

BILL010(22)
Testimony

MISC. COMM. 373

COUNCIL

COUNCIL Meeting

Meeting Date: Sep 7, 2022 @ 10:00 AM

Support: 6

Oppose: 42

I wish to comment: 18

Name: Tonic Bille	Email: bbtvu2@aol.com	Zip: 96734
Representing: Self	Position: Oppose	Submitted: Sep 5, 2022 @ 01:24 PM
<p>Testimony:</p> <p>Aloha Council Member Waters and other CC members.</p> <p>Bill 10 is another nail in the coffin killing the STR industry and your constituents' battle to survive in these already hard times. Enough already. Hawaii is getting a bad name thanks to you. The HTA is spending money to get tourists back to Hawaii, you are stopping families from enjoying our Islands the way they would like to spend their vacation. A family would like to be together in a vacation rental... not spread over several hotel rooms. Many visitors would like to enjoy the local flavor and stay in a B&B, all this is not news to you, but you have chosen not to listen. The Hotels are 82% booked and would not suffer at all, when ALL the STRs are legally booked 30 days. The accusations of noise and more that the limited number of residents complain about can easily be fixed, when permits are given and protected by the owners.</p> <p>I protected my permit and kept my guests quietly respectful of my neighbors. I never had a complaint and my neighbors often wanted to get to know my guests. Sometimes they invited my guests into their own home for dinner or the hung out together on the beach.</p> <p>I am writing this to you in hope you will finally listen and ease up on the heavy handed rules you are exposing the STR owners to. BTW...changing the quiet hours to 10 pm to 7am was a stupid move...WHY?</p> <p>Mahalo, Tonic Bille 808-262-8286</p>		
Name: Nicole Galase	Email: nicole@hicattle.org	Zip: 96721
Representing: Hawaii Cattlemen's Council	Position: I wish to comment	Submitted: Sep 5, 2022 @ 01:54 PM
Name: steve villiger	Email: svilliger@aol.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 5, 2022 @ 02:41 PM
<p>Testimony:</p> <p>I am opposed to more Mobile Commercial Establishments being allowed. There are already many unpermitted MCEs operating on a daily basis on the North Shore, with seemingly no enforcement whatsoever. Every afternoon the North end of Sunset Beach has numerous trinket stands and a food truck that block the bike path.</p>		
Name: Karin OMahony	Email: k7omahony@aol.com	Zip: 96795
Representing: Self	Position: I wish to comment	Submitted: Sep 5, 2022 @ 03:09 PM
<p>Testimony:</p> <p>Please vote no on this bill 10.</p> <p>There are way too many changes that affect people negatively in this bill. If some of these changes actually need to be changed they can be addressed individually ; a 200 page bill with such comprehensive damaging changes is not fair or right.</p> <p>Limiting horses to land that is only 3 acres or more favors big business against residents.</p> <p>Limiting beehives to six maximum is ridiculous. We want to encourage beekeeping not limit those who have it as a primary service and occupation. There is no reason for such a limit, this bill was obviously written by someone who doesn't know about bees or animals.</p> <p>Making it not permissible to have a farm dwelling on land where there is livestock or horses is also unreasonable. It doesn't even make sense why you would be able to watch over your plants and crops but not have a caregiver for live animals living on</p>		

premises.

There are so many things covered in this bill and it is not even clear what the motive is behind so many parts of it.

Prohibiting month-to-month rentals is also harmful to residents and denies housing to lower income residence, people in between houses and many others.

Making weddings have to occur completely inside a soundproof building is government overreach.

Requiring horse boarding and riding facilities to have a major conditional use permit is cumbersome, prohibitive and again favors large land holders like Gunstock ranch at the expense of the common resident.

These things are not problems, why create more government overreach and restrictions? Lawsuits will surely follow where there is money, residents will lose more rights where there is not money to fight, all for nothing. Or maybe a few special interests?

Name: Nicolas Vargas	Email: nicovargas722@gmail.com	Zip: 96791
Representing: Self	Position: Oppose	Submitted: Sep 5, 2022 @ 04:42 PM

Testimony:

The presence of more food trucks will create unpleasant visual clutter, more congested and dangerous traffic conditions and increased public urination and defecation.

Small town businesses, especially brick and mortar restaurants, that play by all the established rules will suffer greatly.

Name: Dawn Bruns	Email: DAWNBBRUNS@GMAIL.COM	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 5, 2022 @ 05:58 PM

Name: Maria Tejada	Email: afatasi17@gmail.com	Zip: 96731
Representing: Self	Position: Oppose	Submitted: Sep 5, 2022 @ 08:24 PM

Testimony:

I live in Kahuku and the turbines directly impact my family's quality of life. We can hear the whooshing all day from our home and at school. I have ringing in my ears and often feel "off balance". I also believe they have affected the value of my home negatively. Environmental justice was not served in the placement of these turbines. There must be a reasonable and safe setback from people and communities.

Name: Rexann Dubiel Shanahan	Email: dubielsdesign@hotmail.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 5, 2022 @ 08:47 PM

Testimony:

Wrong.

I mile is too close.

This is a travesty...

Council members, you would not let these wind turbines be built anywhere in your neighborhood! You know that's the truth.

Name: Christopher Bruns	Email: sledge77@hotmail.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 5, 2022 @ 08:53 PM

Testimony:

1 mile is way too close for wind turbines to be to residential and other areas where people sleep or spend many hours.

The only reason the Kahuku Wind Farm turbines are not being removed via nuisance noise litigation by residents enduring sleep, headache, and cognitive effects of their 60 dB 1hz air pressure pulses - spanning several miles downwind, is that litigation takes 10 years and those turbines will be removed at the end of their 20-year period in fewer than 10 years.

With drought and sea level rise affecting future discretionary funding availability, and with the clean energy transition so crucial, please don't squander current opportunities, tax credits, and investor effort on wind turbines near residential developments - where they will never be allowed to remain.

The original 1.25-mile setback would be a step in the right direction. Listen to Heidi - she knows you would never want a wind turbine within 5 miles of your home.

Name: Atalina Pasi	Email: info@lahuifoundation.org	Zip: 96731
Representing: Lhui Foundation	Position: Oppose	Submitted: Sep 5, 2022 @ 09:22 PM

Testimony:

Lahui Foundation opposes the 1 mile setback and supports a 1.25 mile setback due to the current lived experiences of Kahuku residents and Kahuku High & Intermediate as well as Kahuku Elementary student body, faculty, and staff who deal with noise, shadow flickers, and most importantly the dangers of a turbine fire or malfunction with no emergency plan. The health and safety of communities is at risk and should always take precedence over a green energy project that could have sought better alternatives that the community could have agreed to. This for-profit wind project was forced upon and built in close proximity to a rural, marginalized community and we never want this to happen again to any other community.

Name: Valeriano Garrido	Email: valshawaii@gmail.com	Zip: 96731
Representing: Self	Position: Oppose	Submitted: Sep 5, 2022 @ 09:38 PM

Testimony:

Honorable Chair Elfante, and City Council members, I am opposing the 1.0 mile setup back as it is not enough for public safety regarding possible "Blade Throw", "Turbine fire", "shadow flicker", and "Blade noise"
Kahuku has documented homes that are impacted with these conditions from First Wind turbines which are 453 feet. NPM is 568 feet. The developers of NPM originally wanted to put in turbines 656 ft tall!!! So we need the extra quarter mile to protect nearby residents from impacts of industrial wind turbines.

These windmills were to help reduce the cost of electric to impacted neighborhoods, but we see steady increases instead.

Please oppose the 1.0 mile set back, and considered choosing 1.25 miles instead.

Name: Frederick Mencher	Email: frederickmencher@gmail.com	Zip: 96817
Representing: East Oahu County Farm Bureau	Position: I wish to comment	Submitted: Sep 5, 2022 @ 09:51 PM

Name: Mark Petritz	Email: markpetritz@gmail.com	Zip: 96795-1666
Representing: Self	Position: Oppose	Submitted: Sep 5, 2022 @ 09:52 PM

Testimony:

How is this different from Bill 41. Why are you over regulating vacation rentals.

why is there a bill that is over 200 pages long. That is either lazy or trying to sneak stuff in that doesn't need to be there.

Name:	Email:	Zip:
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Mark Petritz	markpetritz@gmail.com	96795-1666
Representing: Petritz Realty	Position: Oppose	Submitted: Sep 5, 2022 @ 10:10 PM
Testimony: Oppose the bill for a variety of rental and agricultural reasons.		
Name: Melissa Kaonohi-Camit	Email: kmelissa808@aol.com	Zip: 96731
Representing: Self	Position: Oppose	Submitted: Sep 5, 2022 @ 11:35 PM
Testimony: Aloha, I am a resident of the old plantation camp in kahuku village. Our ohana has been here for generations. My son suffers from seizures that is triggered by the shadow flickers from the turbines. I have had to put black out curtains and a 20 foot container in front of his bedroom window. The monstrous turbines are way too big and way too close. As a kahuku resident, mother and Kahuku Elementary educator. I feel defeated. I feel we have spoken up as a community time and time again. I look out my classroom window and have a perfect view of the turbines. I have a perfect audio of the blades as they rotate and make the whooshing sounds. Many of us in the community have had health issues arise that we have not had before. I oppose! I oppose! In my yelling voice hear me. I oppose! 1 mile is still way too close. Our community deserves better. I beg you all. Our community has suffered so much. You have the power to make this pono. For our keiki, our kupuna, our community, my son. Aloha from a Kahuku Kia'i mama and educator. Melissa Ka'onohi-Camit		
Name: Levi Brooker	Email: levibrooker@gmail.com	Zip: 96707
Representing: Self	Position: Support	Submitted: Sep 6, 2022 @ 06:39 AM
Testimony: I am in full support of passing Bill 10(22) which incorporates a correction to the previous error that was made in the legal TVU map that negatively impacted 2 neighborhoods within the Ko Olina Resort. Thank you to the City Council and DPP for hearing us and working diligently to resolve the issue.		
Name: Stephanie Brooker	Email: stephmignon@gmail.com	Zip: 96707
Representing: Self	Position: Support	Submitted: Sep 6, 2022 @ 06:52 AM
Testimony: I am in full support of passing Bill 10(22) which incorporates a correction to the previous error that was made in the legal TVU map that negatively impacted 2 neighborhoods within the Ko Olina Resort. Thank you to the City Council and DPP for hearing us and working diligently to resolve the issue.		
Name: Howard Green	Email: howardgreen927@yahoo.com	Zip: 96789
Representing: Self	Position: I wish to comment	Submitted: Sep 6, 2022 @ 08:43 AM
Name: Sunny Unga	Email: kahukucommunityassociation@gmail.com	Zip: 96731
Representing: Kahuku Community Association	Position: Oppose	Submitted: Sep 6, 2022 @ 08:49 AM
Name: Ronald Weidenbach	Email: hawaiiifish@gmail.com	Zip: 96791

Representing: Hawaii Aquaculture and Aquaponics Association	Position: I wish to comment	Submitted: Sep 6, 2022 @ 08:59 AM
Name: Andrea Woods	Email: andreaswimsunset@yahoo.com	Zip: 96712
Representing: Sunset Beach Community Association	Position: I wish to comment	Submitted: Sep 6, 2022 @ 09:19 AM
Name: Dale Evans	Email: evans@hawaii.edu	Zip: 96795
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 09:23 AM
Testimony: The extensive reach of this ordinance requires more public outreach by the Council. MANY will be affected.		
Name: Rouen Liu	Email: rouen.liu@hawaiianelectric.com	Zip: 96840
Representing: Hawaiian Electric	Position: Oppose	Submitted: Sep 6, 2022 @ 09:43 AM
Testimony: Written Testimony submitted under Dave Okamura, I will be on to testify to answer any questions.		
Name: Greg Shimokawa	Email: greg.shimokawa@hawaiianelectric.com	Zip: 96840
Representing: Hawaiian Electric	Position: Oppose	Submitted: Sep 6, 2022 @ 09:47 AM
Testimony: Written Testimony submitted under Dave Okamura, I will be on to testify to answer any questions.		
Name: Denise Antolini	Email: antolinid@gmail.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 09:48 AM
Name: Dave Okamura	Email: dave.okamura@hawaiianelectric.com	Zip: 96840
Representing: Hawaiian Electric	Position: Oppose	Submitted: Sep 6, 2022 @ 09:48 AM
Name: Edward Jones	Email: honolulu@paradiseip.com	Zip: 96825
Representing: Self	Position: I wish to comment	Submitted: Sep 6, 2022 @ 09:48 AM
Testimony: Would like to see 30-day minimum for rooming. Very few local residents can afford 90 days up front.		
Name: Cameron Black	Email: cameron.b.black@hawaii.gov	Zip: 96815
Representing: Hawaii State Energy Office	Position: I wish to comment	Submitted: Sep 6, 2022 @ 09:55 AM
Testimony: Written testimony submitted via email on 9/6/22.		

Name: jeannette Fukuzawa	Email: fukuzawj@byuh.edu	Zip: 96825
Representing: Self	Position: I wish to comment	Submitted: Sep 6, 2022 @ 09:58 AM
Testimony: RE: rooming I am unable to comply with both the 90 day minimum for rooming and the state's residential landlord tenant code which allows for tenants 29 day notice.		
Name: Ruth Holmberg	Email: holmbergr002@hawaii.rr.com	Zip: 96791
Representing: Self	Position: I wish to comment	Submitted: Sep 6, 2022 @ 10:42 AM
Name: David Tanoue	Email: davidt@rmtowill.com	Zip: 96819
Representing: HASEKO (Ewa), Inc. and Hoakalei Resort	Position: Support	Submitted: Sep 6, 2022 @ 11:52 AM
Name: Lois Crozer	Email: lbc@hawaiiantel.net	Zip: 96734-3274
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 12:03 PM
Name: Devon Dailey	Email: hawaiipolo@gmail.com	Zip: 96791-9312
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 12:08 PM
Testimony: The North Shore is being over-run, we do not need to create more loopholes for more side of the road businesses that create more traffic. What we need is responsible land-use regulation that preserves the few remaining rural parts of the island and save them while we can. Growth needs to be funneled where it was planned (Kapolei) and not unleashed everywhere they used to grow pineapple and sugar. The current regulatory environment on the North Shore is already the Wild West where pretty much anything goes. Codifying existing loopholes into law will only accelerate the destruction of one of Oahu's last beautiful places. We should be building legislation in the opposite direction and maintain the boundaries we have around our historical commercial areas. The excuse that we need to build more of everything to meet demand is backwards, we need to manage what we have by taming demand. There will always be more people who want to move to Hawaii or the North Shore; that won't change until we've allowed so much density that the region is no longer a desirable place to live. There's a lot of talk about taking care of island residents, saving where we live would be a good start. Hopefully we can find a little foresight and preserve what's left. Aloha, Devon		
Name: KATHLEEN PAHINUI	Email: pahinuik001@hawaii.rr.com	Zip: 96791
Representing: Self	Position: Support	Submitted: Sep 6, 2022 @ 12:11 PM
Name: Kaui Burgess	Email: kaburges@ksbe.edu	Zip: 96813
Representing: Kamehameha Schools	Position: I wish to comment	Submitted: Sep 6, 2022 @ 12:15 PM
Name:	Email:	Zip:

Harolynn Apilado	hapilado@gmail.com	96731
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 12:52 PM
<p>Testimony:</p> <p>Aloha,</p> <p>Mahalo for receiving this testimony.</p> <p>We are requesting that a set back law for turbines in a residential community be set at a minimum of 1.25 miles or more.</p> <p>As long time Kahuku residents, we've always been and will continue to be opposed to these oversized turbines in our community. Never when having chosen to move to our beautiful rural country side on the North Shore over 30 years ago could we have imagined having to be involuntarily thrown into what now feels like an industrial area.</p> <p>Since our voices opposing the turbines have been ignored and counted invaluable, even as residents directly impacted by these industrial impositions, we request at the very least that they be set back away from our homes and all residential habitats- including farmers, at least 1.25 miles or more.</p> <p>And that no more turbines be imposed upon our community.</p> <p>The consistent humming and shadow flickering we currently and continually experience are at times unbearable.</p> <p>Please hear our voices and create the set back law as a minimum of 1.25 miles or more. Mahalo.</p> <p>Sincerely,</p> <p>H.Apilado</p>		
Name: Elroy Apilado	Email: hapilado@gmail.com	Zip: 96731
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 12:56 PM
<p>Testimony:</p> <p>Please create a set back law for all wind turbines at 1.25 miles or more.</p> <p>Mahalo.</p> <p>E.Apilado</p>		
Name: Chris Anderson	Email: chrisanderson198@gmail.com	Zip: 96791
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 01:05 PM
<p>Testimony:</p> <p>Dear members of Honolulu City Council,</p> <p>I own and operate a 7-acre parcel with over 425 different fruit bearing trees and multiple types of produce. As business owners/farmers we have had to diversify how we create income to stay in business and maintain our infrastructure. Agritourism supplements our agricultural income and help absorb the exuberant costs to maintain and operate our farm. Our agritourism business does not interfere or limit our ability to farm. We utilize 100% of farmable land while incorporating agritourism.</p> <p>Agritourism provides us with the ability to share with the public knowledge and understanding of the importance of farming in Hawaii. For profit and not for profit. As you may or may not know, every fruiting cycle there is produce that can't be utilized commercially (ugly fruit). This doesn't mean it's bad or inedible, it just means it doesn't meet the store quality standards. We partner with multiple non-profits (Kokua Tree and Aloha Harvest) to make sure these fruits and vegetables make it to families in need. During these "picking days" we host dozens of participants (way more than 10 vehicles, even with ridesharing), educating them on the importance of farming and proper handling. It would be impossible for us to continue in this practice based on the limitations outlined in your bill (accessory destination events).</p> <p>In addition, the limitation on honeybee hives will directly affect our production. Not only will it affect the pollination of our plants and trees but also remove yet another income source.</p> <p>The changes outlined in this bill will have unintended negative consequences which will negatively affect our livelihood and many others who rely on us and our produce. These limitations will inevitably require us to stop farming and sell our home. We break our backs trying to produce the best for Hawaii and with a flick of a pen you take it away.</p>		

Please take the time to reconsider your proposals.

Chris Anderson

Name: Tracy Tonaki	Email: ttonaki@drhorton.com	Zip: 96813
Representing: D.R. Horton	Position: I wish to comment	Submitted: Sep 6, 2022 @ 01:42 PM

Name: Benjamin Sadoski	Email: bsadoski@5.unitehere.org	Zip: 96818
Representing: UNITE HERE Local 5	Position: I wish to comment	Submitted: Sep 6, 2022 @ 01:47 PM

Name: Tara Rojas	Email: tarahawaii5.808@gmail.com	Zip: 96706
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 02:01 PM

Testimony:

The HEALTH of the Community that YOU ALL SERVE is priority. I OPPOSE the fact that the windmills are right in the community, even right next to an Elementary School, knowing the negative health effects caused by shadow flickering and the dangers of windmill breakdown/fire. I ALSO OPPOSE the 1-mile setback.

Get these windmills AS FAR AWAY FROM HUMANS AND WILDLIFE AS POSSIBLE - they do not belong on/in an island community - and preferably, out of Hawaii. #TOOBIGTOOCLOSE

Name: Kristin Vasquez	Email: sawonglaw@hawaii.rr.com	Zip: 96813
Representing: Ko Olina Community Association	Position: I wish to comment	Submitted: Sep 6, 2022 @ 02:09 PM

Name: Sandie Wong	Email: sawonglaw@hawaii.rr.com	Zip: 96813
Representing: Ko Olina Community Association	Position: I wish to comment	Submitted: Sep 6, 2022 @ 02:15 PM

Name: Dorothy Kelly-Paddock	Email: dotty.kellypaddock@gmail.com	Zip: 96717
Representing: Haula Community Association	Position: Oppose	Submitted: Sep 6, 2022 @ 02:31 PM

Name: Jim Tree	Email: ssitree@aol.com	Zip: 96707
Representing: Self	Position: Support	Submitted: Sep 6, 2022 @ 02:43 PM

Testimony:

I support Bill 10. I am grateful for the action of the Zoning and Planning Committee to revise the map inside the Ko Olina Resort to allow Transient Vacation Units (TVUs) in the A-1 zoned districts inside the Ko Olina Resort area. Currently the Land Use Ordinance divides two of these A-1 zoned districts in half, allowing TVUs in half the community, but prohibiting them in the other half of the same community. Not only is this change fair for the communities inside the Ko Olina walls, but it is also beneficial for the people of Oahu. With the passage of Bill 41, 30 to 89 day rentals have become in scarce supply. This is so because most properties where it is legal to rent for less than 90 days rent to weekly renters as the revenue is much better than 30 plus day rentals. The A-1 zoned districts in Ko Olina would be allowed daily rentals like other areas of Oahu that are approved for TVUs, except for the fact, that the master declarations of the Ko Olina resort require minimum rentals of 30 days in these A-1 areas. This provides a nice supply of 30 to 89 day rentals for traveling nurses, military, locals that are selling and buying new homes, etc. Thank you for bringing a common sense solution to the problem of providing rental accommodations for these needed services on

Oahu by making this change to the map in Ko Olina. I encourage the council to keep the entirety of these five A-1 communities on the map that allows TVUs.

