

Minutes of a Regular Meeting
of the Members of the
Hawaii Community Development Authority,
State of Hawaii

Wednesday, July 2, 2014

KAKAAKO

I. CALL TO ORDER/ROLL CALL

A regular meeting of the Kakaako Members of the Hawaii Community Development Authority (“Authority” or “HCDA”), a body corporate and public instrumentality of the State of Hawaii, was called to order by Mr. Brian Lee, Chairperson of the Authority, at 9:23 a.m., July 2, 2014, at Authority’s principal offices at 461 Cooke Street in Honolulu, Hawaii, 96813, pursuant to Article IV, Section 1 of the Authority’s Bylaws.

Members Present: Rodney Funakoshi (DBEDT)
Randy Grune (DOT)
Miles Kamimura
Brian Lee
Lois Mitsunaga
Luis Salaveria (DBF)
Ralph Morita (DAGS)
Brian Tamamoto

Others Present: Anthony Ching, Executive Director
Lori Tanigawa, Deputy Attorney General
Lindsey Doi, Compliance Assurance & Community Outreach
Officer
Ann Shimamura, Executive Assistant
Loretta Ho, Asset Management Specialist
Holly Hackett, Court Reporter

MATERIALS DISTRIBUTED:

1. Report of the Executive Director
2. Summary Minutes of Special Kakaako Authority Meeting of June 10, 2014
3. Decision Making: Shall the Authority Approve a Conditional Use Permit, Pursuant to HAR Sections 15-217-26 and 15-217-81, for the Bakery & Table Project, Located at Tax Map Key 2-3-011: 003, Which Would Allow Applicant Advance Fresh Concepts to Subsequently Seek an Improvement Permit for the Project;
4. Findings of Fact, Conclusions of Law, and Decision and Order regarding the Association of Apartment Owners of The Royal Capitol Plaza’s Petition for

Relief from the Hawaii Community Development Authority's December 4, 2013 Approval of Development Permit KAK 13-057, Issued to Downtown Capital LLC for a Project Located at 801 South Street;

5. Findings of Fact, Conclusions of Law, and Decision and Order regarding Petitioner Edwin C. Johnson's Petition for Relief from the Hawaii Community Development Authority's January 8, 2014 Approval of Development Permit KAK 13-091, Issued to MJF Development Corporation for a Project Located at 803 Waimanu Street.

II. APPROVAL OF MINUTES

1. Special Kakaako Authority Meeting of June 10, 2014

Chairperson Lee asked whether there were any corrections to the minutes of the June 10, 2014 meeting. There were no comments or corrections from Members, and the minutes were approved as presented.

III. EXECUTIVE DIRECTOR'S REPORT

Executive Director, Anthony Ching, summarized his report in tab 1 of the packet provided to members. He referenced a worksheet that summarizes ongoing projects in the district, as well as a worksheet on Kewalo Basin Harbor operations. Mr. Ching also noted that the governor has indicated his intention to allow SB2862 to become law, which would require public financial disclosures from various boards, including HCDA. Separately, HB1866 recomposes the authority on March 1, 2016, which would replace two members on the current board with individuals nominated by the house speaker and the senate president.

Member Tamamoto asked about the completion date of the American Brewery Building renovation. Mr. Ching replied that the projected completion is October of this year, in advance of the 180 day contract period. However, he said we have permission to remain in the Cooke Street office through the first quarter of 2015, as a contingency plan.

Member Tamamoto asked about 690 Pohukaina and when the projected parameters would be ready to be assessed. Mr. Ching replied that HB1866 made height restrictions, which was a feature of 690 Pohukaina. He said he is in discussions with developer Forest City on what that means for the project, and will report back to the board with the findings by the next meeting.

Member Tamamoto asked who was the sole offerer on the Cultural Public Marketplace? Mr. Ching said a notice of award was made to the sole offeror, which was Unlimited Construction on a design/ build contract secured through the procurement process.

Member Tamamoto asked for a clarification of the 144 vs. 139 slips documented in the Kewalo Basin Harbor. Mr. Ching replied that if 139 slips are listed, it might not

take into account the Fisherman's Wharf loading dock, which will be under renovation, or the currently unusable slips. Member Tamamoto recommended sending Almar a letter of appreciation for their work at Kewalo Basin. Mr. Ching stated that Almar continues to be our Kewalo harbor manager, with a completion of their contract scheduled for August 2014. The letter of appreciation would be included when HCDA gives Almar notice of the end of their contract. Mr. Ching stated that he does appreciate their work, and it is possible that Almar may be retained by Howard Hughes Corp. to manage the harbor.

