Approved 7-8-66

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

County Board of Supervisors Chambers

Hilo, Hawaii

3:10 P.M. - May 6, 1966

Commissioners Present:	Myron B. Thompson, Chairman Jim P. Ferry Charles S. Ota Leslie Wung Goro Inaba Shiro Nishimura
Absent:	C. E. S. Burns, Jr. Robert G. Wenkam Shelley Mark
Staff Present:	George S. Moriguchi, Executive Officer Roy Takeyama, Legal Counsel Ah Sung Leong, Draftsman Dora Horikawa, Stenographer

The meeting was called to order by Chairman Thompson who offered a short opening prayer. This was followed by an explanation of the procedures to be followed during this hearing and persons testifying before the Commission were duly sworn in.

PETITION OF R. E. ALLISON, ET AL (A65-107) TO AMEND THE DISTRICT BOUNDARY FROM AN AGRICULTURAL DISTRICT INTO AN URBAN OR A RURAL DISTRICT AT PANAEWA HOUSELOT SUBDIVISION, HILO, HAWAII, identifiable by TMK 2-2-51 and 52.

Mr. Moriguchi presented staff report recommending denial of the petition on the basis that the proposed subdivision would require substantial governmental expenditure for improvements and necessary facilities, and also on the basis of the lack of substantiating data to support the petitioners' claim that additional lands are needed for urban purposes in the Hilo area.

A detailed map showing the location of the subject area in relation to its surroundings was also presented. It was noted by the Executive Officer that the request was for redistricting of the entire area from Agricultural to Urban or Rural although the petition was not signed by all of the landowners involved.

Mr. Moriguchi advised that recommendation was for denial of Urban as well as Rural classification due to the inadequacy of facilities in the area, in reply to Chairman Thompson's question.

Mr. Philip Yoshimura of the Hawaii County Planning Commission stated that the County recommendation was for approval of a Rural classification in lieu of an Urban classification based on further studies made by the Commission with respect to the need for additional subdivisions, the water system, roads, etc.

Mr. Moriguchi commented that the report from the County indicated that it would not approve any subdivision plans for the area until further improvements are completed, even if the Land Use Commission were to approve the petition. Mr. Yoshimura replied that this was up to the County Planning Commission since the matter of the inadequate water system and roads had yet to be resolved.

Mr. Yoshimura advised that the County General Plan for this area designated it for residential-agricultural uses similar to a Rural designation. In reply to Commissioner Ferry's query, Mr. Yoshimura informed that presently a residential-agricultural classification stipulated lot sizes of 5,000 to 7,500 square feet. However, the proposed zoning for this classification would require minimum lot sizes of from 1/2 acre to 5 acres, which hopefully will be adopted this year.

Mr. Curtis Carlsmith, representing the petitioners, was advised that he would be given an opportunity to ask questions of governmental representatives after his presentation.

Mr. Carlsmith handed out to each ~~petitioner~~ Commissioner a copy of a prepared argument in favor of the petition and proceeded to present it in the following manner: (See copy on file.)

1. Staff contends that sufficient lands have been allocated for residential purposes. In rebuttal Mr. Carlsmith quoted the following figures:

   a. Population projection for 1980 (according to General Plan for Hilo) - 40,000. Increase of 15,000 in next 14 years.

   b. 10 years from now there will be an increase of 10,000 people. 10 years from now 4,000 additional homes will be needed.

   c. 2,400 acres presently available for urban residential uses will not provide for the 4,000 additional homes, plus lands for schools and roads, that will be needed in 1976.

2. Insufficient urban lands presently zoned in Hilo.

   a. Substantiated by the grossly over-inflated price of urban houselots in the Hilo area, due to insufficient urban lands.

      Referring to the matter of grossly over-inflated price of urban lands in the Hilo area, Mr. Carlsmith called on Mr. Kenneth Griffin, principal broker and manager of the Real Estate Department of the Realty Investment Company in Hilo, to give the Commissioners an idea of the relative costs of residential lands in the Hilo area, the high and low figures of per square foot prices and the availability of such lands.

Mr. Griffin submitted the following data:

Residential A - 15,000 square feet and above	- 25¢ to 45¢ a foot
Residential B - 10,000 square feet) Residential C - 7,500 square feet)	- 35¢ to 50¢, depending on the size of lot since much of the land sales are based on unit cost of lots
Agricultural lands fairly close to Hilo area	- Latest sale at the Waikea area for 30-acre piece sold for $1,500 an acre

Conservation lands carry a lesser price per acre than Agricultural lands.

