

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

STATE OF HAWAII

In re: )  
 )  
 The Application of )  
 )  
 VICTORIA WARD, LIMITED, )  
 a wholly owned subsidiary )  
 of HOWARD HUGHES )  
 CORPORATION, )  
 )  
 Applicant, )  
 )  
 To request a development )  
 permit, Permit Number )  
 KAK 18-038, with )  
 modifications, to develop )  
 a mixed-use project at )  
 1020 Auahi Street, )  
 TMK Nos. (1)2-3-002: 109, )  
 110 (portion), aka )  
 "Ko'ula Project." )  
 \_\_\_\_\_ )

DECISION-MAKING HEARING

TRANSCRIPT OF PROCEEDINGS

Wednesday, August 1, 2018

Taken at 547 Queen Street, Second Floor

Honolulu, Hawaii 96813

commencing at 1:00 p.m.

Reported by: LAURA SAVO, CSR No. 347

A P P E A R A N C E S

John Whalen, Chairperson

Mary Pat Waterhouse, Vice Chairperson

Garett Kamemoto, Interim Executive Director

Deepak Neupane, Director of Planning and Development

Max Levins, Deputy Attorney General

BOARD MEMBERS:

Beau Bassett

Wei Fang

Phillip Hasha

William Oh

Jason Okuhama

David Rodriguez

ALSO PRESENT:

For the Applicant Victoria Ward, Limited:

J. DOUGLAS ING, ESQ.

BRIAN A. KANG, ESQ.

Watanabe Ing LLP

999 Bishop Street, 23rd Floor

Honolulu, Hawaii 96813

For The Intervenor HART:

LINDSAY E. ORMAN, ESQ.

Starns O'Toole Marcus & Fisher

733 Bishop Street, Suite 1900

Honolulu, Hawaii 96813

I N D E X

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Adjournment

42

PUBLIC TESTIMONY BY:

(None offered.)

1 Wednesday, August 1, 2018, 1:00 p.m.

2 -o0o-

3 CHAIR WHALEN: Okay. I call to order the  
4 August 1st, 2018, public hearing of the Hawaii  
5 Community Development Authority. The time is now  
6 1:00 o'clock p.m. Thank you for your interest in  
7 Kaka'ako and attending today. My name's John Whalen,  
8 Chair of the Authority.

9 Let the record reflect the following  
10 Kaka'ako members are present: Phillip Hasha, Wei  
11 Fang, Jason Okuhama, Mary Pat Waterhouse, William Oh,  
12 Beau Bassett and John Whalen.

13 INTERIM EXECUTIVE DIRECTOR: David  
14 Rodriguez.

15 CHAIR WHALEN: And is David Rodriguez  
16 back? Okay. Great. Thank you.

17 So would counsel for the applicant and  
18 counsel for the intervenor, Hawaii Authority for  
19 Rapid Transit -- Rapid Transportation, make their  
20 appearances at this time?

21 MR. ING: Good afternoon, Chairman and  
22 members of the Authority. Douglas Ing and Brian Kang  
23 here representing Victoria Ward, Limited, and Howard  
24 Hughes Corporation.

25 MS. ORMAN: Good afternoon. Lindsay

1 Orman with Starns O'Toole Marcus & Fisher on behalf  
2 of HART.

3 CHAIR WHALEN: Okay. Thank you.

4 So the legal -- today's hearing on  
5 development permit KAK 18-038 is being held in  
6 accordance with Hawaii Revised Statutes, Section  
7 206E-5.6, Hawaii Administrative Rules, Chapter  
8 15-219, and the vested Hawaii Administrative Rules,  
9 Chapter 15-22.

10 The applicant is Victoria Ward, Limited,  
11 a wholly owned subsidiary of the Howard Hughes  
12 Corporation. The tax map key for the site is 2-3-002  
13 parcels 19 -- rather, 109 and a portion of 110. The  
14 project location is -- address is 1020 Auahi Street.

15 The request is for a development permit  
16 application for a mixed-use project consisting of  
17 residential and commercial components at 1020 Auahi  
18 Street, TMK 2-3-2, parcels 109 and a portion of 110.  
19 The proposed project consists of a 400-foot tower and  
20 a 75-foot podium and will house a mix of  
21 approximately 570 residential units and approximately  
22 58,300 square feet of commercial space and required  
23 parking spaces. The project will provide  
24 approximately 10,800 square feet of open space and  
25 58,500- -- -496 square feet of recreational space.

1 The applicant is proposing to provide at least 64  
2 reserved housing units to be located either within or  
3 at the project or off-site.

4 There's a modification requested to  
5 modify from the requirements of the applicable vested  
6 Mauka Area Rules, Chapter 15-22, in order to increase  
7 the height of the podium, meaning the structure  
8 located at the base of the proposed tower, that will  
9 house parking stalls, commercial spaces and a portion  
10 of the residential units, increase the height from 45  
11 feet to 75 feet. The application date was April  
12 16th, 2018.

13 A public hearing notice was published in  
14 the Honolulu Star-Advertiser, Maui News, the Garden  
15 Isle, Hawaii Tribune-Herald and West Hawaii Today on  
16 Tuesday, May 1st, 2018.

17 This is a decision-making hearing, and  
18 let me briefly explain our procedures for today's  
19 public hearing.

20 Authority members have received, first,  
21 HCDA's -- HCDA Staff's Proposed Findings of Fact,  
22 Conclusions of Law and Decision and Order;

23 Two, Applicant's Proposed Findings of  
24 Fact, Conclusions of Law and Decision and Order;

25 Three, Applicant's Exceptions to

1 Intervenor HART's Proposed Findings of Fact,  
2 Conclusions of Law and Decision and Order;

3 Four, Applicant's Exceptions to HCDA's  
4 Staff's Proposed Findings of Fact, Conclusion of  
5 Law -- Conclusions of Law and Decision and Order;

6 Five, HART's Proposed Findings of Fact,  
7 Conclusions of Law and Decision and Order;

8 And, finally, HART's Exceptions to  
9 Applicant's Proposed Findings of Fact, Conclusions of  
10 Law and Decision and Order.

