

WINDWARD PLANNING COMMISSION  
COUNTY OF HAWAII

HEARING TRANSCRIPT  
OCTOBER 2, 2009

A regularly advertised hearing on the application of **GIAMPAOLO BOSCHETTI (REZ 09-103)** was called to order at 10:00 a.m. in the County of Hawaii, Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawaii, with Chairman Rell Woodward presiding.

PRESENT: Rell Woodward  
Takashi Domingo  
Andrew Iwashita  
Zendo Kern  
Shelly Ogata  
Wallace Ishibashi

Brandon Gonzalez, Deputy Corporation Counsel  
BJ Leithead Todd, Planning Director  
Norman Hayashi, Planning Program Manager  
Jeff Darrow, Staff Planner  
Maija Cottle, Staff Planner

And 18 people from the public

APPLICANT: GIAMPAOLO BOSCHETTI (REZ 09-103)  
Change of Zone from Single-Family Residential 7,500 square feet (RS-7.5) and Multiple-Family Residential 1,000 square feet (RM-1) to Multiple-Family Residential 1,500 square feet (RM-1.5) district. The property is located mauka of Kapiolani Street and the County of Hawaii Police complex, Kukuau 1<sup>st</sup>, South Hilo, Hawaii, TMK: 2-4-25:48, 53 and 80.

WOODWARD: Okay, let's address Agenda Item 5. Applicant is Giampaolo Boschetti, Change of Zone from Single-Family Residential 7,500 square feet and Multiple-Family Residential 1,000 square feet to Multiple-Family Residential 1,500 square feet, located in South Hilo. Maija.

COTTLE: Thank you, Mr. Chairman. The subject property is located just mauka of Kapiolani Street which runs in a north-south direction here. It's also bordered by Kukuau Street. And it's outlined in black on the slide. The change of zone request area is actually made up of three properties. One runs right along here that has access to Kukuau Street. Then there's a large parcel in the middle. And then the third parcel runs kind of in an east-west direction that has access onto Kapiolani Street. Most of the property is currently zoned Single Family Residential, which is shown here in the yellow. A portion of the lot that would access Kapiolani Street is currently zoned Multi-Family Residential 1,000 square feet; and that's shown in the

dark brown. Most of the surrounding properties, immediately surrounding properties, are zoned Residential.

And this is a General Plan LUPAG Map and it shows the entire subject property in the Medium Density Urban designation, which is orange. And the area that's red on this map is High Density Urban. This is an aerial photo of the site that shows the subject property outlined in red. It's currently undeveloped land. And, again, you can see residences nearby. Across Kapiolani Street is the County of Hawai'i public safety complex.

So the applicant is proposing to construct a 100-unit Multi-Family Residential complex, consisting of six buildings with two-bedroom, one-bedroom and, studio apartments, a pool, on-site parking and landscaping. This is a site plan of the applicant's request. You can see Kukuau Street up at the very top corner and access onto Kukuau, kind of parking in a loop orientation here, and then the buildings are in the middle of the map. There's also a drainage easement that runs through the property in an east-west direction, and then the lot with access onto Kapiolani Street with additional parking.

The Planning Department is recommending a favorable recommendation be forwarded for this request to the County Council. And before I take questions we do have some additional changes to the recommendation report, as well as conditions.

On page 3 of the Recommendation Report, there's a statement there that was added incorrectly that we would like to delete. It's in the third paragraph at the very end. It says "To limit the cumulative impact of the proposed subdivision on area infrastructure, a condition of the approval will prohibit a second dwelling and condominium property regime on each lot." And that's not applicable to this project so we'd like to remove that.

And for the changes of conditions, for Condition J related to a drainage study, this is one of our older versions of the condition that we used. We would like to change it so that it reads that a drainage study is submitted prior to final plan approval and that any drainage improvements that may be required are completed prior to issuance of a certificate of occupancy. And we'd also like to add the backflow prevention assembly condition as Condition C, and realphabetize all conditions after that. Are there any questions?

