

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 11-229, from the Planning Director, transmitting a proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.15, MAUI COUNTY CODE, RELATING TO COUNTRY TOWN BUSINESS DISTRICTS AND AMENDING CHAPTER 19.510, MAUI COUNTY CODE, RELATING TO APPLICATION AND PROCEDURES", along with a summary of the Lanai, Maui, and Molokai Planning Commissions' comments.

The purpose of the proposed bill is to amend Chapters 19.15 and 19.510, Maui County Code ("MCC"), relating to the B-CT Country Town Business District, by establishing permitted uses, accessory uses, and special uses; clarifying development standards; providing the Planning Director with rule-making authority; and defining design guidelines, administration, proposal review, and appeal processes.

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 Department of Planning 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.

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Your Committee also deleted freestanding wind turbines, towers, and antennae from special uses. Your Committee viewed these uses as undesirable because they may negatively impact the view plane and detract from the character of the district.

Your Committee deliberated on transient vacation rental ("TVR") use in the district. Your Committee noted the proposed bill included TVRs from 1 to 6 bedrooms as a permitted use and TVRs from 7 to 12 bedrooms as a special use, except on Molokai, where all TVR uses would require a Special Use Permit.

The Deputy Planning Director explained 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 6 bedrooms from the permitted uses, and to include TVRs from 1 to 12 bedrooms as a special use.

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.

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Your Planning Committee RECOMMENDS the following:

1. That Bill _____ (2014), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.15, MAUI COUNTY CODE, RELATING TO COUNTRY TOWN BUSINESS DISTRICTS AND AMENDING CHAPTER 19.510, MAUI COUNTY CODE, RELATING TO APPLICATION AND PROCEDURES", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 11-229 be FILED.

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



DONALD G. COUCH, JR., Chair

pc:cr:14024aa:csh

ORDINANCE NO. _____

BILL NO. _____ (2014)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.15,
MAUI COUNTY CODE, RELATING TO COUNTRY TOWN BUSINESS
DISTRICTS AND AMENDING CHAPTER 19.510, MAUI COUNTY CODE,
RELATING TO APPLICATION AND PROCEDURES

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

SECTION 1. Chapter 19.15, Maui County Code, is amended to
read as follows:

"Chapter 19.15

COUNTRY TOWN BUSINESS DISTRICTS

Sections:

19.15.010	Purpose and intent.
19.15.020	Permitted uses.
<u>19.15.025</u>	<u>Accessory uses.</u>
19.15.030	Special uses.
19.15.040	Development standards.
19.15.050	[Limited conditional uses.] <u>Rule</u> <u>making authority.</u>
[19.15.060	Design guidelines and standards.]

19.15.010 Purpose and intent. A. The B-CT country town business district is intended to establish development standards for businesses in [the rural] smaller and/or more remote communities.

B. It is intended that the unique [urban] design character of [the more remote] these business districts be preserved and maintained to promote the "country town" atmosphere of [the various rural business] these communities in Maui County.

C. This B-CT country town business district zoning ordinance establishes the means of implementing

various provisions of Maui County community plans. Provisions in such community plans promote retention of certain aspects of the [rural-agricultural] lifestyle that have developed over the years in the commercial areas of [the] small [rural] and remote communities throughout Maui County. These communities traditionally feature single-unit retail establishments in separate buildings or units with a shared common wall. Structures, generally, are small in scale, oriented in heights to a pedestrian scale, and rustic in design. These areas differ from larger, modern urban centers that feature shopping centers and business establishments that utilize on-site parking.

Examples of the country town concept are[, therefore,] commercial areas of such [rural based] communities as Makawao-Pukalani-Kula, Paia-Haiku, Hana, Lanai City, and Molokai. Other areas on the fringes of larger urban concentrations, however, may qualify for B-CT country town business district zoning if consistent with the applicable community plan. The decision as to which areas, in detail, are appropriate for this zoning category is dependent on numerous variables and involves both subjective and objective considerations.

