

HAWAI'I COMMUNITY DEVELOPMENT AUTHORITY
KAKA'AKO BOARD MEETING
Wednesday, September 6, 2023
11:00 a.m.

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

SUBJECT: Community Development District Amendments to the 2005 Makai Area Plan and Rules to Reflect ACT 317, HRS 206E-31.5

- Community Development District Amendments to the 2005 Makai Area Plan and Rules to Reflect ACT 317, HRS 206E-31.5, the prohibition of Residential Development in Kaka'ako Makai and the prohibition of the Sale of State Land in the Kaka'ako Community Development District
- The Public Land Trust Information System, PLTIS.
- Kaka'ako Makai Hazardous Waste, Environmental Protection Agency (EPA), Brownfield, Department of Health
- The 2009 Kaka'ako Makai Environmental Tsunami Hazard Management Plan
- The 2021 Hawaii Sea Level Rise Law, ACT 178
- HCDA Affordable Housing Rules
- The 2011 Kaka'ako Makai Master Plan and Its Vision and Guiding Principles
Subsequent Planning Efforts and Consistency with the Kaka'ako Makai Master Plan and its Vision and Guiding Principles

Aloha HCDA Chairperson: Chason Ishii, Vice Chairperson: Peter Apo, Secretary: Sterling Higa, Luis Salaveria, Edwin Sniffen, Chris Sadayasu, Dawn Chang, Dawn Takeuchi Apuna, Kathleen Aoki, Kevin Sakoda:

We respectfully provide this Testimony in strong support as founding members of the Kaka'ako Makai Community Planning Advisory Council (CPAC).

In 2005 the Hawaii Community Development Authority (HCDA) presented a condominium development RFP for Kaka'ako Makai, which rapidly met with a flood of public outcry in opposition to any residential development in Kaka'ako Makai and created a whirlwind of controversy that convinced the 2006 Legislature to approve **Act 317 as recognized law under Hawai'i Revised Statutes, 206E-31.5** prohibiting residential development in Kaka'ako Makai and any sale of State land in the Kaka'ako Community Development District.

§206E-31.5, HCDA Prohibitions on Kaka'ako Makai Residential Development and Sale of State Land in the Kaka'ako Community District: Anything contained in this chapter to the contrary notwithstanding, the authority is prohibited from:

- (1) Selling or otherwise assigning the fee simple interest in any lands in the Kaka'ako community development district to which the authority in its corporate capacity holds title, except with respect to:
 - (A) Utility easements;
 - (B) Remnants as defined in section 171-52;
 - (C) Grants to any state or county department or agency;
 - (D) Private entities for purposes of any easement, roadway, or infrastructure improvements; or
 - (E) Reserved housing as defined in section 206E-101; or
- (2) Approving any plan or proposal for any residential development in that portion of the Kaka'ako community development district Makai of Ala Moana Boulevard and between Kewalo Basin and the foreign trade zone. [L 2006, c 317, §1; am L 2014, c 61, §9]

