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ORIGINAL

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Public Hearing

September 26, 1974 - 11:00 a.m.

Auditorium
Hilo Electric Light Co.
1200 Kilauea Avenue
Hilo, Hawaii

COMMISSIONERS PRESENT: Eddie Tangen, Chairman
Stanley Sakahashi, Vice Chairman
Mitsuo Oura
Tanji Yamamura
A. J. Napier
Sunao Kido
Edward K. Yanai
Shelley M. Mark

COMMISSIONER ABSENT: James Carras

STAFF PRESENT: Tatsuo Fujimoto, Executive Officer
E. John McConnell, Deputy Attorney General
Leighton Oshima, Deputy Attorney General
Ah Sung Leong, Planner
Claire Rayburn, Clerk Reporter

CHAIRMAN TANGEN: Good morning, Ladies and Gentlemen. We apologize for the delay which originated with Hawaiian Airlines followed through with the logistics problems you can see we're having.

We will open this meeting first with action on Special Permit 74185 - Community Systems Corp. request for a special permit to construct and operate a telephone company base yard within the agricultural district at Whitmore Village, Wahiawa, Oahu.

While we're waiting, we'll ask all those who intend to testify today who are not attorneys to please stand and be sworn in. Please raise your right hands.

Do you solemnly swear the testimony you will give the State Land Use Commission to be the truth, the whole truth, and nothing but the truth, so help you God?

"I do."

Thank you.

AH SUNG LEONG: Community Systems Corporation has applied for a special permit to construct and operate a new Hawaiian Telephone Company baseyard on approximately three acres of Tax Map Key 7-1-02: portion of 4, located in the Agricultural District at Whitmore Village, Oahu.

The parcel in question is located about 500 yards from the corner of Whitmore Avenue and Ehoeho Avenue, the center of Whitmore Village. It is situated on a narrow peninsula flanked by two gullies. To the south is a Hawaiian Electric Company substation and the City's Whitmore Village Sewage Treatment Plant. Adjacent lands contain garages, offices, processing and parking facilities and warehouses for Dole Company's pineapple operation. The area is characterized by industrial-type agricultural support facilities. This property is considered to be surplus to Dole Pineapple Company operations and is not contiguous to other productive fields. The proposed site is not expected to be utilized in the future for agricultural purposes. Topographic conditions are generally favorable for the proposed use as the site is relatively level and well drained. Coming over to our district map —

The green areas represent the existing Conservation Districts; these are chiefly urban districts in red - Wahiawa Town and Whitmore Village. The home/commuter complex is approximately from here in Mililani Town to the main highway leading to Waialua. Whitmore Avenue cuts off Kam Highway at this location and the Waialua road is located to the west of Whitmore Village. On a larger scale, Whitmore Village area ranges from here in red, at Whitmore Avenue from Kam Highway and the other side, located here and comprises approximately three acres. The brown areas represent the gully areas adjacent to the fort and the divisions next to the plant are here. The industrial type section at the end of the fort lends itself to public property.

Going back to our report — the proposed facility will contain two main buildings, 5,000+ square feet, open storage areas for equipment, and open parking for employee and company vehicles. A six-foot high hollow tile wall, topped with security wire, will surround the baseyard. It is estimated that a staff and crew of sixty persons will be employed at this site. Existing public services are adequate to accommodate the additional load. The applicant will install necessary water system improvements to meet fire flow requirements. Access from Whitmore Avenue will be provided by a forty-foot wide paved driveway.

The petitioner submits that the facility is needed to replace the present Wahiawa baseyard located on North Cane

Street in the center of Wahiawa Town. The new baseyard site is more appropriate in that it is centrally located in terms of its service area and removed from the Wahiawa Town core. A General Plan Amendment for apartment use on the present site is currently under review by the Department of General Planning, City and County of Honolulu.

COUNTY RECOMMENDATION

At its August 7, 1974 meeting, the Planning Commission of the City and County of Honolulu voted to recommend approval of this special permit subject to the following conditions:

1. The plans as submitted, marked Exhibits A and B which are on file with the Department of Land Utilization, shall be followed except as may be altered by the conditions stated herein;
2. Construction shall be performed in a manner that will leave the gulch areas undisturbed;
3. The applicant shall install the necessary water system improvements to meet fire flow requirements;
4. Height, bulk and yards will conform to the provisions of the AG-1 district requirements as specified in Section 21-402 and 21-403 of the Comprehensive Code;
5. An appropriate sign may be erected indicating the name of the facility. Any such sign will conform to the requirements for signs in AG-1 district provisions in Section 21-404 of the Comprehensive Zoning Code;
6. In the event the approved use of this permit is discontinued by the applicant for a period of six consecutive months, the subject permit shall be declared null and void. The applicant shall notify the Director of Land Utilization of such discontinuances.

7. The applicant shall properly file for a building permit with the Building Department within one (1) year from the date the Conditional Use Permit is approved. If necessary, the time limit may be extended by the Director provided the applicant makes a request in writing and submits reasons which, in the opinion of the Director, justify the time extension;
8. Prior to obtaining a building permit:
 - a. The recorded owner of the land encompassed by this Conditional Use Permit shall file with the Bureau of Conveyances or Assistant Registrar of the Land Court of the State of Hawaii, a declaration of the above-mentioned restrictive conditions; and
 - b. A certified copy of the documents as issued by the Bureau of Conveyances or Assistant Registrar shall be presented to the Department of Land Utilization as evidence of recordation to the issuance of the building permit;
9. If either the Conditional Use Permit request or the Special Use Permit request is disapproved, the other shall also be disapproved;
10. In the event all conditions as set forth herein are not complied with, the City Council may authorize the Director of Land Utilization to take action to terminate the use or halt its operation until such time as full compliance is obtained.
11. Any major modifications to the conditions stated herein shall be subject to approval of the City Council. (The Director of Land Utilization may approve any request for modifying the submitted plans which he considers to be a minor revision);
12. The City Council may at any time impose additional conditions when it becomes apparent that a modification is necessary and appropriate in accordance with Section 21-242 of the Comprehensive Zoning Code (Ordinance No. 3244).

Staff evaluation of the proposed use finds that it substantially meets the criteria for determining an unusual and reasonable use as contained in Section 2.24 of the Land Use

District regulations. The relocation of baseyard facilities will allow the construction of moderate-cost apartment units in Wahiawa Town, thereby preventing the urbanization of additional agricultural lands. No productive agricultural lands will be affected by the proposal since the site is presently surplus property to Dole Company (Castle and Cooke). All existing public services are adequate, except for the access driveway and fire flow improvements which will be provided by the applicant. Adjacent lands are already utilized for industrial-type, agricultural support facilities. Therefore, this property will not be adversely affected. Residential areas of Whitmore Village are physically separated from the new baseyard site by two gullies.

It is recommended that the Land Use Commission grant final approval of this Special Permit subject to the twelve (12) conditions imposed by the City Planning Commission.

MERRITT T. SAKATA: My name is Merritt Sakata, I am Vice President of Community Systems Corporation, the applicant. The application that we have before you today is for a Special Use Permit. It is to allow us to relocate a baseyard facility that is currently in Wahiawa Town to allow the construction of moderate-cost apartments in conjunction with the State of Hawaii, Hawaii Housing Authority (Corporate Equitable 5). The project is now before the Planning Commission for consideration of the effect of the construction of the apartments.

CHAIRMAN TANGEN: Do the Commissioners have any questions to be asked? Is there anyone else wishing to testify on this matter? If not, the Chair will entertain a motion.

Alexander Napier moved and Tanji Yamamura seconded that the Commission approve the Special Permit No. 74185, incorporating the staff recommendations which includes the restrictions imposed by the County. Mr. Fujimoto polled the Commission. The motion was unanimously carried.

CHAIRMAN TANGEN: I will read an opening statement regarding procedures to be carried out during this hearing.

This is a public hearing held pursuant to the provisions of Sections 205-3 and 205-11 of the Hawaii Revised Statutes to consider proposed boundaries of conservation, agricultural, rural and urban districts within the region of East Hawaii, County of Hawaii.

Maps showing such proposed district boundaries have been available for public inspection and are presently on display here. These maps show proposed district boundaries for the region of East Hawaii, County of Hawaii, which include the following changes in existing boundaries.

<u>Docket No.</u>	<u>Location</u>	<u>Proposed Change</u>
H-74 1	Honokaa	Approximately 238 acres from Agricultural to Urban
2	Honokaa	Approximately 90 acres from Urban to Agricultural
3	Paauilo	Approximately 13 acres from Urban to Agricultural
4	Paauilo	Approximately 40 acres from Agricultural to Urban
5	Kukaiiau	Approximately 5 acres from Urban to Agricultural
6	Papaaloa	Approximately 140 acres from Agricultural to Urban
7	Laupahoehoe	Approximately 120 acres from Agricultural to Conservation
8	Ninole	Approximately 23 acres from Agricultural to Urban

9	Pepeekeo	Approximately 5 acres from Urban to Agricultural
10	Hilo	Approximately 157 acres from Agricultural to Urban
11	Hilo	Approximately 40 acres from Agricultural to Urban
12	Waiakea Homesteads	Approximately 325 acres from Agricultural to Urban
13	Keaukaha	Approximately 110 acres from Urban to Agricultural
14	Keaau	Approximately 3 acres from Urban to Agricultural
15	Kurtistown	Approximately 1 acre from Agricultural to Urban
16	Mt. View	Approximately 35 acres from Urban to Agricultural
17	Kapoho	Approximately 110 acres from Urban to Agricultural
17	Kapoho	Approximately 40 acres from Urban to Conservation
18	Pahoa	Approximately 5 acres from Agricultural to Urban
19	Pahoa	Approximately 4 acres from Urban to Agricultural
20	Nanawale	Approximately 17 acres from Agricultural to Conservation
21	Nanawale	Approximately 40 acres from Conservation to Agricultural
22	Pahala	Approximately 351 acres from Urban to Agricultural
23	Ninole	Approximately 100 acres from Urban to Conservation
24	Punaluu	Approximately 1 acre from Conservation to Urban

- | | | |
|----|------------|--|
| 25 | Naalehu | Approximately 94 acres from Urban to Agricultural |
| 26 | Kapakapala | Approximately 15,600 acres from Agricultural to Conservation |

Each of the foregoing changes in existing boundaries will for procedural purposes be treated as a separate case.

The cases will be called in the order I have just listed unless we find some may take a long time and we will continue those at the end of the docket.

Briefly, the procedure for each case will be as follows: I will call the case and ask those who have been admitted as parties (i.e. those with a direct property interest in the matter) to identify themselves and indicate if they are ready to proceed.

I will then recognize the attorney for the Land Use Commission's staff and he will present the staff's case. Normally this will merely consist of the introduction of a written report from the staff together with such reports as may have been prepared by other governmental agencies.

An opportunity to examine the staff will then be afforded to the other parties and to the commissioners.

I will then recognize the landowner or lessee directly affected by the proposed boundary and afford him an opportunity to present his case. If he has written testimony, that will be received in evidence. The landowner will thereafter be subject to examination by the attorney for the staff, any

other parties, and the commissioners.

This process will be repeated for each person who has been admitted to the proceeding as a party. Thereafter a very short recess will be called.

If any interested members of the public have questions which they wish to address to the staff or any of the parties, they should write these questions and the name of the person to whom it is directed on a piece of paper. Paper and pencils have been furnished for this purpose. These questions will be collected by a staff member during the recess.

The hearing will then be called to order and the staff's attorney will ask these questions unless they appear to him to be clearly immaterial or redundant.

Thereafter all interested officials, agencies and individuals will be afforded an opportunity to be heard on any matters relevant to the boundary change under consideration. No cross examination will be permitted, nor will persons testifying be permitted to ask questions. No person will be recognized more than once. If you wish to testify, kindly sign the sheet located at the back of the room. It too will be collected during the recess.

When the last interested member of the public has been heard, I will announce that interested officials, agencies and individuals will be allowed 15 days following the final

public hearing in this county within which to file a written protest or other comments or recommendations with the commission at its office in Honolulu. That particular case will then be closed and the next case will be called. We have a great deal of ground to cover so I urge all to be brief and to the point. If there is an organization who may have a number of people taking the same position, after one person has stated to testify in that position and others are going to say the same thing, they should just state that they are going to support that other position, rather than be redundant, and say the same thing all over again. Final decisions will be made by the Commission not more than 90 and not less than 45 days after the close of the final hearing in this county. We begin these proceedings with a statement from the County Planning Department, Mr. Sidney Fuke.

SIDNEY FUKU: Mr. Chairman, members of the Commission, Vital Decision Group, and representatives of Hawaii Housing — I would like to inform you, for the Commission's information and to the present personnel of the County of Hawaii (they are sitting in the back there), Mr. Norman Hayashi and Hiroshi Matsumoto, each one of them will be supplying information to answer any question of the Commission. In addition, I'd like to offer those of you from the County Planning Commission any information on how these Islands got their unique organization. The County Clerk Building as a service to the Commission will provide you with anything else you might need to know.

CHAIRMAN TANGEN: Thank you, Mr. Fuke. We will proceed on Docket Number One.

E. JOHN McCONNELL: Mr. Chairman, respecting Docket No. 1, I will ask that the Staff Report dated September 26, 1974, consisting of nine pages and two appendices pertaining to the entire Island of Hawaii be admitted as Staff Exhibit A. This report will be admitted for each addition, proceeding separately as the general report as prepared by the Staff is available. In addition I will ask that the individual staff report for this docket number be admitted, and I ask that they be received in that order.

CHAIRMAN TANGEN: All right, that'll be the order.

E. JOHN McCONNELL: That'll be the extent of the Staff's direct case. Are there any persons here who think that their party should be received?

CHAIRMAN TANGEN: This is on Docket No. 1.

ELLSWORTH BUSH: My name is Ellsworth Bush. I represent the owner of the property. Is it in order for our presentation at this time?

CHAIRMAN TANGEN: Not right now.

Are you ready now? OK, fine.

ELLSWORTH BUSH: My name is Ellsworth Bush and I am an employee of Theo H. Davies. In the Staff Report there were one or two items of additional information that the Staff felt was important, and reading through that I would like to, briefly,

clarify these points. They are located in the second to the last paragraph of the Staff Presentation referring to the number and size of lots that are being proposed for this item, Docket No. 1.

The area in question contains 84 acres and our current planning indicates that this would accommodate approximately 250 lots in the 10,000 square foot size to be made available to, primarily, employees of Honokaa Sugar Company. There are approximately 160 employees expressing interest already in these lots. We expect an additional number to be taken by supervisors, the salaried people, as well as current pensioners living in Company housing and also other community members. Without going into further specific details, I wonder if this is the information the Staff needs.

CHAIRMAN TANGEN: Does the Attorney for the Staff wish the specific information?

E. JOHN McCONNELL: No.

TATSUO FUJIMOTO: Excuse me, Mr. Chairman, with reference to the 84 acres, what about the remainder of the acreage we are talking about - approximately 290?

ELLSWORTH BUSH: Fine. The other acreage, approximately 20 acres, would be set aside for the neighborhood or other amenities that are associated with a subdivision - perhaps a County refuse collection area is part of this area - the possibility of a service station servicing these needs. The area

in question that is above the highway; this area here is approximately 135 acres. Our present planning is to accommodate the problem of the individual planters, being motivated to sell their cane land at rather inflated prices. In our efforts to secure this cane land for continued agricultural use, we anticipate offering them approximately 2 or 3 acre lots in exchange for their mauka cane areas, so the population or density of this area above the highway would not be anywhere near the 10,000 square foot type of density which is envisioned below the highway. We have also selected the area above the highway because it was set aside by the County General Plan as an extension to the lower, medium density urban boundaries of Honokaa town and we believe that around the area that is on the mauka side of the highway and there is a major thoroughfare that goes through the anticipated subdivision area, that we, like others have in the past, worked out with the County and the State transportation people ways to overcome any problem that they may see; either through additional engineering on the area but we would just like to emphasize that the density above the area is not in any way the same type of density that stands below the highway and movement across it would not be in the same proportion. That concludes my statement with respect to Item No. 1.

CHAIRMAN TANGEN: Any further questions at this time?

SUNAO KIDO: I have a question. In the area above the highway, you are talking about the exchange of 2 acre and 3 acre lots.

Do you think that this necessitates an urban district in order to have this kind of exchange for the individual farmers?

ELLSWORTH BUSH: Yes, it isn't being thought that the acreage would be converted into smaller parcels of cane; it would be that they would take up residence on this particular property and the acreage is not associated with the continuation of cane but an occupancy on their part in the urban area.

I have some other notes on this particular item which additionally indicate that there actually is a net addition of urban land, or a withdrawal of agricultural to urban, of approximately 180 acres. I say this because in Item No. 2, which will follow, you will note that there is a change of 90 acres from urban to agricultural zoning; by downgrading those 90 acres that were previously going to be used for housing they are now using that in the 138 acres. Additionally, we have a village employee camp at Honokaa which is approximately 25 acres and if these people moved to the urban area, that would be turned into cane or industrial areas that would be associated with sugar operations. Additionally, there is about 15 acres located at Honokaa pine area which is down near the factory where there is a current employees' housing area, and as people move from that, that would be turned into cane or industrial. So the 90 plus 25 and 15

amounts to about 130 acres, leaving a net then of about 108 acres which we are actually asking be changed from agricultural to urban.

CHAIRMAN TANGEN: Any further questions from the Staff?

Any questions from the Commissioners?

SUNAO KIDO: Mr. Chairman — Mr. Bush, I wonder if you could clarify for me again as to why the density above the highway is different from that below the highway. Secondly, if the kind of density that you contemplate above the highway - could it not be accomplished under the existing agricultural zone?

ELLSWORTH BUSH: The first question was why the different type of density. Some of this was covered in written preparations, but perhaps I should review it at this time.

We find that there are approximately 2,000 acres of cane that is owned by individual planters in the Honokaa area and they are in different size lots. We find that Mainland and other interests are willing to pay \$5,000-\$6,000 per acre for this land to be possibly used as homesites rather than continuing in cane. So we found that we would like to maintain the Honokaa area in cane and so we have approached these individual owners in an effort to work out an exchange. In other words, we would take over their total area of around 2,000 acres - that's the total of many individuals - we would take over that area and maintain it in exchange for offering them our property in a more urban associated community so that

if they did decide to turn around and sell their property, like they are contemplating now, their values for the property would be somewhat comparable and they would be encouraged to go into the exchange. So we would be offering them, which is something that they have expressed interest in, a size of lot in the area of 2 or 3 acres as opposed to 2 or 3 or 4 or 5 10,000 square foot acre type lots.

The answer to the second part of the question as to whether this could be accommodated under the existing zoning, I apologize, I really don't know the answer to that question.

CHAIRMAN TANGEN: Any further questions from the Commission?

All right, thank you, Mr. Bush.

There are no indications of other parties of interest.

Now ordinarily we would devote this time to see if there are questions from other than parties which would be written out and given to the Staff's attorney. That's when I call the recess. Let me just find out if there is anyone here that would want to submit a question to the Staff's attorney in writing.

There being none, then we will proceed to the next part of the procedure.

We are now at the point in the procedure where all interested officials, agencies and individuals will be accorded an opportunity to be heard on any matter relevant to the boundary change under consideration. Does anyone here wish to testify on No. 1? Yes, sir.

CHARLIE CARR: I would like to make this comment. . .

CHAIRMAN TANGEN: Identify yourself, please.

CHARLIE CARR: My name is Charlie Carr, representing Life of the Land, and I would like to make this comment not only to be submitted on this particular docket no. 1, but on each and every docket. Instad of being repetitious and coming up here every time, that it may be put on record as a part of each and every single docket. Is that permissible?

CHAIRMAN TANGEN: We will consider it as your testimony continues.

CHARLIE CARR: Thank you.

Life of the Land has been, since the onset, monitoring the activites of the State Land Use Commission's (LUC) five year boundary review. It has increasingly become more evident that the LUC and its staff have fallen short of their obligations to the State and, more importantly, to the people of the State. It is our interpretation that the LUC boundary review is in violation of HRS Chapter 91, the Administrative Procedures Act, along with violations of the State's environmental laws which require an agency of the State to prepare an Environmental Impact Study when any action it takes shall cause significant environmental effects. This negligence on the part of the LUC to comply with the laws have caused the Life of the Land to take a stand against the entire boundary review.

It should be made clear that Life of the Land is not against all of the proposals set forth by the LUC just as it

is not against all development per se, but because of the nature of these proceedings, Life of the Land is forced to go on public record stating an opposition to the entire boundary review including each and every proposal.

