

STATE OF HAWAII  
LAND USE COMMISSION

8:00 A.M. Meeting  
June 27, <sup>June 28</sup> 1969

Kahului, Maui

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MR. DURAN:

Any time, Mr. Chairman.

CHAIRMAN BURNS:

Okay. Well, we're ready to go. Let's go.

UNIDENTIFIED:

Okay. We'll be starting on the first sheet for . . . let's see, this is the other topic . . .

MR. DURAN:

We'll be reviewing Maui district boundaries first and then we'll go into regulations . . . Maui County district boundary proposals.

UNIDENTIFIED:

The proposal was to connect the existing conservation district here, continue it along the shoreline into . . .

COMMISSIONER:

Excuse me. Where are we now? We're on the west side of Maui?

MR. DURAN:

Napili.

COMMISSIONER:

Napili. Okay.

UNIDENTIFIED:

There was a protest from Dick Cox and the . . . well, two areas of grazing here and an area . . . (inaudible due to other noise in room) . . . activities here. The consultant's response to this protest is that in the case of the protest here we feel that there is a potential to expand some of the cane up to this and we've recommended returning to the forest

UNIDENTIFIED (Cont'd.)

reserve boundary here but in spite of the fact that these two areas have recently been set aside for open space in the Lahaina General Plan . . (inaudible) . . Land Use Commission continue to support that plan. So we recommend that these areas stay in and adjust the boundary to exclude this area here.

COMMISSIONER:

(Comments totally inaudible -- chairs being scooted along floor and noise coming in building from outside.)

COMMISSIONER CHOY:

And the east . . (inaudible) . . Honokaa.

CONSULTANT:

Yes. It's just this little grazing in the bottom of the valley here.

COMMISSIONER:

No taro there now?

CONSULTANT:

Taro?

COMMISSIONER CHOY:

There is taro there.

COMMISSIONER:

In both of them?

COMMISSIONER CHOY:

In Honokohau.

CONSULTANT:

I think there's taro here and a little grazing in this one.

COMMISSIONER:

(Comments totally inaudible.)

COMMISSIONER:

That's a rough terrain there. Deep valleys.

COMMISSIONER:

Yes, but there are flats in the bottom, Joe.

COMMISSIONER CHOY:

. . . (inaudible) . . . a beautiful orchard. . . (inaudible) . . . all kinds of exotic . . . and I think good idea conservation.

CHAIRMAN BURNS:

Are there any questions on the proposed . . . Do any of the Commissioners have any disagreement with the recommendation. And as I understand the recommendation now, that area will stay out of conservation.

CONSULTANT:

Right. We will re-set the original boundaries.

CHAIRMAN BURNS:

Right. And then the other areas will be in conservation. Is that okay?

RESPONSE:

Okay.

CHAIRMAN BURNS:

Okay, let's go on to the next map.

CONSULTANT: (MR. ALTMAN)

Okay, this area is a protest from Mr. McCormick. If you'll recall at the hearing, our position was until this alignment is fixed that we didn't suggest any urban zoning and after the alignment of the road has been adopted in accordance with the existing General Plan, our recommendation was to zone everything makai of that road urban. Well, McCormick said at the hearing that the alignment had been fixed and after that

MR. ALTMAN (Cont'd.)

occurred, he phoned back and apologized and said that in fact it hadn't been adopted. So our recommendation holds and that is not to zone any area urban until the alignment is adopted and only after that, to add the area makai.

COMMISSIONER CHOY:

Then why don't we just leave them out and . . .

CHAIRMAN BURNS:

In other words, no change the boundary in that area?

MR. DURAN:

Mr. Chairman, that has also been filed as a former petition to . . .

COMMISSIONER:

The urban boundary is all the coastline now. I don't see the mark

. . .

MR. ALTMAN:

Yes, all the way up.

MR. DURAN:

May I make a comment before you move? As you recall, this area was rezoned for advance resort development several years ago and nothing has been done at this time. We do have conservation along the shoreline. I am wondering what the Commission's thoughts are with regard to putting Fleming Beach in the conservation area.

COMMISSIONER:

It is not in the conservation area now? It's in urban?

COMMISSIONER CHOY:

It's in urban.

COMMISSIONER:

But I think, you know, it's such a small beach . . . about 400 feet, huh?

COMMISSIONER:

We could leave it.

COMMISSIONER:

I don't think they're going to build right on the beach area, you know.

COMMISSIONER CHOY:

I think the Land Use Commission should be the one to designate whether they can build or not.

COMMISSIONER:

Unless we cut back that 400 acres.

COMMISSIONER:

I feel that we shouldn't touch that. Wait until the development plan is presented to us and then . . .

COMMISSIONER:

Whose property is that?

MR. DURAN:

The development plan won't come to us.

COMMISSIONER:

It's in urban now, isn't it?

MR. DURAN:

Yes.

CHAIRMAN BURNS:

It seems to me you have these questions. Do you want to withdraw an area that was districted urban and make it conservation? That's one consideration. The other is, of course, it is an attractive beach.

MR. ALTMAN:

The third point is the fact that it has been zoned urban ever since I guess it was 1965 or whatever, without any action, and if you zoned it

MR. ALTMAN (Cont'd.)

back and if they came in and asked for . . . again, we could impose a performance time on it, say, to insure the areas that are zoned urban are developed within a 5-year period of time. If they aren't, then the zone is back to the zone from which it had been rezoned before.

CHAIRMAN BURNS:

Did the petitioner or the land owner . . . did they indicate at any time during the last 6 months any progress that's been made in actually . . . ?

MR. ALTMAN:

I don't . . . (inaudible) . . .

COMMISSIONER:

Can we initiate something and notify them that we're thinking about it and see what we come up with?

CHAIRMAN BURNS:

Well, we have to go along now, whether we say it's urban or whether we say it's conservation.

COMMISSIONER:

Is there a line that can be drawn now?

COMMISSIONER:

Can we draw a line on this? Without interfering with the development but still preserving a lot of big area.

(Several Commissioners and individuals talking at one time.)

COMMISSIONER CHOY:

I think we ought to take this . . . something as big as this on a special action. We should notify the landlord of what we think and let them . . .

MR. DURAN:

Well, do you want to do this? Have me write them a letter indicating that the Commission is evaluating the conservation aspect of this property and will possibly be taking action on this matter at the next meeting and ask them to . . . Because that would be a satisfactory . . . They could come in and make a presentation.

CHAIRMAN BURNS:

Right. Does that make sense to everybody?

MR. ALTMAN:

But I think on any other areas that have been zoned urban or rezoned urban since 1964, if activity hasn't occurred, I would like to see Rom send letters to all of the owners saying that their vacant urban zoning is being reviewed and they should come in and show cause why development hasn't occurred. And if they aren't going to, then zone those areas out of urban, too.

CHAIRMAN BURNS:

You have a problem, it seems to me. Look at the urbanized area of Oahu. There are some buildings, some not built, big productions . . . You're opening Pandora's box, it seems to me.

MR. ALTMAN:

Well, I'm not referring to a development of this sort, but where they actually came in and asked for a sizeable area based on a development scheme, and if there hasn't been any activity since it was zoned, I think you should find out if they are going to sell it or if there are plans that are being developed. But without that, you're faced with the problem of taking urban lands that are idle and . . . (inaudible) . .

CHAIRMAN BURNS:

What is the feeling of the Commissioners?



COMMISSIONER CHOY:

I think it's a very good idea.

COMMISSIONER:

What other developments are there like this?

MR. ALTMAN:

Well, for example, Matson I think . . . if nothing else, you folks should be aware of where they're at. I do know that they're involved in intensive planning but there's something I could say . . . I think that the Commission should, on areas of that scale, find out how things are going on. I mean, if you folks are going to keep up with this performance criteria and there isn't any performance, I think you should find out why. I mean, I think that the L.U.C. should be an enforcing agency to the point of being sure that when someone asks for something that they follow through on it.

COMMISSIONER:

I go along with that.

COMMISSIONER:

Are there any changes being made in the Matson area in our present

. . .

MR. ALTMAN:

Not at all.

COMMISSIONER:

The only changes are in ownership or theoretical ownership.

CHAIRMAN BURNS:

How many similar cases do you have where there's been a districting and no action whatsoever.

COMMISSIONER:

Campbell Estate is all I know.

COMMISSIONER:

Yes. Kawela Bay.

MR. DURAN:

Well, they're moving now. We know . . . (inaudible) . . . our public hearing, but that's an example where, for example, we hadn't heard anything from the developer for a long time . . . we should . . .

COMMISSIONER CHOY:

This should be working so that we could hasten some of these developers, too; I mean, if we're going to set up these rulings and thing. If they get a notice that we're thinking of taking this land out of the zones, that's it. Most of these guys . . .

CHAIRMAN BURNS:

Well, I think at least for information purposes. I think that this makes sense.

COMMISSIONER:

Right. Well, the staff is going to write, huh?

CHAIRMAN BURNS:

Yes.

COMMISSIONER:

Why don't we leave it at that?

MR. DURAN:

Let's do that. I don't think you want to imply a threat you're going to jerk it back or imply what you're going to do. You just want to review it.

COMMISSIONER:

Right.

MR. ALTMAN:

Let's see. M-2. This is a continuation.

UNIDENTIFIED:

This is coming on down Lahaina. This is a continuation of the area that . . . (inaudible) . . .

MR. ALTMAN:

The County asked for this area as urban for their civic center, and it was our proposal that it should be urban so they . . .

COMMISSIONER:

Is that where the Waikukuli Road goes up, right where your pointer is?

MR. ALTMAN:

(Comments in response inaudible.)

COMMISSIONER:

I see. Is that the old mill?

COMMISSIONER:

No, no. There's a power plant along farther up the shoreline, but no mill there.

MR. ALTMAN:

Then this was our proposal.

CHAIRMAN BURNS:

Do the Commissioners have any . . . ?

COMMISSIONER:

It's a protest, right?

CHAIRMAN BURNS:

Yes. Right.

MR. ALTMAN:

A clean sheet for M-3? M-4.

COMMISSIONER:

Where are we now?

MR. ALTMAN:

Kahului. Sheet M-5, protest from A and B . . . excuse me, C. Brewer. They have commenced since the . . . (inaudible) . . . with a boundary change application for that area that's patched in blue.

COMMISSIONER:

Where is the golf course?

MR. ALTMAN:

The golf course is here. The yellow areas show up in their master plan.

COMMISSIONER:

Can we take it up when they have their . . . (inaudible) . . . ?

CHAIRMAN BURNS:

What is your recommendation?

MR. ALTMAN:

Our recommendation was that we couldn't see, based on their plans, the exact feasibility of this development, and our recommendation wasn't to add any urban zoning at this time. Also, I should point out that the County didn't ask for, or in fact said, not to have any urban zoning here at this time and instead to add the urban expansion area here.

CHAIRMAN BURNS:

Well, let's first of all get the consensus of opinion of the Commissioners.

MR. ALTMAN:

I'd like to make one point, Mr. Chairman. This portion of the . . . (inaudible) . . . be sacrificed for urban development, but at this area

MR. ALTMAN (Cont'd.)

there is some cane land on the proposed . . (inaudible) . .

COMMISSIONER:

What's the yellow?

MR. ALTMAN:

The yellow is what was indicated on their general plan. I think this is something they would also have to explain to you, is why their application in the blue area differs from the area that they've indicated on their general plan.

CHAIRMAN BURNS:

This is Brewer's plan, not the County's?

MR. ALTMAN:

Yes.

COMMISSIONER CHOY:

How large an area is this?

UNIDENTIFIED:

Three hundred acres or something . . .

COMMISSIONER CHOY:

Where is the present urban land?

MR. ALTMAN:

Right up to here. The rural area here and an urban area in the existing urban development here.

COMMISSIONER CHOY:

And your urban line's on the bottom?

COMMISSIONER:

These are all the natural guide areas here.

COMMISSIONER CHOY:

But what we're asking is, below the golf course contiguous to an urban

COMMISSIONER CHOY (Cont'd.)

area?

COMMISSIONER:

It is, right.

COMMISSIONER CHOY:

And it has no value agriculturally?

UNIDENTIFIED:

(Response inaudible).

COMMISSIONER CHOY:

Why do you recommend denial then?

MR. ALTMAN:

Well, only because the areas that we examined as a result of their first plan was the yellow area here and they didn't ask for that one. This area is being asked for as a result of the petition. So the recommendation was based on the yellow areas only at that time.

COMMISSIONER CHOY:

Now that you have the changes, what do you recommend?

MR. ALTMAN:

Well, in this area, if there aren't any ag values involved . . . (inaudible) . . . adjacent to the existing urban area, I can see this are, but I keep questioning this area on top or the yellow areas that also in areas that are in cane now.

COMMISSIONER:

Wouldn't it make sense to urbanize that area to . . . the bottom piece, yes? And leave the rest as is?

MR. ALTMAN:

Well, as I understand, they have filed an application.

COMMISSIONER:

Oh, they have?

CHAIRMAN BURNS:

Seeing that they're not quite sure themselves as to what they want, probably the best thing to do is to sit tight and . . .

COMMISSIONER:

Yes. Leave the boundary as is, and then when they come . . .

CHAIRMAN BURNS:

Do we leave the boundary as is?

COMMISSIONER:

As is.

MR. DURAN:

Right. For all the blue area.

COMMISSIONER:

And yellow, too.

COMMISSIONER:

No. Not yellow. Just the blue area.

MR. ALTMAN:

I should mention that in a part of their petition, they're asking for this area that is in existing urban at Wailuku Heights to be shifted back to ag. And except that when the boundary was drawn in 1964, the area that was shown in urban was that area without any ag potential. That is, it's a very rocky area and there was cane here. So I think that they are, in fact, asking for this area out of urban in exchange for adding urban zoning here.

COMMISSIONER:

Why don't we leave it as is?

COMMISSIONER:

Yes.

CHAIRMAN BURNS:

Okay. We'll leave that as is, too. Does that make sense? Because this looks like we're going to get a petition from them that should fairly delineate what they want.

COMMISSIONER CHOY:

And that's a rocky place. I don't see how they can plant cane in that area.

CHAIRMAN BURNS:

Okay. What else is there?

MR. ALTMAN:

This is only a point of information. The County asked for an urban expansion area if anything that A and B could show could be developed in a 5-year period of time which is this area here, and they assured us that this edge would conform to any (inaudible) in the alignment of the highway if it occurs. Now it just happens that the alignment is right on top of this edge of the proposed urban zone, and I don't see any problem here. The County and (inaudible) are willing to adjust this urban edge if this (inaudible) shifts. And it isn't something that goes through a proposed edge, and as far as I'm concerned, the proposal can hold. And if this is going to occur at that point, then the urban boundary of course will parallel the road.

MR. DURAN:

Mr. Chairman, might I suggest that in view of the fact that our present alignment does at least at the present time cut across that area that we not zone beyond that point, and we just adjust it for that little



CHAIRMAN BURNS (Cont'd.)

isn't it?

MR. ALTMAN:

Yes.

CHAIRMAN BURNS:

And the other urbanized area is pretty well built up, is it not?

MR. DURAN:

That's true.

CHAIRMAN BURNS:

Well, this makes sense.

COMMISSIONER CHOY:

What is all that red mark down there?

MR. ALTMAN:

That's the road . (inaudible) . .

COMMISSIONER NAPIER:

On that C. Brewer one . . .is that a resort or is that a part of the marine city?

MR. ALTMAN:

It's everything. It's a resort area, residential, shopping, I think even expanding into a second golf course.

CHAIRMAN BURNS:

We'll get to that petition, you see.

COMMISSIONER NAPIER:

I know. I was asking because I'm kind of confused. It seems to me that we have two criterias: one for resort and one for urban areas, and I want to get my facts straight in my mind. On this resort . . . I don't hear the consultants saying anything about whether the land is needed.

MR. ALTMAN:

For urban expansion, it hasn't been shown that it's called for. In this area, I think that you can agree on the fact that this has all been sold and developed, but in this area, the County questions it.

CHAIRMAN BURNS:

As far as the topics, we're going to wait until we hear from them. In the bottom case, is it agreeable with the Commissioners that that additional area be urbanized?

RESPONSE:

(Several at one time and inaudible.)

UNIDENTIFIED:

Now, let's see . . . M-6. . . (inaudible) . . there's always been a . . (inaudible) . . and we had recommended that the boundary be extended to this line here. The protest was from A and B, and there is a . . . what do you call it . . . sea food culture experiment that they're helping to conduct in this area and they're afraid that there may be a conflict here in the conservation district should they manage to get this off the ground. Plus there is a proposal for a power plant in this area. So we recommend that something of a compromise here . . . return to the original boundaries and then follow the road so that the land makai of the road be added to the district but this area in the back be returned to agriculture.

COMMISSIONER:

Is that . . . did A and B comment on it?

CONSULTANT:

No. I haven't offered them this, but as far as I can understand, their protest is with . . (inaudible) . .

COMMISSIONER:

The upper portion they're protesting. The lower portion they agree.

MR. DURAN:

No, they haven't agreed . . .

CONSULTANT:

I'm not sure if they have. I don't think we have absolute agreement on this with them, but

CHAIRMAN BURNS:

The bulk of their protest was centered in the area above the mauka of that old conservation area.

COMMISSIONER:

Why don't you let the petitioners know about the other portion then?

The lower portion.

CONSULTANT:

They're aware of it.

COMMISSIONER:

Oh, they are?

MR. ALTMAN:

They are aware of the whole proposal, yes.

COMMISSIONER:

Are they aware that we're going to keep a piece of it . . . ?

CONSULTANT:

No, I don't think they are.

COMMISSIONER:

You should let them know about it.

CONSULTANT:

Well, I think when you take final action on this at a meeting, that

CONSULTANT (Cont'd.)

would be the time to air your point of compromise.

CHAIRMAN BURNS:

Why don't you . . . I think you should indicate what our thinking is. The thinking of the Commission is to keep the area that was in conservation mauka of the road as is or as was and then the . . . In other words, A will go back to its original boundary and your C over there on the other side would be the added conservation. Does that make sense to the Commissioners?

COMMISSIONER CHOY:

Very much so.

CHAIRMAN BURNS:

It's a compromise suggestion that . . .

COMMISSIONER CHOY:

What is the value that those lands . . . ?

CONSULTANT:

Well, as we understand, there is some wildlife value insofar as . . . from a (inaudible) standpoint . . . and then it would be essentially in addition to a shoreline.

COMMISSIONER CHOY:

Isn't that the road that you take to go to Kihei?

COMMISSIONER:

I think so, yes.

CHAIRMAN BURNS:

Alright, let's see . . . we have really two suggestions. One is a compromise position that the consultants recommend and the other is to jerk the area that was in conservation on our last districting and not

CHAIRMAN BURNS (Cont'd.)

add to it. Why don't we just poll ourselves and see what our thinking is?

