

STATE OF HAWAII
LAND USE COMMISSION

10:00 A.M. Meeting

July 8, 1969

Lihue, Kauai

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CHAIRMAN INABA:

Will the meeting please come to order? In order to expedite the giving of the testimony, I would like all of you who intend to testify to please stand up and be sworn in. Those of you that are going to testify. Do you solemnly swear that the testimony that you are about to give before the Land Use Commission is the truth, the whole truth and nothing but the truth, so help you God?

RESPONSE:

I do.

MR. DURAN:

Mr. Chairman, we have a public hearing, A69-213, Alfred & Elsie Victorino. It has been duly advertised as per the Land Use Law. (The July 8, 1969 staff report re: A69-213 - Alfred and Elsie Victorino, was read verbatim.) For orientation, this is our district boundary map. The area shown in pink is the existing urban Kapaa district. This is the ocean, going mauka. The property in question is this yellow square. More specifically, on this detailed map, this is Kawaihau Road going mauka and the 16-acre tract is shown in yellow. Our existing urban district is outlined in red as it goes mauka from the Kapaa urban district. The lands shown in blue here represent lands that have been dedicated for tax purposes for 10 years, and of course all of this area is in the agricultural district.

CHAIRMAN INABA:

Are there any questions of the staff?

COMMISSIONER:

You say this is a subdivided lot. Is the request for both lots?

MR. DURAN:

Yes. The total parcel. Two lots.

COMMISSIONER CHOY:

Who owns that white piece in there?

MR. DURAN:

The State of Hawaii, and it's leased to Hawaii Fruit Packers, Ltd.;
probably used for pineapple.

CHAIRMAN INABA:

Are there any other questions?

COMMISSIONER:

That purple area . . . is that . . . (inaudible) . .

MR. DURAN:

This area? No, this is in existing urban. That represents the boundaries of the existing urban district, including this pocket up here that is in the urban district. But this area has been recommended for inclusion into the urban zone.

COMMISSIONER:

I see. Well, the people in that area that the consultants are recommending, are they willing to subdivide that land?

MR. DURAN:

I don't know that he has any statistics to verify that.

COMMISSIONER:

Now, all that shaded in blue . . . from what zoning to what zoning?

MR. DURAN:

Well, it's in the agricultural district and it's dedicated for agricultural purposes for 10 years, unless we change the zoning classification.

MR. DURAN (Cont'd.)

It's because of the influence of surrounding urban districts.

CHAIRMAN INABA:

Are there any other questions from the Commissioners? If not, is the petitioner here or a representative and would he like to make a statement?

PETITIONER:

Yes, I represent the petitioner and my name is Morris Shintaku. I wasn't sworn, but I had the impression that attorneys need not be sworn in.

Judging from the staff report, admittedly they have no evidence about the growing demand for (inaudible). However, in the Waipoli area, I understand at least 2,500 rooms will be built and about 600 is right now in the process of being built. I called the Economic Development Office and I'm informed that the ratio of employees to rooms is roughly 1.7 employees per room. It used to be 1 to 1. Now, on this basis, it would take more than 2,000 employees. Where are we going to house these employees? I've asked the Economic Development Committee whether they had any senses of housing needs and housing availability but, unfortunately, there is none at the present time. The shaded blue area, I would venture, is firstly in need of pineapple, very little banana and less of papaya. Now with Hawaiian Fruit Packers suddenly on the fence whether they're going to plant the new crop or not, I don't think you're going to need that much agricultural area. The lot in issue is fairly close to the main highway . . . less than half a mile . . . and on the main highway, got 2 6-inch lines running on both sides of the highway. Admittedly, a bigger line will have to be brought in for the parcels since our subdivision refinement states that no more than 8 lots shall be fed by a 2-inch line.

MR. SHINTAKU (Cont'd.)

As to agriculture, the farmers' senses indicate that there's a tendency to more part-time farmers rather than full-time farmers on Kauai. Now how much can a part-time farmer raise in bananas and papayas? My understanding is in bananas, he might do 3 to 4 acres; in papayas, certainly not more than one acre. This could not be the kind of a return that a person would want to derive from his land. What about leasing? I understand cattle . . . locally good pastureland leases at about \$20 per acre. Similarly, pineapple . . . I think \$25 an acre is a good return, a considerably good return. And even that won't be available in a few years. We have a situation where the owner has no way of realizing any kind of a return on his investment unless it's affixed to some subdivision use. We tell them that a new request would not do violence to the present situation; we're not going to overload the area with housing.

The local Planning Commission did turn it down, but there is an alternative, and that is that they still haven't heard from their planners from their 701 plan, and rather than to wait until such a plan came in, the petitioner requested that some action be taken, whether it be denied or not, so that this matter can be brought to you for decision.

We feel that it would be not doing violence to the overall land use philosophy to designate this area to rural subdivision. Thank you.

CHAIRMAN INABA:

Thank you. Do the Commissioners have any questions of the petitioner's representative?

COMMISSIONER:

I have one question. When the County recommends denial . . . you come before us . . . say we approve it and it, therefore, goes back to the County, the recommendation is still going to be denial, so evidently

COMMISSIONER (Cont'd.)

you haven't gained anything, even if . . .

MR. SHINTAKU:

This is true if they had some basic difference in philosophy about the denial, but the reason for the denial was because the consultants had not come in with the reform.

COMMISSIONER:

Well, yes, so they're still going to tell you to wait until the report comes . . .

