

COUNCIL OF THE COUNTY OF MAUI

PLANNING AND LAND USE COMMITTEE

February 20, 2004

Committee
Report No.

04-36

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Planning and Land Use Committee, having met on January 13, 2004, makes reference to the following:

1. Bill No. 84 (2002) entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80A, MAUI COUNTY CODE, PERTAINING TO THE GENERAL PLAN AND THE COMMUNITY PLANS".
2. Bill No. 84 (2002), Draft 1, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80A, MAUI COUNTY CODE, PERTAINING TO THE GENERAL PLAN AND THE COMMUNITY PLANS".

The purpose of both Bill No. 84 (2002) and Bill No. 84 (2002), Draft 1, is to amend the general and community plans update process by requiring, among other things:

- a. an island-wide land use strategy for Maui, Molokai, and Lanai, developed by a general plan advisory committee, and driven by a managed and directed growth plan, including urban and rural growth areas;
- b. implementation programs for the general and community plans containing numeric prioritization of implementing actions and identification of funding sources;
- c. benchmarks and annual status reports; and
- d. staggered consideration of community plan updates based upon the date of each plan's prior adoption.

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3. Committee Report No. 03-146, from your Planning and Land Use Committee, recommending that Bill No. 84 (2002), Draft 1, be passed on second and final reading. Committee Report No. 03-146, along with written testimony, communications, and copy of a Ramseyer version of Bill No. 84 (2002), Draft 1, was recommitted to your Planning and Land Use Committee at the Council meeting of November 21, 2003.

Your Committee notes that Bill No. 84 (2002) passed first reading at the Council meeting of December 17, 2002 (Committee Report No. 02-204).

Your Committee further notes that Bill No. 84 (2002) was referred to your Planning and Land Use Committee at the Council meeting of January 10, 2003.

By correspondence dated December 1, 2003, Councilmember Joseph Pontanilla transmitted correspondence dated November 26, 2003, from the Director of Housing and Human Concerns, advising that enactment of the subject legislation would not negatively impact the Department of Housing and Human Concerns' ability to recommend approval of housing projects pursuant to Section 201G-118, Hawaii Revised States.

By correspondence dated January 12, 2004, Councilmember Joseph Pontanilla submitted the following proposed amendments to Bill No. 84 (2002), Draft 1:

1. To be consistent with the Maui Planning Commission's recommendation, provide that nondecennial amendments to the general plan and community plans may be accepted after one year since the most recent update (except for the Molokai Community Plan). The bill currently requires a three-year waiting period.
2. To provide greater clarity, add the following section: "Effect of adoption of the general plan and the community plans. Until revised or amended pursuant to this chapter, the general plan and the current community plan for each community plan district shall be in full force and effect."

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By correspondence dated January 12, 2004, your Committee received written testimony from Dean Uchida, Executive Director, Land Use Research Foundation of Hawaii, raising concerns about Bill No. 84 (2002), Draft 1, and requesting deletion of references to urban and rural growth boundaries.

At its meeting, your Committee met with the Planning Director; the Planning Program Administrator, Department of Planning; and the Corporation Counsel.

Your Committee received written testimony raising concerns about Bill No. 84 (2002), Draft 1, from Mercer K. Vicens, Vice President, A&B Properties, Inc., and Kit Hawkins, Political Consultant, Realtors Association of Maui. Mr. Vicens requested that the bill be amended to allow for the acceptance of proposed amendments to a community plan after just a one-year waiting period. Mr. Hawkins requested enhanced notice requirements to help property owners become more aware about the general and community plan updates.

Your Committee received written proposed amendments to Bill No. 84 (2002), Draft 1, from Councilmember G. Riki Hokama to provide that the preparation of the County budgets and capital improvement programs shall implement the general and community plans "to the extent practicable".

Your Committee received written proposed amendments to Bill No. 84 (2002), Draft 1, from Councilmember Charmaine Tavares to incorporate various technical revisions.

Nine members of the public testified to raise concerns about and propose amendments to Bill No. 84 (2002), Draft 1. One member of the public testified in support of the bill in its existing form.

Some of the testimony posed questions relating to the legal effect of the general and community plans. The Planning Director and the Corporation Counsel advised your Committee that the general and community plans are adopted by ordinance and are legally effective. They also noted, though, that the general and community plans sometimes contain advisory or aspirational provisions, as well as mandatory provisions.

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Your Committee discussed a wide variety of procedural and technical issues relating to the general and community plan updating process. After considerable deliberation, your Committee voted to revise Bill No. 84 (2002), Draft 1, as follows:

1. Clarify that the preparation of the County budgets and capital improvement programs shall implement the general and community plans “to the extent practicable”.
2. Add a provision requiring public notification and participation in the general and community plan updating process, through disparate and numerous forms of communication.
3. Provide that each planning commission shall transmit required information to the Council regarding general and community plan updates within 180 days after the respective commission’s first public hearing, unless the Council extends the deadline.
4. Require Council public hearings on Lanai, Maui, and Molokai before enactment of the general plan.
5. Add a new section to read: “Effect of adoption of the general plan and the community plans. Until revised or amended pursuant to this chapter, the general plan and the current community plan for each community plan district shall remain in full force and effect.”
6. Incorporate technical, non-substantive revisions.

With respect to the planning commissions’ deadlines for transmittal of general and community plan updates to the Council, your Committee noted that Article 8, Chapter 8 of the Charter of the County of Maui requires transmittal within 180 days after a commission’s final public hearing on a matter. Your Committee noted that the revised bill would require transmittal within 180 days after a commission’s first public hearing. After consultation with the Corporation Counsel, your Committee noted that these two requirements are not in conflict; they can and should be read and interpreted as being in harmony. That is, if the revised bill is enacted, the planning commissions are capable of complying—and shall be legally required to comply—with both deadlines.

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Your Committee voted to recommend passage of the bill, as revised, on second and final reading.

Your Committee is in receipt of a revised Bill No. 84 (2002), Draft 2, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80A, MAUI COUNTY CODE, PERTAINING TO THE GENERAL PLAN AND THE COMMUNITY PLANS", approved as to form and legality, reflecting your Committee's recommendations.

Your Planning and Land Use Committee **RECOMMENDS** the following:

1. That Bill No. 84 (2002), Draft 2, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80A, MAUI COUNTY CODE, PERTAINING TO THE GENERAL PLAN AND THE COMMUNITY PLANS", be PASSED ON SECOND AND FINAL READING; and
2. That Committee Report No. 03-146 be FILED.

Adoption of this report is respectfully requested.

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