19.15.020 Permitted uses. Within the B-CT country town business district, the following uses shall be permitted:

[A. Principal uses:

1. Amusement and recreational activities that are situated within completely enclosed building;
2. Automobile services;
3. Auditoriums and theaters;
4. Bakeries;
5. Buildings and premises utilized, owned, or operated by government agencies, including community centers;
6. Business, financial, and professional offices;
7. Commercial retail establishments;
8. Eating and drinking establishments;
9. Educational, research, trade, and personal skills facilities and learning centers;

10. Fitness centers and dancing studios;
11. Hardware, feed, and garden stores; provided that feed and fertilizer are kept within an enclosed building;
12. Laundromats;
13. Music studios;
14. Parking lots;
15. Personal service establishments;
16. Printing establishments that are totally enclosed within a building;
17. Religious, benevolent, and philanthropic societies, and civic organizations;
18. Bed and breakfast homes, in lawfully existing single-family dwellings, subject to the restrictions and standards of section 19.64.030 of this title;
19. Day care facilities, except on Molokai;
20. Medical facilities and animal hospitals, except on Molokai;
21. Multifamily dwellings, duplexes, and bungalow courts, except on Molokai;
22. Combinations of dwelling units with other permitted principal uses in the same building, except on Molokai;
23. Home occupations, in lawfully existing single-family dwellings; and
24. Short-term rental homes, in lawfully existing single-family dwellings, subject to the provisions of chapter 19.65 of this title.

B. Accessory uses and structures necessary to facilitate the establishment of permitted principal uses.]

<u>Permitted uses</u>	<u>Criteria or limitations</u>
<u>Amusement and recreational activities</u>	<u>Conducted wholly within a completely enclosed building</u>
<u>Animal hospitals, including boarding</u>	
<u>Art and music studios</u>	
<u>Auditoriums, theaters, gymnasiums including fitness centers, private clubs and dance halls</u>	

<u>Automobile services</u>	
<u>Bed and breakfast homes, in lawfully existing single-family dwellings</u>	<u>Subject to the restrictions and standards of section 19.64.030 of this code</u>
<u>Buildings and premises used, owned, or operated by government agencies, including community centers</u>	
<u>Combinations of dwelling units with other permitted uses in the same building</u>	<u>Except on Molokai</u>
<u>Communication equipment and antennae</u>	<u>Provided that it is part of or supported by a building</u>
<u>Day care facilities</u>	<u>Except on Molokai</u>
<u>Eating and drinking establishments</u>	
<u>Educational institutions</u>	
<u>Education, specialized</u>	
<u>Farmer's markets</u>	
<u>General merchandising</u>	
<u>General office</u>	
<u>Hardware, feed, and garden stores</u>	<u>Provided, that feed and fertilizer are kept within an enclosed building</u>
<u>Home occupations</u>	<u>Within lawfully existing single-family dwellings</u>
<u>Libraries</u>	
<u>Multifamily dwellings, duplexes, and bungalow courts</u>	<u>Except on Lanai and Molokai</u>
<u>Museums</u>	
<u>Parking lots</u>	
<u>Personal and business service</u>	<u>Except for dry cleaning on Lanai. Printing establishments shall be conducted within an enclosed building</u>
<u>Pet shops</u>	

<u>Recycling collection center</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, civic organizations, and quasi-public uses</u>	
<u>Short-term rental homes, in lawfully existing single-family dwellings</u>	<u>Subject to the restrictions and standards of chapter 19.65 of this code</u>
<u>Swap meet or open air market</u>	
<u>Taxicab, car rental, and U-drive stations and offices</u>	
<u>Warehouse facilities associated with a permitted use within the district</u>	
<u>Other similar businesses or commercial enterprises or activities that are not detrimental to the welfare of the surrounding area</u>	<u>Provided that such uses shall be approved by the appropriate planning commission as conforming to the intent of this article</u>

19.15.025 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-CT country town business district:

<u>Accessory uses</u>	<u>Criteria or limitations</u>
<u>Energy systems, small-scale</u>	<u>Provided there will be no detrimental or nuisance effect upon neighbors</u>

<u>Food and agricultural product manufacturing and processing</u>	<u>Provided, that the manufacturing and processing is primarily associated with a permitted use under section 19.15.020 and wholly contained within a completely enclosed building and the goods are sold exclusively on site; and provided there will be no detrimental or nuisance effect upon the surrounding area</u>
<u>Garages, porte-cochere, mail boxes and trash enclosures</u>	
<u>Light manufacturing such as leather crafting, sewing or candle making</u>	<u>Provided, that the light manufacturing is primarily associated with a permitted use under section 19.15.020 and wholly contained within a completely enclosed building and the goods are sold exclusively on site; and provided there will be no detrimental or nuisance effect upon the surrounding area</u>
<u>Other uses that are determined by the director of planning to be clearly incidental and customary to a permitted use</u>	

