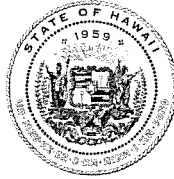


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August 24, 2016

Honorable Don S. Guzman
Chair, Economic Development, Energy,
Agriculture, and Recreation Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Guzman:

I was asked to respond to your letter dated August 5, 2016, asking the following questions (not in this order):

1. Whether a district boundary amendment is required for the uses included in the County's proposed lease with Teach Development LLC for the Old Maui High School Campus properties, identified as Tax Map Key Numbers (2) 2-5-004:014 and (2) 2-5-004:053; and
2. If a district boundary amendment is required, whether only the 14 acre parcel that constituted the "historical" school portion may be submitted for reclassification, or must the entire property be considered.
3. What circumstances may reclassification be considered at the County level by the planning commission, or if review by the State Land Use Commission will be necessary.

Your first inquiry pertains to a specific lease being proposed by the County. The question that you raised regarding whether a district boundary amendment is required for the uses included in the County's proposed lease should be addressed to the County Department of the Corporation Counsel as we cannot provide you legal advice regarding your proposed use.

Your second and third questions are related to the application of Chapter 205, Hawaii Revised Statutes. Generally, under Hawaii Revised Statutes (HRS) § 205-3.1, district boundary amendments involving land areas of fifteen acres or less shall be determined by the appropriate county land use decision-making authority for the district and shall not require consideration by the State Land Use Commission, unless those lands are in the conservation district or designated as important agricultural

lands.¹

You may want to contact the Land Use Commission regarding your specific questions indicated above. I do not advise or represent the Land Use Commission and therefore I cannot advise the County of Maui as to whether a district boundary amendment is required for the lease or whether such district boundary amendment (if required) must be approved by the State Land Use Commission or the Maui County Council. Noting that the land in question is owned by the State in fee simple, you should inquire with the Department of Land and Natural Resources before you pursue a boundary amendment, either through the County or through the Land Use Commission.

Very truly yours,



Cindy Y. Young
Deputy Attorney General

¹ Section 205-3.1, Hawaii Revised Statutes, provides in part:

- (a) District boundary amendments involving lands in the conservation district, lands greater than fifteen acres, or lands delineated as important agricultural lands shall be processed by the land use commission pursuant to section 205-4.

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- (c) District boundary amendments involving land areas of fifteen acres or less, except as provided in subsection (b), shall be determined by the appropriate county land use decision-making authority for the district and shall not require consideration by the land use commission pursuant to section 205-4; provided that such boundary amendments and approved uses are consistent with this chapter.