

LEEWARD PLANNING COMMISSION
COUNTY OF HAWAI‘I

HEARING TRANSCRIPT
APRIL 17, 2025

A regularly advertised hearing on **INITIATOR: PLANNING DIRECTOR (PL-PDI-2025-000014)** was heard at 10:36 a.m. in the West Hawai‘i Civic Center, Council Chambers, Building A, 74-5044 Ane Keohokālole Highway, Kailua-Kona, Hawai‘i, with Chair Dean Au presiding.

COMMISSIONERS PRESENT: Dean Au (Chair), Donna “Kinuko” Noborikawa (Vice Chair), Barbara DeFranco, Michael Dela Cruz, and Armando Rodriguez.

COMMISSIONERS ABSENT AND EXCUSED: Clement “CJ” Kanuha III.

ALSO IN ATTENDANCE: Suzanna Tiapula, Esq. (Deputy Corporation Counsel to the Commission), Jeffrey Darrow (Planning Director), and Kelsie Chang (Commission Secretary).

And approximately 2 public members in the audience.

INITIATOR: PLANNING DIRECTOR (PL-PDI-2025-000014)

The Planning Director has initiated an ordinance to amend Chapter 25 (Zoning), Article 1, Article 2, Article 4, Article 5, and Article 7 of the Hawai‘i County Code 1983 (2016 Edition, as amended), relating to zoning district regulations for meeting facilities, community buildings, and churches, temples and synagogues. The purpose of this bill is to remove the definitions and references to churches, temples, synagogues and community buildings and consolidate them under meeting facilities and establish standards for their development to ensure equitable treatment in the Zoning Code.

Secretary’s Note: [indecipherable] indicates that there were technical and/or internet difficulties, which made the conversation inaudible.

The following is when the agenda item was called at the Leeward Planning Commission hearing on April 17, 2025. [SEE YOUTUBE TIMESTAMP 01:04:26]

YouTube: <https://www.youtube.com/live/jzqGm7AxZyY?si=jh9Q28L0st6dNGFi&t=3866>

AU: We'll go into agenda item number two, Initiator: Planning Director, PL-PDI-2025-0014. The planning director has initiated an ordinance to amend chapter 25, zoning, article 1, article 2, article 4, article 5, and article 7 of the Hawaii County Code 1983 2016 edition as amended relating to zoning district regulations for meeting facilities community buildings and churches temples and synagogues. The purpose of this bill is to remove the definitions and references to churches, temples synagogues and community buildings and consolidate them under meeting facilities and establish standards for their development to ensure equitable treatment in the zoning code. So, at this time can we have um staff presentation by um, Ms. Camero.

CAMERO:

