

SUMMARY - PUBLIC HEARING
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
State of Hawaii
September 9, 2014 – 10:13 a.m.

ATTENDANCE

Members Present: Linda Chinn (DHHL)
Rodney Funakoshi (DBEDT)
Mile Kamimura
Luis Salaveria (DBF)
Dean Seki (DAGS)
Shirley Swinney

Members Absent: Randy Grune (DOT)

Others Present: Brian Lee, Chairperson
Chris Sadayasu, HCDA Asset Manager
Lori Tanigawa (Deputy Attorney General)
Tessa Malama, (HCDA Kalaeloa Director of Planning & Development)
Lindsey Doi
Shelby Hoota
Ann Shimamura
Susan Tamura
Holly Hackett (Court Reporter)

For the Applicant Kalaeloa BOQ, LLC

Crystal Rose
Matthew Shannon
Alan Ong
Blair Suzuki

A public hearing of the Kalaeloa 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 10:17 a.m. on Wednesday, September 9, 2014 at the Department of Hawaiian Home Lands Conference Center, 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707.

DEVELOPMENT PERMIT APPLICATION KAL 14-001: Kalaeloa BOQ, LLC

Chairperson Lee stated that the public hearing was being held in accordance with Hawaii Revised Statutes Section 206E-5.6, Subchapter 3 of Hawaii Administrative Rules Chapter 219 of Title 15, and Hawaii Administrative Rules Chapters 215 and 216 of Title 15.

Chairperson Lee explained that the Applicant is Kalaeloa BOQ, LLC. The Tax Map Key is 9-1-13: 011. The Project Location is 91-1245 Franklin D. Roosevelt Avenue, Kapolei, Hawaii 96707. The Application Date was May 15, 2014.

Chairperson Lee explained that the Applicant proposes to convert an existing nonconforming structure, the former Navy Bachelor Officers Quarters, into a rental Reserved Housing Project. The existing nonconforming structure was built in 1958 and was comprised of 200 studio units with shared bathrooms. The Applicant proposes to renovate the existing nonconforming structure into 100 one-bedroom rental housing units. Chairperson Lee continued to explain that the Project also includes fitness and recreation rooms, outdoor recreation amenities, parking and loading stalls. There are no variances, modifications or exemptions being requested for this Project.

LEGAL NOTICE

Chairperson Lee stated that the public hearing notice for the Project was published in the Honolulu Star-Advertiser on May 30, 2014. The President of the Senate and the Speaker of the House of Representatives were notified upon posting of the hearing notice. Property owners and lessee of record located within 300 feet of the Project site, the Kalaeloa, Ewa, Waianae Coast, Makakilo/Kapolei/Honokai Hale and Nanakuli-Maili Neighborhood Boards were notified of the public hearings. Various elected officials and State and County agencies were also notified of the public hearings.

PROCEDURES FOR TODAY'S HEARING

Chairperson Lee explained that the Authority will then conduct its deliberations and adopt either staff's or the applicant's proposed Findings of Fact, Conclusions of Law, and Decision & Order, either approving the development permit application, approving with conditions, or denying the application. He stated:

- If the Findings of Fact, Conclusions of Law, and Decision & Order that is adopted by the Authority are adverse to the Applicant, he would poll Applicant's counsel and either allow them to stipulate to the proposed final order or give them opportunity to file written exceptions and comments to the proposed order.
- Any such exceptions and comments must be filed by the close of business, September 16, 2014.
- If exceptions and comments are filed, the Authority would convene on September 23, 2014 to hear those exceptions and comments and take final action on the development permit application at that time.

PRESENTATION BY THE APPLICANT

Ms. Rose stated that copies of the proposed order dated August 19, 2014 has been presented to the Board and that she had nothing further to add.

