

STATE OF HAWAII  
LAND USE COMMISSION

1:00 P.M. Meeting  
October 31, 1969

Lihue, Kauai

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CHAIRMAN CHOY:

All those who wish to testify before the Land Use Commission, will you please rise and be sworn in? Raise your right hand. Do you swear that the testimony you are about to give to the Land Use Commission is the truth, the whole truth and nothing but the truth, so help you God?

RESPONSE:

I do.

CHAIRMAN CHOY:

Thank you. We will proceed with the action on special permit 69-67, County of Maui.

MR. DURAN:

Mr. Chairman. Maui County is requesting a special permit for a drag strip, and we have here our staff report which reads: (The October 31, 1969 staff report re: SP69-67 - County of Maui (Puunene Drag Strip) was read verbatim.)

Mr. Chairman, let me call your attention to our district map. This pink area represents the Kihei urban district. This is Kaalea pond and showing conservation in green. This is (inaudible), the small boats harbor, Kahalui, Wailuku is up here, and, of course, Haleakala and West Maui mountain range.

The portion of the strip that the special permit will involve is shown here in yellow. This is the main access road to Kihei, so this is the property involved in the special permit. This is Okolele Highway and the access road into the site.

Are there any questions, Mr. Chairman?

CHAIRMAN CHOY:

Do the Commissioners have any questions?

COMMISSIONER:

If we approve it, is it subject to the Land Board's approval, too?

COMMISSIONER:

I think rather than that, I think there should be a determination of a fixed period during which the special permit would be enforced. This should be done because otherwise I believe that we'll be running into the terms and conditions of the lease between the State and the lessee, Alexander and Baldwin. So I think that any motion to adopt the staff report should be with the condition that the special permit be for a period like 10 years.

CHAIRMAN CHOY:

You don't know what the time is?

COMMISSIONER:

In excess of 20.

UNIDENTIFIED: (Possibly Mr. Nakamura)

One of the recommendations that didn't show up on the staff report that we made was that the approval of the Commission . . . approval would be subject to further approval by the State agencies involved, primarily the State Land Board. I think the problem with that was you're dealing with the two separate agencies, you know, the State Land Board and the State Land Use Commission, and I guess we could have gone either way. We could have gone to the Land Board first and asked for the permission in which case they would have said, what about the use. Do you have permission for the use? So we thought we would come this route and then recommend that the condition of the special use permit be subject to

MR. NAKAMURA (Cont'd.)

approval by the State Land Board and whatever conditions that they would impose. I think that Mr. Kido's suggestion that the special permit be limited by a time period which would not exceed the life of the lease is a good one. That should be included also, and we certainly have no objection.

COMMISSIONER:

The only problem is that we don't know what the length of the lease is.

MR. DURAN:

It's in excess of 20 years. I wonder if we want to agree to that long. Howard, do you have any thoughts on this?

MR. NAKAMURA:

I have some thoughts on it. I'd prefer that the length of time as far as the special use permit is concerned be restricted to not more than 10 years. Because I think that it's got to . . . it cannot run with the life of the lease because if you do that, then there is no way in which the lessee can satisfy the purpose of the lease that we (inaudible), you see? We're running it for 10 years and then obviously the lessee would have time to perform with respect to terms and conditions of the lease.

COMMISSIONER NAPIER:

How about 5 years?

COMMISSIONER TANGEN:

I think that's too short.

CHAIRMAN CHOY:

Any objections to a 10-year period?

PETITIONER:

I think 10 years is something that we could, you know, feel is reasonable. I think 5 years is short in view of the fact that the County will expend a considerable amount of County funds to fix this strip and to bring it up to the best of hodrodder's standards. But I think 10 years is reasonable, and I think after that period it could be reviewed again.

COMMISSIONER TANGEN:

Reviewed again. Sure.

PETITIONER:

No objections.

CHAIRMAN CHOY:

Any other questions?

COMMISSIONER:

One more question that I'd like to ask. I see that one of the conditions here is that the Maui County Planning Commission . . . subject to the conditions that the review and approval by the Planning Department be required on the County plans, including the location and site for accessory buildings and structures. I'm sure that the plans also will be reviewed by the sublessor.

PETITIONER:

If you wish you can make that as a condition, also.

COMMISSIONER:

No, but you did contend that the sublessor . . .

PETITIONER:

Yes.

CHAIRMAN CHOY:

. . . (inaudible) . . . Would you like to specify for or against?

COUNTY REPRESENTATIVE:

In this particular case, Mr. Chairman, I think . . . I'm not sure whether I'm going to testify . . . (inaudible) . . . recommendation, but I do represent in this case the applicant and the administration, and the administration, the Council, various organizations are really concerned about this as a means of providing some recreational facilities for the younger people. We feel that . . . I discussed this with the police department also. Concurrent to the basic concept, their basic concern is the same that we have and I think we all have concern as to the supervision and operation of this particular facility. Although I cannot tell you specifically who's going to operate it, I can tell you that it will be under control by the County because the County is expending considerable funds in this. It may be through the Parks and Recreation or through an organization such as (inaudible) Planning Association with overseeing by the County. So we feel that this is something that the young people need and we're supporting it, and we would appreciate it if the Land Use Commission could see fit to approve it on the definitions and conditions that have been set forth.

CHAIRMAN CHOY:

Very well. Any other questions? If not, the chair will entertain a motion.

COMMISSIONER:

As a first (inaudible), I'd like to recommend that this request be approved as recommended by the County.

COMMISSIONER TANGEN:

I'd like to add it be for a period of 10 years and be subject to review

COMMISSIONER TANGEN (Cont'd.)

at the end of that time, if that's okay.

COMMISSIONER:

I second the motion.

CHAIRMAN CHOY:

Any questions? Poll the Commissioners.

MR. DURAN:

Commissioner Nishimura.

