

COUNCIL OF THE COUNTY OF MAUI
**HOUSING AND HUMAN SERVICES
COMMITTEE**

February 20, 2004

**Committee
Report No.**

04-35

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

Chair and Members:

Your Housing and Human Services Committee, having met on January 27, 2003, and February 2, 2004, makes reference to a Miscellaneous Communication, dated May 21, 2001, from the County Clerk, referring the matter relating to establishing deadlines for change in zoning (conditional zoning) applications with affordable housing conditions to require the applicant to develop affordable housing within a specific time period.

Your Committee notes that the Miscellaneous Communication was referred to the prior Council's Land Use Committee at the Council meeting of May 14, 2001.

By correspondence dated December 30, 2002, the Chair of the Land Use Committee requested that the Miscellaneous Communication be referred to the appropriate committee for deliberation during the 2003-2005 Council term.

At its meeting of January 10, 2003, the Council referred the Miscellaneous Communication to your Housing and Human Services Committee (County Communication No. 03-5).

By correspondence dated May 24, 2001, July 9, 2001, October 15, 2001, and November 9, 2001, the Planning Director was asked to provide comments on this matter.

By correspondence dated October 15, 2001, to the Director of Housing and Human Concerns, the Land Use Committee requested comments on this matter.

By correspondence dated November 9, 2001, the Director of Housing and Human Concerns stated that the Administration is preparing a coordinated response to address this matter.

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By correspondence dated January 10, 2002, to the Managing Director, the Land Use Committee requested a response from the Administration regarding its position on the subject matter.

By correspondence dated January 29, 2002, the Managing Director stated that the Administration favors the imposition of deadlines in instances when the Council imposes affordable housing conditions on parcels that are before the Council for change in zoning. However, he noted that deadlines should vary according to the nature of the project.

By correspondence dated July 18, 2002, Councilmember Johnson transmitted a *Pacific Business News* article entitled "Maui seeks enforcement for low-cost housing law".

By correspondence dated August 10, 2002, the Chair of the Land Use Committee transmitted a *Haleakala Times* article entitled "Lack of affordable housing and vacation rentals. Is there really any connection? You decide. Is Maui's affordable housing actually affordable at \$250,000 and up?"

At its meeting of January 27, 2003, your Committee met with the Mayor, the Deputy Director of Planning, the Deputy Director of Public Works and Environmental Management, and a Deputy Corporation Counsel.

One testifier stated that he had a variety of affordable housing concerns, including: (1) the more than 3,000 affordable housing units owed to the County by developers, (2) the increasing population of homeless people in West Maui, and (3) West Maui workers' inability to find affordable housing in the area.

Another testifier recommended that if developers are required to build affordable housing units, they should be required to build them concurrently with the market-priced units.

The Deputy Planning Director stated that the Administration fully supported the establishment of deadlines for affordable housing requirements imposed as a result of conditional zoning. However, he noted that many details would need to be worked out, and stated that it will take approximately two months to prepare a response to your Committee.

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In response to questions, the Deputy Corporation Counsel informed your Committee that there are no existing deadlines for affordable components of residential developments, but that any developer who failed to provide required affordable housing units could be cited for a land use violation.

Your Committee deferred action on this matter pending further discussion.

By correspondence dated February 7, 2003, the Director of Housing and Human Concerns transmitted a table entitled "Inventory of Affordable Housing Units Owed to the County."

By correspondence dated March 10, 2003, the Planning Director submitted various recommendations relating to the establishment of deadlines for change in zoning (conditional zoning) applications with affordable housing conditions to require the applicant to develop affordable housing within a specific time period.

By correspondence dated May 23, 2003, your Committee requested that the Corporation Counsel prepare a proposed bill for an ordinance to incorporate the recommendations submitted by the Planning Director.

By correspondence dated January 26, 2004, a Deputy Corporation Counsel transmitted the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.510.050, MAUI COUNTY CODE, ADDING AFFORDABLE HOUSING CONDITIONS TO CONDITIONAL ZONING". The purpose of the proposed bill is to amend Section 19.510.050 of the Maui County Code to ensure timely compliance with affordable housing conditions that are placed on change in zoning approvals.
2. A proposed resolution entitled "REFERRING A PROPOSED BILL AMENDING SECTION 19.510.050, MAUI COUNTY CODE, ADDING AFFORDABLE HOUSING CONDITIONS TO CONDITIONAL ZONING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS". The purpose of the proposed resolution is to refer the proposed bill to the Lanai,

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Maui, and Molokai Planning Commissions in accordance with
Charter Sections 8-8.4 and 8-8.6.

At its meeting of February 2, 2004, your Committee met with the Director of Housing and Human Concerns and a Deputy Corporation Counsel.

Your Committee Chair noted that the proposed bill and proposed resolution are linked. If the Council adopted the proposed resolution, it would transmit the proposed bill to the various planning commissions for review, and then it would be returned to the Council for consideration.

Two people testified on the proposed bill and related resolution.

The first testifier, the Coordinator for the Maui Nui Housing Task Force, stated that he supported the proposed bill. He noted that unfulfilled promises to build affordable units as a condition of rezoning continue to be a concern. The bill would help to ensure that affordable housing is built in a timely manner and would promote public confidence in the process.

One person, a Molokai resident, stated that although the bill is a step in the right direction, there are many issues that need to be resolved in connection with affordable housing in the County. He urged the Council to use its power to require greater percentages of affordable housing lots or units and to require that the sizes of any affordable housing lots or units be large enough for the average working family to live in for many years. He also urged the Council to question what developers present, including their estimated development costs and the limits of their abilities to build affordable housing. Finally, he urged the Council to push for units to meet the incomes of residents who earn 50-70 percent of the average median income, instead of those in higher income brackets.

The Deputy Corporation Counsel highlighted the following policy elements in the proposed bill: (1) conditions shall be imposed by the Council if necessary to promote the public's health, safety, convenience, and welfare, (2) the conditions imposed shall be performed prior to final Council action or within five years of the ordinance's effective date, (3) if affordable housing conditions are imposed, the affordable homes need to be built concurrently with the market-priced homes, (4) if affordable housing conditions are imposed, the affordable housing shall be built within five years, with or without the construction of the

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market-priced units, (5) if affordable housing conditions are imposed, the obligation to build or provide affordable units shall be secured by an appropriate payment and/or performance bond in favor of the County, (6) if affordable housing conditions are imposed, the status of compliance with the conditions shall be reported to the Council by the applicant on an annual basis, and (7) the terms and provisions of the affordable housing conditions shall be documented in an agreement that will be submitted in draft form to the Council for review and comment, with eventual approval and execution by the Mayor.

Your Committee voted to revise the proposed bill to replace the annual reporting requirement with a semi-annual reporting requirement. Your Committee voted to recommend adoption of the proposed resolution, which would refer the revised proposed bill to the planning commissions.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, reflecting your Committee's recommendations.

Your Housing and Human Services Committee **RECOMMENDS** the following:

1. That Resolution No. _____, attached hereto, entitled "REFERRING A PROPOSED BILL AMENDING SECTION 19.510.050, MAUI COUNTY CODE, ADDING AFFORDABLE HOUSING CONDITIONS TO CONDITIONAL ZONING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS", be ADOPTED; and
2. That the Miscellaneous Communication be FILED.

Adoption of this report is respectfully requested.

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JOSEPH PONTANILLA Chair

JO ANNE JOHNSON Member

MICHAEL J. MOLINA Vice-Chair

DANNY A. MATEO Member

ROBERT CARROLL Member