CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL **71 (2013), CD2**

A BILL FOR AN ORDINANCE

TO AMEND CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED (THE LAND USE ORDINANCE), RELATING TO INTERIM PLANNED DEVELOPMENT PERMITS FOR TRANSIT-ORIENTED DEVELOPMENT WITHIN CLOSE PROXIMITY TO FUTURE RAIL STATIONS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the provisions of the Land Use Ordinance (LUO) pertaining to transit-oriented development (TOD) Special Districts and Planned Development Permits. An Interim Planned Development-Transit (IPD-T) permit is being created to define a regulatory path for catalytic TOD projects prior to the adoption and implementation of the individual neighborhood TOD plans and TOD development regulations. The amendments will provide a new, interim permit process to facilitate creative development and redevelopment in transit-enhanced neighborhoods within close proximity to future rail stations.

SECTION 2. Section 21-2.110-2, Revised Ordinances of Honolulu (ROH) 1990, as amended ("Planned development-resort and planned development-apartment projects"), is amended to read as follows:

"Sec. 21-2.110-2 Planned development-resort, [and] planned development-apartment, and interim planned development-transit projects.

(a) Applications for approval of planned development-resort (PD-R) and planned development-apartment (PD-A) projects in the Waikiki special district, and interim planned development-transit (IPD-T) projects, shall be processed in accordance with the following subsections.

(b) Preapplication Procedures. Before the submission of an application, the applicant shall: [first present]

(1) For IPD-T projects, attend a pre-application meeting with the department to conduct an informal review of the project, unless the department determines that such a meeting is unnecessary. The applicant shall be prepared to discuss how the project can accomplish the goals and objectives of Section 21-9.100-4 and:

(A) The approved neighborhood TOD plan for the affected area; or

(B) If the neighborhood TOD plan has not yet been approved, the draft neighborhood TOD plan. As used in this section, "draft neighborhood TOD plan" means the most current version of the plan then under consideration by the department or the council, commencing with the first public review draft released by the director to the community for review and comment;

and

(2) Present the proposal to the neighborhood board in whose district the project is to be located. Notice of the presentation, or the applicant's good faith efforts to make such a presentation, shall be given to all owners of properties adjoining the proposed project.

(c) Upon acceptance of the completed application by the director, the director shall notify the council of the acceptance, providing the council with the date of the director's acceptance of the application and a brief description of the proposal contained in the application. The director shall hold a public hearing concerning the conceptual plan for the project at a date set no less than 21 nor more than 60 calendar days after the date on which the completed application is accepted, unless the 60-day period is waived by the applicant. This hearing may be held jointly and concurrently with any other hearing required for the same project. The director shall give written notice of the public hearing to the neighborhood board in whose district the project is to be located no less than 15 days prior to the public hearing.

For IPD-T projects, a complete application must demonstrate how the project achieves consistency with:

(1) The approved neighborhood TOD plan for the affected area; or

(2) If the neighborhood TOD plan has not yet been approved, the draft neighborhood TOD plan.

(d) [The] Except for applications for IPD-T projects, the conceptual plan for the project shall also be presented to the design advisory committee for its appropriate recommendations prior to transmittal of the application to the council for a conceptual plan review and approval.

A BILL FOR AN ORDINANCE

(e) Upon conclusion of the public hearing and (except for IPD-T projects) design advisory committee review, and not more than 80 days after acceptance of the application, unless the applicant waives the 80-day period, the director shall submit a report and recommendations to the council.

(f) The council shall approve the [application] conceptual plan for the project, in whole or in part, with or without conditions or modifications, by resolution, or shall [deny the application.] disapprove the conceptual plan. The council may [deny the application] disapprove the conceptual plan by resolution, but if the council does not take final action within 60 days after its receipt of the application, the application shall be deemed denied. The applicant may request, and the council may approve, an extension of time if it is made in writing, prior to the requested effective date of the extension. An application for council approval of a conceptual plan for a PD-R, [or] PD-A, or IPD-T project may be processed concurrently with development plan amendments under Chapter 24, special management area use permits under Chapter 25, and zoning district changes.

(g) [Upon approval of a] If the council approves the conceptual plan for the project [by the council], the application, as approved in concept by the council, shall continue to be processed for further detailed review and final [approval] action by the director.

(1) The director shall present the detailed plan for the project to the design advisory committee for its recommendation[.], except in the case of IPD-T projects.