What is your thinking?

COMMISSIONER CHOY:

I think we should just leave everything as it was originally and not have it in conservation.

COMMISSIONER:

Compromising.

COMMISSIONER CHOY:

That's not compromising.

COMMISSIONER:

I think so, too.

CHAIRMAN BURNS:

What? Compromise?

COMMISSIONER:

Compromise, yes.

CHAIRMAN BURNS:

Okay. Compromise.

CONSULTANT:

Okay. Let's see . . . M-7. This is an adjustment in the existing urban boundaries. This is the airport . . . Kahului Airport. Cox sent in a request to adjust the existing urban boundary to exclude the area that isn't in cane from the ag zone and to put it into urban. In going out there yesterday, it was confusing or it wasn't clearly shown that the area that they're asking for urban here is in fact out of cane. We thought a portion of it was in cane at the present time, and it's our feeling that any area that isn't in cane here makai of the road should be

CONSULTANT (Cont'd.)

in urban, but if it is in fact in cane, it should stay in the ag zone.

MR. DURAN:

I think if we were to leave it just as it is, Mr. Chairman, and as long as it's in the record that the intent was to follow the cane land, that if, when they do have a survey and an urban use of the area and there is a need for a boundary interpretation, we'll just follow the cane land.

CHAIRMAN BURNS:

Yes. This would satisfy what they have in mind.

MR. ALTMAN:

Okay. This area at the . . . this is Frank James Kaliho (?) is asking for urban zoning out here without any scheme, and it is our feeling that it would cause scattered urban development so we can't see adding any urban zoning here.

MR. DURAN:

He came in for a boundary change. We denied it with the hint that he ought to approach it from the special permit angle, and at that time of the application, the County supported his rezoning request. He went back to the County for a special permit and the County turned it down. So it never came to the Commission.

CONSULTANT:

Certainly the logic of the thing is . . . (inaudible) . . . to urbanize a little spot like that out there unless there's some real justification.

CHAIRMAN BURNS:

Is there any?

COMMISSIONER:

If you do that, then you open the Pandora's box for everybody.

CHAIRMAN BURNS:

What is the feeling of the Commissioners? I think we should leave it as it was.

COMMISSIONER CHOY:

We accept that.

CHAIRMAN BURNS:

Okay. Then what?

MR. ALTMAN:

. . . (inaudible) . . . a portion of the (inaudible) petition. It didn't come in as a protest but I think that action will occur after the Maui boundaries are up. Our feeling before was at the hearing that it should be considered under incremental zoning and that we didn't see proof that they could develop all of it or even a portion of it within the 5-year time period. And before zoning any of it urban, I would like to see a more definitive time table based on the development of (inaudible).

COMMISSIONER CHOY:

Have they filed a formal . . . ?

CHAIRMAN BURNS:

They have filed a formal petition.

COMMISSIONER:

In other words, leave it as is and then review the petition and take action on the petition rather than on the . . .

MR. ALTMAN:

The action occurred after the final action on this County (inaudible).

COMMISSIONER NAPIER:

I was just going to say that . . . even though they've filed a formal petition . . . even if they don't . . . I think that should come in under

COMMISSIONER NAPIER (Cont'd.)

incremental zoning or something like that. We should ease these things out and then . . .

MR. ALTMAN:

The existing urban area is shown in red. The rural area that they asked for previously . . .

COMMISSIONER:

They're asking for rural, not urban.

MR. ALTMAN:

No, no. They're asking for all urban. They came in for a change in 1965 or 1966 asking for rural zone because they felt at that time that this was in keeping with the development and that they could proceed into this area. Now their feeling is that it should be urban. Evidently, the character of the area has changed to more urban districting and our feeling is that in going up there, it is in fact still a rural designed area and to add urban zoning up there would countermand the rural zoning that was passed and even asked for in 1966. So I would say it would be inconsistent to zone the area urban in view of your past action. The only other answer is to upzone the rural area urban . . . that area that had been asked for for rural, but it's the consultants' feeling that the area generally falls under that that is defined by the rural districting in the existing (inaudible).

COMMISSIONER:

What is the counter-recommendation?

MR. ALTMAN:

I think something that Bob has said informally . . . that they approve



MR. ALTMAN (Cont'd.)

of the overall concept and they think that it should be considered under incremental zoning, and I presume that he's referring to urban zoning.

CHAIRMAN BURNS:

Okay, well then, as I understand your recommendations, to keep the districting as it was. Is that right? Make no change?

MR. ALTMAN:

Well, not at all. It is our feeling that if anything is added here that this area is rural in character and it should be added into rural zoning.

CHAIRMAN BURNS:

Yes, but do you recommend adding anything or not?

MR. ALTMAN:

If they can show that the existing rural area has been developed and sold, I would say fine, but I didn't see that up there.

CHAIRMAN BURNS:

Well, what I'm referring to is, are you now talking about their petition or are you talking about action that our Commission is going to take in terms of redistricting the boundaries?

MR. ALTMAN:

Oh, the redistricting I think should stay as is shown.

CHAIRMAN BURNS:

That was what I wanted to know. Do the Commissioners feel that way or do they want to . . .

COMMISSIONER CHOY:

No, we didn't want to take any action on this. We just thought that . . . (inaudible) . . .

CHAIRMAN BURNS:

Oh, we're going to get a little free advice. Oh, very good.

COMMISSIONER:

You were telling me that you wanted to draw back some . . . (inaudible)

. . .

MR. ALTMAN:

Oh, let's go back to . . . Oh, alright. The subdivision here and extends into this area but we're talking about likeness of areas and all and this subdivision constitutes a single use zone. Our recommendation was that the urban boundaries cut across here and that part of the single subdivision be put into rural, because this line seems not to recognize the type of development. There is a difference. This subdivision is half-acre lots; this is set aside for urban usage. This jog in here . . . (inaudible) . . . didn't acknowledge the subdivision pattern . . .

COMMISSIONER:

Where was the jog before?

COMMISSIONER:

The original line was forming the existing dirt road down here. At that time, there was no rural subdivision in that area.

COMMISSIONER:

Oh, I see.

MR. DURAN:

It's now platted with half-acre lots.

MR. ALTMAN:

There are two areas that were shown at the hearing to go from urban to ag on the basis that these areas had been asked for by agricultural dedication, and there wasn't any protest against that recommendation and

MR. ALTMAN (Cont'd.)

it's the consultants' feeling that that should hold true, that is, zoning these areas out of urban and into ag.

CHAIRMAN BURNS:

Okay, is that agreeable? Alright.

MR. ALTMAN:

Okay. M-8. This is an area adjacent to the petition that was rezoned rural to . . . let's see, that was this area here . . . a rural zoning that is vacant still. Now this is approximately 157 acres that is being asked for from Adolph Mendoza. I believe they're asking for either urban or rural zoning here.

CHAIRMAN BURNS:

What is it now? Ag?

MR. ALTMAN:

It is ag. And it is our feeling that there is sufficient vacant urban lands existing here and sufficient vacant rural zoning existing here to say that additional urban or rural zoning isn't called for at this time. The problem is, it is all subdivided here but it's vacant. There are very few homes at the second tier of lots.

COMMISSIONER:

But it is subdivided.

MR. ALTMAN:

Yes. We talked this over before, if you'll recall, and the feeling is that if we . . . we shouldn't zone any areas out of urban here.

MR. DURAN:

He's actually asking for urban.

CHAIRMAN BURNS:

I see. Then you're recommending actually that no action be taken on this urban request.

MR. ALTMAN:

Yes.

CHAIRMAN BURNS:

Is that satisfactory? Alright, let's go on.

MR. ALTMAN:

Let's see, M-9 . . . oh, this is the tail-end of the Matson urban area and (inaudible) said at the hearing that according to their existing plan that the golf course, or I should say a portion of it -- two fairways -- extended into the ag zone. Well, since then, they have changed their plans so that the golf course will fall within the existing urban zone so that that area isn't called for to be added into urban. I should point out that we have found out since that they are intensively involved in planning the whole site and though they aren't as far as we had thought, I don't think any rezoning out of urban is called for now.

CHAIRMAN BURNS:

Any comments by any of the Commissioners?

COMMISSIONER:

(Comments were totally inaudible.)

MR. ALTMAN:

Well, if nothing else, we could find out how far into it they are.

CHAIRMAN BURNS:

Okay? Alright.

MR. ALTMAN:

Okay. M-10.

CHAIRMAN BURNS:

Now where are we now? Hana side?

MR. ALTMAN:

Yes. Haiku. The protest which (inaudible) from A and B, and they've been rather consistent in opposing this shoreline where it refers to their property. Most of the coast, as I'm sure you know, is very steep along here. As to the protest, I have re-examined it and there is an adjustment indicated in a couple of areas. I don't think it originally followed the top of the ridge exactly as it might have done and (inaudible) wants to insure that any valuable agricultural lands were excluded which was the basis of the protest. In addition, we have recommended an extension of the conservation district to go the other side of the road. Our recommendation is that, with these adjustments, the shoreline remain as is but we have some cause to agree with the protest as far as the road is concerned insofar as agricultural restrictions. Part of the scenic quality of the area is its agricultural character, and I don't think that the conservation is . . . (inaudible) . . .

CHAIRMAN BURNS:

Look, the changes that you have made . . . suggested here are changes that have been suggested after the petitioner's had his say to you.

MR. ALTMAN:

He's asking for the whole thing to go out.

CHAIRMAN BURNS:

I see.

MR. ALTMAN:

I simply thought in light of the protest, I still hold the concept . . . or the least I could do in light of the protest was re-examine the

MR. ALTMAN (Cont'd.)

boundary . . . so . . . (inaudible) . . . the highway that we were talking about . . . (inaudible) . . . into agriculture.

CHAIRMAN BURNS:

I see. What is the thinking of the Commission in line with that?

COMMISSIONER:

To follow the recommendation of the consultants.

CHAIRMAN BURNS:

Okay. . . (inaudible) . . . both ideas now . . . the sea coast one and the elimination along the roadway.

CONSULTANT:

Right.

MR. ALTMAN:

The general area that is an extension of the land coast scheme that you saw you will act on through the petition. There are two areas here that are staff recommendations. This is in Makawao, and a part of an existing urban zone was shown at the hearing to go back into ag on the same basis as the area in (inaudible). Well, the staff has shown two other areas that came in for ag dedications and, as a result of that, it is our feeling that these should be zoned out of urban to ag so that essentially the urban zone would change from the area here to a boundary just like so. This portion coming out.

CHAIRMAN BURNS:

Coming out of urban and going into ag?

MR. ALTMAN:

Yes.

COMMISSIONER NAPIER:

May I suggest that the staff write a letter to them and notify them

COMMISSIONER NAPIER (Cont'd.)

when the . . (inaudible) . .

COMMISSIONER CHOY:

May I ask . . (inaudible) . .

CONSULTANT:

Yes, yes.

MR. DURAN:

They were denied. There were two. The other one was approved. The map shows it as being proposed by agriculture.

COMMISSIONER CHOY:

What's the recommendation now?

MR. DURAN:

That it go into agricultural dedication.

COMMISSIONER:

It's all in ag already. It's in agricultural use.

MR. ALTMAN:

This area . . . this is the area that we couldn't . . . Evidently, this shows up in the old files.

COMMISSIONER:

Here we are, right here.

MR. DURAN:

That's a problem where a lady has an acre and a half of land that is landlocked and she's willing to trade it with her neighbor who has about 4 acres and take a half an acre of his property on the road. It's all in the ag district and, of course, the County standard is too late. It's minimum. Oh, this better explains it. See, here's the road, that's the property, this is a private road which is going to be closed off and

MR. DURAN (Cont'd.)

provide the access to her lot. She wants to trade an acre of land for a quarter of acre of land for her neighbor's property, so you see, she's going from a non-conforming one-acre lot to a non-conforming half-acre lot. There's no way that we can do it legally that I see. How can you do it easily? I suggested that Bob Ohata find a way to do it within his zoning regulations.

COMMISSIONER:

Yes, because really, it's a ridiculous set-up. The practical aspect of it is certainly . . . (inaudible) . . . There must be some way to do that but . . . (inaudible) . . .

MR. DURAN:

This has not been a protest as a result of our boundary so . . .

COMMISSIONER:

Let's go on to the next one.

CHAIRMAN BURNS:

Okay.

CONSULTANT:

The Kula area, gentlemen.

COMMISSIONER:

Oh, great.

CONSULTANT:

The consultant's recommendation . . .

CHAIRMAN BURNS:

First of all, now remember, consultants, just treat this like you were going to live here for the next 5 years.

MR. ALTMAN:

Oh, yes. I think you'll be very happy. The consultant's recommendation



MR. ALTMAN (Cont'd.)

was based on the County's requesting us to take certain actions, and I can only sum it up to say that the consultants were really fed up. Well, our recommendation was to zone the existing urban area at Kulakai that is developing 2 urban standards in the rural zone . . .

CHAIRMAN BURNS:

Two urbans into a rural, now?

MR. ALTMAN:

This urban into R and in the Kula orchard area, to zone that from R, . . . excuse me, from urban into rural and the lower area, from urban into ag. This . . .

CHAIRMAN BURNS:

Would you try that all over again?

MR. ALTMAN:

Okay. There are two areas; this is basically urban. We originally recommended that the top half be put into rural and the bottom half be into ag. This area is also (inaudible) and we recommended it go into rural.

CHAIRMAN BURNS:

Okay.

MR. ALTMAN:

Now our recommendation now, after finding out all of the facts, is to keep it as it is.

COMMISSIONER:

Good.

COMMISSIONER:

And that is all rural.

MR. ALTMAN:

No, no. All urban. To keep the existing area that's developing in Kulakai urban, to keep Kula orchards all in urban, and the basic fact is that the lower portion that is vacant, the County has installed an 18-inch water service to that site which would conform to urban standards as soon as it develops. So our feeling is, keep it as is except that there is a portion there that is in the existing rural zone that they've asked for (inaudible). It's our feeling that this area, and I think the staff pointed out, could be zoned into ag out of the existing R zone.

CHAIRMAN BURNS:

It is dedicated.

COMMISSIONER CHOY:

Is that another graveyard?

COMMISSIONER:

No. That's all pastureland now.

CHAIRMAN BURNS:

Well, what is the Commission's feeling on this? Go along with the staff recommendations?

RESPONSE:

(Affirmative.)

CHAIRMAN BURNS:

Okay.

MR. ALTMAN:

Okay. Now there are two other areas. The first area is Mary Costa was asking . . . she's in the existing rural zone and she's asking for urban for a condominium project here, and Paul Gillette is again asking for urban zoning adjacent to the Silver Sword. Now our feeling is that

MR. ALTMAN (Cont'd.)

we're recognizing the existing boundaries. The County's feeling, or has been, I think, is not to add any additional urban zoning but to . . . in fact, they asked us to shift it. Our feeling is to recognize the existing pattern and accept that but not to add any additional urban area up there. So our feeling is on 3 and 4 to keep it in the R zone.

COMMISSIONER NAPIER:

Mr. Gillette's area. Gillette is not in the R zone; he's in the ag zone, isn't he?

MR. ALTMAN:

No. Paul is in R.

CHAIRMAN BURNS:

Okay. Does that make sense to everybody? Alright, let's go on.

CONSULTANT:

M-12 is empty and . . . M-14, M-15.

(Comments were being made on M-15 but several people were talking at one time; hence, the crux of the sentences were inaudible.)

COMMISSIONER:

We do not identify any action on the . . .

COMMISSIONER:

Yes, we gave . . (inaudible) . . for a ranch house development or something like that.

CONSULTANT:

In view of the dissolution, if the Commission feels the same way and it may . . . presumably, the solution would be to permit it to continue in the agriculture.

COMMISSIONER:

Do you want to put them in the conservation first?

CONSULTANT:

Well, we had recommended that a recognition of the shoreline continue all the way along there, yes.

COMMISSIONER:

Well, you know it came before the Commission and I don't believe we should change that. Why don't we leave it as is?

MR. DURAN:

They never built the ranch house?

COMMISSIONER:

Oh, they never did?

COMMISSIONER:

Oh, alright then.

MR. DURAN:

Remember, when you guys gave them that rezoning, the ranch manager was going to move. He needed that house there, so you granted the rezoning and then he moved. Okay, so I would recommend that you just . . .

COMMISSIONER:

Okay. That's all.

MR. DURAN:

Where are your Molokai maps?

COMMISSIONER:

Molokai.

CONSULTANT:

The first protest was with respect to the shoreline in this area. What I've done here is to . . . (inaudible) . . . to examine the overall plan which was indicated and as was pointed out, the boundaries were too far inland in some areas. The conflict . . . (inaudible) . . . plans for the

CONSULTANT (Cont'd.)

total area, so it was agreed right along here, recommending lands mauka of that be returned to the agricultural district. But essentially, we feel that a recognition of the shoreline here is still valid.

COMMISSIONER CHOY:

What do you. . . (inaudible) . . the high water mark?

CONSULTANT:

Well, in some areas it's still above the high water mark. All along here, the land is . . . all of the very steep land included . . . it's just at this point, we recommended the (inaudible) area.

CHAIRMAN BURNS:

Isn't that where the sand is being quarried?

CONSULTANT:

It is, yes. To this end of the beach.

COMMISSIONER CHOY:

And you're putting that in conservation?

CONSULTANT:

Well, I think so, yes.

COMMISSIONER:

I don't subscribe to that.

CHAIRMAN BURNS:

What is the feeling of the Commission? Here's the problem where there's a business operation really that's been going on for some time.

COMMISSIONER NAPIER:

Well, they have no special permit anyway.

COMMISSIONER:

Well, you know, they say they're going to put it out of (inaudible).

CHAIRMAN BURNS:

Is it a special permit?

COMMISSIONER NAPIER:

You can't stop them anyway.

CHAIRMAN BURNS:

Well, the problem I would think, from an operating point of view here, would be . . . it is conservation. Every change . . . every type of change of operation would have to get permission.

COMMISSIONER:

Well, they still have to negotiate with the State anyway.

CHAIRMAN BURNS:

Do they have to negotiate with the State on the sand?

COMMISSIONER:

Oh, yes.

CHAIRMAN BURNS:

It's very complicated and that's the only reason I raised the issue. Remember when we had a presentation made in Molokai and I never did understand what it was other than the fact that the high water mark changed as much as 200 or 300 yards. And the more sand they took out, the more sand came in. That's why I . . . What is the feeling of the Commission?

COMMISSIONER:

I strongly feel that we should put it in conservation.

COMMISSIONER CHOY:

I feel that the owners are more aware of the value of this area than any of us are and I feel that they would have to take proper care of it and that we should not put it in conservation.

