BILL064(23)
Testimony

MISC. COMM. 465

PLANNING AND THE ECONOMY (P&E)

PLANNING AND THE ECONOMY (P&E) Meeting

Meeting Date: Oct 22, 2024 @ 09:00 AM

Support: 7

Oppose: 5

I wish to comment: 21

Name:	Email:	Zip:
Tom Holowach	Holowach@hawaii.edu	96734
Representing:	Position:	Submitted:
Self	Oppose	Oct 16, 2024 @ 09:17 PM

Testimony:

I wish to state that despite much testimony and evidence, Bill 64 still classifies Animal Shelters in the Commercial category, which they are not. Also, feral cats, which are a known destructive species need to be captured and isolated in a Sanctuary which should fall under the definition of Animal Raising, which is not for Personal Conpanionship. This is a huge oversight which should be well recognized by the Council by now.

Name:	Email:	Zip:
Adele Wilson	jaws@hawaii.rr.com	96734-3026
Representing:	Position:	Submitted:
Self	I wish to comment	Oct 17, 2024 @ 01:33 PM

Testimony:

I have been walking at Hoomaluhia for many years and have observed how over run with tourists the park has become. The staff is not adequate to deal with the numbers and the many violations that the tourists commit. Why are there not more restrictions on the use of this park? Both Foster Botanical Gardens and Haunama Bay now charge admission fees. Certainly these fees could be used to better maintain the park. Entry could easily be controlled by online registration and credit card payment, a QR code issued to the payee and scanned at the entry. As it is now, long lines of cars are often lined up in the neighborhood waiting entry, a situation that the residents have continually complained about. Many tourists do not pay attention to the signs prohibiting picture taking along the roads and often do not drive within the speed limit presenting a hazard to walkers. The park must be better maintained. It is a treasure that could very easily be destroyed by poor maintenance and over promotion by the HTA,

Please consider these measures to protect this very special place.

Thank you

Adele Wilson

Name:	Email:	Zip:
Lindsay Orman	lorman@starnlaw.com	96813
Representing:	Position:	Submitted:
Starn O'Toole Marcus & Fisher	I wish to comment	Oct 18, 2024 @ 05:59 PM

Name:	Email:	Zip:
Frederick Mencher	fmencher@hawaii.rr.com	96817
Representing:	Position:	Submitted:
East Oahu County Farm Bureau	I wish to comment	Oct 20, 2024 @ 12:07 PM

Name:	Email:	Zip:

Micah Munekata	mmunekata@ulupono.com	96813
Representing: Ulupono Initiative	Position: I wish to comment	Submitted: Oct 20, 2024 @ 03:39 PM
Name: Sunny Unga	Email: kahukucommunityassociation@gmail.com	Zip: 96731
Representing: Kahuku Community Association	Position: Support	Submitted: Oct 20, 2024 @ 08:16 PM
Name: Kara Mataia	Email: mrsmataia@hotmail.com	Zip: 96731
Representing: Self	Position: Support	Submitted: Oct 20, 2024 @ 08:29 PM

Testimony:

It's horrible enough that these turbines have ruined our property value, the beauty of our land and endanger our Keiki and native birds.

Everyday I hear the distant roar of what sounds like jets, but it's the turbines. It stares in our faces like white ugly monsters. A constant reminder that money mongers and political corruptness always win against our rural community members. We did not want these and fought hard against its installation. Since when was it ok for the rich to ruin the lifestyle of a community they don't even live in.

It does not profit us in the least and has made our north shore aina a pitiful sight. I'm absolutely against the installing of more or larger turbines.

Name: Evotia Lolotai	Email: auntyevo@yahoo.com	Zip: 96731
Representing: Self	Position: Support	Submitted: Oct 20, 2024 @ 10:39 PM

Testimony:

I am submitting testimony in support of the 1.25-mile setback and to ensure no grandfathering language is included.

I continue to support the section on setbacks for large wind energy turbines, including the increased setback to 1.25 miles (or a 1:10 ratio, whichever is greater) with no grandfathering clause. Please also see specific changes to strengthen the language specially under g (ii).

Name: Brian Miyamoto	Email: brian@hfbf.org	Zip: 96759
Representing: Hawaii Farm Bureau	Position: I wish to comment	Submitted: Oct 21, 2024 @ 07:23 AM

Name:	Email:	Zip:
Evan Oue	eoue@imanaka-asato.com	96821
Representing:	Position:	Submitted:
NAIOP Hawaii	Support	Oct 21, 2024 @ 07:23 AM
Name:	Email:	Zip:
MARK ANTHONY CLEMENTE	mclemente@hrcc-hawaii.com	96791
Representing:	Position:	Submitted:
Hawaii Regional Council of Carpenters	Support	Oct 21, 2024 @ 08:34 AM
Name:	Email:	Zip:
Taylor Campbell	taylorpc@hawaii.edu	96795
Representing:	Position:	Submitted:
Waimanalo Agricultural Association	I wish to comment	Oct 21, 2024 @ 10:25 AM
Name:	Email:	Zip:
MARK ANTHONY CLEMENTE	mclemente@hrcc-hawaii.com	96791
Representing:	Position:	Submitted:
Hawaii Regional Council of Carpenters	I wish to comment	Oct 21, 2024 @ 11:01 AM
Name:	Email:	Zip:
Stephanie Kendrick	skendrick@hawaiianhumane.org	96826
Representing:	Position:	Submitted:
Hawaiian Humane Society	Oppose	Oct 21, 2024 @ 11:22 AM
Name:	Email:	Zip:
Nicole Galase	nicole@hicattle.org	96816
Representing:	Position:	Submitted:
Hawaii Cattlemen's Council	I wish to comment	Oct 21, 2024 @ 11:25 AM
Name:	Email:	Zip:
Benjamin Sadoski	bsadoski@5.unitehere.org	96826
Representing:	Position:	Submitted:
UNITE HERE Local 5	I wish to comment	Oct 21, 2024 @ 12:20 PM
Name:	Email:	Zip:
Taylor Kellerman	tkellerman@kualoa.com	96730
Representing:	Position:	Submitted:
Self	I wish to comment	Oct 21, 2024 @ 12:34 PM
Testimony:		

Dear Chair Kia'āina and Members of the Committee:

My name is Taylor Kellerman, and I am the Director of Diversified Agriculture and Land Stewardship for Kualoa Ranch.

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.

I am writing to testify that I stand by our group's amendments and recommendations as stated in Ulupono's testimony.

As pertaining to the Agritourism portion, I would like to re-iterate the following:

Change Agritourism back to 1 category and adjust master use table on p. 4 to reflect Cm* for Agritourism. o Splitting agritourism into two categories further confuses the issue rather than simplifies it both from an application as well as regulatory standpoint. The proposed separate categories may actually support historic loopholes in the name of agritourism. We also strongly recommend reverting the permitting of Agritourism back to Minor Conditional Use for both AG-1 (Cm) and AG-2 (Cm) as is currently allowed in the LUO. HRS 205 §205-4.5 (Permissible uses within the agricultural districts) (13)(14) already provides permitted agricultural tourism.

Mahalo

Taylor Kellerman

Name: Choon James	Email: ChoonJamesHawaii@gmail.com	Zip: 96762
Representing: Self	Position: I wish to comment	Submitted: Oct 21, 2024 @ 02:18 PM
Name: Natalie Wohner	Email: natalie.wohner@gmail.com	Zip: 96734
Representing: Self	Position: Oppose	Submitted: Oct 21, 2024 @ 02:57 PM

Name:	Email:	Zip:
Ted Kefalas	tkefalas@grassrootinstitute.org	96813
Representing:	Position:	Submitted:
Grassroot Institute of Hawaii	I wish to comment	Oct 21, 2024 @ 03:05 PM
Name:	Email:	Zip:
Olan Leimomi Fisher	olan@kuahawaii.org	96744
Representing:	Position:	Submitted:
Kua'aina Ulu 'Auamo (KUA)	Support	Oct 21, 2024 @ 03:12 PM
Name:	Email:	Zip:
Mike Foley	haikulani@gmail.com	96734
Representing:	Position:	Submitted:
Self	Oppose	Oct 21, 2024 @ 03:24 PM
Name:	Email:	Zip:
Jerry Gibson	jerry@hawaiihotelalliance.com	96815
Representing:	Position:	Submitted:
Hawai'i Hotel Alliance	I wish to comment	Oct 21, 2024 @ 03:29 PM
Name:	Email:	Zip:
Tracy Tonaki	ttonaki@drhorton.com	96813
Representing:	Position:	Submitted:
D.R. Horton Hawaii	I wish to comment	Oct 21, 2024 @ 03:30 PM
Name:	Email:	Zip:
Ana Tuiasosopo	atuiasosopo@oe3.org	96707
Representing:	Position:	Submitted:
Operating Engineers Local 3	I wish to comment	Oct 21, 2024 @ 03:47 PM
Name:	Email:	Zip:
Frederick Redell	fred@hawaiicleanpower.org	96813
Representing:	Position:	Submitted:
Hawaii Clean Power Alliance	I wish to comment	Oct 21, 2024 @ 04:03 PM
Name:	Email:	Zip:
Jacob Franco	jac1snake@yahoo.com	96731
Representing:	Position:	Submitted:
Self	Support	Oct 21, 2024 @ 05:23 PM

Testimony:

Hello thank you for reading my written testimony. I support Bill 64(23) cause things like shadow flicker and noise level from the wind turbines. When shadow flicker happens such as in my room feels like someone is turning on and off the room lights. So when I trying to use the computer I can't even concentrate even with the curtains close. Also other family members it has the same affect and even getting waken up from it cause their bed window is facing towards the wind turbines. For the noise or whooshing sound can be heard from the turbine at different times of the day. So when I try to relax or take a nap all I hear is that whooshing noise. I am not against going green its just we can do a better job for both parties in mind instead of catering to one party. Also there are other methods that we can also explore not just wind turbines there must be a balance between all. While I support the section on setbacks for large wind energy turbines, including the increased setback to 1.25 miles (or a 1:10 ratio, whichever is greater) with no grandfathering clause, we are also requesting specific changes to strengthen the language specially under g (ii). Please refer to our testimony for further details on these proposed amendments.

Name:	Email:	Zip:
Holly Holowach	holly@popokiplace.com	96734
Representing:	Position:	Submitted:
POPOKI PLACE OAHU CAT SANCTUARY	I wish to comment	Oct 21, 2024 @ 05:44 PM

Name:	Email:	Zip:
Ramsey Brown	ramsey.brown@ponopacific.com	96813
Representing:	Position:	Submitted:
Pono Pacific / Kuilima Farm	I wish to comment	Oct 21, 2024 @ 08:06 PM

Name:	Email:	Zip:
Greg Shimokawa	greg.shimokawa@hawaiianelectric.com	96817
Representing:	Position:	Submitted:
Hawaiian Electric	I wish to comment	Oct 21, 2024 @ 09:46 PM

Name:	Email:	Zip:
Derek Bown	webderek@gmail.com	96795
Representing:	Position:	Submitted:
Self	Oppose	Oct 21, 2024 @ 11:34 PM

Testimony:

Dear Councilmembers,

Please vote no on Bill 64, or at least fix the worst problems it has. I speak for those small farmers who don't have the time, money, or abilities to plead for their small farms. Bill 64 is a terrible, horrible, no good, very bad bill, and the worst part is the 100 foot setback for animals. The requirement for a 100 ft setback for animals on agricultural and country-zoned land will effectively wipe out small ORGANIC farmers and families on one to four acres, and may even damage the self-sufficiency of families on smaller lots who just want to keep chickens to supply their family's eggs. ORGANIC farms

require animals to produce organic fertilizer, also known as manure, because it's impossible to grow organic plants without manure. That principle is the basis for ecology, also known as the circle of life. I suggest you remove the 100 ft setback, or change it to something reasonable like 10 feet, OR YOU WILL BECOME KNOWN WORLDWIDE AS THE CITY COUNCIL THAT OUTLAWED SMALL ORGANIC FARMS, in a state that is rich with them and needs them desperately. Animals need to be able to move and graze and harvest bugs (if they are chickens) on as much land as possible, if we want healthy animals. And if we have healthy animals we will have health people.

It appears as though the 100 ft setback is meant to reduce complaints by neighbors, but if people live in the country and/or on agricultural land, or any area with one acre lots, they should expect to hear and see animals, unless they live next to a farmer that only uses chemical fertilizers and chemical pesticides, and those CHEMICAL-BASED farms have MUCH WORSE characteristics to complain about. I think most people would rather live near animals than a neighbor who sprays pesticides that blow onto the neighboring property. Being able to see, hear, or smell chickens, horses, sheep, and cows never gave anyone cancer.

Have you ever heard of the Victory Gardens of World War Two? Everyone in the USA was told to plant gardens on every available plot of arable land to avoid starvation and support the war effort. And they NEEDED to use MANURE, ALSO KNOWN AS ANIMAL POOP, to FERTILIZE those gardens. And how could they have turned the soil to plant it and fertilize it if they couldn't make any dust? So be careful when you outlaw something because you think some people are offended by it. You may starve your population to death because of your short-sightedness. It has happened before, decades ago when farmers in Ukraine and China were persecuted and "managed" by their governments, it caused famines that killed millions of people. The government managers thought they knew how the farmers should farm, but they were tragically wrong.

If you don't know the basics of how to farm, you should listen to the small farmers when they tell you what they need to keep farming. If not, we'll be forced to take our case to the national and international press and you will look like arrogant city-slickers who shot your small farmers in the foot.

Also, don't listen to the chemical-friendly individuals who graduated from the UH Manoa Agricultural Department, they are notoriously unfriendly to ORGANIC farmers and famously friendly with pesticide companies who have destroyed Kauai's agricultural land and gave cancer to many Hawaiians and other local people . Listen to your people, not the corporations and developers.

Name: Gino Soquena	Email: gino@hbctc.org	Zip: 96805
Representing: Hawaii Building & Construction Trades Council	Position: I wish to comment	Submitted: Oct 22, 2024 @ 12:27 AM

Name: Kamuela Cobb-Adams	Email: fecobbad@ksbe.edu	Zip: 96813

Representing:	Position:	Submitted:
Kamehameha Schools	I wish to comment	Oct 22, 2024 @ 08:11 AM

STARN · O'TOOLE · MARCUS & FISHER

A LAW CORPORATION

October 18, 2024

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

RE: **Bill 64 (2023) – RELATING TO USE REGULATIONS**
Hearing date: October 22, 2024 at 9:00 A.M.

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

Thank you for the opportunity to submit **COMMENTS** on **BILL 64 (2023) – RELATING TO USE REGULATIONS**, which updates the Land Use Ordinance (LUO). Starn O'Toole Marcus & Fisher is legal counsel for a variety of clients that develop property on the island of Oahu, including individuals, corporate entities, and hotels and resorts.

We strongly urge the Committee to restore the Joint Development provisions currently contained in the LUO, that is § 21-5.380 regarding joint development of two or more adjacent subdivision lots and § 21-5.380A regarding the joint development of two or more adjacent subdivision lots—Waikiki special district or Ala Moana transit-oriented development special district, and to add "Joint Development" back into the Use Table under Miscellaneous in § 21-5.30.

Joint Development Agreements (JDA) are currently available under the LUO and were included in Bill 10, the predecessor to Bill 64, in § 21-5.90(b) and the Use Table. However, the JDA concept appears to have been deleted entirely in the current version of the proposed LUO amendments, which allow transfer of development only in limited circumstances involving certain qualified historic properties.

JDAs are used by a number of our clients and provide for the treatment of multiple subdivision lots as a single lot for zoning and development purposes. The elimination of JDAs will hinder creative, flexible development and limit redevelopment opportunities. There are many reasons why developers may pursue JDAs, including the time required to process subdivisions and consolidations; joint development of parcels held by separate but related entities; phasing of land acquisitions, development, and/or financing; sharing of facilities among parcels; and greater flexibility than is allowed under subdivision rules.