CHAIRMAN TANGEN: Anyone else wish to testify on No. 1?

CHARLES SCHUSTER: Yes, sir.

Mr. Chairman, and members of the Commission, my name is Charles Schuster and I am District Engineer for the Highway Division, Department of Transportation. We sympathize with the major objectives, however, on the proposal concerning the 135 acres on the upper, mauka side of the highway, we believe it is essentially poor planning to split an urban development on both sides of the remainder of the thoroughfare. As you know, the people would be living on opposite sides of the highway from the concentration of the community services. We would like to point out that the development of this area would provide the mass fixation of efficient highway facilities. And if this is done, it would really contribute to the benefit and use of the sugar plantations. As the case is now, you see the same company wouldn't benefit if we come in and downgrade those facilities. In the absence of specific development plans at this time for this area, we ask that those specific proposals by the developers who would be developing how they would accommodate the traffic problems along the highway. Although we acknowledge their

good will and their intention to work these out, we would suggest at least a referral on any organization along the mauka side of the highway. Thank you very much.

CHAIRMAN TANGEN: Thank you. Anyone else wishing to testify on No. 1? The hearing will be closed on Docket No. 1.

Number Two. Also at Honokaa, approximately 90 acres from urban to agricultural.

For those who are parties of interest, please indicate so. We have no one indicating that they are parties of interest in this case. Does the Staff wish to make a report?

E. JOHN McCONNELL: Yes, the Staff would like its General Report pertaining to the Island of Hawaii and the Specific Report pertaining to this docket to be received as Staff Exhibit A.

CHAIRMAN TANGEN: Any questions by the Commission? Is there any member of the public wishing to raise a question in writing? If so, we will call a brief recess in order to allow him to write it down. No one indicates that they wish to submit a question in writing. Any other person here wishing to testify on No. 2? Any questions from the Commissioners? The record is closed on No. 2.

Number Three. Paauilo - 14 acres, urban to agricultural. Would the parties of interest please indicate so. Mr. Bush? Does the Staff have a report?

E. JOHN McCONNELL: The Staff again asks that its General and Specific Reports be introduced as Exhibits A and B respectively.

CHAIRMAN TANGEN: Mr. Bush, do you wish to testify?

ELLSWORTH BUSH: I intended not to prolong the hearing, but several of these parcels, although they are indicated as individual agenda items, tend to tie into our request for consideration of changing from agricultural to urban. Like in Item No. 1 I referred really to Item No. 2. Many people have come here today and given of their time. If you'd let me know if you would like for me to put this package together, it might save a little time, but at the same time I don't want to interrupt whatever procedures are necessary to go down item by item and in order.

CHAIRMAN TANGEN: I will check with the legal staff as to whether or not Mr. Bush, as I understand, you would like to cover the area on the various docket numbers pointing out the relation of one to the other.

ELLSWORTH BUSH: That is correct.

CHAIRMAN TANGEN: Is there any objection to that?

"No objection."

Proceed, Mr. Bush.

ELLSWORTH BUSH: I would like to talk at this time about the Docket No. 3, 4, 5 and 6.

E. JOHN McCONNELL: Mr. Chairman, maybe procedurally we could treat all of those together if anybody desires to be a party to any of those, we could probably lump them together.

CHAIRMAN TANGEN: Do the Commissioners have any objections to consolidating these numbers? Is there any other party of interest on

No. 4, 5 or 6?

E. JOHN McCONNELL: I ask that the respective Staff Reports be again introduced into evidence for each of those dockets.

CHAIRMAN TANGEN: All right, proceed, Mr. Bush.

ELLSWORTH BUSH: Thank you. The parcels in question are located on the properties of Laupahoehoe Sugar Company. This is both in the Paauilo and Papaaloo areas. Laupahoehoe, like Honokaa, envisions a program in the next several years to consolidate their individual employee housing, currently which is rented to the employees, into two areas which are compatible with the County's General Plan at Paauilo and Papaaloo. At Paauilo we envision converting 40 acres of agricultural to urban. This is Item No. 4. We are also in favor of the Commission's rezoning of Item No. 3 which is the conversion of 13 acres from urban back to agricultural. We feel that the area that we have selected next to the Paauilo School is more suited for an urban area and although we were participants originally in a suggestion to have this 13 acres in urban, we feel that the 40 acre parcel is much more conducive to urban living. In addition to that, we also favor Item No. 5 which is the taking of 5 acres of urban in Kukaiau and changing that back to agricultural. This would accommodate approximately 140 lots for employees. The taking of Item No. 3 and Item No. 5, which are 13 and 5 acres or 18 acres, plus the employees moving from camp now, which is about 60 acres, would really mean that there's about 70-75 acres which

are being returned to agricultural, while 40 acres are being retained for urban zoning. That is in the Paauilo area. Moving over to Papaaloo, we have requested that 140 acres in Papaaloo, which is associated with current zoning of urban, we are taking that from agricultural and putting it into urban in anticipation that approximately 400 lots for employees could be developed in that area. Currently we estimate that approximately 65 acres of current employee camp village will be converted back to cane or industrial; so the net of that is approximately 75 acres being withdrawn from agricultural to urban. This concludes my wrap up of trying to include those several items in one package. If there are any questions by the Commissioners, I would like to try to answer them.

CHAIRMAN TANGEN: Does the Staff have any questions?

TATSUO FUJIMOTO: Yes. Mr. Bush, what kind of time schedule are you talking about with this conversion of the plantation camp back to agricultural and a relocation back to the Paauilo area?

ELLSWORTH BUSH: Our time is such that we have talked with 5 or 6 developers and are currently receiving plans, so we expect to move on this and recognize that our plans need to be approved by the County and we expect to move on that as soon as the zoning can be achieved. And as the housing is completed in increments, anticipating perhaps 80 to 100 lot increments, we would offer these to our employees. The total project, I guess, ambitiously, we would expect to accomplish it in 2-1/2 to 3 years; depending on many of the other activities,

it could take perhaps four, possibly five, but it is our intent to move on it as rapidly as possible.

CHAIRMAN TANGEN: Any further questions from the Staff? Any questions from the Commissioners?

COMMR. SAKAHASHI: Mr. Chairman, I have one I'd like to ask him. How many employees are you talking about?

ELLSWORTH BUSH: The question referred to how many employees we are talking about. We have approximately 550 employees. There are about 100 pensioners that currently reside in company owned houses, so I guess you could look at a maximum of 650, but we also envision that, as new employees are added to the work force, that they may wish to become involved in a company or in fee simple homes also, so the number could increase; but currently we are looking at 650.

CHAIRMAN TANGEN: Any further questions from the Commissioners? Thank you, Mr. Bush.

Is there anyone in the audience wishing to enter a question on Dockets 4, 5 and 6? No one indicates that they wish to. Anyone wishing to testify on Dockets 4, 5 and 6? No one indicates that they wish to testify. The hearing, then, on Dockets 4, 5 and 6, as consolidated, is closed.

Our next Docket No. 7, 120 acres, Laupahoehoe, from agricultural to conservation. Anyone who is a party of interest, please indicate so. Mr. Bush? Mrs. Mull, if you are a party of interest, please step forward to the attorney and indicate your interest.

Mr. Bush, as a party of interest, do you wish to testify?

E. JOHN McCONNELL: Mr. Chairman, could the record reflect the introduction of Staff Exhibits A and B, the two reports the Commission has read?

CHAIRMAN TANGEN: Let the record so indicate.

ELLSWORTH BUSH: The property in question is not under lease or ownership by the Laupahoehoe Sugar Company. But it is within the boundaries of that plantation. The property is that of the State of Hawaii. Laupahoehoe has over a continuing number of years had an interest in expanding their cane acreage. Davies & Co. feels this industry has great potential and wants to continue in it and one of the ways to do that is to expand your acreage to insure a sound economic base. A lot of this property has been within our bounds through the years. We have not approached the State for a possible lease or use. However, it is immediately abutted on the makai side of rather good cane land of Laupahoehoe and on either side there are pasture areas which are currently ---- and we feel that while there is a recommendation to change this to conservation, we feel that it does possess potential agricultural use and we do envision more specific plans in consideration of developing that area. We would urge that the Commission consider it's retention as agricultural because we fell that that is the best use of that property.

CHAIRMAN TANGEN: Are there any questions from the Staff?

TATSUO FUJIMOTO: Mr. Bush, in your comment that you think that this area has potential for cane cultivation, what kind of answer would you have in terms of this case right now going into a replanting/forestation program planned by the State?

ELLSWORTH BUSH: It would be in direct conflict - our particular plan probably does not coincide; it would be pretty hard to grow trees and cane in the same area.

We certainly recognize the merits of reforestation and the State plan in that area, but we are coordinating other properties with reforestation. We feel that there's a heck of a lot of forest there already and naturally there is a dire need of additional trees and what have you for that; but we feel that this property would better be served by an agricultural use, such as cane.

CHAIRMAN TANGEN: Any further questions from the Staff?

"No."

CHAIRMAN TANGEN: Any questions from the Commissioners?

Thank you, Mr. Bush. Any person in the audience wishing to enter a question to the Staff? No one is indicated. Therefore, now anyone wishing to testify? Mrs. Mull.

MAY EVELYN MULL: My name is May Evelyn Mull. I am speaking as the Hawaiiana representative of the Hawaii Audubon Society. I am a member of the Executive Board of the Audubon Society. The Society supports this boundary change from agricultural to a conservation district. Although this land is in the

agricultural district, it is not being used for agriculture at all. It has not been converted for cane, it has not been used for grazing or for any other agricultural use.

This land fall within the Laupahoehoe section of the Hilo Forest Reserve. It is not, as I understand it, land that is suitable to be converted to agricultural use because of its very high slope of 20% to 30% (erosion). We think it would be an excellent move to make the Hilo Forestry Service make this land in the Conservation District so there would not be any question of its being under the Division of Forestry. A part of this acreage, 120 acres was reforested in the 1935 CCC Experimental Planning with exotic timber seedlings. Now these may be harvested eventually and the Hawaii Audubon Society makes a very strong recommendation that this area be used for Koa regeneration. Koa is our most important commercial, easily grown timber and it is something which is unique to this State and it is not grown anywhere else. It is a very fine quality wood and it is in great demand.

Our feeling is that the State, the Division of Forestry, has already proven, in the upper Laupahoehoe section, how successful Koa regeneration can be and I have gone through those areas and have been amazed to see that Koa very quickly comes back in the areas that were harvested and it is just ideal for a small industry in Koa timber. We want to see a continuing market in Koa; a small supply on a --- basis to keep a small industry going on this island.

We also recommend you find some way, through negotiation with T. H. Davies - T. H. Davies land is below this public land. But we would like to see some accommodation made with T. H. Davies for improving the access to this acreage and to the forest reserve above, for hunters - for pig hunting. We feel that there should be a better crossing, better harvesting of the farrow pigs in the Hamakua Coast areas because the over-population of pigs is very damaging to the vegetation. The hunters now have to go through T. H. Davies land and we want to be sure there is sufficient access for hunters to reach the pig population in those forests.

Although it was in cane for the time being, because of the economy, this might be the way to go because of sugar production. The price of sugar is certainly not going to hold at the high level it has been for a long time and if this land is transferred to sugar this would be damaging and I doubt that it could ever go back to Koa regeneration. We recommend this boundary change.

CHAIRMAN TANGEN: Thank you. Any questions from the Commissioners? Any questions from the Staff? Anyone else wish to testify on this Docket Number?

Seeing none, the hearing on Docket No. 7 will be closed. We will recess for lunch at this time and reconvene promptly at 1:30.

CHAIRMAN TANGEN: All the commission is here and all the parties of interest are here, and we can really do this thing up right.

So, we'll call the meeting to order. Let me ask now if there is anyone here who wasn't sworn in and intends to testify, and is not an attorney, who was not sworn in earlier this morning. Please raise your right hand. Do you solemnly swear that the testimony you will give to the State Land Use Commission will be the truth, the whole truth, and nothing but the truth, so help you God?

"I do."

So again then, on Docket No. 8, 23 acres from agricultural to urban. Does the Staff have a report to submit? Are there any parties to this proceeding? None being indicated, let the record so indicate. Now, does the Staff wish to submit a report?

E. JOHN McCONNELL: Yes, Mr. Chairman, the Staff moves the introduction of Exhibit A, the General Report relating to the boundaries for the Island of Hawaii and that it be the accepted report pertaining to the boundaries in this case.

CHAIRMAN TANGEN: It is received now.

E. JOHN McCONNELL: That's all the direct evidence of the Staff.

CHAIRMAN TANGEN: Okay. There being no party of interest in this matter, we will then go to the matter of any member of the public here wishing to submit a question in writing to the Staff's attorney.

DOROTHY HIRAWATARI: I represent Mr. Toledo.

CHAIRMAN TANGEN: We are not quite to you yet.

E. JOHN McCONNELL: She represents Mr. Toledo - she's ----

CHAIRMAN TANGEN: I really think you are a party of interest, do
you want to come up and check with the Counsel for the Staff?

E. JOHN McCONNELL: May I ask you to identify yourself, please?

DOROTHY HIRAWATARI: I am Dorothy Hirawatari, representing Mr.
Richard Toledo.

E. JOHN McCONNELL: And who is Mr. Toledo?

DOROTHY HIRAWATARI: Mr. Toledo is the sub-divider of this property
in question.

E. JOHN McCONNELL: You are here in the capacity of representative
for him?

DOROTHY HIRAWATARI: Yes.

E. JOHN McCONNELL: Mr. Chairman, the Staff has concluded it's case.
If you would like to proceed on behalf of Mr. Toledo, you may
do so.

CHAIRMAN TANGEN: Yes, she is. We will consider her the body, as re-
presenting Mr. Toledo, for the record of this Commission.

DOROTHY HIRAWATARI: Mr. Toledo is on the Mainland presently and he
had asked me last week to represent him at planning commission
hearings for the State Land Use Commission.

We are in demand for a housing project in our community
complex. We are interfering with other developers ---- they
are developing house lots for their employees and familys who

stay with the company. So each new subdivision will offer house lots to other people. At this time I would like to request that the Land Use Commission will zone it ---- and get the approval as soon as possible because we have changed our situation; we are very much under pressure at this time to get this zoning. Thank you.

CHAIRMAN TANGEN: Thank you. Any questions by the Staff? Any questions by the Commissioners? Thank you, Mrs. Hirawatari.

DOROTHY HIRAWATARI: Thank you very much.

CHAIRMAN TANGEN: Is there anyone else in the audience wishing to testify in this matter? Yes, sir.

CHARLES SCHUSTER: Mr. Chairman and members of the Commission, my name is Charles Schuster and I am District Engineer of the Highway Division of the Department of Transportation. Our concerns for the traffic safety that would be generated by the passage and intersection serving the subdivision are a matter of record in your Staff report. I sincerely would like to reiterate that concern. It's a very unsafe location for a residential subdivision having direct access onto the main road. I also would like to point out that the development of the approach to the highway access through our recommendation is quite a costly matter that might very well offset the economic advantage of this proposed subdivision. It could also create possible draining problems created by a subdivision on the steep hillside mauka of the highway.

CHAIRMAN TANGEN: Thank you. Any questions by the Staff?

TATSUO FUJIMOTO: I have a question concerning the Highway Commission statement. Do you have any plans or an estimate as to what the cost of this is?

CHARLES SCHUSTER: Lacking any specific plans at this point, we can only make a very rough guess, that would be approximately several million dollars. There are two bridges in the vicinity of the property that have to be enlarged. I think they would be involved in providing the proper transportation system for this area.

CHAIRMAN TANGEN: Any further questions by the Staff? Any questions by the Commissioners? Anyone else wishing to testify on Docket No. 8?

No one has indicated wishing to do so, so the hearing on Docket No. 8 will be closed and we will meet again on all these items. All interested parties have 15 days in which to submit additional information, testimony or evidence to the Land Use Commission in writing at its Honolulu office. And the Land Use Commission will have no sooner than 45 and no later than 90 days on all of these docket numbers.

We will go to Docket No. 9, 5 acres at Pepekeo from urban to agricultural. May I ask that any parties indicate their desire to testify. Yes, sir. Come up and indicate your status as a party, please.

E. JOHN McCONNELL: Would you state your name please?

EARNEST A. SMITH: Ernest A. Smith.

E. JOHN McCONNELL: Who are you representing?

EARNEST A. SMITH: Brewer Support Housing, Inc.

E. JOHN McCONNELL: And what is their relationship to these proceedings?

ERNEST A. SMITH: We are involved in developing real estate for Brewer in the area of support housing; in this particular case we are helping with a new subdivision with Maunakea Sugar Co.

LEIGHTON OSHIMA: Do you have any written statement from - you say you are working for someone?

ERNEST A. SMITH: A division of C. Brewer Company ---- Maunakea Sugar Company.

E. JOHN McCONNELL: Okay, Mr. Smith does have status.

CHAIRMAN TANGEN: Does the Staff have a report to submit?

E. JOHN McCONNELL: Yes, the Staff would like to submit its General Report pertaining to the Island of Hawaii and the Specific Report pertaining to Docket No. 9.

CHAIRMAN TANGEN: It is received in evidence. Anyone wish to examine the Staff?

All right, Mr. Smith, do you wish to testify?

ERNEST A. SMITH: ----

CHAIRMAN TANGEN: Mr. Smith, do you wish to enter that statement as evidence?

ERNEST A. SMITH: Yes.

CHAIRMAN TANGEN: It's accepted.

ERNEST A. SMITH: As further evidence, Mr. Chairman, we have a map which we will label as Brewer A and a letter we shall label Brewer B.

CHAIRMAN TANGEN: Yes.

ERNEST A. SMITH: (Brewer B) Letter from Vice President of Brewer Support Housing. ---- With reference to the particular items:

We concur in the rezoning of the area between the Assembly of God Church and the existing Clinic house lots and we also concur in the rezoning of the cane area above the Hilo Coast Processing Company Manager's house, but we respectfully request that the agricultural zoning exclude the area presently in use by the Hilo Coast Processing Company as housing and industrial sites.

CHAIRMAN TANGEN: Thank you. Any questions by the Staff?

TATSUO FUJIMOTO: In those exhibits, do you think you have to classify the 2.88 acres of the total 5 acres as urban?

ERNEST A. SMITH: That's right.

TATSUO FUJIMOTO: And this is the area that you are talking about? That is currently involved in the housing program?

ERNEST A. SMITH: Yes, it's already in housing.

CHAIRMAN TANGEN: Any further questions from the Staff?

TATSUO FUJIMOTO: Mr. Smith, I understand that this particular parcel was submitted for dedication in the 1974 taxable year. Could you explain that in relation to this particular area?

ERNEST A. SMITH: If you will permit, I'd rather ask Claude Moore - he may have an explanation for that.

CHAIRMAN TANGEN: Mr. Moore.

CLAUDE MOORE: I think there must be some error. The Staff report

says that this area is plantation cane. The area colored blue is not in cane and I don't think it has ever been in cane. The areas that we have asked the Commission to revert to agricultural have been in cane as part of the plantation, but not the 2.88 acres - that's in housing.

TATSUO FUJIMOTO: The reason that we have this particular area, this particular parcel in cane, as shown, is that we did receive the Dedication Petition from your Company and in looking at the map that was submitted, it did indicate that this particular area was the area dedicated for a cane patch.

CHAIRMAN TANGEN: May I share your map?

Any further questions from the Staff?

E. JOHN McCONNELL: Mr. Chairman, the second report submitted by Mr. Smith the Staff wishes to introduce as Brewer C.

CHAIRMAN TANGEN: It is received as evidence. Any further questions from the Staff? Any further questions from the Commission?

Any person from the public here wishing to testify on this Docket No. 9? No one wishing to testify, then the hearing on Docket No. 9 is closed.

Proceed now to Docket No. 10, 157 acres from agricultural to urban at Punahoa. Any parties? Will the parties please step forward to this table. The Counsel of the Staff will ask you to indicate your interest.

E. JOHN McCONNELL: Are you all together? Will you state your names?

KAZUO OMIYA: Kazuo Omiya, Vice President and General Manager of

Kobayashi Development and Construction, Inc. Henry Hoshide, on my left here, is a consultant, and Mr. H. Mogi is a planner. They are being retained by the company to provide us with professional services.

E. JOHN McCONNELL: And what is Kobayashi Development & Construction, Inc.'s interest in this property?

KAZUO OMIYA: We made a petition to the Land Use Commission for a review.

E. JOHN McCONNELL: Do you own the property?

KAZUO OMIYA: Yes, sir, we do own the property.