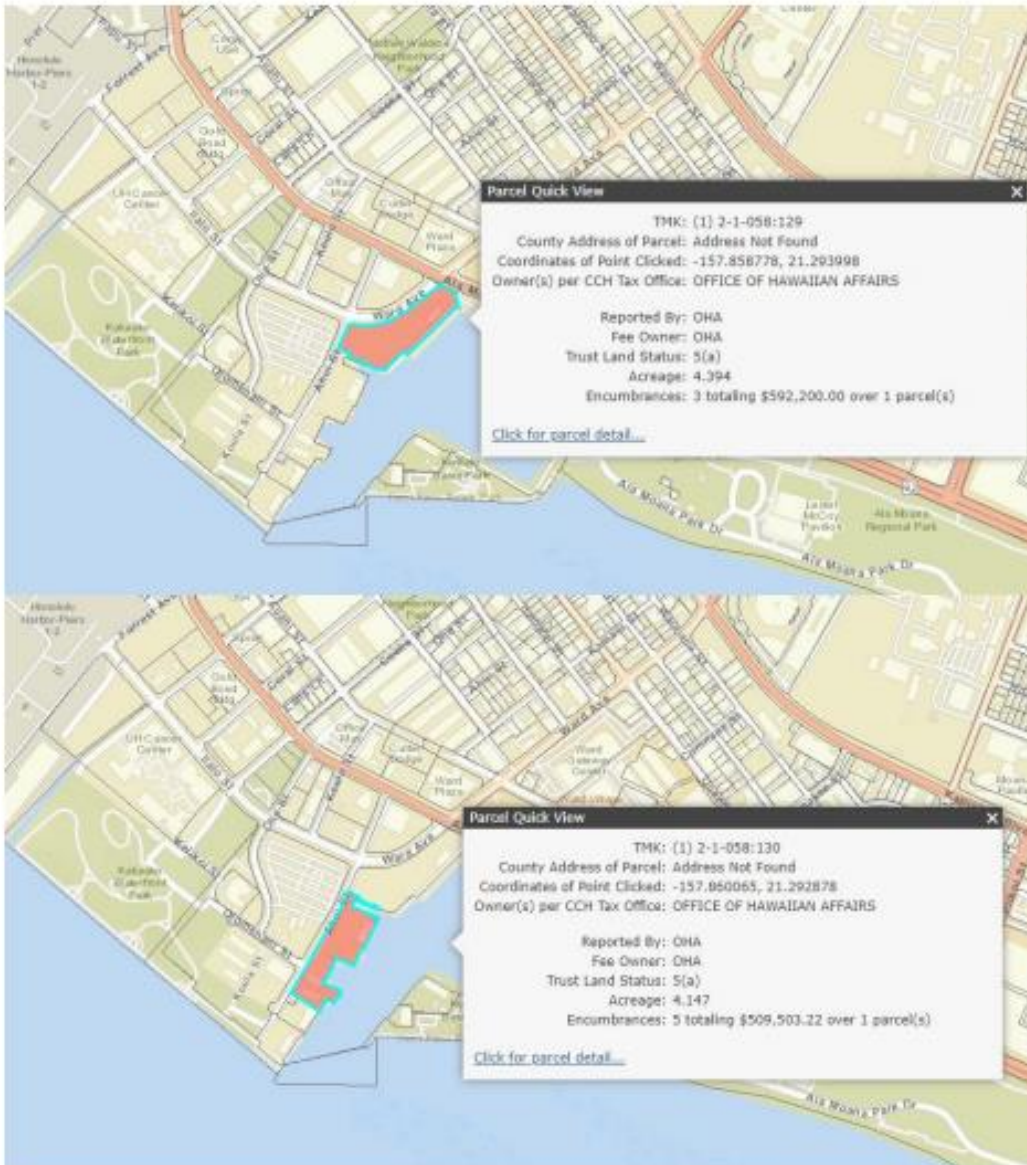
Public Land Trust Information System PLTIS: [PLTIS \(hawaii.gov\)](http://hawaii.gov)

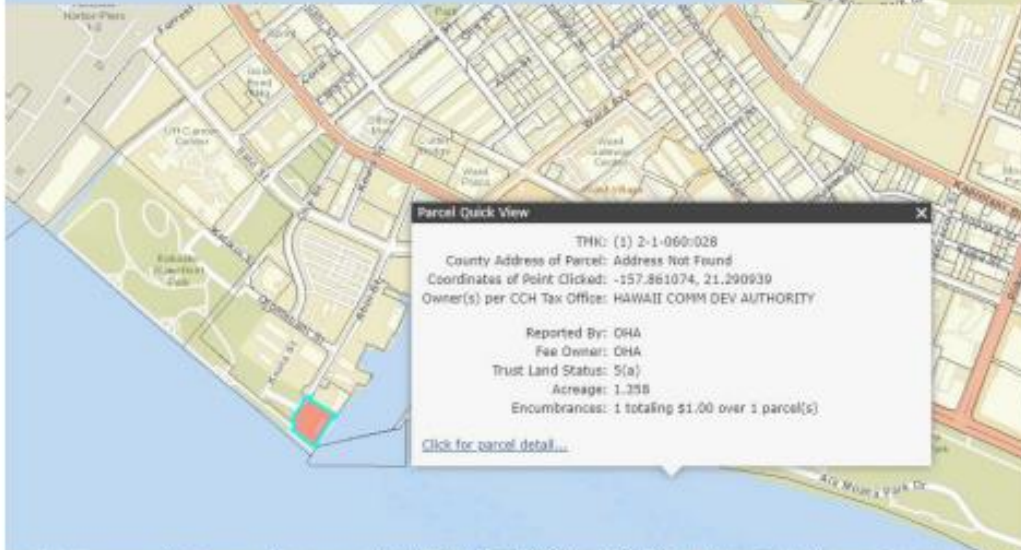
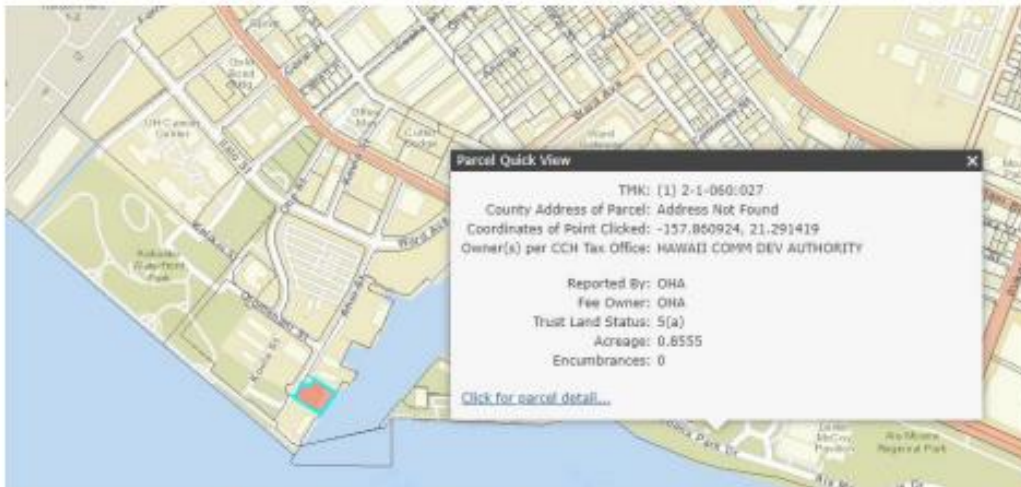
The efforts by the State, led by DLNR, have resulted in the Public Land Trust Information System, PLTIS. This effort is on-going and should be expanded with renewed commitment by State agencies to provide the true contours of the public trust. Only by having the most accurate possible information can the State appropriately manage Public Land Trust resources and comply with its fiduciary responsibilities to Native Hawaiians and the general public.

