

2140 Kuhio Avenue
Honolulu, HI 96815

Jiro A Sumada
Acting Director
Department of Planning and Permitting
City and County of Honolulu
650 South King St. 7th Fl.
Honolulu, HI 96813

February 6, 2013

Dear Mr. Sumada,

Testimony on Special District Permit Application, Project: 2121 Kuhio; Applicant: PACREP LLC

The primary focus of this testimony is an assessment of the proposed 2121 Kuhio project and its compliance, or otherwise, with the Waikiki Special District Design Guidelines.

This testifier:

- a) Does not seek to stop a major development on this site. This testifier is supportive of the jobs and tax revenues that a development of 2121 Kuhio.
- b) Seeks to identify the building configuration that most fully meets the goals of the Waikiki Special District Design Guidelines.
- c) Asserts that an mauka-makai orientation development would be significantly in compliance with the Waikiki Special District Design Guidelines, whereas the alternative Ewa orientation fails to comply with the most significant goals of the guidelines
- d) Asserts that the short cuts in the approval process (as compared with a full Environmental Impact Statement) have led to errors in the Final Environmental Assessment
- e) Believes that the Department of Planning and Permitting (DPP) has not, to date, completed an adequate due diligence process on this development.
- f) Believes that the DPP has failed to address issues raised by the public (including the Waikiki Neighborhood Board) in the Environmental Assessment Phase and correct errors in the FEA

1. The Key Objectives of the Special District Design Guidelines

Objectives for the Waikiki Special District are enumerated in Section 9.80-1 of the Land Use Ordinance (LJO). The opening goal of the Waikiki Special District Design Guidelines (WSDDG) state as the **District Objectives** among others is to:

Maintain and enhance significant public views to the mountains and ocean.....

The first District Guideline in the WSDDG addresses **Building Design** and the first sub-category is **Orientation and Form**. This is indicative of the importance that Orientation and Form has within in the WSDDG.

It states (emphasis in bold text and underlines provided for this testimony):

The long axis of all new high-rise structures should be oriented in a mauka-makai direction to minimize obstruction of mauka views and maximize natural ventilation.

For similar reasons, building forms which produce narrow towers are preferred.

Buildings with a series of graduated, stepped, forms are preferred for new projects. They are recommended along view corridors to preserve and enhance mauka/makai views

It also states under “A Hawaiian Sense of Place”

Buildings should provide rich visual textures by contrasting light and shadows on surfaces, and by using elements with a recognizable symbolic relationship to Hawaii's environment, people or culture.

2. Compliance with WSDDG and Due Diligence Process

The WSDDG specifically states:

All projects in Waikiki will be expected to make an appropriate contribution towards achieving this goal. New developments will be required to demonstrate a high degree of compliance with applicable objectives, guidelines and standards. The renovation of existing buildings will be expected: to comply to the extent possible.

In other words, the WSDDG seeks compliance from developers and their new developments.

The Orientation and Form is the first criteria mentioned in the WSDDG, which is indicative of its importance to meeting the criteria. Orientation is not a minor issue, it's the biggest issue.

As a result of the importance of orientation and form in the WSDDG, there is an obligation on both developers to present options that include mauka/makai building orientation, while there is also a like obligation on the Department of Planning and Permitting (DPP) to undertake a full and complete due diligence of alternative building orientations.

The developer has provided both an ewa orientation building option and a mauka-makai orientation building option. The developer has expressed a preference for the Ewa orientation because this option maximizes the developer's economics.

This testimony now provides (in the table below) an assessment of the degree of compliance with the WSDDG between the two orientation options.

