

**LAND USE COMMISSION
MEETING MINUTES**

March 19, 2009.

**Leiopapa A Kamehameha
Conference Room 405, 4th Floor
235 S. Beretania St.
Honolulu, Hawaii**

COMMISSIONERS PRESENT: Thomas Contrades
Kyle Chock
Vladimir Devens
Duane Kanuha
Ransom Piltz
Nicholas Teves Jr.
Rueben Wong

COMMISSIONERS ABSENT: Lisa Judge
Normand Lezy

STAFF PRESENT: Orlando Davidson, Executive Officer
Bert Saruwatari, Staff Planner
Riley Hakoda, Staff Planner
Holly Hackett, Court Reporter
Walter Mensching, Audio Technician

CALLED TO ORDER

Chair Kanuha called the meeting to order at 9:35 a.m.

APPROVAL OF MINUTES

Commissioner Teves moved to adopt the March 5-6, 2009 meeting minutes. Commissioner Contrades seconded the motion. The motion was unanimously approved by a show of hands.

TENTATIVE MEETING SCHEDULE

Executive Officer Davidson provided the following:

- The April 2, 2009 meeting is planned to be a one day event site visit to the Waimanalo Gulch Landfill and H-Power Plant.
- April 16-17 meetings are scheduled to be a continuation of Docket A06-771 D.R. Horton-Schuler Homes, LLC, Ho'opili

- The April 30th meeting will be a continued hearing on A07-777 Hawaiian Memorial Life Plan, Ltd.

Chair Kanuha requested an update on pending petitions. Executive Officer Davidson advised that notice has been received that the Papaiko Point petition was being withdrawn and formal notice was expected soon.

ACTION

DR05-771 D.R. HORTON- SCHULER HOMES, LLC.

Chair Kanuha stated that this was an action meeting on Docket No. DR 06-771 D.R. Horton-Schuler Homes, LLC's motion to strike certain witnesses and exhibits from Friends of Makakilo's final Witness List and List of Exhibits and Copies of Exhibits, and reservation of its rights to take a position on witnesses identified "Experts" by Friends of Makakilo.

Chair Kanuha advised that a second part of this action was D.R. Horton-Schuler Homes, LLC's motion to strike "Consultant" from Office of Planning, State of Hawaii's List of Witnesses, or in the alternative, reservation of its right to take a position on "Consultant". Chair Kanuha stated that this motion had been withdrawn and only the motion related to Friends of Makakilo's exhibits and witnesses would be addressed by this meeting.

APPEARANCES

Benjamin Kudo, Esq., Naomi Kuwaye, Esq. and Yuko Funaki, Esq. represented Petitioner
Dawn Takeuchi-Apuna, Esq., and Tim Hata represented the City & County of Honolulu, Dept. of Planning and Permitting
Bryan Yee, Esq., represented State Office of Planning
Abby Mayer, State Office of Planning
Dr. Kioni Dudley-Friends of Makakilo, Intervener
Yvonne Izu, Esq.-represented Haseko (Ewa) Inc., Intervener

PUBLIC WITNESSES

None

PETITIONER

Mr. Kudo recapped the events leading up to filing of this motion and stated his reason for this motion to strike certain witnesses and exhibits from the Friends of Makakilo's ("FoM") Final Witness List and List of Exhibits and Copies of Exhibits was that the testimony was either irrelevant, immaterial, repetitious or beyond the scope permitted by the Commission. He mentioned that only 6 of 7 of the Curriculum Vitae for the expert witnesses had been submitted and that there was

no evidence of data or research material to substantiate the qualifications of the witnesses. He further argued that the Intervener had been limited to 5 specific areas -traffic, education, agriculture, open space, and sociological issues; and that the witnesses may be testifying to matters outside of the permitted scope of subjects.

With respect to lay witnesses Rich McCormack and Paul Brewbaker, Mr. Kudo stated that these witnesses were to testify on agriculture. He stated that FoM listed six witnesses for the same topic and that he believed Mr. Brewbaker would be speaking beyond his scope of economic expertise as it pertained to agriculture.

Mr. Kudo questioned whether the testimony of Grant Sato, on the interactions of farms with colleges and communities, would be relevant as well as reiterating that there were several witnesses testifying with respect to agriculture.

Mr. Kudo moved to strike Mr. Ira Rohtor as a witness since his proposed testimony on Peak Oil and Rising Sea Levels was beyond the agreed scope of subjects.

