May 9, 1974 - 2:00 p.m.
DPED Conference Room

Commissioners Present: Eddie Tangen
Sunao Kido

Staff Present: Tatsuo Fujimoto
Ah Sung Leong
Gordan Furutani
John McConnell
Dora Horikawa

Consultants Present: James Yamamoto
Bill Eads
Yutaka Ishii

ET We got into the submittal when Alex was here. I have some serious questions from my understanding of what I read and from discussion.

This whole business of dual management and joint management, particularly so far as it relates to the state and county. Some of the dialogue in here says that the individual responsibility of the state and county remain about the same. State doesn't have any intention of changing that, but as I read this, it requires a number of things as far as the county is concerned which we can't really do. Also puts county, on one hand, making the major decisions as to what the Commission could do. I have some hopes that somewhere along the line, it will be much closer related to actions by the counties and by the Commission.

Let's just start from this findings and statement of purposes. Tats, you're more familiar with some of these phrases and also you'll be in the front line tyring to function. You want to start out as to what you see here.

TF The way I understand this whole approach that Jimmy is taking is that on one hand the first thing we have to understand--what is "State Development Management District" and what is the "Local Development Management District", and what is the "Dual Management Area". I'm confused on the first one because if you read through this document, it becomes fuzzy and sometimes clear, then reverts back to vagueness. To me, the State Development Area is the present Conservation District and the County Management Development Area is the present Urban District. The State Development Management Area, in addition to Conservation District, will have a tourist destination area outside of the Urban District. That's the understanding I have here. Dual management, therefore, is going to be in the present Agricultural and Rural areas. Local management area will be the area of vector of growth. Even in that area, some situations will be state management and some local.

Once we these two things clarified, the process of going about in assessing--whether it's interim procedure or 5-year review procedure--we're going to basically use the same approach.

In this particular document, the 5-year review will get into a 10-year projection with 5-year increments with growth vector type. But in terms of directing Urban District area, it's going to be a 2-year projection. The mechanism that will be used in evaluating this will be included in 3 major planning devices:

1. Land use guidance policies
2. Regional assessment screen and impact criteria
3. Population/employment allocation

These are the 3 devices that have to be fully understood to make this thing work.

The land use guidance policies have 2 elements:

1. Matrix of existing land use policies of state and county, including the general plan policies within the county.
2. Series of growth guidance maps.

Assessment criteria will have 2 major areas:

1. Environmental screen overlay.
2. Supportive services--water, sewer, roads, schools, etc.

Population model--essentially population projection statewise and allocating to counties and regions.

Using these 3 devices, they will be going through this analysis and the final result will be the allocation of whether the area will be in a growth vector or not.

The other confusing thing to me in this growth vector area is--the way I see it, there's no scale to it. It's some sort of flexible direction of growth. You wouldn't know without applying these 3 mechanisms, whether it's in growth vector area. I would like to have that clarified.

Understanding these 3 areas is first major thing to do. It goes on explaining what they meant by each of these. Then the other area that they're explaining is procedures through which this whole system will be going through. It's explained in this additional information he gave us. This is generally what I feel this

whole system is going to be, the way Jimmy has it explained.

The other thing we have to be very clear about--what we're going to do in 5-year boundary review and what do we have to do subsequent to the review. In the 5-year review, the way it seems is that we are going to have a 2-year projection of Urban District to be adopted. But this 2-year projection includes the existing vacant lands and also the areas that are contemplated predictable for development. The 2-year projection area will minus the vacant area and the redevelopment areas in terms of density. On the other hand, we're going to look at the total state--all vacant lands--what can be done in 10 years and what is r-year increment. Then project 2-year projection on that.

In terms of letters of intent we have, he is suggesting that we do not look into that. If we do look into that, we look at that in terms of whether certain conditions that we would like to have imposed on them they would adhere to.

The other area that I would like to have clarified is the area of special permits which I am not clear about.

