



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII 96813-3077

## COMMITTEE ON ZONING AND HOUSING

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### Voting Members:

Kymberly Marcos Pine, Chair  
Carol Fukunaga, Vice Chair  
Ikaika Anderson  
Ron Menor  
Heidi Tsuneyoshi

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## MINUTES

REGULAR MEETING  
THURSDAY, JANUARY 24, 2019

COUNCIL COMMITTEE MEETING ROOM  
2<sup>ND</sup> 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 regular meeting of the Committee on Zoning and Housing was called to order by Committee Chair Kymberly Marcos Pine at 9:14 a.m. Voting Members Anderson, Fukunaga, Menor, and Tsuneyoshi were present at the meeting. Nonvoting member, Interim Council Chair Kobayashi also attended the meeting.

### STAFF PRESENT

Matthew Caires, Chief of Staff to Committee Chair Pine  
Lori Hiraoka, Attorney, Office of Council Services  
Gavin Kennedy, Analyst, Office of Council Services  
Molly Stebbins, Deputy, Department of the Corporation Counsel, assigned to the Committee  
Pearlene Otto, Council Committee Aide, Office of the City Clerk

## ORDER OF BUSINESS

### APPROVAL OF MINUTES

The minutes of the Committee on Zoning and Housing meeting held on November 29, 2018 were approved as circulated.

AYES: ANDERSON, MENOR, TSUNEYOSHI, PINE – 4.  
NOES: None.  
EXCUSED: FUKUNAGA – 1.

FOR ACTION

1. BILL 79 (2018), CD1

RELATING TO DETACHED DWELLINGS. Addressing the problem of the illegal use of large residential structures in residential districts.

The following amendment was posted on the agenda:

PROPOSED CD2 TO BILL 79 (2018), CD1 (Submitted by Councilmember Pine) – The CD2 (OCS2019-0020/1/18/2019 7:58 AM) makes the following amendments:

- A. In Section 21-3.70-1(c)(3)(A), increases the proposed maximum density (FAR) from 0.6 to 0.7.
- B. In Section 21-3.70-1(c)(3)(D), relating to the number of bathrooms allowed:
  - 1. Removes the lot size category of “up to 4,999” square feet; and
  - 2. Clarifies the number of bathrooms to make clear that two 0.5 bathrooms cannot be substituted for one bathroom.
- C. Adds a new Section 21-3.70-1(c)(3)(E), which provides that the conversion or alteration of a wet bar, laundry room, or bathroom is prohibited unless it is specifically allowed under a valid building permit.
- D. Adds a new Section 21-3.70-1(c)(3)(F), which provides that the conversion of a portion of a structure that is excluded from the floor area calculation to a portion of a structure that is included in the floor area calculation is prohibited unless it is specifically allowed under a valid building permit and complies with the applicable standards of Section 21-3.70(c)(3).
- E. Adds a new Section 21-3.70-1(c)(3)(H), which provides that when the FAR exceeds 0.6, the following additional standards apply:
  - 1. Eight-foot side and rear yards;
  - 2. Each dwelling unit must be owner-occupied;
  - 3. Issuance of a temporary certificate of occupancy, effective for a period of one year after issuance, during which period additional inspections may be conducted by the department.

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- F. In Table 21-6.1 relating to off-street parking, requires 2 off-street parking stalls per unit plus 1 per 750 (instead of 500) square feet over 2,500 square feet (excluding carport or garage).
- G. In Section 21-6.40(b), removes the last sentence requiring an adequate turn-around area for residential zoning lots with four or more parking spaces using the same driveway.
- H. Makes miscellaneous technical and nonsubstantive amendments.

Administration/Others

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

Acting Director Sokugawa testified that the Administration feels that Bill 80 (2018), which also relates to detached dwellings, is more appropriate to move forward. The Acting Director requested that the Council consider including some elements of Bill 80 (2018) into Bill 79 (2018), CD1.

The Acting Director noted the following concerns with Bill 79 (2018), CD1:

- There are some elements in the Bill that would constitute over regulation, especially regarding the plumbing provisions, and would slow the building permit and review processes.
- Although the new standards for impervious surfaces would significantly impact the process, the Administration is not opposed to it. In order to fully understand what the implications will be for existing projects or properties, more community outreach and studies are needed.

Committee Chair Pine voiced her disagreement with the Administration, stating that the Council plans to address the impervious surface issues in another piece of legislation because it is a very difficult topic to grasp. The Council also believes that since the City is so heavily concreted, it has affected runoffs and our water quality/supply, an issue that would be pursued.

The Acting Director stated that the impervious surface issue would be better addressed through the water quality rules rather than as a zoning regulation.

The Committee Chair noted that there was some confusion in the summary of the posted CD2 and provided clarification of the amendments.

