

BEFORE THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY  
OF THE STATE OF HAWAII

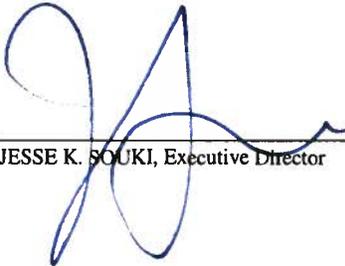
In re Application of ) APPLICATION NO. KAK 16-075  
 )  
VICTORIA WARD, LIMITED )  
 )  
Applicant )  
 )  
For a Planned Development Permit for Land )  
Block 1, Project 3. )

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

**AND**

**CERTIFICATE OF SERVICE**

THIS IS TO CERTIFY THAT THIS IS A TRUE AND CORRECT  
COPY OF THE DOCUMENT ON FILE IN THE OFFICE OF THE  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY,  
HONOLULU, HAWAII

 . 1/13/17  
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JESSE K. SOUKI, Executive Director Date

HAWAII COMMUNITY  
DEVELOPMENT  
AUTHORITY

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

On September 22, 2016, VICTORIA WARD, LIMITED (“VWL”) submitted an application (“Application”) for a development permit pursuant to Chapter 206E, Hawaii Revised Statutes (“HRS”), Chapter 15-22 (“Vested Rules”) and Chapter 15-219, Hawaii Administrative Rules (“HAR”) for a proposed mixed-use, high-rise condominium project known as Land Block 1, Project 3 of the Ward Neighborhood Master Plan (“Planned Development Permit” or “Project”). The property affected by this Application is located within the Kakaako Community Development District (“KCDD”) on the mauka side of the block bound by Queen Street, Kamakee Street, Auahi Street, and Ward Avenue, further identified as Tax Map Key Nos. (1) 2-3-002:086, 087 (por.), and 106 (por.).

The Hawaii Community Development Authority (“HCDA” or the “Authority”), having heard considered and examined testimony, evidence, public comment, and argument of counsel, which were presented during the hearings November 2 and 3, 2016 and on December 7, 2016, along with their respective pleadings filed herein, hereby makes the

following Findings of Fact (“FOF”), Conclusions of Law (“COL”), and Decision and Order (“D&O”).

## **FINDINGS OF FACT**

### **PROCEDURAL HISTORY**

1. On September 22, 2016, VWL submitted its Application for the proposed Planned Development Permit.
2. On September 22, 2016, the Application was deemed complete by HCDA staff.
3. On September 22, 2016, the Application was posted on HCDA’s website in accordance with HRS § 206E-5.5(2).
4. On September 27, 2016, the Notice of Public Hearings was published in accordance with HRS §§ 1-28.5, 92-41, 206E-5.5, and 206E-5.6, and HAR § 15-219-27.
5. In accordance with HRS § 206E-5.6, the President of the Senate and Speaker of the House of Representatives were notified of the posting of the hearing notice.
6. Associations of apartment owners of residential buildings in the KCDD adjacent to the Project, surrounding landowners and businesses, the Ala Moana/Kakaako Neighborhood Board, and the Kakaako Improvement Association were notified of the Application and the public hearings.
7. Various elected officials and State and County agencies were also notified of the Application and the public hearings.
8. Hearing notices were also provided to approximately four hundred thirty six (436) individuals and organizations that have shown interest in development in Kakaako in the past and who have requested that they be kept informed of development activities in the KCDD.

9. On September 27, 2016, notifications by first class United States mail, postage prepaid, were mailed to owners and lessees of record of real property located within a three hundred foot radius of the perimeter of the proposed project identified from the most current list available from the Real Property Assessment Division of the Department of Budget and Fiscal Services of the county of Honolulu.

10. The mailed notifications included, without limitation, (a) project specifications, (b) requests for modifications of a community development plan or the authority's community development rules; and (c) procedures for intervention and a contested case hearing.

11. The Notice of Public Hearing noted the deadline to intervene was October 17, 2016.

12. No motions for intervention were filed.

13. Prior to the hearing on November 2, 2016, comments regarding the Project were received from the following agencies:

- Department of Planning and Permitting, 9/21/16 and 10/26/16 correspondence
- Disability and Communication Access Board, 10/3/16 correspondence
- Honolulu Fire Department, 10/11/16 correspondence
- Department of Transportation Services, 10/17/16 correspondence
- Hawaiian Telcom, 10/18/16 correspondence
- Oceanic Time Warner Cable, 10/18/16 correspondence
- Board of Water Supply, 10/19/16 correspondence
- Honolulu Authority for Rapid Transportation, 10/20/16 correspondence

- Hawaiian Electric Company, 10/25/16 correspondence
- Department of Education, 10/25/16 correspondence

14. On October 18, 2016, a pre-hearing conference was held at HCDA's office at 547 Queen Street, Honolulu, Hawaii 96813.

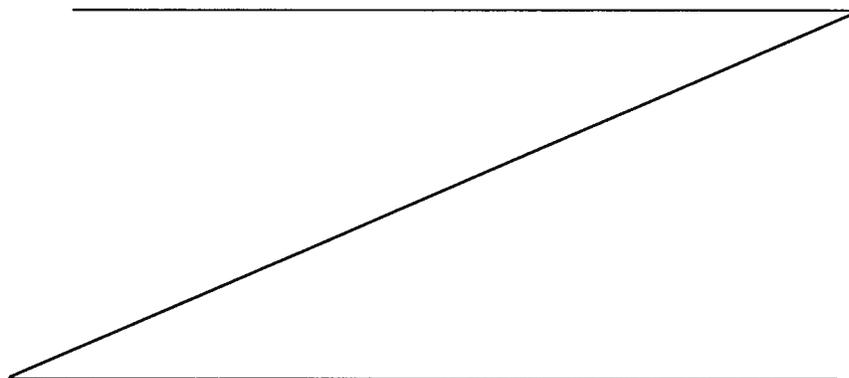
15. On October 19, 2016, HCDA issued its Pre-Hearing Order, requiring the Applicant to submit witness lists, exhibit lists, and exhibits by October 21, 2016.

16. In compliance with the Pre-Hearing Order VWL submitted its witness list, exhibit list, and exhibits on October 21, 2016.

17. On November 2, 2016, pursuant to the Notice of Public Hearing, the Presentation Hearing on the Application was held at HCDA's office at 547 Queen Street, Honolulu, Hawaii 96813 (hereafter, "November 2, 2016 Hearing").

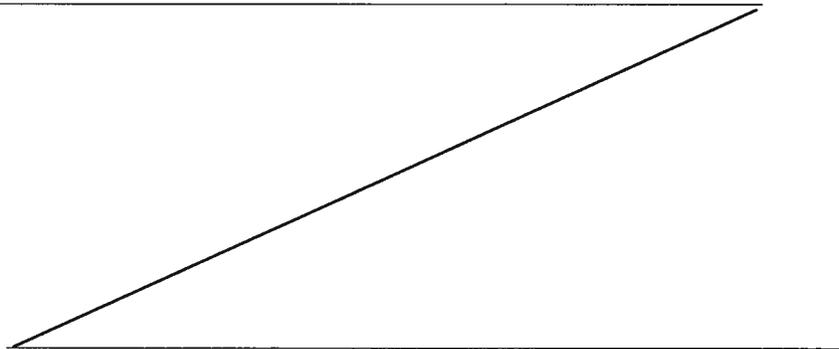
18. At the November 2, 2016 Hearing, VWL was afforded the opportunity to present information supporting the Project.

19. At the November 2, 2016 Hearing, the public was afforded the opportunity to present testimony on the Project.



20. At the November 2, 2016 Hearing, the Authority admitted into evidence all of the following exhibits, including written direct testimony, presented by VWL:

<b>Exhibit</b>	<b>Exhibit Description</b>
A	Permit Application (including Appendices)
B	Certification Re: Notification to Owners and Lessees of Record of Real Property Located Within a Three Hundred Foot Radius Pursuant to HRS 206E-5.5
C	Public Facilities Agreement for Land Block 1, Project 3
D	Race Randle Direct Testimony
D-1	Race Randle Modification Testimony
E	Todd Apo Direct Testimony
F	Tom Witten Direct Testimony
F-1	Curriculum Vitae for Tom Witten
F-2	Tom Witten Modification Testimony
G	David Akinaka Direct Testimony
G-1	Curriculum Vitae for David Akinaka
G-2	David Akinaka Modification Testimony
H	Glenn Kuwaye Direct Testimony
H-1	Curriculum Vitae for Glenn Kuwaye
I	Cathy Leong Direct Testimony
I-1	Curriculum Vitae for Cathy Leong
J	Matt McDermott Direct Testimony
J-1	Curriculum Vitae for Matt McDermott
K	Scott Higashi Direct Testimony
K-1	Curriculum Vitae for Scott Higashi
L	Ward Village Master Plan Update (July 2016) Slide Presentation
M	Ward Village Community Feedback Summary and Results



21. At the November 2, 2016 Hearing, VWL presented the oral testimony of the following witnesses:

	<b>Witness</b>	<b>Affiliation</b>	<b>Description of Testimony</b>
1	Todd Apo	Vice President of Community Development, The Howard Hughes Corporation	Project overview
2	Scott Higashi	Locations	Market supply and demand
3	David Akinaka	Ferraro Choi and Associates	Architecture
4	Glenn Kuwaye	Licensed Professional Engineer, Wilson Okamoto Corporation	Infrastructure
5	Cathy Leong	Licensed Professional Engineer, Wilson Okamoto Corporation	Traffic impact report
6	Matt McDermott	Principal Investigator, Cultural Surveys Hawaii	Archaeological, historical, cultural studies
7	Tom Witten	PBR Hawaii	Planning components
8	Race Randle	Vice President of Development, The Howard Hughes Corporation	Master plan background, overview, status; Project's compliance with Ward MP, Vested Rules, and Mauka Area Plan

22. The following witnesses were designated as experts in their designated areas of expertise, as follows:

- a) Tom Witten, planning; David Akinaka, architecture;
- b) Glenn Kuwaye, civil engineering;
- c) Cathy Leong, traffic engineering;

d) Matt McDermott, archaeology; and

e) Scott Higashi, real estate market.

23. At the November 2, 2016 Hearing, two (2) members of the public provided oral testimony.

24. On November 3, 2016, pursuant to the Notice of Public Hearing, the Modification Hearing was held at HCDA's offices at 547 Queen Street, Honolulu, Hawaii 96813. (hereafter, "November 3, 2016 Hearing").

