

STATE OF HAWAII  
LAND USE COMMISSION

7:00 P.M. Meeting

August 1, 1969

Kahului, Maui

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CHAIRMAN BURNS:

(The tape apparently was not operating at the beginning of the meeting as the swearing in of anyone giving testimony is omitted. Tape begins as follows:)

. . . Molokai and Lanai. And then I know that some of you have been here earlier and have had a chance to look them over and you will have questions, I'm sure. We will take testimony; we will limit it to 10 minutes per person and, as you know of course, many of you have sent in your ideas, objections and recommendations, and these have been considered in . . . before, so we're not just starting this thing off in a fresh manner. Okay, Rom, will you start off please?

MR. DURAN:

Mr. Chairman, Commissioners, ladies and gentlemen. Pursuant to Act 187 . . . (inaudible; this tape does not seem to be turning easily and I believe it is this factor that is affecting the speakers' voices) . . . as amended, public hearings were conducted by each County of the State on the rules of practice and procedure and the State Land Use District Regulations and the district boundaries. Public hearings were held in the County of Maui in this room on May 9th and on Molokai on May 10th. On July 8th, the Land Use Commission met in Lihue, Kauai and adopted Land Use Commission's rules and regulations, and these rules and regulations were signed by the Governor and filed in the Lieutenant Governor's office and they will become effective next Monday, August 4th.

Three significant elements in the regulatory nature were adopted dealing with (1) time limitation to start construction with the issuance

MR. DURAN (Cont'd.)

of special permits, (2) a new section dealing with zoning and increments, and (3) a new section establishing a performance time limitation when redistricting occurs. Now under the incremental zoning concept, the petitioner for urban rezoning is provided an option to proceed under the incremental zoning section wherein the applicant agrees to develop an area in increments not to exceed 5 years in a specific manner. If the Commission approves the project and the rezoning of urban into first increment, based upon the applicant's 5-year construction program, the Commission guarantees the second and remaining increments provided that the applicant substantially completes his development program as represented to the Commission. If the applicant does not substantially complete his development program as agreed upon without justification, the Commission may not rezone additional future increments and may rezone the previous increment or part thereof to a more appropriate classification.

Under the time performance section, the Commission may rezone an area previously zoned urban if substantial development has not occurred in accordance with the petitioner's representation within 5 years of the rezoning. And this is intended to discourage vacant urban zoned lands by owners who do not desire to use them when there are other petitioners desiring urban zoning to develop worthwhile (inaudible).

We're here in Kahului today to consider the adoption of the Maui district boundaries. Pursuant to these newly adopted Land Use Commission rules and regulations and have posted on the wall the maps for Maui and Lanai and Molokai, and the incremental zoning approach, particularly the performance time section in our new regulations, will apply to all of the additional urban districts shown on these maps. These maps are the results

MR. DURAN (Cont'd.)

of studies by our consultants, Eckbo, Dean, Austin and Williams, the staff, the Commission, of existing population and projected growth, studies and plans of private land owners for future development, a state-wide attitude survey on the Land Use Law, workshop sessions with the State and County officials, comments from our public hearings held here May 9th and 10th, extensive field interviews, and an examination and evaluation of written testimonies received since the public hearing from approximately 50 parties, either supporting or protesting the proposed boundary amendments.

Maui's population is expected to increase from approximately 48,200 in 1968 to an estimated 55,130 by 1970, for a 14% increase. Practically all of the comments on the proposed district boundaries for Maui presented at the public hearing were requests for additional urban zoning in anticipation of this population increase. Our consultants have stated that there are approximately 17,500 acres in the urban district at the present time, of which 10,500 acres are vacant or in an agricultural use and available for urban development. They've also advised us that approximately 6,000 acres will be needed to accommodate the anticipated urban development for the next 10 years. So thus, we have about 4,000 acres which would still remain in the vacant category within the existing urban districts.

