

1 LAND USE COMMISSION

2 STATE OF HAWAI'I

3 CONTINUED HEARING

4 A07-775 Castle & Cooke Homes, )  
Hawai'i, Inc. (O'ahu) )  
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8 TRANSCRIPT OF PROCEEDINGS

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10 The above-entitled matter came on for a Public Hearing  
11 at Conference Room 405, 4th Floor, Leiopapa A  
12 Kamehameha, 235 S. Beretania Street, Honolulu,  
13 Hawai'i, commencing at 9:20 a.m. on February 19, 2010  
14 pursuant to Notice.

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REPORTED BY: HOLLY M. HACKETT, CSR #130, RPR  
20 Certified Shorthand Reporter

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1	I N D E X	
2	DOCKET WITNESSES	PAGE
3	BARRY NEAL	
4	Direct Examination by Mr. Tabata	5
5	Cross-Examination by Mr. Yost	11
6		
7	MATTHEW HIGASHIDA	
8	Direct Examination by Mr. Kitaoka	
9	Cross-Examination by Mr. Matsubara	
10	Cross-Examination by Mr. Yee	
11	Cross-Examination by Mr. Yost	
12	Cross-Examination by Ms. Loomis	
13	Redirect Examination by Mr. Kitaoka	
14	Recross-Examination by Mr. Yost	
15		
16		
17		
18		
19		
20		
21		
22		
23		
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1                   PRESIDING OFFICER DEVENS: Call this meeting  
2 to order. This is a continuation of the Commission in  
3 Docket No. A07-775 Castle & Cooke.

4                   Before we continue with presentation of  
5 Petitioner's case, if the parties can just note their  
6 presence this morning for the record starting with  
7 Mr. Matsubara.

8                   MR. MATSUBARA: Good morning, Mr. Chair,  
9 Commission. Ben Matsubara, Curtis Tabata, Wyeth  
10 Matsubara on behalf of Castle & Cooke Homes, Hawai'i,  
11 Inc. With me today is Laura Kodama, director of  
12 planning and development and Rodney Funakoshi, senior  
13 project manager.

14                  PRESIDING OFFICER DEVENS: 'Morning.

15                  MR. KITAOKA: Good morning, Mr. Chair. Don  
16 Kitaoka, deputy corporation counsel, on behalf of the  
17 director of the Department of Planning and Permitting  
18 City and County of Honolulu. With me today is Matthew  
19 Higashida and Randolph Hara from the Department of  
20 Planning and Permitting.

21                  MR. YEE: Good morning. Deputy Attorney  
22 General Bryan Yee on behalf of the Office of Planning.  
23 With me is Abbey Mayer from the Office of Planning.

24                  MR. YOST: Good morning. Colin Yost  
25 appearing on behalf of the Sierra Club.

1 MS. LOOMIS: Good morning. Karen Loomis,  
2 Mililani Neighborhood Board No. 25.

3 PRESIDING OFFICER DEVENS: Before we get  
4 started I just want to note one thing for the record.  
5 As of this morning at 8:35 a.m the Commission received  
6 written correspondence from 43 individuals in this  
7 matter, consisting of 40 postcards and 3 e-mails which  
8 will be made part of the record.

9 If any of the parties have not received a  
10 copy of that please, let Mr. Hakoda know.

11 Otherwise, Mr. Matsubara, if you're ready to  
12 call your next witness proceed.

13 MR. MATSUBARA: Thank you. Our next witness  
14 will be Barry Neal. Mr. Tabata will be working with  
15 Mr. Neal.

16 PRESIDING OFFICER DEVENS: Mr. Neal, if I  
17 can first swear you in.

18 BARRY NEAL,  
19 being first duly sworn to tell the truth, was examined  
20 and testified as follows:

21 THE WITNESS: I do.

22 PRESIDING OFFICER DEVENS: Please state your  
23 name and address for the record.

24 THE WITNESS: Barry D. Neal. Post Office  
25 Box 1808 Kailua-Kona, Hawai'i, 96745.

1                   PRESIDING OFFICER DEVENS: Counsel your  
2 direct.

3                   MR. TABATA: Thank you.

4                                   DIRECT EXAMINATION

5 BY MR. TABATA:

6           Q       Good morning, Barry.

7           A       Good morning.

8           Q       Mr. Neal, did you prepare for this petition  
9 an air quality study, which is Petitioner's  
10 Exhibit 7K?

11          A       Yes, I did.

12          Q       Did you also prepare at our request your  
13 written testimony and curriculum vitae which is  
14 Petitioner's Exhibit 42?

15          A       Yes, I did.

16          Q       Does your curriculum vitae provide your  
17 qualifications and experience in the field of air  
18 quality assessment?

19          A       Yes, I believe so.

20          Q       Have you been admitted as an expert witness  
21 in the field of air quality assessment before the Land  
22 Use Commission?

23          A       Yes.

24                   MR. TABATA: Mr. Chairman, the Petitioner  
25 requests that Mr. Neal be qualified and admitted as an

1 expert witness in the field of air quality assessment.

2 PRESIDING OFFICER DEVENS: Parties have any  
3 objection or voir dire for this witness?

4 MR. KITAOKA: No objection.

5 MR. YEE: No objection.

6 MR. YOST: No objection.

7 PRESIDING OFFICER DEVENS: Hearing none, so  
8 qualified.

9 MR. TABATA: Thank you.

10 Q Mr. Neal, can you please summarize your  
11 written testimony for us?

12 A Yes.

13 Q An air quality study was conducted of the  
14 potential short and long-term air quality impacts that  
15 could occur as a result of construction and use of the  
16 proposed Koa Ridge Makai and Castle & Cooke Waiawa  
17 Project.

18 The air quality study for this Project was  
19 completed during January 2009. The present air  
20 quality of the Project Area appears to be reasonably  
21 good. Based on the information available it appears  
22 likely that all national air quality standards are  
23 currently being met, although occasional exceedences  
24 of the more stringent standards for carbon monoxide  
25 may occur near congested roadway intersections.

1           As with all projects like this, if the  
2 proposed Project is given the necessary approvals to  
3 proceed, it may be inevitable that some short and  
4 long-term air quality impacts will occur either  
5 directly or indirectly as a consequence of Project  
6 construction and use.

7           Short-term impacts from fugitive dust will  
8 likely occur during the Project construction phase.  
9 To a lesser extent the exhaust emissions from  
10 stationary and mobile construction equipment, from the  
11 disruption of traffic and from workers' vehicles may  
12 also affect air quality during the period of  
13 construction.

14           State air pollution control regulations  
15 require that there be no visible fugitive dust  
16 emissions at the property line. Hence, an effective  
17 dust control plan must be implemented to ensure  
18 compliance with State regulations.

19           Fugitive dust emissions can be controlled to  
20 a large extent by watering of active work areas, using  
21 wind screens, keeping adjacent paved roads clean, and  
22 by covering of open bodied trucks.

23           Other dust control measures could include  
24 limiting the area that can be disturbed at any given  
25 time and/or mulching or chemically stabilizing



1 inactive areas that have been worked. Paving and  
2 landscaping of Project areas early in the construction  
3 schedule will also reduce dust emissions.

4 Exhaust emissions can be mitigated by  
5 moving construction equipment and workers to and from  
6 the Project site during offpeak traffic hours.

7 After construction, motor vehicles coming to  
8 and from the proposed development will result in a  
9 long-term increase in air pollution emissions in the  
10 Project Area.

11 To assess the impact of emissions from these  
12 vehicles an air quality modeling study was undertaken  
13 to estimate current ambient concentrations of carbon  
14 monoxide at intersections of the Project vicinity and  
15 to predict future levels with the proposed Project.