Mr. Kudo identified Dr. Michael Klicko and Donna Wong, who were identified to testify on open space; and Lulani Arquette, who was to testify on “what the people want”. Mr. Kudo argued that the qualifications for these individuals had not been substantiated and that their testimonies may be beyond the agreed scope of subjects.

Mr. Kudo identified Reps. Jon Karamatsu, Rida Cabanilla, Kymberly Pine, and Ken Ito; Former Gov. George Ariyoshi, and Tom Berg. He objected to the possible submission of their written testimony on the grounds there would be no opportunity to cross-examine them and that their testimony might be beyond the agreed upon scope of subjects.

Mr. Kudo identified Kioni Dudley. He stated that Dr. Dudley had indicated he would be speaking on issues which were beyond the scope of what FoM had agreed to be limited to.

Mr. Kudo identified Cliff Slater and Peter Apo. Mr. Kudo stated that Mr. Apo was listed as an expert on tourism, which was outside the agreed upon scope of subjects; Mr. Slater would be addressing transportation. Mr. Kudo stated that he did not know what aspect of transportation Mr. Slater would be addressing and would not be able to prepare a defense and the witnesses might also speak beyond the agreed upon scope or may provide repetitive information.

Mr. Kudo then described Petitioner's objections to FoM's exhibits 3,4,5,8-17, R1-10. He argued that these exhibits lack relevancy and foundation.

FRIENDS OF MAKAKILO

Dr. Dudley argued that the Petitioner's motion to strike the witnesses and exhibits was an effort to silence the voice of the people and that his witnesses and exhibits were submitted to express the public's opinions. Dr. Dudley added that he was rushed to gather witnesses and exhibits. His understanding was that it was easier to submit a list of names and then remove names from the list than trying to add witness names, so he submitted more witnesses than he may need. Dr. Dudley commented that the Petitioner's exhibits and witnesses should be examined in the same way that the Petitioner was demanding of him. He challenged Petitioner Exhibits 4, 10, 17, 18, 28, 50, 51, 52, 53, and 56; as well as the Petitioner's witnesses on the basis of their facts, data, and research.

Dr. Dudley said that he would have two or three witnesses on agriculture and that he did not feel that this number was too many since agriculture was one of the two major areas of concern that would be addressed. He stated that agricultural witnesses would speak to the importance of the agricultural business. Paul Brewbaker, a recognized economist, would speak on agriculture and economics and about the agricultural economic importance of the petition area. Dr. Dudley stated that he did not submit a resume for Mr. Brewbaker since Mr. Brewbaker is a well-known local economic authority.

Dr. Dudley stated that Rich McCormack would speak about the agricultural business and share his knowledge of yields from the land for various crops and how productive the petition area's lands were compared with other areas of the state.

Dr. Dudley stated Grant Sato would speak to the value of Aloun Farms and the contributions of farms to the community. Mr. Sato is a culinary arts instructor at the Community College and will speak on the aspect of how the farm products add value and affect the community.

Dr. Dudley stated that Ira Rohter would give a slide presentation on the problems of peak oil and rising seas. He added that this subject matter was to show problems which might affect future survival if lands are not kept in agriculture.

Dr. Dudley stated that Dr. Michael Kliks was from the Sierra Club and would speak about the need for open space and view planes. Donna Wong would talk about the history of groups taking stands to preserve open space and view planes. He said that Ms. Wong's testimony would show how important open space and view plane issues are to people.

Dr. Dudley stated that Lulani Arquette should be allowed to testify since she had done extensive interviews with native Hawaiian people and would speak on "what people want".

Dr. Dudley stated that there had been a misinterpretation by the petitioner regarding Representatives Jon Karamatsu, Rida Cabanilla, and Kymberly Pine. Dr. Dudley stated that each representative would deliver their own explanation of

their position. He further stated that no “statements” had been written, and that he did not expect them to write any. Dr. Dudley stated that his purpose in bringing the elected Representatives of the area before the Commission was to put their testimony in support of the FoM stand into the formal matter to be considered by the Commission in their decision-making.

Dr. Dudley stated that Tom Berg would appear and speak as a private citizen and that he hoped Representative Ken Ito and Former Governor Ariyoshi would be in attendance.

