

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**M I N U T E S**

**Council Chamber**

**May 24, 2016**

**CONVENE:** 1:37 p.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Don Couch, Chair  
Councilmember Robert Carroll, Vice-Chair  
Councilmember Gladys C. Baisa (arrived at 2:12 p.m.)  
Councilmember Elle Cochran  
Councilmember Don S. Guzman  
Councilmember Michael P. Victorino (arrived at 2:10 p.m.)

**EXCUSED:** Councilmember Mike White

**STAFF:** Greg Garneau, Legislative Attorney  
Pauline Martins, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)

**ADMIN.:** Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel  
William Spence, Director, Department of Planning  
Mary Jorgensen, Senior Planner, Long Range Planning Division, Department of Planning  
Jennifer Maydan, Planner, Long Range Planning Division, Department of Planning  
Pamela Ann Mayer Eaton, Planning Program Administrator, Long Range Planning Division, Department of Planning  
Michael Napier, GIS Analyst, Long Range Planning Division, Department of Planning  
Mark King, GIS Analyst, Long Range Planning Division, Department of Planning

**OTHERS:** Ron McOmber  
Stan Ruidas  
Deborah dela Cruz  
Butch Gima  
Tom Blackburn-Rodriguez  
Dick Mayer  
Gwen Hiraga, Senior Advisor, Munekiyo & Hiraga

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

Lynn McCrory, Senior Vice President of Government Affairs, Pulama Lanai  
Arlan Chun, Senior Vice President of Development & Construction, Pulama Lanai  
Albert Perez, Executive Director, Maui Tomorrow Foundation  
Rosemary Robbins  
Plus (2) other people

**PRESS:** *Akaku Maui Community Television, Inc.*  
*Colleen Uechi, The Maui News*

---

**PC-11 LANAI COMMUNITY PLAN UPDATE (CC 14-283)**

CHAIR COUCH: . . . (*gavel*) . . . Will the Planning Committee meeting of May 24, 2014 [*sic*] please come to order? It is about 1:38. I apologize for coming in late. We have some technical difficulties with our District Office sites, well actually its, the difficulties are here in talking with the District Office sites. My name is Don Couch. I'm the Chair of the Committee. I'd like to welcome Councilmember Carroll who's the Vice-Chair of the Committee.

VICE-CHAIR CARROLL: Good afternoon, Chair.

CHAIR COUCH: Good afternoon. And Councilmember Cochran.

COUNCILMEMBER COCHRAN: Aloha.

CHAIR COUCH: Aloha. And Councilmember Guzman.

COUNCILMEMBER GUZMAN: Chair.

CHAIR COUCH: Chair. Let's see, Gladys Baisa, Michael Victorino are coming in a little bit later and Mike White is excused. We don't have any non-voting members. Mr. Hokama would like...would have loved to have been here, but he is out doing NACo or WIR business today. All right, from the Planning Department, we have Will Spence the Director.

MR. SPENCE: Good afternoon.

CHAIR COUCH: Good afternoon. And Mary.

MS. JORGENSEN: Good afternoon, Chair.

CHAIR COUCH: Pardon.

MR. SPENCE: She said good afternoon.

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

CHAIR COUCH: Good afternoon, Mary Jorgensen. And we have in the back some more members who may need to come up here, more members of the Staff. And we have Deputy Corporation Counsel Michael Hopper.

MR. HOPPER: Good afternoon.

CHAIR COUCH: Good afternoon. Legislative Attorney Greg Garneau.

MR. GARNEAU: Good afternoon.

CHAIR COUCH: Good afternoon. And Committee Secretary Pauline Martins. And Lanai District Office Denise Fernandez.

MS. FERNANDEZ: Hello, this is ...*(inaudible)*... from the Lanai Office.

CHAIR COUCH: Okay. And then Ella Alcon from Molokai.

MS. ALCON: Good afternoon, Chair.

CHAIR COUCH: Good afternoon, ladies. Hana District Office is closed today. Members and members of the audience, please turn off your cell phones or put them in silent mode. Nobody's reaching for their phones. Hopefully we won't hear one ring. All right, Members, today's agenda item is one item, PC-11, Lanai Community Plan Update. And we're gonna start with testimony. For individuals testifying in the Chamber, please sign up at the desk outside the Chamber door. If testifying from a remote testimony site, please sign up with the District Office Staff. Testimony will be limited to the item listed on the agenda today. Pursuant to the Rules of the Council, each testifier will be allowed to testify for up to three minutes per item. I will also be allowing an additional minute to conclude testimony. You will get a green light for three minutes and then it'll go yellow for one minute and when it turns red please conclude your remarks. When testifying, please state your name and any organization you may be representing. Members, without objection, we'll open public testimony.

COUNCILMEMBERS: No objections.

CHAIR COUCH: Okay. Right now, I have...you know what, since this is the Lanai...well, we'll have...since we only have one testifier here, we'll have them first and then we'll go right to Lanai and get their testimony. I'm sure we have a few there. First to testify in the Chambers and the only one so far to testify in the Chambers is Albert Perez.

**. . . BEGIN PUBLIC TESTIMONY . . .**

MR. PEREZ: Sorry, Chair, would it be too much to ask for you to go to Lanai first? I misplaced my document.

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

CHAIR COUCH: Okay. Members, without objection.

COUNCILMEMBERS: No objections.

CHAIR COUCH: Okay. All right.

MR. PEREZ: Thank you.

CHAIR COUCH: Okay. Lanai Office, do you have any testifiers today?

MS. FERNANDEZ: Yes, Chair. We currently have three testifiers. The first individual to testify is Ron McOmber.

MR. McOMBER: Good afternoon, Chair, Members of the Committee. Can you hear me now?

CHAIR COUCH: Oh, yes, very much so.

MR. McOMBER: You sure? 'Cause we went through this earlier this morning and apparently nobody could hear us.

CHAIR COUCH: No. We fixed that.

MR. McOMBER: I hope so. Again, what I'm doing is testifying in support of a letter that you received from Sally Kaye explaining all of our concerns about this community plan. And particularly the last paragraph and you need to look at that and understand that that language is not what we expected to see, and I don't know who injected that into the plan, but it needs to be removed and I hope that you will consider that. *...(inaudible)...* We put a lot of time in this community plan and if you're not gonna remove that in that plan then we request that we go back and revisit the community plan again.. I don't want to hold you up any more than that but that's my statement on it. Thank you very much.

CHAIR COUCH: Thank you, Mr. McOmber. Members, any questions to the testifier? Seeing none, thank you. Ms. Fernandez, can you call up the next testifier please?

MS. FERNANDEZ: The next testifier is Deborah dela Cruz.

MS. dela CRUZ: Thank you for, I guess, another opportunity to address you. I'm Deborah dela Cruz and I am a member of the Lanai CPAC. I've seen the *...(inaudible)...* that they're asking you to approve the plan as is. They were at the request of a Pulama Lanai resident encouraging people to support the plan as only a few negative voices are being heard. It's one of those *...(inaudible)...* I'd like to step back to when the CPAC began its deliberations in January 2013. It was a time when we were losing many good people in the community who left after losing their jobs. Pulama presented this plan at that time. The CPAC members want to see those people

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

come back and to keep people here like the first plan that would increase jobs, create new types of jobs, and provide housing. We also wanted to provide more recreation, better education, better healthcare, and other aspects that would improve our community. We adopted almost all of what Pulama ...*(inaudible)*... I think the developer would be happy to have his or her plans incorporated into a community plan to the extent that Pulama's plans were. We also listened to the community about the students who addressed the CPAC to know that there is an action item to develop an action support facility such as a skateboard park, roller derby facility, or BMX track. So I don't get the negative label. Yes, we ...*(inaudible)*... the plans sometimes word for word. Those who have actually read the mini version of the plan and participated in the review process knows that we were trying to retain as much of the original plan as possible and deleting or lessening the impact of what others were changing. I know in the end the Council prevails but it's our duty as members community and for CPAC members who are committed to the process to voice our opinions. If that's being negative, then so be it. The negativity at this point is due to words added in December 2015 to Page 9-3 and Appendix 9.2 that state that unless specifically prohibited, the uses permitted by zoning, and the standards applicable to the typical zoning district applying to the corresponding community plan designate. Councilman Hokama has today proposed an amendment to that wording. I prefer deletion of the second paragraph of Appendix 9.2. But I can live with these changes if ...*(inaudible)*... move forward. If you leave the wording, I support Sally Kaye's letter that the CPAC and Planning Commission reconvene and review the plan for specific prohibitions and restrictions. Let me reiterate what I said at your earlier meeting now with Councilman Hokama's changes. I request that we look at this as three separate actions --

MR. GARNEAU: Three minutes.

MS. dela CRUZ: --in this order. First, we have discussion of the process; second, passage of the Lanai Community Plan is amended per Councilman Hokama's proposal today; and third, a possible change to the Maui County Code to clarify the relationship between community plan designations and zoning. Thank you.

CHAIR COUCH: Thank you, Ms. dela Cruz. Members, any questions to the testifier? Seeing none, thank you. Lanai, can you do, have the next person please?

MS. FERNANDEZ: Yes, our last testifier is Butch Gima.

