

SUPPLEMENT NO. 1 TO MASTER PLAN DEVELOPMENT AGREEMENT

for the

KAIĀULU 'O KAKA'AKO

MASTER PLAN

HAWAII COMMUNITY DEVELOPMENT AUTHORITY
State of Hawaii

and

TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP

EXHIBIT "12"
EXHIBIT 3

SUPPLEMENT NO. 1 TO MASTER PLAN DEVELOPMENT AGREEMENT

THIS SUPPLEMENT NO. 1 TO MASTER PLAN DEVELOPMENT AGREEMENT (this "Supplement") made this 20th day of JUNE, 2011, by and between the HAWAII COMMUNITY DEVELOPMENT AUTHORITY, State of Hawaii ("State"), whose office address is 461 Cooke Street, Honolulu, Hawaii 96813 ("HCDA") and the TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP dba Kamehameha Schools, whose address is Kawaiahao Plaza, Suite 200, 567 South King Street, Honolulu, Hawaii 96813 ("KS").

This Supplement does supplement that certain unrecorded Master Plan Development Agreement dated October 6, 2009, a memorandum of which is recorded in the Bureau of Conveyances of the State of Hawaii (the "Bureau") as Document No. 2010-012596 (the "Master Development Agreement"). The Master Development Agreement covers the Kaiāulu 'O Kaka'ako Master Plan ("KKMP") for the development of certain KS lands in the Kakaako Community Development District ("KCDD") under the authority of the Hawaii Revised Statutes ("HRS") Chapter 206E, as amended, and Chapter 22, Title 15, Hawaii Administrative Rules ("Development Rules") in effect on September 2, 2009.

I. DEFINITIONS

The terms below, whenever used in this Supplement, shall have the following meanings:

A. "Benefited Lot" or "Benefited Lots": The development lot or lots in the KCDD to which the requirement to provide reserved housing is transferred from.

B. "Burdened Lot" or "Burdened Lots": The development lot or lots in the KCDD to which the requirement to provide reserved housing is transferred to.

C. "Construction Commencement Date" means the date, on which KS issues a notice to proceed letter to the contractor for construction of the subject project and provides a written notification to HCDA stating that the construction of the subject project has commenced.

D. "Conversion Commencement Date" means the date, on which KS issues a notice to proceed letter to the contractor for conversion of nonreserved housing units and provides a written

notification to HCDA stating that the conversion of nonreserved housing units to reserved housing units has commenced.

E. "D&O" means the Findings of Fact, Conclusions of Law and Decision and Order issued by the HCDA on September 2, 2009 for the KKMP.

F. "Development Rules" means Chapter 22, Title 15, Hawaii Administrative Rules in effect on September 2, 2009.

G. "HAR" means the Hawaii Administrative Rules.

H. "HRS" means the Hawaii Revised Statutes, as amended from time to time.

I. "KKMP" means the Kaiāulu 'O Kaka'ako Master Plan submitted by KS that was approved by HCDA on September 2, 2009, within the KCDD.

J. "Supplement" means this Supplement No. 1 to Master Development Agreement.

II. BACKGROUND OF THIS SUPPLEMENT

A. On September 2, 2009, HCDA, pursuant to the Development Rules pertaining to master plans, approved the KKMP subject to certain conditions pursuant to its D&O. Thereafter, HCDA issued the permit identified as "PL MASP 13.2.8" (the "Master Plan Permit").

B. Effective as of October 6, 2009, HCDA and KS entered in to the Master Plan Development Agreement (the "Master Plan Development Agreement").

C. The D&O provides at paragraph 2 that supplements to the Master Plan Development Agreement should be developed as details become available to provide HCDA with assurances and/or specifications including but not limited to the general timing and phasing of the delivery, manner and timing of reserved housing, and additional implementation issues.

D. HAR §§15-22-115, and 203 in effect on September 2, 2009, provide for the transfer of the reserved housing requirement from one development lot to another.

E. Finding No. 94 of the D&O provides that under the KKMP, KS proposed to satisfy the reserved housing requirement by providing approximately 550 new reserved housing

units on- or off-site within the KCDD as permitted by HCDA for the proposed 2,750 residential units (including reserved housing units).

- F. The D&O and Master Plan Development Agreement address Increment 1 of the KKMP.
- G. HCDA and KS wish to enter into this Supplement to implement the manner and timing of reserved housing and certain Increment 1 improvements.

III. AGREEMENTS ON THE TRANSFER OF RESERVED HOUSING REQUIREMENTS

HCDA and KS hereby agree that:

- A. All or a portion of the reserved housing requirement from one or more Benefited Lots may be transferred by KS to one or more the Burdened Lots in which event HCDA shall allow the development of the Benefited Lots free and clear of the reserved housing requirement so transferred.
- B. KS does assure HCDA that it will comply with the requirement under HAR §15-22-203 which provides in relevant parts that the development of the required reserved housing units on the Burdened Lot shall commence within two years after the development is completed on the Benefited Lot unless the first development project on any of the development lots involved in the transfer contains fifty per cent of the reserved housing units required for development of all lots involved in the transfer, provided the allocation of unit types for the reserved housing units shall constitute a proportionate representation of all the nonreserved unit types to be provided with regard to factors of square footage and number of bedrooms as determined by HCDA, except as provided below in paragraph V.F for reserved housing credits (the "RH Credits"). This assurance by KS shall be included in the Declaration (as defined below) that is recorded in the Bureau. This assurance by KS shall be binding on KS and its successors-in-trust and assigns as a covenant running with the land until the reserved housing units are constructed or created from a conversion and/or RH Credits are applied, all as described in this Supplement. KS

shall be responsible for the recordation of the Declaration against both the Benefited Lots and Burdened Lots.

- C. The manner of such transfer of reserved housing requirement from Benefited Lots to Burdened Lots shall be as follows:

1. KS shall prepare a declaration entitled "Declaration of Covenants Running with the Land" for the transfer of reserved housing requirement ("Declaration") in the form attached hereto as Exhibit 1 and shall submit it to HCDA for written confirmation that the proposed Declaration is consistent with and conforms to the terms and conditions of this Supplement. As provided in Exhibit 1, the Declaration shall provide a summary of the reserved housing requirements of each Burdened Lot in the KCDD as well as the RH Credits that have been or may be earned and may be applied in the KCDD. Within sixty (60) days of KS' submission of the proposed Declaration, the Executive Director of HCDA shall either provide confirmation that the proposed Declaration is consistent with and conforms to the terms and conditions of this Supplement or require KS to revise the Declaration to be consistent with and to conform to the terms and conditions of this Supplement. If no response is received within such sixty-day period, the proposed Declaration shall be deemed to be consistent with and conform to this Supplement. If KS does not agree with all or a part of HCDA's revisions, HCDA and KS shall, within thirty (30) days of HCDA's required revisions, meet and confer and if they still disagree, KS may seek such recourse, in law or equity, to resolve the dispute.
2. Upon HCDA's written confirmation as set forth in paragraph III. C. 1 above, and if KS wishes to proceed with the transfer, KS shall execute and record the Declaration in the Bureau against both the Benefited Lots and Burdened Lots involved in the transfer and the Declaration shall be effective upon such

recording (which may be in advance of a planned development permit application).