This big area of full disclosure by public and private sector is another area that is important for discussion--whether LUC fully understands it or not. We're talking about different types which will tie into local development management area and also state development management area.

That's the summary I can offer at this point. I don't know whether I should go into detail now.

ET Couple of key things we ought to get zeroed in on. Again I want to emphasize--we have to keep remembering that we are charged with conducting a 5-year review under present statutes. We can make recommendations for changes, some ideas that will make things a lot better, but as I read this, it requires substantial agreement and coordination with the counties, plus in some cases giving to the counties some powers they don't have. As far as I can see, it doesn't let county give state additional powers.

Let's get into county. The very first page says "coordinated responsibilities between the state agencies and the counties designed to resolve rather than to generate conflicts". In the period of time we have to conduct this review, I'm interested in finding out how we get county agreement and coordination short of adopting county general plans and maps and agreeing to whatever positions the counties want to take. We have some experience about generating conflicts. If it is the feeling that what has been done recently, as far as the Commission is concerned, has generated conflicts, I'll be interested in hearing that.

In order to do this and to have this dual responsibility and this coordination, how is it proposed in the period we have, to get county agreement or coordination and dual and joint activities and that sort of thing? I'm talking about a practical matter. Not interested in any lofty ideas about what it should be.

JY The ideas that are presented here do not require any statutory

changes. Requires some understanding between counties and state with respect to how general plan amendments and petitions are treated, by negotiating with the counties in the process of the initial R&R hearings.

ET Who would be able to make those commitments from the counties?

JY The planning commission. Just a procedural thing. We're not suggesting any changes to statutes or ordinances--only changes in the procedure in processing of applications.

ET You have any discussion or reason to believe, in this period of time we have, such negotiations will take place and be resolved?

JY These suggested R&R can be applied. You have dual management right now. Just not called that. For example, special permits are processed by local agencies. Special permits in the Conservation District--building permits are processed in the counties. In a sense you have a dual system right now. We would like to see some order to the dual system. Mechanism suggested--the 3 basic policies. It's not going to be perfect but it would be a first step toward better procedure by which LUC decisions are made.

ET During this review. how can we, for example, get agreement or commitment on the county's CIP.

JY Just starting the process.

ET We're going to be the catalyst--by this action taken in our R&R--to get county to fit its CIP to fit its general plan. How do we do that?

JY We do that through the whole process of mandatory referral

issue and comments that are brought up in the public hearing process. If a petitioner is going to develop here, these are the comments county and local governments have to offer--there is a commitment on the part of local and state governments.

ET How do we get a commitment from County of Hawaii that there is a petition in here during the boundary review and there's a proposal being made. How do we get commitment from county of Hawaii to provide CIP?

JY We're simply saying in the process--here is what it takes to develop project--takes county commitment through CIP. The way it stands now, the only responsible agency for the development is the petitioner. You have no control over the others. Here is a petitioner and he needs public services and county is saying it's not in their CIP. They're saying if you want to develop in that area, go ahead as long as you meet our minimum requirements.

If you want to guide development in an orderly manner and if the county is saying this is where we want to grow because this is where we're putting our CIP, the state is supporting them with state grants and aid. Here comes John Doe who wants to develop this area. County is saying OK you can go ahead with the project if you provide ABC at your own expense, as long as these meet minimum local, state, federal requirements. The state is spending money here, the county is spending money here, and state will have to assume some services like education.

ET One of the things you're overlooking. For example "in the past Urban Districts--------long before adequate services scheduled for the area-----" As a practical matter, Mauna Kea, for example, which everyone agrees is good idea. They didn't have public facility. In almost every case where we're acting on a petition, all these services are not available. When you say the county's CIP is committed--unoccupied blank area. What CIP has ever been committed. These counties don't commit CIP. Go look at any county and see if they've appropriates X funds for area nobody has said he will develop.

JY This is in the urban area now. You want to prevent leap-frogging. For example, Kauai has deficient water system, sewage collection system. It's a lot cheaper to do it here where there is urban than over here.

ET Where has Kauai committed CIP?

