

STATE OF HAWAII
LAND USE COMMISSION

1:00 P.M. Meeting

March 6, 1970

Lihue, Kauai

STATE OF HAWAII
LAND USE COMMISSION

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CHAIRMAN CHOY:

The meeting will come to order. Before starting the formal portion of our meeting, all those who wish to testify for or against any of the petitions today but are not attorneys, would you rise and be sworn in? All those who are not attorneys. Raise your right hand please. Do you swear the testimony you are about to give to the State Land Use Commission is the truth, the whole truth and nothing but the truth, so help you God?

RESPONSE:

I do.

CHAIRMAN CHOY:

Thank you. We'll start off with hearing A69-239, John Medeiros.

MR. DURAN:

Mr. Chairman, gentlemen of the Commission, I'd like to call your attention to our district map. We have shown in pink the urban districts with the agricultural districts shown in white and the conservation districts shown in green. This is the rural district of Omao. Lihue is in this direction along the highway. Koloa is in this direction and Palakeo is in this direction. So the area we're talking about is this Omao rural district.

Now in more detail, this is the same rural district of Omao and the properties involved are lots 683 and 684. You will note that there are yellow squares on these lots within the surrounding area which represent existing dwellings. Shaded in green are some agricultural uses, primarily pasture, and the white areas represent vacant lands.

MR. DURAN (Cont'd.)

During our boundary review, the existing rural district ended somewhere in about this area and during the review all of this land was added to the existing rural district.

(The March 6, 1970 staff report reA69-239 - John Medeiros, Jr., et al, was read verbatim. Please see file for report.)

I want to again call your attention to this map and we did indicate the properties that signed the petition to make this land urban, and these are the blue shaded areas. You will note there is one adjacent to the property in question. This is the one with the batteries piled on it and sinks and so forth. And then one between the two properties in question.

Are there any questions, gentlemen?

CHAIRMAN CHOY:

Do the Commissioners have any questions?

COMMISSIONER:

I have one. You say that the Water Department says that they have adequate water now. Does that mean just for the 2 lots?

MR. DURAN:

That's right. Just for those 2 lots.

COMMISSIONER:

In other words, if we try to urbanize the whole area there . . .

MR. DURAN:

There may be another answer.

CHAIRMAN CHOY:

Any other questions? Thank you, Rom.

MR. DURAN:

There is somebody from the Tax Office here that would like to testify, too.

CHAIRMAN CHOY:

Somebody from the Tax Office?

MR. MEDEIROS:

Mr. Chairman and gentlemen of the Commission, my name is Edwin Medeiros. I'm the . . (inaudible due to paper rustling) . . (Two sentences inaudible.) . . (inaudible) . . which he quotes saying that the statement made by the petitioner, more than over 40 house lots have been developed in this area, is incorrect. That's where I'd like to differ with him. The Omao Homesteads was created so many years ago and there were 51 lots. According to our records at the Tax Office, we have 274 parcels. And having been born and raised in Omao and lived there for 40 years, I think I'm qualified to make that statement. Likewise, there are over 40 lots at half an acre in size which we . . (inaudible) . . have assessed these lots in residential (inaudible) for the last several years, and they carry a higher value than rural and agricultural lots. In fact, they are comparable to life-size lots in Kalaheo or the vicinity of Omao. And I feel that . . (inaudible) . . has been sufficient. I feel the Commission should take that into consideration. Likewise, I'd like to differ with the statement by your Director, Mr. Duran, about the distance of Omao to Kalaheo. I've walked from Omao to Koloa for 8 years and I walked from Kalaheo and I know the distance. Our fire protection and our vote district is Koloa and I think this matter should be clarified before the Commission makes its final decision. I think if the Planning Director had come to the Tax Office and got more information, I wouldn't think he would make that kind of statement. I think you should take this into consideration. Thank you.

CHAIRMAN CHOY:

Anybody else like to speak for or against this petition?

COMMISSIONER:

Mr. Medeiros, in regards to your taxing of that area, do you go by the classification of the land or do you go by what it's actually used for?

MR. MEDEIROS:

Well, we go by the highest and best use.

COMMISSIONER:

Regardless of what it's zoned for?

MR. MEDEIROS:

Well, zoning is one of the factors we use in creating the plan.

MR. DURAN:

Mr. Chairman, could I ask Mr. Medeiros a question?

CHAIRMAN CHOY:

Yes.

MR. DURAN:

Did I understand you to say that when there are lots of one half acre or less, you appraise them as residential lots?

MR. MEDEIROS:

Well, we appraise them as residential, that's right.

MR. DURAN:

And that you strongly recommend that this Commission place all those lots into the urban district?

MR. MEDEIROS:

Well, I'm not going to say that. (Few sentences inaudible.) They are already paying the higher taxes so why confuse the higher value?

MR. DURAN:

Then you are saying they should be in the urban district. I'm asking for clarification on it.

MR. MEDEIROS:

They're opposing to this area and because they're going to pay higher taxes, they already been paying higher taxes . . . higher value on their property.

MR. DURAN:

So it doesn't make any difference then.

MR. MEDEIROS:

It really doesn't make any difference.

CHAIRMAN CHOY:

Mr. Medeiros, what is the difference in tax between the lot that is less than a half acre and one that's a little more than a half acre?

MR. MEDEIROS:

Well, normally we would take a couple more . . . (inaudible) . .

CHAIRMAN CHOY:

Let's take this area, for example.

MR. MEDEIROS:

Well, I don't have my records, but we would take a higher value . . . a much higher value than the half acre and above.

CHAIRMAN CHOY:

No, but I mean, is it a difference of \$10 a year or \$100 a year or . . .

MR. MEDEIROS:

No. It would be more than that.

CHAIRMAN CHOY:

What would you say roughly?

MR. MEDEIROS:

In fact . . .

UNIDENTIFIED:

Mr. Chairman, I haven't been sworn in but . . .

CHAIRMAN CHOY:

Yes; well, would you raise your right hand please? Do you swear 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?

UNIDENTIFIED:

I do.

We are presently classifying the properties as residential, based on the (inaudible) that the lands are below the minimum requirement for a rural subdivision of one-half acre in size, and I believe this is a . . (inaudible) . . of the Land Use regulations. It is a consistent policy that applies throughout the State in following . . (inaudible) . . and quite frequently non-conforming in use. They were subdivided prior to the adoption of a . . (inaudible) . . The value that we . . (inaudible) . . primarily of the surrounding neighborhoods. But basically, the rates are the same whether it is classified as agriculture or classified as residential.

CHAIRMAN CHOY:

The question I'm trying to get is that in this area here where, if the lot was less than half an acre, according to Mr. Medeiros, they're being taxed higher than the surrounding lands that are larger than a half acre size. What we're trying to get at is, what is the difference?

CHAIRMAN CHOY (Cont'd.)

How much is the difference?

UNIDENTIFIED:

The difference is very slight really. In the beginning . . (inaudible) . . you cannot place a value on say a 20,000 square foot lot as you would . . (inaudible) . . So we do recognize this fact on our appraisalment, that as a general statement, we tend to assess smaller residential lots as a proportionately higher unit value than the larger residential lots. This just . . (inaudible) . .

CHAIRMAN CHOY:

In other words, there is no hardship really? The thing that's being brought up is that it creates a hardship, but we're not granting . . . If you're talking about a minimum amount of money, then it's not dollars that's creating a hardship on the owner.

UNIDENTIFIED:

We made a concerted effort to see that . . (inaudible) . . and we tried to keep the rates as uniform as possible, even though we're classifying one as agriculture and the other one as residential. We do try to keep these rates relatively uniform. But as I said before, there is a plus . . . or there could be a plus on these lots because of their size.

COMMISSIONER:

For the record, could you state your name?

UNIDENTIFIED:

My name is Reginald P. Gates (?).

CHAIRMAN CHOY:

Thank you. Anybody else that would like to . . . Is the petitioner

CHAIRMAN CHOY (Cont'd.)

here?

COMMISSIONER:

I'd like to ask a question of Mr. Gates. Mr. Gates, your department relies heavily on assessing properties according to the classification of the land, don't they?

MR. GATES:

Well, no. Our primary . . (inaudible) . . is what the market is doing. In this particular instance, we would analyze sales . . (inaudible) . . and determine what the market is buying this property for. We are forced to classify this property as residential because it is non-conforming in size. Also, . . (inaudible) . .

CHAIRMAN CHOY:

Any questions?

COMMISSIONER:

Maybe I didn't make myself clear. Let's assume that there's a 100-acre farm and there's 2 residents on it and the people that work on the farm are living on it. Now when you appraise the farm . . . of course, the rest of the farm would be farm classification and would go according to farm tax rate. Now, the portion where the houses are occupied, what areas would you define as residential and what . . .

MR. GATES:

. . (first portion inaudible as he started speaking before the Commissioner was pau). . go in there and say this is residential use and (inaudible) accordingly. I call the whole 100 acres as agriculture and normally I carry a uniform rate . . (inaudible) . .

COMMISSIONER:

I understand that now. The parcel that we're talking about now is

COMMISSIONER (Cont'd.)

over half an acre. What happens to the rest of the area? Do you still classify . . . I mean, do you still appraise it on the basis of the full lot because it's three-quarter acre? Or do you give a little leeway on the . . . ?

MR. GATES:

Yes, I would . . . if it was say half an acre as opposed to three quarters of an acre, the . . . (inaudible) . . . would carry the slightly lower rate per acre than the half an acre would.

COMMISSIONER:

Thank you.

CHAIRMAN CHOY:

I'd like to ask Mr. Gates a question. In this area . . . a rural area, do you go on the basis of taxing on what the prevailing land prices are being sold at the present time?

MR. GATES:

That's right.

CHAIRMAN CHOY:

In other words, if we gave this subdivision an urban classification and they subdivided it into small lots, naturally the price would go up higher.

MR. GATES:

Yes, it would, if it were subdivided into smaller lots. (Few sentences inaudible). In order to subdivide the land, there are a few improvements that have to go into the land before it can be subdivided and . . . (inaudible) . . . so the net result would be more than likely that if the land were subdivided into 10,000 square feet, I would assess the

MR. GATES (Cont'd.)

land at . . (inaudible) . . higher.

