



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



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December 21, 2009

Mr. Clyde W. Namuo
Administrator
Office of Hawaiian Affairs
711 Kapiolani Boulevard, Suite 1001
Honolulu, Hawaii 96813

Dear Mr. Namuo:

Re: Ocean Investments, LLC Redevelopment Plans

Thank you for providing your comments on the Ocean Investment/John Dominis Restaurant redevelopment project. However, while acknowledging your organization's general interest in Kakaako Makai and in the management of all lands in the States' Public Land Trust, I offer the following comments.

Landmark Facility. The John Dominis Restaurant and facility has been part of the Kakaako Makai Area for over 30 years and is considered by many in the community to be an iconic gathering place and landmark of the area. Long before our current efforts to develop the Kakaako Makai Area into a public gathering place, the operators of the John Dominis Restaurant expressed confidence in the location and the area and committed considerable expense to establish its current facility and operation. Thirty years of patronage by the citizens of Hawaii and beyond has borne out the wisdom of that commitment.

However, as the current facility is over 30 years old and in need of repair, the current leaseholder Ocean Investments, LLC ("OI") of Japan is faced with either extensive rehabilitation of an aged facility or expending an equal sum of money in reconstructing the facility. Given its right of tenancy and long-term lease, it is exercising its right to redevelop and upgrade the facility.

Benefits of Redevelopment. The proposed OI redevelopment project will produce very tangible benefits to the ongoing Makai Area master planning process. These benefits include:

- The facility is proposed to be constructed approximately 10 feet back from the existing stone wall. This will potentially allow construction of a public walkway along the water's edge which was previously not possible.

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- In the course of amending the terms of their lease, the OI has committed to pay a proportional share of the waterfront association fees that will be used to maintain public facilities in the Makai Area.

The benefit that the OI will receive from this project is that in accordance with its rights of occupancy as allowed in the remaining 32 years of its lease, it will be able to construct a facility that will (within the parameters of the existing Makai Area Plan and Rules) serve to create a new landmark and gathering place in the Makai Area.

Development Plan Review. The Kakaako Makai Community Planning Advisory Council (“CPAC”) has been provided information and updates as to the change in ownership, tenancy and plans for redevelopment of this landmark facility. Here are some dates and specifics associated with that process.

- At its August, 2007 general meeting, the CPAC was briefed on the tenancy of Basin Project Inc. (aka John Dominis Restaurant). HCDA staff indicated that given its lease, the restaurant would remain a fixture in the area.
- At the June 6, 2009 meeting of the HCDA, the subject of the John Dominis Restaurant lease was discussed. The Authority consented to an extension of the sublease to Basin Project Inc. and authorized its Executive Director to execute that consent on best terms, but not less than existing terms. The Authority’s deliberation invited public comment and members of the CPAC were in attendance.
- At the July 2009 CPAC meeting, HCDA staff shared that the OI had purchased the John Dominis lease and the facility was being operated on a lease-back agreement with continuation of current uses. HCDA staff also informed the CPAC that the OI had expressed an interest in potentially pursuing redevelopment of the site with the same use, existing square footage density and height limit of 65 feet, and that redevelopment concepts could include construction of a more uniform second floor.
- In July 2009, based on materials submitted by the OI, HCDA staff conducted a preliminary project eligibility review. As a

part of this review, State and City & County agencies were requested to review the submittal and have provided their comments. This project eligibility review is routinely conducted for all projects by HCDA staff and is designed to ensure that there is adequate infrastructure to support the project as well as identify any other design, development, historical or archaeological issues.

- On October 22, 2009, HCDA staff provided the proposed design plans for redevelopment of the John Dominis Restaurant to the CPAC via electronic mail.
- On November 10, 2009, a representative of the OI presented the redevelopment plans to the CPAC.
- On November 20, 2009, the OI submitted a development permit application for the redevelopment project to HCDA staff. HCDA staff is reviewing the development permit application submitted by the OI and HCDA has not made any final determination on the application. Section 15-23-83(d) of the Makai Area Rules requires that the HCDA make a determination on the application within one hundred (100) days of receipt of the application.
- On December 1, 2009, your agency, the Office of Hawaiian Affairs (“OHA”) provided comments/concern that the architectural renderings show a building that does not represent a Hawaiian sense of place.

The proposed density for the project is less than 1.5 FAR and the project does not propose a variance or modification of applicable administrative rules.

In accordance with public participation protocols offered by the Executive Director of the HCDA and discussed with the CPAC, the CPAC has received a timely briefing by the OI design representative as to its proposed development plans. Comments received to date from the CPAC have been forwarded to OI and its response solicited.

While HCDA staff has now received comments from CPAC members and your agency regarding the preliminary design proposed by the OI, it is obliged to continue to administer any review of the development permit application in accordance with the established zoning and design rules in place and afford this long-term tenant with appropriate due process rights provided under these rules. In reviewing the development permit application, HCDA staff will consider the following (but not limited to) sections of the Makai Area Rules. In addition, as Section 15-23-4, Hawaii Administrative Rules (“HAR”) provides, the Makai Area Plan and Makai Area Design Guidelines are incorporated by reference into the Makai Area Rules, HCDA staff will also consult appropriate sections of these documents.

Makai Area Plan

- Section 4.0 Urban Design (all including 4.1 Urban Design and the Makai Area, 4.2 Urban Design Principles and Elements, 4.3 Building Envelope Definition and 4.4 Pedestrian Environment).

Makai Area Rules

- *Project Eligibility Review.* Proposed site plan, basic massing, floor area allocation and location of proposed uses, off-street parking and loading, pedestrian and vehicular circulation, topography (existing and proposed) and location of existing and proposed improvements and utility. (Section 15-23-10, HAR).
- *Land Use Zone Rules* (Subchapter 2 in its entirety).
- *Waterfront Commercial (“WC”) Zone.* Purpose and Intent (Section 15-23-33, HAR); WC Zone: Use Rules (Section 15-23-34, HAR).
- *General Development Requirements* (Subchapter 3 in its entirety).

Sections 15-23-61 to 15-23-89, HAR, relating to: density; heights; yards; open space; building envelopes; off-street parking; off-street loading; prohibition of structures within a mapped street; utilities required to be underground; environmental standards; and flood hazard district.

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- *Special Urban Design Rules* (Subchapter 4 in its entirety).

Sections 15-23-138 to 15-23-143, HAR, relating to:
streetscapes; tower spacing and circulation; and landscaping.
- Exhibit 2 of the Makai Area Rules (locates the site within the WC zone or waterfront commercial).
- Exhibit 3 of the Makai Area Rules (specifies that the maximum density is 1.5 FAR and maximum height is 65 feet).

Your Comment/Concern. In accordance with our existing protocol regarding public comments received during the course of our review of the OI development permit application, we will forward your concern that the current renderings do not convey a “Hawaiian sense of place” and solicit their response. However, if you would also like to provide further clarification of your concern, I would be more than happy to pass this information on to the OI.

Summary. HCDA staff will continue to receive and give appropriate consideration to any comments and recommendations provided by the OHA on this matter regarding the application of relevant sections of the Makai Area Plan and Rules before a determination on the development permit application is made. Please do not hesitate to contact me should you require further clarification on the HCDA’s review of this development permit.

Sincerely,



Anthony J. H. Ching
Executive Director