BILL064(23)
Testimony

MISC. COMM. 428

PLANNING AND THE ECONOMY (P&E)

PLANNING AND THE ECONOMY (P&E) Meeting

Meeting Date: Sep 26, 2024 @ 09:00 AM

Support: 7

Oppose: 4

I wish to comment: 29

Name:	Email:	Zip:
Tom Holowach	Holowach@hawaii.edu	96734
Representing:	Position:	Submitted:
Self	I wish to comment	Sep 23, 2024 @ 08:35 AM

Name:	Email:	Zip:
Holly Gedeon	hollykgedeon@gmail.com	96821
Representing:	Position:	Submitted:
Waimanalo Agricultural Association	I wish to comment	Sep 23, 2024 @ 01:58 PM

Testimony:

Thank you for your time and for allowing these general recommendations for consideration of the Final Bill 64 outcome:

-Re-activate the Agriculture Task Force and Agriculture Liaison to meet regularly for substantive discussions about agriculture and to make recommendations to the Honolulu City Council. The Task Force should ensure the representation of small farms.

- Add a position within DPP that requires a background in agriculture. Without such a position, it is difficult for DPP to make land use changes that support Oahu's agricultural production and preservation of productive farmland.

Accessory Agricultural Use Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK6)

Agricultural Farmers Market

• FD1, PROPOSED CD1 Section 71 adds a new definition of "agricultural farmers market" to mean an outdoor market on land within the agricultural zoning districts for the sale of agricultural products grown on Oahu and value-added products that were produced using agricultural products grown on Oahu by the producer of the agricultural products. The term does not include outdoor markets and similar uses conducted outside of the agricultural zoning districts. (p. 216)

o Support with Amendment: We all agree with amending the definition of "agricultural farmers market" to clarify that the term means an outdoor market for the sale of agricultural products grown in Hawaii and value-added products produced using agricultural products grown in Hawaii. The term does not include outdoor markets and similar uses conducted outside of the agricultural zoning districts."

• FD1, PROPOSED CD1 (h) Agricultural farmers market – standards. (2) Adequate parking and vehicular access must be provided, as determined by the director. (p. 20)

o Oppose: We all agree this is an overreach. Recommend deletion: (2) Adequate parking and vehicular access must be provided, as determined by the director.

Agritourism

• We all agree that the current standing Land Use Ordinance (LUO) language about agribusiness activities (Bill 64 renaming as "agritourism") is supported and preferred.

o Oppose: The current LUO language about agribusiness activities (which covers “agritourism”) is sufficient. Bill 64 imposes additional restrictions and requirements when the majority of agritourism activities are not a problem. We all agree that agribusiness activities (agritourism) “…must always be an accessory and incidental to the primary agricultural use of the lot…”
o Alternative: If the committee decides to keep this newly created use, then the standards listed on page 15-16 should be amended to:

“(b) Agritourism – standards.
(1) At least 51 percent of the activity on the zoning lot must be crop production or livestock keeping. A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping.
(2) Activities and improvements on the property may not diminish the long term agricultural potential of the land. Improvements on the land used for agritourism must be capable of removal without unreasonable cost or effort.
(3) Structures primarily dedicated to agritourism must not exceed 10 percent of the total zoning lot area.
(4) Buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping on the zoning lot are limited to 10,000 square feet of total floor area for the zoning lot.
(5) A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for crop production or livestock keeping.
(6) Weddings and similar accessory destination events are subject to the following:
(A) Events must take place at a designated event space; and
(B) Predominantly open-air physical improvements associated with destination events, such as a roofed pavilion, are allowed; provided that the total floor area must not exceed 1,000 square feet.
(7) Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four-wheeler, off highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm, and require major conditional use approval subject to the following standards:
(A) Tours must have an educational purpose related to the agricultural use of the property; and
(B) Tours must not interfere with surrounding farm operations.”

• We all disagree with Bill 64’s proposal to require a Major Conditional Use Permit as well as a new Special Use Permit (SUP) process for AG-1 (C*+) and AG-2 (C*+) districts. (p. 4)
o Oppose: We all agree that this is questionable and adds another layer that impedes permitted agricultural use. We support the current LUO designation of agribusiness activities as Minor Conditional Use for both AG-1 (Cm) and AG-2 (Cm). HRS 205 §205-4.5 (Permissible uses within the agricultural districts) (13)(14) already provides permitted agricultural

tourism.

Beekeeping

• FD1, PROPOSED CD1 Section 21-5.30 Use Table classifies beekeeping as P* (Permitted Use, Standards) in the AG-1 and AG-2 districts. (p. 4)

o Oppose: We all oppose classifying beekeeping as P*. Beekeeping in AG-1 and AG-2 districts should only be P, a permitted use. Agriculturists should have the flexibility to maintain productive bee hives to encourage the pollination of crops.

Biofuel Processing Facility

• FD1, PROPOSED CD1 Section 21-5.30 Use Table. Lists biofuel processing as Cm* (Minor Conditional Use, Use Standards Apply) for AG-1 and AG-2. (p. 4)

o Oppose: We all agree that adding a SUP (new use to be Cm*+) to this process will help to alleviate concerns regarding movement of invasive species and pests.

• FD1, PROPOSED CD1 Section 21-5.40-4(d)(1) provides standards that for biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feed stock must be grown onsite, with the exception of feedstocks sourced from waste or invasive species (instead of requiring that all energy feedstocks be grown onsite). (p. 17)

o Support With Amendment to Bill 64: Most agree with biofuel feedstock from at least 51% Hawaii-grown not limited to on-site production and may include feedstocks sourced from waste or invasive species.

 Suggested Amendment to Bill 64: "...to provide that for biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feed stock must be grown onsite, with the exception of feedstocks sourced from waste or invasive species (instead of requiring that all energy feedstocks be grown onsite). includes at least 51% Hawaii-grown feedstock not limited to on-site production, and may include restricted must be grown onsite, with the exception of feedstocks sourced from waste or invasive species

 Proposed New Definition and Language: We all agree with the addition of new language for sub-processing of Hawaii-grown feedstock:

• "Sub-processing means producing, harvesting and preparing the Hawaii-grown feedstock for use in biofuel processing facilities. Sub-processing of Hawaii-grown feedstock may be transported to biofuel processing facilities located in the agricultural zoning district."

Farm Dwelling

• FD1, PROPOSED CD1 Farm Dwelling Standards (2). Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet, confined to a polygon for which no exterior angle is greater than 180 degrees. (p.18)

o Support With Amendments: We all agree with the removal of "storage sheds" to avoid confusion in its interpretation since many farmers and ranchers need storage sheds for agricultural purposes. It should not be included within the required square footage standards. We all agree with the removal of "confined to a polygon for which no exterior angle is

greater than 180 degrees". This appears to be an overreach without an understandable purpose.

 Recommended Amendments: Farm Dwelling Standards (2). Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet., confined to a polygon for which no exterior angle is greater than 180 degrees.

Farm Stand

• FD1, PROPOSED CD1 (2) Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. No electricity, sewer, water or other utility services are allowed in conjunction with the farm stand. (p. 18-19)

o Support With Amendment: We all agree farm operations must have the choice and flexibility to install electricity, sewer, water or other utility services in their farm stand. We question the rationale for disallowing electricity, sewer, and water from farm stands. Such utilities may be required to meet food safety standards.

 Recommended Amendment: "Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. No electricity, sewer, water, or other utility services are allowed in conjunction with the farm stand."

Farm Worker Housing

• 21-5.40-3(g)(9) states, "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family. (p.20)

o Support With Amendments: We all agree that Item (9) should include the statement, "Prior to eviction, a grace period of 60 days is allowed for displaced farm workers." This is to allow sufficient time for farm workers to find alternative housing.

 Recommended Amendments: "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family. Prior to eviction, a grace period of 60 days is allowed for displaced farm workers.

• Standards 21-5.40(3)(g)(2) The farm worker housing plans must be supported by agricultural plans. The amount of labor necessary to farm the land must justify the number of dwelling units proposed. (p.19)

o We raise the following concerns about Farm Worker Housing that require more discussion:

 We all agree that the DPP administrative rules should explain what is required and what is the approval process for the LUO reference for an agricultural plan for farm worker housing.

 We all agree that DPP administrative rules should clarify what is required for the justification of "the amount of labor necessary to farm the land must justify the number of dwelling units proposed."

Crop Production, Livestock Keeping, and Agricultural Support Use Recommendations to Bill 64 (2023) FD1 Proposed CD1 (EK6)

Agricultural Processing, Includes Breweries/Distilleries

• In Section 70 of the bill, FD1, PROPOSED CD1 amends the definition of "agricultural processing" (formerly minor

agricultural products processing) to provide that in the agricultural zoning districts, minor agricultural processing includes the processing of crops to produce malt beverages, distilled spirits, or wines. Minor agricultural processing includes the processing of crops to produce malt beverages, distilled spirits, or wines. (p. 192-193)

o Support With Amendment: We all agree with changing the definition of "agricultural processing" (formerly minor agricultural products processing) to provide that in the agricultural zoning districts, minor agricultural processing includes the processing of Hawaii-grown crops that are not restricted to on-site cultivation to produce malt beverages, distilled spirits or wines. Minor agricultural processing includes the processing of crops to produce malt beverages, distilled spirits, or wines.

• In Section 70 of the bill, FD1, PROPOSED CD1 states "Agricultural processing" means processing local crops and local animal-related products essential to supporting a variety of agriculture uses for distribution to storage structures or wholesale and retail markets. (1) Minor: Processing crops and live animal by-products such as milk, eggs, and honey. In the agricultural zoning districts, the term includes the processing of crops to produce malt beverages, distilled spirits, or wines. (2) Major: Slaughtering and processing dead animals and associated byproducts." (p. 192-193)

o Support With Amendments: For minor and major processing,

 We all agree with the proposed amendment: "Agricultural processing" means processing local crops and local animal-related products of Hawaii-grown crop production or livestock keeping products that are not restricted to on-site cultivation that are essential to supporting a variety of agriculture uses for distribution to storage structures or wholesale and retail markets.

 We all agree with the proposed amendment: (1) Minor: Processing Hawaii-grown crop production or livestock keeping crops and live animal by-products such as milk, eggs, and honey which are not restricted to on-site cultivation. Minor processing includes aquaculture harvests placed in or on ice. In the agricultural zoning districts, the term includes the processing of Hawaii-grown crops not restricted to on-site cultivation to produce malt beverages, distilled spirits, or wines, of which at least 51% are Hawaii-grown non-water ingredients.

Livestock Veterinary Service

• FD1, PROPOSED CD1 Section 21-5.30 Use Table Livestock veterinary services are allowed in the AG-1 and AG-2 Districts as “P+” (Permitted Use, SUP). (p. 4)

 Oppose: Most agree that Livestock Veterinary Services are permitted uses and should not require a special use permit. There is concern however that while livestock veterinary services are permissible for ag lots, domestic veterinary care clinics are not. To ensure this is the case, a proposal should be reviewed before allowing this use.

Other Uses Categories in AG-1 or AG-2 Zoned Lands Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK6)

Group Living, Small

• FD1, PROPOSED CD1 Section 21-5.30 Use Table. Designates “C*+” in the AG-2 District for Small group living – State regulated and Small group living – not State regulated (p. 4-5).

o Oppose: We all agree that small group living (State regulated and not state regulated) should be deleted from AG-2 zone districts. Small group living in agricultural zoning districts is more of a transitional housing issue. It is not a farm

dwelling or farm worker housing. It does not belong in the AG-2 zoned districts.

Meeting Facilities

• FD1, PROPOSED CD1 Section 21.5.30 Use Table:

a. Allows small meeting facility use on AG-2 land as Cm*+ (Minor Conditional Use, Standards, SUP) and on Country land as Cm* (Minor Conditional Use, Standards) (p.5)

b. Allows medium meeting facility use on AG-2 land as C*+ (Major Conditional Use, Standards, SUP)and on Country land as C* (Major Conditional Use, Standards) (p. 5)

o Oppose: We all agree meeting facilities should not be allowed on AG-2 land, which should be preserved and used for active agriculture production and accessory agriculture.

o Comments: Most agree that meeting facilities of all sizes can be placed in country-zoned districts.

 There is disagreement because country zoned districts are small and between AG-1 and AG-2 farms. Such proximity can compromise normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) by complaints from meeting attendees. The Hawaii State Constitution preserves the “right to farm.”

School, PreK-12

• Section 21-5.30 Use Table. FD1, PROPOSED CD1 proposes PreK-12 schools in AG-2 districts as C*+ (Major Conditional Use, Standards, SUP) and in Country districts as Cm* (Minor Conditional Use, Standards).

o Oppose: We all agree, as agriculture producers and stakeholders, with support of agriculture and accessory agriculture on AG1 and AG2 lands for active farm/ranch production. While we support education in general, we cannot support schools on AG-2 lands.

o We all agree that schools are incompatible with farms. Normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) would generate complaints and hinder the management of the farm. The Hawaii State Constitution preserves the “right to farm,” and schools should not be allowed on these smaller parcels.

o Comment: In addition, please consider the removal of schools as a permitted use on country-zoned parcels that are adjacent to AG-1 or AG-2 parcels. Some of the country ag parcels are small and between AG-1 and AG-2 farms. When schools are allowed on these parcels zoned for agriculture it infringes on the right to farm.

Wind Energy Facilities (Small, Medium, Large)

• FD1, PROPOSED CD1 creates standards under ROH Section 21-5.60(a)(3) small utility (p. 41); Section 21-5.60-6(b)(3) medium utility (p. 43); and Section 21-5.60-6 (c)(2) large utility (p. 44-45). Most of the Bill 64 refers to how wind energy generation facilities are established. Our review focused on where it is allowed in relation to agriculture operations.

o Support With Amendments: We all agree that wind energy generation facilities of all categories, small, medium, and large, when placed on AG-1 and AG-2 lands, must dedicate at least 51% of the zoning lot area suitable for crop production or livestock keeping to crop production or livestock keeping. The Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area; the Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered suitable for crop production or livestock keeping.

Day Care, Adult and Child (Combined Review)

• FD1, PROPOSED CD1 ROH Section 21-5.70-1(a)(3) (relating to child daycare) to require that in the AG-2 District (no longer permitted in the AG-1 District) a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping (instead of 50 percent of the total zoning lot area) must be dedicated to crop production or livestock keeping; and provide that the DPP Director may adopt rules to determine the zoning lot area considered to be suitable for crop production or livestock keeping (p. 46-47).

• FD1, PROPOSED CD1 ROH Section 21-5.70-1(b) (relating to adult daycare) to require that in the AG-2 District (no longer permitted in the AG-1 District) a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping (instead of 50 percent of the total zoning lot area) must be dedicated to crop production or livestock keeping; and provide that the DPP Director may adopt rules to determine the zoning lot area considered to be suitable for crop production or livestock keeping (p. 47).

o Oppose (a) and (b): We all agree that child and adult day care be deleted from AG-2 zone districts. The proximity of child and adult day care facilities in AG-2 lands takes land away from active agriculture production. More than likely buffer zones will be requested to separate active farming noise, smells, dust and spraying of approved applications. This erodes available agricultural lands for the crop production or livestock keeping.

Major Animal Care

• FD1, PROPOSED CD1 Section 21-5.30 Use Table. Animal Care, Major allowed on AG-2 districts as P*+ (Permitted Use, Standards, SUP); and on Country zoned districts as P* (Permitted Use, Standards)

o Support With Amendments: We all agree our primary concern is preserving AG-1 and AG-2 land for active agriculture production and accessory agriculture. With that in mind, we propose an agricultural nexus of at least 51% for animal care on AG-2 land. If the standard of at least 51% of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping is inserted into this bill, we support removal of the SUP for major animal care to establish the use as a P* (Permitted Use, Standards).

Nature Based Recreation

• FD1, PROPOSED CD1 Section 21-5.30 Use Table. Nature Based Recreation allowed in AG-2 districts as C* (Conditional Major Use, Use Standards Apply) (p. 8).

o Oppose: We all agree to remove any reference of nature-based recreation on AG-2 districts.

o Concerns with definition: We also note concerns with the definition of “Nature-Based Recreation” as the term “includes picnic grounds, greenways, hiking and bicycling trails, areas for fishing and hunting, limited accessory sports courts and fields, non-motorized access to scenic interests, horseback riding tours, recreational camping, and campgrounds with tents, pavilions, lodges, and cabins.“

 We believe that this term can negatively impact the primary use of AG-2 lands, which should be for active agricultural production.

SUP and Exceptions

• FD1, PROPOSED CD1 adds a new section 21-2.110-3 Special use permit to the ROH to set forth procedures for the DPP Director to process a special use permit, and guidelines for the DPP Director's approval and issuance of a special use permit (p. 91-92) .

o Support with Reservations: We all agree with reservations because it puts process details to the existing SUP process, which is opaque and left to the director's discretion. There is concern about leaving it to the Director's discretion when the Director may have no knowledge of or appreciation for agriculture. Adding a DPP position with an agricultural background would alleviate reservations about this section.

• FD1, PROPOSED CD1 creates a new section to delineate a framework for the director's decision-making. We suggest additional requirements be added for the director's decision-making about agriculture.

o Support: We all agree with delineating a framework and additional requirements for the DPP director's decision-making about agriculture. However, we did not have time to delve into the specifics to recommend additional requirements. Having a dedicated position at DPP as stated in previous bullet could help to alleviate this concern.

Mahalo for your time and for considering the input of the people whose live will be directly impacted by this bill.

Holly

Name: Frederick Mencher	Email: fmencher@hawaii.rr.com	Zip: 96817
Representing: East Oahu County Farm Bureau	Position: I wish to comment	Submitted: Sep 24, 2024 @ 12:19 AM
Name: Kathleen M Pahinui	Email: pahinuik001@hawaii.rr.com	Zip: 96791
Representing: Self	Position: I wish to comment	Submitted: Sep 24, 2024 @ 06:40 AM
Name: Micah Munekata	Email: mmunekata@ulupono.com	Zip: 96813
Representing: Ulupono Initiative	Position: I wish to comment	Submitted: Sep 24, 2024 @ 09:35 AM
Name: Taylor Campbell	Email: taylorpc@hawaii.edu	Zip: 96795
Representing: Self	Position: I wish to comment	Submitted: Sep 24, 2024 @ 09:47 AM
Name: Sundance Gohier	Email: Sundanceufc@yahoo.com	Zip: 96744
Representing:	Position:	Submitted:

Self	Oppose	Sep 24, 2024 @ 10:11 AM
Testimony: I oppose Bill64		
Name: Kim Falinski	Email: kimfalinski@gmail.com	Zip: 96817
Representing: Nalo Meli Honey	Position: I wish to comment	Submitted: Sep 24, 2024 @ 11:31 AM
Name: Nicole Galase	Email: nicole@hicattle.org	Zip: 96816
Representing: Hawaii Cattlemen's Council	Position: I wish to comment	Submitted: Sep 24, 2024 @ 12:08 PM
Name: Nicole Galase	Email: socfarmers808@gmail.com	Zip: 96816
Representing: South Oahu County Farmers Association	Position: I wish to comment	Submitted: Sep 24, 2024 @ 12:09 PM
Name: Timothy Clark	Email: timothyc@gmail.com	Zip: 96712
Representing: Self	Position: Oppose	Submitted: Sep 24, 2024 @ 10:25 PM
Testimony: As a farmer we need farm dwellings and less regulations. We need incentives and more funding from the state to do so. As an island we need to be more self sufficient especially being on an island. We need large and small agriculture. We need to be able to grow our own food and livestock. Small island = less space and smaller farm parcels. Regulations will prevent people from feeding their families. Costco is not the answer. Yes it's nice but we need to move away from paying for mainland foods, and into paying for good local substitutes.		
Name: Taylor Kellerman	Email: tkellerman@kualoa.com	Zip: 96730
Representing: Self	Position: I wish to comment	Submitted: Sep 25, 2024 @ 04:47 AM
Testimony: Aloha Chair Kia'aina, Vice Chair Cordero, and members of Planning and the Economy Committee, This message is in regard to Bill 64, which updates the Article 5 use regulations of the City's Land Use Ordinance.		

Thank you for postponing decision-making on this measure while the agricultural industry came together to review the proposed amendments. Kualoa Ranch participated in meetings with other agricultural stakeholders in 2023, including Oahu Agriculture and Conservation Association, Hawaii Cattleman's Council, Waimanalo Agricultural Association, KoHana, Ulupono Initiative, Hawaii Farm Bureau, East County Farm Bureau, and Kuilima Farms. We support the amendments proposed by this group as part of an industry collaborative, and I wanted to provide additional context as an individual citizen pertaining to my role as the Director of Diversified Agriculture and Land Stewardship for Kualoa Ranch.

Born and raised on Windward Oahu, I have worked in Hawaii's Agricultural industry for over 25 years and currently serve on multiple Ag Industry Board affiliations.

I have been following this initiative since it was first introduced as Bill 10 in 2022 and remain concerned about the potential negative consequences trying to create a "one size fits all" process could have both on our business as well as current and future endeavors that other farmers and ranchers could pursue to diversify their economies.

The state has a goal of increasing food security, but the reality is the majority of farming and ranching businesses in Hawaii operate with razor thin margins coupled with constant uncertainty resulting from being at the mercy of mother nature. Assigning across the board limits, restrictions, or changes to the way in which an agricultural operation can diversify its economy will have lasting negative effects on the future of food production for Oahu

It is only through the inclusion of agritourism into Kualoa's business model that we have the economic sustainability to drive the following:
-In 2023 our ag programs produced approximately 137,000 pounds of wholesome, locally grown food.
-We operate an onsite market where we sell close to 90% of what we produce directly to our surrounding community (former food desert) as well as providing a retail platform for over 60 other local producers.
-We have been able to grow our agricultural staff from 12 full time employees in 2015 to almost 40 in 2024.
-Our Natural Resource programs Steward over 1700 acres of undeveloped aina with a 15-person full time dedicated staff concentrating on invasive species control and native species promotion.
-Our education programs provide outdoor classroom and food production curriculum for over 10K of Hawaii's students per year.
-This year alone we provided 29 agriculture internship opportunities to help drive Hawaii's need for new farmers.

I would like to respectfully request that the committee consider retaining DPP's ability to make case by case considerations on agritourism ventures that the LUC already affords so that legitimate, community supporting operations like ours are not negatively impacted.

Mahalo for your time and consideration
Taylor Kellerman
Director of Diversified Agriculture and Land Stewardship

Kualoa Ranch Hawaii

Name:	Email:	Zip:
Kathleen M Pahinui	pahinuik001@hawaii.rr.com	96791
Representing:	Position:	Submitted:
North Shore Neighborhood Board #27	I wish to comment	Sep 25, 2024 @ 07:45 AM

Name:	Email:	Zip:
Brian Miyamoto	brian@hfbf.org	96759
Representing:	Position:	Submitted:
Hawaii Farm Bureau	I wish to comment	Sep 25, 2024 @ 08:16 AM

Name:	Email:	Zip:
Ted Kefalas	maliah@grassrootinstitute.org	96813
Representing:	Position:	Submitted:
Grassroot Institute of Hawaii	I wish to comment	Sep 25, 2024 @ 09:01 AM

Name:	Email:	Zip:
Max Towey	maxtowey@gmail.com	96734
Representing:	Position:	Submitted:
Self	Support	Sep 25, 2024 @ 09:21 AM

Testimony:

Aloha City Council,

I support Chairwoman Kia'aina's amendments to Bill 64 allowing beekeepers to use their discretion for stocking agriculturally zoned parcels with apiarys. I support the setbacks proposed by Matt Weyer mirroring the statues in Chapter 12 of the HRS. I humbly suggest that the status quo be maintained.

Beekeeping is an issue close to my heart and the future of Hawaii's journey to a sustainable future. Thank you for not shutting the door.

Mahalo,

Max Towey

Name:	Email:	Zip:
Steven Lee Montgomery	manninga001@hawaii.rr.com	96797
Representing:	Position:	Submitted:
Hawai`i Beekeepers Association	I wish to comment	Sep 25, 2024 @ 09:23 AM

Testimony:

After so many years managing the honeybees that were first imported and nurtured by the Royal Physician, Dr. Wm. Hillebrand in 1850s, we support the Weyer & Kiaaina amendments to maintain present, rational rules for Oahu Beekeeping.

The housing shortage for honeybees in the wild is very evident, since Hawai'i house walls, attics tool sheds and even waste bins are often entered by homeless queens and her sisters in large swarms. Hawai'i Beekeepers Association is pleased to serve the public in finding help to remove and relocate the unwelcome and unsafe colonies onto farms and our diverse apiaries.

Our mission is to assist and educate beekeepers, to maintain beekeepers' individual rights, to encourage beekeeping as a hobby and an industry and promote natural beekeeping methods.

Steven Lee Montgomery, Ph. D. President

Hawai`i Beekeepers Association E mail oahuhoney@gmail.com 808-342-6244

Hawai`i Beekeepers Association

c/o Max Towey V-P. PO Box 714 Kailua, HI 96734

Tel. (808) 225-3730 hawaiianmeli@gmail.com

references on compliance with Beekeeping Laws: Honey Bee Law by S.A. Ezenwa, J.D. 2005

https://cms.ctahr.hawaii.edu/pollinators/Resources/Beekeepers/Beekeeping-Laws

Name:	Email:	Zip:
Jason Morgan	jasonmorgan@kualoa.com	96744
Representing:	Position:	Submitted:
Kualoa Ranch	I wish to comment	Sep 25, 2024 @ 09:30 AM

Testimony:

Aloha Chair Kia'āina, Vice Chair Cordero, and members of Planning and the Economy Committee,

This message is regarding Bill 64, which updates the Article 5 use regulations of the City's Land Use Ordinance.

My name is Jason Morgan and I am a 7th generation steward of Kualoa Ranch.

Kualoa Ranch has always sought to be a model of pono stewardship of our natural resources. Over generations we have developed an operation that blends diversified agriculture, education, stewardship, tours and activities...ultimately enabling us to be a positive member of the community as an employer of over 470 employees, a source of locally grown produce and proteins for the community, and a destination for both kamaaina and visitors who seek to learn about and experience the many incredible aspects of what makes Kualoa, and Hawaii in general, the amazing place that it is.

Our operation is sustainable because of the synthesis of these various efforts. Our tours and activities showcase and educate guests on our agricultural and stewardship efforts, and the revenue from these tours and activities enables the continued investment into these agricultural and stewardship efforts.

Last year alone we produced about 137,000 pounds of food, had nearly 2,800 native species outplantings, served over 10,000 local school children with our education programs, and expanded our agricultural and stewardship staffing and internship programs.

We remain concerned about the potential negative consequences of trying to create a “one size fits all” process, and respectfully request that the committee consider retaining DPP’s ability to make case by case considerations on agritourism ventures that the LUC already affords so that legitimate, community supporting operations like ours are not negatively impacted.

Mahalo and aloha,
Jason Morgan

Name: Earl Yamamoto	Email: earl.j.yamamoto@hawaii.gov	Zip: 96814
Representing: Hawaii Department of Agriculture	Position: I wish to comment	Submitted: Sep 25, 2024 @ 09:41 AM

Name: Catherine Oyster	Email: catherineoyster@gmail.com	Zip: 96821
Representing: Self	Position: Support	Submitted: Sep 25, 2024 @ 11:35 AM

Testimony:
Aloha City Council,

I support Chairwoman Kia'aina's amendments to Bill 64 allowing beekeepers to use their discretion for stocking agriculturally zoned parcels with apiarys. I support the setbacks proposed by Matt Weyer mirroring the statues in Chapter 12 of the HRS. I humbly suggest that the status quo be maintained.

We need bees and beekeeping to thrive in Hawaii, keeping the local ecology and farms in good health.

Mahalo,

Catherine Oyster

Name:	Email:	Zip:
Ivan Hou	808alerts808@gmail.com	96822
Representing:	Position:	Submitted:
Self	I wish to comment	Sep 25, 2024 @ 11:36 AM

Testimony:

Aloha,

I'd like to comment on concerns from residents about Makiki area zoning and density changes. This specific hearing focuses on agriculture zoning draft revisions to Bill 64 but I would like to flag Ikenakea Development's inappropriate and unwanted proposal to build a high-rise tower on what is now A-1 low-rise walk up rental apartments and single-family home R-5 parcels. Ikenakea Development's proposal and request for zoning exemptions to build a high-rise tower on single-family home parcels is an inappropriate use of the state's HRS-201H development exemption powers.

The project will increase traffic congestion across Honolulu due to its location next to important freeway on-ramps and Punahou and Maryknoll schools. The student drop-off and pick-up traffic is already a problem and will be exacerbated by a new high-rise tower located in the middle of that traffic-sensitive location. Those freeway onramps roadways are already congested and contentious. Besides outsized traffic impacts to the greater urban area caused by this singular development, there are privacy, wind tunnel and sun shadow impacts to existing residents that are major concerns.

Representatives of four Makiki condominiums representing hundreds of area residents, and a neighboring school met with state lawmakers and councilmembers on this development to share our concerns and doubts.

I want to caution how specific, small-scale housing programs like 201H project may conflict with large-scale, big picture policy plans like the PUC revision. Ikenakea is trying to be "cute" with its proposed site that sits literally on the border of A-3 zones and R-5 single family home zones. We call on the developer to find a more appropriate A-2/A-3 sites that already exists in Makiki, such as a site closer to the section of Wilder Avenue the PUC revision focuses the area's denser developments. The proposed site is literally surrounded by urban areas that are more appropriately zoned A-2, A-3 or BMX (such as the King Street and Beretania Street corridors). There is no reason to allow Ikenakea to use 201H to convert single family home parcels and desirable mix of low-rise rental apartments in an area the PUC revision wants to retain as "Town Neighborhood Low" density. Thank you for this opportunity to comment.

Name:	Email:	Zip:
Keith Hoene	khoene1968@yahoo.com	85028
Representing:	Position:	Submitted:
Self	Support	Sep 25, 2024 @ 11:58 AM

Testimony:

Over the last several years I have come to love the islands. I love the culture, I love the people, and most of all I love the beauty. I visit often and will soon purchase property on Oahu and make the island my primary home. My partner introduced me to the island as she had been coming there since she was a little girl. We volunteer for opportunities to

keep the island pristine such as beach cleanup.

We also know how important the insect ecosystem is to the island's health. Specifically, the island has some of the best honey in the world. A threat to the bee population would devastate honey production and the jobs and family farms that thrived for generations. I can't even imagine the economic impact if the bee population dwindled to a level that pineapple production dwindled. Much of the iconic Rum on the island requires numerous plants, particularly the cocoa plant. Bee levels for Rum production dwindled and the communities have to pollinate the flowers manually. While the community event is wonderful, it is sad at the same time.

Please do whatever is necessary to increase the bee population and keep your island the unique paradise it has always been.

Name:	Email:	Zip:
Holly Holowach	holly@popokiplace.com	96734
Representing:	Position:	Submitted:
POPOKI PLACE OAHU CAT SANCTUARY	I wish to comment	Sep 25, 2024 @ 01:17 PM

Name:	Email:	Zip:
Lourdes Millan	millan.lourdes1@gmail.com	96734
Representing:	Position:	Submitted:
Self	Support	Sep 25, 2024 @ 02:30 PM

Testimony:

If dogs or on the list then cats need to included

the trm, Animal Raising, includes cattle, horses, goats, sheep, swine, dogs and rabbits…" Please add CATS to this list!

Name:	Email:	Zip:
Terence Teruya	yerhgea+CCH@gmail.com	96815
Representing:	Position:	Submitted:
Self	Support	Sep 25, 2024 @ 03:05 PM

Testimony:

Aloha City Council,

I support Chairwoman Kia'aina's amendments to Bill 64 allowing beekeepers to use their discretion for stocking agriculturally zoned parcels with apiarys. I support the setbacks proposed by Matt Weyer mirroring the statues in Chapter 12 of the HRS. I humbly suggest that the status quo be maintained.

Mahalo,

Terry and Ann Teruya

Name:	Email:	Zip:
Taylor Campbell	aloha@palakamoonfarms.com	96795
Representing:	Position:	Submitted:
Waimanalo Agricultural Association	I wish to comment	Sep 25, 2024 @ 04:10 PM

Name:	Email:	Zip:
Alicia Esche	amesche@gmail.com	96712
Representing:	Position:	Submitted:
Self	I wish to comment	Sep 25, 2024 @ 07:13 PM

Name:	Email:	Zip:
Amy Perruso	repperruso@capitol.hawaii.gov	96786
Representing:	Position:	Submitted:
Self	I wish to comment	Sep 25, 2024 @ 08:23 PM

Name:	Email:	Zip:
Sandra Van	sandy@prpacific.com	96792
Representing:	Position:	Submitted:
Self	I wish to comment	Sep 25, 2024 @ 08:31 PM

Testimony:

As written, Bill 64 would permanently close many rescue shelters and pet boarding facilities on properties zoned Ag or Country on Oahu.

Already, the Hawaiian Humane Society (HHS) and other island shelters are often forced to turn away animals because they're filled to capacity and can't take more. The plight of abandoned, abused, lost or injured dogs, cats and other animals would become exponentially worse with the loss of supplemental facilities, coordinated efforts and partnerships.

My pet boarding facility in Waianae, includes an "animal shelter arm" which is a community partner with HHS. At Tradewinds Pet Suites, we provide high-quality pet boarding services in a setting that we and our clients believe is a perfect location: open air, less populated, with large, clean grassy areas for pet play and exercise. The pet boarding facility enables us to also partner, pro bono, with HHS to provide shelter and seek adoptive homes for German Shepherd dogs who have become lost, been dumped on Oahu's back roads, been picked up as strays, and/or been voluntarily surrendered to HHS.

At any given time, our shelter – Geneva's Phoenix German Shepherd Rescue Shelter – has two or three rescued dogs being nurtured, often receiving medical care through partnering veterinarians, and being restored to health to find new forever homes.

Most recently, we provided for a full year pro bono care for Maui-Boy, a survivor of the Lahaina wild fire. Maui-Boy's family

lost their home in the fire and were forced to live in a shelter and with friends. There was no place for him, and they feared they would have to give him up. Imagine losing your home, all your belongings and then on top of that, having to give up a beloved four-legged family member. Fortunately, we were able to provide pro bono shelter and care for this beautiful dog in our shelter until his family was able to have a place where he could re-join them. It was a bittersweet moment earlier this week when he left the shelter for the last time to return permanently to his family. He arrived in our shelter in Sept. 2023 anxious and confused, but left this week -- healthy and overjoyed to be reunited with his family.

Pro bono services like this are only possible because our dog boarding business exists, and we work with other shelters on the island in this capacity. If Bill 64 passes and our facilities are forced to close, not only will it become virtually impossible for pet parents to find high-quality boarding care for their animals, but many sick, injured and frightened animals will be left to fend for themselves.

With nowhere to go and no one to help them, these unsheltered and starving animals will become feral – roaming communities and neighborhoods seeking food. Virtually all will be unvaccinated, and many will become increasingly defensive – even aggressive – as they struggle to survive. Bill 64 is more than an immediate threat to pet care businesses, pet owners and lost animals; the danger to public health and safety in the longer term is impossible to miss.

I am requesting that pet boarding facilities and animal sanctuaries continue to be permitted on ag and country-zoned properties, and I would be happy to meet with the Council to discuss this.
Mahalo,

Sandy Van, Owner
Tradewinds Pet Suites
Geneva's Phoenix German Shepherd Rescue Shelter
808-696-4900
Wai'anae, HI

Name:	Email:	Zip:
Sky Barber-Newman	skybn88@gmail.com	96734
Representing:	Position:	Submitted:
Self	Support	Sep 25, 2024 @ 08:58 PM
Testimony:		
I am in support of Bill064.		