CHAIRMAN CHOY:

When the land is taxed at a higher rate after it has been subdivided, is there any reflection on the rest of the rural property?

MR. GATES:

No. They still have the same character. The only way I would reflect on the other properties is if everything was zoned for urban and all the properties in there would . . (inaudible) . . I would have to recognize that these are no longer single-family house lots and they have the potential . . (inaudible) . . and I have to recognize that there is added value to the increased potential of the property.

COMMISSIONER KIDO:

I thought you said you go according to what the market value is.

MR. GATES:

The market value recognizes zoning, however.

CHAIRMAN CHOY:

Is the petitioner here? Anybody representing the petitioner? I noticed Brian Nishimoto there. Would you like to say anything about this petition? We got your report.

MR. NISHIMOTO:

(Mr. Nishimoto's comments were inaudible. Apparently he wasn't standing at a microphone.)

COMMISSIONER:

Which is correct now? You say there were 40 house lots?

MR. NISHIMOTO:

(Comments again inaudible.)

CHAIRMAN CHOY:

Any other questions? Thank you. We'll (inaudible) the hearing on A69 and go on to A69-241.

MR. DURAN:

Mr. Chairman, gentlemen of the Commission, I'd like to call your attention again once more to the district boundary map. This is the Hanapepe urban district shown in pink. The surrounding area in white is agriculture. The area in question is this rural district in the Hanapepe Valley surrounded on either side by the Hanapepe urban district.

On a larger scale, this map represents the existing urban district outlined in brown. The urban district is on either side. This is all valley area. This is the Hanapepe River in blue.

Some weeks ago we had a meeting involving a special permit that involved these 2 properties of Kuulei Wong. This special permit request was withdrawn, if you will recall, and we recently initiated an investigation of this area to see whether it was appropriately districted. What we have done is looked at the land uses of the area and indicated houses on the lots in blue. The land uses are in green, for example, pasture, carnations, pasture, pasture, taro and cane land, so that these are agricultural uses. We shaded in pink the lots that are less than one half acre or have a density greater than one unit per half acre or in other words, an urban category. And they include these lots here, this road and here and this road here and a couple isolated in here. The open area is vacant land. Along this area is a steep pali. It's State-owned, as well as along (inaudible) Road. This is all cliff area in here, State-owned. This is a levee, this brown area . . . flood control levee. It was constructed by the government. And the levee comes

MR. DURAN (Cont'd.)

back to this point here so that this area supposedly is within that levee area.

Let me show you this yet, too. . . (inaudible) . . indicate the lots that are in conformity to the rural districts. These are between a half acre and five acres that we've set as our standards, so that you can pretty much see, generally speaking, the area is in an appropriate classification. Here would be those lots that are non-conforming or are in more of an urban category. This property along Hanapepe Road is the old commercial area and it's intensely developed. This is an estate subdivision of Hanapepe Heights and is, for all practical purposes, entirely developed. There is a vacant urban area that's in cane right now and there's no public facilities available. And this, of course, is urban in this area and intensely developed.

(The March 6, 1970 staff report re: A69-241 - Land Use Commission (Hanapepe Valley), was read verbatim. Please see file for report.)

Are there any questions, Mr. Chairman?

CHAIRMAN CHOY:

Do the Commissioners have any questions? None? Thank you, Rom. Is the petitioner here? I'm sorry. We're initiating that. Mrs. Wong, would you like to say a few words?

MRS. WONG:

. . (inaudible) . . granted.

CHAIRMAN CHOY:

You still want this? I know you appeared many times.

MRS. WONG:

(Comments inaudible due to this individual speaking so softly.)

MR. DURAN:

Mr. Chairman, I'm not . . . I haven't look at the record. What is it you wanted to do with your property, Mrs. Wong?

MRS. WONG:

Put some homes on it.

MR. DURAN:

Put them on, build homes, move in old homes, what?

MRS. WONG:

One is residence and . . .

MR. DURAN:

You're going to build new homes on the property?

MRS. WONG:

Right.

MR. DURAN:

How many homes are you talking about?

MRS. WONG:

Six.

MR. DURAN:

Six new homes. You're going to subdivide it?

MRS. WONG:

No.

CHAIRMAN CHOY:

All rental.

MRS. WONG:

Just rental. One is residence, five is rental.

CHAIRMAN CHOY:

Brian, do you have anything to say?

MR. FRANCISCO:

I have. May I have the floor for a minute? My name is (inaudible) Francisco, and I have a small lot up above in about 3 sections.

CHAIRMAN CHOY:

Have you been sworn in?

MR. FRANCISCO:

No.

CHAIRMAN CHOY:

Rom, will you swear him in?

MR. DURAN:

Will you raise your right hand? Do you solemnly swear the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

MR. FRANCISCO:

I do.

MR. DURAN:

Thank you. Would you like to come up here and . . .

MR. FRANCISCO:

These . . . (this speaker was speaking so softly that it was impossible to hear most of what he was saying).

MR. DURAN:

It's within the area that we're talking about. Do you think your property . . .

MR. FRANCISCO:

I thought your number 3 section was about here.

MR. DURAN:

But we're looking at the whole area. The Commission is considering the whole area. This is your property here.

MR. FRANCISCO:

Right along the road.

MR. DURAN:

Do you want it in rural or urban or agriculture?

MR. FRANCISCO:

I want it to remain in rural.

MR. DURAN:

You want it to remain in rural.

CHAIRMAN CHOY:

Do you understand the difference between rural and urban?

MR. FRANCISCO:

I would like to have a definition on it.

MR. DURAN:

In the rural district, you can have a house for every half acre of land and in the urban district, it would depend on what the County would permit you to develop . . . probably more houses than one to one-half acre.

MR. FRANCISCO:

. . (inaudible) . . small houses . . (inaudible) . .

MR. DURAN:

Yes, I know. Yours is one that is non-conforming and it has a higher density than permitted by the rural district.

CHAIRMAN CHOY:

So he's probably enjoying an urban zoning in the rural . . . Anybody else to testify?

Okay, then we'll . . . (inaudible) . . .

MR. DURAN:

Mr. Robinson.

CHAIRMAN CHOY:

Oh.

MR. DURAN:

Do you solemnly swear the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

MR. ROBINSON:

I do.

. . (inaudible) . . the lands owned by our family Robinson . .
(inaudible) . . I would request that no change be made in classification
. . . that those in agriculture stay in agriculture and those that are
in rural stay there. (Additional comments inaudible.)

MR. DURAN:

One property, Mr. Chairman, is right in this area which would fall into property 3 or alternative 3, and the other is up above . . . one is right here which would fall into 4 and the rest are (inaudible).

CHAIRMAN CHOY:

How big a lot is that in zone 3?

MR. DURAN:

Eighteen thousand. This is 1.5 acres . . . 2.3 acres.

MR. ROBINSON:

The point is that we have no intention of commercializing in that
. . (inaudible) . .

MR. DURAN:

It's a non-conforming lot.

COMMISSIONER:

There was a mention here about suggesting a special permit for the

COMMISSIONER (Cont'd.)

Wong people.

COMMISSIONER:

It was denied.

COMMISSIONER:

Oh, it was denied?

MR. DURAN:

It was withdrawn.

COMMISSIONER:

Withdrawn rather.

MR. DURAN:

We didn't take any action on it; at that time it was explained to the Commission that under the law, we couldn't permit it because the law specifically says one-half acre per dwelling unit.

COMMISSIONER:

I see. You're not suggesting it here then.

CHAIRMAN CHOY:

Any other questions?

MR. NISHIMOTO:

Now, is there a general plan for this area?

MR. DURAN:

It's quite old, Brian. Check me on this . . . they're presently revising the County plan and it should be completed this summer.

CHAIRMAN CHOY:

Then I'll close the hearing A69-241 and proceed on to action A69-228.

MR. LEONG:

Mr. Chairman and members of the Commission, this is our district map

MR. LEONG (Cont'd.)

of this Hawaii area. This is the Puna area shown in pink. Koloa. The (inaudible) estate area and Kapoho Beach area. Between these 2 urban districts is the property in question and this center portion is the Kapoho crater itself.

On their development plan, as indicated, residential developments in yellow areas, commercial developments in the red areas, and this is the conservation area. This is the resort area, and they have indicated that this green area will remain in agriculture. The brown represents the (inaudible) of their proposal which encompasses about 5,900 acres.

(The March 6, 1970 memorandum from the staff to the Land Use Commission re: A69-228 - The Realty Investment Company, Limited, was read verbatim. Please see file for report.)

Are there any questions, Mr. Chairman?

CHAIRMAN CHOY:

Do the Commissioners have any questions? Goro.

COMMISSIONER INABA:

. . (inaudible) . . 34 acres . . (inaudible) . . knock out the whole resort complex, huh?

MR. DURAN:

Yes, it would.

COMMISSIONER:

Any homes in that urban area now?

MR. DURAN:

Sixty-five, I think we counted. Sixty-eight or something like that.

COMMISSIONER:

Recently built?

MR. DURAN:

Some of them are fairly recent.

COMMISSIONER:

As it is right now, there is enough water to take care of the urban?

MR. DURAN:

At the present time, there's ample water to take care of that urban area, only nobody's using it. They're all on a catch-net basis.

COMMISSIONER:

I mean, it's sufficient to take care of about 85 acres of urban lands?

CHAIRMAN CHOY:

The water line . . . the City water line is connected to the urban area?

COUNTY REPRESENTATIVE:

There is a line part-way and it's 10 inch line, but according to the petitioners, it is not serving any consumers.

CHAIRMAN CHOY:

I'd like to see if the Commissioners have any questions.

COMMISSIONER NAPIER:

. . (inaudible) . . the areas that the County recommended.

CHAIRMAN CHOY:

Ah Sung, can you show us the recommended areas on the map?

