

LAND USE COMMISSION
MINUTES OF MEETING

Conference Room 405
State Office Tower, Leiopapa A Kamehameha
235 South Beretania Street
Honolulu, Hawaii

July 11, 2003

COMMISSIONERS PRESENT: P. Roy Catalani
Bruce Coppa
Lawrence Ing
Steven Montgomery
Randall Sakumoto
Peter Yukimura

COMMISSIONERS ABSENT: Isaac Fiesta
Rae McCorkle Sultan
Pravin Desai

STAFF PRESENT: Diane Erickson, Deputy Attorney General
Anthony J. H. Ching, Executive Officer
Bert Saruwatari, Staff Planner
Caroline Lorenzo, Acting Chief Clerk
Holly Hackett, Court Reporter

Chair Ing called the meeting to order at 8:35 a.m.

A03-738 GENTRY INVESTMENT PROPERTIES (Oahu)

APPEARANCES

Benjamin Matsubara, Esq., representing Petitioner
Curtis Tabata, Esq., representing Petitioner
David Tanoue, Esq., representing Department of Planning and Permitting,
City and County of Honolulu

APPEARANCES - continued

Tim Hata, Department of Planning and Permitting, City and County of Honolulu
John Chang, Esq., representing Land Use Division, Office of Planning
Judith Henry, Land Use Division, Office of Planning
Randy Ishikawa, Esq., representing Intervener – Haseko (Ewa), Inc.
Linnel Nishioka, Esq., representing Intervener – Haseko (Ewa), Inc.
Teri Kondo, Esq., representing Intervener - Hawaii Prince Hotel Waikiki Corp.

Mr. Chang introduced Exhibit 7A, and said exhibit was admitted into the record by the Commission.

PETITIONER'S WITNESSES (continued)

1. Tom Nance

Mr. Nance stated that he was a registered civil engineer and had been previously accepted by the Commission as a qualified expert in hydrology and water resource engineering on other dockets. Mr. Nance briefly summarized his written testimony, which was submitted to the Commission as Petitioner's Exhibit 6. He also provided an overview of the Kaloι Gulch Watershed, which extended from Palehua on the Waianae Mountains to the shoreline at Ocean Pointe. Mr. Nance further provided the history of the channel, including previous flooding events.

Mr. Nance indicated that prior to the November 1996 flooding, in the early 1990s, the City convened a group of engineers called the Technical Solutions Committee, who met to coordinate drainage among the parties. Mr. Nance stated he was a member of this committee, and noted that the committee produced the Interim Guidelines, which called for each developer to provide a certain amount of retention/detention storage as well as match elevations of channels at the boundary points of developments. Mr. Nance described the beneficial effects of the retention/detention, which among other things allowed sediment to drop out rather than being transmitted downstream.

Mr. Nance indicated that because of the 1996 flooding, the Technical Solutions Committee convened in September 1997 and developed the Interim Solution, which set that on an interim basis conveyance capacity be constructed through all the developments in the area.

The City cross-examined the witness. There was discussion regarding the conveyance capacity should another storm occur. A question was raised as to when the ultimate solutions would be put in place and what would the major difference would be

from the interim solutions. Mr. Nance indicated that the difference would primarily be the conveyance capacity of the ditch, and that the ultimate configuration of the drainage was in. He also indicated that Ewa Makai West and Ocean Pointe had small-sized channels (2500 CFS channels). When the ultimate solution was in place, both of those channels would be expanded and widened to be able to convey 10,000 CFS. He further indicated that: 1) an approved master plan was currently in place; 2) that each developer had its own approved drainage master plan that had to comport with these basin-wide or basin-long elevations and storage requirements, and that 3) Ewa Villages, Coral Creek, Gentry, and Ewa Makai West drainage plans all conformed to the overall scheme.

