

WINDWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

HEARING TRANSCRIPT
DECEMBER 4, 2009

A regularly advertised hearing on the application of **BRIAN SUGAI (REZ 09-101)** was called to order at 9:05 p.m. in the County of Hawaii, Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i, with Chairman Rell Woodward presiding.

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

Brandon Gonzalez, Deputy Corporation Counsel
BJ Leithead Todd, Planning Director
Warren Lee, Director of Public Works
Norman Hayashi, Planning Program Manager
Phyllis Fujimoto, Staff Planner
Jeff Darrow, Staff Planner
Maija Cottle, Staff Planner

And 18 people from the public in attendance.

APPLICANT: BRIAN SUGAI (REZ 09-101)

Change of Zone from Agricultural 1-acre (A-1a) to Neighborhood Commercial 20,000 square feet (CN-20) district for 1 acre of land. The property is located along the east side of Komohana Street, approximately 700 feet south of the Komohana Street – Ponahawai Street intersection, Ponahawai, South Hilo, Hawaii, TMK: 2-3-37:19.

WOODWARD: We'll deal with Item No. 1. First item is applicant Brian Sugai, Change of Zone from Agricultural 1-acre (A-1a) to Neighborhood Commercial 20,000 square feet (CN-20) district for 1 acre of land in South Hilo, Hawaii. Maija.

COTTLE: Thank you, Mr. Chairman. Good morning everyone.

COMMISSIONERS: Good morning.

COTTLE: This first item was continued from the October 2nd hearing. And I don't believe that I did a presentation of the location of the property and the details of the application at that time so I'll do that now.

If I can direct your attention to the screen. The applicant Brian Sugai is requesting a change of zone from Agricultural 1 acre to Neighborhood commercial 20,000 square feet for one acre of land. The property is located in the South Hilo district and it is just east of Komohana Street, which is on the map here running in a north-south orientation; and Ponahawai Street runs east and west. The actual property is outlined in black and it's located a few hundred feet south of the Komohana Street-Ponahawai intersection.

The General Plan designation for the property, and actually almost the entire surrounding area, is Medium Density Urban. This is an aerial photo of the property. You can see that Alenaio Drainage Canal that runs between this residential area here and the subject property, and then again the Ponahawai-Komohana Street intersection. And this is a site photo of the property looking towards the Hilo Airport direction. This is the access here; and you can see that it's vacant and vegetated. And this is a view of the driveway here looking south. The property is on the left side of the slide; and then you can also see the view of the driveway looking north. This is the driveway right here, looking towards Ponahawai-Komohana Street intersection.

The applicant is proposing to construct a 20,000-square foot office building to include medical offices for himself and others on the ground floor as well as a residential unit for himself on the second floor. And this is a site plan. It's a preliminary site plan that the applicant submitted. It shows the access off of Komohana Street. The drainage canal is over on the right side of the slide; and the proposed 20,000-square foot office building.

The Director is recommending that a favorable recommendation for this change of zone be sent to the County Council. Are there any questions?

WOODWARD: Any questions for Maija from the Commissioners? Commissioner Domingo.

DOMINGO: Thank you, Mr. Chairman. The recommendation for approval contradicts the original recommendation for denial in regards to the previous submittals. What has changed from that time to this time to amend that recommendation?

COTTLE: What has changed is that we looked at the applicant's request again and looked to see whether certain conditions could be placed on the request in order for it to conform to the General Plan. And so we placed three additional conditions. Those are Conditions E, G and H. And two of them are related to traffic and access on Komohana Street. And we believe that the applicant is requesting to develop an office complex at this time. Based on trip generation rates, it would generate about 30 peak hour trips. And if the applicant were to develop some type of commercial use that would generate more traffic in the future, then we've placed this condition that they complete a traffic study and any improvements required by Department of Public Works.

DOMINGO: In deference to the Department and the staff in trying to make the changes, you know, what happened further confirms my philosophical view with regards to planning, that there's no right or wrong in the planning decisions that we make. It depends on who's reviewing

the application and it depends on those who make the specific decision to approve or not to approve.

