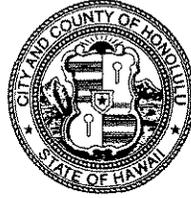


DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR

HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUE
DEPUTY DIRECTOR

January 22, 2008

The Honorable Barbara Marshall, Chair
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

RECEIVED

JAN 28 9 27 AM '08

CITY CLERK
HONOLULU, HAWAII

Dear Chair Marshall and Councilmembers:

Subject: Resolutions Nos. 06-119, 07-007 and 07-008
Proposing Amendments to Chapter 21, ROH
(The Land Use Ordinance)
Relating to Affordable Rental Housing and Affordable Housing

The Department of Planning and Permitting (DPP) has been directed by the City Council to process three (3) proposed amendments to the Land Use Ordinance (LUO), Chapter 21, Revised Ordinances of Honolulu (ROH), relating to affordable rental housing and affordable housing. For the various reasons explained herein, the DPP is not recommending that any of these amendments be processed for further consideration.

The DPP recognizes the good intentions behind these three (3) resolutions, i.e., to provide mechanisms within the LUO to facilitate affordable housing. However, in our analysis we find that of the three (3) separate proposals, there are conflicting entitlement mechanisms. Also, the two (2) existing mechanisms which the DPP is administering for affordable housing projects (Chapter 201H-H, Hawaii Revised Statutes, and Unilateral Agreements) are effective. These two (2) programs successfully facilitate affordable housing projects, provide superior flexibility compared to the mechanisms proposed by the subject resolutions, and do not have the inherent procedural conflicts associated with the proposals. If there are specific issues to be addressed, then the City Council should coordinate with the Office of the Mayor, which is currently drafting a comprehensive affordable housing strategy for the City, and which will be made available to the Council for its consideration.

I. Background

A. Resolution No. 06-119

On May 17, 2006, the City Council adopted Resolution No. 06-119, which proposes to amend the LUO by establishing "affordable rental housing projects" as a conditional use in the Apartment, Apartment Mixed Use and Business Mixed Use Districts. Affordable rental housing projects would require an approved conditional use major permit (CUPM) from the Director of DPP.

As part of the project approval, the underlying district standard relating to density, as well as the maximum zoning height, could be modified by an as yet undetermined amount. Approved projects would be restricted to use as affordable rental housing for the life of the approved structure. A minimum percentage (as yet undetermined) of the rental units would have to be set aside for rental to households with incomes at or below 140 percent (140%) of median income for the Honolulu Metropolitan Statistical Area, with at least 20 percent (20%) set aside for rental to households with incomes at or below 80 percent (80%) of median income.

B. Resolution No. 07-007

On January 24, 2007, the City Council adopted Resolution No. 07-007, which proposes to amend the LUO by also establishing "affordable rental housing projects" as a conditional use in the Apartment, Apartment Mixed Use and Business Mixed Use Districts. A project would also require an approved CUPM; however, the City Council would be the approving agency, rather than the Director of DPP. And, there would be a maximum 60-day "date certain" for Council action, or the request would automatically be deemed approved.

As part of the project approval, underlying density may be increased by up to 25 percent (25%); maximum height may be increased by up to 25 percent (25%) or 30 feet, whichever is less; off-street parking may be decreased by not more than 25 percent (25%); the area of private park space may be credited against park dedication requirements and grading, plan review, and building permit fees, and wastewater system facilities charges, may be deferred. Approved projects would also be restricted to use as affordable rental housing for the life of the approved structure. A minimum of 50 percent (50%) of the dwellings would have to be rental units. And, at least 30 percent (30%) of the dwellings would have to be set aside for households with incomes at or below 120 percent (120%) of Honolulu's median income, with at least 20 percent (20%) set aside for rental to households with incomes at or below 80 percent (80%) of median income.

C. Resolution No. 07-008

On January 24, 2007, the City Council adopted Resolution No. 07-008, which proposes to amend the LUO by allowing multi-family dwellings in the B-2 Community Business District as a conditional use. Approved projects would require an approved conditional use minor permit (CUPm) from the Director of DPP.

Eligible projects would have to qualify as "affordable housing" and would have to include commercial uses. "Affordable housing" would be defined as a building or group of buildings where at least 75 percent (75%) of the dwellings were set aside for the life of the structure(s) for sale or rent to households with incomes at or below 120 percent (120%) of Honolulu's median income. And, of these units, at least 10 percent (10%) must be set aside for sale or rent to households with incomes at or below 80 percent (80%) of median income. (Note: An exception is made for a resident property manager.)

II. Findings

A. Dwelling and Lodging Uses

Pursuant to LUO Sections 21-3.80-1(a), 21-3.90-1(a), 21-3.110-1(a) and 21-3.120-2(a) [Table 21-3], dwelling and lodging uses¹ are permitted in the Apartment, Apartment Mixed Use and Business Mixed Use Districts. In the B-2 Community Business District, dwellings are only permitted as “accessory owner’s or caretaker’s dwellings,” subject to the standards enumerated in LUO Section 21-5.220. [Note: Other than dwelling and lodging uses, all other permitted and conditional uses allowed in the B-2 District are the same as those allowed in the BMX-3 Community Business Mixed Use District, with the exception of cabarets, off-site joint development, boarding facilities, publishing plants, and outdoor amusement facilities.]

B. Development and Off-street Parking Standards

District-specific development standards for permitted uses are established in Article 3 of the LUO. For the three (3) proposed bills relating to affordable rental housing and housing addressed by this report, density, height and off-street parking are of particular relevance.

1. Density

The maximum permitted densities (floor area) in the Apartment, Apartment Mixed Use, B-2, and Business Mixed Use Districts is as follows:

District	By-right Density (FAR)	Bonus Density (FAR)
A-1	0.3 - 0.9 depending on lot size	None
A-2	0.4 - 1.9 depending on lot size	None
A-3	0.6 - 2.8 depending on lot size	None
AMX-1	0.3 - 0.9 depending on lot size	None
AMX-2	0.4 - 1.9 depending on lot size	None
AMX-3	0.6 - 2.8 depending on lot size	None
B-2	2.5	3.5
BMX-3	2.5	3.5
BMX-4	4.0	7.5

2. Height

The maximum permitted zoning height in the A-1 and AMX-1 Districts is 30 feet; and, is as established on the applicable zoning map for the A-2, A-3, AMX-2, AMX-3, B-2, BMX-3, and BMX-4 Districts.

¹ Specific “dwelling and Lodging” uses include: boarding facilities, duplex units, detached one- and two-family dwellings, multi-family dwellings, group living facilities and special needs housing for the elderly.

