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The County of Maui Department of Planning
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Re: West Maui Community Plan Update
Makila Plantation Phase I, Lot 5, 16.055 acres
TMK (2) 4-7-001:005

Dear Honorable Members of the General Plan Advisory Committee (CPAC),

My wife and I currently seek to have our real property mentioned above included in the Urban Growth Boundary (UGB) of the soon-to-be updated Maui Island Plan (MIP)/Community Island Plan (CIP) that is currently being deliberated for the West Maui area. Ideally, we seek to maintain our property in agriculture by further subdividing our property into three (3) smaller lots which would make it more readily and financially feasible to farming. We have been advised by Planning that in order to do just that we need to be included in the UGB of the MIP or obtain a District Boundary Exemption, both of which are within your power to grant. With this in mind, we humbly ask for your assistance in helping us to make it all happen. My wife and I wish to subdivide our lot into 3 to 4 smaller agricultural lots to both make it less expensive to farm and to concurrently help with Maui's current housing crisis. Unfortunately, we were left out of the previous UGB/MIP and our property was placed within the "sliding-scale" designation for agricultural lands. Moreover, our developer, West Maui Land Company (WML), has written restrictive covenants into our CCRs that hamper our ability to do so, requiring us to rezone from Agricultural to Rural before subdividing. According to Kathleen Aoki, Maui County Department of Planning, this requirement, along with not being included in the Rural Growth Boundary, make it difficult for us to subdivide our property. It is to be noted that this same developer, who is using the current housing crisis on Maui as impetus to develop future subdivisions in our area, has gotten their "vacant" lands "makai of Haniu St." (where our Lot is located) incorporated into the Rural Growth Boundary while, now for a second time, keeping our Lot and Makila Plantation Phase I Subdivision out of the Rural Growth Boundary (please reference the enclosed images). The restrictive covenants written into our Bylaws are as follows:

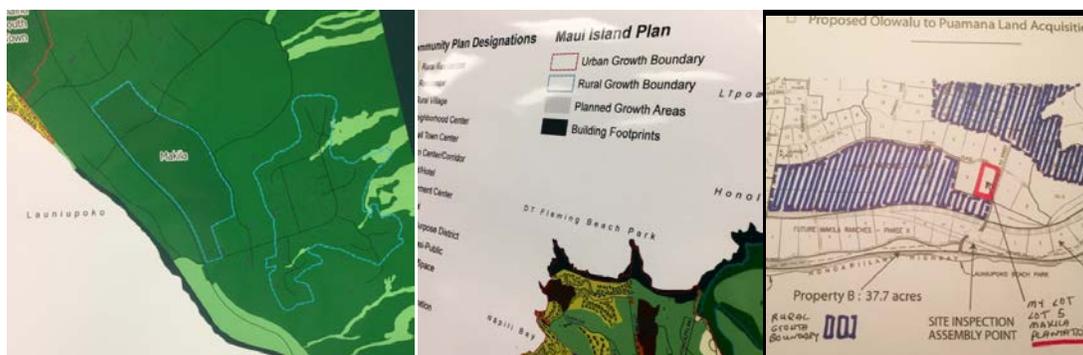
"No Property shall be further resubdivided into smaller parcels except on the satisfaction of the following conditions: (a) Rezoning from Agricultural to Rural" must take place with "(b) The approval by Declarant of each subdivision plan."

In other words, County and WML have tied our hands on multiple fronts preventing us from subdividing unless we rezone "from Agricultural to Rural" thus keeping us from doing exactly what they're doing. We need your help to correct this and it seems only reasonable for WML and the County, both seeking to increase badly needed housing into the area, to offer to assist us in granting our request. Ideally, as stated, we wish to subdivide into smaller Agricultural lots and we need your help to do exactly that. On the advice of Lawrence Carnicelli, whom we spoke to at a "West Maui Community Design Open House," we are reaching out to you in the hopes you may be of assistance. Although we hope to maintain our property in agriculture, we are finding it increasingly more difficult to do so. Our attempts at farming (coconuts, sod, potted plants, etc.) have been thwarted multiple times due to fires and the lack of a reliable and inexpensive source of water. We've had multiple entities (sod farmers, hemp farmers, CBD farmers, nurseries, etc.) seeking to lease our land for farming only to rescind their applications due to our having an inadequate water supply. One said, "Without water, nothing grows and I'm unwilling to take that risk." It is to be noted that, after reviewing Chapter 7 of Land Use (<https://www.mauicounty.gov/DocumentCenter/View/84682/Chapter-7>) we discovered the following: **"Water. 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. Other land uses also compete for available source, including urban, cultural, and conservation uses; and new source development has not kept pace with this demand. Finally, where water is available it is often expensive, as it is treated to potable standards."** Chapter 7 of Land Use further goes on to state: "Challenges in Agricultural Lands: 'When additional Urban District lands are needed to accommodate growth, it is almost inevitable that agriculturally zoned land will be converted. It is the "default" zoning or district on the island, and it most often borders our urbanized areas. While providing housing and jobs is desirable and necessary to meet the needs of our residents, there is also a corresponding loss of agricultural land. Urbanization is not the only factor contributing to the loss of viable agricultural land. Commercial farming is a business venture where the ability to make a profit is a necessity. If the business is not profitable, it will stop operating and the assets will be used differently. Residential development and other factors within the agricultural district contribute to the loss of

agricultural land productivity and profitability.” While my wife and I wish to have our property maintained in Ag and further subdivided, we are not opposed to having it rezoned from Ag to Rural should we find it necessary to do so in order to subdivide.