Dr. Dudley stated that his own testimony would come in two segments, not four. The topic of “Effect of Traffic Delay on Humans” would be grouped with testimony on traffic. The balance of topics would be reserved for presentation at the end of his case. Dr. Dudley stated that it was the interveners’s discretion to decide whether to offer an expert or lay witness on this subject since it was a “people” or sociological topic that the Commissioners needed to consider.

Dr. Dudley stated that he would offer lay witness testimony on points from the Constitution, the Hawaii State Plan, and Ewa Development Plan and provide his opinion on these matters. It was his understanding that there are criteria for the Land Use Commission to use in determining whether or not to amend the district boundary changing from agricultural to urban which are listed in section 205-17 of the HRS. Dr. Dudley asked that the petitioner not be allowed to prevent the intervenor from identifying non-compliance issues and informing the Commission of issues which might stop them from approving a change.

Dr. Dudley stated that Neighborhood Board Resolutions have value and that Neighborhood Board Resolutions, Committee resolutions, and Committee Reports should be allowed into the official record for consideration by the Commission. Dr. Dudley stated that he attended all of the Neighborhood Board meetings and would report on them as a lay witness.

Dr. Dudley stated that the Petition to Stop Ho’opili was an expression of the will of the people and that his testimony would be on the petition effort and its results. He would be personally verifying the results and would speak about his experience in the petition process.

Dr. Dudley commented that in regards to “paragraph C. Striking expert witnesses” , he did not know he could submit revised information on the witnesses and asked that in the time remaining before the next hearing that he be given an opportunity to provide the necessary information to qualify his witnesses.

Dr. Dudley argued as to why Peter Apo should be allowed to speak as an expert witness based on his background in tourism. Dr. Dudley also provided the qualifications as to why Cliff Slater should be allowed to speak as an expert witness on transportation.

Dr. Dudley then addressed why his exhibits should be allowed.

For Exhibit D “Map of Ho’opili and surrounding area”, Dr. Dudley stated that it showed that all of the Ho’opili traffic would be in front of all current commuters, further slowing their trip to downtown Honolulu.

For Exhibits 4, 5, and 13: Exhibit 4 showed total number of new homes that would add to traffic in 2030. Dr. Dudley asked to have the footnotes to this exhibit added for the Commission to examine. Exhibit 5 showed that Ho’opili was non-compliant with the Ewa Development Plan. Dr. Dudley had additional notes on this exhibit that he wanted the Commission to examine. Exhibit 13 showed how the Ewa Development Plan barred re-districting. Dr. Dudley submitted additional information to qualify this exhibit.

For Exhibit 14, Alternative form-Peak LOS, Dr. Dudley stated that this exhibit shows that 3 out of 4 segments are LOS F in the mornings and in the afternoons, even with rail. Dr. Dudley stated that this was a very important piece of information for the Commission and argued that it should be retained since it came directly from the EIS and had the weight of reliable scientific evidence.

For the Slide Program by Professor Rohter, Dr. Dudley stated that this presentation on peak oil and rising seas would show how these problems would require Hawaii to grow its own food and biofuels to survive. Dr. Dudley categorized this as an agriculture and sociological issue.

For Exhibits 9 and 10, the “Governor’s Statement of Food Self-Sufficiency” and the section on growing food from the “Governor’s State of the State Address 2009”, Dr. Dudley commented that both have to do with agriculture and are within the scope of his issues.

For Exhibits 11 and 12, the Hawaii State Plan and the Constitution; Dr. Dudley referred to the decision-making criteria for the Commission as it pertained to the Hawaii State Plan and the adopted functional plans. He stated that the documents speak to agriculture and are within the FoM scope of issues.

For Exhibit 13-Dr. Dudley stated that this was a visual aid and simply a list. This was a duplication of earlier testimony and Dr. Dudley moved on to Exhibit 15-The Effect of Traffic on Humans. Dr. Dudley described this exhibit as another visual aid on topics that he would be discussing and asked that it be retained.

For Exhibit 16, the Neighborhood Board Resolutions, Dr. Dudley stated that they represent the effort of the people to speak out on the issues and that he personally attended all of the meetings. Dr. Dudley said that he would report on the Neighborhood Board meetings as a lay witness.

For Exhibit 17-Stop Ho’opili Petition, Dr. Dudley stated that this was another visual aid and that he would speak about the Petition.

