MEETING OF THE PLANNING COMMISSION
CITY AND COUNTY OF HONOLULU

Minutes
Wednesday, April 12, 2017

The Planning Commission held a meeting on
Wednesday, April 12, 2017, at 1:30 p.m., at the Mission Memorial Conference Room, Mission Memorial Building, 550
South King Street, Honolulu, Hawai'i. Chair Hazama presided.

COMMISSIONERS PRESENT: Dean I. Hazama, Chair
Cordell W. Anderson
Kalulani K. Kodaro
Ken K. Hayashida
Gifford K. F. Chang

COMMISSIONERS EXCUSED: Arthur B. Tolentino
[ prior notice given]
Steven S. C. Lim
[ prior notice given]
Wilfred A. Chang, Jr.
[ prior notice given]
Theresa C. McMurdo
[ prior notice given]

COMMISSION STAFF: Gloria Takara,
Secretary-Hearings Reporter

DEPUTY CORPORATION COUNSEL: Barrett W. Francis
(Advisory to the Commission)

DPP REPRESENTATIVE: William Ammon, Staff Planner, Urban Design Branch
Mark Taylor, Staff Planner, Land Use Approval Branch

Chairman: Okay. Good afternoon and welcome to the
April 12th, 2017 meeting of the Honolulu Planning Commission. At this time I call the meeting to order.
[ bangs gavel] Also, welcome our new Commissioner Mr. Chang to the Commission at this time. So, welcome aboard.
Mr. G. Chang: Thank you very much.
Chairman: Okay. First order of business on our agenda is the approval of our March 15th, 2017 minutes as previously circulated. Commissioners, do we have any comments or corrections on the minutes?
Member Sodaro: None.
Chairman: Okay. Seeing none, do we have a motion to adopt.
Member Sodaro: Motion to adopt.
Member Hayashida: Second
Chairman: Moved and seconded. Any objections?
[ no response] Any abstentions? [ no response] Okay. The March 15th, 2017 meeting minutes have been adopted. Moving onto our public hearings. Item No. 1, Request for Amendments to Chapter 21, Revised Ordinance of Honolulu, 1990, the Land Use Ordinance, Relating to Wind Machines. At this time, Department, please come up. Good afternoon.

1. A REQUEST FOR AMENDMENTS TO CHAPTER 21,

REVISED ORDINANCES OF HONOLULU 1990 (The Land Use Ordinances), RELATING TO WIND MACHINES

The City Council initiated a proposal to amend the Land use Ordinance (LZO) relating to wind machines. The proposal amends the Utilities and Communications provisions of LZO Table 21-3 ("Master Use Table") to require, in the Agricultural and Country Zoning Districts, that wind machines with a rated capacity of more than 100 kilowatts (KW), and not accessible to other uses, will require a Conditional Use Permit-major (CUP-major).

Resolution No. 15-311, requests amendments and provisions of LZO Table 21-3 ("Master use Table") require, in the Agricultural and Country Zoning Districts, that wind machines with a rated capacity of more than 100 kilowatts, and not accessible to other uses, require a Conditional Use permit-major (CUP-major).

Mr. Ammons: Good afternoon, Chair, members of the Planning Commission. My name is William Ammon. I'm a staff planner at the DPP. I processed the resolution for the Wind Machines, 15-311. It's an initiated amendments to the Land Use Ordinance, Relating to the Wind Machines. The proposal also amends the Utilities and Communications provisions of LZO Table 21-3, which is a Master Use Table to require in the agriculture and county zoning districts that Wind Machines with a rated capacity of more than 100...
1 kilowatts and over 400 feet will require a major conditional
2 use permit. As it stands now, the wind machines in those
3 districts only require a conditional use permit, minor.
4 Now, the difference and the reason Commission--I'm
5 sorry, Council initiated this is to give the public greater
6 input into the process. So, with the major now, a public
7 hearing will be required, notification of surrounding
8 property owners within 300 feet would also be notified and
9 there would be a public hearing, if I didn't say that
10 already.
11 And, do you have any questions?
12 Chairman: Okay. Any questions, Commissioners?
13 Member Sodaro: Just out of curiosity, staff
14 Ammons, is there anything in the pipeline--If there's any
15 projects that are in or any wind forms being processed, they
16 wouldn't have to go back. It's just if anybody comes forward
17 with new?
18 Mr. Ammons: That's correct. Once upon adoption of
19 the resolution, any applications that come in after that
20 would be bound by the new guidelines for a major. We just
21 processed one. So, it's been approved and everything. But
22 it was being done at the same time as this resolution came
23 into being. And, so they weren't bound by it.
24 Chairman: Okay. I guess I only have one
25 clarification. Applies to projects 100 kilowatts or