Today the Commissioners received requests for additional urban districts in the County of Maui totalling approximately 3,000 acres. The proposed district boundaries on the wall maps being considered at this meeting and dated August 1st added an additional 600 acres to the urban districts . . . actually, 606.

Another significant proposal on these maps is the designation of the

MR. DURAN (Cont'd.)

shoreline presently in the agricultural district but not in agricultural use under the conservation districts. In recognition of the shoreline as a natural resource of the State. Our questionnaire survey indicated that 89% of the people queried agreed that both conservation and the wise use of the waterfront property should be planned together. The wise use of this first priority resource can be effected in terms of long-range public interest by adopting this proposal.

And this, Mr. Chairman, summarizes what we've generally concluded up to this point in time.

CHAIRMAN BURNS:

Thank you. The first person on our list here is Mr. Mendoza who wishes to make a statement. Would you swear him in, Rom?

MR. DURAN:

Will you raise your right hand, Mr. Mendoza? Do you solemnly swear that the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

MR. MENDOZA:

I do.

MR. DURAN:

Thank you.

MR. MENDOZA:

I just wanted to ask . . . apply for a change of zoning on the property which I'm interested in over in the Kihei area.

CHAIRMAN BURNS:

I see. Will you point it out to us?

MR. MENDOZA:

I believe it's right over here. I don't understand why this one is pink and this one is brown and I don't have any coloring at all.

CHAIRMAN BURNS:

Rom, have you anything . . .

MR. DURAN:

This is the urban district, Mr. Chairman, along Kihei, and this is his property down here. It's all vacant. This is a rural subdivision that was zoned several years ago and is being subdivided and lots are being sold. There are no houses in it. The property in question is located generally in this area. And in view of the fact that there are about 3,000 vacant acres down in the urban area at the present time and that this is without any development whatsoever, there doesn't seem to be any justification for it at this time.

MR. MENDOZA:

Well, I . . . I was watching a movie and I heard the narrator describe the definition of agricultural lands . . . in other words, what makes good agricultural lands, and I don't think this property meets any of the qualifications for agriculture. I have it . . . I mean I acquired it because I wanted to work with the A and B people . . . the Matson people here. This would be, in my opinion, the ideal site for homes for the workers in the grade-up area.

CHAIRMAN BURNS:

Well, if you wish to have the Commission consider that boundary change, it would be in order for you to petition so that we would have the facts. I mean, we must have information and expression of need . . . and a demonstration of need for the upgrading of agricultural land to urban. That

CHAIRMAN BURNS (Cont'd.)

would be the process to follow.

MR. MENDOZA:

So the next move then is up to me to file a formal . . .

CHAIRMAN BURNS:

Petition. That's right.

MR. MENDOZA:

Listening to the outline earlier, I don't mean to be funny or anything, but it's going to take a heck of a long time, isn't it?

CHAIRMAN BURNS:

We ought to tell you, there is about an average of 6 to 7 months to process it from the time the petition is filed until action is taken.

MR. MENDOZA:

Alright.

CHAIRMAN BURNS:

Thank you.

Mr. Cox.

MR. DURAN:

Do you solemnly swear the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

MR. COX:

I do. Mr. Chairman, I understand you want to go back to Honolulu tonight, so if you're willing to agree to all the requests that Alexander and Baldwin have, we can go home right now.

Well, I really would like to first comment on the Commission for all the work they have done on all of the Islands, Kauai as well as Maui, and we did write a letter to the Commission on the 26th which outlined our problems with the earlier map that was presented, and I believe most of

MR. COX (Cont'd.)

our objections have been met since that time. There are 2 things I think I would like to comment about. One is the mention of the property down here which, incidentally, now is owned by Alexander and Baldwin, having been transferred down in here. We just mentioned earlier that the plans which we have presented to the Commission and which have been widely publicized on Maui, including the golf course, is extending a little bit into the agricultural zone in here. We have started work on this in terms that we have bulldozed along through the outline of this high line where we are working on the golf course at the present time. And we do have a question then as to whether the golf course is in existing use at the present time and can be continued by . . . under the new rules or whether it's how the rules are, as you said, not as permitted in the agricultural zone, according to your new rules.

