EXHIBIT C

BEFORE THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY
OF THE STATE OF HAWAII

In re the Application of	)	File No.: PL MASP 13.1.3
	)	NUNC PRO TUNC ORDER RE:
GENERAL GROWTH PROPERTIES,	)	HEARING OFFICER'S PROPOSED
INC. on behalf of its affiliate VICTORIA	)	FINDINGS OF FACT, CONCLUSIONS
WARD, LIMITED	)	OF LAW, AND DECISION AND
	)	ORDER FOR A MASTER PLAN
For a Master Plan Permit	)	PERMIT; EXHIBIT "A"
	)	

NUNC PRO TUNC ORDER RE: HEARING OFFICER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER FOR A MASTER PLAN PERMIT

On January 14, 2009, the Hawaii Community Development Authority ("Authority") issued its Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit ("Decision & Order"), granting GENERAL GROWTH PROPERTIES, INC., on behalf of its affiliate, VICTORIA WARD, LIMITED's ("Petitioner" or "VWL") application for a master plan , pursuant to chapter 206E of the *Hawai`i Revised Statutes* ("HRS") and chapter 15-22 of the *Hawai`i Administrative Rules* ("HAR"), for approximately 59.96 acres of land in the Kaka`ako Community Development District, Oahu, Hawai`i, also known as the Ward Neighborhood Master Plan ("Master Plan").

There is a clerical omission on pages 1, 8-9, and 42 of the Decision & Order. Although TMK No. 2-1-052: 022 was part of the Master Plan application, and was

incorporated by reference on Exhibit "A" of the Decision & Order, it was inadvertently omitted from the text of the Decision & Order.

Therefore, the corrected portions of the Decision & Order should read as follows:

> Page 1: On April 2, 2008, GENERAL GROWTH PROPERTIES, INC., on behalf of its affiliate, VICTORIA WARD, LIMITED ("Petitioner" or "VWL"), submitted an application for a master plan , pursuant to chapter 206E of the *Hawai`i Revised Statutes* ("HRS") and chapter 15-22 of the *Hawai`i Administrative Rules* ("HAR"), to obtain a master plan permit for approximately 59.96 acres of land in the Kaka`ako Community Development District, Oahu, Hawai`i, and identified as Tax Map Key Numbers 2-1-0049: 063, 2-1-049: 080, 2-1-056: 001, 2-3-001: 001, 2-3-001: 004, 2-3-001: 005, 2-3-002: 002, 2-3-002: 059, 2-3-003: 065, 2-3-003: 093, 2-3-005: 004, 2-3-005: 005, 2-3-005: 006, 2-3-005: 012, 2-1-050: 001, 2-1-050: 061, 2-1-050: 062, 2-1-052: 011, 2-1-052: 012, 2-1-052: 016, 2-1-052: 017, 2-1-052: 020, 2-1-052:022, 2-1-052: 024, 2-1-052: 027, 2-1-052: 028, 2-1-052: 031, 2-1-052: 032, 2-1-052: 033, 2-1-052: 034, 2-1-052: 035, 2-1-052: 036, 2-1-052: 038, 2-1-052: 039, 2-1-052: 040, 2-1-052: 042, 2-1-052: 043, 2-1-052: 045, 2-1-052: 046, 2-1-052: 051, 2-1-052: 052, 2-1-052: 053, 2-1-053: 001, 2-1-053: 030, 2-3-002: 001, 2-3-002: 067, 2-3-002: 086, 2-3-002: 087, 2-3-002: 104, 2-3-003: 022, 2-3-003: 094, 2-3-005: 013, 2-3-005: 014, 2-3-005: 015, 2-3-005: 016, 2-3-005: 017, 2-3-005: 019, and 2-3-005: 022 (collectively, the "Master Plan Area") for the Ward Neighborhood Master Plan ("Master Plan").
>
> Pages 8-9 (Finding of Fact 38): The Master Plan Area consists of approximately 59.96 acres of land located in the Kaka`ako Community Development District, Oahu, Hawai`i, and identified as Tax Map Key Numbers 2-1-0049: 063, 2-1-049: 080, 2-1-056: 001, 2-3-001: 001, 2-3-001: 004, 2-3-001: 005, 2-3-002: 002, 2-3-002: 059, 2-3-003: 065, 2-3-003: 093, 2-3-005: 004, 2-3-005: 005, 2-3-005: 006, 2-3-005: 012, 2-1-050: 001, 2-1-050: 061, 2-1-050: 062, 2-1-052: 011, 2-1-052: 012, 2-1-052: 016, 2-1-052: 017, 2-1-052: 020, 2-1-052: 022, 2-1-052: 024, 2-1-052: 027, 2-1-052: 028, 2-1-052: 031, 2-1-052: 032, 2-1-052: 033, 2-1-

052: 034, 2-1-052: 035, 2-1-052: 036, 2-1-052: 038, 2-1-052: 039, 2-1-052: 040, 2-1-052: 042, 2-1-052: 043, 2-1-052: 045, 2-1-052: 046, 2-1-052: 051, 2-1-052: 052, 2-1-052: 053, 2-1-053: 001, 2-1-053: 030, 2-3-002: 001, 2-3-002: 067, 2-3-002: 086, 2-3-002: 087, 2-3-002: 104, 2-3-003: 022, 2-3-003: 094, 2-3-005: 013, 2-3-005: 014, 2-3-005: 015, 2-3-005: 016, 2-3-005: 017, 2-3-005: 019, and 2-3-005: 022 .

Page 42: IT IS HEREBY ORDERED that the Master Plan, consists of approximately 59.96 acres of land in the Kaka`ako Community Development District, Oahu, Hawai`i, and identified as Tax Map Key Numbers 2-1-0049: 063, 2-1-049: 080, 2-1-056: 001, 2-3-001: 001, 2-3-001: 004, 2-3-001: 005, 2-3-002: 002, 2-3-002: 059, 2-3-003: 065, 2-3-003: 093, 2-3-005: 004, 2-3-005: 005, 2-3-005: 006, 2-3-005: 012, 2-1-050: 001, 2-1-050: 061, 2-1-050: 062, 2-1-052: 011, 2-1-052: 012, 2-1-052: 016, 2-1-052: 017, 2-1-052: 020, 2-1-052: 022, 2-1-052: 024, 2-1-052: 027, 2-1-052: 028, 2-1-052: 031, 2-1-052: 032, 2-1-052: 033, 2-1-052: 034, 2-1-052: 035, 2-1-052: 036, 2-1-052: 038, 2-1-052: 039, 2-1-052: 040, 2-1-052: 042, 2-1-052: 043, 2-1-052: 045, 2-1-052: 046, 2-1-052: 051, 2-1-052: 052, 2-1-052: 053, 2-1-053: 001, 2-1-053: 030, 2-3-002: 001, 2-3-002: 067, 2-3-002: 086, 2-3-002: 087, 2-3-002: 104, 2-3-003: 022, 2-3-003: 094, 2-3-005: 013, 2-3-005: 014, 2-3-005: 015, 2-3-005: 016, 2-3-005: 017, 2-3-005: 019, and 2-3-005: 022, and as shown approximately on Exhibit "A", attached hereto and incorporated by reference herein[.]

The above corrections, as well as other technical corrections not affecting the substance of the Decision and Order, are reflected on Exhibit "A" attached hereto, which is an Amended And Restated Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit, adopted by the Authority as a *nunc pro tunc* order.

ADOPTION OF NUNC PRO TUNC ORDER

The undersigned Members, being familiar with the record and proceedings, hereby adopt and approve the foregoing NUNC PRO TUNC ORDER as of the date set forth below. This Order, its ADOPTION, and the attached Exhibit "A" shall relate back to the Decision & Order and be effective as of the original date of January 14, 2009.

Done at Honolulu, Hawai`i, this 6th day of May, 2009.

Hawai'i Community Development Authority (Kaka`ako members)

-Excused-
Jonathan W. Y. Lai, Chairperson

Paul Kimura, Vice Chairperson

C. Scott Bradley, Secretary

Amanda Chang

Grady Chun

Joseph Dwight, IV

Christopher Kobayashi

Kay Mukaigawa

Dexter Okada

for Brennon Morioka

for Georgina K. Kawamura

Theodore E. Liu

Russ K. Saito

Approved as to form for the Authority by the Department of the Attorney General, State of Hawaii:

By: Eugene Won
Deputy Attorney General

EXHIBIT "A"

AMENDED AND RESTATED HEARING OFFICER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER FOR A MASTER PLAN PERMIT

BEFORE THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY
OF THE STATE OF HAWAII

In re the Application of	)	File No.: PL MASP 13.1.3
	)	
GENERAL GROWTH PROPERTIES, INC. on behalf of its affiliate VICTORIA WARD, LIMITED	)	HEARING OFFICER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER FOR A MASTER PLAN PERMIT
For a Master Plan Permit	)	

AMENDED AND RESTATED HEARING OFFICER'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER FOR A MASTER PLAN PERMIT

On April 2, 2008, GENERAL GROWTH PROPERTIES, INC., on behalf of its affiliate, VICTORIA WARD, LIMITED ("Petitioner" or "VWL"), submitted an application for a master plan , pursuant to chapter 206E of the *Hawai`i Revised Statutes* ("HRS") and chapter 15-22 of the *Hawai`i Administrative Rules* ("HAR"), to obtain a master plan permit for approximately 59.96 acres of land in the Kaka`ako Community Development District, Oahu, Hawai`i, and identified as Tax Map Key Numbers 2-1-0049: 063, 2-1-049: 080, 2-1-056: 001, 2-3-001: 001, 2-3-001: 004, 2-3-001: 005, 2-3-002: 002, 2-3-002: 059, 2-3-003: 065, 2-3-003: 093, 2-3-005: 004, 2-3-005: 005, 2-3-005: 006, 2-3-005: 012, 2-1-050: 001, 2-1-050: 061, 2-1-050: 062, 2-1-052: 011, 2-1-052: 012, 2-1-052: 016, 2-1-052: 017, 2-1-052: 020, 2-1-052: 022, 2-1-052: 024, 2-1-052: 027, 2-1-052: 028, 2-1-052: 031, 2-1-052: 032, 2-1-052: 033, 2-1-052: 034, 2-1-052: 035, 2-1-052: 036, 2-1-052: 038, 2-1-052: 039, 2-1-052: 040, 2-1-052: 042, 2-1-052: 043, 2-1-052: 045, 2-1-052: 046, 2-1-052: 051, 2-1-052:

052, 2-1-052: 053, 2-1-053: 001, 2-1-053: 030, 2-3-002: 001, 2-3-002: 067, 2-3-002: 086, 2-3-002: 087, 2-3-002: 104, 2-3-003: 022, 2-3-003: 094, 2-3-005: 013, 2-3-005: 014, 2-3-005: 015, 2-3-005: 016, 2-3-005: 017, 2-3-005: 019, and 2-3-005: 022 (collectively, the "Master Plan Area") for the Ward Neighborhood Master Plan ("Master Plan").

The Hawai`i Community Development Authority ("Authority"), having heard and examined the testimony, evidence, and argument of counsel during the hearings, along with Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit, filed on January 2, 2009, and Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit, filed January 6, 2009, hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order:

FINDINGS OF FACT

1. On April 2, 2008, Petitioner on behalf of its affiliate submitted its Application for the proposed Master Plan. See Exhibit 1 (Letter, from Petitioner, dated April 2, 2008). VWL is the landowner of portions of the properties described above. Portions of the properties described above are also owned by Bank of Hawaii Trust Nos. 89433 and 89434, and by First Hawaiian Bank Trust Nos. 200601 and 200602. The beneficiary for all four trusts is VWL. See Petitioner's Exhibit 7 (Letter, dated September 5, 2008, from Petitioner to the Authority.

2. On April 16, 2008, the Authority placed on its website portal a webpage to receive public comments on the Master Plan.

3. On May 28, 2008, the Authority requested the submission of additional items to complete the Application. See Petitioner's Exhibit 12 (Letter, dated May 28, 2008, from the Authority to Petitioner/VWL).

4. On May 28, 2008, the Authority organized an open house meeting at the Honolulu Design Center, Cupola Theatre Room to provide public discussion regarding the Master Plan.

5. On May 28, 2008, the Limehouse website link was activated through PBR Hawaii's website to receive comments for the Master Plan.

6. On June 14, 2008, the Authority created a telephone comment line to allow the public to call in their comments to the Master Plan.

7. On July 3, 2008, the Authority received a letter from the Native Hawaiian Legal Corporation dated July 3, 2008, stating that the Authority should require the completion of the environmental assessment or environmental impact statement prior to decision making on the Master Plan.

8. On July 7, 2008, the Authority mailed approximately 11,000 flyers through the Authority's Connections mailing list to solicit comments to the Master Plan.

9. On July 11, 2008, Petitioner submitted the additional items to the Authority.

10. On July 16, 2008, the Master Plan was deemed to be complete.

11. On July 24, 2008, the Authority received a letter from Victoria Ward, Limited responding to the Native Hawaiian Legal Corporation's letter dated July 3, 2008.

12. On September 3, 2008, the Authority formed a committee ("GGP Committee") to review the Master Plan and make its recommendations to the Authority.

13. On September 12, 2008, Petitioner submitted an Addendum to the Authority, which included the items previously submitted in July 11, 2008, as well as additional information and clarification on certain items. See Petitioner's Exhibit 4 (Addendum).

14. On September 15, 2008, the Authority's staff issued its Master Plan Findings.

15. On September 30, 2008, Petitioner issued its response to the Master Plan Findings.

16. On October 3, 2008, the Authority received Mr. Edward Halealoha Ayau's request for a contested case hearing and petition for intervention on the Master Plan.

17. On October 15, 2008, the Authority held a public hearing at the Honolulu Design Center, Cupola Theatre Room. The Authority members received testimony from the general public.

18. On October 16, 2008, the Authority received Mr. Ayau's clarification to his request for a contested case hearing.

19. On November 5, 2008, by a majority vote of those members entitled to vote thereon, the Authority (a) set the Master Plan for a contested case hearing, (b) adopted procedures to govern the contested case proceeding, (c) established December 17, 2008 as the date for contested case hearing, (d) established January 14, 2009 as the date for the Authority to take action on the Master Plan , and (e) appointed Curtis Tabata, Esq. to serve as the hearing officer for the contested case hearing.

20. By letter dated November 7, 2008, the Office of Planning, State of Hawai`i, declined to intervene as a party in the contested case hearing.

21. On November 17, 2008, the Notice of Hearing for the contested case hearing was published in the Honolulu Star Bulletin, Hawaii Tribune Herald, West Hawaii Today, The Maui News and Kauai Publishing Company dba The Garden Island.

22. The deadline for filing petitions for intervention was on November 28, 2008 and the only petition received was filed by Mr. Ayau.

23. On December 1, 2008 a prehearing conference was held at the Authority's offices at 677 Ala Moana Boulevard, Suite 1001, Honolulu, Hawaii 96813. J. Douglas Ing, Esq. and Brian A. Kang, Esq. appeared for the Petitioner, and Alan Murakami, Esq. appeared for Mr. Edward Halealoha Ayau.

24. On December 8, 2008, the Authority received a letter from Mr. Ayau indicating that a settlement was reached between Mr. Ayau and Petitioner, and that Mr. Ayau withdraws his request for a contested case hearing with prejudice. An executed Settlement Agreement dated December 4, 2008 was also included with the letter.

25. On December 11, 2008, the Authority received a letter from Petitioner confirming the settlement with Mr. Ayau.

26. On December 17, 2008, the hearing on Mr. Ayau's petition for intervention was conducted, at which time Mr. Ayau, through his legal counsel, David Frankel, Esq., confirmed the Settlement Agreement with Petitioner and Mr. Ayau's withdrawal of his request for a contested case hearing.

27. On December 17, 2008, the contested case hearing on the Master Plan was held at the Authority's offices at 677 Ala Moana Boulevard, Suite 1001, Honolulu, Hawaii 96813. The hearing was continued until December 18, 2008. J. Douglas Ing, Esq. and Brian A. Kang, Esq. appeared for the Petitioner.

28. On December 18, 2008, the continued contested case hearing was held at the Authority's offices to accept Petitioner's offer of Petitioner's exhibits numbered 1, 2, 3, 4, 5, and 6. Having admitted said exhibits, the contested case hearing was closed on December 18, 2008.

29. On December 29, 2008 the contested case hearing was re-opened for the purpose of accepting Petitioner's offer of Petitioner's supplemental exhibits number 7,

8, 9, 10, 11, and 12. Having admitted said supplemental exhibits, the contested case hearing was closed on January 2, 2009.

30. On January 2, 2009, Petitioner filed Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit.

31. On January 6, 2009, the Hearing Officer filed Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit.

32. On January 7, 2009, the GGP Committee neither submitted a report, nor offered anything to supplement the evidentiary record in the contested case hearing as the Authority set the Master Plan for a contested case hearing subsequent to the GGP Committee's formation.

33. On January 14, 2009, the Authority held its portion of the contested case hearing to consider the Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit submitted by the Hearing Officer and Petitioner, respectively, and to take action on the Master Plan application.

Master Plan Overview

34. The Authority's rules regarding master planning are designed to encourage investment in new development and commitment to master planning of large land holdings. See HAR § 15-22-200(a).

35. Master plans are intended to encourage timely development, reduce the economic cost of development, allow for the orderly planning and implementation of

public and private development projects, and provide a reasonable degree of certainty in the development approval process. See id.

36. Through the master planning process, a developer can obtain assurances that proposed projects within the Kaka'ako Mauka area that are in accordance with the Authority's Mauka Area Rules in effect at that time will not later be restricted or prohibited by subsequent changes to those rules. See HAR § 15-22-200(c). Master planning also provides a developer with greater flexibility than would otherwise be possible through typical lot-by-lot development. See HAR § 15-22-200(d).

37. In exchange for these assurances and greater flexibility, the master planning process allows the Authority to negotiate with the developer to provide public benefits which are generally provided by the government. See HAR § 15-22-200(b).

