

STATE OF HAWAII
LAND USE COMMISSION

2:00 P.M. Meeting
January 17, 1969

Honolulu, Hawaii

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CHAIRMAN:

Meeting will come to order. All those who wish to testify today but who are not attorneys, would you rise and be sworn in. Do you swear that the testimony you are about to give to the Land Use Commission is the truth, the whole truth and nothing but the truth, so help you God?

RESPONSE:

I do.

CHAIRMAN:

Thank you.

On today's meeting it has been requested that the . . . because of a request for delay on the action on Robinson Trust, if we would kindly take that up first. Are there any objections to having the action portion of the Robinson Trust prior to Horita's hearing? They were requesting a deferment, and this being the case . . .

COMMISSIONER:

It's just a request of the Commission from the petitioners?

CHAIRMAN:

Yes.

COMMISSIONER:

When is the deadline?

CHAIRMAN:

On the request for deferment, we can go beyond the 90 days, but it will take 5 Commissioners to approve the deferment. We have to vote on that and 5 or more of us would have to give approval.

STAFF:

Your first question was whether we want to consider Robinson Trust's

STAFF (Cont'd.)

ahead of Herbert K. or read it right now?

CHAIRMAN:

Yes. Any objections from the Commissioners?

STAFF:

Your next question then is in case we want to have a request for the petition?

CHAIRMAN:

But I'm just notifying the Commission that we can give approval on the basis that we would require 5 votes. Does that clarify it on everyone's mind?

PETITIONER:

Mr. Chairman, with respect to petition A68-197, the petitioner requests deferral of the Commission's consideration of the petition until some future date.

STAFF:

I wonder if the petitioner would state the reason for the deferral, and if he would be more definite as to what he means by some future date.

PETITIONER:

First, there appear to be 7 Commissioners present. The petition concerns a subject which is of significance not only to the petitioner but also to the community itself. And consequently, it seems to me a consideration of a question of that gravity should demand the participation of more than 7 Commissioners, particularly in view of the 6 vote requirement for a favorable ruling on the petition. The 6 vote requirement in the context of 7 Commissioners seems to place almost an intolerable burden of proof on the petitioner.

Secondly, . . (inaudible) . . at the time of the future hearing to

PETITIONER (Cont'd.)

present new and additional evidence to support the petition. For those reasons, we respectfully request additional time prior to the vote of this Commission.

COMMISSIONER:

I think that I sincerely sympathize with the petitioners and am in favor of granting them a deferral, but I think that we should stipulate . . . (inaudible due to plane passing overhead) . . . I think there should be a certain time limit.

PETITIONER:

The petitioners have no objection to the petition being considered any time in the near future. It is a postponement with respect to the date which we are requesting, so that the actual date of the consideration of the petition will be left to the discretion of the Commission.

COMMISSIONER:

But you have no particular preference?

CHAIRMAN:

But you would like to be sure that the whole Commission is present when the action is taken?

PETITIONER:

We would like at least 8 members to be present. It is my understanding that the Commission is composed of 9 members. In this particular situation, only 8 members probably would be requested to attend.

COMMISSIONER:

Then one of the conditions you're asking in the deferral is that no action will be taken unless there are 8 Commissioners ready and willing to act. Is that right?

PETITIONER:

I'd hate . . . I don't know whether we want to be as inflexible as stating our reasons for the deferral at the present time. My counsel says yes.

COMMISSIONER:

I believe that's a reasonable request. Why don't you and our Executive Officer get together and try to work out a schedule when you would like to appear on the agenda.

STAFF:

Mr. Chairman, with regard to working out a schedule, I would assume that this means as the Commission has their regularly scheduled meetings that when it's known to us that there will be 8 members of the Commission at this meeting that we advise the petitioner. I think for the record there should be an expression by the Commissioners on the record as to whether or not they agree to this type of a deferment.

CHAIRMAN:

Yes, well, we have to have a vote on . . .

COMMISSIONER:

When does this petition wind up?

STAFF:

February 1st or thereabout. This is just about the end of the 90 day period. And our next regularly scheduled meeting is the 28th of February, unless the Commission wants to schedule a special meeting.

COMMISSIONER:

Mr. Chairman, may I say something? This appears to me to rather be setting a definite precedent. When someone comes in with a petition to change boundaries, it requires 6 votes. I think if you go along with this reasoning, you will then very nearly be required to have 8 Commissioners to

COMMISSIONER (Cont'd.)

act from now on, at least if the petitioner requests it.

CHAIRMAN:

Well, this is not something new. There have been requests right along where Commissioners have granted where in cases where there were only a few Commissioners on hand . . . This is not something new.

COMMISSIONER:

All I'm suggesting is that you might want to make this procedure a rule, not that it can't be ever broken. If this is your desire as far as procedure in that type of case, maybe you'll want to consider that as a rule.

CHAIRMAN:

Cases of as serious a nature as this are not always (inaudible), and I think we have to take each case on its own merits. I don't think there can be a blanket rule.

COMMISSIONER:

Sorry I wasn't here, Mr. Chairman, but I just want to be sure that the action the Commission may take on this petition is for valid reasoning.

