

STATE OF HAWAII
LAND USE COMMISSION

7:00 P.M. Meeting

April 11, 1969

Lihue, Kauai

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(Tape opened with discussion of Maui boundaries and some Hawaii boundaries. There was no call to order for this meeting recorded on the tape.)

CHAIRMAN CHOY:

I mean, you have two. I don't know who owns it. Who owns that property up there?

MR. DURAN:

Where?

CHAIRMAN CHOY:

That parcel up there.

MR. ALTMAN:

That's all A and B ownership, and they asked for it.

CHAIRMAN CHOY:

I mean . . . a person who asked for it, well you . . . aren't there cases where it's only suggested by the (inaudible) Commission and tax office that it be taken out?

MR. ALTMAN:

That is also true. Yes. There are 2 instances: where the owner asks for it and it is on file.

CHAIRMAN CHOY:

Well, you don't have to know the file, because these are requested.

MR. ALTMAN:

The thing is, if the owner hasn't asked for it and it is either on our proposal or the tax office or the County . . .

CHAIRMAN CHOY:

I think they should be notified.

MR. ALTMAN:

Well, on this island there aren't any as I recall, so we're okey, but
the . . .

MR. DURAN:

What island is that?

MR. ALTMAN:

Kauai. There weren't many areas that were changed out of urban into
ag, but there are 2 instances of ag into rural zoning . . . I think if
you are going to send out anything, if those properties are being up-
zoned without them asking for it, you would also send out a letter stating
from ag into urban or ag into rural.

CHAIRMAN CHOY:

One more point I would like to make on this shoreline subdivision.
In our zone though, all the shorelines are not urban into conservation.
I think we're pushing the present of the urbanized lands to . . .

COMMISSIONER:

What is the consultant's (inaudible) for shoreline in conservation?

COMMISSIONER:

Give him the proposal on this.

COMMISSIONER:

No. I don't want the proposal. I want the . . .

COMMISSIONER:

Give him the rationale on that.

MR. ALTMAN:

Where you consider the shoreline areas of the state the prime resource
of the public and, as such, the same should have a say in the control of
those shoreline areas. The exact boundary of 300 feet is a result of dis-
cussion here and it was the Commission's . . . those present at that time

MR. ALTMAN (Cont'd.)

. . . that 300 feet was acceptable if there wasn't a natural or man-made fixture to describe that boundary. For example . . .

COMMISSIONER:

One example would be, say, along this coast here on Maui along the road to Hanalei where you have very steep . . . you have grazing land . . . it comes right out to the pali and drops down in which case you're able to say from the top of the pali to the edge of the shore is conservation. You're recognizing the fact that there's going to be no agricultural pursuits on that land; it's all a very scenic area.

Say you have another case where you've got cane, cane haul road and then you have ironwood or keawe and then you've got the beach and the water here. From the cane haul road . . . say from the makai side of the cane haul road over, you're not going to have any agricultural practice; you've got the beach. Here you can define it along the cane haul road that's conservation from that point makai. In some cases, you don't have . . . say, there's no cane at all. You might have just rock land or brush land or keawe; no cane haul road, the same condition of the beach and the shoreline and in this case it was decided to establish a policy where we're unable to find a natural boundary to just arbitrarily set it at 300 feet.

CHAIRMAN CHOY:

If they want to build something, then they can change it, and we can review it.

COMMISSIONER:

Suppose a guy wants to put up a house there. You mean he has to go through the Land Use Commission to get a boundary change just to put up a . . . ?

CHAIRMAN CHOY:

No. He goes . . . (inaudible) . . . Simple.

COMMISSIONER:

Supposing we deny that request on the basis that we permitted overly intense urban type activities within the conservation zone? Do you think that's right?

MR. ALTMAN:

Are you asking me to criticize the Board action or . . . you know.

COMMISSIONER:

See, I don't know what you're trying to conserve. Let me put it that way. What is it that we want to preserve? You say we want to preserve the resources, but we're talking about perhaps the view that it affords or protecting the . . .

COMMISSIONER:

I think he's talking about the full public access to the beach areas.

CHAIRMAN CHOY:

But if you use that argument, they say gee, I've already dedicated my land or donated my land to the State for that purpose.

COMMISSIONER:

Is the idea of zoning in conservation to prevent . . . let me put it this way . . . if it's part of the rationale to zone in conservation so that there would be no building activity? Is that right?

MR. ALTMAN:

No. I . . .

COMMISSIONER:

Okay, what is the purpose of having it in conservation then?

MR. ALTMAN:

In many cases, the so-called setback . . . the attempt to let in the

MR. ALTMAN (Cont'd.)

. . . this is not a setback. It's the idea of being, say, 200 feet or 300 feet . . . you can still build behind it. If someone wanted to go into that area, they could request permission to do so, but it doesn't preclude development at all, but it does provide for . . . it would minimize the occasion for hotels to be built right out to the edge. In many cases, you have the tsunami area anyway and flooding occurring there.