3. Off-street Parking

The off-street parking regulations are contained in Article 6 of the LUO, and the specific requirements for dwelling and lodging units are as follows:

Use	Requirement	
	BMX-4 Only	All Other Districts
Boarding facilities	1 plus 0.25 per unit	2 plus 0.75 per unit
Duplex, one- and two-family dwellings	These uses are not allowed in the BMX-4 District (except in Chinatown ²)	2 per unit plus 1 per 1,000 square-feet. over 2,500 square-feet
Multi-family dwellings	1 per unit	1, 1.5 or 2 per unit based on unit size
Group living facilities	Determined by CUP	Determined by CUP
Special needs housing for the elderly	Determined by CUP	Determined by CUP

C. Exemptions for Affordable Housing

1. Chapter 201H-H, Hawaii Revised Statutes (HRS)

Act 180 (2006) established (essentially re-codified³) exemptions for affordable housing projects pursuant to HRS Chapter 201H-H⁴, which provides the City Council with the authority to grant exemptions from any of the various City planning and development codes, including development/sustainable community plans, zoning, building, subdivision, construction and engineering ordinances, and all development-related rules and/or regulations, as follows:

- a. The Council may approve or disapprove a project by resolution within 45 days after either the DPP or Hawaii Housing and Finance Development Corporation (HHFDC) has submitted the preliminary plans and specifications for the project for its review. If the Council does not take action within 45 days, the project shall be deemed approved; and
- b. No action shall be prosecuted or maintained against the City, its officials, or employees on account of actions taken by them in reviewing, approving, or disapproving the plans and specifications; and

² One- and two-family dwellings are permitted in the Chinatown Historic Core Precinct, if located above the ground-floor.

³ Preceding statutes were codified under HRS Sections 201E and later 201G.

⁴ Although codified as "Section 201H-H" in Act 180 (2006), the section now appears as HRS "Section 201H-38." The statute is referred to by the language of Act 180 (2006) in this report.

- c. The final plans and specifications for the project shall be deemed approved if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the zoning, building, construction, and subdivision standards for that project.

The City Council can essentially exempt or adjust any development requirement under the jurisdiction of the city for a qualifying affordable housing project, with the exception of those provisions prescribed by the Shoreline Setback and Special Management Area (SMA) Ordinances, i.e., ROH Chapters 23 and 25, respectively.

2. Rules for Obtaining Exemptions for Affordable Housing Projects ("Rules")

Projects eligible for consideration under the provisions of HRS Chapter 201H-H must meet certain minimum requirements, as specified in the City's rules for "Obtaining Exemptions from Affordable Housing Projects," ("Rules") established October 1994. [Note: The Rules are administratively established, pursuant to the requirements enumerated by HRS Chapter 91.] Eligible projects must:

- a. Provide at least 50 percent (50%) of the units to households in the low, moderate and gap group income levels; distributed as follows:
 - i. A minimum of 10 percent (10%) of the units must be affordable to households earning annual incomes which do not exceed 80 percent (80%) of median income, i.e., "lower-income households";
 - ii. A minimum of 20 percent (20%) of the units must be affordable to households earning annual incomes ranging between 81-120 percent (81-120%) of median income, i.e., "moderate-income households";
 - iii. The remaining affordable units may be affordable to "gap group households" earning between 121-140 percent (121-140%) of median income.

A maximum of 50 percent (50%) of the total units may be sold and/or rented at rates determined by the developer, which may be market rates.

- b. Contain at least 50 dwelling units. Nevertheless, projects developed solely for persons with special living needs are not subject to this requirement. And, projects developed solely for lower-income households by non-profit housing organizations must contain at least 20 dwelling units, or obtain a waiver.

D. Procedures

1. Conditional Use Permits

The procedures for processing a CUP application are enumerated in LUO Section 21-2.90 et seq. Applicants for a CUP must be landowners or have a minimum five (5) year lease for the use of the site. A CUPm application is further subject to the procedures for minor permits enumerated in LUO Section 21-2.40-1; and a CUPM application subject to the procedures for major permits enumerated in LUO Section 21-2.40-2.

Applicants for a CUP must provide information and documentation adequate to describe and support their request. Compliance with all LUO requirements, available infrastructure capacity and site suitability must be demonstrated. The Director of DPP renders the decision on all CUP applications. Generally, a CUPm must be processed and acted on within 45 days, and there is no public hearing requirement. A CUPM application must first be presented to the neighborhood board for the affected area before it can be accepted for processing. Once accepted by the DPP, it must be acted on within 90 days, and there is an agency review period and a public hearing requirement.

2. HRS Chapter 201H-H

The procedures for processing an HRS Chapter 201H-H project are enumerated in the Rules. Before an application will be accepted for processing by the DPP, the applicant must prepare an environmental assessment (EA), present the project to the neighborhood board for the affected area, demonstrate that connection to the public sewer system is possible and/or provide an acceptable alternative, and provide evidence of site control and financial feasibility for the project.

Once accepted for processing by the DPP, the plans and requested exemptions are routed to various agencies for review and comment; although, this may not be necessary a second time if the agency review of the applicant's EA document was sufficient for this purpose. The DPP will prepare a report and recommendation on the request, which will be submitted to the City Council in the form of a draft resolution for its decision-making. The Hawaii Housing Finance and Development Corporation (HHFDC), a state agency, is also authorized by statute to initiate and/or process HRS Chapter 201H-H applications, which must also be submitted to the City Council for decision-making. [Note: The HHFDC is not subject to the city Rules for project eligibility and/or processing.] The City Council has 45 days to act from the date the DPP or HHFDC submits the application.

III. Analysis

A. Permitted Dwelling and Lodging Uses

Dwelling and lodging uses are already permitted in those zoning districts addressed by Resolutions Nos. 06-119 and 07-007. [Note: Principal dwelling uses are not permitted in the B-2 District, which is addressed by Resolution No. 07-008. However, this particular resolution is addressed separately, below, in Part C of this "Analysis."] Rather, these resolutions narrowly provide some degree of flexibility with respect to certain development standards (height and density), off-street parking requirements (minimum number of spaces), and/or development fees and charges in exchange for some specified amount of affordable housing.

Yet, there already exists an entitlement mechanism which is available to make these kinds of adjustments for affordable housing projects, provided under the provisions of HRS Chapter 201H-H. Further, the HRS Chapter 201H-H process provides far greater flexibility with respect to the kinds of development adjustments and/or exemptions which are possible. This is desirable since affordable housing projects may and often do need other kinds of adjustments and/or exemptions. See Part B of this "Analysis," below.

B. HRS Chapter 201H-H

HRS Chapter 201H-H is an existing discretionary entitlement process which allows the City Council to grant adjustments and exemptions to virtually every kind of development requirement under the City's jurisdiction, with the exception of the shoreline and SMA regulations. It is common for affordable housing projects to seek exemptions from Development and Sustainable Community Plan policies, permitted use standards (i.e., requests to build housing in zoning districts where dwelling uses are not otherwise permitted), and a variety of development and/or off-street parking and loading standards. The broad range of possible and/or typical development adjustments and/or exemptions that are often associated with affordable housing projects is not addressed by the proposals associated with the subject resolutions. A comparison between the types of adjustments which are available through the existing HRS Chapter 201H-H process and the proposed mechanisms associated with the subject resolutions is summarized in the following table.