E. JOHN McCONNELL: We would agree that you should be a party.

CHAIRMAN TANGEN: Does the Staff have a report to submit?

E. JOHN McCONNELL: The Staff again submits the General Report pertaining to this Island as Exhibit A and the particular report pertaining to Docket No. 10 as Exhibit B.

CHAIRMAN TANGEN: We receive the report.

E. JOHN McCONNELL: That's all of the Staff's direct evidence.

CHAIRMAN TANGEN: Do the parties or the Commission wish to examine the Staff? Then we'll call upon whichever one of these gentlemen wishes to be the spokesman. The record will indicate that three gentlemen here who represent the same party in this matter.

KAZUO OMIYA: Mr. Chairman, members of the Staff and Commission, my name is Kazuo Omiya, Vice President and General Manager of Kobayashi Development and Construction, Inc., of Honolulu, Hawaii.

Pursuant to §205-4 of the Hawaii Revised Statutes, we have petitioned the Land Use Commission for a comprehensive review of the classification and districting of our property from agricultural to urban.

The subject property is situated in the upper Kaumana-Pilhonua area in Hilo, bounded by Akolea Road on the mauka side and the Ainako Drive on the North side. The land area under petition for boundary review is approximately 157 acres, being a portion of 375 acres as shown on the map marked Exhibit A. I have three maps here, Mr. Chairman, if we can put it up on a board - this is mainly for your review and I will submit this written testimony.

CHAIRMAN TANGEN: You wish to submit this as evidence?

KAZUO OMIYA: Yes. The existing Land Use designation...

CHAIRMAN TANGEN: We wish to examine them first.

E. JOHN McCONNELL: Mr. Omiya, could you give him that? Mr. Chairman, may the record reflect that we have three maps already labeled Exhibits A, B and C together with the document labeled Exhibit D.

CHAIRMAN TANGEN: They are received in evidence. Proceed.

KAZUO OMIYA: The existing Land Use designation is agricultural and is zoned A-1a by the Hawaii County. The County's General Plan adopted on December 15, 1971, designated this property as Alternate Urban Expansion in its Land Use Allocation Map. A portion of it is shown as flood plain, which is primarily in the area of the 157 acres, being the subject of our petition.

The development of this property is predicated upon two projects. The first being the implementation of the Akolea Diversion Ditch by the U.S. Soil Conservation Service. This flood control project is expected to be implemented in the next 4 to 5 years. The other is the construction of the Ainako Diversion Channel by the County of Hawaii, which is expected to be implemented in the next 3 to 4 years. Upon the completion of these two projects, the area will cease to be a flood inundation area. More specific coverage of the drainage and flood control systems will be explained by our consultant, Mr. Henry Hoshide of Wilson, Okamoto and Associates after Mr. Mogi testifies on the plan.

The conceptual plan for this property was conceived after extensive research and planning by our consultant, H. Mogi, of H. Mogi Research and Planning, Inc. We have submitted a very comprehensive supporting data together with our plans to the Land Use Commission for their review. Our initial request for district boundary change was submitted to the State Land Use Commission on January 16, 1974. The plans submitted are in compliance with the aforementioned General Plan of the County of Hawaii. Mr. H. Mogi will explain the features of the plan in general at this time.

I would like to call Mr. Mogi and Mr. Hoshide, in order and I would like to continue my testimony after they are through. Would that be permissible?

CHAIRMAN TANGEN: That's fine.

H. MOGI: Mr. Chairman, I have a blow-up map here which is the same as that received in evidence.

CHAIRMAN TANGEN: That blow-up map is the same as those received in evidence? Will the staff give some assistance in putting the map up?

H. MOGI: Thank you very much. I was retained as a consultant by Kobayashi Development and Construction, Inc. of Hawaii since January 1973 in order to prepare a comprehensive development plan for the property, which is on file. We completed the study in September 1973 which was reviewed by the Planning Department of the County of Hawaii in November 1973. An application to the Land Use Commission was filed on January 16, 1974 by our client requesting an urban land use designation from the present agriculture use zoning.

A detailed feasibility study and basic development plan are presented in the report which was submitted with the application. To summarize:

The subject property is affected by flood conditions, therefore the development time schedule shall closely coincide with the drainage control projects by the public agencies.

The Soil Conservation Services has completed a preliminary report on the Akolea drainage diversion ditch which will channel surface run off on the mauka side of Akolea drainage diversion ditch.

CHAIRMAN TANGEN: Will this microphone reach over there?

Thank you.

H. MOGI: In addition, the Ainako diversion ditch has been planned by the County of Hawaii to protect the lower side of the subject property from intense flooding conditions.

Therefore, our project is planned to start upon the construction of these flood control projects especially the Akolea diversion ditch.

Due to the present time schedule of these public projects, we believe the development of subject property will commence in 1979.

The specific land uses proposed for the property are described in Sections I and II of our report. The residential development shown is aimed at a broad spectrum of potential buyers. It is expected that the primary market will consist of present residents of the Big Island who are either buying their first house or moving up from their present home.

The estimated sales prices for the different types of units planned for Hilo Heights is shown in the table below.

----- Thank you very much.

CHAIRMAN TANGEN: Mr. Mogi, do you have some written testimony you'd like to submit as evidence?

H. MOGI: Yes, sir. I have something else here, too.

CHAIRMAN TANGEN: To be submitted into evidence? Yes you may.

Present it to the Counsel, please, and your written testimony.

HENRY HOSHIDE: Mr. Chairman, ...

CHAIRMAN TANGEN: One moment, please.

E. JOHN McCONNELL: Mr. Chairman, he just gave me a four page document - a 3 page document, plus the maps, which I will ask to be marked Brewer/Kobayashi E and F. I assume you people want this in evidence.

CHAIRMAN TANGEN: Received in evidence. Identify yourself, please.

HENRY HOSHIDE: Mr. Chairman, members of the Land Use Commission, my name is Henry Hoshide, Associate and Director of the Civil Engineering Department of Wilson, Okamoto & Associates. I too have a document I would like to present to the Board to explain my testimony.

CHAIRMAN TANGEN: Has it been submitted before? Please present it to the Counsel.

E. JOHN McCONNELL: I ask that this be marked as Kobayashi G.

CHAIRMAN TANGEN: Any objections to its being received into evidence?

E. JOHN McCONNELL: No objections.

CHAIRMAN TANGEN: It is received.

HENRY HOSHIDE: The City of Hilo has had more than its share of troubles from heavy rains, overflowing rivers and tsunami. The flooding concern especially was expressed in great detail at the informal workshop conducted by the Land Use Commission on July 26, 1974, and again at a public meeting held by the County of Hawaii, Planning Department on August 28, 1974.

On July 25, 1966, a storm occurred that released 17+ inches of rainfall over a period of 24 hours in the Kaumana area. Prior to this storm, the storm of March 3, 1939 was the largest on record. This storm produced 19.2 inches over a 24-hour period in the lower Kaumana area. The heavy 1966 rains resulted in severe damage to Hilo. The areas suffering the heaviest damages were in the Ainako residential district along Kokea, Kaula and Kapaa Streets; the Kaumana area mauka of the Ainako Avenue-Kaumana Drive intersection; the vicinity of the Waiuanuue Bridge over the Ainako River; and the central business district near Ponahawai Street and Kilauea Avenue. As an outcome of this flood, the Flood Control Citizens Committee and two soil and water conservation districts, along with the County of Hawaii made an application for flood relief to the United States Soil Conservation Service under Public Law 566. The application was approved in 1967 and funds

for planning were approved in 1969. Presently the Soil Conservation Service has prepared preliminary plans and a draft EIS for the Akolea Diversion Ditch. The plan calls for a diversion channel where waters above Akolea Road would be picked up and released into the Wailuku River.

At about the same time, the County proceeded into planning and design of the Ainako Diversion Channel which would remove surplus waters generated from the area east or makai of Akolea Road. Waters would be routed around the Ainako Subdivision and into the Ainako Stream below Kapaa Street. These two offsite drainage works were requested by the people of Hilo and the governing agencies to eliminate severe flooding to the existing Ainako subdivision shortly after the July 25, 1966 storm. The decision of the developers to purchase the property was partially based upon the fact that the two channels will be constructed in the foreseeable future by the Soil Conservation Service and the County of Hawaii. The developers have discussed with the County and are willing to increase the capacity of the Ainako Diversion Channel to accommodate the increased runoff brought about by the development of the subject area. The Akolea Diversion Ditch will not

be adjusted since development of the project in no way increases flow into the Akolea Ditch.

As mentioned, the development of the 157 acres depends upon the implementation of both the Soil Conservation Service's Akolea Diversion Ditch and the County of Hawaii's Ainako Diversion Channel. We have been told by the Soil Conservation Service that their ditch should be completed within four to five years. The County has also told us that their diversion channel is slated for construction in three to four years.

Within the subdivision proper, drainage works would be similar to typical subdivisions; consisting of channels, culverts, drainlines, and appurtenant drainage structures such as catch basins, manholes, revetments and dikes. In conjunction with the channels, substantial open areas and perhaps pending areas will be added to provide the necessary freeboard, to save additional trees and to improve aesthetics. The drainage designs would be geared to reducing existing problems while at the same time not creating additional problems.

I would also like to comment on a statement made by a Professor of the Hilo Campus at the County Public Meeting held on August 28 where in essence it was said that

the run-off from a storm in the project area would be 100 percent of the rains that fell.

It is only in the recent past and by this I mean about 400 years ago, that Western Man has come to understand that 100% of rainfall did not just run-off as stated by the Professor.

Early Greek and Roman writings indicate that they could accept the oceans as the ultimate source of all waters, but they could not visualize precipitation equalling or exceeding streamflow. A typical explanation of the day was that sea water moved underground to the base of mountains. There a natural still much like Madam Pele's desalted the water and the vapor rose through conduits to the tops of the mountains where it condensed and escaped at the source of springs of the streams.

Leonardo da Vinci (at about A.D. 1500) seems to be one of the first to recognize the hydrologic cycle. However Perrault of France was the first to offer proof in about A.D. 1650.. He showed, using crude instruments, that the Seine River of France was only about one-sixth of precipitation. In 1700 A.D. the English astronomer Halley confirmed that oceanic evaporation was an adequate source of moisture for precipitation to feed the streams not only

during storms, but throughout the periods when no rains fell.

In closing, I would like to state that regardless of whether the project proceeds or is terminated, a large flood occurring in the future prior to the completion of the aforementioned systems will inflict great damage upon the existing development in the Ainako area. Two rather large storms having frequencies of approximately 50-year return periods have occurred within the last 35 years. There has not yet, in the recent past, been a flood with a return period of 1,000 or 2,000 years occurring; however, flood probability being what it is, such a flood is entirely possible at any moment. It should also be mentioned that because we have had the 50-year flood in 1966 does not mean that we could not have the recurrence of a similar flood having a recurrence interval of 51-years, or 49-years, or 52-years or even 25-years happening this year. Any one of these floods would be practically identical in magnitude and equally devastating as the 1966 flood. As a matter of fact, possibly any flood having a recurrence interval greater than the 10-year flood would result in damage to the existing properties in the area.

It is our conclusion that the drainage concerns of

the residents below the Ainako Diversion Channel are unfounded and groundless. Also, the justification of constructing the aforementioned channels would be greatly enhanced by additional development within the flood-inundation area by raising the cost-benefit ration. In fact, rather than fighting this project it appears to be prudent on the part of the residents involved to exert pressures to implement the drainage channels as soon as possible. Their safety and well-being should be of greater concern as long as the threat of flooding exists.

Again I would like to reiterate my earlier statement that this development will not have any adverse effect upon the existing Ainako Subdivision from the standpoint of drainage.

At this time I shall turn the stand back over to Mr. Omiya.

CHAIRMAN TANGEN: Do you have your testimony in writing which you wish to submit in evidence?

HENRY HOSHIDE: I have one sheet that I added to that.

CHAIRMAN TANGEN: All right, you have 15 days in which to submit it. May I ask that those who do have their testimony in writing, to please submit it as you come up.

Mr. Omiya?

KAZUO OMIYA: Mr. Chairman and members of the Commission, with your kind indulgence, I would like to continue my testimony.

Our request seemingly has been one of a highly controversial nature as indicated by the public's strong and very vocal reaction to our proposed project. As mentioned earlier, the property under this petition constitutes 157 acres of a total of 375 acres. The balance of approximately 218 acres is planned for a 180 one-acre lot subdivision. The subdivision plan was prepared by Imata and Associates, Engineers, of Hilo, and submitted to the County Planning Department on October 24, 1973, almost a year ago. A copy of this map, marked Exhibit B is attached for your information.

Action on this has been deferred and to this date we have not received even a preliminary approval for our first increment consisting of 37 one-acre lots. This is despite the fact that the land is zoned A-1a. We have repeatedly requested the approval of the first increment, which is adjacent to the recently completed Akolea Plantation, a similar one-acre lot subdivision. The reason for deferral was due to drainage considerations which were resolved quite some time ago. The drainage of the first increment has no bearing on the rest of the area, as the water would be channeled into the Waipahoehoe Stream through the existing Akolea Plantation subdivision drainage system which will be extensively improved by the developers. This would minimize the surface runoff into the Akolea Plantation and to adjacent areas.

However, the Planning Department, in view of the strong

public resistance has refused to grant us an approval. We have been advised that we will not get any approval until all of the controversial issues are completely resolved. Because of this, our construction schedule has been delayed and our cash flow projection has been seriously disrupted. Time is of the essence and each day's delay means a substantial loss to us due to high carrying charges. We cannot and will not continue to tolerate this undue delay.

We have worked diligently and with sincere efforts in trying to resolve the various problems. We are confronted with two major problems. One is of a technical nature concerning drainage. Our consultants have studied the drainage problem in depth and have engineered systems to adequately cope with the problem. With the implementation of the governmental projects and that of our internal system, the adjacent area runoff will be reduced.

The other problem concerns the preservation of the trees. This is by far the most difficult to resolve because of its highly emotional and sentimental nature. Emotions are running high and rampant and we have been subjected to all sorts of adverse criticism at the meetings held thus far. Because we can understand and appreciate their concerns, we have not exercised our legal right to compel the Planning Department to grant us an approval of our one-acre subdivision. Rather, we have endeavored to resolve this problem in an amicable

manner and have developed an alternative plan which is attached herewith and marked as Exhibit C and herewith submitted. This plan leaves approximately 82.8 acres as open space and park in exchange for a higher density. We planned to dedicate this land at no cost to the County. This plan was evolved after extensive discussion with the Planning Department and other interested County agencies. We agreed to present and did present this alternate or compromise plan to the public at an informational meeting held at the Ernest B. DeSilva Elementary School on August 28, 1974. The result was a total and complete disaster.

We were confronted by a very emotional and hostile group that was not there to listen, but rather to challenge every aspect of our presentation in an irrational and highly subjective manner. We were accused of many things and even called "liars". It became very apparent that the public was unwilling to compromise. It appears that they are against any development in this area, except, possibly by following the recommendations contained in the Preliminary Hilo Community Development Plan prepared by Belt, Collins & Associates. I would like to take the liberty to read the pertinent and applicable sections from this report. Copies are attached for your information, together with a map delineating the areas and marked as Exhibit D. The portions that I will read of the report are very short.

This section is contained on page 22 -

"Forest Reserves are protected and outside the planning area, so in Hilo there exists only one forest area in need of protection, the Eucalyptus tree forest in the Kaumana area between Ainako Avenue and Kaumana Drive. This stand of trees should be set aside for use as a forest recreation area within the Hilo urban area. Three ways to accomplish this should be explored:

1. Have the State reclassify the area into a conservation district.
2. Have the County purchase the area for recreation use.
3. Assist the owner obtaining urban residential zoning if he contains his development in the mauka end of the forest, and dedicates the remainder to the County; this technique is explained further in a subsequent chapter."

This is contained on page 69.

"In the Upper Kaumana-Pilhonua area, it is recommended the existing Eucalyptus grove be preserved as a forest reserve and an important open space feature as explained in other sections of this report. This grove is currently zoned for agriculture (one-acre lots) which would allow 368 housing units if subdivided in a conventional manner. However, a conventional subdivision would destroy the character of the grove. As a technique to encourage preservation of the major portion of the grove, the plan recommends RS 7.5 zoning for the western portion (about 100 acres) of this parcel which would allow approximately 580 housing units (at 5.8 units per acre), with the remainder of the grove to be dedicated to the community as open space. Concentration of housing units also would result in lower infrastructure development costs. Although this would be a higher density zoning than elsewhere in this planning area, this residential area would be surrounded by open space and thus have a spacious setting."

Their recommendation is to develop 100 acres with 580 lots

of RS 7.5 (7,500 square feet per lot) and the balance of 275 acres be left as open space. This proposal is totally unreasonable and unrealistic. Also, although their calculation of the number of units is mathematically correct because one acre of land which consists of 43,560 square feet divided by 7,500 square feet equals 5.8 lots per acre and 100 acres can be divided into 580 lots.

This is only possible without any roads, open space and drainage channels. However, roads and drainage channels are absolutely necessary. We estimate a need for 20% or 20 acres for roadway and a minimum of another 20% or 20 acres for drainage channels and open space. This leaves 60 acres for lots and calculating by their method of 5.8 lots per acre will give us 348 lots at 7,500 square feet per lot.

However, due to the physical limitations of the land, we estimate that the development can yield only 3.12 lots in 375 acres or less than one unit per acre. 100 acres allotted to development under their plan represents 27% of the total acreage. The balance in open space represents 73%.

The economics of such a proposal leaves much to be desired. Our land costs per lot will be four times higher and our selling price for a 7,500 square foot lot will be at a level substantially over the market price of a comparable lot in the area. This makes such a proposal totally unrealistic

and certainly one which we cannot live with. This is generally what the public is demanding and we deem this to be very unreasonable and untenable.

The other proposal offered by the public is an exchange of land with the State or to have the State condemn this land for preservation and use as an area for passive recreation. Due to the public's strong insistence, we discussed this matter with the officials of the State Land and Natural Resources. We were advised that although an exchange is a possibility, effecting it would be extremely difficult and highly improbable.

The exchange of land is covered under §171-50 of the Hawaii Revised Statutes. An exchange will require locating comparable land of comparable value. This will be accomplished by appraisal by a qualified appraiser. After the values are established, the State will present this to the Legislature for legislative approval. It is estimated that this exchange procedure will take between 2 to 3 years, if no serious problems are encountered. It was stated that a condemnation procedure would be less cumbersome and more realistic under the circumstances. It was recommended that the County initiate action through their State Senators to affect the condemnation.

In summarizing the foregoing, much effort went into the development of our master plan and compiling the necessary supporting data. We went to the public to get proper input

in trying to put together a plan which would be acceptable to all parties concerned. The proposed plan is not so much a reflection of just our efforts, but the collective efforts of the people and all of the concerned governmental agencies. We therefore deem this to be a healthy and viable plan for the overall development of this area.

We have basically adhered to the requirements of the State statutes and County of Hawaii ordinances. We have been guided by the policies, principals, and intent of the General Plan of the County of Hawaii in the development of this plan. We have tried to communicate with the public. Unfortunately, the public was unwilling to compromise. We do not wish to fight the strong public sentiments. We hope for a fair and equitable compromise. If this is not possible and condemnation is the only alternative, we will be willing to negotiate the sale of our land to the County or State. Since this is still uncertain and, at best, only a remote possibility, we must pursue our original course. If, however, condemnation is successfully instituted after we are granted the urban district, we will agree to sell the land at a fair market value based on A-la zoning. If this is not a gesture of our good faith, then I don't know what is.

Mr. Chairman, Commissioners, we have tried to seek a fair compromise. We have explored many avenues in trying to resolve this problem. We are still willing to compromise in

any reasonable manner. Your granting us the urban district will not jeopardize the public's interest. We only seek what is our right under the law. Your favorable consideration of our request will be greatly appreciated.

In closing, my apologies for this extremely long testimony and hope that it has enlightened you on the issues at hand and will help you render a fair and impartial decision. Thank you.

CHAIRMAN TANGEN: Thank you very much. Has that testimony been submitted in evidence?

KAZUO OMIYA: It will be filed.

CHAIRMAN TANGEN: It has been called to my attention that in contested cases the 15 days after the close of the hearing does not apply, so if you want to have that in, you get it in today, in whatever form it's in.

E. JOHN McCONNELL: We ask that it be marked as Exhibit H.

CHAIRMAN TANGEN: It's received in evidence. Do you wish to submit yours in evidence?

KAZUO OMIYA: I will turn it in later.

CHAIRMAN TANGEN: Today.

KAZUO OMIYA: Today.

