

BEFORE THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY
STATE OF HAWAII

In re Application of

THE TRUSTEES OF THE ESTATE
OF BERNICE PAUAHI BISHOP

to Amend the Master Plan Permit,
File No. PL MASP 13.2.8, Issued by
Hawaii Community Development
Authority on September 2, 2009

MASTER PLAN PERMIT NO. PL MASP
13.2.8

**SUPPLEMENTAL DECLARATION OF
SERGE M. KRIVATSY**

I, Serge M. Krivatsy, hereby declare based upon my own personal knowledge as follows:

1. I am the Director of Planning and Development for Kamehameha Schools (“KS”). I am authorized to make this declaration.

2. The Kaiāulu ‘o Kaka‘ako Master Plan (“KKMP”) is subject to the 2005 Mauka Area Rules, the Master Plan Permit No. PL MASP 13.2.8 adopted on September 2, 2009, and previously amended on August 8, 2012 (together with the amendment, the “**Master Plan Permit**”), Hawaii Community Development Authority’s (“HCDA”) September 2, 2009 Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit (the “**2009 Decision and Order**”) and the October 6, 2009 Kaka‘ako Master Plan Development Agreement (“**2009 Development Agreement**”).

3. In 1983, an Environmental Impact Statement (“EIS”) was prepared for the Mauka Area Plan. The EIS was supplemented several times, including in 2009.

4. Since the approval of the KKMP on September 2, 2009, KS, along with its development partners, successfully redeveloped four blocks under Increment I. These projects include the residential projects of Keauhou Place, Keauhou Lane, The Collection, The Flats at Pu‘unui, 680 Ala Moana and 400 Keawe.

5. KS also completed the SALT commercial center, which has become a popular shopping and gathering destination. Through these projects, KS has delivered 1,336 residential units, 456 (approximately 34 percent) of which meet or exceed HCDA’s affordability guidelines, approximately 184,000 square feet of new commercial space and approximately 65,000 square feet of open space. All of these projects were completed under the KKMP as part of Increment I.

6. KS is in compliance with all conditions set forth in HCDA’s 2009 Decision and Order, including executing a Master Plan Development Agreement, preparing and submitting a historical building inventory and a cultural impact assessment for the Master Plan Area, preparing and submitting archaeological inventory survey plans for the blocks developed under Increment I, preparing an open space design guideline for HCDA’s approval and preparing sustainability guidelines for developed blocks. KS is on track to meet or exceed the open space and public facilities dedication requirements in the 2009 Decision and Order.

7. KS continues to implement the KKMP in accordance with the 2005 Mauka Area Rules, the Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit approving the KKMP, the Kaka‘ako Master Plan Development Agreement dated October 6, 2009 and the other applicable approvals and

agreements and seeks to build on its progress from Increment I. Specifically, in Increment II, KS intends to transform the five remaining blocks into a pedestrian-oriented urban village with a variety of housing options and vibrant uses that honors the deep Hawaiian culture associated with the area. Among the goals for Increment II are to provide more reserved housing than originally anticipated, enhance the overall pedestrian experience in the area and create a retail center and public plaza at the intersection of Cooke and Auahi Streets.

8. To achieve these goals, KS proposes five amendments to the KKMP. These amendments are necessary to effectuate efficient development of the remainder of the KKMP while also providing opportunities to expand the amount of housing to be delivered.

The First Proposed Amendment.

9. KS requests that the KKMP be extended by a minimum of five years from the current expiration date of September 1, 2024 to at least September 1, 2029.

10. Extending the KKMP will provide KS and its development partners with the necessary time to respond to the changing marketplace, deliver additional housing and retail opportunities and create new jobs.

11. In addition, KS also seeks the extension in order to provide KS, its tenants and its development partners with the necessary time to complete Increment II. Based on KS' experience implementing the KKMP for more than a decade and its experience in securing partnerships with developers in projects unrelated to the KKMP, the removal of unnecessary entitlement risks during challenging economic

times encourages the development of housing and leads to economic benefits that are associated with construction. Developers are more likely to pursue investments in projects and community benefits knowing that they may rely on the KKMP and applicable HCDA rules for a longer period of time.

The Second Proposed Amendment.

12. KS requests that the KKMP be amended to allow the joint development of Blocks F and G as one development lot, transfer tower and floor area from Block F to Block D or, other blocks within the KKMP, and confirm flexibility in the implementation of the KKMP.

13. Under the 2009 KKMP, Block F was identified as a tower site with a FAR of 4.10.

14. Block F has since become home to the low-rise SALT development, which is a neighborhood commercial center with active shops and restaurants serving Kaka‘ako and surrounding communities. On the same block, adaptive reuse of a former office building (680 Ala Moana) provides 54 affordable rental units. This popular development resulted in excess unused floor area, which precludes the development of the originally envisioned tower on Block F. The building floor area of Block F is 129,330 square feet with a FAR of 1.033. The KKMP envisioned that the development on Block F would have a building floor area of 513,451 square feet. The resulting difference is a balance of 384,121 square feet of building area permitted under the KKMP.

15. Meanwhile, the KKMP envisioned Block D, which has not yet been redeveloped, as a lower density project consistent with what is now on Block F.

16. To reflect the existing and planned uses of Block F and the surrounding blocks, KS requests an amendment to the KKMP to jointly develop Blocks F and G as one “development lot” (identified as “**Joint Development Lot 1**”) under section 15-22-80 of the vested Mauka Area Rules and transfer the tower site and excess floor area from Block F to Block D (and potentially other blocks in the KKMP based on permitted FAR) under section 15-22-203(b) of the vested Mauka Area Rules.

