

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

August 19, 2014

**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 February 28, 2013, March 14, 2013, June 19, 2014, and July 31, 2014, makes reference to County Communication 11-84, from the Planning Director, transmitting a proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.16, MAUI COUNTY CODE, RELATING TO B-1 NEIGHBORHOOD BUSINESS DISTRICT", along with a summary of the Lanai, Maui, and Molokai Planning Commissions' comments.

The purpose of the proposed bill is to amend Chapter 19.16, Maui County Code ("MCC"), relating to the B-1 Neighborhood Business District, by establishing permitted uses, accessory uses, and special uses, establishing development standards, and providing the Planning Director with rule-making authority.

Your Committee notes the proposed bill is one of a series of bills the Department of Planning has proposed to update, streamline, and standardize Title 19, MCC.

Your Committee further notes the Lanai, Maui, and Molokai Planning Commissions voted to recommend approval of the proposed bill with certain revisions.

At the request of the Chair of your Committee, the Planning Director transmitted a revised proposed bill to incorporate revisions recommended by your Committee, to add to the permitted uses, clarify accessory uses, and make nonsubstantive revisions.

Your Committee recommended the proposed bill be further revised to include small-scale energy systems on an adjacent lot as an accessory use.

Your Committee deliberated on transient vacation rental ("TVR") use in the district. Your Committee noted the proposed bill included TVRs from 1 to 8 bedrooms as a permitted use and TVRs from 9 to 20 bedrooms as a special use, except on Molokai, where TVR uses would be determined by the Molokai Planning Commission.

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The Deputy Planning Director explained that if TVRs are included as a permitted use, no approval or permit process would be required for their operation. She stated if TVRs are included as a special use, then an application to the appropriate planning commission would be required for their operation. She further clarified although bed and breakfast homes and short-term rental homes are recommended as permitted uses in the district, those uses require a permit for operation, pursuant to the requirements in Chapters 19.64 and 19.65, MCC.

Your Committee felt allowing smaller-scale TVRs as a permitted use would be inequitable because those rentals would be allowed to operate without going through an approval or permit process, while other similar uses, including bed and breakfast homes and short-term rental homes, require a permit for operation. Your Committee stated a desire to ensure fairness in the review process across similar rental uses.

Your Committee decided to remove TVRs with 1 to 8 bedrooms from the permitted uses, and to include TVRs from 1 to 20 bedrooms as a special use, except on Molokai, where TVR uses shall be determined by the Molokai Planning Commission.

Your Committee voted 5-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Couch and members Baisa, Crivello, Guzman, and White voted "aye". Committee Vice-Chair Victorino and member Cochran were excused.

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

Your Planning Committee RECOMMENDS the following:

1. That Bill _____ (2014), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.16, MAUI COUNTY CODE, RELATING TO B-1 NEIGHBORHOOD BUSINESS DISTRICT", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 11-84 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

pc:cr:14006aa:csh

ORDINANCE NO. _____

BILL NO. _____ (2014)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.16, MAUI COUNTY CODE, RELATING TO B-1 NEIGHBORHOOD BUSINESS DISTRICT

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

SECTION 1. Chapter 19.16, Maui County Code, is amended to read as follows:

"Chapter 19.16

B-1 NEIGHBORHOOD BUSINESS DISTRICT

Sections:

- 19.16.010 [Generally.] Purpose and intent.
- 19.16.020 Permitted uses.
- 19.16.030 [Required conditions.] Accessory uses.
- 19.16.040 [Area regulations.] Special uses.
- 19.16.050 [Height regulations.] Development standards.
- 19.16.060 [Yards.] Rule making authority.

19.16.010 [Generally.] Purpose and intent. A B-1 neighborhood business district is one wherein retail businesses or service establishments supply commodities or perform services to meet the daily needs of the neighborhood.

19.16.020 Permitted uses. Within the B-1 neighborhood business district, the following uses shall be permitted:

- A. Barber or beauty shops;
- B. Baker goods stores;
- C. Book, stationery, or gift stores;
- D. Candy stores;
- E. Churches;
- F. Day care centers and nurseries;

- G. Delicatessen stores;
- H. Drugstores;
- I. Florist shops;
- J. Grocery stores and meat markets;
- K. Ice cream or snack counters;
- L. Laundromats;
- M. Liquor stores (package only);
- N. Gasoline retailing; provided that, it is owned and operated as an adjunct to a neighborhood store; and further provided that, no servicing, repairing, storing, washing, or maintenance of vehicles will be permitted on the premises;
- O. Other similar retail businesses or service establishments that supply commodities or perform services primarily for residents of the surrounding neighborhood; provided that, such uses shall be approved by the commission as conforming to the intent of this title;
- P. One single-family dwelling per lot; provided that, the lot is sufficiently large to provide a lot area six thousand square feet for the dwelling after the area for the business, parking, and other accessory areas for the business have been subtracted; or living and sleeping quarters for a single family constructed above the ground floor of the business building;
- Q. Bed and breakfast homes, subject to the provisions of chapter 19.64 of this title;
- R. Home occupations in single-family dwellings permitted pursuant to subsection P; and
- S. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.]