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The following individuals testified:

1. Thalya DeMott, Malama Manoa (supports CD2)
2. Jeremy Lam, President, Manoa Branch of The Outdoor Circle (comments)
3. Linda Legrande (supports CD2)
4. Vanessa Distajo, Manoa Branch of The Outdoor Circle (support)
5. Gladys Marrone, Building Industry Association of Hawaii (BIA-Hawaii) (oppose)

In response to queries by the Committee members, Ms. Marrone stated that the BIA-Hawaii was not comfortable in providing information on CPR (Condominium Property Regime) lots and could perhaps further investigate. The BIA-Hawaii would furnish examples of how they could provide analysis and evaluation on monster home construction.

Committee Member Fukunaga voiced that the missing element seemed to be independent verification from the construction industry experts on the most common and widely accepted prevailing business practices to enforcing the monster structures.

6. Tyler Dos Santos-Tam, HI Good Neighbor (support CD2)

In response to the Committee Chair, Mr. Dos Santos-Tam stated that the HI Good Neighbor is very grateful that ten of their proposed items were retained in the Bill; however, was concerned that the turnaround area requirement was not included.

Committee Chair Pine stated that it was not practical to keep the turnaround area in the Bill and therefore, it was removed.

7. David Frankel (support)
8. Christine Otto Zaa (support CD2)

In response to the Committee Chair, Ms. Zaa stated that personally she would rather have the .5 floor area ratio (FAR) but to compromise, the .6 FAR with the additional conditions is fair because it allows for multigenerational families.

9. Winston Welch, The Outdoor Circle (comments)
10. Arvid Youngquist (comments)
11. Kristan Eiserloh (comments)
12. Rodney Kim (comments)

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Committee Chair Pine explained that more work is needed on the Bill and recommended that the measure be deferred to allow further discussion with Malama Manoa and other anti-monster home groups regarding their concerns and other options.

Action on Bill 79 (2018), CD1 postponed to the Committee on Zoning and Housing meeting of February 7, 2019.

AYES:           ANDERSON, FUKUNAGA, MENOR, TSUNEYOSHI, PINE – 5.  
NOES:           None.

Related communications:

M-25           Early Testimony for Bill 79 (2018), CD1  
M-34           Additional Testimony for Bill 79 (2018), CD1

2.    RESOLUTION 18-288 – COMMITTEE REPORT 17

SMP FOR THE MALAEKAHANA STATE RECREATIONAL AREA, KAHUKU SECTION PARK IMPROVEMENTS. (2018/SMA-49) Granting a Special Management Area Use Permit for improvements and upgrades to the existing park and campground, including reconstruction of the existing interior roads and parking lot, and construction of a new parking lot, administrative offices, comfort stations, cabins, and other support infrastructure on land zoned R-5 Residential District, located in Malaekahana, Koolauloa, and identified by Tax Map Keys 5-6-001: 024, 025, 045-47, 049, 051, 053-065. (Applicant: Department of Land and Natural Resources, Division of State Parks, State of Hawaii) (Current deadline for Council action 6/4/19)

The following amendment was posted on the agenda:

PROPOSED CD1 TO RESOLUTION 18-288 (Submitted by Councilmember Pine) – The CD1 (OCS2019-0033/1/18/2019 8:20 AM) makes the following amendments:

- A.    Clarifies the description of the Project by revising the first WHEREAS clause and adding a second WHEREAS clause.
- B.    Adds November 29, 2018 as the date the DPP completed its report and transmitted its findings and recommendation to the Council.
- C.    Adds December 6, 2018 as the date the Council received the DPP's findings and recommendation by Departmental Communication 776 (2018).

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- D. Makes miscellaneous technical and nonsubstantive amendments.

Administration/Others

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

Alan Carpenter and Russel Kumabe, Department of Land and Natural Resources (DLNR), Applicants

Jason Lau, The Limtiaco Consulting Group, LLC, Agent

Committee Chair Pine advised that the proposed CD1 would be further amended to correct the 36,288 acreage size described in the first WHEREAS clause to 36.288 acres.

Acting Director Sokugawa testified that the Administration supports the Resolution with the technical correction on the lot size and asked for the Committee's favorable action.

The Applicant and Agent provided a PowerPoint presentation on the Project.

In response to queries by Committee Member Tsuneyoshi, Mr. Kumabe stated that the DLNR met with the Laie Community Association, the Kahuku Community Association, and the Koolau Loa Neighborhood Board in 2014 to present the Project. The scope and elements of the Project are the results of a culmination of the community's input.

Committee Member Tsuneyoshi expressed that the Project would be a good improvement to the area and that the community would appreciate and enjoy its use. The Committee Member looked forward to seeing all the improvements come to fruition and thanked everyone for their efforts.

