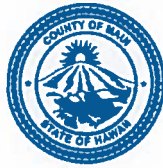


ALAN M. ARAKAWA  
Mayor

WILLIAM R. SPENCE  
Director

MICHELE CHOUTEAU McLEAN  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

September 29, 2016

**MEMORANDUM**

TO: MAUI PLANNING COMMISSION  
MOLOKAI PLANNING COMMISSION  
LANAI PLANNING COMMISSION

FROM: WILLIAM SPENCE *W.S.*  
PLANNING DIRECTOR

SUBJECT: **PROPOSED BILL FOR AN ORDINANCE AMENDING CHAPTER 19.04,  
MAUI COUNTY CODE, RELATING TO COMPREHENSIVE ZONING  
PROVISIONS.**

The purpose of this proposed bill is to amend the general provisions of the comprehensive zoning ordinance to provide flexibility for certain subdivisions and uses that will not be detrimental to the public health, safety or welfare, and that are consistent with best planning practices (Exhibit 1).

In general, the proposed amendments will exempt the creation of utility and roadway lots from zoning requirements such as lot width and minimum size. The proposal will also allow certain uses to be allowed in all zoning districts, provided the use is not specifically prohibited. These uses include commercial and non-commercial filming and photography, temporary commercial events such as bazaars, fairs, receptions or festivals and temporary sales offices. The proposal provides for standards and restrictions on these generally allowed uses and exempt lots.

The proposed bill gives the department the ability to establish and collect fees for administrative reviews, as set forth in the annual budget.

The proposed bill has received support from the Mayor's Office of Economic Development (OED) (Exhibit 2). OED states that the bill would provide for a streamlined and more flexible code for a variety of activities. Specifically, the code would provide assurance and guidance for OED's Film Commissioner and film crews, while protecting surrounding properties. OED is also supportive of the clarification for temporary commercial events without the added layer of getting a special use permit.

The Department of Public Works was consulted during the drafting of the proposal. DPW supports the amendments to allow utility, roadway and other lots to be created in the subdivision process that is not subject to minimum lot size requirements (Exhibit 3).

The State Office of Planning had no comments. (Exhibit 4). No comments were received by the Department of Business Economic Development and Tourism or from the Maui County Police Department.

### **Recommendation and Options**

The Department is recommending approval of the proposed bill. 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.

#### **Attachments**

WRS:JWA:atw

S:\ALLAPO\19.04 Definitions\2016 amendments\memoreport.doc

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2016)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.04, MAUI COUNTY  
CODE, RELATING TO COMPREHENSIVE ZONING PROVISIONS

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

SECTION 1. Purpose and Intent. The purpose of this bill is to amend the general provisions of the comprehensive zoning ordinance to provide flexibility for certain subdivisions and uses that will not be detrimental to the public health, safety or welfare, and that are consistent with best planning practices.

SECTION 2. Section 19.04.015, Maui County Code, is amended to read as follows:

**"19.04.015 - Purpose and intent.**

A. The purpose and intent of this comprehensive zoning article is to regulate the utilization of land in a manner encouraging orderly development in accordance with the land use directives of the Hawaii Revised Statutes, the revised charter of the County, and the general plan and the community plans of the County.

B. The purpose and intent of this comprehensive zoning article is also to promote and protect the health, safety and welfare of the people of the County by:

1. Guiding, controlling and regulating future growth and development in accordance with the general plan and community plans of the County;

**EXHIBIT - 1**

2. Regulating the location and use of buildings and land adjacent to streets and thoroughfares to lessen the danger and inconvenience to the public caused by undue interference with existing or prospective traffic movements on streets and thoroughfares;

3. Regulating the location, use or design of sites and structures in order to minimize adverse effects on surrounding uses, prevent undue concentrations of people, provide for adequate air, light, privacy, and the convenience of access to property, and secure the safety of the public from fire and other dangers;

4. Encouraging designs which enhance the physical form of the various communities of the County;

5. Stabilizing the value of property;

6. Encouraging economic development which provides desirable employment and enlarges the tax base;

7. Promoting the protection of historic areas, cultural resources and the natural environment;

8. Encouraging the timeliness of development in conjunction with the provision of public services which include, but are not limited to, police, fire, flood protection, transportation, water, sewerage, drainage, schools, recreational facilities, health facilities and airports.