11 First, the HCDA staff will present its  
12 Proposed Findings of Fact, Conclusions of Law and  
13 Decision and Order. Then the applicant, Victoria  
14 Ward, Limited, and intervenor, HART, will be afforded  
15 15 minutes each to present their closing arguments  
16 and present any additional facts not already included  
17 in their respective proposed findings of facts,  
18 conclusions of law and decision and order and/or  
19 their respective exceptions to those.

20 Only members of the Authority and interim  
21 executive director will be permitted to ask questions  
22 of the staff, applicant, intervenor or individual  
23 providing testimony. Finally, we will hear testimony  
24 from the public, if there is any.

25 Are there any questions about our

1 procedures?

2 We'll begin our proceedings. First, the  
3 presentation by staff of its Proposed Findings of  
4 Facts, Conclusions of Law and Decision and Order.

5 So Deepak Neupane, director of planning  
6 and development, will present.

7 MR. NEUPANE: Thank you, Chair. You have  
8 a hard copy of the staff's Findings of Fact,  
9 Conclusions of Law and Decision and Order. It's, I  
10 think, about 70-odd pages. So I'm not going to read  
11 through everything, but I'll just highlight for the  
12 board's benefit and summarize it.

13 So if you look in the findings of facts  
14 under "Procedural History," findings of facts Nos. 1  
15 through 48 relate to procedural matters. So this  
16 considers all the notice of hearings and comments and  
17 those kinds of things.

18 Then from 49 to 51 relates to  
19 applicability of the schedules and previous board  
20 orders relating to the master plan.

21 Findings of facts No. 52 through 85  
22 relates to the master plan overview and the  
23 requirements that the applicant had to fulfill within  
24 the master plan permit.

25 Findings of facts No. 86 through 155



1 relate to project descriptions. That includes site  
2 descriptions, zoning density, building description,  
3 yard requirements, open space, tower separation,  
4 off-street parking and loading, circulation, public  
5 facilities and matters related to reserved housing.

6 Let me go back and note on finding of  
7 fact No. 64, there was a typo. It says that  
8 "While page 62 of Ward Neighborhood Master Plan  
9 application," and in parentheses "dated  
10 April 2, 2018," that should be 2008.

11 And on finding of fact 154, the reserved  
12 housing table, the second-to-last row, reserved  
13 housing units require 20 percent, No. 475 should be  
14 589.

15 Findings of facts No. 156 through 167  
16 relate to modification request for podium height.

17 And findings of facts 168 through 195  
18 relate to HRS 206E-5.6 requirements. And I would  
19 also note that the section heading there, "Section  
20 HRS 206-5.6," should have been "206E-5.6  
21 Requirement." That's on page No. 39 of the staff's  
22 findings.

23 Findings of facts 196 through 204 relate  
24 to wind and noise study.

25 Findings of facts 205 through 209 relate

1 to cultural and historic sites review.

2 Findings of facts 210 through 218 relate  
3 to traffic issues.

4 And, finally, findings of facts 219  
5 through 228 relate to infrastructure.

6 Conclusions of law 1 through 12 relate to  
7 HRS 206E requirements, vested rules and Authority  
8 orders per the master plan.

9 And, finally, the decision and order.  
10 Upon considering all applicable rules and  
11 regulations, the evidence and testimony provided by  
12 Victoria Ward, Limited, the public comments and all  
13 other evidence appearing in the record, it's written  
14 for the Authority. So I'll basically summarize it  
15 saying that the staff's findings of facts recommend  
16 that the planned development permit for the project  
17 and the requested modification pursuant to Hawaii  
18 Revised Statutes, Section 15-22-62, to increase the  
19 platform height of the project to 75 feet and allow  
20 for an additional 12 feet of height for accessory  
21 architectural elements on the platform is approved  
22 subject to the following conditions. And in the  
23 conditions, there are 37 conditions. So instead of  
24 reading through every single condition, I'll just  
25 highlight the conditions bundled together related to

1 the subject matter.

2 So conditions 1 through 4 relate to  
3 reserved housing requirements.

4 Condition 5 relates to unbundling of the  
5 required parking.

6 Conditions 6 through 13 relate to traffic  
7 and circulation.

8 Conditions 14 and 15 relate to site plan  
9 and landscape plan.

10 Conditions 17 and 18 relate to school  
11 impact fee.

12 19 relates to water infrastructure.

13 And 20 relates to photovoltaic for DOT  
14 Airport Division if there is going to be photovoltaic  
15 on the project.

16 21 relates to traffic at Ala Moana  
17 Boulevard.

18 22 through 23 relate to coordination with  
19 HART.

20 24 relates to LEED requirement.

21 25 relates to wind study for the project.

22 26 addresses the reflective surface  
23 requirement for the vested rules.

24 27 relates to the noise study for the  
25 project.

1                   28 relates to city and county storm water  
2 and NPD permit.

3                   29 through 30 relate to pedestrian  
4 environment.

5                   31 relates to parking podium.

6                   32 through 33 relate to historic property  
7 review and historic preservation.

8                   34 relates to the material  
9 representations of the application in the permit.

10                  35 relates to infrastructure requirement.

11                  36 relates to complying with all the  
12 rules except where modifications are granted.

13                  And 37 requires the applicant to record a  
14 memorandum of the decision and order with the Bureau  
15 of Conveyance or the Assistant Registrar of the Land  
16 Court as a covenant running with the land.

17                  So with that, if members have any  
18 questions, you have the findings of facts,  
19 conclusions of law and decision and order.  
20 Conditions, I can address those.

