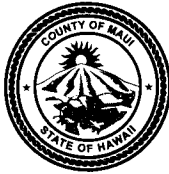


ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



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OFFICE OF THE MAYOR

COUNTY OF MAUI

DEPARTMENT OF PLANNING

January 8, 2016

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Mike White, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL
[Signature] 1/12/16
Mayor Date

2016 JAN 12 PM 9:51

Dear Chair White:

SUBJECT: RESOLUTION NO. 15-112 ENTITLED "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL TO AMEND THE COMPREHENSIVE ZONING ORDINANCE TO PERMIT AFFORDABLE ACCESSORY DWELLINGS IN RESIDENTIAL DISTRICTS" AND A PROPOSAL BY THE MAYOR TO ALLOW ACCESSORY DWELLINGS ON LOTS LESS THAN 7,500 SQ.FT. AND TWO ACCESSORY DWELLINGS ON LOTS GREATER THAN 12,000 SQ.FT.

This is in response to your letter dated September 14, 2015, transmitting Resolution No. 15-112 entitled "Referring to the Lanai, Maui, and Molokai Planning Commissions a Proposed Bill to Amend the Comprehensive Zoning Ordinance to Permit Affordable Accessory Dwellings in Residential Districts". The Department of Planning (Department) also prepared a draft bill at the request of the Mayor to allow accessory dwelling on lots less than 7,500 sq.ft. and two accessory dwellings on lots greater than 12,000 sq.ft. The Department felt it was best for the commissions to review both bills concurrently.

The Department reviewed and transmitted the proposed bills to the Maui, Molokai, and Lanai Planning Commissions. The following is a summary of the Commissions' comments:

Commission	Public Hearing Date:	Comments and Recommendations:
Maui	December 8, 2015	Voted to recommend approval of the Mayor's proposal over the proposal transmitted by the resolution. Two commissioners expressed concern about allowing accessory dwelling on lots below 5,000 sq.ft. Although the commission did not have a recommendation, they did suggest that the Council also look at allowing accessory dwellings in the Agricultural district.

Honorable Mike White, Chair
January 8, 2016
Page 2

Molokai	December 10, 2015	Voted to recommend approval of the Mayor's proposal over the proposal transmitted by the resolution. The Commission also noted that the accessory dwelling should also be prohibited from being converted a home based business.
Lanai	December 16, 2015	There was a general consensus that the commission preferred the proposal transmitted by the resolution over the Mayor's proposal, but wanted more time to review its impact before making a recommendation. The Commission requested additional time to review the resolution and request a map that indicates which lots on Lanai that would now be allowed to build an affordable accessory dwelling. The Commission will be discuss this again on January 20, 2016.

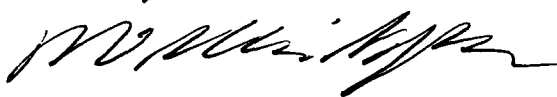
Attached for your review are the following documents:

1. The Department of Planning's Comments with Agency comments dated December 1, 2015;
2. Maps showing lot sizes of residential parcels.

The Department will be transmitting minutes of the Commission meetings when they become available under a separate letter.

Should further clarification be necessary, please feel free to contact Joseph Alueta, Administrative Planning Officer, at joseph.alueta@mauicounty.gov or Ext. 7743.

Sincerely,



WILLIAM SPENCE
Planning Director

Attachment

xc: Clayton I. Yoshida, Planning Program Administrator
Joseph W. Alueta, Administrative Planning Officer
Maui Planning Commission
Molokai Planning Commission
Lanai Planning Commission

WRS:JWA:atw

Project File
General File

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

December 1, 2015

MEMO REPORT

To: Maui Planning Commission
Molokai Planning Commission
Lanai Planning Commission

From: William Spence *W.S.*
Planning Director

SUBJECT: RESOLUTION NO. 15-112 ENTITLED "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL TO AMEND THE COMPREHENSIVE ZONING ORDINANCE TO PERMIT AFFORDABLE ACCESSORY DWELLINGS IN RESIDENTIAL DISTRICTS" AND A PROPOSAL BY THE MAYOR TO ALLOW ACCESSORY DWELLINGS ON LOTS LESS THAN 7500 SQ.FT. AND TWO ACCESSORY DWELLINGS ON LOTS GREATER THAN 12,000 SQ.FT.

The Department of Planning (Department) received the above noted resolution on September 14, 2015 from the Maui County Council. Pursuant to Sec. 19.510.020(B)(2) of the Maui County Code (MCC), the deadline for the Planning Commissions to transmit comments back to the Council is January 12, 2016. Attached, for your use, is a copy of Resolution No. 15-112 (Exhibit 1). Committee report 15-123 was also transmitted and is attached as Exhibit 2.

The proposed bill would amend MCC Sec. 19.04 to define "Affordable accessory dwelling" and chapters 19.08 and 19.35 to add affordable accessory dwellings as a use with appropriate standard and restrictions.

The purpose of the bill as stated by Council is to increase the availability of affordable housing by allowing for accessory dwellings on lots between 5,000 sq.ft. and 7,499 sq.ft. Under the current law, accessory dwellings are allowed only on residential lots of 7500 sq.ft. or greater. The bill also imposes affordability requirements on the units.

The Resolution was transmitted to agencies on October 2, 2015. Below is a summary of the comments:

Agency	Date	Summary	Exhibit
Department of Water Supply	October 14, 2015	Allocation of, restrictions on, and meter capacity calculation will apply as currently applicable to accessory and similar units. Provided water demand calculations for general planning purposes.	3
Fire and Public Safety	N/A	No comments	4
Department of Parks and Recreation, Arborist	November 5, 2015	Suggest that a "lot coverage" provision be included in the ordinance to afford space for planting around each dwelling.	5
Police Department	October 13, 2015	No comments	6
Department of Health, Maui	N/A	No comments	7
Office of Planning (OP)	October 30, 2015	Believes that additional dwelling units in the residential district could increase affordable housing. OP has concerns over the minimum rental period due to proliferation of B&B and TVR's in Hawaii. The definition of the additional unit does not specify if a kitchen or bathroom facilities are required within. It should contain these facilities.	8
Kihei Community Association	October 2015	Generally supports. Believes a key point is "Affordable Ohana" not to be rented short-term or at market price. Should be affordable in perpetuity. Three main concerns are allowing "Above Moderate" income levels, not restricting short-term rentals, and enforcement. They also recommend some clear measure of what a market based rental is and to require an annual statement from affordable ohana property owners certifying their continued conformance with the law.	9 and 9A
Makawao Community Association	October 27, 2015	Agree with the concept.	10

The Department has also worked with the Mayor's office on a proposed bill that would amend Chapter 19.35 to allow an accessory dwelling to be built on lots less than 7500 sq.ft. to allow two accessory dwellings to be constructed on lots greater than

12,000 sq.ft. (Exhibit 11). The Mayor's proposal would also restrict accessory dwelling to long term residential use and prohibit any further conversions to short-term rental. The Department emailed the Mayor's proposal to the Departments of Water Supply, Fire and Public Safety, and Public Works. None stated any major concerns with the Mayor's proposal.

Both of the proposals are aimed at increasing dwelling units on existing lots to address the on-going affordable housing crisis. The table below is a summary of the proposals and current code:

	Reso 15-112	Mayor's Proposal	Current code
New lot sizes eligible for accessory dwellings	5000- 7499 sq.ft.	All lots less than 7499 sq.ft	Only lots 7500 sq.ft or more.
Size of accessory dwelling	400 sq.ft. on lots between 5000-5,999 sq.ft. 450 sq.ft. on lots between 6000-7499 sq.ft.	500s.ft. on lots up to 9999 sq.ft. Then same as current code.	7,500 to 9,999 500 square feet 10,000 to 21,779 600 square feet 21,780 to 43,559 700 square feet 43,560 to 87,119 800 square feet 87,120 or more 1000 square feet
Affordability requirement	Yes	No	No
Allowance for 2 nd accessory dwelling	No	Yes, on lots larger than 12,000sq.ft. in area	No
Restricting accessory dwelling to long-term rental/occupancy	Restricts the new affordable accessory dwelling, but does not limit existing accessory dwelling.	Yes, only those units that have received approval for a B&B or STRH will be allowed to continue.	No
Applicable zoning districts	Residential only	Residential districts;	Residential

		Apartment districts; Hotel districts Interim zoning district; Rural districts.	Apartment Hotel Interim zoning district; State land use rural district.										
Covered deck area	No change to current law	<table border="1"> <tr> <td>Up to <u>9,999</u></td> <td><u>500 square feet</u></td> </tr> <tr> <td><u>10,000 to 21,779</u></td> <td><u>600 square feet</u></td> </tr> <tr> <td><u>21,780 to 43,559</u></td> <td><u>700 square feet</u></td> </tr> <tr> <td><u>43,560 to 87,119</u></td> <td><u>800 square feet</u></td> </tr> <tr> <td><u>87,120 or more</u></td> <td><u>1000 square feet</u></td> </tr> </table>	Up to <u>9,999</u>	<u>500 square feet</u>	<u>10,000 to 21,779</u>	<u>600 square feet</u>	<u>21,780 to 43,559</u>	<u>700 square feet</u>	<u>43,560 to 87,119</u>	<u>800 square feet</u>	<u>87,120 or more</u>	<u>1000 square feet</u>	Covered decks and other areas with the exception of a car port, are allowed but count toward the maximum floor area.
Up to <u>9,999</u>	<u>500 square feet</u>												
<u>10,000 to 21,779</u>	<u>600 square feet</u>												
<u>21,780 to 43,559</u>	<u>700 square feet</u>												
<u>43,560 to 87,119</u>	<u>800 square feet</u>												
<u>87,120 or more</u>	<u>1000 square feet</u>												

This is not the first effort by Council to amend Chapter 19.35 to allow “affordable accessory dwellings”. Resolution 09-60 was very similar to the current resolution and was reviewed by the Planning Commissions in October 2009. The Commission comments were transmitted back to Council on February 8, 2010 (Exhibit 11A). A copy of Resolution 09-60 is attached as Exhibit 12.

The Department is supportive of both the Council’s and the Mayor’s proposals to increase the number of units available for rental. The Department has expressed concerns over increasing densities in areas that may not have adequate infrastructure. The Department of Public Works and the Department of Water Supply have indicated that current building code requirements are adequate to ensure that needed infrastructural improvements will be required prior to the issuance of a building permit. The Department of Public Works did provide general comments on the proposal and is attached as Exhibits 15 & 15A.

The Department is concerned over the enforcement of the affordable accessory dwelling standards. Enforcement is a particular concern with regards to determining who is allowed to occupy the affordable accessory dwelling. This concern about enforcement as a whole was raised by Kihei Community Association.

The Department supports revisions to Chapter 19.35 that would clarify and simplify the administration of the code. Currently any covered area attached to an accessory dwelling is counted toward the square footage of the accessory dwelling. The Department would like to exclude standard 3-foot eaves that surround most stand-alone accessory dwellings from this calculation. The Department would also like to allow for some limited covered deck/patio areas to also be allowed without being added to the square footage of an accessory dwelling. The Mayor's proposal would allow for outdoor covered decks or lanais. To ensure that these covered areas remain as intended, any portion of the structure that is surrounded on three or more sides by walls that are three feet in height or greater shall be counted toward the gross floor area.

Another minor amendment that the Department would like to see to Chapter 19.35 is the elimination of the specific zoning districts in which accessory dwelling units are allowed. Each specific zoning district where accessory dwelling units are allowed should list these as an allowed accessory use. We currently have a conflict between the Country Rural District and the provision of Chapter 19.35, which states that accessory dwellings are allowed within the State Rural District. It does not list County Rural. In areas that are State Urban, but County RU-0.5, accessory dwellings are currently not an allowed use. This should be corrected within the context of the current amendments.

In 2009, the Department proposed changes to the Residential Districts that would have among other changes, established a lot coverage requirement. The Commissions reviewed and commented on this bill in mid-2009 and transmitted their comments to the Council on September 1, 2010. (Exhibit 13). The last revisions to the bill are attached as Exhibit 14. Although the bill was transmitted to Council, it was mistakenly filed. The Department believes that lot coverage concept warrants further discussion. The Department would like to see other original recommended changes to Chapter 19.08 be incorporated into the proposed revisions being discussed.

Additionally, over the past several months, County Departments have been asked for suggestions on ways to increase the County's housing inventory. One idea that should be discussed in the context of the accessory dwelling bill is not having a size limit on the Accessory dwelling. The concept is that if a zoning lot has a set back and lot coverage control, then there is no need to put any limit on the accessory dwelling. If someone is able to build a 4000 sq.ft. main dwelling and a 500 sq.ft. accessory dwelling on a lot, does it matter if that person chooses to build a 2000 sq.ft. main dwelling and 1900 sq.ft. accessory dwelling, as long as the overall building and dwelling density is maintained? The Department is not advocating for either the lot coverage or the density concept, but wanted put forth the ideas for discussion by the Commission.

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

Attachment

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

WRS:JWA:

General File

[PLANNING\ALL\APO\Reso 15-112\MemoReport to Commission.doc](#)

Resolution

No. 15-112

REFERRING TO THE LANAI, MAUI, AND
MOLOKAI PLANNING COMMISSIONS A
PROPOSED BILL TO AMEND THE
COMPREHENSIVE ZONING ORDINANCE TO
PERMIT AFFORDABLE ACCESSORY
DWELLINGS IN RESIDENTIAL DISTRICTS

WHEREAS, the Council is considering a proposed bill to permit accessory dwellings in residential districts on properties of between 5,000 and 7,499 square feet, for the purpose of increasing the availability of affordable housing; 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 amendments thereto, 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 AMENDING THE COMPREHENSIVE ZONING ORDINANCE TO PERMIT AFFORDABLE ACCESSORY DWELLINGS IN RESIDENTIAL DISTRICTS," a copy of which is attached hereto as Exhibit "1" and made a part hereof, to the Lanai, Maui, and Molokai planning commissions for appropriate action, 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, Maui, and Molokai planning commissions transmit their findings and recommendations to the Council as expeditiously as possible; and

EXHIBIT - 1

Resolution No. 15-112

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



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

pc:misc:028areso01:gjg

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING
ORDINANCE TO PERMIT AFFORDABLE ACCESSORY DWELLINGS IN
RESIDENTIAL DISTRICTS

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

SECTION 1. Section 19.04.040, Maui County Code, is amended by
adding a new definition to be appropriately inserted and to read as follows:

“Affordable accessory dwelling” means an accessory
dwelling that meets the provisions of section 19.35.110 of this
title.”

SECTION 2. Section 19.08.020, Maui County Code, is amended to read
as follows:

“19.08.020 Permitted uses. Within residential districts,
the following uses shall be permitted:

- A. Single-family dwellings.
- B. Greenhouses, flower and truck gardens, and nurseries; provided that there shall be no retailing or transacting of business on the premises, except as provided in chapter 19.67 of this title.
- C. Parks and playgrounds, noncommercial; certain commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground.
- D. Elementary, intermediate, and high schools, and colleges, publicly or privately owned, which may include on-campus dormitories.
- E. Buildings or premises used by the federal, State, or County governments for public purposes.
- F. Accessory buildings located on the same lot, the use of which is customary, incidental, usual, and necessary to that of the main building or to the use of the land.

EXHIBIT "1"

G. An accessory dwelling where the area of the lot on which the main house is located is seven thousand five hundred square feet or more. Chapter 19.35 of this title, pertaining to accessory dwellings, shall be applicable to any accessory dwelling.