Good morning, chair, and members of the Leeward Planning Commission. Before you today we have the planning director-initiated bill which is relating to zoning district regulations for meeting facilities, churches, temples, synagogues, and community buildings. This specifically is an amendment to chapter 25, article 1, article 2, article 4, article 5, and article 7 of the Hawai'i County Code. First off, the purpose of this bill, this bill aims to correct zoning inconsistencies and ensures that religious institutions receive equitable treatment under the Hawai'i County code zoning code. This ordinance consolidates religious institutions under the meeting facility definition ensuring that there's equal treatment in zoning regulations. This bill also consolidates the overlapping term community buildings into meeting facilities for clarity and consistency. Additionally, it introduces the term event to distinguish routine facility uses from larger commercial gatherings such as weddings or concerts which may require a special permit or other oversight. So, again the purpose of this bill it's first to remove the definition of community building. It revises the definition of meeting facility to include religious institutions. It introduces the term event to distinguish commercial or large-scale gatherings from routine facility uses. It establishes a standardized operating criteria for meeting facilities including limitations on hours of operation and attendance capacity. It requires a technical review of proposed meeting facilities by applicable county and state agencies, and it amends the permitted uses for meeting facilities across the zoning districts. A quick background on this, the federal government enacted the Religious Land Use and Institutionalized Persons Act of 2000, also known as RLUIPA, in part to protect religious organizations and individuals from discriminatory land use regulations. In February 2024, the Chabad Jewish Center and Rabbi Levi Gerlitzky, filed a lawsuit against the Hawai'i County claiming that the zoning code discriminates against religious institutions by requiring them to obtain use permits in residential zones while secular meeting facilities can be operated by right. The US Department of Justice filed a statement in the lawsuit in March of 2024, alleging that the county codes, violates the RLUIPA's provision by treating religious uses less favorably than comparable secular uses. Therefore, the planning director is proposing amendments to the Hawai'i County Code to classify religious institutions as meeting facilities, therefore aiming to eliminate any zoning disparities ensuring RLUIPA compliance and promoting a clear fair land use standards. The first proposed amendment is relating to definitions. The following definition is proposed to be removed from section 25-1-5(b) and that is the definition of a community building. By removing the community building definition, this will simplify the zoning code by eliminating redundancy. In addition, the director is proposing to amend the definition of meeting facility which is proposed to be amended as follows: A meeting facility will now mean a facility or building site that is used for recreational social or multi-purpose use and may include a kitchen but has no transient accommodations. Typical uses include private clubs, union halls, cultural, community, and association centers, religious facilities such as places of worship, and student centers. This does not include schools or events. The following definition is also proposed to be added to section 25-1-5 and that is the definition of an event which will mean an assembly generally by invitation or ticket purchase that extends beyond the typical meeting facility or residential use, including but not limited to commercial weddings, wedding receptions, promotional events, and concerts. The reasons for this amendment is that it adds clarity by distinguishing routine meeting facility uses from the larger commercial gatherings. This ensures that activities like weddings, receptions, and concerts are properly regulated and not automatically permitted as part of a meeting facility. The proposed amendments in section 25-27-1(c), relating to plan approval. This establishes specific procedures for the director's review and decision making on plan approval actions. My apologies there's a popup. So, again, this establishes specific procedures for the

director's review and decision making on plan approval actions. Therefore, we are adding meeting facilities and events to this section. And this section would a plan approval shall be required in all applicable districts prior to the construction or establishment of the following improvements and uses. This will now include meeting facilities and events in items one and six. This amendment clarifies that plan approval is required before meeting facilities and events are established, ensuring proper land use oversight and compliance with zoning regulations. In addition, the planning director is proposing an additional amendment to this section to correct an error specifically in the subsection (c)6 to state events as defined under section 25-1-5, rather than events as permitted under section 25-5-42, which is actually a permitted use um section in the zoning code. Continuing with the proposed amendments relating to plan approval requirements for meeting facilities, the following section is proposed to be added to establish the zoning standards for meeting facilities. This new section is titled section 25-4-17 meeting facilities, and it'll...it will include letter A, which is a meeting facility can be established within a new or existing structure or on a building site for recreational social cultural or multi-purpose use. The facility may include a kitchen. B, a meeting facility may be used for organizations operating on a membership basis or the promotion of members, mutual interests, or may be primarily intended for community purposes. C, a meeting facility only applies on building sites that have gatherings more than two times per week with more than 25 attendees. And the planning director wanted me to just make a note for letter C, that at the April 3rd Windward Planning Commission meeting, the Windward Planning Commission did add that letter C will also go on to state that this 25 attendees will be exclusive of family members. Section 25-4-17 continues on to letter D, which is the hours of operation for meeting facilities shall start no earlier than 8:00 a.m. and ends no later than 9:00 p.m. Letter E, a meeting facility can be established in a zoning district that permits such use provided that the director has issued a plan approval. And lastly letter F, a meeting facility shall be subject to technical review by the county department of public works, county fire department, county water department, and or the state department of health for compliance with current and rule requirements. In addition, the zoning code um is proposed to be amended on your screen as follows. We thought it would be easier to see it rather than the multiple pages of zoning code that's being amended. So, as you can see in the first row this is the RS/RD/RM and RCX zoning districts, where meeting facilities will be allowed as a permitted use. Meeting facilities including events will not be permitted and community buildings will be removed as well as the churches, temples, and synagogues will be removed as a use permit. In addition, the RA/FA and A zoning districts will allow for meeting facilities as well as meeting facilities including events to be allowed as either a special permit or use permit. And it will also remove community buildings as well as remove churches, temples, and synagogues. In the IA district meeting, facilities with um as well as meeting facilities including events will be allowed only as a special permit and again community buildings and churches, temples, and synagogues will be removed. In the V/CN/CG/CV/MCX and CDH district meeting facilities as well as including events will also be allowed as a permitted use and again community buildings, churches, temples, and synagogues will be removed. Within the ML and the MG district, meeting facilities will be allowed as a permitted use. Meeting facilities including events will only be allowed as a permitted use in the ML district and again community buildings, churches, temples, and synagogues will be removed. Lastly, in the old district meeting facilities as well as meeting facilities, including events will not be permitted and community buildings and churches and temples and synagogues will...will also be not permitted. Right now, the planning director is recommending that we forward a favorable recommendation to the county council and that concludes my presentation.

