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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

August 26, 2015

The Honorable Mike White
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair White:

SUBJECT: REPEAL OF WATER AVAILABILITY POLICY (PAF 15-178)

May I request the attached proposed bill, entitled "A BILL FOR AN ORDINANCE REPEALING THE WATER AVAILABILITY POLICY," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael P. Victorino".

MICHAEL P. VICTORINO
Presiding Officer Pro Tempore

paf:gig:15-178b

Attachment

cc: Director of Water Supply

ORDINANCE NO. _____

BILL NO. _____ (2015)

A BILL FOR AN ORDINANCE REPEALING THE WATER AVAILABILITY POLICY

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

SECTION 1. Section 14.01.040, Maui County Code, is amended by repealing the definitions of “approved engineering report,” “infill development,” and “long-term reliable supply of water.”

[“Approved engineering report” means a report prepared by a licensed professional engineer, experienced in such fields as water resources, hydrogeology, water supply, or environmental engineering, and approved by the director of the state department of health pursuant to department of health rules, for non-County water service.”]

[“Infill development” means a development composed of:

1. Five or fewer residential dwelling units, including accessory dwellings, on one or more contiguous vacant parcels that meet the following requirements:

a. A minimum of fifty percent of the parcel's or combined parcels' perimeter, or at least two sides of a four-sided parcel, is bordered by already developed land;

b. The development is located in the service area of the department's central Maui water system or west Maui water system;

c. Infrastructure for public services and facilities is already in place and immediately available; and

d. The proposed development is consistent with the general plan, community plans, and zoning requirements; or

2. Six to ten residential dwelling units, including accessory dwellings, on one or more contiguous vacant parcels that meet the following requirements:

a. A minimum of seventy-five percent of the parcel's or combined parcels' perimeter, or at least three sides of a four-sided parcel, is bordered by already developed land;

b. The development is located in the service area of the department's central Maui water system or west Maui water system;

c. Infrastructure for public services and facilities is already in place and immediately available; and

d. The proposed development is consistent with the general plan, community plans, and zoning requirements.

3. For purposes of this definition:

a. "Already developed land" means all State and County parks, public or private schools, and residential parcels with a structure that has received all appropriate permits before March 1 of the preceding fiscal year.

b. Conservation and agricultural lands, and land fronting the ocean, shall not be considered "already developed land" regardless of the presence of any structure.

c. If the development's parcel or combined parcels are bordered by a roadway, stream, or gulch, then the parcel or parcels across the roadway, stream, or gulch, shall be considered in determining whether the parcel or parcels are already developed land."}]

["Long-term, reliable supply of water" means:

1. A County water meter reservation, as established by a receipt for payment of a County water meter reservation verifying that the proposed subdivision will be provided source and service; or

2. The total water supplies from a private, non-County source that will meet the projected demand associated with a proposed development, in addition to existing and planned future demand, as established by an approved engineering report."}]

SECTION 2. Chapter 14.12, Maui County Code, is repealed.

SECTION 3. Section 18.04.020, Maui County Code, is amended to read as follows:

"18.04.020 - Authority and scope. A. Pursuant to section 8-5.3 of the revised charter of the County of Maui (1983), as amended, all subdivisions and consolidations, and all streets or ways within the County created for the purposes of subdividing land, shall be approved by the director in accordance with this title.

B. Any person desiring to subdivide or consolidate land shall submit plans and documents for approval as provided by this title. No subdivision plat may be filed with the bureau of conveyances or land court or state department of taxation until

submitted to and approved by the director. Land shall not be offered for sale in any subdivision, nor shall options or agreements for the sale of land in any subdivision be made until approval for recordation of the final plat is granted by the director as provided in this title, unless such offer, option, or agreement expressly provides in writing that such sale of land in the subdivision shall not occur nor become effective unless and until all applicable agreements and bonds are executed in accordance with section 18.20.190, and approval for recordation of the final plat is granted by the director as provided in this title.