COMMISSIONER:

Supposing you just built a hotel there. Isn't it entirely possible because of the rules and regulations in a conservation district . . . as one of its permitted uses permit the hotel to be built that we're really not serving the purpose for which we're zoning it conservation. I mean you can go out there, even in the conservation district, and zone conservation. We have hotels that have been placed in those and in essence, though, it doesn't really detract from the basic idea of zoning it conservation.

MR. DURAN:

Not as far as the district is concerned. We zone in conservation for 2 reasons: one because there was a lot of potential for resort development and also that the other areas should be preserved. The State wanted it in conservation in order to have some effect over it or to apply certain conditions to it so certain resources aren't lost.

CHAIRMAN CHOY:

Then on your argument that it will prevent the hotel from building right out . . . take for instance, the Kona Hilton, where the water comes into the dining room.

MR. DURAN:

That's not in a conservation district.

CHAIRMAN CHOY:

Well, I know but you are saying we have no authority to say . . . let's say that we're going to take this area out. The Planning Commission can say that you can build right up to the water. It still doesn't prevent the fellow from building right up to the water. Right?

MR. DURAN:

You mean in that the Land Board might allow them to build out to the water?

CHAIRMAN CHOY:

No. The Planning Commission.

MR. DURAN:

Not if it's in conservation.

CHAIRMAN CHOY;

Let's say that the guy came in for rezoning. Would you say that we can take it out at any time and say alright, we'll rezone this resort area . . . you can go right up to the water.

MR. DURAN:

You could take it out of conservation.

CHAIRMAN CHOY:

So actually, the argument of preventing it from going right up to the water is out, huh?

COMMISSIONER:

That would be our action. If we went ahead and rezoned it, it would mean we gave up our argument; otherwise, we wouldn't rezone it.

CHAIRMAN CHOY:

But what is our argument? In one breath, we're saying this is not going to prevent you from having it rezoned; then we're saying that we're

CHAIRMAN CHOY (Cont'd.)

doing that so you can't build a hotel right up to the shore front. On the other hand, we're saying you can go and apply for rezoning. Am I wrong? I won't argue but in other words, if we rezoned it, wouldn't the Planning Commission have the authority to put it right out to the . . . But if we didn't trust the Planning Commission, I guess we wouldn't rezone it.

COMMISSIONER:

In other words, what you're saying is that if we rezoned it, we would request the Planning Commission . . .

MR. DURAN:

No. If we rezone it, we give up . . . we relinquish whatever authority we have to the Planning Commission.

CHAIRMAN CHOY:

Yes, that's right. So then you have . . .

COMMISSIONER:

Let's leave it in conservation.

COMMISSIONER:

We'll leave it up to the Land Board.

COMMISSIONER:

Well, the Land Board does establish a provision for making a setback if we're talking about buildings, but . . . let me put it this way, it doesn't preclude the Land Board from, to me, what is purely a County function. It's only the setbacks, and we could just override them and have them go right up to the shoreline and, in fact, into submerged land. This is a possibility. I'm not saying that that would be the judgment of the Board. I'm saying it's a possibility that they could be allowed to do that.

COMMISSIONER (Cont'd.)

It really defeated their purpose. What I'm saying is this, Rom. I'm not saying that it's going to happen, but there is a possibility.

MR. DURAN:

You're right. But there's probably a greater possibility of it's in the urban district.

COMMISSIONER:

But the County . . . after it's zoned, the urban district will establish the setback. You see, once it's zoned in conservation, the County has no authority to establish any kind of setback.

CHAIRMAN CHOY:

Until there's a boundary change.

COMMISSIONER:

Unless there's a boundary change, then they can use their zoning powers after it's zoned to urban or any other category.

CHAIRMAN CHOY:

Now this concept of trying to hang onto our land on the shoreline . . . the whole concept is a good concept and if an area is conducive to a good resort development, they would come to us and we would grant them a boundary change. But in the meantime, you've tied the land from a very scattered and underdeveloped type of . . .

COMMISSIONER:

Well, I disagree with you. I'm asking this question. What is the particular natural resource? You can't say the shoreline as such is a natural resource. What is the natural resource that we want to protect and conserve?

CHAIRMAN CHOY:

Well, the County lands along . . . If you take that island of Maui

CHAIRMAN CHOY: (Cont'd.)

and . . .

MR. DURAN:

I think there are a variety of resources at stake here. I would say that in some instances we're talking about the bluffs and the steep pali land. We're also talking about the rocky shore. In some areas we're talking about natural swimming beaches.

COMMISSIONER:

These are all natural resources?

MR. DURAN:

Yes. And I think we're endeavoring to draw a line on the map in recognition of those resources which is inadequately recognized by a high water mark.

COMMISSIONER:

Mr. Chairman, I think if we're going to take that kind of position that regardless of whether it's zoned urban now, you establish that question, right or wrong. Zone it as conservation.

COMMISSIONER:

We cannot say that because this is all urban now that we're going to leave it alone. Using your theory now that these are natural resources that we should be conserving, the bluffs, the sandy beach, the rough ocean. Fine; I think we should just be consistent.

CHAIRMAN CHOY:

Right. Now you take this place here . . . it's urban. There's no conservation here. But this land here is all sandy beach and we're trying to conserve it.

