

BILL064(23)
Testimony

MISC. COMM. 193

PLANNING AND THE ECONOMY (P&E)

PLANNING AND THE ECONOMY (P&E) Meeting

Meeting Date: May 2, 2024 @ 09:00 AM

Support: 0

Oppose: 1

I wish to comment: 11

Name: Jay Morford	Email: jay.morford@dignitymemorial.com	Zip: 96813
Representing: Hawaii Funeral and Cemetery Association	Position: I wish to comment	Submitted: Apr 29, 2024 @ 05:14 PM
Name: Micah Munekata	Email: mmunekata@ulupono.com	Zip: 96813
Representing: Ulupono Initiative	Position: I wish to comment	Submitted: Apr 30, 2024 @ 11:19 AM
Name: Douglas & Kathie Stewart	Email: douglaskathiestewart@hawaiiantel.net	Zip: 96795
Representing: Self	Position: Oppose	Submitted: Apr 30, 2024 @ 11:12 PM
Name: Nicole Galase	Email: nicole@hicattle.org	Zip: 96721
Representing: Hawaii Cattlemen's Council	Position: I wish to comment	Submitted: May 1, 2024 @ 05:09 AM
Name: Brian Miyamoto	Email: brian@hfbf.org	Zip: 96759
Representing: Hawaii Farm Bureau	Position: I wish to comment	Submitted: May 1, 2024 @ 07:21 AM
Name: Elizabeth Songvilay	Email: es569u@att.com	Zip: 96782
Representing: AT&T	Position: I wish to comment	Submitted: May 1, 2024 @ 08:07 AM
Name: Stephen Walls	Email: dbedt.energyoffice@hawaii.gov	Zip: 96813
Representing: Hawaii State Energy Office	Position: I wish to comment	Submitted: May 1, 2024 @ 08:20 AM
Name: Taylor Kellerman	Email: tkellerman@kualoa.com	Zip: 96730-9806
Representing: Kualoa Ranch	Position: I wish to comment	Submitted: May 1, 2024 @ 08:59 AM
Testimony:		

Dear Chair Kia'āina and Members of the Committee,

My Name is Taylor Kellerman and I am the Director of Diversified Agriculture and Land Stewardship for Kualoa Ranch Hawaii. When Bill 10 was first introduced I testified in person multiple times about how some of the initiatives and language of the original bill would have profound negative impacts on our ability to continue to be a significant local food source for the island of Oahu. I was very appreciative of its ultimate deferral, and I then participated in the working group convened to provide a voice for the agriculture industry. I stand by the group consensus feedback outlined in Ulupono's testimony for Bill 64 and appreciate the opportunity for involvement.

Mahalo

Name:	Email:	Zip:
Frederick Mencher	fmencher@hawaii.rr.com	96817

Representing:	Position:	Submitted:
East Oahu County Farm Bureau	I wish to comment	May 1, 2024 @ 11:12 AM

Name:	Email:	Zip:
Susan Mulkern	susan@mulkernlandscaping.com	96821

Representing:	Position:	Submitted:
Self	I wish to comment	May 1, 2024 @ 07:06 PM

Testimony:

Aloha, Council Members, I agree with the East Oahu County Farm Bureau's comments in its letter dated 4/30/24 about the table of use changes to Bill 64. Small & medium meeting rooms and K - 12 schools are not compatible with agricultural practices in the limited areas defined. I also agree that vocational schools dedicated to agriculture training should be allowed as they support our programs to train new farmers and the UH Agricultural Research Station as it performs valuable research that benefits us all. As to the allowance of solar energy to support a farm and make it more energy efficient, this could be a great benefit to our renewable energy programs. Thank you for considering my comments.

Respectfully submitted,

Susan Mulkern, Mulkern Landscaping & Nursery

Name:	Email:	Zip:
Kevin Mulkern	KevinJMulkern@gmail.com	96821

Representing:	Position:	Submitted:
Self	I wish to comment	May 1, 2024 @ 07:17 PM

Testimony:

The Hawaii Farm Bureau has been the voice of agriculture since 1948. I joined the Farm Bureau in the 80's and The Farm Bureau has always looked out for best interest of the people of Hawaii.

Please consider East Oahu County Farm Bureaus testimony of April 30, 2024, Submitted by Frederick M. Melcher for Grant

Hamachi President as my testimony.

As a new farmer in Waimanalo, I want to thank the state for granting my family business a lease for a 7-acre agriculture lot. My wife and I depend on The University of Hawaii's, Go Farm Program, an invaluable resource. This bill may put the program at risk.

Hawaii has changed and you may be out of touch with what is happening in our community. Maintaining a buffer zone for farms critical for their survival.

Kevin Mulkern

Mulkern landscaping and Nursery

808 396 6595

cc

waa@hawaii.rr.com

theodore@hawaii.edu

Name:	Email:	Zip:
Stefanie Sakamoto	stef@sakamotoconsulting.com	96789
Representing:	Position:	Submitted:
Bia hawaii	I wish to comment	May 2, 2024 @ 04:54 AM



Hawaii Funeral & Cemetery Association, Inc.

1330 Maunakea Street, Honolulu, Hawaii 96817

April 29, 2024

To: Honolulu City Council Committee on Planning & the Economy Chair Council Member Esther Kia'aina

Re: BILL 64, FD1, CD1 TESTIMONY - COMMENTS AND AMENDMENT REQUEST

Aloha Chair Kia'aina and Members of the Committee on Planning & the Economy:

The Hawaii Funeral and Cemetery Association, Inc. ("HFCA") provides the following comments and respectfully requests certain amendments regarding Bill 64, Relating to Use Regulations.

HFCA is a Domestic Nonprofit Corporation with an independent 12-member Board of Directors. We represent 14 mortuaries and 10 cemeteries across the state serving the vast majority of Hawaii's families during their time of need.

HFCA appreciates the City's effort to update its land use ordinances. However, we find that current standards and approvals for cemeteries under the LUO pose a significant hardship on the few remaining operational cemeteries on Oahu. As such, we respectfully request certain amendments to address these issues under Bill 64.

The last new public cemetery to be built on Oahu opened in 1965, prior to the establishment of the LUO. Since that time, the underlying land use regulations for existing cemeteries have changed on numerous occasions. These LUO changes have caused operations, structures, and uses at many cemeteries to now be considered non-conforming.

In addition, over the past 25 years, annual deaths on Oahu have risen substantially. Since 1996 when the Department of Health began tracking data by county, the number of deaths within the City & County of Honolulu have nearly doubled (from 5,557 annual deaths to 9,074). As a result, many of the cemeteries across the island have reached their capacity. Today, only seven major endowment care cemeteries remain along with two veteran's cemeteries. Of these remaining cemeteries, nearly all are undergoing expansion or will need to need to do so in the near future to keep pace with the growing need.