Name: Lea Albert	Email: leaalbert64@hotmail.com	Zip: 96712
Representing: Self	Position: I wish to comment	Submitted: Sep 6, 2022 @ 03:10 PM

Testimony:

I am absolutely opposed to the section of Bill 10 which would allow mobile commercial establishments in all commercial and country zoned properties with minimal standards and signage violations that are contradictory to the law. Our North Shore neighborhood is already being destroyed by illegal vacation rentals which flaunt the law, tour buses which dump scores of tourists to wander in our neighborhood and neighborhood parks, and food trucks and food stands which operate as traffic hazards by the side of the road and in our neighborhoods. I sincerely hope the City Council is not bent on further destruction of where we live.

Thank you,
Lea Albert

Name: Lourdes Millan	Email: millan.lourdes1@gmail.com	Zip: 96795
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 03:14 PM

Testimony:

Bill 10 needs to be deferred and not rushed

Name: Kurt Fevella	Email: senfevella@capitol.hawaii.gov	Zip: 96706
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 03:18 PM

Name: Kathy Whitmire	Email: kathyjwhit@aol.com	Zip: 96762
Representing: North Shore Outdoor Circle	Position: Oppose	Submitted: Sep 6, 2022 @ 03:36 PM

Name: Keith DeMello	Email: communications@ulupono.com	Zip: 96813
Representing: Ulupono Initiative	Position: I wish to comment	Submitted: Sep 6, 2022 @ 04:04 PM

Name: John Morgan	Email: jmorgan@kualoa.com	Zip: 96730
Representing: Kualoa Ranch	Position: Oppose	Submitted: Sep 6, 2022 @ 04:40 PM

Testimony:

Aloha,

I submit this testimony in opposition to Bill 10 relating to changes in the LUO. My opposition is to portions of the bill relating to accessory uses on Ag land.

We strongly oppose the proposal to prohibit the use of motorized vehicles in agro-tourism and the limitation on weddings and similar accessory destination events to once a week.

This would kill our company and force us to fire over 300 people including most of those involved in ag, to what gain?

Kualoa Ranch is successful because of the symbiotic relationship between tourism and ag, and it is possible because we take people on motorized vehicles through our property, and have events amidst agricultural settings.

For us, tourism subsidizes ag. Without tourism, our ag production would be decimated.

This is a very poorly conceived bill

Name:	Email:	Zip:
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Eric Aakhus	eaakhus@kualoa.com	96744
Representing: Kualoa Ranch	Position: Oppose	Submitted: Sep 6, 2022 @ 04:55 PM
Name: Anthony Calimlim	Email: uluadreamer@gmail.com	Zip: 96731
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 06:24 PM
Testimony: I oppose the increase of set back for turbines to 1 mile. The set back should be farther!! The turbines currently in place in my residential neighborhood is NOT welcomed, it will not be welcomed with it encroaching our homes and sitting on top of our schools, with thus set back to be closer!!!		
Name: Ramsey CALIMLIM	Email: calimlim96731@gmail.com	Zip: 96731
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 06:31 PM
Testimony: I oppose the proposed setback to be 1 mile. It's currently an EYESORE as it is at its current set back of 1.25 mile!!! Instead of abusing our natural green space(aina) with this eyesore, and waste of space Turbines close to our residential and school areas, focus on some other green options like solar!! Start on every state office/building/school to run off solar!! Our Aina is much more precious than you think and building the turbines on it and literally ON US (within a mile) is just ridiculous!!! I oppose the 1 mile set back!!!		
Name: Ted Kefalas	Email: tkefalas@grassrootinstitute.org	Zip: 96814
Representing: Grassroot Institute of Hawaii	Position: I wish to comment	Submitted: Sep 6, 2022 @ 07:19 PM
Name: Jacob Franco	Email: jac1snake@yahoo.com	Zip: 96731
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 08:10 PM
Name: Carissa Tafuna	Email: carissam40@gmail.com	Zip: 96731
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 09:12 PM
Testimony: As a Kahuku resident, seeing and feeling the effects of the turbines, I firmly believe we need the setback of turbines to be more than 1 mile and that is why I oppose this bill. Having such large turbines so close to our schools and homes/communities is a safety concern. The turbines do not directly benefit our community so we should not have them imposed on us. The turbines are an eye sore and should be placed as far away as possible. Try putting turbines up in the richer areas and see what happens. Putting them so close to us in a poorer community is exploitation.		
Name: Saleia Tuia	Email: saleiam09@gmail.com	Zip: 96731
Representing: Self	Position: Oppose	Submitted: Sep 6, 2022 @ 11:31 PM
Testimony: Aloha and Good Morning Chair Elefante and City Council Members!		

Thank you for the opportunity to testify today! My name is Saleia Tuia and I oppose Bill 10 and the proposal of a 1-mile setback. The currently proposed setback of 1 mile is not a safe enough distance from the impacts of industrial turbines. The proposed setback of 1 mile will allow developers to build dangerous turbines near homes and schools and it is unacceptable. I know this because I am a resident of Kahuku and live near the two existing wind farms that consist of 20 industrial turbines altogether. I hear, see, and feel their impacts every day. There is sufficient peer-reviewed research that demonstrates the effects of industrial turbines and it is very disturbing to know that these dangerous machines are built close to schools where children attend and learn, and homes where we raise and nurture our families. If the proposed setback is approved, imagine how many residents on our little islands will be put in danger. No one should be put in an unsafe situation where their health and safety are being threatened every day. Children should not be put in unsafe situations where their growth and progression are threatened every day. According to the principles of public health "It is our right to be healthy and to live in conditions that support our health." I support a setback of 1.25 miles as it is a good start to keeping our citizens of this beautiful state safe from industrial turbines and their impacts. Mahalo again for this opportunity to speak today.

Name: Les Rosenthal	Email: LesR@comcast.net	Zip: 96734-2344
Representing: Self	Position: Oppose	Submitted: Sep 7, 2022 @ 04:22 AM

Testimony:

You raised my property taxes over 60% this year.

Please don't make renting our hale impossible while we are off island for six months every year by increasing the minimum duration to 3 months.

You are regulating me out of Hawaii living.

Name: Racquel Achiu	Email: rhachiu@gmail.com	Zip: 96791
Representing: Self	Position: Support	Submitted: Sep 7, 2022 @ 06:19 AM

Testimony:

Aloha. I am Racquel Achiu of North Shore. I am in support of BILL 10 & 42 However, I respectfully ask that consideration be given to my additional comments. With regard to AG Land Use: whether it be for AgriTourism or complete Agricultural use we must tighten up the loopholes. AG Lands are at severe & constant risk of losing the integrity & PURPOSE of AG Land. We promote sustainability & self sufficiency yet allow the potential for mis-use. Mis-use of AG Lands compromise & impact the integrity & future of the land and what its use is intended. ANY Commercial activity, ANY development, ANY use other than Agriculture MUST require CUP and/or SMA MAJOR's. ANY application for a CUP and/or SMA permit should be REQUIRED to present the request per the CUP/SMA or any intention that impacts AG Land to the appropriate Neighborhood Boards and/or Community Associations. The projects that affect Land Use and require permit requests significantly impact the communities & its footprint. Recommendations of the Neighborhood Boards/Community Associations should weigh heavily on DPP's consideration of permit applications. We must also ensure the enforcement of these Bills. Enforcement is critical otherwise our efforts are all for not. I cannot express enough, how truly at risk our Ag Lands are due to MIS-USE. Ag Land is for AGRICULTURE period. Land Use & Zoning is a critical guidelines to protect the purpose and integrity of our ability to sustain ourselves with crop, livestock, etc not entertainment, recreational activities. I would also refer to comments submitted by Kathleen Pahinui (who is also the North Shore Neighborhood Board Chair) Mahalo I am always available for questions or further discussion. MAHALO

Name: Kollin Macanas	Email: kollinmacanas@gmail.com	Zip: 96731
Representing: Self	Position: Oppose	Submitted: Sep 7, 2022 @ 08:22 AM

Testimony:

The state's approval to put up these windmills against my community's wishes are appalling and disgusting, as most of our community members were unaware to the state's plans to desecrate a section of the island they do not live in. The windmills provide no benefit to Kahuku, in fact they only provide detriment to those who live near them and detract from the natural beauty in Kahuku. These islands are known for their pride, history, beauty, and spiritual bond that ties all inhabitants of our state together. The plan to encroach our community with devices we never desired nor wanted, goes completely against Hawai'i Nae. Our

legislative representation of our community seems to represent everyone else but Kahuku. I, along many whom I live amongst with, would soon rather be arrested one million times over than see the state put up more windmills in our backyards. I vehemently despise every person who allowed those windmills to be built, and ask for our reps to at least push these windmills back 1.25 miles. This will never alleviate the transgressions against my community and home, but it will allow the state to take a step in the correct direction. A mile within our neighborhood still casts massive shadows amongst Kahuku, and the addition of an extra quarter mile will aid in lessening the detriment of them. As mentioned earlier, these windmills are nothing but an affront to the community and should have never been built to begin with. Make it right by having them further from my home, not closer. I beg that for once, my voice be heard for 1.25 miles as opposed to 1 mile. I have no faith in my representation from Hawai'i leaders, but I hope that I am proven wrong.

Name: Stephanie Ponciano	Email: asapon@aol.com	Zip: 96731
Representing: Self	Position: Oppose	Submitted: Sep 7, 2022 @ 08:39 AM

Testimony:
Our Kahuku Community has had two turbine projects shoved down our throats. Since nobody In the City or State has never really listened (or cared) about our strong opposition for both projects, this bill is for the "rest of Oahu". Making the setbacks 1.25 miles would give a bit of protection wherever the powers be decide to put them. Unless you live in Kahuku, you have no idea how much this has negatively affected our community. Every morning we wake up to see those monstrous turbines outside our windows. There will always be opposition to every suggestion, no matter where they are located. For whatever it's worth, putting the turbines out in the ocean where the wind is strong is my best suggestion.

Name: Choon James	Email: ChoonJamesHawaii@gmail.com	Zip: 96762
Representing: CountryTalkStory.com	Position: Oppose	Submitted: Sep 7, 2022 @ 09:02 AM

Testimony:
Selected Agenda Item: BILL010(22)
RELATING TO USE REGULATIONS.

Aloha,

This is a huge OMNIBUS Bill for the public at large. For the general public, it's like drinking from a firehouse. There are so many facets to this bill that automatically create confusion and contradictions in "OPPOSE" & "SUPPORT" counts alone.

It appears that the internal city and the Planning Commission may have followed the process but there are still so much confusion and concerns that such a OMNIBUS Bill 10 should require more explanations and clarifications.

We're unsure why this was first presented to the Planning Commission, rather than the City Council. We know that this route provides an approval of five (5) Council Ayes, rather than the usual 6 AYES needed.

But the Planning Commission, although very powerful, is little known to the general public versus the Honolulu City Council. We cannot find record of subject proceedings to review. The latest recorded was in February 2021 in the Planning Commission website.

This is Second Reading. Can the City Council and DPP provide such an information meeting in the interest of an Open and Transparent government?

Wouldn't be helpful and friendly to host an information meeting with the DPP Director where there are no restrictions through limited testimony but where QUESTIONS & ANSWERS are allowed without time constraints? There remains many concerns and questions.

Mahalo,

Choon James

Name: Kiara Lorenzo Rodrigues	Email: kiaralorenzorodrigues@gmail.com	Zip: 96743
Representing: Self	Position: Oppose	Submitted: Sep 7, 2022 @ 09:22 AM

Testimony:

I am in opposition of this bill due to the simple fact that the size of these windmills are far to be to be so close, especially when it come to how close in proximity the School is. God forbid anything was to come off and or break and fly away/ fall off many children would be in danger. I hope you all can look at the potential hazards that this could cause and move it a few miles backs so it could be avoid at all cost. Mahalo.

Name: Calfrey Stanton	Email: kawikastan@gmail.com	Zip: 96786
Representing: Ka Lahui	Position: Oppose	Submitted: Sep 7, 2022 @ 09:22 AM

Testimony:

I oppose this bill 010(22) to set back the windmills from its existing distance from the community to 2.0 miles away from the community not the 1.5 or however far it is from the community of KAHUKU ! In fact take those windmills out and off our islands we don't need it or do we need it ever this project is all about the yanks making the Yankee dollar and ripping the people off like the thief and crooks out there SO I SAY
A'OLE WINDMILLS !!! A hui hou e malama Pono !

Name: Michelle Matson	Email: MSMatson808@gmail.com	Zip: 96815
Representing: Self	Position: Oppose	Submitted: Sep 7, 2022 @ 09:56 AM



City and County of Honolulu

Bill 10

Wednesday, September 7, 2022, 10:00 AM

City and County of Honolulu Council Members,

The Hawai'i Cattlemen's Council (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of over 750 thousand acres of land in Hawaii, or 20% of the State's total land mass. We represent the interests of Hawaii's cattle producers.

The Hawai'i Cattlemen's Council **offers comments on Bill 10 CD1** to address the regulation of uses throughout Chapter 21, Revised Ordinances of Honolulu 1990 ("Land Use Ordinance"). We appreciate the addition of definitions for Livestock Veterinary Services and Processing. The new category for Accessory Agriculture use is helpful to acknowledge that some lands support livestock keeping indirectly.

We are concerned with the vast changes proposed for agritourism and ask that you work with those who are currently successfully utilizing agritourism to supplement agricultural income while exposing visitors to the importance of agriculture in Hawai'i. The changes outlined in this bill are quite specific and may have unintended negative consequences on those currently running legitimate agritourism operations that benefit agriculture's outreach to the general public. Regarding agricultural housing, we ask that you recognize that housing on ag property is key to attracting and retaining quality, long-term workers. Agriculture is a business, and diversity allows for resilience to maintain operations. Restrictions to the way an agricultural operation can diversify and deliver their business could have a negative impact on the viability of farming and ranching for the long term.

Updating Land Use Ordinance is necessary to keep up with evolving practices and needs of the users. We appreciate the opportunity to testify on this critical matter for our industry.

Nicole Galase
Hawaii Cattlemen's Council
Managing 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).

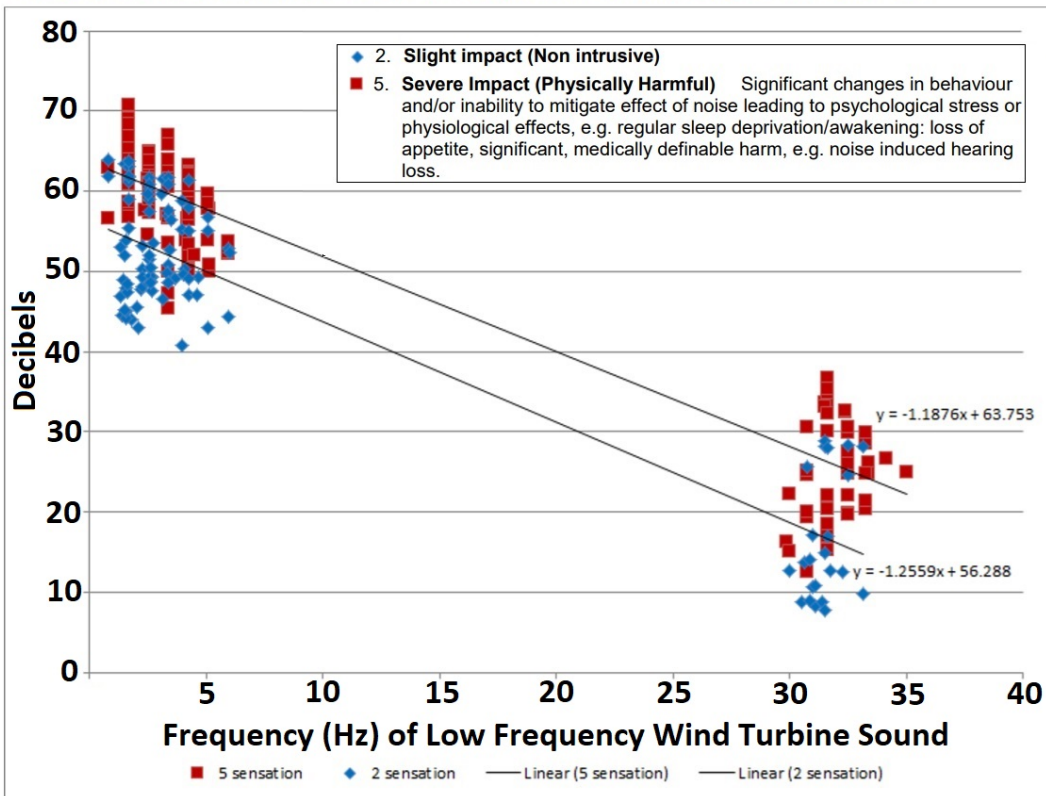


FIGURE 49: Human response to sound pressure of wind turbine signature and 31.5 Hz wind turbine amplitude modulation (both do not occur in the ambient environment) https://drive.google.com/open?id=180jlKaO_Z9pdWpQ64z8EFeh1vYdiqrp

- 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.

20 of 45 Population

26%
14%
13%
10%
33%

Living Near Turbines - Resolves away from turbines

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).

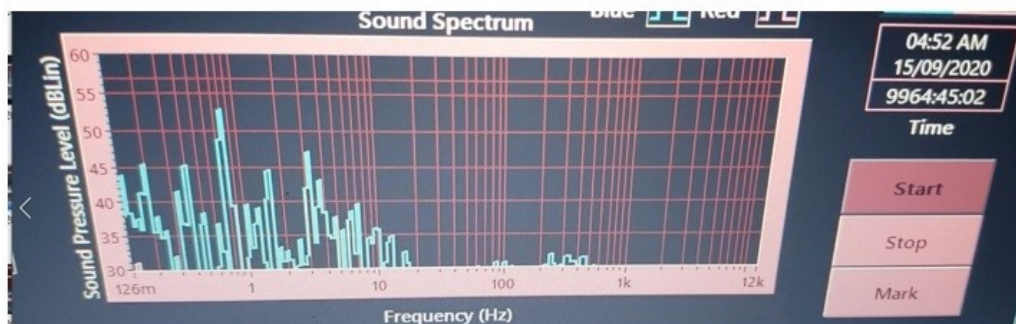


Figure B: Turbines on with light wind. This is the sound pressure level three miles downwind from Kahuku with about the lightest winds the turbines are allowed to operate during April through October nighttime (James Campbell Weather Station: winds 10, gusts to 13, 99-degrees/East wind). This 50-55 dB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



EAST OAHU COUNTY FARM BUREAU
910 CALIFORNIA AVE., WAHIAWA, HI 96786

September 5, 2022

Councilmember Tommy Waters, Chair
Councilmember Esther Kia'aina, Vice Chair
Honolulu City Council
Honolulu, Hawai'i 96813-3077

Dear Chair Waters, Vice Chair Kia'aina, and Members of the City Council,

The East O'ahu County Farm Bureau, which represents approximately 420 farmers and supporters of agriculture from Waimanalo to Kahuku, appreciates the efforts by the Department of Planning and Permitting to update Honolulu's Land Use Ordinance. We respectfully submit our comments and concerns regarding the agriculture-related provisions of Bill 10 CD1 as amended by the Planning and Zoning Committee following its August 25 meeting:

Section 21-5.30 (Use Table): Permits certain uses (meeting facilities, group living, child daycare, adult daycare, and K-12 schools in the AG-1 and AG-2 districts. We feel that these facilities are not appropriate uses on agricultural lands, as they would require that some (up to 50%, according to the proposed standards for these uses) of the land be taken out of production for purposes unrelated to agriculture. In addition, agricultural practice may involve noise, dust, spraying of pesticides, and operation of heavy equipment – activities that may inconvenience or even endanger children or adults meeting, living, or trying to learn on the site.