Description of the Master Plan Area

38. The Master Plan Area consists of approximately 59.96 acres of land located in the Kaka`ako Community Development District, Oahu, Hawai`i, and identified as Tax Map Key Numbers 2-1-0049: 063, 2-1-049: 080, 2-1-056: 001, 2-3-001: 001, 2-3-001: 004, 2-3-001: 005, 2-3-002: 002, 2-3-002: 059, 2-3-003: 065, 2-3-003: 093, 2-3-005: 004, 2-3-005: 005, 2-3-005: 006, 2-3-005: 012, 2-1-050: 001, 2-1-050: 061, 2-1-050: 062, 2-1-052: 011, 2-1-052: 012, 2-1-052: 016, 2-1-052: 017, 2-1-052: 020, 2-1-052: 022, 2-1-052: 024, 2-1-052: 027, 2-1-052: 028, 2-1-052: 031, 2-1-052: 032, 2-1-052: 033, 2-1-052: 034, 2-1-052: 035, 2-1-052: 036, 2-1-052: 038, 2-1-052: 039, 2-1-052: 040, 2-1-052: 042, 2-1-052: 043, 2-1-052: 045, 2-

1-052: 046, 2-1-052: 051, 2-1-052: 052, 2-1-052: 053, 2-1-053: 001, 2-1-053: 030, 2-3-002: 001, 2-3-002: 067, 2-3-002: 086, 2-3-002: 087, 2-3-002: 104, 2-3-003: 022, 2-3-003: 094, 2-3-005: 013, 2-3-005: 014, 2-3-005: 015, 2-3-005: 016, 2-3-005: 017, 2-3-005: 019, and 2-3-005: 022 .

39. The Master Plan Area is owned in fee simple by or held in trust for the exclusive benefit of Victoria Ward, Limited, an affiliate of General Growth Properties, Inc.

40. The Master Plan Area is bordered on the mauka side by Queen Street and Halekauwila Street, on the Diamond Head end by Queen Lane and residential towers, on the `Ewa side generally by `Ohe Lane, and on the makai side by Ala Moana Boulevard. Smaller parcels are located between Queen and Waimanu Streets, and on the corner of Kapi`olani Boulevard and Ward Avenue. A Master Plan Boundary Map is attached hereto as Exhibit "A".

41. Urban areas adjacent to the Master Plan Area include Downtown Honolulu, the Ala Moana and Kaka`ako Waterfront regional parks, the Ala Moana Center, Kewalo Basin, office buildings, and residential towers.

42. The Master Plan outlines several sustainability strategies. These include energy conservation, sustainable energy supply, lowering energy demand, creating a pedestrian supportive environment, reducing water consumption, and recycling. The Master Plan does not describe how these strategies will be incorporated into each individual project. Without preparing detailed designs for specific projects it is difficult

to identify how some of the sustainability concepts will be implemented in the Master Plan area. The details of how sustainability and energy efficiency and conservation will be integrated are not necessary for the master plan application. These details of Petitioner's sustainability strategy shall be provided to the Authority at the time of each planned development or base zone permit application.

43. Businesses may be displaced by the development within the Master Plan Area.

44. One of the public benefits to be derived from a master plan is the provision of relocation assistance by the Petitioner. See HAR § 15-22-200(b).

45. The importance of adequate and attractive recreational areas and facilities suitably located to residents, patrons, and workers was recognized by the Mauka Area Plan. See Mauka Area Plan at Page 53.

46. **Land Uses/Area**: The Master Plan proposes a mixed-use development including residential, retail, office, commercial, and industrial uses, for a total floor area of 9,334,240 square feet, with a floor area ratio ("FAR") of 3.8. It is a long range plan that would span over more than 20 years, potentially including 10-15 different phases. The phasing and mix of uses developed under the Master Plan will depend on changing market and social conditions. See Exhibit 1 (Application), at 19-55; Exhibit 5 (Staff Findings), at 3-4. Specifically, the maximum floor area requested for each use is:

- Residential -- 7.6 million square feet

- Retail, Restaurants & Entertainment -- 5 million square feet
- Office/Commercial/Other -- 4 million square feet
- Industrial -- 736,914 square feet

Although this is the maximum floor area requested for each use, Petitioner is requesting that the allocation of floor area for each use be flexible to accommodate changing market conditions and the evolving needs of the community. See Exhibit 6 (Petitioner's Response to Staff Findings), at 2. In no instance, however, is Petitioner intending to develop all commercial spaces without any residential components. See id. In fact, residential uses are an important component of the Master Plan. See id.

47. **Urban Design Objectives**: The Master Plan proposes a pedestrian-friendly, smart-growth community, where its residents can live, work, and play. See Petitioner's Exhibit 1 (Application), at 19-26.

48. **Streetscapes**: Major design objectives of the Master Plan include connected public spaces, a pedestrian supportive environment including the redesign of Auahi Street as a landscaped promenade, preservation of Mauka-Makai view corridors and an enhanced roadway network with canopy trees and pedestrian amenities. See Petitioner's Exhibit 5 (Staff Findings), at 3. To mitigate the unsightliness of structured parking, the Plan anticipates extensive use of "liners" which are buildings designed to have aesthetically pleasing facades and to provide interaction with pedestrian traffic at ground level. See id.

49. **Open Space**: Approximately 245,638 square feet are proposed for open space. See id.; Petitioner's Exhibit 4 (Addendum), at 19; Exhibit 6 (Petitioner's Response to Staff Report), at 2.

50. **Ward Neighborhood Commons**: The Central Plaza described in the Master Plan will be designed and developed as flexible spaces that accommodate a range of occasional activities or events and allow separate activities to be enjoyed in relative privacy without disturbing adjacent areas. This area will be designated as and allow for public gathering and multiple "unprogrammed spaces". Unprogrammed spaces do not rely on active participation, but rather accommodate it. Unprogrammed spaces accommodate change of use over time, as the needs or interests of the surrounding community who use the space change.

51. The area shall be controlled by Petitioner and used alternately as a forum of respite and passive gatherings, community and commercial activities, events and celebrations. Individuals (whether neighborhood residents, commercial tenants and their customers or the general public), small groups, or by design, throngs of people, might engage in a variety of passive activities in this area, which is not dependent on the delineated area having to be designed for specific activities.

52. The area will be defined by appropriate landscaping and hardscape treatments, and will have a park-like appearance. Pedestrian walkways or paths, seating areas, water features, gazebos, a venue for outdoor entertainment and

supplementary commercial uses may be included as part of the hardscape improvements.

53. This "commons" will be located in the area currently identified as the "Central Plaza" in the Master Plan and will be designated as the "Ward Neighborhood Commons" or other appropriate name that reflects the focal nature of the commons.

54. **Transportation**: To support the travel needs of people living in, working in, and visiting the area, the Master Plan will feature multi-modal systems, a mix of programs and infrastructure proposals to increase transit ridership, improve the pedestrian and bicycle environment, and minimize traffic congestion overall. Improved street connectivity, traffic calming devices, and reduction on the reliance of vehicles are all included in Petitioner's proposed Master Plan. See Petitioner's Exhibit 1 (Application), at 73-80.

55. The proposed roadway system will close segments of Ahui Street (Mauka), Kamani Street (between Auahi and Halekauwila Streets), and Auahi Street (between Kamani and Ward Avenue) and the Halekauwila couplet proposed in the Mauka Area Plan. See Petitioner's Exhibit 5 (Staff Findings), at 3.

56. In place of these streets and to improve connectivity, the Master Plan proposes new streets including 'Ehiku, 'Elua, 'Ekolu, 'Ekahi Streets, an extension of Pohukaina Street to Ward Avenue, and streets around the Central and 'Ewa Plazas. See id.; Petitioner's Exhibit 6 (Petitioner's Response to Staff Findings).

57. 'Ehiku, 'Elua, 'Ekolu, 'Ekahi Streets, located adjacent to the Central and Ewa Plazas, are not consistent with the Mauka Area Plan.

58. The proposed development of an extension of Pohukaina Street to Ward Avenue is consistent with the Mauka Area Plan.

59. The Honolulu High-Capacity Transit Corridor Project has identified a preferred route and station in the Master Plan area. The precise alignment and exact station location is unknown at this time. See Petitioner's Exhibit 5 (Staff Findings), at 4; Petitioner's Exhibit 6 (Petitioner's Response to Staff Findings).

60. **Building Envelopes**: The Master Plan proposes a mix of mid-rise and high-rise development ranging from a mid-rise podium of 65 feet to 400 foot high-rise towers. The development is circumscribed around three public plazas, with Auahi Street serving as a spine connecting the plazas. See Petitioner's Exhibit 5 (Staff Findings), at 4; Petitioner's Exhibit 6 (Petitioner's Response to Staff Findings).

61. **Public Facilities**: Petitioner is proposing to dedicate 225,678 square feet of land for public facilities. These lands will include new streets (including typical sidewalks), pedestrian walkways (in addition to typical sidewalks), public plazas, and a mass transit connection. Petitioner is proposing to dedicate another 104,375 square feet of land for public facilities, or pay a cash equivalent to offset the costs of constructing upgraded infrastructure, utilities improvements, and parking. See Petitioner's Exhibit 5 (Staff Findings), at 4; Petitioner's Exhibit 6 (Petitioner's Response to Staff Findings).