H. An affordable accessory dwelling where the area of the lot on which the main house is located is at least five thousand square feet but less than seven thousand five hundred square feet. Chapter 19.35 of this title, pertaining to affordable accessory dwellings, shall be applicable to any affordable accessory dwelling.

I. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services. These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or twelve or fewer children at any one time on lot sizes of ten thousand or more square feet.

[I.] J. Bed and breakfast homes, subject to the provisions of chapter 19.64 of this title.

[J.] K. Home businesses, subject to the provisions of chapter 19.67 of this title.

[K.] L. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.”

SECTION 3. Chapter 19.35, Maui County Code, is amended to read as follows:

“Chapter 19.35

ACCESSORY AND AFFORDABLE ACCESSORY DWELLINGS

Sections:

- 19.35.010 Generally.
- 19.35.020 Maximum gross floor area.
- 19.35.030 Separate entrance.
- 19.35.040 No interior connection.
- 19.35.050 One accessory dwelling per lot.
- 19.35.060 Maximum cumulative area of open decks, etc.
- 19.35.070 Off-street parking required.
- 19.35.080 Driveway.
- 19.35.090 Public facilities required.
- 19.35.100 Public facilities clearance.

19.35.110 Affordable accessory dwellings.

19.35.010 Generally. The limitations and requirements of this chapter shall apply to any accessory or affordable accessory dwelling.

A. Any person who wishes to construct, or in any manner otherwise establish, an accessory or affordable accessory dwelling shall apply for a building permit therefor in accordance with this chapter.

B. All provisions of the county zoning district, or state land use district as the case may be, in which the accessory or affordable accessory dwelling is proposed to be constructed shall apply, except the provisions on the number of dwelling units permitted on a lot and except as the provisions of such district may be inconsistent with the provisions applicable to accessory or affordable accessory dwellings. To the extent of such inconsistency, if any, the [accessory dwelling] provisions of this chapter shall prevail.

C. The provisions of this chapter relating to accessory dwellings shall apply to any lots in the following county zoning and state land use districts:

1. Residential district;
2. Apartment district;
3. Hotel district;
4. Interim zoning district; and
5. State land use rural district.

D. The provisions of this chapter relating to affordable accessory dwellings shall apply to lots in the county residential zoning district.

E. No accessory or affordable accessory dwelling shall be placed or constructed on any lot located in any district other than the districts specified in this [subsection.] section.

[D] F. Notwithstanding the provisions of [subsection C] subsections C and D of this section, the provisions of this chapter shall not apply to any lot within a duplex zone, R-O zero lot line residential district zone, R-O zero lot line district, a cluster housing development, or a planned development in any district. No accessory or affordable accessory dwelling shall be permitted on any such lot.

19.35.020 Maximum gross floor area. The maximum gross floor area of an accessory or affordable accessory dwelling shall be determined as follows:

Lot Area (in square feet)	Maximum Gross Covered Floor Area [(including any storage covered decks, walkways, patios, lanais or similar structures but excluding an attached car-port or parking space)](in square feet)*
5,000 to 5,999	400**
6,000 to 7,499	450**
7,500 to 9,999	500 [square feet]
10,000 to 21,779	600 [square feet]
21,780 to 43,559	700 [square feet]
43,560 to 87,119	800 [square feet]
87,120 or more	1000 [square feet]

* (Including any storage, covered decks, walkways, patios, lanais, and similar structures but excluding a carport or parking space).

** (Affordable accessory dwelling pursuant to section 19.35.110 of this chapter).

19.35.030 Separate entrance. An accessory or affordable accessory dwelling shall have at least one separate entrance.

19.35.040 No interior connection. An accessory or affordable accessory dwelling shall not have an interior connection to the main dwelling.

19.35.050 One accessory dwelling per lot. No more than one accessory or affordable accessory dwelling shall be permitted on a single lot regardless of the size of the lot.

19.35.060 Maximum cumulative area of open decks, etc. An accessory or affordable accessory dwelling may have uncovered open decks, walkways, patios, lanais, or similar structures, subject to the following:

A. The uncovered open decks, walkways, patios, lanais or similar structures] that shall not exceed the following respective cumulative total areas:

Lot Area (in square feet)	Maximum Cumulative Floor Area [of uncovered open decks, walkways, patios, lanais or similar structures](in square feet)*
5,000 to 7,499	120**
7,500 to 9,999	200

10,000 to 21,779	240
21,780 to 43,559	280
43,560 to 87,119	320
87,120 or more	400

* (Cumulative floor area of uncovered open decks, walkways, patios, lanais, or similar structures).

** (Affordable accessory dwelling pursuant to section 19.35.110 of this chapter).

19.35.070 Off-street parking required. An accessory or affordable accessory dwelling shall have a carport or other off-street parking space. The carport shall be a single-car carport not exceeding a total floor area of two hundred forty square feet. Where the first dwelling unit on any lot complies with all provisions applicable to accessory or affordable accessory dwellings, only one carport or off-street parking space shall be required; provided, that if a main dwelling unit is constructed, such main dwelling unit shall have at least two parking spaces or a carport for two cars in addition to the parking for the accessory or affordable accessory dwelling.

19.35.080 Driveway. An accessory or affordable accessory dwelling may have a separate driveway from that of the main dwelling, provided that all driveway requirements are met. In addition to any other requirements, a minimum of ten feet between the lot boundary and any building on the property shall be required for such separate driveway.

19.35.090 Public facilities required. The following public facilities are required to service the lot:

A. Adequacy of sewage disposal system. This shall be secured in writing from the department of [public works] environmental management for public sewage systems and the state [of Hawaii] department of health for cesspools, septic tanks and private sewage systems;

B. Adequacy of water supply. This shall be secured in writing from the department of water supply;

C. Adequacy of fire protection for all lots served by private streets. This shall be secured in writing from the department of fire [control;] and public safety; and

D. Adequacy of street. The lot must have direct access to a street which has a minimum paved roadway width of sixteen feet and which the director of public works determines to be adequate for the proposed construction.

19.35.100 Public facilities clearance. Public facilities clearance may be obtained prior to application for building permit. Forms for public facilities clearance will be available at the [land use and codes administration,] department of public works. The forms shall be submitted with and attached to the building permit application. Where complete plans and specifications are submitted for building permit application processing, the public facilities clearance form and the building permit will be processed concurrently. In all other cases, the forms shall be processed prior to submitting the building permit application.

19.35.110 Affordable accessory dwellings. A. Affordable accessory dwellings will be permitted where the area of the lot on which the main house is located is at least five thousand square feet but less than seven thousand five hundred square feet, provided that the unit will be built to accommodate immediate family members, related to applicant by blood, adoption or marriage, including spouse, children, and siblings; or nonrelated persons of very low income, low income, below-moderate income, moderate income and above-moderate income, as established by the department of housing and human concerns pursuant to section 2.96.020 of this code.

B. There shall be a deed restriction established on the subject property that is utilized consistent with subsection A of this section. The deed restriction shall include the following:

1. The affordable accessory dwelling must remain affordable in perpetuity;

2. The deed restriction shall run with the land, and, if sold, the new property owner will maintain the accessory dwelling consistent with this section;

3. The unit shall never be utilized for short term or market rate rentals; and

4. The property owner must notify the director of housing and human concerns of the intent to sell the property;

C. The applicant must sign an agreement with the department of housing and human concerns agreeing to rent the unit consistent with this section.

D. The monthly rental rates shall be set by the department of housing and human concerns consistent with the United States Department of Housing and Urban Development income limits for very low to above-moderate income groups.

E. The provisions of this section shall apply only to lots within the residential district."

SECTION 4. 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 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

pc:misc:028abill01:gjg

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 15-112 was adopted by the Council of the County of Maui, State of Hawaii, on the 4th day of September, 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	Aye	Aye


COUNTY CLERK

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

September 4, 2015

Committee
Report No. 15-123

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

Chair and Members:

Your Planning Committee, having met on August 6, 2015, makes reference to County Communication 15-196, from Councilmember Robert Carroll, transmitting a proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS DRAFT BILLS AMENDING CHAPTERS 19.08 AND 19.35, MAUI COUNTY CODE, RELATING TO RESIDENTIAL DISTRICTS AND ACCESSORY DWELLINGS, RESPECTIVELY."

The purpose of the proposed resolution is to refer to the planning commissions proposed bills relating to "affordable accessory dwellings."

At its meeting, the Chair of your Committee transmitted a revised proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL TO AMEND THE COMPREHENSIVE ZONING ORDINANCE TO PERMIT AFFORDABLE ACCESSORY DWELLINGS IN RESIDENTIAL DISTRICTS."

The purpose of the revised proposed resolution is to refer to the planning commissions a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE TO PERMIT AFFORDABLE ACCESSORY DWELLINGS IN RESIDENTIAL DISTRICTS."

The purpose of the proposed bill is to establish standards for a new use category called "affordable accessory dwellings," which would be allowed in residential districts as a permitted use on lots of 5,000-7,499 square feet. An "affordable accessory dwelling" – as distinct from an "accessory dwelling" – must remain "affordable" in perpetuity.

EXHIBIT -2

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

Page 2

Committee
Report No. 15-123

Your Committee noted the intent of the proposed bill is to allow owners of property located exclusively within residential districts to provide housing for their immediate family members or renters with "very low" to "above-moderate" income levels. The bill does not allow both an "accessory dwelling" and an "affordable accessory dwelling" on a single lot.

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 planning commissions for review.

Your Committee indicated it would particularly welcome comments from the Department of Planning and the planning commissions on the following issues:

- The Administration's ability to enforce deed restrictions.
- The appropriate basis for calculation of maximum gross floor area, including whether covered storage, decks, walkways, patios, and lanais should be factored into the calculation and whether the calculation should change based on the primary dwelling unit's footprint as a single-story or multiple-story structure.
- Whether hanai relatives should be considered immediate family members.

Your Committee voted 6-0 to recommend adoption of the proposed resolution. Committee Chair Couch, Vice-Chair Carroll, and members Baisa, Cochran, Guzman, and White voted "aye." Committee member Victorino was excused.

Your Committee is in receipt of a further revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating nonsubstantive revisions.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

Page 3

Committee
Report No. 15-123

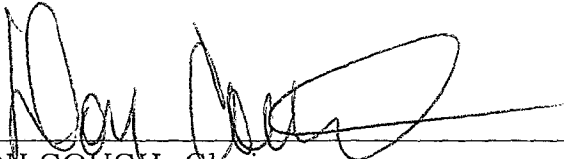
Your Planning Committee RECOMMENDS that Resolution 15-112, as revised herein and attached hereto, entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL TO AMEND THE COMPREHENSIVE ZONING ORDINANCE TO PERMIT AFFORDABLE ACCESSORY DWELLINGS IN RESIDENTIAL DISTRICTS," be ADOPTED.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

Page 4

Committee
Report No. 15-123

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



DON COUCH, Chair

pc:cr:15028aa: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. 15-123 were adopted by the Council of the County of Maui, State of Hawaii, on the 4th day of September, 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	Aye	Aye



Kenneth A. Mataeo
COUNTY CLERK

57 5484

ALAN M. ARAKAWA
Mayor



DAVID TAYLOR, P.E.
Director

PAUL J. MEYER
Deputy Director

RECEIVED
OCT 21 10 50 AM '15
COUNTY OF MAUI
DEPT. OF PLANNING
ADMINISTRATION

DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793-2155
www.mauewater.org

October 14, 2015

Mr. William Spence, Planning Director
County of Maui Department of Planning
2200 Main Street, Suite 315
Wailuku, Hawaii 96793

Re: Resolution 15-112
Draft Bill Amending Title 19, Maui County Code Relating to Affordable
Accessory Dwellings in Residential Districts

Dear Mr. Spence:

Thank you for the opportunity to comment on Resolution 15-112 and A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE TO PERMIT AFFORDABLE ACCESSORY DWELLINGS IN RESIDENTIAL DISTRICTS.

The proposed bill will allow a small affordable dwelling unit on lots between 5,000 and 7,499 square feet in some districts where not currently allowed.

Per Maui County Code Section 19.35.090 B, the use must comply with DWS water requirements as a pre-requisite to permit issuance, and the proposed bill maintains this requirement.

Allocation of, restrictions on, and meter capacity calculations will apply as currently applicable to accessory and similar units. MCC Chapter 14.04 exempts construction of the first and second dwelling in any zoning district from fire flow requirements.

With regard to the issues the Committee has highlighted in the request for comments, we have the following comments on the proposed basis for calculation of maximum gross floor area in section 19.35.020.

- Water demand calculations for general planning purposes are based on number of units or acres. DWS Water Standards allocate 600 gallons per unit, or 560 for higher density uses which tend to be smaller units. Units restricted to 400 and 450 square feet in size, encompassing covered areas such as lanais which, by virtue of our climate, contribute to livable space will tend to limit number of persons occupying the unit and therefore actual water use.

"By Water All Things Find Life"

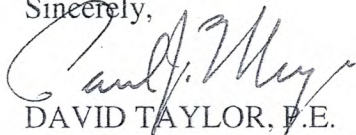
EXHIBIT - 3

Mr. William Spence
October 14, 2015
Page 2

- At the building stage, water meter size to accommodate accessory units is related to number of bedrooms, which is not addressed by the basis for calculation of maximum gross floor area. However, as above, limitations on gross floor area will tend to limit number of bedrooms and water demand.

Should you have any questions, please contact Planning Program Manager Eva Blumenstein at 463-3102 or eva.blumenstein@co.maui.hi.us.

Sincerely,



DAVID TAYLOR, P.E.
Director
emb

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

TRANSMITTAL

October 2, 2015

AGENCIES	
X	DBEDT
X	Dept of Health, Honolulu
X	Dept of Health, Maui (2)
X	Paia Community Association
X	Land Use Commission (Hard Copy)
X	Office of Hawaiian Affairs
X	Office of Planning
	Kula Community Association
X	Kihei Community Association
X	Makawao Community Association
X	Paia Community Association

AGENCIES	
X	Dept of Public Works (3 Hard Copies)
X	Dept of Water Supply
X	Fire & Public Safety
X	Police Department
X	ZAED, Zoning & Enforcement Division
X	Maui Chamber of Commerce
X	Maui Native Hawaiian Chamber of Commerce
X	Dept. of Parks and Recreation, Arborist Committee

PROJECT NAME: RESOLUTION 15-112
APPLICANT: County Clerk
DESCRIPTION: Draft Bill amending title 19.08 and 19.35 relating to affordable accessory dwellings

TRANSMITTED TO YOU ARE THE FOLLOWING:

Draft Bills, Resolutions, and Committee Reports

THESE ARE TRANSMITTED AS CHECKED BELOW:

For your Comment and Recommendation

TRANSMITTED TO YOU ARE THE FOLLOWING:

Resolution with Draft Ordinance and Committee Report

THESE ARE TRANSMITTED AS CHECKED BELOW:

For your Comment and Recommendation

Please submit your comments/recommendations by Nov. 5, 2015

Remarks: If additional clarification is required, please contact me at 270-7743. If you have no comments please check and sign below, and return this transmittal form.

