

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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April 8, 2022

The Honorable Tommy Waters
Chair and Presiding Officer
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

Dear Chair Waters and Councilmembers:

SUBJECT: Additional Summary Information for
Bill 10 (2022) Relating to Use Regulations
Chapter 21, Revised Ordinances of Honolulu
Land Use Ordinance (LUO)

The Department of Planning and Permitting (DPP) respectfully provides this supplemental summary to the Councilmembers and public to help clarify the various changes discussed in the subject Bill and related Report. Please distribute to the Councilmembers, who may use the information below, in concert with the Staff Report previously submitted, to understand the justification for what is now Bill 10 (2022).

Beyond formatting and organizational changes, the Staff Report also describes the major proposed improvements by topic. Some supplemental details are provided below to expand on the information provided in the Staff Report, in the order they appear in that document:

1. Protects Agricultural Lands while Expanding Opportunities for Farmers:

- **Adds more explicit standards for farm dwellings intended to prevent “gentlemen farms.”** The new definition and standards for “Farm Dwelling” specifies that the dwelling is accessory to crop production or livestock keeping. At least 50 percent of the lot must be used for agriculture to qualify for a farm dwelling. “Farm dwellings” will not be allowed as accessory to open space or forestry, which are inactive agricultural uses, and don’t justify a dwelling on site. This will combat non-productive so called ‘gentlemen farms,’ and will hopefully pull some agricultural land into productive use.

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- **Adds more opportunities for small, clustered farm worker housing (as proposed by City Council Resolution No. 20-293).** This alternative to the Agricultural Cluster permit would allow small worker dwellings as justified by a farm plan, and approved by a Conditional Use Permit (CUP) Major. The CUP will have a Public Hearing, and the Applicant must justify the number of dwellings being proposed. This is specifically intended to respond to the concept introduced by the Council via the above resolution. Worker housing for high-intensity agricultural uses might benefit the industry and its employees.
- **Allows no new meeting facilities and group living facilities on land zoned for agricultural purposes, allows only existing, permitted facilities to continue.** The proposal, as discussed with Councilmember Elefante's staff, would allow these uses with a CUP Major, which requires a Public Hearing, and establishes minimum areas that must be dedicated to productive agricultural uses. For years the City has seen these non-agricultural uses continue to explore relocation and outcompete agricultural uses in the agricultural districts, often to the detriment of the agricultural industry. This was strongly expressed in the Waimanalo community which asked a few years ago that DPP establish a special district just for them. DPP recognizes that meeting facilities, daycares, and schools can provide a service to the community at large, but greater community engagement and limits on size of the non-agricultural use are recommended. Thus, the updated proposal continues to allow these uses, subject to a public hearing and new or strengthened standards related to requiring agricultural uses.
- **Adds new standards for farm stands that will be more enforceable.** Farm stand (or roadside stand) is currently not defined, so a new definition is provided, and new standards are in place specifying that electrical, plumbing, sewer, etc. are not allowed as part of the farm stand.
- **Adds new opportunities for vertical and urban farms to acknowledge that crop production can occur both indoor and in urban settings.** These are new uses that are appropriate for both agricultural areas and areas that allow business or industrial uses. Vertical farms are enclosed, and can be both low impact and extremely productive. They would be permitted in the Business and Industrial districts. Urban Agriculture is permitted in the Apartment Mixed Use, Business, and Business Mixed Use districts. A CUP is required to ensure impacts to the surrounding land uses and natural systems are mitigated. Applications must include a description of the equipment being used, disclosure of any chemicals or pesticides, disclosure of smelly products, and a sediment and erosion control plan. If impacts are mitigated through the CUP, this use could further support food independence.

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- **Anticipates the growth of community gardens by adding it as a use with standards.** Community Garden is a new defined use intended to regulate private community gardens to support their development and mitigate possible impacts from odors and chemicals.
- **Adds new standards and changed the permitting from a Minor CUP to a Major CUP for agritourism that protects agricultural land while creating diverse economic opportunities for landowners.** The new term "agritourism" replaces some of what used to be included in "agribusiness." Agritourism now would require a CUP Major, which includes a public hearing, and the new definition better captures the reality of these uses compared to agribusiness. The new standards specify maximum size of areas dedicated to the agritourism uses, and limitations on the type of development to not diminish future productivity of land. Also, the new standards specifically address weddings, off-road vehicle tours, etc., to keep agriculture as the primary use and limit the impact of non-agricultural uses.
- **Clarifies standards for poultry raising and beekeeping in urban settings.** Builds on existing regulations and best practices to specify where chicken coops and beehives may be kept, and how many are appropriate to reduce impacts on neighbors.

2. Expands Housing and Job Opportunities:

- **Provide more support for accessory housing and add more diverse housing types to the use table, such as two-unit and three-unit dwellings.** The Bill would ease the minimum lot standards for Accessory Dwelling Units (ADU) to encourage more opportunities to develop infill affordable housing types. The size requirement for the smaller ADUs was increased by 100 square feet (to 500), which is not noticeably larger, but is more accommodating for conversions of existing structures. For example, a 400-square-foot two-car garage could add a second floor for an ADU, but not a weather-protected stairwell outside of the garage. With 500 square-foot maximums on smaller lots, this addition or conversion is possible without losing a parking space in the garage. The update would also allow ADUs on lots with more than one dwelling. Currently, minimum-sized lots can have one dwelling and one ADU, and a lot that is twice the minimum size can have two dwellings but no ADU. By allowing the larger lots to still have one ADU, the ADU program is logically expanded but would have fewer impacts than originally anticipated. Regarding the new housing types, a few minor changes should be highlighted to provide context: 1) The term "family" is being replaced with "unit" when describing the number of dwellings and "household" when referring to groups of people living in a dwelling. "Family" poorly recognizes the way many people live, and "unit" and "household" are more consistent with Census terms. 2) The bill also introduces the newly defined "three-unit dwelling." Practically speaking, there is no

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change to what types of dwellings are allowed in the various Apartment and Residential Districts. However, adding "three-unit dwelling" clarifies opportunities and will allow for a more robust discussion of such dwelling types at a later stage in the LUO update.

