

SUMMARY OF PROPOSED COMMITTEE DRAFT:

Resolution 24-65

RESOLUTION EXPRESSING THE HONOLULU CITY COUNCIL'S STRONG CONCERNS RELATING TO HOUSE BILL 1630, H.D. 1, AND SENATE BILL 3202, S.D. 2, RELATING TO URBAN DEVELOPMENT.

The PROPOSED CD1 makes the following amendments:

A. Amends the second WHEREAS clause to add replace "the bills are intended to increase" with "the intention of the State bills appears to be."

B. Amends the sixth WHEREAS clause to read as follows:

"WHEREAS, while the State bills may be appropriate for the Neighbor Island counties where zoning lots tend to be larger than those in Honolulu, they are not appropriate in the City, where there are a number of residential zoning districts, denominated as the R-20, R-10, R-7.5, R-5, and R-3.5 zoning districts, with minimum lot sizes in each district being, respectively, 20,000 square feet, 10,000 square feet, 7,500 square feet, 5,000 square feet, and 3,500 square feet, and a majority of recently developed zoning lots being either R-3.5 or R-5 zoning lots, and where the existing density of developments cause unique infrastructure and neighborhood challenges."

C. Amends the seventh WHEREAS clause to read as follows:

"WHEREAS, requiring the counties to approve subdivision applications for zoning lots as small as 2,000 square feet in size, as proposed in the State bills, would render all of the City's residential zoning districts moot, and could lead to a complex patchwork of different sized zoning lots within close proximity to each other."

D. Amends the eighth WHEREAS clause to add "even more" to paragraph (3).

E. Amends the ninth WHEREAS clause to remove the parenthetical phrase relating to nonconformities.

F. Deletes the contents of the tenth WHEREAS clause and replaces it with language that describes the City's updates to the LUO via Bill 64 (2023).

G. In the eleventh WHEREAS clause, adds reference to traffic congestion as one of the negative effects of "monster homes."

H. Moves the thirteenth WHEREAS clause to the sixteenth WHEREAS clause.

- I. Moves elements of the fourteenth WHEREAS clause to the sixth WHEREAS clause relating to the Neighbor Island counties, and deletes the fifteenth WHEREAS clause.
- J. Adds new seventeenth through twenty-first WHEREAS clauses.
- K. In the twenty-second WHEREAS clause, combines the contents of the sixteenth WHEREAS clause with new language concerning impacts on public outreach regarding the Development Plan for the Primary Urban Center.
- L. Amends the final WHEREAS clause to include reference to policies the Council has adopted "and is in the process of adopting."
- M. Amends the BE IT RESOLVED clause to add, "including, among other things, the substantial impact on the City's existing zoning districts and corresponding development standards for structures therein, and the character and nature of neighborhoods and communities throughout the City."
- N. Amends the BE IT FURTHER RESOLVED clause to read as follow:

"BE IT FURTHER RESOLVED that the Council agrees with the purported intent of the State bills and supports some of the policy ideas considered in the State bills, as reflected in policies recently adopted by and being actively considered by the City Council, to support the production of affordable housing, but the Council finds it prudent to consider these policies within the framework of the City's General Plan, Development Plans, and Sustainable Communities Plans, and with input from the housing and planning experts, and with ample opportunity for engagement and input by the residents and businesses of the City; and"
- O. Makes miscellaneous technical and nonsubstantive amendments.



RESOLUTION

RESOLUTION EXPRESSING THE HONOLULU CITY COUNCIL'S STRONG CONCERNS RELATING TO HOUSE BILL 1630, H.D. 1, AND SENATE BILL 3202, S.D. 2, RELATING TO URBAN DEVELOPMENT.

WHEREAS, currently pending before the Hawai'i State Legislature are House Bill 1630, H.D. 1 ("HB 1630"), and Senate Bill 3202, SD2 ("SB 3202") (hereinafter together "the State bills"), which both relate to "urban development"; and

WHEREAS, the intention of the State bills appears to be to increase the availability of residentially zoned property for the provision of additional residential housing by requiring the counties to allow, subject to certain exceptions, additional accessory dwelling units on residentially zoned properties and to allow further subdivision of such properties; and

WHEREAS, the Hawai'i State Legislature has, through its enactment of § 46-4, Hawaii Revised Statutes ("HRS"), originally enacted in 1957, delegated to the counties, and in particular to the county councils, the authority to enact zoning ordinances "within the framework of a long-range comprehensive general plan . . . to guide the overall future development of the county," and in the City and County of Honolulu ("City") the policies and objectives of the City's General Plan are implemented through the City's Development Plans and Sustainable Communities Plans; and