3. If KS elects not to proceed with the transfer, KS shall provide written notification to HCDA no later than sixty (60) days from the date that the development permit for the Benefited Lot is issued by the HCDA that the proposed Declaration is withdrawn by KS and KS shall not record the Declaration in the Bureau.
4. Once recorded in the Bureau, KS shall not amend or withdraw the Declaration without first obtaining written consent from the Executive Director of HCDA (except as provided below), whose consent shall not be unreasonably withheld, conditioned, or delayed.
5. HCDA agrees that its consent is not required if (a) a withdrawal is the result of reserved housing units being developed on or RH Credits are being applied to the Benefited Lot, thus eliminating the need for any transfer of the reserved housing requirement to the Burdened Lot, or (b) an amendment is the result of (i) reserved housing units being constructed in another development project in the KCDD or elsewhere such that the identification of the Burdened Lot is amended, (ii) RH Credits being applied to satisfy in whole or in part the reserved housing requirement for the Burdened Lot thus reducing or eliminating the reserved housing requirement for the Burdened Lot, or (iii) a change in the legal description of the Benefited Lot or Burdened Lot, especially after a subdivision and/or consolidation and only if the total area comprising the same is not altered; provided that KS shall provide HCDA written notification sixty (60) days prior to the date of such amendments. All other withdrawals and amendments shall require the consent of the HCDA as provided in paragraph III.C.4, above.

IV. GENERAL AGREEMENTS ON RESERVED HOUSING CREDITS.

HCDA and KS hereby agree that:

- A. The Master Plan Development Agreement provides that, to encourage the early delivery of reserved housing within the KCDD in advance of the construction of market housing, a reserved housing credit account process will be effectuated. KS is entitled to earn RH Credits (i) if KS transfers land in the KCDD to HCDA or another entity identified by HCDA and at a rate approved by HCDA, (ii) KS constructs more reserved housing units for any planned development in the Master Plan Area than is required for that project; (iii) if a third-party entity has built more reserved housing in the KCDD than required under its development and transfers RH Credits to KS; (iv) if KS participates in a joint venture that results in excess reserved housing units in the KCDD; and/or (v) as approved by HCDA, KS converts non-reserved housing into reserved housing within the KCDD. The Master Development Agreement also provides that KS may use the RH Credits to satisfy all or part of its KKMP reserved housing requirements (including but not limited to its requirement to provide 10% (or one-tenth) of its reserved housing requirement at one hundred percent (100%) or below of the area median income if those RH Credits are generated from the same area median income) and/or transfer to a third-party. Further, it provides that the RH Credits shall be applied on a one-for-one basis.
- B. With respect to the RH Credits earned in the KCDD, KS shall earn the RH Credits on the Construction Commencement Date for a project containing the reserved housing units or the Conversion Commencement Date for the conversion of nonreserved housing units to reserved housing units.
- C. KS may apply the RH Credit when it is earned, provided, however, if KS applies the RH Credit, KS is irrevocably committed to (i) complete the reserved housing unit within five years from the date of earning the RH Credit, or (ii) provide a completed substitute reserved housing unit within such five-year period. If at the end of the five-year period

neither has occurred, then the HCDA may pursue its remedies against KS, and unless and until the reserve housing units are subsequently completed, the HCDA may (a) seek specific performance against KS and require KS to complete, or cause the completion of, the reserved housing units or to provide the completed substitute reserved housing units, (b) seek damages against KS for not timely completing the reserved housing units or providing the completed substitute reserved housing units and file a lien to enforce payment of such damages, and (c) suspend or revoke KS' ability to earn new RH Credits in advance of completing the reserved housing units.

- D. With respect to transfers, KS may, at any time and at its election, use the earned RH Credits to satisfy, in whole or in part, the reserved housing requirement on the previously designated Benefited Lot and/or Burdened Lot. In either case, an appropriate amendment to each applicable Declaration shall be recorded in the Bureau.
- E. Before KS can earn or apply any RH credits, KS shall provide written notification to HCDA of the RH Credits that KS believes it has or will earn or acquire, including RH Credits from the conversion of nonreserved housing units into reserved housing units within the KCDD. Within sixty (60) days of such notice, the Executive Director of HCDA shall provide a written response either: (i) confirming KS' calculation of the RH Credits it has earned or will earn or acquire; or (ii) rejecting KS' calculation of the RH Credits it has earned or will earn or acquire, providing an explanation of the reason for the rejection, and requesting that KS re-calculate and re-submit the RH Credits it has earned or will earn or acquire. If no rejection is received within such sixty-day period, KS' calculations shall be deemed to be confirmed by HCDA. If KS does not agree with all or a part of the HCDA's rejection, HCDA and KS shall, within thirty (30) days of the HCDA's rejection, meet and confer and if they still disagree, KS may seek such recourse, in law or equity, to resolve the dispute, provided, however, KS is free to proceed to apply any RH Credits that are not in dispute.

F. From the year that KS has earned its first RH Credit, and annually thereafter for each calendar year, KS shall provide to the HCDA, by March 31st of the following year, a summary of the reserved housing account for the KKMP area (the "Annual Report") that contains (i) the RH Credits it has earned or received, (ii) the RH Credits that it has applied, (iii) the developments to which the RH Credits were applied, (iv) the status of the reserved housing units that have not yet been completed, (v) those developments where the reserved housing requirements have been satisfied, and (vi) the properties in the KKMP area that are no longer owned by KS and the name of the new owners. Within ninety (90) days of submission of the Annual Report, the Executive Director of HCDA may provide a written response objecting to any information in the Annual Report for the applicable calendar year with an explanation of the objections and requesting that KS revise the Annual Report. The HCDA shall not be entitled to object to RH Credit calculations that have been confirmed or deemed confirmed by the HCDA pursuant to paragraph IV.E above or in a previous Annual Report. If no objections are received within such ninety-day period, the Annual Report shall be deemed approved by the HCDA. If KS does not agree with all or a part of HCDA's objections, HCDA and KS shall, within thirty (30) days of HCDA's objections, meet and confer and if they still disagree, KS may seek such recourse, in law or equity, to resolve the dispute; provided, however, KS is free to apply any RH Credits that are not in dispute. Any failure of KS to provide the Annual Report to HCDA in a timely manner shall not affect the validity or application of the RH Credits that have been earned or any other rights of KS or its developer.

V. AGREEMENTS ON RESERVED HOUSING CREDITS FOR CERTAIN LAND BLOCKS.

HCDA and KS hereby agree that:

A. For Land Block A as shown on the KKMP, if the Construction Commencement Date for any residential or mixed-use development on any portion of such Land Block A occurs

within five years from the date of this Supplement, KS or the developer shall receive one RH Credit for each reserved housing unit thereon that is in excess of the reserved housing units required for the development.

- B. The "Pagoda Terrace" is an apartment complex with approximately one hundred sixty-two (162) rental units and parking facilities located on a parcel of land in the "Kaheka Tract," which parcel is identified by Tax Map Key No. (1) 2-3-018-022. The parties acknowledge that there are significant public benefits for the HCDA to grant KS' request (as described below) including (a) the early availability of up to 162 moderately priced residential units located in the heart of urban Honolulu and less than a mile from the KCDD, (b) more reserved housing units provided than the RH Credits earned, and (c) serving the intended beneficiaries and achieving the goals of reserved housing identified in the Kakaako Community Development Plan and Rules because of the proximity of Pagoda Terrace to the KCDD. If the proposed Kakaako Community Development Plan and Rules are adopted by HCDA for the mauka area of the KCDD, which allow reserved housing units to be built outside of the KCDD to satisfy reserved housing requirements within the KCDD, KS may request amending the Master Plan Permit and/or the Master Plan Development Agreement (a) to allow KS to earn one hundred (100) RH Credits for the condominium conversion of 162 units in the Pagoda Terrace and the sale of such 162 units as reserved housing units, or, if fewer than 162 units are sold as reserved housing units, to earn RH Credits equal to sixty-two percent (62%) of the total reserved housing units sold, (b) to earn the RH Credits when the Pagoda Terrace is submitted to a condominium property regime to create the condominium units and the seller has entered into a binding commitment with KS to sell the units as reserved housing units at compliance prices to qualified buyers; and (c) to apply such RH Credits to satisfy the reserved housing requirement of any development within the KCDD. The KS shall make the request for amending Master Plan Permit

and/or Master Plan Development Agreement within 200 days from adoption of the proposed Kakaako Community Development Plan and Rules and the HCDA shall grant or deny such request by KS within two hundred (200) days of its submission to HCDA.