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-CT country town business district:

<u>Accessory uses</u>	<u>Criteria or limitations</u>
Energy systems, small-scale	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

19.15.030 **Special uses.** The following are [declared] special uses in the B-CT country town 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[.]:

A. Public utility substations that will not be hazardous or a nuisance to the surrounding area;

B. Light manufacturing such as leather crafting and sewing; provided, that the light manufacturing is primarily associated with a permitted use established under section 19.15.020 of this chapter and totally contained within the individual business establishment;

C. Upholstery, canvas, and sign painting and surfboard making shops that are totally contained within the individual business establishment;

D. Telecommunication offices and facilities; provided, that all exterior telecommunication equipment shall be set back at least twenty-five feet from any property line and that such telecommunication equipment shall be screened from public view by appropriate means, including, but not limited to, landscape planting;

E. Other uses that are similar in character to permitted and special uses and consistent with the unique character, identity, and needs of the country town, and that are not detrimental to the welfare of the surrounding area; and

F. Storage facilities not associated with a permitted use.]

<u>Special uses</u>	<u>Criteria or limitations</u>
<u>Public utility substations</u>	<u>Provided there will be no detrimental or nuisance effect upon neighbors</u>
<u>Storage facilities not associated with a permitted use within the district</u>	
<u>Telecommunication offices and facilities</u>	<u>Provided, that all exterior telecommunication equipment shall be set back at least twenty-five feet from any property line and that such telecommunication equipment shall be screened from public view by appropriate means, including, but not limited to, landscape planting</u>
<u>Transient vacation rentals</u>	<u>One to twelve bedrooms</u>
<u>Upholstery, canvas, sign painting, and surfboard making shops</u>	<u>Conducted wholly within a completely enclosed building</u>
<u>Vehicle bodywork, frame or body parts straightening, steam cleaning, painting, welding, storage of non-operating vehicles, and tire recapping or re-grooving</u>	<u>Conducted wholly within a completely enclosed building</u>
<u>Other uses that are similar in character to permitted and special uses and consistent with the unique character, identity, and needs of the country town, and that are not detrimental to the welfare of the surrounding area</u>	

19.15.040 **Development standards.** The [Development] development standards for the B-CT country town business district shall be[:] as follows, unless otherwise specified in adopted design guidelines pursuant to section 19.510.100:

- [A. Minimum lot area: six thousand square feet;
- B. Minimum lot width: sixty feet;
- C. Minimum structure setback:
 - 1. Front yard: no setback unless specified by the adopted design guidelines;
 - 2. Side and rear yard:
 - a. No setback where off-street parking is provided;
 - b. Where the side or rear of a lot abuts a lot in any zoning district that requires a setback, the abutting side or rear yard shall have the same yard spacing as required in the district;
- D. Maximum height: two stories not exceeding thirty-five feet;
- E. Substandard buildings: buildings on existing substandard lots may be reconstructed on the established building footprint in situations where the planning director determines, in accordance with established design guidelines, that such reconstruction does not detrimentally affect the character of the district.]

<u>DEVELOPMENT STANDARDS</u>		
	<u>B-CT</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>35</u>	<u>Except that vent pipes, fans, chimneys, antennae, and equipment used for small-scale energy systems on roofs shall not exceed forty-five feet</u>

<u>Minimum front yard building setback or build to line</u>	<u>None for buildings</u>	<u>Unless specified by adopted design guidelines</u>
<u>Minimum side and rear yard building setback or build to line</u>	<u>Where the side or rear of a lot abuts a lot in any zoning district that requires a setback, the abutting side or rear yard shall have the same yard setback as required in the abutting district</u>	
<u>Maximum height and minimum setback for freestanding antennae or wind turbine structures</u>	<u>Minimum setback of one foot for each foot in height, from all property lines</u>	

