

STATE OF HAWAII  
LAND USE COMMISSION

PUBLIC HEARING

LUC Hearing Room

March 5, 1963 - 7:30 P.M.

Commissioners Edward C. Bryan  
Present: Stanley C. Friel  
Wayne D. Gregg  
Yuichi Ige  
Edward Kanemoto  
Franklin Y. K. Sunn  
Roger T. Williams

Ex-Officio Members Frank Skrivanek  
Present: George Siu

Staff R. J. Darnell, Executive Officer (XO)  
Present: Roy Takeyama, Legal Counsel  
Alberta L. Kai

The public hearing was called to order by the Chairman, followed by an opening prayer.

The Chairman announced that the last item on the agenda has been rescheduled for the Land Use Commission public hearing on March 28, 1963.

The first item on the agenda was deferred till later in the meeting as no one was present in the audience to speak on the matter to be heard.

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PETITION OF KAISER HAWAII-KAI CO. (A(T) 62-24), FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION FOR LAND IN MAUNALUA, OAHU: Described as First Division, TMK 3-9, portions of plats 05, 09, 10, 14, 18, 20, those portions amounting to a total of 2300 acres, more or less.

The XO outlined the area involved in the petition and briefly described the area. The request of the petition which was not too clear to the XO was reviewed for the commissioners.

Mr. Henry Shigekane representing the Kaiser Hawaii-Kai Company informed the Commissioners that he will not be testifying but had a set of witnesses

who will be testifying and wished to have sworn in all at once. The Chairman swore the following persons in: Mr. Tim Yee, Mr. Dick Rogers, Mr. Bradley Dewey and Senator Lyman.

Senator Lyman informed the Commissioners that he is one of the trustees of Bishop Estate; that the Estate was concerned in this development because it is the owner of the land, and that Hawaii Kai has the master lease on some 6,000 acres of the land in Koko Head-Honolulu. (A letter was submitted by the Bishop Estate on the night of the hearing giving this information.)

Mr. Tim Yee informed the commissioners that he was the assistant general manager of Hawaii-Kai. He stated that Hawaii Kai is asking that this entire area shown in red (pointing to map) be included as urban; he stated that the staff of the Hawaii Kai Development will tend to point out that by excluding these areas along here which will finance to some extent our economics, will place the project in a completely different light. He stated that Hawaii Kai sounds like a great deal of acreage, when you say there is 6,000 acres. When you come down to it you find out why for many, many years no one has developed this area. There is a great deal of water in here, a great deal of mud. There is almost no flat land and you immediately get up to ridges. There is some drainage problem that require many, many dollars to solve. There is a requirement, probably the biggest stemming block for many years, which is a sewer system which would serve the entire area. He pointed out the so-called sewage system available now in the existing residential areas of Portlock, Kuliouou, Paiko which have cesspools, and which the Board of Health has subsequently insisted that there be one master sewer system, primary and secondary treatment, which would serve this entire area. This meant a location must be selected and the Board of Health thought that Sandy Beach would be for the best good. Mr. Yim stated that this can be developed only as a whole project.

Mr. Yim stated that when one of the trustees talked to Mr. Kaiser he finally consented to go along with the development of this area, because he thought he could make it go if he were able to get help as a whole. This goes back to 1959, the beginning of the development agreement and the concept of the general plan which was finally first adopted in February 1960. The General Plan sets forth different uses which could be put in the area; it was a fairly delicately balanced distribution of uses, by eliminating areas or changing uses to tilt the economics to a point where the entire project might be quite different which was envisioned in our development agreement. The development agreement, our contract with the Bishop Estate which gives us the right to the land, sets forth our obligations as to what we have to do, and what we might be able to get out of it in the way of profits. This whole concept is a development on the whole basis. It is not a piece meal development like we might have in Arizona where you have land that runs for many miles the same kind of land you can develop in 10 acre increments, and one 10 acre increment won't be much different from the next.