COMMISSIONER:

What I'm saying is I'm using this logic now. I know that these natural resources are possessed and we do want to conserve it. This is the

COMMISSIONER (Cont'd.)

reason why we're here at this meeting because there is this natural resource. Right? Okay. The examples given by the consultant are such things as palis, sand beaches, rocky coves -- all natural resources, and we want to conserve them. Why don't we establish a conservation . . . (inaudible) . . . that at least possesses those natural resources that we want to keep so that in essence, what I'm saying is that we zone the entire islands with whatever criteria we come up with in zoning our conservation. Why say, oh, not this portion here.

MR. DURAN:

Well, I think in most cases where you have urban and rural, we no longer have those natural assets available.

COMMISSIONER:

Oh, yes we have.

COMMISSIONER:

That's just what I was explaining to Mr. Chairman. Now suppose that area that's in there is agriculture, huh? But suppose we left it there as agriculture? What difference would it make?

(Some comments were exchanged between some of the Commissioners and Chairman Choy but the constant background noise on the tape made them almost totally inaudible; only a word here and there could be picked up.)

COMMISSIONER:

As I said, using your criteria for natural resources, it applies to every single edge of the coastline. It falls into one or the other category. If you have sandy beach or rocky shores or . . .

MR. DURAN:

But let's say this city of Honolulu . . . you couldn't very well do

MR. DURAN (Cont'd.)

that along that shoreline because all of these natural assets no longer exist. There's hotels, industrial development, harbors, the whole . . . It's too late now. Let's try to recognize and think of the past and try to correct it.

COMMISSIONER:

We cannot say it's too late because in many areas . . . I can think of right now in Puuloa district, where you can protect your (inaudible) over there. Right? This is in urban.

MR. DURAN:

Well, I would encourage this urban area along the west coast of Molokai.

COMMISSIONER:

I would, too. What I'm saying is this: that . . . (inaudible) . . .

MR. DURAN:

I don't see any problem there, but I can see problems where you try and apply it to the urban area.

COMMISSIONER:

If we agree with the logic and the theory here, there are different methods of following up on your logic. We have different jurisdictions. You know, if we feel strongly about the theory here, we could appeal to the right jurisdiction to do the things that we want done that are consistent with our . . .

COMMISSIONER:

This is what I can't understand . . .

COMMISSIONER:

But we are only one body. We have certain types of authority.

CHAIRMAN CHOY:

You keep insisting that you're going to preserve this land. In other

CHAIRMAN CHOY (Cont'd.)

words, you have taken away this land.

MR. DURAN:

Basically, what my thinking is in doing this is that every land owner is forewarned before he comes to us with a proposal to develop his land that we are vitally concerned with what happens along that seashore and that he'd better come in with a reasonable plan for that seashore that is going to recognize this valuable asset -- this shoreline. And whatever development he comes in with is going to harmonize with the coastline. And I don't think that . . . he can't build within 300 feet.

COMMISSIONER:

So in other words, if I came in with a plan . . . correct me if I'm wrong . . . if you see that my hotel is not 300 feet back from the shoreline, you would deny my petition then. Is that . . . ? And then you would have a piece of Molokai land that would be worth several million dollars compared to the next piece.

MR. ALTMAN:

I think that if you so state that it is an additional management procedure for managing a natural resource and if you forget about preserving or reserving or anything of that sort, it's the management tool that can be exercised like you folks, to insure that the shore is adequately planned. For example, the Kona coast . . . let's assume as proposed it is 300 feet. Okay. And the developer has come in and has accepted the idea of it, but he's saying that in some areas it should be only 50 feet and in other areas it really is acceptable at the distance as shown. He will come in with a development plan that shows development but that will show a reserve area that here is only 50 feet and in this

MR. ALTMAN (Cont'd.)

area, because it is unbuildable, it is a backset boundary as shown. So as the developer comes in, he is responsible for working within this reserve area, but it doesn't say that it is the entire area of reserve. It is only an added tool to insure that the shore is (inaudible)consistently on the whole island.

COMMISSIONER:

But the argument of preserving the beach area or shore frontage . . . if I owned that area, I'd put a no trespassing sign over there and nobody could pass.

MR. DURAN:

I don't think that we could ever assume that what we're doing is zoning the coastline for the public use.

COMMISSIONER:

This is the impression I think people are going to have . . .

MR. DURAN:

No. I don't think that we should ever, ever infer that this will be reserved for the public use.

CHAIRMAN CHOY:

When you say you're going to preserve something, the first question is what are you preserving it for?

MR. ALTMAN:

It really isn't as if you're drawing a boundary from here. The existing sea zone is out here and the only thing that you're doing is adjusting the existing edge of that zone to the edge of what is considered the resource. This area is . . . (inaudible) . . . as a resource. This is the ocean. So the only thing that you're saying is, it doesn't add here. . .

MR. ALTMAN (Cont'd.)

that the zone will influence or concern a sense in (inaudible) to a point, so it's an extension of an existing rule.

COMMISSIONER:

Extension of what?

MR. ALTMAN:

It is an extension. This is water area, see? And the coast is here. It's an extension of an existing zone inland to that point that you could consider the zone of influence.

