

## **DECISION-MAKING HEARING ON PROPOSED AMENDMENTS TO THE KAKA‘AKO MAKAI AREA PLAN AND RULES**

### **I. REQUEST**

Consider Approving Proposed Amendments to the Makai Plan and Rules, Chapter 15-23, Hawaii Administrative Rules, for the Makai Area of the Kaka‘ako Community Development District, to Reflect the Section 206E-31.5, HRS, ban on Residential Development; Incorporate the Kaka‘ako Makai Conceptual Plan; and Streamline Permitting, subject to any technical non-substantive comments by the Attorney General and the Legislative Reference Bureau.

### **II. BACKGROUND**

Title 15, Chapter 23, Hawaii Administrative Rules (“HAR”), relating to the Kaka‘ako Makai Community Development District (“rules”) was enacted on November 3, 2005. In 2006, Act 317 banned residential development in the Makai area. After an extensive community planning effort, the Authority adopted the Kaka‘ako Makai Conceptual Master Plan in 2011 as the guiding document for reviewing and approving any state-owned lands in Kaka‘ako Makai. The Makai rules, however, were never conformed to Act 317, the Kaka‘ako Makai Conceptual Master Plan, or subsequent updates to Chapter 206E, Hawaii Revised Statutes (“HRS”).

### **III. DISCUSSION**

The proposed amendments to the Makai plan and rules incorporates the Kaka‘ako Makai Conceptual Master Plan by reference and reflects the Section 206E-31.5, HRS, ban on residential development. Allowable land uses are now presented in a simplified table that will also provide landowners with additional flexibility to propose new activities. Allowable building heights and massing, however, remain generally unchanged from the 2005 plan and rules. Minimum parking requirements are being eliminated to be in line with the City and County of Honolulu’s parking policies. Language is also being added to reflect Act 221 (2023), which requires consideration of climate change, sea level rise, and climate-resilient development in the design and siting of buildings.

#### November 2023 Updates

Since the October 2023 revised administrative draft plan and rules, a number of further refinements have been identified. These refinements include:

Rule	Title	Refinement
§15-23-5	Definitions	Aligns definitions with Kaka‘ako mauka rules and adds references to interpretation procedures. Also clarifies that above-ground parking is not included in floor area calculations.
§15-23-7.5	Compliance with other regulations	Clarifies that rules take precedence over private agreements.
§15-23-8	Establishment and scope of controls	Clarifies that all building permits and all projects must be consistent with the makai area plan and rules.
§15-23-10.1	Completeness Review	Clarifies that completeness reviews do not apply to rules clearance, zoning clearances, and temporary use permit applications. Allows pre-application meetings.
§15-23-14.1	Variances	Clarifies variance process.
§15-23-15	Nonconformities	Adds improvement permits as a trigger for nonconforming structures.
§15-23-16	Application fees	Adds rule numbers to the Permit Fee schedule.
§15-23-17	Violations	Allows the executive director to find violations.
§15-23-20	Interpretation by the executive director	References that rule clarifications will be done pursuant to Chapter 15-219.
§15-23-22	Automatic approvals	Updated automatic approval duration table.
§15-23-25	Rules clearance	Uses the term “business days” instead of “working days.”
§15-23-25	Rules clearance	Allows building permit approval without a rules clearance permit for standalone interior plumbing and electrical work.
§15-23-26	Renovation permit	Clarifies the need for renovation permits for interior alterations that increase floor area (by no more than 25 percent) and minor exterior modifications.
§15-23-27	Improvement and development permits	Clarifies the role of consultants with Native Hawaiian expertise on the Design Advisory Board (DAB).
§15-23-64	Yards	Clarifies permit process allowing parking encroachment into side or rear yards.
§15-23-70	Signs	Reverts to previous language referencing the city and county of Honolulu’s sign regulations for B-2 community business districts.
§15-23-80	Joint development of two or more lots	Clarifies the non-transferrability of mauka and makai joint development.

Rule	Title	Refinement
§15-23-81	Flood hazard district	Clarifies that the city's flood hazard areas ordinance regulates flood hazard districts.
§15-23-82.1	Conditional use permit	Clarifies that amendments to conditional use permits require authority action; also updates terminology for impact fees.
§15-23-86	Conditions	Adds "proportionate" to conditions.
§15-23-90	Minor changes	Clarifies the meaning of minor changes.
§15-23-142	Landscaping	Removes palm trees as street trees. Allows alternative canopy trees to be proposed.
§15-23-158 to §15-23-164	Historic preservation	Eliminates the certificate of appropriateness and aligns rules with state historic preservation division processes, Section 6E-42, HRS.
§15-23-178.1	Master Plans	Adds requirements to master plan permit applications that address relationships to surrounding uses, environmental impacts, and public engagement efforts.
Figure 2	Approval requirements matrix	Revises table to be consistent with HRS §206E-4.1 and HRS §206E-5.6.
Figure 5	Land use table	Clarifies that residential and hotel uses are explicitly not allowed; also adds transportation terminals or ports as an allowed use.
Throughout	n/a	Updates punctuation and spelling throughout.

After Authority approval of the proposed amendments to the Makai Plan and Rules, the amendments will be provided to the Small Business Regulatory Review Board to recommend final approval by the governor.

#### IV. RECOMMENDATION

Approve Proposed Amendments to the Makai Plan and Rules, Chapter 15-23, Hawaii Administrative Rules, for the Makai Area of the Kaka'ako Community Development District, to Reflect the Section 206E-31.5, HRS, ban on Residential Development; Incorporate the Kaka'ako Makai Conceptual Plan; and Streamline Permitting, subject to any technical non-substantive edits by the Attorney General and the Legislative Reference Bureau.

#### Attachments:

1. Draft Kaka'ako Makai Plan
2. Makai Area Rules, Proposed Amendments – Final Draft (Ramseyer Version), November 2023

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