

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A88-627
)	
GENTRY DEVELOPMENT COMPANY,)	CITY AND COUNTY OF HONOLULU,
a Hawaii limited partnership)	DEPARTMENT OF
)	ENVIRONMENTAL SERVICES
To Amend the Agricultural Land)	
Use District Boundary into the)	
Urban Land Use District for)	
Approximately 685 Acres at)	
Honouliuli, Ewa, Oahu, State of)	
Hawaii, Tax Map Key Nos.: 9-1-10:)	
Portion of 2 and Portion of 7;)	
9-1-12: Portion of 1, Portion of)	
5 and 30)	
_____)	

LAND USE COMMISSION
 STATE OF HAWAII
 2019 NOV - 6 A 11: 20

MOTION FOR ORDER AMENDING THE
FINDINGS OF FACT, CONCLUSIONS OF LAW AND
DECISION AND ORDER FILED MAY 8, 1989

AND

CERTIFICATE OF SERVICE

BENJAMIN M. MATSUBARA, #993-0
 CURTIS T. TABATA, #5607-0
 Matsubara, Kotake & Tabata
 888 Mililani Street, Suite 308
 Honolulu, Hawai`i 96813

Attorneys for Petitioner
 CITY AND COUNTY OF HONOLULU,
 DEPARTMENT OF
 ENVIRONMENTAL SERVICES

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A88-627
)	
GENTRY DEVELOPMENT COMPANY,) a Hawaii limited partnership)	MOTION FOR ORDER AMENDING THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION AND ORDER FILED MAY 8, 1989
To Amend the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 685 Acres at Honouliuli, Ewa, Oahu, State of Hawaii, Tax Map Key Nos.: 9-1-10: Portion of 2 and Portion of 7; 9-1-12: Portion of 1, Portion of 5 and 30)	
_____)	

MOTION FOR ORDER AMENDING THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION AND ORDER FILED MAY 8, 1989

TO THE HONORABLE LAND USE COMMISSION OF THE STATE OF HAWAII:

CITY AND COUNTY OF HONOLULU, DEPARTMENT OF ENVIRONMENTAL SERVICES, ("DES") ("Petitioner") by and through its attorneys, MATSUBARA, KOTAKE & TABATA, respectfully moves the Land Use Commission of the State of Hawai'i ("Commission") pursuant to § 15-15-70 and § 15-15-94 of the Commission's Rules for an Order: 1) recognizing DES' standing to seek and obtain the relief requested herein; and 2) amending the Amended Findings of Fact, Conclusions of Law and Decision and Order filed May 8, 1989 ("1989 Decision and Order") providing

that a portion of the Petition Area, that portion being identified as Tax Map Key Nos. 9-1-069: 003 por., comprising approximately 23.300 acres of land ("Petition Area B" or the "Subject Property"), shall be subject to a new decision and order that is specific to Petition Area B and that said Petition Area B shall not be subject to the 1989 Decision and Order, for the purpose of establishing appropriate findings of fact, conclusions of law and decision and order that are specifically applicable to Petitioner's Honouliuli Waste Water Treatment Plan ("HWWTP" or "Project") and limited to Petition Area B.

In support of this Motion For Order Amending The Findings Of Fact, Conclusions Of Law And Decision And Order filed May 8, 1989 ("Motion"), Petitioner alleges as follows:

I. INTRODUCTION

There are two (2) separate Commission dockets that encompass the HWWTP: A88-627 and A19-808. The following is a description of the HWWTP parcels and how they relate to the two dockets.

The entire **99.730** acres HWWTP site is comprised of the following:

A. 71.933 acres of existing Urban District:

1) **23.300** acres identified as TMK 9-1-069: 003 por. (portion of LUC Docket No. **A88-627**);

2) **46.041** acres identified as TMK 9-1-013: 007 por. (No LUC Docket); and

3) **2.592** acres identified as TMK 9-1-013: 007 por. for Geiger Road (No LUC Docket).

B. 27.797 acres of existing Agricultural District:

1) **25.095** acres identified as TMK 9-1-069: 003 por. (LUC Docket No. **A19-808**);

and

2) **2.702** acres identified as TMK 9-1-069: 004 por. (LUC Docket No. **A19-808**).

The HWWTP was built in 1978 and began operations in 1984. It is owned by the DES. Upgrades were made to the site in 1996 to provide limited secondary treatment. In 2000, the City and County of Honolulu Board of Water Supply ("BWS") Honouliuli Water Recycling Facility ("HWRF") was constructed on the site. In 2011, the City and County of Honolulu acquired approximately 48.4 acres of land abutting the north and east boundaries of the existing HWWTP to provide sufficient space for construction of treatment facilities. The entire HWWTP site, including the Petition Area, is approximately 99.730 acres. Of this acreage, approximately 71.933 acres of land are in the State Land Use Urban District. An approximately 23.300 acre portion of TMK: 9-1-069: 003 was reclassified to the State Land Use Urban District pursuant to LUC Docket No. A88-627/Gentry Development Company. Petitioner has filed this motion with the LUC to amend the Findings of Fact, Conclusions of Law, and Decision and Order issued in docket A88-627 to bifurcate the urbanized portion of TMK: 9-1-069: 003 from docket A88-627.

Under the Project, the new secondary treatment and support facilities will be constructed on TMK: 9-1-069: 003. The new secondary treatment facilities consist of a secondary process pump station, distribution box, and 6 to 8 secondary clarifiers. The support facilities include a central laboratory, Ocean Team facilities, administration building, operations building, Leeward Region maintenance building, central shops, central warehouse, and central supervisory control and data acquisition operations building. The upgrading of the existing pump station and odor control facilities will occur on TMK: 9-1-069: 004.

