

PLANNING COMMITTEE

Council of the County of Maui

MINUTES

August 15, 2002

Council Chamber

CONVENE: 2:35 p.m.

PRESENT: Councilmember Charmaine Tavares, Chair
Councilmember Michael J. Molina, Vice-Chair
Councilmember G. Riki Hokama, Member
Councilmember Jo Anne Johnson, Member
Councilmember Danny A. Mateo, Member
Councilmember Wayne K. Nishiki, Member

EXCUSED: Councilmember Alan M. Arakawa, Member
Councilmember Robert Carroll, Member
Councilmember Dain P. Kane, Member

STAFF: Wayne A. Boteilho, Legislative Analyst
Camille Sakamoto, Committee Secretary
Kathy Kaohu, Executive Assistant to Councilmember Jo Anne Johnson
James Johnson, Executive Assistant to Councilmember Jo Anne Johnson

ADMIN.: Brian Miskae, Planning Program Administrator, Long Range Planning
Division, Department of Planning
Brian T. Moto, Deputy Corporation Counsel, Department of the
Corporation Counsel

OTHERS: Carl Freedman
Terryl Venci
Donna Clayton
Warren Suzuki
Scott Matsuura
Don Fujimoto
Buck Buchanan
Charlie Jencks
Mercer "Chubby" Vicens
Glenn Shepherd

PRESS: *Akaku: Maui Community Television, Inc.*

CHAIR TAVARES: . . .(gavel). . . Okay, will the Planning Committee meeting please
come to order? We have with us in attendance, Committee

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Members. . . Councilmember Mateo, Councilmember Hokama, Councilmember Molina, Councilmember Nishiki. We have excused today. . . Mr. Kane, Councilmember Kane and Councilmember Carroll and Arakawa. Ms. Johnson will be in in just a, a little while. . . and so will Mr. Arakawa. I apologize for being a little late, but we were at a Ala Hou. . . recognition ceremony and you know. . . not just Portuguese talk on, you know . . .

ALL: . . . *(laughter)* . . .

CHAIR TAVARES: . . . some other ones, too.

ALL: . . . *(laughter)* . . .

CHAIR TAVARES: Okay, at this time. . . this afternoon, Members, we are going to be going over the. . . proposed. . . ordinance that has been submitted by the Administration on changes or amendments to 2.80A of the Maui County Code, pertaining to the General and community plan process.

ITEM NO. 8: IMPROVING THE PROCESS FOR UPDATING THE GENERAL AND COMMUNITY PLANS (C.C. No. 98-51)

CHAIR TAVARES: At this time, Members, we have one person signed up to testify so far, Mr. Carl Freedman. And if you would come to the microphone? If there's anyone else who wishes to testify, please come forward. Uh. . . if you're the only one, Carl, I guess you have six minutes if you need it.

. . . BEGIN PUBLIC TESTIMONY . . .

MR. FREEDMAN: Okay, thank you. My name is Carl Freedman. I live in Haiku. I'm here testifying on my own behalf today. I am working for the Water Department as a consultant. . . on water use development plans which will come before you. And in that context, I have been working with the socio-economic forecasts and some of the. . . documents that are being prepared for the General and community plan process and they've kind of inspired some of my comments, but I'm really talking on my own behalf here. I had three comments. The first is regarding the use of the forecast projections that come from the consultants that are working for the Planning Department. And in the draft--I'm looking at the draft that was distributed at the last meeting. . . there is language that describes. . . outlines the new planning process. And on Page 2 of that draft, it's . . .

. . . Section 2.80A.010. . . C.1.b, it talks about island-wide use strategies and what will be included in those. And of course one of the things in the island-wide

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strategy is a managed- and directed-growth plan. And there's one clause in there I wanted to address. It says that . . .

. . . the . . .the managed- and directed-growth plan will include a description of existing and future land use patterns and planned growth for the 20-year planning period. . .based on the distribution of projected population and economic growth within the County. And that's what--the word "projected" in there is concern. Okay, so we've got a process out there where we have, the General Plan is supposed to include another plan--a managed-growth plan--and it is supposed to. . .be based on. . .certain projections. Now if the intent there is that it's supposed to be based on the consultant's studies, I think that's. . .wrong. I think that the Council and the advisory groups should use that forecast just like forecasts should be used--as tools. You look at it, you make educated decisions using it, but I don't think you want to have language in there that makes you do it. And in general, I think that the whole point here is. . .we wanna be looking at where we want growth to be distributed on the island, we wanna take that from the top, we wanna do it by policy. The forecasts that the consultants provide--and I've been all the way through the inside and out of it--it's not a policy statement. It's not saying this is where growth should happen. It's a, it's a technical projection, it's just a forecast. And we don't want to. . .codify that. So I guess, I think we want to. . .to have growth happen where we want it to happen. . .the problem now is that growth is happening **to** us. We kind of wanna turn that around. So the cart, I think, is already in front of the horse. And we don't want to keep it there. And we certainly don't wanna codify the fact that it has to stay there. And what the forecasts are projecting is where growth has happened. It. . .it basically projects the existing growth patterns. So that's. . .my simple comment is to take out the language there--based on the distribution of projected and population and economic growth within the County. There should be a period after the word "period" in that sentence. And certainly the Planning Director is free to base whatever he wants on the forecasts and the advisory group and the Council. But I just don't think it should be codified in anyway that should give more weight to the groups that are going out--I know this happened in the last community advisory group process. Because each community. . .each citizens advisory group was told, you know, there's this much growth planned for your sector, so you have to provide enough housing for that. But where did those numbers come from? They were not policy-directed numbers. They were from a forecast.

CHAIR TAVARES: Uh-huh.

MR. FREEDMAN: And so I hope you don't give too much weight to the consultant's work--not to discredit the work at all, it's valuable tools, but let's do this by policy. Um . . .

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. . . in, informed by the good work of the consultants. The second comment I have. . . is about the. . . the idea that is. . . to have an island-wide. . . the way I put is island-wide specifics in the General Plan. And I think it's a very good idea to have some of the things you wanna think about in planning done on an island-wide basis. At the same time, I think a little more attention needs to be made in the written language to identify where what decisions will be made. Because if you have specifics in the General Plan, then when you go out to the community plans. . . there's another list of specifics that are in there. And if you look at the language, I mean, in the General Plan, you have things like urban and rural growth boundaries. . . the distribution of growth that's gonna happen, and then. . . I mean, my own, you might wanna have transportation corridors, there are other things you think about on an island-wide basis in there--those things actually get put on a map though it doesn't say it. Then you go out to the community plan districts and then you're charging the community plan or the community plan citizens groups with making some of the same sorts of decisions, but I mean, what is changeable, what's given, what do they have to work with, what do they decide, what don't they decide? I think the way that Brian explained it in his slide show made sense to me. But when I looked at the Code in here, the, the language--and I actually looked for. . . that identification of which decisions will get made where, it wasn't very clear to me. And I think that that should be addressed upfront to some extent so it doesn't become a conflict later--

MR. FREEDMAN: --you wanna go on down the lone. . . road, you wanna make sure that it's clear.

MR. BOTEILHO: Six minutes.

MR. FREEDMAN: Uh-huh. Okay. Six minutes.

CHAIR TAVARES: Okay.

MR. FREEDMAN: I have one other comment.

CHAIR TAVARES: Okay. Thank you. Any. . . any questions from the Members?
Ms. Johnson?

COUNCILMEMBER JOHNSON: Thank you very much for coming. I wanted to pursue some of the. . . things that you were just saying, with regard to more, I guess what appeared, from your testimony, more reactive as opposed to proactive in. . . following . . . *(laughter)*. . . as opposed to leading. So in regard to the implementation--and I know you just spoke about the community plans and, you know, some of the wording in here--is there anything that you think should be included within this that specifies who is supposed to be the implementer of

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these actions or the entity that would maintain some kind of oversight for seeing that this gets done, and perhaps even timelines . . . *(laughter)* . . .

MR. FREEDMAN: Yeah, now that . . . that goes beyond what . . . my comment addressed. And it's a very good point. I think that . . .

. . . that's the part of the plan and the shortcomings of the plan that become obvious afterwards. That's, you know, now working with an existing plan . . . the . . . list of implementing actions is given there, but there's no, not necessarily any budget with it, there's not exactly. . . it's not exactly clear who, whose, clear who's gonna do it. Although, it's implied sometimes. Now there is language in here that . . . addresses that--

CHAIR TAVARES: Uh-huh.