2121 KUHIO TOWER – WSDDG COMPLIANCE REVIEW OF ALTERNATIVE BUILDING ORIENTATIONS

Waikiki Special District Design Guidelines state..	Ewa Orientation	Mauka-Makai Orientation
New developments <u>will be required</u> to demonstrate a high degree of compliance [with guidelines]	FAIL	PARTIAL COMPLIANCE

A mixture of low, mid and high-rise buildings are recommended to provide adequate light and air	FAIL	FAIL
The long axis of <u>all</u> new high-rise structures should be oriented in a mauka-makai direction to minimize obstruction of mauka views and maximize natural ventilation	MASSIVE FAIL	MASSIVE PASS
Building forms which produce narrow towers are preferred.	PASS	PASS
Buildings with a series of graduated, stepped, forms are preferred for new projects.	MASSIVE FAIL (the artists impression of “ <i>inappropriate building form</i> ” cited on Page 4 even looks like the developer’s proposal)	FAIL (but at least has greater architectural and public appeal)
District objectives encourage the provision of useable, landscape, open spaces.	PASS	PASS
Landscaping shall include trees, hedges and earth berms, and shall be consistent with the District guidelines for Landscaping.	PASS	PASS
LUO Section 21-9.80-1: <i>(j) Maintain, and improve where possible: mauka views from public viewing areas in Waikiki, especially from public streets</i>	MASSIVE FAIL	PARTIAL FAIL
<i>Maintain and enhance significant public views to the mountains and ocean</i> Fort DeRussy remains the largest open space in Waikiki, and its park-like setting should be enhanced and complemented.	FAIL ON IMPACT ON MAUKA VIEWS (due to orientation and height)	PARTIAL FAIL ON IMPACT ON MAUKA VIEWS (due to height)
OTHER FACTORS (landscaping, building materials etc)	PASS	PASS

Environmental Responsibility	HIGH ENERGY USAGE (orientation driven)	LOWER ENERGY USAGE
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The conclusion of this is that the mauka-makai orientation is substantially in compliance with the WSDDG, while the ewa orientation fails to meet most of the most important guidelines.

Under the WSDDG, Planning Development section (Pg. 32), the guidelines state:

This permit option is intended to provide opportunities for creative redevelopment that would not be possible under a strict adherence to the development standards of the District. *Flexibility may be provided for density, height, transitional height setbacks, yards, open space and landscaping if it can be demonstrated that the project will benefit the community and contribute to the stability, function, and overall ambiance and appearance of Waikiki.*

Flexibility on “orientation” is specifically excluded from this list.

3. Errors and Omissions in the Final Environmental Assessment

The DPP review of the Final Environmental Assessment (FEA) and other material provided by the developer demonstrates that it failed to under-take proper due diligence of that document. In addition to an absence of review of building orientation to date, among other factors, these errors and omissions include:

- a) Errors in the photos sent by the developer to the public during the DEA review processes regarding the Ewa building impact on Launiu Street. Despite this being pointed out by the public, the Developer made no attempt to correct the record and the DPP failed to take any position on the matter. The correct building envelope is key to evaluation of mauka views and also associated studies including wind and noise impacts.
- b) In the FEA, the Plan Ground Floor, Parking Level 2, Parking Level 3, Parking Level 4, have an arrow that says, “Extent of Bldg Above”. It is asserted that this is incorrect representation.
- c) The FEA (page 55) says “*Significant views are identified in Section 21.9.80-3(a) of the LUO and include...*” In fact, that section simply refers to “*Prominent view corridors....*” The developer ignores reference to Section 21-9.80 j) where it states the Objectives of the Waikiki Special District are to “*maintain, and improve where possible: mauka views from public viewing areas in Waikiki...*” **It does not say anywhere that the mauka view goals in the guidelines are solely limited to the prominent view corridors.**
- d) The lack of any mention, or quantification of, indirect losses of city revenues from reductions in value of adjacent properties. Some of these losses are already included in the collapse in Property Valuations in the latest Real Property Assessment Notices from the City and County of Honolulu
- e) The assertion by the Developer that “*The Project design has been revised to reduce the length of the tower of the building by about 48 feet based on concerns presented on the DEA*” is untrue. In fact, before the DEA was first submitted on July 6, 2012 (and the public had a chance to review), Kusao and Kurahashi had made the offer to reduce the building by about 65 feet (conditional only on the 350 height approval) at their advisory meeting with Four Paddle owners on May 30th, 2012. As a result, there is no new concession here as Kusao and Kurahashi are trying to imply in their letter of October 26, 2012. In fact, their 350 feet building height building is actually an even more invasive proposal than that mentioned at the meeting on May 30th.