With respect to Section 21-5.380A, "stacked" JDAs allow a lessee who is able to slowly aggregate parcels to develop a unified project over time. This is particularly useful in Waikiki, given the number of ground leases.

In sum, JDAs contribute to efficient and beneficial land use, and we respectfully request that the Joint Development provisions be reinserted in Bill 64.

Thank you for your consideration,

Lindsay E. Orman, Esq.

Duane R. Fisher, Esq.

Norman H.Y. Cheng, Esq.

Sharon V. Lovejoy, Esq.

Christina N. Ohira, Esq.

Maile S. Miller, Esq

Andy R. Crosby, Esq.

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

October 20, 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, **strongly supports the amendments proposed by Councilmember Kia'aina that would include aquaculture and urban agriculture as permitted uses in industrial zones, add aquaculture to the definition of urban agriculture, and modify the definition of "agriculture-energy facility."** We thank Councilmember Kia'aina for introducing these amendments, and we thank the members of your Committee for their patience and concern during the long process of amending Bill 64 to better reflect the realities of modern agriculture.

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. We therefore support amendments that would allow these uses.

Under Bill 64's original definition of "agricultural-energy facility," solar facilities are specifically excluded. This provision could 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 therefore support the proposed amendment changing the definition to exclude only utility-scale solar facilities.

As in our previous testimony, we also encourage your Committee and the full Council to consider the agricultural 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

Email: communications@ulupono.com

HONOLULU CITY COUNCIL COMMITTEE ON PLANNING & THE ECONOMY
Tuesday, October 22, 2024 — 9:00 a.m.

Ulupono Initiative offers comments on Bill 64 (2023) FD1, Proposed CD1 (EK8) Relating to Land Use Ordinance (LUO) Use Regulation Amendments.

Dear Chair Kia'āina and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a 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 (EK8). 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 (EK8) 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 EK8 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 (EK8)

Agritourism

- Standards listed on page 15-16: remove standards 2, 3, and amend #7 to delete the phrase "and require major conditional use approval."

"(b) Agritourism – standards.

(1) 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.

~~**(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 crop production or livestock and poultry keeping must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation.

(5) Accessory destination events, including weddings, 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."

- Change Agritourism back to 1 category and adjust master use table on p. 4 to reflect Cm* for Agritourism.
    - Splitting agritourism into two categories further confuses the issue rather than simplifies it both from an application as well as regulatory standpoint. The proposed separate categories may actually support historic loopholes in the name of agritourism. We also strongly recommend reverting the permitting of Agritourism back to Minor Conditional Use for both AG-1 (Cm) and AG-2 (Cm) as is currently allowed in the LUO. HRS 205 §205-4.5 (Permissible uses within the agricultural districts) (13)(14) already provides permitted agricultural tourism.

Farm Dwelling

- Add in 51% language: A minimum of 51 percent of the zoning lot area suitable for crop production or livestock and poultry keeping must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the farm dwelling exists.
- Remove language from Farm Dwelling Standards (1). (p.16): ~~**confined to a polygon for which no exterior angle is greater than 180 degrees.**~~

Farm Worker Housing

- Add in 51% language: A minimum of 51 percent of the zoning lot area suitable for crop production or livestock and poultry keeping must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the farm worker housing exists.

Agricultural Energy Facility - Biofuel Processing Facility on Ag Land

- Add a SUP to this process will help to alleviate concerns regarding movement of invasive species and pests.

Agricultural Support Use Recommendations to Bill 64 (2023) FD1 Proposed CD1 (EK8)

Agricultural Processing, Includes Breweries/Distilleries

- Amend definition of "agricultural processing minor" (p. 192)
    - Minor: Processing Hawaii-grown crops and live Hawaii-raised animal by-products (grown or raised onsite or offsite) such as milk, eggs, ~~and~~ honey,

and aquaculture harvests placed in or on ice. In the agricultural zoning districts, the term includes the processing of Hawaii-grown crops grown onsite **or offsite** to produce malt beverages, distilled spirits, or wines, **of which at least 51% are Hawaii-grown non-water ingredients.**

Other Uses Categories in AG-1 or AG-2 Zoned Lands Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK8)

Group Living, Small

- Designates "C*+" in the AG-2 District for Small group living – State regulated and Small group living – not State regulated (p. 5).
    - 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

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

School, PreK-12

- Allows PreK-12 schools in AG-2 districts as C*+ (Major Conditional Use, Standards, SUP) (p. 5).
    - 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.

Wind Energy Facilities (Small, Medium, Large)

- FD1, PROPOSED CD1 creates standards under ROH Section 21-5.60(a)(3) small utility (p. 40); Section 21-5.60-6(b)(3) medium utility (p. 42); and Section 21-5.60-6 (c)(2) large utility (p. 43-45). 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.
    - Add language in each wind energy facility size to include the following standard: **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)

- (p. 6) Child and adult day care should 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)
    - Create an agricultural nexus of at least 51% for animal care on AG-2 land. Add language to standards of: **at least 51% of the zoning lot area suitable for crop production or livestock or poultry keeping must be dedicated to crop production or livestock or poultry keeping**. If this standard 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).
    - 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.
        - Also, this definition is used in describing "agritourism- minor" which is allowed in both ag-1 and ag-2 with a Cm*.

Other General Comments

Aquaculture

- Include aquaculture and urban agriculture in all industrial zones.
    - Past and current aquaculture operations have been sited in industrial zones, and the State is currently considering lots at Campbell Industrial Park as potential sites for an aquaculture park.

Aquaponics

- Remove conflicting language regarding aquaponics. Section 70 (13) places aquaponics under "crop raising" but then provides that the term "crop raising" does not include cultivating aquatic plants or animals. By definition, aquaponics includes the cultivation of aquatic animals to provide nutrients for the plant crops.

Solar

- Specifically permit solar generation facilities for exclusively on-farm use as an accessory use for all agricultural categories. Bill 64's "ag energy facility" and "small utility" appear to prohibit on-farm solar.

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

Kahuku Community Association

Honolulu City Council
530 South King Street Room 202
Honolulu, HI 96813

October 17, 2024

RE: Bill 64 Section 3 § 21-5.60-6(c)(2) Public, civic, and institutional uses Utility Large wind energy generation standards

Dear Chair Kiaʻāina and fellow Council Members,

Kahuku Community Association (KCA) strongly supports Chair Kiaʻāina's proposed amendments overall on Bill 64 Section 3 § 21-5.60-6(c)(2). However, we respectfully request that the Council amend the following language specifically in subsection G(ii).

We urge the Council to set a height limit on turbine development, capping the maximum allowable height at 568 feet instead of the proposed 575 feet in subsection G(ii). This request arises from the deep concerns of our community, evidenced by the more than 200 residents who were arrested while protesting the Na Pua Makani wind project. These turbines, the largest land-based turbines ever placed near a residential zoned area and a school, pose significant risks to safety and quality of life. Allowing AES to further increase their turbine size —especially since they are already in such close proximity to our homes and schools—would only exacerbate these issues and contradict the very principles we have been advocating for.

Larger blades will not only increase the blade-swept area but also impact turbine setback distances and blade throw safety zones. As highlighted in the Na Pua Makani project's Environmental Impact Statement, "taller turbines have larger rotor swept areas, which could influence collision risk." The current AES turbines are already too large and too close to our community and we firmly believe that the height of these turbines must be capped at 568 feet, to safeguard our residents from further harm and impacts. Especially given that AES is a new project, it is critical to establish proper safeguards now and developers to plan accordingly.

Additionally, we request that the Council clarify the language in Section G(ii) to ensure that any increase in turbine height under G(i) or G(ii) does not violate the existing 1:1 setback ratio. Specifically, we propose adding KCA's recommended language to ensure compliance with the current minimum setback defined in paragraph (E)(i) and request removing the language "any increase in height pursuant to this paragraph will not be deemed to increase the facility's setback nonconformity."

KCA appreciates the Council's recognition of the importance of increasing turbine setbacks to a minimum of 1.25 or 1:10 ratio whichever is greater. This measure ensures that developers cannot operate beyond their lease terms under outdated setback regulations, and that they must conform to the new setback standards. Adequate setbacks remain the most effective measure for protecting host communities from the negative impacts of industrial-scale wind turbines.

It is also crucial to acknowledge that changes in turbine height will directly affect our community by potentially increasing shadow flicker, noise, safety risks, and negative impacts on local wildlife including our birds and bats. We urge the Council to carefully consider the implications for both the human and wildlife populations, ensuring that necessary environmental assessments, permitting processes are not bypassed. Developers must be held accountable for adhering to stringent safety and environmental regulations, and section G shouldn't allow developers to circumvent these processes that will ensure protection of residents and wildlife. We also suggest exploring the option of using smaller blade sizes as a safer alternative.

Thank you for your time and consideration of these critical issues. We hope the Council will act keeping the safety and well-being of the Kahuku community as the top priority ensuring responsible and sustainable development of wind energy.

Attached is our KCA Proposed Amendment Form for your reference.

Respectfully,

Sunny Unga (e-sign)

Kahuku Community Association

Sunny Unga - President
Tatiana Santiago- Secretary
Budde Cabael -Treasurer
Atalina Pasi - Director
Budde Cabael - Director
James Munoz - Director

KAHUKU COMMUNITY ASSOCIATION
REQUEST FOR AMENDMENT FORM Bill 64 (2023)
FD1 Relating to Use Regulations MISCELLANEOUS USES

Item No. Bill Section ROH Section, (page number)	Amendment Description	Amendment Text (in Ramseyer Format)	Comments or Clarification
#15/ Section 3 § 21-5.60-6(c)(2) Large wind energy generation standards (page 42)	G (ii): -Add 568 & Delete 575. - Add "and shall conform to the minimum setback defined in paragraph (E)(i)." & Delete "Any increase in height pursuant to this paragraph will not be deemed to increase the facility's setback nonconformity."	(2) Wind energy generation. (A) Large wind energy generation facilities are not permitted in the preservation, residential, apartment, apartment mixed use, business, business mixed-use, resort, industrial, and industrial mixed-use zoning districts. (B) For any ground-mounted wind energy generation facility, the tower climbing apparatus and blade tips of the facility may not be lower than 15 feet from ground level, unless enclosed by a 6-foot high fence, and may not be within 7 feet of any roof or structure, unless the blades are completely enclosed by a protective screen or fence. (C) A public safety sign must be posted at the base of the wind energy generation facility warning of high voltage and dangerous moving blades. (D) All guy wires must be anchored onsite and outside of any right-of-way, and equipped with safety devices that will prevent them from being climbed, and must be securely fastened. (E) Large wind energy generation facilities must be set back as follows: (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. For purposes of this paragraph, 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. (F) With regard to occupied buildings in proximity to the facility that exist on the submission date of the facility's conditional use permit application:	AES Turbines are 568 feet in height and already erected too close to our residential homes and schools. Over 200 community members were arrested opposing this controversial project because it was too big and too close. Allowing AES's turbines to be even bigger is an egregious offense to the community. There needs to be a cap at 568 feet. Need to clarify language that the 7% increase in blade length shall conform to the current 1:1 setback. The current language is not clear and confusing.

		(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. Prior to the issuance of a conditional use permit for the facility, the applicant shall submit to the department site specific data (such as weather, topography, and turbine operating characteristics) using software models such as WindPro or iNoise, demonstrating conformity with shadow flicker and noise restrictions. (G) For large wind energy generation facilities with approved land use permits that were legally established on the effective date of this ordinance, 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 as follows: (i) By an incremental amount not to exceed 7 percent of the original height of the facility; or (ii) Up to a maximum height of 568 ~~575~~ feet; whichever is the lesser facility height; provided that the facility operates under and within the scope of its approved land use permits and shall conform to the minimum setback defined in paragraph (E)(i). ~~Any increase in height pursuant to this paragraph will not be deemed to increase the facility's setback nonconformity.~~ (H) In the AG-1 and AG-2 zoning districts, 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 and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the large wind energy generation facility is in operation.	

October 22, 2024

HEARING BEFORE THE
COMMITTEE ON PLANNING AND THE ECONOMY

TESTIMONY ON BILL 64 (2023) FD1, PROPOSED CD1 (EK8)
RELATING TO USE REGULATIONS

City Council Chamber
9:00 AM

Aloha Chair Kiaʻaina, Vice Chair Cordero, and Members of the Committee,

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

The Hawaiʻi 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 Oʻahu. We thank the Council for allowing the agriculture industry the opportunity to recommend amendments to address these concerns.

The Hawaiʻi Farm Bureau was an active participant in the 2023 agricultural stakeholder working group. This group also included the Oʻahu Agriculture and Conservation Association, Kualoa Ranch, Waimanalo Agricultural Association, KoHana, Hawaiʻi Cattlemen's Council, Ulupono Initiative, and Kuilima Farms. Government agencies—Hawaiʻi 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 Hawaiʻi 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 (EK8) version of the bill. We appreciate this committee's efforts to address some of our concerns to date.

Aquaculture, aquaponics, and hydroponics are increasingly done in enclosed facilities that allow intensive production, efficiently use 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. 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. We therefore support amendments that would allow these uses.

Under Bill 64's original definition of "agricultural-energy facility," solar facilities are specifically excluded. This provision could prevent farms from installing small-scale alternative energy facilities to reduce electricity costs or provide electricity at off- grid sites. In contrast, HRS 205-4.5 (10) allows explicitly 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 expressly permitted as an accessory for agricultural and aquacultural production. We therefore support the proposed amendment changing the definition to exclude only <u>utility-scale</u> solar facilities.

The following recommendations represent some of the remaining recommendations and concerns that lie within the current EK8 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.

<u>Accessory Agricultural Use Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK8)</u>

Agritourism

- Standards listed on page 15-16: remove standards 2, 3, and amend #7 to delete the phrase "and require major conditional use approval."

"(b) Agritourism – standards.

(1) 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.

(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 crop production or livestock and poultry keeping must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation.

(5) Accessory destination events, including weddings, 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."

- Change Agritourism back to 1 category and adjust master use table on p. 4 to reflect Cm* for Agritourism.
    - Splitting agritourism into two categories further confuses the issue rather than simplifies it both from an application as well as regulatory standpoint. The proposed separate categories may actually support historic loopholes in the name of agritourism. We also strongly recommend reverting the permitting of Agritourism back to Minor Conditional Use for both AG-1 (Cm) and AG-2 (Cm) as is currently allowed in the LUO. HRS 205 §205-4.5 (Permissible uses within the agricultural districts) (13)(14) already provides permitted agricultural tourism.

Farm Dwelling

- Add in 51% language: A minimum of 51 percent of the zoning lot area suitable for crop production or livestock and poultry keeping must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the farm dwelling exists.
- Remove language from Farm Dwelling Standards (1). (p.16): ~~**confined to a polygon for which no exterior angle is greater than 180 degrees.**~~

Farm Worker Housing

- Add in 51% language: A minimum of 51 percent of the zoning lot area suitable for crop production or livestock and poultry keeping must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the farm worker housing exists.

Agricultural Energy Facility - Biofuel Processing Facility on Ag Land

- Add a SUP to this process will help to alleviate concerns regarding movement of invasive species and pests.

Agricultural Support Use Recommendations to Bill 64 (2023) FD1 Proposed CD1 (EK8)

Agricultural Processing, Includes Breweries/Distilleries

- Amend definition of "agricultural processing minor" (p. 192)
    - Minor: Processing Hawaii-grown crops and live Hawaii-raised animal by-products (grown or raised onsite or offsite) such as milk, eggs, ~~and~~ honey **and aquaculture harvests placed in or on ice**. In the agricultural zoning districts, the term includes the processing of Hawaii-grown crops grown onsite **or offsite** to produce malt beverages, distilled spirits, or wines, **of which at least 51% are Hawaii-grown non-water ingredients.**

Other Uses Categories in AG-1 or AG-2 Zoned Lands Recommendations for Bill 64 (2023) FD1 Proposed CD1 (EK8)

Group Living, Small

- Designates "C*+" in the AG-2 District for Small group living – State regulated and Small group living – not State regulated (p. 5).
    - 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

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

School, PreK-12

- Allows PreK-12 schools in AG-2 districts as C*+ (Major Conditional Use, Standards, SUP) (p. 5).
    - 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.

