

AH Committee

From: keytolyf@aol.com
Sent: Saturday, June 22, 2019 4:45 PM
To: county.clerk@co.maui.hi.us; AH Committee; maucounty@aol.com;
.us/kamamaucounty.us/paltin@aol.com
Subject: Subdivision approval - County Council Meeting June 19
Attachments: Planning meeting June 19 plua.docx

Aloha Honorable Council and Committee Members. Please read the attached before making your final determination/ruling regarding the proposed subdivisions of Makila Rural East and Polanui Gardens.

Mahalo for your Kokua! Your constituents will appreciate it.

Sincerely,

Greg Owens, D.C.

Gregory and Bernadette Owens

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June 22, 2019

DEPARTMENT OF HOUSING & HUMAN CONCERNS
COUNTY OF MAUI
2200 MAIN STREET, SUITE 546
WAILUKU, MAUI, HAWAII 96793
PHONE: (808) 270-7805
county.clerk@mauicounty.us ah.committee@mauicounty.us

RE: Makila Plantation Phase I, Lot 5, 16.055 acres
TMK (2) 4-7-001:005

SUBJECT: COUNTY COUNCIL MEETING JUNE 19th REGARDING ZONING CHANGES BETWEEN HANIU AND THE LAHAINA BYPASS - A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO URBAN DISTRICT (CONDITIONAL BOUNDARY AMENDMENT) FOR:
A. 14.390 ACRES SITUATED AT LAHAINA, MAUI, HAWAII, TAX MAP KEY NO. (2) 4-7-13:007 (POR.), 008 (POR.) AND 010 (POR.)
B. 14.453 ACRES SITUATED AT LAHAINA, MAUI, HAWAII, TAX MAP KEY NO. (2) 4-7-13: 01 (POR.) AMD 02 (POR.)

Dear Members:

Although I was unable to attend the aforementioned meeting due to having to attend to my patients, I have had numerous patients come into my office that attended the meeting and discussed with me exactly what transpired. Interestingly, out of 9 who said they attended the meeting, all felt that "it was a done deal" regarding the outcome of said meeting. When 9 different people from unconnected sources state the same thing, it lends me to believe that they are telling the truth. What I want to do is clarify a few things for you that these people related to me before you approve these subdivisions and prove them right.

First, regarding the testimony of Dave Minami, each and every person mentioned that he testified on behalf of the proposed subdivisions with those attending saying, "he went out of his way not to link his being the Operations Manager for West Maui Land Co. (WML) except when discussing the water situation in Launiupoko." Although my patients related that he said that his kids "were in college" and "can't move back to Maui because it isn't affordable," it is known fact that they already graduated and are living, and intend to continue living, on the mainland. Secondly, regarding the limitation of water, just come and take a look at the properties in Launiupoko, Puunoa, Makila Plantation and others to see for yourself just how brown things are getting. Interesting thing about the water situation here in Launiupoko: Prior to being denied these same two subdivisions on Agricultural lands, the developer, WML, vigorously fought for their, and our, water rights here in Launiupoko. Then, after being denied their developments on Ag land, they quietly allowed said water rights to be revoked by the PCRM. As a consequence, they now use the lack of affordable water as impetus in changing the zoning from "Agricultural" to "Urban." Interesting and convenient, don't you think? I and everyone else up here does. Anyone skimming the surface would come to the same logical conclusion. When residents of Launiupoko and the Hawaiian families living in Kauaula Valley agree, shouldn't you listen? Of course! Manipulating the water as a pretext for changing zoning from Ag to Urban is as transparent as it gets.

Second, it is interesting to me that each of these two subdivisions is for 14-plus acres to be used for affordable housing while setting aside 96-acres for "market rate" development. I can see their argument for "Fast Track" approval of the 14-plus acre developments but not for the 96 acre parcels. If these are part of the "Fast Track" approval process, then, by all means, I wish to have my 16-acre parcel approved for such. After all, as my wife bluntly put it, "dirt is dirt" in her email to you dated June 17, 2019. In her letter, it was detailed that our property, located at 25 Haniu Street, is virtually identical to those that are seeking subdivision approval. As she put it, "if you look at the accompanying photos taken just yesterday, you'll notice two pictures of dirt that look exactly the same. One is taken from my property and the other is taken from the property being considered for fast-track approval seeking rezoning from Ag to Urban. If you look very closely, perhaps under a microscope, you'll notice small, almost undetectable differences between the dirt on their property and mine." Please see below:



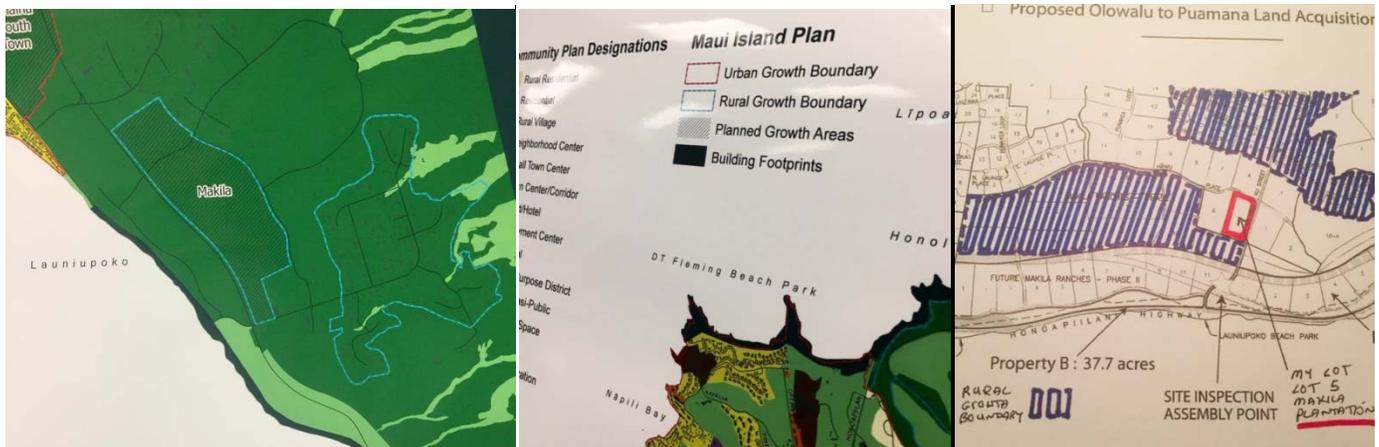
Dirt from my property

Dirt from developers

“The same goes for looking at our respective lots. Both areas had been under cane cultivation for almost 150 years. They both are bordered by Hokiokio St. to the North, Kai Hele Ku St. to the South, Haniu St. to the East and the Lahaina Bypass to the West. Their lots are approximately 14 1/2 –acres whereas ours is 16. They’re touting their lots as “vacant” where ours is 99.9987% vacant. Heck, our property is connected to theirs with only a thin barbed-wire fence separating the two. The only difference between our dirt and theirs is that the developers of Makila Rural East and Polanui Gardens, West Maui Land Co. (WML) and Brown Development (BD) managed getting their dirt included in the Maui Island Plan/Urban Growth Boundary while keeping our dirt out of it. Even worse, is the fact that WML deliberately chose to keep our dirt out of the Maui Island Plan/Urban Growth Boundary and has written into our CC&Rs restrictive covenants preventing us from doing the same? If you don’t believe me, consider this statement by Patrick Ihu whom we consulted:”

“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.”

“Or better yet, look at the following pictures. You’ll notice immediately that my lot, outlined in red, has been deliberately left out of the mix despite being in the exact same area and even connected to the areas being considered for rezoning and fast-track. It’s all so obvious. Perhaps that’s why former County Council Member Elle Cochran said the following: ‘*anyone can tell that they (the developers) drew all this sh*t up!*’”



As my wife put it in her letter, “I believe that if you and your members truly look over these pictures, I’m sure that you’ll come to exactly the same conclusions that both Elle and Patrick came to. As such, my husband and I humbly ask that you and your commission either assist us in being included in the process by having our property, located within the Boundary, to be considered for amending the State Land Use District Classification from Agricultural District to Urban District (Conditional Boundary Amendment) as is being done with Makila Rural East and Polanui Gardens or in having them, as a minimal requirement in approving their subdivisions, remove the restrictive covenants placed into our CCRs preventing us from further subdividing and have their help, with the County’s approval, to include us into the Maui Island Plan/Urban Growth Boundary so as to

enable us to also help with the current housing crisis through being able to further subdivide our Ag property. To do so otherwise would invite public scrutiny/opinion to believe that only the privileged are granted the ability to do so. Of course, my dad, born and raised in the Philippines, always used to talk how the rich and powerful got their way back home in the Philippines and it is hoped that Maui isn't following in their example."