COMM. NISHIMURA:

Aye.

MR. DURAN:

Napier.

COMM. NAPIER:

Aye.

MR. DURAN:

Tangen.

COMM. TANGEN:

Aye.

MR. DURAN:

Kido.

COMM. KIDO:

Aye.

MR. DURAN:

Yamamura.

COMM. YAMAMURA:

Aye.

MR. DURAN:

Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Inaba.

COMM. INABA:

Aye.

MR. DURAN:

Chairman Choy.

CHAIRMAN CHOY:

Aye.

MR. DURAN:

Motion is carried, Mr. Chairman.

CHAIRMAN CHOY:

Thank you. Next on the agenda is Kauai Helicopters.

MR. LEONG:

Mr. Chairman and Commissioners, we have received a letter from Jerry Robinson of Kauai Helicopters which I think is attached to your packet for (inaudible) and extension of a special permit for the helicopter operation at the (inaudible) site. As you recall, the Land Use Commission previously approved a 60-day extension in August of this year to allow Mr. Robinson enough time to relocate his operation. However, the extension period expired on October 20th, the Monday of last week. Now Mr. Robinson is asking for a further extension to December 31st to be granted.

He indicated in the telephone conversation mentioned in this letter that they did not receive a notice of the October 20th expiration date



MR. LEONG (Cont'd.)

until very recently when he inquired at his former attorney's office after receiving our letter asking for a status report.

Mr. Asari's letter, which is also attached to your back packet, indicates that the letter of notification was forwarded to Kauai Helicopters by his office. The attached memo is a chronological summary of events in this case. Would you like me to read it?

CHAIRMAN CHOY:

I don't think it's necessary. The question before us now is whether we should extend another 60 days to December.

MR. DURAN:

Mr. Chairman, Jerry Robinson from Kauai Helicopters is here. He'd like to make a statement.

CHAIRMAN CHOY:

I was going to ask Brian Nishimoto if we're in line to extend 60 days.

MR. NISHIMOTO:

The 60 day extension would begin with the termination date of October

. . .

MR. DURAN:

Well, it would expire December 31st.

COMMISSIONER NAPIER:

In other words, 60 days from December 31st?

MR. DURAN:

No. Sixty days . . (inaudible) . .

COMMISSIONER:

Do I understand, Mr. Chairman, that they would be out of there if this extension is given until December 31st?

COMMISSIONER:

I think perhaps the question should be referred to (inaudible).

CHAIRMAN CHOY:

I wanted to clear if there were any ordinances that were in conflict with the County before we . . (inaudible) . .

MR. NISHIMOTO:

No, I don't think so, but I'd have to check . . (inaudible) . .

CHAIRMAN CHOY:

You have a date of . . . October 20th, I believe, was the deadline. We have previously made a motion to . . . We would have to change our motion to coincide with your deadline.

MR. NISHIMOTO:

I'm looking at the page 4. The (inaudible) had approved the extension at the request of Kauai Helicopters . . (inaudible due to paper shuffling) . . by Mr. Robinson was correct. Now, on this basis, I would say the Land Commission would have no objection should the Land Use Commission extend this date to December 31, 1969.

CHAIRMAN CHOY:

Okay. Thank you. Now would the petitioner like to come forward?

MR. ROBINSON:

Yes, sir. I'm Jerry Robinson from Kauai Helicopters. I think our reasons for all this today are pretty well set forth in the terminology of what's transpired here in the last 2 years. What it really boils down to is that we're waiting for a number of studies, planning and changes that just haven't transpired and certainly our intention now is to get out of there one way or the other by the end of December. The

MR. ROBINSON (Cont'd.)

expense is getting to us. It's our intention to go to . . (inaudible) . . so that we don't run into any . . (inaudible) . . Your consideration in extending this to the end of December would be sincerely appreciated.

CHAIRMAN CHOY:

Your request to December 31st . . . whether you find another location or not, you will, according to your request, you will get out.

MR. ROBINSON:

Yes, sir.

CHAIRMAN CHOY:

Whether you find a place or not?

MR. ROBINSON:

Right.

CHAIRMAN CHOY:

Any questions?

COMMISSIONER:

Even if you have to crate it up, you'll get out?

COMMISSIONER TANGEN:

Jerry, have you found a real good location at the airport?

MR. ROBINSON:

No, we haven't, and we don't really expect to find one at the airport. If worse comes to worse, office space is available for rent around Lihue that we can use for our office operations. We could put the helicopters at the airport on the bare ground with maintenance facilities, and there's storage area down there for our tools and our spare parts. It would be highly undesirable, but I feel we've tested the Commission's

MR. ROBINSON (Cont'd.)

patience long enough. We expect to be someplace . . (inaudible) . .

CHAIRMAN CHOY:

Well, you've heard the testimony.

COMMISSIONER NAPIER:

Mr. Chairman, I'd like to move that we accept the staff recommendation and extend the offer to December 31st at which time the special permit will expire.

COMMISSIONER:

Second.

CHAIRMAN CHOY:

Question. Rom, would you poll the Commissioners?

MR. DURAN:

The motion is to extend the special permit to the . . . to December 31st and that's when it expires.

Commissioner Inaba.

COMM. INABA:

Aye.

MR. DURAN:

Yamamura.

COMM. YAMAMURA:

Aye.

MR. DURAN:

Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Nishimura.

COMM. NISHIMURA:

Aye.

MR. DURAN:

Tangen.

COMM. TANGEN:

Aye.

MR. DURAN:

Napier.

COMM. NAPIER:

(Response inaudible.)

MR. DURAN:

Kido.

COMM. KIDO:

Aye.

MR. DURAN:

Chairman Choy.

CHAIRMAN CHOY:

Aye.

MR. DURAN:

Motion is carried, Mr. Chairman.

