

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



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OFFICE OF THE MAYOR

COUNTY OF MAUI

DEPARTMENT OF PLANNING

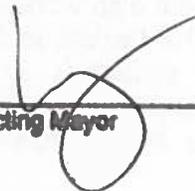
May 4, 2016

Honorable Alan Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Mike White, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL



Acting Mayor 5/4/16 Date

Dear Chair White and Members:

SUBJECT: MOLOKA`I COMMUNITY PLAN UPDATE

The Department of Planning (Department) is pleased to transmit the Draft Moloka`i Community Plan Update for Council review and adoption in accordance with the requirements of Maui County Code ("MCC"), Chapter 2.80B. The Department applauds the CPAC's MoPC's and community's diligent efforts to take an active role in the community planning process, and doing so within the time limits established by Maui County Code 2.80(B). This draft includes recommendations from the Department, Moloka`i Community Plan Advisory Committee (CPAC), and the Moloka`i Planning Commission (MoPC) to update the 2001 Moloka`i Community Plan. The Department has worked with the CPAC, MoPC, and Moloka`i Community to reach consensus on many issues and strategies in an effort to produce a transparent and supported community plan update. The draft is presented as a track change document, with the black text representing CPAC recommendations and the blue and red track change text representing MoPC recommendations. The attached documents are as follows:

- (1) Draft Bill;
- (2) Exhibit 1: Moloka`i Community Plan Update, PD/CPAC/MoPC Draft, May, 2016;
- (3) Key Differences between CPAC and MoPC Recommendations; and
- (4) Agency Recommendations.

Community Plan Update Process and Schedule

The Department began initial research, data gathering, and community engagement in early 2010 to update the 2001 Moloka`i Community Plan. Per the direction of Council, the Department updated the Lāna`i Community Plan first, thus postponing work on the Moloka`i Community Plan Update until November 2014. The Moloka`i CPAC held 22 public meetings to review the draft plan between March and October 2015, receiving a two week time extension, due to two hurricanes, of the 180 day review period allowed in 2.80B. The Department

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forwarded the CPAC's revisions and recommendations to the MoPC in November 2015. The MoPC then held eight public meetings to review the draft plan between November 2015 and March 2016, completing their review within the 180 day review period.

The CPAC, MoPC, and Department agreed on many issues, concepts, and recommended changes within the draft plan. Both review bodies heard public testimony and incorporated community ideas, concerns, and recommendations into the draft plan in an effort to work toward community consensus. However, there are key differences between a few CPAC and MoPC recommendations that the Council should be aware of while reviewing the draft. Attachment 3 is a summary of the key differences by chapter.

The Department also worked diligently to engage county agencies in the community plan update process. The Department provided the draft plan to county agencies for review and comment on three occasions and has incorporated agency recommendations through the CPAC and MoPC review processes. The attached agency recommendations (Attachment 4) were received after the MoPC's review period and are provided for Council's review and consideration.

Department Concerns and Recommendations

The Department supports the Draft Moloka'i Community Plan Update, and subsequent adoption, with the following exceptions or concerns:

(1) Chapter 11 Subarea Descriptions: East End Policy Statement and Maunaloa Policy: The 1978 East End Policy Statement is in the 2001 community plan as Exhibit D. While writing the draft plan update, the Department incorporated narrative text, policies, and actions from the 1978 East End Policy Statement into the community plan goals, policies and actions items where appropriate. The Department felt that this was the appropriate strategy to take because portions of the East End Policy Statement are either out dated, conflict with and/or are duplicative of existing laws and regulations.

The CPAC recommended adding three appendix place holders to the Land Use section of Chapter 6 for "subarea descriptions" for East, Central, and West Moloka'i. These descriptions are supposed to provide the opportunity for each region to create statements that tell the story of an area and the desires of that subarea community for future protection, restoration, and development. The CPAC and Department encouraged the East End community to update the 2001 East End Policy Statement to fit the criteria of a subarea description, which do not contain policies and actions, as noted in the Land Use section of Chapter 6.

Two different revised versions of the East End Policy Statement were submitted to the Planning Department. One version was submitted to the Department and the MoPC for review during the February 25th MoPC meeting. A second version was submitted midway through the MoPC final meeting on March 24th with no opportunity for any review by the Department or the MoPC. At a number of meetings the MoPC heard testimony for and against all three versions of the East End Policy Statement, indicating that there was no clear community consensus on the East End Policy Statement. Despite the Department's and Corporation Counsel's advice

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throughout the community planning process that these policy statements were not consistent with their own definition of a subarea description and that both versions of the East End Policy Statement and the Maunaloa Policy conflicted with the CPAC and MoPC approved plan text, and that the document submitted on the 24th had no review by the Department or MoPC, the MoPC voted to include the East End Policy Statement, the version submitted on March 24th, and the Maunaloa Policy into the Community Plan. Eight appendices were also submitted with the East End Policy Statement, which in total makes the newly added Chapter 11, larger than the entire draft plan.