WOODWARD: Any questions for staff? Okay, seeing none, if we could have the applicant and/or representatives come up and give us your two cents worth. All right, Mr. Lim, are you going to be the only one to testify?

LIM: Probably but I'll have us both raise our hands.

WOODWARD: All right, if you'll both raise your hands. Do you swear or affirm to tell the truth today before the Windward Planning Commission?

LIM: I do.

SILVA: I do.

WOODWARD: Okay. If you'll give us your name and address and then begin your testimony, sir.

LIM: Steve Lim. Okay. Good morning, members of the Windward Planning Commission. With me today is Carol Silva. My mailing address is PO Box 121, Hilo 96721. And I'm here representing Mr. Paul Boschetti, as the Planning Director has correctly identified his name. We are here proposing the approximately 100 Multi-Family unit project on about 5.05 acres of land. This will be a build-out of the Medium Density Urban designation for the property, as you saw from the Planning Department staff's presentation. The area is proposed for Medium Density, and just across the street from the High Density Urban area that the public safety complex is located upon.

We saw the, we've reviewed the Planning Department's background and recommendations. We understand the new conditions that were proposed and we agree with the conditions of approval proposed by the Director; and we'd ask for your support. I do know that there's at least one public witness in the audience to testify today.

WOODWARD: Well, two, actually, but -. Okay, do we have any questions for Mr. Lim? I have one, actually a couple. This, well, the Department of Water Supply is requiring a master meter. You're aware of that, I guess.

LIM: That's correct. We understand there is sufficient water; and it is a master meter because of the condominium nature of the project. So it will be one big meter where we assess individual private meters.

WOODWARD: Okay. And that the access at Kapiolani shall be limited to right-turn in and right-turn out only?

LIM: That's correct. That was something that was not proposed by the applicant. But after we saw the Police Department's concerns regarding their access driveway being right across from us, we agreed to that safety measure.

WOODWARD: Okay. And then I had one other thing about this, let's see, it would be Condition O which is the fair share contribution. And there is a deeded easement on, it's not big. There is a deeded easement. And I meant to ask the Director if that would be, we'd recommend that that be applied to one of these other offsets that you'd have to make.

LIM: I guess you're referring to the road widening along Kapiolani?

WOODWARD: Right, well, there's, yeah, right. There's a -.

LIM: Yeah, we estimated that that was something in the neighborhood of a maximum about 800 lineal feet, and it wasn't going to be significant enough to ask for a credit.

WOODWARD: Okay. If you're happy with it, we're happy with it. And then the other question I had was this question of police, the police concerns. And I don't know how you would really go about directing a response to this. But we did have a letter from Mr. Pacheco, Assistant Police Chief, it says essentially, "The proximity and alignment of the project's proposed access driveway to the Kapiolani Street entrances...of the Public Safety Complex are a major concern. The density of this project (100 units) may result in a significant volume of traffic entering at the project's Kapiolani Street access driveway. This volume of traffic may conflict with vehicles exiting the public parking area of the Public Safety Complex and potentially impede or hamper the response of emergency vehicles entering onto Kapiolani Street. These conflicted traffic movements could lead to a greater incidence of traffic casualties in the area," etc., etc. Now I know you've done a very extensive TIAR. And I don't know how you exactly go about addressing these concerns, if they can be addressed. But I'd just be interested in what your input was.

LIM: We understood that the concerns were raised because of the, like I say, they're basically across the street from each other; and that is why the right-in and right-out only was required by the Planning Department. I think that that will address those concerns.

WOODWARD: All right. That's all I had. Any other questions from Commissioners? Okay, Mr. Lim and Ms. Silva you may be seated. And we have two people from the public that are signed up to testify - Richard Paiva or Paeva, and Mike Donahoe. If you could come up and have a seat. All right, gentlemen, if you'll raise your right hand. Do you swear or affirm to tell the truth today before the Windward Planning Commission?

TESTIFIERS: I do.

WOODWARD: Very good. All right. And if you'll give us your name and address, and then you may begin your testimony. We'll start with you.

PAIVA: My name is Richard Paiva.