MR. FREEDMAN: --question. And I was glad to see it. I mean. . . it does direct the community plans to have a financial plan that's attached, that addresses the individual actions so that they can be . . . they can. . . you know, so it's realistic that they be implemented. And so I would. . . I mean, I agree with. . . I don't know if it was a question or a comment, but I agree with the sentiment that it needs to be . . . spelled out. . . or made clear at some point how the plan is going to be implemented in the individual pieces. But I don't have any great advice--

COUNCILMEMBER JOHNSON: . . . *(laughter)* . . .

MR. FREEDMAN: --for you on that.

COUNCILMEMBER JOHNSON: I, I . . . because of the fact that you seem so knowledgeable, you know, having gone through this in depth, oftentimes it's easier for somebody outside of this body to be a little bit more objective when you're looking at little pieces that are missing in the puzzle. And I guess what I'm trying to do is. . . you have a very good sense, of the way you expressed yourself in making the critique of the little missing elements or things that were dangerous, you know, to move into. And so it was because of that that I asked for your input on **other** things that may be missing . . .

MR. FREEDMAN: Uh-huh.

COUNCILMEMBER JOHNSON: . . . from this whole picture. And if you think of any of those things at a future time or if there is anything additional. . . I know that we would certainly appreciate hearing from you. And I do appreciate the comments that you've given. I have one more quick question, Madam Chair. And that is . . . in regard to . . . the section that's being deleted--you know, what you're recommending--based on the distribution of projected population and economic growth within the County, because. . . if I'm hearing you correctly, you're looking

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at that from the perspective that we're moving in a direction, but because of the way that things will happen or we anticipate things happen. . .happening, that this plan should be more geared to directing. . .is that what you're saying?

MR. FREEDMAN: Yeah--

COUNCILMEMBER JOHNSON: That we direct how things happen?

MR. FREEDMAN: That's right. I mean, the idea of planning is you wanna *plan*.

COUNCILMEMBER JOHNSON: . . .*(laughter)*. . .

MR. FREEDMAN: And. . .the problem with the forecasts is they are not planning decisions. I mean, I do forecasts. I do, I've done forecasts professionally for over 20 years. I'm, right now, doing a forecast of these same parameters for the same County for the same people for the Water Department. And **because** we're supposed to use these numbers, I've been looking at particular numbers in there. So there are two dimensions to my concern. One is when I look at the actual document that shows the projections. I see limitations and problems to using that. So professionally I'm gonna have to make some changes in order to use it. Let's not codify that document.

COUNCILMEMBER JOHNSON: Uh-huh.

MR. FREEDMAN: But the other is--regardless of what I say or whether the document's right or wrong. . .and this is the more important point, regarding, and this. . .the distribution is the key there. We're not talking about whether or not growth will occur. It's how it will be distributed. **That** is an important function of the whole plan. . .is the decide--I mean, the whole concept of your urban growth boundaries.

CHAIR TAVARES: Uh-huh.

MR. FREEDMAN: I mean, they're not defined. . .what an urban growth boundary is in here. But that's a very progressive element of what you have in here. You. . .you know, what's the basis gonna be. . .be for those? Uh. . .where. . .you might wanna make some decision--I mean, right now. . .Kihei. . .Kihei's been growing over the last ten years for about, at 4½ percent growth, resident population. The new forecast says about 1.7 percent growth for that area without any changes. I mean. . .so they, they say things will happen a lot differently than they have in the past--not based on any land-based limitations. Maybe that's a good policy--

COUNCILMEMBER JOHNSON: . . .*(laughter)*. . .

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MR. FREEDMAN: --but the reason it's done in the, in the study is based on demographics. It's not. . .you know, I have an alternate set of assumptions you could make that gives you different. . .different results. But the. . .I think the point is you wanna plan for these things, and you can plan about the distribution of growth--you say we have the infrastructure here, this is where we want the growth to happen, and once we decide it to happen, here are the implementing actions or whatever to. . .to make it happen there rather than someplace else. But I mean the way things are sprawling around here. . .you've gotta have a handle on it, and you've gotta take it by the horns. You don't wanna codify the sprawl right in here, saying well, it's been happening, so the consultant's say it's gonna continue to happen, so now we have to plan for it.

COUNCILMEMBER JOHNSON: Thank you very much. I really appreciate your input.

CHAIR TAVARES: Thank you. Any other questions for Mr. Freedman?

. . . Thank you very much for your comments, Carl. And if there are additional ones that you didn't get to, please share them with. . .with me and the Committee Staff--

MR. FREEDMAN: Okay.

CHAIR TAVARES: --so we can take a look at it. Thank you. Is there anyone else wishing to testify? If not, we will be closing the testimony portion of the meeting.

. . .END OF PUBLIC TESTIMONY. . .

CHAIR TAVARES: At this time, I would. . .I was remiss in, in recognizing our, our other folks that are in the. . .on the floor with us. And we have from Corporation Counsel, our First Deputy Brian Moto; from our Committee Staff, Camille Sakamoto, Secretary, and Wayne Boteilho our Legislative Analyst. We also have with us from the Administration, the Long-Range. . .the Long-Ranger, they call him. . .Brian Miskae from the Long-Range Planning Division. . .or the Long-Range Division in the Planning Department . . .(laughter). . . some of these titles. At this time. . .let me draw your attention to this matrix which you see. . .it's the long sheets of paper. And if there's anyone in the audience who wishes to follow along with us, we have copies of it here. And I will be turning this over to Mr. Miskae at this time. It is my intention to go through this as the first brush. Uh. . .and what has been set up here on this matrix. . .and thanks to. . .many thanks to Mr. Boteilho for doing this, is on the fat left-hand column is the proposal as submitted to us for the revision of. . .of that Section 2.80A. In the next wide block, where it says "INFORMAL MEETING RECOMMENDATION BEING ADDRESSED", Mr. Boteilho has gone through all of the. . .conclusions or recommendations from the two rounds of community meetings we've had and matched the section to those concerns. And then in the other, last column are

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some notes. . .and comments that are, that have come up. And this is also a place for you to jot your little notes and comments if, if you wish. And Mr. Boteilho does inform me that all of the concerns that were raised in the Executive Summaries of each of the rounds of those community meetings is addressed somewhere in this plan. So I think we have a very good correlation between what we heard from the community and where it is addressed in the ordinance that, that was presented. I think one of the big advantages to how this all came about was that Mr. Miskae attended. . .almost all of the meetings or one of his staff people attended the meetings with us as we went through the community for those 17 meetings or so that we had. So I think it was a, a very worthwhile exercise and that we have a document that's not totally contrary to, you know, sometimes we get one and we have one and it looks like they're never gonna meet in the middle somewhere. But this one, I think we're, we've got the basis for a good ordinance here, and we just need to give further explanation or tweak, tweak it some more and. . .we'll be on our way. It's my intention that this meeting shall not run beyond 4 o'clock this afternoon. And if we don't finish this, we will continue it on the next scheduled meeting for the Planning Committee. Okay, with that. . .any Members have questions about our procedure here? Okay, with that, Mr. Miskae. . .if you would. . .help us along with this?

MR. MISKAE: Well, Madam Chair, thank you very much. Uh. . .we think that we've got a, a very good basis for a bill that will amend the process that we need to follow with respect to developing. . .our General Plan and our community plan process within the County of Maui so that the product, in the end, will be something that we can use and we can be proud of and that will very definitely serve the people of Maui County. Your comment with respect to reorganizing the bill in such a way that it groups the various sections so that it's much more user-friendly, I think, is an excellent one. The draft that we provided to the Committee essentially follows the. . .the format that is currently in Chapter 2.80A. So it does bounce around a little bit, but we felt that it would be good if it was in a Ramseyered format--so it would be, maybe, a little easier to see what was being amended, what was being added. By all means, in the, in the end, I see no reason why Chapter 2.80A can't just simply be rescinded and a fully-formatted new bill which would reflect the language that you've talked about be put in its place.

CHAIR TAVARES: Thank you. I think that would be good, too.

