

Whaler's Broiler  
Wine Room No. 1

March 27, 1974  
9:30 a.m.

JM           Section 205-4 on petition for boundary amendments. It says any property owner or lessee or any State or county agency may petition for boundary change of any district. In addition, your procedural . . . . . but adds the words in . . . . . Say Hawaiiiloa Ridge's case. This means that any property owner can petition for a boundary change. Our position is that any property owner can petition for a boundary change of his property. But the problem is that this appears to be contradictory to the plain meaning of the sentence. In addition, you have in the rule the words "any interested person". The ruling that Kawakami agreed with their interpretation, and I <sup>asked</sup> them for a stay of this order because I wouldn't want the Commission to have to accept and act on a whole lot of petitions right now, and I think we have a pretty good arguments that-that interpretation is right. So I'm waiting now to get an order from the attorney for Save Hawaiiiloa Ridge Association. Then I'll formally answer them. I think we have a pretty good argument--and that is that the rights of people nearby or adjacent landowners or other people that may be affected are protected procedurally. Once there is going to be any change in the status quo, you have to have a hearing after listening to those people. And the way the courts construe our act now, those people can even seek judicial review of any action of the Commission.

But our argument was basically it doesn't follow just because they have these rights whenever a change is going to be made to allow them to set in motion a whole proceeding. In other words, almost anybody who wants to see his neighbor's land in conservation, that doesn't mean that the two government agencies--this Commission and the county involved have to act on it, every time someone wants a change. And I really like our argument. I think it makes sense. I think as the Chairman pointed out the other day, the tendency in the court right now, in the courts generally, is to make for more citizen participation of all kinds in agency proceedings. At least we've got an ambiguity in the statute like we have. So I don't know what will happen in the Supreme Court. It can go either way--50/50. But in the meantime we should amend the act to make it clear the right to set in motion boundary changes and all these formal proceedings rest only with the State or county agencies or with people if they have some legal interest with respect to property.

ET I might point/<sup>out</sup>that 1623 will cover this if it is passed.

JM I just this morning got another draft of 1623 from Ann Davidson of Brown's office. 1623 does make some other changes.

SS If 1623 passes, do we have to go through another public hearing procedure to amend the rules and regulations or does this automatically rescind our rules and regs.? What I'm thinking of, if we have to go through, why don't we amend our rules and regs and go through public hearing?

JM           The way I see it now. I'm not sure you can .....  
just by amending the regs. The judge didn't make it clear whether  
he's just ruling on the statutes or whether he was taking into  
account our regs. Assuming 1623 passes and makes it clear those  
3 categories are the only ones that can petition, then I would  
say that would automatically supersede the rules. But I still  
think, during the boundary review or at some point we should  
clean up these rules.

AN           A thing like this--does it open up a <sup>real</sup> bag of worms as far  
as Life of Land is concerned? There'll have a million petitions  
in here pretty soon.

JM           Under Kawakami's ruling, all they had to do was find somebody  
nearby or somebody who can make a pretty plausible case that they  
would be affected by the action if it is taken. ....they're  
always going to be litigating about.....even leeward.....  
a guy on Niihau .....land on Oahu. ....the right to petition.

TY           In other words, even if somebody feel that the Capitol building  
is in the wrong place can say take it off. That's the kind of  
situation we're in right now.

TF           Jimmy, don't you have .....this kind of recommendation,  
the right to petition?

ET           Wait till we get into the report. That <sup>about</sup> covers it John?

JM           Yes, that's <sup>for</sup> all I have/this case.

ET           If 1623 passes, that takes care of that portion. If not, then  
the appeal to the Supreme Court can be processed.

AN           If 1623 passes, is this case still in effect?

ET           No the case would not. The law would then prevail. Now what's going to happen as far as Hawaiiiloa is concerned? Suppose the law is amended next week?

JM           As far as that case. We're still going to have to hold a hearing on that unless I can win it in the Supreme Court. I think I'll be able to..... I might also mention that we have an administration bill in to specifically provide for judicial review of agency actions and specifies the manner in which you get review, who can get it and what the standard is that the court (?) can apply in conducting any review. Because we've had this procedural confusion as to whether the Administrative Procedures Act apply to the Commission or whether the LAnd Use Commission procedures govern..... That's it in addition to 1623. So those 2 key measures from my point of view.....

ET           Okay. Does anyone else have any other miscellaneous things they want to bring up before we go into the gist? Everybody understands the reason for this meeting? The preliminary report from the consultant as to what legal complications there might be, in the presence of our attorney general here. Okay, Jimmy.

JY           First, I'd like to start out by sort of restating the basic purpose of this second review. With regard to emphasis on State's and County's policies, rather than reviewing the letters of intent that have been filed to date, with regard to converting district boundaries, the idea I think ~~stemmed~~ stemmed from the understanding of the Commission and the staff with regard to the ad hoc nature of

the petitions. And the petitions did not somehow relate to State or county policies. In this regard the approach acknowledged the fact that each petition was weighed on its own merit, rather than relating it to some State policy. As such, the review's approach took this very strong regional approach, trying to compile State and local governmental policies, and put it within a workable framework to use as a basis for making land use determinations. As a corollary to this particular approach, we sought to identify what appeared to be reasonable roles in land use planning and management for the State and the several counties. I think we made some tentative observations with respect to roles and responsibilities and I think we might consider it. I hope that's clear--that we're not considering each letter of intent as a petition, but that we have been concentrating all our efforts on looking at the statutes, looking at various ordinances, looking at various policy documents, making review of documents of other counties, states, trying to come to grips with this idea of identifying separate roles, where they overlap and where they conflict. I think in several areas they conflict and in many areas they overlap.

ET Jimmy I'd like to get this point where you made a statement about the letters of intent aren't being considered as petitions and so forth. Is that--it really comes a little later. The part you're going into now as I understand is what we discussed before,

that is the first thing we're going to do is try to set up some statewide land use guidance policies. Then districting will come after that as it fits into whatever policies we adopt. So the first major chore we got is to get some policies, then after that we'll go on into reviewing the actual boundary districts.

SM           What are some of these policy documents that you looked into Jimmy? Examples?

JY           The educationn facilities plan, the various policy plans of the counties, transportation proposals, airport plans, economic forecasts, population forecasts, manpower forecasts, and things like that.

SM           How do you regard these as policies? When do you make a determination that these are policies?

JY           Well, this is what we'll discuss. Whether they are in fact policies.

SM           You haven't decided that yet?

JY           No, because we see conflicts and we'll cover those conflicts shortly. There are conflicts between documents that have been issued in the past and we don't know how to resolve these other than saying that there are in fact conflicts. Somebody has to make a determination which set of policies or which set of figures prevail. I think in the past, what has happened, the Land Use Commission had to take the petitioner's set of data and weigh the merits of their data without having the anchor by which to relate. So<sup>I</sup>/think we can get back to that. Maybe we ought to discuss the

related purpose or thrust of the review. The first phase deals with policies, the second phase deals with applying those policies to each island, and at that time the letters of intent can be considered, but not as petitions but as factors or input into the review as land needs. I think some of the ideas that are coming with regards to our study is that we suggested some changes in the process, that is the procedure by which determinations are made and it would have any effect on petitions, disclosure of the petitioner's activities and plans and things like that, and the role of the State and the role of the counties.

TF I think the Commissioners, at this point, should more or less get an idea as to the purpose of this meeting. .... go into some of these details they're going to be sidetracked in terms of what it is and how it's going to be done. The way I understand it today, you're going to come up first with what kinds of findings and what kinds of problems you came up with or what kind of difficulties there are. The second half will be in terms of some of the recommendations on procedures, statutory changes, etc. So why don't you give us a general outline of that first and maybe the Commissioners can discuss or ask questions after you give an outline of what your general findings are and later on go back to each section for the details. I don't know whether this is a better approach or not.

ET I think that's a most effective approach.

TF The Commissioners cannot .....without telling them more

or less the total picture of your findings in terms of difficulties

JY           Why don't I do this then. Why don't I go through the whole agenda, just an outline. Then I'll go through it in detail. Just ~~xxxxxxxxxx~~ so you can get the scope of it. Then you can choose whether you want to raise questions.

SM           Before you do let's take a look at the methodology and procedures, what did you find.

JY           Then, I wonder if there are any questions?

ET           Let's go through it, then the Commissioners can make notes and then we'll get into the questions after everybody .....

JY           The first item on the agenda was a restatement of the review's purposes and I think we covered that. Are there any questions that you want to raise now? Then we'll go into a summary of the findings.

TF           What Eddie said was really clear to them about making a summary.

JY           We have reviewed the statutes in the area of land planning and management. We found that planning today is based on statutory definitions. This is rather ad hoc, agency by agency basis and it's functionally oriented, that is it's more operationally oriented than policy oriented. We also found that there are no mechanisms for integrating these various policies that deal with functional orientation. For example, highway planning, educational facilities planning, higher educational facilities planning as well

aren't really linked. Those are just examples. There is a diverse character in land management responsibilities among State and county agencies, together with the semi independent boards of water supply. Our survey found that these independent or semi independent boards of water supply relate to State agencies in a much closer fashion than they do with their own counterparts at the county. I think the reason is that a great deal of capital improvements are engaged by the State rather than by the counties, so I think they identify much closer to have a working relationship with the State. We also found in our review of these various functional /kinds of operational activities that the agencies are essentially taking a reactive role in responsive growth--they respond to growth rather than direct growth. They're trying to catch up. This is especially true at the County level, that the directive influence of functional planning policies appear to be in response to growth rather than in directing growth. Lastly, in the statutory reviews plus the products from the statutory reviews, the planning lacks the fourth dimension, that is it really doesn't aim at scheduling and making priorities with respect to growth. They deal with 3 dimensions. They deal with locational dimensions scale but they don't deal with time.

In our interview with industry reveals some very interesting facts about the development and land conversion process. Our findings suggest that land development risks are shared by the

public, not exclusively by the private developers of land. As consumers, they purchase improvements within a project, and as taxpayers they are required to underwrite the needed improvements unanticipated at the time of development. The tight land market, that is the seller's market, is offering the land development process by spreading the front-end risk among the landowners, the developer and the consumer. And the consumer shares this risk by coming in very early in the land development process. And the risk is shared by the landowner and the developer because in the current development process, the landowner is very often reluctant to sell interest in fee. And they are selling parcels like this, thereby releasing the developer of heavy capital risk. In other words, the landowner shares the risk by not selling the land and the developer takes the risk by putting in his capital together with the heavy cost for engineering, marketing and planning work. The consumer takes the risk by purchasing by contract before the product is actually shown.

Another finding in our discussion with industry is that the HONOLULU real estate market is a very small market relative to other metropolitan markets and does not require large acreages of land to sustain the real estate requirements. For example, the 3 largest home builders in the State build at an average annual rate of about 500 to 600 units. This requires, depending on density, about 75 to 100 acres per year. For example, Herb Horita's New Town, which is roughly 608 acres in the residential

portion, will be absorbed within a 7-year period, or just under 100 acres a year. Our conversations with developers indicate that they can't build at a faster rate because of the characteristics of the market, as well as the characteristics of the land available for development. To put it another way, we might view the land absorption rate during the 60's when some 7200 units were built per year on the average and about 50% of the units were multiples. Assuming an average density of over 10 units per acre, the land absorption rate for residential development was only about 720 acres a year. And yet on Oahu alone, between 1964 and 1970, the LAND Use Commission approved 1200 acres per year to urban districting.

TF           1200 acres per year on Oahu?

JY           On Oahu. 720 residential absorption for the entire State.

SM           What kind of residential? Single---

JY           All kinds of residential.

ET                         based on  
You said/10 units to an acre.

SS           Let me ask you this now. You talk about 720 acres. You talked to Horita.

Jy           He only needs about a 100 acres a year. But he needs it for 7 years. He needs it because of his commitment and his offside improvements. He needs to spread the cost. So his development schedule or program runs about 7 years. So he needs about 700 acres to keep them alive.

SS What I can't understand is the relationship between the 720 acres that are needed for urbanization for actual needs.

JY No, no. The 720 acres--that figure was derived from the 1960 production.

SS What is that in relation to 1200 acres that we urbanized. That's what we gave?

JY That's what the Land Use Commission gave handily between 1964 and 1970. But the actual consumption was 720 for the whole State.

SS You said that because of certain conditions, land conditions, that they were unable to develop more than 720 acres.

JY No, no, no. Because of the market, the limited market. They could produce more if they wanted to. Because there's no incentive for them to produce.

SS We're only talking about one developer now.

JY I'm talking about 3 developers--3 major developers. All of them producing over 500 units per year. In 1964/1970, Oahu alone.

JC How many acres still available at that rate?

JY In 1972, according to a land inventory conducted by the Planning Dept. of the C&C of Honolulu, there were 9,900 acres zoned ready to be developed on Oahu alone. Now zoned urban and residential, undeveloped.

AN That includes Makaha?

JY That includes Makaha, Lualualei.

JC Is that right, that ~~about~~ we could go about 9 years, roughly?

JY           About 10 years. I think you'll find on Oahu you need less and less land because they're building up now. The absorption rate on Oahu because it's smaller--in the past where they needed 500 or 600 acres per year, it's down to 83 or 400 now because of the higher density. Over 50% of the building permits issued annually are for multiples.

JC           But if you project population growth with this, it would take care of that.

JY           I think if you look at these figures without considering conditions, that there are adequate lands available. But then if you talk to the developer, the developer needs an inventory. He has to have an inventory of about 5 to 7 years of production. Otherwise, he can't take the risk. This is why the current market is driving out all the smaller developers and builders because they've been going at a year or two. They can build maybe 10 units or maybe 50 units at the most a year. They can't carry the inventory. So this is the big problem. There's no wholesalers either. Because the large developers are now builders. They're reluctant to wholesale lots. They only wholesale when they are in a tight cash position.

SS           You're not suggesting that we change the policy, so that the land will be available to the smaller developers. You're not suggesting that. You're just giving us just what actually is.

JY I think we're suggesting something later on that deals with that question. If you want to maintain the building capacity of the State, you're going to have to find sites for the small builders. The big guys just monopolize the sites. They won't release it to the small builders and the small builders are going out of business.

TY Jimmy, going back to your figures, the 1,200, that in general that figure applies to the State.

JY That figure applies to the amount of petitions that were approved.

Ty That's the amount we approved for Oahu, is that what you're saying?

JY Yes--64 to 70. Average annual approval.

TY 1200 acres?

JY That's correct.

TF That doesn't include the 5-year review, does it?

JY No, just stopped at the 5-year review.

TF 69 was the 5-year review. He's talking only about the.....

