

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006

Committee
Report No.

06-117

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

Chair and Members:

Your Planning Committee, having met on February 28, 2005, July 11, 2005, November 14, 2005, January 30, 2006, June 19, 2006, July 17, 2006, and July 31, 2006, makes reference to County Communication No. 05-75, from the Planning Director, requesting the opportunity to provide periodic reports on the Department of Planning's progress to update the 1990 Maui County General Plan.

Your Committee notes that the prior Council's Planning and Land Use Committee previously reported on the policies and procedures for updating the General Plan and the community plans through Planning and Land Use Committee Report No. 03-146. In that report, the Committee recommended that Bill No. 84 (2002), Draft 2, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80A, MAUI COUNTY CODE, PERTAINING TO THE GENERAL PLAN AND THE COMMUNITY PLANS", be passed on second and final reading. At its meeting of February 20, 2004, the Council adopted Committee Report No. 03-146. Bill No. 84 (2002), Draft 2, establishing Chapter 2.80B, Maui County Code, was enacted as Ordinance No. 3166, effective March 4, 2004. Chapter 2.80B was subsequently amended by Ordinance No. 3317, effective September 2, 2005, and Ordinance No. 3353, effective January 9, 2006.

At its meeting of February 28, 2005, your Committee met with the Planning Director; the Planning Program Administrator, Long Range Division, Department of Planning; and a Deputy Corporation Counsel.

Your Committee received testimony from two individuals expressing concerns about the General Plan update process.

The Planning Program Administrator summarized the General Plan update process in a computer-generated slideshow entitled "The General Plan Update—Project Overview and Status". The Department of Planning also submitted paper copies of the presentation, along with charts entitled, "GENERAL PLAN UPDATE—Maui County Policy Plan & Maui Island Plan Update" and "GENERAL PLAN UPDATE—Molokai and Lanai Island Plan Update", respectively.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 2

Committee
Report No. 06-117

The Planning Program Administrator discussed the importance of Chapter 2.80B, Maui County Code, in providing enhanced planning tools. He noted that the County has undergone significant changes since the last General Plan update, including rapid population growth, an increase in visitor counts, and a transition from an agriculture-based to a tourism-based economy. He further noted that escalating housing costs and the County's strained infrastructure are creating increased planning challenges.

The Planning Program Administrator noted that the policy must be based on accurate information and supported with fiscal accountability. In reviewing the 170 tasks that need to be done in order to complete the General Plan update, he stated that the work will span at least two years. He further stated that the Department of Planning had retained the following consultants: (1) Plan Pacific, Inc. (PPI), an Oahu-based land use firm that recently assisted the County of Kauai with its General Plan update; (2) SMS of Honolulu, to conduct socio-economic studies; (3) R. M. Towill Corporation of Honolulu, to assess public facilities; and (4) Wilson Okamoto Corporation of Honolulu, to assess infrastructure. He added that Chris Hart & Partners of Maui may also assist PPI in its work.

According to the Planning Program Administrator, the Department of Planning will also utilize the work of Focus Maui Nui, a community-based planning organization. In addition, he noted that there will be multiple opportunities for public input and review during the General Plan update process.

The Planning Director stated that there will be a concerted effort to ensure that the General Plan's components, including the community plans, are consistent.

Your Committee expressed concern about the Department of Planning's inability to fulfill its responsibilities for the General Plan update pursuant to Chapter 2.80B.

Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated March 2, 2005, the Chair of your Committee transmitted a chart entitled "Conceptual Framework to Develop Directed Growth Strategy Maui Island Plan", transmitted by the Planning Program Administrator, Long Range Division, Department of Planning.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 3

Committee
Report No. 06-117

At its meeting of July 11, 2005, your Committee met with the Planning Director; the Planning Program Administrator, Long Range Planning Division, Department of Planning; a Staff Planner, Department of Planning; a Deputy Corporation Counsel; and Robin Foster, Vice President, Plan Pacific, Inc.

Your Committee received public testimony from one person regarding the role of the General Plan Advisory Committees (GPACs) in the update process.

Mr. Foster delivered a computer-generated slideshow and also submitted hard copies of the presentation. He began with an overview of the typical purposes and elements of a general plan. He indicated that a general plan comprehensively deals with various aspects of the physical infrastructure including housing, natural resources, and transportation. He noted that it is “general” in nature, focusing on the major concerns facing a region during a 20-year span.