AU: Thank you, Ms. Camero. Um, fellow commissioners do you have any questions for staff? Um, Vice Chair Noborikawa?

NOBORIKAWA: Thank you, Chair Au. Uh, thank you Ms. Camero for your presentation. Um, just so that I have it clear in my mind the primary reason you're in front of us here today is because the current county code is out of compliance with federal law, and we are trying to make the county code comply with federal law. Is that correct?

CAMERO: Yes, that is correct.

NOBORIKAWA: Thank you. Um so, I also wanted to thank you for this table showing the zoning comparisons zoning use comparisons. I ended up making my own table at home because I couldn't...I was just having trouble with all those lines of...of talk. I also appreciate the note in the recommendations that said reason for amendment that made it very clear and um I would love to see that in all the rest of the ones. I was getting kind of confused on some of the earlier ones. Uh, but thank you very much for your presentation.

AU: Okay. Uh, any um more questions for Ms. Camero? If not, we'll go into...Do we have any testifiers on Zoom or in person?

JACKSON: Chair, you have no in-person testifiers at this time.

AU: Do we have any Zoom testifiers?

ZOOM HOST: Hello, Chair Au. We have one testifier on Zoom.

AU: Okay. Aloha Ms. Rohr, I believe you are sworn in already um so you can go ahead. Uh, you have three minutes to testify. Um please go ahead.

ROHR: Good morning again. The director's proposed zoning ordinance as written is unconstitutionally vague over broad and unenforceable and inequitable. It requires that the planning department's enforcement officers intrude into gatherings and detain attendees to count heads. A violation of our...of citizens constitutional rights on so many levels. It's better to have a fair and straightforward enforcement zoning code with notice and an opportunity for all to be heard. Excuse me. Um, there's no...Excuse me, please be patient. This uh as written this amendment arbitrarily treats residential zone districts less favorable regulatory with less favorable regulatory controls than it does agricultural zone districts. Even though residential neighborhoods will experience more adverse effects from meeting facilities as compared to agricultural neighborhoods. Not all roads are the same. Uh, many of our local roads date back to 1920 and are substandard even on the ground. Um allowing this to go forward will violate my personal rights to for safety and well-being in that my next-door neighbor is holding uh outdoor cultural classes. Uh, and they are operating on three building sites which would allow them to have 75 persons twice a week and of and...and the parking has changed. The director has unreasonably decreased the parking in meeting facilities. It should be amended and there should be a use permit required for meeting facilities in every zone.

ZOOM HOST: You have 30 seconds left.

ROHR: This is my version of the definition of meeting facility. Meeting facility means a permanent...he took that out. Facility that is used for nonprofit...he took that out. Recreational social or multi-purpose use that must have adequate bathroom facilities and off- street parking and may include a kitchen but has no transient accommodations.

ZOOM HOST: Your three minutes are finished. Thank you for your testimony.