MR. DURAN:

Mr. Chairman, might I ask whether we're talking about what was originally proposed and presented at the public hearing or the consultants'

MR. DURAN (Cont'd.)

amended proposal?

CHAIRMAN BURNS:

We're talking, I think, about the consultants' amended proposal.

Leave it as it was or in conservation? It's original status was what?

COMMISSIONER:

Agriculture.

COMMISSIONER:

I think it should be in conservation.

COMMISSIONER:

Didn't they say they wanted to take it out? They were going to take it out, they said.

COMMISSIONER:

That's what they said.

COMMISSIONER:

But they know the value of that land now.

COMMISSIONER CHOY:

They're going to phase out when the contract is over . . . I mean a (inaudible). They said they would review it.

MR. DURAN:

They've got quite an investment in that area with the groves and the (inaudible).

COMMISSIONER:

If you're thinking of putting it in conservation and allowing them to continue in (inaudible) use, I . . . (inaudible) . . . restricted to the are that they're presently . . . (inaudible) . . .

COMMISSIONER CHOY:

I think if you owned that beach land that you would be happy to get

COMMISSIONER CHOY (Cont'd.)

away from . . . (inaudible) . . .

COMMISSIONER:

Well, I wouldn't say it's detrimental to the corporation because they've been minding the same spot for the last . . .

COMMISSIONER CHOY:

Yes, so it's not that detrimental . . . I mean, if not, why are we changing it? Why don't we leave it?

COMMISSIONER:

Because it should conform with all the rest of the State shoreline . . . all of the beaches.

CHAIRMAN BURNS:

Alright, why don't we compromise on this thing with the high water mark?

COMMISSIONER CHOY:

Sure. High water mark is the proper . . .

COMMISSIONER: (KIDO)

One thing I can't understand. How come one island is in conservation and the next island we're not. . . ?

COMMISSIONER:

I'll go along with Kido. Let's conservation everything right to the lobby of the Royal Hawaiian Hotel, too. We might have the hula show back there.

COMMISSIONER:

I don't understand your rationale. You don't need to include no conservation line if there's an urban area.

COMMISSIONER:

Urban area is . . . (inaudible) . . .



COMMISSIONER:

That's what I said. One place is conservation and the next place  
is . . .

COMMISSIONER:

I think we've discussed these problems in the urban area before. We had one that . . . in the first place, we were endeavoring to distinguish between agricultural uses and conservation in an agricultural district and in the urban area because . . . (inaudible) . . . County wanted to zone for open space where such requirements were necessary.

CHAIRMAN BURNS:

How do the Commissioners feel about the area being . . . the conservation line being the high water mark in this particular stretch?

COMMISSIONER:

I don't know what stretch we're talking about.

COMMISSIONER CHOY:

Mostly the (inaudible) area.

COMMISSIONER:

Isn't the conservation makai of the high water mark?

CHAIRMAN BURNS:

Yes. Right.

COMMISSIONER:

It's owned by the State.

COMMISSIONER:

Is it owned by the State? Oh, below the high water mark or whatever present determination there is between the ocean and the land.

MR. ALTMAN:

That isn't a compromise. That is the . . .

COMMISSIONER CHOY:

We're going back to the existing lines.

COMMISSIONER:

What (inaudible) are you recommending beyond that? What's the agricultural . . . ?

MR. ALTMAN:

I would say 50 feet up to . . .

COMMISSIONER:

What's the agricultural value of that area from 50 feet on down to the high water mark?

COMMISSIONER:

That's all where the keawe trees are, isn't it?

COMMISSIONER:

That's right.

CONSULTANT:

Actually, the sad thing is it goes back beyond the line we have drawn but most of this is in keawe.

COMMISSIONER CHOY:

No, but I mean when you come down this way.

MR. ALTMAN:

We've recommended an adjustment. What I've tried to do is come to the ridge top so that any flat land makai of the road in this area would be in the agricultural district so that there are some . . .

COMMISSIONER CHOY:

Some head lands that you want to keep?

MR. ALTMAN:

Yes.

COMMISSIONER CHOY:

I think at one meeting we all decided that when we came to (inaudible) sandy beach and he'd had . . . (inaudible) . . . that we wouldn't touch those areas but we would want to keep in conservation some promontory of a significant landscape value . . . this would be put into conservation. We sort of had some criteria. But we left out a good sandy beach.

COMMISSIONER:

This is the same thing like Kawela Bay now. Alright? We are saying make conservation in the agricultural area but leave the urban areas alone. Now we're being inconsistent when we're saying that. We've got to leave these sandy beaches alone.

COMMISSIONER CHOY:

Kawela Bay is all urban.

COMMISSIONER:

Well, we can't put that conservation inside there.

COMMISSIONER CHOY:

You're trying to change conservation in an urban area. That's where the discussion was, Kawela Bay is all urban. We're in an ag area.

MR. DURAN:

As far as where the maps were drawn before . . . the old districting . . . this was all ag, wasn't it?

COMMISSIONER:

Yes.

COMMISSIONER:

Let me qualify one thing here. We have an urban zone, right?

COMMISSIONER:

Right. Up there.

COMMISSIONER:

Right. So we can assume that if there is any urban expansion, it will be into this area, and I think now is the time if you're going to zone it conservation to reserve some of these sandy beaches. Now is the time to do it instead of waiting for urbanization. I can see right there . . . that urban line . . . in the future we'll extend it down behind that beach.

CHAIRMAN BURNS:

What does the petition have to say about the boundary?

STAFF:

At the public hearing, he was concerned that a couple of points here that their (inaudible) plan may be . . . (inaudible) . . . and if they should want to make some fine adjustments, this would be possible. I don't feel that that is the case, but subsequent to that, we received a letter which was a request for . . . (inaudible) . . .

CHAIRMAN BURNS:

But it seems to me we . . . we have what? . . . two real alternatives. One is your review of the conservation line and the other is to go back to the original districting which was ag.

MR. DURAN:

Or one amendment . . .

STAFF:

If the (inaudible) operation here is the real concern, I think that . . . (inaudible) . . . I personally don't go along with that but . . . (inaudible) . . .

CHAIRMAN BURNS:

Well, why don't we take a look at this beach as being mine now. We have an alternative: either conservation or leave it in ag. Alright,

CHAIRMAN BURNS (Cont'd.)

poll ourselves and see . . .

COMMISSIONER CHOY:

Before the poll . . . as far as I'm concerned, there's no objection to the change from that point on because you've already made an adjustment. In consultation with the . . . Now the only concern is the sand area.

CHAIRMAN BURNS:

Yes, I think that's probably . . . Alright, let's take the sand area.

COMMISSIONER CHOY:

The point I was trying to bring up . . . this conservation . . . some of the Commissioners seems to think that when you put into conservation that it's preserving the land. The ownership of . . . if a person owns a sand beach, I think it would be mighty foolish to destroy the sand beach, so he would be equally jealous in guarding and keeping the sand beach to his own, well, profit and to his own benefit. To say that because we put it in conservation, we are protecting it . . . who are we protecting it for? For the public? For posterity or what are we talking about? I'd like to clarify that.

COMMISSIONER:

My reason for keeping that thing in conservation is this: now all dredging, all removal of sand is not controlled by the State right now. Alright? Because of this fact, we are having erosions all over the place. One area you take it in on Kauai. They're eating up the Wailua area; they're eating up another place; they're eating up another place. But they can get sand from (inaudible). You know, millions of cubic yards without causing this type of erosion.

COMMISSIONER CHOY:

But you can always do it by special permit. What started this is

. . .

COMMISSIONER:

No, but they're not talking about this type of operation.

COMMISSIONER CHOY:

I mean, but that's the fault of the government agency.

UNIDENTIFIED:

They can't take sand out below the high water mark.

COMMISSIONER:

But they're doing it.

COMMISSIONER:

No, but if we took this and put it in conservation, what stops Molokai from getting a special permit? They still own that land up to the high water mark, so what stops them from continuing to haul the sand away? So what I'm bringing up is, what are we trying to save?

COMMISSIONER:

. . (inaudible) . . high water mark, what stops them from mining sand?

COMMISSIONER CHOY:

Yes. Because they can get it from a special permit.

COMMISSIONER:

From the Land Department?

COMMISSIONER:

Yes.

COMMISSIONER:

If they can get the special permit.

COMMISSIONER: (Cont'd.)

and Natural Resources responsibility, because I don't think it's the Land Use Commission that should designate whether . . . what's that?

COMMISSIONER:

We're talking about the high water mark.

COMMISSIONER:

No, we're not. We're talking about (inaudible) agriculture now.

MR. DURAN:

Your proposed conservation mark is substantially above the high water mark in this sand beach.

COMMISSIONER CHOY:

About 300 feet.

MR. DURAN:

This Commission's responsibility is to divide the state into 4 districts, and the question now is, is this land by the criteria established in the law, should it appropriately be districted agriculture or conservation? Now if we look at the criteria that the law gives this Commission as a guide, should this land that we're talking about be in agriculture or conservation?

COMMISSIONER:

That's why I said, why don't we go down to Waikiki and . . . (inaudible)

. . .

MR. DURAN:

Again, the law tells you that you shall district lands urban that are urban in character, and Waikiki is urban in character so the law tells you it has to be urban. Now here we have a completely undeveloped area that you need to make a decision on. What does the character of this coastline

MR. DURAN (Cont'd.)

. . . what character lends itself to either urban, ag, rural or conservation? Now interpret the law; this is what we're doing.

Mr. Chairman, as to the beach, we want to ask ourselves about the specific operation on the beach. What is its use? What is its present character? Under our existing regulation, mining would have been agriculture.

COMMISSIONER:

That's right.

MR. DURAN:

But we're now amending our regulations to include the extraction of raw material in the ag district, so it'll be a non-conforming use whether you put it in conservation or agriculture.

CONSULTANT:

Well, the reason that came up and in order to get the mining activity which requires special permit . . . and therefore the Department of Land and Natural Resources would have the opportunity to review it rather than just getting a carte blanche okay under the old ag districting and regulations to mine anyplace and anywhere. The idea behind the conservation zone or ag zone is recommended for changes. It sets a kind of control on it or at least a review in order to protect our resources, and one of our resources, obviously, is land.

MR. DURAN:

If it goes into agriculture and they wish to expand their operation, they would have to come to the . . . well, first the (inaudible) for a special permit and then eventual approval by this Commission. If it's in conservation, they would only apply to the Land Board for a permit to . . .



COMMISSIONER:

It wouldn't be under the County; it would be the Land Board.

MR. DURAN:

The Land Board, right.

COMMISSIONER CHOY:

But because of the (inaudible) clause, they could . . .

(Several people talking at one time; impossible to distinguish any sentence structure of any comments made.)

COMMISSIONER:

What I'm saying is this: why put the burden on the Land Use Commission with this permit? We move off sand; high water mark is all under the Land and Natural Resources.

COMMISSIONER:

But they're not doing a good job now.

COMMISSIONER:

What do you mean, they're not doing a good job.

COMMISSIONER:

Well, you just told us they're taking sand out.

COMMISSIONER CHOY:

When we went up to Niihau, answering Rom's statement, we got to conservation land . . . we found that it was an operation that was barely existing, so we conceded that it would be better not to rock the boat. They were having a bad enough time. So we took out all conservation land from the island of Niihau and . . . (inaudible) . . . I think in a case like this, it's almost the same. No matter what you did, the sand operation continues. Why are we rocking the boat?

COMMISSIONER:

You are already having an urban amenity right there. You have almost

COMMISSIONER (Cont'd.)

3,000 acres . . .

COMMISSIONER CHOY:

No. What we're saying is that if we put that into conservation, we can stop the sand operation. It's a different thing.

COMMISSIONER:

You're not stopping the operation, Wilbur.

COMMISSIONER CHOY:

We cannot do it. So why are we talking about cheating? No matter what you did, they would still be taking sand out of there.

COMMISSIONER:

But there is a control on that.

COMMISSIONER CHOY:

How?

COMMISSIONER:

Once it's in conservation.

COMMISSIONER CHOY:

How? They . . . (inaudible) . . .

COMMISSIONER:

(Comments inaudible).

COMMISSIONER CHOY:

No, they don't, because that's where the clause is. They continue to mine sand.

UNIDENTIFIED:

Only without expansion of the mining activity.

COMMISSIONER CHOY:

Yes, but the expansion can be the whole sand beach.

COMMISSIONER:

Do you want that to happen?

COMMISSIONER CHOY:

But what I'm saying is, these land owners are more interested in the use of their land than anybody else is.

COMMISSIONER:

I cannot agree on that one.

CONSULTANT:

It seems to me that there's two issues; one is the recognition of the shore (inaudible) as a conservation . . . as a criteria . . (inaudible) . . ; the other is a recognition of a problem surrounding the mining operation whose expansion is going to be restricted regardless of the district. But I think the district in relation to the mining operation is not the critical issue. They cannot whether it remains in ag or if it's put in conservation without prior recognition by some government authority. So this . . (inaudible) . . concern for the remainder of the beach. I mean, they're not mining the whole beach.

COMMISSIONER:

So where does this . . . ?

CONSULTANT:

Approval or denial should not be on the basis of the mining operation. The criteria involved here . . . the shoreline and the beach . . (inaudible) . . may not be used for agricultural purposes.

COMMISSIONER:

This is the criteria I'm thinking of.

MR. DURAN:

It was before. As I remember the discussion, that's probably why it remained agricultural, because of the industrial . . . of the mining activity that was there.

CHAIRMAN BURNS:

Alex.

CHAIRMAN NAPIER:

Conservation.

CHAIRMAN BURNS:

Sally.

COMMISSIONER:

I say conservation, with modifications.

CHAIRMAN BURNS:

Okay. We've got three and three.

STAFF:

. . (inaudible) . . rules require that you have 5 affirmative votes before . . (inaudible) . . but I assume that at your public hearing later on you will be taking public action on this question.

CHAIRMAN BURNS:

Well, we're not going to sit like this. That's for sure. I mean, we don't want to go to a public meeting and vote three-three.

MR. ALTMAN:

This is all going to show at the action.

CHAIRMAN BURNS:

That's right. But we want to clean the damn thing up, cleaner than it sits at the moment.

COMMISSIONER:

May I make a suggestion? Why don't we draw a line, say, at the high water mark. This is a natural line, right? That's a natural conservation line at the high water mark.

MR. DURAN:

You don't have to draw that line because it's already legal.

COMMISSIONER:

This is what we're proposing. Alright?

MR. DURAN:

Well, all I'm saying is that if you do that, then you've got to do it on every other map . . . on this U, you're going to have to draw a line along . . . you know.

CHAIRMAN BURNS:

The low high water mark is conservation by definition.

MR. DURAN:

Oh, I see. I thought you wanted it drawn on the map as a district boundary.

COMMISSIONER CHOY:

Every island we've taken the sand bay out. How come only Molokai

. . .

COMMISSIONER:

You cannot take out sand for any place.

COMMISSIONER CHOY:

No. I'm saying that on every island where there's a sandy cove, we've left it to a high water mark.

COMMISSIONER:

No.

COMMISSIONER CHOY:

Oh, yes. You go check your Hawaiian map. Every one is . . .

COMMISSIONER:

It's not in conservation. It's in ag.

COMMISSIONER:

As I recall, on a sandy beach there were no lines drawn.

COMMISSIONER CHOY:

No. We changed it. That's the original.

COMMISSIONER:

But it's not all in conservation, you know. The high water mark?

COMMISSIONER CHOY:

The high water mark, yes. It has to be.

CHAIRMAN BURNS:

Why don't we really solve this problem by . . . (inaudible) . . . Keep on going and come back to it before we leave.

What is this one now?

CONSULTANT:

First, a protest from Hawaiian Homes and it was in support of the boundary adjustment that we recommended to connect these two urban areas.

CHAIRMAN BURNS:

So you're recommending additional urbanization connecting to the urbanized areas? Does that make sense with everybody?

COMMISSIONER:

Yes.

MR. ALTMAN:

This was the earlier . . . proposed at a public hearing and . . . (inaudible) . . .

CHAIRMAN BURNS:

I see. Okay.

MR. ALTMAN:

The staff has shown an area adjacent to the existing urban area at (inaudible) that is existing R and existing A and the recommendation is that the colored in area be zoned to urban as a result of an earlier

MR. ALTMAN (Cont'd.)

petition, A66-135.

COMMISSIONER:

At the time, the Commission expressed a feeling that this area should be extended.

COMMISSIONER:

Is that where the Cook's have their . . (inaudible) . .

COMMISSIONER:

Yes. Yes.

COMMISSIONER:

I thought that was rural.

COMMISSIONER:

Yes, it is rural, but at the time the action took place, the Commission expressed the feeling that the entire area here should be urban. But no specific line was recommended.

CONSULTANT:

So what you're now doing is just putting the urban stamp on it.

MR. DURAN:

We're putting this out for your consideration. It was the consensus of the Commission at that time that they would consider it. Now is just an opportunity for you to decide whether you want to go ahead with it or leave it as it remains. This is not a matter of a protest at this time.

COMMISSIONER CHOY:

What is the consultants' recommendation?

MR. ALTMAN:

Since this area was pointed out, I haven't been back to examine it, but at that time the reasons it was recommended to be in urban exist now.

MR. ALTMAN (Cont'd.)

I don't see any problems at all in going urban, and that is on the basis of not going out and seeing it. That I should add.

CHAIRMAN BURNS:

So we don't have any objection to it. Why don't we . . .

COMMISSIONER:

What about the ownership over there? What about the property lines?

Can you . . .

COMMISSIONER:

This is owned by Molokai Ranch.

COMMISSIONER:

The whole thing, huh?

COMMISSIONER:

Yes. The entire yellow area. In fact, there are some existing uses on this piece already.

MR. DURAN:

It is . . . Some buildings are there already.

COMMISSIONER:

Yes. Some areas have built up already along . . .

COMMISSIONER:

Yes. It includes that.

CHAIRMAN BURNS:

What is your pleasure?

COMMISSIONER CHOY:

Follow the recommendations.

CHAIRMAN BURNS:

Well, their recommendations, as I understand it, . . . to urbanize



CHAIRMAN BURNS (cont'd.)

that?

COMMISSIONER CHOY:

Yes.

CHAIRMAN BURNS:

Okay. Is that how we feel? Does that make sense?

MR. ALTMAN:

Alright. Protest number 13 is in the general area adjacent to the existing urban area here and also continuing on sheet M-4. Now this is a request from Molokai Development Corp. and Molokai Ranch, and the area that they're asking for urban zoning is the area that is shaded in. The ranch owns the portion on the Kaunakakai side and the development company owns the area on the other side. Now, they have given us a plan . . .