MR. LEONG:

Here at 3 is located here (inaudible) 84 acres and they recommend that this be changed to urban. And area 10, resort, is this brown area here which they recommend retaining in conservation. Area 11 of 57 acres is here; the portion of it within the red line is recommended for retention in conservation but this portion constituting 37 acres be

MR. LEONG (Cont'd.)

changed to urban. And area 12, which is a commercial area, be changed to urban. This constitutes 15 acres. And area 13 is located here, and 12 acres to remain in conservation, and this is a very narrow strip along here, and the bounds to be changed to conservation. Actually, it includes this green area which was designated for residential use in the original plan. So the total recommended for urban which is 351 acres is outside of the crater itself and the 250 acre conservation area.

CHAIRMAN CHOY:

But the staff recommendation is to . . (inaudible) . .

MR. LEONG:

The entire proposal constitutes 9,500 acres of land and they have indicated a golf course and future residential type . . .

COMMISSIONER NAPIER:

The County . . (inaudible) . . nothing on this?

MR. LEONG:

No, sir.

MR. DURAN:

Ah Sung, would you also point out (inaudible) Estate, which is a large . . . what, about 300 acres . . .

MR. LEONG:

Six hundred forty acre urban district which is substantially undeveloped. Prior to 1969, only the lower portion was in the urban district and subsequent to the review, this portion was placed in the urban district.

CHAIRMAN CHOY:

Any other questions?

COMMISSIONER NAPIER:

Mr. Chairman, I have only one comment to make on this. . . (inaudible)

COMMISSIONER NAPIER (Cont'd.)

. . number 3 on volcanic activity. I don't know whether this should be in the record or not, but in 1940, the city of Hilo was . . . well, there was a lava flow heading straight for Hilo. It stopped between 4 miles of enveloping the whole city of Hilo, so I think, you know, when you take volcanic activity into consideration, I mean, you're comparing . . . Well, a tidal wave could be the same thing. It shouldn't be as an obstacle to a subdivision.

CHAIRMAN CHOY:

Is anybody from Hawaii County here? Would you like to come forward and . . .

COMMISSIONER INABA:

May I ask you . . . You folks have a General Plan completed for this area yet or is it still in the making?

COUNTY REPRESENTATIVE:

This General Plan is not . . (inaudible) . . general plans.

CHAIRMAN CHOY:

You mean the total project?

COUNTY REPRESENTATIVE:

No. The area that they're asking . . (inaudible) . . coming in for is on the General Plan.

MR. DURAN:

Is that a recent adoptment or is that . . .

COUNTY REPRESENTATIVE:

(Comments inaudible; this gentleman has an extremely soft voice.)

MR. DURAN:

Many years ago?

COUNTY REPRESENTATIVE:

. . (inaudible) . . General Plan for the County of Hawaii . . (inaudible) . . they made a study . . (inaudible) . .

MR. DURAN:

These same plans here, huh? Because this is the Belt Collins plan.

Or is this a modification of the Belt Collins plan?

CHAIRMAN CHOY:

Do you feel you have enough water to take care of this?

COUNTY REPRESENTATIVE:

(Comments inaudible.)

CHAIRMAN CHOY:

But there's much more than 85 acres.

CHAIRMAN CHOY:

Any questions? If there's no other questions, is the petitioner here? Are you representing . . .

PETITIONER:

Realty Investment. My name is (inaudible). We asked for a delay at the last meeting to take this problem of the charging area as far as the (inaudible) up with the Planning Commission. We have talked to Mr. Sufuji on the problem and we agree that as far as the Board of Water Supply's recommendation . . . as far as their recommendation as set forth by the Planning Commission. The Board feels that that cone is the charging area primarily for that well. The point I think that we would make here is that the present water system does not extend toward the ocean. It only extends along the road that fronts the Kapoho cone. This line does not extend down toward the deep slots. It comes right into here and extends along the frontage along this road here. It does

PETITIONER (Cont'd.)

not extend toward this area.

And I think that also, when we're talking about urban areas, there is approximately, I think, about 100 acres in this area in front of what is known as Vacation Land Subdivision that would need extensive work before any urbanization could take place on that land. And it is not contemplated that this would be used for urban development at this time or in the foreseeable future.

CHAIRMAN CHOY:

Isn't there a park area in there? A City park?

PETITIONER:

No. There is a park at (inaudible) down here. There is no park area at the present time in that Kapoho area.

CHAIRMAN CHOY:

Commissioners have any questions?

COMMISSIONER:

I thought that area they were talking about was in conservation. Actually, it's pretty close to the high water line in there.

UNIDENTIFIED:

The plantation strip extends along here and on this side it extends right down here.

COMMISSIONER:

The land itself is very, very low land.

PETITIONER:

It is quite low.

CHAIRMAN CHOY:

Is there anybody else who'd like to testify for or against this

CHAIRMAN CHOY (Cont'd.)

petition?

MR. DURAN:

If the water source and supply is limited to 35 acres or even 100 acres, how can you . . . where will you get your water from?

PETITIONER:

It would seem to me that if the . . . This is primarily a County function as far as I can see, but we can't do anything unless we can provide water. There's only one well at the cone area now. Perhaps there could be other wells in that area around that cone in the conservation district, but my feeling personally is that the County would not let us move ahead unless there was adequate water. But we can't do anything until we have zoning and we comply for some kind of use in that urban area. In order to go ahead with a house lot or a package deal or a commercial enterprise or a commercial use, we would have to prove that we would have water.

MR. DURAN:

Doesn't the State usually develop sources rather than the County?

PETITIONER:

The County may (inaudible) at the developer to provide a water source, and if you can't provide a water source, they won't let you go ahead. So I think that there is a good chain of balance here. If we can't provide water, we can't do anything with the property, but we've got to do something as far as State zoning before we can go to the County.

COMMISSIONER TANGEN:

The County made its recommendation after the County Department of

COMMISSIONER TANGEN (Cont'd.)

Water Supply or before?

PETITIONER:

The County originally made the recommendation for approval of the whole request. At a subsequent meeting after that, this problem as far as the charging area for the Kapoho cone came up and they then had another meeting and changed their recommendation downward to what you have here.

COMMISSIONER TANGEN:

As I understand it, the Board of Water Supply says it's adequate for 85 acres and the County is recommending 250?

PETITIONER:

I think they're presently saying that the present supply is for 85 acres, but it makes no determination on future water source in the area.

MR. DURAN:

But they do indicate that increasing pumping tends to turn this water to brackish.

PETITIONER:

In that particular well, yes.

MR. DURAN:

In that particular well, right.

COMMISSIONER TANGEN:

Has the County done anything in terms of where the water would come from to supply the difference between the 85 acres and the 351?

COUNTY REPRESENTATIVE:

As far as I know . . (inaudible - this man does not speak up) . .

CHAIRMAN CHOY:

What is the annual rainfall in this area?

PETITIONER:

At Kapoho proper, it ranges between 70 and 100 inches a year.

CHAIRMAN CHOY:

Mr. Griffin, this property that was sold at Papaya Farms. Is that fee simple or leasehold?

MR. GRIFFIN (PETITIONER):

It's fee simple.

CHAIRMAN CHOY:

So the petitioners have no control over how that parcel may be developed?

MR. GRIFFIN:

That's right. That parcel was sold, I believe, in the early or mid-sixties . . . 4 or 5 or 6 years ago.

COMMISSIONER:

If we should grant the urbanization of this area here and the petitioner should go and ask the County for more water, would it create any hardship to the County?

CHAIRMAN CHOY:

It wouldn't create a hardship. They'd just turn them down, I guess.

CHAIRMAN CHOY:

Any other questions? If not, the chair will entertain a motion.

COMMISSIONER TANGEN:

I move the petition be denied.

CHAIRMAN CHOY:

Is there any second?

COMMISSIONER:

Second.

CHAIRMAN CHOY:

It's been moved and seconded that the petition be denied . . . as
staff recommends or . . . ?

COMMISSIONER TANGEN:

Well, it would be denied. I think the matter of changing that other
property from conservation into ag . . (inaudible) . .

CHAIRMAN CHOY:

Okay. We have a motion. Any discussion?

COMMISSIONER:

The motion was for what?

CHAIRMAN CHOY:

To deny the petition in total. Any discussion? If not, will you
poll the Commissioners?

MR. DURAN:

Commissioner Tangen.

COMM. TANGEN:

Aye.

MR. DURAN:

Yamamura.

COMM. YAMAMURA:

Aye.

MR. DURAN:

Mark.

COMM. MARK:

Aye.

MR. DURAN:

Sakahashi.

COMM. SAKAHASHI:

Aye.

MR. DURAN:

Inaba.

COMM. INABA:

No.

MR. DURAN:

Wung.

COMM. WUNG:

No.

MR. DURAN:

Chairman Choy.

CHAIRMAN CHOY:

Aye.

MR. DURAN:

Motion is carried, Mr. Chairman.

CHAIRMAN CHOY:

The petition is denied. We'll go on to . . . I believe the next one is a letter requesting an extension.

MR. DURAN:

Yes. I believe that you'll find the letter in your folder from Lilioukalani Trust signed by Mr. Stevenson, and they're still working with the County. If you'll recall, the action meeting was deferred at our last Kona meeting, Mr. Chairman, and at that time they said they wanted to meet with the County to iron out some of the master plan work that they were doing. And they haven't resolved that issue yet but they think that it will be resolved sometime this summer, so they're asking for a continuance of . . .

CHAIRMAN CHOY:

Four months, I think.

MR. DURAN:

Right. Four months, and that the action be taken at the next Hawaii meeting.

CHAIRMAN CHOY:

Any objection to granting the extension? I believe they also asked for an extension because of the fact that there's a water problem.

MR. DURAN:

Yes.

COMMISSIONER:

Why don't we leave all Kona applications aside for the time being until we get another letter from the County Board of Water Supply saying that we can proceed with our rezoning?

MR. DURAN:

I think I sent you a copy of . . .

COMMISSIONER:

If we got a letter, why don't we take official action now?