CHAIRMAN BURNS:

Under the new rules, it's not in ag.

MR. COX:

The new rules, of course, don't become effective until Monday.

CHAIRMAN BURNS:

Do you have a permit for the grading for the golf course?

MR. COX:

No. We're just clearing the keave out in this area.

CHAIRMAN BURNS:

I see.

COMMISSIONER CHOY:

How about a 17-hole golf course?



MR. COX:

Well, let's see . . . Mr. Kido, he plays golf. Maybe that's all he wants.

But the other one . . . the other comment that we had earlier . . . I think that . . . and that is the question of a conservation district zoned all around this portion of the island along in here. We note that in the area that we are interested in, it has . . . it is back and does not include any sugar cane fields now or any pineapple fields in the area that we own. This would be the area as you go from Makawao on towards Hana down in here. We still have a question as to whether this is proper in conservation district. We believe that the agricultural regulations . . . it was in an agricultural district before . . . would not allow urban use in here and, therefore, it just . . . presents uses that were inconsistent with an agricultural district, and we believe that it should have been left in an agricultural district. And these are our only two comments on the matter.

We do want to commend the Commission for the time and effort they have done over the years, Mr. Chairman.

CHAIRMAN BURNS:

We thank you.

MR. COX:

This is an earlier letter. You have it, I believe. And I did return a letter . . . excuse me, I did turn in a letter in response to the request by the Commission earlier this week as to what we had done on Kahui-lui, and our plans for the future in here.

CHAIRMAN BURNS:

This was a progress report.

MR. COX:

This was a request by the Commission. Thank you.

CHAIRMAN BURNS:

Paul Gillette and Martha Gillette.

MR. DURAN:

Do you solemnly swear the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

RESPONSE:

I do.

MR. GILLETTE:

I want to thank you very much for being able to be here again. My request is in connection with the 3-acre parcel that lies alongside of the Silver Sword on the upper Kona Road. The general location is right there. It's only about an inch and after Mr. Cox's presentation of the big problems that they have, I feel I'm imposing on you all. But however, it's important to Paul and Martha Gillette, and it had your consideration in the past and now tonight I would like to take a few minutes to present again my request to restore the urban classification that existed on this 3-acre parcel when I bought it in 1962.

It has been in continuous urban use ever since and before we bought it. It has on it, which I think you can see here, a 2-unit rental unit, a 3-bedroom, living room and so forth upstairs and a studio downstairs, which has been in continuous use . . . continuous demand by personnel of the Science City and others throughout the years. We've never had any difficulty at all in renting it. I would like to mention the terrain. It lies . . . I should have pointed out that this parcel lies between 2 commercial enterprises -- the Silver Sword here and the Kula Lodge down

MR. GILLETTE (Cont'd.)

here. It is across the highway from and, of course, adjacent to urban classified land, and it's across the highway from some 110 acres of land in there that is classified as such. The land itself lies on a very nice slope about 50 feet above this point to the elevation of that point some 450 feet inland. It, however, has a gulch here . . . a very deep gulch that restricts the utilization of this 3 acres to, I would say, in the range of a little over 2. Considering the house on the front and the land that would be required around it, it would probably be 1-3/4 acres that might be available. To attempt to divide that up into half-acre lots is entirely impractical. As a civil engineer and from development work and construction, I recognize that as clearly as anyone. When I bought it, I had in mind the possible development of a recreational center right here, a pool in here and small houses up in here in the extension of the Silver Sword. However, for various reasons which I won't go into, that has been impractical, so that in the intervening years I've come to the conclusion that the only utilization of it would be in a relatively small lots, lots that the average retired personnel can afford to buy and to maintain after he buys it. That's the difficulty in Kula, as I brought out in my letter there that Mr. Ramon Duran can pass on to you, about the general classification in Kula for . . . and the need of urban classification in Kula.

