

## SUMMARY - PUBLIC HEARING

### HAWAII COMMUNITY DEVELOPMENT AUTHORITY

State of Hawaii

September 2, 2009 – 11:00 a.m.

#### ATTENDANCE

Members Present: Barbara Annis, C. Scott Bradley, Steve Bretschneider, Grady Chun, Joseph Dwight, Michael Formby, Paul Kimura, Kay Mukaigawa, Dexter Okada and Sandra Yahiro.

Members Absent: Amanda Chang, Christopher Kobayashi, Jonathan Lai.

Others Present: William Meheula (Attorney for the Petitioner), Mike Dang (Kamehameha Schools), Anthony Ching, Eugene Won (Deputy Attorney General), Deepak Neupane, Loretta Ho, Patricia Yoshino and Holly Hackett (Court Reporter).

A public hearing of the members of the Hawaii Community Development Authority (“Authority”), a body corporate and public instrumentality of the State of Hawaii, was called to order by Mr. Paul Kimura, Vice-Chairperson of the Authority and acting as Presiding Officer, at 11:07 a.m. on Wednesday, September 2, 2009, at the Authority’s principal offices at 677 Ala Moana Boulevard, Suite 1001, Honolulu, Hawaii 96813.

Presiding Officer Kimura explained that the public hearing was being held pursuant to Section 206E-5.6, Hawaii Revised Statutes. The Authority had authorized the convening of the public hearing to receive testimony and make a decision on the Kamehameha Schools’ (“Petitioner”) Kaiāulu `O Kaka`ako Master Plan Application (“Application”). Notice of the public hearing was published in the newspapers on August 27, 2009 and was also posted on the Authority website. Pursuant to HRS 206E-5.5(b), notice was provided to the President of the Senate and Speaker of the House.

Presiding Officer Kimura explained the procedures for the public hearing.

#### Kamehameha Schools’ Kaiāulu `O Kaka`ako Master Plan Application

Executive Director Anthony Ching presented the staff report on the Application. He provided the following chronology of events:

- On November 26, 2008, the Petitioner submitted its Application.
- On March 23, 2009, the Application was deemed to be complete.
- On April 1, 2009, the Authority approved holding a contested case hearing for the Application.
- On April 22, 2009, the Hawaii Community Development Authority (“HCDA”) mailed approximately 11,825 flyers through its Connections mailing list to solicit comments to the Master Plan.
- On May 5, 2009, HCDA published notice of the community meeting in the Honolulu Advertiser and Honolulu Star Bulletin scheduled for May 7, 2009.
- On May 7, 2009, HCDA made the proposed Master Plan publicly available on its website ([www.hcdaweb.org](http://www.hcdaweb.org)).
- 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.
- On May 7, 2009, HCDA created a telephone comment line to allow the public to call in their comments to the Master Plan.
- On May 7, 2009, HCDA held a community meeting at the Honolulu Design Center, Cupola Theatre Room where the Petitioner presented a summary of its Master Plan, and attendees provided written and oral comments.
- On June 26, 2009, HCDA posted its staff’s Analysis and Recommendations of the Master Plan on the HCDA website.
- On July 7, 2009, the contested case hearing on the Application was held at the Authority offices.
- On August 27, 2009, HCDA published notice of the public hearing in The Maui News, The Garden Isle, the Star Bulletin; West Hawaii Today; and Hawaii Tribune-Herald. Notice of the public hearing was also posted on its website, and provided to the President of the Senate and Speaker of the House.

Presiding Officer Kimura stated the Authority had received written testimony from the following individuals:

1. Bob Loy, The Outdoor Circle, opposed
2. Michelle Matson, Kakaako Community Planning Advisory Council, opposed
3. Ronald T. Iwami, Friends of Kewalo Basin Park Association, neutral position
4. Reg White, Kakaako Community Planning Advisory Council, opposed
5. Nancy Hedlund, Kakaako Community Planning Advisory Council, opposed
6. Dave Arakawa, Land Use Research Foundation of Hawaii, support
7. Francis S. Oda, Group 70 International, Inc., support

Presiding Officer Kimura asked whether there was anyone from the public who wished to testify on the matter.

The following individuals presented oral testimonies.

1. Justin Fanslau, Hawaii Pedal Power, support\*
2. Tom Wilkolak, Honolulu Seawater Air conditioning, support
3. Mark Little, Eight Inc., support
4. Christine Ruotola, Group 70 International, support
5. John Strom, Enterprise Honolulu, support\*
6. Jeffrey Zimmerman, AdWalls, support\*
7. David Watumull, Cardax Pharmaceuticals, Inc., support
8. Lisa Gibson, Hawaii Science and Technology Council, support
9. Ilan D. Amir, Hawaii Business Magazine, support\*
10. Paulette Kaleikini, support
11. Kala Keliinoi, support
12. Moani Kaleikini, support
13. Melodie Kaai, support

\*Also provided a written statement that is part of the official meeting record.

Presiding Officer Kimura noted for the record that a contested case hearing had been conducted at which the Petitioner and Hearing Officer had established the evidentiary record for the Master Plan Permit application. The Hearing Officer and the Petitioner had proposed individual orders to approve the issuance of a master plan permit with conditions to the Kamehameha Schools (“Petitioner”).

Mr. Ching called upon the Members to respond in turn Aye or Nay that they had received the record and were prepared to take action on the matter. All Members present responded in the affirmative that they had in fact reviewed the evidentiary record and were prepared to act on the matter. The members then adopted (by a show of hands) the findings-of-fact, conclusions of law and decision and order proposed by the Hearing Officer for purpose of deliberation.