Section 21-5.40-1: The proposed definition of crop production includes hydroponics under "crop raising" in Sec. 21-5.40-1(d), but does not mention aquaponics. There are several aquaponic farms currently operating on O'ahu, so aquaponics should be included in the definition of crop production. Aquaponics is defined as an accessory use to aquaculture in Hawai'i State statute, so for consistency it should be included in the definition of aquaculture: Sec. 21-5.40(a)(1).

Section 21-5.40-1(g)(1): The proposed definition of urban agriculture as "cultivating, maintaining, and harvesting crops, often using intensive agriculture and large-scale farm equipment, primarily for profit, by an organization or business" does not clearly distinguish between urban agriculture and many other forms of agriculture. A better definition might be "cultivating, maintaining, and harvesting agricultural and/or aquacultural crops on a site zoned for urban or industrial use, often conducted in an enclosed building or facility." Item (2)(B) under this section states that "Building area for structures such as tool sheds, planting preparation houses, and restrooms must not exceed 15% of lot area." It is not clear whether growing facilities count as "structures" under this provision. Much urban agriculture is likely to be conducted indoors, in which case the growing facility may reasonably occupy most or all of the site.

Section 21-5.40-3(a)(2)(B): Standards for equipment service. "Building area of all agricultural support facilities must not exceed 25% of lot area." It is not clear why this restriction should apply in I-1, I-2, and IMX-1 zones where agricultural equipment service is permitted. Also, such a

restriction may conflict with State law, which exempts certain structures on agricultural lots larger than two acres from building permit requirements.

Sections 21-5.40-3(b)(2)(A) and (B), and 21-5.40-3(c)(2) and (e)(2): Standards for “collection and storage” and “processing.” Again, some of these standards may conflict with State law where the facilities are on agricultural lots larger than two acres.

Section 21-5.40-4(a)(1): An “agricultural-energy facility” is defined as “an accessory facility that generates, stores, or distributes renewable energy fuels from products of crop production or livestock keeping.” Solar facilities are specifically excluded, presumably to prevent utility-scale solar facilities from taking land out of agricultural production. However, this provision could also prevent farms from installing small-scale alternative energy facilities to reduce electricity costs or to provide electricity at off-grid sites. Farms should be encouraged to install alternative energy sources such as wind and solar for exclusively on-farm use, and these sources should be specifically permitted in the definition of “agricultural-energy facility.” (Although the use table permits a “small utility” on agricultural land, Section 21-5.60-6(a)(2)(B)(iv)(bb) prohibits solar facilities within the State agricultural or conservation districts from being considered “small utilities”.)

Section 21-5.40-4(b)(2): Standard (C), which prohibits “construction of permanent nonagricultural structures” conflicts with standards (D) and (E), which set conditions for “structures primarily dedicated to agritourism” and “buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping.”

Before committing these standards to law, businesses such as Kualoa Ranch and Kahuku Farms should be consulted regarding impacts on their existing operations.

Section 21-5.40-4(f)(2)(B): “No electricity, sewer, water, or other utility services are allowed in conjunction with a farm stand.” These services are essential to provide proper sanitation, refrigeration, and hand-washing facilities to satisfy Federal food safety requirements. A farm stand that does not have these utilities may not qualify for food safety certification.

Section 21-5.40-4(h)(2)(D): “All walls [of a farmer’s market] must be at least 50% open.” Does this requirement really mean that each of the four walls must be 50% open, or does it just mean that 50% of the total wall area of the market must be open?

General comments:

The proposed CD1 “deletes bus, jeep, or off-road vehicle tours using motorized vehicles as a permitted agritourism use.” Such a prohibition may negatively impact existing agritourism operations. It could also prevent people with physical disabilities, who may not be able to walk or bike long distances, from touring farms.

In several sections, Bill 10 CD1 would require the dedication of at least 50% of a farm parcel to active agricultural use. We support the intent of these provisions to maintain agricultural production, but we must also mention some concerns:

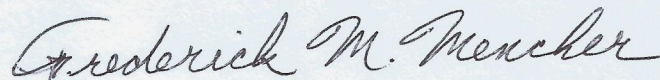
-These provisions would still allow a significant proportion of a farm lot to be taken out of production. This is acceptable if the land is taken for purposes that support the overall farm operation, but the proposed CD1 would also allow unrelated facilities like schools, daycare, and meeting facilities.

- Many agricultural lots include sections of land that are unsuitable for agriculture because of steep or rocky terrain, or that contain wetlands, streams, or other features that cannot be cultivated. How are these areas accounted for in the 50% requirement?

- Many items of testimony on Bill 10 have come from owners of small agricultural plots who are concerned that the land will be taken away from them if they become too old or otherwise unable to farm, or if some parts of their sites are not suitable for farming. The basic problem is that so much of O'ahu's agricultural land has been subdivided into small plots that are more suited as residential sites than as farms. The proposed CD1 appears to deal with this problem by requiring that lots be dedicated to agriculture, but removing the requirement that the land so dedicated must actually be farmed. Agricultural dedication then becomes meaningless; dedication of 50% of a parcel to agriculture by submitting a form to DPP is not the same thing as actually farming 50% of the parcel.

Thank you for the opportunity to testify on this important matter.

Sincerely,

A handwritten signature in cursive script that reads "Frederick M. Mencher". The signature is written in dark ink and is positioned above the printed name and title.

Frederick M. Mencher
for Grant Hamachi, President
East O'ahu County Farm Bureau

Testimony of Howard Green
On City Council Bill 10
re LUO on September 7, 2022

As owner operator of the North Shore Marketplace in Haleiwa for 40 years, and as a Honolulu lawyer and coffee farmer, I want to observe that land use policy has created obstacles to the very land use it is trying to encourage. The result has the Island at a tipping point with literally thousands of acres of land lying fallow. There are several areas in which I think the Bill needs to be substantially upgraded:

1. For Haleiwa, "Remote Parking" should be allowed on Agriculture lands within the Haleiwa Design District to support the commercial properties in the district. These lands do not have access to agricultural water and will therefore never actually be used for agriculture. They have sat fallow for years. Allowing parking to support the commercial activity would, with no cost to the city allow the development of parking that could substantially alleviate the serious parking issues in the community. That in turn would help the economy and make more and better jobs available for our young people as they graduate high school.

2. The LUO needs to specifically state that uses under variances are "non conforming uses" so they are held to the same standards as other non conforming uses. DPP likes having the highly economic power of expanding nonconforming uses under variances, to favor friends, political and otherwise. But it is not good policy. For example, if a variance holder has a noxious use in what has become a residential neighborhood, can he expand it? Answer should be no. If he abandons the use for three years, then has he lost the use as a non conforming owner does? The answer should be yes.

3. The reason there are thousands of acres of agricultural land lying fallow in the North Shore and other areas of Oahu is the lack of available water. If you want the land to be used for agriculture you must solve that problem. Tightening restrictions will do nothing to cause farmers to grow product without water.

4. The City dumps treated sewage into Wahiawa Reservoir which causes Department of Health to classify the water as R-3, no useable for most agriculture. So 15,000 acre feet of Wahiawa Reservoir water can't be used for agriculture. This is the City's fault, not the land owners fault. Build the required holding tanks and the water can then be used for agriculture.

5. For farmers, the LUO needs to provide that farming activity allowed under State law including all of Chapter 205 HRS and Chapter 167 (Right to farm) HRS will be permissible as part of farming. The new law says some of it is not! One critical reason farming is in trouble is that farm product out the gate of the farm wholesales for 10% of the retail price of the product, whereas farmers do 80% of the work. Farmers need to be allowed to do processing and product completion so they can recover a much higher percent of the retail dollar. The state laws were passed to let that happen; the city has been trying to stop it from happening.

6. Another main reason that holds back farming is that the large land holders will only sell the land at prices far above its value in farm production. And landlord lessors provide short leases with rent increases that take away all of a farmer's investment and incentive to farm. The big owners "land bank" the land hoping to use it for much higher valued urban uses in the future. The city enables that by allowing the lands to be valued as "ag land" and taxed at next to no value so the owners can afford to hold it until they can sell it for exorbitant prices.

7. If the city taxed the land more fairly, it would force the large landowners to sell at

economic values and thus get the land into the hands of farmers. The State and/or City could help with Water and the City could work out cheap taxes for five years after the farm is purchased and while the farm is being developed but recoverable if the farm is not actually developed.

A program like this could result in more agriculture. Restrictions on use make farm development less likely.

Howard Green
North Shore Marketplace
GreenWorld Coffee Farm



Kahuku Community Association

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

September 6, 2022

RE: Bill 10 CD1 (2022)

Dear Chair Waters, 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 and strongly requests that the Council establish a Setback of 1.25 Mile for Large Wind Energy Generation Facilities, delete language supporting a 1:1 setback ratio and add that wind energy generation facilities refers to individual wind machines or turbines.

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. Wind energy generation facilities refers to individual wind machines or turbines.”

KCA also requests the council to clarify medium and large wind energy generation. Specifically, clarifying that medium wind machines are up to 99 Kilowatts.

Sec. 21-5.60-6(b)(2)(C)(i) A wind energy generation facility is considered a medium utility if it is located within the agricultural, country, industrial, or industrial mixed use zoning districts, and has a rated capacity of up to 99 ~~[400]~~ kilowatts.

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 Community Association

Kahuku as a community surrounded by 20 industrial wind turbines experiences the cumulative impacts of these turbines daily. This new setback will be for ALL large wind machines and therefore we strongly feel that the additional quarter mile is necessary to protect schools and residential homes from safety risks and health impacts these industrial turbines impose.

First Wind turbines in Kahuku are 453 feet. Na Pua Makani stands 568 feet and the developers of NPM originally wanted to erect 656 feet turbines. Higher the turbines, greater the impact and greater setback distance is needed. Please continue to support a 1.25 mile setback for large wind machines. The setback originally requested was 5 miles. There are other districts in the U.S that have set a 2 mile or 3 mile setback. 1.25 mile setback is the step in the right direction.

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.

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 the health and safety of 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



September 6, 2022

Councilmember Tommy Waters, Chair
Councilmember Esther Kia'aina, Vice Chair
Honolulu City Council Honolulu, Hawai'i 96813-3077

Dear Chair Waters, Vice Chair Kia'aina, and Members of the Committee,

The Hawaii Aquaculture and Aquaponics Association (HAAA), a Statewide industry association, appreciates the efforts by the Department of Planning and Permitting to update Honolulu's Land Use Ordinance. However, we respectfully submit comments and concerns regarding the aquaculture and aquaponics-related provisions of Bill 10 (2022) and the proposed CD1 as follows:

Section 21-540(a): The proposed definition of aquaculture includes cultivating and raising aquatic plants, including wetland taro, and animals in controlled natural or artificial bodies of water but omits mention of aquaponics or aquaponic produce. There are an increasing number of commercial aquaponic farms currently operating on O'ahu and aquaponics should be included in the definition of aquaculture, as it is in State statute, and/or in the definition of crop raising.

Section 21-540(a): The proposed definition of crop raising includes cultivating crops with hydroponics, but does not mention aquaponics. There are an increasing number of commercial aquaponic farms currently operating on O'ahu, as noted above, and aquaponics should be included in the definition of crop raising and/or in the definition of aquaculture, as it is in State statute.

Section 21-540 (d): An "agricultural-energy facility" is defined as "an accessory facility that generates, stores, or distributes renewable energy fuels from products of crop production or livestock keeping." Solar facilities are specifically excluded, seemingly blocking aquaculture and aquaponics farms from taking advantage of the sustainable and Globally increasing technology of agrivoltaics which can co-exist with and be complimentary to aquaculture tank production of fish and shellfish and to aquaponic produce production, while providing renewable power to farm operations, off grid farm sites, and potentially to the community, while also providing cooling shade as an offset to global warming and reducing evaporative water loss and conserving island water resources. Farms should be encouraged to install alternative energy sources such as solar and small wind, and these sources should be specifically permitted in the definition of "agricultural-energy facility."

Section 21-540(d): "No electricity, sewer, water, or other utility services are allowed in conjunction with a farm stand." These services are essential to provide proper sanitation, refrigeration, and hand-washing facilities to satisfy Federal food safety requirements of FDA and USDA.

A farm stand that does not have these utilities may not qualify for food safety certification.

In addition to our comments above, the HAAA also strongly supports the carefully considered testimony of the East O'ahu County Farm Bureau regarding the impacts if Bill 10 on the larger Oahu agriculture industry. If the City and County of Honolulu is serious about supporting increased local food production in our County, then we respectfully request your consideration of these combined concerns. We also have serious concerns about allowing food trucks to operate on State Park lands which could potentially undermine the economic viability of nearby farm stands in a position to serve the public with locally-grown products.

Thank you for the opportunity to testify on this important matter.

Sincerely,

Ronald P. Weidenbach
HAAA President

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

Denise Antolini
59-463 Alapi‘o Road
Hale‘iwa, Hawai‘i 96712

September 6, 2022

Chair Tommy Waters
Honorable Members
Honolulu City Council

Re: Bill 10 CD1 – LUO AMENDMENT RELATING TO USE REGULATIONS.
CR225 - Agenda, Weds. September 7, 2022, 9:00 A.M.

Aloha Chair Waters and Members of the Council,

I am resubmitting the testimony that I submitted to Zoning and Planning for the August 25, 2022 committee hearing.

I support the changes in CD1 that removed **Mobile Commercial Establishments (MCE)** in Country and Agricultural Zones, and add it to Resort.

- u. 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.

However, no change was made to the **B-1 Zoning MCE** permitting. **This section needs to be amended.**

Sec. 21-3.110 Business districts—Purpose and intent. . . .

(b) The intent of the B-1 neighborhood business district is to provide relatively small areas which serve the daily retail and other business needs of the surrounding population. (Emphasis added.)

First, I do not support any MCE in B-1 Zoning. B-1 is neighborhood business. Allowing Food Trucks to overwhelm brick and mortar neighborhood businesses—which they inevitably will due to the “fast cash” and low infrastructure business model -- is a formula for gutting the intent and language of B-1. See the information below detailing community concerns about allowing MCE in B-1 zoning.

Second, I am still strongly opposed to across-the-board permitting of MCE in B-1 zoning. The Standards proposed in Sec. 21-5.70-10(c) are wholly inadequate for a rural community like the North Shore. (Indeed those standards exempt Hale‘iewa MCEs, allowing them to be governed by a special ordinance, indicating that regional differentiation is allowed in the LUO).**

I request that the Council utilize the same **regional differentiation** approach for MCEs as used in the LUO for Minor Hotels in BMX-3 – the LUO Master Table for Minor Hotels in BMX-3 is blank and the Standards specify that Minor Hotels are allowed in some regions of O‘ahu and not others.

(2) Standards:

(A) Minor:

- (i) In the BMX-3 zoning district, **minor hotels** are only permitted within the Primary Urban Center Development Plan, Ewa Development Plan, or Central Oahu Sustainable Communities Plan areas, as established by Chapter 24.

Therefore, for the reasons stated in my prior (April 2022) testimony, attached, I respectfully request that the B-1 Zoning for MCE use be left blank, and language added to Sec. 21-5.70-10(c) Standards stating

“In the B-1 zoning district, MCEs are only permitted within the Primary Urban Center Development Plan, Ewa Development Plan, or Central Oahu Sustainable Communities Plan Areas.”

In other words, this amendment would mean that MCEs should not be allowed in B-1 zoning under the North Shore Sustainable Communities Plan (NSSCP) for the reasons describe in my April 2022 testimony, attached hereto.

This is particularly true where the NSSCP has been undergoing community review since 2021 and a final revision is expected in 2023. The LUO should not pre-empt this important NSSCP community land use planning process.

One final note, in the MCE Standards, Sec. 21-5.70-10(c), not the following issues that need to be resolved:

- (1) Definitions – the term “**itinerant**” is used but not defined. Please DEFINE “itinerant” in terms of the periodic mobility required for these trucks. For example, “moved off site daily.” This lack of definition has been a huge problem because, in Hale‘iwa, Sharks Cove, and Kahuku, these trucks are not truly itinerant, but stationary for weeks on end or longer. The City does not have a way to enforce the mobility of MCEs without a specific standard. Leaving this vague creates more enforcement problems for DPP and the community.
- (2)(C) **portable sign** – please indicate where this portable sign may be placed – recently a food truck at Sharks Cove (illegally) placed the portable sign across the Highway along Pūpūkea Beach Park. If the Standards do not specify that the signs need to be **within a specific number of feet of the MCE**, for example, within 3-5 feet of the MCE, then the vendors will put them anywhere, particularly along high traffic areas, and claim the Standards allow it.
- (2)(D) pedestrian and vehicle plan – please require that the plan include **nearby streets** and not just the site itself – the impact of pedestrians (crossing streets and highways – see testimony below) and vehicles of MCEs is significant on the neighborhood and needs to be addressed in the Standards.

- (2)(D)(cc) – hours – the hours of operation from **6 am to 10 pm** are too long if residences are nearby (as they are at Sharks Cove). Please restrict operation to **8 am to 9 pm** if the property is bordered by residential areas.

- (2)(D)(dd) – this language is amazingly loose – “when required” – what does that mean? – **restrooms** (port a potties at least) should be **required** along with **hand-washing stations**. It is unsanitary for patrons, employees, and nearby residences to have MCEs without toilet facilities. Indeed, before portable toilets were required at the Sharks Cove site, patrons were using nearby residents’ yards as outdoor toilets, creating medieval conditions.

A final note about the **Hale‘iwa Food Truck** ordinance. Please take a drive through Hale‘iwa and ask yourself if the food truck proliferation allowed by the poorly written ordinance preserves the special character and history of the town. In my view, it is shameful for the City to require strict design standards for the brick and mortar businesses in Hale‘iwa Special District, Sec. 21-9.90-1, and at the same time allow the crass, disney-land, cheap eats atmosphere that comes from the rampant food trucks, signage, flags, parking chaos, and lack of sanitation that has crept into every nook and cranny in Hale‘iwa. Auwe!

Mahalo,

Denise Antolini

* * * April 2022 Z&P testimony * * *

Currently, the LUO does not regulate MCE, such as Food Trucks. As a result, these types of itinerant (but often actually very stationary) businesses are currently “out of control” in areas of the North Shore. They have become **tourist traps**, created a range of environmental, health, safety, visual blight, and traffic problems, and need to be regulated.



(Food Trucks at B-1 Zoned “Sharks Cove Parcels”)

with reduced footprint, restricted operations, and modified screening only after community litigation and 2020 settlement agreement, provisions of which continue to *not* be complied with by the developer or properly enforced by the City)

Therefore, I 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** are contrary to the intention behind both of these zoning designation and should be **rejected**. Oddly, DPP does not propose MCE/Food Trucks in **Resort** zoning, where it should be **allowed**.

MCE/Food Trucks have different customer bases in the different districts of O'ahu. Perhaps in the urban core, and in industrial and apartment areas, MCE/Food Trucks cater to local residents and workers.

However, **on the North Shore**, MCE/Food Trucks cater **probably 90% to tourists**. As such, they should be regulated as **tourism destinations**, which are **incompatible with Country and B-1 Zoning**.

This table provides a comparison of what is proposed by DPP and how DPP's proposal should be **amended** by this Committee:

Table 21-5.1	Preservation, Agricultural, Country				Residential, Apartment				Apartment Mixed Use, Resort				Business, Business Mixed Use				Industrial, Commercial, Mixed Use				Definition/Standards	
Table of Allowed Uses	P-2	AG-1	AG-2	Country	R-20 R-10	R-7.5 R-5 R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1	Sec.21 - 5.70(j) (3)
MCE DPP Proposed	-	-	-	Cm*	-	-	-	-	-	P*	P*	P*	-	P*	P*	P*	P*	P*	P*	P*		
MCE - Amended	-	-	-	Cm*	-	-	-	-	-	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*		
My position:	Delete: Food trucks/MCE <i>should not</i> be allowed in Country Zoning								Add: Food trucks/MCE <i>should</i> be allowed in Resort Zoning				Delete: Food trucks/MCE <i>should not</i> be allowed in B-1 Zoning									

DPP's proposed amendments for MCE/Food Trucks are contrary to the **intent of the LOU**:

ROH Sec. 21-1.20 Purpose and intent. (a) The purpose of the LUO is to regulate land use in a manner that will encourage orderly development in accordance with adopted land use policies, including the city's general plan, and development and sustainable communities plans, and, as may be appropriate, adopted neighborhood plans, and to promote and protect the public health, safety and welfare by, more particularly: (1) Minimizing adverse effects resulting from the inappropriate location, use or design of sites and structures; (2) Conserving the city's natural, historic and scenic resources and encouraging design that enhances the physical form of the city; and (3) Assisting the public in identifying and understanding regulations affecting the development and use of land. (b) It is the intention of the council that the provisions of the LUO provide reasonable development and design standards for the location, height, bulk and size of structures, yard areas, off-street parking facilities, and open spaces, and the use of structures and land for agriculture, industry, business, residences or other purposes. (Emphasis added.)