According to Mr. Foster, the project will be divided into two phases: (1) development of the Countywide Policy Plan and the Maui Island Plan; and (2) development of the Molokai and Lanai Island Plans.

Mr. Foster stressed that the Department of Planning will involve Maui County residents in the planning process through community meetings, the “Future Fair” event (later renamed “Walk Story”), the GPACs, and a website.

Mr. Foster stated that the goals of the General Plan include crafting a countywide policy plan that is consistent with the community plans, developing a directed growth strategy and priorities for budgeting and implementation, and ensuring fiscal responsibility.

Mr. Foster listed the goals, in order of importance, according to the Focus Maui Nui report: (1) improving education; (2) protecting the natural environment; (3) addressing infrastructure challenges; (4) strengthening the economy; (5) preserving the local culture and traditions; and (6) addressing human needs.

He informed your Committee that there will be coordination with the Department of Housing and Human Concerns to develop fundamental policies to promote affordable housing. He further informed your Committee that there will be coordination with the Department of Water Supply to articulate general policy relating to water supply for the future of Maui County.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 4

Committee
Report No. 06-117

The Planning Program Administrator added that private water systems and wastewater systems will be included in policy determinations. He said that developing policies that are consistent with the State's Long-Range Transportation Plan is another goal.

When your Committee asked about considerations for funding the future projects inspired by the updated General Plan, the Planning Director stated that Chapter 2.80B requires a connection between the community plans, the General Plan, and capital improvement projects. He advised that the Council will determine funding prioritization.

Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated November 2, 2005, the Chair of your Committee requested that the Corporation Counsel provide a legal opinion advising whether the General Plan is to be enacted as a single unified ordinance.

At its meeting of November 14, 2005, your Committee met with the Planning Director; the Planning Program Administrator, Long Range Division, Department of Planning; a Deputy Corporation Counsel; and Mr. Andres Duany, Duany Plater-Zyberk and Company.

Your Committee received testimony from two people. One testifier asked your Committee to ensure that the distinct responsibilities of the Planning Director and the GPACs are clear. The other testifier, a member of the Maui GPAC, voiced concerns regarding bikeways and sidewalks. In addition, he encouraged your Committee to involve as many people as possible in the General Plan update process.

Mr. Duany presented a community design concept called "New Urbanism." He invited your Committee to attend a nine-day conference scheduled on Maui regarding the subject.

He remarked that New Urbanism seeks the creation of communities that: (1) are walkable; (2) waste very little land; (3) are connected; (4) are diverse in use and income; (5) have landscaping that requires less water and fertilizer to maintain; and (6) involve the community in the planning process.

Your Committee deferred consideration of the matter pending further discussion.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 5

Committee
Report No. 06-117

By correspondence dated January 24, 2006, the Chair of your Committee again requested that the Corporation Counsel provide a legal opinion advising whether the General Plan is to be enacted as a single unified ordinance.

At its meeting of January 30, 2006, your Committee met with the Planning Director; the Planning Program Administrator, Long Range Division, Department of Planning; and a Deputy Corporation Counsel.

Your Committee received public testimony from one person who inquired if major landowners were going to have the opportunity to present testimony at GPAC meetings. The Chair of your Committee asked that the Planning Director consider this for future meetings. The Planning Director responded that the Department of Planning had already solicited plans, by correspondence, from major landowners and developers.

Your Committee inquired about the various maps being used for the General Plan update, and the Planning Director replied that the current development maps show projects that are approved but not yet developed, projects under construction, and projects that are in various stages of review.

The Planning Director said that public participation in the General Plan update process will occur in stages, beginning with the already established Focus Maui Nui Group, involving 1,700 people throughout the County. According to the Planning Director, through the GPAC process, presentations will be made to community organizations; information will be displayed at shopping centers, libraries, and other public areas; a website will be created; and public meetings will be conducted.

He noted that the Planning Program Administrator delivered a computer generated slideshow at the first orientation meeting of the Maui GPAC that detailed the General Plan update process.