The State cross-examined the witness. Mr. Nance stated that the interim solution was going to be in place sometime in the year 2005. The State questioned the witness regarding the relationship between the interim solution and whether the wastewater treatment plant ocean outfall needed to be lowered. Mr. Nance indicated that the interim solution was entirely on the east side of the outfall, and that the outfall did not impact the interim solution. He further indicated that if the ultimate solution included discharge into the marina, that flow would have to cross the wastewater outfall, which would have to be lowered.

Commissioner Montgomery was present to the proceedings at this time.

Commissioner Coppa raised a question as to who would be responsible for the cleanup of the pipes, drainage canals, and ponds. Mr. Nance indicated that all the channel improvements were the responsibility of each developer.

Chair Ing and Vice Chair Catalani expressed concern that potential flooding like the November 1996 storm would pose a risk to the development in the Petition Area. There were also concerns regarding the ultimate destination of the sediments once the basins were cleaned and the possibility that sediments would not go into the ocean.

Mr. Chang asked Mr. Nance to affirm changes made to certain statements in OP's Exhibit 7A (September 1997 technical solution), and referred him to the following statements on page 2 under C4:

- “The channel invert at the Haseko Ewa Makai West interface will be set at an elevation of 15 feet.” Mr. Nance confirmed that this was changed from 15 feet to 13.5 feet; and

- “The channel within Haseko’s property shall be designed to convey a 1200 CFS with prebored capacity of 2,500 CSF in maintaining hydraulic grade line of 19 feet.” Mr. Nance confirmed that this was changed from 19 to 18 feet.

2. Craig Arakaki

Mr. Arakaki stated that he was a registered civil engineer and the Vice President of Engineering Concepts, Inc. He was accepted by the Commission as an expert in civil engineering in regard to drainage issues.

Mr. Arakaki briefly summarized his written testimony and the proposed drainage improvements and considerations for the Ewa Makai West area. His written testimony was submitted to the Commission as Petitioner’s Exhibit 7. Mr. Arakaki focused on the onsite drainage improvements. He indicated that Ewa Makai West would implement both regional and offsite drainage improvements, and that the regional improvement was the continuation of the Kaloι Channel from the makai end of Coral Creek Golf Course to the mauka end of the Ocean Pointe development, which would have a capacity of about 10 or 11,000 CFS and be planned as a wide, grass-lined drainage channel with landscaping. He further indicated that interim improvements would be the 2500 CFS channel that followed the alignment of the alternate channel, and that the onsite drainage improvements included pipes, drain mantels, and catch basins within the roadways and within the development. Mr. Arakaki also indicated that a large channel or box culvert or pipe was planned along the makai boundary of Ewa Makai West that would intercept runoff from the project area before getting into Ocean Pointe. He explained that this would convey the runoff over to the Kaloι Channel before discharging into Ocean Pointe. Mr. Arakaki noted that all of these improvements would be designed and constructed in accordance with the City’s storm drainage standards and conform to the approved drainage master plan. He added that the Kaloι Channel was planned for excavation into a retention/detention facility so that the flows could be dampened limited to 2500 CFS and discharged into Ocean Pointe until Ocean Pointe was ready to accept a larger flow. Mr. Arakaki believed that the proposed drainage improvements would not have any adverse impacts on drainage in the area.

Vice Chair Catalani asked Mr. Arakaki to clarify his testimony in regard to the lack of adequate conveyance capacity makai of the project site and possible phasing of the development. Mr. Arakaki explained that according to city drainage standards, conveyance capacity between 10,000 and 11,000 CFS was needed. He noted that the interim agreement allowed a discharge of 2500 CFS, and that Haseko currently had

improvements that could accept the 2500 CFS. Mr. Arakaki further explained that if Haseko did not have improvements in place that could accept the larger flow, there would be a need for a deeper pit, which would be used for a detention/retention.

Mr. Tanoue requested Mr. Arakaki to clarify Figure 9. Mr. Arakaki indicated that the open space would consist of an open grass swale for drainage purposes.

A break was taken at 9:37 a.m. The meeting reconvened at 9:55 a.m.