LEGAL COUNSEL:

I think you have in the past received an informal opinion from our office that your procedure is flexible to allow this. If you want a formal opinion, please ask for and we will give it, but at this point, as long as you have been doing it, we don't see anything pertinent to stop you from doing it . . . upon request by the petitioner, of course.

CHAIRMAN:

If there's no further discussion, the chair will entertain a motion.

COMMISSIONER:

Mr. Chairman, wait. I have one further question. At the next action meeting when we bring up the subject, the petitioner would be notified, right? What is there's some other parties involved that are interested in this case? Can they be notified in some manner?

STAFF:

As a normal procedure, we notify everyone that has expressed an interest in the case, but it could present a problem if, for example, we have these 8 voting members at a Kauai meeting in February, it's unlikely that interested citizens on Oahu are going to go over to Kauai.

COMMISSIONER:

Mr. Chairman, can't we make the 8 members be present at a Honolulu meeting?

CHAIRMAN:

You could make a motion to that effect.

PETITIONER:

We would have no objections to that.

UNIDENTIFIED:

Wait a minute. What we want is to be assured that there will be 8 members present at a meeting in Honolulu. This is the assurance we want. Otherwise, there's no definite time limit. Come February 28th, the petitioners can request that the action be delayed because of the fact that there's only 7 board members present.

CHAIRMAN:

I'm sure we all feel that we want to give these people a chance to .

. . .

UNIDENTIFIED:

This is what I mean. This is why we want to set the date. If we say

UNIDENTIFIED (Cont'd.)

we're going to defer action on this petition until February 28th, why can't the staff set up a meeting on February 28th here in Honolulu so that the motion doesn't have to state that 8 members be present before the ruling be . . .

CHAIRMAN:

We don't know whether we're going to have that 8 members.

UNIDENTIFIED:

Well, so long as that meeting is held in Honolulu. If at the February 28th meeting there are only 7 members, then you can move to defer again because of lack of Commissioners.

STAFF:

We wouldn't even have to. If 8 aren't there, it's automatically deferred.

UNIDENTIFIED:

It's just that I want to fix a point in time.

COMMISSIONER:

I agree with him. At this point, it might be better to simply refer it to your next action meeting in Honolulu. At that time, if again it appears there is a problem, defer it again. But at the next meeting in Honolulu should be the proper time.

CHAIRMAN:

Would you like to put that into a motion then?

COMMISSIONER:

There don't really seem to be any interested parties raising objections to the Commissioners. I'm just wondering whether or not this might be the reason for more flexibility on where the hearing is actually held, here in Honolulu or on the outside islands. The reason I say that is that

COMMISSIONER (Cont'd.)

it just gives that much more flexibility to the Commissioners as to the time for the hearing. The petitioner would have no objections to this being either in Honolulu or outside except that it would improve the flexibility of the Commission.

COMMISSIONER:

You just want to be assured that there will be 8 members there, right?

PETITIONER:

That's right. And also, a 60 or 90 day period might be a reasonable time to . . .

CHAIRMAN:

That's what I was thinking about -- 90 days. Within 90 days.

COMMISSIONER:

Yes, it would be good to have some sort of time limit.

CHAIRMAN:

Is there anybody in the audience today who is interested in this particular action and had planned on testifying, either for or against.

PETITIONER:

Mr. Chairman, I know there are 2 parties present today who are interested in testifying favorably to the petition. One is a representative of the ILWU, Mr. Shigematsu, and the second is a representative and president of the Waipahu Community Association.

CHAIRMAN:

You have 2 people present who would speak for you?

PETITIONER:

That is correct.

CHAIRMAN:

Is there anyone here who would speak against this hearing?

(No response.)

Then, gentlemen, why don't we grant it? Thank you.

Would somebody like to make a motion granting the extension?

COMMISSIONER:

I move that we grant the petitioner an extension of 90 days.

COMMISSIONER:

Second.

CHAIRMAN:

Any further questions? Are you ready for the question?

COMMISSIONER:

Question.

CHAIRMAN:

Will you poll the Commission?

STAFF:

Commission Inaba.

COMM. INABA:

Aye.

STAFF:

Woolen.

COMM. WOOLEN:

Aye.

STAFF:

Nishimura.

COMM. NISHIMURA:

Aye.

STAFF:

Napier.

COMM. NAPIER:

Aye.

STAFF:

Mark.

COMM. MARK:

No.

STAFF:

Hito.

COMM. HITO:

Aye.

STAFF:

Chairman Choy.

COMM. CHOY:

Aye.

STAFF:

The motion is carried, Mr. Chairman.

CHAIRMAN:

Thank you. So we're delaying the action on A68-197, Robinson Trust,
for another 90 days.

PETITIONER:

Thank you, Mr. Chairman.

CHAIRMAN:

Now we'll go to our hearing A68-205.

STAFF:

Mr. Chairman, I'd like our new staff planner, William (inaudible),
to make the staff report on this request please.

STAFF:

(The January 17, 1969 staff report to the Land Use Commission on

STAFF (Cont'd.)

A68-205 - Herbert K. Horita Realty, Inc., was read verbatim.)

CHAIRMAN:

Do any of the Commissioners have any questions?

COMMISSIONER:

Is that . . . (inaudible) . . . pretty much in watercress now?

