

**COUNCIL OF THE COUNTY OF MAUI**  
**GENERAL PLAN COMMITTEE**

November 13, 2012

**Committee**  
**Report No.** \_\_\_\_\_

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

Chair and Members:

Your General Plan Committee, having met on February 3, February 17, March 3, March 17, June 16, June 30, July 26, August 2, August 8, August 17, August 18, September 1, September 13, September 19, October 6, October 18, October 20, November 3, November 15, November 17, December 1, and December 15, 2011, and on January 5, January 19, February 2, February 16, March 1, March 14, March 15, May 21, May 22, May 29, May 30, June 4, June 5, June 12, June 14, June 19, July 5, July 9, July 10, July 23, July 31, August 2, August 16, September 5, September 10, September 11, September 20, October 4, October 9, October 15, October 16, October 18, October 22, and October 24, 2012, makes reference to County Communication 07-54, from Councilmember Gladys C. Baisa, relating to the matter of the General Plan Update.

Your Committee notes that the Council's Planning Committee (2009-2011 Council term) met on December 14, 2009; and January 11, January 19, January 20, January 25, January 28, February 3, February 8, February 9, February 12, February 22, March 1, March 3, June 7, June 14, June 28, July 12, August 2, August 16, August 30, September 13, September 27, September 30, October 4, October 11, October 25, and October 27, 2010.

The General Plan of the County of Maui consists of three components, the Countywide Policy Plan, the Maui Island Plan, and the community plans (Chapter 2.80B, Maui County Code ("MCC")). The Council adopted the Countywide Policy Plan by Ordinance 3732 (2010). To complete the General Plan update, the Council must enact ordinances approving the Maui Island Plan and the nine community plans. Like the Countywide Policy Plan, the Maui Island Plan is based on a 20-year planning horizon, envisioning what the County will look like in 2030. The deadline for the Council to adopt the Maui Island Plan is December 31, 2012, pursuant to Resolution 12-66.

By correspondence dated October 16, 2009, Council Chair Danny A. Mateo transmitted the draft Maui Island Plan and related recommendations of the Planning Director, the Maui General Plan Advisory Committee ("GPAC"), and the Maui Planning

**COUNCIL OF THE COUNTY OF MAUI**  
**GENERAL PLAN COMMITTEE**

November 13, 2012  
Page 2

**Committee**  
**Report No.** \_\_\_\_\_

Commission (“MPC”), submitted by the Department of Planning, pursuant to Chapter 2.80B, MCC.

By correspondences dated December 10, 2009, May 18, 2010, December 3, 2010, and December 14, 2010, the Planning Director transmitted portions of a document entitled “Maui Island Plan; General Plan 2030; DRAFT”, including the following components:

- Introduction (and other prefatory documents)
- Chapter 1 (Population)
- Chapter 2 (Heritage Resources)
- Chapter 3 (Natural Hazards)
- Chapter 4 (Economic Development)
- Chapter 5 (Housing)
- Chapter 6 (Infrastructure and Public Facilities)
- Chapter 7 (Land Use)
- Chapter 8 (Directed Growth Plan)
- Chapter 9 (Long Range Implementation Plan)
- Chapter 10 (Monitoring & Evaluation)
- Appendices (and other resource documents)

The Planning Director transmitted the draft Maui Island Plan pursuant to Sections 8-8.5 and 8-8.6, Revised Charter of the County of Maui (1983), as amended (“Charter”), and Chapter 2.80B, MCC. The draft Maui Island Plan includes comments and recommendations of the GPAC and the MPC.

At the request of the Chair of the Planning Committee, the Planning Director transmitted a proposed bill entitled “A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.030, MAUI COUNTY CODE, RELATING TO THE MAUI ISLAND PLAN”. The purpose of the proposed bill is to adopt the Maui Island Plan, pursuant to Chapter 2.80B, MCC, including the following elements: an island-wide land use strategy, a Water Element, a Nearshore Ecosystem Element, an Implementation Program, and Milestones.