Member Tamamoto asked about pothole repairs and commented that it might be more prudent to repave the road rather than do pothole repairs each week. He said he wants HCDA asset management team to examine the potential liability of potholes in the area.

Member Tamamoto recommended installing security cameras to monitor illegal dumping. He says this might prevent further dumping in that area, which is a hazard.

Member Tamamoto asked who gets the revenue from District Park Services. Mr. Ching replied that it goes to HCDA's general account. Member Tamamoto asked if a discussion has been done about Almar's request for parking. Mr. Ching replied that the issue would become moot when HHC takes over harbor management. He says while harbor security is an issue, HHC will enhance security once they take over since their 24/7 security team can be much more vigilant than a single officer.

Member Tamamoto asked if sprinklers were damaged maliciously or accidentally. Mr. Ching replied that sprinkled head damage is typically malicious, and not accidental by landscapers, as landscapers mark the sprinkler head locations.

Member Tamamoto asked if spills were self-reported, and Mr. Ching stated that many times harbor spills are not self-reported, and it's a function of vigilance. Member Tamamoto asked if there are penalties for not self-reporting, as there are environmental hazards if the harbor does not remain clean. Mr. Ching stated it is the harbor agent's responsibility to ensure tenants are compliant. He said it is sometimes be difficult to isolate the cause of a spill, as the harbor collects the discharge from many locations. So it is easier to have a witness or self-report to accurately pinpoint where a spill originates. Mr. Ching stated harbor staff first identifies the spill and remedies it, then goes after the culprit.

Member Tamamoto asked about why the net change is so large in the leasing and management subaccount. Mr. Ching stated that subaccount is our most variable account, as receipts come in and out and we must project the revenue/ expenditures. Mr. Ching said we generally operate without benefit of general fund appropriations, so our leasing and management account will almost always have the greatest expenditures since our other accounts are not flexible enough to accommodate the receipts.

Regarding financials, Member Tamamoto asked about variances and whether we underestimated it. Mr. Ching replied that our budget is \$32,175, and the variance is below, so we spent less. He said the situation is one that we didn't need to take out insurance. Mr. Ching stated he would report back to Member Tamamoto on more specifics after consulting with staff.

Chairperson Lee thanked the board for their vigilance and time to matters like these.

Member Salaveria asked if there was an impact with the loss of properties to OHA, and commented that HCDA does receive general fund assistance with CIP funding. He also asked about the project activity tables and whether the reserved housing units from Pagoda are included. Mr. Ching clarified that the Rycroft Terrace project is outside the Kakaako District, but does provide 100 credits for KS for reserved housing. It is currently in sales, so is not included in the present sheet. Member Salaveria requested it be included in the sheet.

Member Tamamoto asked about 11 Kewalo Basin boaters who currently owe HCDA money, and how we would get them to pay their debts. Mr. Ching replied that there are a variety of instances in the harbor, such as tenants undergoing bankruptcy or abandoned vessels, so working with the Attorney General and boating regulations, it is sometimes difficult to recoup these liabilities. Since taking over the harbor in 2009, HCDA has tried to minimize the number of abandoned vessels or derelict tenants, but it is a continuing and slow process. Mr. Ching stated that we will reconcile these debts when we turnover the harbor lease to HHC.

Shannon Wood, Windward Ahupuaa Alliance, testified that she has been actively involved in the legislation regarding Kakaako for years. She asked if HCDA could address the issues of recomposing the board at one of its Saturday or Tuesday night hearings. She says it's unfortunate that a representative from DBEDT will not be on the new board, as it is important to represent economic development. She suggested that the current board prepare to transition to the new one.

There were no further comments or questions from members or the public on this agenda item.

IV. KAKAAKO MATTERS

2. Decision Making: Shall the Authority Approve a Conditional Use Permit, Pursuant to HAR Sections 15-217-26 and 15-217-81, for the Bakery & Table Project, Located at Tax Map Key 2-3-011: 003, Which Would Allow Applicant Advance Fresh Concepts to Subsequently Seek an Improvement Permit for the Project?

