



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3077

COMMITTEE ON ZONING AND HOUSING

Voting Members:

Kymberly Marcos Pine, Chair
Ikaika Anderson, Vice Chair
Brandon Elefante
Ann H. Kobayashi
Joey Manahan

MINUTES

SPECIAL MEETING
THURSDAY, JANUARY 18, 2018

COUNCIL COMMITTEE MEETING ROOM
2ND FLOOR, HONOLULU HALE
HONOLULU, HAWAII 96813

Note: A copy of the video of the full proceedings of this meeting may be requested by calling the City Clerk's Office at 768-5822.

CALL TO ORDER

The special meeting of the Committee on Zoning and Housing was called to order by Committee Chair Kymberly Marcos Pine at 10:04 a.m. Voting Members Anderson, Elefante, Kobayashi and Manahan were present at the meeting.

STAFF PRESENT

Matt Caires, Chief of Staff to Committee Chair Pine
Lori Hiraoka, Attorney, Office of Council Services
Gavin Kennedy, Analyst, Office of Council Services
Denise Wong, Deputy, Department of the Corporation Counsel, assigned to the Committee
Cynthia Nakazaki, Council Committee Aide, Office of the City Clerk

ORDER OF BUSINESS

FOR ACTION

Committee Chair Pine announced that she would be taking up Items No. 1 and 2 together.

1. BILL 58 (2017), CD1

ESTABLISHING AN AFFORDABLE HOUSING REQUIREMENT. Increasing the production of affordable housing, to encourage dispersal of affordable housing throughout the City and County of Honolulu, and to maintain the units as affordable for a long period of time.

Committee on Zoning and Housing Special Meeting Minutes
Thursday, January 18, 2018

The following amendments were posted on the agenda:

PROPOSED CD2 TO BILL 58 (2017), CD1 (Submitted by Councilmember Pine) –
The CD2 (OCS2018-0022/1/12/2018 4:45 PM) makes the following amendments:

- A. In SECTION 1 of the bill: (1) adds reference to payment of an in-lieu fee or the provision of improved land as options to satisfy the affordable housing requirement; and (2) clarifies that the affordable housing must remain affordable for at least 30 years, except under certain circumstances.
- B. In Section __-1.1 ("Purpose"): (1) adds reference to payment of an in-lieu fee or the provision of improved land as options to satisfy the affordable housing requirement, and (2) removes reference to the affordability period.
- C. In Section __-1.2 ("Definitions"), adds new definitions for "first affordability period," "first marketing period," "gap financing," "hotel," "interim planned development-transit project" or "IPD-T project," "planned development-transit project" or "PD-T project.," "second affordability period," "second marketing period," "substantial rehabilitation," and "third marketing period."
- D. In Section __-1.2 ("Definitions"), revises the definition of "rail transit station area" to clarify that "draft neighborhood TOD plan" means the most current version of the plan then under consideration by the department of planning and permitting or the council at the time an application for a principal project is submitted to the department and accepted as complete, commencing with the first public review draft released by the director of planning and permitting to the community for review and comment. Council committee drafts of a plan are deemed under consideration by the council after they have been placed on a full council agenda for public hearing or adoption. Council floor drafts of a plan are deemed under consideration by the council after the council has amended the plan to the floor draft version.
- E. In Section __-1.3 ("Applicability"), provides that the affordable housing requirement applies to projects involving new construction of ten or more total for-sale dwelling units or the conversion of hotels, offices, or rental units into multifamily dwellings containing ten or more total for-sale dwelling units. Also deletes applicability of the affordable housing requirement to the substantial rehabilitation of ten or more dwelling units.
- F. In Section __-1.3(b), adds a new subdivision (10) to exclude hotels not located within a TOD special district from applicability of the affordable housing requirement.