The 2010 NSSCP, developed after years of community input under DPP's guidance, states that "Retention of **rural character** was the *single most important issue* for the North Shore community." (Technical Report, p. 5.) (emphasis added). MCE/Food Trucks are **incompatible** with the **rural character** of the North Shore as prioritized in the NSSCP.

To underscore this incompatibility, please note that the B-1 Zoned "Sharks Cove Parcels" in fact have a *unique land use designation* under the NSSCP – a "Rural Community Commercial Center" – defined as "a small cluster of commercial and service businesses local on major thoroughfares that provide a range of goods and services that meet the needs of the surrounding residential communities." (NSSCP, § 3.6.3) (emphasis added.)

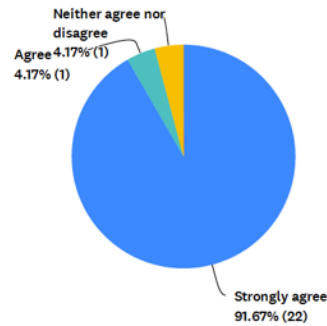
The NSSCP Technical Report explained *why* the designation *for this specific site* was so restrictive: "This is in response to the proposed Pūpūkea Village development (proposed shopping center across from Sharks Cove), which faced community opposition due to the incompatible nature and character of the proposed project, potential traffic and infrastructure-related impacts, and nearshore impacts to the Pūpūkea Marine Life Conservation District. Proposed revisions are intended to clarify the intent of the Rural Community Commercial Center designation, *and ensure that future proposals are limited in size and scope and are designed more for area residents than visitors*." (§ 4.3.9.) (emphasis added).

The Food Trucks on this parcel do not serve the needs of the surrounding community. This conclusion is based on a survey conducted of residents/members of the Sunset Beach Community Association in July 2021, which shows overwhelming concerns about the Food Trucks on these parcels, including that they *primarily serve tourists, lead to increased tourism and overcrowding, encourage pedestrians to riskily cross the highway, lead to excessive traffic and congestion, and should be removed from the current and future development on this site.*

SBCA Survey re Sharks Cove Development

Q12 Do you agree or disagree that food trucks on the site (currently and future) primarily serve customers who are tourists?

Answered: 24 Skipped: 0

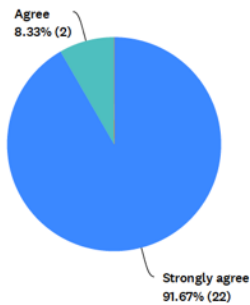


ANSWER CHOICES	RESPONSES
Strongly agree	91.67% 22
Agree	4.17% 1
Neither agree nor disagree	4.17% 1
Disagree	0.00% 0
Strongly disagree	0.00% 0
TOTAL	24

SBCA Survey re Sharks Cove Development

Q13 Do you agree or disagree that food trucks on the site lead to increased tourism and overcrowding at Pupukea Beach Park and Sharks Cove?

Answered: 24 Skipped: 0

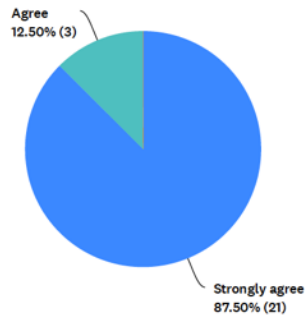


ANSWER CHOICES	RESPONSES
Strongly agree	91.67% 22
Agree	8.33% 2
Neither agree nor disagree	0.00% 0
Disagree	0.00% 0
Strongly disagree	0.00% 0
TOTAL	24

SBCA Survey re Sharks Cove Development

Q14 Do you agree or disagree that food trucks and other retail (such as snorkel and surf rentals/tours) offered on the site encourage people to cross Kamehameha Highway in front of the development in an unsafe manner?

Answered: 24 Skipped: 0

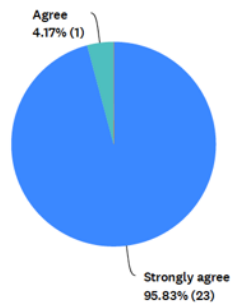


ANSWER CHOICES	RESPONSES	
Strongly agree	87.50%	21
Agree	12.50%	3
Neither agree nor disagree	0.00%	0
Disagree	0.00%	0
Strongly disagree	0.00%	0
TOTAL		24

SBCA Survey re Sharks Cove Development

Q15 Do you agree or disagree that food trucks and other retail (such as snorkel, surf rentals, tours) lead to excessive traffic and congestion in this area?

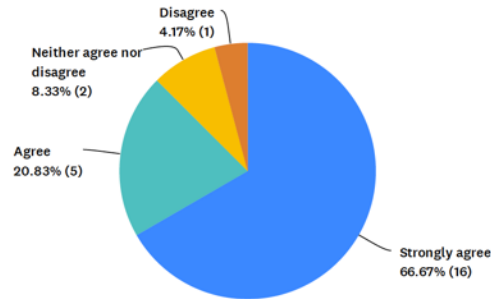
Answered: 24 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	95.83%	23
Agree	4.17%	1
Neither agree nor disagree	0.00%	0
Disagree	0.00%	0
Strongly disagree	0.00%	0
TOTAL		24

Q17 Do you agree or disagree that the food trucks should be removed from the current and future development this site?

Answered: 24 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	66.67%	16
Agree	20.83%	5
Neither agree nor disagree	8.33%	2
Disagree	4.17%	1
Strongly disagree	0.00%	0
TOTAL		24

Thus, allowing MCE/Food Trucks on **B-1** zoned parcels, as the NSSCP specifically indicates for the RCCC on the Sharks Cove Parcels, is incompatible with the very nature of the community-based designation and **should not be allowed under the LUO**.

The same concerns about incompatibility with *B-1* apply to DPP's proposal to allow MCE/Food Trucks in *Country* Zoning.

Country Zoning

Sec. 21-3.60 Country district—Purpose and intent. (a) The purpose of the country district is to recognize and provide for areas with limited potential for agricultural activities but for which the open space or rural quality of agricultural lands is desired. The district is intended to provide for some agricultural uses, low density residential development and some supporting services and uses. (b) It is the intent that basic public services and facilities be available to support the district but that the full range of urban services at urban standards need not be provided.

Typically, the country district would be applied to areas outside the primary and secondary urban centers, which are identified by city-adopted land use policies. . . (Emphasis added.)

None of these values embedded in Country zoning are enhanced by MCE/Food Trucks. To the contrary, **MCE/Food Trucks promote tourism, congestion, and urbanization that are directly contrary to the intent and letter of Country zoning**.



Similarly, these same concerns apply to the proposed allowances in B-1 Zoning. **The Sharks Cove Parcels “regulatory disaster” illustrates that MCE/Food Trucks are not compatible with B-1.**

B-1 Zoning

Sec. 21-3.110 Business districts—Purpose and intent. . . .

(b) The intent of the B-1 neighborhood business district is to provide relatively small areas which serve the daily retail and other business needs of the surrounding population. (Emphasis added.)

As indicated above, MCE/Food Trucks **on the North Shore** do not serve the daily retail and business needs of the surrounding population.

Where do MCE/Food Trucks belong? In **Resort Zoning**, where the tourists are allowed, concentrated, and will utilize such food options in an area with adequate infrastructure.

Resort

Sec. 21-3.100 Resort district—Purpose and intent. The purpose of the resort district is to provide areas for visitor-oriented destination centers. Primary uses are lodging units and hotels and multifamily dwellings. Retail and business uses that service visitors are also permitted. This district is intended primarily to serve the visitor population, and should promote a Hawaiian sense of place. (Emphasis added.)

In addition to the analysis above, I have attached my comments directly to DPP's 2018 staff justification for regulation of MCE/Food Trucks. I welcome further opportunities to address these matters if you have any questions.

Thank you for considering my testimony to **eliminate MCE/Food Trucks in Country and B-1 Zoning and to allow them in Resort zoning.**

Sincerely,



Denise Antolini

Attachment

[Denise Antolini comments on DPP report in underline/italics (4.19.22)]

**DPP-INITIATED LUO AMENDMENT
RELATING TO MOBILE COMMERCIAL ESTABLISHMENTS**

Staff Report

January 29, 2018

The Department of Planning and Permitting (DPP) recommends an amendment to the Revised Ordinances of Honolulu, Chapter 21 Land Use Ordinance (LUO), that defines mobile commercial establishments as a use permitted in certain zoning districts and specifies development standards to help regulate that use. The attached draft bill is intended to serve as companion legislation to Council Resolution No. 17-79, adopted on June 7, 2017. Resolution No. 17-79 initiated an amendment to the LUO relating to the Haleiwa Special District. Among other changes to the Special District, the Resolution contains a new definition and development standards associated with mobile food establishments in Haleiwa. The staff report associated with Resolution No. 17-79, recommends a broader definition that captures all goods and services sold from vehicles, not just food. Additionally, rather than regulate these establishments only in Haleiwa, we recommend regulating them island-wide. [Regulation across the island is a good idea; however, MCEs attract different customers in different areas of the island, and therefore the permission of such uses should recognize that in some areas, like the North Shore, MCEs cater primarily to tourists and be regulated as tourism enterprises.] This staff report and draft bill implements the recommendations the DPP proposed in response to Resolution No. 17-79.

I. Background

Prior to September 2, 2017, the State's Department of Health (DOH) took the lead on broadly regulating food trucks. Their focus is now more narrow such that food trucks are regulated solely from a food safety perspective (see the Hawaii Administrative Rules, Title 11, Department of Health, Chapter 50, Food Safety Code). There are other entities that regulate how, where, and when mobile vendors may operate. The Department of Transportation Services regulates mobile food units on City roadways. Food trucks associated with the People's Open Markets are regulated by the Department of Parks and Recreation. Other entities, such as the State's Department of Agriculture, manage the permitting associated with other farmers markets where food and other goods are sold by mobile vendors. The LUO, which regulates primarily how private property may be used, does not currently have a definition that adequately captures the activities of mobile commercial establishments. [This is correct – and this is an admission that DPP has allowed food trucks in Special Management Areas, specifically the “Sharks Cove Parcels,” without any legal authority.]

Mobile vending is increasingly recognized as an economic development tool. Food trucks and similar mobile commercial establishments provide opportunities for entrepreneurs and small businesses. They can add vibrancy to streetscapes and sites. [This “vibrancy” is a sweeping generalization and reflects an urban bias; such “vibrancy” is not suitable for Country or B-1 Zoning.] Food trucks can expand access to food in areas underserved by traditional restaurants. [Expansion of food services is not necessarily desirable – please see the North Shore Chamber of Commerce article in the North Shore News, April 6, 2022, explaining how Food Trucks hurt brick and mortar restaurants and businesses. And, in the Sharks Cove area, for decades prior to the arrival of food trucks, the neighborhood and tourists were well served by the Foodland store and deli counter, so comparing options to only “traditional restaurants” is misleading.] However, neighborhoods can be negatively impacted by the proliferation of mobile vendors. [Agree 100%] Impacts include visual clutter from excessive signs, trash, competition (fair or not) to “brick and mortar” businesses, increased traffic, increased competition for parking, noise, air pollution, and the lack of restrooms. [Agree 100% - these problems have all arisen as significant community concerns on the Sharks Cove parcels, which at one point had 11 food trucks and now has 5 food trucks, restricted in number only due to community litigation] Land use regulations can help ensure that a balance is achieved between businesses and their potential adverse impacts. [Agree 100%]

II. Analysis

A. Mobile Commercial Establishments on the Neighboring Islands: Every county has different regulations. The county-specific standards are summarized below.

- (a) County of Hawaii: The Hawaii County zoning code does not require that mobile vendors have vehicle documents (for example, registration and proof of safety check). Food trucks are allowed to operate in commercial

zones and in other districts with plan approval. Hawaii County food truck regulations are in the process of being updated.

- (b) County of Maui: The Maui County zoning code requires that food trucks have the necessary vehicle documents. Plan review is required when the food truck operates in the Special Management Area. Parking requirements depend on the number of employees plus three parking spaces for patrons. Establishments which operate from shipping containers or immobile vehicles are treated like other brick and mortar establishments, and must comply with the same parking requirements as those uses.
- (c) County of Kauai: The County of Kauai requires vehicle documentation, and food trucks are required to move daily. Food trucks are permitted to operate in the commercial zoning district with the consent of the landowner. As with Maui County, the required parking depends on whether the food truck is mobile or immobile.

B. Food trucks in Other Jurisdictions: The regulations of several other jurisdictions were reviewed. The regulations vary widely. In general, the regulations that other municipalities have implemented are primarily for the safety of consumers and pedestrians. Below are key points that represent the broad scheme of the regulations reviewed.

Mobile food vendor application: In many municipalities, a peddlers' license or certificate of use must be obtained prior to operation.

Location: Areas of operation differ; however, there is a consensus that food trucks should not operate within public rights-of-ways.

Buffer zones: Buffer zones or setbacks, where no food trucks may locate, are used regularly. Food trucks are generally required to be set back from all property lines approximately 20 to 50 feet, depending on the existence of screening or buffering from adjacent uses.

Definition of vending area: Many municipalities define the area or zoning district where food trucks are allowed to operate.

Signage: Many municipalities limit the amount of signage allowed.

C. Discussion: Without comprehensive regulations, mobile commercial establishments have "popped up" in different zoning districts around the island. [Agree 100%] The DPP has previously depended heavily upon the DOH to regulate the activities of food trucks. [This does not make sense – as stated above, DOH does not regulate the land use or zoning aspects of MCE so this was a mistaken reliance, without legal foundation, by DPP] The attached bill

recommends legislation that is intended to mitigate the adverse impacts of food trucks island-wide. [Mitigation is indeed needed, however, DPP's proposal does the opposite – it opens the floodgates for MCE/food trucks]

The draft bill introduces a definition that recognizes vehicles may offer goods and services beyond prepared food. It adds “mobile commercial establishment” to LUO Table 21-3 Master Use Table, as well as the Special District project classification tables. We are proposing that mobile commercial establishments be permitted in apartment mixed use, business, and industrial zoning districts. [Note that “Country” is not included here as a permitted area but for some reason is added later by DPP] When located in a Special District, the establishments will require a Minor Special District permit and must conform with the standards of the Special District. Otherwise, mobile commercial establishments will be subject to underlying zoning standards, that include yard (setbacks), landscaping, parking, etc.

The bill recognizes that the impact of a single mobile commercial establishment is different from when a group of such establishments gather on a single lot. A tiered regulatory approach is recommended that includes more stringent standards for when three or more mobile commercial establishments are located on one zoning lot. [Agree 100% - the cluster of food trucks on the Sharks Cove parcel has created a huge tourist attraction, with all the problems noted above. However, the line should be drawn at ONE, not three, with spacing such as 100 yards apart.]

The draft regulations require that regardless of their number, mobile commercial establishments shall be located on all-weather surfaces, i.e., paved surfaces. The use of dirt lots for vending has proven to be problematic. Vehicles on such lots (the food trucks themselves and their customers in vehicles) track dirt onto roadways, which eventually ends up in the ocean as a form of road runoff, violating water quality rules. By specifying the need for all-weather surfaces, roadways should be kept free of debris and the amount of sediment in our oceans will be reduced. [Of equal concern, MCE/Food Trucks generate non-point source pollution from the food debris, cleaning operations, and spills – this causes pollution of the soil and underground area, which can cause stream and ocean pollution. This “seepage” has been documented for the Sharks Cove Parcels, where a study conducted for the EIS indicated significant addition of nitrogen and phosphorous from on-site activities.]

Based on court action, zoning cannot regulate signs on vehicles. [This appears to be an overly narrow interpretation of the law – please provide the legal analysis.] However, the use of banners and other “temporary” signs that are placed along the right-of-way should be regulated because they are distractions to drivers and contribute to visual clutter. [Agree 100%- but also because they detract from the character and integrity of certain kinds of zoning, such as Country and B-1.] The

draft bill proposes that a single portable sign may be used per mobile commercial establishment.

[photo inserted by Denise Antolini – showing food truck signage at Sharks Cove Parcels]



The draft bill also addresses traffic impacts. Traffic congestion is not just a concern on the surrounding roads, but also on the particular lots where mobile commercial establishments operate. [Agree 100% - this is a major problem in Haleiwa and Sharks Cove.] While the new parking requirements (five spaces per vehicle) may serve to limit the number of mobile commercial establishments on a given lot, it will better ensure that vehicles have the necessary room to maneuver safely based on standard parking stall dimensions. Therefore, lots with more than three mobile commercial establishments will be required to submit parking management plans. Such plans will be reviewed by the DPP and should help to reduce adverse impacts on adjacent streets. ["Should" does not mean "Will." The provision of parking does not address the issue of traffic flow to/from the MCE area; at Sharks Cove, the traffic congestion has increased substantially as tourists look for, turn into, hesitate, drive out of, and park kapakahi in the area of the food trucks.]

[photo inserted by Denise Antolini – showing example of tourist parking, illegally, at Sharks Cove Parcels]



Other jurisdictions, such as Miami-Dade County or City of Portland, Maine, have determined that three or more mobile commercial establishments created enough neighborhood repercussions to be noteworthy. Staff field surveys around the island concur with this finding. *[Please provide me with copies of those staff surveys.]*

As with any other outdoor uses, noise can impact not just the adjacent properties but those located further away. Noise can be generated by the vehicles, cooking devices, generators, people, and amplified music, among other things. *[Agree 100% - these nuisance issues have been a significant problem at the Sharks Cove Parcels.]* The same can be said for light pollution. Bright lights from unshielded light fixtures can spill over on to adjacent properties. *[Agree 100% - these nuisance issues have been a significant problem at the Sharks Cove Parcels.]* Including mobile commercial establishments as a use in the LUO means that they would be subject to the same general standards contained in Article 4, which address noise and outdoor lighting. To further reduce adverse impacts, lots with more than three mobile commercial establishments will be required to operate between the hours of 8:00 a.m. and 10:00 p.m., daily when adjoining ~~country~~, residential, and apartment districts. *[Country should not be included as a permitted area.]*

As already stipulated by the underlying zoning districts, screening is important to help soften hardscapes and to encourage pedestrian movement. *[Screening needs to be very specifically defined; this has been a huge problem on the Sharks Cove Parcels where, despite specific provisions of the settlement*

agreement that require visual screening, the developer continues to provide inadequate screening, and DPP has not enforced the agreement despite community complaints.] The draft bill proposes that screening should not be limited to parking and trash areas, but should include restrooms areas when provided. *[Will DPP require that MCE/Food Trucks provide bathrooms? Hand-wash stations? If there is no sanitation, patrons will utilize the bushes (which was happening at the Sharks Cove Parcels for many months until the community complained and port-a-potties were provided), neighbors' yards (which also happened), or nearby businesses (read the North Shore Chamber of Commerce article about over-use of the visitor center bathrooms).]*

Excluded from mobile commercial establishment regulations are those events which are already overseen by other regulatory entities. This includes farmers' markets, fun fairs, etc. The vendors at these events are unrefuted mobile establishments as they leave the site once the event is over. *[This distinction points out that IMMOBILE MCE are in fact not MCE – yet there appears to be nothing in DPP's proposed amendments that requires true MOBILITY! Food trucks often remain in place in Haleiwa and at Sharks Cove for months on end, or for years, essentially become stationary business that compete directly with brick and mortar even if they are forced to move occasionally.]* Parking and traffic concerns are already addressed at such events along with waste management and operating times.

