DEVELOPMENT PERMIT REQUEST
Presentation Hearing Staff Report

KAK 22-042: Kaiaulu O Kakaako Master Plan, Land Block I - Alia
(Master Plan Permit No.: PL MASP 13.2.8)

July 6, 2022

I. REQUEST

Kobayashi Group ("Applicant") is requesting a Planned Development Permit ("Permit") to construct a new mixed-use high-rise development, Alia ("Project"). The Project site is bounded by Ala Moana Boulevard to the south ("Makai"), Koula Street to the west ("Ewa"), and Auahi Street to the north ("Mauka"). The Project is located at 800 and 900 Ala Moana Boulevard and 825 Auahi Street, in the Mauka Area of the Kakaako Community Development District ("KCDD") [Tax Map Key Nos. 2-1-056: 014, 015 and 016]. The Applicant's Development Permit Application ("Permit Application") was provided to the Hawaii Community Development Authority ("HCDA" or "Authority") on June 3, 2022, via electronic link.

II. COMPLETENESS REVIEW, AUTOMATIC APPROVAL AND FILING FEES

In a letter dated June 1, 2022, the Applicant was informed that the submitted Permit Application for the Project was complete and was notified of the automatic approval date. The letter is attached as Exhibit A. Pursuant to Hawaii Administrative Rules ("HAR") § 15-22-23, *Automatic Approvals*, the Permit Application will be deemed automatically approved if no decision is made by the HCDA granting or denying approval within 160 days from the date of the submission of a complete application. Therefore, the automatic approval date is November 8, 2022.

Application fees were paid in accordance with the provisions of HAR §§ 15-22-111(b) and 15-22-16, and the Applicant has committed to pay its required portion of the public hearing fees when invoiced.

III. PUBLIC HEARING NOTICE AND COMMUNITY OUTREACH

A Notice of Public Hearings for the Project, in accordance with the provisions of § 206E-5.6, Hawaii Revised Statutes ("HRS"), was published in the Honolulu Star-Advertiser, The Garden Island, West Hawaii Today, Hawaii Tribune-Herald and Maui News on June 1, 2022. In accordance with the provisions of HRS § 206E-5.6, the President of the Senate and the Speaker of the House of Representatives were notified upon posting of the Notice of Public Hearings. Associations of apartment owners of residential buildings adjacent to the Project, surrounding landowners and businesses, the Ala Moana/Kakaako Neighborhood Board, the Kakaako Business and Landowners Association, and the Kakaako Improvement Association were notified of the public

hearings. Various elected officials, State and County agencies, and utility companies that service the area were also notified of the public hearings.

The Notice of Public Hearings was provided to individuals and organizations that have shown interest in the development in Kakaako in the past and have requested that they be kept informed of development activities in the district. A copy of the Notice of Public Hearings is attached as Exhibit B. In accordance with the provisions of HRS § 206E-5.5, the Applicant confirmed that it has also notified both owners and lessees of record of real property within a three hundred-foot (300) radius of the Project.

A copy of the Project Application was also posted on the HCDA's website, on June 1, 2022, and the public was encouraged to provide comments regarding the Project.

The deadline for filing for intervention was June 21, 2022. The HCDA received no requests for intervention.

IV. KAIAULU O KAKAAKO MASTER PLAN

The Project falls under the Kamehameha Schools' ("KS") Kaiaulu O Kakaako Master Plan ("KKMP") Permit No. PL MASP 13.2.8 ("Master Plan Permit") which was approved by the HCDA on September 2, 2009, pursuant to HAR Title 15, Chapter 22, Subchapter 8, entitled "Master Plan Rules". The Master Plan Permit is vested under the HAR Chapter 15-22, Mauka Area Rules, that were in effect on September 2, 2009. Therefore, the Project is reviewed under HAR, Chapter 15-22, Mauka Area Rules ("Vested Rules"). The Master Plan Permit is attached as Exhibit C.

As required by the 2009 Decision and Order ("D&O"), the Authority and KS entered into the Kakaako Master Plan Development Agreement on October 6, 2009, which is provided within this report as Exhibit D.

On June 20, 2011, the Authority and KS entered into Supplement No. 1 to the Kakaako Master Plan Development Agreement for KKMP ("Supplement No. 1"), which provided that a portion of the reserved housing requirements of the KKMP may be satisfied by the conversion and sale of units in the Pagoda Terrace apartment complex. Supplement No. 1 is attached as Exhibit E.

On August 8, 2012, the Authority approved an amendment to the Master Plan Permit ("2012 Master Plan Permit Amendment"), reflecting the revisions in Supplement No. 1 and addressing additional details regarding reserved housing, open space design guidelines, initial street improvements, and transactions that KS was considering at the time. This 2012 Master Plan Permit Amendment is attached as Exhibit F.

On June 2, 2021, the Authority approved KS' request for an amendment to the Master Plan Permit ("2021 Master Plan Permit Amendment"), pursuant to HRS Chapter 206E

and HAR Chapters 15-22 and 15-219. This 2021 Master Plan Permit Amendment extended the Master Plan Permit by a period of ten years beyond its prior expiration date of September 1, 2024, making it valid until September 1, 2034. The 2021 Master Plan Permit Amendment is attached as Exhibit G.

As provided in both the KKMP and the Master Plan Development Agreement, the KKMP may be implemented in phases through planned developments, and a phasing plan is flexible and will be determined by market demand and guided by a general land use vision presented in the KKMP. Since the approval of the Master Plan Permit, KS and development partners have redeveloped four blocks of the KKMP on the Ewa side of the KKMP area, which include development permits MUZ 120-11 ("680 Ala Moana"), KAK 13-033 ("The Collection"), KAK 13-051 ("Salt"), KAK 13-151 ("Keauhou Place" and "Keauhou Lane"), KAK 14-012 ("400 Keawe" and the "Flats at Puunui"), and KAK 19-031 ("H Mart"). These are projects within the KKMP's Increment I developments. The proposed Project is one of the initial developments within KKMP's Increment II.

Condition #5 of the 2009 D&O requires that, prior to submission of the first Planned Development Permit application for the development projects under the Master Plan, KS shall prepare and submit to the Authority a historic building inventory and a cultural impact assessment for the Master Plan area. For any block, as a part of the Planned Development Permit review process, KS shall obtain and submit to the Authority an archaeological inventory survey plan for such block that has been accepted by the State of Hawaii, Department of Land and Natural Resources' ("DLNR") State Historic Preservation Division ("SHPD") (or its successor agency). The Applicant has submitted the following documents in satisfaction of Condition No. 5 of the D&O:

- Archaeological Inventory Survey – Dated October 2014,
- Archeological Recovery Plan – Dated November 2014,
- Archaeological Preservation Plan – Dated November 2014,
- Burial Site Component of an Archeological Data Recovery and Preservation Plan – Dated November 2014, and
- Architectural Inventory Survey – Dated August 2014.

It shall be noted that the above listed documents, which can be accessed on the Project's page on the HCDA website, were prepared for a prior, but similar, project proposal for Block I. Per Applicant, all Chapter 6E requirements have been completed to date, except for two Data Recovery initiatives to be completed by the Applicant.

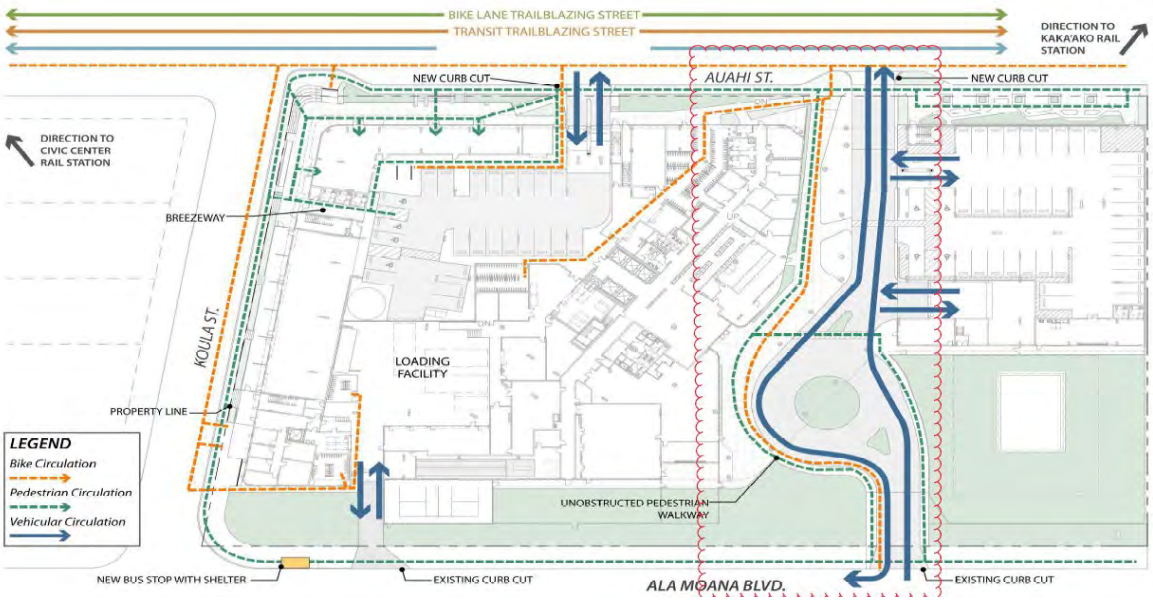
Condition #7 of the 2009 D&O requires that, prior to the submission of the first Planned Development Permit application for a development site pursuant to the Master Plan, KS shall prepare an open space design guideline for the HCDA's approval, as such

design guidelines are described on page 7-1 of the Master Plan. In 2011, KS provided open space design guidelines to the HCDA.

Condition #10 of the 2009 D&O requires that, prior to the submission of each Planned Development Permit application for a development site pursuant to the Master Plan, KS shall provide sustainability guidelines for that block to the HCDA. The Applicant has committed to sustainability measures that include use of an integrated design process, onsite water retention and reuse of rainwater, drought resistant and native landscaping, sustainable and healthy building materials, onsite water reuse, extensive solar power generation system, energy conservation measures, cross ventilation, and a focus on construction methods that will carefully implement sustainable design strategies.

Condition #10 of the 2021 Master Plan Amendment D&O requires a publicly accessible connection between the developments on Block H and I, to provide pedestrian access between Ala Moana Boulevard and Auahi Street. Koula Street, which is privately owned by KS and is located between Land Block D and I, will connect Ala Moana Boulevard and Auahi Street. In addition, the Project proposes a vehicular, pedestrian, bicycle connection between Ala Moana and Auahi through the Project lot. Image 1, below, was provided by the Applicant, Exhibit B-7. The connection through the Project site is clouded in 'red'.

Image 1



Condition #11 of the 2021 Master Plan Amendment D&O required KS to submit the approved update to the KKMP to the Authority in the form and substance of its Exhibit 5

to the Application within ninety (90) days of the filing of its D&O, or prior to submitting the first Planned Development Permit application for Increment II, whichever comes first. On July 8, 2022, KS submitted, via email, the approved update to the KKMP.

Condition #12 of the 2021 Master Plan Amendment D&O required KS to address the recommendations of the Hawaii Department of Transportation ("DOT"), set forth in the DOT's letter of March 18, 2021, in a manner to be agreed upon between KS and the DOT. As required, KS has provided to the HCDA a letter dated August 18, 2021, in which the DOT confirms that KS' proposed scope of work adequately addresses the DOT's recommendations, as set forth in their Mach 18, 2021 letter to the HCDA.

Condition #15 of the 2021 Master Plan Amendment D&O states that, "prior to submitting the first Planned Development Permit application for Increment II, KS shall record a memorandum of this Order with the Bureau of Conveyances, and any amendment to the Master Plan Development Agreement in a form and with content to be reasonably prescribed by the Executive Director of the Authority, and the terms and conditions of thereof shall run with the land. It further requires that proof of such filing in the form of copies of the covenants certified by the appropriate agency shall be submitted to HCDA." As required, KS has provided to the HCDA a receipt of recordation dated October 20, 2021.

The Applicant has fulfilled the conditions stipulated under the 2009 D&O and the 2021 Master Plan Amendment D&O that are necessary to apply for a planned development permit under the KKMP.

V. GOVERNMENT AGENCY AND UTILITY COMPANY CONSULTATION

The Applicant consulted with the following government agencies and utility companies for review and comment on the Project:

<u>State of Hawaii</u>

- DLNR-SHPD. The Applicant has provided a letter dated November 21, 2014, from SHPD, confirming that the Applicant has complied with the requirements of HRS § 6E-42 for the Project site. A copy of the written confirmation from SHPD is attached hereto as Exhibit H.

<u>City and County of Honolulu</u>

- Department of Planning and Permitting (DPP) – Wastewater Branch
- Honolulu Board of Water Supply

The Applicant has included the comments received from these agencies as part of the Permit Application. Subsequently, after receiving the Permit Application and deeming the application complete, the HCDA also provided a link to the complete Permit Application to the following government agencies and utility companies for review and comment:

Federal

- United States Postal Services

State of Hawaii

- Department of Education
- Statewide Transportation Planning Office
- Department of Transportation, Highways Division
- Department of Transportation, Airports Division
- Department of Health

City and County of Honolulu

- Department of Transportation Services
- Department of Planning and Permitting
- Honolulu Board of Water Supply
- Department of Environmental Services
- Honolulu Authority for Rapid Transportation
- Honolulu Police Department
- Honolulu Office of Climate Change, Sustainability, and Resiliency
- Honolulu Fire Department

Utility Companies

- Hawaiian Electric Company, Inc.
- Hawaii Gas
- Hawaiian Telcom, Inc.
- Charter Communications

Comments received on or before June 24, 2022, as part of the Permit Application Review are attached as Exhibit I and were forwarded to the Applicant, to be addressed in the Project. Any agency or utility company comment received after June 24, 2022, will be provided to the Authority separate from this report.

VI. PROJECT DESCRIPTION

The Applicant proposes a mixed-use commercial-residential high-rise building with a tower and base platform structure sited on a 150,126 square-foot parcel. The entire Project will have 483 residential units (approximately 627,849 square feet), approximately 3,668 square feet of commercial space, and an onsite parking structure which is expected to include 913 parking stalls and four (4) loading stalls.

Land Use and Zoning

Subchapter 2 of the Vested Rules establishes land use zones. The Project site is identified as a mixed-use zone commercial emphasis ("MUZ-C") in the "Land Use Plan" within the Vested Rules. Pursuant to § 15-22-113 of the Vested Rules, for any planned development lots of 20,000 square feet or more in size within MUZ-C, no more than sixty percent (60%) of floor area shall be placed in commercial use, and the remaining floor area shall be placed in multi-family dwellings. The proposed commercial floor area (3,668 square feet) is approximately 0.6% of the total proposed floor area (631,517 square feet). The Vested Rules limits the commercial use to sixty percent (60%) of the total floor area but does not require a minimum floor area for commercial use.

Section 15-22-203(b)(1) of the Vested Rules allows for the transfer of floor area and land uses from one development lot to one or more development lots within the master planned areas, subject to certain conditions. Consistent with this provision of the Vested Rules, and as approved under the Master Plan Permit, the allowable floor area ratio ("FAR") for the Project site is now 4.21 and the total allowable floor area is 631,517 square feet. This includes a floor area transfer of 16,000 square feet, which increased the FAR from 4.10 and the total allowable floor area from 615,517 square feet, as approved under the 2021 Master Plan Amendment.

Podium/Platform Height

Section 15-22-62 of the Vested Rules requires that platform heights not exceed forty-five (45) feet. Section 15-22-62(c) of the Vested Rules excludes certain building elements or features and the associated screening from the height requirement, as long as the restrictions of this subsection are met.

The Project is proposing a parking and mixed-use podium that is sixty (60) feet and (a) an additional twelve (12) feet for accessory use structures, having a total area less than fifteen percent (15%) of the parking and mixed-use podium roof area, and (b) an additional eighteen (18) feet for structures that will house elevator machinery on the parking and mixed-use podium roof. The Applicant is requesting a modification of the maximum allowable platform height requirement, as provided in § 15-22-120(7) of the Vested Rules, to allow for the increase in the platform height.

Density and Tower Height

Density and height for a planned development is determined by the development lot size, using the table referenced in § 15-22-116 of the Vested Rules and provided in Table 1, below:

Table 1: Allowable Building Height, FAR and Tower Footprint

PLANNED DEVELOPMENTS IN ALL MIXED-USE ZONES
MAUKA AREA

Lot Size (sq. ft.)	Building Height (feet)	FAR	Tower Footprint (sq. ft.)
10,000	65	1.8	5,000
20,000	100	2.0	8,000
40,000	200	2.5	14,000
60,000	300	3.0	15,000
80,000 or more	400	3.5	16,000

The Project development lot is approximately 150,126 square feet (approximately 3.45 acres). The Master Plan Permit established an FAR of 4.10 for Land Block I. In addition, § 15-22-203(b)(1) of the Vested Rules allows for the transfer of floor area and land uses from one development lot to one or more development lots within the master planned areas, as long as the FAR for any lot to which floor area has been transferred shall not be increased by more than twenty-five percent (25%) of the FAR otherwise allowed for the size of the development lot.

Therefore, with the permitted twenty-five percent (25%) transfer, additional 16,000 square feet are transferred to Land Block I, making the allowable FAR for Land Block I 4.21 and the total allowable floor area 631,517 square feet.

The Project proposes a residential tower consisting of approximately 483 residential units and a parking / mixed-use platform with 3,668 square feet of commercial space. The total proposed floor area for the Project is 631,517 square feet and an FAR of 4.21.

The proposed height of the residential tower is 400 feet and an additional eighteen (18) feet for rooftop mechanical equipment enclosures, which is permitted under the Vested Rules.

Tower Footprint

The maximum allowable tower footprint for a planned development is determined by the development lot size, using the table referenced in § 15-22-116 of the Vested Rules. The Project is proposing a maximum tower footprint of approximately 16,000 square feet, which is the maximum allowable.

Front, Side and Rear Yard

Section 15-22-63.1 of the Vested Rules requires a front yard setback of fifteen (15) feet. Section 15-22-63.2 of the Vested Rules requires a minimum side and rear yard setback of ten (10) feet for structures containing windows and openings facing side or rear property lines. Consistent with the provisions of § 15-22-63.1, all yards facing the street are considered front yards. All other yards are deemed side or rear yards.

The Project site has four boundary edges. The site is bounded by and has front yards on Ala Moana Boulevard, Auahi Street, and Koula Street. Per requirement, fifteen (15) feet front yards are provided parallel to the street right-of-way. Since the east side of the Project site is bounded by another parcel, and the Project doesn't propose any windows and openings, no side or rear yard is required.

In addition to the fifteen (15) front yard requirement, the KKMP established a 40-foot setback along Ala Moana Boulevard, which the Applicant has provided.

Open Space

Open space for the Project, as provided in § 15-22-64(c)(1) of the Vested Rules, shall be the lower of either ten percent (10%) of the lot area or twenty-five percent (25%) of the lot area less the required yards. Open space requirements are to be complied with at a master plan level and not on a block-by-block basis. Consistent with the 2021 Master Plan Amendment, the required open space for Land Block I is a minimum of 12,566 square feet, or 8.37% of Land Block I area of 150,126 square feet. The Applicant proposes to provide 24,010 square feet of open space for Land Block I, which is equal to approximately sixteen percent (16%) of the total development lot area.

Recreation Space

A minimum of fifty-five (55) square feet of recreation space per dwelling unit is required for the Project, pursuant to § 15-22-65(b) of the Vested Rules. The Project proposes to have a total of 483 dwelling units, thus requiring a minimum of 26,565 square feet of recreation space. The Project proposes approximately 69,285 square feet of recreation space.

Off-Street Parking

Section 15-22-67 of the Vested Rules provides off-street parking requirements. The following table summarizes the number of parking stalls required by each land use in the Project, as per the Vested Rules, and the actual number of parking stalls proposed in the Project.

Table 2: Required Off-Street Parking

Land Use	Requirement	Unit or Floor Area	Minimum Required	Provided
Residential			597	*862
600 SF or Less	0.9 stall / unit	74 units	67	
Between 600 to 799 SF	1.13 stall / unit	100 units	113	
800 SF or More	1.35 stall / unit	309 units	417	
Commercial			11	12
Eating/Drinking Area	.9 stall / 300 SF	3,668 SF	11	12
Kitchen & Accessory Areas	1 stall / 444 SF	0 SF	0	0
TOTAL			**608**	**913**

*Includes 39 off-street parking for residential visitor.

Fifty percent (50%) or more of the required off-street parking stalls are required to be standard-sized stalls, except that dwelling units may have up to fifty percent (50%) compact spaces. The Applicant has noted that the Project's 913 spaces will include 668 standard sized spaces, 128 compact spaces, 44 tandem standard spaces, 12 tandem compact spaces, 16 ADA accessible spaces, 6 ADA van accessible spaces, and 39 guest spaces.

Off-Street Loading

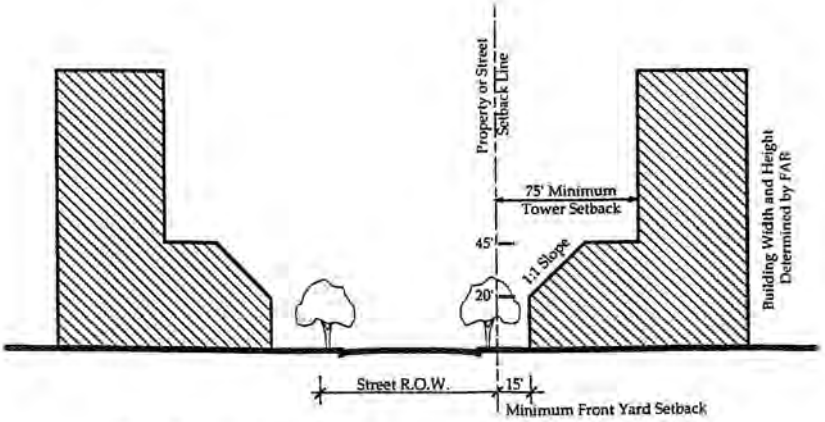
The off-street loading requirements for the Project are provided in § 15-22-68 of the Vested Rules. For the residential use of 627,849 square feet of floor area, three (3) off-street loading stalls are required. For the commercial uses of 3,668 square feet of floor area, one (1) off-street loading stall is required. An adjustment of up to fifty percent (50%) is allowed per § 15-22-68(e) when the spaces serve two or more uses. Additionally, the Vested Rules § 15-22-68(d)(3) require that each loading space be unobstructed and shall be arranged so that any vehicle may be moved without moving the other. The Applicant proposes a total of four (4) loading spaces for the Project; however, only three (3) of the loading stalls appear to be arranged to comply with the access requirements set forth in § 15-22-68(d)(3) of the Vested Rules.

The Project proposes to provide three (3) stalls with a minimum size of 12 feet x 35 feet and one (1) stall with a minimum size of 9 feet x 19 feet.

View Corridors

View corridor streets, as provided for in § 15-22-66 of the Vested Rules, require the tower element of a planned development to be set back from the property line that is parallel to a view corridor, by a minimum of seventy-five (75) feet. Other structures higher than forty-five (45) feet are required to follow a 1:1 sloped setback, beginning at a height of twenty (20) feet and at a 15-foot front yard distance. The building envelope diagram below in Image 2, describes the view corridor setback requirements.

Image 2: Building Envelope Indicating View Corridor Setback



View Corridor Setback for Developments along the Designated View Corridor Streets in All Other Areas of the Kakaako District

The Project tower fronts Auahi Street and Koula Street, which are not designated as view corridor streets. The Project boundary along Ala Moana Boulevard proposes to meet the view corridor setback of a minimum seventy-five (75) feet for the tower, which is consistent with the Vested Rules requiring a minimum setback of seventy-five (75) feet from the Project site boundary parallel to Ala Moana Boulevard.

The Project's podium fronting Ala Moana Boulevard is subject to view corridor setback requirements. The podium is proposed at a setback of forty (40) feet, but encroaches into the view corridor height and 1:1 slope setback for 54% of the Ala Moana frontage. As such, the Project requires modification of the view corridor provision of the Vested Rules. The Applicant is requesting a modification of the view corridor setback for the podium of the Project, as provided in § 15-22-120 of the Vested Rules.

Building Orientation, Tower Spacing, and Circulation

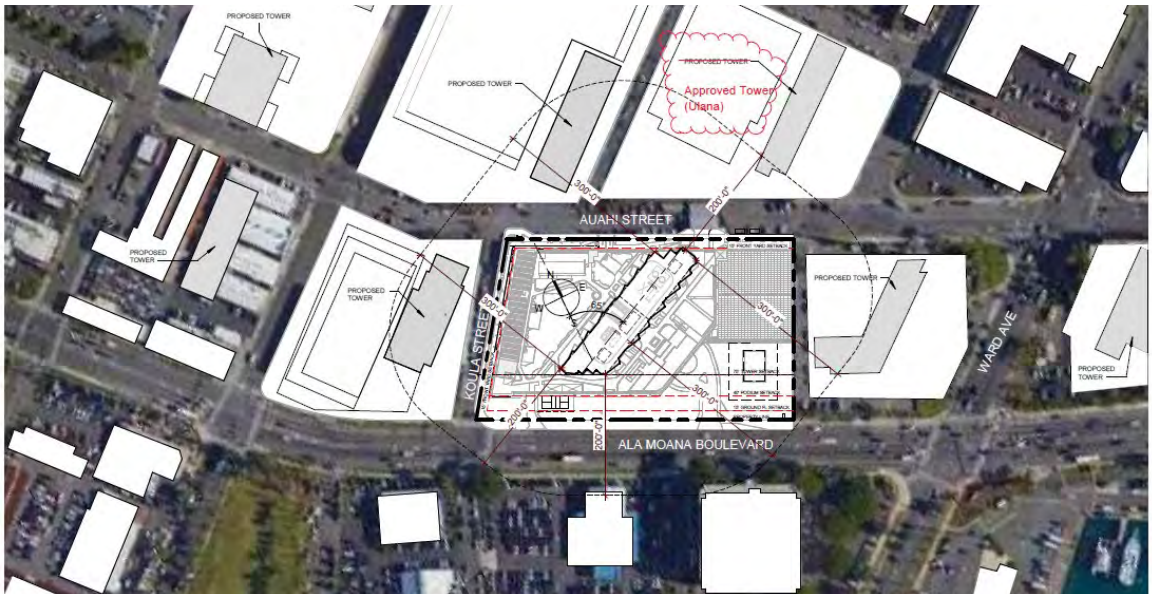
Section 15-22-143 of the Vested Rules establishes requirements for building orientation, tower spacing, and circulation.

Section 15-22-143(a)(2) of the Vested Rules requires that, to the extent practicable, the tower portion of the structure be oriented between thirty-five (35) and sixty-five (65) degrees west of south. The long axis of the Project tower is approximately sixty-five (65) degrees west of south in a Mauka-Makai orientation.

Section 15-22-143(b)(1) of the Vested Rules requires that, to the extent practicable, the parallel sides of adjacent towers shall be separated by a distance of at least three hundred (300) feet. The parallel side of the Project tower is, to the extent practicable, separated from the nearest towers.

Section 15-22-143(b)(2) of the Vested Rules requires that, to the extent practicable, there should be at least two hundred (200) feet between the short side of the towers. The short side of the Project tower is, to the extent practicable, separated from the nearest tower. Image 3 below is taken from the Permit Application Exhibit B-5. The HCDA staff has corrected the Applicant's notation that the tower located Mauka of the Project site is proposed to read as "approved tower" and add the approved project's name - Ulana. The correction is clouded in 'red" on the image below. The remaining adjacent towers shown in the diagram illustrates estimated tower separation based on tower location representations made in both the KKMP and the Ward Neighborhood Master Plan. The proposed tower separations may change, but it is reasonable to expect towers will encroach within the tower separation distance guidelines in the Vested Rules.

Image 3



<u>Public Facilities Dedication</u>

Section 15-22-73 of the Vested Rules establishes requirements for public facilities dedication. The public facilities dedication requirement for residential floor area is four percent (4%) of the total proposed residential floor area, exclusive of floor area devoted to reserved housing units and their associated common areas. The public facilities dedication requirement for commercial floor area is three percent (3%) of the total proposed commercial floor area.

The Project's market rate residential floor area of 600,133 square feet (627,849 total residential floor area – 27,716 reserved housing floor area = 600,133 square feet) requires a public facilities dedication of 24,005.32 square feet (600,133 square feet * 4 percent), and the Project commercial floor area of 3,668 square feet requires a public facilities dedication of 110.04 square feet (3,668 square feet * 3 percent), for a total public facilities dedication requirement of 24,115.36 square feet.

The KKMP Permit holder, KS, previously established 105,868 square feet of public facilities dedication credit – 47,015 square feet of public facilities dedication, which is associated directly with developments within Increment 1, has been utilized to date. Therefore, the remainder established public facilities dedication is 58,853 square feet. In addition, there is 15,000 square feet of public facility dedication that is in dispute.

The Applicant has provided a letter from KS in which the latter has provided the Applicant with 24,116 of public facilities dedication credit; and as such, the Project is in compliance with the public facilities dedication requirement of the Vested Rules.

Reserved Housing

Section 15-22-115 of the Vested Rules requires that every applicant for a planned development containing multi-family dwelling units on a development lot of at least 20,000 square feet shall provide at least twenty percent (20%) of the total number of dwelling units in the development for sale or rental to qualified persons, as determined by the Authority.

The Project proposes 483 residential units; therefore, the reserved housing requirement for the project is to provide 111 residential units as reserved housing units. The Applicant is providing 40 reserved housing units within the Project and the remainder 71 reserved housing units are being provided by KS. A letter from KS, included in the Application, indicates how the reserved housing requirement will be met for the Project.

The following table is a summary of the total number of residential units and the reserved housing units required for approved projects within the KKMP.

Table 3: Reserved Housing (RH) Units

Land Block No.	Project Name	All Units	RH Units Provided	RH Units Used
A-1-1	Keauhou Place	423	85	85
A-1-2	Keauhou Lane	209	209	42
B-1	400 Keawe Street	95	20	20[1]
B-2	440 Keawe Street	88	88	88[1]
E	The Collection	467	0	0
F	680 Ala Moana	54	54	29
I	Alia	483	40	111[2]
Total		**1,819**	**496**	**375[3]**
Required RH Units (20%)				364
RH Units Credit (Rycroft Terrace)[4]				100
Total RH Units Provided				596
Total RH Units Used[3]				375
Total RH Units Balance				**221**

Note 1 – Per HCDA Permit, the project provided (used/committed) more than the required 20%.

Note 2 – The project triggers the provision of RH units also on the 71 RH units to be provided off-site by KS. So, the project's RH units requirement is based on a total unit count of 554 (483 units on site and 71 RH units off site).

Note 3 – Total RH Units Used reflects more than the 20% RH Unit required since in some instances more RH units were committed during the PDP process.

Note 4 – Pagoda (Rycroft) Terrace provided 162 units but was given credit for 100 reserved housing units.

Details for the timing and delivery for providing reserved housing are specified in the KS Master Plan Development Agreement and Supplement No. 1, Section III; the Reserved Housing Rules, § 15-218-17(d)(1); and the Vested Rules § 15-22-203(b)(1).

Joint Development Agreement

Section 15-22-80 of the Vested Rules provides for joint development of two or more adjacent lots. The Applicant intends to develop Land Block I as a single development lot under the provision of this section of the Vested Rules. The Applicant proposes to redefine parcel boundaries of Land Block I to coincide with management of the various proposed structures.

The Applicant's proposal to enter into a Joint Development Agreement between all the parcels that comprise Land Block I in the KKMP is consistent with the Vested Rules. Therefore, all the parcels included within the Joint Development Agreement will be considered and treated as one development lot for the purposes of the Vested Rules.

Relocation Assistance

The Applicant is required by the Vested Rules and KKMP Permit to give at least sixty (60) days' prior written notice to any tenant who will be displaced, and to explore relocation alternatives that might be available for tenants to other spaces within the KKMP area or other lands owned by the Applicant.

Condition #9 of the 2009 D&O requires that KS provide at least 120 days' prior written notice to any tenant within the Master Plan Area who will be displaced as part of a new planned development project and who is not in breach of the terms of the applicable lease.

The Applicant has established intentions to give 180 days' prior written notice and to evaluate relocation alternatives for the current tenants on the Project site.

Modifications to the Provisions of the Vested Rules

Section 15-22-120 of the Vested Rules provides for modification of specific provisions of the Vested Rules. The Applicant is requesting the following modifications:

A. Modification of § 15-22-62 of the Vested Rules, in order to increase the podium height from forty-five (45) feet to sixty (60) feet and (a) an additional twelve (12) feet for accessory use structures, having a total area less than fifteen percent (15%) of the parking and mixed-use podium roof area, and (b) an additional eighteen (18) feet for structures that will house elevator machinery on the parking and mixed-use podium roof; and

B. Modification of § 15-22-66 of the Vested Rules, in order to adjust the view corridor setback along Ala Moana Boulevard for the parking and mixed-use podium, for approximately fifty-four percent (54%) of the Ala Moana Frontage.

Images 4 and 5 below are taken from the Permit Application Exhibit E-18. The encroaching structure are clouded in 'red" on Image 5.

Image 4

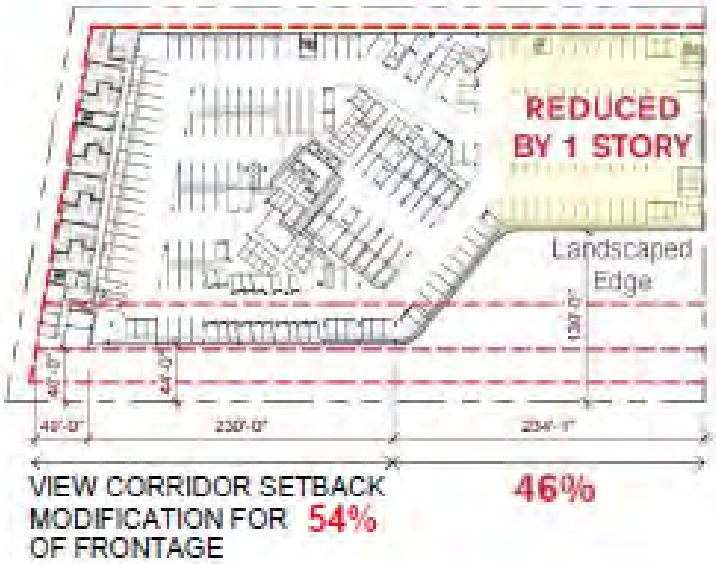
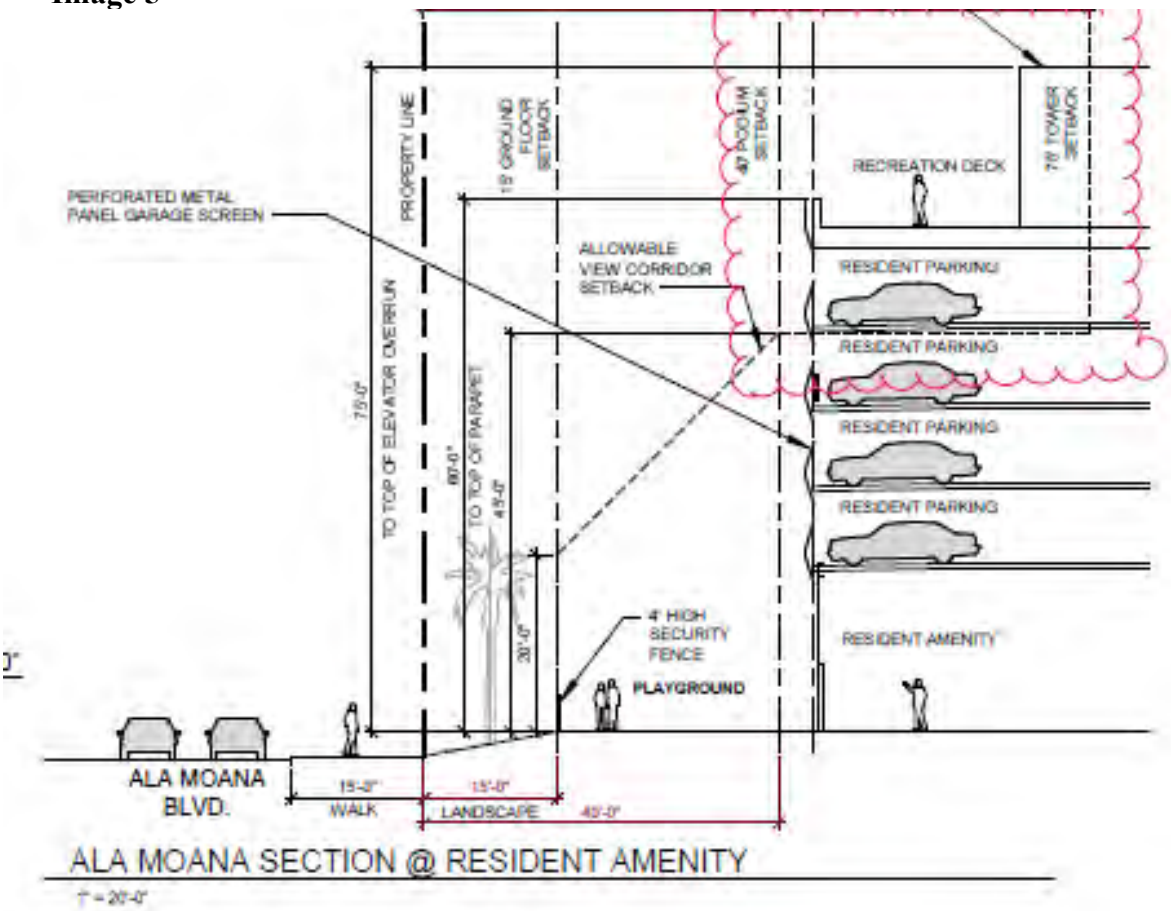


Image 5



The KKMP Findings of Fact, Conclusion of Law and Decision and Order provides that the Applicant may request an increase of the maximum podium height above forty-five (45) feet as part of the Permit application process, as allowed by provisions of the Vested Rules, to achieve the vision of activating streets while providing adequate parking within each block.

The modification requests will be discussed and considered in further detail at a separate Modification Public Hearing scheduled for July 7, 2022.

<u>Circulation Plan and Driveways</u>

Section 15-22-86 (4) of the Vested Rules states that, in reaching its determination on an application for a planned development permit, the Authority shall consider whether the vehicular circulation system, including access, off-street parking and loading, is so designed as to provide an efficient, safe, and convenient transportation system.

The Applicant proposes to use two (existing) driveways, entering and existing from Ala Moana Boulevard. The first existing driveway, on the Ewa side of the podium along

Ala Moana, leads to the loading area. The second existing driveway, on the Diamond Head side of the of the podium along Ala Moana, leads to the residential drop-off and connects to the newly proposed driveway off of Auahi Street.

In addition to the two (2) existing driveways, the Applicant proposed two (2) new driveways, entering and exiting from Auahi Street. The first driveway leads to the parking structure at the Ewa side of the podium. The second driveway leads to the parking structure and residential drop-off located at the Diamond Head side of the podium.

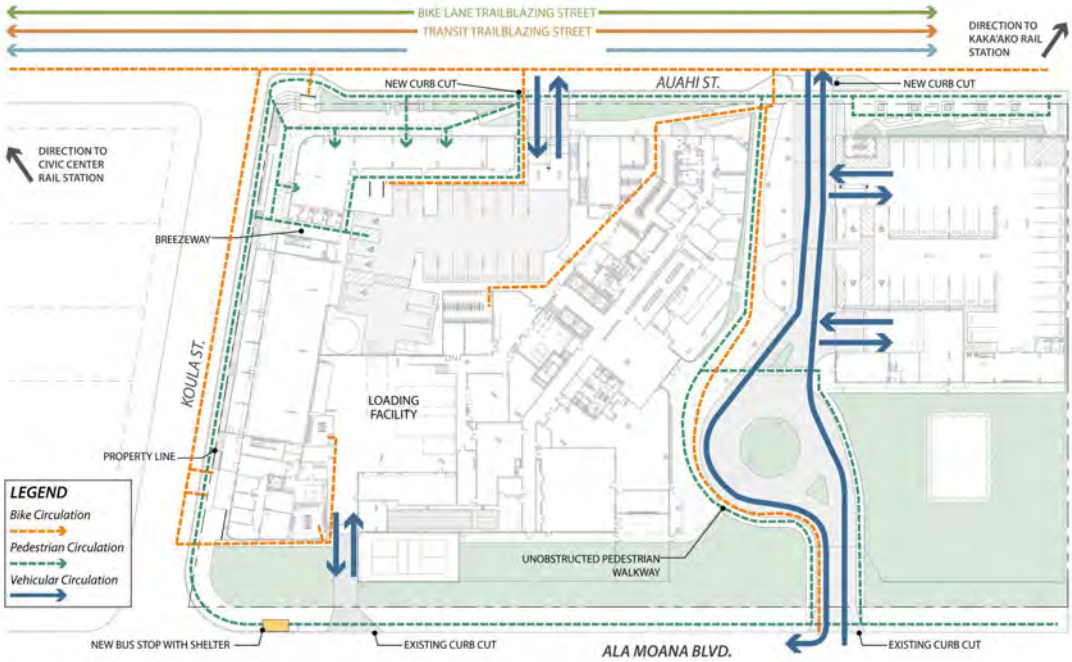
HCDA staff has recommended that the Applicant consolidate at least one of the driveways off of Auahi Street in order to be consistent with KS' intent in the KKMP to create Auahi Street as a pedestrian promenade. Pursuant to the Vested Rules, the Authority shall determine if the proposed driveway system along Auahi Street is efficient, safe, and convenient.

