

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 5, 2012

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 September 17, 2012, makes reference to County Communication 12-17, from Councilmember Elle Cochran, transmitting a proposed resolution entitled "REFERRING TO THE PLANNING COMMISSIONS A PROPOSED BILL AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENT, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TIME SHARE UNITS AND TIME SHARE PLANS".

The purpose of the proposed resolution is to transmit a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENT, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TIME SHARE UNITS AND TIME SHARE PLANS" to the Lanai, Maui, and Molokai Planning Commissions for review and comment. The purpose of the proposed bill is to permit transient vacation rentals ("TVRs") in planned developments ("developments") that were approved on or before April 20, 1981.

Your Committee notes that Ordinance 1134 (1981) amended Section 19.37.010, Maui County Code ("MCC"), to prohibit TVRs from operating in any zoning district, except in the Hotel and Apartment Districts. The ordinance exempted existing TVRs from this prohibition.

Your Committee further notes that Ordinance 1797 (1989) amended Sections 19.04.350, and 19.04.572, MCC, to require all multi-family dwelling units to be occupied on a long-term basis for at least six continuous months per year.

Your Committee further notes that prior to 1981, many multi-family dwelling units in certain developments were used primarily as short-term TVRs. Additionally, some developments' covenants, conditions, and restrictions specifically authorized TVRs. The enactment of Ordinance 1134 (1981) prohibiting TVRs outside of the Hotel and Apartment Districts, and Ordinance 1797 (1989) requiring the long-term rental of

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multi-family dwellings, prohibited these developments from lawfully allowing new TVR operations.

The proposed bill will allow TVRs in developments that meet certain conditions to operate as permitted uses.

Your Committee notes that Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commissions review and transmit recommendations to the Council on proposed land use ordinances.

According to the Planning Director, the islands of Lanai and Molokai do not appear to be affected by the proposed bill.

The Chair of your Committee transmitted a revised proposed resolution entitled "REFERRING TO THE MAUI PLANNING COMMISSION A PROPOSED BILL AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENTS, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS".

The purpose of the revised proposed resolution is to transmit a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENTS, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS" to the Maui Planning Commission. The purpose of the revised proposed bill is to permit TVRs in developments that (1) received final approval, pursuant to Chapter 19.32, on or before April 20, 1981; (2) had at least one dwelling unit operating as a TVR during that time; (3) have an area of at least 25 acres, with some residential zoning; and (4) consist of duplex or multi-family dwelling units.

Your Committee recommended that the proposed bill be limited to privately funded developments to ensure that the ordinance would not apply to publicly funded affordable housing developments.

Your Committee voted 7-0 to recommend adoption of the revised proposed resolution. Committee Chair Couch, Vice-Chair Baisa, and members Cochran, Mateo, Pontanilla, Victorino, and White voted "aye".

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

Your Planning Committee RECOMMENDS that Resolution _____ attached hereto, entitled "REFERRING TO THE MAUI PLANNING COMMISSION A PROPOSED BILL AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENTS, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS" be ADOPTED.

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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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Resolution

No. _____

REFERRING TO THE MAUI PLANNING COMMISSION A PROPOSED BILL AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENTS, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS

WHEREAS, the Council is considering a proposed bill to amend Title 19, Maui County Code, to allow transient vacation rentals in planned developments that were approved on or before April 20, 1981, with certain restrictions; and

WHEREAS, the proposed bill will affect planned developments on the island of Maui only; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commission review proposed land use ordinances and provide findings and recommendations to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby refers the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENTS, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS", a copy of which is attached hereto as Exhibit "A" and made a part hereof, to the Maui Planning Commission, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
2. That it respectfully requests that the Maui Planning Commission transmit its findings and recommendations to the Council as expeditiously as possible; and

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3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, and the Maui Planning Commission.