JY In the Lihue area. They made commitment in this area. However, this area is being considered so it will leave this area deficient. Maybe there should be some relationship between the state and the county. That's all. Even the counties will admit that there are policies right now--if private party is willing to provide all CIP, then it's OK. But on the long-term, pretty soon state and county has to match CIP and on the long-term it catches up with you. Introduce some mechanism where you can waive that. When you make a decision here, 5 years from now you're going to pour money in

there. That's the kind of thing regional scale is providing.

ET One of the major thrust on Kauai is resort development. Let's take Poipu--there are no CIP funds committed for Poipu.

JY The CIP committed for this area (Lihue) and in this area committed for Poipu--landowners and developers have committed. What will happen in the next 5-10 years once they start catching up with this area. This area is going to catch up in terms of CIP. You're going to generate school, roads, etc. in 5 years. How much can state and provide when they generate this kind of services?

ET You're assuming counties don't understand that when petition is referred to them.

JY I don't think so.

ET You have an idea through this R&R, they'll have a better understanding?

JY The findings will be made that this is the implication--the regional impact, offsite impact.

ET People are entitled to CIP improvements. Developer will have to provide some services.

JY This is the kind of burden being placed on the rest of the island. State planning process brings this open. People understand what's involved. Here is the expense you will incur with that type of development. 1961 indicated concern of legislature over these kinds of things. OK, people understand what it's all about and if you want to make decision that's OK.

ET Aren't we doing that with this referral. I'm going to be the last one to say counties don't know what's going on--we don't

mind this development coming in. To tell them you don't even realize what it's going to cost, what future obligations will be. I'm very hesitant to say that. The county will say, you think we can't take care of our own.

Jy If you wish to make that kind of a decision--we're just saying include it in the process to see where the burden will be. We're treating Poipu in the context of the whole island--not isolated.

ET When we make referral, don't we find out from DOE what it amounts to for the state to make services available?

JY They don't consider the long-term--only the short-term. I'm simply saying now we can ask these kinds of questions and get decent answers. If you were to ask questions of City and County, they have sufficient staff to answer your questions. We're not trying to say anyone lacks knowledge.

TF When we have petitions in the interim, I think this is a pretty good system to go by. But in the 5-year review,what Jimmy is going to do is use that same system, apply it statewide to see if any changes should or should not occur. What they're going for is a service system map for water, sewer, roads; water quality standard maps. That's going to be one element that's going to provide state regional area.

The other thing they'll have is the environmental screen maps, overlay on each other.

They'll have this map showing where CIP projection is going to be.

ET Suppose it doesn't have any CIP?

JY This is the projected CIP. For them to get something, somebody has to provide this and somebody has to provide this, which is the discharge of the treatment, say. That will be one map. Also, there'll be environmental screen overlays. You'll have things like slopes, rainfall, water source, forest, open space. They're going to overlap. This environmental screen--you'll know where is the most vulnerable area. That's another set. These two will consist of the regional assessment screen. Then you'll also have policy area where they're going to use general plans of the counties, existing land use district maps. They're going to use the policies of the different agencies affected.

ET If they're negative and on every petition we'll run into negatives. By these R&R, if these negatives are there by series of acreens, then would the Commission be doing a poor job to approve a petition where these negatives exist? Right now, there's no water in Poipu, but water can be provided at the expense of the developer. There's no sewage disposal in Poipu but it can be provided at the expense of the developer. But there's no CIP earmarked for Poipu. But general plan does call for this particular development in Poipu area. Those are negatives--meets all the other stuff. If the Commission were to go ahead and approve that petition with the consent

of the county and county's input, what position does it put the Commission in?

TF We have to get rationale why, and if it's done with consent of the county, it's a matter of banking on that particular policy of the county to override the rest. In the 5-year review, if that's the case, I don't know to what extent county is going to come in with their recommendation--it may be in the area of general plan and if it doesn't show that to be growth area and everything is negative, I would imagine the county's recommendation will be that that area will not be urbanized in this 2-year projection. For the commission to override something like that, you will need better rationale.

