

Docket

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of	)	DOCKET NO. A03-738
	)	
GENTRY INVESTMENT PROPERTIES,	)	FINDINGS OF FACT
A Hawai'i Limited Partnership	)	CONCLUSIONS OF LAW,
	)	AND DECISION AND
To Amend The Agricultural Land Use District	)	ORDER
Boundary Into The Urban Land Use District	)	
For Approximately 282.614 Acres Of Land At	)	
'Ewa, O'ahu, Hawai'i, Tax Map Key Nos:	)	
9-1-10: 7 And 9-1-69: 5	)	
_____	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND DECISION AND ORDER

This is to certify that the foregoing is a true and correct copy of the original as it appears in the office of the State Land Use Commission, Honolulu, Hawaii.

JAN 02 2004

Date \_\_\_\_\_

\_\_\_\_\_ Executive Officer

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FINDINGS OF FACT, CONCLUSIONS OF LAW,  
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GENTRY INVESTMENT PROPERTIES, a Hawai`i limited partnership (“Petitioner”), filed a Petition For District Boundary Amendment (“Petition”) on March 21, 2003, pursuant to chapter 205, Hawai`i Revised Statutes (“HRS”), and chapter 15-15, Hawai`i Administrative Rules (“HAR”), to amend the State land use district boundary to reclassify approximately 282.614 acres of land at `Ewa, O`ahu, Hawai`i, identified as Tax Map Key Nos: 9-1-10: 7 and 9-1-69: 5 (“Property” or “Petition Area”), from the State Land Use Agricultural District to the State Land Use Urban District for a residential and an industrial and commercial complex (“Project”).

The Land Use Commission of the State of Hawai`i (“Commission”), having heard and examined the testimony, evidence, and arguments of counsel presented during the hearing, and the proposed findings of fact, conclusions of law, and

decision and order stipulated to by Petitioner, the State Office of Planning (“OP”), the City and County of Honolulu (“County”), Intervenor Haseko (Ewa), Inc. (“Haseko”), and Intervenor Hawaii Prince Hotel Waikiki Corp. (“Hawaii Prince”), hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On March 21, 2003, Petitioner filed the Petition.
2. On April 21, 2003, Haseko filed its Notice of Intent to Intervene.
3. On April 25, 2003, Petitioner filed its Amended Certificate of Service of Petition for District Boundary Amendment.
4. On April 28, 2003, Petitioner filed its Amended Affidavit of Service of Petition for District Boundary Amendment.
5. By letter dated May 2, 2003, the Executive Officer of the Commission deemed the Petition a proper filing as of April 28, 2003.
6. On May 20, 2003, Petitioner filed its Errata to Petition for District Boundary Amendment filed March 21, 2003.
7. On May 29, 2003, OP filed its Statement of Position of the Office of Planning in Support of the Petition.
8. On June 2, 2003, the County filed its Statement of Position of the Department of Planning and Permitting.

9. On June 12, 2003, a prehearing conference was conducted in Conference Room 405 of the Leiopapa A Kamehameha Building, 235 South Beretania Street, 4<sup>th</sup> Floor, in Honolulu, Hawai`i, with representatives of Petitioner, OP, County, and Haseko present.

10. On June 12, 2003, Haseko filed Haseko (Ewa), Inc.'s Application to Intervene.

11. On June 19, 2003, Petitioner filed Gentry Investment Properties Statement of No-Objection and Non-Appearance of Counsel as to Haseko (Ewa), Inc.'s Application to Intervene filed June 12, 2003.

12. On June 19, 2003, the Commission filed its Prehearing Order.

13. On June 23, 2003, Hawaii Prince filed Intervenor-Applicant Hawaii Prince Hotel Waikiki Corp.'s Petition for Intervention.

14. By letter dated June 24, 2003, the County informed the Commission that it had no objections to Haseko's Application to Intervene.

15. On June 26, 2003, the Commission granted Haseko's Application to Intervene.

16. On July 7, 2003, the Commission filed its Order Granting Haseko (Ewa), Inc.'s Application to Intervene.

17. By letter dated July 7, 2003, the County informed the Commission that it had no objections to Hawaii Prince's Petition for Intervention.

18. On July 9, 2003, the Commission received correspondence from Department of Land and Natural Resources, Historic Preservation Division, indicating that no historic properties will be affected by the Project.

19. On July 10, 2003, the Commission considered the Petition at its meeting in Honolulu, Hawai'i. Entering appearances were Benjamin M. Matsubara, Esq., and Curtis T. Tabata, Esq., for Petitioner; David K. Tanoue, Deputy Corporation Counsel, for the County; John W.K. Chang, Deputy Attorney General, Judith Henry, and Abe Mitsuda for OP; Linnel T. Nishioka, Esq., for Haseko, and J. Douglas Ing, Esq., and Teri Y. Kondo, Esq., for Hawaii Prince.

20. After the appearances of the parties, the Commission granted Hawaii Prince's Petition for Intervention.

21. The following individuals provided public testimony: Norman Pang, Tesha Malama, and Suzanne Alawa.

22. Following the public testimony, the Commission conducted a hearing on the Petition pursuant to a public notice published on June 6, 2003, in the Honolulu Star-Bulletin.

23. On July 11, 2003, the Commission continued the hearing on the Petition, Petitioner Gentry Investment Properties' and Intervenor Haseko (Ewa), Inc.'s Stipulation was filed and entered into evidence and the hearing on the Petition was

closed on July 11, 2003, subject to additional evidence that may be submitted by Hawaii Prince.

24. On July 18, 2003, the Commission received correspondence from Hawaii Prince indicating that they would not be calling any witnesses or presenting any testimony with respect to this docket.

25. On July 30, 2003, the Commission filed its Order Granting Hawaii Prince's Petition for Intervention.

26. On August 7, 2003, the Commission, by its own motion, re-opened the hearing for the limited purpose of receiving additional and clarifying testimony from the State Department of Transportation ("DOT"). The Commission entered into evidence a Letter Agreement between Petitioner and Hawaii Prince, which set forth the agreement between the two parties regarding drainage, and written public testimony from Tesha Malama. The hearing on the Petition was then closed.

27. On August 28, 2003, the Commission filed its Order Regarding Re-Opening of Hearing.

#### DESCRIPTION OF THE PETITION AREA

28. The Petition Area is located in `Ewa, O`ahu, Hawai`i, consisting of approximately 282.614 acres, and is identified by Tax Map Key No: 9-1-10: 7, consisting of 114.617 acres; and Tax Map Key No: 9-1-69: 5, consisting of 167.997 acres.

29. The Ewa Makai-East portion of the Petition Area (Tax Map Key No: 9-1-10: 7) lies between proposed single-family homes in Ewa by Gentry and the Hawaii Prince Golf Course, and extends east of Fort Weaver Road to the U. S. Navy property boundary. The Ewa Makai-West portion of the Petition Area (Tax Map Key No: 9-1-69: 5) lies west of Fort Weaver Road, between Ewa by Gentry's Sun Terra residential community and the Coral Creek Golf Course (to the north) and Haseko's planned Ocean Pointe community (to the south). The Barbers Point Naval Air Station Golf Course lies to the west of the Petition Area.

30. Ewa Makai-West is contiguous to the Urban District to the north, west, and south. Ewa Makai-East is contiguous to the Urban District to the north and the Agricultural District to the south and east.

31. The Petition Area consists of fallow agricultural lands, which were previously leased for many years by Oahu Sugar Company, Ltd., for the production of sugarcane. These leases expired a number of years ago, and for the past several years, nearly all of the Petition Area was leased to Ralph's Ranch on a month-to-month lease. However, Ralph's Ranch, which also leases lands in Kunia and Kahuku, recently vacated the Petition Area, so the Petition Area is no longer in any productive use.

32. Fee simple ownership of the Petition Area is vested in The Estate of James Campbell, whose principal place of business is 1001 Kamokila Boulevard, Kapolei, Hawai`i, 96707.

33. The Estate of James Campbell has authorized Petitioner to submit the Petition and to develop the Petition Area as set forth in its written Authorization dated December 4, 2002.

34. The Petition Area contains the following soil types as determined by the Soil Conservation Service, now known as the Natural Resource Conservation Service:

	<u>Acres</u>
EmA `Ewa silty clay loam, moderately shallow, 0 to 2 percent slopes.	65.1
EmB `Ewa silty clay loam, moderately shallow, 2 to 6 percent slopes.	21.4
MnC Mamala stony silty clay loam, 0 to 12 percent slopes.	196.1
TOTAL	282.6

35. Approximately 30.6 percent of the Property is rated “Prime” (soil types EmA and EmB), and 69.4 percent is rated “Other” (soil type MnC) under the “Agricultural Lands of Importance in the State of Hawai`i” classification system.

36. Approximately 23.2 percent of the Petition Area is rated “A” and the remaining 76.8 percent is rated “C” under the UH Land Study Bureau’s Overall Productivity Rating.

37. The elevation of the Petition Area ranges from approximately 20 to 35 feet above mean sea level.



38. Except for two pronounced sumps near the eastern boundary of Ewa Makai-East, slopes are approximately 1 percent in the Petition Area.

