

COUNCIL OF THE COUNTY OF MAUI

**PLANNING AND SUSTAINABLE LAND
USE COMMITTEE**

October 22, 2021

Committee
Report No. _____

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

Chair and Members:

Your Planning and Sustainable Land Use Committee, having met on February 4, 2021, February 9, 2021 (reconvene), February 18, 2021 (reconvene), March 4, 2021 (reconvene), March 18, 2021 (reconvene), May 20, 2021, June 3, 2021, June 14, 2021 (reconvene), June 15, 2021 (reconvene), June 16, 2021 (reconvene), and June 17, 2021 (reconvene), makes reference to County Communication 21-70, from Councilmember Paltin, relating to the West Maui Community Plan.

By correspondence dated January 19, 2021, the Planning Director transmitted a proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY CODE, TO ADOPT THE UPDATED WEST MAUI COMMUNITY PLAN," with an attached document entitled "Draft West Maui Community Plan" ("Exhibit "1") ("Draft Plan"), and a document entitled "Maui Planning Commission Changes."

The purpose of the proposed bill is to adopt an updated West Maui Community Plan ("Plan"), including decennial revisions required by Chapter 2.80B, Maui County Code.

By correspondence dated January 29, 2021, the Chair of your Committee transmitted a revised proposed bill incorporating nonsubstantive revisions.

Your Committee notes Section 8-8.5 of the Revised Charter of the County of Maui (1983) ("Charter"), as amended, provides that community plans are part of the General Plan and identifies the County's "objectives to be achieved, and priorities, policies, and implementing actions to be pursued...and other matters related to development." The Charter

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requires community plans to “set forth, in detail, land uses within the community plan region” and include “implementing actions that clearly identify priorities, timelines, estimated costs, and the county department accountable for the completion of the implementing actions.”

Your Committee further notes Section 2.80B.070, Maui County Code, establishes the requirements that must be contained in the community plans. Community plans are developed after receiving input from State and County agencies and the general public, and are based on sound policy and information. Each community plan should include implementing actions that clearly identify priorities, timelines, estimated costs, and the County department accountable for the completion of the implementing actions. Community plans should implement the General Plan’s vision, principles, goals, and policies.

Each community plan is enacted by ordinance as part of the General Plan. Under Chapter 2.80B, Maui County Code, each community plan contains both “policy guidelines and provisions that are intended to have the force and effect of law.” The provisions with the force and effect of law are binding on relevant agencies, officials and members of the public, as seen in a series of judicial opinions, including Leone v. County of Maui, 141 Hawai‘i 68 (2017); Missler v. Board of Appeals of the County of Hawai‘i, 140 Hawai‘i 13 (Ct. App. 2017); and GATRI v. Blane, 88 Hawai‘i 108 (1998).

Your Committee notes the Council must adopt the community plan by ordinance no later than one year after transmittal to the Council, after holding a public hearing in the community plan area, unless the deadline is extended by the Council by resolution.

Your Committee notes the Plan was last amended in 1996 (Ordinance 2476).

Your Committee notes the Department of Planning (“Department”) began the process to update the Plan in 2017 with research, data

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collection, agency coordination, and meetings with the community. The Department worked with the community to include recommendations from the Maui Planning Commission (“MPC”) and West Maui Community Plan Advisory Committee (“CPAC”).

Your Committee notes the CPAC conducted their review of the Draft Plan from July 2019 to May 2020, and the MPC conducted their review from July 2020 to December 2020. In total, there were 57 public and stakeholder meetings, workshops, open houses, interviews, and online activities for the community to provide input on the Draft Plan.

Your Committee notes the website, *westmauidraftplanreview.wearemaui.org*, played a vital role in the process by educating the public, providing resources, and allowing the community to offer input to the Draft Plan.

The Plan implements the Maui County General Plan 2030 Countywide Policy Plan’s vision, principles, goals, policies, and core themes:

- A. Protect the Natural Environment
- B. Preserve Local Cultures and Tradition
- C. Improve Education
- D. Strengthen Social and Healthcare Services
- E. Expand Housing Opportunities for Residents
- F. Strengthen the Local Economy
- G. Improve Parks and Public Facilities
- H. Diversify Transportation Options
- I. Improve Physical Infrastructure
- J. Promote Sustainable Land Use and Growth Management
- K. Strive for Good Governance

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The Plan includes five sections:

- Section 1: Plan Framework, which provides an overview of the Plan Area, key existing challenges, and a vision for the future of West Maui.
- Section 2: Policy Framework, which identifies five goals and includes policies to help achieve the goals and vision.
- Section 3: Growth Framework, which includes a map of the Plan, and directs how West Maui will change over the next 20 years.
- Section 4: Implementation and Monitoring, which outlines a series of actions that will help implement the goals and vision of the Plan.
- Section 5: Appendices, which provides supplemental information that supports other sections of the Plan.

