

STATE OF HAWAII
LAND USE COMMISSION

10:30 a.m. Meeting

March 23, 1968

Honolulu, Hawaii

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CHAIRMAN:

Today's meeting is to request from Bishop Estate and from the Austin Estate. We have a certain form that we follow. The staff makes their report first and the Commissioners question the staff; then any government agency will be able to testify, and then the petitioner will be asked. We will follow this procedure.

For the convenience of those present here, I would like to introduce the members of the Commission, just to make it convenient for you. Starting around the table: Mr. Jim Murray, Alec Napier, Mr. Inaba from Kona, Mr. Woolen from Hilo, Mr. Nishimura from Kauai, Mr. Murakami from Maui, . . . (at this point the tape broke several times and the Chairman's voice many times was inaudible; the names of the remainder of the Commissioners were impossible to decipher). . .

All those who wish to testify today, besides the attorneys, would you stand up and raise your hands? Besides attorneys. Attorneys are excused; I don't know for what reason. Do you swear that the testimony you are about to give to your Land Use Commission is the truth, the whole truth and nothing but the truth, so help you God?

RESPONSE:

I do.

CHAIRMAN:

Thank you.

GENERAL:

Mr. Chairman, are you insinuating that the attorneys are the only truthful people in this house?

CHAIRMAN:

We have to follow this procedure. The reasons are unknown.

CHAIRMAN (Cont'd.)

We'll take A67-121 request from Bishop Estate. The staff will examine the report.

STAFF:

To begin with, let's just review our maps and get ourselves oriented with the property and its relationship to the surroundings.

This is the parcel under consideration, and the property line follows along this outside border, around here, following along outside of the 8.1 alignment, along Moanalua Road, back up along the margin. The existing urban district is indicated by this red line here, and the agricultural district is all encased in between the conservation district lines constant to the property. It takes in about 195 acres. Part of the parcel is presently within the urban district, and on this map we have the same parcel indicated here at the top part. The existing urban district is here and the subject of our next addition is the Bishop Estate parcel and the Austin Estate parcel. And coming over to our district map, the Bishop Estate parcel indicated here, the urban districts here, conservation district here and the ag district also in this area and in other areas here. This is Waipio Niu Town, Makakilo, Waipahu, the Robinson Division, and the gray areas are the military urban communities. Thank you.

NEW STAFF MEMBER:

The petitioners are requesting an amendment to the Land Use District boundaries from agricultural to urban for approximately 702 acres in the Waiao area of Oahu, TMK 9 802, Parcel 3. Approximately 51.5 acres of Parcel 3 are already zoned and 195.5 acres are zoned conservation, and thus, about 615 acres are under consideration.

A public hearing was conducted in Honolulu on October 28, 1967. On

STAFF (Cont'd.)

January 5, 1968 the request was received from the petitioners for the postponement of the Commissioner's action until approximately April 12 as the development rights on this land were sold to Trusdale Construction Company, creating a new joint venture with Amfac Incorporated, and the petitioners desire to review this application with the partners. At the present time, 431 acres of the area in question are used to grow sugar cane by Oahu Sugar Company. The petitioners have submitted a statement since the public hearing in support of their application. A copy of this document was submitted to each Land Use Commissioner on December 15, 1967 for informational purposes. The significant statement contained in this document and staff comments are as follows: (the March 23, 1968 memorandum to the Land Use Commission from Staff re: A67-161 - Trustees of the Bernice P. Bishop Estate, was read verbatim. See report in file.)

NEW STAFF MEMBER:

Mr. Commissioner, I would like to question Mr. Durant.

Do you have any ideas as to the capabilities of development, needed development?

MR. DURAN :

By the capability of development, specifically what do you mean? Part of it is owned by the petitioner.

NEW STAFF MEMBER:

Whether there are adequate utilities to make it feasible for development.

MR. DURAN :

They have adequate utilities available to the sites, though not too much of it. I think it's a matter of timing again in development. For

MR. DURANT (Cont'd.)

example, in the adjacent urban district and on Bishop's property, where we have all of this yellow area showing. It represents over 100 acres. It's a matter of timing. They're putting the golf course in now; they're working their way up and eventually will develop that. So it's a matter of putting in the facilities and making the land available. The timing isn't right yet. The same is true of the land below. I think the point that the petitioners made that before they put in facilities in the lower area, they would like the assurances that they could move right ahead up in the upper area and oversize in the lower area before they go into the construction.

STAFF:

Pardon me. Do you recognize this to be a valid contention?

MR. DURANT:

Oh, yes. Sure: As I pointed out, a lot of times it's necessary for the city to require this, for the developers to oversize their facilities even if they don't own the land. A drainage channel is one big advantage. And the land over on the Pearl City side, there again it's just a matter of timing as they complete working from Waimano Home Road over, and as they complete their existing developments, sell their houses, they'll move into these other areas. So I think it's merely a matter of timing more than anything.

CHAIRMAN:

Thank you.

STAFF:

The H-1. When will that be completed in this area?

MR. DURANT:

Well, they're acquiring rights of way right now. I don't have the latest time table, but the law requires that it all be completed by 1971

MR. DURAN :

or 1972, and since this is already under construction, I would suppose that within a couple of years.

STAFF:

Why not draw on the map how far it is right now?

MR. DURAN :

Well, that portion under construction is up at the golf course.

STAFF:

Where does it end right now?

NEW STAFF MEMBER:

It extends down Third Street into Pearl City, and it abounds these lines . . . Yes, it crosses over. This would be an interchange here.

NEW STAFF MEMBER:

And what is that parcel next to Bishop Estate on the Wahiawa side?

NEW STAFF MEMBER:

This is a state parcel, and Waimano Homes urban district is located here.

NEW STAFF MEMBER:

What is the land being used for now?

NEW STAFF MEMBER:

This is fallow at present and I believe it was formerly used for agricultural purposes. This is a large parcel owned by the State of Hawaii, and the Waimano Home Road comes up in this area.

STAFF MEMBER:

Mr. Chairman. The State Parks is under executive order and there has been a pullback of some of that area under the executive order to be used. At some time, the Board of Land and Natural Resources authorized the sale or lease for sugar cane purposes for a five-year period. Since then, there

STAFF MEMBER (Cont'd.)

might be some other plans for use of that land.

CHAIRMAN:

Thank you.

STAFF:

One more question: where is the old cane haul road right now?

COMMISSIONER:

The cane haul road is right along in here. This is presently being graded by the developers for housing. This is about 50% developed and this has been graded but no homes exist. This is pretty newly developed and so is this area here. This is Pacific Palisades residential development up here and the golf course.

STAFF:

Where was the one that we granted?

COMMISSIONER:

This was the 56-acre piece that we granted; I believe it was Lowers and Cooke, about 1966, and it's still not developed.

STAFF:

But you say it's getting site developed?

COMMISSIONER:

Yes. This yellow area. This is in sugar cane at present.

UNIDENTIFIED:

Isn't that all owned by . . . (inaudible)?

COMMISSIONER:

No, there are various owners, but these peach-colored areas are slated for low density apartments by the city, and these ochre-colored areas are medium density developments, and here are the high density development areas.

MR. DURAN :

These are, I think with the exception of the peach-colored low density area next to the agricultural, which I think is Queens land, the rest of that is Bishop Estate and some of that is Austin. It's vacant.

STAFF:

I see a 400 foot contour line extending . . . (inaudible).

COMMISSIONER:

Yes. You know, when you went out to look at the golf course, the golf course areas are here and again here -- this white space. This is the golf course which is already in operation.

STAFF:

Point out the spot where we viewed that area.

COMMISSIONER:

I think this is the place. And on this map here.

STAFF:

Now is that area flat or not?

COMMISSIONER:

This area?

STAFF:

Yes.

COMMISSIONER:

I believe that it's developable.

MR. DURAN :

It was cane land at one time, so . . .

COMMISSIONER:

Yes. It's quite level.

UNIDENTIFIED:

Has the developer indicated a willingness to move back the urban

UNIDENTIFIED (Cont'd.)

boundary lines to the developable areas?

MR. DURAN:

Yes, they have. Both Austin and Bishop have made that offer, if the Commission feels that this is desirable.

STAFF:

How much of this is developable area?

MR. DURAN:

About 615.

STAFF:

And on Bishop?

MR. DURAN:

About 556 or something like that. That's just on the Bishop Estate.

UNIDENTIFIED:

In other words, that's all cane area?

MR. DURAN:

Yes.

CHAIRMAN:

The Commission is all through?

Is there any government agency who would like to testify at this time? If not, would the petitioner come forward. And we would like to give you all the time you need to present as good a case as possible, but we would appreciate your not going into a repetition of what went on that hearing, and, as you know, the Commissioners have the report. We would be most appreciative if you could do it in that manner. But take all the time you think you need.

PETITIONER:

With your permission, I would like to put up a map.

CHAIRMAN:

Yes.

PETITIONER:

Gentlemen, you have the report and your staff has made some comments relative to our request. In order to just bring you up to the wire on what this whole area symbolizes, I'd like to use this map. What he's been stressing is all this urban area. Now here's the area that we talked about for the golf course. This is the Austin area. This is the Bishop Estate area. I want to bring into significance that all of this has been subdivided up to the point beyond our proposed boundaries. I put this map up to show you that in bringing the urban area in, it did dump this area. And this looks like the area in between with the two areas on either side. This is one of the points we can see. Then the other important element which should be viewed is that this is where the state proposes the H-1 Highway, that is going along through bisecting the property. It has an influence of urbanizing here. The Moanalua Road, which is this road that comes out, is partially the cane haul road now. I would like to stress at this time that the state and the city and county are definitely very much improving Moanalua Highway and extending their roads up into Waimano Home Road. The state passed in the legislature \$1,500,000 and the city is taking care of a portion. The result is for petitioning this land and making available Moanalua Road from the Halawa Bridge over to Waimalu. They are doing that under the pretense that it will facilitate taking care of the urban traffic, not only from that area but also from the area that is coming here.

