

BILL010(22)
Testimony

MISC. COMM. 280

ZONING AND PLANNING

ZONING AND PLANNING Meeting

Meeting Date: Jul 14, 2022 @ 09:00 AM

Support: 3

Oppose: 7

I wish to comment: 12

Name: Rouen Liu	Email: rouen.liu@hawaiianelectric.com	Zip: 96840
Representing: Hawaiian Electric	Position: Support	Submitted: Jul 13, 2022 @ 08:21 AM
Name: Andrea Woods	Email: andreaswimsunset@yahoo.com	Zip: 96712
Representing: Sunset Beach Community Association	Position: I wish to comment	Submitted: Jul 13, 2022 @ 09:09 AM
Name: Francois Duval	Email: alohafrancois@icloud.com	Zip: 96734
Representing: Self	Position: I wish to comment	Submitted: Jul 13, 2022 @ 10:48 AM
<p>Testimony:</p> <p>Aloha,</p> <p>The City & County of Honolulu is renewing and redoing the Honolulu Land Use Ordinance from what I understand. I leave with my wife and children at 1355 Manu Mele Street in Kailua since 2004 and I have across the street, at 1356 Manu Mele street Tutu Bert hosting up to 10 patients + staffs within 2 CPR (duplexes) where it used to be a single family home. I am not sure any of the City council members realize the daily and nightly nightmare we have to go through since Tutu Bert has just decided to parachute themselves in the middle of a once peaceful residential neighborhood. None of us are arguing about the benefits Tutu Bert provide for the less fortunate. That said, it seems Tutu Bert empathy only fully extends to their guests and the less fortunate and not to the others nearby. We have a right to our quality of life and chosen circumstances too. In allowing 5 unrelated individuals (+ staff) living in a single house, run by a non-profit organization the C&C is allowing under the law to bypass the quota and doubling their limit to 10, with the same amount of staff running one single property. Very clever for them and very dreadful for us, the neighbors.</p> <p>This abuse of the law got to stop!</p> <p>And now City & County of Honolulu is planning to add 8 individuals per house, so 16 + staff on a what used to be one house, one parcel, one family?</p> <p>I understand if it is the case for a single property, not a CPR, wanting to add 8 people. The problem is non-profit use this as a license to double down on their guess by using the CPR option.</p> <p>Because this is what they are running–nonprofit or not– a large scale business. Cars are coming in and out of the clinic, on a daily basis, to take care of the patients: taxis, handy-vans, nurses, technician, administration personnel, volunteers, visiting families, etc....try 30 cars on certain days....including Sundays.</p> <p>1) It has for ever changed, alternated this neighborhood from a R5 it was designed for and introduced mix usages zoning, none of us were expected to confront one day. Have we wanted to live in such a neighborhood, we would have had plenty of opportunity to do so elsewhere.</p> <p>2) A hotel is not the intent of R5. Tutu Bert's presence is detracting from our general welfare and is profoundly changing our way of life.</p> <p>3) The noise level and commotions well described by my other neighbors, has increased dramatically. Several police interventions, numerous handy-vans, taxis and the like, jamming the street even on Sundays, picking up patients or bringing them back.</p> <p>Sorry but this street was not designed for that purpose.</p> <p>But, what is done is done and I know the City & County is pressured to accommodate more resident per houses. But please consider the following:</p> <ul style="list-style-type: none"> • Any Group living must NOT use an attached CPR, 2 joint houses inside a residential area to double their occupancy from now 10 to 16 proposed. •The existing law NEVER addressed this issue of CPR usage before, please consider it now. <p>Thanks for taking the time to review our concerns, and if you want any of us to testify, we will be happy to do so.</p> <p>Mahalo nui,</p>		
Name:	Email:	Zip:

Sunny Unga	kahukucommunityassociation@gmail.com	96731
Representing: Kahuku Community Association	Position: I wish to comment	Submitted: Jul 13, 2022 @ 01:54 PM

Name: Meridee Pabst	Email: meridee.pabst@wirelesspolicy.com	Zip: 98671
Representing: Wireless Policy Group, consultant for AT&T	Position: I wish to comment	Submitted: Jul 13, 2022 @ 02:11 PM

Testimony:

I wish to speak to the proposed new section addressing Communication Uses in Bill 10.

On page 42, subsection (F)(iii), the only reason listed for an applicant to demonstrate that collocation on an existing tower is not feasible is if there is a "lack of space." There can be many reasons an existing tower is not feasible or unavailable, so AT&T suggests elaborating as follows:

"or other evidence that collocation on such existing towers is technically infeasible (such as when precluded by zoning constraints, radio frequency interference, or structural limitations, or where an alternative location will not meet the service coverage objectives of the applicant) or that the applicant is unable to obtain agreement by the owner of such tower on reasonable terms."

These are reasons other jurisdictions typically find that collocation on another tower is not possible.

I'd also like to speak briefly regarding concealment.

Thank you,

Meridee Pabst
Wireless Policy Group LLC for AT&T

Name: R Laree McGuire	Email: lmcguire@hawaiiilegal.com	Zip: 96813
Representing: Self	Position: Oppose	Submitted: Jul 13, 2022 @ 04:46 PM

Testimony:

Aloha,

My name is Laree McGuire and my husband and I have owned our Northshore Ag. land since January 1996 (26 years) and have always abided by Hawaii law. We currently have fruit trees and animals on the 2.17 acre parcel. When we purchased our home/land, our intent was for my husband to farm the land when he retired. He retired in 2017 because he had double hip replacement surgery and could no longer physically do his job. We are both in our mid-60s and we do not have children and now my husband is not physically able to farm the land. If the proposed law were to pass, it would place an incredible burden upon us and as the law now reads, we would be forced to sell even though we have no desire to sell our land. Where would we move to that would allow us to keep all of our animals. This is outrageous and I do not believe it's constitutional. Rather, it's clearly a governmental taking and would certainly be challenged. You are opening up a hornets nest. Instead, of devising a way to force people to sell their ag land, you should be analyzing how you can best save and utilize the remaining ag land without violating the constitutional rights of the citizens of this great State. Respectfully submitted, Laree McGuire

Name: Ella Siroskey	Email: ellarn@hawaii.rr.com	Zip: 96717
Representing: Self	Position: Oppose	Submitted: Jul 13, 2022 @ 05:13 PM

Testimony:

I would like to support the Kahuku Community Association and insist on keeping the 1.25 mile setback. The 1:1 proposed is way to close and we still don't know how these machines will withstand major hurricane winds. And did you know I can see the turbines from standing at the corner of Kamehameha Highway and Kaipapau Loop in Hauula? We also do not know the effects

on the human body yet. Please keep the mile setback.

Name: Dawn Bruns	Email: dawnbruns@gmail.com	Zip: 96712
Representing: Self	Position: I wish to comment	Submitted: Jul 13, 2022 @ 05:18 PM
Name: Sandra Van	Email: sandy@prpacific.com	Zip: 96792
Representing: Self	Position: Oppose	Submitted: Jul 13, 2022 @ 05:59 PM
Name: Jacob Franco	Email: jac1snake@yahoo.com	Zip: 96731
Representing: Self	Position: I wish to comment	Submitted: Jul 13, 2022 @ 06:40 PM
Name: Lisa Cooper	Email: coopergreen11@gmail.com	Zip: 96791
Representing: Self	Position: Oppose	Submitted: Jul 13, 2022 @ 07:36 PM

Testimony:

We have owned a 1.98 acre Ag parcel for 19 years. The parcel has poor soil and is too small of an area to yield any substantial crops that would make it a 100% sustainable operation.

As we are now retired and aging, my husband and myself are not well suited for large scale ag work and with the proposed new restrictions, our occupancy of our own land would be rendered illegitimate and the value of our property would be negatively impacted.

These new restrictions would place a huge amount of stress and concern on us with impending uncertainty of whether we will be allowed to occupy our own property if we are incapable of running a substantial farming operation.

We strongly object to these proposed changes which will cause unreasonable harm. In the 19 years we have owned and occupied our land, we have abided by the Ag2 Zoning regulations in place when we purchased the property and feel these proposed revisions and restrictions are a violation of our basic property rights and we do not understand how trying to apply such an aggressive occupancy standard to such a small parcel will meaningfully protect O'ahu's ag industry.

Name: Richard Sterman	Email: Richard@Sterman.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Jul 13, 2022 @ 07:50 PM

Testimony:

Aloha,

I have been a Realtor on the North Shore for over 40 years.

I am against this Bill 10 and, I'm confident, the 200 other Ag Land Owners that have purchased from me over the last 4 decades would also be against this Bill.

Years ago there was an attempt to make Ag Lands more affordable by limiting the Square Footage of any Farm Dwelling built to 1,500 Square Feet (basically the size of a 1 bedroom 1 bath cottage). I testified that this would basically be "Condemning" an owner's Agricultural Parcel and I feel the same way about this Bill 10.

I'm 71 years of age... and many of my fellow Agricultural Owners are well above that. What Mr. Waters and his co-signers of this Bill are proposing would be the same as "Condemnation", and without "Compensation". Between the new Wastewater Rules disallowing Septic Tanks and the impositions that proposed new rules for "Important Ag Lands" would have - I strongly recommend that this Bill would be shelved at this time.

There are literally hundreds of Ag Land Owners that don't even know this is being proposed.