Wind Energy Facilities (Small, Medium, Large)

- FD1, PROPOSED CD1 creates standards under ROH Section 21-5.60(a)(3) small utility (p. 40); Section 21-5.60-6(b)(3) medium utility (p. 42); and Section 21-5.60-6 (c)(2) large utility (p. 43-45). 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.

- Add language in each wind energy facility size to include the following standard: **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)

- (p. 6) Child and adult day care should 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)
  - Create an agricultural nexus of at least 51% for animal care on AG-2 land. Add language to standards of: **at least 51% of the zoning lot area suitable for crop production or livestock or poultry keeping must be dedicated to crop production or livestock or poultry keeping**. If this standard 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).
  - 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.
    - Also, this definition is used in describing "agritourism- minor" which is allowed in both ag-1 and ag-2 with a Cm*.

Other General Comments

Aquaculture

- Include aquaculture and urban agriculture in all industrial zones.
  - Past and current aquaculture operations have been sited in industrial zones, and the State is currently considering lots at Campbell Industrial Park as potential sites for an aquaculture park.

Aquaponics

- Remove conflicting language regarding aquaponics. Section 70 (13) places aquaponics under "crop raising" but then provides that the term "crop raising" does not include cultivating aquatic plants or animals. By definition, aquaponics includes the cultivation of aquatic animals to provide nutrients for the plant crops.

Solar

- Specifically permit solar generation facilities for exclusively on-farm use as an accessory use for all agricultural categories. Bill 64's "ag energy facility" and "small utility" appear to prohibit on-farm solar.

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

NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

October 21, 2024

Councilmember Esther Kia'aina, Chair
Councilmember Radiant Cordero, Vice-Chair
Committee on Planning and the Economy

RE: **Bill 64 – LAND USE ORDINANCE AMENDMENT RELATING TO USE REGULATIONS**
Hearing date – October 22, 2024, at 9:00 A.M.

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

Thank you for allowing NAIOP Hawaii to submit testimony in **SUPPORT WITH COMMENTS ON BILL 64 – Land Use Ordinance (LUO) AMENDMENT RELATING TO USE REGULATIONS.** NAIOP Hawaii is the Hawaii chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders, and other professionals.

NAIOP Hawaii strongly urges the committee to consider reinserting § 21-5.380 regarding joint development of two or more adjacent subdivision lots and § 21-5.380A regarding the joint development of two or more adjacent subdivision lots— Waikiki special district or Ala Moana transit-oriented development special district, as well as to add "Joint Development" back into the Use Table under Miscellaneous, § 21-5.30 Use Table.

Section 21-5.380 is a critical section of the existing LUO and was included as Section 21-5.90(b) in the original Bill 10 submitted by the Department of Planning and Permitting (DPP). This section was subsequently deleted in a subsequent CD and changed to "Transfer of Development." However, "Transfer of Development" is limited to certain qualified historic properties. NAIOP Hawaii is greatly concerned that the current language of the bill eliminates wholesale the concept of JDAs which are vital to the development process.

Primarily, JDAs are a useful tool that enables efficient development of a project that includes various land uses across multiple parcels. The JDA essentially ties together two adjacent and separate legal lots in order for it to be treated as one zoning lot. In turn, JDAs facilitate the development of lots under a single cohesive project concept and allow for greater coordination in design leading to more efficient land use.

Specifically, JDAs provided substantial benefits including the following:

1. **Phased Development**: Allows the developer to phase large projects into manageable increments, especially for projects developed under the Condominium Property Regime.

2. **Acquire and Obtain Financing**: Allows the developer to take down land and finance in manageable increments to lower risk and promote improved cashflow. This is particularly important for affordable rental housing developers who are able to utilize the limited annual public funding to begin construction while applying for future funding. In sum, JDAs allow for projects to begin production without the need to finance an entire project prior to construction.

3. **Shared Facilities**: Allows for the sharing of parking and utilities without the need to create complex easements over both parcels.

4. **Elimination of Setback Requirements at Shared Boundaries**: Land Use Ordinance requirements for setbacks, wall heights, landscape, etc. at the common boundaries within a joint developed parcel are not applicable since it is considered one zoning lot.

5. **Flexibility with Subdivision Requirements**: Irregular lot lines and land locked parcels are not allowed by the Subdivision Rules and Regulations. If done concurrently, the JDA can allow these subdivisions to be granted approval if the joint developed parcel is compliant with the Rules and Regulations.

In summary, a joint development provides greater flexibility in the design and layout of the development as the placement of buildings, roads, and other features across multiple parcels of land can be coordinated. With this efficient use of land and infrastructure, joint development has the potential to increase overall housing inventory.

In the absence of joint development, the only option to develop a project that integrates two or more adjacent lots would be to consolidate and subdivide such parcels. Consolidation and subdivision are lengthy processes which entail the redrawing, resubmission and approval of subdivision maps for each respective phase. In turn, this would create an additional burden and work for the City and homebuilders.

Accordingly, NAIOP Hawaii recommends the aforementioned amendment for Bill 64. NAIOP Hawaii respectfully offers these comments and looks forward to working with the council and all stakeholders on this measure. Thank you for the opportunity to testify.

Mahalo for your consideration,



Reyn Tanaka, President
NAIOP Hawaii

HAWAII REGIONAL COUNCIL OF CARPENTERS

October 22, 2024

TO: The Honorable Esther Kia'aina, Chair
The Honorable Radiant Cordero, Vice-Chair
and Members of the Committee on Planning and the Economy
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813-3065

FROM: Mark Anthony Clemente
Government Relations
Hawaii Regional Council of Carpenters

SUBJECT: Testimony in Support of Amendments to Bill 64 (2023), CD1 Relating to Bed and Breakfast Homes and Transient Vacation Rentals at the Hoakalei Resort

Dear Chair Kia'aina, Vice-Chair Cordero, and Members of the Committee on Planning and the Economy:

Thank you for the opportunity to submit written testimony. My name is Mark Anthony Clemente writing on behalf of the Hawai'I regional Council of Carpenters. I am writing in strong support of proposed amendments to Bill 64 (2023) outlined as Items Nos. 4 and 5 in Councilmember Andria Tupola's *Council Communication 255 (2024)* to allow B&B homes and transient vacation rentals in the A-2 zoning district adjacent to the Hoakalei Resort and lagoon in Ewa.

The proposed amendments would provide alternatives for short-term lodging in the apartment zoned areas adjacent to the Hoakalei Resort including bed and breakfast homes and transient vacation rentals. This change would be consistent with other established resort areas on Oahu and supports the policies expressed in the Oahu General Plan and the Ewa Development Plan.

There are six locations on O'ahu with Resort zoning: Waikīkī, Hoakalei, Ko'olina, Mākaha, Turtle Bay and Lā'ie. As currently written, the LUO allows these lodging alternatives in proximity to three of the six established resort zones: Waikīkī, Turtle Bay, and Ko'olina. By including the Hoakalei Resort area, visitors and residents gain greater access to a wider range of short-term lodging options, catering to varying needs, preferences, and budgets for both visitors and residents. This diversity of accommodations will provide additional economic support and opportunities in the Ewa area growth by generating additional revenue streams for local owners and local businesses, increasing employment opportunities for the Ewa region, and increasing

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KAUAI OFFICE: Kuhio Medical Ctr Bldg., 3-3295 Kuhio Hwy, Suite 201, Lihue, Kauai 96766-1040 • Ph. (808) 245-8511 Fax (808) 245-8911

real property tax revenue for the City.

Expanding alternative lodging choices within the master planned Hoakalei Resort area will also help relieve island-wide demand for visitor accommodations during peak seasons and deter illegal B&B and vacation rentals in our local communities and neighborhoods.

The proposed changes to the LUO are consistent with, and in furtherance of, the General Plan (GP) and Ewa Development Plan (DP) objectives and policies.

O‘ahu General Plan

Section II Balanced Economy,

Objective B To maintain a successful visitor industry that creates living wage employment, enhances quality of life, and actively supports our unique sense of place, natural beauty, Native Hawaiian culture, and multi-cultural heritage.

Policy 8 – Facilitate the development of the following secondary resort areas: Ko Olina, Turtle Bay, Hoakalei, and Mākaha Valley in a manner that respects existing lifestyles and the natural environment. [emphasis added]

Section VII Physical Development and Urban Design

Objective D To develop a secondary urban center in ‘Ewa with its nucleus in the Kapolei area.

Policy 6 – Encourage the development of the Ocean Pointe/Hoakalei Communities as a major residential and recreation area emphasizing recreational activities and a waterfront commercial center containing light-industrial, commercial and visitor accommodation uses. [emphasis added]

The proposed changes to the LUO will create consistent land use conditions across three of the established secondary resort areas designated in the GP and facilitate the development of Hoakalei Resort as intended. The proximity of the A-2 zoning to the resort and waterfront is compatible with the vision of the Hoakalei community as a major residential and recreation area with integrated visitor accommodations.

‘Ewa Development Plan

Urban Land Use Map

Resort/Recreation Area - Areas at Ko Olina and Ocean Pointe/Hoakalei to be developed for hotels, apartments, and accessory commercial and recreational facilities for resort use.

A-2 Medium Density Apartments – Medium Density Apartment - Areas with this designation should be zoned predominantly for medium density apartment use. Mixed use, with retail activities at the ground level, is encouraged.

3.8 Ocean Pointe/Hoakalei

3.8.1 General Policies

> On the west, develop a mix of activities around the basin, including a Waterfront Mixed Use area with resort and commercial development, a Medium Density Residential area, and a Light Industrial Mixed Use Support area. Hoakalei is planned to have about 950 visitor units to support its waterfront-oriented activities.

The ‘Ewa DP Urban Land Use Map identifies Hoakalei Resort as a “*Resort/Recreation Area*” for hotels, apartments, and accessory commercial and recreational facilities for resort use, and designates the approximate area of the contiguous A-2 zoning district as “*Medium Density Apartment / Commercial Mixed-Use*”. Permitting B&B homes and transient vacation units within the A-2 zoning district helps meet demand for an important share of the visitor industry market. Integrating transient vacation accommodations within the A-2 zoning district contiguous to the Hoakalei Resort and lagoon, compliments the master planned resort use and is consistent with the ‘Ewa DP general policies for Hoakalei.

I would like to thank Councilmember Tupola for listening to the community and recognizing the need to support the continued growth and economic development of the Ewa area.

I would also like to thank the Committee on Planning and the Economy for its consideration of Councilmember Tupola’s proposed amendments to allow B&B homes and transient vacation rentals in the A-2 zoning district adjacent to the Hoakalei Resort and lagoon in Ewa.

Mahalo for the opportunity to testify.

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

Waimanalo Agricultural Association

October 22, 2024

Comments & Suggested Amendments regarding Bill 64 (2023) FD1, Proposed CD1 (EK8)

Honolulu City Council
Committee on Planning and Economy
Tuesday, October 22, 2024
9:00 a.m.

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

The Waimanalo Agricultural Association (WAA) is writing to thank the Chair and committee for addressing WAA's earlier concerns and accepting some of our suggested amendments in its most recent FD1 draft. We would also like to provide comments and request consideration for some amendments not accepted to Bill 64 (2023), FD1 Amendments, CD1 (EK8).

WAA's focus remains on ensuring the final bill protects agriculture, recognizes Waimanalo's uniquely situated agricultural lands and provides guidance to farmers that may not be fully aware of the impacts of Bill 64 – if passed into ordinance. We also thank the Committee Chair for addressing WAA's earlier requested amendments related to hours of operation, adding sheep to animal raising, lifting farmers market parking restrictions, clarifying farm stand standards, restricting large group living facilities on Ag-2 zoned lands, and other concerns.

WAA has been involved in the evolution of Bill 64 (2023) since 2022 under Bill 10 (2022) – and has been actively working with other agricultural stakeholders 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, plant nurseries, poultry & egg farms, and horse farms. Waimanalo's agriculture lands include smaller lots, including leaseholds with the Department of Agriculture and 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.

- 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. WAA thanks the Committee Chair for introducing Resolution 24-243 to reconvene the agricultural development task force. WAA supports this Resolution to afford agricultural stakeholders a voice in city government.

- 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):

- **Agritourism (Table page 4) 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.

- **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."~~**

- **Group living, Small Should not be permitted on Ag-2 lands.** Section 21-5.30 Use Table allows small group living 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. While the bill prohibits large group living facilities on Ag-2 lands, - small group homes are permitting on Ag-2.

- **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.

Thank you for addressing our earlier concerns in this most recent version of Bll 64 , FD1, CD1 (EK8). WAA's proposed amendments is to perpetuate the preservation of agricultural lands in Waimanalo. Thank you for considering our requested amendments.

HAWAII REGIONAL COUNCIL OF CARPENTERS

October 22, 2024

TO: The Honorable Esther Kia'aina, Chair
The Honorable Radiant Cordero, Vice-Chair
and Members of the Committee on Planning and the Economy
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813-3065

FROM: Mark Anthony Clemente
Government Relations
Hawaii Regional Council of Carpenters

SUBJECT: Testimony in Support of Amendments to Bill 64 (2023), CD1 Relating to Bed and Breakfast Homes and Transient Vacation Rentals at the Hoakalei Resort and Comments Relating to Joint Development Agreements

Dear Chair Kia'aina, Vice-Chair Cordero, and Members of the Committee on Planning and the Economy:

Thank you for the opportunity to submit written testimony. My name is Mark Anthony Clemente writing on behalf of the Hawai'I regional Council of Carpenters. I am writing in **strong support of proposed amendments to Bill 64 (2023) outlined as Items Nos. 4 and 5 in Councilmember Andria Tupola's *Council Communication 255 (2024)*** to allow B&B homes and transient vacation rentals in the A-2 zoning district adjacent to the Hoakalei Resort and lagoon in Ewa. In addition, **we would strongly urge the Committee to restore the Joint Development provisions currently contained in the LUO, that is § 21-5.380 regarding joint development of two or more adjacent subdivision lots and § 21-5.380A regarding the joint development of two or more adjacent subdivision lots—Waikiki special district or Ala Moana transit-oriented development special district, and to add "Joint Development" back into the Use Table under Miscellaneous in § 21-5.30.**

The proposed amendments would provide alternatives for short-term lodging in the apartment zoned areas adjacent to the Hoakalei Resort including bed and breakfast homes and transient vacation rentals. This change would be consistent with other established resort areas on Oahu and supports the policies expressed in the Oahu General Plan and the Ewa Development Plan.

There are six locations on O'ahu with Resort zoning: Waikīkī, Hoakalei, Ko'olina, Mākaha,

STATE HEADQUARTERS & BUSINESS OFFICES
OAHU: 1311 Houghtailing Street, Honolulu Hawaii 96817-2712 • Ph. (808) 847-5761 Fax (808) 440-9188
HILO OFFICE: 525 Kilauea Avenue, Room 205, Hilo, Hawaii 96720-3050 • Ph. (808) 935-8575 Fax (808) 935-8576
KONA OFFICE: 75-126 Lunapule Road, Kailua-Kona, Hawaii 96740-2106 • Ph. (808) 329-7355 Fax (808) 326-9376
MAUI OFFICE: 330 Hookahi Street,Wailuku, Maui 96793-1449 • Ph. (808) 242-6891 Fax (808) 242-5961
KAUAI OFFICE: Kuhio Medical Ctr Bldg., 3-3295 Kuhio Hwy, Suite 201, Lihue, Kauai 96766-1040 • Ph. (808) 245-8511 Fax (808) 245-8911

Turtle Bay and Lā‘ie. As currently written, the LUO allows these lodging alternatives in proximity to three of the six established resort zones: Waikīkī, Turtle Bay, and Ko‘olina. By including the Hoakalei Resort area, visitors and residents gain greater access to a wider range of short-term lodging options, catering to varying needs, preferences, and budgets for both visitors and residents. This diversity of accommodations will provide additional economic support and opportunities in the Ewa area growth by generating additional revenue streams for local owners and local businesses, increasing employment opportunities for the Ewa region, and increasing real property tax revenue for the City.