STAFF:

Yes. It's all pretty much useful property, but it's all just watercress in there.

CHAIRMAN:

Would the petitioners like to present your case?

PETITIONER:

Mr. Chairman and Commissioners. I am representing the petitioners in this case. This is the first opportunity I've had to sit on the opposite side of the table with you, and I have prepared about a 10 page report, but inasmuch as the staff report is an excellent report, I'll make my report very short and try to cover some things which were not covered in the report.

As the petition states, the petition covers approximately 18 acres of land. Already 1.02 is in the urban area, so we're talking about a total area of 18.902. Now the main purpose for which the petitioner wants to use this land is for developing construction apartments or dormitories for the Leeward Community College. As stated in the petition, there is a tremendous demand for housing for the students and faculty at Leeward Community College. Presently, the University of Hawaii has no plans for developing apartments for college students or faculty in the near foreseeable future in that area. In our survey completed by the Community College system in

PETITIONER (Cont'd.)

June, 1968 -- I think the survey is stated in the report submitted to the Commissioners -- 43% of the seniors that applied to go to Community College expressed a desire for housing. And as I stated earlier, presently there is no student or faculty housing available. In the report, it stated that the 1968-69 enrollment for the Community College will be approximately 1,067, and this was viewed as a high projection. But the last count I got from receipts from the Community College dated November 29, 1968, the attendance at Leeward Community College is 1,649, with a faculty of over 61. And the projection as made by the Community College is already outmoded inasmuch as they hadn't thought it would reach 1,600 until 1970. So the survey also covered the fact that of these 1,649, approximately 25% of them are married students, so this represents a significant difference between the demand for housing here on this campus when usually the demand for housing for married students on the Manoa campus is not as high as the representation there is on the Leeward Community College campus. So with this in mind, the petitioners feel that there is a tremendous need for this type of housing in that area.

The staff report mentions one point which I'd like our engineers to testify on, and that's the question of drainage and flooding. So I'd like to call on Clarence Hononaka to give an expert opinion as far as drainage and flooding problems.

MR. HONONAKA:

It may seem that the land is acceptable to flooding because, like any other virgin area, we have no drainage improvements in this area. Drainage improvements in this area can be developed so that there will be proper drainage protection. As far as the Commission is concerned, this area is

MR. HONONAKA (Cont'd.)

no different than any perimeter area of Pearl Harbor. With proper foundation designs, the soils are capable of supporting almost any type of building anticipated for this area. We have worked on several projects in this area. One of them is the Waiolu Apartment Subdivision which is on the ewa side of the old Waipahu School. Today we have apartment buildings sitting on areas such as this. Another project we've worked on is the Waimanu Sewage Pump Station which is on Kam Highway near the Schlitz brewery. And these buildings are sitting on the same type of soil we have here.

PETITIONER:

Mr. Chairman, we would like to submit this exhibit as a rough schematic drawing of the type of apartment unit that the petitioners intend to put up. It will be low rises, at the most 3 floors. At this time, we are not sure as to whether we plan to get into a planned development unit or not. But this rough schematic gives you an idea as to the type of apartment uses we are going to use the land for.

As Mr. Hononaka stated, as far as the flooding is concerned, in practical improvement of that land, we can take care of whatever drainage problems there are, and I think, as you Commissioners know, this matter, before the petitioners can develop, will have to go to the County for zoning changes again and at that time they'll inspect the land and approve whatever plans they have, should this petition be approved by the Commission.

I'd like to state one thing, that the apartment demand for the Waipahu area is tremendous. The vacancy factor is practically nil. So there is a tremendous demand.

I have over here a memorandum from (inaudible), Planning Director, dated December 10, 1968, and this is his recommendation. Recommendation: approve of boundary change to urban. Reasons for approval: the site is

PETITIONER (Cont'd.)

contiguous to urban use and suitable to urban development. Two: the areas adjacent on either side which are in the state agricultural districts are used for military purposes which are more related to urban type uses than to agricultural uses. Subject land is within full proximity of employment centers. We feel that it is reasonably close to urban facilities and it has all the amenities of urbanization, mainly a bus serving line. All the basic facilities are in there. You have water, sewer, telephone. There is no problem in this area, because these services are already in -- police and fire protection. With that in mind, I would like to offer to answer any questions the Commission might have.

COMMISSIONER:

You say that's a rough schematic plan. Does that mean you can go high rise by and by?

PETITIONER:

No. This would be controlled by the County.

COMMISSIONER:

If the County says they can go high rise . . .

COMMISSIONER:

Where they said "roughly," they could change their mind later on.

COMMISSIONER:

You mean to tell me you have only 29 units up there on 18 acres?

PETITIONER:

No, there . . . depends on how many stories. I think they said 189 2-stories and 200 something . . .

COMMISSIONER:

One eighty-eight.

COMMISSIONER:

No. I would like to know how this comes before us . . . where the engineer says this is good land to build on . . (inaudible) . . the land is incapable of supporting any . . . So who do we believe here?

PETITIONER:

Well, the land right now is raw land, and after a heavy rain, in the type of soil you have there, the water is not going to seep right through. But that can be very easily rectified by improvements by having proper drainage built.

