

SUMMARY - PUBLIC HEARING

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

State of Hawaii

July 17, 2013 – 9:00 a.m.

ATTENDANCE

Members Present: Mary Alice Evans (DBEDT)
Randy Grune (DOT)
Miles Kamimura
Brian Lee
Lois Mitsunaga
Luis Salaveria (DBF)

Members Absent: Dean Seki (DAGS)

Others Present: Anthony Ching
Lori Tanigawa (Deputy Attorney General)
Shelby Hoota
Patricia Yoshino
Holly Hackett (Court Reporter)

A public hearing of the Kakaako members of the Hawaii Community Development Authority (“Authority”), a body corporate and public instrumentality of the State of Hawaii, was called to order by Mr. Brian Lee, Chairperson of the Authority at 9:01 a.m. on Wednesday, July 17, 2013, at the Authority’s principal offices at 461 Cooke Street, Honolulu, Hawaii 96813.

Development Permit Application KAK 13-038: Victoria Ward Limited, Project 1, Land Block 5

Chairperson Lee stated that the public hearing was being held under the provisions of §206E-5.6, Hawaii Revised Statutes to render a decision on the development permit application KAK 13-038 (“Application”) dated April 18, 2013 and amended on June 5, 2013. The Master Plan Permit number is PL MASP 13.1.3.

Chairperson Lee stated that the applicant is Victoria Ward Limited (“Applicant”), and the project address is 404 Ward Avenue. The TMKs for the property are: 2-1-050:001, 061 and 062. The project description is a residential housing building with a commercial floor on the ground level. It is the first project proposed for Land Block 5 of the Ward Neighborhood Master Plan (“Ward MP”).

Notice of the public hearings was published on May 19, 2013, in the Honolulu Star Advertiser.

The notice was made available for public review at the office of the Hawaii Community Development Authority (“HCDA”) and on the HCDA website. The landowners, lessees and other stakeholders in the Kakaako District and surrounding communities, state and county agencies, state legislators, Honolulu City Councilmembers, Association of Apartment Owners of residential buildings adjacent to the Project, surrounding landowners and businesses, and various interested community groups and individuals were notified of the hearing by fax and e-mail. In addition, public hearing notice was provided to approximately 260 individuals and organizations that have shown interest in development in Kakaako in the past and requested that they be kept informed of development activities in the district. Pursuant to HRS 206E-5.6, notice was provided to the President of the Senate and Speaker of the House.

Executive Director Anthony Ching presented staff’s report summarizing its findings and recommendations. He explained that the Application was vested under Section 15-22, Hawaii Administrative Rules of the Mauka Area Rules that were in effect on January 14, 2009. He noted that on November 11, 2011, the Authority adopted a later version of its Mauka Area Rules. The Project was reviewed under the vested rules that were in effect on January 14, 2009. Approval of the Ward MP is valid until June 14, 2024, which is 15 years from the issuance of the Decision and Order on January 14, 2009.

Mr. Ching stated that the applicant had fulfilled the conditions stipulated under the Decision and Order for the Ward MP Permit. The Applicant has submitted: (1) historic building inventory, a cultural impact assessment, and an archaeological inventory survey; (2) a regional traffic study for the Master Plan area and a traffic impact assessment report specific to the Project; and (3) sustainability guidelines for developments covered under the Ward MP.

Mr. Ching noted that the HCDA had consulted with various state and county agencies such as the State Historic Preservation Division, Department of Education (“DOE”), the City and County of Honolulu’s Department of Transportation Services, Department of Planning and Permitting, Honolulu Board of Water Supply, Department of Environmental Services, and the Honolulu Authority for Rapid Transit.

He further noted that the DOE had submitted comments indicating that there will be no classroom capacity for any elementary school students residing in the proposed development. He added that data obtained by HCDA staff and the DOE website indicated that apart from Royal School, other schools such as Kaahumanu Elementary, Central Middle and McKinley High School were under capacity or have adequate classroom capacity. It remained an unresolved issue.

