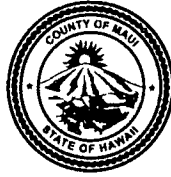


ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

March 7, 2018

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

For Transmittal to:

Honorable Robert Carroll, Chair
and Members of the Land Use Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Carroll and Committee Members:

SUBJECT: VISITOR ACCOMMODATIONS IN THE PAIA-HAIKU COMMUNITY PLAN AREA (LU-54)

For your background, here are some notes on the legislative history of Ordinance 3941 (2012), which created Chapter 19.65, Maui County Code, "Short-Term Rental Homes." The notes are provided in chronological order and highlight discussions on the relevance of community plans.

- 1) On March 18, 2011, the Council referred the bill that would become Ordinance 3941 to the planning commissions by adopting Resolution 11-24, as recommended by Planning Committee Report 11-17.
- 2) The Planning Department's subsequent memorandum report to the planning commissions and Hana Advisory Committee, dated May 25, 2011, analyzed the bill's relationship to the General Plan and included this excerpt from the Paia-Haiku Community Plan: "Limit visitor accommodations to owner-occupied 'bed and breakfast' establishments that are residential in both scale and character." The 32-page report is attached (without the 145 pages of exhibits).
- 3) At the Maui Planning Commission meeting of June 14, 2011, the body discussed the relevance of future community plan policies, as seen at pages 212-215 of the minutes (excerpt attached).
- 4) On September 12, 2011, at the first Planning Committee meeting on the bill after it was returned to the Council from the planning commissions, a testifier cited provisions of the Hana Community Plan regarding vacation rentals, as seen at pages 7-8 of the minutes (excerpt attached).

LU-54

RECEIVED
2018 MAR -8 AM 9:39
OFFICE OF THE MAYOR

OFFICE OF THE
COUNTY CLERK

2018 MAR -9 AM 10:17

RECEIVED

[Handwritten signature] 3/8/18

Honorable Alan M. Arakawa
For Transmittal to
Honorable Robert Carroll
March 7, 2018
Page 2

- 5) At a Planning Committee meeting on October 3, 2011, another testifier cited provisions of the Hana Community Plan regarding vacation rentals, as seen at page 14 of the minutes (excerpt attached).
- 6) At a Planning Committee meeting on October 31, 2011, the body sporadically raised the issue of community plan policies, as seen at pages 52 and 61 of the minutes. Also, a Deputy Corporation Counsel made this statement (at page 64): "I think the community plan is one thing that's always a, a handy reference and would probably apply anyway because these are discretionary permits." Excerpts of the minutes are attached.
- 7) Concerns about complying with the community plans were sporadically raised at the Planning Committee meeting of November 14, 2011 too.
- 8) At a Planning Committee meeting on November 28, 2011, a testifier cited provisions of the Hana Community Plan regarding vacation rentals, as seen at pages 5-6 of the minutes (excerpt attached).
- 9) At a Planning Committee meeting on January 9, 2012, the Committee Chair reminded colleagues the bill said applications for Short-Term Rental Home permits would be screened against the "applicable community plan," as seen at page 51 of the minutes (excerpt attached).
- 10) At a Planning Committee meeting on January 30, 2012, there was a discussion regarding community plans in the context of the proposed permit caps in each community plan area, as seen at pages 30-35 of minutes (excerpt attached).
- 11) The Planning Committee recommended approval of the bill, as revised, on February 27, 2012. At that meeting, the committee received testimony from a member of the Paia-Haiku Community Plan's citizens' advisory committee, calling attention to the Paia-Haiku Community Plan's provisions. The text of his verbal testimony is attached.
- 12) The committee did not list the General Plan or community plans among the eight "elements" it considered during its review of the bill, according to Planning Committee Report 12-45. The ordinance's purpose clause says, however, the Council's intent was "to implement land use policies consistent with the County of Maui's General Plan."
- 13) The Council passed the bill on first reading on April 10, 2012. The Council received testimony saying the issue of Short-Term Rental Homes should "be handled in the Maui General Plan and in the community plans," as seen at page 13 of the minutes (excerpt attached).

Honorable Alan M. Arakawa
For Transmittal to
Honorable Robert Carroll
March 7, 2018
Page 2

I hope this is helpful. If you have further questions or need additional information, please feel free to contact David Raatz, Administrative Planning Officer, at david.raatz@mauicounty.gov or Ext. 7743.

Sincerely,



WILLIAM SPENCE
Planning Director

Attachments

xc: John Rapacz, Planning Program Administrator (PDF)
David Raatz, Administrative Planning Officer (PDF)

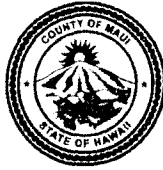
WRS:DMR:ckk
Project File

S:\ALL\APO\LU-54 (VISITOR ACCOMMODATIONS IN THE PAIA-HAIKU COMMUNITY PLAN AREA)\history.docx

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

May 25, 2011

MEMO REPORT

To: Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee

From: William Spence *WRS*
Planning Director

SUBJECT: RESOLUTION NO. 11-24 ENTITLED "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A DRAFT BILL AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO SHORT TERM VACATION RENTAL HOMES"

The Department received the proposed ordinance on March 24, 2011 from the Maui County Council. The deadline for the planning commissions to transmit comments back to the Council is July 22, 2011. Attached is a copy of the Committee Report and Resolution referring it to the respective Planning Commissions (Exhibit 1). County Council Planning Committee Chair Donald Couch requested by letter dated May 5, 2011 that the proposed bill be transmitted to the Hana Advisory Committee for their review and comments (Exhibit 1a). The draft ordinance can be found in Exhibit 2. Underlined words are new additions to the code and bracketed words are to be deleted.

The purpose of the draft bill is to establish procedures to permit short-term rental homes in certain areas, subject to appropriate restrictions and standards; to allow small businesses an opportunity to participate and benefit from tourism; to provide a visitor experience and accommodation as an alternative to the resort and hotel accommodations; and to retain the character of the neighborhoods in which any short-term rental is located.

PROCEDURAL MATTERS

1. On May 13, 2011, 32 days prior to the public hearing date, a Maui Planning Commission notice of was published in the Maui News by the Maui Planning Department.
2. On May 14, 2011, 32 days prior to the public hearing date, a Lanai Planning Commission notice of hearing on the application was published in the Maui News by the Maui Planning Department.

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

3. On May 24, 2011, 36 days prior to the hearing date, a Molokai Planning Commission notice of hearing was published in the Maui News, and on May 25, 33 days prior to the hearing in The Dispatch

GENERAL DESCRIPTION

A short-term rental home is currently defined as a use of a dwelling unit in which overnight accommodations are provided to guests for compensation, for periods less than 180 days. Four types of visitor accommodations are currently allowed in the County: (1) hotel uses based on zoning; (2) grandfathered condominiums; (3) transient vacation rentals authorized by a conditional permit; and (4) bed and breakfast homes requiring an owner-proprietor living onsite. The draft bill would create a new category of permitted homes available for short term rental replacing the need for a conditional permit.

Section 1 of the proposed ordinance states that "the purpose of the bill is to establish procedures to permit short-term rental homes in certain areas, subject to appropriate restrictions and standards. It is the intent of the Council to implement land use policies consistent with the County of Maui's General Plan and the State of Hawaii's land use laws; to retain the character of residential neighborhoods; and to allow for varied accommodations and experiences for visitors."

The bill is similar to the Bed and Breakfast section of the Maui County Code, 19.64. Chapter 19.65 would be created to regulate short-term rentals homes and is modeled after Chapter 19.64 bed and breakfast homes. The following are the basic provisions of the bill:

- 1. Number of Units.** No more than two detached single-family dwelling units per lot could be used for the rental operation.
- 2. Ownership and operations.** The owner-applicant shall be a natural person and hold legal title to the property. If the owner-applicant is not a full-time resident of the county, the owner-applicant shall provide the name of the person who shall serve as an onsite caretaker or off-site manager. An onsite caretaker shall reside on the lot and have responsibility for overseeing all guest actions. An off-site manager shall be a State-licensed real estate professional and be accessible 24-hours a day.

The bill does not specify the percentage of ownership required to hold a permit. One person may hold no more than one short-term rental home permit. No permit shall be held by a corporation, partnership, limited liability company, or similar entity. The permit shall be nontransferable. No more than one permit shall be approved for any lot. Homes shall be existing and constructed as of the date of the application.

- 3. Location.** With a permit, short-term rental homes would be allowed in the following zoning areas: interim, residential, service business residential, country town business,

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

B-1 neighborhood business district, B-2 community business district, rural districts and ag districts (additional requirements for ag districts are stated below).

4. Occupancy and parking. The maximum number of bedrooms on Maui and Lanai is six and maximum occupancy is 2 persons per room. On Molokai, the maximum number of bedrooms is 3. One parking space is required for each bedroom used for short-term rental home use.

5. Triggers for Planning Commission review of initial application. The proposed ordinance has the following triggers for respective planning commission review:

- Short-term rental applications for operations located within 500 feet from an existing permitted operation;
- If written protests comprise thirty percent or more of owner and lessees of record within a five-hundred-foot distance from the lot on which the short-term rental home is proposed; or
- If a variance was used to meet the requirements for a short-term rental home.
- For short-term rental homes located within the Hana Community Plan area, the number of bedrooms proposed for the short-term rental use is greater than three; or
- For short-term rental homes located on Molokai and Lanai, the initial short-term rental home permit.

The planning commission shall review the applications pursuant to the requirements of the law, the effects of the proposed use would have on surrounding uses, and the cumulative impacts within the community plan area and island.

6. Triggers for Planning Commission review of renewal application. Permit renewals may be granted by the planning director for terms of up to five years on Lanai and Maui and up to one year on Molokai. As part of the renewal application, a compliance report is required detailing compliance with each of the conditions of the permit and evidence of GET, TAT, and property tax payments. An annual compliance report is required for permits with terms over two years. The bill states that "no permit shall be renewed if the operation of the short term rental home has created adverse impacts on the neighborhood in which it is situated or has otherwise caused the loss of the character of that neighborhood." All permits and renewals shall contain a provision for inspection at reasonable times and upon presentation of appropriate credentials.

7. Neighbor notification. The draft bill requires that owners and lessees within a 500 foot distance from the subject lots property boundaries shall be provided by certified mail a copy of the notice form with project description, a location map showing lots within 500 feet, and a site plan showing the location of parking. A project notice sign shall be posted at the front of the property along the main access road. Within the Hana Community Plan area, on Lanai and on Molokai the sign shall be one-square foot. A

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

four-square foot is required for other areas. On Lanai and Molokai, the sign shall be attached to an existing structure. On Molokai the sign shall state the telephone number of the owner, onsite caretaker, or off-site manager. The sign shall be taken down within 5 days of a final decision on the application.

All applications requiring a public hearing, which are all initial applications for Lanai and Molokai and all triggered for review by the Maui Planning Commission as outlined in Section 4, are subject to the requirements of **MCC 19.510.020 - Applications which require a public hearing**, as follows:

3. "The planning director shall publish the notice of the date, time, place, and subject matter of the public hearing once in a newspaper printed and issued at least twice weekly in the County and which is generally circulated throughout the County at least thirty calendar days prior to the date of the public hearing;

4. The applicant shall provide notice of the public hearing date on the application to the owners and lessees of record located within a five-hundred-foot distance from the parcel identified in the applicationnot less than thirty calendar days prior to the date of the public hearing,

iii. (the applicant shall) Publish the subject matter, in a form prescribed by the planning director, once a week for three consecutive weeks prior to the date of the public hearing in a newspaper which is printed and issued at least twice weekly in the County and which is generally circulated throughout the County,"

8. Neighborhood input. The notice of intent required to be mailed to all owners and lessees within 500 feet shall state that they may file a written protest against the proposed short term rental home, provided that all protests must be postmarked or received within 45 days of the mailing of the notice. If 30% or more of notified owners or lessees file a protest, the application is reviewed by the Maui Planning Commission. All initial applications are reviewed by the Lanai and Molokai Planning Commissions for their jurisdictions. Private covenants shall not be considered nor shall the county be bound by them. The bill states that no home shall create any impact greater than existing and shall conform to the character of the neighborhood.