APPROVED AS TO FORM AND
LEGALITY



MICHAEL J. HOPPER
Department of the Corporation Counsel
County of Maui

ORDINANCE NO. _____

BILL NO. _____ (2012)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.32.040, MAUI COUNTY CODE, RELATING TO PLANNED DEVELOPMENTS, AND SECTION 19.37.010, MAUI COUNTY CODE, RELATING TO TRANSIENT VACATION RENTALS

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

SECTION 1. Section 19.32.040, Maui County Code, is amended to read as follows:

“19.32.040. Reduction of lot areas and mixed land uses. Upon strict compliance with the standards of development, the commission may reduce the minimum lot area, allow greater building densities, and mixed land uses as follows:

A. If the development is to be subdivided, the minimum lot size may be reduced by twenty percent from that required for [that] a particular district; provided, that the minimum lot width shall not be reduced.

B. In residential planned development, including duplex [zone,] districts with a minimum tract area of three acres, combining of no more than three dwelling units in a single structure shall be permitted. Only a single, interior-located common club facility shall be permitted. There shall be no increase in the overall dwelling unit density.

C. In residential planned development, including duplex [zone,] districts with a minimum tract area of ten acres, combining of no more than five dwelling units in a single structure shall be permitted. Two interior-located common club facilities shall be permitted. Overall dwelling unit density may be increased ten percent.

D. In residential planned development, including duplex [zone,] districts with a minimum tract area of thirty acres, combining of no more than eight dwelling units in a single structure shall be permitted. Four interior-located club or community facilities shall be permitted. Overall dwelling unit density may be increased fifteen percent.

E. Apartment, hotel, business and industrial planned developments shall be permitted in their respective districts. For [such] planned developments in those districts with a minimum tract area of ten acres, the overall permitted floor area may be increased ten percent; and for a minimum tract area of thirty acres, the overall permitted floor area may be increased fifteen percent.

F. Overall dwelling unit density shall be determined by dividing the total number of dwelling units by the net land area. Net land area shall be the total lot area minus the area of dedicated streets and other dedicated areas. Base dwelling unit densities, upon which any bonus shall be applied, shall be as follows:

R-3 residential district - 4.36 dwelling units/acre

R-2 residential district - 5.81 dwelling units/acre

EXHIBIT " A "

R-1 residential district - 7.26 dwelling units/acre
D-2 duplex district - 8.72 dwelling units/acre
D-1 duplex district - 11.62 dwelling units/acre
RR-1 rural residential district - 4.36 dwelling units/acre
RR-2 rural residential district - 2.00 dwelling units/acre

Permitted dwelling unit densities for other zoning districts not specified above shall be based upon the allowable densities within the districts.

G. Planned developments proposed on lands including more than one zoning district may permit a mixture of uses, densities and/or dwelling units; provided, that the total density and/or dwelling units of the planned development shall not exceed the combined allowable densities of each of the zones.

H. Transient vacation rentals shall be permitted in planned developments, except for developments that have been publicly funded; provided, that all of the following shall apply to the planned development:

1. The planned development received final approval, pursuant to this chapter, and at least one unit in the planned development was operating as a vacation rental, on or before April 20, 1981;
2. The planned development must have an area of at least 25 acres;
3. The planned development must be located on parcels with at least some residential district zoning; and
4. The planned development consists of duplexes or multi-family dwelling units.

SECTION 2. Section 19.37.010, Maui County Code, is amended by amending subsection A to read as follows:

“19.37.010 Geographic restrictions. A. Except as provided in this [section,] chapter, time share units and time share plans are prohibited. Transient vacation rentals are prohibited, excluding bed and breakfast homes permitted under chapter 19.64 of this title, short-term rental homes permitted under chapter 19.65 of this title, transient vacation rental units permitted by a conditional permit under chapter 19.40 of this title, transient vacation rentals permitted under chapter 19.32 of this title, and hotels that are permitted based on the applicable zoning in the comprehensive zoning ordinance.

SECTION 3. 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 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

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