The following individual testified:

Arvid Youngquist (comments)

Committee Chair Pine recommended that the Resolution be amended to correct the acreage size and thanked everyone for their efforts on the Project.

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Resolution 18-288 amended to CD1 and reported out for adoption.

AYES: ANDERSON, MENOR, TSUNEYOSHI, PINE – 4.

NOES: None.

EXCUSED: FUKUNAGA – 1.

CD1 to Resolution 18-288 (Submitted by Councilmember Pine) – The CD1 (OCS2019-0060/1/24/2019 4:04 PM) makes the following amendments:

- A. Clarifies the description of the Project by revising the first WHEREAS clause and adding a second WHEREAS clause.
- B. Adds November 29, 2018 as the date the DPP completed its report and transmitted its findings and recommendation to the Council.
- C. Adds December 6, 2018 as the date the Council received the DPP's findings and recommendation by Departmental Communication 776 (2018).
- D. Makes miscellaneous technical and nonsubstantive amendments.

Related communications:

D-776 (2018) Department of Planning and Permitting, transmitting draft resolution.

M-35 PowerPoint presentation handout submitted by The Limtiaco Consulting Group.

3. RESOLUTION 18-285

SMP FOR THE DEVELOPMENT OF A TWO-STORY SINGLE-FAMILY DWELLING AT 46-107 LILIPUNA ROAD (2018/SMA-45). Granting a Special Management Area Use Permit to allow the development of a two-story single-family dwelling that exceeds 7,500 square feet in floor area, and appurtenant and accessory structures and improvements at 46-107 Lilipuna Road, Kaneohe, Oahu, and identified as Tax Map Key 4-6-001: 007. (Applicant: Charles T.Y. Wong) (Current deadline for Council action: 5/28/19)

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The following amendment was posted on the agenda:

PROPOSED CD1 TO RESOLUTION 18-285 (Submitted by Councilmember Pine) –  
The CD1 (OCS2019-0032/1/18/2019 8:32 AM) makes the following amendments:

- A. Simplifies the resolution title and provides that the single family dwelling is located in Kaneohe.
- B. Clarifies the description of the Project by revising the first WHEREAS clause and adding second and third WHEREAS clauses.
- C. Provides that one member of the public testified at the October 23, 2018 public hearing.
- D. Adds November 29, 2018 as the date the Council received the DPP's findings and recommendation by Departmental Communication 760 (2018).
- E. Conforms Condition A to the standard form used in SMA Use Permit resolutions.
- F. Separates Condition B into two conditions. In Condition B, clarifies that prior to the issuance of a building permit for the Project, the Applicant shall obtain a shoreline setback variance ("SSV") for all unauthorized improvements within the shoreline setback area, and shall remove all improvements within the shoreline setback area for which an SSV is not granted.

In new Condition C, clarifies that prior to the issuance of a building permit for the Project, the Applicant shall comply with all requirements imposed for the seawall by the State Department of Land and Natural Resources Office of Conservation and Coastal Lands relating to the use of submerged State lands in the State Conservation District.

Re-alphabetizes subsequent conditions.

- G. Makes miscellaneous technical and nonsubstantive amendments.

Administration/Others

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

Alex Beatty, Land Use Permits Division, DPP

Wallace Carvalho, Program Administrator, DPP



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Wendel Ko, Chief Building Inspector, DPP  
Charles T.Y. Wong, Applicant

Acting Director Sokugawa testified that although the process has been difficult, the Resolution moves the Project a major step forward toward compliance and asks the Committee for its favorable consideration.

Discussion ensued between Committee Member Anderson, the Applicant, and the DPP regarding the non-compliance of a stop work order issued to the Applicant and the events surrounding that order.

RECESS/RECONVENE

The Committee Chair called for a short recess at 10:32 a.m. and reconvened the meeting at 10:33 a.m.

Committee Chair Pine clearly recognized that more information was needed on the issue because of the disagreements heard in the heated discussion. The Committee Chair was also concerned about potential lawsuits against the City and therefore, she would meet with the Department of the Corporation Counsel (COR) to discuss and understand all that has occurred up to this point.

In response to queries by Committee Member Menor, the DPP representatives provided the following information:

- A Special Management Area (SMA) Use Permit is a permit relating to an environmental issue.
- The imposed fines were for non-compliance of the building code or approved plans, which is a building code issue. None of the fines can be cleared until the SMA is approved.
- The current amount of the fines are up to \$588,000.
- A lien has been placed on the Applicant's property.

Responding to queries by Committee Member Menor, the Applicant explained his reasons for constructing a driveway, berm, and seawall without the proper State permits. Mr. Beatty confirmed that these issues have no bearing on whether the SMA is approved or disapproved by the Council.