Thank You,

Richard D Sterman
STERMAN REALTY
& Long Time North Shore Resident

Name: Yvonne Watarai	Email: oldfutlady@yahoo.com	Zip: 96789
Representing: Self	Position: I wish to comment	Submitted: Jul 13, 2022 @ 07:54 PM

Testimony:

I have agricultural property that has been in MY family for generations. I would like to say that I'm opposed to the limitations that are being proposed on MY land (which is also part of the IAL fiasco). How can a law be passed that would take away MY rights as a landowner by telling me what I can and cannot do on MY property. I'm 73 years old, do I still need to farm MY land according to your rules?

I am a law abiding citizen and what boggles my mind is that at the last meeting, no comment was made about the actual limitations being proposed and their negative effects on landowners. It seemed to have been glanced over. These rules would make so many homes/farm lands illegal and seemed to give the idea that DPP will only go after the landowners if someone makes a complaint (the same information was given by an attorney during the LUC meeting regarding the IAL). Isn't it "funny kine" that you would make a law/rule and not enforce it unless someone complains? As a senior citizen I will worry till the day I die that the "law will come to get me" as I am not able to do what your rules/laws say I need to do or not do on MY property.

I have lost all faith in our government. We elect you because we had faith that you will do what is best for the people you represent. You should be protecting your citizens and not bring harm and anguish to them. How have landowners been notified of these proposals? If passed when will you notify them and how will you enforce them? I am sure there are many land owners that are not aware of these proposals.

I believe that these proposals need to be looked at more thoroughly. All the i's need to be dotted and all the t's crossed before ANY law/rule is passed. All the pieces of the puzzle must fit and there should be no missing puzzles. A chair cannot be put together if the parts don't match or are missing.

Please reconsider.

Thank you,

Yvonne Watarai

Name: R. Fenstemacher	Email: hale_noa@yahoo.com	Zip: 96734
Representing: Self	Position: I wish to comment	Submitted: Jul 13, 2022 @ 07:58 PM

Testimony:

I would like to give testimony regards this bill regards IHS/Tutu Bert's that seeks to increase clientele at Tutu Bert's house on Manu Mele Street in Kailua.

My name is Ron Fenstemacher and I live with my wife and two young daughters, four houses away from Tutu Bert's.

I'd first like to go on record that IHS/Tutu Bert's is an organization that does good work. Their business model is helping the houseless and IHS/Tutu Bert's does an important job of filling in where government can't.

The IHS/Tutu Bert's business model in our neighborhood generates their income by contracting to run short-term transient accommodations for medically fragile houseless clientele in an area zoned R5, or residential.

This short-term transient accommodation business is operating from a structure originally permitted and presented to the neighborhood as a two-family duplex. During its construction, unpublicized incremental permit modifications were allowed that changed this duplex into a "monster house", with fourteen separate bedrooms and twelve individual bathrooms. What was originally presented to the community as a two-family duplex became instead, for all practical purposes, a hotel.

This is dishonest. The developer took advantage. The developer lied by omission to build his hotel by concealing the whole truth from the neighborhood and misleading/covering up his true intentions. While often not recognized nowadays as such, lying by omission is still a lie. This developer has made other buildings for Tutu Bert's. Both this developer and by association, their client Tutu Bert's, make money by gaming the system to take advantage of their neighbors and the neighborhood.

Tutu Bert's personnel have said they want their clientele to recover in a quiet family neighborhood. This is an admission of their intentions to take advantage of us who live here and actually put effort into making this neighborhood the family-oriented place it is. This too is dishonest.

There are other areas in Kailua far more appropriately zoned for an IHS/Tutu Bert's short-term transient accommodation business, than in the middle of the Kukanono family residential subdivision.

With tutu Bert's business model of a short-term transient accommodation for medically fragile houseless operating in midst of a once-quiet family residential area, the neighborhood has had to endure just what you'd expect: the daily hustle and bustle of deliveries and pickups that service and supply this hotel business; the inevitable emergency services vehicles that are called to care for their medically fragile houseless clientele; the sketchy strangers wandering about the neighborhood giving folks the creeps; and finally, the unexplained police visits that really shake up and disturb the community. This hotel business hasn't so much as fit in, but instead, has fundamentally changed for the worse the character and feel of of a once friendly and family-oriented neighborhood.

The bottom line here is that the community feels very sold out by all the government representatives that enabled this unfortunate situation to occur. While everyone believes that IHS/Tutu Bert's is an organization that does good work, their short-term transient accommodation business is in the wrong place in the midst of the Kukanono subdivision. This hotel shouldn't be doing business in the middle of a residential area zoned R5, but in an area much more appropriately zoned. Please don't agree to support by any means, an increase in clientele at Tutu Bert's hotel on Manu Mele Street in Kailua.

Mahalo for your time and kind consideration of this matter. Stay safe, stay healthy, and stay kind!

Name: Tracy Tonaki	Email: tstonaki@drhorton.com	Zip: 96813
Representing: D.R. Horton	Position: Support	Submitted: Jul 13, 2022 @ 08:01 PM

Name: Karin OMahony	Email: k7omahony@aol.com	Zip: 96795
Representing: Self	Position: I wish to comment	Submitted: Jul 13, 2022 @ 09:08 PM

Testimony:
Oppose this bill
Trying to sneak this in without informing the public and those affected.

Name: Kathleen Pahinui	Email: pahinuik001@hawaii.rr.com	Zip: 96791
Representing: Self	Position: I wish to comment	Submitted: Jul 13, 2022 @ 10:04 PM

Name: Moana Kea Among	Email: keaamong@aol.com	Zip: 96734
Representing: Self	Position: Oppose	Submitted: Jul 13, 2022 @ 10:16 PM

Testimony:
Our community fought this situation when a similar law was passed. The law threatened many small agriculture land owners who would have been taxed and driven off their multi generation properties. The law was reversed to protect multi generation Ag Land Owners.

As this "New Attempt" by the City to Regulate "Gentlemen Farmers" will do more harm to the majority of the agriculture land owners, why don't they stop the LUC, the DPP, and developers from developing Ag Lands into millionaire "Gentlemen Farm Lots".

I couldn't afford ag land now even if I could farm.

I could be a 15th generation farmer if land prices, regulations, property taxes and the City and County of Honolulu hadn't allowed all of Oahu's designated "Prime Agricultural Land" to be sold off to developers and turned into wall to wall houses, condominiums, malls, and "Million Dollar Gentleman Farm Lots". The Ag Land for ranching I used to care take, in Kailua above the Okd Kaliaoake Hwy, is now subdivided into " Gentleman Farm Lots and the homes are selling for over \$3 million dollars.

The Attorney Generals comments must be taken into consideration to keep more legal action against our City by those citizens that will be displaced by these new proposed regulations.

Submitted by;

Moana Kea Among

Name: Sharlene Chun-Lum	Email: sharstocks@yahoo.com	Zip: 96701
Representing: Self	Position: Support	Submitted: Jul 13, 2022 @ 10:32 PM

Testimony:

Aloha Chair Elefante and members of the Zoning and Planning Committee,

I am a lifelong resident of Hawai'i, born and raise in Honolulu County, living in District 6, Halawa. Our island has finite land and resources and we need to use them wisely, now and for the future.

I appreciate and support the amendments made by Chair Elefante and his staff to Bill 10 (22), as introduced as CD1 today, especially items 1-5 and 10 in the Summary.

Me ka ha'aha'a,

Shar Chun-Lum

Name: Akila Sreedharan	Email: z718264@gmail.com	Zip: 96734
Representing: Self	Position: I wish to comment	Submitted: Jul 14, 2022 @ 12:13 AM

Testimony:

As a recent graduate of the windward GoFarm program, I support allowing accessory dwelling units on Ag-2 zoned land for the following reasons:

1. Sustainability: ADUs on Ag-2 zoned land gives farmers the option to offer housing in exchange for farm labor; therefore decreasing the cost of producing food locally. Labor costs are high on Oahu and paying hourly wages for farm labor raises the cost of local food production, causing locally grown food to be unaffordable for most people
2. Affordable Housing: ADUs on Ag-2 zoned land provides affordable housing, since there is the option to trade labor for reduced rent
3. Farming is a labor intensive practice and requires a significant amount of man-power. ADUs on Ag-2 zoned land allow for there to be helping hands available at all times.

Allowing ADUs on Ag-2 zoned properties promotes sustainability and improves access to affordable housing. The benefits far outweigh the risks or potential for abuse.