62. **Modifications to Mauka Area Rules**: Petitioner has identified the following necessary modifications to the Mauka Area Plan to achieve the vision of the Master Plan:

- Increase the maximum podium or street front element height from 45 feet to 65 feet for parcels fronting Ala Moana Boulevard and to 75 feet for all other parcels not directly fronting Ala Moana Boulevard, which will allow retail, restaurants and residential units to be built within the podium and parking structures to be moved up and away from the street, creating a more aesthetically pleasing and pedestrian friendly facade;
- Eliminate the 1:1 setback slope from 20 feet to 45 feet in the building height along Ala Moana Boulevard, Ward Avenue, Kamake'e Street and Queen Street, which will allow for development of a continuous building façade that better defines the edge of the street;
- Eliminate the 75-foot view corridor setback for towers along Ala Moana Boulevard that have a Mauka-Makai orientation, which will allow for the tower footprint to be rotated perpendicular to the ocean, in a Mauka-Makai direction, to enhance ocean and mountain views;
- Allow for the development of a mid-rise or mid-height element without a maximum floor plate restriction where the maximum

building height is no more than 240 feet and the separation between the buildings is at least 60 feet, which allows for a more evenly distributed building mass and reduces the number of towers needed to achieve the density proposed for this area; and

- Preserve all modifications and variances previously granted for the Ward Village Shops project in Land Block 3, in order to complete and include it in the Master Plan framework.

See Petitioner's Exhibit 5 (Staff Findings), at 5; Petitioner's Exhibit 6 (Petitioner's Response to Staff Findings), at 121-24. Petitioner requests that these modifications be granted as part of the approval of the Master Plan.

63. **Amendments to Mauka Area Plan**: Petitioner has identified the following necessary amendments to the Mauka Area Plan to achieve the vision of the Master Plan:

- Deletion of the Halekauwila Extension shown in the Mauka Area Plan on the East side of Ward Avenue connecting to Queen Street to be replaced by a street parallel to Queen Street between Ward Avenue and Kamake'e Street, which will enhance pedestrian and vehicular connectivity in the area and break down a larger block into smaller, more walkable, blocks;

- Deletion of the park/parking garage facility designation along the Halekauwila Extension contained in the Mauka Area Plan; and
- A single "mixed-use" land use designation for VWL-owned lands, instead of the "mixed-use commercial" (MUZ-C) and "mixed-use residential" (MUZ-R) land use designations, which will allow more flexibility in designing and developing the mixed use community that is proposed under the Master Plan.

See Petitioner's Exhibit 5 (Staff Findings), at 5, 21; Petitioner's Exhibit 6 (Petitioner's Response to Staff Findings), at 7-8. Petitioner intends to process an application requesting these amendments subsequent to approval of the Master Plan and prior to application for development permits. If Petitioner's application for a Mauka Area Plan amendment to delete the park / parking garage facility designation along the Halekauwila Extension is approved, Petitioner, to mitigate any loss of park space, will provide an area equal to the actual amount of park space lost, but no more than 30,000 square feet for park space to be located in the open space of the 'Ewa Plaza located in block 5, shown in the Proposed Open Space Plan on page 19 of Petitioner's Master Plan Application Addendum (dated September 12, 2008). This park space would be controlled by Petitioner and dedicated through a perpetual easement for public use gathering areas.

64. The Authority's Mauka Area Rules require that the following be considered in reaching a determination for master plan approval:

- The nature of the proposed master planned area and proposed developments therein in terms of size, use, density, general bulk and height of structures, setbacks, required open space and recreation areas, the location and amount of residential uses including reserved housing units, and on-site parking;
- The relationship between structures and use within structures, building orientation, deck level activities, and preservation of view corridors;
- Whether the pedestrian and vehicular circulation system is so designed as to provide an efficient, safe, and convenient transportation system;
- The appropriateness of the public benefits to be provided and the adequacy of provisions for the delivery of those public benefits;
- The appropriateness of any proposed exception to the applicable development rules which are needed to implement the master plan;
- The appropriateness for providing greater development flexibility for the purpose of attracting investment capital into the area and

encouraging timely redevelopment and better overall planning for the area; and

- Any other matter which the Authority deems appropriate.

See HAR § 15-22-205(a).

65. The Authority's Mauka Area Rules require that the proposed master plan be consistent with the provisions of the Mauka Area Rules and Mauka Area Plan in effect on the date of master plan approval. See HAR § 15-22-205(b).

66. **Nature of the Proposed Master Planned Area & Consistency with Development Rules**: The nature of the proposed Master Plan is generally consistent with the Mauka Area Plan and Rules, as set forth below.

67. Land Use and Mixed Use Concept: The Application proposes residential, retail, commercial, and industrial uses. These uses are expressly permitted under MUZ-C and MUZ-R zoning, set forth in HAR §§ 15-22-32 and 15-22-34, respectively. The Application also proposes uses that are mixed vertically and horizontally, as contemplated by the Mauka Area Plan, pages 3-4, and HRS Chapter 206E.

68. HAR § 15-22-113 requires different mixes of land use and controls the proportion of commercial and residential uses that can be developed for larger projects. Based on the total land area encompassing the Master Plan, the Mauka Area Rules allow a maximum of 4,008,092 square feet of retail, restaurant, & entertainment,

office/commercial/other floor area, and 9,334,240 square feet of residential development. The Master Plan proposes the following maximum floor areas:

- Residential -- 7.6 million square feet
- Retail, Restaurants & Entertainment – 5 million square feet,
- Office/Commercial/Other -- 4 million square feet
- Industrial -- 736,914 square feet

See Petitioner's Exhibit 5 (Staff Findings), at 10; Petitioner's Exhibit 6 (Petitioner's Response to Staff Findings).

69. Density/Floor Area: HAR § 15-22-116 allows a maximum density of 3.5 FAR for projects with a minimum land area of 80,000 square feet. This section also provides the 0.3 FAR bonus for any planned development that provides industrial use, among other uses. The Master Plan proposes 9,334, 240 square feet of floor area on approximately 59.96 acres of land (total land area available for floor area allocation is 56.39 acres and excludes existing streets that are owned by VWL but cannot be considered development lots). This translates to a density of 3.8 FAR, including a bonus of 0.3 FAR. The proposed density is consistent with the Mauka Area Plan and Rules. See Petitioner's Exhibit 5 (Staff Findings), at 11; Petitioner's Exhibit 6 (Petitioner's Response to Staff Findings).

70. The maximum floor area allowed within the Kaka'ako Community Development District at full build out is as follows:

- Residential -- 17.1 million square feet
- Commercial -- 13.7 million square feet
- Industrial -- 5.3 million square feet
- TOTAL -- 36.1 million square feet

At full build out, the Master Plan includes 9.33 million square feet of floor area. Even at full build out, the Master Plan will encompass only 26% of the total projected density for the Kaka'ako Community Development District. See Petitioner's Exhibit 5 (Staff Findings), at 11-12.

71. Height: HAR § 15-22-116 provides for a maximum height allowance of 400 feet for projects with a minimum of 80,000 square feet of land. The Master Plan proposes to construct towers of a range of heights with a maximum of 400 feet. The Master Plan proposes towers that are in conformance with the Mauka Area Plan and Rules. See Petitioner's Exhibit 5 (Staff Findings), at 12-13.

72. Urban Form: Urban form refers to the physical layout and design of a development. A major focus of the Master Plan is to create gathering places in the neighborhood. It also attempts to improve the pedestrian experience and foster an urban village lifestyle. Much of the off-street parking will be located in parking structures, which are proposed to be screened from view by retail/office and residential liners, up to the 65-foot or 75-foot level, depending on the location. The retail use at the street level will promote pedestrian activity. The proposed design concepts will

significantly improve the quality of the urban environment. Many of the platform levels will also include a certain amount of landscaping to serve as resident and employee recreation areas. The urban form proposed by the Master Plan consists of creating public spaces, pedestrian promenades, parking podiums with liner facades, and towers ranging from 105 to 400 feet in height, creating a varied skyline.

73. Reserved Housing: One of the goals of HRS Chapter 206E is to "join the strengths of private enterprise, public development and regulation into a new form capable of long-range planning and implementation of improved community development" addressing, among other things, "a lack of suitable affordable housing." See HRS § 206E-1. Along these lines, HRS § 206E-33 outlines development guideline policies, which includes the "integration both vertically and horizontally of residents of varying incomes, ages, and family groups; and an increased supply of housing for residents of low- or moderate-income ...." The Mauka Area Rules require that a developer "provide at least twenty per cent of the total number of dwelling units in the development for sale or rental to qualified persons...." See HAR § 15-22-115(a). The Mauka Area Rules also allow a cash payment in lieu of the reserved housing, with a maximum payment equivalent to the 20% reserved housing requirement. The Mauka Area rules establish that the development of at least the 20% requirement fulfills the reserved housing policy. See HAR § 15-22-115(c).