MR. MISKAE: I think we can, we'll get there. . .at some particular point. A lot of language in, in. . .planning documents. . .always seems to be subject to interpretation. . .by using, you know, words that, that seem to discuss them being guides--that, yeah, you've got some room to move here, so you can go here or go there. What we've tried to do and, and we probably haven't been successful totally this time either, what we've tried to do is to try and replace some of the words in this bill so that they become, hopefully, more concrete rather than

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simply, well, yeah, I guess we can do it that way if we want to. What we tried to do is to, is to frame this bill in such a way that the language suggest that you've gotta do it this way. If, if any of the Members, as we go through this, seem to think that there is a problem in, in . . . a reference to some of these terms and, and how we phrase it or if you feel it needs to be softer or harder. . . would probably be a good thing to likely discuss that. I did present this Committee with a . . . a PowerPoint at the last meeting which kind of took you through the highlights of what this is trying to do. Very briefly, our General Plan is a very **general** plan at the present time. The General Plan contains five themes. The 1990 General Plan contains five themes. The first theme talks about agricultural preservation and open space. The second theme talks about managed- and directed-growth. The third theme, I believe, talks about shoreline protection and visitor growth. The fourth theme, I . . . I believe, talks about diversification of our economy. And I believe the fifth theme related to affordable housing. These themes were intended to be developed into policies prior to getting into our community plan process in the last go around. These themes were supposed to be the glue that was to hold the community plans together so that they became implementing actions to the General Plan. For one reason or another. . . I would say probably most, if not all of these themes, were never really developed in any kind of format that would suggest. . . that the community plans should follow these. So the community plans proceeded almost on their own. Uh. . . the citizen advisory committees were not given a whole lot of direction other than the fact that they should build on their opportunities and try and solve their problems. So each of the community plans, if you open any one of them, you'll find in the first part there is a discussion on the problems and opportunities in the various communities. In addition to that, the, the various community plans were also based upon--as Mr. Freedman pointed out--a variety of consultant projections which are essentially derived from State. . . numbers. So that, I believe, as a matter of fact, the Paia-Haiku Community Plan, if you look at the projected population for the Plan's period, it's in excess of that already. Uh. . . so some of these things work, some of them don't. That's why we, we're trying to use. . . words like "base". In other words, use these projections as **tools**, not necessarily as absolutes. But, again, that, there, there's interpretation of wording right there. So the General Plan, then, we felt needed to have this glue. Obviously the five themes were not developed, so we felt it was necessary to, to insert something else with a little more concreteness. And that's the reason why we're recommending that this island-wide element be placed in the General Plan which will essentially reflect those things that are needed to pull our whole island back together again, so that we can then start really addressing the issues of. . . transportation, regional transportation, regional water, regional sewer, regional solid waste--those things that, that supply services to all of our communities, not just any single community. So the island-wide strategy or the island-wide element tries to do that, and it tries to do it in such a way as to identify within each community specific urban areas that would then be confined within urban boundaries. These urban boundaries would then supply sufficient lands within each of the

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communities to hopefully. . .and adequately supply the needs for that community on, on a, on a projected-growth basis for the, the period of the plan--which is 20 years. And of course based on that, then it would be. . .the next logical step to provide the things that are needed for that community because you should already have a good idea of how many kids are going to be generated, how much water is going to be needed, how much sewer is to be generated, solid waste is to be generated, how much traffic is to be generated--so you can logically look at what you need to do to join the dots, join the villages in a regional sense. The other thing that the region or, the regional or the island-wide plan would do is that it would effectively tie these things to the budget process so that. . .the implementation actions don't become multiple choice. . .that they become, you. . .you do this. The plan itself, the wording in this particular bill actually does set up who is to do these implementing actions, when they're to do them, how much they're gonna cost. That's in both the community plan section and also in the island-wide section under the financial element. So we, we've tried to pull this thing together so that it's, it's a blueprint, it's a. . .it's a plan of action, it goes a little bit beyond, probably, what would be a strategic plan. It's, it's, it's an action plan, it's something that we can open up and say, yes, this is a good thing, the results will give what we want for this community, it will improve our quality of life, it will allow us, I guess, to be more than just visionary but, but to be able to be. . .able to implement these, these particular action items. So that's kind of the overview, Madam Chair. If we wanted to start on Page 1, we could, we could do that.

CHAIR TAVARES: Okay. Any questions so far from the Members?

COUNCILMEMBER HOKAMA: Question.

CHAIR TAVARES: Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you very much, Ms. . .Madam Chair. Mr. Miskae, let me, my question is on Page . . .

. . . 3 . . .

. . . under the island-wide land use strategies.

. . . Middle, the third comment--the plan should have the force and effect of law and should be enforced. Let me just bring up a potential situation. . .which, which . . .

. . . may, may be occurring or has occurred. You have a adopted. . .General Plan, updated General Plan and you have a. . .adopted, amended community plan for a region. Let's take Lanai as the region, for example. There is zoning already on a parcel which is in conflict to the amended community plan. Both

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went through an ordinance procedure. When you have that type of conflicting. . .uh. . .County law. . .how would you recommend us dealing with it? And should one have a more superior or be. . .able to supercede another existing ordinance contrary to what it is?

MR. MISKAE: Madam Chair, hypothetically that shouldn't happen. However, we, we all know that it, it has and it currently occurs where a community plan says one thing and the underlying zoning says something else. A General Plan and the island-wide and the community plan are, in fact, strategic documents. They're documents that give direction. The zoning ordinance should be an implementing action. . .which, which essentially implements those strategic. . .provisions or plans that you've put together. If in fact the underlying zoning does not reflect the community plan, there's probably a good reason why it doesn't. It may very well be that the development on that particular site, maybe, has been there for a long time. Uh. . .it may very well be for any number of other reasons. It should not be. . .it, that sort of thing should be an **exception** rather than. . .than a normal course, I would think. In terms of the hierarchy of plans. . .all of the plans will be adopted by ordinance, by law. The General Plan, the community plans will be adopted by way or through the vehicle of Chapter 2.80A, which is the current way we do it. Essentially, Chapter 2.80A is the ordinance. . .and then the General Plan and the community plans are attached to that ordinance as exhibits so that they become part of that ordinance. So everything's adopted by ordinance.

COUNCILMEMBER HOKAMA: Uh-huh.

MR. MISKAE: What has supremacy? Uh. . .I'd just love to pass it to this gentleman on my left. . .but I don't know if he's prepared to answer what actually has supremacy. . .*(inaudible due to interruption)*--

COUNCILMEMBER HOKAMA: Well, well, I, I. . .and, and. . .Chair. . .I. . .I wanted to get both, I wanted to get a planner's perspective, as well as Mr. Moto from a legal perspective because there may be times when you two gentlemen won't agree either regarding the question.

MR. MISKAE: Well, I mean, I believe that, that, that the, that the, the. . .strategic document reflects the most **recent** views and opinions of the elected body and of the people of the County of Maui. If in fact the underlying zoning, which happened before, doesn't meet the strategic document, then the zoning probably should be amended to meet the requirements of that strategic document.

COUNCILMEMBER HOKAMA: And if that should occur from a planning point of view, Mr. Miskae, and the community still prefers to have the existing zoning than the proposed community plan use designation, what then?

MR. MISKAE: Maybe we've done something wrong in the strategic document, then.

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. . . I guess what I'm saying is that if it's, if it's the majority opinion of the . . . of the elected body that that's the direction that they wish to take the community and it's in the community's best interest. . . and maybe a minority of the community disagrees with you, those things happen.

COUNCILMEMBER HOKAMA: Understood.

MR. MISKAE: But from a planner's perspective, I would say that the strategic document is one that you should be following.

. . . Now, takings, legalities? I don't know about any of that stuff.

COUNCILMEMBER HOKAMA: Uh-huh.

MR. MISKAE: But from a planner's perspective, that's how I would answer your question.

COUNCILMEMBER HOKAMA: Okay. Thank, thank you, Mr. Miskae. Chair, if Mr. Moto would care to take a stab at the same question? And if he prefers to research the question, then I would be . . . open to awaiting a response later.

NOTE: Long silence.

CHAIR TAVARES: . . . Mr. Moto?

MR. MOTO: Mister. . . Madam Chair, I'll make a brief comment. . . which is that the hypothetical that was posed by Councilmember Hokama is one that. . . in fact. . . we confront today. So . . .

. . . the specifics of his. . . or, or the specific question he posed was a hypothetical, but we know that it has a basis in fact. And. . . in fact most recently this week the Maui Planning Commission had to. . . address an application in which. . . there was property that's on, on the community plan Business, but the current zoning says Residential, and the property owner would like it to be rezoned to. . . Business/Commercial use. And the Maui Planning Commission . . .

. . . notwithstanding what the community plan designation says, recommended denial of that rezoning application. So this is a, an example that in fact these kinds of conflicts do arise. They probably will arise in the future. And at a certain point . . .

