Bill 64 (2023)
Testimony

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P&E

For
BILL064(23)
Meeting Date
Aug 22, 2024 @ 09:00 AM
Committee(s)
PLANNING AND THE ECONOMY (P&E)
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Submitted
Aug 19, 2024 @ 07:01 PM
Testimony
I VOTE NO TO BILL (10) (60) & (64) IN REFERENCE TO AG LAND 4 REASON OF WHICH I WILL ANNOUCE WHEN I AM CHOSEN TO SPEAK.

Miki Blackstad

HEARING ON BILL (10), (60), (64)

BILL 64 - VOTING NO ON THIS BILL

1) City has no Regulation for animals on AG land.

   I.E NO Rules from Hawaiian Humane Society- When contacted

   HHS will not come out because it is AG land!

   I>E- No Rules with protected for Consumer. (Business)

   I>E- No protection from City with Zoning.

2) The City & County (C&C) tax owners of AG land are the highest in the area, yet the C & C does not provide and infrastructure improvements

   Roads for ingress/egress (dirt road, etc. including having to run owner water line from property to the main line (could be ½-to mile).

3) As a result of the above items listed above the homeowner of AG land are losing their value to the land caused by a loss of equity. However, the C&C Will bill homeowners for any misuse with improvements that have approved DPP permits.

4) What is your proposal for a regulation for animals and consumers? (This is a separate issue from the Real Property tax)

   Aim here on behalf of a landowner who sued her neighbor for running a Puppy mill business next to my property.
   Landowner has more than 80 dogs on his property which is not fenced on 3 sides. The dog is cages next to the property wall. Dogs never are let out to

exercise, H/O feeds and maybe once week removes some of the waste and throws it in the ravine. Which smells the entire 2 acres?
We have called the Hawaiian Humane Society- no one comes because HHS said it is AG area. We call the DPP inspector to check on the property for several violation, who has never come because of AG this has been going on for more than 8 months.

This dog breeding business is strictly for profit which should be regulated

Like all businesses.

The Prosecutor set a court date which the first was delayed, then the 2nd

Court date, the prosecutor told the judge the case is being withdrawn because it has no standing

Due to its on AG LAND, AS LONG AS HOMEOWNER HAS A BUSINESS LICENSE HE IS ALLOWED TO RUN HIS PUPPY MILL. ALSO LAST YEAR

THE STATE SENATE PASSED A NUCIANCE LAW STATING IF BUSINESS HAS A BUSINESS LICENSE NO NUCIANCE CAN BE CHARGED AGAINST THE HOMEOWNER/BUSINESS.

On behalf of the landowner she can't even sell her property!!!

Would the following apply to the dog Kennel (cage)?

PageS14 of the attached states (page 62)

45 Amends ROH 21-5-70-7(b) relating to animal care) to set forth one set of standards that apply to major and minor animal care as follows.

(a) Requires a minimum 100-foot setback from any adjoining zoning lot if animals are kept overnight.
(b) Animal shelters and areas must contain the kept animals securely and keep other animals from entering the enclosure.

(c) Prohibits the use of mental barrels, cars, refrigerators, and similar confinements as shelter structures for animals

(d) Noise and odors must not be detectable from common areas within a building, abutting properties or public areas.

(e) Requires animals kept overnight to be located in a fully-enclosed, noise attenuated structure.

(f) For minor animals care, outdoor animal care areas are limited to supervised play areas and runs.

Written testimony Bill 64 from Adam Lee
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In this testimony Bill 10 is also referenced as Bill 64 because it is essentially the same bill just renamed because of the two year life span for a bill.

The current Land Use Ordinance (LUO) is fantastic, not perfect, but like the constitution it's sometimes needs amendments but should never be deleted to avoid the confusion for all stakeholders which includes citizens, Kupuna, professionals like architects and engineers, city inspectors & city staff that are not familiar with zoning, neighborhood boards, the construction industry, Land Use appeal boards, and all entities that are tenants or landlords.

It is vital that these stakeholders understand the LUO in harmony with government and all staff at DPP whose job it is to administer the LUO. The LUO will affect all areas of the DPP so it should be done in deep collaboration within each division chief signing off on the proposed changes of the LUO. A change in zoning will directly affect the administration of building codes, water, fire protection, civil engineering, subdivision development standards, electric and traffic review branch.

For proper conflict disclosures, all the conflict disclosures from Bill 10 should be part of Bill 64 since it is the same bill. The conflict disclosures from Bill 10 are significant and interesting.