JY And you know on Oahu alone. In the last 3 years, after the review, after 1969, you have 3200 acres being considered. Not approved, but considered. So I figure the reasons for this--the reasons/<sup>for</sup> petitions coming in is not the allocation of land. You could draw a line and if the guy doesn't want to develop, there is nothing you can do. So what the other guy does, and this is what the developers are saying. For example, here is a land that is available. He goes to the landowners, says I'd like to develop

that land and the guy can say go to ----. So he has to go over here and the guy might say okay I'll sell you the land. But that land might not be ready for development. So he has to petition in order to do that. On the mainland they could skip and jump like that. And the land market is such that the d---- next door can make a bid and the guy might sell his land, but not here. Here you may have to go a mile or two down the road. Whereas, on the mainland you may have to go a couple of hundred feet or two. It's more competitive, in other words. The land conversion rate is such that the land market works a little differently.

SM            You don't believe all these speeches that are being made about the stinginess of the Land Use Commission which is responsible for all these urban shortages that we find throughout the State.

JY            I don't think there is an urban shortage.

SS            What in your opinion is spot zoning? What size property would you say would be spot zoning that would be detrimental to the State policies?

JY            We're suggesting something like that.

ET            You're a little too ahead of that. Wait till we get down to that. Actually what Jimmy is doing now is just reciting some facts and figures. You'll be getting into, I'm assuming, some recommendations or at least feelings at this stage of the game. The conclusions at least priliminarily they've come to as a result of what they found. So if we get all the facts and figures and kind of

get a picture, then what he says later on will make some sense--  
whether we agree or not is another thing. But at least it fits  
into the picture.

JY           Back in 1969, the economist for the first review mentioned  
that if all lands were zoned urban on this particular island that  
it wouldn't have any ..... effect on land values. I think  
given the character of the land market here, I think he's<sup>probably</sup>right .  
It might have a slight effects but people are going out to buy  
lands that are agriculturally zoned, conservation districts, and  
they are paying a very dear price right now. Even on the neighbor  
islands. Ulupalakoa Ranch, for example, they paid a very dear  
price.

AN           How about Seibu?

TY           Only thing, on that one, it's master planned on the county  
level as a resort.

JY           Well, no. They have two devices on Maui now. They have  
designated resort destination area.....general plan. That  
area has to still be designated as a resort or Maui won't give  
them the proper zoning.

ET           Well, it's a fact that people are paying high~~xx~~ prices for  
agricultural districted lands.

JY           The big problem facing the county and the Commission is the  
timely conversion at proper locations to set the planning.....  
of public agencies. Some neighbor islands, for example are willing

to permit large developers to provide offsite improvements, without any county participation. By doing that, they automatically amend the CIP. The CIP does not support the developer's project and they're saying that we don't have any CIP, but you go ahead anyway if you provide the offsite costs. So what that does is that it affects your operating budget because once that development goes in, they have to provide services for that particular development. As a consequence, they're constantly trying to catch up with developments. They can have general plans, they can have CIPs, but they can't match the developer's wherewithal in terms of sufficient capital for offsite improvements. They can come in with anything you say--water, sewer-- because their scale is so high. For example, the improvements at Hawaii Kai are being amortized over a 15-year period. All the bridge work, sewage treatment plants, improvements in the marine-- they have been allocated 15 years ahead and allocated within several thousand acres. So this is the way a developer comes in and alters public policies dramatically by assuming the offsite improvements, and that's something that someone has to consider.

SM           You will consider this and make a recommendation as to what is the proper public policy or the proper public stance?

JY           I don't know whether we'll be able to say proper. We'll say they can overcome some of these decisions. Somebody else has to make that.

SM           You will point out that there is a rather significant problem?

JY Yes. I think some of this will require statutory changes.

SM You'll make some recommendations as to the types of changes that might be required?

AN Isn't it true, like<sup>in</sup>/the case of Hawaii Kai where they have such a large area, they can amortize it over, let's say, 15 years. Where the small guy couldn't do the same.

JY Exactly. This is why the existing development process is moving the smaller developers and builders out of the market. So what they're doing is they're moving into the urban districts and building condominiums. They're buying lots and they're going through this whole redevelopment process. You can see the string of condominiums that are being built and the apartment houses that are being built on the freeways. And this is a natural accommodation. They can't get lands. In order to stay alive, they've got to build somewhere.

AN Supposing they could acquire land. I don't think they could take a small portion and amortize it over 15 years, could they?

JY Oh no, what they could do, for example, is that the land developer can amortize the offsite over an extended period. He could hold still on it. And he can assign the value to a parcel and permit smaller builders to come in. But no one's doing that. Kaiser did that initially, because they had tremendous cash flow problems because of the finance.

AN Didn't Mililani do that too?



SM Have you had a chance to discuss this some of the political leaders who are currently espousing this policy in their scheme of things. There are several who have staked their reputation and their future on this approach to planning.

JY I know. We for example have discussed the idea of permitting large utility /developers to develop private / systems and the impact of that and the impact it has on the operating budget because they have to provide services. And I think the general policy is that if the developer wishes to take the risk, it's okay with the counties. And I think that's a dangerous policy because it catches up with you once the development starts. And on this island you have some of these things, like Makakilo.

SS Doesn't it stand to reason that, let's see, the front end. I believe in taxation directly to the person who directly benefited by it. In this case it's the guy who purchases the property would sort of pay for the improvements. You're saying that he is the guy whose paying. Then there's another guy in another subdivision. He's not paying for this guy. Now when the guy builds a building-- the Tax Office comes in assesses the property. In most cases, you're going to find that the assessment you pay and the service you get is way out of line. Like in my case, I build a building, I pay a \$100 a month in taxes. I'm not getting a \$100 a month services from the State or the county.

JY I understand that argument. It depends on when you start that

argument. If you start that argument from the year 1, then you've been receiving services that you didn't pay for at year 1.

SS But I never owned that property at that time.

JY I understand that. But you received the benefits of that in terms of capital gain in a sense. The assumption is that the other property owner paid sufficient taxes <sup>that</sup> ~~and~~ provided service to that property.

SS We're talking about vacant land now. Nothing over there and there's no services rendered to that property as long as it's not developed. As soon as we put up a building there, we have to have garbage collection service, you have to have road service. The road service within the subdivision is paid by the guy who buys the property. After that, the services that the county renders, the State renders, is going to be paid by the property taxes that are assessed to the property. And a lot of times you're going to find that you're paying more taxes than what you get. So I see no reason why. In your argument you said that the public is paying actually. But if you buy into a subdivision, you pay for the improvement when you buy into it, regardless of who puts it in. If the State puts it in you get it for nothing. Somebody else is paying for it. But in this case the developer puts it in which is a good thing. Then when you build on the property then you have to pay taxes on it. That would take care of whatever services the county gives.

JY           Let me illustrate it this way. Before the zoning or the land use district designation is made, the property may sell for 5¢ or 10¢ a square foot. At the time it's given urban designation, it may sell for \$1 a square foot. Now the difference between \$1 and 20¢ or 15¢ a square foot is a pure development windfall assigned simply by a designation by the LUC and designation by the counties with no added property tax, rezoning from that particular decision. Everytime somebody puts on the dotted line, the value changes maybe four or five-fold. Just by a stroke of a pen. No improvements made mind you.

SS           Are you saying that the State or the county or the people should have part of that money?

JY           Well, it seems to me that they're assigning value to it. With a stroke of the pen the State and county assign values to that particular property that will permit them to have the use of that property in a different manner than he had before.

SS           But then when you increase the price of the property, you know you're going to assess more money in taxation.

JY           Yeah, but when do they catch up? That's the problem.

AN           Isn't it a problem, where the Tax Office has assessed an adjoining agricultural piece to the highest and best use. So that before ~~they~~ even before the stroke of the pen the assessment has been doubled.

ET           Not so much since Act 185 or whatever covers that passed last

year. What you're saying is that okay, assuming that the developer will do--now the State is in many cases, where we are insisting that x-number of acres be dedicated for park, recreation and school sites and other things like that. So we are saying now that this guy is going to have a windfall. Because of that we're saying you're going to give to the people. Now you're saying that okay for all those developments, on and off, the consumer--whoever is going to purchase the residence--is going to pay for it. As I understand what you're saying, the problem comes--that the operation from then on at that point, when the city or county or State takes over the operation of the sewage treatment plant, the water system, the roads, schools that are required, that they have a problem there because of the operating budget. And Stanley is saying, well when you reach that point, because of the taxes that are assessed against that property, that those taxes should be able to cover these operational costs.

Now the problem of the law insisting, for example, that they dedicate certain acreage--do you come up with any--or are we still faced with the same problem. I don't think that's an answer to cut out windfalls because the developer can pass that off. If he had a thousand acres and he's got to give up a 100, he'll just raise the price 10% and he'll get it back. You have some kind of solution?

JY

We're working on that. We can discuss it later on. We have an idea by which you might overcome that in terms of assigning

value to land. I think this is essentially our findings--that government assigns value to land--whether government wants to admit it or not, through these land use districts.

SS I thought before that you told us that these guys are paying for conservation lands they're paying terrific prices, they're paying premium prices for agricultural lands, in spite of the fact that we zone it or not.

JY That's the risk that they're willing to take because of the tremendous.....

SS You know I tell you something. We've got to have this incentive to guide the investor to risk his money, to make this windfall profit so that we can get this private capital to come in and build this kind of things.

JY I don't deny the fact that there has to be economic incentive.

SS Otherwise, you won't have this kind of developments.

AN You take like, for instance, Bishop Estate. Goes in and they subdivide the place. In order for you to lease that place, you've got to pay for the improvements. Improvements at Waialae Iki run about \$30,000 to \$40,000 a lot. Now you pay that and the assessor set a valuation on that. It's already \$30,000 to \$40,000 just for the raw land. I don't think you should be penalized for that because you just paid for the improvements.

JY We're assuming that if you buy land up there, a sort of re-distribution comes in--that you earn more, therefore, you should pay a little more for the guy down the street who can't afford the \$60,000 lot. He can afford only a \$10,000 lot.

SM           The majority of the people are not involved in buying or selling residential properties. About 95% of the people are not involved in that at all. They just don't want to overpay.

JY           Another side effect is that over 75% of the households are out of the new sales market today. Just out of it.

SM           More than 75%.

SS           This is the thing. You know the thing I'm against is this. What the Legislature should do is to regulate the brokers, the brokerage firm. Because you know what they do. They take a piece of property, like Alex's house for instance. They say \$150,000. They'll never sell it for \$150,000. But you give it to a good broker. They'll take it up to New York and try and sell it. Somebody who has no intention of coming to live here. They're going to buy it. Then if they can't sell it in New York. They'll take it to Japan and sell it to somebody. Thereby creating an unrealistic real estate market, because to the guy in New York, a \$100,000 or \$150,000, he'll write you a check and give you the money. So you have to look at these things.

JY           That is no different than building a condominium along the shoreline. Now that condominium is not being sold to local folks. It's marketed on the mainland, its marketed in Canada and Australia, in Japan, Hong Kong.

SS           We shouldn't encourage that kind of stuff.

JY           The thing is that our findings also show 3 distinct kinds of market. The investor market and there are 2 segments to the

investor market. They allow small investors in the investor market-- they're buying one or two condominiums and renting them out. But there's also in the investor market the second home and transient market. They're building homes just like they used to, but they are devoted to the non-residents. And the third market is owner occupancy.

JC           Like Stanley says--that you've got to encourage them to come in, but if you're going to do that then you can't restrict them as to who is going to come.

SS           I'd like to make myself a little clearer on that. I'm not restricting people from coming to Hawaii. If a guy comes here and lives and finds employment here and becomes a part of us, he becomes a local. He's working here, he's productive. When you get a guy from the mainland who comes here only in the summertime, he's not productive, he's not producing anything for us, except to use our amenities. Those are the things that I don't like.

JY           Over on Maui. Over 50% of the home production today is for transients.

SS           Wait till Maui gets it. Maui is going to get it one of these days. The day of reckoning is going to come.

JY           Right now, Maui is the fastest growing island.

TY           The social impact. Because we're only talking about one side.

SS           One of these days you're going to find out especially in the United States that people are not productive. They don't want to do anything. If everybody did his share, this country can

produce things cheaper than any other country in the world because we've got the natural resources. But we're too lazy.

ET We can get back to the scope.

SM We get the point, the message of the scope.

TY It was just interesting Jimmy.

JY Our conversation with the developers and the industry also indicate that opportunities for speculation by withholding lands for easy conversion of lands are diminishing as offsite requirements and public policies intervene. Then because of the tremendous council requirements, because of contemporary land regulations, require heavy investments before they can start to market the land. I think the Land Use Law and the zoning regulations of the counties are dampening opportunities for speculation as a consequence.

ET You mean that speculations you can hold back.

JY No, there isn't as much speculating activities now than there were in the past.

SS No, but the other thing that is the reason. Because I tell you why. The more restrictions the county or the State puts in, the higher the cost the land is going to be. That's all it does. It's not going to restrict that speculation.

JY But it's also riskier.

SS I don't know. The guy still speculates with a \$100,000 house. What it does is, the more restrictions they put, it's going to cost more money to the buyer--the ultimate home buyer--the guy who is

going to live there. And that's what this is creating--all these restrictions, all these building codes and everything else they put on it. Some of them are really ridiculous. I know this is beyond our scope.

TY Jimmy, proceed. Let's see and listen to what he has to say.

JY This idea of speculation. For example, large developers are saying they are not speculating because they need a land bank for 7 years to keep in production, then also to spread their costs for offsite improvements. So they're saying that that is not speculation, that is an economic necessity to maintain a land inventory so that they can maintain production over a 7-year period. There are no developers operating right now on a wholesale basis.

JC What do you mean by wholesale basis?

JY They come in and they improve the land and they sell lots.

ET They're going house and lot more now Jim. The big guys are actually the homebuilders.

JY They can project out that way. In other words, they can stay in business. For example, one company says they have 250 employees and the only way to maintain that payroll is to have a 7-year lead time. We've also found that the public capacity to respond to private land/initiatives is rather limited. As a consequence, they react to these initiatives rather than guiding them. And it's very difficult, for example, for the Planning Department, say even the size of City and County of Honolulu--we have 4 or 5 major builders coming in, presenting their own economic development

plan for that particular land and maybe spending \$30,000 or \$40,000 for each development plan. They don't have the capacity to review those, because it all happens at once. They can do it individually but they can't really effectively/<sup>deal</sup>with the type of land development approach on this island. In fact, there is one major land developer on this island that had developed their own private master plan for the island of Oahu. They actually allocated, and they do this in the land development process because they have a marketing strategy. For them to develop a marketing strategy, they have to assign population in terms of sub-market, so that they can arrive at some reasonable estimate as to what their share of market is. So, in effect, they have a private planner for the development of the island. And each developer does this. He makes an assignment hoping that he is going to obtain maybe 20% of the market or 30% of the market. And that market, for underwriting purposes, is making an assignment. He's saying that there is a reasonable probability that this is the way the market will grow. And then when he goes in for a loan and the underwriter looks at that and the appraiser says .....particular loan request, they either accept it or they don't. So that's happening everyday. That's in absence of a public policy that, I use the word carefully, normatively assigns population within the area. They say that's what the public is going to support. The underwriters use that as a basis for making their judgment with respect to making loans.