. . . from a legal perspective. . . one or the other would probably . . .

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. . . it might be reasonable to reassess one or the other--either the zoning or the community plan. Um . . .

. . . uh, the community plan is designed to . . . educate and, and . . . direct, and I, I think . . . in particular discretionary decision-making . . . and in particular discretionary decision-making such as in the SMA context or zoning. Um . . . however, there is, from practical experiences we confront, we know that, for example, when community plans are done, they're done on a comprehensive, mass basis. And it's quite a bit different when you're dealing with zoning questions on a parcel-by-parcel basis. So some of these legal conflicts are inevitable. And they're gonna be very difficult to eliminate entirely.

NOTE: *Long silence.*

COUNCILMEMBER HOKAMA: . . . Thank you.

CHAIR TAVARES: Thank you. Any other questions. . . so far?

. . . Okay, let's . . . let's try to move on.

NOTE: *Silence.*

MR. MISKAE: . . . Madam Chair, just as a, just a short addendum to that. One of the things we tried to build into this bill is a, is a substantial increase in public involvement. It's, it's not something that just is going to happen. We've tried to build it in here . . . in the direction of the legislation so that the, the advisory committees are not going to sit at a table, in front of a hall and, and listen to a . . . a parade of consultants saying what they want in the plan. But instead . . . the Planning Department is forced to provide the citizen advisory committees with professional facilitators and setting up actual public workshops with tabletop exercises so that the public has an opportunity on their own time to come and really express what they wanna see in their plan. So that, I believe as one of the planning commissioners pointed out . . . in the example that Mr. Moto gave, is that the, this is a prime result of, of the inability of the County to involve the public in a community plan process because they're now reacting to a result when they should have been involved in the first place in the decision-making. So we're . . . I mean, this . . . this what we're gonna . . . we're trying to do on the wording, which we'll get to, you know, as we go through this--is that we're trying to, to legislate the public getting involved . . . *(laughter)*. . . if you can do such a thing.

. . . So may I go back to Page 1?

CHAIR TAVARES: Yeah.

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MR. MISKAE: . . . The first. . .the first section, obviously, A is, is just, says that the exhibit is the General Plan. So, I mean, that's how the General Plan is adopted by law--is that it becomes an exhibit to this particular ordinance when it's adopted. B, we've changed the word "implement". We, it said "also conform to"; we've used the word "implement", feeling that it, it is more of an action-oriented verb--shall **implement** the provisions of the General Plan. Now, I don't know if that's strong enough either, but we felt that that was probably a better word so that "preparation of the County budgets and capital improvement programs shall", instead of saying "also conform to". . .we've said "shall implement the provisions of the General Plan. So when you're doing your budget, can you, can you not help but implement the provisions of the General Plan through your budget, with the use, with the word "implement"? So is there some way to simply say, well, no, we're not going to do that, if it says that? That's the reason we put that word in there. A lot of people have said how come we look at the capital improvement budget and we don't see any correlation with the implementing actions. Well, hopefully this will bring this to the point of. . .we've gotta do this. If we're gonna make a plan, we're gonna put provisions in the plan, let's. . .implement the plan. If we're not gonna implement it, don't put them in. So that's what that word "implement" means. If. . .that's the reason we've put it in. If, if any of the Members think that is too strong or that it can be reworded, we're, obviously, open to that. But that's the reason we used the word "implement".

. . . And of course that follows what. . .Chairperson's Committee, or that the public said--the plan should be implemented.

. . . So we used the word. . ."implement".

CHAIR TAVARES: . . . Okay. Any questions about that part so far?

. . . You know, because this is our first go-through in the actual detail, if you just jot notes in the margin those things you might wanna follow-up with later, then I'll ask for comments that we can pass on to. . .Mr. Miskae and to Corporation Counsel, should we need additional information. So don't feel pressured into thinking up all the things right now. Because, you know, I'm cognizant of the fact that this is Thursday afternoon. . .the afternoon before a long weekend. And--

COUNCILMEMBER HOKAMA: . . .(laughter). . .

CHAIR TAVARES: --and we would like to--

ALL: . . .(laughter). . .

CHAIR TAVARES: --you know . . .(laughter). . . go on. And some of us have had very long nights this week. So. . .just to, to get a real, a more detailed explanation

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than what was presented the last time--which was the overview of this whole. . .planning process. So, thank you. Just go ahead and continue, Mr. Miskae.

MR. MISKAE: Okay, Madam Chair, Page 2 of your matrix that Mr. Boteilho has up on the screen adds a different description of the General Plan. And essentially what this description is, is word-for-word from that which the Charter Commission is recommending. So that the Charter will actually reflect this wording. . .if, if, if the. . .the public decides to adopt that. So. . .and essentially this language comes right out of the State law. So you've got State law, you've got a recommendation from the Charter Commission. And it. . .it, it really gives you a much. . .I think a much more distinct picture of those things that should go into a General Plan. . .and except for the last sentence, which we've said more particularly the General Plan shall include but not be limited to the following elements. But the rest of it is in keeping with what the Charter Commission felt--that our Charter should say, in terms of the description, of what our General Plan should say.

NOTE: *Very long silence.*

CHAIR TAVARES: . . . Okay, Members, I'm, just have. . .Mr. Miskae go on. And if you want him to stop somewhere, then we'll--

VICE-CHAIR MOLINA: Okay.

CHAIR TAVARES: --go ahead and stop him.

MR. MISKAE: Page 3 begins the island-wide use land, island-wide land use strategies. Uh. . .as I've said, what this is designed to do is to provide us with a much better way of looking at our islands on a, on a. . .on a, on a basis through which that we're not trying to play catch-up all the time. Mr. Freedman pointed out that. . .in many cases development precedes our ability to service it properly--hence we're building fire stations after the fact and trying to upgrade water lines and. . .sewer treatment plants aren't working right and. . .a whole variety of things. We should be able to do a better job in trying to, to forecast our needs when in fact it's **really** within our power to do so by managing growth. And by that, under no circumstances do I ever mean stop growth. That's just plain wrong. But to manage growth, I think is something that is fully within the, the power and authority of the, of the Legislative body and the Administration of this County of Maui. And if we have to put into legislation to show us the way, that's basically what this is about. So it, it's broken into a variety of sections. It talks about a vision statement, a managed- and directed-growth plan. We've used the word "based" on projections. I mean if we wanna use something else, that's fine. But, you know, I, I think that it's a good place to start with--to use, to use the word "based" on the distribution. It doesn't say to. . .you know, to do it. It just says

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“based” on it. An action plan; identification of specific programs over the 20-year period to implement the respective island’s vision, principles, goals, and policies; and to include a general schedule; identify implementing agencies and organizations--in other words, who’s supposed to do it. The implementation program will include a capital improvement element--on Page 4; to include a description of regional infrastructure systems that’ll be needed; a financial element. . .how we’re gonna do it, what are, how are we gonna pay for it; an implementation schedule that actually identifies the completion dates, the lead agency, the organization, the estimated cost, the anticipated funding source or sources. I mean, it’s all there. How are you gonna do it, who’s gonna do it, how you’re gonna pay for it--it’s in the plan. In other words, if you don’t know how you’re gonna do it, don’t put it there.

CHAIR TAVARES: . . . Excuse me?

MR. MISKAE: Benchmarks--

CHAIR TAVARES: Excuse me. Ms. Johnson, does this address that question you asked earlier?

COUNCILMEMBER JOHNSON: Yeah, I think it. . .I think it does.

CHAIR TAVARES: Yeah. And it’ll appear in several other places, too.

COUNCILMEMBER JOHNSON: Yeah, and it’s really important because so many times in. . .you know, when we’ve brought this up time and time again. I think that it’s good to see that we’re headed in that area.

CHAIR TAVARES: Uh-huh.

COUNCILMEMBER JOHNSON: Thank you. And there’s a couple of other things, too, that I’m taking notes on.

CHAIR TAVARES: Okay.

COUNCILMEMBER JOHNSON: So I’ll make my recommendations.

CHAIR TAVARES: Thank you. Thank you, Brain.