Typically amendments to the Land Use ordinance are done by amendment with a proposed redline change because redlining is the best way to see what is being changed, to have transparency, to create dialogue around the proposed change, and to be able to compare the existing and proposed change side-by-side within one document. This has been very effective in past amendments to the LUO.

Bill 10 / Bill 64 deletes and creates a new master table chart with new definitions that are a combination of existing land uses, land uses that are proposed to be deleted and completely new land uses that have never been in the LUO. Bill 64 will have significant and immediate negative impacts on the county. The best parts of Bill 64 can be put into the existing LUO by amendment with positive impact.

Master Table 21-3 in the Land Use Ordinance

- The heart of the LUO is the master table 21–3 which outlines all uses for all zoning districts. For decades all the stakeholders have relied on this master table as the base of their knowledge for land use.
- For the understanding of stakeholders, changes to the Land Use ordinance should be done on the current 21-3 Master Table instead of creating a completely new master table that has no reference to 21–3.

- If there is no reference to 21-3 then there is no way to know what was added, deleted, combined or amended without an enormous amount of base knowledge in the old code and being able to compare it line by line with the proposed code.

Article 5 & Article 10 Standards and Definitions in the Land Use Ordinance

- From the Master Table 21-3, there are definitions in Article 5 & Article 10 that define the land use. Article 5 & 10 would have significant portions deleted and replaced into a whole new article that doesn't reference Article 5 & 10.
- If Bill 64 is passed, a stakeholder reading the new Article 5 & 10 won't know what was deleted from Article 5 & 10, they won't know what land use was replaced with if anything, they won't know what was combined with other definitions into a new land use in a new section and they would have a difficult time to understand where their land use went if it was changed or deleted.
- I could not find a version of the proposed changes that shows the redlined deletions of Article 5 & Article 10 which is vital to understanding Bill 64
- Within Bill 64, it doesn't reference any relation to parts of Article 5 & Article 10 that were combined or deleted.

There are less than five people in the County of Honolulu who truly understand all the proposed changes to the utmost detail in relation to current land use. One of those people is Katia the main author of Bill 64 and she is leaving the DPP. Changes from Bill 64 will create significant inefficiencies and gaps of knowledge in our city's key industries related to land use. We need the majority to understand the land use and not just a handful of people.

One issue that is immediately created is the lack of people who can coherently explain the changes in code to anyone that calls in to DPP or their hired professionals. When someone calls DPP for a question we will not have enough people to properly service those inquiries.

Here are examples of major flaws in Bill 64:

Example 1:
Current land use defines Livestock Minor and Major, and kennels as separate uses.
Bill 64 deletes Kennels as a conditional use which is defined in Article 5.
Bill 64 combines Kennels and Livestock Production Minor with a new term called Animal Raising, which is now allowed in P-2. With this one small change that nobody has discussed, we are allowing Kennels as a permitted use within Preservation Zoned districts. Kennels are by nature commercial so we are essentially allowing commercial use in Preservation Zoned Districts.

Bill 64 doesn't explain the combination of existing uses and new uses with new definitions. Bill 64 doesn't clearly express that additional zonings were added to the deleted conditional use of Kennels into Preservation land. Unless someone dives deep on each proposed change they will not understand Bill 64,

My concern is that nobody even knows that Kennels is being deleted as a land use and added into Preservation because unless you knew the old code by heart, there would be no way to know Kennels was deleted, Kennels were combined into Livestock Raising, and new zoning of P-2 for Kennels was added through its relation to the proposed newly created land use of Animal Raising. It would also not be reasonable to think that city council or any other staff at DPP outsize of zoning would understand these changes at first glance.

Example 2:
Bill 64 proposes two-unit dwellings on all residential zoned lots. This completely changes the density of every single residential property on the island. It will allow for two full kitchens under one roof which means a duplex. This means each kitchen could have a wetbar. This means that we have created legal monster homes and each residential property could have four units.

Example 3:
The proposal in Bill 64 to allow the transfer development rights of historic buildings will be ruining our density and land values by allowing people to sell historical rights values and increase density over what is allowed by the LUO into other neighborhoods.

It will create an artificially high price for buildings in Chinatown or any building over 50 years that can be argued to be historic. Why are we even proposing to sell historic rights and create an artificial air space real estate market? Why are we making laws that create an artificially high value for our most valued historic properties? Will that include city and state buildings that are old and historical? Air space rights are the type of thing that invite hedge funds to buy up historic buildings as a line item in a spreadsheet with no consideration for our history. What is the purpose of this proposed addition to the LUO?