III. Recommendation

The DPP concurs with the general intent of the Council-initiated Resolution 17-79, i.e., to amend the LUO to better regulate food trucks or, as we suggest, mobile commercial establishments. However, rather than regulate them only in Haleiwa, we recommend that they be regulated island-wide. Attached is a draft bill that introduces a new definition, includes the new use in the Master Use Table and Special District project classification tables, and specifies new parking and development standards that address hours of operation, seating, signage, parking management, and screening of restrooms. We believe these amendments will help curtail the adverse impacts of mobile commercial establishments, create a predictable regulatory regime for food truck owners and the community-at-large, and not stifle innovation and entrepreneurship. *[For the reasons stated above, DPP may have had good intentions but has created a new "free for all" for MCE/Food Trucks in areas such as Country and B-1 where they should not be allowed.]*

* * *



**Hawaiian
Electric**

**CITY AND COUNTY OF HONOLULU
HONOLULU CITY COUNCIL**

**TESTIMONY IN OPPOSITION TO
Bill 10, CD1, RELATING TO USE REGULATIONS**

Wednesday, September 7, 2022
10:00 A.M.
City Council Chamber

Dave Okamura
Director, Engineering Division
Hawaiian Electric

Chair Waters, Vice Chair Kia'ana, and Members of the City Council,

My name is Dave Okamura and I am submitting testimony on behalf of Hawaiian Electric **in opposition** to Bill 10, CD1 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. This revised version was presented to the Planning Commission and adopted. However, the original Bill 10 presented to the Council did not include the revisions. What started out as generally a “housekeeping” measure has transformed into a bill that could significantly impact our operations. Language previously approved by the Planning Commission on January 18, 2022, has now been changed in a manner whereby our system grid components could be subject to discretionary permitting.

Discretionary permits could require extensive submittals and reviews by State and City agencies. This would significantly impact our day-to-day operations by increasing repair and maintenance schedules, which could negatively impact system reliability for

our customers, and increasing electrical rates to customers. For example, our regular day to day operations includes installation or replacement of a pole for safety or resilience purposes. If our requested language is not adopted, these types of routine utility projects that are critical to providing reliable electric service could be hindered or stalled. We respectfully request that the following language that was previously approved by the Planning Commission be reinserted into Bill 10, CD 1.

- Add to page 48 of 239 Section 21-5.60-6 (a) (1) **"...Also includes non-generation energy installations with minor impacts on adjacent land uses, like 46 kilovolt or lower voltage electrical substations, vaults, distribution equipment, and accessory telecommunications antennas to support these installations, minor residential gas infrastructure, and other similar uses."**

The above language was vetted with the Department of Planning and Permitting and approved by the Planning Commission on January 18, 2022. Hawaiian Electric strongly recommends that such language be included to describe non-generation energy installations to make clear that 46 kilovolt or lower voltage electrical substations, vaults, distribution equipment, and accessory telecommunication antennas to support these installations are classified as Small Utility infrastructure.

Additionally, to achieve the State's renewable energy goals, it is important that any changes to the setback requirements in Section 21-5.60-6 are directed at new wind generation facilities and do not implicate existing facilities during the term of their contracts with Hawaiian Electric, including any renewal term, or upon repair of an existing facility. If existing wind generation facilities are unable to continue operations, the current progress Hawai'i is making toward a hundred percent renewables could be hindered.

We sincerely appreciate the efforts of the City Council, Committee on Zoning and Planning, Department of Planning and Permitting, and the Planning Commission in getting the bill to this point and look forward to continuing our work with them as the bill progresses.

Thank you for the opportunity to testify.

Regarding Bill 10

I am opposed to the addition in this Bill 10 that allows Mobile Commercial Establishments to be on all commercial property and country zoned property with minimal standards and no regulation of visual sign clutter.

This bill promotes endorses and promotes a problem that exists in many areas of our island where food trucks flourish alongside the road with a profusion of signage. In these communities there are already many large signs and sign boards that are currently illegal but not being cited for removal. These areas look terrible and they are a traffic hazard with visitors slowing down to look at options while they think about exiting the road.

Kahuku village is an example of one of the areas where this unregulated mess is out of control. There are many other areas on the island that are the same. MCEs need to be regulated not given free range to pop up in large numbers anywhere with no regulation.

Sharks Cove on the North Shore is an example of improvement when the owner was brought to task for too many trucks, no barriers, and unregulated signage. Improvements were made with some degree of success making the area less cluttered with signs and safer. Let's enforce the regulations that exist and seek improvements

In addition to promoting uncontrolled visual blight and safety hazards on our roadsides, I also think this change is completely unfair to permanent, regulated commercial establishments. MCEs should not be considered in the same category.

I cannot understand why this section has been added. Regulations should be made to solve a problem, not add to a problem that already exists.

Please do not allow passage of this section of the revisions to Bill 10. Thank you for your consideration.

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Honolulu, Hawaii 96819-3494
Telephone 808 842 1133
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R. M. TOWILL CORPORATION
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Planning
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Environmental Services
Photogrammetry
Surveying
Project and Construction Management

September 6, 2022

The Honorable Tommy Waters
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813-3065

Dear Chair Waters and Members of the Honolulu City Council:

**Testimony in Support of Bill 10 (2022)
LUO Amendments Relating to Use Regulations**

I am David Tanoue, Vice President of the R.M. Towill Corporation, and I am providing testimony on behalf of HASEKO (Ewa), Inc. and Hoakalei Corporation (collectively, "Haseko"). Haseko is the owner and developer of the Hoakalei Resort, which includes the Hoakalei Lagoon and the mixed-use zoned lands surrounding the Lagoon.

Haseko **supports** Bill 10 (2022) and appreciates the City's efforts to modernize and streamline the Land Use Ordinance; however, Haseko is proposing four (4) narrowly tailored changes that are necessary for the continued development of the Hoakalei Resort and which would better accomplish the City's goal, as set out in the Ewa Development Plan, to create an Ewa regional mixed-use waterfront recreational destination at Hoakalei.

Consistent with the Ewa Development Plan, in 2016 the City Council approved the current mixed-use zoning at the Hoakalei Lagoon. See Exhibit A. As part of that approval, the City Council directed Haseko to work collaboratively with the Department of Planning and Permitting to prepare the 2018 Hoakalei Urban Design Plan ("2018 UDP"). The Hoakalei Lagoon is a man-made inland water body mostly in the preservation zone that is surrounded by a diverse mix of resort, commercial and residential zoning specifically intended to create a regional mixed-use destination.

Working closely with the City, Haseko and DPP came to a consensus that the project's waterfront and water-related recreational components would be planned and designed to fit within the LUO's "outdoor recreational facilities" and/or "marina accessories" categories that require minor conditional use permits. That consensus was incorporated into the 2018 UDP and DPP has since approved five conditional use permits for the Lagoon's first waterfront recreational components.

Bill 10, however, proposes to eliminate the LUO's "outdoor recreational facilities" and "marina accessories" categories. Fortunately, in its place Bill 10 creates two new categories, "marine minor" and "general outdoor recreation", that will serve much the same role. Unfortunately, as currently drafted Bill 10 does have inconsistencies that, if applied to Hoakalei's existing mixed-use zoning, could unintentionally limit the project, and prevent it from becoming the mixed-use destination that the City Council originally envisioned. Therefore, we are proposing four (4) minor edits to Bill 10 that would resolve these inconsistencies and make the new "marine minor" and "general outdoor recreation" categories more useful in practice. See Exhibits B and C (Bill 10 Amendment Form).

Proposed Change # 1: Change Table 21-5.1, Table of Permitted Uses, to permit “general outdoor recreation” uses in the BMX-3 zone with a major conditional use permit. Since general outdoor recreation is a permitted use with a major conditional use permit in the other business and business mixed use zones, it seems more consistent to also make general outdoor recreation uses permissible in BMX-3 with a major CUP.

Proposed Change # 2: Change Table 21-5.1, Table of Permitted Uses, to also allow “marine minor” uses in the P-2 and B-1 zoning districts with only a minor conditional use permit. We propose allowing “marine minor” uses in P-2 with only a minor conditional use permit because “marine minor” uses are by definition low impact *minor* uses, and the other zones permitting “marine minor” uses require only a minor CUP. We also propose allowing “marine minor” uses in B-1 because a portion of the Hoakalei lagoon is in B-1 and “marine minor” uses are permitted in the other business and business mixed-use zones.

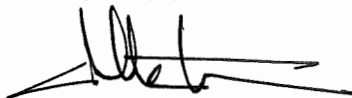
Proposed Change # 3: Change the definition of “marine minor” at Section 21-5.80-2(a)(1)(A) so that it consistently states that “marine minor” uses support “other water-related activities” at or adjacent to lagoons and other inland waters. This would clarify that the water-related activities expected at Hoakalei’s unique inland Lagoon are clearly permissible as marine minor uses.

Proposed Change # 4: Revise the use standards for “marine minor” at Sections 21-5.80-2(a)(2)(A)(ii) and (iii) to delete the words “State land use” but retaining “preservation district”. This is a mistake since there is no State preservation district, and the City has no land use authority over the State conservation district.

These proposed changes are necessary and narrowly tailored to facilitate the continued master-planned development of the Hoakalei Resort area and implement the Ewa Development Plan’s vision for a regional mixed-use waterfront destination focused on the Hoakalei Lagoon.

Thank you for providing me with the opportunity to provide comments and proposed revisions to Bill 10.

Very truly yours,



David K. Tanoue
Vice President

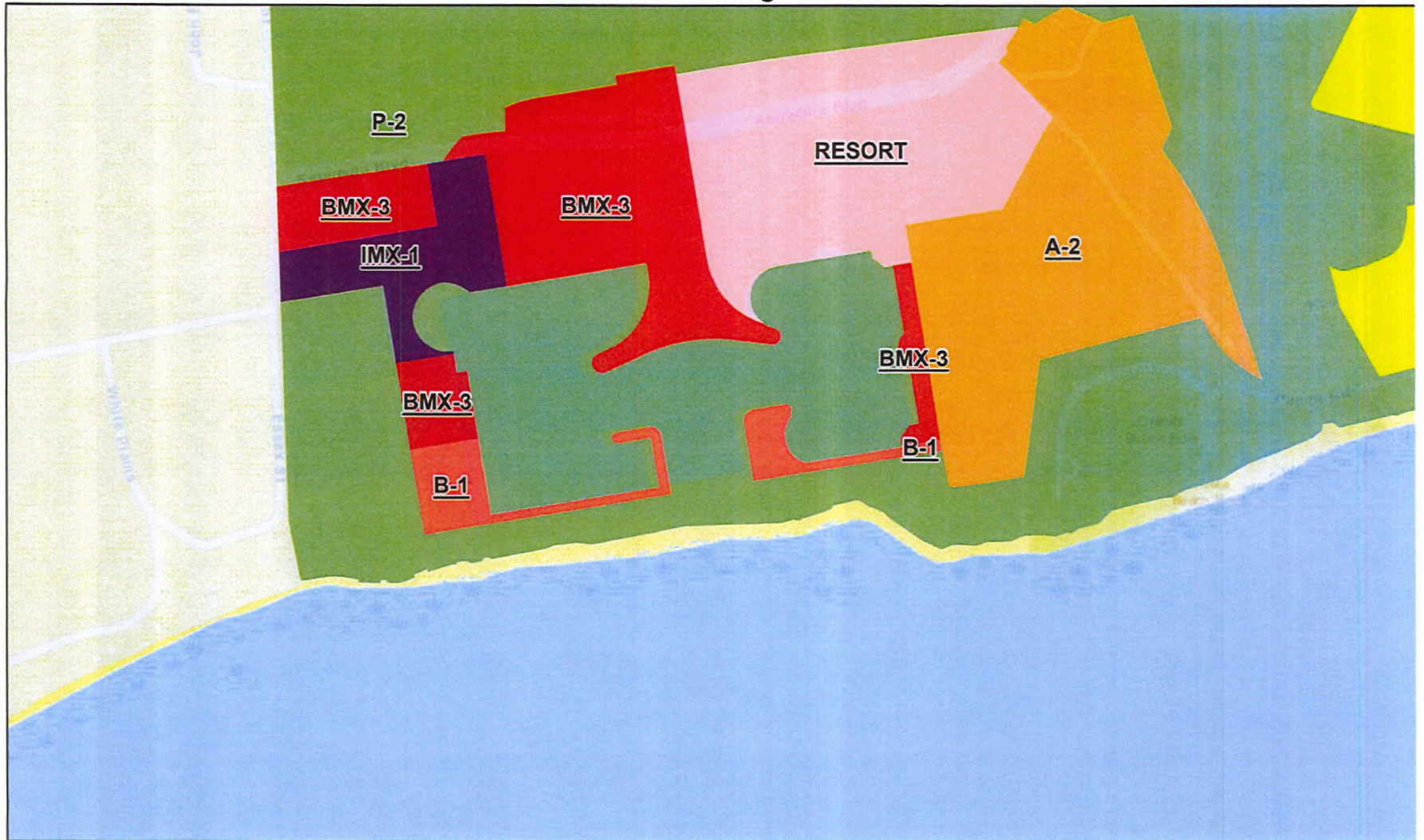
Enclosures:

- Exhibit A – Zoning Map of Hoakalei Lagoon and Surrounding Areas
- Exhibit B -- Proposed Revisions to Bill 10
- Exhibit C – Bill 10 Amendment Form

cc: Haseko (Ewa), Inc.
Hoakalei Corporation

EXHIBIT A

Parcel and Zoning Information



8/3/2022, 2:57:28 PM

Zoning

 B-1	 F-1	 P-2	 RESORT
 A-2	 BMX-3	 IMX-1	 R-5

1:9,028

0 0.05 0.1 0.2 mi

0 0.1 0.2 0.4 km

Esri, HERE, Garmin, Intermap, NGA, USGS

City & County

{158818}



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **10 (2022), CD1**

A BILL FOR AN ORDINANCE

	Preservation, Agricultural, County				Residential, Apartment					Apartment Mixed Use, Resort				Business, Business Mixed Use				Industrial/Commercial Mixed Use				Definition and Standards
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1	
	P = Permitted Use C = Major Conditional Use Cm = Minor Conditional Use PRU = Plan Review Use * = Use Standards Apply																					
Eating and Drinking																						
General eating and drinking	-	-	-	-	-	-	-	-	-	P*	P*	P*	P	P	P	P	P	P	P	P	P	Sec. 21-5.70-2(a)
Bar, nightclub																						
Minor	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P*	P*	P*	P*	P	-	P*	Sec. 21-5.70-2(b)
Major	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P*	-	P*	-	-	-	P*	Sec. 21-5.70-2(b)
Lodging																						
Bed and breakfast home	-	-	-	-	-	-	P*	P*	-	-	-	-	P*	-	-	-	-	-	-	-	-	Sec. 21-5.70-3(a)
Hotel																						
Minor	-	-	-	-	-	-	-	-	-	-	-	-	P			Cm*	P	-	Cm*	-	C*	Sec. 21-5.70-3(b)
Major	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	C*	P	-	Cm*	-	C*	Sec. 21-5.70-3(b)
Timeshare	-	-	-	-	-	-	-	P*	-	-	-	-	P	-	-	-	-	-	-	-	-	Sec. 21-5.70-3(c)
Transient vacation unit	-	-	-	-	-	-	P*	P*	-	-	-	-	P*	-	-	-	-	-	-	-	-	Sec. 21-5.70-3(a)
Medical																						
General medical services	-	-	-	-	-	-	-	-	-	P*	P*	P*	P	P	P	P	P	-	-	-	P*	Sec. 21-5.70-4(a)
Hospital	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	Sec. 21-5.70-4(b)
Medical laboratory	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	P	Sec. 21-5.70-4(c)
Office																						
General office	-	-	-	-	-	-	-	-	-	P*	P*	P*	P	P	P	P	P	P	P	-	P	Sec. 21-5.70-5(a)
Parking																						
Remote parking	-	-	-	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Sec. 21-5.70-6(a)
Commercial parking	-	-	-	-	-	-	-	-	-	P*	P*	P*	P	P	P	P	P	P	P	-	P	Sec. 21-5.70-6(b)
Personal Services																						
General personal services	-	-	-	-	-	-	-	-	-	P*	P*	P*	P	P	P	P	P	-	-	-	P*	Sec. 21-5.70-7(a)
Animal care																						
Minor	-	-	-	-	-	-	-	-	-	-	P*	P*	P*	P*	P*	P*	P*	P*	P	-	P*	Sec. 21-5.70-7(b)
Major	-	-	P*	P*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	Sec. 21-5.70-7(b)
Wedding services	-	-	-	-	-	-	-	-	-	P*	P*	P*	P	P	P	P	P	-	-	-	P	Sec. 21-5.70-7(c)
Recreation, Indoor																						
General indoor recreation	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	Sec. 21-5.70-8(a)
Theater	-	-	-	-	-	-	-	-	-	-	-	-	P	P	C*		P	-	-	-	P	Sec. 21-5.70-8(b)
Recreation, Outdoor																						
General outdoor recreation	-	-	-	-	-	-	-	-	-	-	-	-	C*	C*	C*		C*	C*	-	Cm*		Sec. 21-5.70-9(a)

Since general outdoor recreation is permitted use with a major CUP in the other business and business mixed use zones, it seems more consistent to also make general outdoor recreation uses permissible in BMX-3 with a major CUP.

OCS2022-0700/9/1/2022 4:33 PM

6

EXHIBIT B
Page 1 of 5



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **10 (2022), CD1**

A BILL FOR AN ORDINANCE

	Preservation, Agricultural, Country				Residential, Apartment					Apartment Mixed Use, Resort				Business, Business Mixed Use				Industrial, Commercial Mixed Use				Definition and Standards	
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1		
	P = Permitted Use C = Major Conditional Use Cm = Minor Conditional Use PRU = Plan Review Use * = Use Standards Apply																						
Golf course	PRU	-	-	-	-	-	-	-	-	-	-	-	PRU	-	-	-	-	-	-	-	-	Sec. 21-5.70-9(b)	
Nature-based recreation		C*	C*																			Sec. 21-5.70-9(c)	
Zoo		C*	C*																			Sec. 21-5.70-9(d)	
Retail																							
General retail																							
Small	-	-	-	-	C*	C*	C*	C*	C*	P*	P*	P*	P*	P*	P*	P*	P*	P	P	P	P*	Sec. 21-5.70-10(a)	
Medium	-	-	-	-	-	-	-	-	-	P*	P*	P*	P*	P*	P*	P*	P*	P	P	-	P*	Sec. 21-5.70-10(a)	
Large	-	-	-	-	-	-	-	-	-	-	-	-	P*	P*	P*	P*	P*	P	P	-	P*	Sec. 21-5.70-10(a)	
Alternative financial services	-	-	-	-	-	-	-	-	-	-	-	-	-	Cm	Cm	Cm	Cm	-	-	-	Cm	Sec. 21-5.70-10(b)	
Mobile commercial establishment	-	-	-	-	-	-	-	-	-	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	Sec. 21-5.70-10(c)	
Vehicle-Related																							
Car wash	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P*	P*	P*	P*	P*	-	P*	Sec. 21-5.70-11(a)	
Vehicle fueling station	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P	P	P	P	P	-	P	Sec. 21-5.70-11(b)	
Vehicle repair																							
Service	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P*	P*	P*	P	P	P	P*	Sec. 21-5.70-11(c)	
Light	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P	P	-	Sec. 21-5.70-11(c)	
Heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	Sec. 21-5.70-11(c)	
Vehicle sales and rental																							
Light	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P*	P*	P	P	-	P*	Sec. 21-5.70-11(d)	
Heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	Sec. 21-5.70-11(d)	
Accessory Commercial																							
Caretaker unit	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	P	P	P	P	Sec. 21-5.70-12(a)	
Drive-thru	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P*	P*	P*	P*	P*	P*	P*	Sec. 21-5.70-12(b)	
Retail	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P*	P*	-	Sec. 21-5.70-12(c)	
INDUSTRIAL USES																							
Manufacturing and Processing																							
General manufacturing and processing																							
Light	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P*	P*	P*	P	P	P	P	Sec. 21-5.80-1(a)	
Heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P	P	-	Sec. 21-5.80-1(a)	
Biofuel processing facility	C*	C*	C*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Cm*	Cm*	-	Sec. 21-5.80-1(b)	



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **10 (2022), CD1**

A BILL FOR AN ORDINANCE

	Preservation, Agricultural, Country				Residential, Apartment				Apartment Mixed Use, Resort				Business, Business Mixed Use				Industrial, Industrial Commercial Mixed Use				Definition and Standards	
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3		IMX-1
P = Permitted Use C = Major Conditional Use Cm = Minor Conditional Use PRU = Plan Review Use * = Use Standards Apply																						
Brewery, distillery, winery																						
Minor	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	Sec. 21-5.80-1(c)	
Major	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	Sec. 21-5.80-1(c)
Explosive or toxic chemical manufacturing, storage, and distribution	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C*	-	-	Sec. 21-5.80-1(d)
Food manufacturing and processing	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P*	P*	P	P	P	P	Sec. 21-5.80-1(e)
Linen suppliers	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	Sec. 21-5.80-1(f)
Petrochemical plant	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C*	Cm*	-	Sec. 21-5.80-1(g)
Production studio	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	P	P	-	P	Sec. 21-5.80-1(h)
Publishing facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	P	P	-	P	Sec. 21-5.80-1(i)
Marine																						
General marine	C												Cm*									
Minor													Cm*						P	P	P*	Sec. 21-5.80-2(a)
Major																			P	P	-	Sec. 21-5.80-2(a)
Port	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	Sec. 21-5.80-2(b)
Repair																						
General repair	-	-	-	-	-	-	-	-	-	P*	P*	P*	-	P	P	P	P	P	P	P	P	Sec. 21-5.80-3(a)
Heavy repair	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P	P	-	Sec. 21-5.80-3(b)
Research and Development																						
General research and development	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	-	P	Sec. 21-5.80-4(a)
Resource Extraction																						
General resource extraction	-	C*	C*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	Sec. 21-5.80-5(a)
Storage and Warehousing																						
General storage, warehousing, and distribution	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	Sec. 21-5.80-6(a)
Self-storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P*	P*	P	P	-	P	Sec. 21-5.80-6(b)
Storage yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P*	P*	P*	-	Sec. 21-5.80-6(c)
Transportation																						
Airport	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	PRU	Sec. 21-5.80-7(a)

Since the land uses in the "marine minor" category are fairly low impact minor uses, and the other zones permitting marine minor uses require only a minor CUP, it seems inconsistent to require a major CUP in P-2. Marine minor uses should also be permitted in B-1 since a portion of the Hoakalei lagoon is in B-1 and marine minor uses are permitted in the other business and business mixed use zones.