To get the first toilet flush in we had to get a planner to come in check the sewage treatment at Sandy Beach with an out form which runs into the ocean. Mr. Yim stated that great amounts of money have been expended in the project as a whole. Our comptroller will point out in a few minutes that to cover this

money, our cost was allocated on a square foot basis and naturally if you take away a square footage that we can use this will hurt us. The sewer system alone, the main trunk lines, the pump stations, the out forms, and the treatment plant will run in excess of \$8,000,000. Something in the amount of over half of that has already been expended. This does not count the subdivision sewer line. This plan was worked out with the City & County on the matter of exchange of lands and in 1960, we had exchanged within Hawaii-Kai certain acreages of land to the City and County for schools and parks; and schools are already designed in Ahiona Valley to take care of a number of children from areas such as being deleted in these areas shown in green (points on map). In the agricultural area we have set up something like 95 acres up here and about 20 acres here for agricultural. This was balanced with a proposal to put industrial in the higher areas up here; and the reason being that the farmer can pay neither a high rent or a high development premium. We are developing the industrial area together with the agricultural and throwing some of the cost into the industrial area in the sense of higher rents and higher development premiums. By retaining the agricultural and kinetic portion of our industry you have thrown the economics in a manner that probably would not become feasible. We have developed this as a whole with three golf courses and this is based on the assumption that we will have a certain number of homes in these areas. If we cannot do that or have difficulty doing that than we cannot plan on the 3 golf courses. The basic assumption is that we need flexibility, the flexibility to develop all of these areas in red (point on map) even beyond the green lines at any time. You may ask how can we develop it all at once. We cannot develop it all at once, we cannot do more than develop in one area. For example, we are talking about giving some apartment areas to a person named Dick Andrews; he wants some 5 to 10 acres. In other words we are leasing out lands for development which he can build there. There has been word that we are negotiating with Bill Blackfield to build in this area. We will probably be able to come to a successful conclusion in our negotiations and he can develop single family's here; this is different from apartment. The two can proceed at once. We have been in negotiations with a man who wishes to put a tramway and a complex of commercial development across the beach here and preserve the park area which has been in existence around the nose of this ridge. This tramway runs across the top here and comes back down, that can proceed at the same time. We have someone who is interested in developing a little higher price home than Mr. Blackfield wishes to develop; he wants to develop in this area. These are people we can talk to today if we know we can get this proper designation from you people, that of urban designation. He stated that they are required to process through this commission and they did not know what the outcome will be and so could not talk to these people now. He stated that in Arizona you have flat land, one 10 acre parcel isn't different from the next. It doesn't matter that you start with one increment and move to the next, but here they wanted to see the marina lots do better than the single family on dry land. He stated that there is a tremendous demand for the dry land lots as well so need to shift the emphasis is in order, and therefore, the need for flexibility in all the red areas as shown must be had.

Commissioner Ige asked Mr. Yee, "What type of agricultural are you talking about?" Mr. Yee replied that they are speaking of light agricultural: truck farms, flower farms and some poultry, which particular requirements will need to be met. We are not talking about pig farms. Commissioner Ige asked, "Have you set areas where these agricultural sections can be separated from the residential area?" Mr. Yee replied, "Yes; we have development plans being drawn now. We have an overall study of this area drawn up by Mr. Leighton Louis, showing the setback area to be separated from the residential. There is a 25 foot setback with tree planting required by the Board of Health. We have acreages from 2 to 5 acres for the farmers with farm rules which we would like to get started on very soon; but it is things like this that involves water line which will cost approximately \$200,000; now we don't want these people to stand the cost of that alone, because we think that the waterline can serve the industrial area as well. We need to balance this and throw the cost onto the industrial area. It is my understanding that a portion of the industrial area has been cut off, but may be this is because we haven't got the correct information as we got this from the map which we tried to transpose in our office and I think there is some margin of error.

Commissioner Sunn asked, "I know Hawaii Kai has worked for many years with the City & County on this total concept and total overall master plan for the area, but it was our understanding from discussions with our consultants and with the City Planning commissioners and the City Planning staff that the proposed permanent line was reasonably close to what would be acceptable to you and the City & County. This bothers me as to why we are so far away from each other." Mr. Yee stated that may be our engineers can give that information. To my understanding the City & County had come across with the recommendation which was closer to what we had asked for; in other words very little of the red beyond the green here, but that the consultants brought the green a little farther down.