Name: Lauren Ballesteros-Watanabe	Email: lauren.watanabe@sierraclub.org	Zip: 96822
Representing: Sierra Club, O'ahu Group	Position: I wish to comment	Submitted: Jul 14, 2022 @ 06:51 AM

Name: D Nautu	Email: dltn19@outlook.com	Zip: 96717
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Representing: Self	Position: Oppose	Submitted: Jul 14, 2022 @ 08:24 AM
<p>Testimony:</p> <p>This is the letter from the Kahuku Community Association:</p> <p>Kahuku Community Association</p> <p>Honolulu City Council 530 South King Street Room 202 Honolulu, HI 96813 July 13, 2022 RE: Bill 10 CD1 (2022)</p> <p>Dear Chair Elefante, Vice Chair Kia`aina and Council Members,</p> <p>Kahuku Community Association (KCA) respectfully asks the Council to listen to our community who speaks from firsthand experience to support a 1.25 mile setback as proposed by DPP after hearing concerns from the community and reviewing the vast amount of research. KCA also strongly requests that the Council delete language supporting a 1:1 setback ratio and clarify the definition for large utility scale wind machines as referenced below:</p> <p>Sec. 21-5.60-6 pertaining to the setback requirement for large wind energy generation facilities: "Large wind energy generation facilities must be set back from all property lines at a minimum distance equal to the height of the facility, measured from the highest vertical extension of the facility, and a minimum of 1 1.25 mile from the property lines of any zoning lot located in the country, residential, apartment, apartment mixed use, and resort zoning districts. Height includes the height of the tower or its vertical support structure and the farthest vertical extension of the tower."</p> <p>Sec. 21-5.60-6 defining large utility infrastructure: "Includes energy generation facilities, supporting storage, and any generation capacity over 5 megawatts, and except utility scale wind energy generation facilities with a rated capacity of 100 kilowatts or more per wind machine."</p> <p>Kahuku as a community surrounded by 20 industrial wind turbines experiences the cumulative impacts of these turbines daily. We want to stress how severely inadequate a 1:1 setback is and continue to request support for a 1.25 mile setback for large wind machines. We ask the council to also consider supporting a setback of 1.25 mile for medium scale wind utility projects and place the burden of proof on the developers to request for a variance for lesser setback as deemed necessary.</p> <p>Kahuku Community Association</p> <p>KCA understands the need for clean energy as our communities are experiencing the devastating effects of extreme weather events from climate change. However, we must also strike a balance and put in place regulations to ensure that renewable energy projects do not come at the cost of the health, safety and quality of life of host communities and its residents. As currently being experienced by residents of the Kahuku community, when industrial wind projects are poorly sited in close proximity to schools and residential communities, the impacts of these industrial wind turbines to host communities can be devastating. Blade throw, tower collapse, fire from mechanical failures, shadow flicker, both inaudible and audible noise.</p> <p>We as a community should be composated with cheaper electricity price for having to live next to these windmills and bare the burden for the entire island. Put them in Hawaii Kai or Kahala or Nuuanu! They would be up in arms having windmills in their community and destroying their peace and quiet as well as natural view!</p>		



**Hawaiian
Electric**

TESTIMONY BEFORE THE COMMITTEE ON ZONING AND PLANNING

Bill 10, Proposed CD1, RELATING TO USE REGULATIONS

Thursday, July 14, 2022

9:00 am

City Council Chamber

Rouen Liu
Permit Engineer
Hawaiian Electric

Chair Elefante, Vice Chair Kia'aina, and Members of the Committee,

My name is Rouen Liu and I am submitting testimony on behalf of Hawaiian Electric in **support**, with comments, of the Proposed CD1 to Bill 10 proposing changes to Article 5 of the Land Use Ordinance.

Hawaiian Electric worked with the Department of Planning and Permitting and other stakeholders on a revised version of Bill 10. Those changes, previously approved by the Planning Commission on January 18, 2022, are reflected in the Proposed CD1 to Bill 10 except for the following language differences of which we offer comments:

- Page 62 of 253 Section 21-5.60-6 (a) (1) **"like 46 kilovolt or lower voltage electrical substations, vaults, distribution equipment, and accessory telecommunications antennas to support these installations..."** was deleted

from the language approved by the Planning Commission on January 18, 2022.

Hawaiian Electric prefers the language be included for purposes of clarity. It must be clear that 46kilovolt or lower voltage electrical substations, vaults, distribution equipment, and accessory telecommunication antennas to support these installations are classified as Small Utility infrastructure.

- Page 67 of 253 Section 21-5.60-6 (b) (2) (C) (ii) and Page 68 of 253 Section 21-5.60-6 (c) (2) (B) (ii), in both Medium and Large categories for windmills the wind blade tips can extend lower than 15 feet above ground level. Is this the intent of the ordinance?

We sincerely appreciate the efforts of the Department of Planning and Permitting, the Planning Commission, and the City Council in getting the bill to this point.

Thank you for the opportunity to testify.

Sunset Beach Community Association
P.O. Box 471
Haleiwa HI 96712

May 28, 2022

Chair Brandon Elefante
Members, Zoning and Planning Committee
Honolulu City Council

Re: Bill 10 – LUO Amendment Relating to Use Regulations

Aloha Chair Elefante, Vice Chair Kia'aina, Concilmembers Cordero and Say,
The Sunset Beach Community Association fully supports and shares the Kahuku Community Association's endeavor to update Bill 10 law to require a 1.25-mile minimum wind turbine setback distance. Additionally, we fully supported Heidi Tsunyeoshi's Resolution 19-305 for a 5-mile setback distance.

Given that there is no current state or local regulation or protection against elevated levels of low-frequency sound, a significant wind turbine setback distance or nighttime shutdown requirement is needed. Increasing the setback from residential homes, school, medical facilities and farm dwellings is imperative to protect community members from the adverse health effects and disruptions to living caused by industrial scale wind turbines. We strongly believe that a 1.25-mile setback is a crucial step in the right direction.

However, contained in the same Bill 10 is a measure our community strongly **opposes**: permitting Mobile Commercial Establishments (MCE) in County and B-1 Zoning. We applaud the Department of Planning and Permitting (DPP) for proposing to regulate MCE/Food Trucks. However, DPP'S proposal to permit MCE/Food Trucks in Country and B-1 Zoning is contrary to the intention behind both of these zoning designations and should be rejected. On the North Shore, MCE/Food Trucks cater to approximately 90% tourists. Therefore, these mobile establishments should be regulated as tourism destinations, which are incompatible with Country and B-1 Zoning.

In addition, the presence of MCE/Food Trucks is not in keeping with the North Shore Sustainable Communities Plan's goals, which are to retain the flavor of a rural community. MCE/Food Trucks primarily serve tourists, lead to increased tourism and overcrowding, encourage pedestrians to jaywalk across Kamehameha Highway, and lead to excessive traffic and congestion. There has also been concern over the current lack of toilet and wash station facilities around these establishments, and Bill 10 does not require environmentally-sound waste disposal.

Bill 10 has no provisions to control the visual blight and sign clutter that are now caused by the proliferation of MCE/Food Trucks on the North Shore and elsewhere. Not only does Bill 10 allow each MCE/Food Truck to be covered with signage as they are now, it also specifically allows each

MCE/Food Truck to have a portable sign even though such signs are prohibited in the sign code (ROH Sec. 21-7.30(c)).

In summary, there are so many components to Bill 10 that the Sunset Beach Community Association cannot unilaterally endorse or oppose it. However, we do support the 1.25-mile minimum setback for wind turbines, and oppose permitting Mobile Commercial Establishments (MCE) in County and B-1 Zoning.

Sincerely,

A handwritten signature in black ink, appearing to read "Dawn Bruns", is written over a light blue horizontal line.

Dawn Bruns
Corresponding Secretary, SBCA

cc Kathleen Pahinui, North Shore Neighborhood Board
Senator Gil Riviere
Representative Sean Quinlan
Councilmember Heidi Tsuneyoshi
Dean Uchida , Director, Department of Planning and Permitting



Kahuku Community Association

Honolulu City Council
530 South King Street Room 202
Honolulu, HI 96813

July 13, 2022

RE: Bill 10 CD1 (2022)

Dear Chair Elefante, Vice Chair Kia'aina and Council Members,

Kahuku Community Association (KCA) respectfully asks the Council to listen to our community who speaks from firsthand experience to support a 1.25 mile setback as proposed by DPP after hearing concerns from the community and reviewing the vast amount of research.

KCA also strongly requests that the Council delete language supporting a 1:1 setback ratio and clarify the definition for large utility scale wind machines as referenced below:

Sec. 21-5.60-6 pertaining to the setback requirement for large wind energy generation facilities: “Large wind energy generation facilities must be set back from all property lines at ~~a minimum distance equal to the height of the facility, measured from the highest vertical extension of the facility,~~ and a minimum of ± 1.25 mile from the property lines of any zoning lot located in the country, residential, apartment, apartment mixed use, and resort zoning districts. Height includes the height of the tower or its vertical support structure and the farthest vertical extension of the tower.”

Sec. 21-5.60-6 defining large utility infrastructure: “Includes energy generation facilities, supporting storage, and any generation capacity over 5 megawatts, ~~and~~ except utility scale wind energy generation facilities with a rated capacity of 100 kilowatts or more per wind machine.”

Kahuku as a community surrounded by 20 industrial wind turbines experiences the cumulative impacts of these turbines daily. We want to stress how severely inadequate a 1:1 setback is and continue to request support for a 1.25 mile setback for large wind machines. We ask the council to also consider supporting a setback of 1.25 mile for medium scale wind utility projects and place the burden of proof on the developers to request for a variance for lesser setback as deemed necessary.



Kahuku Community Association

KCA understands the need for clean energy as our communities are experiencing the devastating effects of extreme weather events from climate change. However, we must also strike a balance and put in place regulations to ensure that renewable energy projects do not come at the cost of the health, safety and quality of life of host communities and its residents. As currently being experienced by residents of the Kahuku community, when industrial wind projects are poorly sited in close proximity to schools and residential communities, the impacts of these industrial wind turbines to host communities can be devastating. Blade throw, tower collapse, fire from mechanical failures, shadow flicker, both inaudible and audible noise have negatively impacted individuals and families who live near turbines world wide.

Placing an adequate setback is the only proven safety measure to protect and prevent host communities from the negative impacts of industrial scale wind turbines.