1 greater, but not accessory to other uses. So, what are the
2 other possible uses for these things?
3 Mr. Ammons: Other possible uses--
4 Chairman: Except--Yes, that are accessory uses.
5 Mr. Ammons: Meaning that it's use in of itself.
6 There's some language that allows certain things, activities
7 in AG zoned districts that could be considered accessory and
8 that allows them to do it whereas it would not otherwise be
9 permitted. But this is basically stating that this is not
10 an accessory use. It's a use in of itself.
11 Chairman: Oh, okay. So, it doesn't necessarily
12 apply to the turbine itself. It applies to the accessory
13 use of the AG land?
14 Mr. Ammons: Yes.
15 Chairman: Okay.
16 Member G. Chang: Can you give us an example?
17 Mr. Ammons: An example of what?
18 Member G. Chang: Of what you mean by that
19 accessory use--
20 Mr. Ammons: Well, accessory use is typically
21 something that subordinate to the primary use. So, you have
22 to have a primary use, whatever that use is, and then the
23 accessory use is something that's related to the principle
24 use. Because typically you cannot have an accessory use
25 without a principle use. It's like putting a garage on a

1 vacant lot with no dwelling. It's an accessory use but it's
2 not a primary use. That was the quickest example I could
3 think of.
4 Chairman: Okay. Any other questions,
5 Commissioners, at this time? [no response] Okay, No. Thank
6 you. Appreciate it. Gloria, we have anybody signed up?
7 Hearings Reporter: No.
8 Chairman: No. I know we received one written
9 testimony, I believe. Is there anyone wishing to testify on
10 this issue before the Commission at this time? [no response]
11 Okay. Seeing none, can I get a motion to close public
12 testimony.
13 Member Anderson: Motion to close public
14 testimony.
15 Member Hayashida: Second.
16 Chairman: Moved and seconded. Any objections?
18 public testimony portion of this issue has been closed.
19 (It was moved by Anderson and seconded by
20 Hayashida that the public testimony for Item No. 1 be
21 closed. Motion was unanimously carried, 5:0.)
22 Chairman: Commissioners, any questions or
23 additional discussion? [no response] Okay. Seeing none, do
24 we have a motion?
25 Member Sodaro: Yes, Chair. So I'd like to make a

1 motion to recommend Resolution No. 15-311, requesting
2 amendments and provisions of the LDO Table 21-3, to require
3 in the AG and county zoned districts that mind machines with
4 a rated capacity of more than 100 kilowatts and not an
5 accessory to other uses require a CUP major.
6 Chairman: Okay. So moved. Do I have second?
7 Anderson: Second.
8 Chairman: Moved and seconded. Any discussion,
9 questions? [no response] Seeing none. All those in favor
10 of the motion, say aye.
11 All Commissioners: Aye.
12 Chairman: Any opposed? [no response] Any
14 Thank you very much.
15 (It was moved by Sodaro and seconded by Anderson
16 that a request for amendments to Chapter 21, Revised
17 Ordinances of Honolulu 1990 (The Land use Ordinance),
18 relating to wind machines be approved. Motion was
19 unanimously carried, 5:0.)
20 Chairman: Okay. Moving on to the second item on
21 our agenda, request for amendments to Chapter 21, Revised
22 Ordinance of Honolulu 1990, Land Use Ordinance, relating to
23 nonconforming structures. Department, please come up at
24 this time. Good afternoon.
2. A REQUEST FOR AMENDMENTS TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (The Land Use Ordinance), RELATING TO NONCONFORMING STRUCTURES

The City Council initiated a proposal to amend the Land Use Ordinance (UDO) relating to nonconforming structures. The proposal amends UDO Section 21-4.110, subsection "b", nonconforming structures.

Resolution No. 16-105, amends UDO Section 21-4.110(b) Nonconforming Structures to allow a nonconforming structure which is destroyed by any means, including voluntary razing, to be rebuilt to its former state with no restriction on replacement cost and in conformance with the standards pursuant to which the structure was legally established, provided the reconstruction and restoration is started within two years of the destruction.

Mr. Taylor: Good afternoon, Chair, Commission members. My name is Mark Taylor with the Department of Planning and Permitting, within the Land Use Permits Division. And the purpose of Resolution No. 16-105 was to make it easier to replace nonconforming structures if they are destroyed. And they were going to do this by removing the cost valuation requirements or if the structure is destroyed, you can only replace those portions of the structure. If the replacement value, what's being replaced is less than 50% of the value of that portion of the nonconforming structure. So, that was essentially it. That was the major part of it, was that they wanted to remove that. And, our recommendation is to defer this action. And, it's because the nonconforming structure provision is actually a larger part of the Land Use Ordinance section, and it also includes things such as nonconforming uses, nonconforming parking spaces, loading. The reason why we want it deferred is that there could be multiple nonconformities on the piece of property. So, because of that, you redevelop the property, it's not just one thing that's impacting how it can be redeveloped. It's multiple things. And we felt that the incremental approach is to address it one, and not all of it at one time is inappropriate. Are there any questions?

Chairman: Okay. Commissioners, any questions at this time?

Member Sodaro: Yes. So, I was wondering. Yes, the nonconforming carries on multiple levels. And, I guess, will in this deferral are you also setting how it affects other codes, like the fire and like any P-codes and stuff? Because I was confused by the language. It says it would allow for it to be rebuilt to the regulations of the time in which it was originally constructed. Is that the kind of clean-up time?