Mr. Dick Rogers informed the commissioners that he was the chief engineer of the Hawaii Kai Development project. He replied to Commissioner Sunn's question in the this respect. "I spoke to Mr. Kim, Deputy Planning Director of the City Planning Department, he assured me that their recommendation for the establishment of the boundary was the same boundary we had established in our planning which is the red line, in fact there was a very minor variation which isn't shown on this particular drawing. I was startled when I was first shown this boundary because of the great difference between the two; what your consultants have done I have no idea. I think it will be well to review what those associated with the project have done in the development of the whole concept, and how it has affected the engineering project as designed. Senator Lyman remarked that there are 6,000 acres involved in Hawaii-Kai project. Our first determination made some  $3\frac{1}{2}$  years ago was a study to determine how many people this project would house when it is finished. Mr. Yee remarked that the installation of all of these major utilities and the other services would have to be predicated upon the total number of people served. We therefore had an aerial reconnaissance, an aerial photography made of the entire area; had it reduced to a rather

small scale but on large maps and attempted to determine, and feel we did determine, all of the areas within the 6,000 acres which could logically be developed for some use other than for conservation. That figure approaches 3,000 acres and I'll let Mr. Dewey expand on that but essentially it comprises half of the property. It essentially follows this red line. Along that same thought we considered at that time your consultants suggestion to the 20% slope line. One thing he may have failed to consider is that in many cases the tops of these ridges are flat, if not flat on a very gentle slope. While we have no intention of developing something like this island pali here, that is exceedingly steep, we certainly feel that we can economically develop on the top of this same ridge, not a high density development by any means, not even by a normal single family residential area development, but some estate type development. On that study we determined how many people will be housed here and if so, how wide the streets should be, how big the flats should be. This study was not used alone by us but was used by the Phone Company, HELCO and also by the City because the City was vitally interested among other things in our sewer system. It was reviewed by the City, it was reviewed by several consultant engineers and it was used as a basis for the City's approval of our various plans for the individual type of developments. I might mentioned as Mr. Yee did that to expand our interest the city used the same study, our so-called population studies to determine the size of schools and to plan the location of these schools. I might mentioned that this one has been designed and subject to the Coro Foundation grant for the design of the school. It is predicated for the school and children that are here and throughout this entire area. On that basis then we sought certain arterial highways, certain water lines and certain sewer lines, to accommodate the people in this entire area. At the same time Mr. Kaiser developed the same idea that it would be most economical if we could build homes out of concrete products. With the City's approval, and we have a record of the concrete products that are in here, the cost which is excess of \$2,000,000. I was startled when I saw this boundary line, to see that where we have existing buildings approved by the City was excluded. That sums up the background of how our development as a whole concept does influence the size of all our major underground subdivision.

Commissioner Siu asked Mr. Yee if these plans were developed prior to the enactment of Act 187. Mr. Yee replied in the affirmative, stating that the first general plan was adopted on 2/5/60, and was in the makings long before that. Mr. Yee asked the commissioners if it is his understanding that the consultants used the 20% grade as the standard control. Chairman Bryan read the consultants report to Mr. Yee. Mr. Yee suggested that using the 20% grade out at Hawaii Kai may not be the best test. He pointed out that there are some areas where it runs from 0-20, 20-25 and back to 15 in a 100 feet and that there are areas, for instance in the concrete product plant area where we have gone into some areas and the slope we cut in on is a 25 to 30% grade. We have found that this we can do if we balance it off against the rest of the project. This is what we have done and this is the basis of our planning. Actually we have spent money in the concrete products area. Now if we cut back I think that 20% contour would cut across probably in the middle of the mixer and we think perhaps that is not the best test. We are asking for reconsideration on that basis.

We recognize that there are some areas which are very rough that we have included but we think that we can use them for example, on the worst ridges we couldn't possibly use them but for many years the Bishop Estate had a big grove on the top of Kahuanui ridge which is a lot more level than most people would think. There we have plans for estate type homes which would range from any where from an acre to 5 acres per home site. That would be using this square footage; if it ever were excluded why we would have that much less for which we could upkeep our cost and perhaps Mr. Dewey can go into some of these cost allocations.

Commissioner Sunn asked Mr. Rogers, "With regard to the overall master plan for the water distribution system, line and etc., this was undoubtedly processed through the Board of Water Supply, and the elevation must have been designed for this upper red line. Mr. Rogers replied in the affirmative. Commissioner Sunn added, "And you have an approved map with the plans thereon." Mr. Rogers replied in the affirmative stating that of course the upper red lines does not follow one concept, and to which Commissioner Sunn added it gives its approximate elevation, which Mr. Rogers replied in agreement. Mr. Rogers stated that in order to equalize the water pressure throughout the island the Board of Water Supply years ago agreed that water reservoir could be located at certain fixed elevations and these reservoirs will serve up to a certain elevation. They want the tank high above the town to have enough compression. We have reservoirs located virtually at every ridge, it is not filled; the Board of Water Supply planned these for their socalled low level system. When these tanks are in they will serve houses built at an elevation of 100 feet. Now this is not in regard to slope at all, this means that a house may be built anywhere in the area to an elevation of a 100 feet. With enough elevation at least 405 feet, it will serve anything up to 200 feet in the area. Again I think it unfair to even introduce a 20% business because we have too many cases where ground goes up extremely steep. Here you have the most beautiful homesites at an elevation that can be served by all the water system within an economic reach of the other utilities and we can economically build a roadway to that area. Mr. Roger informed the commissioners that the city was vitally interested in the sewer system and one of the reasons for that is they have planned in our agreement with the city that anytime they (the city) wish they can install a sewer system in this valley and connect it into our system. The same plan for Portlock, Koko Head School, etc.