COMMISSIONER:

I don't think we can because the time limit set up for the petitioners . . (inaudible) . . the petitioners themselves would have to request it. If they don't request it, we have to confine ourselves to the time period. We cannot just say all properties or petitions involving Kona shall be . . .

COMMISSIONER NAPIER:

I'm talking about future applications.

MR. DURAN:

I still think if somebody files, even though we suggest they not do

MR. DURAN (Cont'd.)

it, we can't stop them.

CHAIRMAN CHOY:

Okay. Do you want to make that in the form of a motion?

MR. DURAN:

We should make that in the form of a motion just for the record.

COMMISSIONER:

I move that this petition be deferred for four months.

COMMISSIONER:

Second.

CHAIRMAN CHOY:

It's been moved and second. All those in favor say aye.

RESPONSE:

Aye.

CHAIRMAN CHOY:

Contrary minded.

RESPONSE:

(None.)

CHAIRMAN CHOY:

Motion carried. Action A69-223, William Mahiko.

MR. LEONG:

Mr. Chairman and gentlemen of this Commission, (the March 6, 1970 memorandum from the staff to the Land Use Commission re: A69-223, William and Grace Mahikoa & Aguiar & Associates, was read verbatim. Please see file for report.)

The .8 acres is indicated on this map, as you will recall, and this portion is already in the urban district and so is this portion here.

MR. LEONG (Cont'd.)

This is the present urban district line. To orient you again, this is the town of Kapaa. The petition area is indicated in yellow. Kapaa River abuts the north part of the parcel portion.

Are there any questions, Mr. Chairman?

COMMISSIONER TANGEN:

How much of parcel 101 is subject property?

MR. LEONG:

Just less than half an acre . . . about three-quarters of an acre, so this would be included in the urban district if the staff recommendation is accepted.

CHAIRMAN CHOY:

Everything below that red line is urban district?

MR. LEONG:

Yes, sir.

CHAIRMAN CHOY:

How far down?

MR. LEONG:

All the way down here and as shown.

CHAIRMAN CHOY:

I see. Are there any other questions?

MR. LEONG:

I might add . . . I believe you suggested to the petitioner that he submit a total map of this area. He hasn't done so as yet.

CHAIRMAN CHOY:

Is that urban area that belongs to the State available to the public?

MR. LEONG:

I think we'll have to ask Sunao about that.

COMMISSIONER KIDO:

This is a portion of the State lands. Further down in this direction you have a lot of vacant urban lands controlled by the government . . . the State, more specifically.

CHAIRMAN CHOY:

But no subdivision is . . .

COMMISSIONER KIDO:

No but . . (inaudible) . . . Some of these areas are low areas.

COMMISSIONER:

I think it's more of a slope.

COMMISSIONER KIDO:

No. Not in this area. This area is flat, as you can see on this (inaudible). It probably has to be filled.

MR. DURAN:

Mr. Chairman, you may recall that this area was the subject of a petition in 1968 or 1969. At that time, we did make some adjustments in the district boundaries through the petition route simple because the urban area did not, in our opinion, have enough room for expansion once you remove the State-owned land from that urban district. And we did grant some zoning changes in that area. But when our consultants reviewed this area, this was brought to their attention as the desire of this particular property owner to urbanize his property and the point that we felt there was a need for more urban land in the Kapaa area. And it was the consultant's recommendations then that these areas that . . (inaudible) and shaded in blue, be added which the Commission did do, so we did add considerable urban . . .

CHAIRMAN CHOY:

How many acres would you . . .

MR. LEONG:

I believe it's over 100 acres. It was 142 acres, I believe, and this is indicated in just the blue areas here which are privately owned. This is within three-quarter miles from the subject parcel.

CHAIRMAN CHOY:

Has there been any action in that area?

MR. LEONG:

It was rezoned only recently . . . 1969.

CHAIRMAN CHOY:

But I mean, have there been any developments?

MR. LEONG:

Not that I know of.

COMMISSIONER:

I note on this agenda that there's another petition coming up in the Kalaheo area and another in Kapaa area. What is the comparison between the two areas as far as . . . Would you say that there's more urbanized area in Kalaheo than in (inaudible due to other people talking).

MR. DURAN:

We feel that the growth is occurring more in the Kalaheo-Lawai area than in (inaudible) area, but this was considered in terms of district population growth when we analyzed our district boundaries. I'm not sure whether the diagrams are in the report, but you will recall that our consultants did show the population growth of the various districts, how much land was needed and then they allocated 3 times this much in each of the areas.

COMMISSIONER:

I guess it's anybody's guess whether Kalaheo would grow more than Kapaa, but the way I look at it is that this is the same identical request here and one you recommend highly and the other one you completely turned it down. Now if we take item by item, it's . . . Here you mention this party here did not mention the need for additional residential area and I think he has mentioned it. (Read from appropriate portions of report in file.) I notice that the meat of this whole thing . . . it's denied on the basis of flooding area, which really is the concern of the County instead of this Land Use Commission . . . when he applies to the County with his request is when it's taken care of. Is it really our concern . . .

MR. DURAN:

One of the requirements is that the land is adaptable and suitable for the proposed use.

CHAIRMAN CHOY:

Did the County recommend approval or denial on this?

COUNTY REPRESENTATIVE:

Denial.

CHAIRMAN CHOY:

Any other questions?

UNIDENTIFIED:

Mr. Chairman, I don't know if it's in order for me to say something, but some information has been presented at this hearing that I think I can challenge.

CHAIRMAN CHOY:

Yes, well, we normally have a discussion among the Commissioners

CHAIRMAN CHOY (Cont'd.)

prior to . . . then we would . . . before asking the petitioner. That is why I haven't recognized you as yet.

Any other questions?

UNIDENTIFIED:

Thank you.

CHAIRMAN CHOY:

Are you the petitioner?

UNIDENTIFIED:

Yes.

CHAIRMAN CHOY:

You may have the floor now.

PETITIONER:

. . (inaudible) . . Mr. Nishimoto. I represented the (inaudible) petition . . . told this same group . . (inaudible) . . that the County approves this subdivision. The question of plotting and so on would be . . (inaudible) . . by County specifications before they would allow a residential subdivision. So this last year you asked me to get the . . (inaudible) . . on what specifications would be required and, unfortunately, just about the time the request was . . (inaudible - this individual talks in fast spurts and it's impossible to decipher all of his comments) . . the assistant engineer went down to the . . (inaudible) . . and the third engineer went on vacation. So it was not until a very late hour that I was able to get only a verbal commitment from the assistant engineer that he would require at least . . (inaudible) . . And later on when the chief engineer returned, he changed that to . . (inaudible) . . which is still . . (inaudible) . . we are ready, willing, able and anxious

PETITIONER (Cont'd.)

to comply with any standard or other specifications that the County would require and we still are. We're not denying that. And we'd also like to remind you people that just about 5 acres of the 23 is involved in a . . . (inaudible) . . . Now let's talk about 200 acres . . . I don't know where there's 20 acres contiguous to the town of Kapaa that's available for development. I don't know where there's 40 acres. I don't know where there's 100 acres. I don't know how they can come in here and say there's 200 acres. Maybe they . . . (inaudible) . . . (Few sentences inaudible). I have a niece living in a tent with a 3 month old baby because her father's place is . . . (inaudible) . . . places to stay. That's the kind of problem the real estate people are aware of. I don't know what these administrators and executors do, but if they'd take less time in coffee breaks and . . . (inaudible) . . . maybe they could talk to us and we could take them around and show them these things. (Few sentences inaudible). Sooner or later we have to find a substitute for agricultural (inaudible) and that means we have to . . . (inaudible) . . . (Few sentences inaudible). We've got to prepare Kauai, Maui, Hawaii, Molokai, Oahu to bring people here who can come spend a little time or come to stay a long time and keep our economy going. And don't get concerned about strong natural beauty and . . . (inaudible) . . . So no matter how much urban development, you still have enough beauty for the whole world to come and enjoy. (Few sentences inaudible.) Can you live on beauty alone? I know the shades of green that God has given us and it hurts me to see it destroy, but when it comes to humanity . . . the needs of the human race . . . number one. Remember that, gentlemen.

CHAIRMAN CHOY:

Thank you. Brian, have you any comments? What is your recommendation?

COMMISSIONER:

What is the recommendation now, Rom? Of the County? Did he say the County recommended approval?

CHAIRMAN CHOY:

The third ranking engineer recommended approval.

MR. DURAN:

Mr. Chairman, the County Planning Commission recommended denial.

COMMISSIONER:

He said that the County recommended denial and you said that the County recommended approval.

PETITIONER:

No. I said that the County Engineer in conforming to the request by Mr. Choy has written a letter telling us that to make this area residential, we must bring the fill 18 inches above the present road, we must extend the 2 drains that extend to the other end of the plateau to catch the . . (inaudible) . .

COMMISSIONER:

Are you aware of this letter from the engineer, Kaluna.

PETITIONER:

No.

COMMISSIONER:

You're not? It defines exactly what these people would have to do in order that they can apply for a subdivision. If this flooding area can be corrected by this, would your Department change your recommendation?

COMMISSIONER (Cont'd.)

Let's assume that if that place can be corrected so that it can be used as a subdivision . . .

CHAIRMAN CHOY:

Rom, while he's reading that, State lands that are in urban zone now, what is on those? How is it being used?

MR. DURAN:

Some is vacant. Some have hospitals, schools . . .

CHAIRMAN CHOY:

Well, a hospital shouldn't be included as acreage. It would not be available for subdivision.

MR. DURAN:

Well, you asked me what they were being used for. And some I think is in the Hawaiian Housing project and I think some is leased to the sugar companies.

CHAIRMAN CHOY:

So some of it is in sugar now?

MR. DURAN:

This is why we said earlier that because of the vacant area in Kapaa and because of the vast (inaudible) of the State that there wasn't enough urban land in the Kapaa area. So during our boundary review, 140 acres was added to compensate for the amount of State land that was within the urban district and vacant and not available for development.