CHAIRMAN CHOY:

If you were to testify at a public hearing in the manner you are doing now . . . we'd be in lots of hot water . . . but if you . . . if a person . . . say all of this shore was in conservation. When a boundary change is granted like you've got outlined there for a hotel development, then this conservation area ceases to exist.

MR. DURAN:

Not unless you change it.

CHAIRMAN CHOY:

It is, because in all rural area there is no conservation, so in town it would be.

MR. DURAN:

Well, there never was to begin with.

CHAIRMAN CHOY:

So if we can tell these people that when the boundary change occurs, then the conservation line in front of the . . . within the development . . . but what we're trying to do, there may not be another development for miles, but we'd like to keep that 5 miles of seacoast.

COMMISSIONER:

Well, no, this is the case now. What's going to happen?

COMMISSIONER:

That's up to us.

COMMISSIONER:

My figuring must be wrong . . . we're saying put it in conservation but you can always re-apply and take it out. Then the next thing we say

. . .

CHAIRMAN CHOY:

Yes, but when you re-apply, we're not going to take it out for you. On the other hand, another alternative would be to eliminate all conservation along the seashore. I'm saying just the opposite . . . when you say put everything in.

COMMISSIONER:

I say if you're going to try to protect these natural resources, go all the way then.

COMMISSIONER:

Take it to Counties . . .

COMMISSIONER:

Don't you think that they're concerned about the other aspects of it, too? Under the current type of zoning that we're proposing here, isn't the County going to be concerned with this? What is the concern of the Land Use Commission in zoning that area? Is it being put into conservation because we want to protect or conserve our natural resources? Could this be the case? If so, fine.

CHAIRMAN CHOY:

Howard, is there something else you want to bring up?

MR. ALTMAN:

The Hilo area . . . (inaudible) . . . one purpose is to further (inaudible) on the boundaries as proposed and the second purpose is to have some discussion on this Allison case. I think the Allison issue should come second because that might involve a good deal of time.

If you'll recall, our figures show that approximately 900 acres were called for for urban expansion in this area and the proposal that you saw (inaudible) to the County is on this sheet. As a result of the County's . . . of dealing with the County, our further (inaudible) that 2 areas should be cut back. They are the (inaudible) area which has been pointed out was heavily (inaudible) and it is our feeling that it should not be urbanized as a result of going out there, seeing it again, and finding out what the County would propose if it were urbanized, 10,000 foot residential sites with all of the streets and services would, in effect, cut down the majority of trees. It was felt that if some other area was more appropriate for urban expansion, it should be considered first.

The second area that we considered is this area here that the County asked us to consider for urban up to a proposed road, and the Commission was concerned about being able to describe that boundary until after the road is constructed.

There is a proposal by the (inaudible) Trust for the immediate development here. The existing road has been installed through here, and it is our feeling that the land makai of it should be urbanized first, and that this parcel should be included as a result of the immediate development plans. The other areas should not be shown urban until after the road is adopted. As a result of taking out these 2 areas and to consider balancing the total acreage through 1973, the most appropriate

MR. ALTMAN (Cont'd.)

area for urban expansion that the County also dedicated was in the (inaudible) area. Our first proposal is that it should go in here and our current thinking is to show the entire area urban, even though there are farmers in this area that requested A3A zoning. And . . . (inaudible) . . . that that shouldn't present any problem; that after this area is urban, those areas that are being farmed, he would zone all RA which is an added zoning in the urban district, and they could continue to farm this area until some development is proposed at which time the County would alter the zoning. So what I'm saying is that it provides a reserve area for all of the expansion that is foreseen if you take out these areas here. The County also asked us to consider taking out these areas that are proposed urban here and keeping the boundary as it is shown, like so.

A third area . . . (inaudible) . . . in the existing urban zone which is here and it is to include the area of the existing airport, so there . . . (inaudible) . . . but I do want some discussion on the (inaudible) area.

COMMISSIONER:

Before we discuss that, maybe we should discuss the Allison case, because if you're going to urbanize the Allison case . . . urbanize or ruralize or whatever you want to do . . . in this area we're thinking about the same amount as that area proposed in the (inaudible) area where . . . (inaudible) . . . So if this is proposed, we won't need . . . (inaudible) . . . I mean, it's up to the Commission but this is my thinking.

COMMISSIONER:

Why do we need either area? Let's provide for urban growth.

MR. ALTMAN:

To provide a sufficient reserve area . . .

COMMISSIONER:

Or to fix up the boundaries. Straighten up the boundaries.

MR. ALTMAN:

This area . . . and I have the figures . . . excluding the public ownership, for the population increase there are approximately 900 acres that are needed to provide for an adequate conserved area.

CHAIRMAN CHOY:

For a declining population?

MR. ALTMAN:

According to the projections, it's going up. Today is the last day for action, as I understand, on the Allison proposal, and your view before was that the options were either to appeal or to put it into urban or rural. And you had said that the rural zoning was preferred. Well, the County is concerned about the well here, and they feel that the development should only occur in this area that's sewerred, and it can only be in force if it is zoned urban so they can (inaudible) before any other development occurs here. The point is that the existing well is seen as the major service for the city in the future and if that is so, and if there is even a question of cesspools contaminating it, then it might be appropriate for government aid for sewers in this area. This well is a resource for the entire area. The County's suspicion is that if it is zoned rural, they can't exercise any control over it, in terms of sewerage and so on. So I bring it up in that your first option, I think, is past, that is appeal . . . today is the final appeal date. So an action or a reading on this area of being urban or rural is important to this area being added.