2. Kenneth Nagai

Mr. Nagai stated that he was the president and principal civil engineer of KN Consulting Services, Inc., and was qualified as an expert in civil engineering specifically on drainage issues as it related to this project. His resume and testimony were submitted to the Commission as Petitioner's Exhibit 8.

Mr. Nagai indicated that he submitted revised drainage plans for Ewa Makai East to the City to update the existing approved drainage plan, which was approved by the City in 1997. Mr. Nagai then briefly summarized the proposed drainage improvements for Ewa Makai East and the impact of storm water runoff on adjoining downstream properties.

Mr. Matsubara introduced Petitioner's Exhibit 9, which Mr. Nagai described as the development plan for Ewa East Makai Phase II and Ewa East Makai. Mr. Nagai further indicated that the primary concern in this drainage area was that the development related to the adjoining makai property. Mr. Nagai also indicated that this was the revised drainage plan submitted to the City and County of Honolulu pending approval. Exhibit 9 was then admitted into the record by the Commission.

Mr. Nagai proceeded to describe the proposed drainage improvements. He indicated that the current accepted master plan that Petitioner sought to revise provided for approximately 70 adjoining acres to drain into the golf course. Mr. Nagai further indicated that the proposed drainage improvements were relative to how it related to the proposed golf course as it was planned to be drained toward the golf course as well as the lots along the edge of the golf course. He added that the remaining area would drain towards a sump retention basin. In the proposed revised update, he related that the amount of acreage would be reduced to approximately 10 acres. Mr. Nagai then described the role of the detention basins in its drainage improvements. He indicated that the purpose of the detention basin was to ensure that there was no increased runoff from the pre-development condition to the developed

condition, and that the detention basins were designed to maintain the current flow of water into the current properties. Mr. Nagai explained that if there was an overflow in the large detention basin, it would sheet flow down towards the Navy lands and not go onto the adjoining Hawaii Prince golf course property.

Mr. Tanoue expressed concern that the project would be subject to flooding, which would require a large catch basin area. There were also concerns regarding the possibility that the detention ponds would overflow. The witness indicated that the overflow would occur during the 100-year storm to the degree that it would not exceed the existing conditions.

Mr. Chang asked if there were any retention basins in the mauka area. He expressed concern that the water would drain towards the Navy property. Mr. Nagai responded in the negative and indicated that although there was no agreement with the Navy, Petitioner was bound by City ordinances so as to not increase any stormwater runoff onto adjoining properties.

Ms. Kondo asked Mr. Nagai to clarify the size of the four ponds and the status of the revised master plan. Mr. Nagai stated that the four ponds were approximately 30 acres, and that the revised master plan was submitted to the City in March 2003, and he was currently in the process of discussing the details regarding the City's review.

In response to Commissioner Coppa's question regarding potential drainage impacts, Mr. Nagai indicated that runoff would not cross Farrington Highway.

In response to Vice Chair Catalani's questions and concerns, Mr. Nagai indicated that there was an agreement with the Hawaii Prince where in part of the runoff could be directed towards the golf course, and that this agreement was included in his written testimony. He noted that under the acquisition agreement between Campbell Estate and Haseko, the golf course was to accommodate the runoff from 255 acres. He added that the current master plan reduced that down to 70 acres.

3. Wayne Yoshioka

Mr. Yoshioka was accepted as a transportation planning and traffic engineer. His testimony was submitted to the Commission as Petitioner's Exhibit 5. Mr. Matsubara then introduced Petitioner's Exhibit 5a, which was Mr. Yoshioka's resume, and the Commission admitted said exhibit into the record.

Mr. Yoshioka provided the Commission with a brief summary of his findings, analysis, and conclusions with regard to the traffic impact of the Ewa Makai project. The analysis was attached as tab GG to Exhibit 1 and dated December 2002. He noted that with appropriate local and regional transportation improvements, the surrounding roadway network could accommodate the development. He further indicated that the local transportation improvements would be the responsibility of Gentry, while the regional transportation improvements were the responsibility of the governmental agencies. He also indicated that pursuant to the impact fee ordinance passed by the City, the developers within the area, including Gentry, were participants in the program to fund the regional improvements.