The Land Use Ordinance is in place to promote and protect public health, safety and welfare of the people whom these projects will directly affect. The threat posed to those living and schooling in close proximity to industrial wind turbines are clearly evident to our Kahuku residents. We respectfully ask the Council to listen to our community who speaks from firsthand experience and to prevent any other community from bearing the burdens and impacts of industrial wind from any future wind projects. Mahalo!

Respectfully,

Sunny Unga (e-sign)

Kahuku Community Association
Sunny Unga - President
Oriana McCallum - Vice President
Valeriano Garrido - Secretary
Laura Pickard- Treasurer
Melissa Ka'onohi-Camit - Director
Atalina Pasi - Director

Dawn Bruns, Kaunala Resident, North Shore Oahu, Recommending nighttime wind turbine shutdown or 5-mile wind turbine setback from residential areas July 14, 2022 for Zoning and Planning Committee of Honolulu City Council meeting Bill 10:

Recommendation: To protect the public's health, limit wind turbine low-frequency sound pressure "noise" to 55 decibels at night and limit daytime low-frequency wind turbine sound to 60 decibels health in residential-zoned area and hospitals. A five mile wind turbine setback distance, reduced wind turbine rotor speeds, and night-time wind turbine shutdowns of most turbines are methods to accomplish these limits.

Wind Turbine Sound Physics Background Information: Fast-spinning wind turbine blades make an audible (above 20 Hz) whooshing sound (audible more than one mile away) and each turbine blade tower pass also produces an inaudible but very powerful air pressure pulse (sound) between 0.3 and 1.2 Hz (detected by ear structures but not heard unless they are well above 100 decibels). This very low-frequency sound is measured with sensitive microphones or with air pressure sensors. The lower the frequency (Hz), the farther the sound travels – it also travels farther with the wind, and when the atmosphere is stable (when cool air sinks at night) with a low mixing height. The stronger the wind is, the faster the turbine blades spin - producing higher decibel levels of the low-frequency sound pulse. Harmonics of the fundamental frequency (the approximately 1 Hz sound produced by the spinning blade) occur at multiples of the fundamental frequency – these are at approximately 2 Hz and 3 Hz – these higher frequency sounds are still powerful, but they attenuate faster/do not travel as far. The decibel scale is logarithmic – a 3 decibel increase in decibel level is a doubling in power (<https://www.animations.physics.unsw.edu.au/jw/dB.htm>). A 55 dB 1 Hz sound has twice the power of a 52 dB sound.

Summary of Health Effects occurring miles from the wind turbines because of Wind Turbine Low-Frequency Sound:

At very high levels (levels normally only experienced occupationally, e.g., 100-decibels at 1 Hz tilt-rotor aircraft cockpits and unfortunately the levels expected to occur in the schools and residential neighborhood of Kahuku from the Na Pua Makani Wind Farm), low-frequency sound exposure limits are in hours rather than days; prolonged exposure to such high levels of low-frequency sound causes permanent thickening of the pericardial tissues around the heart, changes in collagen related to thickening of arteries, epilepsy, birth defects, and other serious consequences regardless of the whether or not the person feels any discomfort (see attached references). Very high levels of low-frequency sound affect the town of Kahuku on most days because of the extremely close proximity of the very large Na Pua Makani wind turbines.

Chronic, prolonged nighttime exposure to low-frequency wind turbine pulses **above 55 decibels** cause an estimated 10-30% of the general population many miles from wind turbines to experience significant disruptions to their use of their home by significantly impairing their health (whether they are aware of it or not), safety, peace, comfort, and convenience (one person per every one to three households). The most common problem caused by this dose of low-frequency wind turbine sound, documented in 93% of the patients that physician/PhD Nina Pierpont (2009) studied, was memory and concentration deficits (presumably due to lack of REM sleep). The second-most common problem, which affected 89% of the affected patients

she studied, was noticeable chronic sleep disturbance. Chronic sleep disturbance appears to be the underlying cause of the fatigue (75%) and irritability (76%) experienced by the patients she studied. Wind turbine-caused sleep disturbance has been well-documented. Wind turbine low-frequency sound sleep disturbance appears to be the cause of the increased suicide rate Zou (2017) found during windy periods at distances spanning more than 25 km upwind and downwind from the 828 turbine installation events spanning 39 states between 2001 and 2013.

Independent of the sleep-disturbance impacts, the wind turbine low-frequency sound also causes elevations of blood pressure when the turbines are on, and headaches. The sleep disturbance and these consequences resolve immediately after the family moves away from the wind farm. Memory disabilities usually resolve over a period of weeks to months after moving away from the wind farm. Bottom Line: Turn the turbines off at night or don't build turbines within 5 miles of residential, school, and hospital areas.

Annotated bibliography/links to most relevant literature (more wind turbine health effects peer-reviewed literature available my Google Drive Wind Turbine Noise Folder at https://drive.google.com/drive/folders/1x2bYkblTkTN_wmeht3eh8Row3tLpmkoO?usp=sharing:

- 1.) Zou 2020, The Impact of Wind Farms on Suicide, American Economic Journal: Economic Policy, in prep: Wind turbines increased suicide rates during windy periods in residents **more than 25 km (15 miles) upwind and downwind of turbines**. University of Oregon economics professor studied 828 turbine installation events spanning 39 states in the United States from 2001 to 2013. Sleep disturbance the likely cause. Wind turbine installation resulted in a total of 34,000 life years lost (LYL) due to increased suicides within a year after installation. To put this number in perspective, during the same one-year time window, the new wind capacity generated roughly 150 million megawatt hours (mWh) of clean energy; by comparison, based on existing estimates of the per mWh health cost of coal-generated electricity (Epstein et al., 2011), generating the same amount of electricity with coal would have resulted in around 53,000 life years lost due to air pollution.
https://static1.squarespace.com/static/56034c20e4b047f1e0c1bfca/t/5f612bb98bdfff6199b3a97c/1600203713573/turbine_zou202009.pdf

The impact of wind turbines on suicide

"Exploiting over 800 utility-scale wind turbine installation events in the United States from 2001-2019, I show robust evidence that wind farms lead to significant increases in suicide."



Eric Zou – Department of Economics, University of Illinois at Urbana-Champaign

- 2.) Cape Bridgewater (2014-2015) This wind farm-funded study made measurements of low-frequency sound while residents documented their discomfort. Residents reported “severe impacts (significant changes in behavior, and/or inability to mitigate effect leading to psychological stress or physiological effects, e.g., regular sleep deprivation/awakening, loss of appetite, significant, medically definable harm” when **1 Hz wind turbine sound exceeded 58 decibels (72 decibels was the highest level studied)**,
https://drive.google.com/drive/folders/1x2bYkblTkTN_wmeht3eh8Row3tLpmkoO?usp=sharing)

Wind Turbine Low-Frequency Sound Decibel Levels Recorded when Residents Journals Noted "Slight Impact" (Blue) and "Severe Impact" (Red), Cape Bridgewater Wind Farm Acoustic Testing Funded by Energy Pacific (2014).

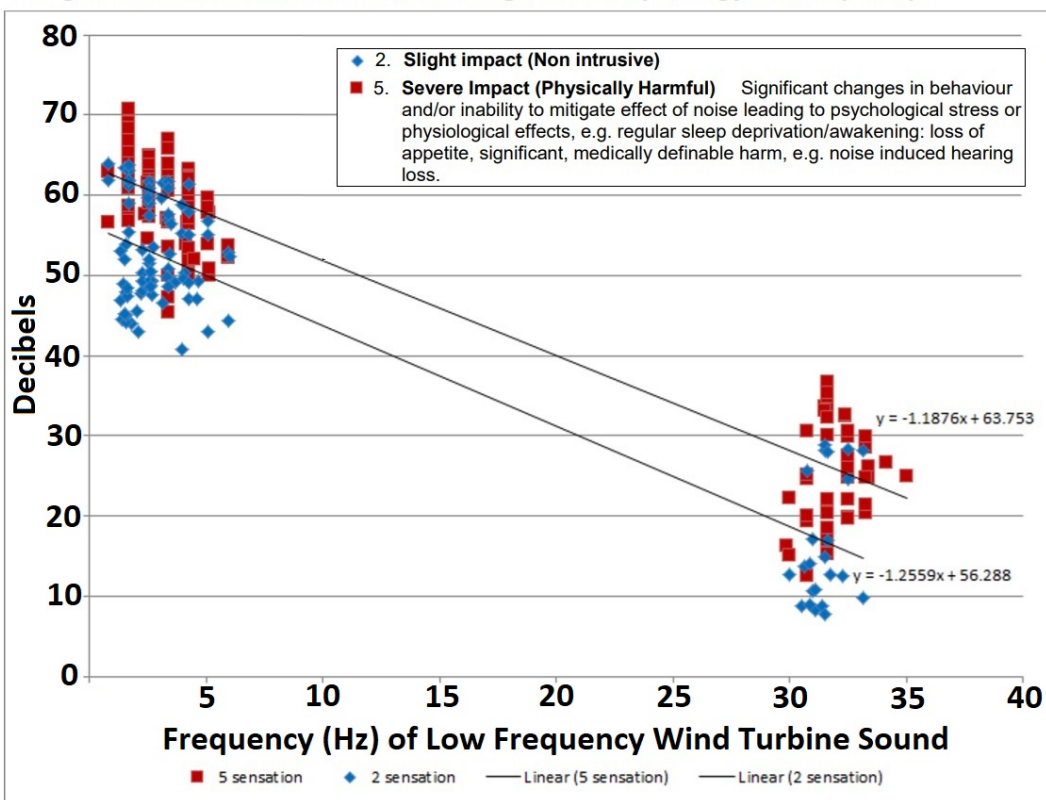


FIGURE 49: Human response to sound pressure of wind turbine signature and 31.5 Hz wind turbine amplitude modulation (both do not occur in the ambient environment) https://drive.google.com/open?id=180jlKaO_Z9pdWpQ64z8EFeh1vYdiqrp