21                  CHAIR WHALEN: So this would be questions  
22 mainly of a clarification --

23                  MR. NEUPANE: Clarification.

24                  CHAIR WHALEN: -- nature since we're not  
25 really into deliberation at this point.

1                   Members?

2                   Okay. If there are no questions, then we  
3 can proceed with asking the applicant to make a  
4 closing argument.

5                   MR. ING: Thank you, Mr. Chairman.  
6 Before I begin, I'd like to thank the members of the  
7 Authority as well as the staff for the work that  
8 they've done on this. And it's been a while since  
9 we've been back here, but we appreciate the efforts  
10 made by the board and the staff. So thank you.

11                   I want to start out --

12                   And we did file a document -- sorry. It  
13 wasn't filed until yesterday, but I hope that the  
14 Authority has had a chance to take a look at it. I  
15 will go through the document and highlight some of  
16 the things that we're concerned about.

17                   First of all, proposed condition No. 3  
18 relates to when we provide security for reserved  
19 housing, and the current provision reads that we need  
20 to provide that security at the time we seek approval  
21 for the foundation permit. That is difficult for us  
22 to do because, generally, at that time the  
23 construction contract, construction loan financing  
24 and the performance bond are not in place because  
25 they're still in the design process for finishing

1 drawings and, generally, would not be in place for  
2 several months. So it's difficult to provide a  
3 performance -- payment performance bond at that point  
4 in time when we seek the foundation permit. We think  
5 that the better time for doing that is at the time we  
6 seek a superstructure permit when we have completed  
7 all of the drawings, the drawings have been approved  
8 by the building department and the staff, and we have  
9 financing in place, and at that point we can obtain  
10 the necessary performance and payment bond.

11 If you're looking for something at the  
12 time of the foundation permit, then what Howard  
13 Hughes and Victoria Ward can provide are financials  
14 that would show that they have sufficient funds on  
15 the balance sheet to complete the reserved housing,  
16 but they won't -- they won't have a performance bond  
17 at that time because the financing is not in place.

18 So that's our -- so we would request that  
19 the posting of security, if it's in the form of a  
20 performance bond, that it be done at the time of --  
21 we seek approval for the superstructure permit.

22 Okay. Second, I want to go to the  
23 parking requirements. So current condition No. 5 at  
24 page 56 of the proposed decision states that we shall  
25 submit a shared parking program for residential and

1 commercial uses within the project. Now, if you go  
2 back to finding of fact 117, this finding of fact  
3 states that the project lacks parking management  
4 strategies, such as shared parking between various  
5 uses, and does not consider unbundling of parking  
6 stalls from the residential units. And we believe  
7 that that particular finding of fact is not supported  
8 by the substantial, reliable and probative evidence  
9 produced in this proceeding.

10 The parking management strategy for  
11 Ko'ula was to separate the residential parking from  
12 the commercial parking and have the commercial  
13 parking situated in the district parking structure at  
14 Ae'o, which is a very short distance.

15 In addition to that, for those commercial  
16 users that have difficulty walking, there is an area  
17 designated at Ko'ula for drop-off and pickup. And so  
18 that can be accomplished by dropping those elderly,  
19 whoever, at that area and then going to the parking  
20 structure next door.

21 The testimony in the docket does,  
22 however, indicate that the 732 stalls, which is above  
23 the minimum, is required in order to fulfill market  
24 demand, and without the availability of that number  
25 of stalls, particularly the two stalls for the

1 two-bedroom and larger units, then it will be  
2 difficult to sell the units, particularly to local  
3 residents. So we believe that, as planned, the  
4 residential stalls are reasonable and necessary to  
5 support the units in the project.

6 I think the second point I want to make  
7 is that, you know, the big elephant in the room not  
8 visible is the rail project, and there is no  
9 reliable, probative evidence that the rail project  
10 will be extended to Ward Village by a date certain.  
11 There's absolutely no testimony. So any assumption  
12 that that project would be available to unit owners  
13 at Ko'ula within 10 years after they purchase their  
14 apartment or unit is just speculation because there's  
15 no evidence to that effect. So even with the planned  
16 rail project, it is just a planned rail project.  
17 It's not real, and it won't be available for decades.  
18 It may not ever be available for residents at Ward  
19 Village.

20 Now, proposed condition No. 5, which  
21 requires the submission of a parking program for  
22 residential and commercial uses within the project,  
23 is just not feasible, and it's not supported by the  
24 evidence in this matter. If you look at the rules  
25 for parking, Rule 15-22-67 expressly specifies the



1 minimum number of parking stalls, not the maximum and  
2 not the optimum. It is just a minimum number, and we  
3 have met the minimum number; albeit, we're above it,  
4 but we have met the requirements of the rule.

5 Now, consistent with long-standing  
6 practices by the Authority on looking at these  
7 parking issues, they have consistently never required  
8 you to drop down to the minimum number of stalls,  
9 number one. They have not imposed greater  
10 requirements to establish parking stalls above the  
11 minimum. They haven't created additional hurdles.  
12 But we feel that by use of condition No. 5, it  
13 creates a heightened requirement to exceed the  
14 minimum number of parking stalls for residential  
15 uses, and that is nowhere in the rules. And if it  
16 becomes a policy through a condition, then what you  
17 have done in effect is that you attempted to amend  
18 the rules by the use of a special condition to  
19 address that.

20 Now, you can consult with the attorney  
21 general, but the courts -- Hawaii courts have defined  
22 the rule as an agency statement of general  
23 applicability and future effect that implements or  
24 attempts to implement law or policy, and any effort  
25 to change the rule as it exists in the vested rules

1 would violate HRS Chapter 91 because that requires  
2 rule-making. So if you want to amend the rule, you  
3 need to go through rule-making.