Department Recommendation: The Department recommends deleting Chapter 11 in its entirety. If subarea descriptions are included in the plan they should be consistent with the definition that was approved by the CPAC and MoPC as noted in Section 6.1 Land Use. Subarea descriptions should tell the story of an area and the desires of the community and should contain no policies or actions.

If Chapter 11 and its contents are kept in the plan, it should be clearly noted that in the event of discrepancies between Chapter 11 and Chapters 1 through 10, Chapters 1 through 10 shall supersede.

(2) Community Plan Designation Conservation: The 2001 Moloka`i Community Plan, as well as all other community plans prior to the 2016 Lāna`i Community Plan Update, have included a conservation designation on the land use maps. The vast majority of lands identified as community plan conservation are within the State Land Use Conservation District. As the County has no jurisdiction over the State Conservation District, having a community plan conservation designation is misleading. For this reason the Department recommends deleting this designation and identifying Conservation District lands on a separate map. The Department successfully proposed this change during the Lāna`i Community Plan Update and will make the same recommendation for all community plans. The Moloka`i Planning Commission disagreed with the Department and recommended retaining community plan conservation.

Department Recommendation: The Department recommends deleting community plan land use conservation designations from the land use maps and descriptions, and instead only identifying lands within the State Land Use Conservation District.

(3) Relationship of Community Plan Designation and County Zoning: Throughout the community plan update process the Department has explained the relationship between community plan land use designation and county zoning to the CPAC, MoPC, and public. During the CPAC's review of the draft plan the Department noted that the Council's Planning Committee was revising the Lāna`i Community Plan Update land use chapter and appendices to clarify the relationship. The Department presented the Planning Committee's revisions to the MoPC and recommended that they be incorporated in the Moloka`i plan; however the MoPC chose to take no action.

Department Recommendation: The Department recommends that the final table and language approved for the Lana`i community plan be adopted for Moloka`i as well.

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(4) **Aha Kiole o Moloka`i**: Per advice from Corporation Council, the Department has not listed companies, organizations, or landowners by specific name in the text or in the action tables. Rather broad terms such as "local businesses", "community groups", and "large landowners" are used to be more inclusive and flexible and does not give recognition to one group over another. The MOPC added "Aha Kiole o Moloka`i" to the partners column on numerous actions throughout the plan against the advice of the Department and Corporation Counsel.

Department Recommendation: The Department recommends changing "Aha Kiole o Moloka`i" to "community groups" in the text and tables.

(5) **Traditional Land Use Overlay District Policy**: Per the comments of a public testifier, the MoPC added a policy to adopt a "Traditional Land Use" (TLU) overlay designation. The recommended policy (Chapter 6 Land Use & Housing, pg. 6-9, Policy 19) references two documents, a GIS mapping project and a cultural practices report. Neither of these documents contain specific guidance or proposed regulations for development that is not already covered in existing laws or policies in the draft plan update; therefore the proposed overlay district is unnecessary. Furthermore, the two documents referenced do not provide appropriate basis for establishing an overlay designation. The GIS Project was a pilot project and pertains to only a portion of Mana`e, not the entire region. The cultural practices report for Mana`e pertains to a fencing plan proposed by the East Moloka`i Watershed Partnership.

Department Recommendation: The Department recommends deleting references to the overlay district because it is unnecessary and would offer no additional cultural protections over already existing policies and laws.

(6) **Appendix 1.4**: Appendix 1.4 provides "legal framework for agency actions that may impact Native Hawaiian traditional and customary practices". The information for this appendix was submitted to the Department and MoPC at their final meeting on March 24th. It was submitted as public testimony, however no public copies were provided therefore the public had no opportunity to review it. The appendix is redundant with existing laws protecting Native Hawaiian rights, and is unnecessary in the community plan. The appendix also attempts to establish new requirements for Moloka`i Planning Commission project review and permit processing, which requires adoption by rulemaking, not just inclusion in the community plan.

Department Recommendation: The Department recommends deleting Appendix 1.4.

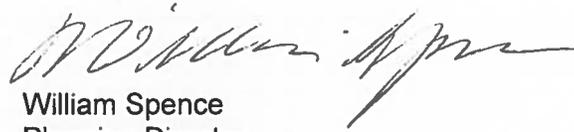
(7) **Appendices 3.2 and 3.3**: Appendices 3.2 and 3.3 were created by the CPAC as placeholders for documents to be created by a small group of CPAC members and community members to be submitted to the MoPC for review and consideration. Appendix 3.2 was intended to be a reference list of archaeological surveys conducted on Moloka`i. Appendix 3.3 was intended to be a list of cultural sites that the community desires to protect. The Department has on numerous occasions contacted the individuals tasked with developing these appendices; however no response has been received and the documents were never submitted to the MoPC for review and consideration.