25. At the November 3, 2016 Hearing, VWL presented the oral testimony of the following witnesses:

	<b>Witness</b>	<b>Position</b>	<b>Description of Testimony</b>
1	Tom Witten	PBR Hawaii	Modification description and compliance with Vested Rules, Mauka Area Plan, and Ward MP
2	David Akinaka	Ferraro Choi and Associates	Modification compliance with Vested Rules, Mauka Area Plan, and Ward MP
3	Race Randle	Vice President of Development, The Howard Hughes Corporation	Modification compliance with Ward MP

26. At the November 3, 2016 Hearing, the public was afforded the opportunity to present testimony on the requested modification.

27. At the November 3, 2016 Hearing, there were no members of the public who wished to testify.

28. At the November 3, 2016 Hearing, the Authority requested VWL submit additional information regarding the infeasibility of constructing a platform of less than seventy five (75) feet in height. As such, the record remained open.

29. In compliance with the Authority's request on November 10, 2016, VWL submitted additional written testimony from Mr. Race Randle and supplemental written testimony from Mr. Scott Higashi.

30. On November 10, 2016, the Applicant submitted to the Authority its proposed FOF, COL, and D&O.

31. On December 7, 2016, pursuant to the Notice of Public Hearing, the Decision Making Hearing was held at HCDA's offices at 547 Queen Street, Honolulu, Hawaii 96813 (hereafter "December 7, 2016 Hearing").

32. For the December 7, 2016 Hearing, the Authority received twenty-seven (27) public comments in writing.

33. At the December 7, 2016 Hearing, VWL was afforded the opportunity to present its written testimony and supporting exhibits that were submitted for the record to the Authority on November 10, 2016.

34. At the December 7, 2016 Hearing, VWL acknowledged it received and reviewed a copy of HCDA's proposed FOF, COL, and D&O.

35. At the December 7, 2016 Hearing, VWL was afforded the opportunity to present closing arguments to the Authority.

36. At the December 7, 2016 Hearing, HCDA staff presented its proposed FOF, COL, and D&O to the Authority.

37. At the December 7, 2016, Hearing the public was afforded the opportunity to present testimony on the Project.

38. At the December 7, 2016 Hearing, fifteen (15) members of the public provided oral testimony.

39. HCDA received sixty-nine (69) written public comments.

40. On December 7, 2016, the Authority closed the evidentiary portion of the proceedings.

41. On January 4, 2017, the Authority met to consider the Application. Thereafter, a motion was made and seconded to grant the Application subject to conditions. There being a vote tally of five (5) ayes, four (4) nays, zero (0) recused, and zero (0) excused, the motion carried.

#### **VESTED RULES**

42. Development rights under a master plan permit and master plan development agreement issued and approved by the Authority are vested under the community development district rules in effect at the time of initial approval by the authority and shall govern development on lands subject to such permit and agreement.

43. As set forth in the Ward Neighborhood Master Plan Decision and Order (“WNMP D&O”) “for the effective period of the Master Plan, HCDA’s Mauka Area Plan, and Mauka Area Rules applicable to the development shall be those plans and rules in effect on January 14, 2009.”

44. The WNMP D&O identified as one of the amendments to the Mauka Area Plan the single “mixed-use” land use designation for VWL-owned lands, instead of the “mixed-use” commercial (MUZ-C) and “mixed-use residential” (MUZ-R) land use designations.

45. The term single “mixed-use” means that across the Ward MP instead of having a MUZ-C and a MUZ-R land use designations there will be one land use designation.

46. The land use designation for the Project site in the Vested Rules is Mixed Use Zone-Residential (MUZ-R) and the Project conforms to the MUZ-R land use.

As set forth in the Declaratory Order, issued on October 10, 2012, the amendments required for the Halekauwila Street Extension Deletion, Park/Parking Garage Deletion, and Single ‘Mixed-Use’ designation in FOF No. 63 and Condition No. 4 of the Master Plan Permit are inapplicable and are no longer required given the repeal of the 2005 Mauka Area Rules/Plan and the adoption of a new Mauka Area Plan in November 2011.

## **WARD NEIGHBORHOOD MASTER PLAN OVERVIEW & HISTORY**

47. On April 2, 2008, VWL submitted an application for a master plan, pursuant to the Vested Rules, to obtain a master plan permit for approximately sixty (60) acres of land in the KCDD.

48. The master plan provisions of the Vested Rules were 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.”

49. A further purpose under the Vested Rules was to derive public benefits, such as affordable housing, relocation assistance, public parking, off-site infrastructure and other public

facility improvements, which are generally provided by government and would not otherwise be required from private developers.

50. The purpose of a master plan is to provide assurances to landowners, developers, and investors that projects proposed within a master planned area, that are in accordance with the applicable mauka area rules in effect at the time the master plans approval, will not be restricted or prohibited at the permit stage by subsequent changes to those rules.

51. Furthermore, “once [the landowners or developers] have met or agreed to meet all of the terms and conditions of the master plan approval, their rights to a development permit approval in accordance with the development rules in effect at the time of master plan approval shall be vested for a specified period.”

52. Master planning allows greater flexibility in the development of lots within master planned areas, than would otherwise be possible through the normal lot-by-lot development approach.

53. On January 14, 2009, pursuant to the Vested Rules, HCDA approved the Ward Neighborhood Master Plan (“Ward MP”), subject to sixteen (16) conditions in the WNMP D&O.

54. On May 6, 2009, a Nunc Pro Tunc Order was approved to resolve a clerical error in the WNMP D&O. Subsequently, and as required by one of the conditions of the WNMP D&O, HCDA and VWL executed a Master Plan Development Agreement for the Ward MP, effective December 30, 2010 (“Development Agreement”).

55. The approved Ward MP and Development Agreement cover approximately sixty (60) acres of land within the KCDD, including the Project area.

56. Development under the Ward MP is to proceed in phases through planned developments.

57. Phases were to occur by and within the various identified Land Blocks, labeled one (1) through six (6), each of which form “development lots” pursuant to the Vested Rules.

58. The Ward Neighborhood Master Plan Application (dated April 2, 2008) outlines the potential phasing strategies for the Ward MP.

59. While the Ward MP identified potential phasing strategies no specific phasing sequence were included in the Ward MP.

60. This potential phasing strategies were included in order to allow development to be implemented in response to market opportunities.

61. This potential phasing strategies was also set forth in the Development Agreement, which provides that the phasing and timing of development under the Ward MP is intended to be flexible to give VWL the ability to adapt to economic and market conditions.

62. On October 10, 2012, the Authority issued the Declaratory Order Re: Applicability of Condition No. 4 of Nunc Pro Tunc Order Re: Hearing Officer’s Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit, issued January 14, 2009.

63. The VWL has fulfilled the conditions of the WNMP D&O that required submission of the following documents prior to its initial development permit application:

- The Development Agreement,
- Declaratory Order re: Applicability of Condition No. 4 of Nunc Pro Tunc Order re: Hearing Officer’s Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit, Issued January 14, 2009

(October 10, 2012), which fulfilled Condition No. 4 of the Master Plan Permit regarding amendments to the existing Mauka Area Plan,

- Historic building inventory (Fung Associates June 2012),
- Cultural impact assessment (Cultural Surveys Hawaii May 2012),
- Predictive archaeological model (Cultural Surveys Hawaii May 2012),
- Archaeological Inventory Survey Plan (Cultural Surveys Hawaii December 2012),
- Regional traffic study (Wilson Okamoto October 2012), and
- Sustainability guidelines (April 2013).

64. In addition to preparing the sustainability guidelines, the VWL entered the Ward MP into the U.S. Green Building Council's (USGBC) program Leadership in Energy & Environmental Design ("LEED") for Neighborhood Development ("LEED-ND").

65. The LEED-ND criteria awards credits for a neighborhood's integration and sustainability through pedestrian orientation, efficient land use, and transportation infrastructure.

66. The VWL needs to fulfill its requirements under the WNMP D&O regarding tenant relocation.

67. Relocation assistance is required to be provided to affected tenants, first by looking for opportunities within the Ward MP area to the extent feasible, and by working with commercial real estate firms, or brokers for alternative spaces.

68. One of the visions of the Ward MP as set forth in the WNMP D&O is to provide open spaces, parks, plazas, and public facilities. The WNMP D&O and/or the Ward MP identifies the following:

- Central Plaza that shall be at least 150,000 square feet,
- Diamond Head Plaza to be located on Land Block four (4), and
- Ewa Plaza to be located on Land Block five (5).

69. As set forth on page sixty-two (62) of the Petitioner's Ward Neighborhood Master Plan Application (dated April 2, 2008) the Central Plaza is indicated as one of the priorities to be developed under the initial phase.

70. From 2013 to 2015, a number of Applicant's projects and Planned Development Permits were approved by the HCDA.

71. The projects and planned development permits which were approved by the HCDA included:

- Land Block Five (5), Project One (1) (KAK 13-038 July 17, 2013)  
Ke Kilohana – Permitted and Under Construction;
- Land Block Two (2), Project One (1) (KAK 13-036 August 21, 2013)  
Waiea – Permitted and Under Construction;
- Land Block Three (3), Project One (1) (KAK 13-037 August 21, 2013)  
Anaha – Permitted and Under Construction;
- Land Block Two (2), Project Two (2) (KAK 14-066 November 25, 2014)  
Gateway – Permitted; and
- Land Block One (1), Project Two (2) (KAK 14-074 February 4, 2015)  
Aeo – Permitted and Under Construction.

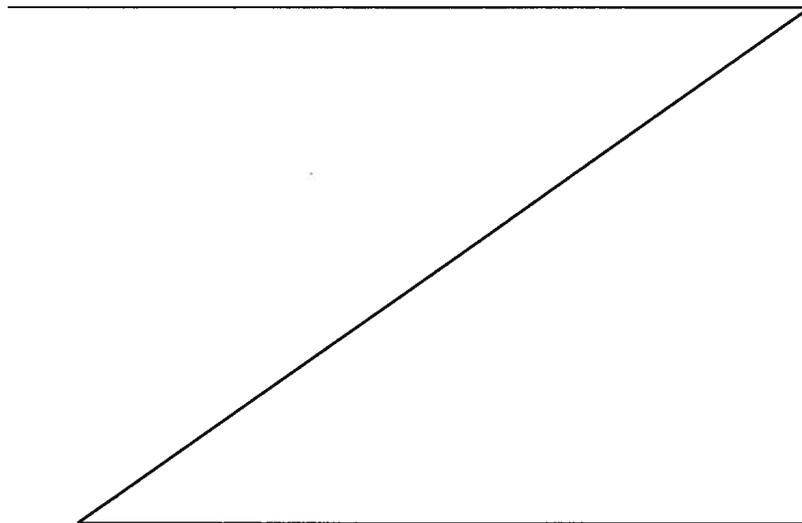
72. The Master Plan proposes 9,334,240 square feet of floor area on approximately 59.96 acres of land (total land area available for floor area allocation is 56.39 acres and excludes existing streets that are owned by VWL but cannot be considered development lots). This translates to a density of 3.8 Floor Area Ratio (“FAR”), including a bonus of 0.3 FAR for industrial use.