Mr. Ching proceeded to review and verify the Authority’s intentions with each of the findings-of-fact, conclusions of law and decision and order proposed by the Hearing Officer. His review covered the following sections of the proposed order.

- Findings of fact 1-33, describe the process involved in the contested case hearing.
- Findings of fact 34-41 describe the applicable plan and Mauka area rules which guide the master plan permit.
- Findings of fact 42-48 describe the master plan area.
- Finding of fact 49 summarizes the proposed land use in the master plan area.
- Findings of fact 50-54 describe urban design, streetscapes, open space, and the urban form associated with the master plan application.
- Findings of fact 55-59 describe the transportation system.

- Finding of fact 60 describes the public benefits that are expected of the master plan project.
- Finding of Fact 61 describes the reserved housing requirement and commitment of the Petitioner to deliver such housing.
- Findings of Fact 62-72 describe the public facilities and requirements in the Petitioner's permit to meet those requirements.
- Findings of Fact 73-78 describe the proposed phasing plan for the project.
- Findings of Fact 79-80 describe the variances or amendments that may be required to implement the project.
- Findings of Fact 81-92 describe the requirements for approval for size, density, urban form, heights and open and recreational space requirements for the master plan area.
- Findings of Fact 93-105 describe the residential use proposed, housing and parking strategies.
- Findings of Fact 106-109 describe the public benefits that will accrue from this project.
- Findings of Fact 110-115 describe the cultural, historical preservation commitments and facts related to this master plan area.
- Sixteen (16) Conclusions of Law describe the various legal findings and gives authorization for the Authority to take this action.
- Thirteen (13) conditions imposed as conditions of the implementation of the Master Plan.

Mr. William Meheula, attorney for the Petitioner, stated he was resubmitting the resolution read during the Contested Case Hearing. He stated that the procedural rules, in particular 15.16 10a, specifically give the Authority the authority to delegate to the Executive Director the power to enter into contracts. With respect to Member Okada's question as to whether another hearing was required before the Authority could vote on the application, Mr. Meheula cited 15.22 205B which provided that action must be taken after the contested case hearing, and the contested case hearing had occurred on July 7.

Presiding Officer Kimura entertained a motion for the Authority to formally adopt the resolution set forth by the Petitioner.

Member Formby made a motion to adopt the Petitioner's resolution that authorized the Executive Director to enter into a master plan development agreement with the Petitioner. The motion was seconded by Member Dwight.

Presiding Officer Kimura asked Members whether there was any discussion on the motion.

Member Formby stated he would like to amend his motion and add language that the Executive Director keep the Authority apprised of ongoing negotiations and positions taken by the parties in the course of negotiations on subsequent Master Plan Development Agreements.

Member Dwight agreed to the amendment of the motion offered by Member Formby.

Mr. Ching asked the Petitioner to repeat the Resolution.

Mr. Meheula read the Petitioner's resolution for the Authority's consideration:

“Given the terms of Condition #2, Petitioner would request that the Authority direct its Executive Director to forthwith enter into an initial Master Plan Development Agreement covering the general terms and conditions of this Decision and Order and the Reserved Housing Credit System described in Petitioner's Exhibit B and which we have discussed today. The Petitioner would further request that the Authority delegate its Executive Director to enter into any supplemental master plan development agreements as specified by Condition #2.”

A motion to enter into Executive Session was made by Member Formby and seconded by Member Yahiro. The motion was approved by all Members by a show of hands. Presiding Officer Kimura stated that the Authority would be convening in Executive Session to consult with its attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities.

Presiding Officer Kimura requested that Counsel Eugene Won, Executive Director Ching, the Director of Planning and Development for Kakaako – Deepak Neupane and Secretary Patti Yoshino join the Executive Session.

#### EXECUTIVE SESSION

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The Hawaii Community Development Authority (“HCDA”) convened in Executive Session at 11:58 a.m. pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities.

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Presiding Officer Kimura reconvened the regular meeting at 12:29 p.m.

Member Formby stated he was withdrawing his previous motion. Member Dwight agreed to the withdrawal of the motion.

Member Bradley offered a motion to adopt the Decision and Order before the Authority while incorporating certain typographical errors that had been previously described by the Executive Director and to delete the second sentence in Condition #2.

The motion was seconded by Member Chun.

Member Okada stated that he had been concerned that Kakaako should be handled as a whole community and not as separate master plans. However, he offered that given the extensive community outreach that had been conducted by the Petitioner his concerns had been addressed sufficiently and he would be supporting the motion.

There being no other discussion on the motion, a roll call vote was conducted.

Ayes: Members Annis, Bradley, Bretschneider, Chun, Dwight, Formby, Kimura, Mukaigawa, Okada and Yahiro.

Nays: None.

The motion to approve the master plan permit passed with a 10 to 0 with 3 excused (Members Chang, Kobayashi and Lai).

Member Formby offered a motion to accept the Master Plan Development Agreement offered by the Petitioner as Exhibit B. Member Bradley seconded the motion.

There being no further discussion, a roll call vote was conducted.

Ayes: Members Annis, Bradley, Bretschneider, Chun, Dwight, Formby, Kimura, Mukaigawa, Okada and Yahiro.

Nays: None.

The motion to approve the master plan development agreement passed by a vote of 10 to 0 with 3 excused (Members Chang, Kobayashi and Lai).

#### ADJOURNMENT

There being no further discussion, the public hearing was adjourned at 12:35 p.m.

Attachment: Transcript of May 7 Community Meeting on Petitioner's Master Plan Application.