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JUN 10 1991

FILE NO.: OA-5/29/91-2487
DOC. NO.: 0873E

MEMORANDUM

TO: Office of Environmental Quality Control

FROM: William W. Paty, Chairperson
Board of Land and Natural Resources

SUBJECT: Document for Publication in the OEQC Bulletin - Environmental Assessment for Conservation District Use Application OA-5/29/91-2487 for Property Consolidation and Resubdivision Including After-the-Fact Application for the Destruction of a Coconut Tree, Manoa, Hawaii

The above mentioned Chapter 343 Document was reviewed and a negative declaration was declared based upon the environmental assessment provided with the CDUA.

Please feel free to call me or Edward Henry of our Office of Conservation and Environmental Affairs, at 548-7837, if you have any questions.

WILLIAM W. PATY

Attachments

4/23

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1991-06-23-OA-FEA - Reese Consolidation and Resubdivision in Manoa

ENVIRONMENTAL ASSESSMENT

for

CONSERVATION DISTRICT USE APPLICATION

PARCEL CONSOLIDATION AND RESUBDIVISION
MANOA, OAHU, HAWAII
TAX MAP KEY: 2-9-33:24 (1st DIVISION)
TAX MAP KEY: 2-9-34:15 (1st DIVISION)

Prepared For:

Mr. and Mrs. Gregory C. Reeser
3101 Huelani Place
Honolulu, Hawaii 96822

and

Kamehameha Schools/Bishop Estate
567 S. King Street, Suite 200
Honolulu, Hawaii 96801

Prepared By:

Dwyer, Imanaka & Schraff
Attorneys-at-Law
900 Fort Street
Suite 1800
Honolulu, Hawaii 96813

May 29, 1991

I. INTRODUCTION

A. Landowners

Mr. and Mrs. Gregory Reeser
3101 Huelani Place
Honolulu, Hawaii 96822
ph. 955-6657

"Reeser Parcel"

Kamehameha Schools/Bernice Pauahi Bishop Estate
Kawaiahao Plaza
567 South King Street
Suite 200
Honolulu, Hawaii 96801
ph. 523-6200

Attn: Mr. David Imada

"Bishop Estate Parcel"

B. Location of Parcels

The "Reeser parcel" is comprised of 19,216 square feet (0.44 acre) of land and is located in Manoa, Oahu, Hawaii. The Reeser parcel is identified by TMK No. 2-9-33:24 (1st Division). See Exhibits "A-1" and "A-2," Location Maps.

The "Bishop Estate parcel" is owned by Kamehameha Schools/Bishop Estate and is also located in Manoa, Oahu, Hawaii. The Bishop Estate parcel is comprised of approximately 5.745 acres of land and is identified by TMK No. 2-9-34:15 (1st Division). See Exhibits "A-1" and "A-2," Location Maps.

C. Background of the Reeser Parcel

In 1988, Mr. and Mrs. Gregory C. Reeser (the "Reesers") purchased a parcel of land in Manoa, Oahu, Hawaii (TMK No. 2-9-33:24) upon which sat a dilapidated single-story residence. Pursuant to representations made in a Warranty Deed, dated October 5, 1988, by the seller of the parcel, pursuant to the Reeser's reliance upon the services of a licensed professional surveyor in connection with the preparation of an application for a building permit to the City and County of Honolulu (the "City"), and pursuant to the representations made by a map of the Reeser's parcel from the City's Board of Water Supply, the Reeser's believed that their parcel was comprised of 19,216 square feet and that the

existing residence upon the property complied with all of the City's setback requirements. It appeared that the Reeser's property extended approximately twenty feet (20 ft.) from eastern edge of their residence, across a large grassy yard, up to and including a chain link fence.

The Reesers thereupon sought approval from the City's Building Department and the State Department of Land and Natural Resources (the "DLNR") to rebuild the original residence upon the original foundation. On August 21, 1990, the Building Department issued the Reesers a building permit to renovate the Reeser's original residence. Later, however, the Building Department decided, and informed the Reesers, that the work they sought to perform upon their residence was not a renovation, but a reconstruction of the residence. Thus, the Reesers sought and obtained a second building permit on October 23, 1990 to rebuild their original residence. The Board of Land and Natural Resources ("BLNR") approved the Reeser's first Conservation District Use Application to rebuild the original residence on August 14, 1990 (File No. OA-3/2/90 - 2378, Document No. 0144). Thereafter, the Reeser's commenced the rebuilding of their residence.