Executive director, Anthony Ching, summarized his staff report from tab 2 of the packet. Mr. Ching stated that a conditional use permit is needed before an improvement permit can be issued. He says The Bakery & Table project would be a bakery and restaurant located at the corner of Piikoi and King Street in the former

Subzero showroom, which has been vacant for about 5 years. Mr. Ching says a restaurant and bar is permitted on that site in the Sheridan neighborhood, however the conditional use permit is needed. He recommended the approval of the request for the conditional use permit, as the project meets the guidelines of Mauka Area Rules and creates a mixed-use community. The applicant would still be required to

Member Tamamoto asked if the project is two parcels on one TMK. Mr. Ching replied the Subzero was originally a separate parcel, but the applicant purchased the adjacent parcel and subdivided the parcel into one TMK or lot of record.

Member Kamimura asked if the applicant was an investor or corporation. Mr. Ching deferred to the applicant.

Roy Yamamoto, architect for the Bakery & Table, testified that the owners are based in California but their main office is in Japan. Member Kamimura asked about the menu. Mr. Yamamoto said it would resemble the nearby establishment, "Panya," with pastries and a sit down eatery. Member Kamimura clarified that the liquor would be ancillary to the restaurant, to which Mr. Yamamoto said yes. Mr. Yamamoto says he doesn't expect noise will be a problem, as they plan to retain an acoustic consultant. Chairperson Lee asked about operating hours. Mr. Yamamoto says the bakery might start around 7 am, with the restaurant opening around 9 or 10, but he isn't sure just yet.

Tom McLaughlin, Kakaako/ Ala Moana Neighborhood Board Secretary, stated that this project has not yet come before the board, so he would request a presentation before the neighborhood board before a decision is made today.

Chairperson Lee entertained a motion for the Authority to Adopt the Staff's Proposed Finding of Fact and Approve a Conditional Use Permit, Pursuant to HAR Sections 15-217-26 and 15-217-81, for the Bakery & Table Project, Located at Tax Map Key 2-3-011: 003, Which Would Allow Applicant Advance Fresh Concepts to Subsequently Seek an Improvement Permit for the Project.

Member Tamamoto asked if the applicant would meet with the Kakaako/ Ala Moana neighborhood board to make a presentation on the concept and design. Mr. Yamamoto said he wasn't planning to since it wasn't required, but if it is requested he would. Member Tamamoto suggested that community engagement is preferred for all project proposals, so he recommends a meeting with the neighborhood board.

Member Grune asked a request like this typically goes before a neighborhood board. Mr. Ching says the HCDA asks and encourages that the applicant make presentations to the neighborhood board. But in this particular case, Mr. Ching notes this is a unique situation since the conditional use permit for a bar/ restaurant must first be issued before an improvement permit to actually create it can be issued. He suggests that the applicant would then know what type of project is approved, so it could then inform the neighborhood board.

Member Funakoshi clarified if it was a two-step process, to which Mr. Ching replied in the affirmative.

Chairperson Lee stated that he was concerned about the neighborhood board not hearing a presentation. He requested Mr. Yamamoto present his plans to the Kakaako/Ala Moana Neighborhood Board, even though the HCDA cannot require it. Mr. Yamamoto indicated he would present the project to the neighborhood board.

Member Salaveria asked if there were other properties owned by the applicant, to which Mr. Yamamoto replied no.

A motion was made by Member Tamamoto and seconded by Member Kamimura for the Authority to Adopt the Staff's Proposed Finding of Fact and Approve a Conditional Use Permit, Pursuant to HAR Sections 15-217-26 and 15-217-81, for the Bakery & Table Project, Located at Tax Map Key 2-3-011: 003, Which Would Allow Applicant Advance Fresh Concepts to Subsequently Seek an Improvement Permit for the Project.

A roll call vote was conducted.

Ayes: Members Mitsunaga, Salaveria, Kamimura, Grune, Funakoshi, Morita, Tamamoto, and Lee.

Nays: None.

The motion passed 8 to 0, 1 excused (Vacant Cultural Specialist)

Chairperson Lee called a recess at 10:23 a.m.

Chairperson Lee reconvened the regular meeting at 10:34 a.m.

3. Decision Making on Petitioner Association of Apartment Owners of The Royal Capitol Plaza's Petition for Relief from the Hawaii Community Development Authority's December 4, 2013 Approval of Development Permit KAK 13-057, Issued to Downtown Capital LLC for a Project Located at 801 South Street.