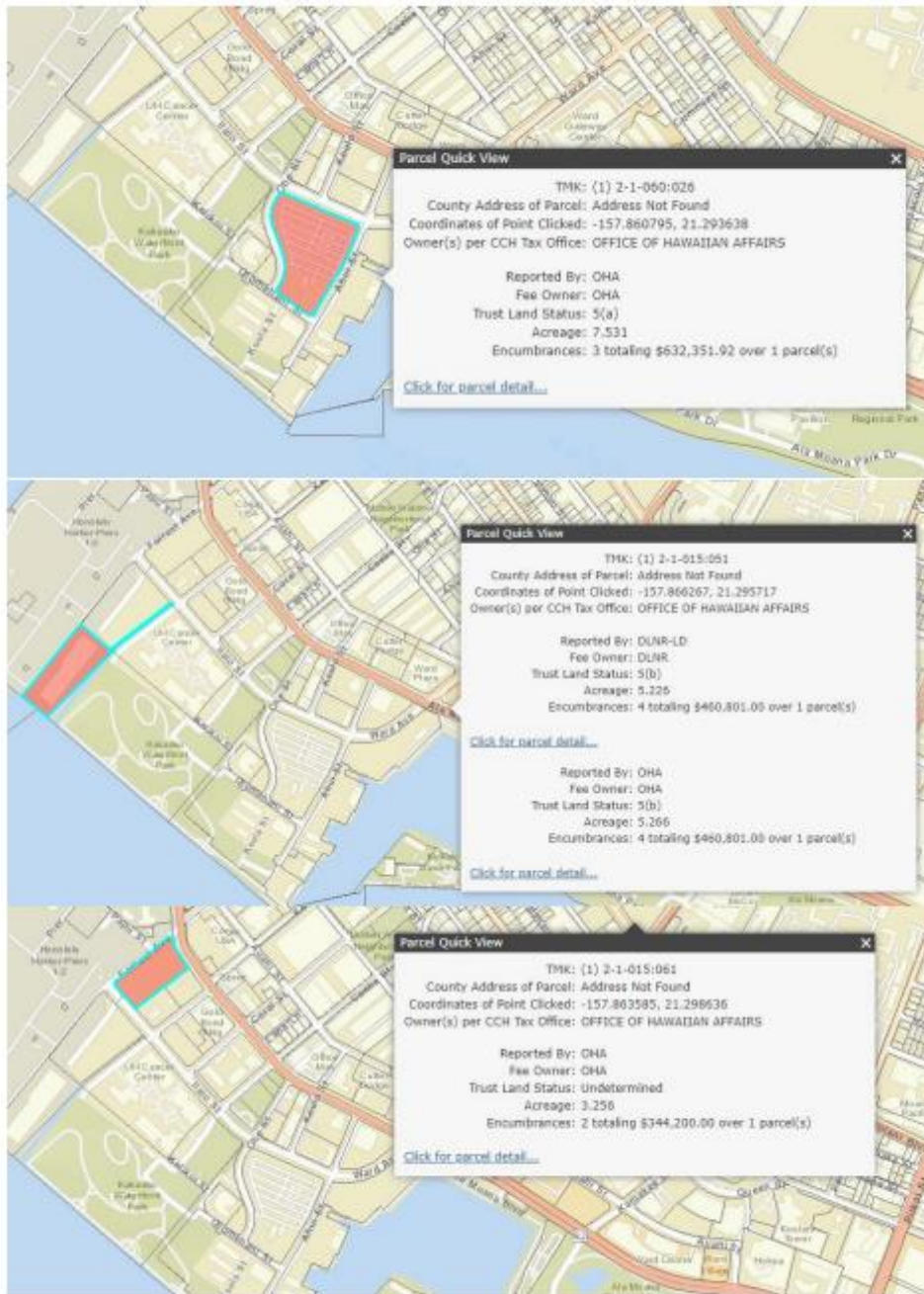
Public Land Trust Information System

[PLTIS \(hawaii.gov\)](http://hawaii.gov)

Per PLTIS: OHA Lands in Kaka'ako Makai are Public Trust Lands







Kaka'ako Makai contains Hazardous Waste has been studied by the EPA brownfields through grants awarded to the Hawaii Department of Health and the Office of Hawaiian Affairs (OHA) to assist the state's efforts to redevelop the Makai area of the Kaka'ako Community Development District into a safe and productive area.

Originally, open water and reef was filled to allow for Honolulu Harbor and the Kewalo Basin. The area then became a land fill for discarded hazardous construction debris, discarded equipment and chemicals, and garbage converted to toxic ash by two (2) onsite incinerators. Several environmental studies show that numerous toxic contaminants exist in Kaka'ako Makai, which is a recognized toxic brownfield site. Studies have also shown the cost to remediate the toxic waste is extraordinarily expensive and would require locating a hazardous waste site that can safely accept the toxic waste. However, there are no waste sites in the State of Hawaii that will allow the disposal of these toxic hazardous waste.