Mr. Bradley Dewey, comptroller for Hawaii Kai Development, presented copies of a designed proposed temporary plan as compared to a permanent plan. He stated that the effect of the temporary plan would be much more noticeable upon their finances then the permanent plan. He explained what saleable acreage would be left if the permanent plan were adopted: 32 acres in the case of the Hawaii Kai plan and 700 acres less or 2500 acres as in the case of the permanent plan. He stated that there are many costs as they venture through the many valleys. He stated that the numbers that are shown are the cost that incurred to this point and they are much more substantial here in the areas that we have been selling houses than they are in these more removed areas where we have not been as active. Nevertheless we also have substantial number of costs which benefited the entire project rather than any particular valley and these are basically the sewerage system and the water lines and certain other general costs. This time we have spent

\$5,800,000 on these general costs and to complete the sewerage and the water systems, according to the plans we are now following will eventually run another \$6,000,004, or a total of \$12,000,002.. We are pricing our lots or estimating our cost to completion, determining our lot cost per sale which is right now based upon a proration of this general allocable cost to all lots. Because we couldn't sell a single lot we had to charge the \$12,000,002 to just this small increment of the total. I have attempted to show here what the effect would be by deleting this 700 acre differential between the permanent plan and the Hawaii Kai plan for saleable acreage. Under the Hawaii Kai plan 3,800 of general proratable costs are applicable to each acre of saleable property, and on that basis if 700 acres were deleted, then the costs which we had counted on to apply to those 700 acres would amount to \$2,600,000. We would have to recoup those \$2,600,000 over what sale of acreage that remained on a permanent plan, the effect of that would be to raise the cost allocated to each acre of \$4,900. Another way of looking at this is the \$2,600,000 applicable to those 700 deleted acres is approximately 21% of the total of these general proratable costs that we will incur by the completion of the project.

In summary Mr. Shigekane stated that the plans of Hawaii Kai which was conceived at a time and entered into, with the Board of Trustees and the Hawaii Kai people, when the Land Use Commission had not been created, prior to July 1961 when the law went into effect. It was upon the approval of the General Plan by the City & County Planning Commission that this venture was entered into and large vast commitments were made. It was upon the expectation of that piece of land outlined in red that it would be available for urban use and that Hawaii Kai and Bishop Estate trustees were willing and able to enter into agreement with respect to the sewer system and taking on additional costs for additional large sizing; also it was able to undertake exchange (indicated in documents presented for record), whereby we would be using more land and at the same time give to the city and county land which would be developed which the city would not be required to pay the whole cost. You will also find in that sewer system agreement that Hawaii Kai will service city facilities with no cost except for the connection charges. This is only done because of the fact that the proration of the total cost of the project was expected to cover the entire project. If this project is denied Hawaii Kai then the total area which would cost them to allocate would be reduced considerably and would raise the cost of each of the other house lots which would cause serious marketing problem for Hawaii Kai. For these reasons Hawaii Kai is concerned about the proposed permanent boundaries which reduced the area. To this respect requests that the boundaries that we have proposed and to which boundaries the city and county planning commission concurs in should be the boundaries set by this commission.

Mr. Roland Force, president of the Conservation Council for Hawaii, was sworn in and spoke in behalf of the executive board of the Council. He referred to a letter addressed to the commission, dated 3/5/63, in which several motions were brought to the attention of the commission. He directed the attention of the Commission to a portion of the letter referring to opposition of Hawaii Kai's request for an urban designation (this letter is in record). He stated that the Council cannot concern itself with the economics of this development. He stated that the council is just as concerned

as the commission is that no unjust hardship from the result of any objection in this petition or any other action of this commission occurs. He stated that each person coming before this commission has some vested interest. He suggested that the vested interest to the conservation council is in the best interest of the people of Hawaii, the concern here has to do with scenic beauty. He stated that he could not state more eloquently than the consultants did that this boundary delineated by this 40% line is designed to preserve the attraction of the entire community of Hawaii provided by unsalted ridges in the up country.