MR. DURAN:

I tend to agree with the new proposal. I don't think that there's

MR. DURAN (Cont'd.)

anything we can do about it at this point, and I've been asked to attend the Kona meeting so that we can discuss this further. I think he has some good points there . . . that in the long run, the public interest can be better served if this goes into an urban district, if we have a choice between rural and urban.

MR. ALTMAN:

Well, the problem is that the posting of the boundaries has to occur by April 15th.

CHAIRMAN CHOY:

April 15th?

MR. DURAN:

Yes. Wednesday.

CHAIRMAN CHOY:

Well, we're meeting tonight, and would you be able to get the news that's going to be decided today?

MR. ALTMAN:

Oh, sure, but I brought it up so that it can be deferred or acted on by the 15th.

CHAIRMAN CHOY:

We can call Hilo and find out what they've done . . . what decision they've taken on the Allison piece.

MR. DURAN:

What decision do you expect them to take? They're not doing anything.

CHAIRMAN CHOY:

I thought there was a decision here today.

MR. DURAN:

Oh, no. The time for appeal expires today.

CHAIRMAN CHOY:

Oh, I see.

MR. DURAN:

And we agreed not to appeal the case.

CHAIRMAN CHOY:

Oh, I thought the Hawaii Planning Commission was doing something.

COMMISSIONER:

But without picking up that Allison case then, I think we should remove all that area . . . (inaudible) . . .

MR. DURAN:

Well, I really don't see why it makes any difference because, number one, most of the area is developed . . . Allison's. It's either in large farm lots or house lots, so that within the next 5 year period, I can't see any urbanization of that area even if we put it in urban.

COMMISSIONER:

No, but what I'm talking about is . . . (inaudible) . . .

MR. DURAN:

You mean the quota. Well, with or without it, it doesn't make any difference is what I'm saying. We're still talking about 900 acres.

COMMISSIONER:

But there is 1,800 acres.

MR. DURAN:

But we have 900 acres of land that are not going to be developed or are developed and are going to maintain their status quo. You're not changing them. I'm not arguing whether you should go along with all that area or not. All I'm saying is that (inaudible) shouldn't make any difference whether it rules rural or urban.

CHAIRMAN CHOY:

But it makes a difference because one is going to be cesspool and one, if you put in urban, is going to . . .

MR. DURAN:

I'm not talking about that. I'm talking about relationship of Paneewa to what you do in redistricting the urban area for Hilo. I agree that it makes a difference whether you go urban or rural but not insofar as how much land we allow in the (inaudible) area for expansion.

CHAIRMAN CHOY:

We could actually give both of them, if necessary.

MR. DURAN:

I don't think that one affects the other . . . urban or rural. The question is, is this logically the area to urbanize or not at this time.

CHAIRMAN CHOY:

The dock area is all urban.

COMMISSIONER:

The new proposal is to extend that area further.

MR. ALTMAN:

This area, I think, has about 6 owners. The County's concern was if you add this area into urban at this time and if a fellow comes in and is all set to develop here and this is zoned. This would have to be turned down the same as this area was turned down because sufficient vacant land exists in the existing urban zone. Their petition is that if you shift it to include the area here that it provides the County . . . (inaudible) . . . in being able to respond to the developers that are interested in developing.

COMMISSIONER:

What's your recommendation then, Howard? Do you have something to recommend?

MR. ALTMAN:

I point this out because as far as we're concerned, this is a reasonable proposal based on all of the reviews that we've done in this area, but I wanted to bring it up so that Leslie could respond in this area here.

CHAIRMAN CHOY:

Should we go along with the consultant's recommendations? All those in favor say aye.

(All response were ayes.)

MR. DURAN:

It's really not prime ag land up there; it's mostly grazing land, and I don't know what purpose we're serving by holding the line there if there's a lot of pressure for urbanization.

CHAIRMAN CHOY:

So we'll go along with the recommendation. We'll take a recess now.

* * *

CHAIRMAN CHOY:

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

RESPONSE:

I do.

CHAIRMAN CHOY:

Thank you. On today's action, we'd like to take A68-201 and A68-202

CHAIRMAN CHOY (Cont'd.)

as one. Is the petitioner prepared to present the petition . . . do you want to present them together or do you want them separate?

UNIDENTIFIED:

We've consolidated both of them.

CHAIRMAN CHOY:

You . . . (inaudible) . . . at the hearing. Would you like to do it again today?

MR. DURAN:

Briefly, let's just go to the maps again and review the areas for petition. I have mailed my reports to you so you do have those with you in your files.