16 During worst case conditions model results  
17 indicate that present one-hour and eight-hour carbon  
18 monoxide concentrations are within both the State and  
19 the national Ambient Air Quality Standards with the  
20 possible exception of Kamehameha Highway intersection  
21 with Waipahu Street where the more stringent state  
22 standards could potentially be exceeded during  
23 coincident peak hour traffic and worst case  
24 atmospheric dispersion conditions.

25 With the Project in the year 2025, and

1 assuming that the roadway improvements recommended in  
2 the Project traffic study are implemented, carbon  
3 monoxide concentrations were estimated to decrease,  
4 that is improve, at most locations compared to the  
5 existing case except for the intersection of the H-2  
6 offramp northbound and Ka Uka Boulevard where a large  
7 increase was predicted.

8           This indicates that most locations -- at  
9 most locations the expected increase in traffic will  
10 be more than offset by the expected decrease in  
11 average vehicle emissions over time as older vehicles  
12 are replaced with newer, cleaner vehicles.

13           Even with the projected increase in carbon  
14 monoxide concentrations at the intersection of the H-2  
15 offramp and Ka Uka Boulevard, worst case  
16 concentrations with the Project shall remain well  
17 within national and state standards through the year  
18 2025. And concentrations should comply with standards  
19 at all locations in the Project Area.

20           Depending on the demand levels, long-term  
21 impacts on air quality are also possible due to  
22 indirect emissions associated with the Project's  
23 electrical power and solid waste disposal  
24 requirements. Quantitative estimates of these  
25 potential impacts were not made. But based on the

1 estimated demand levels and emission rates involved,  
2 any impacts will likely be negligible.

3 That concludes my summary.

4 MR. TABATA: Thank you. Mr. Neal is  
5 available for cross-exam.

6 PRESIDING OFFICER DEVENS: City, any  
7 cross-examination from this witness?

8 MR. KITAOKA: No questions.

9 PRESIDING OFFICER DEVENS: OP?

10 MR. YEE: No questions.

11 PRESIDING OFFICER DEVENS: Mr. Yost, you  
12 have some questions?

13 MR. YOST: Thank you.

14 CROSS-EXAMINATION

15 BY MR. YOST:

16 Q Mr. Neal, you didn't actually try to figure  
17 out the carbon footprint of the development, right,  
18 long term?

19 A No, I did not. That was not a part of the  
20 scope of work, wasn't included in my study.

21 Q You've just focused on the types of  
22 pollutants that might affect people's health, life  
23 quality like breathing in pollutants, that kind of  
24 pollutants?

25 A That's correct. The pollutants for which

1 there are ambient air quality standards.

2 Q And you also are assuming in your  
3 projections out to 2025 that the state and federal  
4 standards are not going to become more stringent,  
5 correct?

6 A That's correct.

7 Q Do you think that there's a possibility or  
8 probability that standards will likely become more  
9 stringent over time, at least at the federal level?

10 A At the federal level it's quite possible.  
11 But as it currently stands the state standard for  
12 carbon monoxide is set at one-fourth the federal level.  
13 It's unlikely the federal level will ever be reduced  
14 to that, to that of the state level.

15 Q You're aware that the Environmental  
16 Protection Agency has decided that carbon dioxide is  
17 also a pollutant that may be regulated in the future?

18 A Yes.

19 Q But your study doesn't consider or think  
20 about what kind of regulations might be imposed at  
21 some point for carbon dioxide emissions, correct?

22 A No, it does not.

23 Q And is it the case that carbon dioxide is a  
24 pollutant that comes out of the tailpipes of trucks  
25 and cars and other things that may be involved in the

1 construction of the Project and also the long-term  
2 residents driving to and fro the Project?

3 A Carbon dioxide is a component of fossil fuel  
4 use and vehicles in other matters. But currently  
5 there are no ambient air quality standards that  
6 pertain to that parameter.

7 Q Did you consider the proximity of the  
8 planned hospital to the areas where you say there  
9 might be worst case scenario high concentrations at  
10 certain times? Was the hospital taken into account at  
11 all?

12 A Not specifically, no. We looked at  
13 basically offsite areas. And any offsite area is  
14 applicable or compliance with the air quality  
15 standards.

16 Our analysis showed that at these  
17 intersections where it's likely the highest  
18 concentrations would occur, that the predicted values  
19 met the standards.

20 So presumably at other locations farther  
21 away from the intersections the concentrations would  
22 be lower.

23 Q When you say "worst case scenarios" does it  
24 require an accident or some other anomaly to create  
25 that worst case scenario? Or could it just be

1 congestion?

2       A     Congestion based on the traffic analysis,  
3 peak hour traffic signals.

4       Q     So if there's an accident or some other  
5 traffic anomaly, things could get worse than the  
6 predictions in your analysis, correct?

7       A     Conceivably.

8       Q     Did you do any studies at all for how likely  
9 accidents might actually tie up and create a abnormal  
10 congestion in the Project Area?

11      A     No. In part that would be a traffic issue.  
12 But the air quality study did not address that kind of  
13 situation.

14      Q     In terms of the worst case scenario  
15 pollution, do you have any expertise or knowledge  
16 about what kind of effects on human health occur  
17 during those times of worst case pollution, like, for  
18 example, vulnerable people with asthma or children or  
19 elderly folks?

20            Do you have any expertise relating to what  
21 those effects are?

22      A     That's not my area of expertise. I'm a  
23 meteorologist. Primarily I work in atmospheric  
24 dispersion.

25      Q     Okay.

1               MR. YOST: I don't have any further  
2 questions.

3               PRESIDING OFFICER DEVENS: Ms. Loomis, do  
4 you have any questions? Any redirect?

5               MR. TABATA: No redirect.

6               PRESIDING OFFICER DEVENS: Commissioners?  
7 Commissioner Judge.

8               COMMISSIONER JUDGE: Thank you. Good  
9 morning, Mr. Neal.

10              THE WITNESS: Good morning.

11              COMMISSIONER JUDGE: I had a question about  
12 the last paragraph of your testimony when you're  
13 talking about indirect emissions associated with the  
14 Project's electrical power.

15              I don't quite understand. I'm familiar with  
16 air pollution that comes from cars and all that. But  
17 how does electrical power contribute?

18              THE WITNESS: Those would be emissions that  
19 are emitted from Hawaiian Electric's power plants  
20 where the electrical power is used to supply the  
21 Project with.

22              So off-site impacts, these are impacts that  
23 Hawaiian Electric would have to address when they  
24 permit a plant to operate.

25              COMMISSIONER JUDGE: So those are from the

1 generating facilities, not from -- 'cause you hear  
2 people saying it's overhead lines.

3 THE WITNESS: This is from Hawaiian  
4 Electric, the Hawaiian Electric power plants. These  
5 wouldn't be emissions occurring on site.

6 COMMISSIONER JUDGE: Okay. So they're not  
7 coming from the lines. They're coming from the  
8 generating plants.

9 THE WITNESS: Yes.

10 COMMISSIONER JUDGE: That's also the same as  
11 the solid waste disposal. That's not something on  
12 site. It's from somewhere else.

13 THE WITNESS: That's right. H-Power or the  
14 landfill.

15 COMMISSIONER JUDGE: Thank you.

16 PRESIDING OFFICER DEVENS: Any other  
17 questions? There being none, my understanding,  
18 Petitioners, that you have another witness that the  
19 parties agreed yesterday would be called at a later  
20 time. Are there any other witnesses that you want to  
21 call at this time?