Mr. Robert Wenkam, vice president of the Federation of Western Outdoor Circles, was sworn in by the Chairman. He was in agreement with Mr. Force in preserving the beauty of Hawaii. He spoke on the economic feasibility of some of the figures and engineering points. He informed the commissioners of his profession before being a photographer which was civil engineer and architectural designer. He questioned the economical feasibility of building on the ridge tops. He stated that his association is in support of the commission's conservation line. He stated that their only objection is that there should be no urban use above the 20% slope. He thought this very important that this be separated from the valleys. He stated that when we speak of the size of the sewers, the size of the water lines in terms of our objection for building on the ridge top, the amount of population that could possibly occupy the ridge top has very little effect upon the size of the water and sewer lines. In the same effect the population on the ridge top has a negligible effect on the size of the roads or the main arterials through the area. Mr. Wenkam questioned the feasibility of building on the ridge at all, because of the high cost to utilities, water storage, electric, roads and everything involved. He could not conceive how any lot could be saleable on Hawaii market today, unless its for a single lot for some remote millionaire. He stated that this would be inconsistent with the Land Use Law which in effect is to set up to protect the scenic resources and not allow, "urban sprawl" as in this case which would be a very undesirable thing to have occur.

The Chairman questioned Mr. Wenkam, "When you speak of ridge top, are you referring to the main ridge, overlooking Waimanalo for example?" Mr. Wenkam stated, "I'm speaking of that but that of course is not included substantially in this matter; I speak primarily of the ridge top as they enter into these areas here. Speaking of marginal areas we speak of a small portion of the total area and I substantially feel that the urban line as drawn by the consultants, if they were taken out of the valleys up to the 20% slope there would be no argument whatsoever. I only argue that there should be no expansion to the ridge tops and the percentage of construction cost to the ridge tops is such a negligent amount in terms of the total project that it cannot possibly have any significant effect on the profits and investments, and on the total efficiency of running the profit in a business-like manner. All planned reservoirs as far as I know at a certain altitude would not serve any ridge top area. To put reservoirs at such an altitude elevation to serve ridge top areas would make quite an expensive, curb lot indeed. I would suggest that the commission take careful consideration in terms of these



figures because the valleys are separated from the ridge tops, so that it is very clear that the valleys in a sense are very logical for urban areas, economically and esthetically, but the ridge tops are not such and on this basis I stand."

Commissioner Sunn stated, "Mr. Wenkam I believe we all realize how much you are in favor of maintaining the esthetic and natural beauty of all Hawaii. We all recognize that Hawaii Kai would be absurd, fool hardy and foolish if they were to mar the beauty of the area they have started to develop. They would not go into something and ruin their marketability of all the lots just by starting construction on the hilltop. I am just wondering for my own information, are you aware of precisely how Hawaii Kai proposes to mar the hilltop areas by their development?" Mr. Wenkam replied, "I'm a little surprise that their map includes the hilltop areas because in my casual conversation with some of the Hawaii Kai people, I was of the understanding that there are no plans to build on the ridge top. In terms of the development of Hawaii Kai over the years, all Conservationist has looked on with a little bit of apprehension, because of the pond which was sort of a bird refuge, and many other aspects in the area we sort of drew up as sort of country. We have been accepting though the inevitability of urban development in this area. In the early Hawaii Kai conversations in respect to lot sizing, landscaping, roads, and other like, there never was any mention of building on the ridge top and my feeling, I may be behind somehow, is that this is something to which even they do not feel that they have any plans to build in the immediate future because of the cost involved in a limited number of housesites which could be made available. These ridge tops are quite narrow, and none of them are large like the Bishop Estate areas down below. One aspect is that it is criminal on their part to ask for every possible building site, because you never know what might happen, but I think it's really stretching into this future. As conservationist czars we are quite pessimistic about everything, and we feel it is in our interest to protect what is in a sense, our domain as much as we can."