73. To date, there are three (3) completed projects: IBM Building, Ward Entertainment Center (MUZ 16-00), and Ward Village Shops (MUZ 93-04).

74. HCDA has issued a Development Permit for five (5) projects: Waiea (KAK 13-036), Anaha (KAK 13-037), Ke-Kilohana (KAK 13-038), Gateway (KAK 14-066), and Aeo (KAK 14-074).

75. HCDA approved four (4) projects, which are under construction: Waiea (KAK 13-036), Anaha (KAK 13-037), Ke-Kilohana (KAK 13-038), and Aeo (KAK 14-074)].

76. VWL is seeking a Development Permit for a sixth project, which is the Project considered herein Aalii (KAK 16-075).



77. The following table is a summary of permitted projects, including the proposed

Project:

<b>Currently Permitted &amp; Proposed Floor Area (FA) &amp; Floor Area Ratio (FAR) by Land Blocks</b>							
<b>Projects</b>	<b>Land Block 1 (911,887 SF)</b>	<b>Land Block 2 (355,130 SF)</b>	<b>Land Block 3 (270,159 SF)</b>	<b>Land Block 4 (230,706 SF)</b>	<b>Land Block 5 (621,871 SF)</b>	<b>Land Block 6 (66,626 SF)</b>	<b>Total (2,456,379 SF)</b>
IBM	-	-	-	49,518 SF	-	-	49,518 SF
Ward Entert. Center	213,840 SF	-	-	-	-	-	213,840 SF
Ward Village Shops	-	-	129,778 SF	-	-	-	129,778 SF
Waiea	-	527,776 SF	-	-	-	-	527,776 SF
Anaha	-	-	649,168 SF	-	-	-	649,168 SF
Ke-Kilohana	-	-	-	-	508,829 SF	-	508,829 SF
Aeo	623,175 SF	-	-	-	-	-	623,175 SF
Gateway	-	784,014 SF	-	-	-	-	784,014 SF
<b>Total</b>	<b>837,015 SF</b>	<b>1,311,790 SF</b>	<b>778,946 SF</b>	<b>49,518 SF</b>	<b>508,829 SF</b>	<b>-</b>	<b>3,486,098 SF</b>
<b>FAR</b>	<b>0.92</b>	<b>3.69</b>	<b>2.88</b>	<b>0.21</b>	<b>0.82</b>	<b>0</b>	<b>1.42</b>
<b>Proposed Project for Development Permit</b>							<b>-</b>
Aalii	623,460 SF	-	-	-	-	-	623,460 SF
<b>Total</b>	<b>1,460,475 SF</b>	<b>1,311,790 SF</b>	<b>778,946 SF</b>	<b>49,518 SF</b>	<b>508,829 SF</b>	<b>-</b>	<b>4,109,558 SF</b>
<b>FAR</b>	<b>1.60</b>	<b>3.69</b>	<b>2.88</b>	<b>0.21</b>	<b>0.82</b>	<b>0</b>	<b>1.67</b>

78. VWL has developed thirty-seven percent (37%) of the allowable 9,334,240 square feet of floor area, which results in a FAR of 1.42.

79. With the proposed Project, which has a floor area of 623,460 square feet, the total floor area to be developed within the Ward MP will increase to 4,109,558 square feet, resulting in forty-four percent (44%) of the allowable 9,334,240 square feet of floor area and a FAR of 1.67.

80. After the development of the Project, the VWL will have a projected and planned remaining floor area of 5,224,682 square feet which translates to fifty-six percent (56%) of the total floor area to be developed.

81. The Master Plan proposes a mixed-use development including residential, retail, office, commercial, and industrial uses, for a total floor area of 9,334,240 square feet, with a FAR of 3.8.

82. The WNMP D&O also noted that there would be 736,914 square feet of industrial floor area.

83. To date, under the Ward MP, the development permits VWL has obtained do not include industrial uses.

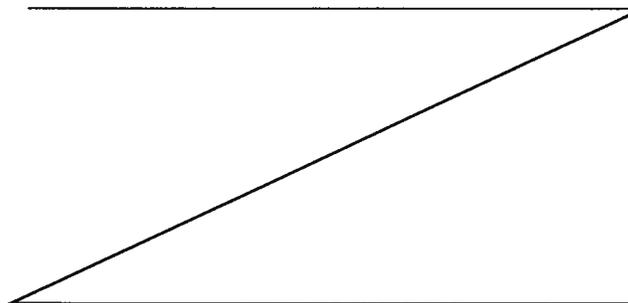
84. VWL has not utilized the 0.3 FAR industrial bonus for its approved development permits in combination with the existing developments.

85. The approved development permits and existing IBM Building, Ward Entertainment Center, and Ward Village Shops result in an FAR of 1.42.

86. If completed, the proposed Project will result in the FAR for the Ward MP being 1.67.

## PROJECT DESCRIPTION

87. The location of the Project is located on Land Block One (1) of the Ward MP.
88. Land Block One (1) is bound by Queen Street to the north (mauka), Kamakee Street to the east (Diamond Head), Auahi Street to the south (makai), and Ward Avenue to the west (ewa).
89. Land Block One (1) totals 20.93 acres and comprises one (1) development lot, which is bound by a joint development agreement.
90. The Project itself is located on the mauka portion of Land Block One (1), roughly centered between Kamakee Street and Ward Avenue, ewa of the Aeo project site (Land Block 1, Project 2).
91. The approximately 92,072 square foot Project site is mostly vacant, with the exception of an existing warehouse building and nine parking stalls.
92. Under Declaratory Order re: Applicability of Condition No. 4 of Nunc Pro Tunc Order re: Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order for a Master Plan Permit, issued January 14, 2009 (October 10, 2012), the Project site has a single mixed-use zoning designation, which allows flexibility in designing and developing the mixed use community that was approved under the Ward MP



93. The allowed FAR and the corresponding allowable floor area for Land Block 1 is provided in the following table:

<b>Ward MP – Land Block 1</b>	
Land Area of Land Block 1	20.93 acres or 911,887
<b>Projects on Land Block 1</b>	
Ward Entertainment Center (MUZ 16-00)(Existing)	213,840 SF
Project 2 (KAK 14-075) Aeo (Under Construction)	623,175 SF
Floor Area for Project 3 (KAK 16-075) Aalii (Proposed)	623,460 SF
Total Floor Area on Lan Block 1	1,460,475 SF
Total Floor Area Ratio on Land Block 1	1.60
<b>Projected Remaining Floor Area Planned &amp; Projected Total Floor Area</b>	
Projected Remaining Floor Area Planned on Land Block 1	2,095,470 SF
Projected Total Floor Area on Land Block 1	3,555,945 SF
Projected Floor Area Ratio	3.90
Projected Floor Area Transfer	3%

94. The FAR for approved permits is subject to revisions as plans are finalized for construction.

95. The Project is estimated to have approximately 623,460 square feet of new floor area with a tower footprint of approximately 13,500 square feet.

96. The Project is oriented in a Mauka-Makai direction in an effort to preserve public view planes.

97. The Project building’s height of four hundred (400) feet, plus rooftop elements.

98. The Project is anticipated to include approximately seventy hundred fifty one (751) units.

99. The Project will provide approximately 41,740 square feet of recreation space.

100. Under the Vested Rules, to the extent practicable, tower spacing should be three-hundred (300) feet between the long parallel sides of neighboring towers and two-hundred (200) feet between the short sides of towers.

101. The long side of the Project building is slightly more than two-hundred (200) feet from the Aeo tower (Project No. 2 on Land Block 1 of the Ward MP), which is less than the suggested three-hundred (300) feet distance.

102. The short side of the building is more than two-hundred (200) feet from the nearest tower.

103. The term “practicable” is not defined in the Vested Rules.

104. The term “practicable” is generally defined as reasonably capable of being accomplished, considering various factors including cost and logistics.

105. In previously approved projects, the Authority has utilized a similar definition of the term “practicable.” For the Gateway project (KAK 14-066, November 25, 2014), the Authority took into consideration numerous factors in finding that the approximately one-hundred eighty-one (181) foot tower separation was “practicable” including the open space plans for the public plaza, the impact on view corridors, and consistency with the Ward MP. For the Ke Kilohana project (KAK 13-038, July 17, 2013), the Authority took into consideration numerous factors in finding that the approximately one-hundred twenty (120) foot tower separation was “practicable” including view corridor setbacks and lot dimensions.

106. There was evidence that a three-hundred (300) foot tower spacing between the Project and the adjacent building at the Aeo Project is not practicable due to the following site constraints, which include: (1) iwi kupuna burial preserves; (2) planned Honolulu Rail Transit

Project/Hawaii Authority on Rapid Transit (“HRTP/HART”) station and guideway easement; (3) mid-block connectivity; (4) existing infrastructure easements; and (5) conformance with urban design/planning principles.

107. Three burial sites have been identified in Land Block 1 that are planned to be preserved in place and treated appropriately under an approved Burial Treatment Plan in close consultation with recognized Cultural Descendants.

108. The Project location was chosen to avoid excessive impacts upon these burial preserves.

109. The HRTP/HART’s construction plans and the related easement requirements for segments of the elevated rail system, including three track columns has impacted the planning and use of the Project, along the mauka boundary and Queen Street frontage.

110. As desired by HCDA, the Ward MP includes mid-block vehicular and pedestrian access in both the Mauka-Makai and Diamond Head-Ewa directions, within Land Block One (1), which will be a de facto extension of Halekauwila Street, the extension will be a private roadway.

111. The purpose of this extension is to connect Ward Avenue with Kamakee Street; and a mid-block road connection (Private Drive 1) extends through Land Block One (1) connecting Queen Street with Auahi Street providing access for adjacent projects.

112. The alignment of these street extensions required modification with recent discoveries of burial sites.

113. An existing easement for a forty-eight (48) inch sewer line and a drainage line constrain where residential towers may be sited on Land Block 1.

114. The preservation of Mauka-Makai views, existing view corridors on Ward Avenue and Kamakee Street, and the reduction in the number of towers planned under the Ward MP which requires efficient design and location to fully utilize the community benefits of a live-work-play neighborhood.

115. Based upon above mentioned site constraints for the Project, the tower spacing of two-hundred six (206) feet between the long parallel sides of the Project's building and the adjacent Aeo project building (KAK 14-074) is consistent with HAR § 15-22-143.

116. The Master Plan proposes bicycle networks along Pohukaina Street, Ward Avenue, Ala Moana Boulevard, Auahi Street, and Kamakee Street.

117. The Master Plan also proposes bicycle lockers and racks to be located along these streets. Detailed bicycle facilities plans must be submitted in conjunction with individual development permit applications.