The Planning Director explained that after the initial GPAC orientation sessions, there will be a short break before the Maui, Molokai, and Lanai GPACs begin a series of meetings. He explained that relevant data sets would be distributed to the GPACs as they are completed, rather than waiting for the entire package of information necessary for the General Plan update.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 6

Committee
Report No. 06-117

Your Committee asked the Planning Director to explain the process for involving landowners whose property usage would be altered by the updated General Plan. He replied that the Department of Planning will notify property owners that would be impacted if GPAC recommendations were enacted; those property owners would then have an opportunity to testify before the planning commissions and the Council prior to final recommendations.

When asked how Maui County utilities will be involved in the process, the Planning Director responded that a technical advisory committee, made up of representatives from County departments, State departments like the Department of Transportation and the Department of Education, and the major utility companies, has been established to review the process and provide information as it is needed. He also assured your Committee that the Department of Hawaiian Home Lands will be involved in the planning process.

Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated February 14, 2006, the Chair of your Committee requested additional information from the Department of Planning, based on the discussion during your Committee's January 30, 2006 meeting.

By correspondence dated February 15, 2006, the Chair of your Committee requested a legal opinion from the Corporation Counsel regarding the potential conflicts that may arise between the updated General Plan and the existing community plans.

By correspondence dated March 17, 2006, the Planning Director responded to the queries in the correspondence dated February 14, 2006, as follows:

1. Molokai does not currently have a planner on the island, so GPAC queries regarding the General Plan update should be addressed by the Planning Program Administrator, Long Range Division, Department of Planning.
2. The Department of Planning will consider the work done by the Enterprise Community organization on Molokai, as work on the General Plan proceeds.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 7

Committee
Report No. 06-117

3. All GPAC meetings for Molokai and Lanai will be provided professional facilitators similar to that used for the Maui Island GPAC.
4. Final copies of the Department of Planning's materials relating to the General Plan update will be distributed to the Molokai and Lanai GPACs before their scheduled orientations.
5. By March 17, 2006, the Department of Planning will complete a draft of information on the General Plan update, and will submit the draft to the Management Information Systems Division of the Department of Management for review prior to being added to the County website.
6. After the initial orientation sessions, the Department of Planning intends to take public testimony at the beginning of GPAC meetings.

In addition, the Department of Planning transmitted paper copies of a computer-generated slideshow summarizing baseline population data, which was presented to the Board of Water Supply and the Maui Planning Commission, and correspondence sent to landowners and developers soliciting comments related to the General Plan update.

At its meeting of June 19, 2006, your Committee met with the Planning Director; the Deputy Planning Director; the Planning Program Administrator, Current Planning Division, Department of Planning; the Planning Program Administrator, Long Range Division, Department of Planning; an Administrative Planning Officer, Department of Planning; and a Deputy Corporation Counsel.

Your Committee received testimony from four people. One testifier, a Molokai GPAC member, urged the consolidation of the community plans and the General Plan's island plans for Molokai and Lanai, respectively. Another testifier, a Maui GPAC member, stated that the Maui GPAC voted to recommend a development moratorium at its meeting of June 7, 2006. Two other testifiers expressed concern about the Department of Planning's management of the GPACs.

Your Committee received a copy of the agenda for the Maui Island General Plan Advisory Committee meeting of June 7, 2006 from the Planning Director.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 8

Committee
Report No. 06-117

The Planning Director summarized for your Committee the General Plan update process to date. He stated that the Lanai, Maui, and Molokai GPACs had cumulatively conducted nine orientation meetings. He emphasized that the Maui GPAC meeting held on June 7, 2006 was determined by the Department of Planning to be an orientation workshop and was declared as such on the agenda. He noted that the orientations were held with a meeting facilitator; however, after hearing comments made by GPAC members, he supported the respective GPACs electing a Chair and Vice-Chair. He further noted that the GPACs should adopt rules of order.

The Planning Program Administrator noted that the Department had planned to introduce the General Plan to the GPACs in two phases and had been representing this to your Committee since 2005. He said that during the first phase, the GPACs would simultaneously review the Countywide Policy Plan and that during the second phase, the Maui Island GPAC would review the Maui Island Plan, while the Molokai and Lanai GPACs would begin development of their respective island plans.