Mr. Chairman and gentlemen of the Commission, this is another situation where a special permit was granted with a time limitation to be (inaudible) within one year of approval, the Land Use Commission granted the approval of this proposed railroad on July 28 of 1967. So this time limitation has expired and the applicant sort of lost track of time in

MR. DURAN (Cont'd.)

his request for (inaudible) and finding financing. He's ready to move again. He's . . . (inaudible) . . . as you can see by the letter that I circulated to you earlier that they've expanded over \$500,000 and they are actually on the ground now and moving dirt. They're requesting that we extend their permit for a year.

I put a map up here for some of the Commissioners that haven't seen their proposal. Basically, what we can do is run a line from Lahaina . . . this represents their proposal, and the Lahaina urban district is shown in pink. This is the Kaanapali urban district. And what they'll do is start in the vicinity of about the shopping center and get up toward the mill, cross the highway and go through the urban district out into the ag district and terminate at the old (inaudible) out in the fields. . . the old water pumping station.

This is a blow-up of their Kaanapali area which shows a little more in detail. They propose a scenic look-out up on this spot. If you'll recall driving along the highway, there are piles of rocks about 30 feet high and this is one of those piles. And it meanders through the cane fields until it hits the cane haul road and then it comes back down to the highway through this urban area. This is where the new cottages are. At this point, there will be a pick-up station . . . another one at, let's see . . . B is the terminal station and A is the shop. And the old pump station is right here.

Well, we recommend that this extension be granted at least one year and, incidentally, Mr. Chairman, we received a letter from the County of Maui Planning Commission which is in here and they recommend the extension.

CHAIRMAN CHOY:

Are there any questions?

COMMISSIONER:

I'd like to ask Howard a question if I can get him.

MR. NISHIMOTO:

No, I don't have anything further to add except that we did recommend approval of this extension and we feel at this time that it is a desirable project which should be . . .

COMMISSIONER:

I'd like to ask Howard a question. Do you know if the lease by the State was sold to this person?

MR. NISHIMOTO:

For the lands where they go through State lands?

COMMISSIONER:

Yes.

MR. NISHIMOTO:

I'm not too sure.

CHAIRMAN CHOY:

Any other questions?

MR. NISHIMOTO:

I was under the impression that all the right of way problems had been resolved.

COMMISSIONER:

The right of way problem was not solved until recently because they had to get a survey.

PETITIONER:

Yes, that's right. That was our hang up, you see, and judging from the conversation of the staff here, these guys were . . . maybe they were doing it only in the private land areas, but I do know that they did stake

PETITIONER (Cont'd.)

up the right of way in State land there. Whether or not they started construction or not, I don't know. But normally, what you should do is get (inaudible) before you start constructing, see.

COMMISSIONER:

So we could make the motion for approval subject to the . . .

PETITIONER:

No. I was just thinking whether or not . . . was it last week or two weeks ago, when they conducted a sale of the easement on Maui?

COMMISSIONER:

We could grant the permit and unless they satisfy the easement problem with the State, they're not going to be able to build anyway.

COMMISSIONER:

Right.

COMMISSIONER:

Did they have the right from before that they could . . . (inaudible) . . . ?

MR. DURAN:

They probably have right of eminent domain.

CHAIRMAN CHOY:

Are there any questions? If not, the chair will entertain a motion.

COMMISSIONER:

I move that the request be given approval for a one year extension.

COMMISSIONER:

Second.

MR. DURAN:

This is from today. Is that right, Mr. Chairman?



CHAIRMAN CHOY:

From the day . . (inaudible) . . I guess your staff recommendation  
is from today.

COMMISSIONER:

So move.

CHAIRMAN CHOY:

Will you poll the Commissioners?

MR. DURAN:

Commissioner Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Nishimura.

COMM. NISHIMURA (?):

Absent.

MR. DURAN:

Inaba.

COMM. INABA:

Aye.

MR. DURAN:

Yamamura.

COMM. YAMAMURA:

Aye.

MR. DURAN:

Kido.

COMM. KIDO:

Aye.

MR. DURAN:

Napier.

COMM. NAPIER:

Aye.

MR. DURAN:

Tangen.

COMM. TANGEN:

Aye.

MR. DURAN:

Chairman Choy.

CHAIRMAN CHOY:

Aye.

MR. DURAN:

Motion is carried, Mr. Chairman.

CHAIRMAN CHOY:

Prior to going into William and Frances Akana, I understand that the attorney . . (inaudible) . .

MR. DURAN:

Well, we can't start these until two o'clock anyway, Mr. Chairman.

CHAIRMAN CHOY:

Then is there anything else, Rom, that you'd like to take care of now?

MR. DURAN:

No, other than just to reiterate that we will be meeting on November 20th, Thursday, and December 5th on Oahu, and you'll be coming in a day earlier on (inaudible).

MR. DURAN (Cont'd.)

I did enclose a letter here for your information that we received from Steven Beardsley.

MR. NISHIMOTO:

Rom, there's no further business right now?

MR. DURAN:

No. Not right at the moment.

MR. NISHIMOTO:

At this time, Rom, . . . this is not official, you know, but may I introduce the new Maui Planning . . . I want to introduce to you the new Maui Planning Director. Drinks will be on the house. (Tape was blank for several minutes.)

CHAIRMAN CHOY:

Do the Commissioners have any questions? Will the petitioner come forward? Mr. Shisato, are you . . . ?

MR. SHISATO:

Yes. I would like to represent the petitioner if I may.