The Applicant proposes a bike circulation path from the Auahi Street driveway to the interior bike storage area located inside of the podium structure. Similarly, the Project proposes access to another interior bike storage area located inside of the podium and accessed from Koula Street. Pursuant to the Vested Rules, the Authority shall determine if the proposed bike circulation path through the parking structure is efficient, safe, and convenient.

The Applicant also proposes both pedestrian and bike circulation through the interior of the podium adjacent to vehicular access. This circulation connects Ala Moana Boulevard to Auahi Street. Pursuant to the Vested Rules, the Authority shall determine if the proposed pedestrian and bike circulation path through the parking structure is efficient, safe, and convenient.

Image 6 below was provided by the Applicant, Exhibit B-7. It shows vehicular, bicycle, and pedestrian circulation.

Image 6



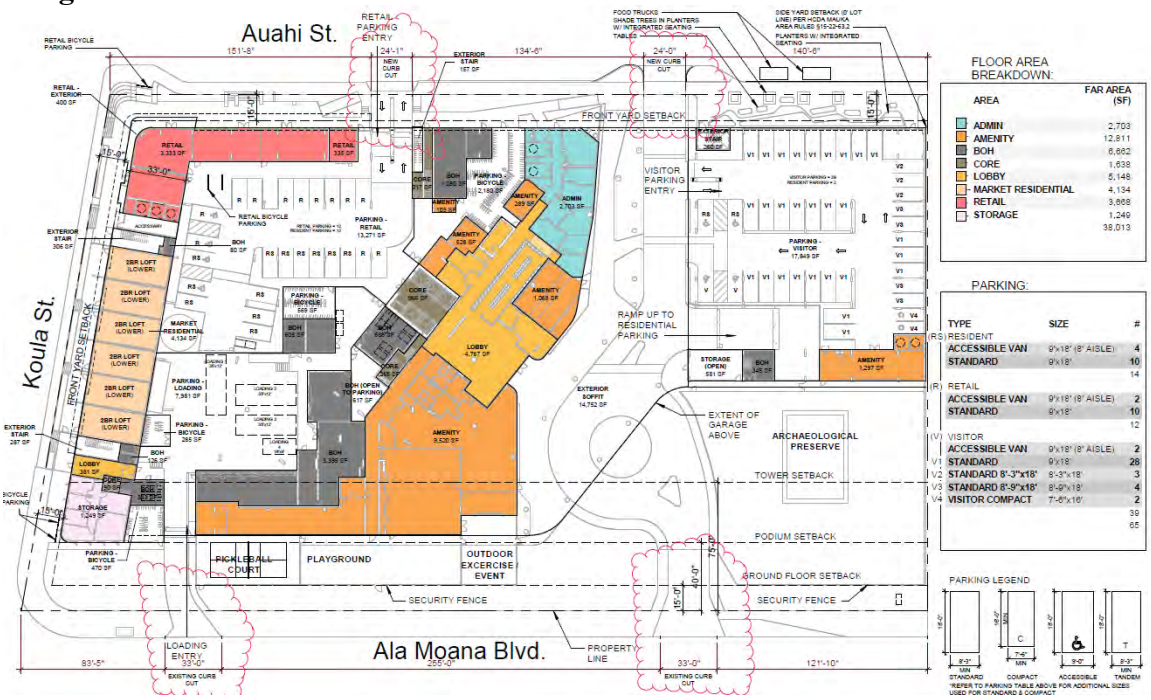
<u>Streetscapes</u>

Section 15-22-142(a) of the Vested Rules requires that the size and number of curb cuts be minimized to reduce conflicts between pedestrians and vehicles. Section 15-22-142(b) of the Vested Rules requires that trash storage be centrally located either within the building or within a screened enclosure outside the building. Section 15-22-142(c)(1) of the Vested Rules requires a bench to be located in an area receiving shade. Section 15-22-142(c)(1) requires a bus stop shelter be provided where bus stops are located.

The Project proposes to use two (2) existing curbs cut along Ala Moana Boulevard and has requested approval of two (2) proposed new curb cuts on Auahi Street. One (1) curb cut on Ala Moana Boulevard, which is existing and on the Ewa side of the podium, is for mainly loading purposes; and the other on Ala Moana Boulevard, which is existing and on the Diamond Head side of the podium, is mainly for motor vehicle access to the parking structure and residential drop off. The two (2) new proposed curb cuts on Auahi Street are also mainly for motor vehicle access to the parking structure and residential drop-off area located on the Mauka-Diamond Head side of the podium. Except for the access off Koula, bikes share access to the parking structure alongside motor vehicles. For the mid-block connection between Ala Moana Boulevard and Auahi Street, vehicles, bikes, and pedestrians share the access. The executive director shall determine if the proposed four (4) curb cuts are acceptable.

Image 7 below was provided by the Applicant in the Permit Application, Exhibit E-1. The curb-cuts are clouded in 'red'.

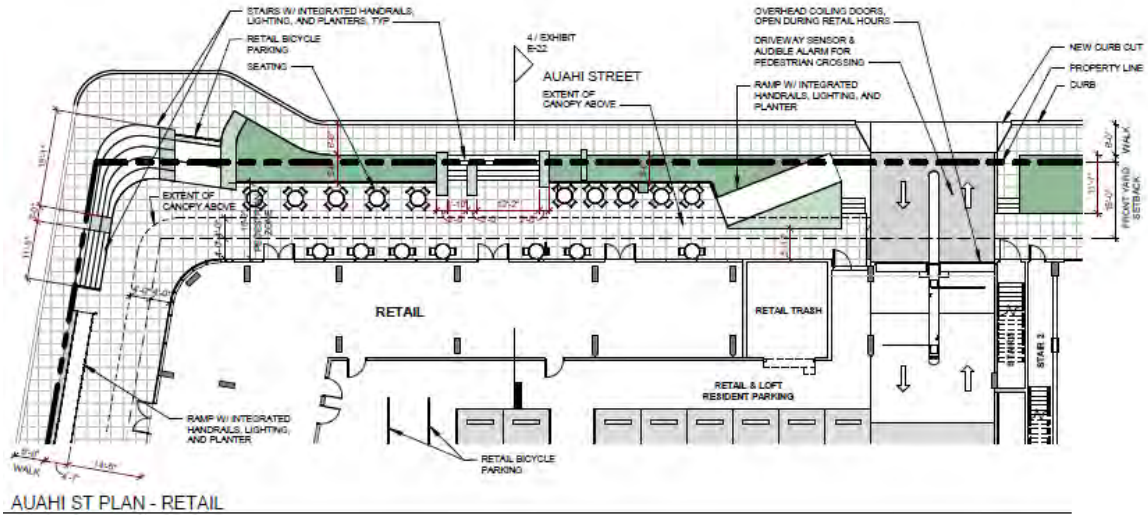
Image 7



Benches and outdoor seating are proposed along Auahi Street. A bus stop is currently located along Ala Moana Boulevard, and the Project will provide a bus shelter.

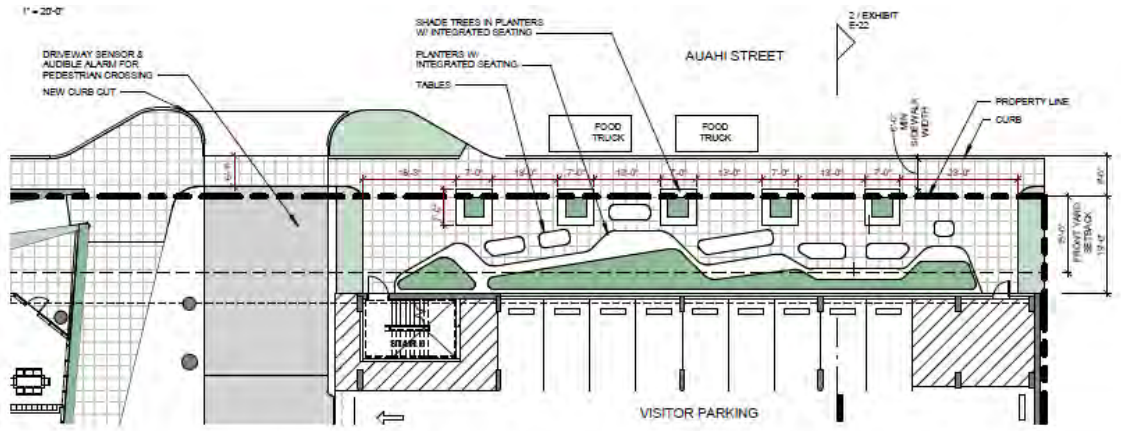
Images 8 and 9 below were provided by the Applicant in its Permit Application, Exhibit E-22. They show proposed outdoor seating area.

Image 8



AUAHI ST PLAN - RETAIL

Image 9



AUAHI ST PLAN - FOOD TRUCKS & OUTDOOR SEATING

Landscaping

Section 15-22-144(b) of the Vested Rules states that all development applicants shall provide street trees within the public right-of-way or the front yard setback area along all street frontages. Trees shall be planted in a linear pattern parallel to the street and shall be a minimum of four and one-half (4 ½) inches caliper, except coconut palms which shall have a minimum trunk height of fifteen (15) feet.

The Project proposes trees all along the street frontages.

Consistency with the KKMP and Findings of Fact, Conclusions of Law, and Decision and Order

Section 15-22-200(d) of the Vested Rules states that a further purpose of this subchapter is to allow greater flexibility in the development of lots within master planned areas than would otherwise be possible through the normal lot-by-lot development approach. Such flexibility is intended to encourage integrated developments and secure better overall planning for extensive land holdings, while recognizing that full development of the area over time would occur incrementally in accordance with the planned development and base zone development requirements in effect at the time of master plan approval.

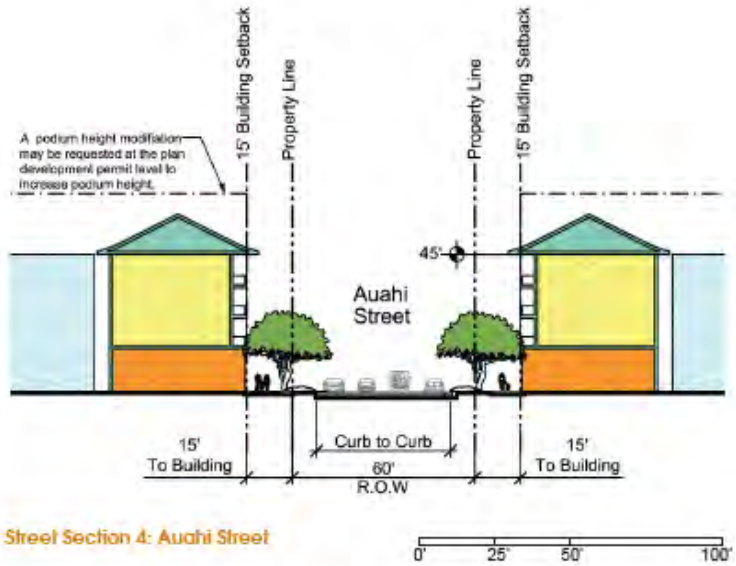
The stated flexibility allowed in § 15-22-200(d) is intended to encourage integrated developments and secure better overall planning for extensive land holdings. It is also recognized that the full development of the KKMP, over time, would occur incrementally with the planned development requirements in effect at the time of the approval of the KKMP. The Project should be reviewed as to how it is integrated into the overall planning of the KKMP.

As noted in the KKMP, "The street level is the main focus of the KKMP and is where most of the interaction within this neighborhood will occur. The character of the KKMP's urban core is one of vibrancy, intimacy, residential presence, retail continuity, and community activity." It continues by noting the following: "Auahi Street and Cooke Street are designed to be the heart of street life in Kakaako and the community's main retail corridors, containing neighborhood services such as cafes, small markets, dry-cleaners, jewelry repair shops, bookstores, and delicatessens". The 2009 KKMP further drives the importance of Auahi Street as a retail corridor by stating the following: "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".

Image 10 and 11 below taken from the 2009 KKMP (pages 5-2 and 5-5) illustrate Auahi Street lined with commercial/retail spaces to create a vibrant pedestrian experience.

Image 10

Image 11



The 2009 KKMP further states that "…To give life to the street, Auahi is envisioned to be pedestrian oriented with small courtyards and intimate pocket gardens that provide a series of experiences for residents and visitors."

Image 12, below, taken from the 2009 KKMP (page 7-2) illustrates streetscapes for Auahi Street.

Image 12

In addition, Findings of Fact No. 50 of the Master Plan Permit states, "major objectives of the Master Plan include a neighborhood, pedestrian-friendly retail corridor located along Auahi Street with a central plaza, a pedestrian promenade along Cooke Street that links Mother Waldron Park to the Makai Gateway Park along with the proposed plaza, preservation of Mauka-Makai view corridors and enhancing the existing roadway network with canopy trees and pedestrian amenities. To mitigate the unsightliness of structured parking and promote interaction with pedestrian traffic at the ground level, the Master Plan anticipates embedding parking structures within a residential, retail and/or

commercial building wrap and/or using design concepts such as screening, detailing or other finish improvements where parking structures are visible."

The Applicant does not propose the use of "liners" all along Auahi Street. The Applicant does have retail liners on the Ewa side of the podium along Auahi; however, the Diamond Head side has no liners and, instead, the Applicant is proposing to put outdoor seating areas and food trucks to address the lack of liners along Auahi Street. It should be noted that the food-trucks are off the Project site and on the Auahi Street right-of-way.

Image 13 below was provided by the Applicant in its Permit Application, Exhibit E-1. It shows proposed uses along Auahi Street.

Image 13

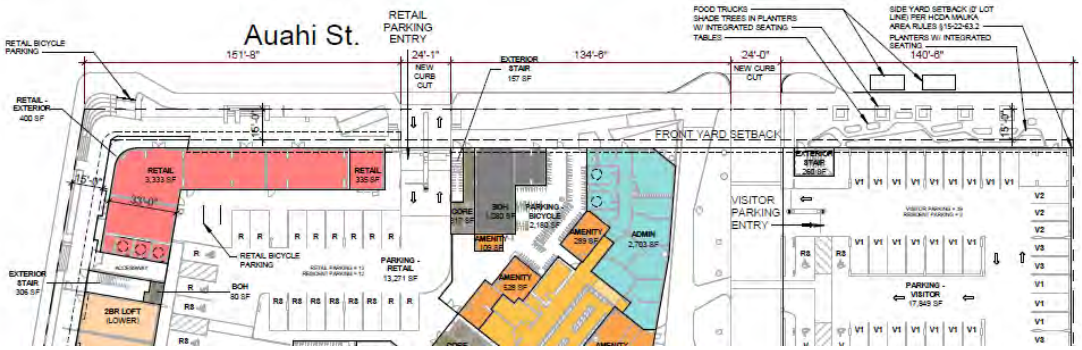


Image 14 below was provided by the Applicant in its Permit Application, Exhibit E-22. It shows proposed outdoor seating and food truck on the Diamond Head side of Auahi Street.

Image 14

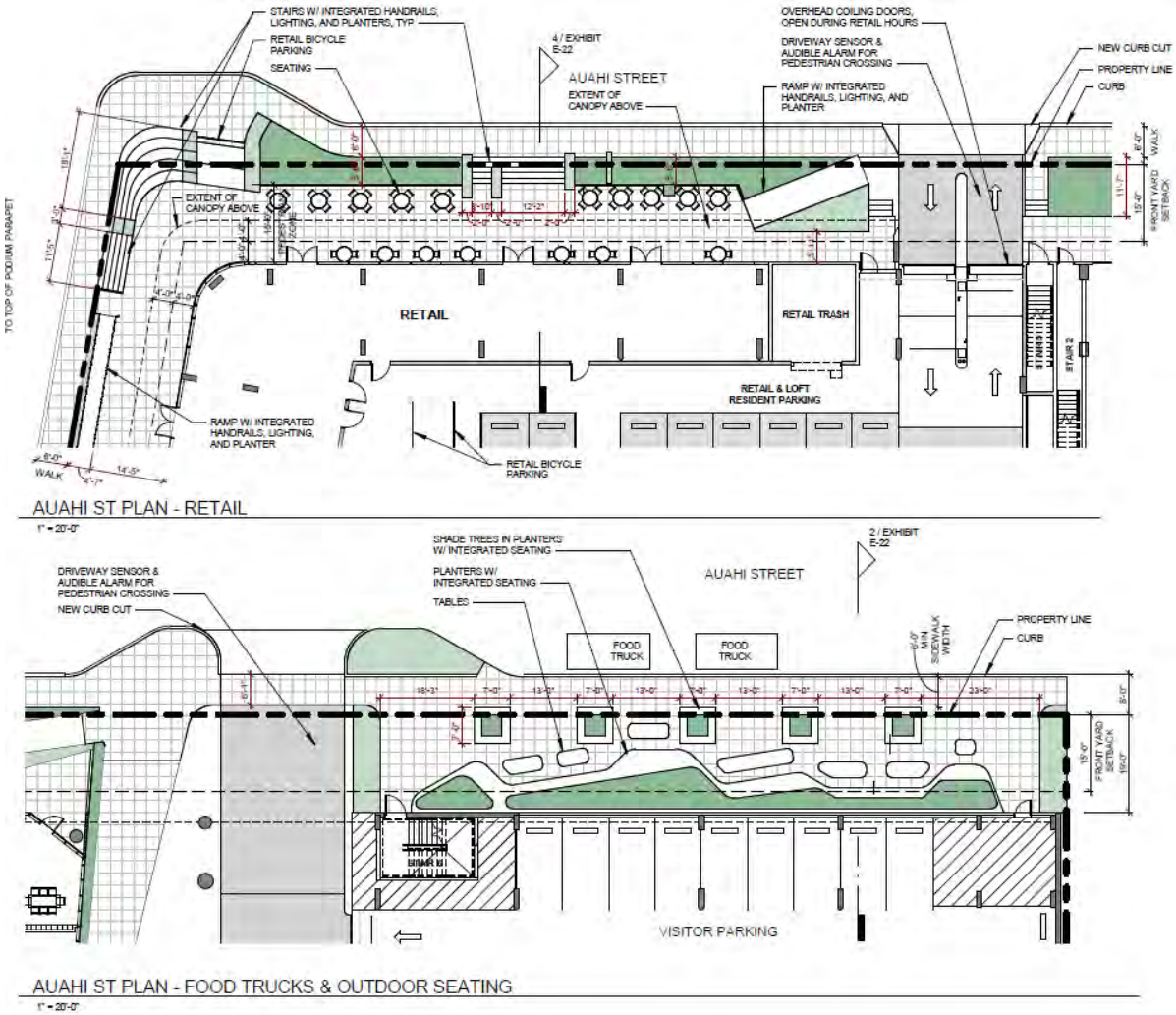
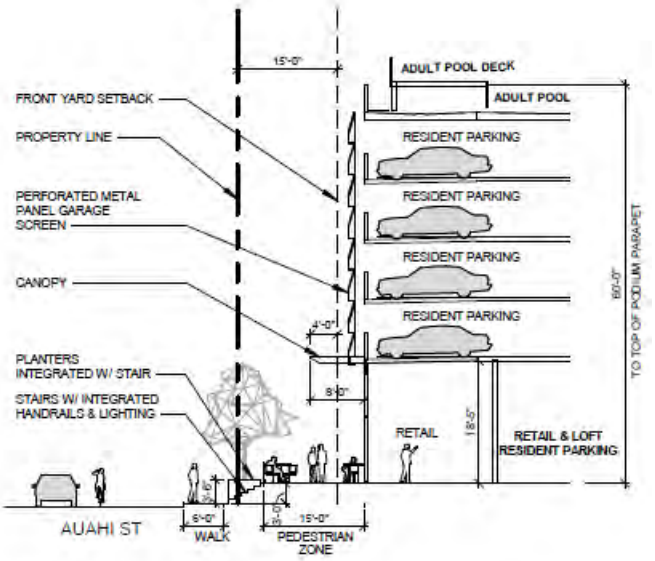
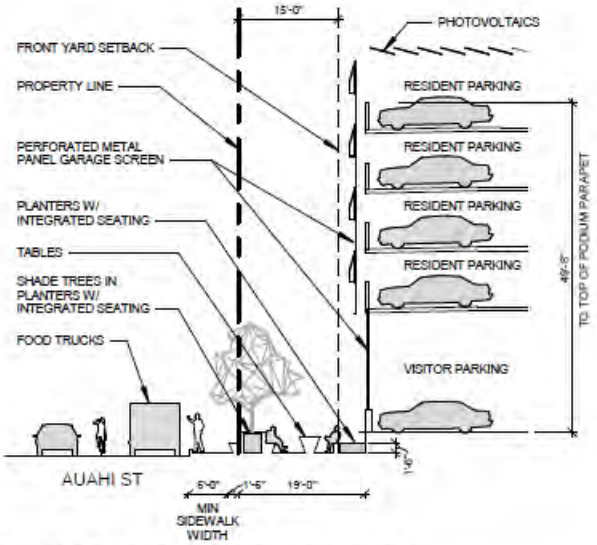


Image 15 below was provided by the Applicant in its Permit Application, Exhibit E-22. It shows proposed retail and outdoor seating along Auahi Street.

Image 15



AUAHI ST SECTION - RETAIL
1" = 20'-0"



AUAHI ST SECTION - FOOD TRUCKS
1" = 20'-0"

VII. CONDITIONS

Section 15-22-119 of the Vested Rules states that the Authority may attach to a planned development permit conditions which may concern any matter subject to regulation under this chapter.

VIII. PUBLIC TESTIMONIES

The HCDA staff will provide the Authority with all public testimony received by the submittal deadline, for the Presentation public hearing for the Permit Application.

IX. EXHIBITS

Exhibit A - Completeness and Automatic Approval Letter

Exhibit B – Notice of Public Hearings

Exhibit C – Master Plan Permit

Exhibit D – Kakaako Master Plan Development Agreement

Exhibit E – Supplement No. 1 to the Kakaako Master Plan Development Agreement

Exhibit F – 2012 Master Plan Permit Amendment

Exhibit G – 2021 Master Plan Permit Amendment

Exhibit H – SHPD 6E-42, HRS, Determination Letter

Exhibit I – Comments from Government Agencies

EXHIBITS A & B

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

547 Queen Street, Honolulu, Hawaii 96813
Telephone: (808) 594-0300 Fax: (808) 587-0299
Web site: http://dbedt.hawaii.gov/hcda/

DAVID Y. IGE
GOVERNOR

SUSAN TODANI
CHAIRPERSON

CRAIG K. NAKAMOTO
EXECUTIVE DIRECTOR

Ref. No.: PL MASP 13.2.8/KAK 22-042

June 1, 2022

Sent Via Electronic and Postal Mail
(Email: alana@kobayashi-group.com)

Ms. Alana Kobayashi Pakkala, Partner
Kobayashi Group
1288 Ala Moana Boulevard, Suite 201
Honolulu, Hawaii 96814

Dear Ms. Kobayashi Pakkala:

Re: Alia (Land Block I), Completeness Review, and Automatic Approval for Development Permit Application No.: KAK 22-042, Tax Map Key Nos. 2-1-056: 014, 015, 016

The Hawaii Community Development Authority ("HCDA") has reviewed the Planned Development Permit Application for Alia (Land Block I) within the Kaiaulu O Kakaako Master Plan Area at 800 and 900 Ala Moana Boulevard and 825 Auahi Street; TMK 2-1-056: 014, 015, 016, submitted by Kobayashi Group on May 18, 2022. This Planned Development Permit Application is being considered under Master Plan Permit No.: PL MASP 13.2.8, approved by the HCDA on September 2, 2009, and recently amended on June 2, 2021.

This letter is to inform you that the Planned Development Permit is deemed to be *Complete,* and all required information has been provided in the Planned Development Permit Application. The completeness review does not constitute a decision as to whether the application complies with the provisions of the Mauka Area Rules (Vested Rules). Under the Vested Rules, Hawaii Administrative Rules, §15-22-23, the Planned Development Permit Application will be deemed automatically approved if no decisions are made by the HCDA granting or denying approval within 160 calendar days from the date of the hearing notice. The public hearing notice is published on Wednesday, June 1, 2022, making the automatic approval date Tuesday, November 8, 2022. A copy of the public hearing notice is enclosed for your information.

Please contact Ms. Sery Berhanu, HCDA Planner at 808-594-0330 or by email at sergut.berhanu@hawaii.gov should you have any questions.

Sincerely,

Craig K. Nakamoto
Executive Director

CN/SB:rlr

Enclosure (1): Public Hearing Notice

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN of public hearings to be held by the Hawaii Community Development Authority ("HCDA" or "Authority"), a body corporate and a public instrumentality of the State of Hawaii, pursuant to the provisions of Chapters 15-22 ("Vested Kakaako Mauka Area Rules") and 15-219 ("Rules of Practice and Procedure"), Hawaii Administrative Rules ("HAR"), and Section 206E-5.6, Hawaii Revised Statutes ("HRS").

DATES: July 6, 2022 (Presentation Hearing)
9:00 a.m.

July 7, 2022 (Modification Hearing)
9:00 a.m.

September 7, 2022 (Decision-Making Hearing)
9:00 a.m.

PLACE: **Public Hearings will be convened remotely and in person at the following location:**

HCDA Board Meeting Room
547 Queen Street, 2nd Floor
Honolulu, Hawaii 96813

Public Hearings will convene at the above-stated times, or soon thereafter, to reasonably allow those interested in providing oral testimony to be heard.

In accordance with Section 92-3.7, HRS, the Public Hearings will be convened remotely via Zoom. The public is welcome to participate and view the Public Hearings as follows:

Participate Remotely Via Zoom
Please use the following link:
https://zoom.us/j/7025694770?pwd=OVozQjNiTUw5ajhrNmFBdzc3U213UT09
Meeting ID: 702 569 4770
Passcode: 434019

Participate Via Phone
Dial: (669) 900 - 6833
Meeting ID: 702 569 4770

View the Hearing Via YouTube
(Livestreamed - simultaneously recorded and broadcasted live)
Please use the following link:
https://www.youtube.com/channel/UCGsHPkE4O4goO5EdeMVAfcA

View the Remote Hearing at the Following Physical Meeting Site:

Hawaii Community Development Authority
American Brewery Building
547 Queen Street, 2nd Floor Board Room
Honolulu, Hawaii 96813

In accordance with Section 92-3.7(c), HRS, in the event that audiovisual communication cannot be maintained by all participating Board Members and quorum is lost, the public hearing will be automatically recessed for up to thirty (30) minutes, during which time, an attempt to restore audiovisual communication will be made. If the HCDA is able to reestablish audio communication only, the public hearing will be reconvened and continue. To participate via audio communication, please refer to the "Participate Via Phone" information above. If the HCDA is unable to reconvene the public hearing because neither audiovisual communication nor audio communication can be re-established within thirty (30) minutes, the public hearing will be automatically terminated, unless stated otherwise during the public hearing.

PUBLIC TESTIMONY

Oral Live Testimony

Pursuant to Section 92-3, HRS and Article IV, Section 10 of the HCDA's Bylaws, oral, live testimony may be limited to three (3) minutes at the discretion of the presiding officer and will be accepted only on matters directly related to the subject development permit application.

When testifying, you will be asked to identify yourself and the organization, if any, that you represent. Oral live testimony may be provided via either of the following options:

- **Zoom:**
  Oral live testimony may be provided remotely via the Zoom link provided above at the top of this Notice.

  You will be asked to provide your name and an email address in the standard email format, e.g., ****@****.com.

  Your microphone will automatically be muted. When the Chairperson asks for public testimony, you may click the Raise Hand button found on your Zoom screen to indicate that you wish to testify about this proposed Project. The Chairperson will individually enable each testifier to unmute their microphone. When recognized by the Chairperson, please unmute your microphone before speaking and mute your microphone after you finish speaking.

- **Phone:**
  If you do not have a computer/internet access, you may provide oral live testimony via the Participate by Phone option and attend this public hearing with audio-only access by calling the phone number listed in the "Participate Via Phone" option located at the top of this Notice.

Upon dialing the number, you will be prompted to enter the Meeting ID which is also listed at the top of this Notice. After entering the Meeting ID, you will be asked to either enter your panelist number or wait to be admitted into the meeting. Please wait until you are admitted into the meeting as no panelist numbers will be issued.

When the Chairperson asks for public testimony, you may indicate that you want to testify by entering ***** followed by **9** on your phone's keypad. A voice prompt will then let you know that the meeting host has been notified. When recognized by the Chairperson, please unmute yourself by entering ***** and then **6** on your phone's keypad. A voice prompt will let you know that you are unmuted, and you may begin speaking. After you have finished speaking, please enter ***** and then **6** again to mute yourself.

Written Testimony

To ensure that the public as well as the HCDA Board Members receive testimony in a timely manner, written testimony should be submitted 24 hours prior the scheduled Public Hearing date and time. Any written testimony submitted after such time cannot be guaranteed to be distributed in time for the Public Hearing. Written testimony may be submitted by any one of the following methods:

- Email to: dbedt.hcda.contact@hawaii.gov
- Web form at: http://dbedt.hawaii.gov/hcda/submit-testimony/
- U.S. Postal Mail sent to:
  Hawaii Community Development Authority
  547 Queen Street
  Honolulu, HI 96813
- Facsimile (fax) to: (808) 587-0299

Please note that written public testimony submitted to the HCDA will be treated as a public record and any contact information contained therein will be available for public inspection and copying.

DEVELOPMENT PERMIT APPLICATION

Application Date:	May 18, 2022
Permit Number:	KAK 22-042
Applicant:	Kobayashi Group, LLC
Tax Map Key:	(1) 2-1-056: 014, 015, 016
Project Location:	800 and 900 Ala Moana Boulevard and 825 Auahi Street, Honolulu, Hawaii 96814

Description: The Applicant is proposing to build a single, 483-unit residential, mixed-use condominium ("Project"). The proposed Project consists of a single condominium tower located on a 60-foot-high parking and mixed-use podium, located on a 150,126 square foot lot on the corner of Ala Moana Boulevard and Koula Street. On the ground level, the Project will include approximately 24,010 square feet of open space, and approximately 69,285 square feet of recreational space with amenities. A total of approximately 913 parking stalls will be located in the 60-foot-high parking and mixed-use podium. Residential and commercial loading areas and public bicycle parking are proposed as a part of the Project.

The Applicant is requesting the following two modifications from the Vested Kakaako Mauka Area Rules (collectively referred to as "Modification Request"):

(1) Modification of the height of the parking and mixed-use podium, from 45 feet to 60 feet, and (a) an additional 12 feet for accessory use structures, having a total area less than 15% of the parking and mixed-use podium roof area, and (b) an additional 18 feet for structures that will house elevator machinery on the parking and mixed-use podium roof; and

(2) Modification of the view corridor setback on Ala Moana Boulevard, for approximately 54% of the Ala Moana Frontage.

In accordance with HAR § 15-219-49, interested persons may petition to intervene to participate as a party in this hearing by filing a timely written motion and providing 30 copies of such written motion to the HCDA office at 547 Queen Street, Honolulu, Hawaii 96813, no later than 4:30 p.m. on Tuesday, June 21, 2022, and serving copies to the Applicant at 1288 Ala Moana Boulevard, Suite 201, Honolulu, Hawaii 96814. The Authority will act on any motion to intervene on July 6, 2022, at which time all parties to the proceedings will be established.

July 6, 2022, 9:00 a.m. - Presentation Hearing
The purpose of the Presentation Hearing is to allow the Applicant to present the Project as proposed in the Application, to allow any other party to the proceeding the opportunity to present its position, and to provide the general public with the opportunity to present oral and/or written testimony.

July 7, 2022, 9:00 a.m. – Modification Hearing
The purpose of the Modification Hearing is to allow the Applicant to present its Modification Request, to allow any other party the opportunity to present their position, and to provide the general public with the opportunity to present oral and/or written testimony.

September 7, 2022, 9:00 a.m. - Decision-Making Hearing
The purpose of the Decision-Making Hearing is to allow for additional oral and/or written testimony from the general public on the Application prior to decision-making by the Authority. If the Authority adopts a proposed Decision and Order that is adverse to a party at the September 7, 2022 Decision-Making Hearing, the party adversely affected will be allowed to file written comments and/or exceptions to the Authority's proposed Decision and Order. Thereafter, the Authority will engage in final decision-making, if necessary, at a further hearing on October 5, 2022 at 9:00 a.m.

Any party may retain counsel, or appear on his/her own behalf, or send a representative if the party is a partnership, corporation, trust, or association.

The Development Permit Application is posted online at www.dbedt.hawaii.gov/hcda. A hard copy of the Development Permit Application may also be obtained via regular mail, upon payment of photocopying and postage handling fees. To request a hard copy, you may contact the HCDA by telephone at (808) 594-0300 or by e-mail at dbedt.hcda.contact@hawaii.gov

during regular business hours (Monday through Friday, 7:45 a.m. to 4:30 p.m.), excluding State and Federal holidays.

If you need an auxiliary aid/service or other accommodation due to a disability, please contact Francine Murray, Interim HCDA Compliance Assurance and Community Outreach Officer, via phone at (808) 594-0300 or by email at: dbedt.hcda.contact@hawaii.gov or by facsimile at (808) 587-0299 at least five working days prior to the date required.

HAWAII COMMUNITY DEVELOPMENT AUTHORITY
SUSAN TODANI, CHAIRPERSON

EXHIBIT C

ORDER
OF THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY
STATE OF HAWAII
September 2, 2009

In re the Application of THE TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP for a Master Plan Permit	)))))))	File No.: PL MASP 13.2.8

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER FOR A MASTER PLAN PERMIT

On November 26, 2008, Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools ("Petitioner" or "KS"), submitted an application for a master plan, pursuant to Chapter 206E of the *Hawaii Revised Statutes* ("HRS") and Chapter 15-22 of the *Hawaii Administrative Rules* ("HAR"), to obtain a master plan permit for approximately 29 acres of land in the Kakaako Community Development District ("KCDD"), Oahu, Hawaii, and identified as Tax Map Key Numbers 2-1-030: 001; Halekauwila Street, Lot A-1, between South and Keawe Streets; 2-1-054: 025; 2-1-054: 027; 2-1-054: 028; 2-1-054: 032; 2-1-054: 001; 2-1-053: 004; 2-1-053: 005; 2-1-053: 027; Koula Street, Lot B, between Pohukaina and Auahi Streets; 2-1-055: 004; 2-1-055: 009; 2-1-055: 017; 2-I-055: 003; 2-1-055: 006; 2-1-055: 021; 2-1-055:026; 2-1-055: 038; 2-1-055: 001; 2-I-055: 002; 2-1-055: 018; 2-1-055: 032; 2-1-055: 033; 2-1-055: 034; 2-1-055: 035; Lana Lane between Auahi Street and Ala Moana Boulevard; 2-1-056: 003; 2-1-056: 004; Ohe Lane between Auahi Street and Ala Moana Boulevard; 2-1-056: 002; 2-1-056: 007; and 2-1-056: 008 (collectively, the "Master Plan Area") for the Kaiāulu 'O Kaka'ako Master Plan ("Master Plan").

The Hawaii Community Development Authority ("HCDA" or "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 August 7, 2009, and Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit, filed on August 20, 2009, hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order:

FINDINGS OF FACT

1. On September 7, 1994, HCDA approved a master plan permit in favor of KS for the Pauahi Place Master Plan ("PPMP") for 53.8 acres located in the Mauka and Makai Areas of the KCDD.

2. On September 8, 2006, KS and HCDA executed a Termination Agreement that terminated the PPMP ("PPMP Termination Agreement"). See Petitioner's Exhibit 1 ("PPMP Termination Agreement").

3. On November 26, 2008, Petitioner submitted its application for the proposed Master Plan permit ("Master Plan Permit Application" or "Application"). See Petitioner's Exhibit 4 (Application). KS is the landowner of the properties in the Master Plan Area. See Exhibit 14 (Letter dated June 10, 2009, from KS to HCDA addressing title issues and enclosing title reports).

4. On January 8, 2009, HCDA requested the submission of additional items to complete the Application. See Petitioner's Exhibit 5 (Letter dated January 8, 2009 from HCDA to KS).

5. On March 19, 2009, Petitioner submitted the additional items to HCDA. See Petitioner's Exhibit 6 (Addendum 1).

6. As of March 23, 2009, the Master Plan Permit Application was deemed to be complete. See Petitioner's Exhibit 7 (Letter dated March 30, 2009, from HCDA to KS).

7. On April 1, 2009, HCDA issued a Staff Report that described the Master Plan Permit Application contested case hearing process, set forth the Hearing Policy and established a hearing schedule. See Petitioner's Exhibit 8 (HCDA Staff Report).

8. On April 1, 2009, by a majority vote of those members entitled to vote thereon, the Authority (a) approved holding a contested case hearing for the Master Plan Permit Application on or about July 2009 (the date thereabouts to be fixed by the Executive Director of HCDA), (b) adopted the rules and procedures for the conduct of the contested case hearing, and (c) appointed a hearing officer to conduct the hearing on the Authority's behalf and authorized the Executive Director to retain the services of a hearing officer for such contested case hearing.

9. On April 20, 2009, HCDA sent KS a letter requesting revisions to page 2-5 of the Application to correct errors relating to the description of the Master Plan Area. See Petitioner's Exhibit 9 (Letter dated April 20, 2009 from HCDA to KS).

10. On April 22, 2009, HCDA mailed approximately 11,825 flyers through its Connections mailing list to solicit comments to the Master Plan.

11. On May 5, 2009, HCDA published notice of the community meeting in the Honolulu Advertiser and Honolulu Star-Bulletin scheduled for May 7, 2009.

12. On May 7, 2009, HCDA made the proposed Master Plan publicly available on its website (www.hcdaweb.org).

13. On May 7, 2009, the Limehouse website link was activated through PBR Hawaii's website to receive comments for the Master Plan until the end of the community comment period which ended on June 5, 2009.

14. On May 7, 2009, HCDA created a telephone comment line to allow the public to call in their comments to the Master Plan.

15. On May 7, 2009, Petitioner submitted Addendum 2 to HCDA, which included additional information and clarification on certain items. See Petitioner's Exhibit 10 (Addendum 2).

16. On May 7, 2009, HCDA staff conducted a community meeting at the Honolulu Design Center, Cupola Theatre Room, where KS presented a summary of the Master Plan and attendees were given an opportunity to provide, and did provide written and oral comments. These comments were used by HCDA staff in evaluating the Master Plan application and preparing a report thereon.

17. On May 15, 2009, KS submitted to HCDA corrected pages 2-5 and 5-12 to the Application. See Petitioner's Exhibit 11 (Letter dated May 15, 2009, from KS to HCDA with the corrected pages).

18. On May 26, 2009, the Notice of Hearing for the contested case hearing and notice to potential interveners was published in the Honolulu Star-Bulletin, Hawaii-Tribune Herald, West Hawaii Today, The Maui News and Kauai Publishing Company dba The Garden Island. See Petitioner's Exhibit 12 (Notice of Contested Case Hearing).

19. On June 1, 2009, KS submitted a letter to HCDA stating that KS is not seeking to transfer excess density from Auahi Park to the Master Plan Area in connection with the Master Plan Permit Application, without waiving or relinquishing its rights and positions, including its right to pursue such a density transfer at a later time. By such letter, KS removed any issue relating to such a density transfer from this contested case hearing process and HCDA staff has

concurred with such removal. See Petitioner's Exhibit 13 (Letter dated June 1, 2009, from KS to HCDA).

20. On June 4, 2009, the deadline for filing any petition for intervention, passed with no petition for intervention being filed.

21. On June 10, 2009, KS submitted a letter to HCDA that addressed HCDA inquires regarding evidence of KS' ownership of the Master Plan Area and disclosed certain di minimis discrepancies in the square footage of parcels comprising the Master Plan Area. See Exhibit 14 (Letter dated June 10, 2009, from KS to HCDA and the enclosed title reports).

22. On June 10, 2009 a pre-hearing conference was held at the HCDA's offices at 677 Ala Moana Boulevard, Suite 1001, Honolulu, Hawaii 96813. William Meheula, Esq., appeared for the Petitioner. No petition for intervention had been filed, thus, no intervener was present.

23. On June 26, 2009, KS submitted to HCDA a further revised page 2-5 to the Application to correct the zoning description for two Blocks. See Exhibit 15 (Letter dated June 26, 2009, from KS to HCDA with the corrected page).