(2) Within 45 days of council approval, the director shall approve the application in whole or in part, with or without conditions or modifications, or deny the application, with reasons for final action set in writing to the applicant.

(3) The applicant may request in writing to the director an extension of time as may be necessary for good cause.

(h) A final approval by the director shall be considered a major special district permit for the project, notwithstanding that the application has been processed in accordance with this section and not Section 21-2.40-2."

A BILL FOR AN ORDINANCE

SECTION 3. Chapter 21, Article 9, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new Section 21-9.100-5 to read as follows:

"**Sec. 21-9.100-5 Interim planned development – transit (IPD-T) projects.**

The purpose of the IPD-T permit is to provide opportunities for creative, catalytic redevelopment projects within the rail corridor that would not be possible under a strict adherence to the development standards of this chapter prior to the adoption of the TOD neighborhood plans or amendments to this chapter relating to the future TOD zones (special districts), or both. Qualifying projects must demonstrably exhibit those kinds of attributes that are capable of promoting highly effective transit-enhanced neighborhoods, including diverse employment opportunities, an appropriate mix of housing types, support for multi-modal circulation, and well-designed publicly accessible and useable spaces. Flexibility may be provided for project uses, density, height and height setbacks, yards, open space, landscaping, streetscape improvements, parking and loading, and signage when timely, demonstrable contributions are incorporated into the project benefiting the community, supporting transit ridership, and implementing the vision established in Section 21-9.100-4. Reflective of the significance of the flexibility represented by this option, it is appropriate to approve projects conceptually by legislative review and approval prior to a more detailed administrative review and approval by the department.

Prior to the adoption of TOD special district standards, proposed development on sites with at least portions of an eligible zoning lot that are within no more than one-half mile of a future rail station identified in the Honolulu Rail Transit Project (HRTP) Environmental Impact Statement (EIS), accepted by the Governor of the State of Hawaii on December 16, 2010, and any future supplemental EISs for the project, may qualify for an IPD-T permit in the interim, subject to the following:

(a) Eligible zoning lots. IPD-T projects may be permitted on zoning lots that meet the following standards:

(1) A portion of the zoning lot shall be within a one-half-mile radius of a planned HRTP station, as approved by the Honolulu Authority for Rapid Transportation. For purposes of this section, the minimum distance requirement shall be measured as the shortest straight line distance between the edge of the station area and the zoning lot line(s) of the project site;

(2) The minimum project size shall be 20,000 square feet. Multiple lots may be part of a single IPD-T project if all of the lots are under a single owner and/or lessee holding leases with a minimum of 30 years remaining in their terms. Multiple lots in a single project must be contiguous, provided that lots that are not contiguous may be part of a single project if all of the following conditions are met:

(A) The lots are not contiguous solely because they are separated by a street or right-of-way; and

(B) Each noncontiguous portion of the project, whether comprised of a single lot or multiple contiguous lots, shall have a minimum area of 20,000 square feet.

When a project consists of noncontiguous lots as provided above, pedestrian walkways or functioning design features connecting the separated lots are strongly encouraged to unify the project site. Multiple lots that are part of an approved single IPD-T project shall be considered and treated as one zoning lot for purposes of the project, provided that no conditional use permit-minor for a joint development of multiple lots shall be required therefor;

(3) The project site shall be entirely in the state-designated urban district;

(4) All eligible zoning lots shall be in the apartment, apartment mixed use, business, business mixed use, resort, industrial, or industrial-commercial mixed use districts; except that this subdivision shall not apply to landscape lots, right-of-way lots, or other lots utilized for similar utilitarian (infrastructure) purposes; and

(5) Upon the enactment of a TOD special district and its related development regulations, all zoning lots within that TOD special district shall no longer be eligible for this interim permit, but shall henceforth comply with all applicable TOD special district regulations and requirements enumerated by this chapter.

(b) Standards for review.