Your Committee notes that public meetings were held in five districts to receive public testimony and overviews on the draft Maui Island Plan. The public meetings were held as follows:

**COUNCIL OF THE COUNTY OF MAUI**  
**GENERAL PLAN COMMITTEE**

November 13, 2012  
Page 3

**Committee**  
**Report No.** \_\_\_\_\_

1. January 11, 2010, at the Lahaina Civic Center, Social Hall;
2. January 19, 2010, at the Haiku Park and Community Center;
3. January 20, 2010, at the Mayor Hannibal Tavares Community Center, Social Hall, Pukalani;
4. January 25, 2010, at the Kihei Community Center, Main Hall; and
5. January 28, 2010, and August 16, 2012, at the Helene Social Hall, Hana.

Your Committee received substantial written and oral testimony on the Maui Island Plan, particularly on Chapter 8 (Directed Growth Plan). Your Committee listened closely to concerns expressed by Maui residents about management of the island's cultural and natural resources, appropriate locations for preservation and growth, the need for affordable housing, and existing economic conditions. Relying on the community's input, your Committee worked closely with the Department of Planning and the Department of the Corporation Counsel to review and revise the goals, objectives, policies, and actions of the Maui Island Plan that will guide future growth for the island of Maui.

Your Committee recognized the substantial efforts and commitment of the GPAC and the MPC in drafting the plan. Your Committee was careful to balance consideration of the recommendations made by the advisory bodies, the Department of Planning, developers, and the general public. Your Committee was sensitive to concerns expressed in some public testimony about the current Planning Director's voluminous revisions that did not reflect the work of the GPAC and the MPC. Therefore, your Committee thoughtfully weighed his proposals against the concerns raised by testifiers.

Your Committee notes that the recommendations made by the GPAC and the MPC were more detailed than required by Chapter 2.80B, MCC. For example, Section 2.80B.030(G)(1)(b), MCC, requires the managed and directed growth plan to include "a map that delineates urban and rural growth areas, consistent with, and illustrative of, the Maui island plan's vision, principles, goals, and policies". Your Committee received draft directed growth maps containing not only urban and rural growth boundaries, but also country town boundaries and various protection areas. In addition, your Committee received 12 draft background and policy maps relating to the Maui Island Plan.

Your Committee was concerned that such detail in the directed growth maps, background maps, and policy maps, would limit flexibility during the community plan update process. Your Committee reasoned that the components of the General Plan – the

**COUNCIL OF THE COUNTY OF MAUI**  
**GENERAL PLAN COMMITTEE**

November 13, 2012  
Page 4

**Committee**  
**Report No.** \_\_\_\_\_

Countywide Policy Plan, Maui Island Plan (including the implementation program component), and community plans – would need to be consistent with one another. Therefore, any regulatory language or maps in the Maui Island Plan would limit options available during the community plan update process.

Your Committee was particularly concerned about how the policy and background maps would be used during any land use permitting, decision making, or project review process given the level of detail of the maps. Your Committee was also concerned that the maps may not be accurate, internally consistent, or consistent with the directed growth maps. Therefore, your Committee voted to delete seven policy maps from the Maui Island Plan. Recognizing that the maps may be useful for administrative purposes, your Committee voted to place the policy maps with the technical plans and studies prepared pursuant to Section 2.80B.030(H), MCC.

Your Committee discussed the potential legal effects of the policy maps, background maps, diagrams, and directed growth maps. A Deputy Corporation Counsel explained that diagrams typically depict a general plan's policies, and should provide useful information and guidance in creating future regulations. Background maps should depict baseline information (i.e., environmental conditions, existing infrastructure, etc.) to help the reader understand conditions that may have influenced the creation of general plan policies. The directed growth maps must be considered regulatory to fulfill the requirements of Chapter 2.80B, MCC. The Deputy Corporation Counsel further advised your Committee that if the protected areas are on the regulatory directed growth maps, they would likely be used to prevent owners of property within the protected areas from developing their property. This may result in affected property owners filing lawsuits against the County arguing a taking of their property without just compensation.

Concerned about the potential regulatory nature of the policy maps, your Committee voted to rename two policy maps as diagrams: Regional Transportation Network Map and Public Facility and Infrastructure Improvements Map. Your Committee also voted to retain three background maps: Character and Context Map, Employment and Population Density Map, and Water and Sewerage Areas Map. Your Committee further voted to revise the Introduction section of the draft Maui Island Plan to explain what the diagrams, background maps, and directed growth maps are, and how they should be interpreted.