Chairman Thompson asked Mr. Griffin for comparative prices on Residential A, B and C lands two years ago and today. Mr. Griffin replied that the difference would be anywhere from 5¢ to 10¢ a foot on A lands and from 10¢ to 20¢ a foot on B and C lands. He added that perhaps there was a 10% difference five years ago.

In reply to Mr. Moriguchi's question, Mr. Griffin commented that he attributed the rise in land prices to the increased interest in individual home ownership and upgraded County standards requiring curbs and sidewalks in new subdivisions.

3. Both the County and the State have an obligation to provide relatively inexpensive lands so that the people can buy and build own homes on own land.

   a. Hawaii Constitution provides that individual home ownership be encouraged. By limiting amount of urban lands, actually discourages this.

4. The land is needed for another use because it is not presently usable for the use for which it is districted--namely, agricultural. This was based on questionnaires sent to all the landowners named in the petition concerning their success or failure in agricultural pursuits, soil composition of the lands, etc.

   a. Mr. Carlsmith presented an aerial photograph showing the cleared areas, the jungle and virgin forest areas of the subject parcels. He noted that approximately two-thirds to three-fourths of the lands were undeveloped under the present zoning.

   b. General Information on Panaewa Houselots:

      63 lots privately owned by 61 landowners

      177 acres involved in rezoning

71 houses now built - 46 owner-occupied
6 occupied by members of owners' families
19 rented to outsiders

6 lots have more than 1 house, 2 lots have 3 houses, 4 lots have 2 houses

5. People living here are neither farmers nor agriculturists and do not have the knowledge, skill or time to grow crops economically. They bought the lands as residences for their families and also to possibly build houses for rental purposes.

6. Mr. Carlsmith submitted that the highest and best use of subject lands was for urban residential subdivision purposes.

Mr. Carlsmith continued that the lands were usable for the proposed use since they were very close to the centers of shopping, recreational and employment facilities. They were also only a short drive to the shopping and business centers of Hilo. Adequate basic services were close by, available at relatively low cost, and it was not necessary to construct additional telephone or electric power facilities. There is one six-inch water line and one eight-inch line running along the highway adjacent to the subdivision. There would be a defect in the water system only if many, many more homes were built in the area. However, this was a matter that should be considered only at the time of the subdivision of the lands. If at that time it develops that more water facilities are needed, Mr. Carlsmith felt that possibly the subdividers and the people in the area may agree on a plan or the County may bring about an improvement district for additional facilities.

It was also brought out by Mr. Carlsmith that all except two roads in the subdivision were paved and that they had been informed by the Department of Land and Natural Resources in Hilo that the money for paving these roads had been allocated by the government, and that it was in the last stages of processing before actual construction.

Mr. Carlsmith continued that subject lands were entirely free from flood dangers, an excellent area in which to channel urban growth, and while not absolutely contiguous to urban Hilo, it was located 900' from lands presently zoned urban, separated only by a small number of 10-acre farm lots. Mr. Carlsmith called on Mr. Allison to give an idea of the actual distances to various points in Hilo and nearby urban areas:

Keaau Police Department	-	3.6 miles
Hilo Police Department	-	4.5
Nearest Fire Station	-	2.3
Keaau Fire Station	-	3.6
Keaau Post Office	-	3.6
Hilo Post Office	-	4.5
Hilo Airport	-	3.7
Hilo Shopping Center	-	3.5

New Taniguchi Shopping Center	-	2.
Bank of Hawaii	-	2.7
First National Bank	-	3.5
New County Building	-	4.3
Municipal Golf Course	-	1.5

Mr. Carlsmith commented that the statutes suggest changing conditions as possible grounds for amendment of district boundaries. In support of this, Mr. Carlsmith noted that subject area was a rapidly changing portion of Hilo where new businesses, new shopping centers were coming up and increased power lines were being installed along the Volcano Road.

Mr. Carlsmith then turned to several legal theories (see copy on file) on which he elaborated as follows:

1. The State had entered into a contract with the purchasers of the Panaewa Houselots, giving them the right to subdivide the lots into 10,000 square foot properties. To support this theory, Mr. Carlsmith passed around the Special Sale Agreement and Land Patent issued to Mr. Allison. He also made available to each Commissioner xeroxed copies of relevant sections of the Sale Agreement, Land Patent and the Legal Notice of sale of territorial government lots on the Island of Hawaii (see copies on file).