MR. SHINTAKU:

Until the report comes in? Well, I don't know, but they didn't say if the report is this way, they will deny it, or if it's that way, they will approve it. And the other reason given was a lack of hardship, and I specifically recall that the Planning Director said Mr. Victorino just acquired this land a year ago so obviously, it's not a real hardship situation and to be frank with you, we are not basing it on hardship.

CHAIRMAN INABA:

Are there any other questions?

COMMISSIONER:

Mr. Chairman, do you mean to say that this area would be under your General Plan for urbanization?

MR. DURAN:

. . . (inaudible) . . . the new General Plan will be involved.

COMMISSIONER:

Or even the old one.

COMMISSIONER:

Now isn't this section much more suitable than these terrains over here?

COMMISSIONER:

Also, certain portions of the area in question would definitely be more suitable than some of the areas that . . (inaudible) . .

CHAIRMAN INABA:

Are there any other questions? If not, the hearing is closed on A69-213. I'm sure you'll want to send in any written information as you have another 15 days. An action will be taken on this petition between 45 and 90 days from this date.

Alright, we have next on our agenda A69-217, Samuel Wakabayashi.

MR. LEONG:

This is A69-217, Samuel Wakabayashi, who is the petitioner and along with the owner, Harriet Moody, have requested a boundary change from agriculture to urban. Now this area is actually adjacent to Hanalei Plantation, if you know where that is, and on the other side . . .

MR. DURAN:

Just a minute. I'd like to interrupt this presentation for just a moment. I'd like to point out that we've received a letter from the petitioner asking that this petition be withdrawn.

CHAIRMAN INABA:

Do we need any action from this committee on that? No.

MR. OSARI:

May I interrupt a minute? My name is Tatsu Osari, attorney at law, with offices in Lihue. I am the attorney who made the application for the petitioner. I was not aware of the letter submitting withdrawing his name. My understanding was that he would ask for a withdrawal of the applicant and another person's name inserted in its place. In view of this letter, may I request that this matter be deferred that we may

MR. OSARI: (Cont'd.)

resolve this matter to the satisfaction of all, including myself. I would like to have this matter deferred.

MR. DURAN:

We have this (inaudible) August 14th to conduct our public hearing.

COMMISSIONER:

Why don't we defer it at the moment? I would think it would be the least complicated, wouldn't you?

CHAIRMAN INABA:

Yes.

MR. OSARI:

I think we could resolve it, including my own satisfaction, if . . .

COMMISSIONER CHOY:

Not to withdraw, huh?

MR. LEONG:

The hearing must be held by August 14th.

CHAIRMAN INABA:

Well, why don't we defer the matter? But we need a determination on the deferment.

MR. DURAN:

We have a pretty rigorous schedule between now and August 14th . . . practically every week-end. We might be able to set a date and put it down on the record.

CHAIRMAN INABA:

I suggest we try and do that.

COMMISSIONER:

It has to be before August 14th?

MR. DURAN:

Right. We have a hearing on August 1st, next Friday, Kona, August 1st on Maui and August 15th on Oahu.

COMMISSIONER CHOY:

Can't we extend the deadline to deal with the petitioner's request?

COMMISSIONER:

. . (inaudible) . . can you extend the hearing date?

UNIDENTIFIED:

Well, is there a need to extend?

MR. DURAN:

In view of the schedule, there is more of a need on our part. We're due back to this island September 19th.

COMMISSIONER:

I think the applicant probably is agreeable.

MR. OSARI:

Yes, we we are asking for the deferment so we . . .

COMMISSIONER:

Well, who is asking here now?

MR. OSARI:

For that purpose, I would like to have the deferment. I would like to have this matter resolved so that we can have . . .

MR. DURAN:

September 19th?

MR. OSARI:

Yes. That'll be fine.

CHAIRMAN INABA:

Okay. Well, let's defer it to September 19th then.

CHAIRMAN INABA (Cont'd.)

Rom, is that . . . ?

MR. DURAN:

Yes, fine. That's acceptable.

COMMISSIONER CHOY:

September 19th.

CHAIRMAN INABA:

Right.

MR. OSARI:

Thank you very much for your consideration in the matter.

CHAIRMAN INABA:

Okay. Would you write up the letter and make the request so we have a record . . .

MR. DURAN:

Yes, sir.

CHAIRMAN INABA:

The next item is action A68-204, Bulldozing Services, Ltd.

MR. DURAN:

Mr. Chairman, gentlemen of the Commission. Just to bring you up to date again on this petition, this is the windward side of Oahu, our district map covering the Kahuluu area. The area shown in pink represents the existing urban area. The green shaded area is the conservation district. This white area is in the agricultural district, and this is the ocean. The property in question is this small yellow shaded area. On the blow-up map, down here shows us the boundary of the existing urban area for Kahaluu and the property in question is the L-shaped area. We're

MR. DURAN (Cont'd.)

really talking about the area above the red line for rezoning. These squares represent houses in the area.

COMMISSIONER:

The houses are in there now?

MR. DURAN:

Right. And this is a map submitted by the applicant showing the existing urban district, the total property in yellow, cul de sac which is the dead-end road shown on this map, and the road coming off and down through the houses on the property. This, however, does not exactly conform to what was physically built on the ground but merely is the grading plan that was approved by the City. It's our contention that that grading plan was not followed in the grading.

