

LEEWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

HEARING TRANSCRIPT
AUGUST 28, 2009

A regularly advertised hearing on the **PLANNING DIRECTOR'S INITIATED AMENDMENT TO CHAPTER 25 (ZONING CODE), ARTICLE 4, DIVISION I, SECTION 25-4-15(f) and (g)** was called to order at 11:28 a.m. in the King Kamehameha's Kona Beach Hotel, Ballroom I, 75-5660 Palani Road, Kailua-Kona, Hawai'i with Chairman Rodney Watanabe presiding.

PRESENT: Rodney Watanabe
Brandi Beaudet
Lani Bowman
Frederic Housel
Wayne Iokepa

ABSENT & EXCUSED: Geraldine Giffin

Brandon Gonzalez, Deputy Corporation Counsel
BJ Leithead Todd, Planning Director
Norman Hayashi, Planning Program Manager
Phyllis Fujimoto, Staff Planner
Jeff Darrow, Staff Planner
Maija Cottle, Staff Planner

And approximately 13 people from the public in attendance

INITIATOR: PLANNING DIRECTOR

Amendment to Chapter 25 (Zoning Code), Article 4, Division 1, Section 25-4-15(f) and (g), Hawai'i County Code 1983 (2005 Edition, as amended) relating to agricultural tourism. The purpose of the amendment is to extend the 12-month amnesty period (November 20, 2009) for non-permitted agricultural tourism operations to 18 months (May 20, 2010).

WATANABE: We are on Agenda Item No. 4. This is, the initiator is the Planning Director. It's an amendment to Chapter 25. And I believe Mr. Beaudet is going to recuse himself from this, as he has a conflict of interest. Yeah? I see him nodding there. So he will be allowed to sit in, but he won't be allowed to participate. With that, let me turn this over to Maija so she can brief us on the amendment.

COTTLE: Thank you. This is a Planning Director initiated amendment to the Zoning Code, and it's related to ag tourism. It allows an additional six months for ag tourism operations to come in and either get a Special Permit, Use Permit or Plan Approval to make their agricultural use conforming. And it would extend the amnesty period to May 20, 2010.

WATANABE: And the total amnesty will be one year, right?

COTTLE: The total would be 18 months.

WATANABE: Oh, excuse me. Yeah. Do we have any questions for staff? Mr. Housel.

HOUSEL: I'm not sure to direct these to you, Maija, or to the Planning Director, but I had a few questions on this. Once the, if this is extended, once that expires, then the requirements go into effect and any activities that have not received Plan Approval would then be illegal, or is that correct?

COTTLE: That's correct.

HOUSEL: Okay. I'm, one of my concerns is, you know, the small farms in the area and the cost to them to get Plan Approval. Is there cost for that?

LEITHEAD TODD: Yes, there is. And there are some issues, too, on compliance. I'm taking a look at as such that there is a twofold purpose in extending the amnesty period: One is to give us time to take a look at the ordinance and see whether we should propose amendments to it, and also to take a look at the issue of grandfathering existing uses that were previously permitted, because to me it's kind of unusual that if there was a legal use prior to enactment of an ordinance that you somehow use the ordinance to make it illegal, cause that's contrary to my understanding of grandfathering existing uses; and then the other is taking a whole look at the whole procedure in what's required, because we've had concerns that the cost of compliance for some of the farmers is going to make it difficult for them to get any tourism going.

HOUSEL: Right, thank you.

WATANABE: Any further questions of staff? Then, Mr. Housel, you are prepared to make a motion?

HOUSEL: One other question. I had a question on the, for again the small farmer, how are they notified if, when this does go into effect that they need to submit for Plan Approval?

LEITHEAD TODD: Just the same way everybody else is. We put notice in the newspaper of this. We put it on our website. And typically when guys are coming in and you are trying to establish some issue, if you are smart, you come in and ask us what kinds of approvals you need, otherwise we end up with our inspectors going out and issuing notices of violations for a whole series of activities going on on Ag land, which are not currently permitted.

HOUSEL: Just a suggestion, you know, when this does require Plan Approval, you know, once everything is settled, maybe contacting some of the farmers' organizations to let them know.

LEITHEAD TODD: We are in contact with the farmer organizations -.

HOUSEL: Oh, okay.

LEITHEAD TODD: And they're in constant email contact. And one of the reasons we are requesting this extension of time is at the request of some of the people representing various farmers.

HOUSEL: Okay, great. Thank you.

WATANABE: Okay, we are done with the questions on this. Does anyone care to make a motion? Mr. Housel.

HOUSEL: Okay. I'd like to, let's see, this would be, okay, this is a recommendation to the Council?

WATANABE: Right.

HOUSEL: I'd like to make a motion to, for the Commission to make a favorable recommendation to the County Council for the amendment to Chapter 25, the Zoning Code, Article 4, Division 1, Section 25-4-15 and the rest of it there to allow an 18-month period for compliance.

WATANABE: Thank you. Do we have a second?

IOKEPA: Second.

WATANABE: Mr. Iokepa? Thank you. Any discussion on the matter? Maija?

COTTLE: Thank you. Commissioner Housel?

HOUSEL: Aye.

COTTLE: Commissioner Iokepa?

IOKEPA: Aye.

COTTLE: Commissioner Bowman?

BOWMAN: Aye.

COTTLE: And Mr. Chairman?

WATANABE: Aye.

COTTLE: Okay, the motion passes, four-zero.

WATANABE: Thank you. And just for the record, I missed this but no one signed up to testify for this agenda item.

The discussion ended at 11:35 a.m.

Respectfully submitted,

Noriko Sauer, Secretary
Leeward Planning Commission