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Department Recommendation: If the appendices are not provided to Council for review and consideration, the Department recommends deleting the placeholders and reference to the appendices in Section 3.2 Heritage Resources.

Thank you for your consideration of this matter. Should further clarification be necessary, please contact Pam Eaton, Planning Program Administrator at Ext. 7372.

Sincerely,



William Spence
Planning Director

Attachments

xc: Pam Eaton, Planning Program Administrator
David Yamashita, Planner VI
Jennifer Maydan, Senior Planner
Project File
LRD Correspondence File
General File

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Attachment 3

Key Differences Between CPAC and Commission Recommendations

Chapter 1 Introduction

- Appendix 1.4: The Commission added a new appendix to Chapter 1 titled “Legal Framework - Native Hawaiian Traditional and Customary Practices”.

Chapter 2 Moloka`i’s Future

- Vision Statement: The CPAC discussed the vision statement at numerous meetings and finally decided to retain the 2001 vision as well as add a new vision, which was an edited version of the 2001 vision. The Commission deleted the CPAC created vision and recommends using the 2001 vision only.

Chapter 3 Natural, Heritage and Scenic Resources

- Map 3.3: Per the recommendation of the Department and the State Historic Preservation Division (SHPD), the Commission removed the cultural sites layer, which included SHPD’s inventory of historic sites. The reasons for deleting the cultural sites layer included concerns regarding incomplete data, county liability, and protection of cultural resources.
- Native Hawaiian Traditional and Customary Practices: Per the recommendation of the Office of Hawaiian Affairs (OHA), the Commission made a number of changes to the existing conditions, policies, and actions of Chapter 3 to incorporate information regarding Native Hawaiian traditional and customary practices.

Chapter 4 Hazards

No significant differences

Chapter 5 Economic Development

- Subsistence: Subsistence was discussed by both the CPAC and Commission as important to the Moloka`i community. For the most part, subsistence has been discussed in Chapter 3. The Commission added information on subsistence in the existing conditions, issues, and policies sections of Chapter 5.

Chapter 6 Land Use and Housing

- Subarea Descriptions: The Commission deleted the Subarea Description section in Chapter 6 and the corresponding appendix placeholders recommended by the CPAC.
- Maunaloa Project District: Mixed use residential community plan designation was introduced to the CPAC at the land use workshop as an option to identify areas on the land use map to accommodate future growth. The CPAC had numerous discussions on mixed use residential. Some CPAC members viewed the

designation as an opportunity to identify and describe the community's desires for areas to accommodate future growth, while leaving flexibility for site planning at a later stage in the entitlement process. Other members had concerns about the implementation of the designation and questioned how the community could be assured that mixed use residential areas would be developed according to community desires.

Ultimately the CPAC voted to designate one area on the island as mixed use residential. The area is a 64 acre site in Maunaloa that is designated project district in the 2001 community plan. It should be noted that this vote was not unanimous among the members and numerous subsequent motions were made to revert the area back to project district, although none of these motions passed. Then during the Commission's review at their February 25, 2016 meeting, the Commission unanimously voted to change the 64 acre Maunaloa site back to project district.

- Kaunakakai Project District and Sea Level Rise: Sea level rise (SLR) was recognized by the CPAC as a serious threat that will require action to mitigate potential impacts to homes, businesses, infrastructure, and public facilities, particularly in Kaunakakai and along the southeast shore. The CPAC discussed SLR at multiple meetings and agreed that future development should be directed to areas away from the threat of SLR; however the members were unable to reach agreement on how to plan for the impact of SLR on existing development in Kaunakakai.

The Commission agreed with the CPAC on the threat of SLR and the need to mitigate potential impacts. The Commission voted to change the community plan designation for an approximately 98 acre area *mauka* of Ranch Camp in Kaunakakai from single family to project district to accommodate relocation of the town overtime as SLR begins to impact existing development and land use.

- Traditional Land Use Overlay District Policy: As explained in the transmittal letter the Commission added a policy (pg. 6-9, Policy 19) to adopt a "Traditional Land Use" (TLU) overlay designation that would require any proposed development in Mana`e to be aligned with the data and community recommendations from the Mana`e GIS Mapping Project (COM, 2008) and the Traditional and Cultural Practices Report for Mana`e (OHA, 2016), and allow for traditional Hawaiian structures in these areas. In addition, this area should allow for traditional Hawaiian structures to allow people to live in these sensitive areas to take care of them." The TLU overlay designation is also reference in a Commission recommended policy in Chapter 3, Section 3.2 Heritage Resources (pg. 3-14, Policy 8).