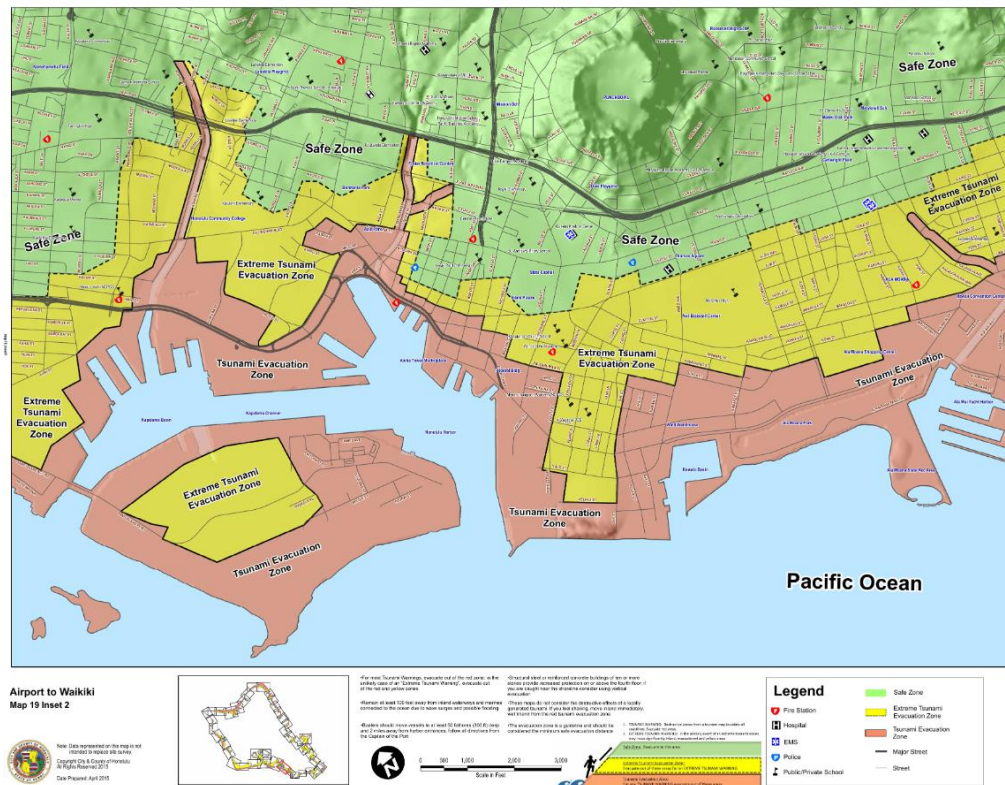


Kaka'ako Makai is also a well-documented EPA brownfields hazardous waste site. Tidal surges from events similar to Florida's August 2023 Hurricane "Idalia" or Tsunami such as the Fukushima disaster that can dislodge Kaka'ako Makai's toxic contaminants of serious concern and spread hazardous materials throughout the State's Public Trust Lands in Kaka'ako Makai resulting economic hardships and lasting public health concerns. Anyone residing in Kaka'ako Makai would be subject to not only dangerous flooding and ocean surges but also the long-term effects from the exposure to the release of the hazardous contaminants. The State may be liable for injury and losses to residents if residential development is allowed in Kaka'ako Makai on Public Trust Land owned by a State agency.



Kaka’ako Makai exists in a tsunami evacuation zone. In June 2009, the Kaka’ako Makai Environmental Hazard Management Plan Was developed. [static.pdc.org/tsunami/oahu/Airport to Waikiki map19 inset2.png](http://static.pdc.org/tsunami/oahu/Airport%20to%20Waikiki_map19_inset2.png)

It shows most of Kaka’ako Makai including areas the contain hazzordous waste exists in the Tsunami Evacuation Zone and the entire Kaka’ako Makai exists in the Extreme Tsunami Evacuation Zone.



The Hawaii Sea Level Rise law-ACT 178 was enacted by the Legislature of the State of Hawaii in 2021. [SLH2021 Act178.pdf \(hawaii.gov\)](http://www.hawaii.gov/dhs/act178.pdf)

The legislature finds that climate change and sea level rise pose significant, dangerous, and imminent threats to the State’s social and economic well-being, public safety, nature and environments, cultural resources, property, infrastructure, and government functions and will likely have a disproportionate impact on low-income and otherwise vulnerable communities. Chronic impacts of sea level rise, including coastal erosion, high tide flooding, and annual high wave flooding, are already impacting many low-lying coastal areas, and are predicted to increase in extent and severity in the coming decades. Climate change and sea level rise will exacerbate the impacts of disaster events, such as hurricanes, extreme rainfall, high-wave events, and tsunamis. The legislature further finds that a 2017 report by the National Oceanic and Atmospheric Administration projects that 3.2 feet of global mean sea level rise will occur by 2100 in an intermediate scenario and could occur as early as the 2060s in an extreme scenario.