39. Average annual rainfall in the Petition Area is slightly more than 20 inches.

40. The Petition Area receives considerable sunshine, with an average daily insolation exceeding 500 calories per square centimeter. The average low temperature ranges from approximately 60°F in the winter to approximately 70°F in the summer, while average high temperature ranges from just under 80°F in the winter to just under 90°F in the summer.

41. The Petition Area is not in an area designated as a flood zone in the Federal Flood Insurance Rate maps.

#### PROPOSAL FOR RECLASSIFICATION

42. The Project is being proposed as a continuation of the existing Ewa by Gentry. This existing community, situated immediately north of the Ewa Makai parcels, is a 1,000-acre planned development of approximately 7,000 homes, of which 5,383 had been completed and closed as of January 31, 2003.

43. The Conceptual Master Plan for the Project includes approximately 550 single-family detached units on approximately 93 acres, 675 cluster units on approximately 64 acres, and 640 multi-family units on approximately 32 acres. It also includes community facilities (a middle school, a community recreation center complex,

and two church/daycare sites) on approximately 24 acres, an industrial/commercial complex on approximately 30 acres, parks on approximately 11.5 acres, open space for infrastructure/drainage on approximately 14 acres, and roadways on approximately 14.5 acres.

44. Lot sizes for single-family homes will average 5,000 square feet, with an estimated density of 7.5 units per acre and average in price between approximately \$300,000 and \$435,000 (2003 dollars). Cluster homes will have an estimated density of 12.5 units per acre and range in price between approximately \$200,000 and \$300,000 (2003 dollars). Multi-family residential homes will have an estimated density of 20 units per acre and will range in price between approximately \$150,000 and \$200,000 (2003 dollars).

45. Two public parks are planned for the Petition Area. The 8-acre park in Ewa Makai-West will be centrally located and within walking or biking distance for many area residents. The 3.5-acre park is an extension of a 6.8-acre park, which is planned for the existing Ewa by Gentry development along Keaunui Drive. A 2-acre private community recreation center complex is also planned in Ewa Makai-West.

46. A 30-acre industrial-commercial complex is intended as an adjunct to the proposed 20-acre Laulani Commercial Center, which is on land not included in the Petition Area but retained by Campbell Estate and already zoned for urban uses. The industrial-commercial complex is intended to provide supplemental services to

meet the needs of the `Ewa community and to also provide a major source of employment for an estimated 1,500 people at buildout. Lots would range in size from 15,000 square feet to 3 acres, with a total of 35 to 40 expected lots to be used for warehousing, light assembly operations, wholesaling, commercial, and other permitted uses. Buildings are not expected to exceed 40 feet in height, and a 30-foot-wide landscape and drainage easement will be provided between the buildings and the Ocean Pointe boundary.

47. Petitioner plans to convey to the Department of Education, State of Hawai`i (DOE), an 18-acre site on Kapolei Parkway for the construction of a new middle school for grades 6 through 8. Two 2-acre church sites are planned for the Project. It is envisioned that the church sites will also serve as centers for day care and/or other community services during the weekdays.

48. Petitioner plans to dedicate a 2-acre site to the Ewa by Gentry Community Association for the construction of a recreation facility for use by its residents.

49. Petitioner has agreed to comply with the following affordable housing requirements that the County will probably recommend in satisfaction of Revised Ordinances of Honolulu (“ROH”) Section 99-51 and 01-33: (1) at least 10 percent of the total number of units to be developed in the project area must be affordable to households earning up to and including 80 percent of the area median

income as determined by the U.S. Department of Housing and Urban Development (“HUD”), and (2) at least an additional 20 percent of the total number of units to be developed in the project area shall be affordable to households earning up to and including 120 percent of the area median income as determined by HUD.

50. It is projected that it will take one to one and a half years to obtain the necessary Federal, State, and County entitlements and approvals for the first phase, and that the Project is intended to be substantially completed within ten years from the date of Commission approval.

51. Petitioner projects that the 1,865 total residential units for the Project will be developed according to the following schedule: 1) 2005/90 units; 2) 2006/192 units; 3) 2007/227 units; 4) 2008/270 units; 5) 2009/246 units; 6) 2010/240 units; 7) 2011/123 units; 8) 2012/90 units; 9) 2013/87 units; 10) 2014/60 units; 11) 2015/90 units; 12) 2016/70 units; and 13) 2017/80 units.

52. The Project will produce design and construction employment opportunities during the construction phases. Approximately \$84.9 million is estimated to be spent on the design and construction of the Project infrastructure. Approximately \$260.7 million is estimated to be spent on the construction of the residences. Approximately \$85.6 million is estimated to be spent on the construction of the industrial-commercial complex, and approximately \$1.38 million is estimated to be spent on the construction of park improvements.

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

53. Petitioner's unaudited financial statements as of December 31, 2002, reflect total assets of \$85,615,597, total liabilities of \$34,684,735, and partners' capital of \$50,930,862.

54. Petitioner intends to use a combination of cash reserves and financing to acquire the two parcels for the Project. After Petitioner obtains its land entitlements, it will sell the land in smaller increments to Gentry Homes, Ltd., and Gentry Homes, Ltd., will finance the infrastructure and development costs with its current \$34 million revolving line of credit. The Petition Area will serve as additional collateral for the line of credit. It is anticipated that this line of credit will have sufficient capacity to finance all site and building improvements for the Project.

STATE AND COUNTY PLANS AND PROGRAMS

55. The Petition Area is currently designated in the State Land Use Agricultural District, as reflected on the Commission's official maps, O-6 (Ewa) and O-10 (Pu'uloa).

56. The County's Ewa Development Plan, adopted in 1997, designates the Petition Area as being within the Urban Growth Boundary, and a part of the network of master-planned residential communities.

57. Ewa Makai-West is zoned AG-2 General Agriculture District and Ewa Makai-East is zoned AG-1 Restricted Agriculture District. Petitioner will need to

obtain rezoning of the Petition Area to R-5 Residential, A-1 Apartment, P-2 General Preservation, and IMX-1 Industrial-Commercial Mixed Use.<sup>1</sup>

58. The Petition Area is not located within the Special Management Area.

NEED FOR THE PROPOSED DEVELOPMENT

59. John Child & Company prepared a market and fiscal and economic impact analysis for the Project dated September 2001 and updated in February 2003. The 1,865 residential units proposed for the Project are projected to be sold between 2006 and 2013. It is estimated that Petitioner will sell an average of 287 residential units each year from 2001 to 2009, an average of 276 units from 2010 to 2014, and an average of 265 units from 2015 to 2016.

60. Petitioner proposes to develop the 30-acre industrial-commercial site in 2007, and the demand for industrial-commercial uses supports development of the 30-acre site in the Petition Area.

ECONOMIC IMPACTS

61. The projected new construction related jobs created annually on the Project is estimated to average approximately 310 direct jobs and 547 indirect and

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<sup>1</sup> Petitioner has prepared an Environmental Impact Statement (“EIS”) for the Project in response to the requirement of the `Ewa Development Plan, which specifies that an environmental assessment and, if warranted, an EIS be submitted for developments involving a significant zone change. The EIS is currently being processed by the County.

induced jobs for a total of approximately 857 new jobs over the Project's construction period from 2005 to 2013.

62. In addition to the construction-related jobs, the development of the 30-acre industrial-commercial complex will create approximately 1,500 permanent long-term operational employment, including light and/or service industrial and retail uses compatible with the residential character of the surrounding neighborhood.

63. The Project is anticipated to have a net fiscal impact on real property taxes of \$8.3 million during the construction period of 2005 through 2013, and the annual net fiscal impact is anticipated to be \$1.81 million beginning in 2014 (2001 dollars).

64. The net fiscal impact on State of Hawai'i general excise tax revenues and State of Hawai'i income tax revenues is anticipated to be \$45.2 million during the construction period of 2005 through 2013, and the annual net fiscal impact is anticipated to be \$3.65 million beginning at 2014 (2001 dollars).

#### SOCIAL IMPACTS

65. Earthplan, Inc., prepared a social impact assessment for the Project dated July 2002. The Project is estimated to add 5,500 to 6,800 persons to the region. Among the concerns raised by the community in regard to the Project were the location of the proposed middle school site, the adequacy of school facilities given the

cumulative growth planned for the region, and infrastructure relating to roads and drainage issues.

66. The Commission received public testimony regarding the traffic conditions along the `Ewa Plain corridor, which are adversely impacting the quality of life for residents of the `Ewa community. There is a need for appropriate State and County agencies to develop regional roadway improvements, including the widening of Fort Weaver Road, the construction of the North-South Road, and the construction of the Kapolei Parkway, in a timely and coordinated manner to alleviate the current traffic congestion and delays as a result of the increased growth in the region.

#### IMPACTS UPON RESOURCES OF THE AREA

##### Agricultural Resources

67. Decision Analysts Hawaii, Inc., prepared an impact on agriculture study for the Project dated February 2002. No existing sugarcane or pineapple plantations will be impacted by the Project, and the Project will not limit the potential growth of diversified agriculture due to the vast amount of land that has been released from plantation agriculture since the late 1960s.

##### Flora and Fauna

68. Char & Associates prepared a botanical survey for the Project dated June 2001. The vegetation on the Property consists largely of introduced or alien plant species, and no threatened and endangered species or species of concern were found in



the Petition Area. Therefore, the proposed Project is not expected to have a significant negative impact on the botanical resources.

