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COLUMN

# Curt Sanburn: When Protections Fail, An Ugly Honolulu Emerges

Pink houses, Special Districts, and how Honolulu's Department of Planning and Permitting works ... or doesn't.

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ABOUT 11 HOURS AGO • By Curt Sanburn 

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Last November in a column called "[Ugly Honolulu](#)," I wrote about the city's proliferation of downright offensive new buildings that blot views, kill streets and intersections, and express nothing about where they are culturally or environmentally. Many commenters agreed; but, as one of them suggested, simply complaining doesn't solve anything.

So, instead of kvetching, let's educate ourselves as to what Honolulu does have in the way of urban design rules and protections, and look at how those protections have been enforced ... or not.

First off, it has signage controls and a billboard prohibition that would be considered radical in most U.S. states, not to mention in the rest of the world.

By 1927, there were billboards everywhere in Honolulu. After protests and boycotts, a group of women organized themselves as the Outdoor Circle and convinced the

Territorial Legislature to ban billboards outright. The ban survived statehood. With it came detailed signage controls at the county level. The ban preserves for all time the peace and integrity of the Hawaiian landscape.



*Hawaii State Archives*

Signage controls are proof that, long ago, the people of Hawaii reached a consensus to treat our home differently and create an aesthetics-based law for our own self-interest, for the protection of Hawaii.

For the built environment, Honolulu has the usual range of zoning ordinances and

building codes to cover things such as land use, height, building envelope, setback, and health and safety. (“Building envelope” refers to components of a building that separate the interior and exterior, such as walls, doors, windows, floors and the roof.)

Notably, it also has a patchwork of seven designated “Special Districts” with built-in design guidelines. The districts, codified in the City and County of Honolulu’s [Land Use Ordinance](#) over the past four decades, are Chinatown, the Hawaii Capital District, Punchbowl, Thomas Square, Waikiki, Diamond Head and Haleiwa. These carefully delineated precincts are subject to sets of purposes and design rules that variously protect view planes, characteristic streetscapes and building types, and historic buildings.

Special districts illustrate that city government can — and does — enforce design standards; that it can — and does — legislate taste.

For instance, Diamond Head and its skirt of neighborhoods is designated a Special District to protect views of Diamond Head as the dominant natural landmark and to preserve the park-like setting of its periphery, including Kapiolani Park. As written into law, Diamond Head’s design controls include height controls, set-back rules and landscaping requirements. Furthermore, “materials, finishes and colors, including roofs, shall be non-reflective and subdued in nature.”

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(The district’s height restriction of 25 feet is now being challenged by [Diamond Head Theater’s plan](#) to rebuild itself and exceed the height limit by 40 feet.)

The Chinatown district’s objective is to retain the low-rise form of the historic neighborhood and help promote the “long-term economic viability” of its heterogenous mix of offices, retail and residences. Facades and fenestration should be “contextual,” the provisions state, incorporating

arches, lintel columns, cornices and parapets. Street facades should have canopies extending over sidewalks to 30 inches from the curb. Signage lettering should be “reminiscent” of styles used in the first half of the 20th century.



*The Wo Fat Building in Chinatown*

To preserve Haleiwa’s historically rural character, building heights are not to exceed 30 feet, with limited exceptions. Public improvements like roadways, street lights, street furniture and signage should be compatible with the rural character of the community, rather than adhere to conventional urban standards.

All these rules are enforced by the permitting power of the city’s Department of Planning and Permitting. Applications for development permits within the special districts are classified as major, minor or exempt. Major and minor projects require special district permits issued by the DPP. Major projects also require review by a



seven-member Design Advisory Committee, appointed by the DPP director and made up of architects, planners and historic preservation experts.

The most recent special district, Haleiwa, was designated in the early 1980s.

In the mid-90s, a high-powered group of Manoa residents, some with ties to the UH-Manoa campus and/or the Malama O Manoa organization, produced a sophisticated set of design guidelines for future construction in the old residential valley. Then they tried to get buy-in from the larger Manoa community in order to submit the plan to the city for a special district designation. They ran into stiff opposition and failed. There have been no seriously considered special district candidates since.

## **We have a city that is less than it should be.**

DPP's notorious slow and complex permitting process can be broken down into the difference between

ministerial and discretionary permits. As long as a builder complies with a checklist of zoning and health-and-safety code requirements — requirements like having a window in the bedroom — he or she can check off the boxes and get a permit, and nobody has anything to say about it.

That's a ministerial permit.