Finally, on all of the Rebuttal Exhibits, Dr. Dudley stated that the Petitioner asked to have these exhibits struck on the basis that they are irrelevant to FoM's issues, and/or lack of trustworthiness. Dr. Dudley stated that FoM never agreed to restrain objections or corrections to the issues of traffic, agriculture and so forth. He said that all of the exhibits are directly connected to traffic and agriculture. Exhibit R4 was identified as a visual aid by Dr. Dudley and he submitted additional information to qualify it.

Dr. Dudley concluded by stating that the FoM would not "unreasonably broaden the issue". "render the proceedings inefficient and unmanageable", and "attempt to delay the proceeding in any way."

Chair Kanuha asked if copies of Dr. Dudley's presentation could be made available to the Commission and all the parties. Dr. Dudley agreed to provide copies.

Chair Kanuha then declared a recess at 10:30 a.m.

The hearing reconvened at 10:50 a.m.

The City and County had no objection to Petitioner's motion to strike the witnesses and exhibits.

OP-Bryan Yee, deferred to the Commissioners in regards to the witnesses and commented that public witnesses are part of the record also and that testimonies could be provided in this manner as well. OP stated that the Commissioners had the options to strike, admit, or use the exhibits as visual aids to understand the material and also deferred to the Commissioners to decide how to proceed in using the exhibits.

Haseko (Ewa) – Yvonne Izu stated that none of the issues discussed pertained to regional drainage and consequently Intervener Haseko took no position on Petitioner's motion.

Chair Kanuha asked if there were any questions. Vice-Chair Piltz moved to go into an executive session to consult with the Commission's attorney on questions and issues pertaining to the Commission's power, duties, privileges, immunities and liabilities. Commissioner Wong seconded the motion.

The Commissioners exited the meeting at 10:55 a.m. and entered executive session immediately thereafter.

The meeting reconvened at 11:19 a.m.

Commissioner Devens moved to deny Petitioner's motion without prejudice. He also reminded the Intervener that there were certain rules that needed to be

followed in the proceedings and that observing the rules would help the process go more smoothly.

Commissioner Contrades seconded the motion.

Chair Kanuha stated his support of the motion and reminded Dr. Dudley that this was a significant project and that his intervention was limited to traffic, education, open space, agricultural lands and sociological issues.

There was no further discussion or comments. The Commissioner was polled as follows:

Ayes: Commissioner Devens, Contrades, Teves, Piltz, Chock, Wong, and Chair Kanuha.

The motion passed with 7 ayes and 2 absent.

HEARING

DR05-771 D.R. HORTON- SCHULER HOMES, LLC

Chair Kanuha announced that this was a hearing on Docket A06-771 D.R. Horton-Schuler Homes, LLC, a Delaware limited liability company, to Amend the Agricultural Land Use District Boundaries Into the Urban Land District for approximately 1,553.844 Acres of Land at Honouliuli, Ewa District, Oahu, Hawaii, Tax Map Key Nos.: 9-1-17:4, 059 and 072 (por); 9-1-18: 1 and 4 (por).

APPEARANCES

Benjamin Kudo, Esq., Naomi Kuwaye, Esq. and Yuko Funaki, Esq. represented Petitioner

Dawn Takeuchi-Apuna, Esq., and Tim Hata represented the City & County of Honolulu, Dept. of Planning and Permitting

Bryan Yee, Esq., represented State Office of Planning

Abby Mayer, State Office of Planning

Dr. Kioni Dudley-Friends of Makakilo, Intervener

Yvonne Izu, Esq.-represented Haseko (Ewa) Inc., Intervener

Mr. Kudo stated that his client had no problem with the reimbursement of hearing expenses.

PUBLIC WITNESSES

1. Hilary Sholin

Ms. Sholin testified in support of the Petition on behalf of the Salvation Army Hawaii Kroc Center. She stated that the Center would be ground-breaking this fall and would be serving the leeward coast areas. The Ho'opili project was considered an integral part of the development in the area.

There were no questions for Ms. Sholin.

2. Celeste Lacuesta

Ms. Lacuesta is a Ewa resident and member of the Neighborhood Board. She is against the Ho'opili development and cited future additional traffic problems that it would bring. She also had concerns about water capacity, electricity, and that proper considerations be given to decision making.

There were no questions for Ms. Lacuesta.

