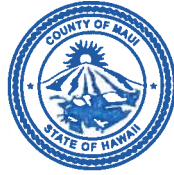


ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

March 29, 2016

MEMO REPORT

TO: Maui Planning Commission
Molokai Planning Commission
Lanai Planning Commission

FROM: William Spence *ws*
Planning Director

SUBJECT: RESOLUTION NO. 15-139 ENTITLED "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL RELATING TO TRANSIENT VACATION RENTALS IN PLANNED DEVELOPMENTS"

The Department of Planning (Department) received the above noted resolution on November 13, 2015 from the Maui County Council for your review and comments on the proposed bill. Attached, for your use, is a copy of Resolution No. 15-139 (Exhibit 1). Committee report 15-160 is attached as Exhibit 2.

The purpose of this bill is to expand the allowance of transient vacation rentals to planned developments that consist of a combination of single-family dwelling units and duplexes or multi-family dwelling units. The Maui County Code currently allows transient vacation rentals in residentially zoned planned developments consisting solely of duplexes or multi-family dwelling units that had a transient vacation rental use on or before April 20, 1981. This provision was added to Title 19 by Ordinance 4063 (Exhibit 3) which was reviewed by the commissions under Resolution No. 12-99.

As with the prior Resolution No. 12-99, the Department has concerns over the practice of adopting laws and amendments for a specific property. The proposed resolution (Resolution 15-139) is crafted with the intent of allowing owners at Alaeloa Planned Development to conduct transient vacation rental operations. Proposed bills such as this can convolute existing laws. The drafting of such laws can have unforeseen consequences that the original drafters were unaware of. The practice of adopting such a specific bill sets a precedent for other property owners to request their own specific amendment.

The Department believes that the proposed amendment would affect only Alaeloa. This project was originally developed in the mid 1960's. According to information pulled from real-estate web sites, there are 28 single-family units, 12 duplex units, 2 townhouse units and a

manager's cottage on the 13.4-acre property. Although the project would not be considered affordable housing, the loss of any housing inventory to the short-term rental market will have a ripple effect on the long-term housing market.

Recommendation and Options

The Department is recommending approval of the Mayor's proposed bill to the Maui County Council. The commission has the following options:

1. Recommend approval of the proposed bill to the Maui County Council.
2. Recommend approval of the proposed bill with amendments to the Maui County Council.
3. Recommend denial of the proposed bill to the Maui County Council.
4. Vote to defer action on the proposed bill in order to gather specific additional information.

Attachment

xc: Michele McLean, Deputy Director
Joseph Alueta; Administrative Planning Officer (via email)

WRS:JWA:atw

General File

PLANNING\ALLAPO\Reso 15-139\MemoReport to Commission.doc

Resolution

No. 15-139

REFERRING TO THE LANAI, MAUI, AND
MOLOKAI PLANNING COMMISSIONS A
PROPOSED BILL RELATING TO TRANSIENT
VACATION RENTALS IN PLANNED
DEVELOPMENTS

WHEREAS, Section 19.32.040, Maui County Code, permits transient vacation rentals in residentially zoned planned developments consisting solely of duplexes or multi-family dwelling units that had a transient vacation rental in operation before April 20, 1981; and

WHEREAS, the Council is considering a proposed bill to amend Title 19, Maui County Code, to also allow transient vacation rentals when such planned developments consist of a combination of single-family dwelling units and duplexes or multi-family dwelling units and meet the other requirements of Section 19.32.040(I), Maui County Code; 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 commissions 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:

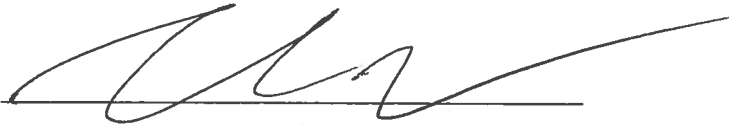
1. That it hereby refers the proposed bill, entitled "A BILL FOR AN ORDINANCE RELATING TO TRANSIENT VACATION RENTALS IN PLANNED DEVELOPMENTS," a copy of which is attached hereto as Exhibit "1" and made a part hereof, to the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning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

EXHIBIT - 1

Resolution No. 15-139

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

APPROVED AS TO FORM AND LEGALITY

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

MICHAEL J. HOPPER

Department of the Corporation Counsel
County of Maui

pc:032areso01:gjg/jkm

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE RELATING TO TRANSIENT VACATION RENTALS
IN PLANNED DEVELOPMENTS

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

SECTION 1. Purpose. The Maui County Code allows transient vacation rentals in residentially zoned planned developments consisting solely of duplexes or multi-family dwelling units that had a transient vacation rental use on or before April 20, 1981. The purpose of this ordinance is to also allow transient vacation rentals when such planned developments consist of a combination of single-family dwelling units and duplexes or multi-family dwelling units.

