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LAND USE COMMISSION

STATE OF HAWAII

Kuilima Development Company (Oahu))	SP87-363
)	
To allow the establishment of a)	
wastewater treatment facility on)	
approximately 20 acres of land)	
situate within the State Land)	
Use Agricultural District at)	
Kahuku, Koolauloa, Oahu.)	
)	

LAND USE COMMISSION HEARING

Taken at Conference Rooms 322 A & B, Kalanimoku Building,
1151 Punchbowl Street, Honolulu, Hawaii, on April 15, 1987.

BEFORE: TERI L. ANDREASEN, CSR #102
 Notary Public, State of Hawaii

1 APPEARANCES:

2 CHAIRMAN: TEOFILO PHIL TACBIAN

3 VICE CHAIRMAN: FREDERICK WHITTEMORE

4 COMMISSIONERS: RICHARD B. F. CHOY
5 ROBERT S. TAMAYE
6 WILLIAM W. L. YUEN, ESQ.
LAWRENCE F. CHUN
TORU SUZUKI

7 HEARINGS OFFICER: BENJAMIN MATSUBARA, ESQ.

8 CHIEF CLERK: DARLENE KINOSHITA

9 EXECUTIVE DIRECTOR: ESTHER UEDA

10 STAFF: RAY YOUNG

11 PETITIONER: JAN NAOE SULLIVAN, ESQ.
12 Century Square, Suite 3404
13 1188 Bishop Street
14 Honolulu, Hawaii 96813

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PRESENTATION OF:

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STAFF PRESENTATION

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1 MR. CHAIRMAN: The meeting will come to order. The
2 next item is the Special Permit Number 87-363, Kuilima
3 Development Company, to allow the establishment of a
4 wastewater treatment facility on approximately 20 acres of
5 land situated within the State Land Use Agricultural District
6 at Kahuku, Koolauloa, Oahu.

7 Will the parties please identify yourselves.

8 MS. SULLIVAN: Jan Sullivan for the Petitioner
9 Kuilima Development Company. And with me today is Mr. Paul
10 Lo, the project engineer, and Mr. Ralph Portmore, the project
11 manager.

12 MR. CHAIRMAN: Staff, will you orient the
13 Commission, please.

14 STAFF PRESENTATION

15 MR. YOUNG: Thank you, Mr. Chairman. The subject
16 property is located on the north shore of the Island of Oahu,
17 City and County of Honolulu, mauka of the Kamehameha Highway
18 and the Turtle Bay Resort and expansion area.

19 It is colored in yellow on the Land Use Commission's
20 official map. North is straight up. The scale is one inch
21 equals approximately 2,000 feet.

22 The colors on the map represent, in green, the
23 Conservation District; the clear white area, the Agricultural
24 District; the red, the Urban District.

25 The surrounding communities in the area include,

1 again, the Turtle Bay Resort and expansion area, Kawela Bay
2 and the community here (indicating.)

3 Sunset Beach is located towards the southwest,
4 Waimea Bay. Over on the southeast, the town of Kahuku and
5 Laie. This black line is the Kamehameha Highway (indicating.)

6 Moving over to the State's Tax Map, again the
7 property colored in yellow. The scale on this map is one inch
8 equals 500 feet. North is in this direction (indicating.)

9 Again, the red area, the proposed Turtle Bay Resort
10 and expansion. This clear white area here represents the
11 Punahoo lava marsh. It is currently in the Agricultural
12 District.

13 The dark line, again, Kamehameha Highway, and this
14 is the access to the Turtle Bay Resort (indicating.) The
15 subject special permit area is located about 700 feet mauka
16 of the highway. The access at this point is proposed along
17 Oio Stream located in this area directly across from the access
18 to the Turtle Bay Resort (indicating.)

19 Again, the area is about 20 acres. The Agricultural
20 land that it is situated on is rated prime under the ALISH
21 system of the Department of Agriculture. It is located on
22 lands classified C or lower in productivity according to the
23 Land Study Bureau.

24 It's in the Board of Water Supply's no-pass zone and
25 the Department of Health's underground injection control line.

1 However, the effluent will be transmitted over to the makai
2 side of the highway to be disposed of in the golf course
3 irrigation, which is out of the UIC and the no-pass zones.