- C. For Land Block B as shown on the KKMP, if KS is unable to receive RH Credits from the conversion of the Pagoda Terrace (as described above) within two years from the date of this Supplement and if the Construction Commencement Date for any residential or mixed-use development on any portion of such Land Block B occurs within seven years from the date of this Supplement, then at KS' written request to HCDA, KS or the developer shall receive one RH Credit for each reserved housing unit constructed thereon that is in excess of the reserved housing units required for the development.
- D. For Land Block F as shown on the KKMP, KS shall receive one RH Credit for each adaptive reuse reserved housing rental unit that is created on a portion of Land Block F. The RH Credits shall be earned upon the Conversion Commencement Date for the adaptive reuse of the property for reserved housing rental units. KS shall provide written notification to the HCDA of the Conversion Commencement Date. It is estimated that approximately fifty-four RH Credits will result from such adaptive reuse project.
- E. If RH Credits are earned by KS or transferred to KS from the development or conversion of Land Block A (as described in paragraph V.A above), Land Block B (as described in paragraph V.C above), Land Block F (as described in paragraph V.D above), and the Pagoda Terrace (as described in paragraph V.B above), such RH Credits may be applied by KS on a one-for-one basis to satisfy the reserved housing requirement of any development in the KCDD, and such RH Credits shall have no expiration date and may be applied and used even after the expiration of the Master Plan Permit and even if the Development Rules are amended.
- F. "One-for-one basis" shall mean one RH Credit for one reserved housing unit and one RH Credit to satisfy the requirement for one reserved housing unit, without regard to the size

or types of units or any other proportionality standards. The foregoing, however, shall not be applied in a manner to reduce the KKMP's requirement that KS "provide 10% (or one-tenth) of its reserved housing requirement at 100% or below of the area median income" if the RH Credits are generated from the same area median income. By way of example, if one hundred (100) RH Credits are generated from a project on Block A from reserved housing units comprised of one-bedroom and two-bedroom units and if a project on Land Block G has five hundred (500) two-bedroom market units, such RH Credits may be applied to satisfy in full the reserved housing requirement of the Land Block G project (20% of the 500 residential units).

- G. For Land Block E as shown on the KKMP, if construction commences on any residential or mixed-use development on any portion of such Land Block E within five years from the date of this Supplement, KS or the developer shall be entitled to apply the RH Credits (whether generated from development on Land Block A, Land Block B, Land Block F, the Pagoda Terrace, or from another project in the KCDD) to satisfy, in whole or in part, the reserved housing requirements of such development on a one-for-one basis. The RH Credits may be applied to the development as soon as the RH Credits are earned by KS and may be included in any application for a planned development permit.

VI. INCREMENT 1; DESIGN GUIDELINES.

HCDA and KS hereby agree that:

- A. The Master Plan Development Agreement provides that the initial and future phases of implementation of the KKMP shall be in general conformance with Chapter 8 of the KKMP, Findings of Fact #72 to #77 of the D&O.
- B. Findings of Fact #75 of the D&O provides that in the Increment 1 phase, KS will plan and construct initial street level improvements that connect Mother Waldron Park to the Makai Gateway Park.

- C. HCDA finds that the initial street improvements described in Exhibit 2 are in general conformance with Findings of Fact #75 of the D&O as the initial street improvements. Pursuant to the phasing of the KKMP, KS agrees to design and construct additional and more substantial street improvements consistent with the "Open Space Concepts" of the Open Space Design Guidelines described below and attached hereto as Exhibit 4. These additional and more substantial street improvements shall be designed and constructed as adjoining properties are developed.
- D. Findings of Fact #76 of the D&O provides that KS will also work with HCDA and the City and County of Honolulu to identify street level improvements along Auahi and Cooke Streets to enhance the pedestrian experience and to better unify the neighborhood along these major crossroads.
- E. HCDA finds that the street improvements identified and described in Exhibit 3 are in general conformance with Findings of Fact #76 of the D&O.
- F. Order #7 of the D&O provides that prior to the submission of the first Planned Development Permit Application for a development site pursuant to the KKMP, KS shall prepare an open space design guideline for the HCDA's approval, as such design guidelines are described on page 7-1 of the KKMP.
- G. HCDA finds that the Design Guidelines for Open Spaces attached to this Supplement as Exhibit 4 are approved and satisfy the above-described requirement of Order #7 of the D&O.

VII. MISCELLANEOUS PROVISIONS


- A. Enforceability: Applicability. Unless terminated or cancelled, this Supplement, once entered into, shall be enforceable by any party thereto, or their successors in interest or assigns, notwithstanding any subsequent change in any Development Rule adopted by HCDA after September 2, 2009.

- B. Severability. If any one or more of the provisions contained in this Supplement shall be declared invalid, illegal or unenforceable in any respect for any reason, the validity, legality or enforceability of any such provision in any other respect and of the remaining provisions of this Supplement shall not be in any way impaired.
- C. Binding Effect. This Supplement shall be binding upon and shall inure to the benefit of the parties herein named and their respective permitted successors, successors in trust and permitted assigns.
- D. Headings. All headings used in this offer are for reference and convenience only. They shall not be considered in the construction and interpretation of the provisions stated in this Supplement.
- E. Written Agreement. This Supplement shall supersede and replace all prior agreements or portions insofar as such are inconsistent with this Supplement, written and oral, between the parties, concerning the KKMP. This Supplement shall not be modified except by an instrument in writing executed and acknowledged by the parties.
- F. Governing Law. The laws of the State of Hawaii shall govern the validity, construction and effect of this Supplement. This Supplement shall be interpreted in a manner which is consistent with the Development Rules in effect on September 2, 2009.
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- G. Assignment. Rights hereunder shall not be assignable and duties hereunder shall not be delegable by either party without the consent of the other unless expressly permitted under this Supplement which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, consent will be given to any assignment of those rights and duties, which are applicable to and run with a parcel or parcels of the master plan lands, to a lessee, developer, or purchaser of such parcel or parcels.
- H. Cooperation. The parties shall cooperate with one another in effecting this Supplement and agree to execute such further and additional mutually approved documentation required to facilitate and complete the actions contemplated in this Supplement.

- I. No Party Deem Drafter. The parties agree that neither party shall be deemed to be the drafter of this Supplement and that in the event this Supplement is ever construed by a court of law, such court shall not construe this Supplement or any provision hereof against either party as drafter of this Supplement.
- J. Counterparts. This Supplement may be executed in any number of counterparts. Each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one Agreement.
- K. Computation of Periods; Force Majeure. All periods of time referred to in this Supplement shall include all Saturdays, Sundays and State or national holidays, unless the period of time specifies business days, provided that if the date or last date to perform any act or give any notice with respect to this Supplement shall fall on a Saturday, Sunday or State or national holiday, such act or notice shall be timely performed or given on the next succeeding day which is not a Saturday, Sunday or State or national holiday. KS shall not be in default by reason of any failure to commence or complete construction by the time periods referred in this Supplement if KS notifies the HCDA within ten (10) days after the cause of the delay and the failure arises out of causes such as: strikes; acts of God; fires; floods; tsunami; or unusually severe weather.
- L. Trustees Not Personally Liable. This Supplement has been executed by or on behalf of the Trustees of the Estate of Bernice Pauahi Bishop in their fiduciary capacities as said Trustees, and not in their individual capacities. No personal liability or obligation under this Supplement shall be imposed or assessed against said Trustees in their individual capacities.

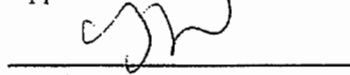
The parties have executed this Supplement effective as of JUN 20 2011.