3. Glenn Omelda

Mr. Omelda is a long-time Ewa resident. He had concerns about uncontrolled development and that the 5 year review processes for the Ewa Development Plan have not kept pace. He stated that consideration for people's welfare in the planning process was necessary. Lengthy delays in traffic and lesser quality of life were also mentioned.

There were no questions for Mr. Omelda.

4. Kurt Favella

Mr. Favella is Chair for Ewa Beach Neighborhood Board. He is in support of the project. He commended D.R. Horton for its help within the Community. He suggested that the community cooperate with the developer to make the project work.

Mr. Kudo asked Mr. Favella to read FoM's Exhibit 16C1 and explain what this document was. Mr. Favella explained that it was a document containing comments made at a community meeting about the Ewa Development Plan which is the City's Plan, not Ho'opili. Mr. Kudo also asked if the Ewa Neighborhood Board had ever taken a formal position on the Ho'opili Project. Mr. Favella replied that it had not. Mr. Kudo had no further questions.

The City and State had no questions.

Intervener-Dr. Dudley asked about the Ewa Neighborhood Legislative Committee meeting that Mr. Favella attended. Mr. Favella described his recollection of what happened at the meeting and concluded that the Legislative Committee never took a stand against the project. Mr. Favella said that the Ewa

Neighborhood Board Legislative Committee took a stand to give input to the project.

Haseko (Ewa) Inc. had no questions.

There were no further questions of the witness.

5. Maeda Timson

Ms. Timson testified in support of the Petition and had submitted written testimony. Ms. Timson is also Chair of the Makakilo-Kapolei-Honakai Hale Neighborhood Board and stated that the Board had taken no position at this time on the Project since plans were not ready for the area.

Mr. Kudo asked Ms. Timson questions about FoM Exhibit 16D1. Ms. Timson gave her opinion that this exhibit was not an official document of the Neighborhood Board. Mr. Kudo renewed Petitioner's motion this Exhibit be stricken based on this testimony. Chair Kanuha noted Mr. Kudo's request without ruling on it at this time.

There were no questions from the City, State, and Interveners.

Commissioner Devens asked Ms. Timson to explain in further detail why she felt the documents were not legitimate. Ms. Timson was not sure if the notes were true and accurate copies of the original.

There were no further questions from the Commissioners.

6. Keith Timson

Mr. Timson is a long time Makakilo resident and testified in support of the Petition. He complimented the planning that had gone into the project.

There were no further questions of the witness.

Chair Kanuha declared a recess at 12:02 p.m. Commissioners Contrades, Piltz, Teves, Wong and Chair Kanuha reconvened at 1:25 p.m.

Chair Kanuha announced that additional written testimony had been received for the hearing and recommenced the public testimonies.

7. Michael Golovich Jr.

Mr. Golovich testified in support of the project. He mentioned he is a long time area resident and that the project offers housing, jobs, and opportunities. He spoke on traffic, education, and the prospects of the rail project being realized.

There were no questions of the witness.

8. Coby Lynn

Mr. Lynn submitted written testimony also. He spoke in support of the project. He serves on the Ho'opili Task Force and is active in the community. He stated that the project could be beneficial and asked that delays that would drive up costs be avoided.

There were no questions of the witness.

Commissioners Chock and Devens rejoined the hearing at 1:38 p.m.

Chair Kanuha called for any remaining public witnesses. No one responded to his request.

Chair Kanuha called for Staff Planner Riley Hakoda to provide a map orientation. There were no questions for Mr. Hakoda.

ADMISSION OF EXHIBITS & WITNESSES

Petitioner

Mr. Kudo stated that he had 73 exhibits which included Curriculum Vitae, studies and reports, consultants' references, and errata reports.

There were no objections to Petitioner's exhibits.

Mr. Kudo stated that a revised list of witnesses had been submitted and wished to have them admitted as experts in their field.

There were no objections to Petitioner's revised witness list being admitted to the record.

City and County

Ms. Takeuchi-Apuna stated that they would be submitting: Exhibit 1- the DPP Statement of Position, Exhibit 2- the DPP Testimony, Exhibit 3- List of witnesses, Exhibit 4- the List of Exhibits and excerpts of the City's General Plan and Ewa Development Plan (Exhibits 5-8).

Chair Kanuha asked if the County's witnesses were included in the exhibits. Ms. Takeuchi-Apuna confirmed that the witness list was included.

There were no objections or questions to the County's exhibit and witness list being accepted into the record.