MR. GIMA: Hi, my name is Butch Gima. The expectation is if you are unable to hear my testimony or Ron's or Debby's that you have the responsibility to let us know before closing this hearing this afternoon. That being said, you guys have couple options, one, please inform us after my testimony whether the prohibitive language was removed from the documents as expected when we discussed it on March 12 on Lanai. If it has been removed, then I think we're saving a lot of time. If you have not removed it, please explain to the Lanai testifiers why it remains in the document. And if it's gonna continue to remain in the document, then I agree with what Sally Kaye had

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

written in her testimony that you need to come back before the LPC and the CPAC. I am very disappointed that the questions were not answered at the March 12 hearing as to the benefits of why this language was inserted into the document for our community. Absent answering our questions, I don't believe you guys can pass our community plan. The objections that Lanai testifiers are sharing today and the previous hearings. And, Don, I don't think you can complain about the process and the process has been terrible primarily from the County's end in terms of not answering questions, having poor communication mechanisms, and not having a real transparent policy. It's, to date, no one has taken responsibility for inserting that language and that language did not come through the LPC process and definitely not through the CPAC process. So to summarize, if you guys took the language out of the community plan, then we're very supportive of the plan. If you have not, then please bring this whole process back to Lanai. Thank you.

CHAIR COUCH: Thank you, Mr. Gima. Members, any questions to the testifier? Seeing none, thank you. Hang on the line, ladies. Molokai, do you have any testifiers?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR COUCH: Okay. Hang on the line, we'll go to you guys one more time at the end of the testimony. All right, first to sign up to testify is Albert Perez. Did you find your stuff?

MR. PEREZ: Yes.

CHAIR COUCH: Okay. And following Albert is Tom Blackburn-Rodriguez.

MR. PEREZ: Thank you, Chair. I appreciate your indulgence. I'm Albert Perez. I'm testifying on behalf of Maui Tomorrow Foundation. I'm the executive director. I wanted to bring your attention to Page 9-2, this is in Chapter 9, Land Use, the second to last paragraph there was some language that was removed and it was easy to see 'cause it's in Ramseyer format. It says, "unless specifically prohibited, the uses permitted by zoning and the standards applicable to the typical zoning district apply to the corresponding community plan designations." So that was removed, it was easy to see. There was some other language in Appendix 9.2 on Page A-14 that was very similar just kind of different wording, that was not removed, and I think if you were going, if you're intending to remove the unless specifically prohibited language you should remove this other part too. So on Page A-14 it says, if a property's community plan land use designation and zoning correspond as listed in the table below, the community plan land use designation does not limit any use established by the property's zoning unless the community plan specifically prohibits or restricts a particular use. So that one's easy to miss, it's not in Ramseyer format. It should also be removed. The other change that we would like to see in the table itself, Appendix 9.2, you have a column that used to be entitled description. It describes the land uses that are appropriate to particular community plan designation, that heading was changed to envisioned uses. And also the heading that used to say corresponding County zoning district was changed and it now says typical County zoning district,

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

this type of language is much looser, less specific, and provides more wiggle room. And the fact is to make it easier to approve development and proposals that the community may not have had in mind. Just a little bit on the process, we talked about this morning, I won't spend too much time on that, but clearly the process was moving along fine until this type of language was added into the plan. And yes, the Council gets the final say but if you want to and Ms. Eaton this morning was talking about creating trust in the community. If you want to preserve the trust of the community, then this type of language if it's in...if it's something the Department wants to insert should be inserted early in and so that they can see it at the Community Plan Advisory Committee level. And finally, I just want to recommend that at this point this type of language be removed and that it be sent back to the Community Plan Advisory Committee for their quick review. There haven't been a lot of other changes. And the Planning Commission should have a quick review of it as well. I also wanted to talk directly to all of the Councilmembers. Some comments this morning referred to special interest groups having undue influence on the planning process. I can only speak for Maui Tomorrow but one of the main reasons that we were formed was to bring balance to a process that had previously been dominated by the development community. So here we are in the middle of the day, everybody's at work, including a lot of our supporters, they can't come down. Maui Tomorrow does in fact represent a broad segment of the community and we're working for a better future, our voice is as valid as any other. Thank you.

CHAIR COUCH: Thank you, Mr. Perez. Members, any questions to the testifier? I have one, you said Page 9-2, is it 9-2 or 9-3?

MR. PEREZ: Page 9-3.

CHAIR COUCH: Nine-three, okay. With, that has the Ramseyered...

MR. PEREZ: The land use chapter.

CHAIR COUCH: Yeah, okay. I thought I heard you say 9-2.

MR. PEREZ: You know, I might have.

CHAIR COUCH: Okay.

MR. PEREZ: So, but I'm just talking about the language that was already removed and the language that hasn't been removed is in Appendix 9.2 --

CHAIR COUCH: Right.

MR. PEREZ: --on Page A-14.

CHAIR COUCH: Correct. Okay.

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

MR. PEREZ: Thank you.

CHAIR COUCH: I just wanted to get that correct on the record that it's 9-3 on the Ramseyer portion. Okay. Members, any other questions? Seeing none, thank you. Next up is Tom Blackburn-Rodriguez, followed by Dick Mayer.

MR. BLACKBURN-RODRIGUEZ: Good morning, Mr. Chairman, or good afternoon, Mr. Chairman and Members of the Committee. My name is Tom Blackburn-Rodriguez. I'm representing Go Maui and we have testified here before this and other committees. Mr. Chairman, Members of the Committee, certain concerned citizen groups on Maui have recently sought to challenge the Lanai Community Plan on the basis that the community plan used descriptions established permitted uses on any specific parcel instead of corresponding zoning designations. The Lanai Community Plan is addressing this inconsistency between our Zoning Code and the General Plan by establishing what permitted land uses are governed by the language in the Zoning Code. It is a legitimate policy issue. There are no Councilmembers with evil intent and there is no need to send out excited e-mails in order to generate a huge crowd in e-mails. This is a very serious policy issue and should be addressed that way. The use of zoning to determine permitted land uses in Maui County goes back to the 1940s and is how property use is determined, regulated, and property tax assessments made. The literalist Lanai Community Plan position if adopted could set a dangerous precedent that could negatively affect the value and use of thousands of properties and small businesses such as Marmac Ace Hardware, Down to Earth, Star Noodle, Sam Sato's, and the shops in Haiku Cannery. Other affected properties include King's Cathedral, the new Target, all the retail uses in the Maui Marketplace, Kihei Charter School, Wailea Beach Villas, Wailea Point, Honua Kai, Lahaina Gateway Mall, the REALTORS® Association of Maui's own office, and the list goes on. They would be affected because while their use and zoning matches just fine, there is a conflict with a simplistic description in their area community plan. Go Maui supports Lanai Community Plan before the Committee today because it avoids these potential future problems and clarifies the relationship between land use designations in the community plans and zoning. The Lanai Community Plan preserves the law that nothing banned in an area by a community plan can be built without a community plan amendment. For example, if an area were designated in the community plan as park then only park could be there unless there was a community plan amendment. This legislation does not change that. This community plan does not change that. The Maui County comprehensive zoning provisions provide for a tiered or Euclidean approach to permitted uses that are not specifically stated in the community plan definitions. Thus the Zoning Code except in certain instances allows for less intense uses such as retail in area zoned Light Industrial. Community plans currently use descriptions that are silent as to whether less intense uses are allowed, and if read literally could be interpreted as not including such intensive uses. In addition, the Zoning Code is the only reference for performance standards for specific uses, not the community plan. Go Maui supports the Lanai Community Plan as reported by the Planning Department and is now before the Committee. This community plan legislation will not despite the



**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

misrepresentations on the internet, which are just that, deliberate misrepresentations in order to stir up a fight. This community plan legislation will not allow folks to go around land use designations in the community plans and that is critical. Thank you very much for allowing me to testify on this very important policy issue. Aloha.

CHAIR COUCH: Thank you, Mr. Blackburn-Rodriguez. Members, any questions to the testifier? Seeing none, thank you.

MR. BLACKBURN-RODRIGUEZ: Thank you very much for your work, Mr. Chairman.

CHAIR COUCH: Next up is Dick Mayer and he is the last person at this point to sign up to testify.

MR. MAYER: Thank you very much, Mr. Chair, Members. I come here for two items. One is I think the letter that Sally Kaye wrote to you is worth quoting in a couple of places here. One is and I think she's representing many people who spoke to today from Lanai and the objectionable language, "unless specifically prohibited, the uses permitted by zoning and the standards applicable to the zoning district apply to the corresponding community plan designations." The fact remains that neither the CPAC nor the Lanai Planning Commission nor community members were advised that they had to consider whether to prohibit certain uses in community plan land use designations. If that language retroactively now after the community plan was finished on the island of Lanai is now inserted into the text it would be, I think, appropriate to give them the opportunity to look at the things, are there some areas that they wish to object to. And I would urge you to send it back to the committees, let them see, there may be nothing that they object to or they may want to put language in, but that process needs to be held really sovereign for the people on Lanai. Second question, second item, somewhat related is that some statements were made this morning that the appendix now, Appendix 9.2, 9-2, is really a combination of two previous tables into one. That's misstating really what happened. It's not just combining the two, it's totally changing the wording in there so that each of the, now, each of the community plan land use designations now has a long description, much longer than what was previously there so the wording was changed and use, starts off with the word envisions which is vague as to what it would mean and when a planner goes to review a project what does it mean, envisions, it's, I don't think it's the type of specificity that we would usually find in a legal document of this kind. And then it goes on, almost each one of the categories to add words like in support and related and compatible uses. Again, relatively vague as to exactly what is or is not within that plan. And finally, by the inclusion of the various zoning districts that are put into the community plans, I'll use the Light Industrial as an example, there has been an example and that's why this is all coming up in South Maui where the Planning Director did not properly, I believe, use the zoning law and that allowed for large-scale commercial operations to be permitted in the recommendation to the State Land Use Commission. Similarly, many of the nonconforming uses are because of bad practices by the Planning Department in allowing certain developments to go in. For example, the A&B big project where Walmart, Target is, et cetera, that shopping center is now,

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

got no industrial in it at all, light industrial, that's a light industrial area, all that's going in there is commercial whereas the law says it should be mostly light industrial with some commercial accessory uses. And I'm very concerned that if this ordinance goes through the way it's written that that will be a continued practice of the Planning Department to allow incorrect use of the zoning regulations if they wish to implement this plan, not only Lanai but where I believe where this Planning Department wants to take this plan to the other districts so it might be your district as well. Thank you.