Name:	Email:	Zip:
Casi Alexander	alamaifarmstead@gmail.com	96791
Representing:	Position:	Submitted:
Ala Mai Farmstead	I wish to comment	Sep 25, 2024 @ 09:12 PM

Name:	Email:	Zip:
Casi Alexander	k2kagcoop@gmail.com	96791
Representing:	Position:	Submitted:
Kaena to Kahuku Agricultural Cooperative	I wish to comment	Sep 25, 2024 @ 09:17 PM

Name:	Email:	Zip:
Gil Riviere	gil@gilriviere.com	96791
Representing:	Position:	Submitted:
Self	I wish to comment	Sep 25, 2024 @ 10:51 PM

Name:	Email:	Zip:
Sydney Cook	sydneylynnecook@gmail.com	96791
Representing:	Position:	Submitted:
Self	I wish to comment	Sep 26, 2024 @ 01:03 AM

Name:	Email:	Zip:
Lynn kay	lynnakamama@gmail.com	96734
Representing:	Position:	Submitted:
Self	Support	Sep 26, 2024 @ 06:46 AM

Testimony:

Without bees our Island will suffer. Let the bees nourish our lands where the bee keepers see fit.

Name:	Email:	Zip:
Robert Dawson	robert@kohanarum.com	96759
Representing:	Position:	Submitted:
Kō Hana Distillers, LLC	Oppose	Sep 26, 2024 @ 07:06 AM

Name:	Email:	Zip:
Lindsey Hayes	lindseyhayes808@yahoo.com	96825
Representing:	Position:	Submitted:
Self	I wish to comment	Sep 26, 2024 @ 07:25 AM

Testimony:

Aloha City Council,

I support Chairwoman Kia'aina's amendments to Bill 64 allowing beekeepers to use their discretion for stocking agriculturally zoned parcels with apiarys.

I support the setbacks proposed by Matt Weyer mirroring the statues in Chapter 12 of the HRS.

I humbly suggest that the status quo be maintained.

Mahalo,

Lindsey Hayes

Name:	Email:	Zip:
Karin OMahony	k7omahony@aol.com	96795
Representing:	**Position:**	**Submitted:**
Self	I wish to comment	Sep 26, 2024 @ 08:10 AM

Testimony:

The agricultural uses being curtailed in Bill 64 must be stopped.

Please adopt Andria Tupola's amendments to this bill if you insist on passing it.

The set backs for livestock on country zoning make it impossible to actual farm and have livestock.

The restrictions on livestock, including horses, are unnecessary and will only further harm residents on Ag and Country zoning.

Thank you

Name:	Email:	Zip:
Sandra Van	sandy@prpacific.com	96792
Representing:	**Position:**	**Submitted:**
Self	Oppose	Sep 26, 2024 @ 08:54 AM

Name:	Email:	Zip:
Choon James	ChoonJamesHawaii@gmail.com	96762
Representing:	**Position:**	**Submitted:**
Self	I wish to comment	Sep 26, 2024 @ 08:56 AM

Bill 64 testimony- Sept. 26, 2024 – Tom Holowach

On O'ahu, animal rescue takes many forms, and much dedication. Today, I use the phrase "put out to pasture" as a very good thing, meaning a place where animals can live out their lives being fed, cared for, and loved. On the North Shore we have the first stables on O'ahu to solely rescue ageing horses. In Kahalu'u, a Sanctuary for pigs, goats, cows, cats and a turkey. In the past, Oahu zoning regulations have not fully defined such unique places, or even what the words "animal shelter" actually mean. In fact, there is a temporal difference between an animal shelter and a sanctuary. Sadly, shelters often struggle with a ticking countdown, but Sanctuaries are forever. **Bill 64** is getting closer, but there's one MAJOR error we object to, and believe that it can be modified now, before it could cause any damage.

In our work, we're not raising animals for sale, or boarding them for clients. We're not *breeding* domesticated pets. In fact, we're pretty much doing the exact *opposite* of that. We ARE saving dogs from illegal fights and domestic tragedies, and feral cats from our beaches and streets, where they are being shot with guns and arrows. We are actually a very active Wildlife Conservation hui, helping to preserve our precious, native forest and shorebirds, and the monk seals, from damage which free-roaming cats might cause their ecosystems. Some folks are rehoming beloved old, but expensive-to-maintain horses. We help all of them, and at absolutely no cost to the taxpayers.
So, you can help us today. Here's where we belong in the Table: ***Animal Raising, outdoor***.

Livestock and Poultry Keeping																				
Animal raising, outdoor	P	P	P	P	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	
Animal raising, confined	--	P*	P*	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	§ 21-5.40-2(a)

There is good news! Right now, on Page 26, Item 13 of today's Draft Summary, you can actually read a smart addition to the definition of the word "**Livestock**," to describe: "**Animals… that are not raised as household pets or for purposes of personal use and companionship**."

13	Adds a definition of "livestock" to mean animals raised in an agricultural setting to provide labor or produce diversified products for consumption such as meat, milk, fur, leather, and wool.
	Provides that the term includes cattle, horses, goats, sheep, swine, and rabbits that are not raised as household pets or for purposes of personal use and companionship.

Councilman Weyer, you've shown the way with your **Item 8**. The second sentence reads:
"**The term** [*Livestock*] **includes cattle, horses, goats, sheep, swine, dogs and rabbits that are not raised as household pets or for purposes of personal use and companionship**."

8	Section 71	§ 21-10.1	221	Amends the definition of Livestock to include dogs.	"**Livestock.** Animals raised in an agricultural setting to provide labor or produce diversified products for consumption such as meat, milk, fur, leather, and wool. The term includes cattle, horses, goats, sheep, swine, dogs, and rabbits that are not raised as household pets or for purposes of personal use and companionship."

Almost perfect… it just needs one more word. **Cats**!
Then it would be complete, and we'd support the Bill wholeheartedly.

We who rescue and care for animals are Charities, NOT a **Commercial** Business. Animal shelters should NOT be misplaced in the Use Table's Commercial category, following *Bars, Hotels*, and… *Office Buildings*! How on earth could *Animal Shelters* wind up listed as a *Personal Service*? It might happen, but only ***if*** you approve inserting just one manini new parenthetical into the ever-evolving meaning of "***Livestock and Poultry Keeping***." What the Council should NOT do with the definition of ***Animal Raising, Outdoor*** is add the phrase: "The term does not include… animal shelters (see animal care)".

"… animal shelters (see animal care) "So, why not add this?

> ***Animal Raising, Outdoor.*** Raising, feeding, and keeping of livestock and poultry such as cattle, horses, goats, sheep, swine, turkeys, chickens, ducks, [~~and~~] rabbits, and bees that are not raised as household pets or for purposes of personal use and companionship, primarily in unconfined outdoor areas where they are free to roam or graze. Animals may be kept indoors overnight. The term includes beekeeping as an agricultural activity. The term does not include feedlots (see confined animal raising) or animal shelters (see animal care). The term may include boarding and care of livestock and poultry that are not raised as household pets or for purposes of personal use and companionship.

Because… if you then actually do, go and "**see *Animal Care***…"
You'll find that ***Animal Shelters*** would fall into good old **Table 21-5.1** directly below "***Parking Lots***."

Parking																				
Commercial parking	--	--	--	--	--	--	--	--	--	P*	P*	P*	P	P	P	P	P	P	--	P	§ 21-5.70-6(b)
Remote parking	--	--	--	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	Cm*	§ 21-5.70-6(a)
Personal Services																				
General personal services	--	--	--	--	--	--	--	--	--	P*	P*	P*	P	P	P	P	P	--	--	P*	§ 21-5.70-7(a)
Animal care																				
Minor	--	--	--	--	--	--	--	--	--	--	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	§ 21-5.70-7(b)
Major	--	--	P*+	P*	--	--	--	--	--	--	--	--	--	P*	P*	P*	P*	P*	P*	P*	§ 21-5.70-7(b)

None of us function as a ***Personal Service***, with paying customers whom we charge for our services. We are charities, with poor, trauma-based clients, exactly like the *Red Cross,* and other NGOs like them which are solely dependent on donations. But eventually even the *Red Cross* must close their shelters and go, and the *Hawaiian Humane Society* has only a limited internal capacity to resolve this crisis, which is overwhelming nonprofit rescue animal groups here on Oahu. At the least, we deserve a helpful category definition, to assist us with finding land to house all these sweet animals forever.

We represent lifetime homes for thousands of souls and could all really use acknowledgement. Even maybe sometime… some serious *kala* from the *City and County of Honolulu*, and the *State of Hawaii*.

But for now, just some supportive wording in **Bill 64** would be very ***pono***.
Mahalo nui loa.

Tom Holowach

Tom Holowach
Tom@popokiplace.org – (808) 262-1099

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

September 23, 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, which represents approximately 420 farmers and supporters of agriculture from Waimanalo to Kahuku, participated in the 2023 agricultural stakeholder working group that also included O'ahu Agriculture and Conservation Association, Kualoa Ranch, Waimanalo Agricultural Association, KoHana, Hawai'i Cattlemen's Council, Ulupono Initiative, Hawai'i Farm Bureau, Kuilima Farms, and representatives of State and County agencies. Over three full-day sessions, the working group considered the potential impacts of each agriculture-related item in Bill 10 (2022), currently reintroduced as Bill 64 (2023), upon agricultural production and accessory operations in the City and County of Honolulu. **East O'ahu County strongly supports the recommendations of this working group, and respectfully requests that they be incorporated into the provisions of Bill 64.**

In addition, we note that Bill 64 is intended to update Honolulu's land use ordinance to account for current conditions, and ideally to allow for appropriate growth into the future. Aquaculture, aquaponics, and hydroponics are increasingly done in enclosed facilities that allow intensive production, make efficient use of water and other resources, protect crops from pests and diseases, and produce minimal waste. These facilities can appropriately be sited in industrial areas as well as in agricultural zones. In fact, aquaculture operations (including the hatchery for the former offshore moi cages) have been located at Campbell Industrial Park, and a site at the industrial park is one of several locations currently being considered by the State Department of Economic Development and Tourism for an aquaculture park on O'ahu. Bill 64's use table does not presently list aquaculture as a permitted use within the four industrial zones, or urban agriculture as a permitted use within I-1, I-2, or I-3 zones. **In order to update Honolulu's land use ordinance to account for all possibilities to expand O'ahu's food production, we request that aquaculture and urban agriculture be included as permitted uses in all industrial districts.**

A related concern specific to East O'ahu County is the proposed set of standards for urban agriculture. Years ago, parts of Kahaluu were placed in the urban district in anticipation of large-scale development that never actually occurred. The area is still largely rural, with small farms and nurseries. The proposed standards are inappropriate for such a situation. For example, one standard would prohibit the keeping and raising of livestock – presumably even a few chickens -- while others would require all-weather parking and pedestrian walkways: unnecessary and expensive facilities in a rural setting. We support the amendment proposed by Chair Kia'aina that would remove the standard

restricting hours of activity under urban agriculture, but we feel that the other proposed standards should be revised as well.

A prohibition on livestock raising could also conflict with the establishment of aquaponic facilities in urban-zoned areas. Bill 64 includes aquaponics under "crop raising," leaving the fish component undefined and potentially construed as "livestock." Production of fish and vegetables in a recirculating aquaponic system is highly appropriate as urban agriculture because it is highly productive, conserves water and other resources, and does not require high-quality soil. Finally, we note that there have been a number of small commercial operations in urban Honolulu culturing ornamental fish. Aquaponics and aquaculture should be specifically included as permitted uses under urban agriculture.

In Bill 64, an "agricultural-energy facility" is defined as "an accessory facility that generates, stores, or distributes renewable energy fuels from products of crop production or livestock keeping." Solar facilities are specifically excluded, presumably to prevent utility-scale solar facilities from taking land out of agricultural production. However, this provision could also be construed as preventing farms from installing small-scale alternative energy facilities to reduce electricity costs or to provide electricity at off-grid sites. In contrast, HRS 205-4.5 (10) specifically allows such facilities within the State agricultural district. Farms should be encouraged to install alternative energy sources such as wind and solar for exclusively on-farm use, and these sources should be specifically permitted as an accessory use to agricultural and aquacultural production.

We also encourage your Committee and the full Council to consider the working group's general suggestions:

- Reactivate the Agriculture Task Force with updated membership that reflects the diversity of O'ahu's agricultural community, and encourage the City Administration to revive its agricultural liaison position.

- Add at least one position within the Department of Planning and Permitting that requires a strong background in agricultural production. Further, we recommend that an agricultural classification and review process be established under DPP. Currently, farms and ranches are classified as commercial and are subject to the same review process as large commercial establishments. This process often involves requirements that are unnecessary and physically or economically impractical for a farm or ranch to meet.

- "Grandfather" farm and ranch facilities that are rendered non-conforming by regulatory changes made under Bill 64.

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

Sincerely,

Frederick M. Mencher

Frederick M. Mencher
for Grant Hamachi, President
East O'ahu County Farm Bureau

Kathleen M. Pahinui
pahinuik001@hawaii.rr.com

September 23, 2024

Aloha Committee Chair Kiaʻaina and Committee Members –

I am submitting the following comments / requested revisions for your consideration to Bill 64, FD1, CD1.

Mālama ʻāina,
Kathleen M. Pahinui
Kathleen M. Pahinui
Waialua Resident

Kiaʻaina Proposed Amendments Dated September 20

- Item 11. Agricultural uses Accessory agricultural Agritourism standards
  - 3. change 10,000 square feet to 5000. This is excessive and promotes activities not related to ag.
  - 5. No weddings, musical events or festivals should be allowed on ag land.
  - 6. Revise as follows:
    - Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four wheeler, off highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm[i] or ranch, and require a major conditional use approval subject to the following standards: (A) Tours must have an educational purpose related to the agricultural use of the property; and (B) Tours [must] may not interfere with surrounding farm or ranch operations and (C) and are not for entertainment or amusement purposes.

Weyer Proposed Amendments Dated September 17

- Item 2. Do not support splitting Agritourism into major and minor – appreciate the intent but concerned that it will cause confusion.
- Item 5. If Item 2 does not pass, then Item 5 not necessary.
- Item 7. If Item 2 does not pass, then Item 7 not necessary.
  - Do not support under any circumstances any of the identified activities as they have no nexus to agriculture that I can see: “Agricultural-related tourism activities include kayaking, hiking, mountain biking, boating, horseback riding, ziplining, and picnicking. Limited destination events, such as weddings, are included in this definition”.
  - Do not support splitting into major and minor.

Tupola Proposed Amendments Dated September 18

- Item 6. Keep C*+ do not change to Cm. This will be especially important if some of the more egregious activities are kept (please see above).
- Item 7. Do not support.
- Item 8. Do not support.
- Item 9. Prefer revised language as noted above in Kiaʻaina amendments.

Additional Comments on Bill 64 FD 1 CD 1

- Page 22. 21-5.50-2 Group Living I oppose any group living on Ag 2. I have written in testimony on this in the past and still oppose it.

- Page 73. 21-5.70-8 Nature-based recreation – standards. Delete: (2) The overall density for cabins must not exceed one cabin per acre, and no kitchens or wet bars are allowed. NO vacation cabins on P-2 and Ag-2. This will ruin our ag industry and open up an alternative vacation rental industry.

- Page 222: Nature-Based Recreation. Please delete the following line: recreational camping, and campgrounds with tents, pavilions, lodges, and cabins. No for both P-2 and Ag-2. This will ruin our ag industry and you will have camp grounds all over the island. I cannot repeat more strongly NO.

- Page 106: SECTION 13. Section 21-3.50 Agricultural districts. (b) consider that agribusiness may not be defined as agritourism. Agribusiness could be an egg farm, large-scale farming, biofuel crops, aquaculture, raising cattle for meat, raising chickens for meat while agritourism is an activity related to the farming but open to the public to come and learn about what the farmer is doing and perhaps purchasing small items made at the farm.

- Page 159. Add in (e) Plans must be presented to the appropriate neighborhood boards and community associations (if there is one).

- Page 194. Animal Raising Definition. Outdoor. Add back in the word “grazing”. Would seem intuitive but in talking with others was causing confusion.

- Page 195. Understand replacing the old definition of agribusiness with agritourism to address what many of us talk about when we talk about other non-ag uses. However, I think it is appropriate to add in a new definition of agribusiness that takes into account that agriculture is a business and can be completely unrelated to agritourism. Please see my comment above.

Email: communications@ulupono.com

HONOLULU CITY COUNCIL COMMITTEE ON PLANNING & THE ECONOMY
Thursday, September 26, 2024 — 9:00 a.m.

Ulupono Initiative offers comments on Bill 64 (2023) FD1, Proposed CD1 (EK7) Relating to Land Use Ordinance (LUO) Use Regulation Amendments.

Dear Chair Kiaʻāina and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawaii-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, Proposed CD1 (EK7). This bill proposes amendments to the regulation of uses throughout Chapter 21, Revised Ordinance of Honolulu 1990 ("Land Use Ordinance"). This testimony covers the agricultural use sections along with other use categories which touch AG-1 and AG-2 lands.

Background:
In October 2022, Bill 10 (Land Use Regulations) decision-making was postponed primarily due to the advocacy of agricultural entities. The agriculture industry was not involved in developing the proposed bill, which contained land use changes that affect agriculture production and related activities. 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.

Our group of agricultural industry organizations met for three full days in early 2023 to discuss, line by line, the proposed land use regulation updates pertaining to agriculture. This group consisted of the following agricultural stakeholders: Oahu Agriculture and Conservation Association, Kualoa Ranch, Waimanalo Agricultural Association, KoHana, Hawaii Cattlemen's Council, Ulupono Initiative, Hawaii Farm Bureau, East County Farm Bureau, and Kuilima Farms. Government agencies—Hawaii Department of Agriculture, City and County of Honolulu (CCH) Department of Planning and Permitting (DPP), and CCH Office of Economic Revitalization—also joined the conversation to provide context and feedback to the group's comments.

As agriculture producers and stakeholders, we support agriculture and accessory agriculture on AG-1 and AG-2 lands for active farm/ranch production. While there have been multiple

drafts before this Council and Committee, we have provided the following recommendations and comments on the Bill 64 (2023) FD1 Proposed CD1 (EK7) version of the bill. We appreciate this committee's efforts to address some of our concerns to date. The following recommendations represent some of the remaining recommendations and concerns which lie within the current EK7 draft.

General Recommendations for Consideration of the Final Bill 64 Outcome:

- Re-activate the Agriculture Task Force and Agriculture Liaison to meet regularly for substantive discussions about agriculture and to make recommendations to the Honolulu City Council. The Task Force should ensure the representation of small farms.
- Add a position within DPP that requires a background in agriculture. Without such a position, it is difficult for DPP to make land use changes that support Oahu's agricultural production and preservation of productive farmland.

Accessory Agricultural Use Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK7)

Agricultural Farmers Market

- FD1, PROPOSED CD1 Section 71 adds a new definition of "agricultural farmers market" to mean an outdoor market on land within the agricultural zoning districts for the sale of agricultural products grown on Oahu and value-added products that were produced using agricultural products grown on Oahu by the producer of the agricultural products. The term does not include outdoor markets and similar uses conducted outside of the agricultural zoning districts. (p. 216)
    - **Support with Amendment:** We all agree with amending the definition of "agricultural farmers market" to clarify that the term means an outdoor market for the sale of agricultural products grown **in Hawaii** and value-added products produced using agricultural products grown **in Hawaii**. The term does not include outdoor markets and similar uses conducted outside of the agricultural zoning districts."
- FD1, PROPOSED CD1 (h) Agricultural farmers market – standards. (2) Adequate parking and vehicular access must be provided, as determined by the director. (p. 20)
    - **Oppose:** We all agree this is an overreach. Recommend deletion: ~~(2) Adequate parking and vehicular access must be provided, as determined by the director.~~

Agritourism

- We all agree that the current standing Land Use Ordinance (LUO) language about agribusiness activities (Bill 64 renaming as "agritourism") is supported and preferred.
    - **Oppose:** The current LUO language about agribusiness activities (which covers "agritourism") is sufficient. Bill 64 imposes additional restrictions and requirements when the majority of agritourism activities are not a problem. We all agree that agribusiness activities (agritourism) "…must always be an accessory and incidental to the primary agricultural use of the lot…"

- **Alternative:** If the committee decides to keep this newly created use, then the standards listed on page 15-16 should be amended to:

"(b) Agritourism – standards.

(1) ~~At least 51 percent of the activity on the zoning lot must be crop production or livestock keeping.~~ A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping.

(2) Activities and improvements on the property may not diminish the long term agricultural potential of the land. Improvements on the land used for agritourism must be capable of removal without unreasonable cost or effort.

~~(3) Structures primarily dedicated to agritourism must not exceed 10 percent of the total zoning lot area.~~

~~(4) Buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping on the zoning lot are limited to 10,000 square feet of total floor area for the zoning lot.~~

(5) A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the
zoning lot area considered to be suitable for crop production or livestock keeping.

(6) Weddings and similar accessory destination events are subject to the following:

(A) Events must take place at a designated event space; and

(B) Predominantly open-air physical improvements associated with destination events, such as a roofed pavilion, are allowed; provided that the total floor area must not exceed 1,000 square feet.

(7) Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four-wheeler, off highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm, ~~and require major conditional use approval~~ subject to the following standards:

(A) Tours must have an educational purpose related to the agricultural use of the property; and

(B) Tours must not interfere with surrounding farm operations."

- We all disagree with Bill 64's proposal to require a Major Conditional Use Permit as well as a new Special Use Permit (SUP) process for AG-1 (C*+) and AG-2 (C*+) districts. (p. 4)
  - **Oppose**: We all agree that this is questionable and adds another layer that impedes permitted agricultural use. We support the current LUO designation of agribusiness activities as Minor Conditional Use for both AG-1 (Cm) and AG-2 (Cm). HRS 205 §205-4.5 (Permissible uses within the agricultural districts) (13)(14) already provides permitted agricultural tourism.

Beekeeping

- FD1, PROPOSED CD1 Section 21-5.30 Use Table classifies beekeeping as P* (Permitted Use, Standards) in the AG-1 and AG-2 districts. (p. 4)
    - **Oppose:** We all oppose classifying beekeeping as P*. Beekeeping in AG-1 and AG-2 districts should only be P, a permitted use. Agriculturists should have the flexibility to maintain productive bee hives to encourage the pollination of crops.

Biofuel Processing Facility

- FD1, PROPOSED CD1 Section 21-5.30 Use Table. Lists biofuel processing as Cm* (Minor Conditional Use, Use Standards Apply) for AG-1 and AG-2. (p. 4)
    - **Oppose:** We all agree that adding a SUP (new use to be Cm*+) to this process will help to alleviate concerns regarding movement of invasive species and pests.
- FD1, PROPOSED CD1 Section 21-5.40-4(d)(1) provides standards that for biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feed stock must be grown onsite, with the exception of feedstocks sourced from waste or invasive species (instead of requiring that all energy feedstocks be grown onsite). (p. 17)
    - **Support With Amendment to Bill 64:** Most agree with biofuel feedstock from at least 51% Hawaii-grown not limited to on-site production and may include feedstocks sourced from waste or invasive species.
        - **Suggested Amendment to Bill 64:** "…to provide that for biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feed stock ~~must be grown onsite, with the exception of feedstocks sourced from waste or invasive species (instead of requiring that all energy feedstocks be grown onsite).~~ includes **at least 51% Hawaii-grown feedstock not limited to on-site production, and may include** ~~restricted must be grown onsite, with the exception of~~ feedstocks sourced from waste or invasive species
        - **Proposed New Definition and Language:** We all agree with the addition of new language for sub-processing of Hawaii-grown feedstock:
            - **"Sub-processing means producing, harvesting and preparing the Hawaii-grown feedstock for use in biofuel processing facilities. Sub-processing of Hawaii-grown feedstock may be transported to biofuel processing facilities located in the agricultural zoning district."**

Farm Dwelling

- FD1, PROPOSED CD1 Farm Dwelling Standards (2). Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet, confined to a polygon for which no exterior angle is greater than 180 degrees. (p.18)
    - **Support With Amendments**: We all agree with the removal of "storage sheds" to avoid confusion in its interpretation since many farmers and ranchers need storage sheds for agricultural purposes. It should not be included within the required square footage standards. We all agree with the removal of "confined

to a polygon for which no exterior angle is greater than 180 degrees". This appears to be an overreach without an understandable purpose.

- **Recommended Amendments:** Farm Dwelling Standards (2). Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks**, ~~storage sheds~~**, and swimming pools) must be contained within an area not to exceed 5,000 square feet**~~, confined to a polygon for which no exterior angle is greater than 180 degrees.~~**

Farm Stand

- FD1, PROPOSED CD1 (2) Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. No electricity, sewer, water or other utility services are allowed in conjunction with the farm stand. (p. 18-19)
  - **Support With Amendment:** We all agree farm operations must have the choice and flexibility to install electricity, sewer, water or other utility services in their farm stand. We question the rationale for disallowing electricity, sewer, and water from farm stands. Such utilities may be required to meet food safety standards.
    - **Recommended Amendment:** "Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. **~~No electricity, sewer, water, or other utility services are allowed in conjunction with the farm stand."~~**

Farm Worker Housing

- 21-5.40-3(g)(9) states, "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family. (p.20)
  - **Support With Amendments:** We all agree that Item (9) should include the statement, "Prior to eviction, a grace period of 60 days is allowed for displaced farm workers." This is to allow sufficient time for farm workers to find alternative housing.
    - **Recommended Amendments:** "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family. **Prior to eviction, a grace period of 60 days is allowed for displaced farm workers.**
- Standards 21-5.40(3)(g)(2) The farm worker housing plans must be supported by agricultural plans. The amount of labor necessary to farm the land must justify the number of dwelling units proposed. (p.19)
  - **We raise the following concerns about Farm Worker Housing that require more discussion:**
    - We all agree that the DPP administrative rules should explain what is required and what is the approval process for the LUO reference for an agricultural plan for farm worker housing.

- We all agree that DPP administrative rules should clarify what is required for the justification of "the amount of labor necessary to farm the land must justify the number of dwelling units proposed."

Crop Production, Livestock Keeping, and Agricultural Support Use Recommendations to Bill 64 (2023) FD1 Proposed CD1 (EK7)

Agricultural Processing, Includes Breweries/Distilleries

- In Section 70 of the bill, FD1, PROPOSED CD1 amends the definition of "agricultural processing" (formerly minor agricultural products processing) to provide that in the agricultural zoning districts, minor agricultural processing includes the processing of crops to produce malt beverages, distilled spirits, or wines. Minor agricultural processing includes the processing of crops to produce malt beverages, distilled spirits, or wines. (p. 192-193)
  - **Support With Amendment:** We all agree with changing the definition of "agricultural processing" (formerly minor agricultural products processing) to provide that in the agricultural zoning districts, minor agricultural processing includes the processing of **Hawaii-grown crops that are not restricted to on-site cultivation** to produce malt beverages, distilled spirits or wines. ~~**Minor agricultural processing includes the processing of crops to produce malt beverages, distilled spirits, or wines.**~~
- In Section 70 of the bill, FD1, PROPOSED CD1 states "Agricultural processing" means processing local crops and local animal-related products essential to supporting a variety of agriculture uses for distribution to storage structures or wholesale and retail markets. (1) Minor: Processing crops and live animal by-products such as milk, eggs, and honey. In the agricultural zoning districts, the term includes the processing of crops to produce malt beverages, distilled spirits, or wines. (2) Major: Slaughtering and processing dead animals and associated byproducts." (p. 192-193)
  - **Support With Amendments:** For minor and major processing,
    - We all agree with the proposed amendment: "Agricultural processing" means processing ~~**local crops and local animal-related products**~~ **of Hawaii-grown crop production or livestock keeping products that are not restricted to on-site cultivation that are** essential to supporting a variety of agriculture uses for distribution to storage structures or wholesale and retail markets.
    - We all agree with the proposed amendment: (1) Minor: Processing **Hawaii-grown crop production or livestock keeping** ~~**crops and live animal**~~ by-products such as milk, eggs, and honey which **are not restricted to on-site cultivation**. Minor processing **includes aquaculture harvests placed in or on ice.** In the agricultural zoning districts, the term includes the processing of **Hawaii-grown** crops **not restricted to on-site cultivation** to produce malt beverages, distilled spirits, or wines, **of which at least 51% are Hawaii-grown non-water ingredients.**

Livestock Veterinary Service

- FD1, PROPOSED CD1 Section 21-5.30 Use Table Livestock veterinary services are allowed in the AG-1 and AG-2 Districts as "P+" (Permitted Use, SUP). (p. 4)
    - **Oppose:** Most agree that Livestock Veterinary Services are permitted uses and should not require a special use permit. There is concern however that while livestock veterinary services are permissible for ag lots, domestic veterinary care clinics are not. To ensure this is the case, a proposal should be reviewed before allowing this use.

Other Uses Categories in AG-1 or AG-2 Zoned Lands Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK7)

Group Living, Small

- FD1, PROPOSED CD1 Section 21-5.30 Use Table. Designates "C*+" in the AG-2 District for Small group living – State regulated and Small group living – not State regulated (p. 4-5).
    - **Oppose:** We all agree that small group living (State regulated and not state regulated) should be deleted from AG-2 zone districts. Small group living in agricultural zoning districts is more of a transitional housing issue. It is not a farm dwelling or farm worker housing. It does not belong in the AG-2 zoned districts.

Meeting Facilities

- FD1, PROPOSED CD1 Section 21.5.30 Use Table:
  a. Allows small meeting facility use on AG-2 land as Cm*+ (Minor Conditional Use, Standards, SUP) and on Country land as Cm* (Minor Conditional Use, Standards) (p.5)
  b. Allows medium meeting facility use on AG-2 land as C*+ (Major Conditional Use, Standards, SUP)and on Country land as C* (Major Conditional Use, Standards) (p. 5)
    - **Oppose:** We all agree meeting facilities should not be allowed on AG-2 land, which should be preserved and used for active agriculture production and accessory agriculture.
    - **Comments**: Most agree that meeting facilities of all sizes can be placed in country-zoned districts.
        - There is disagreement because country zoned districts are small and between AG-1 and AG-2 farms. Such proximity can compromise normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) by complaints from meeting attendees. The Hawaii State Constitution preserves the "right to farm."

School, PreK-12

- Section 21-5.30 Use Table. FD1, PROPOSED CD1 proposes PreK-12 schools in AG-2 districts as C*+ (Major Conditional Use, Standards, SUP) and in Country districts as Cm* (Minor Conditional Use, Standards).
    - **Oppose:** We all agree, as agriculture producers and stakeholders, with support of agriculture and accessory agriculture on AG1 and AG2 lands for active

farm/ranch production. While we support education in general, we cannot support schools on AG-2 lands.

- We all agree that schools are incompatible with farms. Normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) would generate complaints and hinder the management of the farm. The Hawaii State Constitution preserves the "right to farm," and schools should not be allowed on these smaller parcels.
- **Comment**: In addition, please consider the removal of schools as a permitted use on country-zoned parcels that are ***adjacent*** to AG-1 or AG-2 parcels. Some of the country ag parcels are small and between AG-1 and AG-2 farms. When schools are allowed on these parcels zoned for agriculture it infringes on the right to farm.

Wind Energy Facilities (Small, Medium, Large)

- FD1, PROPOSED CD1 creates standards under ROH Section 21-5.60(a)(3) small utility (p. 41); Section 21-5.60-6(b)(3**)** medium utility (p. 43); and Section 21-5.60-6 (c)(2) large utility (p. 44-45). Most of the Bill 64 refers to how wind energy generation facilities are established. Our review focused on where it is allowed in relation to agriculture operations.
  - **Support With Amendments:** We all agree that wind energy generation facilities of all categories, small, medium, and large, when placed on AG-1 and AG-2 lands, must dedicate at least 51% of the zoning lot area suitable for crop production or livestock keeping to crop production or livestock keeping. The Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area; the Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered suitable for crop production or livestock keeping.

Day Care, Adult and Child (Combined Review)

- FD1, PROPOSED CD1 ROH Section 21-5.70-1(a)(3) (relating to child daycare) to require that in the AG-2 District (no longer permitted in the AG-1 District) a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping (instead of 50 percent of the total zoning lot area) must be dedicated to crop production or livestock keeping; and provide that the DPP Director may adopt rules to determine the zoning lot area considered to be suitable for crop production or livestock keeping (p. 46-47).
- FD1, PROPOSED CD1 ROH Section 21-5.70-1(b) (relating to adult daycare) to require that in the AG-2 District (no longer permitted in the AG-1 District) a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping (instead of 50 percent of the total zoning lot area) must be dedicated to crop production or livestock keeping; and provide that the DPP Director may adopt rules to determine the zoning lot area considered to be suitable for crop production or livestock keeping (p. 47).
  - **Oppose (a) and (b):** We all agree that child and adult day care be deleted from AG-2 zone districts. The proximity of child and adult day care facilities in AG-2 lands takes land away from active agriculture production. More than likely buffer zones will be requested to separate active farming noise, smells, dust and

spraying of approved applications. This erodes available agricultural lands for the crop production or livestock keeping.

Major Animal Care

- FD1, PROPOSED CD1 Section 21-5.30 Use Table. Animal Care, Major allowed on AG-2 districts as P*+ (Permitted Use, Standards, SUP); and on Country zoned districts as P* (Permitted Use, Standards)
    - **Support With Amendments:** We all agree our primary concern is preserving AG-1 and AG-2 land for active agriculture production and accessory agriculture. With that in mind, we propose an agricultural nexus of at least 51% for animal care on AG-2 land. If the standard of **at least 51% of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping** is inserted into this bill, we support removal of the SUP for major animal care to establish the use as a P* (Permitted Use, Standards).

Nature Based Recreation

- FD1, PROPOSED CD1 Section 21-5.30 Use Table. Nature Based Recreation allowed in AG-2 districts as C* (Conditional Major Use, Use Standards Apply) (p. 8).
    - **Oppose:** We all agree to remove any reference of nature-based recreation on AG-2 districts.
    - **Concerns with definition:** We also note concerns with the definition of "Nature-Based Recreation" as the term "includes picnic grounds, greenways, hiking and bicycling trails, areas for fishing and hunting, limited accessory sports courts and fields, non-motorized access to scenic interests, horseback riding tours, recreational camping, and campgrounds with tents, pavilions, lodges, and cabins."
        - We believe that this term can negatively impact the primary use of AG-2 lands, which should be for active agricultural production.

SUP and Exceptions

- FD1, PROPOSED CD1 adds a new section 21-2.110-3 Special use permit to the ROH to set forth procedures for the DPP Director to process a special use permit, and guidelines for the DPP Director's approval and issuance of a special use permit (p. 91-92) .
    - **Support with Reservations**: We all agree with reservations because it puts process details to the existing SUP process, which is opaque and left to the director's discretion. There is concern about leaving it to the Director's discretion when the Director may have no knowledge of or appreciation for agriculture. Adding a DPP position with an agricultural background would alleviate reservations about this section.
- FD1, PROPOSED CD1 creates a new section to delineate a framework for the director's decision-making. We suggest additional requirements be added for the director's decision-making about agriculture.
    - **Support:** We all agree with delineating a framework and additional requirements for the DPP director's decision-making about agriculture. However, we did not have time to delve into the specifics to recommend

additional requirements. Having a dedicated position at DPP as stated in previous bullet could help to alleviate this concern.