69. Mr. Phil Bruner, Environmental Consultant, prepared an avifaunal and feral mammal survey for the Project dated May 9, 2001. No native birds were recorded on the field survey and no unique resources important to native birds were discovered on the Petition Area. No endangered or threatened species were recorded. The only species of mammal observed on the survey was the Small Indian Mongoose.

#### Archaeological/Historical/Cultural Resources

70. Pacific Legacy, Inc., prepared an archaeological survey for the Project dated January 2003. No archaeological sites are present within the Petition Area. However, it is possible that excavations could expose coral sinkholes that were used for agriculture. The traditional surface for these sites has long been destroyed with in-fill during cattle grazing and plowing during sugarcane cultivation.

Since there is the possibility of encountering subsurface resources, it is recommended that an archaeologist be retained on an on-call basis to assist the contractor in the event that subsurface archaeological resources are encountered. Petitioner will comply with this recommendation.

71. Pacific Legacy, Inc., also prepared a cultural assessment for the Project dated April 2002. The Petition Area is located within an area traditionally

referred to as the plain of Kaupe`a - the barren place for mischievous wandering spirits called ao kuewa, and further distinction places the Project in an area named Kelea.

The area is documented as having been a main thoroughfare for travelers to the settlements on the western coastline, and there is further documentation of a trail having passed between Pu`u o Kapolei and Pu`u o Palailai. However, there were no cultural resources found within the Petition Area.

The Petition Area lies in the path of the traditional viewing direction for the Mahina`ona Crown. When the sun moved north it would at one point in the year, May 1 on the western calendar, align in the west and set directly behind Pu`u o Kapolei and Pu`u o Palailai (two hills northwest of the Petition Area). When the sun would set behind these two hills at the particular alignment, a vision of a glowing crown could be seen when viewed from the ancient altar site on the present Waikiki Aquarium grounds.

It does not appear that the Project will have any adverse effect to native Hawaiian traditional and customary rights exercised in the Petition Area which would require protection under Article XII, Section 7, of the Hawai`i State Constitution.

### Groundwater Resources

72. Groundwater exists beneath the Petition Area as a thin, brackish basal lens in hydraulic contact with saline water at depth and seawater at shoreline, and is commonly referred to as the `Ewa Caprock Aquifer. At present, the use of the aquifer

on the eastern side of the `Ewa Plain consists of 0.7 million gallons per day (“MGD”) by the New `Ewa Beach Golf Course and a far lesser amount by a number of small capacity wells on existing `Ewa by Gentry developed areas. Development of the Petition Area should have no significant impact on the aquifer.

## ENVIRONMENTAL QUALITY

### Noise

73. Y. Ebisu & Associates prepared an acoustic study for the Project dated November 2001. Along the existing roadways that are expected to service the Project traffic, noise levels are expected to increase by 0.8 to 1.6 Ldn between 1998 and 2010 as a result of Project traffic. By 2010, essentially all locations which front Fort Weaver Road, Geiger Road, Kapolei Parkway, Iroquois Road, and Street A will experience relatively high noise levels above 65 Ldn, and will require traffic noise mitigation measures. Petitioner will incorporate all required traffic noise mitigation measures for these areas in the Project. Those receptor locations, which are removed from the major roadways as well as shielded by existing and new buildings, should experience traffic noise levels less than 65 Ldn.

Based on 2000/2001 and 2020 aircraft noise contours developed over the Property, only the commercial and industrial portions of the Property are located inside the 60 Ldn noise contour. Special aircraft noise attenuation measures should not be required for the Project. OP recommends that no residential construction be allowed in

areas with aircraft noise contours greater than 60 Ldn, and that an aviation easement be granted to the State in areas of the Project with aircraft noise contours greater than 55 Ldn.

Temporary noise impacts may occur during the construction of the proposed Project. Because construction activities are predicted to be audible at adjoining properties, the quality of the acoustic environment may be degraded to unacceptable levels during periods of construction. Mitigation measures to reduce construction noise will not be practical in all cases. For this reason, the use of quiet equipment and construction curfew periods as required under the State Department of Health (“DOH”) noise regulations are recommended to minimize construction noise impacts. Petitioner will comply with all DOH noise regulations pertaining to construction noise.

#### Air Quality

74. B.D. Neal & Associates prepared an air quality study for the Project dated January 2003. The major potential short-term air quality impact of the Project will occur from the emission of fugitive dust during construction. Mitigation measures include watering active work areas and unpaved roads twice daily on days without rainfall and covering dirt hauling trucks when traveling on roadways. Mitigation measures that will also help to reduce fugitive dust impacts include the use of windscreens and/or limiting the area that is disturbed at any given time, the use of

mulch or chemical soil stabilizers, road cleaning and tire washing programs, the paving of parking areas and early landscaping, and the monitoring of dust to evaluate the effectiveness of the Project's dust control program and to adjust the program if necessary. Petitioner will implement all required and recommended mitigation measures for fugitive dust.

During construction phases, emissions from engine exhausts will also occur both from onsite construction and from vehicles used by construction workers and trucks traveling to and from the construction site. Increased vehicular emissions can be reduced by moving equipment and personnel to the site during off-peak traffic hours. After the proposed Project is completed, long-term impacts on air quality should be small, and worst case concentrations of carbon monoxide should remain within both the State and Federal ambient air quality standards. Implementing any air quality mitigation measures for long-term traffic related impacts is probably unnecessary and unwarranted.

## ADEQUACY OF PUBLIC SERVICES AND FACILITIES

### Highways and Roadway Facilities

75. Parsons Brinckerhoff Quade & Douglas, Inc., performed a traffic impact analysis for the Project dated December 2002. With the recommended roadway and traffic improvements, the roadway system can accommodate the traffic generated by the proposed Project. The two categories of roadway improvements are local and

regional. The local roadway improvements will be implemented and paid for by Petitioner. The State or the County will implement the regional roadway improvements.

76. Local roadway improvements include extending Keanui Drive south and west from Iroquois Road to Kapolei Parkway, adding three full-movement accesses for Keanui Drive between Kapolei Parkway and Fort Weaver Road, widening Geiger Road west of Kapolei Parkway to a three-lane cross section, widening Iroquois Point Road from Keanui Drive to the eastern boundary of the Petition Area, re-striping Kapolei Parkway north of Geiger Road as a six-lane arterial roadway once Kapolei Parkway is connected to the North-South Road, and adding intersections on Kapolei Parkway south of Geiger Road.

77. The regional roadway improvements include widening Fort Weaver Road from four to six lanes between Geiger Road and Farrington Highway, completing Kapolei Parkway between Ocean Pointe and the North-South Road, and implementing the North-South Road and a half-diamond interchange between Kapolei Parkway and H-1 Freeway.

78. The Fort Weaver Road expansion project falls under the DOT's jurisdiction as a State roadway, and has been divided into two phases: 1) Farrington Highway to Lualaunui Street; and 2) A`awa Drive to the Geiger Road-Iroquois Point

Road intersection. The first phase will be started approximately March 2004 with a tentative completion date of March 2005.

79. The DOT plans that the second phase of the Fort Weaver Road expansion project, A`awa Drive to the Geiger Road-Iroquois Point Road intersection, will be procured as a design-build project, which entails a contractor bidding on both the design and construction phases together to be completed within a set calendar date as a lump sum contract. The cost of the second phase is approximately \$1.8 million for design and \$18 million for construction.

The Notice to Proceed is expected to be issued by late 2004 with completion of the second phase in early 2007. The completion could be accelerated if an incentive/disincentive type provision is implemented, where the bids are reduced for the sole purpose of determining the low bidder by reducing the bid by the product of a to-be-determined dollar value and the number of applicable days. The actual bid amount does not change, and the State benefits in a shorter construction period and earlier delivery of the project.

80. Petitioner has completed Kapolei Parkway to its ultimate cross-section between a point south of Geiger Road to the OR&L right-of-way ("ROW"). The County has awarded a construction contract for the segment of Kapolei Parkway between the OR&L ROW and Renton Road and construction should be completed by the summer of 2004.

81. The segment of Kapolei Parkway between Renton Road and the North-South Road falls under the jurisdiction of the State Department of Land and Natural Resources and Department of Hawaiian Home Lands.

82. The North-South Road project extends from the H-1 Freeway to Kapolei Parkway. The project will be divided into two phases of \$30 million each. The first phase will be from Farrington Highway to Kapolei Parkway for three lanes. The second phase is from Farrington Highway to H-1 including a temporary interchange at the existing Palailai undercrossing. The Notice to Proceed for the first phase is expected to be issued by late 2004 with completion by late 2006 or early 2007. The Notice to Proceed for the second phase is expected to be issued by late 2005 with completion by early 2007.

83. The North-South Road project will initially be built with three lanes instead of the full six lanes for the project. One lane will be used in each direction and the middle lane could be used as a reversible lane, with two lanes headed mauka in the morning and two lanes headed makai in the afternoon.

84. The funding of the North-South Road project will be through State appropriations and what is intended as a “soft-match” where the Federal government allows the State to use the value of the State-owned land for the North-South Road ROW as a local match. The total cost of the project from the H-1 Freeway to Kapolei Parkway is approximately \$60 million, which will include \$12 million from the State



and \$48 million from the Federal government. To obtain the Federal funding, the DOT will proceed with the O`ahu Metropolitan Planning Organization (“OMPO”) process. The DOT’s schedule is subject to OMPO’s acceptance of the DOT’s recommendation; however, the North-South Road project is very high on the State’s list of priorities.