4 Now, I want to move on to proposed  
5 conditions 9, 10, 11, 12, 13, 14 and 15. I'll take  
6 one aspect of those all at the same time. Each of  
7 these refers to submissions at the time we seek  
8 approval for the foundation permit. And like I had  
9 argued with regard to -- I think it's condition  
10 No. 3. Yes. We believe that the more appropriate  
11 time would be at the time of submission of request  
12 for the superstructure permit simply because the  
13 level of detail of the design would have been  
14 completed. And so things like traffic circulation,  
15 pedestrian circulation, things of that nature will  
16 have been done and completed, and we won't have to  
17 delay the process for completion of those; and, yet,  
18 we can move ahead with the foundation in the interim.  
19 So that's a similar but separate request for those  
20 particular conditions.

21 We do have some confusion with regard to  
22 condition No. 12. So this condition, again,  
23 requires, at the time we seek approval for the  
24 foundation permit, final design for the Auahi Street  
25 frontage, including a terraced walkway. And then it

1 goes on to state that "Victoria Ward, Limited, shall  
2 implement Auahi Street frontage design presented in  
3 Exhibits either T-2 or T-3 of the application."

4 I think we want to be clear that the  
5 implementation is not required at the time we seek  
6 approval for the foundation permit simply because  
7 that -- that area was not scheduled for  
8 implementation at the time we do Ko'ula because  
9 there's a lot of coordination that will have to occur  
10 with other agencies like DTS and Public Works. There  
11 may be infrastructure improvements necessary along  
12 Auahi Street in the area where that sidewalk is to  
13 occur, and so it's going to be difficult. We can  
14 submit the plans, but those plans would be subject to  
15 further review by other agencies, and we may or may  
16 not be able to implement it at the time we do the  
17 development for the Ko'ula project.

18 So we would request that the condition be  
19 modified or clarified that implementation is not to  
20 occur with regard to condition No. 12 and the Auahi  
21 Street frontage improvements at the time -- excuse  
22 me -- Ko'ula is constructed.

23 Next, I want to jump over to condition  
24 No. 15, and this relates to sidewalks along the  
25 service road. So the service road is that road

1       that's at the back end of the Ko'ula project where  
2       there will be off-street loading facilities and  
3       improvements. So we would like to clarify that. We  
4       don't want to put the sidewalk along that section of  
5       Ko'ula where there will be loading trucks and loading  
6       activities. We can put a sidewalk, but we'd like to  
7       put it on the side of the service road where the Ward  
8       Entertainment Center is located, and we feel that's a  
9       much safer alternative. So if that could be  
10      clarified, we'd appreciate that.

11               Next, I want to go to condition No. 16.  
12      16 requires us to comply with the comments and  
13      recommendations provided by a series of agencies that  
14      are listed under condition 16, and these occur on  
15      pages 58 and 59. We'd like to modify that condition  
16      to say that we will respond to the recommendations  
17      and comments by the various agencies simply because  
18      some of these -- some of the comments and  
19      recommendations don't apply to this project. In one  
20      case, they were obviously referring to a project in  
21      Waikiki in the comment letter, number 1. Number 2,  
22      some of the comments actually conflict with other  
23      requirements of HCDA. So we're not going to be able  
24      to comply with those comments or requirements. And  
25      so for those reasons, we'd like to have that

1 condition modified from compliance to addressing  
2 those comments and submitting them for review by the  
3 agencies as well as by HCDA.

4 Next, proposed condition 19 requires a  
5 final design and construction schedule for the  
6 upgrade of a 6-inch water main on Queen Street  
7 starting from Cooke Street and extending to a  
8 currently existing 12-inch main. That particular  
9 improvement is not necessary for Ko'ula and, in fact,  
10 is a requirement for phase 3, which is the next phase  
11 of the project. So we would like to have that  
12 modified and not be required to implement that  
13 particular design and construction during the course  
14 of the development and construction of Ko'ula.

15 I think our differences with HART, we've  
16 reached an agreement on that, and so I think HART's  
17 in concurrence with our proposal for condition  
18 No. 23.

19 And, finally, we have a change to --  
20 requested change to condition No. 24. Condition 24  
21 requires LEED documentation verifying that the  
22 proposed design meets the applicable standards for  
23 LEED certification. We'd like to modify that as  
24 expressed in our submission simply because we won't  
25 have that requirement by that time. We'll have a

1 score card from the director of LEED which will say  
2 that the proposed design meets the requirements of  
3 the neighborhood LEED ND certification. So we're  
4 happy to submit it in that form.

5 Finally, one comment -- one further  
6 comment with regard to condition No. 5, which is the  
7 parking requirement. We -- we are and will be  
8 submitting a proposal for unbundling. So unbundling  
9 is a part of our parking management strategy. With  
10 that, that concludes my argument.

11 CHAIR WHALEN: Do you have any questions  
12 of the applicant?

13 I have one. If it wasn't the intention  
14 to complete the sidewalks on both the service drive  
15 and the design along Auahi Street frontage in the way  
16 that was presented, why weren't those exhibits  
17 entered into evidence if there was no intention to  
18 provide those or build them out as proposed in  
19 your -- the exhibits that were submitted by the  
20 applicant?

21 MR. ING: So I think those exhibits -- we  
22 needed those exhibits to show where the property  
23 lines run and where the setback was measured off of,  
24 No. 1. And No. 2, there were comments about the  
25 sidewalk and not wanting to have a split-level

1 sidewalk. Okay? One for the public and one for the  
2 project but to have that unified. And so as a result  
3 of that, we did submit those exhibits. But that came  
4 up primarily through a comment letter.