24. On June 26, 2009, KS submitted to HCDA a declaration from and curriculum vitae of Michael Dang, KS' Director of Planning & Development, to provide data on projected economic benefits from the Master Plan. See Petitioner's Exhibits 18 and 19 (Dang curriculum vitae and declaration).

25. On June 26, 2009, HCDA posted its staff's Analysis and Recommendations of the Master Plan on the HCDA website.

26. On June 30, 2009, KS submitted a letter to HCDA that addressed certain provisions in the Staff Analysis and Recommendations. See Petitioner's Exhibit 20 (Letter dated June 30, 2009, from KS to HCDA).

27. On July 7, 2009, the contested case hearing on the Master Plan Permit Application was held at the HCDA's offices at 677 Ala Moana Boulevard, Suite 1001, Honolulu, Hawaii 96813. William Meheula, Esq., appeared for the Petitioner with KS representative, Michael Dang. The hearing was closed after the Hearing Officer accepted Petitioner's Exhibits numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20.

28. On August 7, 2009, Petitioner filed Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit.

29. On August 20, 2009, the Hearing Officer filed Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit.

30. On August 27, 2009, the notice of public hearing to be held on September 2, 2009, pursuant to § 206E-5.6, HRS, was published in the Honolulu Star-Bulletin, Hawaii-Tribune Herald, West Hawaii Today, The Maui News, and Kauai Publishing Company dba The Garden Island.

31. On August 27, 2009, pursuant to § 206E-5.6, HRS, the President of the State Senate and the Speaker of the House of Representatives were notified of the September 2, 2009 public hearing via regular mail correspondence. A report detailing the public's reaction at the public hearing must be compiled and delivered to the Senate President and the Speaker of the House of Representative within one week after the hearing.

32. On August 28, 2009, KS filed its Exceptions to the Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit.

33. On September 2, 2009, the Authority members 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 the Petitioner, the exceptions filed by the Petitioner, and to take action on the Application.

I. HCDA Mauka Area Plan and Rules:

34. HCDA's Mauka Area means that portion of the Kakaako Community Development District, established by § 206E-32, HRS, which is bounded by King Street; Piikoi Street from its intersection with King Street to Ala Moana Boulevard; Ala Moana Boulevard, exclusive, from Piikoi Street to its intersection with Punchbowl Street; and Punchbowl Street to its intersection with King Street.

35. HCDA's Mauka Area Plan means the development plan for the Mauka Area of the Kakaako Community Development District originally adopted on February 16, 1982, as amended on January 10, 1983, May 18, 1984, September 6, 1984, April 26, 1985, August 17, 1985, July 15, 1988, June 28, 1989, January 18, 1990, September 5, 1997, and August 3, 1999.

36. HCDA's Mauka Area Rules means the administrative rules originally adopted on February 24, 1990, as amended on April 16, 1990, July 26, 1990, September 15, 1990, October 3, 1994, December 15, 1994, August 4, 1995, December 2, 1995, November 25, 1996, January 25, 1997, March 27, 1997, June 13, 1997, August 1, 1997, September 1997, August 16, 1999, January 13, 2000, September 15, 2001, and June 13, 2005.

37. HCDA's master plan rules are designed to encourage investment in new development and commitment to master planning of large land holdings. See § 15-22-200(a), HAR.

38. 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.

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

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

A. Description of the Master Plan Area:

41. The Master Plan Area consists of approximately 29 acres of land, located in the Kakaako Community Development District, Oahu, Hawaii, and identified as Tax Map Key Numbers 2-1-030: 001; Halekauwila Street, Lot A-1, between South and Keawe Streets; 2-1-054: 025; 2-1-054: 027; 2-1-054: 028; 2-1-054: 032; 2-1-054: 001; 2-1-053: 004; 2-1-053: 005; 2-1-053: 027; Koula Street, Lot B, between Pohukaina and Auahi Streets; 2-1-055: 004; 2-1-055: 009; 2-1-055: 017; 2-1-055: 003; 2-1-055: 006; 2-1-055: 021; 2-1-055:026; 2-1-055: 038; 2-1-055: 001; 2-1-055: 002; 2-1-055: 018; 2-1-055: 032; 2-1-055: 033; 2-1-055: 034; 2-1-055: 035; Lana Lane between Auahi Street and Ala Moana Boulevard; 2-1-056: 003; 2-1-056: 004; Ohe Lane between Auahi Street and Ala Moana Boulevard; 2-1-056: 002; 2-1-056: 007; and 2-1-056: 008.

42. The Master Plan Area is owned in fee simple by KS, subject, however, to leases, tenancies, and other encumbrances. See Petitioner's Exhibit 14 (Letter dated June 10, 2009, from KS to HCDA addressing title issues and enclosing title reports).

43. A Master Plan Boundary Map is attached hereto as Exhibit A. See Petitioner's Exhibit 4 (Application) at 2-7. As designated in Exhibit A, Blocks A through D are designated Mixed-Use Zone Residential Emphasis ("MUZ-R") and Blocks E through I are designated Mixed-Use Zone Commercial Emphasis ("MUZ-C"). The Master Plan Area is located in the southwestern quadrant of the Mauka Area, and comprises all or a portion of nine city blocks located along Ala Moana Boulevard, South, Keawe, Coral, Cooke, Auahi, Pohukaina and Halekauwila Streets. See Petitioner's Exhibit 4 (Application), at iv.

44. Urban areas adjacent to the Master Plan Area include downtown Honolulu, the Ala Moana and Kakaako Waterfront regional parks, the Ala Moana Center, Kewalo Basin, office buildings, and residential towers.

45. 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 details of Petitioner's sustainability strategy for a planned development shall be provided to the HCDA at the time that each Planned Development Permit Application for that parcel is submitted.

46. Tenants may be displaced by development within the Master Plan Area, however, it will not involve wholesale displacement because development will be phased. One of the public benefits to be derived from a master plan is the provision of relocation assistance by the developer. See § 15-22-200(b), HAR. KS proposes to actively seek to retain desirable tenants (many are vibrant small businesses that are compatible with the future neighborhood vision) as

development progresses. Potential tenant relocation sites include lands within the Master Plan Area, other KS lands or other lands. KS proposes to work closely with tenants to provide advance notice and identify alternative relocation sites. See Petitioner's Exhibit 4 (Application), at 8-2.

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

B. Land Uses/Areas:

48. The Master Plan proposes a mixed-use development including residential, retail, office, commercial, and industrial uses, for a total floor area of 4,426,197 square feet (the maximum allowed for all uses combined), with a floor area ratio ("FAR") of 3.5. See Petitioner's Exhibit 11 (Letter dated May 15, 2009, from KS to HCDA with the corrected page 5-12). It is a long-range plan that would span fifteen years, including multiple phases. The phasing and mix of uses developed under the Master Plan will depend on changing market and social conditions. Specifically, the maximum floor area that can be requested for each use is:

- Residential – 4,426,197 square feet,
- Commercial (includes Retail and Office) – 2,072,453 square feet, and
- Industrial – 126,463 square feet.

However, the maximum floor area within the Mauka Plan Area that can be developed in any situation cannot exceed 4,426,197 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 Petitioner's Exhibit 4 (Application), at 8-1. With respect to planned developments, however, consistent with the Mauka Area Rules in no instance is Petitioner intending to develop all

commercial spaces without any residential components. See § 15-22-113(b), HAR. Residential use is the primary component of the Master Plan. See id., at 5-9.

C. Urban Design Objectives:

49. The Master Plan proposes a pedestrian-friendly, smart-growth community, where its residents can live, work, and play. See Petitioner's Exhibit 4 (Application), at 3-2 to 3-6 and Chapter 4.

Streetscapes

50. Major design objectives of the Master Plan include a neighborhood, pedestrian-friendly retail corridor located along Auahi Street with a central plaza, a pedestrian promenade along Cooke Street that links the Mother Waldron Park to the Makai Gateway Park along with the proposed plaza, preservation of Mauka-Makai view corridors and enhancing the existing roadway network with canopy trees and pedestrian amenities. See Petitioner's Exhibit 4 (Application), at 5-2 to 5-5, 7-2. To mitigate the unsightliness of structured parking and promote interaction with pedestrian traffic at the ground level, the Master Plan anticipates embedding parking structures within a residential, retail and/or commercial building wrap and/or using design concepts such as screening, detailing or other finish improvements where parking structures are visible. See id., at 5-8.

Open Space

51. Approximately 126,463 square feet are proposed for open space. The Planned Development Permit Application for each block will further describe the location and nature of the open space to be developed. See Petitioner's Exhibit 4 (Application), at 4-4, 5-6; and Petitioner's Exhibit 11 (corrected page 5-12).

52. A community gathering place shall be located at the crossroads of the Cooke Street park-to-park promenade and the Auahi Street retail corridor (at the corner of Block C, D, G or H), which is envisioned as a large public plaza of at least 25,000 square feet and when built will satisfy part of Petitioner's open space requirements. See Petitioner's Exhibit 11. The plaza is intended to provide both indoor and outdoor space for unique programmed activities and events that accommodate the needs and interests of the surrounding community. The plaza is planned to 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. See Petitioner's Exhibit 4 (Application), at 5-3, 5-5.

Urban Form and Building Envelopes

53. The Master Plan proposes a mix of low-rise and high-rise development ranging from a building envelope similar to a Base Zone Development with a building height of approximately 45 feet, to planned developments with podium envelopes of 45 feet in height and tower envelopes varying between 100 to 400 feet in height. See Petitioner's Exhibit 4 (Application), at 5-8, 5-9.

D. Transportation and Infrastructure Systems:

Transportation

54. Petitioner has previously contributed its allocated share towards the construction of infrastructure Improvement District Improvements ("ID Improvements") benefitting its properties within the Master Plan Area. See Petitioner's Exhibit 4 (Application), at 6-6 and 7.

55. The ID Improvements were sized to support a 3.5 FAR development density. See Petitioner's Exhibit 4 (Application), at 6-6.

56. 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, significantly improve the pedestrian and bicycle environment, and minimize traffic congestion overall. The existing public bus system will be utilized. The transportation strategy also will consider parking options such as: unbundled parking within new residential development, shared parking for complementary land uses, 'park-once' strategy, restricted surface parking lots, use of short-term parking, and referred parking for hourly car rental/car sharing programs such as zip cars and flex cars. See Petitioner's Exhibit 4 (Application), at 6-4 and 6-5; and Petitioner's Exhibit 6 (Addendum 1), at A-8 and 9.

57. The proposed roadway system seeks to utilize the existing rights-of-way with potential closure of certain privately owned rights-of-way. Streets which are not identified on Figure 9 of the Mauka Area Plan as either a major street or a local street may be closed to create larger blocks for redevelopment. See Petitioner's Exhibit 4 (Application), at 6-4. Petitioner may propose closure of certain privately owned rights-of-way, including:

- Koula Street between Pohukaina and Auahi Streets for the development of Block D;
- Lana Lane between Auahi Street and Ala Moana Boulevard for the development of Block G; and
- Ohe Lane between Auahi Street and Ala Moana Boulevard for the development of Block H. See Petitioner's Exhibit 4 (Application), at 2-4 for the location of these rights-of-way.

58. The City and County of Honolulu ("C&C") High-Capacity Transit Corridor Project could have a major impact on the proposed Master Plan. The C&C's current preferred

transit route is situated within Halekauwila Street, from Punchbowl to Ward Avenue, with the Civic Center Station located on a portion of Block A in the Master Plan Area. See Petitioner's Exhibit 4 (Application), at 6-4, and Exhibit 6 (Addendum 1) at A-5. Petitioner and the C&C have been engaged in discussions regarding the precise alignment and location for the transit station within the Master Plan Area, and will continue to do so. As part of the Planned Development Permit Application for Block A, a more detailed route and station location shall be addressed and incorporated.

E. Public Benefits, Reserved Housing and Public Facilities Dedication Proposals:

Public Benefits

59. The Master Plan is designed to create the following public benefits as the result of implementation of the Master Plan:

a. The creation of a vibrant living environment with energized street life and active open spaces. Petitioner's Exhibit 4 (Application) at 9-6.

b. A community gathering place and open space connections between Makai Gateway Park and Mother Waldron Park. Id.

c. New living options for existing residents and young people returning to Hawaii that are close to places of work and provide convenient access to recreational amenities, shopping and cultural events. Id.

d. Beautification of Cooke Street, Ala Moana Boulevard and Auahi Street that will enhance the image of the city and its urban environs. Id.

e. Delivery of reserved housing in accordance with the twenty percent (20%) reserved housing requirement set forth in § 15-22-115(a), HAR. Id.

f. A commitment to and investment in sustainable development in the urban core. Id.

g. A community that is pedestrian-friendly and designed to reduce traffic and vehicle use island-wide. Id.

h. A reduction of urban sprawl and preservation of agricultural lands by developing a centrally located urban area. Petitioner's Exhibit 10 (Addendum 2), at A-8.

i. Incorporation of best smart urban growth principles and practices to transform a predominantly older low-rise commercial and industrial warehouse district to a higher density neighborhood with a substantially larger residential population. Id.

j. Improvements and appropriate additions to the built environment through the use of green building and landscaping components. Id.

k. Well-designed and programmed open spaces, complemented by nearby indoor commercial spaces to provide open space connections and views. Id.

l. Improvements to connectivity by the phase-out of on-street parking, reduction of auto trips, enhancing connections to adjacent districts, and improved pedestrian experience. Id., at A-9.

m. Improvements to public facilities by previously contributing to the delivery of the equivalent of 120,514 square feet of public facilities, and by investing to improve pedestrian experience and streetscapes, and

contributing additional investment to the public facilities and infrastructure in the district. Id.

n. A commitment to respect and protection of cultural and historic resources in the Master Plan Area demonstrated by previous, extensive consultation with recognized cultural descendants of the Master Plan Area and receipt of archaeological inventory survey plan approval on a portion of the Master Plan Area. Id.

o. Increased real property tax and general excise tax revenues from the redevelopment and incubation of new businesses. Id.

p. Land dedications years in advance of any redevelopment under the Master Plan to allow the early construction and public use of the Pohulani Elderly Housing Project, the Mother Waldron Park, and portion of the Makai Gateway Park. Id.

q. Up to 2,750 new lofts, townhouses and condominium dwelling units in the KCDD. Id.

r. Job creation for residents during and after the build-out of the project. Id. The Master Plan over its projected fifteen-year development period is estimated to create as many as 9,291 on-site construction jobs and 10,202 off-site jobs. The total construction and off-site worker payroll for the fifteen-year development period is estimated to be approximately $933 million dollars. At full build-out, it is estimated that the Master Plan development could generate 5,466 full-time professional and service jobs and generate approximately $230 million dollars in annual payroll. Tax

revenue to the State from the construction phase is estimated to be approximately $141.5 million dollars in excise tax and $73.7 million dollars in income tax. After the development is completed, it is projected that annual revenue to the State in income tax could be upwards of $18.1 million dollars. Additionally, the C&C could collect upwards of $8.9 million dollars annually in the form of property taxes. See Petitioner's Exhibit 19 (Michael Dang declaration).

s. Petitioner's agreement to work with any new tenants on short-term occupancy of the premises until redevelopment. At the time of its application for a Planned Development Permit, Petitioner or its developer intends to work with any remaining tenants to explore relocation alternatives that may be available at that time. This will include the evaluation of relocation, if possible, to other properties controlled by the Petitioner within the KCDD or other suitable locations on other lands owned by Petitioner. Given project phasing over the term of the Master Plan and potential adaptive reuse of existing buildings, mass relocation of Petitioner's tenants at one time is not anticipated. HCDA's Mauka Area Rules requires at least 60 days' prior written notice of any eviction. Petitioner intends to give at least 120 days' prior written notice to any tenant within the Master Plan Area who will be displaced. See Petitioner's Exhibit 10 (Addendum 2), at A-10. Id., see generally Petitioner's Exhibit 4 (Application), at 9-6, Petitioner's Exhibit 10

(Addendum 2), at Item C, and Petitioner's Exhibit 19 (Michael Dang declaration).

Reserved Housing

60. The Master Plan proposes to meet the reserved housing requirement as specified by the Mauka Area Rules. Under those rules, the development would deliver reserved housing in accordance with the twenty percent (20%) reserved housing requirement set forth in § 15-22-115(a), HAR. See Petitioner's Exhibit 4 (Application), at 9-5.

Public Facilities

61. § 15-22-73(a), HAR, of the HCDA's Mauka Area Rules specifies that the dedication of public facilities is required for any development within the Mauka Area that increases an existing development's floor area by more than twenty-five percent (25%) as compared to the development's floor area existing on February 27, 1982 or at the time of application for a development permit.

62. § 15-22-73(d), HAR, of the HCDA's Mauka Area Rules specifies that the amount of land required to be dedicated for public facilities shall be equal to: (1) Three percent (3%) of the total commercial and community service floor area of the development to be constructed exclusive of nursing facilities, assisted living administration, and ancillary assisted living amenities that qualify for FAR bonus under §§ 15-22-61 and 15-22-116, HAR; (2) Four percent (4%) of the total residential floor area of the development to be constructed exclusive of floor area devoted to reserved housing units and their associated common areas in proportion with the floor area of other uses.

63. § 15-22-73(e), HAR, of the HCDA's Mauka Area Rules specifies that if it is determined that dedicating land is not in the interest of the public, the developer shall pay instead

a fee in a sum equal to the fair market value of the land area otherwise required under § 15-22-73(d). The fee shall be payable prior to the issuance of the initial certificate of occupancy and secured by the applicant with a financial guaranty bond from a surety company authorized to do business in Hawaii, an acceptable construction set-aside letter, and/or other acceptable means prior to the issuance of the initial building permit.

64. § 15-22-205(f), HAR, of the HCDA's Mauka Area Rules specifies that the public facilities dedication requirements of this chapter applicable at the time of development permit approval may be satisfied, at the election of the Authority, by either of the following methods: (1) Dedication of land areas anywhere within the Master Planned Area, provided that the total value of said land areas is equal to the total value of the land otherwise required for dedication; (2) Payment of fees in lieu of dedicating land, the sum of which shall equal the fair market value of the land area otherwise required for dedication; or (3) A combination of the foregoing, the total value of which shall not be less than the value of land otherwise required for dedication.

65. The Master Plan proposes development that may require Petitioner to dedicate up to an estimated 140,174 square feet of land for public facilities. See Petitioner's Exhibit 11 (corrected page 5-12).

66. Since 1989, Petitioner has dedicated approximately 3 acres of land in the KCDD for the HCDA to develop public projects including Pohulani Housing Development, Mother Waldron Park Expansion and a portion of Makai Gateway Park. In return, Petitioner received 123,466 square feet public facilities dedication credits ("PFD Credits") that may be applied in lieu of land dedication to satisfy the requirements of the public facilities dedication rule § 15-22-73, HAR, for new projects on Petitioner's lands. Petitioner applied 2,952 square feet of its PFD Credits to satisfy its requirements in the development of the CompUSA site in 1997,

leaving a balance at that time of 120,514 square feet of PFD Credits. See Petitioner's Exhibit 4 (Application), at 9-4, Exhibit 6 (Addendum 1), at Item 1, Exhibit 10 (Addendum 2), at Items H and I, and Exhibit 11 (corrected page 5-12).

67. The September 8, 2006, PPMP Termination Agreement vested KS with 120,514 PFD Credits that is equivalent to 120,514 square feet of land. These PFD Credits may be applied by the Petitioner towards public facilities dedication requirements generated by the Master Plan subject to certain conditions. See Petitioner's Exhibit 1 (PPMP Termination Agreement).

68. KS and HCDA have disagreed as to whether KS forfeited 15,000 PFD Credits under the terms of the PPMP Termination Agreement and they will arbitrate or negotiate this dispute pursuant to the arbitration provision in the Termination Agreement. See Petitioner's Exhibits 2, 3, 16 and 17. This issue does not need to be resolved in connection with the review of the Master Plan Permit Application.

69. KS has a minimum of 105,514 square feet of PFD Credits that is not in dispute. See Petitioner's Exhibit 20 (Letter dated June 30, 2009, from KS to HCDA responding to HCDA's Staff Analysis & Recommendations), at 5.

70. Petitioner proposes to apply all or some of its PFD Credits to the Master Plan, depending on when projects requiring such credits arise. If the project achieves full-build out at the maximum density proposed in the Master Plan, Petitioner will be required to dedicate between 19,660 to 34,660 additional square feet of land for public facilities. See Petitioner's Exhibit 4 (Application), at 9-4, and Exhibit 10 (Addendum 2), at Item J.

71. Petitioner proposes to fulfill its requirement in the form of application of Petitioner's PFD credits, cash-in-lieu payments or through the dedication of land for public facilities within various locations of the Master Plan Area. If future public facilities dedications

are required, KS intends to fulfill these requirements in the form of a cash-in-lieu payment. See Petitioner's Exhibit 6 (Addendum 1), at A-2.

F. Proposed Phasing Plan:

72. The Master Plan's phasing program is intended to be flexible to give Petitioner the ability to adapt to economic and market conditions. Some parcels within the Master Plan Area may be developed for transitional uses within timeframes shorter than the full implementation of the Master Plan. See Petitioner's Exhibit 4 (Application), at 8-1.

73. Petitioner intends that work on its initial phase ("Increment 1") will begin upon approval of the Master Plan Permit and the Development Agreement.

74. Petitioner intends that Increment 1 of the Master Plan will consist of development of Blocks A, B and E. At full-build out, Increment 1 will consist of 767,071 square feet of density on Block A, 196,110 square feet of density on Block B, and 614,699 square feet of density on Block E. See Petitioner's Exhibit 4 (Application), at 8-1.

75. In the Increment 1 phase, Petitioner will plan and construct initial street level improvements that connect Mother Waldron Park to the Makai Gateway Park. See Petitioner's Exhibit 4 (Application), at 8-2.

76. During Increment 1, KS will also work with HCDA and the C&C 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 (Section 8-2).

77. As expressed throughout the Master Plan, it intends to foster organic development as well as incorporate adaptive re-use where practical to provide early stage renewal opportunities within the community. While the Master Plan (including Increment 1), has maximum density ceilings, projects could use all or a portion of the maximum density, or could

involve adaptive re-use projects that usually do not materially increase density above the current building footprints. Alternatively, projects could involve a partial block development rather than the full-block building to the maximum permitted density.

G. Variances or Amendments to Mauka Area Plan and Rules:

78. Petitioner is not requesting any modifications, variances or amendments to the Mauka Area Plan and Rules in conjunction with its Master Plan Permit Application. However, Petitioner has identified the following as possible necessary modifications, variances or amendments to the Mauka Area Plan and Rules to achieve the vision of the Master Plan:

- KS may request an increase of the maximum podium (platform) heights above 45 feet as a part of the Planned Development Permit Application process, as allowed by § 15-22-120(7), HAR, to achieve the vision of activating streets while providing adequate parking within each block, see Petitioner's Exhibit 4 (Application), at 9-7, and Exhibit 20 (Letter dated June 30, 2009 from KS to HCDA responding to HCDA's Staff Analysis & Recommendations), at 5;
- Shared parking best practices will reduce the need for parking spaces, thereby mitigating the cost of development and allowing for a wider range of housing options, see Petitioner's Exhibit 4 (Application), at 9-7; and
- Alteration or removal of the Park/Parking Lot ("P/PG") designation for a portion of Block A contained in the Mauka Area Plan, see Petitioner's Exhibit 4 (Application), at 9-7, Exhibit 10 (Addendum 2), at Item K, and Exhibit 20 (Letter dated June 30, 2009 from KS to HCDA responding to HCDA's Staff Analysis & Recommendations), at 4.

Petitioner may request these variances or amendments subsequent to approval of the Master Plan and prior to its application for Planned Development Permits.

79. As specific projects are designed for possible development, information may arise that other modifications, variances or amendments may be necessary to implement the Master Plan that have not yet been identified by Petitioner or the HCDA. Petitioner may request such modifications, amendments and/or variances at the time of project specific applications.

II. Requirements for Master Plan Permit Approval:

80. HCDA's Mauka Area Rules require that the following be considered in reaching a determination for Master Plan approval:

a. 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;

b. The relationship between structures and use within structures, building orientation, deck level activities, and preservation of view corridors;

c. Whether the pedestrian and vehicular circulation system is so designed as to provide an efficient, safe, and convenient transportation system;

d. The appropriateness of the public benefits to be provided and the adequacy of provisions for the delivery of those public benefits;

e. The appropriateness of any proposed exception to the applicable development rules which are needed to implement the Master Plan;

f. 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

g. Any other matter which the Authority deems appropriate. See § 15-22-205(a), HAR.

81. HCDA's Mauka Area Rules require that the proposed Master Plan be consistent with the provisions of the Mauka Area Plan and Rules in effect on the date of Master Plan approval. See § 15-22-205(b), HAR.

82. The nature of the proposed Master Plan is generally consistent with the Mauka Area Plan and Rules, as set forth below.

A. Size, Use, Density, Bulk and Height of Structures, Open Space and Recreation Areas, Residential Uses, and Parking:

Land Use and Mixed-Use Concept

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

84. § 15-22-113, HAR, 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 2,072,453 square feet of commercial (including retail and office) floor area, and up to 4,426,197 square feet of residential development but the maximum allowable floor area that can be

constructed in any situation as a function of the Master Plan Area is 4,426,197 square feet. The Master Plan proposes the following maximum floor areas:

- Residential – 4,426,197 square feet,
- Commercial (includes retail and office) – 2,072,453 square feet, and
- Industrial – 126,463 square feet.

See Petitioner's Exhibit 11 (corrected page 5-12).

Density and Floor Area Transfer

85. § 15-22-116, HAR, allows a maximum density of 3.5 FAR for projects with a minimum land area of 80,000 square feet. This section also provides a 0.3 FAR bonus for any planned development that provides industrial use, among other uses, but the Master Plan does not propose to utilize the bonus floor area. The Master Plan proposes to construct as much as 4,426,197 square feet of floor area on approximately 29 acres of land. This translates to a density of 3.5 FAR. See Petitioner's Exhibit 11 (corrected page 5-12). The proposed density is consistent with the Mauka Area Plan and Rules.

86. § 15-22-203(b)(1), HAR, allows the floor area of land uses, including reserved housing units, to be transferred from one development to one or more other developments within the Master Plan Area subject to specific criteria. The Master Plan proposes to transfer floor area from Land Blocks B and D to the other seven Land Blocks within the Master Plan Area. § 15-22-203(b)(1)(B) and (D), HAR, provides that no Land Block shall be allowed to have a permitted density of less than a 1.5 FAR or more than a 4.375 FAR. In the event that the bonus floor area option under § 15-22-116, HAR, is utilized for a given Land Block, then such Land Block shall be allowed to have no more than 4.675 FAR, but the Master Plan does not propose to utilize the bonus floor area. Petitioner proposes 1.60 FAR for Block B and 1.55 FAR for Block

D. The remaining seven Land Blocks are proposed to have a density of 4.0 to 4.25 FAR. See Petitioner's Exhibit 11 (corrected page 5-12). The proposed floor area for the various Land Blocks within the Master Plan Area is consistent with a minimum density of 1.5 FAR and a maximum density of 4.375 FAR and conforms to § 15-22-203(b)(1), HAR.

87. The maximum floor area allowed within the KCDD 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 approximately 4.43 million square feet of floor area. Even at full-build out, the Master Plan will encompass only twelve percent (12%) of the total projected density for the KCDD.

Proposed Urban Form

88. Urban form refers to the combination of design elements that affect the appearance and function of the Master Plan Area. The Master Plan proposes a pedestrian-friendly, smart-growth community, where its residents can live, work, and play. See Petitioner's Exhibit 4 (Application), at 3-2 to 3-6 and Chapter 4. Major design objectives of the Master Plan including a neighborhood, pedestrian-friendly corridors along Auahi Street and Cooke Street with a central plaza, preservation of Mauka-Makai view corridors and enhancing the existing roadway network with canopy trees and pedestrian amenities. See Petitioner's Exhibit 4 (Application), at 5-2 to 5-5, 7-2. To mitigate the unsightliness of structured parking and promote interaction with pedestrian traffic at the ground level, the Master Plan anticipates embedding the

majority of the parking structures within a liner. Parking structure liner uses can range from commercial or residential uses to decorative screening. See id., at 5-8.

Heights

89. § 15-22-116(a), HAR, provides for a maximum height allowance of 400 feet. The Master Plan proposes towers that are in conformance with the Mauka Area Plan and Rules. See Petitioner's Exhibit 4 (Application), at 5-9.

Open and Recreational Space

90. 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. § 15-22-64(c)(1), HAR, requires that the lower amount of either ten percent (10%) of a development lot or twenty-five percent (25%) of the lot area less required yard areas be set aside as open space. The Master Plan provides an estimated 126,463 square feet of open space, which is ten percent (10%) of the development lots, and is consistent with the Mauka Area Plan and Rules. See Petitioner's Exhibit 11 (corrected page 5-12). The forms of the open spaces depicted in the Master Plan are "For Illustrative Purposes Only" to demonstrate that KS has the requisite square footage to, and will comply with, open space requirements. See Petitioner's Exhibit 4 (Application), at 5-6. However, the actual layout of open space on development sites will be determined as a part of the Planned Development Permit review process.

91. Recreation space is a portion of a development lot, exclusive of required setbacks and parking area 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. § 15-22-65, HAR, requires that fifty-five square feet of recreation space be provided for each dwelling unit being proposed. The Master Plan proposes to provide 151,250 square feet of recreation area for residential use, see Petitioner's Exhibit 11 (corrected page 5-12), which is consistent with the Mauka Area Plan and Rules.

Residential Use and Reserved Housing

92. The Master Plan proposes to construct as much as 4,426,197 square feet of residential use, which is in conformance with the Mauka Area Plan and Rules, and proposes as many as 2,750 residential units in the Master Plan Area.

93. One of the goals of Chapter 206E, HRS, 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 § 206E-1, HRS. Along these lines, § 206E-33, HRS, 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 § 15-22-115(a), HAR. The HCDA shall not allow cash payment in lieu of the reserved housing, except to account for any fractional unit that result after calculating the percentage requirement against residential floor space or total number of units developed. See Act 018, SLH 2009 (effective April 23, 2009). The Mauka Area Rules establish that the development of at least the twenty percent (20%) requirement fulfills the reserved housing policy. See § 15-22-115(c), HAR.

94. § 15-22-115, HAR, requires planned development projects to set aside twenty percent (20%) of its total residential units for reserved housing to families whose annual income is no more than one hundred forty percent (140%) of the annual area median income. Under the Master Plan, Petitioner has 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. See Petitioner's Exhibit 4 (Application), at 9-5, and Exhibit 11 (corrected page 5-12).

On-Site Parking

95. § 15-22-67, HAR, imposes certain off-street parking requirements. The Master Plan proposes approximately 4,850 parking stalls, which satisfies the Mauka Area Plan and Rules requirements. See Petitioner's Exhibit 11 (corrected page 5-12).

96. Additionally, the Master Plan proposes a shared parking concept, which allows for various stalls to be shared among residents and commercial users.

97. The transportation strategy also will consider parking options such as unbundled parking within new residential development, 'park-once' strategy, restricted surface parking lots, use of short-term parking, and referred parking for hourly car rental/car sharing programs like zip cars and flex cars. See Petitioner's Exhibit 4 (Application), at 6-4 and 6-5, and Exhibit 6 (Addendum 1), at A-8 and 9.

98. 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 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 for such development. See Petitioner's Exhibit 4 (Application), at 6-4.

B. Relationship Between Structures and Uses, Building Orientation and View Corridor Preservation are Consistent with Mauka Rules:

99. Petitioner proposes utilizing tower design strategies including orienting the tower buildings in a Mauka-Makai direction in order to provide a slim building profile, building spacing, and setbacks in order to maintain maximum Mauka-Makai view corridors through the Master Plan Area. The strategic placement of structures along South Street and Cooke Street, both designated by the HCDA as view corridor streets, create additional Mauka-Makai view corridors. See Petitioner's Exhibit 4 (Application), at 5-9 and 5-10, and Exhibit 6 (Addendum 1), at Item 4. A view corridor is an important community benefit and allows residents and visitors alike to experience mountain and ocean perspectives. The Petitioner's proposed tower designs are consistent with the Mauka Area Plan and Rules.

C. Efficient, Safe, and Convenient Pedestrian and Transportation System:

100. 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 as a part of the Planned Development Permit review process.

101. Vehicular Circulation: The proposed vehicular circulation system of the Master Plan includes traffic management, significant on-site parking with multiple garage access, above-referenced parking strategies, transit integration, and a pedestrian-friendly environment. See Petitioner's Exhibit 4 (Application), at 6-4 and 6-5. A mixed use, live-work-play development, such as that proposed under the Master Plan, would support a pedestrian environment and reduces the need for residents to use their vehicles. Petitioner does not propose restructuring of

the road network but rather seeks to utilize the existing rights-of-way with possible closures of certain privately owned rights-of-way.

102. Pedestrian Circulation: The Master Plan proposes several enhancements to pedestrian circulation within the district in the form of street improvements to Auahi Street, Cooke Street, South Street, and Ala Moana Boulevard. Both Auahi Street and Cooke Street are being proposed as major landscaped, pedestrian-friendly streets. In addition to the street improvements, the Master Plan envisions the strategic placement of open spaces to create pocket parks, courtyards and public gardens to promote walkability and facilitate pedestrian circulation throughout the Master Plan Area and central plaza at the Auahi Street and Cooke Street intersection. Residential, commercial and decorative screening liners have been proposed along major streets that would hide the parking structures behind them. See Petitioner's Exhibit 4 (Application), at 5-8 and 6-5. The Master Plan's proposed pedestrian circulation system is consistent with the goals of the Mauka Area Plan and Rules.

103. Honolulu High-Capacity Transit Corridor and Station: The C&C High-Capacity Transit Corridor Project proposal could have a major impact on the proposed Master Plan. The C&C's current preferred transit route is within Halekauwila Street, from Punchbowl to Ward Avenue, with the Civic Center Station proposed to be located on a portion of Block A of the Master Plan Area. See Petitioner's Exhibit 6 (Addendum 1), at A-5. The location of the transit route and the transit station will influence access to residential areas and places of employment. Once the transit route is finalized, Petitioner will coordinate with the C&C regarding the precise alignment and exact location for the transit station within the Master Plan Area. As part of the Planned Development Permit Applications for this area, a more detailed transit route and station location shall be addressed and incorporated.

104. Bike Plan: § 15-22-71(b), HAR, 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 collaborating with the HCDA and the C&C to create and expand the bicycle route network in the Master Plan Area to connect to the C&C's Bicycle Master Plan. It also proposes bicycle parking to be provided at major destination points and within each parking structure and plans for such bike facilities will be submitted in conjunction with individual Planned Development Permit Applications. See Petitioner's Exhibit 4 (Application), at 6-5 and 7-4. Petitioner will also consider constructing at its own expense dedicated bike ways on its lands within the Master Plan Area.

D. Public Benefits:

105. The public benefits described in paragraph 59 above and 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.

E. Appropriateness of Proposed Exceptions to the Applicable Development Rules which are needed to Implement the Master Plan:

106. Appropriateness of Proposed Exceptions: The Master Plan Permit Application does not request modification to the Mauka Area Plan and Rules, but has identified potential modifications.

107. Modification to Maximum Podium Heights: An increase to the maximum podium heights of 45 feet as a part of the Planned Development Permit review process may permit better design of a mixed-use community with activated street-levels and a vibrant neighborhood by allowing commercial, residential, and industrial and community services to be built within the podium. The additional podium height offers the opportunity to move a parking

structure up and away from the street, shielding it from view and opening up area for alternative uses. See Petitioner's Exhibit 4 (Application), at page 9-6, and Exhibit 20 (Letter dated June 30, 2009 from KS to HCDA responding to HCDA's Staff Analysis & Recommendations), at 5.

F. Appropriate Opportunity for Providing Greater Development Flexibility, Attracting Investment Capital, and Encouraging Timely and Better Overall Development:

108. The Master Plan application establishes a template for an orderly and methodical development of a large section of the KCDD. Redevelopment of Kakaako is a primary objective of HCDA. The Master Plan over a fifteen-year development period is expected to create approximately 9,291 on-site construction jobs and 10,202 off-site jobs. The total construction and off-site worker payroll for the development period is estimated to be approximately $933 million dollars. At full build-out, it is estimated that the Master Plan development will generate 5,466 full-time professional and service jobs and generate approximately $230 million dollars in annual payroll. Tax revenue to the State from the construction phase is estimated to be approximately $141.5 million dollars in excise tax and $73.7 million dollars in income tax. After the development is completed, it is projected that annual revenue to the State in income tax will be approximately $18.1 million dollars. Additionally, the County government stands to collect approximately $8.9 million dollars annually in the form of property taxes. See Petitioner's Exhibit 19 (Michael Dang Declaration).

G. Other - Cultural/Historic Preservation:

109. Based on consultation with recognized cultural descendants of the Master Plan Area, the State Historic Preservation Division ("SHPD"), Oahu Island Burial Council, Office of Hawaiian Affairs, Native Hawaiian Legal Corporation, Hui Malama I Na Kupuna o Hawaii Nei,

and other native Hawaiian organizations, no known customary or traditional native Hawaiian rights have been asserted in the Master Plan Area.

110. KS has demonstrated its commitment to ensuring the proper respect for and treatment of iwi kupuna and cultural resources by initiating a proactive program of cultural stewardship of the Master Plan Areas. Petitioner's Application at page 8-2 outlines the proactive efforts it has taken to identify potential cultural sites within its properties and its commitment to continuing to identify and develop protocols for the treatment of any cultural resources that may be encountered throughout the implementation of the Master Plan. These efforts include an ethno-historic study and targeted subsurface archaeological testing. See Petitioner's Exhibit 4 (Application), at page 8-2, and Exhibit 20 (Letter dated June 30, 2009 from KS to HCDA responding to HCDA's Staff Analysis & Recommendations), at 5 and 6.

111. Petitioner has engaged Mason Architects who has prepared an Architectural Inventory Survey to identify and preserve historic architectural resources located in the Master Plan Area. See Petitioner's Exhibit 20 (Letter dated June 30, 2009 from KS to HCDA responding to HCDA's Staff Analysis & Recommendations), at 6.

112. To date, KS has submitted to the SHPD archeological inventory survey plans for Tax Map Key areas (1) 2-1-030: 001; 2-1-054: 025, 027, 028, and 032; 2-1-055: 004, 009, and 017, which comprise of Blocks A, B, and E. SHPD has approved and accepted the final archeological inventory survey plan for Block E, and approved the draft archeological inventory survey plan for Blocks A and B. Exhibit 20 (Letter dated June 30, 2009 from KS to HCDA responding to HCDA's Staff Analysis & Recommendations), at 5 and 6.

113. 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 an archeological inventory survey plan in accordance with § 13-284-5(c), HAR, and approved by the SHPD of the State of Hawaii for any block before submitting an individual Planned Development Permit Application for said block.

114. Petitioner shall continue meeting with, consulting and providing regular updates to the SHPD of the State of Hawaii, Oahu Island Burial Council, Office of Hawaiian Affairs, cultural descendants and other native Hawaiian organizations in developing an archeological methodology and process to protect native Hawaiian burials and other cultural and historic resources in 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 §§ 206E-7 and 206E-33, HRS.

2. Master plan permits are deemed approved if no decisions are made granting or denying them within 200 days. § 15-22-23(a)(1), HAR. The 200-day deadline commenced on

March 23, 2009 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 October 9, 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. § 15-22-201, HAR.

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." § 15-22-200(a), HAR.

5. Article XII, Section 7, of the Hawaii 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: Hawaii County Planning Commission*, 79 Hawaii 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 Hawaii 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. § 6E-43, HRS. 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 § 13-300-33, HAR.

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. § 6E-43.6, HRS. 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 § 13-300-40, HAR.

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. The Petitioner's PFD requirement may be satisfied in part or in whole by the application of Petitioner's PFD credits, the contribution of land, and/or payment of a sum equal

to the fair market value of the land area otherwise required pursuant to §§ 15-22-73(a), (d) and (e) and 15-22-205(f)(1)-(3), HAR.

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

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

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

15. 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.

16. Upon consideration of Chapter 206E, HRS, and the Mauka Area Rules under Chapter 15-22, HAR, 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 Chapter 15-22, HAR, pursuant to § 15-22-205(b), HAR.

DECISION AND ORDER

IT IS HEREBY ORDERED that the Master Plan, consisting of approximately 29 acres of land in the Kakaako Community Development District, Oahu, Hawaii, and identified as Tax Map Key Numbers 2-1-030: 001; Halekauwila Street, Lot A-1, between South and Keawe Streets; 2-1-054: 025; 2-1-054: 027; 2-1-054: 028; 2-1-054: 032; 2-1-054: 001; 2-1-053: 004; 2-1-053: 005; 2-1-053: 027; Koula Street, Lot B, between Pohukaina and Auahi Streets; 2-1-055: 004; 2-1-055:

009; 2-1-055: 017; 2-1-055: 003; 2-1-055: 006; 2-1-055: 021; 2-1-055:026; 2-1-055: 038; 2-1-055: 001; 2-1-055: 002; 2-1-055: 018; 2-1-055: 032; 2-1-055: 033; 2-1-055: 034; 2-1-055: 035; Lana Lane between Auahi Street and Ala Moana Boulevard; 2-1-056: 003; 2-1-056: 004; Ohe Lane between Auahi Street and Ala Moana Boulevard; 2-1-056: 002; 2-1-056: 007; and 2-1-056: 008 and all as shown approximately on Exhibit A, attached hereto and incorporated by reference herein is approved and shall be in effect for the period set forth in paragraph 1 below and subject to conditions set forth below in paragraphs 2 through 13; and

IT IS HEREBY FURTHER ORDERED that for the effective period of the Master Plan, HCDA's Mauka Area Plan and Rules applicable to development shall be those plan and rules in effect on September 2, 2009.