CHAIRMAN TANGEN: Okay, let me ask now, we'll be closing this hearing - is today soon enough?

KAZUO OMIYA: To make it easy on you is the reason I brought it in.

CHAIRMAN TANGEN: Okay. Any questions from the Staff?

TATSUO FUJIMOTO: Yes, I have a question. What will be the impact of your total development plan, as proposed here, if at all; the timing of both the drainage system, the County and federal, does not come into culmination within the period that we are talking about, that is, 1974.

KAZUO OMIYA: We expect to have this implemented within the next 4 to 5 years. We do not know the exact day - this is what we have been advised by the U. S. Soil Conservation.

TATSUO FUJIMOTO: As I understand it, your development would be very much dependent upon the drainage system. This will be coming in about 3 or 4 years. What is your alternative if this particular area is not urbanized?

HENRY HOSHIDE: ----

TATSUO FUJIMOTO: I have another question. Apparently you have been committed, as you have stated today, to a compromise plan. Is your compromise plan in terms of your party with the County and the community, or how would explain that?

HENRY HOSHIDE: That will be submitted with our drainage plans and the calculations. We put forth this plan at the recommendation of the County. We went to the meeting at the DeSilva School on August 28th and we tried to explain to the people of Hilo. We did effect a compromise plan and this is what evolved from that meeting. We are asking for consideration for exchange of space for a higher density in one area. This will add, actually, about 300 more individual units in an area

of 200+ acres. We were ready to give to the city 82.8 acres of trees and open space at no cost to them. So, this is the plan that we have submitted as Exhibit C. It shows an area which is ---- and conforms to the plan regarding open area.

TATSUO FUJIMOTO: I have a final question to ask. This 157 acres that you have requested for residences. You also have the remainder, which includes the forest area. Assuming that you continue with this general plan you have right now, your priority then will be shifted to this area first in that the remainder of the area is not in urban as yet.

KAZUO OMIYA: That's true. We will proceed with a one-acre development in that area.

TATSUO FUJIMOTO: There will be a one-acre development in the other area?

KAZUO OMIYA: That's right. In a compromise plan we will add a different scheme; we will not destroy the forest.

CHAIRMAN TANGEN: Any questions by the Commissioners?

COMMR. SAKAHASHI: Mr. Chairman, we are talking about developments, and the exchange of land and compromises, but what is this about? Is it a subdivision for land sale or are you going to build the houses and sell as a package or what is it?

KAZUO OMIYA: We will sell land and we will build. Our basic intent is to build. We have already made contact with several companies and have made arrangements with a company in Seattle to begin custom design pre-fab homes and we will offer beautiful

homes at a very, very reasonable price. We planned on starting our subdivision January 19th - all the plans are here - no approval. We have the buildings, they are beginning to rust. So in answer to your question, we do intend to build.

CHAIRMAN TANGEN: Any further questions from the Commissioners?

SHELLEY M. MARK: These one-acre subdivisions. Is this where you intend to build?

KAZUO OMIYA: All this is the area we propose to the the one-acre subdivision in.

SHELLEY M. MARK: What's going to go on these one-acres? Eight houses are going to go on each one-acre?

KAZUO OMIYA: Yes.

SHELLEY M. MARK: You will put houses there?

KAZUO OMIYA: Yes.

SHELLEY M. MARK: The County has approved it?

KAZUO OMIYA: No, we submitted this plan in October of last year, and till this day even our first increment, consisting of 37 lots, which is right in here, and adjacent to an existing one-acre subdivision here, and they turned us down. We are planning to improve the drainage system of the existing subdivision in order to put in our subdivision. This will bastly increase the capacity of the conduits in that area, by approximately five times. Isn't that right?

HENRY HOSHIDE: About five times. This is not including freeborn. The existing system does not have freeborn. Our system, not including freeborn, would have a capacity five times above the existing system. With the freeborn, it will probably be closer to 8 or 9 times.

CHAIRMAN TANGEN: Any further questions from the Commissioners? All right, thank you.

Any members of the public wishing to submit any questions in writing to the Staff attorney? If you do, will you please come up to get paper and pencils. Anyone else of the public wishing to submit a question in writing?

Let's get one thing at a time, here. These have been submitted in evidence?

KAZUO OMIYA: These are original plans and we can provide copies.

E. JOHN McCONNELL: You will submit duplicates of everything you have submitted?

KAZUO OMIYA: Yes.

CHAIRMAN TANGEN: Any member of the public wishing to testify on this matter, please indicate so.

PHILIP YOSHIMURA: Mr. Chairman and members of the Commission, my name is Philip Yoshimura and I am before your honorable body as a concerned resident of Ainako, where I have been residing for the past 7 years. Also, my comments are based on the many community and PTA meetings we have had on this issue.

I would like to preface my statement to discuss the

overall development. I'm talking about the 375 acres.

I firmly believe that the State Land Use Commission should change the requested area for urban. However, before conservationists and fellow residents get up in arms, I would like to state the reasons for my recommendation.

Recommendations for changing the land use classification for some 150 acres in this parcel are based on the following reasons:

First, there is no clear-cut mandate from the community to preserve the entire forest. At the number of community and PTA meetings in which this issue was discussed, there were no clear-cut majority either in favor or against this development.

For example, at a meeting of the developer with various community residents in December, 1973, the residents present at the meeting seem to favor the development for one-acre size lots. Main concerns expressed at the meeting were the flooding problem and danger of the eucalyptus trees falling into their property.

Also, at a PTA meeting at which I presided when a show of hands was requested to see whether parents and teachers were in favor of keeping the forest area in its natural state, the measure won by one vote.

Secondly, it is believed that a compromise can be reached whereby it be made palatable for the developer, residents and the County.

In view of the fact that destroying the trees in its entirety would change the character of the community, some compromise should be reached to preserve this natural amenity, while allowing the developer to go ahead and develop the parcel to house lots.

Because the forest is a "borrowed" scenic landmark, compensation to the owner must be made should the County see fit to preserve it in its entirety. Recent sentiment expressed for downzoning the entire area for open space may not stand in court as a legitimate taking of rights without compensation.

It is estimated that outright condemnation may run as high as \$20,000 to \$30,000 per acre or about 4 to 6 million dollars for 200 acres. Because of the many fiscal constraints and higher priorities that the County has, it seems unfeasible for the County to buy out the forest area.

Therefore an adjustment of lot sizes from one-acre lots to a minimum of one-half acre lot sizes seems more compatible. Existing County zoning ordinance allows for this reduction as a cluster plan development whereby desirable natural areas are kept open while still keeping the same density. This is the basic reason that changing the land use designation to urban is recommended as your regulations do not allow for lots to be smaller than one acre in an agricultural zone.

However, it is believed that compromising to a higher density from 340 units to over 800 units is out of character for the community. In this compromise, it is believed that surrounding residents have a united front of opposing such higher density of 7,500 square foot lots and condominiums. We see no need to have additional land zoned for higher density in the Kauhamauna area, as a recent study shows that existing residential and agricultural one-acre zoned areas can provide for an additional 3,090 units as compared to some 750 units now located in the area from Ainako Avenue to Hilo Country Club. Also, the higher density will change the character of the community as well as overtax the existing roads and recreational facilities.

By keeping the development to low density, the developer would keep his development cost down by not having to provide a centralized sewer system, nor provide curbs, gutters and sidewalks, nor wider street pavements.

In closing, it is suggested that the State Land Use Commission and the County investigate the following proposals as conditions of approving the area for urban:

1. That the development be limited to a density of one unit per acre, with provisions for the developer to apply for cluster plan development, whereby 50% of the area can be reverted to open space.

2. That the County negotiate with the developer to obtain the open area as an outright gift so that the County can maintain and participate in a limited scale to provide a better access and recreational facilities to the development. Possibly, existing funds to acquire land for the Kaumana Terrace Playground can be diverted for development of a centralized recreational facility in the open area.
3. That the existing edges of the eucalyptus forest be subjected to selected clearing so as to eliminate the hazard of trees falling onto adjoining properties.

This concludes my presentation.

CHAIRMAN TANGEN: Do you want to submit that? You have already?

You may be seated. Any questions from the Commissioners?

SHELLEY M. MARK: Your recommendations are contingent on the completion of this drainage system. The recommendations you have just made - are they contingent?

PHILIP YOSHIMURA: Yes, on the assumption that the drainage would be improved.

SHELLY M. MARK: This particular system that was presented earlier?

PHILIP YOSHIMURA: There may have to be some adjustments to the drainage plan submitted. In the other open one-half acre lots, the configuration of the lots would be changed.

SHELLY M. MARK: Your recommendation is that you go down to half an acre? You also mentioned one unit per acre - 50%.

PHILIP YOSHIMURA: It is a one-acre zone. It comes out to about 20,000 square foot lots, with 50% density. If the remaining property if left in open space it could be used for forest area.

SHELLEY M. MARK: That's your recommendation?

PHILIP YOSHIMURA: Yes.

CHAIRMAN TANGEN: Any further questions from the Commissioners?

SUNAO KIDO: If we support your suggestion, would it necessitate any change in classification? Can't it be accomplished under the existing classification?

PHILIP YOSHIMURA: I believe not, because the existing State Land Use regulation allow for only one-acre units, in an agricultural zone. But the County Zoning Ordinance allow for one acre to come down to 20,000 square foot lots.

SUNAO KIDO: Would this be premised upon the State Land Use Commission making this a classification other than agricultural?

PHILIP YOSHIMURA: We had to allow from agricultural to urban. If that was so, then the County would direct the lots.

CHAIRMAN TANGEN: It is guaranteed under the existing law that there will be one residence only on one acre in an agricultural district. I understand that what you are saying is that if its placed in an urban district the County would then determine that the lots would be 20,000 square feet.

PHILIP YOSHIMURA: Right.

CHAIRMAN TANGEN: Any further questions for Mr. Yoshimura? Okay, thank you.

Anyone else wishing to testify on No. 10?

Yes, sir.

ROGER BALDWIN: My name is Roger Baldwin. I am an Associate Professor of Biology at the University; I am speaking for myself only. In the Hawaiian Islands we have a type of flood problem which does not occur in the Mainland. For example, I will point out that when a 5-inch rain hit one of the cities in Texas last year, it hit the papers all over the Mainland. If a 5-inch rain hit Hilo, it probably wouldn't even hit the Honolulu papers. It might or it might not, I don't know. I'm certain it wouldn't be in the Mainland papers.

Torrential rains are quite prevalent here in the Hawaiian Islands. In the year 1967 there were three floods that I know of, of at least 16 inches of rain falling. In this particular area being considered, 18 inches of rain falling in the space of 24 hours, most of it between 3 and 9 p.m. The total area being considered - 157 acres - being suggested today is about 400 acres. Each acre is about 30,460 square feet. This means that in a space of 6 hours approximately - now, if I am allowed to round off figures, I will take 400 acres x 40,000 square feet per acre - 16,000,000 square feet of land were covered with a foot and a half of rain. That means that there would be 24,000,000 cubic feet of water fell in this area in the space of 6 hours. That was July 25, 1966. I said '67 before, but it was '66. 4,000,000 cubic feet per hour or 1,100 cubic feet per second fell on that land. That particular area was hit in 1937,

1943, 1948, 1950, in the middle '50's and in 1966.

Let's see what happens if we clear the land. If we put the land into pavement, you will note from your own experience, that water immediately starts to flow as soon as rain comes into the area. On lawns and on cleared lands, if you watch it, sometime, after 1/4 inch of rain has fallen, the water will start to flow off the land.

If, however, this area is densely vegetated, now this does not matter whether it's forest or it's brushland, or whether it's covered with grassland to a considerable depth, only a moderate runoff will occur. This has been demonstrated experimentally and I can quote the figures from any of a number of sources.

What I am pointing out is that, undeveloped and unchanged, this land has a great water retention capacity. I have not seen from the figures for runoff in this area if they would be able to handle the problem in question. Remember that there was a flood in 1966. If they were to use the proposed flood drainage area facilities they are talking about, all they would be able to promise is that the next flood of 18 inches would be falling a little bit less than it was in 1966. This is not, however, going to preclude runoff in the area.

This area is a catchment area for about 600 additional acres. I get that from the topographical map. The area

itself would be extremely flood-prone. It would also cause flooding of adjacent areas in heavy rains. Remember that our Hawaiian problem is a very localized flooding. And these areas make it unsafe for anybody downstream.

This brings up a legal question. I am not a lawyer, but I can say that the increased flooding is predictable. If you clear the land, the flood danger will increase. There is no question about this, unless you are going to, perhaps, double the facilities. I'll wait and see. I don't see how they can avoid additional flooding. It would take a tremendous amount of flood-control to handle it. I would suspect, then, that anyone who was damaged by a flood after that would have a reasonable case to file suit against the developers, the County and the State because of this development in a flood-prone area. This procedure could be repeated every time there is a flood. The people who have bought from the developers could also file suit. Therefore, I suggest that there be a land exchange between the State or other government land and the developer to allow developers to develop other land and that this land be exchanged for that other land and therefore I recommend that the change in land use from agricultural to urban be not allowed in this particular case.

CHAIRMAN TANGEN: Thank you. Any questions by the Commissioners?
Thank you. Anyone else wishing to testify, kindly stand.

SUSAN IRVINE: My name is Susan Irvine. I live in the flood-inundation area of Akolea Road where they plan to build 700 residential units. I think you have a report from the Waikea Soil and Water Conservation Board along with the County Planning Report on it. This report indicates that it would be a flood control disaster to allow latitudes to be broken and the swamp in this area to be filled. This honorable body, itself, has repeatedly pledged fire protection on the space above. The agency responsible will be held accountable.

After 11 months, the developers have not been able to get the County approval for their plans. They have been unable to get County support and they are unable to find adequate provision for flood control and sewage disposal. County employees and Kobayashi employees have spent long hours on these matters but they have been unable to reach a solution. They can't reach a solution because, unfortunately, the lands Kobayashi owns are not suitable for subdivision. If they were, the sugar company would have done so right away rather than selling them to a foreign firm who did not understand the large problems in Hilo.

Kobayashi failed to make their map until March of this year, when they went in to do a water study. If they had looked at their purchase they would have seen they own a deep-forested slope with streams and a flat swampy lake.

Not more than 20 to 50 of their 375 acres is subdividable. The government was mistaken to allow this area to become agricultural one-acre as the land is not suited to cultivation or one-acre lots. Long ago, the sugar company removed this area from cultivation because it was too wet in which to grow cane. Now, insurmountable problems are arising.

In 1974, the Hilo Economic Development Plan by Belt-Collins and Associates of Honolulu states: "The eucalyptus forest of Hilo is the only forest Hilo has and that it should be preserved" by one of three methods which it has suggested to you today: downgrading to conservation, by County purchase, or by rezoning parts of the Kobayashi land urban in exchange for Kobayashi dedicating the remainder to the County.

Kobayashi is attempting to look as though they were following this third alternative. But neither the Belt-Collins Plan nor Kobayashi have noted that other than dense forest all Kobayashi holds is a vital watershed, a flood plain. If the State zoning lets Kobayashi and the Belt-Collins Plan leave this land for flood survival, the State can find other land for Kobayashi to develop. This land should be downzoned to prevent further misunderstanding. It is the responsibility of this Commission to downzone this area to conservation.

CHAIRMAN TANGEN: Thank you. Any questions from the Commissioners?

Anyone else wishing to testify on this matter? Yes, Ma'am.

HELEN BALDWIN: My name is Helen Baldwin. I am a member of the Conservation Council of Hawaii and I speak of behalf of the conservation Council. I live in the Kaumana area, not the Ainoko area, but the Kaumana area, which is down here.

I was there through a storm in 1948 in which that area flooded so much that we were unable to get out of the area to go to work or to school and the Waipahoehoe River was flooded and the land further down, but it did not affect those people. This was outside of the Kobayashi area, but it shows what generally happens in that whole area.

I have told the Kobayashi people that I appreciate their efforts. They are willing to arrive at some kind of compromise and I appreciate that. However, now, let us go back across the stream.

The whole area, including the Kobayashi area, is actually an ancient lava bed and it has been filled from time to time by lava flow. The upper lava flows have been pahoehoe which means that they are full of lava tubes and that the water coming down from the Country Club area will come down through them. So you're not only dealing with surface water, but also the water in the lava tubes, down below them. While these get choked to capacity and they lead upward into the lava tubes above them. The area which provides much of this water is in a higher rainfall area. Over 200 inches a year

average. It's not as much this year because it goes in a cycle. But the average is over 200 inches a year. Most years it is over 200 inches. This is in the area mauka of the Kobayashi area. In other words, this is a flood-prone area. It seems to be less partly because of the trees growing on it and partly because of the lava tubes which hold much of the water.

If this land is exchanged in whole or in part for State land elsewhere, it might be easier and cheaper for the Kobayashi people to develop their one-acre lots for which there is a great demand, I am told, for townhouses and such. So if this exchange can be made for State land, either by the State or the County, and developed into a larger park with trails for horseback riding and maybe a smaller area for picnic facilities, I think this is the kind of use for this land that would be appreciated for generations to come.

This is my recommendation, based on the report of the Conservation Council. Thank you.

CHAIRMAN TANGEN: Thank you. Any questions from the Commissioners?

I would like to point out that in the matter of land exchange, this Commission has no authority to order anyone to exchange land with the State or anyone else.

HELEN BALDWIN: Shouldn't we keep the land from being zoned for urban use? On one-acre agricultural zoning, is there a chance for exchange through the proper channels?

CHAIRMAN TANGEN: That is someone else's kuleana, not the Commission's.

Yes, sir.

SATYAE SOOD: My name is Satyae Sood. I won't take much of your time because my wife is ill. I wish to make a statement of my concern. (Testified too close to the microphone - can not understand testimony.)

CHAIRMAN TANGEN: Thank you. I'll ask those testifying to pass by the Secretary and make sure that she has your name spelled correctly. Anyone else wish to testify on this matter?

Yes, sir.

CHARLES SCHUSTER: Mr. Chairman, members of the Commission, my name is Charles Schuster. I am a resident and property owner in the area that would be affected by this zoning. I would like to state for the record that I am speaking on this item as a private citizen and not in any official capacity. I am a non-supporter of this proposed development. I believe that it would not meet the criteria for land use changes as enumerated in the General Staff Report, which we have received today. I believe it is contrary to stated goals, policies and standards of the County's General Plan. I enumerated some eighteen points. I will not go over those with you now, but I was hoping the County Planning Commission will present their side of the agreement to you. The development will result in the destruction of a natural resource which the County Plan

urges should be preserved. Regarding some of the statements that were made, and I hope we will be able to knock off the latter, I would like to have the County Compromise Plan clarified, so far as the County Planning Commission takes no action of these plans.

Insofar as your recommendations are concerned, Mr. Young, of the Planning Department, might purchase property, by condemnation negotiations. I might suggest that this is not as outrageous a suggestion as it might seem. The county some time ago purchased land in Waipio for this purpose and the total acreage purchased was under five acres and the price was only \$259,000 an acre was paid for this land. Any purchase under \$10,000 an acre would be a bargain for this area. Not too long ago, the County was willing to condemn nine acres costing about \$900,000.00, or \$100,000.00 an acre. The County today is thinking of purchasing nine acres of land in Kualea for \$900,000.00 or \$100,000.00 an acre.

Clearly, from the County Council's point of view, purchase of this land ----. And so for as the compromise plan for the development of this area is concerned, I presume that when this land was purchased it was zoned agricultural one-acre, and the assumption was that this 375 acres to be developed in one-acre lots, we would have to have 375 lots in this area. But now, they're proposing over some 800 units into this area.

Gentlemen, I would call that enough for advising an exchange. In fact, I think I would prefer to endorse the previous statements on this project.

CHAIRMAN TANGEN: Thank you. Any questions from the Commissioners? Anyone else wishing to testify, please come down.

JOSEPH MONANE: My name is Joseph Monane and Chris Yuen has been required to start work at this hour and has requested me to read the following statement to the members of the State Land Use Commission.

In considering the application for the 157 acres of urban zoning by the Kobayashi Development Co. please pay attention to the following points:

1. The total 375 acre parcel owned by the company includes the largest single grove of trees in Hilo. These eucalyptus trees form an impressive scenic backdrop to the town. Many have expressed the strong sentiment that this grove of eucalyptus trees should be preserved. The plan of the developer, which envisions 863 housing units on the parcel when completed, retains some of the densest stands of trees but would remove a considerable part of the dense forest. The Preliminary Hilo Community Development Plan prepared for the County of Hawaii by a consulting firm calls for the pre-servation of the forest and suggests three possible alternatives: (1) downzoning the entire parcel to Conservation,

(2) an exchange of lands between the State and Kobayashi, or (3) an exchange of urban zoning to the developer for part of the land, with the balance becoming Conservation. It is this last course which is apparently being followed by the County and Kobayashi. But the dimensions of the exchange being negotiated are considerably different from that called for by the consultants. They suggest perhaps 100 acres of urban zoning - which would still allow the developer more units than under the present agricultural zoning. However, the plan Kobayashi has described would require over 200 acres of urban zoning, along with 71 acres of one-acre subdivision land, leaving only about 90 acres in Conservation.