- 3.) Dr Alves Pereira (2019) University of Waterloo presentation (wind turbine low-frequency sound pressure is chronic – though exposure levels are usually below level of occupational exposure of military aircraft workers, biological effects to tissues are expected to be similar – thickening of the pericardial tissues around the heart, changes in collagen related to thickening of arteries, increased epilepsy, high blood pressure, heart conditions. In addition, low-frequency sound (**55-60 dB at 1 Hz**) caused residential structures to resonate (55-60 dB at around 10 Hz) – the resonance frequency of wood frame and concrete structural materials is around 10 Hz – in addition to low-frequency sound itself, the structure's resonance is often the significant cause of discomfort, causing the people to move away or sleep in the basement)
<https://livestream.com/itmsstudio/events/8781285/videos/196181579?fbclid=IwAR3pwiRLGzoHYKJqmEZJhuljCHehJlrgaP1QauPpGpDntVQNYuf6oHygLo>
- 4.) Stepanov (2000) Biological effects of low frequency oscillations (Russian **75 dB limit for 2 Hz**. low-frequency sound for "living and public premises" based on exposure time, p. 15. Russia has a lot of experience with low-frequency sound (as does NASA) due to

the space programs. <https://apps.dtic.mil/dtic/tr/fulltext/u2/a423963.pdf>

Page 15 in Stepanov 2000 Biological effects of low frequency oscillations (Russia's low-frequency sound exposure limits) <https://apps.dtic.mil/dtic/tr/fulltext/u2/a423963.pdf>

Table 7 – Permissible infrasound levels at workplaces, living and public premises and populated areas

No.	Premise	Sound pressure levels, dB, in octaval bands of averaged geometric frequencies, Hz				General sound pressure level dB “Lin”
		2	4	8	16	
1.	Different jobs inside industrial premises and production areas:					
	- Different physical intensity jobs	100	95	90	85	100
	- Different intellectual emotional tension jobs	95	90	85	80	95
2.	Populated area	90	85	80	75	90
3.	Living and public premises	75	70	65	60	75

- 5.) The 65 dB ANSI threshold for low-frequency sound is based on effects of less-harmful traffic and aircraft noise. The physiological response to wind turbine sound is significantly greater than the physiological response to the same decibel sound from traffic and aircraft noise [Schaffer 2016](#). Apparently, Hawaii doesn't even appear to have adopted the 65 dB ANSI low-frequency sound limit (let alone the Russian 75 dB limit to low-frequency sound, above) – adopting these general health-related restrictions to low-frequency noise (of any type, let alone the more harmful wind turbine pulses) seems like it should have been done already.
- 6.) Walker, Hessler, Rand, and Schomer (2012) Shirley Wind Farm, Wisconsin, in particular Appendix C, Rand Acoustics, pp 35-36, “intolerable” (headaches, nausea, dizziness, sleep interference) when wind turbines on (intolerable during the daytime at **73 decibels at 0.3 Hz fundamental frequency**), relief during the daytime at 3.5 miles away (**calculated to be approximately 61 dB at 0.3 Hz**).
- 7.) The 2.5 MW Clipper turbine, currently in use at the Kahuku Wind Farm has been declared a public health hazard by a Wisconsin county where residents 4.2 miles away are adversely affected and low-frequency sound pulses are detected more than 6 miles away ([Wisconsin](#)).
- 8.) Falmouth, Massachusetts wind turbines removed because they were a public health hazard [Falmouth, MA Health Board 2012](#)
- 9.) Pierpont (2009) Wind Turbine Syndrome book by physician, see “Report for Clinicians, Table 3 (Page 51) and Chapter 3, Case Histories, the raw data. (order \$11 book, free shipping, from <https://www.windturbinesyndrome.com/wind-turbine-syndrome/>)

Table 3: Baseline conditions and core symptom occurrence*

	Total	Male	Ages	Female	Ages	N**	% of sample
Baseline Conditions							
Serious medical illness†	8	2	56-64	6	51-75	38	21
Mental health disorders‡	7	3	42-56	4	32-64	34	21
Migraine disorder	8	4	19-42	4	12-42	34	24
Hearing impairments	8	6	32-64	2	51-57	34	24
Pre-existing tinnitus	6	4	19-64	2	33-57	24	25
Previous noise exposure	12	9	19-64	3	33-53	24	38
Motion sensitivity	18	10	6-64	8	12-57	34	53
Core Symptoms							
Sleep disturbance	32	17	2-64	15	2-75	36	89
Headache	19	8	6-55	11	12-57	34	56
VVVD◇	14	6	32-64	8	32-75	21	67
Dizziness, vertigo, unsteadiness	16	7	19-64	9	12-64	27	59
Tinnitus	14	9	19-64	5	33-57	24	58
Ear pressure or pain	11	6	2-25	5	19-57	36	30
External auditory canal sensation	5	2	42-55	3	52-75	34	15
Memory and concentration deficits (salient+mild/vague)	28	15	6-64	13	5-57	30	93
Irritability, anger	28	15	2-64	13	2-64	37	76
Fatigue, loss of motivation	27	14	2-64	13	2-75	36	75

*A symptom during exposure is defined as distinctly worse for that individual during exposure compared to before and/or after exposure.

**N=number of subjects in which it was possible to know about the condition or symptom, given age and other specific limitations (see p. 41 and subsequent text).

†See p. 42 and Table 2.

‡See p. 42 and subsequent text for definitions of this and other conditions and symptoms.

◇Visceral Vibratory Vestibular Disturbance: See pp. 48 and 55ff.

- 10.) Salt and Hullar 2010 ear response to low frequency sounds turbines

<https://pubmed.ncbi.nlm.nih.gov/20561575/>

- 11.) Rand, R.W., S.E. Ambrose, and C.M.E. Krogh. 2011. Occupational Health and Industrial Wind Turbines: A Case Study. Bulletin of Science, Technology, and Society 31(5) 359-362. Excerpt from Page 361:

Salt and Hullar (2010) that certain structures in the inner ear are sensitive to infrasound and can be stimulated by low-frequency sounds at levels starting at 60 dBG, well below levels that can be heard. The stimulation is maximal at low background sound levels (e.g., indoors). The authors found that when the wind turbine modulating, pulsing infrasonic levels dropped below 60 dBG (nearest wind turbine OFF), there was improvement in health status.

- 12.) Ambrose, S.E., R.W. Rand, and C.M.E. Krogh. 2012. Wind turbine acoustic investigation: Infrasound and low-frequency noise – a case study. *Bulletin of Science, Technology & Society* 32(2): 128-141. In an email to me yesterday, Dr. Rand highlighted the following - apparently in addition to the ear structures detecting the low-frequency sound pressure pulses, the nerve fibers are directly responding. Dr. Rand is very approachable and helpful and he takes phone calls in case you are interested in speaking with an expert – his contact information is in his signature line:

Adverse impacts were associated to acoustic pulsations exceeding the Salt threshold for OHC triggering. Of note, and please read carefully, "low-frequency sounds produce a *biological* amplitude modulation of nerve fiber responses to higher frequency stimuli. This is different from the amplitude modulation of sounds detected by a sound level meter."

If you have any questions, please contact me.

Thank you kindly,
Rob

--

Robert W. Rand, Member ASA, INCE (Member Emeritus)
Rand Acoustics
Tel: 207-632-1215
Fax: 206-339-3441
Web: <http://randacoustics.com>

On 3/11/21 5:16 PM, Dawn Bruns wrote:

- 13.) Punch and James 2016 – review of literature
https://drive.google.com/file/d/10JQcxsmC0j6XIrTyLzaM_M1IYtAPBLox/view?usp=sharing

If you want to use wind turbines as a long-term clean energy generation source that won't be shut down by public nuisance litigation, keep wind turbine sound in residential-zoned areas BELOW 55 decibels at night (I'm not sure how much below 55 decibels – I just know 55 decibels is a serious problem for sleeping, and limit low-frequency wind turbine sound to 60 decibels, daytime, in residential-zoned areas. (53 decibels is a serious problem for my sleep – the literature supports the 55 dB limit and certainly as more data becomes available, the 53 decibel limit will become common knowledge),

My Measurements: It only cost me \$3,000 to purchase low-frequency (full-spectrum) microphones with calibration and notebook computer interface – it's very easy to measure low-frequency wind turbine sounds <http://www.smart-technologies.co.nz/rapley.html> At our house

three miles from the Kahuku Wind Farm, the fundamental frequency from the 12 original 2.5 MW Clipper wind turbines of the Kahuku Wind Farm is 0.8 Hz and the first two harmonics, at 1.6 Hz and 2.4 Hz are shown in Figure 1.



