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April 1, 1996
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Planning Department
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To whom it may concern:

Draft Environmental Impact Report Preparation Notice Hawaii Kai, Oahu

The above referenced document has been prepared pursuant to a proposed court settlement of land use disputes in Hawai'i Kai between the City and County of Honolulu and Maunalua Associates, Inc. (MAI), Kaiser Aluminum and Chemical Corporation (KACC), and Kamehameha Schools Bishop Estate (KSBE). Settlement of these disputes would result in entitlements for 12 properties comprising 546 acres of East Honolulu from the area east of Kuliouou to Makapuu Head. These entitlements would result in various land uses over a 20-year period, including 1,512 residential units, 192,000 square feet of commercial and office space, a 100,800 square foot business park, a 140-unit inn, 62 boat slips and a golf course. The entitlements would include all necessary discretionary permit approvals such as a General Plan amendment, Development Plan amendments, zoning changes, Special Management Use Permit (SMP), Plan Review Use (PRU) approval and Cluster Housing approvals. The Environmental Impact Report Preparation Notice (EIR) is not intended to meet Chapter 343, Hawaii Revised Statutes (HRS), requirements or to comply with the content requirements of Section 11-200-10, Hawaii Administrative Rules (HAR). However, according to the applicant, the EIR is meant to provide substantially the same information that would be required under these statutes in order to afford the public an equivalent review.

This review was completed with the assistance of Casey Jarman, School of Law; Andrew Tomlinson, Geography, and Thomas Hawley, Melissa Dumaran and Paul Berkowitz, Environmental Center.

General Comments

Our reviewers express serious concerns about the environmental implications of the proposed project and the procedures for its review. The EIR Preparation Notice states that the document "is not regulated by Chapter 343, HRS, nor the content and processing guidelines described under Title 11, Chapter 200, of the State Department of Health's Administrative Rules" (page 1). The EIR Prep Notice further acknowledges that given the magnitude of the proposed developments, there will be some impact on the existing environment. However, since the proposed settlement order does not prohibit environmental review pursuant to Chapter 343, HRS, it is not clear why established review procedures are not being followed, especially when several features of the proposed project trigger the review process as stipulated in Chapter 343-5, HRS. The reclassification of conservation lands, proposed uses within the shoreline area, and amendments to the general and county plans clearly mandate environmental review pursuant to Chapter 343. If further environmental assessment intends to "disclose substantially the same information that would be required under Chapter 343, HRS" (page 1), why not prepare a 343 document?

Our reviewers also point out that no provision within Chapter 343, HRS, or Chapter 205-A, HRS, allows the City and County of Honolulu to enter into the proposed consent decree. To be a legal process, every feature of Chapter 343, HRS, would have to be included in the settlement order. As written, however, the consent decree bypasses some of the most important features of state environmental review laws, including the opportunity for judicial review. The applicant is not bound by law to respond to any public comments and concerns related to the EIR or the project itself. As a result, neither the intent nor the letter of Chapter 343, HRS, is fulfilled. Furthermore, such disregard for current laws sets a dangerous precedent for future developments requiring environmental review. If a project of this magnitude succeeds in evading public review procedures, what example does this set for future developments? The disregard of established legal guidelines for content and procedure undermines the legitimacy of the environmental review process. We fear the public will bear the consequences of future developments which circumvent legal review and public recourse procedures.

Several other important issues are unaddressed in the EIR Preparation Notice which must be considered through future environmental studies. First, no mention is made of Native Hawaiian rights or the history of Native Hawaiian land ownership in the Hawaii Kai area. The nature of the terrain and the presence of a freshwater wetland at the eastern most section of the project area suggests a type of environment likely to contain significant archaeological resources. An archaeological survey must be conducted to ascertain if significant archaeological remains may be present. Secondly, the EIR Prep Notice makes no mention of the costs related to the proposed project. Further studies of project impacts must give detailed cost figures for the proposed action and explicitly detail who will pay them. Third, the proposed consent decree obligates the City and County of Honolulu to bear the costs of any required infrastructure improvements in the Hawaii

Planning Department

April 1, 1996

Page 3

Kai area. Requiring City and County taxpayers to shoulder this burden in the absence of legally established review procedures is unfair to say the least. Future project evaluations must include studies which address infrastructure needs and costs resulting from the proposed action and must explicitly detail who will pay for these improvements. Finally, no mention is made of the number of units in Hawaii Kai which are permitted but have not yet been built. These units represent additional development beyond those included in the proposed action. This issue must also be addressed in any future study.

Project Features Which Trigger Chapter 343, HRS

Since this project is not exempt from the review procedures of Chapter 343, HRS, we would like to discuss in greater detail those features of the proposed project which mandate a legally established environmental review.

Reclassification of Lands

The proposed action plans to reclassify a total of 325.4 acres (of the 546 acres proposed for development) within the Conservation District for various urban land uses, including residential, commercial, and resort developments. According to Chapter 343-5, HRS, any proposed amendment to the county general plan and/or the reclassification of conservation land requires an environmental assessment. The preparation of this assessment is necessary for comprehensive public disclosure of the potential impacts resulting from such land use changes.