9. Building permit standards. Building standards shall be no greater than those in effect at the time of the building permit for the structure was obtained.

10. Lands in the agricultural district. On Maui and Lanai, short term rental home operations in the state agricultural district require a land use commission special use permit (SUP2) which for acreage under 15 acres is reviewed by the respective Planning Commissions. Review by the Planning Commission is done for properties meeting the following requirements:

- An approved farm plan must be fully implemented and consistent with Chapter 205, HRS. The Farm Plan must demonstrate that the majority (greater than 50%) of the parcel on which the farm dwelling is located is

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

used for agriculture or agricultural land conservation. Exhibit 3 includes the application and requirements for a farm plan and Exhibit 3a is the Administration's guidelines for reviewing farm plans. The Zoning and Enforcement Division of the Planning Department reviews and approves farm plans.

- Properties must have been created prior to November 1, 2008
- The lot must be five acres or less;
- Properties, regardless of size, that are located in sites listed on the Hawaii Register or the National Register of Historic Places;
- Properties subject to a condominium property regime pursuant to 514A, HRS, are not eligible for a short-term home permit.
- Proposed operations located on lot sizes over five acres in size must be operated in conjunction with a bona fide agricultural operation that produced \$35,000 of gross sales of agricultural products for each of the preceding two years, as shown by State general excise forms and federal form 1040 schedule F filings.

On Molokai, permits may not be granted for properties located in the agricultural district.

11. Renewals. Initial permits can be issued for up to 3 years and shorter periods can be issued to mitigate impacts. Renewals may be granted for up to five years by the Planning Director, except on Molokai where renewals for a one-year time period. Compliance reports, including evidence of tax payments, are required at renewal and annually for renewals of more than two-years. No permit shall be renewed if the operation has created adverse impacts on the neighborhood or has otherwise caused the loss of the character of that neighborhood.

12. Community Plan District Caps. There are cap limits on the number of short-term rental homes in each district. The number is the same as for the B&Bs and is as follows:

1. Hana48
2. Kihei-Makena.....100
3. Makawao-Pukalani-Kula.....40
4. Paia-Haiku.....88
5. Wailuku-Kahului.....36
6. West Maui.....88

13. Tax category. The draft bill does not specify a tax category; however it does prohibit short-term rental homes properties from receiving a homeowner's exemption. The Department of Finance Real Property Division replied in the agency comments that these properties will be taxed at hotel rates (Exhibit 6). Applicants shall have a current transient accommodations tax license and general excise tax license and payment of taxes shall be verified in the renewal compliance reports.

Maui Planning Commission
 Lanai Planning Commission
 Molokai Planning Commission
 Hana Advisory Committee
 May 25, 2011

14. Enforcement. The bill refers to Maui County Code Section 19.530, a copy of which is provided in Exhibit 4. Maui County Code 19.530.030C states that appeals of violations go to the Board of Variances and Appeals.

REVIEWING AGENCIES

The Department transmitted the bill to various agencies. The following is a list comments:

| COUNTY AGENCY | COMMENTS | EXHIBIT |
|--|---|---------|
| Department of Environmental Management | No comments | 5 |
| Department of Finance | See Exhibit 6 for table. Department comments that table shows the proposed number for STRH caps is unfair when evaluated in terms of loss of housing to local residents by Community Plan area. Under current code, STRH would be taxed at the hotel rate. | 6 |
| Department of Parks and Recreation | No comments | 7 |
| Department of Public Works, DSA | Newer additions of the International Building Code (IBC) have stricter requirements for Short-term Rentals. They suggest a review of the proposed updates to the IBC. | 8 |
| Department of Transportation | No comments | 9 |
| Department of Water Supply | Recommending a restriction in the law: STRH shall comply with standards for irrigation and domestic services to ensure that the meter issued is adequate. This is a standard condition for B&Bs. If a building permit is sought for an STRH, requirements for fire protection will deferred to the Dept of Fire and Public Safety. | 10 |
| Department of Fire and Public Safety | Please see Exhibit 11 for Fire Prevention Bureau recommendations for smoke alarms, evacuation plans, and emergency escapes. They are the same as for Bed and Breakfast operations. The Department asks for a determination on whether the operations are considered residential or commercial uses. | 11 |

Maui Planning Commission
 Lanai Planning Commission
 Molokai Planning Commission
 Hana Advisory Committee
 May 25, 2011

| | | |
|---|-------------|----|
| Police Department | No comments | 12 |
| Department of Planning, Zoning and Enforcement Division | No comments | 13 |

| STATE AGENCY | COMMENTS | EXHIBIT |
|---|---|---------|
| Department of Health, Maui District Office | No comments | 14 |
| Department of Human Services | No comments. Does not foresee any impact on child care services in the community. | 15 |
| Department of Land and Natural Resources, Land Division | No comments | 16 |

| OTHER | COMMENTS | EXHIBIT |
|-----------------------|-------------|---------|
| Maui Electric Company | No Comments | 17 |

The Department of Finance provided a table shown in Exhibit 6 that evaluates the effect of the community plan caps on long term residential housing inventory. The Department comments the table demonstrates that the distribution of the cap limits are unfair and will create an excess burden on Haiku who will lose the most housing available to residents. The Department shares this concern and is exploring options to lessen the impact of short-term rentals on the residential housing market.

The Finance Department also comments that when a short term rental permit is issued, the entire property will be classified as hotel. If an alternative category is desired, then the Real Property Tax Division will need to update ordinance 3.48.305B.

The Department of Public Works comments that newer additions of the International Building Code (IBC) have stricter requirements for Short-term Rentals. They suggest a review of the proposed updates to the IBC. The Department has requested a copy of the proposed updates to review.

The Department of Water Supply stated that short-term rental homes must comply with standards for irrigation and domestic services to ensure that the meter issued is adequate. This is a standard condition for bed and breakfast operations. They also commented that if a building permit is sought for a short-term rental home, requirements for fire protection will be deferred to the Department of Fire and Public Safety. The Department of Fire and Public Safety has asked the Department of Planning for a determination on whether short-term rental homes will be considered a residential or commercial use.

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

The Department of Fire and Public Safety also provided the Department with a list of fire safety requirements for short-term rental homes (Exhibit 11). This is the same list as for bed and breakfast operations.

There were no other significant comments as of May 25, 2011.

STATE AND COUNTY POLICIES

1. Hawaii State Plan: adopted in 1978. The Hawaii State Plan, Chapter 226, Hawaii Revised Statutes is a statement of long-range, statewide policy for an array of economic, physical, and social development issues. The State Plan requires the conformance of state programs, land use decision-making, and budgetary processes with the goals, objectives, policies, and priority guidelines of the State Plan.

§226-5 Objective and policies for population.

- (b) To achieve the population objective, it shall be the policy of this State to:
 - (2) Encourage an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires.

§226-6 Objectives and policies for the economy--in general.

- (a) Planning for the State's economy in general shall be directed toward achievement of the following objectives:
 - (2) A steadily growing and diversified economic base that is not overly dependent on a few industries, and includes the development and expansion of industries on the neighbor islands.

§226-7 Objectives and policies for the economy--agriculture.

- (a) Planning for the State's economy with regard to agriculture shall be directed towards achievement of the following objectives:
 - (2) Growth and development of diversified agriculture throughout the State.

§226-8 Objective and policies for the economy--visitor industry.

- (a) Planning for the State's economy with regard to the visitor industry shall be directed towards the achievement of the objective of a visitor industry that constitutes a major component of steady growth for Hawaii's economy.
- (b) To achieve the visitor industry objective, it shall be the policy of this State to:
 - (2) Ensure that visitor industry activities are in keeping with the social, economic, and physical needs and aspirations of Hawaii's people.
 - (5) Develop the industry in a manner that will continue to provide new job opportunities and steady employment for Hawaii's people.
 - (7) Foster a recognition of the contribution of the visitor industry to Hawaii's economy and the need to perpetuate the aloha spirit.

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

- (8) Foster an understanding by visitors of the aloha spirit and of the unique and sensitive character of Hawaii's cultures and values.

§226-11 Objectives and policies for the physical environment--land-based, shoreline, and marine resources.

- (a) Planning for the State's physical environment with regard to land-based, shoreline, and marine resources shall be directed towards achievement of the following objectives:

- (1) Prudent use of Hawaii's land-based, shoreline, and marine resources.

2. The **County of Maui 2030 General Plan Countywide Policy Plan**, adopted by the Maui County Council on March 19, 2010, is the first component of the decennial General Plan update. The Countywide Policy Plan replaces the General Plan as adopted in 1990 and amended in 2002. The Countywide Policy Plan acts as an over-arching values statement and umbrella policy document for the Maui Island Plan and the nine Community Plans that provides broad goals, objectives, policies, and implementing actions that portray the desired direction of the County's future. The plan includes:

1. A vision statement and core values for the County to the year 2030
2. An explanation of the plan-making process
3. A description and background information regarding Maui County today
4. Identification of guiding principles
5. A list of countywide goals, objectives, policies, and implementing actions related to the following core themes:
 - A. Protect the Natural Environment
 - B. Preserve Local Cultures and Traditions
 - 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

- E. Expand Housing Opportunities for Residents

Goal: Quality, island-appropriate housing will be available to all residents.

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

Objective:

1. Reduce the affordable housing deficit for residents

Policies:

Ensure that an adequate and permanent supply of affordable housing, both new and existing units, is made available for purchase or rental to our resident and/or workforce population, with special emphasis on providing housing for low- to moderate-income families, and ensure that all affordable housing remains affordable in perpetuity.

Objective:

2. Increase the mix of housing types in towns and neighborhoods to promote sustainable land use planning, expand consumer choice, and protect the County's rural and small-town character.
 - b. Design neighborhoods to foster interaction among neighbors.
 - h. Encourage long-term residential use of existing and future housing to meet residential needs.

F. Strengthen the Local Economy

Goal: Maui County's economy will be diverse, sustainable, and supportive of community values.

Objective 1: Promote an economic climate that will encourage diversification of the County's economic base and a sustainable rate of economic growth.

Objective 2: Diversify and expand sustainable forms of agriculture and aquaculture.

Policies:

- b. Prioritize the use of agricultural land to feed the local population, and promote the use of agricultural lands for sustainable and diversified agricultural activities.
- e. Support ordinances, programs, and policies that keep agricultural land and water available and affordable to farmers.
- j. Encourage healthy and organic farm practices that contribute to land health and regeneration.

Objective 3: Support a visitor industry that respects the resident culture and the environment.

Policies:

- e. Support policies, programs, and a tax structure that redirect the benefits of the visitor industry back into the local community.
- f. Encourage resident ownership of visitor-related businesses and facilities.
- i. Support the diversification, development, evolution, and integration of the visitor industry in a way that is compatible with the

traditional, social, economic, spiritual, and environmental values of island residents.

- n. Recognize the important contributions that the visitor industry makes to the County's economy, and support a healthy and vibrant visitor industry.

Objective 4: Expand economic sectors that increase living-wage job choices and are compatible with community values.

Policies:

- a. Support emerging industries, including the following:
 - Health and wellness industry;
 - Sports and recreation industry;
 - Film and entertainment industry;
 - Ecotourism industry; and
 - Agritourism industry.

J. Promote Sustainable Land Use and Growth Management

Goal: Community character, lifestyles, economies, and natural assets will be preserved by managing growth and using land in a sustainable manner.

Objective 1: Improve land use management and implement a directed-growth strategy.