Mr. Ching also summarized the project description of the Application, including the land use and zoning; platform height; density and tower height; tower footprint; front, side and rear yard setback; front yard encroachment; open space; recreation space; off-street loading; off-street parking; view corridors; streetscapes; building orientation, tower spacing and circulation; public facilities dedication; and reserved housing; joint development agreement across all the parcels in Land Block 5 in determining floor area and density; and tenant relocation.

Mr. Ching stated that Section 15-22-120 of the Vested Rules provides for modification of specific provisions of the Vested Rules. With respect to the findings of fact related to the Applicant's request for modification of the provisions of the Mauka Area Rules, he recommended that the Authority approve the request for modification subject to the following condition:

1. Applicant shall install and maintain a vegetative green screen along the exposed surface of the platform wall that faces the adjacent Kauhale Kakaako project. The design of the vegetative screen shall be approved by the HCDA Executive Director.

He also recommended that the Authority adopt the findings of fact relating to the development permit application subject to the following conditions:

1. Prior to the approval of the building permit, the Project shall identify and locate an 8-foot bench and bus stop shelter that are compliant with Section 15-22-142(c) of the Vested Rules.
2. Prior to approval of the foundation permit, the Applicant shall prepare a perpetual public easement document acceptable to the HCDA Executive Director and filed with the Bureau of Conveyances.
3. Prior to the approval of a foundation permit for the Project, the Applicant shall execute a joint development agreement approved by the HCDA Executive Director and filed with the Bureau of Conveyances or the assistant registrar of the Land Court and a covenant running with the land.
4. Prior to the approval of a demolition permit, the Applicant shall submit a report outlining its tenant relocation process and state its compliance with the Ward Master Plan.

PUBLIC TESTIMONY

Chairperson Lee noted that in addition to the public hearing held on June 19, 2013, supplement public comment sessions were held on June 22, June 24, July 6 and July 9, 2013 to provide the public greater opportunity to offer comments. All testimony had been compiled made available to Authority Members and included in the analysis of the Application. He noted since the June 19, 2013 public hearing, written testimony had been received from the following persons:

1. Rita S. Sakamoto, support
2. Scott Cody, support
3. Donna Lee, support
4. Jenny Lei, support
5. Chivas Miho, support
6. Mitchell Gutter, oppose
7. Michael Kirk-Kuwaye, comments
8. Lynne Matusow, oppose
9. Rachelle Nobriga, oppose
10. Rich Caz, oppose

11. Soo Myung Ferrante, oppose
12. Todd Hairgrove, oppose
13. Vernon K.T. Chock, support
14. Paul McCurdy, comments
15. Galen Fox, oppose

The following persons provided oral testimony:

1. Heidi Meeker, Department of Education, comments
2. Jim Brewer, oppose
3. Renee Ing, oppose
4. Jack Hamada, comments
5. Isaac Smyth, comments
6. Brian Shimokawa, oppose
7. Galen Fox, oppose
8. Paula Stuart, oppose

A recess was taken at 10:31 am.

The hearing was reconvened at 10:45 a.m.

9. Lyle Gabrillo, comments
10. Cindy McMillan, Pacific Resource Partnership, support
11. Joe Ferraro, support
12. Kekaimalino Kaopio, support

Questions/Discussion by Authority Members during the Testimony Period

Member Evans asked Ms. Meeker whether the DOE planned to request the standard 12 acres for an elementary in this urban area, or is the DOE considering the possibility of building a more compact urban school in the area should land be available.

Ms. Meeker responded that discussions had not started, but the DOE would be willing to entertain all kinds of ideas. It had agreed in other developments to consider a higher density school on a smaller lot.

Mr. Ching asked Ms. Meeker whether it was her understanding that the HCDA's public facility dedication fees included provisions for school facilities.

Ms. Meeker replied that at one time, the DOE had been in discussions with the HCDA to transfer those fees to the DOE.