In other words, there has to be some way of affecting private decision making. At the moment, public policy don't constitute one big block in private decision making.

SM           .....public policy, present the thought to the people who are analyzing this information, combination of the two. If we don't get the message over to them, they don't understand the message.

JY           As one legal scholar said, you know master plans are just hortatory (?) You can just stand and wave at it. If there's nobody that reads it and does anything about it, what good is it? What good are these policies if you don't use them in making decisions? I think that's what we're finding out.

SM           Some of these New York money people are limited in their vision anyway. You go back and talk to them about the State's plans and the State's policies and give specific examples, the only thing they're interested in is how you're handling the bussing of school children, how are you handling the parochial school problem. That's the extent of their questions. So it's a lack of a medium, perhaps.

JY           And that leads us to our next point on risk capital for large scale land developments. Our interviews suggest that risk capital is available. The interest rate in the foreseeable future will not fall below 8%. For example, savings and loan have to pay 6 and 6½% to the investors. As a consequence, they need about 1 or 2%

spread. So there is money available. The reason why there is a <sup>than</sup>  $\frac{1}{2}$  point or  $\frac{1}{4}$  point spread in interest rates in Hawaii ~~xx~~ on the mainland is that there is no incentive for mainland investors to pay them the same rate. In order to draw them you have to pay maybe a  $\frac{1}{4}\%$  more or even offer them a half-a-point or something like that on the transaction to at least draw them in. Our conversations with the financial institutions suggest that it is becoming a bit more competitive, that they don't have to pay a higher rate. They can pay only a point or even half a point just to attract them and they're satisfied with the same interest rate. And most of the money is done on a participation basis, where the loans are serviced by the local institution but 90% of the money comes from mainland sources.

We've also found out that--this is sort of an aside on housing--is that providing sales houses for modern income households is extremely risky in spite of the subsidies such as the 235. The foreclosure rate is increasing in these subsidy programs. Also there appears to be an increase in second mortgages on these particular homes and the second mortgage rate here is extremely high because they're really going consumer finance. Consumer finance rates here are anywhere from 15 to 25%, depending upon the risk. So if a guy in Ewa buys into 235 and wants to throw a luau for about \$2,500, he goes to consumer finance, and actually getting second mortgage and he's paying 20% on that \$2,500. So

people are now wondering why there is foreclosure in the 235 program. These guys are going out and picking up second loans and extremely risky.

SM           They can afford to pay 10 and 12% plus a color TV set?

JY           So I think somehow the land management process has to consider all of these factors if planning is to become successful in Hawaii. And our conversations with local governmental officials indicate that they view the LUC as a zoning body. They don't view the LUC as a planning body. And we also found that within local governmental jurisdiction, there is the similar problem in coordinating functional agencies. The functional agencies are in fact not being coordinated. And as I mentioned, this problem is especially acute between the Planning Departments and the Boards of Water Supply. And our studies indicate that the principal leverage, the best leverage available today for guiding land use development is land itself. And somehow the State has to obtain a partial interest or full interest in land in order to guide development. Without that leverage, it is going to be virtually impossible to guide land development because zoning and districting are so unpredictable.

TY           We're going to get a socialistic state.

ET           We were discussing that the other day. It's been so long since we've been called Commies and Socialists and everything, we were getting to be a little worried.

SM We must be doing something wrong.

JY In Hawaii you don't have socialism--you have State capitalism. Honest to God--it's a form of State capitalism. The large landholders, you know. You want to call an ace an ace.

TY You're kinda listing that under free enterprise.

JY Well, we have guided capitalism.

Our regional studies indicate that there are some problems in terms of policy documents, what they mean, what legal status is assigned to those documents, and some of the planning reports are published by various agencies for the State and the county. I think population is one of the key. The problem area is that I think the LUC will somehow have to rationalize. I think we have some State population projections that are out of whack right now. We have each county developing their own population projections. Some of them through demographic means, others through employment base means, and everybody has a very optimistic view of the future. And as such, I'd like to open it up to discussion, how you would like to handle that. I'd like to suggest that perhaps there ought to be a normative population projection. That is one that the State (everybody talking at once).

ET Now we're through with all the part dealing with the Land  
Board, we can go <sup>on</sup> to other things.

SM Let's take the population projection bit. Now you said they're all out of whack. Which ones did you see were out of whack. Some document a couple of months back or something more recent.

JY            Oh, these are more recent. We looked at the General Plans for each of the counties and they have their population.

SM            They are out of whack with the State's projections--is that what you're saying?

JY            That's right. We don't know which one they used because everybody has a different set based on different premises.

SM            You talked to Bob Schmitt, the State demographer who has the post to keep track.

JY            And we found that his projection is different from

SM            Yes, he's forever anguishing about people not conforming with him but maybe he should look at a                          too.

JY            Yes, these three projected for example--for 1980 is out of whack with his 1973 estimates of current population .

SM            Now how important is it if you get a single projection and agreement on a set of projections in terms of your                          in environmental.

JY            I don't think it's important to have any agreement on population but it's important that the Land Use Commission uses the single set of figures and

SM            Okay, you know.

JY            Somebody else wants another set that a....

SM            One of the problems really is not the projection as such, it's the estimates it's what is considered official by the Bureau of the Censuses and by the related State agencies. Now we understand

that the Bureau of Census has just issued their 1973 estimates statewide and County by County. And once you have that, then you are able to apply your usual projection techniques and than it's perhaps up to us or other (?) bureaus to decide what the underlying assumption should be, then it's mechanical thereafter. Now we have that statement in terms of your understanding the problem.

JY I think what we would like to do--I'll leave it up to your consideration. We would prefer to use an employment base projection as based on employment rather than on democracy.

SM The City and County has done that.

JY And that's not workable.  
there's

SM Even the lowest part of this/is above the highest

JY Yes, we see that.

SM That comes from using a method now-- you know it's nothing inherently wrong with the method.

JY No.

SM Just the fact that they decided to use it.

JY That's right. But then we're trying this projection is that the--we're suggesting that the policies that the Land Use Commission ought to use in order to deliberate would be that's does one/based on economic policies. That is which way/the State want to go economically?

SM I think even beyond that is a question as to the growth rate or the growth policy that the State may desire and aspire and I think we are coming close to issuing this statement and assume

that our boys have been keeping in touch with you as to the development of the State of Hawaii growth policies plan which ought to cover many of these broader concerns and which has really left most of the land use applications to your recourse. I think that's deliberate--they did not wish to re-do or do what you are doing and I hope that you will also be able to tie in or at least relate to them. Now once you determine or if somebody makes a statement that this is the proper rate of growth for the State, then that is generally where the general rate of growth is located. Then I think it's quite simple--but I think it's quite adequate in terms of the development land use guidance policies. Is that about where we are at now?

JY Yes, we're right there right now.

SM Anything you can come up with--or statement?

JY Yes, subject to the conditions...

SM In way of the administration, I think the Acting Governor is reviewing this right now and he may be willing to issue this--maybe send a message down to the Legislature.

ET I think that one of the things that we'll do that I guess we'll have to take into consideration and that is the--as far as population is concerned how much do we give to this person and employment projections of course will affect that pretty substantially so it really gives us some kind of a good base to come up with this kind of he is talking about.

SM I think the recommended approach here will be that we inspire for a certain rate of increase instead of to an absolute number. What we're talking about--maybe Oahu grow 1% a year for 10 years and outer islands maybe 2-1/2 or 3 in order to accomplish some of this diversity distribution that you're speaking of in employment opportunity on the other islands. This is a general approach--I think once we're able to come up with this, once we get some sort of general agreement or acceptance, maybe in the Legislative bodies, it will be very useful to what Jimmy is doing and what we will have to be doing.

SS Dr. Mark, in your report as far as to growth is concerned, is your department encouraging in any way growth? If it is, how much growth do you anticipate to encourage?

SM We're talking about encouraging certain population levels, certain rates of population increase. Like 1% Honolulu; 2-1/2 to 3% neighbor islands; and the types of growth that will be encouraged on these islands, the economic employment bases which will be affected and so forth. This will be covered. But I say we will not get into the details that we will have to work at here, or in other bodies throughout the state--I mean an overall policy state.

SS How did you arrive at 1% Oahu?

ET We've got enough already with the scope. A separate report will be coming out--we don't need to get into that today.

SK Let me ask you....

SM We can make that presentation to the Commission at an appropriate time.

SK Shelley, can you define what is quality growth in the study that you're making?

SM We are sort of letting the results speak to that question. In other words, we're saying that if certain measures are taken to safeguard environmental, recreational areas, if certain measures are taken to encourage the quality of education, health, social services that the output or the results of this can give us a definition of the quality of my quality growth. But we approach that question maybe not as directly as somebody wishes it. My point before I got diverted was--if we get to employment, if you base your projections on employment, it's going to be biased toward the higher rates.

JY Let me expand on this employment thing. We're suggesting that if this or growth policy is to become effective, it has to be tied to economic policies. And investments have to be tied to economic development because--we're simply saying that employment is an indicator of these employment economic policies. We tried to illustrate some of these discrepancies in population. In 1973 estimates of population and some of the projections they haven't made--for example the Oahu transportation study as estimated 1980 to be 735,000 to 735,000 in Oahu. The City and County back in 1971 had a low estimate for 1980 of 672,800. The current estimate is 678,000. So the low estimate for 1980 is out of whack.

ET We've already reached that?

JY           That's right, we reached it in 1973. Also regional studies have indicated that school enrollment figures appear to reflect the national trend. I don't know how many of you read this article last Saturday indicating that the national elementary school enrollment has declined and they expect it to keep declining until 1980. The fertility rate has dropped as a consequence and studies indicate that approximately 40% of the population increase during the 60's can be directly attributable to migration. And this scale of population increase has impact on ethnic composition, life style.

SK           Is there any reason for a decline in education when you have a situation where you have a population increase, how do you reconcile, or is there any factor that reconcile?

JY           With the fertility rate going down, the median age of the population is increasing. We're finding out that in the school districts in Honolulu districts, the elementary school population is going down. The school planners have found that in areas where they are not building 3 and 4-bedroom condominiums, there is a dramatic decline in school population--in Makiki, even in Ala Wai where there is an increase in condominium activity. And you can predict the impact on a 6-year basis, what the cycle will be. Right now, the schools are under-utilized in Honolulu and they're over-utilized in the Windward area.

SK           What I'm trying to get at is this. We're talking about population, both nationally as well as here, more particularly here which is on the incline. Right? We had an increase in

population. We project population very conservatively at roughly 687,000 for the year 1980. This is what the City and County show in their statistics.

JY Well, the City and County--they've estimated from a low on Oahu of 672,000 to a high of 809,000 and spread this over....

SK Whatever that might be, what I'm trying to say is that here you have all projections showing an increase in the population. At the same time, the national trend and the local trend where you have an increase in educational enrollment. You have one scale an increase in population, which normally gives a person the feeling that, because you have an increase in population, you're going to have an increase in educational enrollment, because you have more people. This is the reason I'm saying how do you reconcile this. You cannot talk about birth control, etc. That's immaterial because the fact of the matter is the population.

JY You have to look at the age of the population.

ET The age of the people. The in-migration of the people are not elementary school age.

SK Okay, so I get the feeling that the increase in population is not really one of---it's really in-migration.

JY It may be to the point of 50/50. But they have a sort of positive effect. In some cases, some people are saying that with people coming in who are older, that puts less of a <sup>service</sup> public/burden upon certain kinds of operation, like schools.

SM And more goes into medical and social services.

JY Medical, social welfare, social services. It's very deceiving to say that just because we have a tremendous school plan in Honolulu that's not being used, well maybe use it for a multi-purpose plan, use it for recreation, purposes, adult education and so on. It's not a lack of need for public services. It's just that you have to accommodate yourself to the changing population.

SM Jimmy, you're presenting this as a sort of problem that we ought to take some action on, this population projection bit?

JY Yes, I think we need something in order to make you know---

May I suggest, Mr. Chairman, that Jimmy can get together with Bob Schmitt at an earlier stage. Based on the '73 estimates that are now available, then consider the types of projections that can now be--and maybe let us look at them based on a number of assumptions--employment base, fertility rate, etc., national trends, in-migration policies. Maybe then let us know as to what the responsibilities are we can reconsider them at another time.

ET We take a 5-minute break .

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SM Will you get together with the State Statistician, demographer Bob Schmitt very soon. Based on the 1973 estimates that are now official, what types of projections that he and we or a group of people come up with and maybe involving the counties, so that the LUC will then have a more factual basis in terms of the policies and decisions that it has to make.

ET In this regard, I think what we have to keep in the back of our minds is that the projections which I find up until now have mostly been on past practice. And so because of what has been going on between 1970 and 1974 will go on between 1974 and 1978 and so on. I think by what we do that determines the population somewhat--we got to keep that in mind.

JY That's why we use the term normative, that it's one that we would like to see rather than you know some projection.

SM This is a point that you should make when you get into this discussion because he will not really fully understand what sorts of policies we may be thinking of here. He has to be impressed that there is this certain type of thinking that's going on.

JY We looked at some of the major developmental issues by islands and I think in general developmental issues facing the outer islands are principally tourism, that is location of major tourist destination areas, extension of existing tourist destination areas and so on. On Oahu, the major issue appears to be the expansion of urban communities at the expense of agriculture.

SK May I ask a question? You know you say that on the outer islands is principally tourism--the expansion of the destination areas, and on Oahu the expansion of the residential areas at the expense of agriculture. Now is this true also on the neighbor islands with respect to you know--

JY In some areas, yes, the effect of these against agriculture.

On Kauai, some portions of Maui. In some areas on Maui there are residential pressures on the highlands.

TY In the Kula area.

JY Kula especially.

SK In the Kula area, are we talking about major destination area?

JY No, it's not. What's happening is residential encroachment into truck farming areas. Then on the Kona and South Kohala Coast, it's a major free-standing destination area.

SK My concern was whether this was being done at the expense of agriculture .

JY In some areas it may. We don't have firm figures in terms of water requirements. I think in that respect, yes.

SK The reason I'm saying this is that, in many instances, it depends on how you define agriculture, but in any event, much of the lands, or at least those who have sent in letters of intent to develop--much of them are really marginal agricultural lands. So it hardly seems proper to say that it is at the expense of the agricultural community or agricultural pursuits. I realize that on Oahu, because we're talking about a big blurb in the Central Oahu area, it certainly may be considered to be at the expense of-- but on the neighbor island it appears to me anyway that on a broad brush basis.

JY This raises sort of two questions. First is whether the LUC wants to adopt a strategy of maintaining choice or options. That

is if you designate areas now, does it foreclose future opportunities for making designations? I think this is something that should be seriously considered. There are ways that you can still keep your -----, whether you want to make them now or whether you want to make them in the future.

The second is that there appears to be a reasonable settlement pattern that can be more efficiently served by public facilities and services. They both require about the same amount of land, depending on density. On Oahu, it's about 20,000 individuals and on the neighbor islands it's about 9,000 individuals.

