

WINDWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

MINUTES
MAY 2, 2024

(Continuance of Meeting Originally Convened on April 4, 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/watch?v=sZ_pgGaTLfA

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 Windward Planning Commission met in a continued meeting originally convened on Thursday, April 4, 2024 at 9:01 a.m., on May 2, 2024 at 1:00 p.m. in the County of Hawai'i, Council Chambers, 25 Aupuni Street, Hilo, Hawai'i, with Chairman Dennis Lin presiding. This meeting was streamed live on YouTube.

COMMISSIONERS PRESENT: Dennis Lin, Louis Daniele III, Wayne De Luz, and Chantel Perrin.

ABSENT AND EXCUSED: Lauren Balog and Matthias Kusch.

ALSO PRESENT: Suzanna Tiapula, Esq. (Counsel to the Commission), Jean Campbell, Esq. (Counsel to the Planning Department), and Jeffrey W. Darrow Deputy Planning Director).

Approximately six members of the public were in the audience.

A quorum was present. Chairman Lin called the meeting to order and introduced the Commissioners. [SEE YOUTUBE TIMESTAMP 0:49]

Staff introductions were made. He 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 2:00]

CONTINUED NEW BUSINESS

5. 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 1:03 p.m. with approximately seven public members in the audience. *[SEE YOUTUBE TIMESTAMP 3:16]*

Chair Lin stated this is a continued hearing for this agenda item and public testimony was concluded at the last hearing on April 4, 2024, and no further testimony will be allowed on this item. He mentioned the Commission will continue to discuss, deliberate, decide and/or act upon this item. *[SEE YOUTUBE TIMESTAMP 3:22]* Chair Lin gave an overview of where the Commission left off at the last meeting on April 4, 2024. *[SEE YOUTUBE TIMESTAMP 3:39]* He stated the Windward Planning Commission is required to take action 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 as an unfavorable recommendation by the Commission. *[SEE YOUTUBE TIMESTAMP 4:56]*

Chair Lin proposed to withdraw his supplemental motion to review each of the Planning Director's recommendations as the Commission had ample time to review Bill 121 and the recommendations by the Planning Director since the April 4, 2024 meeting. As the original maker of the motion to review each of the Director's recommendations he made a motion to withdraw the supplemental motion to discuss the bill in a broader scope and there was no opposition by the Commission on the motion. *[SEE YOUTUBE TIMESTAMP 5:39]* For clarification Deputy Corporation Counsel Suzanna Tiapula stated the supplemental motion is now withdrawn *[SEE YOUTUBE TIMESTAMP 6:42]*

Chair Lin reiterated the original motion on the floor is to forward a favorable recommendation to the County Council on Bill 121. He opened the floor for discussion on specific portions of the bill and questions for the Planning Department staff. The Commission posed questions for staff and concerns and comments were made. *[SEE YOUTUBE TIMESTAMP 6:49]*

Action: At the April 4, 2024 meeting, it was moved by Commissioner Kusch and seconded by Commissioner Perrin that a favorable recommendation be forwarded to the County Council on Bill No. 121 (PL-CCI-2024-000003) based on the Planning Director's recommendation. *[SEE YOUTUBE TIMESTAMP 6:34:52, YouTube April 4, 2024 video <https://www.youtube.com/watch?v=IFwf8i0mnWc&t=1s>]*

At the May 2, 2024 meeting, a roll call vote was taken, and the motion failed with one aye (De Luz) and three noes (Perrin, Daniele, and Lin), and two excused (Balog and Kusch). *[SEE YOUTUBE TIMESTAMP 18:45]*

It was moved by Chair Lin that an unfavorable recommendation be forwarded to the County Council on Bill No. 121 (PL-CCI-2024-000003) based on his proposed recommendations. Vice Chair Daniele seconded the motion. *[SEE YOUTUBE TIMESTAMP 20:26]* The proposed recommendations by Chair Lin are as follows:

1. Focus on the economic impact if vacation rental units are lost *[SEE YOUTUBE TIMESTAMP 21:04]*
2. Remove owner hosted units from the Bill *[SEE YOUTUBE TIMESTAMP 22:12]*
3. Allow additional dwelling units (ADU's) to be used as vacation rentals *[SEE YOUTUBE TIMESTAMP 23:03]*

4. Quiet time hours are unreasonable; existing HRS or County Code on noise pollution hours should be followed *[SEE YOUTUBE TIMESTAMP 23:34]*
5. Agree with Planning Director to require a declaration instead of an affidavit *[SEE YOUTUBE TIMESTAMP 24:29]*
6. Request for an analysis on the TAR charged funds and appropriation because funds should not only be used for enforcement *[SEE YOUTUBE TIMESTAMP 25:24]*

In discussion, Vice Chair Daniele added that the Commission and Council needs to think about where these vacation rentals will be allowed, and that agricultural areas need to be included. *[SEE YOUTUBE TIMESTAMP 26:48]* A response was provided by Deputy Planning Director Jeffrey Darrow, who explained Hawai'i Revised Statutes (HRS) 205. *[SEE YOUTUBE TIMESTAMP 27:52]* Deputy Corporation Counsel Tiapula asked for clarification from the Commission on whether they are recommending forwarding the Bill with an unfavorable recommendation along with the stated reasons, or a favorable recommendation to the County Council with suggested changes to the Bill. *[SEE YOUTUBE TIMESTAMP 31:40]* Chair Lin responded that the intention of the motion was to forward an unfavorable recommendation with the stated reasons, and to allow the County Council to use those recommendations to redraft the Bill. He reiterated to the Commission that these are his proposed recommendations and agreed with the thirty (30) days instead of the one hundred eighty (180) days the Planning Director recommended. *[SEE YOUTUBE TIMESTAMP 32:44]*

