



A BILL FOR AN ORDINANCE

RELATING TO JOINT DEVELOPMENT.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend certain provisions relating to the joint development of two or more subdivision lots.

SECTION 2. Section 21-5.380, Revised Ordinances Honolulu 1990 ("Joint development of two or more adjacent subdivision lots"), is amended to read as follows:

"Sec. 21-5.380 Joint development of two or more adjacent subdivision lots.

- (a) Whenever two or more adjacent subdivision lots are developed jointly in accordance with the provisions of this section, they ~~[shall]~~ will be considered and treated as one zoning lot.
- (b) An owner, owners, duly authorized agents of the owners or duly authorized lessees holding leases with a minimum of 30 years remaining in their terms of adjacent subdivision lots who believe that joint development of their ~~[property]~~ properties would result in a more efficient use of land shall apply for a conditional use permit (minor) to undertake such development.
- (c) When applying for a conditional use permit for joint development under this section, the applicants shall submit to the director an agreement which binds themselves and their successors in title or lease, individually and collectively, to maintain the pattern of joint development proposed in such a way that there will be conformity with applicable zoning regulations. The development standards listed in Section 21-2.90-2(c) may not be modified through a conditional use permit for joint development unless allowed through another discretionary approval. The right to enforce the agreement ~~[shall]~~ will also be granted to the city. The agreement ~~[shall-be]~~ is subject to the approval of the corporation counsel of the city.
- (d) If the director finds that the proposed agreement assures future protection of the public interest, the director shall issue the conditional use permit. Upon issuance of the permit, the agreement, which ~~[shall]~~ must be ~~[part]~~ one of the conditions of the permit, ~~[shall]~~ must be filed as a covenant running with the land with the bureau of conveyances or the registrar of the land court. Proof of such filing in the form of a copy of the covenant certified by the appropriate agency ~~[shall]~~ must be filed with the director prior to the issuance of ~~[the]~~ any building permit."



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SECTION 3. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990 ("Specific Use Development Standards"), is amended to add a new Section 21-5.380A to read as follows:

"Sec. 21-5.380A Joint development of two or more adjacent subdivision lots – Waikiki special district or Ala Moana transit-oriented development special district.

- (a) This section applies to the joint development of two or more adjacent subdivision lots in the Waikiki special district or any transit-oriented development special district established pursuant to Section 21-9.100 around the Ala Moana rail transit station. The provisions of Section 21-5.380 apply to the joint development except to the extent the provisions conflict with the provisions of this section, in which case the provisions of this section will control.
- (b) One or more of the adjacent subdivision lots that has been developed jointly with one or more adjacent subdivision lots pursuant to a conditional use permit for joint development, may be developed jointly with other adjacent subdivision lots pursuant to a conditional use permit for a second joint development in accordance with this section, where at least one adjacent subdivision lot involved in the first joint development is excluded from the second joint development. An adjacent subdivision lot may be jointly developed under this section pursuant to no more than two conditional use permits for joint development. The owner, owners, duly authorized agents of the owners or duly authorized lessees whose adjacent subdivision lots are jointly developed under the first conditional use permit for joint development, but are excluded from the second joint development, shall not be applicants for the conditional use permit for the second joint development nor parties to the agreement for joint development for the second joint development.
- (c) The first joint development and the second joint development shall be considered and treated as separate zoning lots. That is to say, that there will be two separate reviews for zoning compliance, one for each joint development. The exception is that any otherwise applicable height or yard setback requirements of the underlying zoning will apply only to the outer perimeter of the combined joint developments. Unless otherwise agreed by the parties to both joint development agreements, the development rights attributed to subdivision lots covered by the first joint development, which lots are not part of the second joint development, cannot be used or transferred to the second joint development.



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- (d) Under a second joint development, the applicant shall submit all of the information ordinarily required for a conditional use permit, pursuant to Section 21-2.90-1(b). As defined by this chapter, the development rights and minimum standards of the subdivision lots under the second joint development may be distributed among the included subdivision lots, demonstrating a unified project concept and furthering the public interest.
- (e) The development rights applicable to the subdivision lots involved in both joint developments must be clearly distributed between the two development agreements and listed in the second agreement.
- (f) Prior to issuing the conditional use permit for the second joint development, the director shall, in addition to the required finding of Section 21-5.380(d), find that the proposed second joint development will have no major adverse effect on the neighborhood, and will advance the objectives of applicable city plans and regulations.
- (g) Upon issuance of the conditional use permit for the second joint development, the department shall send notice of such issuance to the owner, owners, duly authorized agents of the owners, or duly authorized lessees whose adjacent subdivision lots are jointly developed under the first conditional use permit for joint development, but are excluded from the second joint development.
- (h) Notwithstanding any provision of this section to the contrary, the owner, owners duly authorized agents of the owners or duly authorized lessees of all subdivision lots in an approved joint development or second joint development may jointly or unilaterally apply to the director for complete or partial revocation of the conditional use permit when:
- (1) Plans for development have changed so that a distribution of development rights under the joint development or second joint development is no longer required; and
 - (2) The applicant or applicants applying for revocation show, to the satisfaction of the director, that all adjacent subdivision lots included in the conditional use permit for joint development can separately meet all minimum development standards as independent subdivision lots, or can otherwise satisfy development standards, such as the use of off-site parking.



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- (i) An application for the revocation of a conditional use permit for a joint development or second joint development shall be processed in the same manner as an application for a conditional use permit. Upon the director's approval of the revocation, the applicant for such revocation shall record a revocation of the agreement recorded pursuant to subsection (d). As part of the approval for revocation, the owner, owners, duly authorized agents of the owners, or duly authorized lessees of all subdivision lots must agree to indemnify, defend and hold the city, including the department, harmless from and against any and all claims made in connection with the conditional use permit for joint development and the revocation thereof."

SECTION 4. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



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SECTION 5. This ordinance takes effect upon its approval.

INTRODUCED BY:

Trevor Ozawa

DATE OF INTRODUCTION:

May 30, 2017
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

KIRK CALDWELL, Mayor
City and County of Honolulu