NOMURA: Microphone please.

WOODWARD: Very good. If you'll use the microphone, sir.

PAIVA: Excuse me?

WOODWARD: The microphone.

PAIVA: Microphone?

WOODWARD: Yes, please.

PAIVA: My name is Richard Paiva. I live at 349A Kukuau Street. And if you had a different map up there I could show you exactly where I live. But, anyway, it's regarding my easement. Right now the project as it's designed blocks me from my property. I can't get in or

out, and so that needs to be addressed. Now Mr. Lim assured me this morning that they would address it, but until that's in actuality I don't know.

My second concern is traffic, traffic and parking. Kukuau is a small street. You're going to turn it into a one-lane road because, let's face it, 100 units you've got 100 parking stalls, the guests will come by they'll park on the street. I've already been through this - people park in my driveway, they park in my neighbor's driveway. It could be a problem. The County does own some land along Kukuau that's just sitting there and they might want to widen that area, I don't know. But those are my concerns. And like I say traffic, but it seems like you've addressed traffic with the exception of Kukuau. Kapiolani also does not have on-street parking. So where are these extra cars going to go?

WOODWARD: Okay. What we'll do is we'll get, see if the Commissioners have questions, then we'll try and get, at the end, we'll get Mr. Lim's response to these. Do we have any questions from the Commissioners for Mr. Paiva?

KERN: I have a quick question.

WOODWARD: Commissioner Kern.

KERN: I was wondering, can you flip that back to the map that's easier to see? Yeah, that one. Can you locate your parcel there?

PAIVA: Maija, can you point out my land on this. Right there. As you can see, there's no way to get out.

KERN: How's your access provided now?

PAIVA: My access now goes through that narrow strip that was supposed to be Kupukupu Street, but it's now, you know, it was just a proposal. It wasn't an actual road. So there's an old driveway going through there which I've accessed for the last 30 years. But I have no way out right now, you know, if this project goes.

GONZALEZ: You've got to put the mike to your mouth cause it has to record your voice.

PAIVA: If the project goes through I have no access. Mr. Lim has assured me but, you know, until I get it in writing I have no, it stands as it is.

WOODWARD: That is a peculiar way of drawing a subdivision. I see there are a couple of other parcels that don't have direct access to the road either.

PAIVA: The parcel back of me, that large one, has access. They have their own driveway. I do not have access to their property and it's coming in for zoning for development also.

WOODWARD: Okay.

PAIVA: So I would be landlocked.

WOODWARD: Yes. I can see your problem. Okay, Commissioner Domingo, you had a question?

DOMINGO: Not so much with the speaker but might be with Mr. Brandon here. You know, having used that for a number of years, 30 years, as a right-of-way to access Kukuau, what does it really mean at this time with the proposed development? Is there some legal means to which access would be granted or -? For instance the developer says no, what would then happen to his situation?

GONZALEZ: I don't understand your question fully but -.

DOMINGO: Well, access to the street to which he's using right now, and as indicated if the development goes through then that would be, then that would be taken away, you know.

WOODWARD: I think he's referring just to the establishment of, long-term establishment of an easement granting him rights to use that easement, if that's the case or not.

GONZALEZ: Well, as it's described, I mean you're going to have to look at who owns the area that he has been traversing over. He's going to have to be able to prove how long he has been using it, if he had permission to use it, if he didn't. And if that parcel of land that he has been traversing over is privately owned by the applicant, then that's something that the applicant and he will have to work out and negotiate to get some kind of access. That's why they have to work it out. And I believe Mr. Lim may be able to address that when he returns to the table.

WOODWARD: All right. Any other questions for Mr. Paiva. Commissioner Iwashita.

IWASHITA: So, my understanding, Mr. Paiva, is that you don't have a legal easement to get to your property?

PAIVA: Well, I'm requesting a title search on my part. But I've looked at the deed on record from Mr. Boschetti and it does not specifically name me.

IWASHITA: No, but what about your deed? Doesn't your deed have -?