In addition to the legal concerns with retaining the protected areas on the directed growth maps, your Committee also determined that it would be premature to regulate

**COUNCIL OF THE COUNTY OF MAUI**  
**GENERAL PLAN COMMITTEE**

November 13, 2012

Page 5

**Committee**

**Report No.** \_\_\_\_\_

greenbelts and other protected areas, without further input and study. Therefore, your Committee decided to remove greenbelts and other protected areas from the directed growth maps and place them instead on diagrams. Your Committee notes that the draft Maui Island Plan also includes pictures, labeled as figures, for illustrative purposes only. Your Committee included language to clarify that a directed growth map or diagram would control in the event of any inconsistency with a figure contained in the Maui Island Plan.

Your Committee was concerned that adding greenbelt protection areas to diagrams, rather than the directed growth maps, would jeopardize protection for Maui's scenic corridors. Therefore, your Committee added language to the Scenic Resources section of Chapter 2, Heritage Resources, to strengthen the implementing actions relating to a greater level of protection for Maui's scenic resources.

Concerned about the level of detail in the Maui Island Plan, your Committee voted to delete many of the terms defined in Appendix A, the glossary, and to revise the proposed bill to add the remaining terms to Chapter 2.80B. Your Committee reasoned that the terms should be included in Chapter 2.80B to ensure the terms are used consistently in all of the General Plan documents. Your Committee notes that many of the deleted terms are already defined in County, State, or Federal law, are generally understood, or are inaccurate. Additionally, to avoid redundancy, your Committee voted to strike Appendix B from the Maui Island Plan, which is a recital of the goals, objectives, and policies already contained within the text of the Maui Island Plan, and to renumber the remaining appendices accordingly.

Pursuant to Ordinance 3979 (2012), the implementation program component of the Maui Island Plan will be enacted by a subsequent ordinance, no later than one year after the effective date of the ordinance adopting the other components of the Maui Island Plan required by Chapter 2.80B, MCC. Therefore, your Committee voted to delete Chapter 9, Long-Range Implementation Plan, and its corresponding Appendix C, the Implementation Program Schedule, from the draft Maui Island Plan, and to renumber the chapters and appendices accordingly. Your Committee understands that Chapter 9 and Appendix C will be updated and submitted to the Council for approval at a later time. References to the Maui Island Plan, therefore, exclude its implementation program component.

**COUNCIL OF THE COUNTY OF MAUI**  
**GENERAL PLAN COMMITTEE**

November 13, 2012  
Page 6

**Committee**  
**Report No.** \_\_\_\_\_

Managed and Directed Growth Plan

Your Committee notes that the Directed Growth Plan is contained in Chapter 8 of the Maui Island Plan, and includes the directed growth maps that depict the directed growth boundaries and the diagrams that depict the protected areas. Your Committee further notes that the Geographical Information Systems (GIS) section of the Department of Planning assisted your Committee with its review of the directed growth boundaries and protected areas. While the directed growth maps and diagrams in Chapter 8 approved by your Committee are more general in nature, your Committee was able to view more specific databases and map layers with the assistance of the GIS team. These databases and specific map layers are contained in the Maui Island Plan Map Book, which is attached as an appendix.

The Planning Program Administrator advised your Committee that the directed growth boundaries are intended to be one component of Maui's land use planning regulatory system. The other components include the State land use districts, community plan designations, and zoning districts. These components should work together to implement an effective land use management strategy. He further advised that the planned growth areas are intended to meet the housing, employment, and recreational needs of Maui's residents during the planning period.

According to the Planning Program Administrator, the planned growth for Maui is largely directed to Wailuku-Kahului, Kihei, and West Maui to protect existing small towns, rural and agricultural lands, and open space. The planned growth areas are based on the following four themes: (1) limit development in Northwest and East Maui; (2) protect Maui's agricultural resource lands, especially prime and productive agricultural lands; (3) direct growth to areas proximate to existing employment centers, where infrastructure and public facility capacity can be cost-effectively provided, and where housing can be affordably constructed; and (4) within the urban growth boundaries, promote livable, mixed-use communities defined by a high quality of life.