Your Committee received testimony at each Committee meeting and made efforts to ensure the community's input was reflected in the Plan. Your Committee sought to achieve a balance in the Plan, one that considered recommendations from the public, Administration, and interested stakeholders while preserving areas for future planning and growth in West Maui.

Based on your Committee's discussions, the following recommended revisions were incorporated in the Plan:

Section 1

Section 1 covers the Plan Framework, which includes general information about the Plan, the process on how future changes can be made to the Plan, historical details of the Plan, information on the Plan

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area today, and details on future plans the West Maui community envisions.

Your Committee agreed to amend the context of the historical narrative included in the Draft Plan. Rather than basing the history on the arrival of Europeans to Hawai‘i, your Committee instead centered on the native Hawaiian population.

Your Committee also made updates to include ‘Ōlelo Hawai‘i where appropriate, and corrected the spelling of numerous words and place names with diacritical marks. These changes are also reflected in Section 5, Appendix E, Hawaiian Word Definitions.

Section 2

Section 2 covers the Plan’s Policy Framework, which includes five goals:

- Ready and resilient systems;
- A complete, balanced, and connected transportation network;
- Responsible stewardship of resources, culture, and character;
- Economic opportunity through innovation and collaboration; and
- Safe, healthy, and livable communities for all.

The Policy Framework provides guidance to landowners, whether they intend to build a single home or a neighborhood. The policies also provide County planners with a structure to review proposed projects. Similarly, they provide landowners with objectives against which proposed projects can be evaluated. Whether during the design or review phases, the Policy Framework provides the basis to evaluate and adjust proposed projects to fit the community’s vision for the future.

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Your Committee endorsed most of Section 2 in the version of the Draft Plan prepared by the MPC. The following are among the notable changes to Section 2 recommended by your Committee:

- Your Committee amended Section 2.1.3 to state the County should take measures to protect itself from all future costs associated with damage to property developed within the sea level rise exposure area. Your Committee further amended the section to state that the developer should waive its ability to request shoreline hardening for their property or project from the County or State.
- Your Committee revised Section 2.1.8 to require new and existing buildings that serve as emergency shelters be retrofitted to meet hurricane construction standards.
- Your Committee amended Section 2.1.10 to require, to the extent legally permissible, both public and private water systems to develop in a manner that affords the potential for integrated management of pumpage and saltwater intrusion, and to protect traditional and customary rights.
- Your Committee revised Section 2.3.6 to add the requirement that each developer of new pools within the Special Management Area must demonstrate how their pool will be drained prior to the issuance of a permit or exemption to ensure pools are not drained directly into the ocean.
- Your Committee amended Section 2.4.2 to include the policy that no additional visitor units, except Bed and Breakfast Homes, are to be permitted in West Maui unless an equal number of workforce housing units are concurrently developed in the subarea.

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- Your Committee revised Section 2.5.20, which promotes the placement of utilities underground. A permit will be required if desecration of iwi kūpuna is likely to occur within areas of significant cultural resources in the proposed cultural overlay.

Section 3

Section 3 covers the Plan's Growth Framework, which includes maps depicting areas of change, areas of stability, and land use designations.

The land use designations in the Plan are both visionary and regulatory. They are visionary in that land use designations represent the desired sequence, patterns, and characteristics of future development and reflect planning and design principles. They are regulatory in that the County grants discretionary permits or approvals, such as Special Management Area permits and Change in Zoning ordinances, in conformity with land use designations.

Your Committee endorsed most of Section 3 in the version of the Draft Plan prepared by the MPC. The following are among the notable changes to Section 3 recommended by your Committee:

- Designate the planning horizon as extending until 2040.
- Rename the proposed Urban Center/Corridor designation as Transit Oriented Corridor.
- Return the proposed Park/Open Space designation back to Parks and Open Space designations.
- Delete Lahaina Town South as a proposed area of change.

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In determining land use designations for particular parcels, your Committee considered each parcel's status under the Maui Island Plan, current Plan designation, and recommendations of West Maui residents, the CPAC, the MPC, and the Department.

Section 3 divides the Plan area into four subareas for planning purposes, without establishing political or regulatory boundaries. The subareas extend "like a wedge, mauka to makai," as explained in Section 3. "They help to tell the story of West Maui by grouping communities together, from north to south."

The subareas are summarized as follows:

Subarea	Place names	Acres	Population
1	Kapalua, Nāpili	18,680	~4,000
2	Māhinahina, Kahana, Honokōwai, Kā'anapali	13,174	~7,000
3	Lāhainā	10,376	~13,000
4	Launiupoko, Olowalu, Ukumehame	19,217	~1,000

Your Committee expressed its appreciation to the Department for creating a set of thoughtful, useful, and unique land use designations for the Plan. The designations reflect the community's aspirations while also being practical in function.