We have another map of the . . . Bill, will you get me the other map of this area that the petitioner submitted when we first gave our request for a more accurate map of the area? In the meanwhile, Mr. Chairman, . . . (The July 8, 1969 memorandum to the Land Use Commission from the staff re: A68-204 - Bulldozing Services, Ltd., was read verbatim.) In that instance, I make reference to this map which shows the base of the bluff following this line and the road coming off the center of the cul de sac at somewhat of an angle.

COMMISSIONER:

Does this represent what's on the ground?

MR. DURAN:

This more truly represents what's on the ground than this approved grading plan that was originally submitted with the petition.

MR. DURAN (Cont'd.)

Let me add one more comment, Mr. Chairman, . . . that this area, the agricultural district in the . . . in Kahaluu . . . has been recommended for urbanization on our 5-year boundary review.

COMMISSIONER:

But you have a problem here. There are houses there.

MR. DURAN:

That's correct.

COMMISSIONER CHOY:

These houses are how far from the slope?

MR. DURAN:

Well, at this point it's about 6 feet and then varies . . . it's about 20, 25, 30 and 30 and then it comes back again at this house here to about 10 feet.

COMMISSIONER:

All the houses are on here.

MR. DURAN:

Yes, there are about 11 houses.

COMMISSIONER:

Is the red line there . . . is that the suggested boundary that he suggests?

MR. DURAN:

No. It's just one of the doodlings of the staff in an attempt to resolve this problem. We also have a problem with this area, too, so that any districting with this property should take into consideration . . . (inaudible) . . .

COMMISSIONER:

This is your recommendation?

MR. DURAN:

We have not really received anything from them that we can put on paper, but our thinking is that in our boundary review . . . to place these dwellings in the urban area, although this is also very steep property. We might draw a line back that's easily definable on our district boundary maps and tax maps, say 100 feet back from the frontage which would represent this line and would include all of these houses, with a depth of perhaps 30 feet to the rear of the building.

COMMISSIONER CHOY:

Rom, did we ever find out who owns the property beyond the ridge?

MR. DURAN:

This is owned by Nylen, and then this is Greener. And as you'll recall, he does own property . . . Between this property and this property are 2 valleys, so we have a valley here, a ridge, a valley and then this property.

COMMISSIONER:

You said that one suggestion of this was to draw a line. Would that . . . (inaudible) . . . below the minimum required?

MR. DURAN:

That would be the case in some instances.

COMMISSIONER:

We don't have the authority to do that, do we?

MR. DURAN:

Oh, yes, sure. It's been done.

COMMISSIONER:

I thought it was (inaudible) would be in conservation.

MR. DURAN:

That's right. It's unfortunate but in situations such as this, I think it's unavoidable. You would otherwise be putting lands that have a slope in excess of 70% in urban, if you were to move back to allow the amount of land area necessary for each lot. The other thing that we get involved in is that under the new zoning ordinance of the City is that lot area is determined now by the slope of the land, when you approach lands above a 35% slope. Below 35%, the lot area is 10,000 square feet. Above that, it varies . . . 35 to 40 is a one-half acre, and 40 to . . . 35 to 40 . . . 40 to . . . I'm mixed up on this now.

COMMISSIONER CHOY:

Mr. Chairman.

CHAIRMAN INABA:

Yes.

COMMISSIONER CHOY:

We're not changing the ownership here. We're just drawing the line on the property, that's all.

CHAIRMAN INABA:

That's right.

COMMISSIONER CHOY:

The way you have that red line . . . what was the lot sizes in there?

MR. DURAN:

They have shown a tentative subdivision of this area . . . I don't know what the date is and why they . . . but these lots sizes would be

MR. DURAN (Cont'd.)

somewhere around 3,500 square feet.

COMMISSIONER CHOY:

If you took it to that red line?

MR. DURAN:

If you were to follow this line that we indicated according to the survey that was submitted to us. This line we can locate by meets and bounds without any problem. The other possible alternative is to follow the base of the bluff.

COMMISSIONER:

Then the owner . . . there's some people living there?

MR. DURAN:

Oh, yes.

COMMISSIONER:

Then would they be owning just 3,500 or would they still be the owner of the slope and . . . that it's in conservation, right?

MR. DURAN:

See, this parcel is all in one ownership and these are tenants on the property. They're not owners.

COMMISSIONER:

Who owns the back portion of that ridge?

MR. DURAN:

Nylan.

CHAIRMAN INABA:

Are there any other questions?

COMMISSIONER:

This thing is actually the fault of the County for granting a building

COMMISSIONER (Cont'd.)

permit. Am I right?

MR. DURAN:

Well, the understanding that we have in checking the records is that building permits were issued in the conservation district and then the . . . it changed hands. Mr. (inaudible) purchased it and started the construction of 3 more dwellings and when he went to obtain these building permits, the County denied additional building permits because they then had learned it was in a conservation district. So he had the 3 houses started without building permits and in order to get the building permits, he had to either get the approval of the Land Board because it was in the conservation district or have the zoning changed to urban. And he's substantially completed these houses, as you well know. Commissioner Kido had to get the A.G. to stop the construction on those things.

COMMISSIONER:

How much is complete?

COMMISSIONER CHOY:

It's all complete now.

MR. DURAN:

They're practically completed. It's just the interior that needs some finishing.

COMMISSIONER:

Then would it be in order to make a motion to extend the line to your proposed orange line?

MR. DURAN:

Is the petitioner represented here? We notified him.

CHAIRMAN INABA:

Yes, well, you have a practical problem though. You have these homes now constructed and even though they didn't go through the proper channels and wouldn't have been constructed through the proper channels if they had been followed.