3) Lastly, new allowances for dwellings in the business districts, as discussed in detail below, will allow for mixed-use developments in districts that previously only allowed commercial uses.

- **Allows residential uses above ground floor commercial uses in the Neighborhood and Community Business-1 and Business-2 Districts.** This proposal was modified in our recent correspondence. Comments received on the Bill suggest that zoning lots in the Business Districts are physically too large, particularly out in Ewa/Kapolei/Hoopili area, to be efficiently developed to their potential. In addition to allowing housing above commercial uses, the new proposal allows housing as stand-alone structures when there is a sufficient amount of commercial space on the site. In all instances, a certain amount of commercial uses will still be required in the Business Districts, in accordance with the General Plan, Sustainable Community Plans, and Development Plans. The minimum recommended commercial area comes from local data on the average floor area ratio in Business Districts to suggest how much commercial space is needed to support a walkable community. By allowing housing in some form on these sites, the maximum number of dwellings that could be developed on the Island is increased by tens of thousands. That is not to say housing units will be developed in those magnitudes, but the increased availability of land that could have housing may lessen the pressure and reduce the cost of the limited land that is otherwise developable with residential uses. This change does not come with any increase in height or density.
- **Anticipates the creation of new parks by private entities and, therefore, allows parks by right in all zoning districts except industrial districts.** Particularly with Hoopili, a number of publically accessible private parks have been developed that straddle the line between a public use and an outdoor recreation facility. Low impact open space that supports loosely structured play and recreation should be supported to provide recreational areas for walkers, joggers, children, etc. Larger private facilities with scheduled fields and parking lots, or recreation rooms, will still be classified as other uses, such as outdoor recreation, meeting facility, or nature-based recreation.
- **Expands permitted uses in the Apartment Mixed Use Districts to allow more employment near dense housing.** Presently, the AMX district allows very limited commercial uses, to the point where the districts don't function in the way they are described in the LUO's Purpose and Intent, or envisioned in the various long-range plans. The new regulations would allow more commercial uses, but not the more impactful uses that are relegated to the Business districts. New retail and office uses are the primary changes in this district, which will facilitate a more mixed-use

functionality. Grocery stores will be allowed, although not the larger super-stores. Also, the density of commercial uses is limited, so the primary function of the area will continue to be residential, but the expansion of uses will likely result in a more vibrant, walkable, and complete neighborhood.

- **Allows neighborhood grocery stores in residential areas, subject to standards.** Small retail establishments will be allowed in the Residential Districts with the approval of a CUP Major, which requires a public hearing. Standards are intended to keep them spread out, so that their location provides access to underserved areas devoid of other commercial activity.
- **Provides new standards for food trucks (mobile commercial establishments).** In 2018, the DPP recommended adding a use to the Use Table to account for the proliferation of food trucks. Currently, apart from Haleiwa, mobile commercial establishments are treated as a brick and mortar restaurant or a vehicle; however, these uses don't really capture how food trucks operate, making them difficult to regulate. By specifically identifying the "mobile commercial establishment" use and providing standards for these uses, mitigation of their impact on the community, specifically as it relates to parking, screening, and hours of operation, is possible.

3. Improves Utility Regulations:

The DPP transmitted to the Planning Commission additional information related to utilities. The revisions introduced in the January 14, 2022 communication to the Planning Commission reflect the interests of the Hawaiian Electric Company, and have been incorporated into the Bill as a recommendation from the Planning Commission.

4. Facilitates Adaptive Reuse and Transfer of Development Rights:

- **Expands the uses permitted in Apartment Mixed Use, Business, and Business Mixed Use Districts.** This proposal is partially discussed earlier; however, it is important to note that many of our historic commercial corridors and historic neighborhoods were built as relatively dense, walkable, and mixed use neighborhoods. Waiālae, Nuuanu, Liliha, Kapahulu, Kaimuki, and Palolo, all have mixed-use structures that are unable to make improvements without sacrificing a valuable nonconformity. By allowing additional uses, underutilized buildings can now have more options to realize their potential.

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- **Allows the transfer of development rights to preserve historic structures.** This is not a new concept, but previous provisions were drafted so narrowly, that they were never utilized. The new provisions may better support historic preservation, and provide alternatives for the owner of the lot to raise funds for purposes of preservation.
- **Allows the transfer of development rights from Special Management Area (SMA) lands to less environmentally-sensitive areas that are:**
 - **Not located within the SMA,**
 - **Not located within the P-2 General Preservation District; and**
 - **Not expected to be impacted by 3.2 feet of Sea Level Rise (SLR) by the year 2100.**

This new section expands the existing concept used for historic structures, to support the preservation of important ecological areas within the SMA. This is one tool in a growing toolbox of SLR adaptation strategies.

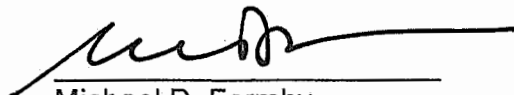
Should you have any questions, please contact me at (808) 768-8000.

Very truly yours,



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