Policies:

- c. Limit the number of visitor-accommodation units and facilities in Community Plan Areas.
- d. Maintain a sustainable balance between the resident, part-time resident, and visitor populations.

K. Strive for Good Governance

Goal: Government services will be transparent, effective, efficient, and responsive to the needs of residents.

Objective 1. Strengthen governmental planning, coordination, consensus building, and decision making.

Policies:

- a. Plan and prepare for the effects of social, demographic, economic, and environmental shifts.

3. Community Plans

A. Kihei-Makena Community Plan adopted in 1998

Economic Activity

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

Goal: A diversified and stable economic base which serves resident and visitor needs while providing long-term resident employment.

Housing and Urban Design

Goal: A variety of attractive, sanitary, safe and affordable homes for Kihei's residents, especially for families earning less than the median income for families within the County. Also, a built environment which provides complementary and aesthetically pleasing physical and visual linkages with the natural environment.

Objectives and Policies

- a. Provide an adequate variety of housing choices and range of prices for the needs of Kihei's residents, especially for families earning less than the median income for families within the County, through the project district approach and other related programs. Choices can be increased through public/private sector cooperation and coordinated development of necessary support facilities and services.

B. Pa'la-Ha'iku Community Plan adopted in 1995

Opportunities

- e. Expand opportunities for diversified agriculture, "rural light industry," "cottage-scale" businesses and other small-scale, owner-operated businesses.

Land Use

Goal: A well-planned community that preserves the region's small town ambiance and rural character, coastal scenic vistas, and extensive agricultural land use, and accommodates the future needs of residents at a sustainable rate of growth and in harmony with the region's natural environment, marine resources, and traditional uses of the shoreline and mauka lands.

Objectives and Policies

3. Prohibit hotel/resort development within the region.
10. Discourage approvals of Special Permits in State Agricultural and Rural Districts unless: (a) necessary to serve the immediate community in remote areas; (b) supportive of agricultural uses; or (c) needed for the use or distribution of locally produced products and services that otherwise do not adversely affect the environment, surrounding agricultural uses, or public safety.
11. For the outlying areas such as Ha'iku with existing Urban or Rural Land Use classifications, consideration for expansion of the State Land Use District Boundary should be made on a case by case basis for limited residential development in accordance with the following criteria:
 - a. That the proposed change is contiguous with the Urban or Rural District and compatible with the existing character of the surrounding area;
 - b. That adequate public services and facilities are available or can be provided at reasonable cost to the petitioner; and

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

- c. That the proposed land use amendment shall have no significant adverse effects upon agricultural, natural, environmental, recreational, scenic, historic, or other resources of the area.
13. Limit visitor accommodations to owner-occupied "bed and breakfast" establishments that are residential in both scale and character. Any proposed "bed and breakfasts" should not be situated near the shoreline so as to avoid the proliferation of this use and subsequent changes in the character of the region's coast.

Implementing actions

4. Establish and enforce regulations for "bed and breakfast" establishments conducted by owner occupants within single-family residential dwellings to ensure that they will be situated in appropriate areas and not adversely affect the surrounding neighborhood. The regulations should include, but not be limited to, criteria related to location, size of operation, off-street parking, and other appropriate mitigative measures.

Cultural Resources

Goal: Identification, protection, preservation, enhancement and appropriate use of cultural resources, cultural practices and historic sites that provide a sense of history and define a sense of place for the Pa`ia-Ha`iku region.

Objectives and Policies

4. Foster an awareness of the diversity and importance of cultural resources and of the history of Pa`ia-Ha`iku. Promote distinct cultural resources as an identifying characteristic of the region.

Economic Activity

Goal: A stable economy that complements the rural character of the region and provides opportunities for economic diversification and community needs.

Objectives and Policies

4. Consider "bed and breakfast" establishments as transient visitor facilities, provided that these are conducted by owner-occupants within a single-family residential dwelling and approved for such use.

Housing

Goal: A sufficient supply and choice of attractive housing accommodations with emphasis on affordable housing for a broad cross section of residents.

Objectives and Policies

3. Reduce residential home energy and water consumption.

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

Energy

Goal: Greater self-sufficiency in the need for non-renewable energy and more efficiency in use of energy resources.

Objectives and Policies

1. Promote energy efficiency as the energy resource of first choice and increase the energy efficiency in all sectors of the community.

Government

Goal: Government that demonstrates the highest standards of fairness and is responsive to the needs of the community, fiscally responsible and prudent, effective in planning and implementing programs to accommodate anticipated growth, fair and equitable in taxation, strict in the implementation of the Community Plan, and managed efficiently to provide coordinated and timely responses and the delivery of necessary services and programs to the public.

Objectives and Policies

4. Continue to investigate and pursue ways to streamline the permit process through means such as consolidated public hearings and concurrent processing of applications.
7. Utilize the County's real property tax assessment function as both a means to carry out the policies and priorities of the Community Plan and a mechanism for monitoring and updating the Community Plan.

C. Waialuku-Kahului Community Plan (2002)

Economic Activity

Goal: A stable and viable economy that provides opportunities for growth and diversification to meet long-term community and regional needs and in a manner that promotes agricultural activity and preserves agricultural lands and open space resources.

Objectives and Policies:

5. Recognize the importance of small businesses to the region's economy.

Housing

Goal: A sufficient supply and choice of attractive, sanitary and affordable housing accommodations for the broad cross section of residents, including the elderly.

2. Provide sufficient land areas for new residential growth which relax constraints on the housing market and afford variety in type, price, and location of units. Opportunities for the provision of housing are presently constrained by a lack of

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

expansion areas. This condition should be relieved by a choice of housing in a variety of locations, both rural and urban in character.

Government

Goal: Government that demonstrates the highest standards of fairness; responsiveness to the needs of the community; fiscal integrity; effectiveness in planning and implementation of programs and projects; a fair and equitable approach to taxation and regulation; and efficient, results-oriented management.

Objectives and Policies

2. Utilize the County's real property tax assessment function as both a means to carry out the policies and priorities of the Community Plan and a mechanism for monitoring and updating the Community Plan.
3. Streamline the land use, building permit and subdivision approval processes.

Land use

Goal: An attractive, well-planned community with a mixture of compatible land uses in appropriate areas to accommodate the future needs of residents and visitors in a manner that provides for the social and economic well-being of residents and the preservation and enhancement of the region's environmental resources and traditional towns and villages.

6. Establish an adequate supply of urban land use designations to meet the needs of the community over the next 20 years.

D. Makawao-Pukalani-Kula Community Plan adopted in 1996

Opportunities

e. **ECONOMIC ACTIVITY.** The natural and agricultural settings in the Makawao-Pukalani-Kula region are opportunities to maintain and enhance the region's economic base. For example, the name recognition of Kula agricultural products establishes a basis for developing new local and overseas markets which can strengthen the agricultural component of the economy. Additionally, Upcountry's natural environment provides a context in which the region's economic base can be enhanced through development of small business enterprises which cater to resident and visitor-oriented needs.

Economic Activity

Goal: A stable and diverse economic environment which supports a level of community prosperity in order to provide social services and environmental amenities and which respects the region's rural and agricultural lifestyle, open space and natural resources.

Objectives and Policies

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

1. Provide for the preservation and enhancement of agricultural lands and operations, emphasizing the importance of promoting diversified agriculture to the region's economic base and lifestyle.
8. Support existing and new service and retail industry endeavors such as medical, law, accounting and architectural/engineering offices which will diversify the region's economic base without compromising its rural and agricultural integrity, and which will preserve the traditional scale and style of businesses in the Upcountry area.
9. Encourage the continuation of sugar, pineapple, cattle ranching, and diversified agriculture as major agricultural activities in the region and at the same time encourage the pursuit of alternative agricultural industries.
11. Develop a stable and balanced employment base which will provide opportunities for increasing the standard of living for all of the region's residents.

Land use

Goal: The maintenance and enhancement of Upcountry's unique and diverse rural land use character with sensitivity to existing land use patterns, natural resource values, and economic and social needs of the region's residents.

Objectives and Policies

3. Discourage speculation in agricultural lands.
8. Encourage and support the use of organic farming as a means of maintaining the integrity of Upcountry's environment.
13. Support requests for Special Permits in the State Agricultural and Rural Districts as follows: (a) limited public and quasi-public uses in the more remote areas; (b) public facility uses such as utility installation, landfills, and wastewater treatment plants whose location is determined by technical considerations; (c) uses which are clearly accessory and subordinate to a permitted agricultural use on the property; and (d) extractive industries, such as quarrying, where the operation does not adversely effect the natural environment or Upcountry character.
28. Support a new Rural land use designation with a minimum two-acre lot size which recognizes large-lot residential land use patterns within the backdrop of a semi-rural setting. The use would be typified by "Gentleman Estate" housing or "Pseudo Agricultural" uses in which the residence would be the primary use and any non-intrusive agricultural activities would be secondary.

Housing

Goal: Housing opportunities for the residents of Makawao-Pukalani-Kula, to include all income and age groups, which are affordable, safe, and environmentally and culturally compatible.

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

7. Seek the timely and orderly development of lands designated by the Community Plan for residential purposes.

Government

Goal: The provision of accessible, cost effective and responsive government services and programs which meet the needs of Upcountry residents.

Objectives and Policies

2. Pursue the streamlining of the development permit process through means such as consolidating public hearings and concurrent processing of applications.

E. Hana Community Plan adopted in 1994

Land Use

Goal: An efficient distribution of urban, rural and agricultural land uses in order to provide for the social and economic well-being of residents in the Hana Community Plan region. Preservation and enhancement of the current land use patterns which establish and enrich the Hana Community Plan region's unique and diverse qualities.

Objectives and Policies

5. Encourage the availability of agriculturally suitable lands to provide opportunities for small diversified agricultural activities with residential tenancy for farmers.
8. Discourage urban land uses and Special Use Permits outside of the Hana Town area except to allow those activities which are essential to the region's economic well-being, which provide essential services for the residents of the Hana District, or which provide for the essential domestic needs of remote communities such as Ke`anae, Kipahulu and Kaupo. Such activities shall not adversely affect surrounding neighborhoods and shall be supportive of the agricultural activities of the area.
9. Discourage transient rental accommodation uses outside of the Hana urban area.
13. Encourage community-based dialogue regarding proposed land use changes in order to avoid unwarranted conflict.

Implementing Actions

5. Conduct an inventory and study of existing non-conforming uses, including vacation rentals, to determine (1) their numbers, (2) geographic distribution, and (3) effects upon the local housing and real estate markets and the local economy, and identify recommendations for resolving non-conforming use issues.

Environment

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

Goal: Protection and management of Hana's land, water and ocean resources to ensure that future generations can enjoy the region's exceptional environmental qualities.

Objectives and Policies

5. Encourage organic farming practices and environmental protective practices in the selection and application of chemical pesticides, herbicides, and fertilizers.

Economic Activity

Goal: A balanced local economy which provides long-term viability and sustainability while meeting residents' needs and respecting the cultural and natural resources of Hana.

Objectives and Policies

1. Encourage a local economy which provides employment choices for the region's residents and which provides future employment opportunities for the region's youth.
2. Utilize existing components of the local economy to establish a framework for balanced regional economic development.
3. Encourage economic activities which are: of substantive economic benefit to the residents of the area; environmentally benign; and compatible with the cultural sensitivities of the residents of the Hana region.
5. Promote and maintain agriculture as a major economic activity with emphasis on a regional diversified agricultural industry.
6. Maintain taro farming, ranching and floriculture as major economic activities and promote their economic viability and sustainability. Promote aquaculture and horticulture as economic activities.
7. Maintain the visitor industry as a major economic activity, encouraging commercial activities which focus on the "day" visitor market and/or complement the "overnight" visitor market.

Housing

Goal: The provision of housing opportunities to the residents of Hana, for all income and age groups, which are affordable, safe, and environmentally and culturally compatible.

F. West Maui Community Plan adopted in 1996

Land use

Goal: An attractive, well-planned community with a mixture of compatible land uses in appropriate areas to accommodate the future needs of residents and visitors in a manner that provides for the stable social and economic well-being of residents

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

and the preservation and enhancement of the region's open space areas and natural environmental resources.

Objectives and Policies for the West Maui Region in General

6. Special Permits in the State Agricultural Districts may be allowed only: (1) to accommodate public and quasi-public uses; (2) public facility uses such as utility installation, landfills and sewer treatment plants whose location is determined by technical considerations; (3) uses which are clearly accessory and subordinate to a principal agricultural use on the property; and (4) extractive industries, such as quarrying, where the operation does not adversely affect the environment or nearby agricultural uses.

Economic Activity

Goal: A diversified economy that provides a range of stable employment opportunities for residents, allows for desired commercial services for the community, and supports the existing visitor and agricultural industries, all in a manner that will enhance both the community's quality of life and the environment.

Objectives and Policies

1. Promote a diversified economic base which offers long term employment to West Maui residents, and maintains overall stability in economic activity in the areas of:
 - a. Visitor accommodations.
 - b. Visitor-related service/commercial services.
 - c. Recreation-related service/commercial services.
 - f. Agriculture.
2. Provide for the preservation and enhancement of agriculture.
 - d. Discourage use of agricultural lands for non-agricultural purposes.
 - e. Adopt ordinances to establish appropriate standards for agricultural lands.
4. Maintain a stable and viable visitor industry.
5. Promote the use of local products, and encourage the employment of local residents.
 - a. Encourage local industries, businesses and consumers to purchase products grown or made in the region.
 - b. Support programs that encourage visitors to purchase local products.
 - c. Urge the adoption of a program to promote the employment of local residents.

Housing

Goal: A sufficient supply and choice of attractive, sanitary and affordable housing accommodations for a broad cross section of residents.

Objectives and Policies

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

1. Accommodate the 20-year housing needs of the planning region.

Government

Goal: Government that demonstrates the highest standards of fairness, responsiveness to the needs of the community, fiscal integrity, effectiveness in planning and implementing programs and projects to accommodate a stable social and economic well-being for residents, a fair and equitable approach to taxation, and efficient and results-oriented management.

Objectives and Policies

3. Remove unnecessary delays in the permit process through means such as consolidated public hearings and concurrent processing of applications.

G. Lana`i Community Plan adopted in 1998

Economic Activity

Goal: Create a stable and diverse economic climate which is consistent and compatible with Lana`i's rural island lifestyle.

Objectives and Policies

1. Ensure the long-term viability of the island's visitor industry, and maintain its position as the island's primary economic stimulus.

Land use

Goal: Maintain and enhance Lana`i's rural atmosphere, respecting its vast open space character and small island town environment which are unique in the State of Hawaii.

Objectives and Policies

3. Discourage approvals of Special Permits in State Agricultural and Rural Districts unless: (1) to accommodate public/quasi-public facility uses such as utility installations, landfills and wastewater treatment plants whose location is determined by technical considerations; (2) supportive of agricultural uses; or (3) required for the use or distribution of economic resources and not otherwise adversely affecting the environment or surrounding agricultural uses.
7. Provide an adequate supply of accessible fee-simple lands designated for residential use to address the housing needs of local residents.

Housing

Goal: Provide for the housing needs of all Lana`i residents in order to ensure a healthy and vibrant social and economic environment.

7. Provide housing types which are consistent with Lana`i's rural community lifestyle.

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

8. Promote the sale of rental residential properties to current occupants as a means of encouraging homeownership by residents.

Government

Goal: Ensure the effective, efficient, and reliable provision of government services through recognition of the unique access, communication and program needs of Lana'i's residents.

Objectives and Policies

1. Streamline regulatory approval processes through means such as consolidated public hearings and concurrent processing of applications.
2. Develop land use, building and subdivision codes and standards which are appropriate for Lana'i.
4. Utilize the County's real property tax assessment function as both a means to carry out the policies and priorities of the Community Plan and a mechanism for monitoring and updating the Community Plan.

H. Moloka'i Community Plan adopted in 2001

Land use

Goal: Enhance the unique qualities of the island of Moloka'i to provide future generations the opportunity to experience rural and traditional lifestyles.

Objectives and policies

4. Discourage developing or subdividing agriculturally designated lands for "gentlemen estates or "Pseudo Agricultural" uses in which the residence would be the primary use and any non-intrusive agricultural activities would be secondary.
9. Limit the visitor accommodation center to West Moloka'i and require that any expansion approvals reflect the employment needs of the island's resident workforce.
18. Reduce unnecessary expense and time in land use permit processing.

Economic Activity

Goal: A balanced local economy which provides preferred employment levels, long-term viability and sustainability while meeting residents' needs, respecting cultural and natural resources, and is in harmony with Moloka'i's rural quasi-subsistence lifestyle.

Objectives and policies

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

19. Allow expansion of the visitor industry within the existing tourist destination area at the West End to the extent that it does not infringe upon the traditional, social, economic and environmental qualities of the island.
10. Support develop and encourage cottage and mini-industries such as garment and craft production as residentially-based economic activities, provided such activities are compatible with the surrounding neighborhood.

Objectives and Policies

1. Investigate and pursue ways to streamline the permit process through means such as consolidating public hearings, concurrent processing of applications and coordination of permits between State, Federal and County governments.

4. Draft Maui Island Plan

The Maui Island Plan consists of recommendations from General Plan Advisory Committee, Maui Planning Commission and Department of Planning. Once approved, the Maui Island Plan will be used by the County Council, Maui Planning Commission, County staff and the community as a policy foundation for day to day decision making. While the Maui Island Plan is currently being reviewed by the County Council, the Maui Planning Commission did their review from April through September 2009.

The plan comprises goals, policies, programs and actions which are based on an assessment of current and future needs and available resources. More specifically:

Growth areas will be established where future growth is anticipated. This will make development more predictable for everyone, including County service and infrastructure providers. This will help reduce development costs, provide more affordable housing and lower taxes to the public.

Outside of growth areas development will be limited in order to preserve our agricultural lands and open space. This will "keep the country - country", a refrain repeated by many citizens.

Housing for our workforce will remain affordable in perpetuity. Housing that is approved as "affordable" will not be converted to free market housing.

Watershed and nearshore management will be integrated to protect those areas of the island that contain critical marine resources including reefs.

Economic diversification will be achieved by promoting emerging industries such as high technology, renewable energy, niche tourism, local agriculture, health care, entertainment and education. The important visitor industry will still grow, but at a comparatively smaller rate so that our economy will be more diversified.

Relevant plan policies include the following:

Economic Development

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

A summary of the chapter on Tourism and alternate visitor accommodations can be found in Exhibit 18.

Goal:

4.1 A sustainable, diversified economy that provides full employment and a living wage.

Goal:

4.2 A healthy visitor industry that provides economic well-being with stable and diverse employment opportunities.

4.2.1.a Support the implementation of the *Maui County Tourism Strategic Plan 2006-2015*, when consistent with the Maui Island Plan.

4.2.1.b Focus economic growth in the visitor industry through enhanced visitor experiences rather than increased visitor arrivals.

4.2.1.c Provide a rich visitor experience, while protecting the island's natural beauty, culture, lifestyles and aloha spirit.

4.2.1.d Diversify the tourism industry by supporting appropriate niche activities such as ecotourism, cultural tourism, voluntourism, agri-tourism, health and wellness tourism, educational tourism, medical tourism, and other viable tourism-related businesses in appropriate locations.

Objective:

4.2.2 Limit and manage future visitor unit expansion.

Policies:

4.2.2.a Mitigate the impact of tourism on the natural environment and resident lifestyles.

4.2.2.c Allow, where there is a demonstrated community desire, and where permitted by the respective community plan, the development of small, sensitively designed, inns and B&Bs.

4.2.2.d Minimize negative impacts from transient vacation rentals, timeshares, and resort condominiums on residential communities, public infrastructure, and community facilities.

4.2.2.e Discourage the conversion of the island's housing stock to transient vacation rental use to minimize the negative impact on long-term rental housing, price of housing, and price of land.

Goal:

4.3 Maui will have a diversified agricultural industry contributing to greater economic, food, and energy security and prosperity.

Housing

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

A copy of the introduction to the housing sections which discussed the effects on the off-island and transient vacation rental market on the inventory of housing for residents is in Exhibit 19.

Goal

5.1 Maui will have affordable housing for all residents

Objective

5.1.3 More livable communities that provide for a mix of housing types, land uses, income levels, and age.

Land Use

Objective:

7.1.2 Reduction of the island's dependence on off-island agricultural products.

7.1.2.e Give priority to the growing of food for local consumption.

Objective:

7.3.4 Seek to manage the impact of tourism on residents' qualities of life.

7.3.4.c A. Enforce laws regarding bed and breakfast homes and transient vacation rentals that are effective at any given time, until the laws are actually amended to no longer be effective.

B. Manage transient rentals through permitting in accordance with adopted regulations and community plan policies.

Existing Conditional Permits. As of May 17, 2011 12 properties were legally permitted to operate as a short term vacation rental homes. (Exhibit 20). Individual testimony received for this report as shown in Exhibit 26 includes a map of Maui Meadows showing permitted and non-permitted short term rentals as well as tax exemption and rate information.

Existing Bed and Breakfast law. The proposed ordinance is modeled after the bed and breakfast ordinance adopted on December 19, 2008. The bill differs, however, in that short term vacation rental homes can be operated without an owner on site. If the owner does not live on Maui, a resident manager or licensed property manager must be used. As of May 17, 2011 52 B&B permits have been issued as shown in Exhibit 21.

ANALYSIS

The draft ordinance was modeled after the Bed and Breakfast ordinance in an effort to build from successful legislation with over 2 years of implementation experience. It is also understood that the bill was broadly drafted in an effort to allow easy incorporation of Planning Commission and Department, community, and industry input.

In general, the Department recommends additional review and neighbor input provisions for short-term rental homes than what is required for bed and breakfast operations and in the draft ordinance. The Department also supports additional

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

enforcement provisions for short-term rental homes operating without a permit, as well as for permitted operations. The Department is currently soliciting input from the Maui, Lanai and Molokai Planning Commission, the Hana Advisory Committee, as well as, community groups, tourism and vacation rental industry. As of May 25, 2011, the Department has done the following brief analysis of the elements of the bill. The Department will expand the analysis and recommendations to Council based upon the input received.

1. Ownership and operations. The current bill does not place restrictions upon ownership, with the exception of the type of ownership. Off-island owners are eligible for permits, though they must have either an onsite manager responsible for all guest actions or use a licensed real estate agent. For Maui resident owners, the bill does not require an onsite or professional manager and there has been concern expressed that this provision may result in inadequate oversight of guests if the Maui owner is lax in their management of guest parking, noise, trash, and other actions. There have been suggestions that certain standards be required Maui resident permittees, on-site managers, or licensed Realtor managers, such as that they be reachable 24-hours a day, be required to live in the same community plan district or within 15 miles of the proposed operation.

Other suggestion to address operations include having the house rented to only a single group at a time instead of multiple parties renting individual rooms. Other provisions could be that the guest sign the house policies, having a sign on the property visible from the street with the name of the operation and a contact number, using a three-strikes and you lose your permit provision, and having annual reporting requirements such as annual compliance reports documenting all neighbor complaints and resolution.

There have also been comments that owners may want to hold their property in a limited liability company to manage their business risk. The draft ordinance prohibits this. Revocable living trusts used for estate planning purposes are not explicitly mentioned in the bill, but are a common form of property ownership. The Department currently recognizes revocable living trusts as an acceptable means of ownership when the trustee is the owner. There have also been comments that there should be preferential treatment for Maui residents to gain the most economic benefits from short term rental alternative accommodations.

