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COUNTY COUNCIL
COUNTY OF MAUI
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May 11, 2018

Mr. William Spence, Director
Department of Planning
County of Maui
Wailuku, Hawaii 96793

Dear Mr. Spence:

SUBJECT: **RESIDENTIAL DISTRICTS** (LU-4)

At its meeting of December 21, 2012, the Council filed County Communication 10-210, which transmitted a proposed bill to (1) repeal Chapter 19.09, Maui County Code ("MCC"), relating to the R-0 Zero Lot Line Residential District; (2) establish definitions for "garage sale, rummage sale, or yard sale" and "home-based business" and amend the definition of "yard, access"; (3) allow certain accessory uses and structures to be permitted in Residential Districts; (4) permit home-based businesses as a special use in Residential Districts; (5) establish development standards in Residential Districts; and (6) provide the Planning Director with rule-making authority for Chapter 19.08, MCC.

The Chair of a prior Planning Committee subsequently transmitted CC 10-210 to the Council. By CC 13-78, the Council referred CC 10-210 to the appropriate Committee.

Since then, the Council has referred CC 13-78 each term to the ensuing Council, which referred the communication to a Planning Committee for the 2015-2017 Council term and to the Land Use Committee this term.

At its meeting of September 24, 2015, the Planning Committee discussed the proposed bill attached to the CC. The Committee was informed that the earlier filing of the proposed bill meant the process would need to be restarted, and planning commission review would need to occur before the Council committee could recommend action on it. A copy of an excerpt of the meeting minutes is attached.

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As you know, Ordinance 4168 (2014) has since been enacted, making home business a permitted or special use in the Apartment, Residential, and Rural and Agricultural zoning districts, subject to certain standards, and adding a new definition of "home business" in Section 19.04.040, MCC.

Therefore, the components of the original proposed bill that have not already been dealt with would (1) repeal Chapter 19.09, MCC; (2) define "garage sale, rummage sale, or yard sale" and amend the definition of "yard, access" in Section 19.04.040, MCC; (3) establish accessory uses and structures and development standards in the Residential Districts; and (4) provide the planning director with rule-making authority for Chapter 19.08, MCC.

May I please request your Department's response to the following:

1. Is your Department still interested in pursuing proposed legislation to address the remaining components of the original proposed bill; and, if so, is your Department already working on such legislation?
2. If your Department is not already working on such legislation but remains interested in pursuing it, may I please request you estimate the amount of time it will take to prepare the proposed bill, have it vetted by the planning commissions, and transmit it to the Council?
3. Does the Department have any objections to the filing of CC 13-78, given that there is no actionable legislation currently pending before the Land Use Committee?

May I please request your response by **June 1, 2018**. To ensure efficient processing, please include the relevant Committee item number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Alec Wagner at ext. 7662, Carla Nakata at ext. 7659, or Rayna Yap at ext. 8007).

Sincerely,



ROBERT CARROLL, Chair
Land Use Committee

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CHAIR COUCH: So that's what we're going to do. With objection, we'll defer this. We'll come up with the right language. Now that we have the direction, we're going to deal with the PK-4 stuff, and then we'll come back and it'll be pretty much just review it and we'll pass that out. Okay. So without objection, we'll defer this one.

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR COUCH: Okay. So we're deferred.

ACTION: DEFER.

PC-4 RESIDENTIAL DISTRICTS (CC 13-78)

CHAIR COUCH: All right, Members, the last item and we're only going to spend a little bit of time on there, we're in...it's PC-4, Residential Districts. We're in receipt of County Communication 17-38...13-78, wow, from me, transmitting a copy of County Communication 10-210, from the Planning Director, transmitting a proposed bill entitled A Bill for an Ordinance Repealing Chapter 19.09, Maui County Code, and Amending Title 19, Maui County Code, Relating to Residential Districts. The purpose of the proposed bill is to repeal Chapter 19.09 and amend Title 19 as it relates to Residential Districts. This is another one that the Department has been working on to consolidate and make friendly. The reason it was filed, apparently County Communication 10-210 was inadvertently filed. I recall that now. We were going to defer it to the new term because home-based businesses were involved. So we did the whole home business bill. Unfortunately the bill that is before us has home businesses in there, so, Staff, you had, I believe a recommendation on how we're going to do this? We're going to get it rewritten without home businesses?