The Deputy Corporation Counsel advised that the vote to recommend a development moratorium, which occurred at the Maui GPAC meeting of June 7, 2006 may be in violation of the Sunshine Law (Hawaii Revised Statutes, Chapter 92, Part 1) because the meeting agenda did not specify that action might be taken. He advised that the GPACs adopt rules of order. He further advised that Chapter 2.80B, Maui County Code, requires the Planning Director to simultaneously transmit the entire proposed General Plan to all three GPACs.

The Planning Director acknowledged that the timeline outlined by the Department of Planning would necessitate amendments to Chapter 2.80B, Maui County Code, in light of the legal opinion regarding simultaneous transmission of the entire proposed General Plan.

Your Committee deferred consideration of the matter, pending further discussion.

By correspondence dated June 23, 2006, the Chair of your Committee again requested a legal opinion from the Corporation Counsel regarding the potential conflicts that may arise between the updated General Plan and the existing community plans.

By correspondence dated June 23, 2006, the Chair of your Committee requested that the Planning Director provide the minutes from the two most recent GPAC meetings.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 9

Committee
Report No. 06-117

By correspondence dated June 30, 2006, the Chair of your Committee transmitted the minutes of the two most recent GPAC meetings to your Committee.

By correspondence dated July 14, 2006, the Chair of your Committee transmitted correspondence dated July 6, 2006 from the Department of the Corporation Counsel advising that (1) any actions taken at the June 7, 2006 Maui Island GPAC meeting shall be considered void; (2) a GPAC meeting convened for the purpose of taking action on specified agenda items would commence the 180-day review process specified in Section 2.80B.040(D), Maui County Code; and (3) according to Section 2.80B.050, Maui County Code, the Planning Director is directed to simultaneously transmit all proposed General Plan revisions to the GPACs for review.

By correspondence dated July 17, 2006, your Committee received written testimony requesting that your Committee discuss reimbursement of travel expenses to GPAC members.

At its meeting of July 17, 2006, your Committee met with the Planning Director; the Planning Program Administrator, Long Range Division, Department of Planning; and a Deputy Corporation Counsel.

Your Committee received public testimony from six people who raised concerns about the Department of Planning's management of the GPACs and offered suggestions to improve the General Plan update process.

The Planning Director stated that there is no funding allocated to reimburse the travel expenses of GPAC members. Your Committee noted that Chapter 2.76, Maui County Code, authorizes reimbursement of expenses to members of boards and commissions.

The Planning Director recommended the following revisions to Chapter 2.80B, Maui County Code: (1) require an election of a Chair and Vice-Chair by each GPAC; (2) require the Planning Director to simultaneously transmit only a document called the Countywide Policy Plan (a component of the General Plan) to the three GPACs, not the entire proposed General Plan; and (3) combine the Molokai and Lanai island plans with their community plans.

Your Committee deferred consideration of the matter, pending further discussion.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 10

Committee
Report No. 06-117

By correspondence dated July 24, 2006, the Planning Director transmitted a draft bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80B, MAUI COUNTY CODE, PERTAINING TO THE GENERAL PLAN AND THE COMMUNITY PLANS". The purpose of the draft bill is to amend the Maui County Code to concur with the Department of Planning's General Plan update schedule and to make additional refinements to the General Plan update process. In addition, the Department of Planning transmitted a staff report stating the rationale for the proposed amendments stated in the draft bill.

The draft bill proposes the following revisions:

- Revise Sections 2.80B.030(B), 2.80B.030(C), and 2.80B.030(E) to clarify that the General Plan is comprised of a set of documents that includes a Countywide Policy Plan, a Maui Island Plan, and community plans.
- Revise Section 2.80B.030 by adding a Subsection "F" to specify the minimum content requirements for the Countywide Policy Plan.
- Revised Section 2.80B.030(E)(1) by converting it to Section 2.80B.030(G) and renaming it "Maui Island Plan", specifying the minimum content requirements, and eliminating the requirement to prepare island plans for Molokai and Lanai.
- Revise Section 2.80B.030(G)(3)(b) to remove the sentence "This element shall be broken into a twenty-year financial plan, a ten-year financial plan, and a five-year financial plan."
- Revise Section 2.80B.030(E)(5) by converting it to Section 2.80B.030(H) to clarify that the Planning Director is required to prepare technical studies as part of the decennial update to the General Plan (eliminating the requirement that they be incorporated into the General Plan).
- Revise Section 2.80B.030(E)(5)(a) by converting it to Section 2.80B.030(H)(1) to eliminate the requirement that socio-economic forecasts be processed as decennial amendments to the General Plan.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 11