Commissioner Kanemoto asked for the estimation of the area, which Mr. Wenkam indicated as a very small portion. Mr. Wenkam replied that we speak of ridge top, say from the 20% slope to the top of the ridge is obviously unuseable, even impossible for roads. So there you have a group of ridges which are relevantly very narrow so that the red areas as indicated, if it were only drawn to show the even conservative possible areas you can build on would be very small. He stated that he used the term "very small" as being insignificant to the total amount of investment with respect to the sewer, water and such: the figures that they would need to design certain sewer size line, certain water size line to take care of the total population. The amount of population that could be accommodated on the ridge tops is of a negligent amount to this total; may be just a fashion of 1%. It would not have a significant effect on their profit picture. We are talking about a very small residential units.

Chairman Bryan asked Mr. Wenkam if he objected to the inclusion of the urban area at a 20% slope regardless as to what elevation this 20% slope might occur? Mr. Wenkam replied, "That is an area where you get into personal feelings. I don't like to go way back into this valley, it is a very beautiful

valley. In terms of urban development versus conservation there are a lot of places where we have to give and take. I don't want to make an issue about going back into the valley further. Our main concern is what is the unique qualities of our island state. One of the unique qualities is this corrugated ridges leading down from the ridge tops to the sea, cliffs and palis and this is distinctive to Hawaii. This unique distinctiveness, this visual beauty of what we sort of take for granted every day, is what we really want to preserve in this case, the building up into the valleys further.

Commissioner Sunn asked Mr. Wenkam if he could get any registered professional engineer to substantiate his statement in regard to developableness of ridge top areas. Mr. Wenkam replied, "When we speak of economical feasibility we're talking about the fact how much would a lot cost to develop on these ridge tops. I have been on all of these ridge tops. When you stand on the ridge tops one lot wide, not including the roadway to get to the house, you are speaking of something that is self evident & is a very expensive proposition. It could be done but it would be very, very expensive and the amount of contribution that that house would make to the cost of the sewer is a very minor thing because it is so few and the salability in the number you could sell would be of such a small number that I cannot feel it would affect the profit picture, which in turn would affect the scenery qualities of the area considerably."

Mr. Yee clarified some points stating, "We are setting aside half of the project, about 3,000 acres, for the kind of things that Mr. Force and Mr. Wenkam are talking about. We have lost the fact that these ridge tops that are being referred to are not the same as 20%. We object primarily to the 20%. I don't think we have so much trouble with the ridge top. We don't envision to build a group of houses running across here. To answer Mr. Wenkam specifically in this area we have a golf course, at about a 25% slope. We can put golf course houses, 2 golf course houses, looking over the golf course probably a 100 of them spread out where we can prorate the cost as we have planned. We have \$750,000 in the ground at the golf course. There is no way to make that golf course stand on its own. Our plan was to prorate some of those costs into the houses. Now that is the 20% area or more. This is not the ridge top."

The XO presented the following communications.

1. A letter from the City Council stating that the matter was referred to the Committee of the Whole and to the Planning Director for its comments.
2. A letter from the Director of City Planning Department recommending approval of petitioner's request for an urban designation as indicated on their enclosed map.

The XO was requested to outline the area concerned on the map as submitted to the Commission and to which boundary the map coincided with. The XO stated that the map submitted is the same recommendation as shown on the temporary district boundary maps of the Land Use Commission. The XO informed the commissioners that the City's adopted plans include all of the yellow in urban uses except for the area above the red line, plus all of the area in pink. The area using the red line and the outer edge of the pink line, and leaving out the Makapuu Lighthouse reservation

coincides with the upper area shaded in pink.

The XO was sworn in by the Chairman and proceeded with the staff report. The staff report was for approval for the reclassification to urban of the area shown in red of the third map which should be marked as Exhibit D. The staff further recommended that the areas not proposed for urban or agricultural use in the hills above Maunaloa Valley be included in the conservation district when the final maps are adopted.

With no other comments, the Chairman stated that there will be a 45 day waiting period before any action can be taken by the commission and that there will be a 15 day period in which additional comments or statements will be received relating to this matter by the commission. The staff will notify the petitioner of the time and place the commission will meet to take an action on this matter.

Public hearing closed in the matter of Hawaii Kai Development Company.

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PETITION OF EUGENE AND EVA KENNEDY (A(T) 62-27), FOR CHANGE OF TEMPORARY DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT TO AN URBAN DISTRICT CLASSIFICATION FOR LAND IN LANIKAI, OAHU: Described as First Division, TMK 4-3-02: Por. 1; that portion being the 50 acres, more or less, situated above the 200 foot contour.

The XO briefly outlined and described the petitioned area and request.