Mr. Chairman, gentlemen, I wish to express my appreciation for your indulgence in . . . (inaudible) . . . We have read the report and I think this is one of the few subdivisions which have complied with the County subdivision ordinance. It's not a large subdivision if we speak in terms of the subdivision ordinance. The County's subdivision ordinance was passed in 1956 and this subdivision was planned and built in 1968. By law it had to make the requirements in the ordinance. Probably what was meant here about non-conforming subdivisions is that the area is entirely agricultural and, consequently, should be agricultural. Part of the objections as to the adequacy of the water . . . the water is derived

MR. SHISATO (Cont'd.)

from a spring and I understand a little ways above the bridge, it runs on the main highway. I've spoken to the manager of the Water Department and he tells me that they don't have adequate records. He's not able to say with any kind of a conviction whether the source is adequate. But it's surprising that it would be inadequate if the original subdivision plans for (inaudible) Lodge and only six were built, then it must have been inadequate to begin with, and this is a very unlikely situation. And also, there wasn't any additional construction in nearby areas. The Kalihiwai lower portion . . . I don't think the destroyed building has been replaced except one . . . (inaudible) . . . There are 6 . . . there are 7 homes built in the subdivision and of the 3 not being built, if you . . . (inaudible) . . ., of the 3 not built, the 3 descendants of the original (inaudible) who passed away . . . the George Akana's, Mr. James (inaudible) I believe passed away, and there was another Japanese gentleman who passed away and whose interest is now held by the Ito's, so it's not a case where they just went and bought and speculated on the land.

The petitioners are not fast buck artists. The young Joe Akana is the third generation . . . (inaudible) . . .

I appreciate the fact that there's a constant and growing interest in conservation and keeping Hawaii as it is as much as possible. Personally, I think there's been a feeling that Hawaii should be kept in pastures at all costs, so even if the cattlemen are gradually going out of business and even if it's contrary to the popular form, we don't hear any encouraging word at all from the range . . . home on the range.

This land has never been in cane for the last, I understand, twenty years, and the reason they built it on this thing is because it was not

MR. SHISATO (Cont'd.)

productive. I think (inaudible) should have been the right thing; they very adequately or very appropriately describe it as a finger, and it's never been productive in cane and I doubt whether it will ever be productive of any kind of an agricultural crop, especially on this lot where the change of boundary is requested.

Contrary to the Planning Director's recommendation, I think there is more areas on which building can be built, not necessarily limited to the northern half. Fronting Mr. Akana's house, there's a considerable flat on which he presently dries his nets, and I've seen this personally. I mean, you can build on this portion, too. And judging by the pictures, I'm sure you'd say this is about the most spectacular (inaudible) on the entire island of Kauai. As a matter of fact, Mr. Akana has had offers from at least 7 Californians who are interested in buying lots in this area if lots are available.

We feel that we do not damage the use of land for agriculture and we do not do violence to the theory of land use, even if we were to permit 4 structures on this property. As to the water availability, I think that is a problem, but I believe contrary to what has been the feeling of the Water Board, my feeling is that if water is inadequate, then we're not obligated to supply water. We can turn the applicant down. We can ask (inaudible) to put sufficient size pipes for part of the water.

We think that granting this petition will certainly not be detrimental to Kauai. As a matter of fact, I think it would add to the beauty of the site because now, you see, much of it is overrun with palm trees.

MR. SHISATO (Cont'd.)

If we could lawn that area, then it would be a view not only to the person occupying it but for the person driving that way.

Thank you.

CHAIRMAN CHOY:

Any questions? Brian, do you have anything to say on this particular parcel?

MR. NISHIMOTO:

I think I should state 2 things over here just for the records of this hearing.

As far as the . . . (inaudible) . . . report was concerned, we did rely on the expertise of the County (inaudible) office and the Water Department, and we have reports from both departments upon which we quoted part of the conditions to the land area. So if I do have . . . (inaudible) . . . signed by the manager. I wanted this to be in the records.

CHAIRMAN CHOY:

Thank you. Do the Commissioners have any questions?

COMMISSIONER:

Brian . . . four more houses . . . would it be a hardship on the part of the County when they utilize this land for better and higher use. Now we don't have any urban area in the (inaudible) area for one reason . . . we're leaving that all in conservation. We've taken away the urban area because of the type of access. I think maybe . . . (inaudible) . . .

MR. NISHIMOTO:

I would say perhaps because of the water standards. We did have a report stating the water situation was very critical there.

COMMISSIONER:

Pressure or what is it? Is it volume? When you say no water, it's

COMMISSIONER (Cont'd.)

beyond me when you have one of the heaviest rainfalls in the world, you know.

MR. NISHIMOTO:

Why our department has recommended denial to us . . . (inaudible) . . . for approval based on the following points: (comments were inaudible; speaker is not talking clearly . . . slurring words and not always talking into microphone.) So actually, the Water Department where the approved subdivision is committed to this limited source and in it for a rural request, they feel that . . . their advice was to recommend denial for this zoning.

COMMISSIONER KIDO:

Mr. Akana. How is your water pressure there?

MR. AKANA:

Well, the water pressure up there . . . when the park is not working, true, we have very low pressure, but if you go up and check the tank that fills the other tank up on the top of the hill, they've got so much water it's just . . . (inaudible) . . . into the river . . . about a thousand gallons, a million gallons a day.

COMMISSIONER KIDO:

I'm kind of wondering when you say not enough water, see, because I think . . .

MR. AKANA:

Yes. They've got too much water. The tank is always full and it overflows and goes down to the river. You can go there and that water is continually running for, I don't know, years and years 24 hours a day.

COMMISSIONER KIDO:

When you say pumping the water . . . what you mean pumping the water?

MR. AKANA:

Well, you see, they have one tank below and they have one tank way up on the hill, so when the tank is full, they have to pump the water from the down tank into the . . . to fill up the other tank. From the upper tank, she has a gradual flow down to the house lots down there. For water . . . there's lots of water in that tunnel there and I . . . (inaudible) . . . There's plenty of water in there.

