The Transit-Oriented Development Plan is moving ahead! At the first three Workshops, issues and opportunities concerning the Leeward Community College, Pearl Highlands and Pearlridge station areas were identified, Draft Station Area Alternatives were studied, and Preferred Station Area Plans were developed based on community input.

Workshop 4 will present the Public Review Draft Plan and will include illustrations showing proposed land uses, development opportunities, parks and open spaces. The presentation will also include zoning recommendations and phasing strategies for each of the stations.

Community involvement - the sharing of your ideas and perspectives - is key to the success of the Plan. Please join us!

WEDNESDAY, NOVEMBER 17, 2010
6:30 - 9:00 PM
Pearl Ridge Elementary School

Need more info? Visit: www.honoluludpp.org/planning
Contact:
Adam Rosa (Van Meter Williams Pollack)
(303) 298-1480 x 17  adam@vmwp.com
Renee Espiau (Dept. of Planning and Permitting)
(808) 768-8050  respiau@honolulu.gov

AIEA-PEARL CITY
TRANSIT-ORIENTED DEVELOPMENT PLAN
NEIGHBORHOOD

Three Rail Transit stations are planned in the Aiea and Pearl City areas, bringing exciting opportunities for Transit-Oriented Development (TOD). The TOD plan will focus on the Leeward Community College, Pearl Highlands, and Pearlridge station areas as unique destinations - while improving the overall transportation network of the region.

Needs Community Involvement

Building off of the vision and goals of the Aiea-Pearl City Livable Communities Plan (2004) - to integrate transportation with land use and community design - your ideas and perspectives remain key to the success of this new TOD plan. A series of workshops will provide opportunities to learn about TOD, share ideas and comment on the project.

A community task force has also been created to advise and assist with the planning process. Its members represent various organizations and interests of the surrounding communities.

Planning Team
Contact the following for more information:
Dennis Silva
City and County of Honolulu
Department of Planning and Permitting
Phone: (808) 768-8284
Fax: (808) 527-6743

Adam Rosa
Van Meter Williams Pollack
1626 Wazee Street, Suite 2A
Denver, CO  80202
Email: adam@vmwp.com
Phone: (303) 298-1480 ext 17
Fax: (303) _______

To get on the mailing list:
Lori Honma
City and County of Honolulu
Department of Planning and Permitting
Phone: (808) 768-8036

We encourage you to...
A variance is a form of administrative relief from zoning regulations. If granted, it allows for the construction of, or alteration to, a structure or land that is otherwise prohibited by the Land Use Ordinance. A variance is granted to render justice where the strict application of a zoning ordinance results in a hardship for a property owner. A hardship arises when highly unusual circumstances prevent a property owner from reasonably using their property. Oddly shaped or sloping lots, for example, may make it difficult for a property owner to meet setback or height requirements.

When you request a zoning variance, you are asking to set aside a standard required by law. This can be done only under exceptional circumstances. In addition, variances cannot be granted just because a proposal is the most practical and cost-effective solution. A basic planning principle is that variances should be difficult to obtain. A zoning variance can only be granted if the request meets all three tests of hardship established by the Revised Charter of the City and County of Honolulu.

The three tests of hardship are enumerated in Section 6-1517 of the City Charter, and listed on the next page, with further explanation.
INTRODUCTION

THREE TESTS OF HARDSHIP

1. The applicant is deprived of reasonable use of the land or building if the provisions of the zoning code were strictly applied. This means that compliance with the zoning code would preclude the applicant from making reasonable use of the property, or prevent the applicant from making an essential improvement. Variances cannot be given to relieve the applicant’s financial problems, or temporary personal difficulties, or to allow the applicant to save money or make more money on a proposed project.

2. The request is due to unique circumstances and not the general conditions in the neighborhood, so that the reasonableness of the neighborhood zoning is not drawn into question. Steep topography, small lot size, narrow lot width or unusual lot configuration are examples of unique physical conditions which could justify a variance. However, if these conditions are common to the neighborhood, a variance may not be warranted.

3. The request would not alter the essential character of the neighborhood nor be contrary to the intent and purpose of the zoning code. An applicant must show that the variance proposal would not adversely impact the surrounding area, nor contradict the concepts, goals, and objectives of the zoning code. For example, an applicant must show that the proposal would not significantly reduce light, air, or open space, or allow a commercial use in a zoning district that explicitly seeks to protect and preserve open space and natural resources.

TYPES OF VARiances

There are generally two types of variances: use and area.

A use variance is requested when a zoning ordinance prohibits a particular use (e.g., a commercial building in a residential area). Such a variance is required to allow a use which is not otherwise permitted in the zoning district. For example, a proposal to build a retail store in a residential zone would require a use variance. A proposal to expand a nonconforming use is also a type of use variance. Use variances are difficult to obtain. The rationale is that the City Council, via zoning maps and the Land Use Ordinance, has already determined that the proposed use is incompatible in the zoning district and, therefore, is contrary to the intent and purpose of the zoning code and can have adverse impacts on adjacent properties or the character of a neighborhood. A use variance can very rarely be supported. In many cases, it would be more appropriate to request a zone change, which is acted upon by the City Council.

An area variance is requested if the zoning ordinance regulates a particular use (e.g., height restrictions). An area variance is required to exceed dimensional standards of the zoning code, such as height limits, yard or height setbacks, or off-street parking requirements. To get this type of variance, the applicant must show their denial of reasonable use is unique. If the applicant’s circumstances are common to other sites or owners, the variance request usually cannot be supported. Similarly, if they can show denial of reasonable use and uniqueness, but the proposal would alter the character of the neighborhood, it must be denied.

