

COUNCIL OF THE COUNTY OF MAUI

WATER RESOURCES COMMITTEE

September 5, 2014

**Committee
Report No.** _____

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

Chair and Members:

Your Water Resources Committee, having met on June 18, 2014, July 2, 2014, and July 30, 2014, makes reference to County Communication 14-132, from Councilmember Michael P. Victorino, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 14.01.040, MAUI COUNTY CODE, RELATING TO THE DEFINITION OF INFILL DEVELOPMENT".

The purpose of the proposed bill is to amend the definition of "infill development" in the County Water Code to further define the term as parcels whose boundaries are surrounded by at least 50 per cent of an already developed area in the Department of Water Supply's Central or West Maui Water Systems.

Under the existing definition, "infill development" means "a project composed of ten or fewer residential dwelling units on one or more contiguous vacant parcels within already developed areas in the service area of the department's central Maui water system or west Maui water system."

Your Committee notes the County's Water Availability Policy, Chapter 14.12, Maui County Code, requires verification of a long-term reliable source of potable water prior to subdivision approval. Parcels that qualify as infill development may be considered for an exemption from the requirement.

According to the Director of Water Supply, the current definition of "infill development" is not clear. Therefore, the Department is having difficulty administering the exemption. The Director requested clarification of the types of land that should be considered as "already developed land." He also requested direction on how to calculate the measurement of "already developed land" surrounding a parcel, especially in the case of an irregularly shaped parcel that does not have four apparent sides.

The Director transmitted a revised proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING SECTIONS 14.01.040 AND 14.12.030, MAUI COUNTY

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CODE, RELATING TO INFILL DEVELOPMENT”, for your Committee’s consideration.

The revised proposed bill further defines “infill development” as development that meets the following requirements: (1) a minimum of 75 per cent of the parcel’s perimeter is bordered by “already developed land”; (2) infrastructure for public services and facilities is already in place and immediately available; and (3) the development is consistent with the general plan, community plans, and zoning.

The revised proposed bill also: (1) defines “already developed land”; (2) clarifies that conservation and agricultural land shall not be considered “already developed land”; (3) clarifies that if the development parcel is bordered by a roadway, then the parcel directly across the roadway will be considered in determining whether the development parcel is sufficiently bordered by already developed land to meet the definition of “infill development”; and (4) amends the Water Availability Policy to exclude any subsequent development or subdivision of any resulting parcels from the infill development exemption.

Your Committee expressed concerns that the revised proposed bill did not address land fronting the ocean. Your Committee was also concerned about parcels bordered by land that is undevelopable, such as gulches and land underlying a water course.

To alleviate confusion regarding how to calculate “already developed land” and to encourage and assist small developments, your Committee revised the bill to qualify parcels with five or fewer dwelling units as infill development if a minimum of 50 per cent of the perimeter of an irregularly shaped parcel, or at least two sides of a four-sided parcel, is bordered by “already developed land.”

Your Committee also revised the bill to qualify parcels with six to ten dwelling units as infill development if a minimum of 75 per cent of the perimeter of an irregularly shaped parcel, or at least three sides of a four-sided parcel, is bordered by “already developed land.”

Such parcels may be considered for an exemption from the Water Availability Policy.

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Your Committee concluded that land fronting the ocean shall not be considered “already developed land.” Therefore, such land shall not be used to qualify for an exemption from the Water Availability Policy.

Your Committee clarified that State and County parks, and public or private schools, shall be considered “already developed land.” Therefore, such land can be used to qualify for an exemption from the Water Availability Policy.

Your Committee noted that roadways, streams, or gulches are undevelopable. Therefore, your Committee further revised the bill to state that the land across from a roadway, stream, or gulch shall be considered when determining whether the parcel is surrounded by “already developed land.”

Your Committee concluded its revisions would provide more concise guidance to the Department when attempting to identify parcels that qualify for the infill development exemption from the Water Availability Policy.

Your Committee voted 6-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Victorino, Vice-Chair White, and members Baisa, Carroll, Couch, and Guzman voted “aye”. Committee member Crivello was 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 revisions and nonsubstantive revisions.

Your Water Resources Committee RECOMMENDS the following:

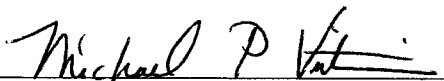
1. That Bill _____ (2014), as revised herein and attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING SECTIONS 14.01.040 AND 14.12.030, MAUI COUNTY CODE, RELATING TO INFILL DEVELOPMENT”, be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 14-132 be FILED.

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

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MICHAEL P. VICTORINO, Chair

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ORDINANCE NO. _____

BILL NO. _____ (2014)

A BILL FOR AN ORDINANCE AMENDING SECTIONS 14.01.040 AND 14.12.030,
MAUI COUNTY CODE, RELATING TO INFILL DEVELOPMENT

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

SECTION 1. Section 14.01.040, Maui County Code, is amended by amending
the definition of “infill development” to read as follows:

““Infill development” means a [project] development composed of:

1. [ten] Five or fewer residential dwelling units, including accessory dwellings, on one or more contiguous vacant parcels [within already developed areas in the service area of the department’s central Maui water system or west Maui water system.] that meet the following requirements:

a. A minimum of fifty percent of the parcel’s or combined parcels’ perimeter, or at least two sides of a four-sided parcel, is bordered by already developed land;

b. The development is located in the service area of the department’s central Maui water system or west Maui water system;

c. Infrastructure for public services and facilities is already in place and immediately available; and

d. The proposed development is consistent with the general plan, community plans, and zoning requirements; or

2. Six to ten residential dwelling units, including accessory dwellings, on one or more contiguous vacant parcels that meet the following requirements:

a. A minimum of seventy-five percent of the parcel’s or combined parcels’ perimeter, or at least three sides of a four-sided parcel, is bordered by already developed land;

b. The development is located in the service area of the department’s central Maui water system or west Maui water system;

c. Infrastructure for public services and facilities is already in place and immediately available; and

d. The proposed development is consistent with the general plan, community plans, and zoning requirements.

3. For purposes of this definition:

a. “Already developed land” means all State and County parks, public or private schools, and residential parcels with a structure that has received all appropriate permits before March 1 of the preceding fiscal year.

b. Conservation and agricultural lands, and land fronting the ocean, shall not be considered “already developed land” regardless of the presence of any structure.

c. If the development’s parcel or combined parcels are bordered by a roadway, stream, or gulch, then the parcel or parcels across the roadway, stream, or gulch, shall be considered in determining whether the parcel or parcels are already developed land.”

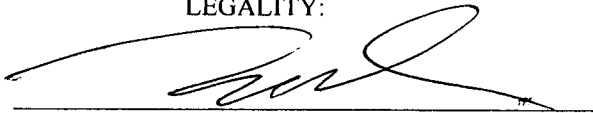
SECTION 2. Section 14.12.030, Maui County Code, is amended by amending subsection D to read as follows:

“D. Infill development[;], provided that this exemption shall not apply to any subsequent development or subdivision of any resulting parcels;”

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:



EDWARD S. KUSHI, JR.
Department of the Corporation Counsel
County of Maui
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