COMMISSIONER:

How many houses have been built?

MR. DURAN:

Well, one way to have them resolve that dilemma is to rezone that area into the urban district.

COMMISSIONER:

That's right.

COMMISSIONER:

Two wrongs don't make a right.

COMMISSIONER:

No, but you can't let a . . .

COMMISSIONER:

(Comments inaudible.)

MR. DURAN:

No, that is not the subject of this petition. This can be rectified in our boundary review.

CHAIRMAN INABA:

Then your recommendation is to deny the petition then study this and then take action at the boundary review. Is that what it amounts to?

MR. DURAN:

That's basically what we had suggested.

CHAIRMAN INABA:

Is it possible to defer action on this and take it up after the

CHAIRMAN INABA (Cont'd.)

consultants have made a study of this problem?

COMMISSIONER:

It's my understanding, Rom, that this . . . of course, it's not down in writing . . . that one of the proposals made by the consultant was that the urban land . . . (inaudible) . . .

MR. DURAN:

Well, this basically would follow that concept, if the Commission were to agree to align across this area at this time; we could take care of that then when we establish the district boundaries for Oahu.

COMMISSIONER:

The consultants are not present?

MR. DURAN:

Just their plans.

COMMISSIONER:

I think the wisest thing to do as far as the Commission is concerned would be to wait until we hear from the consultants.

COMMISSIONER CHOY:

Can we defer action without the request of the petitioner?

MR. DURAN:

Well, since the attorney isn't here and they've asked for 4 continuances, it would certainly seem . . .

COMMISSIONER:

I move to agree to defer, until the consultants file their report.

CHAIRMAN INABA:

Is there a second to that?

COMMISSIONER:

I second it.

CHAIRMAN INABA:

Alright, all those in favor of . . . (inaudible) . . . Alright, all those in favor. Opposed? Okay; Rom, is that satisfactory as far as you are concerned?

MR. DURAN:

Yes. I'll advise the petitioners.

CHAIRMAN INABA:

The next one is action A68-207, Charles A. Hancock.

MR. LEONG:

As you may recall, the petition is located here, up the Wailua Valley and actually what they call the Wailua Homestead area. The petition was to redistrict this from rural to urban in order to subdivide this into smaller house lots. And pursuant to your request to re-evaluate this agriculture-urban situation in a general area, we've done a bit of research and come up with the following information. (The July 8 memorandum from the staff to the Land Use Commission re: A68-207 - Charles A. Hancock, et al, was read verbatim.)

CHAIRMAN INABA:

Are there any questions on the part of the Commissioners? Alright, does the petitioner have anything more to say or add to the testimony or information that's been given to the staff?

PETITIONER:

Yes.

CHAIRMAN INABA:

Would you state your name please?

PETITIONER:

I'm Bonnie P. Danford (?), agent for the owners, Charles A. Hancock,

MRS. DANFORD (Cont'd.)

and the purchasers of the property who are involved in the rezoning of this property. And I just want to reiterate my feelings, that this property, since it is a small parcel, and there's only planned to be a maximum of 9 lots added to the urban area, that this would be in keeping with the needs of the community in that area, and therefore I would like to continue our request for the consideration of the Land Use Commission to approve the new rezoning from rural to urban.

CHAIRMAN INABA:

Thank you.

COMMISSIONER:

Is it a fact that most of these urban areas that have been asking for dedication . . . you can see the need for urbanization. I think we should grant this petition.

CHAIRMAN INABA:

Any other comments or questions on the part of the Commissioners? I'll entertain a motion that we should wait until (inaudible) comes back because there are only 6 Commissioners here.

COMMISSIONER:

Is this an action?

CHAIRMAN INABA:

This is an action. Let's take a 10-minute recess.

Alright, we ready? Alright, let's get going then. Let's fill (inaudible) in first of all. I'm sure you've read the staff recommendation and you're familiar with it, if you're ready to . . . (inaudible) . . .

COMMISSIONER:

I move that we grant the petitioner . . . (inaudible) . . . according to the staff recommendation.

CHAIRMAN INABA:

Is there any second to that?

COMMISSIONER:

I second it.

CHAIRMAN INABA:

Are you ready for the question?

COMMISSIONER CHOY:

Question.

CHAIRMAN INABA:

Will you please poll the Commissioners?

MR. DURAN:

Commissioner Inaba.

COMM. INABA:

Aye.

MR. DURAN:

Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Nishimura.

COMM. NISHIMURA:

Aye.

MR. DURAN:

Choy.

COMM. CHOY:

Aye.

MR. DURAN:

Napier.

COMM. NAPIER:

Aye.

MR. DURAN:

Kido.

COMM. KIDO:

Aye.

MR. DURAN:

Chairman Burns.

CHAIRMAN BURNS:

Aye.

MR. DURAN:

Motion is carried, Mr. Chairman.

CHAIRMAN BURNS:

Thank you.

The next item on our agenda is action A69-211, Inscon Development Corporation.

MR. DURAN:

Mr. Chairman, (the July 8 memorandum from the Staff to the Land Use Commission re: A69-211 - Inscon Development Company, was read verbatim.) To bring you up to date again on the area involved, this is the northern tip of the island of Oahu, this is the urban district of Kahuku, this is the ocean out here, this is the urban district at Kawela Bay, and another existing urban district shown here in pink. The property in question is this yellow area. The surrounding white area is in agriculture, and this green shaded area is in the conservation district.