As requested by Mr. Tanoue, Mr. Yoshioka detailed the various significant major improvements needed in the area. These improvements included the widening of Fort Weaver road between Farrington Highway and Geiger Road to a 6-lane roadway facility, the connection of Kapolei Parkway, and the North-South Road improvements.

Commissioner Yukimura asked whether the overall master plan for the traffic improvements in the petition area would be affected if the project was not approved. Mr. Yoshioka indicated that Gentry was committed to construct the applicable section of Kapolei Parkway, and that if the project was not approved, someone else would have to construct it. Mr. Yoshioka pointed out that the project proposed the development of 1865 units which would contribute to the impact fee fund and would help implement these regional roadway improvements.

A break was taken at 10:52 a.m. The meeting reconvened at 11:05 a.m.

Ms. Nishioka introduced the stipulation signed by all parties, which was accepted by the Commission.

2. Wayne Yoshioka (continued)

In response to a question by Commissioner Sakumoto, Mr. Yoshioka stated that Level of Service was an index commonly used to characterize traffic impacts.

Commissioner Sakumoto asked Mr. Yoshioka to describe each regional roadway improvement and the dates on which each would be implemented. Mr. Yoshioka indicated that Fort Weaver Road was currently in the design stage and construction was expected to begin in 2004 with completion in 2006. Mr. Yoshioka indicated that the North-South Road project would provide a northbound lane, one southbound lane, and one reversible lane between Kapolei Parkway and H-1 within the Honolulu-bound

onramp and an Ewa-bound offramp on H-1, provided that an endangered plant species within the project right-of-way could be successfully established at other sites. Mr. Yoshioka also indicated that construction may begin in late 2004 and completed within two years. Mr. Yoshioka further indicated that Kapolei Parkway between the Ocean Pointe and the Ewa Gentry developments was going to be completed by Gentry. Mr. Yoshioka also indicated that the segment between Renton Road and the North-South Road was on track to be implemented by 2006/2007.

Commissioner Yukimura excused himself from the proceedings at this time.

Commissioner Sakumoto asked about the application and timeframe of the impact fee. Mr. Tanoue indicated that there was a 6-year timeframe to encumber or use the funds. He added that if the money was not spent, it was returned to the developer.

Vice Chair Catalani asked Mr. Yoshioka to explain how traffic was monitored. Mr. Yoshioka indicated that they relied on traffic counts to indicate the volume of cars on Fort Weaver Road, how many turns were made, and in which direction. He further indicated that this process would quantify the amount of traffic that was going in the Honolulu and Ewa bound direction were between the Honolulu side and to the west.

There was much discussion over the traffic improvements and its impact on traffic issues in the present and future. There were also concerns by the Commission that there would be significant impacts.

Mr. Tanoue expressed concern that traffic often involved jurisdictional issues. He noted that there was a lot of discussion going on between the jurisdictions to resolve the problems.

A lunch break was taken at 11:55 a.m. The meeting reconvened at 1:10 p.m.

At this time, Mr. Brian Kang was present to the proceedings and represented Intervener - Hawaii Prince Hotel Waikiki Corp.

Mr. Matsubara introduced a letter dated April 22, 2003 signed by Mr. Tim Hata of the Department of Planning and Permitting as Exhibit 10. There were no objections and said exhibit was admitted into the record by the Commission.

Mr. Tanoue introduced the City's witness and exhibit lists dated July 9, 2003, which included nine more exhibits. There were no objections, and the exhibits were admitted into the record by the Commission.

