

LEEWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

MINUTES
MAY 22, 2024

(Continuance of Meeting Originally Convened on April 18, 2024, at 9:00 a.m.)

A video recording is made part of these minutes, which can be viewed on the YouTube County of Hawai'i Planning Department channel at

<https://www.youtube.com/live/xw3NcJTTBPI?si=umn3F45OgSHyyjK1>

Timestamps are provided for reference in accordance with the provisions of Chapter 92, Hawai'i Revised Statutes. In the event the video recording becomes unavailable at the abovementioned URL address, the public can contact the Planning Department for assistance.

The Leeward Planning Commission met in a continued meeting originally convened on Thursday, April 18, 2024 at 9:30 a.m., on May 22, 2024 at 12:15 p.m. in the West Hawai'i Civic Center, Council Chambers, Building A, 74-5044 Ane Keohokālole Highway, Kailua-Kona, Hawai'i, with Chairperson Barbara DeFranco presiding. This meeting was streamed live on YouTube.

COMMISSIONERS PRESENT: Mahina Paishon Duarte (Vice Chair), Dean Au, Michael Dela Cruz and Barbara DeFranco (Chairperson).

ABSENT AND EXCUSED: Clement "CJ" Kanuha.

ALSO PRESENT: Suzanna Tiapula, Esq. (Deputy Corp Counsel to the Commission), Jean Campbell, Esq. (Deputy Corp Counsel to the Planning Department), and Zendo Kern (Planning Director) and Planning Department staff.

Approximately 16 public members were in the audience.

A quorum was present. Chairperson DeFranco called the meeting to order and introduced the Commissioners. [SEE YOUTUBE TIMESTAMP 01:23]

Staff introductions were made. She asked each Commissioner to confirm they have reviewed all materials, including written public testimony, related to the applications being reviewed today. It was noted that each Commissioner verbally confirmed the review of the application materials. [SEE YOUTUBE TIMESTAMP 2:43]

STATEMENTS FROM THE PUBLIC ON AGENDA ITEMS

At 12:17 p.m. the Commission took up this item with approximately 23 public members in the audience in the Council Chambers. Public testimony had already concluded for agenda item #7. Testifiers were given the option of testifying for #8 or #9, either at this time or later at the time agenda items #8 or #9 are called to order. Chairperson DeFranco stated she will be limiting testimony to 3 minutes per testifier for each agenda item. Chairperson DeFranco explained the

procedure for testifying and Planning Commission Rule 1-5 regarding decorum. *[SEE YOUTUBE TIMESTAMP 3:09]*

Testimonies were given at the beginning of the hearing on agenda item #8 or #9.

Three individuals provided testimony in-person at 12:19 p.m.:

- 1) Leslie Iijima on Item #8 *[SEE YOUTUBE TIMESTAMP 5:31]*
- 2) Daniela Gall on Items #8 & #9 *[SEE YOUTUBE TIMESTAMP 10:00]*
- 3) Gordon Lindquist on Items #8 & #9 *[SEE YOUTUBE TIMESTAMP 15:05]*

Two individuals could not provide testimony on Zoom at 12:26 p.m. due to technical difficulties so they testified at the time the agenda item was called *[SEE YOUTUBE TIMESTAMP 13:33]*

- 1) Janice Palma-Glennie on Item #8 & #9
- 2) Megan Issac on Item #8 & #9

There being no further public testimony, this agenda item ended at 12:30 p.m.

CONTINUED NEW BUSINESS

7. INITIATOR: COUNTY COUNCIL (PL-CCI-2024-000003)

Bill 121, an ordinance amending Chapter 25, Articles 1, 4 and 5, of the Hawai'i County Code 1983 (2016 Edition, as amended), relating to transient accommodation rentals and hosting platforms. Repeals Section 25-4-16 through Section 25-4-16.3 relating to Short-term Vacation Rentals and establishes new provisions for Transient Accommodation Rentals and Hosting Platforms for Transient Accommodation Rentals.

The Commission took up this item at 12:31 p.m., with approximately 23 public members in the audience. As co-initiator of Bill 121, County Council Chair Kimball was present to answer the Commission's questions. *[SEE YOUTUBE TIMESTAMP 16:31]*

Chair DeFranco stated that this is a continued hearing for this agenda item and all statements from the public were completed at the last hearing on April 18, 2024, and no further testimony will be allowed on this item. She mentioned the Commission will continue to discuss, deliberate, decide and/or act upon this item. *[SEE YOUTUBE TIMESTAMP 17:34]* Chair DeFranco gave an overview of where the Commission left off at the last meeting on April 18, 2024. *[SEE YOUTUBE TIMESTAMP 18:57]* She stated that the Leeward Planning Commission is now looking for a motion for action so that they can discuss Bill 121. *[SEE YOUTUBE TIMESTAMP 19:05]*