When I first read the original recommendation for denial I looked at it and, you know, I felt that the reasons for denial were somewhat probably appropriate. And then based on that I was prepared to come into a meeting. It was then deferred. And to my surprise it was then, the decision to recommend approval was a complete 180-degree turn for approval. This, in a way, bothers me because it gives, it puts me in a mode for a denial, based on the recommendation, and then I have to look at another modified decision for approval. And that further helps, that makes it difficult because I need to further program my mind to accept now an approval recommendation. And I don't think that's fair for me as a Commissioner when I have to make these decisions. Now I know for the applicant themselves, you know, if this is, if this was done, in my opinion now, if this was done in a systematic way of viewing all of the concerns, all of the potential problems that such a development would entail then perhaps the meeting, the meeting with the applicant in its original application before submittal to the Department should have been made so that there'd be no flip-flopping of a decision that came to us.

I'm also of a philosophical thought that, you know, we need developments such as this. I think the development costs would probably be about \$2 million. And what would happen here in time of economic times within our County, it would enlarge the tax base for our County government, thereby bringing more monies to provide, so that those monies could be used to provide services for the County, you know.

I'm not one of a nature I want to say no, no development at all. And I look at it very, I look at it very seriously, and think and weigh the facts and the results of it, and the benefits from any development. I just needed to emphasize my concern about this and, you know, this is not the first application that we made a turn-around. And I hope that, I hope that, you know, I hope that no feelings are hurt. I made this in deference in respect to the work that has been done. The facts and, the writing of the recommendation was splendid. Only thing is, you know, it somewhat contradicts each other. Thank you.

WOODWARD: Thank you, Commissioner Domingo. In defense of, BJ is not here, the original recommendation, three of the points are directly related to traffic; and those were specifically addressed in the interim. And my understanding is that's the reason for the change in recommendation. Any other questions for staff? Commissioner Iwashita.

IWASHITA: With regard to Condition H in the revised recommendation or ordinance, proposed ordinance, it basically says that, well, should the applicant develop a land use beyond what is proposed in the application which is this office/apartment proposal, and it says, which would generate over 50 peak hour trips, then a TIAR is required. Yeah? I guess my concern is that who's going to determine whether whatever new proposal will generate the 50 peak hours?

COTTLE: When the applicant or if a future owner of the property or the current owner were to come in with plans for plan approval to the Department and it was for a development beyond the scope of what's proposed now, what they would do is look to see how

many trips that would generate. And if it's over 50 peak hour trips then it would trigger the traffic study.

IWASHITA: I guess what I, if I'm the owner, if this goes through this way and then I come up with a proposal and I don't want to do a TIAR, they're going to fashion something they can argue no, it's not going to require 50 peak hour trips. And is that something that is solely determined by the Department administratively or is there something that is based on what's submitted and has to be -?

COTTLE: It's determined by the Department. When plans come in we look at what's called the Trip Generation Handbook. It's created by the Institute of Transportation Engineers and it has various rates based upon the size of, say, an office or the number of dwellings proposed. So it's a standard used by Transportation Engineers to determine whether a certain type of use would create over 50 trips.

IWASHITA: So if you wanted to put in a convenience store then that would -?

COTTLE: That would trigger a traffic study.

IWASHITA: Okay. I guess I would like it clearer that this determination is solely within the, you know, the Department's authority, that there's no way to question it. I'd like it -. Cause this is, you know, to me there can be an argument. I mean even if you have standards, right? I would suggest, you know, that some language be added that it's a matter to be determined solely by the Department, can't be disputed by the owner.

COTTLE: Okay. We kind of worded the condition this way because if you look at the concurrency requirements in the Zoning Code for change of zone requests, 50 peak hour trips is the standard that's used to trigger a traffic study. And that language in the Zoning Code actually refers to the Trip Generation Handbook; and it says that that should be used as the guide to determine whether a traffic study is required. So it's kind of a practice within the Department to refer to that book.

IWASHITA: Yeah, I understand the process the way you explained it. I guess what's, because we're making, if this is granted, right, then basically, you know, a convenience store is an allowed use. And if the owner comes in there later and says, you know, I don't want to do this office, I'm going to do a convenience store or some small, you know, whatever, and try and get around, try and make an argument to get around the TIAR, I want this line. Because it's a triggering device, right, language. So I really would like it clear that it's the owner cannot argue that a determination by the Department that it's 50 peak hour trips is somehow arbitrary or create some way to try and dispute it. I understand the intent. It's just to me, this is not clear enough, you know, that the Department can make that determination and it really can't be disputed by the owner based on any submitted plans.