74. Under the Mauka Area Rules, Petitioner would be required to set aside 20% of its total residential units for reserved housing to families whose annual income is no more than 140% of the annual area median income. Under the Master Plan, Petitioner has proposed to meet the 20% reserved housing requirement by providing the units on- or off-site within Kaka'ako, or elsewhere as permitted. While the current requirement is to build reserved housing for families whose incomes are no more than 140% of the annual median household income, Petitioner has offered to provide 10% (or one-tenth) of the units that will fulfill the reserved housing requirement for families at 100% of the annual median household income. The amount of reserved housing units proposed by the Master Plan is consistent with the Mauka Area Plan and Rules. See Exhibit 1 (Application), at 21, 119; Exhibit 6 (Petitioner's Response to Staff Findings).

75. The reserved housing unit mix, as well as the provision for delivery of the reserved housing, need not be determined at the master planning stage; instead, these issues are more appropriately determined at the project development stage.

76. Open Space: Open space is a portion of a development lot, exclusive of required setbacks and parking areas, that is open and unobstructed by any structures above, is an area that is landscaped and maintained as a recreational or social facility, and cannot be used for driveways, loading areas, storage, or parking. HAR § 15-22-64(c)(1) requires that 10% of a development lot be set aside as open space. The Master Plan provides 253,737 square feet of open space, which is 10% of the development lots,

and is consistent with the Mauka Area Plan and Rules. See Petitioner's Exhibit 5 (Staff Findings), at 13.

77. Recreation Space: Recreation space is a portion of a development lot, exclusive of required setbacks and parking areas, that is set aside and designed for the exclusive use of residents, employees, or visitors. The recreation space can be an outdoor or indoor space and can be provided on any floor within the building. HAR § 15-22-65 requires that fifty-five square feet of recreation space be provided for each dwelling unit being proposed. The Master Plan proposes to provide 253,737 square feet of recreation area for residential use, which is consistent with the Mauka Area Plan and Rules.

78. Parking: HAR § 15-22-67 imposes certain off-street parking requirements. The Master Plan proposes 9,600 parking stalls, which satisfies the Mauka Area Plan and Rules requirements. Additionally, the Master Plan proposes a shared parking concept, which allows for various stalls to be shared among residents and commercial users. The shared parking idea is consistent with the Mauka Area Plan and Rules, though more details of such a plan can be developed prior to the approval of the first development permit under the Master Plan. See Petitioner's Exhibit 1 (Application), at 82; Petitioner's Exhibit 5 (Staff Findings), at 16.

79. Off-Street Loading: At a master plan application level, specific details on off-street loading requirements for each project are not required. Determination for

loading area requirements can only be made at the time a base zone development or planned development permit application is submitted. Each development within the Master Plan will be required to meet the loading area requirements of the Mauka Area Rules. See Petitioner's Exhibit 5 (Staff Findings), at 14.

80. **Relationship Between Structures and Uses, including Building Orientation & View Corridor Preservation, Consistent with Development Rules**: Petitioner is proposing two major Mauka-Makai view corridors: (1) Ward Avenue; and (2) Kamake'e Street. A view corridor is an important community resource and allows residents and visitors alike to experience mountain and ocean perspectives. See Petitioner's Exhibit 5 (Staff Findings), at 9. The Petitioner's proposed view corridors are consistent with the Mauka Area Plan and Rules.

81. **Efficient, Safe, and Convenient Pedestrian and Transportation System**: The Master Plan generally proposes the following improvements that are designed to provide an efficient, safe, and convenient transportation system. Some of the components or improvements will need to be further detailed and analyzed at the individual development permit stage.

82. Vehicular Circulation: The proposed vehicular circulation system of the Master Plan includes various roadway improvements, traffic management, parking management, transit integration, and a pedestrian-friendly environment. A mixed use, live-work-play development, such as that proposed under the Master Plan, would

support a pedestrian environment and reduce the need for residents to use their vehicles. The proposed vehicular circulation system eliminates the Halekauwila Street extension, which was provided for in the Mauka Area Plan and Rules, and replaces it with a street parallel to Queen Street that would run between Ward Avenue and Kamake'e Street. An amendment to the Mauka Area Plan will need to be approved by the Authority.

83. The traffic issues in Kaka'ako, however, are not just a product of development within Kaka'ako. Because of its central location between the downtown business district and Waikiki visitor district, any development outside of Kaka'ako will impact traffic within Kaka'ako. It appears that a regional traffic study is necessary before a determination on the adequacy of the proposed transportation strategies can be made. It is thus appropriate for Petitioner to conduct a regional traffic study prior to the submission of a development permit application for the first individual project. In addition, at the individual development permit stage, it is appropriate for Petitioner to conduct traffic impact assessments for individual development projects. See Petitioner's Exhibit 5 (Staff Findings), at 14-15.

84. Pedestrian Circulation: The Master Plan proposes several enhancements to pedestrian circulation within the district in the form of street improvements to Auahi Street, Ward Avenue, Kamake'e Street, and Pohukaina Street. Auahi Street is being proposed as a major landscaped, pedestrian friendly street. In addition to the street

improvements, the Master Plan includes several public plazas and open spaces that are connected to Auahi Street. Retail and commercial liners have been proposed along major streets that would hide the parking structures behind them. The buildings and public plazas will be linked by a street system that is designed to accommodate pedestrians. The Master Plan's proposed pedestrian circulation system is consistent with the goals of the Mauka Area Plan and Rules. See Petitioner's Exhibit 5 (Staff Findings), at 15.

85. High Capacity Transit Corridor and Station: The City and County of Honolulu's ("C&C") High Capacity Transit proposal could have a major impact on the proposed Master Plan. The C&C's current preferred transit route is situated within the Mauka portion of the master plan area. The proposed location of the transit station will influence access to residential areas and places of employment. Petitioner and the C&C have been engaged in discussions regarding the precise alignment and exact location for the transit station within the Master Plan area, and will continue to do so. As part of individual project development permit applications for this area, a more detailed transit route and station location shall be addressed and incorporated. See Petitioner's Exhibit 5 (Staff Findings), at 15-16.

86. Bike Plan: HAR § 15-22-71(b) provides in relevant part that "[p]ublic or private...bicycle circulation paths may be required where appropriate in conjunction with development projects." The Master Plan proposes bicycle networks along

Pohukaina Street, Ward Avenue, Ala Moana Boulevard, Auahi Street, and Kamake'e Street. It also proposes bicycle lockers and racks to be located along these streets. Detailed bicycle facilities plans must be submitted in conjunction with individual development permit applications. See Petitioner's Exhibit 5 (Staff Findings), at 17.

87. **Public Benefits**: The public benefits described below are consistent with the Mauka Area Plan and Rules. These public benefits enhance the surrounding communities and provide a benefit to the residents of the area, as well as the general public.

88. Pedestrian Friendly Street Network: The Master Plan proposes the development of Auahi Street as a pedestrian friendly promenade. A promenade is typically an open and level area where people can stroll and enjoy pedestrian activities. Creation of an Auahi Street promenade represents a positive urban design feature that will support and enhance existing and planned retail businesses at the street level. Moreover, because it is unlikely that Ala Moana Boulevard will be developed as a significant pedestrian corridor in the future, the promenade will represent an alternative pedestrian route together with a significant retail experience. Most major streets within the Master Plan area, including Ward Avenue and Kamake'e Street, are proposed to be pedestrian supportive environments. Petitioner's inclusion of promenades into the urban form of the Ward Neighborhood is thus consistent with the

intent of, though not required by, the Mauka Area Rules and Plan. See Petitioner's Exhibit 6 (Staff Findings), at 8.

89. Public Facilities Dedication: HRS Chapter 206E requires the Authority to establish rules for public facilities dedications, See HRS § 206E-12, and sets the definition of "public facilities" as follows:

> "Public facilities" includes streets, utility and service corridors, and utility lines where applicable, sufficient to adequately service developable improvements in the district, sites for schools, parks, parking garage, sidewalks, pedestrian ways, and other community facilities. "Public facilities" shall also include public highways, as defined by statute, storm drainage systems, water systems, street lighting systems, off-street parking facilities, and sanitary sewerage systems.

See HRS § 206E-2(7) (emphasis added)

90. The Authority's rules require that a developer "dedicate land for public facilities for the joint use by the occupants and employees of the development as well as by the public" and that the dedication be "subject to the maximum ceiling in land or money in lieu thereof calculated in accordance with the formula designated in subsections (d) to (f) herein." Haw. Admin. R. § 15-22-73(b) (emphases added).

Subsection (d) sets the formula for dedication as follows: "The amount of land area required to be dedicated for public facilities shall be equal to: (1) Three percent of the total commercial and community service floor area...; and (2) Four percent of the total residential floor area of the development." HAR § 15-22-73(d). In lieu of land dedication, the Authority's rules also permit the payment of a fee equal to the fair market value of the land area otherwise required to be dedicated. See HAR § 15-22-73(e) (emphasis added).

91. Under the Authority's rules, Petitioner is required to provide a total of 330,053 square feet of land for public facilities, or a cash equivalent. The Master Plan proposes to set aside 225,678 square feet of land in the form of improved roads, sidewalks, and public plazas. To meet the remaining requirement of 104,375 square feet, the Master Plan proposes community facilities, utility and infrastructure improvements, and public parking. See Exhibit 1 (Application), at 119; Petitioner's Exhibit 4 (Addendum), at 18; Exhibit 5 (Staff Findings), at 18-19; Petitioner's Exhibit 6 (Petitioner's Response to Staff Findings).