Example 4:
Cemeteries are being proposed in IMX-1 zoned lands. Currently they are only allowed in Preservation-2 and AG-2 land. There should be a reason why we would propose valuable and limited IMX-1 land for cemeteries.

Example 5:
The biggest sign that there is not a complete understanding of the Bill is the proposal for one Vacation Cabin per acre to be allowed on all AG-2 land. Currently vacation cabins are only allowed in P-2 zoned land. Vacation cabins would instantly reduce the amount of AG-2 lands that are farmed for commercial use and it will make AG lands skyrocket in value with this new land use that turns AG-2 land into Vacation Cabin rentals with fake non productive agriculture operations.

I don't think that a majority of the council would agree with a proposal to allow a vacation cabin per acre of AG land but it is slipped into Bill 64 and made it to final reading without any dialogue or opposition. When the public finds out about the new density on AG lands there will be an outcry and repeal of the law but the trust would be broken.

I am amazed that a controversial topic like Vacation Cabins on AG land would be tucked away in Bill 64 and have absolutely no conversation in the media, council or readings that were passed. This is the main reason why I am speaking out. Vacation Cabins was its own use in Master Table 21-3. The Vacation Cabin use was limited to only P-2 land. Vacation Cabins are tucked away now in Bill 64 not as a definition, or a land use, but as just a standard within Nature Based Recreation. People with AG2 land will benefit tremendously and our community will never have a reliable food source because our lands have been sold away for Vacation Cabin operations. It troubles me that Vacation Cabins would not even be part of the definition of Nature Based Recreation and that it would be tucked away in the standards part of the definition.

Perception is everything. The community will not believe that Vacation Cabins was placed in the Standards section instead of as a land use or part of a Definition on accident. It looks Vacation Cabins is being slipped into Bill 64 for the benefit of people that own or that would invest in AG land for the purposes of vacation cabins.

Example 6:
Bill 64 proposes a minimum of 50% of dedication for Crop Production and Livestock Keeping. There should be definitions on what usage is, since fields are often used seasonally or rested for years as nutrients are restored. Will Dole really have to actively farm 50% of its lands or be fined? How will people who don't have money and own land farm 50% of the land? How long do they have to get the land farmed and what is the threshold of actively farmed? If the property is tilled does that count? Does the property have to be fully planted and how far apart can plants be to comply? Dedication without actively farming doesn't do much for the goal of food production and sustainability. Those are just examples of questions that will be raised fairly during enforcement of this proposed change.

Example 7:
Forestry and Open Land use is an important part of all sustainable plans and an important agricultural use. Bill 64 proposes removing the right to a farm dwelling for Forestry and removes Open Land in its entirety. If a person wants to do a forest then they should have the right to take care of that forest with an accessory structure that provides maintenance and protects the forest from theft. If someone wants to offer Open Land use for private or public recreation or enjoyment, then they should be able to manage their land and protect their assets with an accessory structure.

Example 8:
Open Land is a permitted use in the current code that encourages landowners to offer private and public recreation online that contains no structures. It is only allowed in AG1 and AG2 zoned properties and meant to provide the community with valuable resources to private land. Bill 64 removes Open Land in its entirety with no explanation which will deprive the community recreation on large open private lands that have owners who want to offer the community recreation and enjoyment.

Example 9:
Bill 64's proposed uses for communications are confusing to the normal person on what is being allowed. With health concerns around transformers and other high frequency utilities it is important that the public be informed on the impact of these utility changes with scientific evidence for public safety. The definitions should be clear for any proposed changes to utilities. Who benefits from this change, the public, utility companies or the companies installing new utilities? The answer is unclear because there was no debate and the definitions are not easy to understand for most stakeholders. There is no explanation of the huge change to the Utility and Communication section that is being proposed in Bill 64.

Example 10:
Agribusiness and roadside stands are proposed to be deleted after years of building up the Agribusiness and roadside stands industry. The change from Agribusiness and Roadside Stands to Agritourism and Farmer's Markets is unnecessary and focuses wrongly on tourism instead of agriculture and best practices for Agribusiness.

Currently Agribusiness does a great job of serving local agribusiness and agritourism. There is no need to make the change in definition from Agribusiness to Agritourism and eliminate Roadside Stands as a permitted use.

Roadside stands generally are set up by local farmers looking to sell their crops directly so the deletion of Roadside stands hurt smaller farmers directly. The addition of Farmer's Markets as a conditional minor use sounds nice but that is already covered in Roadside Stand and Agribusiness already in the current code. There is no need to change the name of things which will just cause confusion.