I would like to suggest that the Commission decide that what should really be cut down in the Ainako Forest is the scale of development, not the trees.

2. In response to public requests the developer has met with the DLNR to negotiate for an exchange of land. The Commission should be careful to insure that a rezoning will not make it more difficult for the two parties to negotiate an exchange that is advantageous to the people of Hawaii.

3. The shortage of housing in Hilo is particularly acute in the low and moderate income brackets. Because of the high site development costs caused by the flood control measures on the Ainako property it seems unlikely that the development planned there will meet the needs of the groups

that have the biggest problem.

In summation the problem of the preservation of the Ainako Forest is caused by the present one-acre agricultural zoning. This zoning is completely inappropriate for a piece of land which is an important scenic asset besides being a necessary watershed for the homes downstream from it. The State and County should cooperate in reviewing the many areas of Ag-1 zoning on the Big Island. In few cases, do they meet legitimate needs of the Island's people, and in many cases, like in Ainako, they are definitely harmful.

CHAIRMAN TANGEN: Thank you. Stop by the Secretary. Make sure the secretary has the spelling of your name correct. Yes, sir. Anyone else wishing to testify on No. 10? Yes, sir.

NORMAN HAYASHI: I'm Norman Hayashi, representing ---- properties. There are three points I would like to clarify that were brought up today.

First of all, in answer to Mr. Omiya, whether the plans were presented to compromise the County and the developers - this is not so. The County Planning Commission has not acted or has directed this recommendation to the various Commission as yet. We will do so within a three day period.

Secondly, the whole subdivision as proposed by Kobayashi is not in the realm of the area under consideration today, they did say that the Planning Commission had denied

their approval of their first increment of the one-acre subdivision - this is not so. The action has been deferred.

And thirdly, earlier today, it was made reference to the June ---- development plan present to the Commission ----. Thank you.

CHAIRMAN TANGEN: Thank you. Any questions from the Commission? Anyone else wish to testify? If not, the hearing will be closed on this item. All persons other than parties in the contested case have 15 days in which to submit additional evidence or testimony to the Land Use Commission, in writing.

We will take a ten-minute recess.

[The hearing was recessed at 3:35 p.m.]

CHAIRMAN TANGEN: We will call the meeting to order. Will those outside please come in? I just want to point out to all of you that we have published notice for a meeting in Kona tomorrow which we have to attend, and the rate we are proceeding now, we have some doubts on about how far we are going to get. We are going to ask for your cooperation again to make you comments as brief as possible. If you have them in writing, to submit them to the Secretary. If it is going to be repetitive, merely give your name and say that you support the position taken. As you notice from the last matter, there were some testimonies which just repeated what was said before - on many important points which had already been made. So let us proceed now to Docket No. 11, 40 acres from agricultural to urban in Hilo. Any parties ready, come forward please. Apparently there are not parties to this matter. Does the Staff have a report to submit?

E. JOHN McCONNELL: Yes, the Staff submits this 1974 Boundary Review Report pertaining to the Island of Hawaii and the Specific Report pertaining to Docket No. 11 as Exhibits A and B respectively.

CHAIRMAN TANGEN: They are received. Do the Commissioners or any parties wish to examine the Staff? If not, we will recognize the landowner or lessee if he or she wishes to make a presentation. No? Obviously, then, I guess there will be —

any questions from members of the public who wish to submit a question in writing to the Staff Attorney regarding this matter? The indication is that there is none. We will go to the public. Anyone in the audience wishing to testify on No. 11? The indication is that no one wishes to testify. Any questions from the Commissioners? The hearing on Docket No. 11 is closed. All persons have 15 days in which to submit additional testimony or evidence to the Land Use Commission in writing at their office in Honolulu.

We will go on now, to No. 12, 325 acres from agricultural to urban at Waiakea. Any interested parties please come forward.

E. JOHN McCONNELL: State your name, please.

JEFFREY CHOY: My name is Jeffrey Choy. I am an attorney representing Tax Key No. 2-4-3-5.

E. JOHN McCONNELL: Mr. Choy is properly a subject to this proceeding.

CHAIRMAN TANGEN: Does the Staff have a report to submit?

E. JOHN McCONNELL: The Staff submits the 1974 Boundary Review Report pertaining to the Island of Hawaii and its report pertaining to Docket 74-12 in evidence as Staff Exhibits A and B, respectively.

CHAIRMAN TANGEN: Mr. Choy, can I get your receipt in evidence?

JEFFREY CHOY: Mr. Chairman and Commissioners, my comments will be very brief.

CHAIRMAN TANGEN: I don't think that mike is on, Mr. Choy.

(pause) Mr. Choy, if this is done to impress us that you need additional time to present your case, you're doing a pretty good job, here.

JEFFREY CHOY: Mr. Chairman, again, my name is Jeffrey Choy and I represent the landowners in the subject area. The Commission may recall that I previously made an application. I would not normally have offered comments today because I think the Commission is probably painfully aware of the history of the Waiakea area. The landowners are in favor of the position taken by the Staff. My comments, however, are prompted by what happened at the meeting the other night with the County Planning Commission.

The County Planning Commission took the position that they would recommend to this body that the State Land Use Commission as I understand it, treat this area on a case-by-case basis. In other words, as I recall, they said that the Land Use Commission should rezone according to the application of the individuals of that area. I have several objections to this.

One, it simply does not square with what I understand is the basic thrust of the Boundary Review Commission. I think the purpose of our being here today is to look into general planning schemes in terms of what is best for a

general plan including a parcel-by-parcel rezoning which comes at a later and more appropriate time. I therefore feel that the application of the Land Use Commission is somewhat inappropriate.

Secondly, I was hoping the Commission might interpret this action as reflecting a groundswell opinion in that area against the condition today. My understanding is that the only reason the State and County Planning Commission took this unusual step, in response to the letter which was submitted by Alexander Wung, one of the landowners in the area. To my knowledge, this is the only adverse testimony that they received. He wants to preserve his homeland for agricultural uses.

With all due deference to Mr. Wung and to the Planning Commissioner, I don't really consider this the type of testimony that is appropriate. I think we should be concerned, rather, with the projected use of the area is over the next five years. Here the State Land Use Commission should consider the type of thinking that was exhibited by the County Planning Commission which is to treat the Waiakea area parcel-by-parcel, rather than in terms of the Waiakea area as a whole.

If the Land Use Commission really wants to protect the interests of Mr. Wung, consider the alternative suggestion, that you at least change from agricultural to urban the area

between Kaiualani and Kuulau Streets. Mr. Wung's property, as I understand it, is on the Honokaa side of Kaiualani Street, I believe. So by doing this, you would then have Mr. Wung's property remaining agricultural and at least have that area which is in the Kaiualani-Kuulau area which is one contiguous area be designated for urban rather than agricultural uses. I am not advocating this, but if the Commission is going to try to meet Mr. Wung's objections, and somehow divvy up the area, that we at least do it on this basis, rather than on a parcel-by-parcel basis. Thank you.

CHAIRMAN TANGEN: Thank you. Does the Staff wish to examine? Is there any one of the public here wishing to submit a question in writing to Mr. Choy or the Staff attorney? Anyone of the public wishing to testify on this matter? Any? Sir?

LESTER WUNG: My name is Lester Wung, landowner in the area.

CHAIRMAN TANGEN: Were you sworn in?

LESTER WUNG: No, I just arrived.

CHAIRMAN TANGEN: Oh, I'm sorry. Do you solemnly swear that the testimony given the State Land Use Commission is the truth, the whole truth, and nothing but the truth, so help you God?

LESTER WUNG: I do.

CHAIRMAN TANGEN: Thank you.

LESTER WUNG: There is a subdivision already in the area around Kaiualani Street. There has been a 140-bed hospital on the

mauka side of the street which was permitted by Special Permit in 1971. If Alex Wung wants to have his agricultural maybe he could have it by having the whole area urban.

I request that it be zoned urban.

CHAIRMAN TANGEN: Thank you, Mr. Wung. Any questions from the Commissioners? Anyone else wishing to testify on this matter? If not, the hearing on Docket No. 12 is closed. All persons have 15 days in which to present additional evidence or testimony to the Land Use Commission, in writing, at the Honolulu office.

We will proceed to Docket No. 13, 110 acres of urban to agricultural at Keaukaha. Will the parties come forward, if there are any? I believe there are no parties. Does the Staff have a report?

E. JOHN McCONNELL: Yes, the Staff moves the introduction of the 1974 Boundary Review Report pertaining to the Island of Hawaii and its report pertaining to Docket No. 74-13 to be submitted as Exhibits A and B respectively.

CHAIRMAN TANGEN: They are received in evidence. Now let's go back. Mr. Yamada, do you wish to speak as a party of interest?

ROBERT YAMADA: My name is Robert Yamada. I am a lessee on this parcel.

CHAIRMAN TANGEN: A lessee? State your name for the record.

ROBERT YAMADA: My name is Robert Yamada. I am a lessee on this parcel.

E. JOHN McCONNELL: The Staff has no objection to his admission as a party.

CHAIRMAN TANGEN: You may proceed, Mr. Yamada.

ROBERT YAMADA: Mr. Chairman and members of the Land Use Commission, I am a lessee on this parcel from the Bishop Estate. As far as the portion 146 which has a very small impact on boundary lines, I spoke to one or two trustees that my family is very interested in developing this area in the future. However this is subject to land use change. But because this small portion is affected, I thought I ought to come forward and inform this Commission what our plans are for the future.

In any event, pertaining to half-acre or one acre of this portion here according to the boundary lines. I am not very sure of it because this was listed in this adjacent portion 146. I have 148 acres in total in this area. Later on I plan to request an area of my land for development, and it may affect it at that time, so this is my reason for appearing before this Commission at this time.

CHAIRMAN TANGEN: Thank you. Does the Staff wish to examine? Any questions from the Commissioners?

E. JOHN McCONNELL: No questions.

SUNAO KIDO: Do I get you correctly? Do you say you have 140 acres?

ROBERT YAMADA: No. The total lease area is 148 acres.

SUNAO KIDO: Within this particular area?

ROBERT YAMADA: No, the entire lease that I have.

SUNAO KIDO: I see, okay.

CHAIRMAN TANGEN: Any further questions by the Commission? Thank you, Mr. Yamada. Does a member of the public wish to submit a question in writing? The indication is that no one wishes to submit a question in writing. Any one of the public wishing to testify?

HELEN BALDWIN: My name is Helen Baldwin. I was a landowner and former resident in Keaukaha. This is my background. This area should remain urban area because it contains the large ponds which have been used for hundreds of years probably by water fowl as their winter range. It is also used for Conservation. At one time it had a Kauhiki ranch for raising ---- for sale. It is a swampy area for a large part damaged by various sunamis when they come and when heavy storms and heavy rains come, they bring fresh water into the area.

These combinations plus the fact that the airfield is right behind it, seem to me to be a sufficient reason why they should not make it urban zoning. I request that it remain in agriculture or possibly be zoned for Conservation.

CHAIRMAN TANGEN: Thank you. Any questions by the Commissioners? Anyone else wishing to testify in this matter? Mrs. Mull?

MAE MULL: My name is Mae Mull and I am the Big Island representative of the Hawaii Audubon Society. We support the changes in zoning from urban to agriculture because it is in a sea coastal

area and also because the waters and waterfalls are also used by native birds. We wondered why it was not considered to be put into Conservation. If a change in zoning is to be effected, why does it not go back to Conservation? Is it going to be answered, this question, instead of having to go to agriculture?

CHAIRMAN TANGEN: No, the question is mute. Because this Commission now can either only keep it urban or change its designation to agricultural. Thank you. Anyone else wishing to testify?

TATSUO FUJIMOTO: Mrs. Mull, the pond area is already in conservation.

CHAIRMAN TANGEN: Anyone else wishing to testify on No. 13? If not, we will close the hearing on No. 13. All persons may have the right to submit additional testimony or evidence in writing to the Land Use Commission office in Honolulu within 15 days. We'll go on to No. 14.

Docket No. 14

3 acres of urban to agricultural at Keaau. Are there any parties present? There are no parties present to this matter. Does the Staff have a report?

E. JOHN McCONNELL: Yes, the Staff wishes to introduce its General Report pertaining to the Island of Hawaii, and the Staff Report pertaining to Docket No. H74-14 as Exhibits "A" and "B" respectively.

CHAIRMAN TANGEN: They are received in evidence. Does the landowner or lessee wish to make a presentation? The indication is no. Does any member of the public wish to submit a question in writing? The indication is no. Any member of the public wishing to testify on this matter? If no one wishes to testify do the Commissioners have any questions? The hearing on Docket No. 14 will be closed. All persons are advised that they have 15 days in which to submit additional evidence or testimony in writing to the Land Use Commission Office in Honolulu.

Docket No. 15

1.3 acres from agricultural to urban at Kurtistown.

Any parties here involved in this matter? There are none.

E. JOHN McCONNELL: There's one.

CHAIRMAN TANGEN: There is a party here? Will you please identify yourself to the Staff Council.

DANIEL HATA: My name is Daniel Hata.

E. JOHN McCONNELL: Are you the owner of this property? Which portion? The Staff has no objection to your admission as a party.

CHAIRMAN TANGEN: Does the Staff have a report?

E. JOHN McCONNELL: Mr. Hata has informed me that he does not wish to participate in these proceedings.

CHAIRMAN TANGEN: Okay.

E. JOHN McCONNELL: Yes, the Staff moves for the introduction of its General 1974 Boundary Review Report pertaining to the Island

of Hawaii and its specific report pertaining to Docket H74-15 as Staff Exhibits A and B respectively.

CHAIRMAN TANGEN: Received in evidence. I understand the representative of the owners does not wish to participate. Does any member of the public wish to submit a question in writing? Any member of the public wishing to testify on this matter? Do the Commissioners have any questions? The hearing on docket No. 15 is closed. All persons are advised that they have 15 days in which to submit to this Commission any further evidence or testimony in writing to the Commissioner's office in Honolulu. We will proceed now with No. 16.

Docket No. 16

17.4 acres from urban to agricultural at Mountain View. Are there any parties to this matter? There are none. Does the Staff have a report?

E. JOHN McCONNELL: Yes, the Staff again submits its 1974 Boundary Review Report pertaining to the Island of Hawaii and the Specific Report pertaining to Docket H74-16 as Staff Exhibits A and B respectively.

CHAIRMAN TANGEN: They are admitted in evidence. Do the landowner and lessee wish to testify? The answer is no. Does any member of the public wish to submit a question in writing to the Staff or Counsel? There are none. Any member of the public wish to testify on this matter? Yes, sir.

CHARLES SCHUSTER: (Indiscernible from tape)

CHAIRMAN TANGEN: Any questions from the Commissioners?

TATSUO FUJIMOTO: I have a clarification. When you said it was requested for dedication, it has not actually been approved? We did not get to each parcel to determine whether it was dedicated. However, we did a sufficient number in that time.

CHARLES SCHUSTER: I apologize if I misled you. It is my understanding that it was submitted for approval.

CHAIRMAN TANGEN: Let the record show that we do not have knowledge showing it was approved. Anyone else wishing to testify in this matter? There are none. The hearing on Docket No. 16 is closed. All persons are advised that they have 15 days in which to submit additional information to the Land Use Commission's office in Honolulu. We will proceed with No. 17.

Docket No. 17

140 acres from urban to agricultural and conservation in Kapoho. Any parties please come forward. We will proceed. We have two 17's on the master list, 140 and 10 acres, but in the docket folio that I have, there is only one. That's the 140 acres. Is there one or two?

TATSUO FUJIMOTO: The reason that we have two identical 17's is that one is urban to agricultural and the other is to conservation.

CHAIRMAN TANGEN: Oh, I see. Okay. So the urban-agricultural was separated from the urban-conservation in terms of tax map keys. That's what happens with a new map.

That's what happens with a new map. Is there any objection to our consolidating these into one as we have them? Then a correction in the terms of the exact acreage can be made. Does the Staff have a report?

E. JOHN McCONNELL: I just wish to make it clear for the record now that the parties to this case are Gilbert Hara, the attorney representing Kapoho Land and Development Co., Ltd., and Mr. Kazuhisa Abe, representing Vacation Land Associates and also appearing especially on his own. Mr. Chairman, the Staff —

KAZUSHISA ABE: Pardon me, may I make this presentation before we go on?

CHAIRMAN TANGEN: We are required, under this procedure, to have a report from the Staff.

KAZUSHISA ABE: I am making a special appearance and so far, my personal concern is with Parcel 22. Parcel 22 is owned by James Kauai, Eddie Kauai, Yatsuo Kauai, Yoshinoko Kauai, Stanley Hara and myself. We have not been served with notice of these proceedings as required under Chapter 91 and we feel that we have not been properly notified, insofar as we are concerned, on possibly two counts.

E. JOHN McCONNELL: The Staff's position is that service was made. You will appear especially to object to the service on that category?

KAZUHISA ABE: On one count, possible two.

CHAIRMAN TANGEN: We are asking if you are waiving service on the other parcels other than 22?

KAZUHISA ABE: No. There was service on Vacation Land by certified or registered mail.

TATSUO FUJIMOTO: Mr. Chairman, in terms of making this determination of ownership, at this point, I could only say that I would check it back to see whether, in fact, this particular parcel was overlooked or not.

CHAIRMAN TANGEN: All right. Now we proceed.

E. JOHN McCONNELL: I too will check on service.

Staff moves that the introduction of its General Staff Report pertaining to the 1974 Boundary for the Island of Hawaii and its Specific Report pertaining to Docket No. H74-17 in evidence as Staff Exhibits A & B respectively.

CHAIRMAN TANGEN: They are received in evidence.

E. JOHN McCONNELL: The Staff has no further direct evidence.

CHAIRMAN TANGEN: Mr. Hara?

GILBERT HARA: Mr. Chairman, I am here primarily to testify on Tax Map Key 1-4-02;03 and I am in opposition to proposed change of land use classification from urban to agriculture. At this time I would like to direct a question to the Staff members.

CHAIRMAN TANGEN: Is this your cross-examination, Mr. Hara? Rather than direct?

GILBERT HARA: I'll make my direct position later.

CHAIRMAN TANGEN: Okay.

GILBERT HARA: I have here a Staff Report which was prepared by the Staff members primarily for the Island of Hawaii and also the Specific Reports. This Staff Report is H74-17. I would like to know if this was the only study conducted by the Staff members?

TATSUO FUJIMOTO: Are you referring to a specific parcel?

GILBERT HARA: Yes, I'm looking at the specific study made under H74-17. And the remarks of the Staff.

TATSUO FUJIMOTO: Let me put it this way. The final objective of the particular classification was to focus on the type of land that was not developed after the survey was taken. This particular area has been recognized since 1964 and we would like to find out from people as to performance of this particular area in regard to its use.

GILBERT HARA: You see the reason I am asking is that the Commission should give sufficient reserve for urban development. Now, the way I look at it, you're taking away all of the urban land in the whole area, by this classification. Is there other urban land?

CHAIRMAN TANGEN: Let the record indicate that the Staff and Mr. Hara are at the map identifying parcels of property.

GILBERT HARA: Mr. Chairman, the map does show urban areas, but I would like to indicate that those areas have already been

developed. There are homes on some of them and most of the lots are individually owned. I mean urban areas suitable for development and there is none in that district. This is the only area in the General Plan, also, that the General Plan has set aside as "urban". This is why I have the objection.

My next question is this: in doing your review, did you make any study of the land types? Can they be used for agriculture?

TATSUO FUJIMOTO: In terms of whether they can be used for agriculture or not, I would state it this way — that that area had not been assessed suitable for agriculture. We are looking at it in terms of whether it should be urbanized or not and that agricultural classification under 205.2, if I'm not mistaken, also includes land not only suited for agriculture but can include other land.

GILBERT HARA: I realize what the rule and regulations of the Land Use Commission states, but I feel that in order to valid — I can't see transferring urban lands when you don't have any urban lands left and contrary to agriculture when it is not suited to agriculture.

We cite you to the land classification as shown in Detail Land Classification - Island of Hawaii, prepared by Land Study Bureau, University of Hawaii. S. L. Bulletin No. 6, dated November 1965. On Map No. 696 and 697 the

land is classified as E 3 or 2. On page 30 of this study, Table I tells us what 3 or 2 represents. On soil series it indicated almost bare pahoehoe; depth - no soil material; color - brown to black; parent material - pahoehoe; drainage - well drained; slope - 0-20; climate - humid; mean annual rainfall in inches - 60-90; machine tillability - unsuited. On page 45 of this study, under the heading Land Class Acreages, it quotes as follows: "The Big Island Agriculture Lands have been grouped into suitability classes based upon the master productivity rating presented in Table 3. Descriptively these classes are as follows: A - very good; B - good; C - fair; D - poor; E - very poor." In this instance, our property is classified as E, meaning that the property is unsuitable for agriculture, that it is very poor.

The Land Commission plan is not in line with the County plan. The County of Hawaii plan calls for urban land. The County plan for urban land should be taken into consideration. This land abuts present urban zoned land. If you go through the rules and regulations of agriculture land, although I believe there are agricultural lands in there, I think you will find that the land is not good for agriculture.

Now, take this land - the urban district. If you know anything about the rules and regulations of agriculture,

certain land can't be included in there. We can reserve land for urban purposes. The land is not suited for agriculture. State plans take into consideration the classification for land use. I would like to indicate to you that I had an interview with the Deputy Manager, Department of Water Supply for the County of Hawaii on September 24, 1974, as it relates to the proposed water system. The proposed water system was developed in October, 1967. The Kapoho water system was developed in 1967. The State expended \$240,000.00.

CHAIRMAN TANGEN: Mr. Hara, really this isn't cross examination. You are presenting your position.

GILBERT HARA: Okay, I will go into my testimony at this time.

What I mean to say is this. Before the water system, the Department of Water Supply was built by State funds. Therefore, the State must have been convinced the system was necessary. The Kapoho water system has two pumps, rated at 100 gallons per pump per minute. In addition, there are 3,200 linear feet of 12 inch pipe and 6,920 linear feet of 10 inch pipe. The Kapoho water system was put in for orchid farmers and for the residents in the beach lot area, as well as, to provided for future urban and agricultural needs. The total capacity of the Kapoho water system is 288,000 gallons per day. This is the irony of the situation. Here

we are with all this water and yet with today's present use according to last month's figures its 4,000 gallons a day consumption. The Land Use Commission should look into the plan of the State.

I feel the Land Use Commission must comply with §205-4 of the Hawaii Revised Statutes. §205-4 disusses the requirements in amendments to district boundaries. In the second paragraph the statute reads as follows:

"No change shall be approved unless the Petitioner has submitted proof that the area is needed for a use other than that for which the district in which it is situated in classified, and either of the following requirements are fulfilled: (1) the Petitioner has submitted proof that the land is usable and acceptable for the use it is proposed to be classified, or (2) conditions and trend of development have so changed since the adoption of the present classification, that the proposed classification is reasonable."

We feel that the situation does not meet any of these conditions and therefore, we feel that any indication of a boundary change does not comply with the provisions of the statutes. I have submitted a written statement as part and parcel of our position. This is only some of our testimony.

CHAIRMAN TANGEN: You mean you wish to submit this in evidence?

Any questions by Staff Counsel?

E. JOHN McCONNELL: No questions.

CHAIRMAN TANGEN: It is submitted in evidence. Does the Staff wish

to examine Mr. Hara?

TATSUO FUJIMOTO: I have a question. In your parcel, what kind of plan do you have at this point?

GILBERT HARA: The Kapoho Land and Development Co., Ltd. is a large landowner. They do have approximately 5,000 acres of land. Now, at one time they had a certain party offer to purchase from them, and we could not do any development plans. It is my understanding at the present time that they do have plans to develop that area. This is the probably reason for it.

E. JOHN McCONNELL: Do you have a time table on that?

GILBERT HARA: Well, due to the present economic conditions, we are waiting for the "tight money" situation to relax before we proceed.

E. JOHN McCONNELL: So, given existing economic situation, you are not planning to develop the property until those conditions change.

GILBERT HARA: Right.

CHAIRMAN TANGEN: Any further questions by the Staff? Is there another party wishing to examine? Justice Abe? Do these Commissioners wish to examine Mr. Hara? Mr. Hara, will you come back, please?

GILBERT HARA: I am not aware of how much development has taken place at Kapoho.

COMMR. SAKAHASHI: In terms of development, what do you mean?
Agricultural development?

GILBERT HARA: No, urban development.

COMMR. SAKAHASHI: Right now, the only place you have urban development is the place we've been talking about and the area of pre-existing urban which has basically the 14 parcels in that subdivision. That's the only urban area you've got in your district.

GILBERT HARA: This plan has been urban since 1964. It's been ten years since that plan.

COMMR. SAKAHASHI: How long was the option that you mentioned?
How many years' option did you have?

GILBERT HARA: The option was '67 to '73.

COMMR. SAKAHASHI: Since there has been no development since that urban classification, do you feel this land was urbanized the wrong way? That we urbanized too much urban land?

GILBERT HARA: No, I don't think so. The law requires that the Commission set aside a certain amount for reserve. The law does not require that you set aside land not being used as classified.

TATSUO FUJIMOTO: Let me ask you something? What size of an area would be suitable to reserve for future development? In an area like Kapoho? What size area would you say the Land Use Commission should set aside? You say that we are

taking all of it away.

GILBERT HARA: It seems like you are.

TATSUO FUJIMOTO: Judging from the type of development you've had from the past, what size area would you suggest? How much area do you think we should reserve, and put aside, as urban in that area in this five year boundary review?

GILBERT HARA: 150 acres.

TATSUO FUJIMOTO: 150 acres? Thank you.

SHELLEY M. MARK: Does papaya grow on any of these parcels that you are representing or are at issue?

GILBERT HARA: No, not really. The reason is this - it is too expensive. In the Kapoho area, that means you are going to have to come in through the river. In all probability, you are going to have to truck in soil. There is not available land in the whole area. I talked to an essential landowner who does have approximately 350 acres and he has approximately 300 acres additional land for future expansion.

SHELLEY M. MARK: These parcels you represent - it is not possible to grow papaya? There is no papaya right now?

GILBERT HARA: People don't want papaya property in Kapoho. It is too expensive.

SHELLEY M. MARK: Is it rated higher than E land? That is generally rated higher than E land? No papaya growing on E land?

GILBERT HARA: None is Kapoho.

SHELLEY M. MARK: None that you know of.

CHAIRMAN TANGEN: Any further questions by the Commissioners? Okay, Justice Abe. Please, for our record, please repeat the statement that you made.

KAZUHISA ABE: Yes. I am making a special appearance insofar as Tax Map Key 1-2-2:22 which parcel of land is in the names of James Kauai, Edwin Kauai, Yatsuo Kauai, Yoshinoko Kauai, Stanley Hara and myself, for the reason that we were not served notice of this hearing. I am here as attorney representing Vacation Land Associates. Vacation Land Associates is a limited partnership with Kauai, Inc. as general partner and approximately 50 limited partners. The major stockholders of Kauai, Inc. are James Kauai, Stanley Hara and myself.

I would first just like to ask a question posed by Dr. Mark to Mr. Hara. If you can match all the data from public land, there is a sub-division of five-acre lots, we were apparently nuts about seven years ago, to get the idea that papayas could be planted here. We put in a tractor, ripped the soil, brought in ash for the soil and divided the lots as well as managing the corporation of which I was a secretary. We lost our shirts.

I know it is impossible to grow anything on the parcel of land which is being downgraded from urban to agricultural. I would have no objection if it was possible to raise any

kind of crops. The only thing that it can be used for is further development. Let me ask you this question. Assuming these lands are classified as urban, who benefits? All the taxpayers of the County of Hawaii. If we damn fools want to pay higher taxes, if we classify urban, nobody else is losing money.

Now, as Mr. Hara stated, there is a water system which cost the taxpayers almost half a million dollars. He says they are using the water about 4,000 gallons a month. Isn't that a ridiculous investment? Now, providing this area is allowed to remain as urban, wouldn't there be a possibility that there would be more water users?

Insofar as Vacation Land Associates are concerned, a few months ago, we had a meeting. We felt that the time was right to open some of these lots, especially some of these lots around and adjoining the highway leading from the Kapoho-Kopeko way. There is land. Some of the land we are subdividing into five-acre lots. That is on the Hilo side. The agriculture lands are on the Opeekoa side of the highway. We were planning to subdivide this area and sell the lots makai.

If the Staff or any member of the Commission can look at these lots, part parcels 64-51, you notice it is very unlike the ocean foot beachfront area, not beach, forest

front area of the Island of Hawaii. This is the only area where the elevation from sea level for 1,000 feet inland is almost nil. If you do not note the 1955 lava flow it would be at the most 7 feet from sea level to 1,000 feet inland. Further, you will find that of the thousands of title 2's, in fact I know there is a pond of over 40 feet 1000 feet from the shoreline, more than 10 feet in depth. This is an area you are trying to classify as farmland.

These lands are valuable. We are paying taxes assessed on an urban lot. I feel there isn't. The last subdivision we had there, the lots sold about 1964-65. At that time, we thought that we had sold enough lots for urban purposes. We now feel that there might be a need for further development, and as I said, we have asked Mr. Imata to make a preliminary plan for a subdivision.

Now eliminating the area which the staff has represented be downgraded from urban to agricultural, now the land which was represented to be downzoned from urban to conservation, this contains the most valuable land which Vacation Land Associates own. By converting this area to conservation, aren't you making private property for public use without compensation?

We recommend that you condemn the land and put these ponds and shoreline on conservation if you want to. However,

I feel it is unconstitutional for you to take 30 acres of land privately owned, classified as urban, place it in conservation so that the owners may not make private use of the land as I said, these 30 acres are the most valuable land owned by the Vacation Land Associates. On behalf of Vacation Land Associates, I recommend that you make further efforts to take advantage of this planning.

CHAIRMAN TANGEN: Does the Staff wish to examine?

E. JOHN McCONNELL: No questions.

CHAIRMAN TANGEN: Mr. Hara, do you wish to examine? Do you wish to examine Kazuhisa Abe? Any of the Commissioners wish to examine Kazuhisa Abe? Usually when he leaves the bench, everything stops.

GILBERT HARA: No.

CHAIRMAN TANGEN: Do you have anything further to offer?

A. J. NAPIER: I have one further question. Were you notified, you said, of this procedure?

KAZUHISA ABE: Vacation Land Associates was duly served notice. The letter was mailed to our counsel. I did not receive any personal notice insofar as parcel 22 is concerned. None of the owners of parcel 22 were served with a notice of this meeting.

COMMR. SAKAHASHI: Justice Abe, would you have any objection, if nothing happens to your property within the next four years or something, and we turned it around and put it in conservation, would you have any objection to this?

KAZUHISA ABE: I would. Most stringently.

CHAIRMAN TANGEN: Just let me ask one question. As I understand it, you said you did not have any notice on 22, but you are here testifying on behalf of 22, right?

KAZUHISA ABE: No. I am testifying on parcels 50 and 51. Vacation Land Associates, of which I am also a stockholder. As I explained to you, Vacation Land Associates is a duly registered limited partnership. The general partner is Kauai, Inc. The major stockholders are Mr. James Kauai, Mr. Stanley Hara, and myself.

CHAIRMAN TANGEN: Let me ask you this. You state that you didn't get the notice which the Staff is certain that they sent out. We'll double-check back on that, but were you aware that parcel 22 was to be a subject here today, or did you just learn that after you got here?

KAZUHISA ABE: I learned that after I got here. I was not prepared to speak on parcel 22. The law requires service. Mr Chairman and members of the Commission, I am here because I am representing Vacation Land Associates. Otherwise, I am not even here.

CHAIRMAN TANGEN: Okay. Do members of the public wish to submit any questions to the Staff attorney? The indication is that there are none. Any members of the public who wish to testify on this matter? Mrs. Mull.

MAE MULL: When I looked at the map this morning, at the County Planning Office, it is exactly the kind of map throughout the State now interested in conservation of the shoreline, that this is exactly the kind of parcel that we feel should go into conservation, and stay in conservation. Now public ownership goes to the high water mark and that is wrong. We live here and we know it is wrong to have urban land begin at the high water mark.

CHAIRMAN TANGEN: May I ask which parcels you are referring to?

MAE MULL: This is a portion of parcel 51 and portions of parcel 64 — that's the shoreline area that I am talking about. We realize that this is increasingly wrong, to have urban land begin at the high water mark, and this is exactly the type of land that should go under the shoreline preservation bill. If you do follow through and put this into the conservation district, it will continue a shoreline that is already in the conservation district along the coast, and some of the owners said it would be taking away some of the property rights of the owners.

If you change this back to conservation, I should

point out to you that it was conservation land until 1964 and when you Commission zoned it to urban, you were at that point giving an unearned increment to the owner of that land. Now he has had that unearned increment for ten years, and he has not exercised the increased value that you gave to him ten years ago, and now with our new awareness of the appreciation of the natural values of the shoreline, it is a good thing its wasn't developed. Certainly, it would be inappropriate to have urban development at the high water mark.

We should have conservation for such a wide spread of tidal pools. When you put it back into the conservation zone you put it back ten years again. Now the only objection he can make is that he has been paying urban taxes. He had the opportunity to put it into urban, he didn't exercise that. He may complain then, "I paid those taxes and I am getting nothing out of it." Is there any provision for giving him his tax money back? That he paid you, you know, for the urban zoning over all those years. The State has no responsibility. You are not taking anything away from the landowner for not developing his land. If you, individually, are changing it from conservation to urban, it is your right to put it back into conservation.

CHAIRMAN TANGEN: Thank you, Anyone else of the public wishing to testify?

KAZUHISA ABE: May I question her?

CHAIRMAN TANGEN: Not now. We are in the legislative process now.

KAZUHISA ABE: We are not. This is a contested case, under the case of Town v. Land Use Commission.

E. JOHN McCONNELL: Justice Abe, the problem, of course, is that we can't make the whole world parties to it. We have to provide the members of the general public the right to speak.

KAZUHISA ABE: Yes, if a party comes here to speak against me, under any rule I should have the right to cross-examine him.

E. JOHN McCONNELL: She is not a party, though.

KAZUHISA ABE: She is a witness.

E. JOHN McCONNELL: She is not a party, though. We did allow her to speak. The issue she addressed was the legal issue of whether a restrictive zoning amounts to a constitutional taking of property. Would it be agreeable to you if the Commission deems it desirable to ask for a legal memoranda on this subject from the parties and present your case that way? She is just a lay person.

KAZUHISA ABE: I do not want to spend my money to cross-examine her. I insist on my rights to cross-examine her. This is my right, even though I don't agree with the majority of the Supreme Court.

CHAIRMAN TANGEN: The Chair will overrule Justice Abe.

KAZUHISA ABE: May I note an exception?

CHAIRMAN TANGEN: Yes. Commissioner Kido, you wish to ask a question?

SUNAO KIDO: Yes, just a point of clarification. Did I hear you correctly by saying that this land in question was, prior to the 1964 zoning, conservation?

MAE MULL: Yes. That was a standing forest. I don't have that number, or summary.

SUNAO KIDO: I don't see this in the Staff Report.

MAE MULL: Oh, here! The subject area was designated urban in 1964.

SUNAO KIDO: That's when the Land Use Commission initially zoned all lands.

MAE MULL: I'm sorry, I don't understand the point you're making.

CHAIRMAN TANGEN: In 1964, the Land Use Commission conducted its first zoning actually, a review of this land, and placed the lands of the State into districts, and this land at that time was placed in the urban district. It did not have a district prior to that. Commissioner Kido's point is well taken. There is a defference between having been taken out of conservation in 1964, which is different from what your understanding was. Any one else wishing to testify on this matter? Do the Commissioners have any further questions? If not, the hearing on Docket No. 17 is closed. All persons are advised that they have 15 days in which to submit additional evidence or testimony to this Commission at its Honolulu office.

We will proceed now to No. 18.

Docket No. 18

5.2 acres of agricultural to urban at Pahoa. Parties come forward, if there are any. Yes, sir.

E. JOHN McCONNELL: State your name, please. Do you represent somebody or are you a property owner? Are you the owner of any property under consideration? The Staff has no objection to your admission as a party.

CHAIRMAN TANGEN: Does the Staff have a report?

E. JOHN McCONNELL: Yes, the Staff moves the introduction of its 1974 Boundary Review Report and its report pertaining to Docket No. H74-18, in evidence as Staff "A" and "B", respectively.

CHAIRMAN TANGEN: Admitted in evidence.

E. JOHN McCONNELL: The Staff has no further direct at this time.

CHAIRMAN TANGEN: Yes, sir. Take the microphone, please, and identify yourself.

Y. K. LUM: My name is Y. K. Lum and I don't have anything much to say on this except that Docket H74-18 fully states my intention and if there is any question, I would be happy to answer.

CHAIRMAN TANGEN: Does the Staff have any questions?

E. JOHN McCONNELL: No questions.

CHAIRMAN TANGEN: Do the Commissioners wish to examine?

EDWARD YANAI: Yes.

CHAIRMAN TANGEN: Will you come back, please, Mr. Lum.

EDWARD YANAI: It shows that you do not have any development plans.

Y. K. LUM: At the present, I don't have any plans or costs for development of the lots, but I will have.

EDWARD K. YANAI: But your basic plan is for low-cost housing, is that right?

Y. K. LUM: Yes.

CHAIRMAN TANGEN: Any further examination by the Commissioners or members of the Staff? Nothing. Thank you. Any member of the audience wish to submit a question in writing? The indication is there are none. Any member of the public wishing to testify on this matter? There are none. We will close the hearing on No. 18. All persons have 15 days in which to submit additional evidence or testimony in writing to the Land Use Commission office in Honolulu.

Docket No. 19

4 acres from urban to agricultural at Pahoia. Parties please step forward and identify yourself to Staff Counsel.

MERVIN GILLILAND: My name is Mervin Gilliland.

E. JOHN McCONNELL: Gilliland. You are an employee of the Puna Sugar Company?

MERVIN GILLILAND: I am an employee of Amfac.

E. JOHN McCONNELL: The Staff has no objection to your admission.

CHAIRMAN TANGEN: Be seated, Mr. Gilliland, for a moment. Does the Staff have a report?

E. JOHN McCONNELL: Yes, I just want to clarify one thing. Is Puna Sugar Company the party or Amfac?

MERVIN GILLILAND: Puna Sugar Company.

E. JOHN McCONNELL: Yes, the Staff moves for the introduction of the 1974 Boundary Review Report pertaining to the Island of Hawaii and its report pertaining to Docket H74-19, in evidence as Staff Reports "A" and "B" respectively.

CHAIRMAN TANGEN: They are accepted into evidence. Mr. Gilliland.

E. JOHN McCONNELL: Mr. Chairman, are there any questions of the Staff at this time by Mr. Gilliland or the Commissioners before we get started?

CHAIRMAN TANGEN: Okay. Are there any questions? From the Staff? Of the Staff?

E. JOHN McCONNELL: Of the Staff.

MERVIN GILLILAND: The subject property comprises 3.9 acres and is located in Pahoia town at the corner of Kapoho and Kalapana Roads across from the Pahoia High School in Pahoia. Under the County zoning map, the property is zoned RS-10 and is presently used for the cultivation of sugar cane and is dedicated for such use under Petition No. H-15-U, approved on June 9, 1971.

In 1965, the Legislature passed Act 277 which permitted the dedication of urban lands for intensive agricultural use. The basis of the Act was a recognition of the fact that while certain lands held urban potential, the reality of such urbanization was a matter of timing. It is noted that most land use plans are generally drawn to cover a time span and thus

automatically allow for community growth. The Legislature recognized the dedication of urban lands to agricultural use as an interim situation awaiting proper economic timing. Penalties are imposed if the dedicated use is violated.

Act 277 also recognized that agriculture could not be expected to pay the property taxes based on urban value during the interim period.

We believe that the principal of dedicating urban lands for agricultural use is as valid today as it was in 1965, and this is confirmed by Act 175 of the 1973 legislative session.

Puna Sugar Company, with the approval of both the State Planning and Economic and Tax Departments, has dedicated certain of its urban zoned lands to agricultural use where the urbanization was still distant. This action represents prudent land management.

The Company feels that the proposal to change the land use designation from urban to agricultural is contrary to the intent and the spirit of the dedication statutes as well as the planning process.