Your Committee notes that Chapter 8 (Directed Growth Plan) includes a document entitled "Table 8-2" that describes the characteristics of the urban, country town, and rural growth boundaries. Because your Committee felt that the term "small town" better describes many of Maui's unique towns, your Committee renamed the country town growth boundary to small town growth boundary. Generally, the urban growth boundary denotes areas that contain a greater variety of land use types. These include various housing types and densities; commercial, retail, and industrial uses; and

**COUNCIL OF THE COUNTY OF MAUI**  
**GENERAL PLAN COMMITTEE**

November 13, 2012  
Page 7

**Committee**  
**Report No.** \_\_\_\_\_

resort destination areas with more complete infrastructure. The small town growth boundary denotes areas that are less intensely developed than urban areas with fewer services and a lower level of infrastructure. The rural growth boundary denotes areas that contain a mixture of agricultural activities, low-density residential areas, and small villages.

Your Committee notes that Table 8-2 also describes the five protected areas delineated on diagrams: preservation, park, greenbelt, greenway, and sensitive land. Your Committee revised Table 8-2 to ensure that it properly reflects the characteristics, purpose, and implementation strategy for the directed growth boundaries and the protected areas. The identified protected areas are intended to protect Maui's unique and fragile natural resources from future development.

Your Committee was concerned that the Directed Growth Plan and corresponding directed growth maps refer to community plan regions that are not always consistent with the official community plan map area boundaries. Your Committee voted to include an explanation to avoid confusion.

Your Committee reviewed the planned growth areas and proposed protected areas for the following community plan regions: Wailuku-Kahului, Kihei-Makena, Makawao-Pukalani-Kula, Paia-Haiku, West Maui, and Hana.

One common issue that your Committee struggled with in its review of most of the community plan regions was whether to designate agricultural subdivisions consisting of primarily two-acre lots as rural growth areas, as recommended by the Planning Director. The Planning Director explained that most of the lots contained within these agricultural subdivisions are used primarily for residential purposes, with minimal agricultural activity. Therefore, he reasoned that the rural growth designation would merely reflect existing uses. Your Committee notes that Chapter 19.29, MCC (Rural District), allows for minimum lot sizes ranging from .5 acre to 10 acres, and that Chapter 19.30A, MCC (Agricultural District), allows for minimum lot sizes ranging from 2 acres to 40 acres. Your Committee expressed concern that including these agricultural subdivisions in a rural growth boundary would allow for increased density at the time of zoning. Your Committee was also concerned about the potential negative effects on those property owners who might be engaged in bona fide agricultural activities, and discussed ways to protect such activities. In addition, your Committee explored ways to restrict private agreements from prohibiting agricultural activities.

**COUNCIL OF THE COUNTY OF MAUI**  
**GENERAL PLAN COMMITTEE**

November 13, 2012

Page 8

**Committee**

**Report No.** \_\_\_\_\_

Your Committee notes that Chapter 165, Hawaii Revised Statutes (“HRS”), the Hawaii Right to Farm Act, limits the circumstances under which farming operations may be deemed to be a nuisance, in order to preserve and promote farming. The Deputy Corporation Counsel advised that the Hawaii Right to Farm Act includes provisions to protect farming operations located on rural properties. He also advised that Section 205-4.6, HRS, prohibits private agreements from restricting agricultural uses and activities in agricultural lands, but that there is no such prohibition for rural lands.

Generally, your Committee approved the recommendations of the Planning Director to include agricultural subdivisions consisting of primarily two-acre lots in the rural growth boundaries. Your Committee also added language in the Maui Island Plan to clarify that these agricultural subdivisions should not be rezoned to higher densities than is already permitted, but that a County rural zoning district that is reflective of the existing conditions, or that is directed by the applicable community plan, should apply. In addition, your Committee added a policy to state that at the time of zoning from agricultural to rural, the Council will consider prohibiting restrictions on agricultural activity.

Your Committee thoroughly reviewed the Directed Growth Plan for each community plan region.

In the Wailuku-Kahului community plan region, your Committee struggled to find a balance between appropriate rural growth in the Waikapu area while also protecting existing agricultural lands and open space, scenic corridors along Honoapiilani Highway, and maintaining the unique identity of the Waikapu community. Your Committee was satisfied that the rural growth boundaries and the identified greenbelts will satisfy the need for added growth, while still protecting existing agricultural lands and open space.

In the Kihei-Makena community plan region, your Committee adopted the recommendation of the GPAC and MPC to include approximately 350 acres of urban growth in the area known as Pulehunui, located east of Mokulele Highway, to be used primarily for heavy industrial, public/quasi-public, and recreational uses. Your Committee notes that the State Department of Public Safety intends to develop a new jail facility on approximately 40 acres of the land included in the urban growth boundary.