CHAIRMAN BURNS:

Thank you. Are there any questions by the Commissioners of the staff?

COMMISSIONER:

I have one. How much development has already been done in the two areas on the site?

MR. DURAN:

Well, no development with regard to the resort facilities. There are existing vacation homes around Kawela Bay and along the shoreline just east of Kawela Bay.

COMMISSIONER:

These areas . . . the leases are beginning to expire now, right?

MR. DURAN:

On the cane lands?

COMMISSIONER:

No. Urban.

MR. DURAN:

Oh, yes. Many of those homes, I understand, are on 30-day leases or notice.

CHAIRMAN BURNS:

Are there any other questions?

COMMISSIONER:

I have one question, Mr. Chairman. I was just wondering what the possibility of establishing the . . . (inaudible) . . . conservation properties along the shoreline.

MR. DURAN:

We discussed that earlier, Mr. Chairman, you may recall, and the map that the developers submitted in support of their petition, which is the schematic proposed land use plan, indicates that there will be a green

MR. DURAN (Cont'd.)

strip along the shoreline and . . .

COMMISSIONER:

What's that . . (inaudible) . . green line?

MR. DURAN:

That's about 150 feet.

COMMISSIONER CHOY:

That's not very much.

MR. DURAN:

On our deliberations for redistricting the Oahu district boundaries, we also had the suggestion from our consultants that that area be set off into conservation.

COMMISSIONER:

Where does the line begin, and where does it end?

MR. DURAN:

This red line represents the existing urban district around Kawela Bay and this red line represents the other urban district which includes Kahuku Point, so that the property in question is this area in between and makai of Kam Highway.

COMMISSIONER:

Well, maybe . . (inaudible) . . but assuming . . (inaudible) . . how much effect will this have on the total individual development plan for the entire area, not only in the ag area but involving also the currently urban zoned lands?

MR. DURAN:

Well, according to this schematic plan, no buildings have actually been physically located within this area or this area, but they have

MR. DURAN (Cont'd.)

located the building within that 300 foot point . . . distance from this set-back . . . Kuilima Point. So I think that it would affect the present thinking of the developers insofar as this area is concerned, but certainly 150 feet would not affect it and twice the distance may or may not.

COMMISSIONER CHOY:

Are you talking about the now urban area?

MR. DURAN:

All of the urban areas.

COMMISSIONER CHOY:

Rom, on the old regulations . . (inaudible) . . we have a time stipulation.

MR. DURAN:

Not in the existing regulations. The petitioners have support of the concept of incremental zoning and time performance. They have submitted a schedule to the Commission which indicates substantial development of the total area within approximately . . . within (inaudible) period. They may be willing to agree to the rezoning on the basis of the proposed regulations. This would be something they would have to answer. But from all indications, they have indicated . . .

COMMISSIONER CHOY:

But under our present regulations, they are not subjected to anything incremental?

MR. DURAN:

No.

CHAIRMAN BURNS:

Are there any other questions?

COMMISSIONER:

Yes; Rom, what was the consultant's recommendation as to this paper?

MR. DURAN:

They favored the rezoning.

COMMISSIONER:

They recommended it?

MR. DURAN:

Yes, they did. Mr. Kido, just to reiterate what I said earlier, their recommendation was for the urban designation plus the conservation along the shoreline, consists of what this plan of about 158 . . .

COMMISSIONER:

But the action that we're about to take here does not include that?

MR. DURAN:

No. The request is for the entire parcel to be urbanized.

COMMISSIONER:

Would this be contrary to the action . . . not contrary, but would we then have to go back and amend the consultant's recommendation . . .
(inaudible) . .

MR. DURAN:

Assuming that we take favorable action today.

COMMISSIONER:

On the total parcel?

MR. DURAN:

On the total parcel.

COMMISSIONER:

What effect would that have on the . . (inaudible) . . Would they have to go back to the Commission to include the action?

MR. DURAN:

You would be somewhat inconsistent, I think, if the intent of the Commission is to provide for a conservation district along the shoreline during the boundary review and not enact it in this concept.

CHAIRMAN BURNS:

Is the petitioner here or is he represented?

UNIDENTIFIED:

Yes.

MR. DURAN:

Neither of them have been sworn, Mr. Chairman.

CHAIRMAN BURNS:

I see. It might be helpful if we got your thoughts on this matter, if you wouldn't mind standing up and letting us swear you in. Do you solemnly swear the testimony you will give before the Land Use Commission is the truth and nothing but the truth, so help you God?

RESPONSE:

I do.

CHAIRMAN BURNS:

State your name.

MR. KUENTZ:

My name is Fred Kuentz. I am Executive Vice President of Webb Corporation and general manager of our joint venture, what we call Inscon Corporation.

I'm not sure. The question seems to be a consideration of the boundary . . . is that what we're talking about?

CHAIRMAN BURNS:

Well, why don't you point out . . I think what some of the Commissioners

CHAIRMAN BURNS (Cont'd.)

are wondering is whether it would meet with your approval if the area that Rom is showing you on the map were districted conservation.

MR. KUENTZ:

Which would then mean what . . . no construction in that boundary, whatever that might be?

CHAIRMAN BURNS:

(Inaudible), why don't you comment? He asked if that meant no construction within the conservation area.

UNIDENTIFIED:

Pursuant to regulation 4 which covers the conservation district, the . . . it specifically stipulates permitted uses within a conservation area.