CITY & COUNTY OF HONOLULU'S WITNESSES

1. Eric Crispin

Mr. Crispin stated that he was the director of the Department of Planning and Permitting. Mr. Crispin testified in support of this petition and discussed in general the compliance with the development plans for this area. He noted that the Petitioner's proposed project was consistent with the City's general plan and with the general policies and guidelines in the Ewa development plan regarding land use and residential development. He also indicated that an EIS was required for this project, which was currently being processed by the department.

Commissioner Montgomery expressed concern regarding the proposed park and ride facility in Ewa. He asked whether there were any strategies that might add to the efforts to either put in new stoplights or remove stoplights to reduce traffic congestion. Mr. Crispin indicated that the solutions to the traffic problems in the Ewa Plain were multi-pronged and believed that there was no one specific solution. He also noted that the Ewa traffic impact fee was one solution. He pointed out that the City has collected impact fees since the ordinance was put in place, and that the developers have been paying their fair share.

Chair Ing inquired about the impact fees collected thus far and if there was a designation or bank account in which such fees were deposited. Mr. Crispin indicated that at last count, the department had collected in excess of \$700,000. He also indicated that the DPP has been working closely with the State Department of Transportation (DOT) to ensure that the roadway network was moving ahead. He added that DPP received confirmation from DOT director Rod Hiraga that DOT was moving ahead with the planning and designing of the roadway project.

Commissioner Sakumoto related that Petitioner's testimony on the current timetable for the development of Ewa Makai assumed both state and city land use entitlements would be approved by the first quarter of 2004. Commissioner Sakumoto asked for Mr. Crispin's opinion on the timetable. Mr. Crispin stated that he believed the zone change application was going to officially start with the acceptance of the EIS. He also stated that by the end of July, DPP should be ready to accept the EIS for publication in the OEQC bulletin in the first week of August.

Commissioner Sakumoto then asked Mr. Crispin if DPP had reviewed input received by the Ewa Neighborhood Board and if it was found acceptable for purposes

of the zone change application. Mr. Crispin indicated that in terms of the zone change application, it was premature because the process had not yet officially started. He also indicated that the comments were being reviewed and would be taken into consideration.

Commissioner Sakumoto asked if there were input from any watchdog groups. Mr. Hata of DPP responded in the negative but indicated that DPP had received two comments from private citizens who were Ewa Beach residents.

Commissioner Coppa requested clarification as to who was responsible for the sediments in the various properties. Mr. Tanoue responded that from a legal standpoint, it was handled by the property owners abutting the drainage areas or stream area.

Commissioner Coppa then asked if the City had a master plan for drainage on the Ewa Plain. Mr. Crispin responded that the City used plate 6 as its standard, and that there were a number of standards that have been in place within the City which DPP reviewed and studied from time to time.

2. Brian Suzuki

Mr. Suzuki stated that he was the regional planning branch chief and oversaw projects at the department's undertaking. He also noted that he reviewed both short-term and long-term transportation planning for the City.

Mr. Tanoue asked Mr. Suzuki to give his opinion regarding the implementation and buildout of the traffic improvement projects. Mr. Suzuki indicated that the City was a participant, working with OMPO, to develop the Transportation for Oahu Plan (TOP) for 2025.

Mr. Suzuki described some of the City's concerns on Petitioner's draft EIS. He indicated that one concern involved Petitioner's statement that the City's proposed BRT system was an unresolved issue in the area. Mr. Suzuki explained that the City had plans for the BRT to run from Kapolei to Middle Street. A second concern involved a statement in the draft EIS, which noted that traffic signals could be adjusted on Fort Weaver Road to help mitigate the traffic situation, and that it was a capacity issue. He stated that it was not a traffic signal issue on Fort Weaver Road.

3. John Lee

Mr. Lee stated that he was the acting chief of the Refuse Division.