So here I am restricted to a development of that sort. So I . . . it is . . . the fact that the parcel has been in continuous urban use I think is important because as pointed out in (inaudible) Act 205 that Mr. (inaudible) in his presentation pointed out that it was an error not to include this parcel in the urban district in the first place and points

MR. GILLETTE (Cont'd.)

out the following section of Act 205 which says: Provided that in the establishment of boundaries of urban districts, those lands that are now in urban use shall be included in urban classification. I can only point out that there is, I believe, an urgent need for developments of this sort in Kula, and I can give you firsthand the information on that because I . . . we have rented it since 1962 and also I take the Maui News. That is not a plug for the Maui News, but we take it and look at the ads and there are very . . . there's a very small percentage of the ads of parcels in Kula that are ever smaller than one acre. At 50¢ a foot, which some of it is selling up there, the average man can't . . . a retired couple can't afford half an acre, and when he gets it, he can't get the maintenance help to keep it up. We know because we bought Dr. Hamamura's home . . . a 3½ acre tract over in the rural section on Kamehameha-iki about a mile up from there, so that we know first hand what the . . . in a small way what the demands and needs are in Kula. We have cut off the front part of our property and sold two of the half-acre lots. They were sold though to people who had more money than the average retired couple, and consequently, I urge your consideration of making available as much as possible a reasonable . . . low-priced lots for development of residences in Kula.

I might point out, as I think you probably may remember from the presentation before, that the property is entirely unsuited for agricultural use. That's out of the question entirely, and it is needed, as I have pointed out . . . the . . .

I think that that's all that I have to present. I would like to ask my good friend and attorney, too, if there's anything that Mr. Langa and

MR. GILLETTE (Cont'd.)

I have left out that would provide a fairer picture of the present parcels. No? Okay. Well, I certainly thank you very much indeed for your consideration.

CHAIRMAN BURNS:

Thank you. Is there anybody else that would like to make a statement at this time? Yes.

UNIDENTIFIED:

I have a question. We have a hearing today on our petition and it's normally . . . (inaudible) . . . I'm wondering if we don't . . . (inaudible)

CHAIRMAN BURNS:

None.

UNIDENTIFIED: (MR. TAVARA)

I'm Oscar Tavara. I wrote your Commission a letter strictly as . . . (inaudible) . . . I have no property . . . (inaudible) . . . but felt that the attitude that the Commission had taken toward property up here in Kula, there was something wrong. I have . . .

CHAIRMAN BURNS:

Would you like to step up and be sworn in please? Then we can have your statement as a matter of record.

MR. DURAN:

Do you solemnly swear the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God?

MR. TAVARA:

I do.

I have friends in Honolulu who bought property up in Kula because it was small acreage . . . 10,000, 11,000, 12,000 square foot. And there is

MR. TAVARA (Cont'd.)

(inaudible) property. I have lots of friends . . . I am basically from the Mainland, but I've lived over here in Hawaii for 13 years, and I have a lot of friends in Honolulu who constantly come over and ask me for property. And the only thing they can buy is 2 acre lots. They would love to buy 4 acre lots, but there's none available in Kula. Strangely enough, whether you believe it or not, Kula is in a terrific demand on the market today for some reason. I moved over here . . . it's not strange to me because I think it's a great area and a lot of people today feel that it's a great area, but they cannot afford these 2 acre lots. They'd like to come up here and get some small acreage where they could retire . . . and again, a lot of these people come up here and buy these lots not to live on today but 10 years or 5 years from now.

