

PSLU Committee

From: Jacky Takakura <Jacky.Takakura@co.maui.hi.us>
Sent: Monday, August 24, 2020 4:02 PM
To: Ana L. Lillis; PSLU Committee
Cc: Michele McLean
Subject: PDF attachment for 8/26/20 meeting item PSLU-59
Attachments: 200826 PSLU Apt TVR n Industrial bill.pdf

Hello!

Attached please find the pdf of our powerpoint presentation regarding transient vacation rentals in the apartment, light industrial and heavy industrial districts (PSLU-59). Please let me know if you have any questions.

Thank you

Jacky

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TRANSIENT VACATION RENTALS IN THE APARTMENT & INDUSTRIAL ZONING DISTRICTS

Department of Planning

County of Maui

August 2020

Proposed Bill for Ordinance Relating to Transient Vacation Rentals in the Apartment, Light Industrial and Heavy Industrial Districts

Amending Chapters 19.12, 19.24, 19.26, and 19.37
of the Maui County Code

Purpose of Proposed Bill

- ▶ Recognize lawful short-term rental properties in older condos
- ▶ Preserve long-term housing in older condos by preventing conversion to vacation rentals
- ▶ Some housekeeping measures

BACKGROUND INFORMATION

How Many Visitor Lodging Units are in Maui County?

Maui County, Hawaii - Inventory



2019 Maui visitor lodging inventory

- more residential units than hotel rooms

| Real Property Visitor Lodging Type | 2019 Count | |
|---------------------------------------------------------|------------|---------|
| Hotel operations (46 hotels) | 7,372 | rooms |
| Residential condominiums used for transient lodging | 11,115 | parcels |
| Single family bed & breakfast | 157 | parcels |
| Permitted/grandfathered single family transient lodging | 554 | parcels |
| Timeshare dwelling condominium units | 2,479 | parcels |
| Hotel zoned condominiums not used for transient lodging | 2,000 | parcels |

*From Maui County
Real Property Tax,
September 2019*

Total visitor lodging units = 21,677

What is the Housing Demand?

Housing Demand for Maui County 2020 – 2030

- Low Scenario (0.25% annual growth) = 5,563
- High Scenario (0.60% annual growth) = 8,515
- Average (0.43% annual growth) = 7,039 units

Source: Department of Business, Economic Development & Tourism (2019) *Hawaii Housing Demand in Hawaii, 2020-2030* <https://files.hawaii.gov/dbedt/economic/reports/housing-demand-2019.pdf>

PROPOSED REVISIONS TO THE MAUI COUNTY CODE

Proposed Revisions to MCC 19.12 Apartment District

- ▶ Purpose and Intent of Apartment District revised to include “**Residential**” buildings
 - ▶ Higher density housing options
 - ▶ Near urban core
 - ▶ Access to jobs, services, amenities, transportation
- ▶ TVR use administered on a property-wide basis, not unit-by-unit
- ▶ Goal of this bill: preserve the last remaining older condos in the apartment district for residential use.
 - ▶ TVRs that meet criteria may continue
 - ▶ No new ones

Proposed Revisions to MCC 19.12

Apartment District – the criteria

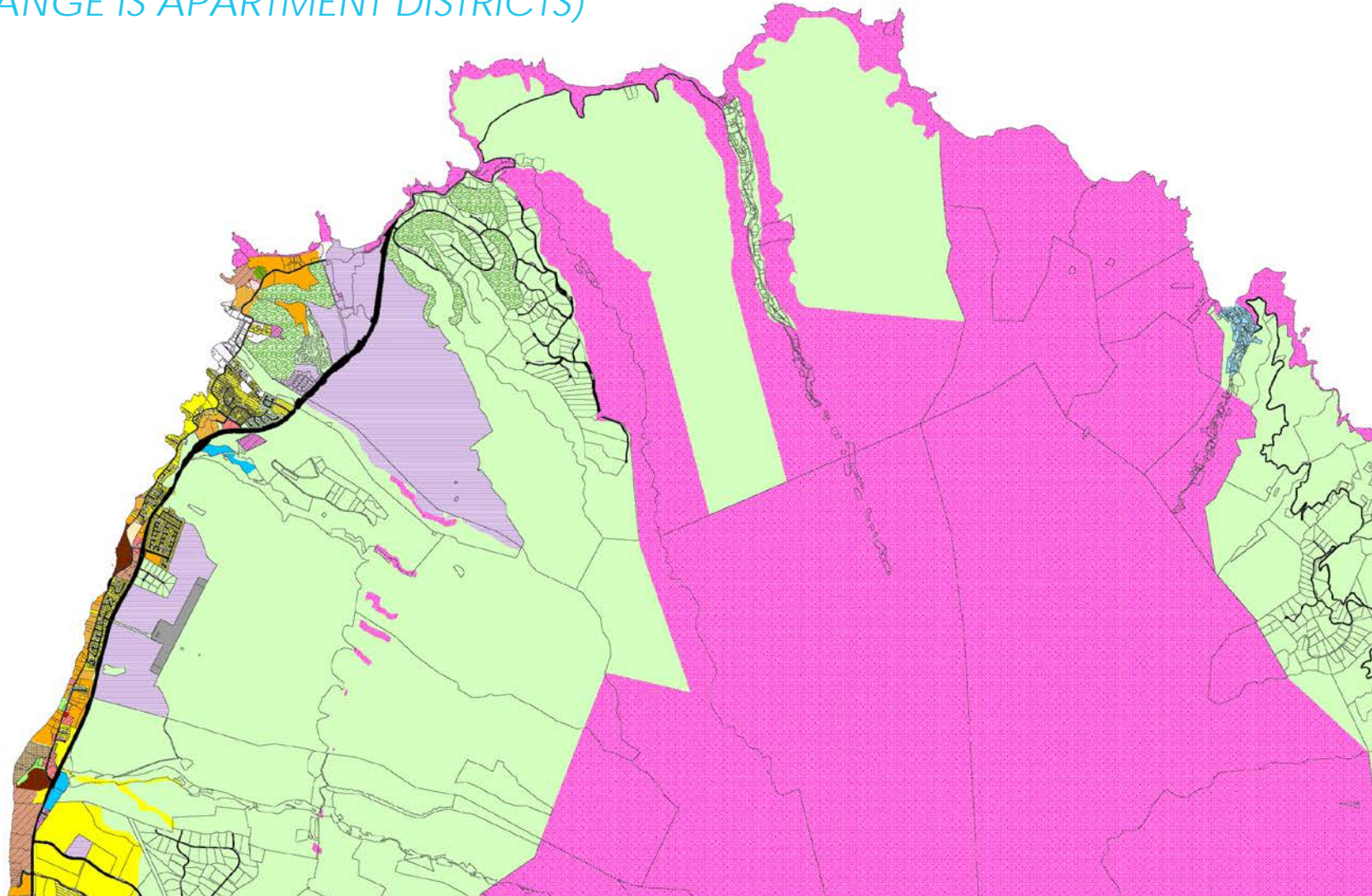
- ▶ Transient vacation rentals (TVR) must meet all of the following:
 - ▶ Building or structure received a building permit, SMA use permit, or planned development approval that was lawfully issued by and was valid on April 20, 1989
 - ▶ TVR use was conducted in any lawfully existing dwelling unit within the building or structure prior to January 1, 2020 as determined by real property tax class
 - ▶ *Department recommends amending the bill to add, “or payment of GET and TAT”*
 - ▶ If any such building or structure is reconstructed, renovated or expanded, then TVR use is limited to the building envelope as it can be confirmed to have been approved or lawfully existing on April 20, 1989. The number of bedrooms for TVR shall not be increased

What Does This Mean?

- ▶ Approximately 177 properties county-wide in Apartment District with 11,134 units
- ▶ Of the 11,134 units, 5,567 are assessed at Timeshare or Short-Term Rental tax class. $5,567/11,134 = 50\%$ TVR
- ▶ According to RPT, 98 of the 177 properties have TVR use. These could expand to full TVR use – *which they can do under existing rules. Loss of 2,013 potential housing units, and gain of short term rental real property tax revenues.*
- ▶ Of the 177 properties, 43 have no TVR use. These would be reserved for long-term occupancy. *This 'saves' approximately 1,042 units for residential use*

KAHANA

(ORANGE IS APARTMENT DISTRICTS)



Maui Island Digital Zoning Map 2

Page A1

Ordinance: 5006 (Bill 56)

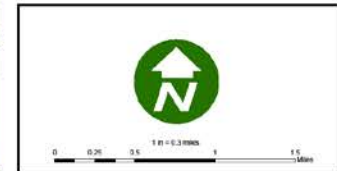
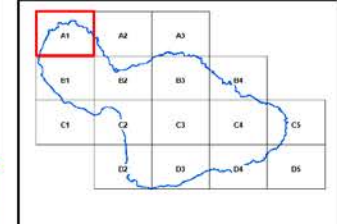
Effective: 11/13/2010

Note: Portions of subsequent Digital Zoning Ordinances through January 13, 2020.