We appreciate your consideration of these recommendations and 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

Aloha,

My name is Taylor Campbell and I am a second generation farmer in Waimanalo. I wish to echo the recommendations that Micah-Seth Munekata and the Ulu Pono Initiative have worked on, with the input of key agricultural stakeholders, including the Oahu Agriculture and Conservation Association, Kualoa Ranch, Waimanalo Agricultural Association, KoHana, Hawaii Cattlemen's Council, Ulupono Initiative, Hawaii Farm Bureau, East County Farm Bureau, and Kuilima Farms.

General Recommendations for Consideration of the Final Bill 64 Outcome:

- Re-activate the Agriculture Task Force and Agriculture Liaison to meet regularly for substantive discussions about agriculture and to make recommendations to the Honolulu City Council. The Task Force should ensure the representation of small farms.

- Add a position within DPP that requires a background in agriculture. Without such a position, it is difficult for DPP to make land use changes that support Oahu's agricultural production and preservation of productive farmland.

Accessory Agricultural Use Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK6)

Agricultural Farmers Market

FD1, PROPOSED CD1 Section 71 adds a new definition of "agricultural farmers market" to mean an outdoor market on land within the agricultural zoning districts for the sale of agricultural products grown on Oahu and value-added products that were produced using agricultural products grown on Oahu by the producer of the agricultural products. The term does not include outdoor markets and similar uses conducted outside of the agricultural zoning districts. (p. 216)

- **Support with Amendment:** We all agree with amending the definition of "agricultural farmers market" to clarify that the term means an outdoor market for the sale of agricultural products grown **in Hawaii** and value-added products produced using agricultural products grown **in Hawaii**. The term does not include outdoor markets and similar uses conducted outside of the agricultural zoning districts."

FD1, PROPOSED CD1 (h) Agricultural farmers market – standards. (2) Adequate parking and vehicular access must be provided, as determined by the director. (p. 20)

- **Oppose:** We all agree this is an overreach. Recommend deletion: ~~(2) Adequate parking and vehicular access must be provided, as determined by the director.~~

Agritourism

We all agree that the current standing Land Use Ordinance (LUO) language about agribusiness activities (Bill 64 renaming as "agritourism") is supported and preferred.

- **Oppose:** The current LUO language about agribusiness activities (which covers "agritourism") is sufficient. Bill 64 imposes additional restrictions and requirements when the majority of agritourism activities are not a problem. We all agree that agribusiness activities (agritourism) "…must always be an accessory and incidental to the primary agricultural use of the lot…"
- **Alternative:** If the committee decides to keep this newly created use, then the standards listed on page 15-16 should be amended to:

"(b) Agritourism – standards.

(1) ~~At least 51 percent of the activity on the zoning lot must be crop production or livestock keeping.~~ A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping.

(2) Activities and improvements on the property may not diminish the long term agricultural potential of the land. Improvements on the land used for agritourism must be capable of removal without unreasonable cost or effort.

~~(3) Structures primarily dedicated to agritourism must not exceed 10 percent of the total zoning lot area.~~

~~(4) Buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping on the zoning lot are limited to 10,000 square feet of total floor area for the zoning lot.~~

(5) A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for crop production or livestock keeping.

(6) Weddings and similar accessory destination events are subject to the following:

(A) Events must take place at a designated event space; and

(B) Predominantly open-air physical improvements associated with destination events, such as a roofed pavilion, are allowed; provided that the total floor area must not exceed 1,000 square feet.

(7) Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four-wheeler, off highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm, ~~and require major conditional use approval~~ subject to the following standards:

(A) Tours must have an educational purpose related to the agricultural use of the

property; and

(B) Tours must not interfere with surrounding farm operations."

We all disagree with Bill 64's proposal to require a Major Conditional Use Permit as well as a new Special Use Permit (SUP) process for AG-1 (C*+) and AG-2 (C*+) districts. (p. 4)

- **Oppose**: We all agree that this is questionable and adds another layer that impedes permitted agricultural use. We support the current LUO designation of agribusiness activities as Minor Conditional Use for both AG-1 (Cm) and AG-2 (Cm). HRS 205 §205-4.5 (Permissible uses within the agricultural districts) (13)(14) already provides permitted agricultural tourism.

Beekeeping

FD1, PROPOSED CD1 Section 21-5.30 Use Table classifies beekeeping as P* (Permitted Use, Standards) in the AG-1 and AG-2 districts. (p. 4)

- **Oppose:** We all oppose classifying beekeeping as P*. Beekeeping in AG-1 and AG-2 districts should only be P, a permitted use. Agriculturists should have the flexibility to maintain productive bee hives to encourage the pollination of crops.

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- **Oppose:** We all agree that adding a SUP (new use to be Cm*+) to this process will help to alleviate concerns regarding movement of invasive species and pests.

FD1, PROPOSED CD1 Section 21-5.40-4(d)(1) provides standards that for biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feed stock must be grown onsite, with the exception of feedstocks sourced from waste or invasive species (instead of requiring that all energy feedstocks be grown onsite). (p. 17)

- **Support With Amendment to Bill 64:** Most agree with biofuel feedstock from at least 51% Hawaii-grown not limited to on-site production and may include feedstocks sourced from waste or invasive species.

  Suggested Amendment to Bill 64: "…to provide that for biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feed stock ~~**must be grown onsite, with the exception of feedstocks sourced from waste or invasive species (instead of requiring that all energy feedstocks be grown onsite).**~~ includes **at least 51% Hawaii-grown feedstock not limited to on-site production, and may include** ~~**restricted must be grown onsite, with the exception of**~~ feedstocks sourced from waste or invasive species

Proposed New Definition and Language: We all agree with the addition of new language for sub-processing of Hawaii-grown feedstock:

"Sub-processing means producing, harvesting and preparing the Hawaii-grown feedstock for use in biofuel processing facilities. Sub-processing of Hawaii-grown feedstock may be transported to biofuel processing facilities located in the agricultural zoning district."

Farm Dwelling

FD1, PROPOSED CD1 Farm Dwelling Standards (2). Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet, confined to a polygon for which no exterior angle is greater than 180 degrees. (p.18)

- **Support With Amendments**: We all agree with the removal of "storage sheds" to avoid confusion in its interpretation since many farmers and ranchers need storage sheds for agricultural purposes. It should not be included within the required square footage standards. We all agree with the removal of "confined to a polygon for which no exterior angle is greater than 180 degrees". This appears to be an overreach without an understandable purpose.

  Recommended Amendments: Farm Dwelling Standards (2). Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks**, ~~storage sheds~~**, and swimming pools) must be contained within an area not to exceed 5,000 square feet**~~., confined to a polygon for which no exterior angle is greater than 180 degrees.~~**

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FD1, PROPOSED CD1 (2) Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. No electricity, sewer, water or other utility services are allowed in conjunction with the farm stand. (p. 18-19)

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  Recommended Amendment: "Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. **~~No electricity, sewer, water, or other utility services are allowed in conjunction with~~**

~~the farm stand."~~

Farm Worker Housing

21-5.40-3(g)(9) states, "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family. (p.20)

- **Support With Amendments:** We all agree that Item (9) should include the statement, "Prior to eviction, a grace period of 60 days is allowed for displaced farm workers." This is to allow sufficient time for farm workers to find alternative housing.

  Recommended Amendments: "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family. **Prior to eviction, a grace period of 60 days is allowed for displaced farm workers.**

Standards 21-5.40(3)(g)(2) The farm worker housing plans must be supported by agricultural plans. The amount of labor necessary to farm the land must justify the number of dwelling units proposed. (p.19)

- **We raise the following concerns about Farm Worker Housing that require more discussion:**

  We all agree that the DPP administrative rules should explain what is required and what is the approval process for the LUO reference for an agricultural plan for farm worker housing.

  We all agree that DPP administrative rules should clarify what is required for the justification of "the amount of labor necessary to farm the land must justify the number of dwelling units proposed."

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- **Support With Amendment:** We all agree with changing the definition of "agricultural processing" (formerly minor agricultural products processing) to

provide that in the agricultural zoning districts, minor agricultural processing includes the processing of **Hawaii-grown crops that are not restricted to on-site cultivation** to produce malt beverages, distilled spirits or wines. ~~**Minor agricultural processing includes the processing of crops to produce malt beverages, distilled spirits, or wines.**~~

In Section 70 of the bill, FD1, PROPOSED CD1 states " Agricultural processing" means processing local crops and local animal-related products essential to supporting a variety of agriculture uses for distribution to storage structures or wholesale and retail markets. (1) Minor: Processing crops and live animal by-products such as milk, eggs, and honey. In the agricultural zoning districts, the term includes the processing of crops to produce malt beverages, distilled spirits, or wines. (2) Major: Slaughtering and processing dead animals and associated byproducts." (p. 192-193)

- **Support With Amendments:** For minor and major processing ,

  We all agree with the proposed amendment: "Agricultural processing" means processing ~~**local crops and local animal-related products**~~ **of Hawaii-grown crop production or livestock keeping products that are not restricted to on-site cultivation that are** essential to supporting a variety of agriculture uses for distribution to storage structures or wholesale and retail markets.

  We all agree with the proposed amendment: (1) Minor: Processing **Hawaii-grown crop production or livestock keeping** ~~**crops and live animal**~~ by-products such as milk, eggs, and honey which **are not restricted to on-site cultivation**. Minor processing **includes aquaculture harvests placed in or on ice**. In the agricultural zoning districts, the term includes the processing of **Hawaii-grown** crops **not restricted to on-site cultivation** to produce malt beverages, distilled spirits, or wines, **of which at least 51% are Hawaii-grown non-water ingredients.**

Livestock Veterinary Service

FD1, PROPOSED CD1 Section 21-5.30 Use Table Livestock veterinary services are allowed in the AG-1 and AG-2 Districts as “P+” (Permitted Use, SUP). (p. 4)

Oppose: Most agree that Livestock Veterinary Services are permitted uses and should not require a special use permit. There is concern however that while livestock veterinary services are permissible for ag lots, domestic veterinary care clinics are not. To ensure this is the case, a proposal should be reviewed before allowing this use.

Other Uses Categories in AG-1 or AG-2 Zoned Lands Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK6)

Group Living, Small

FD1, PROPOSED CD1 Section 21-5.30 Use Table. Designates "C*+" in the AG-2 District for Small group living – State regulated and Small group living – not State regulated (p. 4-5).

- **Oppose:** We all agree that small group living (State regulated and not state regulated) should be deleted from AG-2 zone districts. Small group living in agricultural zoning districts is more of a transitional housing issue. It is not a farm dwelling or farm worker housing. It does not belong in the AG-2 zoned districts.

Meeting Facilities

FD1, PROPOSED CD1 Section 21.5.30 Use Table:

a. Allows small meeting facility use on AG-2 land as Cm*+ (Minor Conditional Use, Standards, SUP) and on Country land as Cm* (Minor Conditional Use, Standards) (p.5)
b. Allows medium meeting facility use on AG-2 land as C*+ (Major Conditional Use, Standards, SUP)and on Country land as C* (Major Conditional Use, Standards) (p. 5)

- **Oppose:** We all agree meeting facilities should not be allowed on AG-2 land, which should be preserved and used for active agriculture production and accessory agriculture.
- **Comments**: Most agree that meeting facilities of all sizes can be placed in country-zoned districts.

  There is disagreement because country zoned districts are small and between AG-1 and AG-2 farms. Such proximity can compromise normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) by complaints from meeting attendees. The Hawaii State Constitution preserves the "right to farm."

School, PreK-12

Section 21-5.30 Use Table. FD1, PROPOSED CD1 proposes PreK-12 schools in AG-2 districts as C*+ (Major Conditional Use, Standards, SUP) and in Country districts as Cm* (Minor Conditional Use, Standards).

- **Oppose:** We all agree, as agriculture producers and stakeholders, with support of agriculture and accessory agriculture on AG1 and AG2 lands for active farm/ranch production. While we support education in general, we cannot support schools on AG-2 lands.
- We all agree that schools are incompatible with farms. Normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) would generate complaints and hinder the management of the farm. The Hawaii State Constitution preserves the "right to farm," and schools should not be allowed on these smaller parcels.
- **Comment**: In addition, please consider the removal of schools as a

permitted use on country-zoned parcels that are ***adjacent*** to AG-1 or AG-2 parcels. Some of the country ag parcels are small and between AG-1 and AG-2 farms. When schools are allowed on these parcels zoned for agriculture it infringes on the right to farm.

Wind Energy Facilities (Small, Medium, Large)

FD1, PROPOSED CD1 creates standards under ROH Section 21-5.60(a)(3) small utility (p. 41); Section 21-5.60-6(b)(3**)** medium utility (p. 43); and Section 21-5.60-6 (c)(2) large utility (p. 44-45). Most of the Bill 64 refers to how wind energy generation facilities are established. Our review focused on where it is allowed in relation to agriculture operations.

- **Support With Amendments:** We all agree that wind energy generation facilities of all categories, small, medium, and large, when placed on AG-1 and AG-2 lands, must dedicate at least 51% of the zoning lot area suitable for crop production or livestock keeping to crop production or livestock keeping. The Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area; the Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered suitable for crop production or livestock keeping.

Day Care, Adult and Child (Combined Review)

FD1, PROPOSED CD1 ROH Section 21-5.70-1(a)(3) (relating to child daycare) to require that in the AG-2 District (no longer permitted in the AG-1 District) a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping (instead of 50 percent of the total zoning lot area) must be dedicated to crop production or livestock keeping; and provide that the DPP Director may adopt rules to determine the zoning lot area considered to be suitable for crop production or livestock keeping (p. 46-47).

FD1, PROPOSED CD1 ROH Section 21-5.70-1(b) (relating to adult daycare) to require that in the AG-2 District (no longer permitted in the AG-1 District) a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping (instead of 50 percent of the total zoning lot area) must be dedicated to crop production or livestock keeping; and provide that the DPP Director may adopt rules to determine the zoning lot area considered to be suitable for crop production or livestock keeping (p. 47).

- **Oppose (a) and (b):** We all agree that child and adult day care be deleted from AG-2 zone districts. The proximity of child and adult day care facilities in AG-2 lands takes land away from active agriculture production. More than likely buffer zones will be requested to separate active farming noise, smells, dust and spraying of approved applications. This erodes available agricultural lands for the crop production or livestock keeping.

Major Animal Care

FD1, PROPOSED CD1 Section 21-5.30 Use Table. Animal Care, Major allowed on AG-2 districts as P*+ (Permitted Use, Standards, SUP); and on Country zoned districts as P* (Permitted Use, Standards)

- **Support With Amendments:** We all agree our primary concern is preserving AG-1 and AG-2 land for active agriculture production and accessory agriculture. With that in mind, we propose an agricultural nexus of at least 51% for animal care on AG-2 land. If the standard of **at least 51% of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping** is inserted into this bill, we support removal of the SUP for major animal care to establish the use as a P* (Permitted Use, Standards).

Nature Based Recreation

FD1, PROPOSED CD1 Section 21-5.30 Use Table. Nature Based Recreation allowed in AG-2 districts as C* (Conditional Major Use, Use Standards Apply) (p. 8).

- **Oppose:** We all agree to remove any reference of nature-based recreation on AG-2 districts.
- **Concerns with definition:** We also note concerns with the definition of "Nature-Based Recreation" as the term "includes picnic grounds, greenways, hiking and bicycling trails, areas for fishing and hunting, limited accessory sports courts and fields, non-motorized access to scenic interests, horseback riding tours, recreational camping, and campgrounds with tents, pavilions, lodges, and cabins."

  We believe that this term can negatively impact the primary use of AG-2 lands, which should be for active agricultural production.

SUP and Exceptions

FD1, PROPOSED CD1 adds a new section 21-2.110-3 Special use permit to the ROH to set forth procedures for the DPP Director to process a special use permit, and guidelines for the DPP Director's approval and issuance of a special use permit (p. 91-92) .

- **Support with Reservations**: We all agree with reservations because it puts process details to the existing SUP process, which is opaque and left to the director's discretion. There is concern about leaving it to the Director's discretion when the Director may have no knowledge of or appreciation for agriculture. Adding a DPP position with an agricultural background would alleviate reservations about this section.

FD1, PROPOSED CD1 creates a new section to delineate a framework for the director's decision-making. We suggest additional requirements be added for the director's decision-making about agriculture.

- **Support:** We all agree with delineating a framework and additional requirements for the DPP director's decision-making about agriculture. However, we did not have time to delve into the specifics to recommend additional requirements. Having a dedicated position at DPP as stated in previous bullet could help to alleviate this concern.

September 2024

To the Planning Committee:

My name is Kim Falinski, and I have been a beekeeper on O'ahu since 2007. I would be called a "sideliner" with about 60 hives in Kailua, Waimanalo, Hawaii Kai and Aiea, though my company has a larger public footprint because of our long term presence at KCC, Kailua and Kaka'ako Farmers Markets. For those markets, we have helped customers understand pollination and honey since 2004.

When Bill 10 first came out, we as beekeepers immediately understood this as a threat to a way of life, to honey production, and to our ability to work with homeowners and farmers to keep bees safely on land. The below letter was composed publicly and shared with the Oahu Beekeepers group to summarize some of the main points.

Nalo Meli **Honey opposes Bill 64 in its current form – and supports the amendments submitted by Councilmember Weyer and Councilmember Tupola's office**

Some small notes for consideration in the September amendments:

- I appreciate the efforts of Weyer and Kia'aina's amendments, which acknowledge that beekeeping is an important permitted agricultural use, consider which category makes sense. I trust the Council will make a good decision on this as the Council can see how the different categories will be governed in the future.
- I appreciate that the same setback distances (25', 6' with fence) are maintained for urban areas, as covered by our nuisance ordinances.
- I appreciate that the limit on number of hives is removed in all 3 amendments

Nalo Meli Honey has helped homeowners manage 1-2 hives for nearly 20 years in Honolulu's urban core. It is important to us that this activity is allowed to continue.

- Item 25 in Kia'aina's amendments suggests that these urban hives are separated from the overall designation, and considered to be separate rules in "Home Occupation" **§ 21-5.50-3 Accessory residential.**
- It is unclear whether this rule, which suggests that it has to be permitted only for agriculturally zoned areas? would make illegal the practice of keeping a small number of backyard hives for personal use
- While not many homeowners keep bees, the practice has its supporters. We've helped ~50 homeowners over the years.
- Nalo Meli Honey is advocating that the underlying zoning rules for residential (all R categories) and preservation (P-2 in particular) allow for beekeeping.
- It would be our preference that you trust the beekeeping community and strike this language altogether if possible. There have not been complaints that would not be covered under the nuisance rules.

We would like the opportunity for future generations to continue to keep bees as we have done,

and to dream of making honey and pollinators a bigger business opportunity for aspiring agriculturists of the future.

Sincerely,
Kim Falinski, PhD,
Nalo Meli Honey

Hawaii Cattlemen's Council, Inc.

Honolulu City Council
Committee on Planning and the Economy
Thursday, September 26, 2024, 9:00am
BILL 64

Chair Kia'aina, Vice Chair Cordero, and members of Planning and the Economy Committee,

The Hawaii Cattlemen's Council offers comments on Bill 64, which updates the Article 5 use regulations of the City's Land Use Ordinance.

We thank you for postponing decision-making on this measure while the agricultural industry came together to review the proposed amendments. The Hawaii Cattlemen's Council participated in meetings with other agricultural stakeholders in 2023, including Oahu Agriculture and Conservation Association, Kualoa Ranch, Waimanalo Agricultural Association, KoHana, Ulupono Initiative, Hawaii Farm Bureau, East County Farm Bureau, and Kuilima Farms. We support the amendments proposed by this group and we have the following comments on the Accessory Agricultural Use Recommendations for Bill 64.

General Recommendations for Consideration of the Final Bill 64 Outcome

- Re-activate the Agriculture Task Force and Agriculture Liaison to meet regularly for substantive discussions about agriculture and to make recommendations to the Honolulu City Council. The Task Force should ensure the representation of small farms.

- Add a position within DPP that requires a background in agriculture. Without such a position, it is difficult for DPP to make land use changes that support Oahu's agricultural production and preservation of productive farmland.

Accessory Agricultural Use Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK6)

Agricultural Farmers Market

- FD1, PROPOSED CD1 Section 71 adds a new definition of "agricultural farmers market" to mean an outdoor market on land within the agricultural zoning districts for the sale of agricultural products grown on Oahu and value-added products that were produced using agricultural products grown on Oahu by the producer of the agricultural products. The term does not include outdoor markets and similar uses conducted outside of the agricultural zoning districts. (p. 213)
    - **Support with Amendment:** We all agree with amending the definition of "agricultural farmers market" to clarify that the term means an outdoor market for the sale of agricultural products

grown **in Hawaii** and value-added products produced using agricultural products grown **in Hawaii**. The term does not include outdoor markets and similar uses conducted outside of the agricultural zoning districts."

- FD1, PROPOSED CD1 (h) Agricultural farmers market – standards. (2) Adequate parking and vehicular access must be provided, as determined by the director. (p. 18)
    - **Oppose:** We all agree this is an overreach. Recommend deletion: ~~(2) Adequate parking and vehicular access must be provided, as determined by the director.~~

Agritourism

- We all agree that the current standing Land Use Ordinance (LUO) language about agribusiness activities (Bill 64 renaming as "agritourism") is supported and preferred.
    - **Oppose:** The current LUO language about agribusiness activities (which covers "agritourism") is sufficient. Bill 64 imposes additional restrictions and requirements when the majority of agritourism activities are not a problem. We all agree that agribusiness activities (agritourism) "…must always be an accessory and incidental to the primary agricultural use of the lot…"
    - **Alternative:** If the committee decides to keep this newly created use, then the standards listed on page 14 should be amended to:

"(b) Agritourism – standards.

(1) ~~At least 51 percent of the activity on the zoning lot must be crop production or livestock keeping.~~ A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping.

(2) Activities and improvements on the property may not diminish the long term agricultural potential of the land. Improvements on the land used for agritourism must be capable of removal without unreasonable cost or effort.

~~(3) Structures primarily dedicated to agritourism must not exceed 10 percent of the total zoning lot area.~~

~~(4) Buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping on the zoning lot are limited to 10,000 square feet of total floor area for the zoning lot.~~

(5) A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the
zoning lot area considered to be suitable for crop production or livestock keeping.

(6) Weddings and similar accessory destination events are subject to the

following:

(A) Events must take place at a designated event space; and

(B) Predominantly open-air physical improvements associated with destination events, such as a roofed pavilion, are allowed; provided that the total floor area must not exceed 1,000 square feet.

(7) Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four-wheeler, off highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm, ~~and require major conditional use approval~~ subject to the following standards:

(A) Tours must have an educational purpose related to the agricultural use of the property; and

(B) Tours must not interfere with surrounding farm operations."

- We all disagree with Bill 64's proposal to require a Major Conditional Use Permit as well as a new Special Use Permit (SUP) process for AG-1 (C*+) and AG-2 (C*+) districts.
    - **Oppose**: We all agree that this is questionable and adds another layer that impedes permitted agricultural use. We support the current LUO designation of agribusiness activities as Minor Conditional Use for both AG-1 (Cm) and AG-2 (Cm). HRS 205 §205-4.5 (Permissible uses within the agricultural districts) (13)(14) already provides permitted agricultural tourism.

Beekeeping

- FD1, PROPOSED CD1 Section 21-5.30 Use Table classifies beekeeping as P* (Permitted Use, Standards) in the AG-1 and AG-2 districts.
    - **Oppose:** We all oppose classifying beekeeping as P*. Beekeeping in AG-1 and AG-2 districts should only be P, a permitted use. Agriculturists should have the flexibility to maintain productive bee hives to encourage the pollination of crops.

Biofuel Processing Facility

- FD1, PROPOSED CD1 Section 21-5.30 Use Table. Lists biofuel processing as Cm* (Minor Conditional Use, Use Standards Apply) for AG-1 and AG-2.(p. 4)
    - **Oppose:** We all agree that adding a SUP (new use to be Cm*+) to this process will help to alleviate concerns regarding movement of invasive species and pests.
- FD1, PROPOSED CD1 Section 21-5.40-4(d)(1) provides standards that for biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feed stock must be grown onsite, with the exception of feedstocks sourced from waste or invasive species (instead of requiring that all energy feedstocks be grown onsite). (p. 16)
    - **Support With Amendment to Bill 64:** Most agree with biofuel feedstock from at least 51% Hawaii-grown not limited to on-site production and may

include feedstocks sourced from waste or invasive species.

- **Suggested Amendment to Bill 64:** "…to provide that for biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feed stock ~~must be grown onsite, with the exception of feedstocks sourced from waste or invasive species (instead of requiring that all energy feedstocks be grown onsite).~~ includes **at least 51% Hawaii-grown feedstock not limited to on-site production, and may include** ~~restricted must be grown onsite, with the exception of~~ feedstocks sourced from waste or invasive species
- **Proposed New Definition and Language:** We all agree with the addition of new language for sub-processing of Hawaii-grown feedstock:
  - **"Sub-processing means producing, harvesting and preparing the Hawaii-grown feedstock for use in biofuel processing facilities. Sub-processing of Hawaii-grown feedstock may be transported to biofuel processing facilities located in the agricultural zoning district."**

Farm Dwelling

- FD1, PROPOSED CD1 Farm Dwelling Standards (2). Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet, confined to a polygon for which no exterior angle is greater than 180 degrees.
  - **Support With Amendments**: We all agree with the removal of "storage sheds" to avoid confusion in its interpretation since many farmers and ranchers need storage sheds for agricultural purposes. It should not be included within the required square footage standards. We all agree with the removal of "confined to a polygon for which no exterior angle is greater than 180 degrees". This appears to be an overreach without an understandable purpose.
    - **Recommended Amendments:** Farm Dwelling Standards (2). Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks**,** ~~storage sheds~~, and swimming pools) must be contained within an area not to exceed 5,000 square feet~~., confined to a polygon for which no exterior angle is greater than 180 degrees.~~

Farm Stand

- FD1, PROPOSED CD1 (2) Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must

otherwise be open to the elements. No electricity, sewer, water or other utility services are allowed in conjunction with the farm stand. (p. 17)

- **Support With Amendment:** We all agree farm operations must have the choice and flexibility to install electricity, sewer, water or other utility services in their farm stand. We question the rationale for disallowing electricity, sewer, and water from farm stands. Such utilities may be required to meet food safety standards.
  - **Recommended Amendment:** "Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. ~~**No electricity, sewer, water, or other utility services are allowed in conjunction with the farm stand."**~~

Farm Worker Housing

- 21-5.40-3(g)(9) states, "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family. (p.18)
  - **Support With Amendments:** We all agree that Item (9) should include the statement, "Prior to eviction, a grace period of 60 days is allowed for displaced farm workers." This is to allow sufficient time for farm workers to find alternative housing.
    - **Recommended Amendments:** "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family. **Prior to eviction, a grace period of 60 days is allowed for displaced farm workers.**
- Standards 21-5.40(3)(g)(2) The farm worker housing plans must be supported by agricultural plans. The amount of labor necessary to farm the land must justify the number of dwelling units proposed. (p.17)
  - **We raise the following concerns about Farm Worker Housing that require more discussion:**
    - We all agree that the DPP administrative rules should explain what is required and what is the approval process for the LUO reference for an agricultural plan for farm worker housing.
    - We all agree that DPP administrative rules should clarify what is required for the justification of "the amount of labor necessary to farm the land must justify the number of dwelling units proposed."

Other Uses Categories in AG-1 or AG-2 Zoned Lands Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK6)

Group Living, Small

- FD1, PROPOSED CD1 Section 21-5.30 Use Table. Designates "C*+" in the AG-2 District for Small group living – State regulated and Small group living – not State regulated (p. 4-5).
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    - **Oppose:** We all agree meeting facilities should not be allowed on AG-2 land, which should be preserved and used for active agriculture production and accessory agriculture.
    - **Comments**: Most agree that meeting facilities of all sizes can be placed in country-zoned districts.
        - There is disagreement because country zoned districts are small and between AG-1 and AG-2 farms. Such proximity can compromise normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) by complaints from meeting attendees. The Hawaii State Constitution preserves the "right to farm."

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- Section 21-5.30 Use Table. FD1, PROPOSED CD1 proposes PreK-12 schools in AG-2 districts as C*+ (Major Conditional Use, Standards, SUP) and in Country districts as Cm* (Minor Conditional Use, Standards).
    - **Oppose:** We all agree, as agriculture producers and stakeholders, with support of agriculture and accessory agriculture on AG1 and AG2 lands for active farm/ranch production. While we support education in general, we cannot support schools on AG-2 lands.
    - We all agree that schools are incompatible with farms. Normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) would generate complaints and hinder the management of the farm. The Hawaii State Constitution preserves the "right to farm," and schools should not be allowed on these smaller parcels.
    - **Comment**: In addition, please consider the removal of schools as a

permitted use on country-zoned parcels that are ***adjacent*** to AG-1 or AG-2 parcels. Some of the country ag parcels are small and between AG-1 and AG-2 farms. When schools are allowed on these parcels zoned for agriculture it infringes on the right to farm.

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    - **Support With Amendments:** We all agree that wind energy generation facilities of all categories, small, medium, and large, when placed on AG-1 and AG-2 lands, must dedicate at least 51% of the zoning lot area suitable for crop production or livestock keeping to crop production or livestock keeping. The Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area; the Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered suitable for crop production or livestock keeping.

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    - **Concerns with definition:** We also note concerns with the definition of "Nature-Based Recreation" as the term "includes picnic grounds, greenways, hiking and bicycling trails, areas for fishing and hunting, limited accessory sports courts and fields, non-motorized access to scenic interests, horseback riding tours, recreational camping, and campgrounds with tents, pavilions, lodges, and cabins."
        - We believe that this term can negatively impact the primary use of AG-2 lands, which should be for active agricultural production.

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- FD1, PROPOSED CD1 creates a new section to delineate a framework for the director's decision-making. We suggest additional requirements be added for the director's decision-making about agriculture.
    - **Support:** We all agree with delineating a framework and additional requirements for the DPP director's decision-making about agriculture.

However, we did not have time to delve into the specifics to recommend additional requirements. Having a dedicated position at DPP as stated in previous bullet could help to alleviate this concern.

We appreciate the opportunity to testify on this measure. The Hawaii Cattlemen's Council (HCC) is 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 over 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.

Nicole Galase
Hawaii Cattlemen's Council
Managing Director

South Oahu County Farmer's Association

Honolulu City Council
Planning and the Economy Committee

Bill 64
Thursday, September 26, 2024, 9:00 AM

Chair Kiaaina,Vice Chair Cordero, and the Committee on Planning and the Economy,

The South Oahu County Farmer's Association respectfully submits our comments on Bill 64. Land use principles are tied directly to how business is done here in the City and County of Honolulu, and we appreciate the additional time provided to understand the proposed amendments that will affect food producers here on Oahu. As a county association, we are aligned with the testimony of the Hawaii Farm Bureau and share their stated concerns.

General Recommendations for Consideration of the Final Bill 64 Outcome:

- Re-activate the Agriculture Task Force and Agriculture Liaison to meet regularly for substantive discussions about agriculture and to make recommendations to the Honolulu City Council. The Task Force should ensure the representation of small farms.

- Add a position within DPP that requires a background in agriculture. Without such a position, it is difficult for DPP to make land use changes that support Oahu's agricultural production and preservation of productive farmland.

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outside of the agricultural zoning districts. (p. 213)

- **Support with Amendment:** We all agree with amending the definition of "agricultural farmers market" to clarify that the term means an outdoor market for the sale of agricultural products grown **in Hawaii** and value-added products produced using agricultural products grown **in Hawaii**. The term does not include outdoor markets and similar uses conducted outside of the agricultural zoning districts."

FD1, PROPOSED CD1 (h) Agricultural farmers market – standards. (2) Adequate parking and vehicular access must be provided, as determined by the director. (p. 18)

- **Oppose:** We all agree this is an overreach. Recommend deletion: ~~(2) Adequate parking and vehicular access must be provided, as determined by the director.~~

Agritourism

We all agree that the current standing Land Use Ordinance (LUO) language about agribusiness activities (Bill 64 renaming as "agritourism") is supported and preferred.

- **Oppose:** The current LUO language about agribusiness activities (which covers "agritourism") is sufficient. Bill 64 imposes additional restrictions and requirements when the majority of agritourism activities are not a problem. We all agree that agribusiness activities (agritourism) "…must always be an accessory and incidental to the primary agricultural use of the lot…"
- **Alternative:** If the committee decides to keep this newly created use, then the standards listed on page 14 should be amended to:

"(b) Agritourism – standards.

(1) ~~At least 51 percent of the activity on the zoning lot must be crop production or livestock keeping.~~ A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping.

(2) Activities and improvements on the property may not diminish the long term agricultural potential of the land. Improvements on the land used for agritourism must be capable of removal without unreasonable cost or effort.

~~(3) Structures primarily dedicated to agritourism must not exceed 10 percent of the total zoning lot area.~~

~~(4) Buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping on the zoning lot are limited to 10,000 square feet of total floor~~

~~area for the zoning lot.~~

(5) A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for crop production or livestock keeping.

(6) Weddings and similar accessory destination events are subject to the following:

(A) Events must take place at a designated event space; and

(B) Predominantly open-air physical improvements associated with destination events, such as a roofed pavilion, are allowed; provided that the total floor area must not exceed 1,000 square feet.

(7) Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four-wheeler, off highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm, ~~and require major conditional use approval~~ subject to the following standards:

(A) Tours must have an educational purpose related to the agricultural use of the property; and

(B) Tours must not interfere with surrounding farm operations."

We all disagree with Bill 64's proposal to require a Major Conditional Use Permit as well as a new Special Use Permit (SUP) process for AG-1 (C*+) and AG-2 (C*+) districts.

- **Oppose**: We all agree that this is questionable and adds another layer that impedes permitted agricultural use. We support the current LUO designation of agribusiness activities as Minor Conditional Use for both AG-1 (Cm) and AG-2 (Cm). HRS 205 §205-4.5 (Permissible uses within the agricultural districts) (13)(14) already provides permitted agricultural tourism.

Beekeeping

FD1, PROPOSED CD1 Section 21-5.30 Use Table classifies beekeeping as P* (Permitted Use, Standards) in the AG-1 and AG-2 districts.

- **Oppose:** We all oppose classifying beekeeping as P*. Beekeeping in AG-1 and AG-2 districts should only be P, a permitted use. Agriculturists should have the flexibility to maintain productive bee hives to encourage the pollination of crops.

Biofuel Processing Facility

FD1, PROPOSED CD1 Section 21-5.30 Use Table. Lists biofuel processing as Cm* (Minor Conditional Use, Use Standards Apply) for AG-1 and AG-2.(p. 4)

- **Oppose:** We all agree that adding a SUP (new use to be Cm*+) to this process will help to alleviate concerns regarding movement of invasive species and pests.

FD1, PROPOSED CD1 Section 21-5.40-4(d)(1) provides standards that for biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feed stock must be grown onsite, with the exception of feedstocks sourced from waste or invasive species (instead of requiring that all energy feedstocks be grown onsite). (p. 16)

- **Support With Amendment to Bill 64:** Most agree with biofuel feedstock from at least 51% Hawaii-grown not limited to on-site production and may include feedstocks sourced from waste or invasive species.

  Suggested Amendment to Bill 64: "…to provide that for biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feed stock ~~**must be grown onsite, with the exception of feedstocks sourced from waste or invasive species (instead of requiring that all energy feedstocks be grown onsite).**~~ includes **at least 51% Hawaii-grown feedstock not limited to on-site production, and may include** ~~**restricted must be grown onsite, with the exception of**~~ feedstocks sourced from waste or invasive species

  Proposed New Definition and Language: We all agree with the addition of new language for sub-processing of Hawaii-grown feedstock:

  "Sub-processing means producing, harvesting and preparing the Hawaii-grown feedstock for use in biofuel processing facilities. Sub-processing of Hawaii-grown feedstock may be transported to biofuel processing facilities located in the agricultural zoning district."

Farm Dwelling

FD1, PROPOSED CD1 Farm Dwelling Standards (2). Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet, confined to a polygon for which no exterior angle is greater than 180 degrees.

- **Support With Amendments**: We all agree with the removal of "storage sheds" to avoid confusion in its interpretation since many farmers and ranchers need storage sheds for agricultural purposes. It should not be included within the required square footage

standards. We all agree with the removal of "confined to a polygon for which no exterior angle is greater than 180 degrees". This appears to be an overreach without an understandable purpose.

Recommended Amendments: Farm Dwelling Standards (2). Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks**,** ~~**storage sheds**~~, and swimming pools) must be contained within an area not to exceed 5,000 square feet~~**., confined to a polygon for which no exterior angle is greater than 180 degrees.**~~

Farm Stand

FD1, PROPOSED CD1 (2) Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. No electricity, sewer, water or other utility services are allowed in conjunction with the farm stand. (p. 17)

- **Support With Amendment:** We all agree farm operations must have the choice and flexibility to install electricity, sewer, water or other utility services in their farm stand. We question the rationale for disallowing electricity, sewer, and water from farm stands. Such utilities may be required to meet food safety standards.

  Recommended Amendment: "Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. ~~**No electricity, sewer, water, or other utility services are allowed in conjunction with the farm stand."**~~

Farm Worker Housing

21-5.40-3(g)(9) states, "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family. (p.18)

- **Support With Amendments:** We all agree that Item (9) should include the statement, "Prior to eviction, a grace period of 60 days is allowed for displaced farm workers." This is to allow sufficient time for farm workers to find alternative housing.

  Recommended Amendments: "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family. **Prior to eviction, a grace period of 60 days is allowed for displaced farm workers.**

Standards 21-5.40(3)(g)(2) The farm worker housing plans must be supported by agricultural plans. The amount of labor necessary to farm the land must justify the number of dwelling units proposed. (p.17)

- **We raise the following concerns about Farm Worker Housing that require more discussion:**

  We all agree that the DPP administrative rules should explain what is required and what is the approval process for the LUO reference for an agricultural plan for farm worker housing.

  We all agree that DPP administrative rules should clarify what is required for the justification of "the amount of labor necessary to farm the land must justify the number of dwelling units proposed."

Other Uses Categories in AG-1 or AG-2 Zoned Lands Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK6)

Group Living, Small

FD1, PROPOSED CD1 Section 21-5.30 Use Table. Designates "C*+" in the AG-2 District for Small group living – State regulated and Small group living – not State regulated (p. 4-5).

- **Oppose:** We all agree that small group living (State regulated and not state regulated) should be deleted from AG-2 zone districts. Small group living in agricultural zoning districts is more of a transitional housing issue. It is not a farm dwelling or farm worker housing. It does not belong in the AG-2 zoned districts.

Meeting Facilities

FD1, PROPOSED CD1 Section 21.5.30 Use Table:

a. Allows small meeting facility use on AG-2 land as Cm*+ (Minor Conditional Use, Standards, SUP) and on Country land as Cm* (Minor Conditional Use, Standards) (p.5)

b. Allows medium meeting facility use on AG-2 land as C*+ (Major Conditional Use, Standards, SUP)and on Country land as C* (Major Conditional Use, Standards) (p. 5)

- **Oppose:** We all agree meeting facilities should not be allowed on AG-2 land, which should be preserved and used for active agriculture production and accessory agriculture.
- **Comments**: Most agree that meeting facilities of all sizes can be placed in country-zoned districts.

  There is disagreement because country zoned districts are small and between AG-1 and AG-2 farms. Such proximity can compromise normal ag activities (i.e.,

herbicide/insecticide spraying, animal odors, machinery noises, etc.) by complaints from meeting attendees. The Hawaii State Constitution preserves the "right to farm."

School, PreK-12

Section 21-5.30 Use Table. FD1, PROPOSED CD1 proposes PreK-12 schools in AG-2 districts as C*+ (Major Conditional Use, Standards, SUP) and in Country districts as Cm* (Minor Conditional Use, Standards).

- **Oppose:** We all agree, as agriculture producers and stakeholders, with support of agriculture and accessory agriculture on AG1 and AG2 lands for active farm/ranch production. While we support education in general, we cannot support schools on AG-2 lands.
- We all agree that schools are incompatible with farms. Normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) would generate complaints and hinder the management of the farm. The Hawaii State Constitution preserves the "right to farm," and schools should not be allowed on these smaller parcels.
- **Comment**: In addition, please consider the removal of schools as a permitted use on country-zoned parcels that are ***adjacent*** to AG-1 or AG-2 parcels. Some of the country ag parcels are small and between AG-1 and AG-2 farms. When schools are allowed on these parcels zoned for agriculture it infringes on the right to farm.

Wind Energy Facilities (Small, Medium, Large)

FD1, PROPOSED CD1 creates standards under ROH Section 21-5.60(a)(3) small utility (p. 41); Section 21-5.60-6(b)(3**)** medium utility (p. 43); and Section 21-5.60-6 (c)(2) large utility (p. 44-45). Most of the Bill 64 refers to how wind energy generation facilities are established. Our review focused on where it is allowed in relation to agriculture operations.

- **Support With Amendments:** We all agree that wind energy generation facilities of all categories, small, medium, and large, when placed on AG-1 and AG-2 lands, must dedicate at least 51% of the zoning lot area suitable for crop production or livestock keeping to crop production or livestock keeping. The Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area; the Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered suitable for crop production or livestock keeping.

Day Care, Adult and Child (Combined Review)

FD1, PROPOSED CD1 ROH Section 21-5.70-1(a)(3) (relating to child daycare) to require that in the AG-2 District (no longer permitted in the AG-1 District) a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping (instead of 50 percent of the total zoning lot area) must be dedicated to crop production or livestock keeping; and provide that the DPP Director may adopt rules to determine the zoning lot area considered to be suitable for crop production or livestock keeping (p. 46-47).

FD1, PROPOSED CD1 ROH Section 21-5.70-1(b) (relating to adult daycare) to require that in the AG-2 District (no longer permitted in the AG-1 District) a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping (instead of 50 percent of the total zoning lot area) must be dedicated to crop production or livestock keeping; and provide that the DPP Director may adopt rules to determine the zoning lot area considered to be suitable for crop production or livestock keeping (p. 47).

- **Oppose (a) and (b):** We all agree that child and adult day care be deleted from AG-2 zone districts. The proximity of child and adult day care facilities in AG-2 lands takes land away from active agriculture production. More than likely buffer zones will be requested to separate active farming noise, smells, dust and spraying of approved applications. This erodes available agricultural lands for the crop production or livestock keeping.

Major Animal Care

FD1, PROPOSED CD1 Section 21-5.30 Use Table. Animal Care, Major allowed on AG-2 districts as P*+ (Permitted Use, Standards, SUP); and on Country zoned districts as P* (Permitted Use, Standards)

- **Support With Amendments:** We all agree our primary concern is preserving AG-1 and AG-2 land for active agriculture production and accessory agriculture. With that in mind, we propose an agricultural nexus of at least 51% for animal care on AG-2 land. If the standard of **at least 51% of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping** is inserted into this bill, we support removal of the SUP for major animal care to establish the use as a P* (Permitted Use, Standards).

Nature Based Recreation

FD1, PROPOSED CD1 Section 21-5.30 Use Table. Nature Based Recreation allowed in AG-2 districts as C* (Conditional Major Use, Use Standards Apply) (p. 8).

- **Oppose:** We all agree to remove any reference of nature-based recreation on AG-2 districts.
- **Concerns with definition:** We also note concerns with the definition of "Nature-Based Recreation" as the term "includes picnic grounds, greenways, hiking and bicycling trails, areas for fishing and hunting, limited accessory sports courts and fields, non-motorized access to scenic interests, horseback riding tours, recreational camping, and campgrounds with tents, pavilions, lodges, and cabins."

  We believe that this term can negatively impact the primary use of AG-2 lands, which should be for active agricultural production.

SUP and Exceptions

FD1, PROPOSED CD1 adds a new section 21-2.110-3 Special use permit to the ROH to set forth procedures for the DPP Director to process a special use permit, and guidelines for the DPP Director's approval and issuance of a special use permit (p. 91-92) .

- **Support with Reservations**: We all agree with reservations because it puts process details to the existing SUP process, which is opaque and left to the director's discretion. There is concern about leaving it to the Director's discretion when the Director may have no knowledge of or appreciation for agriculture. Adding a DPP position with an agricultural background would alleviate reservations about this section.

FD1, PROPOSED CD1 creates a new section to delineate a framework for the director's decision-making. We suggest additional requirements be added for the director's decision-making about agriculture.

- **Support:** We all agree with delineating a framework and additional requirements for the DPP director's decision-making about agriculture. However, we did not have time to delve into the specifics to recommend additional requirements. Having a dedicated position at DPP as stated in previous bullet could help to alleviate this concern.

Thank you for the opportunity to provide testimony.

Nicole Galase
South Oahu County Farmer's Association
President

North Shore Neighborhood Board (#27) Agriculture Committee Resolution on the promotion of a regulatory environment that facilitates rather than hinders agricultural production on agricultural lands.

WHEREAS Hawaii currently imports approximately 85-90% of food, which makes the state highly vulnerable to global supply chain disruptions, rising transportation cost, and other food security risks; and

WHEREAS local farms of all sizes are necessary to increase local agricultural production and enhance Hawaii's food security, self-sufficiency, and economic resilience; and

WHEREAS small and micro farms are critical contributors to Hawaii's agricultural landscape, enabling a diversity of agricultural products, supporting innovative and sustainable farming practices, reducing the barrier to entry for farmers who cannot afford large tracts of agricultural land in Hawaii, and preserving the traditions of our historically agricultural communities; and

WHEREAS regulations and standards imposed on agricultural zoned land by the City and County have a significant impact on the ability of small and micro farms to continue and expand efficient and sustainable agricultural production; and

WHEREAS standards drafted broadly with mixed use communities or specific problematic instances in mind without sufficient consultation with a representative sample of farmers may inadvertently negatively impact the ability of farmers to continue or expand efficient and sustainable agricultural production on agricultural lands; and

WHEREAS the agricultural segments of Bill 64 have a significant impact on the community of the North Shore, considering the North Shore is home to a substantial portion of the City and County's agricultural lands;

NOW, THEREFORE, BE IT RESOLVED that the North Shore Neighborhood Board affirms the importance of creating a regulatory environment that supports and enables rather than hinders agricultural production on Oahu's agricultural lands; and

BE IT FURTHER RESOLVED that the North Shore Neighborhood board urges the Council to thoughtfully consider this affirmation as the basis for discussing all draft uses, usage standards, and definitions relevant to agricultural zoned lands proposed for inclusion in or exclusion from Bill 64 (2023); and

BE IT FURTHER RESOLVED that the North Shore Neighborhood board urges the Council to thoughtfully consider the attached recommended adjustments to four high priority topics within draft Bill 64 (2023) of the North Shore Neighborhood Board Agriculture Committee; and

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to all members of the Honolulu City Council, the head of the Department of Planning and Permitting, the head of the

Department of Agriculture, and to the Mayor's office to advocate for regulatory actions that promote and enable agricultural production on Oahu's agricultural lands.

#

ATTACHMENT: RECOMMENDATIONS OF THE NORTH SHORE NEIGHBORHOOD BOARD AGRICULTURE COMMITTEE

RECOMMENDATION 1: IN RE CONFINED ANIMAL RAISING

The Agriculture Committee of the North Shore Neighborhood Board provides the following recommendations to City Council to adjust the proposed text of draft Bill 64 (2023) related to Confined Animal Raising:

Standards

- **Recommendation 1a:** Strike proposed clause (1) from § 21-5.40-2(a) due to unsuitable and overly general restriction of agricultural production on agricultural zoned lands, considering a) Agriculture Zoning 2 allows for the subdivision of land into 2 acre parcels, b) Oahu is home to many non-conforming Agriculture zoned lots under 3 acres, and c) farmers can raise and maintain a healthy population of livestock within confines on parcels well under 3 acres depending on the breed and size of livestock and the conditions established by the farmer.
- **Recommendation 1b:** Adjust clause (s) from § 21-5.40-2(a) to clarify that setback requirements apply to structures where animals are housed a majority of the time and that setbacks should be graduated based on the scale of animal production and size of animal (using USDA or other industry terms to define scale of production and size of animal) due to unsuitable and overly general application of restrictions on agricultural lands.

  The text as adjusted would read:

  (a) Animal raising, confined - standards.

  1. Structures where animals are housed a majority of the time must be set back from the property line of any adjoining property within the residential, apartment, or apartment mixed-use zoning district on a graduated scale depending on the scale of operations and size of the animal. Structures associated with commercial scale large animal operations shall be set back a minimum of 300 feet. Small scale large or medium-sized animal operations shall be set back a minimum of 50 feet. Small scale small animal operations shall not require a setback. The director may adopt rules following U.S. Department of Agriculture definitions to adapt requirements to the scale of operation and size of the animal for specific cases.

RECOMMENDATION 2: IN RE AGRITOURISM

The Agriculture Committee of the North Shore Neighborhood Board provides the following recommendations to City Council to adjust the proposed text of draft Bill 64 (2023) related to Agritourism:

STANDARDS

- **Recommendation 2a:** Strike clause (1) from 21-5.40-4(b) due to a) the inability to measure the percentage of "activity" taking place on a zoning lot, b) the discrepancy between 50 and 51 percent included in clauses (1) and (5), and c) the duplicative regulatory nature of including clauses (1) and (5).
- **Recommendation 2b:** Strike from clause (2) the sentence "Improvements on the land used for agritourism must be capable of removal without unreasonable cost or effort," due to 1) the duplicative nature of this sentence with the preceding sentence, and b) the lack of a clear definition of "unreasonable cost or effort" which may lead to unnecessary subjective restriction on the construction of agritourism structures.
- **Recommendation 2c:** Shift all inclusions of "crop production or livestock keeping" to "agricultural use" or "agricultural production" due to the unsuitably narrow description of crop production or livestock keeping which does not include other valid agricultural uses of agricultural land (such as agricultural processing).
- **Recommendation 2d:** Adjust clause (5) of 21-5.40-4(b) to require both a minimum of 51% and "active" agricultural use, due to the striking of clause (1).
- **Recommendation 2e:** Retain clause (a) from Sec. 21-5.10A of the currently enacted Land Use Ordinance to allow for agricultural retail on agricultural lands due to the unsuitable restriction on existing and currently operating agricultural retail establishments that the removal of this permitted use and standard would apply.

  The text as amended would read"

  (1) Activities and improvements on the property may not diminish the long term agricultural potential of the land.

  (2) Structures primarily dedicated to agritourism must not exceed 10 percent of the total zoning lot area.

  (3) Buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping on the zoning lot are limited to 10,000 square feet of total floor area for the zoning lot.

  (4) A minimum of 51 percent of the zoning lot area suitable for agricultural use must be dedicated to active agricultural use through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for agricultural use.

  (5) Except as otherwise specified under principal uses, retail activities in an enclosed structure may be allowed, but are limited to not more than 500 square feet of floor area, and all products for sale therein must be predominantly agricultural products grown or produced on the site, in the city or elsewhere in the State of Hawaii, and finished foods, drinks or other

goods substantially made from those products. Non-food items may be sold, provided that these items are made primarily from agricultural products grown or produced on the site, in the city or elsewhere in the State of Hawaii. An incidental amount of general merchandise that features the brand, name or logo of the agribusiness operator may also be sold, provided that the items occupy no more than five percent of the floor area permitted for and devoted to retail sales, as provided in this section. The limitations enumerated above notwithstanding, an agribusiness activity may also include facilities for the preparation, sale and consumption of food and drink on the site, which must feature agricultural products grown or produced on the site, in the city or elsewhere in the State of Hawaii.

(6) Weddings and similar accessory destination events are subject to the following: (A) Events must take place at a designated event space; and (B) Predominantly open-air physical improvements associated with destination events, such as a roofed pavilion, are allowed;

(7) Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four-wheeler, off highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm, and require major conditional use approval subject to the following standards: (A) Tours must have an educational purpose related to the agricultural use of the property. (A) Tours must have an educational purpose related to the agricultural use of the property; and (B) Tours must not interfere with surrounding farm operations.

USAGE

- **Recommendation 2f:** If the determination is made NOTto retain clause (1) of Sec. 21-5.10A of the currently enacted Land Use Ordinance as part of the draft Bill 64 Agritourism section 21-5.40-4(b) then “retail” and “eating and drinking” should be added as Permitted Use, Use Standards Apply on the Master Usage table and the relevant language from Sec. 21-5.10A should be added into the retail and eating and drinking segments of draft Bill 64.

RECOMMENDATION 3: IN RE FARM DWELLINGS

The Agriculture Committee of the North Shore Neighborhood Board provides the following recommendations to City Council to adjust the proposed text of draft Bill 64 (2023) related to Farm Dwellings:

STANDARDS

- **Recommendation 3a:** Strike proposed clause (1) from § 21-5.40-4(e) due to a) the imposition of undue hardship on retired farmers and farmers injured on the job who would be unable to maintain their farm dwelling as a legal residence, b) the potential implications on the ability of farmers to pass their land on to future generations, c) the length of time required to bring 51% of an agricultural parcel into production, as well as

d) a more strict interpretation of the current definition of farm dwelling, and e) and overly narrow allowance for “crop production and livestock keeping” as opposed to “agricultural use” or “agricultural production” as used in the current Land Use Ordinance.

The text as adjusted would read:

> ***(1) Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet, confined to a polygon for which no exterior angle is greater than 180 degrees.***
>
> ***(2) In the AG-1 zoning district, the number of farm dwellings must not exceed one for every 5 acres of zoning lot area.***
>
> ***(3) In the AG-2 zoning district, the number of farm dwellings must not exceed one for every 2 acres of zoning lot area.***
>
> ***(4) If multiple farm dwellings are permitted on a zoning lot, they must not exceed 10 percent of the total zoning lot area.***

- **Recommendation 3b:** Strike from § 21-8.30 the sentence **“**If the applicant wishes to erect additional farm dwellings under § 21-8.20, the zoning lot shall be subdivided,” due to a) the importance of multi-generational housing to support small farms, b) the unequal application of restrictions on ohana units on farmers as compared to residential land owners.

  The text as adjusted would read:

  > ***(a) Any agricultural zoning lot which has at least twice the required minimum lot size for the underlying agricultural district may have two detached farm dwellings, in addition to ohana units erected pursuant to § 21-8.20.***

DEFINITIONS

- **Recommendation 3c:** Strike the terms “principal” from “principal agricultural use” due to lack of definition of what is principal agricultural use
- **Recommendation 3d:** Strike the exception for “open space, forestry, or boarding and care of animals” from the allowance for a farm dwelling, due to the potential implications on pasture at rest, agroforestry, and the boarding of horses.

  The definition as adjusted would read:

  > ***A dwelling unit that is accessory to agricultural use on the same lot.***

RECOMMENDATION 4: IN RE NATURE-BASED RECREATION

The Agriculture Committee of the North Shore Neighborhood Board provides the following recommendations to City Council to adjust the proposed text of draft Bill 64 (2023) related to Nature-based recreation:

STANDARDS

- **<u>Recommendation 4a</u>:** Strike clause (2) from § 21-5.70-8(c) "The overall density for cabins must not exceed one cabin per acre, and no kitchens or wet bars are allowed" due to the implications of allowing potential vacation rental cabins on agricultural lands.

  The text as adjusted would read:

  > ***"(1) In the AG-2 zoning district, a minimum of 51 percent of the zoning lot area must be dedicated to crop production, livestock keeping, or passive undeveloped recreation areas, such as natural open space, forests, and trails, through an agricultural easement or similar legal encumbrance for as long as the nature-based recreation is in operation.***
  >
  > ***"(2) For horseback riding tours, all buildings housing horses and all corrals in which horses are kept or assembled must be set back a minimum of 100 feet from the property line of any adjoining zoning lot located in the country, residential, apartment, or apartment mixed-use zoning districts."***

DEFINITIONS

- **<u>Recommendation 4b</u>:** From the definition for "Nature-Based Recreation" strike "recreational camping, and campgrounds with tents, pavilions, lodges, and cabins."

  The definition as adjusted would read:

  > "***A privately-owned and managed permanent facility or area dedicated to outdoor play or recreation, often containing recreational equipment and facilities intended to promote or enhance access to natural areas on land with preserved wildlife and natural features. The term includes picnic grounds, greenways, hiking and bicycling trails, areas for fishing and hunting, limited accessory sports courts and fields, non-motorized access to scenic interests, and horseback riding tours. The term does not include parks (see park), golf courses (see golf course), horse stables (see confined animal raising), accessory agriculture related tourism or recreation (see agritourism), community recreation centers (see community-based recreation center), hotels (see hotel), and timeshares (see timeshare). See also general outdoor recreation, outdoor animal raising."***

##

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September 26, 2024

HEARING BEFORE THE
COMMITTEE ON PLANNING AND THE ECONOMY

TESTIMONY ON BILL 64 (2023) FD1, PROPOSED CD1 (EK6)
RELATING TO USE REGULATIONS

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.

The Hawai'i Farm Bureau appreciates the efforts by the Honolulu City Council and Department of Planning and Permitting to update Honolulu's Land Use Ordinance. However, as we have noted in previous testimony, Bill 10 (now Bill 64) contained provisions that were of concern to farmers and ranchers on O'ahu. We thank the Council for allowing the agriculture industry the opportunity to recommend amendments to address these concerns.

The Hawai'i Farm Bureau was an active participant in the 2023 agricultural stakeholder working group. This group also included the O'ahu Agriculture and Conservation Association, Kualoa Ranch, Waimanalo Agricultural Association, KoHana, Hawai'i Cattlemen's Council, Ulupono Initiative, and Kuilima Farms. Government agencies—Hawai'i Department of Agriculture, City and County of Honolulu (CCH) Department of Planning and Permitting (DPP), and CCH Office of Economic Revitalization—also joined the conversation to provide context and feedback to the group's comments. Over three full-day sessions, the working group carefully evaluated the potential impacts of each agriculture-related provision in Bill 10 (2022), now reintroduced as Bill 64 (2023), on agricultural production and associated operations within the City and County of Honolulu. The Hawai'i Farm Bureau strongly endorses the working group's recommendations and respectfully requests their integration into Bill 64.

As agriculture producers and stakeholders, we support agriculture and accessory agriculture on AG-1 and AG-2 lands for active farm/ranch production. While there have been multiple drafts before this Council and Committee, we have provided the following recommendations and comments on Bill 64 (2023) FD1 Proposed CD1 (EK6) version of the bill. We appreciate this committee's efforts to address some of our concerns to date.

A related concern specific to our East Oʻahu County Farm Bureau is the proposed set of standards for urban agriculture. Years ago, parts of Kahaluu were placed in the urban district in anticipation of large-scale development that never actually occurred. The area is still largely rural, with small farms and nurseries. The proposed standards are inappropriate for such a situation. For example, one standard would prohibit the keeping and raising of livestock – presumably even a few chickens -- while others would require all-weather parking and pedestrian walkways: unnecessary and expensive facilities in a rural setting. We support the amendment proposed by Chair Kiaʻaina that would remove the standard restricting hours of activity under urban agriculture, but we feel that the other proposed standards should be revised as well.

A prohibition on livestock raising could also conflict with the establishment of aquaponic facilities in urban-zoned areas. Bill 64 includes aquaponics under "crop raising," leaving the fish component undefined and potentially construed as "livestock." Production of fish and vegetables in a recirculating aquaponic system is highly appropriate as urban agriculture because it is highly productive, conserves water and other resources, and does not require high-quality soil. Finally, we note that there have been a number of small commercial operations in urban Honolulu culturing ornamental fish. Aquaponics and aquaculture should be specifically included as permitted uses under urban agriculture.

In Bill 64, an "agricultural-energy facility" is defined as "an accessory facility that generates, stores, or distributes renewable energy fuels from products of crop production or livestock keeping." Solar facilities are specifically excluded, presumably to prevent utility-scale solar facilities from taking land out of agricultural production. However, this provision could also be construed as preventing farms from installing small-scale alternative energy facilities to reduce electricity costs or to provide electricity at off-grid sites. In contrast, HRS 205-4.5 (10) specifically allows such facilities within the State agricultural district. Farms should be encouraged to install alternative energy sources such as wind and solar for exclusively on-farm use, and these sources should be specifically permitted as an accessory use to agricultural and aquacultural production.

The following recommendations represent some of the remaining recommendations and concerns which lie within the current EK6 draft.

General Recommendations for Consideration of the Final Bill 64 Outcome:

- Re-activate the Agriculture Task Force and Agriculture Liaison to meet regularly for substantive discussions about agriculture and to make recommendations to the Honolulu City Council. The Task Force should ensure the representation of small farms.

- Add a position within DPP that requires a background in agriculture. Without such a position, it is difficult for DPP to make land use changes that support Oahu's agricultural production and preservation of productive farmland.

Accessory Agricultural Use Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK6)

Agricultural Farmers Market

- FD1, PROPOSED CD1 Section 71 adds a new definition of "agricultural farmers market" to mean an outdoor market on land within the agricultural zoning districts for the sale of agricultural products grown on Oahu and value-added products that were produced using agricultural products grown on Oahu by the producer of the agricultural products. The term does not include outdoor markets and similar uses conducted outside of the agricultural zoning districts. (p. 216)
    - **Support with Amendment:** We all agree with amending the definition of "agricultural farmers market" to clarify that the term means an outdoor market for the sale of agricultural products grown **in Hawaii** and value-added products produced using agricultural products grown **in Hawaii**. The term does not include outdoor markets and similar uses conducted outside of the agricultural zoning districts."
- FD1, PROPOSED CD1 (h) Agricultural farmers market – standards. (2) Adequate parking and vehicular access must be provided, as determined by the director. (p. 20)
    - **Oppose:** We all agree this is an overreach. Recommend deletion: ~~(2) Adequate parking and vehicular access must be provided, as determined by the director.~~

Agritourism

- We all agree that the current standing Land Use Ordinance (LUO) language about agribusiness activities (Bill 64 renaming as "agritourism") is supported and preferred.
    - **Oppose:** The current LUO language about agribusiness activities (which covers "agritourism") is sufficient. Bill 64 imposes additional restrictions and requirements when the majority of agritourism activities are not a problem. We all agree that agribusiness activities (agritourism) "…must always be an accessory and incidental to the primary agricultural use of the lot…"

- **Alternative:** If the committee decides to keep this newly created use, then the standards listed on page 15-16 should be amended to:

"(b) Agritourism – standards.

(1) ~~At least 51 percent of the activity on the zoning lot must be crop production or livestock keeping.~~ A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping.

(2) Activities and improvements on the property may not diminish the long term agricultural potential of the land. Improvements on the land used for agritourism must be capable of removal without unreasonable cost or effort.

~~(3) Structures primarily dedicated to agritourism must not exceed 10 percent of the total zoning lot area.~~

~~(4) Buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping on the zoning lot are limited to 10,000 square feet of total floor area for the zoning lot.~~

(5) A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the
zoning lot area considered to be suitable for crop production or livestock keeping.

(6) Weddings and similar accessory destination events are subject to the following:

(A) Events must take place at a designated event space; and

(B) Predominantly open-air physical improvements associated with destination events, such as a roofed pavilion, are allowed; provided that the total floor area must not exceed 1,000 square feet.

(7) Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four-wheeler, off highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm, ~~and require major conditional use approval~~ subject to the following standards:

(A) Tours must have an educational purpose related to the agricultural use of the property; and

(B) Tours must not interfere with surrounding farm operations."

- We all disagree with Bill 64's proposal to require a Major Conditional Use Permit as well as a new Special Use Permit (SUP) process for AG-1 (C*+) and AG-2 (C*+) districts. (p. 4)
  - **Oppose**: We all agree that this is questionable and adds another layer that impedes permitted agricultural use. We support the current LUO designation of agribusiness activities as Minor Conditional Use for both AG-1 (Cm) and AG-2 (Cm). HRS 205 §205-4.5 (Permissible uses within the

agricultural districts) (13)(14) already provides permitted agricultural tourism.

Beekeeping

- FD1, PROPOSED CD1 Section 21-5.30 Use Table classifies beekeeping as P* (Permitted Use, Standards) in the AG-1 and AG-2 districts. (p. 4)
    - **Oppose:** We all oppose classifying beekeeping as P*. Beekeeping in AG-1 and AG-2 districts should only be P, a permitted use. Agriculturists should have the flexibility to maintain productive bee hives to encourage the pollination of crops.

Biofuel Processing Facility

- FD1, PROPOSED CD1 Section 21-5.30 Use Table. Lists biofuel processing as Cm* (Minor Conditional Use, Use Standards Apply) for AG-1 and AG-2. (p. 4)
    - **Oppose:** We all agree that adding a SUP (new use to be Cm*+) to this process will help to alleviate concerns regarding movement of invasive species and pests.
- FD1, PROPOSED CD1 Section 21-5.40-4(d)(1) provides standards that for biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feed stock must be grown onsite, with the exception of feedstocks sourced from waste or invasive species (instead of requiring that all energy feedstocks be grown onsite). (p. 17)
    - **Support With Amendment to Bill 64:** Most agree with biofuel feedstock from at least 51% Hawaii-grown not limited to on-site production and may include feedstocks sourced from waste or invasive species.
        - **Suggested Amendment to Bill 64:** "...to provide that for biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feed stock ~~**must be grown onsite, with the exception of feedstocks sourced from waste or invasive species (instead of requiring that all energy feedstocks be grown onsite).**~~ includes **at least 51% Hawaii-grown feedstock not limited to on-site production, and may include** ~~**restricted must be grown onsite, with the exception of**~~ feedstocks sourced from waste or invasive species
        - **Proposed New Definition and Language:** We all agree with the addition of new language for sub-processing of Hawaii-grown feedstock:
            - **"Sub-processing means producing, harvesting and preparing the Hawaii-grown feedstock for use in biofuel processing facilities. Sub-processing of Hawaii-grown feedstock may be transported to biofuel processing facilities located in the agricultural zoning district."**

Farm Dwelling

- FD1, PROPOSED CD1 Farm Dwelling Standards (2). Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet, confined to a polygon for which no exterior angle is greater than 180 degrees. (p.18)
    - **Support With Amendments**: We all agree with the removal of "storage sheds" to avoid confusion in its interpretation since many farmers and ranchers need storage sheds for agricultural purposes. It should not be included within the required square footage standards. We all agree with the removal of "confined to a polygon for which no exterior angle is greater than 180 degrees". This appears to be an overreach without an understandable purpose.
        - **Recommended Amendments:** Farm Dwelling Standards (2). Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks**,** ~~**storage sheds**~~, and swimming pools) must be contained within an area not to exceed 5,000 square feet~~**.; confined to a polygon for which no exterior angle is greater than 180 degrees.**~~

Farm Stand

- FD1, PROPOSED CD1 (2) Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. No electricity, sewer, water or other utility services are allowed in conjunction with the farm stand. (p. 18-19)
    - **Support With Amendment:** We all agree farm operations must have the choice and flexibility to install electricity, sewer, water or other utility services in their farm stand. We question the rationale for disallowing electricity, sewer, and water from farm stands. Such utilities may be required to meet food safety standards.
        - **Recommended Amendment:** "Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. ~~**No electricity, sewer, water, or other utility services are allowed in conjunction with the farm stand."**~~

Farm Worker Housing

- 21-5.40-3(g)(9) states, "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family. (p.20)
    - **Support With Amendments:** We all agree that Item (9) should include the statement, "Prior to eviction, a grace period of 60 days is allowed for

displaced farm workers." This is to allow sufficient time for farm workers to find alternative housing.

- **Recommended Amendments:** "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family. **Prior to eviction, a grace period of 60 days is allowed for displaced farm workers.**

- Standards 21-5.40(3)(g)(2) The farm worker housing plans must be supported by agricultural plans. The amount of labor necessary to farm the land must justify the number of dwelling units proposed. (p.19)
  - **We raise the following concerns about Farm Worker Housing that require more discussion:**
    - We all agree that the DPP administrative rules should explain what is required and what is the approval process for the LUO reference for an agricultural plan for farm worker housing.
    - We all agree that DPP administrative rules should clarify what is required for the justification of "the amount of labor necessary to farm the land must justify the number of dwelling units proposed."

Crop Production, Livestock Keeping, and Agricultural Support Use Recommendations to Bill 64 (2023) FD1 Proposed CD1 (EK6)

Agricultural Processing, Includes Breweries/Distilleries

- In Section 70 of the bill, FD1, PROPOSED CD1 amends the definition of "agricultural processing" (formerly minor agricultural products processing) to provide that in the agricultural zoning districts, minor agricultural processing includes the processing of crops to produce malt beverages, distilled spirits, or wines. Minor agricultural processing includes the processing of crops to produce malt beverages, distilled spirits, or wines. (p. 192-193)
  - **Support With Amendment:** We all agree with changing the definition of "agricultural processing" (formerly minor agricultural products processing) to provide that in the agricultural zoning districts, minor agricultural processing includes the processing of **Hawaii-grown crops that are not restricted to on-site cultivation** to produce malt beverages, distilled spirits or wines. ~~**Minor agricultural processing includes the processing of crops to produce malt beverages, distilled spirits, or wines.**~~
- In Section 70 of the bill, FD1, PROPOSED CD1 states "Agricultural processing" means processing local crops and local animal-related products essential to supporting a variety of agriculture uses for distribution to storage structures or wholesale and retail markets. (1) Minor: Processing crops and live animal by-products such as milk, eggs, and honey. In the agricultural zoning districts, the term includes the processing of crops to produce malt beverages, distilled spirits, or

wines. (2) Major: Slaughtering and processing dead animals and associated byproducts." (p. 192-193)

- **Support With Amendments:** For minor and major processing,
  - We all agree with the proposed amendment: "Agricultural processing" means processing ~~local crops and local animal-related products~~ of Hawaii-grown crop production or livestock keeping products that are not restricted to on-site cultivation that are essential to supporting a variety of agriculture uses for distribution to storage structures or wholesale and retail markets.
  - We all agree with the proposed amendment: (1) Minor: Processing Hawaii-grown crop production or livestock keeping ~~crops and live animal~~ by-products such as milk, eggs, and honey which are not restricted to on-site cultivation. Minor processing includes aquaculture harvests placed in or on ice. In the agricultural zoning districts, the term includes the processing of Hawaii-grown crops not restricted to on-site cultivation to produce malt beverages, distilled spirits, or wines, of which at least 51% are Hawaii-grown non-water ingredients.

Livestock Veterinary Service

- FD1, PROPOSED CD1 Section 21-5.30 Use Table Livestock veterinary services are allowed in the AG-1 and AG-2 Districts as "P+" (Permitted Use, SUP). (p. 4)
  - **Oppose:** Most agree that Livestock Veterinary Services are permitted uses and should not require a special use permit. There is concern however that while livestock veterinary services are permissible for ag lots, domestic veterinary care clinics are not. To ensure this is the case, a proposal should be reviewed before allowing this use.