2. Notice of Sale. It was pointed out that land was restricted to residential purposes only for 10 years next following the issuance of Land Patent or Deed. It was further stated in the notice that "subdivision of lot permitted with certain lot size and building requirements." Therefore, the purchasers had relied upon this when they showed up for the auction, and they paid as much as they did for the land because they anticipated the land would be worth much more if it were subdividable.

3. Land Patent Grant. Not only does the Land Patent specify residential use only, it goes much further and states that if the lot is used for any use other than residential purposes (and this includes agricultural pursuits), the land "shall forthwith be forfeited and resume the status of government land." In other words, if the landowners attempt to put the land to agricultural uses, by the terms of the Land Patent Grant, the State not only can revert the land to government status, but no provisions have been made for reimbursement of the land price. The landowners are caught in the middle of two conflicting statements.

Mr. Carlsmith felt that the Executive Officer had misunderstood his argument on the contract theory whereby the staff states "that the landowner is governed by the ordinances in effect at the time he proposes to subdivide, and not by the ordinances that were in effect at the time he first purchased his lands." Mr. Carlsmith agreed that there was no doubt that generally this was a sound statement of law. However, in the present case under discussion, there was an additional fact to be considered. The State had expressly contracted to allow these people to subdivide their lands into 10,000 square foot lots and it was a

contract binding on the State. In fact, this contract was upheld in Hilo in the Third Circuit Court by Judge Felix in the decision of July 30, 1965.

Mr. Carlsmith argued that the restrictive covenants were incorporated in the deed to protect everyone in the subdivision. If the State attempts to supersede the restrictive covenant and perhaps allow one landowner to bring a noxious use into the subdivision, this would be held to deprive every lot owner without due process of law. Presently, pig-raising, for instance, is an allowable use of the land and this would break down the essential residential nature of the area.

Mr. Carlsmith further argued that the original boundary was an improper district boundary, relying on the statement made by Judge Felix in the decision to the effect that at the time boundaries were enacted, they were supposed to represent the present use of the land. At that time, the use was urban-residential as restricted by the State in the Land Patent. Mr. Carlsmith quoted the section of Judge Felix's decision in point:

> "It should be noted that the second sentence of Section 5, Act 187, Session Laws, 1961, (the original Land Use Law) reads, 'These temporary districts shall be determined so far as practicable and reasonable to maintain existing uses...' There is no doubt that by said sentence the Legislature in enacting Act 187 intended the Land Use Commission to place land which had been put into urban (residential) use prior to enactment of said Act to be continued in an urban district."

Mr. Carlsmith explained the reason for the alternate request for a Rural classification in the petition. He said that the landowners were primarily interested in an Urban classification but that they would also like a ruling on the Rural classification at the same time.

However, it was Mr. Carlsmith's contention that Rural was not the proper classification for this area for the following reasons:

1. Minimum lot sizes in a Rural area would require 1/2 acre lots. This is in conflict with the use promised by the State.

2. Theoretically, Rural lands are used for vegetable or flower gardens and production of crops to supplement income. Subject lands are rocky and unsuitable for gardens.

3. The State Land Use District Regulations designate Rural lands to "include parcels of land where 'city-like' concentration of people, structures, streets and urban level of services are absent." A high degree of urban services are presently available in the area and there existed a city-like concentration of people. The Regulations also state that land not contiguous to urban lands shall not be used for urban purposes. The three reasons for the latter statement and why they were not applicable in this case were presented as follows:

a. To cut down amount of scattered urban areas by reason that scattered urban areas would burden the State and County with costs for services and facilities. - Services are already available in subject area.

b. Urban sprawl would not be aesthetically pleasing. - The subdivision would not be visible from the highway since it was hidden by a 300' wide strip of virgin forest.

c. Additional tax burden resulting from need for services and facilities--this is adequately covered in (a) above.

In summary, Mr. Carlsmith submitted that there were several fingers of urban land uses which extended out a significant distance from the central urban area. He contended that the Panaewa Houselots were closer to the Hilo area than some of these urban fingers on the map.

Commissioner Nishimura wondered whether the State would have to bear the cost of installing water lines and building roads should the classification be changed to Rural. Mr. Carlsmith assured him that he believed there was no way the subdividers could demand this of the State--that these costs would be allocated among the people of the subdivision.

Commissioner Ferry wondered whether Mr. Carlsmith would consider that there was a taking of property if a piece of property he owned, zoned for hotel-apartment, on which improvements had not been made, was subsequently rezoned for single-family dwelling. Mr. Carlsmith replied that the law was clear in this case--since there was no construction or improvement on the property, one could not complain at the time of rezoning.