Mr. Taylor: Not with other codes like the fire code or the building code. This would strictly be for Land Use Ordinance requirements. And there's also language in there that needs to still meet other applicable codes. That would be things like fire code, building code. But for this right here, is this just talking to Land Use Ordinance standards.

Member Sodaro: So, not setbacks, just uses as an example?

Mr. Taylor: Setbacks are part of nonconforming structures.

Member Sodaro: Okay.

Mr. Taylor: So, nonconforming structures can involve the setback, the height and also floor area. If it's exceeding the sides is allowed in the zone.

Member Sodaro: Okay.

Chairman: Okay. Any other questions at this time, Commissioners?

Member Hayashida: Are you going to set a time frame for updating this?

Mr. Taylor: To my knowledge right now, we would want to do it within the fiscal year. I think 2018. If we got the funding to do the update on our codes, and it sounds like that we did not get the funding, and that we are going to try to get that reversed. But right now, if we don't...
1 your report, destroyed by accidental means and that applies
2 to 514(b) or 41, 421(a) units owned by cooperative housing
3 corporation. If there is a structure, and I’m not part, I’m
4 not cooperative housing corporation and the structure is
5 destroyed by accidental means, is there any avenue other
6 than the variance that was just explained?
7 Mr. Taylor: Correct. So, let me see, make sure I
8 understand this. So, with the multi-family structure, if
9 it’s basically condominum and it’s owned by multiple
10 people, we’ll let that structure be rebuilt and that cost
11 valuation doesn’t apply. If you lived in currently a
12 multi-family structure the same thing, but it’s a rental
13 property, then the nonconformity structure section would
14 apply to it. So, what that means is that basically if it
15 gets completely burned down, you’re not going to replace it
16 back to what it was previously was. That’s the bottom line,
17 So, we start to get nick picky where that portion is
18 nonconforming. If that gets destroyed then that’s again
19 with the replacement cost is that portion that’s
20 nonconforming, the part that you need to replace of it, it
21 can’t exceed 50% of that cost of it. So, the constraints
22 are sort of put there with this academic thought of
23 nonconformities may be against the public interest and that
24 we want these nonconformities to eventually go away. So,
25 that’s why these provisions are in here right now to sort of

1 make it consistent with the ideas of what the Land Use
2 Ordinance wants with regards to the height, the setbacks.
3 It sort of creates this uniformed design. So, that’s what
4 they’re in place for.
5 Member Anderson: Thank you.
6 Chairman: Okay. Any other questions,
8 Mr. Taylor: Thank you.
9 Chairman: Okay. Gloria, do we have anybody
10 registered?
11 Hearings Reporter: No.
12 Chairman: No registered speakers. Anybody
13 wishing to testify on this matter before the Planning
14 Commission? [no response] Okay. Seeing none, can I get a
15 motion to close public testimony.
16 Member Anderson: Motion to close public
17 testimony.
18 Chairman: Moved.
19 Member Hayashida: Second.
20 Chairman: Moved and seconded. Any objections?
22 The public testimony portion of this issue has been closed.
23 [It was moved by Anderson and seconded by
24 Hayashida that the public testimony for Item No. 2 be
25 closed. Motion was unanimously carried, 5:0, 1]
Chairman: Some of the statutes or ordinances are really old, especially the--
Ms. Balassiano: Yes, that's right. And that is exactly the reason why we've asked council for funds to take a comprehensive look. Maybe not a comprehensive overhaul, but certainly review of what's working and what's not working into, you know better respond to these various issues that continue to come up.
Chairman: Okay. Thank you.
Ms. Balassiano: Thank you.
Member Hayashida: Question. Do you see more by neighborhood or by certain sections of our community that having these issues more than others, whether it be Makiki or Waikiki or--
Ms. Balassiano: I know that there some community plans that specify particular neighborhoods, where this is perhaps a greater issue than others, some of the older neighborhoods. But, again, that is in part why we're asking to defer this because there is a lot of information that needs to be analyzed before we can just simply change one small piece of the ordinance. Thank you.

All Commissioners: Aye.
[It was moved by Anderson and seconded by Hayashida that a request for amendments to Chapter 21, Revised Ordinances of Honolulu 1990, The Land use Ordinance, Relating to Nonconforming Structures be approved. Motion was unanimously carried, 5:0.]
Chairman: And, we have no further items on our agenda this afternoon. So, can I have a motion to adjourn.
Member Hayashida: Motion to adjourn.
Member Chang: Second.
[It was moved by Hayashida and seconded by W. Chang, Jr., that the April 12, 2017 meeting be adjourned. Motion was unanimously carried, 5:0.]
Chairman: Thank you very much. [bangs gavel]
[meeting adjourned at approximately 2:15 p.m.]

April 12, 2017 minutes

1  I certify that the foregoing is 2 a true and correct transcription 3 of the proceedings, prepared to 4 the best of my ability, of the 5 meeting held on Wednesday, 6 April 12, 2017.
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8 Gloria Takara
9 Secretary-Hearings Reporter
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13 Adopted on June 21, 2017
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