CHAIRMAN BURNS:

Who is they, now?

MR. ALTMAN:

Well, it's a joint effort. Now this came in after our proposals were drawn, just before the hearing, and their plan only shows a plan for half of the site. They have a scheme for this portion only. They didn't show us a scheme for the other half and in either case the schemes . . . or the scheme here is contingent on the road being shifted mauka. The existing alignment is here which is almost at the coast, and their scheme for this part shows the road being shifted to here. Now based on two (inaudible), that is, not seeing the development that's planned for here and the fact that in either case, they would be contingent on the alignment shifting, we don't think that we can zone the area or suggest it be zoned urban until these two issues are resolved, showing a scheme for the whole area and that being shifted, too.

CHAIRMAN BURNS:

So your recommendation now is stay as is. Is that . . . ?

CONSULTANT:

. . . (inaudible) . . . small piece of land makai of the road and then a series of fish ponds and then in the area under question is a fish pond mauka of the road and the proposal was for conservation in recognition of these (inaudible). So the land in the urban district makai of the existing road, we had proposed for conservation, and an area including the fish pond mauka and the whole area around the pond. In light of this, we recommend that the pond mauka of the highway be acknowledged in the conservation district . . . (inaudible) . . .

COMMISSIONER CHOY:

What is it now?

CONSULTANT:

Makai.

COMMISSIONER CHOY:

Still conservation now.

COMMISSIONER NAPIER:

Still conservation.

CONSULTANT:

I think so, yes.

COMMISSIONER CHOY:

So we're leaving things as is.

CONSULTANT:

Yes. But also, we think that the land makai of this highway should be . . .

COMMISSIONER:

Don't you think you're better not to change rather than . . . You

COMMISSIONER (Cont'd.)

don't know where that highway line is, do you?

CONSULTANT:

On the other . . . (inaudible) . . . would tie up the existing highway.

COMMISSIONER:

Why don't we get the petitioners to come in and look at their development?

MR. ALTMAN:

Well, that's okay, but as (inaudible) is saying, the proposal is only for zone. The area makai of the existing . . . (inaudible) . . . the C zone and this shows up on the whole coast.

COMMISSIONER:

I'll buy that.

CHAIRMAN BURNS:

In other words, you're keeping . . . you're not taking any action on the urban zone, but you are, however, taking some of this . . . urban before or agriculture?

MR. ALTMAN:

Agriculture.

CHAIRMAN BURNS:

And putting it into conservation?

MR. ALTMAN:

Yes.

COMMISSIONER NAPIER:

I think we ought to be consistent with what we did on the other side.

MR. ALTMAN:

Well, this isn't exactly the same thing. Here there is an existing road and access, and the visual . . . I mean, the physical access exists to that shoreline and in the other area that's vacant in terms of existing

MR. ALTMAN (Cont'd.)

access.

COMMISSIONER:

Is this all small lot owners in here, in this conservation area?

MR. ALTMAN:

Well, as you can see, Molokai . . . (inaudible) . . . the area from here on over, and I assume that it extends even up. Here you can see the ownership pattern. Now we don't have . . .

CHAIRMAN BURNS:

So what's the ownership of that property along there?

MR. ALTMAN:

Well, as you can see here . . .

COMMISSIONER:

It's all small lot owners in other words.

MR. ALTMAN:

Well, only up to the area here.

COMMISSIONER:

I don't think we should da kine . . . leave them as is originally.

CHAIRMAN BURNS:

In agriculture?

COMMISSIONER:

Yes. And the (inaudible), put them in C.

COMMISSIONER NAPIER:

Where's the road on that side?

MR. DURAN:

It would be right here. . . this property right here. See that portion of small lots? It's right here.

COMMISSIONER NAPIER:

Where is it on there?

MR. DURAN:

Same place. Right here up to here.

COMMISSIONER NAPIER:

Is that the same owners on both sides of the road there?

COMMISSIONER CHOY:

Molokai Ranch owns this one.

CHAIRMAN BURNS:

Alright, well, let's take this . . . We have first of all the fish ponds. Put them into conservation. Does that make sense?

RESPONSE:

Yes.

COMMISSIONER:

They were in there originally.

CHAIRMAN BURNS:

No, they weren't in there originally. Mauka of the road was agriculture, wasn't it?

COMMISSIONER:

Yes.

CHAIRMAN BURNS:

Okay, now the next piece we're talking about is this strip along makai the road for conservation. And what is your pleasure? The recommendation is conservation for this.

COMMISSIONER NAPIER:

I'd like to support them.

COMMISSIONER:

I say keep the fish ponds in conservation.

CHAIRMAN BURNS:

Alright, how about the conservation strip now that we're talking about?

COMMISSIONER:

Because of the ownership aspect, maybe we should leave them as is.

COMMISSIONER:

If they want them developed, they can always get a change.

CHAIRMAN BURNS:

Okay? Conservation?

RESPONSE:

Yes.

COMMISSIONER CHOY:

Only the fish ponds.

CHAIRMAN BURNS:

No, no. Along the shoreline, down . . .

COMMISSIONER CHOY:

No, I'm saying I go along only on the fish ponds. I don't buy this

. . .

CHAIRMAN BURNS:

But anyway, we have . . . The consensus of opinion is for the conservation strip.

Okay, now where are we?

MR. ALTMAN:

This is protest 16. This is the thing that will be heard. This is that Kuahala on the . . .

CHAIRMAN BURNS:

Is that the one that's going to be heard this afternoon?

MR. ALTMAN:

Yes.

COMMISSIONER:

Why don't we leave that until this afternoon?

MR. ALTMAN:

This is what we say. Here is the case . . . this is actually the second case of an existing fish pond, which is here, where development is proposed, and if you recall our feelings on the McCormack problem at (in-audible) fish pond, our feeling was at the time that a fish pond is being examined for future development, it is our feeling that the things we should insure against is just the filling in of that pond without preserving some of the water orientation aspects for development. And in their scheme . . . the final scheme that will be shown, they show the fish pond being filled in. In an earlier scheme that they sent us, they showed part of it preserved as a pond. Now it's the consultants' feeling that for all fish ponds, when they come up for development that some kind of water oriented facility be preserved and will carry on the fact that it has been a fish pond that's part of the heritage of the state, and it's something . . . either a park or a pond or even piers occur in that pond so that the character of the pond isn't completely destroyed. So that is the thing that I quarrel with on their scheme.

COMMISSIONER:

Howard, if I owned 3 fish ponds on part of my land and I wanted to keep one of them in water, dredged it out and made a good deep . . . a good harbor out of it, and I wanted to fill the next 2 ponds up, do you

COMMISSIONER (Cont'd.)

mean to tell me that your concept would be that in every pond you'd like to see a little water left?

MR. ALTMAN:

No. No. In that instance . . . (inaudible) . . . under a single ownership, say, they are adjacent ponds, then it should be reviewed on the overall plan. I'm not saying that if some guy owns 2 or 3 adjacent ponds and there is a puddle in each area . . . it should be reviewed on the overall scheme. The thing we want to insure against is that the development of the ponds just simply by filling in all ponds for some kind of purpose.

CHAIRMAN BURNS:

What is your recommendation on this? Do you recommend leaving it as is?

MR. ALTMAN:

Well, our recommendation is to zone the pond in the C district; before it was up to this area here and it's been revised to include only the area of the pond. Now the problem is . . . and that is only resolved in the scheme that is being shown, not indicating anything of that pond to be preserved, and I think that you folks could act on this petition on a conditional basis, that their final scheme show that some portion of the existing pond be preserved or developed as water area.

CHAIRMAN BURNS:

Well, what I'm getting at is, right now as far as the boundaries are concerned, are you recommending that we urbanize this area?

MR. ALTMAN:

Oh, I see. Okay.



CHAIRMAN BURNS:

Or just make the fish pond conservation or what changes in the districting would you recommend here?

MR. ALTMAN:

Our feeling . . . our first recommendation based on the plan that they sent us was to zone only the area makai of the road in urban. Since they show retaining a portion of the existing pond and developing this area here, it wasn't our feeling that based on the material that they sent us that we could approve anything mauka of the road because they weren't specific as to their development time tables. Since we received this plan, they have sent in a second scheme that shows shopping area and apartments in place of the cottages up to about this 250 foot contour, which is approximately here. And as a result of seeing this for the first time an hour or so ago, we would consider the zoning of the area up to the 250 foot contour to include the shopping area and residential areas rather than what they had shown before with the resort cottages. But the approval for urban zoning should be conditional on reserving some feature of the existing pond; that they happen to show on their scheme is all being built in. So our recommendation is to approve urban up to the 250 foot contour only if some of the pond area is developed as water . . . as a design element or physical feature.

COMMISSIONER:

How did the County recommend this (inaudible) for this development?

MR. ALTMAN:

They approved it also, I think, up to the 250 foot . . . but they accepted filling in the whole pond.

COMMISSIONER:

They would have to anyway. They don't have any jurisdiction over the

COMMISSIONER (Cont'd.)

pond.

COMMISSIONER:

Howard, why don't we wait until the public hearing?

MR. ALTMAN:

Well, they only asked us what our feeling was.

COMMISSIONER:

That's right.

CHAIRMAN BURNS:

As far as the boundary line here is concerned though, what you're talking about really . . . if you had to draw the line right now, you'd draw conservation in the pond and that's all you'd draw.

MR. ALTMAN:

That's correct.

CHAIRMAN BURNS:

Is that right?

MR. ALTMAN:

Well, that was before seeing this scheme which I just saw today. So in other words, the conservation boundary comes along here and follows the edge of the pond, and actually, we're making the same recommendation here that was discussed . . . (inaudible) . . .

CHAIRMAN BURNS:

There's another fish pond there?

CONSULTANT:

Yes.

CHAIRMAN BURNS:

Then what are you recommending as far as that yellow strip is concerned?

MR. ALTMAN:

Here?

CHAIRMAN BURNS:

The whole thing, yes.

MR. ALTMAN:

Well, that was just a (inaudible) of approach.

COMMISSIONER NAPIER:

Since we're having a public hearing this afternoon, why don't we just zone it conservation now and leave the rest until after the public hearing?

CHAIRMAN BURNS:

Yes, I think that's a good idea. Alright, shall we move along? Do we accept that conservation recommendation for the fish ponds?

MR. ALTMAN:

(Comments inaudible.)

CHAIRMAN BURNS:

Alright. Fifteen.

MR. ALTMAN:

This is James (inaudible) and this area came up as a result of the hearing. And our feeling is that the only thing that they gave us at the hearing was a copy of an old plan for the area, and they promised to send us a report and a polished scheme. But since we didn't receive that, our feeling is that at some future time that they actually show their final scheme, since this is a logical area for urban expansion . . . it's adjacent to the existing urban area . . . but without seeing that scheme, our feeling is that only the pond should be in C and the adjacent area stay in the ag zone, pending some future plan.

CHAIRMAN BURNS:

In other words, a finalized version of what they want?

MR. ALTMAN:

Yes.

CHAIRMAN BURNS:

Does that make sense to everybody?

RESPONSE:

Yes.

CHAIRMAN BURNS:

Okay.

COMMISSIONER CHOY:

What about that mauka piece?

MR. ALTMAN:

Up here?

COMMISSIONER CHOY:

Yes.

MR. ALTMAN:

At the hearing, it was recommended that the conservation district  
along here follow the . . . (inaudible) . . . reserve boundary.

COMMISSIONER:

Didn't it before?

MR. DURAN:

No. It was never finalized.

CHAIRMAN BURNS:

Is that okay? Alright.

MR. ALTMAN:

Okay. Let's see, MO-5. There's an area that is in a petition

MR. ALTMAN (Cont'd.)

evidently from rural to urban. This is the (inaudible) foundation. This isn't a result of a protest, but the consultants' feeling is that it should stay in the R zone. If you zone any area within this existing rural zone which is all through here, that would be a scattered urban or spot urban zoning and it would also have to consider the . . . (inaudible)

. . .

CHAIRMAN BURNS:

In other words, you're recommending against any change then?

MR. ALTMAN:

That is correct.

CHAIRMAN BURNS:

Is that agreeable to everybody?

RESPONSE:

Agreed.

COMMISSIONER:

It is not a protest but a boundary change petition?

MR. DURAN:

We have a petition pending on that one.

COMMISSIONER:

I see.

CHAIRMAN BURNS:

We have a petition, but the action right now is not to change the boundaries.

MR. ALTMAN:

That is correct.

CHAIRMAN BURNS:

Okay.

MR. ALTMAN:

That's it.

CHAIRMAN BURNS:

No, wait. We've got this sand pile yet.

MR. ALTMAN:

Oh.

COMMISSIONER:

On Lanai.

COMMISSIONER:

No protest on Lanai.

CHAIRMAN BURNS:

Kahoolawe?

COMMISSIONER:

Urban.

(Some comments inaudible due to several individuals speaking at one time.)

COMMISSIONER CHOY:

Howard.

MR. ALTMAN:

Yes.

COMMISSIONER CHOY:

After we get through with the sand pile, Honokaa, (inaudible) just came by asking me to see that if the area that . . . popular point where the taro patches were not be left in ag. So we could talk about that.

CHAIRMAN BURNS:

Let's try this sand pile again. Has anybody got any constructive thoughts here that could solve our dilemma?

MR. DURAN:

What about the possibility of leaving the lower end of the beach in agriculture and putting the rest of it in conservation?

CHAIRMAN BURNS:

You mean the area that is (inaudible)?

COMMISSIONER NAPIER:

That's possible.

MR. DURAN:

No, it isn't because it's all agriculture. You're just running the agriculture . . .

COMMISSIONER CHOY:

It would be a short conservation strip in other words?

MR. DURAN:

Yes, only about 2 or 3 miles long.

COMMISSIONER:

See, it's all rural right along the coast. That's all you see here. This is the reason why I want the conservation assigned, to avoid something like this.

COMMISSIONER CHOY:

What is that?

COMMISSIONER:

No, to avoid something like this where you got rural all the way down the coastline. You got a couple of houses and what not? I want to avoid something like this. What I'm getting at is, tourists come down here for a scenic area to see our scenic spots. We have proved that this is one of our scenic spots. If you put a couple of hotels right on the beach . . . (inaudible) . . . you don't have any scenic view left.

COMMISSIONER:

This point you brought up . . . remember, the definition of conservation is not taking away . . . (inaudible) . . .

COMMISSIONER:

We're not taking away from . . .

COMMISSIONER CHOY:

I thought that that gentleman you asked that question yesterday answered you beautiful . . . that you would take a beautiful spot to put a hotel and you wouldn't put a hotel in a spot that you didn't have . . . You couldn't possibly build a hotel in . . .

COMMISSIONER:

You could put it right in back of the beach.

COMMISSIONER CHOY:

No, but nobody says that you're going to build a (inaudible) because you kept it in agriculture.

COMMISSIONER:

Not necessarily, but the potential is there because they can fill up the . . .

COMMISSIONER:

Why don't we let that area go. It's a beautiful area along the coastline.

CHAIRMAN BURNS:

Is there any hill or any sand dune line . . .

(Several individuals talking at one time, so remarks inaudible.)

COMMISSIONER:

How much of a developable area do you have there, besides the beach?

CHAIRMAN BURNS:

That's included in the conservation land?



COMMISSIONER:

No. Beyond the conservation land. How far do you go before you hit the mountains? All that is flat land?

CHAIRMAN BURNS:

No, no. It's not flat.

COMMISSIONER:

Alright, the next urban proposal . . . where would that logically be?

COMMISSIONER CHOY:

Right in that area.

MR. ALTMAN:

Well, you can see the (inaudible) so I would assume that it would be . . . it could be anything in here. I mean, we've given them this area urban with this kind of topography which is a good deal steeper than anything here . . . I would say they could develop any of it if they say they are . . .

COMMISSIONER:

Is there a state park going in there any place?

MR. ALTMAN:

A state park?

COMMISSIONER:

No.

COMMISSIONER:

Alright, do you think with all this urban growth that's going in there, let's say 10 or 20 years from now do you think there might be a need for a state park?

MR. ALTMAN:

I would say there is a desperate need for parks.

COMMISSIONER:

Now do you think also that with Honolulu developing like it is, . . .  
(inaudible due to several people speaking at one time) . . . for the rest  
of (inaudible) -- not as a resort area.

MR. ALTMAN:

If you can call the transit problem back and forth . . .

COMMISSIONER:

Alright, could you see the State purchasing that particular beach  
. . . that back-up area . . . for a state and regional park?

MR. ALTMAN:

I don't know of any such plan, but I would say that there are recrea-  
tion resources there that would be significant.

COMMISSIONER:

Because there is a need ultimately for a state park in that general  
area.

MR. ALTMAN:

Well, based on the fact that the sandy beach areas as proposed for  
that caliber will be . . . will not be available for future park areas.

COMMISSIONER:

I see nothing wrong with state parks being built on sandy beaches.  
This is one of our (inaudible). You boys are trying to push all the  
beaches into the resort area; I think you are doing the Commission a dis-  
service, too.

COMMISSIONER:

This is why . . . don't you think . . . now this is considered the  
intelligent Commission of the State, so if we want to do something like

COMMISSIONER (Cont'd.)

that, we should keep it in agriculture and in our control. By putting it into conservation, we then have nothing to do with it. The State Parks Program may have a different feeling for it than we have. You see, we're going to preserve this . . .

COMMISSIONER:

For what?

COMMISSIONER:

. . . and they may come in later on and want it and we have an idea that preserving it gives us control but . . . (inaudible) . .

MR. ALTMAN:

You're charged with districting the state into . . .

COMMISSIONER:

Yes, but it's our feeling that we want to preserve this area.

COMMISSIONER:

At least the State has their own plan about what they want to do eventually. But if they want to take the sand away, that's another thing because of erosion.

COMMISSIONER:

But we have ideas of how we want to do . . .

COMMISSIONER:

Now they claim that if sandy beach is not a recreation place, (inaudible) and everything, there's no value to it as far as swimming. I say otherwise.

COMMISSIONER:

There's the scenery, though.

CHAIRMAN BURNS:

One of the things that I think is confusing the issue here is this mining operation. We're mixing up mining and we're mixing up conservation and . . .

COMMISSIONER:

And resort developments.

CHAIRMAN BURNS:

Yes. I don't think we're clear in our minds as to what the devil we want to do there.

COMMISSIONER CHOY:

You know, Sale's idea . . . I find his idea, if they have the money and want to go in and buy that whole area for a state park . . . let them go buy it but until they can buy it, leave it as it is. I only speak from the point that if I was the owner of that sandy beach, I would want it left just the way it is.

COMMISSIONER:

In that case, what is the objection to putting it in conservation?