Other Uses Categories in AG-1 or AG-2 Zoned Lands Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK6)

Group Living, Small

- FD1, PROPOSED CD1 Section 21-5.30 Use Table. Designates "C*+" in the AG-2 District for Small group living – State regulated and Small group living – not State regulated (p. 4-5).
  - **Oppose:** We all agree that small group living (State regulated and not state regulated) should be deleted from AG-2 zone districts. Small group living in agricultural zoning districts is more of a transitional housing issue. It is not a farm dwelling or farm worker housing. It does not belong in the AG-2 zoned districts.

Meeting Facilities

- FD1, PROPOSED CD1 Section 21.5.30 Use Table:
  a. Allows small meeting facility use on AG-2 land as Cm*+ (Minor Conditional Use, Standards, SUP) and on Country land as Cm* (Minor Conditional Use, Standards) (p.5)
  b. Allows medium meeting facility use on AG-2 land as C*+ (Major Conditional Use, Standards, SUP)and on Country land as C* (Major Conditional Use, Standards) (p. 5)
    - **Oppose:** We all agree meeting facilities should not be allowed on AG-2 land, which should be preserved and used for active agriculture production and accessory agriculture.
    - **Comments**: Most agree that meeting facilities of all sizes can be placed in country-zoned districts.
      - There is disagreement because country zoned districts are small and between AG-1 and AG-2 farms. Such proximity can compromise normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) by complaints from meeting attendees. The Hawaii State Constitution preserves the "right to farm."

School, PreK-12

- Section 21-5.30 Use Table. FD1, PROPOSED CD1 proposes PreK-12 schools in AG-2 districts as C*+ (Major Conditional Use, Standards, SUP) and in Country districts as Cm* (Minor Conditional Use, Standards).
  - **Oppose:** We all agree, as agriculture producers and stakeholders, with support of agriculture and accessory agriculture on AG1 and AG2 lands for active farm/ranch production. While we support education in general, we cannot support schools on AG-2 lands.
  - We all agree that schools are incompatible with farms. Normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) would generate complaints and hinder the management of the farm. The Hawaii State Constitution preserves the "right to farm," and schools should not be allowed on these smaller parcels.
  - **Comment**: In addition, please consider the removal of schools as a permitted use on country-zoned parcels that are ***adjacent*** to AG-1 or AG-2 parcels. Some of the country ag parcels are small and between AG-1 and AG-2 farms. When schools are allowed on these parcels zoned for agriculture it infringes on the right to farm.

Wind Energy Facilities (Small, Medium, Large)

- FD1, PROPOSED CD1 creates standards under ROH Section 21-5.60(a)(3) small utility (p. 41); Section 21-5.60-6(b)(3**)** medium utility (p. 43); and Section 21-5.60-6 (c)(2) large utility (p. 44-45). Most of the Bill 64 refers to how wind energy generation facilities are established. <u>Our review focused on where it is allowed in relation to</u>

agriculture operations.

- **Support With Amendments:** We all agree that wind energy generation facilities of all categories, small, medium, and large, when placed on AG-1 and AG-2 lands, must dedicate at least 51% of the zoning lot area suitable for crop production or livestock keeping to crop production or livestock keeping. The Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area; the Director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered suitable for crop production or livestock keeping.

Day Care, Adult and Child (Combined Review)

- FD1, PROPOSED CD1 ROH Section 21-5.70-1(a)(3) (relating to child daycare) to require that in the AG-2 District (no longer permitted in the AG-1 District) a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping (instead of 50 percent of the total zoning lot area) must be dedicated to crop production or livestock keeping; and provide that the DPP Director may adopt rules to determine the zoning lot area considered to be suitable for crop production or livestock keeping (p. 46-47).
- FD1, PROPOSED CD1 ROH Section 21-5.70-1(b) (relating to adult daycare) to require that in the AG-2 District (no longer permitted in the AG-1 District) a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping (instead of 50 percent of the total zoning lot area) must be dedicated to crop production or livestock keeping; and provide that the DPP Director may adopt rules to determine the zoning lot area considered to be suitable for crop production or livestock keeping (p. 47).
    - **Oppose (a) and (b):** We all agree that child and adult day care be deleted from AG-2 zone districts. The proximity of child and adult day care facilities in AG-2 lands takes land away from active agriculture production. More than likely buffer zones will be requested to separate active farming noise, smells, dust and spraying of approved applications. This erodes available agricultural lands for the crop production or livestock keeping.

Major Animal Care

- FD1, PROPOSED CD1 Section 21-5.30 Use Table. Animal Care, Major allowed on AG-2 districts as P*+ (Permitted Use, Standards, SUP); and on Country zoned districts as P* (Permitted Use, Standards)
    - **Support With Amendments:** We all agree our primary concern is preserving AG-1 and AG-2 land for active agriculture production and accessory agriculture. With that in mind, we propose an agricultural nexus of at least 51% for animal care on AG-2 land. If the standard of **at least 51% of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping** is inserted into this bill, we support removal of the SUP for major animal care to establish the use as a P* (Permitted Use, Standards).

Nature Based Recreation

- FD1, PROPOSED CD1 Section 21-5.30 Use Table. Nature Based Recreation allowed in AG-2 districts as C* (Conditional Major Use, Use Standards Apply) (p. 8).
    - **Oppose:** We all agree to remove any reference of nature-based recreation on AG-2 districts.
    - **Concerns with definition:** We also note concerns with the definition of "Nature-Based Recreation" as the term "includes picnic grounds, greenways, hiking and bicycling trails, areas for fishing and hunting, limited accessory sports courts and fields, non-motorized access to scenic interests, horseback riding tours, recreational camping, and campgrounds with tents, pavilions, lodges, and cabins."
        - We believe that this term can negatively impact the primary use of AG-2 lands, which should be for active agricultural production.

SUP and Exceptions

- FD1, PROPOSED CD1 adds a new section 21-2.110-3 Special use permit to the ROH to set forth procedures for the DPP Director to process a special use permit, and guidelines for the DPP Director's approval and issuance of a special use permit (p. 91-92) .
    - **Support with Reservations**: We all agree with reservations because it puts process details to the existing SUP process, which is opaque and left to the director's discretion. There is concern about leaving it to the Director's discretion when the Director may have no knowledge of or appreciation for agriculture. Adding a DPP position with an agricultural background would alleviate reservations about this section.
- FD1, PROPOSED CD1 creates a new section to delineate a framework for the director's decision-making. We suggest additional requirements be added for the director's decision-making about agriculture.
    - **Support:** We all agree with delineating a framework and additional requirements for the DPP director's decision-making about agriculture. However, we did not have time to delve into the specifics to recommend additional requirements. Having a dedicated position at DPP as stated in previous bullet could help to alleviate this concern.

Thank you for this opportunity to provide comments on Bill 64 (2023).

GRASSROOT INSTITUTE OF HAWAII

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Removing barriers to Hawaii's prosperity

Sept. 26, 2024, 9 a.m.
Honolulu Hale

To: Honolulu City Council, Committee on Planning and the Economy
Esther Kiaʻāina, Chair
Radiant Cordero, Vice-Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: Bill 64 (2023) — RELATING TO USE REGULATIONS

Aloha Chair Kiaʻāina, Vice-Chair Cordero and members of the Committee,

The Grassroot Institute of Hawaii has **concerns** about the portion of Bill 64 (2023), FD1 that would amend the city's land-use regulations governing agricultural uses.

In general, Grassroot believes that the current draft of Bill 64 would negatively impact Oahu's small farmers and beekeepers, worsen the island's food security and discourage entrepreneurship. Therefore, we support certain amendments to the bill proposed by Committee Chair Esther Kiaʻāina and Councilmembers Andria Tupola and Matt Weyer.

One of our primary concerns with the current draft is how it would treat beekeeping. Current standards allow beekeeping in all county zones, with setback standards and an eight-hive limit for non-agricultural zones. Apiaries kept in agricultural zones are not subject to any zoning standards.

The draft bill would put the screws to hobby and commercial beekeepers by imposing a 5,000-square-foot minimum lot size for keeping bees. Additionally, no lot could have more than six hives; lots between 10,000 and 20,000 square feet could have four; and lots between 5,000 and 10,000 square feet could have only two.

Moreover, without explaining why, the bill would remove beekeeping as a permitted use in the county industrial and industrial mixed-use zones.

Meanwhile, the proposed minimum lot size in residential zones — where lot sizes sometimes do not exceed 5,000 and rarely exceed 10,000 square feet — would have a devastating effect on many current and prospective beekeepers.

Amendments submitted by Councilmembers Tupola and Weyer would delete these proposed restrictions by making beekeeping a permitted use in all zoning districts. In addition, these amendments as well as an amendment submitted by Committee Chair Kia‘āina would remove the draft’s overly restrictive beekeeping standards.

We also support Committee Chair Kia‘āina’s amendment that would remove the standards for hours of operation and onsite sales for urban agriculture.

Finally, an amendment submitted by Councilmember Tupola includes provisions that would remove unnecessary prohibitions against utilities in farm stands. This is a sensible change that would allow farm stands to keep pace with social and technological changes.

Thank you for the opportunity to testify.

Ted Kefalas,
Director of Strategic Campaigns
Grassroot Institute of Hawaii

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor

SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE CITY COUNCIL
COMMITTEE ON PLANNING AND THE ECONOMY
CITY AND COUNTY OF HONOLULU

THURSDAY, SEPTEMBER 26, 2024
9:00 A.M.
CITY COUNCIL CHAMBER

BILL 64 (2023), FD1 (CD1 AMENDMENTS)
LUO AMENDMENT RELATING TO USE REGULATIONS

Chair Kia'āina, Vice Chair Cordero and Members of the Committee:

The Department of Agriculture (DOA) has reviewed Bill 64 (2023), FD1, Proposed CD1 (EK-7) and offers the following comments and recommendations.

The DOA participated in the meetings convened by the Ulupono Initiative (aka Working Group) in October 2022 and March 2023 with agricultural operators, agricultural associations, non-governmental organizations, and City agencies in attendance.

The DOA generally concurs with the testimonies submitted by the Working Group and other meeting attendees and offers the following additional observations, comments, and recommendations to the latest draft of Bill 64 concerning "accessory agricultural".

The first part of our testimony presents our comments and recommendations on "Accessory Agricultural", the fourth Agricultural Use Subcategory.

This testimony includes our substantive comments on the additional amendments proposed by Chair Kia'āina (dated September 20, 2024).

ACCESSORY AGRICULTURAL

Agricultural-Energy Facility

Section 71
Section 21-10.1 Definitions (page 215)
Agricultural-Energy Facility
“An accessory facility that generates, stores, or distributes renewable energy fuels from products of crop production or livestock keeping. The term includes operational infrastructure of the appropriate type and scale for the economic commercial generation, storage, distribution, and other similar handling of energy, including equipment, feedstock, fuels, and other products of agricultural-energy facilities necessary for an enterprise that integrally incorporates an agricultural activity with an agricultural-energy facility. The term does not include solar facilities."
(**DOA comment**: This definition is a partial amalgam of Section 205-4.5(a)(17), HRS. There is no equivalent use in the existing Land Use Ordinance (LUO). It does not include or refer to “agricultural-energy enterprise”. To fully comport with the HRS, the proposed definition may need to refer to the entirety of Section 205-4.5(a)(17).)

Section 3
Article 5: Use Regulation
Section 21-5.40-4(a) Agricultural-energy facility – standards (page 15)
Allowable on AG-1 and AG-2 subject to standards and special use permit. (page 4)
“(a) Agricultural-energy facility – standards. A minimum of 90 percent of the activity on the zoning lot must be crop production or livestock keeping, consistent with the regulation of permissible uses within agricultural districts pursuant to HRS § 205-4.5(a)(17).”
(**DOA comment**: This comports with Section 205-4.5(a)(17), HRS.)

Agricultural Farmers Market

Section 71
Section 21-10.1 Definitions (page 216)
Agricultural Farmers Market
“An outdoor market on land within the agricultural zoning districts for the sale of agricultural products grown on Oahu and value-added products that were produced using agricultural products grown on Oahu by the producers of the agricultural products. The term does not include outdoor markets and similar uses conducted outside of the agricultural zoning districts."
(**DOA comment**: Support the intent of limiting the products sold to that grown or raised on O’ahu but **acknowledge the position of the Working Group to allow sale of agricultural products grown in Hawai’i**. This definition is stricter than what currently is provided for in the existing LUO (Section 21-5.10A (c) “Agribusiness activities”, page

114) and Section 205-2(d)(15)(D), HRS that permits farmers' markets that are "limited to producers selling agricultural products grown in Hawai'i and value-added products that were produced using agricultural products grown in Hawai'i;")

Section 3
Article 5: Use Regulation
Section 21-5.40-4(h) Agricultural farmers market – standards (page 20)
Requires Conditional Use Permit – Minor and subject to standards on AG-1 and AG-2 (page 4)

- Limited hours of operation – 6:00 am to 8:00 pm
- Adequate parking and vehicular access must be provided, as determined by the director. (This is a recent addition to the other two standards)
- 51% of the zoning lot area suitable for crop production/livestock keeping must be dedicated via an agricultural easement for as long as the farmers market is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for crop production or livestock keeping.

(**DOA comment**: **Support the intent** of the 51% dedication requirement.)

Agritourism

Section 71
Section 21-10.1 Definitions (page 193)
Agritourism
"Accessory agricultural-related tourism for recreational or educational purposes on zoning lots primarily used for ongoing crop production or livestock keeping. Agricultural-related tourism activities include kayaking, hiking, mountain biking, boating, horseback riding, ziplining, and picnicking. Limited destination events, such as weddings, are included in this definition."
(**DOA comment**: Horseback riding is considered an "agricultural-related tourism activity". "Horseback riding tours" is an allowed use under "Nature-Based Recreation" (page 222) which is permitted on AG-2 district by Conditional Use – Major, subject to standards (page 8). What is the difference between the two types of horseback riding? Is it because "horseback riding tours" is a commercial operation and "horseback riding" isn't?)

Section 3
Article 5: Use Regulation
Section 21-5.40-4(b) Agritourism – standards (pages 15-16)
Requires Conditional Use Permit – Major subject to standards and special use permit on AG-1 and AG-2 (page 4)
"(1) At least 51 percent of the activity on the zoning lot must be crop production or livestock keeping.

(**DOA comment**: Can this condition be deleted as it appears to be is encompassed within item (5)?)

(2) Activities and improvements on the property may not diminish the long-term agricultural potential of the land. Improvements on the land used for agritourism must be capable of removal without unreasonable cost or effort.

(3) Structures primarily dedicated to agritourism must not exceed 10 percent of the total zoning lot area.

(4) Buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping on the zoning lot are limited to 10,000 square feet of total floor area for the zoning lot.

(5) A minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for crop production or livestock keeping.

(6) Weddings and similar accessory destination events are subject to the following:
   (A) Events must take place at a designated event space; and
   (B) Predominantly open-air physical improvements associated with destination events, such as a roofed pavilion, are allowed; provided that the total floor area must not exceed 1,000 square feet.

(7) Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four-wheeler, off highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm, and require major conditional use approval subject to the following standards:
(**DOA comment**: The agritourism operation already requires a special use permit. Is the motorized vehicle Conditional Use Permit – Major meant to be a separate permit from that required for agricultural tourism? The term “working farm” needs to be defined - see middle of page 16)
   (A) Tours must have an educational purpose related to the agricultural use of the property; and
   (B) Tours must not interfere with surrounding farm operations.”
(**DOA comment**: The agritourism standards and definition do not include overnight accommodations as permitted in Section 205-2(d)(12), HRS. DOA supports this absence.)

Section 13

Section 21-3.50 “Agricultural districts – purpose and intent” (page 106)

"(a) The purpose of the agricultural <u>zoning</u> districts is to maintain a strong agricultural economic base, to prevent unnecessary conflicts among incompatible uses, to minimize the cost of providing public improvements and services, and to manage the rate and location of physical development consistent with the city's adopted land use policies. To promote the viability and economic feasibility of an existing agricultural operation, [~~accessory agribusiness activities~~] <u>agritourism</u> may be permitted on the same site as an adjunct to agricultural uses. [~~These accessory activities~~] <u>The agritourism</u> must be compatible with the onsite agricultural

operation and surrounding land uses.

(b) The intent of the AG-1 restricted agricultural zoning district is to conserve and protect important agricultural lands for the performance of agricultural functions by permitting only those uses that perpetuate the retention of these lands in the production of food, feed, forage, fiber crops, and horticultural plants. Only [~~accessory agribusiness activities~~] agritourism that [~~meet~~] meets the above intent [~~shall~~] will be permitted in this district."
(**DOA comment**: The current LUO's definition of "accessory agribusiness activities" definition does not provide clarity in what is acceptable and what isn't (LUO, page 64). However, the proposed "agritourism" replacement language is very concerning as it reads that "agritourism" is the only accessory activity to agricultural production that is acceptable (page 106).
DOA strongly recommends the following amendments to subsections (a) and (b).
Bold text that is underscored, or overstruck and bracketed, is new:

"(a) The purpose of the agricultural zoning districts is to maintain a strong agricultural economic base, to prevent unnecessary conflicts among incompatible uses, to [~~minimize~~] **moderate** the cost of providing public improvements and services, and to manage the rate and location of physical development consistent with the city's adopted land use policies. To promote the viability and economic feasibility of an existing agricultural operation, [~~accessory agribusiness activities~~] [~~agritourism~~] **accessory agricultural uses** may be permitted on the same site as an adjunct to agricultural uses. [~~These accessory activities~~] The [~~agritourism~~] **accessory agricultural uses** must be compatible with the onsite agricultural operation and surrounding land uses.

(b) The intent of the AG-1 restricted agricultural zoning district is to conserve and protect important agricultural lands for the [~~performance of agricultural functions~~] **primary agricultural uses of crop production and livestock keeping** by permitting only those uses that perpetuate the retention of these lands in the production of food, feed, forage, fiber crops, and horticultural plants. Only [~~accessory agribusiness activities~~] [~~agritourism~~] **accessory agricultural uses** that [~~meet~~] [~~**meets**~~] **meet** the above intent [~~shall~~] will be permitted in this district."

Beekeeping

Section 71
Section 21-10.1 Definitions (page 217)
Beekeeping
"Accessory keeping of bees in artificial hives, such as honeybees and varieties of native bees, as a hobby or for commercial purposes. Commercial beekeeping in the residential or apartment zoning districts must comply with standards for home occupations."

Section 3
Article 5: Use Regulation
Section 21-5.40-4(c) Beekeeping – standards (pages 16-17)
Permitted use on AG-1 and AG-2, subject to standards (page 4)

"(1) Zoning lot size: The minimum zoning lot size required for beekeeping is 5,000 square feet.
(2) Zoning lot area required:
  (A) No more than two beehives may be established on zoning lots less than 10,000 square feet;
  (B) No more than four beehives may be established on zoning lots of 10,000 up to 20,000 square feet;
  (C) No more than six beehives may be established on zoning lots greater than 20,000 square feet; and
  (D) No beehive may exceed 7 cubic feet in volume.
(3) 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 ground-level beehives so that bee departures and arrivals occur at no less than 6 feet in height at interior property lines. The barrier for purposes of influencing the flyway 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."

(**DOA comment**: The standards for beehives appear to be addressing issues that may arise in non-agricultural districts. **DOA recommends** that zoning lots in the AG-1 and AG-2 districts be exempt from the standards for beekeeping with the exception of the minimum 25-foot set back from any property line.)

Biofuel Processing Facility

Section 70
Section 21-10.1 Definitions (page 196)
Biofuel Processing Facility
"An accessory facility that produces liquid or gaseous fuels from organic sources such as biomass crops, agricultural residues, oil crops (including palm, canola, soybean, and waste cooking oils), grease, food wastes, and animal residues and wastes that may be used to generate energy. The term includes operational infrastructure of the appropriate type and scale for economic commercial storage and distribution, and other similar handling of feedstock, fuels, and other products associated with the production and refining of biofuels typically considered directly accessory and secondary to the growing of the energy feedstock."
(**DOA Comment**: The proposed amendment is an amalgam of Section 205-4.5(a)(16), HRS. Also see Section 71, Section 21-10.1 Definitions (page 217) "A facility that

produces liquid or gaseous fuels from organic sources, such as biomass crops, agricultural residues, oil crops (including palm, canola, soybean, and waste cooking oils); grease; food wastes; or animal residues and wastes that may be used to generate energy." which may be unnecessary as it is redundant the first sentence of the other definition on page 196)

Section 3
Article 5: Use Regulation
Section 21-5.40-4(d) Biofuel Processing Facility – standards (pages 17-18)
The biofuel processing facility is allowable on AG-1 and AG-2 and requires Conditional Use Permit – Minor, subject to standards (page 4)
(**DOA Comment**: Why are biofuel processing facilities permitted as an Accessory Agricultural use on AG-1 and AG-2 districts under Conditional Use Permit – Minor on page 4 and as an Industrial use requiring a Conditional Use Permit – Major on AG-1 and AG-2 districts (page 8)? It appears the latter could be deleted from the Use Table on page 8.)

"(1) For biofuel processing facilities located in the agricultural or preservation zoning districts, the dominant feedstock must be grown onsite, with the exception of feedstocks sourced from waste or invasive species.
(**DOA comment**: Requiring the "dominant feedstock must be grown onsite" appears to be a reasonable requirement.)
(2) Agricultural land and other agricultural uses in the vicinity of the biofuel processing facility must not be adversely impacted, consistent with the regulation of permissible uses within the agricultural districts pursuant to HRS § 205-4.5(a)(16).
(3) Transitional setback requirements are as follows:
(A) Preservation zoning districts: 1 additional foot of setback for every 2 feet above 15 feet in height;
(B) Agricultural zoning districts: 1 additional foot of setback for every 2 feet above 15 feet in height; or
(C) Industrial zoning districts: Every 1 foot in structure height requires 2 feet of setback from the vertical projection of the center line of the street."

Farm Dwelling

Section 70
Section 21-10.1 Definitions (page 200)
Farm Dwelling
"A dwelling [~~located on and used in connection with a farm where agricultural activity provides income to the family occupying the dwelling.~~] unit that is accessory to a principal agricultural use on the same zoning lot other than open space, forestry, or the boarding and care of animals."

(**DOA comment**: The proposed definition does not include the income requirement found in the existing LUO (page 342) and HRS (Section 25-4.5(a)(4)). It addresses the HRS requirement that the dwelling is "located on and accessory to a farm". "Principal agricultural use" appears to come from Section 205-4.5(a)(19) (agricultural education programs" – **DOA recommends** the use of this statutory citation be reassessed. The farm dwelling standard of 51% of the zoning lot area suited for agriculture use in combination with maintaining agricultural dedication status should suffice as a substitute for income from agricultural activity.)

Section 3
Article 5: Use Regulation
Section 21-5.40-4(e) Farm Dwelling – standards (page 18)
Permitted use, subject to standards on AG-1 and AG-2 (page 4)

"(1) Crop production and livestock keeping must occupy a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping, and valid agricultural dedication status must be maintained through an agricultural easement or similar legal encumbrance for as long as the farm dwelling use continues. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for crop production or livestock keeping.
(**DOA comment**: **Support.** This standard may be an effective deterrent to the creation of "gentlemen farmer" estates via the subdivision (or other partition) of agricultural land. **DOA recommends** the Agricultural Dedication program in Section 8-7.3, ROH be reevaluated.)

(2) Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet, confined to a polygon for which no exterior angle is greater than 180 degrees.

(3) In the AG-1 zoning district, the number of farm dwellings must not exceed one for every 5 acres of zoning lot area.

(4) In the AG-2 zoning district, the number of farm dwellings must not exceed one for every 2 acres of zoning lot area.

(5) If multiple farm dwellings are permitted on a zoning lot, they must not exceed 10 percent of the total zoning lot area."

Farm Stand

Section 71
Section 21-10.1 Definitions (page 220)
Farm Stand
"Selling merchandise primarily grown or made onsite with limited sales of prepackaged food and drinks. The term does not include food trucks or mobile vendors."
(**DOA comment**: **Recommend deleting** "…with limited sales of prepackaged food and drinks". The current LUO's definition of "roadside stand is worth retaining for its clarity -

"No more than one roadside stand as an accessory to agricultural production on the same premises shall be permitted, provided that no stand shall exceed 500 square feet in floor area." (Section 21-5.540, page 135)). The proposed definition also goes beyond what is provided for in "agricultural-based commercial operations" that limit roadside stands to "the display and sale of agricultural products grown in Hawai'i and value-added products that were produced using agricultural products grown in Hawai'i." (Section 205-2(d)(15)(A), HRS))

Section 3
Article 5: Use Regulation
Section 21-5.40-4(f) Farm Stand – standards (pages 18-19)
Permitted use, subject to standards on AG-1 and AG-2 (page 4)

"(1) No more than one farm stand for the growers and producers of agricultural products is permitted on a zoning lot. More than one grower or producer is allowed at a farm stand.
(2) Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. No electricity, sewer, water, or other utility services are allowed in conjunction with a farm stand.
(3) The farm stand must be located on private property and not on any public right-of-way."

Farm Worker Housing

Section 71
Section 21-10.1 Definitions (page 217)
Farm Worker Housing
"Dwelling units that are accessory to an active, principal agricultural use other than open space, forestry, or the boarding and care of animals, and used exclusively to house employees of agricultural operations and their family members."
(**DOA comment**: Farm worker or employee housing is not explicitly provided for in the current LUO. "Group Living Facilities" is closest to providing farm worker housing (see comments on standards below). <u>The standards do not address the situation where there is no farm dwelling on the zoning lot where the farm worker housing is proposed</u>. **DOA recommends** that the property on which the farm worker housing is proposed to be in substantiated agricultural production no less than (period of time).)

Section 3
Article 5: Use Regulation
Section 21-5.40-4(g) Farm Worker Housing – standards (pages 19-20)
Allowed by Conditional Use Permit – Minor, subject to standards on AG-1 and AG-2 (page 4)

(1) All structures and facilities associated with farm worker housing must occupy a contiguous total land area limited to the lesser of the following:

(A) 5 percent of the total agricultural land area on the zoning lot; or
(B) 50 acres.

(2) The farm worker housing plans must be supported by agricultural plans. The amount of labor necessary to farm the land must justify the number of dwelling units proposed.

(3) Farm worker housing may be composed of multiple detached dwelling units or attached dwelling units, or may consist of multi-unit dwellings; provided that no more than one employee and the employee's family live in each dwelling unit, or up to three unrelated employees may share one dwelling unit.

(4) Each dwelling unit must not exceed 800 square feet of floor area.

(5) No more than eight dwelling units are allowed in any multi-unit dwelling.

(6) The building area must not exceed 50 percent of the land area associated with the farm worker housing. Impervious surface area must not exceed 75 percent of the land area associated with the farm worker housing.

(7) Yards and height setbacks abutting the boundaries of the entire farm worker housing site must not be less than the minimum requirements for the underlying zoning district. The front yard for all zoning lots fronting public streets must not be less than the front yard requirement for the underlying zoning district.

(8) The landowner may not plan or develop a residential subdivision on the agricultural land, except in accordance with the plantation community subdivision regulations in HRS § 205-4.5(a)(12) (relating to permissible uses within the agricultural districts).

(9) When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot. An exception is allowed to house one caretaker and the caretaker's immediate family."

(**DOA comment**: The existing LUO does not explicitly provide for farm worker or employee housing but does provide for "group living facilities" where the activities associated with such facilities are of an agricultural nature. The proposed farm worker housing standards are very specific and appear to prevent the farm worker housing from being used for purposes unrelated to agricultural production and employment. **DOA recommends** that the "agricultural plans" in (2) be defined.)

DOA comments and recommendations on September 20, 2024 proposed additional amendments to EK-7 by Chair Kia'āina:

DOA offers the following comments and recommendation by item number.

Item 1. "Agricultural Energy Facility" amending the Use Table to allow via Conditional Use Permit – Minor, subject to Standards and special use permit. (**DOA – question** – does requiring a Conditional Use Permit - "Minor", subject to standards and special use permit approval establish a regulatory precedent?)

Item 4. Accessory Agricultural use – amending the Use Table by making “farm dwelling” an accessory use, subject to Standards and deleting it as Permitted.
(**DOA** – see comment on item 14.)

Item 14. Accessory agricultural – “Farm Dwelling” standards are amended – deleting the 51% requirement, storage shed area not used in connection with agricultural activities is to be included in the 5,000 sq. ft. maximum dwelling area, and allowing up to two farm dwellings per AG-1 or AG-2 lot under an “agricultural site development plan” or agricultural cluster permit. Note that “agricultural site development plan” allow up to 6 farm dwellings on a zoning lot.
(**DOA – very strong concerns about deleting the 51% requirement and agricultural dedication status for as long as the farm dwelling use continues**. Without it, there is no objective measure of farm dwellings being “accessory” to an agricultural activity. As proposed, this amendment would have no effect on the ongoing partitioning of agricultural land by subdivision, condominium property regime, and other methods that increase the price of agricultural land (purchase or lease) for agricultural production.

What can replace the 51% requirement? Maintaining valid agricultural dedication status may be sufficient incentive to commence and maintain commercial agricultural production. Another consideration is gross annual income from sales of agricultural products grown on the zoning lot where the farm dwelling is located. During the 2021 State Legislature, House Bill No. 247 proposed an income requirement of $10,000 annually from agricultural activity on the parcel in which the dwelling and agricultural activity are located. This provision was supported by both the Department of Planning and Permitting, DOA, Hawaii Farm Bureau Federation, Ulupono Initiative, and the Office of Planning and Sustainable Development. This income requirement was removed after the bill moved to the Senate.)

Item 16. Accessory agricultural – “Farm Worker Housing” standards. Deletes the minimum footprint for farm worker housing, deletes yard and height setbacks. Maintains the requirement for farmworker housing that the associated farm be in active production and employing farmworkers to remain permitted.
(**DOA – strong concerns** – recommend retaining standard (1)(A), 5 percent of the total agricultural land area on the zoning lot)

Item 22 Definitions – “Farm Stand” clarification. Does continue to allow undefined “limited sales of prepackaged food and drinks”
(**DOA – strong concerns** – the term “limited sales” needs unambiguous definition)

Item 24. Definitions – “Agricultural Farmers Market” is amended to be “accessory” outdoor market for sale of Hawaii-grown agricultural products. Does not include outdoor markets, general retail, or food trucks/mobile vendors.
(**DOA – Concur**)

DOA comments and recommendations from earlier testimonies

Our comments and recommendations found in our testimonies before Committee meetings of May 23, 2024 and August 22, 2024 remain applicable, and in some cases, have been revised to "strong concerns" as a result of amendments found in EK-7.

May 23, 2024 testimony

- School, vocational – major and minor (**DOA offers amendments**);
- Meeting facility – small and medium (**DOA - oppose**); and
- School, PreK-12 (**DOA - oppose**)

August 22, 2024 testimony

In brief, DOA supports definitions and standards of terms be more descriptive to assist the Department of Planning and Permitting with their enforcement responsibilities. In many cases, we support the existing language found in the LUO.

- Vertical farm definition and standards – **DOA has strong concerns** – vertical farming and commercial scale hydroponic, aquaponic, and aeroponic operations require a controlled environment in order to maximize production and quality. It does not require being located on production agricultural land. It would benefit from being closer to rather than farther from the point of demand. Accessory chilling, packing, and distribution facilities would also be required. DOA recommends retaining the language in EK-6 along with our amendments to correct the errors in referencing soil classification.
- Amending "livestock keeping" to "livestock and poultry keeping" – this needs explanation.
- Animal raising and animal raising confined – **DOA strongly recommends** retaining the current LUO definitions that focus on "animals generally associated with farming, which are raised and kept for food and other agricultural purposes".
- Agricultural support categories of "agricultural processing" and "agricultural collection and storage" definitions appear to be too limiting.
- Agricultural products processing, Major and Minor – **DOA recommends** retaining the existing LUO definitions as they are more descriptive.
- Amending animal raising to outdoor animal raising and confined animal raising – **DOA supports** the amendments in EK-7 that appear to not include the boarding and care of household pets.
- Agritourism – in the definition, the phrase "primarily used" needs to be unambiguously defined. **DOA recommends** consideration of definitions such as more than 50% of the zoning lot in agricultural production or more than 50% of the gross income of the operator of the agricultural-related tourism operation must come from sales of agricultural products on the zoning lot. Additional, consideration should be given to quantifying the accessory relationship of

recreational and limited destination events by the income generated that is directed to support the agricultural operation.

- Crop raising – **DOA recommends** retaining the existing and more descriptive language in the current LUO.
- Animal care – **DOA is very concerned** about permitting this commercial facility (major) that services household pets on AG-2 land, subject to standards and special use permit.
- Livestock veterinary service – **DOA concurs** with the amendment in EK-7 to include “and poultry” but excluding domesticated animals.
- Nature-based recreation – **DOA opposes** permitting the proposed uses and activities on AG-2 lands as a conditional use permit – major, subject to standards.
- Agricultural Districts – purpose and intent - the purpose and intent of the agricultural district represents the foundation of what follows in in the LUO with respect to primary agricultural activities and uses. Simply replacing “accessory agribusiness activities” with “agritourism” is a step backwards. **DOA strongly recommends** deleting references to “agritourism” and replacing “accessory agribusiness activities” with “accessory agricultural activities”.

Concluding recommendations

DOA strongly supports the Working Group’s recommendations to reestablish the City’s Agricultural Development Task Force (ADTF) and requesting DPP establish an in-house agricultural expert position.

1. Both could ensure that future amendments to the City’s general plan and communities development plans are consistent in how they address protection and promotion of agricultural resources, agricultural activities, and incentives in support of sustaining existing and encouraging new commercial agricultural production.
2. The ADTF and the DPP agricultural expert can initiate or support amendments to the subdivision rules and property tax on agricultural land, and agricultural water rates of the Board of Water Supply to properly perform as the primary tools to carry out the agricultural policies and objectives in the City’s plans.
3. Finally, the DPP agricultural expert can also do permit and subdivision application review to ensure the impact of agricultural district reclassifications, special use permits, change of zone, and subdivision/other partitioning of agricultural lands are thoroughly vetted and comport with the City’s plans, ordinances, and rules affecting agricultural resources and agricultural production activities.

DOA also supports the intent of “grandfathering“ existing agricultural operations that meet to-be-determined criteria that otherwise may be adversely affected by the enacted version of Bill 64.

Thank you for the opportunity to provide testimony on this critically important tool to protect and promote Oahu's agricultural resources and agricultural operators.

PŌPOKI PLACE
O'AHU CAT SANCTUARY

TESTIMONY REGARDING
Hearing for Bill 64
September 26, 2024

Aloha Chair Kia'aina, Councilman Weyer, Councilwoman Tupola and all,

My name is **Holly Holowach**, and I am the founder of **Popoki Place O'ahu Cat Sanctuary**. We have a lot of support in the community. Everyone is waiting for us to build the sanctuary so we can finally do the good work we are planning to do – remove feral cats from the beaches, parks and areas where they endangered native wildlife to keep everyone safe!

But, we can't start until we get land. We just need 5-10 acres. We have looked at hundreds of parcels of land around the entire island over the last 3 years. Why haven't we secured land by now? ZONING!

Let me ask you a question. Here's our plans so you can understand and answer.