Given the need to expand existing cemeteries and the prohibitive cost of establishing new cemeteries, HFCA respectfully requests certain amendments to allow for greater flexibility. Currently, the only current way to approve non-conforming uses for cemeteries is through zoning variances. As a result, this flexibility is especially vital due to the limitations on the applicability of zoning variances stemming from recent court decisions.

These amendments are the only way for the industry to continue to serve families on the island and provide space for the inurnment of their loved ones.

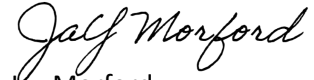
For these reasons, HFCA respectfully requests the following amendments:

- Under Section 3, § 21-5.60-5(a), Cemetery standards – provide that density, height, and building area flexibility may be permitted pursuant to the plan review use process in AG-2 or P-2 zoning districts.
- Under the Master Use Table 21-5.1 Table of Permitted Uses Public, civic, and institutional uses – provide that cemeteries in the P-2 District are subject to the plan review use process with standards.

Conclusion

HFCA appreciates the Council's consideration of these proposed amendments and respectfully requests its action to incorporate the changes into the bill.

Sincerely,

A handwritten signature in black ink that reads "Jay Morford". The signature is written in a cursive, flowing style.

Jay Morford
President

AMENDMENT FORM Bill 64 (2023), FD1
Relating to Use Regulations
PUBLIC, CIVIC AND INSTITUTIONAL USES
Proposed Amendments - Hawaii Funeral and Cemetery Association

Item No.	Bill SECTION	ROH Section, Exhibit, or Figure, and Title	Page No.	Amendment Description	Amendment Text (in Ramseyer Format)	Comments or Clarification
1	SECTION 3	Table 21-5.1 Table of Permitted Uses Public, civic, and institutional uses category Parks and open space subcategory Cemetery entry	6	Amend cemetery entry in Use Table		Provide that cemeteries in the AG-2 District are subject to standards.
					<div> <div>Cemetery</div> <div> <div>P*</div> <div>PRU</div> </div> <div>-</div> <div> <div>PRU</div> <div>PRU*</div> </div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>-</div> <div>P*</div> <div>§ 21-5.60-5(a)</div> </div>	Provide that cemeteries in the P-2 District are subject to the plan review use process with standards.
2	SECTION 3	§ 21-5.60-5(a) Public, civic, and institutional uses Parks and open space Cemetery – standards	33	Amend cemetery standards	<p><i>(a) Cemetery – standards.</i></p> <p>(1) Prior to approval of an application for a cemetery, a certificate of approval must be obtained from the Board of Water Supply indicating that there is no danger of contamination of the water supply.</p> <p>(2) In the AG-2 zoning district, burials are prohibited within 50 feet from the property line of any adjoining zoning lot located in the country, residential, apartment, or apartment mixed-use zoning districts.</p> <p>(3) In the AG-2 zoning district, a minimum 50-foot landscaped buffer is required from the property line of any adjoining zoning lot located in the country, residential, apartment, or apartment mixed-use zoning districts.</p> <p><u>(4) Density, height, and building area flexibility may be permitted pursuant to the plan review use process.</u></p>	Provide that density, height, and building area flexibility may be permitted pursuant to the plan review use process.



Email: communications@ulupono.com

HONOLULU CITY COUNCIL COMMITTEE ON PLANNING & THE ECONOMY
Thursday, May 2, 2024 — 9:00 a.m.

Ulupono Initiative offers comments on Bill 64 (2023) FD1, Relating to Land Use Ordinance (LUO) Use Regulation Amendments.

Dear Chair Kia'āina and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government 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 choices, and better management of freshwater resources.

Ulupono offers comments on Bill 64 (2023) FD1. This bill proposes amendments to the regulation of uses throughout Chapter 21, Revised Ordinance of Honolulu 1990 ("Land Use Ordinance"). Our testimony for today's committee hearing is focused on the land use regulation updates for Public, Civic, and Institutional Uses as they pertain to O'ahu's agricultural industry.

In October 2022, Bill 10, relating to land use regulations, was postponed by the Council to allow for further discussion and collaboration with the community, including the agricultural industry who requested additional time to address the many updates made to agricultural land uses. The bill's postponement was done with the understanding that the agriculture industry would bring recommendations to the Council for the next round of hearings in 2023 and 2024.

During that time, Ulupono had the opportunity to convene and participate in several, all-day weekend meetings with agricultural producers and stakeholders for review and comment on the proposed bill. The following organizations were included in these discussions: O'ahu Agriculture and Conservation Association, Kuilima Farm, Kualoa Ranch, Waimānalo Agricultural Association, KōHana Distillers, Kunia Country Farms, Hawai'i Cattlemen's Council, Ulupono Initiative, Hawai'i Farm Bureau, and East County Farm Bureau.¹ The group also included the City and County of Honolulu's (CCH) Department of Planning and Permitting, CCH Office of Economic Revitalization, and State of Hawai'i Department of Agriculture.

¹ Note: we recognize that this group is not a full representation of the entire O'ahu agriculture community, but it does offer significant and meaningful representation of those who were active in Council deliberations of Bill 10 in 2022.

After going line by line on the measure's proposed amendments and additions to the agricultural uses in the Land Use Ordinance, our group was able to produce several recommendations that we believe support the future of agriculture on O'ahu. The results of these meetings are reflected in the recommendations provided below²:

Assembly

In Section 21.5.60-1 Use Table, relating to Assembly, the FD1 allows small meeting facility use on AG2 land as Cm*+ (Minor Conditional Use, Standards, SUP) and on Country land as Cm* (Minor Conditional Use, Standards), and medium meeting facility use on AG2 land as C*+ (Major Conditional Use, Standards, SUP) and on Country land as C* (Major Conditional Use, Standards). We oppose this provision and propose that meeting facilities should not be allowed on AG1 and AG2 land, which should be preserved and used for active agriculture production and accessory agriculture. Meeting facilities of all sizes may be placed in country-zone districts; however, some country-zoned districts are small and located between AG1 and AG2 farms. Such proximity can compromise normal agriculture activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) by complaints from meeting attendees.

Communication

In Section 21-5.60-2(b), relating to Communication, we support the allowance of communication towers in AG1 and AG2 districts as the communications tower footprint is small, and it is federally regulated. We offer the suggestion to give neighbors notice of conditional use permits in ag lots as sometimes they come up overnight. Currently, it is believed that a neighborhood board notice is required.