EXECUTIVE DIRECTOR'S REPORT:

Mr. Ching stated that the Findings of Fact (FOF) 1 and 2 described the jurisdiction of the Authority regarding this project. He noted that the Applicant voluntarily submitted the Project and the corresponding Development Permit Application to jurisdiction before the HCDA, and agreed to allow HCDA to maintain jurisdiction over this specific Project into the indefinite future.

Mr. Ching next reviewed Findings of Facts 3 through 14 which summarized the procedural matters in terms of dates and timing, chronologically beginning with No. 3 where the Applicant first filed for a Development Permit Application on May 15, 2014. He noted FOF 6 whereby on June 10, 2014, property owners and lessees of record within 300 Feet of the Project were notified of the Public Hearings. Mr. Ching continued and noted FOF 7 whereby the Applicant has presented the proposed Project to groups such as the Kalaeloa Community Network, Kalaeloa Public Safety, Kapolei Neighborhood Board and the Kalaeloa Advisory Team. Mr. Ching referenced FOF 9, which states that a prehearing conference was held on June 26, 2014. He also referenced FOF 12 which described the first public hearing for this Project which was held on July 23, 2014.

Mr. Ching presented next the Findings of Facts 15 through 20 which pertains to the Kalaeloa Master Plan. He pointed out FOF 16 which states that the KMP encourages the development of housing with an affordable component in mixed-use neighborhoods that includes office, live-work, and commercial spaces, built at densities that can support and increase ridership on the City's planned public transit system. He also noted that this Project is conveniently located near the proposed alignment of the rail system.

Mr. Ching continued with Findings of Facts 21 through 30 which is the Building 77 Project Description. He noted that the United States Navy ("Navy") is the current fee simple owner of the property that is subject to this Development Permit Application. Hunt Companies' Kalaeloa properties are held by a wholly owned subsidiary, Kalaeloa Ventures, LLC, which is the current lessee of approximately 484 acres within the District pursuant to a long term 40-year ground lease with the Navy. Mr. Ching stated that the Applicant proposes to renovate Building 77 into a privately operated 100-unit Reserved Housing rental development. The Project will not receive any federal or state funding. He referenced FOF 30 which states that the proposed Project will convert the original 200-units into 100 one-bedroom, one-bathroom Reserved Housing rental apartments. Interior modifications would be made to convert every two rooms into a single stand-alone, one-bedroom apartment.

Mr. Ching next presented Findings of Facts 31 through 34, Building Code Compliance. He noted that in FOF 31, the Applicant has retained Bureau Veritas North America, Inc. ("Bureau Veritas") to ensure the Project's design and construction is compliant with all applicable building codes and regulations.

Mr. Ching continued with Findings of Facts 35 through 40 which covers Reserved Rental Housing. He stated that this Project will consist of entirely Reserved Housing rentals, (100 units with associated amenities). Referencing FOF 36, the Reserved Housing units will be rented to persons in compliance with HAR § 15-216 of the Kalaeloa Reserved Housing Rules. He stated that the anticipated rent for each Project unit will be \$1,300 per month, which will comply with HAR § 15-216- subchapter 3. Mr. Ching cited FOF 40 which states that the Applicant intends to transfer any of the Reserved Housing credits above the fifteen percent (15%) threshold to other future developments within the District, or elsewhere on the island of Oahu in compliance with applicable rules and regulations. He stated that this finding HAR 15-216-17(b) states “such reserved housing units shall be sold or rented to persons qualifying under the terms and conditions set forth under subchapter 3. The developer shall execute agreements with the authority as are appropriate to conform to this requirement and subject to the authority’s approval, and such agreements shall be binding upon the developer and any successors in interest, and shall run with the land.”