118. The Project will provide two-way bicycle infrastructure along the de facto extension of Halekauwila Street (Private Drive 2), Private Drive 1 and Queen Street. The Project provides private bicycle parking within the building, on the edge of Queen Street, and public bicycle racks along Private Drive 2.

119. The Master Plan proposes several enhancements to pedestrian circulation within the district in the form of street improvements to Auahi Street, Ward Avenue, Kamakee Street, and Pohukaina Street.

120. Auahi Street is being proposed as a major landscaped, pedestrian friendly street.

121. The Master Plan includes several public plazas and open spaces that are connected to Auahi Street.

122. The Project will provide pedestrian walkways designed to accommodate pedestrians.

123. The Project, with a lot area of approximately ninety-two thousand seventy two (92,072) square feet, triggers an open space requirement of approximately nine-thousand two-hundred seven (9,207) square feet.

124. The Project will provide approximately seventeen thousand (17,000) square feet of open space.

125. This equates to approximately eighteen percent (18%) of the Project site being dedicated to open space.

126. The anticipated open space amount is almost double the required amount in the Vested Rules.

127. The platform height is seventy-five (75) feet with up to fifteen percent (15%) of the platform roof area to be built as high as eighty-seven (87) feet for accessory uses, which necessitates a modification for surpassing the forty-five (45) foot height limit in HAR § 15-22-62, which is discussed in more detail below.

128. The Project is required to provide seven-hundred sixty-seven (767) residential parking stalls and thirty-nine (39) commercial stalls, for a total of eighty-hundred six (806) parking stalls.

129. The Project will include approximately eight-hundred twenty-six (826) parking stalls, which exceeds this requirement by twenty (20) stalls.

130. The Project is providing the lowest amount of parking per residential unit for any project under the Ward MP to date.

131. The Project is required to provide three (3) off-street loading stalls that meet or exceed the minimum dimensions as provided in the Vested Rules. The Project proposes four (4) off-street loading stalls that meet the requirements of the Vested Rules.

132. There is a fifteen (15) foot front yard setback. Additionally, there is a minimum side and rear yard setback of ten (10) feet.

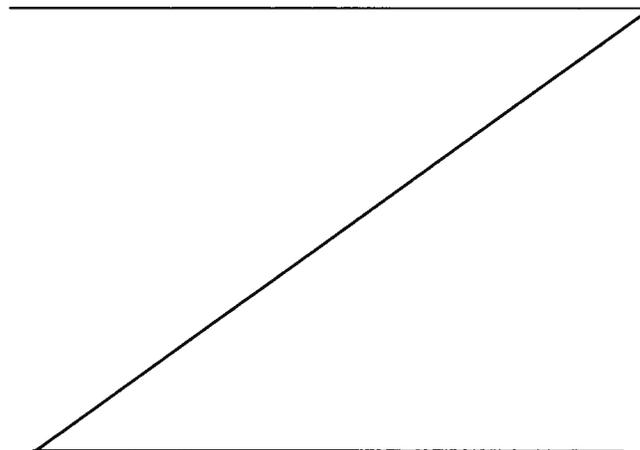
133. The Project will provide the fifteen (15) foot yard setback along Queen Street, which is the only street that bounds the Project site.

134. The Project will provide the ten (10) foot side yard, on the northwest side of the Project site, where it borders another property

135. The Project is required to provide three percent (3%) of commercial floor areas and four percent (4%) of residential floor areas for public facilities.

136. The Project triggers a public facilities requirement of approximately twenty-four thousand seven-hundred eighty-eight (24,788) square feet.

137. The Project will be providing approximately forty-two thousand five-hundred (42,500) square feet of public facilities.



138. The public facilities dedication for projects under the Ward MP is summarized in the table below:

<b>WNMP Public Facilities Dedication</b>	
Credit from Pre-WNMP Projects	<del>37,815</del>
<b>Public Facilities Dedications Provided After WNMP (To Date)</b>	
<b>Projects</b>	<b>Area (SF)</b>
Land Block 2-Project 1 (Waiea): Sidewalk along Ala Moana Boulevard	52
Land Block 2-Project 2 (Gateway): Central Plaza	34,371
Land Block 3-Project 1 (Anaha): Sidewalk along Queen Street	<del>35</del>
Land Block 3-Project 1 (Anaha): Sidewalk along Auahi Street	<del>40</del>
Land Block 3-Project 1 (Anaha): Sidewalk along Auahi Street	<del>45</del>
Land Block 3-Project 1 (Anaha): Midblock	<del>90</del>
Land Block 5-Project 1 (Ke Kilohana): Right-of-way along Ilaniwai Street	1,785
Halekauwila Street Dedication to HCDA	37,261
Subtotal of Public Facilities Dedication to Date	115,701
<b>Proposed (Pending) Public Facilities Dedications (To Date)</b>	
<b>Projects</b>	<b>Area (SF)</b>
Land Block 1-Project 3 (Aalii): Sidewalk Easement	4,500
Land Block 1-Project 3 (Aalii): Driveway Easement	38,000
Subtotal of Pending Public Facilities Dedication	42,500
<b>Required Public Facilities Dedication (To Date)</b>	
<b>Projects</b>	<b>Area (SF)</b>
Land Block 1-Project 2 (Aeo)	24,051
Land Block 1-Project 3 (Aalii)	24,788
Land Block 2-Project 1 (Waiea)	21,029
Land Block 2-Project 2 (Gateway)	31,163
Land Block 3-Project 1 (Anaha)	25,796
Land Block 5-Project 1 (Ke Kilohana)	3,092
Subtotal of Required Public Facilities Dedication to Date	129,919
<b>Remaining Balance Not Including the Pending Public Facilities</b>	<b>-14,218</b>
<b>Remaining Balance After the Dedication of Pending Public Facilities</b>	<b><del>28,282</del></b>

139. The Project is required to provide at least twenty (20%) percent of the total number of dwelling units in the development for sale or rental to qualified persons.

140. Within the Ward MP, including the proposed Project and the other projects approved to date, a total of approximately two thousand three hundred seventy-two (2,372) residential units will be built.

141. Based upon this number, the reserved housing requirement for the Ward MP is four hundred seventy-five (475) reserved housing units.

142. Ke Kilohana (KAK 13-038) will provide three hundred seventy (375) reserved housing units, which are already under contract to qualified reserved housing buyers.

143. As per the Application, the Project will provide a minimum of one hundred (100) reserved housing units to complete the four hundred seventy-five (475) reserved housing requirement for the Ward MP projects that have been approved or are proposed to date. A running total of reserved housing requirements by project under the Ward MP is provided in the table below:

<b>Reserved Housing Requirement</b>		
Project	Residential Units	Reserved Housing Units
Land Block 1-Project 2 (Aeo)	466	0
Land Block 1-Project 3 (Aalii)	751	100
Land Block 2-Project 1 (Waiea)	177	0
Land Block 2-Project 2 (Gateway)	236	0
Land Block 3-Project 1 (Anaha)	318	0
Land Block 5-Project 1 (Ke Kilohana)	424	375
<b>Total Residential Units</b>	<b>2,372</b>	<b>475</b>
<b>Reserved Units Required (20%)</b>	<b>475</b>	
<b>Reserved Housing Balance</b>	<b>0</b>	

## **MODIFICATIONS**

144. The Application requests a single modification to HAR § 15-22-62 to increase the platform height that will allow the parking structure to be moved up and away from the street, allowing for commercial spaces and residential units to be built within the platform which creates a pedestrian-friendly experience.

145. Pursuant to HAR § 15-22-22 of the Vested Rules, the Authority may consider modifications to specific rule provisions when:

- (1) The modification would provide flexibility and result in a development that is practically and aesthetically superior to that which could be accomplished with the rigid enforcement of this chapter;
- (2) The modification would not adversely affect adjacent developments or uses; and
- (3) The resulting development will be consistent with the intent of the mauka area plan.

146. Pursuant to HAR § 15-22-120 of the Vested Rules, the Authority may grant modifications as part of the planned development permit review process to the following items:

- (1) View corridor setbacks;
- (2) Yards;
- (3) Loading space;
- (4) Parking;
- (5) Minimum and maximum ratio of residential and commercial space;
- (6) Towers, as follows:
  - (A) Tower footprint area:

- (i) For buildings within the district utilized by the general public but limited to: auditoriums, community centers, and churches; or
    - (ii) For those portions of towers below sixty-five (65) feet in height.
  - (B) Number of towers: The maximum number of towers may be modified for all structures within the area bounded by Punchbowl, King, South, and Pohukaina Streets;
- (7) Platform heights may be commensurately modified to exceed forty-five (45) feet where:
- (A) Subsurface construction is infeasible;
  - (B) Design requirements for ceiling height clearances require height adjustment;
  - (C) Industrial, commercial, residential or community service uses are substantially located within the platform, especially along streets or public spaces; or
  - (D) Significant public facilities or pedestrian features are provided at the street level, especially arcades or publicly accessible open space in excess of the minimum grade-level open space;
- (8) Number of reserved housing units and the cash-in-lieu of providing reserved housing units; and
- (9) Open space, as follows:
- (A) Obstructions overhead that enhance utilization and activity within open spaces or do not adversely affect the perception of open space; and
  - (B) Height from sidewalk elevation of four (4) feet may be exceeded at a maximum height-to-length of 1:12 if superior visual relief from building mass results.

147. There was substantial and reliable evidence presented that the requested modification to increase the maximum platform height from forty-five (45) to seventy five (75) feet in height with an additional twelve (12) feet for accessory use structures satisfies the standards for modifications under the Vested Rules.

148. These modifications allow the parking structure to be moved up and away from the street, ultimately providing space for commercial and residential to be built within the platform. These elements, rather than the parking structure, will face the street, creating a more aesthetically pleasing and pedestrian friendly façade.

149. One of the requirements under HAR § 15-22-120 requires that the subsurface construction be proven infeasible. The Project is located in Flood Zone AE with Base Flood Elevations of seven (7) feet and eight (8) feet above Mean Sea Level, which makes it infeasible to build an underground parking structure. Significantly, out of respect for the Cultural Descendants, the VWL has committed to minimizing subsurface excavation and consequently minimizing the potential of disturbing cultural and historic properties underground.

150. Pursuant to HAR § 15-22-120, commercial and residential uses are substantially located within the platform of the building.

151. Pursuant to HAR § 15-22-120, significant public facilities or pedestrian features are being provided at the street level, and will be publicly accessible and in excess of the minimum grade-level open space.

152. The reliable and substantial evidence establishes that the modification is consistent with the Mauka Area Plan. The Mauka Area Plan and Vested Rules provide flexibility for large developments and adopt an approach that departs from the rigidities of lot-by-lot development, allowing the community to receive public amenities that would otherwise be unavailable. The Vested Rules HAR § 15-22-1 expressly provide that “the authority shall interpret these rules to encourage flexibility of design.” The Mauka Area Plan expressly

provides that its vision is to create the vertical mixing of uses, locate commercial at grade, and create pedestrian-oriented residential, commercial, social and recreational activities.

