

COUNCIL OF THE COUNTY OF MAUI
PUBLIC WORKS COMMITTEE

September 2, 2005

**Committee
Report No.**

05-132

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Public Works Committee, having met on August 15, 2005, makes reference to County Communication No. 04-47, from the Planning Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 16.26.106, MAUI COUNTY CODE, PERTAINING TO THE UNIFORM BUILDING CODE AND PLAN REVIEW WAIVERS".

The purpose of the proposed bill is to exclude from the plan review waiver process any property located within a historic district.

Your Committee notes that County Communication No. 04-47 was referred to the former Council's Public Works and Traffic Committee at the Council meeting of February 6, 2004.

By correspondence dated February 12, 2004, the Committee's Chair requested that the Department of Public Works and Environmental Management review the proposed bill and provide comments or recommendations.

By correspondence dated February 20, 2004, the former Director of Public Works and Environmental Management offered conditional support for the proposed bill, subject to the ability of the Department of Planning to identify the applicable properties within the County-wide permit tracking software, known as KIVA.

By correspondence dated April 5, 2004, Councilmember Jo Anne Johnson transmitted a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 16.26, MAUI COUNTY CODE, RELATING TO PLAN REVIEW WAIVERS". The purpose of the proposed bill is to repeal Section 106.4.1(b) of the Uniform Building Code, which allows for plan review waivers.

At its meeting of June 3, 2004, the Committee met with the former Director of Public Works and Environmental Management; the Cultural Resources Planner, Department of Planning; the Administrator, Development Services Administration,

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Department of Public Works and Environmental Management; and a Deputy Corporation Counsel.

The Committee received public testimony from one individual who supported deleting historic districts from the plan review waiver process. However, the testifier requested that the plan review waiver ordinance not be completely repealed. He suggested that any flaws in the process are a result of limited staffing, and recommended increasing staffing to assist the process.

The Cultural Resources Planner provided the Committee with an overview of the matter. She noted that the proposed bill to exclude historic districts from the plan review waiver process was initiated at the request of the Maui County Cultural Resources Commission (CRC) after the CRC required a property owner to comply with the design guidelines of the Lahaina Historic District.

The Administrator stated that the plan review waiver process is utilized as part of the building permit process, and can save two to six months in design review at the beginning of the project. He further noted that a structural engineer or architect must certify compliance with design guidelines, and the property may not be occupied until final inspection has been completed.

The Committee discussed the merits of the plan review waiver process. The Committee reviewed the past and current practices of the Department as well as the CRC.

The Committee deferred the matter pending further discussion.

By correspondence dated June 24, 2004, the Committee's Chair requested a legal opinion from the Corporation Counsel regarding Maui County Code Section 2.88.060(F), which addresses the participation of the CRC in the design review process.

By correspondence dated June 29, 2004, the Chair of the Committee requested a response from the Chair of the CRC, relating to the CRC's design review process.

By correspondence dated June 29, 2004, the Chair of the Committee requested that the Administrator of the State Historic Preservation Division, Department of Land and Natural Resources, opine on the CRC's degree of flexibility in rendering decisions on projects not in compliance with design guidelines.

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By correspondence dated June 30, 2004, the Chair of the Committee requested that the Planning Director supply information relating to the design review process and plan review waiver process.

By correspondence dated July 13, 2004, the Planning Director and the Chair of the CRC responded. The Planning Director informed the Committee that the Department favors abolishing the plan review waiver process, but would support the proposed bill. The Chair of the CRC informed the Committee of the current design review process used by the CRC.

By correspondence dated August 2, 2004, the Chair of the Committee transmitted Title MC-12, Chapter 531, of the Department of Planning's Rules and Regulations, promulgated pursuant to Chapter 91, Hawaii Revised Statutes, relating to the Maui County Cultural Resources Commission.

At its meeting of December 2, 2004, the Public Works and Traffic Committee recommended that County Communication No. 04-47 be referred to the Council Chair for the term beginning January 2, 2005, for a recommendation as to referral or other disposition.

At its meeting of January 21, 2005, the Council referred County Communication No. 04-47 to your Public Works Committee (County Communication No. 05-12).

By correspondence dated March 14, 2005, Councilmember Jo Anne Johnson requested that the proposed plan review waiver legislation be scheduled for consideration.

At its meeting of August 15, 2005, your Committee met with the Director of Public Works and Environmental Management; a Planner, Department of Planning; and a Deputy Corporation Counsel.

Your Committee considered the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 16.26.106, MAUI COUNTY CODE, PERTAINING TO THE UNIFORM BUILDING CODE AND PLAN REVIEW WAIVERS".

There was no public testimony.

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The Director reviewed the plan review waiver process and the particular case that motivated this proposed bill. He stated that the Department remains supportive of the proposed bill.

Your Committee voted to recommend passage of the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 16.26.106, MAUI COUNTY CODE, PERTAINING TO THE UNIFORM BUILDING CODE AND PLAN REVIEW WAIVERS". The proposed bill would exclude from the plan review waiver process any property located within a historic district.

Your Committee is in receipt of a revised proposed bill changing the year of the bill from "2004" to "2005".

Your Committee recommended that the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 16.26, MAUI COUNTY CODE, RELATING TO PLAN REVIEW WAIVERS" be considered at a later time. This bill would repeal Section 106.4.1(b) of the Uniform Building Code, which allows for plan review waivers.

Your Public Works Committee RECOMMENDS that Bill No. _____ (2005), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 16.26.106, MAUI COUNTY CODE, PERTAINING TO THE UNIFORM BUILDING CODE AND PLAN REVIEW WAIVERS", be PASSED ON FIRST READING and be ORDERED TO PRINT.

Adoption of this report is respectfully requested.

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JOSEPH PONTANILLA **Chair**

G. RIKI HOKAMA **Member**

MICHAEL J. MOLINA **Vice-Chair**

DANNY A. MATEO **Member**

ROBERT CARROLL **Member**