On March 19, 1991 after all construction and virtually all finishing work was complete, the City issued a Notice of Violation and Stop Work Order citing, among other things, a setback violation by the Reeser's rebuilt residence. (See Exhibit "D" for a copy of the Notice of Violation and Stop Work Order). Apparently, years ago, someone erred in surveying and staking the boundaries of what is now the Reeser parcel. The apparent actual boundary to the parcel lies just 0.94 feet from the edge of the Reeser residence and the eves of the residence extend beyond the boundary line into the adjacent parcel owned by the Kamehameha Schools/Bishop Estate. The Reesers were wholly unaware that their property did not extend across the grass yard to the chain link fence.

As a result of the error in the survey performed years ago and perpetuated since then, the Reeser residence encroaches on the City's required setback and the City has issued a Notice of Violation and a Stop Work Order to the Reesers effective until the setback problem is resolved. As it shall be explained in Section VI of this Environmental Assessment, consolidation of the Reeser parcel with the adjacent Bishop Estate parcel and resubdivision of the large parcel thus created provides the only viable means of solving this problem with little or no impact to the surrounding environment.

When the Reesers purchased the property in 1988, a coconut tree stood next to the a corner of the existing residence. After the purchase, prior to demolition and reconstruction, Mr. Reeser noticed that the coconut tree was bearing coconuts and those coconuts were dropping on the ground

near the new residence. Mr. Reeser feared that the falling coconuts might injure his son, or other family members or guests, so he asked his gardener, who has a limited command of the English language, to "take care of the problem." He intended that the gardener would remove the coconuts to prevent them from falling and and injuring someone near the new residence. However, the gardener thereupon took it upon himself to cut down the whole coconut tree. Mr. Reeser did not know the gardener would take such action, nor did Mr. Reeser desire such action to take place. However, at this time, Mr. Reeser will assume all responsibility for the cutting of the coconut tree, including any fines which may be imposed.

D. Proposed Action and Statement of Objective

The proposed action only requires field surveying and parcel consolidation and resubdivision of the existing parcels. Specifically, the proposed action contemplates consolidating the Reeser parcel and the adjacent Bishop Estate property and resubdividing the larger parcel thus created. At the present time, both the Reesers and Bishop Estate are negotiating in good faith two options which will accomplish this goal.

Option A contemplates that the Reeser parcel will be enlarged to include a 1478 square foot portion of the Bishop Estate parcel. This portion which is to be added is designated Lot B on Exhibit "B." After consolidation and resubdivision, the total area of the Reeser parcel will be 20,694 square feet and the total area of the 5.745 acre Bishop Estate parcel will be reduced by the same amount to approximately 5.71 acres.

Option B contemplates that the Reeser parcel will be enlarged to include a 923 square foot portion of the Bishop Estate parcel. This portion which is to be added is designated Lot C on Exhibit "B." After consolidation and resubdivision, the total area of the Reeser parcel will be 20,139 square feet and the total area of the 5.745 acre Bishop Estate parcel will be reduced by the same amount to approximately 5.72 acres.

At the present time, both the Reesers and Bishop Estate are negotiating which option, A or B, will be selected. The applicant herein will promptly notify the DLNR which option is selected by the two parties. That decision is expected by July 1, 1991. In the event that the two parties through their good faith efforts cannot reach an agreement on either option, the Reesers and Bishop Estate each expressly reserve the right herein to withdraw this application.

The proposed action is within the Conservation District. Thus, under a conditional use, a Conservation District Use Application is required. No physical land use

changes shall occur within the two parcels involved, except for such uses that have been approved by the BLNR on August 14, 1990 as evidenced in DLNR File No. OA-3/2/90-2378, Document No. 0144. The only change contemplated by this proposed action will be the adjustment of parcel boundaries. The present physical condition of the conservation land designated "Limited" ("L") subzone will not be affected.

