

LAND USE COMMISSION  
MINUTES OF MEETING

October 20, 2005

Conference Room 405  
Leiopapa A Kamehameha  
235 So. Beretania Street  
Honolulu, Hawaii

COMMISSIONERS PRESENT: Thomas Contrades  
Michael Formby  
Duane Kanuha  
Steven Montgomery  
Ransom Piltz  
Randall Sakumoto

COMMISSIONERS ABSENT: Kyong-su Im  
Lisa Judge

STAFF PRESENT: Russell Suzuki, Deputy Attorney General  
Bert Saruwatari, Staff Planner  
Sandra Matsushima, Chief Clerk  
Holly Hackett, Court Reporter  
Walter Mensching, Audio Technician

Presiding Officer Montgomery called the meeting to order at 8:40 a.m.

APPEARANCES

Benjamin Kudo, Esq., represented Petitioner  
Naomi Kuwaye, Esq., represented Petitioner  
Cameron Nekota, Esq., represented Petitioner  
Don Kitaoka, Esq., represented Department of Planning and Permitting  
Raymond Sakai, City and County of Honolulu, Department of Planning and Permitting  
John Chang, Esq., represented State Office of Planning  
Laura Thielen, Director, State Office of Planning  
Abe Mitsuda, State Office of Planning

Presiding Officer Montgomery noted that there were no public witnesses.

Presiding Officer Montgomery stated that the Commission will continue with the cross-examination of Ms. Goth.

### Petitioner's Witness

1. Donna Goth

Mr. Kitaoka raised questions regarding the zone change approvals, Aina Nui's commitment to pay impact fees associated with the Ewa Highway master plan, concerns of the DPP, the concept of connectivity, three possible roadways and connections, bikeways and pedestrian quarters, dual water system for potable and non-potable water, water allocation and the drainage master plan.

Mr. Chang had questions and concerns relative to the water system, the current sustainable yields, the Waipahu/Waiawa aquifer, the non-potable water source, drainage channel, the recommended conditions from the OP, and the two additional conditions proposed from the State regarding Hanua Street improvements and the notification of potential nuisances at Kalaeloa Harbor.

Commissioner Formby posed questions in reference to the major drainage channel and a commitment from the Kapolei West project. Commissioner Formby also had questions related to affordable housing, buyer eligibility restrictions, the City's affordable housing requirement and in lieu fees, options for the units to be on-site versus off-site, discussion and agreement with the DOE, and plans for mitigating traffic impacts.

Commissioner Piltz had questions and concerns regarding education in the final EIS, the number of students generated in this Petition Area, the entire generation of students for Kapolei West, an agreement with the DOE, and the notification and contacts made with the Fairways and Ko Olina Associations addressing their concerns.

Presiding Officer Montgomery raised a few questions in reference to the proposed park uphill from the main harbor, its function to protect and buffer sensitive archeological areas, such as the sinkhole, burial, canoe, bones, and wildlife areas, and suggested the possibility of creating a management plan with the appropriate government agencies.

Commissioner Formby had a few questions and concerns regarding the planned use of the peninsula property and the significance of industrial uses and any harbor activity in that area.

After discussion, there were no further questions posed by the parties or the Commission.

A recess break was taken at 9:30 a.m. The meeting reconvened at 9:45 a.m.

#### States Witnesses

1. Roy Hardy

Mr. Hardy commented on the duties of the Commission on Water Resource Management and matters related to the Petition Area. Mr. Hardy discussed issues of the aquifers, appropriate approvals and the reasonable amounts of water usage, water use permit, ground water permits, sustainability, the total current usage and the usage contained in the study.

Commissioner Piltz had a few questions on the de-salting process and the amount of waste generated from a gallon of seawater. Mr. Hardy replied that he did not have that information at this time.

There were no further questions posed by the parties or the Commission.

2. Laura H. Thielen

Ms. Thielen stated that the OP had filed their statement of position in support of the Petition on September 19, 2005 and filed supplemental testimony on October 19, 2005. Ms. Thielen summarized the position of the OP and discussed the areas of interest: 1) planning and managing growth; 2) water resources; 3) transportation; 4) housing; and 5) the DOE and education.

Mr. Chang introduced and offered into evidence the OP's supplemental testimony and 2 proposed conditions as OP's exhibits 9 and 10. There were no objections by the parties. Said exhibits were admitted into evidence.

Mr. Chang noted a few corrections to the exhibits. On Exhibit 9, the street name should be *Malakole Street*, and not *Molokole Street* as indicated. On Exhibit 10, second paragraph, ending of the second sentence, strike out the word *any* and change *sale* to *sales*. In the following sentence, change the word *purchase* to *purchaser*.

Commissioner Kanuha raised a few questions on OP's supplemental testimony and the new conditions introduced. Commissioner Kanuha asked Petitioner if they were in agreement with these conditions. Mr. Kudo replied in the affirmative.

Commissioner Formby commented on past land designations where in some instances, the land became fallow. Commissioner Formby discussed with Ms. Thielen, not specific to this project, options on enforcement or placing time restrictions on a developer's affordable housing contribution to the county.

After a discussion, there were no further questions posed by the parties or the Commission.

Mr. Kudo gave his closing remarks.

Following the close of the evidentiary hearing, Presiding Officer Montgomery read the post hearing instructions to the parties. The parties were instructed to draft their findings of fact, conclusions of law, and decision and order based upon the record in this docket and serve the document to the parties no later than November 21, 2005. The parties would then have till November 28, 2005 to file their responses.

Mr. Kudo noted that the Petitioner intends to pursue and file with the Commission a fully stipulated order.

Mr. Kitaoka stated that the City supports the development of a stipulated order.

Mr. Chang indicated that the State is also in support of the development of a stipulated order.

Chair Sakumoto entered the meeting at this time. Chair Sakumoto stated that he had no comments or questions for the parties at this time.

Presiding Officer Montgomery continued with post hearing instructions and stated that given the willingness of the parties to pursue a stipulated order, their proposal should be filed with the LUC no later than close of business on November 21, 2005 and will be considered at the next LUC meeting tentatively scheduled for January 6, 2006.

The meeting adjourned at 10:45 a.m.

*(Please refer to LUC Transcript of October 20, 2005 for more details on this matter.)*