<u>Permitted uses</u>	<u>Criteria or limitations</u>
<u>Bakeries</u>	
<u>Barber or beauty shops</u>	
<u>Bed and breakfast and short-term rental homes</u>	<u>Subject to the restrictions and standards of section 19.64.030 and chapter 19.65 of this code</u>
<u>Book, stationery or gift stores</u>	

<u>Buildings and premises used, owned, or operated by government agencies, including community centers</u>	
<u>Candy stores</u>	
<u>Day care facilities</u>	
<u>Delicatessen stores</u>	
<u>Drugstores</u>	
<u>Farmer's markets</u>	
<u>Flower shops</u>	
<u>Gasoline retailing</u>	<u>Provided it is owned and operated as an adjunct to a permitted retail use; and provided further, that no servicing, repairing, storing, washing, or maintenance of vehicles shall be permitted on the premises</u>
<u>Grocery stores and meat markets</u>	
<u>Home occupations</u>	
<u>Ice cream or snack counters</u>	
<u>Laundromats</u>	
<u>Liquor stores</u>	<u>Package only</u>
<u>News and magazine stands</u>	
<u>Parks and playgrounds</u>	
<u>Recycling collection centers</u>	<u>Conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid fence or wall at least six feet in height; and provided, that no goods, materials, or objects shall be stacked higher than the fence or walls so erected</u>
<u>Redemption center</u>	
<u>Religious, benevolent, or philanthropic societies, civil organizations, and quasi-public uses</u>	
<u>Service business residential ("SBR") service establishments</u>	

<u>Single-family dwelling</u>	<u>Provided the lot is sufficiently large to provide a lot area of six thousand square feet for the dwelling after the area for the business, parking, and other accessory areas for the business have been subtracted</u>
<u>Other similar retail businesses or service establishments that provide goods or services primarily for residents of the surrounding neighborhood</u>	<u>Provided, such uses shall be approved by the director of planning as conforming to the intent of this title</u>

19.16.030 [Required conditions. A. All business, services, or processing shall be conducted wholly within completely enclosed buildings, except for day care centers, nurseries, automobile parking, and/or off-street loading.

B. All goods produced on the premises, whether primary or incidental, shall be sold at retail and only on the premises where produced.] Accessory uses.

A. The following uses located on the same lot, are deemed accessory, customary, incidental, usual, and necessary to the permitted uses in the B-1 neighborhood business district:

<u>Accessory uses</u>	<u>Criteria or limitations</u>
<u>Dwelling units</u>	<u>One or more, located above or below the first floor of a permitted use</u>
<u>Energy systems, small-scale</u>	<u>Provided there will be no detrimental or nuisance effect upon neighbors</u>
<u>Fences</u>	
<u>Garages</u>	

<u>Other uses that are determined by the director of planning to be clearly incidental and customary to a permitted use</u>	
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B. The following uses, located on a nearby lot are also deemed accessory, customary, incidental, usual, and necessary to the permitted uses in the B-1 neighborhood business district:

<u>Accessory uses</u>	<u>Criteria or limitations</u>
<u>Energy systems, small-scale</u>	<u>Provided the system is within a distance of four hundred feet of the nearest point of the lot it serves and there will be no detrimental or nuisance effect upon neighbors</u>

19.16.040 [Area regulations. The minimum lot area shall be six thousand square feet and the minimum lot frontage shall be sixty feet.] Special uses. The following are special uses in the B-1 neighborhood business district, and approval of the appropriate planning commission shall be obtained, upon conformance with the intent of this article and subject to such terms and conditions as may be warranted and required:

<u>Special uses</u>	<u>Criteria or limitations</u>
<u>Transient vacation rentals</u>	<u>One to twenty bedrooms; except on Molokai, where the maximum number of bedrooms and use shall be determined by the planning commission</u>

19.16.050 [Height regulations. No building shall exceed two stories and thirty feet in height.] Development standards. The development standards in the B-1 neighborhood business district shall be as follows:

	<u>B-1</u>	<u>Notes and exceptions</u>
<u>Minimum lot area (square feet)</u>	<u>6,000</u>	
<u>Minimum lot width (in feet)</u>	<u>60</u>	
<u>Maximum building height (in feet)</u>	<u>30</u>	<u>Except that vent pipes, fans, chimneys, antennae, and equipment used for small-scale energy systems on roofs shall not exceed forty feet</u>
<u>Minimum yard setback (in feet)</u>		
<u>Front</u>	<u>15</u>	
<u>Side and rear</u>	<u>6</u>	
<u>Side and rear for the portion of the building above fifteen feet</u>	<u>10</u>	
<u>Maximum height and minimum setback for free-standing antennae or wind turbine structures</u>	<u>Maximum height of 50 feet; minimum setback of 1 foot for each foot in height, from all property lines</u>	
<u>Accessory structures within setback area</u>	<u>Mail boxes, trash enclosures, boundary walls, and ground signs</u>	


<u>Enclosure requirement</u>	<u>All business, services, or processing shall be conducted wholly within completely enclosed buildings</u>	<u>Except day care facilities, automobile parking lots, and off-street loading areas</u>
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19.16.060 [Yards. There shall be a front yard of fifteen feet, side yard of six feet, and a rear yard of six feet; except that for any two-story building, a side yard of ten feet, and a rear yard of ten feet shall be required.] Rule making authority. The director of planning may adopt rules to implement this chapter."

SECTION 2. 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 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

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