

PLANNING COMMISSION  
COUNTY OF HAWAI‘I

HEARING TRANSCRIPT  
MARCH 20, 2009

A regularly advertised hearing on the applications of **GRACE COMMUNITY CHURCH (REZ 875 and SPP 1010)** was called to order at 2:05 p.m. in the Waikoloa Beach Marriott Hotel, Ali‘i III Room, 69-275 Waikoloa Drive, Waikoloa, Hawai‘i, with Vice Chair Rell Woodward presiding.

PRESENT: Rell Woodward  
Lani Bowman  
Takashi Domingo  
Frederic Housel  
Shelly Ogata  
Rodney Watanabe

ABSENT & EXCUSED: Andrew Iwashita

Brandon Gonzalez, Deputy Corporation Counsel  
BJ Leithead Todd, Planning Director  
Norman Hayashi, Planning Program Manager  
Jeff Darrow, Staff Planner  
Maija Cottle, Staff Planner  
Kiren Emler, Engineering Division, Department of Public Works

And seven people from the public in attendance

**APPLICANT: GRACE COMMUNITY CHURCH (REZ 875)**

Amendment to Condition C (water commitment payment) and Condition D (final subdivision approval) of Change of Zone Ordinance 98-08, which rezoned approximately 5.055 acres of land from Agricultural – 5 acres (A-5a) to the Residential and Agricultural - .5 acre (RA-.5a) district. The property is located on the east side of Palani Road adjacent to and north of the Kona Christian Academy, Honokōhau 2nd, North Kona, Hawai‘i, TMK: 7-4-006:038.

**APPLICANT: GRACE COMMUNITY CHURCH (SPP 1010)**

Amendment to Condition No. 2 (water commitment payment) and Condition No. 3 (complete construction) of Special Permit 1010, which allowed the establishment of a church and related facilities on approximately 3 acres of land. The property is located on the east side of Palani Road adjacent to and north of the Kona Christian Academy, Honokōhau 2nd, North Kona, Hawai‘i, TMK: 7-4-006: portion of 038.

WOODWARD: Agenda Items 2 and 3, Grace Community Church. One is for a rezoning application, or amendment to rezoning application, and an amendment to condition on the Special Permit. My understanding is that there has been a -. Oh, by the way, for the purpose of the record, there was nobody signed up to testify, no public testimony on that first item issue; I

just want the record to reflect that. And Commissioner Watanabe, our erstwhile Chairman, is now participating -.

WATANABE: Correct.

WOODWARD: Because he has only recused himself on the first item. So, I believe there are some questions about notification, appropriate notification; but we'll leave it up, Maija, why don't you hit the ground running and tell us about this thing, and then we'll decide what we want to do with it.

COTTLE: Okay, thank you. It has recently come to staff's attention that the applicant posted a sign on the property that is standard for notification, and the sign was incorrect; the request on the sign read "subdivision of five acres into three lots" when these amendments are actually for a rezone and a special permit rather than related to a subdivision. So because the sign was incorrect, we have asked the applicant to correct the sign, and we are asking that the Commission continue the hearing, so that they can do that.

WATANABE: Mr. Chair?

WOODWARD: Yes, Chairman Watanabe.

WATANABE: I would move that we continue Agenda Item No -.

WOODWARD: We actually do have three people signed up to testify.

WATANABE: Oh, excuse me. Then maybe we should hear public testimony first.

WOODWARD: So I think, you know, I hate to preempt you, but I think we ought to hear the public testimony -.

WATANABE: I agree.

WOODWARD: And it will be part of the record even though this will be a continued hearing. So are you going to give us more info on this or just -?

COTTLE: No.

WOODWARD: No, that's it. Okay, all right. Okay, well, let me call up the three people who have signed up to testify: Joel Gimpel, Walter Andreae and Josh Detweiler. You'll take a seat at the table. Well, we've got, we have two out of three. Okay, Joel Gimpel, Walter Andreae - I'm probably murdering that name but - and Josh Detweiler. I guess one of them may have abandoned shift. And if anybody else would like to testify, this is the time to come up and do it. Let me swear you in first. If you raise your right hand. Do you swear or affirm to tell the truth today before the County of Hawai'i Planning Commission?

