

LU Committee

From: Michele McLean <Michele.McLean@co.maui.hi.us>
Sent: Friday, June 09, 2017 3:02 PM
To: LU Committee
Cc: David Raatz; John Rapacz; Michael Hopper; Gary Saldana
Subject: LU-26
Attachments: 19.04 amendment.docx

Aloha Land Use Committee,

Thank you for scheduling LU-26 for consideration at your June 14 meeting.

We request that you review the single proposed bill that was transmitted to you via County Communication No. 17-129, rather than splitting it into two bills. Even though the single bill deals with a few, seemingly unrelated uses, it is much less cumbersome to address them together than to separate them. Regardless, whether one bill or two, we hope that you will recommend approval to the full Council.

If the single bill is considered, we request that section 19.04.020 be amended as shown in the attachment. The term "roadway lot and restricted use lot subdivisions" is not used or defined elsewhere and could be confusing, and so this section should be amended accordingly. Also, roadway lots should not be subject to recordation -- that would be overly cumbersome and unnecessary -- only restricted use lots should be recorded against the property. If the two bills are considered, these changes would be made to new section 19.04.025 instead.

Here are other comments on the two individual bills:

FILM BILL (substantive comments):

1. Section 3 creates new subsections 19.04.020.B.1.c and 19.04.020.B.2.b that require notice to "owners of all properties within 1000 feet of the subject property" for commercial filming, photography and special events. This is a new notice requirement that is not used elsewhere in Title 19 and we question how it was derived -- there needs to be a basis for it. All other applications with notice requirements use either adjacent properties or properties within 500 feet. None of the three planning commissions were concerned about notice requirement as proposed, which was adjacent and potentially impacted properties. We request that the original notice language be retained or, in the alternative, that 500 feet be used.

2. Section 3 creates a new subsection 19.04.020.B.1.g that says commercial filming and photography shall stop if there are two complaints from property owners within 1000 feet. However, the bill does not specify to whom the complaints are made. While we receive many legitimate complaints, we also receive a lot of unfounded complaints, which should not immediately result in termination of the activity -- it would be appropriate to investigate first. The original single bill established criteria that, if violated, would result in enforcement and correction. A termination provision would likely kill the benefit that the bill would bring -- namely providing certainty about filming being allowed subject to specific criteria.

SUBDIVISION BILL (stylistic/drafting comments):

1. The bill's sections jump back-and-forth throughout Chapter 19.04 rather than going in numerical order. This is confusing.

2. Sections 2, 4 and 5 create new sections, which is unnecessary and cumbersome because these provisions can be added to existing sections instead (which is the approach of the original single bill, signed by Corp. Counsel).

Mahalo for your consideration of this item and of these comments!
-Michele.

“19.04.020 Compliance. A. Buildings and [Subdivisions.] subdivisions. No building or structure shall be erected, structurally enlarged, or maintained unless it complies with the requirements of the building code of the County. No land shall be subdivided unless the subdivision complies with the provisions of this title. Minimum lot area, lot width, and lot coverage requirements elsewhere in this title do not apply to roadway lots ~~and/or~~ restricted use lots within a subdivisions.

Roadway lots and restricted use lots ~~subdivisions~~ are subject to the following:

1. Roadway lots and restricted use lots shall be designated in the notes section of the final subdivision plat with a description of each lot’s intended purpose., ~~and any~~ Any designation for restricted use lots, except for restricted use lots used for roadway purposes, shall be recorded and shall run with the land.

2. Any lot designated as a roadway lot or restricted use lot shall not be used for any purpose other than a roadway lot or restricted use lot, respectively, unless the lot is consolidated with another lot and the resulting lot complies with the minimum lot area, lot width, and lot coverage requirements elsewhere in this title.

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