COMPARISON OF ADJUSTMENTS AVAILABLE BY DIFFERENT ENTITLEMENT MECHANISMS				
Type of Adjustment	Entitlement Mechanism			
	Existing	Proposed		
	HRS Chapter 201H-H	Resolution No. 06-119	Resolution No. 07-007	Resolution No. 07-008
Density	Increase by unspecified amount	Increase by amount yet to be specified	Increase by up to 25 percent (25%)	Not addressed
Height	Increase by unspecified amount	Increase by amount yet to be specified	Increase by up to 25 percent (25%)	Not addressed

COMPARISON OF ADJUSTMENTS AVAILABLE BY DIFFERENT ENTITLEMENT MECHANISMS				
Type of Adjustment	Entitlement Mechanism			
	Existing	Proposed		
	HRS Chapter 201H-H	Resolution No. 06-119	Resolution No. 07-007	Resolution No. 07-008
Off-street parking	Decrease and/or adjust by unspecified amount	Not addressed	Decrease by up to 25 percent (25%)	Not addressed
Off-street loading	Decrease or adjust by unspecified amount	Not addressed	Not addressed	Note addressed
Multi-family dwelling uses	Can allow in any zoning district	Already permitted	Already permitted	Would allow specifically in B-2 District
Other uses	Any type of adjustment or exemption	Not addressed	Not addressed	Requires integration w/commercial uses
DP/SCP Provisions	Any type of adjustment or exemption	Not addressed	Not addressed	Not addressed
State Land Use District (less than 15 acres)	Any type of adjustment or exemption	Not addressed	Not addressed	Not addressed
Park dedication	Any type of adjustment or exemption	Not addressed	Allow private park space to qualify	Not addressed
Yard and/or height setback requirements	Decrease by unspecified amount	Not addressed	Not addressed	Not addressed
Maximum Building area/lot coverage	Decrease by unspecified amount	Not addressed	Not addressed	Not addressed
Open space requirements	Decrease by unspecified amount	Not addressed	Not addressed	Not addressed
Landscaping requirements	Decrease by unspecified amount	Not addressed	Not addressed	Not addressed
Development fees	May be deferred or waived	Not addressed	May be deferred	Not addressed

Only maximum project height, density and minimum off-street parking requirements are addressed by the proposals associated with the three (3) subject resolutions. Although Resolution No. 07-007 also includes a provision to allow the substitution of on-site space (“private park space”) in fulfillment of park dedication requirements, that option already exists under current provisions of the Subdivision Ordinance (ROH Chapter 22) relating to parks and playgrounds [ROH Section 22-7.8(c)]. And, these proposed adjustments are or are intended to be capped. The HRS Chapter 201H-H process, on the other hand, allows for virtually any kind of project-specific adjustments to be considered; thus, allowing greater flexibility which may be appropriate and/or necessary with respect to project need and/or site suitability. The proposed entitlement mechanisms associated with the subject resolutions, therefore, are clearly inferior alternatives to the existing HRS Chapter 201H-H process with respect to the range of possibilities and applicability.

The following minimum requirements for affordable housing projects are specified in the Rules to determine eligibility for HRS Chapter 201H-H processing: Fifty (50) dwelling unit minimum, with 50 percent (50%) of the units for sale or rent at affordable rates, and a minimum 10-year period of affordability. Further, at least 20 percent (20%) of the units must be affordable to “moderate-income” households; and, at least 10 percent (10%) must be affordable to “low-income” households. There are no minimum number of units required for project eligibility in any of the three (3) proposed entitlement mechanisms associated with the subject resolutions. Two (2) of the proposals require some amount of rental housing. And, there are differing minimum levels of affordability requirements. A comparison between the existing HRS Chapter 201H-H process and the three (3) proposed entitlement mechanisms is summarized in the following table.

COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS BY DIFFERENT ENTITLEMENT MECHANISMS				
Type	Entitlement Mechanism			
	Existing	Proposed		
	HRS Chapter 201H-H*	Resolution No. 06-119	Resolution No. 07-007	Resolution No. 07-008
Minimum no. of units	50; or 20 for 100% low- income; or No minimum for special needs housing	No minimum	No minimum	No minimum
Minimum no. of rental units	No minimum	All	50%	No minimum
Minimum no. “affordable”	50%	100%	50%	75% (low or moderate income)
Minimum no. gap group	Unspecified	Unspecified	Unspecified	Will not qualify as “affordable”
Minimum no. moderate income	20%	Unspecified	30%	65%

COMPARISON OF AFFORDABLE HOUSING REQUIREMENTS BY DIFFERENT ENTITLEMENT MECHANISMS				
Type	Entitlement Mechanism			
	Existing	Proposed		
	HRS Chapter 201H-H*	Resolution No. 06-119	Resolution No. 07-007	Resolution No. 07-008
Minimum no. low income	10%	20%	20%	10%
Minimum Period of Affordability	Minimum 10 years	Life of the project	Life of the project	Life of the project

*Requirements are for projects accepted for processing by the DPP, pursuant to adopted Rules. Projects accepted for processing by the HHFDC may have to comply with different requirements.

The existing Rule which specifies a minimum size requirement for HRS Chapter 201H-H projects was established many years ago, when the (now defunct) City Department of Housing and Community Development (DHCD) administered affordable housing applications. Minimum project size requirements perhaps should be reevaluated to include more varied types of projects. Its ten-year period of affordability is merely a "minimum requirement" for an HRS Chapter 201H-H approval; and, as the decision-making authority, the City Council may consider imposing longer and/or permanent affordability requirements as a condition of project approval. Therefore, the existing HRS Chapter 201H-H should not be viewed as inferior to the three (3) proposed entitlement mechanisms, which would impose minimum affordability requirements for the life of the project. Indeed, by not limiting the City Council's decision-making authority, with respect to a prescribed period of affordability that must always be for the "life of the project," flexibility exists to tailor affordability requirements specific to, and appropriate for, each individual project.

Among the three (3) proposals associated with the subject resolutions, the minimum number of required affordable units ranges from 50-100 percent (50-100%). The Rules for the existing HRS Chapter 201H-H requires a minimum of 50 percent (50%) affordable units; but, again, as the decision-making body for HRS 201H-H applications, the City Council can always impose greater requirements as conditions of approval, commensurate with whatever it deems appropriate.

None of the three (3) proposals associated with the subject resolutions appears to provide any procedural improvements over and above that which is already available through the existing HRS Chapter 201H-H process. A comparison between the procedural requirements associated with the existing and proposed entitlement mechanisms is summarized in the following table.