- f) The FEA refers to the creation of 475 hotel workers. Industry experts assert that this is an exaggeration of likely employment impacts which, in turn, puts into question the economic analysis in the FEA.

The short cuts afforded by the FEA process (instead of a full EIS) have left issues unaddressed included the impact of a tower on the Food Pantry plot and also the indirect economic impacts on tax revenues associated with building valuations in close proximity to the proposed development (noting that the choice is not between development and no development, but instead between an ewa orientated building development compared to a mauka-makai development).

4. Insufficient Public Input and Inconsistency in Developer Positions

The developer has failed to make good faith efforts to look for solutions or provide alternatives to address issues raised by the Waikiki Neighborhood Board (WNB) or the public in their input to Environmental Assessment. They only met once with the WNB on May 8, 2012 and declined an invitation from the Board to return. They met representatives from Four Paddle on May 30, 2012 where they said they would propose a 65 feet setback from the eastern edge of the property (FEA now says only a 48 feet setback). Since that time, the developer has made no efforts to meet with local area residents to explore options and address their concerns.

In summary, the lack of two-way engagement by this developer with the Waikiki Neighborhood Board or the public as a whole, has forced the continued objections to this development as currently proposed. It is not surprising that this has led to one party moving toward a litigation approach.

Meanwhile, Kusao and Kurahashi appears to have been on both sides of the building orientation issue. As representatives of the previous owners of this property, K3 Owners LLC, they were supportive of the attributes of a mauka-makai orientation and its [beneficial] impact on [public] views.

Mr. Keith Kurahashi of Kusao and Kurahashi had said (representing the previous owners of the 2121 Kuhio site) while proposing a mauka-makai building orientation,

“Kurahashi said K3 Owners had adjusted the orientation of the proposed condo/time-share project so that its broadest side did not face adjacent buildings, thereby limiting the potential impact on views.”

Source: Star Bulletin

K3 successfully completed its environmental assessment in 2006 and, in contrast the present developer, won endorsement from the Waikiki Neighborhood Board.

Now Kusao and Kurahashi, representing the new owners, states their new position is to support an ewa orientation.

5. Due Diligence Questions for the DPP and the Developer

It is recommended that the DPP and the developer address the following questions as part of their due diligence:

- a) What issues did the DPP find have merit in all the letters sent from the public that are included in the FEA?
- b) When the DPP received letters confirming the developer had not addressed their issues, what action did the DPP take?
- c) What due diligence did the DPP undertake in their comparison between the mauka-makai orientation and the ewa orientation provided by the developer?
- d) What due diligence did the DPP take on the accuracy of the view photos in the DEA/FEA and the consistency between the photos and the building design diagrams?
- e) What assumptions have been made by the developer on the “density” calculations in the FEA for the Food Pantry parcel?
- f) Has the DPP contacted the owner of parcel 26018043 to confirm their intentions to determine what impact their plans would have on the total 3.525 acre Lot?
- g) Why has Food Pantry taken no interest in these hearings? (Extremely odd for an adjacent property owner). What obligations does the Joint Development Agreement between the owners of the five parcels on the Lot confer on the parties?
- h) Did the wind and noise studies contemplate the potential impact of a high rise tower on the Food Pantry plot?

6. Conclusion and Recommendations

The conclusions and recommendations are:

1. A finding should be made that the ewa orientated building fails to meet material elements of the WSDDG
2. That the DPP should support the mauka-makai building orientation as put forward by this developer in their FEA
3. That the DPP encourage the developer to engage in more two-way dialog with local residents to find solutions in the interest of both the developer and the public

Sincerely Yours,

Craig Stevens