SECTION 2. Section 19.32.040, Maui County Code, is amended to read as follows:

“19.32.040 Reduction of lot areas and mixed land uses. A. 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:] provided for in this section.

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

[B.]C. In a residential planned development, including duplex 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.

EXHIBIT “1”

[C.]D. In a residential planned development, including duplex 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.]E. In a residential planned development, including duplex 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.]F. Apartment, hotel, business and industrial planned developments shall be permitted in their respective districts. For 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.]G. 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[/] per acre
- R-2 residential district- 5.81 dwelling units[/] per acre
- R-1 residential district- 7.26 dwelling units[/] per acre
- D-2 duplex district- 8.72 dwelling units[/] per acre
- D-1 duplex district- 11.62 dwelling units[/] per acre
- RR-1 rural residential district- 4.36 dwelling units[/] per acre
- RR-2 rural residential district- 2.00 dwelling units[/] per acre

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

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

[H.]I. Transient vacation rentals shall be permitted in planned developments, except for developments that have been publicly [funded; provided that either:] funded, if:

1. The planned development received a planned development site plan approval that was lawfully issued by and valid on April 20, 1989, and the land is zoned A-1 or A-2 apartment district; or

2. The planned development meets all of the following:

a. The planned development received final approval as provided in this chapter, and at least one unit in the planned development was operating as a vacation rental on or before April 20, 1981;

b. The planned development is located on parcels with at least some residential district zoning; and

c. The planned development consists of only [duplexes]:

i. Duplexes or multi-family dwelling units; or

ii. A combination of single-family dwelling units and duplexes or multi-family dwelling units."

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

pc:misc:032abill01:gjg/jkm

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 15-139 was adopted by the Council of the County of Maui, State of Hawaii, on the 6th day of November, 2015, by the following vote:

MEMBERS	Michael B. WHITE Chair	Donald S. GUZMAN Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	G. Riki HOKAMA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	No	Aye



COUNTY CLERK

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

November 6, 2015

Committee
Report No. 15-160

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

Chair and Members:

Your Planning Committee, having met on September 24, 2015, makes reference to County Communication 15-220, from Councilmember Don Couch, transmitting a proposed resolution entitled "REFERRING TO THE PLANNING COMMISSIONS A PROPOSED BILL RELATING TO TRANSIENT VACATION RENTALS IN PLANNED DEVELOPMENTS."

The purpose of the proposed resolution is to refer to the planning commissions a proposed bill entitled "A BILL FOR AN ORDINANCE RELATING TO TRANSIENT VACATION RENTALS IN PLANNED DEVELOPMENTS."

The purpose of the proposed bill is to delete the provision within the Comprehensive Zoning Ordinance that limits transient vacation rental use in planned developments to planned developments consisting of only duplexes or multifamily dwelling units.

Your Committee notes, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, any proposed land use ordinance shall be referred to the appropriate planning commissions for review.

Your Committee further notes it previously reported on this matter through Committee Report 15-134, which recommended adoption of the proposed resolution. At its meeting of September 18, 2015, the Council did not adopt your Committee's recommendation.

Your Committee notes the intent of the proposed bill is to allow transient vacation rental use at the 13-acre Alaeloa planned development in Napili, Maui, Hawaii. Alaeloa meets the requirements in Section

EXHIBIT -2

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

Page 2

Committee
Report No. 15-160

19.32.040(H)(2), Maui County Code, for transient vacation rental use in planned developments with residential zoning, except Alaeloa contains a combination of single-family and multifamily dwelling units, and the requirements do not allow the use in planned developments with single-family units.

Your Committee revised the proposed bill to clarify the intent is to allow transient vacation rental use in planned developments with residential zoning containing a combination of single-family and multifamily dwelling units, but not to allow the use in planned developments containing exclusively single-family dwelling units.

Your Committee voted 4-0 to recommend adoption of the revised proposed resolution. Committee Chair Couch, Vice-Chair Carroll, and members Guzman and White voted "aye." Committee members Baisa, Cochran, and Victorino were excused.