C. The requirements of this title shall not apply to a consolidation/resubdivision of two or more developable lots resulting in the same or fewer number of developable lots that existed before the consolidation/resubdivision action or to the establishment of easements for ingress and egress where no new developable lots are created together with the establishment of the easement subject to the following conditions:

1. Compliance with title 19 of this code or chapter 205, Hawaii Revised Statutes or both;
2. Compliance with chapter 18.08 of this title except for section 18.08.090;
3. Compliance with chapter 18.12 of this title except for section 18.12.070; and
4. Compliance with chapter 18.24 of this title.

D. Parcels that have undergone consolidation/resubdivision under this subsection shall not qualify for this exception with respect to any subsequent consolidation/resubdivision of any of the parcels.

E. If the director finds that the subdivision will have a significant or substantial impact upon public facilities or infrastructure, the director may impose those requirements in title 18 that are appropriate.

[F. Except for family subdivisions as described in section 18.20.280 of this code, a consolidation and a concurrent resubdivision that does not create additional developable lots, road widening lots, utility lots, and easements for access or utility purposes, the director shall not approve any subdivision unless the subdivider provides written verification of a long term, reliable supply of water issued by the director of the department of water supply as set forth in section 14.12.040 of this code.

G] F. The requirements of this title shall not apply to subdivisions initiated or co-sponsored by the department, solely, and for no other purpose than the acquisition of property for road widening lots, roadway extension lots, roadway improvement projects, roadway realignment projects, drainage lots, utility lots, park lots, and easements for access or utility purposes, provided

that such subdivisions shall comply with sections 18.12.020, 18.12.030, 18.12.060, and 18.12.080 of this title. All applicable provisions of this code shall still apply to the subsequent development of the remainder lot(s). Further, this provision shall not extinguish pre-existing agreements or conditions imposed by shoreline management area permits, building permits, or land entitlement agreements required as conditions of subdivision applications and approvals. All pre-existing conditions and roadway improvement obligations and agreements shall remain in effect and be enforced solely by the director authorized to administer the subject agreements. "Notices of Intent to Collect" shall be sent to property owners with outstanding obligations at the commencement of project funding, followed by collection notices to property owners at the time of right-of-way acquisition of County initiated or co-sponsored roadway projects."

SECTION 4. Section 18.04.216, Maui County Code, is repealed.

["18.04.216 Long term, reliable supply of water. "Long term, reliable supply of water" means the same as defined in article 1, title 14 of this code."]

SECTION 5. Section 18.12.040, Maui County Code, is amended to read as follows:

"18.12.040 Supplemental information. [The following data shall be submitted with the final plats:

A.] A current and complete title report issued by a licensed title company showing all persons vested with record title in the land subdivided[;] shall be submitted with the final plats. [and

B. Statement regarding water system to be installed. If the proposed subdivision will be served by the County's water system, the subdivider shall provide a receipt of payment of a water meter reservation from the department of water supply verifying that the subdivision will receive water source and service from said department. Should a private water system be proposed, the subdivider shall provide written verification of a long term, reliable supply of water from the director of the department of water supply in accordance with chapter 14.12 of this code."]

SECTION 6. Section 18.20.180, Maui County Code, is amended to read as follows:

“18.20.180 Completion of construction—final approval.

When the construction drawings bear the approval of the director and, if applicable, the director of water supply, the sanitary engineer, and the district engineer, and should be approved by any director of a reviewing agency, as required under sections [14.12.040,] 18.20.150, 18.20.160, and 18.20.170 of this code, the subdivider may proceed with the construction of the improvements and utilities. After completion of same in accordance with the requirements of this title, the director shall grant approval for recordation of the subdivider's final plat. Where construction extends into the state highway right-of-way, the contractor shall obtain a permit from the district engineer prior to commencement of work within the state highway right-of-way.”

SECTION 7. 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 8. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

paf:gjg:15-178a