These are our district boundaries involving the Pearl Harbor area, Pearl City area, the existing urban is outlined, our conservation is up here, and the white area is agriculture. This is Waipahu urban district. And the properties in question which are agricultural at the present time are the Bishop Estate request and the Austin Estate request. These are the development plans submitted by the applicant towards their petition, and basically it shows the areas to be developed under 20% slope, in both cases. And just to review the staff recommendations, you will recall was for denial, and I'll just go through the four points that it contained in our memorandum. (The Staff Recommendation portion of the April 11, 1969 memorandum to Land Use Commission from the Staff re: A68-201 - Trustees of the Bernice P. Bishop Estate (Waiiau) and A68-202 - Bishop Trust Company, Limited and Austin Estate (Waimalu) was read verbatim.) Are there any questions, Mr. Chairman?

CHAIRMAN CHOY:

Do the Commissioners have any questions?

COMMISSIONER:

Rom, what has been the testimony of the agricultural interests with respect to the continued use of this land? What have they testified?

MR. DURAN:

You'll recall that about a year ago, these 2 areas were the subject of petitions and subsequently denied. But at the time of the initial public hearings, the I.W.U. people representing the sugar industries did appear in opposition to the rezoning of cane lands. They did not, however, appear at the last hearing for these same 2 areas. There was, as a matter of fact, no other testimony other than that submitted by the staff and the petitioners.

COMMISSIONER:

How about the plantation management?

MR. DURAN:

The management submitted a letter in support of the rezoning.

COMMISSIONER:

Did they give any reasons?

MR. DURAN:

The reasons that they gave is that it was difficult to continue harvesting cane grown in this area because of the urban areas developing between the properties in question and the mill and, secondly, that they are . . . they exchanged lands so that they added another 1,500 acres up in the Wahiawa area to their plantations so that they could afford to release these lands and would still have more land under cultivation than

MR. DURAN (Cont'd.)

they've ever had before.

CHAIRMAN CHOY:

Any other questions?

COMMISSIONER:

Isn't it . . . the plantation have a problem when they burn the cane or harvesting and they have a dust problem? Within that area?

MR. DURAN:

Well, any time that you burn or harvest next to existing residences, it presents a problem, and they've been discussing some plans. Also, using the cane haul road through the urban area causes dust and noise and inconvenience to the abutting residences.

COMMISSIONER:

After the H-1 goes through, isn't it going to be difficult to get on . . . as I understand, to get through with the cane haul road.

MR. DURAN:

Our contacts in the Department of Transportation indicated . . . or at least they indicated to us . . . that if that area remains in sugar cane that they will provide access.

CHAIRMAN CHOY:

Any other questions? Would the petitioner like to come forward?
Would you like to present your testimony?

MR. OMORI:

Mr. Chairman and Commissioners, my name is Mr. Omori. I represent the petitioners in these 2 cases. I believe that since this . . . these 2 cases are going around for the second time and that they have gone through the City Planning Commission of Honolulu with a favorable

MR. OMORI: (Cont'd.)

recommendation and also in view of the length of the testimony that we have been given on this matter, I believe that we would stand on the record. However, I might say in partial answer to some of the questions asked that not only have the plantations located there been caught in some problems with the urban surrounds in the area but they have been sued by some of the residents there for the public nuisance caused by the harvesting of cane. Also, as far as the need is concerned, I believe the City Planning Commission . . . the county authority there having jurisdiction in these 2 matters . . . have on both occasions of the submittal to them, rendered favorable recommendations.

If there are any questions that I can answer, I . . .

COMMISSIONER:

Actually, the problem of litigation from suits by the surrounding people would equally apply if you were to urbanize these 2 areas.

MR. OMORI:

However, that would be a temporary type of thing incident to any construction in any area.

COMMISSIONER:

Mr. Omori, do you know if your developers have any time table for commencing development on this . . . on both of these properties?

MR. OMORI:

Well, we have had a commencement date. That was about the time that we applied for the petition eons ago.

COMMISSIONER:

Mr. Omori, I assume that if you were to have favorable districting here that you would proceed forthwith with the development of this area.

MR. OMORI:

Well, we would have to . . . well, one of the reasons why this problem is very urgent, despite the representation by the staff that the 5-year study is imminent, is because we still have . . . this I've stated many times . . . this is only the first chapter in the development. We have to go back, if this area is made urban . . . go back to the County Commission again and go through the amendment of the general plan and detailed land use map, go through the City Council, go to the Mayor, come back and go in for a rezoning application again. So we . . . I would say approximately a minimum of 16 months before we can really have any defined answer from the Planning Commission as to the type of zoning that we can have. However, this is not to say that while this procedure is going that we would not be arranging financing and so on.

COMMISSIONER:

Mr. Omori, would your petitioners have any objections to putting the undeveloped areas into conservation?

MR. OMORI:

I believe that would create quite a problem because . . . especially for the petitioners, and not only the petitioners but for this Commission also, because the final determination as to the actual use is with the City Planning Commission, and we don't know, except for the regular requirements as to subdivision and development, as to how the actual zoning (inaudible) will look. However, the so-called certain areas involved here would be undevelopable anyway.

COMMISSIONER:

Those lands that are not developable could be put into conservation. I don't think that the city . . . (inaudible) . . . they have no jurisdiction.

