MEETING OF THE PLANNING COMMISSION
WRITTEN SUMMARY
Wednesday, October 31, 2018

The Planning Commission held a meeting on Wednesday, October 31, 2018, at 1:30 p.m., at the Kualoa-Heeia Ecumenical Youth (KEY) Project, Pavillion, 47-200 Waihee Road, Kaneohe, Hawaii. Vice Chair Cord Anderson presided.

COMMISSIONERS PRESENT: Cord D. Anderson, Vice Chair
Theresia C. McMurdoo
Steven S. C. Lim
Ken K. Hayashida
[Recused Item No. 2]
Wilfred A. Chang, Jr.
Gifford K. F. Chang
Arthur D. Challacombe
[Recused Item No. 2]

COMMISSIONER EXCUSED: Arthur B. Tolentino
[prior notice given]

DEPUTY CORPORATION COUNSEL: Rozelle A. Agag
(Advisory to the Commission)

COMMISSION STAFF: Gloria Takara
Secretary-Hearings Reporter

DPP REPRESENTATIVES: Katia Balassiano
Land Use Permits Division Chief
Franz Kralntz, Staff Planner
Community Planning Branch
CALL TO ORDER

Katia Balissiano Land Use Permits Division Chief, Dept of Planning and Permitting

Mayor Kirk Caldwell

PUBLIC HEARINGS
Public hearing notice published in the Honolulu Star-Advertiser on October 19, 2018.

1. RELATING TO SHORT-TERM RENTALS

The Department of Planning and Permitting (DPP) has redrafted its omnibus bill for consideration. DPP’s revised bill amends certain provision of the ROH, and responds to testimony submitted at the previous Planning Commission hearings.

NOTE: The Planning Commission will ONLY be reviewing the amendments associated with Chapter 21 (The Land Use Ordinance).

[See attached list of public testifiers]

At 3:03 p.m., Vice Chair Anderson called for a 5-minute recess and reconvened at 3:17 p.m.)

[cont’d public testimony; see attached list of public testifiers]

It was moved by Lim and seconded by G. Chang that the public hearing relating to short-term rentals be closed. Motion was unanimously carried, 7:0.

[It was moved by Challacombe and seconded by G. Chang that the Planning Commission accept the recommendation of the Acting Director of the Department of Planning and Permitting (DPP), to adopt the revised proposed amendment to the Land Use Ordinance, relating to Short-Term Rentals with the following recommendations: 1) Fines and registration fees for STR shall be funneled towards the enforcement division of DPP for regulation of STR; 2) Remove submittal of the homeowner’s exception from the proposed STR registration requirements; 3) Consider and visit the Real Property Tax rates to increase STR rates that apply only to the bedroom(s) use as the STR and not the entire property; 4) Adjourn RPT rate for bed and breakfast homes and transient vacation units to match the Resort RPT rate for STR in the Resort and Resort Mixed-Use Precincts; and 5) At Sec. 21-2, 150-2, Administrative Enforcement, on page 4, Section (b)(1)(E), after “a person who commits recurring violations” insert “as defined in the appropriate DPP Rules”, and after “shall be subject to increased civil fines”, insert “as may be determined in the direction of the Director” as follows:, Motion was unanimously carried, 7:0.]
KOOLAU LOA – STATE LAND USE DISTRICT BOUNDARY AMENDMENT (15 ACRES OR LESS) 2018/SLU-1 (FK)
BRYHAM YOUNG UNIVERSITY-HAWAII

Applicant/Landowner: Brigham Young University-Hawaii (BYU-H)
Agent: R. M. Towill Corporation
Location: 55-220 Kulanui Street, Laie, located along the mauka edge of the built area of the Brigham Young University-Hawaii Campus (BYU-H), between Naniloa Loop and the Quarry Road, and adjacent to Waielea Stream on the south side of campus.

Tax Map Keys: 5-5-006: portion of 005 and 5-5-006 portion of 032

Existing Use:

Petition Area 1 – Approximately 0.12 acres. Area consists of open space including a concrete slab, ramp, and various trees and is proposed for the future expansion of the Temple Valley Apartment (TVA) Building No. 25.