(1) Significant flexibility and the possibility of increased development potential are being made available to eligible IPD-T projects. The degree of flexibility must be commensurate with the contributions that these projects can provide towards the enhancement of highly effective transit-enhanced

neighborhoods, particularly as these contributions relate to the success of TOD. The highest degree of flexibility may be authorized by this permit for those projects which demonstrate:

(A) The ability to contribute positively to the economic enhancement of the affected area, particularly with regard to providing a broad mix of uses and diverse employment opportunities;

(B) The provision of measures or facilities, or both, to promote a highly functioning, safe, interconnected, multi-modal circulation system, supporting easy access to, and effective use of the transit system on a pedestrian scale;

(C) The provision of usable, safe, and highly accessible public accommodations, gathering spaces, pedestrian ways, bicycle facilities, or parks; and

(D) An appropriate mix of housing and unit types, particularly affordable or rental housing, or both; with qualifying affordable housing being located on the project site or within one-half mile of the same identified transit station as the project site. For purposes of this section, "affordable housing" shall mean housing that is affordable to households with incomes not exceeding 120 percent of the annual median income for Oahu.

The IPD-T option offers developers opportunities to increase development potential, provided equitable contributions that benefit the general public, the transit system, and TOD are demonstrated.

(2) IPD-T projects shall be generally consistent with:

(A) The approved neighborhood TOD plan for the affected area; or

(B) If the neighborhood TOD plan has not yet been approved, the draft neighborhood TOD plan. As used in this section, "draft neighborhood TOD plan" means the most current version of the plan then under consideration by the department or the council, commencing with the first public review draft released by the director to the community for review and comment.

(c) Use Regulations.

(1) Permitted uses and structures may be any of those uses permitted in the BMX-4 central business mixed use district; except that hotels shall not be permitted on any zoning lot in an apartment, apartment mixed use, industrial, or industrial-commercial mixed use district, unless it is otherwise in compliance with the standards enumerated by Section 21-5.360(b) (provided that this subdivision does not preclude hotels in the I-2 intensive industrial district and the IMX-1 industrial-commercial mixed use district from qualifying as a conditional use under Section 21-5.30(a)); and

(2) Ground floors and pedestrian-accessible spaces should be utilized to the extent feasible for active uses, such as, but not necessarily limited to outdoor dining, retail, gathering places, and pedestrian-oriented commercial activity. These spaces should also provide public accommodations such as, but not necessarily limited to, benches and publicly accessible seating, shaded areas through either trees or built structures, publicly accessible restrooms, trash and recycling receptacles, facilities for recharging electronic devices, publicly accessible telecommunications facilities, and Wi-Fi service.

(d) Site Development and Design Standards. The standards set forth by this subsection are general requirements for IPD-T projects. When, in the paragraphs below, the standards are stated to be subject to modification or reduction, such modification or reduction shall be for the purpose of accomplishing a project design consistent with the goals and objectives of Section 21-9.100-4 and this subsection. Also, pursuant to Section 21-9.100-5(b), the modification or reduction in the following standards shall be commensurate with the contributions provided in the project plan, and the project shall be generally consistent with the draft or approved neighborhood TOD plan for the area.

(1) Density.

(A) The maximum floor area ratio (FAR) may be up to twice that allowed by the underlying zoning district or 7.5, whichever is lower; and

(B) For lots in the B-2, BMX-3, BMX-4, and IMX-1 districts, the maximum increase shall apply in addition to any eligible density bonuses for the underlying zoning district; that is, the increase shall apply to the zoning lot plus any applicable floor area bonuses.

(2) Height.

(A) For project sites where there is no draft neighborhood TOD plan, the maximum building height may be up to twice that allowed by the underlying zoning district, or 450 feet, whichever is lower; and

(B) Where there is a draft or approved neighborhood TOD plan, the maximum height shall not exceed the maximum height specified in the plan, provided that where existing height limits exceed those in the plans, the existing height limit shall prevail.

(3) Transitional height and/or street setbacks may be modified where adjacent uses and street character will not be adversely affected.

(4) Yards shall be as specified by the approved conceptual project plan, provided that building placement will not cause adverse noise, sunlight blockage, privacy and/or wind affects to adjacent uses, and street character will not be adversely affected.

(5) Open Space.

(A) Project open space shall be as specified in the approved conceptual project plan, with a preference for publicly accessible, highly usable parks and gathering spaces rather than buffering or unusable landscaped areas.

(B) Where appropriate, usable open space may be:

(i) Transferred to another accessible site within the vicinity of the project that shall be utilized as a public park, plaza or gathering place for the affected community; or

(ii) Provided in the form of connections or improvements, or both, to nearby open spaces, pedestrian ways or trails, such as, but not necessarily limited to streetscape and intersection improvements, pedestrian walkways or bridges, arcades, or promenades;

or both.