COMMISSIONER:

It looks like this roadway is sort of a dike, and the land itself, it looks like it just . . (inaudible) . . I was just wondering. The only way it looks like it can be done is to build.

PETITIONER:

Yes.

COMMISSIONER:

What would be the proposed . . (inaudible) . . ?

PETITIONER:

Two floors would be 188, and then 3 floors would be 180. That's the maximum density.

COMMISSIONER:

(Question was totally inaudible due to low voice of Commissioner.)

PETITIONER:

Nineteen units.

COMMISSIONER:

Aren't you talking about 3 story apartment buildings or are you talking about 2 story and 3 story apartment buildings or what?

PETITIONER:

What we're talking about here is that if it's feasible to go 3 stories, then this would be the maximum density. The petitioners have not decided as to whether it would go 2 or 3 stories. It depends on what we could get. But this is the maximum density going up.

COMMISSIONER:

Are there presently tenants on the land?

PETITIONER:

Yes, we have 3 tenants on the land; Mr. Koshimizu and Harold Sakai and Shizuko Masaki. These tenants have been notified that, as I understand it, the petition is pending. Mr. Koshimizu is paying a rent of \$15 a month on a month-to-month basis, Mr. Sakai is paying \$40, and Mr. Masaki I think \$40 a month.

COMMISSIONER:

They're all on a month-to-month basis so they can be evicted within 30 days?

PETITIONER:

Yes. In fact, at the time that Mr. Horita bought the property from the U. S. Government, these tenants asked that they leave the place, but Mr. Horita said that if they would stay on, he would reduce the rent. Originally they were paying far more than now. They wanted to move out of the area but he wanted someone to be staying there on the land rather than just leave it for vandals to come.

COMMISSIONER:

What are they doing there? Are they operating a farm?

PETITIONER:

Shizuko Masaki is operating the small watercress farm. She has about

PETITIONER (Cont'd.)

3 acres but approximately one acre is being used for watercress farming or less.

COMMISSIONER:

What else?

PETITIONER:

Nothing.

COMMISSIONER:

Isn't there something else besides watercress growing there?

COMMISSIONER:

Taro.

COMMISSIONER:

No, not taro.

COMMISSIONER:

And these tenants occupy about how much of the land?

PETITIONER:

All I know is that Mr. Masaki is occupying about 3 acres. The others . . . they're not farming. They're just renting their homes over there. One is an old lady who is just staying there.

COMMISSIONER:

Mr. Chairman, it's your proposal then to do away with the watercress farm?

CHAIRMAN:

No. Until such time as . . .

COMMISSIONER:

When the petitioner is ready to build?

PETITIONER:

That's exactly right.

COMMISSIONER:

So you intend to do away with the watercress?

PETITIONER:

When the O.K. is given for the plans to go ahead with the development, yes. But you'll notice in the plan that the area where they are working is the area where he plans to put up a recreational area just like . . .

COMMISSIONER:

The yellow?

PETITIONER:

Yes, the yellow area where approximately the watercress . . . the lower lying area is. So he can develop that into beautiful open area.

COMMISSIONER:

May I remind the Commissioners that they make about \$25,000 to \$30,000 a year on an acre of watercress, you know.

COMMISSIONER:

Well, I think the staff report indicates otherwise. The staff report indicates . . . (inaudible due to papers being shuffled) . . .

PETITIONER:

The staff report says this: according to the 1967 agricultural statistics, there has been a decline in both taro and watercress production in 1955.

COMMISSIONER:

Do you feel this is a good trend? And a desirable trend?

PETITIONER:

Well, I think the reason for the decline is that possibly those who are in watercress farming cannot make the . . . the economics doesn't come out of the land.

COMMISSIONER:

I would have to differ with you on that.

CHAIRMAN:

On the basis of having been a farm boy, growing watercress in an urban area is not compatible because watercress means the cleanest and the greatest quantity of water flowing through the field. You could not have the watercress in the middle of a subdivision.

COMMISSIONER:

I have to differ with you again.

CHAIRMAN:

Are there any other questions? Nothing? Do you have anybody else that would like to testify?

PETITIONER:

No, that's all, Mr. Chairman.

CHAIRMAN:

O.K. We'll go to action SP69-60, Helen Divine.

STAFF:

Mr. Chairman and Commissioners. This is . . (inaudible due to paper rustling) . . coming from the Hilo direction past the urban districts of Naalehu and Waiapino here and 12 miles beyond, there is the subject parcel. It is part of the Hawaiian Ocean View Subdivision which has been forming. These are conservation districts. There is another view of the subdivision here and the parcel in question is located here. Two other special permits that were approved a short while ago are the Kee parcel and the Hess parcel. Each of these blocks represents about 40 acres of land. This is the site plan submitted by the petitioner, showing the shop area, the restaurant and bar with . . comprised of about 3,000 square feet, and 8 apartment units located here.

STAFF (Cont'd.)

(The January 17, 1969 staff report to the Land Use Commission was read verbatim.)

CHAIRMAN:

Would the petitioner like to present their case?

PETITIONER:

Sir, the petitioner is not here for the County of Hawaii Planning Commission, which recommended approval. We would like to make some comments

CHAIRMAN:

Would you like to come forward and present your case now?