Petition Area 2 – Approximately 0.50 acres. Open space with parking lot and location for the proposed new married student apartment building, TVA Building No. 27.

Petition Area 3 – Approximately 0.03 acres. It is the asphalt roadway of Mikioneli Way.

Petition Area 4 – Approximately 2.70 acres. Consists of a parking lot, grassed detention area, and the Electric Utilities Transformer and Telecommunications Building.

Petition Area 5 – Approximately 10.00 acres. Currently, vacant open space and proposed area for the single student dormitories.

Petition Area 6 – Approximately 1.53 acres. A parking lot used by the Polynesian Cultural Center and BYU-H.

Existing Zoning: AG-1 Restricted Agricultural District.
Land Area and Request: To reclassify approximately 14.85 acres from the State Land Use (SLU) Agricultural District to SLU Urban District and approximately 0.03 acres from the SLU Urban District to the SLU Agricultural District.

Franz Kraintz, Staff Planner of the Department of Planning and Permitting
Jim Niermann, Planner, R. M. Towill Corporation
Eric Conrad, BYU-H, Vice President of Operations

(See attached list of public testifiers)
[3:46:34 / 4:06:01]

[It was moved by G. Chang and seconded by Lim that the public hearing on Koo Lau Loa—State Land Use District Boundary Amendment (15 acres or less), 2018/SLU-1(FK), Brigham Young University-Hawaii be closed. Motion was unanimously carried, 5:0; Commissioners A. Challacombe and K. Hayashida recused.]

[3:57:10 / 4:06:01]

[It was moved by G. Chang and seconded by Lim that the Planning Commission accept the recommendation of the Acting Director of the Department of the Planning and Permitting (DPP), with the stated conditions, subject to the modification of No. 3, Section V. Recommendation, page 26, after "...Cultural Impact Assessment (CIA)." insert "or other cultural document acceptable to the DPP," including a Ka Paakai Analysis... Motion was unanimously carried, 5:0; Commissioners A. Challacombe and K. Hayashida recused.]

(At 4:34 p.m., Vice Chair Anderson called for a 5-minute recess and reconvened at 4:45 p.m.)

[4:02:05 / 4:06:01]

ELECTION OF CHAIR

[It was moved by Lim and seconded by G. Chang that the Chairperson of the Planning Commission be Arthur Challacombe (effective 11/1/18 – 6/30/19). Motion was unanimously carried, 5:0. Commissioners A. Challacombe and K. Hayashida was not present.]

[4:05:39 / 4:06:01]

ADJOURNMENT

[It was moved by G. Chang and seconded by Lim that the Planning Commission October 31, 2018 meeting be adjourned. Motion was unanimously carried, 5:0; Commissioners A. Challacombe and K. Hayashida was not present.]

There be no further business before the Commission, the meeting was adjourned by the Vice Chairman at approximately 5:45 p.m.

I certify that the foregoing is a true and correct transcription of the proceedings, prepared to the best of my ability, of the meeting held on Wednesday, October 31, 2018.

Gloria C. Takara  
Secretary-Hearings Reporter

Nov. 7, 2018

Approved on Nov. 14, 2018

Meeting of October 31, 2018
November 2, 2018

The Honorable Ernest Y. Martin
Chair and Presiding Officer
and Councilmembers
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

Dear Chair Martin and Councilmembers:

SUBJECT: Revised Proposed Amendment to Chapter 21, ROH 1990, as Amended (The Land Use Ordinance), Relating to Short-Term Rentals

The Planning Commission held a public meeting on October 31, 2018 on the above subject matter. Written concerns, comments, and testimonies were received. The public hearing was closed on October 31, 2018.