Committee on Zoning and Housing Special Meeting Minutes
Thursday, January 18, 2018

- G. In Table ___-1.4:
- Categorizes projects as: (1) IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both; or (2) all areas, excluding IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both.
 - Provides that for IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both, any affordable dwelling units being provided as a community benefit to justify increased height or density, or both, may be counted to satisfy the base affordable housing requirements for IPD-T, PD-T, or TOD special district projects.
 - Establishes two options for providing for-sale on-site affordable dwelling units.
 - Adjusts the affordable housing requirement percentage amounts.
 - Adds options relating to payment of an in-lieu fee or the provision of improved land as options to satisfy the affordable housing requirement.
 - Provides that for IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both, an in-lieu fee can only be used to satisfy the portion of the base affordable housing requirements applicable to those projects that are in excess of the affordable housing requirements that otherwise apply to all areas.
- H. Adds Section ___-1.4(d), relating to the payment of an in-lieu fee as a way to satisfy the affordable housing requirement. Payment of an in-lieu fee for projects with more than 25 dwelling units must be approved by the council.
- I. Adds Section ___-1.4(e), relating to the provision of improved land as a way to satisfy the affordable housing requirement.
- J. In Section ___-1.5 ("Affordability period"), with regard to for-sale affordable dwelling units, establishes two affordability periods. Affordable dwelling units sold during the first 120-day affordability period must remain affordable for a period of 30 years after the date when the unit is initially sold to a qualified buyer. Affordable dwelling units sold thereafter during the second

Committee on Zoning and Housing Special Meeting Minutes
Thursday, January 18, 2018

affordability period must remain affordable for a period of 10 years after the date when the unit is initially sold to a qualified buyer.

- K. Adds a new Section __-1.6, which establishes four marketing periods that apply to for-rental and for-sale affordable dwelling units. All affordable dwelling units must be rented or sold at prices affordable to households earning the percentage of the AMI specified in Table __-1.4; provided that:
- During the first 120-day marketing period, affordable dwelling units must be marketed, and rented or sold to households earning the percentage of the AMI specified in Table __-1.4;
 - During the second 120-day marketing period, affordable dwelling units may be marketed, and rented or sold to households earning the percentage of the AMI that is 20 percent higher than the percentage of the AMI specified in the first marketing period, provided that the percentage of the AMI cannot exceed 140 percent;
 - During the third 120-day marketing period, affordable dwelling units may be marketed, and rented or sold to households earning the percentage of the AMI that is 20 percent higher than the percentage of the AMI specified in the second marketing period, provided that the percentage of the AMI cannot exceed 140 percent; and
 - During the last marketing period, affordable dwelling units may be marketed, and rented or sold to households earning 140 percent and below of the AMI.

Renumbers subsequent sections.

- L. Adds Section __-1.7, which requires the deposit of in-lieu fees collected into a special account within the general fund, and restricts the use thereof. Renumbers subsequent sections.
- M. In renumbered Section __-1.11(c)(3), provides that affordable rental dwelling units will be subject to annual monitoring by a private compliance monitoring service, the fees for which will be paid by the owner of affordable rental dwelling unit directly to the private compliance monitoring service.

Committee on Zoning and Housing Special Meeting Minutes
Thursday, January 18, 2018

- N. In renumbered Section ___-1.12 ("Rules"), provides that at a minimum, the DPP Director shall adopt administrative rules to:
- (1) Regulate the resale of affordable dwelling units under Section ___-1.5 to ensure the units remain within the same AMI range, as adjusted from time-to-time;
 - (2) Regulate the resale of affordable dwelling units under Section ___-1.6 to ensure the units remain within the same AMI range, as adjusted from time-to-time; and
 - (3) Establish an affordable housing compliance monitoring program, to be administered by a third party, to manage and implement the for-rental and for-sale affordable dwelling units created in compliance with the ordinance, for purposes of ensuring compliance with affordability requirements and periods. In addition, requires that at a minimum, the affordable housing compliance monitoring program must address the performance of certain functions set forth in the ordinance.
- O. Adds a new SECTION 3 to the bill, which provides that no later than five years after the effective date of the ordinance, the director shall submit to the Council a status report assessing the effectiveness of the ordinance in creating new affordable dwelling units in the City, and the efficiency of the affordable housing compliance monitoring program in administering the requirements of the ordinance.