4 If I may, I would like to summarize the Petitioner's
5 proposed wastewater treatment.

6 The proposed facility will provide secondary
7 treatment and basically consists of an aerated facultative
8 lagoon system with mechanical screening, degritting and
9 chlorination.

10 The treated effluent will then be conveyed through
11 transmission mains to holding ponds in the Turtle Bay Resort
12 area for golf course irrigation. Any excess effluent will be
13 disposed of by an injection well field located within the
14 Resort.

15 The Applicant proposes to dedicate the plant to
16 the City and County of Honolulu following a one-year test
17 period with satisfactory operation.

18 Operation and maintenance of the effluent disposal
19 system after discharge from the plant will be the
20 responsibility of the developer and/or user of the effluent.

21 The Applicant will provide a backup system
22 consisting of an emergency generator and fuel enough for seven
23 days of operation, a stand-by blower and emergency repair
24 equipment.

25 The Applicant will also provide for landscaping to

1 control erosion after grading and to blend the facility with
2 the surrounding topography.

3 Access will be provided along an existing
4 agricultural road. The plant will be completed in 1989 and
5 will serve the Turtle Bay Resort and expansion area and the
6 residences on the westerly side of Kawela Bay.

7 The City and County of Honolulu Development Plan
8 Public Facilities Map indicates a sewage treatment plant on
9 the makai side of Kamehameha Highway within the Turtle Bay
10 Resort expansion area.

11 The property is designated Agriculture under the
12 Koolauloa Development Plan. Zoning for the property is AG-1
13 Restricted Agricultural District. The proposed treatment plant
14 is not indicated as a permissible use in the City's land use
15 ordinance.

16 The Applicant's Wastewater Master Plan and
17 preliminary engineering data was approved by the City
18 Department of Public Works on December 16, 1985, and this
19 approval was subject to eight conditions. The environmental
20 concerns are as follows:

21 The proposed project will be located within or
22 mauka of the Department of Health's underground injection
23 control line and the Board of Water Supply's no-pass line.

24 To mitigate potential impact at the site, the
25 Applicant proposes to construct structures with reinforced

1 concrete, and the basins will be lined with an impermeable
2 sheet to prevent percolation of effluent into the ground water.

3 Holding ponds for storing effluent for golf course
4 irrigation after treatment and the proposed injection wells
5 will be located within the proposed resort and outside of the
6 UIC and no-pass zones.

7 In addition, the Department of Health, Board of
8 Water Supply and the City Department of Public Works will have
9 final reviews and approvals.

10 The State Department of Transportation indicated
11 that the proposed access road lies nearly opposite and
12 conflicts with the Turtle Bay Resort access.

13 The Department of General Planning pointed out that
14 it is essential that the ownership of the 20-plus-acre site
15 and also the roadway leading to the STP plant are conveyed
16 to the City and County of Honolulu if the City is to be
17 responsible for operating and maintaining the new wastewater
18 treatment plant.

19 The Applicant submitted an agricultural feasibility
20 and need study for the proposed project which concluded that
21 there is no indicated need for the site for agricultural
22 production because of an excess of good agricultural land.

23 The Department of Agriculture stated that the
24 guidelines for issuance of the Special Permit appear to have
25 been satisfactorily addressed in the Application.

1 Under the conformance with the Commission's Special
2 Permit test, under test one, such use shall not be contrary to
3 the objectives sought to be accomplished by the land use law
4 and regulations, the Petitioner provided the following:

5 The proposed upgrading of the existing wastewater
6 treatment facility on the site is not contrary to objectives
7 of the State land use law because the Commission, in its
8 approval of the redistricting of 231 acres of Agricultural
9 land to the Urban District to accommodate expansion of the
10 Resort, also recognized a need for a new wastewater treatment
11 plant to serve the Resort development, and in its Decision and
12 Order required that applicant to provide such a facility.

13 Also the Order did not specifically set the
14 treatment facility's location, no objections were raised to
15 the possibility of its location on agriculturally-designated
16 lands.

17 The site on which the facility is proposed is
18 unsuitable for intensive agricultural use. This will be
19 discussed more fully in test five.

20 The proposal supports the objectives of the State
21 Plan which requires coordination of wastewater disposal with
22 State and County growth objectives.