Depending on the regional planning focus, whether in fact you want to consider these two options that you have. Maybe you ought to maintain the both of them--to establish new communities at such a scale and this is the way the LUC wishes to consider new petitions on a larger scale, on a regional scale. The other is that you can consider it on an incremental basis contiguous to an urban settlement. I think somebody has to establish some sort of a policy with respect to where you want development to occur spatially. On Kauai, for example, they're saying that since our communities are so scattered, you want to consolidate some of these communities, and their strategy is to use existing settlements and expand on them, rather than creating/<sup>new</sup>free-standing communities.

On Oahu, some people are saying that we don't want to extend the scattered developments--we want free-standing communities--we want to halt the existing spread. Whose policy should this be and

I think we're trying to iron this out, and whether it's the State's responsibility for designating these kinds of regional planning consideration, or is/a county policy. Our first whack at it suggests that because of the tremendous amount of expenditures that are required by the State, the State has a definite interest in making some regional planning designations.

ET I can give one example. Just take the area from Kawaihae to Kailua Village. The State's got a tremendous investment in that road and that investment shouldn't be just so that people can get to Kawaihae faster from Kailua than it used to be. That's a nicer road. But the State has an interest in spite of what the county might have. The State has an interest in seeing that that expenditure is wisely spent for what it was intended in the first place-- that was to service the Gold Coast and that sort of thing, and I think we would very likely have to take the position, if the county says no we want all the destination areas in the Hilo, Kona area; that in terms of land designation if you're gonna have X destination areas, we're certainly gonna give a lot of consideration to the Kona Coast.

SK I would agree since I think possibly the State should be the moving force in this, but I would suggest against the idea of determining a single policy. Because I think that the options which are open to us could be applied differently, depending upon the particular circumstance or situation. That is to say, I don't

think we should go to the extent of just saying that we're going to recommend only the establishment of new communities without the possible incremental developmental effect. I think it's going to depend. There's got to be some---

ET I certainly hate to take the responsibility of sitting down and saying this is what we're gonna have--free-standing communities from here on out.

JY I would agree with you, Jimmy, that the State, not only because of the public expenditure in this area, but for other reasons I would think that the State should exert itself.

SM There is also the basic planning decision involved there, that is whether you encourage a strip development or whether you want to keep it open.

ET By the way, I've made arrangements for January 1st next year for a sampan with a 60-day supply for 12 people, so the escape route has already been worked out. (much laughter)

TY You may be surprised. We may need that escape route long before January 1st.

JY This leads us to this idea of a 2-phase policy. The long-term strategy would be for major statutory changes. The short-term one would be to amend the existing rules and regulations and change some procedures. But if I hear correctly, what you're saying with respect to regional planning responsibility, the State's role in regional planning--I think we're asking for a major statutory change--we're designing a new planning structure for the State.

I think we identifying and specifying State responsibility in land use planning, and that State responsibility and land use planning have to be described within the State's planning concept, beyond simply land ~~ue~~ planning. It calls for the determination of responsibilities and roles of various kinds of planning.

Going back to this idea that land is the principal leverage for guiding growth, we're suggesting that you ought to seriously consider the establishment of a land trust. This land trust would join the county and the State's needs for sites for dedication, the sites available for housing and for public services. And it would call for the establishment of 2 principal land management districts--one managed by the State and one managed by the counties--and they would be different kinds of management responsibilities. Some of it would be overlapping and those overlapping jurisdictional issues could be resolved in the procedural process of Land Use Commission determinations. So when the staff is ~~xxxxxxxxxxxxxx~~ suggesting that the Land Use Commission become a management and a conflict-resolution body. That's in a nutshell. That's the longer term major overhauling of the Land Use structure, statutorilly and procedurally.

SM What does the Land Use Commission manage? How would they manage it? Relative to what State lands are being managed now, and how do you relate that to present procedures?

JY What we're trying to do is we're trying to differentiate management of land and zoning of land. The State's interest is in---

SM           But we do have a land management body now.

JY           Yes you do on State lands. You have a quasi managerial capacity now through your current system. What we want to do is clarify some of those responsibilities.

AN           This will be a separate department entirely.

JY           No it may not. We haven't threshed out the organizational details.

AN           In other words, rather than the Land Department controlling the State lands, it would be turned over to an organization like this----

JY           I think the initial thought is that the Conservation Districts would be assigned to the LUC, and that the Land Trust, this new land trust, will be assigned to the DLNR.

ET           Spend a little more time on the statement you made that actually there'll be 2 levels--management at the State level and zoning at the county level. In respect to what we now have, what are you---

JY           Right now, for example, the counties, they zone the Urban District, and they have two kinds of policies in zoning--one is the districting of lands within the Urban District by special use zone, and then they have specific regulations governing the use within each subzone. That is different than say the way, for example, DLNR administers or manages State lands. And what we're trying to do is try to separate out the difference between zoning of land, which is more a design kind of responsibility--that is the

spatial arrangement and specific regulations of uses within a geographic area--in contrast to the management of natural resource, land, that is how people use land, maintaining better practices in terms of agricultural activities, conservation practices of flood control and so on, through the use of land, through the management of land, rather than creating a series of subzones, specifying the uses that would be permitted within there, some of the conditions that would adhere to the uses through the conditional use process, etc. The strategy is that the land regulatory responsibilities have traditionally been assigned to the counties and they have built a capacity for that kind of activity. But they do not have the capacity for the managerial kinds of responsibility. And this will still maintain the State's interest in land and still maintain the counties' interest in land.

JC            Jimmy, could you give an example say take the Kona Coast--how this would work.

JY            The Kona Coast, for example, at the moment you have Urban Districts and possibly Agricultural Districts. A problem right now, one that could be illustrated is the establishment of destination areas by permit or by designating a district. And I think what we would like to suggest is a clarification of some of these ambiguities, like on the Kona Coast the areas that are going to be urbanized ought to be within a--it's a design problem. The State locates the area as an urban area and within that particular

district it's an urban design problem--where uses should be placed, what kind of regulations should be imposed on the uses, etc.

JC Where the service community would be--that type.

JY The counties would do that.

SM Isn't that the situation now, isn't this the legal situation maybe now, except/the counties aren't doing what you say they should be doing?

JY That's correct. It's not a dramatic change from what's been going on.

ET I don't see the difference really unless the State were to be able to say okay we will place this land in the Urban District for the following uses--resort destination, residential and let the county figure out some of the other things. I don't see any major difference there now. One of the problems is what happens to the counties if we urbanized some lands for residential purposes and the petitioner came and he's gonna have single-family, which means that we're gonna have 264 school children in there, and the county says you're not going to put single-family in there, you're going to put in multi-family. And we now find that we have 860 school children and the DOE is hooked.

JY Let me illustrate how this would work and I think it would require some statutory changes. This is illustrated with a new growth center. It might be for tourist development, it might be for a residential development. This whole area would be considered. And then the idea of incremental designation would occur, 1, 2, 3.

trust

The land/dedication ~~xxxxx~~ would take this area called 4. The scale really doesn't matter--just the idea. And then as the first increment No. 1 moves to the county and a specific site plan and zone plan developed for that area and then the developer and the land trust negotiate in shifting of lands from the land trust to specific sites within the first increment 1, so that park sites, school sites, moderate income sites would be designated within 1. And the leverage that the State has in management is that it would have on deposit, in a trust, land in fee (?), in which there would be a land exchange as the development process occurs.

SM Where does this come from, this land trust?

JY It comes from the dedication of land at the initial submission.

SM A commitment made between the 2 parties?

JY That's right.

SM That this whole area now be -----on condition that -----

Is that a specific area or is that a given number of acres?

JY That's right. In this specific area.

SM Or make some-----drawn up at the time of the application?

JY That's correct on all lands affected by this particular planning process.

AN You say area No. 4 is in the land trust. Let's say this total area is a 1,000 acres and area No. 4 could be a 100 acres. What you're saying is that from this 100 acres when you develop area No. 1, they may want 10 acres up in the corner of No. 1. You then take that 10 acres and put it up in No. 1?

JY Oh no, you take 1 acre maybe out of here and give 10 form over here, depending on the value assigned. What you're doing here then, No. 4 becomes land development rights. We're assuming that in the design process, initially a petition, that the plan shows that No. 4 is the highest valued site and this is the leverage you have. It's a strategic site that has the highest development rights and what you're doing is you're putting it in trust. You're gonna draw on it as you develop and perform in the process.

TY Then you're going to give them the right to--

JY Develop and decide, that's correct.

TY Looks like you're getting a sledge hammer.

SS You're gonna do this to all developers or on minimum acres?

JY That's the difference between zoning and management of land so that the State becomes involved in the managerial process. It becomes a partner in the development.

SS What I'm concerned about is, are you going to specify how many acres and then this process will apply?

JY That's correct.

SM And is it a specific acreage within boundaries or is it some designated percentage, designated number of acres that can be here, can be there, can be some place else, as the development proposals come forth. What is it that we are-----in the land trust? Is it a mountain up there in Kona or is it X acreage in the Kona area?

JY           No, because the element of the design has to be a requirement here, this has to be a thousand contiguous acres within a specific geographic area.

SM           So we know where it is at the point this comes forth?

JY           That's right.

SM           You think that's the best plan?

JC           After the zoning is done, the county planning supersedes the use.

JY           This is where the trading comes in that the counties want. This is why it requires a statutory change. All dedications will be to the land trust and they will draw from it, even county parks. So that the horse-trading of location of parks, school sites, moderate income housing will occur at that time. So there's a joint planning process of 3 parties. There'll be the State, the private developer and the county.

ET           Who manages the land trust?

JY           DLNR. But there will be conditions placed on this--performance conditions and so on.

SS           Why you guys want to put that on DLNR?

JY           Because they are the land managers right now.

SS           Yeah, but lot of the members are not cognizant of what the LUC is trying to do. The only guy in line to be able to decide these things would be Sunao because he sits in our meetings. The rest of the guys would be way out somewhere else.

JY We hope there will be some changes in the organizational arrangements and responsibilities.

SS I think you guys might be pulling something way off beat within the Land Department. I think it should be left up to us because originally when we gave the zoning, we had the conception as to what we're gonna do with it. If you give it to Land Board they might put it to something else.

TF I think his assumption is that the LUC decides as to the land trust area, and decides in terms of the direction as to where it would grow. But then the management of that particular land trust then will be to the DLNR which has, by statute, more or less the kind of responsibility we're talking about.

JY They can engage in land swapping, trading, etc.

SM The City and County, at least the City Council, is thinking along these lines. They're talking about-----other things that are traded here and there. Now how will those considerations be intermixed with the sort of tradeoffs that may be occurring through the operation of the State land trust?

JY In something like that designations of additional urban lands will be based on the county's policies with respect to densities and redevelopment of existing Urban Districts. So there'll be horse-trading. They can't have additional lands without building up the--

SM As I understand their scheme, there will not be any fixed policies or any fixed designations as to densities. This will be

flexible depending on the proposals that come before them.

JY           What they want to do is keep all the options open and it will be subject to negotiations. If there's going to be a joint partnership in planning between the State and the county, then there'll have to be some disclosures and what we're suggesting here is that there will be disclosures. We're requiring that the developer disclose fully what he intends to do with his entire acreage and then we hold him to that and there's one club you have because he has to dedicate land and to perform, and if he performs he is doled out the land that he can develop at the highest and most strategic parcels of land. In other words the State and the developer are in a sort of joint venture. And the leverage that the State has now is that it has lands. Our findings suggest that without land you can't guide growth.

AN           The State owns this square in the middle. What I want to know is that if the county wants it up here in the corner--

JY           Okay, then you start trading lands.

AN           What do you want to trade for? You have this so you want to take this land and put it up here. If you trade, you still have the same area down here.

JY           You're trading land values. Area No. 4 is supposed to be the strategic area which has the highest value, prime lands for this urban area. So as the developer incrementally improves area No. 1, then the county says we want the park site in this corner, and the school says we want the school site over here, and as the developer acknowledges and dedicates these sites, then they can

draw on this trust.

AN And then you eliminate this section No. 4?

JY That's right.

TY Whose going to establish that, like for instance in No. 1, whose going to establish that No. 4 area in there?

JY This is the negotiation that you go through. We're going to set up a process for negotiating.

SS In other words, it's a floating area.

SM I'm wondering whether this is a precise area or whether this is--

TY No, this area here, the amount of acreage is precise. Then as it develops, we start trading lands which you do now.

SM So this belongs to the State.

JY It belongs to the State, that's correct.

SM That's a question--how the State is going to acquire it to begin with?

JY Dedication--you're doing it now.

SM This portion. Without any obvious purpose except that there'll be a basis for future tradings.

JY No there will be purpose. This can only be used for acquiring rights for public facilities and for low and moderate income housing sites.

SM The slant may be a resort location. It may be a hotel location. It may be a shopping center or a medical location. John or a future aide, he's going to be able to properly go to the court and face the

challenge may be of the property owner, and say that the State does have a specific purpose. And that's why the land is being acquired. Is the successful challenge going to be maintained? The State did not specify its purpose.

JY           The idea here is that the cane development rights that are saleable or tradeable and that the proceeds from that trade or the sale would be used solely for public purposes. Namely low and moderate income housing and for the sites for schools, parks what have you. The proceeds of that can only be used for that public purposes. You can't competitively develop a hotel site and public facilities, develop low and moderate income housing and Area 1. Now that's not the purpose. To maintain the developer's incentive of this plan--that you get an equal contribution in this area called 1.

SS           Now let me get this straight, now. This is in case somebody comes in with a petition to urbanize a certain parcel. That is when we're going to apply this?

JY           That's right.

SS           This is when we're going to apply this--when they come in to rezone whether it is a boundary change or whatever it is. Then wouldn't it be possible to say that a certain percentage of that property is going to be dedicated to the State?

JY           That's correct.

SS           And let it float whereever it wants and whenever this guy says now we're going to develop area 1-if it's big enough for.....

JY Right, we've considered that option and we assumed that that particular option is not strong enough. The State might get cooperative--by this, this virtually assures that the highest development rights are assigned to that area 4. That gives tremendous leeway for performance.

SS Now, highest development rights--what do you mean by that one?

JY The higher value assigned to that particular.....

SS Ohh....

SM Ohh, whatever predicted by the State...

SS In other words what we're saying is this now--it boils down to what Dr. Mark is trying to say. We're saying that you guys have to give us the best portion of your land before we can give you zoning?

JY That's right.

SS Can we take that to court? If we take it to court, can we develop it?

SK I'm just wondering whether or not if this would be really confiscation of private property or just compensation?

JY We are giving up compensation to development rights by increasing the use.

SK That's the reason I'm saying without just compensation. You may have compensation....

ET Nobody's voluntarily wanting to give us 200 acres for.....

AN I think you ought to get something straight. Nobody gives you anything because the guy that buys the property after you is going to pay for that. The developer didn't give you a thing.