Well as I'm sure you are acutely aware, the current water situation in our area continues to worsen. On March 20, 2018, the Commission of Water Resource Management (CWRM) severely reduced the stream flows to the subdivisions of Launiupoko and Puunoa. At that time, the Launiupoko Water Co. described the non-potable supply of water as, “Severely short with near zero available water supply.” In fact, on January 17, 2019 owners in the area were notified that “Agricultural (non-potable) water may be cut-off” saying “The reservoir that provides our ag-irrigation was empty!” This has, of course, had the direct effect of severely reducing non-potable water to zero to the area. Additionally, the availability of potable water in the area is insufficient at the time to make up the difference. This, coupled with the fact that virtually the entirety of West Maui has been placed on water restrictions, that the Launiupoko Irrigation Company, Inc. has maintained a “Level 4” status of water rationing for months requiring a mandatory “40% Reduction & Split Zones” which now has been pushed to water rationing with no water availability four (4) days per week, and the lack of “**A reliable and inexpensive source of water**” becomes all that more of a factor in making agricultural farming more prohibitive in our area. Concurrently, non-potable water currently costs \$0.76/ 1,000 gallons and potable water, when available, costs \$2.57/ 1,000 gallons. Thus, in addition to having less water available to irrigate, this represents a financial hardship to those farming in the area, including us. Recently, we were advised by LIC that additional wells are being brought online but at additional costs, making future water even prohibitively more expensive. As such, should we not be included in the UGB/MIP/CIP, we may be forced to seek a change in zoning from “Agricultural” to “Rural” to better reflect proper use of lands. With County and State charters pertaining to the availability of agricultural water stating: “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 ([Chapter 19.30A Agricultural Zoning District](#)), in reviewing “PURCHASE OF DEVELOPMENT RIGHTS” and “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 should we not be granted inclusion in the UGB/MIP. 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; hence our seeking a change in zoning if we are not to be included in the updates to the Urban Growth Boundary/Maui Island Plan. As such, with no additional non-potable water sources available and with our potable water source available only on a limited and prohibitively more expensive basis, we humbly request to be either included in the UGB/MIP as Agricultural and exempted from the “sliding-scale” requirements or to have our land’s designation changed from “Agricultural” to “Rural and that we are included in the UGB” along with other properties located “makai of Haniu St.”

During a “West Maui Community Design Open House” held April 3 describing an “Open House” to discuss the proposed development of “vacant properties makai of Haniu St” bordered by “Kai Hele Ku Street” to the South and “Hokiokio Street” to the North, we were understandably dismayed to discover that our property was not included along with those of the large developers in the proposed designated planning areas. After all, our property is located within the designated area to be developed; it is over 99.99% vacant and contiguously connected to the area to be developed. At that meeting, Jennifer Maydan of Planning explained to us that Planning focused on future growth and preserving open space by developing vacant and unused land within the existing developed footprint of West Maui to accommodate growth, increasing density in already developed areas. She pointed out several charts including maps titled “Existing Conditions,” “Infill Alternative” and “Expansion Alternative” all with insets of the Launiupoko area detailing Community Plan Designations and Maui Island Plan. Imagine our dismay when these maps (see below), clearly show that “Rural Growth Boundaries” (outlined in Blue) exclude the Makila Plantation Phase I Subdivision of which my Lot is located while including the proposed areas to be developed and the above subdivisions in the Launiupoko area. It is plain to see that the two areas outlined in Blue (Left) exclude my subdivision/Lot (Right/Red) that lies between them. Why these areas are not connected by including our subdivision is beyond me. When I posed the question to Ms. Maydan as to why we weren’t included, or, more specifically, why were we excluded from both the process and the Rural Growth Boundary, she didn’t have an answer except to say, “It’s what they’ve come up with.” Perhaps Patrick Ihu, a knowledgeable person of whom we’ve consulted about subdividing said it best: *“It seems all of the other lots mauka of the Proposed Lahaina Bypass are zoned rural and within the proposed general growth boundaries except for Dr. Owens Lot and his neighbor’s lot which seemed to have been purposely left out of the rural area and remains Ag.”*