85. It is possible to implement the incentive/disincentive provision for the North-South project, which could accelerate the completion date.

86. Petitioner is required to comply with Chapter 33A, ROH (“Ordinance 02-52”), related to a traffic impact fee program for `Ewa, and Petitioner will contribute its “fair share” to future roadway improvements in the `Ewa region as provided in Ordinance 02-52.

87. The County currently has a mechanism that transfers the impact fees collected by the County to a State account. However, the State does not have a mechanism to receive and expend those fees from the State account. The State is currently working on legislation that will enable the State to receive and expend those funds.

#### Water Service

88. Mr. Tom Nance, President of Tom Nance Water Resource Engineering, performed an analysis of the water needs for the Project. A dual water system will be developed for the Project to conserve the supply of potable water, and non-potable water will be used where feasible for purposes such as landscape irrigation.

Potable water for the Project will be supplied by the Board of Water Supply (“BWS”), which has water system improvement projects in construction and design stages. At the present time, the sustainable yield of the aquifer that will provide the Project’s potable water is 102 MGD and the present pumpage is 52 MGD.

The BWS recently acquired what is called the `Ewa Shaft (or EP15 and 16) which is located at Honouliuli Gulch. The `Ewa Shaft currently has an allocation from the Commission on Water Resource Management of 12.154 MGD, and based upon the terms of the shaft’s acquisition, its water must be used to serve projects in the `Ewa Development Plan area, which includes Petitioner's Project. Based upon the `Ewa Shaft and other BWS sources, there will be adequate potable water for the Project’s need of approximately 1.0 MGD.

89. There are two possible sources for the Project’s non-potable water needs: the underlying brackish groundwater from the caprock aquifer or reclaimed R-1 quality effluent from the Honouliuli Wastewater Treatment Plant (“HWWTP”). Due to the expense of connecting to the R-1 effluent system, the non-potable irrigation source will likely come from small, modest capacity existing caprock wells that will be sufficient to meet the Project’s non-potable water needs of 0.135 MGD.

#### Wastewater Disposal

90. The Project is located in the tributary area of the HWWTP. Wastewater generated will be discharged from the site into an existing 84-inch

interceptor sewer on Geiger Road, which has sufficient capacity to accommodate the proposed flows. All wastewater to the HWWTP receives at least primary treatment, with a portion of the flow receiving secondary and tertiary treatment to produce recycled water. The overall liquid treatment capacity of the plant is 38 MGD. The current flow to the HWWTP is 26 MGD. The Project will discharge an estimated 1 MGD, leaving approximately 11 MGD for other future development.

### Drainage

#### Ewa Makai-West

91. On the west side of Fort Weaver Road lies the Kalo`i Gulch Watershed that extends from Palehua on the ridge of the Wai`anae Mountains to the shoreline of Ocean Pointe. The total tributary watershed is approximately 11 square miles. Due to the area's arid character, significant stormwater runoff in the lower part of the watershed where development is currently taking place is infrequent. In the last 10 years, there has been only one such event. It occurred in November 1996.

92. Recognizing the need to coordinate drainage improvements among landowners and developers in the Kalo`i watershed, the County formed a Technical Committee in 1992 to formulate design guidelines and recommend appropriate drainage improvements. The committee consisted of engineers representing the City (Public Works), the State (for development planned by the then Housing Finance and Development Corporation), Campbell Estate (landowner of the upper watershed and

the Laulani project, now known as Gentry Makai-West), the `Ewa Village re-development project, Ewa by Gentry, Coral Creek Golf Course, and Ewa Marina (now Ocean Pointe). Following a series of meetings, the 7-member Kalo`i Gulch Technical Committee issued an Interim Report in June 1993. Its most important recommendations were to: 1) require all projects to incorporate runoff retention and detention features to reduce peak flowrates and sediment loading to Ocean Pointe; 2) open the flow restrictions between Mango Tree Road and the railroad ROW to relieve flooding in the `Ewa Villages; and 3) construct an interim drainage channel makai of the Ewa by Gentry project to allow stormwater passing through the railroad ROW to pass through the Coral Creek Golf Course and be directed back into the then-existing Kaloi channel makai of the golf course.

93. Earlier versions of the Committee's reports listed specific retention/detention volumes for each project and also specified channel inverts and hydraulic grades at the property boundaries between projects. The `Ewa Villages re-development, Ewa by Gentry, and Coral Creek Golf Course were all designed, approved by the County, and constructed in compliance with all of the specific requirements contained in earlier drafts of the Technical Committee's report. As a result, stormwater retention/detention volumes of unprecedented sizes have been incorporated in the `Ewa Village and Coral Creek Golf Courses.

94. When the flood in November 1996 occurred, two key aspects of the Technical Committee's recommendations had not yet been implemented: (1) removal of the restriction of stormwater flow to pass through the railroad ROW to alleviate potential flooding in `Ewa Villages; and (2) construction of the channel makai of Ewa by Gentry. The restriction at the railroad ROW resulted in extensive flooding of `Ewa Villages during the November 1996 storm. This event provided the impetus for developing the "Technical Solution" for the interim drainage improvements, which are in place today. As signed off by the engineering representatives of landowners and developers in September 1997, the following interim improvements were required to be installed by each of the affected landowner/ developers: 1) channel conveyance capacity from the railroad ROW through Ocean Pointe equivalent to 2,500 cubic feet per second ("CFS") with no freeboard capacity; 2) invert elevations at each of the property boundaries between projects were to be as specified; 3) discharge from the interim channel was to be directed into a retention/detention basin to be constructed in Ocean Pointe; and 4) overflow from this basin was to be directed through Oneula Beach Park to the ocean.

95. The interim 2,500 CFS conveyance capacity from `Ewa Villages to Oneula Beach Park has been in place since January 2000. What remains to be installed for complete floodwater protection is sufficient channel conveyance capacity to meet the County Drainage Standards requirement of 11,000 CFS. As originally conceived as

far back as the 1970s and as still incorporated in Ocean Pointe's currently approved drainage master plan, the channel with the full 11,000 CFS capacity was to discharge into the project's marina. However, accomplishing this would require lowering the County's HWWTP ocean outfall, an undertaking of substantial cost and considerable risk. Recently, Haseko has been assessing alternatives that would utilize discharge through Oneula Beach Park rather than into the marina. Until this process is completed and the ultimate drainage improvements in Ocean Pointe are installed, all of the upstream projects are limited to passing 2,500 CFS through their respective interim channels and retaining their project-generated stormwater onsite.

96. The onsite Project drainage will consist of catch basins/ inlets, manholes, and drain pipes located in dedicated roadways. A box culvert or open channel is planned to run parallel to the makai boundary of the site, intercepting and diverting runoff to the Kalo'i Channel. Runoff is not expected to flow into the areas makai of the site. Onsite drainage systems will be designed in accordance with the County's Storm Drainage Standards.

97. The lack of adequate conveyance capacity makai of the site may require phasing of the development and drainage improvements. Excavation of temporary retention/detention basins could be done to allow initial development of the Project to proceed. Interim improvements will be designed in accordance with the requirements of the Storm Drainage Standards and with the approval of all concerned

government agencies. Also, the Coral Creek and `Ewa Villages Golf Courses provide large amounts of retention and detention storage. In addition to dampening of the peak runoff, the storage also has the beneficial effect of settling out sediment in the runoff. The amount of storage within the Coral Creek Golf Course will satisfy the water quality requirements for Ewa By Gentry and Ewa Makai-West.

98. The proposed drainage improvements for the Ewa Makai-West portion of the Project will be consistent with the drainage plans identified in approved drainage master plans for the area and will not have adverse impacts on drainage in the area. All improvements will be in accordance with the standards of the County and all other applicable rules and regulations.

#### Ewa Makai-East

99. The Petition Area east of Fort Weaver Road known as Ewa Makai-East encompasses drainage issues that are local in nature as opposed to regional issues that are present in the Kalo`i Gulch watershed. Being local in nature, the drainage issues relating to Ewa Makai-East affect only the adjoining landowners.

100. Under the terms of the Seibu Acquisition Agreement dated May 1987 between the Estate of James Campbell and Seibu Hawaii, Inc., the Hawaii Prince Golf Course (located makai of Ewa Makai-East) was to accommodate runoff from 255 acres of mauka land when those mauka lands are put into residential use.

101. The current approved drainage master plan for Ewa Makai-East is entitled “Drainage Master Plan for Ewa by Gentry-East, Phase II and Ewa Makai-East, Tax Map Key: 9-1-10:7 and 20” and was accepted by the County on July 18, 1997. The approved 1997 drainage master plan, which encompasses the same 255 acres referenced in the Seibu Acquisition Agreement, reduces the area of runoff from 255 acres to 70 acres of land adjacent to Fort Weaver Road plus areas immediately adjacent to the Hawaii Prince Golf Course to drain into the Hawaii Prince Golf Course. The remaining areas are to drain into drainage sumps located within the Ewa Makai-East development and the existing sump straddling the eastern property line.

102. The 1997 drainage master plan is currently pending revision before the County, and the revision proposed by Petitioner, if approved by the County, will reduce the aforementioned 70 acres to approximately 10 acres, and the remaining areas will drain into sumps as described in the 1997 drainage master plan.