Commissioner Ferry likened this to the present petition under discussion and wondered how these people, who had not subdivided their lands, could consider that there was a taking of property now that the lands had been rezoned for another use by the Land Use Commission. The difference here, Mr. Carlsmith argued was that in one instance there was a contractural right of property under the Constitution of the United States, whereas in the other case there was no contract.

Commissioner Ferry pointed to the fact that the sale of the Panaewa Houselots had been conducted by the State Commissioner of Public Lands and did Mr. Carlsmith feel that the Land Use Commission should concede to the Commissioner of Public Lands. By the same token if a governmental agency wanted to subdivide its lands they would not need to go to the County Planning Commission or the Land Use Commission for proper approval. Commissioner Ferry felt that a permissive use contained in a deed document or land patent grant by the State on a previous disposition could not be weighed by this Commission.

Mr. Carlsmith argued that this was not a mere case of permissive use. This was a contract and it was ruled to be so and upheld in the Court of Law in Hilo.

Commissioner Ferry pointed to page 3 second line of the staff report which read "only one owner indicated intention to subdivide and sell lots, while the rest plan to keep all of their land." Mr. Carlsmith agreed that this was true. Commissioner Ferry then referred to page 3, seventh argument in Mr. Carlsmith's written presentation, which indicated that these lots were needed for subdivision purposes.

Mr. Carlsmith admitted that substantially more than one land owner would want to subdivide their lands, but stated that his point in the argument was to stress that these people were not land speculators. They had bought these lands for their own and their family's use, with possible additions of rental units.

Commissioner Ferry wondered why it would be necessary to subdivide the land at all if ownership were to be retained by one person. If the zoning were established at 10,000 square foot for a home and there were 100,000 square feet of land, 10 homes could be built on the land without subdividing.

Mr. Carlsmith replied that he had approached the County Planning Commission and they had informed him that they would not issue any building permit until the land was subdivided.

In reply to Commissioner Wung's question, Mr. Carlsmith felt that a 1,000-acre macadamia nut orchard would be economically profitable whereas a 3-acre farm would not. The economy of large farms is being recognized all over the United States.

He did not know whether vandas would be an economic success since he did not know the cost of hapu, etc.

Mrs. Becky Arquero, one of the landowners in the Panaewa Houselots, testified that the only reason she wanted to subdivide was to be able to deed the land to her children, and that many of the others felt the same way.

Chairman Thompson brought up the point that Mr. Carlsmith seemed to negate the request for rural in his testimony. Mr. Carlsmith replied that the petitioners actually sought an urban designation. However, he had submitted the petition in the alternative with the request that the Commission rule on urban and rural so that in the event urban is denied, taken to court and upheld, the

petitioners would not have to go through the entire proceedings for a rural classification. Mr. Carlsmith agreed that he would take the matter to court if the petition were denied in either case.

Mr. Carlsmith questioned the source of Mr. Moriguchi's information relative to the sufficient amount of reserved areas for urban growth in Hilo as stated in the staff report. Mr. Moriguchi replied that this was based on a survey made of the Urban District in the Hilo area during the latter part of 1965 using aerial photographs and field inspections.

Mr. Carlsmith wondered what factors were considered in making this survey to which Mr. Moriguchi replied that vacancy of urban lands was the only consideration. Mr. Carlsmith implied that within the 2,400 acres of vacant urban lands, portions may already be subdivided and owned by many different landowners and not available to other people in Hilo. Mr. Moriguchi clarified that staff did not consider availability--only vacancy of urban lands.

For purposes of appeal, Mr. Carlsmith requested that these figures be incorporated in the records.

Mr. Carlsmith asked whether the land area that would be necessary for roads, schools, additional facilities, etc., had been deducted from the 2,400 acres to which Mr. Moriguchi replied that staff referred only to vacant lands.

Mr. Moriguchi submitted that staff was only mandated by the statutes to provide for sufficient urban lands and was not required to specify whether they were for homes or business, in direct reply to Mr. Carlsmith's question.

Mr. Carlsmith contended that staff was required to delve into the matter of availability of urban lands as well. In Hilo, 90% of the lands were owned by either the Mauna Kea Sugar Company or the State of Hawaii, neither of which had any intention of making these lands available in Hilo.

