

Jim Smith  
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Testimony Regarding Re: Duplex Districts (LU - 6)

Dear Chairperson Carroll and Members of the Land Use Committee,

The Maui News reported in its July 26, 2017 edition that the Director of Planning presented to members of the community that when Chapter 19 of our Code was amended by Council, its terms conflicted with the Paia Haiku Community Plan. (See Attachment) I served as a member of the Paia Haiku Citizen Advisory Committee in 1995. This is unfortunate.

The conflict on its face avoidable appears manufactured.

This Committee is considering an ordinance to establish a duplex district that appears to conflict with the preservation of rural lifestyle and character nurtured and protected by impementation action and policy in our Plan.

The proposed legislation compounds the conflict recognized by our Planning Director. However, it also provides this Committee with an opportunity to understand how and why it exists. I ask the Committee to retain this matter and investigate the origins of the conflict referenced in the Maui News article as identified by the Planning Director.

Mahalo,

s/ Jim Smith  
09\_06\_2017

# The Maui News

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## Community plan, County Code at odds over rentals

**Paia-Haiku plan allows for no vacation rentals; county says 88 are OK**



Spence

**WAILUKU —** For five years, two planning guiding documents of Maui County have been at odds when it comes to short-term rental homes.

There's the County Code, which allows for 88 short-term or vacation rentals in the Paia-Haiku area. Then there's the Paia-Haiku Community Plan, which doesn't allow short-term rentals at all.

Now, the Maui Planning Commission faces the dilemma of which one to amend.

On Tuesday, the commission deferred discussion on two proposed bills — one that would change the community plan and another that would change the County Code — for at least 60 days until more input could be gathered from the community.

*"The community plans have the force and effect of law," Planning Director Will Spence said. "If we follow this specific provision of the community plan as it is, we may just be denying all short-term rental home permits within the Paia-Haiku Community Plan area. . . . We're not in favor of that. But we can't reconcile the two things."*



An audience that includes several Paia and Haiku residents listens to the Maui Planning Commission's discussion of a conflict between the Paia-Haiku Community Plan, which doesn't allow for short-term rentals, and the County Code, which allows up to 88 short-term rentals in the region. The commission considered two bills: one to change the community plan and one to change the County Code. Members voted to defer discussion until they could get more community input. • The Maui News / COLLEEN UECHI photo

There are two types of transient vacation rentals: bed-and-breakfasts, which have an on-site owner, and short-term rental homes, which have an off-site owner, administrative planning officer David Raatz explained.

When the Paia-Haiku Community Plan was implemented in 1995, it limited visitor lodging to bed-and-breakfasts. But, in response to a growing industry, the Maui County Council passed an ordinance in 2012 to allow short-term rental homes. The Paia-Haiku area was given a short-term rental cap of 88 permits and currently has 47, according to the Planning Department.

Spence said that the department thought the council was aware of the community plan guidelines when it passed the 2012 bill. But when the department finally got around to reviewing the minutes of those meetings, it was *“not clear that the County Council was aware of this particular policy,”* he said.

*“So in order to clarify this and to say, ‘OK, we’re going to allow short-term rentals in the Paia-Haiku Community Plan region or we’re not,’ we need to have the policymakers make that decision,”* Spence said.

But first, the Maui Planning Commission has to make a recommendation to the council.

Most testifiers Tuesday didn’t think the county should do away with short-term rentals in the area. They said that the 2012 short-term rental bill had been passed with plenty of support from Paia and Haiku residents, and even those that weren’t fans of short-term rentals said that homeowners running legitimate operations shouldn’t be penalized.

*“I think modifying the (short-term rental) legislation to comply with the community plan would be throwing the baby out with the bathwater,”* Paia resident Billy Jalbert said. *“People have worked very hard to comply with the rules. . . . Now, we need to do right by them and have increased and more strict enforcement.”*

Longtime Paia resident Francine “Mopsy” Aarona said she would *“strongly recommend”* that the county meet with residents before making any changes to the community plan. Residents and commissioners agreed that the plan, which



was created before the rise of Airbnb and other vacation rental websites, was due for an update.

With Central Maui, South Maui and Upcountry plan updates still to come, Spence said it could be another five years until it's the Paia-Haiku region's turn. He cautioned against waiting until then to address the short-term rental issue.

Council Member Kelly King, who chairs the council's Planning Committee, agreed.

*"Obviously it's better to talk about it now so we can get the community together," she said. "This is a fallout of not having reviewed the plans when we were supposed to."*

King said she thought the county should hold off on granting new short-term rental permits until the issue could be resolved.

*"The main thing is we want to make sure we're not violating the community's wishes, and we don't know what that is right now because it's been so long since the community plan was formulated," King said.*

Council Chairman Mike White, who holds the Makawao-Haiku-Paia residency seat, was traveling Tuesday and could not be reached for comment. Former Council Member Don Couch, who chaired the Planning Committee when the short-term rental bill was passed, also could not be reached for comment.

The question of what the commission would do with applications in the meantime was answered shortly after, when members discussed and approved a permit for a short-term rental in Paia. Business owners Francisco Goya and Tamara Catz had originally gotten a permit for their three-bedroom home on Ae Place in February 2013. They had renewed the permit in March 2014 but allowed it to expire in February 2016.

Neighbors said they had no problems with guests in the past and that the owners had a good relationship with the community. All commissioners except for Larry Hudson voted in favor of approving the permit.

*"Until we get this thing cleared up with the community plan, I have to vote no," Hudson said.*

\* Colleen Uechi can be reached at [cuechi@mauinews.com](mailto:cuechi@mauinews.com).

## COMMENTS

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