PETITIONER (Cont'd.)

There has been some delay in order to bring this subject up. I think your staff is aware of this. There has been some delay in the construction of homes, but the owners and developers have extended for improving this area \$1,500,000 for (inaudible). They have provided a constructive (inaudible) wider than anticipated but the construction expense is around \$800,000. The delay is actually going into the construction of homes and apartments in view of the fact that they have to go in and get an improvement district for Moanalua Road because there were other properties involved. The contract for this Moanalua Road will be well underway by May. The grading of all of this area has been completed. I am trying to bring this up to show that there has been much work done to improve this land, even though it's taken a few years to do it. I think even though they've had this zoning, they haven't put in any maintenance capital improvements. This would also be the same case. We're trying to point out here again the results of having a different type of development. You have a high standard of development. The Waialo area now is going to lend itself to single-family modern conveniences, and there is a demand for that. I think there is a demand for that type of housing. This area is going to be a different type of development and will appeal to a different type of economic, or population, people.

We point out these things so that there would be, I think, appreciation that this is an odd development. The Bishop Estate and the (inaudible) entity group entered into an agreement of developing these lands, and I think government had a part in encouraging because if you'll go back a few years, you'll see that they have tried to take care of the needs for the medium income for residential use. They entered into agreement in 1955

PETITIONER (Cont'd.)

and in 1960 they started. They made available the land. They had an agreement and they proceeded in an orderly manner with the development and transformed it. It could have been used for sugar cane, but in the meantime, the sugar people knew that the agreement had been entered into with Oahu Sugar as far as the transition and for the development of sugar land. The pineapple lands have now been acquired by Oahu Sugar to take care of some of the land they will use. They still want the land, but at the same time they have the population growth and economic needs. They are sure that land will be developed in an orderly way to meet the demand. And when you think of them extending money, I think it comes back to the fact that this closes the gap. I don't think there should be voids in between urban areas. I don't think it's even good for what you call agricultural use as far as they're developing a true urban area.

I think these are some of the highlights that we try to point out. As you look at the subdivision land, it's the idea of . . . (inaudible). Also, the city and county has asked to set aside some of this area. Certainly, a school section would not go into an agricultural area if they didn't think that this area was in the path of urbanization. This is only a general plan. So government itself is in its own trend of development and trying to stay close to an urban area. You can go from downtown Honolulu out here now in about 15 or 20 minutes, and when these roads are improved, it will be much faster. This is the H-1.

UNIDENTIFIED:

Your report says that these areas could have been developed as pointed out by . . . (inaudible). Likewise, this area that was supposed to be developed, government is now still interested in the stadium on this site.

UNIDENTIFIED (Cont'd.)

You're going to find that your urban population - center of urban population - is moving with industry. A few years ago it was down on Fort Street. I think that the developers and the land owners should petition. Certainly they are trying to cooperate to meet these demands in some manner, and I submit that the first thing is this: the key item is orderly timing. I don't think they're trying to move beyond what the market predicts. I don't think anyone would move beyond the market. Developers make studies of these things. They test the market. I think this is all they're asking - that this be an onward transition. They have already submitted plans for the development of this upper area, to put this into 10,000 square foot blocks or 6,000 square foot blocks, again trying to meet the different population demands.

PETITIONER:

I think in the report that was submitted says all we're asking in here as far as the development area would be about 346 acres, and I'd like to take real issue on one point, about the 20% slopes. I have submitted on behalf of other subdivision clients and it was not . . . (inaudible) . . . a 20% slope to the City and County Planning Department and the Engineering Division. True, they have their policy and they have their right of disapproval, and I say that this has happened. Again, if you look at this, it's uneconomical and not feasible to go into this type of contour. We submit that we're going to stay below the 20% because the cost has a lot to do with this. And the city, too, has raised their standard of grading. They're not permitting it because they're experienced it. It's control like that that we have to work with. I know that in the last two years they have not permitted this, and they're raising the standard nationally.

PETITIONER (Cont'd.)

So I would say that whatever is shown on this map is what is going to be developed, within reason. And there's only going to be 346 acres available for development. The only way is to petition it.

This is just hitting the highlights, since you've heard the rest of the presentation. I'd be glad to answer any questions.

UNIDENTIFIED:

When he said "stadium site," is that where A is or . . . ?

COMMISSIONER:

The stadium site is right opposite B. The lower is Moanalua Road and then here is Kanehamaha Highway. This is Salt Lake Boulevard. Do you know where the Patterson place is? It's right opposite that, in that area. Makai side of Moanalua Road. Not exactly in the hollow, but you know where this is some Navy housing there.

UNIDENTIFIED:

Do I understand then that you are revising your request for 346 acres?

PETITIONER:

At the time the petition was put in, we were asking for the complete area. However, we are pointing out that the useable area within the . . . request for this area is only 346 acres that could be developed.

UNIDENTIFIED:

If in the Commission they want to hold this as a development area, the land owners would more or less agree to this?

UNIDENTIFIED:

I see no reason why they shouldn't because this is being made before this Commission. In light of that, also, Mr. Chairman, I'd like to point out that staff made a statement here that in the general plan there would

UNIDENTIFIED (Cont'd.)

be permanent boundaries being drafted for this area . . . (inaudible) . . . we did envision the possibility of this becoming urban land but in the absence of a development plan at that time, the Land Use Commission at that time kept it in agricultural use.

COMMISSIONER:

Would it affect your subdivision in that request for boundary change if that boundary was lowered down to the developable area . . . would it affect the development?

UNIDENTIFIED:

No, it won't.

COMMISSIONER:

You won't need that green belt area?

UNIDENTIFIED:

I think this would be left out as far as I can see. We brought the boundary down here and all this will not affect the development area.

COMMISSIONER:

Let me ask you a question. Beyond the development area, do you have sugar cane growing there?

UNIDENTIFIED:

There is some in the upper areas. Right about in here.

COMMISSIONER:

So the actual request for change would not be consistent in saying that this is prime sugar cane land and we're bringing the boundaries out? A boundary change would not affect the acreage as far as sugar cane growth.

PETITIONER:

Also, I would like to point out that this area has pretty well been

PETITIONER (Cont'd.)

developed. If you're looking in this yellow area right now, this area has pretty well been developed.

UNIDENTIFIED:

Aside from the gulches. You've got some big gulches.

PETITIONER:

If you would like to see what the development plan is, I have something here that would give you some insight of the different types of uses to be done around the golf course. This golf course, I think, is an important element. They took out of what we call actual development area to make open space for the parking lot. They made it a recreational area so that the people in the area could come up and enjoy it. That had to be done before you can do the type of development we're talking about - even town-houses - so that you give more people a chance of living around the area.

UNIDENTIFIED:

In other words, you're saying that the development ought to be plush.

PETITIONER:

Right. And this would provide this income group with recreation.

UNIDENTIFIED:

Do any of the Commissioners want to see the plan, or do they understand?

COMMISSIONER:

I don't think it's particularly germane to the issue here.

(Portion of tape inaudible; omitted.)

CHAIRMAN:

Any other questions?

COMMISSIONER:

Let me clear up that point for Leslie. That was an error on my part. I was thinking of the Austin Estate. The figures are so similar. We have no quarrel of their figure with what they will urbanize within that area.

COMMISSIONER (Cont'd.)

The point was that they were asking for 702 acres, I guess, but part of it was in the conservation district, part of it was already urban and part would include ag land within the ag district and include the developed area.

UNIDENTIFIED:

I have one more question. The staff comments that the area of urban land meets the need for about 12,000 population in the next 10 years, or 5 years. Do you agree with this estimate?

STAFF:

(First portion inaudible.) Statistics have shown that we've been wrong in the past on our population production, but I go back to my own experience because I sat on that hot seat for about 15 years and there were very few of us who thought it was going to be urbanized as fast as it did. This was in 1959. All the concentration was on the windward side, not the Honolulu district, but the government at that time said we had to make some facts available . . . (inaudible). I think it's going to grow faster than even these statistics. But I say our statistics have been wrong all the way through over a period of years.

UNIDENTIFIED:

You're saying it could be more like 25,000 than the 12,000?

STAFF:

I'm saying it could go beyond the 12,000. I won't say 25,000, but it'll go up beyond the 12,000.

They've also opened up fee simple land in (inaudible.).

CHAIRMAN:

Thank you. Anybody else that would like to come forward and testify?

UNIDENTIFIED:

My name is William (Van Allen?). I'd like to respond to that last

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UNIDENTIFIED:

question about that 12,000 figure. It appears to me that that kind of statement may be kind of slanted. For example, he used the figure of 5 per acre for the number of units. In the upper part of Kaneohe Ridge, those are 10,000 square foot lots in the upper area of vacant land, so you're not going to get 5 units per acre. The apartment computations, I think, are all based on maximums. The developer at the present time does not have plans for building to the maximum entity. The area was not reduced for the very rough areas that are not buildable. Now we actually will build up to the edge of the bluff; the rest of that land is pretty rugged. The acreage should be considerably reduced. There is a lot of area there that cannot be developed. It's uneconomical. You cannot take the close areas and multiply them by figures to come up with theoretical development possibilities. So I would say we do not agree with the 12,000 figure or the figure that they came up with to meet the population requirements. We will not be able to get the population in the staff forecast for the other lands outside of the Waiiao area.