23 It also implements the objective of seeking
24 participation from the private sector for the cost of
25 constructing utilities and infrastructure.

1 Under test two, that the desired use would not
2 adversely affect surrounding property, the Petitioner provided
3 the following:

4 Since the closing of the Kahuku Sugar Company, the
5 20-acre site and surrounding lands have not been used for
6 crop production.

7 Spot areas have been utilized for marginal cattle
8 grazing. Establishment of the proposed use at this time would
9 not adversely impact on these lands.

10 Should any agricultural activity be re-introduced
11 to the area, the use is also not expected to adversely affect
12 the area.

13 The project will also be landscaped so that the
14 facility would not be readily seen from the highway,
15 approximately 700 feet makai of the site.

16 The distance factor with the Resort located more
17 than 1,100 feet away and the prevailing tradewinds make the
18 site most appropriate.

19 The location and depth of the injection wells will
20 be coordinated with the Board of Water Supply to ensure proper
21 disposal of excess treated effluent.

22 Under test three where such use would not
23 unreasonably burden public agencies to provide roads and
24 streets, sewers, water, drainage and school improvements and
25 police and fire protection, the Petitioner provided the

1 following:

2 The facility, as part of the Resort expansion
3 proposal, will be installed by the developer at his cost.

4 It is intended that the facility, sized to
5 accommodate the residents on the westerly side of Kawela Bay,
6 will be dedicated to the City.

7 The cost of improvements for water service,
8 drainage and other infrastructure improvements will be borne
9 by the Applicant.

10 Clear title to a roadway or an easement for service
11 access to accommodate heavy vehicles must be provided by the
12 Applicant.

13 Under test four where, unusual conditions, trends
14 and needs have arisen since the district boundaries and
15 regulations were established, Petitioner added that with the
16 closing of the Kahuku Sugar Mill, the transformation of the
17 area surrounding the existing Turtle Bay development from
18 agriculture to resort use has resulted in the establishment
19 of the need for support activities such as the new wastewater
20 treatment facility.

21 Under test five where the land upon which the
22 proposed use is sought is unsuited for the uses permitted
23 within the district, the Petitioner added that although the
24 Agricultural Lands of Importance to the State of Hawaii
25 designates the area as Prime Agriculture, approximately 90

1 percent of the site is classified under the Land Study Bureau
2 as soils C if irrigated and E if not irrigated.

3 Two pockets on the mauka side of the site are
4 designated E. Under the Land Survey Board a rating of A
5 represents the highest productivity and E, the least.

6 A review of the Bureau's mapping also confirms the
7 Department of Agriculture's observation that the Applicant
8 has avoided use of higher agriculturally rated lands.

9 The level lands fronting the site and bounded by
10 the highway is rated B also, and lands located west of the
11 site across Oio Stream is classified A. The steeper mauka
12 side lands designated E are not suitable for site development.

13 The Applicant's Agricultural Feasibility Study also
14 noted the detrimental effect of the stronger tradewinds and
15 salt from the ocean, and concluded that the site has severe
16 limitations for crop production. With limited rainfall, the
17 report also indicated that grazing would not be feasible.

18 The Planning Commission recommended approval of
19 the Special Permit Request to establish a wastewater treatment
20 facility subject to the following conditions:

21 The Applicant shall submit for review and approval
22 a landscape plan to provide visual screening.

23 Condition number two, the dedicated facility shall
24 include an acceptable access drive to be coordinated with the
25 Department of Public Works and the Department of Transportation

1 Services.

2 Condition three, the Applicant shall coordinate the
3 effluent disposal with the Board of Water Supply and/or the
4 Department of Public Works.

5 At this time the staff would like to point out that
6 the Decision and Order of the Land Use Commission dated
7 March 27, 1986 which reclassified 231 acres from Agriculture
8 to Urban for the Kuilima resort expansion one had several
9 conditions, which number eight relates to this condition.

10 At that time the condition stated, "The Petitioner
11 shall develop and operate a private sewage treatment plant
12 and related infrastructure to accommodate the sewage demand
13 of the Kuilima resort expansion."

14 In addition, the Planning Commission's
15 recommendation does not include a time limit condition to
16 establish the use as required by Land Use Commission Rules,
17 Section 15-15-95, Subsection E.