Education (K-12)

In Section 21-5.60-3, relating to Education, we respectfully oppose K-12 schools in AG2 districts as C*+ (Major Conditional Use, Standards, SUP). Schools are incompatible with normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.), and this could generate complaints and hinder management of the farm. We ask for the removal of schools as a permitted use on country-zoned parcels that are *adjacent* to AG1 or AG2 parcels. Some of the country ag parcels are small and between AG1 and AG2 farms. When schools are allowed on these parcels zoned for agriculture, it infringes on the "right to farm" as preserved in the Hawai'i State Constitution.

Parks and Open Space (Cemetery)

In Section 21-5.60-5(a) relating to Cemeteries, we agree with the stated cemetery standards and higher PRU+ (Plan Review Use, SUP) in the AG-2 District. The PRU+ requirement is the highest level of review and, as such, we support this.

² There are several recommendations that came out of these meetings and they will be provided to the Council as additional agricultural items are taken up for Bill 64 (2023).

Utility

In Section 21-5.60(a), relating to Utility, we recommended amending this to: wind energy generation facilities of all categories, small, medium, and large, when placed on AG1 and AG2 lands, must dedicate at least 51% of the zoning lot area suitable for crop raising, animal raising, or aquaculture. The Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered suitable for crop raising, animal raising, or aquaculture. Soil classifications (addressed by State Land Use HRS) and specific agriculture zone designations (addressed by County AG1 and AG2 districts) for wind energy generation facilities should be considered in the approval of the location of such facilities on agricultural lands.

We appreciate your consideration of these comments and hope to contribute further to this important conversation as we look to update the many important land uses in Bill 64 (2023).

Respectfully,

Micah Munekata
Director of Government Affairs

DOUGLAS & KATHIE STEWART
41-712 MOOIKI STREET
WAIMANALO, HAWAII 96795

SENT VIA E-MAIL: ekiaaina@honolulu.gov

Esther Kia'aina

Vice Chair

Honolulu District Council, District 3

HONOLULU CITY COUNCIL COMMITTEE ON PLANNING & THE ECONOMY Thursday,
May 2, 2024 — 9:00 a.m.

Subject: Comments on Bill 64 (2023) FD1, Relating to Land Use Ordinance (LUO) Use
Regulation Amendments.

Dear Chair Kia'aina and Members of the Committee:

Three years ago we sent testimony to LUC Chair Scheuer and Members of the Commission in opposition of Important Agricultural Lands (IAL) designation. Here we are today with no resolution to that issue and are now facing the downfall of our agriculture lands by only requiring 51% of our land to be used for agriculture and the rest basically can be used for whatever a landowner wants to do. Agriculture land is what it is – Agriculture Land – nothing more, nothing less. By allowing non-agriculture entities you will be taking away from agriculture and it will never return once you've done this. If this 51% passes, then hopefully you will charge the landowner a higher tax rate for the non-agriculture entities. Many companies are moving onto agriculture lands because the cost of space at the Kailua Industrial Quarry Area is so high that it's cheaper for them to buy agriculture land and move their business here. They have their agriculture lands dedicated to agriculture and pay a minuscule amount of taxes, which is not right. We hope you have looked into the tax issue as well.

Bottom line - If Hawaii wants to be a “sustainable” state, you cannot take the agriculture land away. We need land to grow food, care for animals, propagate honeybees, etc., and more importantly, we need enforcement. Waimanalo agriculture land lots are small and we cannot suffer much of what you're trying to change.

Items we OPPOSE on Agriculture Zoned Lots (AG1 & AG2) :

- 1) 51% of land must be used for agriculture: This should be 100% with exception of 5,000 sq. ft. for home.
- 2) Wedding, graduation parties, etc., all paid party venues: They're loud and disruptive to neighbors and farm animals and they have nothing to do with agriculture.
- 3) Home based businesses; dumpster companies, heavy equipment rentals, plumbing companies, etc.: Most are using agricultural lands as base yards.
- 4) Saw Mills: This should be done in an industrial area.
- 5) Limiting beekeepers to 6 hives if over 20,000 sq. ft.: Honeybees pollinate and are a vital need for food growth and sustainability. Many beekeepers have over 100 hives.
- 6) In Section 21.5.60-1 Use Table, relating to Assembly, the FD1 allows small meeting facility use on AG2 land as Cm*+ (Minor Conditional Use, Standards, SUP) and on Country land as Cm* (Minor Conditional Use, Standards), and medium meeting facility use on AG2 land as C*+ (Major Conditional Use, Standards, SUP) and on Country land as C* (Major Conditional Use, Standards). We oppose this provision and propose that

DOUGLAS & KATHIE STEWART
41-712 MOOIKI STREET
WAIMANALO, HAWAII 96795

meeting facilities should not be allowed on AG1 and AG2 land, which should be preserved and used for active agriculture production and accessory agriculture. Meeting facilities of all sizes may be placed in country-zone districts; however, some country-zoned districts are small and located between AG1 and AG2 farms. Such proximity can compromise normal agriculture activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) by complaints from meeting attendees.

- 7) In Section 21-5.60-3, relating to Education, we respectfully oppose K-12 schools in AG2 districts as C*+ (Major Conditional Use, Standards, SUP). Schools are incompatible with normal Ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.), and this could generate complaints and hinder management of the farm. We ask for the removal of schools as a permitted use on country-zoned parcels that are adjacent to AG1 or AG2 parcels. Some of the country Ag parcels are small and in between AG1 and AG2 farms. When schools are allowed on these parcels zoned for agriculture, it infringes on the “right to farm” as preserved in the Hawaii State Constitution.

Thank you for your consideration.

Sincerely,
Douglas & Kathie Stewart



HONOLULU CITY COUNCIL COMMITTEE ON PLANNING & THE ECONOMY
Thursday, May 2, 2024 — 9:00 a.m.

The Hawaii Cattlemen's Council offers comments on Bill 64 (2023) FD1, Relating to Land Use Ordinance (LUO) Use Regulation Amendments.

Dear Chair Kia'āina and Members of the Committee:

My name is Nicole Galase, and I am the Managing Director at the Hawaii Cattlemen's Council (HCC). We are the Statewide umbrella organization comprised of the four 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 almost 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.

This bill proposes amendments to the regulation of uses throughout Chapter 21, Revised Ordinance of Honolulu 1990 ("Land Use Ordinance"). Our testimony for today's committee hearing is focused on the land use regulation updates for Public, Civic, and Institutional Uses as they pertain to O'ahu's agricultural industry.