MR. MISKAE: Going on to Page 5. Benchmarks, we feel, are important because things happen. . .things that are out of our control. 9/11, obviously, was something totally out of control. I mean, the results of 9/11, obviously. . .maybe not “obviously”, but may be the stock market. Things change. So we need to look at these *things*. And “things” might be related to Federal, State, and County economic concerns or indicators, demographic. . .concerns. A hurricane could

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be something. I mean, there's...you know, there's catastrophic things that...there could be **good** things that happen...which would be nice to see. But we need to look at...at identifying benchmarks in this island-wide element so we, we can sort of keep our finger on the pulse of the County so that we don't end up with the same, I guess...*(sigh)*... and I don't wanna use the word "lackadaisical", maybe I can--lackadaisical attitude that we've had to planning in the past where we develop a plan, stick it on the shelf, and...I don't know...maybe, maybe in the past there's been some Council Members that have never even read the General Plan.

... I know a couple told me that. I won't say who they were, but a couple told me that--they never read it.

... So...these kinds of things will keep our planning process fresh so that we can then start looking at what's happening, keep our finger on the pulse of the community and be dynamic, be able to, to look at things that we need to change. Status reports, I think, are critically important so that you can see specifically what's going on. So that...an annual General Plan implementation report shall be prepared by **each** County agency and transmitted to the Planning Director at the same time the respective agency submits the third quarter budget implementation. So that, you know, you folks have got this in a timely fashion...so that you can see what's going on. Um...

... on the bottom of Page 5 we've got our technical plans and studies. The public participation, participation element is something that probably we take for granted and we think, well, if the public's interested, they're gonna come here--and with all due respect to...to Member Kane--three minutes isn't enough, in a lot of cases, for people to express what they want to express. So the whole idea of having public participation...a participation element in the planning process, we think, is critical. So that you've got a good idea through community design charrettes, meetings, public hearings, informational meetings, and the use of the media to say what's happening so that people have a good grasp of where this whole process is going.

... Page 6. Socio-economic forecasting is, you know, is, is real...in some cases, real crystal ball stuff. I mean it's, it's based on a lot of indicators that, that economists understand. Uh...I'm sure a lot of you understand these things. I don't understand them all that well. I know that we, we need something to start from, so these things are developed by the State of Hawaii's Chief Economist. They, they, for the most part, are based on our tourist industry...because that seems, I mean, obviously that's our biggest economic engine. But these kinds of things, these socio-economic forecasts are things that are important to us in terms of seeing if our policies and programs are in fact fulfilling the various sectors of our community that they're directed to fulfill. And that's the reason why

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we're recommending in this bill that this forecast be updated every two years. We're doing it every ten now.

. . . You know, maybe every two years might be too frequent. Somebody said every year. Well, every year, I think is. . .that's too, too often. Now maybe we wanna talk about five. I don't know. We put two in here for the sake of, of discussion, to see if, you know, whether you think that these things are. . .are important. We, we think they are 'cause it, it gives you a statistical picture of what's going on in our community, what's happening. . .so that you can basically see whether what you're serving--if, for example, the. . .you know, you, you have a. . .a, a drastic change, you know, in your, in your median income. . .system, like maybe your whole affordable housing policy needs to be revisited. You know, there's a variety of things that can happen just from statistical information. Your infrastructure, water, and public facilities assessment. . .we've said every five years--just to kind of see what's going on. Uh. . .when we were going through this process, we found a very interesting difference in what the. . .the Department of Education and the Board of Education looks at--schools, for example. The Board of Education talks about 650 kids in an elementary campus. The Department of Education says we can service 1,100. That's a vast difference. But these are the things, I think, we need to look at as well and. . .and see whether or not we are, we are needing any of these things. Councilmember Johnson and Councilmember Carroll attended a meeting last night in Lahaina where there was a presentation on the need for an acute-care facility on the west side, somewhere . . .(end of tape, start 1B). . . they showed that there was a definite need for it. But these are kinds of things that maybe we should look at, too, in terms of. . .of--I mean, it talks about health care systems. . .looking at the adequacy of it. I mean, it may very well be that there is. . .**we're** not gonna build a hospital and the State's not going to, but maybe if, you know, we're, we're aggressive enough, maybe the, you know, Queen's or, or Straub or some other health care provider might see there is an economic reason to do this, that there is. . .something that they can do to both make money on their behalf, but also provide a facility for the community. So these are the kinds of things that I can see happening with looking at our infrastructure. . .on, on. . .on a, on a frequent basis. And the last in that section is a resource and hazard constraints inventory. We, we. . .we've done an awful lot of work in the last--well, with funding from FEMA. . .through the Pacific Disaster Center, to establish where we have wave run-ups, where we have tsunami problems, where there's a possibility of, of, of flooding from a variety of sources. So this whole hazard mitigation thing is critically important to us--way out in the middle of the Pacific Ocean--where we. . .we can't just get truckloads of something coming in from somewhere else.

. . . So resource and hazard constraints inventory, we think, is important in terms of, of the land use process. So, Madam Chair, that, that's the General Plan and,

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and its . . . and its island-wide element. The next section on Page 7 starts the community plan . . . section. Should I continue?

CHAIR TAVARES: Yes, uh-huh.

MR. MISKAE: . . . The community plan process or the community plans are, are . . . amended in, in a fairly **drastic** way because we have added the words--you'll see urban and rural growth boundaries. . . shall set forth in detail land uses within. . . and we've added the words urban and rural growth boundaries for the community plan areas on Maui and island-wide for Molokai and Lanai. We didn't have that before. We just said: set forth in detail, land uses within **the nine regions** of the County hereinafter designated.

. . . By having such large areas--and I think the Chair of this Committee pointed out at one point in time--the Upcountry community plan, Makawao, Pukalani, and Kula. . . have little in common. And yet they are **in** one plan. What does north Kihei and Wailea have in common? So the idea of trying to create these, these urban boundaries to try and set aside specific areas that, that, that, that **have** things in common will say. . . uh, we think are a good idea. So the community plans, then, are--and I shouldn't use the word "reduced" because reduced talks. . . sort of addresses importance, and they are still just as important--but. . . they are going to refocus themselves on more specific detailed information, things that, that, that really are important to **that** community. . . that they don't have to worry about the Mokulele Highway, or they shouldn't have to worry about the Honoapiilani Highway, they shouldn't have to worry about the Haleakala Highway, they shouldn't have to worry about solid waste because the island-wide regional plan should be addressing those things. So that they can then focus on how they want that quality of life within their particular community to be sustained or maintained. So then we. . . we talk about the nine districts. . . um. . . I've included Kahoolawe in this list. Since we--we actually set up 2.80A a long time ago and set up Kahoolawe as one of the planning districts, State law has changed and created the, the Kahoolawe Island Reserve Commission. It may very well be that that Commission has the authority for Kahoolawe and that we don't have to do Kahoolawe. But I've left it in there. If in fact it's shown that we don't, we can easily take that out. So. . . moving along, at the bottom of Page 7, we, we've started by saying that each community plan shall contain but not be limited to--and we've kept most of the shopping list in that was in before. So we've talked about planning standards. Obviously, we've changed the word "region" to "district" so that there was not a conflict of terms. On Number 8, we did add the word "a multi-modal transportation" system showing existing and proposed roadways, **corridors**, and major thoroughfares within the communities. One of the things that obviously has been a particular problem in South Maui is the fact that in 1987 we spent a lot of money developing the Kihei Traffic Master Plan, which provided a variety of recommendations and considerations.

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. . . Because we haven't really looked at following that up real well, we end up building in these things. So the idea here is to develop within the communities themselves. How you wanna get around? Last night we were shown a very interesting section of a roadway which would happen in the areas that Amfac wishes to, to develop. . . on the mauka side of the Honoapiilani Highway. I think they call it Honokowai. . . what, Makai or something. Anyway, the section of the roadway--if you can kind of picture this in your mind--is an 80 foot right-of-way. But what it contains is a golf cart path, then a little landscaped divider, then a bike and walking path, then a landscaped divider, then two lanes of roadway, then the balance of the right-of-way is landscaped--which could, in fact, provide for more travel lanes at a later date. But it's an excellent way of addressing how you wanna get around in your community and then making sure that you connect all of these things together so that if you wanna go up to the park, for example, you don't have to drive up, you can actually walk up. . . or ride your bike or. . . I can't imagine we'd want golf carts running all over the place, but. . . I mean, that's what they're talking about there. But maybe in Upcountry, I mean, you could. . . incorporate equestrian trails. . . which is what the Upcountry Greenway Plan will eventually do. We're, we're almost to the point of finishing that plan now. So. . . these are kinds of things that you would wanna put in your community plan that specifically reflect the objectives of, of your community. And as I say, the rest of them. . . Number 13, we've added streetscape and landscaping principles and improvements. . . which really start talking about things like. . . bulbouts. A bulbout is an extended crosswalk at an intersection so that. . . for one thing, you don't have to run as far between curbs, but the other thing is to sort of show the. . . the traveling public, the motorists, hey, there's something happening here, it's not just asphalt and stripped pavement, there's something happening here, I should look. Mid-block crosswalks are another bit of streetscaping. So ways of trying to build our streets into the urban landscape, instead of ways of getting us **through** the urban landscape. So these are things that the citizen advisory committees can work on within the confines of their particular area--as I say, without having to worry about the problems with the whole world. So we think this is a good thing. The community plans also add an action element now. . . which is similar to the General Plan--so that there is a prioritized general schedule identifying each of the implementing agencies and organizations. Continuing down. . . there's an implementation program so that we, again, implement our plans through a capital improvement element. . . which talk about roads, sidewalks, bikepaths, pedestrianways, that sort of thing--in other words, local things that happen in there. A financial element. . . how it's gonna work, how you're gonna pay for it, implementation schedule, when are you gonna do it, who's gonna do it, how much is it gonna cost, again, benchmarks, status reports. So these are the kinds of things we think that need to go into community plan as well so that the community then has a. . . a. . . a better way of looking at sort of the pulse of its community, and the Council, obviously, has a way of seeing if its programs are being implemented in a logical fashion, you