The Department recommends that any of the above noted methods of management are acceptable, but that the manager be available 24-hours a day, that if a license Realtor is used, that he/she have an office or reside in the community plan district or within 15 miles of the short term rental home. In terms of operations, the Department recommends that each dwelling permitted as the short-term rental be required to rent to one group at a time. A provision stating that evidence of ownership in the form of a warranty deed recorded with the Bureau of Conveyances may add some clarity to the bill.

2. Location. There has been much discussion about where short-term rental homes are appropriate. Under the bill there are two provisions to address this: the 500' foot

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

neighbor protest provision and the automatic review of all applications for operations within 500 feet from another permitted operation. Under the draft bill, if 30% or more of owners located within 500' of the property boundaries file a protest within 45 days for the notice of application, then the application is reviewed by Maui Planning Commission (all initial applications are reviewed on Lanai and Molokai). In the case of bed and breakfast applications on Maui, as of May 19, 2011, there has been one application which has met this trigger since the Department began processing application in the spring of 2009.

The Department supports the current provision of Maui Planning Commission review of all applications located within 500 feet from the boundaries of another permitted operation. The Department recognizes, however, that a potentially large number of unpermitted operations would not be counted with this provision.

The Department also recommends that properties located in resort areas as designated by the County Council be an outright permitted use.

3. Occupancy and parking. The maximum occupancy is 2 persons per bedroom. One parking stall is required for each bedroom.

The Department recommends that a provision for the home to be rented to one rental party at a time and that two parking spaces be required. The law also needs to specify that the home be permitted for all bedrooms in the house. For example, a six-bedroom home could not receive a permit for three bedrooms. Moreover, a six bedroom home would reach the maximum number and could not have an ohana also permitted.

4. Triggers for Planning Commission review of initial application. The Department finds that the absentee nature of the owner for these operations is a primary concern over that of bed and breakfast operations. On Lanai and Molokai, the draft ordinance states that all initial permits be reviewed by the respective planning commissions. In the Hana Community Plan region, all applications with more than three bedrooms require a public hearing before the Maui Planning Commission. A more streamlined process would be to keep only the triggers in the draft ordinance. Additional triggers could be added as well.

The planning commissions could consider the following additional triggers:

- Applications where two or more protests are received during the neighbor notification process from owners or lessees located adjacent to or directly across the street from the proposed rental.
- That the Planning Director could request that the Planning Commission review the application in accordance with complaints received or some other substantive reason.

5. Renewals. Renewals allow the Department to evaluate the effect of the operation on the surrounding neighborhood. The time period of the initial permits and subsequent renewals has been a topic of much discussion. Conditional permits are often issued for one-year initial periods, but not always. Under the draft ordinance, initial permits can be

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

issued for up to 3 years and shorter periods can be issued to mitigate impacts. The department supports this provision because permit operations with more uncertainty can be issued for less than three years.

No permit shall be renewed if the operation has created adverse impacts on the neighborhood or has otherwise caused the loss of the character of that neighborhood. The Department is working on additional clarification provisions for this section of the ordinance. Neighbor notification is not required under the draft ordinance, but could be required as a result of complaints or where otherwise desirable.

6. Triggers for Planning Commission review of renewal application The Department recommends the following two neighbor input triggers for renewals where planning commission review is desirable:

- Applications where two or more protests from notified owners or lessees on a lot adjacent or directly across the street to the operation were received during the neighbor notification process.
- Applications where more than twenty percent of notified owners or lessees within 500 feet of the operation file written protests during the neighbor notification process.

7. Neighbor notification. Similar to bed and breakfast permits, a notice of filing is required to be sent to all property owners located within 500 feet from the boundaries of the lot in which the operation is proposed when they file their initial application. The notice shall state that a written protest may be filed within 45 days of the mailing of the notice. The bill states that only owners and lessees of record may file a protest. There has been concern expressed that the bill does not include long term renters in the protest clause.

8. Neighborhood character and input. For administrative approvals, the bill states that no home shall create any impact greater than existing and shall conform to the character of the neighborhood. The Department is working on language to clarify this section of the law. The required notification will solicit input from nearby property owners.

9. Building permit standards. The Department supports the bill's provision stating that "building standards shall be no greater than those in effect at the time of the building permit for the structure was obtained." As suggested by the Department of Public Works, proposed IBC standards for short-term rentals will be reviewed. The Department notes that the bill attempts to reduce speculation by requiring that the homes be fully constructed prior to applying for a permit.

10. Lands in the agricultural district. There has been concern expressed about short-term rental home use on properties located in the agricultural district. HRS 205 lists agriculture as a primary activity for properties within this district. Department of Planning rules today require a farm plan (Exhibits 3 and 3a) which must be implemented when a second farm dwelling is constructed or when applying for a bed and breakfast

Maui Planning Commission
 Lanai Planning Commission
 Molokai Planning Commission
 Hana Advisory Committee
 May 25, 2011

operation permit. Under the proposed ordinance for Maui and Lanai, an implemented farm plan and approval of a land use commission special use permit will be required to satisfy Hawaii State law

In the proposed bill, Molokai properties located in the agricultural district are not eligible for short-term rental home operations. Maui and Lanai have specific criteria similar to that required of Bed and Breakfast operations. While agri-tourism is a growing niche industry Maui County has yet to adopt an ordinance promoting agri-tourism on ag lands.

It has also been noted that the county has very few ways of requiring farming and allowing short-term rental operations could increase farming. Though not explicitly stated in the bill, the respective Commissions may consider the county general and community plan policies when reviewing land use commission special use permits.

11. Community Plan District Caps. There are no caps for permits on Molokai and Lanai. All initial permits are reviewed by the respective Planning Commissions. The Department recognizes that short-term rentals reduce housing for local residents (see Exhibit 19). While 23.4 percent of Maui's housing inventory is left vacant during part of the year (see Exhibit 22), not all short-term rentals will come from this segment of the market. The Department recognizes that permit applications will come from homes currently in the long term housing market. It will be important to limit the number of short-term rentals due to this. As such, the Department recommends that the caps be reduced in half for short-term rentals and include a provision for a review of the caps by the County Council when three of the six Maui Community Plan District caps are within 5% of the cap number.

Land Use Forecast Island of Maui, Maui County General Plan 2030 (2008 update)

| | SF Units (2008) | Bill caps | Percentage of SF units | Department recommended caps | Percentage of SF units |
|--|--------------------|------------|---------------------------|-----------------------------------|---------------------------|
| Hana | 877 | 48 | 5.5% | 24 | 2.7% |
| Kihei-Makena | 6,402 | 100 | 1.6% | 50 | 0.8% |
| Makawao- Pukalani- Kula | 8,894 | 40 | 0.45% | 20 | 0.22% |
| Pa`ia-Ha`iku | 4,716 | 88 | 1.87% | 44 | 0.93% |
| Wailuku- Kahului | 11,916 | 36 | 0.30% | 18 | 0.15% |
| West Maui | 4,323 | 88 | 2.04% | 44 | 1.02% |

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

12. Tax category. The Department defers the tax category to the County Council Budget Committee. The Department also recognizes that bed and breakfast operations should receive benefits over short-term rentals and finds that the tax policy may be one way to address that.

13. Enforcement. There are two areas of enforcement that need to be addressed. The first is bringing unpermitted short term rentals into compliance. Upon adoption of the ordinance it will be important to educate and encourage unpermitted operations to apply for permits. A streamlined simple permit system is a voluntary incentive for current operators to apply for permits, while a strong enforcement program augments this by creating non-voluntary compliance. A combination of both is optimum.

The Department is working on language for the bill establishing standards and guidelines for issuing warnings and violations. A provision in the draft ordinance having violation appealed to the respective planning commissions is recommended. The Planning Commissions have the knowledge and training to evaluate appeals of violations.

COMMUNITY INPUT

As of May 17, the Department has met with the Kula and Haiku Community Association Board of Directors. Meetings with the Haiku Community Association General membership and additional community groups have been scheduled.

Kula Community Association Board Meeting May 3, 2011. Board members stated support for the current B&B law, but recommended more overview for short-term rental homes. They suggested automatic Planning Commission review for initial applications of three or more bedrooms, and that initial permits be granted for one-year and neighbor notice for renewals. A neighbor protest during this renewal period would send the renewal to the Planning Commission for review. Board members also expressed the desire for this bill to benefit Maui residents with provisions such as requiring property ownership for a minimum number of years prior to being allowed to apply for a permit or through tax policies favorable to current residents. They also supported a three-strikes and you're out policy where three Maui Police citations for noise would result in automatic revocation of the permit. In terms of agriculturally zoned lands, there was consensus that short term rental operations that promote ag education and grow food are preferable and should be encouraged as part of the State Special Use permit process.

Haiku Community Association Board meeting May 9, 2011. Board members suggested initial permits be granted for one-year with longer renewal periods. Support for neighbor notice for renewals was given and Planning Commission review triggered by more than one protest during this period. They stressed the need to address complaints and suggested a dedicated enforcement position as well as provisions encouraging neighbors and managers to work together. They recommended that professional property managers be used for all operations where the owner is off-island and that managers be located within the Community Plan region for timely responses to

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

neighbor problems. There was support for benefits to Maui residents through better tax rates and there was support for hotel tax rates for non-Maui residents. There was a discussion about creating compliance by making the bill attractive to existing operators while also increasing enforcement. There was an acknowledgement that there can be problems with long-term as well as short-term rentals and well managed operations can create houses with less impacts than long term rentals. There was consensus that a “3-strikes and your out” enforcement policy was needed as well as good tools for the Department and Planning Commission to use to screen out poorly managed operations and specifically operations with a history of negative impacts. They support agri-tourism and see short term rental farming requirements as a way to encourage educational programs and farming. There was agreement with the Paia-Haiku Community plan policy that prohibits rentals on the shoreline, stating that our shorelines have enough pressures on them already.

TESTIMONY

As of May 17, 2011 the Department has received two items of written testimony as shown in Exhibits 23-26. Exhibit 23 is testimony from the Maui Vacation Rental Association. Exhibit 24 is a study of the Economic Impact of Transient Vacation Rentals from 2008 which was commissioned by the Realtors Association of Maui. Exhibit 25 is testimony from residents of Maui Meadows and Exhibit 26 is a map provided by the same residents showing permitted and unpermitted vacation rentals in Maui Meadows.

RECOMMENDATION AND OPTIONS

The Department is recommending approval of the proposed bill with amendments to provide more neighbor input, additional review by the Maui Planning Commission of some applications to strengthen the ability to evaluate and retain neighborhood character as well as prevent noise and other impacts, and to strengthen the enforcement provisions.

RECOMMENDED AMENDMENTS

Relating to ownership and operations

1. That the professional off-site manager has an office or reside in the community plan district or within 15 miles of the short term rental home.
2. That each dwelling permitted as the short-term rental home be required to rent to one group at a time. Two parking stalls onsite shall be provided for each dwelling used for the short-term rental.

Relating to location

3. That properties located in the resort areas as designated by the County Council be an outright permitted use.

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

Planning Commission Triggers

4. That the application shall be processed pursuant to 19.65.050B with public hearing by the Maui Planning Commission for:
 - Applications where two or more protests are received during the neighbor notification process from owners or lessees located adjacent to or directly across the street from the proposed rental.
 - That the Planning Director could request that the Planning Commission review the application in accordance with complaints received or some other substantive reason.

Permit renewals

6. The respective planning commission shall review renewal applications when:
 - Applications where two or more ~~more than one~~ protests from notified owners or lessees on a lot adjacent or directly across the street to the operation were received during the neighbor notification process.
 - Applications where more than twenty percent of notified owners or lessees within 500 feet of the operation file written protests during the neighbor notification process.

Permittees shall, in these instances, provide by certified mail a notice of renewal for the short term rental home permit to owners and lessees who filed protests with the Planning Department.