18 This concludes the staff's report. Are there any
19 questions?

20 MR. CHAIRMAN: Any questions of the staff? If not,
21 thank you, Ray.

22 COMMISSIONER WHITTEMORE: One question. In the
23 matter of that condition number eight which you just read,
24 would it be appropriate if an amendment were to be considered,
25 would that be considered under separate review?

1 MR. YOUNG: Yes, I believe so. The Petitioner at
2 any time can come back to the Commission and request an
3 amendment to the condition.

4 COMMISSIONER WHITTEMORE: I see. Thank you very
5 much, Ray.

6 MR. YOUNG: Thank you.

7 MR. CHAIRMAN: Petitioner.

8 MS. SULLIVAN: I would like to thank the staff for
9 giving a very thorough summary of our application, and I just
10 want to add a couple of other things.

11 The treatment plant that we are proposing to build
12 is a secondary wastewater treatment plant. It is estimated
13 it will cost about \$12 million to construct, and it's going
14 to be servicing the resort area that is makai of the highway,
15 which is that entire 800 acres, and also the residences along
16 Kawela Bay which are not part of the resort.

17 And for the record, I would like to indicate that
18 this board was presented to the Planning Commission hearing
19 and should already have been submitted into evidence at that
20 time.

21 Back in 1986 this Commission issued its Decision
22 and Order approving reclassification of 236 acres on the
23 eastern portion of the property to allow the expansion of the
24 Resort.

25 Since that time we have obtained a zoning approval

1 and shoreline management assurances that grant approval for
2 the entire 800-acre expansion.

3 So we really have all the major permits that are
4 required for this project. But this Special Use Permit is an
5 essential permit for Kuilima.

6 The sewage treatment plant is critical to the
7 development timetable because it has to be constructed and be
8 operational before the first hotel can be opened.

9 The existing plant does not have the capacity to
10 accommodate any further expansion. So the construction
11 timetable is really tied in closely to the plant.

12 Staff pointed out that the development plan public
13 facilities map was reflecting that the plant was makai of the
14 highway. And just to add an update to that, recently that
15 map was amended, and it is now reflecting the plant as being
16 in the mauka location.

17 Also, we have recently obtained a Conditional Use
18 Permit for this plant since the land is zoned Agriculture on
19 the County level, and this permit is conditioned on us
20 obtaining approval of this Special Use Permit.

21 As Ray pointed out, the majority of the property
22 is not good agricultural land, and Kuilima, in fact, tried
23 very hard to place this site to avoid prime agricultural land
24 wherever it could.

25 Dr. Scott, who conducted the agricultural

1 feasibility study, concluded that the large majority of the
2 site, about 18 acres, contain lands that are seriously limited
3 for crop production with only about two acres of good
4 agricultural land being included in the site area.

5 However, he also considered the fact that there is
6 very poor drainage in that area and that there are wind and
7 salt problems. So he concluded that there would be a minimal
8 amount of agricultural impact by constructing the plant in
9 this area.

10 With reference to condition number eight of our
11 Decision and Order which requires Kuilima to dedicate a private
12 plant, I think the reason that this condition was placed in
13 there was because back in '85 when we made our submissions
14 for the petition for boundary amendment, we did not know for
15 sure if the County would be accepting the facility and if we
16 could, in fact, make it a public facility.

17 Since that time we have obtained assurances from
18 the County that they will be accepting it, and part of that
19 change was due to the fact that we will now be servicing areas
20 outside of the resort along west Kawela Bay.

21 So we do intend to submit a motion in response to
22 Commissioner Whittemore's question correcting this condition
23 and amending it to avoid any possible inconsistencies between
24 this permit and that condition from the prior Decision.

25 With respect to the time limit, as staff pointed

1 out the Planning Commission did not impose a time limit for
2 establishing this use as is required under your rules. We
3 would request that Kuilima be given at least three years from
4 the date of approval to establish the use of the sewage
5 treatment plant.

6 This condition giving us at least three years after
7 approvals would set a reasonable construction schedule for the
8 plant and give us some flexibility to account for delays.

9 And there is some inconsistency in this request in
10 that, as staff pointed out, from our submissions we are
11 reflecting a completion date of 1989. But when this
12 environmental assessment was submitted back in October of 1986,
13 that was our projected date. And since that time half a year
14 has passed and we have already experienced some delays, so we
15 are asking for a three-year period on the condition pertaining
16 to the timetable.