JY That's why you got to maintain that.

AN Because the people buying the property after that is paying for it.

JY By the same token the State is not giving any development rights until he performs. The State isn't giving anything so we're getting right in there and....

AN Is it fair for me to go into this, to buy into that place when I have to pay for all of the schools and I have to pay for all the fire department.

ET You're doing it anyway now.

AN I know, but its spread over a wider area. What I'm saying is that you people are going to say why do I have to pay for everything instead of the taxpayers paying for it?

JY Well, the consumer pays for it.

AN Yes, that's the consumer of that area.

JY That's right.

TY Jimmy, may I ask you a question? For instance, this block No. 4 in the center, maybe Shelley Mark owns a parcel where we say it's prime, so when he does anything he is expected to dedicate?

JY That's right.

TY Okay, then Sunao owns this portion here and I own here. So there are 3 persons involved. Suppose a guy owns land up here and this happens to fall in one of the school (area) or whatever it is, and he performs--are you going to give--?

JY In areas such as that where there are multiple ownership, you

can treat it in 2 ways. You can treat it in this fashion--you can design it so that there will be incremental clause so that it will be subject to the same kind of dedication.

TY            You mean you're going to put--although it's already there, enough has been dedicated.

JY            Yes.

SS            Wait now. Let me see. Are we saying we can have multiple ownership and collectively we can grab some parcel from each person? Is that what we're saying?

JY            No, the design would be different. This design here--the illustration--is for single ownership. We could show you others that show multiple ownership and it will still work out the same way. For example in the County of New Jersey, they have development rights. The area is zoned agriculture but you still retain value of it higher than agriculture. They can acquire developments rights but he can sell it to someone who owns lands that can be developed residentially or commercially but he doesn't have development rights. So the guy has to negotiate with the owner of agricultural lands to attain development rights. But we think that's pretty messy. And besides, I think this way would be much stronger in terms of development guidance than the            approach which is pretty complex because you have to assign value to those development rights so that everybody gets a fair shake. Even though the county wants to designate his land agriculture but he wants it urban, so the guy is saying that's not fair because you arbitrarily designate my land. They say that's not arbitrary--we're using these kinds of

standards. But he doesn't care what the standards are--it's still arbitrary as far as he is concerned. So in order to sort of--

SM Jimmy, we can get back to this problem. But is there more to your presentation this morning that you can cover before--some of us have afternoon meetings. We can come back to this.

JY I think essentially we've covered the longer term and this afternoon we'd like to concentrate on the immediate.

SM Like what?

JY More or less ideas about changing the rules and regs.

SM For example, what change? What type of change you're talking about?

JY We're defining some of the planning instruments more specifically like population--how we're going to use the State allocation model and then maybe population based on economic projection. The land use guide--there'll be specific regional settlement pattern, there'll be regional assessment criteria which will show physical standards, some of the open-space conservation kinds of standards, and the idea of incremental districting based on performance, the idea of publishing a statement of findings prior to public hearing.

SM Is it possible for you to take up some of these things now?

ET They're going to be ready to feed us in a few minutes.

Sm If I miss out on some of those, maybe I can talk to you privately about those.

JY No we can sit down now.

ET How long, Jim, do you think this will take this afternoon?

JY I could get through in about half an hour depending on your questions. They're just ideas right now

SM Depends on how hungry we are. The rest of you would prefer to eat.

ET I prefer we don't run under pressure. Take all the time so everybody can ask all the questions.

TF John has to go too because he has a court case.

SM I think the point we really need to come up with is what are the roles of the State versus the county, and what are the responsibilities of the State versus the county in all of these areas, because this is the prevailing problem. It's not so much a fumbling around of the State agencies--I'll admit there's a lot of that going on--but the issue is the State and the counties are not able to come together in terms of a common planning policy, and how do we propose to resolve some of these problems, that should be spelled out very clearly in your recommendations.

JY That would be part of the longer range recommendation in changing the basic statutes.

SM It's got to be very forceful there. The State agencies, somebody can straighten them out--it will never be completely solved but that's something that's manageable. And if you focus too much attention on that, we're gonna lose sight of what the issue really is, what the problem is--the State versus the counties.

JY I think what we're trying to adopt right now is that we pay

more attention to the longer term planning problems that can't be resolved without statutory change, or should we deal with the Rules and Regs--the very pragmatic requirements in meeting the review--  
with

SM You've got to deal/the counties, in either case, because fundamentally that is the problem.

JY But the problem here is that we can't deal with the counties without statutory change.

SM However you do it, that is the problem.

(Many voices all talking at once)

SS Dr. Mark, on Kauai we don't have to worry about that --we're going to abolish Kauai County government. Abolish all county governments, that's what they should do.

(Individual discussions between members)

\*\*\*\*\*

JY We'll go into the amendments to the rules and regulations. Our review identifies a number of areas that have to be clarified. In the State for example we're talking about growth policy--if the growth policies are/coming, we want to know the location, magnitude and timing, and I think there are a lot of functional developmental policies, that is from the operating agencies, and these primarily focus on 2 or 3 areas--education, tourism and agriculture. The CIP and operational policies are oriented toward these 3 major areas. I mean education--especially higher education that has been the explicit policy on the part of the State government.

SK I'm wondering whether or not we're going to define education

only  
to mean/higher education--whether or not we should talk in terms  
as  
of/one of the growth policy factors we should consider education in  
its broadest context. Otherwise, I think what we're talking about  
here is going to revolve around a particular site. Otherwise, we're  
going to be criticized.

ET: I think that if we throw that in as one of the three, then  
we'll have to spell out exactly what we're talking about. Why don't  
we throw in some of the other things? What about recreation?

JY I'm going to come to that. In economic development, those  
are the three major investment areas that the State has identified.

SM It's what you have decided is the on-going policy? What you're  
recommending is to be the policy?

JY No, this is what we have identified as the major economic  
investments that are--

SM That are being carried out.

JY That's right--that's being carried out today--tourism, agri-  
culture and higher education. Plunked a lot of money in graduate  
school, expansion of the college campuses and things like that.

SM You've got to add research, scientific development. There's  
a whole lot of CIP in that area. The whole Mauna Kea development  
involves a lot of CIP. The pier area, the ocean expeditionary  
center--you have the -----set aside. That's been recognized?

JY When we defined higher education we included those R&D projects.

SM Well, maybe you ought to separate it out as an alternative.  
You can identify those projects?

Jy Yes. Then then there's this second area--environmental

improvements of the State's land use, land management--those are 2 major components in the functional area--economic development and environmental improvement. And then there are a number of secondary investments--supportive services like social services and transportation, elementary/intermediate education, housing and those kinds of policies which are more supportive than primary in terms of economic development. I think what we tried to identify in some of the jargon of the economic development, primary investment and secondary investment. Another way of putting it is capital investment versus consumption, and what we're trying to do is we're trying to understand the basic policy that the State has engaged in during the past 10 years, and trying to understand this impact on land. So we're trying to differentiate different kinds of public investment--whether they aim at primary capital formation or whether they aim at consumption like social welfare, housing and health and some of the other areas.

ET How are you going about to--

JY Separate those out?

and

ET Yeah,/to get the information that you need.

JY We've been looking at the major functional program areas and looking at CIP, operating budget and policy. We've been interviewing people and you know--we've pulled out of the major line agencies--and classified the information to see how it works, the policies how they work. Tentatively, we've broken off these things into primary investment, secondary investment, or the common one is investment

versus consumption and that's where we're at right now.

ET Explain what you mean, Jimmy, investment versus consumption.

JY Investment suggests that you're gonna attract capital and somehow the State, by putting a dollar in, is going to attract more capital. So it's a concept of expecting some return on the capital investment. On the consumption side, it's just to maintain the existing level of well-being and some of the social welfare and housing areas might be split in two--some investment, some, but we haven't been able to find any hard data or even theory that supports some of the consumption investment on the part of the State that really attracts capital. Like some people have tried to justify housing as an investment, but we haven't to date anyway somebody trying to tell us that housing is in fact an investment but I'll leave that to the academes to figure that one out. So we classify housing as a consumption investment rather than--a consumption item rather than a capital investment, that is a necessary welfare measure on the part of the government.

ET You're saying that on one hand you have matters that the State is involved in economic development that will cost the State a certain amount to get those things accomplished but that the return to the State in terms of dollars doesn't equal that.

JY Yes, they're trying to attract dollars. On the other side is just to maintain the economic well-being so it's all consumed without any--

TY No returns.

JY           There may be some returns.

SM           Social well-being.

JY           Yeah, really social well-being, not economic. On the county side we've been able to identify urban general plans and their supportive services in traffic, transportation, water, sewage, drainage, parks and recreation--some of the counties are getting into community development and housing. Our problem right now is how do the county planning policies and the State planning policies mesh, and some of the problems we face in trying to mesh the two--like population estimation, desirable settlement patterns, tourism destination areas, the role of agriculture--those kinds of issues that both the county and the State are involved in.

We've been able to identify 15 kinds of mechanisms that are being used presently: Policy guides, some functional assessment criteria which they're using in terms of environmental impact, CIP, land dedications, the permit system, subdivision and zoning regulations, environmental health regulations, direct subsidies, taxation, provisional services, they have the A95 project notification process, the EIS referral system, condemnation and community renewal. There are about 15/kinds of leverages that people use for policy documents in trying to guide land developments. What we're faced with now is how do we take these basic instruments and allocate them, see that they don't work at cross ends. I think the basic finding that we have been able to come up with quite simplistically is that the way things operate now/can orchestrate public agencies and they do a damn good job. They do a damn good

job. They trade off one agency from another agency and they do it every single day. At the county level they trade off between the Public Works Department and the Planning Department, or the Planning Department and the Board of Water Supply.

ET: How do they trade off?

JY: They trade off in terms of zoning and subdivision applications, the PUD process. And they complain--in our interview process they say, chee nobody works with the same set of rules, that everybody has different rules, so that they go to each agency and they negotiate on an ad hoc basis. They go to public works and they negotiate drainage, streets; they go to Board of Water Supply and they negotiate water and so on.

SM: It's more an excuse than a justification for what they're doing.

JY: No they enjoy it.

SM: I know they enjoy it, but it's just to make them feel better that they're doing this.

JY: Yeah, they coapt. They coapt public agencies because they trade off the public works with the planning department, they trade planning department with the Board of Water Supply.

ET: Didn't you find some expression in there that some of the developers would really prefer to have a set of rules and know where they are from the day they start--the rules are laid out, that they do certain things.

JY           Yeah, we've heard that expression--we don't care, just tell us --just give us--- But we also hear that they enjoy the game because they want to develop. They don't want the rules changed because they know how they operate. So they say, chee it's really not the State's problem, it's the county's problem. Some of the private developers that work very well with the county say, it's really not the county, it's really the State. So it's really both sides. It depends on how they have been effective in operating in the field.

SS           So the developers are enjoying this? In what way are they enjoying it?

ET           They got the ends, they got the guys. They're not bound by a whole bunch of rules. They go to the Public Works and they know somebody, get this thing done, so they go over to planning and say "we're all set over there, you don't need to worry about Public Works"; then they go to Water, they know the guy and you take care of it--you throw a tea house party.

JY           This is our impression now. We can't say it's document, otherwise we'll have to reveal names.

SM           How do you propose to counteract this problem?

JY           The idea is that you've got to set a set of rules, conditions that this is the name of the game. For example, what the City and County--I don't know if any of you have heard the comments that are coming out of the City and County--but they are now recognizing that the PUD is essentially an important policy that permits basic

General Plan changes administratively. Because it permits such a large range of densities--now they're recognizing this for the first time and now they say this process ought to be a legislative process--not an executive function. So there is this awareness that a lot of planning procedures are discretionary. And they're making policies on an ad hoc basis. So they're suggesting that perhaps these things should not be handled administratively, but be handled legislatively. They should be referred to the Council.

SM Then you have 9 guys telling them what to do in orchestrating instead of 1 or 2. You haven't solved it, you've just shifted it to another arena.

JY No, what I'm saying is that this is what the Council is thinking about now.

SS We're not trying to solve the County's problems, are we?

JY No I'm not. I'm just saying what the trend is here. The County Council wants to place conditions on zoning.

SS At the State level, we don't have such problems, do we? We have set rules.

JY No you don't. You treat it on its merits, by petitions.

ET<sup>1</sup> The petitioner can go to the Dept. of Transportation and say there's no problem, go to DOE, go here and there. Shelley asked a question that I'm not sure there's an answer for it, at least at this stage of the game. So what can we do in our findings and recommendations, what can we do as far as this particular County aspect is concerned?

JY           The immediate problem right now is that you cannot--there's no way that you can make the condition based on a petitioner, unless you file that it goes with the land. But even if you do that, it's pretty hard to place a condition on a petitioner and he goes to the County and the County places additional conditions--conditions that counteract the State LUC's conditions--there's no way of enforcing that.

ET           So how do we approach this?

JY           I think you have to change it statutorilly. You couldn't do it by rules and regulations.

SM           What sort of change? Do you have anything in mind or do we just say that there is a necessity for change?

JY           No, we suggested a major change. We said that before lunch--that you have to have a major statutory change.

SM           What change? What statutory change?

JY           We're suggesting that you develop a land trust. That's the way that you place conditions on land, and the only way that you can have ah--

SM           How does that affect this orchestrating between agencies?

JY           If he wants to develop this area, then he'll have to play the game. Because he won't be able to develop this prime site without providing the site in this area and improving the site.

SM           Then somebody has to have a hand over DOT, DOE and the Health Department.

JY           That's right, in terms of improvements.

SS           What do you think of this idea? Well this will kind of boil Eddie over because he's been trying to keep the Commission in tact, but supposing we get the Director of Taxation on this Commission as an ex-officio member; suppose we got the Ag Dept. in here, the Transportation Dept.; so that all the government agencies, at least at the State level, will know what we're trying to do, instead of having the Health Dept. and everybody working in their own way. We don't know what to expect.

JY           The approach that we suggest is not membership but mandatory referral and the filing of findings based on those referrals. That is upon petition, that each petition is referred to those major line agencies that you've identified, and that they would have to within X days file the statement of findings with the LUC.

SS           That would only solve the problem for that particular zoning. What I'm trying to get is to encompass the whole land use policy so that all the State agencies will understand the policy.

JY           Yeah, I understand that. The idea of having ex-officio members on a major management mission, that's something that is you know----

ET           Unwieldly.

JY           Well, you know, he wears 2-3 hats. We don't know what hat he's wearing when he makes a decision. So the general rule, the public administration rule, is that an ex-officio member will participate but won't have any vote because you don't know what he's voting on, what hat he's wearing when he votes. In order to avoid that

conflict, he simply sits as an advisory member.

JC           Hopefully he sits.