Mr. William Yim, attorney representing the Kennedys informed the commissioners that Mr. Kennedy was present to answer any questions of the Commission and to give any additional information concerning the request. Mr. Yim pointed out that he and his clients believed that their petition indicates that the temporary district boundary which has been laid out as it affects the Kennedys' land is inconsistent with the declared purposes of Act 187, SLH 1961, as set out in Section 1. He stated that the classified Urban use designation on the entire Kennedy property would be in consistency and would further the declared purposes of Act 187. He pointed out that this temporary district boundary rather than preserves, destroys; rather than protects, it prevents; rather than encourages, it discourages the development of the Kennedys land for those uses to which the land are best suited for the public welfare. The temporary district boundary has the Kennedys land paying less than its fair share of the tax burden; it has been paying taxes based on agricultural use whereas it should be paying taxes based on urban use. And while this may seem a little strange for those being benefited by inequities to complain these are the kind of people my clients are.

Mr. Yim stated that prior to the establishment of the temporary district boundary which affects the Kennedys land, all of the land concerned was classified for residential use, 10,000 sq. ft. per lot. The temporary district lines divided the land somewhere along the 250 foot contour. The portion

of the land lying beneath that line is classified for urban use and the portion of land which lies above that line is classified for agricultural use. Mr. Kennedy proposes to develop his land into a residential subdivision. The fact is that almost two years ago he submitted an application for subdivision to the City Planning Commission to develop a portion of the land into residential subdivision, 10,000 sq. ft. lots. This was to be his unit one in the overall development (this was entered as evidence). Mr. Yim stated that Mr. Kennedy has been actively engaged in real estate business for almost 10 years selling real estate and developing it. He is familiar with the general area, he does not feel there is a demand for this land for agricultural purposes. He has attempted to market it; he has advertised it after the establishment of the temporary district boundaries and has received no offers or reasonably serious buyers regarding the possible purchase of the land for agricultural pursuits. Being familiar with the area Mr. Kennedy feels there is a definite scarcity of simple homesites in the area.

Mr. Kennedy was sworn in and informed the Commissioners that the map just submitted is dated 1955 and was not submitted to the City Planning Commission for tentative approval. He stated that their purchase of the land 4½ years ago was on the strength of this map and their investigation. He stated that they checked with the City, Board of Health as to the advisability of developing these additional houselots. They worked from this map with the same engineers and surveyors and from this submitted a corrected map with their recommendations on curbs of roads, and cutting up area for 3 separate units that we could develop. The Board of Health took the stand that we would have to have sewers; if it were not for that fact we would have done it immediately. The cost of putting sewers in for just one development and carrying it out to sea, approximately 200 yards which they requested we do, was exorbitant; so we held off and timed it with the City master plan for bringing sewers within the area which was in the latter part of 1961 or early part of 1962. When it was brought to the people of Lanikai at that time, the people of Lanikai voted against it. We have worked with the City for 4½ years, trying to get an assessment of sewers in there, but the City took the stand that money was foreneeded in other areas and they bypassed this for the time being. He stated that they have found that this is an area where we can develop our own sewers, carrying out our own system and creating a sewer improvement district. This was about ready to get started when the Greenbelt law came into effect and then when we finally found out where the boundaries were it disrupted the entire plans. We feel that all the lands are available and useable for houselots; we feel that the conditions are not adaptable for agricultural use. As for the possibility of selling it the first units contain about 160 house lots, 10,000 sq. ft.; we have tentative names who are interested in buying them, and a lot are living in Lanikai. Mr. Kennedy stated that the best use of the land is for urban classification; that there are very little fee simple land in Kailua, and practically no landholdings that you can buy. He stated that their plans are for a full size development.

Mr. Yim informed the commissioners that his associate, Mr. Shintaku had contacted Mr. Nunns of the Land Study Bureau who informed Mr. Shintaku that this particular area is undeveloped and idle, and that agricultural quality is very poor; the soils are very shallow to high bed rock. Mr. Yim concerning himself with the possibility that the area may be placed under conservation classification stated that consultation was had with Mr. C. R. Arment of the Department of Land and Natural Resources, whose statement was, "No involvement of any part of the parcel in present or contemplated state conservation or forest reserve programs." Mr. Yim also stated that conversations were had with Mr. Kunimoto, County engineer, who wrote a letter to Mr. Frederick Lee, Planning Director, indicating that his department believes that the land concerned could be made suitable for residential use and offered a copy of Mr. Kunimoto's letter for record.