The Planning Commission voted unanimously, 7:0, to accept the recommendation of the Acting Director of the Department of Planning and Permitting (DPP), to adopt the revised proposed amendment to the Land Use Ordinance, relating to Short-Term Rentals ("STR") with the following recommendations:

1) Fines and registration fees for STR shall be funneled towards the enforcement division of DPP for regulation of STR.
2) Remove submittal of the homeowner's exemption from the proposed STR registration requirements.
3) Consider and revisit the Real Property Tax ("RPT") rates to increase STR rates that apply only to the bedroom(s) used as STR and not the entire property.
4) Adjust RPT rate for bed and breakfast homes and transient vacation units to match the Resort RPT rate for STR in the Resort and Resort Mixed-Use Precincts.
5) At Sec. 21-2.150-2, Administrative Enforcement, on page 4, Section (b)(1)(E), after "a person who commits recurring violations" insert "as defined in the appropriate DPP Rules", and after "shall be subject to increased civil fines", insert "as may be determined in the discretion of the Director" as follows: ...
Attached is the report from the Acting Director of the DPP and the DPP's revised October 19, 2018 draft bill.

Sincerely,

[Signature]
Cord D. Anderson, Vice Chair
Planning Commission

Enclosures

ACKNOWLEDGED:

[Signature]
Kirk Caldwell
Mayor

[Signature]
Roy K. Amemiya, Jr.
Managing Director

ACKNOWLEDGED:

[Signature]
Kathy K. Sogukawa, Acting Director
Department of Planning and Permitting
DATE: October 31, 2018

SUBJECT MATTER: Relating to Short-Term Rentals

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<td>4. Cedar Keoke</td>
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<td>7. Scott Brazwell</td>
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PLANNING COMMISSION
CITY AND COUNTY OF HONOLULU
Public Testimony Sign-Up Sheet

DATE: October 31, 2018

SUBJECT MATTER: Relating to Short-Term Rentals

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PLANNING COMMISSION  
CITY AND COUNTY OF HONOLULU  
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SUBJECT MATTER: Relating to Short-Term Rentals

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<td>Kristine Hendrick</td>
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December 6, 2018

The Honorable Ernest Y. Martin
Chair and Presiding Officer
and Councilmembers
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

Dear Chair Martin and Councilmembers:

SUBJECT: Request for State Land Use District Boundary Amendment for Brigham Young University – Hawaii Campus, Laie, Oahu
Tax Map Keys: 5-5-006: Portions of 005 and 5-5-006: Portion of 032

The Planning Commission held a public hearing on October 31, 2018, on the above subject matter. Three people testified in support. There was no written testimonies received. The public hearing was closed on October 31, 2018.

The Planning Commission voted unanimously, 5:0, to accept the recommendations of the Acting Director of the Department of Planning and Permitting (DPP), subject to the following modification:

- At Section V, Recommendation, page 26, after “...Cultural Impact Assessment (CIA),” insert “or other cultural document acceptable to the DPP”, including a Ka Paakai Analysis...
Attached is the report of the Acting Director of the DPP, the Planning Commission Findings of Fact pertaining to the State Land Use District Boundary Amendment, and the original copy of the draft Bill.

Should you have any questions, please contact me at 768-8007.

Sincerely,

[Signature]

Cord. D. Anderson, Vice Chair
Planning Commission

Attachments

ACKNOWLEDGED:

[Signature]
Kirk Caldwell
Mayor

ACKNOWLEDGED:

[Signature]
Roy K. Amemiya, Jr.
Managing Director

[Signature]
Kathy K. Sogugawa, Acting Director
Department of Planning and Permitting
BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

IN THE MATTER OF THE APPLICATION
OF
BRIGHAM YOUNG UNIVERSITY - HAWAII
FOR A
STATE LAND USE DISTRICT BOUNDARY AMENDMENT OF 14.85 ACRES FROM THE STATE AGRICULTURAL DISTRICT TO THE URBAN DISTRICT AND STATE LAND USE DISTRICT BOUNDARY AMENDMENT OF 0.03 ACRES FROM THE STATE URBAN DISTRICT TO THE AGRICULTURAL DISTRICT