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During that time, The Hawaii Cattlemen's Council had the opportunity to take part in convenings facilitated by Ulupono. These included several all-day weekend meetings with agricultural producers and stakeholders for review and comment on the proposed bill. The following organizations were included in these discussions: O'ahu Agriculture and Conservation Association, Kuilima Farm, Kualoa Ranch, Waimānalo Agricultural Association, KōHana Distillers, Kunia Country Farms, Hawai'i Cattlemen's Council, Ulupono Initiative, Hawai'i Farm Bureau, and East County Farm Bureau.¹ The group also included the City and County of Honolulu's (CCH) Department of Planning and Permitting, CCH Office of Economic Revitalization, and State of Hawai'i Department of Agriculture.

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recommendations that we believe support the future of agriculture on O‘ahu. The results of these meetings are reflected in the recommendations provided below²:

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We appreciate your consideration of these comments and hope to contribute further to this important conversation as we look to update the many important land uses in Bill 64 (2023).

Respectfully,

Nicole Galase
Managing Director



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

May 2, 2024

HEARING BEFORE THE
COMMITTEE ON PLANNING AND THE ECONOMY

**TESTIMONY ON BILL 64 (2023), FD1
RELATING TO LAND USE ORDINANCE (LUO) AMENDMENT USE REGULATION
AMENDMENTS**

City Council Chamber
9:00 AM

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

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized in 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

HFB offers comments on Bill 64 (2023) FD1. This bill proposes amendments to the regulation of uses throughout Chapter 21, Revised Ordinance of Honolulu 1990 ("Land Use Ordinance"). Our testimony for today's committee hearing is focused on the land use regulation updates for Public, Civic, and Institutional Uses as they pertain to O'ahu's agricultural industry.

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Department of Planning and Permitting, the CCH Office of Economic Revitalization, and the State of Hawai'i Department of Agriculture.

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Utility

In Section 21-5.60(a), relating to Utility, we recommended amending this to: wind energy generation facilities of all categories, small, medium, and large, when placed on AG1 and AG2 lands, must dedicate at least 51% of the zoning lot area suitable for crop raising, animal raising, or aquaculture. The Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered suitable for crop raising, animal raising, or aquaculture. Soil classifications (addressed by State Land Use HRS) and specific agriculture zone designations (addressed by County AG1 and AG2 districts) for wind energy generation facilities should be considered in the approval of the location of such facilities on agricultural lands.

We appreciate your consideration of these comments and hope to contribute further to this important conversation as we look to update the many important land uses in Bill 64 (2023).

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



May 1, 2024

Chair Esther Kiaʻāina
Planning & Economy Committee
Honolulu City Council
South King Street
Honolulu, HI 96813

Dear Chair Kiaʻāina, Vice Chair Cordero, and members of the Planning & Economy Committee,

We write to you today as stakeholders of the telecommunications industry who help to provide wireless services to customers across Oʻahu. We commend the Planning & Economy Committee for its work to update Honolulu’s Land Use Ordinance and appreciate this opportunity to provide proposed amendments.

We also want to acknowledge the Department of Planning and Permitting’s (DPP) Land Use Division for meeting with members of our industry throughout this process. We look forward to continuing engagement with their office as well as Councilmembers and Council staff as Bill 64 moves forward.

On Oʻahu, our companies are responsible for building and upgrading wireless facilities, and in some cases, the underlying infrastructure. These projects are typically initiated in response to increased wireless data traffic and demand, which saw a 38 percent increase nationally in 2022 alone.¹

This demand comes from an increased number of devices that are connected wirelessly (e.g. smart city technology, security cameras, smartwatches) and increased technological capabilities that require more network data (e.g. live streaming, videochatting with friends, family, coworkers, and health professionals). Our infrastructure facilitates these connections and our customers rely on us to keep up with increased demands. In 2022, the wireless industry invested tens of billions of dollars in 2022 to improve the nation’s networks and maintain network reliability, quality, and speeds, including in Hawai‘i.¹ This investment fuels economic growth

¹ CTIA 2023 Annual Survey Highlights, *available at* <https://api.ctia.org/wp-content/uploads/2023/11/2023-Annual-Survey-Highlights.pdf>

where the wireless industry supports more than 22,000 jobs nationwide and generates \$2.1 billion in annual GDP growth.²

To best provide services that our customers rely on each day, reasonable land use requirements and permit review timelines in the City & County of Honolulu is critical. For this reason, our companies worked together over the last year to review Bill 64 (previously Bill 10) and provide the proposed amendments enclosed with this testimony for the Committee's consideration. This testimony provides a narrative explaining each amendment.

Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012

A previous version of Bill 10 included language recognizing a federal law commonly referred to as "Section 6409."³ We are requesting that recognition of Section 6409 be reinstated in Bill 64 in the form we propose in our amendments.

Background

"Section 6409" references Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, which was enacted in 2012 and codified at 47 U.S.C. Section 1455. The Federal Communications Commission adopted regulations implementing Section 6409(a) in 2014 (47 C.F.R. Section 1.6100).

Under the FCC's regulations, if a proposed facility modification does not involve a "substantial change" to the facility under the federal test codified in 47 CFR §1.6100(b)(7) and the proposal meets building, structural, electrical, and safety codes, the modification must be approved within 60 days of the applicant's request for review, after accounting for any tolling. If the local government fails to act on the request within 60 days, the request is "deemed granted" when the applicant notifies the local government that the 60-day review period has expired. Some zoning standards, such as height limitations and design guidelines, are preempted by Section 6409(a).

Examples of projects where Section 6409 would be applicable include swapping out radios, adding another panel antenna to an existing site, or collocation (adding a new wireless facility to an existing structure where another wireless facility has been installed).

Changes to Bill 10 language

Our proposed language to recognize Section 6409 does not include an exemption for special districts, which had been included in Bill 10. We did not include this language because such language is preempted by federal law.

² CTIA Our Economic Impact, *available at* <https://www.ctia.org/the-wireless-industry/map/4g>

³ Sec. 21-5.60-2(b)(2)(E) of Bill 10 (22) CD 1, approved on 8/25/22.

DPP recognition of Section 6409

While Section 6409 is applicable law, DPP's processes have not previously recognized Section 6409. However, in the last year, DPP has made an effort to incorporate Section 6409 in their processes and we appreciate the action they have taken thus far. These changes have allowed our companies to improve wireless services more quickly, encouraging more investments into the networks on O'ahu.

Although progress has been made, it would be helpful to have Section 6409 and 47 C.F.R. Section 1.6100 codified in City & County of Honolulu code, especially as staff and reviewers may change over time. This will enable consistency in the interpretation of the requirements and the content of the submissions, ultimately supporting more efficient reviews and quality wireless network services for O'ahu's residents and visitors.

Alternative Communication Support Structures

The next two sets of amendments in the enclosed chart are related to concealment/stealth requirements for wireless communications facilities in or on an alternative support structure. On O'ahu, the most common "alternative communication support structure" is a multi-story building rooftop.