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. The Master Plan Permit shall be issued to KS. Any PFD Credits and/or reserved housing credits that are valid at the end of the effective period of the Master Plan shall not expire or otherwise be adversely affected by the expiration of the effective period of the Master Plan. The development will proceed in accordance with all applicable laws, rules, regulations, and the terms and conditions of the Master Plan Permit. The development shall not be restricted or prohibited by rules promulgated by the HCDA after the date of approval of the Master Plan Permit and, pursuant to and to effect the purpose of § 15-22-200(a) and (c) and § 15-22-203(a), HAR, it is the stated intent of the parties that the Mauka Area Rules applicable to development within the Master Plan Area shall be those rules in effect at the time of the Master Plan approval, notwithstanding any subsequent amendment to said rules. Such subsequent amendment(s) shall be void as applied to development of property

within the Master Planned Area to the extent that it changes any rule which the Authority has agreed at the time of the Master Plan approval to maintain in force for a specified period of time.

2. **Development Agreement.** Petitioner shall forthwith execute a Master Plan Development Agreement. Supplemental Master Plan Development Agreement(s) should be developed as details become available to provide the Authority with assurances and/or specifications including but not limited to: (a) the general timing and phasing of any Mauka Area Plan Amendments proposed by the Petitioner; (b) the general timing and phasing of the delivery, manner and timing of reserved housing, the central plaza, dedication of public facilities, satisfaction of the P/PG requirements; (c) the implementation of the Master Plan multi-modal transportation and parking strategy; (d) the location of any C&C High-Capacity Transit Corridor Project transit station located within the Master Plan Area; and (e) the manner in which any joint developments in the Master-Plan Area will be administered. A memorandum of the Master Plan Development Agreement(s) shall be recorded at the Bureau of Conveyances within thirty (30) days of its execution in a form and with content to be reasonably prescribed by the HCDA Executive Director.

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 project and evaluated for technical adequacy and enhancement of design and urban character.

4. **Amendments.** Petitioner's proposed variances and amendments to the Mauka Area Rules (see FOF ¶ 64) shall be addressed pursuant to the Authority's rule making procedure pursuant to § 15-16-26, HAR, *et. seq.* and § 15-22-18. HAR. If Petitioner applies for a Mauka Area Plan amendment to delete or partially delete the P/PG designation on Block A, to mitigate any loss of park space, Petitioner shall (a) provide an area equal to the actual loss of park space

under the revised P/PG designation (but not more than 96,000 square feet if the entire P/PG designation is deleted) for a park or parks to be located in an area or areas acceptable to the HCDA within the Master Plan Area, which park or parks may include public gathering areas or plazas, or (b) negotiate such other alternative arrangement acceptable to HCDA.

5. **Historical, Cultural and Archeological Resources.** Prior to submission of the first Planned Development Permit Application for the development projects under the Master Plan, Petitioner shall prepare and submit to the Authority a historic building inventory and a cultural impact assessment for the Master Plan Area. For any block, as a part of the Planned Development Permit review process, Petitioner shall obtain and submit to the Authority an archaeological inventory survey plan for such block that has been accepted by the State of Hawaii, Department of Land and Natural Resources' SHPD (or its successor agency).

6. **Dedication of Public Facilities.** Petitioner shall satisfy its public facility dedication requirement, estimated to be 140,174 square feet of land, which estimate is based on the most likely mix of residential and commercial development proposed by the Petitioner. Petitioner shall satisfy such requirement by the application of PFD Credits, or in accordance with the Rules including but not limited § 15-22-205(f), HAR, which provides for cash-in-lieu payment, and/or through the dedication of land for public facilities within various locations of the Master Plan Area to be determined as a part of the development permit review process.

7. **Open Space.** Prior to the submission of the first Planned Development Permit Application for a development site pursuant to the Master Plan, Petitioner shall prepare an open space design guideline for HCDA's approval, as such design guidelines are described on page 7-1 of the Master Plan. Petitioner shall satisfy its open space requirement, which totals an estimated 126,463 square feet, pursuant to such design guidelines approved by HCDA. Open

space along Cooke Street ("Cooke Street Promenade Open Spaces") shall remain as proposed in the Open Space Plan on page 5-6 of the Master Plan. A central plaza envisioned as a large public plaza shall be located at the crossroads of the Cooke Street park-to-park promenade and the Auahi Street retail corridor (at the corner of Blocks C, D, G or H) and shall be at least 25,000 square feet in area, the design of which shall be submitted as part of the Planned Development Permit Application for the applicable block. In the event, the central plaza is not located on Block D and instead is located on Block C, G or H, the FAR densities in the Application at 5-12 shall be adjusted accordingly in compliance with § 15-22-203(b)(1), HAR, and shall be subject to the HCDA's approval.

8. **Reserved Housing.** Petitioner shall satisfy its reserved housing requirement for the Master Plan Area, which shall be equal to twenty percent (20%) of the total number of actual residential units built for the Master Plan Area, as permitted by the Mauka Area Rules. Petitioner shall provide ten percent (10%) (or one-tenth) of its reserved housing requirement at or below one hundred percent (100%) of the area median income.

9. **Relocation Assistance.** Petitioner shall provide relocation assistance to affected tenants pursuant to its proposed relocation program set forth in paragraph 59(s) of the Findings of Fact. Petitioner shall provide at least 120 days' prior written notice to any tenant within the Master Plan Area who will be displaced as part of a new planned development project and who is not in breach of the terms of the applicable lease.

10. **Sustainability.** Prior to the submission of each Planned Development Permit Application for a development site pursuant to the Master Plan, Petitioner shall provide sustainability guidelines for that block to the HCDA. The details of Petitioner's sustainability

strategy for a planned development shall be provided to the HCDA at the time that each Planned Development Permit Application for that parcel is submitted.

11. **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.

12. **Notice of Change of Ownership / Transfer of Master Plan Permit and Master Plan Development Agreement.** Petitioner shall notify the Authority of any conveyance of its fee simple title in any property located in the Master Plan Area if such conveyance 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 KS, provided that KS promptly notifies the HCDA 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 KS' successors, assigns, and transferees.

13. **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 HCDA, 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 2nd day of September, 2009. This ORDER and its ADOPTION shall take effect upon the date this ORDER is approved by the Authority.

Done at Honolulu, Hawaii, this 2nd day of September, 2009.

Hawaii Community Development Authority (Kakaako members)

Jonathan W. Y. Lai, Chairperson

Paul Kimura

Amanda Chang

C. Scott Bradley

Grady Chun

Joseph Dwight, IV

Christopher Kobayashi

Kay Mukaigawa

Dexter Okada

~~Brennon Morioka~~ MICHAEL D. FORMBY

~~Georgina Kawamura~~ Barbara A. Annis

~~Theodore E. Liu~~ STEVEN L. BRETSCHNEIDER

~~Russ K. Saito~~ SANDRA L. YAHIRO

Approved as to Form:

Eugene Won, Deputy Attorney General

EXHIBIT D

MASTER PLAN DEVELOPMENT AGREEMENT

for the

KAIĀULU ʻO KAKAʻAKO

MASTER PLAN

HAWAII COMMUNITY DEVELOPMENT AUTHORITY
State of Hawaii

and

TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP

MASTER PLAN DEVELOPMENT AGREEMENT

THIS MASTER PLAN DEVELOPMENT AGREEMENT ("Agreement") made this 6th day of October, 2009, by and between the **HAWAII COMMUNITY DEVELOPMENT AUTHORITY**, State of Hawaii ("State"), whose office address is 677 Ala Moana Boulevard, Suite 1001, 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 Agreement covers the Kaiāulu 'O Kaka'ako Master Plan ("KKMP") for the development of certain KS lands in Kakaako 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. PARTIES; NOTICES

HCDA: HAWAII COMMUNITY DEVELOPMENT AUTHORITY

Address: 677 Ala Moana Boulevard, Suite 1001
Honolulu, Hawaii 96813
Telecopier No. (808) 587-8150

Attention: Anthony J. H. Ching
Executive Director

KS: TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP

Address: Kawaiahao Plaza, Suite 200
567 South King Street
Honolulu, Hawaii 96813
Telecopier No. (808) 534-3937

Attention: Endowment Group

Copy to: TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP

Address: Kawaiahao Plaza, Suite 310
567 South King Street
Honolulu, Hawaii 96813
Telecopier No. (808) 537-1229

Attention: Endowment Legal Division

The parties include their respective successors, successor in trust and permitted assigns. All notices between and among the parties shall be in writing and shall be mailed, telecopied (with hard copy to follow immediately by first-class mail) or delivered to the foregoing address. A party may change its address for the receipt of notices by giving written notice of such change to the other party.

II. DEFINITIONS

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

A. "Agreement" means this Development Agreement.

B. "D&O" means the Findings of Fact, Conclusions of Law and Decision and Order issued by the HCDA on September 2, 2009 in this matter.

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

D. "HAR" means the Hawaii Administrative Rules.

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

F. "KKMP" means the Kaiāulu 'O Kaka'ako Master Plan submitted by KS that was approved by HCDA on September 2, 2009, within the Kakaako Community Development District.

III. BACKGROUND OF APPLICATION LEADING TO APPROVAL OF MASTER PLAN

A. On November 26, 2008, KS submitted for the Authority's consideration its application for KKMP.

B. On May 7, 2009, a community meeting on the proposed KKMP was held.

C. On July 7, 2009, the contested case hearing was held for KKMP.

D. 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, which is attached hereto as Exhibit A. Thereafter, HCDA issued the Master Plan Permit ("PL MASP 13.2.8").

E. Other information and details leading up to the approval of the KKMP are set forth in Findings of Fact #1 to #77 of the D&O.

IV. IDENTIFICATION OF LANDS COVERED UNDER THE DEVELOPMENT AGREEMENT

KS is the landowner of approximately 29 acres which are included in the master plan area. These master plan lands are identified in the KKMP, the D&O and Exhibit A of the D&O.

V. AGREEMENT

HCDA and KS hereby agree that:

A. Development of the master plan lands identified in this Agreement shall be in conformance with the Development Rules, D&O, the PL MASP 13.2.8, and this Agreement.

B. Implementation of the KKMP and development projects subject to the KKMP shall be subject to the following conditions:

1. Effective Period of the KKMP and Applicability of Development Rules.

a. Approval of the KKMP shall be valid until September 1, 2024, which is 15 years from the issuance of the D&O on September 2, 2009. See paragraph 1 at pages 39-40 of the D&O.

b. For the effective period of the KKMP, the Development Rules shall be applicable to development of the master plan lands encompassed by the KKMP. See D&O Finding of Fact #43, #81 and paragraph 1 at pages 39-40 of the D&O.

c. For the effective period of the KKMP, the development will proceed in accordance with paragraphs 1and 2 (a) through (e) at pages 39-40 of the D&O.

d. In the event of any conflict among Development Rules, D&O, the PL MASP 13.2.8, and/or this Agreement, the decision of the HCDA in a contested case hearing on this matter shall prevail.

e. Judicial review of the D&O and any interpretation of the D&O by the HCDA may be obtained in the manner set forth in Section 91-14, HRS.

2. Land Use and Development Parameters. The development of the master plan lands under the KKMP shall proceed in general conformance with the Land Use and Development tables set forth on page 5-12 of the KKMP, Chapter 5 of the KKMP, and other provisions of the KKMP.

3. Phasing of Development. 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 and/or any supplemental development agreement(s) which might be entered into by KS and the HCDA.

4. Reserved Housing Credits

a. To encourage the early delivery of reserved housing within the Kakaako Community Development District in advance of the construction of market housing, the HCDA will effectuate a reserved housing credit account process that will apply to KS under the following circumstances:

(1) if KS transfers Kakaako Community Development District land to the Authority or another entity identified by and at a rate approved by the Authority;

(2) KS constructs more reserved housing for any planned development in the Master Plan Area than is required for that project;

(3) if a third-party entity has built more reserved housing in the Kakaako Community Development District than required under its development and transfers reserved housing credits to KS;

(4) if KS participates in a joint venture that results in excess reserved housing in the Kakaako Community Development District; and/or

(5) as approved by Authority, KS converts non-reserved housing into reserved housing within the Kakaako Community Development District;

b. KS may use its reserved housing credits to satisfy all or part of its Master Plan reserved housing requirements [including but not limited to its requirement to provide 10% (or one-tenth) of its reserved housing requirement at 100% or below of the area median income if those credits are generated from the same area median income] and/or transfer to a third-party.

c. The reserved housing credits shall be applied on a one-for-one basis.

5. Other Conditions. Conditions as set forth in paragraphs 1 through 13 at pages 37-41 of the D&O are incorporated into this Agreement.

C. Development projects implemented under the KKMP may use the public facilities dedication credits as set forth in that certain Termination Agreement between HCDA and KS dated September 8, 2006.

VI. AMENDMENT OR MODIFICATION TO DEVELOPMENT AGREEMENT

No provision or term of this Agreement or any agreement contemplated herein between the parties hereto may be supplemented, amended, modified, waived, or terminated except in a writing duly executed by both parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. Failure of a party to insist on strict compliance with any of the terms and conditions of this Agreement shall not be deemed as waiver of any such terms and conditions.

However, pursuant to paragraph 2 on page 40 of the D&O, KS and the HCDA may negotiate and execute an amended/modified or supplemental Master Plan Development Agreement that may address additional implementation issues.

VII. MISCELLANEOUS PROVISIONS

A. Enforceability; Applicability. Unless terminated or cancelled, the Agreement, amended Agreement, or modified Agreement, 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 Agreement 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 Agreement shall not be in any way impaired.

C. Binding Effect. This Agreement 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 Agreement.

E. Written Agreement. This Agreement shall supersede and replace all prior agreements or portions insofar as such are inconsistent with this Agreement, written and oral, between the parties, concerning the KKMP. This Agreement shall not be modified except by an instrument in writing executed and acknowledged by the parties.

F. Time of Essence. Time is of the essence of this Agreement.

G. Governing Law. The laws of the State of Hawaii shall govern the validity, construction and effect of this Agreement. This Agreement shall be interpreted in a manner which is consistent with the Development Rules in effect on September 2, 2009.

H. 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 Agreement 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.

I. Cooperation. The parties shall cooperate with one another in effecting this Agreement and agree to execute such further and additional mutually approved documentation required to facilitate and complete the actions contemplated in this Agreement.

J. No Party Deem Drafter. The parties agree that neither party shall be deemed to be the drafter of this Agreement and that in the event this Agreement is ever construed by a court of law, such court shall not construe this Agreement or any provision hereof against either party as drafter of this Agreement.

K. Counterparts. This Agreement 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.

L. Computation of Periods. All periods of time referred to in this Agreement 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 Agreement 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.

M. Trustees Not Personally Liable. This Agreement 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 Agreement shall be imposed or assessed against said Trustees in their individual capacities.

The parties have executed this Agreement effective October 6, 2009.

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

Director/Manager

Vice President

Approved as to Form:

Legal Group

Retained Counsel

TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP, as aforesaid

DIANE JOYCE PLOTTS

CHARLES NAINOA THOMPSON

CORBETT AARON KAMOHAIKIOKALANI KALAMA

APPROVED AS TO FORM

By

Deputy Attorney General
State of Hawaii

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

By

Anthony J. H. Chung
Its Executive Director

STATE OF HAWAI'I)
) SS.
CITY AND COUNTY OF HONOLULU)

On October 6, 2009, before me appeared DIANE JOYCE PLOTTS, and CHARLES NAINOA THOMPSON, CORBETT AARON KAIMOHAIKIOKALANI KALAMA, 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.

LESLIE M. YAMASHITA
Notary Public, State of Hawaii
My commission expires Sept. 27, 2012

Signature: [signature]
Name: Leslie M. Yamashita
Notary Public, State of Hawai'i
My commission expires: 9/27/2012

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Master Plan Development Agreement for the Kaiāulu 'O Kaka'ako Master Plan
Doc. Date: ☑ Undated at time of notarization or ☐ October __, 2009
No. of Pages: 11 Jurisdiction: First Circuit (in which notarial act is performed)

[signature]
Signature of Notary

Date of Notarization and Certification Statement

Leslie M. Yamashita
Printed Name of Notary

(Official Stamp or Seal)

STATE OF HAWAI'I)
) SS.
CITY AND COUNTY OF HONOLULU)

On this ~~6th~~ 27th day of ~~October, 2009~~ January, 2010, 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: Wendi T. Reyes
Notary Public, State of Hawai'i

My commission expires: MAR 30 2010

WENDI T. REYES NOTARY 94-196 PUBLIC STATE OF HAWAII

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Master Plan Development Agreement for the Kaiāulu 'O Kaka'ako Master Plan
Doc. Date: ☐ Undated at time of notarization or ☒ October 6, 2009

No. of Pages: 11 Jurisdiction: First Circuit
(in which notarial act is performed)

_____ January 27, 2010
Signature of Notary Date of Notarization and Certification Statement

Wendi T. Reyes (Official Stamp or Seal)
Printed Name of Notary

EXHIBIT E

SUPPLEMENT NO. 1 TO MASTER PLAN DEVELOPMENT AGREEMENT

for the

KAIĀULU ʻO KAKAʻAKO

MASTER PLAN

HAWAII COMMUNITY DEVELOPMENT AUTHORITY
State of Hawaii

and

TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP

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

recordation (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 Kakaaako 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. <u>INCREMENT 1; DESIGN GUIDELINES.</u>

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.

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 PAUAHI BISHOP, as aforesaid

MICAH A. KANE

JANEEN-ANN AHULANI OLDS

ROBERT AARON [illegible] KALANI 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-ANN AHULANI OLDS and _____ KALANI KALAMA, 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: _____

Name: JOSEPH APOLLO Notary Public, State of Hawaii My commission expires September 26, 2014
Notary Public, State of Hawai'i

LS

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)

LS

_____ JUN 07 2011
Signature of Notary Date of Notarization and Certification Statement

JOSEPH APOLLO Notary Public, State of Hawaii My commission expires September 26, 2014
Printed Name of Notary

(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.

CHRIS J. SADAYASU NOTARY 03-170 PUBLIC STATE OF HAWAII

(Official Stamp or Seal)

Signature: _____

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

My commission expires: MARCH 30, 2015

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

6/20/11
Date of Notarization and Certification Statement

Chris J. Sadayasu
Printed Name of Notary

CHRIS J. SADAYASU NOTARY 03-170 PUBLIC STATE OF HAWAII

(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.]

Exhibit A

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 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.

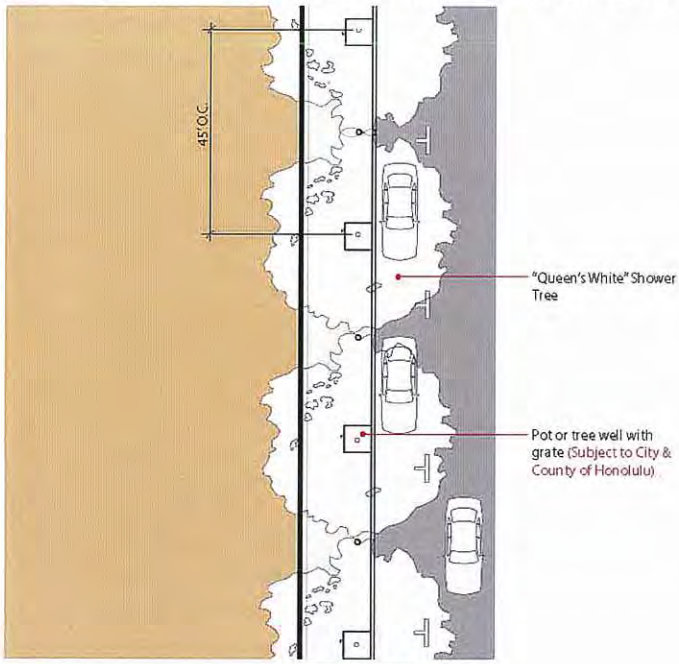
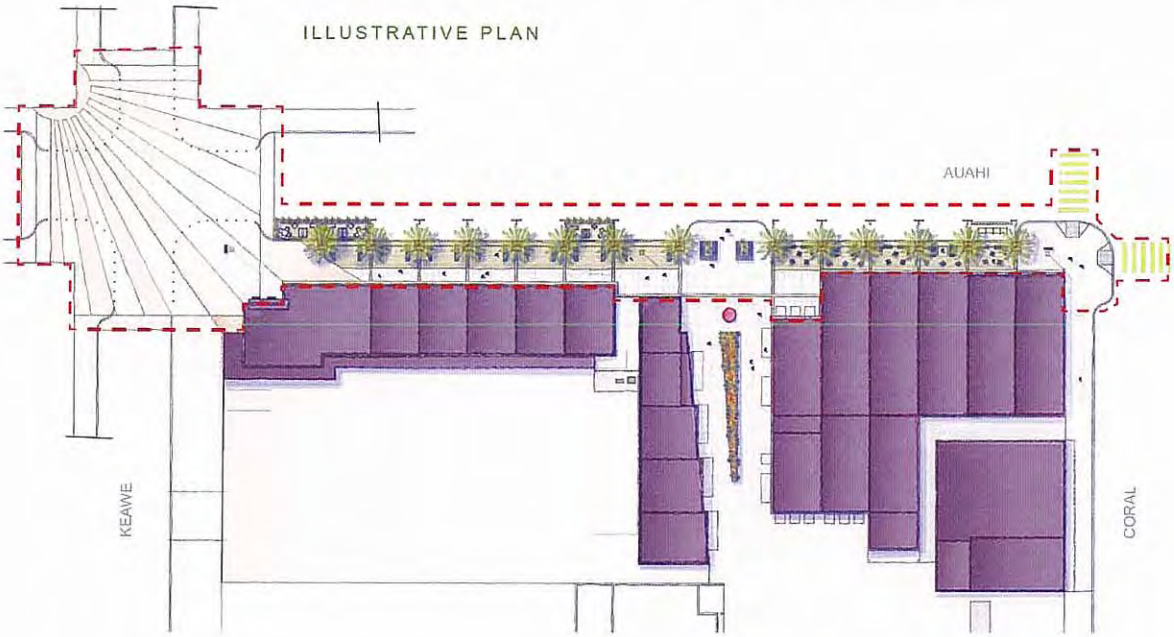


Exhibit 3

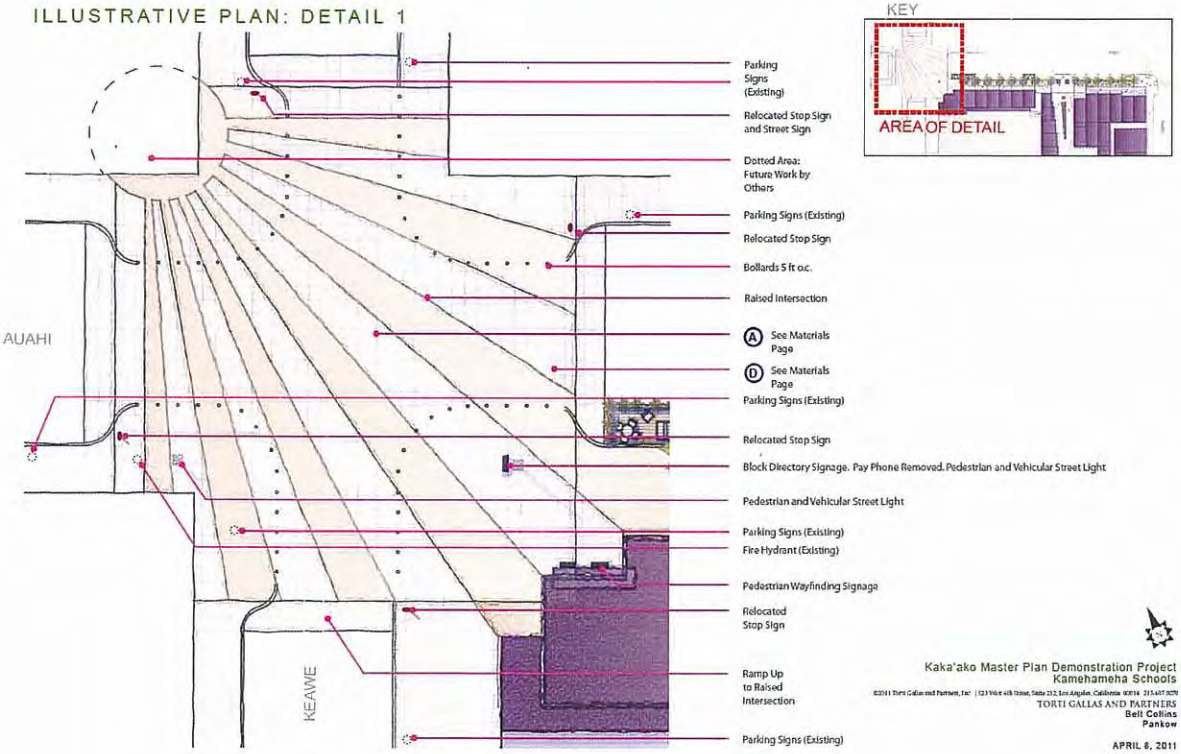
Kamehameha Schools (KS) has worked with the HCDA and the City to identify the street level improvements along Auahi and Cooke Streets, examples of which are described and depicted below, to enhance the pedestrian experience and to better unify the neighborhood along these major crossroads. Ongoing discussions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

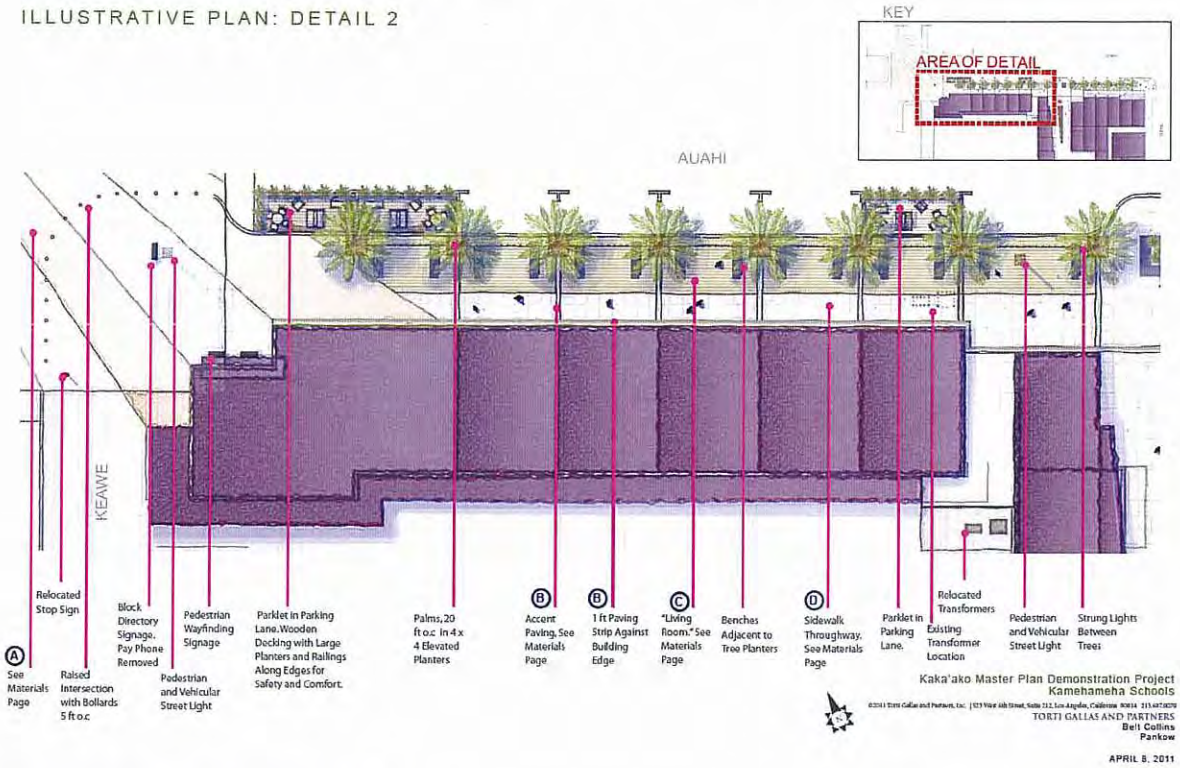


Raised Intersection

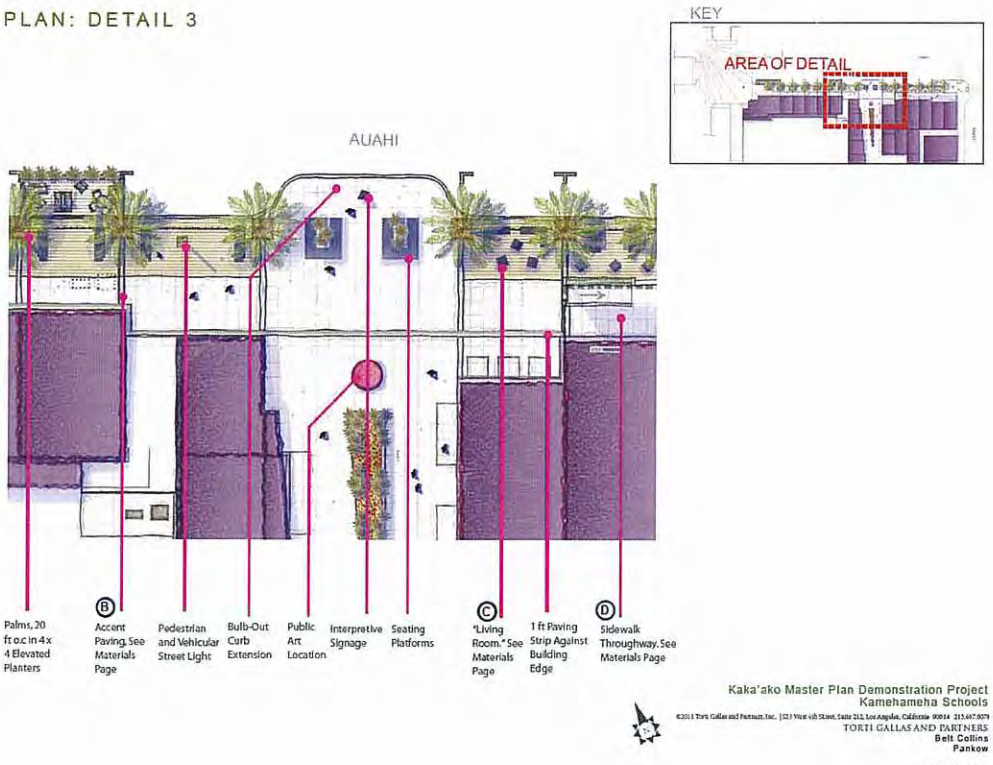


Auahi Street Level Improvements

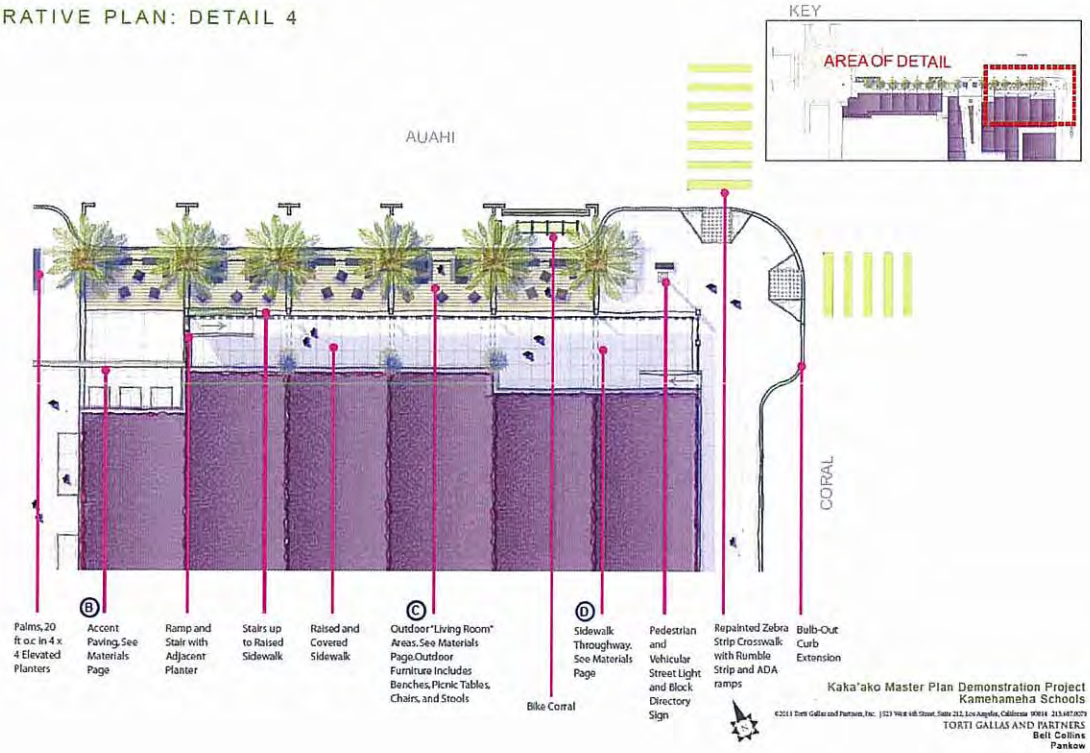
ILLUSTRATIVE PLAN: DETAIL 2



ILLUSTRATIVE PLAN: DETAIL 3



ILLUSTRATIVE PLAN: DETAIL 4



Kaka'ako Master Plan Demonstration Project
Kamehameha Schools

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TORTI GALLAS AND PARTNERS
Belt Collins
Pankow

APRIL 8, 2011

Exhibit 4

Open Space Design Guidelines[1]

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	29.03 acres; 1,264,628 sf	
OPEN SPACE	126,463 sf - estimated	10% minimum required
PUBLIC FACILITIES	140,174 sf - estimated	3% for Commercial, 4% for Residential required
BUILDING AREA	4,426,197 sf - 3.5 FAR	
residential	4,426,197 sf - authorized maximum at 3.5 FAR	
residential units (including reserved)	2,750 - estimated maximum	
reserved housing units (20% of total)	550 - 20% of total dwelling units	
commercial (includes retail and office)	2,072,453 sf - authorized maximum	
industrial	126,463 sf - estimated	
PARKING	4,850 spaces - estimated	Provided per HCDA Rules
TOTAL FLOOR AREA & FLOOR AREA RATIO (FAR)	4,426,197 sf - 3.5 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	2.81 ac	3.66 ac	4.19 ac	3.32 ac	2.87 ac	2.42 ac	2.10 ac	3.45 ac	29.03 acres
land in square footage (sf)	183,501 sf	122,569 sf	159,493 sf	182,510 sf	144,635 sf	125,232 sf	105,223 sf	91,339 sf	150,126 sf	1,264,628 sf
BUILDING AREA	767,071 sf	196,110 sf	639,688 sf	282,891 sf	614,699 sf	513,451 sf	431,414 sf	365,356 sf	615,517 sf	4,426,197 sf
OPEN SPACE										
required (10% of lot area)	18,350 sf	12,257 sf	15,949 sf	18,251 sf	14,464 sf	12,523 sf	10,522 sf	9,134 sf	15,013 sf	126,463 sf
available	22,917 sf	6,200 sf	12,500 sf	20,900 sf	16,000 sf	7,880 sf	14,000 sf	13,500 sf	12,566 sf	126,463 sf
	12.49%	5.06%	7.84%	11.45%	11.06%	6.29%	13.31%	14.78%	8.37%	10.00%
RECREATIONAL SPACE										
required (35sf per dwelling)	27,468 sf	5,715 sf	22,602 sf	8,057 sf	20,456 sf	17,502 sf	14,619 sf	12,765 sf	21,834 sf	151,250 sf
PUBLIC FACILITIES										
required at 4% (residential less reserve housing)	21,468 sf	4,490 sf	17,665 sf	6,297 sf	15,988 sf	13,679 sf	11,582 sf	9,976 sf	17,065 sf	118,209 sf
required at 3% (balance)	2,886 sf	1,674 sf	2,630 sf	2,583 sf	3,453 sf	2,580 sf	2,084 sf	1,608 sf	2,467 sf	21,965 sf
total required	24,354 sf	6,164 sf	20,295 sf	8,880 sf	19,440 sf	16,258 sf	13,666 sf	11,584 sf	19,532 sf	140,174 sf
Floor Area Ratio (FAR)										
floor area in this parcel	767,071	196,110	639,688	282,891	614,699	513,451	431,414	365,356	615,517	4,426,197 sf
potential floor area transfer	124,617	-232,881	81,463	-385,895	108,476	75,139	63,134	45,670	90,076	0 sf
(up to 25% FAR)	19.43%	-54.29%	14.59%	-55.71%	21.43%	17.14%	17.14%	14.29%	17.14%	0.00%
FAR	4.18	1.60	4.01	1.55	4.25	4.10	4.10	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

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[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

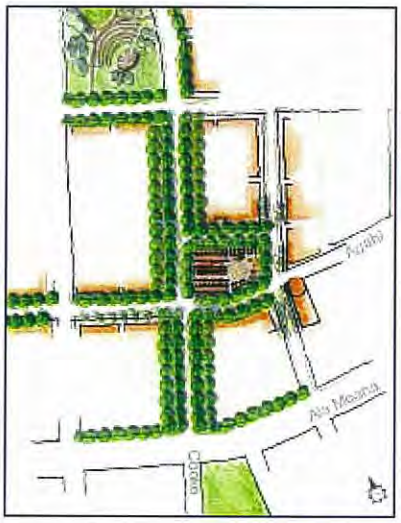
Keawe Street is a major Mauka/Makai connector and can accommodate both residential and retail frontages. Its primary frontage will likely be residential use.

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

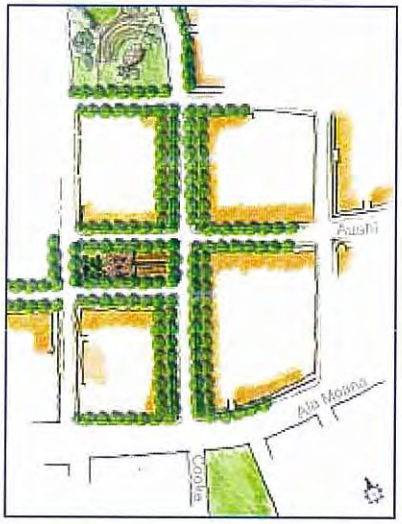
Concept 1: Central Plaza



Concept 2: West Corner

[6] Kaiāulu 'o Kaka'ako Master Plan, Page 5-5
[7] Kaiāulu 'o Kaka'ako Master Plan, Page 5-5

Concept 3: North Side



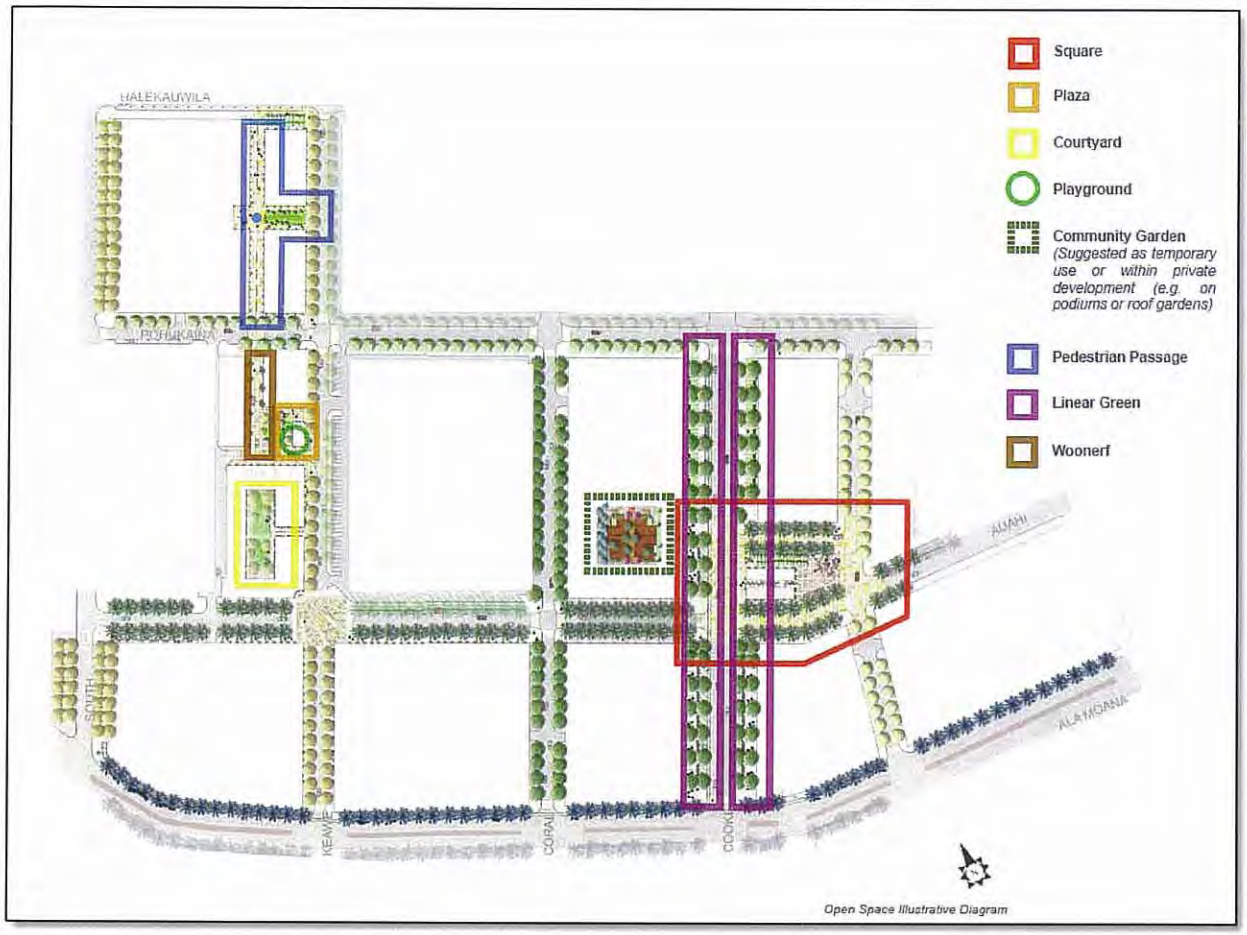
Concept 4: North Corner

Concept 5: Gesture to Ala Moana

Concept 6: Central Drive-Around

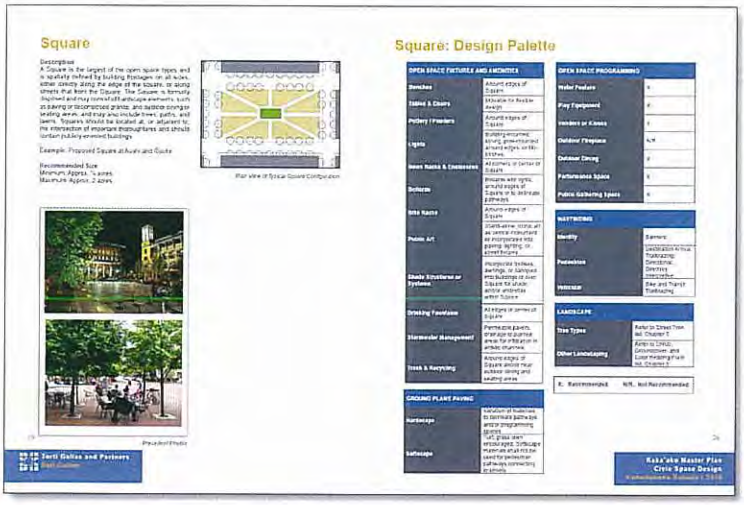
Park-to-Park connection between Gateway Park and Mother Waldron Park - A community gathering place will be developed at the crossroads of Auahi and Cooke Streets. The gathering place can be located at the corner of Block C, D, G, or H.

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*.

EXHIBIT F

ORDER
OF THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY
STATE OF HAWAII
August 8, 2012

In re the Application of	)	File No.: PL MASP 13.2.8
	)	
THE TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP	)	
	)	
for a Master Plan Permit	)	
	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER FOR A MASTER PLAN PERMIT AMENDMENT

On February 10, 2012, Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools ("Petitioner" or "KS"), submitted an application for an amendment to the Master Plan Permit ("PL MASP 13.2.8"), pursuant to Chapter 206E of the *Hawaii Revised Statutes* ("HRS") and Chapter 15-22 of the *Hawaii Administrative Rules* ("HAR"). The Master Plan Permit was issued to Petitioner for the Kaiāulu 'O Kaka'ako Master Plan ("KKMP") covering approximately 29 acres of land in the Kakaako Community Development District ("Kaka'ako"). The Hawaii Community Development Authority ("Authority"), having heard and examined the testimony, evidence, and argument of counsel during the hearing, along with Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit Amendment, filed on June 27, 2012, and updated on July 27, 2012, and Hearings Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit Amendment, filed on August 8, 2012, hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order:

FINDINGS OF FACT

1. On September 2, 2009, the Authority approved the KKMP and issued the Master Plan Permit ("PL MASP 13.2.8"). [Pet FOF #1, See Transcript of Kamehameha Schools Permit No. PL MASP 13.2.8 Contested Case Hearing dated June 13, 2012 ("Hearing Trans.") at 4:19-20]

2. The TMK Nos. of the Land Blocks covered by the Master Plan Permit are:

Land Block A:	TMK No. 2-1-030: 001 and Halekauwila Street, Lot A-1 between South and Keawe Streets (TMK No. 2-1-030: 043);
Land Block B:	TMK Nos. 2-1-054: 025, 027, 028, and 032;
Land Block C:	TMK Nos. 2-1-054: 001;
Land Block D:	TMK Nos. 2-1-053: 004, 005, 027, and Koula Street, Lot B, between Pohukaina and Auahi Streets (TMK No. 2-1-053: 032);
Land Block E:	TMK Nos. 2-1-055: 004, 009, 017;
Land Block F:	TMK Nos. 2-1-055: 003, 006, 021, 026, 038;
Land Block G:	TMK Nos. 2-1-055: 001, 002, 018, 032, 033, 034, 035; and Lana Lane between Auahi Street and Ala Moana Boulevard
Land Block H:	TMK No. 2-1-056: 003 and 004 and Ohe Lane between Auahi Street and Ala Moana Boulevard; and
Land Block I:	TMK No. 2-1-056: 002, 007, and 008.

[Pet FOF#2, Pet Exhibit #1; Hearing Trans. at 4:19-25, 5:1-3]

3. The Master Plan Permit is vested under Chapter 15-22 of HAR (the "Mauka Area Rules") in effect at the time in which the permit was approved and issued. [Pet FOF#3, Pet Exhibit #1; Hearing Trans. at 5:4-6, Pet Exhibit #12 ("Quintiliani Dec") at ¶15]

4. On February 10, 2012, Petitioner, submitted an application for an amendment to the Master Plan Permit to allow the satisfaction of its reserved housing requirements through the condominium conversion and sale of reserved housing units in a project known as Pagoda Terrace and to be known as Rycroft Terrace (the "Project"), which is located outside the boundaries of Kaka'ako. [Pet FOF#4 as amended, Hearing Trans. at 5:13- 21, Quintiliani Dec at 24, Pet Exhibit #13 ("Savio Dec") at ¶6]

5. On April 19, 2012, the Notice of Contested Case Hearing for the contested case hearing and notice of potential interveners was published by the Authority in the Honolulu Star-Advertiser, The Maui News, Hawaii Tribune-Herald, West Hawaii Today, and The Garden Island. [Pet FOF#5 as amended, HCDA Exhibit #1]

6. Petitions for Intervention to establish the parties to the contested case hearing was noticed and no petitions for intervention were submitted by the deadline of May 1, 2012. [Pet FOF#6 as amended, Hearing Trans. at 5:22-25 and 6:1]

7. On May 9, 2012, a pre-hearing conference was held at the Authority's offices at 461 Cooke Street, Makai Room, Honolulu, Hawaii 96813. William Meheula Esq., appeared for Petitioner. No petition for intervention had been filed, thus, no intervener was present. Therefore, Petitioner was given instructions on the process and what exhibits were needed to continue the contested case hearing. [Pet FOF#7, Hearing Trans. at 6:1-4]

8. On June 13, 2012, the contested case hearing on the amendment to the Master Plan Permit was held at the Authority's offices at 461 Cooke Street, Makai Room, Honolulu, Hawaii 96813, pursuant to §15-22-206 of HAR in effect at the time the permit was approved and issued, and pursuant to the provisions of HRS 206E-5.6 and Subchapter 3 of Title 15, Subtitle 4, Chapter 219, HAR. [Pet FOF#8, Hearing Trans. at 5:6-12]

9. William Meheula, Esq., and Gail Tamashiro, Esq. appeared for Petitioner. Petitioner called Peter Savio (president and owner of HIH Owners, Inc., the sole member of HIH Terrace Operating Company LLC), Paul Quintiliani (the Senior Director of the Commercial Real Estate Division of Kamehameha Schools) and Deepak Neupane (the Director of Planning and Development for the Authority) as witnesses. [Pet FOF#9 as amended, Hearing Trans. Savio at commencing 22, 71, and 91; Quintiliani at 72; and Neupane at 88]

10. Petitioners submitted and the Hearings Officer accepted Pet Exhibits numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13. [Pet FOF#10 as amended, Hearing Trans. at 21:23-25, 22:1-2]

11. The Hearings Officer closed the evidentiary portion of the contested case hearing but left the record open to receive the Armstrong Reserved Study, the dimensions or the specifications of the rental reserved housing units in the project located at 680 Ala Moana Boulevard, the relevant portions of the Hawaiiana Management Agreement, and the building department zoning compliance letter. [Pet FOF#11, Hearing Trans. at 94:16-22]

12. On June 13, 2012, at 2:30 pm, Petitioner's staff and counsel, the Hearings Officer, the Authority's staff and counsel, Peter Savio, and Barry Kaplan, an agent of HIH Terrace Operating Company LLC, a Hawaii limited liability company ("HIH Terrace"), visited the Project. (Pet FOF#12)

13. On June 27, 2012, Petitioner filed Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit Amendment. (Pet FOF#18 as amended)

14. On July 8, 2012, the notice of public hearing to be held on August 8, 2012, pursuant to § 206E-5.6, HRS, was published in the Honolulu Star-Advertiser, The Maui News, Hawaii

Tribune Herald, The Garden Island, and the West Hawaii Today. [Pet FOF# 20 as amended, HCDA Exhibit #2]

15. On July 26, 2012, Petitioner submitted to the Hearings Officer as proposed Exhibits #7A (the revised Rycroft Terrace RH Program), #13A (the updated declaration of Peter Savio), #14 [the Rycroft Terrace Reserve Study prepared by Armstrong Consulting, Inc., a Hawai'i corporation, dated June 27, 2012 (the "Armstrong Report")], #15 (the size, dimensions, and the specifications of the rental reserved housing units in the Project to be known as Six Eighty and located at 680 Ala Moana Boulevard) and #16 [the proposed provisions of the declaration of condominium property regime for the Project and the bylaws of the Association of Unit Owners of Rycroft Terrace (the "Association") and the proposed management agreement with Hawaiiana Management Company, Ltd., which obligates it, at the direction of, and under the supervision of, the Association's board, on a semi-annual basis, to collect from owners signed certificates of compliance with the owner-occupant requirements and submit to the Authority those certificates that are collected]. (HCDA FOF #16)

16. On July 27, 2012, Petitioner filed Petitioner's First Amended Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit. (HCDA FOF#17)

17. On August 8, 2012, the Hearings Officer filed Hearings Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit Amendment. (HCDA FOF#18)

18. On August 8, 2012, the staff of the Authority submitted its analysis and recommendation that the requested amendment be approved (the "Staff Report"). Staff also recommended that, for providing 162 reserved housing units at the Project, Petitioner receive a

credit of 100 reserved housing units that can be utilized to fulfill a portion of the reserved housing requirements in Kaka'ako. (Pet FOF#21 as amended)

19. On August 8, 2012, the Authority members held a public hearing to consider the Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit Amendment submitted by the Hearings Officer and Petitioner and to take action on the Application. (Pet FOF#22 as amended)

20. Petitioner submitted and the Authority accepted into evidence Exhibits 7A, 12A, 13A, 13B, 14, 15, and 16. (Pet FOF#23 as amended)

21. The Hearings Officer submitted his proposed Findings of Fact, Conclusions of Law, and Decision and Order for consideration by the Authority.

22. Having reviewed the Hearings Officer's proposed Findings of Fact, Conclusions of Law, and Decision and Order, the Petitioner waived their right to review and file comments and exceptions, pursuant to Section 91-9, Hawaii Revised Statutes, and stipulated to the order.

23. Having reviewed the Hearing Officer's Findings of Fact, Conclusions of Law, and Decision and Order, stipulated to by the Petitioner, the Authority adopted as its own these Findings of Fact, Conclusions of Law, and Decision and Order.

I. Master Plan Development Agreement and Supplement No. 1

24. Effective as of October 6, 2009, the Authority and Petitioner entered into the Master Plan Development Agreement (the "Master Plan Development Agreement") pursuant to Decision and Order #2 of the Master Plan Permit. (Pet FOF#25 as amended, Pet Exhibit #2; Quintiliani Dec at ¶ 16)

25. The Master Plan Development Agreement provides, in part, that to encourage Petitioner's early delivery of reserved housing units in advance of the construction of market

housing, the Authority would effectuate a reserved housing credit account process and provide for Petitioner to earn reserved housing credits ("RH Credits") for such reserved housing units. (Pet FOF#26 as amended, Pet Exhibit #2, Quintiliani Dec at ¶ 17)

26. On or about June 20, 2011, pursuant to Decision and Order #2 of the Master Plan Permit and the Master Plan Development Agreement and to implement the manner and timing of reserved housing and certain initial improvements, the Authority and Petitioner entered into Supplement No. 1 to Master Plan Development Agreement for Kaiāulu 'O Kaka'ako Master Plan ("Supplement No. l"). (Pet FOF#27 as amended, Pet Exhibit #3, Quintiliani Dec at ¶ 18]

27. Supplement No. 1 indicates that the HCDA and KS agree to a multi-faceted program to encourage the early delivery of reserved housing and that KS is entitled to earn reserved housing credits (i) if KS transfers land in the Master Plan Area 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 Kaka'ako Community Development District than required under its development and transfers reserved housing credits to KS; (iv) if KS participates in a joint venture that results in excess reserved housing units in the Master Plan Permit Area; (v) as approved by HCDA, KS converts non-reserved housing into reserved housing within the Kaka'ako Community Development District; (vi) as approved by HCDA, allow KS to earn one hundred (100) reserved housing credits for the condominium conversion of 162 units in the Pagoda Terrace. (HCDA FOF#24, Pet Exhibit #3 at 7 to 11)

28. Pursuant to § 206E-4 (18), HRS, which was in effect when the Master Plan Permit was issued, the Authority is authorized to allow reserved housing units outside of Kaka'ako to

satisfy reserved housing requirements imposed by the Authority on developments within Kaka'ako. (Pet FOF#28 as amended, Pet Exhibit #3, Quintiliani Dec at ¶ 19)

29. Supplement No. 1 provides, among other matters, if the development rules for the mauka area of Kaka'ako allow reserved housing units to be built outside of Kaka'ako to satisfy reserved housing requirements within Kaka'ako, Petitioner may request amending the Master Plan Permit as follows:

> "(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 compliant prices to qualified buyers; and
>
> (c) to apply such RH Credits [on a one-for-one basis] to satisfy the reserved housing requirement of any development within the KCDD."

(Pet FOF#29 as amended, Pet Exhibit #3 at 10 to 11; Quintiliani Dec at ¶ 20)

30. Supplement No. 1 also provides that Petitioner shall make the request for amending the Master Plan Permit within 200 days from adoption of the proposed development rules and the Authority shall grant or deny such request by Petitioner within two hundred (200) days of its submission to the Authority. (Pet FOF#30 as amended, Pet Exhibit #3 at 11, Quintiliani Dec at ¶ 21)

31. On November 11, 2011, the Authority adopted § 15-218-17(d)(2) of the HAR, whereby the Authority may allow reserved housing units outside of Kaka'ako to satisfy reserved

housing requirements within Kaka'ako on a case-by-case basis, and two hundred (200) days therefrom is May 29, 2012. (Pet FOF# 31 as amended, Quintiliani Dec at ¶ 22)

32. On February 10, 2012 (and prior to the deadline for such application), Petitioner submitted the Amendment Application to the Authority for an amendment to the Master Plan Permit pursuant to Chapter 206E of the HRS and the development rules in effect on September 2, 2009, being Chapter 15-22 of the HAR. (Pet FOF#32 as amended, Pet Exhibit #4, Quintiliani Dec at ¶ 23)

II. The Project

A. Location and Ownership

33. The Project is located just 6 blocks east of Kaka'ako (about 2,000 feet) or an approximate seven-minute walk thereto. [Pet FOF#33 as amended, Pet Exhibit #8, Quintiliani Dec at ¶29(a)]

34. The Project is in an ideal location for affordable housing because it is convenient for work, shopping, and entertainment, it is close to and in the same market area as Kaka'ako, it is near two main bus lines, and walking distance to many venues. These attributes will have a positive impact on the demand for units in the Project. (Pet FOF# 34 as amended, Savio testimony, Hearing Trans. at 30: 2-8)

35. Petitioner owns the leased fee interest in the Project and HIH Terrace is the current lessee of the Project under Lease No. 13,338, dated September 1, 1961. [Pet FOF#35 as amended, Pet Exhibit #5, Savio Dec at ¶¶7-8; Quintiliani Dec at ¶26]

36. On April 12, 2012, Peter B. Savio, President, Secretary and Treasurer of HIH Owners, Inc., sole member of HIH Terrace provided Paul A. Quintiliani with a Notice of Commitment to Exercise Option under that certain unrecorded Purchase and Sale Option

Agreement effective as of December 20, 2010, made by Petitioner in favor of HIH Terrace, a memorandum of which is dated as of December 20, 2010 and recorded in the Bureau of Conveyances as Document No. 2010-197312 (the "Pagoda Terrace Option Agreement") and attached to the notice is an unexecuted Pagoda Terrace Conversion Reserved Housing Agreement between Petitioner and HIH Terrace (the "Pagoda Terrace RH Agreement") for HIH Terrace to acquire Petitioner's leased fee interest in the Project and to sell in fee simple the newly created condominium units as reserved housing units pursuant to Chapter 15-22 of HAR. (HCDA FOF#33, Pet Exhibits #5 and #6; Savio Dec at ¶¶ 9-12)

37. While a true and correct copy of the Pagoda Terrace RH Agreement acceptable to the Petitioner is attached as Petitioner's Exhibit #6, the document has not yet been executed and recorded as of August 8, 2012. (HCDA FOF #34, Pet Exhibit #12)

38. As described in the Pagoda Terrace RH Agreement," the program will be an exclusively owner-occupant fee simple sales program and not a rental program. Pending the sale of a unit in the Pagoda Terrace to a condominium property regime, HIH Terrace may continue to use such unit as it is presently being used or for any use permitted by the lease for the Pagoda Terrace between Kamehameha Schools and HIH Terrace. (Pet FOF#37 as amended, Savio testimony, Hearing Trans. at 40:16-22, 42:3-9, 82:11-14)

B. Description of the Project

39. Prior to conversion, the Project's 162 hotel rooms and related amenities (including a hair salon, a koi pond, pool, and garden areas) have been and continue to be used in HIH Terrace's hotel and student housing operations. (Pet FOF#38 as amended, Pet Exhibit #14)

40. After the conversion, the Project's 162 units shall include 40 studio units with no parking stall, 26 studio units with one parking stall, 14 one bedroom/one bath units each with a lanai and one parking stall, 62 one bedroom/one bath units each with one parking stall, but no lanai, 20 two bedroom/one bath units each with one parking stall, but no lanai. [Pet FOF#39 as amended, Pet Exhibit #7A (Owner-Occupant (Reserved Housing) Presale Announcement)]

41. In addition, the two-story parking garage, open parking areas, single story commercial and recreational structure, pool and sundeck, planned recreation room, laundry facilities, koi pond, elevators, garden areas, and other common areas will all continue to be part of the Project. (Pet FOF#40 as amended, Pet Exhibit #14)

C. Comparison of Project Unit Sizes with Reserved Housing Units in Kaka'ako

42. The Project's studio units are 304 to 321 square feet in size, one-bedroom units range in size from 495 to 616 square feet, and two-bedroom units range in size from 649 to 737 square feet. Thus, the average size of the units is 458 square feet. (Pet FOF#41 as amended, Pet Exhibit #7A

43. Pacifica Honolulu is a newly constructed condominium project in Kaka'ako. (Pet FOF#42 as amended, Pet Exhibit #9)

44. Pacifica Honolulu's presale announcement shows that the median size of the 124 reserved housing units is 747 square feet. [Pet FOF#43 as amended, Pet Exhibit #9, Quintiliani Dec at 32(c)]

45. The Project's two bedroom units at 649 to 737 square feet are comparable in size to Pacifica Honolulu's two-bedroom unit's median size of 747 square feet. (HCDA FOF# 41 as amended, Pet Exhibits #7A and #9, Quintiliani testimony, Hearing Trans. at 74:9)

46. The size of the reserved housing units on a portion of Land Block F of the KKMP to be known as "Six Eighty" ranges from 312 to 432 square feet for studios and 533 to 639 square feet for one-bedroom units. (HCDA FOF#42 as amended, Pet Exhibit #15)

47. The size of the studio and one-bedroom units in the "Six Eighty" development and the Project are similar and is not atypical for residential projects in urban Honolulu. (Pet FOF# 44 as amended, Quintiliani testimony, Hearing Trans. at 76:9-18, Pet Exhibit #15)

48. The size of the one-bedroom units in the 1133 Waimanu reserved housing development in Kaka'ako ranges from 534 to 652 square feet and 694 to 751 square feet for two-bedroom units. (HCDA FOF#44, Staff Report Exhibit C)

49. While the size of the one and two-bedroom units in the 1133 Waimanu reserved housing project in Kaka'ako and the Project are similar, the Project's proposed sales prices are significantly lower than the prices of reserved housing units in newly constructed projects or resale units in Kaka'ako. (HCDA FOF#45, Staff Report Exhibit C, Pet Exhibit #12 Quintiliani Declaration at ¶32)

C. Condition of the Project

50. The Project was built in 1963, is now part of the Pagoda Hotel and is used as part of their rental units. A hotel, as a rule, is maintained better than a rental project because the amenities need to be maintained to attract guests. The Project is a superior project compared to most of the long-term rental apartments that are investor-owned and have been converted to condominiums by HIH Terrace's related companies, especially in troubled rental projects. (Pet FOF#48 as amended, Savio testimony, Hearing Trans. at 24:6-8, at 35:5-12, 37:14-25, 38:1-17)

51. As of August 8, 2012, the Project has not yet received correspondence from the City & County of Honolulu Building Department ("Compliance Letter") confirming that the

building was built according to the zoning rules in place at the time that the project was built in 1963. (HCDA FOF #48, Savio testimony, Hearing Trans. at 32:6-20; at 40:4-14; at 70:16-25; at 71:1-5, Staff Report at 2 ¶4)

52. The interior of the units in the Project will be in "rentable condition," which means that everything is clean and in working order. It is comparable to buying a unit in the regular existing inventory real estate market where the unit has been lived in before and being resold. (Pet FOF#49 as amended, Savio testimony, Hearing Trans. at 24:16-19, at 35:13-25)

53. The age of the appliances and carpets vary for the units because they are replaced in the normal course of maintenance in the operation of the Project. (Pet FOF# 50 as amended, Savio testimony, Hearing Trans. at 36:4-25, 37:1 -5)

54. The Armstrong Report is the June 27, 2012 Reserve Study prepared by Armstrong Consulting, Inc. for the Project that contains (i) information about the physical status and repair/replacement cost of the major common area components the association of apartment owners is obliged to maintain and (ii) evaluation and analysis of the association's reserve balance, income, and expenses. (HCDA FOF#49, Pet Exhibit #14)

55. The Armstrong Report assumed that the costs for a large number of components that are due for repair or replacement between 2013 and 2016 are to be funded by the developer. The specific items for repair or replacement and estimated cost to be paid by the developer are:

(a) installation of new residential unit air conditioners ($278,154);

(b) concrete spall repairs (($451,700);

(c) install new door locksets for residential main entry doors ($70,131);

(d) replace metal doors and frames for roof elevator rooms ($5,500);

(e) modernization of elevator equipment and cabs ($400,000);

(f) install new entryphone system for secure access to facilities ($36,057);

(g) upgrade existing and add new laundry room ($49,941);

(h) install new community mailboxes ($14,450);

(i) allowance for equipment and refurbishment of resident manager office ($3,000);

(j) painting of exterior building surfaces ($243,978);

(k) restoration of asphalt pavement parking lot ($365,137);

(l) pool deck restoration ($68,400);

(m) application of a deck coating on walkways and hallways ($28,969);

(n) renovation of existing space to create new recreation room ($10,000);

(o) refurbishment of the pool men and women's restroom facility ($25,000); and

(p) install new "Rycroft Terrace" building signs ($17,075). (HCDA FOF#50, Pet Exhibit #14 Rycroft Terrace Reserve Study Summary 1 to 2)

56. The Armstrong Report concludes that, based on HIH Terrace's initial expenditure of $2,067,492 for the noted repairs, an annual aggregate contribution rate of $73,745 for 2013 is recommended, increased by 2.0% for each year thereafter. [Pet FOF#51 as amended, Pet Exhibit #14 (Rycroft Terrace Reserve Study Summary)]

57. The parking structure is spalling and has cracks in the concrete. The Armstrong Report estimates the cost of the restoration of the asphalt pavement of the parking lot at $365,137, which is part of the $2,067,492 that HIH Terrace has agreed to expend. (Pet FOF#52 as amended, Pet Exhibit #14; Savio testimony, Hearing Trans. at 38:18-25, 39:1-3 and 15-20)

58. The buildings with the hotel rooms have spalling consistent with the age of the buildings. The Armstrong Report estimates the cost of the concrete spall repair at $451,700, which

is part of the $2,067,492 that HIH Terrace has agreed to expend. (Pet FOF#53 as amended, Pet Exhibit #14; Savio testimony, Hearing Trans. at 39:4-15)

59. The initial estimated prices of the units have been adjusted based on the Armstrong Report and the revised prices are contained in Exhibit #7A. (Pet FOF#54 as amended, Pet Exhibit #7A)

D. Repair Work and Funding of the Project's Maintenance Reserves

60. HIH Terrace has already replaced the roof of the Pagoda Terrace with a new roof as the old one needed to be replaced. (HCDA FOF#51, Savio Testimony, Hearing Trans. at 26:2-4)

61. HIH Terrace will make certain repairs to the property prior to selling units in the Project. HIH Terrace will also, on behalf of the Association, commence certain repairs to the Project prior to the sale of the units and upon the transfer of control of the Project to the Association, the contracts for such repair work then in progress will be assigned to the Association along with the funds necessary to complete the contracted work. HIH Terrace will also fund the maintenance reserves for the Project repairs that will need to be completed in the near future so that buyers do not need to worry about their maintenance fees increasing in the first few years of ownership. Based on the Armstrong Report, HIH Terrace agrees that it will expend no less than $2,067,492, in the aggregate, for the repairs and the funding of the maintenance reserves for the Project. Developers will often make major repairs to improvements even if the improvements have a remaining useful life, which increases the cost of the unit. By funding the maintenance reserves, buyers, through their association, will make the repairs when necessary and, in the meantime, the funds in the reserve account will earn interest. (Pet FOF#56 as amended, Pet Exhibit #13b, Pet Exhibit #14; Savio testimony, Hearing Trans. at 25:9-25, 26:1-9, 52:11-25)

E. Parking

62. As described in the Rycroft Terrace RH Program, 122 units are being offered with one parking stall each and the pricing includes such stall. Forty (40) studio units are being offered without a parking stall and have been priced accordingly. (Pet FOF#57 as amended, Pet Exhibit #7A; Savio Dec at ¶ 14)

63. A prospective buyer of any of the 122 units being offered with a parking stall may elect not to purchase a stall and will receive a $25,000 price reduction. Any stall made so available will in turn be offered to the buyers of units that have not yet been assigned a parking stall for a purchase price of $25,000. (Pet FOF# 58 as amended, Savio Dec at ¶ 15)

64. The Project is subject to the Land Use Ordinance of the City and County of Honolulu pursuant to § 46-4 of the HRS (County zoning) and its construction around 1962 predates the creation of Kaka'ako in 1976. (Pet FOF#59 as amended, Pet Exhibits 14 and 17; Quintiliani Dec at ¶ 33; Savio Dec at ¶ 16)

65. Although the sales of the units in the Project are subject to §§15-22-180 to 192 of the HAR, being the reserved housing rules in effect on September 2, 2009, the parking requirements of the Project are governed by the City's Land Use Ordinance and thus are not governed by the development rules of Kaka'ako. (Pet FOF#60 as amended, Pet Exhibit #17, Quintiliani Dec at ¶ 34)

66. Although the Project does not comply with parking requirements for new residential construction under the City's Land Use Ordinance (or under the development rules of Kaka'ako), a condominium conversion of the Project is permitted without adding new parking which would otherwise be required under the current code so long as this current noncompliance is disclosed to buyers. (Pet FOF# 61 as amended, Savio Dec at ¶ 17)

67. Thus, upon receipt of the effective date for the public report and compliance with the other requirements of Chapter 514B, the units in the Project will be offered for sale to buyers. (Pet FOF# 62 as amended, Savio Dec at ¶17)

68. Buyers of units in projects located in the urban core, especially elderly buyers, often elect not to purchase a parking stall if they do not own a vehicle and are able to walk to their destinations or rely on public transportation. (Pet FOF# 63 as amended, Savio Dec at ¶17a)

69. Companies related to HIH Terrace own or have access to parking stalls in the immediate vicinity of the Project. If a buyer elects not to purchase a parking stall, but wishes to have access to parking, HIH Terrace will cause the related companies to offer to rent a parking stall to such a buyer so long as HIH Terrace or its related companies continue to own parking stalls in the vicinity of the Project. (Pet FOF# 64 as amended, Savio Dec at ¶17a-b)

F. No Displacement of Long-Term Tenants.

70. The Project is currently used as a hotel and for student housing and no long-term renters will be displaced. [Pet FOF# 65 as amended, Savio Dec at ¶ 27; Quintiliani Dec at ¶ 31(b)]

71. Most of the Project is under a hotel rental program and some units are rented to students under a dormitory program that runs for the school year from September to May and depending on the date the sales program commences, students in only four or five units may need to move to the hotel property across the street and the student dormitory agreements include a provision where HIH Terrace has the right to move students to the hotel property. (Pet FOF# 66 as amended, Savio testimony, Hearing Trans. at 43:10-25 and 72:1-4)

III. The Rycroft Terrace Reserved Housing Program

72. HIH Terrace has provided Notice of Commitment to Exercise Option under the Pagoda Terrace Option Agreement and attached thereto is the unexecuted Pagoda Terrace RH

Agreement between Petitioner and HIH Terrace for the sale of the converted units at the Project pursuant to the reserve housing rules under Chapter 15-22, HAR. (Pet FOF#67 as amended, Pet Exhibits #5 and #6; the last page of Pet Exhibit #6 titled "Exhibit C" was stricken from the record, Hearing Trans. 21:21-22)

73. Petitioner and HIH Terrace have provided to the Authority's staff an unexecuted copy of the Rycroft Terrace RH Program. (Pet FOF#68 as amended, Pet Exhibits #7 and #16)

74. The Rycroft Terrace RH Program, including the summary, the announcements, the form of affidavit of owner/occupants, the registration agreement, as contained in Pet Exhibit #7A complies with the reserved housing program and is very similar to the programs that were administered by the Authority in Kaka'ako, such as the reserved housing program for Keola Lai and Pacifica Honolulu. (Pet FOF# 69 as amended, Neupane testimony, Hearing Trans. at 89:2-14)

75. As shown in the Rycroft Terrace Program, the marketing of units in the Project will target lower income homeowners with incomes that are less than 120% of the Honolulu area median income ("AMI") seeking to live in or near Kaka'ako in our urban core, although homeowners with incomes that are between 121% to 140% of AMI may qualify to purchase. (Pet FOF#70 as amended, Pet Exhibit #7A; Savio Dec at ¶ 13)

76. The proposed sales prices are at a level affordable to buyers at the 40% to 80% of AMI. [Pet FOF#71 as amended, Pet Exhibit #7A (Summary of the Program); Savio testimony, Hearing Trans. at 30:22-25, 31:1]

77. Pursuant to the Rycroft Terrace Program, during the initial offering period, prospective buyers who have submitted a completed Reserved Housing Application Package and who have met the HUD medium income qualifications, will be placed on the selection list in chronological order and in the following order of priority:

First, to buyers at or below 100% of AMI;

Second, to buyers at 101% to 110% of AMI;

Third, to buyers at 111% to 120% of AMI;

Fourth, to buyers at 121% to 130% of AMI; and

Fifth, to buyers at 131% to 140% of AMI.

(Pet FOF#72 as amended, Pet Exhibit #7A; Savio Dec at ¶ 22; Savio testimony, Hearing Trans. at 30:22-25, 31:1-20, 58:3-25, 59:1-13)

78. Following the initial offering period, units will continue to be held for sale to buyers with household income not exceeding 140% AMI. (Pet FOF# 73 as amended, Savio testimony, Hearing Trans. at 18:12-17)

79. Regardless of demand and the ability of buyers to qualify, sixteen units (10% of all units or 16% of all RH Credits earned by Petitioners) will be sold to buyers at or below 100% of AMI. [Pet FOF#74 as amended, Pet Exhibit #7A; Savio testimony, Hearing Trans. at 31:21-24. Quintiliani Dec at ¶ 32(b)]

80. There should be a strong demand for the units by buyers at or below 100% of AMI, including those in the range of 40% to 50% of AMI, because the Project will be one of the few projects in the urban core presenting this opportunity for such buyers. Even with strong demand, closings will be a challenge because many buyers will have difficulty qualifying for a purchase money loan and others may feel too insecure about their ability to repay the loan. (Pet FOF# 75 as amended, Savio testimony, Hearing Trans. at 28: 3-21)

81. The sales prices of the units in the Project are intended to be as follows:

$118,000 to $126,950 for studios without a parking stall,

$149,750 to $152,600 for studios with a parking stall,

$192,500 to $199,550 for one-bedroom units with a parking stall, and

$260,900 to $263,950 for two-bedroom units with a parking stall.

[Pet FOF#76 as amended, Pet Exhibit #7A; Pet Exhibit #13A (Updated Savio Dec) at ¶ 4]

82. In contrast, Pacifica Honolulu is a newly constructed project, and the prices of the 124 reserved housing units therein range from $350,000 to $466,050. (Pet FOF#77 as amended, Pet Exhibit #9)

83. The regulated term for the units in the Project is ten years while the regulated term for the Pacifica Honolulu is only two years. [Pet FOF#78 as amended, Pet Exhibits 7 and 9, Savio testimony, Hearing Trans. 61:9-25]

84. The units for sale in the Project are of substantially greater value to residents with household incomes at or less than 100% of AMI compared to higher priced new reserved housing units in Kaka'ako (such as reserved housing units in Pacifica Honolulu) because such residents achieve home ownership. For such residents, the individual and personal value for them is immeasurable because they would not otherwise be a homeowner. (Pet FOF# 79 as amended, Quintiliani testimony, Hearing Trans. at 81:1-7]

IV. Ensuring Occupancy of Project Units by Owner Occupants

85. To help ensure that buyers of the units in the Project remain as owner-occupants during, at a minimum, the ten-year regulated term, HIH Terrace has agreed to cause (a) the proposed declaration of condominium property regime for the Project and the bylaws of the Association to provide that the Association (acting by and through its property manager) is obligated, on a semi-annual basis, to collect from owners signed certificates of compliance with the owner-occupant requirements and submit to the Authority those certificates that are collected, and (b) the property manager (initially Hawaiiana Management Company, Ltd.), at the direction

of, and under the supervision of, the Association's board, to perform such obligations on behalf of the Association. (Pet FOF#80 as amended, Pet Exhibits 7A and 16; Savio testimony, Hearing Trans. at 92:16-25, 93:1-21)

V. Substantial Public Benefit and Value.

86. Pursuant to Supplement No. 1, the Authority and Petitioner acknowledged that there are significant public benefits for the Authority to grant the Petitioner's request including (a) the early availability of up to 162 moderately priced residential units located in the heart of urban Honolulu and less than a half-mile from Kaka'ako district, (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 development rules because of the proximity of the Project to the Kaka'ako. (Pet FOF#81 as amended, Pet Exhibit #3)

87. The Project is part of the broader neighborhood of Kaka'ako and the sale of reserved housing units will result in significant public benefits to this urban economic heart of Honolulu and the public at large.

(a) The Project is located just 6 blocks east of Kaka'ako (about 2,000 feet) as shown Pet Exhibit #8 or an approximate seven-minute walk thereto.

(b) While older rental units and more recent high-end condominiums exist in this neighborhood, the area lacks the full balance of housing options because of the dearth of housing units available for purchase by those of moderate income.

(c) The lack of units for sale at moderate prices hinders the goal of achieving diverse neighborhoods in urban Honolulu in which full-time local residents are vested in home ownership and in the area's continued renewal.

(d) To that end, the Project serves as a rare home ownership opportunity for families of moderate means and other members of a "gap-group" to benefit from urban redevelopment.

(c) As gap-group families take advantage of this opportunity to purchase reserved housing, they will also look to nearby areas for job opportunities, public spaces, and retail experiences. (Pet FOF#82 as amended, Pet Exhibit #8, Savio Dec at ¶6; Quintiliani Dec at ¶29)

88. The Project is ideal for reserved housing units because of its central urban location; the average price of a unit should make it affordable to a qualified buyer with an adjusted household income that is less than 140% of AMI, with sixteen units in the Project held for purchase only to buyers with incomes of 100% or less of AMI; the prices are low enough that a buyer should be able to create equity from principal repayments on his or her loan; over time, a buyer should be able to sell and use such equity to purchase another principal residence and give the next buyer the opportunity to purchase at a price regulated by the Authority; the current interest rate environment and affordable pricing will allow many who presently can only afford to rent an opportunity to buy and own their own home; the sales prices and monthly condominium maintenance fees will be lower than Pacifica Honolulu, a newly constructed project in Kaka'ako; and the Authority's first option to purchase and shared equity requirements should discourage speculators. (Pet FOF# 83 as amended, Savio Dec at ¶¶19, 20, and 26)

89. Similar projects in urban Honolulu are not predominantly owner-occupied because of the prevalence of investor-owners. The Project will be entirely owner-occupied because of the reserved housing requirements. The buyers should be able to live, work, and play in urban Honolulu and not contribute to the traffic created by those commuting to and from the suburbs. (Pet FOF# 84 as amended, Savio Dec at ¶¶23-25)

90. More reserved housing units will be created by the Project than under the development rules because Petitioner will receive only 100 RH Credits for 162 reserved housing units. Assuming that 2,750 residential units are developed in the KKMP area, 550 of them should be reserved housing units. Because Petitioner will receive only 100 RH Credits for the 162 reserved housing units at the Project, a potential of 612 reserved housing units would be provided for within the urban core, being the 550 units described above and the 62 units in the Project for which Petitioner is not receiving RH Credits. [Pet FOF#85 as amended, Pet Exhibit #1, Quintiliani Dec at ¶¶ 30(a) and (b)]

91. The 162 units in the Project are a substitute for 100 reserved housing units in Kaka'ako. Therefore, 162 reserved housing units in the Project x 458 square feet (the average size of the Project's units) = 74,196 square feet, divided by 100 units = a 742 square foot reserved housing unit in Kaka'ako, which is substantially equal to Pacifica Honolulu's reserved housing units with a median size of 747 square feet. [Pet FOF#44 as amended, Pet Exhibits 7 and 9, Quintiliani Declaration at 32(b)]

92. Petitioner is currently developing Six Eighty, a 54-reserved housing rental unit project on a portion of Land Block F of the KKMP. Therefore, 216 reserved housing units will be added this year as a part of the initial phase of the KKMP (54 at Six Eighty and 162 at the Project), with a potential of 396 more reserved housing units in Kaka'ako (550 less the 54 units at Six Eighty and the 100 RH Credits). [Pet FOF#86 as amended, Pet Exhibits 1 and 15, Quintiliani Dec at ¶ 30(c)]

93. The sales of units in the Project will precipitate the immediate delivery of up to 162 moderately priced residential units in this broader neighborhood of Kaka'ako in advance of the construction of market housing and will not displace long-term renters. While new projects

generally take a significant time to plan, build, and develop, the Project is poised to deliver reserved housing units at a much earlier date, thereby expediting the addition of new stakeholders in the area and fostering further community development and cohesiveness. (Pet FOF# 87 as amendcd, Quintiliani Dec at ¶ 31)

94. The units in the Project are substantially equal to the reserved housing units in the Kaka'ako in size, condition, location, convenience, livability, owner-occupancy monitoring, no displacement of long-term tenants, timing of delivery, and most important, affordability. (Pet FOF#89 as amended, Pet Exhibits #7, #8, #9, #14, #15, and #17; Quintiliani Dec at ¶¶ 29 to 32, 34; Savio Dec at ¶ 23-25, 27; Quintiliani testimony, Hearing Trans. at 76:9-18, 81:1-7; Savio testimony, Hearing Trans. at 30: 2-8, 35:5-25, 36:4-25, 37:1-5, 14-25, 38:1-17, 43:10-25, 72:1-4, 92:16-25, and 93:1-21)

95. Because Petitioner will be receiving 100 RH Credits for 162 reserved housing units in the Project, the 162 substitute units in the Project are, at a minimum, substantially equal in value to the 100 required reserved housing units in Kaka'ako. (Pet FOF# 90 as amended, Id.