PAIVA: I don't have, I don't have a cov -. Well, okay, I have a deed, my personal deed, but my dad deeded it to me through a trust. What I'm trying to do is get his original deed, a copy of which, so I can probably give it to Mr. Lim and we can probably settle this thing. At this point the only legal document I have that says I have a right-of-way is my DROA which Mr. Tolmie, John Tolmie, gave me when he sold the property to our family. And it's a condition of the DROA, a condition of the sale. Otherwise we wouldn't have built a house if he told us we had no access. And Mr. Tolmie is all, the same man that owned this parcel that Mr. Bo -, I don't want to say his name wrong, Boschetti -?

LIM: Boschetti.

PAIVA: Owns. So, but I think Mr. Tolmie is not available for -. He's not, well I think, available for comment.

WOODWARD: All right. Any further questions? Okay, Mr. Donahoe, if you'll give us your name and address, and then you may begin your testimony.

DONAHOE: My name is Mike Donahoe. I live at 352 Kukuau Street. And then my testimony, I submitted a -.

WOODWARD: Right. We do have that.

DONAHOE: Copy. And then in terms of procedure, the testimony says what it says. Is it, but is it procedurally required that I read this?

WOODWARD: No, it's not. In fact, we prefer that you not. It's actually probably better just to summarize the high points, because this is submitted as written testimony. So the whole thing will be submitted. If there were specific points you wanted to emphasize or high points you wanted to bring to our attention, you're welcome to do that. But this testimony does speak for itself.

DONAHOE: Okay. Is it too early in the process to ask about specific design features of the property, things like a meeting room? My concern would be, is that the residents have a meeting room. Is this the time to ask that question?

WOODWARD: Well, I think it comes down to the scope of what we really are able to do without getting to the micromanagement standpoint.

DONAHOE: Okay.

WOODWARD: Cause one of your things is what kind of exterior lighting, etc., etc. I think we're a little premature on those kinds of things.

DONAHOE: What, excuse me?

WOODWARD: Yes?

DONAHOE: So further down the, further along in the process then those issues will be addressed?

WOODWARD: Absolutely. I think that would be something for, you know, the neighborhood groups and the developer to work on. Now if there are -. You know, there are the guidelines that we've set forth, things that the developer will have to do, assuming that the

County Council acts favorably on this. But as far as these other things, as I say, when we get into this, the kind of small points -.

DONAHOE: Yeah.

WOODWARD: Those are things that I think if they're not specifically addressed in the document that comes out of the County Council it's something that you will need to negotiate with the developer.

DONAHOE: And what is the venue for that? What is the opportunity for that? Is it similar to this where they're -?

WOODWARD: Well, that would be outside of this body. What we're doing is trying to produce a framework -.

DONAHOE: Okay.

WOODWARD: Without getting too specific and bogging everybody down.

DONAHOE: Okay. Don't want to do -.

WOODWARD: The specifics are going to have to be decided. And, you know, if you want to get together, this is just my own personal suggestion, it's -.

DONAHOE: Yeah.

WOODWARD: You know, if you want to get together a group of neighborhood, concerned neighborhood citizens to meet with the developer as this process is going forward, that generally works fairly well.

DONAHOE: And I've been, I'm impressed with the contact with the representative thus far in terms of responding. I guess my concern with it is that, again, it's a favorable impression so far with those folks. However, but a citizens group maybe lacks the leverage that it has, that a group might have where, you know, when it's a structure like this. You know what I mean?

WOODWARD: Well, there are things that, you know, that are going to have to be spelled out -.

DONAHOE: Okay.

WOODWARD: In the broader framework -.

DONAHOE: Okay.

WOODWARD: They're going to be there. And then filling in the blanks is going to have to be done -.

DONAHOE: Okay.

WOODWARD: Between you and the developer.

DONAHOE: All right.

WOODWARD: Do we have any other questions for Mr. Donahoe from the Commission? Okay, well, thank you, sir. Thank you for your testimony, both of you. Mr. Lim, if we could have you come back and maybe address these issues, especially with regard to the easement question.