- We need several acres of pastureland because we plan to house hundreds of cats in large outdoor securely fenced enclosures, similar to a large zoo, in a beautiful parklike setting.
- We will be open to visitors from all over the island, the state and even, the world, so we need to be accessible, close to the tourist route and highways.
- We will focus on education to explain to visitors about our fragile ecosystem and how we are helping to protect native species, especially endangered birds and monk seals, by housing the cats in this way.
- We will be a community amenity loved by all who visit.
- We are not a shelter or kennel. We are a SANCTUARY, like those for farm animals and horses that are being rescued. We are a nonprofit organization.
- We will be a pressure-relief valve for shelters like Hawaiian Humane Society and others who want to save more animals but don't have the room.
- We have **no** intention to ask for Important Agricultural Lands which is needed for food, although throughout history, cats have always been on farms as barn cats.

WHERE DO YOU SEE US FITTING IN ON THE LUO LIST?

You have the opportunity right now to make it possible for us to secure land simply by adding the word CATS to your list of eligible animals in **Item 8 in Councilman Matt Weyer's suggestions for amendments.** He writes: "The term, Animal Raising, includes cattle, horses, goats, sheep, swine, dogs and rabbits…" Please add **CATS** to this list!

Mahalo for your time and consideration.

PO Box 42
Waimanalo, HI 96795-0042
http://waimanaloag.com

Waimanalo Agricultural Association

September 26, 2024

Comments & Suggested Amendments regarding Bill 64 (2023) FD1 Proposed, CD1 (EK6)

Honolulu City Council
Committee on Planning and Economy
Thursday, September 26, 2024
9:00 a.m.

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

The Waimanalo Agricultural Association (WAA) is writing to provide comments and suggested amendments to the most recent draft of Bill 64 (2023), FD1 Proposed, CD1 (EK7) version. WAA has been involved in the evolution of Bill 64 (2023) since its inception back in 2022 under Bill 10 (2022) – and have been actively working with other farm entities on recommendations for the committee's consideration. WAA worked with Oahu Agriculture and Conservation Association, Kualoa Ranch, KoHana, Hawaii Cattlemen's Council, Ulupono Initiative, Hawaii Farm Bureau, East County Farm Bureau, and Kuilima Farms, State of Hawaii Department of Agriculture, and city agencies.

The Waimanalo Agricultural Association is dedicated to the preservation of agriculture in Waimanalo. WAA members represent diverse agricultural businesses, including food producers, tree farms, plante nurseres and retail businesses, poultry and egg farms and horse farms. Waimanalo's agriculture lands include smaller lots, including Department of Agriculture leaseholds, former Department of Land and Natural Resources leaseholds and fee simple lands. WAA brings a unique perspective because of the special characteristics of the valley, including smaller lot size, close proximity to residential neighborhoods, schools and other publicly accessed areas.

WAA highlights four important requests for the Committee's immediate consideration to preserve the special conditions of agricultural lands across Oahu and especially in Waimanalo and address the missing voice of agriculture within the City and County of Honolulu:

- Prohibit schools on Ag-1, Ag-2 and Country zoned lands. Normal agricultural activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) would generate complaints and hinder the management of the farm. The Hawaii State Constitution preserves the "right to farm," and schools should not be allowed on these smaller parcels. Due to Waimanalo's small lots that are located too close to non -ag uses which may impede on constitutionally protected farm activities. Recently, schools have attempted to lease or purchase Ag-2 zoned lands that are located right next to active farms – and WAA has had to oppose such operations because of the risk to farming activities. While this was previously discussed by Committee – WAA did not have the opportunity to comment and would like to inform the committee on its objections.
- Re-activate the Agriculture Task Force and Agriculture Liaison to meet regularly for substantive discussions about agriculture and to make recommendations to the Honolulu City Council. The Task Force should ensure the representation of small farms.

- Add a position within the Department of Planning and Permitting (DPP) that requires a background in agriculture. Without such a position, it is difficult for DPP to make land use changes that support Oahu's agricultural production and preservation of productive farmland.
- Grandfather agriculturists faced with adverse impacts on farm operations because of the final version of Bill 64.

In addition, please consider the following (page # references bill page #'s at bottom of page):

- **Urban Agriculture (p. 11): Oppose amendments to ROH Section 21-5.40-1(a) (relating to urban agriculture) the section which addresses specific use impacts (hours of operation, onsite sales, prohibiting livestock and insects, signs, off-street parking, pedestrian walkways, and electricity requirements).** (p. 11)**.** WAA opposes the language for the standards for urban agriculture as we view them to be onerous. We do not believe that this bill intends to hinder farm production, however it may.

- **Animal Raising and Animal Raising, (p. 193): Amend "confined" standards. T**he definition of "Animal Raising" and "Animal Raising, Confined" in Section 70, p. 193, should include **sheep**.

- **Agricultural Processing, Includes Breweries/Distilleries (p. 192-193) – Support with amendment.** In Section 70 of the bill, FD1, PROPOSED CD1 amends the definition of "agricultural processing" (formerly minor agricultural products processing) to provide that in the agricultural zoning districts, minor agricultural processing includes the processing of crops to produce malt beverages, distilled spirits, or wines. Minor agricultural processing includes the processing of crops to produce malt beverages, distilled spirits, or wines. (p. 192-193) Amend to include the following where applicable "Hawaii-grown crops that are not restricted to on-site cultivation"

- **Livestock Veterinary Service** (p. 4) Section 21-5.30 **Oppose added Use Table Livestock veterinary services in the AG-1 and AG-2 Districts as "P+" (Permitted Use, SUP)** Livestock Veterinary Services are permitted uses and should not require a special use permit. There is concern however that while livestock veterinary services are permissible for ag lots, domestic veterinary care clinics are not. To ensure this is the case, a proposal should be reviewed before allowing this use.

- **Agricultural Farmers Market (p. 41)** Section 71 – **Oppose requirement that a farmer's market should have adequate parking and vehicular access** – as determined by director. This requirement is unrealistic as many ag lots are of different sizes and to require parking would be an unnecessary barrier to operating of such a market.

- **Agritourism (p. 14) prefer** current Land Use Ordinance (LUO) language governing agribusiness activities (Bill 64 renames it "agritourism"). **Oppose proposed language on agritourism as** Bill 64 imposes additional restrictions and requirements. Currently agribusiness activities are not a problem. We agree that agribusiness activities (agritourism) "…must always be an accessory and incidental to the primary agricultural use of the lot…"

- **Agritourism Table (p. 4) Oppose Bill 64's proposal to require a Major Conditional Use Permit as well as a new Special Use Permit (SUP) process for AG-1 (C*+) and AG-2 (C*+) districts for agritourism**. WAA prefers the current LUO designation of agribusiness activities as Minor Conditional Use for both AG-1 (Cm) and AG-2 (Cm) remain in place. HRS 205 §205-4.5 (Permissible uses within the agricultural districts) (13)(14) already provides permitted agricultural tourism.

- **Beekeeping (p. 4) Section 21-5.30 Use Table classifies beekeeping as P* (Permitted Use, Standards) in the AG-1 and AG-2 districts. WAA opposes classifying beekeeping as P*.** Beekeeping in AG-1 and AG-2 districts should only be P, a permitted use. Agriculturists should have the flexibility to maintain productive bee hives to encourage the pollination of crops.

- **Biofuel Processing Facility** Section (p. 4) 21-5.30 Use Table. Lists biofuel processing as Cm* (Minor Conditional Use, Use Standards Apply) for AG-1 and AG-2.(p. 4). Instead of a Cm* it should add a SUP (new use to be Cm*+) to this process will help to alleviate concerns regarding movement of invasive species and pests.

- **Farm Dwelling – (p. 16) Request Amendment to Farm Dwelling Standards (2)**. The bill requires that each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet, confined to a polygon for which no exterior angle is greater than 180 degrees. Sheds should not be included within the 5,000 square feet. We could support this provision with amendments – to read: "Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks**, ~~storage sheds~~**, and swimming pools) must be contained within an area not to exceed 5,000 square feet**~~, confined to a polygon for which no exterior angle is greater than 180 degrees."~~**

- **Farm Stand (p. 17) Request Amendment to Farm Stands. The proposed language for farm stands is too restrictive – delete the last sentence as follows:** "Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements. **~~No electricity, sewer, water, or other utility services are allowed in conjunction with the farm stand."~~**

- **Group living, Small Should not be permitted on Ag-2 lands.** Section 21-5.30 Use Table allows it on Ag-2 lands. Designates "C*+" in the AG-2 District for Small group living – State regulated and Small group living – not State regulated (p. 4-5). WAA opposes group living, small on agricultural lands as farm worker housing should be a priority.

- **Meeting facilities Should not be permitted on Ag. 2 Lands. (p. 5) Table** Allows small meeting facility use on AG-2 land as Cm*+ (Minor Conditional Use, Standards, SUP) and on Country land as Cm* (Minor Conditional Use, Standards) Allows medium meeting facility use on AG-2 land as C*+ (Major Conditional Use, Standards, SUP)and on Country land as C* (Major Conditional Use, Standards) (p. 5) Meeting facilities should not be allowed on AG-2 land, which should be preserved and used for active agriculture production and accessory agriculture. Such proximity can compromise normal ag activities (i.e., herbicide/insecticide spraying, animal odors, machinery noises, etc.) by complaints from meeting attendees. The Hawaii State Constitution preserves the "right to farm."

- **Day Care, Adult and Child (Combined Review) (p. 47).** Section 21-5.70-1(a)(3) (relating to child daycare) proposes to require that in the AG-2 District (no longer permitted in the AG-1 District) a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping (instead of 50 percent of the total zoning lot area) must be dedicated to crop production or livestock keeping; and provide that the DPP Director may adopt rules to determine the zoning lot area considered to be suitable for crop production or livestock keeping. Similar to our concerns with school in close proximity to farms – leads us to oppose this proposal. The proximity of child and adult day care facilities in AG-2 lands takes land away from active agriculture production. More than likely buffer zones will be requested to separate active farming noise, smells, dust and spraying of approved applications. This erodes available agricultural lands for the crop production or livestock keeping.

- **Nature Based** Recreation (p. 8) Section 21-5.30 Use Table. Concerns with definition of Nature Based Recreation allowed in AG-2 districts as C* (Conditional Major Use, Use Standards Apply) Request amendment to remove any reference of nature-based recreation on AG-2 districts. The group's concerns lie with the definition of "Nature-Based Recreation" as the term "includes picnic grounds, greenways, hiking and bicycling trails, areas for fishing and hunting, limited accessory sports courts and fields, non-motorized access to scenic interests, horseback riding tours, recreational camping, and campgrounds with tents, pavilions, lodges, and cabins." We believe that this term can negatively impact the primary use of AG-2 lands, which should be for active agricultural production.

The main intent of our proposed amendments is to preserve agricultural lands in Waimanalo. Thank you for considering our requested amendments.

Alicia Esche
Part owner of an Ag 2 lot on the North Shore

September 25th, 2024

I went to the meeting last night in Wailua to learn more about bill 64 specifically the Ag land section. Many good points were brought up at the meeting and it helped me to understand the bill a little more, still it is very hard to read and understand from a non lawyer or non politician stand point.

I oppose bill 64 as it is currently written. First off I think it should be rewritten so that farmers can understand what is being imposed upon them. From what I understand bill 64 would do more damage to the small farmer than good. I understand that bill 64 is trying to stop “gentleman farming”. Perhaps we should separate stopping certain activities from supporting activities instead of putting everything into one bill.

Things discussed at the meeting that I agree with were noted by the board. It was a good meeting. The only thing that I would like to add is that I would like to see a pathway for small farmers to be able to live on and manage their land so that we can cultivate a sustainable way of living for the younger generation we should be working together as a community to embrace this lifestyle instead of trying to “enforce restrictions” against it.

HOUSE OF REPRESENTATIVES

Hale o nā Luna Makaʻāinana

STATE OF HAWAIʻI

STATE CAPITOL

415 SOUTH BERETANIA STREET

HONOLULU, HAWAIʻI 96813

Aloha Chair and Members of the Honolulu City Council,

I am submitting this testimony in opposition to the current provisions of Bill 64 as they relate to agritourism. While agritourism has been presented as a solution to diversify farmers' incomes, I urge the Council to reconsider the balance between agricultural production and tourism activities on agricultural lands. The current push for agritourism threatens to shift the focus away from food production toward commercial tourism ventures, which undermines the primary purpose of our agricultural zones.

The agritourism provisions in Bill 64 are deeply concerning. By allowing activities like weddings, tours, and destination events, the bill invites the commercialization of agricultural lands under the guise of tourism. These provisions will likely incentivize the transformation of agricultural zones into event venues, diverting valuable land away from food production. In a state where we import approximately 85–90% of our food, this shift is a dangerous one. The emphasis should remain on increasing local food production to improve our self-sufficiency and food security, not on turning farms into commercial entertainment spaces.

The proposed agritourism language also allows for substantial infrastructure development, such as pavilions and retail spaces, which are unrelated to actual farming. While these structures are capped at 10,000 square feet, they still represent a significant encroachment on agricultural land that could otherwise be used for farming. The bill's ambiguous language around "improvements" that can be "removed without unreasonable cost or effort" only adds to the concern. What constitutes "unreasonable" is subjective and may allow permanent structures to proliferate on land meant for agricultural production.

Small and micro farms—critical to Hawaii's agricultural landscape—are especially vulnerable to the pressures of agritourism. The bill's push for tourism activities may drive up land values and operational costs, making it harder for these smaller, often family-run farms to compete with larger entities that can afford to prioritize tourism. These small farms should be supported for

their role in food production, sustainability, and preserving local agricultural traditions—not coerced into becoming commercial enterprises to survive.

Furthermore, the requirement that 51% of the zoning lot area be dedicated to crop production or livestock keeping is unenforceable and lacks clear standards. How do we measure this "activity"? And once agritourism takes root, will food production become secondary to the more lucrative tourism-related uses of the land? By allowing agritourism without strict enforcement mechanisms, we risk hollowing out the agricultural function of our lands in favor of tourism development.

While there may be a role for limited agritourism in enhancing farm income, Bill 64 goes too far in promoting tourism at the expense of agricultural integrity. If this bill passes as currently written, it will open the door to the commercialization of agricultural land, eroding the primary mission of these lands to support food production. Hawaii's agricultural lands are a precious resource that should be protected for farming, not exploited for profit through tourism.

I urge the Council to revise or remove the agritourism provisions from Bill 64 and to refocus on policies that truly support local farmers in growing food for our communities. We must prioritize food production, food security, and sustainable agricultural practices over commercial tourism ventures.

Mahalo for your consideration.

Sincerely,



Amy Perruso
Hawai'i State House, District 46

repperruso@capitol.hawaii.gov

September 25, 2024

Casi Alexander
L. Alex Kahl
Ala Mai Farmstead, LLC
00 Farrington Hwy, Lot 56, Mahiko Farms
Waialua, HI 96791

To: Committee Chair Kiaʻāina
Subject: Testimony for Sep 26 Hearing on Agricultural Use Amendments to Bill 64 (2023)

Ala Mai Farmstead is a small farm on the North Shore of O'ahu endeavoring to provide fresh local food to the community. We support an update to the land use ordinance in order to foster a regulatory environment that **supports and enables rather than hinders agricultural production** on Oahu's agricultural lands. We are recommending specific modifications to portions of Bill 64 (2023) under discussion at the Sep 26 hearing that we believe - as drafted - would hinder the maintenance and expansion of efficient and sustainable agricultural production on agricultural lands, which is **of the utmost importance considering the state's over-reliance on food imports,** the critical role that small and micro farms play in reducing that reliance, and the significant portion of Oahu's agricultural lands that are currently fallow.

Furthermore, Ala Mai Farmstead would like to acknowledge as framing principles for the following recommendations: 1) the importance of enabling farmers to live on their farms to foster affordability, reduce ag theft, and enable adequate care of livestock, and 2) the importance of enabling agribusiness to help farmers cover additional expenses related to feeding the community, in particular considering the limited subsidies available to Hawaii farmer and the high cost of land.

IN RE FARM DWELLINGS § 21-5.40-4(e)

STANDARDS

- **Recommendation 1a:** Strike proposed clause (1) from § 21-5.40-4(e) due to a) the imposition of undue hardship on retired farmers and farmers injured on the job who would be unable to maintain their farm dwelling as a legal residence, b) the potential implications on the ability of farmers to pass their land on to future generations, c) the length of time required to bring 51% of an agricultural parcel into production, as well as d) a more strict interpretation of the current definition of farm dwelling, and e) and overly narrow allowance for "crop production and livestock keeping" as opposed to "agricultural use" or "agricultural production" as used in the current Land Use Ordinance.
- **Recommendation 2b:** Add to clause (4), "unless to do so would limit a farm dwelling to an area under 1,500 square feet, due to non-conforming lot sizes" considering the number of non-conforming kuleana lots situated on agricultural lands. Reducing the ability for kuleana lots situated on ag land to build adequate farm dwellings inappropriately reduces the value of these unique lands. Restricting the build envelope

below standard levels (e.g. a 7000ft2 kuleana lot within agricultural zoning can not have a build envelope of more than 700ft2. This restriction does not honor the intent of the kuleana land classification.

The text as adjusted would read:

(1) Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet, confined to a polygon for which no exterior angle is greater than 180 degrees.

(2) In the AG-1 zoning district, the number of farm dwellings must not exceed one for every 5 acres of zoning lot area.

(3) In the AG-2 zoning district, the number of farm dwellings must not exceed one for every 2 acres of zoning lot area.

(4) Farm dwellings must not exceed 10 percent of the total zoning lot area, unless this restriction would limit a farm dwelling to an area under 1500 square feet, due to non-conforming lot sizes."

- **Recommendation 1c:** Strike from § 21-8.30 the sentence **"**If the applicant wishes to erect additional farm dwellings under § 21-8.20, the zoning lot shall be subdivided," due to a) the importance of multi-generational housing to support small farms, b) the unequal application of restrictions on ohana units on farmers as compared to residential land owners.

  The text as adjusted would read:

  (a) Any agricultural zoning lot which has at least twice the required minimum lot size for the underlying agricultural district may have two detached farm dwellings, in addition to ohana units erected pursuant to § 21-8.20.

DEFINITIONS

- **Recommendation 1c:** Strike the terms "principal" from "principal agricultural use" due to lack of definition of what is principal agricultural use
- **Recommendation 1d:** Strike the exception for "open space, forestry, or boarding and care of animals" from the allowance for a farm dwelling, due to the potential implications on pasture at rest, agroforestry, and the boarding of horses.

  The definition as adjusted would read:

  A dwelling unit that is accessory to agricultural use on the same lot.

IN RE FARM WORKER HOUSING § 21-5.40-4(g)

Standards:

- **<u>Recommendation 2a</u>:** Strike from clause (2) “The amount of labor necessary to farm the land must justify the number of dwelling units proposed” due to the lack of clarity surrounding the criteria and process for justification and the potential for errors in determining a justified number of dwelling units without knowledge of the agricultural production proposed.
- **<u>Recommendation 2b</u>:** Strike clause (9) in its entirety due to the potential to unfairly disadvantage or discriminate against individuals injured on the job or who have aged out of farming.

The text as amended would read:

> ***(1) All structures and facilities associated with farm worker housing must occupy a contiguous total land area limited to the lesser of the following: (A) 5 percent of the total agricultural land area on the zoning lot; or (B) 50 acres.***
>
> ***(2) The farm worker housing plans must be supported by agricultural plans.***
>
> ***(3) Farm worker housing may be composed of multiple detached dwelling units or attached dwelling units, or may consist of multi-unit dwellings; provided that no more than one employee and the employee's family live in each dwelling unit, or up to three unrelated employees may share one dwelling unit.***
>
> ***(4) Each dwelling unit must not exceed 800 square feet of floor area.***
>
> ***(5) No more than eight dwelling units are allowed in any multi-unit dwelling.***
>
> ***(6) The building area must not exceed 50 percent of the land area associated with the farm worker housing. Impervious surface area must not exceed 75 percent of the land area associated with the farm worker housing.***
>
> ***(7) Yards and height setbacks abutting the boundaries of the entire farm worker housing site must not be less than the minimum requirements for the underlying zoning district. The front yard for all zoning lots fronting public streets must not be less than the front yard requirement for the underlying zoning district.***
>
> ***(8) The landowner may not plan or develop a residential subdivision on the agricultural land, except in accordance with the plantation community subdivision regulations in HRS § 205-4.5(a)(12) (relating to permissible uses within the agricultural districts).***

<u>IN RE FARM STANDS § 21-5.40-4(f)</u>

Standards

- **<u>Recommendation 3a</u>**: Strike clause (1) in its entirety as this added restriction would negatively impact existing beneficial farmstands, restrict the rights of farmers with

subleases, and reduce the potential benefits that multiple farmstands can created by increasing demand and foot traffic to purchase local agricultural products.

- **Recommendation 3b**: Strike clause (2) sentences: "No electricity, sewer, water, or other utility services are allowed in conjunction with a farm stand." This added restriction would negatively impact existing beneficial farmstands, unnecessarily restricts sanitation and other health consideration for farm stands employees, and unnecessarily limits the types of agricultural products farmers can sell at farm stands (e.g. any product that requires refrigeration, such as eggs).

  The text as amended would read:

  (1) Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements.

  (2) The farm stand must be located on private property and not on any public right-of-way.

IN RE FARMERS MARKETS § 21-5.40-4(h)

Standards

- **Recommendation 4a**: Swap use of "crop production or livestock keeping" with "agricultural use or production to enable a broader application of agricultural uses, including agricultural processing.

  Text as amended would read:

  (1) Hours of operation are limited to between 6:00 a.m. and 8:00 p.m.

  (2) Adequate parking and vehicular access must be provided, as determined by the director.

  (3) A minimum of 50 percent of the zoning lot area suitable for agricultural use must be dedicated to agricultural use or production through an agricultural easement or similar legal encumbrance for as long as the agricultural farmers market is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area

IN RE AGRITOURISM § 21-5.40-4(b)

Standards

- **Recommendation 5a:** Strike clause (1) from 21-5.40-4(b) due to a) the inability to measure the percentage of "activity" taking place on a zoning lot, b) the discrepancy between 50 and 51 percent included in clauses (1) and (5), and c) the duplicative regulatory nature of including clauses (1) and (5).
- **Recommendation 5b:** Strike from clause (2) the sentence "Improvements on the land used for agritourism must be capable of removal without unreasonable cost or effort," due to 1) the duplicative nature of this sentence with the preceding sentence, and b) the

lack of a clear definition of “unreasonable cost or effort” which may lead to unnecessary subjective restriction on the construction of agritourism structures.

- **Recommendation 5c:** Shift all inclusions of “crop production or livestock keeping” to “agricultural use” or “agricultural production” due to the unsuitably narrow description of crop production or livestock keeping which does not include other valid agricultural uses of agricultural land (such as agricultural processing).
- **Recommendation 5d:** Adjust clause (5) of 21-5.40-4(b) to quire both a minimum of 51% and “active” agricultural use, due to the striking of clause (1).
- **Recommendation 5e:** Retain clause (a) from Sec. 21-5.10A of the currently enacted Land Use Ordinance to allow for agricultural retail on agricultural lands due to the unsuitable restriction on existing and currently operating agricultural retail establishments that the removal of this permitted use and standard would apply.

The text as amended would read:

> ***(1) Activities and improvements on the property may not diminish the long term agricultural potential of the land.***
>
> ***(2) Structures primarily dedicated to agritourism must not exceed 10 percent of the total zoning lot area.***
>
> ***(3) Buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping on the zoning lot are limited to 10,000 square feet of total floor area for the zoning lot.***
>
> ***(4) A minimum of 51 percent of the zoning lot area suitable for agricultural use must be dedicated to active agricultural use through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for agricultural use.***
>
> ***(5) Except as otherwise specified under principal uses, retail activities in an enclosed structure may be allowed, but are limited to not more than 500 square feet of floor area, and all products for sale therein must be predominantly agricultural products grown or produced on the site, in the city or elsewhere in the State of Hawaii, and finished foods, drinks or other goods substantially made from those products. Non-food items may be sold, provided that these items are made primarily from agricultural products grown or produced on the site, in the city or elsewhere in the State of Hawaii. An incidental amount of general merchandise that features the brand, name or logo of the agribusiness operator may also be sold, provided that the items occupy no more than five percent of the floor area permitted for and devoted to retail sales, as provided in this section. The limitations enumerated above notwithstanding, an agribusiness activity may also include facilities for the preparation, sale and consumption of food and drink on the site, which must feature agricultural products grown or produced on the site, in the city or elsewhere in the State of Hawaii.***

(6) Weddings and similar accessory destination events are subject to the following: (A) Events must take place at a designated event space; and (B) Predominantly open-air physical improvements associated with destination events, such as a roofed pavilion, are allowed;

(7) Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four-wheeler, off highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm, and require major conditional use approval subject to the following standards: (A) Tours must have an educational purpose related to the agricultural use of the property. (A) Tours must have an educational purpose related to the agricultural use of the property; and (B) Tours must not interfere with surrounding farm operations.

USAGE

- **<u>Recommendation 5f</u>:** If the determination is made NOT to retain clause (1) of Sec. 21-5.10A of the currently enacted Land Use Ordinance as part of the draft Bill 64 Agritourism section 21-5.40-4(b) then “retail” and “eating and drinking” should be added as Permitted Use, Use Standards Apply on the Master Usage table and the relevant language from Sec. 21-5.10A should be added into the retail and eating and drinking segments of draft Bill 64.

#

Thank you for your consideration of the importance of small, micro farms, and homesteaders in the self-sufficiency, food security, and economic resilience of O’ahu and the State of Hawaii as you consider any inclusions, reductions, or adjustments to standards, definitions, and uses related to agricultural lands in Bill 64 (2023).

Sincerely,

Alex and Casi
Ala Mai Farmstead, LLC

September 25, 2024

Ka'ena to Kahuku Agricultural Cooperative
k2kag@gmail.com
www.k2kag.org

To: Committee Chair Kia'āina
Subject: Testimony for September 26 Hearing on Agricultural Use Amendments to Bill 64 (2023)

K2K is a small agricultural cooperative on the North Shore of O'ahu endeavoring to support local farmers to more effectively and efficiently provide fresh local food to the community. We support an update to the land use ordinance in order to foster a regulatory environment that **supports and enables rather than hinders agricultural production** on Oahu's agricultural lands. We are recommending specific modifications to portions of Bill 64 (2023) under discussion at the Aug 22 and Sep 26 hearings that we believe - as drafted - would hinder the maintenance and expansion of efficient and sustainable agricultural production on agricultural lands, which is **of the utmost importance considering the state's over-reliance on food imports,** the critical role that small and micro farms play in reducing that reliance, and the significant portion of Oahu's agricultural lands that are currently fallow.

While we recognize the importance of regulating the use of and preventing misuse of agricultural lands, if Hawaii state intends to meet its food sustainability goals by 2050, it must reconsider the restrictions imposed on food sovereignty and the residents attempting to achieve it, whether that be homesteaders, micro farms, small farms, or large commercial operations. Rather than placing additional administrative obstacles on food systems and growing food, the City and County should consider additional measures to foster, enable, and support food production on O'ahu's agricultural lands.

IN RE FARM DWELLINGS § 21-5.40-4(e)

Many farmers live on their farms to protect and maintain their crops, livestock, and equipment. The importance of allowing farmers to reside on their farms has been emphasized with many recent egregious cases of agricultural theft. In addition, the income provided by farming does not frequently afford farmers the ability to pay for both a separate house and farm. Therefore many hard working farmers feeding our communities reside "illegally" on their farms, creating conditions that may be harmful for their farms and the environment.

The recommendations herein are a step in the right direction but do not address a majority of restrictions preventing farmers from legally living on their land as a result of delays by the City and County of Honolulu in approving ag subdivisions and in recognizing the rights of CPRs.

The North Shore of O'ahu is in particular impacted by these delays and restrictions, considering the vast amount of Oahu's ag lands are on the North Shore and have been used by agricultural conglomerates for monoculture for so many years. The North Shore is experiencing a

renaissance in small farming but does not have the infrastructure or the support of the City and County needed to achieve success.

STANDARDS

- **Recommendation 1a:** Strike proposed clause (1) from § 21-5.40-4(e) due to a) the imposition of undue hardship on retired farmers and farmers injured on the job who would be unable to maintain their farm dwelling as a legal residence, b) the potential implications on the ability of farmers to pass their land on to future generations, c) the length of time required to bring 51% of an agricultural parcel into production, as well as d) a more strict interpretation of the current definition of farm dwelling, and e) and overly narrow allowance for "crop production and livestock keeping" as opposed to "agricultural use" or "agricultural production" as used in the current Land Use Ordinance.

  The text as adjusted would read:

  > ***(1) Each farm dwelling (including eaves, overhangs, carports, garages, trellised areas, stairways, decks, storage sheds, and swimming pools) must be contained within an area not to exceed 5,000 square feet, confined to a polygon for which no exterior angle is greater than 180 degrees.***
  >
  > ***(2) In the AG-1 zoning district, the number of farm dwellings must not exceed one for every 5 acres of zoning lot area.***
  >
  > ***(3) In the AG-2 zoning district, the number of farm dwellings must not exceed one for every 2 acres of zoning lot area.***
  >
  > ***(4) If multiple farm dwellings are permitted on a zoning lot, they must not exceed 10 percent of the total zoning lot area.***

- **Recommendation 1b:** Strike from § 21-8.30 the sentence **"**If the applicant wishes to erect additional farm dwellings under § 21-8.20, the zoning lot shall be subdivided," due to a) the importance of multi-generational housing to support small farms, b) the unequal application of restrictions on ohana units on farmers as compared to residential land owners.

  The text as adjusted would read:

  > ***(a) Any agricultural zoning lot which has at least twice the required minimum lot size for the underlying agricultural district may have two detached farm dwellings, in addition to ohana units erected pursuant to § 21-8.20.***

DEFINITIONS

- **Recommendation 1c:** Strike the terms "principal" from "principal agricultural use" due to lack of definition of what is principal agricultural use
- **Recommendation 1d:** Strike the exception for "open space, forestry, or boarding and care of animals" from the allowance for a farm dwelling, due to the potential implications on pasture at rest, agroforestry, and the boarding of horses.

The definition as adjusted would read:

A dwelling unit that is accessory to agricultural use on the same lot.

IN RE FARM WORKER HOUSING § 21-5.40-4(g)

Standards:

- **Recommendation 2a:** Strike from clause (2) "The amount of labor necessary to farm the land must justify the number of dwelling units proposed" due to the lack of clarity surrounding the criteria and process for justification and the potential for errors in determining a justified number of dwelling units without knowledge of the agricultural production proposed.
- **Recommendation 2b:** Strike clause (9) in its entirety due to the potential to unfairly disadvantage or discriminate against individuals injured on the job or who have aged out of farming.

The text as amended would read:

(1) All structures and facilities associated with farm worker housing must occupy a contiguous total land area limited to the lesser of the following: (A) 5 percent of the total agricultural land area on the zoning lot; or (B) 50 acres.

(2) The farm worker housing plans must be supported by agricultural plans.

(3) Farm worker housing may be composed of multiple detached dwelling units or attached dwelling units, or may consist of multi-unit dwellings; provided that no more than one employee and the employee's family live in each dwelling unit, or up to three unrelated employees may share one dwelling unit.

(4) Each dwelling unit must not exceed 800 square feet of floor area.

(5) No more than eight dwelling units are allowed in any multi-unit dwelling.

(6) The building area must not exceed 50 percent of the land area associated with the farm worker housing. Impervious surface area must not exceed 75 percent of the land area associated with the farm worker housing.

(7) Yards and height setbacks abutting the boundaries of the entire farm worker housing site must not be less than the minimum requirements for the underlying zoning district. The front yard for all zoning lots fronting public streets must not be less than the front yard requirement for the underlying zoning district.

(8) The landowner may not plan or develop a residential subdivision on the agricultural land, except in accordance with the plantation community subdivision regulations in HRS § 205-4.5(a)(12) (relating to permissible uses within the agricultural districts).

IN RE FARM STANDS § 21-5.40-4(f)

Standards

- **Recommendation 3a**: Strike clause (1) in its entirety as this added restriction would negatively impact existing beneficial farmstands, restrict the rights of farmers with subleases, and reduce the potential benefits that multiple farmstands can created by increasing demand and foot traffic to purchase local agricultural products.
- **Recommendation 3b**: Strike clause (2) sentences: "No electricity, sewer, water, or other utility services are allowed in conjunction with a farm stand." This added restriction would negatively impact existing beneficial farmstands, unnecessarily restricts sanitation and other health consideration for farm stands employees, and unnecessarily limits the types of agricultural products farmers can sell at farm stands (e.g. any product that requires refrigeration, such as eggs).

  The text as amended would read:

  (1) Enclosed floor area for the farm stand must not exceed 500 square feet. Additional unenclosed floor area may be roofed, but must otherwise be open to the elements.

  (2) The farm stand must be located on private property and not on any public right-of-way.

IN RE FARMERS MARKETS § 21-5.40-4(h)

Standards

- **Recommendation 4a**: Swap use of "crop production or livestock keeping" with "agricultural use or production to enable a broader application of agricultural uses, including agricultural processing.

  Text as amended would read:

  (1) Hours of operation are limited to between 6:00 a.m. and 8:00 p.m.

  (2) Adequate parking and vehicular access must be provided, as determined by the director.

  (3) A minimum of 50 percent of the zoning lot area suitable for agricultural use must be dedicated to agricultural use or production through an agricultural easement or similar legal encumbrance for as long as the agricultural farmers market is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area

IN RE AGRITOURISM § 21-5.40-4(b)

Standards

- **Recommendation 5a:** Strike clause (1) from 21-5.40-4(b) due to a) the inability to measure the percentage of "activity" taking place on a zoning lot, b) the discrepancy between 50 and 51 percent included in clauses (1) and (5), and c) the duplicative regulatory nature of including clauses (1) and (5).
- **Recommendation 5b:** Strike from clause (2) the sentence "Improvements on the land used for agritourism must be capable of removal without unreasonable cost or effort," due to 1) the duplicative nature of this sentence with the preceding sentence, and b) the lack of a clear definition of "unreasonable cost or effort" which may lead to unnecessary subjective restriction on the construction of agritourism structures.
- **Recommendation 5c:** Shift all inclusions of "crop production or livestock keeping" to "agricultural use" or "agricultural production" due to the unsuitably narrow description of crop production or livestock keeping which does not include other valid agricultural uses of agricultural land (such as agricultural processing).
- **Recommendation 5d:** Adjust clause (5) of 21-5.40-4(b) to quire both a minimum of 51% and "active" agricultural use, due to the striking of clause (1).
- **Recommendation 5e:** Retain clause (a) from Sec. 21-5.10A of the currently enacted Land Use Ordinance to allow for agricultural retail on agricultural lands due to the unsuitable restriction on existing and currently operating agricultural retail establishments that the removal of this permitted use and standard would apply.