PROPOSED CD2 TO BILL 58 (2017), CD1 (Submitted by Councilmember Martin) – The CD2 (OCS2017-1286/12/22/2017 2:13 PM) makes the following amendments:

- A. In proposed new Section _-1 .2, adds a definition for “common entrance.”
- B. In proposed new Section -1.4(b), provides that when affordable dwelling units are provided on site, affordable units and market-rate units in the same multifamily dwelling must share common entrances.
- C. Makes miscellaneous technical and nonsubstantive amendments.

2. BILL 59 (2017), CD1– COMMITTEE REPORT 1

REVISED ORDINANCES OF HONOLULU, 1990, RELATING TO AFFORDABLE HOUSING INCENTIVES. Providing financial support for the creation and maintenance of affordable dwelling units that are provided through compliance with

Committee on Zoning and Housing Special Meeting Minutes
Thursday, January 18, 2018

the Bill establishing an Affordable Housing Requirement (AHR) (Bill____[2017]), the Planned Development-Transit (PD-T) bill (Bill 74 [2015]), and Interim Planned Development –Transit (IPD-T) (Chapter 21, Section 9) permits, and for qualifying rental housing projects pursuant to HRS Section 201H-36(a)(5).

The following amendments were posted on the agenda:

PROPOSED CD2 TO BILL 59 (2017), CD1 (Submitted by Councilmember Pine) – The CD2 (OCS2018-0023/1/12/2018 3:36 PM) makes the following amendments:

- A. In SECTION 1 of the bill ("Purpose and intent"), provides that the waiver of park dedication requirements applies to all affordable dwelling units, not just rental units.
- B. In proposed new ROH Section 22-7.3(j), provides that the waiver of park dedication requirements applies to all affordable dwelling units, not just rental units.
- C. In SECTION 8 of the bill, provides that the technical amendments made to ROH Sections 18-6.5(e) and (f) in SECTION 5 of the bill, and ROH Sections 22-7.3(a) through (i) in SECTION 6 of the bill, will not be repealed when the ordinance is repealed on June 30, 2026.
- D. Makes miscellaneous technical and nonsubstantive amendments.

PROPOSED CD2 TO BILL 59 (2017), CD1 (Submitted by Councilmember Elefante) – The CD2 (OCS2018-0007/1/9/2018 9:27 AM) makes the following amendments:

- A. In SECTION 1 of the bill, provides that the ordinance waives 50 percent of the park dedication requirements for affordable rental dwelling units rented to households earning 80 percent and below of the area median income ("AMI") for Honolulu.
- B. Adds a new SECTION 6 of the bill, to amend ROH Section 22-7.2 to add a definition of "area median income" or "AMI". Renumbers subsequent bill sections accordingly.

The following amendment was circulated at the meeting:

PROPOSED CD2 TO BILL 59 (2017), CD1 (Submitted by Councilmember Elefante)
- The CD1 (OCS2018-0037/1/17/2018 9:10 AM) makes the following amendments:

- A. In SECTION 1 of the bill, provides that the ordinance waives 50 percent of the park dedication requirements for affordable dwelling units rented or sold to households earning 80 percent and below of the area median income (“AMI”) for Honolulu.
- B. Adds a new SECTION 6 of the bill, to amend ROH Section 22-7.2 to add a definition of “area median income” or “AMI.” Renumbers subsequent bill sections accordingly.
- C. Amends ROH Section 22-7.3(j) in renumbered SECTION 7 of the bill to provide that for enumerated affordable dwelling units rented or sold to households earning 80 percent and below of the AMI, the land or in-lieu fee required to be provided under Chapter 22, Article 7 (park dedication requirements), will be 50 percent of the normal requirement determined under Section 22-7.5, 22-7.6, or 22-7.7, as applicable. Under the CD1 version, the entire land area or in-lieu fee required for park dedication would be waived for affordable rental dwelling units only.
- D. In renumbered SECTION 9 of the bill, provides that the technical amendments made to ROH Sections 18-6.5(e) and (f) in SECTION 5 of the bill, and ROH Sections 22-7.3(a) through (i) in SECTION 7 of the bill, will not be repealed when this ordinance is repealed on June 30, 2026.
- E. Makes miscellaneous technical and nonsubstantive amendments.