Mr. Yim asked the commission to look favorably upon their request as he believed their petition would render a rather useful, which is now idle, land. It would make available homesites in the area where fee simple homes are scarced, provide jobs in the development phase; increase the revenue of the state in form of taxes. There would be no scenic problem as the area is barren land, with scrubby brush towards the top with few keawe trees toward the bottom. If this land is used for residential or classified as residential use it would be consistent in making the highest and best use of it.

The XO presented the following communications relating to the petition.

1. A letter from the City Council informing that the matter was referred to the Public Works Committee.
2. A letter from the City and County Public Works Committee recommending that the matter be referred to the Mayor for study and to the Planning Director for his recommendation and for further report thereon from the Committee of the Whole.
3. A letter from the City Planning Commission voted to approve the findings of the Planning Director recommending that the area be designated as a conservation district.

Mr. Yim requested the date of the board meeting held by the Planning Commission. The XO replied that the letter was dated 12/28/62, was received by this office on 1/4/63, and the letter refers to a meeting taken place on 12/20/62.

Mr. Yim requested permission to obtain a copy of this letter to be given an opportunity to answer it in writing if necessary. The Chairman requested that the staff acknowledge Mr. Yim's request. Mr. Yim stated that the Planning Director seems to have short sold the talents and imagination of our developers and our engineers and our architects, and I have reasons to believe that they are among the best in the world.

Mr. Kennedy replied to a question relating to the sewer situation, stating, "We were going to create our own improvement that affected only our land and we have cleared it all the way through the City and they have worked with us on the detail, and we have worked with the Board of Health on the extension out into the ocean."

The XO was sworn in and gave the staff report recommending disapproval of the request and being in agreement with the City's recommendation that certain portion be in conservation.

Commissioner Sunn asked, "Mr. Darnell, you are stating that the lower portion can be subdivided and that your recommendation is in line with the City & County and consultants which calls for the deletion of the entire 88 acres."

The XO replied, "This is to say that in the conservation district as in Tantalus it has been in forest reserve a long time and has been subdivided according to the topography. In other words I believe it can be subdivided within a conservation district."

Mr. Kennedy remarked that he could not see how they were given tentative approval to subdivide into lots from the City & County and yet receive remarks that were given by the City Planning Commission.

With no other comments the Chairman stated that there will be a waiting period of 45 days before action can be taken. The Commission will receive any additional comments or remarks within 15 days after the close of this hearing. The staff will notify the petitioners of the time and place the commission will hold its meeting on this matter.

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Public hearing/closed in the matter of Eugene and Eva Kennedy.

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APPLICATION OF MAGDALINO VISITACION (SP(T) 62-42), FOR SPECIAL PERMIT TO SUBDIVIDE A 1.01 ACRE PARCEL INTO EIGHT RESIDENTIAL LOTS, ON LAND IN MAILE, OAHU: Described as First Division, TMK 8-7-03: 55.

The XO pointed out the area involved and briefly described the request.

Chairman Bryan asked if there were anyone representing the applicant or was the applicant himself present.

A Mrs. Schustek was sworn in and stated she would be representing Mr. Visitacion. She stated that she lived a block from Mr. Visitacion's property and this land as it is shown on the map that there is only one block that is urban and the rest is in agricultural. However as it has developed because it was Rural Protective at the beginning and they permitted us to put one house on every 5,000 sq. ft., but because our roads are not developed, they put all rental units in. Mr. Visitacion has already 5 rental units and he wants to put 3 more, because his land is not good for anything except for more rental

units. There are quite a few rental units around here in the area that is marked for agricultural. So Mr. Visitacion would like permission to put 3 more houses in there.

The XO gave the following communications:

1. A letter from the City Council informing receipt of LUC communication and referring it to the Committee of the Whole and to the Planning Director for his comments.

The XO informed the Commissioners that the City Planning Commission was solicited for its recommendation and comments but no reply has been received.

The XO was sworn in and gave his staff report which was that the staff will not recommend the granting of a special permit to allow such a subdivision while the area remains in an agricultural district. The staff's recommendation is for deferral until a decision is reached regarding the permanent district boundaries.

With no other comments the Chairman stated that the Commission will receive additional comments and information within the next 15 days and action can be taken at the end of the 15 days or later. The staff will notify the applicant of the time and place when this meeting will be held. All records, documents, maps, letters, statements presented or referred to in this hearing were made part of the record.

Public hearing closed.