22 MR. MATSUBARA: No. That concludes our  
23 witnesses except for the witness in March.

24 PRESIDING OFFICER DEVENS: City, ready to  
25 proceed?



1                   MR. KITAOKA: Yes, we are, Mr. Chair. I'll  
2 call to the stand Matthew Higashida.

3                   MATTHEW HIGASHIDA,  
4 being first duly sworn to tell the truth, was examined  
5 and testified as follows:

6                   THE WITNESS: I do.

7                   PRESIDING OFFICER DEVENS: Please state your  
8 name and address for the record.

9                   THE WITNESS: My name is Matthew Higashida.  
10 Address 650 South King Street, Honolulu, Hawai'i  
11 96813.

12                  PRESIDING OFFICER DEVENS: City, your  
13 direct.

14                  MR. KITAOKA: Thank you, Mr. Chair.

15                                 DIRECT EXAMINATION

16 BY MR. KITAOKA:

17           Q     Please state your occupation.

18           A     I'm a planner with the Department of  
19 Planning and Permitting.

20           Q     What are your duties and responsibilities in  
21 that position?

22           A     My duties and responsibilities are to review  
23 State Land Use boundary amendments 15 acres or more  
24 and also 15 acres or less. Also to review zone change  
25 requests, water use permits, public infrastructure map

1 revisions, conditional use permits.

2           We also do the Conservation District Use  
3 Permit Application Review that the State sends to us.  
4 And we have various environmental assessments and  
5 environmental impact statements that we're responsible  
6 for reviewing.

7           Q     What division and branch are you employed?

8           A     Employed by the policy planning branch of  
9 the Department of Planning and Permitting.

10          Q     Could you briefly state your educational  
11 background?

12          A     My educational background I have a bachelor  
13 of science from Willamette University in Salem,  
14 Oregon.

15          Q     Could you briefly explain your background  
16 and experience as a planner?

17                   (Commissioner Lezy now present)

18          A     It goes back since 1987. I was with the  
19 Office of Environmental Quality Control. From there I  
20 moved on to the City's Department of General Planning  
21 which later on reorganized to Planning Department.

22                   And now we're -- we got included with the  
23 former DLU, Department of Land Utilization. So now  
24 we're known as the Department of Planning and  
25 Permitting.

1           Q     Okay. Are you familiar with the Central  
2 O'ahu Sustainable Communities Plan?

3           A     Yes.

4           Q     Could you just briefly explain what that  
5 plan is?

6           A     The plan sets out a vision for the  
7 sustainability of Central O'ahu. The vision is the  
8 key to all of the other parts of the plans, policies  
9 and guidelines. And it sets the future for the parts  
10 of it being developed and maintained for protection of  
11 agricultural lands, and also for development of plan,  
12 master plan-approved projects.

13          Q     Have you become familiar with the Project  
14 that's being proposed in this proceeding?

15          A     Yes.

16          Q     Do you find that this Project is consistent  
17 with the vision for Central O'ahu's future as  
18 contained in the Central O'ahu Sustainable Communities  
19 Plan?

20          A     Yes. The proposed urban district is  
21 consistent with the vision for Central O'ahu's future.  
22 The Petition Areas are within the urban community  
23 boundary of the Central O'ahu Sustainable Communities  
24 Plan.

25                   According to the section 2.2.1 of the

1 Central O'ahu Sustainable Communities Plan shown in  
2 Exhibit 1, and also in this -- I'd like to reference  
3 this exhibit that was taken from the Petitioner's --  
4 I'd like to make reference to the Petitioner's exhibit  
5 that they showed earlier.

6 We have a blow-up of it. You can see the  
7 Koa Ridge Makai area and Waiawa Castle & Cooke areas.  
8 (off mic)

9 Q That would be Petitioner's Exhibit 7.

10 A Yes.

11 Q That's the blowup that you're referring to  
12 on the board there.

13 A Yes.

14 Q Proceed.

15 A The urban community boundary, which is the  
16 black lines, the heavy black lines were drawn to give  
17 long-range protection from urbanization for  
18 10,350 acres of prime and unique agricultural lands  
19 and for the preservation of open space while providing  
20 adequate land for residential, commercial and  
21 industrial uses needed in Central O'ahu for the  
22 foreseeable future.

23 Q Okay. Is the Project also consistent with  
24 the vision priorities that are contained in the  
25 Central O'ahu Sustainable Communities Plan?

1           A       Yes.  If you refer to Exhibit 2 the Koa  
2 Ridge Makai and Waiawa development here is consistent  
3 with section 2.2.10 development priorities of the  
4 vision for Central O'ahu's future.

5                   One priority envisions the completion of  
6 existing and approved master planned residential  
7 developments and proposed developments at Koa Ridge  
8 and Waiawa.

9           Q       So the City's Exhibit 1 was, showed the  
10 urban community boundary.  And you referred to  
11 Exhibit 2 which sets forth the development priorities,  
12 is that correct?

13          A       Yes.

14          Q       Is the Project also consistent with the  
15 phasing of Central O'ahu development as described in  
16 the Central O'ahu Sustainable Communities Plan?

17          A       Yes.  If you look at Exhibit 3 in our  
18 submittal you'll see that the Koa Ridge Makai and  
19 Waiawa development areas are consistent with table 2.2  
20 phasing of Central O'ahu, development of the Central  
21 O'ahu Sustainable Communities Plan.

22                   The housing units of these proposed Projects  
23 are accounted for in a total housing unit count.  
24 Refer to Exhibit 3.

25          Q       Can you also explain the phasing map that's

1 contained in -- that's actually set forth in the  
2 City's Exhibit 4.

3 A Yes. The Koa Ridge Makai and Waiawa  
4 development areas are further consistent with the  
5 phasing map. These areas are within the designated  
6 urban expansion areas of the phasing map as shown in  
7 Exhibit 4.

8 Q Could you describe the planning and  
9 permitting processes that the City has to address  
10 infrastructure adequacy and concurrency?

11 A The City has various processes to review  
12 proposed projects such as zone change requests and  
13 subdivision. In those processes we will assess and  
14 assure infrastructure adequacy and concurrency.

15 Infrastructure adequacy is a key vision  
16 element for the Central O'ahu Sustainable Communities  
17 Plan which calls for public agencies and private  
18 developers to work together to address current  
19 deficiencies and meet needs caused by new development.

20 If the redistricting is approved DPP, will  
21 require more transportation analysis, roadway master  
22 planning and improvements as part of the zone change  
23 review, and/or subdivision process to ensure that  
24 circulation system necessary to support the Project is  
25 provided.

1                   The City Department of Transportation  
2   Services and the State Department of Transportation  
3   are core participants in the review of these plans and  
4   improvements.

5           Q     Okay. So you're saying that basically the  
6   zone change process and the subdivision process will  
7   be adequate to ensure adequate infrastructure for the  
8   Project.

9           A     Yes. We will have the opportunity to send  
10   out requests for comments to the various agencies on  
11   our checklist. And we'll make sure that there are  
12   adequate infrastructure or that they'll be provided at  
13   the proper time.

14          Q     Okay. And the policies that are contained  
15   in the Central O'ahu Sustainable Communities Plan,  
16   those policies will be the guidance for those land use  
17   approvals to come at the City?

18          A     Right. There's various policies, guidelines  
19   and principles of the Central O'ahu area that we'll  
20   make sure are followed.

21                   MR. KITAOKA: I have no further questions.

22                   PRESIDING OFFICER DEVENS: Petitioner, any  
23   questions for this witness?

24                   MR. MATSUBARA: Yes.

25                                   CROSS-EXAMINATION

1 BY MR. MATSUBARA:

2 Q Mr. Higashida, your Exhibit 1, which is the  
3 Central O'ahu Sustainable Communities Plan references  
4 a December 2002 date. Was that the date this plan was  
5 adopted?