Expanding alternative lodging choices within the master planned Hoakalei Resort area will also help relieve island-wide demand for visitor accommodations during peak seasons and deter illegal B&B and vacation rentals in our local communities and neighborhoods.

The proposed changes to the LUO are consistent with, and in furtherance of, the General Plan (GP) and Ewa Development Plan (DP) objectives and policies.

O‘ahu General Plan

Section II Balanced Economy,

Objective B To maintain a successful visitor industry that creates living wage employment, enhances quality of life, and actively supports our unique sense of place, natural beauty, Native Hawaiian culture, and multi-cultural heritage.

Policy 8 – Facilitate the development of the following secondary resort areas: Ko Olina, Turtle Bay, Hoakalei, and Mākaha Valley in a manner that respects existing lifestyles and the natural environment. [emphasis added]

Section VII Physical Development and Urban Design

Objective D To develop a secondary urban center in ‘Ewa with its nucleus in the Kapolei area.

Policy 6 – Encourage the development of the Ocean Pointe/Hoakalei Communities as a major residential and recreation area emphasizing recreational activities and a waterfront commercial center containing light-industrial, commercial and visitor accommodation uses. [emphasis added]

The proposed changes to the LUO will create consistent land use conditions across three of the established secondary resort areas designated in the GP and facilitate the development of Hoakalei Resort as intended. The proximity of the A-2 zoning to the resort and waterfront is compatible with the vision of the Hoakalei community as a major residential and recreation area with integrated visitor accommodations.

‘Ewa Development Plan

Urban Land Use Map

Resort/Recreation Area - Areas at Ko Olina and Ocean Pointe/Hoakalei to be developed for hotels, apartments, and accessory commercial and recreational facilities for resort use.

A-2 Medium Density Apartments – Medium Density Apartment - Areas with this designation should be zoned predominantly for medium density apartment use. Mixed use, with retail activities at the ground level, is encouraged.

3.8 Ocean Pointe/Hoakalei

3.8.1 General Policies

On the west, develop a mix of activities around the basin, including a Waterfront Mixed Use area with resort and commercial development, a Medium Density Residential area, and a Light Industrial Mixed Use Support area. Hoakalei is planned to have about 950 visitor units to support its waterfront-oriented activities.

The ‘Ewa DP Urban Land Use Map identifies Hoakalei Resort as a “*Resort/Recreation Area*” for hotels, apartments, and accessory commercial and recreational facilities for resort use, and designates the approximate area of the contiguous A-2 zoning district as “*Medium Density Apartment / Commercial Mixed-Use*”. Permitting B&B homes and transient vacation units within the A-2 zoning district helps meet demand for an important share of the visitor industry market. Integrating transient vacation accommodations within the A-2 zoning district contiguous to the Hoakalei Resort and lagoon, compliments the master planned resort use and is consistent with the ‘Ewa DP general policies for Hoakalei.

I would like to thank Councilmember Tupola for listening to the community and recognizing the need to support the continued growth and economic development of the Ewa area.

I would also like to thank the Committee on Planning and the Economy for its consideration of Councilmember Tupola’s proposed amendments to allow B&B homes and transient vacation rentals in the A-2 zoning district adjacent to the Hoakalei Resort and lagoon in Ewa.

With respect to our comments on Joint Development Agreements (JDA), these are currently available under the LUO and were included in Bill 10, the predecessor to Bill 64, in § 21-5.90(b) and the Use Table. However, the JDA concept appears to have been deleted entirely in the current version of the proposed LUO amendments, which allow transfer of development only in limited circumstances involving certain qualified historic properties.

JDAs are used by a number of our clients and provide for the treatment of multiple subdivision lots as a single lot for zoning and development purposes. The elimination of JDAs will hinder creative, flexible development and limit redevelopment opportunities. There are many reasons why developers may pursue JDAs, including the time required to process subdivisions and consolidations; joint development of parcels held by separate but related entities; phasing of land acquisitions, development, and/or financing; sharing of facilities among parcels; and greater flexibility than is allowed under subdivision rules.

With respect to Section 21-5.380A, “stacked” JDAs allow a lessee who is able to slowly aggregate parcels to develop a unified project over time. This is particularly useful in Waikiki, given the number of ground leases.

In sum, JDAs contribute to efficient and beneficial land use, and we respectfully request that the Joint Development provisions be reinserted in Bill 64.

Mahalo for the opportunity to testify.

Hawaiian Humane Society
People for animals. Animals for people.
2700 Waialae Avenue Honolulu, Hawaii 96826
808.356.2200 • HawaiianHumane.org

Date: Oct. 21, 2024

To: Chair Esther Kiaʻāina
Vice Chair Radiant Cordero
and Members of the Committee on Planning and the Economy

Submitted By: Steph Kendrick, Director of Community Engagement
Hawaiian Humane Society, 808-356-2217

RE: Opposition to Bill 64 (2023), FD1, CD1 Proposed
Tuesday, Oct. 22, 9 a.m., City Council Chamber

Mahalo for considering the Hawaiian Humane Society's opposition to specific provisions of Bill 64 (2023), FD1, CD1 Proposed, Relating to Use Regulations.

The Hawaiian Humane Society is dedicated to promoting the human-animal bond and the humane treatment of all animals.

We recognize the benefit of using domesticated animals in certain lines of work. When horses and dogs are employed in agriculture, law enforcement, property protection, search and rescue, or military service; they must be humanely raised, trained and afforded every consideration for their safety and well-being. All working animals should receive nutritious food, clean water, safe shelter, veterinary care and sufficient socialization with people to allow for safe handling and an acceptable quality of life. Appropriate retirement must be provided to animals who are no longer able to work.

We are concerned about adding dogs and horses to the definition of livestock in the Revised Ordinances of Honolulu and distancing them from the protections provided for companion animals. Dogs are all considered pet animals under state law (HRS711-1100) and equine animals are included in the protections outlined in our first-degree animal cruelty statute (HRS711-1108.5).

We urge you to remove horses and herding dogs from the new definition of "livestock" in Section 71, item 18 of the bill. Mahalo for your consideration.

Hawaii Cattlemen's Council, Inc.

Honolulu City Council
Committee on Planning and the Economy
Tuesday, October 22, 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 have the following comments on the agricultural use sections along with other use categories which touch AG-1 and AG-2 lands.

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 are supportive of the amendments suggested by this group as follows:

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 (EK8)

Agritourism

- Standards listed on page 15-16: remove standards 2, 3, and amend #7 to delete the phrase "and require major conditional use approval."

"(b) Agritourism – standards.
(1) 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.
(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 crop production or livestock and poultry keeping must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation.

(5) Accessory destination events, including weddings, 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."

- Change Agritourism back to 1 category and adjust master use table on p. 4 to reflect Cm* for agritourism.
    - Splitting agritourism into two categories further confuses the issue rather than simplifies it both from an application as well as regulatory standpoint. The proposed separate categories may actually support historic loopholes in the name of agritourism. We also strongly recommend reverting the permitting of Agritourism back to Minor Conditional Use for both AG-1 (Cm) and AG-2 (Cm) as is currently allowed in the LUO. HRS 205 §205-4.5 (Permissible uses within the agricultural districts) (13)(14) already provides permitted agricultural tourism.

Farm Dwelling

- Add in 51% language: A minimum of 51 percent of the zoning lot area suitable for crop production or livestock and poultry keeping must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the farm dwelling exists.
- Farm Dwelling Standards (1). (p.16) Removal of ~~**confined to a polygon for which no exterior angle is greater than 180 degrees.**~~

Farm Worker Housing

- Add in 51% language: A minimum of 51 percent of the zoning lot area suitable for crop production or livestock and poultry keeping must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the farm worker housing exists.

Agricultural Energy Facility - Biofuel Processing Facility on Ag Land

- Add a SUP to this process will help to alleviate concerns regarding movement of invasive species and pests.

Agricultural Support Use Recommendations to Bill 64 (2023) FD1 Proposed CD1 (EK8)

Agricultural Processing, Includes Breweries/Distilleries

- Amend definition of "agricultural processing minor" (p. 192)
    - Minor: Processing Hawaii-grown crops and live Hawaii-raised animal by-products (grown or raised onsite or offsite) such as milk, eggs, ~~and~~ honey, **and aquaculture harvests placed in or on ice**. In the agricultural zoning districts, the term includes the processing of Hawaii-grown crops grown onsite **or offsite** to produce malt beverages, distilled spirits, or wines, **of which at least 51% are Hawaii-grown non-water ingredients.**

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

Group Living, Small

- Designates "C*+" in the AG-2 District for Small group living – State regulated and Small group living – not State regulated (p. 5).
    - 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

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

School, PreK-12

- Allows PreK-12 schools in AG-2 districts as C*+ (Major Conditional Use, Standards, SUP) (p. 5).
    - 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.

Wind Energy Facilities (Small, Medium, Large)

- FD1, PROPOSED CD1 creates standards under ROH Section 21-5.60(a)(3) small utility (p. 40); Section 21-5.60-6(b)(3**)** medium utility (p. 42); and Section 21-5.60-6 (c)(2) large utility (p. 43-45). 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.
    - **Add language in each wind energy facility size to include the following standard:** 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)

- (p. 6) 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)
    - Create an agricultural nexus of at least 51% for animal care on AG-2 land. Add language to standards of: **at least 51% of the zoning lot area suitable for crop production or livestock or poultry keeping must be dedicated to crop production or livestock or poultry keeping**. If this standard 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).
    - 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.
        - Also, this definition is used in describing "agritourism- minor" which is allowed in both ag-1 and ag-2 with a Cm*.

Other General Comments

Aquaculture

- Include aquaculture and urban agriculture in all industrial zones.
    - Past and current aquaculture operations have been sited in industrial zones, and the State is currently considering lots at Campbell Industrial Park as potential sites for an aquaculture park.

Aquaponics

- Remove conflicting language regarding aquaponics. Section 70 (13) places aquaponics under "crop raising" but then provides that the term "crop raising" does not include cultivating aquatic plants or animals. Be definition, aquaponics includes the cultivation of aquatic animals to provide nutrients for the plant crops.

Solar

- Specifically permit solar generation facilities for exclusively on-farm use as an accessory use for all agricultural categories. Bill 64's "ag energy facility" and "small utility" appear to prohibit on-farm solar.

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

UNITE HERE!
Cade Watanabe, Financial Secretary-Treasurer Gemma G. Weinstein, President Eric W. Gill, Senior Vice-President

October 21, 2024

Committee on Planning and the Economy
Honolulu City Council
Councilmember Esther Kia‘āina, Chair
Councilmember Radiant Cordero, Vice Chair

Testimony with comments about Bill 64 (2023) FD1

Chair Kia‘āina, Vice Chair Cordero, and Councilmembers,

UNITE HERE Local 5 represents 10,000 working people in the hotel, food service and health care industries across Hawaii. This includes people living in the Ocean Pointe development. The proposed FD1 to Bill 64 would, among other things, allow for bed & breakfast and transient vacation units in certain A-2 zoned parcels in the Hoakalei Resort area. We do not believe such a change should be made through a modification to the Land Use Ordinance, and it appears that the Unilateral Agreement binding the development would disallow vacation rental usage in the subject area anyway.

In 2016, City Council passed Bill 62 (2015) as Ord. 16-27, rezoning areas around the lagoon. Attached to that bill was an amended and restated Unilateral Agreement, which among other things, stated as a condition:

> “No hotel uses are permitted on the Property except in areas zoned Resort District. No vacation cabin uses are permitted on the Property. Notwithstanding any future amendments to the LUO, no time sharing, bed and breakfast home, transient vacation unit, or other uses involving transient overnight accommodations are permitted on the Property, except to the extent permitted by the LUO in areas zoned Resort District.”

If vacation rentals are to be allowed in the A-2 zoned areas referenced in Bill 64 FD1, this should be done through a renegotiation with the community about what benefits the project will provide in return, to be reflected in a new Unilateral Agreement.

Perhaps it is time to do this anyway, as this project has gone through several major changes since the Land Use Commission approved it in 1990. Bill 63 (2015), signed into law as Ord. 16-28, changed the SMA boundaries for the area. Ordinance 02-58 modified the 1993 UA regarding affordable housing requirements. Ordinance 02-09 revised the drainage plan and allowed for a reduction of the marina, as well as changing the UA regarding the golf course.

Among other things, it might be a good time to examine the impact of the lagoon’s fresh water usage, especially in light of the overall impact of the Red Hill fuel leaks to the water supply, and the impacts of the other developments that have been built since this project was first approved.

Thank you for your consideration. Please reject this amendment to Bill 64.

Mahalo.

AGENDA REGULAR MEETING CITY COUNCIL CHAMBER TUESDAY, OCTOBER 22, 2024 9:00 A.M.

COMMENTS FROM CHOON JAMES

COMMITTEE ON PLANNING AND THE ECONOMY Voting Members: Esther Kiaʻāina, Chair Radiant Cordero, Vice-Chair Val A. Okimoto Calvin K.Y. Say Matt Weyer

Aloha Chair Esther Kia'aina and Committee Members:

MAHALO PLENTY for the "redline" format below!

The above format is so much more public-friendly and less confusing to follow the changes to the LUO overhaul. It's been really confusing and extremely time-consuming to try to follow the Bill 64 process.

PLEASE ALLOW ANOTHER OVERALL REVIEW for the entire Bill 64.

It's a BIG ASK, but we are requesting that the entire LUO be in this format for public education and public input. Thus far, only the very last portion of Bill 64 on Misc. Section is fully formatted in this manner.

We understand the City Council wishing to complete this process asap as early as December 11, 2024. However, something of such significance and impacts on Oahu requires widespread Grassroots participation.

We ask the city council provide magnanimous understanding to the public and allow this Bill 64 a public review in its entirety in the "redline" or "Ramseyer" format as shown above.

We understand so much effort have been put into this Bill 64 process. However, Bill 64 will become the new "Bible" for Oahu land use for the foreseeable future. It's imperative that the grassroots have the opportunity to digest and give input to this final product.

We understand and appreciate all who have submitted their input. But it's also apparent that it has been the MAJOR stakeholders and corporations that has put in their efforts and interests into the process the most.

A few other smaller groups are cornered into protecting their own "territories" due to time and resources. Many neighbor board members are not aware. One neighborhood board, due to lack of time mostly, have to pick "top 3 issues" but unfortunately have to forgo the others, which is just as important to others.

We're aware that City Council District 1 has held forums for parts of this Bill 64. Even then, not everyone could attend or attend for various reasons.

We're also concerned that it's been corporate interests who have the time and paid employees who can lobby for their own interests.

However, the average citizen and resident have not been at the table. This is not a judgment on you all but it's just a fact that the average citizen does not have the time nor the resources to represent themselves vigorously most of the time at the State or City level. There is no widespread mechanism to focus on all important legislative issues.

However, in this case, there must be more ordinary people participation because Bill 64 directly and significantly impact ordinary people the most. Corporations and their employees come and go. But ordinary local residents are left to live with the inevitable impacts for a longer time.

(Example: I was at a public school in Oahu and was so surprised to see a tower with 5G Communications tower so close to the classrooms. Our students spend a majority of their growing up years in schools. Their health should be protected fiercely by us adults.)