Figure A. Blue microphone Sunset Beach (three miles downwind from turbines), red microphone in garage “crypt” sleeping area (which does nothing to block 1 Hz, 2 Hz, and 3 Hz low-frequency air pressure pulses “low-frequency sound pressure” registering at 55 60 dB (see white arrows). Winds were 18 MPH, gusts to 26, from the east (92 degrees).

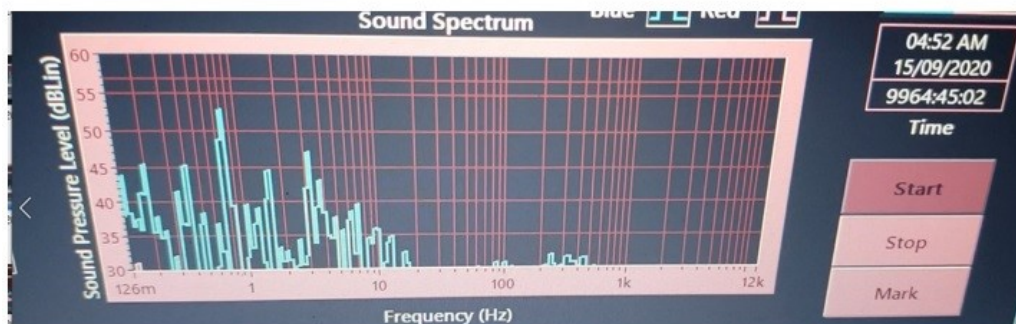


Figure B: Turbines on with light wind. This is the sound pressure level three miles downwind from Kahuku with about the lightest winds the turbines are allowed to operate during April through October nighttime (James Campbell Weather Station: winds 10, gusts to 13, 99-degrees/East wind). This 50-55 dB 1 Hz signal (and its 2 Hz and 3 Hz harmonics).

The difference in power between 55 decibels and 60 decibels is more than double the sound power because decibels are on a log scale. The low-frequency sound is very powerful and it dissipates at roughly 3 decibels per doubling of distance. The decibel level of the 12 existing 2.5 MW turbines in Kahuku, at 3 miles, in light 10 mph winds, is 53 decibels; the same turbines cause the low-frequency sound level to be 60 decibels three miles away when wind is 18 mph (which the 3 decibels per doubling of distance would mean it would be 57 decibels at 6 miles (sleep disturbance annoyance to residents); 54 decibels at 12 miles. I’m not sure why you’d want to have a wind turbine anywhere on Oahu – every location on Oahu within 5 miles of a potential wind farm site, except for the tip of Ka’ena Point, has thousands of residents within 5 miles who would be severely affected if you allowed a wind turbine to be constructed.

July 13, 2022

Testimony of Sandra Van to the
City and County of Honolulu's Committee on Zoning and Planning Hearing on
Thursday, July 14, 2022 at 9:00 a.m. regarding
Bill 10 (2022) – LUO AMENDMENT RELATING TO USE REGULATIONS

Proposed changes to Article Five of the City and County of Honolulu's Land Use Ordinance ("LUO") are once again in front of the City Council as Bill 10 (2022). Through the SANDRA CAROL VAN TRUST, I own two small parcels identified as Tax Map Key No. (1)86008024 and (1)86008023. Both parcels are presently zoned for agricultural use. I am deeply worried that I will lose the right to live in my own home due to the stricter occupancy restrictions looming in article five of the proposed revisions to the LUO.

I would remind the Council that the attorney general has already weighed in on the idea of landowners having contested case hearing rights for actions that purport to restrict or otherwise limit your existing rights to occupancy, thus making the Land Use Commission realize that the law they are getting ready to enforce was likely not sitting on firm constitutional ground. The Council should proceed with similar caution, as its actions will be discriminatory and unduly harm many of the elderly, disabled, and others who cannot actively farm their parcels or do not have the topography and other elements on their lots in order to put 75% of the parcel into active production, in order to keep living in their homes without being in violation of zoning ordinances and potentially subjects to fines and neighbor complaints, etc.

Under the standard set by HRS § 205-4.5, individuals and their families are free to live in their homes on agricultural land if their home is "used in connection with a farm" or "agricultural activity provides income to the family" living on the agriculturally zoned land. The proposed revisions for Article Five of the LUO threaten to codify a much harsher and discriminatory restriction for living on agricultural lands. Contrary to the broader occupancy rights established in HRS § 205-4.5, the proposed LUO amendment would mandate that anyone living on agricultural land must be actively farming. This suggested revision to the LUO specifically articulates that "leasing land, managing labor, or managing a business are not considered performance of an agricultural activity." See Section 21-5.40(d)(5)(B)(vii).

These new occupancy restrictions appear to be intended to prevent gentleman farms and ensure the productive use of O'ahu's agricultural land. Despite this laudable intent to protect O'ahu's agricultural lands from luxury housing developments, these occupancy restrictions will have a discriminatory impact that will dramatically harm the most vulnerable in our agricultural communities, including many people like myself.

The disparate harms visited on those who are physically and economically vulnerable are reason enough to send the LUO amendment authors back to the drawing board with instructions to devise more appropriate protections for agricultural lands that do not strip disadvantaged homeowners of the right to live in their own homes. Indeed, implementing this new occupancy standard will amount to a de facto eviction for myself and many other individuals and families residing on agricultural lands who are unable to actively farm their lands, either due to health conditions, advanced age, retirement, finances, caregiving responsibilities, or other personal circumstance that may preclude "active farming", however that term may be defined in the future.

Additionally, others may be unable to farm actively simply because their land is too small, too rocky, too dry, etc., such that it is not conducive to the kind of substantial agricultural production that would make farming a viable option for economic survival, most people like me will need separate jobs and income in order to afford to live. Like most farmers living on agricultural lands, I cannot survive on farming income alone. Disabled, retired, and elderly farmers and their families are especially likely to suffer severe disruptions to their lives and livelihoods if the new provisions are allowed to proceed.

My parcels face several adverse conditions which would complicate any substantial agricultural production on the land. First, the parcels are very small, measuring just 1.56 and 1.8 acres in total land area. Large scale production of crops is exceedingly difficult on lots that small. Additionally, the parcels do not currently enjoy sufficient water access to support substantial agricultural production. Furthermore, both parcels are situated within an old river bottom and characterized by thin, sediment-filled soil. There are large rocks present throughout the soil which would hinder any tilling of the soil necessary to facilitate the planting and cultivation of crops. Adverse conditions innate to my parcels significantly complicate agricultural production on the land. Therefore, it would be unreasonable to apply a new occupancy standard to my land which preserves my ability to live on the land only when I actively farm.

In addition to the environmental challenges and size constraints on the parcels, my family members are not prepared to farm. I am nearly 65 years old with asthma and heart issues severe enough to necessitate an implanted heart monitor. I do not have the strength or stamina to engage in agricultural production. My son and daughter-in-law also reside on the parcels. However, both are engaged with non-agricultural work and other responsibilities necessary to sustain their families. As no member of the family presently living on the parcels can reasonably be expected to farm the land, the proposed new occupancy restrictions for agricultural land would render my family's occupancy of my own land illegitimate and amount to a de facto eviction of myself and my relatives from my own property that we have developed and invested in extensively. This potentiality is of profound concern to me.

Even if no immediate enforcement actions are taken against myself in connection with the LUO revision, the new occupancy restrictions will continually be a source of stress and concern for my family and any future landowners or occupants of the parcel. The passage of the revised LUO will create a threatening uncertainty which will loom over my sincere hope of peacefully living out my days on my own property and passing that property down to my heirs without the threat of eviction and foreclosure. Degrading my occupancy rights and disrupting my life in this manner simply because I am not physically able to operate a substantially profitable farming operation on my small parcel would be unjust, blatantly discriminatory, and senseless. Furthermore, application of the new occupancy standard to my land will fail to meaningfully protect O'ahu's agricultural industry or in any way discourage the establishment of gentlemen farms.

I strongly object to the proposed changes to the LUO. Imposing overly strict occupancy restrictions across O'ahu's nearly 128,000 acres of agricultural land will violate the basic property rights of legions of small landowners, many of whom have invested their life's work and savings into their homes on agricultural lands over decades and generations.

I ask that the City Council cautiously approach any actions or decisions that would disproportionately harm those disabled and elderly members living in Oahu's agricultural communities. Indeed, I hope the City Council will require agency officials to work on devising regulatory mechanisms that can help safeguard agricultural lands and production on O'ahu, without stripping agricultural landowners of their basic property rights and evicting people like myself from their longtime homes. I implore the City Council to require the exploration of alternative paths rather than approving the deeply flawed and harmful restrictions currently proposed for agricultural dwellings in the revised LUO.



Kahuku Community Association

Honolulu City Council
530 South King Street Room 202
Honolulu, HI 96813

July 13, 2022

RE: Bill 10 CD1 (2022)

Dear Chair Elefante, Vice Chair Kia'aina and Council Members,

Kahuku Community Association (KCA) respectfully asks the Council to listen to our community who speaks from firsthand experience to support a 1.25 mile setback as proposed by DPP after hearing concerns from the community and reviewing the vast amount of research.

KCA also strongly requests that the Council delete language supporting a 1:1 setback ratio and clarify the definition for large utility scale wind machines as referenced below:

Sec. 21-5.60-6 pertaining to the setback requirement for large wind energy generation facilities: "Large wind energy generation facilities must be set back from all property lines at ~~a minimum distance equal to the height of the facility, measured from the highest vertical extension of the facility~~; and a minimum of ~~1.25~~ mile from the property lines of any zoning lot located in the country, residential, apartment, apartment mixed use, and resort zoning districts. Height includes the height of the tower or its vertical support structure and the farthest vertical extension of the tower."