Permit Caps

8. That there are cap limits on the number of short-term rental homes in each district. The numbers are as follows:
 1. Hana.....24
 2. Kihei-Makena..... 50
 3. Makawao-Pukalani-Kula..... 20
 4. Paia-Haiku.....44
 5. Wailuku-Kahului.....18
 6. West Maui..... .44
9. That the County Council shall review the Community Plan caps when three of the six Maui Community Plan District caps are within 5% of the cap number.

Enforcement

10. That violations issued shall be appealed to the respective planning commission.

The commission has the following options:

Maui Planning Commission
Lanai Planning Commission
Molokai Planning Commission
Hana Advisory Committee
May 25, 2011

1. Recommend approval of the proposed bill to the Maui County Council.
2. Recommend approval of the proposed bill with amendments to the Maui County Council.
3. Recommend denial of the proposed bill to the Maui County Council.
4. Vote to defer action on the proposed bill in order to gather specific additional information.

S:\ALLI\APO\19.65 STRH\Memo Report ws.doc

1 science based and community based thoughts on those numbers.

2 MS. FLAMMER: I understand.

3 COMMISSIONER BALL: And kind of what Penny said,
4 you know, like Kahului and Wailuku -- I understand there's
5 destinations where people, tourists want to go to, yes. But
6 is that a proper representation of the percentage of
7 residential units compared to where they want to stay and
8 people coming in? Anyway, but that's a whole other thing.
9 But with the Wailea community saying, well, we don't really
10 want that many, and yet, they have the highest number. I'm
11 kind of like this number does not fall with what the bodies
12 want.

13 MS. FLAMMER: And Hana is going to face the same
14 thing. If they're restricted to the urban area, it's a much
15 smaller geographic area. We're just making suggestions to
16 you. We want to hear what you have to say.

17 COMMISSIONER BALL: Right. And I'm thinking of
18 the communities. I'm trusting that Hana guys want what they
19 want out there, and they know best.

20 MS. FLAMMER: One thing to keep in mind. I did
21 talk to our long range division about how do we let our
22 communities make their own decisions, can we use the
23 community plan process as a way to do that. And we do have
24 the ability to do that. They are all coming up. I mean if
25 you look at the dates of the existing community plans,

1 they're in the '90s. So, we do have an opportunity then.

2 They can be more restrictive, not less at that
3 time. We can give numbers now and then address them with
4 the community plan if you want later. I mean it will
5 probably happen anyway.

6 COMMISSIONER BALL: Well, I understand that one
7 person doesn't speak for a whole area either, and neither
8 does one board. But, you know, I was surprised to hear
9 that.

10 MS. FLAMMER: I was, too.

11 CHAIR HIRANAGA: Just a followup comment. I think
12 the Wailea community, if you look at the entire Kihei
13 population, is a small segment. Because it stretches from
14 Mokulele Highway all the way out to Makena. So, Wailea as a
15 resort, the number of home there I don't think is a large,
16 very large unit compared to all the homes in Kihei.

17 COMMISSIONER BALL: Well, I would disagree as far
18 as rentable units.

19 CHAIR HIRANAGA: I'm talking about dwellings,
20 existing dwellings. And one basis might be is to distribute
21 the proposed 400 or 200 STR's based upon existing dwellings
22 by community plan.

23 MS. FLAMMER: That's what I did if you look at it.
24 Oh, oh, I see what you're saying, not compare it to, but use
25 it to come up with the numbers.

1 CHAIR HIRANAGA: You're using the caps that are
2 approved for B&B's. I'm saying --

3 MS. FLAMMER: Well, we're not. That's what the
4 ordinance says.

5 CHAIR HIRANAGA: You could use existing dwellings
6 as the basis for your proration. That way you minimize
7 impacts to community, because I kind of figured it out.
8 It's like a half of percent of existing dwellings per
9 community plan. So, it would be spread out evenly among all
10 the community plan areas.

11 MS. FLAMMER: I think if we had more time, we
12 probably would have changed that.

13 COMMISSIONER BALL: The big picture is less than
14 one percent almost always, I think all of them now, when you
15 cut them in half.

16 CHAIR HIRANAGA: Commissioner Mardfin.

17 COMMISSIONER MARDFIN: I would just like to kind
18 of echo what Gina said about the community plan and the role
19 of the community plans. I've been viewing this as an
20 exercise to regularize short-term rentals, which I think is
21 terribly important. I didn't want to hold them hostage to
22 the community plan development. But I do believe that when
23 the community plans are redone, each community plan
24 hopefully will address this issue and determine what they
25 want for their area. And that since the community plans are

1 adopted by the Council, it would supersede -- in certain
2 aspects, it might supersede whatever we pass at this time
3 for short-term rentals. And I think that's an appropriate
4 way to go.

5 MS. FLAMMER: I did ask our long range division
6 head about that. And he said once the community plans are
7 adopted, you can go in and make the amendments you need in
8 them. The Department would need to initiate that, but --

9 CHAIR HIRANAGA: So, any proposed amendments for
10 O, P or Q? Commissioner Wakida.

11 COMMISSIONER WAKIDA: So, we're going with, for
12 now with the suggested amendment, right?

13 CHAIR HIRANAGA: You have to make a motion to that
14 effect.

15 COMMISSIONER WAKIDA: I would like -- I'm not
16 entirely happy with it, because I think it's a little
17 arbitrary. I mean the B&B numbers are the same, but as you
18 say, those could be massaged later on. So, I would like to
19 at least make a motion to go with the recommendation.

20 COMMISSIONER MARDFIN: That's not necessary.
21 That's already part of the main motion. Remember we
22 incorporated these in the main motion. We don't need to do
23 it. The numbers 24, 50 and so forth are in the main motion,
24 because the main motion accepted the recommendations of the
25 Department.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

September 12, 2011

Low-ticket items are, are still moving. But anyway, I just wanted to shed light a little bit on that, that I have sort of a different take on whether a business is, is, you know, failing or thriving, and mine seems to be doing quite well, and we have very nice signage up above to state exactly what we have too, so that's good.

CHAIR COUCH: Thank you, Ms. Cochran. And lunch will be on you tomorrow, is that right?

COUNCIL MEMBERS: . . . *(Laughter)* . . .

CHAIR COUCH: I, I do have one question for Mr. Laub, then I'll get to Ms. Baisa. You mentioned something about a definition of windows, do you have that in writing and can you give that to the Staff --

MR. LAUB: Yes, sir.

CHAIR COUCH: --please? Thank you. Ms. Baisa.

VICE-CHAIR BAISA: Thank you very much, Chair. Great minds, that was my question.

CHAIR COUCH: Oh, okay. All right. Anybody else for Mr. Laub? Thank you, Mr. Laub.

MR. LAUB: Thank you very kindly.

CHAIR COUCH: Next is Elaine Wender followed by Doug Allan.

MS. WENDER: Good afternoon. My name is Elaine Wender. I urge you to protect the integrity of our zoning laws and plans and the interests of the vast majority of residents who acquired ag land with the expectation that their neighborhoods would continue to be agricultural and not turned into resorts. The initial rationale for allowing B&Bs outside of resort areas was that it would allow local families who had a vacant room in their house because they were empty nesters to supplement their income by renting a bedroom to tourists. But when the 1997 law was revised in 2008, very late in the game, the definition of a B&B was greatly expanded to include what was previously considered a transient vacation rental or TVR. That is an additional structure on the same parcel which is not owner occupied. Since the definition of a B&B has been expanded to include what used to be a TVR, there's really no need for this new legislation. The new bill provides an economic benefit not to local families but to those who wrote it, persons wealthy enough to own investment property. The encroachment of what are really small hotels into the Ag District conflicts directly with the many existing State and County laws protecting ag. The Hana Community Plan clearly states.

PLANNING COMMITTEE MINUTES

Council of the County of Maui

September 12, 2011

"Discourage transient rental accommodation uses outside the Hana urban area." The Hana Advisory Committee to the Maui Planning Commission on June 7th unanimously recommended allowing short-term rentals only in the Hana Urban District. All members of the Hana Advisory Committee expressed extreme concern about the impacts of vacation rentals on the unique nature of Hana. They were also alarmed by the disproportionate burden that even the reduced caps would have on Hana, 24 permits or 2.7 percent of single-family dwellings, which is almost 3 times higher than the next highest area and 12 times as high as the lowest. The Department of Finance commented that, "The number of short-term rentals per area is not fair. For example, Paia, Haiku, and Hana will lose the most housing available to residents. This loss is magnified by the fact that Paia, Haiku, and Hana have the lowest number of owner occupied and affordable homes." If you choose to advance this bill, I suggest some amendments. First, first, exempt the Hana District or at least the ag lands as recommended by the Hana Advisory Committee. Lower the Hana cap to be equivalent to other communities. If you decide to allow rentals on ag land in Hana, I implore you to exempt the Moku of Koolau from Oopuola to Makapipi, or at the very least the community of Keanae Wailuanui. Please don't force farmers to fight these one by one. Keanae Wailuanui is still a viable Hawaiian agricultural community, celebrated for its unique cultural landscape in the Planning Department's 1995 study. The incursion of vacation rentals could quickly change the nature of the community and its cultural landscape. If allowed on ag land, require that the gross income from farming on the parcel exceeds the projected gross income from short-term rentals. Require submittal of tax returns of all owners with the application --

CHAIR COUCH: One minute.

MS. WENDER: --and yearly after grant...permit to verify. This would limit permits to those with legitimate established farms. Grant permits only to full-time Maui residents. Tax the entire property on which the rental is situated at hotel rates. Tourists do not pay to rent only the room, they access the entire property. Prohibit anyone holding a B&B permit from obtaining an STRH permit for that or any other parcel. Spread the wealth. Require all owners of the parcel to sign the application as is required on the farm plan application. Avoid a situation where one spouse or land partner holds a permit for one parcel and the other spouse or land partner holds a permit for a different parcel. If you do not require this, mandate that personal notice of the application be given to all co-tenants. As now written, non-resident co-tenants will have no notice of the application. Prohibit anyone who has operated an illegal vacation rental from obtaining a permit or at a minimum prohibit them for applying for a permit for at least two years after the law comes into effect.

CHAIR COUCH: Ms. Wender, your four minutes are up.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 3, 2011

in one of the meetings with Member Carroll, they're saying that cap is too low, it'll negatively hurt the existing operations and shut them down. So I'm just trying to figure out where a balance is here, and what voices are really truly representative.

MR. BLUMER-BUELL: Well it's, it's...I will answer that. This is, this is totally out of balance at this point. This issue was thoroughly vetted before the, the review of the Hana Community Plan in 1993. I was there. This went...our community plan went through our group of community members with the support of this County. It passed the Maui...it came through the Hana Advisory Committee which I was on at that time. It came through the Planning Commission. It was passed by the County Council. So I'm saying that, that process in 1994 which is an ordinance and is the law has more weight than people standing up that are breaking the law and saying you can't live without us, and I believe it's totally out of balance. The figures that I see are, are just not believable. I would like to see some accurate numbers of...I mean I give an example, on Hana Bay we have 12 illegal vacation rentals, 12 right in a row, and, you know, they're all, they're all illegal, unpermitted. They've taken housing away from the local community. There's no question about it. There's been a big impact on the environment out there. It's never been looked at. It's all in my letter, and the thing that's so sad to me is it is really not in the nature of the Hana community to be complaining. People don't complain against their neighbors. Ed Cashman, who's on the Hana Advisory Committee, was nearly in tears about the whole thing. I mean he actually ended up complaining. His neighborhood of Haneoo has been overrun to a point where he is beside himself. That is really sad. And in, in that particular instance, Haneoo, there's a B&B that got approved out there because of the system. There was...although I know of dozens of people that object to that specific one, nobody could qualify to complain because of a, an unrealistic way of permitting these things.

COUNCILMEMBER COCHRAN: Thank you, John.