CHAIR COUCH: Thank you, Mr. Mayer. Members, any questions to the testifier? Seeing none, thank you.

MR. MAYER: Thank you.

CHAIR COUCH: And somebody was waving their hand. Did you fill out the form?

MR. LAW: No, sir.

CHAIR COUCH: Well you gotta do it at the end when you're done. Come testify, then fill out the form at the end.

MR. LAW: Oh, I don't want to.

CHAIR COUCH: Okay.

MR. LAW: Thank you.

CHAIR COUCH: Can you give us your name?

MR. LAW: My name is JC Law. It's spelled Law. I'm from Kula. Thank you for letting me talk today. I didn't know you guys were having this meeting. I saw something in the newspaper about you guys were unable to put your seal of approval on it when you were over in Lanai. I know you guys were trying to do a good job and nobody's perfect but you guys are pretty good. So I was not able to read the Lanai Community Plan. When I came up to the desk up there, I saw they were handing out the newest color copy that you guys got there and I asked them for a copy but they said I couldn't have one, it was only for you guys. So I don't know what the guy's talking about when he says turn to page whatever. So if you guys could, like I said, nobody's perfect but if next time they make copies could you make a couple extra ones for people that are interested? So the only thing, idea and I was just happen to be in the building today and I saw my friend Rosemary and she told me you guys were having a meeting, that's why I'm here. But this might sound like a crazy idea, a loco idea for Lanai, but you guys know they just started that dispensary thing here on Maui and I don't know where they're gonna grow that stuff but I've been...and then we got 36,000 acres from the sugar cane plantation but somehow I don't think it's gonna be a good idea to grow pakalolo on Maui right there so they're gonna have to, the dispensaries gonna have to get it from somewhere. So I'm thinking, you know, all you big shots probably know

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

better about these big deals than me but maybe we can make a deal with that Ellison guy and cut him on some of the profits and then use Lanai to be the world's best pakalolo facility and then we could export it and we won't need any more Federal government money, we'll just tell them keep their money. And, yeah, and we'll pour all the money back into education because we want to teach the keikis that pakalolo is not just for everybody because it will make you a dummy. Now I've smoked it pretty much all my life and it kinda slowed me down but it pretty much helped me in a lot of ways. So I wasn't smoking it today 'cause I ran out. I'm usually like, I'm usually like this, but it really helps me with dealing with all the problems that we got in the world. So any questions?

CHAIR COUCH: Thank you, Mr. Law. Members, any questions for the testifier? Mr. Law, this is the copy that you were looking for. We're trying to save taxpayers' money, it's three inches thick. So that's why I'm sure that they didn't print extra copies 'cause it's very voluminous. So you can find it online if you have a computer.

MR. LAW: I do not.

CHAIR COUCH: I believe they have copies downstairs on the 7<sup>th</sup> floor that you can read in...

MR. LAW: Is there one in the press book over there?

CHAIR COUCH: I don't know. Probably. Okay.

MR. LAW: Thank you, Mr. Councilman.

CHAIR COUCH: And there's on the 7<sup>th</sup> floor you can certainly read it in the little cubicle that they have there.

MR. LAW: Thank you for your time.

CHAIR COUCH: Thank you. Members, nobody else is coming down to testify. I'm giving a little bit of time. Okay. We'll go to the District Offices. Molokai, anybody there?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR COUCH: Thank you. Lanai, anybody there?

MS. FERNANDEZ: The Lanai Office has no one waiting to testify.

CHAIR COUCH: Okay. Thank you, ladies. We'll drop you off the line now. Members, with nobody coming down from the gallery and nobody in Lanai or Molokai, without objection, we'll close public testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

**. . . END OF PUBLIC TESTIMONY . . .**

CHAIR COUCH: Okay. Thank you. Let me get the phone back to the Staff. All right, Members, we're on PC-11. You know, Members, this item was recommitted by the Council at its Special Meeting of April 1, 2016 that was recessed and reconvened on April 8, 2016 and was recessed and reconvened on April 15, 2016. Since the matter was before Council, the Planning Department has submitted additional information for the Committee's consideration. These documents are intended to explain in more detail the evolution of the Lanai Community Plan update to show the amount of work that went into the development of the plan and how recommendations were made by the advisory bodies along the way. The transmittal includes a matrix of the community plan land use designation recommendations, yay, a copy of the CPAC final draft compared against the Lanai Planning Commission final draft, a copy of the Lanai Planning Commission final draft compared against the Planning Committee's most recent draft, complete meeting summaries from the CPAC meetings showing the recommendations that were made to revise the plan, the list of recommendations made by the Lanai Planning Commission. At this time, I would like to ask Director Will Spence and his staff to further explain the process and especially go over the matrix and what changes to land use designations were recommended. Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. Mary Jorgensen is manning the laptop over there and she was the Staff Planner assigned to this community plan and is most familiar, so I would defer to her to make the presentation and then we can do ...*(inaudible)*...

CHAIR COUCH: Go right ahead, Ms. Jorgensen.

MS. JORGENSEN: Okay. Thank you. Good afternoon, Councilmembers. This is...today we're gonna go over the matrix that you received in your packet.

CHAIR COUCH: You're gonna have to get a little closer to the mic, I'm sorry. Your voice is a little soft.

MS. JORGENSEN: We're gonna go over the matrix that you received, it says Proposed Land Use Designations, Revisions to the Lanai Community Plan, and it's a master matrix dated May 2016. And this is similar to the matrices that you have used in the past associated with community plans. And in it there's a number of columns that give a matrix number and name, there's 19 items in this, and we will go through each one. It also gives acreage, what the current land use designation is, current zoning, and then it says tax map key and location. Since the acreage over on Lanai, that there aren't that many parcels, that there's some very large parcels, these represent portions of some of the large parcels that are on Lanai.

CHAIR COUCH: Ms. Jorgensen, may I interrupt you for a minute? I'd like to welcome Mr. Victorino to the Committee. Thank you.

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

MS. JORGENSEN: Okay. There's also a column for notes and comments, and then three columns...or four columns that show the recommendation of the CPAC, the Department recommendation which was really in line with both the CPAC and the Planning Commission, so there's a column for the Planning Commission, and then the current 2016 Planning Committee's recommendation. And so rather than just look at all the wording within this, we, with the help of Mike Napier, our GIS staff, we put together some maps so you can see where these items are and little bit of what they look like on the ground. So the first item in the matrix is this, the Lanai City Mixed-Use Residential that was just traced in red there. And the Mixed-Use Residential extends the Lanai City area and provides both single family and multi-family housing and includes parks, school, and perhaps a neighborhood commercial like a small grocery store could be in this area and this is 457 acres. You can see in this for the Lanai City expansion, the red showing the area, the thicker red line, this is showing what the land area looks like underneath it. There's a...I don't know if you can quite see the little arrow there but the wastewater treatment plant is currently in that location. And then this other parcel that's in there that I'm tracing is where the County affordable housing 78 acres is and you'll see this more as we go through these different layers. This shows the State land use and there's...it's both Ag in green and then the grey is the State land use district of Urban and this parcel in here in grey is part of the County's affordable housing site. This slide shows the zoning for this expansion area. It's currently in Ag or Interim. And then the 1998 Community Plan, this is shows the land use designations that they had for this area. The affordable housing site of the County was single family Residential, the wastewater treatment plant was put in Public/Quasi-Public with some small areas of park, and then the rest being agricultural land. So this shows the current proposal 2016 and this proposal of Mixed-Use Residential in this area was recommended by the CPAC and the Planning Commission, the Department agreed and the Planning Committee has it as Mixed-Use Residential as well.

CHAIR COUCH: Okay. Ms. Jorgensen, let me pause for a minute there. Members, Ms. Jorgensen's going through a pretty detailed differences just as not so much a summary but as a reminder of what's been going on. Members, are you okay with this detail or do you want to summarize a little bit more? It's totally up to you guys. I'm fine either way. Any comments, preferences? Ms. Baisa...oh, I want to welcome Ms. Baisa as well.

COUNCILMEMBER BAISA: Thank you very much. Chair, I don't know about the other Members but we're pretty familiar with what is before us. And I'd be okay with a summary and if we have a specific question, we can ask.

CHAIR COUCH: Okay. Members, any objections to doing it that way?

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR COUCH: I don't hear no objections or would...preferences one way or the other.

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

COUNCILMEMBER VICTORINO: Mr. Chair, I really don't have any preference, but since the Department has prepared all of this, a quick summary of what they prepared, because I think the general public needs to see it also so that they have a better understanding on what we've been, the process we've gone through along with the Department and the CPAC and the rest of the entities involved.

CHAIR COUCH: Okay. All right. So if we could, not a super short summary but not super long either, if you can kinda somewhere in the middle.