Mr. Ching explained that public facilities dedication fees currently are not explicitly intended to offset requirements for public facilities construction. Instead, the fees are specific to public facilities improvements such as sidewalks, utilities and park facilities,

but not specifically school facilities. He asked whether Queen Kaahumanu Elementary School had capacity for additional elementary school students.

Ms. Meeker responded that material HCDA had printed out from the DOE website claimed that it was not current after 2011. She was there to talk about 2015 and beyond.

Mr. Ching asked if she was aware that the HCDA had initiated discussions with the DOE with respect to either a voluntary or required school facility construction to mitigate development in the Kakaako district.

Ms. Meeker replied that she was aware there had been some conversation, but no results.

Mr. Ching asked whether the DOE had established specific standards to offset development in urban areas.

Ms. Meeker replied that the DOE did not have standards for implication of impact fees, but had accepted the possibility in other developments to consider smaller school sites in more urban dense situation. The DOE had a written agreement with D. R. Horton in the Hoopili Project to consider one elementary school on a different site than what would be the standard request.

Mr. Ching noted that the Hoopili Project was located in the second city of Kapolei. He asked if the DOE had any site agreements in the urban core area.

Ms. Meeker responded that the DOE enters into agreements with developers with very large projects that generate a need for a whole school. There was no real precedent in the urban core.

Mr. Ching asked whether she would project a whole school requirement for elementary school facilities for the 60-acre Ward Master Plan.

Ms. Meeker replied that if the Bishop Estate and other proposed units were added, it would be very close.

Mr. Ching asked if standards have been established for how many students would be required for a whole school replacement or mitigation.

Ms. Meeker replied that DOE would like the schools to be at least half filled when they are opened.

Mr. Ching noted that the DOE currently operates under a school complex system that would typically include 2 elementary schools, a middle school and a high school. He asked which school complexes would service the Kakaako community development area.

Ms. Meeker replied that the Kakaako area was actually 2 different complexes with the

McKinley complex to the east and the Farrington complex to the west. The DOE can redraw and recreate complex areas as needed.

Mr. Ching asked whether the DOE was in anticipation of a single complex servicing the Kakaako community development district.

Ms. Meeker replied that Kakaako, even 50 years from now, would not be large enough to support a complex by itself.

Ms. Ching stated that the Environmental Impact Statement (“EIS”) projected that for 2030, the projected population would be 30,000 people. With that full build-out number, he asked if a school area complex would be required to serve the expected students from that population.

Ms. Meeker replied that the DOE was not prepared to address a whole complex with new schools in Kakaako. She stated that there were about 450-500 DOE students currently residing within the HCDA boundaries.

Mr. Ching explained that the HCDA had been in conversations with the DOE to address any impacts upon school-age population. The current EIS projects that the family unit size is about 1.8. The HCDA would work with Ms. Meeker and DOE staff to logically anticipate what the new school age population might be with the projected development as well as all the projects that the Authority would consider.

Chairperson Lee asked Ms. Meeker whether the DOE had flexibility to handle 5,000 more residents added into the area.

Ms. Meeker responded that the DOE did not have capacity at the elementary school level.

Chairperson Lee asked whether it would be faster to build a 21st Century type school than a traditional school.

Ms. Meeker replied that it was a completely different issue than what the DOE is facing.

Chairperson Lee asked if the Applicant had looked at some of the possibilities for schools in the area.

Mr. Nicholas Vanderboom of the Howard Hughes Corporation stated they had preliminary discussions, but had not studied it in detail.

Ms. Meeker stated that the DOE previously had a school site at Pohukaina. Since that site was lost, they were in a different situation.

Member Salaveria asked whether it was the State’s responsibility to build a new school or a developer’s responsibility.

Ms. Meeker replied that one of the conditions for approval that a developer had to meet was to negotiate a written agreement with the DOE for cash and/or lands as needed. That was the old system. The new system that has just started is impact fees, which is the DOE's responsibility to define high growth areas and impose impact fees in those areas that would include a land contribution and construction contribution. The developer would foot most of the land, but by impact fee law specification, they would pay no more than 10 percent of estimated new facilities construction costs.