5 CHAIR WHALEN: Comment letter from staff  
6 or --

7 MR. ING: I'd have to go back to the  
8 record. It was a comment letter from DPP.

9 CHAIR WHALEN: Oh, from DPP?

10 MR. ING: Yes, and --

11 CHAIR WHALEN: So prior to the  
12 application?

13 MR. ING: -- then we were questioned  
14 about that during the course of the proceeding.

15 CHAIR WHALEN: So, in other words, the  
16 city has -- had indicated that they would favor a  
17 sidewalk treatment like -- as what was proposed  
18 actually in the application submitted as an exhibit;  
19 is that correct?

20 MR. ING: So I think the comment was that  
21 they wanted one sidewalk and not two sidewalks. You  
22 know, one at street level and one at ground level for  
23 the project. So ground level for the project,  
24 because of the flooding issues, had to be raised.

25 CHAIR WHALEN: So was the design, as

1 presented in the application, a way to resolve that  
2 question or that comment from DPP, and did they --  
3 they consent to that treatment? Because it's  
4 basically DPP that would make this decision.

5 MR. ING: I don't think the particular  
6 design that we submitted as our solution to that --

7 CHAIR WHALEN: Right.

8 MR. ING: -- in this proceeding had been  
9 submitted to DPP for their review. That's what I  
10 understand.

11 CHAIR WHALEN: And same question,  
12 essentially, about the sidewalk along what's now  
13 being called a service drive, but actually in the --  
14 in the plan, the master plan for Kaka'ako, it's  
15 treated as a street. It might be a private street,  
16 but it's basically a street.

17 MR. ING: Yes. Private street No. 2, I  
18 think, or driveway No. 2.

19 CHAIR WHALEN: And as many streets or  
20 service streets have sidewalks alongside them, they  
21 don't preclude pedestrian travel on both sides of the  
22 street. I think that's basically what the city  
23 has -- the city's policy is to have sidewalks on both  
24 sides of the street except for a very short  
25 cul-de-sac, I suppose.



1                   MR. ING: And you're familiar with the  
2 problem of large trucks either backing out and  
3 backing in and the visibility is restricted?

4                   CHAIR WHALEN: But they still have  
5 sidewalks on those kinds of streets. There are  
6 garage entries on the other side of the street too  
7 for the entertainment center.

8                   MR. ING: It is a fairly narrow street,  
9 and I think that came out in the record. So there  
10 was a little bit of concern about that.

11                  CHAIR WHALEN: Okay. I understand. I  
12 just -- my basic question is why these were admitted  
13 as exhibits if it wasn't the intention to build them  
14 as presented in the plan. It sounds as if there's  
15 being a request for modification of the -- of the  
16 permit even before it's issued.

17                  MR. ING: I'm not sure the exhibits, as  
18 submitted, showed a sidewalk on that side of the  
19 street.

20                  CHAIR WHALEN: Well, it may not be that  
21 explicit, but I see at least in one of the exhibits a  
22 cross section that shows, perhaps only for purposes  
23 of scale, people along that -- walking along that  
24 side of the street, the service street.

25                  MR. ING: I think I can have Mr. Randle

1 clarify if that's what's shown in the drawings and  
2 what the concern is about.

3 CHAIR WHALEN: Okay. The question is  
4 just about the submittal of exhibits and consistency  
5 of your comments or your closing argument with what  
6 actually had been submitted into evidence.

7 VICE CHAIR WATERHOUSE: I have a question  
8 about the sidewalk too. So if you only have a  
9 sidewalk on the theater side, right, then how would  
10 someone that's handicapped be able to get into the  
11 commercial area that's in that driveway, that  
12 cul-de-sac? If they don't have a car, or even if  
13 they had a car and they want to park there and  
14 there's no parking allowed for commercial  
15 customers --

16 MR. ING: They would drive into the  
17 drop-off area, and it would be -- they could park  
18 there and exit the vehicle. I also think that the --  
19 the mauka -- what's mauka of the entrance to that  
20 foyer area for drop-off does not intersect with the  
21 loading areas, off-street loading and docks. And so  
22 I think there's a sidewalk there as well.

23 MEMBER HASHA: For my clarification, on  
24 that service drive, both sides, there's no retail  
25 frontage from either side of the building; right?

1 It's all going to be service entry --

2 MR. ING: Correct.

3 MEMBER HASHA: -- from both the Ward  
4 Entertainment Center as well as the new project  
5 that's being proposed. And, currently, you -- where  
6 you're talking about putting the sidewalk, you  
7 currently have a walkway that's protected by  
8 bollards; is that correct? As current; right?

9 MR. ING: I'm not sure there's a sidewalk  
10 there.

11 MEMBER HASHA: It's not a sidewalk. It's  
12 a walkway --

13 MR. ING: Yes.

14 MEMBER HASHA: -- protected by bollards  
15 that are protecting pedestrians; is that correct?

16 MR. ING: In that --

17 VICE CHAIR WATERHOUSE: Which side?

18 MEMBER HASHA: On the service drive now  
19 on the Ward Entertainment side, there's a walkway  
20 going all the way up that's being protected by  
21 bollards for pedestrian access. I walked in just two  
22 days ago. So -- but I just wanted to make sure  
23 that's where we're talking about putting the walkway  
24 is in that protected zone that's currently there, and  
25 my understanding is that there's no retail frontage

1 on either side. It's just going to be a service  
2 entrance; is that correct? That street?

3 MR. ING: Right, but it's integral to the  
4 circulation and traffic and pedestrian traffic.

5 MEMBER HASHA: Correct. Totally agree.  
6 Totally understood.

7 MR. RANDLE: Exhibit 8 is the --

8 MEMBER HASHA: But there's not going to  
9 be a lot of pedestrians walking up and down that  
10 street.

11 VICE CHAIR WATERHOUSE: Yeah, I guess I  
12 go back to my question is how do pedestrians from  
13 Auahi Street get over to that entrance way?