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 issue master plan permits and approve master plan amendment applications pursuant to §§ 206E-7 and 206E-33, HRS, and pursuant to §§15-22-202 and 206(d) of HAR in effect at the time the master plan permit was approved and issued.

2. Master plan permit amendments are deemed approved if no decisions are made granting or denying them within 200 days. § 15-22-23(a)(1), HAR. The 200-day deadline commenced on February 10, 2012, when the Master Plan Permit Amendment was deemed complete. The Master Plan Permit Amendment will be deemed approved if no decisions are made granting or denying it by August 28, 2012.

3. Pursuant to § 206E-4 (18), HRS and § 15-218-17(d)(2), HAR, the Authority is authorized to allow the satisfaction of any reserved housing requirements imposed by the Authority upon any proposed development project by providing such reserved housing units on land located outside of Kaka'ako on a case-by-case basis and such substitute reserved housing should be substantially equal in value to the required reserved housing units in Kaka'ako.

4. Pursuant to HRS § 206E-(18), the Project is substantially equal in value to the required reserved housing units developed or to be developed in Kaka'ako, because they are of comparable size to units being developed at 680 Ala Moana Boulevard, Petitioner is only receiving 100 RH Credits for delivering 162 reserved housing units in very close proximity to the district, and as demonstrated by the Pacifica Honolulu reserved housing prices in Exhibit #8, the current cost to develop makes it very difficult for landowners in Kaka'ako to construct moderately priced reserved housing units at the price level being offered by the Project.

5. Upon consideration of Chapter 206E, HRS, and the development rules under Chapter 15-22, HAR, and Chapter 15-218, HAR, and the facts contained in this Order, and the

Authority finds upon the clear preponderance of the evidence, that the amendment to the Master Plan Permit is consistent with the provisions of the Mauka Area Plan and Chapter 15-22, HAR, pursuant to § 15-22-205(b), HAR.

DECISION AND ORDER

A. IT IS HEREBY ORDERED that the following underlined sentence shall be added to the end of paragraph 8 of the Decision and Order of the Master Plan Permit and the amended paragraph 8 shall read as follows:

> 8. **Reserved Housing.** Petitioner shall satisfy its reserved housing requirement for the Master Plan Area, which shall be equal to twenty percent (20%) of the total number of actual residential units built for the Master Plan Area, as permitted by the Mauka Area Rules. Petitioner shall provide ten percent (10%) (or one-tenth) of its reserved housing requirement at or below one hundred percent (100%) of the area median income. <u>The up to 100 reserved housing credits generated from the conversion and sale of units in the project currently known as Pagoda Terrace, pursuant to that certain unrecorded Supplement No. 1 to Master Plan Development Agreement for Kaiāulu 'O Kaka'ako Master Plan dated June 20, 2011, by the Authority and Petitioner, may be used to satisfy these reserved housing requirements.</u>

IT IS HEREBY FURTHER ORDERED that

1. **Execution and Recordation of the Pagoda Terrace Conversion Reserved Housing Agreement and the Project's submission documents to create the Condominium Property Regime and Units .** Petitioner shall forthwith execute the Pagoda Terrace RH Agreement between Petitioner and HIH Terrace and record it at the Bureau of Conveyances and within thirty (30) days of its execution provide to the Authority a copy of both the previously executed and recorded memorandum of the Pagoda Terrace Option Agreement and the executed and recorded Pagoda Terrace RH Agreement. The foregoing may be released of record once the submission documents creating the Project, which shall contain the reserved housing requirements, are recorded in the Bureau of Conveyances.

2. **Repairs and/or Funding of the Maintenance Reserves for the Project.** HIH Terrace will provide evidence to the Authority that it has expended no less than $2,067,492, in the aggregate, for repairs to the Pagoda Terrace and/or the funding of the maintenance reserves for the Project.

3. **Disclosure to Buyers Regarding Project Parking Facility.** HIH Terrace will provide evidence to the Authority that it has disclosed to buyers that the Project is not compliant with parking requirements for new residential construction under the City's Land Use Ordinance or the development rules of Kaka'ako.

4. **No Binding Sales Contracts Until a Favorable and Appropriate Building and Zoning Compliance Letter has been issued by the City and County and Compliance with Other Requirements of the City and County has been Achieved.** No binding sales contracts will be entered into with buyers for units in the Project until the City and County has issued an appropriate Building and Zoning Compliance Letter and other requirements of City and County have been met. Petitioner shall file these documents with the Authority within thirty (30) days of their issuance.

5. **Semi-Annual Report Regarding Owner Occupancy of the Project.** The Project Management Company or the Association of Apartment Owners (AOAO) will establish and maintain an owner registration program and provide the Authority with semi-annual reports during the regulated term or ten years (whichever is greater) with certifications by the occupants of the units in the Project that they are actually the owner -occupants of the respective units.

In all other respects, the KKMP and Master Plan Permit shall remain in full force and effect.

B. The Executive Director of the Authority is authorized to enter into any amendment to the Master Plan Development Agreement consistent with this Order.

C. Petitioner shall record a memorandum of this Order with the Bureau of Conveyances and any amendment to the Master Plan Development Agreement in a form and with content to be reasonably prescribed by the Executive Director of the Authority, and the terms and conditions of thereof 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 8th day of August, 2012. This ORDER and its ADOPTION shall take effect upon the date this ORDER is approved by the Authority.

Done at Honolulu, Hawaii, this 8th day of August, 2012.

Hawaii Community Development Authority (Kaka'ako members)

Mary Alice Evans, as designated representative of Director of Department of Business, Economic Development and Tourism

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Grady Chun

Randy Grune, as designated representative of Director of Department of Transportation

Miles Kamimura

Kamaki Kanahele

Brian Lee

Luis Salaveria, as designated representative of Director of Department of Budget and Finance

Dean H. Seki

Vacant

Approved as to Form:

Lori N. Tanigawa, Deputy Attorney General

Attachments: HCDA Exhibit #1
HCDA Exhibit #2

AFFIDAVIT OF PUBLICATION

IN THE MATTER OF
NOTICE OF CONTESTED CASE HEARING

STATE OF HAWAII } SS.
City and County of Honolulu }

Doc. Date: APR 1 9 2012 **# Pages:** 1

Notary Name: Patricia K. Reese First Judicial **Circuit**

Doc. Description: Affidavit of Publication

APR 1 9 2012

Notary Signature Date

PATRICIA K. REESE NOTARY PUBLIC Comm. No. 86-467 STATE OF HAWAII

Rose Rosales being duly sworn, deposes and says that she is a clerk, duly authorized to execute this affidavit of Oahu Publications, Inc. publisher of The Honolulu Star-Advertiser and MidWeek, that said newspapers are newspapers of general circulation in the State of Hawaii, and that the attached notice is true notice as was published in the aforementioned newspapers as follows:

Honolulu Star-Advertiser 1 times on:
04/19/2012

Midweek Wed. 0 times on:

______ times on:

And that affiant is not a party to or in any way interested in the above entitled matter.

Rose Rosales

Subscribed to and sworn before me this 19th day

of April A.D. 2012

Patricia K. Reese, Notary Public of the First Judicial Circuit, State of Hawaii

My commission expires: Oct 07 2014

0000407770

PATRICIA K. REESE NOTARY PUBLIC Comm. No. 86-467 STATE OF HAWAII

HCDA Exhibit #1

[illegible]

AFFIDAVIT OF PUBLICATION

State of Hawaii)
) SS:
County of Hawaii)

M. R. Chavez, being first duly sworn, deposes and says:

1. That she is the Classified Accountant of WEST HAWAII TODAY, a newspaper published in the City of Kailua Kona, State of Hawaii.

2. That "**NOTICE OF CONTESTED CASE HEARING** NOTICE IS HEREBY GIVEN of a contested case hearing" of which a clipping from the newspaper is attached hereto, was published in said newspaper on the following date(s) April 19, 2012 (etc.)

M. R. Chavez

Subscribed and sworn to before me
This 19th day of April, 2012

Henriann P. Kahananui

Notary Public, Third Circuit
State of Hawaii

HENRIANN P. KAHANANUI NOTARY No. 11-188 PUBLIC STATE OF HAWAII

Henriann P. Kahananui

My Commission expires: June 6, 2015
Page(s): 1

HCDA Exhibit #1

NOTICE OF CONTINUED CASE HEARING

NOTICE IS HEREBY GIVEN that a continued case hearing is to be held by the Honolulu Community Development Authority (HCDA), on Hawai'i Island, on a request for an amendment to the Master Plan permit which was [illegible] on September 5, 2008 and as [illegible] under the Hawai'i Island Zoning ordinance effective [illegible] and amended. This continued case hearing is held pursuant to Ch. 91 and Ch. [illegible] Hawai'i Revised Statutes ("HRS"), and Subchapter 6 of Title 21, Subtitle 1, Chapter [illegible], Hawai'i Administrative Rules ("HAR").

DATE: June 12, 2012

TIME: [illegible] a.m.

PLACE: 461 Cooke Street, Makai Room
Honolulu, Hawai'i 96813

[illegible] on Hawai'i Island may be heard to consider the following [illegible] in the Kona [illegible] Waikoloa Mauka Tax Subzone, Hawai'i:

Permit Number	Project Information	
• [illegible]	Applicant:	[illegible]
	TMKs:	2-1-[illegible]: [illegible] 2-1-[illegible]: [illegible] 2-1-[illegible]: [illegible] 2-1-[illegible]: [illegible] 2-1-[illegible]: [illegible]
	Request:	To amend the Master Plan permit [illegible] by the HCDA on September 5, 2008
	Requested Date:	February [illegible], 2014

HCDA is requesting an amendment to the September 5, 2008 Master Plan permit to allow the [illegible] of the required housing requirements [illegible] and [illegible] and [illegible] hearing [illegible] as a project [illegible] Hawai'i Island, [illegible] outside the boundaries of the Hawai'i Community Development District.

All persons who wish to intervene in this contested case must file a Petition to Intervene by [illegible], 2012. Any petitions to intervene that provide [illegible] Petitions for intervention shall be limited to the pending Master Plan permit amendment request and shall not be allowed for any other issues regarding the Master Plan permit.

A pre-hearing conference shall be held on Wednesday, May [illegible], 2012, at the HCDA, [illegible] Street, [illegible] Honolulu, Hawai'i. The purpose of the pre-hearing conference is to [illegible] and to [illegible].

A hearing on Petitions to Intervene will be held on Wednesday, May [illegible], 2012, at the HCDA, [illegible] Street, [illegible] Honolulu, Hawai'i. The purpose of the hearing is to [illegible] of the contested case. The purpose of the contested case hearing is to determine [illegible] the applicant's request for permit [illegible] or [illegible] the applicant's request, or [illegible] the applicant's request for amendment, [illegible] or [illegible].

The contested case hearing will be held on Wednesday, June [illegible], 2012, at the HCDA, [illegible] Street, [illegible] Honolulu, Hawai'i.

A pre-hearing [illegible] Petitions relating to the contested case request will be held [illegible] the contested case hearing [illegible] the hearing will be held [illegible] days prior to the hearing.

HEARING SCHEDULE

DATE	ACTION
May [illegible], 2012	• Deadline to Petition to Intervene
May [illegible], 2012	• Pre-hearing for Petition to Intervene
May [illegible], 2012	• Hearing on Petitions to Intervene
June 12, 2012	• Contested Case Hearing
To be determined	• Deadline [illegible] Motions or Stipulations for contested case hearing

A copy of HCDA's request for an amendment to the Master Plan permit is available for inspection during regular business hours at the office of the HCDA, [illegible] Street, Honolulu, Hawai'i. Persons who wish to intervene in the contested case shall submit a written petition to intervene to the HCDA at the address above, [illegible] the contested case hearing [illegible] the petition to intervene shall be submitted to the HCDA [illegible] days before the date of the pre-hearing conference. The petition shall be [illegible] days prior to the date of the public hearing. Petitions are required to contain the [illegible] of the contested case, [illegible] and the [illegible] of the HCDA and Rule [illegible].

Interested persons who desire to testify on the contested case hearing [illegible] the contested case hearing, [illegible] Community Development Authority, [illegible] Street, Honolulu, Hawai'i 96813, at least five [illegible] days prior to the date of the contested case hearing.

HONOLULU COMMUNITY DEVELOPMENT AUTHORITY
[illegible] Chairperson

[illegible], 2012

AFFIDAVIT OF PUBLICATION

State of Hawaii)
) SS:
County of Hawaii)

LEILANI K. R. HIGAKI, being first duly sworn, deposes and says:

1. That she is the BUSINESS MANAGER of HAWAII TRIBUNE-HERALD, a newspaper published in the City of HILO, State of Hawaii.

2. That the " NOTICE OF CONTESTED CASE HEARING...June 13, 2012 ...etc., ".

of which a clipping from the newspaper as published is attached hereto, was published in said newspaper on the following date(s) April 19, 2012, (etc.).

44532r1

Leilani K R Higaki

Subscribed and sworn to before me
this 24th day of April, 2012.

Sharon H. P. Ogata

SHARON H. P. OGATA
Notary Public, Third Circuit, State of Hawaii
My commission expires **October 1, 2012**

Page(s): 1

HCDA Exhibit #1

NOTICE OF CONTESTED CASE HEARING

NOTICE IS HEREBY GIVEN of a contested case hearing to be held by the Hawaii Community Development Authority ("HCDA") of Kakaako Parcels [illegible] ("[illegible]") pursuant to an amendment to its Master Plan permit which was issued on September 2, 2009 and is related under the Master Area Rules that were in effect at the time the permit was approved and issued. This contested case hearing is held pursuant to §15-22-[illegible] of the Master Area Rules which were in effect at the time the permit was issued, and pursuant to the provisions of [illegible], Hawaii Revised Statutes ("HRS"), and Subchapter 3 of Title 15, Subtitle 4, Chapter 171, Hawaii Administrative Rules ("HAR").

DATE: June 11, 2012

TIME: [illegible] a.m.

PLACE: 461 Cooke Street, Makai Room
Honolulu, Hawaii 96813

or as soon thereafter as those interested may be heard to consider the following amendment to the Kakaako O'Ahu Master Plan, Kakaako District:

Permit Number:	Project Information:
• HC MMP-11-1-1	Applicant: Kamehameha Schools TMKs: 2-1-[illegible]: [illegible] 2-1-[illegible]: [illegible] 2-1-[illegible]: [illegible] and [illegible] 2-1-[illegible]: [illegible] and [illegible] Lana Lana (between Auahi Street and Ala Moana Boulevard) 2-1-[illegible]: [illegible] and One Lane (between Auahi Street and Ala Moana Boulevard) Request: To amend the Master Plan permit issued by the HCDA on September 2, 2009 Proposed Date: February [illegible], 2012

KS is requesting an amendment to its September 2, 2009 Master Plan permit to allow the satisfaction of its reserved housing requirement through the construction, conversion and sale of reserved housing units in a project known as Pacific Terrace, which is located outside the boundaries of the Kakaako Community Development District.

All persons who wish to participate in this contested case shall do so by Friday, May 11, 2012. Any petitions for intervention shall comply with §15-219-46, HAR. Petitions for intervention shall be limited to the pending Master Plan permit amendment request and shall not be allowed for any other items regarding the Master Plan permit.

A pre-hearing for potential intervenors will be held on Wednesday, May 9, 2012, at the HCDA office at 1:30 p.m. at which time a pre-process will be organized and the time frame will be established.

A hearing on petitions to intervene will be held on Wednesday, May 23, 2012, at the HCDA office at 9:00 a.m. At the hearing, the parties to the contested case hearing will be established. Any party to the contested case proceeding may be represented by legal counsel. An individual may appear on his individual's own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation, trust, or association may represent the corporation, trust, or association.

The contested case hearing will be held on Wednesday, June 13, 2012, at the HCDA office at 1:00 a.m.

A public hearing for decision making on the amendment request will be scheduled at a later date. Notice of the hearing will be at least 30 days prior to the hearing.

PROPOSED SCHEDULE

DATE	ACTION
May 1, 2012	• Deadline to Petition for Intervention
May 9, 2012	• Pre-Hearing for Potential Intervenors
May 23, 2012	• Selected Parties in the Matter
June 13, 2012	• Contested Case Hearing
To be determined	• Public hearing to Decision Making on the amendment request

A copy of KS' request for an amendment to its Master Plan permit is available for inspection during regular business hours at the office of the HCDA, 461 Cooke Street, Honolulu, Hawaii 96813, and be mailed to persons who requested a copy after payment has been made for copying and postage costs. To request a copy or submit written comments in advance of the June 13, 2012 public hearing, please contact the office of the HCDA on or before the date of the public hearing. To present oral testimony, sign up at the time of the public hearing. Speakers are requested to submit 30 copies of their statements. For questions or concerns, please call the office of the HCDA at 594-0300.

Individuals who need auxiliary aids or effective communications are asked to contact Chris Sadayasu, HCDA Architect, at [illegible] and HCDA Compliance Coordinator at 594-0300, or by facsimile at 594-0299, at least five working days prior to the date needed.

HAWAII COMMUNITY DEVELOPMENT AUTHORITY
Jonathan L. Dwight, Jr. Chairperson

[illegible] Posted: April 16, 2012

HCDA Exhibit #1

AFFIDAVIT OF PUBLICATION

STATE OF HAWAII, }
County of Maui. } ss.

Rhonda M. Kurohara being duly sworn deposes and says,that she is in Advertising Sales of the Maui Publishing Co., Ltd., publishers of THE MAUI NEWS, a newspaper published in Wailuku, County of Maui, State of Hawaii; that the ordered publication as to

NOTICE OF CONTESTED CASE HEARING

of which the annexed is a true and correct printed notice, was published 1 times in THE MAUI NEWS, aforesaid, commencing on the 19th day of April, 2012, and ending on the 19th day of April, 2012, (both days inclusive), to-wit: on

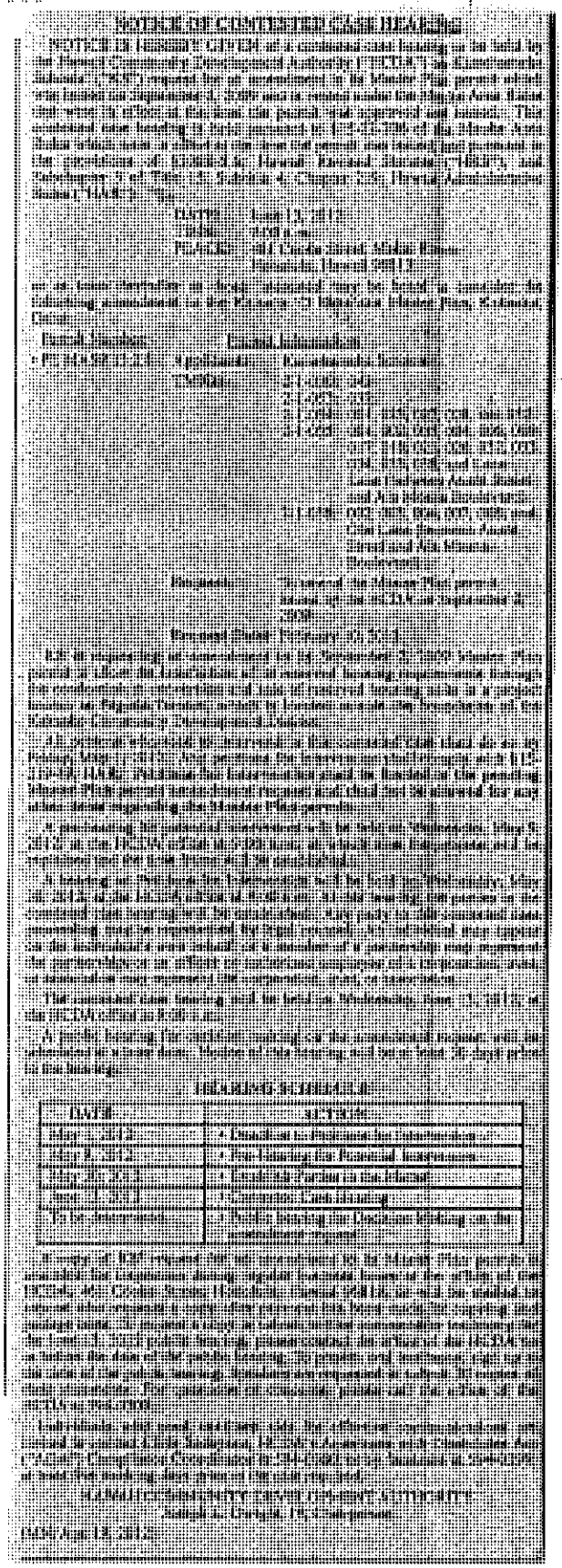
April 19, 2012

and that affiant is not a party to or in any way interested in the above entitled matter.

This 1 page Notice of Contested Case Hearing, dated April 19, 2012, was subscribed and sworn to before me this 19 day of April, 2012, in the Second Circuit of the State of Hawaii, by Rhonda M. Kurohara

Notary Public, Second Judicial Circuit, State of Hawaii
BETTY E. UEHARA
My Commission expires 09-26-15

BETTY E. UEHARA NOTARY PUBLIC No. 83-344 STATE OF HAWAII



NOTICE OF CONTESTED CASE HEARING

HEARING SCHEDULE

DATE	ACTIVITY
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]

HCDA Exhibit #1

STATE OF HAWAII
COUNTY OF KAUAI
AFFIDAVIT OF PUBLICATION

THE GARDEN ISLAND

ANNETTE KAWASAKI
HAWAII COMMUNITY DEV. AUTHORIT
461 COOKE STREET
HONOLULU HI 96813

REFERENCE: 104706
743134 KAMEHAMEHA SCHOOLS

Kaylen Manoi, being duly sworn, deposes and says, that she is an employee of "The Garden Island," a newspaper published in Lihue, County of Kauai, State of Hawaii; that the NOTICE in the above entitled matter of which the annexed is a true and correct copy, was published 1 time(s) in "The Garden Island" aforesaid and that this affiant is not a party to or in any way interested in the above entitled matter.

Kaylen Ma

Subscribed and sworn to me this 26 day of April, 2012.

CATHERINE VALENCIA
Notary Public, Fifth Judicial Ciruit
State of Hawaii
My Commission Expires: 10-3-2012

Document Description: Affidavit of Publication
No. of pages: 1 Document Date: 4-26-12

PUBLISHED ON: 04/19/2012

CATHERINE VALENCIA NOTARY PUBLIC No. 04-580 STATE OF HAWAII

FILED ON: ~~04/19/12~~ KM

NOTICE OF CONTESTED CASE HEARING

NOTICE IS HEREBY GIVEN of a contested case hearing to be held by the Hawaii Community Development Authority ("HCDA") on Kamehameha Schools' ("KS") request for an amendment to its Master Plan permit which was issued on September 2, 2009 and is vested under the Mauka Area Rules that were in effect at the time the permit was approved and issued. This contested case hearing is held pursuant to §15-22-206 of the Mauka Area Rules which were in effect at the time the permit was issued, and pursuant to the provisions of §206E-5.6, Hawaii Revised Statutes ("HRS"), and Subchapter 3 of Title 15, Subtitle 4, Chapter 219, Hawaii Administrative Rules ("HAR").

DATE: June 13, 2012

TIME: 9:00 a.m.

PLACE: 461 Cooke Street, Makai Room
Honolulu, Hawaii 96813

or as soon thereafter as those interested may be heard to consider the following amendment to the Kaiulu'O Kaka'ako Master Plan, Kakaako, Oahu:

Permit Number:	Project Information:	
• PL MASP 13.2.8	Applicant:	Kamehameha Schools
	TMKs:	2-1-030: 043 2-1-053: 032 2-1-054: 001, 025, 027, 028, and 032 2-1-055: 001, 002, 003, 004, 006, 009, 017, 018, 021, 026, 032, 033, 034, 035, 038, and Lana Lane (between Auahi Street and Ala Moana Boulevard) 2-1-058: 002, 003, 004, 007, 008, and Ohe Lane (between Auahi Street and Ala Moana Boulevard)
	Request:	To amend the Master Plan permit issued by the HCDA on September 2, 2009
	Request Date:	February 10, 2012

KS is requesting an amendment to its September 2, 2009 Master Plan permit to allow the satisfaction of its reserved housing requirements through the condominium conversion and sale of reserved housing units in a project known as Pagoda Terrace, which is located outside the boundaries of the Kakaako Community Development District.

All persons who seek to intervene in this contested case shall do so by Friday, May 1, 2012. Any petitions for intervention shall comply with §15-219-49, HAR. Petitions for intervention shall be limited to the pending Master Plan permit amendment request and shall not be allowed for any other items regarding the Master Plan permit.

A pre-hearing for potential intervenors will be held on Wednesday, May 9, 2012, at the HCDA office at 9:00 a.m., at which time the process will be explained and the time frame will be established.

A hearing on Petitions for Intervention will be held on Wednesday, May 30, 2012, at the HCDA office at 9:00 a.m. At this hearing, the parties to the contested case hearing will be established. Any party to this contested case proceeding may be represented by legal counsel. An individual may appear on the individual's own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation, trust, or association may represent the corporation, trust, or association.

The contested case hearing will be held on Wednesday, June 13, 2012, at the HCDA office at 9:00 a.m.

A public hearing for decision making on the amendment request will be scheduled at a later date. Notice of this hearing will be at least 30 days prior to the hearing.

HEARING SCHEDULE

DATE	ACTION
May 1, 2012	• Deadline to Petitions for Intervention
May 9, 2012	• Pre-Hearing for Potential Intervenors
May 30, 2012	• Establish Parties in the Matter
June 13, 2012	• Contested Case Hearing
To be determined	• Public hearing for Decision Making on the amendment request

A copy of KS' request for an amendment to its Master Plan permit is available for inspection during regular business hours at the office of the HCDA, 461 Cooke Street, Honolulu, Hawaii 96813, or will be mailed to anyone who requests a copy after payment has been made for copying and postage costs. To request a copy or submit written comments or testimony for the June 13, 2012 public hearing, please contact the office of the HCDA on or before the date of the public hearing. To present oral testimony, sign up at the time of the public hearing. Speakers are requested to submit 30 copies of their statements. For questions or concerns, please call the office of the HCDA at 594-0300.

Individuals who need auxiliary aids for effective communications are invited to contact Chris Sadayasu, HCDA's Americans with Disabilities Act ("ADA") Compliance Coordinator at 594-0300, or by facsimile at 594-0299, at least five working days prior to the date required.

HAWAII COMMUNITY DEVELOPMENT AUTHORITY
Joseph L. Dwight, IV, Chairperson

(April 19, 2012)

HCDA Exhibit #1

AFFIDAVIT OF PUBLICATION

IN THE MATTER OF
Public Notice

STATE OF HAWAII
City and County of Honolulu } SS.

Doc. Date: JUL - 9 2012 # Pages: 1
Notary Name: Patricia K. Reese First Judicial Circuit
Doc. Description: Affidavit of Publication

Notary Signature JUL - 9 2012 Date

PATRICIA K. REESE NOTARY PUBLIC Comm No. 86-467 STATE OF HAWAII

Rose Rosales being duly sworn, deposes and says that she is a clerk, duly authorized to execute this affidavit of Oahu Publications, Inc. publisher of The Honolulu Star-Advertiser and MidWeek, that said newspapers are newspapers of general circulation in the State of Hawaii, and that the attached notice is true notice as was published in the aforementioned newspapers as follows:

Honolulu Star-Advertiser 1 times on:
07/08/2012

Midweek Wed. 0 times on:

_____ times on:

And that affiant is not a party to or in any way interested in the above entitled matter.

Rose Rosales

Subscribed to and sworn before me this 9th day
of July, A.D. 2012

Patricia K. Reese, Notary Public of the First Judicial Circuit, State of Hawaii
My commission expires: Oct 07 2014

Ad # 0000430962

PATRICIA K. REESE NOTARY PUBLIC Comm No. 86-467 STATE OF HAWAII

HCDA Exhibit #2

AFFIDAVIT OF PUBLICATION

State of Hawaii)
) SS:
County of Hawaii)

M. R. Chavez, being first duly sworn, deposes and says:

1. That she is the Classified Accountant of WEST HAWAII TODAY, a newspaper published in the City of Kailua Kona, State of Hawaii.

2. That "NOTICE OF CONTESTED CASE HEARING NOTICE IS HEREBY GIVEN of the continued contested case hearing and decision making" of which a clipping from the newspaper is attached hereto, was published in said newspaper on the following date(s) July 8, 2012 (etc.)

M. R. Chavez

Subscribed and sworn to before me
This 10th day of July, 2012

Henriann P. Kahananui

Notary Public, Third Circuit
State of Hawaii

HENRIANN P. KAHANANUI NOTARY No. 11-188 PUBLIC STATE OF HAWAII

Henriann P. Kahananui

My Commission expires: June 6, 2015
Page(s): 1

HCDA Exhibit #2

NOTICE OF CONTESTED CASE HEARING

NOTICE IS HEREBY GIVEN that the contested case hearing and decision making to be held by the Hawaii Community Development Authority (HCDA) on Kamehameha Schools' (KS) request for an amendment to its Master Plan permit, as approved on September 3, 2010 and located under the Hawaii Administrative Rules (HAR) chapter for permits, as approved and issued. This contested case hearing is being conducted in accordance with Hawaii Revised Statutes (HRS) chapter 91 and pursuant to the provisions of section 206E-6, Hawaii Revised Statutes (HRS), and subchapter 1 of Title 15, Subtitle 4, Chapter 219, Hawaii Administrative Rules (HAR).

The previously scheduled Wednesday, July 11, 2012 continuation of the contested case hearing and decision making is cancelled and it is referred as follows:

DATE: August 8, 2012 (continuation of the contested case hearing and decision making)

TIME: [illegible]

PLACE: 547 Queen Street, Honolulu Hale, Honolulu, Hawaii 96813

A decision consider in these interested may be heard to consider the following amendment to the Master Plan, Kakaako Cabins.

Permit Number	Permit Information
[illegible]	Applicant: Kamehameha Schools TMKs: [illegible]
	Requested: To amend the Master Plan permit issued by the HCDA on September 3, 2010.

Received Date: February 13, 2012

KS is requesting an amendment to the September 3, 2010 Master Plan permit to allow the modification of its approved housing units through the conversion of cabins, a reduced housing unit in a project known as Pilapala Housing, which is located within the boundaries of the Kakaako Community Development District.

A copy of KS's request for an amendment to the Master Plan permit is available for inspection during regular business hours at the office of the HCDA, 461 Cooke Street, Honolulu, Hawaii 96813 or may be mailed to persons who request a copy after payment has been made for copying and postage costs. The request is also available on HCDA's website at www.hcda.com prior to the August 8, 2012 public hearing. Please record the office of the HCDA prior to the date of the public hearing. The proposed amendment is on the agenda of the public hearing. Persons are requested to submit 20 copies of their statements. Please continue to correspond with the office of the HCDA at 594-0300.

Persons who intend to attend the public hearing and who are seeking to contact the HCDA Board of Directors (HCDA Board) should contact the HCDA Corporation Counsel at 594-0300 or by facsimile at 594-0299 at least five working days prior to the date required.

HAWAII COMMUNITY DEVELOPMENT AUTHORITY
Joseph M. Wright, IV, Chairperson

Dated: Honolulu, Hawaii, July 3, 2012

HCDA Exhibit #2

AFFIDAVIT OF PUBLICATION

State of Hawaii)
) SS:
County of Hawaii)

LEILANI K. R. HIGAKI, being first duly sworn, deposes and says:

1. That she is the BUSINESS MANAGER of HAWAII TRIBUNE-HERALD, a newspaper published in the City of HILO, State of Hawaii.

2. That the " NOTICE OF CONTESTED CASE HEARING... August 8, 2012...etc., ".

of which a clipping from the newspaper as published is attached hereto, was published in said newspaper on the following date(s) July 8, 2012, (etc.).

47195r1

Leilani K.R. Higaki

Subscribed and sworn to before me
this 12th day of July, 2012.

SHARON H. P. OGATA
Notary Public, Third Circuit, State of Hawaii
My commission expires **October 1, 2012**

Page(s): 1

HCDA Exhibit #2

NOTICE OF CONTESTED CASE HEARING

Notice is hereby given of the continued contested case hearing and decision making to be held by the Hawaii Community Development Authority ("HCDA") on Hanalani Schools ("HS") request for an amendment to its Master Plan permit which was issued on September 2, 2009 and is vested under the Kaka'ako Area Rules that were in effect at the time the permit was approved and issued. This contested case hearing is held pursuant to §15-22-196 of the Kaka'ako Area Rules which were in effect at the time the permit was issued, and pursuant to the provisions of §206E-5.6, Hawaii Revised Statutes ("HRS"), and §91 et seq. and Title 15, Subtitle 4, Chapter 219, Hawaii Administrative Rules ("HAR").

This contested case hearing and decision making is scheduled on July 11, 2012. Notice of the contested case hearing and decision making is considered and set for submittal as indicated below:

DATE: August 8, 2012 (continuation of the contested case hearing and decision making)

TIME: 9:00 a.m.

PLACE: 461 Cross Street, Mezzanine
Honolulu, Hawaii 96813

or at such other place as may be noticed in order to consider the following amendment to the Kaka'ako Master Plan, Kakaako Zones:

Zones	Proposed Zones
61 KAKP 13-18	
Applicant:	Kamehameha Schools
TMKs:	2-1-016: 031 and Hassinger Street, Lot 3-1 between South and Hassinger Streets (2-1-016: 040)
	2-1-016: 004, 018, 027 and Keawe Street, Lot 18, between Punchbowl and Alapai Streets (2-1-016: 000)
	2-1-016: 001, 025, 027, 028, and 030
	2-1-016: 001, 002, 003, 004, 005, 006, 007, 015, 031, 038, 039, 040, 041, 042, 043 and Lana Lana between Alapai Street and Ala Moana Boulevard
	2-1-016: 012, 014, 024, 027, 028, and Chaplain between Punchbowl Street and Ala Moana Boulevard
Requests:	To amend the Master Plan permit issued by the HCDA on September 2, 2009
Request Dates:	February 28, 2012

HS is requesting an amendment to its September 2, 2009 Master Plan permit to allow the satisfaction of the required building requirements through the construction and sale of reserved housing units at a project known as Pogoda Terrace, which is located outside the boundaries of the Kakaako Community Development District.

A copy of HS' request for an amendment to its Master Plan permit is available for inspection during regular business hours at the offices of the HCDA, 461 Cross Street, Honolulu, Hawaii 96813, or will be mailed to persons who request a copy, after payment has been made for copying and postage costs. To request a copy or attend written comments of testimony for the August 8, 2012 public hearing, please contact the office of the HCDA or call the office of the public hearing. To request oral testimony, sign up at the time of the public hearing. Speakers are requested to submit in writing copies of their statements. For questions or concerns, please call the office of the HCDA at 594-0300.

Individuals who need auxiliary aids for effective communication and/or interpretation services should contact the HCDA at least one week prior to the date requested.

HAWAII COMMUNITY DEVELOPMENT AUTHORITY
Judiann G. Dwight, Chairperson

(a) 1963 Hawaii Title Insurance Co. 8, 2012

AFFIDAVIT OF PUBLICATION

STATE OF HAWAII,
County of Maui. } ss.

Rhonda M. Kurohara being duly sworn deposes and says,that she is in Advertising Sales of the Maui Publishing Co., Ltd., publishers of THE MAUI NEWS, a newspaper published in Wailuku, County of Maui, State of Hawaii; that the ordered publication as to

NOTICE OF CONTESTED CASE HEARING

of which the annexed is a true and correct printed notice, was published 1 times in THE MAUI NEWS, aforesaid, commencing on the 8th day of July, 2012, and ending on the 8th day of July, 2012, (both days inclusive), to-wit: on

July 8, 2012

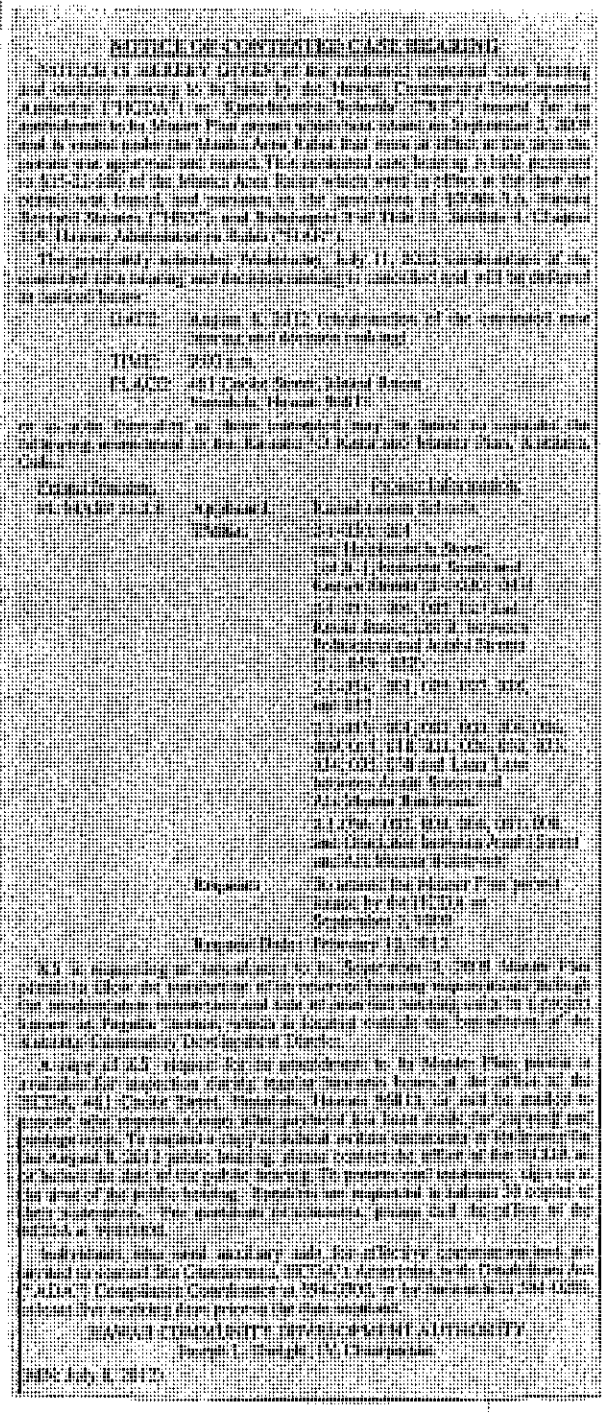
and that affiant is not a party to or in any way interested in the above entitled matter.

This 1 page Notice of Contested Case Hearing, dated July 8, 2012, was subscribed and sworn to before me this 9th day of July, 2012, in the Second Circuit of the State of Hawaii, by Rhonda M. Kurohara

Kathleen M Piimauna
Notary Public, Second Judicial Circuit, State of Hawaii

KATHLEEN M. PIIMAUNA
My commission expires 7/5/13

KATHLEEN M. PIIMAUNA NOTARY PUBLIC No. 93-163 STATE OF HAWAII



NOTICE OF CONTESTED CASE HEARING

HCDA Exhibit #2

STATE OF HAWAII
COUNTY OF KAUAI
AFFIDAVIT OF PUBLICATION

THE GARDEN ISLAND

ANNETTE KAWASAKI
HAWAII COMMUNITY DEV. AUTHORIT
461 COOKE STREET
HONOLULU HI 96813

REFERENCE: 104706
746023 KAMEHAMEHA SCHOOLS

Sherri Cole, being duly sworn, deposes and says, that she is an employee of "The Garden Island," a newspaper published in Lihue, County of Kauai, State of Hawaii; that the NOTICE in the above entitled matter of which the annexed is a true and correct copy, was published 1 time(s) in "The Garden Island" aforesaid and that this affiant is not a party to or in any way interested in the above entitled matter.

Sherri Cole

Subscribed and sworn to me this 11th day of July, 2012.

Kristine K. Frey
Notary Public, Fifth Judicial Circuit
State of Hawaii
My Commission Expires: 5/26/15

Document Description: Affidavit of Publication
No. of pages: 1 Document Date: 7/11/12

PUBLISHED ON: 07/08/2012

FILED ON: ~~07/08/12~~ SLC

KRISTINE K. FREY
NOTARY PUBLIC
No. 99-273
STATE OF HAWAII

NOTICE IS HEREBY GIVEN of the continued contested case hearing and decision making to be held by the Hawaii Community Development Authority ("HCDA") on Kamehameha Schools ("KS") request for an amendment to its Master Plan permit which was issued on September 2, 2009 and is vested under the Mauka Area Rules that were in effect at the time the permit was approved and issued. This contested case hearing is held pursuant to §15-22-206 of the Mauka Area Rules which were in effect at the time the permit was issued, and pursuant to the provisions of §206E-5.6, Hawaii Revised Statutes ("HRS") and Subchapter 3 of Title 15, Subtitle 4, Chapter 219, Hawaii Administrative Rules ("HAR").