Please allow more time and allow this Bill another final review.

Also, it would make more sense to re-activate the AG DEVELOPMENT TASK FORCE and have public discussions BEFORE adopting Bill 64.

RES24-243
Measure Title:
RECONVENING THE HONOLULU CITY COUNCIL'S AGRICULTURAL DEVELOPMENT TASK FORCE TO FOSTER THE GROWTH AND ENHANCEMENT OF AGRICULTURAL ACTIVITIES ON O'AHU.

I maintain that Bill 64 will be much better legislative product that better fits the needs of our residents - - when local residents have ample opportunity to study, understand, and to provide their valuable frontline, on the ground knowledge, experience, and opinions.

Sincerely,
Choon James
ChoonJamesHawaii@gmail.com

References:

https://hnldoc.ehawaii.gov/hnldoc/document-download?id=22750

3. BILL 64 (2023), FD1 – LUO AMENDMENT RELATING TO USE REGULATIONS. Addressing the regulation of uses throughout Chapter 21, Revised Ordinances of Honolulu 2021 ("Land Use Ordinance" or "LUO"). (Bill passed first reading 12/06/23; Committee amended the bill to CD1 and postponed action 9/26/24)

Related communications:

CC-266 Councilmember Kia‘āina, submitting supplemental proposed amendments to Miscellaneous Uses in Bill 64 (2023), FD1 for the Committee on Planning and the Economy Meeting on October 22, 2024.

https://hnldoc.ehawaii.gov/hnldoc/document-download?id=22745

CC-267 Councilmember Kia‘āina, submitting response to Council Communication 259 (2024) from Councilmember Weyer, relating to proposed amendments to miscellaneous uses in Bill 64 (2023), FD1. Committee on Planning and the Economy Agenda Addendum Tuesday, October 22, 2024 4

CC-268 Councilmember Kia‘āina, submitting response to Council Communication 255 (2024) from Councilmember Tupola, relating to proposed amendments to miscellaneous uses in Bill 64 (2023), FD1.

ESTHER KIA‘ĀINA, Chair Committee on Planning and the Economy

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

530 S. KING ST. STE. 202, HONOLULU, HI 96813

'24OCT17 PM 3:13 CITY CLERK

ESTHER KIA'ĀINA
VICE CHAIR, HONOLULU CITY COUNCIL, DISTRICT III
HOPE LUNA HO'OMALU
TELEPHONE: (808) 768-5003
EMAIL: ekiaaina@honolulu.gov
https://www.honolulucitycouncil.org/district-3-kiaaina

MEMORANDUM

DATE: October 17, 2024

TO: Pearlene Sotelo
Clerk, Committee on Planning and the Economy

FROM: Esther Kia'āina, Chair
Committee on Planning and the Economy

SUBJECT: Supplemental Kia'āina Proposed Amendments to Miscellaneous Uses in Bill 64 (2023), FD1, for the Committee on Planning and the Economy Meeting on October 22, 2024

Attached for consideration by the Committee on Planning and the Economy at its meeting on September 26, 2024, are my proposed supplemental amendments to Bill 64 (2023), FD1, relating to land use regulations. These proposed amendments are in addition to my proposed amendments in Council Communication 262 (2024).

Attachments (1):

Amendment Form, Miscellaneous Uses, Bill 64 (2023), FD1, Relating to Use Regulations

COUNCIL COM. 266
P&E

AMENDMENT FORM
Bill 64 (2023), FD1
Relating to Use Regulations
MISCELLANEOUS USES

TOTAL PAGES: 2
DATE: October 17, 2024
COUNCILMEMBER: Esther Kia'āina

Item No.	Bill SECTION	ROH Section, Exhibit, or Figure, and Title	Page No.	Amendment Description	Amendment Text (in Ramseyer Format)	Comments or Clarification
1	SECTION 3	Table 21-5.1 Table of Permitted Uses Agricultural use category Accessory agricultural subcategory Minor and major agritourism entry	4		<table><tr><td>Agritourism</td><td>--</td><td>Cm*</td><td>Cm*</td><td>--</td><td>--</td><td>--

CD1 TO BILL 64 (2023), FD1 (Approved by the Committee at its meeting on September 26, 2024) – The CD1 (OCS2024-0907/10/8/2024 1:45 PM) makes the following amendments:

A. In SECTION 3 of the bill, amends Table 21-5.1 as follows:

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).

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).

3. Deletes the vertical farm entry. (Vertical farm will be a type of farming under the crop raising and urban agriculture uses.)

4. Amends the "Livestock Keeping" subcategory to read "Livestock and Poultry Keeping."

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 agricultural energy facility entry to change "P*" to "Cm*" in the AG-1 and AG-2 Districts, and change "P" to "Ac" in the I-1 and I-2 Districts.

10. Amends the agritourism entry to:

a. Separate agritourism into a minor and major use;

b. For minor agritourism, designate "Cm*" in the AG-1 and AG-2 Zoning Districts; and

c. For major agritourism, designate "C*" in the AG-1 and AG-2 Zoning Districts.

11. Deletes the beekeeping entry as an accessory agricultural use (accessory beekeeping will not be regulated as a separate accessory use, and beekeeping as a principal agricultural activity is included under the outdoor animal raising use).

12. Deletes the biofuel processing facility entry as an accessory agricultural use (accessory biofuel processing facility is included under the agricultural energy facility use, and biofuel processing facility as a principal use is regulated under industrial uses.

13. Amends the farm dwelling entry to change "P*" to "Ac*" in the AG-1 and AG-2 Districts, and conform the reference to the standards in ROH § 21-5.40-4(c).

14. Amends the farm stand entry to change "P*" to "Ac*" in the AG-1, AG-2, and Country Districts, and conform the reference to the standards inROH § 21-5.40-4(d).

15. Amends the farm worker housing entry to conform the reference to the standards in ROH § 21-5.40-4(e).

16. 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).

17. 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).

18. 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)).

19. 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.

20. 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).

21. 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).

22. 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).

23. 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.

24. Amends the medium meeting facility entry to add "C*" in the I-1 Zoning District.

25. 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).

26. 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).

27. Amends the alternative communication support structure entry to refer to the use as "communication support structure (delete "alternative").

28. 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.

29. Amends the K-12 school entry to rename "K-12 school" as "PreK-12 school".

30. Amends the minor vocational school entry to add "P*" in the AG-1 and AG-2 Zoning Districts.

31. 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).

32. Amends the university and college entry to delete the reference to the standards in ROH § 21-5.60-3(c).

33. Amends the prison entry to delete the reference to the standards in ROH § 21-5.60-4(b).

34. 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).

35. 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).

36. 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).

37. 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).

38. 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).

39. 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.

40. Amends the biofuel processing facility entry (under the industrial uses category) to delete "C*" in the P-2 District (not permitted in the P-2 District).

41. Amends the helistop entry to change "Ac*+ C" to "C*+" in the AG-1, AG-2 Zoning Districts, and change "Ac*C" to "C*" in the Resort, B-2, BMX-3, BMX-4, I-1, and IMX-1 Districts.

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 the hours of operation standard, and the standard providing that onsite sale of produce and flowers grown onsite are allowed during hours of operation;

d. Delete sign and off-street parking standards because these are already covered under § 21-7.40 and § 21-6.50(c), respectively; and

e. 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 § 21-5.40-4(a), relating to agricultural energy facility standards, to:

    a. Clarify that no more than 10 percent of the portion of the zoning lot or zoning lots used for crop production or livestock and poultry keeping may be used for the agricultural energy facility, consistent with the regulation of permissible uses within the agricultural districts pursuant to HRS 205-4.5(a)(17); and

    b. Add a 300-foot setback requirement from the property line of any adjoining property within the residential, apartment, or apartment mixed-use zoning district.

14. Amends ROH § 21-5.40-4(b), relating to agritourism standards, to:

    a. Delete a duplicative standard that requires 51 percent of the of the zoning lot area suitable for crop production or livestock and poultry keeping to be dedicated to crop production or livestock and poultry keeping, and delete the provision regarding the adoption of administrative rules;

    b. Refer to accessory destination events, including weddings (instead of weddings and similar accessory destination events); and

    c. Refer to farm or ranch operations.

15. Deletes ROH § 21-5.40-4(c), relating to accessory beekeeping standards (accessory beekeeping will not be regulated as a separate accessory use, and beekeeping as a principal

agricultural activity is included under the outdoor animal raising use).

16. Deletes ROH § 21-5.40-4(d), relating to standards for a biofuel processing facility as an accessory agricultural use (accessory biofuel processing facility is included under the agricultural energy facility use, and biofuel processing facility as a principal use is regulated as an industrial uses). Realphabetizes subsequent subsections in ROH § 21-5.40-4.

17. Amends realphabetized ROH § 21-5.40-4(c), relating to farm dwelling standards, to:

    a. Delete the standard that requires 51 percent of the of the zoning lot area suitable for crop production or livestock and poultry keeping to be dedicated to crop production or livestock and poultry keeping;

    b. Clarify that a storage shed that is not used in connection with agricultural activities will be included in the 5,000 square-foot maximum area; and

    c. In the AG-1 and AG-2 Zoning Districts, provide an exception to maximum number of farm dwellings allowed if more farm dwellings are approved under an agricultural site development plan or agricultural cluster permit.

    d. Delete the standard requiring that multiple farm dwellings permitted on a zoning lot not exceed 10 percent of the total zoning lot area.

18. Amends realphabetized ROH § 21-5.40-4(d), relating to farm stand standards, to:

    a. Clarify that one farm stand for the growers and producers of agricultural products is permitted is allowed per zoning lot; and

    b. Delete the standard that no electricity, sewer, water, or other utility services are allowed in conjunction with a farm stand.

19. Amends realphabetized ROH § 21-5.40-4(e), relating to farm worker housing standards, to:

    a. Delete the requirement that the farm worker housing must occupy at least 5 percent of the total agricultural land area on the zoning lot;

    b. Move the building area and impervious surface standards to subdivision (1); and

    c. Delete the yard and height setback standards.

20. Amends realphabetized ROH § 21-5.40-4(f), relating to agricultural farmers market standards, to:

    a. Delete the requirement for adequate off-street parking and vehicular access; and

    b. Delete the provision regarding the adoption of administrative rules.

21. Amends ROH § 21-5.50-1(a), relating to duplex-unit standards, to reference Figure 21-10.3.

22. 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.

23. 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.

24. 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.

25. 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).

26. 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.

27. 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.

28. 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).

29. 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).

30. 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).

31. 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.

32. 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.

33. 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.

34. Amends ROH § 21-5.60-2(d), relating to accessory communication structure standards, to rename "accessory communication structure" as "accessory receive only antenna."

35. 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.

36. 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.

37. 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).

38. Deletes ROH § 21-5.60-3(c), relating to university and college standards (will be subject to Plan Review Use conditions).

39. Deletes ROH § 21-5.60-4(b), relating to prison standards (will be subject to Plan Review Use conditions).

40. 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.

41. 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.

42. 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.

43. 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.

44. 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.

45. 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.

46. 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.

47. 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.

48. Amends ROH § 21-5.80-1(b), relating to standards for a biofuel processing facility as a principal industrial use, to add a

standard pursuant to HRS § 205-4.5(a)(16), providing that in the AG-1 and AG-2 Zoning Districts, agricultural land and uses in the vicinity of the biofuel processing facility must not be adversely impacted.

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 "agritourism" to:

    a. Clarify that the term includes accessory destination events, such as weddings;

    b. Define "minor agritourism" as use of the property for 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; and

    c. Define "major agritourism" as all other agricultural-related tourism activities that do not fall within the minor agritourism use.

5. 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, rabbits, and bees 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 includes beekeeping as an agricultural use;

    d. Provide that the term does not include feedlots (refers to confined animal raising) or animal shelters (refers to animal care); and

    e. 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.

6. 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).

7. Amends the definition of "aquaculture" to provide that the term does not include cultivating land-based crops, including with hydroponics (refers to crop raising).

8. Amends the definition of "biofuel processing facility" to delete the definition of biofuel processing facility as an accessory agricultural use, and define biofuel processing facility as an industrial use to mean 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.

9. 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.

10. 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.

11. Amends, rather than deletes, definitions of "minor and major composting."

12. Amends the definition of "consulate" to clarify that consulates are eligible for zoning waivers that apply to public facilities.

13. 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.

14. Amends the definition of "child daycare" to add a cross reference to public facility.

15. 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.

16. 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.

17. Amends the definition of "duplex-unit dwelling" to reference Figure 21-10.3.

18. Amends the definition of "farm dwelling" to:

a. Provide that a farm dwelling may NOT be accessory to the boarding and care of animals; and

b. Require that onsite agricultural activity provide income to the household occupying the farm dwelling.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. Amends the definition of "general outdoor recreation" to clarify that horseback riding tours are not general outdoor recreation. Cross references animal raising.

27. 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.

28. 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).

29. 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).

30. 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.

31. Amends the definition of "transient occupant" to reference transient vacation unit, bed and breakfast home, rooming, and hotel.

32. 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 energy facility" to provide that:

   a. The term includes producing, harvesting, and preparing Hawaii-grown feedstock for use at the agricultural energy facility; and

   b. The term does not include the use of grease, food wastes, animal residues, or animal wastes from offsite commercial or industrial uses to generate energy (references biofuel processing facility).

3. 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).

4. Amends the definition of "agricultural farmers market" to:

   a. Clarify that the use is an accessory outdoor market for the sale of Hawaii-grown products located on a zoning lot with a principal agricultural use; and

   b. Provide that the term does not include outdoor markets and similar uses conducted outside of the agricultural zoning

districts, farm stands, or mobile commercial establishments.

5. 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.

6. 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).

7. Amends the definition of "beekeeping" to:

   a. Refer to beekeeping as an agricultural activity;

   b. Clarify that the term does not include accessory commercial beekeeping in zoning districts where home occupations are permitted, which must comply with home occupation standards; and

   c. Add that the term does not include accessory backyard beekeeping on the same zoning lot on which the beekeeper's dwelling unit is located, which is subject to the animal nuisance requirements for the keeping of honeybees.

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8. Moves the definition of biofuel processing facility as an industrial use to SECTION 70 of the bill.

9. 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.

10. 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.

11. 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.

12. 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.

13. Amends the definition of "farm stand" to clarify that the term does not include a mobile commercial establishment or agricultural farmers market.

14. Amends the definition of "forestry" to delete reference to edible fruit, and to cross reference plant nursery, crop raising.

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15. 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.

16. 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.

17. 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.

18. 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, rabbits, and herding dogs that are not raised as household pets or for purposes of personal use and companionship.

19. 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.

20. 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.

21. 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.

22. 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.

23. Amends the definition of "prison" to cross reference public facility.

24. 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.

25. Amends the definition of "single-unit dwelling" to reference Figure 21-10.3.

26. 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.

27. Amends the definition of "two-unit dwelling" to reference Figure 21-10.3.

28. 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.

29. 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.

30. 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.

31. Amends the definition of "vertical farm" to provide that the term does not include cultivating aquatic plants or animals (see aquaculture).

32. 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.

33. 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.

34. 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-254 Councilmember Kia‘āina, submitting instructions for amendments to Bill 64 (2023), FD1, for the P&E meeting on October 22, 2024 (Miscellaneous Uses and Clean-up Amendments)

CC-255 Councilmember Tupola, submitting proposed amendments to Bill 64 (2023), FD1

CC-259 Councilmember Weyer, submitting proposed additional amendment to Bill 64 (2023), FD1 – Miscellaneous uses

CC-262 Councilmember Kia‘āina, submitting proposed amendments to Miscellaneous Uses in Bill 64 (2023), FD1, for the Committee on Planning and the Economy Meeting on October 22, 2024

EXECUTIVE SESSION

If the need arises with respect to any item on this agenda, then pursuant to Hawai‘i Revised Statutes Sections 92-4 and 92-5(a)(4), the Committee may consult in a closed meeting with its attorneys in executive session on questions and issues pertaining to claims and other matters on the Council's powers, duties, privileges, immunities and/or liabilities relating to that item.