OP

Mr. Yee stated that OP had submitted exhibits 1-20, and 22-25. They consisted of written testimony, maps, correspondence, associated documents, newspaper articles, revised statutes, and resumes.

There were no objections to OP's exhibits being accepted as part of the record.

Mr. Yee stated that OP had submitted 6 witnesses. 4 were to be considered expert witnesses. Brennon Morioka, Heidi Meeker, Gail Suzuki-Jones, and Terry Miller.

There were no objections to OP's witnesses being accepted as part of the record.

Intervener-Friends of Makakilo

Dr. Dudley stated that he initially had 19 exhibits, had added another ten (R1-R10), and another 27 for a total of 56. He also had 23 witnesses, of which 7 were experts.

Mr. Kudo renewed his objection to strike the witnesses and exhibits of FoM and reserved the right to renew objections to witnesses and exhibits as they are offered. Chair Kanuha noted Mr. Kudo's objection.

The City & County had no objections.

The OP deferred to the LUC on the motion to strike.

Haseko (Ewa) Inc. had no objections.

Chair Kanuha stated that the Petitioner's identified witnesses and exhibits that were being objected would not be ruled on pending their actual appearance or use. All other witnesses and exhibits that were not objected to in Petitioner's motion would be admitted.

Intervener- Haseko (Ewa) Inc.

Ms. Izu moved to admit Exhibit 1- an area map which was part of an amended list submitted on February 18, 2009. She clarified that it was the list that was amended and the exhibit was still the same. She also asked to have her witness list admitted which included the testimony of Nelson Lee.

There were no objections to Haseko's witness and exhibits being admitted to the record.

PETITIONER'S OPENING STATEMENT

Mr. Kudo provided an opening statement that included history and background information on the Ho'opili project and its role as part of the Ewa Development Plan. He also described the credentials of the petitioner/developer, D.R. Horton-Schuler Homes.

TESTIMONIES

Petitioner Witnesses

Vince Shigekuni-PBR Hawaii & Associates Inc.

Mr. Shigekuni explained his role as Principal in Charge and used a PowerPoint presentation to explain the details of the Ho'opili Project.

Mr. Kudo asked if there were any corrections to the presentation. Mr. Shigekuni replied that slide #10 which identified the parcels on the Petition Area was incorrect. The largest parcel should be identified as "C" instead of "A", and the smallest parcel should be identified as "A" instead of "C". Mr. Shigekuni also corrected the information of slide #13. He stated that the date of the second monthly meeting of the Ho'opili Task Force should be November 9, 2005, not November 9, 2006.

Mr. Shigekuni provided a brief history of the Ewa/Kapolei area and surrounding region. He described how the developments in the area evolved and matured and identified aspects of the long range master plan. He testified that Ho'opili was the final piece of the Ewa Development Plan and would complete the Second City vision for the region. He identified current and future facilities and transportation features that would occupy portions of the Petition Area. Mr. Shigekuni stated that Ho'opili was within the urban district boundaries and that the Ho'opili Task Force, created by the developer, had worked with the community over a period of time to resolve anticipated problems, concerns, and questions about the project.

Mr. Shigekuni stated that parks, schools, meeting places, open spaces and a plaza were features that were included after community input. Other aspects of community input included transit alignment within the area. Mr. Shigekuni described how the Ho'opili Task Force incorporated comprehensive reviews of transportation, access, and other developments in the area into its effort.

Mr. Shigekuni explained the factors which would provide regional employment alternatives for future residents which included plans for commercial, industrial, and other business facilities, as well as the major infrastructure improvements which the area would require.

Mr. Shigekuni detailed the plans for Transit Oriented Development in the project and described how the Community Task Force was involved. He stated in summary that the Ho'opili project was the last piece of the Ewa Development

Plan that needs urbanization; that it completes the City's vision for Kapolei as the Second City where people can live, play, shop, work and learn; and that it was the first transit-oriented development in Hawaii.

Mr. Kudo asked Mr. Shigekuni to identify, describe and explain methodologies involved in developing the contents of Petitioner's Exhibit 5- the Final Environmental Impact Statement. Mr. Kudo then asked Mr. Shigekuni to describe the location of the Petition area.

Mr. Kudo asked Mr. Shigekuni, using Petitioner's exhibit 7, to identify and describe the Petition Area's Tax Map Keys and acreages, and the area's current district classification under the Land Use law. He next asked Mr. Shigekuni to use Petitioner's exhibit 8 to describe the Petition Area. Mr. Kudo asked Mr. Shigekuni to describe the existing uses occurring on the property.