That previously scheduled Wednesday, July 11, 2012 continuation of the contested case hearing and decision making is cancelled and will be deferred as noticed below.

DATE: August 8, 2012 (continuation of the contested case hearing and decision making)

TIME: 8:00 a.m.

PLACE: 461 Cooke Street Makai Room
Honolulu Hawaii 96813

or as soon thereafter as those interested may be heard to consider the following amendment to the Kalaeloa O Kaka'ako Master Plan:

Permit Number: Project Information:

PL MASP 15.2.8 Applicant: Kamehameha Schools

TMKs: 2-1-080: 001 and Halekauwila Street Lot A-1, between South and Keawe Streets; (2-1-080: 043); 2-1-058: 004, 005, 027 and Kona Street Lot B, between Pohukaina and Auahi Streets (2-1-058: 032); 2-1-064: 001, 025, 027, 028 and 032; 2-1-066: 001, 002, 003, 004, 006, 009, 017, 018, 021, 026, 032, 033, 034, 035, 038 and Iana Lane between Auahi Street and Ala Moana Boulevard; 2-1-058: 002, 003, 004, 007, 008, and Ohe Lane between Auahi Street and Ala Moana Boulevard.

Requests: To amend the Master Plan permit issued by the HCDA on September 2, 2009.

Request Date: February 10, 2012

KS is requesting an amendment to its September 2, 2009 Master Plan permit to allow the satisfaction of its reserved housing requirements through the condominium conversion and sale of reserved housing units in a project known as Pagoda Terrace, which is located outside the boundaries of the Kakaako Community Development District.

A copy of KS' request for an amendment to its Master Plan permit is available for inspection during regular business hours at the office of the HCDA, 461 Cooke Street, Honolulu, Hawaii 96813, or will be mailed to anyone who requests a copy after payment has been made for copying and postage costs. To request a copy or submit written comments or testimony for the August 8, 2012 public hearing, please contact the office of the HCDA on or before the date of the public hearing. To present oral testimony, sign up at the time of the public hearing. Speakers are requested to submit 50 copies of their statements. For questions or concerns, please call the office of the HCDA at 594-0300.

Individuals who need auxiliary aids for effective communications are invited to contact Stu Glaubermann, HCDA's Americans with Disabilities Act ("ADA") Compliance Coordinator at 594-0300 or by facsimile at 594-0299, at least five working days prior to the date required.

HAWAII COMMUNITY DEVELOPMENT AUTHORITY
Joseph K. Devizio IV, Chairperson

July 8, 2012

HCDA Exhibit #2

EXHIBIT G

THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY

OF THE STATE OF HAWAII

In re Application of THE TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP Applicant 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 KAK 21-005

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

On February 16, 2021, Trustees of the Estate of Bernice Pauahi Bishop, dba Kamehameha Schools ("Applicant"), submitted an application ("Application") for an amendment to the Master Plan Permit ("PL MASP 13.2.8" or the "Master Plan Permit") pursuant to Chapter 206E of the Hawaii Revised Statutes ("HRS") and Hawaii Administrative Rules ("HAR") Chapter 15-22 and HAR Chapter 15-219. The Master Plan Permit was issued to Applicant for the Kaiaulu O Kakaako Master Plan ("KKMP") covering approximately 29 acres of land in the Kakaako Community Development District ("Kakaako").

The Hawaii Community Development Authority ("HCDA" or the "Authority"), having heard and examined the testimony, evidence, and argument of counsel during the hearing, along with Applicant's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit Amendment, filed on February 16, 2021, hereby makes the following Findings of Fact ("FOF"), Conclusions of Law ("COL"), and Decision and Order (D&O").

FINDINGS OF FACT

Any Findings of Fact not ruled upon by the Authority by adoption herein or rejected by clearly contrary Findings of Fact are hereby denied and rejected.

Background

1. On September 2, 2009, the Authority approved the KKMP and issued the Master Plan Permit PL MASP 13.2.8.

2. The Tax Map Key numbers of the Land Blocks covered by the Master Plan Permit are as follows:

Block A: 2-1-030: 051, 053, 055, and 056

Block B: 2-1-054: 025, 027, 028, and 032

Block C: 2-1-054: 001

Block D: 2-1-053: 032

Block E: 2-1-055: 041, 042, 043, 045, 046, 047, and 052

Block F: 2-1-055: 006, 026, 038, 048, 049, 050, and 051

Block G: 2-1-055: 001, 002, 018, 032, 033, 034, 035, and Lana Lane (between Auahi Street and Ala Moana Boulevard)

Block H: 2-1-056: 010, and Koula Street (between Auahi Street and Ala Moana Boulevard)

Block I: 2-1-056: 014, 015, 016, and Ohe Lane (between Auahi Street and Ala Moana Boulevard)

3. The Master Plan Permit is vested under HAR Chapter 15-22 (the "Vested Rules"), which was in effect at the time the Permit was approved.

4. As required by the 2009 Decision and Order, Applicant and the Authority entered into the Kakaako Master Plan Development Agreement on October 6, 2009.

5. On June 20, 2011, Applicant and the Authority entered into Supplement No. 1 to Master Plan Development Agreement for KKMP ("Supplement No. 1"), which provided that a

portion of the reserved housing requirements of the KKMP may be satisfied by the conversion and sale of units in the Pagoda Terrace apartment complex.

6. On August 8, 2012, the Authority approved an amendment to the Master Plan Permit reflecting the revisions in Supplement No. 1, and addressing additional details regarding reserved housing, open space design guidelines, initial street improvements, and transactions that Applicant was considering at the time.

7. Since the approval of the Master Plan Permit, Applicant and development partners have redeveloped four blocks of the KKMP on the Ewa side of the KKMP area, which include development permits MUZ 120-11 (680 Ala Moana), KAK 13-033 (The Collection), KAK 13-051 (Salt), KAK 13-151 (Keauhou Place and Keauhou Lane), KAK 14-012 (400 Keawe and the Flats at Puunui), and KAK 19-031 (H Mart).

The Application and Proceedings Before the Authority

8. On February 16, 2021, Applicant submitted the Application seeking the following five amendments to the Master Plan Permit:

A. Applicant requests an extension of the effective period of the Master Plan Permit for a minimum of five additional years.

B. Applicant requests the Authority to allow: (1) the joint development of Blocks F and G as one development lot, and (2) confirm that Applicant may transfer towers and floor area from Block F to Block D, and between other blocks within the KKMP area.

C. Applicant requests confirmation that there will be no impact on the balance of the KKMP in the event a project is developed under HRS chapter 201H ("Chapter 201H") within the KKMP area.

D. Applicant requests an increase in the maximum permitted floor area, pursuant to the allowable density under the Vested Rules, under the KKMP to account for the addition of Koula Street as developable area.

E. Applicant asks the Authority to confirm that the KKMP allows flexibility in the number and type of dwellings provided in the KKMP. (PET FOF #8, as amended)

9. Attached to the Application were Exhibits 1–9 and the Declaration of Serge M. Krivatsy.

10. On February 17, 2021, the Authority sent to Applicant a letter entitled "Completeness Review and Automatic Approval for Kamehameha Schools Application to Amend the Permit (PL MASP 13.2.8) for the Kaiaulu O Kakaako Master Plan" advising Applicant that the Application was complete and that all required information had been provided.

11. On February 23, 2021, the Notice of Public Hearings for the Application was published in the Honolulu Star-Advertiser, The Garden Island, Hawaii Tribune-Herald, West Hawaii Today, and Maui News in accordance with the HRS § 206E-5.6.

12. The Notice stated that, in accordance with the Governor's February 12, 2021 Eighteenth Proclamation Related to the COVID-19 Emergency ("Eighteenth Emergency Proclamation"), specifically Section VI (B), ordering the suspension of specific provisions of certain laws including HRS Chapter 92, "public agency meetings and records" and social distancing guidelines issued by state and federal public health agencies in an effort to contain community spread of the ongoing COVID-19 Virus, the public hearings would be convened virtually via Zoom.

13. In accordance with the provisions of HRS § 206E-5.6, HCDA notified the President of the Senate and the Speaker of the House of Representatives of the Hawaii State Legislature of the Notice of Public Hearings.

14. HCDA notified elected officials and the following federal, state, and county agencies, and the utility companies of the Application.

Federal

- United States Postal Service

State of Hawaii

- Department of Education
- Department of Transportation
- Department of Transportation, Highways Division
- Department of Transportation, Airports Division
- Department of Health

City and County of Honolulu

- Department of Transportation Services
- Department of Planning and Permitting
- Honolulu Board of Water Supply
- Office of Climate Change, Sustainability, and Resiliency
- Department of Environmental Services
- Honolulu Authority for Rapid Transportation
- Honolulu Police Department
- Honolulu Fire Department

Utility Companies

- Hawaiian Electric Company, Inc.
- Hawaii Gas
- Hawaiian Telcom, Inc.
- Charter Communications

15. The deadline to petition for intervention in the proceeding was March 15, 2021. Notice of the deadline was published. No petition for intervention was received.

16. A prehearing conference in this proceeding was held on March 18, 2021, at 3:30 p.m., via Zoom. Calvert G. Chipchase, Esq. and representatives of Petitioner appeared.

17. On March 19, 2021, the Authority entered a Pre-Hearing Order, which set a deadline for Petitioner to provide the Authority with a final witness list, a final exhibit list, and all exhibits by March 25, 2021. (PET FOF #16)

18. On March 25, 2021, Applicant submitted its final witness list, final exhibit list, Exhibits 1–13, the Supplemental Declaration of Serge M. Krivatsy, the Declaration of Nathaniel Kinney, the Declaration of Paul Brewbaker, Ph.D., and the Declaration of Rob Iopa.

19. Prior to the contested case hearing on April 7, 2021, the Authority received public comments from the Pacific Resource Partnership, the Hawaii Laborers' Union Local 368, Hawaii Food & Wine Festival, and four individuals. All public comments were in support of the proposed amendments to the Master Plan Permit.

20. The Authority also received comments from the Honolulu Fire Department, the City and County of Honolulu Department of Planning and Permitting, and the State of Hawaii Department of Transportation.

April 7, 2021 Public Hearing

21. On April 7, 2021, pursuant to the Notice, the contested case hearing on the amendment to the Master Plan Permit was held virtually via Zoom. Calvert Chipchase, Esq. and Jarrett Dempsey, Esq. appeared for Applicant.

22. Petitioner submitted, and the Hearings Officer accepted into the record, Applicant's Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13; the Declaration of Serge M. Krivatsy; the Supplemental Declaration of Serge M. Krivatsy; the Declaration of Nathaniel Kinney; the Declaration of Paul Brewbaker, Ph.D.; and the Declaration of Rob Iopa.

No.	Description
	Declaration and Supplemental Declaration of Serge Krivatsy
	Declaration of Nathanial Kinney
	Declaration of Paul Brewbaker, Ph.D
	Declaration of Rob Iopa
1	Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit. September 2, 2009.
2	Master Plan Development Agreement for the Kaiaulu o Kakaako Master Plan. October 6, 2009.
3	Supplement No. 1 to Master Plan Development Agreement. June 20, 2011.
4	Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit Amendment. August 8, 2012.
5	Proposed Master Plan Amendment. February 2021.
6	Kaiaulu o Kakaako Master Plan. November 26, 2008.
7	Excerpt from the Ward Neighborhood Master Plan. April 2, 2008.
8	Tax Plat of Koula Street.
9	City and County of Honolulu Resolution 20-50 Regarding Koula Street. February 19, 2020.
10	Map of Koula Street with metes and bounds description. March 6, 2021.
11	Title Guaranty Report Regarding Koula Street. April 2, 2014.
12	Table 7-1 from Mauka Area Plan regarding Kakaako Mauka Area Roads.
13	Curriculum Vitae of Paul H. Brewbaker, PhD.

23. The Authority qualified witnesses Mr. Krivatsy, Mr. Kinney, Dr. Brewbaker and Mr. Iopa as experts in their designated areas of expertise.

24. Applicant called Walter Thoemmes (Managing Direction of KS' Commercial Real Estate Division), Serge M. Krivatsy (Director of Planning and Development of KS' Commercial Real Estate Division), Nathaniel Kinney (the Executive Director of the Hawai'i Construction Alliance), Paul Brewbaker, Ph. D. (economist), and Rob Iopa (President of WCIT Architecture) as witnesses.

25. Mr. Thoemmes and Mr. Krivatsy provided live testimony and answered questions from the Authority.

26. Applicant presented a PowerPoint presentation during the testimony of Mr. Thoemmes and Mr. Krivatsy.

27. The remaining witnesses rested on the testimony in their declarations and were available to take questions from the Authority.

28. Following Applicant's presentation of its case, the Authority heard testimony from Christopher Delaunay of the Pacific Resource Partnership in support of the proposed amendments.

29. Thereafter, the Authority closed the evidentiary portion of the contested case hearing, subject to receipt of the PowerPoint presentation as Exhibit 14.

30. On April 12, 2021 Applicant submitted the PowerPoint presentation as Exhibit 14.

HAR § 15-22-206 Master Plan Review and Extension

31. Pursuant to HAR § 15-22-206, the Authority may amend and extend the KKMP provided there is a review of compliance with the terms and conditions of the approved master plan. Pursuant to HAR § 15-22-205(e), the Authority may extend the Master Plan Permit for an

effective period not to exceed fifteen years if the Authority determines that the Master Plan Permit is being implemented to its satisfaction.

32. Applicant describes the first phase of the KKMP as "Increment I" and the second and final phase as "Increment II." Under the current KKMP for both Increments, the Applicant proposed to provide a total of 2,750 total dwelling units (20 percent as reserved housing), a maximum of 2,072,453 square feet of commercial space, and approximately 126,463 square feet of open space. As part of Increment I, Applicant has developed 1,336 residential units, 556 units of affordable and/or workforce housing meeting the HCDA's affordable housing guidelines; approximately 184,000 square feet of commercial space; and more than 65,000 square feet of open space.

33. As a part of the current KKMP, the Applicant proposed to provide a mixed-used development for each master plan project. Residential projects within Increment I are accompanied by commercial space, which is typically located on the ground floor.

34. As a part of the current KKMP, the Applicant proposed to provide approximately 140,174 square feet of public facilities dedication. To date, the Applicant has provided 47,015 square feet of public facilities that are associated directly with Increment I developments and has established a public facility dedication credit of approximately 58,853 square feet, with an additional 15,000 square feet in dispute.

35. Applicant's progress in implementing the KKMP is provided in the following table:

Description	KKMP Requirement	KKMP Provided To-Date	Progress
Total Floor Area	Max 6,498,650 sf	1,706,469 sf	Under Allowable
Residential Area	Max 4,426,197 sf	1,522,469 sf	Under Allowable
Commercial Area	Max 2,072,453 sf	184,273 sf	Under Allowable
Total Dwelling Units	2,750[4]	1,336	49%
A – Keauhou Lane	--	209	--
A – Keauhou Place	--	423	--
B – 400 Keawe	--	95	--
B – Flats at Puunui	--	88	--
E – Collection	--	467	--
F – 680 Ala Moana	--	54	--
Reserved Housing Units[5]	550 (20%)	556[1]	>100%
A – Keauhou Lane	--	209	--
A – Keauhou Place	--	85	--
B – 400 Keawe	--	20	--
B – Flats at Puunui	--	88	--
F – 680 Ala Moana	--	54	--
Rycroft Terrace[2]	--	100	--
Open Space	126,463 sf	65,116 sf	51%
Public Facilities[3]	140,174 sf	105,868 sf	76%
Recreation Space	151,250 sf	70,510 sf	46%

Note 1: Total reserved housing units includes Rycroft Terrace (located outside Kakaako)
Note 2: 162 units at Rycroft Terrace were dedicated as reserved housing, but KS only received 100-unit credit
Note 3: The 105,868 sf provided includes 58,853 sf of public facilities credit
Note 4: The total number of dwelling units is an estimate and may be exceeded.
Note 5: The final ratio will depend on the number of dwelling units that are constructed.

36. Based on the above findings, the Applicant provides that Increment I of the KKMP has been implemented in compliance and consistency with the approved Master Plan Permit.

37. Applicant seeks an extension of the KKMP of a minimum of five years. During the April 7, 2021 public hearing, Applicant stated a KKMP time extension beyond five years would be beneficial if the Authority so decides.

38. The Applicant provided evidence that the KKMP is being implemented in a satisfactory manner justifying the request for a time extension of the KKMP.

39. The proposed amendments are sought in order to facilitate the development of the remaining blocks (Blocks C, D, G, H, and I) as Increment II.

Koula Street

40. Applicant has determined that it owns the portion of Koula Street between Ala Moana Boulevard and Auahi Street.

41. Applicant has obtained a preliminary title report confirming that it owns this portion of Koula Street.

42. The portion of Koula Street owned by Applicant has an area of 12,174 square feet.

43. The City and County of Honolulu staff has agreed to abandon any implied easement rights over the portion of Koula Street that is owned by Applicant through a resolution. The resolution is currently under review by City and County agencies.

44. Table 7-1 of the Mauka Area Plan (2011) identifies Koula Street for possible closure.

45. Figure 9 of the Mauka Area Plan (2005) does not identify Koula Street as a major local street.

46. Page 32 of the Mauka Area Plan (2005) notes that existing streets not needed for traffic flow or access may be closed.

Economic Impact

47. Paul Brewbaker, Ph.D. estimated the economic impact of the general scenarios presented in pages C-14 through C-17 of Applicant's Master Plan Amendment, which was attached as Exhibit 5 to the Application.

48. Dr. Brewbaker concluded that the following economic impacts in present values would result from the implementation of Increment II:

A. Under a baseline scenario (Scenario 1) without 201H projects: approximately $1.89 billion in output, $600 million in earnings, $117 million in State taxes, and an average of 1,645 annual jobs over six years (one job for one year).

B. Under a scenario (Scenario 2) including an additional 460,000 square feet of floor area including one 201H project: approximately $2.14 billion in output, $700 million in earnings, $130 million in State taxes, and an average of 1,900 annual jobs.

C. Under a scenario (Scenario 3) including an additional 1 million square feet of floor area including two 201H projects: approximately $2.54 billion in output, $800 million in earnings, $150 million in State taxes, and an average of 2,200 annual jobs.

D. Permanent cumulative present value City and County of Honolulu residential property tax receipts in constant dollars over thirty years: $74 million (Scenario 1); $84 million (Scenario 2); $101 million (Scenario 3).

E. Permanent cumulative maintenance and operations impacts over thirty years:

i. Scenario 1: $841 million in output, $278 million in earnings, $51 million in State taxes, and an annual average of 158 jobs.

ii. Scenario 2: $976 million in output, $323 million in earnings, $59 million in State taxes, and an annual average of 183 jobs.

iii. Scenario 3: $1.14 billion in output, $377 million in earnings, $69 million in State taxes, and an annual average of 213 jobs.

49. The joint development of Blocks F and G as one development lot is necessary in order for the project to comply with HAR § 15-22-203(b)(1)(D). Applicant estimates that the joint development of Blocks F and G will result in a Floor Area Ratio ("FAR") of 2.559. The record supports these requested amendments.

50. The record supports the remaining requested amendments to the Master Plan Permit.

CONCLUSIONS OF LAW

1. The Authority has jurisdiction to issue master plan permits and approve master plan amendment applications pursuant to HRS §§ 206E-7 and 206E-33 and pursuant to HAR §§ 15-22-202 and -206(d).

2. Master plan permit amendments are deemed approved if no decisions are made granting or denying them within 200 days from the date HCDA determines the Application was complete. HAR § 15-22-23(a)(1). The 200-day deadline commenced on February 17, 2021, when the Application was deemed complete. The Application will be deemed approved if no decision is made granting or denying it by September 5, 2021.

3. Pursuant to HAR § 15-22-205(e), the Authority may extend a master plan if the master plan is being implemented to the satisfaction of the Authority. In no event may the effective period of a master plan exceed fifteen years.

4. Extending the KKMP for ten additional years is reasonable and appropriate pursuant to HAR § 15-22-205(e).

5. Pursuant to HAR § 15-22-203(b)(1), the transfer of density between KKMP blocks is permissible.

6. The joint development of Blocks F and G is consistent with the 2005 Mauka Rules. The estimated FAR is consistent with the 2005 Mauka Area Rules.

7. HRS § 201H-38 provides:

> The Hawaii Housing Finance and Development Corporation may develop on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of, housing projects that shall be exempt from all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, construction standards for subdivisions, de-

velopment and improvement of land, and the construction of dwelling units thereon.

8. The exemption set forth in HRS § 201H-38 extends to projects developed in areas under the jurisdiction of the Authority. Therefore, projects developed under HRS § 201H-38 are eligible for certain exemptions from a master plan that was approved under the Authority's rules.

9. Consequently, the development of a 201H project within the KKMP would have no impact on the remaining area of the KKMP, and the overall development potential of the remainder of the KKMP would be calculated based on the maximum allowable floor area ratio of the remaining area that is not developed under HRS Chapter 201H.

10. HAR § 15-22-205(f) permits the Authority to allow a petitioner to meet public facilities dedication requirements by allowing a petitioner to dedicate land areas anywhere within a master planned area subject to certain requirements. Applicant's request that public facilities provided on the same block as a potential 201H project shall not be impacted or removed from the KKMP and may be used to satisfy corresponding obligations in the KKMP is consistent with this section, the Mauka Area Plan, and Authority rules.

11. The closure of Koula Street is consistent with the 2005 Mauka Area Plan as it is not shown as a mapped street on the Figure 9, Roadway Plan in the 2005 Mauka Area Plan.

12. HAR § 15-22-200 provides that a purpose of the 2005 Mauka Area Rules is to allow for greater flexibility in the development of lots within master planned areas than would otherwise be possible through the normal lot-by-lot development approach. Applicant's request to allow for flexibility in the number of units permissible in the KKMP area, provided that such units are developed in accordance with all applicable rules and laws, including the maximum FAR for the KKMP, is consistent with HAR § 15-22-200.

13. Pursuant to HAR § 15-22-205(b), and upon consideration of HRS Chapter 206E, HAR Chapters 15-22 and 15-219, and the record before the Authority, the Authority finds and concludes that the requested amendments to the Master Plan Permit are consistent with the provisions of the 2005 Mauka Area Plan and HAR Chapter 15-22 Vested Rules.

RULINGS ON PROPOSED FOF AND COL

If any conclusions of law shall be determined to be findings of fact, it is intended that every such conclusion of law shall be construed as a finding of fact. Conversely, if any of the above findings of fact shall be determined to be conclusions of law, it is intended that every such finding of fact shall be construed as a conclusion of law.

Any proposed FOF or COL not already ruled upon by HCDA by adoption herein, or rejected by clearly contrary FOF or COL herein, is hereby denied and rejected.

DECISION AND ORDER

Based on the foregoing FOF and COL, and upon consideration of all applicable statutes, rules and regulations; the evidence, testimony and argument presented by the Applicant; and all other evidence appearing in the record, the Authority concludes that the Application to amend the KKMP satisfies the requirements of HRS Chapter 206E, the Vested Rules, and the vision and intent of the applicable Mauka Area Plan for a master plan permit.

Pursuant to HRS § 15-22-206, the Authority has reviewed the Master Plan Permit progress and determines that the Applicant is implementing the KKMP to the satisfaction of the Authority.

IT IS HEREBY ORDERED that the Application to amend the Master Plan Permit is APPROVED, subject to the following conditions:

1. The Master Plan Permit is extended by a period of ten years beyond its current expiration date of September 1, 2024 and shall be valid until September 1, 2034.

2. Applicant and its development partners shall be permitted to jointly develop Blocks F and G of the KKMP. Such joint development shall be subject to further approval by the HCDA at the planned development permit stage pursuant to HAR § 15-22-80.

3. Applicant shall be permitted to transfer density and towers between Blocks F and D and between other blocks within the KKMP provided that: (1) Applicant does not exceed the maximum permitted floor area ratio for the KKMP and (2) the density and tower transfer are in compliance with the 2005 Mauka Area Plan and Vested Rules.

4. Upon issuance of HRS 201H-38 exemption from the Hawaii Housing Finance and Development Corporation and 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 shall then be recalculated such that the 201H project will not affect the development of the remaining area within the KKMP. Community benefits provided in conjunction with any 201H project, including but not limited to the central plaza and the Cooke Street park-to-park promenade, shall not be impacted or removed from the KKMP and may be used to satisfy the public benefit obligations in the KKMP.

5. The 40' wide park-to-park promenade on both sides of Cooke Street, from Pohukaina Street to Ala Moana Boulevard, shall be provided regardless of the Applicant, or its development partner(s), developing a 201H project on land blocks adjoining Cooke Street. The park-to-park promenade conceptual design guidelines shall be submitted for review by the HCDA Executive Director prior to commencing construction on the first development on any of the land blocks adjoining Cooke Street.

6. Construction of the park-to-park promenade shall occur incrementally as each land block on which the park-to-park promenade will be located (Blocks C, D, G and H) is redeveloped. Construction of the park-to-park promenade shall be initiated upon the redevelopment of any of the land blocks on which the park-to-park promenade will be located (Blocks, C, D, G and H) and shall be completed in its entirety within the earlier of (1) the completed redevelopment of all of the land blocks on which the park-to-park promenade will be located (Blocks C, D, G and H) or (2) September 1, 2031. If the park-to-park promenade has not been completed within the period established by this condition, KS shall record against the land blocks on which the park-to-park promenade will be located a covenant running with the land, that will require KS to complete the park-to-park promenade and dedicate the area of the park-to-park promenade via a perpetual easement for public use before the expiration of the master plan permit. KS shall

have the right to improve and maintain the park-to-park promenade in any manner that does not materially impact the public's use. If a covenant is recorded against the land, KS shall submit a copy to the Authority.

7. Construction of the central plaza, with a minimum of 25,000 square feet of open space, shall be completed by the earlier of (1) the redevelopment of the land block on which the central plaza will be located or (2) September 1, 2031. If the central plaza has not been completed within the period established by this condition, KS shall record against the land block on which the central plaza will be located a covenant running with the land that will require KS to complete the central plaza and dedicate the area of the central plaza via a perpetual easement for public use before the expiration of the master plan permit. KS shall have the right to improve and maintain the central plaza in any manner that does not materially impact the public's use. If a covenant is recorded against the land, KS shall submit a copy to the Authority. The central plaza may be provided on Block D, C, G or H. The central plaza design shall be submitted for review by the HCDA Executive Director prior to commencing construction of it.

8. Upon the City's approval of the resolution abandoning any implied easement rights over the portion of Koula Street owned by the Applicant, the KKMP allowable floor area shall be increased by 42,609 square feet (3.5 x 12,174 square feet of land area) to account for Applicant's ownership of Koula Street.

9. Any additional reserved housing and public facilities dedication requirements arising out of the implementation of the amended Master Plan Permit shall be provided in accordance with the provisions of the Vested Rules.

10. A publicly accessible pedestrian connection shall be provided between the developments on Blocks H and I to provide pedestrian access between Ala Moana Boulevard and Auahi Street.

11. Applicant shall submit the approved update to the KKMP to the Authority in the form and substance of its Exhibit 5 to the Application within ninety (90) days of the filing of this D&O or prior to submitting the first Planned Development Permit application for Increment II, whichever comes first.

12. Applicant shall address the recommendations of the Hawaii Department of Transportation ("DOT") set forth in DOT's letter of March 18, 2021 in a manner to be agreed upon between Applicant and DOT. Once agreement with DOT is reached, the Applicant shall provide a copy of the agreement to the HCDA Executive Director within 60 days from the date of the agreement.

13. Applicant shall comply with all applicable Federal, State, and City and County of Honolulu laws, statutes, ordinances, rules and regulations in connection with the implementation of the Master Plan.

14. The Executive Director of the Authority is authorized to enter into any amendment to the Master Plan Development Agreement consistent with this Order.

15. Prior to submitting the first Planned Development Permit application for Increment II, the Applicant shall record a memorandum of this Order with the Bureau of Conveyances, and any amendment to the Master Plan Development Agreement in a form and with content to be reasonably prescribed by the Executive Director of the Authority, and the terms and conditions of thereof shall run with the land. Proof of such filing in the form of copies of the covenants certified by the appropriate agency shall be submitted to HCDA.

ADOPTION OF ORDER

The undersigned Members, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this June 2, 2021. This ORDER and its ADOPTION shall take effect upon the date this ORDER is approved by the Authority.

Done at Honolulu, Hawaii, June 2, 2021.

Hawaii Community Development Authority
(Kakaako Members)

	Chason Ishii
Jason T Okuhama	Jason Okuhama
	Wei Fang
Excused	Daniel Ito
David Rodriguez	David Rodriguez, Designated Representative of the Director of Department of Transportation
	Craig Hirai, Director of Finance Department of Budget and Finance
Kevin G Sakoda	Kevin Sakoda
John P Whalen	John Whalen, Chairperson
	Phillip Hasha

APPROVED AS TO FORM:

Kelly Suzuka

Deputy Attorney General

BEFORE THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY
OF THE STATE OF HAWAII

In re Application of THE TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP Applicant 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 KAK 21-005

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document will be served on the parties below by hand delivery or by certified mail with return receipt requested, as noted:

CERTIFIED MAIL:
CALVERT G. CHIPCHASE, Esq.
CHRISTOPHER T. HARRISON
JARRETT A. DEMPSEY
IMRAN NAEEMULLAH
Cades Schutte LLP
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813-4212

CERTIFIED MAIL:
SERGE M. KRIVATSY
Director of Planning and Development
Kamehameha Schools
1240 Ala Moana Boulevard, Suite 200
Honolulu, Hawaii 96814

HAND:
BRYAN YEE, Esq.
Supervising Deputy Attorney General
Department of the Attorney General
State of Hawaii
425 Queen Street
Honolulu, Hawaii 96813

Honolulu, Hawaii, June 2, 2021

Deepak Neupane, P.E., AIA
Executive Director

EXHIBIT H

NEIL ABERCROMBIE
GOVERNOR OF HAWAII

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

JESSE K. SOUKI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD, STE 555
KAPOLEI, HAWAII 96707

November 21, 2014

Anthony J. H. Ching, Executive Director
Hawaii Community Development Authority
461 Cooke Street
Honolulu, Hawaii 96813

LOG NO: 2014.05184
DOC NO: 1411SL24
Archaeology

Dear Mr. Ching:

SUBJECT: **Chapter 6E-42 Historic Preservation Review –**
Archaeological Monitoring Plan for Kamehameha Schools Kaka‘ako Block I
Honolulu Ahupua‘a, Honolulu (Kona) District, Island of O‘ahu
TMK: (1) 2-1-056:002, 007, and 008

Thank you for the opportunity to review the revised draft plan titled *Archaeological Monitoring Plan for Kamehameha Schools Kaka‘ako Block I, Honolulu Ahupua‘a, Honolulu (Kona) District, O‘ahu TMKs: [1] 2-1-056:002, 007, and 008* (J. Tulchin and Hammatt, November 2014). We received this submittal on November 18, 2014. The Archaeological inventory survey plan (Tulchin, May 2013) was reviewed and accepted by SHPD on May 31, 2013 (Log No. 2013.3486, Doc. No. 1305SL43). The archaeological inventory survey report (Tulchin et al. 2014) was received and accepted by SHPD on October 24, 2014 (Log No. 2014.04732, 2014.04752, Doc. No. 1410SL08).

The archaeological inventory survey (AIS) was conducted at the request of Kamehameha Schools (KS). The Block I project, known as Vida at 888 Ala Moana Boulevard, is a mixed-use joint development between The MacNaughton Group and Kobayashi Group (MK) on land presently owned by Kamehameha Schools. MK will be responsible for implementation of this archaeological monitoring plan. The project area is within the block bounded by Auahi Street, Ward Avenue, Ala Moana Boulevard, and Koula Street. The project area totals approximately 3.4 acres. The project will include construction of a 400-foot tall, 38-story mixed-use building, structured parking, and landscaping and open spaces. Ground-disturbing construction activities associated with the project will include demolition of existing structures, foundation slabs, and utility lines; construction of new foundations, building footings, and retaining walls; and installation of new utility lines.

The AIS report documented six newly-identified historic properties: 50-80-14-7578 (early to mid-20th century cultural layer and associated coral pavement and pit features), 50-80-14-7579 (early 20th century fill layer and associated structural remains), 50-80-14-7580 (pre- and post-Contact cultural layer with human burial cluster), 50-80-14-7581 (pre-Contact traditional Hawaiian bundle burial), 50-80-14-7582 (isolated human skeletal remains), and 50-80-14-7583 (isolated human skeletal remains). The recommended mitigation measures included (1) in situ preservation of the Site 7580, 7581 and 7583 burials, a portion of the Site 7580 cultural layer and any associated pit features and burials, and the Site 7582 burial proposed for on-site relocation; (2) archaeological data recovery excavations within Site 7580; (3) burial treatment for all burials and isolated human remains in Sites 7580, 7581, 7582, and 7583; and (4) archaeological monitoring for the entirety of the project area.

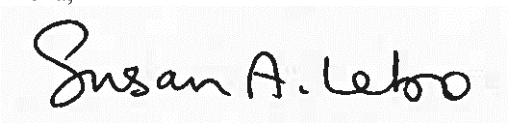
The archaeological monitoring plan indicates that on-site archaeological monitoring will occur for all ground disturbing work extending more than 30 cmbs. It will focus on better defining the horizontal extent, nature, function,

and temporal association of the historic properties identified during the archaeological inventory survey (Tulchin et al. 2014). The 20th century cultural layers (SIHP 7578 and 7579) will primarily be recorded in the field with only a representative sample of potentially datable diagnostic artifact or sample materials being collected for laboratory analysis. Where newly exposed (i.e., beyond the AIS and DR interpolated site boundaries), measured bulk samples will be collected and screened from the 19th century cultural layer (SIHP 7580) and from possible fire- and/or cooking-related pit features. Within the AIS and DR interpolated site boundaries, the collection and screening of measured bulk samples will be limited to possible fire- and/or cooking-related pit features.

The revisions adequately address the issues and concerns raised in our earlier correspondence (November 13, 2014; Log No. 2014.04733, Doc. No. 1411SL14). The archaeological monitoring plan meets the requirements specified in Hawaii Administrative Rules (HAR) §13-279-4. It is accepted. Please send one hardcopy of the document, clearly marked FINAL, along with a copy of this review letter and a text-searchable PDF version on CD to the Kapolei SHPD office, attention SHPD Library.

Please contact me at (808) 692-8019 or at Susan.A.Lebo@hawaii.gov if you have any questions or concerns regarding this letter.

Aloha,



Susan A. Lebo, PhD
Oahu Lead Archaeologist

cc: Dr. Hallett H. Hammatt, President, Cultural Surveys Hawai‘i (hhammatt@culturalsurveys.com)
Mr. Matthew Pennaz, Sr. Project Manager, Kobaysahi Group, LLC (mpennaz@kobayashi-group.com)
Mr. Jason Alapaki Jeremiah, Sr. Manager, Cultural Resources, Kamehameha Schools (jajeremi@ksbe.edu)
Mr. Douglas Borthwick, Project Manager, Cultural Surveys Hawai‘i (dborthwick@culturalsurveys.com)

EXHIBIT I

Berhanu, Sergut

From: Donaldson, James A <James.Donaldson@charter.com>
Sent: Thursday, June 9, 2022 11:02 AM
To: Berhanu, Sergut
Subject: [EXTERNAL] Alia - Block I
Attachments: ALIA - BLOCK I @ 888 ALA MOANA BLVD.PDF; Contractor Notes 2016 (R3).pdf

Attn: Ms. Sery Berhanu

Subject: ***Alia – Block I***

Dear Ms. Berhanu

Thank you for the opportunity to review and comment on the proposed Alia - Block I construction Project. According to our drawings. We may be affected by the proposed work. We have aerial and underground equipment nearby. SPECTRUM is submitting drawings with information on the facilities within the project area. Please note these drawings are to be used for reference only. The exact locations, depth and routing of all underground CATV facilities must be verified in the field due to construction variances. In any case toning through the One Call Center will identify our facilities in the immediate area

At this time, SPECTRUM occupies both CATV and Hawaiian Telcom's (HTCO) duct systems. The sections of this project that is highlighted in your scope of work, may conflict with existing CATV facilities.

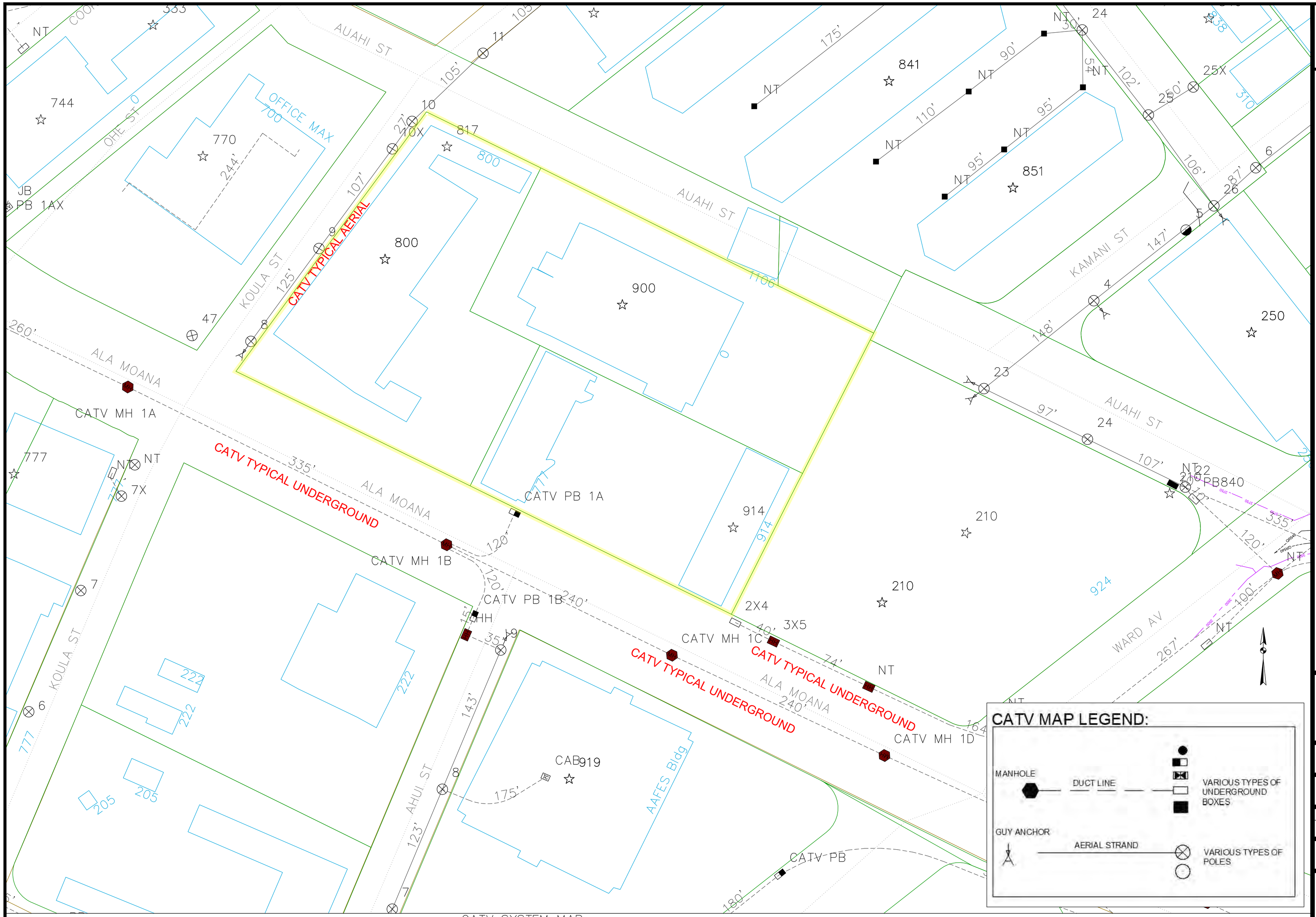
This information has been provided to help minimize delays and prevent damage to existing CATV structures within the project area. Should you have any questions or concerns, please feel free to contact me at 808-292-7721, or email me at James.Donaldson@charter.com

For Future servicing to this property we would prefer to come from Ala Moana Blvd side, as we have underground facilities in place.