CHAIRMAN:

I don't blame the staff for going the maximum, because if you take Kalani-Iki, as an example, the Bishop Estate got permission to have a change for an X number of units and when the project was nearing completion, you added, what, 30 more units into that place? Over and above the original request. So I don't blame the staff for going the limit.

UNIDENTIFIED:

Well, of course, I think Kalani-Iki has been recognized as one of the good, well-planned development areas.

... 1900-1901-1902-1903-1904-1905-1906-1907-1908-1909-1910-1911-1912-1913-1914-1915-1916-1917-1918-1919-1920-1921-1922-1923-1924-1925-1926-1927-1928-1929-1930-1931-1932-1933-1934-1935-1936-1937-1938-1939-1940-1941-1942-1943-1944-1945-1946-1947-1948-1949-1950-1951-1952-1953-1954-1955-1956-1957-1958-1959-1960-1961-1962-1963-1964-1965-1966-1967-1968-1969-1970-1971-1972-1973-1974-1975-1976-1977-1978-1979-1980-1981-1982-1983-1984-1985-1986-1987-1988-1989-1990-1991-1992-1993-1994-1995-1996-1997-1998-1999-2000-2001-2002-2003-2004-2005-2006-2007-2008-2009-2010-2011-2012-2013-2014-2015-2016-2017-2018-2019-2020-2021-2022-2023-2024-2025-2026-2027-2028-2029-2030-2031-2032-2033-2034-2035-2036-2037-2038-2039-2040-2041-2042-2043-2044-2045-2046-2047-2048-2049-2050-2051-2052-2053-2054-2055-2056-2057-2058-2059-2060-2061-2062-2063-2064-2065-2066-2067-2068-2069-2070-2071-2072-2073-2074-2075-2076-2077-2078-2079-2080-2081-2082-2083-2084-2085-2086-2087-2088-2089-2090-2091-2092-2093-2094-2095-2096-2097-2098-2099-2100-2101-2102-2103-2104-2105-2106-2107-2108-2109-2110-2111-2112-2113-2114-2115-2116-2117-2118-2119-2120-2121-2122-2123-2124-2125-2126-2127-2128-2129-2130-2131-2132-2133-2134-2135-2136-2137-2138-2139-2140-2141-2142-2143-2144-2145-2146-2147-2148-2149-2150-2151-2152-2153-2154-2155-2156-2157-2158-2159-2160-2161-2162-2163-2164-2165-2166-2167-2168-2169-2170-2171-2172-2173-2174-2175-2176-2177-2178-2179-2180-2181-2182-2183-2184-2185-2186-2187-2188-2189-2190-2191-2192-2193-2194-2195-2196-2197-2198-2199-2200-2201-2202-2203-2204-2205-2206-2207-2208-2209-2210-2211-2212-2213-2214-2215-2216-2217-2218-2219-2220-2221-2222-2223-2224-2225-2226-2227-2228-2229-2230-2231-2232-2233-2234-2235-2236-2237-2238-2239-2240-2241-2242-2243-2244-2245-2246-2247-2248-2249-2250-2251-2252-2253-2254-2255-2256-2257-2258-2259-2260-2261-2262-2263-2264-2265-2266-2267-2268-2269-2270-2271-2272-2273-2274-2275-2276-2277-2278-2279-2280-2281-2282-2283-2284-2285-2286-2287-2288-2289-2290-2291-2292-2293-2294-2295-2296-2297-2298-2299-2300-2301-2302-2303-2304-2305-2306-2307-2308-2309-2310-2311-2312-2313-2314-2315-2316-2317-2318-2319-2320-2321-2322-2323-2324-2325-2326-2327-2328-2329-2330-2331-2332-2333-2334-2335-2336-2337-2338-2339-2340-2341-2342-2343-2344-2345-2346-2347-2348-2349-2350-2351-2352-2353-2354-2355-2356-2357-2358-2359-2360-2361-2362-2363-2364-2365-2366-2367-2368-2369-2370-2371-2372-2373-2374-2375-2376-2377-2378-2379-2380-2381-2382-2383-2384-2385-2386-2387-2388-2389-2390-2391-2392-2393-2394-2395-2396-2397-2398-2399-2400-2401-2402-2403-2404-2405-2406-2407-2408-2409-2410-2411-2412-2413-2414-2415-2416-2417-2418-2419-2420-2421-2422-2423-2424-2425-2426-2427-2428-2429-2430-2431-2432-2433-2434-2435-2436-2437-2438-2439-2440-2441-2442-2443-2444-2445-2446-2447-2448-2449-2450-2451-2452-2453-2454-2455-2456-2457-2458-2459-2460-2461-2462-2463-2464-2465-2466-2467-2468-2469-2470-2471-2472-2473-2474-2475-2476-2477-2478-2479-2480-2481-2482-2483-2484-2485-2486-2487-2488-2489-2490-2491-2492-2493-2494-2495-2496-2497-2498-2499-2500-2501-2502-2503-2504-2505-2506-2507-2508-2509-2510-2511-2512-2513-2514-2515-2516-2517-2518-2519-2520-2521-2522-2523-2524-2525-2526-2527-2528-2529-2530-2531-2532-2533-2534-2535-2536-2537-2538-2539-2540-2541-2542-2543-2544-2545-2546-2547-2548-2549-2550-2551-2552-2553-2554-2555

CHAIRMAN:

I would say that up to a point you did a good job. But when you started to infringe on other areas, I think it fouled the whole thing up. But that's just an opinion.

UNIDENTIFIED:

In general, we have limited our development to 20%; I think in the staff report you heard that there is a lot of development beyond 20%. As it was pointed out, the policy does limit you pretty much to 20%.

STAFF:

Mr. Chairman, let me just comment on that a minute. I don't mind being accused of slanting our figures. Obviously, they slant theirs and we slant ours. It is a fact that the County does not have an ordinance that prohibits construction or development beyond the 20% slope, and they admitted that, although they said that there was an ordinance that prohibited them from going beyond the 20%. And George admitted that, too.

UNIDENTIFIED:

I'll clarify that, too. There is no ordinance per se, but they are working on an ordinance. But in the absence of an ordinance, the developers have to follow this; they have no choice because they won't approve the plan. Anything over 20% comes back. The ordinance is not yet established but in the meantime, they have been using it as if it were an ordinance.

STAFF:

But there is no ordinance?

UNIDENTIFIED:

Probably, but there is still the policy and the rigid requirements.

COMMISSIONER:

Assuming that the petition is approved, how soon do you plan to start?

PETITIONER:

If the petition is approved, we would like to move immediately.

UNIDENTIFIED:

If you want to move in immediately, what about the H-1 Highway?

PETITIONER:

By the time the H-1 Highway is constructed, our construction plan would be in line. In other words, it will take 2 or 3 years to get the plan in effect, ready for submission to the City for approval. We should tie it in with the City's plans for developing Moanalua Road. They are going to let a contract out for an engineering firm to do the work for Moanalua Road - widening, etc.

COMMISSIONER:

And any development will work closely with the plantation so that crops can be harvested.

PETITIONER:

Right. We wouldn't disrupt that.

UNIDENTIFIED:

Let me make another observation on his comments. I don't think that he is telling the Commission that there will be no lots in the single-family residential development under 10,000 square feet. I think that you have pointed out that in the very extreme upper end, those are 10,000 foot lots. This is the minimum that you propose in your development? Very good.

Now the other point is that in terms of density on the apartment developments, we didn't use the maximum that could be developed. It would involve a market analysis and how large a floor area a developer determines he can develop. And we've used a mean, and not the high nor the low. Twenty-five units is medium in the low density development; this is a little

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UNIDENTIFIED (Cont'd.)

on the high average. Twenty to 25, low, medium, high medium. You could go as high as 35 and even 37 in the low density apartment. We've used 25 as a rough figure for just topping purposes. The same is true on 100 units to the acre or 50 units to the acre in medium and high. Those are just average and not on the high side. They could be higher because there is no unit limitation in the zoning ordinance. It's on floor area ratio, so it's not entirely true that we've used the maximum to come up with our figures. I think the point here is that we have provided for twice the population as is forecasted. Let's cut our figures in half and say we've provided for the amount that we anticipate will develop in the area within the next 8 years. There's still ample land within the urban area that at least one year in reviewing our boundaries to evaluate the total purpose of the land use law, its need, and its intent on how we're going to direct growth on Oahu. So my point is there's ample urban land within the existing urban district, and we will, within the next . . . by the year 1975, have had several boundary reviews, not just this coming one this next year. Three, to be exact.

CHAIRMAN:

Any other testimony? I would like to ask Mr. (inaudible) a question. In the event . . . Well, to begin with, this is quite marginal land because it's so far away from the sugar mill, isn't it, or is it profitable land to you?

MR. (?):

Oh, I think I can say that it's profitable. We make a profit based on our overall cost per ton of sugar, and the more sugar we can make, naturally, the lower our unit costs on all the sugar. It isn't the most

MR. (?) (Cont'd.)

desirable land on Oahu Sugar farms, if that's what you mean.

CHAIRMAN:

I mean, it would be some of your marginal land.

MR. (?):

No, our average on the whole plantation last year was 13.2. This acreage over here averages somewhat less. The elevation doesn't really have much effect on it. In trying to interpret Mr. Choy's question, it is not as desirable as some of the other lands from the standpoint of the access to it.

COMMISSIONER:

You'd have to go to some extent to get your harvest to the mill, wouldn't you?

MR. (?):

No, that hasn't been our problem. As the freeway comes through and cuts off our roads, the Federal Government replaces those roads. It does not cost us anything.

CHAIRMAN:

In the event this 360 some acres of your sugar land in Bishop Estate is withdrawn, would it be practical for you to continue growing cane in the next portion?

MR. (?):

Oh, sure.