Your Committee is in receipt of a revised proposed resolution, entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL RELATING TO TRANSIENT VACATION RENTALS IN PLANNED DEVELOPMENTS," approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions to the proposed bill and nonsubstantive revisions.

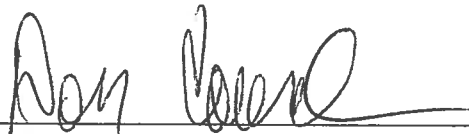
Your Planning Committee RECOMMENDS that Resolution 15-139, as revised herein and attached hereto, entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL RELATING TO TRANSIENT VACATION RENTALS IN PLANNED DEVELOPMENTS," be ADOPTED.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

Page 3

Committee
Report No. 15-160

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

A handwritten signature in black ink, appearing to read "Don Couch", written over a horizontal line.

DON COUCH, Chair

pc:cr:15032ab:gjg/jkm

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that the recommendations contained in COMMITTEE REPORT NO. 15-160 were adopted by the Council of the County of Maui, State of Hawaii, on the 6th day of November, 2015, by the following vote:

MEMBERS	Michael B. WHITE Chair	Donald S. GUZMAN Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	G. Riki HOKAMA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	No	Aye



COUNTY CLERK

ORDINANCE NO. 4063

BILL NO. 67 (2013)

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

EXHIBIT -3

dwelling unit densities, upon which any bonus shall be applied, shall be as follows:

- R-3 residential [district] district - 4.36 dwelling units/acre
- R-2 residential [district] district - 5.81 dwelling units/acre
- R-1 residential [district] district - 7.26 dwelling units/acre
- D-2 duplex [district] district - 8.72 dwelling units/acre
- D-1 duplex [district] district - [1.62] 11.62 dwelling units/acre
- RR-1 rural residential [district] district - 4.36 dwelling units/acre
- RR-2 rural residential [district] district - 2.00 dwelling units/acre

Permitted dwelling unit densities for other zoning districts not specified [above] in this subsection 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 be located on parcels with at least some residential district zoning; and
3. The planned development consists of only duplexes or multi-family dwelling units.

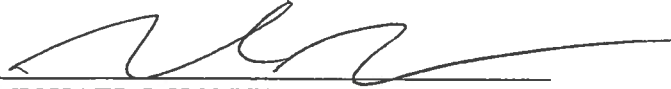
SECTION 2. Section 19.37.010, Maui County Code, is amended by amending subsection A to read as follows:

“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:

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

MICHAEL J. HOPPER

Deputy Corporation Counsel

S:\ALL\MJH\ORDS\Amend 19.32.040 planned developments 8-
22-13.doc

WE HEREBY CERTIFY that the foregoing BILL NO. 67 (2013)

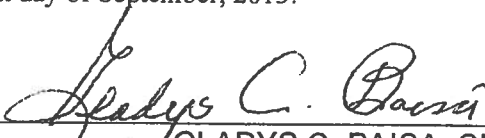
1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 20th day of September, 2013, by the following vote:

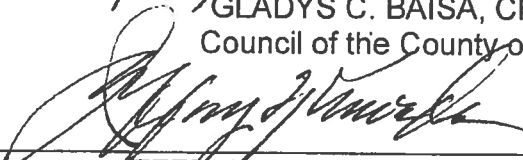
Gladys C. BAISA Chair	Robert CARROLL Vice-Chair	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Michael P. VICTORINO	Michael B. WHITE
Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 20th day of September, 2013.


DATED AT WAILUKU, MAUI, HAWAII, this 20th day of September, 2013.

RECEIVED
2013 SEP 20 PM 2:51
OFFICE OF THE MAYOR

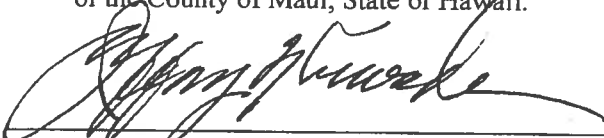

GLADYS C. BAISA, CHAIR
Council of the County of Maui


JEFFREY T. KUWADA, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 27 DAY OF September, 2013.


ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 4063 of the County of Maui, State of Hawaii.


JEFFREY T. KUWADA, COUNTY CLERK
County of Maui

Passed First Reading on September 6, 2013.
Effective date of Ordinance September 27, 2013

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4063, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

RECEIVED
2013 SEP 30 AM 9:34
OFFICE OF THE
COUNTY CLERK