Your Committee struggled with the Planning Director’s recommendation to include in the urban growth boundary additional lands east and west of Mokulele

**COUNCIL OF THE COUNTY OF MAUI**  
**GENERAL PLAN COMMITTEE**

November 13, 2012  
Page 9

**Committee**  
**Report No.** \_\_\_\_\_

Highway owned by the State Department of Land and Natural Resources (“DLNR”) and Department of Hawaiian Homelands (“DHHL”). Your Committee met extensively with representatives of DLNR, DHHL, and the Public Lands Development Corporation to discuss the State’s plan for development in the area. Your Committee acknowledged the significant potential for these public lands to provide much needed revenue to support the operations of DLNR and DHHL, and the people that they serve. However, your Committee was not convinced that the State’s proposed development for heavy-industrial uses would sufficiently protect the view corridors along Mokulele Highway. Therefore, your Committee rejected the Director’s recommendation and the State’s request to include the additional land within the urban growth boundary.

Your Committee discussed how to manage potential impacts of proposed development on significant cultural and environmental resources in the Makena area. Your Committee approved the recommendation of the Planning Director to include approximately 390 acres of land around the Makena Resort golf course in the urban growth boundary. The Planning Director informed your Committee that adding the area to the urban growth boundary is consistent with the Community Plan designations for the property. However, he said that the property will need a change in zoning to proceed with development. Your Committee noted that the Council will be able to impose appropriate conditions on any request for a change in zoning to mitigate development impacts to the delicate cultural and environmental resources in the area.

During its review of the West Maui community plan region, your Committee was particularly concerned with the lack of affordable housing and the region’s isolation from the rest of the island.

Your Committee approved the recommendation of the GPAC and MPC to include Olowalu in an urban and rural growth boundary, despite concerns raised by the Planning Director and members of the public. Your Committee recognized a lack of infrastructure in the area, potential negative impacts on the nearby coastal resources, and a lack of nearby employment opportunities. However, your Committee was persuaded by the overwhelming support of the existing Olowalu residents to include Olowalu in the urban and rural growth boundaries. Residents of Olowalu expressed a strong desire for affordable homes and commercial services in Olowalu to make the area more self-sustaining. Your Committee met with representatives of Olowalu Town, LLC to discuss their development plans for the area. Your Committee was satisfied that the developers have worked closely with the community to create a master plan for development that addresses the concerns of the Planning Director and others.

**COUNCIL OF THE COUNTY OF MAUI**  
**GENERAL PLAN COMMITTEE**

November 13, 2012  
Page 10

**Committee**  
**Report No.** \_\_\_\_\_

Your Committee debated whether to designate the area of Kulaokaea in Honolua, also referred to as Lipoa Point, as a protected area. Your Committee consulted with Ryan Churchill, President and Chief Operating Officer, Maui Land & Pineapple Company, Inc. (“MLP”), the landowner. Mr. Churchill informed your Committee that MLP is using the land as collateral to secure the MLP’s unfunded retirement liability. Your Committee was concerned that designating the area for protection could diminish the property’s value and jeopardize the value of pension benefits for the company’s retirees. Therefore, your Committee chose to designate only the coastal portions of Kulaokaea that are already in the State Conservation District as a protected area.

In the Hana community plan region, the Planning Director proposed to add a number of properties past Hana town and makai of Hana Highway within the rural growth boundary, consistent with the GPAC recommendation. According to the Planning Director, this designation for the properties is consistent with the Hana Community Plan and the properties’ Interim zoning. However, your Committee was persuaded by the strong opposition expressed by the residents of Hana, and the MPC’s recommendation to leave the properties out of the rural growth boundary. Concerns raised included the potential for increased density along the coastline, endangering fragile natural resources and view planes, and the lack of adequate infrastructure.

Your Committee questioned the Planning Director and the Deputy Corporation Counsel about the consequences if the community plan advisory committees make recommendations, during the community plan update process, that conflict with the Maui Island Plan. Your Committee was assured by the Planning Director that he would initiate an amendment to the Maui Island Plan concurrent with the applicable community plan update to ensure consistency with the community plan.

Your Committee was satisfied that the Directed Growth Plan, as revised by your Committee, will accommodate population and employment growth in a manner that safeguards the island’s natural and cultural resources, enhances areas that are already developed, and preserves land use opportunities for future generations.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed bill, entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80B, MAUI COUNTY CODE, RELATING TO THE MAUI ISLAND PLAN”, incorporating definitions into Section 2.80B.020, MCC.