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know, within each, within the, the, the context of each of these community plans. Page 11 gets us into our famous decennial revisions of the General Plan. "Decennial" was Gary Zakian's word...that he put into Chapter 2.80A amendments in 1993 which, of course, we've never used. Now we're gonna amend something that we'd never tried before. But maybe that's a good thing...*(laughter)*... maybe that's a good thing. So decennial revisions, essentially what the Charter calls for is, is the...Planning Director shall recommend revisions to the General Plan at **least**...every ten years...is what the wording says. So...

... basically how this thing is set up is that we're recommending that the Planning Director prepare the first cut. In other words, take all of the statistical information that we've got--our socio-economic forecast, our public facilities inventories, our, our public infrastructure facilitator...facility inventories...our, our...land use forecasts--and put together the first cut...so that the citizen advisory committee which we will, we will...talk about in a minute...has something to work from. Even if they totally dissect it, at least they've got something to work from rather than just simply starting from absolute scratch. So essentially what this then talks about is the Planning Director doing these revisions in advance...and making the revisions available in certain time frames.

... Okay? So we've got: shall prepare revisions to community plans for the nine districts, and refer such draft revisions to the appropriate community plan advisory committees...

... shall make the draft revisions of each community plan available to the public for a period of not less than 30 calendar days...after the first meeting of the community plan advisory committee. So there's, there's some time elements in here that you folks may wanna tweak--may wanna make them longer, may wanna make them shorter. You know, it depends on how you, how you kind of view these things working. Um...Number 3, I took the word "may" out, put "shall" in--shall assist the appropriate community plan advisory committee, conduct public meetings, public workshops, et cetera. So it's not a, it's not a... "if you want to", it's "you will...help these people".

... Page 12...this is brand new. This is where we would, we would actually set up a general plan advisory committee. Uh...

... I've talked about it, I sort of briefly went through its makeup--that it would be 32 members, one from each of the eight planning districts, or two from each of the eight planning districts...nominated or appointed, however you wish, by the Council and, and two by the Mayor so that you end up with 32 members. Um...there's also some time elements in there as to how this would work.

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. . . One hundred and twenty days. This particular committee, the citizen. . . general plan advisory committee would stay empanelled until the General Plan is adopted. . . so that. . . they would stay with this whole process right to the end. The community plan advisory committees are essentially set up in the same fashion as we did before . . .

. . . so that you end up with 13 members. Um. . . this particular proposal does not envision the citizen advisory committees as being permanent, but in fact changes them so that they will stay empanelled until their particular plan has been adopted. . . inserting language that, that, that would reflect--if the citizens of Maui County decide to go ahead with permanent CACs--to insert language in there. It would be fairly simple. I had drafted language originally. . . which showed this; however, it was thought that this was a, a way that we wanted to go for the time being. The language that, that. . . I would probably show in here is that you would do this--you would set up the citizen advisory committee in this same way, but at the end of their plan, then. . . you would then bring them on so that. . . we'll say some of them had four year, some of them had three years, some of them had two years, but they would be nominated and approved by the Council in the same as any other board or commission. But it would be not a, not a difficult thing to insert language that would. . . that would allow that to happen--so that they would be permanent rather than the way we've got it provided here, where they would be discharged of their duties as soon as their community plan has been adopted. So . . .

. . . adoption of the General Plan and community plans goes on to say after the citizen advisory committee or the citizen groups are finished, how it goes to the planning commission, and the planning commission's got a certain amount of time. . . before it has to go to the Council. There is no provision here that, that says that the Council has any time frame. I. . . I. . . we looked at this. . . in detail, and, and we felt that. . . if the Council were to give itself a time frame, what would be the default? If they didn't do it within a certain amount of time, would it be approved?

. . . Now we're getting legislation that is being approved without. . . the approval of the people we elected. Should it be denied? Well, now you've got all these people that have worked for like months and months and months on something--you're gonna have them start again? So we felt maybe no time element here. . . and that the Council, at that point, maybe would look at the fact that we have had. . . a substantial amount of public participation in this process through workshops, through as much public participation as we can possibly put in here. . . through the planning commission. It may very well be that the Council may see that there's sufficient buy-in. . . the time it gets here, that maybe you can act in a more expeditious fashion than has been done in the past. I don't know. This is something you're gonna have to look at, too, as you go through this.

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NOTE: *Silence.*

MR. MISKAE: . . . So. . .moving on, that's how the, the. . .these plans will be adopted. And. . .what we've talked about in terms of how the community plans would be looked at is that we felt that the community plans would be. . .revised--at least in the first go around--based upon the date that they were originally adopted. So once this General Plan with the island-wide element is adopted, the first plan that we would starting working on would be the Hana Plan, because that was the first one adopted. And we would go on from there. Now how long that process is going to take? Um. . .we're hoping would be in a, in a more expeditious fashion because of the fact that we would hope to build or provide sort of a first cut. . .to the citizen advisory committees. And then with, with having in the legislation the fact that the workshop shall be facilitated by a professional who has experience in this area and shall include one or more tabletop exercise--I'm reading at the top of Page 14. . .where the public will be invited to provide input using maps and other devices. So we're. . .as I say, we're hoping that. . .an, a sufficient number of citizens will participate in this process so that it, it will in fact be a **community** plan rather than a technical document that just sort of jams stuff. . .and something that people will say I had a part in that--so when it comes to implementing it, they will come in here and they will support the Council and say this is what we want to happen, let's just do it.

NOTE: *Pause.*

MR. MISKAE: . . . Where are we now? We'll go over to Page . . .
. . . over to Page--

CHAIR TAVARES: Sixteen.

MR. MISKAE: --16, revisions and amendments to the General Plan and community plans. At the present time, there is no provision, essentially, for amendments to the General Plan, other than that which would be. . .initiated by the Administration or by the County Council. I suppose that someone could say I would like to revise the General Plan. But there's no application process. There's no format for this to be done. There is, however, a format for any legal entity to apply to amend the community plan--which. . .you folks are very familiar with. So if somebody wants to amend the community plan. . .they need to provide a whole variety of things--including an environmental assessment. Well. . .we're changing the General Plan this time. We're adding something into the General Plan that we've never had before. We're putting into the General Plan urban growth boundaries. This whole process is based on that premise--that we are going to establish where we want the outer limits of urban development to be within a certain time frame. We're also giving the authority, through our citizen advisory committees in each community. . .parameters--it's

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within this area that we feel you have. . .kind of ultimate authority, if you will, to kind of plan your destiny, show us what you want. So we are not recommending that there be any provision whatsoever for anyone other than the County Council or the Planning Director to initiate an amendment to the urban growth boundaries.

NOTE: *Pause.*

MR. MISKAE: . . . Okay? Only the Council or the Planning Director can initiate an amendment to an urban growth boundary. In other words, if there is a greater public interest in amending that boundary, surely one of the Members. . .will introduce a resolution, or surely Administration will introduce a bill to amend that boundary *if* there is a greater public interest in amending it. Because if we based our whole economic projections on what's going to happen within that boundary and we start changing it on a frequent basis, what's the point of doing this?