(6) Landscaping and screening standards shall be as specified in the approved conceptual project plan and project landscaping shall include adjacent rights-of-way. Streetscape landscaping, including street trees or planting strips, or both, should be provided near the edge of the street, rather than adjacent to the building, unless infeasible.

(7) Parking and loading standards shall be as follows:

(A) The number of parking and loading spaces provided shall be as specified in the approved conceptual project plan;

(B) Service areas and loading spaces shall be located at the side or rear of the site, unless the size and configuration of the lot renders this infeasible;

(C) Vehicular access shall be provided from a secondary street wherever possible and placed in the location least likely to impede pedestrian circulation; and

(D) The provision of car-sharing programs and vehicle charging stations is encouraged.

(8) Bicycle parking shall be accommodated on the project site, subject to the following:

(A) The number of bicycle parking spaces provided shall be as specified in the approved conceptual project plan;

(B) Long-term bicycle parking shall be provided for residents of on-site dwelling units in the form of enclosed bicycle lockers or easily accessible, secure and covered bicycle storage;

(C) Bicycle parking within enclosed parking structures shall be located as close as is feasible to an entrance of the facility so that it is visible from the street or sidewalk. The provision of a fenced and gated area for secure bicycle parking within the structure is encouraged;

(D) Each bicycle parking space shall be a minimum of 15 inches in width and six feet in length, with at least five feet of clearance between bicycle and vehicle parking spaces. Each bicycle must be easily reached and movable without moving another bicycle; and

(E) The provision of space for bicycle-sharing stations is encouraged either on the exterior of the building or within a parking structure, provided the area is visible and accessible from the street.

(9) Signs.

(A) Sign standards and requirements shall be as specified in the approved conceptual project plan. The sign standards and requirements may deviate from the strict sign regulations of this chapter, provided the flexibility is used to achieve good design, compatibility, creativity, consistency, and continuity in the utilization of signs on a pedestrian scale;

(B) All projects shall include appropriate measures to accommodate TOD-related way-finding signage, which shall be considered "public signs" for purposes of Article 7; and

(C) Where signage is not otherwise specified by the approved conceptual plan for the project, the project signage shall comply with the underlying sign regulations of this chapter.

(e) Application Requirements. An application for approval of an IPD-T project shall contain:

(1) A project name;

(2) A location map showing the project in relation to the future rail station area and the surrounding area;

(3) A site plan showing property lines, the locations of buildings and other major structures, building access and activity zones, the proposed open space and landscaping system, access and circulation for vehicles, bicycles, and pedestrians, bus or trolley stops, and other major activities;

(4) A narrative description of the overall development and urban design concept; the general mix of uses; the basic form and number of structures; the relationship of buildings to each other and to the streets, and how that is used to create active public space; the estimated number of proposed dwelling or lodging units, and the proposed mix of housing types; general building height and density; how the project achieves and positively contributes to TOD and transit-enhanced neighborhoods; proposed public

amenities and community benefits; the planned development of usable, publicly accessible spaces, accommodations and landscaping; how the project supports walking, bicycling, and active living; proposals to enhance multimodal circulation and access; proposed off-street parking and loading; and possible impacts on security, public health and safety, infrastructure and public utilities;

(5) An open space plan, showing the reservation of land for public, semi-public, and private open space, including parks, plazas, and playgrounds, an integrated circulation system indicating proposed movement of vehicles, goods, pedestrians, and bicyclists within both the project area and adjacent areas, including streets and driveways, sidewalks and pedestrian ways, bicycle lanes, bicycle tracks, and multi-use paths, off-street parking, and loading areas;

(6) A narrative explanation of the project's architectural and urban design relating the various design elements to support pedestrian- and transit-oriented development, and a discussion of any impacts to any cultural or historic resources, as well as any public views protected by law or ordinance;

(7) Details of the project, including proposed floor area, open space, open space bonuses, and maximum FAR;

(8) A parking and loading management plan or transportation demand management plan, or both;

(9) A wind and shadow study to analyze the effects of mid-rise and high-rise structures, particularly anticipated effects at the ground level. Where adverse effects are anticipated, mitigative measures shall be included in the proposal; and

(10) Any other information deemed necessary by the director to ascertain whether the project meets the requirements of this section.

(f) Procedures. Applications for approval of IPD-T projects shall be processed in accordance with Section 21-2.110-2. Fees shall be as enumerated for Planned Development applications in Section 6-41.1(a)(19).