MS. JORGENSEN: Okay. Items one through eight are all in the Lanai City area so I'll go rather fast through them so you can see the different images of this was a park, tennis, proposed as a tennis academy. It has existing park land within it and some baseyards. It's State land use is Ag and Urban and most of its either Park, Open Space, Interim with a little bit Ag. And the '98 CP had it as Park and Open Space with some Ag, and it's pretty much staying in the same use in that. You see the blue for above that large that represents the State school expansion area and you'll see that in these slides. It grew from being aligned about in here to expanding and then expanding a little bit in this area. So the Gateway Park was for the change in road alignment of Manele Road and it, currently there's nothing built on it. It's Ag with a little bit that has a park area existing in there and the zoning Interim. The '98 CP proposed Business Commercial and single family residence in part of that area, but there's no corresponding zoning or development proposals. So the proposal is to just have that be park and the road to be realigned kind of through the middle of it and then along through the new development. The university area and the gulch are probably going to be built much later in the process. The Mixed-Use Residential was in terms of phasing, it would be one of the first projects but the university and the gulch would be able, it's all on ag land in Ag zoning and it would provide an area for a linear parkway as well as doing some green infrastructure and storm water management in the gulch and the university campus would be adjoining this Mixed-Use Residential. So there was a little bit of Light Industrial by the town where there was some that was existing that got expanded as well as just as you're entering town, that second circle, and it's on industrial land and agricultural land and it's in the Urban District and part of it, this parcel up at the top is zoned for Industrial and part of it had Open Space in the 1998 plan over it even though it was zoned Industrial, so the proposal for the 2016 plan is to expand it and also remove where there's existing Industrial. The Rural Residential was proposed by the CPAC. This was all something that they really wanted to see. One of the members was wanted to have farming close to town so they discussed the size of the farms and all the, and what that meant to be rural, what the sizes of the lots would be, and they decided they'd have it just be Rural, whatever size was in the current zoning. It's currently in Ag, it's located...and the State land use is a mix of Rural and Ag. And it's located next to the project district, the Koele Stables. And the one item that's not on your matrix is this Public/Quasi-Public. It is on all that maps within the proposed plan, that's for the cemeteries that are existing there and some expansion of them. This is one item that I don't believe that the Planning Committee has thoroughly reviewed, it was in the

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

beginning in the CPAC process, we proposed removing the Open Space layer that was over the State land use Conservation lands because the County does not have jurisdiction in State land use Conservation and it was a little bit difficult to see where those lands were. I want to point out on this map, you see there's Rural along the coast and Urban areas and then also some Ag lands, little bit of Rural in here, that was retained by the CPAC to be in Open Space but all the yellow that's in Conservation that was in the 1998 plan in this image it shown in Open Space, a lot of it was removed so that all the State land use district of Conservation is visible and but then some Open Space was retained along the coast. And down here at the bottom you see these little patches of green, that was to add extra protection along the coastline of Open Space over some Rural State land use districts. The Halepalaloa [sic] was the area that's on the eastern coast you can see here in the map and this was the only one that there's a differences between the different committees reviewing it. So the CPAC and the Planning Commission wanted to have some development here. It's State land use Urban and Agriculture with a little bit of Rural and you can see the old Club Lanai site and the dock area up at the top. They were proposing 20 acres of a hotel and a rural development of 250 acres. And this was an area where they did prohibit the use, Rural would normally allow less than 5 acres and they said they only wanted 5 acres or larger 'cause they didn't want to have that many lots within this acreage and they also wanted to have a permanent conservation buffer around this area that's about 1,000 feet in width to not have any expansion in the future. The current proposal in 2016 shows that this was not accepted by the Planning Committee so it is restored to how it was in the 1998 plan. The airport area as you see here in the center below Lanai City had three areas of airport expansion and some Industrial at Miki Basin where there's some currently some existing Industrial. It's all in Ag or Urban for the airport area and the zoning corresponds to that. Then '98 community plan had 2 industrial areas along the road here. You'll see up here at the top in a moment they're going to disappear because the committees agreed to consolidate it in Miki Basin where they put and also this one by the airport, so you'll see that the Industrial is 100 acres of Light Industrial and Heavy Industrial and this is where they're consolidating the industrial area and then the slight expansions of the airport area on the end in the center and this other the far end. Manele is down by the Manele Hulopoe Bay and this was the desire to have some diversity in residential opportunities. This site was considered advantageous because it's along Manele Road and so you have and you're also close to some of the infrastructure that you need. And they...the upper ones in Ag, the lower is in the State Conservation area. The zoning is Ag and Interim. The '98 CP had just Open Space or Ag lands and the current proposal is to have Mixed-Use in here. The CPAC had Single Family and some Commercial in this area but through the Planning Commission process it moved into Mixed-Use and then there's the Rural 78 acres in the lower parcel. Kaunalapau is down at the harbor area over here on the west coast and you can see the harbor there and if you look along the roadway you'll see some quarry areas that are currently, one of them is active and you'll see the change in land use. This is the proposed area and it's State land use Rural, Urban, Conservation, Ag and the zoning has down there at the harbor some Industrial plus there's some Rural and there are some residents in that area as well. The '98 CP expanded the Heavy

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

Industrial quite a bit into this area and matched the State land use with Rural and put Public/Quasi-Public over the quarry area 'cause that's often used for landfills in the future. So the Rural area was covered with Open Space land use designation for this 2016 proposal and again your Heavy Industrial primarily went to the Miki Basin area with a little bit of...and then it goes to about 10 acres here to connect with the harbor area and have the advantage of maybe some fish processing and things that are harbor related. Mahalo for your time and any questions on any of those areas I'd be glad to answer.

CHAIR COUCH: Okay. Thank you. Members, any questions, comments? Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. First off, the page is--oh yeah they're numbered--number eight. Is it Kahalepalaoa? Or... 'cause it's written different in your slide and our book. So the actual name of that area, you have it written in your slide as Halepalaoa. So which is correct? 'Cause I'm not from the island so. Halepalaoa.

MS. JORGENSEN: On the east side, it's Halepalalooa [sic]. And what do you have in the plan? I think there was a variation. It was at one time in the earlier plans, there was a K-A in front of it, Kahalepalaoa.

COUNCILMEMBER COCHRAN: No. Yeah. P-A-L-A-O-A, instead you dropped that O and it's P-A-L-A-L-O-A.

MS. JORGENSEN: It's probably a typo in here. It's probably correct in the plan.

COUNCILMEMBER COCHRAN: Okay. So, all right, and then I was trying to figure out for me the sticking point is what all the testimony is from Lanai right now. It's that one sentence that they keep bringing up, and so I was trying to see if what you're presenting here has to do with that. How is this sentence, "unless specifically prohibited, the uses permitted by zoning and standards" and so on? That sentence we all know what it is, we can practically say it by memory. So maybe within your slide you can point out where this would apply or not apply, there's no reason to be all up in arms about this or what. I mean, can you...that's what I thought this whole slide was gonna be about. So and Ms. Baisa's correct, what you showed us we've been through. So why did we sit here for all that time to go through it like that? So --

MS. JORGENSEN: It was...

COUNCILMEMBER COCHRAN: --I thought maybe you were gonna somehow reference it to this sentence.

MS. JORGENSEN: It was a visual, excuse me, Councilmember, it was a visual to go along with the matrix that was requested for this Committee to show the areas and to give, to show the different areas if there was any questions in this matrix rather than going through the individual matrix. The language that is, that the community would like to address, I believe Will can answer it much better than I can because...or Mike Hopper



**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

because it's more of a legal question or...and they have discussed whether that being removed in this Committee in the past. So this was just trying to address what was asked for by Chairman Mike White at the Council meeting to make sure that everyone understood what was the different areas and how the different committees, what recommendations they had and the only one that has, there's only one difference between the different reviewing bodies.

CHAIR COUCH: Maybe I can help 'cause I had a question as well. One of the questions was or one of the comments in testimony was that the CPAC and the Planning Commission weren't told that they can specifically prohibit, is that...that's one of the questions that is big.

MS. JORGENSEN: Yes and we discussed that at the March 12 meeting on Lanai and that about prohibition, you know, whether there were the opportunity to do that and they did have an opportunity at many meetings we brought, there was about eight meetings that we discussed the land use specifically from starting in the April workshops that were about land use all the way through September. In fact, the focus of many of the meetings was on land use and at those meetings we brought a variety of tools to understand the different layers from State land use to zoning to land use designations and how they work. That's how we, originally Table 9.2 was developed, was to explain those differences and it was just a tool for the committee to use. And so they had an opportunity and over in the third resort area they did exercise, you know, like what they didn't want to see. For most of in Chapter 9 for future land use, that section of future land use, they expressed it more in a positive sense of what they would like to see and by defining that such as the Rural area that they did by the Koele Stables, they said they would like to have farming specifically even though farming is allowed in Rural they wanted to call that out. So they had the opportunity to either add more emphasis on what they'd like to see as well as over in the third resort area the opportunity to say what they did not want such as future growth after this plan an expansion of that Rural/Residential.

COUNCILMEMBER COCHRAN: Okay. Oh. Well, you know, I just kind of...if there's a way to show...I don't know if any of these slides would do it. I was hoping maybe it would but to exactly pinpoint the concern of Lanai currently in this, in your slide somewhere. So, I mean, and take that sentence and what...how would that, you know, be portrayed in looking at the current State land use, the County, and what's envisioned or encouraged, whatever word we want to use here in the upcoming plan, where is the match or mismatch or what? And is this language gonna --

CHAIR COUCH: Let me...

COUNCILMEMBER COCHRAN: --hinder that or help it or?

CHAIR COUCH: Let me address that a little bit in that there were two amendment summary forms presented at the Council meeting, one from me and one from Mr. Hokama, both which requested removing that language so that's what I wanted to come up to next is

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

to deal with the amendment summary forms and then we can have the discussion on it.

COUNCILMEMBER COCHRAN: Okay. Well very good. I can, yeah, wait for that.

CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: 'Cause I was trying to lead into --

CHAIR COUCH: Sure.

COUNCILMEMBER COCHRAN: --all that.