MR. OMORI:

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CHAIRMAN CHOY:

Until the petitioners would work closer with the plantation, would there be no hardship in the harvesting of their crops? Could they schedule them to their mutual benefit?

MR. OMORI:

Yes. Yes, we have been working on a working agreement all along.

CHAIRMAN CHOY:

Any other questions?

COMMISSIONER:

Are there any schools or campus sites in this particular area we're talking about.

MR. OMORI:

Yes. We do have, as I said, we do have certain areas contemplated to be zoned in a certain manner, but we do have sites set aside for public areas, but the actual determination must be made by the City as to the extent and location of these public areas.

COMMISSIONER:

That's not the basis of your petition anyway.

MR. OMORI:

No.

CHAIRMAN CHOY:

Any other questions?

COMMISSIONER:

Mr. Omori, how much time did you have . . . is it . . . are you going to work it by increments or is it going to be one . . .

MR. OMORI:

Well, of necessity, the actual development would have to be incremental.

MR. OMORI (Cont'd.)

However, the total development for utilities and so on would have to be put together all at once.

COMMISSIONER:

And your time table on this development stage is how long?

MR. OMORI:

That's very difficult to say, except to say that the work is already going on. That's the reason why we have Mr. Houghtailing in the picture. He is doing the total concept. However, it's difficult for me to say because I don't know how long the City and County will take in amending the general plan and detailed land use maps on the zoning.

COMMISSIONER:

What I'm saying is, once you get all these things . . . the actual ground work time set.

MR. OMORI:

The time table, after the approval by the County on any zoning plans

. . .

(Some comments made by an unidentified party were almost totally inaudible.)

MR. OMORI:

Well, in supplementing that . . . because of the H-1 problem, the developers would have to work in conjunction with the H-1 extension. That is what Mr. Houghtailing is talking about. Right now, the area is under condemnation already. The case is before the Circuit Court. However, the order of possession is already with the State, so I don't believe the condemnation suit will deter any progress as far as the possession and development of H-1 by the State. We just settled the deposit

MR. OMORI (Cont'd.)

. . . the withdrawal deposit for the condemnations just about 2 days ago.

COMMISSIONER:

What I think Les had in mind was this. You start your construction let's say the latter part of December of 1970. How long will it take to complete the physical construction of the . . . ? This is what he wanted to know. Will it take one year, 2 years, 3 years . . . ?

CHAIRMAN CHOY:

Or should we put it this way: within the next 5 years.

MR. HOUGHTAILING:

Within the next 5 years, they should be well on their way.

COMMISSIONER:

No, I just wanted to point out . . . one example . . . I'd like to point out Mililani that we've been waiting 5 years or so and they've just begun construction. What I was getting at is if you're going to run over the 5 year period of remapping again, it may be just as well if we just give you what we'll be doing in the next 5 years and then work it out on that principle.

MR. OMORI:

I believe what the working arrangements of Amfac would fill with Bishop Estate and the necessity of the Austin Estate's lands to be developed is way overdue. I don't believe that it would be (inaudible).

CHAIRMAN CHOY:

Any other questions? Thank you, Mr. Omori. Is there anybody else that would like to come forward and testify on these petitions? Is there any government agencies that would like to testify?

The chair will entertain a motion.

COMMISSIONER:

Mr. Chairman, I would like to move that we grant just on those areas on this land there . . . urban.

CHAIRMAN CHOY:

Leaving the (inaudible) areas in conservation.

COMMISSIONER:

The balance. They're in conservation already, aren't they?

COMMISSIONER:

In other words, you're saying that you grant everything in color and everything that's in white would be conservation?

COMMISSIONER:

Yes.

CHAIRMAN CHOY:

Would this be satisfactory to the petitioners? Question.

COMMISSIONER:

There's no second.

COMMISSIONER:

I second the motion.

COMMISSIONER:

You second the motion. Do we have a question?

MR. HOUGHTAILING:

Do I understand that you're talking about the . . . (inaudible) . . .

CHAIRMAN CHOY:

Yes.

COMMISSIONER:

Those are the undevelopable areas.

MR. HOUGHTAILING:

Undevelopable, right. In other words, what you're saying, the developable areas and anything below the . . . (inaudible) . . . using as a rule of thumb.

CHAIRMAN CHOY:

We're granting you all developable land and undevelopable land is . . . (inaudible) . . .

Any other questions? Any other discussion? If not, are you ready for . . . ?

MR. DURAN:

May I make a comment, Mr. Chairman? There are some configurations here that I don't think the Commission intends to put into conservation such as this little sliver and this little sliver here, and I think basically what you're talking about are the masses here.

CHAIRMAN CHOY:

That's right.

CHAIRMAN CHOY:

Are we ready for the question?

COMMISSIONER:

We're voting on both petitions at the same time?

CHAIRMAN CHOY:

Yes. Will you poll the Commissioners?

MR. DURAN:

Commissioner Inaba.

COMM. INABA:

Aye.

MR. DURAN:

Commissioner Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Napier.

COMM. NAPIER:

Aye.

MR. DURAN:

Mark.

COMM. MARK:

Aye.

MR. DURAN:

Kido.

COMM. KIDO:

Aye.