COUNCIL OF THE COUNTY OF MAUI  
**GENERAL PLAN COMMITTEE**

November 13, 2012  
Page 11

**Committee  
Report No.** \_\_\_\_\_

Your Committee notes that Section 2.80B, MCC, requires that the Council conduct a public hearing prior to adopting the Maui Island Plan.

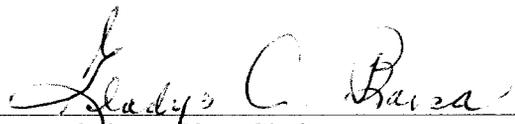
Your Committee voted 8-0 to recommend that the bill adopting the Maui Island Plan be scheduled for a public hearing, and after the public hearing, be scheduled for first reading. Committee Chair Baisa, Vice-Chair Couch, and Members Carroll, Cochran, Mateo, Pontanilla, Victorino, and White voted "aye". Committee member Hokama was excused.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your General Plan Committee RECOMMENDS the following:

1. That a PUBLIC HEARING be HELD on the proposed bill, as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80B, MAUI COUNTY CODE, RELATING TO THE MAUI ISLAND PLAN"; and
2. That the proposed bill, as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80B, MAUI COUNTY CODE, RELATING TO THE MAUI ISLAND PLAN", be SCHEDULED FOR FIRST READING, following the public hearing.

This report is submitted in accordance with Rule 8 of the Rules of the Council.

  
\_\_\_\_\_  
GLADYS C. BAISA, Chair

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2012)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80B, MAUI COUNTY CODE,  
RELATING TO THE MAUI ISLAND PLAN

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

SECTION 1. Exhibit B of Chapter 2.80B, Maui County Code, which is attached hereto and made a part hereof, is hereby adopted as the Maui Island Plan of the County of Maui.

SECTION 2. Section 2.80B.020, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Archaeological district" means a place or group of physical sites in which evidence of past human activity, either prehistoric or at least fifty years of age, has been designated for preservation, research, or both.

"Beach nourishment" means a technique used to restore an eroding beach or to create a new sandy shoreline by placing sand fill, with or without supporting structures, along the shoreline to widen the beach.

"Buffer" generally refers to the designated area around a land use or geographic feature, deliberately left in a specific condition, typically to protect a natural resource, mitigate development impacts, or protect the character of a community.

"Class 'A', low-silt sand" means coarse sand with no silt.

"Community development corporation" means a broad term referring to not-for-profit organizations incorporated to provide programs and offer services that often focus on serving lower-income residents or struggling neighborhoods.

"Community facilities districts" means a special district that can issue tax-exempt bonds for the planning, design, acquisition, construction, and/or operation of infrastructure or public facilities.

"Comprehensive long range multimodal plan" means a plan that provides a framework to guide transportation decisions and investments that enhance the

economy, support local communities, and protects the natural/man-made environment. The plan also addresses the mobility of people, goods, services, and information across all transportation modes, including biking, walking, driving, transit, railway, ferries, ships, aviation, and electronic communications.

"Conservation easement" means a legal mechanism whereby a landowner retains ownership of his land, but grants some right(s), which stipulate that the described land will remain in its natural state and preclude future or additional development. Conservation easements are typically used for the preservation of open space, environmentally sensitive areas, scenic views, wetland buffers, and agricultural land.

"Conservation subdivision design" means an approach to laying out subdivisions so that a significant percentage of buildable lands are permanently protected in such a manner as to create interconnected networks of conservation lands. This approach is distinct from clustering and planned unit development in terms of the higher open space ratios and conscious design to forge community-wide networks of open space. Conservation subdivisions are generally density-neutral, meaning that the overall number of dwellings built is not different from that done in conventional developments.

"Cultural impact assessment" means a report documenting cultural values, materials, and associations related to an area or a resource. A cultural impact assessment provides an analysis of the potential effect of any proposed physical alteration on cultural resources, practices or beliefs; the potential of the proposed action to isolate cultural resources, practices or beliefs from their setting; and the potential of the proposed action to introduce elements which may alter the setting in which cultural practices take place.

"Cultural landscape report" means a report that analyzes the history and integrity of a cultural landscape, including any proposed changes to its geographical context, features, materials, and use.

