

**COUNCIL OF THE COUNTY OF MAUI**  
**PLANNING COMMITTEE**

July 1, 2005

**Committee**  
**Report No.**

\_\_\_\_\_ 05-87 \_\_\_\_\_

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

Chair and Members:

Your Planning Committee, having met on June 13, 2005, makes reference to County Communication No. 04-12, from Councilmember Charmaine Tavares, transmitting the following:

1. A draft bill entitled "A BILL FOR AN ORDINANCE TO EXPAND THE PERMITTED USES IN COUNTRY BUSINESS TOWN DISTRICTS".

The purpose of the draft bill is to amend the Country Town Business zoning ordinance to include multi-family residential, educational, recreational, and related uses as permitted uses.

2. A draft resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A BILL TO AMEND THE COUNTRY TOWN ZONING ORDINANCE TO INCLUDE MULTI-FAMILY-RESIDENTIAL, EDUCATIONAL, RECREATIONAL, AND RELATED USES AS PERMITTED USES IN COUNTRY TOWN BUSINESS DISTRICTS".

The purpose of the draft resolution is to refer the draft bill to the Lanai, Maui, and Molokai Planning Commissions pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (Charter).

Your Committee notes that County Communication No. 04-12 was referred to the former Council's Planning and Land Use Committee at the Council meeting of January 16, 2004.

By correspondence dated May 24, 2004, the Chair of the Planning and Land Use Committee requested that the Planning Director provide a status report of any proposal by the Department of Planning to amend the Country Town Business zoning ordinance (Chapter 19.15 of the Maui County Code).

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At its meeting of November 30, 2004, the Planning and Land Use Committee recommended that County Communication No. 04-12 be referred to the Council Chair for the term beginning January 2, 2005, for a recommendation as to referral or other disposition.

At its meeting of January 21, 2005, the Council referred County Communication No. 04-12 to your Planning Committee (County Communication No. 05-12).

By correspondence dated May 25, 2005, your Committee requested that the Corporation Counsel review the draft bill and approve it as to form and legality.

By correspondence dated June 3, 2005, the Department of the Corporation Counsel transmitted a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.15, MAUI COUNTY CODE, PERTAINING TO B-CT COUNTRY TOWN BUSINESS DISTRICTS". The purpose of the proposed bill is to amend the Country Town Business zoning ordinance to include multi-family residential, educational, recreational, and related uses as permitted uses.

By correspondence dated June 6, 2005, your Committee's Chair transmitted a revised draft resolution entitled "REFERRING A PROPOSED BILL AMENDING CHAPTER 19.15, MAUI COUNTY CODE, PERTAINING TO B-CT COUNTRY TOWN BUSINESS DISTRICTS TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS." The purpose of the draft resolution is to refer the proposed bill to the Lanai, Maui, and Molokai Planning Commissions pursuant to Sections 8-8.4 and 8-8.6 of the Charter.

At its meeting, your Committee met with the Administrative Planning Officer from the Department of Planning and a Deputy Corporation Counsel.

There was no public testimony.

Your Committee's Chair provided an overview of the proposed bill. The main purpose of the proposed bill is to amend the Country Town Business zoning ordinance to include multi-family residential, educational, recreational and related uses as permitted uses. It is hoped that by expanding the permitted uses allowed within this zoning district, revitalization will occur in the Country Town Business areas, encouraging people to

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return to these areas to work and live. When this occurs, there is generally more walking within the area and less dependence on automobiles.

Regarding building design, your Committee's Chair noted that the proposed bill increases height limitations from two stories to three stories. The increase in building heights will allow for a variety of uses in one building. For instance, in a three-story building, the lowest level might be retail space, the second level could include professional offices, and the third level might include residential units.

The Administrative Planning Officer noted that the Department of Planning supported the proposed bill in concept, but noted that the section of the bill relating to conditional permits would soon be moot as the Department is in the process of finalizing a draft bill that would streamline the entire land use permitting process under Chapter 19.510 of the Maui County Code. He noted that if your Committee preferred, the bill could be revised at the planning commission level. The Deputy Corporation Counsel concurred that the proposed revision could occur after the planning commissions receive the proposed bill.

Your Committee noted its concern relating to the increase in the number of stories allowed in this type of zoning. It was noted that three-story buildings may not fit the rural character of areas such as Kaunakakai Town or Lanai City. The Administrative Planning Officer stated that the Country Town Business guidelines for particular regions would still apply to all new construction and would help to protect the design elements of certain areas. He further noted that the Department of Planning will be submitting a proposed ordinance that would clarify the definition for height limits in the various zoning categories.

Your Committee also discussed the relationship between height limits and protecting view planes. It was noted that the increase of even a single story could detract from the enjoyment of views of the ocean, the mountains, and other view corridors.

The Administrative Planning Officer noted that design guidelines do not include protection of view planes. Design guidelines were developed to describe and limit the appearance of buildings within these areas. Further, he also noted that although the proposed bill calls for an increase from two to three stories, it does not increase the 35-foot height limit. Therefore, the total height of buildings will not change from what is currently allowed. Finally, he noted that view corridors are identified in the community

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plans or in the Maui Coastal Resource Guide for protection, and are not normally found in zoning ordinances.

Your Committee also noted that Country Town Business zoning should not be part of a hierarchy system. Specifically, your Committee stated its concerns regarding “stacking” within zoning categories, or allowing all the permitted uses in one category to apply to the higher category in addition to other permitted uses.

Your Committee also discussed its concerns regarding mixed usage (residential, professional and retail) within one building, or even on the same floor. The first concern centered on the appropriateness of mixing residential and the other uses, and the potential for conflict among users. The second concern arose over the appropriate taxation valuation for mixed uses in one building.

Enforcement was also an issue discussed by your Committee, centering on the need to have coordination between the various departments responsible for enforcement of either zoning or the building code to ensure compliance with County ordinances. Further, it was suggested that requiring developers to post a bond may help to deter noncompliance with County ordinances, rules and or regulations.

Finally, your Committee requested that the appropriate Country Town Business guidelines be presented to the various planning commissions when they consider the proposed bill. At that time, the planning commissions should also be asked to consider whether any updates to the guidelines for their area would be necessary.

Your Committee Chair noted that letters would be sent to various departments regarding the concerns raised by your Committee, in the hope that responses would be received prior to the Council’s next consideration of the proposed bill.

Your Committee voted to recommend adoption of the draft resolution.

Your Committee is in receipt of a proposed resolution, entitled “REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING CHAPTER 19.15, MAUI COUNTY CODE, PERTAINING TO B-CT COUNTRY TOWN BUSINESS DISTRICTS”, with non-substantive revisions, approved as to form and legality by the Department of the Corporation Counsel.

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Your Planning Committee RECOMMENDS that Resolution No. \_\_\_\_\_, attached hereto, entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING CHAPTER 19.15, MAUI COUNTY CODE, PERTAINING TO B-CT COUNTRY TOWN BUSINESS DISTRICTS" be ADOPTED.

Adoption of this report is respectfully requested.

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**CHARMAINE TAVARES** **Chair**

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**JO ANNE JOHNSON** **Member**

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**DANNY A. MATEO** **Vice-Chair**

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**DAIN P. KANE** **Member**

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**MICHELLE ANDERSON** **Member**

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**MICHAEL J. MOLINA** **Member**

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**ROBERT CARROLL** **Member**

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**JOSEPH PONTANILLA** **Member**

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**G. RIKI HOKAMA** **Member**