17 If you have any questions, we would be glad to
18 answer them at this time.

19 MR. CHAIRMAN: Any questions, Commissioners?
20 Commissioner Whittemore.

21 COMMISSIONER WHITTEMORE: In other words, are you
22 saying that you would like to have, you would appreciate a
23 condition in there if approval were granted that would allow
24 three years after approval to complete the project; is that
25 what you are saying?

1 MS. SULLIVAN: We are requesting that if you are
2 to impose a time limit, that it allow us three years after
3 receipt of all required developmental approvals, because there
4 are approvals after this, administrative approvals, that we
5 would have to obtain.

6 COMMISSIONER WHITTEMORE: Thank you. I have no
7 further questions.

8 MR. CHAIRMAN: Have you already completed your
9 engineering?

10 MS. SULLIVAN: I'm going to defer that question to
11 Mr. Lo.

12 MR. LO: We are not quite complete. We are still
13 in the process of designing plans. We intend to submit the
14 prefinal plans in the latter part of June right now. That's
15 our tentative timetable, and we do not expect to get final
16 approvals until sometime in August or so. And then we expect
17 it will take two months for the bidding process and one month
18 for the award.

19 MR. CHAIRMAN: Any other questions? Hearing none,
20 then the floor is open for a motion. Commissioner
21 Whittemore.

22 COMMISSIONER WHITTEMORE: Members of the Commission,
23 I recommend approval that the City and County of Honolulu be
24 issued a Special Permit in order to establish a wastewater
25 treatment facility on 20 acres of land in Koolauloa identified

1 by tax map key 5-7-01, a portion of 21, and that the following
2 conditions be met:

3 One, the Applicant shall submit for review and
4 approval a landscape plan to provide visual screening.

5 Two, the dedicated facility shall include an
6 acceptable access driveway to be coordinated with the
7 Department of Public Works and the Department of Transportation
8 Services.

9 Three, the Applicant shall coordinate the effluent
10 disposal with the Board of Water Supply and/or the Department
11 of Public Works.

12 And four, that they be granted three years after
13 all government approvals to complete the project have been
14 received.

15 MR. CHAIRMAN: Any second to that motion?

16 COMMISSIONER YUEN: Seconded.

17 MR. CHAIRMAN: It has been approved and seconded
18 that the Special Permit 86-363 be approved subject to the
19 three conditions.

20 COMMISSIONER WHITTEMORE: Four conditions.

21 MR. CHAIRMAN: Four conditions. Any discussion?

22 COMMISSIONER WHITTEMORE: Correction, that should
23 be to Kuilima Development Company rather than the City and
24 County of Honolulu.

25 MR. CHAIRMAN: Let the record reflect that the

1 Special Permit is for Kuilima Development Company and not to
2 the City.

3 Any discussion on the motion to approve this
4 Special Use Permit? If not, then will you poll the Commission,
5 please.

6 MS. EXECUTIVE DIRECTOR: Commissioner Whittemore.

7 COMMISSIONER WHITTEMORE: Aye.

8 MS. EXECUTIVE DIRECTOR: Commissioner Yuen.

9 COMMISSIONER YUEN: Aye.

10 MS. EXECUTIVE DIRECTOR: Commissioner Chun.

11 COMMISSIONER CHUN: Aye.

12 MS. EXECUTIVE DIRECTOR: Commissioner Suzuki.

13 COMMISSIONER SUZUKI: Aye.

14 MS. EXECUTIVE DIRECTOR: Commissioner Tamaye.

15 COMMISSIONER TAMAYE: Aye.

16 MS. EXECUTIVE DIRECTOR: Commissioner Choy.

17 COMMISSIONER CHOY: Aye.

18 MS. EXECUTIVE DIRECTOR: Chairman Tacbian.

19 CHAIRMAN TACBIAN: Aye.

20 MS. EXECUTIVE DIRECTOR: We have seven votes in
21 support of the motion, Mr. Chairman.

22 MR. CHAIRMAN: The Special Use Permit Number 87-363
23 for Kuilima Development Company to allow the establishment of
24 a wastewater treatment facility is approved.

25 MS. SULLIVAN: Thank you very much.