ET           I've got to touch on that for a second. One of the things this is--it begins to turn the LUC into a government agency rather than a public agency, and there is some resistance from the private sector that now the influence is going to be made by the Governor or by whoever else, because it's now loaded--the decision-making of their full members. Now if they were all to sit as ex-officio and without vote, then what's the difference in that really then their giving us comments. Actually this whole procedure we've been carrying out, as I understand what Jimmy's talking about, they're going to be required--each of these agencies--because I don't think there's any question we don't get full treatment from the Dept. of Transportation, the Health sometimes, on some of these things. They don't either have any comments or at this moment they don't see anything wrong with it. I would privately concede that they didn't really take that petition and put it through the mill. So then you run into all kinds of problems. If they're supposed to sit in the meetings when they're available, and if they don't show up then there's more criticism and what have they done. So I think that's worthwhile kicking around, whether by statute you can say you have 21 days in which to file with the LUC your findings as to the impact of this particular petition. We're using this same argument with the Legislature in terms of environmental impact statements because we've been unable to find anybody who can

come up with any environmental legislation as far as EIS is concerned that wasn't going to make some kind of czar around here or just get the thing so screwed up, particularly this Commission, and it will just be impossible for it to operate in a sensible kind of manner. So we're saying the same thing. We say, look, we're doing this now. We're referring every petition to every agency that is involved-- County and State--to tell us what this impact is. The only thing is there hasn't been enough of that and if the climate changes around here, I think there'll be a little bit more to come through so we'll have a little more information as far as they're concerned. That's some of the basic reasons. Maybe we ought to have a statutory change that says you've got to. Not only do we send something in and expect, but that you've got to put something in.

SS Well, another way I was thinking of doing this. Let's take each department specifically. For instance, we deal with the Tax Dept. Now how are they going to appraise properties--on the boundaries or are they going to take the potential highest or potential use? What are they required to do? According to the law, the way I read it, is that they're supposed to go according to district boundaries. The district boundary determines the highest and potential use.

ET Stan wait now. It's been your position for some time--what happened in the last session--to change some of these practices. Now maybe they need to be changed more, but getting the Dept. of

Taxation on this Commission is really not going to change that thing. If we run into a legal kind of problem--let's say if we're going to have these other agencies, then certainly where housing is such an important issue, then certainly we ought to have HHA on this Commission. Now what happens here if the representative from the HHA and the Chairman of the Board of Agriculture--when his kuleana is to fight for the farmers that under no circumstances can this go and the HHA guy says "wait a minute, we need some housing down here". This Commission ought to be a position to take all of these positions of all the agencies and sit down and weigh them and we decide because there are going to be these kinds of conflicts. We say look in this case housing is going to take a back-seat--ag is more important. The next time around it may be that the weight of it is for housing and ag will have to take a back-seat. We're going to do that. So you got this Commission that's going to--weigh everything that's put in there. So if you start getting guys who have to vote for one reason or another or to be up there and making big public hoop-te-do, we could be headed into what I think could be a lot of trouble.

SS           Well I guess -----the second proposal that I'm making is that, for instance in areas like taxation, maybe we could have the Legislature make a proposal that okay let's have the Tax Dept. define as to how they're going to determine what's the highest and best use. If a property is zoned.

TF           Those things I don't think need legislation.

SS I thought you guys were saying you're going to make legislative recommendations.

TF No, in terms of taxation and in terms of how they go about to make the highest and best use determination for property assessment. You know yourself because you've been on the Tax Review Board. You know the manual they have that guides the Tax Office.

SS You know but it doesn't actually guide you. They only tell you that the State is correct.

TF On the other hand, you're telling us that they ought to pass legislation to tell us ---, to tell us to put a moratorium on a particular area.

SS No, we're not asking how. ~~They operate~~ ~~They~~ You know the Tax Office--how they operate. They strip lands, agricultural lands.

Act 175

TF But now with -----those things are not going to happen.

ET There's been a big change, Stan. You haven't changed your position since 175. Lot of things you've been talking about have happened. Lot of things were done. The only problem I see here is what recommendations can we make in terms of this whole scope and the whole policy of land uses and guidance policies. What you should we do? Now if/really got some specific ideas, I think you ought to take a look at 175 and see what's happened, and some specific recommendations. Then I think we can throw that in as

a recommendation too. But it's not enough just to say that something ought to be done and we ought to do something. Come up with some kind of specific recommendation. Take a look at 175 and see what's happening now and maybe it's our kuleana--maybe it's not ours--maybe it should be somebody else's. Let's do it that way.

JY Stan you have one point in terms of taxation, that zoning and land use districts are very impermanent, they can change. The guy takes a risk/whether it's going to be changed or not. The guy at the tax assessor's office can't take that risk so he tries to assign a value that's the highest and best use regardless of the district, anticipating what would happen to the land market in the future. So he makes a judgment and Act 175 says that if you really want to make assessment by use, if you'd accompany it with a dedication that we can predict in the future what your land use potential will be--under those conditions then the State is saying we're willing to take the risk of assigning value by use.

SS Well, I'll tell you what actually happens is this. I've told the Commissioners many times before. If agricultural land abuts an urban area they'll strip the thing and they say this ~~is~~ 200 feet over here is going to be assessed as urban. Now the guy who owns the property may be raising cows on that property.

ET He can dedicate.

SS I know but dedication doesn't solve the problem because that guy is going to come in and say look I paid urban taxes, I might

as well get it urbanized. We have this pressure on us all the time, constantly.

JY           The reverse doesn't generally follow.

SS           The thing about it is this. If the Tax Office will follow district boundaries, they know for a fact that they have appraise the property, by law they have to appraise the property every year. Every year they're supposed to come up and reassess the property. Then it takes over one year to get that thing reclassified to another district. So if it's classified as agriculture, why don't they stick to agricultural assessment. That's what I can't understand.

ET           You're talking about tax legislation of some kind, what the procedures are at the Dept. of Taxation. I'm only raising the questions, Stanley. Is that a thing that is important and fits in in terms of this Commission coming up with a program for land use guidance policies?

SM           I think we ought to consider it and come up with recommendations. Short-range, long range--

SS           I think they should be made to understand that this is the  
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ET           Okay, then put them down.

SM           Holding down the Commission with additional matters is not the way to go. Mandatory or systematic things that we are already doing or have every intent of looking in.

ET           Jimmy, take whatever you feel that particularly Shelley is interested in.

JY           There's one other. We're suggesting that certain petitions, say under 5 acres, ought to be reviewed by the counties first if they're contiguous to an existing district that they would like the designation. For example, if the petition adjoins an agricultural district, rural district, urban district, conservation district, and the petitioner would like to have his land designated in that district, and if it's less than 5 acres, the only person who can petition the Land Use Commission would be the county, if the county concurrently amends the General Plan, if necessary, or institutes zone change if it is necessary. So it would have to be concurrently reviewed.

ET           What is the reason for having the counties act on the petition before the LUC?

JY           The reason is that--then the LUC will be relieved of some of these manini petitions.

SM           There's one other point Jimmy. Areas of critical concern. It may or may not be a live issue today, but for the long-range. In looking at the list, different approaches in handling the problem, not the areas, but how to handle the problem.

JY           We sort of avoid the areas of critical concern since it's been given a wide circulation and it might pose some problems. We're using the term regional assessment criteria and we will have a series of policy screens that would identify where these particular important locations are.

SM           The real issue is where does the State jump into the picture? You got some approaches, some alternatives of how we're going to do this? Are you going to look into that?

JY           Yes.

AN           Couldn't the developer then come in with 5-acre increments all the time?

JY           We would say that if he has lands in excess of 5 acres, he would automatically petition the LUC. He would have to submit a development plan for all of his lands contiguous to the existing--

SK           I think though that you should have a loophole. The reason I say this is that there's no magic in 1, 2, 3, 5 acres. There may be instances where a parcel of land which is less than 5-acres may have an impact from a planning point of view .

JY           That's where screening will come into play.

SK           I think we should be more specific, because I am really concerned that the question of acreage is not germane. I would like to see that if we put in something like that perhaps we have some kind of-----

ET           It can be 5 acres at Salt Lake.

ASL          Jimmy, are going to give us the procedural guidelines to implement the review?

JY           Yeah.

ET           I think on this subject, aside from procedure and amount of acres, that is to consider whether or not we want to at this state

of the game subscribe to the C&C of Honolulu theory of what should happen as far as petitions for land uses are concerned. Their position is very clear on the record, that all petitions should come to the City and County first and then should go to the LUC. Now we've resisted that in the past and I think we ought to be giving some thought until the next time around, whether or not we want to open that door. Because if the main reason is that it eliminates the LUC having to fool with manini petitions, I don't get too impressed with that. And I agree with Sunao that the amount of acreage--1 acre at Salt Lake can really take care of it real good--we've had a little experience with City and County on that one. Hawaii Kai, Waimanalo, all kinds of places I can think of, so what the h--- would that do. How many petitions would that save us from having to exhaust ourselves. I think the Commissioners ought to be giving some consideration whether that's all worth or not.

SM           Also the related point of conformity with the County General Plan. The General Plan either doesn't exist or it's already 12 years out of date.

SK           I think what it really boils down to is the requirement or at least a proposed requirement that the Land Use Commission consideration be in accord with the County General Plans. I think this is really the nut of the situation. And I don't know whether you want to address yourself in this policy guideline to that particular question but ; I think it's something that has to be---

JY           We address ourselves to that I think when we talk about it

in terms of the findings that we discussed this morning--is that the General Plan and the policy increment of the county is virtually unimplementable because they can't implement. They're just hortatory. They just wait because they can't implement. The people who are implementing the General Plan are by and large the State. The State simply by choice assisted in implementing local General Plans. DOWALD, Dept. of Transportation, Dept. of Education, Dept. of Health--all the functional agencies right now are in fact being coordinated by local government, not by the State.

SM     o     Yet, it doesn't work the other way. They can hold up State projects.

JY            Yeah. You'd be amazed at the amount of coordination of capital improvements being coordinated by local government through the CIP process and through--

SM            I think coordination is too good a word.

JY            They're orchestrating.

TF            I think this is the point that they're making all the time, that they're the best agency to coordinate. Because they're saying that all the agencies, whether it's State, county or federal come to them and many times,-----same level don't know what's going on but they do because it comes to them.

SM                            for the tape,  
That may be possible but/that is wrong.

JY            Right now, it's by default. It's one of our major findings.

TF            One of the proposals that Jimmy was thinking about and I don't know how you Commissioners feel about this, and I thought the

timing was not the right time. He's talking about the State interest and the county interest--very simplistically he's saying that we should wipe out the General Plans of the counties and the State should do the General Plan and they do the local planning the specific area of the urban area and they can make a urban design plan within that system. Therefore, if the Commission goes along with a proposal like this, in the long range this is what will happen, that we wipe out the General Plans of the counties.

.SS           Tats, rather than wipe out the General Plan, I would say this. I think we should try to put it so that the State districting-- that these counties--for instance, if we district an area to urban, the counties will conform to it. They will not put an area there as open space, and they will not put an agricultural area as an urban district. They will stick to the districting that we will make. If we felt that that area in our agricultural district is better off as urban, we would have changed it. But as it is now, the County's General Plan and our districting conflict because they have the right to go ahead and plan as they want to. If we can somehow get these guys to say you guys got to stick to this way because this is the only place you can go, you can't go any other place because it's not zoned for that purpose.

SS           We might have that as your recommendation, but at this stage of the game we ought to all of us understand that that's a loong way off. We had maximum difficulty with much more minor intrusions

on the county's homerule and that sort of thing. It's part of an overall thing but I wouldn't want a lot of other pieces of a plan for the Commission to be built around that kind of thing happening. And the whole thing in General Plans and I guess we understand, there isn't one in the State that is worth a ????? If for no other reason, it can be changed next month. For us to talk about having long-range State planning programs and goals, and these guys keep running around as though they got a really great document. And even if it were great right today, it can be changed next month. We're making a program for 10 years from now, subject to the county changing the whole thing around next month.

JY           That's exactly why we say you have to have land, because land is the only way you can control. Another suggestion on this is that the--

SM           Well, we got money too.

JY           Not nearly enough.

SM           They have to come to us for one thing. That may be utilized.

JY           That's what they're doing. They wait till you invest money if the State is simply willing to underwrite it and put their whole faith in credit. It's wild how these guys can come in and really coapt the public investment.

          The second area is petition and who's eligible to petition. In some instances, it may not be in the State interest to have

one petitioner come in, a single landowner. It may be better if 2 or 3 landowners come in. And in those areas, it might be designated through State policy that only multiple ownership petitions will be accepted. But you can't deny a property owner submitting a petition, but you can refuse the petition. So you can do it through procedural regulations.

ET Wait Jimmy, you can disapprove.

JY Yeah, disapprove. You can't deny him the right to petition but you can deny the petition itself.

SS You want this to be in the statutes?

ASL No these are regulation changes. These are immediate. It's not a long-range thing.

JY In certain areas that you have a policy, that the Land Use policy will be that here you are only considering petitions of 30 or 40 acres in size and it would require multiple ownership petitions.

SS And your firm is going to present us with what areas this will be in effect.

ET It's going to be all over. What would be the advantage of that?

JY So that you could reasonably guide development.

ET One of the things we ought to keep in the back of our heads is what I read was the intent of this law was originally that every 5 years this Commission would sit down and review the

boundaries of every square foot of land in the State with far-reaching decisions. And that in the interim we'd be taking up emergency, unforeseen and small little things that wouldn't be making this kind of ad hoc major decisions that we've been making. So we might be foreclosing on something that might be very good.

JY           You're not foreclosing on that because you're simply saying that within these areas you're going in that fashion.

ET           We'd like to go. It's not a matter of like if we adopt the rules and regs and say that's it.

JY           No you still have the option. I think we're also suggesting in terms of districting that you don't actually delineate areas. You have two kinds of policies--that you will delineate areas that you will accept petitions during the interim. So you don't automatically designate the area because there are certain conditions that you would like those property owners to adhere to. So in order to make that conditional requirement viable, you don't allow that district to come in without an active petition on the part of the landowner. Otherwise, you lose that leverage. If you automatically say that for the next 5 years or 10 years you're going to designate a thousand acres here, if they did not file a petition, how would you place the conditions on that land because the petition would be filed by the LUC and not by the owner.

SK           What you're saying is this--that the purpose of this particular 5-year review--you're saying then that for all of those who have

sent in only an intention to develop would not qualify for consideration unless they petition.

JY            Because we can't place any condition on those particular lands.

ET            That makes a little sense. As I understand what we're talking about--we as a result of our policies, we decide that this whole region down in here would be for urban development but only half in here have given letter of intent or petition that they want that. So as I understand what you're saying, Jimmy, okay you don't make this whole thing urban in this boundary review--only the half that somebody said we intend to develop this and things we'll do if you will make this urban. And the other half has to come in with a petition before he gets it.

SK            That's not what he said. What he said in reference to my question--whether or not we can even entertain--question of whether or not even going to give half or 25%. Jimmy just told me--if I heard you correctly was that in order for the LUC within this 5-year boundary review to consider any boundary change, that person must have put in a petition. And I asked you whether or not for those who have sent us a letter of intention to develop, whether or not this would be a mechanism by which the LUC can entertain even half. According to Jimmy, he says no, it has to be done by petition. This is what I want to know.