CHAIRMAN CHOY:

Before we continue, Mr. Akana, just to conform with our regulations, I'd like to have you stand up and be sworn in, just to keep the records straight. And the same thing of Mr. Gleason . . . would you like to testify also later in your behalf?

MR. GLEASON:

Yes.

CHAIRMAN CHOY:

Then would you stand up and raise your right hand? Do you swear that the testimony you're giving to the Land Use Commission is the truth, the whole truth and nothing but the truth, so help you God?

RESPONSE:

I do.

CHAIRMAN CHOY:

Thank you. Any other questions you'd like to ask at this time?

COMMISSIONER:

There's . . . (inaudible) . . . the County's vacancy, and I'd like to see



COMMISSIONER (Cont'd.)

more leniency or . . . I'm quite sure that the demand for that lot up there would be (inaudible) and I can see the reason for the petitioners asking for rezoning there. And we'd like to give the petitioner as much (inaudible) to try to get the Commission to act favorably on this petition.

CHAIRMAN CHOY:

Do you mean to say that we'd be spot zoning?

COMMISSIONER:

Well, if we can spot zone . . (inaudible) . . I'd like to see a little . . . not exactly spot zoning because we have taken away the urban areas in the valley which I think that the Commission has acted very wisely, because that's a very dangerous area. Now we have no urban areas in that area and maybe a rural designation would add beauty instead of getting these one-acre subdivisions all over the place. Now, Brian, do you know we are faced with a one-acre subdivision? And we are going to have that problem, too, now. So I would like to hear something . . (inaudible) . . so if we can get the real property effects to sustain our (inaudible), I think this is one of the criteria that we're really talking about.

CHAIRMAN CHOY:

This talk of water being wasted . . . now how far away is this water tank going to be developed . . (inaudible) . . ?

COMMISSIONER:

You can use that map over there. John, would you find out where the water land is on the map?

CHAIRMAN CHOY:

How far would you say that was, Rom? The subdivision.

MR. DURAN:

Let me see if I can find a scale. Oh, about 1,200 feet.

COMMISSIONER KIDO:

Where is the other one? The water hut. The high one?

MR. GLEASON:

Just about half way up the hill.

COMMISSIONER KIDO:

No. No. No. On the map.

MR. DURAN:

On the top of the hill, huh?

MR. GLEASON:

No. It's half way up.

CHAIRMAN CHOY:

Is there a gravity flow down to your lot?

MR. GLEASON:

(Comments inaudible.)

CHAIRMAN CHOY:

There isn't sufficient water on the supply train?

MR. GLEASON:

No.

CHAIRMAN CHOY:

You would have to make (inaudible) probably. What size of water line would you . . (inaudible) . .

MR. GLEASON:

Yes, that's right.

CHAIRMAN CHOY:

And you'd be willing to do all that?

MR. GLEASON:

Me? Myself?

CHAIRMAN CHOY:

Yes.

MR. GLEASON:

I think so.

COMMISSIONER:

(Comments inaudible.)

COMMISSIONER:

Brian, if that water is (inaudible), I think you should consider something like this. When you already have the road which . . . I know the County is not maintaining . . . (inaudible) . . .

COMMISSIONER:

It's isolated but it's beautiful.

MR. AKANA:

Yes, it's a very beautiful spot.

CHAIRMAN CHOY:

Any other questions? Is there anybody here who'd like to speak for the petitioner?

COMMISSIONER:

What kind of utilities are available in that area? I mean, in terms of public improvements. And where are the enclosures area that provides the necessary regulatory services like police, fire . . . is that close by?

MR. AKANA:

Well, they're in Kapaa right now and (inaudible).

MR. NISHIMOTO:

It's a rural type of (inaudible), you know. It's not what they call residential.

CHAIRMAN CHOY:

Is there anybody here who would like to testify for or against this petition? If not, well, the hearing is closed. You have 15 days to submit additional testimony, and we have to act within 45 to 90 days.

Rom, is there . . . (inaudible) . . . withdraw the petition?

MR. DURAN:

Mr. Chairman, for the record, I'd like to read this letter to the Commission.

"I would like at this time to withdraw my application to reclassify 171.12 acres from agricultural lands to urban which is located . . . (inaudible) . . . , Kauai, as shown on . . . (inaudible) . . . as follows". And he lists the tax map key . . . (inaudible) . . . That's all that he states and he acknowledges . . . (inaudible due to much paper shuffling) . . .

CHAIRMAN CHOY:

Gentlemen, we'll proceed on to special permit 67-48, Kahili Mountain Park, request for approval of existing sign.

MR. DURAN:

Mr. Chairman, we issued a special permit for this request over 2 years ago. One of the conditions imposed by the Land Use Commission was to limit the identification sign on the highway to 8 square feet. A letter received September 24th which was circulated to the Commission prior to this meeting points out a few things that I'd like to just reiterate. This is from (inaudible) Knudsen (?) and it states: "One of the conditions you requested us to comply by included a restriction on

MR. DURAN (Cont'd.)

the size of sign we would be allowed to have to identify our place of business." And then he goes on to say: "Kauai residents did not know where we were, and more specifically, our guests of just a few days often went out to dinner or a show at night and had great difficulty locating the right cane road leading back to the camp." And he goes on to say they erected a sign . . . and I have a photograph there that's being circulated of the sign, and he says: "We would like to request an amendment allowing us to keep the present sign we have erected and we certainly hope that on your forthcoming trip to Kauai you will have an opportunity to see the sign and how it fits into the surrounding background."

Let me go to the staff report, Mr. Chairman. (The October 31, 1969 memorandum from the staff to the Land Use Commission re: SP69-48 - Kahili Mountain Park, Inc. - request to ease sign restriction, was read verbatim. Please see file for said memorandum.)