PETITIONER:

I represent the County of Hawaii Planning Commission which recommended approval for this special permit application by Mrs. Divine. I would like to comment on one item which needs correction where the staff report on page 4 . . . mentions that the area contains thousands of non-conforming lots. They do conform. The lots are different sizes. Other than that, based on the State Planning Commission's granting of the premise to Mr. McKee and Mr. Hess in the past in which in effect they ran concurrently, the County Planning Commission therefore is required to use that as a basis for recommending approval of Mrs. Divine. I'll detail that by giving a little additional background relating to this.

Mrs. Divine originally applied in April, 1967 -- almost two years ago -- for this special permit. The Planning Commission at that time, knowing that there were already two special permits in effect, told Mrs. Divine that hers would have to be held in abeyance because . . . we had the same thing in your petition. Stripped development would not be encouraged. However, we differ with the State Land Use Commission in that we believe two

PETITIONER (Cont'd.)

rather than one should be allowed. And as I said in the beginning, the State Land Use Commission anyway had permitted two to run concurrently. Some additional background to this also is that even after we told Mrs. Divine that hers would have to be held in abeyance because there were already two existing permits, a fourth was denied for the same reason and about 3 other informal requests came in, and they were discouraged from applying for a special permit because of the same reasons which your staff has suggested.

About a year later, after Mrs. Divine came in, as I mentioned, another one on the makai side -- a fourth one -- was told no. When Mr. Hess' application expired, therefore, the County Planning Commission picked up Mrs. Divine's and on the basis of feeling that two special permits were warranted, we granted Mrs. Divine's . . . recommended approval of her permit. To inject some of our reasoning behind this, . . . Basically, this (inaudible) you must understand takes care of not just one direction of traffic, but two, and we feel that in going to Kona, they will come across first Mrs. Divine's and perhaps use that and those going in the opposite direction will come across McKee's first. If they miss it, they will still have Mrs. Divine's to go to. They are one mile apart which, in this remote area and on the basis that we have denied the others, we certainly have no intention of filling in the rest in between.

These are the basic reasons and the background behind recommending the approval of Mrs. Divine's request, and I think we have shown pretty good faith in discouraging the others, as I said, in following your reasoning that (inaudible) development should not occur. But we do believe two are justified rather than one. That concludes my comments.

COMMISSIONER:

Do you know what the traffic load is in this area?

PETITIONER:

I do know there are 4 buses going each way during the day. But as far as U-drive, I am not sure what that is. And then there are the usual local traffic.

COMMISSIONER:

The only reason I ask is to determine whether two commercial developments there could be sustained by the type of traffic that goes through there.

PETITIONER:

We feel also that it's basically for the road travelers, but with the 10,930 lots, there has . . . when I look at this tremendous size, I'm kind of amazed, too, frankly, but a year and a half ago there was plenty, and the number has doubled. I'm not saying that there will be a population explosion there. I really couldn't say whether one or both of them would make it, but we felt it was justified.

COMMISSIONER:

It was mentioned that this is in the one-acre district. This is just the subdivision itself?

PETITIONER:

There's a portion down below on this side also.

COMMISSIONER:

Basically, the lands subdivided are . . .

PETITIONER:

It's just perhaps the wording. We zoned it to be non-conforming . . . rather to be conforming.

COMMISSIONER:

Are the improvements in the subdivisions conforming to your standards?

PETITIONER:

Yes. Wait. What do you mean?

COMMISSIONER:

If they were to subdivide that area today, would you permit them to go by the standards of improvements that are in there today?

PETITIONER:

No. In 1966 we got more . . .

COMMISSIONER:

So that the improvements would still be non-conforming?

PETITIONER:

The rights of way are wider, but the pavements today would not be. Actually, the County has certainly learned from this experience.

UNIDENTIFIED:

I'd like to point out that when the Hess request was approved, the construction on the McKee parcel was not actively being pursued. But it's different in this case.

CHAIRMAN:

McKee . . . has he broken ground?

UNIDENTIFIED:

No, but he has indicated that construction plans are ready to be submitted to the County and the material for construction has been ordered and due to be shipped.

CHAIRMAN:

But actually, nothing is being done on the site.

UNIDENTIFIED:

Not that I know of.

PETITIONER:

May I mention one more thing? It was the County's plan that when McKee's expired, we would recommend approval for this fourth one here to be approved, which would still be keeping to the two allowed and not three.

COMMISSIONER:

Do you mean to tell me that the County can say on these grounds that two are justifiable but if a third one comes in, you can stop them? I don't see that justification now. Even if they could say they'd go broke or they'd all make good, but they could have two, three, four, five . . .

PETITIONER:

Based on the applicants, as I said earlier, neither has objected to the other. Perhaps the reason for not objecting is they're afraid they might be called chicken or something. But apart from the other, we haven't encountered any problems along the lines that you bring up.

COMMISSIONER:

I can see what you're doing, but I'm just wondering if the third one were to take it to court . . . that's pretty poor justification.

PETITIONER:

In answer to that, I think it's easy to say that two are . . . three would be very much more than two. And two is not as bad as three, in other words.

COMMISSIONER:

And these two would be almost adjacent?

PETITIONER:

Four miles away.

COMMISSIONER:

And there are comfort stations and everything there?

