



RESOLUTION

REQUESTING THE DIRECTOR OF PLANNING AND PERMITTING TO AMEND THE DEPARTMENT OF PLANNING AND PERMITTING RULES RELATING TO PROJECTS DEVELOPED UNDER SECTION 201H-38 OF THE HAWAII REVISED STATUTES.

WHEREAS, Chapter 201H of the Hawaii Revised Statutes ("HRS") establishes the Hawaii Housing Finance and Development Corporation ("HHFDC") to serve as the State of Hawaii's housing finance and development agency, and, among other things, authorizes the HHFDC to, on its own behalf or with an eligible developer, develop fee simple or leasehold property, construct dwelling units thereon, and sell, lease, or rent the dwelling units at the lowest possible price to qualified residents, nonprofit organizations, or governmental agencies; and

WHEREAS, pursuant to HRS Section 201H-38, the HHFDC may develop affordable housing projects that are 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 the council of the county in which the project is situated approves the project, with or without modifications ("201H projects"); and

WHEREAS, HRS Section 46-15.1 grants to the counties the same housing powers and authority as those granted to the HHFDC for purposes of developing, constructing, and providing low- and moderate-income housing pursuant to HRS Section 201H-38; and

WHEREAS, the Department of Planning and Permitting ("DPP") has adopted rules pursuant to HRS Chapter 91 to implement the processing by the City of 201H projects (Title 20, Chapter 25, Part 5 – 201H Housing Program Rules [Nov. 25, 2018], hereafter referred to as the "Rules"); and

WHEREAS, pursuant to its authority under HRS Sections 201H-38 and 46-15.1, the City Council ("Council") has approved valuable financial incentives for 201H projects on Oahu, including but not limited to the waiver or deferral of plan review fees, building permit fees, grading and grubbing permit fees, wastewater system facility charges, water system facility fees, and park dedication requirements; and



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WHEREAS, the Council has also granted 201H projects significant flexibility relating to Land Use Ordinance ("LUO") development standards, such as standards relating to maximum height and density, required yards, transitional height setbacks, street height setbacks, lot coverage, off-street parking and loading requirements, bicycle parking requirements, and landscaping requirements; and LUO permitted uses, such as allowing the development of multifamily dwellings in zoning districts where multifamily dwellings are not otherwise permitted; and

WHEREAS, while 201H projects have resulted in the production of more affordable housing units, the flexibility in permitted uses and development standards sought by the projects is often a source of great concern to surrounding residents; and

WHEREAS, the Council therefore believes it is important for the community in which a 201H project is proposed to participate in discussion of the proposed 201H project early in the process so as to provide meaningful input to developers before significant time and monies are expended in planning for a 201H project, particularly in situations where there may be opposition to the financial incentives, development standard flexibility, or permitted use flexibility being requested; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it requests the Director of Planning and Permitting to amend the Department of Planning and Permitting's 201H Housing Program Rules as set forth in the proposed rule amendments attached hereto as Exhibit A, which would amend Rule Section 20-25-9 to add certain notification requirements upon the DPP's acceptance of a completed application for a 201H project; and

BE IT FURTHER RESOLVED that within 60 days after the adoption of this resolution, the Director of Planning and Permitting is requested to inform the Council whether the department will be initiating proceedings to amend the Rules, or the reasons for declining the Council's request to amend the Rules; and



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 20-178, CD1, FD1

RESOLUTION

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Mayor, the Managing Director, and the Director of Planning and Permitting.

INTRODUCED BY:

Kymerly Pine

DATE OF INTRODUCTION:

July 28, 2020
Honolulu, Hawaii

Councilmembers

EXHIBIT A

Proposed Department of Planning and Permitting Rule Amendments

Section 20-25-9 of the Department of Planning and Permitting Rules is amended to read as follows, with additions and deletions appearing in Ramseyer format:

§ 20-25-9 Processing of Applications. The DPP must have the application instructions and processing procedures available for potential applicants.