WHEREAS, the development of the City's plans go through a process involving extensive input from the affected communities as well as from federal, State, and local officials; and

WHEREAS, pursuant to HRS § 46-4, the counties have enacted their various zoning codes establishing areas in which various uses (including residential uses) are permitted, as well as establishing development standards for buildings and other structures within the various zoning districts; and

WHEREAS, while the State bills may be appropriate for the Neighbor Island counties where zoning lots tend to be larger than those in Honolulu, they are not appropriate in the City, where there are a number of residential zoning districts, denominated as the R-20, R-10, R-7.5, R-5, and R-3.5 zoning districts, with minimum lot sizes in each district being, respectively, 20,000 square feet, 10,000 square feet, 7,500 square feet, 5,000 square feet, and 3,500 square feet, and a majority of recently developed zoning lots being either R-3.5 or R-5 zoning lots, and where the existing density of developments cause unique infrastructure and neighborhood challenges; and



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WHEREAS, requiring the counties to approve subdivision applications for zoning lots as small as 2,000 square feet in size, as proposed in the State bills, would render all of the City's residential zoning districts moot, and could lead to a complex patchwork of different sized zoning lots within close proximity to each other; and

WHEREAS, the City Council ("Council") acknowledges the shortage of affordable housing on O'ahu and has enacted significant measures in recent years to encourage the development of affordable housing for its residents, including: (1) relaxing development standards in apartment and apartment mixed-use zoning districts (Chapter 32, Articles 1 – 3, Revised Ordinances of Honolulu 2021 ("ROH")); (2) providing incentives for the development of accessory dwelling units ("ADUs") on residentially zoned parcels (Ordinances 20-20 and 22-13); and (3) providing even more funding for the development of affordable housing (ROH Chapter 32, Article 4); and

WHEREAS, in Ordinances 20-30 and 22-7, the Council has amended its zoning code, known as the "Land Use Ordinance" or "LUO," to address online advertising of bed and breakfast homes and transient vacation units and has also taken other steps to better enforce the City's long-standing prohibition against these uses in residential zoning districts, in order to encourage owners to rent their housing units and rooms within their homes on a long-term basis to local residents, rather than to short-term visitors; and

WHEREAS, as a part of the City's updates to the LUO, amendments to the use provisions of the LUO, via Bill 64 (2023), are moving through the City Council's legislative process, and the latest draft approved by the Committee on Planning and the Economy, after meticulous review of various proposals, includes amendments that are intended to substantially increase the production of much needed housing, including an amendment that would allow underutilized lands in business districts to be used for housing, as well as amendments that would allow for up to two additional dwelling units (accessory uses) in the residential zoning districts, while at the same time maintaining consistency with the City's development plans; and

WHEREAS, the proliferation of "monster homes" in residential neighborhoods on O'ahu has galvanized strong opposition from the owners and renters of nearby homes due to the negative effects these homes have on the character of their neighborhoods and on the availability of on-street parking, traffic congestion, and their heavy impact on public sewer, water, and other infrastructure; and

WHEREAS, although well-meaning, the State bills would mandate increased density in residential neighborhoods and amendments to the City's zoning and



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subdivision ordinances without ensuring their consistency with the City's General Plan, Development Plans, and Sustainable Communities Plans, thus evading (or reversing) the planning process envisioned by HRS § 46-4; and

WHEREAS, in spite of language that expressly allows the counties to disallow development where there is insufficient infrastructure, the Council nevertheless believes that the State bills could additionally create up-front costs to both the City and landowners in areas where there is inadequate infrastructure to support the mandated increased density and additional structures, including but not limited to additional improvements to City parks, installation of additional traffic devices to ensure pedestrian and vehicular safety in those areas, and sewer connection fees that may be passed on to landowners by the City; and

WHEREAS, under the current LUO, the City already allows a one-family detached dwelling unit and an accessory dwelling unit or an 'ohana unit (two dwelling units), or two-family detached dwellings (two dwelling units), or many dwelling units depending on the size of a lot for cluster housing projects (as much as 12 dwelling units for a one acre lot in the R-3.5 district) in its residential zoning districts; and

WHEREAS, while the purported intent of the State bills is to allow for three total dwelling units on a zoning lot in residential zoning districts, the bills would require counties to allow "two additional dwelling units" for any dwelling unit "permitted by ordinance," and it is unclear whether two additional dwelling units would need to be allowed for each dwelling unit already allowed by the LUO, potentially resulting in allowing much more than three dwelling units on each zoning lot; and