In addition to that, Mr. Chairman, we have received some correspondence . . . one from the Outdoor Circle which you have already seen which makes reference to the billboard ad by the Federal Highway Unification Act by the Federal Government and the fact that the Outdoor Circle is opposed to billboard signs. And he states that: "It is our understanding that more restrictive requirements may be imposed as a condition in granting special permits, but we believe that the approval of a sign larger than the county ordinance permits would be contrary to the law." And signed by Mrs. Jack Marnie, Chairman of the Signs Committee.

We have another . . . this is a letter that I received from the County Engineer who is in charge of the Building Division, and he states

MR. DURAN (Cont'd.)

that: "In reply to your letter of inquiry of October 22, 1969 on the subject matter, we would like to inform you that the subject sign in question has been determined to be a directional sign. According to Ordinance No. 120, Sign Ordinance of the County of Kauai, the size of directional sign shall not exceed eight (8) square feet. The existing sign is in violation with our sign ordinance as to size and erection without a permit."

I have also received a letter from Brian Nishimoto of the Land Use Commission, and he states the same thing that the Building Department stated and says: "I feel that the sign ordinance has a good intent in limiting directional signs to not more than eight square feet. I would therefore be against any increase in the size of the sign."

CHAIRMAN CHOY:

Do the Commissioners have any questions?

COMMISSIONER NAPIER:

Are we going to take action on this or what?

CHAIRMAN CHOY:

It's a special permit for action. Any questions?

COMMISSIONER:

Just one question. Mr. Kido, the State has a big sign out at Wailua Marina. Now is it conforming with our County ordinances?

COMMISSIONER KIDO:

(Comments inaudible.)

COMMISSIONER:

I just wonder if the Commissioner from Kauai . . . whether or not

COMMISSIONER (Cont'd.)

when the sign ordinance took effect?

CHAIRMAN CHOY:

Can you answer that? Or is there anybody from the Building Department?

UNIDENTIFIED:

What was the question?

COMMISSIONER:

When was the sign ordinance put into effect?

UNIDENTIFIED:

I don't know the exact date. Not too long ago.

COMMISSIONER:

Not too long ago? Could this be considered as something that was done prior to the enactment of the sign ordinance?

UNIDENTIFIED:

The sign for the Wailua Marina?

COMMISSIONER:

If the sign ordinance was effective not too long ago, then the sign actually preceded . . .

COMMISSIONER:

It is my understanding now that no sign should exceed 32 square feet.

MR. DURAN:

If it's a sign out on the site, it's . . . as I understand it, it's limited to 3 square feet. If it's a sign on the premises advertising the activity of the premises, then it should be 32 square feet maximum. What is the sign on the flower garden behind the marina? Do you happen to know, Mr. (inaudible)?

UNIDENTIFIED:

Well, I would say about 32 square feet, I guess. Well, it could be 6 by 6.

COMMISSIONER:

Well, when was the sign ordinance taking effect?

COMMISSIONER:

Well, you'll have to ask Brian there because . . .

COMMISSIONER:

Maybe I should ask Mr. Kido this. Would you . . . (question inaudible) . . .

COMMISSIONER KIDO:

No, because if the sign permit was gotten, that means that there was a sign ordinance in effect, you see. This is what I'm saying, that if the sign preceded the enactment of the sign ordinance, I don't see that there's any . . .

COMMISSIONER:

(Question inaudible).

COMMISSIONER KIDO:

Oh, I would say the 5-year . . .

CHAIRMAN CHOY:

Rom, could you go on the phone and find out?

MR. DURAN:

Sure.

CHAIRMAN CHOY:

And Mr. Knudsen is here so we can dovetail the (inaudible).

In the meantime, Rom, Mrs. Marnie . . . Mrs. Jack Marnie . . . is she from Oahu?



MR. DURAN:

Yes, she is.

CHAIRMAN CHOY:

I didn't know the Outdoor Circle operated over there. I guess they are state-wide. Just to clarify it.

Any other questions? If not, we'll take a break to hear from (inaudible).

UNIDENTIFIED:

I think we should just . . . Is that Mr. Duran?

CHAIRMAN CHOY:

Yes, sir.

UNIDENTIFIED:

Mr. Duran read the letters from the petitioner here and . . . (inaudible) . . . . . (inaudible due to much paper rustling) . . . 16 square feet and then in the recommendation he had 32 square feet. I don't know. That was maybe both sides of the sign or something.

MR. DURAN:

That was . . . I corrected the reports that were circulated.

UNIDENTIFIED: (Petitioner?)

I see. I wasn't sure about that.

Well, we did put in a sign. We made it of a very nice piece of redwood. We had a low, very rustic sign, and it was very difficult for people to read it and to see it and as our manager, Richard (inaudible), can tell you, he said everybody thought that it was a state park and since they were going to a private park, they didn't know. So a lot of times people would drive by and they were mixed up, and this was an inconvenience for them and we hope that gradually maps and advertising would overcome our problem of identifying where we were. Then about 2 or 3 . . . maybe 3 or

PETITIONER (?) :

4 months ago, Roland Gay said to my son, Eric, he said, you know, nobody on Kauai knows where your place is. Nobody knows that you're renting tents or cabins. I said, my God, we've been in business advertising for about a year and a half, and we can't seem to be able to get our story across. And without really considering that the sign was in violation of the spirit of development that Kauai has . . . I think you gentlemen, many of you know that I'm one of the leaders in trying to develop and hold into low key the whole Poipu area of development, and maybe we're partly responsible for some of the low-rise buildings along that beach. But at any rate, we put this sign in and the sign immediately had an effect. Nobody missed coming to the place. They could see the sign, which was important, and in so many instances I . . . I noticed in this report of the staff an interesting comment on page 2. "The sign is to be an identification sign and not an advertising sign which is often called a billboard, that is, a sign that publicizes an activity not conducted on the premises." Well, on our sign we were particularly anxious to publicize what we did conduct on the premises; mainly, that was the renting of cabins and tents. Because Kahili Mountain Park's name doesn't tell anybody, other than the fact that it's a park-like area perhaps of some beauty, we're . . . we find it difficult to have the name tell you what it is. Now if you have Poipu Beach Hotel, if you have the Surfrider Hotel, the Ala Moana Hotel, or whatever hotel that you have, everybody knows that a hotel is a place where accommodations are rented. But Kahili Mountain Park does not denote that at all. It doesn't tell you that there's anything there to be rented. Now that is the reason why we feel