COMMISSIONER CHOY:

On the basis that there is some feeling that conservation means to put it in the storehouse and lock the key and throw it away.

COMMISSIONER:

No.

COMMISSIONER CHOY:

There is that feeling. Many people don't feel that conservation the way a lot of us Commissioners do.

COMMISSIONER:

Do you believe that?

COMMISSIONER CHOY:

I believe that if we had a change in government and Tom Gill was in and if that was conservation . . .

COMMISSIONER:

I want to remind you that Mr. Gill is . . .

COMMISSIONER:

You're only surmising on something that you don't know what is going to happen. This Commission is not based on that fact.

MR. DURAN:

The government doesn't dictate to this Commission what it should decide.

COMMISSIONER CHOY:

That's right.

MR. DURAN:

The rules and regulations spell out . . .

CHAIRMAN BURNS:

Do the consultants have any thoughts as to . . .?

CONSULTANT:

(Comments inaudible.)

CHAIRMAN BURNS:

Well, I'll tell you . . . we may come up with the idea that we won't let you have lunch until you come up with a solution we all agree to.

(Several individuals speaking at one time so that all sentence structure was impossible to decipher.)

COMMISSIONER:

Alright, the regs on the conservation is not up to us; it's the Department of Land and Natural Resources. Isn't that correct? It's not

COMMISSIONER (Cont'd:)

up to the Land Use Commission . . . the conservation.

COMMISSIONER:

That's right.

MR. ALTMAN:

(inaudible) point here, I think, is to include only the area that is in sands.

CONSULTANT:

So the primary consideration is for the scenic resort?

COMMISSIONER:

Right.

CONSULTANT:

Taking that one item of the regulation and putting more emphasis on that than on (inaudible) of conservation.

MR. DURAN:

The other point is that it has no agricultural . . .

COMMISSIONER:

We're in the conservation area. We still would have the two options; the State could go in and acquire this as a state park or a proper development under proper controls can also be made. I don't think it's right to say that you lock it up when it's in conservation. The very purpose . . . one of the purposes of a conservation area is to encourage the proper type of development to preserve these scenic amenities and whatever else is available.

COMMISSIONER CHOY:

Legally, right now . . . this is your line legally.

MR. DURAN:

This is your line.

COMMISSIONER:

The vegetation line is only lands that are not bound by meets and bounds now. When you have meets and bounds, you're not . . . you cannot touch that.

COMMISSIONER:

It's not really the vegetation line; as I recall, the wording said something about the highest (inaudible) of the wave which is . . . (inaudible due to speaker's voice trailing off) . . .

COMMISSIONER:

It's three things. It's three things. It's the vegetation line, the (inaudible) line, or the advance to the highest annual waves.

COMMISSIONER:

And also, what about these (inaudible)?

MR. ALTMAN:

Well, those . . . that boundary can only be defined by the surveys and appeals. You can't establish accurately off an aerial photo. This thing is . . . (inaudible) . . . That area can only be described by a . . . (inaudible) . . .

COMMISSIONER CHOY:

And your second suggestion is that you (inaudible) and follow . . . (inaudible) . . . ?

CONSULTANT:

Yes. That appears to be about the 30 foot elevation.

COMMISSIONER CHOY:

And that would be a legal line?

MR. DURAN:

Yes. And as a matter of fact, it conforms a bit to the vegetation

MR. DURAN (Cont'd.)

line concept.

COMMISSIONER:

Alright, where does Molokai Ranch own now?

COMMISSIONER:

They own . . . they own . . . where do they own legally? To the high water mark or . . . ?

CHAIRMAN BURNS:

What if we drew a line along this (inaudible) here and made this conservation? The present line shown on this map is this line.

(Several individuals carrying on conversation so that none is audible.)

What I am suggesting . . . what I think may have some merit is to draw your line on the screen at about the 30 foot contour.

COMMISSIONER:

I go along with that.

CONSULTANT:

On the map, it appears to be about the 30 foot elevation, yes.

CHAIRMAN BURNS:

Where would that go if you roughly put it on there now? Can you show us? We still would be protecting the (inaudible); we'd be protecting the valued part of this beach.

(Several individual conversations being conducted at one time.)

COMMISSIONER:

Frank, why don't you talk to Mr. (inaudible) and see what we . . . (inaudible) . . .



CHAIRMAN BURNS:

Well, I would like to have, if we could, a consensus of opinion. Does this suggestion have merit as far as the Commission is concerned? May I have your attention a minute? What we have put on this map here is the green . . . the growth limit which is approximately a 30 foot contour, and if you want to look at this map, it's here. It's the line just in back of this sand beach. Is this a possibility as far as solving our problem is concerned? In other words, going for conservation for the area that is shown in red on that map . . . understanding what makes up this conservation line now. It's a 30 foot contour and it's also the edge of the green growth line.

COMMISSIONER:

Frank, why don't you point out on that area map how that lines goes?

CHAIRMAN BURNS:

Well . . . all the way.

COMMISSIONER:

That's right.

COMMISSIONER:

I go for that.

COMMISSIONER:

I would go for the original.

COMMISSIONER:

That's the trail?

CHAIRMAN BURNS:

That's the trail . . . the deep trail line.

COMMISSIONER:

I'd say a compromise.

CHAIRMAN BURNS:

This one?

COMMISSIONER:

Yes.

COMMISSIONER:

I would draw another line right here.

CHAIRMAN BURNS:

Where is your line? Where do you want to go?

COMMISSIONER:

(Comments inaudible.)

COMMISSIONER CHOY:

Let's get this straight. If we take this shaded area, the pouring operation here is the grandfather clause operation, so . . .

CHAIRMAN BURNS:

Oh, yes.

COMMISSIONER CHOY:

Provided they cannot molest that pouring.

CHAIRMAN BURNS:

They cannot. My understanding is that as long as they're . . (inaudible) . .

COMMISSIONER:

I'll go with the compromise.

CHAIRMAN BURNS:

You'll go with the compromise. Okay, that'll do it. Okay, we go with the compromise line.

COMMISSIONER:

You mean I've been defeated?

CHAIRMAN BURNS:

Yes, you've been defeated.

COMMISSIONER:

I'll go down gracefully. . . and never return. No. I shall return.

CHAIRMAN BURNS:

What've we got now, Rom? We've done Maui, Molokai, Lanai.

COMMISSIONER CHOY:

I have one question. On Honokaa . . .

COMMISSIONER:

You talking about Hawaii or what?

COMMISSIONER CHOY:

No. Maui. Up to a certain point . . . you folks would know . . . there's a taro patch that came up and . . . what is the possibility of leaving the taro patch in ag?

COMMISSIONER:

There's taro patches all over . . .

COMMISSIONER:

I go along with Wilbur. Maybe that's some problems.

COMMISSIONER CHOY:

We're afraid we may have restrictions.

CONSULTANT:

Can they be identified?

COMMISSIONER CHOY:

They could do it because there is a farm. Not one farm; there's about 5 or 6.

(Again, several individual conversations ensued, making the deciphering of any of them impossible.)

COMMISSIONER:

We did leave a boundary (inaudible) in agriculture and the shoreline . . . (inaudible) . . . in agriculture, and I could see that a line could be drawn here.

CHAIRMAN BURNS:

Is this . . . is this . . . do the Commissioners concur that if we can draw a line here for the taro patch and identify that it be kept in agriculture . . . does that make sense?

COMMISSIONER:

Yes.

COMMISSIONER:

Okay, Wilbur, we grant you this one.

(Again, several individual conversations ensued.)

COMMISSIONER CHOY:

What was the final decision now?

MR. DURAN:

That the regs do not have to be filed with the Governor's office.

CHAIRMAN BURNS:

Now . . . do I understand now that we can take action on these regs?

MR. DURAN:

You have the district boundaries of Kauai on the same date. You have to wait 10 days.

CHAIRMAN BURNS:

On the same date. And then you have to wait 10 days.

COMMISSIONER:

Now, another question. Are we going to have a quorum? Are you going to be there on the 8th?

CHAIRMAN BURNS:

Yes.

MR. DURAN:

Tuesday.

CHAIRMAN BURNS:

Tuesday.

COMMISSIONER:

And what time?

MR. DURAN:

We have that set up for a whole full day's session.

COMMISSIONER:

I have a 1:30 commitment in town.

MR. DURAN:

Well, the action meeting on the boundaries would be a 7:00 P.M. meeting . . . boundaries and regs. But we have some other Commission actions that are necessary.

COMMISSIONER:

Are we going to review this thing to find out how we're going to go about . . . (inaudible) . . . in the public hearing?

MR. DURAN:

I think we ought to go over it one more time, at least.

CHAIRMAN BURNS:

When we finally decide what we're going to do.

COMMISSIONER:

In other words, just give a review, Frank. You know, a quick final recommendation.

COMMISSIONER:

You remember Kona . . . when we were zoning Kona, we zoned some area above Alii Drive, and you said you will go for these if they come under the (inaudible) zoning. Now if the (inaudible) zoning is going to be interpreted in another way, we'd better cut back, right?

COMMISSIONER:

Right.

COMMISSIONER:

When is our meeting this afternoon? Two-thirty?

MR. DURAN:

Two-thirty.

COMMISSIONER CHOY:

Why don't we have lunch right here and keep on going?

COMMISSIONER:

Yes.

MR. DURAN:

We can.

CHAIRMAN BURNS:

The other item we have hanging over us in the regs, right?

MR. DURAN:

Well, we should resolve the problem of regulations and then resolve how we're going to conduct our meeting.

CHAIRMAN BURNS:

Okay.

(Lunch Break)

(Was advised at this point, upon inquiry of Mrs. Hirokawa, that this portion of tape was workshop and to discontinue transcription.)

\* \* \*

(The following portion of this tape transcription begins with the Puaahala hearing held after the workshop.)

CHAIRMAN BURNS:

Will the meeting please come to order? Rom, you had some items that you wanted to bring up for the Commission. Will you please proceed?

MR. DURAN:

The first item of business, Mr. Chairman, is a request from H.M.S. Ventures, which is a rezoning petition before the Commission, A68-197. As you know . . .

CHAIRMAN BURNS:

Excuse me just a minute. Is it in our . . . ?

MR. DURAN:

No, I only have the letter from them, and what I'd like to do is give you a little background leading up to this letter. It's a request for an extension. This is the rezoning request by H.M.S. Ventures - Robinson Trust, just above the H-1 Freeway at Waipahu and, as you know, they're requesting approximately 320 acres be rezoned from agriculture to urban, and they have requested several extensions of time beyond the 90-day action period required by Land Use Law which has been granted by the Land Use Commission. And the latest extension of time not to exceed 90 days expires July 16 which would mean that we would have to take some sort of an action at least by our next meeting which would be July 8th. We're not planning to meet until after the 16th which is the 8th. But since it's on our schedule for July 8th but at this time we do have a request from Stanley Mukai who is the attorney representing H.M.S. Ventures and I'd like to just read this letter: "We respectfully request that the date of the decision be extended until sometime in either the

MR. DURAN (Cont'd.)

month of September or October, 1969. We shall await your reply." If you'll recall, the last letter we received from them for an extension asked that it be extended in order for them to put together additional evidence to be presented to the Commission, so there . . . and at that time, I believe the Commission also used as their basis for extending the time the fact that we would be reviewing our district boundaries on Oahu and it gives our consultants the opportunity to analyze the whole island. We won't be taking action on Oahu . . . at least tentatively, we have scheduled August 15th for the action date. This is a month beyond what they presently have received for an extension. They're asking now that it be extended to September or perhaps October, and it would seem to me that it's in line with the Commission's thinking to extend the petition action beyond the boundary review stage, and that would mean sometime after September 15th . . . excuse me, sometime after August 13th. So that . . . let's see, if this is July 16th . . . July, August, September . . . that might be a 60-day extension to take us . . .

CHAIRMAN BURNS:

What is your recommendation?

MR. DURAN:

I would say that . . . (inaudible due to coughing) . . . a 60-day extension is in line.

CHAIRMAN BURNS:

Do the Commissioners have any questions?

COMMISSIONER CHOY:

Wasn't one of the criteria in asking for an extension was that we didn't have a full Commission and they would rather wait until we have a



COMMISSIONER CHOY (Cont'd.)

full Commission?

MR. DURAN:

The condition . . . well, see, several times the matter came up for action and we only had 6 members present, so it was agreed that they would wait until . . . (inaudible due to plane passing overhead) . . . and the 90 days has expired several times. Anyway, I think that that tradition should still hold.

COMMISSIONER CHOY:

I think so. We should give it to them on that basis.

MR. DURAN:

On the same basis. That's right.

CHAIRMAN BURNS:

But are you as a Commission in favor of granting an extension?

Okay, well, why don't you advise them then?

MR. DURAN:

And then the other thing is that July 8th, which is a Tuesday, is a fairly heavy schedule. We have 2 public hearings . . . this is our Kauai meeting . . . we have 2 public hearings scheduled and 4 actions scheduled, and we were thinking of having our meeting at 10:00 o'clock in the morning.

CHAIRMAN BURNS:

As far as the actions are concerned, the timing of those should be when we can get the greater number of our Commissioners there and why don't we check and find out what the status of each of them is?

MR. DURAN:

This is why I want to confirm this time schedule.

CHAIRMAN BURNS :

Shelley, you can't be there in the morning, can you?

COMMISSIONER MARK:

Well, it sounds like at 1:30. I can be there in the late afternoon.

CHAIRMAN BURNS :

Four-thirty, five o'clock, something like that?

COMMISSIONER MARK:

Whenever the plane leaves.

CHAIRMAN BURNS :

How about you, Goro?

COMMISSIONER INABA:

Well, I'll make it for the morning session.

COMMISSIONER:

You're there all day. That's your home. You can't get away, really.

CHAIRMAN BURNS :

You have to leave early, you say? Oh, in the morning to get there

. . . I see.

COMMISSIONER INABA:

That's right.

CHAIRMAN BURNS :

How about you, Alex?

COMMISSIONER NAPLIER:

(Response inaudible.)

CHAIRMAN BURNS :

Les. You'll be there?

COMMISSIONER WUNG:

Yes.

COMMISSIONER:

I can be there all day but I think maybe with Shelley's schedule, we should aim for 4:00 or 5:00 o'clock on this action.

COMMISSIONER NAPIER:

Well, if it's going to be that late and we don't have to be there, I'd rather come on a later flight.

MR. DURAN:

Well, I'm sure we'll be discussing procedures through the day again, too. We're planning to hold our boundary action . . . well, regs and boundary action meeting at 7:00 o'clock in the evening at the school, and I didn't think that you'd want to mess up that meeting with the hearings and actions on particular petitions. What time can you get over there?

COMMISSIONER:

Whenever there's a late plane.

COMMISSIONER:

We should have 7 there.

COMMISSIONER:

Yes.

CHAIRMAN BURNS:

Dora, did we advertise that meeting for 10:00 o'clock? Well, it's decided then.

MR. DURAN:

Yes; there's no choice. We talked about it earlier but I just wanted . . .

COMMISSIONER:

Hearings, right?

MR. DURAN:

Yes, well, it's 2 hearings. We can always postpone the meeting until later.

SECRETARY:

Four.

CHAIRMAN BURNS:

It's arriving Kauai about 5:00 o'clock?

COMMISSIONER:

Four-thirty.

SECRETARY:

Four-forty-seven.

CHAIRMAN BURNS:

Well, let's aim our action then for that time. Five or five-fifteen.

COMMISSIONER CHOY:

Dora, will you let the petitioners know then?

SECRETARY:

Yes, I haven't yet . . . (inaudible due to distance of secretary from tape recorder -- sounded several feet away.)

COMMISSIONER:

What are the action items?

MR. DURAN:

Hancock up in Wailua. Inscou, Kahuku on Oahu. Well, Robinson we've continued. And Bulldozing on Oahu. We'll have a discussion of each of these matters probably by the petitioners and then, of course, . . . (inaudible) . . .

COMMISSIONER:

Well, you'll have enough . . . you'll have a quorum to go ahead with

COMMISSIONER (Cont'd.)

the action.

CHAIRMAN BURNS:

Alright. Alright.

COMMISSIONER:

Don't wait for me. I'll be there in time for the evening meeting.

CHAIRMAN BURNS:

How about (inaudible)?

MR. DURAN:

So far it's our understanding he's coming to the meeting. He was supposed to be here today also.

CHAIRMAN BURNS:

Well, let's . . . we can go ahead then on the basis of that. Okay, what other items?

MR. DURAN:

Well, that's all that I have. Dora, is there anything else to discuss?

CHAIRMAN BURNS:

That's all? We're a little bit ahead of time. Is the petitioner here? Alright, well, the next item on our agenda is the hearing A69-216, but before proceeding with this, I would like those of you that intend to testify to please stand up and be sworn in. Lawyers don't need to stand up but everybody else who wants to testify should do that. So would you please stand up if you are going to testify. Raise your right hands. Do you solemnly swear that the testimony you are about to give before the Land Use Commission is the truth and nothing but the truth, so help you God?

RESPONSE:

I do.

CHAIRMAN BURNS:

Thank you.

COMMISSIONER CHOY:

Isn't it funny that they have so much faith in these attorneys?

CHAIRMAN BURNS:

It's one of those things that's a carry-over.

MR. DURAN:

I heard from a very competent attorney in town that it's his feeling that attorneys should be excluded from . . . (inaudible) . . . for the Land Use Commission.

COMMISSIONER CHOY:

That's my question. How come they have so much faith in their honesty?

CHAIRMAN BURNS:

We shouldn't go to counsel for your judgment on that score. Okay, go ahead please.

MR. DURAN:

Mr. Chairman and gentlemen of the Commission. This is a rezoning petition, A69-216 - Puaahala Company. This has been duly advertised for this public hearing this afternoon. (The June 28, 1969 staff report was read verbatim re: A69-216 - Puaahala Company.) Let me call your attention to the district maps over here. This is the Commission's district map of the appropriate portion of the island of Molokai. This line represents the conservation district partially shaded in green. This is the ocean. This is the shoreline, and Kam Highway following along the shoreline. The

MR. DURAN (Cont'd.)

area is presently in agriculture with the exception of this pink area, and this is an urban district. The property in question is this yellow area and on the larger scaled map, the yellow area again represents the 800 acres that has been petitioned. Kamalu is in this general area and the harbor is right here.

Let me comment on the last remark in the staff report. You may recall that I mentioned there are 8 kuleanas involving about 14 acres within this proposed development. These have not been published for this public hearing to be rezoned so that actually, the Commission is not in a position to rezone their properties, but they are situated rather awkwardly from the standpoint of rezoning an area. For example, we have little spots within the total area that would be rezoned. We'd be creating a number of spots of agriculture surrounded by urban, and something should be done to correct this if any major zoning is undertaken in this area.