103. If the revised 1997 drainage master plan is approved by the County, there will not be any increase in the stormwater runoff to the downstream adjoining properties and/or in comparison to the Seibu Acquisition Agreement.

#### Solid Waste Disposal

104. Solid waste handling and disposal will be coordinated with the County Department of Environmental Services, Refuse Division, with written notification submitted in advance of when the refuse service is expected to begin. The



design of residential communities within the Project will comply with the Division's requirements in order to enable refuse pick-up.

105. The Project is estimated to produce 3,728 tons of solid waste per year based upon a population of approximately 6,000 persons at final buildout; however, the existing Waimanalo Gulch landfill is expected to reach its capacity in 2008.

106. In response to the projected 2008 closure date for the existing landfill, the County's Refuse Division is planning to 1) expand the existing H-Power plant; 2) identify the County's next landfill and submit the Refuse Division's recommendation to the City Council by December 1, 2003; 3) develop an alternative disposal technologies park on land that has been acquired by the County for the purpose of exploring waste disposal technologies; 4) propose a curbside recycling collection pilot; and 5) implement a bioconversion project for sewage sludge that will be located on the grounds of the Sand Island Treatment Plant.

107. It is the intent of the County's Refuse Division to have the new landfill on line by 2008.

### Schools

108. The `Ewa Development Plan states that the DOE has projected a need by 2020 for two new intermediate schools, one of which has already been built in the Villages of Kapolei. Although the `Ewa Development Plan lists East Kapolei Intermediate as the second school site, the development of East Kapolei Intermediate is

uncertain at this time. Petitioner and the DOE have entered into a written agreement whereby Petitioner will be conveying to the DOE an 18-acre site in Ewa Makai-West for the construction of a new middle school for grades 6 through 8.

Police and Fire Protection

109. The Project is serviced by the Kapolei Police Station, which is located at 1100 Kamokila Boulevard in Kapolei. There is also a storefront office next to the 7-Eleven store at 91-1669 Fort Weaver Road. The additional residential units added by the Project will create an increase in the need for police service. It is anticipated that the increase in revenues collected by the County from real property taxes of the new residences and industrial-commercial uses will address the increased cost of police services needed. To help mitigate the impacts on police services in the area, the Project will have onsite security and will be part of an established community watch program.

110. The Project will be serviced by the Waipahu Fire Station for single-alarm fires. For a multiple alarm such as a structure fire, three engine companies and one ladder company would be sent from the `Ewa Beach, Waipahu, and Kapolei Fire Stations, with the ladder company originating from the Waipahu Fire Station.

Medical Services

111. Ambulances from St. Francis West and the Waipahu Fire Station as well as a rapid response unit at Kalaeloa will provide emergency medical services for the Project. The average response time to the Petition Area is six to nine minutes.

## Electricity and Telephone Service

112. The Project will be serviced by Hawaiian Electric Co. (“HECO”) for electric power and Verizon for telephone service. HECO will be able to serve the Project from the Fort Weaver Substation, which was installed in an earlier phase of the Ewa by Gentry project. Therefore, the installation of additional substation transformer capacity and extension cables, ducts, and associated electrical facilities should encounter no significant obstacles to providing timely and reliable service.

## COMMITMENT OF STATE FUNDS AND RESOURCES

113. Government costs incurred as a result of the Project are not expected to exceed the revenues derived. The government costs associated with development of the Project consist primarily of school development and roadway improvements. Petitioner will contribute a fair-share of the costs of such school development and roadway improvements.

## CONFORMANCE TO URBAN DISTRICT STANDARDS

114. The Petition Area is adjacent to lands characterized by “city-like” concentrations of people, structures, streets, urban levels of service, and other related land uses. The Petition Area will be an extension of the Ewa by Gentry community, considered a part of O`ahu’s growing Kapolei region where more than 450 businesses provide over 16,000 jobs and the number of jobs is expected to double by 2010. Schools,

parks, medical services, shopping and entertainment centers, restaurants, and recreational facilities service a growing population.

115. Ewa by Gentry is a growing community consisting of over 5,300 existing homes in a planned development that will consist of an estimated 9,100 homes at build-out (including the Petition Area). Parks, walkways and bike paths, landscaped roadways, an elementary school, an 18-hole championship golf course, a neighborhood shopping center, and a planned light industrial park are elements that contribute to Ewa by Gentry's "city-like" characteristics.

116. The Petition Area is in proximity to various centers of trading and employment (Kapolei, Waipahu, Ewa by Gentry, Ewa Beach, Barbers Point, Campbell Industrial Park, and military installations). Furthermore, the Petition Area will generate new centers of employment including a 30-acre industrial-commercial center, a middle school, and two church/day care center sites.

117. The Petition Area is, or upon completion of necessary offsite and onsite infrastructure will be, adequately serviced by schools, parks, wastewater, solid waste disposal, drainage, water and transportation systems, public utilities, and police and fire protection.

118. The Petition Area is located in an area with sufficient reserve for foreseeable urban growth.

119. The Petition Area consists of satisfactory topography, drainage and soil conditions, is free from the danger of flood, tsunami and unstable soil conditions, and is not affected by any other adverse environmental conditions that would render it unsuitable or inappropriate for the Project.

120. The Petition Area is contiguous with or in proximity to existing urban areas, and is designated by the County's General Plan and the `Ewa Development Plan for urban use.

121. The Petition Area is in an appropriate area for new urban concentration, as it represents an expansion of an existing residential community (Ewa by Gentry).

122. The Petition Area will not contribute toward scattered spot urban development. Petitioner will develop or arrange for all additional infrastructure required to service the Project, and public infrastructure and support services will not be unreasonably burdened by or require any unreasonable investment as a result of the proposed development.

123. The Petition Area does not consist of lands having a slope of 20 percent or more.

CONFORMANCE WITH THE GOALS, OBJECTIVES, AND POLICIES OF THE HAWAII STATE PLAN; RELATIONSHIP WITH APPLICABLE PRIORITY GUIDELINES AND FUNCTIONAL PLANS

124. The reclassification of the Petition Area and the proposed development of the Project are in general conformance with the following goals, objectives, policies, and priority guidelines of the Hawai`i State Plan:

Section 226-4 State goals

Section 226-4(1): “A strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawai`i’s present and future generations.”

Section 226-4(2): “A desired physical environment, characterized by beauty, cleanliness, quiet, stable natural systems, and uniqueness, that enhances the mental and physical well-being of the people.”

Section 226-4(3): “Physical, social, and economic well-being, for individuals and families in Hawai`i, that nourishes a sense of community responsibility, of caring, and of participation in community life.”

Section 226-5 Objective and policies for population

Section 226-5(b)(1): “Manage population growth statewide in a manner that provides increased opportunities for Hawai`i’s people to pursue their physical, social, and economic aspirations while recognizing the unique needs of each county.”

Section 226-5(b)(3): “Promote increased opportunities for Hawai`i’s people to pursue their socio-economic aspirations throughout the islands.”

Section 226-5(b)(7): “Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographic area.”

By providing for a variety of land uses, including residential, commercial-industrial, parks, open space, and a public school facility, the Project will provide increased opportunities for Hawai`i’s people to pursue their physical, social, and economic aspirations. The proposed industrial-commercial center will provide permanent jobs, as well as short-term construction related jobs for residents of `Ewa and the island of O`ahu. With greater economic opportunities and the increased availability of new homes, overall living standards and lifestyles will be enhanced by living and working in the “new city” planned for the greater Kapolei region. The development and availability of land and water resources is being planned in a coordinated manner with public agencies and other developers in the region.

Section 226-6 Objectives and policies for the economy – in general

Section 226-6(a)(1): “Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawai`i’s people.”

Section 226-6(a)(2): “A steadily growing and diversified economic base that is not overly dependent on a few industries....”

Section 226-6(b)(3): “Seek broader outlets for new or expanded Hawai`i business investments.”

Section 226-6(b)(6): “Strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives.”

Section 226-6(b)(16): “Foster a business climate in Hawai`i - including attitudes, tax and regulatory policies, and financial and technical assistance programs - that is conducive to the expansion of existing enterprises and the creation and attraction of new business and industry.”

The industrial-commercial center will provide an outlet for new or expanded business investments, thereby helping to foster a positive business climate in Hawai`i. It will provide an opportunity for the expansion of existing enterprises, as well as the creation and attraction of new businesses and industries. The development of Ewa Makai will also help the State to achieve a level of construction activity that is consistent with its growth objectives throughout the buildout period.

Section 226-11 Objectives and policies for the physical environment – land-based, shoreline, and marine resources

Section 226-11(a)(1): “Prudent use of Hawai`i’s land-based, shoreline, and marine resources.”



Section 226-11(a)(2): “Effective protection of Hawai`i’s unique and fragile environmental resources.”

Section 226-11(b)(1): “Exercise an overall conservation ethic in the use of Hawai`i’s natural resources.”

Section 226-11(b)(2): “Ensure compatibility between land-based and water-based activities and natural resources and ecological systems.”

Section 226-11(b)(3): “Take into account the physical attributes of areas when planning and designing activities and facilities.”

Section 226-11(b)(6): “Encouraging the protection of rare or endangered plant and animal species and habitats native to Hawai`i.”