CHAIRMAN:

Even a small acreage? Even say 10 acres, you would like to keep it?

UNIDENTIFIED:

Mr. Houghtailing has already pointed out that because of this highway

UNIDENTIFIED (Cont'd.)

development and this other tremendous amount of work that has to be done down at the lower end, both as far as H-1 is concerned and the Oahu road realignment is concerned, and the preparation of their engineering drawings . . . Now for example, our field 610 is right in through here. We harvest that in July of this year. I would fully expect under anything that my experience shows, we would get another crop out of here, possibly not in the 40 or 50 acres involved in this one. They might come in prior to another crop, but certainly we would continue farming it just like they're farming it today. We're planning to put in a new cane haul road up along the edge of the property. That will be planned in such a way that, subsequently, when we finally phase out piece by piece, this land will be left and the cane haul road can then be developed into a street and another row of lots. In other words, this is an engineering problem. I haven't the foggiest notion how long it's going to take to develop this. But we intend to farm everything we possibly can as long as we're physically able.

UNIDENTIFIED:

We have no such thing as a quota. Our problem is strictly one of economics. We're in the business of sugar to make money and we are a profitable company. We are capable of continuing to make money. We are viable.

COMMISSIONER:

But you are willing to let some of that land go?

UNIDENTIFIED:

That's I don't think a very fair question. I don't have any choice in the matter really. You see, we don't own the land that we farm. And if the owner determines that he wants to do something different with that

UNIDENTIFIED (Cont'd.)

land, what can we do? We cannot compete with house rents. We can't pay that kind of rent and remain profitable.

CHAIRMAN:

The gentleman back there would like to testify.

UNIDENTIFIED:

(Entirely inaudible.) (Comments regarded people who work the land.)

CHAIRMAN:

What is your ratio per acre of sugar cane land? One to 10, one to 50, or what?

RESPONSE:

Two hundred acres per person.

CHAIRMAN:

So there would be 3 men working there, on an average, for cultivation?

RESPONSE:

No, I dropped a decimal point. Sorry. It's 20 acres per man.

CHAIRMAN:

To do all phases of it? So in other words, if you have 400 acres, we're talking about 20 men.

UNIDENTIFIED:

I think you also mentioned, Mr. Chairman, that some of this cane acreage is being replaced with that area which was or is presently in pineapple. So you're having offset acreage.

CHAIRMAN:

That testimony was presented at the hearing. I believe the Commissioners will remember that the deal had been made for that exchange.

Any other comments?

(Discussion regarding employment of people on this land. Inaudible due to accents.)

COMMISSIONER:

I move that we grant an urban designation here of an area of approximately 346 acres as the area befits urban zoning.

CHAIRMAN:

Is there a second?

COMMISSIONER:

I second the motion.

CHAIRMAN:

A motion is made and seconded to . . . Let's get this straight. In other words, the boundary change will be lowered to the developable area?

Are you ready for the question?

There is no cane being grown there. Why not make the motion that it be left at that point?

UNIDENTIFIED:

I can go with the staff that we can take it on up to the conservation line and even though the petitioners contend that they will not be able to develop over and above the slope area, I don't believe there's any need in giving it urban designation. And if they've represented that they're going to carry on this type of development as proposed on the map, this consists of 346 acres and this to me should suffice.

CHAIRMAN:

We're worried about cane land.

Are you ready for the question?

Commissioner Nishimura?

COMM. NISHIMURA:

No.

CHAIRMAN:

Napier?

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COMM. NAPIER:

Aye.

CHAIRMAN:

Murray?

COMM. MURRAY:

Aye.

CHAIRMAN:

Murakami?

COMM. MURAKAMI:

Aye.

CHAIRMAN:

Woolen?

COMM. WOOLEN:

No.

CHAIRMAN:

Inaba?

COMM. INABA:

(Response was inaudible.)

CHAIRMAN:

Mr. Choy?

COMM. CHOY:

Aye.

CHAIRMAN:

The motion is defeated, four votes for, three against.

We'll recess for lunch since it's now 12 o'clock and reconvene at

1:15.

(Recess.)

CHAIRMAN:

We will now have the hearing on A67-162, request by Bishop Trust Company and Austin Estate.

STAFF:

(The first two paragraphs of the March 23, 1968 memorandum to the Land Use Commission from Staff re: A67-162 - Bishop Trust Co., Ltd. & Austin Estate, was read verbatim. See report in file.)

The present petition area is this large parcel located here which is the Austin Estate property; approximately 27 acres presently in the urban district. Another parcel here which is presently part of this larger parcel is also in urban. It is comprised of 17 acres. And this is the conservation district which juts into the petition area. The new highway would be from here.

I would like to make reference to page 8, about half way down. (Staff member quoted one sentence from this page: "Not mentioned in either the petition or the supporting map is TMK 9-8-11: parcel 8 which contains approximately 17 acres and owned by the Austin Estate and also in the Urban District.") This is the parcel referred to which has since been consolidated with the larger parcel, but this still remains in the urban district.

Now, getting to the recommendations.

UNIDENTIFIED:

One other point on this paragraph on page 8 that the petitioners have pointed out there. Their area to be developed is about 350 and checking their area of maps against the agricultural district, it's, in our opinion, about 550. It's more than . . .

STAFF:

What do you mean "in your opinion"?

UNIDENTIFIED:

We believe that ours is more correct. They say that the area within the agricultural area that they will develop, as represented by this map, represents 352 acres, and we believe that it's closer to 567.

CHAIRMAN:

Almost double.

UNIDENTIFIED:

Couple hundred acres more. Because when you relate this back to the last petition . . .

CHAIRMAN:

Are you considering that 256 acres that is urban?

UNIDENTIFIED:

For example, I have a chart at the end of your report that you might look at. Parcel 2 within the urban district has 27 acres which is proposed for urban development; within the agricultural district, there are a little over 1,000 acres, of which 567 is proposed for urbanization. Approximately 200 in the conservation district. And then parcel 3 below that is all within the urban district and proposed for urban development. And then the parcel 8 that was recently incorporated in parcel 2 has 17 acres, of which 3 is proposed for urban development. So the area, we believe, is 567 that we're talking about in terms of development.

STAFF:

(The Staff Comments, beginning on page 8, were read verbatim.)

(The Recommendation, on page 16, was read verbatim.)

CHAIRMAN:

Do the Commissioners have any questions?

COMMISSIONER:

Mr. Chairman, I just have an observation to make. The inference here

COMMISSIONER (Cont'd.)

is that the Commission will soon be reviewing the boundary changes and that possibly this will be included. It is the responsibility of this Commission to hear individual petitions and weigh on the merits of the case presented. And I would like to see this type of staff recommendation omitting reference to the review of boundaries. I think the Commission is very well aware that we're here to review boundaries, and if we're going to pursue this line of thought, then precisely what good justification do we have as a Commission and weigh the merits of any petition coming before us?

CHAIRMAN:

Any other question or statement?

Is there any government agency that would like to appear before this Commission? If not, will the petitioner come forward?

MR. OMORI:

For the record, my name is Mr. Omori. I'm a representative of Bishop Trust Company, Limited and Austin Estate for this case.

I would like to take the hearing from the last hearing that we had and direct my remarks to what I believe are more pertinent things, based upon the memorandum dated March 23, 1968, the last report that the staff has, attempting to rebut certain statements by the petitioners.

The first statement of the petitioners on page 1, number 1, as to the emphasis of the Commission considering the issue before this Commission. I believe the last comment made by one of the Commissioners is very pertinent. If this Commission is set up to awake the general change of boundary after a boundary map is made, say 5 years ago, and you sit here and wait for the next 5 year period to come to evaluate all of the boundaries, there is no reason for this Commission to exist. The authority and power of this Commission is to determine whether there has been any change or changes in

MR. OMORI: (Cont'd.)

the development of surrounding areas of any land before this Commission to determine whether the boundary should be changed. If that is not the function of this Commission and the function of the Commission is just to wait every 5 years to review general boundaries, the Commission should not be existing. So the first statement made by the staff, I believe, is mere semantics. We don't disagree that the purpose of the land use statute is also to preserve good agricultural land. But the issue, as stated in the regulations, is whether there are conditions and trends of development around subject property as to make the reclassification of agriculture to urban feasible or sensible, as far as this Commission is concerned.

The second statement of the petitioner and the staff comments regarding the fact that the retention of the agricultural pocket within a surrounding urban zone jeopardizes the ingress and egress through H-1 and creates interference of the surrounding urban area for agricultural pursuit. We don't disagree with the staff comment that the canefield operations existed long before urban uses. The point here is, since the urbanization has taken place around the agricultural pocket, we are asking the Commission to evaluate the changes and see whether it makes sense to leave this pocket of agriculture or to urbanize it.

The third statement of this I represented that the planning director of the City and County, urbanization of the area under petition within 2 years, due to tremendous urban growth in this area. The staff points out that certain statements from the director which does not seem to support that statement that I represented having been made by the planning director. I would like to point out that the minutes of the City Planning Commission, if the minutes were taken properly, would indicate that statement. In fact, this was one of the arguments, just as the administrator here is making. He said in 2 years this place is going to be urbanized, so why not wait

MR. OMORI (Cont'd.)

until 2 years. Just as the administrator here is saying, since we're going to review the boundary lines in less than a year, why don't we wait? And that was the framework in which the planning director represented that in 2 years this area is going to be urbanized, so why act on it now? So the record is clear.