153. To create the vision and meet the goals identified in the Mauka Area Plan, the following elements were described:

- “Commercial uses requiring easy access to automotive traffic could also locate at grade.”
- “Large scale developments or superblocks are proposed to make the mixed-use concept work most efficiently.”
- “Most developments in the Mauka Area will be encouraged to have common urban design features for the purpose of creating a desirable and functional community. These features are tastefully designed platforms, decks, and towers.”
- Creating a level “with pedestrian-oriented residential, commercial, social and recreational activities....”

154. The modification contributes to the mixed-use live, work, play vision of the Mauka Area Plan. The modifications will allow the vertical mixing of uses: residential units in the tower and platform, and commercial in the platform, allowing the parking structure to be pulled up and away from the street, creating a more aesthetically appealing and superior pedestrian and living experience.

155. The reliable and substantial evidence establishes that the modification is consistent with the Ward MP. The Ward Master Plan identified modifications that VWL would be seeking to implement the vision of the Ward MP. As set forth in FOF No. 62 of the WNMP D&O, this relevantly included:

- “Increase the maximum podium or street front element height from forty-five (45) feet to sixty-five (65) feet for parcels fronting Ala Moana Boulevard and to seventy-five (75) feet for

all other parcels not directly fronting Ala Moana Boulevard, which will allow retail, restaurants and residential units to be built within the podium and parking structures to be moved up and away from the street, creating a more aesthetically pleasing and pedestrian friendly facade”

156. In FOF Nos. thirty-six (36) and thirty seven (37) of the WNMP D&O, HCDA recognized that master plan provided “greater flexibility than would otherwise be possible through typical lot-by-lot development” and that this provision of “assurances and greater flexibility” would allow HCDA to “negotiate with the developer to provide public benefits which are generally provided by the government.” Among the benefits to be obtained by providing greater flexibility under the Ward MP were:

- “[C]onnected public spaces, [including] a pedestrian-supportive environment including the redesign of Auahi Street as a landscaped promenade, preservation of Mauka-Makai view corridors, and an enhanced roadway network with canopy trees and pedestrian amenities.”
- “[E]xtensive use of ‘liners’ which are building designed to have aesthetically pleasing facades and to provide interaction with pedestrian traffic at ground level.”
- A “Central Plaza” to be “designed and developed as flexible spaces that accommodate a range of occasional activities or events.”
- “[M]ulti-modal systems, a mix of programs and infrastructure proposals to increase transit ridership, improve the pedestrian and bicycle environment, and minimize traffic congestion overall” including “[i]mproved street connectivity” and “traffic calming devices.”
- 245,638 square feet of open space; 225,678 square feet of public facilities in the form of new streets, sidewalks,

pedestrian walkways, public plazas, and a mass transit connection; and 104,375 square feet of public facilities in the form of upgraded infrastructure, utilities improvements, and parking.

157. The Authority reviewed the modification and made significant findings in the WNMP D&O.

158. In FOF No. 103 of the WNMP D&O, the Authority determined that “increasing the podium height allows for retail, restaurants, office, and residential units to be built within the podium” and the “additional podium height offers the opportunity to move a parking structure up and away from the street, occupying a smaller floor plate and making room for alternative uses” which uses “can then surround the garages.”

159. In FOF No. 106 of the WNMP D&O, the Authority determined that the modifications as presented satisfied the standard for granting modifications under HAR § 15-22-22, stating that the modifications:

- “(a) will result in a development that is consistent with the intent of the Mauka Area Plan and Rules;
- (b) will provide flexibility for different uses and various design strategies noted in the Master Plan, including concealed parking structures and pedestrian-friendly facades, which will result in a development that is practically and aesthetically superior to one which could be accomplished without such modifications;
- (c) will not adversely affect adjacent developments or uses; and
- (d) are necessary to implement the mixed-use, live-work-play neighborhood vision of the Master Plan and Mauka Area Plan.”

160. In COL No. 13 of the WNMP D&O, the Authority required that any requested modifications additionally be addressed and evaluated as part of the individual planned development review process for each project.

161. The Authority's evaluation of the requested modification indicates that the modification requested herein was within the contemplation of HCDA at the time of the Ward MP approval, and is consistent with and fully supported by the WNMP D&O.

162. In addition to its consistency with the Mauka Area Plan and the Ward MP, the reliable and substantial evidence establishes that anything less than a seventy five (75) foot platform height would significantly impact the Project, requiring a reduction in the number of market-priced residential units targeted to local residents, the number of reserved housing units, the number of parking stalls, and the ability to provide a pedestrian-activated streetscape that invites members of the public into the development through street-front retail activities. Even a ten (10) foot reduction in platform height from seventy-five (75) feet to sixty-five (65) feet would cause the loss of at least one hundred twenty three (123) residential units that are much needed based upon the current housing shortage facing Oahu and the urban core.

#### **SECTION HRS 206-5.6 REQUIREMENT**

163. Extent to which the Project advances the goals, policies, and objectives of the applicable district plan. Land Block One (1), Project Three (3) has been designed consistent with the goals of the Ward MP, the Vested Rules, the Authority's development guidance policies, and the district wide plan for the Kakaako Mauka Area.

164. The Project is located in the core of Honolulu, in close proximity to the central business district, the government center, and commercial and industrial facilities, as well as recreational areas such as Ala Moana Beach Park and Kewalo Basin Harbor. In addition, there is great access to mass transit throughout the Ward MP area, and the Project has been coordinated with major existing and contemplated transportation routes, recreational and service areas, and is

consistent with transit oriented development. Despite its close proximity to the urban core, the area is still relatively underdeveloped.

165. The Project was designed with the foregoing in mind, recognizing the strong potential for increased growth and development in this area. The Project will create a dynamic mixed-use environment envisioned for the district decades ago.

166. This Project will have an effect on housing in Honolulu, by delivering new residential development in the urban core. While most new construction has taken place on the West side of the island of Oahu over the past two decades, this new housing supply in urban Honolulu will help to fill a consumer demand that has been largely unserved and that is greater than the current supply of inventory available. Bringing this type of housing to market while interest rates are low provides greater access to housing for individuals. To date, approximately eighty percent (80%) of market sales within Kakaako have been to Hawaii residents. Accordingly, this Project, along with other projects in the KCDD, will help to fill a shortage in housing for Hawaii families.

167. The Authority shall consider to the extent to which the Project protects, preserves, or enhances desirable neighborhood characteristics through compliance with the standards and guidelines of the applicable district rules. The Project is located within steps of the planned rail station (near Ward Avenue and Queen Street) and adjacent to bus and trolley routes, providing excellent connectivity for residents and visitors. The Project will bring housing, parks, open space, retail and commercial facilities to the urban core in a compatibly planned, smart growth way.

168. As with all areas of the Ward MP, the Project will be integrated into VWL's existing operations team that professionally oversees management, maintenance, and security throughout the Ward MP area.

169. The Authority shall consider to the extent to which the Project avoids a substantially adverse effect on surrounding land uses through compatibility with the existing and planned land use character of the surrounding area. The surrounding uses and urban areas were taken into careful consideration during the planning of the Project. Development permits approved in 2013, 2014 and 2015 under the Ward MP will bring mixed-use residential buildings, commercial frontage, shopping destinations, and sizeable plazas with outdoor seating along Auahi Street. The Project integrates with these existing and planned conditions by seamlessly providing ground level retail and open space and wrapping parking structures with retail and residential units to create a vibrant streetscape and desired urban form.

170. The proposed Project is also highly compatible with surrounding areas in downtown Honolulu, Kakaako and Ala Moana. The addition of residences within a few minutes of the central business district and within a block of the future transit station creates the opportunity to significantly shorten one's daily commute.

171. The Authority shall consider to the extent to which the Project provides housing opportunities for all income groups, particularly low, moderate, and other qualified income groups. The Project will provide approximately seven hundred fifty-one (751) residential units, with a mix of bedroom unit types. These units will be located approximately one (1) block from the future transit station, within the same Land Block as the neighborhood's new grocery store (Whole Foods), and in close proximity to the Central Plaza, an open public

space to be enjoyed by residents and visitors alike. This Project provides housing opportunities for the buyer seeking a mixed-use neighborhood in a central location, with access to just about every form of transportation, entertainment experience, and dining and retail.

172. Although it is impossible to predict the exact composition of the Project's future residents, based upon previous experience with comparable product, it is anticipated to appeal to a range of residents with varying incomes, ages and family groups. In addition, the differentiation of product types, unit sizes, and view orientation will naturally segregate price points. Consistent with the Ward MP and the Authority's Vested Rules, the market rate units will trigger a requirement to provide reserved housing units with income restrictions. A minimum of one hundred (100) reserved housing units will be provided on site, with the remainder fifty (50) units being satisfied through concurrent development approved under Planned Development Permit No. KAK 13-038 (Land Block 5, Project 1).

173. Authority shall consider the impact of the Project on pedestrian oriented development, including complete streets design. The Project represents a great advancement of pedestrian-oriented development within the urban core. The extension of Halekauwila Street (Private Drive 2) will connect Ward Avenue to Kamakee Street and it will include bicycle lanes and landscaped pedestrian walkway. A new driveway (Private Drive 1), which will also include bicycle lanes and pedestrian walkways, will connect Queen Street to Auahi Street. These new connections will aid in connecting the Project and the neighborhood to the HART station. The building and location were carefully chosen to accommodate the pattern of a connected and walkable community. The Project design creates street-level retail and public open spaces for gathering and outdoor seating.

174. Pedestrian-oriented development is also accomplished by providing extensive retail uses along the street frontages. By increasing the platform height in order to allow for parking to be moved away from the street, more pedestrian oriented uses can be planned for the sidewalk level. This allows for the street level façade to be designed with appropriately scaled elements such as storefronts that encourage pedestrian interest and activity.

175. The Authority shall consider the impact of the Project on transit oriented development, including rail, bus, and other modes of rapid transit. Consistent with transit-oriented development principles, the Project is located within blocks of the planned rail station (near Ward Avenue and Queen Street) and adjacent to bus and trolley routes, providing excellent connectivity for residents and visitors. Residents of the Project will also enjoy excellent access to downtown Honolulu, the Capitol district, Waikiki, and other nearby retail and community activities. There is active coordination between VWL and HART.

176. The Authority shall consider the impact of Project on community amenities such as gathering places, community centers, culture and arts facilities, and the full array of public facilities normally provided by the public sector. The Project will provide easily-accessible amenities and social gathering space to encourage interaction within its community of residents, business tenants, and visitors, and within the greater communities of Kakaako and Honolulu.