With emphasis placed on developing the “vacant properties makai of Haniu St. (as is our property),” as has the Makila lands to be developed have already been granted, we hope to be included in the recommendations approved by Planning at this time. As such, it seems only natural that we be included in the process. With our lot being over 99.99% “vacant” and in the area described, we believe that we should be included in any effort to rezone along with the other lots “makai of Haniu St.” Should a variance be needed to account for the .0013% that is developed, it is hoped that County Planning grant a variance to exempt us from the “sliding-scale” and include us into the proposed amendment. Of course, I hope the use of the term “vacant” isn’t a blatant or deliberate attempt by the County and the large developers in the area to pursue approval of the proposed developments to the exclusion of others like myself, who, being smaller landowners could also benefit from a change in zoning from Agricultural to Rural and are willing to help ease Maui’s current housing crisis. We all agree that the Maui General Plan needs to include rural designations. The ordinance says that both urban and rural boundaries are to be identified and I seek to have my lot identified as “Rural” and included in the “Rural Growth Boundary” designation of the Maui Island Plan and Urban Growth Boundary as are the subdivisions being proposed. As such, I would like to be included in the CPAC discussions and hope to gain the support of the General Plan Advisory Committee in making this happen. My wife and I humbly ask CPAC and Planning to consider placing our real property located at 25 Haniu Street, Lahaina, HI 96761, Lot 5, Makila Plantation in Launiupoko, TMK (2) 4-7-001:005, into “the Planned Growth Areas/Rural Growth Boundaries” of the Maui Island Plan and within the Urban Growth Boundary.

Supporting this request and our desire to seek rezoning from Agricultural to Rural, is the subject of water availability in the area. On March 20, 2018, the Commission of Water Resource Management (CWRM) severely reduced the stream flows to the subdivisions of Launiupoko and Puunoa. With this new reality, the Launiupoko Water Co. described the current non-potable supply of water as, “severely short with near zero available water supply.” In fact, just recently, the Mahanalua Nui Homeowners Association stated, “Agricultural (non-potable) water may be cut-off – 1/17/19.” In a statement, they said, “Last night the association was informed by Launiupoko Irrigation Co. (LIC) that the reservoir that provides our ag-irrigation was empty!” This has, of course, had the direct effect of severely reducing non-potable water to zero to the area. Additionally, the availability of potable water in the areas is insufficient at the time to make up the difference. Concurrently, since non-potable water currently costs \$0.76/ 1,000 gallons and potable water costs \$2.57/ 1,000 gallons. Please note that when we were considering purchasing in Makila Phase I, I asked Toby Hayes, affiliated with WML, about the prospects for subdividing and he said, “Makila was always meant to be subdivided at some point, just look how it’s written into the CC& R’s.” Well, I believe West Maui Land Co. LLC should have no reservation in having the County grant us this right to rezone and to subdivide. In fact, if they, and Planning, truly are about increasing available housing, they should support it. State and County Zoning (19.02A.020) encourages “the most appropriate use of land” to “conserve and stabilize the value of property.” That said if we are truly an agricultural subdivision where water is severely restricted (NOW) or is obtained via expensive pumping (FUTURE) are we and other farmers not being put at a competitive disadvantage financially? As our potential farmer said: “Without water, nothing grows and I’m unwilling to take that risk.” Thus, without “A **reliable and inexpensive source of water**” wouldn’t this destabilize “the value of property” in an Agricultural subdivision? Of course it would. As I and others whom I’ve discussed this with see it, being unable to procure enough non-potable water (CWRM ruling) or not enough potable (see above) or procuring potable only at a much higher rate \$2.57/1,000 gallons (potable) versus \$0.76/1,000 gallons (non-potable) is diametrically opposed to sustainable agriculture thus transforming “the most appropriate use” from Ag to Rural. As such, should we not be included in the Urban Growth Boundary/Maui Island Plan and exempted from “sliding-scale” requirements, we humbly ask to be included in the Maui Island Plan and Urban and Rural Growth Boundary and seek a zoning change from Agricultural to Rural. In the long run, it would be the most desirable solution.

We hope that you assist us in our efforts to change our zoning from Agricultural to Rural. Please do not hesitate in contacting us should you have any questions or comments. Your assistance in this matter is greatly appreciated.

Sincerely,

Gregory M. Owens, D.C.
Mahalo

Please forward to:

CPAC Members: Joseph Aquino, Ravi Bugga, Yvette Joyce Celiz, Karen J Comcowich, Donald Robert Gerbig, Dawn Hegger- Nordblom, Kai Nishiki, Joseph D. Pluta, Leilani Reyes Pulmano, Jeri Dean, Hans Michel, Dylan Payne and Aina Kohler

County Planning: Michele C. McLean (Planning Director)

Council Members: Kelly King (Council Chair), Keani Rawlins (Council Vice-Chair), Tasha Kama (Presiding Officer Pro Tempore, Riki Hokama, Alice Lee, Mike Molina, Tamara Paltin, Shane Sinenci and YukiLei Sugimura