Definition of Alternative Communication Support Structures

The first set of amendments related to the definition of "alternative communication support structure" are technical in nature and offered to provide consistency and clarity.

Design standards for antennas in or on alternative support structures

The next set of amendments is aimed at providing flexibility, so that each carrier can determine what integration or concealment measures are most feasible in each situation. This flexibility would allow the industry to effectively provide and enhance wireless services while mitigating the visual impacts of antennas, which we understand to be the goal of this section.

Examples of Acceptable Concealment

Proposed amendments to (2)(A) offer a variety of available concealment/visual mitigation designs that can be used island-wide. Having pre-approved design standards for eligible projects would provide clarity to both reviewers and applicants, saving valuable review time and speeding critical deployments.

The proposed designs are concealment methods commonly used across the country. While integrating antennas into a building façade may be desired, it is not always feasible. If integrated antennas were required for all antennas placed on alternative support structures, this would greatly limit carriers' ability to utilize alternative communication support structures to enhance wireless services. In urban Honolulu, for example, where wireless demand is the highest in

Hawai'i and where space for new tower structures is lacking, the current language would make siting new wireless facilities and keeping up with wireless demand extremely difficult.

Antennas on rooftops

The proposed revisions to (2)(B) require that a wireless facility placed on a rooftop to either be set back or to mitigate visual impacts of antennas, but not both. The current Bill 64 language reads as though antennas on rooftops must be both set back from the edge of the room and integrated into the architecture. If antennas are set back so they are not visible from the street below, additional measures would not be necessary.

Special districts

Finally, we proposed to exempt special districts from the proposed design standard. We understand the significance of designated special districts and realize there may be different design standards than what is included in Bill 64 that carriers will have to be mindful of in keeping with the character of such areas.

In closing, we appreciate the opportunity to provide testimony on Bill 64 and the Committee's consideration of our proposed amendments. We look forward to continuing to work with you as Bill 64 moves forward.

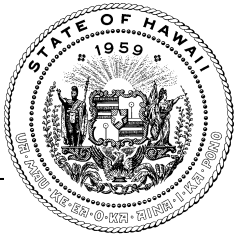
Sincerely,

AT&T
Crown Castle
Dish
T-Mobile
Verizon
CTIA
WIA

Proposed Amendments to Bill 64 FD 1 (2023)
City and County of Honolulu

Bill Section	ROH Section	Amendment Description	Amendment Text	Comments
Section 3	§ 21-5.60-2 Communication.	Restore/amend reference to facility modifications permitted outright under federal law.	<p>Uses in the communication category that are required to comply with specific standards are set forth in this section. Development standards required in other articles of this chapter apply to all uses.</p> <p><u>(a) Facility modifications qualifying as eligible facility requests under 47 U.S.C. § 1455(a) and 47 C.F.R. § 1.6100, as may be amended or superseded, shall be permitted in all zoning districts and shall not require any permits or approvals under this chapter.</u></p> <p>* Note: Re-letter subsequent subsections in 60.2</p>	<ul style="list-style-type: none"> Recognizes that certain facility modifications must be approved, subject only to the federal criteria in 47 C.F.R. §1.6100(b)(7). Suggest CCH adopt an application checklist to guide review of these modifications under federal criteria.
Section 71	§ 21-10.1 Definitions.	For consistency and clarity.	<p>"Alternative Communication Support StructureAlternative. A facility such as a rooftop structure, facade-mounted concealed structure, clock tower, campanile, steeple, light structure, or other wireless communication structure that supports or conceals an antenna."</p>	<ul style="list-style-type: none"> Adjusting reference to "alternative communication support structure" to be consistent with other references in the bill. Other changes are to help distinguish between the structure and the wireless facility. The below redlines to § 21-5.60-2(c)(2) relies on this updated definition.

Bill Section	ROH Section	Amendment Description	Amendment Text	Comments
Section 3	§ 21-5.60-2(c)(2) Communication.	Clarify concealment and/or location requirements on alternative support structures.	<p>(2) <u>Antennas installed in or on an alternative communication support structure located outside of special districts, must:</u>Alternative communication support structures must:</p> <p>(A) Be concealed <u>in or on the alternative communication support structure or obscured</u> to minimize visual impacts, especially when integrated into an existing building façade. Integration with existing structures or with existing uses must be accomplished through the use of architecture, landscape, and site solutions. <u>Acceptable concealment includes screening, painting or coloring antennas to match building materials, or wrapping antennas in reflective film; or</u></p> <p>(B) When located on the roof of an existing structure <u>without architectural integration or concealment</u> in an alternative communication support structure, <u>antennas must</u> be set back or located to minimize visual impacts, especially from public rights-of-way and public places.</p>	<ul style="list-style-type: none"> Clarifies the types of concealment that are acceptable, including reflective wrap. Recognizes that visual impacts may be sufficiently mitigated by meeting one or more design requirements. For example, if the facility is architecturally integrated with a rooftop feature, it need not also be set back from the edge of the roof. Further, if a facility on a rooftop is set back, it need not also be concealed/obscured. Making clear that this standard is generally applicable, understanding that DPP Land Use may apply additional standards to new facilities in special districts.



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

MARK B. GLICK
CHIEF ENERGY OFFICER

235 South Beretania Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone:
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(808) 451-6648
energy.hawaii.gov

Testimony of
MARK B. GLICK, Chief Energy Officer

before the
**HONOLULU CITY COUNCIL
COMMITTEE ON PLANNING AND THE ECONOMY**

Thursday, May 2, 2024
9:00 AM

Providing Comments on
BILL 64 (2023), FD1, CD1

RELATING TO USE REGULATIONS

Chair Kia'āina, Vice Chair Cordero, and members of the Committee, the Hawai'i State Energy Office (HSEO) offers comments on Bill 64 (2023), FD1, CD1, that repeals and replaces Revised Ordinances of Honolulu 2021 ("ROH") Chapter 21, Article 5, and amends related sections throughout the ROH.

HSEO's comments today will be limited to energy- and community-related topics that we have been discussing with communities and experts in other states and counties, pertaining to large wind energy systems, specifically:

1. Setbacks and requirements for the future siting of such systems; and
2. Whether or not new requirements would affect current wind energy systems at the conclusion of their contract periods.

HSEO met with members of the Kahuku Community Association to discuss future actions. Their response was positive, appreciating efforts to address the issues. Given the likelihood of increasing turbine heights, it appeared desirable to establish a distance from country, residential, apartment, apartment mixed-use, or resort areas of 10 times the height of the facility.