JY            If the LUC wants to place conditions on that landowner, the only mechanism is for that person to file a petition, because there's

no other way you're going to place conditions on that land. Because the LUC is the petitioner for that particular land, not the landowner, so he's not obligated in any way. Because the LUC is acting on the behalf of the State by enlarging that particular district or delineating the land by district.

AN           What you're saying is that if we want to place conditions, we shouldn't accept any petition right now.

SK           No, he's saying that if we want to place conditions, we cannot consider any one of those, but those that have sent us notice of intention, you know the list.

AN           But even the guy that has a petition, if we haven't got the conditions set yet, why consider it?

SM           We don't know which area we even intend to place conditions.

ET           Suppose that we were all in agreement that this regional area ought to be urban development. The property owner in this half give us a letter of intent and say they go along with certain conditions that you want to put on there. Whether they say the go along or not is not important now. They got to go along or nothing happens. Now this next guy, the owners in the other half--what you're saying is they would have to petition in order for us to put conditions. Now I question that too. I don't know why this Commission couldn't--we used to negotiate with them and say, look we'll disapprove if you don't volunteer to give this for a school and do this. But under new amendment, I don't know why we can't

take this other half too and say this will be in urban, certain things will happen in this part, this guy's already agreed to it, and also certain things are going to happen in this part.

JY           How are you going to enforce that?

ET           Because he's not going to be able to develop--the conditions will run with the land.

JY           Yeah, but he can go to the county and get a zone change, and you have no control over them because it's in the Urban District now.

SK           Oh, no no no no.

ET           If we said you're going to put over here, provided that you are going to put in the on-site development and the roads, you're going to put in the sewage plant, you're going to give 12 acres for an elementary school, you're going to give 42 acres over here for a park--we would say that is urbanized subject to those conditions, and you may develop it subject to those conditions. Now he can do the same thing he can do now, go to the City and County and say single family or multi-family--but he still got to obey the conditions of the Commission put on that land. He doesn't have urbanization if he doesn't. We're saying this is in the Urban District provided you do this, that and the other.

SM           Legal document. What's wrong with, you know, after all this agreement is reached, that there is---

SK           No wait, Shelley, What legal document are you talking about?

SM           Whatever conditions run with--

SK The conditions as I understand it--isn't there a rule and regulation that the LUC adopted recently--that the conditions will be recorded in the Bureau of Conveyances? This is a notice to the world.

SS What Jimmy is saying is that this is a boundary change initiated by the LUC. So we're going to impose conditions on it?

SK Sure.

JY Without the landowners knowledge?

SK Sure. Wait a minute. When the Commission adopts the boundary, it's subject to a public hearing.

AN Sunao, what I'm saying is supposing I have this area and the Land Use says this is going to be a park and that's going to be-- and just turn it loose like that?

SK No, it's subject to a public hearing before you can adopt a boundary.

TF The only way that can happen is that during the public hearing the landowners make representation that--

JY There has to be some agreement by the landowner.

ET No, no--wait now. That's why we got this amendment to get just away from contract zoning. That's the reason we/amended the Rules and Regs for the very same reasons. That you run into trouble if you start negotiating with these guys--if you say we give you this if you give that. But for the Commission, by statutes and rules and regulations, has a right now to impose conditions ~~wikkuu~~ which follow the land.

JY Without the landowner's consent?

ET Of course, without his consent.

SM I'm just thinking of the next step. To get a consent, with a gun to his head you tell him to sign on the bottom line-----  
-----contract zoning.

ET Administratively, we can do that.

SM We come to the point, all right, you sign or else you don't get it.

SS Let's take a hypothetical case. Look I own a big piece of parcel over here.

ET I knew as soon as the lawyer wasn't here we're going to get into this----

AN No, wait Eddie. Let me try and explain. Supposing I had this piece of land over there and you folks initiated a petition without my knowledge and it came to a public hearing, and you said there's going to be a park in this corner and a fire department in this corner, union hall down here. Now I had something other in mind and you already initiated and told me this is going this way and that. I don't see how you can do that.

ET I tell you what. Let's solve this and we'll leave this until we get the attorney general with us again. You guys say you can't do that and I think. That was the whole purpose of having the law changed, the whole purpose of adopting the new rules and regs, and I say we can do it.

AN But how do we know how this thing is going to be--subdivide as where the roads are going, and where the school should be. Maybe they had no intentions. Are we going to draw the streets and everything and say--

ET That's the subject for us to discuss. The question now comes up--can we even if we want to? So let's wait until we get the attorney general again and find out can we? If we can't, then we don't have to discuss whether we want to or not. If we can, then let's discuss whether we want to or not--we want to change the rules and regs.

AN We haven't called you a dictator for a long time. They must have missed the boat some place. You just made the statement this morning--you want to call Communist. That's worse than communism. What you're proposing.

ET Wait a minute. I'm just talking about what we can do, what I think we can do under the present law and the rules and regs. I'm suggesting so that we don't go through another hour and half of playing lawyer around here. Can't we just wait? If we cannot do it, we don't have anything to -----on it. If we can, then we decide what we want to. (all talking at once)

SS Jimmy, what I had in mind about the policy and guidelines-- I didn't think it was just for this 5-year boundary review. I thought it was for boundary changes as the LUC goes along for the next 5 years. Is that what we're trying to---

JY Sure enough. Right now we're discussing it.

SS This is what it is? So we won't have this ad hoc thing?

MO So the next 5 years we won't have to worry about the Rules and Regs against the guidelines. That's what we're discussing right now.

ET We can take in petitions, instead of what we're doing right now. We can take petitions and see how they fit our policies. If we find that the policies need change, then we'll have to change.

TY I think what's confusing right now. If this was through the regular petition channel, there's no question. But when we ourselves go through this 5-year boundary review, then whether the Rules and Regs we just passed applies or not.

AN Let's take for instance Waiawa. Let's assume--

ET I thought everybody agreed to wait for the attorney general instead of us spending a lot of time arguing about what the law is.

AN No, just to see if maybe I misunderstood you. Supposing let's say we took Waiawa and we say we initiate. Do we have to show drawings of what we propose? It's nobody else Jimmy, it's ourselves here, as far as the subdivision goes and all that.

ET Not when we get into county zoning. But we certainly would have to show on the maps what property we're talking about and we say that there should be in this property 12 acres for school, 200 acres for park, this, that and other thing, and on-site developments must be paid by the developers, streets have to be put in--we have

to have all that out at the public hearing.

SK I don't want to muddy up the situation any more than is necessary but you know, Alex, I'm more concerned about those who have a letter of intent in right now. If you're going to take an isolated case, what's going to happen to John Doe who has a piece of property in the forest reserve. If the Commission, on its own, went ahead and said we can put that in the urban area, it's a little different. I'm concerned about those that have submitted a letter of intent. I feel that this--okay, okay, you've made your point already Eddie--you said let's get the attorney general rule--but I feel at the sake of being repetitive, I feel personally that the Commission can institute these conditions. I feel very strongly about this, and if those who have sent in a letter of intent don't like it they can lump it--we don't have to ah-----

SS The letter of intent was that we wanted to know what these landowners were going to do and by having these ideas, if we could guide ourselves as to where to go. That's all it amounts to. We've never denied them the privilege to--

SK Wait a minute, Stan. You go back and you tell me out of all those guys that sent their letter of intention, if they had their druthers, it's because the LUC told those guys you guys come in with a notice of intent. If they had their druthers, they'd come in with a regular petition and we'll be flooded at that time because they all knew about this 5-year boundary review. And this is the reason why we went to the major landowners and asked them

to submit to us ah--

ET Let me clear something. Are you suggesting that these letters of intent are only to give us some information we wouldn't have in changing the boundaries?

SS We're going to act on all the properties, regardless of whether we have a letter of intent. But the letter of intent is so that we get the owner's feeling as to what he intends to do with it. It might coincide with what we have in mind.

ET Sunao is separating the itty John Doe kind of thing. We just pick up a piece of property that nobody said he wanted to do anything with. We're separating that now. These guys have put in letters of intent. We told them "don't file any petitions" (tape was changed over).

So now we can put any condition we want. We can resolve that with the attorney general.

TY Yeah, we're going to present this at a public hearing.

ET Okay, Jim.

TF I think one area you haven't-----is in terms of the guidance policy, how it's going to work.

JY Well, we haven't identified this specific substantive policy but we have come up with a mechanism of the State Land Use guides. The State Land Use guides will identify the growth points on each island.

TF What I want you to--you know this is where you and I had a big---is that your idea of what you mean by the guidance policy

in terms of saying that you're just going to make a compilation and I said I don't agree with you, that alone.

JY           Okay, it's too bad Shelley's not here. We face the problem of rationalizing existing public policies between State agencies and between State and counties. There are certain conflicting policies and our review shows that. Now does the LUC resolve those conflicts or do you simply take into consideration those conflicts when you deliberate in districting or reviewing petitions. In other words, will the LUC come up with a guidance policy that will resolve those kinds of policy conflicts? In other words, the LUC will make a decision on the guidance policy.

SS           Specifically, what kinds of problems are you talking about?

JY           Oh, problems between the State agriculture and housing and education, etc.

SS           When you talk about policies, what kind of policies do you have in mind to resolve these problems?

JY           Well, you could either choose the housing policy or you can choose the agricultural policy. But you have no way of making up your mind now because it just depends on whether the Dept. of Agriculture presents a better argument than the Dept. of Education of HHA.

ET           Jimmy, I don't think we should have a discussion on this because I don't think we can have hard and fast rules to say housing comes after agriculture and agriculture comes after housing. It's gonna be at that particular meeting and the consideration of



You're talking about overall planning and that kind of stuff.

ET Here's the touchy area. Shelley may very well say well that's my kuleana, nobody tell me about this--now you're really getting into the planning part which is not the Commission's kuleana. It's difficult for the Commission not to get into this kind of area if we're talking about a Statewide land use guidance policy. Nobody else in the State has one, and it's pretty tough for us to make decisions without having some kind of policies.

TY Jimmy, I thought you were really going to come up with something like that where these expressions of intent, we put on to whatever you're saying is the policy guideline and if that fits into, we give them the zoning.

JY We touched on this morning about population and Shelley said you've got to resolve it with Bob Schmitt. That's the kind of thing we're talking about now--the growth policy. But the thing is whose kuleana is it?

TY I thought you were going to come up with something like that, for us anyway.

ET Yeah, I think so. I think you can pursue along these lines, Jimmy.

TF You see, Eddie, Jimmy thinks that's not his kuleana. But I think that he has to somehow he has to address it if he's going to come to a closed area.

TY That's what I thought, Jimmy.

JY As I've indicated, we're going to present an option to DPED.

They could sit on it but if they don't say anything-----  
That's all I'm saying. The responsibility lies with another agency,  
not with the LUC right now. We don't want to make the decision  
that you could make.

ET We'll make the decision, that's right. Until somebody comes  
along to change what our guidance policy is, we'll use our guidance  
policy.

JY That's all we're doing. We're combining these things and if  
it works, it works.

TF That's the point. When are you going to compile it? How are  
you-----

JY We're going to put it on a map. As Eddie said, you've got to  
make a choice.

TY That finding must be based on something.

JY It's not that fine. Let me tell you how fine it is. When you  
talk about conditions, are you going to talk about metes and bounds  
where the school is going to be located? It's not going to be that  
fine because you don't have the street line, you don't have major  
floor plans. I'm talking about this kind of regional screening  
when we talk about precise delineation of policies.

TY So we have these many intents. So put it on the map. How  
did the thing end up over there and one is going to get approval  
and one is going to get disapproval.

JY This is where the conflict comes in because you're gonna see  
some pukas in there with 4 or 5 conflicting policies of different agencies

ET           We can't proceed on that basis. Nobody came up with one. But in the meantime, we'll have a policy of our own. We'll follow our policy until--

JY           Eddie, what you're doing is you're simply choosing one of those. There might be 3 policies and you're gonna choose one. That's what you're gonna do.

TF           You say that's what you're gonna do. You're saying you but you're talking about the LUC. But I'm trying to figure out what your role is going to be in terms of trying to make it so that the LUC can--in other words, I don't think you ever went into the idea of how you're going to get these different substitute studies that you're doing right now--how that ties in to whatever policy you're talking about. The understanding I get is that your policies are only matrix--you're going to compile all the policies and--

JY           No, we're going to put it on the map. We're going to show you that this area has high priority for, say, agriculture. At the same time, it has high priority for higher education, and somebody has to make a resolution on this. We could spell out what the impact of that would be. But somebody sitting here is going to have to make that----

SS           In other words, you take an island like Oahu for instance. Between that 5 year boundary review, there are all kinds of petitions coming in. We made ad hoc kind of decision because the guy made a fine presentation--so we give him urban with no relation whatsoever

with the rest of Oahu. But if you can come in with a plan for Oahu and say this is the best thing for the people of Oahu, for the number of people we're trying to support on this island, and this is how we will develop it--then we can always refer to this consultant's report and say this is what the consultant had in mind at that time--this is the logical place for urban development. That's the kind of guideline I was thinking we could get from you. I wasn't thinking of just this boundary review alone.

ET Jim, kind of get down to specifics now. Taking all of Central Oahu as a region--did you interview all of those people--what are all the interrelationships there? You intend to come when we get to that stage of the game and/<sup>it</sup>also plays a role in terms of policies that ag can fit in and housing can fit in and a new community can fit in, that kind of thing here because water is taken care of and highways are taken care of--that here is a logical area for this kind of development. X amount of ag, X amount of housing, X amount of other developments--you intend to do that, right?

SK This is the reason why we requested of these guys letter of intent to get an idea as to where the growth is going to be, based upon your land use guidance statement to slop these things in, and where you have a conflicting demand in terms of agriculture as opposed to housing--these are the things that you are going to tell us--otherwise there is no need for us to ask people to give us their development plans. We could have treated it on an individual petition basis. But I think we wanted to have an overview

of potential growth from the major landholders.

ET We got in one big everybody's intention, what they intend to do with their land, instead of coming in next year with one petition over here and one over there. We have all together, at one time so that we can look at the whole picture.

JY I'd like to raise a point here. Why should the State consider private land development decisions? Why shouldn't the State develop its own land development policy? To h---with the private companies. In terms of what the basic role of the State is in terms of land policy.

ET We can make determinations that would never get up to bat, let alone get to first base. As a result of these letters of intent we found out certain things. We'll find out more. But Campbell Estate intends to make certain that there is adequate water for Oahu Sugar to keep operating, that there will be water to service the communities that will be there, that the haul cane roads in order to maintain the production of ag will be relocated on their land and they'll pick up the tab to do that, that the new Waimea(?) Fort Weaver Road, and that they will tie in/<sup>down</sup>here and there and they will do that. Now they've committed that they're willing to do that in their overall plan. Now we can go ahead and say you're going to do this and that if they don't do that it just sits there. Nothing happens. We want something happening. We'll be making the determinations. We certainly want to know what they

intend to do and what kind of conditions we should put upon them.