Attachments:
ALIA - BLOCK I @ 888 ALA MOANA BLVD.pdf (catv map of area)
Contractor Notes 2016 (R3).pdf (Contractor Notes)

Thank you,

James Donaldson
SPECTRUM OSP Engineering | Construction Coordinator
151 Pali'i St , Mililani Hi 96789
T: 808-292-7721
E: james.donaldson@charter.com



CATV MAP LEGEND:

MANHOLE	
DUCT LINE	
VARIOUS TYPES OF UNDERGROUND BOXES	
GUY ANCHOR	
AERIAL STRAND	
VARIOUS TYPES OF POLES	

CATV SYSTEM MAP
SCALE: NOT TO SCALE

SPECTRUM
200 AKAMAINUI STREET
MILILANI, HI 96789-3999
PHONE # (808) 625-2100

ALIA – BLOCK I

CATV MAP

888 ALA MOANA BLVD

TITLE:
LOCATION MAP
NOTES
CATV RISER DIAGRAM
CATV SYSTEM MAP

DATE: 6-9-22

SCALE: NTS

DES. BY	DR. BY	CHK. BY
JD	JD	RM

PROJECT NO: N/A

SHEET NO: 1

1 OF 1 SHEETS

FILENAME : ALIA – BLOCK 1 @ 888 ALA MOANA BLVD
PLOT SCALE: NTS

GENERAL CONTRACTOR'S NOTES:

1. ***THE CONTRACTOR SHALL PROCURE AND PAY FOR ALL LICENSES AND PERMITS AND SHALL GIVE ALL NOTICES NECESSARY AND INCIDENT TO THE DUE AND LAWFULL PROSECUTION OF THE WORK.***

2. ***THE LOCATIONS OF EXISTING UTILITIES ARE APPROXIMATE ONLY. THE CONTRACTOR SHALL VERIFY THEIR LOCATIONS AND SHALL BE RESPONSIBLE FOR ANY DAMAGES TO THESE UTILITIES AS A RESULT OF HIS OPERATIONS. ADJUSTMENTS TO THE NEW DUCTLINE ALIGNMENT, IF REQUIRED, SHALL BE MADE TO PROVIDE THE REQUIRED CLEARANCES.***

3. ***THE CONTRACTOR SHALL BRACE ALL POLES OR LIGHT STANDARDS NEAR THE NEW DUCTLINE, MANHOLE OR HANDHOLE DURING ITS OPERATIONS.***

4. ***THE CONTRACTOR SHALL SAW-CUT A.C. PAVEMENT, CONCRETE GUTTER, AND CONCRETE SIDEWALK WHEREVER NEW MANHOLES, HANDHOLES, PULLBOXES OR DUCTLINES ARE TO BE PLACED AND SHALL RESTORE TO EXISTING CONDITION OR BETTER.***

5. ***THE UNDERGROUND PIPES, CABLES, OR DUCTLINES KNOWN TO EXIST BY THE ENGINEER FROM HIS SEARCH OF RECORDS ARE INDICATED ON THE PLANS. THE CONTRACTOR SHALL VERIFY THE LOCATIONS AND DEPTHS OF THE FACILITIES AND EXERCISE PROPER CARE IN EXCAVATING IN THE AREAS. WHEREVER CONNECTIONS OF NEW UTILITIES TO EXISTING UTILITIES ARE SHOWN ON THE PLANS, THE CONTRACTOR SHALL EXPOSE THE EXISTING LINES AT THE PROPOSED CONNECTIONS TO VERIFY THEIR LOCATIONS AND DEPTHS PRIOR TO EXCAVATION FOR THE NEW LINES.***

6. ***THE CONTRACTOR, AT HIS OWN EXPENSE, SHALL KEEP THE PROJECT AND SURROUNDING AREA FREE FROM DUST NUISANCE. THE COST FOR SUPLEMENTARY MEASURES, WHICH WILL BE REQUIRED BY THE CITY AND COUNTY, SHALL BE BORNE BY THE CONTRACTOR.***

7. ***PRIOR TO THE EXCAVATION OF THE DUCTLINE, THE CONTRACTORSHALL REQUEST THAT OCEANIC CABLE COMPANY TO LOCATE EXISTING DUCTLINE WHEREVER REQUIRED.***

8. ***THE CONTRACTOR SHALL TAKE NECESSARY PRECAUTION NOT TO DAMAGE EXISTING CABLES OR DUCTS. ANY WORK INVOLVING EXISTING CABLES OR DUCTS SHALL BE DONE IN THE PRESENCE OF THE OCEANIC CABLE COMPANY INSPECTOR OR HIS REPRESENTATIVE. TEMPORARY CABLE AND DUCT SUPPORT SHALL BE PROVIDED WHEREVER NECESSARY.***

9. ***THE CONTRACTOR SHALL NOTIFY THE OCEANIC CABLE COMPANY INSPECTOR 72 HOURS PRIOR TO THE START OF WORK ON CATV INFRASTRUCTURE, POURING CONCRETE, OR BACKFILLING. OCEANIC'S INSPECTOR(S): PERRY SAMUELU AT 387-2496 OR PAUL CASPILLO AT 479-1637.***

10. ***WHEREVER CONNECTIONS TO EXISTING UTILITIES ARE SHOWN ON THE PLANS, THE CONTRACTOR SHALL EXPOSE THE EXISTING LINES PRIOR TO EXCAVATION OF THE MAIN TRENCHES TO VERIFY THEIR LOCATIONS AND DEPTHS.***

11. ***CONTRACTOR SHALL PROVIDE ALL MATERIALS AND FURNISH ALL LABOR AND EQUIPMENT NECESSARY TO INSTALL THE DUCTLINE IN PLACE COMPLETE.***

12. ***THE CONTRACTOR SHALL BE RESPONSIBLE FOR LAYING OUT ALL REQUIRED LINES AND GRADES AND SHALL PRESERVE ALL BENCH MARKS AND WORKING POINTS NECESSARY TO LAY OUT THE WORK CORRECTLY. THE NEW DUCTLINE SHALL BE ADJUSTED BY THE CONTRACTOR TO SUIT THE EXISTING CONDITIONS AND THE DETAILS AS DESCRIBED IN THE PLANS.***

13. ***THE CONTRACTOR, AT HIS OWN EXPENSE, SHALL KEEP THE PROJECT AREA FREE FROM DUST NUISANCE. THE WORK SHALL BE IN CONFORMANCE WITH THE AIR POLUTION CONTROL STANDARDS AND REGULATIONS OF THE STATE OF HAWAII, DEPARTMENT OF HEALTH.***

14. ***THE LOCATION OF CATV FACILITIES SHOWN ON PLANS ARE FROM EXISTING RECORDS WITH VARYING DEGREES OF ACCURACY AS TO ITS ACTUAL FIXED LOCATION. THE CONTRACTOR SHALL USE EXTREME CAUTION WHEN WORKING IN CLOSE PROXIMITY OF CATV FACILITIES.***

15. ***THE CONTRACTOR SHALL OBTAIN EXCAVATION PERMIT CLEARANCE FROM OCEANIC'S ENGINEERING SECTION LOCATED AT 200 AKAMAINUI ST., MILILANI TECH PARK.***

16. ***FOR ANY FIELD ASSISTANCE OR VERIFICATION OF CATV FACILITIES, THE CONTRACTOR SHALL CALL OCEANIC CABLE AT 625-2100 AND ASK FOR THE OSP ENGINEERING DEPARTMENT.***

17. ***ANY WORK REQUIRED TO RELOCATE CATV FACILITIES SHALL BE DONE BY OCEANIC CABLE AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL COORDINATION REQUIREMENTS AND ASSOCIATED COSTS.***

18. ***ANY DAMAGE TO OCEANIC'S FACILITIES SHALL BE REPORTED TO OTWC'S TOC DEPARTMENT AT 625-8169.***

19. ***THE CONTRACTOR SHALL TUNNEL UNDER EXISTING CONCRETE CURB AND GUTTER AS NECESSARY TO EXTEND CONDUIT INTO EXISTING CATV PULLBOX AND INTO THE PROPOSED POWER SUPPLY PULLBOX.***

20. ***ALL EXISTING IMPROVEMENTS THAT ARE DISTURBED DURING THE CONSTRUCTION PHASE SHALL BE RESTORED TO ITS ORIGINAL OR BETTER CONDITION AT NO COST TO THE CITY IN ACCORDANCE WITH CITY'S STANDARDS.***

21. ***AT LOCATIONS WHERE EXISTING CATV PULLBOX REPLACEMENT IS PROPOSED, THE CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTION NOT TO DAMAGE THE EXISTING CABLES IN THE PULLBOX. ALL DAMAGES TO EXISTING CABLES SHALL BE REPAIRED BY OCEANIC CABLE AND PAID FOR BY THE CONTRACTOR.***

22. ***COORDINATE ALL PENETRATION OF TELEPHONE PULLBOXES WITH HAWAIIAN TEL INSPECTOR.***

23. ***SMOOTH FINISH INSIDE WALL OF EXISTING PULLBOXES AND HAND-HOLES TO ITS ORIGINAL CONDITION OR BETTER.***

24. ***ALL NEW CONCRETE ENCASED CONDUIT SHALL BE PVC PIPE-SCHEDULE 40. ALL NEW DIRECT-BUIRED CONDUIT SHALL BE PVC PIPE-SCHEDULE 80. USE OF ANY OTHER MATERIAL TYPE (GTS, ETC.) SHALL BE LIMITED TO MATCHING EXISTING FACILITES. CONNECTION OF DISSIMILAR MATERIALS TO REQUIRE APPROVAL FROM OTWC INSPECTOR AND ENGINEERING DEPT.***

25. ***THE CONTRACTOR SHALL PLACE POLY CORD THROUGH OUT PROJECT, AND SECURE IN MANHOLES, HANDHOLES, AND PULLBOXES.***

26. ***FOR 3" CONDUITS OR LARGER, THE CONTRACTOR SHALL INSTALL NEPTCO WP1800 MULETAPE OR APPROVED EQUAL IN ALL DUCTLINES, LEAVE MULETAPE IN PLACE FOR FUTURE USE AS A PULL OR FISH LINE, UNLESS OTHERWISE NOTED. REFERENCE GTE MATERIAL CODE NO. 571154. ALL DUCTS SHALL BE CAPPED TO PREVENT ENTRY OF FOREIGN MATERIAL DURING CONSTRUCTION AND AT COMPLETION OF INSTALLATION. ENDBELLS ARE REQUIRED FOR CONDUITS 2" AND LARGER.***

27. ***PENETRATION INTO PULLBOXES IF NECESSARY TO BE FROM FACTORY INSTALLED OPENING OR FROM BRICKS POSITION. PENETRATION FROM PULLBOX WALLS IS NOT ACCEPTABLE.***

28. ***BENDS IN THE DUCT ALIGNMENT, DUE TO CHANGES IN GRADE SHALL HAVE A MINIMUM RADIUS OF 20-FEET. ALL 90-DEGREE C-BENDS AT A POLE OR AT THE BUILDING FLOOR SLAB PENETRATION, SHALL HAVE A BEND RADIUS OF 10 TIMES THE DIAMETER OF THE DUCT OR GREATER.***

29. ***MINIMUM LENGTH OF CONDUIT USED SHALL NOT BE LESS THANK 5-FEET IN LENGTH. USE OF PARTIAL CONDUIT SECTIONS ALLOWABLE IS AT OTWC INSPECTOR(S) DISCRETION.***

30. ***ALL CONDUITS SHALL ENTER THROUGHT THE END "SHORT WALL" OF THE PULL-BOX. ENTRY SHALL BE AT 90 DEGRESS (PERPENDICULAR) TO WALL FACE WITH BENDS NO LESS THAN 12" FROM EXTERIOR WALL.***

31. ***A MINIMUM OF (2) PRECAST SECTIONS MUST BE USED ON ALL 2X4 OR 2X6 PULLBOXES.***

32. ***ALL NEW CONSTRUCTION SHALL UTILIZE CONCRETE PRECAST BASE UNLESS OTHERWISE APPROVED OR SPECIFIED BY OTWC INSPECTOR(S).***

33. ***WHEN THREE (3) OR MORE 4" CONDUITS ENTER ONE END WALL OF ANY PULLBOX, ONLY BRICK BASES WILL BE ALLOWED UNLESS OTHERWISE INSTRUCTED/APPROVED BY OTWC INSPECTOR(S).***

34. ***TWO MINIMUM LAYERS OF BRICKS TO BE USED LOWER THAN THE LOWEST DUCT ENTERING THE PULLBOX. TOP LAYER OF BRICK TO BE FLUSH WITH TOP OF CONDUIT OR HIGHER.***

35. ***FOR UPGRADE/REPAIRS TO EXISTING PULL-BOXES, BRICKS MAY BE USED AND SHALL ALWAYS BE AT LEAST TWO LAYERS LOWER THAN THE LOWEST DUCT ENTERING THE PULLBOX.***

36. ***AT NO TIME SHALL CEMENT MORTAR, WOOD, OR ANY OTHER MATERIAL BE USED BETWEEN PRECAST SECTIONS.***

37. ***LEVELING OR RAISING OF BOXES TO GRADE MUST BE DONE:***

    A. ***PRE-CAST BASE(S – USING GRAVEL LAYER UNDER BASE (TYPE 3B OR EQUIVALENT APPROVED BY OTWC INSPECTOR)***
    B. ***BRICK BASE(S) – ADJUSTMENTS TO BRICKWORK SECTION. THE PERMANENT INSTALLATION OF WOODEN WEDGES TO ACCOMPLISH THIS PURPOSE WILL NOT BE ACCEPTED.***

38. ***5/8" x 8' COPPER GROUND RODS SHALL BE PLACED IN ALL PULLBOXES UNLESS OTHERWISE DIRECTED BY OCEANIC TIME WARNER CABLE. GROUND RODS WILL BE PLACED IN THE CORNER 3" TO 4" FROM THE WALL AND AWAY FROM ANY CONDUIT WITH NO MORE THAN 8" STICKING UP ABOVE GROUND.***

39. ***TRENCHING TO BE BY HAND DIGGING NEAR AND ACROSS EXISTING UTILITY LINES.***

40. ***MINIMUM CLEARANCE BETWEEN STREET LIGHT STAND AND FIRE HYDRANTS SHALL BE THREE FEET.***

41. ***UNDERGROUND UTILITIES SHOWN HEREON IS FOR INFORMATION ONLY. NO GUARANTEE IS MADE ON THE ACCURACY OR COMPLETENESS OF SAID INSTALLATION.***

42. ***FOR UNDERGROUND CABLE LOCATING AND MARKING, FIVE WORKING DAYS ADVANCE NOTICE IS REQUIRED. THREE WORKING DAYS ADVANCE NOTICE IS REQUIRED FOR ANY INSPECTION BY A DESIGNATE REPRESENTATIVE. CONTRACTOR SHALL TAKE NECESSARY PRECAUTION NOT TO DAMAGE ANY EXISTING CABLES OR DUCTS. OCEANIC'S INSPECTOR OR DESIGNATED REPRESENTATIVE IS REQUIRED TO BE AT ANY JOB SITE WHENEVER THERE WILL BE A BREAKAGE INTO OR ENTRY INTO ANY STRUCTURE THAT CONTAIN OCEANIC'S FACILITIES.***

43. ***CONCRETE STRENGTH SHALL BE 3000 PSI IN 28 DAYS.***

44. ***CURING AND BACKFILLING. MAINTAIN CONCRETE IN A MOIST CONDITION FOR 24 HOURS MINIMUM FOR 3,000 PSI AND 48 HOURS MINIMUM FOR 2,500 PSI BEFORE COMPACTED. BACKFILLING: 72 HOURS MINIMUM BEFORE PERMITTING MOTOR TRAFFIC LOAD ON DUCTLINE. CURING METHOD SHALL MEET OCEANIC TWC INSPECTOR'S APPROVAL.***

45. ***INSTALL 8-MIL. THICK ORANGE COLOR WARNING TAPE 4-INCH WIDE ENTIRE LENGTH OF TRENCH WHEN PLACING CATV CONDUITS. TAPE SHOULD READ "CAUTION BURIED CABLE LINE BELOW". MANUFACTURED BY HARRIS INDUSTRIES, INC. CATALOG NUMBER UT-43 OR EQUIVALENT TAPE. TAPE TO BE INSTALLED 12-INCHES BELOW GRADE.***

46. ***AFTER DUCTLINE HAS BEEN COMPLETED, A MANDREL WITH A SQUARE FRONT NOT LESS THAN 12-INCH LONG AND HAVING A DIAMETER OF ¼-INCH LESS THAN THE INSIDE DIAMETER OF DUCT, SHALL BE PULLED THROUGH EACH DUCT AFTER WHICH A BRUSH WITH STIFF BRISTLES SHALL BE PULLED THROUGH TO MAKE CERTAIN THAT NO PARTICLES OF EARTH, SAND, OR GRAVEL HAVE BEEN LEFT INSIDE. DUCTS SHALL BE COMPLETELY DRY AND CLEAN.***

47. ***METALLIC ENTRANCE CONDUITS SHALL BE GROUNDED.***

48. ***ALL CONDUITS WITHIN A BUILDING SHALL:***

A) BE INSTALLED IN THE SHORTEST AND STRAIGHTEST POSSIBLE RUN.
B) HAVE NO SECTION LONGER THAN 100-FEET NOR CONTAIN MORE THAN TWO 90-DEGREE BENDS. AN APPROVED SIZED JUNCTION BOX OR GUTTER BOX SHALL BE PLACED IF THIS IS EXCEEDED.
C) ALL BENDS SHALL BE LONG SWEEP-RADIUS BENDS BUT THE INSIDE RADIUS OF THE BEND MUST NEVER BE LESS THAN TEN TIMES THE DIAMETER OF THE CONDUIT.

49. ***ALL CONSTRUCTION MUST BE INSPECTED AND APPROVED BY OCEANIC PRIOR TO THE INSTALLATION OF ANY OF ITS FACILITIES AND THE ENERGIZING OF ITS SYSTEM.***

50. ***CONTRACTOR AND/OR CUSTOMER SHALL PROVIDE OCEANIC WITH SUFFICIENT INSTALLATION TIME IN THEIR OCCUPANCY TIME TABLE.***

FILE:ContraNotes.doc

DAVID Y. IGE
GOVERNOR

KEITH T. HAYASHI
INTERIM SUPERINTENDENT

STATE OF HAWAI'I

DEPARTMENT OF EDUCATION

P.O. BOX 2360

HONOLULU, HAWAI'I 96804

OFFICE OF FACILITIES AND OPERATIONS

June 21, 2022

To: Craig K. Nakamoto
Executive Director
Hawaii Community Development Authority

From: Roy Ikeda
Interim Public Works Manager, Planning Section
Facilities Development Branch

SUBJECT: **Planned Development Permit Application for the Kobayashi Group, Alia (Land Block I), within the Kaiaulu O Kakaako Master Plan Area at Kakaako, Honolulu, Hawaii TMK (1)2-1-056:014, 015, and 016. (Reference No.: PL MASP 13.2.8/KAK 22-042)**

Thank you for your letter dated June 1, 2022. The Hawaii State Department of Education (Department) has the following comments on the Planned Development Permit Application for Alia (Land Block I) [Project].

Schools currently servicing the Project are Royal Elementary, Keelikolani Middle (fka Central Middle), and McKinley High. The Department anticipates approximately 58 public school students will reside in the Project. All three schools are currently operating with excess capacity and will continue to operate with excess capacity over the next six years. Availability of excess capacity will change as additional residential projects serviced by these schools are completed.

The Project is located within the Kalihi to Ala Moana School Impact Fee District with a fee amount of $3,864. Chapter 302A-1606, Hawaii Revised Statutes, requires that residential development with 50 or more units execute an agreement with the Department prior to the issuance of any building permit. This agreement sets forth how and when payment will occur. The developer is encouraged to meet with the Department early on to execute this agreement.

Thank you for the opportunity to comment. Should you have questions, please contact Cori China with the Facilities Development Branch, Planning Section, at (808) 784-5095 or by email at cori.china@k12.hi.us.

RI:rll

c: Linell Dilwith, Complex Area Superintendent Kaimuki/McKinley/Roosevelt Complex

POLICE DEPARTMENT

CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulupd.org

RICK BLANGIARDI
MAYOR

ARTHUR J. LOGAN
CHIEF

KEITH K. HORIKAWA
RADE K. VANIC
DEPUTY CHIEFS

EO-DK
OUR REFERENCE

June 21, 2022

SENT VIA EMAIL

Ms. Sery Berhanu
sergut.berhanu@hawaii.gov

Dear Ms. Berhanu:

This is in response to a letter from the Hawaii Community Development Authority requesting input on the Development Permit Application for the Alia project (Land Block I) within the Kaiaulu O Kakaako Master Plan area located at 800 and 900 Ala Moana Boulevard and 825 Auahi Street in Kakaako.

The Honolulu Police Department (HPD) recommends that all necessary signs, lights, barricades, and other safety equipment be installed and maintained by the contractor during the construction phase of the project. Additionally, adequate notification should be made to area businesses and residences prior to possible road closures, as any impacts to pedestrian and/or vehicular traffic may cause issues and disruptions that could lead to complaints. Furthermore, the HPD recommends the developer and contractor work with the area neighborhood board to help facilitate any issues regarding timelines, security, or anything else that may come up regarding the project.

If there are any questions, please call Acting Major Calvin Sung of District 1 (Central Honolulu) at (808) 723-3327.

Thank you for the opportunity to review this project.

Sincerely,

Glenn Hayashi

GLENN HAYASHI
Acting Assistant Chief of Police
Support Services Bureau

DAVID Y. IGE
GOVERNOR

JADE T. BUTAY
DIRECTOR

Deputy Directors
ROSS M. HIGASHI
EDUARDO P. MANGLALLAN
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:
STP 22-008
STP 8.3417

June 22, 2022

VIA EMAIL: sergut.berhanu@hawaii.gov

Mr. Craig K. Nakamoto
Executive Director
Hawaii Community Development Authority
547 Queen Street
Honolulu, Hawaii 96813

Attention: Ms. Sery Berhanu

Dear Mr. Nakamoto:

Subject: Development Permit (DP) Application
Alia (Land Block 1) within the Kaiaulu O Kakaako Master Plan (KKMP)
800 and 900 Ala Moana Boulevard and 825 Auahi Street
Honolulu, Oahu, Hawaii
Tax Map Key: (1) 2-1-056: 014, 015, 016

Thank you for your letter dated June 1, 2022, requesting the Hawaii Department of Transportation's (HDOT) review and comment on the subject DP Application. HDOT understands the Kobayashi Group, LLC is proposing to build a residential mixed-use condominium tower on top of a 60-foot-high parking and mixed-use podium. The development consists of a 39-story tower with approximately 483 residential units with amenities, parking, and retail space. The location of the project is bounded by Ala Moana Boulevard, Koula Street, and Auahi Street.

HDOT has the following comments:

Airports Division (HDOT-A)

1. The project site is approximately 3.36 miles from the end of Runway 26L at the Daniel K. Inouye International Airport (HNL). All projects within 5 miles from Hawaii State airports are advised to read the Technical Assistance Memorandum (TAM) for guidance with development and activities that may require further review and permits. The TAM can be viewed at this link: http://files.hawaii.gov/dbedt/op/docs/TAM-FAA-DOT-Airports_08-01-2016.pdf.

2. Federal Aviation Administration (FAA) regulation requires the submittal of FAA Form 7460-1 Notice of Proposed Construction or Alteration pursuant to the Code of Federal Regulations, Title 14, Part 77.9, if the construction or alteration is within 20,000 feet of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with its longest runway more than 3,200 feet. Construction equipment and staging area heights, including heights of temporary construction cranes, shall be included in the submittal. The form and criteria for submittal can be found at the following website: https://oeaaa.faa.gov/oeaaa/external/portal.jsp.

3. The proposed development includes the use of a solar energy photovoltaic system (PV). PV systems located in or near the approach path of aircrafts can create a hazardous condition for pilots due to possible glint and glare reflected from the PV panel array. If glint or glare from the PV array creates a hazardous condition for pilots, the owner of the PV system shall be prepared to immediately mitigate the hazard upon notification by the HDOT-A and/or FAA.

   The FAA requires a glint and glare analysis for all solar energy PV systems near airports. The www.sandia.gov/glare website has information and guidance with the preparation of a glint and glare analysis. A separate FAA Form 7460-1 will be necessary for the solar energy PV system. After the FAA determination of the Form 7460-1 glint and glare analysis, a copy shall be provided to the HDOT-A by the owner of the solar energy PV system.

   Solar energy PV systems have also been known to emit radio frequency interference (RFI) to aviation-dedicated radio signals, thereby disrupting the reliability of air-to-ground communications. The owner of the solar energy PV system shall be prepared to immediately mitigate the RFI hazard upon notification by the HDOT-A and/or FAA.

4. The project site is located within the 60 to 65 DNL Noise Contours (Day Night Average Sound Level) on the HNL 2008 Noise Exposure Map. The HDOT-A recommends that noise reduction measures be incorporated into the building's design to achieve interior noise levels of 45 DNL or less.

5. Due to the project's proximity to HNL, future residents should be made aware of potential single event noise from aircraft operations. There is also a potential for fumes, smoke, vibrations, odors, etc., resulting from occasional aircraft flight operations over or near the project. These incidences may increase or decrease over time and are dependent on airport operations and wind conditions.

Highway Division (HDOT-HWY)

The HDOT-HWY has reviewed the DP Application and included Traffic Impact Report. Based on the information provided, HDOT-HWY has the following comments:

1. Restrict the project driveways off Ala Moana Boulevard to right-turn in right-turn out movements only. Provide adequate channelization to direct vehicles entering and exiting the driveway.

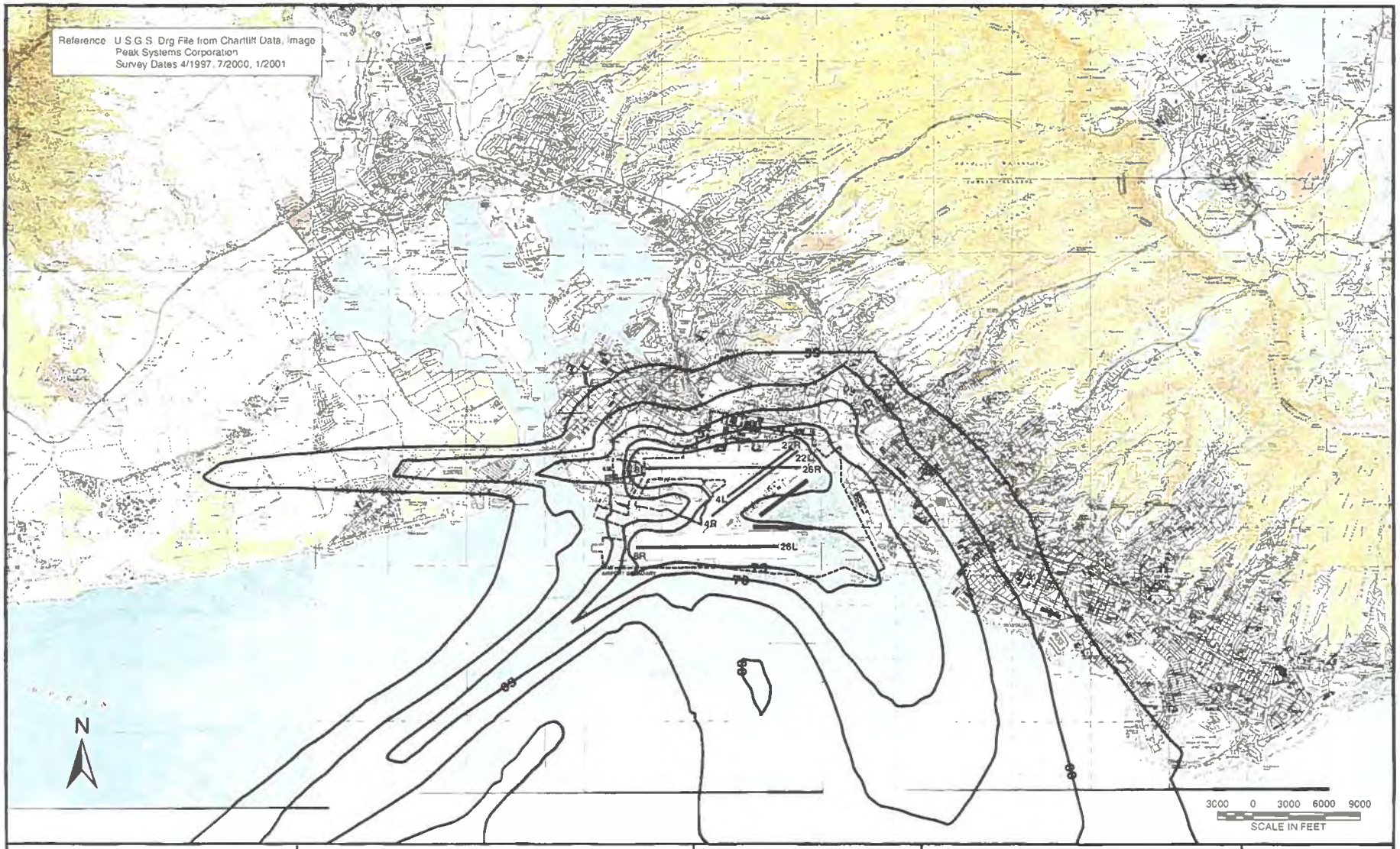
2. Provide a road widening setback along the northern (mauka) side of Ala Moana Boulevard to accommodate a 138-foot-wide highway right-of-way.
3. Implement all the recommendations provided in the Traffic Impact Report.

If there are any questions, please contact Mr. Blayne Nikaido of the HDOT Statewide Transportation Planning Office at (808) 831-7979 via email at blayne.h.nikaido@hawaii.gov.

Sincerely,

JADE T. BUTAY
Director of Transportation

Attachment – HNL 2008 Noise Exposure Map



AIRPORTS DIVISION DEPARTMENT OF TRANSPORTATION STATE OF HAWAII	HONOLULU INTERNATIONAL AIRPORT MASTER PLAN UPDATE AND NOISE COMPATIBILITY PROGRAM	Edward K. Noda and Associates, Inc	2008 (FORECAST) FIVE YEAR NOISE EXPOSURE MAP NO MITIGATION SCENARIO	FIGURE 5 – 1

DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
Ph. (808) 586-8121 • Fax (808) 586-8129

June 13, 2022

RECEIVED
2022 JUN 22 PM 2: 16
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

Mr. Craig K. Nakamoto
Executive Director
Hawaii Community Development Authority
547 Queen Street
Honolulu, HI 96813

Regarding: Development Permit Application for the Kobayashi Group, Alia (Land Block I) within the Kaiaulu O Kakaako Master Plan Area at 800 and 900 Ala Moana Boulevard and 825 Auahi Street; Tax Map Key No.: (1) 2-1-56: 014, 015, 016.

Dear Mr. Nakamoto:

The Disability and Communication Access Board (DCAB) received the submitted Development Permit Application documents for the above-referenced project requesting review of adequacy of infrastructure and demands placed on such systems by the proposed development. Thank you for your consideration, however, DCAB does not review issues as adequacy of infrastructure systems or demands placed on these systems and therefore has no comments regarding this project proposal.

Should you have any questions, please feel free to contact Duane Buote, Facility Access Coordinator at (808) 586-8121.

Sincerely,

For- KIRBY L. SHAW
Executive Director

HONOLULU FIRE DEPARTMENT

CITY AND COUNTY OF HONOLULU

636 South Street
Honolulu, Hawaii 96813-5007
Phone: 808-723-7139 Fax: 808-723-7111 Internet: www.honolulu.gov/hfd

RICK BLANGIARDI
MAYOR

SHELDON K. HAO
FIRE CHIEF

JASON SAMALA
DEPUTY FIRE CHIEF

RECEIVED
2022 JUN 22 PM 2:17
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

June 16, 2022

Mr. Craig Nakamoto
Executive Director
Hawaii Community Development Authority
547 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Nakamoto:

Subject: Proposed Development Permit Application
Alia (Land Block I) within the Kaiaulu O Kakaako Master Plan Area
800 and 900 Ala Moana Boulevard
825 Auahi Street
Honolulu, Hawaii 96814
Tax Map Keys: 2-1-056: 014, 015, and 016

In response to your letter received on June 3, 2022, regarding the abovementioned subject, the Honolulu Fire Department (HFD) reviewed the submitted information and requires that the following be complied with:

1. Fire department access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building is located not more than 150 feet (46 meters) from fire department access roads as measured by an approved route around the exterior of the building or facility. (National Fire Protection Association [NFPA] 1; 2018 Edition, Sections 18.2.3.2.2 and 18.2.3.2.2.1, as amended)

   A fire department access road shall extend to within 50 feet (15 meters) of at least one exterior door that can be opened from the outside and that provides access to the interior of the building. (NFPA 1; 2018 Edition, Section 18.2.3.2.1)

2. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to all premises upon which

facilities, buildings, or portions of buildings are hereafter constructed or moved into the jurisdiction. The approved water supply shall be in accordance with NFPA 1; 2018 Edition, Section 18.3 and 18.4.

3. Fire department access roads shall be in accordance with NFPA 1; 2018 Edition, Section 18.2.3.

4. Submit civil drawings to the HFD for review and approval.

Should you have questions, please contact Acting Battalion Chief Kendall Ching of our Fire Prevention Bureau at 808-723-7154 or kching3@honolulu.gov.

Sincerely,

CRAIG UCHIMURA
Acting Assistant Chief

CU/EO:bh

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843
www.boardofwatersupply.com

RECEIVED
2022 JUN 27 PM 2:39
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

June 23, 2022

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ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.
Deputy Manager and Chief Engineer

Mr. Craig K. Nakamoto
Hawaii Community Development Authority
547 Queen Street
Honolulu, Hawaii 96813

Dear Mr. Nakamoto:

Subject: Your Letter Dated June 1, 2022 Regarding the Development Permit Application for the Alia (Land Block I) Development Within the Kaiaulu O Kakaako Master Plan Area at 800 and 900 Ala Moana Boulevard and 825 Auahi Street – Tax Map Key: 2-1-056: 014, 015, & 016

Thank you for your letter regarding the proposed 483-unit mixed-use, high-rise development.

The existing water system is currently adequate to accommodate the proposed development. However, please be advised that the existing Honolulu water system capacity has been reduced due to the shut-down of the Halawa Shaft pumping station as a proactive measure to prevent fuel contamination from the Navy's Red Hill Bulk Storage Tank fuel releases. The final decision on the availability of water will be confirmed when the building permit application is submitted for approval, pending evaluation of the water system conditions at that time on a first-come, first-served basis. The Board of Water Supply (BWS) reserves the right to change any position or information stated herein up until the final approval of the building permit application.

We continue to request 10% voluntary water conservation of all customers until new sources are completed and require water conservation measures in all new developments. If water consumption significantly increases, progressively restrictive conservation measures may be required to avoid low water pressures and disruptions of water service.

Presently, there is no moratorium on the issuance of new and additional water services. Water distributed via the BWS water systems remains safe for consumption. The BWS is closely monitoring water usage and will keep the public informed with the latest findings. Please visit our website at www.boardofwatersupply.com and www.protectoahuwater.org for the latest updates and water conservation tips.

When water is made available, the applicant will be required to pay our Water System Facilities Charges (WSFC) for resource development, transmission, and daily storage. BWS reserves the option to require developers to replace block segments of old pipelines subject to frequent main breaks fronting their development in lieu of paying the transmission impact fee. Costs exceeding the impact fee will be the developer's responsibility. A map of main breaks and pipe install date is included for your information.

Water conservation measures are required for all proposed developments. These measures include utilization of nonpotable water for irrigation using rain catchment, drought tolerant plants, xeriscape landscaping, efficient irrigation systems, such as a drip system and moisture sensors, and the use of Water Sense labeled ultra-low flow water fixtures and toilets.

High-rise buildings with booster pumps will be required to install water hammer arrestors or expansion tanks to reduce pressure spikes and potential main breaks in our water system.

Proposed mixed-use developments are required to install separate domestic water meters and laterals serving the residential and non-residential spaces.

The construction drawings should be submitted for our approval, and the construction schedule should be coordinated to minimize impact to the water system.

The BWS may waive the WSFC and new meter cost for qualified on-site affordable and homeless dwelling units, up to 500 dwelling units per year. The waivers will be evaluated when the building permit is submitted for approval. To qualify, the dwelling units must be certified as either affordable or homeless dwelling units by the appropriate agency of the City and County of Honolulu. Waiver of the WSFC will apply only to fixture units associated with the certified dwelling units. The amount of the meter waiver shall be calculated as a percentage of the number of certified dwelling units to the total number of dwelling units in the project. If the annual cap of 500 dwelling units has not been reached and a project is proposed that would qualify for more than the remaining number of dwelling units in that year, the Manager and Chief Engineer has the discretion to increase that year's limit. This waiver provision shall expire on June 30, 2023.

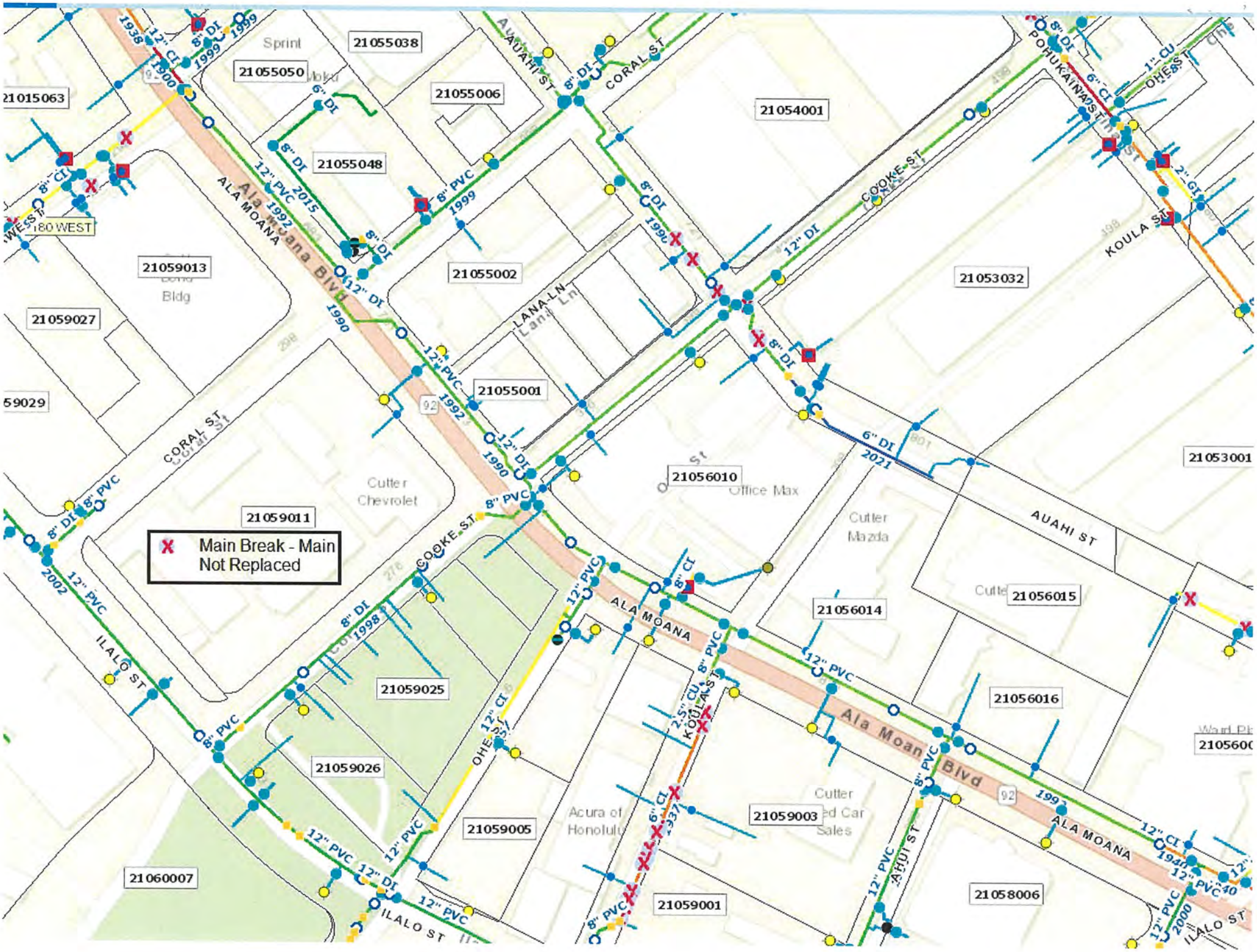
The on-site fire protection requirements should be coordinated with the Fire Prevention Bureau of the Honolulu Fire Department.

If you have any questions, please contact Barry Usagawa, Water Resources Division, at (808) 748-5900.

Very truly yours,

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

Attachment


Main Break - Main Not Replaced
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21059001
21058006
ALA MOANA
Ala Moana Blvd
CORAL ST
COOKE ST
AUAHI ST
ILALO ST
KOULA ST
OHE ST
POHUKAINA ST
LANA LN
180 WEST
Sprint
Bldg
Cutter Chevrolet
Office Max
Cutter Mazda
Acura of Honolulu
Cutter Used Car Sales

APPLICANT'S

WITNESS LIST

and

EXHIBITS LIST