Mr. Kudo asked Mr. Shigekuni to describe and discuss petitioner's Exhibit 14, a map showing the topography of the Petition Area. Mr. Shigekuni stated that the petition for reclassification was necessary for the development of the Ho'opili project and described the components of the project.

Mr. Kudo asked Mr. Shigekuni to summarize and explain Petitioner's Exhibit 9, a brochure on Ho'opili Oahu Phase I Community Task Force Vision Statement dated October 2005- October 2006 published by D. R. Horton

Mr. Kudo asked Mr. Shigekuni to summarize what was included in Petitioner's Exhibit 10, the Ho'opili Task Force's Ewa Region Action Plan. Mr. Kudo then asked Mr. Shigekuni to use Petitioner's Exhibit 11-Figure 2.9 of the FEIS to describe the conceptual plan for the project.

Mr. Kudo asked Mr. Shigekuni to identify and describe Petitioner's Exhibit 1-Ho'opili Development Plan. Mr. Shigekuni acknowledged that it was the Plan showing the associated infrastructure for the project. Mr. Shigekuni then identified Petitioner's Exhibit 2 as the Ho'opili Development Summary which described the Ho'opili Development schedule. Mr. Shigekuni then described the timeline for the project that was plotted.

The Commission went into recess at 2:48 p.m. and reconvened at 3:05 p.m.

Mr. Shigekuni resumed his testimony by explaining the project's conformance and relationship with the Hawaii State Plan, the State Functional Plan and the County General Plan.

Mr. Kudo asked Mr. Shigekuni, using Petitioner's Exhibit 12-Ewa Development Plan – Figure 2.5 of the FEIS, to explain how the project conformed to the intended Land Uses.

Mr. Kudo asked Mr. Shigekuni if the project satisfied the objectives and policies of the State Coastal Zone Management (CZM) Program. Mr. Shigekuni asserted that the project did so and that since the project was located away from the shoreline 9 out of the 10 CZM objectives were irrelevant. The lone relevant objective pertained to the preservation of natural and historic resources. Mr. Shigekuni stated that SHPD had approved the Petition Area's archaeological inventory survey and monitoring plan, and is currently reviewing the preservation plan.

Mr. Shigekuni stated that he was familiar with the Land Use Commission's Decision Making Criteria and summarized why he felt the Petition Area conformed to the Decision Making Criteria under HRS 205-17. Mr. Shigekuni also described existing conditions and natural hazards of the area. Mr. Shigekuni indicated that the Petition Area may be subject to hurricanes and earthquakes in the future and that potential damage by these disasters would be mitigated by compliance with the international building code adopted by the County. Mr. Shigekuni was not aware of any man-made hazards in the area and described the visual impact the project would have on the landscape. Mr. Shigekuni did not expect the project to have any adverse visual impact.

Mr. Shigekuni was then asked to describe how solid waste would be handled for the project. Mr. Shigekuni spoke about programs and plans for handling the waste, recycling, and processing in accordance with government regulations.

Mr. Shigekuni described potential employment that might come to the area if the proposed project were completed and how establishing local employment would reduce the need for commuting to the primary urban core from the development. Mr. Shigekuni concluded his testimony and was made available to answer questions.

County

The City & County had no questions.

OP

OP-Mr. Yee asked if there were a timetable for the development of the project. Mr. Shigekuni said that the 1997 Ewa Development Plan had a phasing portion to it, but that the current plan update had removed references to phasing. Mr. Shigekuni stated that the infrastructure for the project had been explained earlier and that he believed that plans were in place for water, wastewater, and drainage to accommodate the needs of the project. Mr. Shigekuni referred the explanation of the infrastructure questions to Petitioner's expert witness.

Mr. Shigekuni stated that 2012 was the anticipated date for occupation of the first homes in the project. Additional work would continue on to 2020 or later. He referenced Petitioner's Exhibit 43-"Ewa Regional Transportation Plan" to provide answers to Mr. Yee's transportation questions. Mr. Shigekuni was not sure which

projects shown on the Exhibit were funded or not and referred to the State Transportation Improvement Plan as an information source for prioritizing efforts on a “wish-list” basis.