"Design guidelines" means a set of guidelines or parameters to be followed in a site or building design and development.

"Development" means any of the uses, activities, or operations on land or in or under water that are included below:

1. Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
2. Grading, removing, dredging, mining, or extraction of any materials;
3. Change in the density or intensity of use of land, including but not limited to the division or subdivision of land;
4. Change in the intensity of use of water, ecology related thereto, or of access thereto; and

5. Construction, reconstruction, demolition, or alteration of the size of any structure.

"Development" does not include the following:

1. Construction of a single-family residence that is not part of a larger development;

2. Repair or maintenance of roads and highways within existing rights-of-way;

3. Routine maintenance dredging of existing streams, channels, and drainage ways;

4. Repair and maintenance of underground utility lines, including but not limited to water, sewer, power, telephone, and minor appurtenant structures such as pad mounted transformers and sewer pump stations;

5. Zoning variances, except for height, density, parking, and shoreline setback;

6. Repair, maintenance, or interior alterations to existing structures;

7. Demolition or removal of structures, except those structures located on any historic site as designated in national or state registers;

8. Use of any land for the purpose of cultivating, planting, growing, and harvesting plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes;

9. Transfer of title to land;

10. Creation or termination of easements, covenants, or other rights in structures or land;

11. Subdivision of land into lots greater than twenty acres in size;

12. Subdivision of a parcel of land into four or fewer parcels when no associated construction activities are proposed; provided that, any land which is so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels;

13. Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors;

14. Structural and nonstructural improvements to existing single-family residences, where otherwise permissible;

15. Nonstructural improvements to existing commercial structures; and

16. Construction, installation, maintenance, repair, and replacement of civil defense warning or signal devices and sirens.

"Endangered species" means a species or ecosystem that is so reduced or delicate that it is threatened with, or on the verge of, extinction.

"Greenbelts" means an extensive area of largely undeveloped or sparsely occupied land established along natural corridors to protect environmental resources and to separate distinct communities. Greenbelts may include accessory structures and ancillary uses consistent with the purpose and intent of the greenbelt area.

"Greenway" means typically a long, narrow piece of land, often times used for recreation, pedestrian, and bicycle traffic. Greenways can include community gardens and can be used to link community amenities (e.g. parks, shoreline). Greenways may include accessory structures and ancillary uses consistent with the purpose and intent of the greenway area.

"Heritage area" means a designated area where natural, cultural, historical and scenic resources combine to form a cohesive and distinct landscape arising from patterns of human activity shaped by geography. The focus of the designation is on the protection and conservation of critical resources including the natural, cultural, historical, and scenic resources that uniquely identify an area and give a community a sense of place. Areas typically have the following characteristics:

1. Contains an outstanding example of a particular type of resource;
2. Possesses exceptional value or quality in illustrating or interpreting the natural or cultural themes of the island's heritage;
3. Offers superlative opportunities for recreation, public use, and enjoyment or for scientific study; and
4. Retains a high degree of integrity as a true, accurate and relatively unaltered example of a resource.

"Heritage area plan" means a plan that documents the history, significance, and treatment of a heritage area; the plan includes detailed guidelines and recommendations for the protection of the environmental and cultural integrity of a designated heritage area.

"Infill development" means development of land that is largely vacant or underutilized within areas that are already largely developed.

"Jobs/housing balance" means the ratio of jobs to households when both the type (such as single family, multi-family, rental) and quantity of housing opportunities match the job opportunities within an area.

"Level-of-service standards" means measures of the amount and/or quality of a public facility or infrastructure that must be provided to meet a community's basic needs and expectations. Level-of-service standards measures are typically quantitative and are expressed as ratios of facility capacity to demand by existing and projected future users. Level-of-service standards measures the size, amount, capacity, or quality of the capital facility.

"Linkage" means a physical or economic concept pertaining to the time and distance between land use and support facilities, or between people and their activities.

"Livable community" means an urban, suburban, rural, or neighborhood community that:

1. Provides safe and reliable transportation choices;
2. Provides some affordable, energy-efficient, and location-efficient housing choices for people of all ages, incomes, races, and ethnicities;
3. Supports, revitalizes, and encourages the growth of existing communities and maximizes the cost effectiveness of existing infrastructure;
4. Promotes economic development and economic competitiveness;
5. Preserves the environment and natural resources;
6. Protects agricultural land, rural land, and green spaces; and
7. Supports public health and improves the quality of life for residents of and workers in the community.