The proposed change would make Agritourism a conditional use major permit which benefits corporate and larger farmers who are able to meet the requirements of a conditional use major which includes written proposals, scaled architect drawings and professional surveyor drawings and presentation at neighborhood board. Those are significant roadblocks for many farmers in regards to time, resources and language skills.

The proposed definition of Agritourism in Bill 64 focuses on tourism instead of agriculture. The current code covers Open Land recreation, which is recreation with no structures. The current code also covers recreation that requires permanent facilities, which is Outdoor Recreation Facilities. There is no need to change the current code to combine Agribusiness, Open Land as a permitted use and Outdoor Recreation Facilities into Agritourism and Nature Based Recreation that allows vacation cabins on AG land. The proposed change is confusing and unnecessary.

Liability to City
All of these examples are huge issues on their own that deserve a significant amount of thought and feedback. These changes will cause chaos in our land use and the city will be exposed to

lawsuits by people who had grandfathered uses, by people who did not get a chance to comment or understand Bill 64, and people who are not granted their newly permitted uses.

For example, if someone applies for 500 vacation cabins on 500 acres of agricultural land and is denied they would have decent grounds for a lawsuit if they met all the standards, of which there are none. Passing Bill 64 would open the city up to many legal questions.

Community Feedback, Trust and Understanding
The lack of community feedback is worrisome. There is no place that I can see to view submitted testimony including testimony that is included in conflict disclosures. I don't see a section where we can see who wrote the original bill and any subsequent amendments which is crucial for transparency and accountability. For example, the community should know who decided to add or delete certain uses for future checks of conflict. There are immediate perception problems between CM Elefante and proposed changes that would benefit donors.

The community's perception was that Bill 64 is dead. Even if the council had years they would not be able to understand all the changes to the land use because the problem is in the structure of Bill 64 and not the contents. The contents can all be debated on an individual basis effectively and the LUO can be amended in a responsible way.

I am concerned about Bill 64 passing and then parts of it that weren't understood trying to be repealed. I am also concerned about trying to amend Bill 64 and keeping in parts that we all agree on like Farm Worker Housing. It would be inefficient to repeal individual parts instead of amending current LUO with issues that have a clear consensus and stakeholder feedback. If the bill is passed then parts repealed it would fracture trust that the council has built up with community.

Bill 64 has some great things like Farm Worker Housing and consideration of two-unit dwellings. The solution is to list each proposed change and compare it to a current use as an amendment or add it as a new use within the current Master Use Table and defined in Article 10 Definitions or Article 5 development standards. Bill 64 in its current state cannot be considered because of its structure that deletes and replaces the entire Master Table 21-3 and significantly alters the definitions of land use in Article 10. The council would have a hard time expecting Bill 64 compliance with such confusion being created by Bill 64.

I can understand the tendency to trust DPP on issues related to permitting and zoning but they cannot be trusted to come up with a solution that fits the community. The proposed change must be understood in its entirety to even consider having a vote. Bill 64 will be the straw that breaks the camel's back and there is no upside for moving forward with Bill 64 for your administration.

My recommendation is to have kill Bill 64 in its entirety and insist on a redlined version from DPP so issues can be considered and discussed one by one. Individual issues that are approved can be amended into the existing land use ordinance so that the proposed changes can be

transparent and easy to digest on an issue by issue basis. With this approach each issue can be analyzed one at a time. Whether all the approved changes get approved at once or as single issues at least the changes will be clear and understandable. This is the best approach for all stakeholders and a guaranteed win for your administration.

I am available however you need me, mahalo for the dedicated service to Honolulu County.

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For
BILL064(23)
Meeting Date
Aug 22, 2024 @ 09:00 AM
Committee(s)
PLANNING AND THE ECONOMY (P&E)
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Testimony
Aloha City Council, I oppose the present language around beekeeping standards and setbacks in Bill 10. The language should mirror that of the Hawaii Revised Statutes. I support the Council Member Matt Weyer Amendments: (b) Beekeeping - standards. See also § 12-2.5(b), relation to honeybees. (1) Setbacks: Beehives must be set back a minimum of 25 feet from any property line except: (A) When situated behind a solid fence, dense hedge, or similar barrier, at least 6 feet in height, parallel to the property line, established in front of the entrance of all goround-level beehives so that bee departures and arrivals occur at no less that 6 feet in height at interior property lines. The barrier for purposes of influencing the flyways must extend 2 feet from each side of the hive openings: or (B) When located at least 8 feet or more above adjacent ground level. Mahalo