The fourth statement that the City Planning Commission is against retaining agricultural use on the property in question. I agree that the DLUM, detailed land use map, of this area as adopted by the planning staff and the Planning Commission about 2 years ago, did limit the urbanization up to a certain point, but that extended beyond the urbanization line of the State Land Use Commission. However, this statement that the petitioners made is based upon the action of the City Planning Commission when this particular petition was referred as mandated by the regulation to the City Planning Commission and, after a hearing and evaluation of all the facts presented, the City Planning Commission did recommend to this Commission that this area be turned to urbanization and that agricultural use should not be retained here. That is supported by the record.

The fifth statement that the petitioner made in argument states that the Pearl City side of the property that the urban growth must engulf subject land since the Honolulu and Pearl City side of the property have been totally urbanized and the H-1 is being built on the makai front of the land. I believe we're dealing with semantics here also. Like, totally urbanized. Apparently, if the Land Use staff means urbanization completed with improvements in place, then we would contend that this area has not been urbanized because there are vacant lands. When I say totally urbanized, I mean that the urbanization through zoning on the map, so that the

MR. OMORI (Cont'd.)

whole area here is not retained for agriculture. It is zoned or at least detailed under the detailed land use map for part of urban use. I don't dispute the staff's comments but it is not totally urbanized in that the improvements are not all in.

The sixth statement here, I believe I have discussed previously. When we say that the detailed land use map designates almost half of the land mauks of the proposed H-1 highway set for urban development. There again, I believe the state land use map . . . your line runs further makai than the LUM developed by the City and County. So under the state land use map, the line is further makai, but under the City and County line, as is designated for urban and under the recommendation made by the Planning Commission to this Commission, the recommendation was for urbanization of the whole 1,200 plus acres.

The seventh gets into the availability of urban land in the area. I believe prior to this hearing, this was discussed in detail regarding what is available and what isn't, and what the needs are. As far as the petitioners in this case are concerned, we do not question the accuracy of the figures developed by the staff.

Incidentally, on the previous one, I'd like to state for the record that I am answering the staff's comments, and this is not an example of legal double talk in an attempt to confuse the Commission and to reflect upon the inaccuracy or unreliability of the staff report. I should like to state for the record that if there is any legal double talk, there was not meant to be, and secondly, if there was any attempt to confuse the Commission, I think we're being a little presumptuous to think that we could confuse the members of the Commission. We do not question the

MR. OMORI (Cont'd.)

accuracy of the figures developed as to the need for, or the availability or urban land. We only question the method of using urban availability of land from Hawaii-Kai all the way up to Kahe Point or whatever. That's the only thing we want to do, because available land in Hawaii-Kai has nothing to do with land in another area.

Now, the staff, in arguing the petitioner's contention as to the need, question the fact that the petitioners have not stated what minimum or maximum price these lots or houses and lots would be going on the market. I believe that's a very loaded question because what market price - what market demand - that any development is meant to meet, would determine whether there is a need for such type of urbanization. But at this stage, I would like to point out that the market price that our land would sell for cannot be determined at this time because the market price would depend a lot on the zoning that this land would be given, and the zoning portion of the development of this land is not within the province of this, without some knowledge as to what the Planning Commission of the City and County will give us as far as zoning is concerned. Without that, we would not be able to set a price. As you all know, we have Class A1, Class A2, \$7,500 to \$6,000. The price of the package would vary, depending on the zoning. So that is the reason for not being able to tell you what the price will be or what market we intend to go into. However, we should like to make it crystal clear that this market that we are going to need is a fee simple market, and since the area is outside of Honolulu and because of the immensity of the project and subject to our ability to develop it as a total complex and not piecemeal, we believe that we can meet that market which is worth the demand anticipated. I'll come to that later as we go along.

MR. OMORI (Cont'd.)

Now, number 8, I'd like to point out some things on page 6. I stated in our petition: (read No. 8 Petitioners' Statement verbatim.)

I'd like to read the Staff Comments. (Read No. 8 Staff Comments verbatim.)

To me, the matter of timing for review of this parcel is perfect now. The admission is made that the review of the urban boundaries will be made in less than a year and as part of the argument, it seems to be inferred that this area will eventually be urbanized. I'd like to point out that this proceeding that we're going through now is but the first step in a long series of procedures that the petitioners have to face before the first bulldozer can go on the land to develop it. Now this is merely a proceeding initiated to take the agricultural designation out and put urban in. Afterward, we have to go to the City and County of Honolulu to have the land use map amended. We have to make the petition, give our development plans as of that stage, go through a preliminary hearing before the Planning Commission as to the use of the property, then we go through a public hearing. If the decision is favorable, we have to go to the City Council and go through 3 meetings, because this is passed not by resolution but by ordinance, and likely as not, since this entails a large area of land, will go through another public hearing before the City Council. After that, wait for the Mayor's signature. When that procedure is finished, we have to then develop development plans for zoning, and we go through the same procedure again before the planning director, Planning Commission, City Council, Mayor, preliminary hearings and public hearings. And tied in with the development plans are utilities plans, roadways plans, subdivision approval. So I anticipate that a procedure of this nature will take at least a year for the planning . . . at least 2 years. So to wait

MR. OMORI (Cont'd.)

until you review the boundaries to preserve this land for agriculture for 2 years, you would have that preservation even if you act now, because of the procedures that the petitioners have to go through and accomplish before anything can be done to the land. So this waiting of half a year or 2 years, as far as timing is concerned, doesn't make sense, because we do need a period of 2 years in order to develop this land. And during that time no land owner is going to make the land that valuable just by growing sugar cane.

Now as to the state policy, I believe the Commissioners are aware of the policy of the State administration and the Legislature and encouraging as much as possible the release of land for fee simple ownership by land owners. I don't think I need to belabor that point. Also, as an example of that philosophy, I believe even the Republican members of the Legislature are talking in terms of giving options to purchase to lessees. So it's quite clear that it's the State's policy to lease as much land as possible for fee simple ownership.

Now, the number 9 on page 7. Again, this is a very important statement which should be emphasized. "Roughly 75% of the single-family residential market in the Aiea-Waipahu area is for \$25,000 or under." This statement is true. I don't believe the staff disputes this statement. And again, the staff says that we have not stated what we propose to provide. We can assure you that on the basis of a fee simple market that the market we meet will try to meet the 75% of the market because just from an economic standpoint, it would be foolish to try to get the other 25%.

On 10, this is another important statement which I would like to emphasize. "Approximately 70% of the now offered new subdivisions are on

MR. OMORI (Cont'd.)

lease land, but Austin land will be fee simple." To me, this is a very important fact, contrary to what the staff says. I agree with the statement of the staff to some extent, that we are not fighting a battle between Austin and Bishop Estate because our basic premise is that urbanization is feasible here and is needed. So that the question of desirability on the part of a home purchase on fee land, Austin, versus lease land, Bishop Estate, is not the issue of this petition. I agree with the staff comments. We are not fighting. However, I would like to point out that since the question is of need of urban area, the question is not only need for urban but the type of land that is needed, and this is the point that I made when I argued that approximately 70% of the new subdivisions are leased so that you do have a very great demand for fee simple ownership. When you talk of need of urban land, I don't just say "urban land," but what type of urban land. And we believe that the Austin property, being fee simple, will meet a need that most of the new subdivisions in leasehold are not meeting. So I want to emphasize the point that despite what I stated now, we believe in the basic premise that the urbanization of this land is ready now and for general review.

As to the acres covered, I believe that the staff figures are very accurate. However, the point in issue is, what is the proposed urban area? Now, we agreed that the proposed urban area is 608 acres, based upon the plan that you see on the board, so we are not in disagreement as to what the proposed urban area is. The only confusion is as to what area of the 608 acres is already urban. I got my figures on the basis of the first report dated October 28, 1967. In that report, the staff stated that the area covered by the petition is 1,276 and of that, the staff stated that

MR. OMORI (Cont'd.)

1,020 acres was in the agricultural zone. So taking 1,020 from 1,276, that gave me the 256 urban. Taking 256 urban from the 608 acres requested for urbanization, you have that request of 352. That's how the figures were arrived at in our petition. However, on the basis of the table here, I believe the acreage set out based upon the statement of the Land Use Commission boundary and not on the County amendment. The figures presented on Table 1 are correct. But I would like to clarify the figures used in the petition on the basis as formerly quoted. The main point here is that we are not in disagreement as to the proposed total urban area that we are considering. The 608 includes the urban areas.

We have 369.71 acres in acreage right now. That's all.

(Discussion regarding acreage pertaining to maps; inaudible due to distance from microphone. Participants were discussing various colored areas.)

Regarding the economic zone, whether sugar cane land, more money for the state or whether it's in housing development and so on, I think it's not germane. I would like to point out to indicate the urbanization of this area . . . We are presently in consultation with the chief engineer. In fact, the chief engineer of the City and County requested a conference with the petitioners, with the idea of attempting to develop the Waimalu stream for (inaudible) purposes and up on the higher side of the property all the way down. Because of the eminent urbanization of the whole area and because of the problems which would arise once the area is urbanized, the Corps of Engineers apparently is willing to invest a million dollars of Federal money to help in the improvement of the Waimalu stream, and the chief engineer is very anxious to put through that development of the

MR. OMORI (Cont'd.)

stream. We are presently in consultation with them to try to see how we can work out the total project. As I said, urbanization is coming and it's coming soon. In fact, it's here because we need 1 or 2 years of planning.

As far as our statement that the public services are available, the fact that the proposal sets aside at least 20 acres for public or community facilities. I don't believe that that argues that public services are available, although the other criteria that we discussed the last time have been covered by the petition.

As far as the staff comments on parks and school sites ending up on undevelopable land with poor access, I believe this must be a personal thing with the staff, although I must admit that it happens quite often. But I don't believe it's the fault of the developer. I really don't think the facilities for parks and schools should have any bearing on this case.