ESTHER KIA‘ĀINA, Chair

Committee on Planning and the Economy

Office of City Clerk

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Honolulu, Hawai‘i 96813
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Testimony in Opposition
BILL 64 (2023), FD1
RELATING TO USE REGULATIONS.
Planning & the Economy Meeting on October 22nd, 2024
Submitted by Natalie Wohner

Aloha Committee Chair Kia'āina, Vice Chair Cordero, and Committee members,

My name is Natalie Wohner and I am a resident of Kailua. I respectfully submit this testimony in opposition to the proposed Agricultural Use amendments which **re-introduces the requirement of an "agricultural easement or similar legal encumbrance" for farm dwellings** (standard (4) of § 21-5.40-4(e) of Chair Kia'āina's proposed amendments):

> "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."

I understand that the goal of this bill is to increase production on agricultural lands and to avoid "gentlemen's farms". I fully support you in achieving this goal to ensure food security and help O'ahu become more resilient. However, how does this amendment address existing farms and ensure they are in active production? From previous hearings, it sounded like existing farms would be grand-fathered in and no such easement would be required. I therefore don't see how this amendment will help regulate already existing gentlemen's farms and increase production on those lands that are creating an issue right now.

Farming is already a tough business with little margins for hard labor. Historically, farmers have lived and worked on their lands because it works to make small agricultural businesses practical. Living on the land deters thieves, who are a big threat to Hawai'i farmers, and makes farmland more affordable considering the high rental market. Re-introducing this requirement would create another obstacle for the average local farmer to be able to afford farmland, make farming more unattractive to our youth, and even put some farmers out of business considering their already small margins.

Farmers would have to give up their property rights in exchange for the right to build a home. **Obtaining an agricultural easement from a government agency or land trust is a lengthy legal process** with no clear pathway to completion. What small farmer will have the means to pay for such a process? Wealthy real-estate developers seem much more likely to have the resources needed to satisfy this extraordinary new standard, while the average farmer would be left behind.

I kindly urge you to remove the requirement of an agricultural easement or similar legal encumbrance for farm dwellings since it does not support small local farmers or ensure an increase in food production.

Mahalo for considering my testimony!
Sincerely,
Natalie Wohner

October 21, 2024, Kailua

GRASSROOT INSTITUTE OF HAWAII

1050 Bishop St. #508
Honolulu, HI 96813
808-864-1776
info@grassrootinstitute.org

Removing barriers to Hawaii's prosperity

Oct. 22, 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 would like to **comment** on the portions of Bill 64 (2023), FD1 that would address "miscellaneous" permissible uses in the county's land-use ordinance.

Specifically, the section of Bill 64 that deals with miscellaneous permissible uses discusses the creation of a "transfer of development rights" program to assist with historic preservation.

In this testimony, Grassroot will address the proposal that would allow innovative, incentive-based mechanisms to assist in historic preservation, as well as several other of the proposed amendments relating to this section.

>> Transfer of development rights

A transfer of development rights occurs when the owner of a parcel moves that right from one parcel to another. The right concerns the authority of a property owner to add a second dwelling, a business, a second story or some other density to an existing property.

Transfer-of-development-rights programs can create powerful incentives for the preservation of historic properties. A commercial building constructed 150 years ago is typically about only three or four stories tall, yet the zoning might permit as many as 10 stories, depending on the district.

Allowing the owner of the historic building to transfer the unused floor area permitted by the zoning from the historic property to another lot they own — or sell to the owner of another lot — could generate tens of thousands of dollars to help cover the cost of maintaining the historic building.

Bill 64 thus proposes to allow transfers of development rights for Honolulu properties listed on the Hawaii Register of Historic Places, the National Register of Historic Places or both.

An owner of any of these properties would be allowed to sell, give or otherwise transfer unused floor area from the "donor" historic property to a "receiving" property, so long as neither property is in the preservation or residential zoning districts.

A transfer under this proposal would need approval from the Honolulu Department of Planning and Permitting, which would have to be provided the plans for developing or redeveloping the receiving property, the plans to maintain the donor historic property, and the agreements that would bind the donor and receiving owners to to comply with those plans for a minimum of 60 years.

This is all good so far as it goes, but Grassroot suggests three amendments.

First, the draft should explicitly indicate that a receiving lot does not need to add additional parking spaces to accommodate the new floor area. Because land in urban Honolulu is so expensive, adding the costs of new parking to the transfer could make it financially infeasible to add the new floor area.

A comprehensive 2007 review of transfer of development rights programs in 10 cities found that stringent regulations on the transfer and use of development rights often meant that fewer transfers occurred, undermining program goals.[1]

Second, the Council should remove the following language from subsection (d) of the TDR section of the draft bill: "The transfer of floor area to the receiving lots will not cause the density of any of the receiving lots to exceed the maximum floor area ratio permitted under this section."

This is currently listed as a condition for approval by the department, but this would undermine the flexibility of the program. Why would a receiving lot pay for development rights when it could add new floor area allowed by the zoning code for free?

According to that 2007 review, "If developers are allowed to build beyond baseline density limits using means other than TDRs … then they have little incentive to incur the costs of purchasing TDRs to get that extra

[1] Margaret Walls, Virginia McConnell, "Transfer of Development Rights in U.S. Communities," Resources for the Future, 2007. pp. 124-125.

density. This reduces TDR sales and the amount of land preserved through the program. We saw strong evidence of this problem in St. Mary's County, Maryland."[2]

Finally, Grassroot suggests increasing the maximum floor area that can be received. The current draft of the bill would cap the floor area that could be transferred at only 15% of the floor area normally permitted on the receiving lot. A higher cap would increase the monetary value of the transaction, assisting both the seller and the buyer.

>> Joint development

Regarding proposed changes to the county's joint-development programs — where developers can build on two lots in the same zone as if they were the same lot — the current land-use ordinance allows two of them: one for adjacent lots and one for non-adjacent lots. Bill 64, however, proposes to delete both.

Instead, Grassroot supports an amendment being proposed by Councilmember Weyer that would leave in the joint-development programs for adjacent lots, since it gives builders flexibility whenever they happen to own two adjacent lots in the same zoning district.

>> Aquaculture

Regarding aquaculture, Grassroot supports Committee Chair Kiaʻāina's amendment to allow aquaculture as a permitted use in industrial zoning districts.

>> Dedications for farmworker housing

Regarding farmworker housing, Grassroot has concerns about Councilmember Weyer's amendment that would require all farmworker housing to be dedicated to farmworker housing for 50 years.

Farmers and ranchers might opt against building farmworker housing if it were subject to this requirement, which seems to assume there would be no changes in either the agriculture industry or the laws surrounding it over the next half-century.

If a dedication is to be imposed, Grassroot suggests a shorter time period, such as 10 years.

>> Home-based childcare

Home-based childcare is another miscellaneous permitted use that would be affected by Bill 64. In particular, Grassroot urged the Committee to adopt the two amendments offered by Councilmember Weyer that would

[2] Ibid, p. 124.

allow a second non-household employee to assist with childcare if the principal caregiver is unavailable because of a sickness or other emergency.

The current draft of the bill allows only one non-household member to work in the home in addition to the household childcare provider.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

KUA'ĀINA ULU 'AUAMO

October 21, 2024

ATTN: **Honolulu City Council**
Ke Kanihela o ke Kalana o Honolulu
City & County of Honolulu
Committee on Planning and the Economy
City Council Chamber
Submitted *via* https://hnldoc.ehawaii.gov/hnldoc/testimony

SUBJECT: **Strong Support for Councilmember Esther Kia'āina's Proposed Amendments to "Miscellaneous Uses" in Bill 64 (2023), FD1 Regarding Caretaker Units for Hawaiian Fishponds**
Regular Meeting, October 22, 2024, 9:00 a.m.

Aloha pumehana kākou:

Kua'āina Ulu 'Auamo (KUA) submits this testimony in **strong support** of Councilmember Kia'āina's proposed amendments regarding caretaker units for Hawaiian fishponds (loko i'a). Specifically, Councilmember Kia'āina calls for amending Bill Section 3, Revised Ordinances of Honolulu (ROH) § 21-5.50-3(b) to allow for Hawaiian fishpond caretaker units of up to 1,000 square feet in P-2, AG-1, and AG-2 zoning districts. This includes amending Bill Section 71, adding definitions to ROH § 21-10.1 for "caretaker unit" including for maintenance and security of cemeteries and Hawaiian fishponds; and the same definition of "Hawaiian fishpond" as defined in Hawai'i Revised Statutes (HRS) § 183B-1.

"Kua'āina Ulu 'Auamo" stands for "grassroots growing through shared responsibility," and our acronym "KUA" means "backbone." **Our mission is to connect and empower communities to improve their quality of life through the collective care for their biocultural (natural and cultural) heritage, serving as a "backbone organization" that supports creative and community-driven solutions to problems stemming from environmental degradation.** Hawai'i's biocultural resources continue to be negatively impacted by political, economic, and social changes, and the increasing dangers of climate change make fostering and empowering resilient communities acutely critical.

Currently KUA supports three major networks of: (1) almost 40 mālama 'āina (caring for our 'āina or "that which feeds") community groups collectively referred to as E Alu Pū (moving forward together); (2) over 60 loko i'a (fishpond aquaculture systems unique to Hawai'i) and wai 'ōpae (anchialine pool systems) sites in varying stages of restoration and development, with numerous caretakers, stakeholders, and volunteers known as the Hui Mālama Loko I'a ("caretakers of fishponds"); and (3) the Limu Hui made up of over 50 loea (traditional experts) and practitioners in all things "limu" or locally-grown "seaweed." Our shared vision is to once again experience what our kūpuna (ancestors) referred to as **'ĀINA MOMONA** – abundant and healthy ecological systems that sustain our community resilience and well-being.

KUA is grateful to and appreciative of Councilmember Kia'āina's consideration of our precious loko i'a, and particularly the kia'i loko i'a (fishpond caretakers/protectors) who dedicate their lives to restoring and caring for such places.

KUA'ĀINA ULU 'AUAMO

Prior to 1900, **Hawai'i had close to 500 flourishing loko i'a, sustaining communities in numerous ways including through sustainable local seafood, limu, shellfish, and fertilizer – at one time producing an average of 400-600 pounds of fish per acre per year, yielding over 2 million pounds of fish annually throughout Hawai'i.** (*See Generally,* Loko I'a Needs Assessment, 2021). The U.S. Organic Act of 1900 (the Act) abandoned the support of most semblances of Native Hawaiian governance, especially in regard to biocultural resource management. The Act then transferred the aegis of governance – or lack thereof – to a U.S. laissez faire market system, ended Konohiki Fishery Management, and condemned loko i'a – extinguishing most of the existing ownership and operations of these systems. For context, in 1901 the catch and sale data for commercial 'ama'ama (mullet) – believed to be mostly fishpond-raised – decreased from close to 800,000 pounds of fish to less than 3,000 pounds today, with an estimated 88% of all food consumed in Hawai'i now imported. **Rebuilding our robust and sustainable local food systems is critical to community resilience in the face of more frequent natural disasters** such as the devastating Maui fires last year, 2018 floods, climate change, and long lasting pandemics.

Up until about nine years ago, all loko i'a restoration was stymied by an overly burdensome permitting process. It could often take decades to secure all the required state and federal permits to restore the ponds. A partnership of regulatory agencies, funders, and nonprofits formed in 2012 to design a better process, including input from members of KUA's Hui Mālama Loko I'a – and the Hō'ala Loko I'a Program was born after extensive consultations with loko i'a practitioners, scientists, resource agencies, and government officials. Since the loko i'a permit streamlining was implemented in 2015, 24 fishpond permits have been approved on six of the main Hawaiian Islands, with an average processing time reduced from many years to under one month. The success of permit streamlining for loko i'a serves as a resounding example of the power of our collective sharing of responsibility to care for our island home and resources.

Unfortunately, even with streamlined permitting, caring for loko i'a remains a long and arduous journey while ironically, loko i'a have the proven potential to benefit all of Hawai'i's society from increasing biodiversity, food, and jobs, to the undeniable spiritual and cultural benefits of such knowledge and practices. As such, KUA was both surprised and delighted a few months ago when one of our community members informed us of these proposed amendments for loko i'a caretaker units. Since then, we met with Council Member Kia'āina's staff and connected them with more loko i'a caretakers to share their feedback, including the need and appreciation for such amendments. As such, we strongly support the proposed amendments to foster more loko i'a efforts, and encourage similar laws and community collaborations to build toward our shared vision of 'āina momona – increasing Hawai'i's fish, in Hawai'i's waters, for Hawai'i's people first and foremost, utilizing traditional and customary Native Hawaiian practices and values.

Besides increasing biodiversity in our nearshore ecosystems, loko i'a likewise serve as essential building blocks for our sustainable food systems infrastructure here in Hawai'i; a system that has been broken for far too long. **Many loko i'a practitioners envision a future when loko i'a can be fully functional once again to feed both our bodies and collective well being. These amendments facilitate and encourage such a future because effective kilo (observation), management, and security of loko i'a require dedicated attention and presence at all hours of the day to truly understand and protect loko i'a.**

KUA‘ĀINA ULU ‘AUAMO

Thanks to Councilmember Kia‘āina’s thoughtful inclusion of loko i‘a caretaker units in amending Bill 64, we see the City & County of Honolulu as a potential leader in recognizing the importance of loko i‘a. Likewise, we hope that the amendments, if adopted, will serve as an example for other Hawai‘i counties to follow suit in supporting loko i‘a revitalization in various ways. We appreciate creative and collaborative approaches that account for our Native Hawaiian traditional & customary practices with intention, and in a way that benefits ongoing community efforts such as loko i‘a as catalysts for systemic improvements to our food systems, societal Native Hawaiian cultural understandings, and overall local well being.

The communities we work with are committed to ensuring the long-term health of our biocultural resources that they have cared for and depended on for generations since time immemorial. Our ‘āina, or “that which feeds” including our land and water ecosystems, is the foundation of our very existence, requiring long-term prioritization toward restoring ‘āina momona. To get there requires dedication to innovative pathways, mindsets, relationships, and resources for mālama ‘āina efforts such as loko i‘a. Passing these amendments for loko i‘a is an excellent step toward achieving ‘āina momona once again. Mahalo nui loa to Councilmember Kia‘āina and her staff for this effort. Please **pass** her proposed amendments regarding loko i‘a caretaker units.

‘O ke aloha ‘āina nō,

Kevin K.J. Chang
Executive Director

Brenda Asuncion Lima
Hui Mālama Loko I‘a Coordinator

Olan Leimomi Fisher
Kua‘āina Advocate

Opposition to Bill 64 (2023) FD1, Proposed CD1 (EK8) Relating to Land Use Ordinance (LUO) Use Regulation Amendments

Honolulu City Council Committee on Planning and Economy

Tuesday, October 22, 2024; 9:00 a.m.

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

Thank you for your leadership on this important measure. I strongly **oppose** the proposal to require agricultural easements for farm dwellings (standard (4) of § 21-5.40-4(e) as proposed by Chair Kia'āina). Obtaining an agricultural easement is much too challenging, expensive and time-consuming for most local farmers. The onerous standard will restrict farmers' ability to construct homes for themselves and lead to significant losses to our agricultural economy, especially for small farms.

There are alternative approaches to ensure that AG lands are being used for agricultural activities that are effective and much less burdensome on local farmers. These include:

1. Maintaining valid agricultural dedication status with the Real Property Assessment Division under ROH §8-7.3.
2. A standard for gross annual income from sales of agricultural products grown on the zoning lot where the farm dwelling is located.