- a. Upon receipt of an application, the Director will notify the applicant in writing, within 10 working days of its receipt, whether the application is complete for processing. Upon acceptance of the complete application, the DPP will have a maximum of 90 days to process the application and present it with recommendations and draft resolution to the City Council.
- b. Applicants of projects developed under these rules shall:
 1. Prior to submitting a 201H application to the DPP, present the project to the neighborhood board of the district where the project is located, or, if no such neighborhood board exists, an appropriate community association. The requirements of this subdivision will be deemed satisfied if the applicant makes a written request to present the project to the neighborhood board or community association and:
 - A. The neighborhood board or community association fails to provide the applicant with an opportunity to present the project at a meeting held within 60 days of the date of the written request; or
 - B. The neighborhood board or community association provides the applicant with written notice that it has no objection to the project or that no presentation of the project is necessary.
 2. Make a good faith effort to notify all owners of property within 400 feet of the affected property's boundaries of the applicant's proposed project as follows:
 - A. The notification must be sent within five working days after the director's acceptance of a completed application;
 - B. The notification must be sent by regular mail;
 - C. The DPP shall make available to the applicant a list of all properties and owners located within 400 feet of the affected property;

D. The applicant shall submit to the DPP an affidavit confirming that the notification requirements have been met; and

E. The notification may be sent to the respective homeowners board or association of an affected condominium property regime or cooperative housing corporation, or to individual owners.

The failure of any person to receive a notice pursuant to this subsection does not affect the validity of any application accepted by the DPP as complete.

c. The City Council has 45 days from the date of its receipt of the DPP's recommendation to act on the proposed resolution. The Council may require modifications to the project during the course of its deliberations. The City Council may:

[~~a.~~]1. Vote to approve the Resolution[-];

[~~b.~~]2. Vote to approve the Resolution with conditions[-];

[~~c.~~]3. Vote to deny the Resolution[-]; or

[~~d.~~]4. Choose to not act upon the Resolution.

If no action is taken, the Resolution is deemed to be adopted after the 45-day Council review period lapses.

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 20-178, CD1, FD1

Introduced: 07/28/20 By: KYMBERLY PINE

Committee: ZONING, PLANNING AND HOUSING

Title: RESOLUTION REQUESTING THE DIRECTOR OF PLANNING AND PERMITTING TO AMEND THE DEPARTMENT OF PLANNING AND PERMITTING RULES RELATING TO PROJECTS DEVELOPED UNDER SECTION 201H-38 OF THE HAWAII REVISED STATUTES.

Voting Legend: * = Aye w/Reservations

NOTE: EFFECTIVE SEPTEMBER 23, 2020, COUNCILMEMBER IKAIKA ANDERSON, REPRESENTING COUNCIL DISTRICT III, RESIGNED FROM OFFICE. [Refer to Communication CC-256(20)]

NOTE: THE APPOINTMENT OF ALAN KEKOA TEXEIRA TO FILL A VACANCY IN THE OFFICE OF COUNCILMEMBER FOR COUNCIL DISTRICT III WAS APPROVED ON WEDNESDAY, SEPTEMBER 23, 2020. (refer to RES20-236, FD1)

CC-269(20) KOBAYASHI - COUNCIL STANDING COMMITTEE ASSIGNMENTS.

10/22/20	ZONING, PLANNING AND HOUSING	RESOLUTION POSTPONED IN COMMITTEE. 5 AYES: ELEFANTE, MANAHAN, MENOR, TEXEIRA, WATERS.
11/19/20	ZONING, PLANNING AND HOUSING	CR-315 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION AS AMENDED IN CD1 FORM. 4 AYES: ELEFANTE*, MENOR, TEXEIRA*, WATERS. 1 NOES: MANAHAN.
12/09/20	COUNCIL	AMENDED TO FD1 (OCS2020-1233/11/30/2020 9:23 AM). 9 AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, TEXEIRA, TSUNEYOSHI, WATERS. CR-315 AND RESOLUTION 20-178, CD1, FD1 WERE ADOPTED. 9 AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, TEXEIRA, TSUNEYOSHI, WATERS.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


GLENT. TAKAHASHI, CITY CLERK


ANN KOBAYASHI, CHAIR AND PRESIDING OFFICER