I'd like to summarize the points I wanted to make, the salient points being that I would appreciate the Commissioners considering the needs, not only from the urban standpoint but from the standpoint of the market that this petitioner hopes to meet and provide. And I should also like to emphasize that since the area is so large and a lot of planning and procedures are required before the government can proceed, this is not something that will cause a . . . (inaudible) . . .

Thank you very much.

CHAIRMAN:

Any questions?

The Commission would like to question the petitioner.

COMMISSIONER:

How much urban population would take place? In this proposed development?

10000

... (text is mirrored and mostly illegible)

... (text is mirrored and mostly illegible)

... (text is mirrored and mostly illegible)

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MR. OMORI:

In this particular development?

COMMISSIONER:

Yes. Both in the apartment zones and the house zones.

MR. OMORI:

We haven't figured that out yet, really. The plan you see there as far as the green and the brown and the dark brown, yellow, blue and so on, that is a mere proposal to show the City and County governments what a feasible plan looks like and also for this Commission. As to whether all of the areas proposed will be zoned the way it's shown . . . (inaudible) . . .

UNIDENTIFIED:

Along that line, I would like to comment. The staff comment is that up to April, 1975 we show for the Pearl City-Halawa area an anticipated population increase of 26,856. The staff says this would require 7,675 dwelling units at 3.5 persons per unit. Right now, the vacant land available would amount to 575 acres at 5 lots per acre. I don't believe that this area . . . I think it would be more than . . . (inaudible) . . . Taking 5 lots per acre at 6,500 equals 2,875 house lots, but then you're adding the multiple family dwellings, to say that you have 3,075 units in excess of the population demand. But we're talking about this area. We don't know how much density this area will be given, but most of it, as you can see, is residential fee simple.

COMMISSIONER:

Those figures were based on the County's general plan land use designation since they are zoned that way, assuming they would be. It does not reflect your plan.

UNIDENTIFIED:

So on residential, you're still short on single family residences?

On multiple dwellings, you're over as you indicated?

COMMISSIONER:

Well, there wasn't a differentiation between a demand for single family or multiple residential, but primarily just in terms of units.

Fee simple was not taken into consideration either.

CHAIRMAN:

Is there anyone else who would like to come forward and testify?

Either for or against. Mr. (inaudible).

MR. (?):

(Comments were totally inaudible due to distance of speaker from microphone and also accent.)

CHAIRMAN:

Thank you.

Yes, Mr. (inaudible).

MR. (?):

We've been told that the Oahu Sugar Company will take over the pineapple roads. They say that they're going to have more acres cultivated than they presently have now. The question is now, do you think that they could get more revenue from the lands which they are presently growing cane on? Don't you think that the revenue they would generate in these new lands presently in pineapple will bring in more money than the lands they're willing to give up?

(Discussion inaudible due to distance of speaker from microphone.)

UNIDENTIFIED:

I'd like to repeat the same question that I asked based on the testimony you offered earlier; that is, wait a while until the boundaries are

UNIDENTIFIED (Cont'd.)

to be reviewed. Do I detect then that regardless of how we review the boundaries, because these are used for sugar land, that they should not be resolved? They should be kept in sugar?

MR. (?):

It's possible they should be kept.

UNIDENTIFIED:

You've changed your mind since then?

MR. (?):

The staff is going to make a study. I'm sure they can find some other area.

UNIDENTIFIED:

They're not making new land now days.

MR. (?):

I think the staff's report has been consistent. I think the people involved are all reputable people. I think the petition should be taken by this Land Use Commission so that it makes sure the recommendation is a good one.

CHAIRMAN:

Thank you. Anybody else like to come forward?

Commissioners, have you any questions?

COMMISSIONER:

I wonder if I could read this letter that I mentioned earlier into the record, Mr. Chairman. I was under the impression that somebody from the Farm Bureau was to speak at this meeting today. If you have no objections . . .

CHAIRMAN:

Go right ahead.

on their front

CHAPTER:

...

There were two in the room at first, but then a third came in. He was a man of about thirty years of age, with dark hair and a high forehead. He was dressed in a dark suit and a white shirt. He looked at the two men in the room and then he spoke.

He said that he was a man of letters and that he was interested in the study of the human mind. He said that he was a man of letters and that he was interested in the study of the human mind. He said that he was a man of letters and that he was interested in the study of the human mind.

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CHAPTER:

COMMISSIONER:

This is a letter from the Hawaii Farm Bureau Federation signed by Mr. Wallace Nate, President, addressed to Chairman Burns and the Land Use Commission.

"On behalf of the members of the Hawaii Farm Bureau Federation who are producing approximately 85% of the total diversified agricultural commodities in the State of Hawaii, we wish to urge you to deny the change of land use on parcels of land situated in Waipahu, Waialo and Waimanu, amounting to nearly 2,000 acres of agricultural land. The agricultural industry in Hawaii has been and will continue to be the number one industry for many years to come as the most stable natural resource income to the State of Hawaii. However, too much has been taken for granted and unintentional action by government and the community may cause deterioration of agriculture in the State of Hawaii. Appropriate expression is 'kill the goose that lays the golden egg.' The loosely discussed concept of all agriculture belonging to the Neighbor Islands is misleading as well as impractical. First of all, the major market is in Honolulu. Secondly, the best agriculture lands are on the Island of Oahu. Thirdly, there are many problems related to moving agriculture from one island to another, no different from problems that faces any other industry in businesses that might be asked to move from Oahu to another island. A well-balanced economy requires many industries in many areas, and this can be accomplished only with a well-balanced land use dispersed throughout the state. Your serious consideration on this matter, I am sure will be appreciated and benefit all."

CHAIRMAN:

You know, we've been covering these petitions one by one. Can we use

CHAIRMAN (Cont'd.)

the testimony from each one to work on the whole thing as a whole? My question is this: I judge each one by its merits, but now we've heard 3 petitions. Can we use the testimony of the previous petition?

UNIDENTIFIED:

Mr. Chairman, in the absence of a consolidation of all the 3, I think you'd have to consider each one separately. I think that each petition is a separate one. I think the evidence introduced in respect to each petition must be considered in your decision on that particular one. If the petitions had been consolidated and considered all in one package, I think that you might be able to use evidence from one petition to reach your determination in another. However, this has not been done, so . . .

CHAIRMAN:

Since they were presented on the same day and apply to each other . . .

UNIDENTIFIED:

Nevertheless though, one might be appealed and one might not, so if the evidence does not appear on record, I don't think it's possible to consider it.

STAFF:

Is there some evidence that is in question? It may be that we haven't brought it out well enough in our report.

CHAIRMAN:

No. Mr. Omori was discussing the various merits here.

STAFF:

Do you have a specific area that you'd like to question, for example. Both sides of the case have been presented. One thing I would disagree

STAFF (Cont'd.)

with, and I don't think it's particularly earth-shattering, is that it was said the planning director made a statement and that if we would play the tapes back, we would find that he was right and we were wrong in questioning him, but the letter here from the Planning Director says we have checked all written material which was submitted to you concerning the above petition and find no such written statement. In addition, we have made verbatim copy of the tape of my statement to the Planning Commission regarding the Austin Estate request. And it gives his statement here, and then his summary is what I put in my report which says that he did not say "within two years the area would be developed up to the conservation line." He inferred it would be developed up to the line shown on their detailed use map, a plan which is the lower half of the property in question. So maybe we're getting into semantics again in this interpretation of terminology, but otherwise . . . When we're dealing with a tremendous amount of area and when we look back 5 years ago when these boundaries were established, we anticipated providing enough land for a 10-year growth period, recognizing that in 5 years we would review boundaries. I disagree that there would be no need for the Land Use Commission in the interim because we obviously occasionally make mistake; that is to say that we're not aware of all of the facts and that there are some boundary adjustments that are appropriate. Adjustments, as I view them, are many of the cases that we acted on, but in the case of a tremendous amount of land area that is prime agricultural land, and when you review the objective of the Land Use law, again we have a state policy of encouraging fee simple land. Right. But we also have a state policy of protecting prime agricultural land. I think you have to weigh these things.

CHAIRMAN:

That helps to clear it up.

UNIDENTIFIED:

(Question, but inaudible.)

COMMISSIONER:

The request is for the parcel within the ag district, although they did qualify the statement that if the Commission feels that only the developable portion be rezoned, they're amenable to that. But the whole area is up for consideration.

STAFF:

Quite often in the past, we've had a petitioner that was unsatisfied with the decision of the Commission and would have liked to have had a reconsideration of the request, and the Commission has always said that they would be willing to accept a new petition on the basis of new evidence. Also, there is no time limitation for someone to file. In other words, we may turn down a petition today, but he can file next week and go through the entire procedure. It can be denied again and he can refile again, etc. This is perhaps something we ought to clarify in our regulations when we review them next.

COMMISSIONER:

We might be afraid of them. Perhaps if we approve one, then we might have to come back and approve the other two. Is that right?

STAFF:

That's right. You can advise this gentleman of evidence that he's heard in former cases can be considered to determine this particular case, but the record in this particular case must support the determination, not the record in some other case.

UNIDENTIFIED:

Mr. Chairman, I think any testimony heard in any other public hearing may be an influencing factor in the Commissioner arriving at a decision, but I believe we are being properly advised that in weighing the arguments offered for the public hearing, both in favor or against, they must be related to this specific case. You don't forget what you've heard.

UNIDENTIFIED:

I should like to disagree on that point. I believe that the record of any hearing containing any arguments, regardless of when it was heard, will not be part of the record. The argument is not part of the record.

(Brief discussion regarding developability of acreage inaudible due to distance of speakers from microphone and also rustling of papers.)