Approved as to Content, Authority,
and Compliance with KS Policy:




Director/Manager

Vice President
Approved as to Form:



Legal Group

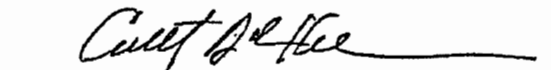
TRUSTEES OF THE ESTATE OF BERNICE
PAUAAHI BISHOP, as aforesaid



MICAH A. KANE

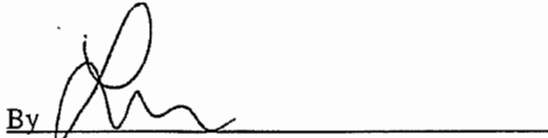


JANEEN-ANN AHULANI OLDS



CORBETT MERSON KALAMA

APPROVED AS TO FORM

By 

Deputy Attorney General
State of Hawaii

HAWAII COMMUNITY DEVELOPMENT
AUTHORITY

By 

Anthony J. H. Ching
Its Executive Director

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On MICAH A. KANE JUN 07 2011 before me appeared
JANEEN-ANNAHULANI OLDS and
JOSEPH APOLO, solely as TRUSTEES OF THE ESTATE OF BERNICE

PAUAHI BISHOP and not individually, to me known to be the persons described in the foregoing
instrument and who did say that they executed the foregoing instrument as their free act and deed as such
Trustees.

Signature: _____

JOSEPH APOLLO

Name: _____
Notary Public, State of Hawaii
My commission expires September 26, 2014
Notary Public, State of Hawaii

My commission expires: _____

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Supplement No. 1 to Master Plan Development Agreement
for the Kaiāulu `O Kaka`ako Master Plan

Doc. Date: | Undated at time of notarization

No. of Pages: 34 Jurisdiction: First Circuit
(in which notarial act is performed)

Signature of Notary _____
JOSEPH APOLLO
Notary Public, State of Hawaii
My commission expires September 26, 2014

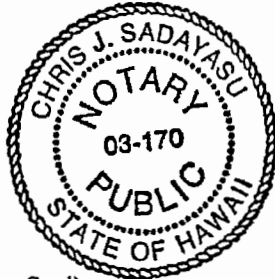
JUN 07 2011
Date of Notarization and
Certification Statement

(Official Stamp or Seal)

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On 20th day of JUNE, 2011, before me personally appeared ANTHONY J.H.

CHING, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as such person's free act and deed in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Signature: _____

Name: Chris J. Sadayasu
Notary Public, State of Hawai'i

My commission expires: MARCH 30, 2015

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

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No. of Pages: 34 Jurisdiction: First Circuit
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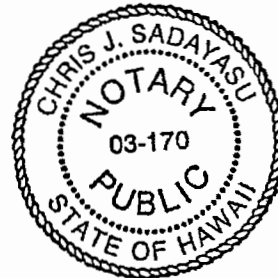
Signature of Notary

Chris J. Sadayasu

Date of Notarization and
Certification Statement

6/20/11

Printed Name of Notary



(Official Stamp or Seal)

Exhibit 1

Return by Mail () Pickup () To:

This document contains ___ pages.

Benefited Lot(s): Tax Map Key No. (1) _____
Burdened Lot(s): Tax Map Key No. (1) _____

DECLARATION OF COVENANTS RUNNING WITH THE LAND
(Land Blocks ___ or other identifying information)

THIS DECLARATION OF COVENANTS RUNNING WITH THE LAND (this "Declaration")
is entered into as of _____, 20__, by _____
_____, whose address is _____, hereinafter called the "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of that certain parcel of land situate at _____,
Honolulu, City and County of Honolulu, State of Hawaii, being _____, as more particularly
described in **Exhibit A** attached hereto, and that certain parcel of land situate at _____,
Honolulu, City and County of Honolulu, State of Hawaii, being _____, as more particularly
described in **Exhibit A-1** attached hereto (individually the "Benefited Lot" and collectively the
"Benefited Lots");

WHEREAS, Declarant is the owner of that certain parcel of land situate at _____, Honolulu, City and County of Honolulu, State of Hawaii, being _____, as more particularly described in **Exhibit B** attached hereto, and that certain parcel of land situate at _____, Honolulu, City and County of Honolulu, State of Hawaii, being _____, as more particularly described in **Exhibit B-1** attached hereto (individually the "Burdened Lot" and collectively the "Burdened Lots");

WHEREAS, pursuant to a Decision and Order dated September 2, 2009 ("D&O"), the Hawaii Community Development Authority, a body corporate and a public instrumentality of the State of Hawaii ("State") approved Declarant's Master Plan Permit Application dated November 26, 2008 subject to Declarant's compliance with certain terms and conditions;

WHEREAS, the State and [Declarant][Trustees of the Estate of Bernice Pauahi Bishop, dba Kamehameha Schools,] entered into that certain unrecorded Master Plan Development Agreement dated October 6, 2009, a memorandum of which is recorded in the Bureau of Conveyances of the State of Hawaii (the "Bureau") as Document No. 2010-012596 and that certain unrecorded Supplement No. 1 to Master Plan Development Agreement dated _____, a memorandum of which is recorded in the Bureau as Document No. _____ ("Supplement No. 1");

WHEREAS, pursuant to the terms and conditions of the D&O and Master Plan Development Agreement, Declarant must satisfy certain reserved housing requirements;

WHEREAS, pursuant to Supplement No. 1, Declarant may elect to transfer its reserved housing requirements from one development lot to another;

WHEREAS, pursuant to Supplement No. 1, Declarant hereby agrees to transfer the reserved housing requirement from the Benefited Lot to the Burdened Lot as more particularly described below; and

WHEREAS, pursuant to Supplement No. 1, and the consideration received by both Declarant and the State by the mutual covenants contained therein, Declarant does execute and shall record this Declaration in the Bureau;

NOW, THEREFORE, Declarant does hereby declare that the Benefited Lots and Burdened Lots shall be subject to the Covenants set forth in this Declaration, which shall run with the land and shall be binding on all present and future owners thereof, as follows:

1. [Describe the number or percentage of reserved housing units to be transferred.]
2. [Provide information on the manner in which the reserved housing requirement are intended to be satisfied (construction, conversion, and/or RH Credits) on the Burdened Lot.] This is for informational purposes only.
3. As the result of the transfer and [describe any previous Declarations], the reserved housing requirement on Benefited Lots and Burdened Lots is as described in Schedule 1.
4. [Each] Benefited Lot shall be free and clear of the reserved housing requirement so transferred to the Burdened Lot by this Declaration and the State shall have recourse only against the Burdened Lot (and its owner) for the satisfaction of the reserved housing requirement transferred by this Declaration.
5. The transfer of the reserved housing requirement to the [each] Burdened Lot shall constitute equitable servitudes, liens, and covenants running with and touching and concerning the [each] Burdened Lot.
6. [This Declaration has been executed by or on behalf of the Trustees of the Estate of Bernice Pauahi Bishop in their fiduciary capacities as said Trustees, and not in their individual capacities. No personal liability or obligation under this Declaration shall be imposed or assessed against said Trustees in their individual capacities.]
7. This Declaration may be amended or withdrawn by the Declarant or the then owner of the applicable real property subject to this Declaration only pursuant to the terms of Supplement No. 1.
8. By acceptance of a deed or by acquiring any ownership interest in any of the real property subject to this Declaration, each person or entity binds itself, its assigns, heirs, and successors-in-interest to the covenants and conditions imposed by this Declaration and any amendments hereto during such person or entity's ownership of such real property.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be duly executed and to be delivered as of the date and year first above written.

[NAME OF THE DECLARANT]

By _____

Name: _____

Its _____

“Declarant”

[Add notary acknowledgement and certification.]

~~Schedule 1~~

Description of the Benefited Lot

Exhibit A-1

Description of any other Benefited Lot

Exhibit B

Description of the Burdened Lot

Exhibit B-1

Description of any other Burdened Lot

Schedule 1

Declaration No. 1: [Describe what was done.]