MR. GARNEAU: Yes. This is Greg. We would need to do a new proposed bill and work with Planning to do that, and I did discuss this with Michele McLean. Because it was filed, this is essentially a dead bill, and so it would be a brand new one that we'll have to do a reso as well and route it to the Planning Commissions. But we need to know the portions of the bill that Planning wants to keep in the new Residential Districts . . .(inaudible) . . .

CHAIR COUCH: Okay. All right. So, Members, what we're trying to do is we'll work with the Planning Department as to how they want to reconsolidate now that we have home businesses in there. Planning, do you have any questions or concerns or any direction you would like from us before we go and do the rewrite with you?

MR. ALUETA: I guess it's kind of timely. I mean we're disappointed because it has, we had gone through all Planning Commissions and spent a lot of time on the public hearings, so it's unfortunate that it, it did not...it was inadvertently filed. A good thing is that I believe that there is some other bills that are kind of related to it that would be timely for us to discuss at the Planning Commissions at the same time. I believe that there is

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the, allowing for accessory structures, accessory dwellings on smaller lots that have, has been or recently been transmitted to the Planning Commissions. From my aspect, I think it's important to discuss the two together. We do have, there is, the new concept within the, Title 19 and the Residential District about lot coverages. I think that's timely as far as being in discussions along with the use of allowing accessory dwellings on smaller lots. I think that'll kind of play into that. And I think we talked about that at a break earlier, so hopefully we can give a more holistic view to the Planning Commissions as well as the Council when it gets back here.

CHAIR COUCH: And, Members, too, we also discussed at an earlier item about the whole kitchen thing. This would be a time to discuss that as well because it is all part of residential, is it not? Or is that...

MR. ALUETA: One aspect is dwelling.

CHAIR COUCH: Dwelling. I'm sorry, yes, dwellings. So it's your Chair's...I wanted to get information from the Department and let you know what happened with this bill. I had no intention of passing anything out today, because it's not a valid bill and it does have to go to Planning Commissions again in whatever form we decide to deal with it. So with your permission, I'd like the Committee Staff and the Planning Department to get together, consolidate all the stuff we're talking about and get something ready for us to come back, and then we'll have a huge discussion on accessory dwellings, number of kitchens, the whole nine yards, the dwelling definition and whatnot. So if you're okay with that, I, that's the intent. Mr. White, you have a confused look on your face.

COUNCILMEMBER WHITE: No more than usual. No, I was just wondering if the, if every issue needs to come to us then go to the Planning Commission and come back to us. If it's something that the Department is initiating, is it possible for them just to take it to the Planning Commission and then --

CHAIR COUCH: Yes --

COUNCILMEMBER WHITE: --come back?

CHAIR COUCH: --that is one way to do that, and I think what we discussed was that we'd like to do as much as we can here before it goes to the Commission so they just give us advice. On this one however because so many different pieces, parts are in Planning Commission, you know, in some sort or phases in the Planning Commission, I'm fine with our Staff working together. 'Cause they've kind of got an idea where we're going to go with things, and then just having the Department submit it to the Planning Commission. And then when it comes back from the Planning Commission, we'll pick it up.

COUNCILMEMBER WHITE: Okay. Thank you.

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CHAIR COUCH: Does that sound good?

COUNCILMEMBER BAISA: Yes, no objection.

CHAIR COUCH: Okay. Planning Department, you have any concerns with that?

MR. ALUETA: No, we're good.

CHAIR COUCH: Staff? Okay. So without any objections, we'll defer this item.

COUNCILMEMBERS VOICED NO OBJECTIONS

ACTION: DEFER.

CHAIR COUCH: And, Members, thank you so much for allowing for this off-day meeting. And thank you for also being here on the 9th, those of you who will be here on the 9th for the next scheduled meeting. And we'll bring up at least Parks on that one and have that done. So without any further ado, thank you very much, Staff, for muddling through this with us. And this meeting is adjourned. . . .*(gavel)*. . .

ADJOURN: 2:38 p.m.

APPROVED BY:

DON COUCH, Chair
Planning Committee

pc:min:150924:ds

Transcribed by: Daniel Schoenbeck