Administration/Others

Kirk Caldwell, Mayor, City and County of Honolulu

Kathy Sokugawa, Acting Director, Department of Planning and Permitting
(DPP)

Harrison Rue, Program Administrator, Transit Oriented Development
Division, DPP

Rick Jacobus, Consultant, Street Level Urban Impact Advisors

Mayor Caldwell appeared before the Committee and thanked the members for their work on the proposed amendments to the Bills. He noted that the measures would lessen the homeless on the streets by providing more affordable units and would

Committee on Zoning and Housing Special Meeting Minutes
Thursday, January 18, 2018

provide certainty for developers and financial institutions in their support of affordable housing projects.

The Mayor expressed concern with the following proposals and stated that the special meeting would provide an opportunity for discussion by the Committee and input from the public:

- Creating new area median income (AMI) categories of 120 and 140 percent.
- Changing the affordability requirement during 120-day sales periods.
- Reducing the 30-year affordability requirement to 10 years.

In response to Committee Member Anderson, Mayor Caldwell provided the following:

- The Administration supports in-lieu fees which would allow developers flexibility to build high-end housing and an affordable housing project at a different site.
- Review and approval of in-lieu fees by the Council may create more hurdles and delays for a project. A simple approach would encourage more developers to build to the affordable level.

Mayor Caldwell expressed the Administration's support and recommended moving both Bills forward together. He offered assistance with moving the legislation forward.

Committee Member Elefante provided an explanation of his hand-carried CD2.

Administrator Rue provided an overview of DPP's testimony, as detailed in Communication D-27, and reviewed the following concerns of the proposed amendments:

- Proposing 140 percent AMI for for-sale affordable units.
- Decreasing the affordability period for unsold units to 10 years after 120 days of marketing.
- Requiring the use of a third party administrator for monitoring and compliance.

Committee on Zoning and Housing Special Meeting Minutes
Thursday, January 18, 2018

Administrator Rue introduced Mr. Jacobus, a consultant who works with communities around the country on affordable housing requirement programs. Mr. Jacobus spoke positively of the proposed measures and provided additional insight and recommendations, as detailed in Communication D-27:

In response to Committee Members, Administrator Rue provided information on the following:

- Derivation of the \$45 per square foot in-lieu fee.
- Exemptions for qualifying affordable rental dwelling units and real property tax waiver for rental units.

Discussion ensued regarding the following:

- \$45 per square foot in-lieu fee.
- In-lieu fees as an incentive option to off-set the cost of developing affordable housing.
- Impact to smaller projects to provide affordable units.
- Requirement that for-sale affordable housing units are owner-occupied.
- Third party monitoring administrators.
- Geographic and time phasing.

Committee Chair Pine requested and Administrator Rue agreed to provide a copy of the DPP's analysis on studies of the local policies of affordable projects in the State.

The following individuals testified:

1. Tyler Dos Santos-Tam, Executive Director, Hawaii Construction Alliance (comments on Bill 58, Bill 59, and the CD2 submitted by Councilmember Pine)
2. Kevin Carney, Vice President, EAH Housing (comments on Bills 58 and 59)
3. Kathryn Inouye, Kobayashi Group, LLC (comments on Bills 58 and 59)
4. Victor Geminiani, Hawaii Appleseed Center for Law and Economic Justice (comments on Bill 58)
5. Deja Ostrowski, Office of Hawaiian Affairs (comments on Bills 58 and 59)
6. Christine Camp (comments on Bill 58, support Bill 59)
7. Ricky Cassidy (comments on Bills 58 and 59)
8. David Arakawa, Land Use Research Foundation of Hawaii (comments on Bill 58, support Bill 59)
9. Rev. Bob Nakata (comments on Bills 58 and 59)

Committee on Zoning and Housing Special Meeting Minutes
Thursday, January 18, 2018

10. Keith Kurahashi (support Bills 58 and 59)
11. Chris Deuchar, Form Partners, LLC (comments)
12. Emily Porter, The MacNaughton Group (comments on Bills 58 and 59)
13. Brooke Wilson, Hawaii Regional Council of Carpenters (support Bill 59)
14. James Manaku (comments)

In response to Committee Members, Acting Director Sokugawa provided the following information on park dedication:

- Private parks or private recreational amenities that qualify as meeting park dedication requirements are not required to be open to the public.
- Options for a private park dedication include providing land either on-site or elsewhere, or by payment of a fee.
- Private parks would lessen the use of public facilities.