These two options were suggested by the State of Hawai'i Department of Agriculture on page 11 of their testimony dated September 26, 2024. Please revised the proposed standard to include these options.

The difficulty of the easement process is reflected in data provided by the UHM College of Tropical Agriculture and Human Resources (https://www.ctahr.hawaii.edu/AgLand/implemented-ag-easements.html). To date, only one property on O'ahu has successfully obtained an agricultural easement. To obtain the easement, a partnership of federal, state, and county agencies and non-profit land trusts was required (https://www.tpl.org/media-room/diverse-partnership-conserves-hi-ranch-land-and-open-space).

The burden of obtaining an easement will make building a home impractical for many small farmers. By severely restricting access to this important housing resource, Bill 64 will lead to:

- Decline in economic opportunities for small agricultural businesses;
- More subdivision of agricultural land into smaller parcels;
- A deepening housing crisis;
- Less incentives for the future generation to become agricultural entrepreneurs;
- Displacement of local families when existing farm dwellings are destroyed by storm or fire (they cannot rebuild unless they conform with the new standards);
- Environmental decline as agricultural land is left unmanaged.

Thank you for this opportunity to provide input on the proposed revisions to the LUO. This is critical work because community goals for a diverse economy and healthy environment are strongly tied

to Honolulu's standards for agricultural use. I look forward to continuing to be involved in this important process.

Mahalo,



Mike Foley

Kailua, HI

October 21, 2024

TO: COMMITTEE CHAIR ESTHER KIA'AINA
COMMITTEE ON PLANNING AND THE ECONOMY
&
HONORABLE MEMBERS OF THE COMMITTEE ON PLANNING & THE ECONOMY

REGARDING: COMMENTS on Bill 64 (2023), FD1, CD1 - Offering Amicable Amendments

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

Thank you for your leadership over the years-long process relating to the City's Land Use Ordinance refresh, Bill 64 (2023), FD1, CD1. Please accept this joint testimony on behalf of the Hawaii Hotel Alliance and the American Hotel and Lodging Association offering comments regarding amicable amendments to clarify the definition of "Hotel" in the City's LUO and to preserve the integrity of Joint Development Agreements.

COMMENT 1: Clarify language amending the Definition of "Hotel," under § 21-9.100-7 Use regulations, located on Page 200 of Bill 64 (2023), FD1, CD1.

Current Language in Bill 64 (2023), FD1, CD1:

"Hotel. A building [~~or group of buildings containing lodging or dwelling units, or both, offering transient accommodations, and a lobby, clerk's desk, or counter with 24- hour clerk service, and facilities for registration and keeping of records relating to hotel guests. A hotel may also include accessory uses and services intended primarily for the convenience and benefit of the hotel's guests, such restaurants,~~

~~shops, meeting rooms, or recreational and entertainment facilities.~~] or buildings, or a portion of a building or buildings, containing guest rooms that are offered and used for the provision of transient accommodations to transient occupants. A hotel must include a lobby or 24-hour front desk and facilities used to provide housekeeping services to guests. The term includes activities, facilities, and services that are traditionally and customarily provided for the benefit and convenience of hotel guests. The term does not include transient vacation units, bed and breakfast homes, and timeshares."

The suggested amendment follows, with changes bolded:

"Hotel. A building [~~or group of buildings containing lodging or dwelling units, or both, offering transient accommodations, and a lobby, clerk's desk, or counter with 24- hour clerk service, and facilities for registration and keeping of records relating to hotel guests. A hotel may also include accessory uses and~~

~~services intended primarily for the convenience and benefit of the hotel's guests, such restaurants, shops, meeting rooms, or recreational and entertainment facilities.~~] or buildings, or a portion of a building or buildings, containing guest rooms that are offered and used for the provision of transient accommodations to transient occupants. A hotel must include a lobby or 24-hour front desk**, clerk's**

desk, or 24 hour clerk service ~~and facilities used to provide housekeeping services to guests.~~ The term includes activities, facilities, and services that are traditionally and customarily provided for the benefit and convenience of hotel guests. The term does not include transient vacation units, bed and breakfast homes, and timeshares."

Rationale:
As written, this language creates an ambiguous requirement that may burden the permitting process, is inapplicable for many hotels operating today and creates a costly and unnecessary burden for smaller and budget-friendly hotels.

Summary:
From hotels that cater to business travelers and five star full-service resorts to self-catering condo-hotels and budget friendly overnighter motels, our City's Hotels offer a wide range of transient accommodation options for Honolulu's guests and for our kama'aina families. The demands of hotel customers vary greatly depending on the type of hotel accommodation a guest chooses. Understandably, the services

provided vary to meet those expectations. While many properties have robust on-site housekeeping facilities, smaller and budget-oriented properties may not need onsite facilities to support their housekeeping needs. By deleting language requiring "housekeeping services", we remove ambiguity in permitting and preserve the flexibility for Hotels to provide the housekeeping needs that comport with their unique property's expectations and the guests they serve.

Similarly, the concept of a ''front desk' varies, some hotels have large lobbies with physical front desks, and some hotel brands have hosts who assist check-in without a physical 'front desk' but with a digital tablet. By adding "clerks desk, or 24 hour clerk service" as is currently requisite under the existing LUO, we account for the broad range of hotel types and the services they provide and furthermore we enhance the intent of ensuring 24 hour access to hotel staff.

COMMENT 2: Restore language relating to Joint Development provisions.

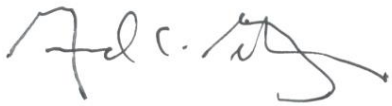
We urge the Committee to restore the Joint Development provisions currently contained in the LUO, that is § 21-5.380 regarding joint development of two or more adjacent subdivision lots and § 21-5.380A regarding the joint development of two or more adjacent subdivision lots—Waikiki special district or Ala Moana transit-oriented development special district, and to add "Joint Development" back into the Use Table under Miscellaneous in § 21-5.30.

Rationale:
Joint developments maximize the utility and value of a project. Joint developments facilitate partnerships which combine the development rights of participating parcels, enabling projects that otherwise would not pencil out to proceed.

Summary:
Joint developments have been a success for the City, which through joint developments approved by DPP have enabled the thoughtful construction of some of our most iconic properties, resulting in thousands of jobs and generating millions in new tax revenue to the City and County of Honolulu. The process for joint development approval is transparent to the public and has worked well for decades. We strongly urge the Chair and Committee to restore Joint Development provision as they are currently

contained in the LUO.

Mahalo,





Jerry Gibson, President
Hawai'i Hotel Alliance
Jerry@hawaiihotelalliance.com

Kekoa McClellan, Representative
Hawai'i Hotel Alliance
kekoamcclellan@gmail.com

D·R·HORTON®
America's Builder
HAWAII

October 21, 2024

The Honorable Esther Kia'aina, Chair
The Honorable Radiant Cordero, Vice Chair
Members of the Committee on Planning and the Economy
City and County of Honolulu
Honolulu, Hawaii 96813-3077

RE: **Bill 64 (2023), FD1 – LUO Amendment Relating to Use Regulations**
Meeting: October 22, 2024, 9:00am

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

Mahalo for the opportunity to submit testimony on behalf of D.R. Horton Hawaii, offering comments to Bill 64 (2023) Land Use Ordinance (LUO) Amendment relating to use regulations. D.R. Horton Hawaii has provided previous testimony under Bill 10 (2022) offering our strong support. At this time, **we continue to offer our support with comment regarding Joint Development Agreements.**

We strongly request to reinsert back into Bill 64 (2023):

- **Sec. 21-5.30 Use table - Miscellaneous Use, Joint Development (Table 21-5.1 Table of Permitted Uses)**
- **Sec. 21-5.90(b) - Joint Development: The development of 2 or more adjacent subdivision lots under a single, unified project concept" from original Bill 10 (2022) page 80-81 submitted by DPP.**

Joint Development Agreement (JDA) is currently a part of the existing LUO (Sec. 21-5.380) and was included in the initial version of Bill 10 (2022) submitted to the City Council by DPP under Sec. 21-5.90(b) and Sec. 21-5.30 Use Table – Miscellaneous Use, Joint Development. A subsequent CD amendment deleted both sections.

Under the existing LUO, the Joint Development Agreement (JDA) is a very useful tool that allows the efficient development of a project, commercial and/or residential, over multiple parcels without having to apply for additional subdivision reconsolidation actions. "Joint development" is a process requiring a Conditional Use Permit (minor) that allows two or more adjacent subdivision lots to be developed as one zoning lot if the proposed development will result in a more efficient use of land and the Director of the Department of Planning and Permitting ("Director" and "DPP") finds that the proposed joint development agreement assures future protection of the public interest.

Joint development facilitates development of lots under a single, unified project concept, which is particularly helpful and effective when the adjacent lots have or are contemplated to have different owners. Joint development provides greater flexibility in the design and layout of a development as

placement of buildings, roads, and other features across multiple parcels can be coordinated. With efficient use of land and infrastructure, joint development can achieve economies of scale and can reduce some of the negative impacts of a development, such as inefficient infrastructure systems, parking and building layouts.

As a general matter, developing adjacent lots as one zoning lot means that the shared boundary line(s) of the lots proposed for joint development can be ignored and development standards (e.g., minimum lot area, minimum lot width and depth, maximum building area, maximum density, setbacks, parking, loading) are applied to the lots as a single lot for zoning purposes only.

D.R. Horton Hawaii has used the JDA on occasion to help facilitate efficiencies such as shared infrastructure, shared parking and reduced setbacks in between physically adjacent parcels. At Ho'opili, the JDA was a useful tool that helped efficiently create our very popular Festival Street used for community events.

Additionally, and more importantly, the JDA is used by affordable rental housing developers such as Mutual Housing Association of Hawaii (MHAH), as a critical incremental financing mechanism that breaks down large projects into smaller, more manageable and fundable phases. Given the limitation on annual public funding resources, joint development allows affordable rental housing developers to seek/obtain funding and start construction on an initial phase while continuing to apply for funding of additional phases from future annual funding cycles.

For these reasons, we strongly recommend reinserting Joint Development Use and Agreement back into Bill 64 (2023).

Mahalo for your time and consideration, it is very much appreciated. Should you have any questions, please do not hesitate to contact me at (808)782-4109 or ttonaki@drhorton.com.

Sincerely,

Tracy Tonaki
President
D.R. Horton Hawaii

OPERATING ENGINEERS LOCAL UNION NO. 3
2181 LAUWILIWILI STREET, KAPOLEI, HI 96707 • (808) 845-7871 • FAX (808) 682-0906
Jurisdiction: Northern California, Northern Nevada, Utah, Hawaii, and the Mid-Pacific Islands

October 21, 2024

Honorable, Esther Kia'aina, Honolulu City Council Committee on Planning and the Economy, Chair
Honorable, Radiant Cordero, Honolulu City Council Committee on Planning and the Economy, Vice Chair
Honorable Members of the Honolulu City Council Committee on Planning and the Economy

RE: Bill 64 – LAND USE ORDINANCE AMENDMENT RELATING TO USE REGULATIONS.

Chair Kia'aina, Vice Chair Cordero Tam and Members of the Committee on Planning and the Economy,

My name is Ana Tuiasosopo. I am the District Representative and Trustee for Operating Engineers Local 3. We are the largest Construction Trades Local in the United States. I and the members of Operating Engineers Local 3 strongly urges the committee to consider reinserting § 21-5.380 regarding joint development of two or more adjacent subdivision lots and § 21-5.380A regarding the joint development of two or more adjacent subdivision lots— Waikiki special district or Ala Moana transit-oriented development special district, as well as to add "Joint Development" back into the Use Table under Miscellaneous, § 21-5.30 Use Table.

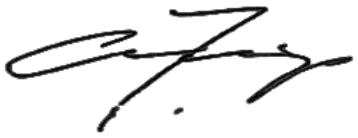
Section 21-5.380 is a critical section of the existing LUO and was included as Section 21-5.90(b) in the original Bill 10 submitted by the Department of Planning and Permitting (DPP). This section was subsequently deleted in a subsequent CD and changed to "Transfer of Development." However, "Transfer of Development" is limited to certain qualified historic properties. NAIOP Hawaii is greatly concerned that the current language of the bill eliminates wholesale the concept of JDAs which are vital to the development process.

Primarily, JDAs are a useful tool that enables efficient development of a project that includes various land uses across multiple parcels. The JDA essentially ties together two adjacent and separate legal lots in order for it to be treated as one zoning lot. In turn, JDAs facilitate the development of lots under a single cohesive project concept and allow for

greater coordination in design leading to more efficient land use.

In summary, a joint development provides greater flexibility in the design and layout of the development as the placement of buildings, roads, and other features across multiple parcels of land can be coordinated. With this efficient use of land and infrastructure, joint development has the potential to increase overall housing inventory.

Sincerely,



Ana Tuiasosopo
Hawaii District Representative, Trustee
Hawaii Operating Engineers Local 3

HAWAII CLEAN POWER ALLIANCE

Honolulu City Council
Committee on Planning and the Economy

Bill 64 (2023), FD1, Proposed CD1 – EK8
Land Use Ordinance Amendment Relating to Use Regulations
Hearing – October 22, 2024 9:00 AM

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

Hawaii Clean Power Alliance ("HCPA") is a nonprofit alliance organized to advance and sustain the development of clean energy in Hawaii. Our goal is to support the state's policy goal of 100% renewable energy by 2045. We advocate for utility-scale renewable energy, which is critical to meeting the state's clean energy and carbon reduction goals.

HCPA would like to offer the following comments regarding 21-5.60-6 Utility (C) (2) (E), (F) and (G) (Pages 44-45).

Section (E) increases the setback for large wind energy generation facilities to 10 times the height of the facility or 1.25 miles, whichever is greater. This will likely eliminate any new wind projects on Oahu. Additionally, this directly puts at risk existing wind projects, which are currently capable of producing approximately 123 megawatts of energy, enough to supply power to approximately 45,000 homes annually. Renewable wind energy is an integral component of Oahu's existing diversified supply mix to ensure reliability and energy security at a cost potentially significantly lower than other renewables and significantly lower in cost and greenhouse gas emissions from fossil fuel. It also saves significant amounts of land space vs other renewable resources. The imposition of newly adopted land use standards, without reasonable accommodations for existing wind projects, could have unintended consequences that should be avoided in the interest of the residents and businesses of Oahu who rely on these facilities as part of a diversified energy mix and who should not bear the cost of increased reliance on fossil fuels and a further worsening of grid reliability as we face increasing power outages across Oahu.

HCPA appreciates that Section (G) attempts to protect existing wind projects as "nonconforming", provided that any increase in the height of a facility related to the repair, maintenance, or component replacement of the facility does not exceed 7 percent of the original height or 575 feet, whichever is lesser. However, existing facilities need to be **conforming** structures for financing purposes. If the repair, maintenance and component

replacement for existing facilities are not exempt from the new proposed setback requirements and, therefore, become nonconforming, existing wind projects will become unfinanceable. Component replacements factor in the millions of dollars, and without financing, the public benefits derived from existing facilities will be negatively impacted. Projects will be reticent to make substantial long-term investments in nonconforming structures for which they cannot obtain financing.

With respect to limiting repairs, maintenance, and component replacements to 7% of the original height of the facility, this is arbitrary and too restrictive based upon the replacement components available in the market today. As technology continues to evolve, there needs to be enough flexibility to accommodate changes in technology that make this standard arbitrary and impractical. While HCPA does not recommend a specific numerical standard, if a percentage is favored, we believe a 15% metric would be a workable standard. On the other hand, utilizing 575 feet as a maximum height for repairs, maintenance, and component replacement may also be a workable standard; utilizing a fixed number versus a percentage treats existing wind farms equally and does not favor the larger wind farms over the smaller ones.