PETITIONER:

Yes, there are, but it's strictly a comfort area.

COMMISSIONER:

Water for cars that overheat?

COMMISSIONER:

Don't you think that instead of encouraging that type of development, Naalehu would be a more practical area for such a thing as this?

PETITIONER:

There's 12 miles. But when you come from the other side, you have nothing in between; 18 or 20 in between, from the Kona . . .

COMMISSIONER:

Eighteen miles?

PETITIONER:

Probably more.

COMMISSIONER:

Eighteen miles is nothing.

PETITIONER:

But this is not the H-1 freeway, you know. Some is pretty good, but some is winding and curvy.

CHAIRMAN:

Any other questions? Anybody else wish to testify

COMMISSIONER:

Are you also imposing landscaping conditions?

PETITIONER:

Yes, our plan approval applies that. In both cases, the access will have to be off the main highway.

CHAIRMAN:

In the event we (inaudible) Mrs. Divine, then that leaves only McKee's

CHAIRMAN (Cont'd.)

property to be developed?

PETITIONER:

He has been very slow in this 6 years and the correspondence which would precede Mr. McKee's . . . we're not convinced until we see the building permit really.

COMMISSIONER:

The thing that's in my mind is that the guy applies for a special permit and yet he's taken 6 years to decide whether he should keep on going. He can see the economic thing. It's not practical. And then another guy comes along and he . . . (inaudible) . .

STAFF:

That's why we've been quite adamant about imposing one year for construction. Naturally, if . . . assuming you gave Divine's and McKee's . . . (inaudible) . . and one came afterwards, I don't think we could go along with that because it should be separated. Divine's is the third one, there's a fourth one waiting in the wings which we have said no to is off on this side . . . it would be pretty close to the border. As I've said, we have records stating two in the area and not three.

COMMISSIONER:

Now it doesn't appear as though there's any need for any landscaping along the highway, with a 60 foot setback into . . .

PETITIONER:

She doesn't really need all this parking.

COMMISSIONER:

But she has it on the planning.

PETITIONER:

Yes, but that's where our plan approval would come in. Our County,

PETITIONER (Cont'd.)

as you will recall, was the first to have the comprehensive zoning in effect, and as far as we're concerned, we'll always ask for a proper planning strip. She would only need 8 spaces but assuming . . . (inaudible) . . . a total of 20 would give it right there. I think she put these in just to indicate to us that she has enough room if she had to get more parking.

COMMISSIONER:

Then are you prepared to tell this Commission that that tier of cars will be in landscaping planning.

PETITIONER:

Well, when we see her further construction plans, that's when we would make the . . . It's a fairly subjective thing, I'm sure you realize, but as I said, we always go along with planning in the front. I don't know if the McKee's special permit would allow us to be as strict.

COMMISSIONER:

In the event the Divine's were turned down, you're afraid the McKee's might take another 3 years to . . . (inaudible) . . .

PETITIONER:

That's why we initiating the terminating of his . . . We felt that he had taken too much time and so the County initiated, in September, I think, action to ask the State Land Use Commission, your body, to take steps to terminate it since he had not shown good faith in what was beyond reasonable time, even though it had no . . . (inaudible) . . .

COMMISSIONER:

Is he still terminated?

PETITIONER:

The McKee's?

COMMISSIONER:

Yes.

PETITIONER:

Well, the . . .

COMMISSIONER:

Have we asked for a ruling on that?

STAFF:

We have not, as far as I know, and that's a very good question. I understand there were one or more of these originally issued without any time limits.

STAFF:

If you'll recall, at our meeting in Kamuela I reported to the Commission that we received this letter from the County asking the Commission to take action to terminate this request, and so it was agreed at that time that we would write the applicant and ask him to show cause why we should not terminate this special permit. And our reply was just received a short while ago wherein they stated that they were preparing plans and had ordered construction material and that documents would be submitted in the very near future showing the transactions that had transpired to assure the Commission that this was a bonafide development and that it was underway. That's where it stands right now.

COMMISSION:

How much time can we allow? A month or . . .

STAFF:

Two weeks are about up. We should momentarily receive . . . Well, no, I mean from the letter that I received from the applicant stating that in two weeks they would send additional material to us. It was January something.

CHAIRMAN:

We could give them another week or two. How is it . . our next meeting scheduled?

STAFF:

We don't hear anything until . . . (inaudible) . . . Commission, I think. One year is what the County has fixed. Before the 15th or 16th of February.

COMMISSIONER:

Fourteenth.

STAFF:

Fourteenth? And our next meeting is scheduled the 28th, so we have to take action this meeting. Or tomorrow, if you want to defer action.

COMMISSIONER:

Well, there's a statement saying something about getting some materials in by January 19th, due to be shipped from the Mainland January 11th. We would like to have something more . . . We have, I think, cause to defer this to . . .

COMMISSIONER:

But why don't we go to the County and say that two is permissible? We've had two applications approved. Now that one is null and void, maybe we should approve this one as of today.

COMMISSIONER:

But I can't see two.

COMMISSIONER:

I can see two, but not one mile apart.

COMMISSIONER:

There's conservation in there.