. . . You know, there's a lot of people that feel that that stand that I've just discussed is very dictatorial and, and is, is going to cause an awful lot of problems. There are a lot of people that have come to me and said, hey, it's high time we did this. So, guess what? It's up to you now . . .*(laughter)*. . . to decide what you wanna do with it. But I think that's, that's a main. . .that's one of the main. . .lynch pins of this entire process--is this, is to establish urban growth boundaries. We've also shown in here to establish rural growth boundaries. The reason we put that in there is that we feel that as we move forward with this process. . .I know that Councilmember Arakawa is going out and, and talking to people about what they think with respect to the Agricultural Ordinance in Title 19, as to whether or not it's actually doing what it's supposed to do. Well, it may very well be that we want to actually identify areas within our County or we will, we will invite these. . .as, as an old gentleman on a planning commission I used to work at, used to refer to them as horsey-endas. I think you've called them gentlemen estates. Whatever. But things that aren't--

CHAIR TAVARES: . . .*(laughter)*. . .

MR. MISKAE: --farm parcels, things that are places where. . .you know, people wanna a little bit more room. You know, whether they're rich or, or not--I don't think the economic stature. . .status of the individuals that buy these things really makes any difference. But what they do do is they extend. . .and they, they stretch our ability to provide services, they extend our police, our fire, all the various services are extended out that much farther, they have to travel greater distances. . .to provide the same service. So. . .and these are things that we would probably like to plan for, rather than just let happen. So the idea of established urban and rural growth boundaries is something that we've included in this process. On Page 17 is what you need to do to amend a community plan. . .which is the same as before. Uh. . .except for--if you've find on Page 18 in B--it says: identification

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of approving agency. It did say what, "shall be the Department of Planning". There seems to be a discussion as to how these environmental assessments are going to be done. And I think there's going to be a lot more discussion on this. If memory serves me correctly. . .the California Coastal Commission established, a number of years ago, a process whereby if a development were occurring within their jurisdiction and it triggered an environmental impact report, I think they call it an EIR. . .a scope of services was developed by the Commission staff, setting out what was needed. . .to accommodate the application. The scope of services was then advertised, and a consultant contract was entered into for a certain amount of money. The applicant then gave that amount of money to the Coastal Commission who actually **did** the EIR so that there was no discussion as to objectivity. Now, I know this is probably gonna come up. It has come up in this Council, and I'm sure it'll come up again in the context of talking about this. So we've left that kind of open--identification of approving agency. We're not sure where you're gonna go with that. Okay? And then we've added in Number 10 on the bottom of Page 18, where a revision or amendment to the General Plan directly triggers an amendment to a community plan, such matters shall be processed concurrently. If, for example, the County Council or the Mayor sees a greater public need in **amending** the, the urban growth boundary, for example, obviously that's gonna trigger a community plan amendment. So our thought was that those things would be, would be dealt with, you know, at the same time. . .so that there was not going to be, for example. . .say, for example, a development company came and, and. . .had a proposal that was in the greater public interest and you amended the urban growth boundary. That would not mean that then that they would then come after, come and amend the community plan. We would do it as a. . .as a package because it was **in** the greater public interest that this be done. Okay?

. . . Um. . .Page 19, again the language that's not underlined is already in Chapter 2.80A. And there are certain time. . .time elements. . .there's a reference to Chapter 343, which is the environmental impact statement or environmental assessment section. Um. . .there was another thing that was raised, I think, in. . .in the, in the Chair's public meetings, and that was confusion with respect to public notices. Uh. . .I read a public notice in the newspaper, and I have absolutely **no** idea where it is. Who knows where TMK-such-and-such is? So the, the, the idea, then, is to. . .in the legislation, that the Planning Director shall **ensure** that the proper. . .description and location of the action is there, including a map labeled with landmarks **and** a street address. . .where applicable, of course, so that you look at a map and a public notice, you should have a pretty good idea of where the heck it's happening. Where, where I used to come from, actions such as this required site notice posting--there was actually a sign put on the property. So when you went out for a walk and you walked by, oh, wow, somebody's gonna build a pig farm next to me, I don't want that.

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. . . Rather than have to look through legal notices--'cause a lot of people don't get the newspaper. So, I mean, that's something you might wanna think about this as you go through this, too--as to how. . .how we actually let the public know. . .what's happening in their immediate environment. Um . . .

. . . Page 20, again we talk about. . .the notice again--making sure that the notice has adequate . . .

. . . uh. . .adequate . . .

CHAIR TAVARES: Distribution?

MR. MISKAE: . . . indicators.

. . . And that probably takes us to the bottom of Page 21. . .which says, at the very bottom. . .it says upon, effect of adoption, until such time as, as revised community plan for any district is adopted, the current community plan for that district shall be in full force and effect. So there's gonna be some difficulty in some cases, in transitioning. And I think that the elected body, as well as the appointed bodies--like our planning commissions--are gonna have to have due regard to. . .what the Council is wanting to do in terms of its longer-range strategy in the General Plan, as to how they see implementations of the community plan that's currently in, in force. So the, as I say, there could be some difficulty in some cases in transitioning, but. . .you know, I, I think we can work through this. With the experience we will have with the General Plan, I think we will all become much more acquainted with, you know, really what the community would like to see us do. And. . .at ten minutes to four, Madam Chair, we've pretty well gone through it.

CHAIR TAVARES: That was very good. Thank you, Brian. Are there any general questions that, that pop out in anyone's minds, or comments? Ms. Johnson?

COUNCILMEMBER JOHNSON: Just one question--and that's. . .you know, generally we're doing this once every ten years, but let's say, for example, that this is adopted and a particular community plan district says, oh, my gosh, Council, you know, we've got these huge problems over in this area, we want some urban growth boundaries or whatever, and they wanna come forward before. . .the ten-year period. . .is actually. . .you know, due. Is there a mechanism within this or is there anything that would prevent that particular district from coming forward and then requesting that either of the Council or the Mayor?

MR. MISKAE: No, there isn't. Uh, once the urban. . .growth boundaries are established, as I say, if there is a greater public interest expressed in changing those boundaries, there's nothing stopping a member of Council from introducing a resolution to do that, or there's nothing stopping the Mayor from instructing his

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Planning Director to do that. . .his or, whatever, his Planning Director. Yeah, there's no--

COUNCILMEMBER JOHNSON: . . .*(laughter)*. . .

MR. MISKAE: --yeah, okay. Just trying to be gender correct there.

CHAIR TAVARES: For now it's--

MR. MISKAE: . . .*(laughter)*. . .

CHAIR TAVARES: --his.

ALL: . . .*(laughter)*. . .

COUNCILMEMBER JOHNSON: Okay. No, and, and the only reason I ask that is because obviously, you know, there are some areas of rapid growth that people, if they wanna initiate amendments or whatever, they wanna have. . .whether it's community plan or General Plan, we--well, we'll be going through the General Plan--but basically if the community says, well, it was eight years ago since we had this done and we're **really** now reaching a crisis point and we wanna come forward, I just wanna be assured that there's some mechanism for them--

CHAIR TAVARES: Uh-huh.

COUNCILMEMBER JOHNSON: --to do that. And I think that you answered the question . . .*(laughter)*. . .

MR. MISKAE: I, I think, Madam Chair. . .that what we're trying to build here. . .is dynamics, but in the same way build stability too. 'Cause if you've got, if you've got a stable process. . .I think what that'll, what'll happen in our communities is, we'll have more predictability. And I, I mean, I don't know for sure, and I mean you could probably interview, you know, any number of developers to see, you know, what their stance would be, but. . .from a business perspective. . .the greater the risk that, you know, probably the greater. . .uh. . .contingencies you're gonna put in to your bottom line to try and make sure that you. . .you've tried to, covered your bases. So I mean, if we can develop a more predictable process through this and reflect those in changes in our subdivision ordinance, in our grading ordinance, and, and in our building codes, and if we can develop things that implement the wishes of the community, what should be reflected in this planning process. . .it should build more predictability into our development industry--which, who knows, may be even be passed along to the consumer. I mean. . .this is, again, this is kind of planning stuff. Now whether, you know, when the wheel hits the road, I, I don't know. But I'm thinking that if, if we can

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develop a more predictable environment for land development and land use within this County, that it, it should, it should pay dividends in a lot of areas.

CHAIR TAVARES: . . .*(inaudible)*. . . Oh--

COUNCILMEMBER JOHNSON: Thank you.

CHAIR TAVARES: Mr. Molina?