But say someone wants to paint his or her house pink or cut down a tree, and it's in a special district with rules about landscaping, 'subdued' colors, etc. Enforcing those rules calls for subjective decision-making; for example, when is pink considered a subdued color? Or, when does a beach tower proposal that would exceed its allowable Waikiki Special District building envelope by 74 percent, win an exemption, a *variance*, from the restriction, as happened in 2010 in the case of a new tower proposed by Kyo-Ya Resorts and Hotel directly on Waikiki beach?

That's discretionary permitting. It's where the rubber meets the road, where laws enacted by the city of Honolulu to protect itself meet the political will of city leaders

elected to enforce them.

The approval of Kyo-ya's controversial beach tower permit, signed by DPP Director David Tanoue in late 2010, so outraged citizens that they spent a good deal of money appealing it in three separate court actions, all the way to the Hawaii Supreme Court.



In September 2015, the high court unanimously [annihilated](#) the director's reasons for granting the permit and reversed his decision.

In the shocking [case of the Ritz-Carlton](#) condo-hotel now nearing completion on Kuhio Avenue within the Waikiki Special District, the DPP under director George Atta issued a variance that permitted the wall-like, 34-story building to have an Ewa-Diamond Head orientation (running parallel to the beach), as opposed to mauka-makai

(perpendicular to the beach), as prescribed by the special district rules.

In public testimony and letters, a band of citizens begged the city to uphold its own rules but finally decided they couldn't afford to appeal the DPP decision. However, UNITE HERE Local 5, a hotel workers union, did take the DPP permit to the Zoning Board of Appeals, where their appeal was rejected. That decision now will be appealed to the Circuit Court level. Perhaps it too ultimately will be decided by Hawaii's Supreme Court.

Consider that these are high-profile cases, in which motivated citizens find the energy to organize, fund-raise and, using the courts, stand up to city actions that subvert purposeful law. But these irresponsible and highly questionable city actions, one after the other, soon exhaust even the most energetic watchdogs.

How many lesser cases get a pass? Campaign contributions get made, corners get cut, rationalizations made, and variances granted. As a result, I suspect that we have a city that is less than it should be. This is the ugly side of Honolulu today: Just ten cents a dance.

A Postscript:

Last September, a Japanese landowner/developer presented a proposal to the Waikiki Neighborhood Board for a 26-story, 176-unit condo-hotel tower at 2055 Kalakaua Avenue, called the Park Kalia. The 350-foot building would exceed the site's 25-foot height limit and therefore needs a special district major permit to proceed.

The neighborhood board flatly rejected the proposal, citing its code-busting height. Nevertheless, on Jan. 12, the project's [Environmental Assessment document](#) was submitted to state's Office of Environmental Quality Control for publication.

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## About the Author



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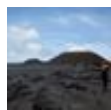
### **Curt Sanburn**

Journalist Curt Sanburn has written about Hawaii affairs for over 20 years. Raised in Honolulu, the Iolani School grad ('73) lives near Land's End in San Francisco but returns to his home state frequently.

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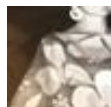
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**Kimo Keaulana** · Assistant Professor at Honolulu Community College

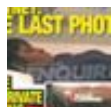
The whole state should be designated as a "Special District"! The Outdoor Circle is a Godsend! This is a great article! Mahalo!

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**Patricia Blair** · University of Nebraska-Lincoln

Just to disgusting, the ruining of Honolulu! Thanks Curt. Good idea, Kimo.

Like · Reply · 4 hrs

**Fred Sook** · None

Thath roofs for every home and every home a bungalo!

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**Jay Fidell** · New York University School of Law

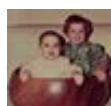
Curt - great discussion of a critical issue. Would you be at all interested in doing a Talk Show with us on the subject, either here or by Skype? [jay@thinktechhawaii.com](mailto:jay@thinktechhawaii.com).

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**Martin Dunsmuir** · Managing Partner at Sunshine Guides

Great stuff. My own personal experience is that planning is open to corruption because subjective issues are introduced at every level in the process to allow for this. O'ahu is the only place where I have been directly asked by my contractor for cash to bribe a person at the county planning department. Good news is that Hawaii is probably no worse than most states. We've all seen 'Chinatown'. How apropos!

Like · Reply · 2 hrs

**Christiane Kai Lucas** · Nominating Committee-Chairperson at The Outdoor Circle

The Outdoor Circle is in need of more Green Warriors! Anyone wanting to help and stay informed, there are many ways to kokua: <http://www.outdoorcircle.org/>. Mahalo for the excellent coverage Curt.

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