COMMISSIONER:

I can see their reasons for a request for apartment units there because

COMMISSIONER (Cont'd.)

when the people come there to live, they want to build and they have to find someplace to stay. And this seems to be a problem with those people; they want to build in there.

COMMISSIONER:

Do you highly recommend such a development like this?

PETITIONER:

Not highly recommend, but we've done it before so I don't see why we should stop it now. We've done it once before and can do it again. But the County's willing to stop it at two, so we could stop there.

COMMISSIONER:

And yet these private citizens are willing to spend capital, so who are we to deny them their trade? They're not asking the government to put up the dough.

PETITIONER:

And I think the conditions set up by the County are stringent enough to . . . for them to abide by.

COMMISSIONER:

Well, why don't we take a vote? That's why we're here.

COMMISSIONER:

I vote that we approve.

CHAIRMAN:

Any second?

COMMISSIONER:

I second.

CHAIRMAN:

Any questions?

COMMISSIONER:

Is this approval of the recommendation or approval of . . .

COMMISSIONER:

It's the approval of the special permit.

CHAIRMAN:

The motion is to approve the request.

STAFF:

Shall we state in the record the reason for the approval?

COMMISSIONER:

It's just going along with the County's recommendation that we have two. We had two at one time and one was taken off so we're putting back another one.

STAFF:

May I make a comment, Mr. Chairman? Looking at the conditions that the County recommended, I still don't see anything in here that requires any landscaping and could we add to this an additional condition that the frontage along the highway, at least 60% of it, be a planting strip.

COMMISSIONER:

But that's not under our jurisdiction. We're not the . . .

STAFF:

But you can impose more stringent conditions on a . . . for a special permit.

COMMISSIONER:

But they have.

STAFF:

They say they have but there's nothing in their recommendations on the conditions imposed that specifically mentions landscaping. Is there

STAFF:

something in the zoning ordinance that . . .

PETITIONER:

Yes.

CHAIRMAN:

One point. This is just a special permit. We're not talking about boundary changes.

STAFF:

Right. So this is the only reason why we can pose the . . .

CHAIRMAN:

But we can impose conditions as we go along.

STAFF:

No. Once you take the action, then it's up to the County to carry out the conditions of the special permit.

CHAIRMAN:

Isn't a special permit on agricultural land always under our jurisdiction?

STAFF:

It's under the County's administration.

CHAIRMAN:

To declare the boundaries. In other words, you grant a special permit like a boundary change.

STAFF:

You can. I think what Ron is saying is that if you're going to put any conditions on it, you have to do it now. One of these conditions may be something that would take effect in the future like the building has to be up in two years or whatever. But you've got to make the future conditions now to reserve future rights for yourself if you want to.

CHAIRMAN:

When you talk about, say, landscaping, that's such a broad brush thing that . . . what does it mean? Plant one tree in the front yard and you can call that landscaping. It doesn't mean a thing as far as I'm concerned, but when it comes down to the County where they have building permits and working drawings, then they are the ones to see what is attractive or not.

COMMISSIONER:

Well, I think that's their policing policy.

CHAIRMAN:

Yes. If we put in the term "landscaping," I don't think it will mean very much from our point of view, unless we have control of supervision after these people get into operation.

PETITIONER:

In our ordinance 63, section 32, it says "plan approval" and it describes it. And it says "site plan", etc. "and all the proposed landscaping and planning that a director may require." So it would have to be at this director's discretion. And let me assure you that we are quite strict about these things, I think stricter than any state . . .

COMMISSIONER:

Does this Mrs. Divine have any time limit on when she's going to begin?

PETITIONER:

Yes. We have stipulated that in one of the conditions . . . one year or . . .

COMMISSIONER:

The motion makes it one year then, automatically.

PETITIONER:

Automatically, yes.

COMMISSIONER:

What do you mean it automatically makes it one year?

STAFF:

This motion based on the County's recommendation automatically limits it to one year.

CHAIRMAN:

Are you ready for the question?

COMMISSIONER:

Question.

CHAIRMAN:

Will you poll the Commissioners?

STAFF:

Commissioner Nishimura.

COMM. NISHIMURA:

Aye.

STAFF:

Napier.

COMM. NAPIER:

Aye.

STAFF:

Hito.

COMM. HITO:

No.

STAFF:

Mark.

COMM. MARK:

No.

STAFF:

Woolen.

COMM. WOOLEN:

(Inaudible.)

STAFF:

Inaba.

COMM. INABA:

Aye.

STAFF:

Chairman Choy.

COMM. CHOY:

Aye.

STAFF:

Five ayes. The motion is carried, Mr. Chairman.

At this time, why don't we go into comments on our consultants' reports and . . . Ed, why don't you move up here?

MR. WILLIAMS:

I want to get all the guys up here, if I can, just in case somebody has . . . Grant Jones, who has been specializing on our conservation districts and Howard Altman with the beard here who has been specializing in urban districts and (inaudible) who's been specializing in agriculture and rural.

STAFF:

These reports were circulated last Friday in hopes that you'd have a chance to look them over and discuss . . .

COMMISSIONER:

I didn't bring my copy with me. Do you have any spare copies along?
I read it over already.