JY           No, what I'm trying to say is that there is a major policy decision. You have the urban areas of Honolulu, you have the un-urbanized areas of Ewa. And then they come in with a request, a formal request, for 2,100 acres for urban within this 5-year period. That constitutes enough land to absorb population for the next 5 to 10 years. And that's what the LUC is considering-- a partial monopoly of land within the Ewa area. In a sense you're granting that because the development rights are here providing for that area. In other words, you're going to have complementary policies that would guide the growth in Waimanalo, in the windward area, in Kahuku, that would in a sense say okay we're going to give you 2,100 acres, we're going to stake out tremendous amount of investments and we're going to permit you to capture the returns on that. That's what you're saying also because that's what the market reports are saying. The market reports are saying that if you in fact do this, then we will be able to absorb X number of units per year. And that's exactly what the developers are saying.

ET           What would we do otherwise? If we make a decision that no under no circumstance are we going to have urban development in this area--that's a State determination by this Commission. What would we do otherwise? Say we're in effect handing that developer<sup>under</sup>--~~what~~ way do you not hand it to them if you're urbanizing land.

JY           No I understand that. But there's also, for example, the

City and County has a sewage treatment plant in Maili that is operating at about 30 or 40% capacity. Now if the city's policy is to make better utilization of existing public improvements, then maybe all the urban development ought to occur there. That's all I'm saying. Here are some of the options. You can't take Ewa by itself. You have to take Ewa in consideration of Waianae, in consideration of Maili, but there isn't anything that says that now. That's the problem.

TF Jimmy, my question to you then is, are you going to come up with something so that the Commission can--

JY Weigh these things. Yeah.

TF But not simply the compilation of existing policies.

JY Well, that's what it amounts to--the compilation of policies and the device to show you the impact of any decision. When you make a decision and say okay it's going to occur here, then if you look at that particular map, you'll see that it has an impact on the other areas.

ET Okay, but you will be able to tell this Commission what the impact is. For example, we have at Maili a sewage treatment plant that's operating on only 30% capacity, and therefore that--and the other factors are there--that residential use should be made of those lands out there and we've got the whole question of DOE and DOT and all the rest. So that you would come in and say here in this area we've got employment and this and that. On the other hand, this particular area this would be a bedroom and would not

self  
be any kind of/sustaining operation and that sort of thing. So when we make a decision, we're making it based on those kinds of recommendations, not just a cold series of things are there.

JY Oh yeah. The question that Tats raises is that are we going to resolve policies' conflicts. We aren't going to resolve that. All we're going to do is we're going to take a look at the major land use policies that the LUC wants to consider. Then we'll compile them against these State and county policies and we'll show where the conflicts occur. If you make a decision here, it's going to have an impact over there since that's the State's policy with respect to that area.

TF But then Jimmy you're only talking about the public agency policies. What about some of the private agency policies. How are going to fit that into this picture?

SS What kind of policies do the private people have?

TF The point is we went to interview all the private ~~agencies~~ developers. In what way that will fit in? You never talked about the citizen participation area too. How that will fit in. You said one of these days all of the three areas will fit in nicely together somehow. It seems as though compilation of policies are public agency policies that affect public investments.

JY Our interviews with the public sector revealed to us how private developers make decisions. I think we went over that this morning and we're using that in terms of trying to delineate

specific rules and regulations upon full disclosure when the petitioner comes in for a request, so that we know what kind of conditions you're going to put on that realistically to each developer. Getting back to the idea of resolving conflicts, the screening of the regional maps that would identify each of the functional policy areas would give us an idea of what the impact each of these kinds of petition would have.

what

TF Do you have an idea of/areas of screening in these different policy areas you are talking about?

JY We're talking about water, we're talking about sewage, schools, transportation and if, for example, you want to support the City & County policy of introducing a rapid transit system. Then that assumes that they will have to increase the population along the corridors. And we also note that over 50% of the building permits at the City and County of Honolulu today are multiples, that they're occurring in already urban district lands.

TF So you're going to come up with some of these findings and give us some alternative approaches in terms that your recommendations will be so and so in terms of City and County.

JY We'll say that if you do this, this will happen. If you do that, that will happen.

TF You'll give the area of general regional-----

JY Yeah. But the first allocation, and I think this is an important one. Shelley has come up with a proposal that Oahu grow at the rate of 1% per year, but the neighbor island grow at

the rate of 3% per year. In order to enforce that, certain kinds of public improvement could be curtailed on Oahu because it generates employment. Employment generates people. Whether you want to say just 1%--that if in fact you have a 1% rate of change for Oahu but if you persist on making these kinds of investments on Oahu you're not going to be able to--you're going to grow at a faster rate.

TF           This is already the end of March. When do you think you will be prepared to come up with something concrete so that the Commission can react to the kind of system you have. We have less than a month.

JY           Yeah, we're going to do it in less than a month. We're going to have all of these things mapped out.

SK           All of these things you say are going to be mapped out--are these in consideration of those who have sent in their letters of intent?

JY           Those are being mapped in by the staff right now--the letters of intent.

SK           When I say mapping I don't mean just place it on a map--600 acres of Gentry lands or 2,000 acres of--when I say mapping it is with all of the ramifications as to when the LUC determines a particular decision that is based on all of the effects that it will have on the land use policy. I don't mean merely pasting it on the map--I can do that myself.

JY           What the impact of that particular designation will be. We'll

have that mapped. There'll be a screen, a series of screen, maybe 6 or 7 screens which will show you what the impact will be. The darker it gets, that means more public policies have been assigned to that particular area.

SK            Jimmy, I think you should understand that the reason why we went into this letter of intent kind of thing as opposed to petition is that the State wanted to be in a position of taking a positive stance, positive posture in determining land uses instead of the negative basis that we have been working on because of the petition kind of thing. We're always reacting to something. What we wanted to do was to be the responder to say this is where the growth is going to occur. I think this is one of the reasons why we wanted the letters of intent. Because I'll tell you right now, my understanding, without talking to these landowners, many of these guys have sent in their letters of intent. If we did not ask them to come in, they would have come in with a petition, it would have just flooded us and we would have had a hell of a time to do the kind of thing that we're trying to do right now. But I think one of the rationale for this was the State wanted to be in a position of taking a positive role in the planning process. I just feel the State still has the right to impose conditions.

JY            Basically, the Commission faces these problems now. If you designate areas and this is the area that the State wishes to grow, this still does not deny the right of the landowner to come in and  
petition. For example, between 1970 and 1973, you have received 32,000 acres

to be rezoned.

ET Jimmy, we know that. We know that we can't stop anybody from petitioning. But what we hope would come out of this is to see from these letters of intent and from the policies that we adopt, that as of this boundary review certain things should happen. Because as Sunao says, whoever we don't grant on these letters of intent, they're going to be in with a petition. But now we've established some policies, we just came out of the 5-year boundary review, and I would assume their chances of getting approval would be pretty slim. So we're going to take this kind of initiative. We're saying here is where the growth is going to be, here's the proper use of these lands because we've investigated water, highways, schools and the whole thing, and when we come out of this boundary review and change a lot of land, and so they come in and petition and we'll see how it fits in with the changes since December, 1974.

AN Maybe I misunderstand this thing, but let's say we went on a trip around the island like we did on the last boundary review and let's say we went down to Kualoa Ranch and say this is a nice place for urban, but the owner still wants to continue as a ranch-- are we saying that we're going to put that into urban, and tell him that he can't stay in the ranching business, he has to develop this place? Is that what we're saying?

SK I don't think that's what we're saying.

ET I don't think so. I don't think it's going to do us any good to urbanize some of these properties unless it's going to be developed.

That's one of the problems with all of the urban lands we got-- that it isn't being developed for one reason or another. As far as I'm concerned, primarily we're operating off these letters of intent. People are making commitments and saying we will develop, we want to develop, that's what we got the land for, we'll do this that and the other thing.

AN So we're going to consider only the people that have letters of intent?

ETL Pretty much so. But we could say as a matter of policy that we think that Kualoa Ranch--now there's an area now because of what's being urbanized around there and all the other things that are around there--that here's an area that should be considered for future development.

AN But we're not going to change it huh?

ET I would imagine we would not.

JY That's a hypothetical question.

AN Do we say that we're going to change that area and we're going to say that he has to--

ET I'll say the answer is no. Does anybody disagree with that? Okay--no.

SS Not that we cannot, I think we can.

SK I think the responsibility of the Commission to district the land is a foregone conclusion. We can do it if we want to. But as a practical matter, I think we should operate out of the letters of intent is that at least you have relatively concrete plans of

development on the part of the landowners and the major landowners covered by the letters of intent covers a h---of a lot of acreage of possibly developable lands. That's a starting point and I think at the same time what we're saying is that this does not in any form, shape or manner preclude anybody else from coming in and filing his application.

SS Sunao, my concern is this. We have these letters of intent. We know that if we give urban classification to these people, they will develop according to plans. But if we don't have a policy that says this is wherē we're going to go, it doesn't go into this area--if these people can provide us that. Then we can say, Campbell Estate--we're sorry, we feel it's better for agriculture, we're going to keep this land, there are other places we're going in.

ET I assume we'll do that. I assume all of these letters of intent-- we're going to say on some of those letters, sorry pal, you got a nice little plan out here but the way the whole thing fits in you don't fit in.

JY They'll know that when the map comes out. They'll know whether they're in or out.

SK After the LUC determines that yes this is where we're going to urbanize, no we're not going to urbanize--at that time, in order to adopt those things you're going to have go through a public hearing procedure. It's going to be on a map. Let's say, for example, we say that Campbell Estate we're going to urbanize.

This is done in workshop sessions and whatever you call it. We go through this and say we're going to urbanize Campbell Estate. Tom Gentry, no, we're not going to urbanize. When it comes time for the Commission to adopt this finally as required under the 5-year boundary review, this is all going to be placed on the map at the public hearing.

AN And then we have go back to the action meeting.

SK If you don't have any changes from what we put up.

AN We can't add to it after we present it. That was the problem we had on the other one. Olomana.

SK If you do, you're going to have to have another public hearing. You can delete but you can't add, as I understand it.

AN Or you can't change from, if you had it up there--

ET We can't put it in urban. That's what the notice said--we're considering placing this 600 acres in agriculture and we decided to put it in urban--no we can't do that, that's where the trouble was the last time.

JY You can't put, say agriculture into conservation or put it into anything.

SK You never make any changes unless you go back again and republicize it again.

ET Whatever you say in the notice, that's all you should do.

SK You're restricted to that.

SS I thought they were going to word that notice----

AN           The only thing, in the first meeting we can delete but we cannot add.

SS           No we can't delete.

SKL          I don't know what you mean by the first meeting, Alex.

AN           The first public hearing, you're going up with all the proposals.

SS           Yeah, the proposals is what we want to stick by.

ET           Now Stanley says we can't delete. We'll get the attorney general again. If we say we are considering taking this 600 acres out of ag and putting it into urban, we can put 400 of those acres into urban. We're deleting 200 acres. We cannot take that 600 acres and ~~say~~ we're suggesting from ag to urban--that's what the notice says--we cannot put it into conservation or rural because that isn't what the notice says. But we can delete. We can modify, accept, reject or modify. But we can't change the district that we gave notice for.

JY           Can you place additional conditions?

ET           Sure, we can place all the conditions we want at the time of the action meeting.

TY           Jimmy, I'm somewhat still disappointed. I was under the impression that, for instance, this color here and this color--this color became this color because of certain criteria, certain items that you say induce this area to go into urban, right? So this petitioner comes and it becomes like this, and we bring this thing here and

if this fits here this guy gets the zoning, right?

JY           If that's where your land use guidance says that you want to grow, that's where you going to consider petitions.

TY           But you're going to fortify us with guidelines so that we'll be able to go that way.

ET           But we will.

AN           So in other words, I think what Tanji is saying--like you mentioned that Maili has a sewage treatment plant that's operating on a 40% capacity. Now, are we going to--before we zone any area within that relatively short distance--we have to get that plant up to 100%?

ET           No. It's part of our policy that we must consider the use of public facilities. I can see that thing happening as far as schools are concerned, the point which was brought up this morning. You've got schools in some areas which are under-used and you were building new schools. Then we've got kind of a choice. If we're going to urbanize for residential purposes, we ought to give urban for areas where the schools are under-used, everything else being equal, rather than urbanizing another area where we have to build a new school. As a matter of policy, these are some of the things that we're going to weigh against. Right now, somebody just has to show need. All of these measures--should there be housing or should there be ag on each area.

Well, I think we've covered pretty much in one day and we'll sort of stand by to---

TF I want to ask one question. What are we going to bring out in our workshop sessions?

ET I think we'll have another meeting Tats before we get into that. We've got to see some of the things we got. We got a few things we have to get here first before we decide.

TF The workshop session is very near. We don't have very much time.

SK You guys already planned workshop sessions, tentative? I think that so long as the Commission adopts that and I think we have a time frame which--

JY The issue is when do you want to set the workshop and the content.

ASL The content--we don't have too much time to rework that thing.

ET As I said, we'll have to have another session. There are a lot of questions that were raised here that aren't resolved before we start talking about workshops.

SK What is the first anticipated date of our workshop?

SS Are we going to decide what we want in our workshop or are you guys going to say this is what we have to discuss, this is what we need to talk about?

ET We'll decide.

SS The Land Use Commission decide?

JY Yes, because the workshop is going to be held in behalf of the

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Tf If we're going according to schedule, the latest in which you can hold the workshop is April 22nd up to April 30th.

ASL That's to complete all the islands.

AN Is this on the policy or on our boundary review?

TF That's the thing--the content of the workshop. <sup>we</sup> What are/going to bring out to the public has to be decided.

ET Why don't we try to get together and put up a sort of agenda, the kind of issues we want to bring out at the workshop with some discussion by the staff, consultant, Commissioners, and what kind of input we'll try to encourage from the people attending the workshop. Put that down, send it out to everybody, and see if we got anything to add to it or something you don't like about it. As soon as we get that done, we'll start setting up the workshops. And Jimmy will get some of these other things in line by then.

SS At the workshops, what we're looking <sup>for</sup> was public participation.

TF So my <sup>public</sup> question is what kind of/participation do you want to have in one area?

ET We don't just want to go there and say--what <sup>do</sup> you folks think the LUC ought to be doing?

TF Exactly.

ET We'll tell them what we're doing, what our approach is, what our ideas are and how do you respond to those ideas.

TF We've got to remember, when we go to the workshop the Commission has to have some idea as to what--

AN I think our first workshop would be to review all of the

policy, what we're going to agree on the policy should be--

TF            You as the Commission has to already be agreed upon.

JY            Within 2 weeks, we should have our complete survey findings.

They have completed the interviews and they're being processed  
right now.

THE END!!!