LIM: We've been working with Mr. Paiva and his attorney on the access easement issues and he is -. I think what we're going to find when we get all of the documents, and when he gets all the documents and we look at them, is that his parcel doesn't have any formal legal access out to Kukuau Road. This is a Land Court land. This whole area is Land Court land. And it was intended at one time, I think, to be subdivided out and improved with a roadway system; and all that stuff didn't happen because the original developer didn't follow through on the development plans. So lands were sold off separately, as you see. And because this is Land Court land, there is no adverse possession for Mr. Paiva. However, you know, we recognize that he's land-locked and we want to try to do the right thing with him. So I just have to, I cannot commit that today because I don't have my client here. He couldn't make it today. But we are in discussions with him and we hope to solve that problem within the next week or so. So I think that the access issue will be resolved one way or the other within the next 30 days, let's say.

With respect to the statements by Mr. Donahoe, we do want to meet with him; and so if he's -. He has my contact information. So you can call me to set up a meeting, either of you, and we'll talk about it. Some of the things that he has raised, you know, such as will there be solar panels, will there be laundry facilities, and will there be an area set aside for line drying or laundry, those types of things are things that we probably won't be able to tell you right away. But that's something that -. And that is to be clear, that there is no real public forum like this for those issues. The only way you really could have any significant input in would be to appeal any kind of a plan approval that's granted for the project. So that would be your way to do it. I mean we're always, like I say, open to talking to you. So I'd urge you to do that with us. Any other questions that I didn't cover?

WOODWARD: Okay. Well, this, if this is voted in, if we vote to send a favorable recommendation, this will have to appear before the County Council. And so between now and that time you should have an opportunity to work something out with Mr. Paiva. And that would kind of be your timeframe if this Commission votes to send a favorable recommendation, is this has to be brought up then before County Council. And that would give you both time to make it work; and, if not, then one can squawk. That would be my suggestion. Okay, do we have any further questions? Commissioner Iwashita.

IWASHITA: Thank you, Mr. Chair. So all of this land that's part of the application is Land Court property. And there is no, on this parcel that was intended to be the road is not otherwise a buildable lot, yeah. But there's no reservation of any access rights over this parcel on the transfer certificate of title?

LIM: Not in favor of Mr. Paiva, no.

IWASHITA: But as to the only, it provides access to your client's property? There are some access rights reserved over this roadway?

LIM: That's correct.

IWASHITA: It's just curious to me that Land Court would approve a land-locked property. I mean, it just makes no sense to me. But that's, in fact, your review of the document, that's what is?

LIM: So far anyway. I believe what happened, like I said, was this was supposed to be all jointly developed as a project area and it somehow, you know, didn't work out way back when, and so they started selling off pieces of property; and that's why we have the issue.

IWASHITA: Well. But you know as well as I do, you know, in Land Court everything is, all the details are paid attention to. So I -.

LIM: What we think is that Mr. Paiva's lot was supposed to have access across this Parcel 80, which looks like a roadway lot, but the way that the deed was drawn was incorrect. That's what I think we're going to find. But we still don't know that for sure.

IWASHITA: Oh, when it was originally conveyed?

LIM: When it was originally conveyed it said that his lot was subject to an access easement when it should have been saying together with an access easement.

IWASHITA: I see. Okay, well, Mr. -.

WOODWARD: Commissioner Ogata.

IWASHITA: Mr. Chair?

WOODWARD: Sorry, I'm sorry. Go ahead.

IWASHITA: My concern is that, you know, but in fact he has been able to use the land to access his property and he has built a house on it. So to me the impression I would have is there's, unless he had built his house with cash, he'd have to have lender involved. And somebody had to insure over this problem, I mean, if they, or they thought it wasn't a problem. But, anyway, my concern as to our involvement is that sending a favorable recommendation

which essentially would make this roadway lot a buildable lot would sort of complicate things until or, you know, could possibly complicate things. And I really don't want to add a complication to resolving -. You know, I'm not, I'm giving full credit to the, you know, the applicant in terms of having an easement done. But, you know, that's going to require a survey and, you know, I would imagine incorporating this easement into the development plans. And so I'm not sure how to address it. But I don't want to, I don't think we should take action, and then that would add a complicating factor in resolving the access issue.