There were discussions on the gathering size, events, and on-site and off-street parking. For clarification, Ms. Tiapula asked the Commission if the final version is an unfavorable recommendation with reasons for the denial and not additional recommendations. She also stated that if there are suggestions for how the Bill could be changed, it would then be a recommendation to approve with those changes. *[SEE YOUTUBE TIMESTAMP 43:00]* Discussions were also held concerning homeowner exemptions for owner-hosted units. *[SEE YOUTUBE TIMESTAMP 44:45]* Further discussion on enforcement and current enforcement practices included responses from Deputy Director Jeffrey Darrow. *[SEE YOUTUBE TIMESTAMP 47:01]* Assistant County Real Property Tax Administrator Keita Jo, via Zoom, addressed the Commission's concerns about the impact of Bill 121 on property taxes, homeowners' exemptions, and tax classification benefits. *[SEE YOUTUBE TIMESTAMP 1:01:06]* During the discussion, Commissioner De Luz commented that the intent of the Bill is to manage the impact of Transient Accommodation Rentals (TARs). *[SEE YOUTUBE TIMESTAMP 1:09:16]*

Commissioner De Luz requested clarification on the motion on an unfavorable recommendation as his records include six (6) points and a recap was requested. *[SEE YOUTUBE TIMESTAMP 1:13:08]* Deputy Corporation Counsel Suzanna Tiapula stated that based on the discussion the motion for an unfavorable recommendation to County Council for Bill 121 was based on the following reasons:

1. Economic Impact Analysis of the Bill
2. All Provisions Related to Owner Hosted Rentals Removed from the Bill
3. Delete the Noise Requirements
4. Gathering Size Provisions for Operator Hosted
5. ADU's be Considered for TAR's

[SEE YOUTUBE TIMESTAMP 1:13:32]

Chair Lin restated the motion on the floor is an unfavorable recommendation for Bill 121 based on the previously stated reasons that was explained. *[SEE YOUTUBE TIMESTAMP 1:16:41]* A roll call vote was taken, and the motion failed with three ayes (Perrin, Daniele, and Lin) and one no (De Luz), and two excused (Balog and Kusch). *[SEE YOUTUBE TIMESTAMP 1:17:11]* Chair Lin stated as the Commission failed to make a decision on Bill 121 an unfavorable recommendation will be forwarded to the County Council by default.

This hearing item ended at 2:17 p.m.

6. 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 2:17 p.m. with four public members in the audience. *[SEE YOUTUBE TIMESTAMP 1:18:24]*

Staff presentation by Tracie-Lee Camero. *[SEE YOUTUBE TIMESTAMP 1:19:42]*

There was one individual who provided testimony in-person, Jennifer Wilkinson. *[SEE YOUTUBE TIMESTAMP 1:32:08]* There was one individual who provided testimony on Zoom, Janice Palma-Glennie. *[SEE YOUTUBE TIMESTAMP 1:39:53]*

Action: It was moved by Commissioner De Luz and seconded by Chair Lin that a favorable recommendation be forwarded to the County Council on Bill No. 122, PL-CCI-2024-000004 based on the Planning Director's recommendation. *[SEE YOUTUBE TIMESTAMP 1:46:00]* In discussion the motion was amended to allow hosted rentals in Bill 121 to be called and advertised as a bed and breakfast. *[SEE YOUTUBE TIMESTAMP 1:52:14]* A roll call vote was taken, and the motion carried with four ayes (De Luz, Daniele, Perrin, and Lin), no noes and two excused (Balog and Kusch). *[SEE YOUTUBE TIMESTAMP 1:53:37]*

This hearing item ended at 2:53 p.m.

7. 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 2:53 p.m. with no public members in the audience. *[SEE YOUTUBE TIMESTAMP 1:54:03]*

Due to a conflict of interest, Chair Lin recused himself from this agenda item as his employer provides plans and materials to build possible accessory dwelling units (ADU's) or 'Ohana units.

Vice Chair Daniele to presided. *[SEE YOUTUBE TIMESTAMP 1:54:48]* Deputy Corporation Counsel Suzanna Tiapula noted with the recusal the Commission lacked quorum to hear or act on Bill 123 at that time with only three Commissioners remaining. Ms. Tiapula also stated the Commission will not be able to hear the matter before the time frame for it to be forwarded to County Council and it would automatically be forwarded with an unfavorable recommendation. *[SEE YOUTUBE TIMESTAMP 1:55:10]*

Vice Chair Daniele called a short recess at 2:56 p.m. and the hearing was reconvened at 3:01 p.m.

There was one individual Zoom testifier, Janice Palma-Glennie confirmed she will not be testifying for this agenda item.

This hearing item ended at 3:02 p.m. and Chair Lin returned to the meeting and reiterated due to lack of a quorum an unfavorable recommendation will automatically be forward to the County Council.

ANNOUNCEMENTS *[SEE YOUTUBE TIMESTAMP 2:04:02]*

Planning Program Manager, Maija Jackson stated there are thirteen (13) items tentatively scheduled for the June 6, 2024 agenda and there is a special meeting on Monday, May 6, 2024.

ADJOURNMENT *[SEE YOUTUBE TIMESTAMP 2:04:23]*

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

Chairman Lin adjourned the meeting at 3:04 p.m.

Respectfully submitted,

Melissa Dacayanan-Salvador
Melissa Dacayanan-Salvador (Jul 2, 2024 17:50 HST)

Melissa Dacayanan-Salvador
Secretary

ATTEST:



July 02, 2024 06:07 PM

Dennis Lin, Chairman
Windward Planning Commission