  The text as amended would read:

  > ***(1) Activities and improvements on the property may not diminish the long term agricultural potential of the land.***
  >
  > ***(2) Structures primarily dedicated to agritourism must not exceed 10 percent of the total zoning lot area.***
  >
  > ***(3) Buildings and structures associated with agritourism that are not required as part of the crop production or livestock keeping on the zoning lot are limited to 10,000 square feet of total floor area for the zoning lot.***
  >
  > ***(4) A minimum of 51 percent of the zoning lot area suitable for agricultural use must be dedicated to active agricultural use through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for agricultural use.***
  >
  > ***(5) Except as otherwise specified under principal uses, retail activities in an enclosed structure may be allowed, but are limited to not more than 500 square feet of floor area, and all products for sale therein must be predominantly agricultural products grown or produced on the site, in the city or elsewhere in the State of Hawaii, and finished foods, drinks or other goods substantially made from those products. Non-food items may be sold, provided that these items are made primarily from agricultural products grown or produced on the site, in the city or elsewhere in the State of Hawaii. An incidental amount of general merchandise that features the brand, name or logo of the agribusiness operator may also be sold,***

provided that the items occupy no more than five percent of the floor area permitted for and devoted to retail sales, as provided in this section. The limitations enumerated above notwithstanding, an agribusiness activity may also include facilities for the preparation, sale and consumption of food and drink on the site, which must feature agricultural products grown or produced on the site, in the city or elsewhere in the State of Hawaii.

(6) Weddings and similar accessory destination events are subject to the following: (A) Events must take place at a designated event space; and (B) Predominantly open-air physical improvements associated with destination events, such as a roofed pavilion, are allowed;

(7) Bus, jeep, or off-road vehicle tours using motorized vehicles, including an all-terrain vehicle (ATV), quad, four-wheeler, off highway motorcycle, or any other all-terrain or four-wheel drive vehicle, may only be conducted on a working farm, and require major conditional use approval subject to the following standards: (A) Tours must have an educational purpose related to the agricultural use of the property. (A) Tours must have an educational purpose related to the agricultural use of the property; and (B) Tours must not interfere with surrounding farm operations.

USAGE

- **Recommendation 5f:** If the determination is made NOTto retain clause (1) of Sec. 21-5.10A of the currently enacted Land Use Ordinance as part of the draft Bill 64 Agritourism section 21-5.40-4(b) then “retail” and “eating and drinking” should be added as Permitted Use, Use Standards Apply on the Master Usage table and the relevant language from Sec. 21-5.10A should be added into the retail and eating and drinking segments of draft Bill 64.

IN RE CONFINED ANIMAL RAISING § 21-5.40-2

Standards

- **Recommendation 6a:** Strike proposed clause (1) from § 21-5.40-2(a) due to unsuitable and overly general restriction of agricultural production on agricultural zoned lands, considering a) Agriculture Zoning 2 allows for the subdivision of land into 2 acre parcels, b) Oahu is home to many non-conforming Agriculture zoned lots under 3 acres, and c) farmers can raise and maintain a healthy population of livestock within confines on parcels well under 3 acres depending on the breed and size of livestock and the conditions established by the farmer.
- **Recommendation 6b:** Adjust clause (s) from § 21-5.40-2(a) to clarify that setback requirements apply to structures where animals are housed a majority of the time and that setbacks should be graduated based on the scale of animal production and size of animal (using USDA or other industry terms to define scale of production and size of animal) due to unsuitable and overly general application of restrictions on agricultural lands.

The text as adjusted would read:

(a) Animal raising, confined - standards.

1. ***Structures where animals are housed a majority of the time must be set back from the property line of any adjoining property within the residential, apartment, or apartment mixed-use zoning district on a graduated scale depending on the scale of operations and size of the animal. Structures associated with commercial scale large animal operations shall be set back a minimum of 300 feet. Small scale large or medium-sized animal operations shall be set back a minimum of 50 feet. Small scale small animal operations shall not require a setback. The director may adopt rules following U.S. Department of Agriculture definitions to adapt requirements to the scale of operation and size of the animal for specific cases.***

IN RE VERTICAL FARMING § 21-5.40-1

Standards

- **Recommendation 7a:** Strike the entire standard related to vertical farming § 21-5.40-1 (b) due to 1) the importance of promoting agricultural production where there currently is no agricultural production occurring, regardless of the soil type, to reduce our reliance on food imports, 2) the unnecessary restriction on the ability for farmers to determine which areas of their ag land is most suitable for in-ground versus vertical crop production (there is variation in soil quality even within smaller lots that is not captured by soil ratings, and 3) ALISH soil rating is not an appropriate basis for this determination / not sufficiently accurate and up to date.

The text as adjusted would read:

null

IN RE MAJOR AGRICULTURAL COLLECTION AND STORAGE 21-5.40-3(a)

Usage table:

- **Recommendation 8a:** Allow agricultural collection and storage as a permitted use on country zoned land due to the intent of country zoning to enable homesteading and small farming practices.

Standards

- **Recommendation 8b:** Reduce the setback requirement for clause 21-5.40-3 (a) (2) (A) to 25 feet due to a prohibitively large setback requirement for smaller ag lots, 2) an unnecessarily large setback for non-animal based agricultural collection and storage (e.g. ube storage). Animal processing facilities are already covered under other regulatory requirements.

The text as adjusted would read:

> ***(2) Major:***
> ***(A) All structures and activities must be set back a minimum of 25 feet from the property line of any adjoining property within the residential, apartment, or apartment mixed-use zoning districts;***

<u>IN RE MINOR AND MAJOR AGRICULTURAL PROCESSING 21-5.40-3(c)</u>

Usage table:

- **<u>Recommendation 9a</u>:** Allow agricultural processing as a permitted use on country zoned land due to the intent of country zoning to enable homesteading and small farming practices.

Standards

- **<u>Recommendation 9b</u>:** Adjust the Agricultural processing standards to graduated requirements based on the types of agricultural processing due to a) the application of inappropriate restriction of agricultural production on agricultural lands, and b) the insufficient nuance applied to restrictions on all types of agricultural production which vary significantly in their impacts to residential communities.
- **<u>Recommendation 9c</u>:** Strike country from the adjoining zoning restriction as country zoning allows agricultural processing.

The text as adjusted would read:

> ***(c) Agricultural processing – standards.***
> ***(1) Minor: All structures and activities must be set back a minimum feet from the property line of any adjoining property within the residential, apartment, apartment mixed-use, or resort zoning districts.***
> ***(2) Major: Structures and activities must be set back from the property line of any adjoining property within the residential, apartment, apartment mixed-use, or resort zoning district according to a graduated scale based on the type of agricultural processing, as determined by the director. Slaughter/butcher facilities must be set back 500 feet. Production of animal-based value added products must be set back 50 feet. Processing of non-animal based products or produce require no setback.***

#

Thank you for your consideration of the importance of small and micro farms in the self-sufficiency, food security, and economic resilience of O'ahu and the State of Hawaii as you consider any inclusions, reductions, or adjustments to standards, definitions, and uses related to agricultural lands in Bill 64 (2023).

Sincerely,

Casi Alexander, President
Dafna Epstein, Secretary
Mike Kam, Treasurer
Ka'ena to Kahuku Agricultural Cooperative

Honolulu Council Committee on Planning and the Economy
Regular Meeting, City Council Chamber
September 26, 2024, 9:00 am

COMMENTS for Bill 64 (2023) Agricultural Uses Part 2

Aloha, Chair Kia`āina, Vice-Chair Cordeiro and Members.

Thank you for allowing me to comment on the proposed amendments to Bill 64. My primary concerns are the precise meaning of Zoning Lot, how the "area suitable for crop production" is determined, and how these two factors affect the amount of agricultural land that is actually put into productive agricultural uses.

Gil Riviere
Waialua

Here are specific comments for some of the proposed amendments:

Kia'āina Proposed Amendments

Item 1 – Support change from P* to Cm*
Item 4 – Support change from P* to Ac*
Item 5 – Support change from P* to Ac*
Item 6 – If Farm Housing may involve up to 50 acres, then this **should require a Conditional Use Permit Major (C*)**

Item 11 - **Support improvements "must be capable of removal without unreasonable cost or effort."**

Question: What exactly is a "Zoning Lot?"
Is it the entire tax map parcel, or can it be defined as a portion of the entire parcel?
Can it include portions or all of multiple tax map parcels?
Can it be construed as a unit in a CPR? Can it be defined as a portion of the condominium unit?
If a CPR unit can be considered a Zoning Lot, how does this statute affect or apply across the other units in the CPR? Can each unit have a separate agritourism activity without consideration of activities on nearby units or cumulative impacts?

Question: How is "51 percent of the zoning lot area suitable for crop production" determined? Is this before or after agritourism improvements?
If the owner builds a long driveway, paves a parking lot, installs solar panels on a portion of the land, builds a visitor center, or uses arable land in any other way, is the 51% requirement effectively diminished?

How is this requirement applied on agricultural CPRs? City policy does not recognize increased density or intensity due to CPR. If a 10-acre lot has an overlaying CPR with two 5-acre units, is each unit treated like a separate zoning lot, or must the 51% standard apply across the 10-acre lot?

Support authorizing the Director to adopt rules to determine "suitable" area.
Support limitations on covered floor area and designated event space.
Support the conditional use permit, major as described in new part 6.

Item 14
Question: Is there a limit to the number of housing units allowable with Director approval? Should there be?

Item 15 - **Farm stands should only be allowed on agriculture lands that are in active crop production and should feature at least one crop grown on the property.**
Support prohibition on utilities for farm stands.

Item 16
Question: The text says "When the associated farm is no longer in active production or no longer employing farm workers, no workers may be housed on the zoning lot." What happens to the housing then? Does this mean that anyone except farm workers can live in the dwellings after the farm closes?

The current language does not appear to require any farm workers to live in the housing, and it looks like the housing is permanent, regardless of agricultural activity. Is the intent to build housing for farm workers, or is this an end run for housing development?

Additional language should be included to clarify the housing will be reserved for farm workers for a minimum of 50 years. Such a deed restriction would assure the intention is to support agriculture and worker housing.

Item 17 – Same comments on the 51% requirement in Item 11.

Item 24 – Agricultural Farmers Markets should only be permitted on lands **with an active crop production use** and should be required to feature at least one crop grown on the zoning lot.

Weyer Proposed Amendments

Items 2 and 7 - **Strong support for two levels of Conditional Use Permit review for minor and major agritourism proposals.**

Item 5 – Same comments on the 51% requirement in Kia`āina Item 11.

Tupola Proposed Amendments

Generally prefer Kia`āina amendments for the items commented on.

Testimony on Bill 64

As someone deeply involved in animal welfare and conservation efforts, I am writing on behalf of Popoki Place, a sanctuary dedicated to saving cats and promoting wildlife conservation. Bill 64 is crucial in protecting our island's ecosystems and ensuring animal sanctuaries, particularly cat sanctuaries, are recognized in zoning rules.

Due to the fact that animal sanctuaries, and CAT sanctuaries in particular, are not included in the current zoning rules, Popoki Place has been prohibited from securing suitable land. This limitation severely impacts the sanctuary's ability to contribute to our community.

Popoki Place is very needed on this island and will make a huge difference in protecting native wildlife while saving cats and educating the public about our fragile ecosystem. They aim to create a safe environment for both animals and the community while promoting awareness of wildlife conservation.

The inclusion of sanctuaries in Bill 64 will not only benefit our island's wildlife but also ensure that Popoki Place can serve as a resource for education and advocacy. It is time to give animal sanctuaries the opportunity to thrive, as they play an essential role in both conservation and community well-being.

FROM THE DESK OF

KŌ HANA DISTILLERS, LLC

September 26, 2024

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

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

My name is Robert Dawson, and I am the co-founder of Kō Hana Distillers. Since 2011, our business has proudly grown and harvested sugar cane on Oahu for the production of Kō Hana Hawaiian Agricole Rum. We began our journey on a modest 1/4-acre plot and have since expanded our operations to over 200 acres across Kunia, Waialua, and Haleiwa. With our sights set on further growth, we expect to cultivate over 500 acres in the next 18 months.

As the only rum producer in Hawaii that exclusively uses sugar cane grown on our own farms, without relying on imported ingredients from out of state, we are deeply committed to sustainable, farm-to-bottle production, which lies at the core of everything we do. Our distillery operations are entirely local, supporting the community through employment and contributing to the preservation of Hawaii's agricultural heritage. We currently employ 12 full-time farmers, in addition to our dedicated production staff, all of whom are integral to our mission of creating world-class rum.

From the beginning, we have operated on Ag-1 land in the former Del Monte Kunia Camp area, where we were granted an Ag-minor use designation. This has enabled us to cultivate our crops and grow our business in alignment with Hawaii’s agricultural traditions and economic goals.

Honolulu Bill 64 represents a critical opportunity to support and sustain agricultural enterprises like ours. However, we can only support the passage of this bill if it includes provisions that allow distilleries like ours to continue operating on Ag-1 land. The current draft, as it stands, does not permit our

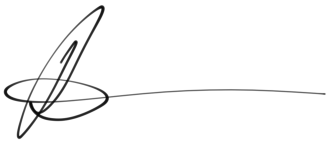
production facilities to exist on Ag-1 land, which would directly threaten our ability to continue operating and growing our business.

Additionally, we strongly advocate for a provision requiring that at least 51% of the distilled spirits production in Hawaii be derived from locally grown crops, excluding water, as water often constitutes up to 60% of the volume in a typical bottle of rum or other distilled spirits. By establishing this standard, the bill would further ensure that agricultural lands are used productively, supporting local farmers and reinforcing the authenticity of products labeled as being made in Hawaii.

We urge the Committee and the full Council to amend Honolulu Bill 64 to include these essential provisions. Only with these amendments can the bill truly support the growth of local businesses, ensure that agricultural lands are used productively and sustainably, and make a commitment to Hawaii's agricultural future, local employment, and the preservation of our land and traditions.

Thank you for your consideration.

Sincerely,



Robert Dawson
Co-Founder, Kō Hana Distillers

CONTACT

92-1770 KUNIA ROAD, #227 | KUNIA, HAWAI'I 96759 | (808) 224-7505 | ROBERT@KOHANARUM.COM

As written, Bill 64 would permanently close many rescue shelters and pet boarding facilities on properties zoned Ag or Country on Oahu. Already, the Hawaiian Humane Society (HHS) and other island shelters are often forced to turn away animals because they're filled to capacity and can't take more.

The plight of abandoned, abused, lost or injured dogs, cats and other animals would become exponentially worse with the loss of supplemental facilities, coordinated efforts and partnerships.

My pet boarding facility in Waianae, includes an "animal shelter arm" which is a community partner with HHS. At Tradewinds Pet Suites, we provide high-quality pet boarding services in a setting that we and our clients believe is a perfect location: open air, less populated, with large, clean grassy areas for pet play and exercise.

The pet boarding facility enables us to also partner, pro bono, with HHS to provide shelter and seek adoptive homes for German Shepherd dogs who have become lost, been dumped on Oahu's back roads, been picked up as strays, and/or been voluntarily surrendered to HHS. At any given time, our shelter – Geneva's Phoenix German Shepherd Rescue Shelter – has two or three rescued dogs being nurtured, often receiving medical care through partnering veterinarians, and being restored to health to find new forever homes.

Most recently, we provided for a full year pro bono care for Maui-Boy, a survivor of the Lahaina wild fire. Maui-Boy's family lost their home in the fire and were forced to live in a shelter and with friends. There was no place for him, and they feared they would have to give him up. Imagine losing your home, all your belongings and then on top of that, having to give up a beloved four-legged family member. Fortunately, we were able to provide pro bono shelter and care for this beautiful dog in our shelter until his family was able to have a place where he could re-join them. It was a bittersweet moment earlier this week when he left the shelter for the last time to return permanently to his family. He arrived in our shelter in Sept. 2023 anxious and confused, but left this week -- healthy and overjoyed to be reunited with his family.

Pro bono services like this are only possible because our dog boarding business exists, and we work with other shelters on the island in this capacity. If Bill 64 passes and our facilities are forced to close, not only will it become virtually impossible for pet parents to find high-quality boarding care for their animals, but many sick, injured and frightened animals will be left to fend for themselves.

With nowhere to go and no one to help them, these unsheltered and starving animals will become feral – roaming communities and neighborhoods seeking food. Virtually all will be unvaccinated, and many will become increasingly defensive – even aggressive – as they struggle to survive. Bill 64 is more than an immediate threat to pet care businesses, pet owners and lost animals; the danger to public health and safety in the longer term is impossible to miss.

I am requesting that pet boarding facilities and animal sanctuaries continue to be permitted on ag and country-zoned properties, and I would be happy to meet with the Council to discuss this.

Mahalo,

Sandy Van, Owner

Tradewinds Pet Suites

Geneva's Phoenix German Shepherd Rescue Shelter

808-696-4900

Wai'anae, HI

COUNTRYTALKSTORY.COM
Promoting Good & Just Governance

AGENDA
REGULAR MEETING
CITY COUNCIL CHAMBER
THURSDAY, SEPTEMBER 26, 2024
9:00 A.M.

COMMENTS FROM CHOON JAMES
ChoonJamesHawaii@gmail.com
808 293 9111

Aloha Chair Kia'aina and members of the Honolulu City Council.

Bill 64 aka Bill 10 is a huge and monumental undertaking. We do have severe concerns as to why the City Council is compelled to make such a sea change instead of incrementally amending the LUO as needed. That has been the modus operandi thus far.

Here are some foundational parameters that must become an integral part of these amendments.

1. Why can't the City Council use the Ramseyer format as the base document for amending the LUO? It is much easier for the public to understand the LUO changes when the existing document is used with ADD or DELETE, OR AMEND notations? As is, it's takes immense time to have the full picture of the changes in one master format.

2. We have to note that majority of farming are operated by small family farmers of 9 acres or less. The days of the big land barons are diminishing.

3. We need to recognize that farming can be a **chosen lifestyle**. Corporate farm advocates or desk top farming advocate must not impose its philosophy on small privates farmers. Nor should small farmers be forced to monetize. Hawaii has many small farmers share their crops with families and neighbors and others for free. They farm for food sustainability and independence. Many farmers are health-conscious; they want to know what they grow and what they eat. Many grow organic with no pesticides or spraying.

4. Corporate Farming Executives seem to have the mindset that all farming must include pesticides and spraying. There are a lot of organic farmers.

5. There is a mindset to push all our children into concrete surroundings. What is more holistic and Aloha Aina than having preschools or charter schools in an agriculture setting?

6. Communications tower now seem to have free range without thought to human health. It appears turbines enjoy the same free range.

7. Vertical farming requires immense amount of electricity and is very limited to tiny crops, not mango or lychee trees.

8. In our region, there are very limited zoned land to provide the needs for some commercial and warehousing machines. It appears doing this on AG land is less intrusive than on RESIDENTIAL ZONE areas. Remember the Silva Dome syndrome.

9. What about IAL designations? This mean that the AG land us is further cut.

10. I'm running out of time to review this. This process cannot be solely viewed from the eyes of corporate farming or desktob advocates for farming. DO NOT monetize farming and lose the ALOHA AINA lifestyle and options for our local residents.

REFERENCE:

16. Amends the small meeting facility entry to replace "Cm*" with "P*" in the Resort, B-1, B-2, BMX-3, BMX-4 Zoning Districts, and add "P*" in the I-1 Zoning District.

1. Amends the crop raising entry to replace "P" with "P*" in the P-2 Zoning District. References the standards in ROH § 21-5.40-1(b).

Page 4

2. Amends the plant nursery entry to replace "P" with "P*" in the AG-1 and AG-2 Zoning Districts. References the standards in ROH § 21-5.40-1(c).

11. Deletes the vertical farm entry. (Vertical farm will be a type of farming under the crop raising and urban agriculture uses.)
Vertical farming requires a lot of electricity. It also requires fertilizers. Usually it's a limited amount of crops. No can grow mango or lychee.

12. Amends the "Livestock Keeping" subcategory to read "Livestock and Poultry Keeping."
Mainland counties even have disclosure statements for buyers to sign to acknowledge that if they choose to buy a house near a farm land, they need to realize that there are farm noises and smells like machines working.

5. Amends the animal raising entry to refer to the use as "animal raising, outdoor" (add "outdoor").

6. Adds a minor composting entry. Designates "P*" in the P-2, AG-1, AG-2, and I-2 Zoning Districts. References the standards in ROH § 21-5.40-3(f).

7. Adds a major composting entry. Designates "C*" in the AG-1 and AG-2 Zoning Districts. Designates "P*" in the I-2 Zoning District. References the standards in ROH § 21-5.40-3(f).

8. Amends the livestock veterinary service entry to refer to the use as "livestock and poultry veterinary service" (add "poultry").

9. Amends the multi-unit dwelling entry to remove the asterisk in zoning districts other than the B-1 and B-2 Zoning Districts (multi-unit dwelling standards only apply to the B-1 and B-2 Zoning Districts).

10. Separates the small group living entry into two different entries:

    a. Small group living – State regulated. Designates "C*+" in the AG-2 Zoning District. Designates "P*" in the Country, R-20, R-10, R-7.5, R-5, R-3.5, A-1, A-2, A-3, AMX-1, AMX-2, AMX-3, Resort, BMX-3 and BMX-4 Zoning Districts.

    b. Small group living – not State regulated. Designates "C*+" in the AG-2 Zoning District. Designates "C*" in the Country, R-20, R-10, R-7.5, R-5, R-3.5, A-1, A-2, A-3, AMX-1, AMX-2, AMX-3, Resort, and BMX-3 Zoning Districts. Indicates "Cm*" in the BMX-4 Zoning District. References the standards in ROH § 21-5.50-2(b).

11. Amends the large group living entry to delete the "C*+" in the AG-2 Zoning District (no longer permitted in the AG-2 Zoning District). Amends the reference to the standards in ROH § 21-5.50-2(c) (instead of ROH § 21-5.50-2(b)).

12. Amends the accessory dwelling unit entry to replace "P*" with "Ac*" in the Country, R-20, R-10, R-7.5, R-5, and R-3.5 Zoning Districts.

13. Amends the home occupation entry to replace "P*" with "Ac*+" in the AG-1 and AG-2 Zoning Districts (accessory use, a special use permit approved by the Planning Commission may be required), and replaces "P*" with "Ac*" in the Country, R-20, R-10, R-7.5, R-5, R-3.5, A-1, A-2, A-3, AMX-

1, AMX-2, and AMX-3, Resort, B-1, B-2, BMX-3, and BMX-4 Zoning Districts (accessory use).

14. Amends the ohana unit entry to replace "P*" with "Ac*+" in the AG-1 and AG-2 Zoning Districts (accessory use, a special use permit approved by the Planning Commission may be required), and replaces "P*" with "Ac*" in the Country, R-20, R-10, R-7.5, R-5, and R-3.5 Zoning Districts (accessory use).

15. Amends the rooming entry to replace "P*" with "Ac*" in the Country, R-20, R-10, R-7.5, R-5, R-3.5, A-1, A-2, A-3, AMX-1, AMX-2, and AMX-3, Resort, B-1, B-2, BMX-3, BMX-4, and IMX-1 Zoning Districts (accessory use).

16. Amends the small meeting facility entry to replace "Cm*" with "P*" in the Resort, B-1, B-2, BMX-3, BMX-4 Zoning Districts, and add "P*" in the I-1 Zoning District.

17. Amends the medium meeting facility entry to add "C*" in the I-1 Zoning District.

18. Adds a new community-based recreation center entry with "Cm*" in the P-2 Zoning District; "Cm" in the Country Zoning District, "P*" in the R-20, R-10, R-7.5, R-5, R-3.5, A-1, A-2, and A-3 Zoning Districts; and "P" in the AMX-1, AMX-2, AMX-3, Resort, B-1, B-2, BMX-3, and BMX-4 Zoning Districts. References the standards in ROH § 21 5.60-1(b).

19. Adds a new broadcasting antenna entry, with "Cm* in the P-2, AG-1, and AG-2 Zoning Districts; and "C*" in the I-1, I-2, I-3, and IMX-1 Zoning Districts. References the standards in ROH § 21-5.60-2(e).

20. Amends the alternative communication support structure entry to refer to the use as "communication support structure (delete "alternative").

21. Amends the communication tower entry to replace "C*" with "Cm*" in the R-20, R-10, R-7.5, A-1, A-2, A-3, AMX-1, AMX-2, AMX-3, Resort, B-1, B-2, BMX-3, BMX-4, and IMX-1 Zoning Districts.

22. Amends the K-12 school entry to rename "K-12 school" as "PreK-12 school".

23. Amends the minor vocational school entry to add "P*" in the AG-1 and AG-2 Zoning Districts.

24. Amends the major vocational school entry to add "P*" in the AG-1 and AG-2 Zoning Districts. Also adds a reference to the standards in ROH § 21-5.60-3(b).

25. Amends the university and college entry to delete the reference to the standards in ROH § 21-5.60-3(c).

26. Amends the prison entry to delete the reference to the standards in ROH § 21-5.60-4(b).

27. Amends the cemetery entry to replace "PRU+" with "PRU*+" in the AG-2 Zoning District. Deletes "P*" in the IMX-1 Zoning District (cemeteries no longer permitted in the IMX-1 Zoning District).

28. Amends the park entry to replace "P" with "P*" in the P-2, AG-1, AG-2, Country, R-20, R-10, R-7.5, R-5, R-3.5, A-1, A-2, A-3, AMX-1, AMX-2, AMX-3, B-1, B-2, BMX-3, BMX-4, and IMX-1 Zoning Districts. Adds a reference to the standards in ROH § 21-5.60-5(b).

29. Adds a new "Accessory Public, Civic, and Institutional" subcategory. Moves the accessory communication structure entry to the new "Accessory Public, Civic, and Institutional" subcategory, and amends the entry to rename "accessory communication structure" as "accessory receive only antenna." Adds "Ac*" to all Zoning Districts and references the standards in ROH § 21-5.60-2(d).

30. Amends the child daycare entry to replace "P" with "P*" in the Resort, B-1, B-2, BMX-3, BMX-4, and IMX-1 Zoning Districts (standards apply).

31. Amends the adult daycare entry to replace "Cm" with "Cm*" in the Country, R-20, R-10, R-7.5, R-5, R-3.5, A-1, A-2, A-3, AMX-1, AMX-2, and AMX-3 Zoning Districts (standards apply). Also replace "P" with "P*" in the Resort, B-1, B-2,

BMX-3, BMX-4, and IMX-1 Zoning Districts (standards apply).

32. Amends the major animal care entry to add "P*" in the B-1, B-2, BMX-3, BMX-4, I-1, and IMX-1 Zoning Districts, and replace "P" with "P*" in the I-2 Zoning District.

B. In SECTION 3 of the bill:

1. For the ROH sections listed below, where the use is permitted in the AG-2 Zoning District and is subject to a minimum dedication for agricultural use, the 50 percent minimum dedication amount is replaced with 51 percent, to read as follows:

In the AG-2 Zoning District, a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping must be dedicated to crop production or livestock keeping through an agricultural easement or similar legal encumbrance for so long as the *[type of use]* is in operation. The director may adopt rules pursuant to HRS Chapter 91 to determine the zoning lot area considered to be suitable for crop production or livestock keeping.

§ 21-5.40-4(b)(5) relating to agritourism
§ 21-5.40-4(e)(1) relating to farm dwelling
§ 21-5.40-4(h)(3) relating to agricultural farmers market
§ 21-5.60-1(a)(1) relating to meeting facility (small, medium, or large)
§ 21-5.60-3(a)(5) relating to K-12 schools
§ 21-5.70-1(a)(3) relating to child daycare
§ 21-5.70-1(b)(2) relating to adult daycare

2. Amends ROH § 21-5.40-1(a), relating to urban agriculture standards, to:

a. Add references to produce and flowers;

b. Provide that the keeping of livestock, poultry, and insects is prohibited;

c. Delete sign and off-street parking standards because these are already covered under § 21-7.40 and § 21-6.50(c), respectively; and

d. Delete the requirement that indoor crop production operations meet certain electricity needs from renewable sources.

3. Deletes ROH § 21-5.40-1(b), relating to vertical farm standards. (Vertical farm will be a type of farming under the crop raising and urban agriculture uses.)

4. Adds a new ROH § 21-5.40-1(b), relating to crop raising standards, to provide that vertical farms are not permitted in the P-2 Zoning District.

5. Adds a new ROH § 21-5.40-1(c), relating to plant nursery standards, to provide that:

a. Retail sales are limited to plants (in its primary form) sold directly from the greenhouse or open field where the plant was grown or cultivated;

b. The sale of secondary products such as jams, juices, and baked goods is prohibited; and

c. Separate structures used primarily for retail sales are prohibited.

6. Amends ROH § 21-5.40-2, relating to the livestock keeping subcategory, to reference "livestock and poultry keeping."

7. Amends ROH § 21-5.40-2(a), relating to confined animal raising standards, to delete the minimum 3-acre zoning lot size requirement.

8. Amends ROH § 21-5.40-3(a), relating to agricultural collection and storage standards, to add pickup or drop-off hour requirements in the AG-1, AG-2, and I-1 zoning districts if within 300 feet of a zoning lot in the residential, apartment, or apartment mixed-use zoning district.

9. Amends ROH § 21-5.40-3(b), relating to agricultural equipment service standards, to increase the minimum setback from 100 feet to 300 feet (from the property line of any adjoining

property within the residential, apartment, or apartment mixed-use zoning districts).

10. Amends ROH § 21-5.40-3(c), relating to agricultural processing standards, to provide that a reduction in the 1,500-foot setback requirement (from the property line of any adjoining property within the country, residential, apartment, apartment mixed-use, or resort zoning district), to a minimum 500 feet (as determined by the DPP Director) does not apply to the Resort zoning district.

11. Amends ROH § 21-5.40-3(e), relating to sawmill standards, to increase the minimum setback from 300 feet to 500 feet (from the property line of any adjoining property within the residential, apartment, or apartment mixed-use zoning district).

12. Adds a new ROH § 21-5.40-3(f) to add standards for minor and major composting.

13. Amends ROH § 21-5.50-1(a), relating to duplex-unit standards, to reference Figure 21-10.3.

14. Amends ROH § 21-5.50-1(b), relating to two-unit standards, to:

    a. Reference Figure 21-10.3; and

    b. Provide that dwelling units may not be connected solely by a covered open area, exterior hallway, or breezeway.

15. Amends ROH § 21-5.50-1(c), relating to multi-unit dwellings, to:

    a. In ROH § 21-5.50-1(c)(1), adds the Central Oahu Sustainable Communities Plan area (in addition to the Primary Urban Center Development Plan and Ewa Development Plan areas) as the areas where multi-unit dwellings are permitted in the B-1 and B-2 Zoning Districts.

    b. In ROH § 21-5.50-1(c)(1)(A):

i. Deletes the requirement that nonresidential uses and occupancies be located on a different floor as residential uses and occupancies; and

ii. Provides that a building must have at least one non-residential use (instead of requiring an FAR of 0.2 to be dedicated to nonresidential uses that are permitted in the underlying zoning district).

c. In ROH § 21-5.50-1(c)(1)(B):

i. Adds a new subparagraph (i) to provide that for multi-unit dwellings located on zoning lots of 3 acres or less, a minimum nonresidential floor area ratio of 0.2 must be developed on the lot (renumbers subsequent subparagraphs);

ii. Amends renumbered subparagraph (ii) to provide that for multi-unit dwellings located on zoning lots larger than 3 acres but smaller than 7 acres, a minimum of 10,000 square feet or a floor area ratio of 0.05, whichever is greater, of nonresidential floor area must be developed on the lot;

iii. Amends renumbered subparagraph (iii) to provide that for multi-unit dwellings located on zoning lots larger than 7 acres, a minimum of 40,000 square feet or a floor area ratio of 0.05, whichever is higher, of nonresidential floor area must be developed on the lot;

iv. Deletes former subparagraph (iii), which required the zoning lot to have a minimum nonresidential floor area ratio of 0.2; and

v. Deletes the requirement for a pedestrian and bicycle access path from adjacent rights-of-way to both residential and nonresidential uses on the zoning lot.

d. Adds a new ROH § 21-5.50-1(c)(1)(C) to provide that nonresidential uses must be fully enclosed within a building and do not include areas used for parking.

16. Amends ROH § 21-5.50-2(a), relating to small group living standards:

    a. Specifies that the standards apply to small group living that is State regulated; and

    b. Adds a new subdivision (3) to provide that if a zoning lot is developed with a principal dwelling unit and an accessory dwelling unit or an ohana unit, and each of the dwelling units is being used as a small group living that is State regulated, if the aggregate number of residents in both dwelling units exceeds eight, the group living will be considered a large group living.

17. Adds a new ROH § 21-5.50-2(b) to set forth the standards that apply to small group living that is not State regulated:

    a. Designates as subdivision (1) the standard in the AG-2 Zoning District that requires small group living to be of an agricultural nature and requires a minimum dedication for agricultural use.

    b. Adds a new subdivision (2) to provide that within the country, residential, and A-1 Zoning Districts, except for multifamily dwellings located in the A-1 Zoning District that provide housing for students or staff of an educational institution with a total enrollment of 10,000 or more students and are within a one-half-mile radius of the educational institution, unless directly related to public health and safety, small group living that is not State regulated may not be located within 1,000 feet of the next closest group living.

    c. Adds a new subdivision (3) to provide that if a zoning lot is developed with a principal dwelling unit and an accessory dwelling unit or an ohana unit, and each of the dwelling units is being used as a small group living that is State regulated, if the aggregate number

of residents in both dwelling units exceeds eight, the group living will be considered a large group living.

d. Realphabetizes ROH § 21-5.50-2(b) as ROH § 21-5.50-2(c).

18. Amends realphabetized ROH § 21-5.50-2(c), relating to large group living standards, to:

a. Delete requirements relating to visual screening and buffering (set forth in ROH Chapter 21, Article 4) and cumulative impacts regarding traffic, parking, infrastructure, and community character (set forth in ROH Chapter 21, Article 2 for uses subject to conditional use permits);

b. Allow for flexibility with regard to density, height, and off-street parking for special needs housing for the elderly (in the existing LUO); and

c. Provide that within the country, residential, and A-1 Zoning Districts, except for multifamily dwellings located in the A-1 Zoning District that provide housing for students or staff of an educational institution with a total enrollment of 10,000 or more students and are within a one-half-mile radius of the educational institution, unless directly related to public health and safety, large group living may not be located within 1,000 feet of the next closest group living.

19. Amends ROH § 21-5.50-3(a), relating to accessory dwelling unit standards, to:

a. Add a new ROH § 21-5.50-3(a)(1)(A)(ii) that provides that ADUs are not permitted on zoning lots that are landlocked (existing provision in the LUO);

b. Amend ROH § 21-5.50-3(a)(1)(B)(ii) to provide that the maximum size of an ADU is 1,000 (instead of 800) square feet for zoning lots of 5,000 square feet or more in area;

c. Clarify in ROH § 21-5.50-3(a)(1)(D) that an ADU may be created by building a new structure or converting a

legally established structure that is attached to, such as a two-unit dwelling, or detached from, the principal dwelling unit but located on the same zoning lot;

d. Clarify in ROH § 21-5.50-3(a)(1)(E) that only one ADU is permitted on a zoning lot; provided that an ohana unit that is otherwise permitted on a zoning lot is not considered to be an accessory dwelling unit for purposes of limiting the number of ADUs to one per zoning lot.

e. Add a new ROH § 21-5.50-3(a)(1)(F) to reference the parking requirements for an accessory dwelling unit in § 21-6.30(b);

f. Add a new ROH § 21-5.50-3(a)(1)(G) to provide that ADUs are only permitted where there is sufficient infrastructure, including but not limited to wastewater treatment and disposal and water supply infrastructure, as well as adequate roadways and first-responder resources to accommodate the ADU.

g. Require in ROH § 21-5.50-3(a)(2)(A)(i) that the covenant for an accessory dwelling unit state that, among other things, the accessory dwelling unit may only be used for long-term residential occupancy (as opposed to long-term rental) and may not be used as a bed and breakfast home or transient vacation unit.