CHAIR COUCH: Yeah. So aside from that section, is there anything else in this community plan that any of the Members have any concerns or questions with? Okay. By the lack of anybody coming, you know, grabbing their microphone let's go to the amendment summary forms. Members, the item...let's see, when Council had the, held the public hearing and a special Council meeting for the Lanai Community Plan we heard from the community that they wanted to revise Chapter 9, Page 9-3 of the proposed plan to remove certain language. If you look on Page 9-3, it is the last sentence of the second paragraph and states...and first of all, let me see if you guys have Page 9-3 up. Everybody ready? Okay. And the language states, "unless specifically prohibited, the uses permitted by zoning and the standards applicable to the typical zoning district apply to the corresponding community plan designations." Okay. The identical sentence is in Appendix 9.2 of the plan on Page A-14. It is the second sentence in the first paragraph on Page A-14. Does everybody see that? Okay. In the discussion between Butch Gima and Chair White along with me and then every now and then if Mr. White would, left another member or two were present never more than two at once. It was agreed that I would submit an amendment to make these two revisions. I prepared an amendment summary for 'em which is set forth in County Community 16-63. The communication is dated March 23, 2016 and was available to Council at its April 1, 2016 meeting. I believe Staff has tabbed it for you, is that correct?

UNIDENTIFIED SPEAKER: ...*(inaudible)*...

CHAIR COUCH: Okay. It's separate. Yeah, if you need to find it, let Staff know. Today you have received a second amendment summary form from Councilmember Riki Hokama. His proposal is to delete the same "unless specifically prohibited" language from Page 9-3 and A-14 of the plan. So we're both in agreement on making that change. In addition, Councilmember Hokama's proposal asked to delete the first full sentence of the second paragraph on Page A-14. This sentence reads, "if a property's community plan designation and zoning correspond as listed in the table below, the community plan land use designation does not limit any use established by the particular property zoning unless the community plan specifically prohibits or restricts a particular use." Since Councilmember Hokama and I are in agreement as to the

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

deletion of the "unless specifically prohibited" language, I think I want to take up County Communication 16-63 first.

COUNCILMEMBER COCHRAN: No objection.

CHAIR COUCH: And let me find it. Okay.

MR. SPENCE: Mr. Chairman?

CHAIR COUCH: Yes?

MR. SPENCE: Did we get a copy? Something changed and we weren't informed.

CHAIR COUCH: Which? Great. We're gonna do a short recess. If you want to take a break but recess to the call of the Chair. I'm going to make sure that the Planning Department has it and all the Members have the same information. So short recess. . . . *(gavel)* . . .

**RECESS: 2:38 p.m.**

**RECONVENE: 2:48 p.m.**

CHAIR COUCH: . . . *(gavel)* . . . Will the Planning Committee meeting of Tuesday, May 24<sup>th</sup>, please come back to order? All right, Members, I think everybody's got everything. We got some issues with binders so we're good to go at this moment. If everybody can look at the amendment that I proposed at the Council meeting, it's an amendment summary form and it has the amendment, it has the language that's on Page 9-3 to be taken out. It's in Ramseyer format and then it has the new table. It's exactly the same as...the language is exactly the same as Mr. Hokama's except for there's a sentence and we'll...if we accept mine and then we'll go to Mr. Hokama's and do the language of the sentence that he wants to delete, but we have to have mine in first. So if we accept that...yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. So I'm looking at the 9-3 on both of your submittals and I don't see the difference.

CHAIR COUCH: There is no difference.

COUNCILMEMBER COCHRAN: Oh, so there isn't.

CHAIR COUCH: In the 9-, on Page 9-3, there is no difference.

COUNCILMEMBER COCHRAN: Okay. We're...

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

CHAIR COUCH: The difference would be in Page A-14. The language in Page A-14 and mine and Mr. Hokama's is...Mr. Hokama has another sentence removed and we'll get to that if mine goes in.

COUNCILMEMBER COCHRAN: Okay. The...has Lanai received these also?

CHAIR COUCH: Yes.

COUNCILMEMBER COCHRAN: Just to keep them in the loop 'cause it's obviously --

CHAIR COUCH: Yes.

COUNCILMEMBER COCHRAN: --they're feeling not --

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: --being in the loop.

CHAIR COUCH: I don't know, I mean, Mr. Hokama's language they may not have gotten because that just got done yesterday, so it was e-mailed to the folks on Lanai.

COUNCILMEMBER COCHRAN: Okay. And so by accepting one or the other first or last, is that --

CHAIR COUCH: It's a timing issue.

COUNCILMEMBER COCHRAN: --difference or is it gonna be...

CHAIR COUCH: Currently the language exists, in the version that we have before us the language exists. And the motions are to remove some of the language. Does that make sense?

COUNCILMEMBER COCHRAN: Some, yeah.

CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: But I want to know what you're keeping or changing.

CHAIR COUCH: Okay. And I'll go over that again.

COUNCILMEMBER COCHRAN: Okay. All right.

CHAIR COUCH: So I'll do it one more time. If you look at Page 9-3, it's the last sentence of the second paragraph and states, "unless specifically prohibited, the uses permitted by zoning and standards applicable to typical zoning district apply to the corresponding community plan designations." That identical sentence in

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

Appendix 9-2 [sic] on Page A-14 is the...it's the second sentence in the first paragraph on Page A-14. That language I also asked to remove. So that's what's in this amendment, ASF, which is in County Communication 16-63.

COUNCILMEMBER COCHRAN: You need a motion, Chair?

CHAIR COUCH: Well I'm just...if everybody's got that then I will...the Chair will entertain the motion to delete the language from Page 9-3 of the bill "unless specifically prohibited, the uses permitted by zoning and the standards applicable to the typical zoning district apply to the corresponding community plan designations" and to replace Appendix 9.2 in its entirety with the amended version of Appendix 9.2 attached to my amendment summary form.

VICE-CHAIR CARROLL: So moved.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR COUCH: Okay. So it's moved by Mr. Carroll and seconded by Mr. Victorino.

COUNCILMEMBER VICTORINO: Yeah.

CHAIR COUCH: Okay. Members, if you note the table as well, it's in landscape form now and there's an extra column added, State Land Use Districts. That was put in at, by request of Mr. Gima and Chair White at a meeting on March 12, I believe, that meeting over on Lanai. So I asked...I told Mr. Gima and I believe that was in public record actually that he wanted that put in. So we added that column, everything else is the same as the old 9-2 [sic] that we have passed out. Okay. Department, you've heard the motion and the second, do you have any comments?

MR. SPENCE: Thank you, Mr. Chairman. Would sort of like to...I'm still digesting because I haven't seen this before this meeting. The one would be the removal of the first sentence in the second paragraph, but I also want to note...and, you know, at this point I don't care one way or another about the unless prohibited blah, blah, blah, you know, to me that provides some clarity that when, you know, provides clarity when you go for conditions of zoning and those kinds of things. Okay. The table in adding the State land use districts, this table is not entirely accurate when you get to, if you turn to Page A-17 and you look at Open Space. To me, Open Space is not just an Urban use, it could be Rural, it could be Ag. We don't really have any authority over Conservation but it could be under those. Park, the same thing, you can have parks in the Urban, Rural, or Agricultural districts. Park, Golf Course, we have some golf courses that are in the Ag District that are left over before it was prohibited. We have nonconforming golf courses in other words. I haven't thought about that. Project district, that's pretty much Urban. I suppose you could have Rural project districts. I don't know why you couldn't or Agriculture. Public/Quasi-Public, we have quite a number of Public/Quasi-Public uses designated in our community plans that are in the Ag District. We have a, gosh, quite a number of churches, schools, those kinds of

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

things--I'm sorry--landfills, the quarry that you saw on the presentation earlier today. I think those are easy fixes. I can...I'm happy to work with your Staff and just clarify that. I don't think that's a substantive change. I just don't want to go adopt the plan and all of a sudden stuck that we can't do the quarry that the island needs because this table says Urban only, that's my concern.

CHAIR COUCH: Okay. That's a pretty legitimate concern. So you're saying essentially and where it says Public/Quasi-Public it could be in State land use district Urban, Rural or Ag?

MR. SPENCE: Probably, I mean, the designation can be in Agriculture or Urban. I think we can apply Public/Quasi-Public in the Rural District. I think, to me, it's not...I don't know, perhaps it's a substantive change. Maybe not, but we would sure like to clarify that before, whatever, first reading, --

CHAIR COUCH: Okay.

MR. SPENCE: --I would say.

CHAIR COUCH: Mr. Hopper, any comments on that?

MR. HOPPER: Well, I mean, if you're talking about making substantive changes that's normally when you're going from making changes at second reading. I mean, if you --

CHAIR COUCH: Right.

MR. HOPPER: --want to have the Planning Department before at first reading have a table revised up to the Chair of the Council at that time, I suppose, then consider replacing the table at that time with the table that the Director comes up with. That that's something that could happen if you would like. If you would like to wait for that table, that's fine too.

CHAIR COUCH: Okay.

MR. HOPPER: The substantive changes issue comes in generally when you're at second reading and want to make a change. That's why when we recently had the short-term rental home issue when a substantive amendment was made that had to be posted and action deferred for the next meeting in that case. But normally, yeah, you could make an amendment like that. Now it's up to the Chair, the Chair may say no, --

CHAIR COUCH: Right.

MR. HOPPER: --substantive change, we want to go back to the Committee, so that's up to the Chair. But I think your rules allow changes at first reading just not necessarily at second reading and maybe Staff can correct me if I'm wrong, if that's the intention.

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

CHAIR COUCH: Okay. Members, Mr. Spence brought up a couple of questions as far as the State Land Use Districts column. Some of these can be in both in several of the State land use districts and he just wants to list which is allowable. I'm fine with the Department coming up with an alternative to that column at first reading as long as it gets to Lanai with plenty of time, you know, for them to take a look at it, and it gets to the, posted on the, our website. I don't want it coming in being introduced to the public on the day of the Council meeting. I would need it prior to posting of the Council, this to the Council. Can I get that from you guys, Mr. Spence?