Mr. Yee asked several specific questions on energy conservation, education, natural hazards, and drainage which were deferred to Petitioner or Petitioner’s expert witnesses. Mr. Yee’s specific questions on man-made hazards and view planes being mitigated were referred to the Department of Planning and Permitting. Mr. Shigetani said that the project’s designs would be to meet the approval of the Department of Planning and Permitting.

Mr. Shigetani referred specific solid waste questions to Petitioner. He stated that in regards to infrastructure, the backbone infrastructure would be completed within 10 years of the county zoning and subdivision approval. Mr. Shigetani stated that he expected typical zoning approval to occur within 270 days but that it was an unpredictable political process. He said a subdivision approval could take a minimum of a year or more and it could take an estimated two years from LUC approval for a total of 12 years before the backbone infrastructure could be completed.

Mr. Kudo stated that Petitioner Mike Jones would address this specific issue in more detail.

Mr. Yee asked Mr. Shigekuni to explain why 9 out of the 10 objectives of the Coastal Zone Management Program were irrelevant. Mr. Shigekuni replied that it was due to the fact that the project was at least a quarter mile inland. Mr. Shigekuni referred questions about drainage and non-point source pollution to Dave Bills. He also deferred questions regarding the “live, work, play” concept and living activities in the area to Ann Bouslog.

Mr. Yee asked how the mix of commercial and residential units had been determined. Mr. Shigekuni stated that County zoning and the mass transit project would affect refinements to the master plan. Mr. Kudo stated that Ann Bouslog would be better equipped to answer specifics based on her market study. Mr. Yee replied that he was asking the question to get a planning reason on the issue. Mr. Kudo asserted that the presentation contained the information.

Mr. Shigekuni stated that the market study helped determine the project mix but that the Transit Oriented Development process would also refine the master plan. Specific questions on electrical issues, drainage, timing and scheduling were referred to Dave Bills. Mr. Shigekuni said he did not consider telecommunications to be a major issue and noted that with technological advances, it may not be necessary to include hard-line communication facilities. Mr. Shigekuni referred a question on traffic mitigation outside the petition area to Terry Brothers.

Intervener-Friends of Makakilo

Dr. Dudley asked if there had been any other “Task Force” that Mr. Shigekuni was involved in. Mr. Shigekuni replied that he had been involved in a Waipahu 2000 update around 1990 and described the nature of the plan.

Dr. Dudley asked where the green space would be between the two cities. Mr. Shigekuni referred him to the Ewa Development Plan map. Mr. Shigekuni referred questions on freeways and traffic to Terry Brothers.

Mr. Kudo objected to Dr. Dudley's use of Intervenor's exhibits to question the witnesses since these exhibits had not been admitted to the record. Chair Kanuha asked Dr. Dudley to refer to Petitioner's EIS with page numbers.

Dr. Dudley asked why the Final EIS stopped at Chapter 5.4.2 and did not continue to 5.4.3 which addressed adequate public facility requirements. Mr. Kudo stated that Chapter 343 of the State Law which governs the environmental reports and impact statements is a document which reasonably discusses the primary and secondary impacts of a proposed action and talks about potential mitigation measures that are being recommended and alternative courses of action or no action- it is a disclosure document. Mr. Shigekuni read 5.4.3 and explained the process for public facility requirements to Dr. Dudley.

Dr. Dudley stated that he had written to Mr. Shigekuni indicating that there was no graph showing modern time LOS on the freeway with/without the rail in 2030. Mr. Shigekuni responded by referring to Table 4.13 on page 91 of the EIS. Dr. Dudley could not locate the page reference and continued by asking if the project was the last portion of the urban growth boundary to be filled out. Mr. Shigekuni stated that it was the final part of the Ewa Development Plan and could not comment on where development would continue once the plan was completed.

Intervener- Haseko (Ewa) Inc.

Ms. Izu asked if Mr. Shigekuni had looked at the Ewa Development Plan's provision regarding drainage and found that his project conformed to that provision. Mr. Shigekuni responded that he did. Ms. Izu asked Mr. Shigekuni if he concurred that the Petitioner had coordinated infrastructure development in Ewa with different entities and that one of developments which needed to be coordinated was regional drainage; and that regional drainage did not only involve these entities but would affect all of the developers in the region. Mr. Shigekuni responded affirmatively.

There were no further questions for the witness.

The hearing adjourned at 4:30 p.m.