COMPARISON OF PROCESSING PROCEDURES BY ENTITLEMENT MECHANISMS				
Procedure	Entitlement Mechanism			
	Existing	Proposed		
	HRS Chapter 201H-H	Resolution No. 06-119	Resolution No. 07-007	Resolution No. 07-008
Permit type	City Council Resolution	CUPM	CUPM [*]	CUPm
Pre-application presentation to Neighborhood Board	Yes	Yes	Yes	No
Environmental Assessment	Yes	No**	No**	No**
Agency review period	Yes	Yes	Yes	No
DPP processing time (maximum)	Not specified	90 days	90 days	45 days
City Council processing time (maximum)	45 days	Not applicable	60 days	Not applicable
DPP public hearing	No	Yes	Yes	No
City Council public hearing	No***	Not applicable	Yes	Not applicable
Implementation & enforcement	Development agreement	Conditions of approval	Conditions of approval	Conditions of approval

*Provides for City Council approval of the CUP; although not specified, presume this would be by City Council resolution. [Note: No other CUP currently requires City Council approval.]

**Unless there is an HRS Chapter 343 "trigger," such as use of government funds (e.g., CDBG funding) or use of state or city land.

***The public has the opportunity to provide testimony whenever the City Council and/or Council committee considers the resolution for adoption or denial.

The existing HRS Chapter 201H-H process provides ample opportunity for both public and agency review of each affordable housing application. And, the HRS Chapter 201H-H process clearly defines administrative and legislative jurisdictions. This is appropriate, since applicants are seeking adjustments and/or exemptions to land use policies and regulations established, for the most part, by ordinance. Resolution No. 07-007 would establish a CUP process unique to the LUO, whereby the DPP would process the permit and the City Council would be the decision-making authority. LUO Section 21-2.90 et seq. clearly establishes the Director of DPP as the decision-making authority for CUP applications; and, thus this proposal creates an element of confusion. There is no inherent or apparent advantage to establishing the CUP process in place of the existing HRS Chapter 201H-H process.

C. Zone Change from B-2 to BMX-3 District

Resolution No. 07-008 would permit multi-family dwellings as a conditional use in B-2 Districts for affordable rental units; however, there are two (2) existing mechanisms to allow this type of use which are preferable. First, the existing HRS Chapter 201H-H process can be utilized to allow the use on a B-2 District zoning lot. Second, a zone change from B-2 to BMX-3 District can be considered. Fundamentally, the only real difference between the B-2 and the BMX-3 Districts is dwelling and lodging uses, i.e., the B-2 District is essentially just a BMX-3 District without dwelling and/or lodging uses (other than accessory owner's or caretaker's dwellings). Therefore, there is similarly no inherent or apparent advantage to allowing affordable rental housing in a B-2 District over existing HRS Chapter 201H-H or zone change procedures, other than that a CUPm can potentially be processed in less time. However, the few weeks in time savings provided by the CUPm process over the HRS Chapter 201H-H process is not particularly significant; and, may be too abbreviated with respect to the range of issues which normally would need to be evaluated.

D. Other Concerns

Resolutions Nos. 06-119 and 07-007 appear to compete with each other; both proposals offering essentially the same conditional use, but with differing requirements. The existing HRS Chapter 201H-H already offers superior opportunities for appropriate adjustments and/or exemptions. So, there appears to be no advantage to further evaluation or consideration of one of the proposals over the other.

E. For Further Consideration

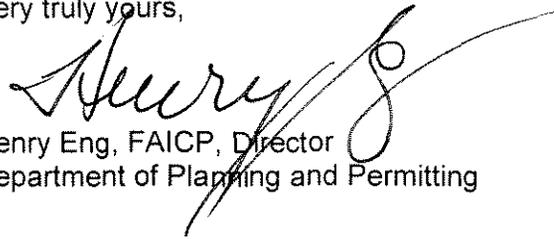
It is unclear what issues and/or problems, if any, with the existing HRS Chapter 201H-H process the three (3) proposals associated with the subject resolutions are attempting to address. This existing process to facilitate affordable housing projects is superior to all of the proposals with respect to flexibility and procedural requirements. If there are specific issues that need to be addressed, and/or specific rules which may need reevaluation, these should be identified for further consideration. For example, if the City Council feels that the minimum eligibility requirements (e.g., minimum number of units) for HRS Chapter 201H-H applications should be lowered, or the minimum affordability requirements increased, then it should pursue those policy changes in an appropriate manner. The City Council may also want to consider whether increasing the "by-right" maximum permitted density (floor area) standard for apartment and apartment mixed use districts and/or precincts is appropriate. For instance, in the A-1 Low Density Apartment and AMX-1 Low Density Apartment Mixed Use Districts, the maximum permitted density is actually less than what is permitted in the residential districts for similarly sized lots. Also, the City Council may consider whether it is appropriate land use policy to decrease off-street parking requirements under certain circumstances, e.g., within specified distance of bus and/or other mass transit facilities. [Note: Development standards for transit-oriented development (TOD) are currently being considered as a separate matter.]

III. Recommendation

The existing HRS Chapter 201H-H process is superior to any of the three (3) proposals associated with the subject resolutions as an adequate means to address affordable housing projects. There does not appear to be any inherent or apparent advantage over the existing degree of flexibility provided or the existing procedures established by the Rules. Therefore, there is no benefit to their further consideration. The subject resolutions direct the DPP to process the proposed amendments to the LUO in the same manner as if the proposals had been proposed by the Director of DPP. However, for the reasons discussed in the above "Analysis," the DPP is not recommending that the three (3) proposed LUO amendments be processed for further consideration. Insufficient documentation has been provided to support continued processing (i.e., the DPP would not have initiated these types of proposals on its own without sufficient supporting documentation). If it is the Council's opinion, nevertheless, that these proposals should still be transmitted to the Planning Commission for its consideration, then we will do so with a negative recommendation.

Please contact me at 768-8000 if you have any questions.

Very truly yours,

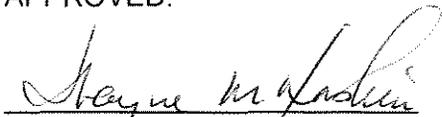


Henry Eng, FAICP, Director
Department of Planning and Permitting

HE:cs

Attachments

APPROVED:



Wayne M. Hashiro, P.E.
Managing Director

ATTACHMENTS

Resolution No. 06-119



RESOLUTION

PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (THE LAND USE ORDINANCE), AS AMENDED, RELATING TO AFFORDABLE RENTAL HOUSING.