STAFF:

Would you like these circulated? I just wanted to bring you up to date, that we have for you to read in addition to what we gave you last week, a few other reports. One is our position statement on the most important issues that we feel we're faced with and then, two, the concepts and goals for us to work on throughout the rest of this job. And we'd like you to read these and then in the next meeting, discuss these with us as well as any other matters that might be hanging over from this meeting. But, Mr. Chairman, can I proceed or would you like to conduct it?

CHAIRMAN:

No. We'd like for you to make comments.

STAFF:

What I would like to do is to break this up into two sections.

CHAIRMAN:

Or would it be better that, if we've all read these reports, that if there are questions that the Commissioners have that they'd like to ask.

STAFF:

That's the way I want it to be, but I'd like first to take up the matters of the interviews and questionnaires and get that out of the road because I think the more detailed discussion really should take place around the regulations. And with regards to the report on the interviews and the questionnaires, as I explained at the last meeting, we will have another large computer run and we're going to get additional information. But we'll get another computer run whereby we can take, you know, what this category answered in this way on this question and compare how the answers came up in this way with relation to other questions. And we have our own specific list made up that we want to pursue and specifically they will be about how different categories of people in the outer islands

STAFF (Cont'd.)

compared to Oahu compare and how they responded to specific issues that the questionnaire covered. But if there's anything that you have thought of with interest, particularly that you would be interested in getting response to, let us know so that we can have those questions.

Now, with regard to this paper on interviews and questionnaires, it's pretty much . . (inaudible) . . analyzed by our consultant and if there are any questions you would like to have clarified, I would appreciate knowing about those now. And then as soon as we're finished with the interviews and questionnaires, we can go on to detailed discussion of regulations. So did anybody have any specific thoughts or comments about the questionnaire thing? There's going to be more of this. It's going to be twice this big when we get through.

CHAIRMAN:

I think it was well put together. I wish we'd have known ahead of time that we would have these questions and discussion, then I think we'd all have come with notes. There were quite a few points as I read through the report that I would have liked to have clarified.

COMMISSIONER:

Couldn't we refer this to the next meeting?

STAFF:

Tomorrow would be too early. I'm thinking that in view of the fact that we're really only talking about one meeting in February and another one in March that we ought to start talking about having work session schedules. Bring the Commissioners into Honolulu with the understanding that we're going to do a certain phase of the work and . . .

CHAIRMAN:

And take all day. That would be much better and we would be prepared to . . .

COMMISSIONER:

Like now we're having these hearings, these actions . . . you know, we're all jumbled up.

CHAIRMAN:

On that basis, I think . . . Ron, could we set up a date next month when we could have an all-day session one day next month?

COMMISSIONER:

I'm going to be out of town between the 10th and the 25th.

STAFF:

The 7th is a Friday, I believe.

COMMISSIONER:

Mr. Chairman, we'll be here on the 31st. Could we call a meeting about that time? We'll be meeting for that soil . . .

STAFF:

Oh, that's the end of this month. What day is that?

COMMISSIONER:

It's a Friday.

CHAIRMAN:

Is that alright with everyone then?

(Positive response.)

STAFF:

Mr. Chairman, do you want this to apply to the whole thing or do you want to spend some time with these regulations? Are you talking about the whole discussion now?

CHAIRMAN:

Especially on the basis of what you've done on your report to date and what you plan to do hereafter. I think all of that discussion.

STAFF:

Mr. Chairman, I'd just like to make one statement though that I think is rather important for you now to know. We are proceeding now with a detailed study of Kauai, and we're doing this as a test case so that when we get this study of Kauai done, we will come to you and say, look, here's how our recommendations for new regulation changes work in the field. See what I mean? In the form of new district boundaries on the County of Kauai. So we have to start that right now because time is going by rapidly and we've got to be peaked on times, you know. So we've got to proceed on that. So we're proceeding in accordance with these ideas that we're presenting here for new regulations. I just wanted you to understand that.

COMMISSIONER:

It sounds well planned out.

CHAIRMAN:

What time shall we say on Saturday?

COMMISSIONER:

About nine o'clock.

COMMISSIONER:

How about eight thirty.

CHAIRMAN:

Ron, would you like to take over on the tentative schedule?

STAFF:

Well, we're going to meet tomorrow morning here at 10 o'clock and everyone be on time. We have a public hearing tomorrow morning on

STAFF (Cont'd.)

. . (inaudible) . . conservation district.

COMMISSIONER:

Do I have to be here? I have a meeting.

COMMISSIONER:

I have to go to that, too.

STAFF:

Well, it's a public hearing and there's no action involved. Then you'll recall we have a meeting in February on the 28th.

STAFF:

I might just add that we had a most gorgeous meeting with the Honolulu City and County Planning Commission at lunch this week for almost 2 hours. Very informal and very gratifying.

CHAIRMAN:

That's the outgoing Commission, that's why.

STAFF:

But you know, they have staggered terms and they may not submit resignations . . .

CHAIRMAN:

Mr. Williams, did you meet with the Hawaii County Planning Commission, too?

MR. WILLIAMS:

Yes, we had two meetings. And we will have another one sometime in the future.

COMMISSIONER:

I move we adjourn.

COMMISSIONER:

I second it.

STAFF:

Well, then just a reminder about the February 1st meeting.

* * *