CHAIRMAN CHOY:

Wouldn't it be wise of us to initiate a boundary change of all this land today? Vacant State lands. What's in sugar back into agriculture . . . to give people who have fee simple lands a chance to have it rezoned

CHAIRMAN CHOY (Cont'd.)

rather than saying that we have so much acreage that we can't have any more.

MR. DURAN:

What we're saying is that there's ample vacant privately-owned land in Kapaa, not . . . exclusive of the State lands. That's why that additional 140 acres that was private fee simple land was added and is now available for urban development. It's available in the urban district. Whether the property owner wants to develop it or not is something else.

I wonder if the petitioner could comment again on what he proposes to do. My point is that we're all interested in house lots being made available for housing developments but I don't think we're interested in developing house lots for sale and then nothing happening on this project. I'm wondering is this to be a package house and lot sale or is this strictly to be the sale of lots?

PETITIONER:

This is to open up land for residential use. People are living with . . . (inaudible) . . . until such time their children can walk to school . . . we don't have to pay special bus fares. We don't have to . . . (inaudible) . . . and I'd like . . . (inaudible) . . .

MR. DURAN:

What assurances can you give this Commission that there will be houses on these lots within the next . . .

PETITIONER:

Well, I'll tell you . . . I've got 5 buyers. I'll give you their names and you can double-check.

MR. DURAN:

How many lots are you proposing to develop?

PETITIONER:

. . (inaudible) . . 8,000 minimum in the nearest subdivision to this one . . (inaudible) . .

MR. DURAN:

About 4 to the acre?

PETITIONER:

Yes.

MR. DURAN:

You're talking about 5 commitments right now.

PETITIONER:

I mean this is an advance notice. There are people . . . Right now I can name 5 people who'd like to have a house out in this area. Now we haven't advertised this place, we haven't done any developing, but . . (inaudible) . . And that's the reason we want to make Kapaa and the surrounding area available for people. We don't want to have . . (inaudible) . .

MR. DURAN:

Are you saying then that this area, if rezoned, would be substantially developed with homes in 5 years?

PETITIONER:

Yes, sir. I can put that in writing if you want me to. (Few sentences inaudible.) . . (inaudible) . . is helping people buy and helping people sell and I know what the demand is in (inaudible). We don't build hotels but we build homes for those people who run the hotels, and we've got 10 hotels going up right now, I'd say 80% completed.

MR. DURAN:

Did you have a rezoning petition approved recently in the Kapaa area?

PETITIONER:

Yes.

MR. DURAN:

What is the status of that property right now?

PETITIONER:

We have sold 6 of the lots that have been approved. One week ago the County engineer approved an extension on 19 more lots and we've got about 10 buyers for those 19 lots already and . . (inaudible) . . are not even in yet.

CHAIRMAN CHOY:

I think the question was, do you plan to subdivide this land and sell it or do you plan to . . .

PETITIONER:

The owners are going to subdivide it themselves.

CHAIRMAN CHOY:

I mean, you're not going to package deal this?

PETITIONER:

No. We're going to make the lots available to the people who want to build homes the way they want them and how they want them. We don't want the package deal because . . (inaudible) . . allow a person to build the kind of home that he dreams about. He spends one-third of his life in that house there. He should have some say about it.

CHAIRMAN CHOY:

Any other questions?

COMMISSIONER:

Is domestic water available? If we should urbanize it, is water available?

MR. LEONG:

Here is the letter. A 6 inch main was recently installed on Hoaaa Road which is about here up to the . . (inaudible) . . and this main can

MR. LEONG (Cont'd.)

be extended to provide service for partial urban development of this property. Full urban development will require an 8 inch main.

CHAIRMAN CHOY:

Any other questions?

COMMISSIONER:

Where are these 10 hotels that are 80% completed?

PETITIONER:

I named the 10 hotels and the owners thereof.

COMMISSIONER:

I'm concerned about the water supply. One of our responsibilities is not to create any burden to local government. That's one of the . . .

PETITIONER:

That's a wonderful thing so don't allow . . (inaudible) . .

COMMISSIONER:

I see the Assistant County Engineer . . . I mean the Water Board Engineer in the back . I wonder if he would be willing to give us some light on the water situation up there. Barry, would you . . .

CHAIRMAN CHOY:

He should be sworn in. Prior to your testimony, we'd like to have you sworn in.

MR. DURAN:

Do you solemnly swear the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

BARRY:

I do.

COMMISSIONER:

My question is this now. As it was stated, if we should urbanize

COMMISSIONER (Cont'd)

the whole area, there wouldn't be enough water for that area.

BARRY:

I think this letter, if I read it . . . Incidentally, my boss has just gone on vacation and . . . But I'll read from this . . . A transmission main would be questionable at this time. There is a 6 inch main, as stated in the letter, up to a certain point. Should there be substantial more, then a back-up . . (inaudible) . . It doesn't say anything about the adequacy of water . . (inaudible) . .

COMMISSIONER:

How far is it from that point? How far is it from the 8 inch transmission?

BARRY:

The 6 inch goes right out to the edge of the subdivision, as I recall.

MR. DURAN:

How long is that 6 inch line?

BARRY:

I'll show you on the map, if I may.

CHAIRMAN CHOY:

In the meantime. . . we have this incremental approach on granting a boundary change and if we were to grant you half this area, would it be acceptable to you?

PETITIONER:

Well, I can't speak for the owners but frankly, half a loaf is better than no loaf at all.

CHAIRMAN CHOY:

And it would give you a chance to see what the market is really.

PETITIONER:

We know what the market is.

BARRY:

I believe this is . . (inaudible) . . A 6 inch main was installed up to this point. We tried to get a minimum size that would afford fire protection. There's never been a trend so we could make some projection.

There are homes up in here but they are served . . (inaudible) . . So if this area should develop, this 6 inch line may have to be taken over. It depends on the extent of it.

CHAIRMAN CHOY:

What is the size line on that road there?

BARRY:

This is an 8 inch now.

CHAIRMAN CHOY:

So it would be only a short distance?

BARRY:

Yes. This is.

COMMISSIONER:

How far is that?

BARRY:

This is roughly . . . oh, about 1,000 feet.

COMMISSIONER:

How many lots would you . . .

COMMISSIONER:

He said 4 or 5 to an acre.

PETITIONER:

Yes. Let me say something before this gets any deeper. I spoke about . . (inaudible) . . Mr. (inaudible) clarify that matter, he may

PETITIONER (Cont'd.)

want to do so.

CHAIRMAN CHOY:

Do you wish to testify?

MR. (?):

Yes, I will.

CHAIRMAN CHOY:

Will you raise your right hand?

MR. DURAN:

Do you solemnly swear the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

MR. (?):

I do.

I hate to embarrass Mr. (inaudible) . . (inaudible) . . and we intend to develop the whole area . . (inaudible) . . 25 acres and . . (inaudible) . . I don't think that half of the area would do us justice. We'd like to develop the whole area. Just half won't do. The problem there is the low area. What can you do when you have a low area? You fill it up to the specifications of the Planning Commission. They originally granted it and then they reversed their decision.

CHAIRMAN CHOY:

When we say under the incremental approach, we don't mean that you will never have a chance to develop the lower half. The idea is to develop your best lands first and if you show that you've done your subdivision . . .

COMMISSIONER:

You know that portion we rezoned? Is it being developed?

COUNTY REPRESENTATIVE:

No, it isn't.

CHAIRMAN CHOY:

It probably hasn't passed County zoning yet.

COUNTY REPRESENTATIVE:

I don't know.

CHAIRMAN CHOY:

There's been no activity because . . . (inaudible) . . .

COUNTY REPRESENTATIVE:

Mr. Chairman.

CHAIRMAN CHOY:

Yes.

COUNTY REPRESENTATIVE:

We're concerned about granting urban areas and nothing's being done. This has happened all over the State, we've been criticized because of it and all that. Now, we have on question here that I'd like to ask in regard to that. The Water Engineer tells me that if the water is inadequate, you would have to bear the cost on that road down to your property. Are you willing to . . .

MR. (?):

Of course.

COUNTY REPRESENTATIVE:

You are?

MR. (?):

Yes. That's true basically, but I'm inclined to . . (inaudible) . .

CHAIRMAN CHOY:

Any other questions? Is there anybody in the audience who'd like to speak for or against the petition?

COMMISSIONER:

I understand now that the petitioner has rejected any incremental

. . .

CHAIRMAN CHOY:

Yes. Are you fully aware of what you're saying again?

PETITIONER:

I am.

CHAIRMAN CHOY:

That under our regulation on incremental zoning that was adopted in the last 5 year boundary review that you can get a portion put into urban and as you proceed, if you can show us that, say, on the 3rd year that you've sold all your . . . or you've made all your commitments for that first area, then you come in for the second portion. This is what we call incremental. But you want it all or nothing?

PETITIONER:

No, I understand what you mean, but in this case, our roads will have to come from the highway that's supposed to be the low area.

CHAIRMAN CHOY:

Yes, but probably they would allow you to build a road into your urban area.

PETITIONER:

It just doesn't make sense. We could develop the whole area at the same time the road goes in.

CHAIRMAN CHOY:

If there's no other discussion, the chair is ready for a motion.

COMMISSIONER:

Mr. Chairman, I move that we deny the petition based on the

COMMISSIONER (Cont'd.)

recommendation of the Kauai Planning Commission and also the Land Use Commission.

CHAIRMAN CHOY:

Any second?

COMMISSIONER:

I second it.

CHAIRMAN CHOY:

It's been moved and seconded that we deny this petition as recommended by the County and our staff. Any discussion?

COMMISSIONER:

Yes, Mr. Chairman, I have discussion. You know, actually this is an area where the petitioner has come in for a change of boundary, he has met with the County officials, and I feel that the County officials have not given us adequate information. I think that some of the questions posed to the Planning Director, he has refused to answer. He doesn't want to make comment. I do not think that we should go along on what the basis of the Planning Commission has recommended. This petition is identical with another petition on another area of this island and the only reason why this petition is being denied with the recommendation of our staff and the Planning Commission is because of the flooding area. The petitioners have come in and he's now telling us that they will correct the situation. Now if we . . . if they come in to tell us that they want to correct the situation, how are we to deny the petition?