Referring to Mr. Carlsmith's earlier statement with respect to insufficient urban lands in the Hilo area, Chairman Thompson pointed out that the statutes clearly place the responsibility of proving this on the petitioner.

Mr. Carlsmith agreed that the burden of proof of insufficient lands rested with the petitioner. However, to plan for urban needs on the basis of vacant urban lands, he did not feel was a proper application of the statutes.

Mr. Takeyama, legal counsel, commented that Mr. Carlsmith was interpreting the term "available" to mean that the Land Use Commission should pry into the minds of property owners as to their intention, which was an impossible task.

Mr. Carlsmith replied that he meant it was necessary to make a reasonable inference whether these lands were available to the people of Hilo.

In reply to Mr. Carlsmith's question, Mr. Moriguchi advised that he had not made an estimate of the lands that would be needed in the next 10 years on the population projection, since the Commission had ruled that the Urban District would provide for that.

Referring to staff's statement in the report that 2,400 acres of urban lands in Hilo would be sufficient to take care of the urban needs, Mr. Carlsmith wondered about the reasoning behind this contention. Staff replied that he was relying on the fact that the Commission had found it adequate within the bounds established in August, 1964, to take care of the urban needs. Mr. Carlsmith argued that the mere statement that it is adequate was not sufficient grounds for upholding the regulations--that it had to be based upon substantial evidence.

Mr. Takeyama advised that population projection was a consideration in determining the urban needs of the Hilo area since, at the time of adoption of the final boundaries in August, 1964, by the Land Use Commission, this was taken into consideration.

The hearing was closed at 5:00 p.m.

Chairman Thompson called for a five-minute recess.

PETITION BY MAUNA KEA SUGAR CO., INC. (A66-109) TO AMEND THE URBAN DISTRICT BOUNDARIES AT HILO, HAWAII, identifiable by Tax Map Keys 2-3-35: 1, 2-3-39: 2, 2-5-08: 3

Staff Report (see copy on file) as presented by Mr. Moriguchi, recommended denial of the petition since the petitioners had not substantiated the need for additional urban lands and since there were other vacant urban lands within the immediate Urban District.

Mr. Philip Yoshimura advised that the Planning Commission had recommended approval of the petition because the subject lands were included in the General Plan for urban development, they were prime residential lands, urban facilities were available, available houselots in the Hilo area were limited.

In response to the Chairman's and Commissioners' requests, Mr. Yoshimura pointed out the areas planted in cane, park areas, and the uses of adjoining lands.

Mr. Yoshimura agreed that the General Plan followed essentially the plan drawn up by Belt Collins. A detailed study for need had not been made. Mr. Yoshimura commented that the Kaumana Gardens were fully developed although he was not sure whether they were all sold.

Mr. Roy Nakamoto of the law firm of Ushijima and Nakamoto, representing the Mauna Kea Sugar Co., testified that the three parcels in question were immediately adjacent to built-up urban areas, and included as urban lands in the General Plan and earmarked for residential use. They were also very close to community facilities such as the hospital, school, roads. The importance of proximity to the Hilo urban center was also pointed out by Mr. Nakamoto as a result of the poor transportation system.

Since these were relatively small parcels, Mr. Nakamoto submitted that district reclassification would not affect the over-all agricultural picture. Presently, the lands were being taxed for residential use and they were uneconomical for agricultural use. Therefore, the highest and best use was for residential purposes.

Referring to the staff's statement that proof had not been submitted for additional urban lands Mr. Nakamoto called on Mr. Kenneth Griffin, reat estate broker, for comments along this line.

Mr. Griffin stated that although it was true that vacant lands were available in the Hilo area, the demand for lots was peculiar to certain areas and the subject lands were in a highly desirable area for residential use. He cited the Halai Hills, selling around 85¢ to $1.25, as having 100% use. The Kaumana Terrace, selling around $1.35 to $1.40, has been completely sold. The first 40 lots in the Bay View Subdivision developed by Mr. Griffin's firm, sold within 6 months after they were put on the market, and an additional 20 lots were offered later. Of this total, Mr. Griffin stated that there were about 18 lots with homes already built or under construction

On the matter of the wooded area, Mr. Griffin thought that the upper area more than compensated for the cutting of the trees. He submitted that the danger of flooding had been alleviated by natural drainage and through built-up drainage. He said that he had not noticed any flooding in the last 1½ years, although Hilo has experienced considerable rain during that time.