The conditions that have been recommended in the staff report are based on the concept that the petitioner has . . . well, that is to say, generally speaking in the incremental zoning approach wherein the petitioner has agreed to present to the Commission his program for the next 5 years and the Commission has agreed to rezone his property conditioned upon what he says he is going to build. And these recommendations, with the exception of this suggested setback from the shoreline, were contained in the report that was distributed to the Commission and is a matter of record supporting this request. So these items were presented in support of this petition, and they've also agreed to go along with this incremental zoning approach.

Are there any questions?

COMMISSIONER:

Your recommendations . . . now you have 1 and 2; they're not . . . they're different.

MR. DURAN:

They're different, right.

COMMISSIONER:

Then what is your recommendation?

MR. DURAN:

If I were to choose one of the two?

COMMISSIONER:

Yes.

MR. DURAN:

Well, I would suggest that we attempt to work with our incremental zoning, if we can. But I think both of them have their merits. There's still some question as to whether or not we'll have incremental zoning. If the latter occurs, then it's merely a matter of rezoning . . . I would suggest the special permit route.

CHAIRMAN BURNS:

You talk about irrigation as far as agriculture is concerned. This is way away from the water system that supplies irrigation to . . .

MR. DURAN:

Yes, but I understand that there is a large line proposed.

CHAIRMAN BURNS:

For domestic waters?

MR. DURAN:

Yes. I'm not familiar with the details of the proposal.



COMMISSIONER:

From Kaunakakai?

MR. DURAN:

I believe it's coming from that direction.

CHAIRMAN BURNS:

Do the Commissioners have any questions?

COMMISSIONER:

Yes, I have. Rom, in the marine development, what are they going to do? Fill up most of the (inaudible) or are they going to leave most of it open?

MR. DURAN:

It's my understanding that . . . this is the plan that has been submitted to us. This green area is the pond and this is the natural harbor in the reef. Their proposal is to . . . this is all reef out here. Their proposal is to dredge a marina in this location and the dredge will all be used to fill up the low-lying areas as well as the fish pond for the resort hotel development.

COMMISSIONER:

And where is your 1,000 foot elevation?

MR. DURAN:

Thousand foot elevation is this red line which involves their 300 plus acres and staff and County are recommending that the 250 foot line be the area of rezoning at this time, should you choose to follow the incremental approach.

CHAIRMAN BURNS:

What is this (inaudible) about that 250-foot line?

MR. DURAN:

Well, it's above . . . well, we have another line shown here at the 50-foot contour and at that point on up to about the 1,000 foot elevation is the 25% slope on the average. Above that point, it begins to get a little steeper and, of course, you have the two gulches on either side of the property in question which is quite steep also. But this area down below is quite flat.

CHAIRMAN BURNS:

Are there any other questions?

COMMISSIONER CHOY:

Where is that highway?

MR. DURAN:

This is the highway through here.

COMMISSIONER CHOY:

Rom, there were the sites that were granted special permits. How far away are they from this?

MR. DURAN:

There's one that was being considered favorably here; it was never actually approved. Some problems in the make-up of the company that was to develop the hotel broke up some involvement there, so that was never officially enacted. But there's one about 4 or 5 miles down the road here where there was a hotel approved on a special permit but it wasn't

. . .

CHAIRMAN BURNS:

No action was taken.

COMMISSIONER CHOY:

Then I would like to ask the petitioner if a special permit route

COMMISSIONER CHOY (Cont'd.)

was . . . had a certain stigma creating this situation. That could come later.

CHAIRMAN BURNS:

Are there any other questions the Commissioners may have?

COMMISSIONER:

Has that road been used for . . . (inaudible) . . .

MR. DURAN:

No. That's the existing highway.

COMMISSIONER CHOY:

Is there a proposed highway?

MR. DURAN:

Not to my knowledge.

COMMISSIONER:

You don't go out that far?

MR. DURAN:

That's quite a ways back on the shoreline there. At least the County hasn't called it to our attention, and they said that this plan conforms with their general plan for the area so I'm assuming that that's the proposed alignment.

CHAIRMAN BURNS:

Any other questions? Okay, thank you. Does the petitioner wish to make a statement? If he's here, would he please stand up and identify himself?

MR. IZUMI:

Mr. Chairman and gentlemen of the Commission, my name is Francis Taumi, attorney at law for . . . I'm representing the petitioners, Puaahala

MR. IZUMI (Cont'd.)

Company, California general partnership.

We submitted this petition sometime in April of this year and within the scope of the petition, calling for approximately 800.16 acres of land to be redistricted, the conservation district being the forest reserve zone and the Pahialoa Fish Pond on the makai end, the balance of the land being in the agricultural district to the urban district. Since then, we have obviously considered the fact that forest reserves all should remain in conservation and even if we were to insist on a redesignation of a rural zone for urban use, the situation would be entirely impractical, so we're forgetting about the land above the 2,000 foot elevation. As a matter of fact, lands above the 1,000 foot elevation, up to which we have programmed development for compatible urban uses to complement the proposed hotel . . . resort hotel complex on the makai side of the property. The makai lands comprise approximately 60 some odd acres and this also includes some 30 to 33 acres or thereabouts of conservation lands being the fish pond. Most of the data . . . most of the written testimony and the data and formal reports have been submitted to the staff and distributed to the Commission so that there would be no purpose in my repeating the statistics available.

There has been much talk about the population explosions projected and forecast over the next 10 year period. I will merely mention in the economic feasibility report which was prepared for the holders of an interest in the adjoining lands which planned . . . who planned a scope of development, roughly approximating one that is projected for the first phase of the initial 40 acres on the makai side of the road. So that the

MR. IZUMI (Cont'd.)

evidence in support of probably a petition that may be forthcoming from those people will be directly applicable to the situation regarding our petition. And this excerpt . . . I'd like to excerpt it from the market demand study of Herb Foster . . . states the following, if you'll permit me to quote from it: "Aircraft company forecasts verify the predictions for continued increases in visitor arrivals. For the period from 1956 through 1967, the number of visitors to Hawaii staying overnight or longer equalled 60% of total air passengers to Hawaii. By forecasting the number of air passengers to Hawaii through 1975 and computing the relationship of overnight or longer visitors, approximately 2,900,000 overnight or longer visitors might be expected by that date, that is, in 1975. Assuming that visitor arrivals increase at the rate thus predicted, the following number of visitors may be expected over the next 5 years." And this report is dated July, 1968. "The year 1968 - estimated 1,250,000. The year 1969 - 1,500,000. The year 1970 - 1,700,000. The year 1971 - 1,950,000 people. In 1972, 2,300,000. Even though we feel that the annual percentage increase of visitor arrivals cannot be expected to continue indefinitely, an increase of 200,000 to 350,000 annually might be expected for the foreseeable future." That's the end of this excerpt.

By way of new testimony that might be considered by this Commission and hopefully be of some help is an economic report that was prepared by (inaudible) and Associates, a research associates firm that I'm familiar with, and that we have done some work with Mr. Lund previously, not by (inaudible) but myself personally. And I have the greatest confidence in the accuracy of the type of information that this man in his report

MR. IZUMI (Cont'd.)

offers in that I don't think that it will be more than a 5% . . . and this is just a personal opinion . . . degree of error in any projection or forecast that Mr. Lund does. Mr. Lund, as you know, was previously employed with the Stanford Research Center -- a highly competent man. Now this report will probably create . . . or probably not create any controversy at all. I don't know. I would just like to mention it to the Commission that there is some valuable information contained in it.

Now the reason why the . . . well, before I get to the marina project, I think it's important for the Commission to also consider the activities that will shortly be taking place in this region of Molokai and the environmental conditions which will most directly affect the property described in this petition. First, I'd like to mention what was already earlier mentioned by Mr. Duran -- the fact that the plan itself for the development of this area conforms to the State plan. Also, the master plan of the County of Maui, which incidentally is now in the hands of the Maui County Counsel for consideration and adoption. That master plan incorporates all the area designated for hotel resort in all the makai area up to the 250 foot elevation for urban type uses, so this project, at least up to the 250 foot elevation, conforms to the scope of the master plan as submitted to the Maui County Counsel. There is an added significance in this project in that in the last Legislature, there was a legislative commitment of \$75,000 . . . and I'm relating this to the question to Mr. Duran by the Chairman of the Commission . . . with regard to the development of the water system. That water system is going to be developed in a region that services the subject property. The water is being presently tapped from the Ualapui well which is somewhere along in

MR. IZUMI (Cont'd.)

this area on the existing subject property. It's presently served by a 4 inch water main and although the Ualapue water system was not projected in the Water Board C.I.P. capital improvements program over the next period of years, the Legislature felt that because of the fact that this was being considered by the County as the tourist designated area, then more emphasis should be given in the Ualapue region rather than become a low region. So that \$75,000 was appropriated on an aid to Counties for engineering plans, and construction monies are going to be asked for to increase the 4 inch main to an 8 inch main. The 4 inch main and the availability of a 4 inch main for domestic water. And the availability of water which has been substantiated by the Land Department's report number 3 dated 1973. This would be more than sufficient to service the needs of initial incremental development of the 250-room resort type hotel.

Now then, I'd like to touch on the surrounding environmental conditions that directly influence the planned development of this area and by this, I mean the schematics of the marina that I have shown on the far side there. That was done by the engineering firm of Wilson, Okamoto and Associates. It is merely a schematic thing at this stage. Now an oceanographic study is shortly to be commissioned which is hopefully going to be completed before the end of August. And it's important in two senses. Number one: Paialoa fish pond is going to be filled, assuming an urban designation is given. Paialoa fish pond will fall . . . a portion of the 40 acres for initial development of the hotel, the 250-room hotel. First, in connection with that and before I touch upon the marina, there has been a great deal of interest, no doubt, and it's very apparent to everybody,

MR. IZUMA (Cont'd.)

particularly the residents of Molokai and also the Bishop Museum and particularly to a Mrs. Kathy Sommers who happens to work for the Bishop Museum and has (inaudible) on papers with regard to fish ponds on Molokai. The only one I'm aware of at this time being special publication number 25, for the record, which was (inaudible due to plane passing overhead) was done for the Bishop Museum. Now it's true that because of the some understandable fears that some of those fish ponds along the east end of Molokai, both owned by the State as well as privately owned, might be indiscriminately destroyed . . . destroyed either by partial reclamation or by total filling . . . so that the Molokai Chamber of Commerce expressing an interest in regard to the fish ponds, looked into the situation and corresponded (inaudible) and exchanged between the Molokai Chamber of Commerce and Mrs. Sommers. With Mrs. Sommers' permission, I would like to read a letter from her dated April 13, 1969 to Mr. Kehler, spelled K E H L O R, who was then and probably still is a member of the Molokai Chamber of Commerce.

"Dear Mr. Kehler: (inaudible) asked me to give you a list of the fish ponds on Molokai which should be saved. You will find this list on a separate sheet of paper with the reasons for saving upon. Perhaps you could present it to the Commission or whoever is in charge of the hearing. I have deliberately kept the list short for I feel so many of the ponds are in such poor condition, there's no point in trying to save them. And also, I think it's better to concentrate on a few and really preserve them. I'm afraid you'll really have a fight on your hands with Keawenui pond but of them all, it's the most important. Hope I've done something to help the cause of the ponds. Best of luck. Sincerely."



MR. IZUMI (Cont'd.)

I would also like to quote for the record from the sheer papers the attachment to the letter that she referred to:

"It has been brought to my attention that consideration is being given to the filling in of fish ponds on Molokai. The Oahu real estate developers did this and I only hope that the mistake will not be repeated in such a wholesale manner on Molokai. The importance of some of Molokai's ponds as historic sites may not be fully realized, so I am submitting the following information for your consideration:

"1. Some of Molokai's ponds are the best example of the type of fish pond which was not built anywhere else in Polynesia.

"2. Some of the Molokai ponds were in use before Columbus discovered America, and one of these ponds is still being used.

"3. Throughout the history of Hawaii, Molokai has been noted for its superior fish ponds. In the early 1500's they were of such importance that the king of Maui travelled to Molokai to see the repair of their walls. Fish from Molokai ponds supplied Kaleikini's army in 1785 when he invaded Oahu. In the early 1800's, fish from Molokai ponds were the main source of Lahaina's fish supply. Some of the fish ponds on Molokai are of such historic value that should they be destroyed, it would be a tragic loss to future generations and to an important visitor attraction. Not only are fish ponds attractive to look at; they are also fine examples of the early Hawaiian engineering ability. Listed below are the fish ponds on Molokai which should be preserved. Criteria used in choosing these ponds were:

"1. Condition of the pond.

"2. Example of a specific type of pond.

MR. IZUMI (Cont'd.)

"3. Historical importance.

"4. Minimum of (inaudible) of maintenance.

Okay.

No. 1. Keawenui pond, one of the few ponds to which we have historical information which was built before 1500 A.D. and has been in continual use since that time. Because of its location, it has not suffered as much damage from the elements as most ponds have and, therefore, much of its wall is probably in its original condition.

No. 2. Kupeke pond; when in good condition, this is the best working pond on Molokai.

No. 3. Ualapue pond, land of Ualapue, owned by the State of Hawaii.

No. 4. Kaluapue pond; due to its location, it would require a minimum amount of maintenance.

No. 5 and last, Pakanaka pond, land of (inaudible). Due to its location, it would require a minimum amount of maintenance . . . rather, although this pond is in poor condition, it is the only one of its type in Hawaii which has survived."

This substantially is the report which was made available to the Maui-Molokai Chamber of Commerce. Nowhere . . . and I must admit that this might be by way of negative sanction . . . for the utilization of the Paealoa fish pond. The relationship between this fish pond -- the site, in general -- and the proposed development of the initial phase for hotel purposes to the marina is this: the marina will occupy approximately 33 acres to 35 acres, measured from its outer perimeters. The marina is proposed to be dredged to a depth of 15 feet roughly. A fill -- coral from this area -- will be used to fill the fish pond. The fish pond is, according

MR. IZUMI (Cont'd.)

to tests that have already been conducted in it, silted to a depth of about a foot and a half to 3 feet. This area, being within a flood plane, is subject to heavy siltation and this is probably the reason . . . I think it has been the reason . . . one of the reasons why there has been no economic return at all to the continued maintenance of this pond, and agricultural use in general will last 10 or more years.

As I said, the marina . . . this is merely a schematical view . . . marina oceanographic study on which will be based preliminary construction designs is expected to be completed by the end of August. Final construction designs are expected to be submitted for approval by the appropriate government agencies by October.

Now, almost contemporaneously with our efforts at this time will be the filing of an application with the Department of Land and Natural Resources, I expect, sometime next week. The application has already been prepared but not submitted. Which will be calling for 3 things, and this is where we emphasize the importance of a performance date insofar as we are concerned in effecting this development and which underscores the sincerity -- the fixed intention -- of the petitioner to develop this area, in that we hope to complete site preparation for the initial phase hotel to commence operation there for site preparation by October 15th and the . . . which will take probably about 3 to 5 months for site preparation, including dredging and filling and compacting. I have with me this morning Mr. Bill Anderson who is the President of Pacific Basin Land Corporation and also associated with Pacific Basin Travel Systems Corporation which is going to do the initial resort hotel complex. They are already on the island of Maui with what is planned to be their very first hotel in the Hawaiian Islands over in the district of Kahana beyond

MR. IZUMI (Cont'd.)

Kaanapali. The site for design for this area will roughly approximate the kind of design that is presently being worked on by the architects in conjunction with the authorities on Maui . . . that is, low rise and will probably not exceed 4 to 5 stories of Polynesian design, occupying, of course, the minimum lot areas as required by the County ordinance. And here we have the plot plan next to the marina schematic, and that's all it represents . . . a very preliminary plot plan. I am going to have Mr. Anderson be available for questioning and perhaps to remark a little bit about the type of design for the hotel in this area.

Now the marina, as I said, will be effecting the desired land uses in a most direct way and will probably call for an initial phase development of something like 50 slips and, depending on the final or preliminary construction designs, may accommodate up to a maximum of 200 plus slips. We have had preliminary discussions with the Harbors Division regarding this marina and have been encouraged by them to go ahead and develop it, and this we obviously hope to do so that to lay whatever reservations might be in the minds of the Commissioners, this is merely for (inaudible). I would like to assure the Commission that we have every intention of developing that marina as quickly as possible.

Now coming back to the time table and again underscoring the intent of the petitioner and the hotel developer for the first phase, the . . . we would like to be able, assuming that the boundaries are amended as requested . . . to be able, as I said earlier, to commence site preparation, including dredging and pond fill by October 15th in order to enable the hotel developers to commence hotel construction by as early as mid-year next year. A little more about this may be said by Mr. Bill Anderson

MR. IZUMI (Cont'd.)

whom I will call to address this Commission very shortly.

I'd like now on the final phase of my testimony to refer to the Land Use Commission's staff report, if I may. With all due respect to Mr. Duran, there is a report that quite accurately analyzes the situation and conveys the present data to the Commission. However, I wasn't sure in making this appearance whether I was attending my wedding or my funeral based on the recommendations. In defense of Mr. Duran's recommendation, midway through the consideration by staff of the petition, Mr. Duran did suggest that we consider the special permit route. I didn't feel, because of the time and the effort and, of course, the dollars that have been invested in pursuing the route of this petition, that it was appropriate or fair to my client to change horses in midstream inasmuch as by that time the Maui County Planning Commission had already considered their master plan and had submitted the same to the Counsel and, of course, by that time the Legislature had already appropriated the money, so we were well along our way to submitting every type of information that would be in support of the petition. And for this reason, we did not choose to consider the special permit route.

Now as far as the County's . . . or the Planning Commission's recommendation is concerned, when the testimony was offered at a public hearing before the Commission, there was reasonable assurance apparently from the evidence submitted that the projected 5-year development of this area was sufficient to satisfy them that we did need an urban district change as requested, at least up to the 1,000 foot elevation. And I suspect, and I'm only conjecturing, that the reason why the Maui County Planning Commission only went up to the 250 foot elevation in their recommendations

MR. IZUMI (Cont'd.)

was because this was subsequent to public hearings already held on Molokai with regard to the master plan, and they had considered going up only to the 250 foot elevation before even learning about our petition. I'm only conjecturing that this might be the reason. I'll never know.

Now coming down to the report's reference that the estimate seems somewhat optimistic for a 5-year program, I have no dispute with that statement. It is an optimistic program of development. However, because of the really rapid change in the conditions of late and the fact that reports are coming out now to support the radical change that will be taking effect in our tourist industry, and the fact that the airlines will probably in a year or 2 be coming out with jumbo jets and disgorging 400 people at a crack, there is going to have to be some early preparation for this type of tourist or visitor influx, and unless we start now, we will be incapable of taking care of that when the demands are needed to that extent. Regarding Mr. Duran's statement that no one else has proposed construction of employee housing on the island, it may be that nothing expressly was provided in our report . . . or rather in supporting testimony . . . written testimony, relating to employee housing, but it is the intention of the petitioner to develop housing mauka of the road. It'll be the type of urban use involving residential and commercial uses . . . compatible uses, of course. This will be the area mauka of the highway.