MR. BLUMER-BUELL: So I think, I think it's, it's worse in this. You need to go back and get the B&B right for Hana. At least I'm all for letting the other communities...if Haiku's happy with the B&B situation, the caps, that's fine with me. But Hana's not happy with this, and that's not fine.

CHAIR COUCH: Thank you, Mr. Blumer-Buell.

MR. BLUMER-BUELL: Thank you.

COUNCILMEMBER COCHRAN: Thank you, John.

CHAIR COUCH: Ms. Baisa.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 31, 2011

permit. I know it's a civil thing and it's something to do with that subdivision or area. Thoughts? Yeah. Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Yeah, I'll come back to the community plans. You know, some community plans indicate that no short-term rentals.

CHAIR COUCH: But that's community plan.

COUNCILMEMBER PONTANILLA: Yeah. So now CC&Rs.

CHAIR COUCH: We're talking CC&Rs which is a civil...it's a covenant between a group of homeowners saying, "If you buy in here, you agree to these terms". The question is do we want them to be just completely over...I mean the Department not to look at them that which is what this says? Or do we want to just say, "Hey look, to prevent all kinds of weird civil actions, we're trying to be proactive." I don't know, this is a tough one. Mr. --

COUNCILMEMBER PONTANILLA: One more question for --

CHAIR COUCH: --yeah.

COUNCILMEMBER PONTANILLA: --maybe Corporation Counsel. Has anybody challenged us on the community plans?

MR. HOPPER: On, on the community plans or on CC&Rs?

COUNCILMEMBER PONTANILLA: Community plans where we say, "no short-term rentals or B&Bs".

MR. HOPPER: Maybe Planning has a bit more information on that, but I, I think this was in here. This was carried over from the B&B bill and I think the idea was because these are private covenants that, that the Department, the Department can't enforce CC&Rs, it's also not bound by CC&Rs, it's bound by the zoning laws of, of the County. So it could grant a B&B or, or a short-term rental home permit even if CC&Rs prohibit something and that would not violate County law, but the...if that person who would be...the, the homeowner would be responsible for compliance with the CC&Rs. If that person went and illegally ran a TVR, they'd be subject to enforcement by that homeowner's association. I think what this was probably to avoid was if the County considered the CC&Rs and somehow misinterpreted them. Like let's say it wasn't clear saying, "No short-term rental homes or TVRs", it just said, "no commercial uses" or something like that; and the homeowner would say, "Oh it's...this is not commercial use" and their association would say, "It is" or something and I wouldn't want someone to claim the County reviewed these CC&Rs and interpreted it in a manner that, you

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 31, 2011

COUNCILMEMBER VICTORINO: Existing community plan.

CHAIR COUCH: Existing community plan.

COUNCILMEMBER VICTORINO: Gotta be specific, yeah?

CHAIR COUCH: Right. Well what if the existing community plan says, "no short-term rentals"?

COUNCILMEMBER VICTORINO: No short-term rentals. Hey, I don't know, I mean why do we make...

CHAIR COUCH: Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. You know, you talk about Maui Meadows. When you look at Kihei --

CHAIR COUCH: Yeah.

COUNCILMEMBER PONTANILLA: --they have 100, right?

CHAIR COUCH: Yeah.

COUNCILMEMBER PONTANILLA: So it doesn't differentiate where that 100 is gonna go. So I, I, I don't know. Maybe the Planning Department can give us some information. This 100, can we limit it to X amount to different areas, South Maui?

CHAIR COUCH: Yeah, Planning Department, also take into consideration when you're...when you answer this question is that the 500-foot limit, you know, between each TVR might...or STR might kinda help with that, right? If you can comment on Mr. Pontanilla's concerns.

COUNCILMEMBER PONTANILLA: Before you answer, what, what are the average lot sizes?

MR. SPENCE: Well lot sizes gonna vary from, you know, area to area, subdivision to subdivision, whether it's zoned, you know, R-3 or Rural or R-1 or and in some cases it may go down, you know, slightly smaller.

COUNCILMEMBER PONTANILLA: So if we say like Maui Meadows, 550 may not reach another home.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 31, 2011

COUNCILMEMBER VICTORINO: You have to work on that one.

MR. SPENCE: --next. I'm wondering if we shouldn't expand on that.

CHAIR COUCH: Okay.

MR. SPENCE: 'Cause it is...that is really vague. And --

VICE-CHAIR BAISA: That's, that's...

MR. SPENCE: --probably what I'd like to do is say, you know, no greater than the existing, the character of the neighborhood and describe such as, but not limited to these things.

CHAIR COUCH: Okay. And, Mr. Hopper, you had a comment there?

MR. HOPPER: Just that there should be a section setting forth the criteria for approval or denial that the applicant needs to show. This language was...has been carried over from the original B&B permit, which started from somebody actually living in the same house as somebody else and then had been expanded. So while we're looking at short-term rental homes here, this criteria might not be the, the most accurate criteria to use. So I think there should probably be a clear list of criteria. I think the community plan is one thing that's always a, a handy reference and would probably apply anyway because these are discretionary permits. But to come up with a list that the, I think the Department's already worked on it, of criteria that they will review. Because if, if there's a denial of a permit, it should be based on a clear criteria where the applicant can see the Department's evaluations said that the permit fell short because it did not meet certain criteria. But broad language may have been appropriate for the 1997 version, but, you know, the more specific criteria the better. I, I, I, in my opinion it's just easier to defend.

CHAIR COUCH: Thank you, Mr. Hopper, and that's exactly what, what I was concerned about is some...this is a bit too broad a language. Without any objection, Members, I'd like to have the Department work with Corporation Counsel on that language, understanding the conversation we've had today on that. And if we're okay with that, then we are getting to the point where we're...the air conditioning is gonna go off and the building's gonna close down. So without objection, I'd like to adjourn this meeting. If anybody has any comments --

MR. SPENCE: Mr. Chairman?

PLANNING COMMITTEE MINUTES
Council of the County of Maui

November 28, 2011

their visiting families. As I say, we...those people in turn, the ones who've stayed there, contribute to the economy of the local community: they buy at Fong Store, they get their gas from Mrs. Ching --

CHAIR COUCH: One minute.

MR. BANE: --they eat their meals at Grandma's. All I can say is it works, it really does work if you just give it a chance. And in our case, we couldn't ask for a better setting than what we have.

CHAIR COUCH: Thank you, Mr. Bane. Members, any questions for Mr. Bane? Ms. Baisa.

VICE-CHAIR BAISA: Yes, thank you, Chair, and thank you, Ray, for being here this afternoon. Just a question, the setting that you're in of course is rather rural --

MR. BANE: Yes.

VICE-CHAIR BAISA: --but you have a lot of experience, you've been in this business for a long time.

MR. BANE: Uh-huh.

VICE-CHAIR BAISA: Have you had a lot of trouble with loud, noisy, you know, raucous visitors?

MR. BANE: Yes.

VICE-CHAIR BAISA: You have?

MR. BANE: Yes. I've had...probably twice in the last ten years where that's actually happened. And I have...whenever people when they're talking sometimes talk loudly in the evenings. And that I, I go down and say, "Please, you know, we, we, we have neighbors. We want to make sure that we don't disturb them." And I've only had probably in ten years, I've had one case where essentially I had to tell the people, "You're not coming back." And that was supported by the owners. But 99.99 percent of the time, our guests are really nice people.

VICE-CHAIR BAISA: Okay, thank you very much. I was just curious 'cause I know you have quite a bit of experience, thank you.

MR. BANE: Yes, thank you.

CHAIR COUCH: Members, any further questions? Seeing none, thank you, Mr. Bane. John Blumer-Buell followed by Kay Ghean.

MR. BLUMER-BUELL: Aloha, Chair Couch and Committee Members. My name's John Blumer-Buell and I've come over today from Hana. I have not attended the last two

PLANNING COMMITTEE MINUTES
Council of the County of Maui

November 28, 2011

meetings of your Committee hoping you would study the public testimony and evidence and conclude the current draft bill should be filed. Unfortunately you now are moving to protect the investments of wealthy, offshore owners and real estate speculators instead of protecting the zoning entitlements and ownership interest of our residents, neighbors, and communities. You're even proposing the Maui County Council give up its legislative powers and responsibilities to an administration that has never enforced zoning regulations and restrictions regarding transient vacation rentals. Additionally, in the Hana Community Plan District, you have generally ignored the wishes of the community including the cap issues. Instead you appear to be listening to a number of very vocal, short-term residents who run illegal, transient vacation rentals and illegal businesses. Did you not care about the State of Hawaii Constitution, Hawaii State laws, County of Maui laws, the Maui General Plan or community plans? As I stated last October 3rd, the current draft bill should not be approved in any form. First, the Council needs to revisit the Bed & Breakfast legislation as you promised to work out issues that are not working for our neighborhoods and communities. Those issues include the complete lack of enforcement, complete lack of enforcement in Hana for 20 years and lack of due, due democratic process for individuals, neighborhoods, and communities. And that's a real flaw in the B&B bill as well, there's no real due process for the neighbors. The title of Maui News Viewpoint in yesterday's edition is, "County is doing what Maui Vacation Rental Association wanted" by Susan Luten. Did you know the County won the lawsuit brought by the Maui Vacation Rental Association? So why does this Committee continue to give into the self-serving demands of the MVRA and engage the MVRA lobbyist as a consultant in this process? Perhaps this is an issue of transparency and accountability for the State Campaign Spending Commission. I want to publicly thank Tom and Susan Luten for all their credible and comprehensive reports which we got in Hana—as I'm a member of the Hana Advisory Committee—their contributions, suggestions in addressing the transient vacation rental issues. I also want to thank the residents from Maui Meadows, Wailea, Spreckelsville, Makawao, East Maui, Paia --

CHAIR COUCH: One minute.

MR. BLUMER-BUELL: --Kula—thank you—and other communities who have attended meetings and contributed suggestions through their testimony and community plans. It appears you have not taken the time to read or choose to ignore my eight-page submission to you dated October 3rd and my four-page testimony dated October 17th with the 31-page attachment, County of Maui Memorandum in Opposition to Plaintiff's Motion for Preliminary Injunction. Please take the time to read the memorandum in defense of the County of Maui, mahalo.

CHAIR COUCH: Thank you, Mr. Blumer-Buell. Members, any questions for the testifier? Seeing none, thank you, Mr. Blumer-Buell. Kay Ghean followed by James Carolan.

MS. GHEAN: Good afternoon, Council members. And I have trouble saying this with a straight face, Mr. Couch, but Chair Couch. I'm sure you've heard it before.

CHAIR COUCH: Yes, thank you.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

January 9, 2012

wouldn't advise against that saying that...I wouldn't advise you to do that, because it would prohibit the application from even be considered based on a private agreement from, from other parties. I, I'd advise against that generally.

CHAIR COUCH: Okay. Again if we put it in there where it says this letter may be used to assist in determining the character of the neighborhood and we say that the character of the neighborhood shall not be...the short-term rental shall conform to the character of the existing neighborhood. And you get a letter that says the CC&Rs prohibit it and they show you that yes the CC&R, CC&Rs prohibit it, you can accept the application but then you can deny the permit based on that, can you not? Mr. Spence.

MR. SPENCE: I would say we could deny a permit, it...not exclusively on that, but, you know, in taking into consider all of the other characteristics. The thing about permit applications is they're so individual, the circumstances of each are, are different from, you know, block to block, from neighborhood to neighborhood. This, this would certainly be one of the things we would take into consideration.