LIM: I guess it would be our position that the Planning Commission and the County Council has never taken into account private property interests. They look at the land use, you know, the land use issues and make a decision based on that.

IWASHITA: Okay. I agree. And so my, the way I would frame my concern is that this is a roadway lot, part of the application is a roadway lot, and so, which there appears to be some title question involved. And so it's an incomplete application because this title question is not resolved. And so it needs to be addressed before we move forward, is how I would look at it.

LIM: Well, as far as we're concerned we don't have any title problem. It's Mr. Paiva who has the title problem. So, you know, we're willing to work him. And so I'd ask that you give us a favorable consideration so we can move forward on this application. We're going to try to work it out with him if at all possible. I just cannot commit to you that my client is willing to grant him the easement cause I don't have the authority today.

ISHIBASHI: Well, just based on your design there's no access for him. So if there's discussion, how long is that process going on and why is there no access? Cause he would access through Kukuau Street. And the boundary of your plan is right on this boundary, right?

LIM: Right. The intention was always to give him access through the, what we call the Parcel 80.

ISHIBASHI: Kukuau Street?

LIM: It's just, yes. He has, there's a drainage easement that comes down through the middle of his property as well as ours. And I'm not sure if your house is located on the -.

PAIVA: The Puna side of the easement.

LIM: Puna side of the easement, so he'd have to come across whatever bridge or culvert we put in our driveway and into his parcel. So we still haven't, like I said, worked out the details of that; but that's our intention.

ISHIBASHI: So you would allow him on the other side of the bridge -?

LIM: Yes.

ISHIBASHI: Access?

LIM: Whatever it takes to get him to his house.

ISHIBASHI: Through Kukuau. Okay, thank you.

WOODWARD: Commissioner Ogata, you had a question?

OGATA: Oh, yes. I was wondering if you could highlight or maybe just briefly talk about the intentions of the developer as far as the green building issues.

LIM: The green building issue, I think a lot of it is going to be feasibility issues; and that's part of what Mr. Donahoe was raising, you know, are we going to have solar panels and those types of things. We were talking about it earlier in terms of what the market plan for the project is. As you guys probably know so far Hilo hasn't been a hotbed of condominium developments. And it's because of the availability of land and the, I guess, the reluctance of the Hilo community to essentially put your money down on a building that's not standing there already. I think a couple of people have tried and not been successful. Mr. Boschetti has pretty good financial strength and has other properties here in Hilo that he's the owner of; and he feels confident that in a couple of years that the market will come back. We don't know exactly what the mix of sales prices would be, and we don't know the mix of sales versus rental. In some degree Mr. Boschetti is, at least our experience with him, is that he buys and develops in whole. So it may be that he does rentals for this project, but we just don't know at this time because of the market instability. So to, long way to answer your question about, you know, we don't know how much lead type of measures will be put in there because of the feasibility issue. It's not like where you go to Kona where you have a big margin of profit. In Hilo it's significantly less.

LEITHEAD TODD: Mr. Lim, in the middle of your packet of information, and it's labeled Exhibit 4, it's basically the existing tax map for the property. And it shows on that map that the plan was, I guess, that Hualalai Street would continue up through the next property, and that's the next rezoning that's coming through. And then that long skinny parcel that you have would be Kupukupu Street. So I guess that was the long-range plan as presented to the County many, many years ago.

LIM: I don't know if it was presented to the County but that's what was recorded in the Land Court subdivision.

LEITHEAD TODD: The Kupukupu Street?

LIM: That's correct. I think it's, in the end it didn't turn out to be a street. But looks like at least, we're only guessing cause we don't know, but we're guessing that there's supposed to be series of roadway network for this area. As it turned out, you know, if you look at the Exhibit 4, Parcel 132 I believe is developed with single family residences at this time.