FILE NOS. 2018/SLU-1
2018/GEN-8

FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION

I. PROPOSAL

In accordance with Rule 8.4, Action by the Planning Commission, Procedures for the Amendment of State Land Use District Boundaries (for parcels of fifteen (15) acres or less), the Planning Commission, at its public hearing on October 31, 2018, considered the application submitted by Brigham Young University - Hawaii (BYU-H) for a State Land Use District Boundary Amendment (SLUDBA). The SLUDBA is to 1) reclassify 14.85 acres of land from the State Land Use (SLU) Agricultural District to the SLU Urban District, and (2) reclassify 0.03 acres of land from the SLU Urban District to the SLU Agricultural District. While this constitutes two separate boundary amendment actions, this SLUDBA application is processed as a single petition. The proposed SLUDBA is necessary for the planned expansion and ongoing campus renovation projects, designed to modernize and grow the University's offerings while increasing the percentage of single and married-students living on campus from 75 to 95 percent. The Acting Director of the Department of Planning and Permitting (DPP), City and County of Honolulu, recommended approval, subject to conditions.

A public hearing was held in accordance with Section 2-85, Rules of the Planning Commission, City and County of Honolulu Administrative Rules, Part 1, effective January 16, 1995. Based on the record in this matter, the Planning Commission hereby makes the following Findings of Fact, Conclusions, and Recommendation.
II. FINDINGS OF FACT

On the basis of the evidence presented, the Commission hereby finds that:

1. The properties in question are identified by Tax Map Key (TMK): 5-5-006: portions of 005 and TMK: 5-5-006: portion 032. The property owner is BYU-H.

2. The properties subject to the proposed SLUBDA involve six non-contiguous areas, collectively referred to as the "Petition Area". Of the six, five areas, totaling 14.85 acres are proposed to be reclassified from the SLU Agricultural District to the SLU Urban District. The 0.03-acre sixth area is proposed for reclassification from the SLU Urban District to the SLU Agricultural District. They are located along the western and southern edges of the existing campus between Naniloa Loop and Quarry Road.

3. Married and single student housing, as well as other campus improvements, are not allowed uses within the SLU Agricultural District. The SLUBDA is required to expand the SLU Urban District boundary in order to accommodate these campus improvements.

4. Although the Petitioner's proposal will result in a reduction of approximately 14.85 acres in the SLU Agricultural District, the Petition Area has low, if any, agricultural productivity due to extensive modification and conversion to urban-type uses from campus development or are unmaintained and no longer actively farmed.

5. Pursuant to the Hawaii Revised Statutes (HRS), Section 205-17(4), the proposed reclassification of lands to the SLU Urban District does not include Important Agricultural Lands (IAL)).

6. The proposed reclassification to the SLU Urban District is consistent with both the Hawaii State Plan and County General Plan. Specifically, it is consistent with the Economic Objectives and Policies in the State Plan and the Population, Economic Activity, Natural Environment, Housing, and Transportation and Utilities chapters of the General Plan by adhering to a compact pattern of development near existing campus facilities, contributing to the local economy, expanding affordable housing opportunities, and increasing on-campus student residency from 75 to 95 percent to help reduce the reliance on automobile use.

7. The Petition Area is located within the Rural Community Boundary (RCB) of the 1999 Koolau Loa Sustainable Communities Plan (KL SCP) and the updated KL SCP currently before Council. All proposed campus improvements are shown inside the RCB and in areas designated for Institutional use on both KL SCP Land Use Maps. The BYU-H campus expansion is consistent with the vision, policies, and guidelines of both the existing and the proposed (updated) KL SCP currently before City Council as Bill 1 (2017), CD1.
8. The Petition Area is entirely within the County’s AG-1 Restricted Agricultural Zoning District. However, no change of zoning is required. BYU-H is requesting approval of a new Planned Review Use (PRU), a land use regulatory procedure distinctly created for uses of a permanent and institutional nature.

9. The Commission received the attached report on October 24, 2018 from the Acting Director of the DPP, which provides an analysis of the proposed change to the SLU Urban and Agricultural Districts, and which recommends that the proposed amendment be approved, subject to conditions.