177. The Authority shall consider the impact of the Project on preservation of important natural systems or habitats. The Project will avoid an adverse impact to the surrounding environment through the LEED-ND Platinum certification, the highest rating provided, that was awarded to the Ward Village for its efforts in sustainability. According to the USGBC, LEED developments are designed to deliver the following benefits: lower operating

costs and increased value; reduced waste; energy and water conservation; more healthful and productive environments; and reductions in greenhouse gas emissions.

178. The Authority shall consider the impact of the Project on maintenance of valued cultural, historical, or natural resources. As set forth above, VWL completed the following studies prior to its submission of the first development permit under the Ward MP:

- Historic building inventory (Fung Associates, June 2012)
- Cultural impact assessment (Cultural Surveys Hawaii, May 2012)
- Predictive archaeological model (Cultural Surveys Hawaii, May 2012)
- Archaeological Inventory Survey Plan (Cultural Surveys Hawaii, December 2012)

179. In addition to the foregoing, VWL has complied with HRS Chapter 6E and SHPD's rules including HAR Chapter 13-284 in preparing the necessary archaeological inventory surveys and mitigation documents specific to the Project, which are discussed in further detail hereinafter.

180. The VWL's cultural consultation efforts have been significant. VWL has and will continue to engage with state agencies and cultural stakeholders. Beyond the statutory consultation requirements, VWL has exceeded the legal consultation requirements by proactively and consistently consulting with families who have a connection to the Kakaako Ahupuaa, during the planning, designing, and archaeological inventory survey process for the Ward MP.

181. VWL has demonstrated its commitment to maintaining valued historical and cultural resources, and has complied with applicable laws to ensure that any impacts the Project

will have on cultural resources are mitigated in compliance with approved mitigation and protection plans.

182. The Authority shall consider the impact of the Project on maintenance of other resources relevant to the State's economy. The Ward MP proposes a pedestrian-friendly, smart-growth community where its residents can live, work, and play. Community feedback significantly contributed to and shaped the design for the Project, including their desires for activated streets, bicycle parking, recreation areas, and a walkable neighborhood in the urban core of Honolulu.

183. The Authority shall consider the impact of the Project on the commitment of state funds and resources. The Project does not require State funds. Existing and planned infrastructure is adequate to support the Project, and will not consume additional State resources.

184. The Authority shall consider the impact of the Project on employment opportunities and economic development. The Ward MP's collection of residential and commercial projects will have a transformative effect, with direct economic impacts on the local economy, including direct effects of the development, indirect effects through inter-industry linkages, and induced effects of the additional spending and income through consumption, all of which mobilize job creation.

185. The Ward MP comprises a major urban redevelopment comprising nearly twelve (12) billion dollars in Hawaii GDP, including direct, indirect, and induced effects based on the State of Hawaii's input-output model, or nine (9) billion dollars in present-value terms (2014 dollars).

186. The Ward MP redevelopment generates four thousand two hundred fifty four (4,254) full-time equivalent jobs including multiplier impacts, and \$3.6 billion in workers' earnings, and seven hundred one (\$701) million dollars in State taxes (\$2.8 billion and \$539 million, respectively, in 2014 dollars), all taking into account labor-saving productivity growth in different industries, over ten years. Permanent impacts include more than ninety five (95) million dollars in property tax revenue during the build-out period, and nearly two hundred forty million (\$240) million dollars over the next half-century, nearly one hundred fifty (\$150) million dollars in GDP associated with new, additional retail activity, and more than eight hundred thirty (\$830) million dollars in GDP associated with operations and maintenance over the three (3) decades following completion (all in 2014 dollars), along with more than two hundred seventy five (275) permanent, full-time jobs following completion. With new development the Ward MP will also make ongoing permanent economic contributions to the new housing supply.

187. The Authority shall consider the impact of the Project on maintenance and improvement of educational programs and services provided by schools. There is no existing applicable school impact fee district; however, the State of Hawaii Department of Education is in the process of implementing a school impact fee district from Kalihi to Ala Moana, an area that includes the Project site. When the impact fee gets adopted the VWL will comply with all applicable laws regarding school impact fees. Additionally, VWL, through the Ward Village Foundation, has voluntarily contributed to educational services in the district.

## **WIND AND NOISE STUDIES**

188. VWL will prepare a detailed wind analysis study for the Project. The wind study will focus on frequently used pedestrian areas such as main entrances, sidewalks, and outdoor

seating areas at both street and podium level. Wind tunnel measurements for multiple wind directions will be combined with long-term weather data to predict wind speeds and frequencies. These data will then be compared with wind comfort and safety criteria to determine if they are appropriate for the intended use of the pedestrian area on and around the Project.

189. VWL will prepare a detailed environmental noise study for the Project. Study findings and recommendations are expected to include the following:

- Construction noise will be governed by the State Department of Health (“SDOH”) and other state standards. A noise permit may be warranted.
- Operational noise from the building is any noise source that will be present after construction is complete and the building is occupied. Mitigation of building operational noise to meet SDOH rules will be incorporated in the Project design.
- Mechanical, Electrical, and Plumbing (MEP) Equipment will be designed to comply with applicable SDOH limits. Examples of MEP equipment include cooling towers, exhaust fans, condensing units, make-up air fans, and emergency generators.
- Vehicles that utilize loading areas may cause some degree of noise.

Landscaping around the large loading stalls located off of Queen Street will help to mitigate noise. Scheduling of transient noise source will be considered to minimize impacts on residences and businesses.

- Retail uses may generate low levels of noise from pedestrian and customer activity. Future tenants will comply with applicable noise limits to minimize potential impacts on surrounding residences or businesses.

## **CULTURAL AND HISTORIC PRESERVATION**

190. VWL retained Cultural Surveys Hawaii to conduct an archeological literature review and predictive model and cultural impact assessment for the entire Ward MP area, as well as the archaeological survey reports and related studies and plans specific to the Project.

191. The State Historic Preservation Division (“SHPD”), has reviewed and accepted applicable archaeological inventory survey reports, monitoring plans, and burial treatment plans for the Project.

192. Extensive consultation with the SHPD, recognized cultural descendants, and the Oahu Island Burial Council (“OIBC”) was conducted in conjunction with the Project.

193. On September 6 and 7, 2016, HCDA received SHPD’s historic preservation review acceptance meeting the requirements of HRS § 6E-42 and HAR Chapter 13-284.

## **TRAFFIC**

194. A Traffic Impact Report (“TIR”) (August 2016) was prepared to identify and assess the potential traffic impacts and necessary mitigation measures resulting from the Project.

195. The TIR concluded that the Project was expected to have an impact on traffic that could be mitigated with the implementation of several recommendations, including intersection improvements.

196. With the implementation of the mitigation measures identified in the TIR, the resulting traffic impact would be similar to projected conditions without development of the Project. In other words, there would be no significant impact.

197. The following were identified as mitigation measures in the TIR for the Project:

- Maintain sufficient sight distance for motorists to safely enter and exit the Project driveway.
- Provide adequate on-site loading and off-loading service areas and prohibit off-site loading operations.
- Provide adequate turn-around area for service, delivery, and refuse collection vehicles to maneuver on the Project site to avoid vehicle-reversing maneuvers onto public roadways.
- Provide sufficient turning radii at all Project driveways to avoid or minimize vehicle encroachments to oncoming traffic lanes.
- Modify the lane use on both of the Queen Street approaches at the intersection with Ward Avenue to provide an exclusive left-turn lane and a shared through and right-turn lane. The layout and dimensions of these lanes should be determined during the design of the projects as listed above.
- Consider actively managing the loading area to minimize vehicular conflicts to the adjacent intersection of Queen Street and Private Drive.
- Continue to develop and/or enhance bicycle and pedestrian facilities, as well as, public transportation services in the project vicinity as described in the “Transportation Master Plan for the Ward Villages Master Plan,” dated May 2016.

198. The foregoing improvements identified as mitigation measures in the TIR will be implemented as required by the TIR.

199. A Transportation Master Plan for the Ward MP (May 2016) was prepared to assess traffic conditions within the Kakaako area with the construction of the Ward MP.

200. The Transportation Master Plan for the Ward MP recommended certain traffic improvements.

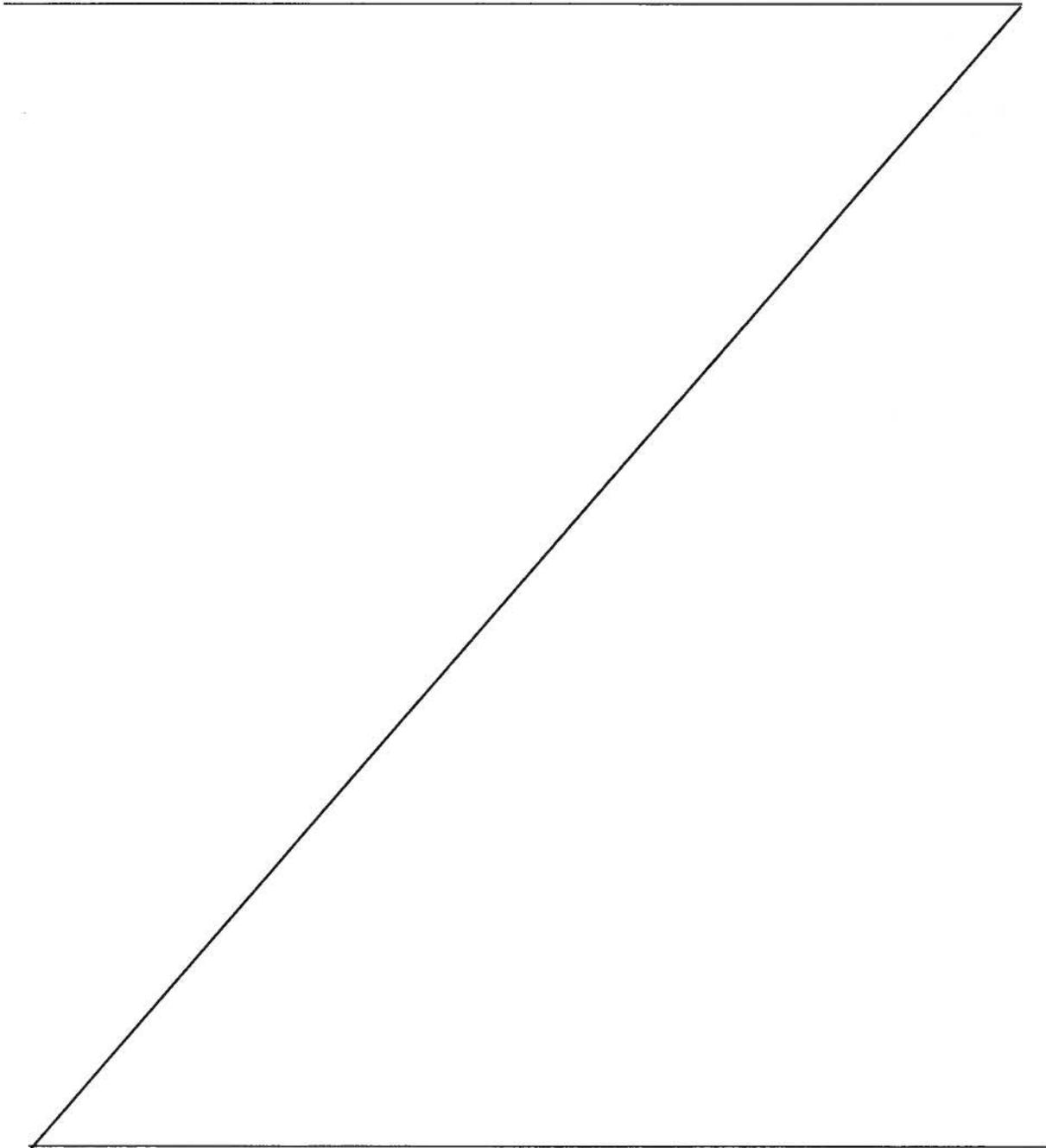
## **INFRASTRUCTURE**

201. Potable-, irrigation-, and fire-protection water service is available from the municipal water system operated by the City and County of Honolulu's Board of Water Supply ("BWS"). Based on expected water demand of approximately two hundred twenty nine thousand three hundred (229,300) gallons per day for the Project, on August 17, 2016, the BWS confirmed adequate capacity in the municipal system and noted that the developer should proceed with the update of the six (6) inch water main on Queen Street from Cooke Street up to the existing twelve (12) inch main consistent with the September 8, 2016 BWS comments set forth in the Application at Appendix D.

202. Sanitary sewer service is available from the municipal sanitary sewer system operated by City and County of Honolulu. On September 21, 2016, the Sewer Connection Application for the Project was approved by the Department of Planning and Permitting.

203. The Project will comply with the following rules and regulations as applicable: Best Management practices Manual for Construction Sites; Rules Relating to Soil Erosion Standards and Guidelines; Rules Relating to Storm Drainage Standards; Revised Ordinances of Honolulu related to grading, specifically Chapter 14 entitled "Public Works Infrastructure Requirements Including Fees and Services"; Hawaii Administrative Rules, Title 11, Chapter 54 entitled "Water Quality Standards"; Hawaii Administrative Rules, Title 11, Chapter 55 entitled "Water Pollution Control," specifically with Regard to Appendix C, the National Pollutant

Discharge Elimination System “General Permit Authorizing Discharges of Storm Water  
Associated with Construction Activities”.



## CONCLUSIONS OF LAW

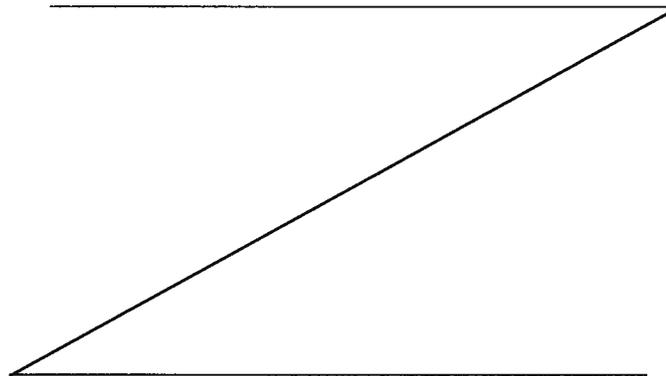
1. HCDA has jurisdiction to approve planned development permits and issue planned development permits pursuant to HRS §§ 206E-4 and 206E-5.6.
2. Pursuant to the Ward MP, approved by HCDA on January 14, 2009, the rules applicable to this Planned Development Permit are those contained in HAR Chapter 15-22, also referred to herein as the “Vested Rules.”
3. The modification proposed for the Project meets the standards set forth under the Vested Rules, including HAR §§ 15-22-22 and 15-22-120.
4. SHPD has exercised its responsibility and met its obligations pursuant to HRS § 6E-42 and HAR Chapter 13-284 to review and comment on the Project impacts and mitigation of these impacts on significant historic properties and burial sites.
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 ahupuaa 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 (1996); Ka Pa’akai O Ka ‘Aina v. Land Use Commission, 94 Hawaii 31, 7 P.3d 1068 (2000).

6. As set forth under HAR § 15-22-77(a) "No building wall shall contain a reflective surface for more than thirty percent of the wall's surface area."

7. Per HAR § 15-22-5, "Reflective Surface means any glass or other surface, such as polished metal, specified in the manufacturer's literature having reflectance (designed by such terminology as average daylight reflectance, visible light reflectance, visible outdoor reflectance, and comparable terms) of over thirty (30%) percent."

8. As set forth under Subchapter 4, Planned Development, HAR § 15-22-119 Conditions, the Authority may attach to a planned development permit conditions which may concern any matter subject to a regulation under the Vested Rules.

9. 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, HRS § 6E-43.6. 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 HAR § 13-300-40.



**RULINGS ON PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Any findings of fact not already ruled upon by HCDA by adoption herein, or rejected clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusions of law herein improperly designated as findings of fact should be deemed or construed as conclusions of law; any findings of fact herein improperly designated as conclusions of law should be deemed or construed as findings of fact.

## **DECISION AND ORDER**

Upon consideration of all applicable rules and regulations, the evidence and testimony presented by VWL, the public comments, and all other evidence appearing of the record, HCDA concludes that the Project has satisfied the requirements of HRS Chapter 206E, HRS Chapter 6E, the Vested Rules, HAR Chapter 13-284, the Ward MP, and the vision and intent of the applicable Mauka Area Plan for a development permit.

IT IS HEREBY ORDERED that the Planned Development Permit is approved subject to the following conditions:

1. Prior to HCDA staff approval of the foundation permit for the Project, VWL shall prepare perpetual public easement and public facilities dedication documents acceptable to the HCDA Executive Director. The easements and dedication documents shall be recorded with the Bureau of Conveyances or the Assistant Registrar of the Land Court as a covenant running with the land.
2. Delivery of reserved housing shall be required pursuant to the Vested Rules. A minimum of 150 reserved housing units (inclusive of the additional fifty (50) reserved housing units as required under Condition No. 22) shall be provided within the Project. Prior to approval of the foundation permit by the HCDA staff, the one hundred fifty (150) reserved housing units to be provided within the Project shall be 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, or other financial instruments acceptable to the HCDA Executive Director.

3. Within one hundred and eighty (180) days from the date of this development permit or HCDA staff approval of the foundation permit for the Project, whichever occurs first, VWL shall submit a development plan and program for sale for the reserved housing units within the Project for review and approval by the HCDA. The sale of reserved housing shall be consistent with the Vested Rules. The program for the sale of reserved housing units within the Project shall include: (1) the option to unbundle sale of parking from the sale of the reserved housing unit ; (2) a statement that the weighted average price of reserved housing units required in the Project shall be one hundred twenty percent (120%) of area median income (AMI); and (3) a statement that the mix of reserved housing units provided by all projects within the Ward MP area shall contain a similarly representative mix of market-priced units planned for all projects within the Ward MP area.

4. VWL may designate additional units within the Project as reserved housing units, subject to the Vested Rules; provided, however, that in the event of such designation, VWL shall submit a program for sale of such designated reserved housing units acceptable to the HCDA Executive Director. As long as the additional reserved housing units comply with the Vested Rules and with this Development Permit, no amendment of this Development Permit is necessary. VWL shall have the right to utilize any excess reserved housing units in the Project as credits to fulfill reserved housing requirements for other planned development projects within the Ward MP.

5. Prior to HCDA staff approval of the certificate of occupancy for the Project, VWL shall submit a development program for providing industrial floor area within the Ward MP for review by the HCDA Executive Director.

6. VWL shall implement all traffic mitigation measures and recommendations identified in the TIR for the Project.

7. VWL shall implement all applicable traffic mitigation measures and recommendations identified in the Transportation Master Plan for the Ward MP (May 2016).

8. Prior to approval of a foundation permit for the Project, VWL shall submit for review and acceptance by the HCDA Executive Director, verification documentation indicating that the VWL has consulted and coordinated with the City and County of Honolulu Department of Transportation Services (DTS) regarding the public transportation services (inclusive of bus shelters and bus stop locations), bicycle facilities, and pedestrian facilities within the Project vicinity. This requirement applies to both private and public streets and any street closures (both private and public streets) shall be approved by the DTS.

9. VWL shall provide bicycle lanes/facilities, public bicycle racks, and pedestrian walkways along Private Drive 2 (de facto Halekauwila Street), Private Drive 1, and Queen Street as shown on Exhibit 4 to the Application and reviewed and accepted by the DTS.

10. VWL shall comply with any future applicable school impact fee program adopted by the Department of Education pursuant to HRS § 302A-1601 to HRS § 302A-1612.

11. VWL shall comply with the comments and recommendation provided by the following agencies as long as it is not in conflict with this Development Permit for the Project:

- Department of Planning and Permitting,
- Disability and Communication Access Board,
- Honolulu Fire Department,

- Department of Transportation Services,
- Hawaiian Telcom,
- Oceanic Time Warner Cable,
- Board of Water Supply,
- Honolulu Authority for Rapid Transportation,
- Hawaiian Electric Company, and
- Department of Education.

12. Prior to HCDA staff approval of a demolition permit for the Project, VWL shall submit a report outlining its tenant relocation process and state its compliance with the Ward MP.

13. Prior to HCDA staff approval of the building permit for the Project, VWL shall submit LEED-ND verification documentation indicating that the proposed design meets the applicable standards for review and acceptance by the HCDA Executive Director. The HCDA Executive Director's review and acceptance shall be limited to ensuring the proposed design meets applicable LEED standards.

14. Prior to the HCDA staff approval of the foundation permit for the Project, the VWL shall submit the wind study required to be conducted for acceptance by the HCDA Executive Director. The wind study shall include in the study impacts of wind from the proposed building on the surrounding ground floor public use areas. The HCDA Executive Director's review and acceptance shall be limited to ensuring the proposed design does not propose any uncomfortable wind condition.

15. Prior to the HCDA staff approval of the foundation permit for the Project, the VWL shall submit proof of compliance with HAR § 15-22-77(a), which states, “No building wall shall contain a reflective surface for more than thirty percent of the wall’s surface area.” Per HAR § 15-22-5, “Reflective Surface means any glass or other surface, such as polished metal, specified in the manufacturer’s literature having reflectance (designed by such terminology as average daylight reflectance, visible light reflectance, visible outdoor reflectance, and comparable terms) of over thirty (30%) percent.