WHEREAS, Section 6-1513 of the Revised Charter of the City and County of Honolulu 1973, as amended (RCH), provides that "[a]ny revision of or amendment to the zoning ordinances may be proposed by the council and shall be processed in the same manner as if proposed by the director [of planning and permitting]"; and

WHEREAS, Section 6-1513, RCH, further provides that "[a]ny such revision or amendment shall be referred to the director and the planning commission by resolution, which resolution shall be accompanied by supporting documentation sufficient to satisfy the director's usual requirements for the commencement of processing"; and

WHEREAS, for the purposes of the RCH, the term "zoning ordinances" refers both to the codification of land use standards in the Land Use Ordinance and to ordinances zoning and rezoning particular parcels of property (Section 6-1514, RCH); and

WHEREAS, it is the desire of the City Council that the Director of Planning and Permitting and Planning Commission process the proposed amendment to Chapter 21, Revised Ordinances of Honolulu (ROH) 1990, as amended, attached hereto as Exhibit "A"; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the Director of Planning and Permitting is directed, pursuant to Section 6-1513 of the Revised Charter of the City and County of Honolulu 1973, as amended, to process the proposed amendment to Chapter 21, ROH 1990 (the Land Use Ordinance), attached hereto as Exhibit "A," in the same manner as if the proposal had been proposed by the Director; and

BE IT FURTHER RESOLVED that the Director of Planning and Permitting is directed to inform the Council upon the transmittal of the Director's report and the proposed Land Use Ordinance amendment to the Planning Commission; and

BE IT FURTHER RESOLVED that if the Director of Planning and Permitting submits an alternative proposal to the Planning Commission, that the Planning Commission is requested to make separate recommendations on the attached proposed Land Use Ordinance amendment and on any administration-proposed alternative; and



RESOLUTION

BE IT FINALLY RESOLVED that copies of this Resolution and the Exhibit attached hereto be transmitted to the Director of Planning and Permitting and the Planning Commission.

INTRODUCED BY
[Handwritten Signature]

DATE OF INTRODUCTION:

MAR 22 2006
Honolulu, Hawaii

Councilmembers

(OCS/030206/ct)

EXHIBIT A



A BILL FOR AN ORDINANCE

TO AMEND CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED (THE LAND USE ORDINANCE), RELATING TO AFFORDABLE RENTAL HOUSING.

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

SECTION 1. Purpose. The purpose of this ordinance is to amend the Land Use Ordinance to provide flexibility in land use density to encourage the development of rental housing projects with rental units set aside for persons and families with low or moderate incomes.

SECTION 2. Section 21-2.90-2, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 21-2.90-2 General requirements.

- (a) The director may allow a conditional use on a finding that the proposed use satisfies the following criteria:
- (1) The proposed use is permitted as a conditional use in the underlying zoning district and conforms to the requirements of this chapter.
 - (2) The site is suitable for the proposed use considering size, shape, location, topography, infrastructure and natural features.
 - (3) The proposed use will not alter the character of the surrounding area in a manner substantially limiting, impairing or precluding the use of surrounding properties for the principal uses permitted in the underlying zoning district.
 - (4) The use at its proposed location will provide a service or facility which will contribute to the general welfare of the community-at-large or surrounding neighborhood.
- (b) In addition to the general or specific standards set forth in this chapter concerning the proposed use, which shall be considered minimum requirements with respect to the permit, additional requirements, conditions and safeguards may be added by the director as required for the protection of the public interest in the specific case.



A BILL FOR AN ORDINANCE

- (c) The director may grant conditional use permits by modifying application of the sign regulations; district regulations relating to yards, landscaping, and lot dimensions; and parking requirements for uses which have an unusual peak-hour parking demand. No such modification shall be made unless the proposed conditional use otherwise meets the requirements of subsections (a) and (b). At no time may the director modify the minimum standards for a specific conditional use.
- (d) In determining whether the proposed conditional use meets the requirements of subsections (a) and (b), the director will, where applicable, consider traffic flow and control; access to and circulation within the property; off-street parking and loading; sewerage; drainage and flooding; refuse and service areas; utilities; screening and buffering; signs; setbacks; yards and other open spaces; lot dimensions; height, bulk and location of structures; location of all proposed uses; hours and manner of operation; and noise, lights, dust, odor and fumes.
- (e) Notwithstanding the requirements of subsections (b) and (c) relating to minimum development standards, in the apartment, apartment mixed use, and business mixed use zoning districts, the director may grant a conditional use permit for special needs housing for the elderly, or for affordable rental housing projects, both as defined in this chapter, which may modify district regulations within the limits and subject to the respective standards established for [this] these conditional [use] uses in Article 5.
- (f) For certain conditional use permits, the director may require all or a portion of the site to be dedicated for a minimum of 10 years to active agricultural use. Should the use cease prior to the expiration of the minimum period of dedication, the director may nullify the dedication upon a determination that the permit is revoked or rescinded."

SECTION 3. Table 21-3 of Chapter 21, Revised Ordinances of Honolulu 1990, as amended ("Master Use Table"), is amended by amending the "Dwellings and Lodgings" category to read as follows:

TABLE 21-3 MASTER USE TABLE

In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control. The following table is not intended to cover the Waikiki Special District; please refer to Table 21-9.6(A).

- KEY:**
- Ac = Special accessory use subject to standards in Article 5
 - Cm = Conditional Use Permit-minor subject to standards in Article 5; no public hearing required (see Article 2 for exceptions)
 - C = Conditional Use Permit-major subject to standards in Article 5; public hearing required
 - P = Permitted use
 - P/c = Permitted use subject to standards in Article 5
 - PRU = Plan Review Use

USES (Note: Certain uses are defined in Article 10.)	ZONING DISTRICTS																			
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3

DWELLINGS AND LODGINGS

Affordable rental housing projects							C	C	C	C	C	C					C	C					
Boarding facilities							P	P	P	P	P	P					P	P					
Consulates					P/c	P/c	P	P	P	P	P	P	P	P	P	P	P	P					
Duplex units						P	P	P	P	P	P	P	P				P						
Dwellings, owner's or caretaker's, accessory														Ac	Ac		Ac	Ac	Ac	Ac	Ac		
Dwellings for cemetery caretakers	Ac		Ac																				
Dwellings, detached, one-family				P	P	P	P	P	P	P	P	P	P				P						
Dwellings, detached, two-family					P	P	P	P	P	P	P	P	P				P						
Dwellings, multifamily							P	P	P	P	P	P	P				P/c	P					
Farm dwellings		P/c	P/c																				
Group living facilities		C	C	C	C	C	C	C	C	C	C	C					C	Cm					
Guest houses (R-20 only)					Ac																		
Hotels													P				P		Cm			Cm	
Roomers/Rooming				Ac	Ac	Ac																	
Special needs housing for the elderly							C	C	C	C	C	C					C	C					
Time sharing								P/c					P										
Transient vacation (unit) units								P/c				P											
Vacation cabins	Cm																						



A BILL FOR AN ORDINANCE

SECTION 4. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new section to be appropriately designated by the revisor of ordinances and to read as follows:

"Sec. 21-5. Affordable rental housing projects.

(a) District regulations may be modified as follows:

(1) An increase of not more than _____ percent in the maximum density permitted in the district; and

(2) An increase of not more than _____ percent or _____ feet, whichever is less, in the maximum height permitted in the district.