C. The purpose and intent of this comprehensive zoning article is also to provide reasonable development standards which implement the community plans of the County. These standards include, but are not limited to, the location, height, density, massing, size, off-street parking, yard area, open space, density of population, and use of buildings, structures, and lands to be utilized for agricultural, industrial, commercial, residential, or any other purpose.

D. The Planning Department may collect fees as set forth in the annual budget ordinance to administer this title, including but not limited to fees to review and process ministerial and discretionary applications, and including applications that are reviewed by the Planning Department but administered by another department, such as building permit or subdivision applications. Additional fees may also be collected when an application is deemed by the director to be inadequate or incorrect and, therefore, requires additional submittals and further review.

E. The Planning Department may adopt administrative rules to implement the provisions of this title.

SECTION 3. Section 19.04.020, Maui County Code, is amended to read as follows:

**"19.04.020 - Compliance.**

A. Buildings and Subdivisions. No building or structure shall be erected, structurally enlarged, or maintained unless it complies with the requirements of the building code of the County. No land shall be subdivided unless the subdivision complies with the provisions of this title, except that roadway lots and restricted use lots are not required to comply with minimum lot area, lot width and lot coverage requirements, provided:

1. Any such lot shall be designated as roadway lot or restricted use lot in the notes section of the final subdivision plat with a description of its intended purpose, and any such designation or restriction shall be recorded and shall run with the land;

2. Any lot designated as a roadway lot or restricted use lot shall not be used for any purpose other than roadway lot or restricted use lot, unless the lot is consolidated with another non-roadway or non-restricted use lot and the resulting lot complies with the provisions of this title; and

3. In the agricultural district, any future consolidation/resubdivision that includes any roadway lot or restricted use lot cannot result in any additional lots above the number that would have been allowed at the time the lot was created by the subdivision, in accordance with sections 19.30A.030.G and 19.30A.040.

B. [Prohibited Uses.]Permitted uses in each district. There may be permitted in the districts three categories of uses [established by this section]: principal, accessory and special. Any use which is not expressly listed as a permitted [as a] principal, accessory, or special use [shall be] is prohibited. Unless otherwise specifically prohibited or further allowed by title 19 of this code, the following uses are permitted in all districts:

1. Commercial and non-commercial filming and photography provided that such activity:

a. is authorized by a valid film permit from the County of Maui, throughout the duration of the activity, if on County property;

b. is authorized by a valid film permit from the State of Hawaii, throughout the duration of the activity, if on State property;

c. is the subject of notice provided to owners of all adjacent properties and potentially impacted properties; such notice shall be provided no less than 14 days prior to the initiation of such activity, shall describe the activity and its duration, and shall provide contact information for a responsible party who shall respond to questions and concerns from owners; evidence and documentation of such notice shall be provided to the planning director upon request;

d. results in no material annoyance, inconvenience or discomfort to the neighborhood or to the public, as determined by the planning director, including but not limited to excessive noise, lighting and traffic, beyond such impacts that would ordinarily occur with any use permitted on the property;

e. involves no outdoor activities before 8:00 a.m. and after 10:00 p.m., including set-up and break-down, if on private property;

f. involves no change in the use of the subject property unless such change is lawful or properly permitted;

g. obtains all other required permits and approvals; and

h. is subject to enforcement pursuant to chapter 19.530 of this title.

2. Temporary commercial events such as bazaars, fairs, receptions or festivals, provided that the total of all such activities:

a. are related, incidental, customary or compatible with an existing principal or accessory use;

b. are each the subject of notice provided to owners of all adjacent properties and potentially impacted properties for events that are not sponsored by the county; such notice shall be provided no less

than 14 days prior to the initiation of such activity, shall describe the activity and its duration, and shall provide contact information for a responsible party who shall respond to questions and concerns from owners; evidence and documentation of such notice shall be provided to the planning director upon request;

c. result in no material annoyance, inconvenience or discomfort to the neighborhood or to the public, as determined by the planning director, including but not limited to excessive noise, lighting and traffic, beyond such impacts that would ordinarily occur with any use permitted on the property;

d. involve no outdoor activities before 8:00 a.m. and after 10:00 p.m., including set-up and break-down;

e. are limited to no more than twelve days in a twelve-month period per parcel for county-sponsored events, and are limited to no more than four days in a twelve month period per parcel for events that are not sponsored by the county;

f. each obtains all other required permits and approvals; and

g. is subject to enforcement pursuant to chapter 19.530 of this title.