Section 3 lists zoning districts that are consistent with each designation, which will be valuable as the Council considers future zoning ordinances. Your Committee suggests the Department work with the Council to develop a uniform list of land use designations that can be consistently defined and employed across all community plans.

Section 4

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Section 4 covers the Implementation and Monitoring Program, which includes an implementation schedule that will be overseen by the Department. The implementation schedule consists of action items sorted by tables according to the five goals reflecting the community's vision.

Each table includes a description of the action item, the type of action; priority level, which may be high, medium, or low; timing, which range from on-going to long-term; County lead agency; estimated cost; and funding sources, which may be County, State, Federal, private, or a combination of sources.

Your Committee notes action items under the goal of Ready and Resilient Systems focus on addressing sea level rise, flood and fire protection, and water system, stormwater, and wastewater management, among other steps to improve infrastructure and essential services.

Your Committee notes that under the goal of A Complete Balanced, and Connected Transportation Network, the majority of action items relate to enhancing multimodal transportation options and reducing dependence on car travel for residents and visitors. There are also several actions relating to expanding the area's recreation network of trails, paths, and greenways.

Your Committee notes action items for the preservation of County Historic Districts in Lahaina factor predominantly under the goal of Responsible Stewardship for Resources, Culture, and Character. Other action items aim to protect the environment, including the ocean, watersheds, and gulches, and promote native Hawaiian heritage, including through 'Ölelo Hawai'i, ahupua'a and interpretive signage, and a cultural overlay.

Your Committee notes that out of five actions to support the goal of Economic Opportunity through Innovation and Collaboration, three relate to supporting agriculture and farmers, and the remaining two focus on tourism management and economic diversification.

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Your Committee notes the goal of Safe, Healthy, and Livable Communities for All includes several action items to expand long-term affordable housing opportunities for residents, with specific actions to promote farmworker housing and senior housing.

Your Committee further notes many of the action items will require the coordination of multiple County agencies, some will require new levels of County investment, and a few that are not under the County's jurisdiction, although important to the community, are included.

Your Committee discussed several action items that were new proposals, or expanded or modified action items, proposed by the MPC or the CPAC in the Draft Plan. For example, your Committee introduced action items 3.08 and 3.27, relating to developing a cultural overlay. Your Committee also reinstated CPAC recommendations relating to funding for additional sea level rise exposure modeling, and building a canoe hale at Hanaka'ōō Beach, which are action items 1.11 and 3.23 in the Plan.

Your Committee appreciates the Department's efforts to translate five overarching, community-identified goals into 120 specific and measurable action items that can be implemented, monitored, evaluated, and adjusted as needed.

Section 5

Section 5 covers the Appendices to the Plan, which includes information on updating the Plan; references; frequently used acronyms and abbreviations; definitions, including those for Hawaiian words referenced in the Plan; and a cultural reserve ascription list.

Your Committee endorsed most of Section 5 in the version of the Draft Plan prepared by the MPC.

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Your Committee added Appendix "F" that lists culturally significant sites in West Maui. Your Committee intended to protect these areas by requiring an archaeological monitor be present during ground-altering activities and for these sites to be incorporated into a cultural overlay district established by the Council.

Your Committee proposed revisions to correct the grammar and spelling of various Hawaiian words and to consistently use acronyms and definitions throughout the Plan, which were also referenced in the appendices.

Your Committee appreciates the efforts of all involved in recommending the necessary revisions to Section 5 that provides consistent and accurate information to support the Plan.

Your Committee expressed overall support to the many individuals who helped to contribute to the development of the updated Plan.

Your Committee voted 7-0 to recommend a public hearing be held on the revised proposed bill, passage of the revised proposed bill on first reading, and filing of the communication. Committee Chair Paltin, Vice-Chair King, and members Johnson, Kama, Molina, Rawlins-Fernandez, and Sinenci voted "aye." Committee members Lee and Sugimura were excused.

Your Committee is in receipt of a revised proposed bill incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Planning and Sustainable Land Use Committee
RECOMMENDS the following:

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1. That a PUBLIC HEARING be HELD on the proposed bill, as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY CODE, TO ADOPT THE UPDATED WEST MAUI COMMUNITY PLAN";
2. That the proposed bill, as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY CODE, TO ADOPT THE UPDATED WEST MAUI COMMUNITY PLAN," be SCHEDULED FOR FIRST READING, following the public hearing; and
3. That County Communication 21-70 be FILED.

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



TAMARA PALTIN, Chair

ORDINANCE NO. _____

BILL NO. _____ (2021)

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

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

SECTION 1. The West Maui Community Plan, having an effective date of February 27, 1996, as amended, is repealed, and the updated West Maui Community Plan (2021), attached and incorporated 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] in accordance with 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.] (2021).
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] Lana'i Community Plan – Ordinance No. 4343 (2016), as amended.
8. Moloka'i Island Community Plan – Ordinance No. 4920 (2018)[.], as amended.
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 will take effect upon approval.

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