(b) An appropriate instrument restricting the use of the property to an affordable rental housing project for the life of any structure developed or used on the property for this purpose shall be recorded with the bureau of conveyances and/or the office of the assistant registrar of the land court of the State of Hawaii, as is appropriate, as a covenant running with the land. A draft of the instrument shall be submitted with the application for a conditional use permit. The instrument shall be subject to the approval of the director and the corporation counsel. The restriction on use shall be part of the conditions of the permit."

SECTION 5. Section 21-10.1, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new definition of "affordable rental housing project" to read as follows:

"Affordable rental housing project" means a housing development that meets all of the following criteria and that requires a modification in district regulations pursuant to Section 21-2.90-2(e):

(1) All of the dwelling units in the project are rental-housing units; and

(2) At least _____ percent of the rental units are set aside, for the life of the building, for rental to households with incomes at or below 140 per cent of median income for the Honolulu Metropolitan Statistical Area, adjusted for household size, as most recently determined by the United States Department of Housing and Urban Development, of which 20 percent are set aside for rental to households with incomes at or below 80 per cent of the said median income.



A BILL FOR AN ORDINANCE

The foregoing criteria shall not apply to any resident manager, the manager's immediate family, and the dwelling unit occupied by them."

SECTION 6. New ordinance 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 underscoring.

SECTION 7. This ordinance shall take effect upon its approval.

INTRODUCED BY:

DATE OF INTRODUCTION:

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 2006.

MUFU HANNEMANN, Mayor
City and County of Honolulu
(OCS/030206/ct)

Resolution No. 07-007



RESOLUTION

PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (THE LAND USE ORDINANCE), AS AMENDED, RELATING TO THE PROVISION OF INCENTIVES FOR AFFORDABLE RENTAL HOUSING.

WHEREAS, Section 6-1513 of the Revised Charter of the City and County of Honolulu 1973, as amended (RCH), provides that "[a]ny revision of or amendment to the zoning ordinances may be proposed by the council and shall be processed in the same manner as if proposed by the director [of planning and permitting]"; and

WHEREAS, Section 6-1513, RCH, further provides that "[a]ny such revision or amendment shall be referred to the director and the planning commission by resolution, which resolution shall be accompanied by supporting documentation sufficient to satisfy the director's usual requirements for the commencement of processing"; and

WHEREAS, for the purposes of the RCH, the term "zoning ordinances" refers both to the codification of land use standards in the Land Use Ordinance and to ordinances zoning and rezoning particular parcels of property (Section 6-1514, RCH); and

WHEREAS, it is the desire of the council that the director of planning and permitting and Planning Commission process the proposed amendment to Chapter 21, Revised Ordinances of Honolulu (ROH) 1990, as amended, attached hereto as Exhibit "A"; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the *director of planning and permitting is directed, pursuant to Section 6-1513 of the Revised Charter of the City and County of Honolulu 1973, as amended, to process the proposed amendment to Chapter 21, ROH 1990 (the Land Use Ordinance), attached hereto as Exhibit "A," in the same manner as if the proposal had been proposed by the director; and*

BE IT FURTHER RESOLVED that the director of planning and permitting is *directed to inform the council upon the transmittal of the director's report and the proposed Land Use Ordinance amendment to the Planning Commission; and*

BE IT FURTHER RESOLVED that if the director of planning and permitting submits an alternative proposal to the Planning Commission, that the Planning Commission is requested to make separate recommendations on the attached proposed Land Use Ordinance amendment and on any administration-proposed alternative; and



RESOLUTION

BE IT FINALLY RESOLVED that copies of this Resolution and the Exhibit attached hereto be transmitted to the director of planning and permitting and the Planning Commission.

INTRODUCED BY:

[Handwritten Signature]

DATE OF INTRODUCTION:

JAN 03 2007

Honolulu, Hawaii

Councilmembers

EXHIBIT A



A BILL FOR AN ORDINANCE

TO AMEND CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED (THE LAND USE ORDINANCE), RELATING TO THE PROVISION OF INCENTIVES FOR AFFORDABLE RENTAL HOUSING.

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

SECTION 1. Purpose. The purpose of this ordinance is to amend the Land Use Ordinance to provide incentives for the development of affordable rental housing projects.

SECTION 2. Section 21-2.70, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 21-2.70 Review of planning commission and/or council.

(a) Plan Review Use. When the application is for approval of a plan review use, the city council shall, within 60 days of receipt of the director's report, hold a public hearing and either:

- (1) Approve the application, in whole or in part, with or without conditions or modifications, by resolution; or
- (2) Deny the application.

If the council does not act on the application as provided in this subsection within such 60-day period, the application shall be deemed denied. The applicant may request, and the council may approve, an extension of time if the request is made in writing and approved prior to the requested effective date of the extension.

(b) Special Districts and Zone Changes. When the application is for (i) the establishment of or amendment to a special district, or (ii) a zone change:

- (1) The planning commission shall hold a public hearing within 45 days of receipt of the director's report and proposed ordinance. Within 30 days of the close of the public hearing, the planning commission shall transmit to the council the director's report and proposed ordinance with its recommendations.



A BILL FOR AN ORDINANCE

(2) The council shall hold a public hearing and may act by approving the ordinance as submitted or with modifications, or by denying it. If the council does not take final action within 90 days after receipt of the proposed ordinance from the planning commission, it shall be deemed denied, provided that this time limit shall not apply to zoning ordinance amendments initiated by the council pursuant to Revised Charter Section 6-1513. The applicant may request, and the council may approve, an extension of time if the request is made in writing and approved prior to the requested effective date of the extension.

(c) Conditional Use Permits for Affordable Housing Projects. When the application is for a conditional use permit for an affordable housing project, the council shall, within 60 days after receipt of the application, hold a public hearing and, by resolution, either:

(1) Approve the application with or without modifications, provided the council may modify the application only in accordance with the director's recommendations; or

(2) Deny the application.

If the council does not take final action within 60 days after receipt of the application, the application shall be deemed approved."

SECTION 3. Section 21-2.90-2, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

"Sec. 21-2.90-2 General requirements.

- (a) The director may allow a conditional use on a finding that the proposed use satisfies the following criteria:
- (1) The proposed use is permitted as a conditional use in the underlying zoning district and conforms to the requirements of this chapter.
 - (2) The site is suitable for the proposed use considering size, shape, location, topography, infrastructure and natural features.
 - (3) The proposed use will not alter the character of the surrounding area in a manner substantially limiting, impairing or precluding the use of



A BILL FOR AN ORDINANCE

surrounding properties for the principal uses permitted in the underlying zoning district.

- (4) The use at its proposed location will provide a service or facility which will contribute to the general welfare of the community-at-large or surrounding neighborhood.