She stated that the Leeward Planning Commission is required to act on Bill 121 and transmit a recommendation to the County Council by May 29, 2024. In the event the Commission fails to act on the proposed bill by that date, such inaction shall be considered an unfavorable recommendation by the Commission. *[SEE YOUTUBE TIMESTAMP 19:35]*

Chair DeFranco asked for a motion for action. Commissioner Au moved that a favorable recommendation be forwarded to the County Council on Bill 121 Docket No. PL-CCI-2024-000003 based on the Planning Director's recommendation which shall be adopted. Seconded by Vice Chair Paishon-Duarte. *[SEE YOUTUBE TIMESTAMP 20:08]*

Chair DeFranco opened the floor for discussion but then Planning Director Kern called for a point of order. He mentioned this came up at the last Windward Planning Commission meeting. If the Commission decided to take up and discuss each one of the recommendations, a commissioner could move to bifurcate or they could divide the questions, so that the Commission could discuss his recommendations individually rather than discussing the entire bill as a whole. He stated that it could be helpful in the conversation and that it was a point of process which would be up to the Commission. *[SEE YOUTUBE TIMESTAMP 20:41]*

Chair DeFranco initiated a discussion on a bill, emphasizing that the Commission would first vote on the motion and then decide on conditions. *[SEE YOUTUBE TIMESTAMP 21:21]* Planning Director Kern clarified that voting on the motion concludes the matter and suggested that bifurcation of the question could be proposed during the discussion. *[SEE YOUTUBE TIMESTAMP 21:38]* Deputy Corporation Counsel Tiapula reminded the Commission that they were currently in discussion with a motion and second already in place. *[SEE YOUTUBE TIMESTAMP 21:54]*

During the discussion, several commissioners expressed their support for Bill 121, emphasizing the need for regulation. Commissioner Au read all 21 recommendations by the Planning Director and supported the bill, highlighting the need for enforcement in future bills. *[SEE YOUTUBE TIMESTAMP 23:38]* County Council Chair Kimball addressed the loopholes and the housing investment issue targeted by the bill. She also mentioned the insufficient funding for enforcement under current laws, suggesting fines should support enforcement efforts. *[SEE YOUTUBE TIMESTAMP 33:35]*

Vice Chair Paishon-Duarte voiced concerns about recommendations #9 and #13, related to the number of guests and size of gatherings. Planning Director Kern explained these recommendations aim to establish guest limits, addressing a current lack of regulation. The motion on the table was clarified by Chair DeFranco to include all 21 recommendations. *[SEE YOUTUBE TIMESTAMP 40:23]*

Further discussions were held on specific recommendations and the economic impacts of the bill. County Council Chair Kimball acknowledged potential economic effects but stressed considering other factors in the ecosystem and noted they are not pursuing non-conforming use certificates. *[SEE YOUTUBE TIMESTAMP 47:56]* Chair DeFranco raised concerns about noise, which County Council Chair Kimball stated is regulated by the Department of Health. Commissioner Au praised the fee schedule in the bill. *[SEE YOUTUBE TIMESTAMP 52:00]*

Planning Director Kern requested to amend his recommendation. Deputy Corporation Counsel Tiapula noted that he could respond to questions from the commission. The Planning Director supported incorporating amendments from County Council Chair Kimball's April 30, 2024, written testimony into the recommendations. *[SEE YOUTUBE TIMESTAMP 55:11]*

Commissioner Au amended his motion to add the amendments in County Council Chair Kimball's April 30, 2024, written testimony as recommendation #22, as stated. Vice Chair Paishon-Duarte seconded the amended motion. No other discussions/questions. *[SEE YOUTUBE TIMESTAMP 59:52]*

Action: At the May 22, 2024, continued meeting, it was moved by Commissioner Au and seconded by Vice Chair Paishon-Duarte to forward a favorable recommendation to the County Council on Bill No. 121 (PL-CCI-2024-000003) based on the Planning Director's recommendations inclusive of the amendment submitted by County Council Chair Kimball with a total of 22 recommendations. [SEE YOUTUBE TIMESTAMP 1:00:32, YouTube video May 22, 2024, Continued Meeting of Leeward Planning Commission <https://www.youtube.com/live/xw3NcJTTBPI?si=umn3F45OgSHyyjK1>]

At the May 22, 2024, continued meeting, a roll call vote was taken, and the motion carried with four ayes (Au, Paishon-Duarte, Dela Cruz, and DeFranco), and no nays. [SEE YOUTUBE TIMESTAMP 1:00:50]

This hearing item ended at 1:15 p.m.

Five-minute break was taken at 1:15 p.m. [SEE YOUTUBE TIMESTAMP 1:01:23]

Meeting was reconvened at 1:26 p.m. [SEE YOUTUBE TIMESTAMP 1:01:23]

Two individuals provided testimony on Zoom at 1:27 p.m.