6 A Yes. The original plan passed in  
7 December 2002.

8 Q And it was through this plan that the urban  
9 community boundaries were established.

10 A Yes.

11 Q Was that the first time urban community  
12 boundaries were established?

13 A For this area, yes.

14 Q Were you familiar with the process that was  
15 involved in developing the final version of the  
16 Central O'ahu Sustainable Communities Plan?

17 A I wasn't the project planner for this  
18 sustainable communities plan. It was Bob Stanfield.  
19 So from my limited knowledge I'm just a little  
20 familiar with how it was developed. But I know it  
21 went through extensive public and agency review.

22 And they got key input from the Department  
23 of Agriculture OP, you know state agencies as well as  
24 the City's. They got input from developers. Through  
25 that process of massaging the plan and going over it



1 this is what the product came out to be.

2 Q From your knowledge of it was it an  
3 extensive and comprehensive review that was undertaken  
4 before the plan was finalized?

5 A Yes.

6 MR. MATSUBARA: Thank you. I have no  
7 further questions.

8 PRESIDING OFFICER DEVENS: Mr. Yee.

9 CROSS-EXAMINATION

10 BY MR. YEE:

11 Q Prior to the adoption of these urban  
12 community boundaries, how did the City and County  
13 determine where urban growth would occur?

14 A Well, I believe they looked at the areas  
15 that were already developed, and they got input from  
16 developers, like I said, what they envision, where  
17 their plans may possibly include.

18 They got input from the Department of  
19 Agriculture to protect lands in Wahiawa, I believe the  
20 Waipio Point, along Kunia, those various areas. So it  
21 wasn't done, you know, haphazardly. It was done  
22 through various consultation with a lot of people.

23 Q And before you had these urban community  
24 boundaries in December of 2002 was there a substitute  
25 mechanism by which the City and County would be able

1 to say, "Yes, urban growth should go here" or, "No,  
2 urban growth should not go there"?

3 A We had in place the development plan land  
4 use map. And we used to have the annual amendment  
5 review where developers could submit their proposals  
6 to the City.

7 And in that process if it required an  
8 environmental assessment, which normally it did, we  
9 would go through that process and we would see if an  
10 environmental impact statement was required.

11 We also went through that process when it  
12 was required. And we'd go through the planning  
13 commission, through the City council for three  
14 readings and the committee meetings. So there was  
15 extensive opportunities for public review in those  
16 processes.

17 Q Was the Koa Ridge Project included in that  
18 development plan prior to December 2002?

19 A No, I don't believe it was.

20 Q You had indicated the City will ensure the  
21 adequacy of infrastructure, is that correct?

22 A No. What I stated was we have a process to  
23 ensure that the adequacy of infrastructure.

24 Q So you have a process at least to ensure the  
25 adequacy of the infrastructure.

1           A     Well, through the zone change process we  
2 will attach conditions to the unilateral agreement.  
3 And in the subdivision approvals we have that level of  
4 review too.

5           Q     Are you familiar with the drainage proposal  
6 for this Project?

7           A     Not very detailed but I have a limited  
8 knowledge.

9           Q     I just have a conceptual question. Are you  
10 familiar with the testimony which said that there will  
11 be four detention basins within the gulch?

12          A     I understand, yes, there's three on Castle &  
13 Cooke lands and one on the military lands.

14          Q     And you're aware that the berms for  
15 detention basins will be below 25 feet?

16          A     That's my understanding.

17          Q     And you realize that one of the reasons it's  
18 below 25 feet is because if they were at 25 feet  
19 they'd be subject to DLNR's regulations for dams?

20          A     Yes.

21          Q     So would you agree the City is now the sole  
22 remaining agency that would have jurisdiction to  
23 assure the safety of these detention basins and the  
24 berms in them?

25          A     If you recall when the Petitioner was giving

1 their presentation we had concerns about those  
2 detention basins. Our concern was to ensure that  
3 Project be approved and there be a sale of the  
4 off-site lands, that these detention basins will be  
5 preserved and maintained.

6 And we didn't want them to go away because  
7 we wanted them to maintain it, the City to not be --  
8 we wanted the Petitioner to make sure that they will  
9 be preserved and maintained.

10 Q So you wanted to make sure -- when you say  
11 you wanted to make sure the Petitioner maintains them,  
12 do you have an objection to the community association  
13 or the homeowners association being responsible for  
14 maintaining them?

15 A We wouldn't have an objection to the  
16 homeowners association. I think when that Project  
17 comes further down the line they're going to have to  
18 present it to our civil engineering branch. And  
19 they'll be looking at it further in detail for what's  
20 required.

21 Q But part of the process, at least initially  
22 when you review the construction, part of the City  
23 process would be to ensure that the design is safe,  
24 correct?

25 A Right.

1           Q     And after you approve the design you'll be  
2 reviewing the actual construction to ensure the actual  
3 construction is safe. Is that part of the process  
4 too?

5           A     Well, I believe the civil engineering branch  
6 will have final say on that process. So I cannot  
7 really answer on that question right now.

8           Q     After it's constructed and during the  
9 maintenance period, obviously the berms and the  
10 detention basins need to be maintained, correct?

11          A     Yes. Whatever's the requirement from the  
12 civil engineering branch. They would have  
13 jurisdiction over what's required and what's not  
14 required.

15                   So whether they decide to accept dedication  
16 of it or not, if the roads are gonna contribute  
17 drainage to it they'll be part of it.

18                   Right now without anything submitted to them  
19 they can't say. So I checked with them and they said  
20 they really cannot say if they'll accept dedication or  
21 anything right now.

22          Q     I'm proceeding under the assumption that the  
23 City is not going to accept it. If they do, then that  
24 actually answers the whole question of maintenance I  
25 think.

1           The scenario I have is if the City does not  
2   accept the detention basins, and it remains the  
3   responsibility of the homeowners association, then  
4   there will be expectations for maintenance by the  
5   homeowners association, correct?

6           A     Yes.

7           Q     And does the City conduct periodic  
8   inspections to ensure that the homeowners association  
9   continues to maintain the detention basins correctly?

10          A     I don't know the answer to that question.

11          Q     I'm just checking because their witness said  
12   you would say yes.

13          A     I need to check with civil engineering  
14   branch.

15          Q     All right.

16          A     Yes.

17          Q     Conceptually -- there was testimony that --  
18   or are you aware that the detention basins will be  
19   collecting and detaining water from upstream of the  
20   property of the Petition Area?

21          A     Yes.

22          Q     And the water from the Petition Area itself  
23   actually is going to flow unattenuated into the gulch,  
24   correct? From Koa Ridge Makai anyway.

25          A     Well, I think they have plans for storm

1 runoff or regular runoff where they're going to try to  
2 incorporate sustainable principles. Whether it be to  
3 irrigate the medians or the commons or whatever, I  
4 think that's still ongoing.

5 Q So their method is to try to reduce the  
6 total amount of runoff into the gulch through things  
7 like green infrastructure, is that right?

8 A Well, my understanding is the flow needs to  
9 be taken care of. So that's why you need to have  
10 these detention basins.

11 Q But these detention basins do not attenuate  
12 the flow from the Petition Area, correct?

13 A It will be to have the flow which they label  
14 as "Q" to -- this is an engineering term -- not to  
15 exceed what is currently being run off. That's why  
16 they have these detention basins set up in place.