Section 226-11(b)(8): “Pursue compatible relationships among activities, facilities, and natural resources.”

Prior to preparation of the proposed Ewa Gentry Makai Master Plan, physical, environmental, and cultural aspects of the property were studied. Site features, including slope, existing sump areas, soil stability, and drainage needs were incorporated into the design. There were no rare or endangered plant or animal species found on the Petition Area, and 90 percent of the plant species inventoried are introduced. The native plant species are not threatened or endangered and the proposed development of the Petition Area is not expected to have a significant negative impact on the botanical resources.

With respect to conserving the use of Hawai`i's natural resources, from site design and development to waste disposal and recycling, Petitioner intends to incorporate waste saving products, methods, and techniques into all phases of the Project.

Section 226-12 Objective and policies for the physical environment - scenic, natural beauty, and historic resources

Section 226-12(b)(1): "Promote the preservation and restoration of significant natural and historic resources."

Section 226-12(b)(3): "Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of mountains, ocean, scenic landscapes, and other natural features."

Section 226-12(b)(4): "Protect those special areas, structures, and elements that are an integral and functional part of Hawai`i's ethnic and cultural heritage."

Section 226-12(b)(5): "Encourage the design of developments and activities that complement the natural beauty of the islands."

Because the Petition Area was formerly cultivated in sugar, it does not contain any scenic assets, places of natural beauty, or multi-cultural or historical resources. Plans for the Project will promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of the mountains and Honolulu city vistas to the extent possible. There are no ocean views from the Petition Area.

No archaeological sites are present within the Petition Area. If subsurface cultural resources are encountered during the course of development, the Historic Preservation Division of the Department of Land and Natural Resources will be notified in accordance with State requirements.

Section 226-13 Objectives and policies for the physical environment – land, air, and water quality

Section 226-13(b)(2): “Promote the proper management of Hawai`i’s land and water resources.”

Section 226-13(b)(3): “Promote effective measures to achieve desired quality in Hawai`i’s surface, ground, and coastal waters.”

Section 226-13(b)(4): “Encourage actions to maintain or improve aural and air quality levels to enhance the health and well-being of Hawai`i’s people.”

Section 226-13(b)(5): “Reduce the threat of life and property from erosion, flooding, tsunamis, hurricanes, earthquakes, volcanic eruptions, and other natural or man-induced hazards and disasters.”

Section 226-13(b)(6): “Encourage design and construction practices that enhance the physical qualities of Hawai`i’s communities.”

Section 226-13(b)(7): “Encourage urban developments in close proximity to existing services and facilities.”

Petitioner will continue to promote the proper management of land and water resources in the development of the Project. From incorporating efficient waste management and waste reduction strategies, to managing stormwater onsite and utilizing non-potable water for irrigation purposes, Petitioner will work towards minimizing any negative impacts to Hawai'i's natural resources. The homes and community will be designed and constructed to reduce the threat to life and property from erosion, flooding, hurricanes, and other natural or man-induced hazards and disasters, as well as to enhance the physical qualities of `Ewa. The Project is proposed to be an urban development in proximity to existing services and facilities.

Section 226-16 Objective and policies for facility systems -water

Section 226-16(b)(1): "Coordinate development of land use activities with existing and potential water supply."

Section 226-16(b)(3): "Reclaim and encourage the productive use of runoff water and wastewater discharges."

Section 226-16(b)(6): "Promote water conservation programs and practices in government, private industry, and the general public to help ensure adequate water to meet long-term needs."

All necessary onsite water facilities will be provided in consultation with the BWS and will be built in accordance with an approved Water Master Plan. It is

expected that the Project will have sufficient potable water based upon the presently available aquifer and the recently acquired `Ewa Shaft.

Petitioner has incorporated the use of non-potable brackish water in its Ewa by Gentry development, and it is studying the possible use of reclaimed water as an alternative to potable water when non-potable water systems are inoperable or are no longer available for the Project.

Section 226-17 Objectives and policies for facility systems - transportation

Section 226-17(b)(2): “Coordinate state, county, federal, and private transportation activities and programs toward the achievement of statewide objectives.”

Section 226-17(b)(3): “Encourage a reasonable distribution of financial responsibilities for transportation among participating governmental and private parties.”

Section 226-17(b)(6): “Encourage transportation systems that serve to accommodate present and future development needs of communities.”

Section 226-17(b)(10): “Encourage the design and development of transportation systems sensitive to the needs of affected communities and the quality of Hawai`i’s natural environment.”

Section 226-17(b)(11): “Encourage safe and convenient use of low-cost, energy-efficient, non-polluting means of transportation.”

Petitioner has participated in the coordinated effort among state, county, federal, and other private entities which objective is to provide a transportation system that is consistent with and will accommodate planned growth objectives throughout the State.

Section 226-19 Objectives and policies for socio-cultural advancement - housing

Section 226-19(a)(1): “Greater opportunities for Hawai`i’s people to secure reasonably priced, safe, sanitary, and livable homes, located in suitable environments that satisfactorily accommodate the needs and desires of families and individuals, through collaboration and cooperation between government and nonprofit and for-profit developers to ensure that more affordable housing is made available to very low-, low- and moderate-income segments of Hawai`i’s population.”

Section 226-19(a)(2): “The orderly development of residential areas sensitive to community needs and other land uses.”

As a residential developer in Hawai`i for 35 years, Petitioner has provided homes at prices affordable to Hawai`i’s consumers. Petitioner’s buyers, many of whom are first-time homebuyers, represent a socio-economic cross section of Hawai`i’s population, including very low-, low-, and moderate-income families and individuals. Petitioner has agreed to comply with the County’s affordable housing requirements for the Project.

Section 226-19(b)(1): “Effectively accommodate the housing needs of Hawai`i’s people.”

Section 226-19(b)(2): “Stimulate and promote feasible approaches that increase housing choices for low-income, moderate-income, and gap-group households.”

Section 226-19(b)(3): “Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.”

Section 226-19(b)(5): “Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.”

The Project is proposed as a master planned residential community designed to accommodate the housing needs of Hawai`i’s people. As a continuation of the existing Ewa by Gentry community, it will increase homeownership opportunities by providing a mix of housing types that are affordable to low-income, moderate-income, and gap-group families. The design of the Project will take into account the physical setting of the `Ewa Plain, accessibility to public facilities and services, and other concerns of existing communities. Transportation improvements, a major employment center, parks and recreational sites, places of worship/day care centers, and an 18-acre middle school will be incorporated into the design of the community.

Section 226-21 Objective and policies for socio-cultural advancement - education

Section 226-21(b)(2): “Ensure the provision of adequate and accessible educational services and facilities that are designed to meet individual and community needs.”

Petitioner has agreed with the DOE to convey 18 acres for the construction of a middle school within the Petition Area.

Section 226-103 Economic priority guidelines

Section 226-103(e)(1): “Maintain and improve water conservation programs to reduce the overall water consumption rate.”

The Project, like the rest of Ewa by Gentry, will incorporate a dual water system. Brackish water from non-potable wells will be used where feasible to irrigate landscaping in common areas.

Section 226-103(f)(3): “Provide incentives to encourage the use of energy conserving technology in residential, industrial, and other buildings.”

Petitioner will incorporate energy conserving technology in its homes, including solar heating, energy efficient appliances, insulation in walls and ceilings, and energy-efficient designs that take advantage of the tradewinds to the extent possible.

Section 226-104 Population growth and land resources priority guidelines

Section 226-104(b)(1): “Encourage urban growth primarily to existing urban areas where adequate public facilities are already available or can be provided



with reasonable public expenditures, and away from areas where other important benefits are present, such as protection of important agricultural land or preservation of lifestyles.”

Section 226-104(b)(2): “Make available marginal or nonessential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district.”

Section 226-104(b)(6): “Seek participation from the private sector for the cost of building infrastructure and utilities, and maintaining open spaces.”

The Project is surrounded by urban development and is located on nonessential agricultural land that is located in an urban fringe area adjacent to the "Second City." County policy is to encourage development of this urban fringe area in order to provide housing choices not readily available in urban Honolulu and to relieve pressures for development of rural areas, Windward O`ahu, and East Honolulu. Petitioner will construct at its own expense local roadway improvements and will contribute its fair-share impact fees in building necessary regional roadways, as well as utilities needed for the development. Open spaces will be maintained within the Project.

Section 226-104(b)(9): “Direct future urban development away from critical environmental areas or impose mitigating measures so that negative impacts on the environment would be minimized.”

Section 226-104(b)(10): “Identify critical environmental areas in Hawai`i to include but not be limited to the following: watershed and recharge areas; wildlife habitats (on land and in the ocean); areas with endangered species of plants and wildlife; natural streams and water bodies; scenic and recreational shoreline resources; open space and natural areas; historic and cultural sites; areas particularly sensitive to reduction in water and air quality; and scenic resources.”

The Project will not affect any critical environmental areas.

Section 226-106 Affordable housing

Section 226-106(1): “Seek to use marginal or nonessential agricultural land and public land to meet housing needs for low- and moderate-income and gap-group households.”

The Project intends to provide homes for low- and moderate-income and gap-group households on nonessential agricultural land.

Section 226-106(2): “Encourage the use of alternative construction and development methods as a means of reducing production costs.”

