

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

December 5, 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 November 20, 2014, makes reference to County Communication 14-202, from the Planning Director, transmitting a proposed bill entitled “A BILL FOR AN ORDINANCE TO AMEND CHAPTER 2.80B OF THE MAUI COUNTY CODE, PERTAINING TO GENERAL AND COMMUNITY PLANS.”

The purpose of the proposed bill is to clarify which types of agency actions must comply with the General Plan.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill, entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.030, MAUI COUNTY CODE, TO CLARIFY THE APPLICABILITY OF THE GENERAL PLAN TO MINISTERIAL PERMITS AND APPROVALS” (“ministerial permits and approvals bill”), approved as to form and legality, incorporating nonsubstantive revisions.

The purpose of the revised proposed bill is to clarify how the General Plan – composed of the Countywide Policy Plan, Maui Island Plan, and community plans – is applied to ministerial actions and the processing of ministerial permits.

By correspondence dated November 5, 2014, the Chair of your Committee transmitted a proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80B, MAUI COUNTY CODE, RELATING TO PUBLIC HEARING REQUIREMENTS FOR AMENDMENTS TO THE MAUI ISLAND PLAN” (“public hearings bill”).

The purpose of the proposed bill is to establish that public hearings on nondecennial amendments to the Maui Island Plan need only be held on the island of Maui.

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On the ministerial permits and approvals bill, your Committee considered the definition of “ministerial permit.” Ordinance 3732 (2010), the Countywide Policy Plan, defines ministerial permit as “a permit that does not involve judgment or discretion and is issued based on established criteria or a set of adopted standards as established by law.”

Your Committee noted the proposed bill clarifies ministerial permits and approvals are not required to comply with the General Plan. Your Committee further noted Ordinance 3732 (2010) states the Countywide Policy Plan is “not intended to be used in the review of applications for ministerial permits.”

Your Committee was informed by representatives from the Department of Planning and the Department of Public Works the proposed bill would not change permit review practices, and would codify longstanding interpretation. Your Committee felt the bill would improve the clarity of the Maui County Code and would reduce reliance on legal opinions for interpretation.

On the public hearings bill, your Committee noted Section 2.80B.060, Maui County Code, requires the Council to hold public hearings on nondecennial amendments to the General Plan on Lanai, Maui, and Molokai. Because the Maui Island Plan is part of the General Plan, nondecennial amendments require hearings on all three islands. The proposed bill would change the requirements, to require a hearing be held only on Maui. Your Committee noted the proposed bill would have no impact on hearing requirements for General Plan amendments related to Lanai and Molokai.

Your Committee voted 7-0 to recommend passage of the revised proposed ministerial permits and approvals bill on first reading, passage of the proposed public hearings bill on first reading, and filing of the communication. Committee Chair Couch, Vice-Chair Victorino, and members Baisa, Cochran, Crivello, Guzman, and White voted “aye”.

Your Planning Committee RECOMMENDS the following:

1. That Bill _____ (2014), as revised herein and attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.030, MAUI COUNTY CODE, TO CLARIFY THE APPLICABILITY OF THE GENERAL PLAN TO MINISTERIAL PERMITS AND APPROVALS”, be PASSED ON FIRST READING and be ORDERED TO PRINT;

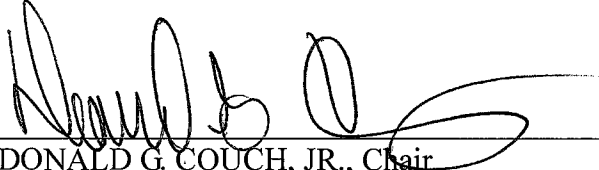
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2. That Bill _____ (2014), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80B, MAUI COUNTY CODE, RELATING TO PUBLIC HEARING REQUIREMENTS FOR AMENDMENTS TO THE MAUI ISLAND PLAN", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
3. That County Communication 14-202 be FILED.