Declaration No. 2: [Describe what was done.]

Exhibit 1

Exhibit 2 (Cooke Street Improvements)

The following are the initial street level improvements that KS plans to construct to connect Mother Waldron Park to the Makai Gateway Park: landscape improvements on Cooke Street including the placement of trees along Cooke Street as shown in the diagram. The trees are specified in the design guidelines as "Queen's White" Shower Tree at 45 feet on center. Spacing is subject to available space, driveways, and other existing conditions. The initial street improvements are intended to be in the City and County of Honolulu's right of way because the existing buildings are built to the property boundary. Accordingly, construction of these initial street improvements is subject to the City's review, revision, and approval.

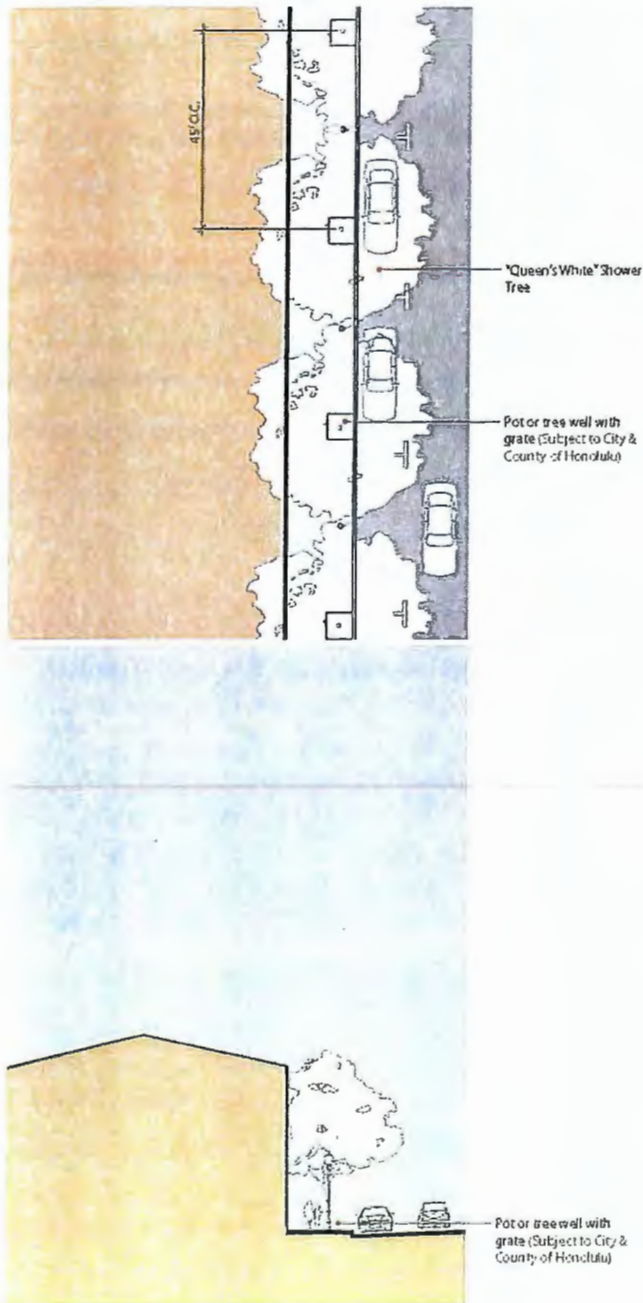


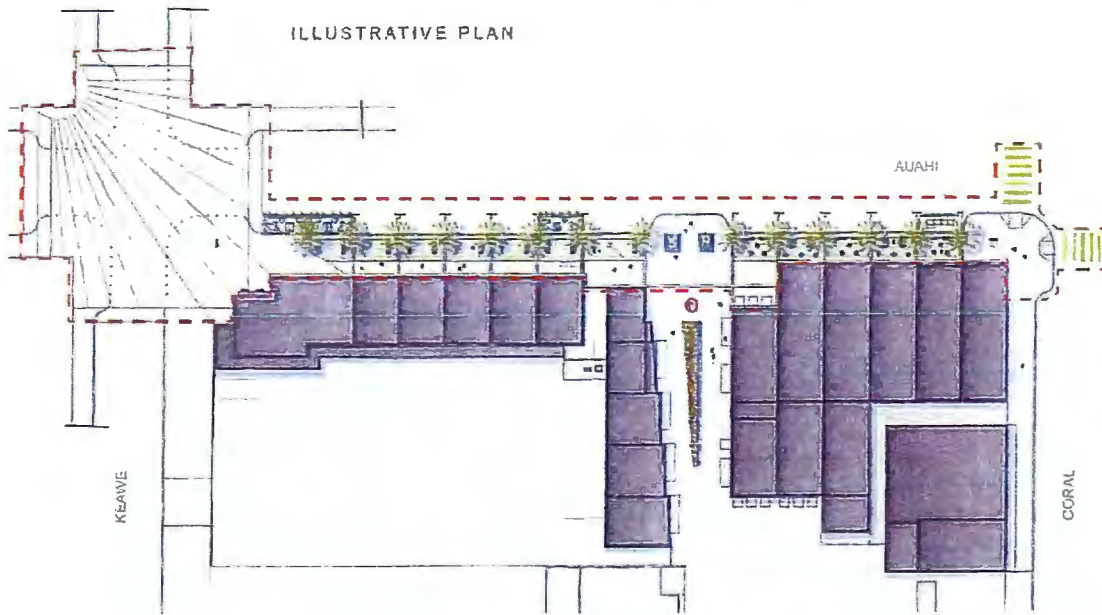
Exhibit 3

Kamehameha Schools (KS) has worked with the HCDA and the City to identify the street level improvements along Auahi and Cooke Streets, examples of which are described and depicted below, to enhance the pedestrian experience and to better unify the neighborhood along these major crossroads. Ongoing discussions will be held with the City to further refine these street level improvements and the final street level improvements are subject to the review, revision, and approval of the City.