As a developer, Petitioner has utilized alternative construction materials and methods in order to reduce production costs, while improving the quality of homes that are built. For example, long-lasting, durable products such as fiber-cement siding and vinyl fencing are utilized, eliminating waste and providing value to homeowners.

Section 226-106(5): “Encourage continued support for government or private housing programs that provide low interest mortgages to Hawai`i’s people for the purchase of initial owner-occupied housing.”

Petitioner supports and has been a user of the State's Hula Mae Single-Family Mortgage Purchase Program, as well as other government programs which provide low-interest loans to first time homebuyers. These include the USDA-RD Section 502 Single-Family Home Ownership program; the Federal Housing Administration Loan Program; and the Veterans Administration Loan Program.

Section 226-106(8): “Give higher priority to the provision of quality housing that is affordable for Hawai`i’s residents and less priority to development of housing intended primarily for individuals outside of Hawai`i.”

As with the rest of the Ewa by Gentry development, the Project is intended to provide quality homes that are affordable to Hawai`i’s residents.

125. The reclassification of the Property generally conforms to the functional plans in the following areas: housing and employment.

#### CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

126. The proposed reclassification of the Property generally conforms to the objectives and policies of the Coastal Zone Management Program, chapter 205A, HRS. The Property is not located along the shoreline or next to any beaches. Drainage facilities within the Property will be adequately planned and constructed, and

wastewater generated by the Project will be collected, treated, and disposed of by the County's HWWTP. The Project will not block or impair any views or vistas from or to the shoreline and contains no important archaeological, cultural, historic, or biological resources. The Property is located within Flood Zone "D" (area in which flood hazards are undetermined), and its development will require no extraordinary grading or cutting of the land. The Project is not expected to adversely impact any coastal ecosystems, beaches, or marine resources.

#### RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by Petitioner or the other parties to this proceeding not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

#### CONCLUSIONS OF LAW

1. Pursuant to chapter 205, HRS, and the Commission Rules under chapter 15-15, HAR, and upon consideration of the Commission decision-making criteria under section 205-17, HRS, this Commission finds upon a clear preponderance of the evidence that the reclassification of the Petition Area, consisting of approximately

282.614 acres of land in the State Land Use Agricultural District, at `Ewa, O`ahu, Hawai`i, and identified as Tax Map Key Nos: 9-1-10: 7 and 9-1-69: 5, to the State Land Use Urban District, for the development of the Project, and subject to the conditions in the Order below, conforms to the standards for establishing the Urban District boundaries, is reasonable, not violative of section 205-2, HRS, and is consistent with the policies and criteria established pursuant to sections 205-16 and 205-17, HRS.

2. Article XII, Section 7, of the Hawai`i Constitution requires the Commission to protect native Hawaiian traditional and customary rights. The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupua`a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.

3. There were no archaeological sites and cultural resources encountered during the archaeological survey of the Petition Area. Although coral sinkholes that were used for agricultural purposes may be present under the surface, the traditional surface of these sites has long been destroyed with in-fill during cattle grazing and plowing during sugarcane cultivation. In the event any previously unidentified archaeological sites are found, Petitioner will comply with all applicable statutes and rules of the Department of Land and Natural Resources.

4. Article XI, Section 1, of the Hawai`i Constitution requires the State to conserve and protect Hawai`i's natural beauty and all natural resources, including land, water, air, minerals, and energy sources, and to promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

5. There are no threatened and endangered species of flora and fauna or species of concern in the Petition Area.

6. The ambient air quality of the Petition Area will be impacted in the short-term by fugitive dust and emissions from engine exhausts during construction of the Project. Petitioner will implement all required measures to mitigate the effects of fugitive dust and exhaust emissions.

7. The Project's long-term impacts to air quality will be minimal, and worst case concentrations of carbon monoxide should remain within both the State and Federal ambient air quality standards.

8. The Project will incorporate natural drainageways, which will provide open space greenways.

9. The Project will not have a significant impact on the `Ewa Caprock Aquifer. Petitioner will employ a dual water system to conserve the supply of potable water, and non-potable water will be used where feasible.

10. Article XI, Section 3, of the Hawai`i Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.

11. The Project will remove approximately 282.614 acres of land from agricultural use. However, the Project will not limit the growth of diversified agriculture on O`ahu due to the vast amount of agricultural land that has been released on O`ahu from plantation agriculture that may be used for such purposes.

12. Article XI, Section 7, of the Hawai`i Constitution states that the State has an obligation to protect the use of Hawai`i's water resources for the benefit of its people.

13. The Project will obtain potable water from the `Ewa Shaft and BWS sources, which have adequate source capacity for the Project. Non-potable water will be obtained most likely from existing caprock wells. Reclaimed R-1 quality effluent from the HWWTP may provide another source of non-potable water.

#### DECISION AND ORDER

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 282.614 acres of land in the State Land Use Agricultural District at `Ewa, O`ahu, Hawai`i, and further identified as Tax Map Key Nos: 9-1-10: 7 and 9-1-69: 5, and approximately shown on Exhibit "A," attached hereto and incorporated by reference

herein, shall be and is hereby reclassified to the State Land Use Urban District, and the State land use district boundaries shall be amended accordingly.

Based upon the findings of fact and conclusions law stated herein, it is hereby determined that the reclassification of the Petition Area will not significantly affect or impair the preservation or maintenance of natural systems and habitats or the valued cultural, historical, agricultural, and natural resources of the area.

IT IS HEREBY FURTHER ORDERED that the reclassification of the Petition Area from the State Land Use Agricultural District to the State Land Use Urban District shall be subject to the following conditions:

1. **Affordable Housing.** Petitioner shall provide affordable housing opportunities for low, low-moderate, and gap group income residents of the State of Hawai'i to the satisfaction of the City and County of Honolulu. The location and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as may be mutually agreeable between Petitioner and the County.

2. **Public School Facilities.** Petitioner shall contribute to the development, funding, and/or construction of school facilities, on a fair-share basis, as determined by and to the mutual satisfaction of Petitioner and the Department of Education. Terms of the contribution shall be agreed upon in writing by Petitioner and the Department of Education prior to obtaining County rezoning.



3. **Wastewater Facilities.** Petitioner shall fund and construct adequate wastewater transmission and disposal facilities, as determined by the City and County of Honolulu Department of Environmental Services and the State Department of Health.

4. **Transportation.** Petitioner shall participate in the pro-rata funding and construction of local and regional transportation improvements and programs necessitated by the proposed development according to the regulatory scheme and factors covered by the City and County of Honolulu's impact fee ordinance - Chapter 33A, Revised Ordinances of Honolulu, and as determined by the State Department of Transportation.

Petitioner shall undertake subsequent mitigative measures that may be required by the Department of Transportation or the City and County of Honolulu. The mitigative measures shall be coordinated with and approved by the Department of Transportation and the City and County of Honolulu, as appropriate.

Petitioner in coordination with DOT shall provide briefing and update on regional and local traffic improvement projects to the `Ewa community on a semi-annual basis in conjunction with this project.

5. **Landscaped Building Setback.** Petitioner shall provide a landscaped building setback (approximately 12 feet) along the Project's Fort Weaver

Road frontage to provide flexibility in accommodating future transportation needs along the route and to buffer roadway noise.

6. **Archaeological Inventory Survey.** Should any previously unidentified burials, archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, or stone platforms, pavings or walls be found, Petitioner, developers and/or landowners of the affected properties shall comply with all applicable statutory provisions of Chapter 6E, Hawai`i Revised Statutes, and administrative rules of the Department of Land and Natural Resources.

7. **Historic Preservation Mitigation Plan.** Petitioner shall coordinate and discuss with the Office of Hawaiian Affairs the incorporation of Hawaiian cultural elements such as trail alignments, if deemed appropriate, and the use of proper place names for the proposed development.

8. **Solid Waste Management Plan.** Petitioner shall develop a Solid Waste Management Plan in conformance with the Integrated Solid Waste Management Act, Chapter 342G, Hawai`i Revised Statutes. Petitioner's Solid Waste Management Plan shall be approved by the City and County of Honolulu Department of Environmental Services. The Plan shall address and encourage an awareness of the need to divert the maximum amount of waste material caused by developments away from the County's landfills.

9. **Air Quality Monitoring.** Petitioner shall participate in an air quality monitoring program as specified by the State Department of Health.

10. **Drainage Improvements.** Petitioner, its successors, and assigns shall coordinate the design and construction of drainage improvements on the Property required as a result of the development of the Property to the satisfaction of Federal, State, and City agencies with the goal of executing an agreement on the interim and ultimate regional drainage plan as soon as possible. Petitioner, its successors, and assigns shall participate in the planning and coordination of offsite improvements with all landowners and developers in the Kalo`i drainage basin, and other Federal, State, and City agencies.

11. **Regional Drainage Solutions.** Petitioner, its successors, and assigns, agrees to work with the City to implement interim and long-term regional drainage solutions as follows:

a. Petitioner shall submit an updated drainage master plan if required for the Property to the City for its review and approval prior to any subdivision approvals other than for minor matters, such as easements.

b. Drainage solutions for the Property shall be compatible with the drainage designs for other developments in the Kalo`i Gulch drainage basin and shall conform to applicable Federal, State, and City laws, rules, regulations, and standards.

c. Drainage improvements for the Property shall be consistent with the policies and principles in the `Ewa Development Plan.

d. Petitioner shall be responsible for maintaining previously constructed drainage improvements which limit channelized runoff to 2,500 cubic feet per second at the Property's southern boundary (specifically at the property boundary between Petitioner's Property and Haseko's property) for events up to a 100-year storm. Petitioner shall also take reasonable measures to minimize non-channelized flows from the Property by construction of berms, detention basins, or other appropriate methods. These requirements shall remain in force until long-range regional drainage improvements are in place in accordance with the approved drainage master plan for the Project.

e. Petitioner has or shall enter into a Letter Agreement with Hawaii Prince to mutually address the drainage issues as it pertains to the Hawaii Prince Golf Course.