"Long term care home" means a variety of homes, dwellings, and buildings ranging from traditional nursing homes to buildings that provide home-like environments on a twenty-four hour basis to persons who need constant care and supervision. Long term care homes include, but are not limited to, care homes, foster homes, assisted living, and nursing homes.

"Low impact development" means an approach to land development or redevelopment that incorporates a suite of landscaping and design techniques known as "better site design" that attempts to maintain the natural, pre-development hydrology of a site and the surrounding watershed. Low impact development also integrates a range of structural best management practices for road design and storm water and wastewater management systems that minimize environmental impacts.

"Marine life conservation districts" means a type of marine managed area; usually prohibits or only allows for limited fishing and other consumptive uses.

"Marine managed area/marine protected areas" means any area of the marine environment that has been reserved by federal, state, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural or cultural resources contained therein.

"Native species" means a species that occurs naturally in an area and is not introduced.

"New towns" means a form of urban development designed as a unified concept of sufficient scale to provide its residents with a full range, or substantial range, of necessary land uses, public facilities, services, and employment opportunities. New towns typically include multiple pedestrian neighborhoods and they have a substantial employment base with a regional commercial or civic focus.

"New urbanism" means the process of reintegrating the components of modern life, such as housing, workplace, shopping, and recreation, into compact, pedestrian-friendly, and mixed-use neighborhoods linked by transit and set in a larger regional open space framework.

"Overlay district" means an area where certain additional requirements are superimposed upon a base zoning district or underlying district and where the requirements of the base or underlying district may or may not be altered.

"Productive agricultural land" means land that is capable of supporting sustained high yields of agriculture when treated and managed according to accepted farming methods and technology.

"Pyramid zoning" means a zoning scheme that allows lower, less intense uses, such as residences, to be located in higher, more intensive zoning districts, such as commercial or industrial.

"Resort destination area" means one of the planned resort destination areas of Kā'anapali, Kapalua, Mākena, and Wailea, which is intended as a major tourist destination area, consistent with the general and community plans.

"Threatened species" means a species likely to become endangered if limiting factors are not reversed.

"Transfer of development rights" means a program that can relocate potential development from areas where proposed land use or environmental impacts are considered undesirable to another site chosen on the basis of its ability to accommodate additional units of development beyond that for which it was zoned, with minimal environmental, social, and aesthetic impacts.

"Transportation demand management" means various strategies that change travel behavior to increase transport system efficiency and achieve specific planning objectives.

"Transportation impact fees" means charges assessed by local governments against new development projects to recover the cost incurred by government in providing the public facilities required to serve this new development. Impact fees are only used to fund facilities (e.g., roads, bus stops, transit centers) that are directly associated with the new development.

"Transportation system management" means transportation strategies designed to improve both the movement of people and goods and the operational efficiency of the existing transportation system at minimal cost.

"Urban expansion" means new growth areas typically located at the edge of an existing community and often include urban uses, such as housing, commercial, retail, or recreational uses.

"Wetland" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

"Wildland" means an area or region where the habitat remains in a natural state due to the minimization or prohibition of development and human activities that would alter the landscape and potentially harm the species that rely on the health of the ecosystem.

"Xeriscaping" means the practice of using native species and hardscape materials to create low-water-use landscaping."

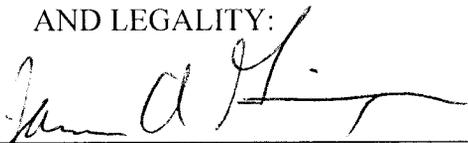
SECTION 3. Section 2.80B.030, Maui County Code, is amended by amending subsection A to read as follows:

"A. Exhibit A-1 of this chapter, entitled "The Countywide Policy Plan," which is on file with the office of the county clerk, is adopted as the countywide policy plan and by reference made a part of this chapter. Exhibit B of this chapter, entitled "The Maui Island Plan," which is on file with the office of the county clerk, is adopted as the Maui island plan and by reference made a part of this chapter."

SECTION 4. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



---

JAMES A. GIROUX  
Deputy Corporation Counsel  
County of Maui

SA\ALL\JAG\Ords\Amend 2.80B.020 2.80B.030 11.2012.doc