A BILL FOR AN ORDINANCE

(h) Production studio.

(1) Defined: A facility producing movies, videos, or other similar forms of intellectual property. Includes but is not limited to studios or other facilities used for production, distribution, editing, set construction, and special effects. Does not include sites or facilities used temporarily for production purposes.

(2) Standards: None.

(i) Publishing facility.

(1) Defined: Printing, reproducing, or duplicating material such as newspapers, books, and magazines using a printing press, photographic reproduction, or other similar techniques.

(2) Standards: None.

Sec. 21-5.80-2 Marine.

Uses in the marine category consist of the following land uses in Table 21-5.1.

(a) General marine.

(1) Defined: Activities and structures used to support recreational marine or other water-related activities, commercial boating, or the storage and transfer of marine or other water-related goods and services.

(A) Minor: Land uses on harbor fast lands, lagoons, or other inland waters that support recreational marine activities. Includes but is not limited to piers or boathouses, storage and minor repair of boats, clubhouses, sale of boating supplies and fuels, ice and cold storage facilities, hoists, launching ramps, and wash racks.

(B) Major: Land uses on harbor fast lands that support commercial marine activities. Includes but is not limited to construction, vocational training, equipment sales, and repair.

(2) Standards:

(A) Minor:

or immediately adjacent to

or other water-related

These proposed changes are intended to make it clear that the mix of water related activities expected at Hoakalei's unique inland lagoon are clearly permissible as marine minor uses.



A BILL FOR AN ORDINANCE

(i) Launching ramps, boat repair facilities, establishments for the sale of boating supplies and fuel, clubhouses and drydock facilities, or other areas for storage of boats on land must be set back from any adjoining zoning lot in the residential, apartment, or apartment mixed use zoning districts by:

(aa) 300 feet if open between the hours of 10:00 p.m. and 6:00 a.m.; or

(bb) 150 feet if not open between the hours of 10:00 p.m. and 6:00 a.m., or if the activity or facility is screened by a solid wall at minimum of 6 feet in height.

(ii) A master planned community with an inland waterway designated as within the ~~State land use~~ preservation district is not subject to the additional setback requirements; provided that the master planned community was created pursuant to the same zone change application as part of a single rezoning action.

Since there is no "State land use preservation district", the reference is incorrect.

(iii) Where a general marine use occurs adjacent to an inland waterway designated as within the ~~State land use~~ preservation district, no setback requirement is required for uses not common to both the underlying zoning district and the State land use preservation district.

(iv) Small engine and minor boat repair must be within a fully enclosed, noise-attenuated structure.

(B) Major: None.

(b) Port.

(1) Defined: A facility for supporting commercial marine activity, such as cargo shipping, located on harbor fast lands. Includes but is not limited to wharves, piers and boathouses, cargo handling systems, storage and repair of boats and ships, sale of marine supplies and fuel, cold storage facilities, power stations, hoists, launching ramps, facilities for embarking

EXHIBIT C
AMENDMENT FORM
BILL 10 (2022), CD1
Relating to use Regulations

TOTAL PAGES: 1
DATE: September 6, 2022
SUBMITTED BY: Haseko

No.	Bill Section	ROH Section, Exhibit, or Figure and title	Page No.	Amendment Description	Amendment Text (in Ramseyer form)	Comments or Clarification
1	4	Sec. 21-5.30 Use Table	6	Allows general outdoor recreation in BMX-3 Districts with a major CUP	Amend the Use Table to add and permit General Outdoor Recreation as "C*" in the BMX-3 District.	To be consistent with all business /commercial districts
2	4	Sec. 21-5.30 Use Table	8	Amend General marine Minor in P-2 and B-1 Districts with a minor CUP	Amend the Use Table to allow General Marine minor as "Cm*" in the P-2 and B-1 Districts.	To reflect minimal impacts for minor marine uses where permitted
3	4	Sec. 21-5.80-2	95	Amend subsection (a)(1)(A)	(A) Minor: Land uses on <u>or immediately adjacent</u> to harbor fast lands, lagoons, or other inland waters that support recreational marine <u>or other water-related</u> activities. Includes but is not limited to piers or boathouses, storage and minor repair of boats, clubhouses, sale of boating supplies and fuels, ice and cold storage facilities, hoists, launching ramps, and wash racks.	Provides clarity to include land uses adjacent to water bodies supporting marine or water-related activities
4	4	Sec. 21-5.80-2	96	Amend subsection (a)(2)(A)(ii)	a. A master planned community with an inland waterway designated as within the [State land use] preservation district is not subject to the additional setback requirements; provided that the master planned community was created pursuant to the same zone change application as part of a single rezoning action.	To correct error. There is no State land use preservation district.
5	4	Sec. 21-5.80-2	96	Amend subsection (a)(2)(A)(iii)	b. Where a general marine use occurs adjacent to an inland waterway designated as within the [State land use] preservation district, no setback requirement is required for uses not common to both the underlying zoning district and the [State land use] preservation district.	To correct error. There is no State land use preservation district.

First off, I've read the testimonials for this Bill 10, and I only see two that approve, and that is because you added parts of Ko'olina into the short term rental zoning that you had previously left out. Also, as in the words of Colin Moore, the director of UH Public Policy Center who was quoted in the Advertiser the other day "Omnibus bills are useful to policymakers because it becomes almost too big to fail. There's a kind of a nucleus of the bill that people are very supportive of but you can put in other more controversial things in the bill that might be difficult to pass by themselves, because you're passing it a part of this big package." This is such a bill. This bill needs to go back to the drawing board.

My specific complaint is that you are making all B&B's and TVU's illegal outside of resort areas unless they already have a permit. (Page 6 chart) There is a huge desire for B&B's, and to allow them to be registered and managed would be a boon for the State and City coffers and residents who are looking to make extra income on their properties. The people who prefer these properties will not stay at hotels because they provide completely different experiences.

There wouldn't be such backlash against B&B's and TVU's if the DPP had been doing their job in the first place. It's the same with the problems with monster housing. Mr. Uchida said in his interview on TV that "monster houses weren't a problem until people started complaining about them". I contest that they were always a problem but nobody listened until the backlash was such that the DPP couldn't ignore it anymore. This is the same with everything the DPP does. It allows everything while people take advantage of the lack of enforcement and do whatever the heck they want. The worst offenders continue to skirt the law, and the rest of us get the backlash. It's time to regulate B&B's and TVU's (which means 30 days or less NOT 90) and move ahead instead of trying to put the genie back in the bottle with archaic laws. The public needs to be a part of this discussion and not keep having this bills dropped on them with no real input. Do you all REALLY read these complaints and listen? I've been testifying for years, and it seemed with Bill 89 we were getting some forward motion, and then the head of the DPP was switched out and we went backwards again. This is more than frustrating, and it's not the way things should work, but I guess nobody listens to anyone anymore.

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

September 6, 2022

Council Chair Tommy Waters
Honolulu Hale
530 S. King St
Honolulu, HI 96813

Re: Support and Comment on Bill 10 Land Use Ordinance

Aloha Council Chair Waters and Council Members:

I am writing in support of Bill 10 relating to the Land Use Ordinance with the following comments / requests for amendments:

- Agritourism. Agritourism. Requires the dedication of 50 percent of the zoning lot area to crop production or livestock keeping 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. 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: Overall support but would prefer 75% of arable land in ag as described above vs 50%. DO NOT support weddings or non-related ag events. Concerned that this is a loophole that can be exploited by those who buy ag land with the intent of not to use it for ag but to use it for tourism purposes. Also "similar destination events" needs to be defined. It could include anything from a birthday party to a Halloween event. Agritourism uses must have a major conditional use permit.

- 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, nature-based recreation) are permitted with a major conditional use permit, and require a minimum of 50 percent of the zoning lot area to be dedicated to crop production or livestock keeping through an agricultural easement or similar legal encumbrance for as long as the applicable use is in operation.

COMMENT: Oppose. Ag land should be kept for ag uses. Concerned that these uses could be used as loopholes by buyers with no real intent of doing ag. Strongly support the requirement of a major conditional use permit for any of the above uses if this change moves forward.

- 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 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. Also includes vacation cabins, which has been deleted as a separate land use (accessory commercial category). In the AG-1 and AG-2 Districts, a minimum of 50 percent of the zoning lot area must be dedicated to crop production, livestock keeping, or passive undeveloped recreational areas, through an agricultural easement or similar legal encumbrance.

COMMENT: very concerned that this change will open the door to misuse of ag land. There is currently a business with a similar model as described above on ag land and there is no ag. There are ATVs, karaoke nights, weddings, and other events that are not allowed along with allowed horses and stables. Concerned about opening a loophole that will be exploited by those not interested in ag use. Who will enforce the 50% requirement to ensure there is no exploitation?

Not opposed to horses and stables on ag land but location is important. Current horses and stables are in an area surrounded by homes. The smells and dust are impacting the neighbors.

Also what is the difference between vacation cabins and vacation rentals? Is this a loophole around the new law? We will see a whole new crop of "cabins" on ag land and very little ag if there is no enforcement.

DO NOT support this change at this time to many opportunities for exploitation without enforcement. Let's see how the TVU enforcement and other ag-related changes in the LUO go forward first.

Other comments

- B-1 and B-2 Districts.

COMMENT: please leave the current definitions of B1 and B2 as is. Do not revise.

- Mobile Food Units.

COMMENT: Please do not allow food trucks in any zoning except Resort, BMX, IMX or AMX.

Mahalo for taking up this difficult but very important Bill.

Mālama 'āina,

Kathleen M. Pahinui



Kamehameha Schools®

City Council
Committee on Parks and Community Services
City and County of Honolulu

Time: 10:00 a.m.
Date: September 7, 2022
Where: City Council Chamber

TESTIMONY
by Kau'i Burgess
Director of Community & Government Relations

RE: Providing comments on Bill 10 (22), Relating to Use Regulations

Aloha e ka Luna Ho'omalua Waters, ka Hope Luna Ho'omalua Kia'āina, a me nā Lālā o ka 'Aha o ke Kūlanakauhale a me ke Kalana o Honolulu. Kamehameha Schools ("KS") offers the following comments on Bill 10 (22), CD1 ("Bill 10"), which would amend and update Chapter 21, Revised Ordinances of Honolulu, referred to as the Land Use Ordinance ("LUO").

KS appreciates the great effort that the City and County of Honolulu ("City") Department of Planning and Permitting ("DPP") and City Council have taken to draft Bill 10 and advance it towards final approval. KS supports the overall intentions for this bill to protect agricultural lands, expand economic and housing opportunities, improve regulation of utilities, and facilitate the transfer of development rights. We believe, however, that in implementation some of the agriculture-related provisions run counter to this intent.

KS is, first and foremost, an educational institution whose mission is guided by the trust of Ke Ali'i Bernice Pauahi Pākī Bishop. KS is the largest private landowner in the State of Hawai'i and is responsible for stewarding approximately 364,000 acres. KS' portfolio includes lands in agriculture, conservation, commercial, residential, and educational uses, with the goal of providing physical, economic, educational, spiritual, and cultural connections and benefits for its beneficiaries in perpetuity. 'Ōiwi education and leadership contributes towards a resilient economy and community, and a thriving lāhui. The comments below are guided by these principles and priorities.

Included in KS's portfolio are approximately 181,250 acres of agricultural lands making up approximately 49% of all of KS' 'āina, including 13,927 acres on the island of O'ahu. Nearly 9,600 of those acres are designated Important Agricultural Lands. Approximately 80 O'ahu farmers and ranchers operate on KS' lands. KS' priorities include supporting overall sustainability and agricultural uses, such as crop production, livestock raising, food sustainability and security, and natural resource management (inclusive of shorelines and marine resources). KS continues to look for and support opportunities to expand local food production and consumption. In 2021, KS created a new \$10 million Food Systems Fund, from which the first investments included \$300,000

to the Hawai'i 'Ulu Cooperative on Hawai'i Island and \$892,000 to Farm Link Hawai'i on O'ahu to scale-up their business operations. Over \$203,000 has been spent supporting new farmer training across the pae'āina. Approximately 4 million pounds of fruits and vegetables, 9.9 million pounds of specialty crops (coffee, nuts), and 4.6 million pounds of proteins (beef, pork) are produced on KS lands.

However, as great as the progress has been, getting there is not without great difficulty. As Brian Miyamoto from the Hawaii Farm Bureau testified at the Zoning & Planning Committee meeting on August 25, 2022, agriculture is an industry stymied by high costs and low margins. As Ulupono Initiative pointed out in its written testimony for the August 25, 2022 meeting, it is estimated that almost 60% of Hawai'i farms operate at a net loss. Certain provisions of Bill 10 raise concerns because they appear to have the potential to hinder further legitimate agricultural uses on O'ahu.

KS understands and appreciates Bill 10's goals of ensuring that agricultural lands are being put to active agricultural uses and discouraging agricultural lands from becoming "gentlemen's estates." However, the effort to prevent non-agricultural uses on agricultural lands through additional regulation appears to have the potential to disproportionately burden individuals who happen to live on agriculturally zoned lands, small farmers, and legitimate agricultural businesses on O'ahu. Of particular concern is Bill 10's proposal that certain accessory agricultural uses are only permissible if a minimum of 50% of the zoning lot is dedicated to crop production or livestock keeping.

KS is supportive of the points raised in testimony by the Hawaii Farm Bureau, Hawaii Cattlemen's Council, Inc., Kualoa Ranch, Ulupono Initiative, Hawaii Aquaculture & Aquaponics Association, and the East O'ahu County Farm Bureau and offers the following specific comments:

1. Considerations Related to the Requirement for Minimum Active Agricultural Use

Bill 10 proposes to require that at least fifty-percent (50%) of the activity on a zoning lot be crop production or livestock keeping for certain accessory uses to be permitted. Bill 10 also proposes to require for certain accessory uses a minimum of 50% of the zoning lot area be dedicated to crop production or livestock keeping through an agricultural easement or similar legal encumbrance. Although this is an existing requirement for agribusiness activities (defined under Bill 10 as agritourism), group living facilities, and outdoor recreational facilities, Bill 10 intends to now impose this requirement on farm dwellings, farmers markets, schools, child and adult daycares, and meeting facilities.

As stated above, KS has significant acreage zoned for agricultural uses, but not all those lands are in crop production or livestock keeping. In many cases, lands zoned for agriculture have poor soils, are located in flood zones, lack access to water and/or other required infrastructure, contain wetlands, gullies, cliffs and other physical features that make crop production or livestock raising not practical or economical. While KS appreciates DPP's desire for a bright-line rule that can be applied across the board to all agricultural parcels, practical realities require greater nuance. KS previously implemented a similar requirement in some of our agricultural leases and experienced firsthand the difficulties such a requirement can create. Considering that, the proposed 50% dedication requirement for certain agricultural uses would appear too rigid, if not

unworkable, and should be reconsidered to provide flexibility for existing and future agricultural uses. To the extent that this Council considers any set percentage for minimum agricultural use, that percentage should be based on the area that is *suitable* for agricultural uses, not simply the total area of the zoned parcel. While KS understands that this may present some difficulties for DPP to implement, that difficulty must be weighed against the potential unintended adverse impact the dedication requirement could have.

In response to a question from Councilmember Kiaʻāina on whether DPP would consider excluding those areas of a lot that are not suitable for farming (such as a cliff), in its calculation, DPP noted that it would be difficult to determine the boundaries of unsuitable areas and that certain crops grow well on cliffs. While that may be true in certain cases, farming on any slope increases costs to the farmer and has the potential to be prohibitively expensive. Furthermore, not all machinery can be used on sloped areas, and harvesting crops on steep slopes or cliffs could be potentially dangerous.

The 50% minimum agricultural use standard as applied to agritourism uses also needs further discussion and research by this Council. Agritourism uses such as community workdays, tours, and public harvesting, provide valuable and needed financial support for some of KS' agricultural lessees. Some farming and livestock operations may not be economically viable without the financial support that agritourism provides. Furthermore, KS encourages its lessees to provide educational opportunities to the community and KS is concerned that the proposed restriction will discourage or prohibit lessees from providing these opportunities, which would be considered agritourism under the LUO.

2. Applicability to Existing Farm Dwellings and Agritourism Uses

KS is also concerned that Bill 10 is immediately applicable upon approval to existing farm dwellings and agritourism uses. Several individuals submitted written testimony to the Zoning & Planning Committee seemingly distressed that Bill 10's changes, to (1) change farm dwellings from a permitted use in the AG-1 and AG-2 districts to an accessory use¹ and (2) propose a minimum 50% active agricultural use on said lots, will be retroactively applied to existing farming dwellings, resulting in a loss of their homes. While Section 21-4.110 of the LUO does address nonconformities, Bill 10 is unclear as to whether and how that provision will be applied by DPP to existing structures and uses that would be subject to the 50% minimum agricultural dedication requirement. Because farm dwellings are currently permitted uses in the AG-1 and AG-2 districts, it only seems equitable for those who constructed farm dwellings in compliance with the current LUO to be allowed to keep those structures as a nonconforming use.

Also, to the extent that the proposed changes to the LUO results in any existing agritourism uses becoming non-compliant, we encourage the Council to consider the impact the loss of revenue may have on the continuity of agricultural production on the associated lots.

¹ Although farm dwellings are listed on proposed Table 21-5.1 (Table of Permitted Uses) as a Permitted Use subject to the Article 5 use standards (P*), the new definition of "farm dwelling" identifies it as an accessory use, and the use standards are located under Section 21-5.40-4(e) (Accessory agricultural uses).

3. Conclusion and Recommendations

KS expresses its deep appreciation to the City Council and DPP for taking on this tremendous effort to update the LUO. The proposed changes to many of the agricultural provisions will have a significant impact on many agricultural operations on O‘ahu. The City Council and DPP should reach out to farmers, agricultural operations, and others with agricultural expertise on the island to ensure that any proposed changes do not result in unintended consequences or further curtail legitimate agricultural uses.

In addition to reaching out to the agricultural community, KS recommends that this Committee reconsider the set 50% dedication and use requirement and replace it with standards that allow for more flexibility without resulting in unintended consequences. KS also recommends the Council reevaluate Bill 10’s applicability to existing farm dwellings and agritourism uses to ensure those who have followed the current LUO are fairly treated and that agricultural production supported by accessory uses can continue.

Mahalo for the opportunity to testify on this measure.



September 6, 2022

The Honorable Tommy Waters, Chair
The Honorable Esther Kia'aina, Vice Chair
The Honorable Andria Tupola, Floor Leader
Members of the City Council
City and County of Honolulu
Honolulu, Hawaii 96813-3077

RE: **Bill 10 (2022), CD1 – LUO Amendment Relating to Use Regulations**
Meeting: September 7, 2022, 10:00am

Aloha Chair Waters and Members of the City Council,

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. D.R. Horton has provided previous testimony on Bill 10 offering our strong support. At this time, we continue to offer our **strong support, however with comments.**

D.R. Horton is one of Hawaii's largest home builders and has been providing affordable housing and workforce housing for Hawaii's families throughout Oahu for 49 years. We firmly believe in identifying and creating additional land use opportunities that would increase the production of much needed housing. We commend the Department of Planning and Permitting's (DPP) thoughtful approach to doing just that in Sec. 21-5.50-1(e)(2)(B) Multi-unit dwelling Standards of Bill 10.