HCDA Affordable Housing: During an 8/9/2023 HCDA Kaka’ako Makai Rules meeting, a representative of OHA stated their affordable housing program will be applicants with 140% area medium income (AMI) and unites would be a mix of affordable housing and market rate prices. The HCDA reserve housing program requires at least 20% affordable housing and would likely to be made available to the general public through non-discriminatory public bidding process. Developers have been granted variances to relocate the affordable housing units in other locations so it is not clear how many units will house native Hawaiian families. Plannings experts say, the afore mentioned Kaka’ako Makai’s hazardous waste and additional remediation and construction expenses in the makai area on “toxic fill” will push the project outside the “affordable housing” definition.

HCDA Reserved Housing Program. The HCDA Reserved Housing program is for Hawaii residents earning between 80-140% of the area median income (AMI), allowing eligible purchasers to buy homes at below market rates. The program requires that at least 20 percent of new residential units, either for sale or for rent, are set aside for low- and moderate- income households. The rental or sales prices for these units are calculated so a household would spend no more than a third of its gross monthly income on housing expenses, making them affordable to Hawaii’s working families. Housing expenses include, but are not limited to: mortgage payments, property taxes, mortgage insurance, and condominium association dues.

The Reserved Housing program comes with a few restrictions, such as requiring homeowners to agree to live in their new condominium for a minimum time period and, if they sell the unit, requiring them to share some of the increased equity on the unit with the Authority, which is then put back into the reserved housing program to develop more affordable housing. [Hawaii’s Community Development Authority | Reserved Housing \(hawaii.gov\)](http://hawaii.gov)

The Kaka’ako Makai Master Plan and the Kaka’ako Makai Community Planning Advisory Council

In 2006, the legislature adopted HCR30 (2006) that required the HCDA to, “*Adopt an Advisory Working Group of community groups and individuals to work in collaboration to create the Kaka’ako Makai Master Plan.*”

The Kaka’ako Makai Community Planning Advisory Council (CPAC) presented the Kaka'ako Makai Master Plan to the HCDA Board in 2011, and this Master Plan was unanimously approved by the Board.



ACKNOWLEDGEMENTS

Ala Moana/Kakaako Neighborhood Board
American Institute of Architects - Hawaii Chapter
American Planning Association - Hawaii Chapter
American Society of Landscape Architects - Hawaii Chapter
Ballet Hawaii
City and County of Honolulu Department of Planning and Permitting
City and County of Honolulu Ocean Safety and Lifeguard Services
State of Hawaii Department of Agriculture
East-West Center
Fisherman's Wharf Restaurant
Fit for Life Hawaii
Friends of Kewalo Basin Park Association
Haleiwa Farmers Market
Hawaii Arts Alliance
Hawaii Capital Cultural Coalition
Hawaii Children's Discovery Center
Hawaii Developers' Council
Hawaii Farm Bureau Federation
Hawaii Farmer's Union
Hawaii Kai Farmers Market
Hawaii Opera Theatre
Hawaii State Bodysurfing Association
Hawaii State Foundation on Culture and the Arts
Hawaii United Okinawan Association
Hawaii Youth Opera Chorus
Hawaii Youth Symphony
Hawaii's Thousand Friends
Hispanic Center of Hawaii
Historic Hawaii Foundation
Honolulu Sea Water Air Conditioning
Honolulu Symphony
Japanese Cultural Center of Hawaii
Kakaako Improvement Association
Kakaako Makai Community Planning Advisory Council (CPAC)
Kewalo Basin Stakeholders Advisory Group