ROHR: Please let me finish this sentence. May I have permission?

AU: Yes, please go ahead. I'll give you...

ROHR: [Indecipherable] include private club union halls, cultural and community association centers religious facilities such as places of worship and student centers. This land use category does not include schools or events. Book clubs Bible study groups and other small weekly social or cultural gatherings may register as a home occupation as permitted under section 25-4-13. If you read my first testimony that is in your board packet it has two statements that very transparently tells people that they can ask for a modification of the zoning code in order to practice their religion and associate with members of their faith in their home and...

AU: Thank you, Ms. Rohr. We...Thank you very much for your testimony.

ROHR: Sorry, I feel strongly this will go to court.

AU: Thank you, Ms. Rohr. We have heard your testimony. Thank you very much. Uh, do we have any more testifiers in person or in Zoom? Okay, we have none. So, at this time I'm going to go ahead and close public testimony. Public testimony is closed. Um Director Darrow, would you like to respond at all to any of the comments?

DARROW: Sure. Thank you, Chair Au. Um, as uh Tracie had mentioned through the presentation that we are in this position because of a pending lawsuit uh stating that our zoning code is currently unconstitutional mainly because we have uh a requirement for churches, temples, and synagogues to go through a use permit process in certain zoning districts. This particular event was within a residential zoning district um and other uses that are similar in nature in residential zoning districts that did not require going through that particular uh process. Uh, they were permitted either outright or required plan approval. So, in discussion with parties, um back and forth uh there were um I don't want to say agreements but there was um you know the opportunity for us to present something that that appeared to resolve the uh conflicts within the code through this process. Um, there were two directions we could have gone. Uh, we could have gone to require a use permit for uh all the similar uses or to require plan approval. Uh, we have chosen in discussion with all parties to pursue the plan approval process. We...the reason why we are looking at um 25 people, two times a week, as the balance is because even prior to this uh situation occurring we would get um not...not continual

but every you know on a regular basis we would get calls or complaints or uh questions from the public...Am I okay to have a party or a personal wedding? And when I say wedding, I mean specifically a wedding for the people at that live at the residence and it's a one-time kind of thing, not a regular commercial wedding or a birthday party or something that obviously occurs at uh...and even uh, every Sunday having a you know, Super Bowl or a football party at their house where they have you know a number of people right. Um, we would get complaints these guys are operating some sort of you know event on a regular basis and we would do our investigation and find out that oh it's you know a Bible study that was occurring or it was uh friends getting together to have uh a good time watching a football game or uh a birthday party or something. So, we wanted to make sure that we captured this particular occurrence that happens pretty regularly, not uh...we didn't think it would go beyond 2 days a week I mean that's kind of extreme, but we wanted to have that balance. So, that was why you see two times a week no more than 25 people. If you go beyond that we consider you a meeting facility and you come in for plan approval which requires um parking on-site parking. It requires looking at the structures whether they're temporary tent structures or whether it's within the residence or whether they build a new structure. All of that is taken into consideration through the plan approval process. What this does not do is have a public hearing process similar to a use permit. Um, so keep that in mind. Um we again we don't get a lot of complaints regarding and not to say we don't get any, but we don't get a lot of complaints of these types of uses occurring on a regular basis. And that's why we felt like the balance would...would go to lean towards the plan approval process. Uh and you know again we can see uh how it goes. We think this would resolve uh the pending lawsuit and bring our code into compliance. Uh, but in the future if uh this particular direction seems to not work, we get a lot more complaints or something, there's always uh the opportunity to bring the other direction where all of these uh uses come under a use permit or a special permit. Uh, Ms. Rohr brought up why is why is it uh required in the agricultural district to go through a public hearing versus a residential zoning. It...it in the county agricultural district it's a permitted use. It's the state land use agricultural district that triggers the need for the use permit...I mean the special permit which would require a public hearing that's outside of our jurisdiction and we have no um say in that matter. Uh, that's something state law has to deal with but right now currently that is not a permitted use within the state land use agricultural district. Anyway, hopefully that um uh clears up everything. If you have any questions, I'm uh open to suggestions or answers.