MR. HOPPER: Mr. Chair, the other option would be to delete the State reference in the table as well.

CHAIR COUCH: Understood but that was a request of the folks on Lanai, members of the CPAC, so I'm willing to leave it in for right now. And that's why we put it in there at their request.

MR. SPENCE: Okay. And, you know, Mr. Chairman, I understand the desire to have that in. On the one hand I want it to be correct because we do have quite a number of, like I said, we have quite a number of these designations throughout our community plans in all the different districts.

CHAIR COUCH: Understood. So if that's the case, I'd like to see a table, a replacement table prior to the posting.

MR. SPENCE: Okay.

CHAIR COUCH: Okay.

MR. SPENCE: And you can have those designations in all the different districts. I'm not sure you could have all those zonings in all the districts.

CHAIR COUCH: Understood.

MR. SPENCE: For instance Public/Quasi-Public, I don't know if we've ever zoned anything Public/Quasi-Public in the Ag District, but we certainly allow special uses for them --

CHAIR COUCH: Right.

MR. SPENCE: --and those kinds of things so.

CHAIR COUCH: Well and if you decide that you think that the table needs to be removed then that's something we can discuss. And again the Lanai community has to be able to weigh in on that. So if you think --

MR. SPENCE: I'll get you something.

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

CHAIR COUCH: --that it's too convoluted to put everything in there and will mess things up potentially the other option is to remove the table as Mr. Hopper said but I...

MR. SPENCE: Or at least that column.

CHAIR COUCH: That column, yes, I'm sorry.

MR. SPENCE: Okay.

CHAIR COUCH: I really need to get the folks on Lanai who requested it to buy in on that.

MR. SPENCE: Okay.

CHAIR COUCH: Okay.

MR. SPENCE: That's fine.

CHAIR COUCH: Members, any other questions on that? Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair, so first off, I believe, Mr. Spence, the extension to the Fire Department in Lahaina needed to get Public/Quasi on Ag was a big hurdle but it was done eventually but, if I recall. But anyways...

MR. SPENCE: Yeah. There's a lot of mismatches and that's part of what we're trying to deal with here. That's the bottom line of what we're trying to deal with.

COUNCILMEMBER COCHRAN: Thank you. Chair, so I'm trying to decipher between, distinguish the two different proposals here with a, you know, overall glance. And on your Appendix 9.2 versus Mr. Hokama's 9.2, he has a different opening statement there just below the title, so his is very different from what you're submitting. And I believe the second paragraph for sentence people have issue with that, but yet you're looking to keep it in and Mr. Hokama took it out.

CHAIR COUCH: That's right. If we do this, it has the right table and then the next thing would be Mr. Hokama's to remove that one sentence. The sentence says, "if a property's community plan" the very first sentence --

COUNCILMEMBER COCHRAN: Right.

CHAIR COUCH: --second...yeah, everything else appears to be the same.

COUNCILMEMBER COCHRAN: So how come we're not just accepting Mr. Hokama's version?

CHAIR COUCH: 'Cause his table doesn't have the State land use district...oh, it does.



**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

COUNCILMEMBER COCHRAN: His does. It seems to me that Hokama's proposal is exactly what you're saying you want to do, so I'm wondering why we're doing this do yours and then go to Mr. Hokama's and when it looks like all of his stuff is what you're trying to get to.

CHAIR COUCH: Oh. He just didn't do it in landscape. That's what happened.

COUNCILMEMBER COCHRAN: Yeah. He did print it in a different format looking --

CHAIR COUCH: Yeah.

COUNCILMEMBER COCHRAN: --but it's all...

CHAIR COUCH: And if it works --

COUNCILMEMBER COCHRAN: Is that right?

CHAIR COUCH: --in this one that's fine.

COUNCILMEMBER COCHRAN: Yeah. So...

CHAIR COUCH: So yeah, I'm willing to withdraw that motion and go straight to this one.

COUNCILMEMBER COCHRAN: Okay.

CHAIR COUCH: Mr. Carroll, you willing to withdraw that motion?

VICE-CHAIR CARROLL: I would like to withdraw my motion, Chair.

CHAIR COUCH: Thank you. So now...

COUNCILMEMBER VICTORINO: So, Mr. Chair?

CHAIR COUCH: Yes, Mr. Victorino?

COUNCILMEMBER VICTORINO: Just so that we're not confused, in essence what you gave us we can put aside --

CHAIR COUCH: Yep.

COUNCILMEMBER VICTORINO: --and not pay attention to, just so that, you know, --

CHAIR COUCH: Yeah.

COUNCILMEMBER VICTORINO: --the rest of the world understand what the heck we doing down here --

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

CHAIR COUCH: Yeah.

COUNCILMEMBER VICTORINO: --'cause we sure don't look like we're know what we are doing and then we gonna use just Mr. Hokama's version.

CHAIR COUCH: Yes.

COUNCILMEMBER VICTORINO: All right. Thank you very much.

CHAIR COUCH: Thank you. All right. Now the Chair will entertain a motion to, let's do it right from his amendment summary form, to move to delete the following language from Page 9-3 of the revised proposed bill, "unless specifically prohibited, the uses permitted by zoning and standards applicable to the typical zoning district apply to the corresponding community plan designations" and replace Appendix 9.2 in its entirety with the amended version of Appendix 9.2.

VICE-CHAIR CARROLL: So moved.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR COUCH: Okay, Members, so the only difference is...I thought there was other differences in the table but there aren't so my apologies, is that Mr. Hokama removed the language that says, "if a property's community plan land use designation and zoning correspond as listed in the table below, the community plan restricts a particular use." That's what is removed from Mr. Hokama's as well as the other language as far as the one we both deleted. Any questions?

COUNCILMEMBER COCHRAN: Wait, did you read that whole sentence completely?

CHAIR COUCH: No, I just said what was removed, --

COUNCILMEMBER COCHRAN: Oh, okay.

CHAIR COUCH: --that language that was removed --

COUNCILMEMBER COCHRAN: Right.

CHAIR COUCH: --as well as the, "unless specifically prohibited, the uses permitted by zoning" that language as well. Any other questions? Any comments from...Mr. Hopper?

MR. HOPPER: Yes, Mr. Chair, I would just question the purpose of the amendment. That the language states what is currently the law and the practice with respect to the designations and would want to know what's the purpose of deleting the language at this point?

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

CHAIR COUCH: Well as far as, I can't speak for Mr. Hokama, except for...no, he doesn't say anything in here. You heard some of the testimony from the folks on Lanai and their concern was that they weren't given the option, opportunity to specifically prohibit. That was their testimony and that's why Mr. Hokama did that. We've subsequently learned that they were given the chance to specifically prohibit, so.

MR. HOPPER: The concern, Mr. Chair, would be as we've discussed before the purpose of, I think, the discussions around the table was to indicate that if a zoning district matches the community plan designation, Agriculture, Agriculture, Residential, Single Family, and so on that the uses allowed in that zoning are considered allowed in the community plan district.

CHAIR COUCH: Right.

MR. HOPPER: If the intent is to say that's no longer the case which would change the current practice, I think that's something the Committee should consider. If the intent is to simply delete this language because the belief is that's the current practice that is what is already basically that's the practice of the Department and what is already allowed by law and that restating it in this plan other than listing the fact that related and compatible uses can be allowed is redundant. Then I think I could see that as a change, but I would want the Council to understand how the designations would function if the district matched the land use designation. And if the intent is to say, no, the, not all of the uses in that district, in the zoning district are allowed in a corresponding community plan district, then that should be a position that's considered and discussed, I think, by the Council to determine what effect that might have. If deleting this language is simply to say, it's redundant, the table already says that you can do related and compatible uses as has been the practice for, I think, over 40 years, then I don't see that as much of change. But I just wanted the Council to understand that that would be a potential...to see what the Council's intent is along those lines. If there's alternative language, we could look at that as well but as has been discussed before, the language essentially states what is already going on in the County as far as land use practice and how the community plan designation relates to the property zoning. Again, if it matches the actual zoning as listed on the table --

CHAIR COUCH: Okay.

MR. HOPPER: --that would be the question though for Council.

CHAIR COUCH: So I'm hearing that you're saying that if a property's community plan land use designation and zoning correspond as listed in the table below, the community plan land use designation does not limit any use established by the property zoning unless the community plan specifically prohibits or restricts a particular use. You're saying that that is a common...that's what we're, how we've been practicing it since zoning started and that you feel that that sentence is necessary to be on this table?

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

MR. HOPPER: Well I'm not saying it's necessary, I wanted to get the Council's intention into leading it, is it to change that practice and if so I think there'd need to be more changes. Essentially this says that if you're a Single Family community plan designation and you've got Residential zoning that you can do your other residential uses in that community plan designation even though in the uses and vision section it doesn't specifically list green houses, parks, and playgrounds, et cetera.

CHAIR COUCH: Oh, okay. I see what you're saying.

MR. HOPPER: That's the purpose. And the table does say related and compatible uses which you could interpret as saying that allows things like parks or other things that the zoning would allow in that district. So I just want to clarify that that's the Council's understanding of what the, of how the designations would relate to the zoning before deleting the language or if there's alternative language that can be dealt with to deal with that, to state that issue, because I wanted to, as I have stated in the past with this issue that's an issue that has come up and should be addressed in, at least the Department and the Council should understand how that's going to work after the plan is adopted.