Sincerely,

JOSEPH W. ALUETA,

For: William Spence, Planning Director

xc: Joseph W. Alueta, Administrative Planning Officer
General File

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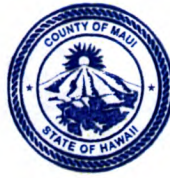
EXHIBIT - 4

We have no comments to offer Signed Paul Hake - Captain FPB
Comments Attached _____

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

TRANSMITTAL

October 2, 2015

AGENCIES	
X	DBEDT
X	Dept of Health, Honolulu
X	Dept of Health, Maui (2)
X	Paia Community Association
X	Land Use Commission (Hard Copy)
X	Office of Hawaiian Affairs
X	Office of Planning
	Kula Community Association
X	Kihei Community Association
X	Makawao Community Association
X	Paia Community Association

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X	Police Department
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X	Maui Native Hawaiian Chamber of Commerce
X	Dept. of Parks and Recreation, Arborist Committee

PROJECT NAME: RESOLUTION 15-112
APPLICANT: County Clerk
DESCRIPTION: Draft Bill amending title 19.08 and 19.35 relating to affordable accessory dwellings

TRANSMITTED TO YOU ARE THE FOLLOWING:

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For your Comment and Recommendation

TRANSMITTED TO YOU ARE THE FOLLOWING:

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For your Comment and Recommendation

Please submit your comments/recommendations by Nov, 5, 2015

Remarks: If additional clarification is required, please contact me at 270-7743. If you have no comments please check and sign below, and return this transmittal form.

Sincerely,

JOSEPH W. ALUETA,
For: William Spence, Planning Director

xc: Joseph W. Alueta, Administrative Planning Officer
General File

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EXHIBIT-5

We have no comments to offer _____ Signed
Comments Attached



KIMBERLY THAYER, CHAIR
HEATHER HEATH
WILLIAM JACINTHO
CHRIS REYNOLDS
JEANNE PEZZOLI
WILLIAM MYRTER
JACKIE BRAINARD
CASEY FOSTER

700 HALI'A NAKOA STREET - WAILUKU - HAWAII 96793 - (808) 984-4051 - FAX (808) 270-7942

November 5, 2015

TO: Will Spence, Director of the Planning Department
FROM: Kimberly Thayer, Chair
RE: Comments on Resolution 15 – 112

Mahalo for giving us an opportunity to comment on this bill. Many local families can benefit from the ability to share their lots and live close by. The only concern of the Maui County Arborist Committee is the amount of uncovered, unpaved area that will be maintained for greenery—trees in particular. We would like to suggest that a provision be included for limiting lot coverage and allowing for green space, perhaps with an incentive for including healthy trees. Here is our reasoning:

Trees provide economic, environmental, social, and cultural benefits. Most apparently, they provide shade. A nice tree cools the surroundings, and when growing on the sunny side of a house, will cool the house. According to data from the USDA, **one** healthy tree can provide as much cooling as 10 room air conditioners running 20 hours per day. The cost and energy savings for homeowners add up and can be multiplied when trees are planted across neighborhoods.

The County too can benefit from healthy tree growth in its communities. Trees are a part of our infrastructure. With initial investments in proper planting, pruning, and early care, healthy, mature trees bring increasing returns. Survey data from realtors say that healthy, mature trees increase property values when planted and nurtured properly. Higher property values bring increased property tax revenue. They help manage storm water runoff. They prevent erosion. They clean carbon dioxide from the air, produce oxygen, *and* help filter water. They beautify our communities and create public spaces.

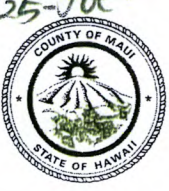
The International Society of Arboriculture names several studies conducted on the benefits of healthy trees in communities. Psychologically, people are happier living in places with trees. There are lower crime rates. People heal faster when they can see a tree from their window. Imagine a scene on Maui and there is likely a tree in it. When native plants are grown, there are both cultural and ecological benefits as well.

We suggest that a “lot coverage” provision be included in the ordinance to afford space for planting around each dwelling and encouraging tree planting, as practicable.

We are grateful for your consideration of our comments. Should you have any questions, kindly contact Sue Kiang, staff support to the Committee, at 984-4051.

EXHIBIT-5A

15/5425-JOC



POLICE DEPARTMENT

COUNTY OF MAUI



ALAN M. ARAKAWA
MAYOR

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411

TIVOLI S. FAAUMU
CHIEF OF POLICE

OUR REFERENCE
YOUR REFERENCE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

October 13, 2015

RECEIVED

OCT 19 2015

COUNTY OF MAUI
DEPT. OF PLANNING

MEMORANDUM

TO : JOSEPH W. ALUETA, STAFF PLANNER
DEPARTMENT OF PLANNING

FROM : TIVOLI S. FAAUMU, CHIEF OF POLICE

SUBJECT : PROJECT NAME: Resolution 15-112
 APPLICANT : County Clerk
 DESCRIPTION: Draft Bill amending title 19.08 and 19.35
 relating to affordable accessory dwellings

No comments or recommendations to offer at this time.

Refer to enclosed comments and/or recommendations.

Thank you for giving us the opportunity to comment on this project.

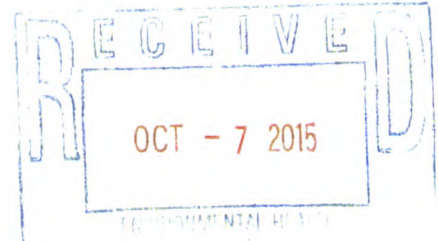
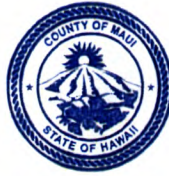
Assistant Chief Victor K. Ramos
For: TIVOLI S. FAAUMU
Chief of Police

EXHIBIT - 6

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

TRANSMITTAL

October 2, 2015

AGENCIES	
X	DBEDT
X	Dept of Health, Honolulu
X	Dept of Health, Maui (2)
X	Paia Community Association
X	Land Use Commission (Hard Copy)
X	Office of Hawaiian Affairs
X	Office of Planning
	Kula Community Association
X	Kihei Community Association
X	Makawao Community Association
X	Paia Community Association

AGENCIES	
X	Dept of Public Works (3 Hard Copies)
X	Dept of Water Supply
X	Fire & Public Safety
X	Police Department
X	ZAED, Zoning & Enforcement Division
X	Maui Chamber of Commerce
X	Maui Native Hawaiian Chamber of Commerce
X	Dept. of Parks and Recreation, Arborist Committee

PROJECT NAME: RESOLUTION 15-112
APPLICANT: County Clerk
DESCRIPTION: Draft Bill amending title 19.08 and 19.35 relating to affordable accessory dwellings

TRANSMITTED TO YOU ARE THE FOLLOWING:

Draft Bills, Resolutions, and Committee Reports

THESE ARE TRANSMITTED AS CHECKED BELOW:

For your Comment and Recommendation

TRANSMITTED TO YOU ARE THE FOLLOWING:

Resolution with Draft Ordinance and Committee Report

THESE ARE TRANSMITTED AS CHECKED BELOW:

For your Comment and Recommendation

Please submit your comments/recommendations by Nov, 5, 2015

Remarks: If additional clarification is required, please contact me at 270-7743. If you have no comments please check and sign below, and return this transmittal form.

Sincerely,

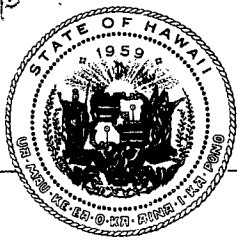
JOSEPH W. ALUETA,
For: William Spence, Planning Director

xc: Joseph W. Alueta, Administrative Planning Officer
General File

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EXHIBIT-7

We have no comments to offer Signed Dotti Kithenslei
Comments Attached _____ District Environmental Health Program Chief



**OFFICE OF PLANNING
STATE OF HAWAII**

DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
ACTING DIRECTOR
OFFICE OF PLANNING

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <http://planning.hawaii.gov/>

Ref. No. P-14935

October 30, 2015

Mr, William Spence, Director
Planning Department
County of Maui
2200 Main Street, Suite 315
Waiiuku, Hawaii 96793

Dear Mr. Spence:

Subject: Maui County Council Resolution No. 15-112
Referring to the Lanai, Maui, and Molokai Planning Commissions a Proposed
Bill to Amend the Comprehensive Zoning Ordinance to Permit Affordable
Accessory Dwellings in Residential Districts

The Office of Planning (OP) has reviewed the subject bill and Committee Report No. 15-123. The bill proposes to amend the comprehensive zoning ordinance to permit affordable accessory dwellings (AADs) in residential districts. The County's zoning ordinance currently permits "accessory dwellings" in residential districts, but the proposal would require "affordable accessory dwellings" to remain affordable in perpetuity.

In concept, the proposal could increase the County's affordable housing supply by allowing homeowners within residential districts to provide housing for their immediate family members or renters within "very low" to "above moderate" income levels. Furthermore, the proposal could provide homeowners with supplemental income that could assist in mitigating the high cost of living in Hawaii. While we strongly support the concept of AADs in residential districts, OP has concerns about the implementation of the proposal as written.

OP has the following specific concerns and recommendations regarding the proposal.

1. Minimum rental period. Pursuant to Section 19.35.110.B.3 of the proposal, the AAD unit shall never be utilized for short term or market rate rentals. Due to the proliferation of bed and breakfast homes and transient vacation rentals in Hawaii, OP has concerns that "short term" may be interpreted loosely in order to accommodate such rentals. As such, we suggest specifying a minimum rental period in the proposed bill, such as six months. We also suggest including language which prohibits homeowners from using AADs as bed and breakfast homes or transient vacation rentals.

EXHIBIT-8

Mr, William Spence, Director
October 30, 2015
Page 2

2. Definition of an AAD. The proposal as written does not specify whether kitchen or bathroom facilities are required within AADs. To ensure that homeowners provide renters with the necessary basic amenities, Section 19.35.110 of the proposed bill should be expanded to require that kitchen and bathroom facilities be included within the AAD.

Thank you for the opportunity to review and comment on the proposed bill. Please contact Katie Mineo, Land Use Division, (808) 587-2883, kathryn.s.mineo@hawaii.gov, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Asuncion', with a stylized flourish at the end.

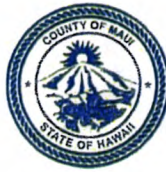
Leo R. Asuncion
Acting Director

15997

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



RECEIVED

NOV - 3 2015

COUNTY OF MAUI
DEPARTMENT OF PLANNING

COUNTY OF MAUI
DEPT. OF PLANNING

TRANSMITTAL

October 2, 2015

AGENCIES	
X	DBEDT
X	Dept of Health, Honolulu
X	Dept of Health, Maui (2)
X	Paia Community Association
X	Land Use Commission (Hard Copy)
X	Office of Hawaiian Affairs
X	Office of Planning
	Kula Community Association
X	Kihei Community Association
X	Makawao Community Association
X	Paia Community Association

AGENCIES	
X	Dept of Public Works (3 Hard Copies)
X	Dept of Water Supply
X	Fire & Public Safety
X	Police Department
X	ZAED, Zoning & Enforcement Division
X	Maui Chamber of Commerce
X	Maui Native Hawaiian Chamber of Commerce
X	Dept. of Parks and Recreation, Arborist Committee

PROJECT NAME: RESOLUTION 15-112
 APPLICANT: County Clerk
 DESCRIPTION: Draft Bill amending title 19.08 and 19.35 relating to affordable accessory dwellings

TRANSMITTED TO YOU ARE THE FOLLOWING:

Draft Bills, Resolutions, and Committee Reports

THESE ARE TRANSMITTED AS CHECKED BELOW:

For your Comment and Recommendation

TRANSMITTED TO YOU ARE THE FOLLOWING:

- Resolution with Draft Ordinance and Committee Report
- Report

THESE ARE TRANSMITTED AS CHECKED BELOW:

- For your Comment and Recommendation

Please submit your comments/recommendations by Nov. 5, 2015

Remarks: If additional clarification is required, please contact me at 270-7743. If you have no comments please check and sign below. and return this transmittal form.

Sincerely,

JOSEPH W. ALUETA,
For: William Spence, Planning Director

xc: Joseph W. Alueta, Administrative Planning Officer
General File

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EXHIBIT-9

We have no comments to offer _____
Comments Attached

Signed



KCA

Kihei Community Association

"e malama pono"...dedicated to protecting,
sustaining and enhancing our 'āina, kai and 'ohana

October 28, 2015

Aloha Director Spence,

Per your letter to the Kihei Community Association dated October 2, 2015 and a request for comments on Resolution 15-112 we wish to provide the following notes:

Kihei Community Association is a strong proponent of increasing the availability of affordable housing when accomplished in a community sensitive manner and in manner that truly addresses the low-income families struggling to find clean, decent living accommodations on Maui.

We have reviewed the Resolution 15-112, the associated Committee report, and the proposed wording of the changes to Chapter 19.35 of the Maui Code.

In general KCA supports the intent and the proposed approach to allow the creation of small Ohanas on small residential lots and for those Ohanas to be made available to low-income individuals or couples at a price commensurate with their income (affordable). We think this approach is a path that can make a difference. In particular KCA believes it is a critical component of this program that these "Affordable Ohana" dwellings not be allowed to be rented for short term or market priced rentals and that they shall remain as "affordable in perpetuity". It also supports property owners being given the opportunity build something for their elderly parents or other in-need family members.

We do have three primary concerns that we feel must be addressed to make this opportunity a success.

A) Affordability... KCA believes the proposed approach to determine affordability (as presented in 19.35.110 D) being based on the Maui Dept. of Housing and Human Concerns (MC – DHHC) published tables and allowing "Above Moderate" income levels to qualify will not accomplish the goal of making these dwellings available for the low-income workers on Maui. The following examples are derived from the proposal and uses data from the attached pages of the MC-DHHC.

Please look at the column labeled "Above-Moderate" income level (page 3 of the attached DHHC pages). Based on this column the proposal seemingly allows for a 140% Median Income level or lower to be qualified. Using the Maui Income and Rent guidelines tables (from Page 1) and the 140% AMI then the currently proposed income limits and rental guidelines would permit a property owner to legally rent a 400 SqFt, 1 bedroom "Affordable Ohana" to a couple with an income level of up to \$84,110 and allow the property owner to charge up to a

EXHIBIT - 9



KCA

Kihei Community Association

"e malama pono"...dedicated to protecting,
sustaining and enhancing our 'āina, kai and 'ohana

maximum rent of up to \$1,971 per month. (Blue boxes on Page 1). This is well above rental "market pricing" for a 400 SqFt Ohana (except maybe on the beach in Makena). BTW, that same couple would similarly qualify for "affordable home" per Maui County in the \$550-\$650K range at today's interest rates.

Based on this the KCA recommends that the allowed income limits and rent guidelines for these Affordable Ohana dwellings be reduced to an Income level of 60% or less of the adjusted median income of Maui County. BTW the 60% AMI limit is used by a number of affordable housing non-profits as cut-off (ie: Habitat for Humanity, etc...)

Using this more limited income approach of 60% and below AMI and the 2015 Maui DHHC tables then the same 400 SqFt Affordable Ohana would be legally rentable to a couple earning up to \$36,050 per year and for a rent not to exceed \$845 per month. (Red Boxes on Page 1). Many of our tourist related and manual labor related workers would qualify under this limit.

Additionally as noted in the recent article in the Maui News the County Council recently approved the "Kenolio Apartments in Kihei, although lingering concerns remained about the capacity of the area's infrastructure. The 100 percent affordable housing project is planned for individuals and families with annual incomes not exceeding 60% (percent) of the county's median income, or \$46,060 for a family of four." We believe aligning the "Affordable Ohana rental rates" with the recently approved "Affordable Apartment rental rates" for the Kenolio project would present a consistent message to the community.