MR. KUENTZ:

I don't think I'm aware of what those are. Do you know what those are, Dom?

UNIDENTIFIED:

I'm pretty sure Dom is aware of it.

MR. DURAN:

Yes. There's quite a range of uses permitted. You have to go before the Land Board with your requests.

COMMISSIONER:

I wonder if we could ask whether or not the . . .

MR. KUENTZ:

What we did try to do is . . . in some respect . . . we brought the golf course out to the ocean in two places. We are proposing, and we submitted a complete schedule, of what . . . of quite a low density in all areas that we're proposing which I think will take care of actually . . .

MR. KUENTZ (Cont'd.)

I think what you're trying to forfeit is a solid mass of concrete buildings along the water. We don't want it either. I think if we get involved in any kind of a (inaudible) in a conservation district, we're going to destroy the entire value of what we have, with a feature ocean frontage for either a resort or a housing development. I don't know what the range is, but we ourselves are trying to hold it way down on the density and elevation in all areas. We're planning no more than two stories outside of our hotel areas and an indoor nature outside of our resort areas and low density homes. So if you don't get . . . you're not going to get a really heavy concentration. But if you put a border along, it will kind of wipe it out and we'll have to move the whole thing back. Otherwise, we can cluster or group and leave good size green areas but still have housing or resort area at the beach, which is the value of the whole project, being located so near the ocean. . . the 300 feet . . .

COMMISSIONER:

I don't think we're talking about 300 feet. I think we're talking about 150 feet.

MR. DURAN:

Yes. The consultants are here now. Let's get from them . . .

MR. ALTMAN:

I can answer it. On the original recommendation was (inaudible) and also Turtle Bay but if you'll recall, it was the wish of the Commission that the area that had been shown, which was through here and also here, not be presented at the public hearing, so as far as the consultants were concerned, these recommendations had been taken out.

COMMISSIONER:

So that your tentative boundaries now show urban up to the water line?

MR. ALTMAN:

No. In our proposal before, we said that our first recommendation was for these areas, but that at the wish of the Commission, these areas had been taken out.

COMMISSIONER:

So what you're saying then is that the tentative final boundaries do not include the conservation (inaudible) zone?

MR. ALTMAN:

That is correct.

COMMISSIONER CHOY:

In one of our works, we agreed that we would take it to the high water mark.

COMMISSIONER:

May I say something? The only reason why I think we should have conservation land along here is to make sure the scenic beauty along that coastline . . . I mean there shouldn't be any objections from you. You're permitted all kinds of construction on that conservation zone anyway.

MR. KUENTZ:

I think that's one of my problems. I'm not sure what . . .

COMMISSIONER:

Wait. This is just to insure that we will have this scenic beauty which you are . . . which you want anyway.

MR. KUENTZ:

Yes, we do. Yes, we do. I think your bumper zone you're talking about

MR. KUENTZ (Cont'd.)

on the right side of the 15 . . . yes, along there . . . will be automatic because that's going to be deeper than that because it's located . . . (inaudible due to other individuals talking) . . . now is the other bumper zone you're talking about within the urban . . . within the (inaudible) that we're suggesting or within the whole coastline?

MR. ALTMAN:

Well, our . . . (inaudible due to more than one individual talking at one time) . . . only in those areas that were in ag.

MR. KUENTZ:

That needed to be changed?

MR. ALTMAN:

Yes.

MR. KUENTZ:

Well, that would make quite a difference if that's what we're talking about . . .

MR. DURAN:

The questions I think the Commission wants to know is what are your reactions to the total shoreline, to just this piece and this piece?

MR. KUENTZ:

I think the whole shoreline would be frankly a little disastrous as far as . . . (inaudible due to helicopter flying overhead) . . . depending on the depth, I think we would work something out on this one. If it were 100 feet or something, I think we could . . .

CHAIRMAN BURNS:

How many more days do we have before action has to be taken on this petition?

MR. DURAN:

We have another month and a half. This is about the 47th or 48th day.

CHAIRMAN BURNS:

Would it be possible for us to stop and the petitioner sit down together to see what we can come up with in terms of a line along that shoreline that would be satisfactory to the petitioner and also meet our desires as far as the conservation is concerned? I don't think we're talking about any difference here.

COMMISSIONER CHOY:

Yes. And you could study also the regulation report on the Land Board and this would give you an idea of what is permitted.

CHAIRMAN BURNS:

What do you think of that?

MR. KUENTZ:

It's perfectly agreeable to me but they were in quite a rush to have this done. So if they're agreeable, I see no problem.

CHAIRMAN BURNS:

We could take . . . we don't have to advertise for action on this?

MR. DURAN:

No. . No.

CHAIRMAN BURNS:

We're having a lot of meetings . . . too many, as a matter of fact, but I think that if you and the staff could sit down on this, I would think you could work something out that would be satisfactory, if this meets the desires of the Commission. I don't know whether . . .

MR. KUENTZ:

Am I at liberty to make a suggestion? Would it be possible for the Commission to take an action subject to us working out a suitable solution

MR. KUENTZ (Cont'd.)

with the staff on . . . or do we have to come back?

CHAIRMAN BURNS:

I don't think we can do that.

COMMISSIONER CHOY:

I think it would not be fair to me at this point, also. We have not taken any lands away from urban area anyplace in the State for conservation.

CHAIRMAN BURNS:

That is true.