COMMISSIONER TANGEN:

Mr. Chairman, that doesn't have to be the only basis on which the,

COMMISSIONER TANGEN (Cont'd.)

as I understand, either the Kauai Planning Commission or the staff of our Commission recommended. It wasn't only on the basis of flooding; it was on the basis of adequate land already designated urban in that area and that the petitioner has not substantiated a need that this particular piece be classified as urban. In addition to that, we have a petitioner who does not accept incremental zoning.

(UNIDENTIFIED):

In answer to that last remark, the petitioner gave reasons as to why incremental development was not feasible. In other areas where adequate land has been given . . . there's another petition here with more adequate lands given . . . In this area, I noticed that most of the urbanized area are State lands and the State has not moved to make this land available for residential purposes. The only thing that people can do to obtain private homes on this island is to allow these private owners to make their lands available. I would like to urge the members of this Commission to vote down this motion.

CHAIRMAN CHOY:

Any other discussion?

COMMISSIONER:

May I make a comment? During the 5 year boundary review, I think that was the primary reason why they added that additional area urban . . . to take care of this need. Isn't that the purpose?

CHAIRMAN CHOY:

That is the reason.

COMMISSIONER:

When that area was allocated for urban designation, was the land

COMMISSIONER (Cont'd.)

owners there consulted? Were they willing to give it up as house lots or you just took it at random?

MR. DURAN:

They had the opportunity to appear before the public hearings. That was the only opportunity. They were not contacted personally.

COMMISSIONER:

They were not contacted? In other words, you just took the land, assuming that these people would sell it as house lots.

CHAIRMAN CHOY:

Anyway, they didn't object to it being put into urban zoning. Any other discussion? If not, will you poll the Commissioners?

MR. DURAN:

Commissioner Inaba.

COMM. INABA:

On that motion, no.

MR. DURAN:

Yamamura.

COMM. YAMAMURA:

Aye.

MR. DURAN:

Wung.

COMM. WUNG:

No.

MR. DURAN:

Takahashi.

COMM. TAKAHASHI:

No.

MR. DURAN:

Tangen.

COMM. TANGEN:

Aye.

MR. DURAN:

Mark.

COMM. MARK:

Aye.

MR. DURAN:

Chairman Choy.

CHAIRMAN CHOY:

Aye.

MR. DURAN:

We have a four-three . . . It takes 6 to carry and 5 to . . . for
any action on the Commission.

CHAIRMAN CHOY:

So we've got a stalemate. I suggest that we have a little recess.

COMMISSIONER:

No. I suggest that Mr. Sakahashi make a motion to approve this.

COMMISSIONER:

Well, we have to kill the other motion first.

COMMISSIONER:

If someone wants to make another motion, it's up to them.

COMMISSIONER SAKAHASHI:

Mr. Chairman, at this time I'd like to move that we grant this boundary
change.

CHAIRMAN CHOY:

I'd suggest we go into a recess . . . 5 minutes.

(Break.)

We've had a stalemate and the chair would like to . . . will entertain another motion.

MR. DURAN:

We have a motion by Sakahashi to approve. Does that still stand?

We don't have a second to it but we do have a motion.

CHAIRMAN CHOY:

Sakahashi, would you like to restate your motion?

COMMISSIONER SAKAHASHI:

Yes. I move that we grant this boundary change.

COMMISSIONER:

I second it.

CHAIRMAN CHOY:

It's been moved and seconded that the boundary change be granted.

Is there any discussion? Are you ready for the question? Will you poll the Commissioners?

MR. DURAN:

Commissioner Inaba.

COMMISSIONER INABA:

Aye.

MR. DURAN:

Yamamura.

COMM. YAMAMURA:

No.

MR. DURAN:

Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Sakahashi.

COMM. SAKAHASHI:

Aye.

MR. DURAN:

Tangen.

COMM. TANGEN:

No.

MR. DURAN:

Mark.

COMM. MARK:

No.

MR. DURAN:

Chairman Choy.

CHAIRMAN CHOY:

No.

MR. DURAN:

Motion is defeated, Mr. Chairman.

CHAIRMAN CHOY:

Then we'll go on to A69-235.

MR. DURAN:

Mr. Chairman, gentlemen of the Commission, this request involves land up in the Kapaa area, mauka of Kawaiahao Road. This yellow area represents the property in question. The surrounding area in white, as you know, is agriculture and this again is the Kapaa urban district in

MR. DURAN (Cont'd.)

pink. On a larger scale map, we recall our field trip to this area. This is the reservoir and the property in question. (The March 6, 1970 memorandum from the staff to the Land Use Commission re: A69-235 - Joseph S. Brun was read verbatim. Please see the file for report.)

Mr. Chairman, we also received a letter from . . . a copy of a letter from the Water Board, and I would like to just read that into the record.

"The parcel in question can be served from an 8 inch main on Kawaiahao Road. The water service is directly from the Makaleha tunnel source with no intermediate storage. We do not have data as to the available storage within the tunnel which may be critical during the dry summer months if this area were fully developed into urban lots. Partial development of this 23 acres can be served from our present water system. Until intensive measurements have been made, I am not able to state whether full development can be served."

CHAIRMAN CHOY:

Are there any questions? If there is none, thank you. Is the petitioner here? Who is representing Mr. Brun? Do you have any comments to make?

COMMISSIONER:

Mr. Chairman, what is the closest area to this place . . . urban area?

CHAIRMAN CHOY:

Long ways.

MR. DURAN:

Well, it's a little over a mile to the Kawaiahao urban district and then . . .

COMMISSIONER:

Is there any kind of building . . .

MR. DURAN:

There are some houses on these non-conforming lots along the road.
And there's also the pocket of houses at Kapui that are in the ag district,
too. There hasn't been too much evidence of any construction in that
area.

CHAIRMAN CHOY:

Is there any discussion? If not, the chair will entertain a motion.

COMMISSIONER:

Mr. Chairman, I move that the petition be denied.

CHAIRMAN CHOY:

Is there a second?

COMMISSIONER:

Second.

CHAIRMAN CHOY:

It has been moved and seconded that the petition be denied. Any dis-
cussion? Are you ready for the question?

MR. DURAN:

Commissioner Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Sakahashi.

COMM. SAKAHASHI:

Aye.

MR. DURAN:

Inaba.

COMM. INABA:

Aye.

MR. DUPAN:

Yamamura.

COMM. YAMAMURA:

Aye.

MR. DURAN:

Mark.

COMM. MARK:

Aye.

MR. DURAN:

Tangen.

COMM. TANGEN:

Aye.

MR. DURAN:

Chairman Choy.

CHAIRMAN CHOY:

Aye.

MR. DURAN:

Motion is carried.

CHAIRMAN CHOY:

Motion is carried denying this petition. Okay, A69-238, Kawakami.

UNIDENTIFIED:

Excuse me, Mr. Chairman. Why don't you give the reason.

CHAIRMAN CHOY:

I think the reason is as stated by the staff.

MR. DURAN:

Mr. Chairman, on the next item, A69-238, the petition by Mr. Kawakami, I'd like to call your attention for orientation purposes to our district map again.

This is the Kalaheo urban district. The property in question is at the very end of the Kalaheo urban district. The map on this wall shows the extent of the existing urban district and the property in question and the subdivisions that were previously discussed in the staff report which show a considerable amount of construction are right in here and over along this road here.

(The March 6, 1970 memorandum from the staff to the Land Use Commission re: A69-238 - Toru Kawakami, was read verbatim. Please see file for report.)

CHAIRMAN CHOY:

Any questions? If not, thank you. Is the . . .

MR. DURAN:

I might add, Mr. Chairman, that the Water Board says there is ample water.

CHAIRMAN CHOY:

Is the petitioner here? Would you like to come forward and add to your recommendation?

MR. KAWAKAMI:

My name is Toru Kawakami. I'm the petitioner.

CHAIRMAN CHOY:

Have you been sworn in?

MR. KAWAKAMI:

No, not yet.

CHAIRMAN CHOY:

Rom.

MR. DURAN:

Do you solemnly swear the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

MR. KAWAKAMI:

I do.

. . (inaudible) . . that both your staff and the Planning Commission have recommended approval for this change of boundary. I have . . . our plans now are to develop it ourselves. I've engaged the services of the engineering firm of (inaudible) who started on the subdivision and development of plans right now. As soon as I get some (inaudible) figures, I . . (inaudible) . . preliminary inquiries at the banks for the financing . . (inaudible) . . This is the stage that I am in right now as far as this particular parcel is concerned.

Since we have had the publicity of our application to your Commission and also the articles that have appeared in the papers, I have had numerous phone calls from prospective buyers of parcels. I have not committed anything to them. I have not . . (inaudible) . . but what we intend to do is try to keep our selling price as low as possible to get as many of these lots for sale and . . (inaudible) . . as possible. On the west side . . (inaudible) . . there are very few subdivisions for residential purposes. In the last few years, I think the only 2 that . . (inaudible) . . In the last year, I think, we sold one or two properties from . . (inaudible) . . Very little . . (inaudible) . . and I would appreciate the favorable action by the Commission. Thank you.

CHAIRMAN CHOY:

Thanks. Any questions? The chair will . . .

MR. DURAN:

Mr. Kawakami, do you envision this property substantially developed

MR. DURAN (Cont'd.)

with houses within the next 5 years?

MR. KAWAKAMI:

We hope so. We intend to sell vacant lots and we have tentatively talked about plans . . (inaudible) . . contractors to come in on maybe half a dozen or 10 or a dozen lots for package deals and 2 or 3 of them are interested in that.

CHAIRMAN CHOY:

Any questions? Anybody in the audience that would like to speak for or against? The chair will entertain a motion.

COMMISSIONER:

Mr. Chairman, I move that we grant this boundary change.

CHAIRMAN CHOY:

It's been moved. Is there any second?

COMMISSIONER:

Second.

CHAIRMAN CHOY:

Any discussion? Poll the Commissioners.