JY You have Kilauea area. You have a choice. This looks more attractive than the other area. The benefits of growing in this area outweigh the other because of the long-term commitments. Some finding has to be made to overcome the negative and that's the process in which the LUC will decide whether in fact this area has merit. You have to weigh it somehow.

ET Every petition we weigh. We're doing it now. If you put in some of R&R, we'll be accused of not doing/these things. Suppose it's not on county general plan and then we overlaid that. According to all the stuff I read, coordination, cooperation with county, following general plan, we would be in violation of what we say are standards for urban district.

JY When you make your decision, it doesn't mean you have to meet all this 100%. The rationale is that benefits outweigh negatives. If the counties refuse to go along, they don't have to give any building permits so they won't be able to build. It should be done in joint management.

ET How do you get this joint management--when you have planning director who takes one position, planning commission takes another, and council takes another. How do you determine the county's position? It's not on general plan so where do we sit?

JY The process is one that, if it's not on general plan and you approve, they have to amend general plan before they can get zoning. If you're going to place conditions on the applicant, you've got to provide them reasonable time to overcome development constraints. If not in the interest of the county, county is going to stop this development.

ET It's going to be spelled out here. If we don't go along with county, all fingers will point and say county has ag but LUC says urban.

JY This is why we're saying that the classification called urban is inappropriate. We would rather call it local management system. It doesn't prevent county from keeping in ag lands designated urban. Big Island says we can guide growth better than state can, but is it in the interest of the state? We're trying to institute mechanism so there will be decision between state and county. The process we're suggesting is that you change existing R&R and introduce these

concepts--dual management, etc.

SK You're introducing these concepts. I feel you don't have statutory base to make that kind of changes. I'm talking about this boundary review now, pursuant to existing statutes.

JY There's nothing in the statute that says urban district be called local management system.

SK The rules must have basis in the law. Where do we have permission to introduce such a thing?

JY It's pretty flexible. All you're doing is introducing local management concept.

SK You classify according to law--those 4 districts.

JY Management idea is closer to what is going on today. For example, permits are issued by the localities except in the Conservation District.

SK I cannot agree with you that Conservation District is a dual management. The building permit is with the county but we're talking about special use permit. Building permit is a necessary follow-up of the special use permit. I don't see that it's a dual system.

JY That's our definition of a dual system--2 parties regulating that land.

SK Building permit is not a regulation of the use of the land--it's for the erection.

JY Technically you're right but pragmatically it's a dual system.

BE The purpose of the statute--I'm a lawyer and I looked at the

Land Use Law for quite a while. The Commission, for a long time, has not exercised the breadth of the law. The commission has broad functions under the law. Local and state management concept is districting, a mapping concept. In one part of the law there's also a planning concept. How do you separate state and local procedures for handling petitions?

Et How do we do this in the boundary review for some things that may be for the future--whether it's dual management or needs to be spelled out by the legislature.

Let me get down to the practicality of dealing with the counties. For 2 sessions now and particularly in the last one, over the most manini kind of things, the county is killing legislation. Look at the official county position and see what it says. Whether any kind of negotiations will have any kind of meaning from the counties. You know that on Kauai, Nishimoto is not going to agree with the mayor or council, not agreeing with commission half of the time. When you get down to county general plans--statement made that general plan of each of the county is a vital growth policy. Tell me Kauai general plan is vital.

BE We were thinking of reaction of county. In other words, they want to control. We were offering them an adequate compromise.

Et It should be done in another way instead of putting words in there to say this particular thing will incur opposition from the counties, and one way to handle this might be this.

JY What kind of guidance instrument can we use and where can this instrument be developed? The existing process is going through dual

management--state and county. What we have done is we looked at the whole land conversion process. Conversion from a lower use district to a higher one and we are simply trying to find a better way to introduce the state's role in the whole conversion process.