14 MR. RANDLE: You know, it may be helpful  
15 for me to walk through the exhibit that's in your  
16 packet, Exhibit 8.

17 VICE CHAIR WATERHOUSE: 8?

18 MR. RANDLE: Exhibit 8. It's probably  
19 easier to look at that, and I can walk you through it  
20 in a few minutes.

21 Okay. So Race Randle, senior vice  
22 president with Howard Hughes representing Victoria  
23 Ward, Limited.

24 The image in Exhibit 8, I think, does a  
25 good job. It's showing the ground floor of the

1 building. Remember, the ground floor is dedicated to  
2 a drop-off area for the commercial in the central  
3 plaza and then primarily commercial spaces that  
4 front --

5 The streets here are a little hard to see  
6 because it doesn't show the other projects, but on  
7 your right-hand side is the Ward Entertainment  
8 Center, and all along that service drive, it is just  
9 the back of house. There's no retail frontage. It's  
10 the loading dock and the parking garage entrance and  
11 exit. And a similar thing will be done with this  
12 project, Block I.

13 So the spaces that front onto the service  
14 drive are just the driveways and the service  
15 entrances. If you're a visitor and you're coming to  
16 the Central Plaza or to shop and you're either  
17 walking or driving, you would enter into that kind of  
18 bulb-shaped area if you're in a car, and you'd get  
19 out of your car, and the design actually has you  
20 going through the building to the Central Plaza where  
21 all the frontage is. So that's where all of the  
22 building faces are and the doors of entry to all the  
23 shops.

24 The same thing if you're coming from  
25 Auahi Street. You would walk down Auahi Street's

1 frontage and then up the Central Plaza fronting all  
2 the restaurants and spaces. And then the same thing  
3 on the mauka side. So all of the shops and  
4 restaurants face to the Halekauwila Street extension,  
5 and that's where the sidewalks are designed to carry  
6 the visitors across those shops.

7 So the design intent is that it really is  
8 driving the people that are walking. Rather than  
9 walking down a back alley, the sidewalks are provided  
10 along the frontage where all of the retail is  
11 located. And the service drive really functions as a  
12 back alley of access. And, purposely, we want to  
13 make it relatively narrow because we don't want a lot  
14 of pedestrian traffic going through that route. We  
15 want primarily that to happen along the Central Plaza  
16 where it's a much more convenient and pleasing  
17 walkway.

18 VICE CHAIR WATERHOUSE: So there's, like,  
19 a few commercial areas along the service drive --

20 MR. RANDLE: Uh-huh.

21 VICE CHAIR WATERHOUSE: -- between mauka  
22 of Auahi Street. Is that not going to be there?

23 MR. RANDLE: They are -- for the sake of  
24 the way the area is calculated, it's commercial area,  
25 but it's actually where the MEP, the mechanical and

1       electrical and plumbing are located. So it's not  
2       where the front of house would be for, like, a  
3       storefront. It's where the trash -- actually, the  
4       commercial trash rooms are located for the  
5       restaurant, the compactor and then the mechanical and  
6       electrical equipment.

7               CHAIR WHALEN: Let's stick with that  
8       Exhibit A, but, actually -- 8, but it's carried  
9       throughout as sort of a template throughout the other  
10      exhibits. There's a space between a curb line that  
11      appears -- the curb line and the building line that  
12      clearly appears to be a sidewalk area, and what  
13      suggests that even more is there's actually a  
14      pedestrian crosswalk shown on the mauka end --

15             MR. RANDLE: Uh-huh.

16             CHAIR WHALEN: -- crossing the loading  
17      dock. So it seems like the design had anticipated  
18      there would be pedestrian traffic there because it  
19      allowed that space between the curb line and the  
20      building line and provided, actually, a pedestrian  
21      crosswalk across the loading zone. So this -- to me,  
22      this sounds like a change -- what you're doing is  
23      changing the plan in midstream.

24             MR. RANDLE: So I can clarify that -- why  
25      there's a requirement. There's actually code

1 requirements for egress. So if you look at the  
2 drop-off area, the bulb area, and you'll see that the  
3 crosswalk striping is shown to carry people that may  
4 want to go up to Halekauwila Street, which is a  
5 relatively short distance. There's actually a  
6 sidewalk that allows them to walk out of that vault  
7 area to the service drive and then cross up to  
8 Halekauwila Street.

9 On the makai side of the plan where you  
10 see Auahi Street, those are -- the large portion of  
11 commercial areas is actually a HECO vault. It's a  
12 vault room that has to be made available for trucks  
13 to come in and pull out transformers and things like  
14 that. There's a set of stairs that exit on to that,  
15 and as a code requirement, we're required to have a  
16 certain width of, yes, kind of a sidewalk that allows  
17 people coming out of stairs to exit to the near  
18 street.

19 So in both of those cases, there's really  
20 egress requirements that get out to the near street,  
21 but our intent isn't to make that a primary walking  
22 path from Auahi to Halekauwila. It's really about  
23 egress out to the nearest street.

24 CHAIR WHALEN: Okay. Of course, there  
25 are many examples of pathways that pedestrians prefer



1 not to take for various reasons or they're probably  
2 not as traveled, but the sidewalks are still there  
3 because some people may be walking along there. Just  
4 as a safety measure, I think it's better to plan for  
5 some pedestrian travel, wouldn't it be, even if  
6 people don't desire to take that as their first  
7 choice?

8 MR. RANDLE: Yeah, I mean, I would say  
9 it's possible for someone to walk along the current  
10 design.

11 CHAIR WHALEN: Right.

12 MR. RANDLE: It's just not designed with  
13 large, wide sidewalks to support it as a major  
14 thoroughfare because of what consists there.  
15 Practically speaking, if you widened this, you'd make  
16 the park smaller. You'd push this whole building  
17 towards the park in order to make this a larger  
18 walkway. So from a planning perspective, we wanted  
19 to add that space into the Central Plaza area and  
20 make this a -- kind of minimize the purpose of  
21 walking through there because it is just back of  
22 house for both buildings.