Mr. Ching presented next section, Finding of Facts 41 through 51, Nonconforming Structure. He cited FOF 41 and 42 which states that Building 77 qualifies as a nonconformity pursuant to HAR § 15-215-89 and that it was lawfully constructed in accordance with the applicable regulations at the time of construction in 1959. He went on to cite FOF 44 which states that the Project’s size, building floor area, envelope, and setbacks will remain unchanged, with the exception of the newly added egress stairs on the exterior of the structure. The renovated Building 77 will not encroach into a frontage area or affect neighborhood properties. He described FOF 45 which states that the Project will also maintain the same use and occupancy as the existing building, which is multi-family apartment residence. Mr. Ching next cited FOF 46 through 49 which states that as a qualified nonconforming structure, the Project is exempt from the Building Type, Frontage Type, Building Placement and Building Form standards. He referenced FOF 49 which states that the Project will be in compliance with the maximum height limit and view line setbacks.

Mr. Ching next reviewed Findings of Facts 52 through 56 which relates to Parking. He cited that the Applicant will comply with number of parking stalls required under HCDA Kalaeloa rules and that the Applicant intends to resurface and repaint two parking lots for a total of 157 parking stalls to be provided for the Project. Mr. Ching continued with FOF 55 and 56 which states that in the event Wakea Street is extended in the future, Applicant will construct a new parking lot to the southwest of Building 77 within the existing subdivided property. And therefore in compliance with HCDA Kalaeloa rules, the Project will have more than 100 parking stalls, regardless of the potential extension of Wakea Street.

Mr. Ching continued with the next section, Traffic Accommodations, Finding of Facts 57 through 59. He cited FOF 57 which states that the Applicant contracted a Traffic Study from SSFM International, Inc. to evaluate the traffic impacts associated with the proposed Project. The traffic study concludes that the addition of the Project will have a minimal, insignificant impact on traffic in the area. FOF 58 states that the Project is able to accommodate adequate

traffic volume either with or without the future extension of Wakea Street.

Mr. Ching reviewed Findings of Fact 60 through 62, which relates to Land Use. He noted that the Project complies with the land use requirements set forth in HCDA Kalaeloa rules. He also noted that FOF 61 categorized the Project as T4 Urban Center Zone and per FOF 61, multi-family Residential is a permitted land use in the T4 Urban transect. Mr. Ching cited FOF 62 which states that Building 77 will include 100 units on the subdivided 4.403 acre parcel, for a density of 22 units per acre, which complies with the minimum and maximum density requirements set forth in HCDA Kalaeloa rules.

Mr. Ching continued with the next section, Findings of Fact 63 through 69, regarding Architectural Standards. He noted that FOF 63 and 64 states that the Project is a nonconforming structure and is exempt from the Kalaeloa Community Development District's architectural standards. However, the Applicant intends to conform many of the Kalaeloa Community Development District's architectural standards. He stated that the Project's entrances will be illuminated, and the central courtyard, walkways, and other landscaped areas will provide pedestrian scaled, tamper proof lighting. The trash/recycling enclosures will not be constructed with prohibited materials, and will be constructed of similar material and color to the building. Mr. Ching noted that the Project's windows will comply with Kalaeloa rules because new windows will be installed in the Project to comply with at least seventy percent (70%) Visible Light Transmittance (VLT) for first floor units and at least fifty percent (50%) VLT for upper floors.

Mr. Ching next reviewed Findings of Fact 70 through 75, recreational and Open Space. He noted that the Kalaeloa rules requires 55 square feet of recreation space per dwelling unit. The Project contains 100 dwelling units, therefore, the recreation space requirement is 5,500 square feet. He cited FOF 72 which states that the Project will provide 20,088 square feet of recreation space, which exceeds the requirement of 5,500 square feet. Mr. Ching then noted that the Kalaeloa rules requires that twenty percent (20%) of the lot area be provided as open space. The total Project lot area is 191,813 square feet, therefore, the open space minimum requirement is 38,363 square feet. He cited FOF 74 which indicates that the Project will provide 124,091 square feet of open space, which exceeds the 38,363 square feet minimum requirement.

Mr. Ching continued with the next section, Historical and Cultural Sites (Findings of Fact 76 through 81), which note that Building 77 is eligible for the National Register of Historic Places under Criteria A for its association with the history of the modern housing provided for the officers at the Naval Air Station during the Cold War period. The Navy concluded that the Project will have no adverse effect on the National Register eligible property. Similarly, a review by the State of Hawaii, Historic Preservation Division, dated February 26, 2014, concluded that the proposed Project will have "no adverse effect" to a historic place under HRS § 6E-42. He cited that FOF 78 which states that Applicant intends to preserve and maintain the historic character of Building 77 to the extent possible.

Mr. Ching next reviewed Findings of Fact 82 through 86, Infrastructure. Referencing, FOF 82, he noted that electrical power and water and sewer services will be provided to the Project via the existing systems located at the Project. The Project will utilize a Navy drinking water system and will not use the Board of Water Supply. He also cited FOF 83 which notes that the Applicant has entered into a Utilities Sales Agreement with the Navy for the sale of electricity, water and wastewater utility services between the Government, as service supplier, and Hunt affiliate Ford Island Ventures, LLC, as service purchaser. Building 77 is covered under the Utilities Sales Agreement. Mr. Ching also noted FOF 84 which states that the water, sewer, drainage, electrical, and other utilities infrastructure is adequate to accommodate and service the Project. He covered FOF 85 which describes that the Project is located within the Leeward Oahu School Impact Fee District and will be required to comply with applicable provisions of Chapter 302 (a) Hawaii Revised Statutes. Pursuant to this chapter the Department of Education (DOE) has determined that the Project is subject to paying an impact fee of \$4,334 per unit. Mr. Ching continued that the Applicant has met with representatives of the DOE and discussed how school impact fees will be assessed for this Project and for all other residential development proposed by Hunt Companies for their lands within the District. He noted that any agreement of the impact fee shall be accomplished to the satisfaction of the DOE pursuant to Act 245 Session Laws of Hawaii 2007 and as amended by Act 188 Session Laws of 2010.

Mr. Ching continued with Findings of Fact 86, U.S. Fish and Wildlife Service. He referenced FOF 86 which states that the Applicant will hire a knowledgeable botanist to survey federally listed plant species during the wettest period of the year which is November through April within the proposed Project Area. So if a federally listed endangered plant species is present, including any re-introduced species, they would be included in the analysis to determine if those species may be impacted from construction of the Project.

Mr. Ching next covered Findings of Fact 87 and 88 which relates to comments or requirements of the Federal Aviation Administration (FAA). FOF 87 states that the Project lies within the approach to surface to Honolulu International Airport and will be subject to aircraft overflights and noise. He also referenced FOF 88 which notes that the FAA regulations require the submittal of FAA Form 7460-1 Notice of Proposed Construction or Alteration if construction or alteration is within 20,000 feet of a public use or military airport or exceeds a slope of 100:1 surface from any point on the runway of each airport with its longest runway more than 3,200 feet. As the Project is less than 5,000 feet from the runway at the Kalaeloa Airport, the developer is required to file FAA Form 7460-1.

Member Swinney inquired about the timing of filing the FAA form 7460-1 for this project.

Mr. Ching replied that it should be filed as soon as possible and certainly before construction begins.

Mr. Ching next reviewed Findings of Fact 89 through 92, Act 61. He noted FOF 89 which states that the Applicant has submitted evidence showing the extent to which the Project advances the goals, policies, and objectives of the Kalaeloa Community Development

District Master Plan. The Project also protects, preserves, and enhances the desirable neighborhood characteristics through compliance with the standards and guidelines of the Kalaeloa Community Development District Rules. Mr. Ching next covered FOF 90 which notes that the Applicant submitted evidence showing the positive impact of the Project on pedestrian oriented development, transit oriented development, and community amenities such as open and recreation space. Mr. Ching continued with FOF 91 which states that the Applicant submitted evidence that the Project would further areas of state concern, including the preservation of important natural systems and habitats, maintenance of valued historical and cultural resources, maintenance of other resources relevant to the State's economy, furtherance of employment opportunities and economic development, and the maintenance and improvement of the quality of educational program and services provided by schools. He cited FOF 92 which states that the Applicant intends to comply with all of its representations to HCDA during the permit application process.