WHEREAS, depending on the size of the applicable zoning lot, combined with the ability to subdivide existing zoning lots into 2,000 square-foot lots, mandating that at least three dwelling units be permitted on each zoning lot may result in:

- 10 zoning lots with plans for 30 dwelling units on a zoning lot that is currently 20,000 square feet in size (R-20);
- 5 zoning lots with plans for 15 dwelling units on a zoning lot that is currently 10,000 square feet in size (R-10);
- 3 zoning lots with plans for 9 dwelling units on a zoning lot that is currently 7,500 square feet in size (R-7.5); or
- 2 zoning lots with plans for 6 dwelling units on a zoning lot that is currently 5,000 square feet in size;



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which would exacerbate existing "monster home" concerns that O'ahu residents have strongly expressed and arguably convert existing residential zoning districts into districts that look more like apartment zoning districts; and

WHEREAS, the complete prohibition on owner-occupied requirements in the State bills could weaken the City's ability to combat monster homes, as ROH § 21-3.70-1 requires dwelling units in a detached dwelling or duplexes to be owner-occupied if the floor area ratio exceeds 0.6; and

WHEREAS, it is unclear how the increase of development potential for residential properties, combined with other restrictions found in the State bills, including a prohibition on owner-occupied requirements, will impact property tax valuations and housing costs; and

WHEREAS, if three dwelling units are permitted on a small zoning lot of 2,000 square feet, it is likely that the two accessory dwelling units would be attached to the principal dwelling unit, resulting in a three-unit dwelling, which would be considered a multi-unit dwelling that is not permitted in the residential zoning districts; and

WHEREAS, as discussed above, the State bills include ambiguous provisions that may be subject to different interpretations and result in unintended outcomes, which may cause conflicts within the City's land use regulatory scheme, potentially subjecting the City to costly legal challenges; and

WHEREAS, it is critical for laws that affect the LUO to be thoroughly and thoughtfully considered because once uses or structures are permitted, they are difficult to phase out, and uses or structures that were once permitted but are no longer permitted due to amendments to the LUO become nonconforming uses or structures; and

WHEREAS, enactment of the State bills would also directly impact on-going public outreach regarding the Development Plan for the Primary Urban Center (which encompasses the geographic planning area between Kāhala and Pearl City), which is expected to be coming before the Council within the coming months, and would likely negate previous public discussions and public input regarding the Development Plan which did not consider the State bills' impacts; and



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WHEREAS, the Council believes that the significant above-referenced policies it has adopted in the past three years and is in the process of adopting to increase the supply of housing and, in particular, affordable housing, should be given an opportunity to work before the City is mandated to allow potentially severe or deleterious increases in urban density; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that, for the foregoing reasons, it hereby expresses its strong concerns relating to the enactment of House Bill 1630, H.D. 1 and Senate Bill 3202, S.D. 2 ("the State bills"), in their current forms, including, among other things, the substantial impact on the City's existing zoning districts and corresponding development standards for structures therein, and the character and nature of neighborhoods and communities throughout the City; and

BE IT FURTHER RESOLVED that the Council agrees with the purported intent of the State bills and supports some of the policy ideas considered in the State bills, as reflected in policies recently adopted by and being actively considered by the City Council, to support the production of affordable housing, but the Council finds it prudent to consider these policies within the framework of the City's General Plan, Development Plans, and Sustainable Communities Plans, and with input from the City's Department of Planning and Permitting, the City's Planning Commission, housing and planning experts, and with ample opportunity for engagement and input by the residents and businesses of the City; and

BE IT FURTHER RESOLVED that, if the Legislature does enact either of the State bills, it is respectfully requested to amend the final draft to exempt the City and County of Honolulu or counties with a population of 500,000 or more from each bill's applicability; and



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BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Honorable Scott K. Saiki, Speaker of the House of Representatives; the Honorable Ronald D. Kouchi, President of the Senate; the Honorable Stanley Chang, Chair of the Senate Committee on Housing; the Honorable Donovan Dela Cruz, Chair of the Senate Committee on Ways and Means; the Honorable Luke Evslin, the Chair of the House Committee on Housing; the Honorable Linda Ichiyama, Chair of the House Committee on Water & Land; and the Honorable David A. Tarnas, Chair of the House Committee on Judiciary and Hawaiian Affairs.

INTRODUCED BY:

Tommy Waters

Esther Kia'āina

DATE OF INTRODUCTION:

March 15, 2024
Honolulu, Hawai'i

Councilmembers

Report Title:

Accessory Dwelling Units; Subdivision; Land Use; Affordable Housing; State Legislative Bills; Impact Fees

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.