Shoreline Actions

The EIR Prep Notice acknowledges the need to consult with various federal agencies for actions occurring within the coastal zone. In addition, the EIR Prep Notice recognizes the need for a Special Management Area permit for both the golf course at Queen's beach and the construction of boat slips at Marina One. According to the review procedures outlined in Chapter 200-10, HAR, a "list of permits and approvals" is likewise required. Developments along the coastal zone mandate Section 401 and 404 Federal Water Pollution Control Act permits. Our reviewers are concerned that the EIR may attempt to streamline the required Federal permitting procedures in favor of simply listing the agencies with whom consultation has occurred.

Mitigative Measures and Alternatives

The stated intent of the EIR Prep Notice is to provide a mechanism for scoping environmental impacts and their "necessary mitigation" procedures. However, there is little evidence to demonstrate that any social, economic, or environmental impacts have been considered in any depth. Environmental assessment pursuant to guidelines under Chapter 200-10,

HAR, requires the "identification and summary of major impacts and alternatives considered [and] proposed mitigation measures." Our reviewers note that the scope of future studies will address air quality, flora and fauna surveys, social, economic and various other impacts. However, there is no indication in the EIR Prep Notice that alternatives to the project will be considered based on these findings. These are fundamental concepts of land use planning and environmental impact assessment that have been developed in state, county and federal law through representative government.

Other Important Concerns

Numerous other issues associated with the development of the proposed project also mandate environmental assessment pursuant to Chapter 343, HRS. These include impacts of coastal non-point source pollution and siltation via grading and filling--especially on the steep slopes of Mauuwai, Kamilonui 2 and Kamilo Ridge--and the impacts on endemic and endangered species in the Queen's Beach area. Also, no indication is provided in the EIR Prep Notice regarding the proposed boat slips and whether these will be private, commercial, or open to public use. Similarly, more detail is necessary regarding techniques used to construct these slips, especially as it relates to possible dredging and the disposal of dredging spoils. Future environmental assessment of the proposed action must include thorough studies of these issues.

Wastewater Treatment

An especially important issue concerns wastewater treatment plants necessary to service the proposed action. How will coastal waters be impacted by the increased discharge of wastewater via the Hawaii Kai Sewage Treatment Plant (HKSTP)? What modifications to the HKSTP will be required to service the expanded population? Will an extension of the present ocean outfall at Sandy Beach be required? Who will pay for the cost of the required expanded infrastructure for the HKSTP? What mitigative measures are being proposed to reduce impacts to wastewater treatment facilities? What alternatives are being considered? All these questions must be addressed in any future environmental study of the proposed action.

Freshwater

The EIR Prep Notice also mentions that water reservoirs will be located along Kamilo and Queen's Rise ridges. However, according to the description of the Hawaii Kai area in the EIR Prep Notice, "rainfall is generally low with monthly rainfall averaging less than 2 inches throughout the year." From where will the water be drawn to serve the expanded community? We understand that current water supplies are extremely limited and that water hook-ups for comfort stations at recreational facilities in Hawaii Kai are currently being withheld by the Board of Water Supply. Also, how will the adjacent community of Waimanalo be impacted by the increased usage of water in Hawaii Kai?

Traffic

Traffic problems in Hawaii Kai are notorious and yet the only mitigation measures for traffic mentioned in the EIR Prep Notice consist of the construction of "restricted left-turn movements." Further environmental assessment must be much more thorough. A full disclosure of the various level-of-service scenarios relative to traffic generated by the project, including the worst case scenario, possible mitigative measures and alternatives is essential in evaluating the potential impacts of the project. Careful consideration of the impacts of the project on emergency services, including fire, police, and ambulance response times given the various traffic situations should also be included in the evaluation, as well as impacts of additional traffic on Kalaniana'ole Highway.

Schools

A review of the potential impacts of the proposed development on the schools in the Hawaii Kai area is essential. We are particularly concerned with the impacts to Kaiser High School, which is currently operating at near capacity. Overcrowding, particularly at the high school level, cannot be adequately accommodated simply by the addition of portable classrooms since laboratory and shop facilities require special design and construction. Future environmental evaluation must include a discussion of the potential impacts to the schools in the area, mitigative measures being considered to reduce those impacts, and a full disclosure and discussion of alternative solutions.

Tsunami Hazards

The tsunami hazard for the Queen's beach area is significant. A clear discussion of the provisions that will be taken in the development of the Queen's beach area to assure that lives and property are not unduly risked from tsunami wave or runup action is imperative.

Conclusion

Our reviewers realize that the EIR Prep Notice serves to review possible environmental, social, and economic impacts of the proposed project. However, given that the EIR Prep Notice itself states that the resulting increased population of Hawaii Kai "would have an impact on existing infrastructure serving the region, such as water supply, wastewater treatment, and traffic," much more discussion of mitigation procedures is required. Chapter 343, HRS, is specifically designed to accomplish this review and to provide the opportunity for substantive public input and judicial review--elements which are specifically lacking from the proposed Environmental Impact Report. We therefore strongly urge the preparation of a complete Environmental Impact Statement pursuant to Chapter 343, HRS.

Planning Department
April 1, 1996
Page 6

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Jacquelin N. Miller".

Jacquelin Miller
Associate Environmental Coordinator

cc: OEQC
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