17 COMMISSIONER WONG: Mr. Chairman, I have a  
18 question.

19 PRESIDING OFFICER DEVENS: Yes.

20 COMMISSIONER WONG: I think the witness has  
21 already talked about the detention basins and  
22 engineers have to look at it.

23 And we're getting down to micro-managing  
24 questions about the water and that sort of thing.  
25 Where are we going?

1           The questions in my opinion, Mr. Chairman,  
2   should be cross-examination to point out where the  
3   witness has failed to cover areas he should. Or to  
4   bring out areas where he testified contrary to  
5   whether previous witness or report. But to ask about  
6   these questions we can be here forever.

7           In other words, the question should be such  
8   that it would be very pertinent to the Land Use  
9   Commission in deciding the ultimate question to grant  
10  the request or not or to modify it in a certain way.

11           But the way we're going it's like: Oh, I'd  
12  like to learn all about detention basins. Or how do  
13  you guys build it?

14           Well, we have to ask the engineers.

15           How do you maintain it?

16           Well, we have to ask the engineers.

17           Where does the water come from? From  
18  upstream?

19           Yeah, it doesn't come from downstream.

20           Where are we going to go, Mr. Chairman?

21           MR. YEE: May I just answer the question?

22           COMMISSIONER WONG: Water doesn't go  
23  upstream. Okay? So the detention basin takes water  
24  from upstream. It doesn't take it from downstream.  
25  So to ask th witness: Isn't it true that the



1 detention basin is from the water from the upstream?

2 What do you think the answer is goin' be?

3 MR. YEE: Actually, with all due respect, in  
4 most cases -- what we got from the prior witnesses  
5 this is a conceptually different method of a detention  
6 basins in the gulch.

7 The water normally is attenuated from the  
8 property. So they normally reduce the amount of water  
9 from their property into the gulch.

10 They're not -- I believe contrary to, I  
11 believe, he just said, that's not gonna happen in this  
12 case.

13 COMMISSIONER WONG: Mr. Chairman, the  
14 question's: What's the difference? It makes no  
15 difference if there's going to be water from the  
16 gulch, there could be water from the property. So  
17 what's the problem?

18 Where do you think water comes from? Then  
19 you can say it came from the sky too. We understand  
20 that. Where are we going?

21 PRESIDING OFFICER DEVENS: Bryan, how much  
22 more do you have on this line of questioning?

23 MR. YEE: I think about another minute.

24 PRESIDING OFFICER DEVENS: Okay. Go ahead.

25 Q (By Mr. Yee): Is it your understanding that

1 the detention basins are gonna reduce the amount of  
2 water flow from the Petition Area?

3 A I think we need to talk to a civil engineer.

4 Q So you don't know?

5 A Yeah, at this time.

6 MR. KITAOKA: I would like to interject at  
7 this time that the City's witness is a planner. And  
8 the City's witness is to determine whether, in fact,  
9 this Project is consistent with the City's policies  
10 and procedures. He's not an engineer. So I'd just  
11 like to make that clear.

12 PRESIDING OFFICER DEVENS: I understood. If  
13 he doesn't know, he doesn't know the answer to those  
14 questions.

15 Q (By Mr. Yee): All right. So you're not  
16 familiar, then, with the planning process for drainage  
17 and that's basically you're going to defer to the City  
18 engineers in the process.

19 A Yes. Like I said in the zone change request  
20 process and subdivision we will make sure that these  
21 infrastructure requirements are satisfied and taken  
22 care of. That's when we go to the other agencies  
23 within the City.

24 MR. YEE: All right. I have no other  
25 questions.

1                   PRESIDING OFFICER DEVENS: Mr. Yost.

2                   MR. YOST: Thank you.

3                   CROSS-EXAMINATION

4 BY MR. YOST:

5           Q     The map that's up there behind, have you  
6 ever seen a version of that map that looks very much  
7 the same except that the boundary line, the heavy  
8 black dotted line -- well, first of all, the heavy  
9 black dotted line that's the urban growth boundary,  
10 correct?

11          A     Yes.

12          Q     Have you ever seen a version of that map  
13 behind you that looks very similar to that except the  
14 heavy black dotted line does not include the Koa Ridge  
15 area or the Ho'opili area, which are agricultural  
16 lands? Have you seen a copy of a map like that?

17          A     It's off this map?

18          Q     It looks just like that map except that the  
19 heavy black line is drawn differently so Koa Ridge and  
20 Ho'opili are not include within the urban growth  
21 boundary.

22                   Have you seen a copy of a map like that?

23          A     When you mentioned Ho'opili I'm getting  
24 confused.

25          Q     We'll leave out Ho'opili for now. I was

1 just trying to be complete. Have you seen a version  
2 of a map that looks very much like that but the Koa  
3 Ridge portion is not within the urban growth boundary?

4 A This map I understand is taken from the EIS  
5 that was accepted in June of 2009.

6 Q I'm just trying -- I want an answer to my  
7 question. If you haven't seen a copy of a map like  
8 that then you can answer "no".

9 If you have seen a copy of a map that has a  
10 different black line that doesn't include Koa Ridge  
11 then you can answer "yes".

12 PRESIDING OFFICER DEVENS: Can you rephrase  
13 the question, counsel?

14 MR. YOST: Sure.

15 Q My question again was. Have you seen a copy  
16 of a map that looks the same format as the map behind  
17 you except that the heavy black dotted line  
18 designating the urban growth boundary does not include  
19 the Koa Ridge area? Have you seen a copy of a map  
20 that looks like that?

21 A Our Sustainable Communities Plan map has  
22 that urban growth boundary that does not include the  
23 Koa Ridge Makai outline or the Waiawa development  
24 outline.

25 Q Can you explain that? When was that map

1 drawn?

2 A December 2002. It doesn't include the red  
3 line. But let me try to answer this. What our  
4 development plans and Sustainable Community Plans are  
5 conceptual and not to be taken as zoning maps. So  
6 they're not parcel specific. So I don't understand  
7 what you're getting at.

8 What I do understand is these two areas, the  
9 Koa Ridge Makai and Waiawa development areas, are part  
10 of the Central O'ahu Sustainable Communities Plan.  
11 And the text always prevails over a map. So the maps  
12 were drawn to illustrate what the text said.

13 Q You mentioned that before the Sustainable  
14 Communities Plan map was drawn in December of 2002  
15 that there was a development plan land use map that  
16 the City used for development --

17 A Yes.

18 Q -- purposes?

19 A Yes.

20 Q When was that map first created?

21 A I think it was 1983 or 4, in the mid '80s.

22 Q So is it fair to say that from -- that's the  
23 first time the City ever thought about urban growth  
24 boundaries. In the mid '80s?

25 A No. The urban growth boundary came about

1 during the development of the 'Ewa Development Plan, I  
2 believe. And at that time the City was looking at  
3 various jurisdictions on the mainland and Portland in  
4 Oregon they had urban growth boundaries. So we was  
5 looking at different municipalities and areas.

6 Q So when was that?

7 A In the late probably '97 I believe was when  
8 the 'Ewa Development Plan was adopted. So it would be  
9 prior a little bit to '97.

10 Q I'm sorry. I'm a little confused. I  
11 thought you just said the development plan land use  
12 map was actually first developed in the mid '80s.

13 A Yes.

14 Q That's before the 'Ewa planning, correct?

15 A Right. That's when the Department of  
16 Planning and Permitting looked at incorporating an  
17 urban growth boundary. It was through adoption of the  
18 'Ewa Development Plan. So from the '80s to the '90s  
19 we still went with our development plan land use map.

20 Q And did that development plan land use map  
21 from the '80s to the '90s until the 'Ewa point, did  
22 that map have an urban growth boundary in it? Or it  
23 didn't really have it defined?

24 A It didn't have an urban growth boundary. It  
25 had, like, areas designated for residential,

1 commercial, industrial, agriculture, mixed use, those  
2 kinds of areas.

3 Q Is it fair to say that at all times before  
4 December 2002 the maps that the City was looking to  
5 for development decisions, all of those maps did not  
6 include the Koa Ridge area as an area designated for  
7 urban development, isn't that correct?

8 A Yes, I think that's correct.

9 Q The Sustainable Communities Plan talks  
10 about, and this is focusing on the map behind you that  
11 it's drawn in part to try to ensure the long-term  
12 protection of 10,350 acres of prime and unique ag  
13 lands.

14 Are you familiar with that?

15 A To a certain degree, yes.

16 Q Do you know what lands -- does that  
17 essentially mean lands throughout the Island of O'ahu?  
18 It doesn't mean neighbor islands, obviously. This is  
19 just City and County of Honolulu?

20 A Those acreages were determined, again, like  
21 I said, through Department of Agriculture, OP at that  
22 time. And they included all of the areas outside of  
23 their urban growth boundary.

24 So you have, for example, like outside of  
25 Wahiawa, that area, and this boundary includes all of

1 the areas outside of the urban growth boundary, those  
2 10,350 acres.

3 Q Were you involved in trying to figure out  
4 which acres should be protected?

5 A No, I wasn't. I mentioned the project  
6 manager for that was Bob Stanfield at that time.

7 Q The Sustainable Communities Plan is supposed  
8 to be periodically updated, correct?

9 A Yes.

10 Q How often?

11 A It's supposed to be, according to our plans,  
12 once every five years.

13 Q Was it updated in 2007 or 2008, five years  
14 after this?

15 A No. The project update was approved in  
16 April 2007. Right now we're in the process of  
17 preparing a public review draft. And anticipate it to  
18 come out soon.

19 Q It's 2010. When's it going to come out?

20 A Well, according to the project manager for  
21 this it's March of 2010. That's what --

22 Q So next month?

23 A -- the information I got. Yes. But I can't  
24 guarantee that. So don't really quote me on that, but  
25 that's what I was -- I mean I'm just saying it's



1 coming out, supposed to be coming out soon this year.

2 I'm sorry.

3 Q Well, you said the project update was  
4 approved in 2007. Who approved it?

5 A This was through the department contracting  
6 process I believe.

7 Q Was there any public involvement in the  
8 updating of the Sustainable Communities Plan before it  
9 was approved in 2007?

10 A Well, the public involvement will be right  
11 now when it's going to come out for public review  
12 draft.

13 Q So it's just been -- so far it's just been  
14 an internal government process where staff and  
15 consultants have been looking at updating the  
16 Sustainable Communities Plan and have prepared a  
17 draft. And it hasn't yet been released for public  
18 review and comment, is that right?

19 A Yes. That's my understanding. Hasn't been  
20 released yet. So at that time when it's released it  
21 will go through the whole nine yards of going through  
22 the council, three readings, committee meetings.

23 This has not occurred yet so it's still  
24 being looked at internally. That's based on  
25 consultation with different agencies.

1           Q     Do you know why it's taken over two years,  
2 almost three years for the --

3           A     I can't answer for that. I'm sorry.

4           Q     You don't know. Is the update going to  
5 include some comments and potential updates to this  
6 map that's behind you?

7           A     That's what the process will be for to  
8 consider all of the comments at that time. And we'll  
9 go through the planning process and not do it just  
10 among the department. We're gonna to be considering  
11 comments from various sources.

12          Q     Is it possible that as part of the public  
13 review of this Sustainable Communities Plan and the  
14 map and everything that goes with it, that the City  
15 and County may decide to redraw the map and change the  
16 urban growth boundary?

17          A     I think that's possible.

18          Q     And that could -- in terms of just what's  
19 possible it could either contract or expand, correct?

20          A     Yes. And that's what the process will be  
21 going through.

22          Q     How long are you estimating that process to  
23 take place once it begins?

24          A     I wish I could see the future. I don't have  
25 an answer to that.

1           Q     Last question for you. Do you know whether  
2 or not Castle & Cooke was involved in the process  
3 urging the map behind you to be drawn to include the  
4 Koa Ridge site?

5                     Do you know if Castle & Cooke was involved  
6 in giving comments and information to the City and  
7 County to try to have the map look like the one behind  
8 you?

9           A     I would say not only Castle & Cooke.  
10 Because in our process we talked to developers,  
11 landowners, agencies, went through the public review  
12 period.

13                     So it wouldn't be fair to just single out  
14 Castle & Cooke. I would say it was a collective  
15 ongoing planning process. That's how we derived the  
16 product.

17           Q     But Castle & Cooke was involved in that  
18 process, correct?

19           A     Yes. Castle & Cooke was part of one of the  
20 other developers, or the many developers that were  
21 involved in this planning process.

22           Q     And Castle & Cooke's position was that the  
23 former map being used, the development plan land use  
24 map, that that should be redrawn to look like the map  
25 behind you and include the Castle & Cooke site,

1 correct?

2 MR. KITAOKA: Objection. Mischaracterizes  
3 the evidence already. He didn't say that the prior  
4 map was the Sustainable Communities -- I mean an urban  
5 growth boundaries map. It was a development plan map  
6 that people would come in annually for amendments.

7 PRESIDING OFFICER DEVENS: Overruled. I'll  
8 let the witness answer the question the best he can.

9 A Well, my understanding of this whole process  
10 is Castle & Cooke can process whatever they want to.  
11 And we will give it an objective look as best as we  
12 can through consultation with the agencies, and the  
13 public and whoever.

14 And if you recall, the original proposal  
15 called for a third area at Koa Ridge Mauka. And we  
16 looked at it and we said, "No. We do not want to give  
17 this third area."

18 So we are not going to be putting on the  
19 blinders and be mindless about it. We gave it our  
20 best shot. We looked at the three areas as Koa Ridge  
21 Makai, Castle & Cooke Waiawa and Koa Ridge Mauka.

22 And when we consulted we saw the mauka was  
23 not good to approve. So we will do our best and do it  
24 objectively.

25 Q (By Mr. Yost) Just a follow up on counsel's

1 last objection, clarification. My understanding of  
2 your testimony is that you said after the 'Ewa  
3 development work around 1997, that's when the City and  
4 County did, in fact, include the concept of an urban  
5 growth boundary in its land use development map,  
6 correct?

7 A Yes. We had the development plan land use  
8 map in place from the '80s through the '90s. And we  
9 took on a different approach to include the urban  
10 growth boundary.

11 Q In and around 1997?

12 A Around that time.

13 Q Okay.

14 A Yes.

15 MR. YOST: Thank you. I have no further  
16 questions.

17 PRESIDING OFFICER DEVENS: Ms. Loomis, do  
18 you have any questions?

19 MS. LOOMIS: I have one question.

20 CROSS-EXAMINATION

21 BY MS. LOOMIS:

22 Q You mentioned Mr. Stanfield was the lead  
23 when the Central O'ahu Plan was developed?

24 A Yes.

25 Q Is he going to be the lead for the review?

1           A     My understanding is Hal Center is the lead  
2     for the review of the Central O'ahu Sustainable  
3     Communities Plan.

4           Q     Does he work with you?

5           A     He works under Bob Stanfield.

6           Q     Okay.

7           A     He's in the same branch as Bob.

8                     MS. LOOMIS: Thank you.

9                     PRESIDING OFFICER DEVENS: Any redirect?

10                    MR. KITAOKA: Just short redirect. Just to  
11     clarify what's been brought out.

12                                 REDIRECT EXAMINATION

13     BY MR. KITAOKA:

14           Q     With respect to the urban community boundary  
15     I think there was some confusion as to whether Koa  
16     Ridge was ever inside or outside of that boundary. So  
17     I'd just like you to clarify. Was, in fact, at any  
18     time Koa Ridge outside of the urban been community  
19     boundary?

20           A     My understanding is Koa Ridge Makai and the  
21     Waiawa was always in our urban community boundary.

22           Q     It was always in. That means always in the  
23     urban side of the urban community boundary, is that  
24     correct?

25           A     Yes. And the text indicates that through

1 the Central O'ahu SAP. So the map is to illustrate  
2 what the text says. These are conceptual maps, not  
3 like zoning maps so they're not parcel specific.

4 MR. KITAOKA: I have no further questions.

5 PRESIDING OFFICER DEVENS: Commissioners,  
6 any questions? Commissioner Kanuha.

7 CHAIRMAN KANUHA: Thank you, Mr. Chairman.  
8 Thank you for your testimony. Again, just for the  
9 record. After -- if this petition is approved what  
10 happens next in the entitlement process?

11 THE WITNESS: Okay. The Petitioner will  
12 then, based from the proceedings and the Decision and  
13 Order, they'll probably come up with a zone change  
14 request. And that they'll submit to the Department of  
15 Planning and Permitting. And we will go through our  
16 process to start the zone change process.

17 And we will send the request to various City  
18 agencies, state agencies and community organizations.  
19 And we will look at the comments. We will look at the  
20 infrastructure requirements.

21 And we can then set conditions to the  
22 unilateral agreement through the zone change which  
23 will require the Petitioner or the Applicant to make  
24 sure we have adequate infrastructure.

25 When they come in for building permits we

1 will again be monitoring that to seek compliance with  
2 the unilateral agreement conditions. If there's no  
3 compliance, then we can hold up on building permits.

4 CHAIRMAN KANUHA: Is there also a separate  
5 process for subdivision or plan unit development or  
6 something else?

7 THE WITNESS: Yes. They'll come in for  
8 subdivision to chop up the area, like what areas will  
9 be appropriate for residential, maybe business/mixed  
10 use, public facilities, maybe parks, schools. That  
11 will go through that process also through the  
12 subdivision process.

13 CHAIRMAN KANUHA: So doing those steps we  
14 assume that there will be more detail on drainage and  
15 roadways and circulation and issues of that nature,  
16 correct?

17 THE WITNESS: Right. We will look at -- we  
18 can require more transportation impact analysis  
19 reports, the TIARs, roadway master planning, you know,  
20 how they connect with each other for connectivity to  
21 ensure that the circulation system is in place to  
22 support this development. And that will come through  
23 the zone change process and the subdivision process.

24 CHAIRMAN KANUHA: Will the Office of  
25 Planning be among the state agencies that you consult



1 or ask for comments on --

2 THE WITNESS: Yes.

3 CHAIRMAN KANUHA: -- at these next stages?

4 THE WITNESS: Yes. For every zone change  
5 that's our standard practice to send them request for  
6 comments.

7 CHAIRMAN KANUHA: Okay. You indicated that  
8 the Department would be at the same time undergoing a  
9 review of the sustainable plan. How is that going to  
10 reconcile itself with the zoning and subdivision?

11 THE WITNESS: As I sated we're in the  
12 process of going through producing a public review  
13 draft. And the exact date when that will come out,  
14 again, I need to say I'm not sure if it's going to be  
15 March, next month. But I know it's coming out soon.

16 So the project manager Hal Center is very  
17 interested in what's happening here at the Land Use  
18 Commission. I have invited him to come, but I think  
19 he was too busy right now 'cause he's doing that  
20 review and getting things ready.

21 So I'm in constant contact with him to let  
22 him know what happens at the Land Use Commission level  
23 so that to make sure whatever comes out in public  
24 review draft. But he told me there's nothing in there  
25 that obviates from the proposed petition right now.

1                   CHAIRMAN KANUHA: Okay. So to be clear,  
2 then, the Department's position is that until  
3 otherwise modified that their position is that this  
4 petition is consistent with the urban growth  
5 boundaries as you have it on the plan?

6                   THE WITNESS: Yes. The two areas are within  
7 the urban growth boundary. It doesn't obviate from  
8 what they're looking at right now.

9                   CHAIRMAN KANUHA: Okay. Thank you.

10                  PRESIDING OFFICER DEVENS: Commissioner  
11 Judge.

12                  COMMISSIONER JUDGE: Thank you. Just a  
13 follow up on Commissioner Kanuha. So if I understand  
14 you correctly, this updated plan which is to be  
15 released at some point in the future, there's no  
16 reason for this Commission to believe that Koa Ridge  
17 or the Waiawa parcels would not be in that updated map  
18 as within the urban growth boundaries?

19                  THE WITNESS: Yes, that's my understanding.  
20 I talked to Hal Center about it. And he told me  
21 there's nothing that obviates from the plan.

22                  COMMISSIONER JUDGE: So meaning that in this  
23 updated map they would also --

24                  THE WITNESS: Be consistent with the new  
25 one.

1 COMMISSIONER JUDGE: Okay. Thank you.

2 PRESIDING OFFICER DEVENS: Nothing further?

3 Is this the last witness for the City?

4 MR. KITAOKA: Yes.

5 MR. YOST: Chair, I have a brief recross  
6 based on what the Commissioners asked.

7 PRESIDING OFFICER DEVENS: Go ahead.

8 RECROSS-EXAMINATION

9 BY MR. YOST:

10 Q You just mentioned there's nothing that  
11 obviates in what's going to be released for public  
12 review. But I think we discussed in your testimony  
13 that there will be a public review process. And it's  
14 possible that at the end of that public review process  
15 the map and the plan may change, right?

16 That's the purpose of public review. It has  
17 to be meaningful.

18 A That's my understanding.

19 Q Okay.

20 A A this point in time there's nothing that  
21 obviates from the plan.

22 Q But it's possible at the end of that public  
23 review process it may obviate from the plan.

24 A I think the possibility is always there.

25 Q It has to be. Otherwise public review isn't

1 meaningful.

2       A     That's why you have the three readings at  
3 council and the two committee meeting with council's  
4 planning committee I believe.

5       Q     What would happen?

6       A     So --

7       Q     I'm sorry to interrupt. What would happen  
8 if the map was redrawn after the public review process  
9 to not include the Koa Ridge parcel? What would  
10 happen, then, in terms of this process?

11      A     I think it doesn't really do that much  
12 because it's the zoning that gives you the legal use  
13 of the land. So right now that's gonna be what will  
14 be required.

15      Q     But is it difficult for the Commission to  
16 assume that the petition will be consistent with the  
17 Central O'ahu Sustainable Communities Plan as it may  
18 exist in modification at some point three or four  
19 months from now?

20            Can the Commission actually rely on this  
21 petition to be consistent with that plan after it goes  
22 through public review?

23      A     Well, at this point in time I think that's  
24 the assumption that is being made.

25      Q     But that's on unknown, correct?

1           A     Yes. I mean it can -- that's the purpose of  
2 going through the public review process. But at this  
3 point in time when I spoke to the project manager he  
4 told me there's nothing that obviates from the plan.  
5 So that's an assumption.

6           Q     I understand. The last thing to follow up  
7 on counsel's redirect. He said that at no time was  
8 Koa Ridge outside the urban community boundary that  
9 exists in this Sustainable Communities Plans. But  
10 that urban community boundary did not come into  
11 existence until December 2002, correct?