Kamehameha Schools
Kewalo Marine Laboratory, Pacific Biosciences Research Center
Museum of Hawaiian Music and Dance
Ocean Investments / John Dominis Restaurant
Paradise Park
Sierra Club - Hawaii Chapter, Oahu Group
State of Hawaii Department of Economic Business
Development and Tourism
State of Hawaii Department of Human Services
State of Hawaii Department of Land and Natural Resources
State of Hawaii Department of Land and Natural
Resources, State Historic Preservation Division
State of Hawaii Department of Public Safety, Sheriff Division
State of Hawaii Department of Transportation
State of Hawaii Office of Hawaiian Affairs
State of Hawaii Office of Planning
Surfrider Foundation - Oahu Chapter
The Outdoor Circle
United Puerto Rican Association of Hawaii
University of Hawaii
University of Hawaii Cancer Center
University of Hawaii John A. Burns School of Medicine
Urban Land Institute

Project Planning Consultants

MVE Pacific, Inc.
Sasaki Associates, Inc.
Keyser Marston Associates
Project for Public Spaces
Townscape, Inc.
Peter Apo Company
Cumming Corporation
Wilson Okamoto Corporation



The Kaka'ako Makai Master Plan originated as the alternative to building residential development on the well-documented brownfields hazardous waste site, in a tsunami and hurricane inundation zone that is now subject to the Hawaii Sea Level Rise law-ACT 178 (2021).

The Master plan is based on the assumption that if the Arizona Memorial and Hanauma Bay can attract over one million (1,000,000) visitors a year, a well-planned multi-cultural gathering place in Kaka'ako Makai would be able to attract the number of people to sustain the venues highlighted in the Master Plan such as:

- Museum for Hawaiian Music and Dance (\$35MM)
- Community Center (\$10MM),
- Performing Arts Venue (\$55MM)
- Surf and Watersport Museum (\$30MM).

These projects were proposed to add more than \$130 million in value to its property along with jobs and cultural pride for the Hawaiian Community AND benefits for the entire state. Other concepts include a permanent "Mauka to Makai" Farmer's Market and Seafood Market. OHA can also seek federal and state subsidies and grant money to plan and develop cultural projects to further support the Hawaiian Community's cultural and fundraising activities. The Kaka'ako Makai Master Plan was created to transform the land into a Gathering Place for local residents and visitors to enjoy Hawaiian and multi-cultural exhibitions including fish and farmer's markets, performing arts venues, watersports innovation and history. and a hall of fame for Hawaiian music, dance, watermen and waterwomen.

The Kaka'ako Makai Master Plan was approved to allow OHA and Hawaii's communities to generate sustainable revenue from the lands in Kaka'ako Makai for future generations. The Master Plan also supports a Hawaiian Community Center and preservation of our blended cultural heritage that can greatly benefit both the Hawaiian

community and the state. Appropriate planning and negotiations with OHA to implement the Kaka'ako Makai Master Plan and its Guiding Principles with the support of local communities would prove to create optimum value and cultural sustainability for all Communities.

The Kaka'ako Makai Community Planning Advisory Council strongly supports the HCDA's request for Community Development District Amendments to the 2005 Makai Area Plan and Rules to reflect the following:

- Community Development District Amendments to the 2005 Makai Area Plan and Rules to Reflect ACT 317, HRS 206E-31.5, the prohibition of Residential Development in Kaka'ako Makai and the prohibition of the Sale of State Land in the Kaka'ako Community Development District
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On behalf of all the participants of the Community-Based Kaka'ako Makai Master Plan process leading to HCDA's approval and adoption of the Kaka'ako Makai Master Plan in 2011, CPAC respectfully submits this testimony in support of HCDA's Community Development District Amendments to the 2005 Makai Area Plan and Rules to Reflect ACT 317, HRS 206E-31.5, the prohibition of Residential Development in Kaka'ako Makai and the prohibition of Sale of State Land in the Kaka'ako Community Development District.

Respectfully,

Wayne Takamine
Michelle Matson
Kanekoa Crabbe

Kaka'ako Makai Community Planning Advisory Council