17. Approving the requested amendment would recognize the success of the SALT development and allow the approximately 50 small businesses at SALT to continue operating in a space that has become a community resource, while also allowing KS to fulfill the vision under the KKMP. Similarly, approving the requested amendment would permit the existing affordable rental units at 680 Ala Moana to remain.

18. Based on its experience implementing the KKMP over the last ten years, KS believes that it is clear that retaining a degree of flexibility is critical to the successful implementation of the vision for the Kaka‘ako Community Development District. Overly static and rigid planning unnecessarily complicates the development process and increases project costs. Taking these lessons to heart as KS begins the next phase of the KKMP, KS requests that flexibility be imbedded within the amended master plan in two ways.

19. First, KS requests that it be allowed to transfer density between the remaining blocks within the KKMP if KS does not exceed the maximum permitted floor area ratio for the KKMP. A detailed Block-by-Block breakdown of the difference between the actual building area of the completed development blocks and the building area permitted under the KKMP is provided in the tables on pages C-14 to C-17 of the Proposed Master Plan Amendment, which is attached as Exhibit 5 to KS' Petition for Amendment of the Master Plan Permit.

20. Second, KS requests that it be allowed to move towers to different blocks within the KKMP. The overall density of the KKMP would remain the same even though density and tower locations may change.

21. To accomplish these goals, KS requests that the KKMP be amended by adding the following text to the KKMP in the Executive Summary, Proposed Plan section and Chapter 5, Introduction:

Representations as to the establishment of specific uses and the development of specific improvements are included in the KKMP for illustrative purposes only. The plans represent possible development solutions and are not binding commitments. The actual development of individual Blocks shall remain flexible and responsive to market needs, including the ability to move tower locations and density between Blocks.

The Third Proposed Amendment

22. KS requests that the KKMP be amended to add the following language to confirm there will be no impact on the balance of the KKMP in the event a project is developed under Hawai'i Revised Statutes chapter 201H:

Upon issuance of the permit required to commence construction of a 201H project, the 201H project, including its associated tower(s), floor area, and unit count, shall be excluded from the KKMP. The development potential of the remaining area in the KKMP may then be recalculated such that the

201H project will not affect the development of the remaining area within the KKMP. Community benefits provided on the same block as a 201H project shall not be impacted or removed from the KKMP and may be used to satisfy corresponding obligations in the KKMP.

23. The intent of this amendment is to encourage the development of a chapter 201H project within the KKMP by providing clarity that the project will not adversely affect the KKMP. This clarity encourages the simultaneous fulfillment of the goals and vision of the KKMP and the public policy rationales behind chapter 201H.

The Fourth Proposed Amendment

24. KS seeks to amend the KKMP to increase the maximum permitted floor area to account for the addition of Koula Street.

25. KS recently determined that it owns the section of Koula Street located between Ala Moana Boulevard and Auahi Street (the “**Roadway**”), as shown in the Tax Plat attached as Exhibit 8 to KS’ Petition for Amendment of the Master Plan Permit. Attached hereto as Exhibit 10 is a true and correct copy of a more detailed map of the Roadway, accompanied by a metes and bounds description thereof.

26. KS’ determination was informed in part by KS’ review of historical maps of the surrounding area which show the Roadway situated within lands owned by KS.

27. KS obtained the attached preliminary title report attached hereto as Exhibit 11 confirming that KS owns the Roadway.

28. The City has agreed to abandon any public access and easement rights over the Roadway, as evidenced by proposed City Council Resolution 20-50, a copy of

which is attached as Exhibit 9 to KS' Petition for Amendment of the Master Plan Permit.

29. Attached hereto as Exhibit 12 is a true and correct copy of Table 7-1 from the Mauka Area Plan. According to Table 7-1, the Mauka Area Plan contemplates the possible closure of Koula Street.

The Fifth Proposed Amendment

30. In the fifth proposed amendment, KS requests to amend the KKMP to add the following language:

Representations as to the projected number of dwelling units are included in the KKMP only for the purpose of providing an estimate. The estimates are based on the information at the time and are not binding commitments or restrictions. The actual number and types of dwelling units shall remain flexible and responsive to market needs.

31. KS requests this amendment because it anticipates that it may be possible to provide additional housing opportunities exceeding the 2,750 residential unit count initially envisioned while adhering to the maximum floor area ratio (3.5) approved under the KKMP. This is primarily due to two factors.

32. First, Increment I resulted in the development of more affordable housing than was originally planned. Specifically, 1,336 units have been built in Increment I with 456 (34%) units meeting or exceeding HCDA guidelines. This ratio is above HCDA rules for reserved housing. With the flexibility to continue developing these types of units under the KKMP, KS anticipates that it may be able to exceed the 550 reserved units originally anticipated under the KKMP.

33. Second, based on KS' experience implementing the KKMP and partnering with developers on projects unrelated to the KKMP, market conditions have shifted

in favor of developing smaller, more cost-effective units. Allowing developers the flexibility to meet this demand and adapt to future market changes ensures that the KKMP remains an attractive option for prospective developers.

I declare under the penalty of law that the foregoing is true and correct to the best of my knowledge.

DATED: Honolulu, Hawai'i, March 25, 2021.

A handwritten signature in black ink, appearing to read 'Serge M. Krivatsy', with a horizontal line extending from the end of the signature.

SERGE M. KRIVATSY