COMMISSIONER:

I'm not a developer but I'm using common sense. Let's say we take a line like this. We know what's in this area and we're going to plan accordingly. You know what kind of land you have up here; you're going to plan accordingly because you have your total already.

UNIDENTIFIED:

That's the very point. We cannot plan accordingly because as long as there is an agricultural designation, we can't go before the County authorities to present a plan which is a total development plan as we have there. Now as to whether the whole area is going to be developed within 2 years, as I stated in my testimony, you would need I would say about a year to clear this, so that by the time you people get to the point of re-evaluating under your mandate under the statutes, those 2 years will be gone. And I can safely say that before one line is put in, we'll . . . (inaudible) . . .

COMMISSIONER:

Any other questions?

UNIDENTIFIED:

Yes. Would it be economical to just, say, cut a certain area there for development?

PETITIONER:

We would not be able, as I said, . . . As I said, this is the first step in a long procedure to the point where you can build houses or build roads there. The jurisdiction of the State Land Use Commission after it ends . . . Suppose you urbanize this area according to a plan, then we have to go through Counties to get the amendment to the land use map, then after that to the City Council, after that apply for zoning to the City Planning Commission, and then go to the Council. So in order to make a presentation which makes sense, showing this type of development, coordinating the commercial, the medium density and low density apartments, residential and so on, we cannot (inaudible) if you draw the line above, say, the H-1 and go in and say we're planning it this way, because they'll ask how you can amend the general plan and all that.

COMMISSIONER:

What about if we did it this way? (Appeared as though sketches or notes were being made on maps.)

PETITIONER:

Because development of necessity has to follow a general plan and zoning approval by the experts in the County government, the Planning Department and the Planning Commission, doing it piecemeal will not give the total complex to be developed in the proper way. And that's the complaint that Mr. Ogata had regarding Waipahu where you had the piecemeal type of planning. And the developer is forced to do piecemeal development if you force him to limit his areas without regard to the total complex.

PETITIONER (Cont'd.)

And we are making a compromise here, I still insist, in that we are trying to retain those areas which are developable without trying to have it all released.

UNIDENTIFIED:

Let me make two comments, Mr. Chairman. One to his question, and I think you'll agree with me on this, that as he has presented the problems of implementing this development plan that the first step should be logically the Land Use Commission to take it out of agriculture and then proceed on the basis of getting the general plan detail land use map amended and the ordinances enacted, etc. through these various commissioners, boards, councils, by signature of the Mayor, public hearings, etc. There isn't anything that would preclude the petitioners from requesting that the general plan be amended now and that their 1985 plan, through the Planning Department, through the Planning Commission, through the City Council, as an ordinance and signed by the Mayor, could be done before the zoning is done by the Land Use Commission. And that could well take a year to process just the general plan amendment through the County. It isn't necessary first to have our land use boundary change. The County can plan ahead beyond the land use district boundaries and, as you well know, time and time again we point this out to you that our boundaries are based on a 10 year projection and the County's are usually on a 20 year projection. This plan that we've referred to here is their 20 year plan. So that could still be done.

UNIDENTIFIED:

Can he draw an imaginary line where the County . . . (inaudible) . . .

(This was done, according to sounds on tape.)

STAFF:

That's correct. And that's for single family residential area.

COMMISSIONER:

Do you mean to inform the State Land Use Commission that you could go in on a general plan also with this development and convince the Planning Commission that they should allow this development? Then you're saying that the State Land Use Commission is a body below the City and County, because I can tell that if I went in now and requested to develop a certain area according to a general plan, they would say to go right back to the State Land Use Commission and get it out of agriculture. That's why we're here.

STAFF:

No, that's not right. You certainly can go to the County right now and ask for them to amend their detail land use map to reflect your development plan. The Commission has already taken the position that they're willing to amend their plan to include . . . We're talking about several stages that you have to go through. This is not the first stage. You can get your general plan amended first then come to the Land Use Commission, get the boundaries amended, and then implement through County zoning.

PETITIONER:

I have been before the Land Use Commission on many cases, and I can tell you, you can go to the Planning Commission and convince them that regardless of the state land use boundaries that they would plan and zone according to our requests if they agree with us only if you're a better lawyer than I am, because the County will not do that.

STAFF:

You can't put the two together, general plan and zone as one step. It's general plan, one step, zone the next step. And we're talking about

STAFF (Cont'd.)

steps. The general plan here is not consistent with our land use regulations and this was adopted after our land use boundaries were shown. So the County does this. This is an example of it.

PETITIONER:

Having it on the general plan doesn't help us in any way as long as we have the State Land Use Commission having a line where they have it because we will never be able to put a single house there.

STAFF:

I agree. As far as implementing the plan is concerned, you will eventually have to have this Commission's approval, but you do not need it to amend the detail land use plan. The Commission made the recommendation to us to urbanize that area.

PETITIONER:

Sure, they made the recommendation to you, but they're not mandating you. They can only recommend, and you have the power. So the County always has the power of recommendation but the eventual urbanization has to come from you, and that's what this hearing is all about.

STAFF:

But they have the power to general plan.

CHAIRMAN:

Are you folks ready for the question?

COMMISSIONER:

Is there a motion on the floor? Motion is in order.

UNIDENTIFIED:

Mr. Chairman, I so move that we institute a petition not to exceed 564 acres as per designated on their proposed land use bill because the

UNIDENTIFIED (Cont'd.)

area befits urban zoning.

UNIDENTIFIED:

I second the motion.

CHAIRMAN:

It has been moved and seconded that . . . It is recommended that

. . .

In this case, we are concerned with boundary change. In what manner would that boundary be changed?

UNIDENTIFIED:

In conformance with the submitted map.

CHAIRMAN:

In other words, you're recommending approval as requested by the petition?

UNIDENTIFIED:

Yes.

CHAIRMAN:

Thank you. You folks know the motion.

COMMISSIONER:

It's a similar one to the last hearing.

CHAIRMAN:

Are you ready for the question?

PETITIONER:

Mr. Chairman. Let's make one last presentation. It'll take about 5 minutes. I'd like to pursue a statement that was made at the presentation concerning the planned development for agricultural land for cane land. First of all, I'd like to remind you again that within our state, the class A lands are extremely limited. It amounts to less than 3% of the total

PETITIONER:

land area of the state, most of which is on Oahu, as a matter of fact. More than 50% of it is on Oahu, and very little on Hawaii as depicted by this diagrammatic map here.

Now let's look at this prime agricultural land and let's include the B lands on Oahu. We can see that it falls right into the valley primarily with some of it scattered along the windward side shoreline and the Honolulu - Pearl Harbor area. Let's look at what's happened to the prime agricultural lands in terms of urban districting. We can see that it's beginning to gobble up this prime agricultural land. Right now within the prime agricultural area, a third of it is being used for urban uses, and we have more than that within our urban districts. Agricultural uses still exist within our urban district boundaries. Now let's look at the areas that are under petition. We have also on there the Robinson lands, attached to the urban district of Waipahu, and the 2 petitions under consideration, again leading into our prime agricultural land.

And now for this orderly development that's proposed to eat up our agricultural land. The Robinson Estate people have proposed to develop the Robinson Estate lands all the way up to the area that was set aside for future cane and pineapple land. This goes all the way up into the acreages recently leased to Oahu Sugar Company. On the other side, we have Waipio Niu Town growing and is represented by the dark area around the existing urban area. This reflects their ultimate development plan at this time. Then we have the Waialo land, that Bishop Estate property that the development rights . . . Waiawa Valley that was turned over to Trusdale Construction Company for urban development.

So my question is really one of what is really going to happen to all of our prime agricultural land. If it is still the policy of this state

PETITIONER:

to give this prime agricultural land primary consideration, we should re-evaluate our district boundaries, our urban growth pattern, and whether this policy is still valid before we rezone vast acreages of this agricultural land for urban purposes. Thank you, Mr. Chairman.

COMMISSIONER:

When you talk about prime agricultural land, are you referring to sugar land or just agricultural land?

PETITIONER:

The lands that I reflected here on our map are those lands classified A and B.

UNIDENTIFIED:

We had 67,500 acres of ag land. We sure as heck haven't turned over 26,000 and some odd by way of change in zones.

PETITIONER:

Urban uses within the prime agricultural land on Oahu, Class A represents 22.3% and Class B, 34%. This is on Oahu.

UNIDENTIFIED:

When you say urban uses, you are not inferring that this is, in effect, a change from ag to urban, but that there may be urban pursuits in agricultural land?

PETITIONER:

Yes, that was my statement. Within these prime agricultural lands, a third of those lands are being used for urban purposes.

UNIDENTIFIED:

And maybe not too intensely either. Because it would be difficult to have you really justify that statement.

PETITIONER:

They're not vacant or they're not used for agricultural purposes.

They could be used for military purposes. They're not available for agriculture.

UNIDENTIFIED:

Could even be in park or golf course use? Right. So a figure is only representative as to what you want it to be.

PETITIONER:

My point being that it's not available for agricultural purposes.

UNIDENTIFIED:

That is well taken.

CHAIRMAN:

Are you ready for the question?

STAFF:

Commissioner Woolen.

COMM. WOOLEN:

Aye.

STAFF:

Nishimura.

COMM. NISHIMURA:

Aye.

STAFF:

Inaba.

COMM. INABA:

No.

STAFF:

Murakami.

COMM. MURAKAMI:

Aye.

STAFF:

Murray.

COMM. MURRAY:

Aye.

STAFF:

Napier.

COMM. NAPIER:

Aye.

STAFF:

Chairman Choy.

CHAIRMAN:

No.

STAFF:

Motion has been defeated, five ayes, two nos.

CHAIRMAN:

What is next on the agenda?

STAFF:

Well, we have this unfinished business if you want to go into the . . . (inaudible) . . . or the matter of clearing that up.