AU: Thank you, Director Darrow. Uh, Vice Chair Noborikawa?

NOBORIKAWA: Uh, thank you, Chair. So, um Director Darrow, could you uh ex...tell us what the planning department's feeling is about the amendment that the Windward Planning Commission proposed that the 25 be exclusive of family members.

DARROW: We're supportive.

AU: Okay if we have no more questions for uh Director Darrow, um I'm prepared for a motion so we can discuss. Um Commissioner Dela Cruz.

DELA CRUZ: Thank you, Chair. Um, I'd like to make a motion. I move that the favor recommendation be forwarded to the county council on the proposed amendment to chapter 25 zoning, article 1, article 2, article 4, article 5, and article 7 of the Hawai'i County

Code, 2016 edition as amended. Docket number PL-PDI-2025-000014, based on the planning director's recommendation.

AU: Uh, Commissioner DeFranco?

DEFRANCO: I would like to second it but I...I think the addition of...of what the uh of what the Windward Planning...of what the Winward Planning Commission added is a good idea. So, I'm wondering if you could rephrase your...

AU: Um...uh so, Commissioner Dela Cruz, are you willing to uh add on the that amendment?

DELA CRUZ: Yes.

DARROW: Chair.

AU: Um, Director Darrow.

DARROW: I apologize for interrupting. We also are requesting um to include the correction to uh 25-2-71(c)6 which was...um, just had the incorrect section uh referenced. Thank you.

AU: Okay. Uh, Commissioner Dela Cruz, are you willing to add in that to your motion?

DELA CRUZ: Yes.

AU: Okay. Um, uh...Commissioner DeFranco, are you okay with that?

DEFRANCO: Yes, with that...with the second uh addition and to also include the correction, yes, I will second.

AU: Okay. So, motion was made by Commissioner Dela Cruz uh with those two amendments and um seconded by Commissioner DeFranco. Um, discussion? I...I would like to make a few comments...So, um Commissioner DeFranco, you go ahead first.

DEFRANCO: I...I just think it's...it's really important that this is done you know, especially if there's a lawsuit on the table about it and um and I think I'm sure there's a lot more that maybe can be clarified in the future when things are looked at but I think this is a very good first step in making it equal. Yeah, with no discrimination. Thank you.

AU: Um, I would like to just make a...a comment uh to the testifiers that submitted testimony. You know we have heard you. Um we have, um...uh we...we...we the planning department, has assessed all of those issues and again we have heard you and we do feel...um feel for you especially with the parking issue. Um, you know it does impact all of our communities. Um and again I just want to thank you for testifying and we do

recognize your concerns. Um, and if no fellow commissioners have any comments for discussions or questions, uh let's call for the uh question.

CAMERO: Thank you, Chair. The motion is to forward a favorable amendment as adopted by the Windward Planning Commission at their April 2025 meeting as well as the director's correction to section 25-2-71(c)6. Commissioner Dela Cruz.

DELA CRUZ: Aye.

CAMERO: Commissioner DeFranco.

DEFRANCO: Aye.

CAMERO: Commissioner Rodriguez.

RODRIGUEZ: Yes.

CAMERO: Vice Chair Noborikawa.

NOBORIKAWA: Aye.

CAMERO: And Chair Au.

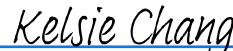
AU: Aye.

CAMERO: The motion carries five to zero with Commissioner Kanuha excused and absent. Thank you so much.

AU: Thank you, Ms. Camero. Um, the commission's recommendation will be provided to the county council.

This hearing item ended at 11:08 a.m.

Respectfully submitted,



Kelsie Chang (May 16, 2025 14:08 HST)

Kelsie Chang
Secretary

ATTEST:



Dean Au (May 20, 2025 14:33 HST)

Dean Au, Chairperson
Leeward Planning Commission