Committee Chair Pine recommended that Bill 58, CD1 be amended to her posted CD2 and action be deferred.

Committee Chair Pine recommended that Bill 59, CD1 be amended to her posted CD2 and reported out for third reading.

Committee Member Elefante spoke in support of the recommendations and commented that he still had concerns with the in-lieu fees, the range of AMI levels, and the affordability and market periods of Bill 58, CD1.

Committee Member Anderson expressed his desire to move both measures forward and supported the recommendation of reporting the CD2 for Bill 59, CD1 out for third reading. The Committee Member stated that he would be proposing an amendment to Bill 58, CD1.

Committee Member Manahan spoke in support of the recommendations and welcomed more time to discuss the in-lieu fees of Bill 58, CD1.

Committee Member Elefante stated that he had filed Disclosure of Interest Statements. (Communications CC-234 [2017] through CC-237 [2017], CC-6 [2018], and CC-11 [2018] through CC-16 [2018])

Committee on Zoning and Housing Special Meeting Minutes
Thursday, January 18, 2018

Bill 58 (2017), CD1 amended to CD2 (OCS2018-0022/1/12/2018 4:45 PM)

AYES: ANDERSON*, ELEFANTE*, KOBAYASHI, MANAHAN, PINE – 5.
NOES: None.

*Councilmembers Anderson and Elefante voted aye with reservations.

Action on CD2 to Bill 58 (2017), CD1 deferred.

AYES: ANDERSON, ELEFANTE, KOBAYASHI, MANAHAN, PINE – 5.
NOES: None.

Bill 59 (2017), CD1 amended to CD2 (OCS2018-0023/1/12/2018 3:36 PM) and reported out for passage on third reading.

AYES: ANDERSON, ELEFANTE, KOBAYASHI, MANAHAN, PINE – 5.
NOES: None.

Related communications:

- D-27 Department of Planning and Permitting, submitting comments on the proposed CD2 versions of Bill 58 (2017) and Bill 59 (2017).
- CC-234 (2017) Councilmember Brandon Elefante, filing a Disclosure of Interest Statement for Bill 58 (2017)
- CC-235 (2017) Councilmember Brandon Elefante, filing a Disclosure of Interest Statement for Bill 58 (2017)
- CC-236 (2017) Councilmember Brandon Elefante, filing a Disclosure of Interest Statement for Bill 59 (2017)
- CC-237 (2017) Councilmember Brandon Elefante, filing a Disclosure of Interest Statement for Bill 59 (2017)
- CC-6 Councilmember Brandon Elefante, submitting proposed CD2 to Bill 59 (2017), CD1
- CC-11 Councilmember Brandon Elefante, filing a Disclosure of Interest Statement for Bill 58 (2017), CD1
- CC-12 Councilmember Brandon Elefante, filing a Disclosure of Interest Statement for Bill 59 (2017), CD1
- CC-13 Councilmember Brandon Elefante, filing a Disclosure of Interest Statement for Bill 58 (2017), CD1
- CC-14 Councilmember Brandon Elefante, filing a Disclosure of Interest Statement for Bill 59 (2017), CD1

Committee on Zoning and Housing Special Meeting Minutes
Thursday, January 18, 2018

CC-15	Councilmember Brandon Elefante, filing a Disclosure of Interest Statement for Bill 59 (2017), CD1
CC-16	Councilmember Brandon Elefante, filing a Disclosure of Interest Statement for Bill 58 (2017), CD1
M-4	Bill 58 (2017) Early Testimony
M-5	Bill 59 (2017) Early Testimony
M-7	Bill 58 (2017) Additional Testimony
M-8	Bill 59 (2017) Additional Testimony

ADJOURNMENT

There being no further business, the meeting was adjourned at 12:46 p.m.

Respectfully submitted,

GLEN I. TAKAHASHI
City Clerk

cn

DATE APPROVED

February 15, 2018