GIMPEL: I do.

DETWEILER: I do.

WOODWARD: All right, very good. Now, what we need is, we'll take you one at a time, first thing we need is your name and address for the record, and then give us your testimony. We'll start with, I'm not sure which one is which one because honestly I don't know you guys, but the man in a white shirt on the left, we'll start with you. If you give us your name and address, and then begin your testimony.

GIMPEL: My name is Joel Gimpel. My address is 73-4686 Hina Lani Street in Kailua-Kona. And I'm representing the Kona Traffic Safety Committee.

Aloha. Last month, our committee submitted written comments to Mr. Arai regarding this application for a second five-year extension to complete construction of the facilities, including the turn lane on Palani Road as required by Ordinance 98-8, and those comments should be part of your record. Accordingly, today I'll focus only on the history of the project, the present status of work on the project, and the legal effects of Ordinance 98-8.

That ordinance, which rezoned the subject property to permit construction of a church and related facilities and which had been introduced by then Council member and present Planning Director Bobbie Jean Leithead Todd, was approved effective February 17, 1998. Condition D of that ordinance required that Final Subdivision Approval be secured within five years. And Conditions E, F and G required that the interior roadways, access from Palani Road, and improvements to Palani Road satisfy Department of Public Works requirements.

We understand that Mr. Yuen, the former Planning Director, granted an initial five-year extension sometime in 2003, effective until September 2008, due to circumstances beyond the applicant's control. Because, however, the ordinance became effective in February 1998, the five-year extension became effective in February, not September, 2003, and expired in February, not September, 2008. In any event, more than eleven years have passed since that ordinance was enacted, and the required Palani Road improvements including the left-turn lane, which the applicant acknowledges is needed to provide added safety, haven't been completed.

Late last summer, our committee informed Mr. Ron Thiel, the Public Works Department representative, that the premises were occupied and had been used for religious services for at least a year, but that the roadwork had not been completed, and that we had concerns for traffic safety. After investigation, he later informed us that: 1) there was no occupancy permit, but that the requirement had been recently waived by Mr. Yuen; and 2) the County would consider permitting only right turns in and out of the driveway until the left turn lane was completed.

Present Status. We understand that an August 28<sup>th</sup> of last year meeting with the applicant, HELCO and Hawaiian Tel called by the West Hawai'i Mayor's Office, engendered "renewed interest" in the project by the utilities. Nothing was done, however. So following the Kona Traffic Safety Committee's meeting in January of this year, I met with Bobby Command, the Mayor's West Hawai'i representative, to share our draft comments on the application for extension and to discuss the matter. This may have resulted in last month's closure of one lane

of Palani Road for two days, and complete closure of Palani Road for five nights, to permit work on moving the utility poles and lines. Unfortunately, those poles and lines appear to remain where they were, even after the closures. Left turns into the property are still permitted, and services are being held without final subdivision approval and without a certificate of occupancy.

So what are the legal effects of Ordinance 98-8? It permits the Planning Director to grant only an initial extension of time for the performance of conditions. Here, that initial extension was granted in 2003, and the ordinance by its terms, of course, does not permit any additional extensions. So neither you nor the Planning Director has authority to permit a second extension. To do so would in effect amend the ordinance, which can be accomplished only, as you know, by the County Council.

In summary, I have outlined the long history of this project, highlighting the, what we call, unconscionable failure to complete the required roadway improvements within the original five-year time deadline, the five-year initial extension that was granted in September 2003, or the six months following the September 2008 request for a second extension. I have also noted that recent work spurred perhaps by our committee's inquiries and the Mayor's interest in the situation, has not significantly advanced the project, and that the applicant continues to occupy the premises without an occupancy permit, nor have there been any actions taken, such as prohibiting left turns into the property, to at least temporarily reduce the traffic safety concerns. Finally, I have drawn attention to the provisions of Ordinance 98-8 that clearly prevent this Commission and the Planning Director from granting a second extension.