Chapter 7 Community Design

No significant differences

Chapter 8 Infrastructure

- Public Trust Purposes and In-Stream Flow Standards: The Commission added policies, with legal references footnoted, to Section 8.1 Water regarding establishing interim instream flow standards and recognizing the public trust

purposes for water.

- East End Boat Ramp: The CPAC heard public testimony regarding the need for a boat ramp on the East End and added a policy and action in Section 8.5 Transportation supporting completion of a feasibility study to build such a facility. The Commission heard public testimony against the boat ramp and deleted the CPAC's recommended policy and action.

Chapter 9 Public Facilities and Services

No significant differences

Chapter 10 Implementation and Monitoring

The Implementation Schedule was update to reflect all Commission recommended changes to actions throughout the plan.

Chapter 11 Subarea Descriptions

As explained in the transmittal letter, at the final meeting on March 24, 2016 the Commission voted to add a new chapter to the community plan, Chapter 11 Subarea Descriptions, which included the revised East End Policy Statement submitted as public testimony at that meeting, and the Maunaloa Policy, submitted at the March 10 meeting and revised at the March 24 meeting.

Attachment 4

Agency Recommendations

Department of Public Works

- Chapter 3, Section 3.1, Page 3-9, Action 3.1.09: Delete the action and add a new policy to “Encourage coordination between landowners and the U.S. Department of Agriculture, Natural Resources Conservation System to increase infiltration to the aquifer, control surface water runoff, and reduce sediment and nutrient loss from entering surface and coastal waters by constructing small-scale retention, bioretention, or other conservation projects.”
- Chapter 7, Page 7-4, Action 7.04: Delete the action because roadway standards are countywide, not island specific.

Department of Water Supply

- Chapter 8, Section 8.1, Page 8-5, Action 8.1.06: Delete the action and add a new policy to “Encourage new developments with privately owned public water systems to meet DWS engineering standards.”

Office of Economic Development - Energy Office

- Chapter 8, Section 8.6, Page 8-24, Actions 8.6.01 and 8.6.02: Delete the actions and add a new policy to “Continue to participate in the Integrated Resources Planning Advisory Group and support efforts to develop a diversified energy strategy and smart grid for Moloka`i.”
- Chapter 8, Section 8.6, Page 8-24, Actions 8.6.03: Delete the action because the State DBEDT and Maui Electric Company already offer loan programs and tax incentives to encourage installation of renewable energy systems.
- Chapter 8, Section 8.6, Page 8-24, Actions 8.6.01 and 8.6.05: Delete the action because the installation of photovoltaic charging stations is not economically viable.

Civil Defense

- Chapter 4, Page 4-3, lines 8 to 14: Delete lines and replace with the following text: “Molokai High and Kualapu`u Elementary have been identified as hurricane evacuation shelters with a combined capacity of 3,197. Three facilities have been identified as evacuation shelters for tropical storms and three are identified as tsunami assembly areas. A State of Hawaii Civil Defense facility survey found recurring deficiencies with existing shelters (Martin & Chock, 2010). A statewide effort is currently underway to validate the shelters and their capacities, the results of which will be amended into this plan when completed.”
- Chapter 4, Page 4-3, lines 21 to 22: Delete sentence and replace with the following text: “Subscribers to Civil Defense Notifications and Emergency Alerts will be notified via text, email and phone calls. Additionally, phone calls will be made to public land lines in the affected area.”

ORDINANCE NO. _____

BILL NO. _____ (2016)

A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY CODE, TO ADOPT THE UPDATED MOLOKAI COMMUNITY PLAN

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

SECTION 1. The Molokai Community Plan, having an effective date of December 19, 2001, as amended, is hereby repealed, and the updated Molokai Community Plan (2016), attached hereto and incorporated herein by reference as Exhibit "1," is adopted.

SECTION 2. Section 2.80B.070, Maui County Code, is amended by amending subsection C to read as follows:

"C. The following community plans are incorporated by reference and adopted pursuant to this chapter:

1. Hana Community Plan - Ordinance No. 2347 (1994), as amended;
2. Paia-Haiku Community Plan - Ordinance No. 2415 (1995), as amended;
3. Kahoolawe Community Plan - Ordinance No. 2413 (1995), as amended;
4. West Maui Community Plan - Ordinance No. 2476 (1996), as amended;
5. Makawao-Pukalani-Kula Community Plan - Ordinance No. 2510 (1996), as amended;
6. Kihei-Makena Community Plan - Ordinance No. 2641 (1998), as amended;
7. Lanai Community Plan - Ordinance No. 2738 (1998), as amended;
8. Molokai Community Plan [- Ordinance No. 3022 (2001), as amended] 2016; and
9. Wailuku-Kahului Community Plan - Ordinance No. 3061 (2002), as amended."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui