

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

Proceedings held on March 24, 2016

Commencing at 8:30 p.m.

West Hawai'i Civic Center

Council Hale - Building G

74-5044 Ane Keohokalole Highway

Kailua-Kona, Hawai'i 96740

AGENDA

VI Continued Hearing & Action
A89-646 Queen Lili'uokalani Trust (Hawai'i)

BEFORE: Jean Marie McManus, CSR #156

1 APPEARANCES:

2 EDMUND ACZON, Chairperson

3 COMMISSIONERS:

4 JONATHAN SCHEUER, Vice Chair

ARNOLD WONG, Vice Chair

5 LINDA ESTES

NANCY CABRAL

6 CHAD McDONALD

KENT HIRANAGA

7
8 DIANE ERICKSON, ESQ.

Deputy Attorney General

9
10 STAFF:

11 DAN ORODENKER, Executive Director

RILEY HAKODA, Chief Clerk/Planner

12 SCOTT A.K. DERRICKSON, AICP-Planner

BRIANA BERNADINO, Secretary

13
14 BRIAN YEE, ESQ.

RANDY FUNAKOSHI, Planner

15 State Office of Planning

16 AMY SELF, ESQ.

Deputy Corporation Counsel

17 DUANE KANAHU, Planning Director

18 BENJAMIN KUDO, ESQ.

CLARA PARK, ESQ.

19 For Petitioner

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1 CHAIRPERSON ACZON: Good morning. This is
2 the resumption of the March 23rd, 2016 Land Use
3 Commission Meeting.

4 Yesterday we concluded the Public Testimony
5 part of this hearing, and the county and OP has
6 presented their presentation or non-presentation.

7 And also we finished the Agenda VII and
8 VIII yesterday, so we are going to resume with
9 Petitioner's presentation.

10 There's one more witness Mr. Kudo has to
11 call, then after that I'm going to give the County
12 and OP some time for comments and Mr. Kudo his final
13 comments.

14 Mr. Kudo, call your next witness.

15 MR. KUDO: Good morning, Chair Aczon and
16 members of the Commission. Before I bring the next
17 witness to the stand, I wanted to take care of three
18 housekeeping issues.

19 One is that we've passed out to the parties
20 and to the Commission the curriculum vitae of our
21 next witness, Mr. Timothy Cornwell. And that would
22 be marked as Petitioner's Exhibit 15. And at this
23 time I would like to have a stipulation from the
24 parties to admit that into the record.

25 CHAIRPERSON ACZON: Is there any objection

1 from the parties?

2 MS. SELF: No objection from the County.

3 MR. YEE: No objection.

4 CHAIRPERSON ACZON: Commissioners? Exhibit
5 Number 15 is admitted.

6 (Petitioner's Exhibit 15 was received into
7 evidence.

8 MR. KUDO: Two other items. One is that
9 yesterday the Office of Planning had questioned
10 witness LeeAnn Crabbe with regard to whether the
11 Trust would be agreeable to the conditions of Office
12 of Planning as set forth in the Response that they
13 filed in this proceeding.

14 Those conditions refer to a Department of
15 Transportation letter dated January 14th, 2016.
16 However, subsequent to that letter, on March 22nd,
17 the Department of Transportation issued a revised
18 letter. And Mr. Yee submitted to the Commission a
19 letter saying that his Exhibit 1, which was the
20 January 14th letter, should be substituted for the
21 March 22nd letter.

22 So my client's response in terms of
23 agreeing to the conditions of the response are
24 referring to the March 22nd letter. I just wanted to
25 clarify that for the record.

1 CHAIRPERSON ACZON: Thank you.

2 MR. KUDO: The last item was an issue
3 brought up by Commissioner Scheuer regarding the
4 50-acre portion of the MPD project, and whether there
5 were any conditions outstanding from the Commission
6 that pertained to that particular 50-acre parcel.

7 When we researched the records, there was
8 an action by this Commission in August of 1980,
9 Docket A79-470 that reclassified that subject land
10 from the Agricultural District to the Urban District.

11 I have a copy of that decision by this
12 Commission here.

13 There were no conditions attached to the
14 Decision and Order. It basically just approves it
15 with no conditions. And I guess this was done at a
16 time when there were very few conditions attached to
17 any orders issued by the Commission. And the
18 official date was August 5th, 1980.

19 If you would like copies of it, we can get
20 copies for the Commission.

21 CHAIRPERSON ACZON: You can give it to our
22 Chief Clerk.

23 Vice Chair Scheuer, do you have any
24 questions?

25 VICE CHAIR SCHEUER: Not a this time.

1 Thank you very much for researching that.

2 CHAIRPERSON ACZON: Mr. Yee has a comment.

3 MR. YEE: Just a clarification. We're in
4 agreement that Ms. Crabbe's response was based upon
5 the Department of Transportation letter as revised.

6 I just wanted to be clear that we submitted
7 an additional letter from the Department of
8 Transportation, and then there were further
9 discussions, so that item two in that letter was
10 revised. So we submitted that letter indicating the
11 revision.

12 Mr. Kudo -- I think we mean the same thing,
13 Mr. Kudo said that we substituted second letter for
14 the first letter. We supplemented I think would be a
15 better term because there were a number of items
16 discussed in the first letter that are not discussed
17 in the second letter.

18 Certainly we have revised item two listed
19 in the DOT'S comments, but there are other comments
20 as well, so both letters were submitted at the
21 beginning of the hearing.

22 CHAIRPERSON ACZON: Thank you.
23 Commissioners, are we clear on this?

24 MR. KUDO: At this time I would like to
25 call to the stand Mr. Timothy Cornwell.

1 CHAIRPERSON ACZON: Please have a seat.
2 Can I swear you in first?

3 THE WITNESS: Sure.

4 CHAIRPERSON ACZON: Do you affirm that the
5 testimony that you're about to give is the truth?

6 THE WITNESS: I do.

7 TIMOTHY CORNWELL
8 Was called as a witness by and on behalf of the
9 Petitioner, was sworn to tell the truth, was examined
10 and testified as follows:

11 DIRECT EXAMINATION

12 CHAIRPERSON ACZON: Please state your name
13 and address for the record.

14 THE WITNESS: Timothy Cornwell, 251 Kearney
15 Street, 6th floor, San Francisco, California 94018.

16 BY MR. KUDO:

17 Q What is your current occupation?

18 A Real estate market feasibility consultant.

19 Q Do you have a particular area of
20 specialization?

21 A Market feasibility for wide variety of
22 asset classes and product types around the United
23 States and internationally, including master planned
24 community and mixed use analysis.

25 Q How long have you been a real estate

1 development advisor by profession?

2 A Since July of 2002, almost 14 years.

3 Q Would you briefly summarize for us your
4 training and experience?

5 A I have a university degree from Pomona
6 College in Southern California in international
7 relations with coursework in economics and related
8 planning work in the field.

9 And then from 2002 to the present,
10 day-to-day operations of the Concord Group. I have
11 actually worked on more than 3,000 real estate
12 development projects around the world.

13 Q Where are you currently employed?

14 A The Concord Group LLC. I run the San
15 Francisco office of our team.

16 Q How long have you been with the company?

17 A Since July 2002.

18 Q What is your title and position at the
19 Concord?

20 A Principal in charge of our San Francisco
21 office.

22 Q Would you briefly describe what Concord
23 does?

24 A We do real estate advisory work focusing on
25 market and financial analyses for real estate.

1 Really simply it's supply versus demand analysis,
2 open opportunities and associated financial
3 optimization. We have offices in Newport Beach, San
4 Francisco, New York City and now Atlanta, and have a
5 staff of over 40 individuals.

6 Our clients are typically landowners,
7 developers, public agencies, city institutions. And
8 last year alone we did some 700 analyses around the
9 world.

10 Q Would you briefly describe your duties and
11 responsibilities at Concord?

12 A I manage our team in San Francisco, and am
13 personally responsible for north of 400 and analyses
14 on an annual basis.

15 I run all client relations. I oversee all
16 of the analysis our team compiles. And I have direct
17 client responsibility in terms of presentation,
18 interpretation of the data.

19 Q Would you describe to us some of the recent
20 examples in which you have performed market
21 assessments, particularly in Hawaii?

22 A Sure. So it runs a wide variety of
23 projects. There are mixed use master plan
24 communities in West Oahu, urban redevelopment plans
25 including Kaka'ako and Ward Village, for both

1 Kamehameha Schools and for Howard Hughes. Projects
2 including urban mixed use infill in Kapolei. Resort
3 development on the North Shore of Oahu, as well as in
4 Kaua'i, Pearl City, also in the urban core in Oahu,
5 and various other Maui, Big Island resort-oriented
6 projects.

7 Q Do you possess specialized knowledge within
8 your field?

9 A My personal specialty is mixed used
10 residential driven real estate, but really our large
11 volume of work is special, and our strong depth of
12 experience across asset classes and product types
13 come to bear in all of our analysis.

14 Q We submitted your curriculum vitae as
15 Petitioner's Exhibit 15 and it has been admitted into
16 evidence.

17 At this time I would like to have Mr.
18 Cornwell admitted as an expert witness in the field
19 of market feasibility analysis.

20 MR. YEE: No objection.

21 MS. SELF: No objection.

22 CHAIRPERSON ACZON: Commissioners? Please
23 proceed.

24 Q (By Mr. Kudo): Mr. Cornwell, are you
25 familiar with the Queen Lili'uokalani Trust Keahuolu

1 project and the properties that are the subject of
2 these proceedings?

3 A Yes.

4 Q How did you become involved with this
5 particular project?

6 A Our team has been involved in the project
7 over the last year. I was asked to fill in for
8 Richard Gollis in response to a family emergency that
9 he had on Wednesday. I'm in the same company as
10 Richard, and I have reviewed his analysis and been
11 involved with counsel throughout the process of
12 developing it over the last year. I have that deep
13 experience in Hawaii that we discussed.

14 Q Are you familiar with the report titled:
15 Analysis of Market Potentials, which was prepared by
16 Natelson Levander Whitney and dated November 1989,
17 which is referred to as the NLW report and which was
18 entered in this proceedings as Petitioner's Exhibit
19 14 and attached to the Final EIS?

20 A Yes.

21 Q Is this a true copy of that NLW market
22 report?

23 A Yes.

24 Q Would you briefly summarize the NLW market
25 report's findings and market projections for the

1 project area?

2 A The NLW report found that there was strong
3 demand for proposed commercial uses, based on
4 projected growth on West Hawai'i through 2015.

5 According to the report, the proposed
6 development could absorb the projected demand over
7 the next ten years, i.e., through 2000 for Phases I
8 and II, and that the proposed development was at the
9 time believed to be economically viable.

10 The actual market performance to 2015 was
11 significantly below projected demand based on the
12 analysis completed in 1991.

13 Q Did you or your company prepare a report on
14 the project?

15 A Our company did, yes.

16 Q That is Petitioner's Exhibit 5; is that
17 correct?

18 A Yes.

19 Q Would you please describe the scope of
20 Concord's analysis?

21 A QLT engaged the Concord Group to provide
22 market analysis to evaluate the economic and real
23 estate conditions, the historic economic and real
24 estate conditions, those that were prevalent at time
25 of the 1991 Decision and Order, and the subsequent

1 economic conditions that impacted the market
2 feasibility of commencing development on the Phase I
3 and Phase II properties at that time.

4 The intent was really to provide a look
5 back, or view of the actual market performance in the
6 context of the projections that were the basis of the
7 original NLW report.

8 Q Will you describe the methodologies that
9 you used in this analysis?

10 A We reviewed the Findings of Fact in the
11 1991 Decision and Order pertaining to the NLW report.
12 And compared the projections that were used in that
13 analysis to actual market performance of various
14 factors through 2015.

15 This included to understand demand for
16 development, demographics, population visitors per
17 capita and total income, and to understand supply
18 factors, retail office, industrial and hotel growth
19 from a space or room's perspective.

20 Q When you refer to the Findings of Fact, are
21 those Findings of Fact Nos. 44 through 48 in the 1991
22 Decision and Order?

23 A Yes.

24 Q Now, is the methodology you used consistent
25 with accepted industry practice?

1 A Yes.

2 Q What studies or data did you rely on to
3 conduct your analysis?

4 A Accepted published sources of economic and
5 demographic data, including from syndicated private
6 sources, as well as government agencies. This
7 includes the U.S. Bureau of Economic Analysis, the
8 World Bank, the U.S. Bureau of Labor Statistics,
9 Hawaii Department of Business and Economic
10 Development and Tourism, the U.S. Census, and
11 industry standard commercialized data sources
12 including Nielsen and Claritas, CoStar and the like.

13 Q Did these particular studies and data form
14 the basis for your opinions?

15 A Yes. They were the raw data, the actual
16 and economic performance data, which we compared to
17 the NLW report. We then, of course, conducted our
18 own comparative analysis on the data set to inform
19 our opinions.

20 Q Turning to your findings and conclusions,
21 would you summarize to us the findings regarding the
22 market conditions and development feasibility in the
23 project area in the years after the 1989 NLW Market
24 Report?

25 A Our findings and conclusions support QLT's

1 assertion that despite its best efforts, and largely
2 due to changing market conditions almost immediately
3 after the 1991 report, including a strong slow-down
4 in the real estate market, QLT was not able to
5 substantially complete the development plan.

6 The analysis that was included in the NLW
7 Market Report did not contemplate the impending or
8 pending economic recessions that took place.

9 When we analyzed the data that drove the
10 majority of that analysis, all of the projections
11 from a population growth perspective, from an income
12 perspective, from an absorption perspective were
13 straight-lined with no, again, contemplation of
14 impending recession and its impact on the development
15 feasibility of the parcels.

16 So I have the slides to review.
17 Specifically by the year 2015 the NLW Market Report,
18 the projections are in the left column.

19 North Kona population goes to 72,000. In
20 reality to 2015 that number went to 40,000.

21 The West Hawaii population was projected to
22 grow, based on compounding annual growth rates to
23 122,000. In reality it was 76,000. Both those
24 missed the projections by about 40 percent.

25 In terms of Hawaii County visitors, the

1 2.65 million visitors projected actually only got to
2 1.5 million. Again, a miss of about 40 percent.

3 And North Kona per capita income, which is
4 directly tied to consumer confidence and spending
5 ability and retail really actually dropped instead of
6 increased when you look at the performance during
7 these years.

8 Q The witness, for the record, is referring
9 to Petitioner's Exhibit 14.

10 A So really in conclusion, the projections in
11 the NLW report, which although based on best
12 available information from State and syndicated data
13 sources were optimistic and actually exceeded real
14 results.

15 Q Based on your analysis, what were is your
16 assessment of the market demand for commercial
17 development in the project after 1991?

18 A So we can go through the rest of the slide.

19 So macroeconomic conditions, almost
20 immediately after 1991 begun a serious deterioration.

21 And this largely prevented QLT from moving
22 forward with the development of the subject
23 properties.

24 This slide represents real GDP growth
25 throughout the State of Hawaii by year.

1 As you can see, the horizontal line across
2 the graph, that is zero percent growth. So when you
3 look at the real GDP growth historically across the
4 State of Hawaii, 1991 going into '92, '93, '94, '95
5 the economy was in contraction.

6 This was largely due to contraction in
7 major-driving markets across the globe. So this
8 looks at real GDP growth, again, for the State of
9 Hawaii in the context of Japanese GP growth.

10 And a lot of what happened in the nineties
11 in Hawaii was the result of a weakening economic
12 system in Japan, and importantly the end of an asset
13 boom, really the pop of an asset bubble in Japanese
14 economy, which really created contraction for one of
15 the major inputs of economic growth for the whole
16 State of Hawaii.

17 In addition, as we recovered out of that
18 recession and had some positive times in the early
19 2000's this was further exacerbated over the last
20 several years by the global economic downturn. So
21 when we look at the 2008/2009/2007/2010 recessionary
22 periods, we saw significant contraction in both
23 driver economies and state economy.

24 Slide two really -- these are animated, so
25 we can look at different overlays in terms of driver

1 economies. So really, again, very high correlation
2 to the Japanese asset bubble bursting as well as
3 performance that did not match some of the western
4 market, specifically in the nineties which really led
5 to the lack of financial feasibility for the
6 development of these projects.

7 So we're just continuing to layer on
8 different economic growth, but really the story is
9 around Hawaii's contraction in the nineties and again
10 in 2009.

11 In addition, when we look at population and
12 employment growth, they were largely flat during the
13 nineties, and significantly negative when you look at
14 2009/2010 during the economic recession across the
15 globe.

16 So this graph looks at both the Hawaii
17 County as well as Hawaii State. This is employment
18 growth on a year-by-year basis. Again, you can see
19 flat, we call it stagnant or negative growth
20 throughout the nineties, and four to six percent
21 negative growth during the 2009 recessionary period.

22 So, again, calling out the individual
23 recessionary periods and their impact on the region.

24 On slide four, this looks at population
25 growth within those two driver areas. So again,

1 Hawaii County is red, Hawaii State is blue.

2 And so the NLW report, when you look at
3 most of the growth rates projected, which are the
4 basis of that analysis, the annual average numbers
5 are anywhere between three percent and four percent
6 to perpetuity. They are straight-lined and do not
7 contemplate impending recessions.

8 If you look at the actual performance on a
9 percentage basis for population growth -- in fact, as
10 you go through these same periods, based on the input
11 of the driver economies and the recessionary pressure
12 in the local area, population was -- actual
13 population growth was significantly below that
14 number.

15 So, again, as we go through the late
16 1990's, actually saw stagnant, if not negative
17 population growth across the State of Hawaii, and
18 very low population growth in Hawaii County.

19 Similarly, based on the ramifications of
20 2008/2009 recession, those numbers have been
21 consistently about one percent per year over the last
22 five years.

23 Q In your professional opinion, were the
24 market changes that occurred from 1991 to date
25 significant enough to negatively economic the Trust's

1 ability to attract developers for Phases I and II of
2 their project?

3 A Yes. This is indicated by the actual
4 performance of office and industrial development in
5 West Hawaii from 1991 through 2015.

6 This graph shows in green the projected
7 cumulative office space demanded from the NLW report
8 versus the blue line which is actual cumulative
9 office space delivered through this same period.

10 And you can see the impact of the overly
11 optimistic growth projection in the green line and
12 the straight line, the lack of any contemplated
13 recession versus a much more moderated growth curve
14 in the actual deliveries of office space.

15 On the next page, this is also light
16 industrial growth. A very similar story,
17 straight-lined projections in terms of actual demand
18 against an inventory number that has been much
19 flatter throughout the period.

20 And this is really a direct result of the
21 weak demand caused by the economic factors that we
22 talked about.

23 So in summary, the demographic fact
24 projections turned out to be optimistic. Land use
25 demand forecast far exceeded actual development

1 activity. And when you look at the mix, again, it
2 was based on that four percent very strong annual
3 average growth, and how it compounds over that period
4 about 40 percent above what was actually experienced
5 in the market.

6 Q Your analysis concludes that the subject
7 properties were not economically viable as initially
8 proposed. However, they have excellent potential for
9 long-term development.

10 What is the basis for your conclusion about
11 the properties' long-term development potential?

12 A The 1991 Findings of Fact 47 is still
13 valid. It states: The proposed development of the
14 property has excellent potential for long-term
15 development to capture some of the predicted demand.
16 The properties are ideally located in close proximity
17 to major sources of demand.

18 Our analysis remains that the long-term
19 development potential is strong as long as the
20 projections, the absorption, the performance metrics
21 that we are measuring are in line with long-term
22 development and long-term growth projections.

23 We need to take a prudent look at what is
24 projected now. The box that showed up on that graph
25 is helpful. So, again, NLW used growth rates of

1 two-and-a-half to 4.1 percent on a compounding annual
2 average perspective.

3 At this point, based on our analysis, which
4 really underscores the long-term development
5 potential, we want to line-up the projections around
6 absorption with a much more moderate rate of growth,
7 around one to one-and-a-half percent, based on the
8 state data and Claritas most recent estimates.

9 So, again, as QLT proceeds with new
10 development plans, planning will really need to
11 incorporate prudent long-term trends and be flexible
12 in order to fit within the market demand as positive
13 and negative pressures play in the economy.

14 Q This concludes the direct testimony of Mr.
15 Cornwell at this time. He is available for
16 cross-examination.

17 CHAIRPERSON ACZON: Parties, any questions,
18 Ms. Self?

19 MS. SELF: We have no questions, thank you.

20 CHAIRPERSON ACZON: Mr. Yee.

21 CROSS-EXAMINATION

22 BY MR. YEE:

23 Q First of all, thank you for coming. I
24 apologize for the inconvenience -- sorry for your
25 inconvenience.

1 I was wondering has Concord done or is
2 going to do any market demand analysis for the
3 Makalapua Project district development?

4 A Yes, it is underway. We have draft reports
5 completed, but we are in the middle of reviewing
6 internally before finalizing.

7 Q Can you tell me what would be the projected
8 absorption timeframe that you're looking at?

9 A Ten to 20 years.

10 Q Are you also retained to do a market demand
11 analysis for Keahuolu lands Phase I and Phase II?

12 A I need help with that. I'm not positive.
13 Again, I'm pitch hitting. I don't actually know
14 that.

15 Q In your Exhibit 15, it mentions that key
16 clients include Forest City Development. Do you know
17 what projects in Hawaii that would include?

18 A Most recently Pohukaina, and a market
19 context analysis for their Kapolei lots and town
20 center.

21 Q So not on the Big Island?

22 A No.

23 Q I understood the analysis you've given in
24 comparing the projected or projection versus actual.

25 And I'm wondering to what extent were those

1 differentials based on not only unanticipated market
2 changes, but also an inferior market analysis done at
3 the time?

4 A I think the answer to that question really
5 lies with the inherent data that's input. So
6 basically the analysis holds water in the context of
7 the growth rates and the projections that were used
8 as the basis of the analysis.

9 So when two-and-a-half to 4.1 percent
10 growth rate are the basis of the analysis, the demand
11 projection is overly optimistic in the context of
12 what actually transpired.

13 So the majority of the gap will be driven
14 by the data input into the analysis not the analysis
15 itself.

16 Q So would it be true that the length of the
17 time frame, 25 years, and use of a straight-line
18 analysis would exacerbate then an incorrect
19 assumption about percentage and growth rates?

20 A Yes, of course.

21 Q So the failure include -- okay.

22 Is a straight-line analysis though in some
23 sense problematic for projections over that
24 timeframe?

25 A I would argue a straight-line analysis at

1 an aggressive growth rate is a difficult analysis in
2 terms of exacerbating the potential miss on a
3 long-term projection.

4 In the case where you do a straight line,
5 no one can predict the future. We not know when the
6 recession will hit; what the drivers are or how long
7 the depth will be, so straight-line analysis is
8 reasonable, but in that context we have to be more
9 reasonable and stick to the long-term actual
10 performance in terms of growth rate.

11 So you can see on this chart, it's
12 two-and-a-half to 4.1 percent got us a little bit
13 beyond where realism would probably come into this.
14 And you know most of our work these days, frankly I
15 would say the vast majority of our work all around
16 the country deals with more moderate growth at around
17 one percent.

18 Q So when you're using the straight-line
19 analysis over such a long time frame, a more
20 conservative assumption is a better way to go?

21 A Yes.

22 Q You indicated, and maybe this is answer to
23 my first question, but you indicated that the initial
24 finding that the Keahuolu lands on Phase I and II are
25 still appropriate for long-term development.

1 Is that right?

2 A Yes.

3 Q What's your timeframe for what you mean by
4 long-term development?

5 A Again, ten to 20 years.

6 But subject to prudent assumptions and
7 prudent depth of demand calculations.

8 Q So if you are able to reach that opinion,
9 is that based upon market demand analysis for those
10 lands?

11 A Again, we are in the middle of doing that.
12 It's not finalized yet. But it has more to do with
13 the location and the master plan community
14 orientation of the project lands themselves, and some
15 of their strengths within the larger context of the
16 market.

17 Q I know you're pinch hitting, so I want to
18 be clear that there are, as I understand it, two
19 different projects. One is the Makalapua project
20 district development, sort of moving forward now.
21 And I understand you're going to be submitting
22 finalized plan for that.

23 In addition, there are adjacent lands,
24 which I'm referring to as the Keahuolu lands, which
25 have apparently a 2018 projected date by which the

1 proposal will be finished. So you read from a
2 Finding of Fact applicable to those larger lands for
3 which the revised proposal will be finished in 2018,
4 not the Makalapua project district.

5 Based on that, have you done a market
6 analysis, or are in the midst of almost finishing a
7 market analysis for Keahuolu lands?

8 A I believe the answer to that is no. Our
9 analysis is focused on the MPD.

10 Q So your conclusion that the Finding of Fact
11 that these lands are appropriate for long-term
12 development, is that applicable on the MPD rather
13 than Keahuolu lands?

14 A Directly applicable based on our study of
15 the MPD, yeah.

16 Q And then I assume you have no particular
17 conclusion with respect to the Keahuolu land?

18 A Other than the market context in general,
19 but no particular conclusion on those lands
20 specifically.

21 Q So with that understanding, why don't you
22 give me again what is your general opinion about the
23 market for those lands?

24 A Again, so the market context, as long as
25 there is prudent growth assumptions, you know, it's

1 reasonable. We have not gotten into the data and
2 really into the dynamics around studying those lands
3 specifically or anything proposed on those lands.

4 So, again, we're looking at the depth of
5 demand for different product types throughout our
6 analysis, which would be reasonably extrapolated to
7 other potential projects with the area, but I don't
8 have any expertise specifically on what's proposed on
9 those lands.

10 Q So it wouldn't be based, for example, on
11 nearby sites, like Forest City, or the existing Phase
12 I and II and how much additional lands are available
13 for development versus projected market demand? It's
14 not that type of analysis you're giving us?

15 A On which properties?

16 Q For Keahuolu lands.

17 A Correct.

18 Q Thank you very much.

19 MR. CHAIRMAN: Thank you, Mr. Yee.

20 Commissioners, any questions for Mr.
21 Cornwell?

22 COMMISSIONER HIRANAGA: Good morning, Mr.
23 Cornwell. I'll start with two questions and then
24 yield the floor.

25 From an industry practice, is this

1 straight-line projection the standard? Do you have a
2 basic assumption of three percent growth, four
3 percent, two percent? I mean you do a straight line
4 just to take out peaks and valleys?

5 THE WITNESS: Over the long term, yes.

6 COMMISSIONER HIRANAGA: So that's a pretty
7 standard method of projecting potential growth for
8 proposed project, straight lining?

9 THE WITNESS: Right.

10 COMMISSIONER HIRANAGA: So I guess NLW went
11 awry because they assumed four percent versus three
12 or two percent? It would still provide a
13 straight-line projection?

14 THE WITNESS: Right. Which, as was
15 discussed, further exacerbates the error over a long
16 period of time.

17 COMMISSIONER HIRANAGA: So I'm wondering,
18 historically real estate market has a five to
19 ten-year cycle, and you don't do projections that
20 give cycle ending in 2006, we are going to see a bump
21 in 2011, 2012. We are now -- but we can foresee the
22 market declining in 2017 or '18.

23 You don't get into that type of detail when
24 you're doing your projections?

25 THE WITNESS: No.

1 COMMISSIONER HIRANAGA: Why is that?

2 THE WITNESS: Well, the reality is that
3 there are some industry standard assumptions in terms
4 of length or depth of cycle. But, frankly, as it
5 relates to the reality, those numbers do move pretty
6 substantially both in terms of their frequency and to
7 the scale of contraction or expansion that are
8 within. So it becomes very, very difficult to
9 predict the future.

10 COMMISSIONER HIRANAGA: So it's safer to do
11 a straight-line projection?

12 THE WITNESS: Conservative straight-line
13 projection, that's that correct.

14 COMMISSIONER HIRANAGA: As you look at your
15 market analysis for proposed MPD project, do you do a
16 one-year projection, five-year projection, ten --
17 year projection, 15, 20?

18 THE WITNESS: Usually it's five, ten and
19 20.

20 COMMISSIONER HIRANAGA: And you're still
21 working on that?

22 THE WITNESS: That's correct, draft.

23 COMMISSIONER HIRANAGA: I don't have any
24 other questions, thank you.

25 CHAIRPERSON ACZON: Commissioner Estes.

1 COMMISSIONER ESTES: You stated that the
2 NLW analysis was overly optimistic, and we understand
3 some things happened and the result of that.

4 Would you say now that you're optimistic
5 about the market? And if so, why?

6 THE WITNESS: Again, with prudent growth
7 assumptions, we can be optimistic about the specific
8 project area given its inherent assets. But, again,
9 we would not advocate being as optimistic as
10 two-and-a-half to four permanent annual growth
11 absorption perspective right now.

12 CHAIRPERSON ACZON: Anybody else?

13 VICE CHAIR SCHEUER: Good morning, thank
14 you for joining us.

15 I realize you were not here yesterday, but
16 the direct testimony of LeeAnn Crabbe also talked
17 about how the overall urban designation that they
18 received included lands previously that are really
19 not well-suited to large ag commercial development.

20 So as I understand your expert testimony is
21 really helping us, or suggesting to us what caused
22 their inability to fully develop Phase I and Phase
23 II, and you focused heavily on the macroeconomic
24 factors.

25 Can you help tease out what you feel how

1 much of it was the macroeconomic factors versus how
2 much of it was actually just the site
3 characteristics?

4 THE WITNESS: I'm not sure that it is easy
5 to separate those two, because obviously in a very
6 strong growth environment, your ability to pay large
7 dollar amounts for on- and off-sites improvements
8 needed on the site sight would increase.

9 So obviously the market context is probably
10 the leader. But in any case, in any cycle really
11 there are some challenging characteristics of the
12 sites themselves.

13 VICE CHAIR SCHEUER: To go to your office
14 growth and industrial growth projected versus
15 actuals, those actually captured not obviously just
16 QLT, that's all of West Hawaii, so there was some
17 growth but it wasn't not necessarily all captured on
18 these particular sites?

19 THE WITNESS: There was some growth, it was
20 also significantly below what was projected and
21 wasn't captured on these sites. They are
22 interrelated issues.

23 VICE CHAIR SCHEUER: They are not
24 necessarily easy to tease out?

25 THE WITNESS: That's right.

1 VICE CHAIR SCHEUER: Thank you very much.

2 CHAIRPERSON ACZON: Commissioner Cabral.

3 COMMISSIONER CABRAL: Thank you very much
4 for joining us. You did have a longer journey.

5 THE WITNESS: But my road wasn't closed.

6 COMMISSIONER CABRAL: No, that's right.

7 I'm very interested, because I know the
8 area, and I live on this island, I'm very, very
9 interested about the mix of use that's being
10 projected in this area with 180 residential units,
11 470,000 square feet of commercial, 50,000 community
12 space and a hotel with -- several hotels perhaps with
13 a combination of 180 rooms.

14 So my question is: Is the analysis that
15 your firm has done, did that come up with why this
16 should be a mix, or is that something that has yet to
17 be done?

18 THE WITNESS: Again, we are in the middle
19 of that analysis, so it's still in draft form and
20 we're viewing it internally and with the team. But
21 those are the type of conclusions generated by that
22 final analysis, yes.

23 COMMISSIONER CABRAL: Okay, thank you.

24 CHAIRPERSON ACZON: Anybody else?

25 Commissioner Hiranaga.

1 COMMISSIONER HIRANAGA: So you had a chance
2 to review the NLW --

3 THE WITNESS: Correct.

4 COMMISSIONER HIRANAGA: -- recommendation?
5 Was their analysis based upon the fact that
6 these improved lands would be offered on leasehold
7 basis primarily versus fee simple?

8 THE WITNESS: I'm not sure that I can
9 comment on that. I don't know.

10 COMMISSIONER HIRANAGA: Is your analysis
11 based upon the fact that the majority of the lands
12 will be offered on a leasehold basis versus fee
13 simple?

14 THE WITNESS: Yes, but again, we are still
15 in the middle of our analysis and not final.

16 COMMISSIONER HIRANAGA: So that would
17 probably result in a more conservative growth factor?

18 THE WITNESS: Correct.

19 COMMISSIONER HIRANAGA: Thank you.

20 CHAIRPERSON ACZON: Anybody else?

21 Thank you Mr. Cornwell.

22 Does the county wish to give final comment?

23 MS. SELF: Just very briefly.

24 The county is in favor of this motion. The
25 county finds that it only allowed to release

1 14.37 acres for final land use with the county, and
2 we find it's a reasonable -- that help facilitate
3 land use and infrastructural planning for what is
4 indicated in the Kona CBA. And before the county
5 will even process QLT's application for District
6 Boundary Amendment and a zoning amendment for 14.37
7 acres, QLT will need to meet with the Kona CDC design
8 center to make certain that it is compliance.

9 And we find that this is an important
10 endeavor that they're going to take on, and if
11 they're successful, which we hope they are, will also
12 be a success for the county.

13 So based on that, we are in support of this
14 motion. Thank you.

15 CHAIRPERSON ACZON: Thank you, Ms. Self.

16 Mr. Yee? Vice Chair Scheuer.

17 VICE CHAIR SCHEUER: Just to clarify for
18 the record, the original proposal 14.37, but I
19 believe the Petitioner's request is slightly larger
20 than that, 14.96.

21 MS. SELF: Yes. Sorry, I misspoke.

22 CHAIRPERSON ACZON: Mr. Yee, do you wish to
23 offer final comment?

24 MR. YEE: Yes, thank you.

25 I spoke a little bit about this yesterday.

1 The Office of Planning supports the
2 Petitioner's Motion to Modify. As I said before,
3 generally we think decisions should stand, you don't
4 go back to rehash arguments you've already raised and
5 either won or lost on. So Office of Planning comes
6 to you and says, we really want this condition and
7 you say no, we don't come back and say, please
8 reconsider. We fought the good fight, lost, we
9 accept it.

10 Similarly, we expect Petitioners to get
11 their conditions to comply with them and sort of move
12 on.

13 This isn't to say that we never support
14 Motions to Modify. And so that's the reason we have
15 some evidence in this case, what was the reasons,
16 what's going on, what are the particular facts and
17 circumstances.

18 So we did look at whether -- and so, for
19 example, we would have concerns if we thought that
20 Petitioner was just trying to avoid a condition that
21 the Office of Planning had fought so hard for and
22 finally got, and we thought they were trying to just
23 avoid it, we would have great concerns, which is one
24 of the reasons we ask for supplemental information,
25 what are you going to do with the lands? What's

1 going to happen.

2 We are satisfied that that will not be a
3 problem or is not a problem in this particular case,
4 both with respect to the 14.96 acres, part of the MPD
5 as well as the remaining Phase III lands which would
6 be subject to LUC decision. The Office of Planning
7 prepared to take a look, understand that there are no
8 current conditions that would be applicable to it,
9 and we will fight the issue all over again.

10 And we also recognize that when they come
11 back for the District Boundary Amendment for the
12 remaining areas of Phase III, that it will be subject
13 to current scrutiny for the standards that we use
14 currently and the conditions that we use currently on
15 lands.

16 So with that understanding, we are not
17 concerned about that particular issue in this case.

18 We also appreciate the additional
19 information that was provided in this case, the
20 willingness of the Petitioner to comply with
21 recommendations offered by the Office of Planning
22 including consultation with a variety of state
23 agencies, as well as their commitments, that this is
24 not part of, let's say, a scheme to have a sequence
25 of 15-acre district boundary amendments or that

1 they're not intending to use these ag lands for uses
2 that the Office of Planning would have concerns with
3 like gentlemen framers and the like. They are not
4 going to be developing until they come back to you in
5 a Petition for District Boundary Amendment.

6 So having foreclosed those options, and
7 understanding the reasons that they had understanding
8 that the -- I will call them mistakes -- that were
9 made by the market consultant at the time, appears to
10 have been considered and we can be of some confidence
11 it will be addressed in future petitions.

12 The Office of Planning is satisfied that
13 this Motion to Modify is justified and we support its
14 passage. Thank you.

15 CHAIRPERSON ACZON: Commissioners, any
16 questions for Mr. Yee?

17 Before I ask the Petitioners to offer their
18 final argument, let's have a five-minute break.

19 (Recess taken.)

20 CHAIRPERSON ACZON: We're back on record.

21 Ms. Kudo, do you wish final argument?

22 MR. KUDO: Yes, thank you.

23 The Trust appreciates the time that the
24 Commission has given it to explain to you why we need
25 to have the incremental districting order removed

1 from Phase III, but I think from the testimony of
2 LeeAnn Crabbe, the Trust has been in this community
3 since 1906. It is a perpetual Trust, a social
4 service agency that has no intention of going
5 anywhere.

6 Knowing that, we are very responsible to
7 government agencies and the community members to
8 fulfill the promises that we made and to keep them as
9 best we can, because we are permanent members of this
10 community.

11 Through the testimony of Ms. Crabbe it is
12 evident that since 1940 the Trust has been actively
13 involved in developing the Keahuolu lands. You can
14 see a lot of development right around this area.

15 And it's because we need the revenue to
16 support its social service work. The Trust has,
17 through the testimony of Ms. Crabbe, demonstrated
18 that it wanted to and has tried its very best in good
19 faith to develop Phase I and II. I'm sure that,
20 given the choice between not developing it and
21 developing it, we would much prefer to have it fully
22 developed at this point, but because of the site
23 conditions and because of the unanticipated economic
24 downturns, we have not been able to fulfill that
25 promise.

1 That doesn't mean that we will not continue
2 to try and do that. I think what is important to
3 remember with regard to what the Trust does, is that
4 we have attempted to adjust ourselves to the market
5 so that the Trust can remain in perpetuity and
6 perform and commit to fulfilling its social
7 obligations.

8 We are going to be adjusting the KLP plan
9 that will have a significant component of residential
10 uses which now do not exist. And that will be done
11 through a separate filing to amend the 1991 D and O
12 to permit those new land uses on Phase I and II, and
13 also to reclassify Phase III, which if you grant this
14 motion, will be back in the Agricultural District
15 with new land uses. And that master plan is being
16 worked on right now. And we anticipate filing that
17 no later than 2018.

18 I know there's been concern about the
19 optimistic projections of the NLW report, but I think
20 that we have to keep in mind that at the time that we
21 were before this Commission, which was 1989, we were
22 in the midst of the Japanese bubble. And I don't
23 know if any of you recall that, but particularly on
24 this island, there were so many projects that were
25 ongoing, and so many promises of development that

1 things were so, I would say super optimistic about
2 the future. And so the economists and professionals
3 like Mr. Cornwell, as part of the their practice,
4 normally rely on projections made by the state and
5 other data sources on population growth, GDP
6 forecast.

7 And I think because in part of the Japanese
8 bubble situation that started in about 1986 and ran
9 through 1990, that there was an extreme optimism that
10 this thing would never end, that this great period of
11 economic growth, of employment, of projects, et
12 cetera, et cetera, would never end.

13 And so the planners and those who created
14 forecasts, that people like the Whitney Group would
15 rely on to do their analysis, were very optimistic.
16 And so I think there was a justification for the
17 optimistic, in hindsight, reliance or assumption that
18 the growth rate would be at a two-and-a-half to four
19 percent, rather than with hindsight, we now know that
20 that was too optimistic.

21 And, in fact, in November 1990, the
22 Japanese bubble did in fact burst.

23 Based on what we have shown through the
24 testimony of Mr. Cornwell and LeeAnn Crabbe, we
25 believe that we have shown that we have performed in

1 good faith, continue to perform in good faith to
2 develop our lands. We see now an opportunity to
3 develop a needed area with demand, which is the MPD
4 project.

5 We need to release a small area of
6 14.93 acres from the Phase III area so that we can
7 process that and include in the MPD project since we
8 have immediate need for that development.

9 We know that timing and development is
10 everything. So when there's a need and there's a
11 demand, you need to meet it, because tomorrow that
12 demand may be gone.

13 And so we see that because of the
14 entitlement process it takes years. We see that the
15 economy is improving, and the demand is growing for
16 different product. And this particular parcel, which
17 has 50 acres that's already entitled, and only needs
18 14.96 acres to complete, is an opportunity that we do
19 not want to miss for purposes of revenue generation
20 and the future growth of the Kailua-Kona community.

21 So for those reasons, we believe that we
22 have demonstrated good cause to warrant a revisiting
23 of the 1991 D and O, and for its amendment by
24 removing the incremental districting order from Phase
25 III.

1 With that I would ask for your favorable
2 consideration of our request.

3 Thank you very much.

4 And by the way, I would like to also
5 congratulate Bryan Yee, Office of Planning. I
6 remember Bryan when he first started. He wasn't as
7 eloquent as he is today. And I congratulate him on
8 his promotion to supervisor. He'll be sorely missed,
9 and I wish him the very best.

10 MR. YEE: Thank you.

11 CHAIRPERSON ACZON: Thank you, Mr. Kudo.

12 Do the Commissioners have any final
13 questions for Mr. Kudo, county or OP?

14 Commissioners, what is your pleasure?

15 COMMISSIONER CABRAL: Thank you very much.

16 I would like to, as the Hawaii Island Land Use
17 Commissioner, I would like to go ahead and make a
18 motion, and I would like to go ahead and move to
19 modify the Commission's 1991 Decision and Order to
20 remove the Petitioner's Phase III lands currently in
21 state Agriculture District that was subject to
22 incremental districting.

23 The Commission recommends the Petitioner
24 and county ensure that the Office of Planning is
25 timely served with any boundary an amendments,

1 petitions, pursuant to Section 205-3.1 D of the
2 Hawaii Revised Statutes, and that the Petitioner
3 comply with the Department of Transportation
4 recommendation submitted as Office of Planning
5 Exhibit 1.

6 And furthermore, that the Petitioner and
7 county consult with the appropriate state agencies
8 prior to submittal of a county district boundary
9 amendment.

10 COMMISSIONER ESTES: Second.

11 CHAIRPERSON ACZON: Motion has been made by
12 Commissioner Cabral and seconded by Commissioner
13 Estes to modify the Commission 1991 Decision and
14 Order to remove the Petitioner's land currently in
15 the state Agricultural District that was subject to
16 incremental district.

17 MR. YEE: I apologize. I don't want to
18 interrupt, but just to clarify with respect to the
19 Office of Planning's 's Exhibit 1, would that be the
20 Office of Planning's Exhibit 1 as revised, the letter
21 as revised?

22 COMMISSIONER CABRAL: As you previously
23 stated it, would be both of the letters.

24 MR. YEE: Thank you.

25 CHAIRPERSON ACZON: Discussions.

1 VICE CHAIR SCHEUER: Thank you, Chair.

2 I would like to speak in favor of the
3 motion. It gives me pleasure to be able to vote in
4 favor of this. I think this is a really good first
5 step of a series of steps that QLT is going to be
6 taking.

7 I don't want to lose the discussion, the
8 point that Ms. Crabbe noted that this also represents
9 really a step beyond when somebody else was serving
10 as the trustees of this Trust, and now the Trust is
11 actually running its own show, and trying to
12 determine what's best for its properties. So it
13 represents that important step forward for the
14 trustees's mission.

15 Also note for the record, I thank Mr. Kudo
16 for taking up the previous district boundary
17 amendment for the -- includes 50 acres of the
18 proposed MPD project. I did read over that document.
19 What's being contemplated, according to the
20 conceptual plan for the area, it's not actually in
21 compliance with what the Land Use Commission said it
22 was approving at the time, it was supposed to be
23 industrial-commercial development, but indeed there
24 are zero conditions on that, so even if we wanted to
25 do something, we couldn't do anything about it.

1 But I do think actually the general
2 proposal is probably much better for both this market
3 and what the community needs. It's in compliance at
4 least on the surface on the conceptual level with
5 Kona Community Plan.

6 And finally, I'd just like to note, and
7 hopefully this makes it into the FOF and COL, to me
8 one of the most compelling things is that so much has
9 changed, and the Movant and Petitioner is planning to
10 come back us, back to the county for the incremental
11 redistricting of 14.96 acres, as well as for the
12 larger project.

13 And so much of our understanding of our
14 duties as Land Use Commission in terms of our need to
15 protect public interest, traditional and customary
16 practices, other things have changed overtime, a new
17 EIS process will allow us to really fulfill our
18 duties while allowing the Movant and Petitioner to
19 pursue the project that they want to pursue.

20 So I think it's in everybody's interest. I
21 will be voting in favor. Mahalo.

22 CHAIRPERSON ACZON: Thank you, Vice Chair
23 Scheuer. Anybody else? If there is no further
24 discussion, Mr. Orodenger.

25 EXECUTIVE DIRECTOR: Thank you, Mr. Chair.

1 The motion is to modify the Commission's 1991
2 Decision and Order to remove Petitioner's Phase III
3 lands currently in the State Agricultural District
4 that was subject to the incremental districting and
5 various recommendations.

6 Commissioner Cabral?

7 COMMISSIONER CABRAL: Yes.

8 EXECUTIVE DIRECTOR: Commissioner Estes?

9 COMMISSIONER ESTES: Yes.

10 EXECUTIVE DIRECTOR: Commissioner Scheuer?

11 VICE CHAIR SCHEUER: Aye.

12 EXECUTIVE DIRECTOR: Commissioner Wong?

13 VICE CHAIR WONG: Aye.

14 EXECUTIVE DIRECTOR: Commissioner Mahi is
15 absent.

16 Commissioner McDonald?

17 COMMISSIONER McDONALD: Aye.

18 EXECUTIVE DIRECTOR: Commissioner Hiranaga?

19 COMMISSIONER HIRANAGA: Aye.

20 EXECUTIVE DIRECTOR: Chair Aczon?

21 CHAIRPERSON ACZON: Aye.

22 EXECUTIVE DIRECTOR: Thank you. Mr. Chair,
23 the motion carries unanimously.

24 CHAIRPERSON ACZON: Any further business
25 before us?

1 EXECUTIVE DIRECTOR: No, Mr. Chair, I
2 believe that concludes the agenda.

3 CHAIRPERSON ACZON: There being no further
4 business, I declare this meeting adjourned.

5 (The proceedings ended at 9:45 a.m.)
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CERTIFICATE.

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

I, JEAN MARIE McMANUS, do hereby certify:

That on March 24, 2016, at 8:30 a.m., the
proceedings contained herein was taken down by me in
machine shorthand and was thereafter reduced to
typewriting under my supervision; that the foregoing
represents, to the best of my ability, a true and
correct copy of the proceedings had in the foregoing
matter.

I further certify that I am not of counsel for
any of the parties hereto, nor in any way interested
in the outcome of the cause named in this caption.

Dated this 24th day of March, 2016, in
Honolulu, Hawaii.

JEAN MARIE McMANUS, CSR #156