The current ordinance (ROH § 21-5.700, Wind machines) requires a setback equal to the height of the turbine, and does not require a buffer zone between turbines and residential areas:

(a) All horizontal-axis wind machines and ground-mounted vertical-axis wind machines must be set back from all property lines a minimum distance equal to the height of the system. Height includes the height of the tower or its vertical support structure and the farthest vertical extension of the wind machine.

The ordinance was in place prior to the construction of the three wind farms on O'ahu's north shore. Information on the wind farms is provided in the table below.

Wind Farms on O'ahu

Details	Kahuku	Kawailoa	Na Pua Makani
Contract expiration (20 years)	3/22/2031	11/2/2032	12/11/2040
Number of Turbines	12	30	8
Wind Farm Energy Capacity (MW)	30	69	24
Height (feet)	453	493	568
Avg Electricity Price, Fiscal Year 2023	\$0.2214/kWh	\$0.2359/kWh	\$0.1413/kWh
Energy production, Fiscal Year 2023	75,947 MWh	113,467 MWh	95,870 MWh
Source: https://puc.hawaii.gov/wp-content/uploads/2024/01/Final-PUC-Annual-Report-FY23-01.16.2024-v1.pdf			

Residents living near the wind farms have observed and communicated concerns about issues related to the proximity and location of the wind turbines relative to homes, schools, and other occupied buildings, chief among which are issues of shadow flicker and noise. Both of these impacts could be reduced, and have been reduced elsewhere, through siting and operational requirements.

HSEO notes that there are different impacts associated with each form of energy production for which policies are devised to inform future development, with careful consideration of community input and commentary. HSEO also acknowledges that energy plans and strategies to meet renewable portfolio statutory requirements for O'ahu, as well as other parts of the state, require a significant amount of additional renewable energy. Given the island's limited land availability and the nighttime

resource potential, wind energy located onshore has demonstrated potential to cost-effectively deliver renewable resources to meet those policy objectives. The ability to appropriately incorporate additional onshore wind resources are highly dependent upon public policies that reduce and avoid negative impacts on residential areas.

Accordingly, HSEO recommends establishing limitations and requirements that directly address the issues of shadow flicker and noise.

[Shadow flicker](#) may occur on a clear day, at sunrise or sunset, when the rotating blades of a wind turbine cast moving shadows on an occupied building. This can cause significant annoyance, especially when three conditions occur simultaneously at sunrise or sunset:

1. Skies are clear, with strong shadows;
2. There is enough wind for the turbine blades to be rotating; and
3. The shadows are cast on an occupied building.

The effect of shadow flicker on any specific building changes from day to day, as the location of sunrise and sunset change from north to south and back again over the course of the year. Also, it is possible for [shadow flicker protection systems](#) to sense conditions and calculate the location of the shadows. Several areas that regulate this issue impose a limit of no more than 30 hours of shadow flicker per year, with a daily maximum of 30 minutes. For occupied buildings, it is possible to use software tools like WindPro, WindFarm, and WindFarmer to generate accurate predictions of the expected shadow flicker impacts from nearby wind turbines.

Regarding noise management, several locations cap noise levels between 40 – 45 dBA, or 5 – 10 dBA above ambient sound levels, whichever is lower.

HSEO provides the attached language for the committee's consideration which does a better job in protecting communities, in our opinion, than the current ordinance that stipulates the setback to be equal to the height of the turbine.

Thank you for the opportunity to testify.

Attachment to testimony: Recommended Language

Bill SECTION	3
ROH Section, Exhibit, or Figure, and Title	§ 21-5.60-6 Utility.
Page No.	39
Amendment Text (in Ramseyer Format)	Please see below

Proposed revision to CD1, page 39:

“(E) Large wind energy generation facilities must be set back from all property lines a minimum distance equal to the height of the facility~~[-measured from the highest vertical extension of the facility]~~; and a minimum buffer zone distance of ~~[1.25 miles]~~ 10 times the height of the facility from the property lines of any zoning lot located in the country, residential, apartment, apartment mixed-use, or resort zoning districts~~[-provided that the setback]~~. Siting is permitted within the buffer zone provided that developers can demonstrate, and only as long as the project adheres to, all of the following: no part of the facility shall cause more than 10 hours per year or 10 minutes per day of shadow flicker on occupied buildings; the distance to occupied buildings shall be greater than the wind generation equipment manufacturer safety limits; and facility noise levels do not exceed 10 dBA above ambient sound levels at occupied buildings during normal operation. Models of anticipated shadow flicker shall use site-specific cloud cover (weather) data and turbine operating characteristics. The setback, shadow flicker, and noise requirements in this paragraph only apply to new large wind energy generation facilities and renewals or extensions of power purchase contracts for existing facilities, and do not apply to the repair, maintenance, or component replacement of any existing facility covered by a power purchase contract with an electric public utility during the term of the contract~~[-including any renewal or extension thereof]~~. Height includes the height of the tower or its vertical support structure and the farthest vertical extension of the tower is measured from the highest vertical extension of the facility.”

Additional Information

Report for Linn County by the University of Iowa. Includes discussions of multiple issues and siting factors, with diagrams. Z. Chen et al., "Linn County Wind Farm Siting Analysis." https://iisc.uiowa.edu/sites/iisc.uiowa.edu/files/2022-09/final_report_-_linn_county_wind_farm_siting_analysis.pdf

