity” and “Water” are arguments that substantiate our seeking a change in zoning. The charter states, “Where water is available it is often expensive, as it is treated to potable standards.” In other words, the County Charter for Land Use supports that position and, as such, with no non-potable water sources available, we humbly request the Maui Island Plan/Urban Growth Boundary to be amended to have our land’s designation changed from “Agricultural” to “Rural and that we are included in the Urban Growth Boundary” along with other properties located “makai of Haniu St.” With your stating, “we want to allow housing opportunities wherever we can” it aligns with your thinking. In requiring us to farm without any non-potable water available or to farm only utilizing limited and prohibitively more expensive potable water, would this not be diametrically opposed to the Charter above? Attorneys with whom we’ve consulted concur that it does stating, “It represents an illegal taking and seizing of property.” Coincidentally, this was also mentioned by Councilman Danny Mateo a few years back. Ironically, with our 400Kw solar farm actively running, I’m perhaps one of only a handful who are able to actually farm in our area. At the very minimum, as I’ve humbly requested numerous times in the past, my property should be removed from the “sliding-scale” restrictions placed upon it so as to be able to spread the costs/risks of attempting farming in the future through being able to further subdivide or, ideally, since the lack and cost of available water prevents farming at all, that my property be considered for a change in zoning from Agricultural to Rural as the limited availability of water mandates. Everyone knows farming in our area is impossible without the return of stream flows and I hope you and your department helps me by recognizing that fact. HC&S was unable to farm profitably for over 134 years and they had the money, wherewithal, manpower, expertise and yes, ample water from which to draw upon and they couldn’t manage to make it work.



In reviewing the information I’ve sent to you over the past two years, I hope you can see the abundant supporting documentation of what I’m presenting here. The past couple of years up here in Launiupoko have

been difficult to say the least. Rev. Saffery was right! Launiupoko does mean “short coconut leaf” (Google) and Kau’ula winds not too long ago were clocked at 80 mph in our area and I’ve seen worse. Our soil here is “strongly acidic” and is “heavily laden with pesticides” (USDA) from over 134 years of Ag use under HC&S. In other words, no organic Ag farming here. As stated, HC&S had the water, money, manpower, equipment, expertise and everything else needed to farm and they couldn’t do it. At least they had a chance as they had water which we don’t, the CWRM ruling March 20, 2018 made sure of that. Since then, we’ve had “0” availability of non-potable water. We had virtually no potable water available to farm for over 327 days and only on a limited basis. This has had the effect of losing opportunities to lease our property due to the lack of available water—we lost our opportunity to lease 6-acres to the owner of the property makai to us for his Mac nut fields for his rum distillery. It is to be noted that to assist us in our efforts to farm, with the limited resources available to us, we sought out prospective farmers who might be interested in leasing our land for farming only to be discouraged to discover that each and everyone who got back to us cited the “lack of water” and the “expense” of pumped water making it all but impossible for them to farm in our area. Our Hemp farmer said, “I can’t go into business to lose money.” Another was blunter saying, “They (the County) want you to go Ag but there aint no water so how can go Ag?” As said, fortunately our PV field doesn’t require water. It is even more interesting to note that one of our neighbors, advertising in Craigslist with the following caption: “I have 1-3 acres of land that I am willing to let someone use for farming and or to house animals or build a pond to reproduce fish for FREE” hasn’t had a single bite due to the lack of water in the area despite offering her land for “FREE.” One farmer suggested we look up “19.30” which we did only to discover above that Maui County and State Charters (19.30) stipulate that “a low-cost and reliable source of water is required for farming.” Since we have neither, farming in our area has proved elusive. Heck, you can’t even give the land away “FREE” as everyone else sees it the same way. Truth be told, the water issue should be immediate consideration for a zoning change from Ag to Rural.

We lost out to leasing to a CBD/Hemp farmer, our Mac Nut farmer, a Sod farmer and Nursery all saying the same thing: “With no water, no Ag.” Lastly, according to Maui County’s Department of Water Supply’s own website: “Drought periods have frequently harmed farmers on Maui because much of their supplemental water supply has been dependant on surface water.” Rev. Saffery couldn’t have been more prophetic. Looking over the abundant amount of information I’ve provided you over the past several years, I hope you noticed how devastating the cutting off of water due to the CWRM ruling was to our Ag production. Couple that with the record temperatures last year --“There have been 272 record high temperatures and ties logged in Hawaii during the year 2019...135 record highs/137 ties in Maui” (National Weather Service) combined with the drought, floods and fires we’ve had these past couple of years and you begin get the picture. Adding to that fact is that Launiupoko is one of the most arid and hottest areas on Maui (DLNR) and I hope you see the plight we’ve been facing. With farmers saying, “With no water, no Ag,” our land should be used for other purposes should it not? Hence our reaching out to your for help in either removing the “sliding-scale” restrictions encumbering our property or in seeking a change in zoning from Ag to Rural. It is hoped that you are able to be of help to us. Thankfully, solar doesn’t need water to function and, with it, I’m probably one of only a handful up here doing Ag.

Mahalo for your Kokua! Sincerely,

Gregory M. Owens, D.C.

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