The City’s Charter, however, does not distinguish between use and area variances and instead uses the three tests of hardship as the criteria for granting all variances.
The requirements and procedures for zoning variance applications are set forth in the Department of Planning and Permitting (DPP) Rules, Part 1, Chapter 9.

**Application**

First, an application must be submitted with the filing fee. Note that the fee is DOUBLED when you are cited for doing work without a building or sign permit. Payment of this penalty fee does not relieve you from compliance with all other code requirements. Fees are not refundable if the application is withdrawn.

It is very important that your plans accurately reflect what actually exists on the site and what you propose to do. If you don’t submit accurate information and drawings, it will delay the processing of your application and may even result in denial of your request. After-the-fact area variances for encroachments require a survey plan certified by a licensed land surveyor or civil engineer.

Written justification for your request is required. Besides providing some specific information about the property and request, you must describe how each of the three tests of hardship is met. Generally, the hardship must relate to the physical characteristics of the site, such as, but not limited to, topography, size, or shape. As previously mentioned, personal circumstances unique to the applicant rather than the land cannot be used to justify the request.

Second, the DPP Land Use Permits Division reviews your application for completeness, and within ten working days, determines if the application can be accepted for processing or not. You will receive a letter documenting the outcome of this initial decision. If the application is accepted, the DPP will schedule a site visit, perform additional research, and may request additional information of you.

**Public Hearing**

Next, the DPP schedules a public hearing and publishes notice of the hearing in a newspaper. A copy of the public hearing notice will also be sent to pertinent neighborhood boards and adjoining property owners.

At the public hearing, you will be asked to present your proposal. Anyone attending the hearing will have an opportunity to testify on the variance proposal. Written testimony submitted by others who do not attend the hearing will also be accepted.
The DPP Director must issue his or her decision on the variance within 60 days of the public hearing. Read the decision and order report carefully. The Director may require modifications to your proposal or attach conditions to reduce the impacts of your proposal on your neighbors or the community. Conditions are imposed to reduce any potential adverse impacts of the land use, such as protecting nearby property, the character of the neighborhood, or a natural resource. The Director may also impose time conditions on variances. For example, the Director can grant a limited variance that will lapse if not acted upon within a specified time. A variance may not, however, be limited to the period of the applicant’s ownership since variances run with the land, meaning if ownership changes, the variance and its conditions still apply. Examples of conditions include:

- Providing landscaping or a solid wall along a boundary line;
- Recording a restrictive covenant;
- Obtaining additional permits within a certain period of time; and
- Restricting any future development, repairs, or reconstruction.

If you do not comply with the conditions of approval within the time limit, the variance may lapse. If the variance lapses for that reason, you would not be able to reapply for the same variance for one year. Similarly, if you later remove the use or structure, you may not be allowed to rebuild except in conformance with the code.

If a variance is denied, another application that is substantially the same cannot be submitted within a year of the denial. If the variance is denied a second time, another application that is substantially the same cannot be submitted within three years of the second denial.

Submit applications to:
Department of Planning and Permitting
650 South King Street
Honolulu, Hawaii, 96813
Please consider the following example cases to see how the tests of hardship are applied. Remember, each individual case involves its own specific conditions and circumstances; thus, the outcome of a particular case may be different.

**EXAMPLE 1: SINGLE-FAMILY RESIDENCE IN THE APARTMENT DISTRICT**

This example variance was approved to allow a two-story, single-family dwelling in the A-2 Apartment District to exceed the maximum permitted floor area, to encroach into the required front yards (it was a corner lot with two front yards) and height setbacks, to not provide required landscaping, and to allow a parking space to encroach into the side yard. The site was 1,680 square feet in area, only 17 percent of the minimum 10,000 square feet required in the A-2 Apartment District, and lacked the minimum lot width and depth. The buildable area was also reduced to make room for corner rounding for planned roadway improvements. The variance was approved because it passed the three tests of hardship:

- The applicant would have been deprived of reasonable use of their land (i.e. the construction of this modest home);
- The lot size, corner location, and roadway improvements presented unique circumstances; and
- The request did not significantly alter the character of the neighborhood (which was already largely made up of single-family dwellings) or challenge the reasonableness of the zoning code.
**EXAMPLE 2: EWAL BUSINESS PARK SOUTH WALL**

This example variance was **approved** to allow an eight-foot-high wall along the south property line of an Ewa business park. According to the zoning code, any wall within the required yard was not allowed to exceed six feet in height. However, the property was subject to the conditions of a unilateral agreement associated with a previous zone change, which required a solid wall at least eight feet in height along that property line. The variance was approved because it passed the three tests of hardship:

- The applicant would not have been allowed to develop the site, depriving them of reasonable use of their property;
- The City Council explicitly intended for there to be an eight-foot-high wall along this specific property line, which constitutes a unique circumstance; and
- The request would not alter the essential character of the site, the adjacent golf course, or the undeveloped properties to the west and south, or challenge the reasonableness of the zoning code.
**EXAMPLE 3: ENCLOSED DECK WITHIN THE REQUIRED YARD**

The final example variance was **denied**. The applicant proposed to expand their existing dwelling by enclosing an unauthorized deck that encroached well into the rear yard. The variance met one of the three tests of hardship:

- The proposal would not significantly alter the character of the neighborhood because many of the nearby dwellings had yard encroachments.

However, the variance was ultimately denied because it failed to meet two of the tests of hardship:

- The existing dwelling would still constitute reasonable use of the land without the proposed and existing encroachments into the required yard.
- The request was not due to unique circumstances of the site, but rather the general conditions in the neighborhood. While the neighborhood was unique because it was adjacent to a large open space, the site was not unique within the neighborhood.
This document is the guidebook for zoning variances. For more detailed information, visit our website:

www.honoluludpp.org

Information is subject to change.

Paid for by the taxpayers of the City and County of Honolulu.