92. The Master Plan will eliminate the park on parking garage located along the Halekauwila couplet in the Mauka Area Plan.

93. The Master Plan does not propose to provide any dedicated public park to replace the loss of the park on parking garage.

94. The Mauka Area Plan notes that the Mauka Area lacks recreational facilities. See paragraph 3, page 47, Mauka Area Plan.

95. The Mauka Area Plan specifies that a neighborhood park of two to five acres in size would be necessary to serve the residential population of 5,000. See Figure 17, page 55, Mauka Area Plan.

96. The Master Plan proposes to develop as much as 4,300 units in the Master Plan area.

97. The Mauka Area Plan anticipates that public dedicated parks will be developed by the private sector. See Figure 28, page 109, Mauka Area Plan.

98. The Master Plan proposes to develop as much as 4,300 units in the Master Plan Area. The Plan does not discuss the impact of this new residential population on and the need for public school facilities.

99. The development of 4,300 residential units in the Master Plan Area represents 23% of the total residential units anticipated in the Mauka Area Plan. See Residential Standards Study, page 75, Mauka Area Plan.

100. The development of as many as 4,300 residential units in the Master Plan Area may result in up to 506 residents of elementary school age. See Public Facilities Proposal, page 85, Mauka Area Plan.

101. Additional Public Benefits: Besides the foregoing, implementation of the Master Plan will result in several other public benefits. These public benefits will be in

the form of new public spaces, parks and streets and infrastructure improvements. Approximately $300 million in street, infrastructure, and utilities improvements will be invested. It is estimated that the overall development will generate approximately $8 billion in revenue for the State economy.

102. Modification of 75 foot tower setback -- The modification of the 75-foot tower setback requirement for buildings along Ala Moana Boulevard will allow the orientation of buildings in a Mauka-Makai direction, thereby facilitating a slender building profile, enhancing ocean and mountain views and maximizing visual transparency throughout the area. The existing 75-foot tower setback for buildings along major roadways could encourage the construction of structures along Ala Moana Boulevard in an 'Ewa to Diamond Head direction, potentially blocking view planes. The 75-foot tower modification would allow the tower footprint to be rotated perpendicular to the ocean, so that the narrow part of the footprint would face the ocean. See Petitioner's Exhibit 4 (Addendum), at 38-39.

103. Modification to podium heights -- The Master Plan proposes increasing the maximum podium height from 45 feet to 65 feet for parcels fronting Ala Moana Boulevard, and from 45 feet to 75 feet for other parcels not directly fronting Ala Moana Boulevard. Increasing the podium height allows for retail, restaurants, office and residential units to be built within the podium. The additional podium height offers the opportunity to move a parking structure up and away from the street, occupying a

smaller floor plate and making room for alternative uses. These new uses can then surround the garages. See Petitioner's Exhibit 4 (Addendum), at 36-37.

104. Modification to podium setback -- The Master Plan proposes to eliminate the 1:1 setback slope defined as a 20-foot to 45-foot slope in building height along Ala Moana Boulevard, Ward Avenue, Kamake'e Street and Queen Street. This would allow a more continuous urban street front with greater usable building density brought closer to ground level and a façade that would better define the edge of the street. See Petitioner's Exhibit 4 (Addendum), at 37-38.

105. Modification with respect to Mid-Rise or "Mid-Height Element" -- The Master Plan proposes the introduction of the "Mid-Height Element" as a building type, without a maximum floor plate restriction, with a maximum height of 240 feet and with a minimum separation of 60 feet between buildings. This could effectively replace one 400-foot tower with two 240-foot mid-rise buildings, which would create more favorable view angles within the Master Plan Area and reduce the number of towers needed to achieve the proposed density in Master Plan Area. In addition, this would allow the building mass to be distributed more evenly among different parcels.

106. As described in detail on pages 36 through 41 of Petitioner's Master Plan Application Addendum (dated September 12, 2008), the foregoing modifications proposed in the Master Plan: (a) will result in a development that is consistent with the intent of the Mauka Area Plan and Rules; (b) will provide flexibility for different uses

and various design strategies noted in the Master Plan, including concealed parking structures and pedestrian-friendly facades, which will result in a development that is practically and aesthetically superior to one which could be accomplished without such modifications; (c) will not adversely affect adjacent developments or uses; and (d) are necessary to implement the mixed-use, live-work-play neighborhood vision of the Master Plan and Mauka Area Plan.

107. **Appropriate Opportunity for Providing Greater Development Flexibility, Attracting Investment Capital, and Encouraging Timely and Better Overall Development**: The Master Plan application establishes a template for an orderly and methodical development of a large section of the Kaka'ako Community Development District. Redevelopment of Kaka'ako is a primary objective of HCDA. The Master Plan will promote much-needed economic development for the whole State of Hawaii in terms of new job creation and an increased tax base.

108. The Master Plan, over a 20-30 year development period, is expected to create 17,300 on-site construction jobs and 16, 270 off-site construction related jobs. The total construction and construction related payroll for the development period is estimated to be approximately $1.3 billion. At full build out, it is estimated that the Master Plan development will generate 7,800 full-time professional and service jobs and generate $345 million in annual payroll. Estimates indicate that the construction phase of the Master Plan development will inject a total of $8 billion into the local economy

over the development period. Tax revenue to the State from the construction phase is estimated to be $370 million in excise tax and $135 million in income tax. After the development is completed, it is projected that annual revenue to the State in income tax will be approximately $16.5 million. Similarly, the County government stands to collect approximately $26 million annually in the form of property taxes. See Petitioner's Exhibit 5 (Staff Findings), at 21-22.

Cultural/Historic Preservation Issues

109. Based on consultation with recognized cultural descendants of the Master Plan area, the State Historic Preservation Division, Oahu Island Burial Council, Office of Hawaiian Affairs, the Ahahui Ka'ahumanu Society, Council for Native Hawaiian Advancement, Hawaii Community Assets, Hui Malama I Na Kupuna E, and other native Hawaiian organizations, see Letter, dated July 24, 2008, from Petitioner to the Authority, no known customary or traditional native Hawaiian rights have been asserted in the Master Plan area. See Petitioner's Exhibit 10 (Letter, dated July 24, 2008, from Petitioner to the Authority).

110. Petitioner has engaged a consultant to prepare an archeological literature review and a predictive model to identify, to the extent possible, culturally sensitive areas where potential burials may exist.

111. To ensure the proper protection and preservation of cultural and historic resources, specifically the protection and preservation of native Hawaiian burials in the

Master Plan area, Petitioner shall prepare: (1) a historic building inventory; (2) a predictive model that is designed to identify locations within the Master Plan area that are likely to contain native Hawaiian burial sites; (3) an archeological inventory survey plan in accordance with HAR § 13-284-5(c), approved by the State Historic Preservation Division of the State of Hawaii, which relies in part on the predictive model and includes consultation with potential lineal or cultural descendants of the Master Plan area, the Oahu Island Burial Council, the Office of Hawaiian Affairs, and other appropriate native Hawaiian organizations; and (4) prior to obtaining individual development permits, an archeological inventory survey for development of specific project sites within the Master Plan area.

RULINGS ON PROPOSED FINDINGS OF FACT

Any of the findings of fact submitted by Petitioner not already ruled upon by the Authority by adoption herein, or rejected by clearly contrary finding of fact herein, are hereby denied and rejected.

Any conclusions of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

1. The Authority has jurisdiction to approve master plan applications and issue master plan permits pursuant to HRS §206E-33.

2. Master plan permits are deemed approved if no decisions are made granting or denying them within 200 days. HAR §15-22-23(a)(1). The 200-day deadline commenced on July 16, 2008 when the Master Plan application was deemed complete. The Master Plan will be deemed approved if no decisions are made granting or denying it by February 1, 2009.

3. "Master plan" is defined as a long-range development plan for an area within the mauka area which describes the overall character of development envisioned within said area and the manner in which development projects will be implemented. HAR §15-22-201.

4. The master plan is "intended to encourage timely development, reduce the economic cost of development, allow for the orderly planning and implementation of public and private development projects, and provide a reasonable degree of certainty in the development approval process." HAR §15-22-200(a).

5. Article XII, Section 7, of the Hawai`i State Constitution requires the State to protect native Hawaiian traditional and customary rights. The State reaffirms and shall protect 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, subject to the right of the State to regulate such rights. The State and its agencies are obligated to protect the reasonable exercise of customarily and traditionally exercised native Hawaiian rights to the extent feasible. *Public Access Shoreline Hawai`i v. Hawai`i County Planning Commission*, 79 Hawai`i 425, 903 P.2d 1246, *certiorari denied*, 517 U.S. 1163, 116 S.Ct. 1559, 134 L.Ed.2d 660 (1996).

6. The Authority is empowered to preserve and protect customary and traditional rights of native Hawaiians. *Ka Pa`akai O Ka'Aina v. Land Use Commission*, 94 Hawai`i 31, 7 P.3d 1068 (2000).