Mr. Ching provided the staff's report in tab 3 of the packet and summarized the development timeline for 801 South Street. Mr. Ching noted that the petitioners filed their petition for relief on December 31, 2013, then sought a contested case hearing in an amended petition. Mr. Ching stated it is the staff's recommendation to deny the amended petition because it fails to satisfy the requirements of HAR 15-219-47(A), that section 206E-5.6 public hearings on planned development permits already constitute a contested case hearing, and the authority is not permitted to grant the petitioner the relief it seeks.

There were no further comments or questions from members or the public on this

agenda item.

Member Grune made a motion to convene in Executive Meeting pursuant to Section 92-5(a)(3). The motion was seconded Member Kamimura. By a voice vote, the motion passed unanimously.

Chairperson Lee requested the Lori Tanigawa, Tony Ching, Deepak Neupane, Lindsey Doi, and Ann Shimamura join the executive meeting.

Chairperson Lee called a recess at 10:40 a.m.

Pursuant to Section 92-5(a)(3), Hawaii Revised Statutes, the Authority convened in Executive Session at 10:43 a.m.

Chairperson Lee reconvened the regular meeting at 11:26 a.m.

Member Tamamoto asked if the legal counsel for the AOA of Royal Capitol Plaza is present to answer a few questions. No one in the audience responded. Member Tamamoto asked if an officer or the president was present for the AOA. No one responded. Member Tamamoto asked if the property manager was present. No one responded. Member Tamamoto indicated that he would have liked to ask questions for greater clarity, however there were no representatives present.

Chairperson Lee entertained a motion for the Authority to issue Findings of Fact, Conclusions of Law, and a Decision and Order denying the Amended Petition?

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

A roll call vote was conducted.

Ayes: Members Mitsunaga, Salaveria, Kamimura, Grune, Funakoshi, Morita, Tamamoto, and Lee.

Nays: None.

The motion passed 8 to 0, 1 excused (Vacant Cultural Specialist)

- 4. Decision Making on Petitioner Edwin C. Johnson’s Petition for Relief from the Hawaii Community Development Authority’s January 8, 2014 Approval of Development Permit KAK 13-091, Issued to MJF Development Corporation for a Project Located at 803 Waimanu Street.

Mr. Ching summarized the staff's report in tab 4 of the packet and explained the timeline of the approval of 801 Waimanu Street. He also explained the petition that seeks to contest the validity of the permit approval. Mr. Ching stated that staff recommends the petition be denied.

There were no comments or questions from members. No one in the public wished to provide testimony.

Member Tamamoto asked if Edwin Johnson would like to testify, and indicated that he would like to ask him a few questions. Edwin (Eddie) Johnson took the stand. Member Tamamoto asked if Mr. Johnson had any comments on the staff's recommendation to deny the petition. Mr. Johnson replied that his comments would not be any different from his petition. He clarified that the project was not across from his building, but adjacent to it.

Member Tamamoto made a motion to convene in Executive Meeting pursuant to Section 92-5(a)(3). The motion was seconded Member Grune. By a voice vote, the motion passed unanimously.

Chairperson Lee requested the Lori Tanigawa, Tony Ching, Deepak Neupane, Lindsey Doi, and Ann Shimamura join the executive meeting.

Chairperson Lee called a recess at 11:36 a.m.

Pursuant to Section 92-5(a)(3), Hawaii Revised Statutes, the Authority convened in Executive Session at 11:38 a.m.

Chairperson Lee reconvened the regular meeting at 11:48 a.m.

Chairperson Lee entertained a motion for the Authority to issue Findings of Fact, Conclusions of Law, and a Decision and Order denying the Petition?

A motion was made by Member Morita and seconded by Member Grune.

There was no further discussion on this motion.

A roll call vote was conducted.

Ayes: Members Mitsunaga, Salaveria, Kamimura, Grune, Funakoshi, Morita, Tamamoto, and Lee.

Nays: None.

The motion passed 8 to 0, 1 excused (Vacant Cultural Specialist)

V. ADJOURNMENT

Chairperson Brian Lee adjourned the regular meeting at 11:49 a.m.

Respectfully submitted,

/s/

Miles Kamimura
Secretary

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