- B) Use... We also note that there is some ambiguity in 19.35.110 B3. We believe it is the intent of this section to preclude ALL short term rental uses of the dwelling including, but not limited to, use as a legal or illegal B&B rental or as a legal or illegal Short Term Vacation rental. In addition, the Dwelling shall not be used for Market Based Rental usage. We recommend this subsection be more clearly worded to avoid future conflicts and assist enforcement.
- C) Enforcement... In is our observation that the proposed changes to the Chapter 19.35 do not provide clear guidance on how enforcement will be affected and what fines and/or other disincentives will be put in place to assure the "Affordable Ohana" dwellings are being used in conformance with proposed changes. We note that not having clear rules and guidance for the Enforcement division of the Planning Department has clearly caused and continues to cause significant issues in the general short term rental rules enforcement as well as significant confusion in the community. We are very concerned that without diligent



KCA

Kihei Community Association

"e malama pono"...dedicated to protecting,
sustaining and enhancing our 'āina, kai and 'ohana
enforcement action being in place that these affordable Ohana dwellings will not be properly
utilized and serve the desired constituencies.

Additionally we suggest a more clear measure of what is "Market-based Rental" usage be adopted -- since it is prohibited by the proposed changes. Specifically it is a bit unclear as to how the department's enforcement division would determine whether the rent collected was market-based or below market-based rental rates. It is also not clear how a property owner would know if they are charging the renter an allowable amount.

We strongly recommend requiring at least an annual statement from each Affordable Ohana property owner certifying to his continuing conformance to the rules (including income and rental guidelines) and providing all advertising used as well as a copy of his annual GET filing and tax payments associated with the Affordable Ohana. This document should be required to be filed annually with the Planning Department and its contents can be used or its absence be used in any enforcement action relating to any and all short term rental or affordable rental enforcement actions.

If the above issues can be sufficiently addressed then we can be in support of this Resolution and the proposed changes to the Maui Code.

Thank you for inviting us to comment.

Mike Moran, President Kihei Community Association



Prepared by:
HOUSING DIVISION
 DEPARTMENT OF HOUSING AND HUMAN CONCERNS (DHHC)
 COUNTY OF MAUI

Effective: **May 1, 2015**

2015
 INCOME LIMITS & AFFORDABLE RENT GUIDELINES
MAUI (EXCEPT HANA)

EXHIBIT 9A

INCOME LIMITS FOR RENTAL UNITS (BY FAMILY SIZE & PERCENTAGE OF MEDIAN FAMILY INCOME)

% of Median	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
	0.7	0.8	0.9	1.0	1.08	1.16	1.24	1.32
10%	\$5,260	\$6,010	\$6,760	\$7,510	\$8,110	\$8,710	\$9,310	\$9,910
20%	\$10,510	\$12,020	\$13,520	\$15,020	\$16,220	\$17,420	\$18,620	\$19,830
30%	\$15,770	\$18,020	\$20,280	\$22,530	\$24,330	\$26,130	\$27,940	\$29,740
40%	\$21,030	\$24,030	\$27,040	\$30,040	\$32,440	\$34,850	\$37,250	\$39,650
50%	\$26,290	\$30,040	\$33,800	\$37,550	\$40,550	\$43,560	\$46,560	\$49,570
60%	\$31,540	\$36,050	\$40,550	\$45,060	\$48,660	\$52,270	\$55,870	\$59,480
70%	\$36,800	\$42,060	\$47,310	\$52,570	\$56,780	\$60,990	\$65,190	\$69,390
80%	\$42,060	\$48,060	\$54,070	\$60,080	\$64,890	\$69,690	\$74,500	\$79,310
90%	\$47,310	\$54,070	\$60,830	\$67,590	\$73,000	\$78,400	\$83,810	\$89,220
100%	\$52,570	\$60,080	\$67,590	\$75,100	\$81,110	\$87,120	\$93,120	\$99,130
110%	\$57,830	\$66,090	\$74,350	\$82,610	\$89,220	\$95,830	\$102,440	\$109,050
120%	\$63,080	\$72,100	\$81,110	\$90,120	\$97,330	\$104,540	\$111,750	\$118,960
130%	\$68,340	\$78,100	\$87,870	\$97,630	\$105,440	\$113,250	\$121,060	\$128,870
140%	\$73,600	\$84,110	\$94,630	\$105,140	\$113,550	\$121,960	\$130,370	\$138,780

AFFORDABLE RENT GUIDELINES (BY UNIT SIZE & PERCENTAGE OF MEDIAN FAMILY INCOME)

% of Median	UNIT SIZE (NO. OF BEDROOMS)					
	0	1	2	3	4	5
10%	\$132	\$141	\$169	\$195	\$218	\$240
20%	\$263	\$282	\$338	\$391	\$436	\$481
30%	\$394	\$422	\$507	\$586	\$653	\$721
40%	\$526	\$563	\$676	\$781	\$871	\$961
50%	\$657	\$704	\$845	\$976	\$1,089	\$1,202
60%	\$789	\$845	\$1,014	\$1,172	\$1,307	\$1,442
70%	\$920	\$986	\$1,183	\$1,367	\$1,525	\$1,682
80%	\$1,052	\$1,127	\$1,352	\$1,562	\$1,742	\$1,923
90%	\$1,183	\$1,267	\$1,521	\$1,757	\$1,960	\$2,163
100%	\$1,314	\$1,408	\$1,690	\$1,953	\$2,178	\$2,403
110%	\$1,446	\$1,549	\$1,859	\$2,148	\$2,396	\$2,644
120%	\$1,577	\$1,690	\$2,028	\$2,343	\$2,614	\$2,884
130%	\$1,709	\$1,831	\$2,197	\$2,538	\$2,831	\$3,124
140%	\$1,840	\$1,971	\$2,366	\$2,734	\$3,049	\$3,364

Note: Affordable rents are based on 30% of gross monthly income. Affordable rents include utilities.



Prepared by:
HOUSING DIVISION
DEPARTMENT OF HOUSING AND HUMAN CONCERNS (DHHC)
COUNTY OF MAUI

Effective: **May 1, 2015**


2015
AFFORDABLE SALES PRICE GUIDELINES

HANA

METHODOLOGY

For Calculating Median Family Income

Factors used in calculation:

 HUD's 2015 median family income for the County of Maui	\$75,100
American Community Survey 5-Year Estimate 2008-2012 median family income for Hana (from the Hawaii State Data Center)	\$57,667
Est. 2015 Hana median family income (Rounded to the nearest \$10)	\$57,670

15/5783-JOC

MAKAWAO COMMUNITY ASSOCIATION
P.O. BOX 733
MAKAWAO, HI 96768

RECEIVED

NOV - 3 2015

COUNTY OF MAUI
DEPT. OF PLANNING

October 27, 2015

RE: RESOLUTION 15-112

MR. JOSEPH ALUETA,

ALOHA AND THANK YOU FOR CONTACTING THE MAKAWAO COMMUNITY ASSOCIATION FOR OUR COMMENTS/RECOMMENDATIONS ON RESOLUTION 15-112. ALTHOUGH WE HAVE NOT HAD A GENERAL MEMBERSHIP MEETING ON THIS ISSUE, OUR BOARD OF DIRECTORS HAVE REVIEWED IT AND WE BELIEVE THAT THE ISSUE OF AFFORDABLE HOUSING IS VERY NECESSARY AND THEREFORE AGREE WITH THE CONCEPT.

A CONCERN IS THE POTENTIAL OF INCREASING THE NUMBER OF PEOPLE AND CARS WITHIN A QUALIFIED AREA THOUGH, ONCE THE MEASURE IS APPROVED.

AGAIN, THANK YOU VERY MUCH .

SINCERELY,

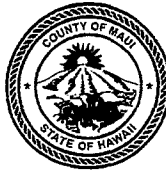


DUANE HAMAMURA, PRESIDENT
MAKAWAO COMMUNITY ASSOCIATION

BOARD OF DIRECTORS: JEREMY BALDWIN, THERESA THOMPSON, ERIN STARR, CINDY WARNER, CALVIN SHIBUYA

EXHIBIT -10

ALAN M. ARAKAWA
 Mayor
 WILLIAM R. SPENCE
 Director
 MICHELE CHOUTEAU McLEAN
 Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

RECEIVED

10 - 3 2015

TRANSMITTAL

October 2, 2015

COUNTY OF MAUI
 DEPARTMENT OF PLANNING

AGENCIES	
<input checked="" type="checkbox"/>	DBEDT
<input checked="" type="checkbox"/>	Dept of Health, Honolulu
<input checked="" type="checkbox"/>	Dept of Health, Maui (2)
<input checked="" type="checkbox"/>	Paia Community Association
<input checked="" type="checkbox"/>	Land Use Commission (Hard Copy)
<input checked="" type="checkbox"/>	Office of Hawaiian Affairs
<input checked="" type="checkbox"/>	Office of Planning
	Kula Community Association
<input checked="" type="checkbox"/>	Kihei Community Association
<input checked="" type="checkbox"/>	Makawao Community Association
<input checked="" type="checkbox"/>	Paia Community Association

AGENCIES	
<input checked="" type="checkbox"/>	Dept of Public Works (3 Hard Copies)
<input checked="" type="checkbox"/>	Dept of Water Supply
<input checked="" type="checkbox"/>	Fire & Public Safety
<input checked="" type="checkbox"/>	Police Department
<input checked="" type="checkbox"/>	ZAED, Zoning & Enforcement Division
<input checked="" type="checkbox"/>	Maui Chamber of Commerce
<input checked="" type="checkbox"/>	Maui Native Hawaiian Chamber of Commerce
<input checked="" type="checkbox"/>	Dept. of Parks and Recreation, Arborist Committee

PROJECT NAME: RESOLUTION 15-112
APPLICANT: County Clerk
DESCRIPTION: Draft Bill amending title 19.08 and 19.35 relating to affordable accessory dwellings

TRANSMITTED TO YOU ARE THE FOLLOWING:

<input checked="" type="checkbox"/>	Draft Bills, Resolutions, and Committee Reports
-------------------------------------	---

THESE ARE TRANSMITTED AS CHECKED BELOW:

<input checked="" type="checkbox"/>	For your Comment and Recommendation
-------------------------------------	-------------------------------------

TRANSMITTED TO YOU ARE THE FOLLOWING:

- Resolution with Draft Ordinance and Committee Report
- Report

THESE ARE TRANSMITTED AS CHECKED BELOW:

- For your Comment and Recommendation

Please submit your comments/recommendations by Nov, 5, 2015

Remarks: If additional clarification is required, please contact me at 270-7743. If you have no comments please check and sign below, and return this transmittal form.

Sincerely,

 JOSEPH W. ALUETA,
 For: William Spence, Planning Director

xc: Joseph W. Alueta, Administrative Planning Officer
 General File
 S:\ALLAPOI\Reso 15-112\transmittal to agencies.doc

We have no comments to offer _____ Signed _____
 Comments Attached _____

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35, MAUI COUNTY CODE,
RELATING TO ACCESSORY DWELLINGS

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

SECTION 1. The purpose of this bill is to encourage and accommodate the construction of accessory dwellings units, increase the number of affordable rental units and assist in alleviating the affordable housing shortage in the County of Maui.

SECTION 2. Section 19.08020, Maui County Code, is amended to read as follows:

“19.08.020 - Permitted uses.

Within residential districts, the following uses shall be permitted:

- A. Single-family dwellings.
- B. Greenhouses, flower and truck gardens, and nurseries; provided that there shall be no retailing or transacting of business on the premises, except as provided in chapter 19.67 of this title.
- C. Parks and playgrounds, noncommercial; certain commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground.
- D. Elementary, intermediate, and high schools, and colleges, publicly or privately owned, which may include on-campus dormitories.
- E. Buildings or premises used by the federal, State, or County governments for public purposes.
- F. Accessory buildings located on the same lot, the use of which is customary, incidental, usual, and necessary to that of the main building or to the use of the land.
- G. [An]One accessory dwelling where the area of the lot on which the main house is located is [seven thousand five hundred square feet or more] less than twelve thousand square feet, two accessory dwellings where the area of the lot on which the main house is located is twelve thousand square feet or larger. Chapter 19.35 of this title, pertaining to accessory dwellings, shall be applicable to any accessory dwelling.

H. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services. These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or twelve or fewer children at any one time on lot sizes of ten thousand or more square feet.

I. Bed and breakfast homes, subject to the provisions of chapter 19.64 of this title.

J. Home businesses, subject to the provisions of chapter 19.67 of this title.

K. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.”

SECTION 3. Section 19.35.010, Maui County Code, is amended to read as follows:

“19.35.010 - Generally. The limitations and requirements of this chapter shall apply to any accessory dwelling.

A. Any person who wishes to construct, or in any manner otherwise establish, an accessory dwelling shall apply for a building permit therefor in accordance with this chapter.

B. All provisions of the county zoning district, or state land use district as the case may be, in which the accessory dwelling is proposed to be constructed shall apply, except the provisions on the number of dwelling units permitted on a lot and except as the provisions of such district may be inconsistent with the provisions applicable to accessory dwellings. To the extent of such inconsistency, if any, the accessory dwelling provisions shall prevail.

C. The provisions of this chapter shall apply to any lots in the following county zoning and state land use districts:

1. Residential [~~district~~]districts;
2. Apartment [~~district~~]districts;
3. Hotel [~~district~~]districts;
4. Interim zoning district;
5. [State land use rural]Rural district.

No accessory dwelling shall be placed or constructed on any lot located in any district other than the districts specified in this subsection.

D. Notwithstanding the provisions of subsection C of this section, the provisions of this chapter shall not apply to any lot within a duplex zone, R-O zero lot line residential district zone, R-O zero lot line district, a cluster housing development, or a planned development in any district. No accessory dwelling shall be permitted on any such lot.

E. No accessory dwelling shall be used for occupancy for periods of less than six months and shall not be used as a bed and breakfast home, short-term rental home or transient vacation rental unit unless such use has already been lawfully established.

SECTION 4. Section 19.35.020, Maui County Code, is amended to read as follows:

“19.35.020 - Maximum gross floor area.

The maximum gross floor area of an accessory dwelling shall be determined as follows:

Lot Area (in sq. ft.)	Maximum Gross [Covered] Floor Area*
[7,500]Up to 9,999	500 square feet
10,000 to 21,779	600 square feet
21,780 to 43,559	700 square feet
43,560 to 87,119	800 square feet
87,120 or more	1000 square feet

* (Including any storage, [covered decks, walkways, patios, lanais] and similar structures but excluding a carport or parking space and excluding areas located beneath eaves that extend no more than three feet).”

SECTION 5. Section 19.35.050, Maui County Code, is amended to read as follows:

“19.35.050 – [One] Number of accessory dwellings per lot. No more than one accessory dwelling shall be permitted on a single lot ~~regardless of the size of the lot~~ that is less than 12,000 square feet. No more than two accessory dwellings shall be permitted on a lot that is 12,000 square feet or greater.”

SECTION 6. Section 19.35.060, Maui County Code, is amended to read as follows:

“19.35.060 - Maximum cumulative area of [open] decks, etc.

An accessory dwelling may have [uncovered open] decks, walkways, patios, lanais or similar structures, subject to the following:

- A. The uncovered open decks, walkways, patios, lanais or similar structures shall not exceed the following respective cumulative total floor areas:

Lot Area (in sq. ft.)	Maximum Cumulative Floor Area[*] (in sq. ft.)
[7,500]Up to 9,999	200
10,000 to 21,779	240
21,780 to 43,559	280
43,560 to 87,119	320
87,120 or more	400

[* (Cumulative floor area of uncovered open decks, walkways, patios, lanais or similar structures).]