<u>Design review</u>	<u>All buildings and structures shall be erected, constructed, reconstructed, renovated, remodeled, enlarged or converted in a similar and compatible architectural design character with that of surrounding commercial buildings. It is intended that an identifiable and unified urban design theme be retained within each B-CT country town business district. The urban design theme shall be in conformance with established design guidelines and standards for each community as reviewed by the commission, and adopted by resolution. Except as necessary to protect public health, safety and welfare, where a conflict exists between adopted country town business district design guidelines and standards, and the Maui County Code, the design guidelines and standards shall prevail</u>
<u>Substandard buildings</u>	<u>Buildings on existing substandard lots may be reconstructed on the established building footprint where the director of planning determines, in accordance with established design guidelines, that such reconstruction does not detrimentally affect the character of the district</u>

19.15.050 [Limited conditional uses. A. The following are declared conditional uses in the B-CT country town business district:

1. Hotels; provided, that the following additional standards of development are followed:
 - a. A minimum side yard setback of ten feet,
 - b. A minimum rear yard setback of ten feet,
 - c. A maximum lot coverage of twenty-five per cent, and
 - d. A maximum floor area-lot area ratio of 1.0;

2. Vehicle bodywork, frame or body parts straightening, steam cleaning, painting, welding, storage of nonoperating vehicles, and tire recapping or regrooving; provided, that all work shall be done in an enclosed building and that the following additional standards of development are followed:

a. A minimum side yard setback of ten feet to include a minimum six-foot-high wall on the side property line,

b. A minimum rear yard setback of ten feet to include a minimum six-foot-high wall on the rear property line,

c. Landscape planting and irrigation: an appropriate landscape planting and irrigation plan shall be prepared for implementation in order to soften the visual impact of perimeter walls and the storage or nonoperating vehicles;

B. A conditional permit shall be obtained for the abovementioned uses pursuant to chapter 19.40 of this code.] Rule making authority. The director of planning may adopt rules to implement this chapter.

[19.15.060 Design guidelines and standards. A. All buildings and structures shall be erected, constructed, reconstructed, renovated, remodeled, enlarged or converted in a similar and compatible architectural design character with that of surrounding commercial buildings. It is intended that an identifiable and unified urban design theme be retained within each BC-T country town business district. The urban design theme shall be in conformance with established design guidelines and standards for each community as reviewed by the commission, and adopted by resolution. Except as necessary to protect public health, safety and welfare, where a conflict exists between adopted country town business district design guidelines and standards, and the Maui County Code, the design guidelines and standards shall prevail.

Review of the design guidelines and standards by the commission shall include review and comment by the urban design review board and completion of a public

review consisting of an advertised public meeting in each country town and an advertised public hearing held by the commission for each community planning area.

In developing site design guidelines and standards, consideration shall be given to (i) the functional and spatial relationships with surrounding uses, and (ii) the relationship of landscape planting in the aesthetic continuity of surrounding sites.

In developing architectural design guidelines and standards, consideration shall be given to (i) the existing variety of form and massing elements, (ii) the size and proportions of surrounding structures, (iii) the relationship of the predominant directional expression of nearby buildings, (iv) the manner of articulation of main building entrances, (v) the roof forms and composition of structures found in the area, (vi) the recurrent alteration of wall areas with door and window elements in facades, and (vii) the use of building material type, texture, and color schemes of surrounding buildings.

B. The design guidelines and standards shall be adopted by resolution, and administered by the planning director, except, however, that the approved drainage and roadway standards guidelines shall be administered by the director of public works and environmental management. Design plans for improvements within the B-CT country town business districts shall be approved by the planning director in accordance with the established guidelines or as being compatible with the architectural design character of existing town design concept until such time as guidelines are developed for an area.

C. Pending adoption by the council of the design guidelines and standards herein required, the planning director shall review all proposals in the context of the general intent of enhancing design features of country towns as herein set forth and in so doing shall include consideration of the following factors in the review:

1. Siting should reflect the functional and spatial relationships with surrounding uses, including preservation of scenic and historic view corridors;

2. Landscape planting should enhance the aesthetic continuity of surrounding sites;

3. Building massing should be compatible with the existing variety of form and massing elements;

4. Building scale should respect the size and proportions of surrounding structures;

5. Directional orientation should foster the relationship of the predominant directional expression of nearby buildings;

6. Entry features should reflect the manner of articulation of main building entrances;

7. Roof form and composition should be compatible with that of structures found in the area;

8. Patterns of facade openings should be compatible with the recurrent alteration of wall areas with door and window elements; and

9. The use of building material type, texture, and color schemes should be compatible with those of surrounding buildings.