Sec. 21-5.60-6 defining large utility infrastructure: "Includes energy generation facilities, supporting storage, and any generation capacity over 5 megawatts, ~~and except~~ utility scale wind energy generation facilities with a rated capacity of 100 kilowatts or more ~~per wind machine~~."

Kahuku as a community surrounded by 20 industrial wind turbines experiences the cumulative impacts of these turbines daily. We want to stress how severely inadequate a 1:1 setback is and continue to request support for a 1.25 mile setback for large wind machines. We ask the council to also consider supporting a setback of 1.25 mile for medium scale wind utility projects and place the burden of proof on the developers to request for a variance for lesser setback as deemed necessary.



Kahuku Community Association

KCA understands the need for clean energy as our communities are experiencing the devastating effects of extreme weather events from climate change. However, we must also strike a balance and put in place regulations to ensure that renewable energy projects do not come at the cost of the health, safety and quality of life of host communities and its residents. As currently being experienced by residents of the Kahuku community, when industrial wind projects are poorly sited in close proximity to schools and residential communities, the impacts of these industrial wind turbines to host communities can be devastating. Blade throw, tower collapse, fire from mechanical failures, shadow flicker, both inaudible and audible noise have negatively impacted individuals and families who live near turbines world wide.

Placing an adequate setback is the only proven safety measure to protect and prevent host communities from the negative impacts of industrial scale wind turbines.

The Land Use Ordinance is in place to promote and protect public health, safety and welfare of the people whom these projects will directly affect. The threat posed to those living and schooling in close proximity to industrial wind turbines are clearly evident to our Kahuku residents. We respectfully ask the Council to listen to our community who speaks from firsthand experience and to prevent any other community from bearing the burdens and impacts of industrial wind from any future wind projects. Mahalo!



July 13, 2022

The Honorable Brandon Elefante, Chair
The Honorable Esther Kia'aina, Vice Chair
Members of the Committee on Zoning and Planning
City Council, City and County of Honolulu
Honolulu, Hawaii 96813-3077

RE: **Bill 10 (2022), CD1 – LUO Amendment Relating to Use Regulations**
Special Meeting: June 14, 2022, 9:00am

Aloha Chair Elefante and Members of the Committee on Zoning and Planning,

Mahalo for the opportunity to submit testimony on behalf of D.R. Horton, offering comments to Bill 10 (2022), CD1 LUO Amendment relating to use regulations. At this time, D.R. Horton offers its **STRONG SUPPORT**. We are one of Hawaii's largest home builders and have been providing affordable housing and workforce housing for Hawaii's families throughout Oahu for 49 years.

D.R. Horton commends the Department of Planning and Permitting's (DPP) thoughtful approach to appropriately contemporizing the Land Use Ordinance's (LUO) structure, format and land use regulations for applicability to the built environment of today and more importantly, in the future. It is a refreshing proposal that was long overdue. The current LUO has served the community well for the past handful of decades. Unfortunately, time, evolving social behaviors and new urban planning approaches have outpaced the well-intentioned regulations of the past, yielding a document that is simply antiquated. Under the leadership and guidance of Katia Balassiano and Alex Beatty of the DPP Zoning Review & Planning Branch, Bill 10 (2022) CD1 is very well written, logically organized with innovative regulations that we strongly believe will benefit many facets of the built environment, especially much needed housing.

There are two sections that we feel will greatly benefit and accelerate the production of affordable and workforce housing:

- **Sec. 21-5.30 Use table and Table 21-5.1 Table of Permitted Uses.**
The expansion of permitted uses within AMX zoning districts are forward thinking, providing opportunities for additional and appropriate types of commercial uses needed within neighborhoods of today and the future. The expansion of B1 and B2 zoning districts to include multi-unit dwellings is an extremely innovative approach that will create opportunities to repurpose historically underutilized commercial floor area ratios for much needed housing.

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- **Sec. 21-5.50-1(e)(2)(B) Multi-unit dwelling. Standards.**

The proposed multi-unit dwelling Standards are very practical and reasonable in supporting the expansion of residential uses within B1 and B2 zoning districts. This tiered approach, relative to zoning lot acreage, appropriately right-sizes commercial requirements based on historical market data. Additionally, this tiered approach allows regulatory flexibility that accommodates historical commercial demand and most importantly, provides more much needed housing opportunities within our built environment.

D.R. Horton strongly supports Bill 10 (2020) CD1. It is time to adopt an LUO applicable the needs of our community today and in the future. Mahalo for your time and consideration. It is very much appreciated. Should you have any questions, please do not hesitate to contact me at #782-4109 or ttonaki@drhorton.com.

Sincerely,



Tracy Tonaki
City Manager

Kathleen M. Pahinui
67-237 Kauai St
Waialua, HI 96791

July 13, 2022

Committee Chair Brandon Elefante
Zoning and Planning Committee
530 S. King St
Honolulu, HI 96813

Aloha Committee Chair Elefante and Committee Members:

Mahalo for taking up Bill 10 LUO AMENDMENT RELATING TO USE REGULATIONS. My comments for your discussion follow:

1. Agritourism. Requires the dedication of 75 percent (instead of 50 percent) of the zoning lot to active agricultural use for as long as the agritourism use is in operation (instead of a minimum of 10 years), through an agricultural easement or similar legal encumbrance acceptable to the DPP Director. Deletes bus, jeep, or off-road vehicle tours using motorized vehicles as a permitted agritourism use. Limits weddings and similar accessory destination events to no more than one event (instead of two events) per week.
COMMENT: I support the 75% requirement. Please add in ATVs and dirt bikes as it is not explicit in this language. This is becoming an issue on the North Shore. Also include ziplining, kayaking, gondola rides. None of these activities have anything to do with agricultural. Also, activities should not include music events, craft fairs or anything not ag related including weddings.
2. Three-unit dwellings. Deletes three-unit dwellings as a separate residential use. Multi-unit dwellings include buildings with three or more (instead of four or more) dwelling units.
COMMENT: Support this change.
3. Multi-unit dwellings in the B-1 and B-2 Districts. Permits multi-unit dwellings in the B-1 and B-2 Districts so long as certain minimum commercial area requirements are satisfied (minimum 10,000 sq. ft. of commercial space for zoning lots larger than 4 acres but smaller than 7 acres in size; minimum 40,000 sq. ft. of commercial space for zoning lots over 7 acres in size; zoning lots with a minimum non-residential FAR of 0.3); and requires the provision of certain pedestrian and bicycle access paths.
COMMENT: Support intent but concerned this could be out of place on North Shore where the zoning can be inconsistent and a patchwork quilt. Would want some safeguards to ensure that misuse can be avoided.
4. Household and large group living. Uses in the agricultural zoning districts. In the AG-1 and AG-2 Districts, certain uses (meeting facilities, group living, child daycare, adult daycare, and K-12 schools) are permitted with a major conditional use permit, and require a minimum of 75 percent of the zoning lot area to be dedicated to active agricultural use for as long as the applicable use is in operation, through an agricultural easement or similar legal encumbrance

acceptable to the DPP Director.

COMMENT: Need to ensure there are no loopholes as I could see someone saying the land is being used for group facilities and it is really vacation rentals. I am sure this can be handled in the CUP major which I strongly support.

5. New uses. Adds a new nature-based recreation use, defined as a permanent facility for outdoor play or recreation, often containing recreational equipment and facilities intended to promote or enhance access to natural areas on land with preserved wildlife and natural features. Permitted in the P-2, AG-1, and AG-2 Districts with a major conditional use permit. Includes horseback riding stables or ranches, which has been deleted from the general outdoor recreation use. In the AG-1 and AG-2 Districts, a minimum of 75 percent of the zoning lot must be dedicated to agricultural or passive undeveloped recreational areas, through an agricultural easement or similar legal encumbrance acceptable to the DPP Director.

COMMENT: Understand intent but concerned about abuse – CUP majors need to be very well written and tight as to the restrictions.

6. Residential use
 - a. Delete the three-unit dwelling entry (three-unit dwellings no longer a separate residential use).
 - b. Amend the small group living entry to C* (instead of Eu*) in the AG-1 and AG-2 Districts.
 - c. Amend the large group living entry to C* (instead of Eu*) in the AG-1 and AG-2 Districts; C* (instead of C) in the A-2, A-3, AMX-1, AMX-2, AMX-3, and BMX-3 Districts; and Cm* (instead of Cm) in the BMX-4 District.

COMMENT: I support these changes.

7. Amend the accessory dwelling unit entry to delete P* in the AG-1 and AG-2 Districts (accessory dwelling units no longer a permitted use in the agricultural zoning districts).

COMMENT: I support this change.

8. Amend the small meeting facility entry to C* (instead of Eu) in the AG-1, AG-2, and Country Districts.

COMMENT: I do not support a small meeting facility on Ag land.

9. Amend the medium meeting facility entry to C* (instead of Eu) in the AG-1, AG-2, and Country Districts.

COMMENT: I do not support a medium meeting facility on Ag land.

10. Amend the K-12 school entry to C* in the AG-1 District; and C* (instead of Cm*) in the AG-2 District.

COMMENT: I do not support schools on Ag land.