B. Covered decks, walkways, patios, lanais or similar structures shall not exceed the following respective cumulative total areas:

<u>Lot Area (in sq. ft.)</u>	<u>Maximum Cumulative Floor Area (in sq. ft.)</u>
<u>Up to 9,999</u>	<u>500 square feet</u>
<u>10,000 to 21,779</u>	<u>600 square feet</u>
<u>21,780 to 43,559</u>	<u>700 square feet</u>
<u>43,560 to 87,119</u>	<u>800 square feet</u>
<u>87,120 or more</u>	<u>1000 square feet”</u>

SECTION 7. Section 19.64.030, Maui County Code, is amended to read as follows:

“19.64.030 - Restrictions and standards.

Bed and breakfast homes shall be subject to the following restrictions and standards:

A. The short-term rental use shall be permitted in no more than two single-family dwelling units per lot except for accessory dwellings pursuant to Chapter 19.35 of this title....”

SECTION 8. Section 19.65.030, Maui County Code, is amended to read as follows:

“19.65.030 - Restrictions and standards.

Short-term rental homes shall be subject to the following restrictions and standards:

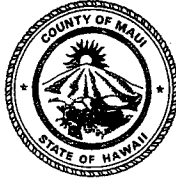
- A. The short-term rental home use shall be permitted in no more than two single-family dwelling units per lot except for accessory dwellings pursuant to Chapter 19.35 of this title. No more than one short-term rental home permit shall be approved for any lot....”

SECTION 9. Material in this bill to be repealed is bracketed. New material is underscored.

1/2
CHARMAINE TAVARES
Mayor

JEFFREY S. HUNT
Director

KATHLEEN ROSS AOKI
Deputy Director



RECEIVED

2010 FEB -8 AM 11:34

COUNTY OF MAUI
DEPARTMENT OF PLANNING OF THE MAYOR

February 8, 2010

DEPT OF PLANNING
COUNTY OF MAUI
RECEIVED
10 FEB -9 A9:38

Honorable Charmaine Tavares
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Danny Mateo, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL
Charmaine Tavares 2/8/10
Mayor Date

Dear Chair Mateo and Members:

SUBJECT: RESOLUTION NO. 09-60 ENTITLED "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS AND THE HANA ADVISORY COMMITTEE DRAFT BILLS AMENDING CHAPTERS 19.08 AND 19.35, MAUI COUNTY CODE, RELATING TO RESIDENTIAL DISTRICTS AND ACCESSORY DWELLINGS, RESPECTIVELY"

This is in response to your July 8, 2009 letter transmitting Resolution No. 09-60 entitled, "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS AND THE HANA ADVISORY COMMITTEE DRAFT BILLS AMENDING CHAPTERS 19.08 AND 19.35, MAUI COUNTY CODE, RELATING TO RESIDENTIAL DISTRICTS AND ACCESSORY DWELLINGS, RESPECTIVELY".

The Department of Planning (Department) reviewed the proposed amendments and transmitted them to the Maui, Molokai, and Lanai Planning Commissions (Commissions) and the Hana Advisory Committee. The following is a summary of the Commissions' and Committee's comments:

EXHIBIT - 11A

Honorable Charmaine Tavares, Mayor
For Transmittal to:
Honorable Danny Mateo
February 8, 2010
Page 3

Hana Advisory Committee	August 20, 2009	Voted "To recommend that 19.35.110, starting with 'or individuals of very low to,' and instead of saying 'gap income,' say 'below moderate, as described in Section 2.96.020 of this code for the Hana District." Voted "to add a parking requirement that two onsite parking spaces be required per accessory dwelling" Voted "to make a recommendation, under 19.35.025, that the floor area ratio shall not exceed 40% instead of 50% of the lot size."
-------------------------------	-----------------	--

Attached for your review are the following documents:

1. Memorandum with Agency Comments from Jeffrey Hunt, Planning Director, to the Maui, Molokai, and Lanai Planning Commissions, dated October 8, 2009;
2. Agency comments that were received after the public hearings;
3. Minutes of the October 13, and October 27, 2009 Maui Planning Commission;
4. Minutes of the October 14, 2009 Molokai Planning Commission;
5. Minutes of the October 21, 2009 Lanai Planning Commission;
6. Draft Minutes of the August 20, 2009 Hana Advisory Committee to the Maui Planning Commission; and
7. Maui Residential zoning map showing residential lots that could be subject to the Resolution.

Thank you for your attention to this matter. Should further clarification be necessary, please contact Administrative Planning Officer, Joseph Alueta at Ext. 7743.

Sincerely,



JEFFREY S. HUNT
Planning Director

Resolution

No. 09-60

REFERRING TO THE LANAI, MAUI, AND MOLOKAI
PLANNING COMMISSIONS AND THE HANA ADVISORY COMMITTEE
DRAFT BILLS AMENDING CHAPTERS 19.08 AND 19.35,
MAUI COUNTY CODE, RELATING TO RESIDENTIAL DISTRICTS
AND ACCESSORY DWELLINGS, RESPECTIVELY

WHEREAS, the Council of the County of Maui is considering the following draft bills entitled:

1. "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.08, MAUI COUNTY CODE, RELATING TO RESIDENTIAL DISTRICTS". The purpose of the draft bill is to permit affordable accessory dwellings on property consisting of 6,000 square feet or more within residential districts throughout the County; and
2. "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35, MAUI COUNTY CODE, RELATING TO ACCESSORY DWELLINGS". The purposes of the draft bill are to: a) permit affordable accessory dwelling units on property of 6,000 to 7,499 square feet or more; b) permit the increase in square footage of accessory dwellings on larger parcels of land; and c) require that accessory dwellings built on property between 6,000 to 7,499 square feet remain affordable.

WHEREAS, the draft bills make amendments to Chapters 19.08 and 19.35, Maui County Code, land use ordinances; and

WHEREAS, Section 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, requires the Council to transmit proposed land use ordinances and amendments to land use ordinance to the appropriate planning commissions for review and comment; and

WHEREAS, the Council also wishes to consider the findings and recommendations of the Hana Advisory Committee; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That, it hereby transmit proposed bills entitled:
 - a) "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.08, MAUI COUNTY CODE, RELATING TO

EXHIBIT-12

Resolution No. 09-60

RESIDENTIAL DISTRICTS", a copy of which is attached hereto as Exhibit "A", and made a part hereof, to the Lanai, Maui, Molokai Planning Commissions, and the Hana Advisory Committee, for appropriate action; and

b) "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35, MAUI COUNTY CODE, RELATING TO ACCESSORY DWELLINGS", a copy of which is attached hereto as Exhibit "B", and made a part hereof, to the Lanai, Maui, Molokai Planning Commissions, and the Hana Advisory Committee, for appropriate action; and

2. That, the Lanai, Maui, Molokai Planning Commissions, and the Hana Advisory Committee, are respectfully requested to provide their well-considered findings and recommendations to the Council as expeditiously as possible; and
3. That certified copies of this Resolution be transmitted to the Mayor; the Planning Director; the Corporation Counsel; the Lanai, Maui, Molokai Planning Commissions, and the Hana Advisory Committee.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

ORDINANCE NO. _____

BILL NO. _____ (2009)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.08 MAUI COUNTY CODE,
RELATING TO RESIDENTIAL DISTRICTS

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

SECTION 1. Section 19.08.020, Maui County Code, is amended to read as follows:

19.08.020 Permitted uses. Within residential districts, the following uses shall be permitted:

A. Single-family dwellings;

B. Greenhouses, flower and truck gardens and nurseries;
provided, that there shall be no retailing or transacting of business on the premises;

C. Parks and playgrounds, noncommercial; certain commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground;

D. Schools, elementary, intermediate, high and colleges, publicly or privately owned, which may include on-campus dormitories;

E. Buildings or premises used by the federal, State, or county governments for public purposes;

F. Accessory buildings located on the same lot, the use of which is customary and incidental, usual and necessary to that of the main building or to the use of the land;

G. An accessory dwelling may be permitted where the area of the lot on which the main house is located is seven thousand five hundred square feet or more. Chapter 19.35 of this article, pertaining to accessory dwellings, shall be applicable to any accessory dwelling;

H. An affordable accessory dwelling, pursuant to section 19.35.110, of this code, may be permitted where the area of the lot on which the main house is located is six thousand square feet or more.

I. [H] Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services. These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, serving eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or serving twelve or fewer children at any one time on lot sizes of ten thousand or more

square feet;

[I]. Subject to the restrictions and standards of chapter 19.64 of this title, Type 1 bed and breakfast homes shall be permitted on any lot; Type 2 bed and breakfast homes shall be permitted on lots of seven thousand five hundred square feet or greater, and Type 3 bed and breakfast homes shall be permitted on lots of ten thousand square feet or greater.

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, bracketed material, or the underscoring.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

CM:MHP:accessory_dwllgs_bill04:grs

ORDINANCE NO. _____

BILL NO. _____ (2009)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35 RELATING TO
ACCESSORY DWELLINGS

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

SECTION 1. The purpose of this section is to allow the creation of accessory dwellings on property of 6,000 square feet or greater for purposes of providing affordable housing. The county is in critical need of affordable housing and this section will enhance and encourage the use of accessory dwellings to address the needs of our working families that can not afford market rate rental units.

“Chapter 19.35

ACCESSORY DWELLINGS

SECTION 2. Section 19.35.20, Maui County Code is amended to read as follows:

19.35.020 Maximum gross floor area.

A. The maximum gross floor area of an accessory dwelling shall be determined as follows:

Lot Area (in sq. ft.)	Maximum Gross Covered Floor Area*
<u>6,000 to 7,499</u>	<u>500 square feet</u>
7,500 to 9,999	<u>600</u> [500] square feet
10,000 to 21,779	<u>700</u> [600] square feet
21,780 to 43,559	<u>800</u> [700] square feet
43,560 to 87,119	<u>900</u> [800] square feet
87,120 or more	1000 square feet

* (Including any storage, covered decks, walkways, patios, lanais and similar structures but excluding a carport or parking space).

SECTION 3. Chapter 19.35, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

19.35.025 Maximum lot coverage and floor area ratio.

A. The maximum lot coverage shall not exceed twenty five percent and the floor area ratio shall not exceed fifty percent of lot size.

19.35.110 Affordable accessory dwellings. A. Affordable accessory dwellings will be permitted where the area of the lot on which the main house is located is 6,000 square feet or more, provided that the units will be built to accommodate immediate family members, related to the applicant by blood, adoption or marriage: spouse, children, brothers and sisters; or individuals of very low to gap income as described in section 2.96.020 of this code.

B. Deed restrictions

1. The accessory dwelling must remain affordable for the life of the unit.

2. The owner must notify the Director of the Department of Housing and Human Concerns upon a decision to sell the property.

3. Any new owner must comply with the deed restriction.

C. Rental Rates. The monthly rental rates shall be set by the Department of Housing and Human Concerns based on HUD income limits.

SECTION 4. 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 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

CM:MHP:accessory_dwllgs_bill03:grs

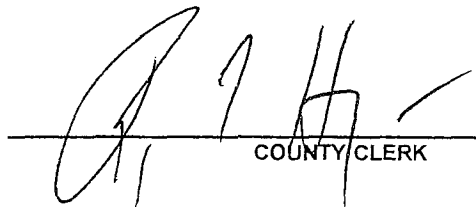
COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is **HEREBY CERTIFIED** that **RESOLUTION NO. 09-60** was adopted by the Council of the County of Maui, State of Hawaii, on the 7th day of July, 2009, by the following vote:

MEMBERS	Dennis A. MATEO Chair	Michael J. MOLINA Vice-Chair	Gladys C. BAISA	Jo Anne JOHNSON	Solomon P. KAHO'OHALAHALA	William J. MEDEIROS	Wayne K. NISHIKI	Joseph PONTANILLA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

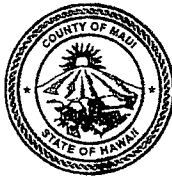


COUNTY CLERK

ARMARINE TAVARES
Mayor

HLEEN ROSS AOKI
Director

ANN T. CUA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

September 1, 2010

RECEIVED

2010 SEP -1 PM 3:52

OFFICE OF THE MAYOR

OFFICE OF THE
COUNTY CLERK

2010 SEP -2 AM 9:25

RECEIVED

Honorable Charmaine Tavares
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Danny A. Mateo, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Charmaine Tavares 9/1/10

Mayor Date

Dear Chair Mateo and Members:

**SUBJECT: A BILL FOR AN ORDINANCE REPEALING CHAPTER 19.09,
MAUI COUNTY CODE, AND AMENDING TITLE 19, MAUI
COUNTY CODE RELATING TO RESIDENTIAL DISTRICTS**

Transmitted for your review is 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 proposed bill is part of the Department of Planning's (Department) on-going effort to update, streamline, and standardize Title 19 of the Maui County Code. The overall goal is to resolve conflicts and to standardize code format, eliminate out-dated terms and uses, as well as incorporate user-friendly tables and graphics. Aside from updating the title format, using graphics and consolidating Chapters 19.09 and 19.08, the following is a summary list of new provisions and standards:

- Added garage sale as an accessory use;
- Established a lot coverage standard of 40%;
- Established a maximum height for accessory structures in the setback area;
- Added Energy Systems, small scale as an accessory use;
- Established an Access yard setback line from all roadways;
- Increased the height limit of structures attached to roofs, such as vent pipes, solar panels, and antenna;
- Established a Home Based Business definition;
- Established standards for free standing antenna and wind turbines.

COUNTY COMMUNICATION NO. 10-210

250 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793

MAIN LINE (808) 270-7735; FACSIMILE (808) 270-7634

CURRENT DIVISION (808) 270-8205; LONG RANGE DIVISION (808) 270-7214; ZONING DIVISION (808) 270-7153

Exhibit-13

Honorable Charmaine Tavares, Mayor
 For Transmittal to:
 Honorable Danny A. Mateo, Chair
 September 1, 2010
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During the reviews by the County Council and Planning Commissions of the Home Occupation Resolution 08-05, it was suggested that the Department look at establishing standards or a streamlined permit process for entrepreneurs who did not meet the Home Occupation definition. The Department's proposal is to establish a definition for "Home Based Business". The Department added this definition to the proposed bill amending 19.08 and 19.09 after the initial draft was sent to agencies and the bills were scheduled for review by the three commissions. The revised bill was sent to agencies for review and comments. Based on comments received, the Department amended the bills to allow Home Based Business in the Residential District as a Special Use.

The proposed bill was transmitted to the Maui, Molokai, and Lanai Planning Commissions. Below is a summary of their comments.

Commission	Public Hearing Date(s)	Comments and Recommendations
Maui	June 23, 2009 August 11, 2009	Voted to recommend approval of the proposed bill along with amendments presented in the July 21, 2009 memorandum. The Commission also voiced support for the Department's amendment to include a provision to allow any structure that was legally constructed and becomes an existing non-conforming structure as a result of these amendments, may be reconstructed per approved plans.
Molokai	July 8, 2009	Voted to recommend approval of the proposed bill to the County Council with the following amendments for Molokai only: Requires Special Use Permit for Pools and Spas; require the determinations of other Accessory uses to be the Planning Commission; amend item J to read "Energy systems, small-scale, provided that it does not produce noise, dust, smoke, glare, or odor that negatively impacts the neighbors." Require a Special Use permit for any free standing antenna or wind turbine tower.
Lanai	July 15, 2009	Recommend the Bill back to County Council with no comments.