VICE-CHAIR MOLINA: Yeah, thank you, Madam Chair. Mr. Miskae, you alluded to the series of meetings that Councilmember Arakawa has been having within all the various districts. Now, last night in Paia, you know, we. . .an issue came up where the CAC, back in, I guess, 1994 or 1995, designated certain areas as Open Space. And then the Plan was approved by the Council, but yet at the time and as of today there is no such zoning category as Open Space. Can you comment on that and. . .as to how we address that in future. . .community plan reviews?

MR. MISKAE: Again, one of the things that we need to do is to implement our plans. We can't just put them on the shelf. There, there are a number of land use districts that are described in the community plans that have yet to be developed. And I'll maybe go out on a limb to say there are a lot of land use districts already in Title 19 that are really outdated, that don't really reflect, you know, what the community is really looking at doing. So. . .I mean, it's an all-encompassing process.

. . . And as I mentioned at the outset, we sort of talk about the community and the General Plans being strategic documents and the zoning ordinance being the implementing tool of those strategies. But it all has to work hand-in-hand. When you finish one, you can't just say, you know, what a good job I've done and put it on the shelf. You've gotta keep going with it. So, I mean, all I can say is that the Administration. . .you know, whoever they might be--I mean, it goes back a long ways--was remiss in not following up. I, I know when I started with the Planning Department in 1989. . .the Chair's dad sent a note down to the Planning Department; said, for example, I want changes made in the South Maui Plan, I see that Kamaole Point is designated as Residential, I want it changed. And he wanted the Planning Department to go through each and every provision in the plans and bring the zoning into conformity with the community plans. Is it done?

CHAIR TAVARES: No.

MR. MISKAE: No. But I mean, Hannibal had the foresight to see the importance of these community plans. And he was the one that, that really developed the General Plan that you've got. And I give him a whole lot of credit for, for what he did with that when he transmitted it to the Council--'cause that's where those five

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themes came from, was from him and his Administration. So I can only say that we just have to do our jobs. . .Councilmember Molina.

VICE-CHAIR MOLINA: Okay. Thank you.

CHAIR TAVARES: And the . . .one of the things being discussed is that open space ordinance that's been proposed. So . . .that, you know, we've been crying for that because we have an Open Space designation without a corresponding zoning, you know, category for it. So . . .

. . . you know, we're, I . . .I guess . . .we're making some progress toward that but we're, we're far from being, you know, complete. Any other comments before I give my closing comments?

MR. MISKAE: Maybe I could just throw one more thing in--

CHAIR TAVARES: Okay.

MR. MISKAE: --Madam Chair. With respect to open space, bear in mind there's a third action that's involved with this. You've created the Open Space designation in the community plan, you're gonna create the zoning district for it. . .are you actually going to zone property Open Space; and if so, are we gonna talk about compensation?

CHAIR TAVARES: Uh-huh, that's right.

MR. MISKAE: So I mean. . .there's, there's more to this--even when you got the zoning district.

CHAIR TAVARES: Well, it's the same thing as, as community plans or community . . .CACs have gone through and designated Park--

MR. MISKAE: Same thing.

CHAIR TAVARES: --in the community plan. . .and then what happens to it?

MR. MISKAE: The cost--

CHAIR TAVARES: It sits there, the landowner is handicapped and. . .and there's no movement made upon, you know, by the . . .County to acquire the land as park. And that's not fair.

MR. MISKAE: The caution is if you color it green on a map, you better have green to buy it . . .*(laughter)* . . .

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ALL: . . .(laughter) . . .

CHAIR TAVARES: Yes . . .(laughter) . . .

COUNCILMEMBER MATEO: Madam Chair?

CHAIR TAVARES: Yes? Oh. . .Councilmember Mateo?

COUNCILMEMBER MATEO: Thank you. Uh. . .Mr. Miskae, just, just to. . .get some additional information from you regarding the two different advisory groups--the CAC that does work on the community plan and the advisory group that'll be working with the General Plan, it seems that the CAC working on the community plan has gone through much detail in crafting their document and seems like they will not be part of the group that will be actually working on the General Plan. And it seems like there's an element missing because those who have gone through the process and have helped develop a plan will not be a part that will work to complete that plan. Can you comment?

MR. MISKAE: Okay. One of the comments that I made, Madam Chair, on my PowerPoint presentation--although it's not part of the bill--is that I've recommended that the four individuals that are sitting on the General Plan advisory committee be recommended to sit on the citizen advisory committee for the community plan so that there is continuity. I mean, that's not something that you have to do, but it's certainly something you should consider doing so that there is continuity.

CHAIR TAVARES: And I think the hierarchy of, of the way the plans would come about would. . .would be the General Plan with the island. . .district plans, would come first. And then the community plans would follow. I think if we're successful or Administration is successful and the community is successful in the input in the general and the regional or the island plans. . .that there will be, I suspect, there will be communities that will come up that will want to do, revise their community plan in light of what changes take place in the island-wide plan and in the General Plan. But it will depend on what, what happens and to, you know, which was your concern. Because is, is Wailuku--because they were the last plan--do we have. . .do they have to wait until, you know, 2012. . .before they can start their plan. And, I, I don't think that's . . .

. . . I don't think that will be a problem. I think when the communities feel they're ready to go, **or** as the General Plan is adopted and the island regional plans are adopted, as we look at these as a Council or the Planning Department or planning commission, they're gonna see that there's a whole lot of things impacting an existing community plan that, you know, hey, we better have these guys empanelled earlier because you know they're gonna be at a disadvantage because they have to wait longer. So I think there's gonna be a whole lot of

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dynamic things happening. . .whence, once the General Plan and the island plan. . .plans are completed. I think, also, what we're trying to do with this is to make these things, you know, living and breathing documents. And. . .we keep talking about these plans that sit on the shelf. And, and. . .you know, admittedly, you know, like I said when I was at Parks, I didn't even know the community plans pertained to Parks. So I didn't look at them until one year I did by accident, I think. And you know, whew. . .some of the implementing actions, we had been doing as a Parks Department--but that wasn't by *plan*, it was by coincidence. So you know the, that. . .that doesn't help us. This planning. . .document, the General. . .the island and the community plans, they have to be supported by all of us--the Departments, the commissions, whoever the agencies are, and the Council. So if there's something that comes up during the process of discussing a land use application where we're saying oh, you know, there's a big flaw in this, it's against this or it doesn't meet a community plan. . .policy or objective, then we gotta go back to that community plan and change it, change that community plan. If we find the best interest is that we do this, let's not just ignore the community plan but actually go back and revise that community plan to reflect what the current situation is. I mean, so often we're ignoring what's in the community plans and just going, you know, down the row--oh, well, you know, that's unenforceable so we're just gonna ignore it. We have to go back and fix those as they come up. So it should be a document that's kind of our, you know, the bible for Maui County. And until we really commit ourselves to it. . .it's not gonna happen. And the community is going to. . .continue to have disbelief in government if we don't follow, these citizens--I mean, that's what we heard as we went through all those community meetings, you know, we spend hours and hours of volunteer work, late meetings, whatever, and then it gets to the Council and it's completely different than what we wanted, so why should we bother putting in the time? So if we're gonna empanel our communities or empower our communities to be involved in these decisions, then we had better support what they're doing or go back and, and, and visit with them and say why it is we think it doesn't work. So I think one, at the very least, those CACs should be empanelled until the plan is actually adopted by the Council so they continue. We'll see what happens with the Charter . . .

. . . pro. . .proposals. And if the, if the. . .the citizenry wants the CACs to be permanent--which is what we heard in our meetings, if that passes, then we'll be looking at a. . .a vehicle. . .well, a venue for which we will have periodic review of those community plans. So I think it'll make the process work a whole lot better.

. . . Okay, with that I'm right at 2 minutes after 4. And we will continue this discussion on the next meeting. So in the meantime, if you've got some questions about specific areas or you have some ideas for revisions to this, please feel free to submit them in. . .in writing to our Staff. . .Wayne Boteilho. And, Wayne, once again I wanna thank you for the work you did on this matrix. You know, the PC-8 binder is pretty thick; so I think from now on all we need to

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do is bring the matrix. And that's a good starting point for us, and it will help us get through this. So I thank everyone for attending. And we look forward to discussing this further in the next meeting. This meeting is adjourned . . .(gavel). . .

COUNCIL MEMBERS VOICED NO OBJECTIONS. (excused: AMA, RC, DPK)

ACTION: DEFER pending further discussion.

ADJOURN: 4:02 p.m.

APPROVED:

CHARMAINE TAVARES, Chair
Planning Committee

pc:min:020815

Transcribed by: Camille Sakamoto