WOODWARD: Thank you, Commissioner Iwashita. If I could just make a request, please, let's keep these to questions. We'll get into discussion later. And if there are any other

questions for staff, we need to get on with this and move to the applicant's testimony. Commissioner Domingo, do you have another question?

DOMINGO: I'll wait until we entertain a motion.

WOODWARD: Okay, very good. If there are no further questions, if we can get the applicant and their representative to have a seat at the table. All right, first I'll need to swear you in. If you'll raise your right hand. Do you swear or affirm to tell the truth today before the Windward Planning Commission?

SUGAI: I do.

WOODWARD: Okay. And if you'll speak into the microphone, give us your name and address and then you may begin your testimony.

SUGAI: Okay. My name is Brian Sugai. I'm a podiatrist who practices in Hilo. And my current address is at 670 Ponahawai Street. And my goal is to, if this is approved, to construct an office building, including an office space for myself and also some rental office spaces to help pay for the mortgage cost. The location is very convenient. It's adjacent to the medical complex at 670 Ponahawai Street which has easy access to the lab and the x-ray facilities. I can get my results fast and treat the patient more efficiently.

WOODWARD: Very good. Thank you. Do we have any questions for Dr. Sugai? Okay, seeing none, sir, have you had a chance to review the recommendation, the revised recommendation, and the conditions?

SUGAI: Yes, I have.

WOODWARD: And those conditions are satisfactory to you?

SUGAI: Yes, they are.

WOODWARD: Very good. Were you going to testify, Ma'am?

SUGAI: This is my wife, Ning, Ning Wong Sugai.

WOODWARD: Okay.

SUGAI: And she's here to support me.

WOODWARD: Oh, just support, no testimony?

SUGAI: No.

WOODWARD: Okay, well, hold his hand or something then. Okay, okay. All right, so no questions. We have nobody signed up from the public to testify. Let me ask you a question,

Dr. Sugai. You have listed what you're planning on building. The question that Commissioner Iwashita brought up was the question of a traffic impact statement if another structure was built. You currently have no plans to build anything other than what you've detailed to us here, correct?

SUGAI: Yes. Originally our goal was to build a single 20,000-square foot structure. But we're also debating whether we should start with a smaller building and then build another in time, put up another building, or just start with a single larger building because of the economy. We were just looking at different options.

WOODWARD: Okay. But you're still talking about the same use for that building?

SUGAI: Yes.

WOODWARD: Okay, very good. Do we have any other questions from Commissioners? Okay, seeing none, you may be seated. Thank you, folks. Do I hear a motion? Commissioner Domingo.

DOMINGO: Mr. Chairman, regarding the application of Brian Sugai, Rezoning No. 09-101, I move for its, recommend for its, a favorable recommendation to the County Council, for approval.

WOODWARD: Do we have a second?

ISHIBASHI: Second.

WOODWARD: Any discussion?

DOMINGO: Mr. Chairman?

WOODWARD: Yes, Commissioner Domingo.

DOMINGO: Although, you know, I have the strong concerns about it. And I've looked at the recommendations, and it seems like the concerns originally expressed by the Planning Department has been alleviated to an extent in which I feel comfortable in approving this recommendation. As you indicated, that the primary concern was that of the traffic. But you know, I'd just like to mention that the original recommendation for denial stated that the subject request will not conform to the following goals and elements, goals and standards of the natural beauty element of the General Plan. And then, you know, it pinpoints the bullets here, protect scenic vistas and viewplanes. Now those were some of the reasons why a recommendation of denial was made, based on that, along with traffic and other issues. But then, in the revised submittal for approval, a recommendation for approval, then it states, however, development of the property will not significantly reduce scenic views of Hilo Bay. Now, you know, again, what I'm trying to stress is that somewhere procedurally something was left out. There's no communication. If the applicants upon receipt of a denial notification could have gotten together

with the Planning Department, then we wouldn't have to go through all this song and dance, so to speak.