It is further requested that the Reeser's be permitted to engage in such minor erosion control and vegetation control as may be reasonably necessary, appropriate or desirable, consistent with permitted uses.

The primary objective of the proposed action is simply to adjust the existing boundary lines to eliminate the present encroachment over the building setback lines and boundary lines. The proposed action is a remedial measure designed solely to permit Mr. and Mrs. Reeser to realize the completion of their residence and use it in a manner already approved by the BLNR. Furthermore, the result of such proposed action would simply extend the Reeser parcel boundary to that originally contemplated by the BLNR's approval of the Reeser's prior Conservation District Use Application.

II. STATUTORY/REGULATORY COMPLIANCE AND AGENCIES CONSULTED

A. Chapter 343, Hawaii Revised Statutes

This environmental assessment is prepared pursuant to Chapter 343, Hawaii Revised Statutes, and Title 11, Chapter 200, Hawaii Administrative Rules, because the proposed action is proposed on lands within the Conservation District.

B. Consulted Agencies

The State Department of Land and Natural Resources and the City's Department of Land Utilization, Department of Public Works and Building Department were consulted during the preparation of the Environmental Assessment.

III. DESCRIPTION OF THE AFFECTED ENVIRONMENT

Mr. Reeser's parcel and the Bishop Estate parcel are adjacent to each other as shown on Exhibits "A-1" and "A-2." Located on the extreme eastern edge of Mr. Reeser's parcel is Mr. Reeser's virtually completed two-story residence. (See Exhibit "B", indicating the location of Mr. Reeser's residence.) This residence was the subject of Mr. Reeser's prior Conservation District Use Application, which received

approval from the BLNR on August 14, 1990, evidenced by File No. OA-3/2/90-2378, Document No. 0144.

The Bishop Estate parcel, which is adjacent to Mr. Reeser's parcel, is currently vacant and not being utilized for any particular purpose by the Bishop Estate. In fact, Mr. Reeser's prior Conservation District Use approval expressly permitted the use contemplated by Mr. Reeser upon this property because it was previously believed that the portion of the Bishop Estate which Mr. Reeser seeks to acquire was part of Mr. Reeser's parcel.

The Reeser parcel is generally level and covered with grass, except for a small portion of the rear of the Reeser parcel which slopes steeply up toward the forrest preserve and the Reeser residence and the driveway from Huelani Place extending to the residence.

The portion of the Bishop Estate parcel which is to be added to the Reeser parcel is likewise generally level and covered with grass. Other portions of the Bishop Estate parcel vary in topography, the mauka corner of the parcel rising sharply as it joins the forest preserve.

The Reeser parcel is located approximately at the five hundred foot (500 ft.) elevation. The Bishop Estate parcel varies in elevation, but the portion which is to be added to the Reeser parcel is at the approximately the same elvation as the Reeser parcel. As Mr. Reeser's prior CDUA indicates, over seventy-five percent (75%) of the Reeser parcel does not vary by more than three feet (3 ft.) of relative elevation. Furthermore, the portion of the Bishop Estate parcel which is proposed to be added to the Reeser parcel is likewise generally level. See Exhibit "C."

The Environmental Assessment prepared for Mr. Reeser's prior Conservation District Use Application, File No. OA-3/2/90-2378, Document No. 0144, by D & S Drafting Services, states there is no evidence of rare or endangered flora or fauna has been observed. We are aware of no indication the situation has changed.

Furthermore, the consolidation and resubdivision will not change or affect the vegetation growing on the parcels in any way.

IV. CHARACTERISTICS OF THE PROPOSED ACTION

A. Technical

The proposed action involves surveying the two parcels involved and the staking of corner plus of the final lots. The

proposed action further involves obtaining subdivision approval from the City's Department of Land Utilization.

B. Economic

The only economic characteristic of the proposed action will be the cost to Mr. Reeser of acquiring a portion of the Bishop Estate parcel, a cost which will be determined at a later date.

C. Social

The proposed action will have no impact to the social welfare of either the City or State.

D. Environmental

The proposed action merely involves the surveying and staking of corner pins of the final lots. See section V for further discussion.