MR. DURAN:

Commissioner Mark.

COMM. MARK:

Aye.

MR. DURAN:

Yamamura.

COMM. YAMAMURA:

Aye.

MR. DURAN:

Tangen.

COMM. TANGEN:

Aye.

MR. DURAN:

Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Inaba.

COMM. INABA:

Aye.

MR. DURAN:

Sakahashi.

COMM. SAKAHASHI:

Aye.

MR. DURAN:

Choy.

CHAIRMAN CHOY:

Aye.

MR. DURAN:

Motion is carried, Mr. Choy.

CHAIRMAN CHOY:

We'll proceed now to a special permit 70-73.

MR. DURAN:

Mr. Chairman, (the March 6, 1970 staff report re: SP70-73 - Tomoyoshi and May Fujii, was read verbatim. Please see file for report.)

The parcel in question is located here on our district map. It's approximately in the center of the agricultural district which is uncolored. These are the urban district here . . . this is Kapaa and the Wailua urban

MR. DURAN (Cont'd.)

district. And the green is the conservation area.

On our tax map, the parcel is located fronting Hauiki Road and shown in yellow here. This is the blue petition which was considered earlier, and Hauiki Road swings around in this direction and goes back to Kapaa in that direction. The existing land uses are pasture in the general vicinity.

CHAIRMAN CHOY:

Any questions? Rom, in a case like this where the existing house is a substandard dwelling and the old people are probably satisfied with staying there but the sons or daughter, whoever it may be that wanted to build, would like a much more modern livable home. Has there ever been a case where the older home was kept for the life tenancy, permitting a new home to be built? Has anything like that ever happened before?

MR. DURAN:

You mean with the condition that the house be taken down . . .

CHAIRMAN CHOY:

Yes, even if they have to put up a bond, say. A thousand dollars to remove the house . . .

MR. DURAN:

I don't think that that has ever occurred as far as the history of the Commission is concerned.

CHAIRMAN CHOY:

Wouldn't this be sort of a peculiar circumstance?

MR. DURAN:

Every special permit has certain conditions that are, you know, peculiar.

CHAIRMAN CHOY:

Because this house that we saw today is a very old home and a very substandard type of home, and I can see that it's a reasonable request by a younger person having a better home.

COMMISSIONER:

Mr. Chairman, the Commission has the authority in the case of a special permit to impose and compel the petitioners to conform to any conditions that they may wish to set up. If you want to set up the conditions and say the substandard dwelling be torn down or removed after the parents die, say, in this case or after a certain amount of years . . . they can impose that condition.

CHAIRMAN CHOY:

Any questions?

COMMISSIONER TANGEN:

Well, I guess that answers it. I'm in favor of something happening but without some sort of restrictions, I have some question of it being handled properly. Let me see if I'm straight here. We could grant this special permit on the basis that the existing residence remain, say, for the lifetime of the parents plus a year or for as long as it's occupied by the parents or the surviving parent. If we could do that . . .

CHAIRMAN CHOY:

Yes, because this is really a very substandard type of . . .

COMMISSIONER:

I have a point that I want clarified. According to what I read here, one of the 2 lots subdivided by the parents of the applicants has the new dwelling unit. Now the other lot is vacant and so and so and then it comes down here and the applicants state that their parents subdivided

COMMISSIONER (Cont'd.)

the property in September, 1967 into 3 lots which were given to each child with the understanding they would build their homes on the lots. Now, wouldn't this be non-conforming . . . something that took place . . . ?

COMMISSIONER NAPIER:

Grandfather clause, you mean.

MR. LEONG:

A non-conforming use has been interpreted as whatever as existing at the time the boundaries go into effect. In this case, they want to put another dwelling. The boundaries are in effect already, so it cannot be classified as non-conforming.

CHAIRMAN CHOY:

I kind of think there must be 4 children, because they've got 3 lots and they want to build another one.

COMMISSIONER:

But the owners of this lot are not living on this lot, you see.

CHAIRMAN CHOY:

But the parents are living in this old house. Who owns that empty lot?

MR. LEONG:

Another relation.

CHAIRMAN CHOY:

So actually, there are 4 people involved, not 3.

MR. DURAN:

Four families, you might say.

CHAIRMAN CHOY:

Yes. Four families.

MR. DURAN:

But 3 pieces of property.

COMMISSIONER:

Assuming that they divided this one lot into 3 lots . . . 4 lots . . . many years ago . . . provided that they have the deed or they can show some proof that that land has been divided and the lots is in existence, they can go ahead into the home.

COMMISSIONER NAPIER:

Right.

COMMISSIONER:

There's nothing to stop them.

COMMISSIONER:

Except that there's only 3 lots, but 4 families.

COMMISSIONER TANGEN:

It says here they subdivided in September '57 into 3 lots which were given to each surviving child, with the understanding that they build their homes on the lots, and the parents were living on the lot originally. But do I understand that one of the children didn't build a house on the lot?

MR. LEONG:

They're not really on that particular lot.

MR. DURAN:

Well, 2 of them . . . of the offspring did not build houses on the lots. So consequently, we have one vacant lot, one lot with a new house on it, and one lot with the old house that the parents were allowed to live in.

COMMISSIONER:

Mr. Chairman, is the petitioner here?

CHAIRMAN CHOY:

Is the petitioner here? Are there any other questions?

(Several Commissioners talking at one time.)

MR. NISHIMOTO:

I'm not sure if . . (inaudible) . . It's true that in 1957, the parents divided the property . . (inaudible) . . with the understanding that each was to build . . (inaudible) . . As it turned out, all of them didn't build at that time and the applicant himself who owns . . (inaudible) . . existing dwellings and they are presently living in another area.

CHAIRMAN CHOY:

Okay. Thank you, Brian.

MR. NISHIMOTO:

(This gentleman made a few additional comments but only a few words out of each sentence were audible and no sense could be made out of them.)

CHAIRMAN CHOY:

So, Brian, the other lot that is empty is actually another person . . . a brother or a sister?

MR. NISHIMOTO:

Yes.

CHAIRMAN CHOY:

And would the County object to this life tenancy idea of demolishing their older home and committing these people to put up their new home as requested?

MR. NISHIMOTO:

The County would have no objection to that.

CHAIRMAN CHOY:

If that stipulation was made.

COMMISSIONER:

Brian, would there be any objection on the part of the petitioners if we should stipulate the conditions like, for instance, demolishing the

COMMISSIONER (Cont'd.)

building after the . . (inaudible) . . Would there be any objection to that?

MR. NISHIMURA:

No. (Additional comments inaudible.)

CHAIRMAN CHOY:

It will fall down anyway by that time. It won't last another couple of years.

MR. NISHIMURA:

They indicated that they would live up to whatever decision is made by the Planning Commission.

COMMISSIONER:

You understand that we're bound by law to . . . you know. On the basis of this petitioner here, we may have to turn it down. You know what I mean? We can't just open Pandora's box.

COMMISSIONER:

I'm fairly new, but I think we have an unusual situation here. The Commission wants to impose conditions on the granting of this permit. However, the petitioner is not here nor does he have any representatives present who can talk for him. If I may suggest to the Commission, perhaps it could be made in the form of a motion stating the conditions the Commission would want, subject to the petitioner's approval. But if the petitioner does not approve these conditions, it's the same as being denied. That might be fair. Now of course we are putting the petitioners in a corner, so to speak, but I think we have no other alternative.

COMMISSIONER:

Except for denial.

COMMISSIONER:

Right. If they don't accept the conditions, then it would be denied.

COMMISSIONER:

Mr. Chairman, in view of the fact that the petitioner is not here and we would like to expedite this meeting, I move that we grant this request on the conditions that were mentioned just now.

CHAIRMAN CHOY:

The conditions that we would like to impose . . .

COMMISSIONER:

Yes. The conditions would be that the old building would be demolished after it's not used any more and then that this person can go ahead and build another building. And this is subject to the approval of the petitioners.

COMMISSIONER TANGEN:

I think we have to be a little more specific. We approve the petition with the conditions that the existing structure be demolished within one year after the death of the last parent or at such time as both parents . . . neither one of the parents occupy the structure, subject to the . . . with the further condition that the petitioner indicate his acceptance of these conditions within 60 days, and in the even that the petitioner does not accept these conditions within 60 days, the petition shall be considered denied.

CHAIRMAN CHOY:

When you say acceptance, you mean an acceptance by letter.

COMMISSIONER TANGEN:

In writing. It has to be in writing and to the Commission.

COMMISSIONER:

I have one question. How old are these parents?

CHAIRMAN CHOY:

It was that old man in the garden there.

COMMISSIONER:

Are you sure?

CHAIRMAN CHOY:

Yes. He was working the garden.

Is there a second to the motion?

COMMISSIONER:

Second.

CHAIRMAN CHOY:

Any discussion? Are you ready for the question? Poll the Commissioners.

MR. DURAN:

Commissioner Tangen.

COMM. TANGEN:

Aye.

MR. DURAN:

Mark.

COMM. MARK:

Aye.

MR. DURAN:

Inaba.

COMM. INABA:

Aye.

MR. DURAN:

Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Sakahashi.

COMM. SAKAHASHI:

Aye.

MR. DURAN:

Yamamura.

COMM. YAMAMURA:

Aye.

MR. DURAN:

Chairman Choy.

CHAIRMAN CHOY:

Aye.

MR. DURAN:

Motion is carried, Mr. Chairman.

CHAIRMAN CHOY:

Thank you. Now we have a few items on the miscellaneous. Rom.

MR. DURAN:

Mr. Chairman, one other major item that we should consider today is a request letter that I believe was circulated to you from Honokahau. They've asked us for a boundary interpretation, and I guess you haven't had a chance to read this letter. (Mr. Duran read verbatim the February 26, 1970 letter directed to Mr. Wilbert Choi from James M. Greenwell, President of Lanikai Corporation and (illegible signature), President, Honokahau, Ltd.)

