

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

August 5, 2011

Committee
Report No. _____

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

Chair and Members:

Your Planning Committee, having met on July 11, 2011, makes reference to County Communication No. 08-225, from Council Chair G. Riki Hokama, transmitting a proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A DRAFT BILL PERTAINING TO RURAL DISTRICTS".

The purpose of the proposed resolution is to refer to the planning commissions the attached draft bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.29, MAUI COUNTY CODE, PERTAINING TO RURAL DISTRICTS".

The purpose of the draft bill is to establish three new Rural Zoning Districts (RU-2 district, RU-5 district, and RU-10 district) with minimum lot sizes of two acres, five acres, and ten acres, respectively. A parcel within one of the new zoning districts would be restricted to one single-family dwelling unit, and the parcel and dwelling unit would be subject to specified development standards and uses.

Your Committee notes that the prior Council's Planning Committee reported on this matter by Planning Committee Report No. 09-52.

The planning commissions reviewed the draft bill in response to the Council's request in Resolution No. 09-53. The Maui Planning Commission supported the proposed RU-2 district, but opposed the RU-5 and RU-10 districts. The Molokai Planning Commission requested that the Island of Molokai be excluded from the draft bill's scope. The Lanai Planning Commission opposed the draft bill and recommended that relevant issues be addressed in the decennial review of community plans. The planning commissions were generally concerned that the proposed new Rural Zoning Districts could lead to urban sprawl and inappropriate development on land that could be used for agriculture.

Your Committee notes that Title 19, Maui County Code, currently recognizes Rural Zoning Districts with minimum lot sizes of one-half acre and one acre,

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respectively. These RU-0.5 and RU-1 districts also restrict each parcel to one single-family dwelling unit.

Your Committee further notes that many parcels in Maui County are zoned Agricultural, but are not being used for agricultural purposes. Your Committee agreed with the Planning Director that it is appropriate, based on sound planning principles, to rezone various parcels of land in the County to reflect their actual usage. The draft bill would assist in that effort by providing new Rural Zoning Districts. As stated in Resolution No. 09-53, “the establishment of additional rural districts will allow greater flexibility for the planning of rural areas.”

Enactment of this legislation would not in itself rezone any parcels, but would allow a landowner or the County the opportunity to initiate a Change in Zoning to one of the new Rural Zoning Districts. Your Committee further agreed with the Planning Director that further work on land use planning for the County’s rural areas could occur as the community plans are updated.

Your Committee voiced concern, however, about whether the draft bill would encourage the conversion of land from agricultural use to non-agricultural use, promote urban sprawl, or have other unintended consequences. Administration officials assured your Committee that the draft bill does not provide undue incentive for landowners to abandon agricultural use, and that additional risks are subject to mitigation.

The Planning Director stressed that any Change in Zoning application is subject to multiple levels of scrutiny and public review.

The Administrator of the Real Property Tax Division, Department of Finance, noted that the draft bill would have little effect on property valuations. He further advised that Rural-zoned property qualifies for agricultural tax assessments if the property owner is engaged in agricultural activities on the subject property.

The Director of Water Supply noted that any property owner engaged in a legitimate agricultural activity is eligible for favorable agricultural water rates, irrespective of zoning.

Your Committee revised the development standards in the draft bill to establish minimum front yard setbacks of 25 feet, minimum side yard setbacks of 15 feet, and minimum back yard setbacks of 15 feet.

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Your Committee voted 5-1 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Couch, Vice-Chair Baisa, and members Pontanilla, Victorino, and White voted “aye”. Committee member Cochran voted “no”. Committee member Mateo was excused.

Your Committee is in receipt of a proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions.

Your Planning Committee RECOMMENDS the following:

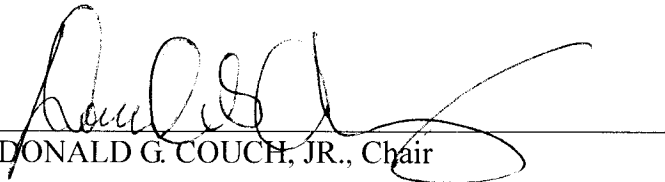
1. That Bill No. _____ (2011), attached hereto, entitled, “A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.29, MAUI COUNTY CODE, PERTAINING TO RURAL DISTRICTS” be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 08-225 be FILED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



DONALD G. COUCH, JR., Chair

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ORDINANCE NO. _____

BILL NO. _____ (2011)

A BILL FOR AN ORDINANCE
 AMENDING CHAPTER 19.29, MAUI COUNTY CODE,
 PERTAINING TO RURAL DISTRICTS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 19.29.020, Maui County Code, is amended to read as follows:

“19.29.020 District standards. Except as otherwise provided in this chapter, the following district standards shall apply for uses, facilities, and structures in the rural districts:

DEVELOPMENT STANDARDS

	County Rural	RU-0.5	RU-1	RU-2	RU-5	RU-10	Notes
Minimum Lot Area	1/2 acre	1/2 acre	1 acre	<u>2 acres</u>	<u>5 acres</u>	<u>10 acres</u>	
Minimum Lot Width	100 feet	100 feet	150 feet	<u>200 feet</u>	<u>250 feet</u>	<u>300 feet</u>	
Maximum Building Height	30 feet	30 feet	30 feet	<u>30 feet</u>	<u>30 feet</u>	<u>30 feet</u>	Except that vent pipes, fans, chimneys, antennae, and solar collectors on roofs shall not exceed forty feet.
Minimum Yard Setback	Front 25 feet	Front 25 feet	Front 35 feet	<u>Front 25 feet</u>	<u>Front 25 feet</u>	<u>Front 25 feet</u>	
	Side 15 feet	Side 15 feet	Side 20 feet	<u>Side 15 feet</u>	<u>Side 15 feet</u>	<u>Side 15 feet</u>	
	Rear 15 feet	Rear 15 feet	Rear 20 feet	<u>Rear 15 feet</u>	<u>Rear 15 feet</u>	<u>Rear 15 feet</u>	
Walls Within Setback Area	4 feet maximum	4 feet maximum	4 feet maximum	<u>4 feet maximum</u>	<u>4 feet maximum</u>	<u>4 feet maximum</u>	This does not preclude constructing fences on the top of the wall for safety purposes. The director may permit greater heights of walls as needed to retain earth, water, or both, for health and safety reasons.”

SECTION 2. Section 19.29.030, Maui County Code, is amended to read as follows:

“19.29.030 Permitted uses. The following uses and structures shall be permitted in the RU-0.5, RU-1, RU-2, RU-5, RU-10, and County rural districts provided they also conform with all other applicable laws:

A. Principal Uses.

1. One single-family dwelling per one-half acre in the RU-0.5 and County rural districts; [and] one single-family dwelling per one acre in the RU-1 district; one single-family dwelling per two acres in the RU-2 district; one single-family dwelling per five acres in the RU-5 district; and one single-family dwelling per ten acres in the RU-10 district;

2. Growing and harvesting of any agricultural or agricultural crop or product, subject to restrictions set forth in this chapter;

3. Minor utility facilities as defined in section 19.04.040 of this code;

4. Parks for public use; but not including commercial: camping, campgrounds, campsites, overnight camps, and other similar uses;

5. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, adult day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in dwelling units used for child care services. These facilities shall serve six or fewer clients at any one time on lot sizes of less than seven thousand five hundred square feet, serving eight or fewer clients at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or serving twelve or fewer clients at any one time on lot sizes of ten thousand or more square feet; and

6. Home occupations.

B. Accessory Uses.

1. Accessory uses such as garages, carports, barns, greenhouses, gardening sheds, and similar structures that are customarily used in conjunction with and incidental and subordinate to a principal use or structure;

2. The keeping of livestock, hogs, poultry, and fowl and game birds;

3. One accessory dwelling per lot, in accordance with the provisions of chapter 19.35 of this code;

4. Small-scale energy systems that are incidental and subordinate to principal uses;

5. Stands for the purpose of displaying and selling agricultural, floriculture or farming products, if such products have been produced or grown on the premises, subject to standards in section 19.29.020 of this code. Goods produced off-premises are expressly prohibited; and

6. Bed and breakfast homes, subject to chapter 19.64 of this code.”

SECTION 3. Section 19.29.040, Maui County Code, is amended to read as follows:

“19.29.040 Uses permitted with a County special use permit. The following uses and structures shall be permitted in the RU-0.5, RU-1, RU-2, RU-5, RU-10, and County rural districts provided a County special use permit, pursuant to section 19.510.070, Maui County Code, has first been obtained:

- A. Commercial stables, riding academies;
- B. Schools, churches and religious institutions, and private clubs and lodges; but not including commercial: camping, campgrounds, campsites, overnight camps and other similar uses;
- C. Cemeteries, crematories, and mausoleums;
- D. Major utility facilities as defined in section 19.04.040, Maui County Code; and
- E. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, adult day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in dwelling units used for child care services serving more than the number of children defined in section 19.29.030.”

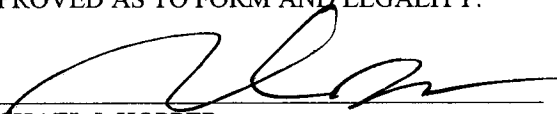
SECTION 4. Any special use permit issued pursuant to Section 205-6, Hawaii Revised Statutes, in effect as of the effective date of this ordinance shall not be subject to the provisions of this ordinance and shall remain valid and in effect until its expiration date. Any special use permit application that would amend any of the terms or conditions of an existing special use permit issued pursuant to Section 205-6, Hawaii Revised Statutes, whether or not a request for a time extension is included in such application, shall be subject to the provisions of this ordinance.

SECTION 5. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable.

SECTION 6. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 7. This ordinance shall take effect upon its approval, and shall apply to building permits issued after the effective date of this ordinance.

APPROVED AS TO FORM AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui
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