Committee
Report No. 06-117

- Revise Section 2.80B.040(C) to clarify that the GPACs are required to appoint a Chair and Vice-Chair and adopt rules of order.
- Revise Section 2.80B.040(D) to specify a time limit of 120 days for GPAC review of the Countywide Policy Plan and 180 days for Maui Island GPAC review of the Maui Island Plan.
- Revise Section 2.80B.050(A) and Section 2.80B.050(B) to clarify procedures relating to the Countywide Policy Plan and the Maui Island Plan.
- Revise Section 2.80B.050(C) to specify a time limit of 120 days for the planning commissions' review of the Countywide Policy Plan and 180 days for the Maui Planning Commission's review of the Maui Island Plan.
- Revise Section 2.80B.050(D) to specify time limits for Council review of the Countywide Policy Plan and Maui Island Plan.
- Revise Section 2.80B.050(E) to clarify that the General Plan is comprised of several documents, each of which must be in printed form and incorporated into the ordinances adopting the General Plan.
- Revise Section 2.80B.070(F)(2) to clarify the scope of the financial element.
- Revise Section 2.80B.080(A) to provide the County Council with the authority to determine the order of community plan updates.
- Revise Section 2.80B.110(F) to add the following: "If the planning director determines that a conflict exists between the general plan provided for in this chapter and a community plan, the general plan shall prevail."

By correspondence dated July 27, 2006, the Planning Director transmitted a document entitled "Maui County General Plan Update". The report acknowledges adjustments made to the original project schedule because of the need to update the socio-economic forecast and the complexity of the land use forecast. In addition, the

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 12

Committee
Report No. 06-117

report identified the completion of 16 of 30 General Plan update tasks outlined by the Department of Planning.

At its meeting of July 31, 2006 your Committee met with the Planning Director; the Planning Program Administrator, Long Range Division, Department of Planning; and a Deputy Corporation Counsel.

Your Committee received testimony from three people who raised technical concerns about the General Plan update process.

Your Committee discussed the Water Use and Development Plan as it relates to the process of updating the General Plan.

Your Committee discussed the draft bill with the Planning Director and the Planning Program Administrator, and raised concerns about delays in the General Plan update process. The Planning Director assured your Committee that the Countywide Policy Plan would be disseminated to all three GPACs simultaneously. He also clarified that the time periods suggested in the draft bill can overlap. The Planning Program Administrator provided a brief overview of the 17 amendments detailed in the staff report transmitted on July 24, 2006.

Your Committee voted to revise the draft bill to make nonsubstantive revisions and to delete the proposed new section that would grant the Planning Director authority to determine conflicts between the General Plan and the community plans. Your Committee voted to recommend passage of the draft bill, as revised, on first reading.

Your Committee is in receipt of a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80B, MAUI COUNTY CODE, PERTAINING TO THE GENERAL PLAN AND THE COMMUNITY PLANS", reflecting your Committee's recommendation. The purpose of the proposed bill is to amend Chapter 2.80B, Maui County Code, to refine the General Plan update process.

Your Planning Committee **RECOMMENDS** that Bill No. _____ (2006), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.80B, MAUI COUNTY CODE, PERTAINING TO THE GENERAL PLAN AND THE COMMUNITY PLANS", be **PASSED ON FIRST READING** and be **ORDERED TO PRINT**.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 13

Committee
Report No. 06-117

Adoption of this report is respectfully requested.

pc:cr:0601aa:kew

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

October 6, 2006
Page 14

Committee
Report No. 06-117

CHARMAINE TAVARES **Chair**

JO ANNE JOHNSON **Member**

DANNY A. MATEO **Vice-Chair**

DAIN P. KANE **Member**

MICHELLE ANDERSON **Member**

MICHAEL J. MOLINA **Member**

ROBERT CARROLL **Member**

JOSEPH PONTANILLA **Member**

G. RIKI HOKAMA **Member**