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



DONALD G. COUCH, JR., Chair

pc:cr:14056aa:csh

ORDINANCE NO. _____

BILL NO. _____ (2014)

A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.030,
MAUI COUNTY CODE, TO CLARIFY THE APPLICABILITY
OF THE GENERAL PLAN TO MINISTERIAL PERMITS AND APPROVALS

SECTION 1. Purpose. The Countywide Policy Plan, Ordinance 3732 (2010), states that it is "not intended to be used in the review of applications for ministerial permits." The council finds that this intention should apply to all components of the general plan. The purpose of this ordinance is to clarify that ministerial permits and approvals are not required to comply with the general plan.

SECTION 2. Section 2.80B.030, Maui County Code, is amended by amending subsection B to read as follows:

"B. All agencies shall comply with the general plan[.], and administrative actions by agencies shall conform to the general plan, except for ministerial permits or approvals including, but not limited to, building permits, grading permits, plumbing permits, and electrical permits. [Notwithstanding any other provision, all] All community plans, zoning ordinances, and subdivision ordinances[, and administrative actions by agencies] shall conform to the general plan. Preparation of County budgets and capital improvement programs shall implement the general plan to the extent practicable. The countywide policy plan, Maui island plan, and community plans authorized in this chapter are and shall be the general plan of the County, as provided by section 8-8.5 of the [charter.] revised charter of the County of Maui (1983), as amended."

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:

A handwritten signature in black ink, appearing to read 'M. J. Hopper', written over a horizontal line.

MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

ORDINANCE NO. _____

BILL NO. _____ (2014)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80B, MAUI COUNTY
CODE, RELATING TO PUBLIC HEARING REQUIREMENTS
FOR AMENDMENTS TO THE MAUI ISLAND PLAN

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

SECTION 1. The purpose of this bill is to establish that public hearings on amendments to the Maui Island Plan need to be held only on the island of Maui.

SECTION 2. Section 2.80B.060, Maui County Code, is amended to read as follows:

“2.80B.060 Nondecennial amendments to the [general] countywide policy plan[.] and Maui island plan. A. Nondecennial amendments to the [general] countywide policy plan and Maui island plan may be proposed by the planning director or by the council by resolution. All proposed amendments shall be referred to the appropriate planning commission for findings and recommendations. Proposals for nondecennial amendments [to the general plan] made pursuant to this subsection shall be processed in accordance with sections 8-8.4 and 8-8.6 of the [charter.] revised charter of the County of Maui (1983), as amended.

B. Nondecennial amendments to the [general] countywide policy plan and Maui island plan enacted pursuant to section 2.80B.050 [of this chapter] may be proposed by a person during July of each year, provided that such amendments shall not be accepted within one year after the enactment of a decennial revision [to the general plan pursuant to section 2.80B.050 of this chapter] to either the countywide policy plan or the Maui island plan. Applications shall follow the procedures set out in sections 19.510.010 and 19.510.020 of this code, shall include the application fee as set forth in the [County] annual budget, and shall be processed as if prepared by the planning director pursuant to section 8-8.4 of the [charter.] revised charter of the County of Maui (1983), as amended. An environmental assessment or environmental impact statement prepared in accordance with chapter 343, Hawaii Revised Statutes, shall be submitted along with the application.

C. Prior to approving any amendment to the [general] countywide policy plan pursuant to this section, the council shall hold public hearings on Lanai, Maui, and Molokai on the bill incorporating the amendment. Prior to approving any amendment to the Maui island plan pursuant to this section, the

council shall hold a public hearing on Maui on the bill incorporating the amendment.

D. Nothing in this section shall prevent concurrent processing of other actions related to a proposed amendment. Where an amendment to the [general] countywide policy plan or Maui island plan directly triggers an amendment to a community plan, such matters shall be processed concurrently, subject to [Maui County Code] subsection 2.80B.110.A.”

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