One of the reasons that the last meeting I attended was that they said this is agricultural area. It's rural area because the trees are all grown up around there, nobody's doing any clearing. Well, this is changing rapidly. People are clearing rapidly. I have people asking me all the time to clear their lots. How much . . . you can't even get people to clear them. There's a great demand for clearing up there. And . . . plus the fact that the small acreage lots . . . (inaudible) . . . There are lots of people who would like to come up there, and I think you ought to give consideration to this zoning for the people like Mr. and Mrs. Gillette that need small acreage but can't afford 2 acre lots at 50¢ a square foot. It's too much. They don't want to live up there today; they want it for 5 years from now or 8 years from now.

CHAIRMAN BURNS:

Thank you.

UNIDENTIFIED:

Mr. Chairman, may I . . . give allowance for old age; I'm forgetting. And one other essential point, because it's been on the minds of anyone who is new to restrictions. What the dickens have we got all this down in here? I've heard before . . . when no movement, no houses, since 1959, I believe, or 1960 or 1961 . . . it's a very bonafide question when somebody comes along and says oh, here's 3 acres that ought to be made urban and there becomes a demand for small lots . . . why haven't these gone? It's been (inaudible) . . . and I won't go into the details of that . . . it's been (inaudible) before from the original developer, but part of the fault of nature that makes these (inaudible) grow at such a terrific rate that they cover this whole area and if anyone wants a lot real cheap . . . I've had it on the market for about 2 or 3 years . . . if they can come up and I'll really even clear it off. But what would it do, gentlemen? It will leave me in the middle of a forest. Now, this lot has a big advantage . . . this parcel has a big advantage . . . it's on that slope I spoke of with the gulch in here. And when this is cleared off . . . and it can be cleared off at around \$600 or \$700 an acre . . . I've cleared them off, some 4½ acres out here . . . but anyway, once that's cleared off (inaudible), you cannot again have the encroachment of the trees coming up.

Thank you very much.

CHAIRMAN BURNS:

Thank you. Is there anybody else that would like to make a statement?

Mr. Frank James.

MR. DURAN:

Let me swear you in, Mr. James. Do you solemnly swear the testimony you are about to give is the truth, the whole truth and nothing but the

MR. DURAN (Cont'd.)

truth, so help you God?

MR. JAMES:

I do.

MR. DURAN:

Thank you, sir.

MR. JAMES:

I've made an application for (inaudible) zoning on (inaudible) gulch property, huh? That was at your last meeting. The time has about expired for an answer, and I was just wondering at this time if you need additional information. I gave you a complete summary of the property, what we'd like to do with it, and it was clear and I'd love to show it to you. That is my main idea of being here today, is to let you look at it and let me be with you, huh?

CHAIRMAN BURNS:

Tom, what is the status of that petition?

MR. DURAN:

Mr. Chairman, you'll recall that Mr. James filed a rezoning application about a year and a half ago with us, and at that time the staff recommended against the rezoning because it was a little spot alongside the highway with no direct access, a limited highway facility, and we recommended at that time, . . . and at that time, of course, the County . . .

MR. JAMES:

Will you talk louder so I can hear you?

MR. DURAN:

The County supported Mr. James' rezoning request, and we felt rather than create a spot zone for the resort facility that he wanted to develop, we encouraged him to file a special permit request which he did. But the



MR. DURAN (Cont'd.)

County turned it down, and that's where it stands today. He did make an application for us to rezone his property and the Commission is still of the opinion that the proper procedure would be a special permit, so it is back in the County's lap again. If he files an application . . .

CHAIRMAN BURNS:

It takes an affirmative action on the part of the County and a special permit before it comes to us? Would you explain that to Mr. James so he understands.

MR. JAMES:

What was that question?

MR. DURAN:

We had recommended that you file a special permit with the County.

MR. JAMES:

With the County?

MR. DURAN:

Yes. Which you did and it's really their responsibility to approve your request.

MR. JAMES:

Will you give me your letter to that effect that I'll send . . .

MR. DURAN:

Why, sure. Yes.