For your information, Puna Sugar Company is presently developing approximately 31 acres in the Town of Paho. This development includes a small commercial area, low-cost multiple family housing, and many single-family residential houses. We anticipate this development to be completed by the middle of 1975.

Concurrently with the above development, we have commenced preliminary planning for the parcel of property being downzoned and have retained the services of William Hee & Associates, to do the engineering and planning work. This parcel has access on both Kalapana and Kapoho Roads and is serviced by county water and electricity. A preliminary plan is included herewith which will be submitted to the County before the year's end. Upon final approval and after harvesting the present crop, we plan to commence construction of roads and utilities, marketing these lots during 1975 and 1976.

Since Puna Sugar Company does have intentions of developing this property to its intended urban use as recommended by the Planning Commission, County of Hawaii, we respectfully request the Land Use Commission reconsider its proposal and allow this parcel of real property to remain for Urban use.

CHAIRMAN TANGEN: Thank you, Mr. Gilliland. Does the Staff wish to make a statement?

E. JOHN McCONNELL: No.

CHAIRMAN TANGEN: Do the Commissioners wish to examine Mr. Gilliland?

SHELLEY MARK: Mr. Gilliland, you say that your intent of the dedicated land is until such time as they can be placed in urban use? Is this a policy your company has been following?

MERVIN GILLILAND: Yes, everytime we made a dedication.

SHELLEY MARK: Well, I don't recall that the intent of the dedication

law was for that purpose. My interpretation is that the intent is to allow productive agricultural activities to continue.

MERVIN GILLILAND: It is both.

SHELLEY MARK: We have a difference.

CHAIRMAN TANGEN: Any further examination by the Commissioners?

Thank you, Mr. Gilliland. Anyone in the audience wish to submit a question in writing to the Staff Counsel? The indications are that there are not. Any person from the public wishing to testify? There are none. Do the Commissioners have any questions? There are none. Therefore, we will close the hearing on Docket No. 19. We advise all persons that you have 15 days in which to submit additional evidence or testimony in writing to the Land Use Commission office in Honolulu. We will go to No. 20.

Docket No. 20

17 acres from agriculture to conservation at Nanawale. Any parties here come forward please. There are none. Does the Staff have a report?

E. JOHN McCONNELL: The staff moves the introduction of its 1974 Boundary Review Report as pertains to the Island of Hawaii and its report pertaining to Docket No. 74-20, and ask that they be received into evidence as Staff Reports "A" and "B" respectively.

CHAIRMAN TANGEN: Received in evidence. Commissioners wish to examine the Staff? No examination? Okay. Any person here from the

public wishing to testify on this matter? There are none. Any other questions from the Commissioners? There are none. Therefore, we will close the hearing on Docket No. 20. We advise all persons that they have 15 days in which to submit additional evidence or testimony in writing to the Land Use Commission office in Honolulu. We will proceed to No. 21

Docket No. 21

40.0 acres from conservation to agricultural at Nanawale. Are there any parties here to this matter? Will you please identify yourself to staff counsel?

BILL CHILLINGSWORTH: Bill Chillingsworth. I am the attorney for the developer, Takeshi Oie.

E. JOHN McCONNELL: The Staff has no objection to admission of Takeshi Oie as a party.

CHAIRMAN TANGEN: Will you be seated for a moment, please? Does the Staff have a report?

E. JOHN McCONNELL: Yes, the Staff submits its 1974 Boundary Review pertaining to the Island of Hawaii and its report pertaining to Docket No. H74-21, as Staff exhibits "A" and "B" respectively.

CHAIRMAN TANGEN: They are received. Received in evidence.

E. JOHN McCONNELL: The Staff has no further questions.

CHAIRMAN TANGEN: Are the Commissioners ready for examination of the Staff? All right, sir.

BILL CHILLINGSWORTH: My name is Bill Chillingsworth. I am an attorney

representing Takeshi Oie and Puna Ventures, the owners of the property. As the application states, the property in this case is subject of the request and is approximately half of the property which the owners own at the present time. Half is in a conservation district. The other half is in an agricultural district. We are asking that the present 40 acres which is conservation district be revised into agricultural district. The zoning in the area is 1-acre agricultural zone. As the staff report indicated, the property here which is presently in a conservation district, was originally Nanawale Forest Reserve. It is my understanding that at the present time, the property is no longer considered a forest reserve and is, therefore, appropriate for agricultural use. If you have any questions, I will be glad to answer your questions at this time.

CHAIRMAN TANGEN: Thank you. Does the Staff wish to examine?

E. JOHN McCONNELL: No questions.

CHAIRMAN TANGEN: Do the Commissioners wish to examine? There are none. Any member of the public wishing to submit a question in writing? Any member of the public wishing to testify on this matter? Any further questions of the Commissioners? There are none. We will close the hearing on Docket No. 21. We advise all persons that they have 15 days in which to submit additional evidence and testimony in writing to the Land Use Commission at our office in Honolulu. We will proceed

to No. 22.

Docket No. 22

351 acres from urban to agricultural at Pahala. Are there any parties to this matter? Will you please come forward and identify yourself to the Staff Counsel.

ERNEST A. SMITH: Ernest A. Smith.

E. JOHN McCONNELL: Ernest A. Smith. C. Brewer is the owner? The Staff has no objection to C. Brewer as a party to the action.

CHAIRMAN TANGEN: Will you be seated for a moment, please. Does the Staff have a report?

E. JOHN McCONNELL: I submit the introduction of the Staff's 1974 Boundary Review Report pertaining to the Island of Hawaii, and its report pertaining to Docket H74-22 pertaining to the Island of Hawaii, in evidence as Staff "A" and "B", respectively.

CHAIRMAN TANGEN: Received in evidence. Do you have something to be submitted in evidence to the Clerk? To be submitted in evidence?

E. JOHN McCONNELL: I have two documents and a map which will be C. Brewer "1", "2" and "3". I have no objection to their admission into evidence.

CHAIRMAN TANGEN: Gentlemen, we're ready. Mr. Crook.

EDWARD CROOK: Mr. Chairman and Commissioners. This item consists of four separate parcels, three of which were classified as urban in 1969. The fourth parcel was classified at some other

time. It is not needed for residential expansion, and we concur with the proposed change from urban to agriculture. The parcel is currently in sugar production, and with improved sugar production, and with improved sugar prices and drip irrigation technology, we agree that it should remain in sugar production.

The 175 acre parcel makai of the Belt Highway is probably one of the most desirable areas for development of residential uses. However, we have no immediate plans or timetable of events to offer, and so we concur with the proposal to reclassify from urban to agriculture. We concur with the expectation that an application for urban classification will be granted in the future when an immediate need can be demonstrated.

The third parcel which was classified urban in 1969, is immediately adjacent to the existing residential development of Pahala. With sugar operations now moved to Pahala, there will be an increasing need for residential development to meet the demands for new housing, and to relocate people now living in old, dilapidated housing around the sugar factory. As the resort-residential community progresses, families with double incomes and imported employees will add to that demand.

Some preliminary work on lot design has already been done on the mauka portion of this parcel, and an application for

zoning was made, though later withdrawn as premature. It is the only direction that residential expansion can take place without taking land out of sugar production or moving makai of the Belt Highway.

For these reasons, we request that the urban classification remain in force on this parcel, to allow for expansion of employee housing and for general residential development.

CHAIRMAN TANGEN: Thank you. Does the Staff wish to examine?

TATSUO FUJIMOTO: In that area that you're talking about, the 90 acre parcel, is that long term planning? Will you be getting into the area within the next five or ten years?

EDWARD CROOK: Oh, yes. We'll be getting into the area within the next five years.

TATSUO FUJIMOTO: I understand that in 1969 your proposal for performance and scheduling that by 1974 this area would be started to be developed by you.

EDWARD CROOK: That's right. In 1969, the 86 acres mauka of town was scheduled for employee housing area. Since that time, we decided to leave it in sugar cane. Now we are changing our direction and planning to mitigate the parcel on the Hilo side of town.

CHAIRMAN TANGEN: Any further examination by the Staff? Any examination by the Commissions?

SUNAO KIDO: Let me get my bearings straight. What particular parcel

are you referring to? The one that you want to retain in urban classification. Are we talking about Pahala East? Is that the one?

AHSUNG LEONE: The 10 acres here.

SHELLEY MARK: Mr. Chairman, in terms of the Docket report, which parcel is it? 1, 2, or 3? Pahala Makai? Pahala West? Pahala East?

EDWARD CROOK: Pahala East.

CHAIRMAN TANGEN: Pahala East.

EDWARD CROOK: Originally it was Pahala West, but now they are considering Pahala East.

SUNAO KIDO: We're talking about Pahala East.

TATSUO FUJIMOTO: You mentioned that you would go along with the downzoning of certain parcels here if we agreed to give it back to the zoning when you present your case. You realize that we cannot make those kinds of promises.

EDWARD CROOK: I would like to go on record as concurring at this time, but anticipating that we would expect favorable reception from this body as progress is made.

CHAIRMAN TANGEN: Any more examination by the Commissioners? Okay. May we consider all three of you gentlemen as one party?

EDWARD CROOK: Yes.

CHAIRMAN TANGEN: So whoever would like to speak now, come up.

ERNEST A. SMITH: My name is Ernest A. Smith. All of us feel the

area in question should stay in urban for future development.

CHAIRMAN TANGEN: Does the staff wish to examine Mr. Smith?

E. JOHN McCONNELL: No questions.

CHAIRMAN TANGEN: Do the Commissioners wish to examine Mr. Smith?

That concludes the testimony. Any member of the public wish to submit a question in writing? There are none. Is Mr. Crook's testimony to be submitted into evidence?

E. JOHN McCONNELL: Yes. I don't think it was. It should be Brewer exhibits "A", "B" and "C" and be admitted into evidence.

CHAIRMAN TANGEN: Admitted. Any member of the public wish to testify in this matter? There are none, therefore, we will close the hearing on Docket No. 22. Advise all persons they have 15 days in which to submit additional evidence or testimony in writing to the Land Use Commission office in Honolulu. Proceed to No. 23.

Docket No. 23

220 acres from Urban to Agricultural and Conservation at Ninole. Any parties here? Sir, will you come up and be identified, please.

ROLAND R. GERBERG: My name is Roland R. Gerberg from C. Brewer and Hawaiiana Investment Company.

E. JOHN McCONNELL: The Staff has no objection to the admission of Hawaiiana Investment.

CHAIRMAN TANGEN: Does the Staff have a report?

E. JOHN McCONNELL: Yes, the Staff presents for admission its 1974 Boundary Review on the Island of Hawaii and its report pertaining to Docket No. 23 into evidence as Staff "A" and "B" respectively.

CHAIRMAN TANGEN: They are admitted. Do the Commissioners wish to examine the Staff Report? Proceed Mr. Gerbert or Mr. Crook.

ROLAND R. GERBERG: I'll start first and then Mr. Crook. It seems that in reviewing the Staff Report provided this morning, we note that they limited those remarks to statements in Section 2.33 of the Regulations involving the performance and representations since 1969. From that we assume that the proposed boundary change is really in the context of considering whether the land owner has made sufficient progress in these five years to be judged on what might be called standard progress. There are four basic issues that the commission should consider in this matter. One of those is whether the proposed change in fact meets a criteria that has been established by the Commission itself and the Land Use Act. The second is whether there should be a very precise interpretation of the performance of progress when it is related to a new community of this size, is as meaningful as other ways to judge progress. The third would be that the performance representations, part of which are cited in the Staff's Report are, in fact, workable as established for us, and were reviewed in retrospect unrealistically

and the fourth point would be a listing of the performance that has been carried out on the subject lands with regard to the facts that relate to whether the proposed change meets the criteria established by the Land Use Commission. I would like to ask Ed to come up and go through that portion of the testimony.

CHAIRMAN TANGEN: Before you go ahead, are you aware of your opportunity to cross-examine the Staff, if you wish to, at this time?

EDWARD CROOK: Should we do that first, as opposed to afterwards?

CHAIRMAN TANGEN: Does it make any difference?

E. JOHN McCONNELL: Normally you would do it before.

ROLAND R. GERBERG: I guess that maybe I only have one question and that is is that assumption that I stated at the beginning valid? Are you evaluating our progress?

TATSUO FUJIMOTO: In answer to your question, first of all, yes.

We are trying to review your performance since 1969, since you have made representations and are under the schedule of representations, the Land Use Commission has given you the urban district with this abutting area. Secondly, in terms of whether it meets the criteria of this. I would suggest to you that in this particular instance we would judge your performance in terms of the -- In 1969 the Land Use Commission had given you this opportunity to develop in terms of meeting the criteria and if you have not, I would say that in terms of an agricultural

district it doesn't necessarily mean that the land can, in terms of fully productive agricultural purposes, take into consideration the abutting areas and also the population and not be concerned with specific urban design.

ROLAND R. GERBERG: What do you mean by specific urban design not being taken into consideration?

TATSUO FUJIMOTO: By that I mean that in 1969 when the Land Use Commission had given you this opportunity to develop this large area of urban, it included the different representations which were made. At that time, the County itself had an opportunity to work with you in terms of developing that whole area in the way that you have represented and the Land Use Commission did not have the specific control in the urban district as to what you did to it in this particular instance. Now we are looking again at this technical review in terms of the kind of performance that you have given or made within the last five years within this area.

EDWARD CROOK: Okay. We will proceed with the part of the testimony as to the criteria that has been met.

CHAIRMAN TANGEN: Proceed.

EDWARD CROOK: Despite the fact, as pointed out in our position, that 120 acres mauka of the Belt Highway do not meet the criteria for change in use from urban to agriculture, the County general plan calls for residential use. The parcel is already

urbanized with 3 holes of the golf course, domestic water and utility lines, residential subdivision and 2 houses. The cost of putting this property back into grazing is too high because of the water facilities necessary to service the animals and protect the golf course and subdivision. The carrying capacity is very low and is not needed by the reduction of undeveloped acres for the utility service plan. Reduction in developable acres would be contrary to the County plan. It should not be returned to agricultural use.

With regard to the 100 acres makai of the Belt Highway, the proposal is to change from urban back to conservation. Here again, we feel that the County's general plan calls for resort and residential land use, which fact was already recognized by waterlines, waste water plant and maintenance facilities for the entire project completed, 6 holes of our golf course are located on the parcel. The entire parcel has been graded and surfaced in some way. The entire parcel underground is integrated with water, sewers, drainage, electrical and irrigation ducts. The parcel includes a ten acre parcel of land which now has multi-family residential zoning on it, on which we are now in the process of building 50 condominium units and townhouses. The parcel contains the best site for the Astro-Institute Behavioral Sciences study. The parcel does not meet the criteria for the Land Use Commission re-

classification to a conservation district. It is not needed for water resources. There is no tsunami or volcanic activity and it is not under the State or federal government for erosion control. It is not in use for State or national parks. Not in use to preserve or maintain historic or archeological sites, not useful for park lands or wilderness beach preserves. It is not below the line for wave action. It is readily adaptable to urban uses. The land has a 20 percent flow and is marginal for grazing and orchards, but would be useless for farming or for timber or hunting. The property has already been graded and there is no preservation possible. It will turn it over to Mr. Gerberg for the final remarks.

CHAIRMAN TANGEN: One moment, Mr. Crook. Does the Staff wish to examine Mr. Crook?

TATSUO FUJIMOTO: Do I understand that you have already invested \$8 million in this project?

EDWARD CROOK: That's right. That in the two areas that are in this proposal. We have spent sixteen million dollars in the total project.

TATSUO FUJIMOTO: As we understand that kind of areas that you wish to develop, could you elaborate as to what additional development you anticipate and do you have a timetable for that kind of development?

EDWARD CROOK: I believe Mr. Gerberg can talk to that better than

I on this.

CHAIRMAN TANGEN: Do the Commissioners wish to examine Mr. Crook?

SHELLEY M. MARK: Who is building the Aspen Institute?

ROLAND R. GERBERG: They selected the site. C. Brewer is building the building and will maintain it.

SHELLEY M. MARK: C. Brewer would build and maintain it?

ROLAND R. GERBERG: Right.

SHELLEY M. MARK: When will this be started:

ROLAND R. GERBERG: We have already selected the site and we expect to have a final meeting with the directors of the Astro Institute in November and if they approve the site, we will proceed immediately. We should be done and ready for occupancy, barring any unforeseen problems, by the end of 1975.

CHAIRMAN TANGEN: Any further examination by the Commission?

SUNAO KIDO: You claim that the Parcel No. 11 which has been proposed changed from Urban to Conservation has been heavily graded. Can you tell me for what purpose? I understand there are six holes of the golf course located within this parcel.

ROLAND R. GERBERG: That's right.

SUNAO KIDO: But what was the purpose of grading the balance of the area? Was this for any kind of development?

ROLAND R. GERBERG: Most of that acreage is for the golf course. There is only about 30 acres that are not for the golf course. We have simply cleared that area to see what the topography is like.

SUNAO KIDO: Do you have any plans for developing any condominiums?

ROLAND R. GERBERG: Yes.

SUNAO KIDO: Was that the purpose of grading it?

ROLAND R. GERBERG: Yes. In making our total plan, we found that we with all the brush on the land we had to clear the area to see the topography. We don't have any precise timetable for that particular parcel but the project will depend on the condominium development. It is definitely in our program.

SUNAO KIDO: One more questions. Where is the balance of the golf course?

ROLAND R. GERBERG: Three holes will be set mauka of the Belt Highway, that is on the other parcel in this proposal, and then the other 9 holes of the course is toward Kahuku and 43 acres which is State land.

SUNAO KIDO: So, am I right to say that of all but 220 acres here 9 holes are covered within this area?

ROLAND R. GERBERG: Right.

CHAIRMAN TANGEN: Any further examination by the Commission? Thank you Mr. Crook. By the Staff? Mr. Gerberg.

ROLAND R. GERBERG: One factor we feel is important here is that if one were to look at specific representations that were made at the time of the 1969 yearing, we went into a great amount of detail possibly responding to requirements of the Staff or Commission. A new community of this size involves new

new utility circuitry and new utilities of many types of sewers, sires, electricity, drainage systems, primary roads, communications and a plant of a size to service that area, and it requires the construction of those pumplines and services. It also requires the creation of a lot of various capital improvements as well as in terms of land consumption and amenities such as a golf course and tennis courts. When creating an area of this size, sound planning, both on behalf of the parties who make the investment in the land and of the party of the community it is proposed to serve, requires that that entire area be planned as a single unit, and you can't do it piecemeal. In that kind of area you don't do that. In planning a single unit, you have to know what size land is involved, what size parcel you have because without knowing the size of the parcel, one doesn't know how many condominium units one is going to put on it, where you would locate the golf course, where you would put the commercial, how much land to reserve for commercial and residential, what size to make the utilities, and so forth. It requires a comprehensive plan. After making that plan, based on an economic analysis of what is feasible, and an efficient operation, then it requires that the owners make very sizeable investments in utilities and commitments on where it is going to be, how big

it is going to be, and what the utilities are that they are going to have to serve. Therefore, it is important that when that type of program is watched over not only by the owner of the land but by the people who are watching in the public interest, long term public interest, and there is a realization that you can rely on that when there is that kind of a public commitment. With that kind of a situation in mind, to be looking at whether a certain amount of condominiums are built in 1976 or 1974 or certain things done specifically is much less meaningful than to look at whether there has been diligent progress made during the entire period, whether there is a possible abandonment of the total scope or purpose that the Land Use Commission wanted in the first place, and whether substantial progress has developed in that period of time. So in connection with that, we would then go on to present the two other considerations. One is that when those commitments were made, those representations in 1969, they were done in context of ten years of history in which there was very little demand for resort urban property. In 1969, that was the beginning of the slowing down of that particular type of demand, which was unforeseen. Secondly, during that five-year period, the process of development has become prohibitively complex as I am sure everyone is aware, with protecting the environment and consumer protection. The type of thing that

a developer has to go through today to meet those standards, preparing to meet them and the time that is required on the part of public bodies to review that information in response to that has greatly gone up. Therefore, when a time schedule was set in 1969, they did not take into consideration that which subsequently developed. Further, the 3 1/2 years of that five-year period was represented by two periods of tight money, which depressed the ability of meeting demands for that property. So, therefore, we would like to ask the Commission to take into consideration that in setting those specific performance requirements and reviewing what's happened against them, you realize the circumstances under which they were set, and the circumstances under which they will perform again, and the importance of reliance on the use of the urban designation in implementing the plan.

I will ask Ed who has been on the team for the last five years to go down the list of examples of circumstances beyond the control of the owners, which has barred, somewhere along the way, progress.