COMMISSIONER CHOY:

And at this time to put urban land here and urban land here and pick the beach frontage back, even for a discussion on conservation, I believe is not justifiable. I believe if we have any discussion, it should be only on the basis of a conservation set-back which is ag that they're requesting today to be urbanized. And I think we're setting . . . we're establishing a precedent at that. It's not justifiable.

COMMISSIONER:

Wait a minute. As far as this is concerned, we're not trying to take any land off the urban. The reason why we had to pre-empt it . . . the conservation problem . . . (inaudible) . . . that particular urban area carries a very highly intensive urban activity. In this particular case here, at the present time, you see, there is no intensive urban activity, so that it's not going to destroy the pre-emption of the area for conservation.

COMMISSIONER:

And I don't think we're being consistent in what we talked about. In one area we (inaudible) and the other area we're not.

CHAIRMAN BURNS:

Well, it seems to me that we have three or four possible approaches, one being to discuss this problem with the developer and see if a satisfactory arrangement can be worked out with the conservation line as such. The other is to take this in sections and vote on it as we go, but I don't think that's a very satisfactory solution.

MR. KUENTZ:

I would prefer the latter.

COMMISSIONER:

Isn't it (inaudible) that so far as the developer is concerned . . .
(inaudible due to soft tone of speaker) . . .

COMMISSIONER CHOY:

Mr. Chairman.

CHAIRMAN BURNS:

Yes.

COMMISSIONER CHOY:

I feel that in this area . . . depressed job opportunity area and possibly even moreso when Kahuku phases out . . . that this Commission should do everything they can to help these people rather than hinder them, and this is not anything more than a resort development, but they would be more concerned about the shoreline conservation and establishing . . . or even beautifying than any other type of development.

COMMISSIONER:

At this point, I don't see why we can't just keep them on the fence any longer. And I would like to make a motion that we . . . if it is in order . . . to accept the staff recommendation.

MR. DURAN:

Accept the staff recommendation as stated, huh?

COMMISSIONER:

I'll second it.

COMMISSIONER:

Wait. There's one . . . there is no set-back in the staff recommendation.

MR. DURAN:

May the staff make a recommendation at this time?

CHAIRMAN BURNS:

Yes.

MR. DURAN:

I'm . . . I would alter it and recommend that there would be at least a 150 foot set-back along that area to be rezoned consistent with their plan.

COMMISSIONER CHOY:

I don't agree because I think the golf course would . . . wanting to put the golf course right out to the beach.

COMMISSIONER:

That doesn't preclude the golf course from going in the conservation area.

CHAIRMAN BURNS:

I think let's take action on this motion and see where we go from this, but it's been seconded. Is there any question? Are you ready for the question?

COMMISSIONER:

Wait. What is the staff recommendation now? Does it include the 150 foot . . . ?

CHAIRMAN BURNS:

No. There's no reference to that in the staff report.

MR. DURAN:

I'd like to make the recommendation, Mr. Chairman, that this area be rezoned urban and a strip along the shoreline set back 150 feet to be zoned conservation.

CHAIRMAN BURNS:

Would that be satisfactory to the petitioner?

COMMISSIONER CHOY:

It's only within the ag area, right?

COMMISSIONER:

Right, within the area we were talking about at that time.

MR. KUENTZ:

Does anybody know roughly what you can build in a conservation area?

COMMISSIONER:

You can apply . . . request plans for approval for specific planned use. They grant approval to you . . . (inaudible) . .

MR. KUENTZ:

Hotels, recreational uses . . . in conjunction with resort development and . . .

COMMISSIONER:

It would give you a secondary control then on the density is what it really does?

COMMISSIONER CHOY:

You don't lose ownership of that land.

COMMISSIONER:

No, but it does restrict . . . certainly it must restrict what you can do . . .

COMMISSIONER:

I would like to point out that while these are permitted uses and just

COMMISSIONER (Cont'd.)

that . . . there's still the discretion of the landlord. I grant you even though it might be permitted, the landlord is not mandate to approve the use . . . (inaudible) . . .

MR. KUENTZ:

No. I understand. I understand. You can (inaudible) strictly to a conservation interpretation.

COMMISSIONER:

Right, but hotels and recreational areas are certainly permitted.

MR. KUENTZ:

May I ask one question? Did you . . . this 150 thing . . . would you be satisfied with 100?

CHAIRMAN BURNS:

Well, that was based upon what your plan indicated as a strip along the shoreline.

MR. KUENTZ:

Our plan?

CHAIRMAN BURNS:

Yes, sir.

COMMISSIONER:

At this stage of the game, Don, do you know if we would have a (inaudible) effect on your development plans if we were to strip-zone it conservation?

UNIDENTIFIED:

Yes.

COMMISSIONER:

There would be some effects on your . . . ?

COMMISSIONER:

There would have to be some effect to fit that . . . to adjust . . .
that is correct.

COMMISSIONER:

Now, Rom, isn't there a plan that shows the . . . that type of development in open park like in that area?

MR. DURAN:

That's correct.

COMMISSIONER:

They have gone over development plans with you?

MR. DURAN:

Just this one that they've presented to the staff. What we're talking about is rezoning this contingent upon your proposed plan as opposed to actually delineating the conservation district. What we're talking about is that you could generally locate a golf course here . . .

COMMISSIONER:

One of the problems the Commission has been faced with in the past is . . . the developers have brought in plans -- rather ornate plans -- the areas are urbanized then immediately the plans are thrown away and a new one comes and we don't have any control over it. So this is why we are rather reluctant to . . .