20. Amends ROH § 21-5.50-3(c), relating to ohana unit standards to:

a. In subdivision (1):

i. Add that the construction or conversion of an ohana unit must meet all development standards and requirements in the underlying zoning district for the principal dwelling unit and the ohana unit;

ii. Clarify that an ohana unit may be created by building a new structure or converting a legally established structure that is attached to, such

as a two-unit dwelling, or detached from, the principal dwelling unit but located on the same zoning lot; and

iii. Add that an ohana unit may be permitted as accessory to a principal dwelling unit on a zoning lot that already includes one accessory dwelling unit; provided that all development standards and requirements in the underlying zoning district for the principal dwelling unit, the accessory dwelling unit, and the ohana unit are satisfied.

b. In subdivision (3), relating to ohana unit covenants, provide that at a minimum, the covenant must state that the deed restrictions lapse upon removal of the ohana unit and the covenants are binding upon all heirs, successors, and assigns of the owners (in addition to a prohibition on submitting the zoning lot to a condominium property regime).

c. Add a new subdivision (4) to provide for zoning lot limitations (this standard is being deleted from ROH § 21-8.20 and incorporated into ROH § 21-5.50-3(c), see summary paragraph I, below). The zoning lot limitations do not include the prohibition of ohana units on nonconforming zoning lots.

d. Add a new subdivision (5) to provide that ohana units are only permitted where there is sufficient infrastructure, including but not limited to wastewater treatment and disposal and water supply infrastructure, as well as adequate roadways and first-responder resources to accommodate the ohana unit (this standard is being deleted from ROH § 21-8.20 and incorporated into ROH § 21-5.50-3(c), see summary paragraph I, below).

e. Add a new subdivision (6) to reference the parking requirements for an ohana unit in ROH § 21-6.30(m).

21. Amends ROH § 21-5.50-3(b), relating to home occupation standards, to:

a. In ROH § 21-5.50-3(b)(1)(A), delete the second sentence, which required the home occupation use to be one that is traditionally and customarily conducted as an accessory use to residential living.

b. In ROH § 21-5.50-3(b)(1)(B), provide that the home occupation use may not significantly change the exterior appearance of the dwelling unit, zoning lot, or the surrounding neighborhood.

c. Add a new ROH § 21-5.50-3(b)(1)(D) to require that the indoor storage of materials or supplies not exceed 250 cubic feet or 20 percent of the total floor area of the dwelling unit, whichever is greater. Realphabetizes subsequent paragraphs.

d. Add a new ROH § 21-5.50-3(b)(1)(G) to provide that in the B-1 and B-2 Zoning Districts, a home occupation use is permitted in a dwelling unit within a multi-unit dwelling.

e. Replace former ROH § 21-5.50-3(b)(2), which provided examples of permitted home occupations, with a new ROH § 21-5.50-3(b)(2) that provides for limitations on certain home occupations:

i. Commercial beekeeping may be a home occupation if specifically permitted as a principle use in the underlying zoning district, subject to the standards for home occupations; and

ii. Items sold on the property are limited to items produced by the home occupation.

f. In ROH § 21-5.50-3(b)(3)(A), provide that the prohibition on vehicle repair and painting does not include the repair or painting of up to five vehicles owned by a household member.

g. In ROH § 21-5.50-3(b)(3)(C), provide that the prohibition on commercial weddings includes a prohibition on wedding ceremonies and receptions.

h. In ROH § 21-5.50-3(b)(3)(D), provide that the prohibition on storage yards and base yards includes a prohibition on stockpiling.

i. Delete ROH § 21-5.50-3(b)(3)(E), which prohibited mail and package handling and delivery businesses. Realphabetizes subsequent paragraphs.

j. Add a new ROH § 21-5.50-3(b)(3)(G) to prohibit metal fabricating and cutting using welding or cutting torches, or other uses that involve the excessive or continuous use of loud tools.

k. Add a new ROH § 21-5.50-3(b)(3)(H) to prohibit commercial events that involve the renting, for compensation, of any portion of the zoning lot for use by guests or invitees.

l. Add a new ROH § 21-5.50-3(b)(3)(I) to prohibit animal care, treatment, boarding, or veterinary services, except for the occasional boarding and the occasional grooming of animals, so long as it involves no more than three animals that are not household pets on the property at any given time.

m. Amend subdivision (4), relating to employees, to:

i. Add a new paragraph (A) to permit one employee of the home occupation to be on the property at any given time; and

ii. Add a new paragraph (B) to provide that for home-based childcare, in addition to one employee of the home occupation, if an emergency renders unavailable the principal caregiver who is a household member, an additional employee may be on the property on a temporary basis to substitute for the principal caregiver.

n. Replace former ROH § 21-5.50-3(b)(5), which provided for parking requirements for home occupations, and instead reference the parking adjustments and exemptions for home occupations in ROH § 21-

6.30(d) (these parking requirements are being deleted from ROH § 21-5.50-3(b)(5) and modified and incorporated into ROH § 21-6.30(d), see summary paragraph E.2, below).

22. Amends ROH § 21-5.60-1(a), relating to small, medium, or large meeting facility standards, to:

    a. Delete the requirement for meeting facility management plans.

    b. Clarify that ingress and egress must be provided with access to a street or right-of-way of a minimum width and sufficient street frontage as determined by the appropriate government agencies.

    c. Add that kitchens are allowed as accessory to the meeting facility, but may not be used to support onsite or offsite commercial activities.

    d. Add that in the AG-2 Zoning District, the maximum capacity for a meeting facility is 500 individuals.

    e. Provide that noise and odor restrictions apply in the Country Zoning District (in addition to the residential and apartment Zoning Districts).

    f. Add standards for meeting facilities located in the I-1 Zoning District, including

        i. A 1,000-foot spacing requirement between meeting facilities;

        ii. Requiring the recordation of a declaration with the State Bureau of Conveyances or State Land Court (or both as appropriate);

        iii. Prohibiting accessory uses unless otherwise permitted as an accessory use (or except for accessory uses to a religious facility); and

        iv. Requiring a parking and landscaping plan.

g. Delete outdoor lighting and all-weather surface parking provisions (covered in LUO Articles 4 and 6, respectively).

23. Adds a new ROH § 21-5.60-1(b), to add community-based recreation center standards to provide that:

    a. In the P-2 Zoning District, a community-based recreation center is only permitted if it is being used to satisfy park dedication requirements, or is a part of a master planned community; and

    b. In the residential and apartment Zoning Districts, if a community-based recreation center is not being used to satisfy park dedication requirements, or is not part of a master planned community, a minor conditional use permit is required.

24. Amends ROH § 21-5.60-2(b), relating to communication tower standards, to:

    a. Provide that in the industrial Zoning Districts, the communication tower must be set back a minimum of 100 feet from the property line of any adjoining zoning lot in the residential, apartment or apartment mixed-use Zoning Districts (instead of requiring a CUP-minor in those circumstances); and

    b. Add that communication towers that qualify as eligible facility requests under 47 U.S.C. § 1455(a) and 47 C.F.R § 1.6100, do not require any additional land use permits or approvals under the LUO; provided that the communication tower complies with all conditions of the initial land use permit or approval.

25. Amends ROH § 21-5.60-2(c), relating to alternative communication support structure standards, to:

    a. Refer to the use as "communication support structure" (delete reference to "alternative").

    b. Provide that at-grade equipment must be screened by a solid wall or fence, or by a landscape hedge of

sufficient height and width to screen the equipment (instead of requiring a 10-foot wide buffer).

c. Clarify that antennas must be concealed within the communication support structure or designed to minimize visual impacts through architecture, landscaping, or other site solutions. Provide that antennas are not considered to be concealed or designed to minimize visual impacts if the antenna extends above the top of the communication support structure or above the top of screening walls or features. Provide examples of design features that accomplish acceptable antenna concealment.

d. Provide that the DPP Director may allow for flexibility from the strict application of the concealment and integration requirements if it would result in the antenna not being able to provide the service it was designed to provide in the desired coverage area; provided that the DPP Director must first determine that there are no feasible alternatives to minimize the antenna's visual impacts, including possible relocation of the antenna.

e. Delete the requirement that the communication support structure comply with applicable State and city laws (not necessary as compliance is already required).

f. Add that communication support structures that qualify as eligible facility requests under 47 U.S.C. § 1455(a) and 47 C.F.R § 1.6100, do not require any additional land use permits or approvals under the LUO; provided that the communication tower complies with all conditions of the initial land use permit or approval.

g. In the I-1, I-2, and I-3 Zoning Districts, add an exception to the antenna concealment and integration requirements unless the communication support structure is located within 100 feet of the property line of any adjoining zoning lot in the residential, apartment, or apartment mixed-use Zoning Districts.

26. Amends ROH § 21-5.60-2(d), relating to accessory communication structure standards, to rename "accessory communication structure" as "accessory receive only antenna."

27. Adds a new ROH § 21-5.60-2(e) to add broadcasting antenna standards as follows:

    a. Freestanding broadcasting antennas must be set back from all property lines a minimum of 1 foot for every 5 feet of height;

    b. Broadcasting antennas supported by guy wires must be set back from all property lines a minimum of 1 foot for every 1 foot of height;

    c. AM antennas must be set back a minimum of 500 feet from the property line of any adjoining zoning lot in the country, residential, apartment, or apartment mixed-use Zoning Districts;

    d. FM and TV antennas must be set back a minimum of 2,500 feet from the property line of any adjoining zoning lot in the country, residential, apartment, or apartment mixed-use Zoning Districts;

    e. TV broadcasting antennas and broadcasting antennas other than for TV are required to have certain structural capabilities (subject to certain circumstances under which the requirements may be reduced);

    f. Once a site for a broadcasting antenna is approved, additional antennas and accessory uses proposed within the approved envelope (within a specified height and distance) will be processed without requiring modification to the initial land use permit or approval, unless the broadcasting antenna site is within a special district;

    g. Broadcasting antennas and associated facilities must be enclosed by fencing a minimum of 6 feet in height; and

h. A landscape plan is required for all broadcasting antenna installation requests.

28. Amends ROH § 21-5.60-3(a), relating to K-12 school standards, to rename "K-12 school" as "PreK-12 school," and delete the minimum zoning lot size of 20,000 square feet. Renumbers subsequent subdivisions.

29. Amends ROH § 21-5.60-3(b), relating to vocational school standards, to provide that in the AG-1 and AG-2 Zoning Districts, minor and major vocation schools must involve agricultural education programs conducted on a farming operation that is accessory and secondary to the principal agricultural use of the zoning lot as described in HRS § 205-4.5 (19).

30. Deletes ROH § 21-5.60-3(c), relating to university and college standards (will be subject to Plan Review Use conditions).

31. Deletes ROH § 21-5.60-4(b), relating to prison standards (will be subject to Plan Review Use conditions).

32. Amends ROH § 21-5.60-5(a), relating to cemetery standards, to provide that in the P-2 Zoning District, the following development standard flexibility may be permitted pursuant to the Plan Review Use process:

a. An increase of up to 25 feet above the maximum height limit;

b. An increase in the maximum density; and

c. An increase in the maximum building area.

33. Adds a new ROH § 21-5.60-5(b), relating to park standards, to require that parks with playgrounds, sport courts, or sport fields must be set back from all property lines a minimum of 20 feet.

34. Amends ROH § 21-5.60-6(a)(3)(D), relating to small wind energy generation facilities, to clarify that height is measured from the farthest vertical extension of the tower, which

includes the height of the tower or its vertical support structure and the farthest vertical extension of the blade tip from the tower.

35. Amends ROH § 21-5.60-6(b)(3)(E), relating to medium wind energy generation facilities, to clarify that height is measured from the farthest vertical extension of the tower, which includes the height of the tower or its vertical support structure and the farthest vertical extension of the blade tip from the tower.

36. Amends ROH § 21-5.60-6(c)(2), relating to large wind energy generation facilities, to:

    a. Amend paragraph (E) to provide that large wind energy generation facilities must be set back:

        i. From all property lines a minimum distance equal to the height of the facility; and

        ii. From the property lines of any zoning lot located in the country, residential, apartment, apartment mixed-use, or resort Zoning Districts a minimum distance of 10 times the height of the facility or 1.25 miles, whichever is greater.

    Also clarifies that height is measured from the farthest vertical extension of the tower, which includes the height of the tower or its vertical support structure and the farthest vertical extension of the blade tip from the tower.

    b. Add a new paragraph (F) to provide that with regard to occupied buildings in proximity to the facility that exist on the submission date of the facility's CUP application:

        i. No portion of a large wind energy facility may cause more than 10 hours per year or 10 minutes per day of shadow flicker on existing occupied buildings; and

ii. During normal operation, facility noise levels may not exceed 10 dBA above ambient sound levels at existing occupied buildings.

Also requires an applicant to submit to the DPP site-specific data using software models to demonstrate conformity with shadow flicker and noise restrictions.

c. Add a new paragraph (G) to provide that for existing large wind energy generation facilities with approved land use permits, the repair, maintenance, or component replacement of the facility during the term of the facility's current power purchase agreement may involve an increase in the height of the facility:

i. By up to 7 percent of the original height of the facility; or

ii. Up to a maximum height of 575 feet;

whichever is the lesser facility height; provided that the facility operates under and within the scope of its approved land use permits. Carves out an exception so that any such height increase will not be deemed to increase the facility's setback nonconformity.

37. Adds a new ROH § 21-5.70-7(b)(7), relating to minor and major animal care standards, to provide that in the business, business mixed-use, and IMX-1 Zoning Districts, major animal care must be soundproofed and air-conditioned.

38. Amends ROH § 21-5.70-8(c), relating to nature-based recreation standards, to provide that for horseback riding tours, all buildings housing horses and all corrals in which horses are kept or assembled must be set back a minimum of 100 feet from the property line of any adjoining zoning lot located in the country, residential, apartment, or apartment mixed-use Zoning Districts.

39. Amends ROH § 21-5.70-9(b), relating to mobile commercial establishment standards, to:

a. In ROH § 21-5.70-9(b)(3), provide an exception to the allowance of one portable sign within 5 feet of a mobile commercial establishment if weather conditions render it unsafe; and

b. In ROH § 21-5.70-9(b)(4)(A), move the parking requirements to ROH § 21-6.30(m), and references that section (these parking requirements are being deleted from ROH § 21-5.70-9(b)(4)(A) and incorporated into ROH § 21-6.30(m), see summary paragraph E.4, below). Retains the requirement for a parking management plan.

C. In SECTION 6 of the bill, amends ROH § 21-2.90-2(e), relating to general requirements for conditional use permits, to reference special needs housing for the elderly (instead of large group living) for purposes of modifications of underlying zoning district standards.

D. In SECTION 7 of the bill, repeals ROH § 21-2.110-3, relating to the designation of ohana-eligible areas (the previous SECTION 7 of the bill amended the references in ROH § 21-2.110).

E. In SECTION 8 of the bill, adds a new ROH § 21-2.110-3 (instead of a new ROH § 21-2.110-4), relating to special use permits.

F. In SECTION 10 of the bill, amends ROH § 21-2.130(a)(1), relating to the waiver of zoning requirements, to make conforming amendments to clarify that communication towers and communication support structures (instead of communication facilities) are eligible for zoning waivers.

G. In SECTION 11 of the bill, deletes ROH § 21-2.140-1(h)(1)(A), relating to nonconforming status if an ohana dwelling is no longer in an ohana-eligible area (provisions relating to ohana-eligible areas under ROH § 21-2.110-3 and ROH § 21-8.20-1 are being deleted). Realphabetizes subsequent paragraphs.

H. In SECTION 25 of the bill, amends ROH § 21-4.60 (Heights) to make conforming amendments to reference communication towers and communication support structures (instead of antennas associated with utility installations), and accessory receive only antennas (instead of receive only antennas).

I. In SECTION 33 of the bill, amends Table 21-6.1 (Minimum Off-street Parking Ratios) to amend the accessory residential entry under the Residential and Lodging use category, to delete references to home-based childcare and confined animal raising, and add a reference to home occupation.

J. In SECTION 34 of the bill, amends ROH § 21-6.30, relating to adjustments and exceptions to parking requirements, to:

1. Amend ROH § 21-6.30(b), relating to the waiver of off-street parking requirements for accessory dwelling units, to add the Ewa Development Plan area (in addition to the Primary Urban Center Development Plan area) where off-street parking space requirements may be waived if the ADU is located within 800 feet of a City bus stop; provided that this waiver does not apply if an off-street parking waiver has already been applied to an ohana unit located on the same zoning lot.

2. Amend ROH § 21-6.30(d), relating to home occupations, to:

a. For home occupations that involve client visits, require one off-street parking space for every four (instead of five) clients that may be on the property at any given time, and specify how the parking requirement is calculated;

b. For home occupations that involve employees, require one off-street parking space for the one onsite employee that may be on the property at any given time;

c. Provide that multi-unit dwelling residents may fulfill their parking requirement using guest parking if allowed by the rules and regulations for the multi-unit dwelling; and

d. Provide that commercial vehicles associated with the home occupation (other than the occasional, infrequent, and momentary parking of a vehicle for pickups and deliveries as a service to the home occupation) may not be parked on the street.

3. Amend ROH § 21-6.30(h)(4), relating to car sharing, to refer to a car-sharing organization, as that term is defined in HRS § 251-1 (instead referring to a provider of car share services).

4. Add a new ROH § 21-6.30(l), relating to mobile commercial establishments, to provide that when three or more mobile commercial establishments operate on one zoning lot, a minimum of five parking spaces per mobile commercial establishment is required.

5. Add a new ROH § 21-6.30(m) to provide that:

a. For ohana units, the off-street parking space requirements are the same as required for the primary dwelling unit, which are in addition to the required off-street parking for the primary dwelling unit; and

b. For ohana units that are 1,000 square feet or less in size and are located on zoning lots within the Primary Urban Center development plan area or the Ewa development plan area, the off-street parking space requirement is waived if the zoning lot developed with an ohana unit is located within 800 feet of a city bus stop; provided that this waiver does not apply if an off-street parking waiver has already been applied to an accessory dwelling unit located on the same zoning lot.

K. In SECTION 42 of the bill, repeals ROH § 21-8.20, relating to ohana dwelling standards. Certain standards relating to zoning lot limitations and infrastructure requirements are being incorporated into ROH § 21-5.50-3(c) (see summary paragraph B.9, above).

L. In SECTION 43 of the bill, repeals ROH § 21-8.20-1, relating to procedures for approval of ohana dwellings.

M. In SECTION 64 of the bill, relating to Table 21-9.6(A) ("Waikiki Special District Precinct Permitted Uses and Structures"), amends Table 21-9.6(A) to:

1. Separate the group living entry (under residential uses) to three different entries:

a. Small group living – State regulated. Designates "P*" in the Apartment and Resort Mixed-Use Precincts of the Waikiki Special District ("WSD");

b. Small group living – not State regulated. Designates "C*" in the Apartment and Resort Mixed-Use Precincts of the WSD; and

c. Large group living. Designates "C*" in the Apartment and Resort Mixed-Use Precincts of the WSD.

2. Amend the daycare entry (under commercial uses) to two different entries:

a. Adult daycare. Designates "C*" in the Apartment Precinct and "P*" in the Resort Mixed-Use Precinct of the WSD; and

b. Child daycare. Designates "Cm*" in the Apartment Precinct and "P*" in the Resort Mixed-Use Precinct of the WSD.

3. Under public, civic, and institutional uses, add a new communication tower entry, and designate "Cm" in the Apartment Precinct, Resort Mixed-Use Precinct, and Public Precinct of the WSD.

4. Under public, civic, and institutional uses, add a new dish antenna entry, and designate "Cm" in the Apartment Precinct, Resort Mixed-Use Precinct, and Public Precinct of the WSD.

N. In SECTION 70 of the bill:

1. Amends the definition of "accessory dwelling unit" to mean a dwelling unit, including separate kitchen, bedroom, and bathroom facilities, attached or detached from the principal dwelling unit on the zoning lot.

2. Renames "accessory communication structure" as "accessory receive only antenna," and amends the definition to mean an antenna that is not regulated by the Federal Communications Commission, is used primarily to receive radio frequency or microwave transmissions, and is accessory to a principal use. Includes satellite dishes up to 1 meter in size, amateur (ham) radio antennas, and television

antennas attached to single-unit, two-unit, and duplex-unit dwellings. Does not include broadcasting antennas, telecommunication facilities such as communication towers and communication support structures, or dish antennas larger than 1 meter in diameter.

3. Amends the definitions of "minor and major agricultural processing" to reference Hawaii-grown crops and Hawaii-raised animals. Provides that the term does not include the processing of packaged food or drink products (refers to food manufacturing and processing). Cross references agricultural collection and storage.

4. Amends the definition of "animal raising" to:

    a. Refer to the use as "outdoor animal raising";

    b. Clarify the definition as the raising, the feeding, and keeping of livestock and poultry such as cattle, horses, goats, sheep, swine, turkeys, chickens, ducks, and rabbits that are not raised as household pets or for purposes of personal use or companionship, primarily in unconfined outdoor areas where they are free to roam or graze;

    c. Provide that the term does not include feedlots (refers to confined animal raising) or animal shelters (refers to animal care); and

    d. Provide that the term may include the boarding and care of livestock and poultry that are not raised as household pets or for purposes of personal use and companionship.

5. Amends the definition of "confined animal raising" to clarify the definition as the raising and feeding of livestock and poultry such as cattle, horses, goats, sheep, swine, turkeys, chickens, ducks, and rabbits that are not raised as household pets or for purposes of personal use and companionship, primarily in confined indoor or outdoor areas, such as pens, stalls, or cages. Provides that the term does not include the boarding and care of household pets

owned by other persons (see animal care) or animal shelters (see animal care).

6. Amends the definition of "aquaculture" to provide that the term does not include cultivating land-based crops, including with hydroponics (refers to crop raising).

7. Adds a definition of "broadcasting antenna" to mean antennas, towers, and other accessory facilities for radio frequency transmissions of AM and FM radio and television broadcasting, which may be received by anyone with a radio or television. Broadcasting antennas are regulated by the Federal Communications Commission, and do not include broadcasting studios and stations, and telecommunication facilities.

8. Amends the definition of "cemetery" to add examples of permitted accessory uses to the cemetery principal use, including crematory operations, cemetery real estate operations, mortuary services, floral and monument sales, and single-unit dwellings to be occupied by cemetery caretakers.

9. Amends, rather than deletes, definitions of "minor and major composting."

10. Amends the definition of "consulate" to clarify that consulates are eligible for zoning waivers that apply to public facilities.

11. Amends the definition of "crop raising" to:

    a. Clarify the definition as the cultivating, maintaining, and harvesting crops for agriculture and horticulture purposes, generally conducted in an open field or greenhouse;

    b. Provide that the term includes vertical farm operations and cultivating crops with hydroponics, aeroponics, and aquaponics; and

    c. Provide that the term does not include cultivating aquatic plants or animals (refers to aquaculture), and cross-references to forestry, plant nursery.

12. Amends the definition of "child daycare" to add a cross reference to public facility.

13. Amends the definition of "dwelling unit" to provide that two or more structures that are essentially separate except for an unenclosed or token connection, such as a covered walkway or trellis, do not constitute a single dwelling unit.

14. Amends the definition of "multi-unit dwelling" to clarify that:

    a. A multi-unit dwelling has three or more dwelling units contained in a single building; and

    b. Any nonresidential uses permitted in the underling zoning district will be regulated as separate land uses.

15. Amends the definition of "duplex-unit dwelling" to reference Figure 21-10.3.

16. Amends the definition of "food manufacturing and processing" to clarify the definition as the processing of packaged food or drink products for human consumption that does not involve the handling of dead animals or animal by-products. Provides that the term does not include facilities that fall within the agricultural processing use, if activities include further processing such as cooking and blending.

17. Adds a definition of "group living" as follows:

    Residential occupancy that is not included in household living. Includes but is not limited to monasteries, convents, dormatories, and facilities such as adult residential care home, assisted living facility, special needs housing for the elderly, developmental disabilities domicilary home, special treatment facility, clean and sober home, hospice home, group home, recovery home, nursing home, rehabilitation facility, and sanitarium. These facilities may be licensed, certified, registered, or monitored by the State.

18. Amends the definition of "lodging unit" to clarify that a lodging unit is designed for transient occupancy, and is used for

independent living quarters for one or more persons living as a single family.

19. Amends the definition of "meeting facility" to clarify that meeting facilities may be accessory to a principal use unless expressly prohibited. Also adds examples of meeting facilities, including private clubs, union halls, community centers, religious facilities such as churches, temples, and synagogues, and student centers. Cross references public facility.

20. Amends the definition of "ohana unit" to provide that an ohana unit is an accessory attached or detached dwelling unit on a zoning lot that includes a principal dwelling unit, for persons who are related by blood, adoption, guardianship, marriage, or other duly-authorized custodial relationship to the family residing in the principal dwelling unit located on the same zoning lot.

21. Amends the definition of "plant nursery" to:

    a. Provide that the term includes floriculture operations;

    b. Provide that the term does not include retail establishments such as garden shops that sell items other than plants, such as gardening supplies, potting soil, and fertilizers (refers to general retail); and

    c. Cross reference crop raising, aquaculture, forestry, feed store.

22. Amends the definition of "public facility" to add further examples of public facilities, including public (federal, state, or city) libraries, satellite city halls, post offices, schools, parks, zoos, golf courses, and meeting facilities such as the Hawaii Convention Center, the Neal S. Blaisdell Center, and the Waikiki Shell (in addition to public administrative offices and transportation stops). Also clarifies uses that are not public facilities, including private K-12 and vocational schools, private golf courses, parks, or community recreation centers.

23. Amends the definition of "general outdoor recreation" to clarify that horseback riding tours are not general outdoor recreation. Cross references animal raising.

24. Amends the definition of "heavy repair" to provide that the term does not include facilities that fall within the agricultural equipment service use if activities include the repair of industrial machinery, heavy equipment, engines, and vehicles that are not used in agricultural production.

25. Amends the definition of "rooming" to clarify that rooming provides accessory overnight living accommodations to persons other than transient occupants, and does not include bed and breakfast homes (references bed and breakfast home).

26. Amends, rather than deletes, the definition of "special needs housing for the elderly" to clarify that the term is a type of group living that meets certain listed criteria and is eligible for the modification of certain development standards pursuant to ROH § 21-2.90-2(e).

27. Amends the definition of "storage, warehousing, and distribution" to refer to the use as "general storage, warehousing, and distribution." Cross references agricultural collection and storage.

28. Amends the definition of "transient occupant" to reference transient vacation unit, bed and breakfast home, rooming, and hotel.

29. Adds a new Figure 21-10.3 after the definitions of "duplex-unit dwelling," "single-unit dwelling," and "two-unit dwelling."

O. In SECTION 71 of the bill:

1. Amends the definition of "agricultural collection and storage" to provide that the term does not include the storage or movement of non-agricultural products (refers to general storage, warehousing, and distribution).

2. Amends the definition of "agricultural equipment service" to provide that the term does not include the sale, rental, or lease of motor vehicles for use on a road (refers to vehicle

sales and rental), the repair of industrial machinery, heavy equipment, and engines that are not used in agricultural production (refers to heavy repair), or the routine maintenance of vehicles that are not used in agricultural production, such as replacing fluids and minor parts (refers to vehicle service).

3. Amends the definition of "alternative communication support structure" to delete reference to "alternative" (refers to the use as "communication support structure.") Amends the definition to mean a structure designed for a separate use or purpose that also supports or conceals a telecommunications facility. Equipment may be mounted on and integrated with a roof or facade, light pole, bell tower, clock tower, campanile, steeple, light structure other than a street light pole or traffic signal pole, or similar structure.

4. Amends the definition of "animal care" to clarify the definition as providing medical care, grooming, training, or boarding services to household pets owned by other persons as a principal use. Also provides that the term does not include raising and feeding livestock and poultry in confined areas such as pens, stalls, or cages (refers to confined animal raising), or providing veterinary services to livestock and poultry (refers to livestock and poultry veterinary service).

5. Amends the definition of "brewery, distillery, winery" to clarify that the term does not include facilities that fall within the minor agricultural processing use (refers to minor agricultural processing) or establishments that fall within the bar, nightclub use.

6. Moves the definition of "communication tower" from SECTION 70 to SECTION 71, and amends the definition to mean a freestanding structure that supports a telecommunications facility. Clarifies that communication tower includes monopoles, monopalms, monopines, lattice towers, and similar structures, but does not include broadcasting antennas or structures that support or conceal an antenna.

7. Adds a definition of "community-based recreation center" to mean a community-based recreation center, which may be membership based, that includes outdoor and indoor

recreation, including swimming pools, locker rooms, sports courts, gymnasiums, meeting rooms, offices, and supporting facilities. Cross references park, general outdoor recreation, nature-based recreation, personal services, public facility.

8. Amends the definition of "dish antenna" to mean a receiver or transmitter of radio frequency or microwave transmissions consisting of a reflector-shaped satellite dish that is larger than 1 meter in diameter. Clarifies that dish antenna does not include antennas integrated with telecommunication facilities. Cross references accessory receive only antenna.

9. Amends the definition of "forestry" to delete reference to edible fruit, and to cross reference plant nursery, crop raising.

10. Adds a definition of "large group living" as follows:

    Type of group living that may be licensed, certified, registered, or monitored by the State, where a dwelling unit is occupied by nine or more residents who do not meet the definition of a family. Resident managers or supervisors and their families are not included in the resident count.

11. Adds a definition of "small group living – State regulated" as follows:

    Type of group living that is licensed, certified, registered, or monitored by the State, where a dwelling unit is occupied by up to eight residents who do not meet the definition of a family. Resident managers or supervisors and their families are not included in the resident count.

12. Adds a definition of "small group living – not State regulated" as follows:

    Type of group living that is not licensed, certified, registered, or monitored by the State, where a dwelling unit is occupied by up to eight residents who do not meet the definition of a family. Resident managers or supervisors and their families are not included in the resident count.

13. Adds a definition of "livestock" to mean animals raised in an agricultural setting to provide labor or produce diversified

products for consumption such as meat, milk, fur, leather, and wool. Provides that the term includes cattle, horses, goats, sheep, swine, and rabbits that are not raised as household pets or for purposes of personal use and companionship.

14. Amends the definition of "livestock veterinary service" to:

    a. Refer to the use as "livestock and poultry veterinary service";

    b. Define the use as providing veterinary services to livestock and poultry; and

    c. Provide that the term does not include providing veterinary services to livestock and poultry raised as household pets or for purposes of personal use and companionship (refers to animal care); and

    d. Cross reference confined animal raising.

15. Amends the definition of "nature-based recreation" to add that horse stables and community recreation centers are not nature-based recreation. Cross references animal raising.

16. Amends the definition of "park" to mean an area used for outdoor play or recreation, often containing recreational equipment such as slides, swings, climbing frames, sport courts and fields, and botanical gardens. A park may include small office spaces for managers or groundskeepers, storage structures, and barbeque pavilions. A park does not include swimming pools and gymnasiums. A park may include both passive and active recreation, and projects that promote and enhance ecosystem benefits, keep wildlife on land with preserved natural features, as well as picnic grounds, beaches, beach access, greenways, and areas for hiking, fishing, hunting, and other scenic interests. Clarifies that park does not include public parks or community recreation centers. Cross references nature-based recreation, general outdoor recreation, and meeting facility.

17. Adds a definition of "poultry" to mean fowls, including chickens, turkeys, geese, ducks, and other birds raised for the production of meat, eggs, or feathers.

18. Amends the definition of "prison" to cross reference public facility.

19. Renames "K-12 school" as "PreK-12 school," and amends the definition to mean a facility educating students enrolled in pre-kindergarten through 12th grade, operated by a private institution or entity that provides educational programs using a curriculum analogous to the Hawaii public school curriculum for the same grade level, and when applicable, in compliance with the Hawaii State compulsory attendance laws. Clarifies that PreK-12 school does not include public schools or post-secondary schools. Cross references child daycare and home-based childcare.

20. Amends the definition of "single-unit dwelling" to reference Figure 21-10.3.

21. Adds a definition of "telecommunications facility" to mean facilities integrated with communication towers or communication support structures that are regulated by the Federal Communications Commission, and may include transmitting panel antennas, GPS antennas, accessory satellite dish antennas, remote radio units, power cables, and similar equipment. Clarifies that telecommunications facility includes accessory structures that may be located elsewhere on the zoning lot, including equipment cabinets, emergency generators, and fencing.

22. Amends the definition of "two-unit dwelling" to reference Figure 21-10.3.

23. Amends the definition of "urban agriculture" to define the term as crop raising and related agricultural activities conducted as a principal or predominant land use outside of the P-2, agricultural, and country zoning districts. Provides that the term includes vertical farm operations located outside of the P-2, agricultural, and country zoning districts.

24. Amends the definition of "vehicle sales and rental" to define the use as a facility that sells, rents, or leases motor vehicles for

use on a road, such as cars, trucks, and buses. Provides that the term does not include facilities that fall within the agricultural equipment service use if activities include the sale, rental, or lease of vehicles that are not used in agricultural production.

25. Amends the definition of "vehicle service" to provide that the term does not include facilities that fall within the agricultural equipment service use if activities include the routine service and maintenance of vehicles that are not used in agricultural production.

26. Amends the definition of "vertical farm" to provide that the term does not include cultivating aquatic plants or animals (see aquaculture).

27. Amends the definition of "vocational school" to add a list of facilities that are not vocational schools, including vocational training on harbor fast lands that support commercial marine activities, sports classes, tutoring, martial arts studios, dance studios, gymnastic studios, or institutions of higher education that award associates, bachelors, masters, or doctorate degrees. Also adds definitions of minor versus major vocational school as follows:

Minor: Facilities that do not include the operation of industrial equipment such as floor-mounted woodworking or machine shop equipment.

Major: Facilities that include the operation of industrial equipment such as floor-mounted woodworking or machine shop equipment.

28. Amends the definition of "university, college" to clarify that universities and colleges are for post-secondary education, and to cross reference public facility, vocational school, and PreK-12 school.

29. Adds a new Figure 21-10.3, which depicts dwelling types, including single-unit dwelling, two-unit dwelling, and duplex-unit dwelling.

P. In SECTION 72 of the bill:

1. Removes the deletion of the definition of "major and minor composting," which is being retained and amended (see summary paragraph N.9 above).

2. Removes the deletion of the definition of "special needs housing for the elderly," which is being retained and amended (see summary paragraph N.26, above).

3. Deletes the definition of "car sharing."

Q. In SECTION 94 of the bill, relating to direction to the Revisor of Ordinances, adds that in SECTION 3 of the ordinance, pursuant to the Revisor's authority under ROH Section 1-16.3(b)(1), the Revisor shall replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of the ordinance with the actual date on which the ordinance takes effect.

R. Makes miscellaneous technical and nonsubstantive amendments for purposes of formatting, grammar, consistency, and clarity.

Related communications:

CC-237 Councilmember Kia‘āina, submitting Instructions for Amendments to Bill 64 (2023), FD1, for the Planning and the Economy Meeting on September 26, 2024 (Agricultural Uses Part 2).

CC-240 Councilmember Weyer, submitting Proposed Amendments to Bill 64 (2023), FD1, for the September 26, 2024, P&E Committee Meeting (AGRICULTURAL USE PART 2).

CC-241 Councilmember Tupola, submitting Proposed Amendments to Bill 64 (2023), FD1.

CC-243 Councilmember Kia‘āina, submitting Proposed Amendments to Agricultural Uses in Bill 64 (2023), FD1, for the Committee on Planning and the Economy Meeting on September 26, 2024.

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