7. The Oahu Island Burial Council shall determine whether preservation in place or relocation of previously identified native Hawaiian burial sites located in the Master Plan Area is warranted, following criteria which shall include recognition that burial sites of high preservation value, such as areas with a concentration of skeletal remains, or prehistoric or historic burials associated with important individual or events, or areas that are within a context of historic properties, or have known lineal descendants, shall receive greater consideration for preservation in place. HRS §6E-43. The requirements of a request to preserve in place or relocate a Native Hawaiian burial site shall be in the form of a burial treatment plan and is governed by HAR §13-300-33.

8. 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 the Department of Land and Natural Resources, the appropriate medical examiner or coroner, and the Honolulu Police Department. HRS §6E-43.6. The Department of Land and Natural Resources has jurisdiction over any inadvertent discovery of human skeletal remains over fifty years old, and the protocol to be followed is set forth in HAR §13-300-40.

9. Petitioner has provided for the Authority's consideration the nature of the proposed master planned area and proposed developments therein in terms of size, use, density, general bulk and height of structures, setbacks, required open space and recreation areas, the location and amount of residential uses including reserved housing units, and on-site parking.

10. Notwithstanding the physical development parameters of the proposed master planned area provided by the Petitioner, each proposed development shall be subject to applicable development rules on a project-by-project basis.

11. A regional traffic study shall be completed by the Petitioner before the Authority considers Petitioner's request for amendments to the Mauka Area Plan and Rules.

12. The Authority may require that the public facility dedication land component be comprised of lands for streets, utility and service corridors, utility lines,

schools, parks, parking garages, sidewalks, pedestrian ways, and other community and public facilities.

13. Petitioner's proposal to modify Mauka Area Rules may be addressed as part of the planned development review process and shall be evaluated under HAR § 15-22-22.

14. Petitioner's proposal to amend Mauka Area Rules shall be addressed pursuant to the Authority's rule making procedure pursuant to HAR §15-16-26, *et. seq.* and HAR §15-22-18.

15. The Authority is authorized to enter into master plan development agreements for the necessary or convenient exercise of its powers and functions under HRS chapter 206E. HRS §206E-4(3).

16. Approving the Master Plan will provide greater development flexibility for the purpose of attracting investment capital into the area and encouraging timely redevelopment and better overall planning for the area.

17. Upon consideration of HRS chapter 206E and the Mauka Area Rules under HAR chapter 15-22 and the facts contained in this Order, and Authority finds upon the clear preponderance of the evidence, that the Master Plan is consistent with the provisions of the Mauka Area Plan and HAR chapter 15-22 pursuant to HAR §15-22-205(b).

DECISION AND ORDER

IT IS HEREBY ORDERED that the Master Plan, consists of approximately 59.96 acres of land in the Kaka`ako Community Development District, Oahu, Hawai`i, and identified as Tax Map Key Numbers 2-1-0049: 063, 2-1-049: 080, 2-1-056: 001, 2-3-001: 001, 2-3-001: 004, 2-3-001: 005, 2-3-002: 002, 2-3-002: 059, 2-3-003: 065, 2-3-003: 093, 2-3-005: 004, 2-3-005: 005, 2-3-005: 006, 2-3-005: 012, 2-1-050: 001, 2-1-050: 061, 2-1-050: 062, 2-1-052: 011, 2-1-052: 012, 2-1-052: 016, 2-1-052: 017, 2-1-052: 020, 2-1-052: 022, 2-1-052: 024, 2-1-052: 027, 2-1-052: 028, 2-1-052: 031, 2-1-052: 032, 2-1-052: 033, 2-1-052: 034, 2-1-052: 035, 2-1-052: 036, 2-1-052: 038, 2-1-052: 039, 2-1-052: 040, 2-1-052: 042, 2-1-052: 043, 2-1-052: 045, 2-1-052: 046, 2-1-052: 051, 2-1-052: 052, 2-1-052: 053, 2-1-053: 001, 2-1-053: 030, 2-3-002: 001, 2-3-002: 067, 2-3-002: 086, 2-3-002: 087, 2-3-002: 104, 2-3-003: 022, 2-3-003: 094, 2-3-005: 013, 2-3-005: 014, 2-3-005: 015, 2-3-005: 016, 2-3-005: 017, 2-3-005: 019, and 2-3-005: 022, and as shown approximately on Exhibit "A", attached hereto and incorporated by reference herein, and

IT IS HEREBY FURTHER ORDERED that for the effective period of the Master Plan, the Authority's Mauka Area Plan and Mauka Area Rules applicable to development shall be those plan and rules in effect on January 14, 2009, and the Master Plan shall be and is hereby approved subject to the following conditions:

1. **Effective Period of Master Plan**. Master Plan approval shall be valid for a period of fifteen years from the date of issuance of this Order, provided that the Authority may grant any other relief if the Master Plan is being implemented to the satisfaction of the Authority. No extensions of the Master Plan effective period shall be granted. Notwithstanding the foregoing, the Petitioner, however, may request an extension of the Master Plan effective period if the Master Plan is being implemented to the satisfaction of the Authority and any other conditions for granting a variance are met by the Petitioner, by seeking a variance from the Authority without regard to condition number 3 below. The Master Plan Permit shall be issued to VWL.

2. **Deadlines / Development Agreement**.

Petitioner shall execute a Master Plan Development Agreement to the satisfaction of the Authority within two years from the date of issuance of this Order. Pursuant to HRS Chapter 206E-4, the Authority is authorized to enter into a development agreement to provide parties to the development agreement with assurances of the following, and to include provisions necessary to facilitate the purpose and intent of HRS chapter 206E and the Authority's rules, including but not limited to: (a) the development will proceed in accordance with all applicable laws, rules, regulations, and the terms and conditions of the Master Plan Permit; (b) the development will not be restricted or prohibited by any statutes or rules enacted or promulgated by the Authority after the date of approval of the Master Plan Permit; (c)

the timing and phasing of Mauka Area Plan amendments; (d) descriptions of the delivery, manner and timing of reserved housing, the dedication of public facilities, the public use easements, and the manner in which any joint developments in the Master Plan Area will be administered; and (e) timing for filing of the first complete Planned Development Permit Application for the first phase of the Master Plan. A memorandum of the Master Plan Development Agreement shall be recorded at the Bureau of Conveyances within thirty (30) days of execution of the Master Plan Development Agreement, and shall include the signatures of all parties owning a fee simple interest in the Master Plan Area.

3. **Plan Variances.** If Petitioner proposes any variances to the Mauka Area Rules, such variance requests shall be addressed at the time of review of each planned development or base zone development project and evaluated for technical adequacy and enhancement of design and urban character.

4. **Amendments.** Petitioner's proposal to amend the Mauka Area Rules shall be addressed pursuant to the Authority's rule making procedure pursuant to HAR §15-16-26, *et. seq.* and HAR §15-22-18. If Petitioner applies for a Mauka Area Plan amendment to delete the park / parking garage facility designation along the Halekauwila Extension, to mitigate any loss of park space, Petitioner shall provide an area equal to the actual amount of park space lost, but not more than 30,000 square feet, for park space to be located in the open space of the 'Ewa Plaza located in block 5,

shown in the Proposed Open Space Plan on page 19 of Petitioner's Master Plan Application Addendum (dated September 12, 2008). This park space would be dedicated through a perpetual easement for public use gathering areas.

5. **Historical, Cultural and Archaeological Resources**. Prior to submission of the first individual development permit application for the development projects under the Master Plan, Petitioner shall prepare and submit a historic building inventory, a cultural impact assessment, and an archaeological inventory survey plan accepted by the State of Hawaii, Department of Land and Natural Resources' State Historic Preservation Division (or its successor agency) to the Authority.

6. **Dedication of Public Facilities**. Petitioner shall satisfy its public facility dedication requirement, estimated to be 330,053 square feet of land, based on the most likely mix of residential and commercial development proposed by the Petitioner, as described in the Proposed Public Facilities Plan table and graphic illustration on page 18 of Petitioner's Master Plan Application Addendum (dated September 12, 2008). With respect to the public plazas and pedestrian walkways in blocks 1 and 2 on the Proposed Public Facilities Plan, Petitioner shall dedicate a perpetual easement for public use gathering areas on portions of the public plazas and pedestrian walkways for use as gathering areas.

7. **Open Space.** Petitioner shall satisfy its open space requirement, which totals an estimated 245,638 square feet, as proposed by Petitioner in the Proposed Open

Space Plan table and graphic illustration on page 19 of its Master Plan Application Addendum (dated September 12, 2008). Petitioner shall dedicate a perpetual easement for public use gathering areas on portions of the designated open space areas in blocks 1 and 2.

8. **Ward Neighborhood Commons**. The Ward Neighborhood Commons shall be located within the area currently identified as the "Central Plaza" in the Master Plan, and will generally include the public plazas and pedestrian walkways in blocks 1 and 2 of the Proposed Public Facilities Plan and the open space on blocks 1 and 2 of the Proposed Open Space Plan, as shown and indicated on pages 18 and 19, respectively, of Petitioner's Master Plan Application Addendum (dated September 12, 2008). Petitioner's design and development of the commercial and residential spaces surrounding the Ward Neighborhood Commons will determine the precise land area of the commons. However, the area of the Ward Neighborhood Commons, which shall be dedicated via a perpetual easement for public use gathering areas, shall be least 150,000 square feet. Petitioner shall provide capital improvements, day to day maintenance, and security, which shall be addressed in the development agreement.