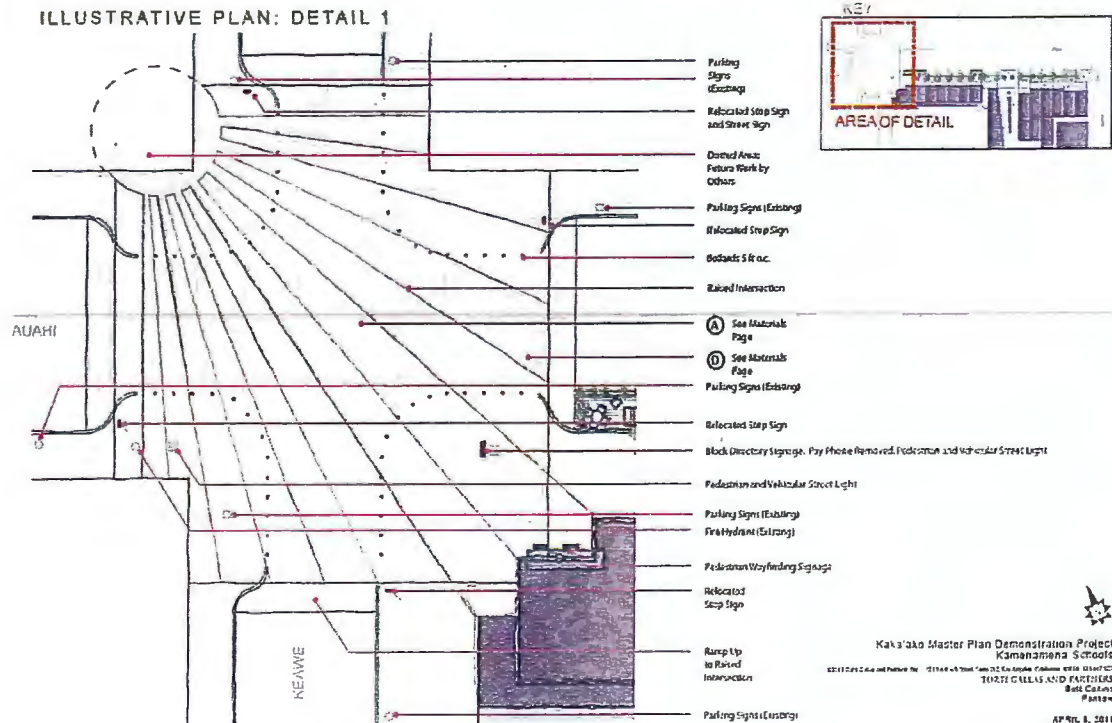
Proposed Improvement Area



Detailed Conceptual Design of Segment C and Raised Intersection



Raised Intersection



ILLUSTRATIVE PLAN: DETAIL 2



ILLUSTRATIVE PLAN: DETAIL 4

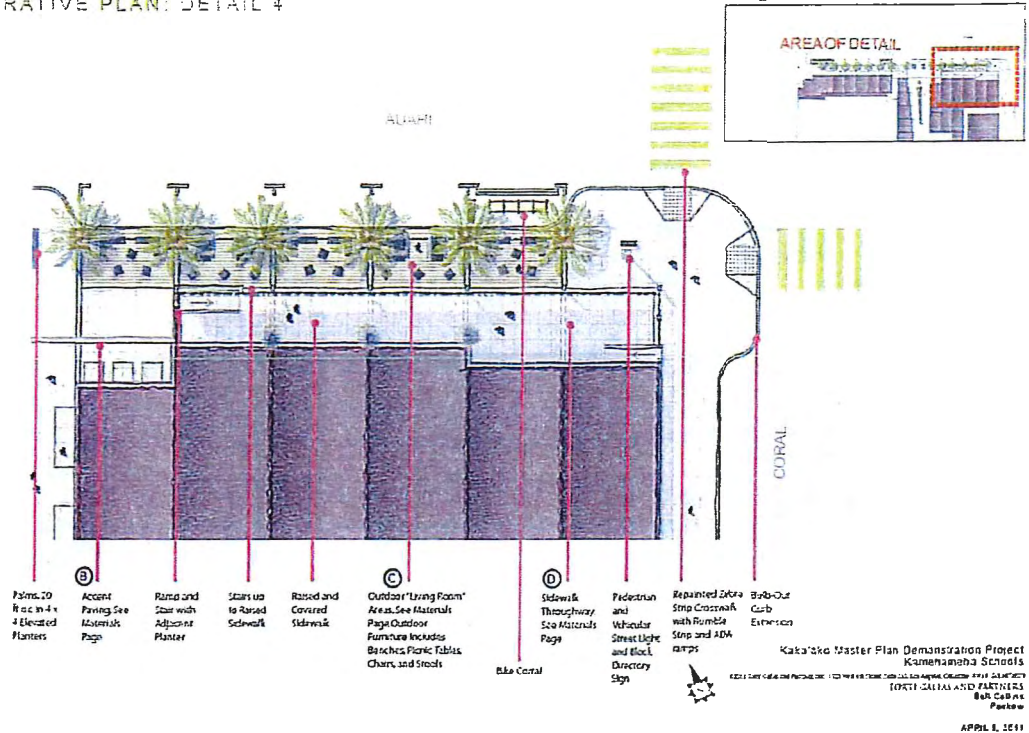


Exhibit 4

Open Space Design Guidelines¹

Open space is that portion of a development lot, exclusive of required yards, setback areas, or parking areas, which is a noncontiguous, un-built and unobstructed spaces at grade between and adjacent to public and private structures.

As conceptually planned for within the Kaka'ako Master Plan, a minimum of 10 percent of the Master Plan or approximately 2.9 acres (126,463 square feet) shall be reserved for open space and will be inclusive of landscaping. The Planned Development Permit Application for each block will further describe the location and nature of the open space to be developed. The Land Use and Development Summary in the KKMP on page 5-12 will guide the vision and physical plans but the land use and final floor area build-out will ultimately be a response to market conditions and opportunities. The KKMP must have an overall open space allocation of 10% of all development lot areas and may vary slightly from this table from block to block. Changes to the open space allocation may require HCDA approval.

| Area Summary | KKMP | | Remarks | |
|---|--------------|---------------------------------|--|--|
| TOTAL LAND AREA | 29.93 acres: | 1,264,623 sf | | |
| OPEN SPACE | 126,463 sf | - estimated | 10% minimum required | |
| PUBLIC FACILITIES | 128,174 sf | - estimated | 1% for Commercial, 1% for Residential required | |
| BUILDING AREA | 4,436,197 sf | - 2.5 FAR | | |
| residential | 4,436,197 sf | - authorized maximum at 2.5 FAR | | |
| residential units (including reserved) | 2,730 | - estimated maximum | | |
| reserved housing units (25% of total) | 182 | - 25% of total dwelling units | | |
| commercial (includes retail and office) | 2,974,023 sf | - authorized maximum | | |
| industrial | 156,043 sf | - estimated | | |
| PARKING | 4,650 spaces | - estimated | Provided per HCDA Rules | |
| TOTAL FLOOR AREA & FLOOR AREA RATIO (FAR) | 4,436,197 sf | - 2.5 FAR | | |

| Land Tabulation | LAND BLOCK A | LAND BLOCK B | LAND BLOCK C | LAND BLOCK D | LAND BLOCK E | LAND BLOCK F | LAND BLOCK G | LAND BLOCK H | LAND BLOCK I | TOTAL |
|------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| LAND | | | | | | | | | | |
| land in acres (ac) | 4.21 ac | 2.91 ac | 3.96 ac | 4.19 ac | 3.32 ac | 2.57 ac | 2.41 ac | 2.10 ac | 3.45 ac | 29.03 acres |
| land in square footage (sf) | 183,301 sf | 127,369 sf | 171,893 sf | 182,310 sf | 144,633 sf | 112,232 sf | 105,223 sf | 91,339 sf | 150,126 sf | 1,264,623 sf |
| BUILDING AREA | 767,071 sf | 196,110 sf | 629,663 sf | 282,591 sf | 614,699 sf | 313,481 sf | 431,414 sf | 265,296 sf | 618,517 sf | 4,436,197 sf |
| OPEN SPACE | | | | | | | | | | |
| required (10% of lot area) | 18,330 sf | 12,737 sf | 15,343 sf | 18,231 sf | 14,463 sf | 11,223 sf | 10,522 sf | 9,134 sf | 15,013 sf | 126,463 sf |
| available | 22,917 sf | 6,500 sf | 12,350 sf | 20,940 sf | 16,000 sf | 7,880 sf | 14,000 sf | 13,500 sf | 12,568 sf | 126,463 sf |
| | 12.48% | 5.16% | 7.24% | 11.43% | 11.04% | 6.29% | 12.31% | 14.78% | 8.37% | 10.00% |
| RECREATIONAL SPACE | | | | | | | | | | |
| required (859 per dwelling) | 22,917 sf | 6,500 sf | 12,350 sf | 20,940 sf | 16,000 sf | 7,880 sf | 14,000 sf | 13,500 sf | 12,568 sf | 126,463 sf |
| PUBLIC FACILITIES | | | | | | | | | | |
| required at 4% | 21,460 sf | 4,490 sf | 17,565 sf | 6,297 sf | 13,966 sf | 13,679 sf | 11,382 sf | 9,976 sf | 17,063 sf | 128,209 sf |
| (residential lots reserve housing) | | | | | | | | | | |
| required at 3% (balance) | 2,666 sf | 1,674 sf | 2,620 sf | 2,383 sf | 3,483 sf | 2,580 sf | 2,084 sf | 1,608 sf | 2,467 sf | 21,963 sf |
| total required | 24,126 sf | 6,164 sf | 20,185 sf | 8,680 sf | 17,449 sf | 16,259 sf | 13,466 sf | 11,584 sf | 19,530 sf | 150,172 sf |
| Floor Area Ratio (FAR) | | | | | | | | | | |
| Base area on this parcel | 767,071 | 196,110 | 629,663 | 282,591 | 614,699 | 313,481 | 431,414 | 265,296 | 618,517 | 4,436,197 sf |
| potential floor area transfer | 124,507 | 23,280 | 81,463 | 333,294 | 102,476 | 75,129 | 60,134 | 45,670 | 90,376 | 8 sf |
| (up to 25% FAR) | 16.48% | 8.42% | 14.59% | 39.71% | 21.43% | 17.14% | 17.14% | 14.29% | 17.44% | 8.00% |
| FAR | 4.16 | 1.60 | 4.31 | 1.33 | 4.25 | 4.10 | 4.30 | 4.00 | 4.10 | 3.5 FAR |