10. Three speakers, Kela and Martin Miller, and Jim Brown provided testimony at the Public Hearing.

11. Public agencies who reviewed the SLUDBA application did not object to the request.

III. CONCLUSIONS

The Planning Commission hereby concludes:

1. In accordance with Sections 205-3.1(c) and 205-4, HRS, the City Council is the authorized decision-maker of SLUDBA of 15 acres or less (except when reclassifying lands in the SLU Conservation District or designated as Important Agricultural Lands).

2. In accordance with Section 205-2(a)(1), HRS, in the Petition Area, the expansion of student housing and the possibility of future facilities on-campus is consistent with the purpose and intent of the SLU Urban District.

3. In accordance with HRS, Section 205-17(3), the proposed reclassification is not expected to impact these following areas of state concern: a) important natural systems or habitats; b) valued cultural, historical, or natural resources; c) natural resources relevant to Hawaii’s economy; including agricultural resources; d) commitment of state funds or resources; e) provision for employment opportunities and economic development; and f) provision of housing opportunities for all income groups, particularly the low, low-moderate, and gap groups.

4. The SLUDBA will contribute to the general welfare and prosperity of the people of Oahu by allowing the university to expand its educational and employment opportunities. The SLUDBA will also contribute towards creating more student housing on campus thereby improving the quality of the academic experience on campus.

5. The Project complies with the objectives of the State Land Use Law; meets all applicable guidelines and policies of the Hawaii State Plan, the General Plan of the City and County of Honolulu, the Koolau Loa
Sustainable Communities Plan; and is consistent with applicable Coastal Zone Management objectives and policies.

IV. RECOMMENDATION

Pursuant to the foregoing Findings of Fact and Conclusions, the Commission hereby recommends APPROVAL of the Application for a State Land Use District Boundary Amendment of five non-contiguous areas, totaling 14.85 acres, from the State Land Use (SLU) Agricultural District to the SLU Urban District and one, 0.03-acre area being reclassified from the SLU Urban District to the SLU Agricultural District, as approximately shown on Diagram 1, attached hereto, subject to the following conditions:

1. A prohibition on any action that would interfere with or restrain farming operations on lands in the SLU Agricultural District that are contiguous or adjacent to the Petition Area; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the Agricultural District; and;

2. The Applicant, BYU-H, shall notify all prospective developers or purchasers of land or interest in land in the Petition Area and subsequent notification to lessees or tenants of the land, that farming operations and practices on adjacent or contiguous lands in the SLU Agricultural District are protected under Hawaii Revised Statutes Chapter 165, the Hawaii Right to Farm Act, and that the notice shall be included in any disclosure required for the sale or transfer of real property or any interest in real property.

3. The amendment to the SLU District boundaries for the Petition Area is not effective until either a Cultural Impact Assessment (CIA) or other cultural document, including a 'Kaa Paakai Analysis' and identification of any necessary mitigative measures, is accepted by the Department of Planning and Permitting (DPP).

4. Any future Planned Review Use (PRU) application shall consider as conditions of approval the mitigative measures identified in the CIA or other cultural document.

5. Any future PRU application, or application to modify an existing PRU, shall have the SLU District Boundary information provided on any site plans or maps submitted with said application.

6. On an annual basis, the Petitioner shall submit a written status report to the DPP documenting satisfaction of and/or describing its progress toward complying with each condition of approval for this SLUDBA. The status report shall be submitted to the DPP on or before December 31 of each year until such time as the DPP has determined that all conditions of approval have been satisfied.
Dated at Honolulu, Hawaii this 4th day of December 2018.

PLANNING COMMISSION
CITY AND COUNTY OF HONOLULU

By _______________
Cord D. Anderson, Vice-Chair

Attachment
PLANNING COMMISSION  
CITY AND COUNTY OF HONOLULU  
Public Testimony Sign-Up Sheet

DATE: **October 31, 2018**

**SUBJECT MATTER:** Brigham Young University-Hawaii

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DATE: October 31, 2018  
SUBJECT MATTER: Brigham Young University-Hawaii  

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<td>1. JIM BROWN</td>
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