Council Communication 241 transmitted to the Zoning and Planning Committee on August 5, 2022 proposes to focus the applicability of Sec. 21-5.50-1(e)(2)(B) Multi-unit dwelling Standards to neighborhood transit-oriented development (TOD) plan areas. We absolutely agree that much needed housing should be focused in plan areas targeted for growth and redevelopment, such as TOD areas. We also believe additional opportunities for affordable and workforce housing should be created outside of TOD plan areas. Thus, we strongly recommend multi-unit dwellings be allowed in B1 and B2 zoning districts within the Primary Urban Core, Ewa and Central Oahu Regional Planning Areas. Expanding the application to these three regional planning areas is prudent and consistent with the vision of each plan and that of the City. **Therefore, we propose the following amendment to Sec. 21-5.50-1(e)(2)(B) Multi-unit dwelling Standards:**

"In the B-1 and B-2 zoning districts, multi-unit dwellings are permitted within the Primary Urban Core Development Plan, Ewa Development Plan and the Central Oahu Sustainable Communities Plan Areas; provided that the following requirements are satisfied:..."

Oahu • Maui • Hawaii Island • Kauai

130 Merchant Street, Suite 112 • Honolulu, Hawaii 96813 • 808.521.5661

www.drhorton.com/hawaii

The Honorable Tommy Waters, Chair
The Honorable Esther Kia'aina, Vice Chair
The Honorable Andria Tupola, Floor Leader
September 6, 2022
Bill 10 (2022), CD1 - Page 2

D.R. Horton continues to strongly support Bill 10 (2020) CD1 with this proposed amendment.

Mahalo for your time and consideration. It is very much appreciated. Should you have any questions, please do not hesitate to contact me at #(808)782-4109 or ttonaki@drhorton.com.

Sincerely,

A handwritten signature in black ink, appearing to be 'Tracy'.

Tracy Tonaki
City Manager



Eric W. Gill, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Godfrey Maeshiro, Senior Vice President

September 6, 2022

Honolulu City Council
Tommy Waters, Chair
Esther Kia'āina, Vice Chair

Testimony with comments on Bill 10 (2022)

Chair Waters, Vice Chair Kia'āina and Members of the Committee:

UNITE HERE Local 5 represents hotel, health care and food service workers across the state. We are concerned that some of the changes proposed in Bill 10 are not in the public's best interest; particularly changes regarding areas where hotel development would be allowed, and the process by which hotel developments are approved.

1. We are opposed to allowing hotels in B-1 and B-2 zoned areas. Given the impacts that hotels can have on their surroundings, even small hotels, we do not believe it is a good idea to expand the areas where they are allowed further into the hearts of our communities. Bill 10 (2022) CD1 would allow for hotels in B-1 and B-2 areas on page 110, Section 21-2.40-1(b)(5).
2. We believe that proposed hotel developments anywhere should be subject to the discretion of City Council, with serious consideration of input from the public. Bill 10 should be amended such that hotels in I-2 areas and BMX-3 areas be subject to Major Conditional Use Permits. In addition, Bill 10 should amend the Land Use Ordinance to ensure that Major Conditional Use Permits for hotels require the approval of City Council. Bill 10 is a perfect opportunity to make this a reality.
3. Proposed hotel developments in the IMX-1 and I-2 areas near the Honolulu International Airport should be subject to the approval of City Council.
4. We feel that hotels in BMX-3 areas should be subject to the approval of City Council regardless of room count. In the nine years since Council passed Ordinance 13-10 allowing hotels in BMX-3 areas, two have been built (the Residence Inn Kapolei and the Embassy Suites Kapolei) and others have been contemplated in places such as the UH West Oahu area and Puck's Alley.

There is real potential that Oahu may face a shortage of fresh water in the future. Additionally, residents' sentiments about the benefits vs. drawbacks of the hotel industry need to be addressed. Hotels, even those under 180 rooms, potentially have many other impacts on communities – on traffic volume, character of a community, parking availability, etc. The Land Use Ordinance must provide the ability for decisionmakers to control future development as material conditions change.

We feel the appropriate way to address all of these concerns would be to ensure that members of the public and all Councilmembers can weigh in meaningfully on each new proposed hotel development. While hearings before the Department of Planning and Permitting are helpful, we strongly feel that in order to have meaningful input, residents' concerns should be put before Council and that Council should have the right - for each potential hotel - to approve, disapprove, or approve with conditions accordingly.

Thank you.



BEFORE THE HONOLULU CITY COUNCIL
Testimony to Bill 10 (2022), proposed CD1
September 7, 2022

Aloha Chair Waters, Vice Chair Kia`aina, and Members of the Committee:

I am submitting this testimony on behalf of Ko Olina Community Association, Inc. (“KOCA”). KOCA is the community association for the Ko Olina Resort (“Ko Olina”).

Ko Olina is a master-planned community built on approximately 642 acres on the leeward coast of O`ahu. Ko Olina includes six planned communities that include single family homes, townhouses, and condominium villas. It is also home to three existing hotels and vacation-club resorts. In total KOCA has 2,010 members.

Ko Olina is a major employer for leeward O`ahu. At full-build-out, Ko Olina will provide approximately 31,000 direct jobs to Honolulu. This number is increased to 43,000 jobs when you include indirect jobs.

Ko Olina is a major contributor to the City’s and State’s tax revenues. The annual tax impact of Ko Olina to the City is estimated to be more than \$123 million, and approximately \$144 million for the State. This results in a cumulative economic impact of \$267 million.

Ko Olina has major concerns about the proposed draft’s change of the setback requirement for large wind energy generation facilities to a minimum distance equal to the height of the facility, and a minimum of 1 mile, instead of 1.25 miles or 5 miles which were proposed in the past. Ko Olina is in strong opposition to the CD1’s because it does not reflect the views of the Communities that will be directly affected and whose quality of life will be negatively impacted for 20 to 30 years. Moreover, the new proposal does not take into consideration instances where proposed wind machines are sited on mountain ranges. A setback of 1 mile from any property line may be appropriate for flat terrain but is not appropriate for areas that rise in elevation.

Residents and visitors are attracted to Ko Olina for its beautiful views and resort atmosphere. Recently, a 46.8 Megawatt wind project was being proposed to be sited above Kahe Valley on the southwestern end of the Wai`anae mountain range. As planned, this project would have been within the proposed setback of 1 mile from Ko Olina’s property line because the proposed setback does not take into consideration rises in elevation. If this project, or a similar one, were to proceed it would cause significant economic damage to Ko Olina, the City and the State. The wind machines would present a notable-visual blight that would destroy the pristine beauty of the area and generate noise pollution that would not only impact the experiences of visitors and residents but more importantly, local businesses and the livelihood of over 5,000 current resort employees. Attached to this testimony, is a photo that was provided to Ko Olina

by the proposed developer of the 46.8 MW wind project which depicts how the wind project would affect Ko Olina's view.

The construction of wind machines (overhead transmission lines and switching stations would also be included with the construction of the wind machines) will undeniably alter the natural beauty and serenity of the area and impact the experiences of those who choose to live, work and visit.

We are also concerned about detrimental health risks associated with wind machines. These may include, but are not limited to, exposure to infrasound, pulsating sounds and shadow flicker. Noise pollution associated with mechanical noise created by the friction between two components of the machinery and vibrations induced by the rotary components, the turbines' generators, fans and hydraulic systems, and the aerodynamical noise that comes from the motion of the air around the blade, would be extreme. Having wind farms generating noise pollution 24/7 could cause both physiological and psychological problems for area residents and visitors.

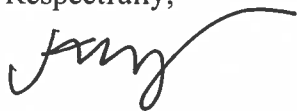
Lastly, for too many years the leeward communities of O'ahu have been heavily burdened with the county's less desirable projects; projects no other communities want, but overwhelmingly benefit from. In addition, the environmental and cultural interests of the area, including preservation of the land and culture of Native Hawaiians, the largest majority of whom reside on the leeward coast, must be considered.

We understand the State's policy to promote the use of renewable resources, however, this policy must be balanced with the preservation of our lands and culture, and the economic impacts to Ko Olina and neighboring communities. We request that the Committee reject the proposed 1 mile setback for all property lines and consider a setback figure closer to the 5-mile mark proposed in Bill 30 (2021). The proposed 1 mile setback seems to be arbitrary; the Committee should require further studies be conducted, especially when wind machines are being proposed to be sited on mountain ranges above communities and resorts. Alternatively, we would request that Bill 10 (2022) be amended to provide an alternative restriction to address situations when wind machines are being proposed for mountain ranges above communities and resorts.

Ko Olina does support the amendments to Bill 10 proposed by Councilmember Tupola proposed on August 2, 2022 which amends Figure 21-5.2. to reflect changes to the A-1 (Low Density Apartment) and A-2 (Medium Density Apartment) Districts in the Ko Olina area where short-term rentals are permitted. This amendment is necessary to ensure that all communities at Ko Olina are within the resort zone.

Thank you for the opportunity to submit testimony.

Respectfully,



Kristin Vasquez

Assistant General Manager, Ko Olina Community Association, Inc.



Eurus Energy - 2018



BEFORE THE HONOLULU CITY COUNCIL
Testimony to Bill 10 (2022), proposed CD1
September 7, 2022

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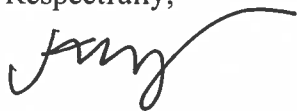
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Respectfully,



Kristin Vasquez

Assistant General Manager, Ko Olina Community Association, Inc.



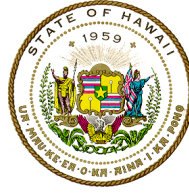
Eurus Energy - 2018

Re: Bill 10 CDI – CR-225

As the President of the Hauula Community Association, rest assured that we strongly support the Kahuku community's wisdom to require a set-back of 1.25 miles for all large utility wind turbines. Kahuku has documented many health and safety issues in their community as a result of the locations of wind turbines installed too close to homes and schools that are proving to be detrimental to the health of their community. We also strongly support that these 1.2 mile set-backs apply to wind turbines when it is time for their lease renewal. These renewed leases must require that they must meet the set-back new standards.

Thank you for allowing this testimony on behalf of all those who have not had a voice in this important decision. Those most affected by these decisions must not be ignored.

Dotty Kelly-Paddock



The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

September 6, 2022

The Honorable Tommy Waters, Chair and Presiding Officer
and Members of the Honolulu City Council
Honolulu Hale
530 South King Street, Room 202
Honolulu, Hawai'i 96813

Aloha Chair Waters and Members of the Honolulu City Council:

Subject: Bill 10 (2022), CD1, A Bill for An Ordinance Relating to Use Regulations

I am writing to support the Department of Planning and Permitting's (DPP) initial recommendation of a minimum 1.25-mile property line setback rather than the 1-mile setback recommended by the Zoning Committee in the amendments to Bill 10 (2022), CD1 as posted on the Honolulu City Council's September 7, 2022 agenda.

I believe the greater distancing requirement of 1.25-mile for large wind energy generation facilities with a rated capacity of 100 kilowatts or more is necessary from country, residential, apartment, apartment mixed use, and resort zoning districts. This 1.25-mile requirement would be in addition to the minimum setback from all property lines equal to the height of the farthest vertical extension of a wind tower. My support for the greater setback is based on a need to improve upon the protection of our communities from any and all health-related and safety concerns due to the proximity of these facilities.

Additionally, large utility facilities that are required to obtain a major conditional use permit in all zoning districts, each developers of these large facilities must be required to hold a public hearing, schedule presentation to the area neighborhood board and/or community association and confirm notification of the public hearing has been provided to nearby property owners and residents. The Honolulu City Council must support closing any loophole by prohibiting a waiver of compliance to the land use regulations as proposed in Bill 10 (2022) and Hawai'i's environmental impact statement law.

September 6, 2022

Page 2 of 2

Thank you for your consideration of this testimony.

Sincerely,

A handwritten signature in black ink that reads "Kurt Fevella". The signature is fluid and cursive, with the first name "Kurt" and last name "Fevella" clearly distinguishable.

Senator Kurt Fevella

State of Hawai'i, District 19

Minority Leader/Minority Floor Leader

State Capitol, Room 217

415 S. Beretania Street

Honolulu, HI 96813

Phone: (808) 586-6360

Fax: (808) 586-6361

senfevella@capitol.hawaii.gov

**Testimony Opposing Bill 10
Honolulu City Council Meeting
Sept. 7, 2022**

My name is Kathy Whitmire and I am a Board member of the North Shore Outdoor Circle (NSOC). I am opposed to the portions of Bill 10 which would add “Mobile Commercial Establishments” as a new permitted use in the Land Use Ordinance (Sec. 21-5.70-10(c)). This new provision in Article 5 of the Land Use Ordinance would allow **food trucks** and other mobile commercial establishments (including pop-up tents and shipping containers!) to operate with minimal regulation on any property zoned commercial, industrial or mixed-use. This even includes area zoned for Neighborhood Businesses. These business establishments would not even need to obtain a permit for the facilities from which they operate, and it is unclear whether the landowner hosting the business would need to obtain any permits.

In 2018, a separate bill was introduced to authorize food trucks and other mobile commercial establishments to operate throughout the county with little regulation (Bill 47(2018)). It was very similar to the current proposal in Bill 10. The North Shore Outdoor Circle and many others on the North Shore opposed it; and fortunately, the Council Committee on Zoning and Housing did not approve it.

The standards for mobile commercial establishments proposed in Bill 10 provide **no protections against litter or visual pollution** and **do 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 food trucks on the North Shore and elsewhere. Not only does Bill 10 **allow each food truck to be covered with signage** as they are now, it also specifically **allows each food truck to have a portable sign** even though “portable signs” are prohibited in the sign code (ROH Sec. 21-7.30(c)).

Bill 10 **does not require landscape screening** of food trucks and does not limit the number of establishments operating on a single lot.

Island-wide regulation of mobile commercial establishments is a worthy goal; however, **the current proposal in Bill 10 encourages proliferation of this type of business without adequate protections for the community.**

The mobile food service industry originally operated under the rules for itinerant vendors who would stay in one location no longer than 3 hours and would comply with food safety regulations by returning to a commercial kitchen each day for cleaning and servicing.

The industry being addressed in Bill 10 is the “non-mobile, outdoor food service industry.” Bill 10 fails to recognize this distinction. These businesses set up shop and stay in one location for a long period of time. They create visual blight, are not required to follow the sign code, and are often not required to follow food safety or waste disposal requirements. **This is an industry that needs regulation, but Bill 10 falls far short of accomplishing this goal.**

Please note that the State Dept. of Health is no longer enforcing their rules regarding food trucks moving daily to return to their commercial kitchen for cleaning and disposal of waste such as grease. They are also not required to have toilet facilities for their employees and their customers.

Food trucks either need to be “mobile” and move every day as originally intended OR they need to be treated as buildings.

The North Shore Outdoor Circle is working to keep the North Shore of Oahu **clean, green and beautiful**. With reasonable regulation, mobile commercial establishments can contribute to this goal and also contribute to the local economy. To do so, **the regulations must include:**

- Compliance with the County sign code that other businesses have to follow.
- Landscape screening from street view (as required in ROH 21-4.70(d)and(e) for other unsightly land uses)
- Provision for environmentally safe waste disposal including grease disposal
- Provision of restroom facilities for employees (at a minimum).

I urge the Committee to insist that Mobile Commercial Establishments be removed from Bill 10 until an effective regulatory plan is developed and included.

Thank you for your commitment to keep the City and County of Honolulu clean, green and beautiful.

Kathy Whitmire
kathyjwhit@aol.com
808-226-9612



Email: communications@ulupono.com

HONOLULU CITY COUNCIL COMMITTEE
Regular Meeting
Wednesday, September 7, 2022 — 10:00 a.m.

UluPono Initiative offers comments on Bill 10 (2022) CD1, Relating to Use Regulations.

Dear Chair Waters and Members of the Council:

My name is Keith DeMello, and I am the Senior Vice President of Communications and External Affairs at UluPono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food, renewable energy and clean transportation, and better management of freshwater resources.

UluPono offers comments on Bill 10 (2022) CD1, which proposes amendments to the regulation of uses throughout Chapter 21, Revised Ordinance of Honolulu 1990 ("Land Use Ordinance").

Based on our review of the CD1, UluPono appreciates the draft's inclusion of suggested changes proposed in previous testimony, specifically regarding utility (small, medium, and large) and land-use regulation updates. We believe the revisions made to (1) Disruptive Electromagnetic Interference, (2) Renewable Energy Facility Dismantling Day Count, and (3) Conditional Use Permits for Wind Facilities over 20 kW have addressed our previous concerns.

Energy

UluPono is generally supportive of the proposed wind facility setback requirements listed in the CD1. Specifically, UluPono supports a setback no greater than one mile for onshore wind developments. We believe anything greater than a one-mile setback will likely increase electricity costs for residents and hinder the state's progress towards achieving its renewable energy goals and, therefore, harmfully contribute to climate-related events. As onshore wind projects are a low-cost option to advance the state's clean energy goals, a setback greater than one mile will exacerbate the state's dependence on high-cost and polluting energy resources, such as fossil fuels, and contribute to the increased severity and frequency of storms, sea-level rise, eroding beaches, and more. Additionally, O'ahu will be forced to rely on other potentially controversial, higher-cost alternatives such as off-shore wind facilities and/or utility-scale solar facilities on O'ahu's most productive agricultural lands. UluPono believes a setback up to one mile will also help to address community concerns (e.g., shadow flicker, noise pollution, blade throw, etc.) while preserving suitable areas for future wind development if needed.

Urban and Transportation

UluPono also supports the Honolulu Department of Planning and Permitting's (DPP) proposed updates for urban development. These include allowing more diverse housing types, more diverse uses within

Investing in a Sustainable Hawai'i

Mixed-Use districts, allowing neighborhood groceries and parks, and the transfer of development rights policies. All of these updates help to encourage development in our urban core and support a successful multimodal transportation system.

Agriculture

UluPono has concerns around the agricultural land-use regulation updates and the potential operational impacts. We appreciate the CD1 as it looks to address the land use concerns around “gentleman farms.” Agricultural land standards that promote production on ag zoned land will help to ensure a future for farming here on O’ahu. At the same time, it is important to consider the costs associated with farming here in Hawai’i. Diversifying revenues and increasing profitability for bona fide local producers drastically improves farming’s economic viability in the state. Decreasing the required minimum percentage (from 75% to 50%) of activity dedicated to crop production or livestock keeping on the zoning lot area is a welcome change that will be helpful to agricultural producers seeking to diversify and augment revenue to ensure the viability of their operations. This amendment is an acknowledgement of agriculture and its role in diversifying our local economy, as well as the need to balance agricultural land use to allow for appropriate accountability without overly burdensome regulations.

However, UluPono respectfully urges consideration of having the required minimum percentage apply to farmable land, as it is often the case that farmable land is significantly less than total acreage. For example, on land with steep slopes, gullies, or lava rock, it is entirely possible that 50% of total acreage might actually exceed 100% of farmable acreage.

As noted in prior testimony, local farmers and ranchers work on tight margins. In fact, according to the USDA NASS 2017 Agricultural Census, nearly 60% of Hawai’i’s 7,328 farms operate at a net loss. Any limits, restrictions, or changes to the way in which an agricultural operation currently does business can have lasting effects on the future of farming for O’ahu. Updated land-use regulations are critical to local producer success. Such use updates include but are not limited to: crop production, aquaculture, composting, urban agriculture, vertical farming, livestock keeping, animal raising, agricultural support, accessory agricultural uses, agritourism, farm dwellings, farm stands, and farm worker housing. With a super majority of all producers within the state being “small,” there is great importance in developing policies and regulations that promote local production and address some of the industry’s toughest problems.

We appreciate your consideration of these comments and hope to contribute further to this important conversation.

Respectfully,

Keith DeMello
Senior Vice President of Communications and External Affairs

*Note: UluPono Initiative values this measure before the Council today and appreciates the opportunity to testify; however, we are unable to attend in person due to concerns around COVID-19. Thank you for your understanding.



Eric Aakhus
Director of Real Estate
Kualoa Ranch
49-560 Kamehameha Hwy
Kaneohe, HI 96744

Honolulu City Council
District IV
530 S. King St. Rm 202
Honolulu, HI 96813

RE: Objection to Bill 10 (2022), CD1 Relating to Use Regulations

Aloha Chair Elefante and Members of the Committee,

My name is Eric Aakhus and I am the Director of Real Estate at Kualoa Ranch. We appreciate the time and consideration the council gave to the farming community during the last hearing on August 25. From that meeting it became apparent that the farming community was not adequately consulted on the potential negative impacts these regulations may have to the ag industry.