Vice Chair Catalani expressed concern with regard to Waimanalo Gulch and the issues regarding landfills. He indicated that with the development timeframe for this project overlapping with the closing of the landfill in 2008, it was uncertain as to where the solid waste would be going after 2008. Mr. Lee explained that the City had a proposal to expand H-Power and was currently in discussions with the operating contractor. He was unsure how long it would take, but noted that a lot of these initiatives had started fairly recently. Mr. Lee also stated that the other concern involved the location of the next landfill site. He indicated that a committee of community representatives and experts had been formed who will have a recommendation to the city council by December 1, 2003. He further indicated that the City has acquired an alternate disposal technologies park, which was a parcel of land behind the H-Power plant, and its intention was to have demonstration and development projects occupying that land to demonstrate the feasibility of other disposal technologies. Mr. Lee also indicated that there was a proposal for a curbside recycling collection pilot. He further indicated that there was a bioconversion project for sewage sludge, which would be located on the grounds of the Sand Island Treatment Plant.

Commissioner Sakumoto asked whether construction waste was required to be sorted so that combustible materials like scrap wood and plastics were not buried but sent to H-Power. Mr. Lee responded that there were various bans and restrictions currently in effect, and one of them was the restriction of 10 percent or less on construction and demolition waste. He explained that if a contractor arrived at the landfill with a truckfull of a C&D waste, it was sent to a private landfill in Nanakuli called PVT. He also stated that it was buried there or recycled depending on what PVT decided to do with it.

A break was taken at 2:15 p.m. The meeting reconvened at 2:30 p.m.

STATE'S WITNESSES

1. Abe Mitsuda

Mr. Mitsuda stated that he was the head of the Land Use Division of the Office of Planning (OP), and one of his duties was to formulate positions before this

Commission. Mr. Mitsuda stated that his written testimony was submitted to the Commission as OP's Exhibit 3.

Mr. Mitsuda further stated that OP was in support of this petition. He indicated that the Petitioner had agreed with most of OP's conditions with a few modifications and provided a summary of OP's conditions in general.

Mr. Matsubara asked if the State would be amenable to amending the condition that there be no residential development in areas with levels higher than 60 LDN provided sound attenuation measures were installed on all residential units. Mr. Mitsuda stated that the State has always advocated that units not be developed in areas greater than 60 LDN; however, he noted that the Commission has allowed residences to be built in areas of 65 LDN in the past as long there was sound attenuation. Therefore, he noted that the State would be amenable to 60 LDN if formal clarification regarding attenuation would be received.

2. Ron Tsuzuki

Mr. Tsuzuki stated that he was the head planning engineer for the highways division of DOT.

Mr. Tsuzuki provided the current status of the widening of Fort Weaver Road project. He indicated that there were two different projects for the widening of Fort Weaver Road. The first project was the widening from Farrington Highway to the vicinity of Laulaunui. The second project began where that project ended to Geiger Road. Mr. Tsuzuki indicated that a consultant was retained for the second phase, from Laulaunui to Geiger Road, but went out of business. He stated that DOT would seek another consultant to take over the project. Because of this, he explained that the project has been delayed and construction may not start until the end of 2004. Mr. Tsuzuki also indicated that funding for the project would come from federal funds.

Mr. Tsuzuki indicated that with respect to the status of the North-South Road project, groundbreaking was targeted for the end of 2004. He noted that to expedite the project, it would be divided into two phases. Funding would come from State appropriations. He added that the State was also considering a soft match, which involved the value of the right-of-way.

Mr. Kang requested a short recess to review current negotiations between Petitioner and Hawaii Prince and report back to the Commission. The Commission granted the recess.

Mr. Matsubara requested that the hearing be closed. Mr. Kang stated that he was hesitant to consent to close the hearing because he had not been directly involved in the negotiations. Chair Ing closed the evidentiary hearing subject to Mr. Kang's right to reopen the hearing. Chair Ing then asked that the parties get together and stipulate to findings of fact, conclusions of law, and decision and order, and upon agreement to inform the executive officer so that a meeting for action could be scheduled.

The meeting was adjourned at 3:30 p.m.

(Refer to the July 11, 2003 LUC Transcript for more details on the matter.)