

**RICHARD T. BISSEN JR.**  
Mayor

**KATHLEEN ROSS AOKI**  
Director

**GARRETT E. SMITH**  
Deputy Director



**DEPARTMENT OF PLANNING  
COUNTY OF MAUI  
ONE MAIN PLAZA  
2200 MAIN STREET, SUITE 315  
WAILUKU, MAUI, HAWAII 96793**

September 26, 2023

Honorable Richard T. Bissen Jr.  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

**APPROVED FOR TRANSMITTAL**

*Richard T. Bissen Jr.* 9-26-23  
Mayor Date

For Transmittal to:

Honorable Tom Cook, Chair  
Water and Infrastructure Committee  
200 South High Street  
Wailuku, Hawaii 96793

Dear Chair Cook:

**SUBJECT: DRAFT ORDINANCE AMENDING CHAPTER 18.04 TO  
SUPPORT THE CREATION OF SEPARATE LOTS TO  
FURTHER THE PRESERVATION OF HISTORIC  
PROPERTIES**

Thank you for your September 7, 2023 inquiry requesting input from the Department of Planning on potential amendments to Chapter 18.04 of the Maui County Code that would support the creation of separate lots to further the preservation of historic properties. I understand that it is your intent to place this item on the agenda for the Water and Infrastructure Committee for consideration at their meeting on October 2, 2023. Please let this letter serve as comment on the proposed Ordinance from the Planning Department.

Per the draft Ordinance, it appears that the intent is to further the preservation of historic properties by allowing them to be exempt from most of the subdivision requirements identified in Title 18. If adopted, the Ordinance would allow subdivision only if the lot is to be created for the purpose of historic preservation and conveyed to a non-profit land conservation organization or government agency. The intent to further historic preservation is consistent with policies identified within the Maui County General Plan 2030 and the Maui Island Plan.

Notably, the proposed draft Ordinance requires that such subdivision still comply with certain sections of Title 18, all of Title 19, and Chapter 205 of the Hawaii Revised Statutes. Since the Department of Public Works is responsible for implementation of Title 18, I assume that you are coordinating with Public Works Director Molina for his comment on those sections.

Honorable Richard T. Bissen Jr  
For Transmittal to:  
Honorable Tom Cook  
September 26, 2023  
Page 2

In regards to Title 19, which is the implementation responsibility of the Planning Department, the draft Ordinance appears to be consistent. However, it is important to note that the subdivision of property for the intended purpose will, according to the draft Ordinance, still require that certain development standards that regulate lot area, lot width and/or depth, as defined throughout Title 19, be met as part of the subdivision application. These development standards may hinder subdivision opportunities or create the necessity for variances if the proposed subdivision does not meet these standards.

Since the intended purpose of the subdivision is for the preservation of historic property in perpetuity through the dedication of property to a non-profit or government agency, and since some of these preservation sites may be of a size not meeting the standard development regulations identified in Title 19, an alternative may be to incorporate an exemption from these development standards.

Currently, Section 19.04.025, Roadway lots and Restricted use lots, indicates that, *"Minimum lot area, lot width and lot coverage requirements elsewhere in this title do not apply to roadway lots or restricted use lots within a subdivision"* (emphasis added). Further, according to Section 19.04.040, *"Restricted use lot means a lot that shall only be used for drainage, open space, bikeway, pedestrian walkway, greenway, landscaping, roadway, or minor utility facility purposes"*. Clearly, the current intent of Title 19 is to exempt those portions of a subdivision that do not necessitate a need to meet development standards that would be required of developable lots. Thus, an alternative that you may wish to consider is to amend Title 19's definition of *"Restricted use lot"* to include lots dedicated for historical preservation purposes in perpetuity. Such a revision would require review by the Maui Planning Commission, Molokai Planning Commission and Lanai Planning Commission prior to the Ordinance being presented to Council for action.

In conjunction with designation as a restricted use lot, there may be benefit from further discussion or evaluation of applying this process to the creation of preservation lots that will not be conveyed to a non-profit or government agency, which may be impractical to coordinate for some Applicants who are nevertheless interested in setting aside specific parcels for the preservation of resources but which may occur on the parent parcel.

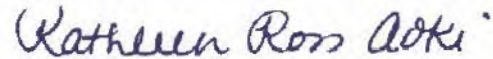
Separately, it is not clear if the existence of a preservation plan is mandatory for the use of this process. There may be benefit from further discussion or evaluation of broadening the applicability of this process to allow for the creation of restricted use lots for areas that are known to, or determined by other means to contain historic resources, but may not have an associated preservation plan.

Finally, in consideration of the time scale of land use matters and recorded documents and unforeseen future circumstances, it may be prudent for further discussion or evaluation of how parcels designated by this process would be treated in the event that the resources identified for preservation no longer exist.

Honorable Richard T. Bissen Jr  
For Transmittal to:  
Honorable Tom Cook  
September 26, 2023  
Page 3

Thank you for the opportunity to provide our input. Should you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in purple ink that reads "Kathleen Ross Aoki".

KATHLEEN ROSS AOKI  
Planning Director

xc: Garrett Smith, Deputy Director (pdf)  
Jordan Hart, Planning Program Administrator (pdf)  
Gregory Pfof, Administrative Planning Officer (pdf)  
KRA:GJP:lt  
S:\ALL\APO\20230925\_PD Comment on Subdivision Bill\_KA to TC.docx

## WAI Committee

---

**From:** Gregory Pfof <Gregory.J.Pfof@co.maui.hi.us>  
**Sent:** Monday, November 13, 2023 8:59 AM  
**To:** WAI Committee  
**Cc:** garrett.e.smith@co.maui.hi.us; Jordan Hart; kathleen.aoki@co.maui.hi.us; Jarret P. Pascual  
**Subject:** Re: FW: WAI Committee - Proposed Bill  
**Attachments:** 20230925\_PD Comment on Subdivision Bill\_KA to TC.pdf

You don't often get email from gregory.j.pfof@co.maui.hi.us. [Learn why this is important](#)

Aloha WAI Committee Members-

Please find attached the Planning Department's comment letter on "Bill 42 - Relating to General Provisions for Subdivisions and Historic Property", which is on your agenda for today's WAI Committee meeting.

Mahalo,

-Greg.

### Gregory Pfof

Administrative Planning Officer

Department of Planning, ZAED

County of Maui

[Gregory.J.Pfof@co.maui.hi.us](mailto:Gregory.J.Pfof@co.maui.hi.us)

(808) 270-7965

---

**From:** Stacy Takahashi  
**Sent:** Thursday, September 7, 2023 12:10 PM  
**To:** kathleen.aoki@co.maui.hi.us  
**Cc:** joy.paredes@co.maui.hi.us; Thomas M. Cook <Thomas.Cook@mauicounty.us>  
**Subject:** WAI Committee - Proposed Bill

Aloha Director Aoki,

On behalf of Councilmember Cook, please see the attached proposed bill related to a subdivision exemption for historic properties. He is planning to place this item on the agenda for the WAI Committee meeting on Monday, October 2, 2023.

May I kindly request your review and comments on the proposed bill. In addition, to provide the Committee staff sufficient time to process any documents for posting, may I request a response no later than Monday, September 18, 2023.

If you have any questions, please feel free to contact me at (808) 270-7108 or on my cell phone at (808) 793-7411.

Thank you,  
Stacy

Stacy Takahashi  
Executive Assistant to Councilmember Tom Cook  
Maui County Council  
South Maui Residency Area  
County of Maui  
(808) 270-7108