MR. JAMES:

. . . settle it with the County.

MR. DURAN:

Right.

MR. JAMES:

Could I call you . . . I didn't know that you were ready with . . .

MR. JAMES (Cont'd.)

(inaudible) . . . I have pictures and things that I could produce here now. They're in the car. I didn't know that we're going through the same thing again. Would any of you gentlemen like to see the photography so that we'll know what we're talking about?

MR. DURAN:

They've all been to the site, Mr. James. They've been out to the property.

MR. JAMES:

They've been out there recently?

MR. DURAN:

Yes, sir.

MR. JAMES:

They've been there on this trip?

MR. DURAN:

Right.

MR. JAMES:

And a trip down to the ocean?

MR. DURAN:

Yes. We were down to the ocean, too. Right. Over the bridge and . . . right.

MR. JAMES:

Good. Now you refer it back to the County, huh?

MR. DURAN:

We'll write you a letter as to the procedure.

MR. JAMES:

Yes. Will you?

MR. DURAN:

Yes, sir.

MR. JAMES:

That's all that I should ask. Thank you.

CHAIRMAN BURNS:

Thank you. Is there anybody else that would care to make a statement? If not, are there any questions the Commissioners have? If not, this chair will entertain a motion.

COMMISSIONER:

Mr. Chairman, I move that the district boundary maps for the County of Maui shown on the maps now before this Commission and dated August 1, 1969, be adopted with the rezoning of lands as shown by the revised district boundary maps to become effective August 4, 1969, concurrently with and subject to the rules and regulations of this Commission.

CHAIRMAN BURNS:

Is there any second?

COMMISSIONER:

Second.

CHAIRMAN BURNS:

Are you ready for the question? Yes.

COMMISSIONER CHOY:

. . (inaudible) . . Molokai and . . (inaudible) . .

CHAIRMAN BURNS:

The County of Maui includes them.

COMMISSIONER:

Do we take this on Maui and then . . . ?

CHAIRMAN BURNS:

No. We're taking the County and . . .

COMMISSIONER:

Oh. Maui and Lanai?

CHAIRMAN BURNS:

Maui, Molokai and Lanai. That's the way the motion read.

COMMISSIONER:

There's no discussion on Molokai or . . . ?

CHAIRMAN BURNS:

No. Are you ready for the question. Alright, will you poll the  
Commissioners please?

MR. DURAN:

Commissioner Choy.

COMM. CHOY:

Aye.

MR. DURAN:

Napier.

COMM. NAPIER:

Aye.

MR. DURAN:

Mark.

COMM. MARK:

Aye.

MR. DURAN:

Kido.

COMM. KIDO:

Aye.

MR. DURAN:

Inaba.

COMM. INABA:

Aye.

MR. DURAN:

Wung.

COMM. WUNG:

Aye.

MR. DURAN:

Nishimura.

COMM. NISHIMURA:

Aye.

MR. DURAN:

Yamamura.

COMM. YAMAMURA:

Aye.

MR. DURAN:

Chairman Burns.

CHAIRMAN BURNS:

Aye.

MR. DURAN:

Motion is carried, Mr. Chairman.

CHAIRMAN BURNS:

Thank you. Is there any other business that you have for the Commission, Rom?

MR. DURAN:

The only thing is to remind the Commission again that August 7th, 8th and 9th are with the Hawaii Conference of Planning Commissioners in Honolulu, and then we will have an action meeting on the Oahu district

MR. DURAN (Cont'd.)

boundaries on August 14th, Thursday.

CHAIRMAN BURNS:

What time is that?

MR. DURAN:

That will be a 7:00 P.M. meeting in the Capitol Building in the auditorium on the chambers level.

COMMISSIONER:

You'll send out notices?

MR. DURAN:

We'll send out notices, yes.

CHAIRMAN BURNS:

Is there anything any of the Commissioners would like to bring up at this time? If not, the meeting is adjourned.

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