- (b) In addition to the general or specific standards set forth in this chapter concerning the proposed use, which shall be considered minimum requirements with respect to the permit, additional requirements, conditions and safeguards may be added by the director as required for the protection of the public interest in the specific case.

- (c) The director may grant conditional use permits by modifying application of the sign regulations; district regulations relating to yards, landscaping, and lot dimensions; and parking requirements for uses which have an unusual peak-hour parking demand. No such modification shall be made unless the proposed conditional use otherwise meets the requirements of subsections (a) and (b). At no time may the director modify the minimum standards for a specific conditional use.

- (d) In determining whether the proposed conditional use meets the requirements of subsections (a) and (b), the director will, where applicable, consider traffic flow and control; access to and circulation within the property; off-street parking and loading; sewerage; drainage and flooding; refuse and service areas; utilities; screening and buffering; signs; setbacks; yards and other open spaces; lot dimensions; height, bulk and location of structures; location of all proposed uses; hours and manner of operation; and noise, lights, dust, odor and fumes.

- (e) Notwithstanding the requirements of subsections (b) and (c) relating to minimum development standards, in the apartment, apartment mixed use, and business mixed use zoning districts, the director may grant a conditional use permit for special needs housing for the elderly, or for affordable rental housing projects, both as defined in this chapter, which may modify district regulations within the limits and subject to the respective standards established for [this] these conditional [use] uses in Article 5.

- (f) For certain conditional use permits, the director may require all or a portion of the site to be dedicated for a minimum of 10 years to active agricultural use. Should the use cease prior to the expiration of the minimum period of dedication, the



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL _____ **(2006)**

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director may nullify the dedication upon a determination that the permit is revoked or rescinded.”

SECTION 4. Table 21-3 of Chapter 21, Revised Ordinances of Honolulu 1990, as amended (“Master Use Table”), is amended by amending the “Dwellings and Lodgings” category to read as follows:

TABLE 21-3 MASTER USE TABLE

In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control. The following table is not intended to cover the Waikiki Special District; please refer to Table 21-9.6(A).

KEY: Ac = Special accessory use subject to standards in Article 5
 Cm = Conditional Use Permit-minor subject to standards in Article 5; no public hearing required (see Article 2 for exceptions)
 C = Conditional Use Permit-major subject to standards in Article 5; public hearing required
 P = Permitted use
 P/c = Permitted use subject to standards in Article 5
 PRU = Plan Review Use

USES (Note: Certain uses are defined in Article 10.)	ZONING DISTRICTS																			
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3

DWELLINGS AND LODGINGS

Affordable rental housing projects							C	C	C	C	C	C					C	C					
Boarding facilities							P	P	P	P	P	P					P	P					
Consulates					P/c	P/c	P	P	P	P	P	P	P	P	P	P	P	P					
Duplex units						P	P	P	P	P	P	P	P				P						
Dwellings, owner's or caretaker's, accessory														Ac	Ac		Ac	Ac	Ac	Ac	Ac	Ac	Ac
Dwellings for cemetery caretakers	Ac		Ac																				
Dwellings, detached, one-family				P	P	P	P	P	P	P	P	P	P				P						
Dwellings, detached, two-family					P	P	P	P	P	P	P	P	P				P						
Dwellings, multifamily							P	P	P	P	P	P	P				P/c	P					
Farm dwellings		P/c	P/c																				
Group living facilities		C	C	C	C	C	C	C	C	C	C	C					C	Cm					
Guest houses (R-20 only)					Ac																		
Hotels													P				P		Cm			Cm	
Roomers/Rooming				Ac	Ac	Ac																	
Special needs housing for the elderly							C	C	C	C	C	C					C	C					
Time sharing								P/c					P										
Transient vacation unit								P/c					P										
Vacation cabins	Cm																						



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SECTION 5. Chapter 21, Article 5, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new section to be appropriately designated by the revisor of ordinances and to read as follows:

"Sec. 21-5. Affordable rental housing projects.

(a) District regulations may be modified as follows:

- (1) An increase of not more than 25 percent in the maximum density permitted in the district;
- (2) An increase of not more than 25 percent or 30 feet, whichever is less, in the maximum height permitted in the district;
- (3) A decrease of not more than 25 percent in the number of off-street parking spaces required pursuant to Section 21-6.20;
- (4) The area of private park space in the development may be credited against the park dedication requirements of Chapter 22, Article 7;
- (5) The deferral of payment of fees for grading (Chapter 14, Article 14), and plan review and building permits (Chapter 18, Article 6) until no later than issuance of the building permit; and
- (6) The deferral of payment of fees for wastewater system facilities charge (Chapter 14, Article 10) until connection to the system.

(b) An appropriate instrument:

- (1) Restricting the use of the property to an affordable rental housing project for the life of any structure developed or used on the property for this purpose; and
- (2) Describing the modifications made pursuant to this section

shall be recorded with the bureau of conveyances and/or the office of the assistant registrar of the land court of the State of Hawaii, as is appropriate, as a covenant running with the land. A draft of the instrument shall be submitted with the application for a conditional use permit. The instrument shall be subject to the approval of the director and the corporation counsel and the approval or



A BILL FOR AN ORDINANCE

denial of the council as provided under Section 21.2-70(c). The restriction on use shall be part of the conditions of the permit."

SECTION 6. Section 21-10.1, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new definition of "affordable rental housing project" to read as follows:

"Affordable rental housing project" means a housing development that meets all of the following criteria and that requires a modification in district regulations pursuant to Section 21-2.90-2(e):

- (1) At least 50 percent of the dwelling units in the project are rental-housing units; and
- (2) At least 30 percent of the rental units are set aside, for the life of the building, for rental to households with incomes at or below 120 per cent of median income for the Honolulu Metropolitan Statistical Area, adjusted for household size, as most recently determined by the United States Department of Housing and Urban Development, of which 20 percent are set aside for rental to households with incomes at or below 80 per cent of the said median income.

The foregoing criteria shall not apply to any resident manager, the manager's immediate family, and the dwelling unit occupied by them."



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SECTION 7. Ordinance material to be repealed is bracketed. 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 bracketed materials, or the underscoring

SECTION 8. This ordinance shall take effect upon its approval.

INTRODUCED BY:

DATE OF INTRODUCTION:

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 2006.

MUFI HANNEMANN, Mayor
City and County of Honolulu

Resolution No. 07-008



RESOLUTION

PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (THE LAND USE ORDINANCE), AS AMENDED, RELATING TO AFFORDABLE HOUSING.