12          A     Yes. So it's until that time, yeah.

13          Q     So between '97 and 2002 the urban growth  
14 boundary that the City and County used for its  
15 development for planning purposes that boundary, Koa  
16 Ridge was outside of it, correct?

17          A     According to the development plan land use  
18 map for Central O'ahu.

19          Q     Thank you. No further questions.

20               PRESIDING OFFICER DEVENS: Mr. Kitaoka, you  
21 have any redirect based on the last testimony?

22               MR. KITAOKA: No.

23               PRESIDING OFFICER DEVENS: Okay.

24               COMMISSIONER LEZY: Chair?

25               PRESIDING OFFICER DEVENS: Go ahead,

1 Commissioner Lezy.

2 COMMISSIONER LEZY: If I can just ask one  
3 quick question of the witness.

4 The last time the Sustainable Communities  
5 Plan was updated how long did the public portion of  
6 the process last before the final was issued?

7 THE WITNESS: I don't know the answer to  
8 that question. I'm sorry.

9 COMMISSIONER LEZY: All right.

10 PRESIDING OFFICER DEVENS: Okay. City, I  
11 understand this is the one and only witness you intend  
12 to call for this hearing.

13 MR. KITAOKA: That's correct.

14 PRESIDING OFFICER DEVENS: OP and the rest  
15 of the parties we're going to hold off on starting  
16 your case. With that --

17 CHAIRMAN KANUHA: Mr. Chairman?

18 PRESIDING OFFICER DEVENS: Commissioner  
19 Kanuha.

20 CHAIRMAN KANUHA: Can I ask why OP and the  
21 Intervenors are not ready to proceed?

22 MR. YEE: We had anticipated, frankly, that  
23 we would take both days for the conclusion of  
24 Petitioner's case and City and county's case. We  
25 agreed to reduce the number of witnesses. And we

1 agreed to defer one of the witnesses. And that we  
2 just didn't anticipate we would be finished this  
3 quickly.

4 MR. YOST: I can answer as well. We engaged  
5 in discussions with Petitioner's counsel and thought  
6 about trying to bring one of our witnesses today.  
7 This was a few weeks ago.

8 And, again, because it looked like there was  
9 no way we were going to get through the case,  
10 Petitioner's case, we have to schedule our witnesses  
11 fairly far in advance because they have other  
12 commitments. The one who would have gone was a UH  
13 professor.

14 We all agreed and I confirmed with Dan  
15 Davidson ahead of time that it made sense to wait  
16 until later. So yesterday when everything changed and  
17 everything shifted, there wasn't enough time for us to  
18 adjust.

19 MS. LOOMIS: We were expecting to be talking  
20 about the transportation impact today. And that we  
21 wouldn't be going on until after the State Office of  
22 Planning.

23 CHAIRMAN KANUHA: Mm-hmm. That's an  
24 interesting word that you mentioned "commitment".  
25 Because as a Commissioner I made an attempt to be

1 here. And I made an attempt. And my commitment is to  
2 be here for two days straight.

3 And I think I'm gonna speak for Commissioner  
4 Contrades when we say we're ready to go. Unless  
5 there's some real extenuating circumstances you guys  
6 should be ready to go. And I don't see why the  
7 Petitioner should be penalized for putting on an  
8 efficient case. I'm sure Commissioner Contrades would  
9 share that same concern.

10 Again, I've committed to be here for two  
11 days. They booked me on a flight that leaves here at  
12 6:00. This is a Friday. There's no other flights.  
13 So I think all I want to emphasize for you is that we  
14 all have commitments.

15 And we made a commitment to serve and to the  
16 best extent possible attend. And if we attend we're  
17 there. That's why we are here.

18 So to have the parties say, "We're just not  
19 ready to go because we didn't anticipate certain  
20 things to be happening" it's kind of troubling. Thank  
21 you.

22 PRESIDING OFFICER DEVENS: Okay. Let me say  
23 a couple of comments. I understand that we juggle  
24 witnesses. And I know that sometimes it's hard to  
25 line up witnesses right away. But I think



1 Commissioner Kanuha makes a good point in terms of the  
2 time that the Commission puts into these matters.

3           From this point forward, and I don't speak  
4 on behalf of Chair Piltz in any way, but I think as a  
5 body we want to see efficient use of our time.

6           But I fully understand that sometimes we  
7 cannot get witnesses. I don't know when the decision  
8 was made to drop a witness and so forth.

9           We certainly appreciate the streamlining of  
10 the case; want the Petitioner to know that we fully  
11 appreciate that. The best we can we'd like to be move  
12 forward and hear these things as quickly as possible.  
13 But it is a point well taken, Commissioner Kanuha.

14           CHAIRMAN KANUHA: I think the response I was  
15 looking for is one of the main issues that the  
16 intervenors are here is related to traffic. We're  
17 well aware that's some discussions going on which may  
18 bring a lot of that to some kind of agreement.

19           To me that's a good enough reason, because,  
20 you know, those kinds of discussions are going on.  
21 That's kind of what I wanted to hear, you know.

22           The Neighborhood Board was the only one that  
23 actually came up with that.

24           MR. MAYER: Commissioners, with due respect  
25 I would like to say that when we agreed yesterday on

1 the deferral of the traffic witness, it was kind of  
2 expressly with the condition that we weren't prepared,  
3 and that we thought it was in Petitioner's and the  
4 State's best interest to wait to see if an agreement  
5 could take place.

6 If that witness were to take the stand now,  
7 as my attorney said, the character of the cross would  
8 be entirely different and perhaps mischaracterize the  
9 true evidence of the case.

10 So appreciate your continued patience with  
11 us. Thank you.

12 MR. YOST: Obviously I hear you and I will  
13 try to have witnesses ready for unexpected changes in  
14 the schedule just in case this happens again that  
15 something's put off unexpectedly. I'll try to have  
16 someone to bring in to move our case along. I'll make  
17 an effort.

18 CHAIRMAN KANUHA: Well, it shouldn't be.  
19 Because you guys are on now, right?

20 MR. YOST: We still have to wait, actually,  
21 for the traffic witness to go for the Petitioner.  
22 That will be the Petitioner's last witness I  
23 understand.

24 MR. MATSUBARA: If I may briefly indicate  
25 since I share in some of the juggling that occurred.

1 It was all done for purposes in trying to be more  
2 efficient in regard to our presentation to the  
3 Commission in deference to not keeping you to listen  
4 to lengthy cross-examination, which may not be  
5 necessary based on reasoned agreements to handle that.

6 We apologize for what's happened. But I  
7 think all the parties were trying to be more  
8 efficient. Maybe we were overly efficient in that  
9 regard. Thank you for your consideration.

10 PRESIDING OFFICER DEVENS: We certainly  
11 appreciate that. Unless the Commissioners have  
12 anything else, we will stand in recess at this time  
13 and adjourn.

14

15 (The proceedings were adjourned at 10:35 a.m.)

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1 C E R T I F I C A T E

2

3 I, HOLLY HACKETT, CSR, RPR, in and for the State  
4 of Hawai'i, do hereby certify;

5 That I was acting as court reporter in the  
6 foregoing LUC matter on the 19th day of February  
7 2010;

8 That the proceedings were taken down in  
9 computerized machine shorthand by me and were  
10 thereafter reduced to print by me;

11 That the foregoing represents, to the best  
12 of my ability, a true and correct transcript of the  
13 proceedings had in the foregoing matter.

14

15 DATED: This \_\_\_\_\_ day of \_\_\_\_\_ 2010

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21 HOLLY M. HACKETT, CSR #130, RPR  
22 Certified Shorthand Reporter  
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