Honorable Charmaine Tavares, Mayor
For Transmittal to:
Honorable Danny A. Mateo, Chair
September 1, 2010
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Attached, for your review, are the following documents:

1. Memorandum from Jeffrey Hunt, Planning Director, to the Maui, Molokai, and Lanai Planning Commissions, dated June 11, 2009;
2. Memorandum to the Maui Planning Commission dated July 21, 2009;
3. Minutes of the June 23, 2009 and August 11, 2009 Maui Planning Commission meeting;
4. Minutes of the July 8, 2009 Molokai Planning Commission meeting;
5. Minutes of the July 15, 2009 Lanai Planning Commission meeting;
6. Agency comments received after the Planning Commissions review.

The Department respectfully requests that the proposed bill be referred to the appropriate Council committee for consideration.

Thank you for your attention to this matter. Should further clarification be necessary, please contact Joseph Alueta at Ext. 7743.

Sincerely,



KATHLEEN ROSS AOKI
Planning Director

Attachments

xc: Clayton I. Yoshida, Planning Program Administrator
Joseph W. Alueta, Administrative Planning Officer
Maui Planning Commission
Molokai Planning Commission
Lanai Planning Commission

KRA:JWA:atw

Molokai File
Project File
General File

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ORDINANCE NO. _____

BILL NO. _____ (2010)

A BILL FOR AN ORDINANCE REPEALING CHAPTER 19.09, MAUI COUNTY CODE, AND AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO RESIDENTIAL DISTRICTS

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

SECTION 1. Chapter 19.09, Maui County Code, is repealed.

SECTION 2. Section 19.04.040, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Garage sale, rummage sale, or yard sale" means the sale or offering for sale to the general public of items of personal household property on any portion of a lot, whether within or outside any building.

"Home-based business" means an enterprise or activity, conducted by the occupant of the dwelling unit wherein the enterprise or activity takes place, involving the growing, processing, or manufacturing of a product or the provision of services for consideration and profit; provided:

1. That only one person other than a member of the family residing on the premises of the dwelling unit shall be employed by the home-based business;

2. That no more than twenty-five percent of the floor area of the dwelling unit shall be used by the home-based business;

3. That no group instruction classes or group sales meeting shall be permitted on the premises of the dwelling unit;

4. That retail sales shall be limited to products produced by the home-based business;

Exhibit-14

5. That no sign or display shall advertise the home-based business and there shall be no change in the exterior appearance of the dwelling unit to accommodate the home-based business;

6. That deliveries to or from the dwelling unit used for a home-based business shall be limited to two-axle vehicles between the hours of 9:00 a.m. and 5:00 p.m.;

7. That any goods, samples, materials, or objects used in the home-based business shall be stored within the dwelling unit or screened from public view;

8. That customers of the home-based business shall be limited to two at any time and a total of eight per day;

9. That customers shall be present at the home-based business only between the hours of 9:00 a.m. and 5:00 p.m.;

10. That the home-based business shall not impact the residential character of the property or neighborhood; and

11. That the following activities shall be prohibited:

a. Harboring, caring, training, or raising dogs, cats, birds, horses, or other animals;

b. Repair of automobiles and other vehicles with internal combustion engines;

c. Contractor headquarters or dispatch centers to other locations; or

d. The repair, manufacture, processing, or alteration of goods, materials or objects that results in a detrimental or nuisance effect upon neighbors."

SECTION 3. Section 19.04.040, Maui County Code is amended by amending the definition of "Yard, access" to read as follows:

"Yard, access. "Access yard" means [the yard on which a driveway is located.] a yard, the longest side of which borders a public or private street, excluding driveways for flag lots."

SECTION 4. Chapter 19.08, Maui County Code, is amended to read as follows:

"CHAPTER 19.08

RESIDENTIAL DISTRICTS

Sections:

- 19.08.010 [Generally.] Purpose and intent.
- 19.08.020 Permitted uses.
- 19.08.025 Accessory uses and structures.
- 19.08.030 Special uses.
- 19.08.040 [Area regulations.] Development standards.
- 19.08.050 [Height regulations.] Rule making authority.
- [19.08.060 Yards.]

19.08.010 [Generally.] Purpose and intent.
Areas for single-family dwellings are established to provide for harmonious residential neighborhood without the detracting of commercial and industrial activities.

19.08.020 Permitted uses. Within residential districts, the following uses and structures shall be permitted:

- A. Single-family dwellings;
- B. Greenhouses, flower and truck gardens, and nurseries; provided, that there shall be no retailing or transacting of business on the premises;
- C. Parks and playgrounds, noncommercial; [certain] commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground;
- D. Schools, elementary, intermediate, high, and colleges, publicly or privately owned, which may include on-campus dormitories; and
- E. Buildings or premises used by the federal, State, or county governments for public purposes[;].

[F. Accessory buildings located on the same lot, the use of which is customary, incidental, usual, and

necessary to that of the main building or to the use of the land;

G. An accessory dwelling may be permitted where the area of the lot on which the main house is located is seven thousand five hundred square feet or more. Chapter 19.35 of this article, pertaining to accessory dwellings, shall be applicable to any accessory dwelling;

H. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services. These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, serving eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or serving twelve or fewer children at any one time on lot sizes of ten thousand or more square feet;

I. Subject to the restrictions and standards of chapter 19.64 of this title, Type 1 bed and breakfast homes shall be permitted on any lot; Type 2 bed and breakfast homes shall be permitted on lots of seven thousand five hundred square feet or greater, and Type 3 bed and breakfast homes shall be permitted on lots of ten thousand square feet or greater; and

J. Home occupations.]

19.08.025 Accessory uses and structures. The following uses and structures, located on the same lot, are deemed accessory, customary, incidental, usual, and necessary to the above permitted uses in the residential district:

A. Accessory dwellings subject to chapter 19.35 of this code;

B. Pools and hot tubs;

C. Fences, walls, patios, decks, and other landscape features;

D. Garages, car ports, porte-cochere, mail boxes, and trash enclosures;

E. Other subordinate uses and structures that are determined by the planning director to be clearly

accessory, customary, incidental, usual, and necessary to the permitted uses listed herein;

F. Home occupations;

G. Garage sales limited to four times in a calendar year, not to exceed a total of eight days;

H. Day care nurseries, kindergartens, nursery schools, child care homes, adult day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care, adult or multi-generational day care services, subject to the following limitations:

<u>Lot Size</u>	<u>Maximum Clients</u>
<u>7,499 sq. ft or less</u>	<u>6</u>
<u>7,500 sq. ft to 9,999 sq. ft</u>	<u>8</u>
<u>10,000 sq. ft or greater</u>	<u>12</u>

I. Bed and breakfast homes subject to chapter 19.64 of this code; and

J. Energy systems, small-scale, provided that the energy systems do not result in a detrimental or nuisance effect upon neighbors or surrounding properties.

19.08.030 Special uses. The following are declared special uses, and approval of the appropriate planning commission shall be obtained:

A. Churches together with accessory buildings;

B. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services serving more than the number of children defined in section [19.08.020.H;] 19.08.025.I;

C. Hospitals; provided, that written consent of seventy-five percent of the property owners within five hundred feet from the property to be used for such purpose has been obtained;

D. Nursing or convalescent homes and domiciliary facilities operated and maintained to provide nursing or supporting care;

E. Housing for the aged, operated by governmental or nonprofit organizations; provided,

that the normal population density is not increased more than ten percent;

F. Housing for low and moderate income families, operated by governmental or nonprofit organizations; provided, that the normal dwelling unit density is not increased more than ten percent;

G. Public utilities substations, which are not and will not be hazardous or a nuisance to the surrounding areas;

H. [Certain domestic] Domestic type businesses in the home[,] that do not meet the definition of home occupation, provided there will be no detrimental or nuisance effect upon the neighbors. [Such businesses shall be normal functions of the home, such as baking, sewing and piano playing];

I. [Residential planned developments only.] Specialized education;

J. Home-based business; and

K. Group instruction of traditional Hawaiian practices such as lei making, ukulele classes, hula classes, and lomi lomi, if such instruction cannot qualify as a home-based business or home occupation. Group instruction shall be limited to no more than six students who do not reside on the property, and shall be conducted between 9:00 a.m. and 6:00 p.m.

[19.08.040 Area regulations. A. The minimum lot area shall be six thousand square feet in R-1 residential districts, seven thousand five hundred square feet in R-2 residential districts, and ten thousand square feet in R-3 residential districts. The minimum lot width shall be sixty feet for R-1, sixty-five feet for R-2, and seventy feet for R-3. There may be more than one single-family dwelling on any lot when the minimum lot area of six thousand square feet in R-1, seven thousand five hundred square feet in R-2, and ten thousand square feet in R-3 is provided for each dwelling unit.]

19.08.040 Development standards. A. Within residential districts, the following development standards shall apply:

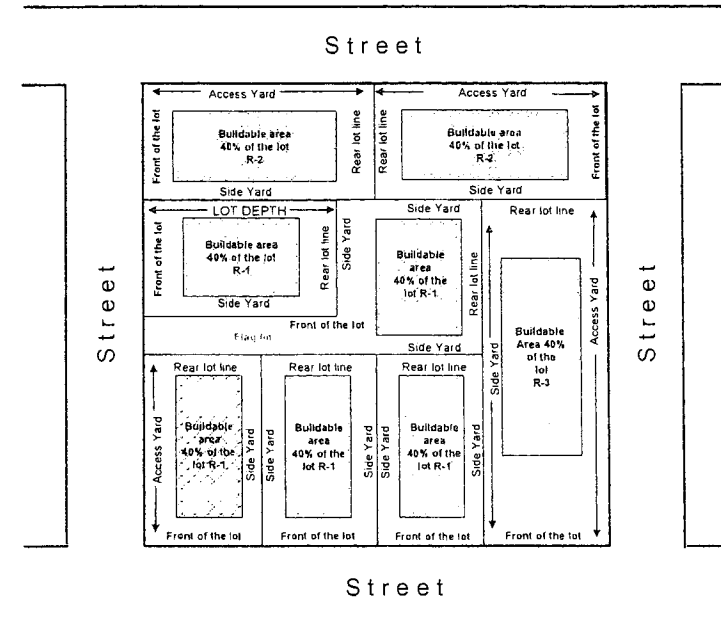
	<u>R-0</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>Notes</u>
<u>Minimum Lot Area (Square feet)</u>	<u>3,000</u>	<u>6,000</u>	<u>7,500</u>	<u>10,000</u>	
<u>Minimum Lot Width (in feet)</u>	<u>35</u>	<u>60</u>	<u>65</u>	<u>75</u>	<u>Except that the stem of a flag lot shall be exempted</u>
<u>Maximum Building Height (in feet)</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>Except that vent pipes, fans, chimneys, antennae, and equipment used for small scale energy systems on roofs shall not exceed forty feet.</u>
<u>Maximum Yard Setback (in feet)</u>					
<u>Front</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>	
<u>Side and Rear</u>	<u>0 for one yard per lot, otherwise 6</u>	<u>6</u>	<u>6</u>	<u>6</u>	
<u>Side and Rear for the portion of the building above one-story or 15 feet</u>	<u>0 or 10</u>	<u>10</u>	<u>10</u>	<u>10</u>	
<u>Access yard setback line</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>	
<u>Lot Coverage</u>	<u>40%</u>	<u>40%</u>	<u>40%</u>	<u>40%</u>	
<u>Free standing antenna or wind turbine structures height and setback</u>	<u>Maximum height of 50 feet and shall be set back at least 1 foot from all property lines for every foot in height.</u>				

<u>Accessory structures within Setback Area</u>	<u>Mail boxes, trash enclosures, boundary walls or walls. Accessory structures within the setback area shall not exceed 8 feet in height, except that retaining walls exceeding 8 feet in height may be approved by the appropriate planning commission after holding a public hearing pursuant to section 19.510.020, Maui County Code, to consider impacts to views, air and light, aesthetics, and health, safety and welfare. The commission may, when approving a retaining wall exceeding 8 feet in height, impose conditions to mitigate impacts.</u>	
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B. Subject to approval of the commission, a mixture of lot sizes within the R-1, R-2, and R-3 residential districts may be permitted [within any residential district]; provided, however, that the minimum lot size shall not be less than six thousand square feet, and that the overall project density shall not exceed that permitted within the district. Where the subdivision or project is designed to meet the needs of low or moderate income families, and adequate provisions are provided to insure owner-occupancy and the control or limitation of speculation, the commission may permit an increase in density not to exceed ten percent.

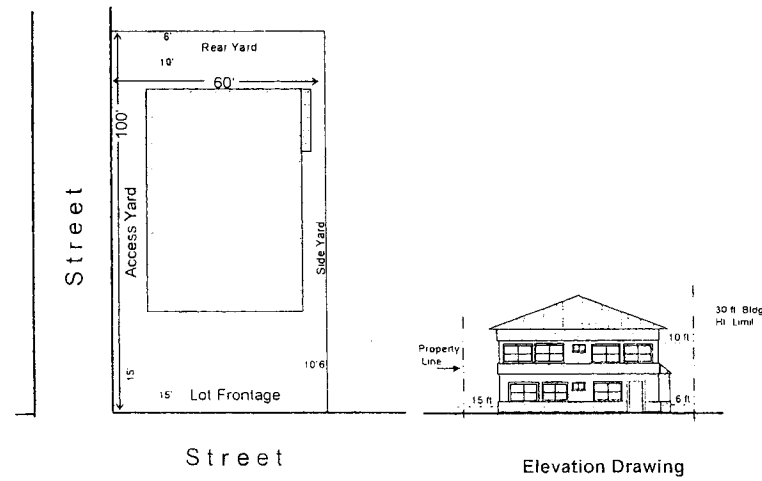
C. Dwelling units in an R-0 district may be located on alternating lot lines if a zero lot line of a lot is not adjoined by a zero lot line of an adjacent lot; provided, that if a zero lot line of a lot is not adjoined by a zero lot line on an adjacent lot, a maintenance easement not less than five feet in width as measured from the lot line of the adjacent lot shall be reserved for the benefit of the lot with the adjoining zero lot line.