But in view of that fact, you know, I would support this application. One point that I'd like to make is that, you know, in the future as Hilo develops it seems like it's going up towards Kaumana and up Kaumana area. That's where development is inevitable. And one of the concerns expressed by the neighbors was the flooding, in regards to the flooding. And when they built that bridge it was somewhat built at an angle that would further damage his property, you know. And I think this is where Public Works Department should look at this and anticipate future developments above Komohana. Because, you know, development is going up there because of the building of the new highway, the Bypass, and the other highway. That is the most probable place to be developed. And I think as planners, you know, they should look at this time before development comes in put in infrastructure so that those developments can be put in without much argument and a position, and perhaps even look at other, directing other developments, urban developments, towards Puna and towards Hamakua area above, adjacent to Wainaku and beyond that. And, because if we're looking at the future and future reports of the probability that someday Mauna Loa might erupt, you know, those are the issues that as a County we should be looking at. And that's only my concern; and for whatever it's worth, I just needed to express that.

WOODWARD: Thank you, Commissioner Domingo. One of the things with regard to the specifics of this application, they do, one of their conditions is that any runoff generated be handled on-site and not fed into the streets. How exactly that works I don't know, I'm not an engineer. But they did write the -.

DOMINGO: I'm glad that you're -.

WOODWARD: They got the words there anyway.

DOMINGO: I'm glad that you mentioned that. Because that's something I wanted to speak to. You know, it's a condition that perhaps satisfies everyone that all runoff will be taken care of on the property. But if you notice the flow down Alenaio Stream through the years have increased. The flow down to that Kawaihine Stream and down to Wailoa River has dramatically increased. When you find heavy rains come, what we're looking at is the Bayfront area being flooded. That didn't happen before. But with all the developments that's taking place we're finding that, you know, the increase in the waterflow has really increased dramatically. And that's why I think Public Works, again, needs to look at their policy and determine what can be done to address that. I know it's easier said than done. But if we're going to allow development, you know, around Hilo and adjacent properties, we need to make sure that flooding and drainage and traffic concerns are taken care of. Otherwise, we're going to have a sad group of people living here and we're going to have nothing but complaints. And that's, you know, realistic. I'm not trying to dramatize that.

WOODWARD: Thank you, Commissioner Domingo. I see Mr. Lee is reaching for his microphone even as we speak to address your question, I'm sure.

LEE: Thank you. You're right, traffic is increasing as the population grows in East Hawaii, especially in the Hilo area. Also, flood control is also an issue for us that we're looking at. In fact, in the Waiakea Uka area we have a study going on right now with the Corp of Engineers on how to improve the flood channels. But this is not going to be resolved overnight. I mean, what has happened has happened over a number of years. But relative to the flood channels of the Wailoa River and the channel is the primary way for the rains from a lot of Mauna Kea to get down to the ocean by natural flows.

But talking about the on-site drainage, basically the way the Code reads is that every, you know, we live on an island and the island was created by a volcano. So basically it's a mountain island; and water flows down hill. So the way the Code is written is that if any development on a particular parcel creates an incremental increase or flow, that flow, incremental increase needs to be taken care of on site. Usually that is done with a drywell or some kind of retention facility. So what we're looking at is not increasing the natural flow to the channels. So the incremental flow, incremental drainage created by say a building, a roof or pavement has to be taken care on site. So that would be done during the, when the applicant submits his engineering plans or site plans, civil design for review to the Department of Public Works.

And relative to the traffic situation, Komohana is a major, what we call, collector road. And so we are really concerned about driveways that enter into the, onto the major collector road; and true there is going to be, probably be more development up in the upper Kaumana area, especially with the completion of the Saddle Road. It will be easier to get from East to West and West to East; and that will probably be in the year 2014-2015. So the traffic concerns on Komohana are a concern.

So relative to the land use change, which would be Paragraph H, I think that's covered, if it comes through the Planning Commission. On Paragraph I, as it reads, streetlights and traffic control devices, as may be required by the Traffic Division, Department of Public Works, shall be installed by the applicant, as may be required. So this would, this would be within totally the call of the Department of Public Works. And generally this would be based on is this intersection or this driveway creating an accident area. And when we do our road safety audits and if the Police Department reports out a high number of accidents in this area, then that would be something that would trigger a review by the Department of Public Works. So I hope that kind of addresses the concerns, and the applicant understands how we address the issues that are raised by Commissioners Domingo and Iwashita.