Legend

| | |
|------------------------|------------------------------------------|
| R-0 Residential | AP Airport |
| R-1 Residential | AC Agriculture |
| R-2 Residential | BU-0.5 Rural 1/2 Acre |
| R-3 Residential | PD Project District |
| D-1 Duplex | CD Napili Bay Civic Improvement District |
| A-1 Apartment | OS Open Space |
| A-2 Apartment | OS-2 Active Open Space |
| H Hotel | P-1 Public/Quasi Public |
| HM Hotel | DR-1 Beach Right-of-Way |
| HO Hotel | PW Park |
| B-2 Business-Community | PWC(P) Park-Golf Course |
| B-3 Business-Central | Interim |
| BB Business-Resort | (null) |
| M-1 Light Industrial | |

*Only those zoning classifications which appear in the current map extent are displayed in the legend.



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LAHAINA

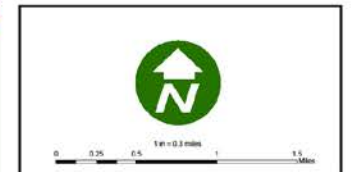
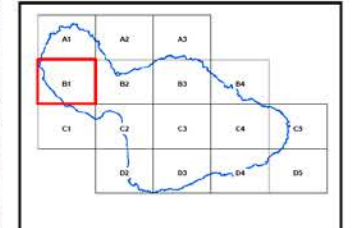
Maui Island Digital Zoning Map 2 Page B1

Ordinance: 5006 (Bill 56)
Effective: 11/13/2019
Map includes all unadopted changes to zoning ordinances through January 10, 2020.

Legend

| | |
|-----------------|--------------------------|
| R-1 Residential | B-2 Business-Community |
| R-2 Residential | BR Business-Resort |
| R-3 Residential | M-1 Light Industrial |
| D-1 Duplex | M-2 Heavy Industrial |
| A-1 Apartment | AG Agriculture |
| A-2 Apartment | PD-1 Historic District 1 |
| H-1 Hotel | PD-2 Historic District 2 |
| H-1M Hotel | Interim |
| H-2 Hotel | (road) |

*Only those zoning classifications which appear in the current map extent are displayed in the legend.



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Maui Island Digital Zoning Map 2

Page C2

Ordinance: 5006 (Bill 56)

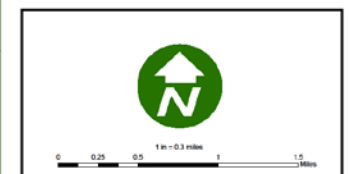
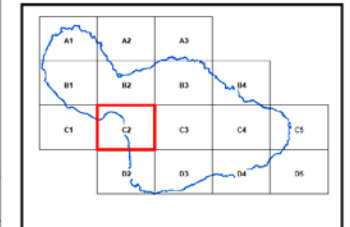
Effective: 11/13/2019

Map includes all subsequent changes to zoning ordinances through January 10, 2020.

Legend

| | |
|---------------------------|-----------------------------------------|
| R-0 Residential | KRTP Kihel Research and Technology Park |
| R-1 Residential | MRTIP Maui Research and Technology Park |
| R-2 Residential | PO Project District |
| R-3 Residential | OS Open Space |
| D-2 Duplex | OS-1 Passive Open Space |
| A-1 Apartment | OS-2 Active Open Space |
| A-2 Apartment | Drainage |
| H-1 Hotel | OZ Open Zone |
| H-2 Hotel | P-1 Public/Quasi Public |
| D-1 Business-Neighborhood | P-2 Public/Quasi Public |
| D-2 Business-Community | P Public Use |
| BR Business-Resort | PK Park |
| M-1 Light Industrial | PNQGC Park-Golf Course |
| M-2 Heavy Industrial | Interim |
| M-3 Heavy Industrial | Proposed Road |
| AG Agriculture | Not Zoned |
| R Rural | Road |

*Only those zoning classifications which appear in the current map extent are displayed in the legend.