LEITHEAD TODD: Well, I guess, you know, one of the questions that, you know, I didn't pursue when this came through in our office was, I guess, the question of if the long-range plan

had been that there would be this roadway connectivity, what does that do to your project if instead of being able to use that for parking that becomes a roadway?

LIM: The portion of Parcel 80 you're talking about?

LEITHEAD TODD: Yes.

LIM: Okay. We believe what happened was there was a plan a long time ago, which if you look at parcel, Exhibit 4, you can see -. If you can see Parcel 80 and you see Parcel 132, which is mauka-makai, it also looks like a roadway parcel; and you look all the way down on the right-hand side of the page, you see street, you know, another roadway parcel. Those I believe were the proposed Kupulau Street realignment project that was pursued by the County probably 20 some years ago and because of the lack of funding was abandoned. Because what was supposed to happen was Kupulau Street was supposed to be straightened, improved and go all the way to the police station, you know, and all the way down. And what you've got now I think is where you see Parcel 14 where it says street, that's I think where the Mayor's Office is right now.

LEITHEAD TODD: Those were abandoned by the County Council - .

LIM: Right. And so -.

LEITHEAD TODD: On the General Plan.

LIM: So I think that there was a plan before but that plan went by the wayside; and so, therefore, that's why you don't have the streets and the networks that you would have ordinarily seen.

LEITHEAD TODD: I don't have any other questions.

WOODWARD: All right.

KERN: Mr. Chairman?

WOODWARD: Yes, Commissioner Kern.

KERN: Thank you. I just want to throw out the idea of maybe a, I'm not sure it's possible but -. I guess I'll phrase it like this, if I were sitting in Mr. Paiva's position right now, I probably wouldn't be sleeping very well at night, thinking that my place is going to be landlocked and seeing how things have gone down in the past that will be taken care of bumbye (later), sometimes that doesn't happen, sometimes it does happen. And I think the development is a good thing, we need the development to happen and things like that. Is there any way that we could possibly put a condition in there that just says that the subject development shall not land-lock any parcels that already have a residence on them, or something like that? That's for the Director.

WOODWARD: Madam Director?

LEITHEAD TODD: I would defer this one to Corporation Counsel.

WOODWARD: Mr. Gonzalez?

LIM: Well, for the applicant's benefit let me make a statement; and this is not only for this applicant, I think it's generally for all applicants. It's if the Planning Commission or the County Council gets in the business of cutting real estate deals for adjoining owners, I don't know where that will stop. I think it's a bad idea. You should stay within the purview of what your charge is, which is to look at the land use issues.

LEITHEAD TODD: Hang on. But, Mr. Lim, the Planning Commission could require that that road go in, too, right?

LIM: That's correct, I suppose, but under what power? The County has already given up its power to require the road, I suppose.

LEITHEAD TODD: I don't think we've given up Kupukupu Street. We may have given up Kukuau, but we didn't give up -. I'm just saying that because there was a plan to put a road network, and this also impacts the next property coming in, that we could require a connection from Kukuau going down to Hualalai through both properties as part of an overall, you know, master plan. So I'm just saying that I think it would behoove the applicant to work out an agreement with Mr. Paiva before this gets to the County Council for some access to his property, because then that would take away the concern and take away the need to have a public street there.

LIM: Sure. I hope I wasn't misunderstood. I am trying to work it out. We were trying to do it before the meeting today but I just couldn't reach my client. So that's why I said, you know, I can't tell you today that I got authorization to say that we're going to give him the easement.

IWASHITA: Mr. Chair?

WOODWARD: Yes, Commissioner Iwashita.