So what to do? Assure that how to assure the necessary safety improvements and roadway repaving are promptly completed is what we are after. Let me suggest that you deny this request for an extension as not within your power, and of course refer the matter to the County Council with a recommendation that it consider amending the ordinance to permit an additional extension of limited duration, and I emphasize, limited duration – it's been over eleven years – perhaps until October 1 of this year, require a substantial performance bond to assure timely completion of the work. And in the meantime, left turns in and out of the property should be absolutely prohibited, and the matter of occupancy without a permit should be referred to the appropriate department for consideration and review and possibly fines.

Mahalo for your attention to our concerns and to the need to improve the safety of our roadways. Those of you who have traveled that piece of Palani Road know that 1) it wasn't repaved when the rest of Palani Road was repaved, because the church was supposed to do that and widen it, 2) you all know that when a car is waiting to make a left turn into that property, if there is oncoming traffic, cars traveling south on Palani Road coming down the hill will approach a curve and not see the cars waiting to make a left turn into the property until perhaps too late before they rear-end them; that's the problem, that's the problem. So we need you to pay particular attention to these traffic concerns. And I'll be happy to respond to any questions you have. Thank you.

WOODWARD: Thank you very much for your testimony, sir. We do appreciate it. And believe me, this does play a significant role in our decision. Do we have any questions for Mr. Gimpel? Seeing none, you may be seated, sir.

GIMPEL: Thank you.

WOODWARD: And your testimony will be part of the record. And now, for you, sir. If you give us your name and address, and then you may begin your testimony.

DETWEILER: Certainly. My name is Josh Detweiler. Address is 75-1083 Kamalani Street in Hōlualoa.

I'd like to address a few things that Mr. Gimpel said. But let me start by addressing the reality of where we are right now, and the impact of this decision and, in addition to this decision, the organization itself is currently having on the community. I want to stress that Mr. Gimpel is correct; the church has been operating under at least the temporary authority of Chris Yuen saying that we can continue on. So we have been operating according to that.

Let me tell you real briefly about the community impact we are having right now. Again, this is not a dream. This is not a hope. This is not a shovel-ready project. Well, the road is, of course. But the church is operating now and impacting the community. Every month, actually multiple times a month, we serve 60 mothers in our community through a MOPS program, including 50 children, totaling obviously over 100 people each time. We have religious services every Sunday morning reaching more than 300 members of our community. We have a Celebrate Recovery program, which focuses on individuals in our community, in the Kona community, that have addictions to drug and alcohol, helping them conquer those needs. We have an AWANA program, which is one of the most successful ones in the State, reaching over 100 children every single week at our facility serving their needs. We have Junior High programs and High school programs that are keeping kids off the street, serving the area, 100 young men and women every single week. We help with the Meet the Need Program, which serves the ever-growing need of the hungry and the community, serving 100 hungry people every single month. Again, the reason I share these numbers with you – and of course that's not everything we do, that's just what's needed by this body – the important thing to understand is, not allowing this to continue on, giving us this extension, will force the disbanding of a 300-member church and organization serving hundreds and hundreds of people every week and every month in our community. This is extremely important that we are able to continue, not just for the body of believers, but for the groups that it serves in the community, which are not all believers; we serve the general community.

Let me address specifically a couple of things that Mr. Gimpel said. Let me start by saying I agree with him; this roadwork is absolutely necessary. We are dedicated doing whatever we can to get it done. But I would like to correct a few mistakes that Mr. Gimpel made. One of them was pertaining directly to the requirement handed down to us for temporary occupancy. One of them was no left turns when headed makai on Palani. We are actively preventing that in every way we possibly can in short of putting a human out on the road, which would be very dangerous. Every week it's mentioned in our bulletins. It's mentioned from the pulpit to every single member of our congregation. For every one of the programs we have, whether it be small one serving only five or ten or twenty people to our largest program serving hundreds of people, every single member that drives into, or every single individual that drives in to attend one of

those events is given a sheet of paper that specifically says, you may not turn left while headed down Palani into our church. So we are actively preventing left-hand turns. Secondly, the issue, or he suggested that we post a performance bond; we agree. In fact, we agree so much we've already done it. We've done it through an escrow with the County, approved by Daryn Arai, in the amount to complete the project or complete all the major portions of the project. The money is there. The money is ready to be dispersed; it's actually in County-control right now. So that's been done.