Mr. Ching continued with the next section which was Rulings on Proposed Findings of Fact which states that any Findings of Fact submitted by the Applicant not already ruled upon by the authority by adoption herein, or rejected by clearly contrary Findings of Fact herein, are hereby denied and rejected. He also stated that any Conclusions of Law herein improperly designated as a Findings of Fact should be deemed or construed as a Conclusions of Law; any Findings of Fact herein improperly designated as a Conclusions of Law should be deemed or construed as a Findings of Fact.

Mr. Ching next reviewed the next section, Conclusions of Law (COL). COL 1 states that the HCDA has jurisdiction to approve the planned development permit pursuant to HRS Sections 206E-4 and 206E-5.6 and HAR § 15-215-78.

Mr. Ching continued with COL 6 which states that the Project qualifies as a Reserved Housing rental development pursuant to HAR § 15-216-subchapter 3. He cited, accordingly, Applicant shall be permitted to transfer any credit for Reserved Housing units that exceed the fifteen percent (15%) requirement for the Project to other future projects within the Kalaeloa Community Development District, or elsewhere on the island of Oahu subject to the determination of the Authority in compliance with all applicable rules and regulation.

Mr. Ching next covered COL 7 which is a Conclusion of Law that notes that the Project qualifies as a non-conforming structure.

Mr. Ching continued with COL 9 which cites that the Proceedings on the Project Development Permit Application followed by the HCDA comply with the specifications of Act 61 and that the Applicant provided substantial evidence at the hearing that the Project is reasonable and consistent with the development rules and policies of the Kalaeloa Community Development District.

Mr. Ching stated that the remainder of the Conclusions of Law, speak to constitutional conformity with respect to the requirement that the state reaffirms and protects all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and

possessed by ahupua‘a tenants who are descendants of Native Hawaiians who inhabited the Hawaiian Islands prior to 1778. COL 12 states that the Authority is empowered to preserve and protect customary and traditional rights of Native Hawaiians.

Mr. Ching continued with COL 13 which cites that in the event any human skeletal remains are inadvertently discovered, any activity in the immediate area that could damage the remains or the potential historic site shall cease. The discovery shall be reported as soon as possible to a government authority with appropriate jurisdiction.

Mr. Ching then concluded that based on the above Findings of Fact and Conclusions of Law, the Building 77 Project on land parcel identified as 13051-A-2 consisting of approximately 191,813 square feet located at 91-1245 Franklin Avenue, Kapolei, Hawaii 96707, Tax Map Key (1) 9-1-013:011, is hereby approved for a planned development permit, subject to Conditions 1 - 12.

He cited one exception with respect to Condition 4, Reserved Housing. He stated that it now reads: “Applicant shall be permitted to transfer credit for any Reserved Housing rental units constructed within the Project that exceed its fifteen percent (15%) reserved housing rental unit requirements to other future projects within the District, or elsewhere on the island of Oahu in compliance with all applicable rules and regulations and pursuant to an agreement with the Authority. Applicant or its successors in interest shall submit an annual report showing the disposition, location within the Kalaeloa Community Development District or Oahu approved by the Authority and the number of reserved housing rental units maintained within the Project.

Member Swinney asked how was “pursuant to agreement with the Authority” achieved.

Mr. Ching answered that the Applicant is required to document their use and the disposition of the credits so that the Authority understands where the credits are being applied and that they are compliant with the rules.

Member Swinney asked if the regulated term was 15 years.

Mr. Ching replied affirmatively.

Member Salaveria asked if the agreement would be processed via a public hearing for the board to approve.

Mr. Ching asked for a brief recess.