D. An applicant may appeal to the commission for reconsideration of an administrative action on a design plan by filing a notice in writing to the planning director within ten days after such administrative action. Such notice shall set forth in detail the action and the grounds upon which the applicant deems himself aggrieved. Approval of the design plan may be granted when the commission finds that the proposed plan maintains the design integrity of the B-CT country town business district. In acting, the commission may approve, approve with modifications, or deny the reconsideration.]"

SECTION 2. Chapter 19.510, Maui County Code, is amended by adding new sections to be appropriately designated and to read as follows:

"19.510.100 Country town business district design guidelines. Purpose. The purpose of country town business district design guidelines is to insure

that all buildings and structures shall be erected, constructed, reconstructed, renovated, remodeled, enlarged, or converted in a similar and compatible architectural design character with that of surrounding buildings. It is intended that an identifiable and unified design theme be retained within each B-CT country town business district. Except as necessary to protect public health, safety and welfare, where a conflict exists between adopted country town business district design guidelines and standards, and this code, the design guidelines and standards shall prevail.

19.510.110 Establishment of country town business district design guidelines and standards. A. Each small town within Maui County that incorporates country town business districts shall establish design guidelines and standards.

B. Review of country town business district design guidelines and standards by the appropriate planning commission shall include:

1. Review and comment by the urban design review board;

2. An advertised public meeting in the respective country town; and

3. A public hearing held by the appropriate planning commission. The director of planning shall publish the notice of the date, time, place, and subject matter of the public hearing once in a newspaper printed and issued at least twice weekly in the County and which is generally circulated throughout the County at least thirty calendar days prior to the date of the public hearing.

C. In developing site design guidelines and standards, consideration shall be given to functional and spatial relationships with surrounding uses, and landscape planting in the aesthetic continuity of surrounding sites.

D. In developing architectural design guidelines and standards, consideration shall be given to: the existing variety of form and massing of elements; the size and proportions of surrounding structures; the predominant directional expression of

nearby buildings; the articulation of main building entrances; the roof forms and composition of structures found in the area; the recurrent alteration of wall areas with door and window elements in facades; and the building materials, texture, and color schemes of surrounding buildings.

E. The design guidelines and standards shall be adopted by resolution by the council.

19.510.120 Administration and review of proposals. A. Adopted country town business district design guidelines and standards shall be administered by the director of planning; however, approved drainage and roadway guidelines and standards shall be administered by the director of public works. Design plans for improvements within the B-CT country town business districts shall be approved by the director of planning in accordance with established guidelines or the architectural character of existing town design until such time as guidelines are approved for an area.

B. Pending adoption by the council of the country town business district design guidelines and standards required under section 19.510.110, the director of planning shall review all proposals so as to enhance design features of country towns and shall consider the following factors in the review:

1. Siting should reflect the functional and spatial relationships with surrounding uses, including preservation of scenic and historic view corridors;

2. Landscape planting should enhance the aesthetic continuity of surrounding sites;

3. Building massing should be compatible with the existing variety of form and massing elements;

4. Building scale should respect the size and proportions of surrounding structures;

5. Directional orientation should foster the relationship of the predominant directional expression of nearby buildings;

6. Entry features should reflect the manner of articulation of main building entrances;

7. Roof form and composition should be compatible with that of structures found in the area;

8. Patterns of facade openings should be compatible with the recurrent alteration of wall areas with door and window elements; and

9. The use of building material type, texture, and color schemes should be compatible with those of surrounding buildings.

19.510.130 Appeal. A. An applicant may appeal a final determination on a design plan made by the director of planning pursuant to section 19.510.120 by filing a notice of appeal with the appropriate planning commission within ten days after such final determination. Upon review, the planning commission may affirm the decision of the director of planning or reverse or modify the director of planning's decision if:

1. The decision was based on a clearly erroneous finding of a material fact or error of law; or

2. The decision was arbitrary, or capricious, or characterized by abuse of discretion; or

3. The proposed design plan maintains the design integrity of the B-CT country town business district.

B. The appeal of the director's determination shall be placed on the next available commission agenda as a non-public hearing item."

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:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui
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