I'd like also to speak to the fact there has not been significant movement as suggested by Mr. Gimpel. We've got very significant movement. And in fact, Hawaiian Tel has done virtually all their work. We are thankful to tell you we got a call just this morning; they told us that they would have all their trucks off the premises and all of the poles fully moved and work done by I believe the date is April 10<sup>th</sup> – although Bruce can attest to that.

So again, I'll close with saying this is an extremely important decision not in that it's a simple issue, it's the ramifications of the decisions that you make that will, again, disband a hundreds-and-hundreds of member church and impact hundreds of lives in our community. Thank you, Mr. Chairman.

WOODWARD: Thank you, Mr. Detweiler. Any questions from the Commissioners?  
Commissioner Watanabe.

WATANABE: I just wanted to thank you for clarifying whether you all had the funds or not, and the fact that you've, you know, posted a bond for that and the money is in the control of the County, I think, is helpful -.

DETWEILER: Yes, sir.

WATANABE: As well as the update on the progress that you've made. But I hope you realize that because of the notice issues this is more for the record and it's not likely it's going to be considered today.

WOODWARD: Commissioner Bowman.

BOWMAN: I thank you, too, for your testimony. I understand where you are coming from. But I also look at, the outreach that you are doing creates even more traffic, and with the road the way it is, you know, I'm just very concerned because if -. And you can give people, I understand, you can give people papers to not turn left, but you know, you can't guaranty they are not. So I'm really hoping that, you know, the requirements as far as the left turn and everything that needs to be done will be done.

DETWEILER: And I agree with you, Madam Commissioner. And if I could also, this just outlines and underscores the need for this type of facility. We are bombarded on a weekly basis with requests from the community to use the facility for community building events; we have turned down every single one of them because we don't want to increase the traffic problem anymore. We have not taken on any new significant ministries that would impact traffic as a

direct result of, you know, again, in the interest of not creating more traffic. So all the growth that I've told you about is in organic ministries and things that, and community outreach programs that we already had in place.

BOWMAN: Thank you.

WOODWARD: Commissioner Housel.

HOUSEL: Yes. I'm very glad to hear that progress has been made finally. I drive past that frequently, and there is a real bottleneck there, especially when, you know, cars are coming in and out of those driveways. So I'm very encouraged that there is progress going on. My question is – and I'm glad to hear that Hawaiian Tel is nearly concluding their work there – if it's getting that close to completion, why are you asking for a five-year extension?

DETWEILER: I would have to let -. Again, I'm here for public testimony. I'd have to refer to Dan Bolton who is with the construction company working on it.

HOUSEL: Okay, thank you.

DETWEILER: I can tell you, Mr. Commissioner, if it's, the history that we've had and the frustrations we've had with both HELCO and Hawaiian Tel, if that is indicative of all of what we'll have moving forward, even though I agree it seems like we are just on the cusp of completing it, we are afraid that it might be more delays out of our hands. But you are correct in saying we are almost there. We are almost there.

WOODWARD: Any further questions? Does anybody else want to offer testimony before we make a motion to continue this? I believe Commissioner Watanabe was going to make a motion to continue it, Items 2 and 3.

WATANABE: Okay, yeah, I would move that we continue Agenda Items 2 and 3 referring to Grace Community Church to the next – yeah, that will be sufficient time – next Kona meeting for sure, oh, West Hawai'i meeting.

BOWMAN: Second.

WOODWARD: Any discussion? Seeing none, go for it, Maija.

COTTLE: Chairman Watanabe?

WATANABE: Aye.

COTTLE: Commissioner Bowman?

BOWMAN: Aye.

COTTLE: Commissioner Domingo?

DOMINGO: Aye.

COTTLE: Commissioner Housel?

HOUSEL: Aye.

COTTLE: Commissioner Ogata?

OGATA: Aye.

COTTLE: And Chair Woodward?

WOODWARD: Aye.

COTTLE: Motion passes, six-zero, to continue.

WOODWARD: Very good. And your testimony will be part of the record, and will be certainly considered when we get around to the point in which we are able to make a decision on this.

The discussion ended at 2:25 p.m.

Respectfully submitted,

Noriko Sauer, West Hawai'i Secretary