Note: The 5,189 square footage for Halekauwila Street, Lot A-1, between South and Keawe Streets (which was added to the KKMP area as noted in footnote 1 on page 2-5), is included in the calculations above for Land Block A, and corresponding revisions were made to other calculations and references on this page.

KKMP Page 5-12 – Land Use and Development Summary

¹ The first six pages of this Exhibit 4 contain Section 4.0 Open Space Design Guidelines from the Kaka'ako Architectural Design Guidelines.

The central feature of the open space shall include the Cooke Street Promenade Open Spaces of the Master Plan. The central plaza is envisioned as a large public plaza (minimum 25,000 square feet) located at the crossroads of the Cooke Street park-to-park promenade and Auahi Street retail corridor.

Landscaped spaces create different access points for residents, some of which may contain related retail uses that will bring life to these open spaces. Such spaces will be linked together throughout the neighborhood through landscaped streets and walkways. As part of a conscious effort to promote walkability and a sense of place, open space shall be distributed through the community rather than isolated in one area. To achieve the open space objectives of the Master Plan, the Design Advisory Board shall review and approve the open space proposals (types, sizes and locations) for various project areas.

ALA MOANA BOULEVARD

At Ala Moana Boulevard, open spaces will take the form of passive landscaped and hardscaped areas providing visual and sound buffers along the major street. Defined by HCDA as a View Corridor Street, Ala Moana Boulevard is subject to view corridor setbacks. The districts treatment along Ala Moana Boulevard should include ample setback area within the property with both landscape and hardscape. These treatments will both buffer the Ala Moana Properties from the bustle of the street traffic and provide walkways and active areas through attractively paved spaces with outdoor seating associated with certain retail locations.²

See *Kaka'ako Design Guidelines for Open Spaces and Streets* Page 100.³

SOUTH STREET

South Street is also a designated HCDA View Corridor Street and a major mauka-makai street traveling through the community. Along South Street, hardscape will be incorporated with landscaping to complete the articulation of the open area initiated by Waterfront Towers. Street level treatment of South Street will predominately take the form of landscaped walkways and green space designed to support pedestrians and buffer residential units from the street's traffic.⁴

See *Kaka'ako Design Guidelines for Open Spaces and Streets* Page 96.

COOKE STREET

The Cooke Street corridor will include an emphasis on landscaped open space that plays off the central gathering place and extends from Gateway Park to Mother Waldron Park. An HCDA-designated View Corridor Street, the redeveloped Cooke Street will have ample space to support active uses and special events within a landscaped setting. Lined with rows of trees, pedestrians along Cooke Street will enjoy shaded walkways between Mother Waldron Park, the community gathering place, and makai to Ala Moana Boulevard and Gateway Park.⁵

² Kaiāulu 'o Kaka'ako Master Plan, Page 5-4

³ This page and the other pages referred to below (pages 96, 92, 78, 70, and 64) are pages of the *Kaka'ako Design Guidelines for Open Spaces and Streets* that address streetscapes and street designs and are not part of the open space design guidelines and have been intentionally omitted from this Exhibit 4.

⁴ Kaiāulu 'o Kaka'ako Master Plan, Page 5-4

⁵ Kaiāulu 'o Kaka'ako Master Plan, Page 5-5

See *Kaka'ako Design Guidelines for Open Spaces and Streets* Page 92.

AUAHI STREET

The neighborhood's major retail corridor, Auahi Street will be more typically characterized by hardscape treatment with storefronts located immediately adjacent to the sidewalk area. Street trees will provide shading and a visual element unifying Auahi Street with the neighborhood.⁶

KEAWE STREET

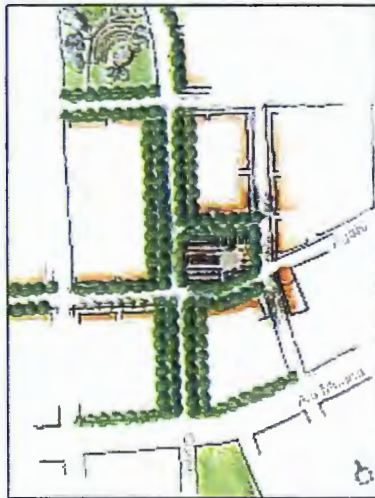
Keawe Street is a major Mauka/Makai connector and can accommodate both residential and retail frontages. Its primary frontage will likely be residential use.

COMMUNITY GATHERING PLACE AT THE CROSSROADS OF THE COOKE STREET PARK-TO-PARK PROMENADE AND AUAHI STREET RETAIL CORRIDOR

A community gathering place will be developed at the crossroads of Auahi and Cooke Streets. The gathering place can be located at the corner of Block C, D, G, or H. The large plaza will be paved and complemented with shade trees and landscaping. Outdoor tables and benches will be used daily and additional seating may be set up for special events such as concerts or festivals.⁷ Several alternatives are presented, which show variations for the location, orientation, and disposition of the Plaza.

See *Kaka'ako Design Guidelines for Open Spaces and Streets* Page 64

Concept 1: Central Plaza



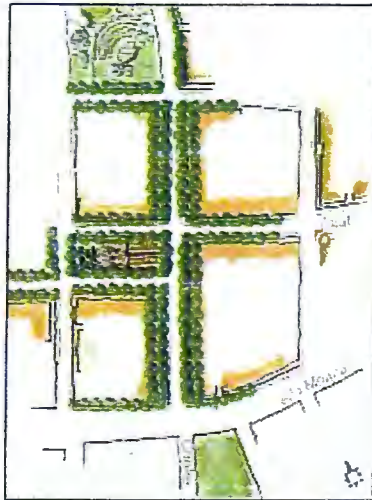
Concept 2: West Corner



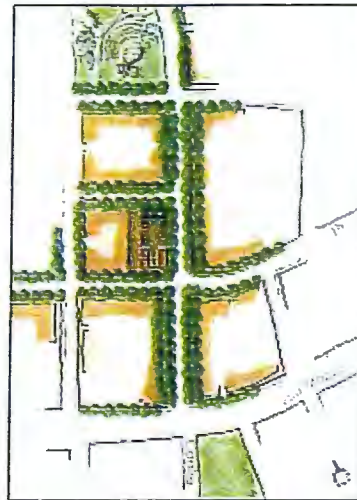
⁶ Kalaialu 'o Kaka'ako Master Plan, Page 5-5

