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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.

Investing in a Sustainable Hawai'i

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