WOODWARD: Thank you, Mr. Lee. That was definitely enlightening. Commissioner Iwashita.

IWASHITA: Thank you, Mr. Chair. Just, so Condition I that talks about traffic control device and so forth, that's an on-going -? That's not a condition that's triggered by any plan approval process? That can be something that the Department can implement as needed? Is that my understanding?

LEE: That's the way I read Condition I.

IWASHITA: Okay. I want to make sure the applicant understands that also. And then I have a suggestion for H. My suggestion is that H be amended to read, "Should the applicant submit plans to develop a land use beyond what is proposed in the application," so the new words are "submit plans to" between "applicant" and "develop" "which the Planning Department determines will result in over 50 peak hour trips," and then the rest of the language remains the same. So that would address my, the concerns I raised earlier. So the language that I would like amended in H would be that first two phrases in the sentence, first sentence. So it reads, "Should the applicant submit plans to develop a land use beyond what is proposed in the application, which the Planning Department determines will result in over 50 peak hour trips," and then continue on "a Traffic Impact Analysis Report" and so forth.

WOODWARD: Is that acceptable to you, Commissioner Domingo?

DOMINGO: Yes, it is.

WOODWARD: And whoever made the second?

IWASHITA: Well, I'm just, is that okay with staff, first? And is it administratively feasible?

GONZALEZ: Is the Planning, who determines peak hour, who determines the traffic, Planning Department?

IWASHITA: The Planning Department determines, makes that triggering -.

GONZALEZ: No, according to your language. But generally who determines the traffic flow?

IWASHITA: Oh, oh, my understanding was Planning Department makes that determination. Is that wrong?

COTTLE: The Planning Department, the way this condition is written the Planning Department would determine when a traffic study is required -.

IWASHITA: Right -.

COTTLE: Based upon your change.

IWASHITA: Whether or not, whatever the proposal. I mean as written though, my understanding of your explanation was that if plans are submitted for additional buildings on this property then Planning Department would make that determination whether or not that was, it would result in 50 peak hour trips, right?

COTTLE: That's correct.

IWASHITA: Okay. So, that's, I'm just trying to clarify that, by this language.

WOODWARD: All right. So if that's okay with Commissioner Domingo who made the motion -. Who seconded the motion?

GONZALEZ: Ishibashi.

WOODWARD: Commissioner, is that all right with you, sir?

ISHIBASHI: Yes.

WOODWARD: Okay. And Dr. Sugai, it's minor wording change. Is that acceptable to you?

SUGAI: Yes.

WOODWARD: Well, he said, yes. So, okay. Any further discussion?

HAYASHI: Mr. Chair?

WOODWARD: Yes, sir.

HAYASHI: If I may further amend this particular condition, and it's just a minor change. And this would be the second sentence, which would say that "which the Planning Department in consultation with the Department of Public Works determines...."

WOODWARD: Is that all right with everybody? Everybody happy with that?

DOMINGO: Yes.

WOODWARD: Dr. Sugai?

SUGAI: Yes.

WOODWARD: Okay. Everybody seems happy with that. Any further discussion? Okay, Maija, let's take a vote.

COTTLE: Commissioner Domingo?

DOMINGO: Aye.

COTTLE: Commissioner Ishibashi?

ISHIBASHI: Aye.

COTTLE: Commissioner Iwashita?

IWASHITA: Kanalua.

COTTLE: Commissioner Kern?

KERN: Aye.

COTTLE: Mr. Chair?

WOODWARD: Aye.

COTTLE: And Commissioner Iwashita?

IWASHITA: Kanalua.

COTTLE: Okay, that is five to zero, the motion passes.

WOODWARD: All right. Thank you, Dr. Sugai. You will be notified in writing; and we will send a favorable recommendation to the County Council on your behalf. Okay?

SUGAI: Thank you.

The discussion ended at 9:40 a.m.

Respectfully submitted,

Sharon M. Nomura, Secretary
Windward Planning Commission