MR. DURAN:

Chairman Choy

CHAIRMAN CHOY:

Aye.

MR. DURAN:

Six affirmative votes. Mr. Chairman, the motion is carried.

CHAIRMAN CHOY:

Thank you.

We have action on A68-204, Bulldozing Services.

MR. DURAN:

Action on this petition was deferred originally on January 18, 1969. There are 2.7 acres to the present . . (inaudible) . . (Mr. Duran was apparently at the map and was too far from the tape recorder for his voice to be audible.)

MR. DURAN (Cont'd.)

Based on the findings that, one, the petition has not substantiated the need for more urban land in the area, two, that adequate provisions have been made for (inaudible) urban growth at Kahaluu and, three, that . . . (inaudible) . . . This upper portion . . . this is already in the urban district.

COMMISSIONER:

Is that included in the petition?

MR. DURAN:

No. The petition involves only this portion.

CHAIRMAN CHOY:

How many houses are up there?

MR. DURAN:

Eight.

Mr. Chairman, at our land meeting, it was the petitioner's request not to have action until a fuller Commission exists, and I believe at that time we had six. Is there anyone here representing the petitioner?

CHAIRMAN CHOY:

Would you like to continue with this action hearing or . . . ?

PETITIONER:

Yes, we would. My name is Roy Takushi, and . . .

CHAIRMAN CHOY:

Before we continue, would the Commissioners like to ask the (inaudible) any questions?

COMMISSIONER:

Did the consultants . . . (inaudible) . . .

MR. DURAN:

He has yet to take up Oahu.

CHAIRMAN CHOY:

Any other questions?

COMMISSIONER:

Supposing the Commission were to deny the petition. What would be required of the petitioner?

CHAIRMAN CHOY:

I think that question . . . you're the one to answer it. What do your recommendations call for?

MR. LEONG:

The staff also recommended that the consultants review this area. This motion for denial is based on the staff recommendation.

MR. DURAN:

You know, where you look at those houses that are already in the conservation as a part of that subdivision, obviously something's wrong with the boundaries.

CHAIRMAN CHOY:

You mean the urban land?

MR. DURAN:

Yes. We have urban-like characteristics within the conservation district . . . lands that are urban in character. And our feeling was that we should, since the boundary review was so imminent . . . it was just a matter of a couple of months . . . that we ought to make an adjustment in this area that is appropriate to the area rather than . . .

COMMISSIONER:

You know what I think. I think that this would put the (inaudible)

COMMISSIONER (Cont'd.)

on the consultants. I mean, it would appear if we were to say that we deny this petition and that the consultants would review the problem . . . meaning that the consultants would . . . (inaudible) . . .

MR. DURAN:

Well, whatever decision is made today will be a decision that is final on the basis of this evidence. Now the consultant has an opportunity to review all Oahu which includes this, so . . .

CHAIRMAN CHOY:

Did we explain to the petitioner that we only have 6 members here?

And that the last request was for more members?

MR. DURAN:

Are you well aware . . . ?

MR. TAKUSHI:

Yes, sir.

CHAIRMAN CHOY:

And would you like to proceed with action or . . . ?

MR. TAKUSHI:

Well, I wanted to make a statement first of a matter that came up subsequent to the public hearing, and if the Commission feels that this is the appropriate time to make the comments . . .

I was notified yesterday, of course, that the hearing was to be held today and I didn't want to (inaudible) the chance that it would be taken up today because the 90 days comes up, I think, the 18th of this month, and the applicant is willing to spend the time for the Commission to act. We would prefer to have more members present, and if you wanted to have our further comments on the petition at this time or at the

MR. TAKUSHI (Cont'd.)

subsequent meeting . . .

CHAIRMAN CHOY:

Even if you're not asking for action, we'd rather that you testify . . (inaudible) . .

MR. TAKUSHI:

May I state for the record that the petitioner is willing to grant the Commission additional time . . . of 90 days, say . . . to render a decision on this matter since the 90 day period expires, I believe, on April 18th.

CHAIRMAN CHOY:

Would you like to have another 90 days after . . . ?

MR. TAKUSHI:

As I understand the law, the Commission must act within 90 days of the hearing, but the petitioner has no objection on an extension of that time.

COMMISSIONER:

The petitioner requests an extension then?

MR. TAKUSHI:

Well, it's a little unusual when the petitioner is granting the administrative body an additional length of time to render a decision.

CHAIRMAN CHOY:

If the petitioner requests. We can only extend the time if the petitioner requests.

MR. TAKUSHI:

So the petitioner hereby makes that request.

CHAIRMAN CHOY:

And you want the extension to begin from April 18th?

MR. TAKUSHI:

Yes.

CHAIRMAN CHOY:

So anytime within that 90 days when we have a full Commission, we could . . . you would like to have action on it?

MR. TAKUSHI:

Yes.

MR. DURAN:

That's all we have for this meeting.

CHAIRMAN CHOY:

Before we close this meeting, bring me up to date on the dates, or are we going to have that later on.

SECRETARY:

I have a schedule. Do you want to look at that?

CHAIRMAN CHOY:

No.

MR. DURAN:

Meeting is adjourned.

* * *