CHAIR COUCH: Okay. Members, it's my understanding and I'm sure I think the policy so far has been and, I mean, I have letters from several planning directors that saying, yeah, this is way we've done it for since the beginning of zoning is that essentially if it says for instance Single Family, if you take a look on Page A-19, that the intended zoning for R-1, R-2, R-3, R-0, Duplex District, and Service Business, Residential District, and Urban Reserve District, all those uses are allowed. And the reason I stuck in unless specifically prohibits or restricts a particular use is to allow for a community plan advisory committee to say, we don't want to do that in this area like they did in an area that we actually removed. But they also, I believe, the film studio they said pretty much this is what --

MR. SPENCE: Correct.

CHAIR COUCH: --can only be here is a film studio. That's restricting the rest of the uses in my opinion.

MR. SPENCE: That's correct. And, Mr. Chairman, when, if Pulama comes in for zoning on that property and district boundary amendment, et cetera, we're gonna look at that language and we're gonna say it's gonna be uses related to film production, sound stages, those kinds of things. We're not gonna allow McDonald's and, you know, Kmart and all the other things that are allowed in Light Industrial, it's going to be restricted.

CHAIR COUCH: Okay. And again, Ms. Jorgensen, they've had several meetings where they've been told that that's what they can do and have done it in several other instances as well?

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

MS. JORGENSEN: That is correct, and another example is in the Mixed-Use Residential excludes Light and Heavy Industrial, because there is some Light Industrial that's nearby, that Lanai City extension and they wanted to make sure that none of that would be within that area.

CHAIR COUCH: Okay. All right. So, Members, you've heard Corporation Counsel's concern and some of the instructions and actual actions that were done by the CPAC and the Planning Committee...Planning Commission, sorry. I'd like to hear your thoughts on this "if a property's community plan land use designation and zoning correspond as listed in the table below." Any thoughts on that, Members?

COUNCILMEMBER COCHRAN: Chair?

CHAIR COUCH: Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: I guess, so that sentence that Mr. Hokama's amendment is looking to take out then he leads in instead with the Code, pursuant to Section 2.80B, you know, Maui County Code, la-la-la, and then at...to me, I think what I heard from Mr. Hopper, too, he said if you're taking it out because it seems to be in a sense redundant or duplicative in a way I kinda see it like that too.

CHAIR COUCH: So you're saying that you think that the language pursuant to Section 2.80B --

COUNCILMEMBER COCHRAN: And all that --

CHAIR COUCH: --and all that --

COUNCILMEMBER COCHRAN: --description.

CHAIR COUCH: --is redundant to the first sentence?

COUNCILMEMBER COCHRAN: That description is how it ought to be used or interpreted or applied how, you know. So that's kinda how I see that.

CHAIR COUCH: So, okay, and, I guess, Mr. Hopper's looking for assurances at least on the record that that's the way we intend it so that in Single Family you're allowed all the uses in R-1, R-2, R-3, R-0, Duplex, Service Business, Residential, and Urban Reserve District unless as they have done in several different places they said, no, you can't do that there or you can only do this here which is in the film studio, I think, as they said you can only do that. Same with the tennis academy, I believe, as well.

COUNCILMEMBER COCHRAN: Well this...

MR. HOPPER: ...(inaudible)...

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

COUNCILMEMBER COCHRAN: Sorry, real quick. This paragraph that's left in on Mr. Hokama's amendment is leading all towards the community plan, I, you know, vision, --

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: --whatever we want to call it and which is vetted through community and everybody so that, to me, this is what's kinda driving it to become more what the people envision their districts to be like --

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: --in ten years. So, I mean, that's the way I'm kind of interpreting this part --

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: --in relation to this table.

CHAIR COUCH: Okay. Any other Members, any other questions, comments?

MR. HOPPER: And, Mr. Chair?

CHAIR COUCH: Mr. Hopper?

MR. HOPPER: My intent was just to read the language, think about why it's a problem. I think that some of the testimony was it just hasn't been explained and the effects are uncertain or things along those lines but to look at the language why is it objectionable, why is it being deleted, and if there's alternative language or if it's deleted what does that leave us with as far as the description. And we have the table, the table says, uses envisioned, it describes them and the uses envisioned with the general description that we currently have in the plans and some additional phrasing saying things like in related and compatible uses, which I believe was intended to allow for the other uses that are other than, for example, in the Agricultural District it says envisions agriculture uses in related and compatible uses. Well you can do other uses in the Agricultural District as outright permitted uses that aren't just strictly agricultural uses, form dwellings for example, that's a related and compatible use. And I think that's the intent of that, of adding that language which that just I think is something the Members should think about in deleting this language, why it's objectionable and what we're left with after that and to basically make sure that if there's any unintended consequences or if this is something that's simply looked at as redundant and in deleting it the intent is not to limit the other uses in the zoning that are allowed that are listed in the zoning districts that match the community plan districts that's essentially the concern that would be raised with the deletion of this, of the language.

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

CHAIR COUCH: Okay. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. I'm trying to get unconfused. I think if I'm understanding this, there is an interpretation that we've been using all along and that's what I hear about how these categories are narrow or broad, or whatever. And if there's a use then it apply, it could include many things like let's take for instance Light Industrial. Okay. It envisions warehousing, light assembly service, service similar industrial operations, could include business, commercial operations related and compatible uses. Are we trying to tighten this up?

CHAIR COUCH: The intent, I guess, is to...and this has been the dilemma all along is how to codify the practice that we've been doing for the last 60, since the '50s.

COUNCILMEMBER BAISA: Correct.

CHAIR COUCH: Okay. As you can see, it's not very clear.

COUNCILMEMBER BAISA: It never is.

CHAIR COUCH: Yeah. And so we're trying to make it so that, you know, if I don't know, right now in, certainly in single family homes if there's a park, if there's a church in a Single Family home district, a nursery, or an ohana that they're not nonconforming and that's what this language will do. Or in Agriculture, if we change, for instance, if we change the zoning in Agriculture that, this is before or I think it's coming back to this Committee is the whole composting allowed, okay. That would be allowed because that's what's allowed in the zoning in Agriculture District. Now, does that create a conflict? And this is a good question for Mr. Hopper, say we pass this as is and then further on down the line we as Councilmember or the next Council says, okay, in Agricultural District we want to allow composting now but that wasn't an allowed zoning or allowed use in the zoning district at that time that the community plan was made. Now is that against, going against the community plan? See that's the where you have the Catch-22.

MR. HOPPER: And, Mr. Chair, that's why the language I think was intended to apply only to if you have a corresponding district and then it's going to say the uses in the zoning are allowed in the community plan district and so that would mean if your use, if the zoning district was amended to add a use that would be considered allowed in the community plan district unless there was a policy in the plan or something in the plan that said no composting in the agricultural district or this table said except for composting use or something like that if that was a use that wouldn't want to be allowed in that area. I think what the language essentially says is that if your zoning in your community plan designation correspond then you can do, the community plan allows any of the uses in the zoning district that corresponds to it, otherwise there's no, that's all that applies to is corresponding districts. If that's an objectionable statement for the Council, then, I think, the question would be why is that objectionable and what is, what's the solution to it because it is currently the practice

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

and currently with the law is with respect to districts that are, that match. If you're in the Agricultural District, and the Planning Director can correct me if I'm wrong, if you're in an Agricultural community plan designated district in Agricultural zoning you can do the uses in that zoning in the community plan district --

MR. SPENCE: That's correct.

MR. HOPPER: --in the Agricultural District. And so that's, that was the intent because what you have in the current community plan is a one-sentence description of what's allowed in the Agricultural District in general and it's probably not going to be able to list every single use that can possibly be allowed.

UNIDENTIFIED SPEAKER: Right.

MR. HOPPER: So can someone come in and say later this wasn't specifically listed, you can't do it even though it's in the Agricultural zoning and so the answer currently would be you can do it if it's in that zoning district and the community plan corresponds to that district. And this was to clarify that, I think was the intent of this language and if its deleted that doesn't necessarily change the practice. But I think the question is, was that the Council's intent in deleting the language was to change that, how that works. And now the table itself as some of the testimony reflected does add the term related and compatible uses at the end of the one sentence descriptions so that does indicate that the intention is to allow additional uses which is probably a more clear reflection of what's allowed. It also says in Light Industrial also may include business commercial operations so that's another specific use that's actually listed in there. So those are some differences between with the, what generally the current descriptions are and what this table is, but I don't think that it actually changes what has been allowed in those districts so I think that's important to note. But just for the Council to consider why that language is being deleted and what's objectionable about it are important considerations.

COUNCILMEMBER BAISA: So, Chair?

CHAIR COUCH: Ms. Baisa?

COUNCILMEMBER BAISA: Who makes the decision on this additional language that says related and compatible uses? Who makes that decision, that interpretation?

MR. SPENCE: Ultimately that is the decision by Council when you adopt zoning.

CHAIR COUCH: That's correct. Because one thing that we're missing in this whole --

COUNCILMEMBER BAISA: Yeah.

CHAIR COUCH: --the whole discussion is when we do a Change in Zoning, we have to make sure that it complies with the community plan. Generally, the Staff does that and



**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

Planning double checks to make sure and they say in their report that, yes, it is compatible, I mean, it conforms with the community plan. So that, so we are given the information that, okay, Planning says this is okay. We as a Council then say we're gonna change the zoning to this use.

COUNCILMEMBER BAISA: And that stands until somebody take us to court.

MR. SPENCE: Mr. Chairman?

CHAIR COUCH: Yes?