The needs for program development within the first 3 years, we hope up to the 500 foot elevation. Mauka of the 500 foot elevation will be the regular type residential subdivision. The petitioner is aware of the emphasis that is being placed, not only by this Commission, but by

MR. IZUMI (Cont'd.)

the Legislature on employee housing. As a matter of fact, in the last session or the last 2 sessions probably, but for sure in the last session, there has been increasing pressures for legislation to provide . . . or to require developers of resort hotels to provide employee housing, and this is contained in the study committee's report . . . Senate Study Committee Report No. 530 on Senate Bill 994 which did not pass. I'm just emphasizing the fact that we are aware of the need for employee housing in this area and have every intention to meet those needs.

Turning now to the recommendation of the staff. The staff, if I may quote in part, says that it is reasonable to encourage resort developments in appropriate locations on the island of Maui; as this area conforms to the State and County plans and the standards for an urban district, following alternatives are offered to assure that the project will be executed in a proper manner so to speak. I do not agree with the . . . as I stated earlier . . . with the special permit route and, therefore, would ignore the suggestion of the Commission nor recommendation number one. Consider recommendation number 2. In connection with recommendation number 2, it substantially conforms to the recommendation that was submitted to this Commission by the Maui Planning Commission. I have no dispute with this particular recommendation except in this respect: number one, the limitation to the 250 foot contour; number two, the reference in this recommendation to the fact that the Commission . . . or rather the petitioners and the Commission would agree upon the construction of the 250-room hotel, marina, restaurant-bar or restaurant-bar-yacht club, launching ramp, marine fuel dock and 30 apartment units for low-income employees. May I clarify that statement? I would take exception to that statement in this respect, that the marina development is an entirely separate project and

MR. IZUMI (Cont'd.)

was brought to the attention of this Commission merely to apprise you of what was going to be happening in the surrounding area. The Commission, I know, knows that the area is within a conservation district and this is why an application is being submitted to the Land Department. We don't know what agreements or conditions will be imposed by the Land Department obviously at this early stage so that I think it would be unfair to tie the petitioners by way of this petition with an agreement to what the Commission might consider in this petition with regard to this petition. By the word agree, I take it that Mr. Duran means the imposition of conditions to which we would agree contingent upon which the petition would be granted for the urban zone.

The second objection I would have to this recommendation is the setback for the 200-foot setback along the shoreline. I feel that this is unrealistic in the sense that it restricts the imagination and the design capabilities of the hotel developers. The hotel developers have yet to sit down with the engineers and the architects, assuming that the project gets off the ground, and to utilize their imagination in the best possible way to come up with imaginative as well as tasteful designs. Two hundred feet setback would be . . . (inaudible) . . . to be imposed as a condition to this petition or to the granting of any urban change.

The other thing also is that the County does provide for setback in the ordinance and we feel that this would offer sufficient protection along with the controls that are imposed with regard to density, lot area requirements, building setbacks, height restrictions and so forth, so that I don't think it would be appropriate for the Commission to impose any conditions that the amendment would be contingent upon.

Those are my closing remarks for the time being, and if you have any



MR. IZUMI (Cont'd.)

questions, I shall be only too happy to answer them or else to refer them either to Mr. Anderson who will be making a few remarks anyway or to Mr. Noel who will be available to answer any questions that I can't.

CHAIRMAN BURNS:

One question. How are you going to handle the kuleanas that are in the middle of your property?

MR. IZUMI:

Those kuleanas . . . for lack of a better map . . . number about 31.66 acres, one being here and the rest of them being spotted down below here. It's pretty hard to see from where you're sitting.

COMMISSIONER CHOY:

In relation to (inaudible), where would they be? Right in the middle of the hotel development?

MR. IZUMI:

No, it would be off to the side. It would be unaffected within the 40 acres for initial development. This occupies most of the pond area. The gross area of the (inaudible), as much as you mentioned the kuleanas, measures 815.52 acres. The exclusions on the Commission award being the kuleanas, . . . (inaudible) . . . measure 31.66 acres, so that we have a net area of 783.86 acres in addition to which my clients will be negotiating. They have already commenced negotiations with some of the undivided interests in these kuleanas . . . (inaudible) . . . acquisition for that, there will be a comprehensive development without any legal restrictions insofar as (inaudible) is concerned.

CHAIRMAN BURNS:

Are there any other questions you wish to address?

COMMISSIONER CHOY:

Mr. Chairman. On that basin that you expect to dredge to a depth of 15 feet, what is the present depth now?

MR. IZUMI:

I am not sure. Perhaps Mr. Noel will have some . . .

MR. NOEL:

It's a shoal area about 2 or 3 feet, not more than a fathom in any event. The reef is about three-quarters of a mile offshore.

COMMISSIONER CHOY:

So you expect from that basin to make out to deep water?

MR. NOEL:

Yes. Kalaialoa Harbor is about 35 feet deep as a natural harbor, and we will be digging from 12 feet and . . . (inaudible due to soft tone of voice) . . .

CHAIRMAN BURNS:

Any other questions? Yes.

COMMISSIONER:

I think you mentioned the economic research associate's report. I take it that you're not among the sponsors?

MR. IZUMI:

No. I would like to get a copy of it if you have one available because it seems to be creating quite a stir. I am not one of the sponsors. I think there were 18 sponsors of that report.

MR. ANDERSON:

Pacific Basin Land Corporation or Pacific Basin Travel Systems Corporation are not a member of that sponsoring group.

COMMISSIONER:

I hear this report is quite timely.

MR. IZUMI:

Well, timely in the sense in that because of innovations in the travel system and the aircraft system and the fact that the transportation department has recognized the explosion of expected visitor arrivals, we are going to have to be prepared well in advance at least to commence in a most active way some development that would be accommodating this . . . anticipating this arrival.

COMMISSIONER:

Is it your opinion or is it . . . ?

MR. IZUMI:

That is an opinion of mine.

COMMISSIONER:

Is it your opinion and Mr. Lum's opinion that it cannot be more than 5% error to the forecast?

MR. IZUMI:

This is my personal opinion.

COMMISSIONER:

Does Stanford Research share this feeling? They apparently . . .

MR. IZUMI:

I don't know anything about that.

COMMISSIONER:

. . . endorse . . . they wrote a special preface verifying the analysis performed by Mr. Lum.

MR. IZUMI:

Well, I'm not prepared to get in any debate over the accuracy or the inaccuracy of that report. The only reason why I mention it to this Commission is the fact that it made headlines.

COMMISSIONER:

Well, you have presented it as a testimony in evidence before the Commission . . .

COMMISSIONER CHOY:

I am quite sure Mr. Izumi's clients are not members because Mr. Lum recommended the 1971 . . . only 60 rooms for Molokai and you got 50 now so you probably . . . you're overbuilding.

MR. IZUMI:

We do not have . . . (inaudible) . . . on that report to clarify that remark. We do not have the benefit of that remark.

COMMISSIONER:

This is 5% error at least.

MR. IZUMI:

I'm admitting to nothing. I'm just saying . . . (inaudible) . . .

COMMISSIONER:

Mr. Lum says in 5 years or 10 years, there may be no agriculture. Given this 5% road, you . . .

MR. IZUMI:

Well, I'm personally disturbed by a confusion like that. If that thing happens . . . if it actually happens, and again I'm speaking personally because I was raised on a plantation environment -- a plantation community, I hate to see just for personal reasons . . . to see agricultural out of the economic . . .

COMMISSIONER:

You can say there might be at least 5% agriculture, holding within our guidelines, and there might be only 95% tourism. He makes the other conclusion of the 100% tourism.

MR. IZUMI:

He does?

COMMISSIONER:

Well, if it's the same headline I'm reading.

COMMISSIONER:

That's right.

COMMISSIONER CHOY:

Is this the same group that's developing at Lahaina and Halenani?

COMMISSIONER:

No.

MR. IZUMI:

P.B.T.S. Pacific Basin Travel Systems Corporation is absolutely a different group.

CHAIRMAN BURNS:

Are there any other questions? If not . . .

COMMISSIONER:

Mr. Izumi, on requested rezoning on the . . . (inaudible) . . . partial owner now?

MR. IZUMI:

No. May I just clarify this? They're still continuing negotiations and they have not concluded any negotiation on any one of those exclusions. They're in the process of concluding agreement on at least 3 of them . . . soon I hope.

COMMISSIONER:

You will be picking up partial interests or whole interests or do you know at this point?

MR. IZUMI:

Whatever interest . . . 100% of whatever interest may be traced and confirmed.

UNIDENTIFIED:

Mr. Chairman, perhaps I can clarify that point. As to the total 30 plus acres reserved as . . . (inaudible) . . . land court map, we have acquired and we do hold fee title to half of that acreage . . . about 16 of the acres. The other remaining parcels . . . there are only 5 in reality that have any relationship to the property in the sense that they constitute . . . (inaudible) . . . 2 on the west end of the property, 2 on the east end and one in the center which is mauka. With respect to our planning, we feel that that is all that is necessary in terms of our development plans because we have a line to our future street pattern in such a way that these properties will blend right in without standing property . . . (inaudible) . . . we're not too concerned about it except that it seems illogical in terms of the overall concept to zone all the land actually related to the proposal rather than to have it . . . (inaudible) . . .

CHAIRMAN BURNS:

Okay. Thank you. Are there any other questions?

COMMISSIONER:

You were talking about employee housing but it wasn't cleared up in my mind as to what you intended to do about it. You did say, as I recall, that you have every intention to meet these needs.

MR. IZUMI:

Yes, I'd like to refer that question again to Mr. Noel.

MR. DURAN:

He's also going to make the presentation.

MR. IZUMI:

. . . to the mauka portion.

MR. DURAN:

Now the other point . . . you questioned the staff commenting that the condition between the applicant and the Commission shouldn't include the yacht club marina launching facilities, but it was presented in your 5-year projection as part of the development program.

MR. IZUMI:

Yes, well, . . .

MR. DURAN:

The zoning is contingent upon the County providing apartment zoning and . . . (inaudible) . . .

MR. IZUMI:

Yes, we're getting into a pretty hairy situation in this respect and this is, with all due consideration to the jurisdiction of authority of this Commission, when you, number one, consider incremental zoning which I have absolutely no objections to show required performance . . . this is something that has been badly needed for a long time and is included within your proposed regulations . . . but number one, the fact that I was not sure whether you used the word agree in its ordinary non-technical sense or in its legal technical sense . . . that we would agree . . . the petitioner would agree with the Commission that this would be done and this would be done and this would be done. You see? There's a great big question mark on that. Obviously, I don't think anything like that would be fair to the petitioners, because it may be that a fuel dock, for example, may not be appropriate within this area or it may be that the bar would not be appropriate within this area. I'm just using this as an example, tying

MR. IZUMI: (Cont'd.)

down the petitioner to performances which to me unfairly are imposed on what he plans to do.

MR. DURAN:

We only raised the question of the marina or the in-dock, but what about the hotel? You don't want to be bound to construction . . . ?

MR. IZUMI:

Well, let's go one step further then, and again I'm not saying that the Commission does not have the legal right to impose conditions . . . within its jurisdictional authority which is to consider land use boundaries . . . to impose conditions which would be reasonable. I can merely say that at this point because I don't know whether imposing a condition that, if the petitioner under the State Land Use Law shall provide a barge, shall provide a fuel dock, would have any legal sanction at all.

MR. DURAN:

It would be legally enforced. But you're right and I'm not disagreeing with it and this is the thing that the Commission is trying to make up its mind on in approaching a program of incremental development . . . the problem being that a developer comes before this Commission and says that I plan to do this within this period of time, and the Commission believes the applicant is going to do this, and in many instances in the past, this hasn't happened. Now the Commission is trying to find a way to assure that a developer is making a reasonable representation. So we're talking about substantially completing a project in accordance with what the applicant presented at the time of the boundary change. So you've come before this Commission and you've said that within a 5-year period, we will build a hotel and apartments and a marina and a few incidentals like



MR. DURAN (Cont'd.)

a bar-restaurant and a few (inaudible) marina. Now my question is, what we're presenting to the Commission is two alternatives. One to approach a rezoning from the incremental standpoint or, two, purely what Act 187 says, you shall consider the boundaries and that's all. This is what they've been doing in the past and it hasn't been too successful. One of the approaches is, is the applicant willing to enter into an agreement with the Commission to go the incremental zoning approach as one alternative, or does he not want to be bound by that incremental zoning approach and just go strictly on what the law itself provides in terms of meeting the need. And this is why I wanted to get your reaction as a petitioner to the Commission as to . . . if you do agree with the incremental concept, what are you willing to agree to the Commission to construct within 5 years substantially. And we will take into consideration problems that may result as in the 5 years regarding rezoning, other governmental agencies, dock strikes . . .

COMMISSIONER:

Changing money market.

MR. DURAN:

Right. Exactly. Exactly. All of these things are acceptable.

MR. IZUMI:

And then would you expect the developer to come in each time he had a change in his plans that did not meet your original petition?

MR. DURAN:

At the end of the 5 years, if there is some justification for it, this will be the grounds of other Commissions to evaluate. Certainly if this Commission agrees to rezone your area on the basis of a resort hotel

MR. DURAN (Cont'd.)

development and the County doesn't zone it for resort hotels, you have to have a change in your plans because it's beyond the control of this Commission.

MR. IZUMI:

Yes, I don't really disagree with reasonable controls. The point is, what are reasonable controls? I don't consider (inaudible) to be a reasonable control to require a developer to do something . . . to agree today to do something, not knowing what the future contingencies may be. Now I realize that ever since the Commission has been born, in entertaining every petition that's come up, particularly for urban uses, in that . . . and because of some bad examples perhaps in the past to be ultra-sensitive to the pronouncements of a petitioner. Where do you . . . to what extent do you require petitioners to show not only good faith but give you reasonable assurance that he will proceed with what he says he will do? Now, I have said that we have satisfied the Planning Commission and apparently the Legislature has been satisfied that there is real event in this area with this particular petitioner to develop this particular parcel, and the fact that dollars and cents are going to go to the tune of over \$100,000 . . .

COMMISSIONER:

You're not saying that a legislative appropriation was made for this particular project?

MR. IZUMI:

I'm not saying that because the legislative appropriation relates to the entire . . .

COMMISSIONER:

To the . . . (inaudible) . . . project.

MR. IZUMI:

Right. I'm not saying that, because it relates to this region which happens to be a tourist destination area that your department, back in 1961, sanctioned.

COMMISSIONER:

I just wanted to make sure.

MR. IZUMI:

Now, the State plan, as the report says . . . coming back to what you said, Mr. Duran . . . the State plan conforms with the petitioner's design to develop this area and the master plan of Maui County. Now all these things I feel infringe upon the Commission's consideration of this petition to show good faith as far as the developers are concerned . . . to show good faith on their part, and to provide you with reasonable assurance. And it's purely judgmental for me to say that perhaps you should be satisfied at this point with the sincerity and the capability and the whole business that would affect the development that they say they're going to do when maybe you should get more reasonable assurances from them this far. Where do you stop? This is something that the Commission is going to have to determine one way or the other, perhaps by established criteria, by way of incremental development such as you propose in your new rules, or perhaps by some other controlled measures. I don't know. I mean this is subjected individually and judgment collectively on the part of the Commission. But I would say that it would be unreasonable, if the word agree is used in its legal technical sense, for us to agree now to do this, this and this. And maybe it's a kind of agreement, and I'm just conjecturing this, Jack, that might not be legally enforceable, within the scope of your authority. I don't know.

COMMISSIONER:

Excuse me. I don't think there's any use of the word in the sense

COMMISSIONER (Cont'd.)

of specific enforcement. There's nothing anybody can force you to do but . . . (inaudible) . . . This is the ultimate answer, I suppose, when we're talking about agreement.

MR. IZUMI:

Yes . . . if this is the context in which Mr. Duran used the word, fine, because the Commission could unilaterally downgrade any boundary throughout the State, of course, with appropriate, you know, justification.

COMMISSIONER CHOY:

Mr. Izumi, in a sense, you don't agree with the incremental approach for a boundary change.

MR. IZUMI:

I represented that I agree personally wholeheartedly for the purpose of this petition . . .

COMMISSIONER CHOY:

I know but when we . . . to get incremental, we have to know in a period of 5 years how much is done, to give you the second increment. If you disagree with the design in the first increment, how can we talk about a second increment? So rather than talk about increments, maybe we should just talk about a boundary change which we legally are supposed to do, which means, do we give you 10 acres to start with and that's all. That would do away with your having to agree legally what agree means.

MR. IZUMI:

Yes. Well, I don't think . . . I don't consider it funny anyway. But it's one controlled measure of the opposite extreme.

COMMISSIONER:

I think what the Commission is really concerned about is this: let us assume that you get your 1,000 foot elevation comprising, let's say,

COMMISSIONER (Cont'd.)

three-fourths of your land and then you go and spin it off because it's zoned urban. And then the next guy spins it off because it's urban. And then, what do you have? You have a high-priced land that's not available for development after that. And it's merely only (inaudible) instead of actual development. I mean, this is the concern of the Commission.

COMMISSIONER CHOY:

Mr. Izumi, this has been going around and around among the Commissioners for about 5 days now, so that is why I am trying to pin you down to what actually . . .

MR. DURAN:

You see, Francis, in your development . . . your 5-year development program, you're talking about providing hotel facilities numbering almost 1,000 rooms. Maybe in 5 years you only lease out about 500 realistically.

COMMISSIONER CHOY:

That could be cured.

COMMISSIONER:

Probably only 200.

COMMISSIONER:

Right.

MR. IZUMI:

Well, I know we're going to have over 200 initially, assuming that the boundary changes . . .

MR. DURAN:

Your timing is also difficult with the tight money situation.

MR. IZUMI:

Now this was a factor which became apparent to everyone only after we

MR. IZUMI (Cont'd.)

filed the petition:

MR. DURAN:

Sure. But I'm just trying to get you to commit yourself to a reasonable program for 5 years to this Commission from the standpoint of this incremental approach.

MR. IZUMI:

Sure. Sure. I think that's a valid consideration.

MR. DURAN:

Build a hotel in excess of 200 rooms within the next 5 years, barring any unforeseen events at this time. And what else? Are you going to build apartments?

