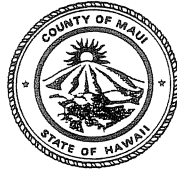


ALAN M. ARAKAWA
Mayor



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November 14, 2005

MEMO TO: G. Riki Hokama
Council Chair

F R O M: *JG* James A. Giroux, Deputy Corporation Counsel

SUBJECT: WEST MAUI PROJECT DISTRICT 2 (KAPALUA MAUKA) (LAHAINA)
(LU-69)

Questions posed.

This memorandum is in response to your memorandum, dated October 18, 2005, in which you asked the following questions:

1. Would bed and breakfast operations ("B&Bs"), as defined in MCC Title 19, be allowed in this Project District and if so, could these B&Bs be subject to the provisions of MCC Chapter 19.64, Bed and Breakfast Homes?; and
2. Can time share units, time share plans and transient vacation rentals be allowed in this Project District, given the provisions of MCC 19.37.010 that restrict such uses and plans to the hotel district?

Analysis and discussion.

Section 19.45.010(B), Maui County Code, states:

The intent of a project district development is to provide for a flexible and creative planning approach rather than specific land use designations, for quality developments. The planning approach would establish a continuity in land uses and designs while providing for a comprehensive network of infrastructure facilities and systems. A variety of uses as well as open space, parks, and other project uses are intended in accord with each individual project district objective.

The intent of the project district as a planning tool is to allow for a variety of uses, including bed and breakfast homes, time share units, time share plans, and transient vacation rentals, if appropriate, and approved by Council.¹ If the use is not included in the project district ordinance it is not permitted.

The proposed bill regarding the Kapalua Mauka project district does not allow for bed and breakfast homes.

Section 19.64.020, Maui County Code, states:

Bed and breakfast homes shall be permitted in accordance with the provisions established in each zoning district and as provided in this chapter.

Section 19.45.030(B), Maui County Code, states:

Other County laws shall apply within project districts, except to the extent that such laws conflict with requirements imposed pursuant to this chapter.

As currently drafted, the Kapalua Mauka project district bill does not include bed and breakfast homes as a permitted use in the project district; therefore, such use will not be permitted in the Kapalua Mauka project district.

Pursuant to Section 19.45.030(B), Maui County Code, project district ordinance provisions control notwithstanding any conflicting provisions of the Maui County Code. As currently drafted, the Kapalua Mauka project district bill allows certain time share unit, time share plan and transient vacation rental uses. Therefore, pursuant to Section 19.45.030(B), Maui County Code, time share units, time share plans, and transient vacation

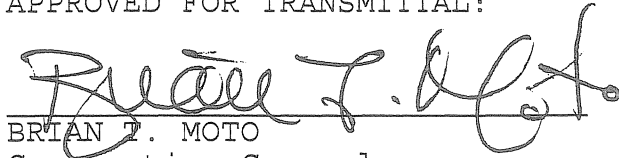
¹Project district land uses must conform to applicable state land use district designations. See § 19.45.030(C), Maui County Code ("If a project district extends into the state rural, agriculture or conservation districts, that portion's land uses shall conform with all regulations for the specific state land use district.").

G. Riki Hokama, Council Chair
November 14, 2005
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rentals will be allowed in the Kapalua Mauka project district,
notwithstanding Section 19.37.010, Maui County Code.²

cc: Michael Foley, Planning Director
Wayne Boteilho, Deputy Planning Director

APPROVED FOR TRANSMITTAL:



BRIAN T. MOTO
Corporation Counsel

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²Section 19.37.010(C), Maui County Code, states, in part:
"Time share units, time share plans and transient vacation rentals
are allowed in the hotel district...."