23 CHAIR WHALEN: Right. So probably people  
24 would take the more attractive, convenient pathway,  
25 but that doesn't mean that there won't be anybody

1 walking along here.

2 MR. RANDLE: Correct. And I did just  
3 want to address that discussion on T-2 and T-3.

4 CHAIR WHALEN: Yes.

5 MR. RANDLE: So to clarify, T-2, the  
6 section that was provided in the additional exhibit,  
7 shows the wider sidewalk on Auahi Street, but it  
8 doesn't require the narrowing of Auahi Street. It  
9 takes the current curb line and creates one larger  
10 sidewalk. That is what we intend to build with the  
11 project. However, it has not yet been approved  
12 through the permitting departments. But it doesn't  
13 require city road narrowing. So that is our intent  
14 to proceed with this project. It just may be done as  
15 a separate project from Ko'ula, the timing of it,  
16 because it may require --

17 In order for it to function well, we may  
18 want it to be part of a road narrowing project rather  
19 than done stand-alone. So we're separately  
20 proceeding with a plan to actually get approval from  
21 the city for a road-narrowing project which we had  
22 reviewed with one of the city agencies.

23 CHAIR WHALEN: Well, actually, I'm  
24 raising some of these questions in the context of  
25 some of the exceptions that had been filed. For

1       example, to say that the HART rail station is  
2       speculative or the fact that it would even exist is  
3       speculative, and when we're talking about something  
4       that happens in the future, there's always a degree  
5       of uncertainty about exactly what will be built when.  
6       The Gateway project may not be built as it turns out.  
7       And this was a permit that was issued by this agency  
8       on the expectation that it would be built, but if  
9       it's not, we would have to reconsider that permit, it  
10      would seem, and that's something that didn't seem to  
11      be speculative at the time.

12               So I just sort of question strict  
13      adherence to certain evidentiary evidence that was  
14      presented in the hearing and sort of on a selective  
15      basis. In other words, the evidence that was  
16      submitted in terms of the exhibits illustrating what  
17      you intended to do turns out not to be really  
18      supported by what you intend to do. I mean, it may  
19      be at some future date, but who knows? It might be  
20      speculation that it will built. So this is why I  
21      think it's important to clarify what is and what is  
22      not going to be planned and when.

23               VICE CHAIR WATERHOUSE: You know, going  
24      back to your Exhibit 8, if you compare that to the  
25      most recent exhibit on that, Exhibit Y, and it's

1       called -- the particular exhibit is "Detailed Site  
2       Plan," your open space is not consistent for that  
3       area. And some of that area that you were telling  
4       John, well, maybe that could be used for sidewalk,  
5       and right now, it's marked as open space. So, you  
6       know, that needs to be clarified.

7               MR. ING: So you're looking at the  
8       presentation from the master plan?

9               VICE CHAIR WATERHOUSE: I'm looking at  
10      Exhibit 8, and then -- no, no, not the master plan.  
11      This is Exhibit Y that you guys presented on July  
12      13th. I'm sorry. Exhibit Z. Z. And it's one,  
13      two -- it's the third page.

14              MR. RANDLE: Yes. So this -- I think  
15      this goes into a little further detail, but it's  
16      showing that the areas in green -- if you're  
17      referencing along the service drive, there are a few  
18      areas that are colored in green as open space. So,  
19      primarily, the intent there is it's showing, as I  
20      mentioned just a few minutes ago, if you come out of  
21      the stairwells, like if there's a fire in the  
22      building and you have to come down a stairwell to  
23      that service drive, you're able to get out to the  
24      nearest road. So the walkways are really designed to  
25      carry you out either to Halekauwila on the mauka side

1 or Auahi on the makai side. So there are these  
2 pathways that connect for pedestrians to get out that  
3 are specifically designed for that and would function  
4 as an open space like the sidewalks along the other  
5 private drives.

6 But directly in front of the loading  
7 dock, I think to your point, someone could walk in  
8 front of it, but we haven't specifically designed a  
9 sidewalk there in front of the loading dock for this  
10 project. It's designed actually on the other side of  
11 that street along the Ward Entertainment side.

12 VICE CHAIR WATERHOUSE: Well, how about  
13 you were explaining to John that if you come out of  
14 the vault area and you're on the private street and  
15 you want to walk towards -- what is it -- Queen  
16 Street, then it's all listed -- according to Exhibit  
17 Z, it's all open space now, as well as that other  
18 area you were saying could possibly be a sidewalk?

19 MR. RANDLE: Correct. So it is -- it's  
20 uncovered. It's sidewalk and it meets the  
21 requirements of open space like the other sidewalks  
22 along Auahi and Halekauwila Street for this section  
23 that's shown in green. This is -- so I guess what  
24 I'm saying is they are consistent. It's the same  
25 plan. It's just colored in to identify the different

1 areas.

2 VICE CHAIR WATERHOUSE: Oh, okay, okay.  
3 Okay. Okay. I see, yeah, on Exhibit 8, it just says  
4 "Outdoors." Okay. That's all right.

5 CHAIR WHALEN: Any questions?

6 Okay. No other questions. Okay. Is  
7 there any -- is there any public testimony?

8 Oh, HART, yes. You've been so quiet.  
9 Sorry. HART, would you like to make a closing  
10 argument?

11 MS. ORMAN: Yes, and I'll be very brief.  
12 I really just have two points. The first is that  
13 HART requested one condition, which is generally  
14 adopted in the HCDA Proposed Findings of Facts,  
15 Conclusions of Law and Decision and Order. Victoria  
16 Ward did object to that condition and proposed a  
17 revision, which is very similar and agreeable to  
18 HART. So we are okay with their proposed revision.