3. Temporary sales offices for new projects when located in the same project area.

4. Restricted use lots, and the uses allowed thereon.

SECTION 4. Section 19.04.040, Maui County Code, is amended to add a new definition as follows:

"Restricted use lot" means a lot which shall only be used for drainage, open space, bikeway, pedestrianway, greenway, landscaping, roadway, or minor utility facility purposes.

SECTION 5. Section 19.30A.040.B.4, Maui County Code, is amended to read as follows:

**19.30A.040 - Limitation of resubdivision.**

B. The following subdivisions shall not reduce the gross "area of lot" nor the "maximum number of permitted lots" as provided by subsection 19.30A.030.G:

1. Any subdivision requested by a public agency or public utility company for a public purpose;
2. Any consolidation and resubdivision in which no additional developable lots, as defined by section 18.04.123, Maui County Code, are created, provided that this would not result in the potential to create any additional lots than could have been created prior to consolidation and resubdivision;
3. Any subdivision for purposes of providing an easement exclusively for the protection of sites of cultural and historic significance; greenways; protection of sensitive environmental areas such as wetlands, streams, and endangered species habitat; and easements for public access to shoreline and mountain areas; or
4. Any subdivision for purposes of providing a roadway easement [or lot], roadway lot or restricted use lot.

SECTION 6. Material in this bill 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 7. This ordinance shall take effect upon its approval.



APPROVED AS TO FORM AND  
LEGALITY:

---

Department of the Corporation  
Counsel  
County of Maui

ALAN M. ARAKAWA  
Mayor



TEENA M. RASMUSSEN  
Economic Development Director

**OFFICE OF ECONOMIC DEVELOPMENT**

COUNTY OF MAUI

2200 MAIN STREET, SUITE 305, WAILUKU, MAUI, HAWAII 96793. USA

Telephone: (808) 270-7710 • Facsimile: (808) 270-7995 • Email: [economic.development@mauicounty.gov](mailto:economic.development@mauicounty.gov)

Will Spence  
County of Maui Department of Planning  
2200 Main Street Ste 315  
Wailuku, HI 96793

September 23, 2016

Dear Mr. Spence,

**RE: A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.04, MAUI COUNTY CODE,  
RELATING TO COMPREHENSIVE ZONING PROVISIONS**

The Mayor's Office of Economic Development has reviewed the amendments to Chapter 19.04. We are very supportive of these amendments, and commend your department for the hard work in creating a streamlined and much more flexible Code that governs a myriad of activities.

Specifically our department would interface with **19.04.020 - Compliance. B1 through B4.**

These amendments support a more flexible, yet defined code regarding filming in the County of Maui. These amendments will provide our office and our Film Commissioner much greater clarity and assurance of what can take place and how a film project must conduct its activities. This will be a huge benefit for us to provide assurance and guidance to a film crew. At the same time, it protects the surrounding impacted properties.

We are also very supportive of the clarification for temporary commercial events such as bazaars, fairs, festivals etc. Clarifying exactly how many events can take place on a property based on the type of presenting sponsorship again provides clarity and certainty without the added layer of getting a special use permit.

You have our full support for these amendments.

Sincerely,

A handwritten signature in cursive script that reads "Teena M. Rasmussen".

Teena M. Rasmussen

EXHIBIT -2

ALAN M. ARAKAWA  
Mayor

DAVID C. GOODE  
Director

ROWENA M. DAGDAG-ANDAYA  
Deputy Director

Telephone: (808) 270-7845  
Fax: (808) 270-7955



COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM NO. 434  
WAILUKU, MAUI, HAWAII 96793

GLEN A. UENO, P.E., P.L.S.  
Development Services Administration

CARY YAMASHITA, P.E.  
Engineering Division

LESLI L. OTANI, P.E., L.S.  
Highways Division

September 28, 2016

MEMO TO: WILLIAM R. SPENCE, PLANNING DIRECTOR  
F R O M: DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS  
SUBJECT: DRAFT AMENDMENTS TO MAUI COUNTY CODE, CHAPTER 19.04  
PERTAINING TO MINIMUM LOT SIZES

As you know, the Department of Public Works has worked with the Department of Planning on the technical issues of concern to our Development Services Administration and the Department is satisfied that the proposed bill has addressed these issues.

We support the amendment to allow utility, roadway and other lots to be created in the subdivision process and not be subject to minimum lot size requirements.

If you have any questions regarding this memo, please contact me at any time.

DCG:jso

xc: Development Services Administration 9/28/16

s:\david2\wspence\_support of draft amd to mcc chapter 19.04 minimum lot sizes

EXHIBIT - 3