MR. IZUMI:

I'd like to refer that question. We're talking about . . . (inaudible) . . . for employees and so on, you know. That has to come with the scope of a 250-room hotel.

MR. DURAN:

Yes. It may not be legally binding, but it's in the records as the petitioner having represented something to the Commission, taking action and agreeing to do something at the end of 5 years.

CHAIRMAN BURNS:

I think, Rom, all of us have taken a crack at this problem, but it goes back to petitions being presented to this Commission on the basis of a very rosy pink cloud and later on, nothing being built, and what we're trying to do is to get a system or a method created so that you as a developer come in and say it's going to take me X number of years to do this and it's a realistic kind of estimate. It isn't one of these that's

CHAIRMAN BURNS (Cont'd.)

way over the horizon somewhere. And all the Commission would want from you is a reasonable schedule which you think you can make. It's not that the Commission is going to try and speed up your schedule or argue with you about your schedule. It's what you think you can do. And this is . . . this is a very . . . it's simple and difficult both.

MR. IZUMI:

Well, I sure hope that you don't think I'm trying to argue with you because I share this concern, having been with State government, too. The fact that (inaudible) is my (inaudible), renderings and colored maps and this whole business of . . . (inaudible) . . . nothing happens for years and . . .

MR. DURAN:

That's right. That's what we're trying to get at.

UNIDENTIFIED:

Mr. Chairman, at the appropriate time, I'd like to . . .

CHAIRMAN BURNS:

Yes, well . . .

MR. IZUMI:

If you have any more questions of me because I think Mr. Anderson, as indicated, would like to offer . . .

CHAIRMAN BURNS:

Alright, let's have Mr. Anderson.

MR. ANDERSON:

Well, I . . . as president of Pacific Basin Land Corporation, we're under contract right now with Mr. (inaudible) to purchase from him the 40-acre makai portion and the 40-acre mauka portion and we, in turn, will

MR. ANDERSON (Cont'd.)

be leasing a site on the makai portion, Pacific Basin Travel Systems Corporation, which is a hotel operating company. We're both in the same family . . . both companies. We are about to break ground on Maui . . . it's right here. I do not wish to enter this into the public record but I'd be very happy to show it to you as individuals as to the concept of what we plan. We have a very important strategic integrated marketing plan. Naturally, the hotel corporation, P.B.T.S., acquired Robinson's Hawaiian Tours as our marketing arm. We are firm believers in the concept of low rise. As a matter of fact, if in the future someone wanted our support for a height restriction on this whole area, I think that we would definitely support it and would go out and lobby for it. The Maui hotel will be 5 stories in height because we are on a 7.3 acre site. Our site is quite tight for what we're trying to achieve marketing wise. Our market is the middle to upper middle income hotel traveler, around the \$28 room rate market at the present time. We will proceed ahead with the hotel of at least 250 rooms. This is just a very preliminary schematic done for your purposes for the hearing by Peter Wimberly who is our architect for Maui. It takes a long time . . . the master plan, an 80-acre portion, and for me to decide whether I agree with that master plan from the standpoint of building . . . of the buildings on it . . . they're developing condominiums for hopefully low-cost, although no one has come up with low cost housing yet . . . up in this portion. There are a lot of other things that we have to . . . you know . . . it takes a long time to decide on these. We would have to decide, A, who's going to be our land planner, first of all. But speaking for the hotel corporation, and those gentlemen I'm sorry were unable to be here today because



MR. ANDERSON (Cont'd.)

they're back in New York at a Board of Directors meeting . . . we're prepared to go ahead on the 250-room hotel. Really, that's about the only thing we can say to you as far as within a 5-year plan. I'd be very happy to say we'll build a 250-room hotel within 5 years, but I can't say to you today what I'm going to do with the rest of this makai portion of the 40-acre mauka piece. I'm sorry. It's an age-old problem. I'm very sympathetic. I've been through Commissions before in California. I can understand your feelings. Believe me, I can speak . . . being a newcomer here, I'm getting a lot of this land speculation and (inaudible) thrown at me when pieces are being offered, you know, and they say it's zoned and everything and because it's zoned, it's worth X dollars versus if it's unzoned, it's worth minus X dollars. I mean, there's plenty of land speculation going on. I'm not telling you anything new, I'm sure.

That's about all we can say. We have an overall program going. We are going to build 5 hotels in the Hawaiian chain. From there, we go out into the Pacific Basin . . . Fiji, Samoa, Australia, New Zealand. The director of our hotel development company is Mr. Lee Dayton who's the former head of hotel development of InterContinental Hotels, which is the wholly owned subsidiary of Pan Am, as you know. He has built 15 hotels throughout the world. A grand guy. He's retired from Pan Am. We're going to say . . . now that's just words, but we didn't bring a lot of rosy pictures around with that, but top priority is the hotel on each island in the Hawaiian Islands and from there, out into the Basin.

COMMISSIONER:

That plan there on the makai end . . . that's the undivided area?

MR. ANDERSON:

Pardon me, sir.

COMMISSIONER:

Is that the undivided area?

MR. ANDERSON:

Well, this is the area that we are under contract with Mr. Noel to purchase this shaded area . . . (inaudible) . . . 40 acres here (inaudible).

COMMISSIONER:

Where is this undivided area?

CHAIRMAN BURNS:

You mean the kuleana . . .

MR. ANDERSON:

Well, they're not spotted on there but . . .

MR. IZUMI:

Actually, the kuleana plots are shown on this map here. These spots.

MR. ANDERSON:

In white. And Mr. Noel, as the seller of the land to us, has to produce that those will be delivered.

CHAIRMAN BURNS:

Are there any questions?

COMMISSIONER CHOY:

The schematic there shows waterways within that area of resort. . .

MR. ANDERSON:

Just a lagoon concept is all. It's just preliminary . . .

COMMISSIONER CHOY:

But you may be building it completely.

MR. ANDERSON:

We may. On the Maui site, we are doing . . .

COMMISSIONER CHOY:

I mean, that's the way it's shown on the other map?

MR. ANDERSON:

Where's that? Down here?

COMMISSIONER CHOY:

Yes.

MR. ANDERSON:

Well, this just shows the building of the pond.

COMMISSIONER CHOY:

Isn't that the same area . . . resort area?

MR. ANDERSON:

Yes.

COMMISSIONER CHOY:

So there would be no waterway according to this concept?

MR. ANDERSON:

There would be no waterway coming in, at least in our present plan.

. . . (inaudible) . . . lagoons internal.

COMMISSIONER CHOY:

Oh, you may create lagoons or you may fill it completely?

MR. ANDERSON:

Yes, well, it's all very preliminary but . . . the Maui concept is this. This is one wing of the hotel out this way and this is the lagoon that we have created in here with this elevated over the lagoon so this wing of the hotel has ocean views. Two hundred and fifty rooms, 5 stories.

COMMISSIONER CHOY:

What area?

MR. ANDERSON:

It's . . . well, Kahana Bay . . . it's . . . I can't pin it down for you. It's up from . . . well, it's below Napili and above (inaudible). This is all pretty well sunken.

CHAIRMAN BURNS:

Are there any other questions?

COMMISSIONER:

One, sir. There is in your contract of purchase a condition (inaudible) upon clear title of these kuleanas?

MR. ANDERSON:

Well . . .

COMMISSIONER:

Well, you presented a development plan here and . . . You are permitted to purchase or you've a conditional commitment or . . . ?

MR. ANDERSON:

Conditional commitment subject to zoning.

COMMISSIONER:

Yes. And boundary change, obviously.

COMMISSIONER:

But not subject to picking up the (inaudible) kuleanas?

MR. ANDERSON:

No.

COMMISSIONER CHOY:

Well, that is not within the area we're speaking of anyway, is it?

MR. ANDERSON:

No.

COMMISSIONER:

(All comments inaudible except . . . "Mr. Lum.")

CHAIRMAN BURNS:

Alright. Thank you.

MR. LUM:

Thank you, Mr. Chairman. In respect to this drawing here, this is just a blow-up of the makai and this section right here is the 40 acres to be developed by Pacific Basin. In this area there are 6 kuleanas. There is one located about right here and there's one located about right here . . . very small . . . they're about a quarter of an acre or less in size. Any (inaudible) in here would result in street widening and will remove the existence of this kuleana in the second development. This particular little kuleana here is the only kuleana falling within the perimeter of their acreage, and because it is so small and because it is splendor in (inaudible) ownership, the opportunity is available to us to have . . . (inaudible) . . . We feel it doesn't really affect the development.

The other 2 little kuleanas are on this end . . . one located right here and one located right here. Again, they're very small. The one is .18 of an acre and the other is about a quarter of an acre. Again, we feel because of the size, we would have an undivided interest in each of them. They don't affect the real . . . (inaudible) . . .

The only other kuleana is in here and it's adjacent to Mrs. (inaudible) homesite that she's reserving for herself. And this piece is one of the sliver pieces there that runs mauka, and because it lies in a kind of a drainage area . . . it falls on either side of any future road patterns and blocks developments that might occur, so again, it doesn't interfere with our development . . . (inaudible) . . .

There are the only 5 little pieces. There are 2 or 3 other little

MR. LUM (Cont'd.)

pieces which I mentioned in the application, and they are just simply in this corner which are these pieces right here.

CHAIRMAN BURNS:

Are there any owners of the kuleanas here today?

MR. LUM:

No, sir. In respect to these kuleanas, I believe substantially speaking, as to the 5 I have mentioned, it's my recollection that three-quarters interest lies in estate and one-quarter is divided into sixteenth interest between 4 or 5 people. They aren't improved. They never have been improved.

UNIDENTIFIED:

I'd like to volunteer one comment in respect to this concept of incremental zoning. I'm in full agreement with the concept. As an attorney exposed to a lot of zoning and development in Southern California, we, in effect, have worked within the context of that concept for a long time and we understand plan development, we understand architectural improvement zones and what have you, and I have no quarrel with the concept at all. In work prepared to represent to this Commission and to the County that we're serious about planning the total property in respect to a particular concept of development and then have us and responsible other developers actually build out the property on a phase incremental basis in respect to a total plan. And so we're agreeable to representing to this Commission that within the 5 years that we will develop a minimum of certain thing. We agree that certain pieces of property will only be used for certain land uses and not for others. As an attorney, it's my . . . has always been my feeling for some time that just by the mere fact of zoning

*more dit Paul Hoell  
CBL*

UNIDENTIFIED (Cont'd.) (Probably MR. IZUMI):

A { being put on a piece of property, the person . . . the landowner of that property has no vested legal right in the zoning that's impressed upon him until he transfers this general permission into a contract relationship with the public agency by starting construction. I'm fully aware as an owner of this particular piece of property that is within the obvious jurisdiction of this Commission that any time at its own initiative to remove any zoning that has been granted if development hasn't occurred. And I can state for the record now that if we don't substantially perform and cause this property to be developed as we envision it, then I'll be the first one not to oppose or not to complain or cry if this Commission on its own initiative, without my consent or otherwise, institutes action to remove the zoning.

In any event, I will cooperate with the staff to have some reasonable conditions imposed. We're working now with our engineers and our consultants, hopefully starting by the end of October to start 3 things concurrently. We want to excavate the marina basin in its entirety, and we want to make the land fill as necessary to be able to deliver the plan to Pacific Basin so they can start building their first 250-room increment. We wish to also commence construction of 25 or 30 units or so of apartment buildings or multiple units mauka on the west end . . . or on the east end of the property and we also propose between the 200 and 400 foot contour area to file a tract map with the first increment of 50 lots for half-acre average lots. We want to do those 3 things all at once, start at the end of this year and then we will proceed thereafter to fill within the property in accordance with the overall plan and as the market moves over.

Thank you.

CHAIRMAN BURNS:

Any questions?

COMMISSIONER:

Do I get you right that as far as the fish pond is concerned, you are not requesting us to rezone that because you are going to the Land Department for this proposal? Is that right?

MR. ANDERSON:

I believe we are but I believe this (inaudible) jurisdiction so if you do it, the department ought to do it also.

COMMISSIONER:

That is not true . . . that everything is necessarily contingent upon what this Commission does because obviously there is not going to be any marina there without an urban criteria from the adjoining (inaudible). I mean, how do you operate a marina with an agricultural use? I mean, it's that they're married together so that the petition itself encompasses all of what is described in it . . . the total acreage technically covers everything, including the (inaudible) fish pond down to the ocean, from the upper reaches to the (inaudible) all the way to the ocean. Now we are not going to say that the Land Use Commission or anybody, that this Commission is going to give us urban. I mean, who are we to say that? We don't know. So we aren't necessarily going to have to wait to see what the Commission does. Now I realize you have your own problems regarding submerged land areas where they completely enclose or otherwise, so then we have to go in to the Land Department, assuming that you do leave the fish pond in conservation . . . we've got to make an assumption. Obviously, you have to go to the Land Department to get a hotel use for that particular area. You must go to the Land Department for the



COMMISSIONER (Cont'd.)

marina area.

COMMISSIONER CHOY:

And you prefer a boundary change?

MR. ANDERSON:

Yes.

COMMISSIONER:

I don't know . . . I hate to see an island of conservation land, assuming that the Commission goes for your petition. I hate to see an island of conservation district land smack in the center of it. It creates a . . . (inaudible) . . . situation where you have concurrent jurisdictions for hotel resort purposes and have buildings, you know, inside and outside of the conservation district. It's a funny situation.

CHAIRMAN BURNS:

Are there any other questions the Commissioners have of the petitioners?

COMMISSIONER CHOY:

I'd like to ask Rom . . . what is the ag subdivision, minimum size lots?

MR. DURAN:

On Maui?

COMMISSIONER CHOY:

In this particular area.

MR. DURAN:

They have a 2-acre policy.

COMMISSIONER CHOY:

So a half-acre lot would still have to be in an urban area?

MR. DURAN:

Urban or rural.

COMMISSIONER CHOY:

I see.

CHAIRMAN BURNS:

Are there any other questions?

COMMISSIONER CHOY:

The reason I brought that up . . . I'd like to ask Mr. Izumi . . . it was mentioned that all 3 jobs must coincide . . . the filling of the pond . . . I mean the dredging of the marina, filling of the pond, the development across the road to subdivided house lots. You're putting all of that into one package. Is it because of money or financial problems? Do you need the money from subdivided lots that are sold up above to develop your makai lands? Do you have enough money, say, in the event we gave you only the makai property . . . could you go ahead and do all the projected . . . ?

MR. IZUMI:

I'm going to have to refer this to Mr. Noel, because I only know what is intended to be resolved. How they're going to finance it is a problem that . . . well, number one, at least the 40 acres P.B.T.S. is concerned with because it involves site preparation where you can put a block of concrete on it, or the mauka area for the . . . (inaudible) . . . as to how it's going to be financed. It has nothing to do with money. It has to do with use. If we're going to put the hotel there with an initial increment of some marina water sports development, we're going to have to have some of our hotel people generated by them, and they have to live somewhere. You know Molokai as well as I do, and there's not any reasonable extra housing available on the east end of the (inaudible). So we have to build a certain number of units for use necessitated by the hotel development, and there will be some people connected

MR. IZUMI (Cont'd.)

with the hotel itself. And with the other efforts that we look forward to on the marina development, they may well want to build a house, you know, within the area. So we need to cut a reasonable amount of lots and make available sites for some people to build their homes. Now maybe in this, we're only talking about 4 or 5 or 6 houses, I don't know, but I want to make available some house lots for some people connected with the total area to be able to live where they work.

COMMISSIONER CHOY:

You mentioned a half acre. That seems like such a generous sized lot.

MR. IZUMI:

It isn't really. I think that . . . I said average half acre. It means that you cut . . . I think it tells you that it's going to be about an average half acre because you're in a 15% to 20% slope area and we want to keep these people on up there below . . . certainly below 8%, perhaps around 6% or so. And if you're going to get a half-way reasonable lot for any kind of a decent home, you need a half acre of raw land within that geographic area to work with in order to get these . . . (inaudible) . . .

COMMISSIONER:

I think that what Wilbur was referring to is . . . you have this whole package. Naturally, I assume that you're going to some financial institution to finance this total area. By granting the (inaudible), does this have a bearing on your ability to finance the project, if we gave you the whole area or if we only gave you 100 acres?

MR. IZUMI:

Certainly that has a real bang on it because obviously we would be hard pressed to do anything if we just started with 10 acres, for example.

MR. IZUMI (Cont'd.)

We think the very least that we would require up to the 500 foot contour to plan intelligently the areas of initial development that are going to take place concurrently to be filled in between each in a 3 to 5 year period. It would be desirable to go to the 1,000 foot contour initially; however, on the first increment we would have no quarrel up to the 500 foot contour because we could stick them back into the next aspect. We do need, I think, up to the 500 foot contour because there are certain site improvements . . . take, for example, the package treatment plant that we're projecting to put in there . . . (inaudible due to background noise) . . . of 250 acres to feed it. You just can't put in an initial package plant for 1,000 residential equivalent geared only to a 250-room hotel.

COMMISSIONER:

What I meant was, let's say we all go out and borrow some money . . . we say we have an area of about 1,000 acres, and you go to a lending institution and you say you have these projects and it's going to cost you so much dollars. Now if you come to this Commission and the Commission says we're only going to give you half of that, doesn't this disrupt your whole . . . ?

MR. IZUMI:

It makes it tougher. Yes, it does.

COMMISSIONER:

This is what I was referring to.

MR. ANDERSON:

It makes it particularly tougher on this landmark, sir, because most of the financial lenders of any substance are now requiring participation in projects. They are not just giving the normal loan; they are participating

MR. ANDERSON (Cont'd.)

in the project.

COMMISSIONER:

Well, this is what I was trying to get at. Of that total area, what is the minimum that you have to get to get financing? Is there a minimum?

MR. NOEL:

Well, I could speculate as to the first minimum to the fact that the contour would be the motive . . . would be the most realistic segment giving us the best opportunity and flexibility to arrange our specific finances. For example, I'm not worried about Pacific Basin's 80-acre property. That's their problem. I have a contract relationship with them and I'm satisfied that they can financial perform on their first basis of development, and we know what we can do on our first basis of development. But in terms of the overall program and institutional financing for . . . (inaudible) . . .

CHAIRMAN BURNS:

Are there any other questions? Does anybody else wish to make a statement for or against this petition? If not, the hearing is closed on the Puaahala Company's petition.

Rom, do we have anything else to do?

MR. DURAN:

That (inaudible) that we circulated is . . . the document that we circulated as the manner of this incremental zoning wording.

CHAIRMAN BURNS:

Why don't . . . do you have copies of this for everybody?

MR. DURAN:

Everybody should have a copy of it right now.

CHAIRMAN BURNS:

The incremental zoning language. Is there any place we can go and sit down and talk about this?

I suppose the meeting . . .

\* \* \*