In reply to Commissioner Ferry's query as to the type of subdivision contemplated for the subject parcels, Mr. Griffin informed that Mauna Kea Sugar had made no commitments in this respect. However, his firm would probably plan for 10,000 square foot lots with 100' frontage, storm drainage, sidewalks, taking advantage of the natural terrain and view of the bay. Mr. Griffin was not able to say whether it would be a grid or cluster-type subdivision.

Mr. Moriguchi pointed to the 45 acres of land in the Urban District, owned by Mauna Kea Sugar, presently vacant and asked whether any consideration had been given to these lands.

Mr. Claude Moore of Mauna Kea Sugar commented that these lands were highly impractical to develop. A stream cuts right through this land and a road will be required which could only be served from one side. He added that this land was located in the County watershed area.

Mr. Griffin offered additional data on the 45-acre parcel under discussion. He identified the parcel as being right behind the De Silva School with drops of approximately 25 to 30'. He said that there were almost no usable land and most of the lots would be down in a hole. He thought perhaps that the lower area could be subdivided into 10 or 12 lots.

Since there was no further testimony, the hearing was closed thereafter.

APPLICATION BY GERALDINE L. CARVALHO (SP66-22) FOR A SPECIAL PERMIT TO CONVERT A GREASE RACK SECTION OF AN EXISTING SERVICE STATION INTO A LAUNDROMAT AT PEPEEKEO, SOUTH HILO, HAWAII, identifiable by Tax Map Key 2-8-16: 25

Staff recommended approval of the special permit on the basis that the proposed use would not adversely affect the surrounding property nor alter the essential character of the land or burden public agencies and also on the basis that the proposed use could be considered an unusual and reasonable use within an Agricultural District. (See copy of staff report on file.)

Commissioner Ferry moved to accept the staff recommendation, seconded by Commissioner Inaba. The motion was carried unanimously.

APPLICATION BY HILO ELECTRIC LIGHT CO., LTD. (SP66-23) FOR A SPECIAL PERMIT TO PROVIDE STORAGE SPACE FOR EQUIPMENT AT KAULEOLI, SOUTH KONA, HAWAII, identifiable by Tax Map Key 8-5-5: 19

It was recommended by staff that the application for the special permit be approved on the basis of the evaluation performed, using the guidelines set up by the Land Use District Regulations. (See copy of staff report on file.)

Mr. Moriguchi advised the Commissioners that he had talked with Mr. Niyao of the Hilo Electric Light Co. who indicated that they might not need the storage space.

Mr. Niyao explained that the additional equipment which they had proposed to store in the storage area were all circuit breakers used to protect the transmission lines.

Mr. Moriguchi confirmed that this was a permissible use within an Agricultural District, in reply to Chairman Thompson's question.

Mr. Moriguchi recommended that this matter be referred back to the Hawaii County Planning Commission for re-evaluation in light of the latest data submitted by Mr. Niyao.

Commissioner Ferry moved that the application for special permit be referred back to the Planning Commission in the County of Hawaii, seconded by Commissioner, and the motion was carried unanimously.

APPLICATION BY GEORGE M. HUDSON, ET AL (SP66-24) FOR A SPECIAL PERMIT TO ESTABLISH INDIVIDUAL ONE-ACRE HOME SITES WITHIN THE AGRICULTURAL DISTRICT AT GLENWOOD, PUNA, HAWAII, identifiable by Tax Map Key 1-8-7: 25

Mr. Moriguchi presented the staff report which recommended denial of the application since the proposed use could be accomplished without subdividing the land and it could not be considered "unusual" in any sense.

Mr. Suefuji referred to page 2, second paragraph, in the staff report which read "Under the State Land Use Regulations involving Agricultural Districts....., the construction of six residential dwelling units can be permitted since minimum lot sizes are established at three acres. It is also noted that it may be possible to construct the homes in the manner suggested by the applicants without subdividing the 29-acre parcel."

Mr. Suefuji commented that he got the impression staff was recommending that the six dwellings be treated as one dwelling and the three acres be used without parcelization.

Mr. Moriguchi replied that the petitioner had indicated that the land was going to be used for agricultural purposes, and that a residential dwelling was permitted.

Mr. Suefuji stated that the applicant was informed to go through this procedure since he had implied that the homes were being built for future heirs of the family.

Commissioner Ferry suggested that this could be accomplished by subdividing the land into three-acre parcels.

Commissioner Ferry moved that staff recommendation be accepted and the special permit be denied. The motion was seconded by Commissioner Nishimura and carried unanimously.

The remaining items on the agenda were all deferred.

The meeting was adjourned at 5:10 p.m.