MR. SPENCE: So there's really, there's a two edge, or not two edge, there's a two-tiered answer to that. One is as you're describing, say the Light Industrial for the film studio or Public/Quasi-Public for the university. First off, the company would go, well would go to Land Use Commission for probably both but the, when they come for County zoning we would work with the applicant and say, okay, these are the things that line up with the community plan, these are the things that don't line up with the community plan. So it would be conditional zoning. We make that recommendation to the Planning Commission. They make a recommendation to you and ultimately the Council is the one that adopts the zoning with the restrictions on it in accordance with the community plan. Okay, but the second thing is when we look at a zoning district, we look at the R-1, R-2, R-3 zoning district, that's where we determine what are compatible uses. We have a whole list of permitted uses with including parks, green houses, those kinds of things. Special uses which are considered compatible with a little bit of additional review by the Planning Commission and we have a whole list of accessory uses where you have to have a principle use first and then you have something that's accessory to those. So because those zoning districts are adopted by Council, it's still the Council that determines what the compatible uses are. That was the long way around saying you guys are in charge of the zoning districts and you adopt zoning by ordinance. So you make that determination and you would look at your community plans when you adopt that.

MR. HOPPER: And, Mr. Chair, the language that's being deleted is I think simpler, it says if you correspond in the table below the uses allowed by the zoning are the uses allowed in the community plan district. So it's saying you look at the zoning, if you're in Agricultural community plan designation you can do the uses allowed in the Agriculture zoning. And so that's where you'd go to find your related and compatible uses. So I think that that adds, is an attempt to add some clarity there perhaps.

CHAIR COUCH: So that sentence that we're trying to remove actually adds clarity.

MR. SPENCE: I think so.

MR. HOPPER: In my opinion, it would add clarity. It, I mean, if it's unclear then it can be revised but I think the purpose of that was to say it was that if you're in the...because

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

right now you open your community plan and it, for the Single Family it would say, I think, something like houses are allowed or --

CHAIR COUCH: It says --

MR. HOPPER: --single family dwellings are allowed.

CHAIR COUCH: --single family dwellings and duplexes.

MR. HOPPER: Period. And so that's what you're left with. And so how do you know if any of the other uses in the zoning are okay? You...so the statement I think was an intent to say if you're Single Family and you're zoned Residential, then the residential uses are allowed in your Single Family District. I think that was the part of the intent.

MR. SPENCE: This, in other words, the sentence is the goal. The sentence represents what you're trying to achieve by making it community plan designation and then following up by zoning and with all the uses permitted there.

COUNCILMEMBER BAISA: But, Mr. Chair, what I'm hearing --

CHAIR COUCH: Yes?

COUNCILMEMBER BAISA: --is that there are people in the community that don't want that. They don't want that to necessarily be the case because they want to put some more restrictions in the community plan. Is that what I'm hearing or feeling?

CHAIR COUCH: I...that could be...that, I would think that's an accurate statement and that's a situation where this Council has to say whether or not that's what we want.

COUNCILMEMBER BAISA: Correct. I think that's the bone of contention.

CHAIR COUCH: Yes. And in fact, in past practices and prior to almost anyone on this Council, I believe, certainly before, maybe not Mr. Carroll or Mr. Hokama, there have been instances where a piece of land has been zoned, the community plan says one thing, and the Planning Department made recommendations said you should limit this, this, and this and the Council did not take those recommendations. They've done that before and I, you know...and I don't know that we haven't taken their recommendations, but ultimately the Council made the decision and that's what they felt was going to be allowed there. Now there are other people who say that's not the way it's supposed to work and that's the way it has been working for the last 50 years. So the question is do we as a Council want to continue the way we have been, the way it's been done for the last 50 years or do we want to set a policy that we need to change that and if we do change that what are the ramifications of that? And you've heard some of the ramifications in testimony, and Mr. Spence did another item in this Committee. Mr. Spence did a big list of ramifications.

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

COUNCILMEMBER BAISA: Okay. I'm clear. Now I'll get confused again if I listen to ...*(inaudible)*... If I listen any longer, I'll get confused again.

CHAIR COUCH: Okay. So what I'm hearing from the Department and Corporation Counsel that they would prefer that that statement stay in there. Is that what anybody else is hearing?

MR. HOPPER: Mr. Chair, just to be clear what the intent of removing the statement is, if there's an intent to make the community plan more restrictive than the zoning then that's gonna have to be something that's discussed.

CHAIR COUCH: I don't think that's the intent here at all. I don't think anybody in this body intends that. Unless somebody wants to speak up and say that, I don't think that's the intention here at all. Mr. Spence?

MR. SPENCE: Just a comment, Mr. Chairman. The contention with the folks on Lanai, at least the...I don't want to speak for them but what I hear through the testimony is they have a hard time with this "unless strictly prohibited" whatever that language was so the motion has been to remove that. It didn't say anything about all the rest of this. Perhaps we can get rid of the one part and just leave the rest alone.

CHAIR COUCH: Which part? When you say leave the rest alone, what are you talking about?

MR. SPENCE: Including, I mean, leaving the language if a property's community plan, the first sentence in that.

CHAIR COUCH: Okay. So that's the difference between Mr. Hokama's and --

MR. SPENCE: Yes, I understand that.

CHAIR COUCH: --my proposals. So, Members...Ms. Cochran?

COUNCILMEMBER COCHRAN: Actually that's not what I'm hearing from the people. This...they like Mr. Hokama's proposal, period.

MR. SPENCE: Okay. I'm...and I'm not trying to misstate their intention.

COUNCILMEMBER COCHRAN: And for me, again, I'm reading what's left in by Mr. Hokama and it's explaining, I mean, as far as I can grasp it what that one sentence is trying to lead to and explain. And do I like the way this place looks after 50 years? No, I don't. I don't like the process. So if that's gonna change and make things different, then let's try it out. I mean, we all make amendments all day long for different things. I mean, God forbid something, you know, catastrophic happens 'cause this one sentence isn't there. Hey, we can always revisit it, reword it, however. So that's just my take.

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

CHAIR COUCH: Understood. Any other comments? Okay. So what Mr. Hopper wants to hear is is it our intent to allow whatever's in the zoning districts, whatever is, the Zoning Code says in the Lanai Community Plan land use designation? I think it is this Committee's...that's what the Committee wants, even if we take out that language that's what this Committee wants. Is there any comment on that? Okay. So you have that on the record, Mr. Hopper.

MR. HOPPER: Yes. I do think though with that language being deleted it makes it less clear, but it's glad that, I mean, it's...that's my comment.

CHAIR COUCH: Okay. Yeah. We've done a few things that we've put on the record and in case anybody needs to go back to the minutes we've done that before so I think this is a good compromise at this point. Any other comments? So the motion before us is to essentially take out the language, "if a property's community plan land use designation and zoning correspond as listed in the table below, the community plan land use designation does not limit any use established by the property zoning unless the community plan specifically prohibits or restricts a particular use." Is that understood? Okay. All those in favor, please say "aye".

COUNCILMEMBERS VOICED AYE.

CHAIR COUCH: Opposed? Let the record show the amendment passes with six "ayes," zero "noes," and one excused, Mr. White.

**NOTE:** **AYES:** Chair Couch, Vice-Chair Carroll,  
Councilmembers Baisa, Cochran, Guzman, and  
Victorino.

**NOES:** None.

**ABSTAIN:** None.

**ABSENT:** None.

**EXC.:** Councilmember White.

**MOTION CARRIED.**

**ACTION: REVISE BILL.**

COUNCILMEMBER COCHRAN: Two?

CHAIR COUCH: No, only one. Okay. There's six of us here. All right. So, Members, that's the only item that we've had, that we had concerns about and any kind of comments from either Mr. Hokama or me. So if there's no further discussion on the whole

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

community plan the Chair will entertain a motion, I want to get it exactly correct, that the revised proposed bill entitled A Bill for an Ordinance Amending Section 2.80B.070, Maui County Code, to Adopt the Updated Lanai Community Plan; incorporating as Exhibit "1," the document entitled Lanai Community Plan 2016 transmitted by correspondence dated April 18, 2016 from the County Clerk; along with any revisions made by the Committee at today's meeting; and any nonsubstantive revisions we passed on first reading and order to print; and the filing of miscellaneous communication dated April 18, 2016.

VICE-CHAIR CARROLL: So moved.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR COUCH: Okay. It's been moved by Mr. Carroll, seconded by Member Victorino to recommend the passage of the revised proposed bill on first reading and filing of the miscellaneous communication. Any further discussion? I just want to say thank you for talking this through and letting everybody know what our intentions are and how this works and what kind of a mishmash that planning really is and a very difficult situation. So thank you. Thank you to the members of the public. Thank you to the Staff. So any further comments? All those in favor, please say "aye".

COUNCILMEMBERS VOICED AYE.

CHAIR COUCH: Opposed? Let the record show that there are six "ayes," zero "noes," and one excused, Member White, Chair White. The motion passes.

**VOTE:           AYES:   Chair       Couch,       Vice-Chair       Carroll,  
                  Councilmembers Baisa, Cochran, Guzman, and  
                  Victorino.**

**NOES:   None.**

**ABSTAIN:   None.**

**ABSENT:   None.**

**EXC.:   Councilmember White.**

**MOTION CARRIED.**

**ACTION:   FIRST READING OF REVISED BILL AND FILING OF  
          COMMUNICATION.**

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

CHAIR COUCH: Thank you, Members. Let's see if this works again on the next reading. We will get that out on the first, next first reading, we will get that out as quickly as possible and get it to the Lanai community. I think everybody's happy with what we've got. With that, Members, thank you so much for the hard work and we will adjourn this meeting. This meeting is adjourned. . . . *(gavel)* . . .

**ADJOURN: 3:37 p.m.**

APPROVED BY:

  
DON COUCH, Chair  
Planning Committee

pc:min:160524:mb

Transcribed by: Michelle Balala

**PLANNING COMMITTEE**  
**Council of the County of Maui**

**May 24, 2016**

---

CERTIFICATE

I, Michelle Balala, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 16<sup>th</sup> day of June, 2016, in Makawao, Hawaii

*Michelle Balala*

Michelle Balala