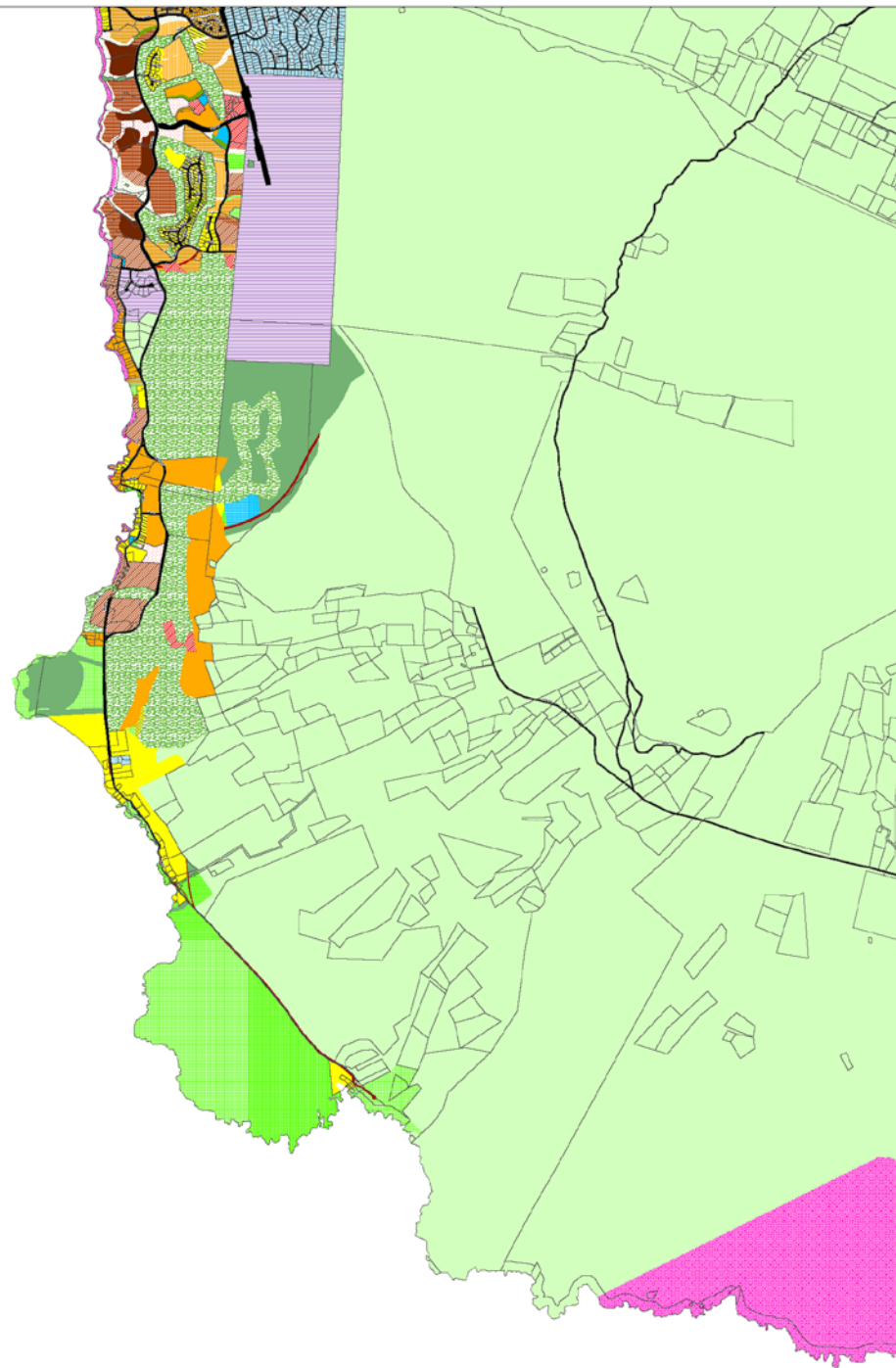
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KIHEI

WAILEA

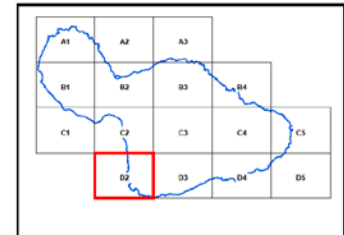


Maui Island Digital Zoning Map 2 Page D2

Ordinance: 5006 (Bill 56)
Effective: 11/13/2019
Map includes all subsequent changes to zoning ordinances through January 10, 2020.

| Legend | |
|------------------------|-------------------------|
| R-1 Residential | R-1 Rural |
| R-2 Residential | PD Project District |
| R-3 Residential | OS Open Space |
| D-2 Duplex | OS-2 Active Open Space |
| A-1 Apartment | OZ Open Zone |
| A-2 Apartment | P-1 Public/Quasi-Public |
| H-1 Hotel | P Public Use |
| H-2 Hotel | PK Park |
| B-2 Business-Community | PK(GC) Park-Golf Course |
| BR Business-Resort | Interim |
| AG Agriculture | Proposed Road |
| | (road) |

*Only those zoning classifications which appear in the current map extent are displayed in the legend.



1 in = 0.3 miles
0 0.25 0.5 1 1.5 Miles

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Proposed Revisions to MCC 19.24

M-1 Light Industrial District

- ▶ Simplifies residential use – can be any floor, not just above/below first floor with other non-dwelling permitted use
- ▶ Excludes low-density single family dwellings, duplexes, bungalow courts because we want to encourage density in appropriately-zoned areas like M-1
- ▶ Excludes short-term rental homes and TVRs
- ▶ Encourages higher density by increasing height limits for more apartment units (except for Molokai)
- ▶ Antenna, equipment on top of building limited to 10' which is consistent with other zoning districts

Proposed Revisions to MCC 19.26

M-2 Heavy Industrial District

- ▶ Excludes single family dwelling units, duplexes, bungalow courts, apartments like in M-1
- ▶ Excludes short-term rental homes and TVRs
- ▶ Reduced maximum building height for Molokai
- ▶ Antenna, equipment on top of building limited to 10' which is consistent with other zoning districts
- ▶ Reduces the setback from 15 to 10' for more usable space on a property
- ▶ Reduces the maximum height for freestanding antenna or wind turbines from 90' to 75'
- ▶ Requires all uses to be enclosed on all sides except for the front of the lot

TVRs were Never Permitted in Industrial Districts

- ▶ Prohibited by Comprehensive Zoning Ordinance 6/9/1960
- ▶ Proposed bill makes this clear

ORDINANCE NO. 286 BILL NO. 6 (1960)

THE COMPREHENSIVE ZONING ORDINANCE OF THE COUNTY OF MAUI STATE OF HAWAII

COMPREHENSIVE ZONING ORDINANCE

A COMPREHENSIVE ORDINANCE ESTABLISHING ZONES WITHIN THE COUNTY OF MAUI; ESTABLISHING CLASSIFICATION OF LAND USE IN SUCH ZONES; DIVIDING THE COUNTY OF MAUI INTO USE ZONE DISTRICTS FOR SUCH PURPOSES; ADOPTING MAPS OF SAID COUNTY SHOWING BOUNDARIES AND THE CLASSIFICATION OF SUCH USE ZONE DISTRICTS; DEFINING TERMS USED IN SAID ORDINANCE; PROVIDING FOR THE AMENDMENT AND THE ENFORCEMENT THEREOF; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

BE IT ORDAINED by the Board of Supervisors of the County of Maui, State of Hawaii:

SECTION 1. TITLE AND PURPOSE

A. This ordinance shall be known as and may be cited and referred to as "The Comprehensive Zoning Ordinance for the County of Maui". It is hereby adopted:

1. In order to regulate the use of buildings, structures and land as between industrial, business, residential, agricultural and other purposes;
 2. In order to regulate location, height, bulk and size of buildings and structures, the size of yards, courts and other open spaces—the percentage of the lot which may be occupied by a building or structure;
 3. For said purposes, the County of Maui shall include the districts of Wailuku, Makawao, Lahaina and Hana, but shall exclude the districts of Molokai and Lanai as described in Section 10-1 of the Revised Laws of Hawaii 1955.
- B. Such regulations are deemed necessary in order to:
1. Encourage the most appropriate use of land;
 2. Conserve and stabilize the value of property;
 3. Provide adequate open space for light and air;
 4. Prevent undue concentration of population;
 5. Lessen congestion on streets and highways;
 6. Promote health, safety and general welfare.

SECTION 2. DEFINITIONS

For the purpose of this ordinance, unless it is plainly evident from the context that a different meaning is intended, certain terms and words are herewith defined as follows:

ISLAND OF MAUI—shall mean the Districts of Wailuku, Makawao, Lahaina and Hana.

COUNTY—shall mean the County of Maui as described in Section 144-1, Revised Laws of Hawaii 1955.

COMMISSION—shall mean the Planning and Traffic Commission of the County of Maui.

ACCESSORY BUILDING—A portion of the main building or a detached subordinate building located on the same lot, the use of which is appropriate, subordinate and customarily incidental to that of the main building or to the main use of the land.