The meeting was recessed at 11:00 am.

The meeting was reconvened at 11:07am.

Mr. Ching answered Member Salaveria question stating that the agreement would be subject to

the Authority's approval. He continued with Conditions 6 and 7 which holds the developer responsible for the infrastructure improvements. He stated that in the event that the Building 77 Project is converted to a condominium after the expiration of the reserved housing regulated term, the term specified in the agreement shall be made a part of all condominium and conveyance documents for this Project. The documents will be reviewed and approved by the HCDA prior to the submission to the Real Estate Commission for execution.

Member Funakoshi asked if Findings of Fact 85 regarding impact fees should be a condition instead.

Mr. Ching replied that the school impact fee law or statute is self-executing and that is already a Conclusion of Law.

Member Funakoshi noted the Department of Transportation (DOT) letter, dated July 15, 2014, had a number of recommendations. He noted that the letter addresses that the Project is within the approach surface to Honolulu Airport and will be subject to overflights and noise and that the developer shall disclose this to perspective tenants and give the DOT an avigation easement allowing for such flights and aircraft noise. Member Funakoshi also noted that Highways Division recommended that a Traffic Assessment be prepared and submitted to DOT for review and approval.

Mr. Ching proposed that the Authority should add a Condition (11) verbatim from the DOT letter stating "The developer shall disclose that the Project lies within the approach surface to the Honolulu International Airport and will be subject to aircraft overflights and noise. The Applicant shall give the DOT Airports Division an avigation easement allowing such overflights and aircraft noise."

Mr. Ching also proposed another verbatim Condition (12) stating that the "Applicant shall prepare and submit to DOT Highways division a traffic assessment for review and approval. The assessment will determine the extent of traffic impact generated by the project and propose appropriate mitigation measures. The Applicant will provide these mitigation measures at no cost to the State."

Member Funakoshi asked the Applicant whether there were any provisions incorporated in the design and redevelopment to attenuate noise from aircraft.

Mr. Suzuki replied that the construction of the building is CMU and the new windows would be dual pane, insulated windows to provide sufficient noise reduction.

Member Funakoshi asked the Applicant if there would be air conditioning.

Mr. Suzuki replied that there would be split air conditioning in each unit.

There were no other questions of the staff or the Applicant by the Members.

Chairperson Lee noted the receipt of two written testimonies, one from the DOE and one from Senator Mike Gabbard. He asked if there were anyone in the audience who wished to speak. There were none.

DECISION MAKING

Chairperson Lee entertained a motion to adopt the staff's recommended Findings of Fact, Conclusions of Law and Decision and Order and approve with the conditions as discussed and presented for Development Permit Application KAL 14-001 for Applicant Kalaeloa BOQ, LLC located at 91-1245 Franklin D. Roosevelt Avenue, Kapolei, Hawaii 96707, identified as Tax Map Key 1 9-10013:001.

A motion was made by Member Swinney and seconded by Member Salaveria.

A roll call vote was conducted.

Ayes: Members Swinney, Salaveria, Funakoshi, Kamimura, Chinn and Seki.

Nays: None.

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

Chairperson Lee stated that the D&O had been adopted by the Members. He noted that the parties had the opportunity to file written comments and exceptions by September 16, 2014 and reconvene the Authority on September 23, 2014 for a final action on the matter. Alternatively, Counsel may waive the right to file comments and exceptions to the Authority's FOF, COL and D&O.

For the Applicants, Ms. Rose stated that they waived the right to file exceptions and accepted the D&O approved by the Authority as final.

Chairperson Lee declared that the parties had waived their rights to file comments and exceptions to the Authority's proposed order and had accepted it as the final Decision and Order. Accordingly, staff would finalize the order as discussed today and would circulate it for signature.

ADJOURNMENT

Chairperson Brian Lee adjourned the regular meeting at 11:25 a.m.

Respectively submitted,

Miles Kamimura

Secretary

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