Examples of Setbacks and Lot Coverages



R-1 to R-3 Yard and Lot Coverage Diagram

Figure 1
R-1, R-2, and R-3 Yard and Lot Coverage Diagram



Lot area: 6,000 sq.ft.
Structure: 2,400 sq.ft.
Lot coverage: 40%
Residential District (R-1)

R-1 to R-3 Detail layout is the same just change
Lot area & floor area to based on 40%

Figure 2
Setback for building over 15 feet in R-1, R-2, and R-3

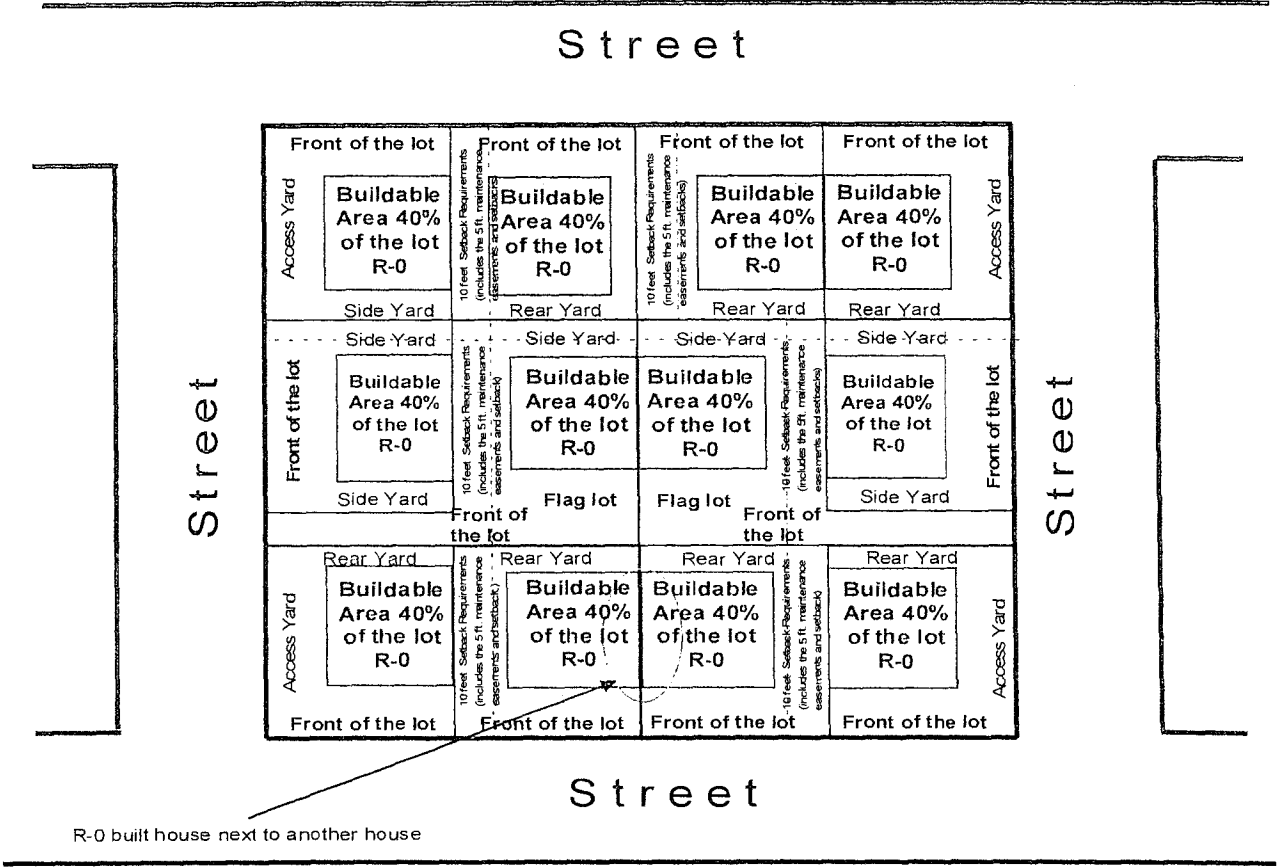
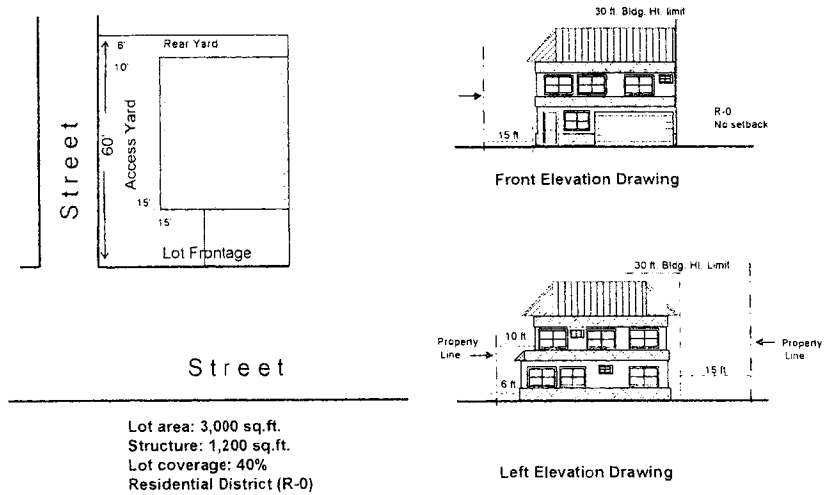


Figure 3
R-0 Yard and Lot Coverage Diagram



Detail layout

Figure 4
Setback to Building Over 15 Feet in R-1, R-2, and R-3

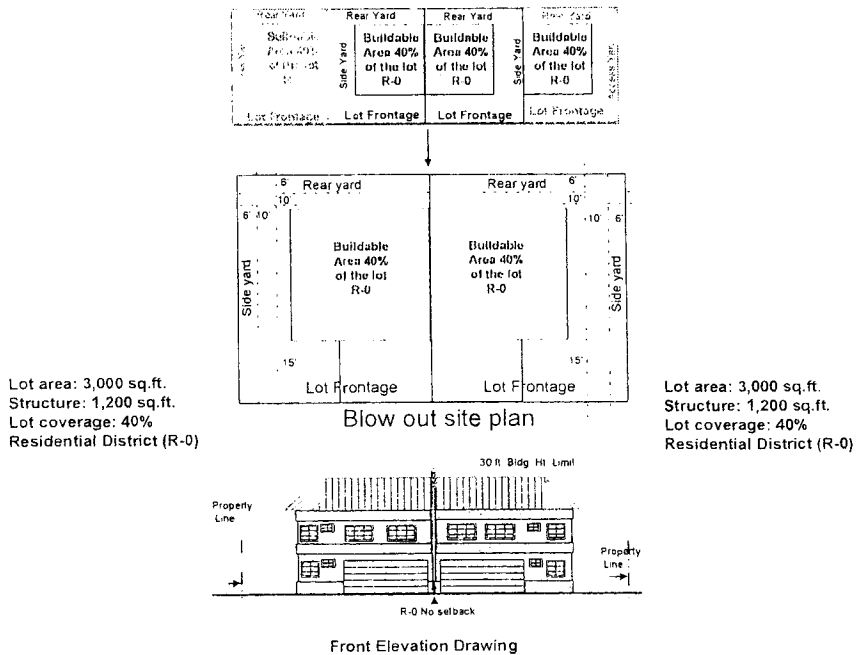


Figure 5
R-0 Yard and Lot Coverage Diagram with Elevation

[19.08.050 Height regulations. No building shall exceed two stories nor thirty feet in height.]

19.08.050 Rule making authority. The planning director may adopt rules to clarify and implement this chapter.

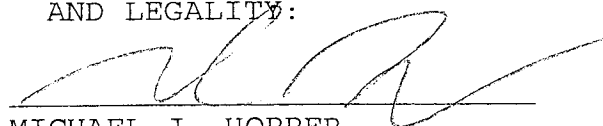
[19.08.060 Yards. A. There shall be a front yard of fifteen feet, side yard of six feet, and rear yard of six feet for all residential districts. Side and rear yards for two-story buildings shall be ten feet in all residential districts.

B. Greenhouses may be constructed along the rear or side lot lines, provided, the entire roof is constructed of laths or screen to permit passage of light and air; the clear distance to the front lot line is not less than thirty feet; and that no portion of the greenhouse shall overhang into the next property. If the greenhouse is not constructed on the lot lines, then it must conform to the side and rear yard spacing of six feet.]"

SECTION 5. 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 6. This ordinance shall take effect upon its approval. All structures for which a lawful building permit was issued prior to the effective date of this ordinance may reconstruct as allowed by the original building permit, and may perform renovations to restore the condition of the property as allowed by the original building permit.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

S:\ALL\MJH\ORDS\Amend 19.04, 19.08, repeal 19.09.3.10.doc

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.35, MAUI COUNTY CODE,
RELATING TO ACCESSORY DWELLINGS

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

SECTION 1. The purpose of this bill is to encourage and accommodate the construction of accessory dwellings units, **increase the number of affordable rental units** and assist in alleviating the affordable housing shortage in the County of Maui.

Comment [CE1]: How can affordability be enforced for long term rentals? What is the definition of an "affordable rental unit"? HUD Guidelines?

SECTION 2. Section 19.08020, Maui County Code, is amended to read as follows:

"19.08.020 - Permitted uses.

Within residential districts, the following uses shall be permitted:

- A. Single-family dwellings.
- B. Greenhouses, flower and truck gardens, and nurseries; provided that there shall be no retailing or transacting of business on the premises, except as provided in chapter 19.67 of this title.
- C. Parks and playgrounds, noncommercial; certain commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground.
- D. Elementary, intermediate, and high schools, and colleges, publicly or privately owned, which may include on-campus dormitories.
- E. Buildings or premises used by the federal, State, or County governments for public purposes.
- F. Accessory buildings located on the same lot, the use of which is customary, incidental, usual, and necessary to that of the main building or to the use of the land.
- G. [An]One accessory dwelling where the area of the lot on which the main house is located is [seven thousand five hundred square feet or more] less than twelve thousand square feet, **two accessory dwellings where the area of the lot on which the main house is located is twelve thousand square feet or larger.** Chapter 19.35 of this title, pertaining to accessory dwellings, shall be applicable to any accessory dwelling.

Comment [RD2]: A question was raised among staff about allowing 3 attached dwelling units (main & 2 accessory). Would the structure be considered an apartment.

H. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services. These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or twelve or fewer children at any one time on lot sizes of ten thousand or more square feet.

I. Bed and breakfast homes, subject to the provisions of chapter 19.64 of this title.

J. Home businesses, subject to the provisions of chapter 19.67 of this title.

K. Short-term rental homes, subject to the provisions of chapter 19.65 of this title.”

SECTION 3. Section 19.35.010, Maui County Code, is amended to read as follows:

“**19.35.010 - Generally.** The limitations and requirements of this chapter shall apply to any accessory dwelling.

A. Any person who wishes to construct, or in any manner otherwise establish, an accessory dwelling shall apply for a building permit therefor in accordance with this chapter.

B. All provisions of the county zoning district, or state land use district as the case may be, in which the accessory dwelling is proposed to be constructed shall apply, except the provisions on the number of dwelling units permitted on a lot and except as the provisions of such district may be inconsistent with the provisions applicable to accessory dwellings. To the extent of such inconsistency, if any, the accessory dwelling provisions shall prevail.

C. The provisions of this chapter shall apply to any lots in the following county zoning and state land use districts:

1. Residential [district]districts;
2. Apartment [district]districts;
3. Hotel [district]-districts;
4. Interim zoning district;
5. [State land use rural]Rural district.

No accessory dwelling shall be placed or constructed on any lot located in any district other than the districts specified in this subsection.

D. Notwithstanding the provisions of subsection C of this section, the provisions of this chapter shall not apply to any lot within a duplex zone, R-O zero lot line residential district zone, R-O zero lot line district, a cluster housing development, or a planned development in any district. No accessory dwelling shall be permitted on any such lot.

E. No accessory dwelling permitted for construction prior to the effective date of this ordinance shall be used for occupancy for periods of less than six months and shall not be

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used as a bed and breakfast home, short-term rental home or transient vacation rental unit unless such use has already been lawfully established.”

SECTION 4. Section 19.35.020, Maui County Code, is amended to read as follows:

“19.35.020 - Maximum covered floor area.

The maximum gross floor area of an accessory dwelling shall be determined as follows:

Lot Area (in sq. ft.)	Maximum Gross [Covered] Floor Area*
[7,500]Up to 9,999	500 square feet
10,000 to 21,779	600 square feet
21,780 to 43,559	700 square feet
43,560 to 87,119	800 square feet
87,120 or more	1000 square feet

* (Including any storage, [covered decks, walkways, patios, lanais] and similar structures but excluding a carport or parking space and excluding areas located beneath eaves that extend no more than three feet).”

SECTION 5. Section 19.35.050, Maui County Code, is amended to read as follows:

“19.35.050 – [One] Number of accessory dwellings per lot. No more than one accessory dwelling shall be permitted on a single lot ~~regardless of the size of the lot~~ that is less than 12,000 square feet. No more than two accessory dwellings shall be permitted on a lot that is 12,000 square feet or greater.”

SECTION 6. Section 19.35.060, Maui County Code, is amended to read as follows:

“19.35.060 - Maximum cumulative area of [open] decks, etc.

An accessory dwelling may have [uncovered open] decks, walkways, patios, lanais or similar structures, subject to the following:

- A. The uncovered open decks, walkways, patios, lanais or similar structures shall not exceed the following respective cumulative total floor areas:

Comment [CE3]: Suggest changing this back to “Maximum Covered Floor Area”. (JC)

Deleted: Maximum gross floor area

Comment [CE4]: Provide clarity on how floor area is calculated. (JC)

Comment [CE5]: So both accessory dwellings for a lot greater than 12000 sq. ft have to be under 600 sq. ft? Consider giving 1200 sq. ft total to be shared as the owner sees fit between the two accessory dwellings. Same comment for all lot sizes greater than 12000 sq. ft. (DG)

Comment [CE6]: Why differentiate open vs closed decks? Should consider one set of criteria and delete Subsection A.

Lot Area (in sq. ft.)	Maximum Cumulative Floor Area[*] (in sq. ft.)
[7,500]Up to 9,999	200
10,000 to 21,779	240
21,780 to 43,559	280
43,560 to 87,119	320
87,120 or more	400

[* (Cumulative floor area of uncovered open decks, walkways, patios, lanais or similar structures).]

B. Covered decks, walkways, patios, lanais or similar structures shall not exceed the following respective cumulative total areas:

<u>Lot Area (in sq. ft.)</u>	<u>Maximum Cumulative Floor Area (in sq. ft.)</u>
<u>Up to 9,999</u>	<u>500 square feet</u>
<u>10,000 to 21,779</u>	<u>600 square feet</u>
<u>21,780 to 43,559</u>	<u>700 square feet</u>
<u>43,560 to 87,119</u>	<u>800 square feet</u>
<u>87,120 or more</u>	<u>1000 square feet</u>

Comment [CE7]: If Subsections A and B will be kept, we suggest "flipping" the sections, starting with A. Covered decks... then B. Uncovered open decks...

SECTION 7. Section 19.64.030, Maui County Code, is amended to read as follows:

“19.64.030 - Restrictions and standards.

Bed and breakfast homes shall be subject to the following restrictions and standards:

A. The short-term rental use shall be permitted in no more than two single-family dwelling units per lot except for accessory dwellings pursuant to Chapter 19.35 of this title....”

SECTION 8. Section 19.65.030, Maui County Code, is amended to read as follows:

“19.65.030 - Restrictions and standards.

Short-term rental homes shall be subject to the following restrictions and standards:

- A. The short-term rental home use shall be permitted in no more than two single-family dwelling units per lot except for accessory dwellings pursuant to Chapter 19.35 of this title. No more than one short-term rental home permit shall be approved for any lot....”

SECTION 9. Material in this bill to be repealed is bracketed. New material is underscored.

Chapter 19.35 - ACCESSORY DWELLINGS

Sections:

19.35.010 - Generally.

The limitations and requirements of this chapter shall apply to any accessory dwelling.

- A. Any person who wishes to construct, or in any manner otherwise establish, an accessory dwelling shall apply for a building permit therefor in accordance with this chapter.
- B. All provisions of the county zoning district, or state land use district as the case may be, in which the accessory dwelling is proposed to be constructed shall apply, except the provisions on the number of dwelling units permitted on a lot and except as the provisions of such district may be inconsistent with the provisions applicable to accessory dwellings. To the extent of such inconsistency, if any, the accessory dwelling provisions shall prevail.
- C. The provisions of this chapter shall apply to any lots in the following county zoning and state land use districts:
 - 1. Residential district;
 - 2. Apartment district;
 - 3. Hotel district;
 - 4. Interim zoning district;
 - 5. State land use rural district.

No accessory dwelling shall be placed or constructed on any lot located in any district other than the districts specified in this subsection.

- D. Notwithstanding the provisions of subsection C of this section, the provisions of this chapter shall not apply to any lot within a duplex zone, R-O zero lot line residential district zone, R-O zero lot line district, a cluster housing development, or a planned development in any district. No accessory dwelling shall be permitted on any such lot.