WHEREAS, Section 6-1513 of the Revised Charter of the City and County of Honolulu 1973, as amended (RCH), provides that "[a]ny revision of or amendment to the zoning ordinances may be proposed by the council and shall be processed in the same manner as if proposed by the director [of planning and permitting]"; and

WHEREAS, Section 6-1513, RCH, further provides that "[a]ny such revision or amendment shall be referred to the director and the planning commission by resolution, which resolution shall be accompanied by supporting documentation sufficient to satisfy the director's usual requirements for the commencement of processing"; and

WHEREAS, for the purposes of the RCH, the term "zoning ordinances" refers both to the codification of land use standards in the Land Use Ordinance and to ordinances zoning and rezoning particular parcels of property (Section 6-1514, RCH); and

WHEREAS, it is the desire of the council that the director of planning and permitting and Planning Commission process the proposed amendment to Chapter 21, Revised Ordinances of Honolulu (ROH) 1990, as amended, attached hereto as Exhibit "A"; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the director of planning and permitting is directed, pursuant to Section 6-1513 of the Revised Charter of the City and County of Honolulu 1973, as amended, to process the proposed amendment to Chapter 21, ROH 1990 (the Land Use Ordinance), attached hereto as Exhibit "A," in the same manner as if the proposal had been proposed by the director; and

BE IT FURTHER RESOLVED that the director of planning and permitting is directed to inform the council upon the transmittal of the director's report and the proposed Land Use Ordinance amendment to the Planning Commission; and

BE IT FURTHER RESOLVED that if the director of planning and permitting submits an alternative proposal to the Planning Commission, that the Planning Commission is requested to make separate recommendations on the attached proposed Land Use Ordinance amendment and on any administration-proposed alternative; and

Z



RESOLUTION

BE IT FINALLY RESOLVED that copies of this Resolution and the Exhibit attached hereto be transmitted to the director of planning and permitting and the Planning Commission.

INTRODUCED BY:

~~_____~~
~~_____~~
Bamber Marshall
Aund Koyanagi
Kip Lam
Todd Cap

DATE OF INTRODUCTION:

JAN 03 2007
Honolulu, Hawaii

Councilmembers

EXHIBIT A



A BILL FOR AN ORDINANCE

TO AMEND CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990, AS AMENDED (THE LAND USE ORDINANCE), RELATING TO AFFORDABLE HOUSING.

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

SECTION 1. Purpose. The purpose of this ordinance is to amend the Land Use Ordinance to permit affordable housing in B-2 Community Business zoning districts.

SECTION 2. Table 21-3 of Chapter 21, Revised Ordinances of Honolulu 1990, as amended ("Master Use Table"), is amended by amending the "Dwellings and Lodgings" category to read as follows:

"TABLE 21-3 MASTER USE TABLE

In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control. The following table is not intended to cover the Walkikl Special District; please refer to Table 21-9.6(A).

- KEY:**
- Ac = Special accessory use subject to standards in Article 5
 - Cm = Conditional Use Permit-minor subject to standards in Article 5; no public hearing required (see Article 2 for exceptions)
 - C = Conditional Use Permit-major subject to standards in Article 5; public hearing required
 - P = Permitted use
 - P/c = Permitted use subject to standards in Article 5
 - PRU = Plan Review Use

USES (Note: Certain uses are defined in Article 10.)	ZONING DISTRICTS																			
	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3

DWELLINGS AND LODGINGS

Boarding facilities							P	P	P	P	P	P					P	P					
Consulates					P/c	P/c	P	P	P	P	P	P	P	P	P	P	P						
Duplex units						P	P	P	P	P	P	P	P				P						
Dwellings, owner's or caretaker's, accessory														Ac	Ac		Ac	Ac	Ac	Ac	Ac		
Dwellings for cemetery caretakers	Ac		Ac																				
Dwellings, detached, one-family				P	P	P	P	P	P	P	P	P	P				P						
Dwellings, detached, two-family						P	P	P	P	P	P	P	P				P						
Dwellings, multifamily							P	P	P	P	P	P	P		Cm	P/c	P						
Farm dwellings		P/c	P/c																				
Group living facilities		C	C	C	C	C	C	C	C	C	C	C					C	Cm					
Guest houses (R-20 only)					Ac																		
Hotels														P				P		Cm		Cm	
Roomers/Rooming				Ac	Ac	Ac																	
Special needs housing for the elderly							C	C	C	C	C	C					C	C					
Time sharing								P/c						P									
Transient vacation unit								P/c						P									
Vacation cabins	Cm																						



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SECTION 3. Section 21-5.210, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 21-5.210 Dwellings, multifamily.

In the BMX-3 zoning district, where multifamily dwellings are integrated with other uses, pedestrian access to the dwellings shall be independent from other uses and shall be designed to enhance privacy for residents and their guests.

In the B-2 zoning district, multi-family dwellings shall be permitted, provided they qualify as affordable housing as defined in Section 21-10.1 and include commercial uses."

SECTION 4. Section 21-10.1, Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new definition of "affordable housing" to read as follows:

"Affordable housing" means a building or group of buildings in a housing development where at least 75 percent of the dwelling units are set aside, for the life of the building, for sale or rent to households with incomes at or below 120 per cent of median income for the Honolulu Metropolitan Statistical Area, adjusted for household size, as most recently determined by the United States Department of Housing and Urban Development. Of the 75 percent, at least 10 percent of the dwelling units shall be for sale or rent to households with incomes at or below 80 per cent of median income. Any dwelling unit occupied by a resident manager shall be excluded from the calculation."



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SECTION 5. New ordinance 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 underscoring.

SECTION 6. This ordinance shall take effect upon its approval.

INTRODUCED BY:

DATE OF INTRODUCTION:

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 2007.

MUFU HANNEMANN, Mayor
City and County of Honolulu

HRS Section 201H-38
(Chapter 201H-H)

[§201H-38] Housing development; exemption from statutes, ordinances, charter provisions, and rules. (a) The corporation may develop on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of, housing projects that shall be exempt from all statutes, ordinances, charter provisions, and rules of any government agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units thereon; provided that:

- (1) The corporation finds the housing project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
- (2) The development of the proposed housing project does not contravene any safety standards, tariffs, or rates and fees approved by the public utilities commission for public utilities or of the various boards of water supply authorized under chapter 54;
- (3) The legislative body of the county in which the housing project is to be situated shall have approved the project:
 - (A) The legislative body shall approve or disapprove the project by resolution within forty-five days after the corporation has submitted the preliminary plans and specifications for the project to the legislative body. If on the forty-sixth day a project is not disapproved, it shall be deemed approved by the legislative body;
 - (B) No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken by them in reviewing, approving, or disapproving the plans and specifications; and
 - (C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the zoning, building, construction, and subdivision standards for that project. For

purposes of sections 501-85 and 502-17, the executive director of the corporation or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and the maps and plans shall be accepted for registration or recordation by the land court and registrar; and

- (4) The land use commission shall approve or disapprove a boundary change within forty-five days after the corporation has submitted a petition to the commission as provided in section 205-4. If on the forty-sixth day the petition is not disapproved, it shall be deemed approved by the commission.

(b) For the purposes of this section, "government assistance program" means a housing program qualified by the corporation and administered or operated by the corporation or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise.

[L 2006, c 180, pt of §3]