12. **Water Resources Allocation and Permits.** Petitioner shall participate in the funding and construction of adequate water source, storage, and transmission facilities and improvements to accommodate the proposed Project. Water transmission facilities and improvements shall be coordinated and approved by appropriate State and County agencies.

13. **Avigation and Noise Easement.** Petitioner shall grant to the State of Hawai'i an avigation (right of flight) and noise easement in a form prescribed by the State Department of Transportation on any portion of the Property subject to aircraft noise contours exceeding 55 Ldn.

14. **Sound Attenuation.** Petitioner shall not construct residential units within areas exposed to Honolulu International Airport and Naval Station Barbers Point noise levels of 65 Ldn or greater.

15. **Civil Defense Systems.** Petitioner, developers and/or landowners of the Property shall fund and construct adequate solar powered civil defense systems as determined by the County and State Civil Defense agencies.

16. **Energy Conservation Measures.** Petitioner shall implement energy conservation measures such as the use of solar energy and solar heating and incorporate such measures into the Project.

17. **Compliance with Representations to the Commission.** Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Failure to so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.

18. **Notice of Change to Ownership Interests.** Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise

voluntarily alter the ownership interests in the Property, prior to development of the Property.

19. **Annual Reports.** Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the City and County Department of Planning and Permitting in connection with the status of the Project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

20. **Release of Conditions Imposed by the Commission.** The Commission may fully or partially release the conditions provided herein as to all or any portion of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by Petitioner.

21. **Recording of Conditions.** Within 7 days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Property is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Property, and (b) shall file a copy of such recorded statement with the Commission.


22. **Recording of Conditions.** Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to section 15-15-92, Hawai'i Administrative Rules.

ADOPTION OF ORDER

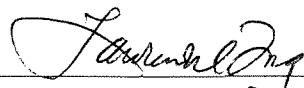
The undersigned Commissioner, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 31st day of December, 2003. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Wailea, Maui, Hawai'i, this 31st day of December, 2003, per motion on November 20,, 2003.

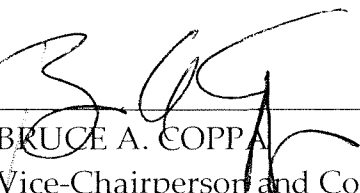
APPROVED AS TO FORM

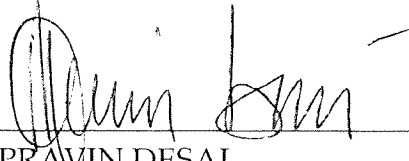
  
Deputy Attorney General


LAND USE COMMISSION  
STATE OF HAWAII


By   
LAWRENCE N.C. KING  
Chairperson and Commissioner

By   
P. ROY CATALANI  
Vice-Chairperson and Commissioner

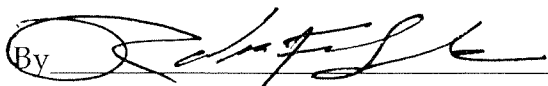
By   
BRUCE A. COPPA  
Vice-Chairperson and Commissioner

By   
PRAVIN DESAI  
Commissioner

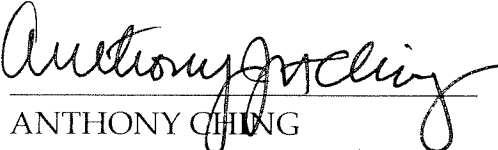
By   
ISAAC FIESTA, JR.  
Commissioner


By   
STEVEN LEE MONTGOMERY  
Commissioner

Filed and effective on  
January 2, 2004

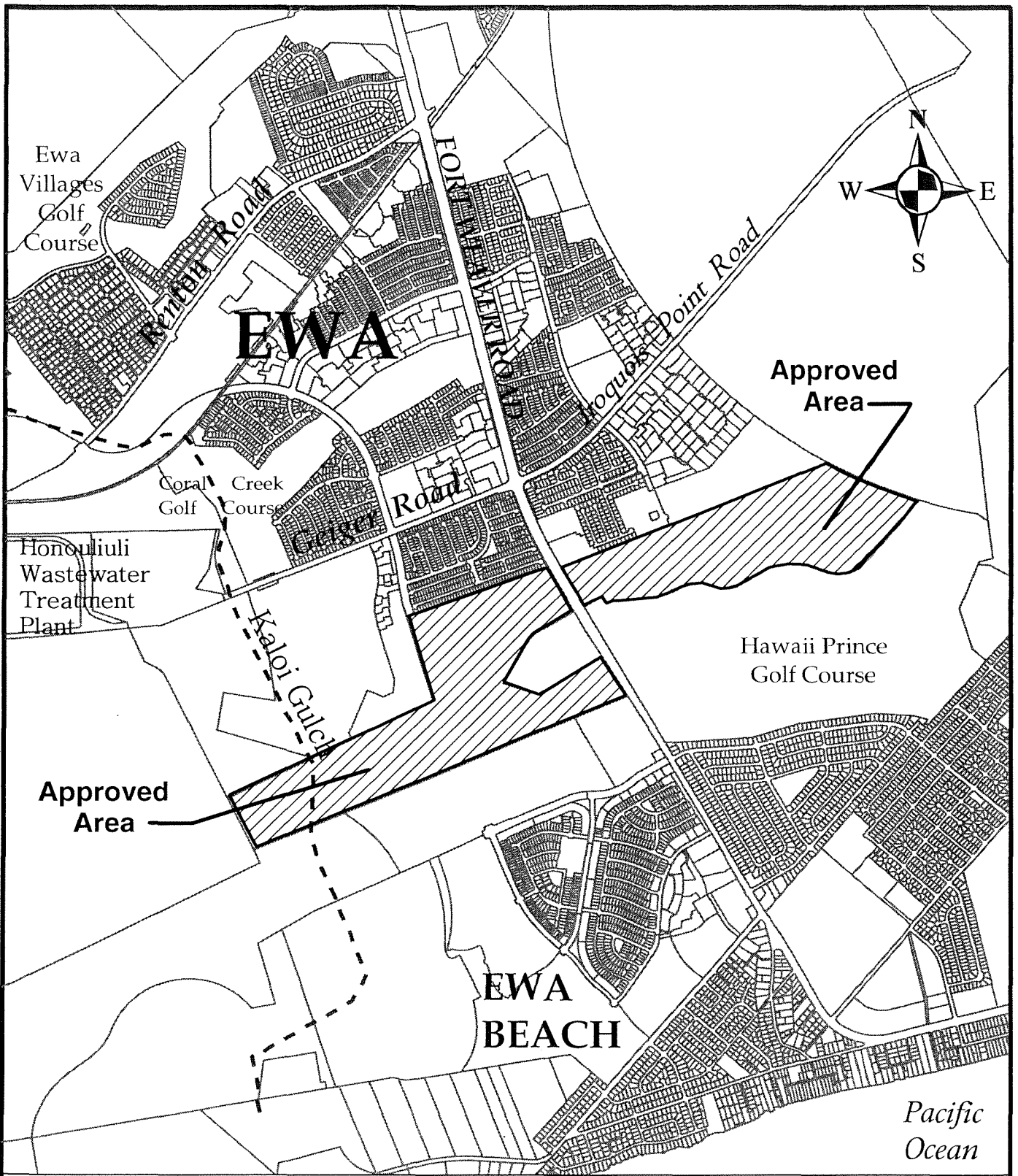
By   
RANDALL F. SAKUMOTO  
Commissioner

Certified by:

  
ANTHONY CHING

By   
PETER YUKIMURA  
Commissioner





**A03-738 GENTRY INVESTMENT PROPERTIES,  
A Hawai'i Limited Partnership**  
LOCATION MAP

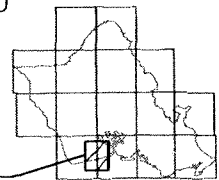
Tax Map Key Nos: 9-1-10: 7 & 9-1-69: 5

'Ewa, O'ahu, Hawai'i

Scale: 1" = 2,000 ft.

**EXHIBIT "A"**

OAHU



Map  
Location

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In The Matter Of The Petition Of ) DOCKET NO. A03-738  
)  
GENTRY INVESTMENT PROPERTIES, ) CERTIFICATE OF SERVICE  
A Hawai'i Limited Partnership )  
)  
To Amend The Agricultural Land Use District )  
Boundary Into The Urban Land Use District )  
For Approximately 282.614 Acres Of Land At )  
'Ewa, O'ahu, Hawai'i, Tax Map Key Nos: )  
9-1-10: 7 And 9-1-69: 5 )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order and Exhibit A was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

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Honolulu, Hawaii 96813

Dated: Honolulu, Hawaii, January 2, 2004.

  
\_\_\_\_\_  
ANTHONY J. H. CHING  
Executive Officer