ACCESSORY LIVING QUARTERS—Living quarters within an accessory building, such quarters and building having no kitchen (cooking, refrigeration, sink or similar facilities), for the sole use of persons employed on the premises and not rented or otherwise used as a separate independent unit.

ADMINISTRATOR—The person who holds the office of Director and/or Executive Secretary or authorized representative of the Commission

BASEMENT—A portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from the grade to the floor below is more than the vertical distance from grade to ceiling.

BOARDING HOUSE—A building having not more than five (5) guest rooms where lodging and meals are provided for no more than five (5) persons for compensation.

BUILDING—Any structure built for the support, shelter, housing, occupancy, storage, or enclosure of persons, animals, chattels, or property of any kind.

BUILDING HEIGHT—The vertical distance from finished "grade" to the highest point of the finished roof surface of a flat roof or to the deck line of a mansard roof or to the average heights of a pitch or hip roof; provided, however, that where buildings are set back from the street line, the height of the buildings may be measured from the average elevation of the finished lot grade at the front of the building.

BUREAU OF CONVEYANCES—Wherever it appears herein, Bureau of Conveyances shall include the Bureau of Conveyance and the Office of the Assistant Registrar of the Land Court of the State of Hawaii.

CAMP, PUBLIC—Any area or tract of land used or designated to accommodate two or more automobiles, house trailers, or two or more camping parties.

CAMP, TRAILERS—Same as "Camp, Public".

CAR PORT—Any structure or portion of a building or structure, other than an attached or detached garage, used for the shelter of self-propelled vehicles.

CEMETERY—A land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, mausoleums, mortuaries and crematories (provided it has the approval of the Department of Health, Commission and Board of Supervisors when operated in conjunction with and within the boundary of such cemetery).

COMMERCIAL PURPOSE—Shall mean the growing, processing, or manufacturing of products primarily for sale to others.

COURT—An open, unoccupied space other than a yard on the same lot with a building and bounded on one (1) or more sides by such building or buildings.

COURT, APARTMENT—One or more multi-family dwelling, any of which may be more than one (1) story in height and arranged around one (1) or more sides of a court or place from which said court or place any dwelling unit therein has its principal means of access. A court apartment shall be deemed to include those multi-family dwellings which contain the principal means of access to any dwelling unit therein from a court or place or side yard.

COURT, BUNGALOW—Two or more single family detached dwellings arranged around one, two or three sides of a court which opens onto a street.

CURB LEVEL—The elevation of the established curb in front of the building measured at the center of such front. Where no curb level has been established, the County Engineer of the Department of Public Works of the County of Maui shall establish such curb level or its equivalent for the purpose of this ordinance.

DAY-CARE NURSERY—Premises where young children are cared for during the day with or without compensation with facilities approved by the State Department of Health, State Department of Social Services, State Department of Education, and Building Superintendent of the County of Maui.

DRIVE-IN RESTAURANT—A restaurant business where food is served to a person or persons in their automobiles or vehicles.

DWELLING—A building or portion thereof designed exclusively for residential occupancy but not including hotels, ten-

Proposed Revisions to MCC 19.37

Time Sharing Plans

- ▶ Clarifies which zoning districts allow time share units, time share plans, bed and breakfast homes, short-term rental homes
- ▶ Makes it clear that all criteria of 19.37 must be met
- ▶ Removes language regarding project instruments

SUMMARY

- ▶ TVRs in the Apartment Districts may continue in accordance with Ordinance 4167 if any unit in the building was conducting lawful transient vacation rental use as determined by real property tax class or payment of GET and TAT prior to January 1, 2020.
- ▶ No new TVRs in Apartment District buildings with no lawful TVRs
- ▶ TVRs are not permitted in M-1 or M-2 (they never were)
- ▶ Existing apartments in M-1 Light Industrial and M-2 Heavy Industrial may continue
- ▶ No new stand-alone apartments in M-1 Light Industrial (mixed use OK)

Other Related Department Initiatives

- ▶ Work with RPT to research Apartment District properties that are conducting TVR use but paying incorrect tax class
- ▶ Permit number issuance for properties that meet criteria of the Maui County Code for TVR use
 - ▶ Apartment Districts
 - ▶ Other Districts
 - ▶ Nonconforming Use
- ▶ Send data to State Department of Taxation for GET/TAT collections
- ▶ Research other ways to increase residential housing opportunities
- ▶ Community Plan updates as appropriate

The Mission of The Department of Planning:

Manage Growth in a Sustainable
Manner that Balances Our Economy,
Culture and the Environment

Mahalo!