EDWARD CROOK: These are some of the things we did not know about when we were making our representations in 1969. Of course, as Mr. Gerberg pointed out, the tight money has come about in the last 5 years. More physical things on the site, the aerial photography, the total of mapping took twice as long as we

expected it to take. We couldn't do anything about that. We early found we needed an extended investigation by Bishop Museum into the entire area to locate historical sites. We underestimated the time needed to negotiate various leases that we needed, time involved investigating road and facility standards with the State and County agencies. There were delays caused by extended review time by various State and County agencies, time to clear title to parts of the subject land. Also, time spent with getting the waste water system took longer than we expected. In spite of the delays, we did manage to make some progress and I think I'll take time to list those areas of progress for you now. There is domestic water now and controls systems. Waste water treatment plant. The executive offices are completed now and occupied. The maintenance facility for the entire project is open and in operation. An 18-hole golf course has been constructed and has been operating since January of this year. Some 400 acres were rough graded and/or surfaced in some way or another. We literally graded off the entire 440 acres within the 1969 application. The question now under irrigational use for livestock grading. The utility system was designed to service the entire area. The restaurant opened in April of 1973 and is now operating, as well as the cultural center, which is open to the public. The 50 condominiums in the area are under

construction now. The road system from Belt Highway down is open to the public now, as well as other roads.

In terms of dollars, the subject property now has water systems, sewer systems, the 9 holes of golf on 2 parcels in this proposal, the maintenance facilities, our offices and utility areas and parking facilities, and has cost us about 8 million dollars. In the overall area, which is urban, we have spent about 16 million dollars to date. We have also just completed the first two houses on the little subdivision mauka of the Belt Highway, and we've put in a domestic water reservoir at the 300 foot level for fighting fires, as well as domestic purposes. I'll turn it back to Mr. Gerberg.

ROLAND R. GERBERG: What we have attempted to show the Commission is that there has been substantial effort and work done in that area, that a substantial amount of work has been done on the part of the owner, pursuant to that classification. A lot has been done and to change the designation of these areas to conservation or and/or agriculture will serve no purpose. That is all I have to say.

CHAIRMAN TANGEN: Thank you. Does the Staff wish to examine?

E. JOHN McCONNELL: Before we examine, what documents are you introducing into evidence?

ROLAND R. GERBERG: We will give you a map. We also turned in a letter. Assuming there is a contest, we can also submit maps

or photographs to show that the golf course is there and other things are as we say they are.

E. JOHN McCONNELL: I'll mark that as Exhibit "A". That will be in evidence, with the exception of the last two pages which will be a series of questions. I'm hoping that you will. You will have an opportunity to ask your questions.

ROLAND R. GERBERG: You are hoping that I do ask those?

TATSUO FUJIMOTO: One of the questions there, gentlemen, is to clarify what the real nature is of the petition or act to change an application which we do not understand.

CHAIRMAN TANGEN: Suppose we hold that up for the time being, Mr. Gerberg, and at the end of the examination of Mr. Gerberg you can see if you're satisfied that your case has been covered. We can just cut that part out, if its okay. Why don't we go ahead and examine Mr. Gerberg? You will be submitting what you read from today? And the fact that you have duplicated that? All right?

E. JOHN McCONNELL: And you will be submitting your testimony that you gave today? Okay, and also that map? That will be Brewer Exhibit "C".

CHAIRMAN TANGEN: See that these exhibits are admitted in evidence.

TATSUO FUJIMOTO: Just one quick question. In 1969, when you had the classification on your premises, one of the primary reasons why this was given to you is that you were to provide more

space by construction of hotels and resorts in this area; could you elaborate?

ROLAND R. GERBERG: You may have have heard through other sources but at any rate, if you haven't, a resort hotel has been fully designed and a building permit has been issued and construction has started earlier this year, I believe, or late last year and then aborted when the financial market took the turn that it has taken and gotten substantially worse. We were definitely moving forward in that direction at that time. We will go again when economic conditions so indicate, we are even in the process of designing an alternate small hotel that might have feasibility on an earlier basis and one that we've started on a different site. And as a third observation is that it seems like it is not in the best interests of the whole community or the State to have a major economic unit engaged in an untimely or uneconomic endeavor. Therefore it isn't necessarily in the best interest of the State to go forward at this time.

CHAIRMAN TANGEN: Any of the Commissioners wish to examine?

SHELLEY M. MARK: Mr. Chairman —

CHAIRMAN TANGEN: Commissioner Mark.

SHELLEY M. MARK: Many people are aware of the existence of §2.33 with respect to performance time. At the time in 1969 when Brewer did present its case before the Land Use Commission,

were you aware of this particular provision?

ROLAND R. GERBERG: Is your question, was Brewer aware of §2.33 at that time? Is that what you ask?

SHELLEY M. MARK: Yes.

ROLAND R. GERBERG: I couldn't say for sure, but I assume that they were. They answered questions that were directed toward that in making those representations.

SHELLEY M. MARK: Well, then, are you aware?

ROLAND R. GERBERG: I am aware and I assume I was aware in 1969. I didn't check ----.

SHELLEY M. MARK: You have been raising some questions, how come all of a sudden this thing is happening, and I'm just finding out that there is some provision here, the basis upon which it is happening.

ROLAND R. GERBERG: I understand why it is happening. I think we accept why it is happening and the basis for it happening. We are trying to get some understanding of the context at which this can be looked at to be realistic and meaningful, what you do with that property.

SHELLEY M. MARK: This schedule that is mentioned, "Initiate construction in 1971, complete by '72, first phase, and second phase initiated in '73, complete by mid '74." Whose schedule was that? Who prepared that schedule? Who made that schedule?

ROLAND R. GERBERG: I was prepared by the staff of Hawaiian Investments.

SHELLEY M. MARK: Not by the Land Use Commission?

ROLAND R. GERBERG: I assume the Land Use Commission does not set requirements. They ask for representation on the part of the applicants.

SHELLEY M. MARK: Okay. So they made the representations.

ROLAND R. GERBERG: Definitely.

SHELLEY M. MARK: Do you know what the basis of these representations were? Do they base it on a market study? A study of the money market? New community planning? All of these things that you mention as being unanticipated circumstances? They had some study. They had some factual basis.

ROLAND R. GERBERG: They did a lot of work which I think you saw in the form of the green book. What I am saying here today is that despite that study, and I think that is true of both Hawaiian Investment and anyone else, they didn't anticipate that there were going to be a lot of severe tight money during the next five years. They didn't anticipate that the changes in consumer's protections standard and environmental standards would loom so rapidly and have an affect on the rate at which they could do things. And both things caused delays initially.

SHELLEY M. MARK: Your objective is still to develop a viable community with an employment base where residents of the area can find jobs. This is still you objective. Assuming that the money market eases off a bit, and that you can get financing,

you've mentioned a number of hotels. You've also mentioned condominiums and perhaps some housing development. Where would you place your priorities? If you want to meet your objectives of developing a viable community with a solid employment basis? Would you build conominiums first on the grounds that they are easier to sell? Would you build hotels on the grounds that they can provide some employment?

ROLAND R. GERBERG: Condominiums on the Island of Hawaii are as good as hotels because they are filled with people who come on a transient basis and require all the services that hotel rooms do, food, maid, maintenance, etc. They provide people who shop in commercial shops which require staffing, who eat in restaurants and require servicing.

SHELLEY M. MARK: Your contention is that a condominium supplies employment to the same extent as a hotel of similar size? Similar scope?

ROLAND R. GERBERG: No.

SHELLEY M. MARK: It does not.

ROLAND R. GERBERG: I am not saying it does. It supplies some employment, yes, sir. It's close to the same amount.

SHELLEY M. MARK: You have some studies to verify this point? Or, can you present some evidence as to this point?

ROLAND R. GERBERG: We can. Within the next 15 days. Right now, as a matter of information, with no condominiums and no hotels,

there are 83 jobs or close to 83 jobs created on the golf course, and the restaurant and cultural center, the nursery and sewer water plans that are filled by local people.

CHAIRMAN TANGEN: Any further examination by the Commission? Any further examination by the Staff?

ROLAND R. GERBERG: I just want to say one more thing about tight money. We decided to go forward with the existing condominium project in the face of tight money just as being the most feasible at this time.

SHELLEY M. MARK: Because buyers are not affected by tight money?

CHAIRMAN TANGEN: Those should be called the "houses that sugar built". Any further examination by the Commissioners? Thank you, sir. Anyone in the audience wish to submit a question in writing? Staff Counsel? Indication is there are none. Does any member of the public wish to testify on this matter?

TATSUO FUJIMOTO: Mr. Chairman, I have a copy of Resolution #282 to be added as testimony on H74-23 to be admitted in evidence.

CHAIRMAN TANGEN: Admitted in evidence. As I understand it, the position of the county counsel is in opposition to this present matter, to be reclassified.

TATSUO FUJIMOTO: On the makai side, the extension above the 100-acre parcel.

CHAIRMAN TANGEN: Admitted in evidence. Does any member of the public wish to testify in this matter? Yes, ma'am.

HELEN BALDWIN: I am Helen Baldwin. I am speaking as a private citizen before the Land Use Commission. First, I am just a private citizen. I don't own any property in this area. I don't own any stock in Brewer Company, nor have I ever worked with them.

CHAIRMAN TANGEN: We accept your qualifications.

HELEN BALDWIN: I heartily approve the progress that has been made from the standpoint of usefulness and beauty in the community, it is outstanding down there and when I go with people - I sometimes go as a guide to the area - I am always pleased to see what is going on in Punaluu, and one of the first things people say is "when can you stay down there?", so that shows that there really is a market there, and so I go along with the gentlemen who spoke to you and their request and that they be allowed to continue and work there.

CHAIRMAN TANGEN: Thank you, Mrs. Baldwin. Anyone else wishing to testify on this matter? If not, the hearing will be closed. All persons are hereby advised that they have 15 days in which to submit additional evidence in writing to the Land Use Commission office in Honolulu. We will proceed with Docket No. 24.

Docket No. 24

1.4 acres at Punaluu from conservation to urban. Is the party here? Please identify yourself, Mr. Dahlberg.

E. JOHN McCONNELL: Let the record indicate the speaker is James

L. K. Dahlberg, who represents his mother Helen E. Dahlberg, the owner of the parcel. The staff has no objection to his admission as a party.

CHAIRMAN TANGEN: Please have a seat for a moment, Mr. Dahlberg.

Does the Staff have a report?

E. JOHN McCONNELL: Yes, the Staff moves the introduction of its General Report pertaining to the Island of Hawaii and its Specific Report pertaining to Docket H74-24, in evidence as Staff Exhibits "A" and "B" respectively.

CHAIRMAN TANGEN: They are admitted into evidence. Do the Commissioners wish to examine the Staff? Mr. Dahlberg? Mr. Dahlberg, you have the right to cross-examine the Staff, if you wish. Mr. Dahlberg states he has no reason.

JAMES L. K. DAHLBERG: Mr. Chairman and Commissioners. Our testimony is based on the following facts. Punaluu is now a resort destination area and we feel that our property, because of the existing surrounding zoning must be developed in the same way. Adjacent to our property, as mentioned, is the C. Brewer Company development for commercial shopping, a restaurant and a proposed hotel site. The second fact I would like to submit is that traffic in the area has tripled in the last 5 years. Our time schedule is as follows: Fortunately, we don't have the problems of financing. Everything is go for us. I have before me preliminary plans -- preliminary in that they are

basically preliminary plans for any type of development and we would like to emphasize that we plan to construct a low rise development, a concept which will fit in with the environment of Punaluu and Hawaiian architecture. We have been involved in one other project, and I mention it because we have an extreme concern for developing something that agrees with the environment and our first project was 7 stories in keeping with the best neighborhood environment concept that we have here in Hilo. Approximately one week ago, this subject was brought up before the County Planning Commission and their Staff, and their objection was that it did not agree with the zoning or the general plan of the County of Hawaii. I would like to submit these comments. They first entertained a motion recommending that they agree with our request and that was defeated 4 to 3. The request was made that they not recommend agreement with our request and the vote on that was 4 to 3. The three Commissioners that voted in favor of agreeing with us really did so because of the reasons I mentioned. The fourth Commissioner that was not there said he would be sending a letter to the Planning Department stating his opinion about the development. Mr. Crook outlined very well what the objectives of a conservation designated area are and I won't go over them and be redundant, but one of the main ones is for an area where you have historic sites or where you

plan to have a potential park. A member of the Planning Commission did emphasize that this was a potential park area. One question which we submit, and we will be discussing this with them in greater detail in the coming months, is that the citizens of Punaluu, people who drive down there, i.e. the fishermen, and the residents of Punaluu, are concerned about a black sand beach which is one of two in the State, that comprises approximately, and I'm not sure of this, it's about 7 or 8 acres, a beautiful beach which is owned by private owners. My mother owns one-half acre on this beach, and proposes to dedicate this. My question is, how can they propose more park area when they do not have the funds or even the ownership of approximately seven acres, which is one of the most beautiful spots? Money and ownership should be concentrated here rather than in the residential kuleana such as our property, for a potential park site. I am sure Mrs. Baldwin will attest that there are historic sites which should be purchased and money and energy should be concentrated in these areas, before you can think of an area where you have a residence. I point out on the map the three parcels of open space designation. Ironically, the property runs from the lagoon to our property and further down the coastline behind the historic site, there is no open space designation. I define this designation because we would like to have you concentrate on that before your thinking of our property for

a potential park site. That's all I have to say.

CHAIRMAN TANGEN: Do you have a picture -- you mentioned the project you had before? Do you have a picture of that?

E. JOHN McCONNELL: I think we've got a copy of it here.

CHAIRMAN TANGEN: Yes, this is the plan. Do you have any objections?

E. JOHN McCONNELL: I have no objection.

CHAIRMAN TANGEN: It is received into evidence.

JAMES L. K. DAHLBERG: I think your question was, do I have a picture of our first development, and I think it was submitted to the Land Use Commission and should be in the file. I delivered it to your secretary.

CHAIRMAN TANGEN: Yes, we have a copy. Okay. Does the Staff wish to examine?

E. JOHN McCONNELL: No questions.

CHAIRMAN TANGEN: Do any of the Commissioners wish to examine?

MITSUO OURA: I have one question here. It says the subject property is situated near C. Brewer Resort Recreational Development. Where is it?

JAMES L. K. DAHLBERG: It is directly in front of one of their holes of their golf course, adjacent or across the street from their restaurant, museum, commercial shops, and approximately one-quarter of a mile away from the construction area for their condominiums.

MITSUO OURA: Thank you.

CHAIRMAN TANGEN: Any further examination by the Commissioners?

Mr. Kido.

SUNAO KIDO: Mr. Dahlberg, did you say that under the County zoning the property is zoned B-1.5?

JAMES L. K. DAHLBERG: No, the adjacent property is B-1.5.

SUNAO KIDO: Adjacent property. Under the County zoning, what is your property zoned at?

JAMES L. K. DAHLBERG: It's zoned right now agricultural.

CHAIRMAN TANGEN: Any further examination by the Commissioners?

Does any member of the public wish to submit a question in writing? The indication is none do. Does any member of the public wish to testify on this matter? Yes, sir.

NORMAN HAYASHI: I would just like to verify that the property is zoned open.

CHAIRMAN TANGEN: Open?

NORMAN HAYASHI: That is correct.

JAMES L. K. DAHLBERG: Under the present plan, it is now designated "open".

CHAIRMAN TANGEN: Please identify yourself on the tape.

NORMAN HAYASHI: Mr. Chairman, I am Norman Hayashi, from the Planning Department. The area is now designated "open". The County Plan is also "open".

CHAIRMAN TANGEN: Thank you.

E. JOHN McCONNELL: Mr. Chairman, I would like to stand corrected. The property is now zoned "open".

CHAIRMAN TANGEN: Anyone else wish to testify in this matter? There are none, so we will close the hearing on Docket 24. We advise all persons that they have 15 days in which to submit additional evidence or testimony in writing to the Land Use Commission office in Honolulu. We will proceed to No. 25.

Docket No. 25

94 acres of urban to agricultural at Naalehu. Any parties? Identify yourselves, please for the counsel.

EDWARD CROOK: K'au Sugar Company and C. Brewer Company.

E. JOHN McCONNELL: The Staff has no objection to the admission of C. Brewer as a party.

CHAIRMAN TANGEN: Thank you. Be seated for just a moment, please. Does the Staff have a report?

E. JOHN McCONNELL: Yes, the Staff moves the introduction of its General Report pertaining to the Island of Hawaii and its specific report pertaining to Docket H74-25, in evidence as Staff Exhibits "A" and "B" respectively.

CHAIRMAN TANGEN: Any Commissioners wish to examine the Staff? Mr. Crook, do you wish to make your presentation? Do you wish to examine the staff--cross-examine? Okay. Proceed, please. The answer was "No".

EDWARD CROOK: In 1969, when the request was made for a change from ag to urban, it was anticipated that there would be an increased demand for housing, both for agricultural employees and resort employees. Since that time, there has been several

factors which have changed the anticipated demand:

1. To date, all of the resort employees have been hired locally, no importation has been necessary.
2. Sugar operations were moved to Pahala, beginning in 1972, transferring the emphasis on housing requirements for sugar employees more toward Pahala.
3. The high cost of money and shortage of mortgage money slowed demand for new housing lots.

The basic reason for the 94 acre request in 1969, was to look ahead and to plan for adequate Urban land to meet housing needs. Although we have not used up the land for urban expansion, it will soon become necessary to develop and subdivide a portion of the 94 acre parcel. At the present time there are only 12 vacant lots in Naalehu, certainly not an excessive supply.

The mauka portion of this parcel which lies mauka of the proposed Belt Highway Bypass has RS-7.5 zoning on it now, granted by the County in 1973, and consists of +26 acres. It is surrounded on three sides by urban uses and is located centrally or near to schools, churches, shopping center, and is readily served by existing roads and utilities. It is a logical extension of the existing Urban development of Naalehu. For these reasons, we suggest that the +26 acres currently zoned RS-7.5 remain under the Urban classification.

We concur with the Land Use Commission proposal that the portion of this parcel located makai of the proposed Belt Highway Bypass, but with the expectation that an application for future Urban classification will be granted as the need is demonstrated. Thank you.

CHAIRMAN TANGEN: Does the Staff wish to examine?

E. JOHN McCONNELL: No questions.

CHAIRMAN TANGEN: Do the Commissioners wish to examine? Any members of the public wish to submit a question? The indication is none.

E. JOHN McCONNELL: We have three exhibits given to me by Mr. Crook, "A", "B" and "C". The Staff has no objection to their admission as exhibits.

CHAIRMAN TANGEN: They are admitted. Any member of the public wishing to testify on this matter? There are none, so therefore, we will close the hearing on Docket No. 25. We advise all persons that they have 15 days in which to submit additional evidence or testimony in writing to the Land Use Commission in Honolulu. Is there anything further to come before this meeting? Let us proceed to No. 26.

Docket No. 26

15,600 acres from agricultural to conservation at Kapapala. Any parties? There are no parties. Does the Staff have a report?

E. JOHN McCONNELL: Yes, the Staff would like to move for the admission of its general report pertaining to the boundary review of

of the Island of Hawaii and its specific report relating to Docket H74-26, as Staff Exhibits "A" and "B" respectively.

CHAIRMAN TANGEN: They are admitted. Is the landowner here? Any member of the public wishing to testify? Yes, Mrs. Mull.

MAE MULL: My name is Mae Mull and I am a member of the Audubon Society. This property is designated by the large yellow area on the map on the wall and it adjoins the National Park at the upper end. It is on State land. We strongly support this boundary change to conservation. The land is unsuitable for agriculture. The soil is thin and erodes easily, and even if cattle could survive on it for a short time, the effects of the grazing would be detrimental to the soil. The natural value of State-owned land should take precedence in a conservation district. The adjacent land is already in the conservation district, for Volcano National Park. These lands should be managed as part of the forest reserve. They are to be primitive and kept for recreational use. This parcel is part of the traditional nene mating habitat and the ancient Hawaiian trail passes through that area to the top of Mauna Loa. So conservation zoning is most appropriate and we are very pleased with this boundary change to the conservation district. Thank you very much.

CHAIRMAN TANGEN: Thank you. Anyone else wishing to testify on this matter? Any questions from the Commissioners? If there are none, we will close the hearing on Docket No. 26 and advise

all persons that they have 15 days in which to submit additional evidence or testimony in writing to the Land Use Commission office in Honolulu. Is there anything further to come before this Commission? If not, this meeting stands adjourned. We would like to thank all you hearty souls who stayed to the end.

The hearing was adjourned at 6:40 p.m.