- 1) Janice Palma-Glennie on Item #8 & #9 [SEE YOUTUBE TIMESTAMP 1:14:02]
- 2) Megan Issac on Item #8 & #9 [SEE YOUTUBE TIMESTAMP 1:17:08]

8. INITIATOR: COUNTY COUNCIL (PL-CCI-2024-000004)

Bill 122, an ordinance amending Chapter 25 and Chapter 14, Article 4, Section 14-20, of the Hawai'i County Code 1983 (2016 Edition, as amended), relating to the repeal of bed and breakfast as a permitted use. Repeals all provisions that allow for Bed and Breakfast establishments.

The Commission took up this item at 1:36 p.m. with 1 public member in the audience. [SEE YOUTUBE TIMESTAMP 1:23:04]

Staff presentation by Maija Jackson. [SEE YOUTUBE TIMESTAMP 1:23:44]

There were no in-person testifiers for this agenda item.

Vice Chair Paishon-Duarte moved to go into an executive session to consult with its attorney regarding questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities pursuant to HRS 92-5, Commissioner Au seconded, all voted aye [SEE YOUTUBE TIMESTAMP 1:34:38]

Regular session reconvened at 1:55 p.m.

Action: It was moved by Commissioner Au and seconded by Commissioner Dela Cruz that a favorable recommendation be forwarded to the County Council on Bill No. 122, Docket No. PL-CCI-2024-000004 based on the Planning Director's recommendation which shall be adopted. [SEE YOUTUBE TIMESTAMP 1:41:49] In discussion it was clarified that people could keep

their bed and breakfast designations moving forward. *[SEE YOUTUBE TIMESTAMP 1:42:25]* A roll call vote was taken, and the motion carried with four ayes (Au, De Luz, Paishon-Durate, and DeFranco), and no nays. *[SEE YOUTUBE TIMESTAMP 1:42:53]*

This hearing item ended at 1:56 p.m.

9. INITIATOR: COUNTY COUNCIL (PL-CCI-2024-000005)

Bill 123, an ordinance amending Chapter 19, Article 1 and Article 13, Chapter 23, Article 9, and Chapter 25, Article 1, Article 2, Article 5, and Article 6 of the Hawai'i County Code 1983 (2016 Edition, as amended), relating to 'ohana dwelling units. Removes each instance of the term "ohana dwelling" from the County Code and inserts the term "accessory dwelling unit" and adds provisions for the establishment of an accessory dwelling unit.

The Commission took up this item at 1:56 p.m. with 1 public member in the audience. *[SEE YOUTUBE TIMESTAMP 1:43:09]*

Staff presentation by Maija Jackson. *[SEE YOUTUBE TIMESTAMP 1:43:58]*

County Council Chair Kimball introduced the discussion by emphasizing the need for more housing in the County. She stated that relying solely on subsidized housing from the County, State, and other large entities is insufficient, and the private sector's contribution is crucial. This bill, part of the STVR package, aims to involve the private sector in increasing housing stock. The bill also addresses housing through the STVR regulations, building on the current 'Ohana legislation. Director Kern also requested she speak on SB3202. *[SEE YOUTUBE TIMESTAMP 1:58:10]*

Chair DeFranco asked Staff Planner Ms. Jackson to clarify the term "kitchen." Ms. Jackson explained that only guest houses are restricted from having kitchens, while farm dwellings can have them. Bill 123 allows single-family dwellings and an unlimited number of accessory dwelling units (ADUs) depending on lot size and setbacks, but it is not permitted in the State Land Use Agricultural district. *[SEE YOUTUBE TIMESTAMP 2:04:45]*

Vice Chair Paishon-Duarte inquired about recommendation #3. Ms. Jackson clarified the reason for the recommendation. *[SEE YOUTUBE TIMESTAMP 2:11:38]* Commissioner Dela Cruz inquired about the effects of the bill on CCNRs. County Council Chair Kimball responded that CCNRs override the County Code. *[SEE YOUTUBE TIMESTAMP 2:17:14]*

Action: It was moved by Vice Chair Paishon-Duarte and seconded by Commissioner Dela Cruz that a favorable recommendation be forwarded to the County Council on Bill No. 123, Docket No. PL-CCI-2024-000005 based on the Planning Director's recommendation which shall be adopted. *[SEE YOUTUBE TIMESTAMP 2:19:31]* A roll call vote was taken, and the motion carried with four ayes (Paishon-Duarte, Dela Cruz, Au and DeFranco), and no nays. *[SEE YOUTUBE TIMESTAMP 2:20:13]*

This hearing item ended at 2:34 p.m.

ADJOURNMENT [SEE YOUTUBE TIMESTAMP 2:20:50]

There being no further business, it was moved by Commissioner Dela Cruz and seconded by Commissioner Au that the meeting be adjourned. A voice vote was taken, and the motion was carried with all in favor.

Chairperson DeFranco adjourned the meeting at 2:34 p.m.

Respectfully submitted,


Kelsie Chang (Jun 21, 2024 13:32 HST)

Kelsie Chang
Secretary

ATTEST:


Barbara DeFranco (Jun 21, 2024 17:14 HST)

Barbara DeFranco, Chairperson
Leeward Planning Commission