The Project is necessary to comply with a 2010 First Amended Consent Decree ("FACD") among the City and County of Honolulu, the State of Hawai'i Department of Health ("DOH"), and the U.S. Environmental Protection Agency ("EPA") under Civil No. 94-00765 DAE-KSC. The FACD requires that the City and County of Honolulu meet certain established milestones for improving wastewater treatment plants and collection systems. The key dates in the FACD include (1) execution of a construction contract (or contracts) and issuance of a notice (or notices) to proceed with construction of all secondary treatment process facilities necessary to comply with secondary treatment standards for all wastewater discharges from the HWWTP by January 1, 2019; and (2) the complete construction of facilities necessary to comply with secondary treatment standards for wastewater discharges from the HWWTP by June 1, 2024.

On March 28, 2017, the Final Environmental Impact Statement ("FEIS") for the Project was accepted and was published in the Environmental Notice of April 8, 2017.

On June 2, 2017, Petitioner filed a Petition for Special Use Permit ("SUP") with the City and County of Honolulu Department of Planning and Permitting ("DPP") pursuant to HRS §205-6 for the Project. The petition area in SP17-409 is described as 27.807 acres, but has been corrected to reflect 27.797 acres in a Petition for District Boundary Amendment in LUC Docket No. **A19-808**.

On September 13, 2017, the Planning Commission recommended approval of the SUP to the LUC, subject to ten condition.

On December 8, 2017, the LUC entered its Findings of Fact, Conclusions of Law, and Decision and Order Approving the Recommendation of the City and County of Honolulu Planning Commission to Approve The State Special Use Permit Petition With Conditions.

Condition 3 of the December 8, 2017 Decision and Order required that Petitioner file a Motion to Amend the Findings of Fact, Conclusions of Law, and Decision and Order in Docket No. **A88-627** to bifurcate the urbanized portion of TMK: 9-1-069: 003 from this docket.

II. DISCUSSION

The description of the Project and related impacts are discussed in the Petition For District Boundary Amendment filed November 6, 2019 in Docket No. A19-808, which is incorporated herein by reference.

Petition Area B, comprising of 23.300 acres of land, is currently in the Urban Land Use District. The remaining Petition Area in Docket No. A88-627 comprises the residential project known as Ewa By Gentry.

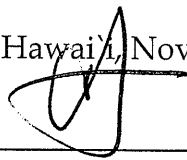
Petition Area B is subject to the 1989 Decision and Order. The 1989 Decision and Order provides for the development of a master planned residential community. Petitioner is seeking a new docket number and new decision and order specifically for only the 23.300 acres comprising Petition Area B which will encompass a portion of the HWWTP. The new decision and order would bifurcate and release the 23.300 acres from the 1989 Decision and Order, and create a new docket number for the 23.300 acres.

III. CONCLUSION

Based upon the foregoing, Petitioner respectfully requests that the Commission grant this motion after a hearing which Petitioner hereby requests pursuant to HAR § 15-15-70(i).

DATED: Honolulu, Hawaii, November 6, 2019.

Of Counsel:
MATSUBARA, KOTAKE & TABATA
A Law Corporation



BENJAMIN M. MATSUBARA
CURTIS T. TABATA
Attorneys for Petitioner
CITY AND COUNTY OF HONOLULU,
DEPARTMENT OF ENVIRONMENTAL
SERVICES

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A88-627
)	
GENTRY DEVELOPMENT COMPANY,)	CERTIFICATE OF SERVICE
a Hawaii limited partnership)	
)	
To Amend the Agricultural Land)	
Use District Boundary into the)	
Urban Land Use District for)	
Approximately 685 Acres at)	
Honouliuli, Ewa, Oahu, State of)	
Hawaii, Tax Map Key Nos.: 9-1-10:)	
Portion of 2 and Portion of 7;)	
9-1-12: Portion of 1, Portion of)	
5 and 30)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a file-marked of the foregoing document was duly served upon the following **AS INDICATED BELOW** on November 6, 2019.

DAWN TAKEUCHI-APUNA, ESQ.
Deputy Attorney General
Department of the Attorney General
425 Queen Street
Honolulu, Hawai`i 96813

HAND DELIVERY

MARY ALICE EVANS, DIRECTOR
Office of Planning, State of Hawai`i
235 South Beretania Street
Room 600, Leiopapa A Kamehameha Bldg.
Honolulu, Hawai`i 96813

HAND DELIVERY

KATHY K. SOKUGAWA, ACTING DIRECTOR
City and County of Honolulu
Department of Planning and Permitting
650 South King Street, 7th Floor
Honolulu, Hawai'i 96813

HAND DELIVERY

PLANNING COMMISSION
City and County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawai'i 96813

HAND DELIVERY

PAUL S. AOKI, ESQ.
Acting Corporation Counsel
City and County of Honolulu
Department of Corporation Counsel
530 South King Street, Room 110
Honolulu, Hawai'i 96813

HAND DELIVERY

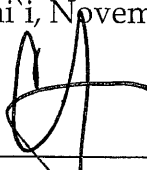
OFFICE OF COUNSEL
Pacific Division
Naval Facilities Engineering Command
Pearl Harbor, Hawai'i 96860

CERTIFIED MAIL,
RETURN RECEIPT
REQUESTED

Attorney for Intervenor

DATED: Honolulu, Hawai'i, November 6, 2019.

Of Counsel:
MATSUBARA, KOTAKE & TABATA
A Law Corporation



BENJAMIN M. MATSUBARA
CURTIS T. TABATA
Attorneys for Petitioner
CITY AND COUNTY OF HONOLULU,
DEPARTMENT OF ENVIRONMENTAL
SERVICES