Additionally, we would like the Committee to carefully consider that any restrictions in Section (F) on shadow flicker will curtail the operation of a wind facility, making energy costs rise for consumers. A common national and international standard is 30 hours per year or 30 minutes per day and any lower hours/minutes will curtail the project even more. Moreover, we recommend a change from the term *occupied buildings* be revised to *legally permitted dwellings* to properly characterize the most relevant receptors.

Also in Section (F), currently, the noise standards for the state, and which the county is mandated to follow, are already provided for by the Department of Health. (§342F-30.5] Noise control) and the Department of Health Chapter 11-46 Hawaii Administrative rules (https://health.hawaii.gov/opppd/files/2015/06/11-46.pdf). We would also request that this requirement references these facilities conform to the existing regulations on noise rather than introduce an arbitrary and ambiguous new standard for a specific use that will be difficult to implement and enforce.

The City and County of Honolulu's Bill 20-47 (2020) requires 100% renewable energy and promotes resiliency of Oahu communities. The State of Hawaii enacted Act 97 and Act 15, respectively, mandating achievement of a 100% renewable portfolio standard and carbon neutrality goal by 2045. Wind energy projects provide a critical cornerstone towards meeting these goals and work in concert with solar energy projects to reduce the State's reliance on high-priced, imported fossil fuels. If existing wind projects are unable to continue operating,

with the new proposed setback requirements there will very likely be no new wind projects to replace them. Furthermore, we have seen significant community push back to offshore wind projects as another alternative to balance with solar projects on Oahu. In light of these factors, existing wind projects need to be a priority.

Maintaining existing renewable energy facilities is more critical than ever, given the closure of the Coal Plant in September of 2022 which removed 20% of the lowest-cost electricity supply to Oahu's households and businesses. Adopting new standards that could inadvertently curtail existing wind energy projects currently providing low cost, renewable energy could have detrimental consequences for the public. Hawaii consumers already pay the highest energy bills in the nation, which will likely further increase due to the electric grid investments needed for wildfire mitigation. We must support renewable energy to eliminate fossil fuel price volatility and help drive costs down. As recently experienced earlier this year, all of Oahu was impacted by unfortunate rolling blackouts from a lack of adequate energy production and reserve margins, as well as a lack of diversified mix of energy resources. Wind resources are essential electric generators that assist with keeping the lights on and avoiding blackouts, especially during evening peak times.

Communities have many opportunities during numerous public approval processes to influence and shape energy facilities, including during the electric utility's RFP selection, which requires community outreach prior to selection and throughout the development process, the design of community benefits programs, the Public Utilities Commission Power Purchase Approval (PPA) Docket, and a variety of discretionary permit processes including Environmental Impact Statements, Habitat Conservation Plans, Conditional Use Permits (CUP), and other permitting processes. We encourage the Council to refrain from foreclosing any particular renewable energy through the Land Use Ordinance, especially given the numerous opportunities that provide for a community voice, and the benefits energy projects bring to communities, including good-paying local jobs, new sustaining community benefits programs, and more.

For the reasons noted above, HCPA respectfully urges that the Committee carefully consider Bill 64's current CD1 version's negative impacts on existing wind facilities and provide them with the opportunity to repair, maintain and complete component replacements as "conforming" structures. We request the opportunity for continued dialogue to revise the amendment to meet the Council's intention for the community and Oahu residents.

Thank you for the opportunity to submit testimony regarding Bill 64, CD1 relating to large wind energy generating facilities.

PŌPOKI PLACE
O'AHU CAT SANCTUARY

TESTIMONY REGARDING
Hearing for Bill 64
October 22, 2024

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

When talking about Popoki Place, we are **NOT** just talking about cats!

We are saying that Popoki Place will:

- **SAVE LIVES by:**
  - **Reducing the number of endangered birds that will be killed by cats.**
  - **Reducing the amount of toxoplasmosis in the environment, therefore reducing the potential of monk seals getting sickened by cat feces.**
  - **Reducing the number of free-roaming cats on O'ahu.**
- **Be a valued part of the CONSERVATION movement to save our endangered species.**
- **Be a pressure-relief valve for the Hawaiian Humane and thousands of people in other rescue organizations who are working daily to save cats.**
- **Provide EDUCATION about our fragile ecosystem and how Popoki Place is a valuable part of saving lives.**
- **Become a cherished community amenity and valued park for families to visit and relax.**
- **And so much more!**

But we can't start until we get land. We just need 5-15 acres. Why haven't we secured land by now? ZONING! **YOU can help us now.**

Popoki Place is not a typical nonprofit organization!

- We are not a shelter or kennel. Our cats will live in large outdoor enclosures.
- We are a SANCTUARY, like those for farm animals and horses that are being rescued and similar to a zoo.
- Although we will be open to visitors, we are not a commercial enterprise.

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.
Holly Holowach,
Founder / President

Email: ramsey.brown@ponopacific.com

HONOLULU CITY COUNCIL COMMITTEE ON PLANNING & THE ECONOMY
Tuesday, October 22, 2024 — 9:00 a.m.

Pono Pacific Land Management offers comments on Bill 64 (2023) FD1, Proposed CD1 (EK8) Relating to Land Use Ordinance (LUO) Use Regulation Amendments.

Dear Chair Kia'āina and Members of the Committee:

My name is Ramsey Brown and I am the Vice President of Diversified Agriculture for Pono Pacific Land Management. Founded in 2000, we are a locally owned conservation, agriculture, and sustainable energy company seeking to actively manage land for a thriving future for Hawaii. Kuilima Farm, managed by Pono Pacific Land Management, is a 468-acre diversified agriculture operation on the North Shore of O'ahu, with 12 active farmers growing tropical fruits, vegetables, leafy greens, herbs, edible flowers, hydroponic lettuce, and more.

Pono Pacific offers comments on Bill 64 (2023) FD1, Proposed CD1 (EK8). 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.

Pono Pacific/Kuilima Farm 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, East County Farm Bureau, 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. Pono Pacific strongly supports the recommendations of this working group, and respectfully requests that they be incorporated into the provisions of 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 the Bill 64 (2023) FD1 Proposed CD1 (EK8) 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 of Kuilima Farm which lie within the current EK8 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 (EK8)

Agritourism

- Standards listed on page 15-16: remove standards 2, 3, and amend #7 to delete the phrase "and require major conditional use approval."

"(b) Agritourism – standards.

(1) 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.

(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 crop production or livestock and poultry keeping must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the agritourism use is in operation.

(5) Accessory destination events, including weddings, 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."

- Change Agritourism back to 1 category and adjust master use table on p. 4 to reflect Cm* for agritourism.
    - Splitting agritourism into two categories further confuses the issue rather than simplifies it both from an application as well as regulatory standpoint. The proposed separate categories may actually support historic loopholes in the name of agritourism. We also strongly recommend reverting the permitting of Agritourism back to Minor Conditional Use for both AG-1 (Cm) and AG-2 (Cm) as is currently allowed in the LUO. HRS 205 §205-4.5 (Permissible uses within the agricultural districts) (13)(14) already provides permitted agricultural tourism.

Farm Dwelling

- Add in 51% language: A minimum of 51 percent of the zoning lot area suitable for crop production or livestock and poultry keeping must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the farm dwelling exists.
- Farm Dwelling Standards (1). (p.16) Removal of ~~**confined to a polygon for which no exterior angle is greater than 180 degrees.**~~

Farm Worker Housing

- Add in 51% language: A minimum of 51 percent of the zoning lot area suitable for crop production or livestock and poultry keeping must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the farm worker housing exists.

Agricultural Support Use Recommendations to Bill 64 (2023) FD1 Proposed CD1 (EK8)

Agricultural Processing, Includes Breweries/Distilleries

- Amend definition of "agricultural processing minor" (p. 192)
    - Minor: Processing Hawaii-grown crops and live Hawaii-raised animal by-products (grown or raised onsite or offsite) such as milk, eggs, ~~and~~ honey, **and aquaculture harvests placed in or on ice**. In the agricultural zoning districts, the term includes the processing of Hawaii-grown crops grown onsite **or offsite** to produce malt beverages, distilled spirits, or wines, **of which at least 51% are Hawaii-grown non-water ingredients.**

Agricultural Support Use Recommendations to Bill 64 (2023) FD1 Proposed CD1 (EK8)

Agricultural Processing, Includes Breweries/Distilleries

- Amend definition of "agricultural processing minor" (p. 192)
    - Minor: Processing Hawaii-grown crops and live Hawaii-raised animal by-products (grown or raised onsite or offsite) such as milk, eggs, ~~and~~ honey, **and aquaculture harvests placed in or on ice**. In the agricultural zoning districts, the term includes the processing of Hawaii-grown crops grown onsite **or offsite** to produce malt beverages, distilled spirits, or wines, **of which at least 51% are Hawaii-grown non-water ingredients.**

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).
    - 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.
        - ♣ Also, this definition is used in describing "agritourism- minor" which is allowed in both ag-1 and ag-2 with a Cm*.

Other General Comments

Aquaculture

- Include aquaculture and urban agriculture in all industrial zones.
    - Past and current aquaculture operations have been sited in industrial zones, and the State is currently considering lots at Campbell Industrial Park as potential sites for an aquaculture park.

Aquaponics

- Remove conflicting language regarding aquaponics. Section 70 (13) places aquaponics under "crop raising" but then provides that the term "crop raising" does not include cultivating aquatic plants or animals. By definition, aquaponics includes the cultivation of aquatic animals to provide nutrients for the plant crops.

Solar

- Specifically permit solar generation facilities for exclusively on-farm use as an accessory use for all agricultural categories. Bill 64's "ag energy facility" and "small utility" appear to prohibit on-farm solar.

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

Sincerely,



Ramsey Brown, VP of Diversified Agriculture
Pono Pacific Land Management | Kuilima Farm

TESTIMONY BEFORE THE COMMITTEE ON PLANNING AND THE ECONOMY

COMMENTS & REQUESTED AMENDMENTS ON BILL 64 (2023), FD1, AND PROPOSED AMENDMENTS IN COUNCIL COMMUNICATION 262 REGARDING MISCELLANEOUS USE AMENDMENTS

Tuesday, October 22, 2024
9:00 A.M.
City Council Chamber

Greg Shimokawa
Director, Renewable Acquisition Division
Hawaiian Electric

Dear Chair Kia‘āina, Vice Chair Cordero, and Members of the Committee,

My name is Greg Shimokawa and I am submitting testimony on behalf of Hawaiian Electric **with comments and requested amendments to** Bill 64 (2023) proposing changes to Article 5 of the Land Use Ordinance (“LUO”), particularly the proposed amendments in Council Communication 262 regarding Miscellaneous Uses in Bill 64 (2023), FD1 (”CC-262”). Hawaiian Electric understands that CC-262 is proposing to add the following requirement to large wind energy generation facilities:

> (H) In the AG-1 and AG-2 zoning districts, 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 and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the large wind energy generation facility is in operation.

While Hawaiian Electric supports agricultural land uses, Hawaiian Electric respectfully offers a few comments on the proposed requirement that 51 percent of the zoning lot area must be dedicated to crop production or livestock. It is unclear if this requirement and the determination of whether an area is “suitable” for crop production or

livestock keeping considers feasibility, safety, and impact on other regulatory requirements, as it may have unintended consequences. For example, hosting third parties on a site could present a safety concern for wind farm operations. As another example, some portions of the land otherwise considered “suitable” might be reserved for permit and/or license reasons.

While Bill 64 is proposing a myriad of changes to land use laws, Hawaiian Electric is only focused on the section that applies to existing wind energy generation facilities, as their current production of renewable energy is vital to the State’s decarbonization plans and Renewable Portfolio Standards (RPS) goal of 100% renewable energy by 2045. As the county with the largest population, peak demand for energy on O‘ahu reaches about 1,100 MW, serving not only our local residents, but the demands of the military and our tourism industry.

In addition, even if a wind farm could comply with this requirement, it’s possible that their operations could be impacted. The wind farms are subject to Incidental Take License (ITL) and Incidental Take Permit (ITP) requirements, which specify a maximum “take” amount of protected species. Hosting agricultural activities could attract nuisance wildlife, impacting “predator control” requirements in the facilities’ ITL/ITP. The presence of livestock could also attract insects and thereby greater numbers of protected species. Should the facilities approach their maximum “take” limits, they may need to shut down one or more turbines to ensure that the limit is not exceeded.

Accordingly, Hawaiian Electric respectfully suggests, should this amendment be adopted, we recommend that it include language indicating that the crop production or livestock keeping activities shall not jeopardize the operations of the wind energy generation facility.

Please consider this amendment as an example:

(H) In the AG-1 and AG-2 zoning districts, a minimum of 51 percent of the zoning lot area suitable for crop production or livestock keeping <u>without jeopardizing operations of the large wind energy generation facility</u> must be dedicated to crop production or livestock and poultry keeping through an agricultural easement or similar legal encumbrance for as long as the large wind energy generation facility is in operation.

Without such consideration, the reduction of existing wind energy generation could potentially result in an inability to meet Hawai‘i’s renewable energy goals, additional costs to customers who will need to fund replacement projects, and increased uncertainty in electrical generation.

We appreciate the efforts of the Honolulu City Council and the Committee on Planning and the Economy in developing this bill and look forward to continuing our work together as the bill moves. Please consider this amendment before adopting what is proposed in CC-262. Thank you for your consideration.

HBCTC
HAWAII BUILDING & CONSTRUCTION TRADES COUNCIL

October 21, 2024

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

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

Aloha Chair Kia'aina, Vice-Chair Cordero, and Committee Members:

My name is Gino Soquena, Executive Director of the Hawaii Building & Construction Trades Council (HBCTC), which is comprised of 18 construction trade unions in the State of Hawaii. Thank you for the opportunity to submit COMMENTS on BILL 64 (2023) – RELATING TO USE REGULATIONS, which updates the Land Use Ordinance (LUO).

We respectfully request that the Committee restore the Joint Development provisions currently contained in the LUO regarding joint development of two or more adjacent subdivision lots. Joint Development Agreements (JDA) are currently available under the LUO and were included in Bill 10, the predecessor to Bill 64. However, the JDA concept appears to have been deleted entirely in the current version of the proposed LUO amendments. The elimination of JDAs could hinder creative, flexible development and limit redevelopment opportunities.

We respectfully request your favorable decision without jeopardizing losing developers interest in developing more projects for the citizens of Honolulu.

Thank you for your consideration.

Mahalo Nui Loa,

Gino Soquena, Executive Director
Hawaii Building & Construction Trades Council

P.O. Box 2095, Honolulu, HI 96805

GCC/IBT 1507-M HONOLULU, HAWAII

Kamehameha Schools®

Honolulu City Council
Committee on Planning and the Economy Meeting
Time: 9 a.m.
Date: Tuesday, October 22, 2024
Where: City Council Chamber

TESTIMONY
By: Kamuela Cobb-Adams, Managing Director,
Asset Management, Kamehameha Schools

RE: Bill 64 (2023) Relating to Use Regulations

Aloha e Chair Kia‘āina, Vice Chair Cordero and committee members. My name is Kamuela Cobb-Adams, and I am the Managing Director of Asset Management at Kamehameha Schools.

Mahalo for the opportunity to testify. Kamehameha Schools appreciates Councilmembers Weyer and Tupola for introducing these amendments and the Chair for considering the ‘āina based education facility use.

We firmly believe that ‘āina-based education is essential to fostering a deep connection to the land, promoting environmental stewardship, and supporting food production and land management.

Some ‘āina-based education partners face challenges under existing regulations. They are either operating under the broader category of meeting facilities, which does not fully recognize the unique nature of ‘āina-based education or are unable to develop needed facilities to support the next generation of farmers and ‘āina based professionals. By creating this category, it will be a clear statement that ‘āina-based education is a valuable and necessary component of our agricultural and community’s future.

We are grateful for the Chair’s consideration of this use at the next hearing in November and look forward to working on the details to make this a reality. Mahalo.