V. IMPACTS OF THE PROPOSED ACTION

The subject parcel consolidation and resubdivision within the project area will be done only in document and map form with the exception of field surveys and staking of corner pins of the final lots. No significant environmental impact is anticipated.

The proposal does not change the physical characteristics of the lands within the Conservation District. Thus there will be no significant environmental effect to the following:

1. Air Quality
2. Water Quality
3. Ambient Noise Levels
4. Rare, Threatened, or Endangered Species of Animal or Plant Habitat
5. Natural or Cultural Resources

VI. ALTERNATIVES CONSIDERED

There exist two alternatives to consolidation and resubdivision of the Reeser and Bishop Estate parcels to correct the setback problems on the Reeser parcel. However, as it shall be discussed, neither alternative provides a viable comprehensive solution to Mr. Reeser's setback problems.

A. Obtain a Zoning Variance from the City and County of Honolulu from the Application of its Setback Requirements

The first alternative available to Mr. Reeser to solve his setback problem is to obtain a variance from the application of the City's setback requirements.

This alternative, however, is not viable because the actual boundary of Mr. Reeser's parcel runs within one foot of the edge of his residence. Thus, as the boundary line between the two parcels is so close to the Reeser residence, the Reesers cannot access the eastern side of their residence without potentially trespassing upon the Bishop Estate parcel. Furthermore, the eves of Mr. Reeser's residence hang over onto the Bishop Estate parcel, thus creating a potential continuing encroachment and/or trespass violation upon the Bishop Estate parcel.

B. Move the Reeser Residence to Comply with the Setback Requirements

The other alternative to the proposed consolidation and resubdivision of the two parcels is for the Reesers to demolish their residence, which is one hundred percent (100%) complete, except for minor interior finishing work, and for which they have sought and received a Conservation District Use Permit to rebuild, and to reconstruct their residence elsewhere on their lot, this time taking into account the recently corrected property boundary.

This second alternative, however, is also not viable in that such would require the application and approval of another Conservation District Use Permit to tear down and rebuild the Reeser residence. The detrimental impact of such substantial destruction, relocation, grading and reconstruction on the surrounding environment would be enormous if this alternative was mandated. It would include the operation of heavy machinery upon the vegetated lawn areas of the Reeser parcel to tear the existing residence down and earth removal to build a foundation for the new residence. Much of this was carefully and intentionally avoided by the Reesers originally when they built on the existing site and foundation of the former structure. Thus, clearly the solution with the least impact to the area is to simply consolidate and resubdivide the the two parcels. Furthermore, consolidation and resubdivision is more cost efficient to the Reesers.

VII. PROPOSED MITIGATION MEASURES

As the proposed consolidation and resubdivision will not adversely impact the surrounding environment, no mitigation measures need be taken.

VIII. DETERMINATION/CONCLUSION

The proposed consolidation of existing parcels and resubdivision does not conflict with the State's long-term environmental policies or goals and guidelines as expressed in Chapters 343 and 344, Hawaii Revised Statutes, and any revision thereof and amendments thereto, Court decisions or Executive Orders. The proposed action will have no significant environmental impact and there are no foreseeable secondary or indirect consequences which would adversely affect the environment within the Conservation Use District. Furthermore, the only alternatives to consolidation and resubdivision involve either potential violations of the City ordinances and the property rights of the Bishop Estate or the application for another Conservation District Use Permit to tear down and rebuild the Reeser's residence.

The proposed action is simply a remedial measure designed to permit Mr. and Mrs. Reeser to realize the completion of their residence. The result of such proposed action will simply extend the Reeser parcel boundary to that originally contemplated by the BLNR's approval of the Reeser's prior Conservation District Use Application.

For all of the foregoing reasons, a negative declaration is requested.

EXHIBIT A

PROPOSING APPLICANTS

A. Mr. and Mrs. Gregory C. Reeser
3101 Huelani Place
Honolulu, Hawaii 96822
ph. 955-6657

B. Kamehameha Schools/Bernice Pauahi Bishop Estate
Attn: Mr. David Imada, Land Manager
Kawaiahao Plaza
567 South King Street
Suite 200
Honolulu, Hawaii 96801
ph. 523-6200