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Acting Director Sokugawa pointed out that it is at the building inspector's discretion to move violations to civil fines. The Applicant was given formal notice of the fines and could have filed an appeal in opposition to the fines. However, to the best of the Acting Director's knowledge, no appeal was received from the Applicant.

Discussion ensued between the Committee members and Mr. Ko on his recollection of events.

Committee Chair Pine recommended postponing action on the Resolution until the next Committee on Zoning and Housing meeting on February 7, 2019 in order to allow more time for the Councilmember of the District to gather additional information and further discuss with the COR on how to deal with the very confusing situation.

Committee Member Menor agreed that further evaluation is needed to ensure that all factors are legally met and made very clear to the Council, and that all the fines would be paid before moving anything forward.

Committee Member Anderson spoke in support of the postponement and would meet with DPP and the COR to further discuss the issues. The Committee Member stated that at this point in time he is not comfortable in assuring the community that the Applicant would work with all parties involved going forward and that in good conscience, he could not support moving the measure forward today.

The following individuals testified:

1. Bishu Ramsarran (comments)
2. Arvid Youngquist (comments)

Action on Resolution 18-285 postponed to the February 7, 2019 Committee on Zoning and Housing meeting.

AYES: ANDERSON, FUKUNAGA, MENOR, TSUNEYOSHI, PINE – 5.  
NOES: None.

Related communication:

D-760 (2018) Department of Planning and Permitting, transmitting draft resolution.

RECESS/RECONVENE

The Committee Chair called for a short recess at 10:51 a.m. and reconvened the meeting at 10:52 a.m.

4. BILL 78 (2018)

RELATING TO SHORELINE SETBACKS. Addressing the repair of shoreline protection structures that are located within the shoreline setback.

Administration/Others

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

Joshua Stanbro, Executive Director and Chief Resiliency Officer, Mayor's Office of Climate Change, Sustainability and Resiliency

Committee Member Anderson, the introducer, provided a brief overview of the measure and stated that he looked forward to the discussion today with the Administration and the community members present in the audience.

Acting Director Sokugawa testified that the Administration met with Committee Member Anderson to discuss the issues; however, they still have some concerns. The Acting Director pointed out that there are provisions already in place for emergency accommodations to protect one's property and noted that Bill 78 (2018) moves in a different direction than the Mayor's Directive on Climate Change.

Responding to queries by the Committee members, the Acting Director stated that the Mayor's Directive on Climate Change is policy-oriented, being very strong against armoring the permanent shoreline; whereas, Bill 78 (2018) is a proposed regulatory change, which seems to allow for the erection of a new seawall, claiming it as an emergency issue, and then applying for the permits.

The following individuals testified:

1. Samuel Lemmo, Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (supports DPP's testimony)

In response to queries by the Committee members, Mr. Lemmo stated that the law provides for repairs on an existing legal seawall of up to 50% of the total replacement cost and no more. However, as a precedent, before one

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performs any type of significant work on a shoreline structure, always consult with a DLNR regulator first to get advice, support, and an authorization, noting that the response time is usually about one to two days. Mr. Lemmo also expressed that as long as one is willing to consult with the DLNR, they are certainly obligated to provide a quick response.

2. Arvid Youngquist (support)
3. Marti Townsend, Sierra Club (oppose)

Executive Director Stanbro commended Committee Member Anderson for bringing the discussion to the table because the topic will be wrestled with more and more going forward, citing a portion of the Mayor's Directive on Climate Change as to where the overall discussion should go. The Executive Director noted that the key to all of this is that every sand cell around the island is very different and it is essential to look at each situation on a case-by-case basis. He advised that the Administration has applied for FEMA (Federal Emergency Management Agency) assistance and requested that more time be given to allow for the process to take place.

Committee Member Anderson appreciated the comments of the DLNR, noting that their response time is remarkable. Yet, he still shares the concerns of some of the homeowners and of the other agencies. The Committee Member requested that the measure be postponed to allow for further discussion with the various departments and the Sierra Club to come up with a better way forward. He would also work with the DPP on revisiting their existing rules rather than imposing new legislation for more clarity.

Both Committee Chair Pine and Committee Member Menor spoke in support of Committee Member Anderson's recommendation. Committee Member Menor also emphasized that the City must clearly set a high prioritization for shoreline protection and was satisfied with the testimony of the State and City officials.

Committee Chair Pine recommended that the Bill be postponed as recommended by Committee Member Anderson.

Action on Bill 78 (2018) postponed to a date to be determined by the Committee Chair.

AYES: ANDERSON, FUKUNAGA, MENOR, TSUNEYOSHI, PINE – 5.  
NOES: None.

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Related communication:

M-33            Additional testimony for Bill 78 (2018)

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:17 a.m.

Respectfully submitted,

GLEN I. TAKAHASHI  
City Clerk

pno

DATE APPROVED

February 28, 2019