ET Example. This business of our going along, coinciding with county general plan. The guy has to come to us first before he is going to get anything. Let's take Kilauea area. There's a task force program right now. We want that land put back in agriculture--land that's running $5,000/$6,000 an acre--no way of putting in agriculture. We're engaged in transfer value plan, saying to these landowners--look, over in the bluff areas and scenic areas, including old Kilauea town, will be good place for some urban uses. In addition to that, these scenic areas, if you were to get urban here, the value of this land now becomes $200,000 an acre and you can put up $250,000 condominium. And each one of you, in exchange for that, will dedicate to the state and county this land for agricultural use. This land now has value of $350 an acre. The farmer can afford to buy it or lease it at $350 value. So we're going to turn this whole thing to agriculture. We're going to recapture for farmers. The county general plan has this whole place for agriculture except for one small piece here and there. Before people can do this, you have to get Land Use approval. County general plan says there's no urban there.

(Sunao Kido left at this point)

ET We're going to have to approve urbanization of X lands at Kilauea in order to provide agriculture that is needed. This was not scheduled as growth area. All this is going to create employment for people. Nowhere is it called a growth area and certainly not in the county general plan. I've been working on this for 2 years on the Kauai Task Force. I want to recommend as strongly as I can that we do this in spite of what county general plan says. It's not going to be amended before this happens because that's the way things happen on Kauai.

We don't want something in R&R where somebody can point and say, you see there you go. There's no CIP committed and there will be no commitment until commitment from developers. There's no CIP for Poipu and Kilauea so we don't want to do anything there--there's only CIP for Lihue. I don't want to tell people that. I don't want to identify kind of criteria in the R&R that people can point to and say----- I don't want that hanging around. That's what will happen if you define and spell out in the R&R.

JY Specifying in the R&R some of the questions you have to go through to arrive at a decision. These are the kinds of considerations you ought to undertake. It doesn't say you're going to deny.

ET I don't object to words that say we're going to consider certain things--the reliance on the county's program and coordination with county.

BE Page 12 of the regulations. We don't make any assumptions that county has to cooperate. Commission has power to do that. On page

12, you're guided by 4 things. One of them will be "preservation of economic base. At the bottom, your guiding sentence is very general: "The LUC will be guided by----------which to the extent possible result in consistent and uniform public investment policies and furtherance of county and state policies". When it comes right down, you say the reason why you're taking action, whether it's planning issue or environmental concerns.

JY I don't see any difference between what you're saying and what we're saying.

ET As I said maybe they're saying too much. I'm talking about having it in R&R. I'm prepared to have a lot in the report and recommendation, but as far as having it in R&R which will govern us during boundary review. Part of this comes from statement I read in here, that you see very little in terms of boundary change during this review. If that's your feeling, some of this stuff won't be so important. Next year around and the year after that, if the legislature doesn't make some changes or there isn't this kind of agreement with the counties--I'm not too happy about the agreement with the counties. If anybody thinks anything's going to happen here on Oahu or Kauai--this agreement by the counties. Again we get back to what is needed are some recommendations that require statutory changes. Here are things that ought to be done that require statutory changes.

No. 3, page 12--what do you mean by individual choice and freedom?

JY That concept--within any given island there will be opportunity for different life styles, urgan life style, agricultural life style. The idea of the Rural District to provide that life style. We simply want to make it more pronounced.. Rural low-density type, although in agricultural. And then you have urban. You want to provide for different kinds of community patterns. We're trying to promulgate that particular idea. Niumalu kind of thing and Ota Camp. Zoning kind of thing. It will be very difficult for you to hold prices down.

You raised an interesting point where you could have picked up land at Kilauea for 13 million and now it's 39. It doesn't necessarily mean it would not have been 39 regardless of what happened. Land prices have gone out of sight.

ET We could have negotiated in the beginning.

This business of individual choice and freedom--let's be careful. That's what I want to be sure. That we're not subscribing to the idea that when somebody comes in with a petition for a place, because there are 10 or 20 people in the community who say they're not going to change their life style----------