16. Prior to the HCDA staff approval of the foundation permit for the Project, VWL shall submit the required noise study for the Project to be conducted for acceptance by the HCDA Executive Director.

17. Pursuant to the October 20, 2016 comment letter from HART, any uses in the areas of the Project within the ten (10) foot setback from rail facilities and under the guideway shall be subject to approval from HART to ensure safety, security, and consistency with the ongoing maintenance and operation of the rail transit system; and any structures within the ten (10) foot setback shall be subject to consultation with HART for the purpose of safety and security of the rail system. Prior to the HCDA staff approval of the Foundation Permit for the Project, VWL shall submit documentation acceptable to the HCDA Executive Director indicating that the VWL has consulted with HART and the proposed design meets HART’s requirements.

18. Prior to HCDA staff approval of the Certificate of Occupancy (“CO”) for the Project or seven hundred thirty (730) calendar days from the approval of this Development Permit, whichever occurs first, VWL shall complete the construction of the Central Plaza on

Land Block 1, which per Condition No. 8 of the WNMP D&O “will generally include the public plazas and pedestrian walkways in blocks one (1) and two (2) of the Proposed Public Facilities Plan and the open space on blocks one (1) and two (2) of the proposed Open Space Plan, as shown and indicated on pages eighteen (18) and nineteen (19), respectively, of the Petitioner’s Master Plan Application Addendum (dated September 12, 2008) and shall be at least one hundred fifty thousand (150,000) contiguous square feet.” VWL shall furnish to HCDA Executive Director copies of the following: (1) an executed construction contract between VWL and a licensed general contractor for the construction of the Central Plaza planned for Land Block 1 (“Central Plaza Construction Contract”); (2) a notice to proceed issued by VWL to such contractor for the Central Plaza Construction Contract; and (3) a performance bond for the Central Plaza Construction Contract from a surety licensed to do business in the State of Hawaii, before start of construction of the Central Plaza.

19. Prior to HCDA staff approval of the certificate of occupancy for the Project, VWL shall submit a concept plan and proposed construction schedule for the planned Diamond Head and Ewa Plaza’s for review by the HCDA Executive Director.

20. VWL shall plan, design, implement, and maintain the Project site in accordance with the following City and County of Honolulu and State of Hawaii Requirements and Guidelines, as applicable:

- “Best Management Practices (BMP) Manual for Construction Sites,” November 2011;
- “Rules Relating to Soil Erosion Standards and Guidelines,” April 1999;
- “Rules Relating to Storm Drainage Standards,” effective June 1, 2013;

- The Revised Ordinances of Honolulu (ROH) – for grading, specifically Chapter 14, “Public Works Infrastructure Requirements Including Fees and Services,” 1990 as amended;
- Hawaii Administrative Rules, Title 11, Chapter 54 (11-54), “Water Quality Standards”; and
- Hawaii Administrative Rules, Title 11, Chapter 55, “Water Pollution Control” – for construction runoff, specifically Appendix C, National Pollutant Discharge Elimination System (NPDES) “General Permit Authorizing Discharges of Storm Water Associated with Construction Activities” (expires December 5, 2018).

21. Except as otherwise provided herein, VWL shall comply with all applicable requirements of the Vested Rules.

22. The modification to HAR § 15-22-62 to increase the platform height to seventy five (75) feet is hereby approved, provided that there are fifty (50) additional reserved housing units provided in the Project (totaling one hundred fifty (150) reserved housing units in the Project) as additional public benefit consistent with the intent of the Vested Rules and the Mauka Area Plan. A maximum of fifteen percent (15%) of the recreation deck area elements shall be allowed an additional height of twelve (12) feet.

23. VWL shall comply with the SHPD approved mitigation plans, and all applicable laws regarding historic properties, aviation artifacts, and burial sites, including but not limited to HRS Chapter 6E.

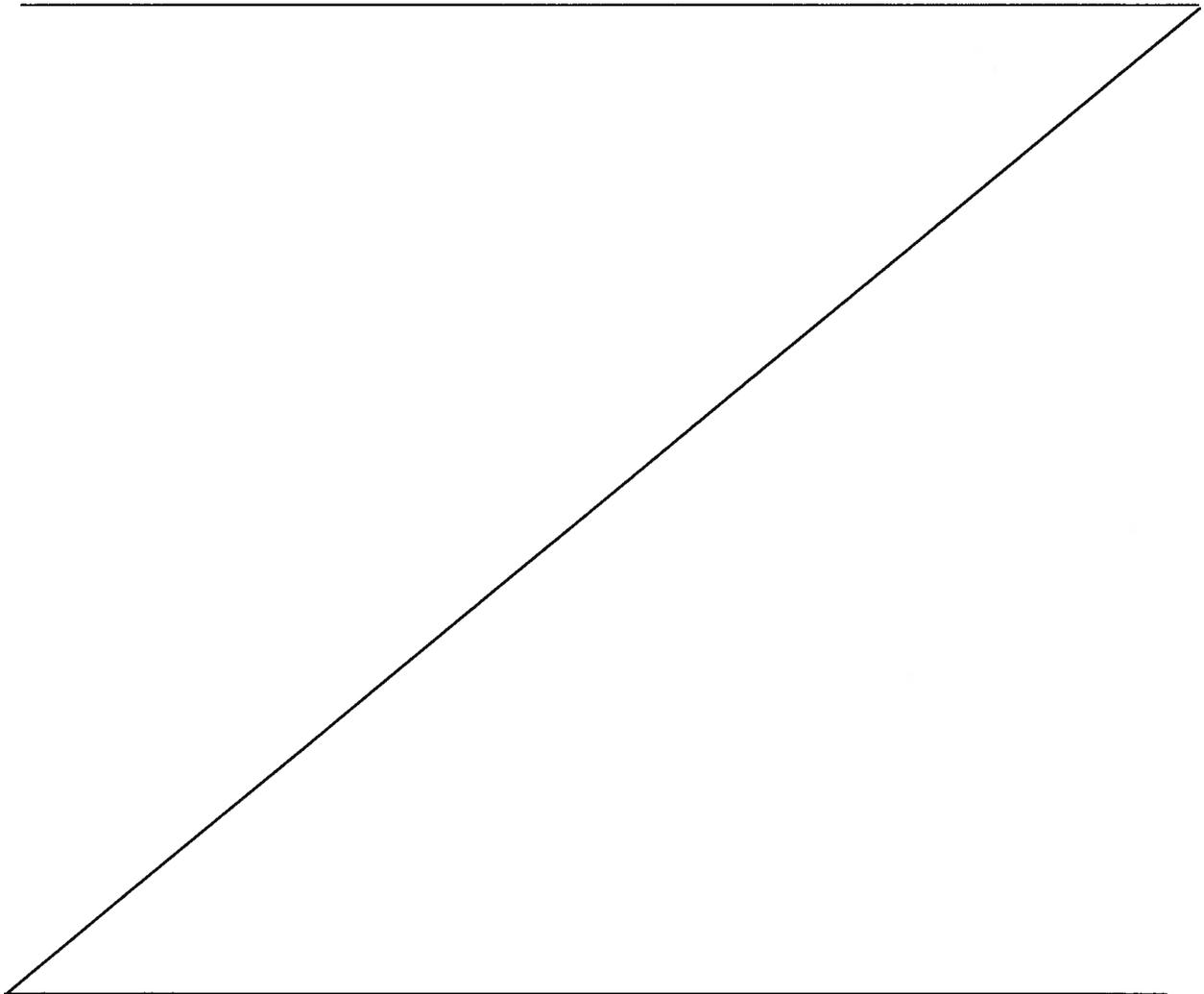
24. VWL shall comply with all material representations and commitments regarding the Project made to HCDA in the permit application process.

25. Infrastructure improvements can be divided into two categories: (1) infrastructure improvements or requirements which are immediately necessary to proceed with the Project; and (2) improvements which are necessary to improve and upgrade the vicinity in total through the HCDA District-Wide Improvement Program; as follows:

- A. Improvements Necessary to Proceed with the Project: With regard to infrastructure improvements or requirements that are necessary to proceed with the Project, VWL shall be responsible for providing necessary developer improvements.
- B. Improvements Proposed for the HCDA District-Wide Infrastructure Improvement Program: A part of the HCDA District-Wide Improvement Program, road and utility improvements are being undertaken in increments throughout the Kakaako Community Development District, financed in part through an Improvement District Program. In this regard, the Project shall be subject to assessments for its pro rata share of the cost of improvements which may, in the future, be necessarily undertaken in the vicinity of the respective projects under the HCDA or other government agencies' improvement programs. The Project will be assessed under the same methods and in the same manner as other properties in the area. In order to ensure the participation of the Project, VWL, and its successors and assigns, shall agree to participate in the HCDA District-Wide Improvement Program at the time said program is implemented. The terms specified in the agreement shall be made a part of all condominium and conveyance

documents for the Project and said documents shall be submitted to HCDA prior to submission to the Real Estate Commission and to execution.

26. Prior to approval of the foundation permit, VWL shall record a memorandum of this Decision and Order with the Bureau of Conveyances or the Assistant Registrar of the Land Court as a covenant running 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 dated, January 4, 2017. This ORDER and its  
ADOPTION shall take effect upon the date this ORDER is approved by the Authority.

Done at Honolulu, Hawaii, January 4, 2017,

**HAWAII COMMUNITY DEVELOPMENT  
AUTHORITY (Kakaako Members)**

Beau Bassett

Wei Fang

Scott Kami  
Designated representative of Director of  
Department of Budget and Finance

William Oh

Jason Okuhama

David Rodriguez  
Designated representative of Director of  
Department of Transportation

Steven Scott, Vice Chairperson

Mary Pat Waterhouse

John P. Whalen, Chairperson

APPROVED AS TO FORM:

  
Michael Wong, Deputy Attorney General

BEFORE THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY  
OF THE STATE OF HAWAII

In re Application of ) APPLICATION NO. KAK 16-075  
 )  
VICTORIA WARD, LIMITED )  
 )  
Applicant )  
 )  
For a Planned Development Permit for Land )  
Block 1, Project 3. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and the Decision and Order was served upon the following by hand or by certified mail with return receipt requested as noted:

CERTIFIED JAMES DOUGLAS ING, Esq.  
MAIL: Watanabe Ing LLP  
999 Bishop Street, Suite 1250  
Honolulu, HI 96813

CERTIFIED NICHOLAS D. VANDERBOOM  
MAIL: Senior Vice President of Development  
The Howard Hughes Corporation  
1240 Ala Moana Boulevard, Suite 200  
Honolulu, HI 96814

HAND: MICHAEL G.K. WONG, ESQ.  
Deputy Attorney General  
425 Queen Street  
Honolulu, HI 96813

Honolulu, Hawaii, January 13, 2017

  
\_\_\_\_\_  
JESSE K. SOUKI  
Executive Director