9. **Reserved Housing**. Petitioner shall satisfy its reserved housing requirement for the Master Plan Area, which shall be equal to twenty-percent of the total number of residential units proposed for the Master Plan Area, as permitted by the Mauka Area Rules.

10. **Traffic Study Requirements**. Prior to the submission of the first development permit application for an individual project pursuant to the Master Plan, Petitioner shall conduct a regional traffic study. In addition, at the individual development permit stage, Petitioner shall conduct traffic impact assessments for individual development projects.

11. **Relocation Assistance**. Petitioner shall provide relocation assistance to affected tenants, first, by relocating businesses to other spaces within the Ward Master Plan area, to the extent feasible, and if infeasible, by working with a commercial broker to assist these businesses in locating alternative space.

12. **Sustainability**. Prior to the submission of the first development permit application for an individual project pursuant to the Master Plan, Petitioner shall provide sustainability guidelines to the Authority. At the time Petitioner applies for any individual development permit, it shall indicate how the sustainability guidelines shall be implemented for the respective project in the development permit area.

13. **Compliance with Laws**. Petitioner shall comply with all applicable federal, state and county laws, statutes, ordinances, rules and regulations in connection with the implementation of the Master Plan.

14. **Notice of Change of Ownership / Transfer of Master Plan Permit and Master Plan Development Agreement**. Petitioner shall notify the Authority of any sale, or assignment of title to its property in the Master Plan Area if it occurs prior to

development of such property. The (i) master plan permit, and (ii) master plan development agreement will be freely assignable or transferable by VWL, provided that VWL promptly notifies the Authority in writing of such an assignment or transfer, and provided that the terms and conditions of the master plan permit and master plan development agreement will be binding on VWL's successors, assigns, and transferees.

15. **Extensions of Time.** Petitioner may apply for extensions to any of the foregoing time limits prescribed in these conditions based on a reasonable showing of good cause.

16. **Recordation of Order**. Petitioner shall record a memorandum of this Order with the Bureau of Conveyances in a form and with content to be reasonably prescribed by the Executive Director of the Authority, and the terms and conditions of this Order shall run with the land.

ADOPTION OF ORDER

The undersigned Members, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 14th day of January, 2009. This Order and its ADOPTION shall take effect upon the date this ORDER is approved by the Authority.

Done at Honolulu, Hawai`i, this 14th day of January, 2009.

Hawai'i Community Development Authority (Kaka`ako members)

-Excused-

Jonathan W. Y. Lai, Chairperson

Paul Kimura

Amanda Chang

C. Scott Bradley

Grady Chun

Joseph Dwight, IV

Christopher Kobayashi

Kay Mukaigawa

Dexter Okada

for Brennon Morioka

for Georgina K. Kawamura

Theodore E. Liu

Russ K. Saito

Approved as to Form:

Eugene Won, Deputy Attorney General

CONSENT

Petitioner has received a copy of, has read, and consents to the *nunc pro tunc* order, dated May 6, 2009 and consisting of 56 pages, issued by the Hawaii Community Development Authority ("Authority"), and entitled "Nunc Pro Tunc Order Re: Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit" in the matter of the application of General Growth Properties, Inc. on behalf of its affiliate Victoria Ward, Limited for a master plan permit under Hawai`i Administrative Rules chapter 15-22 (such order, the "Nunc Pro Tunc Order").

Petitioner understands and acknowledges that the Authority adopted the Nunc Pro Tunc Order, without additional formal proceedings on the matter following the Authority's original decision and order of January 14, 2009, to correct errors in the original order. Pursuant to Hawaii Revised Statutes section 91-9(d), Petitioner waives all procedural rights to which the undersigned would otherwise be entitled under Hawaii Revised Statutes chapter 91 with respect to the Authority's adoption of the Nunc Pro Tunc Order.

Watanabe Ing, LLP

By: _____

Attorneys for **Victoria Ward, Limited,**
a Delaware corporation, a debtor in
possession, Petitioner

5/5/2009

PARCEL THIRD: 2-3-002-067

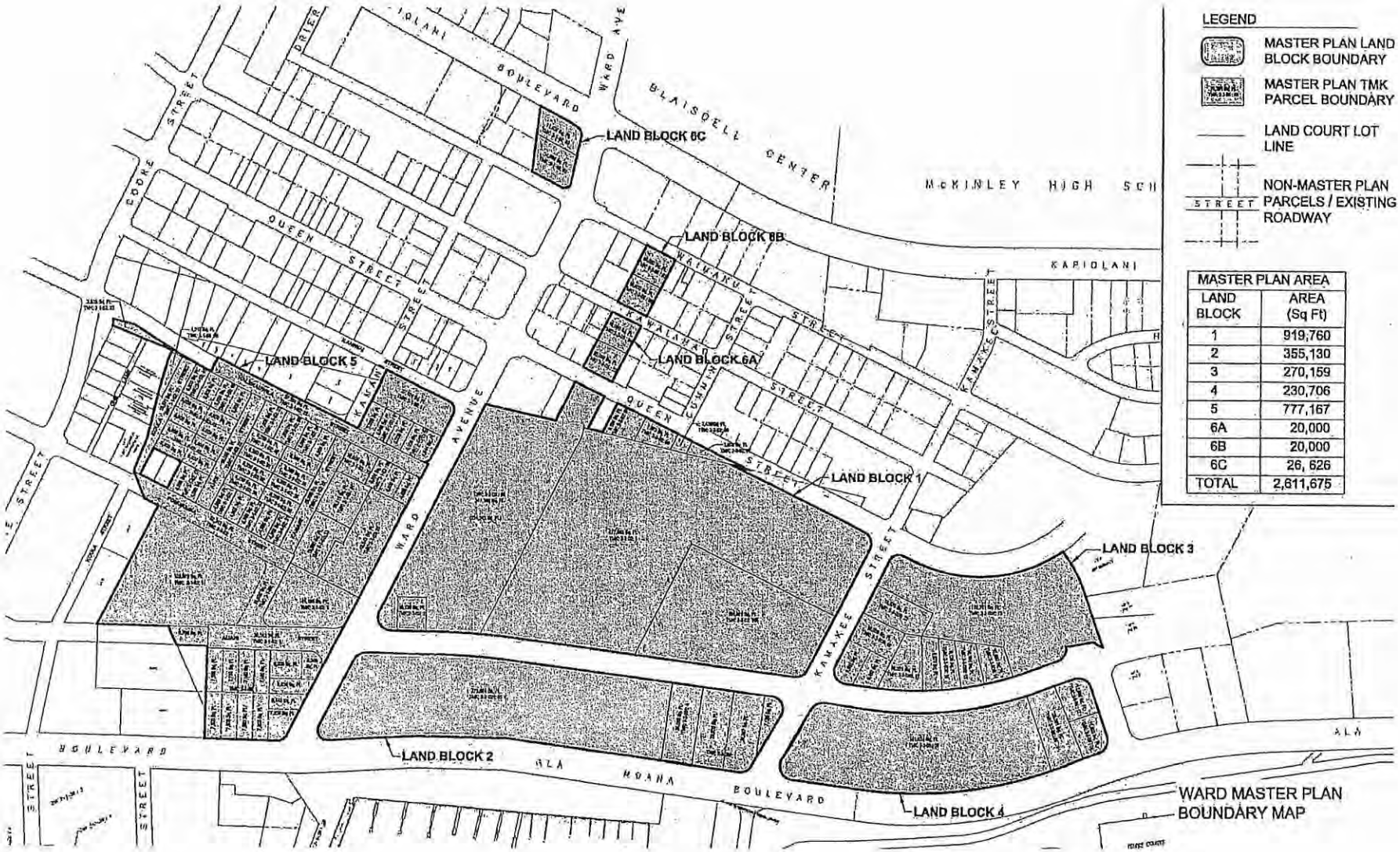
FIRST:

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, being LOT 14, in Block 4 of the "KEWALO TRACT", as shown on that certain map recorded in Book 162 Page 222, recorded in the Bureau of Conveyances of the State of Hawaii, and containing an area of 4,847 square feet, more or less.

SECOND:

All of that certain parcel of land situate at Kewalo, Honolulu, City and County of Honolulu, State of Hawaii, being LOT 15, in Block 4 of the "KEWALO TRACT", as shown on that certain map recorded in Book 162 Page 222, recorded in the Bureau of Conveyances of the State of Hawaii, and containing an area of 4,312 square feet, more or less.

Being a portion of the land described in Exchange Deed dated November 21, 1951, recorded in said Bureau of Conveyances in Book 2526 Page 245.



MASTER PLAN AREA	
LAND BLOCK	AREA (Sq Ft)
1	919,760
2	355,130
3	270,159
4	230,706
5	777,167
6A	20,000
6B	20,000
6C	26, 626
TOTAL	2,611,675

WARD MASTER PLAN BOUNDARY MAP

EXHIBIT "A"