11. Amend the child daycare entry to C* in the AG-1 District.

COMMENT: I do not support child daycare on Ag land.

12. Amend the adult daycare entry to C* in the AG-1 District; and C* (instead of C) in the AG-2 District.

COMMENT: I do not support adult daycare on Ag land.

13. Amend the bed and breakfast home entry to reflect the current permitted uses as amended in

Ordinance 22-7 (delete P* in the AG-1, AG-2, Country, R-20, R-10, R-7.5, R-5, R-3.5, AMX-1, AMX-2, AMX-3, BMX-3, and BMX-4 Districts).

COMMENT: I do not support B&Bs on Ag land. And how does this fit with Bill 41?

14. Add a new nature-based recreation entry, with C* in the P-2, AG-1, and AG-2 Districts.

COMMENT: Support with reservations as noted above.

15. Amend the mobile commercial establishment entry to delete Cm* in the Country District (mobile commercial establishments no longer permitted in the Country District), and add P* in the Resort District.

COMMENT: Support.

16. Amend ROH Section 21-5.40-4(b)(2)(F) to require the dedication of 75 percent (instead of 50 percent) of the zoning lot to active agricultural use for as long as the agritourism use is in operation (instead of a minimum of 10 years), through an agricultural easement or similar legal entitlement acceptable to the DPP Director.

COMMENT: Support.

17. Delete ROH Section 21-5.40-4(b)(G), which allowed bus, jeep, or off-road vehicle tours using motorized vehicles as a permitted agritourism use (off-road vehicle tours no longer permitted as an agritourism use). Realphabetizes the subsequent paragraph.

COMMENT: Please see above for comments.

18. Amend realphabetized ROH Section 21-5.40-4(b)(G) to limit weddings and similar accessory destination events to no more than one event (instead of two events) per week.

COMMENT: Please see above for comments on the 3 previous bullet points.

19. Require that crop production and livestock keeping must occupy a minimum of 75 percent (instead of 50 percent) of the zoning lot area, and that valid agricultural dedication status must be maintained as evidence of the agricultural activity; and provide that a farm dwelling is not permitted as an accessory use to boarding and care of horses and domestic animals.

COMMENT: Support.

20. Amends renumbered ROH Section 21-5.40-4(h) (relating to farmers market) to require a minimum of 75 percent (instead of 50 percent) of the zoning lot area to be dedicated to active agricultural use for as long as the farmers market is in operation, through an agricultural easement or similar legal entitlement acceptable to the DPP Director.

COMMENT: Farmers market must be produce / animal product related not a craft fair.

21. Deletes renumbered ROH Section 21-5.50-1(d) (relating to three-unit dwellings). Realphabetizes the subsequent subsection. Makes conforming amendments throughout the bill to delete references to three-unit dwellings.

COMMENT: Support.

22. Amends renumbered and realphabetized ROH Section 21-5.50-1(d) to permit multi-unit dwellings in the B-1 and B-2 Districts so long as certain minimum commercial area requirements are satisfied (minimum 10,000 sq. ft. of commercial space for zoning lots larger than 4 acres but smaller than 7 acres in size; minimum 40,000 sq. ft. of commercial space for zoning lots over 7

acres in size; zoning lots with a minimum nonresidential FAR of 0.3); provided that a pedestrian and bicycle access path a minimum of 8 feet in width is required from adjacent rights-of-way to both residential and nonresidential uses on the zoning lot.

COMMENT: Please see above for comment on concerns regarding multi-unit in B1 and B2 on the North Shore.

23. Amends renumbered ROH Section 21-5.50-2 to provide that in the AG-1 and AG-2 Districts, small and large group living must be of an agricultural nature, and as a condition of approval, a minimum of 75 percent of the zoning lot area must be dedicated to active agricultural use for as long as the group living is in operation, through an agricultural easement or similar legal entitlement acceptable to the DPP Director.

COMMENT: Do not support group living on ag land.

24. Amends renumbered ROH Section 21-5.60-1(c) to provide that in the AG-1 and AG-2 Districts, small or medium meeting facilities may be permitted if as a condition of approval, a minimum of 75 percent of the zoning lot area must be dedicated to active agricultural use for as long as the meeting facility is in operation, through an agricultural easement or similar legal entitlement acceptable to the DPP Director.

COMMENT: Do not support meeting facilities on ag land.

25. Amends renumbered ROH Section 21-5.60-3(a) (relating to K-12 schools) to provide that in the AG-1 and AG-2 Districts, K-12 schools may be permitted if a minimum of 75 percent of the zoning lot area is dedicated to active agricultural use for as long as the K-12 school is in operation, through an agricultural easement or similar legal entitlement acceptable to the DPP Director.

COMMENT: Do not support schools on ag land.

26. Amends renumbered ROH Section 21-5.60-5(a) (relating to cemeteries) to require a minimum 50-foot landscaped buffer from the property lines of any adjoining zoning lot in the country, residential, apartment, or apartment mixed use zoning district.

COMMENT: Support.

27. Amends renumbered ROH Section 21-5.70-1(a) (relating to child daycare) to provide that in the AG-1 and AG-2 Districts, child daycare may be permitted if a minimum of 75 percent of the zoning lot area is dedicated to active agricultural use for as long as the child daycare is in operation, through an agricultural easement or similar legal entitlement acceptable to the DPP Director.

COMMENT: Do not support childcare on ag land.

28. Provide that in the AG-1 and AG-2 Districts, adult daycare may be permitted if a minimum of 75 percent of the zoning lot area is dedicated to active agricultural use for as long as the adult daycare is in operation, through an agricultural easement or similar legal entitlement acceptable to the DPP Director.

COMMENT: Do not support adult daycare on ag land.

29. Amends renumbered ROH Section 21-5.70-3(a) to reflect the current language for bed and breakfast homes ("B&Bs") and transient vacation units ("TVUs"), as amended by Ordinance 22-7. Combines the B&B and TVU provisions, which are applicable to both B&Bs and TVUs (previously

duplicate separate provisions). Adds a new Section 21-5.70-3(a)(4) to incorporate the previous footnote in the existing Table 21-3 ("Master Use Table") that applies to B&Bs and TVUs relating to instances where the applicable development plan or sustainable communities plan prohibits the establishment of new B&Bs or TVUs.

COMMENT: Please make sure this in accordance with BILL 41 (that may be Ord 22-7)

30. Amends renumbered ROH Section 21-5.70-9(a) (relating to general outdoor recreation) to delete horseback riding stables or ranches as a general outdoor recreation use (adds horseback riding stables or ranches to the new nature-based outdoor recreation use).

COMMENT: Please make this a CUP major for use to prevent abuse.

31. Adds a new ROH Section 21-5.70-9(c) to establish a nature-based recreation use, defined as a permanent facility for outdoor play or recreation, often containing recreational equipment and facilities intended to promote or enhance access to natural areas on land with preserved wildlife and natural features. Standards include: In the AG-1 and AG-2 Districts, a minimum of 75 percent of the zoning lot must be dedicated to agricultural or passive undeveloped recreational areas, through an agricultural easement or similar legal entitlement acceptable to the DPP Director; and Cabins are limited to one per acre, and must not have kitchens or wet bars.

COMMENT: recreational equipment should not include ATV, jeeps, dirt bikes, etc. It should promote passive use. No ziplines, gondola rides, mountain biking trails, kayaking etc.

Mahalo for your time and consideration of my comments.

Kathleen M. Pahinui



SIERRA CLUB

O'AHU GROUP

HONOLULU CITY COUNCIL
Zoning, Planning, and Housing Committee Hearing

COMMENTS on Bill 10 CD1(2022) (Elefante)
RELATING TO THE LAND USE ORDINANCE
Thursday, July 14, 2020 9AM

Aloha Chair Elefante, Vice Chair Kia'aina, and Members of the Committee,

On behalf of the Sierra Club O'ahu Group and our 8,000 members and supporters, we offer comments on Bill 10 CD1, specifically relating to setbacks for industrial-scale wind turbines. We strongly urge the Zoning and Planning Committee to consider the cumulative environmental, health, and social burdens that wind turbines have on communities throughout O'ahu, especially in Kahuku. The arrest of over 200 community members after 10 years of raising concerns to private and public sector decision makers, changed the tone of the energy transition. **Therefore, as an act of restorative justice and good faith to rebuild trust in our city and state's ability to pursue an equitable transition, we strongly encourage the Committee to adhere to the 1.25 mile setback recommendations of the Department of Planning and Permitting and the Hawai'i State Energy Office.**

Sec. 21-5.60-6 pertaining to the setback requirement for large wind energy generation facilities: "Large wind energy generation facilities must be set back from all property lines at a ~~minimum distance equal to the height of the facility, measured from the highest vertical extension of the facility,~~ and a minimum of 1.25 mile from the property lines of any zoning lot located in the country, residential, apartment, apartment mixed use, and resort zoning districts. Height includes the height of the tower or its vertical support structure and the farthest vertical extension of the tower."

Sec. 21-5.60-6 defining large utility infrastructure: "Includes energy generation facilities, supporting storage, and any generation capacity over 5 megawatts, ~~and except~~ utility scale wind energy generation facilities with a rated capacity of 100 kilowatts or more per wind machine."

Mahalo for the opportunity to submit comments.

Sincerely,
Sierra Club, O'ahu Group Executive Committee



SIERRA CLUB
HONOLULU COUNCILWATCH