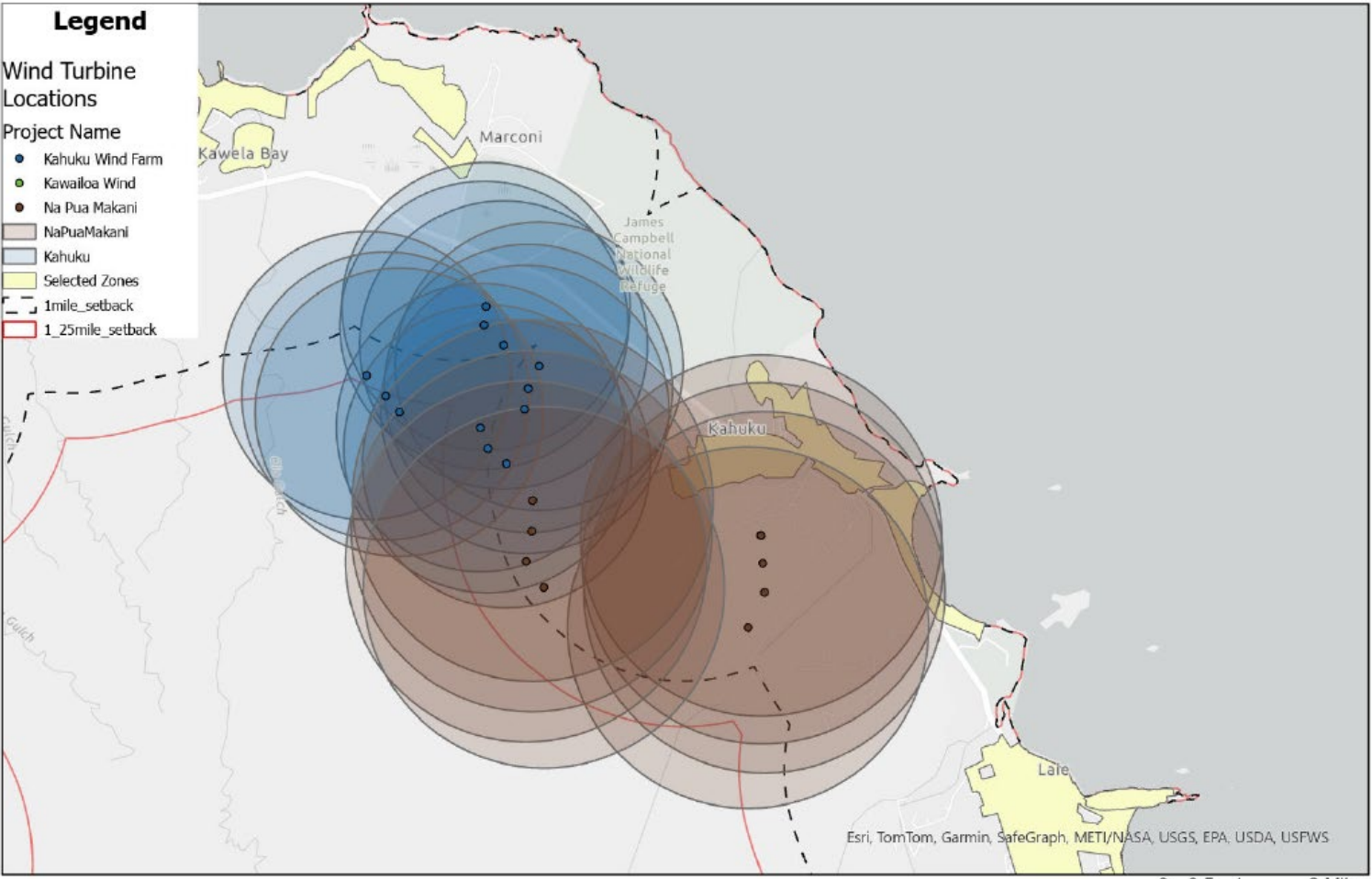
Shadow flicker:

- Energy Research and Social Science, "In the shadow of wind energy; Predicting community exposure and annoyance to wind turbine shadow flicker in the United States." <https://www.sciencedirect.com/science/article/pii/S2214629621005582?via%3Dihub>
- E Koppen et al., Conf. on Wind Turbine Noise Rotterdam (2017), 7th International Legislation and Regulations for Wind Turbine Shadow Flicker Impact. <https://www.slideshare.net/ErikKoppen/wtn-2017-international-legislation-and-regulations-for-wind-turbine-shadow-flicker-impact>
- World Bank Group, "Environmental, Health, and Safety Guidelines - Wind Energy." <https://documents1.worldbank.org/curated/en/498831479463882556/pdf/110346-WP-FINAL-Aug-2015-Wind-Energy-EHS-Guideline-PUBLIC.pdf>

Noise:

- World Health Organization Europe, Environmental Noise Guidelines for the European Region: <https://iris.who.int/bitstream/handle/10665/279952/9789289053563-eng.pdf?sequence=1>
- National Association of Regulatory Utility Commissioners, Wind Energy & Wind Park Siting and Zoning Best Practices and Guidance for States: <https://pubs.naruc.org/pub.cfm?id=539BA6EE-2354-D714-5157-359DDD67CE7F>
- Lawrence Berkeley National Laboratory, Wind turbine audibility and noise annoyance in a national U.S. survey: https://eta-publications.lbl.gov/sites/default/files/haac_et_al._2019_wind_turbine_audibility_and_noise_annoyance_in_a_national_u.s._survey.pdf

Setbacks and Buffer Maps:

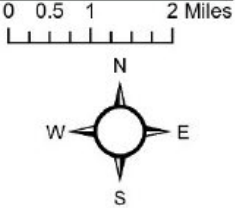


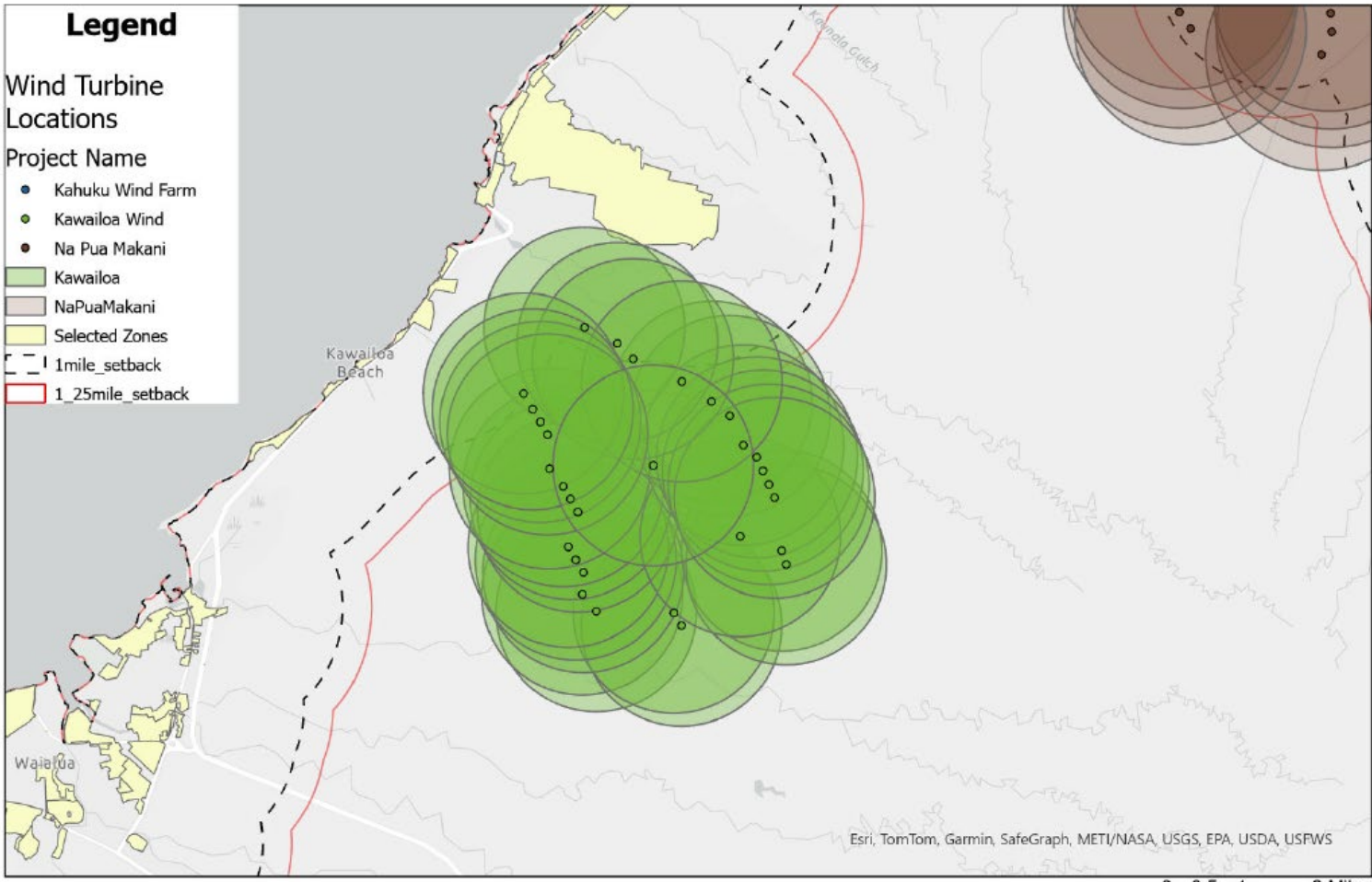
2024

Oahu Wind Turbine Setbacks: Buffer Zone and Distances



Setback distances 1 mile, 1.25 mile.
Setback buffer from Residential, Apartment, Apartment Mixed-Use, Country and Resort Zones.
Existing turbine locations with buffer showing 10x turbine height



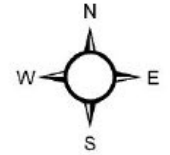


2024

Oahu Wind Turbine Setbacks: Buffer Zone and Distances



Setback distances 1 mile, 1.25 mile.
Setback buffer from Residential, Apartment, Apartment Mixed-Use, Country and Resort Zones.
Existing turbine locations with buffer showing 10x turbine height





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

April 30, 2024

Councilmember Esther Kia'aina, Chair
Councilmember Radiant Cordero, Vice Chair
Committee on Planning and the Economy
Honolulu City Council
Honolulu, Hawai'i 96813-3077

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

The East O'ahu County Farm Bureau represents approximately 420 farmers and supporters of agriculture from Waimanalo to Kahuku. We respectfully submit our comments and concerns regarding the public, civic, and institutional sections of Bill 64 (2023) FD1 as they may affect farming operations:

Section 21-5.30 (Table of Permitted Uses):

The proposed use table permits small meeting facilities as Cm*+ and medium meeting facilities as C*+ in AG-2 districts. We feel that these facilities are not appropriate uses on agricultural lands, as they would require that some of the land be taken out of production for purposes unrelated to agriculture. Normal agricultural practice may involve noise, dust, spraying of pesticides, and operation of heavy equipment – activities that may inconvenience or even endanger individuals meeting on the site. Further, most AG-2 lots are small, in keeping with the 2-acre minimum lot size for this zoning category. Under Bill 64, a small meeting facility could hold up to 100 people, and a medium facility up to 2,000. These facilities and the associated parking and sanitary structures are unlikely to fit on an AG-2 lot, especially when half the lot's arable surface must be dedicated to agricultural activities.

The same concerns apply to the permitted placement of K-12 schools as C*+ on AG-2 lots by Bill 64 FD1's use table. Even if a lot can be found that is large enough for such a school, conflicts will almost certainly arise between the agricultural use of the land and the presence of children, teachers, and staff. We therefore oppose allowing either meeting facilities or K-12 schools on AG-2 lots.

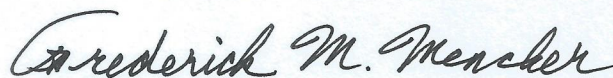
In contrast, Bill 64 FD1's use table would not permit the establishment of vocational schools on AG-1 and AG-2 lands. This prohibition could restrict valuable vocational programs like the University of Hawai'i's GoFarm program, which allows students to farm small plots, giving them real-world experience in agricultural techniques. Programs like GoFarm are essential to develop a capable future agricultural workforce in Hawai'i. We therefore support amending the proposed use table to allow vocational schools on AG-1 and AG-2 lands, under the condition that the primary purpose of the school be agricultural education, and that all structures on the lot be in support of agricultural programs or of production agriculture.

Section 21-5.60-6 (Utility):

Item (2) (D) (ii) states that a solar energy generation facility is not considered a small utility if the zoning lot is within the State land use agricultural or conservation districts. So far as we can tell, Bill 64 FD1 does not define what such a facility in those districts actually is – just what it is not. This lack of clarity could cause problems for farmers who want to install small-scale solar systems to provide electricity for on-farm use. Such systems cannot fall under the category of “agricultural-energy facility,” since the definition of an agricultural-energy facility specifically excludes solar facilities. Farmers, like homeowners, should be encouraged to install renewable energy to supply their needs. We therefore request that Bill 64 FD1 be amended to state specifically (whether in the utility section or in the agricultural section, or both) that the installation of small-scale solar facilities for exclusively on-farm use be permitted in AG-1 and AG-2 lots.

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



**HONOLULU CITY COUNCIL
COMMITTEE ON PLANNING & THE ECONOMY
COUNCIL CHAMBERS, 9:00 AM**

May 2, 2024

RE: BILL 64, FD 1 - RELATING TO USE REGULATION

Chair Kiaaina, Vice Chair Cordero, and members of the Council:

My name is Max Lindsey, Government Relations Committee Chair of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

BIA Hawaii is in support of the intent of Bill 64, FD 1, CD 1, Relating to Use Regulation. BIA Hawaii supports the general intent of this bill to address the regulation of uses throughout Chapter 21, the Land Use Ordinance (LUO). This bill will bring clarity, consistency, and a much-needed refresh of the LUO. We appreciate the collaboration with the Council on this important matter.

BIA Hawaii has some concern regarding the intent of the parks section of the LUO. Currently, it appears that private parks, such as those built within planned community associations, may be disallowed under this section. We are asking for clarity on this point, as private recreation areas are common amenities within planned communities, and this would be highly concerning if they were no longer allowed under the LUO.

The state of Hawaii is in a dire housing crisis. This bill provides the Council with a unique opportunity to create more housing without requiring huge investments in regional infrastructure improvements. We are in support of legislation that would allow for the building of much-needed housing at every price point in Hawaii.

Thank you for the opportunity to provide our comments on this matter.