Member Salaveria asked when was the last time a school was built in the State.

Ms. Meeker replied that there was a new school in Maui. On Oahu, the Ewa Makai Middle School was opened 2 years ago. There have been no new schools in the Honolulu area.

Mr. Ching noted that Ms. Meeker had mentioned that the Land Use Commission considers new subdivision and new development where there are no public school facilities. The Kakaako district has quite mature school area complexes. He asked if the DOE was seeking to establish standards for situations such as urban development, and not a green field situation.

Ms. Meeker replied that the DOE can entertain special situations, but was not getting ready to present a new set of standards.

Chairperson Lee asked when was the last time that a community grew and required a new school system, not a new subdivision being built, but a community like Kaimuki or Salt Lake.

Ms. Meeker replied she could not think of anything since the State had imposed its approval authority on development. The DOE will have to start looking at urban areas, particularly with transit plans, and transit-oriented development and come up with some new ideas.

Chairperson Lee stated that the HCDA would continue to have ongoing discussions with the DOE.

Ms. Meeker stated again that things had changed since the DOE lost the Pohukaina site.

Mr. Ching explained that the Pohukaina Project was initiated in 2011. As background, the Pohukaina site is currently a site for a State library book processing center. The Project would replace and enhance the library facilities by increasing the development from 10,000 to 25,000 square feet to include a virtual library, library facilities and replacement book processing center. Conversations had been held with then DOE Superintendent Pat Hamamoto on whether or not the Pohukaina School should be reserved for public school facility development. At that point in the discussion, it was

not. However, given Ms. Meeker's testimony, that may have changed.

Member Evans asked whether the DOE currently holds title to the McKinley High School block that has various uses on it.

Ms. Meeker explained that the State owns the land and by executive order gives it to the DOE for high school use.

Chairperson Lee asked Mr. Brewer if he had any long term solution for people with children or people wanting to come to Hawaii.

Mr. Brewer replied that all his children live on the mainland. He has been an activist here and helped organize to stop nuclear war ships from anchoring in our waters. Everything has been corporatized.

Mr. Ching asked Mr. Brewer if he had a specific objection to the 404 Ward Project.

Mr. Brewer replied that the project would crowd people into one building to fulfill an affordable requirement. The rest of it would be developed for the international rich to come and live in the gentrified center of Honolulu.

Chairperson Lee asked Ms. Ing whether she got her news from the newspaper.

Ms. Ing replied in the affirmative. She stated she was actually interested in how to get more affordable housing, and there was not a lot of that in the newspaper.

Chairperson Lee invited Ms. Ing to attend the HCDA's community briefings.

After Mr. Smyth's testimony, Chairperson Lee asked Mr. Ching whether the Imperial Plaza's setback.

Mr. Ching replied that there potentially could have been.

Chairperson Lee asked Mr. Shimokawa whether changes should ever be made.

Mr. Shimokawa replied that change can be good but must be weighed, especially when talking about development projects and money coming from offshore.

After Mr. Fox's testimony, Chairperson Lee asked Mr. Ching what was the required distance between buildings.

Mr. Ching replied that it was 300 feet to the extent practicable.

DECISION MAKING

Chairperson Lee polled individual members on whether they had reviewed the record and were prepared to deliberate on the Application. All Members responded in the affirmative.

Chairperson Lee entertained a motion to adopt the staff's finding of facts and recommendation and approve the development permit application KAK 13-038 for the Applicant Victoria Ward Ltd, at the Project address 404 Ward Avenue, Tax May Keys 2-1-050, 001, 061 and 062.

A motion was made by Member Evans and seconded by Member Mitsunaga.

A roll call vote was conducted.

Ayes: Members Evans, Grune, Kamimura, Lee, Mitsunaga and Salaveria.

Nays: None

The motion passed 6 to 0 with 3 excused (Member Seki and 2 vacant positions).

ADJOURNMENT

The public hearing was closed at 10:56 a.m.

Note: The transcript of this meeting contains a verbatim record and should be consulted if additional detail is desired.