MR. KUENTZ:

What you're talking about . . . it seems to me that with (inaudible) I would be more than pleased if we could approve this subject to our submitting whatever plans . . . for the actual development in that area.

MR. ALTMAN:

The line could be shown at this time at whatever distance is acceptable and then since Rom could interpret it as a result of their development

MR. ALTMAN (Cont'd.)

plan, it could jog say back and forth to exclude any area that they are in fact building on.

COMMISSIONER:

You can't do that. You'd have to draw a line.

MR. DURAN:

Well, if we're talking about substantially the plan that's submitted, I can see where there might be a building up to 100 feet from the water with a set-back of 300 feet next to it and . . . just so it carries out that concept.

MR. KUENTZ:

Yes. Jagged cluster and . . .

COMMISSIONER CHOY:

What is this building here?

MR. KUENTZ:

That's our initial hotel. We planned to put a walk along here. It's a very pretty rocky ledge.

You can't just say work because you have to have something specific and I know you gentlemen are trying to (inaudible) and I admire you for it. Our problem is, of course, we have to get this in gear before we can go back to the City Planning Commission and start really some planning. We would very much like to get something moving, and we're agreeable to whatever . . . I think we all know what we're trying to do; it's just a matter of what is the simplest way to do it?

COMMISSIONER CHOY:

Why don't you just accept the 150 foot set-back and . . .

CHAIRMAN BURNS:

Why don't we accept the staff report? Rom has checked these plans and if we could get . . . I think what would satisfy us is a statement to the effect from the developer that this is the way he's going to do it. He's conforming with our . . . (inaudible) . . . I don't know if we can impose that restriction legally or not.

MR. DURAN:

If they're willing to abide by the (inaudible) regulations and they're willing to . . . (inaudible) . . . they certainly realize that they're not jeopardizing the rest of their project . . . (inaudible) . . . it would certainly be satisfactory with me. They are willing to agree to the incremental and time performance sections of our proposed regulations pursuant to their plan, the intended set-back and their tentative schedule recommended to us, and it substantially conforms . . .

CHAIRMAN BURNS:

Well, why don't you . . . would you make that a part of your recommendation . . . staff recommendation. Then we can take action. Can you do that right now? Can you alter this staff recommendation so that we can use it in terms of a motion . . .

MR. DURAN:

I think what we need is just a motion. That is to say that whoever makes the motion that pursuant to the agreement by the applicants to conform substantially to the schedule submitted and their proposed plan as represented to the Commission, that they have agreed to comply with the proposed time performance portion of our proposed regulations and on this basis, move that the rezoning be adopted.

CHAIRMAN BURNS:

Alright. Do you have that written down? Can you read it back?

SECRETARY:

Pursuant to the agreement by the applicants to conform substantially to the schedule submitted and their proposed plan as represented to the Commission, they have agreed to comply with the proposed time performance portion of our proposed regulations and on this basis, move the rezoning be adopted.

MR. DURAN:

Move the urban zoning be adopted.

MR. KUENTZ:

I think it gives both of us what . . (inaudible) . .

COMMISSIONER:

I have one question before we proceed. Mr. Kuentz, what are your development plans for your whole coastline of urban, if you can tell me just roughly . . .

MR. KUENTZ:

Yes, I can, although this is what we're going to get into now . . . on timing or what we're going to do there?

COMMISSIONER:

What you're planning . . .

MR. KUENTZ:

We're going to try to put what we call executive (inaudible) . . probably no more than one story, very few 2-stories. This will be the hotel site . . . probably about a 500-room hotel . . . with some cottages. These will be rental units, 10 to an acre, low density. This will be, of course . . . it's what we're working on now . . . that will be . . . using 20 to an acre, we could accommodate 1,000 (inaudible) units in here. We are probably going to do less than that. We get over here again into

MR. KUENTZ (Cont'd.)

rental units and get 10 to an acre. The golf course, of course. This will be . . . I believe that's apartments, multi-family . . . it will be apartments or condominiums, one of the two. This is an indefinite thing at the moment . . . this possible other hotel sites. It's still . . . (inaudible) . . . at a time when we know specifically when we know what we want to do. And this again into urban. And what in general our thinking is that this will be a tie-in resort hotel. This will be a lower and more of a convention-type of hotel, and the golf course and shops and this sort of thing.

COMMISSIONER:

Medium-price.

MR. KUENTZ:

Right. So we'd have several categories of . . .

COMMISSIONER:

Mr. Chairman, there's been a motion . . . Mr. Chairman, I move that the staff report be adopted as amended.

CHAIRMAN BURNS:

Any second to that?

COMMISSIONER:

Second.

CHAIRMAN BURNS:

Are you ready for the question?

COMMISSIONER CHOY:

Question.

CHAIRMAN BURNS:

Will you poll the Commissioners please?

MR. DURAN:

Commissioner Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Nishimura.

COMM. NISHIMURA:

Aye.

MR. DURAN:

Inaba.

COMM. INABA:

Aye.

MR. DURAN:

Kido.

COMM. KIDO:

(Response was not audible.)

MR. DURAN:

Napier.

COMM. NAPIER:

Aye.

MR. DURAN:

Choy.

COMM. CHOY:

Aye.

MR. DURAN:

Chairman Burns.

CHAIRMAN BURNS:

Aye.

MR. DURAN:

Motion is carried, Mr. Chairman.

CHAIRMAN BURNS:

Alright, thank you. That concludes the agenda for the morning.

* * *