19 The second point is HART filed exceptions  
20 to Victoria Ward's proposed findings of fact based on  
21 the sort of curious omission of direct or indirect  
22 references to the rail project. HCDA's Proposed  
23 Findings of Fact, Conclusions of Law and Decision and  
24 Order basically addressed all of those concerns with  
25 one exception, and that was our proposed change to

1 paragraph 151 of Victoria Ward's proposed findings of  
2 fact, which is addressed in paragraph 174 of HCDA's  
3 proposed findings of fact. That paragraph relates to  
4 the effects on existing and planned land use in the  
5 surrounding area. Victoria Ward's testimony on this  
6 point submitted in Exhibit G at page 12 talks about  
7 the proposed rail station, and that was omitted from  
8 this proposed finding of fact. So we would just ask  
9 that in existing transportation options, it would be  
10 appropriate to also reference the planned rail  
11 station as a planned use, and we'll submit a  
12 statement before the deadline for filing exceptions  
13 to that effect.

14 CHAIR WHALEN: Do you have any comment on  
15 the applicant's exceptions describing the existence  
16 of a future rail station as speculation?

17 MS. ORMAN: I agree with everything that  
18 you said, Chairman, that in any construction project,  
19 there's some uncertainty as to schedule and when  
20 things will happen, but, certainly, there's plenty of  
21 evidence of a planned rail station, including in  
22 Victoria Ward's testimony.

23 CHAIR WHALEN: Thank you.

24 Members, do you have any questions of the  
25 applicant or, rather, the intervenor?

1                   Okay. Thank you, both.

2                   So we're open now for public testimony if  
3 there is any public testimony. No one has signed up.

4                   Okay. Great. So we will now continue in  
5 deliberations and decision-making. Members, please  
6 indicate yes or no to signify that you have received  
7 and reviewed the record of this application and are  
8 prepared to deliberate on the application.

9                   Phillip Hasha?

10                  MEMBER HASHA: Yes.

11                  CHAIR WHALEN: David Rodriguez?

12                  MEMBER RODRIGUEZ: Yes.

13                  CHAIR WHALEN: Wei Fang?

14                  MEMBER FANG: Yes.

15                  CHAIR WHALEN: Jason Okuhama?

16                  MEMBER OKUHAMA: Yes.

17                  CHAIR WHALEN: Mary Pat Waterhouse?

18                  VICE CHAIR WATERHOUSE: Yes.

19                  CHAIR WHALEN: William Oh?

20                  MEMBER OH: Yes.

21                  CHAIR WHALEN: Beau Bassett?

22                  MEMBER BASSETT: Yes.

23                  CHAIR WHALEN: And John Whalen.

24                  So is there a motion to enter into  
25 executive session pursuant to Hawaii Revised Statutes



1 92-5(a)(4) for the purposes of deliberation?

2 VICE CHAIR WATERHOUSE: So moved.

3 MEMBER HASHA: I'll second.

4 CHAIR WHALEN: Second, Phillip Hasha.

5 Is there any discussion on the motion?

6 All those in favor, please say aye.

7 (Board members voted.)

8 CHAIR WHALEN: Any opposed?

9 Okay. So we'll reconvene this meeting  
10 after the executive session. At that point, a motion  
11 related to making a decision will be made. If the  
12 order is not adopted, the decision-making will be  
13 continued. The Authority is aware that a decision  
14 must be made on or before October 8th, 2018, or the  
15 application will be deemed approved as a matter of  
16 law. If the order is adopted, that will conclude  
17 these proceedings. The applicant may appeal the  
18 Authority's final decision pursuant to Hawaii Revised  
19 Statutes, Section 206E-5.6(h).

20 So we will convene at -- in the executive  
21 session on the 5th floor. So you're welcome to stay  
22 here if you wish. I can't really anticipate how long  
23 the deliberation will be, but hopefully not until the  
24 evening hours or anything like that. So, anyway,  
25 we'll let you know before we come back here to

1 reconvene. Thank you.

2 (Board members convened in executive  
3 session from 2:01 p.m. until 4:27 p.m.)

4 CHAIR WHALEN: Okay. The session's back  
5 in order at 4:27 p.m.

6 After reviewing the record, which  
7 includes HCDA staff recommendations, applicant's  
8 evidence and arguments and intervenor's evidence and  
9 arguments, and also having considered public  
10 testimony, the public has -- the Authority has -- the  
11 Authority is going to continue decision-making on  
12 this matter to Thursday, August 9th, at 10:00 a.m.  
13 for further deliberation.

14 As a courtesy to those interested in this  
15 matter, the Authority asks that the staff post the  
16 next hearing date, time and location to the  
17 website -- HCDA website address.

18 So on behalf of HCDA Authority members  
19 and staff, thank you for your attendance today. The  
20 hearing will be continued to Thursday, August 9th.  
21 This public hearing is now continued. The time is  
22 now 4:29 p.m.

23 (Hearing adjourned at 4:29 p.m.)  
24  
25

## C E R T I F I C A T E

STATE OF HAWAII )  
 ) ss.  
CITY AND COUNTY OF HONOLULU )

I, LAURA SAVO, a Certified Shorthand Reporter in and for the State of Hawaii, do hereby certify:

That the foregoing proceedings were taken down by me in machine shorthand at the time and place herein stated, and was thereafter reduced to typewriting under my supervision;

That the foregoing is a full, true and correct transcript of said proceedings;

I further certify that I am not of counsel or attorney for any of the parties to this case, nor in any way interested in the outcome hereof, and that I am not related to any of the parties hereto.

Dated this 12th day of August 2018 in Honolulu, Hawaii.

s/s Laura Savo  
LAURA SAVO, RPR, CSR NO. 347