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RECEIVED

June 25, 2008

Ms. Ann Kobayashi, Chair and Members  
Executive Matters Committee  
City Council  
City and County of Honolulu  
Honolulu, HI 96813

**Subject: Bill 10 (2008), Proposed CD2 Relating to Transit-Oriented Development**

Dear Chair Kobayashi and Executive Matters Committee Members,

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable and rational land use planning, legislation and regulations affecting common problems in Hawaii.

LURF appreciates the opportunity to provide our testimony **in strong general support of Bill 10 (2008), Proposed CD2 relating to Transit-Oriented Development**, except that we believe that the Council should seriously consider the comments of the Department of Planning and Permitting (DPP) against the changes relating to the establishment of new review time periods and moving sections out of the LUO. Perhaps **CD1** would be a version that everyone could agree with. LURF would also like to submit a number of comments for the Committee's consideration:

**Background of Bill 10 (2008), CD2.** The City Council and Administration of the City and County of Honolulu (City) have initiated a major mass transit project that has the potential to fundamentally reshape the form and character of Honolulu. The Council has selected a fixed guideway system and a Locally Preferred Alternative (LPA) alignment route for the project under Ordinance 07-01. Appropriate transit-oriented development (TOD) land use regulations along the alignment and around the rapid transit stations will be crucial. The purpose of this bill is to amend the Land Use ordinance (LUO) to provide guidance on how to determine well-defined, meaningful and appropriate zoning regulations and incentives for areas around each type of transit station. The intent of the bill is to enact a TOD ordinance and planning and implementation process which will promote the economic, social, and environmental well-being of the City, which will include the following:

- Provides an open, inclusive and visionary planning process based on community-based input;

- Implements the Oahu General Plan and applicable regional development plans;
- Stems urban sprawl across Oahu's agricultural and open space lands;
- Increases the quality of life through rejuvenated community character (including "place-making") and the development of livable, walkable communities;
- Preserves and enhances historic, cultural, scenic, natural and other community resources and landmarks;
- Increases transit ridership; and
- Reflects an understanding of the relationships between zoning, financing and real estate marketing dynamics.

**Proposed CD 2** provides assurances that TODs will address the needs of each individual community by having the characteristics of each District be determined by the vision set forth in each neighborhood plan. Because it is essential that the City Administration process the neighborhood Plans in a timely manner, the CD2 requires the Planning Commission to complete its review of the Neighborhood Plan within 60 days of receipt of the Plan from the Neighborhood Boards. The CD2 also moves sections concerning the TOD Districts out of the LUO to emphasize that TODs are different from the existing zoning ordinances.

**LURF Comments and Recommendations.** We commend the Council for its interest in TOD and this bill and commend the DPP for drafting the original bill and their diligence and expertise in soliciting and implementing recommendations from the various community and stakeholder groups. Our general comment is that the Council should strongly consider the DPP's comments against the changes in review periods and also moving the TOD Districts out of the LUO. The following are LURF's other comments and recommendations relating to the proposed Bill 10 (2008), CD2.

- **"Planning and Growth Management Tool."** Organizations such as the Urban Land Institute, LURF and the Hawaii Developer's Council have repeatedly taken the position that TOD is a valuable planning and growth management tool, and much more than just a method for planning and regulating development around transit stations to encourage the use of transit and reduce transportation costs. Thus, LURF respectfully recommends that the Findings and Purpose section provide clear statements reflecting that TOD is also a valuable planning and growth management tool which will assist in directing growth in Honolulu.
- **Use of Private Property/Downzoning/Takings/Condemnation.** The alignment and location of transit stations will affect existing private businesses, and small and large private property owners, as it is most likely that private property would be used for the transit stations and surrounding uses, including public amenities and parks. It is unclear, however, how these issues will be handled. LURF would respectfully recommend the addition of a provision stating that the City will provide for the clarification of the criteria and the operation of TOD processes which involve the use of private property, downzoning, takings and condemnation in each of the proposed §21-9.100-1 Neighborhood TOD plans and §21-9.100-2 TOD special district minimum requirements.
- **Incentives, Private-Public Partnerships and Synergy between Users and Land Uses.** Creative and meaningful incentives and private-public partnerships can encourage private property owners to cooperate with the transit alignment, and the location of the transit stations and public facilities, thereby avoiding the necessity of the City's use of private property, downzoning, takings and condemnation. While the current CD1 draft currently mentions the

concept of incentive programs and the investigation of public-private partnerships, LURF respectfully recommends that the Council obtain information on, and seriously discuss the potential forms and types of incentives and public-private partnerships prior to adopting this TOD ordinance. LURF would also recommend including additional provisions in the TOD ordinance (in each of the proposed §21-9.100-1 Neighborhood TOD plans and §21-9.100-2 TOD special district minimum requirements), which would encourage and emphasize the importance of developing and implementing incentives and public-private partnerships and synergy and interaction between the various users and land uses;

- **Phasing and Timing of the TOD Neighborhood Plan and Special District Plan process.** There is a question regarding what happens to development in the proposed alignment and station areas during the time the community and the City are working on the TOD Neighborhood Plan and the Special District TOD Plans. What happens to the development and other plans which are already developed or being developed for properties near the transit stations? What happens to density allowances under existing zoning – will they be “grandfathered-in” as minimum densities under the new TOD zoning? It would be helpful if this ordinance could clarify what the status and treatment of planned projects in the proposed alignment and station areas during the TOD planning process. Also, as mentioned in HDC’s testimony, a time frame or planning horizon on how the TOD ordinance is envisioned to be implemented over time would be helpful.
- **Infrastructure Systems Planning Process.** A critical factor in the success of a TOD is the planning, financing and implementation of infrastructure to support the TOD. The proposed §21-9.100-1(c) provides for infrastructure analyses, including capacities of water, wastewater, and roadway systems. However, this provision does not mention the development of a financing plan, including alternatives such as community facilities district financing , or an implementation plan – both of which are very critical. Thus, LURF would respectfully recommend that the TOD ordinance include provisions detailing that the infrastructure systems planning process shall include infrastructure analyses of capacity, the development of a financing plan, including alternatives such as community facilities district financing and an implementation plan.
- **Amendment of applicable regional development plans.** We believe that there will be situations where the current applicable regional development plan may be inconsistent with the Neighborhood TOD plans, or the Special District TOD Plans. In anticipation of such situations, LURF respectfully recommends that §21-9.100-1(d) be amended as follows:
  - (d) The plan shall be consistent with any applicable regional development plan, or make recommendations for revisions to those plans.
- **Role of the Community-based Input.** Is the role advisory only? What happens if the community strongly recommends a taking of private property?
- **Best Practices List.** Proposed Section 13-9.3 lists various elements of a TOD ordinance. To the extent possible, this list should also include other elements which are prevalent in successful TODs (HDC recommendation).
- **Drafting and Authority over the TOD Ordinance Neighborhood Plans and Special District Plans.** There is also a question regarding which agency will draft and have the authority over the TOD Ordinance Neighborhood Plans

and Special District Plans – will it be the Department of Planning and Permitting? Or the new Transit Authority?

**Conclusion.** LURF is in strong general support of Bill 10 (2008), CD2 relating to TOD, and respectfully requests that the Council consider our comments and recommendations, and that the Council seriously consider DPP's comments against the revised provisions in CD2 relating to timing of reviews and moving the TOD Districts out of the LUO. Perhaps CD1 is a version that everyone could agree with.

We appreciate the opportunity to present our comments regarding this matter.