IWASHITA: You know, Mr. Lim is -. I agree with Mr. Lim that, you know, this body and the County really shouldn't get into cutting deals. And, but in this case one of the parcels was intended to be, and the tax map shows the intent, that it's supposed to be a road. Right? So what we're being asked to do is to change that as part of this application. And so, you know, I think the Director's suggestion or inquiry was on point as far as saying that, you know, part of the condition of this approval could be that Parcel 80 remain a road and not be used for any other purpose. So, you know, and that obviously has ramifications on what can be developed on the rest of the land. So, but that is germane. That is part of what, you know, we need to look at, the overall development of the area. And so, and it does, I guess my impression is there is another application coming through on the adjoining parcel which according to the tax map, you know,

supposed to have part of this planned road for connectivity there. So I think it is a substantial issue and that we need to address it. And I understand Mr. Lim's lack of, today, communication with his client on trying to resolve this. But that being the case and, you know, when I looked at this I'm saying this is good, you know, in terms of the intent of the development and the benefit to the community. But this roadway issue needs to be resolved. And I'm addressing it as a roadway issue.

And so my inclination is try and fashion something where if we're going to act on it today, what I'm thinking is that we act on it, approving it as to everything except Parcel 80. And then as far as favorable recommendation, and reserve that, that issue; and then hopefully it gets to be resolved between here and Council; and then Council can deal with it appropriately. You know, that I think addresses both Mr. Lim's desire to move this along for the applicant and the concern about the roadway use for Parcel 80.

WOODWARD: Madam Director?

LEITHEAD TODD: Mr. Lim, perhaps we should defer this to another Planning Commission meeting so that you can consult with your client and resolve this issue, rather than take the risk that you end up with a recommendation of a roadway lot on this property?

LIM: Yes, Ms. Silva indicates that we would willing to defer and come back at the next Planning Commission meeting. We'll try to work out all these issue before we come back.

WOODWARD: I think that would be the wise move because this is something that I see both sides of this argument. I certainly see where Commissioner Iwashita is coming from that if we're going to approve this or send a favorable recommendation we would have to hold off something with regard to the question of the road access; and that may be one of the lots. So it would probably be better just to defer.

LIM: We want to make it clear that we're trying to work out with the Planning Commission. And I caution you guys not to get involved with, like I say, real estate deals because if Mr. Paiva now feels that you're not going to approve my rezoning unless he says okay and we work out a deal, his price goes way up in the sky. Okay, so that's why I say don't get involved with real estate deals because it's very dangerous and -.

GONZALEZ No promise is being made. It's just the Commission is giving the parties time to resolve the matter -.

WOODWARD: Yeah.

GONZALEZ: And for the Commission to get more information.

WOODWARD: Okay, I think Mr. Gonzalez had a comment. Why don't you make that public.

GONZALEZ: Okay, I think rather than crafting a condition today and trying to fit this through, the continuance would be a more practical approach. I think, there are no promises being made to either party. Is that clear? Or that has been made clear, it's being made clear right now.

The Commission is just deferring the matter so that they can get more information to make a more informed decision and also to give the parties an opportunity to clarify their legal positions and possibly resolve this matter. Because if it's resolved between the parties before it comes back to the Commission then the Commission doesn't have to intercede on that matter.

LIM: Thank you very much for that clarification.

WOODWARD: All right. Do we have a motion?

IWASHITA: I move that with regard to Item No. 5, Applicant Giampaolo Boschetti, REZ O09-103 be deferred and be reset for the next Windward Planning Commission meeting in November.

KERN: Second.

WOODWARD: Is that an acceptable timeframe, Mr. Lim?

LIM: Is that the next one?

GONZALEZ: Next one.

WOODWARD: Right.

LIM: Okay.

WOODWARD: November.

LIM: Thank you very much.

WOODWARD: Okay, all right. Any discussion? Okay, seeing none, Maija.

COTTLE: Thank you, Mr. Chairman. Commissioner Iwashita?

IWASHITA: Yes.

COTTLE: Commissioner Kern?

KERN: Yes.

COTTLE: Commissioner Domingo?

DOMINGO: Aye.

COTTLE: Commissioner Ishibashi?

ISHIBASHI: Aye.

COTTLE: Commissioner Ogata?

OGATA: Aye.

COTTLE: Mr. Chairman?

WOODWARD: Aye.

COTTLE: The motion passes six to zero.

WOODWARD: All right, thank you.

The discussion ended at 10:45 a.m.

Respectfully submitted

Sharon M. Nomura, Secretary  
Windward Planning Commission