PETITIONER: (Cont'd.)

very strongly that we would like to be allowed to have our place identified with the words "Tents and Cabins for Rent." Now, in addition to that, we have started a very, very successful horse program. We have a fine man in charge of it. He's devoting his time and hopes to be a success. He would like to be able to put the word "horse" on there someplace so that people driving along would know that there's a place on Kauai where you can go and rent a horse.

Now if all these restrictions are imposed and we can't describe ourselves and we can't describe what we're doing, we think that that might be going a little bit strongly against the principal of identifying what we are doing. We certainly aren't a billboard. We're not like Camel's cigarettes, automobiles, or something that are going in a million places all over the world and being bought. We are just a small place and we're just trying to tell people where we are and that we're close by and that this is our business. Now I don't think that we're like a directional sign with a great big arrow pointing. I mean, if that's bad to say that it's one mile away, we'll just say Kahili Mountain Park and we'll say we're not a mile away. We'll just say Kahili Mountain Park and they'll realize that this is inland and we'll put up some other way of telling them how to find our place. It won't be seen from the highway.

So that really is the essence of our case. We feel that we can't . . . we just can't really survive as easily without a tremendous effort, and there are new people coming here all the time. Our business picked up materially because we not only got rid of that "absolutely no trespassing" sign that Grove Farm had up there . . . we had rights to go

PETITIONER (Cont'd.)

over the road. We didn't want to push Grove Farm too hard. We finally got that thing set up and now we really feel that our sign is in good taste. It's landscaped. The grass is mowed around it. There's planting around it. I think it's a pretty handsome sign. If we have to do without any signs on the road or just say that this is a directional sign, I think it would be a real hardship to the operation of this camp. We might have to change the name and call it Kahili Mountain Park Camping Resort or something like that. Then we could put all those descriptive words in it. But rather than change the name of this in order to get around that, I really feel that we're identifying our own property and, therefore, we're not anything like a billboard whatsoever.

That's my statement.

CHAIRMAN CHOY:

Okay. Are there any questions from the Commissioners?

COMMISSIONER:

Is this your sign?

PETITIONER:

Yes, that is our sign. We have 16 . . . 8 by 2.

COMMISSIONER:

You want it bigger then?

PETITIONER:

No. I don't. I would like to have the sign approved.

MR. NISHIMOTO:

The only thing . . . about this one mile and the arrow. That may be bad, but we don't think that that's too big or such a horrible sign but

. . .

MR. DURAN:

Mr. Chairman, I have some additional correspondence in the folder. One from Mr. Ray Luchas. It says: "I see no objection to the wording on the sign for Kahili Mountain Park. The only suggestion I have to offer is that the sign might be made more appealing as a tasteful sign directed at State . . . (inaudible) . . . Wailua Marina. Why not have all these signs erected on the island conform to this pattern?" One other letter from M. W. Hanson. "Frankly, I have observed the sign and see no objection except the new sign is not as tastefully done as the original. The original did not have a painted background and did not stand out as glaringly."

COMMISSIONER:

Well, why don't you put a menehune on top of there?

PETITIONER:

If I could only have a menehune waving them in, I'd be happy.

CHAIRMAN CHOY:

Brian, what did you find out?

MR. NISHIMOTO:

The sign ordinance was adopted on September 16, 1964.

PETITIONER:

Then I must say that we have had the sign (inaudible).

COMMISSIONER:

Now Brian, even that (inaudible) property . . . the sign is more than 36 square. You know, I mean, it's not an advertising but . . .

MR. NISHIMOTO:

We'll have to go on the basis of the sign is there . . . (inaudible)

. . .

COMMISSIONER:

It's a wonder Frank Fasi hasn't come out and checked it yet.

COMMISSIONER:

I can see where we have a big sign and we . . . (inaudible) . . . but it's rather nice, you know? I mean, small like this and it designates the area.

COMMISSIONER:

What is the requirement of the sign ordinance as far as the area is concerned?

MR. NISHIMOTO:

For the directional signs . . . (inaudible) . . . maximum 8 square feet.

COMMISSIONER:

For directional?

MR. NISHIMOTO:

Directional signs, yes. It says with the (inaudible) area requirement.

CHAIRMAN CHOY:

Brian, what does the Wailua sign look like? What does it look like?

MR. NISHIMOTO:

There's yellow words and a brown background, I think.

CHAIRMAN CHOY:

It's just a painted sign?

MR. NISHIMOTO:

No. It's etched and they have (inaudible) on the side. It's a beautiful sign.

CHAIRMAN CHOY:

Well, they probably spent \$5,000 or \$6,000 on it.

COMMISSIONER:

Mr. Chairman, is it . . . Do I understand right that the County ordinance . . . if I read the letter from the County Engineer, it says that according to Ordinance No. 120, the sign shall not exceed (inaudible due to paper rustling).

CHAIRMAN CHOY:

Is this a directional sign or is this a sign that shows what takes place on this property? And Rom, I believe in your saying that 150 acres was the area granted by the special permit and not the 939, if we do the 939, this sign would be conforming because it would be on the piece of property, whereas because the special permit was for 150 acres, it's away from the . . . so it becomes a directional sign.

MR. DURAN:

I would believe that's the way the County interpreted it.