⁷ Kalaialu 'o Kaka'ako Master Plan, Page 5-5

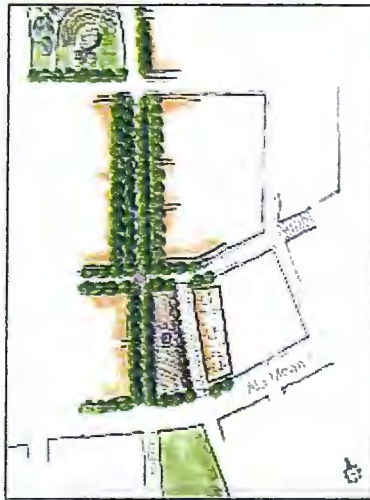
Concept 3: North Side



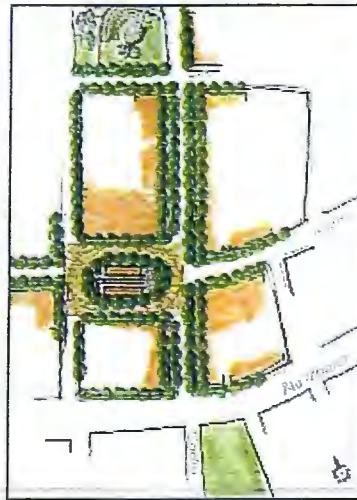
Concept 4: North Corner



Concept 5: Gesture to Ala Moana

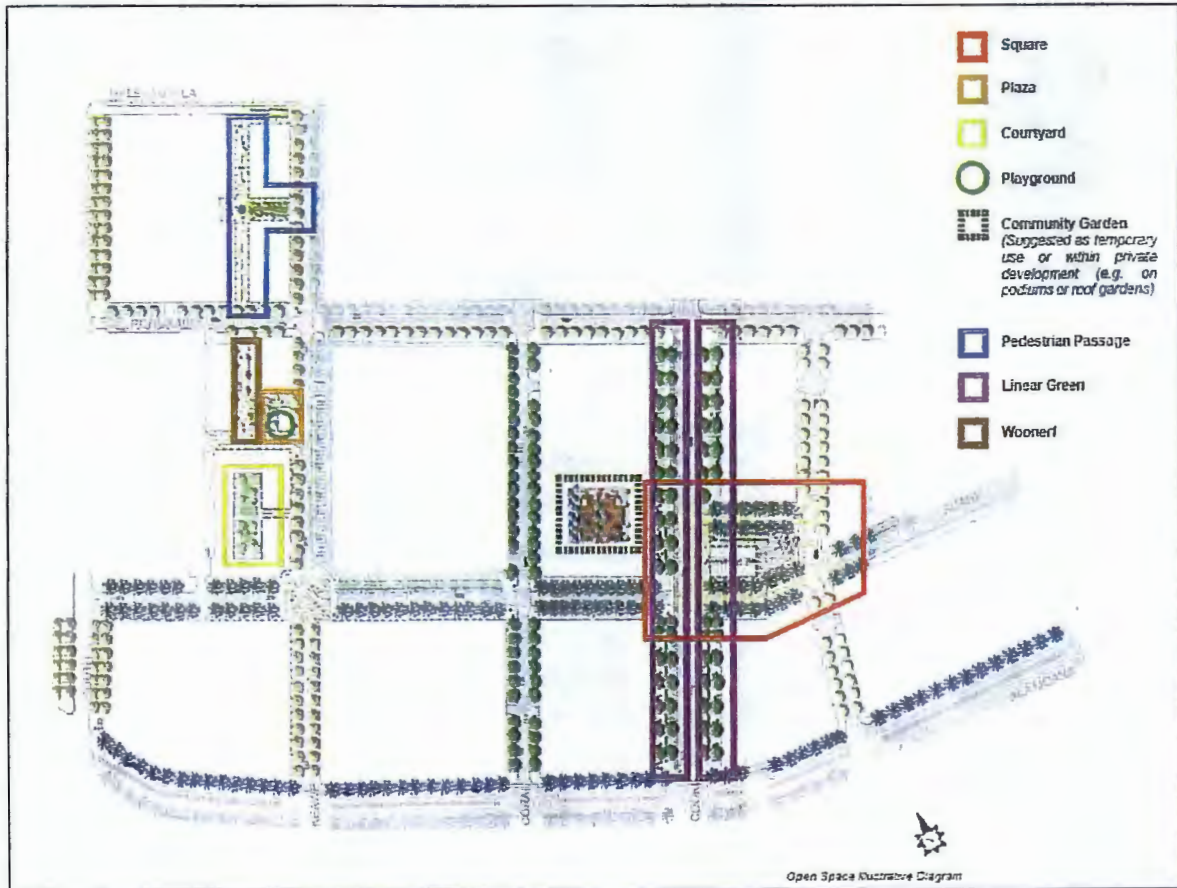


Concept 6: Central Drive-Around



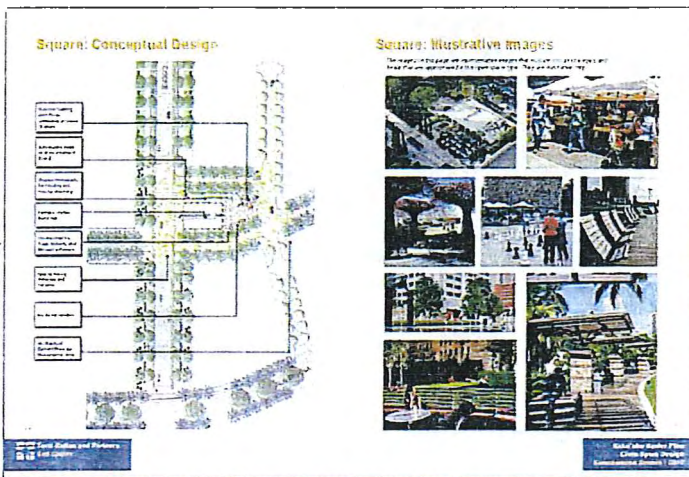
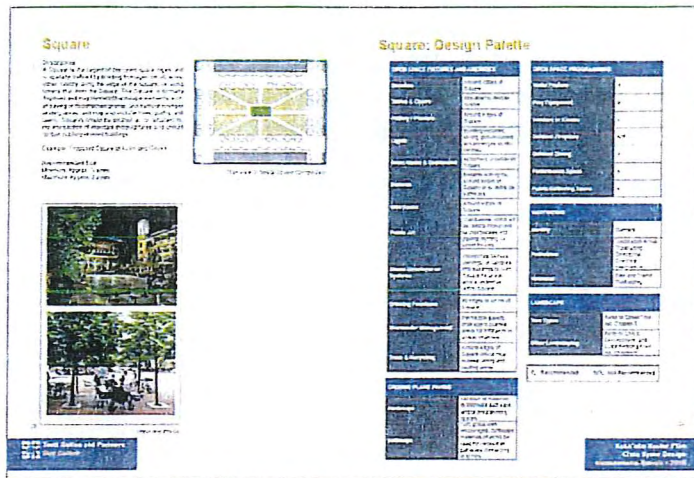
Park-to-Park connection between Gateway Park and Mother Waldron Park - A community gathering place will be developed at the crossroads of Anahi and Cooke Streets. The gathering place can be located at the corner of Block C, D, G, or H.

The open space program envisioned for Kaka'ako can take on various forms and characteristics through the neighborhood. A set of open space typologies has been developed in the *Kaka'ako Design Guidelines for Open Spaces and Streets* that include streetscapes, pedestrian connections, courtyards, community gardens, pedestrian greens, or plazas, and gathering areas. An illustrative open space concept indicating the conceptual locations of each proposed open space type can be found in this document on page 26. The concept plan is designed to create a unique and engaging public realm in which the streets, buildings, and open space are tied together in a seamless manner, creating a cohesive and recognizable district.



Kaka'ako Design Guidelines for Open Spaces and Streets - Open Space Conceptual Site Plan (For illustrative purposes only)

The *Kaka'ako Design Guidelines for Open Spaces and Streets* describes each open space typology and provides a design palette, a conceptual design, and illustrative images.



Sample pages from the *Kaka'ako Design: Design Guidelines for Open Spaces and Streets*

The following *Open Space Concept* is chapter 3 (pages 25 to 61) of the *Kaka'ako Design Guidelines for Open Spaces and Streets*.