Now I'd like to call your attention to the maps here. As you'll

MR. DURAN (Cont'd.)

recall, when we considered this urban area . . . This is Kailua-Kona, this is the airport, this is the urban district of Kailua-Kona, and this is the conservation district that was adopted back in '64. This is the State property here of Kealakehe and the marine; the boat harbor's being constructed in this location, and we have this Honokohau fish pond and the Kaloho fish pond. This was the HuiHui Ranch proposal. You'll recall that when we considered the establishment of the conservation district lines on this property, we went out and looked at the site and saw the archeological sites and their study which was also discussed with Bishop Museum and a more significant one identified and kept in the conservation district. And the shoreline also was protected.

At the same time we considered this area, we had a cursory review of the archeological sites in this area that was in the Bishop Museum records which indicated a scattering of historic sites in this conservation area. Consequently, this line was drawn and a connection from this point back to the shoreline here which is all the State lands. But it was the understanding, I believe, between the Commission, the consultants and the petitioners that when a study was done of the more significant sites, they were identified and protection afforded them that we would adjust the boundaries. Well, it's at this point now that this line is the one that has been suggested by the landowner and developer and accepted by Bishop Museum as protecting those significant sites. And there are a couple of others out here that they state will, in the total scheme, be protected individually.

So what they're asking for now is that this line be moved down to include the yellow area in the urban district. These were the study maps of this area. If you'll recall, the dots that represented the historic

MR. DURAN (Cont'd.)

sites on the property. This was the Honokaha resort plan that was submitted for us, and there may be something more definite now, but it shows the major resort complex, a shopping area, golf course, around the back side, and low-rise resort complex. More recreation here and another low-rise resort complex here.

COMMISSIONER:

Mr. Chairman, I feel that now that they have their plan like that, I think they should come in on a regular boundary change instead of just . . (inaudible) . . like this. We don't have enough information right now.

COMMISSIONER:

Rom, you mean the present line now is on that block like area?

MR. DURAN:

Correct.

COMMISSIONER:

Now they want to bring it down to that kind of wavy crooked line?

MR. DURAN:

Yes.

COMMISSIONER:

I have doubts as to whether the Commission can just say, okay, the boundary is going to be this. But whether they should initiate a boundary change . . (inaudible) . . If this is just kind of a temporary understanding that this is the way it is and they have a floating line until they find out . . (inaudible) . . it may be within the statutory confines that this Commission can interpret the boundaries to be such.

CHAIRMAN CHOY:

Did you come in on the five year boundary review?

PETITIONER:

Yes. That's right.

CHAIRMAN CHOY:

What are your recommendations?

MR. DURAN:

Well, I think this proposed line is exactly what we've been trying to achieve and that we now have the cooperation of the landowner that is willing to do exactly what we were striving to accomplish and I would review.

COMMISSIONER:

I'm questioning our right to make this boundary review. In a case like this where there's a large area involved. It seems you should go through formal proceedings. There won't be any cost to . . . (inaudible)

. .

MR. DURAN:

I had suggested this earlier to them, but there seemed to be a time element involved. If the Commission has any questions, they are here to answer them.

COMMISSIONER:

I'd like to ask one question of the petitioner. It seemed to me that the best and safest way to do it is by boundary change. Would this time work an extreme hardship on the petitioner if the Commission itself initiated the action?

PETITIONER:

I'm not familiar with the time element involved, but there is an element of time that this could cause considerable delay in the development. You see, we're not talking about the . . . it represents substantial area, as Rom said, from 30 to 50 acres from being delineated, so

PETITIONER (Cont'd.)

that it's a substantial area you're talking about, but it is basically the heart of the area. So to get the program going, we have to be able to permit this heart of the area as the key to the development. So by going through the procedures of having the boundary changed under the formal procedures, the time element would cause a constraint on the developer and would necessarily delay the possibility of negotiation because there could be some other factors involved. We'd like it to be this way so that we could have an answer as soon as possible without jeopardizing the Commission's legality.

CHAIRMAN CHOY:

Rom, on the boundary change instituted by the Commission . . . what procedure do we follow?

MR. DURAN:

Well, the same as any ordinary petition. If we initiate it today, we wouldn't be able to hold a public hearing on it until some time in May and then we'd have to wait 45 days minimum before you could take action on it, which would put us somewhere in July.

There are 2 alternatives . . . one is this procedure, the boundary interpretation. In other words, what was the intent of the Commission when it established that boundary? And we've made many boundary interpretations as more detailed plans are developed, then they point out that the ridge is here instead of here and can you move the line 200 feet. You know. Things like that. So the Commission has, because of intent, adjusted boundaries and not gone through the boundary procedure. If the same result is going to be achieved here, I wonder if it's necessary to go through the boundary . . .

CHAIRMAN CHOY:

I think it's sort of a sad situation when a petitioner is willing to cooperate in saving this valuable ecological sites and then be penalized for a very extensive amount of time and have a boundary change, because at that time, the Consultants did recommend that this be a temporary line until the study is made and this . . . I wish we had something written on it, but I do remember the testimony.

COMMISSIONER:

How many property owners are involved?

COMMISSIONER:

Just one.

PETITIONER:

Actually, there is . . . part of the chain covers a State property. There are . . (inaudible) . . involved. Honokahau II, the landowner has a half interest in and Honokahau I is the major portion of the area with the fish pond which is owned by the landowner and the development company. And we have a development agreement that if they are able to obtain title or petition of the Honokahau II, we will have rights to develop it on the same basis as the I.

COMMISSIONER:

I'll make a motion, Mr. Chairman. I think the petitioner has a hint as to how this Commission feels in terms of being delayed in their plans, so I'll make a motion that the Commission initiate action for the boundary changes presented (inaudible).

COMMISSIONER:

I second the motion.

CHAIRMAN CHOY:

It's moved and seconded that we . . . that the Commission initiate a

CHAIRMAN CHOY (Cont'd.)

boundary change. Any questions?

COMMISSIONER:

Question.

CHAIRMAN CHOY:

Thank you. Will you poll the Commissioners?

MR. DURAN:

Commissioner Tangen.

COMM. TANGEN:

Aye.

MR. DURAN:

Yamamura.

COMM. YAMAMURA:

Aye.

MR. DURAN:

Mark.

COMM. MARK:

Aye.

MR. DURAN:

Sakahashi.

COMM. SAKAHASHI:

Aye.

MR. DURAN:

Inaba.

COMM. INABA:

Aye.

MR. DURAN:

Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Chairman Choy.

CHAIRMAN CHOY:

Aye.

MR. DURAN:

Motion carried.

CHAIRMAN CHOY:

So we'll initiate the boundary change.

MR. DURAN:

This other matter of the Ombudsman's request for the Commission to consider rezoning his agricultural lands up in Waiamea Valley, you'll recall I brought it to your attention at the last meeting and you said you wanted to go out and take a look at it.

CHAIRMAN CHOY:

No. We asked the Kauai Commission to look at it.

UNIDENTIFIED:

Mr. Chairman, I went up there to look at it and I talked to all the property owners that I could get ahold of and they weren't aware of the request. Maybe I might have caused a lot of confusion, but I just wanted to know where the source was.

MR. DURAN:

Mr. Chairman, I think Colonel Franklin wrote to the Ombudsman as a property owner in this area and initiated this action on the part of the Ombudsman.

UNIDENTIFIED:

I'll give you a little of the background. As you all know, the leeward side of the island is growing very fast. The people who are the lower income groups have not been able to pay the increased types of rent so the landlord says you'll have to take your kids and move out, so they move in with the old folks. So you find many little houses in this area where the young folks and their children are living with the old folks.

Across the river there are about 100 individual privately owned kuleanas. For some reason unknown to practically any of these property owners, this was placed in a State conservation district. Just what is being conserved, nobody has been able to tell me, and I've asked about 20 different people.

These people cannot afford to live in this situation, so they're asking please, get us out from under it.

CHAIRMAN CHOY:

What zoning do they want?

UNIDENTIFIED:

Just agriculture . . . just like it always has been the last 300 years, maybe longer. All they want is to have permission to move a house or build a house on these lands.

CHAIRMAN CHOY:

That was ag before?

MR. DURAN:

Yes.

CHAIRMAN CHOY:

The chair will entertain a motion. Do we have enough . . .

COMMISSIONER:

I don't think we can just put it in like that. Don't we have to issue

COMMISSIONER (Cont'd.)

a boundary change? Can we just move the line just like that?

COMMISSIONER TANGEN:

I move that the Commission initiate the change from conservation to agriculture.

COMMISSIONER:

I second the motion.

CHAIRMAN CHOY:

It's been moved and seconded that we initiate the boundary change back to agriculture. Are you ready for the question?

COMMISSIONER:

Question.

CHAIRMAN CHOY:

Will you poll the Commissioners?

MR. DURAN:

Commissioner Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Sakahashi.

COMM. SAKAHASHI:

Aye.

MR. DURAN:

Inaba.

COMM. INABA:

Aye.

MR. DURAN:

Yamamura.

COMM. YAMAMURA:

Aye.

MR. DURAN:

Tangen.

COMM. TANGEN:

Aye.

MR. DURAN:

Chairman Choy.

CHAIRMAN CHOY:

Aye.

MR. DURAN:

Motion is carried.

CHAIRMAN CHOY:

Do you understand what we've done?

PETITIONER:

Yes, sir.

CHAIRMAN CHOY:

We're going to initiate . . . try to get this back to agriculture.

COMMISSIONER:

You're not in agriculture yet. We're only going to start the proceedings.

MR. DURAN:

Mr. Chairman, very quickly . . the tentative schedule, Molokai, March 25th. Then the other item, number 4 . . . you'll find in your folder somebody had a position on the University and I thought that you might be interested. And then, I think you all received a notice from the Kauai Planning Commission Chairman about the Hawaii Congress Planning

MR. DURAN (Cont'd.)

Commissioners and Directors meeting, and we'll make reservations for everybody on that issue so save those dates. July 30 and 31 and August 1.

CHAIRMAN CHOY:

That's Kauai.

MR. DURAN:

And that'll be Kauai.

CHAIRMAN CHOY:

Okay. Meeting's adjourned.

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