(g) Conceptual Plan for a Project. No project shall be eligible for IPD-T status unless the council has first approved a conceptual plan for the project. The approved conceptual plan must set forth the allowable uses and the site development and

design standards for density, height, transitional height and/or street setbacks, yards, open space, landscaping and screening, parking and loading, bicycle parking, and signs, if the uses and standards depart from the uses and standards applicable in the underlying zoning district. If uses and standards are not otherwise specified, the uses and standards applicable to the underlying zoning district apply.

(h) Guidelines for Review and Approval of the Conceptual Plan for a Project. Prior to or concurrently with its approval of a conceptual plan for an IPD-T project, the council shall find that the project concept, as a unified plan, is in the general interest of the public, and that:

(1) Requested project boundaries and requested flexibility with respect to development standards and use regulations are consistent with the objectives of TOD and the provisions enumerated in Sec. 21-9.100-4; and

(2) Requested flexibility with respect to development standards and use regulations is commensurate with the public amenities and community benefits proposed.

(i) Deadline for Obtaining Building Permit for Project.

(1) A council resolution of approval for a conceptual plan for an IPD-T project shall establish a deadline within which the building permit for the project shall be obtained. For multiphase projects, deadlines shall be established for obtaining building permits for each phase of the project. The resolution shall provide that the failure to obtain any building permit within the prescribed period shall render null and void the council's approval of the conceptual plan and all approvals issued thereunder; provided that in multiphase projects, any prior phase that has complied with the deadline applicable to that phase shall not be affected. A revocation of a building permit pursuant to Section 18-5.4 after the deadline shall be deemed a failure to comply with the deadline.

(2) The resolution shall further provide that a deadline may be extended as follows:

(A) The director may extend the deadline if the applicant demonstrates good cause, but the deadline shall not be extended beyond one year from the initial deadline without the approval of the council, which may grant or deny the approval in its complete discretion.

(B) If the applicant requests an extension beyond one year from the initial deadline and the director finds that the applicant has demonstrated good cause for the extension, the director shall prepare and submit to the council a report on the proposed extension, which report shall include the director's findings and recommendations thereon and a proposed resolution approving the extension.

(C) The council may approve the proposed extension or an extension for a shorter or longer period, or deny the proposed extension, by resolution.

(D) If the council fails to take final action on the proposed extension within the first to occur of (i) 60 days after the receipt of the director's report or (ii) the applicant's then-existing deadline for obtaining a building permit, the extension shall be deemed to be denied.

(E) The director shall notify the council in writing of any extensions granted by the director that do not require council approval.

(j) Further Processing by Director. If the council approves the conceptual plan for the IPD-T project, the application, as approved in concept by the council, shall continue to be processed by the director as provided under Section 21-2.110-2. Additional documentation may be required by the director as necessary. The following criteria shall be used by the director to review applications:

(1) The project shall conform to the approved conceptual plan and any conditions established by the council in its resolution of approval. Any change to the conceptual plan will require a new application and approval by the council. The director may approve changes to the project that do not significantly alter the size or nature of the project, if the changes remain in conformance with the conceptual plan and any conditions established by the council. Any increase in the height or density of the project will be considered a significant alteration and a change to the conceptual plan;

(2) The project also shall implement the objectives, guidelines, and standards of Section 21-9.100-4 and this section;

(3) The project shall contribute significantly to the overall desired urban design of TOD areas;

(4) The project shall demonstrate a pedestrian system, publicly accessible spaces and accommodations, landscaping and other amenities which shall be integrated into the overall design of the project, and shall enhance the pedestrian experience between the project and surrounding TOD areas;

(5) The project shall involve a broad mix of uses or other characteristics, or both, which support the economic development and vitality of the affected TOD enhanced neighborhood; or include an appropriate mix of housing types, particularly affordable housing and rental housing; or both; and

(6) The parking management plan or transportation demand management plan shall support transit ridership and alternative modes of travel and minimize impacts upon public streets where possible."

SECTION 4. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the ROH, the revisor of ordinances need not include the brackets, the bracketed material, or the underscoring.

A BILL FOR AN ORDINANCE

SECTION 5. This ordinance takes effect upon its approval.

INTRODUCED BY:

Ernest Martin (BR)

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DATE OF INTRODUCTION:

December 20, 2013
Honolulu, Hawaii

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

_____
Deputy Corporation Counsel

APPROVED this _____ day of _____, 20____.

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KIRK CALDWELL, Mayor
City and County of Honolulu