CHAIRMAN:

Yes, I think we have this unfinished business regarding H.M.S. Ventures. Would the Commissioners like to have our legal counsel guide us as to where we stand?

COMMISSIONER:

Well, as I understand on the status of the thing . . . Let me just go back over and review what has happened.

At a March 1st meeting, this Commission voted to deny the petition of H.M.S. Ventures and at a meeting on Maui subsequently, the Commission voted

COMMISSIONER (Cont'd.)

to reconsider their decision on that matter. This, of course, left open a question concerning the status of the original determination, and I feel that a final decision on this matter must be taken before the time expires, which I understand would be the 26th, is it not? I think that under the law the Commission must take final action on that particular petition, and there is some doubt in my mind as to whether final action has been taken in view of the (inaudible) of this matter. To me, this is where we stand. The matter has been left open for reconsideration, and I think it is incumbent upon the Commission to determine what it desires to do with this matter.

COMMISSIONER:

Would I be in order then to request to reaffirm my motion of Maui subject to new evidence submitted by the petition?

CHAIRMAN:

If you choose to do so.

COMMISSIONER:

I choose to do so.

CHAIRMAN:

Any second to the motion?

COMMISSIONER:

I second it.

COMMISSIONER:

Before the vote is taken, I think it would be advisable that the Commission should take final action on that particular petition. That means that a final determination on the matter must be made on or before the date of March 26. Now your motion here would be in order, Commissioner Napier, if the petitioners in this particular instance have on the records their

COMMISSIONER:

stipulation extending the time in which the final decision can . . .

CHAIRMAN:

Right. And that time is our next meeting in Honolulu which is June 7th.

COMMISSIONER:

We cannot legally extend the time, but . . .

COMMISSIONER:

Mr. Chairman. The legal motion is to reconsider the action taken on this petition. We made the motion in Maui and it did pass. Mr. Napier is saying that the motion we made was for additional information be supplied the Commission. Did the rest of the Commissioners understand this?

CHAIRMAN:

I didn't understand it that way.

COMMISSIONER:

Precisely, what did the vote on March 1st do? It was to deny, right? And then the vote taken on March 9th was to reconsider. And that puts the issue in limbo again?

STAFF:

What I am trying to say, Commissioner, is that I have not had time to review the matter so far as legal finality is concerned. My advice here today is that to avoid any uncertainty whatsoever in the matter, that the Commission act today to finally determine. In other words, they did vote on Maui to reconsider this petition. Whatever the status is can be cured in my mind by acting on it finally today, because of the time limitation. I think the original time limit of 90 days after the public hearing, expired well before today. There was a previous extension on the time limit for the petitioners to March 26th, so the final decision has to be made by that time and there is considerable doubt in my mind as to whether a final

STAFF (Cont'd.)

determination is going to be made on the matter.

COMMISSIONER:

What bothers me is your suggestion that the Commission upon request by the petitioners can withhold final determination until the time asked for by the petitioners. That's my question.

STAFF:

I think we're already in that period now, because the original time limit as far as the 90 day period is concerned within which this Commission must render its determination, expired January 27th or so. Now these people requested an extension of time which now expires on March 26th.

COMMISSIONER:

In a direct question to the Commission on March 1st, the petitioner said "let's take the vote now."

STAFF:

Granted. And this Commission took the vote. However, what muddled the water was their vote again in Maui. I don't mean to imply that this Commission must defer its determination. All I'm saying is that it may.

COMMISSIONER:

Mr. Napier, the way I understood it was that you did not quite understand the vote and you wanted to go out and see the land, and that is the reason for our reconsideration. Not because there was new evidence.

COMMISSIONER:

I know but besides that, they were going to submit new evidence, as I understood it.

CHAIRMAN:

There is no new evidence as far as I see.

STAFF:

I think a motion is in order now to move. . .

CHAIRMAN:

We have a motion.

COMMISSIONER:

I'm very much confused by the motion, Mr. Napier. Is it part of your motion that this Commission affirm its original decision taken on March 1st? I did not understand that to be the case, and I think this needs some clarification.

COMMISSIONER:

No, we granted a change in zoning on March 1st. We granted 6 acres from agriculture to . . .

CHAIRMAN:

No, you granted a staff recommendation.

COMMISSIONER:

The staff recommendation was approved by this Commission?

CHAIRMAN:

That's right. Below the H-1 and disapproved above.

COMMISSIONER:

O.K. Now, was it your motion to affirm that decision at this time, Commissioner Napier? I don't really know what your motion is.

COMMISSIONER:

We only approved part of the original petition and we have to review it in its entirety.

COMMISSIONER:

I think going back to the policy of the Commission, when an application is denied and the applicant asks for reconsideration, the policy of the Commission has been to agree to accept a new petition with new evidence.

COMMISSIONER:

This should go into executive session.

CHAIRMAN:

We're going into executive session later. We will vote on it. Did you make a motion to that effect?

COMMISSIONER:

I so move.

CHAIRMAN:

All those in favor say aye.

(Response.)

Motion is carried.

(Chairman declared 5 minute recess.)

(Tape re-starts in middle of sentence.)

COMMISSIONER:

. . . and deny 325 acres. Am I correct on that? How about the H-1 Highway?

CHAIRMAN:

Second to the motion?

(Response.)

Alright. It has been moved and seconded that the motion . . . that votes taken on Maui on March 9th and the action taken on March 1st, that it be approved and deny 300 and some acres above the H-1 Highway. Are you ready for the question? Will you poll the Commissioners?

STAFF:

Commissioner Murakami.

COMM. MURAKAMI:

Aye.

STAFF:

Commissioner Woolen.

COMM. WOOLEN:

Aye.

STAFF:

Inaba.

COMM. INABA:

Aye.

STAFF:

Murray.

COMM. MURRAY:

Aye.

STAFF:

Napier.

COMM. NAPIER:

(Inaudible.)

STAFF:

Nishimura.

COMM. NISHIMURA:

Aye.

STAFF:

Chairman Choy.

COMM. CHOY:

Aye.

STAFF:

Motion is carried, Mr. Chairman.

The other very quickly announcement that there will be a planning conference on Maui. You have this in your folders. It's September 5, 6 and 7, so reserve those dates. We next meet in Kona the 5th of April.

STAFF (Cont'd.)

We'll send out the schedules.

COMMISSIONER:

There will be actions taken then?

STAFF:

Yes, there will be actions as well as a couple of hearings.

One other thing: the Kauai Helicopters special permit that we denied on Kauai, has been refiled in the County for reconsideration. As you recall, we discussed the fact that they said they had new evidence and they want to submit it. We told them to file a new petition. In the law, of course, any time a petition is denied, the petitioner has the right to go to the courts. Now Kauai County approved this request. The Planning Director is wondering whether he should even accept this petition or not since he has the right to appeal it to the court. I told him I'd discuss it with you but chances are you would go ahead and urge him to accept it and reiterate their position and we would process it through here.

COMMISSIONER:

Mr. Chairman, the helicopter is still in plain view and sight. There is a big sign there.

CHAIRMAN:

Do you want any action?

STAFF:

Well, I just wanted a feeling of the Commission so that it might help Byron decide whether he should discourage or refuse to accept the petition. This means that their only alternative would be to go to the district courts or circuit courts.

COMMISSIONER:

I move, Mr. Chairman, that we advise the Planning Director of Kauai

COMMISSIONER (Cont'd.)

County to accept the petition.

COMMISSIONER:

Seconded.

CHAIRMAN:

All those in favor say aye.

(Response.)

(Response sounded to be unanimous approval but no specific designation was given.)

COMMISSIONER:

On our June meetings, we have one on Oahu. Can we change that date to either the 14th or the 30th?

STAFF:

We'll see.

CHAIRMAN:

Have we got enough people to go to Kona? How many people are coming to Kona now?

STAFF:

Everybody except Jim that we know of. No one else has indicated they are not coming.

We have ten minutes. Are you ready?

COMMISSIONER:

I think there was just one very minor matter of procedure here that I would . . .

CHAIRMAN:

Would you like to have the meeting adjourned first or is this official business?

COMMISSIONER:

I think I would like it on the record.

CHAIRMAN:

O.K.

COMMISSIONER:

This is a matter of procedures on how to handle communications with these people. As Ron and I discussed, you have to have findings of facts and petitions of law where a petition has been denied. It would be my opinion that in one form or another, either the Commission has to approve that . . . (inaudible) . . . or else delegate these responsibilities to a small portion of the group. This would involve these petitions we are considering here today as well as possibly future decisions of the Commission. There might be a procedure set up for this internal function.

STAFF:

In the past, I might say, Mr. Chairman, that whenever we received from a petitioner dissatisfaction in the Commissioners' decision, we automatically declared a findings of fact and conclusion of law and mailed it out to him. The staff prepared it; it was reviewed by the legal advisors and then signed by the Chairman and sent out registered mail. I think what George is saying is that there should be a policy established by the Commission so that some form of procedure to this effect could be formalized.

COMMISSIONER:

I think the Commission should be directed to recommend a format for consideration.

STAFF:

For your information, we had a similar experience when we were just getting started. This is known as the third Land Use Commission and when

STAFF (Cont'd.)

we hired the first . . (inaudible) . . , we charged him with the responsibility of drafting up a recommendation which was modified and was finally enacted by the Commission, and this was done with the assistance of the . . (inaudible) . .

CHAIRMAN:

Would you take care of that, Ron?

STAFF:

Well, that establishes the policy then. Right now, what we will do is prepare findings of facts and conclusions of law, submit them to the Commission for review approval, and then make them . . . (inaudible) . . .

CHAIRMAN:

The meeting is adjourned.

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