Third, with the developers citing the urgent need for additional housing on Maui in support of their subdivisions, why have they limited others, like myself, from developing their properties as they are now doing? Think about it for a moment, why have they put into our CC&Rs restrictive covenants meant to limit our ability to subdivide? Why have they deliberately (see Patrick Ihu's comments above) left our properties out of the Maui Island Plan/Urban Growth Boundary? If their argument is about creating more housing opportunities on Maui, shouldn't they be for allowing us to do the same?

Lastly, when my wife and I met with then Mayor Alan Arakawa a number of years ago to discuss the effects the Lahaina Bypass was having on our property, we discussed a myriad of things regarding development in our area including: Fire, Flood and the effects of the moving of the Lahaina Bypass. At that time, Mayor Arakawa informed us that the developer (WML) had "agreed to and was required to provide for an Agricultural buffer/greenbelt between the Bypass and the developments above." In looking over the documents on the Maui County website (mauicounty.legistar.com/view.ashx?m=F&ID) for Polanui Gardens and Makila Rural East, this "Agricultural buffer/greenbelt" is conspicuously absent. Regarding flood mitigation discussed with Mayor Arakawa on Kai Hele Ku Street, he said that the developer was required to fulfill their obligations. However, aside from the temporary swales that I allowed WML to construct on my property during a severe flooding event, NOTHING has been done by WML to mitigate the flood potential along Kai Hele Ku Street as evident by the flooding of the lower part of Kai Hele Ku Street where it intersects the Lahaina Bypass. It is interesting to note that, at that time, the mayor advised us to sue WML for "failure to disclose" these matters relating that, "disclosure is everything."

As my wife put it, "with these developers placing emphasis on developing the 'vacant properties makai of Haniu St. (as is our property),' having already been granted inclusion in the Maui Island Plan/Urban Growth Boundary and now seeking rezoning from Ag to Urban, we hope to be included in the recommendations approved by Planning at this time. It seems only fair and 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.' After all, dirt is dirt. Should a variance be needed to account for the .0013% that is developed, it is hoped that County Planning grant a variance to 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 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 too wish to be afforded the same opportunity as the developers of Makila Rural East and Polanui."

As my wife and I have repeatedly stated, we are not for or against these subdivisions. We all agree that the Maui General Plan needs to be updated to allow for growth to ease Maui's housing crisis. Hence, our seeking subdivision. We do not have the resources to hire expensive attorneys, architects, or personnel to attend meetings on our behalf, yet we too seek the same consideration currently being granted the large developers in our area who cry for more housing while preventing us from subdividing ourselves. As such, we seek to have our lot either allowed to be further subdivided as Ag, by having the developers remove their restrictive covenants from my CC&Rs with the County granting us subdivision approval for Ag, or identified as "Rural" and included in the "Rural Growth Boundary" designation of the Maui Island Plan and Urban Growth Boundary as are the proposed subdivisions. We would also like to be included in the CPAC discussions and hope to gain the support of the General Plan Advisory Committee in making this happen. As we understand it, the large developers in the area, Peter Martin representing Makila Kai and Makila Rural East, Greg Brown of Brown and Associates representing Polanui Gardens and others seek inclusion of their lands "makai of Haniu St." (Where our Lot is located) and, as such, seek to change zoning on their lands, "vacant properties makai of Haniu St." from Agricultural to Rural. In consideration of these ongoing discussions and workshops being held in West Maui focused on the West Maui Community Plan in regards to Launiupoko, Olowalu and Ukumehame, as they relate to the Maui Island Plan and Urban Growth Boundaries, my husband and I humbly ask 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, in "the Planned Growth Areas/Rural Growth Boundaries" of the Maui Island Plan and within the Urban Growth Boundary. Why the large developers in the area are granted inclusion in the Maui Island Plan/Urban Growth Boundary, and are able to rezone from "Agricultural" to "Rural" while small

landowners such as my husband and I are not afforded the very same opportunity? If that were the case, it seems far from being Pono, is unfair and definitely un-American.

My wife and I respectfully request that this matter be referred to the appropriate Council committee for review and discussion. We appreciate your attention to this matter and sincerely thank you for any and all help that you may provide. Please do not hesitate in contacting us should you have any questions regarding the aforementioned.

Sincerely,

Greg Owens, D.C.

Cc: Tasha Kama, Committee Chairwoman