(Ord. 2135 § 4, 1992; Ord. 2026 § 6, 1991; Ord. 1269 § 7 (part), 1982)

19.35.020 - Maximum gross floor area.

The maximum gross floor area of an accessory dwelling shall be determined as follows:

Lot Area (in sq. ft.)	Maximum Gross Covered Floor Area*
7,500 to 9,999	500 square feet
10,000 to 21,779	600 square feet
21,780 to 43,559	700 square feet
43,560 to 87,119	800 square feet

EXHIBIT-15A

87,120 or more	1000 square feet
----------------	------------------

* (Including any storage, covered decks, walkways, patios, lanais and similar structures but excluding a carport or parking space). ql

(Ord. 1269 § 7 (part), 1982)

19.35.030 - Separate entrance.

An accessory dwelling shall have at least one separate entrance.

(Ord. 1269 § 7 (part), 1982)

19.35.040 - No interior connection.

An accessory dwelling shall not have an interior connection to the main dwelling.

(Ord. 1269 § 7 (part), 1982)

19.35.050 - One accessory dwelling per lot.

No more than one accessory dwelling shall be permitted on a single lot regardless of the size of the lot.

(Ord. 1269 § 7 (part), 1982)

19.35.060 - Maximum cumulative area of open decks, etc.

An accessory dwelling may have uncovered open decks, walkways, patios, lanais or similar structures, subject to the following:

- A. The uncovered open decks, walkways, patios, lanais or similar structures shall not exceed the following respective cumulative total areas:

Lot Area (in sq. ft.)	Maximum Cumulative Floor Area* (in sq. ft.)
7,500 to 9,999	200
10,000 to 21,779	240
21,780 to 43,559	280

43,560 to 87,119	320
87,120 or more	400

* (Cumulative floor area of uncovered open decks, walkways, patios, lanais or similar structures).

(Ord. 1269 § 7 (part), 1982)

19.35.070 - Off-street parking required.

An accessory dwelling shall have a carport or other off-street parking space. The carport shall be a single-car carport not exceeding a total floor area of two hundred forty square feet. Where the first dwelling unit on any lot complies with all provisions applicable to accessory dwellings, only one carport or off-street parking space shall be required; provided, that if a main dwelling unit is constructed, such main dwelling unit shall have at least two parking spaces or a carport for two cars in addition to the parking for the accessory dwelling.

(Ord. 1269 § 7 (part), 1982)

19.35.080 - Driveway.

An accessory dwelling may have a separate driveway from that of the main dwelling, **provided that all driveway requirements are met.** In addition to any other requirements, a minimum of ten feet between the lot boundary and any building on the property shall be required for such separate driveway.

(Ord. 1269 § 7 (part), 1982)

19.35.090 - Public facilities required.

The following public facilities are required to service the lot:

- A. Adequacy of sewage disposal system. This shall be secured in writing from the department of public works for public sewage systems and the state of Hawaii department of health for cesspools, septic tanks and private sewage systems;**
- B. Adequacy of water supply. This shall be secured in writing from the department of water supply;**
- C. Adequacy of fire protection for all lots served by private streets. This shall be secured in writing from the department of fire control;**
- D. Adequacy of street. The lot must have direct access to a street which has a minimum paved roadway width of sixteen feet and which the director of public works determines to be adequate for the proposed construction.**

(Ord. 1269 § 7 (part), 1982)

19.35.100 - Public facilities clearance.

Comment [CE1]: Ensure that the Right Of Way (ROW) isn't being used to provide parking for additional housing units. Property owner shall provide parking for residents on property.

Comment [RD2]: Should there be language to reference Chapter 12.08.100 Standards and specifications (relating to driveways)?

Comment [CE3]: Suggest deleting this section in its entirety since it is addressed in Chapter 16.26B, 105.3.1 Action on application. Building permit applications are provided to appropriate state and county departments for comments.

Public facilities clearance may be obtained prior to application for building permit. Forms for public facilities clearance will be available at the land use and codes administration, department of public works. The forms shall be submitted with and attached to the building permit application. Where complete plans and specifications are submitted for building permit application processing, the public facilities clearance form and the building permit will be processed concurrently. In all other cases, the forms shall be processed prior to submitting the building permit application.

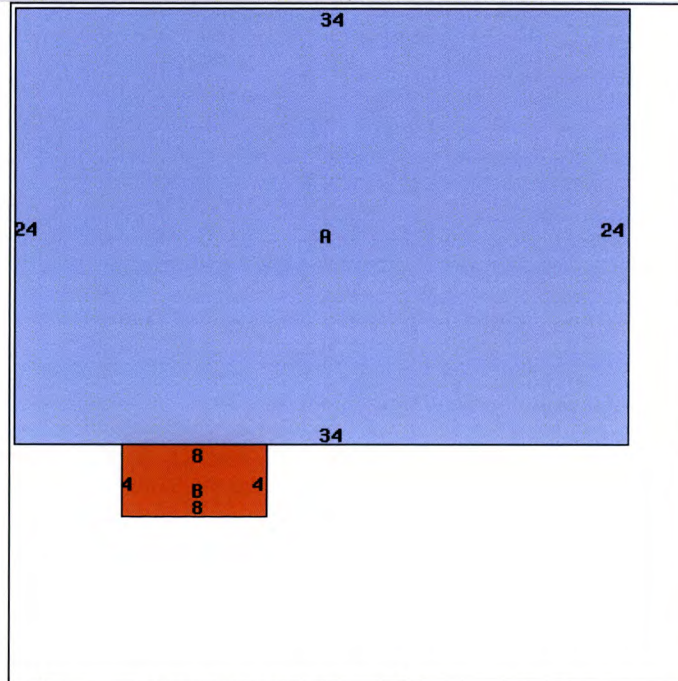
(Ord. 1269 § 7 (part), 1982)

Comment [CE4]: Suggest deleting this section in its entirety since it is addressed in Chapter 16.26B, 105.3.1 Action on application. Building permit applications are provided to appropriate state and county departments for comments. This section also references LUCA, which no longer exists.



Parcel Number:
240340440000

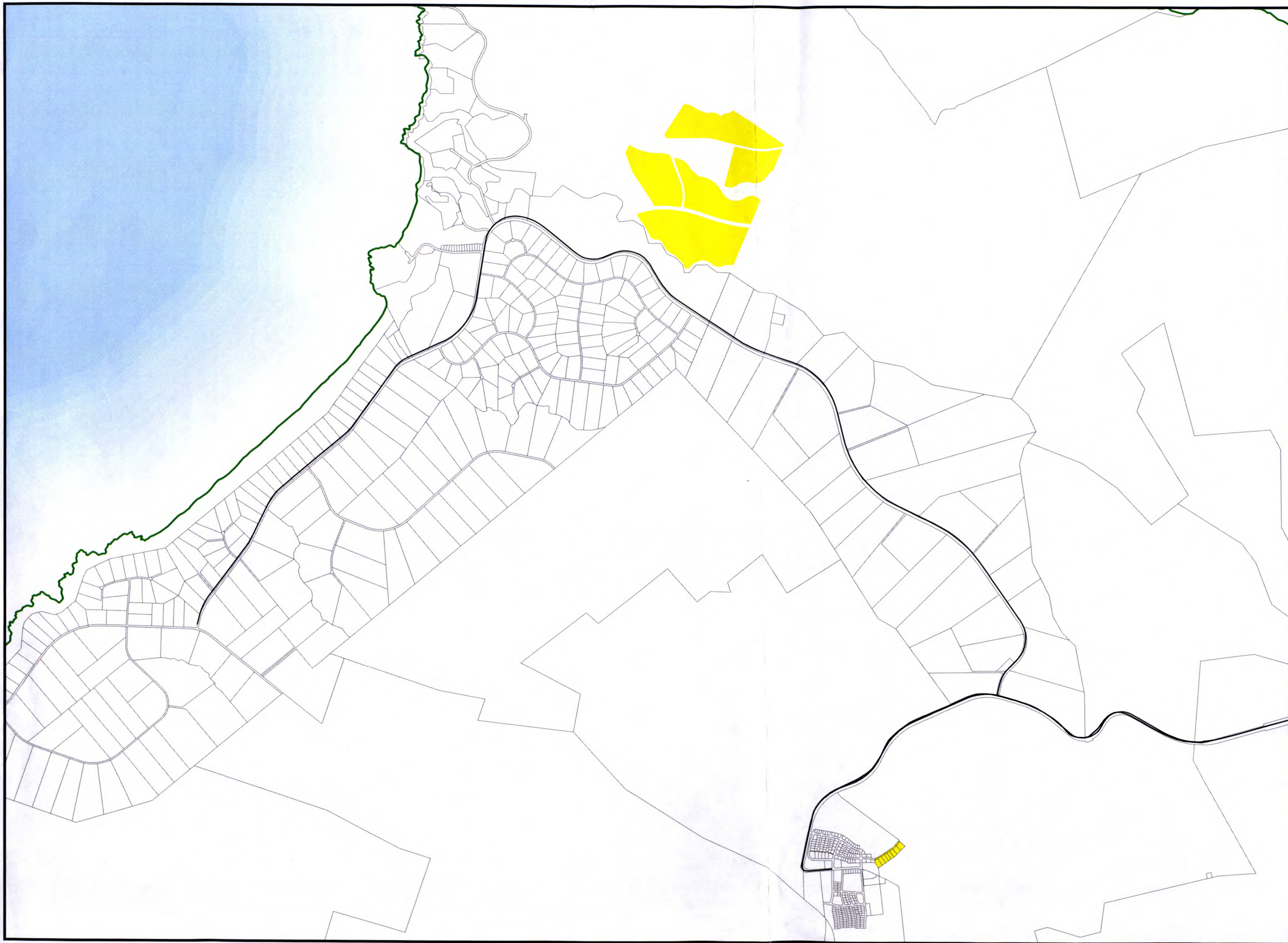
Building Number: 1



Color	Area Type Description	Ground Floor Square Feet
A	MAIN AREA	816
B	WDDCK WOOD DECKS	32







[Enlarge](#)

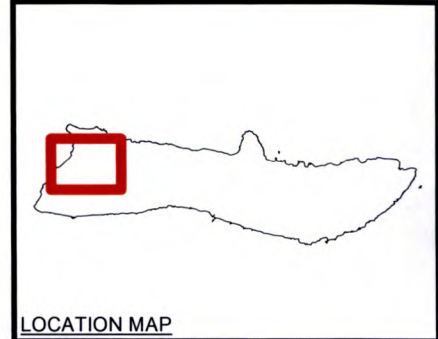
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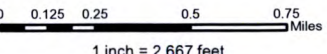
Molokai Residential Zoning
 R-0, R-1, R-2, R-3
 by Square Footage Classes

Legend


	Over 12,000 sq. ft.
	10,000 - 11,999 sq. feet
	7500 - 9999 sq. ft.
	6000 - 7499 sq. ft.
	Under 6000 sq. ft.
	CP Boundaries



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Long Range Planning Division
Department of Planning
County of Maui
One Main Plaza
2200 Main Street, Ste. 601
Wailuku, Hawaii 96793



Maui Residential Zoning

R-0, R-1, R-2, R-3
by Square Footage Classes

Legend

- 12,000 sq. ft. and greater
- 10,000 - 11,999 sq. ft.
- 7500 - 9999 sq. ft.
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- CP Boundaries



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0 0.125 0.25 0.5 0.75 1 Miles
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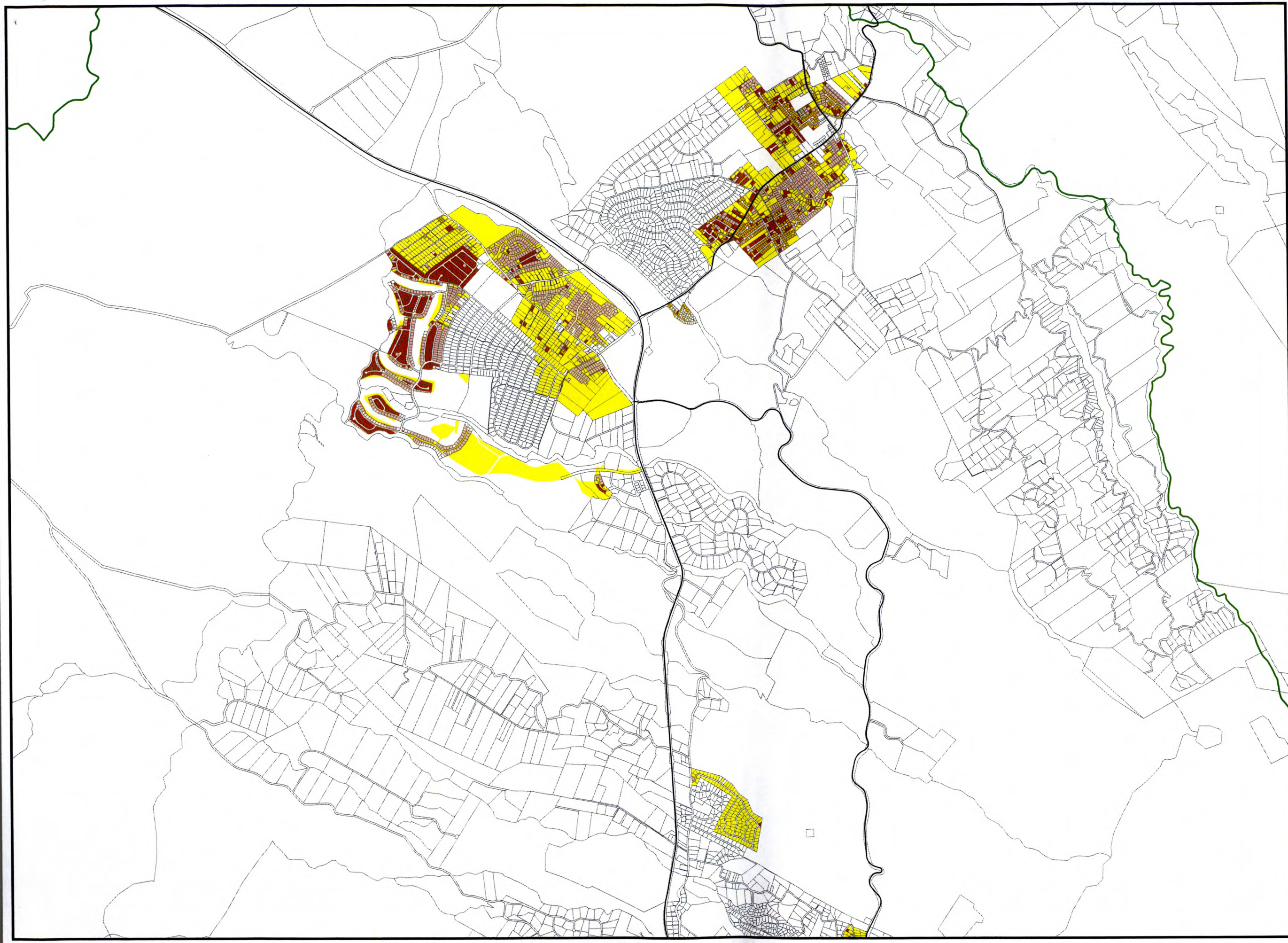
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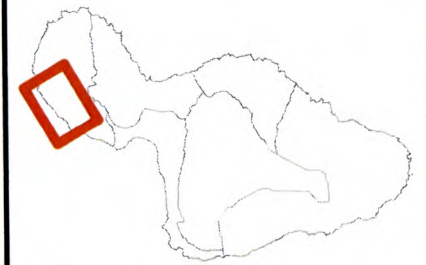


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