CHAIRMAN CHOY:

In the meantime, all of this land belongs to Mr. Knudsen so he feels that this sign is not a directional sign but a sign that says what the property is being used for.

PETITIONER:

Well, the property is owned jointly by me and my family. It certainly is of a different use than the Grove Farm as a sugar cane lease, and we have a lease from the Knudsen Estates on Kahili Mountain Park. It is all one ownership, however, and if the arrow makes it a directional sign, we could take it off. We don't really need the arrow. The mountain tells everybody where it is. Nobody ever thought about the fact that a sign, if it has an arrow on it, is something that would have to be one size and it could be double the size if it didn't have an arrow.

CHAIRMAN CHOY:

On the strength that you do own all of that property . . . you and your family . . . you feel that this sign is conforming to the use that it denotes.

PETITIONER:

I certainly think this sign tells exactly what we're doing with Kahili Mountain Park and that is renting tents and cabins. If we don't say that we're doing this tents and cabins deal on the sign, nobody will know what we do, and we'll have to change our name and change all of our advertising at tremendous expense so that we can have a descriptive name within it. And I really prefer the name Kahili Mountain Park instead of Kahili Mountain Camping Resort or Kahili Mountain Park Camping Resort. And that would be the . . . I think I agree with you substantially that it is the same ownership of the property but, however, when you own a lease on a piece of land, it does represent rights on that property during the life of the lease, as you are all aware.

COMMISSIONER:

Mr. Chairman, I'm just wondering whether or not the action of the Land Use Commission isn't really . . . (inaudible) . . . If the County is going to interpret this as being a directional sign, they're not going to grant them that. See, even if we were to determine that this sign is (inaudible), when they go to the County, the County is interpreting this as a directional sign. I mean, it's going to require that they conform to the 8 square feet required. Now I think that possibly the thing that we should do is that we delete the Land Use Commission sign condition and leave it apparently up to the County to resolve this. Because let's say . . .



CHAIRMAN CHOY:

I think that's a wise decision.

COMMISSIONER:

Yes. Even if you say that this is not a directional sign and we approve this sign, they still have to get the County to go along with it. And the County's interpretation is already a directional sign.

COMMISSIONER NAPIER:

Why don't we make that into a motion . . . to delete it.

COMMISSIONER:

Well, I agree, but I can sympathize with the petitioner because I'm familiar with that old sign and the difficulty of seeing it, even for somebody who's around here and knows about where it is. And I'm familiar with the new one. It seems to me, too, that if we're in this kind of shape that it's really the County . . . (inaudible) . . . maybe somebody can come up with some solution where perhaps an 8 foot sign can do it, by location or otherwise. I don't know, but it really belongs to the County. This is County-imposed, according to the staff report. I think we ought to leave it to them.

COMMISSIONER:

Mr. Chairman, if we approve the sign, they can still disapprove it and it's not any good at all. So they wouldn't be any better off.

COMMISSIONER:

This is the point I'm trying to make.

PETITIONER:

Apparently not. None of us knew what the regulation was apparently until just now.

MR. NISHIMOTO:

I believe they have a variance section that possibly Mr. Knudsen could apply to the County for. You might check that out. This is if the Land Use Commission agrees with this request, that is, to remove that (inaudible). The only thing I can see for Mr. Knudsen is to ask the County for a variance from that maximum size limit under the direction sign, and this I think would be the proper procedure. It is really a County responsibility. I'm not too sure whether he was trying to first of all get the approval of the Land Use Commission with the limitation of the . . . (inaudible) . . . and then perhaps he wanted to see the County. I don't know. But as far as the sign itself, the local ordinance is (inaudible), as pointed out by Mr. Duran, and the County did say . . . (inaudible) . . . for violation of the sign.

PETITIONER:

Our problem is that we don't know about being cited. We don't know when it came out. We've been working on the sign with Mr. Duran for a great number of months and we didn't know we were in violation. If the Land Use Commission had no further jurisdiction on our sign, then I have no further business in wasting your time.

COMMISSIONER:

Why don't we do it this way . . . that we defer this until you settle with the County?

COMMISSIONER NAPIER:

No. No. All we do is take it from our regular (inaudible).

CHAIRMAN CHOY:

It is well taken . . . since we have a condition to your special permit on record now, if we were to erase this part of our condition, that

CHAIRMAN CHOY (Cont'd.)

would leave you to just work with the County,

PETITIONER:

That would make it a lot easier for us.

CHAIRMAN CHOY:

The chair will entertain a motion to that effect.

COMMISSIONER:

I so move.

COMMISSIONER:

Second.

CHAIRMAN CHOY:

Any questions? Poll the Commissioners.

MR. DURAN:

Commissioner Napier.

CHAIRMAN CHOY:

Before you do, do the Commissioners all understand the motion? Okay.

MR. DURAN:

Commissioner Napier.

COMM. NAPIER:

Aye.

MR. DURAN:

Tangen.

COMM. TANGEN:

Aye.

MR. DURAN:

Kido.

COMM. KIDO:

Aye.

MR. DURAN:

Inaba.

COMM. INABA:

Aye.

MR. DURAN:

Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Nishimura.

COMM. NISHIMURA:

Aye.

MR. DURAN:

Yamamura.

COMM. YAMAMURA:

Aye.

MR. DURAN:

Chairman Choy.

CHAIRMAN CHOY:

Aye.

MR. DURAN:

Motion is carried, Mr. Chairman, releasing the condition on the sign.

PETITIONER:

Thank you very much, Mr. Chairman. I'm sorry that we got in here and caused you to waste your time on this sign. We thought that we had to go through you people rather than the County.

CHAIRMAN CHOY:

Any other business?

MR. DURAN:

The only other item unfinished, Mr. Chairman, is the round of drinks offered by Howard Nakamura.

COMMISSIONER:

We'll have to take time for that.

\* \* \*