In our review of the updated CD1 it appears that our major concerns have still not been addressed despite receiving support by the council members during the August 25 hearing. We continue to oppose portions of Bill 10 relating to accessory uses on Agriculture zoned land.

Our previous testimony focused on the opposition of two items, the elimination of motorized vehicles for agritourism operations and the limitation of weddings and special events on ag land to one event per week. We continue to oppose these limitations as this would have a negative effect on the agritourism industry which, in our case, allows us to sustain our ag business.

We believe that the existing process of applying for special use permits is an effective way for each user to present their proposal to the department for consideration which can be reviewed on a case-by-case basis. An end-all rule ignores many factors which set each user apart based on the scope of their operation and the size and usability of their land.

Kualoa Ranch is a 4,000 acre private nature preserve and diversified agriculture operation which includes livestock, aquaculture, and traditional land agriculture spread throughout every corner of our property. Our 600 head of grass-fed cattle are our primary livestock crop which we rotate between 30 different pastures across 1,500 acres in addition to our pigs, goats, and horses. In recent years we have diversified into aquaculture with Pacific shrimp, oysters, freshwater prawns, catfish and other fin fish. We have land agriculture diversified into four orchard crops of cacao, ulu, papaya, and banana. In total we have 60 crops of vegetables and exotic fruits and a variety of tropical flowers.

Our tour operation includes a wide selection of ways guests can experience the property and the ag. All our guides are trained to provide educational information specific to our native plants, our agriculture operations, and the history and culture relating to our historical sites. We offer narrated tours, horseback tours, ATV, zipline tours, and electric mountain bikes, all of which are a way for people to experience what our property has to offer. Each of these tours are intertwined throughout our

diversified ag operations and it would be unfeasible for our guests to have even a remotely satisfactory experience without motorized vehicles. Our longest individual tour, a 2.5-hour narrated ride on a safari truck, only covers two thirds of our ag operations.

We maintain several wedding and special event venues that are hidden throughout our property. These provide the public an opportunity to celebrate their special event in a beautiful and natural setting. Our expansive land offers ample area for parking and staging without impacting our neighbors. Imposing a limit on these events, specifically on our property, would provide little to no benefit to the community and we feel these uses should continue to be addressed on an individual application basis.

It would be economically impossible to sustain the ag business on its own which is why it is so important that we are able to incorporate the agrotourism model into our overall business. Our tour operations are all centrally focused and immersed in the experience of our ag operations and our stewardship programs. We can confidently say that having an authentic agricultural operation is central to being able to bring visitors to see our land and bringing visitors to see it is essential to sustaining and growing the ag operation.

Mahalo for your consideration,

Eric Aakhus
Director of Real Estate



Sept. 7, 2022

10 a.m.

Honolulu City Council Chamber

To: Honolulu City Council

Tommy Waters, Chair

Esther Kia'aina, Vice Chair

From: Ted Kefalas

Director of Strategic Campaigns

Grassroot Institute of Hawaii

RE: BILL 10 (2022), CD1 — RELATING TO USE REGULATIONS

Dear Chair and Council Members:

The Grassroot Institute would like to offer comments on [Bill 10 \(2022\), CD1](#), which would restructure the land-use ordinances contained in Chapter 21 of the 1990 Revised Ordinances of Honolulu.

The bill would update the county's land-use regulations for agricultural, residential, commercial, nonprofit, government and other uses.

We commend the Council for its work to update the code and lower the cost of housing, but we are concerned that some elements of the bill will undermine that goal.

Expanding multi-unit and group housing

In Sec. 21-5.50-1: "Household living," page 26, Bill 10 clarifies the guidelines for multi-unit dwellings in business zones and expands the business zones in which they can be constructed.

Multi-unit dwellings with one or two dwelling units would be allowed in business zones as long as they are on the second floor and meet certain size specifications.

The Grassroot Institute of Hawaii welcomes this proposal, since any step to allow more housing will likely reduce housing costs.

The National Multifamily Housing Council has studied this issue and concluded that government regulation makes up more than 40% of multifamily development costs.¹

Additionally, the Brookings Institution has written that “in places where land is expensive, building multiple homes on a given lot is the most direct way to reduce housing costs because it spreads the cost of land across multiple homes.”²

On this front, Bill 10 is a step in the right direction.

But there is more that can be done to expand multi-unit dwellings and lower housing prices for Honolulu residents.

As amended on Aug. 25, Bill 10 would permit multi-unit dwellings only in B-1 and B-2 zones, but only if those units are in so-called transit-oriented development plan areas — in other words, areas near the Honolulu rail line.

This amendment should be reconsidered, as it constrains these multi-unit dwellings to a needlessly small area.

I would like to comment on one other section of the bill, which the Grassroot Institute of Hawaii believes is well-intentioned but misguided.

Creating government-owned housing for teachers

In Sec. 21-5.50-3: “Accessory residential,” page 36, Bill 10 allows the city to finance, construct and lease housing for teachers whose household income is 80% or below the area’s median income. The housing would be built on land owned by the city and under lease to the state Department of Education.

Unfortunately, research has shown that such government-owned housing often traps tenants.

¹ [“New Research Shows Regulations Account for 40.6 Percent of Apartment Development Costs,”](#) National Multifamily Housing Council, June 9, 2022.

² Jenny Schuetz, [“To improve housing affordability, we need better alignment of zoning, taxes, and subsidies,”](#) Brookings Institution, Jan. 7, 2020.

“Once they are segregated in low-income housing, residents are disincentivized to get ahead in life or move to better housing,” the Manhattan Institute’s Michael Hendrix has written.³

Stuck in housing they do not own and cannot improve, tenants can end up in unacceptable living conditions.

Since rent from lower-income individuals often does not keep pace with maintenance costs, governments must find the cash to pay for repairs. When they cannot, repairs are put off — sometimes with hazardous results.

In 2018, the New York City Housing Authority faced a lawsuit from residents alleging the agency “failed to provide tenants with heat and hot water” and did not “keep residents safe from lead.”⁴

Instead of spending more taxpayer money on housing, the city should incentivize private home development by liberalizing zoning regulations and cutting permitting delays — in the latter case, perhaps by reducing the number of permits needed.

In general, Bill 10 deserves praise for relaxing the zoning regulations on multi-unit homes, but it could and should do more.

Thank you for the opportunity to testify.

Sincerely,

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

³ Michael Hendrix, “[America’s Failed Experiment in Public Housing](#),” *Governing*, May 10, 2021.

⁴ *Ibid.*

Aloha

I oppose Bill 10 (22) cause it was change from 1.25mile to 1mile don't know how to stress the problems this community and I gone though. Why did they change it from 1.25mile to 1 mile looks like someone thinking more about the developers then the community cause it change from 1.25mile to 1mile in a short time. Then tricking the people that supported the bill 10(22) when it was 1.25mile to 1mile thinking that, who would try to change it without the community consent. Even I supported the bill before the change of 1.25mile to 1mile and I would not even know about it without KCA let us the community know about the change that didn't have our consent. If I can change this bill I would make further back cause it hurts the community growth as in more housing, small local farms and etc. Why I prefer 1.25mile then 1mile answer is simple change both into feet and see why would you short yourself that much feet (1302ft difference). Also community is not saying NO to green energy just HAVE DEVELOPERS BUILD WITH COMMUNITY NOT AGAINST IT.

Mahalo

**Honolulu City Council Meeting
September 7, 2022
10:00 AM**

**Testimony in Opposition to Bill 10 (CD1)
Section 21-5.70-3 Lodging**

Aloha City Council Chair Waters, Vice Chair Kia'ina and Councilmembers:

I chair the Diamond Head/Kapahulu/St. Louis Heights Neighborhood Board's Planning and Zoning Committee, and today I am testifying individually for the purpose of the hearing on Bill 10 (CD1) 2022.

This testimony is in strong opposition to the loose language in Bill 10 (CD1) under Section 21-5.70-3 Lodging, on page 76:

(2) Standards:

Timeshare units are permitted in the A-2 zoning district provided:

- (A) All timeshare units are **within 3,500 feet of a resort zoning district** of greater than 50 contiguous acres, measured as the shortest straight-line distance between the edge of each site's zoning lot line; and
- (B) The A-2 zoning district and the resort zoning district were rezoned pursuant to the same zone change application as part of a master-planned resort community.

Graphic measurements of 3,500 feet from the Waikiki resort district showing the DPP Director's back-door rekindling of visitor accommodation units, aka Timeshares and TVU's, within the Diamond Head Special District "Gold Coast" and Kapahulu areas are attached.

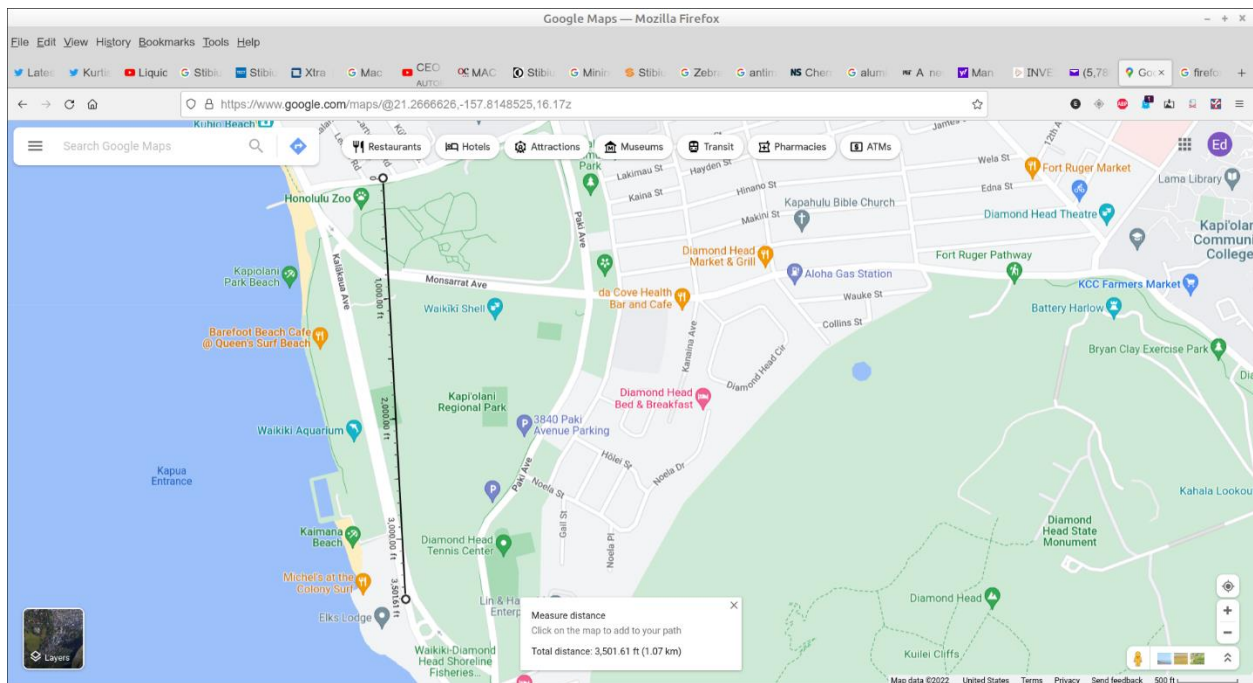
Notably the "Gold Coast" was removed from Bill 41 and replaced with the A-2 blocks in the Waikiki resort district.

Bill 10 now allows Timeshares to creep into the "Gold Coast" as well as nearby portions of Diamond Head and the greater Kapahulu area.

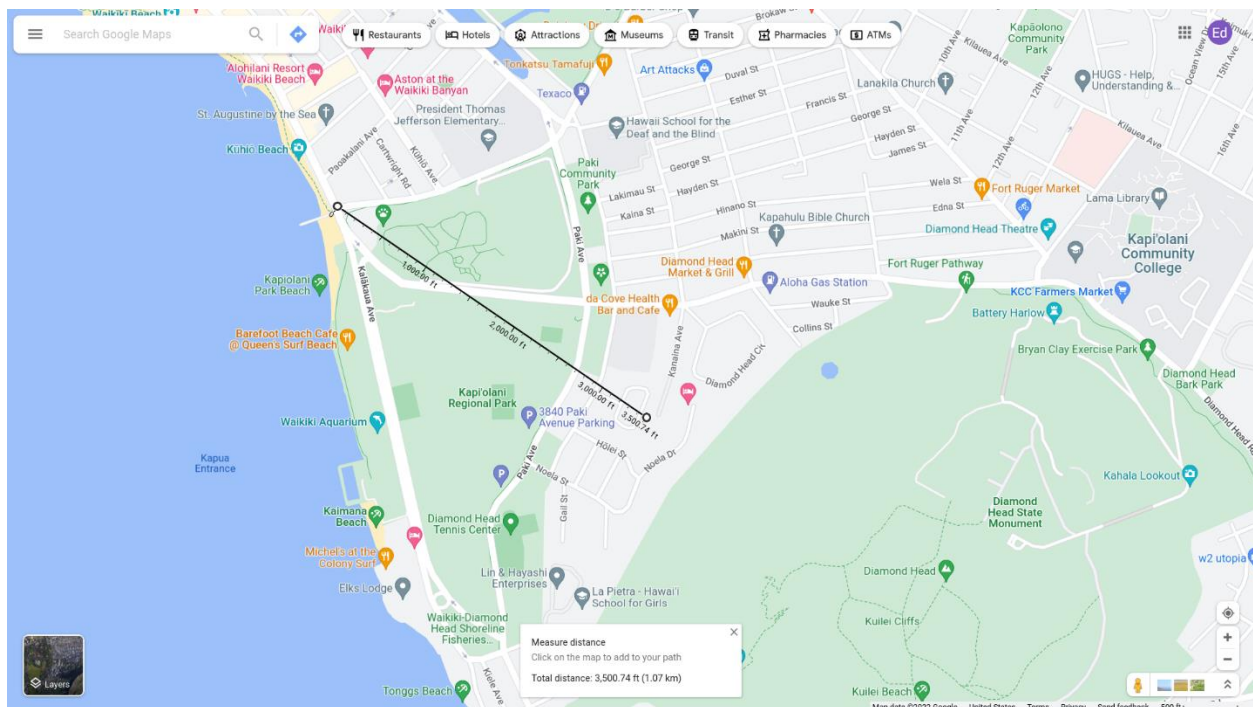
Thank you for your serious consideration of such back-door "unintended consequences" and rapid removal of this open-ended loophole language in Bill 10 (CD1)

Respectfully,

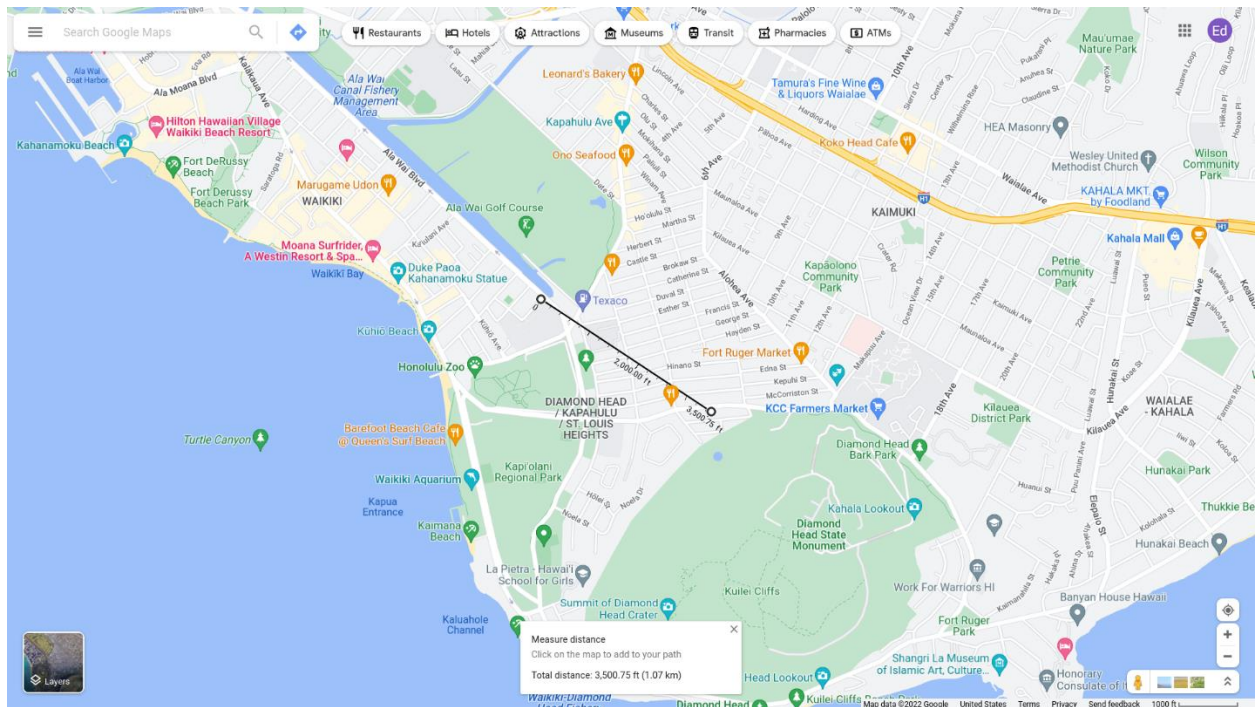
Michelle Matson



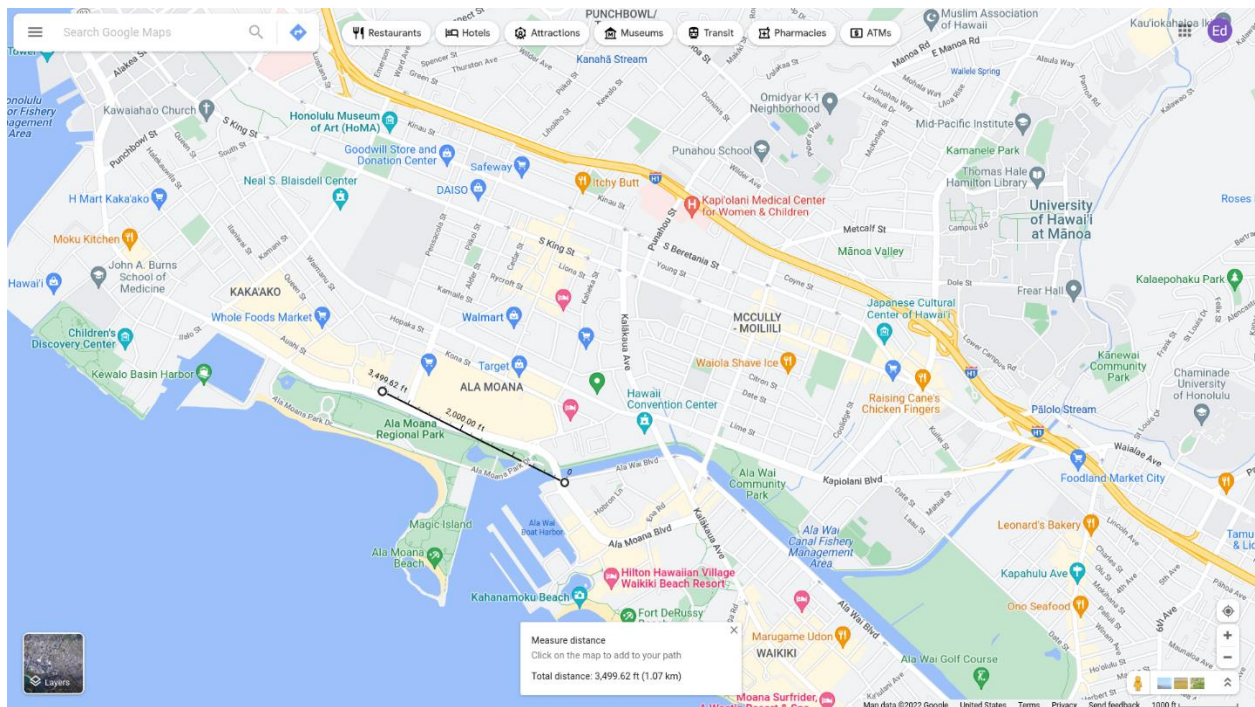
Diamond Head “Gold Coast”



Pualei Circle



Kapahulu to Upper Monsarrat Avenue



Ala Moana