CHAIR COUCH: Let me ask you then. This is all part of N. N., it says short-term rental homes shall conform to the character of the existing neighborhood in which they are situated. Prior to issuing a permit, the Department or applicable Planning Commission shall consider the following, and then we have this language that we're talking about. We also have language that says existing land use entitlement and uses, applicable community plan, community input, and potential adverse impacts. So you get the letter, you may get a comment from other members in that neighborhood, so that, that ticks off two different things right there. I guess it's going to be this...at least my recommendation that the Department strongly consider, it may not be shall but strongly consider testing this, and, you know, if you deny a permit based on the CC&Rs and somebody takes it to the BVA or takes it to court, that's where it's going to have to be held, held up or not in my opinion. Department.

MR. SPENCE: Yeah. There, there...Mr. Chairman, there will be cases. I am saying that it's so individualized, but there will be cases in which that letter from the homeowners association comes across so strongly and their CC&Rs are so specific that, you know, we may go okay, there's no way this can fit within this neighborhood.

CHAIR COUCH: Okay. That's, that's what I wanted to hear.

MR. SPENCE: Yes. And there will be other times that...

CHAIR COUCH: Oh, of course there'll be other times where it's grey area and that's...then that falls back onto the neighborhood association unfortunately.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

January 30, 2012

CHAIR COUCH: Members, correct me or Ms. Baisa correct me if I'm wrong he did say they, they got to that number from looking at VRBO which isn't all of the --

VICE-CHAIR BAISA: Well, I had asked him if he could split these numbers between the two community plans and he said they would do more work and get back to us. So if we wanna correct Haiku, we can correct Haiku, but we might wanna also correct something else based on the information they give us. So you wanna do a one-time job or we wanna do now and do it again, I mean, you know, I'll play which, whichever you wanna go. I do think that we need a higher cap in this area because I do not want to affect businesses that are in operation that are not causing problems. I do want to affect those that are causing problems and they need to be taken care of right of way. Thank you.

CHAIR COUCH: Right. Members? Mr. Mateo.

COUNCILMEMBER MATEO: Chairman, Chairman, a question for the Department and, and perhaps Corp. Counsel can help clarify. If, if we go with the numbers that are, are listed or, or shown in the bill right, and then next planning stage will become the planning--the community plans will be discussed. If a community per se Makawao-Haiku say that we support short-term rentals, this is what our community wants. We think we should have 200, you know, recognized in our community plan district. Because the community's saying this, what kind of impact does it have here in the law? Would the Department come forward and submit something to the body saying we should consider an increase in the numbers because?

MR. SPENCE: Mr. Chairman and Chair Mateo, if the community--as we're processing the community plans and updating those, if a community comes out and says, yes, we like, you know, this is a good thing, we would take that into consideration as well as, you know, as, as we approach these caps, you know, and kinda gauge how, how these things should be handled. And we would bring a bill back to this Committee and to the Council to raise them or lower them or however, whatever the case may be. Yes, we would be responsive to what the community plans talk about with us.

COUNCILMEMBER MATEO: Okay, thank you very much.

CHAIR COUCH: Mr. Hopper.

MR. HOPPER: Just to add to that Mr. Chair, this is an area because of language in the approval, in the permit approval and, and the factors to be considered where the applicable community plan actually is a factor to be considered in approving or denying. So in addition to an ordinance being amended which should happen if

PLANNING COMMITTEE MINUTES
Council of the County of Maui

January 30, 2012

the plan dictates that I think in considering approval or denial of a permit one could look at the community plan directly and then apply that to the permit without even necessarily waiting for an ordinance although an ordinance to amend the caps if that's specified should be something that's undertaken if again, that's something in the community plan that is, you know, if it says amend the caps to, you know, reduce the number, increase the number, what have you.

COUNCILMEMBER MATEO: Okay, thank you. Mr. Chairman, I, I feel the same way as Mr. Pontanilla. I think a 150 is, is a kinda high number. All these, all these weeks what we've been looking at was the numbers in the ordinance. I, I just have a little concern about us changing the numbers at this point when community groups have not really seen the numbers, discussed the numbers as the group, you know, as, as Mr. Stone had indicated, they haven't even seen this until just recently. So at this point, I would be a little uncomfortable to change numbers and comfortable to the, to the point that if a community says they want to either increase or decrease they have that option through the community plan process and via the Department providing an amendment to the ordinance. So, I'm, I'm comfortable with that. Thank you, Mr. Chairman.

CHAIR COUCH: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Yeah, I actually have the same sentiment as Mr. Pontanilla and Mr. Mateo so to the Department that 150, yeah, 150 count are you folks comfortable with that? Gina, it looks like you've done a lot of research in the numbers and percentages just off the cuff at this point?

MR. SPENCE: Okay, I think we would be comfortable with a 150 just because that, you know, in the past has shown that, you know, that's a primary economic engine on the North Shore. I defer to the Committee, but you know, we're gonna find out really quick I think if, if this is workable thing or not.

COUNCILMEMBER COCHRAN: Thank you, Director. Thank you, Chair.

CHAIR COUCH: And Members, before--I'll get back to you in just a second. My--Chair's thoughts on this is that if, if there's gonna be one district that's gonna flood us with applications, it's gonna be the North Shore. My concern is that if we have the number too low they're gonna be back here within, within that whatever period that we're gonna have if we have one and we're gonna be hearing from them real quick. So if we tweaked it up a little bit at least, a 150 maybe too high, if we--common, just common ground there that might not be a -- it might be a good buffer for us and, and the Department can take a look and say, oh, my gosh in, in a month we've got a 100 applications already. We may need to bump the number up or, you know, we only got 80 and we're seem to be evening

PLANNING COMMITTEE MINUTES

Council of the County of Maui

January 30, 2012

out. So would--obviously it, it looks like 150 seems to be a little bit too high for most of the members. Would another number better or stick to 88?

COUNCILMEMBER PONTANILLA: Chairman?

CHAIR COUCH: Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Yeah, just a quick one. We gonna be adding one more item in regards to when the cap reach 10 percent or before reaching the cap at, at 10 percent they will come back to the Council to, to relook. We don't know how fast that 88 is gonna go.

CHAIR COUCH: Right.

COUNCILMEMBER PONTANILLA: Okay. The other thing too is that on the existing community plans that we have, do we have like cap numbers for each of the districts or, or what do they say about TVRs as well as B&Bs for their community?

CHAIR COUCH: Mr. Spence.

MR. SPENCE: To answer Councilmember Pontanilla's question. The community plans don't have caps in them. I think that's a little specific and sort of treads into the decision, you know, to the legislative body's jurisdiction. What they do and some of the community plans are absolutely silent on vacation rentals and B&Bs, some are much more specific, say Paia-Haiku it just, it just says not on the shoreline to, you know, keep from overusing shoreline resources, the Hana Community Plan, none...but none of them are so specific that they put a cap. They more give qualifications on what could be approved or what couldn't be approved. And we take those things into consideration when any application is submitted to us. We look at how the bed and breakfasts or the vacation rental is situated and then we evaluate the application according to--well, I should say the community plan is one of the things that we take into consideration when evaluating the application.

COUNCILMEMBER PONTANILLA: Okay, yeah. Because the ones that we see require a State Special Use Permit as well as a Conditional Permit.

MR. SPENCE: Sure, it's, it's very similar in that respect, but for Special Use Permits or Conditional Permits or changes in zoning for that matter, we, we consider all the aspects of the community plans.

COUNCILMEMBER PONTANILLA: Okay.

CHAIR COUCH: Okay, Ms. Flammer.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

January 30, 2012

MS. FLAMMER: I do have a listing in the staff report that went to the Planning Commission that's in your binder that lists out all the community plan's policies that are applicable to each area. Hana and the North Shore do have some. An example of how we would use them is in the, on the North Shore it recommends not putting them right on the shoreline. So when we've had applications before for Conditional Permits, we will take a look and see if this is a shoreline property and that will affect whether or not we support that application or not.

COUNCILMEMBER PONTANILLA: And, and the reason why I bring it up is that once we approve some kind ordinance, we still gotta deal with the current community plans.

CHAIR COUCH: Okay. Thank you. Mr. Pontanilla, Ms. Baisa, then Mr. White.

VICE-CHAIR BAISA: I defer to Mr. White, thank you.

CHAIR COUCH: Okay, Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. I'd just like to point out again that in Hana we have percentage of units between 5 and 9 percent and all we're looking at doing with the 150 is moving it from 2 to 3 percent to 3 to 5 percent, and I realize that's a, that's a large number, but again, my concern is that even if we take a look at passing something that allows continued operation once somebody has applied, does that mean once 88 have applied that the others are out of luck? You know, it's, it's very easy for us to sit here and say, well, 150 is not right, but at the same time, if that--if a decision to stick with 88 now that we have a very good indication that 150 is the more likely number that are in operation. Is this body comfortable closing down the other 70? And I think that's, that's really the, the critical question because these are, these are not only visitor units that are providing different places for our visitors to go other than, other than into the resorts, but it's providing jobs near home for a lot of people in Haiku, and Makawao, and Paia. So it, this is not something, you know, since this is my area, this is not a decision I take lightly. If I'm putting people out of work in my district by saying 88's the right number, I'm not comfortable with that, Chair, and I would like for the other Members support in this because this is a decision I need to live with more than they do. And in going forward, I'd like to look back at this and say, I didn't put anyone out of work.

CHAIR COUCH: Okay, thank you. Ms. Baisa.

VICE-CHAIR BAISA: Yes, thank you, Chair. If we're going to decide on a number today, then I would err on the side of supporting Member White. And the reason

PLANNING COMMITTEE MINUTES

Council of the County of Maui

January 30, 2012

I would do that is because we're getting testimony from a group of people who I think are very much in touch with what the, you know, these hidden, hidden economic ventures that are happening in our country, in our community, I don't know about how else to refer to them. I don't like the idea of, of some of the negative verbiage that's used, but these are people that are, you know, trying to earn a living and if we can give the higher number, well, that's fine. I'm also, you know, conflicted because I know what we did with the B&Bs. We allowed for a 100, and I think as of today, how many do we have I think we're still in the 50's right or have we exceed that, Ms. Flammer?

MS. FLAMMER: Let me take a look at our latest. I just was looking at Paia-Haiku. Why don't you give me a moment and I'll grab that number?

VICE-CHAIR BAISA: Sure. I think the last time we got a report here it was in the high 50's. So we're nowhere near the cap that we had talked about. And so this similar thing might happen with the short-term rental permits and that might simply be a reason of people getting around to getting, you know, getting and applying and then realizing of all the process they have to go through. So is it going to be immediate that we're going to have all these people coming in. So, I'd like to see at least the 88. If we can give more, maybe a 150 is too high, maybe a 100 more as a compromise but we need to, to, you know, be aware that we really don't have good information other than that the people have come forward who do this and made a recommendation.

CHAIR COUCH: And Members too, it's, it's...this one's gonna be tough because when you talk about the B&B, they don't have in that section, they don't even have the enforcement section that we do have.

VICE-CHAIR BAISA: Correct.

CHAIR COUCH: We now are gonna be really tough on the enforcement so therefore that's more incentive to get people to actually come out of the woodworks and apply.

VICE-CHAIR BAISA: Will they?

CHAIR COUCH: So my, my --hopefully yes. So my thought too was to kinda give us a little wiggle room there especially supporting the Member of the district that has talked to his folks and whatnot. So, Mr. Pontanilla, you have --

COUNCILMEMBER PONTANILLA: Yeah, thank you. You know, and, and, you know, I too, don't wanna have anybody unemployed but I think when we, you know, provided the 10 percent criteria, it, it would give us an opportunity to

PLANNING COMMITTEE MINUTES
Council of the County of Maui

January 30, 2012

increase it at the time. You know, 10 percent of 88 is what 8.8 so once we hit that level, then we can also increase at that time. Thanks.

CHAIR COUCH: And Members too, one of the things is there's a difference between applications and actual permits. So if we get a 150 permits it's still, they--a 150 applications, they still have to go through the process so there's gonna be some time if we see, oh, oh, you know, 100--88 is nowhere near enough then we can do that before the permits get actually processed. Hopefully it won't take very long to process the permits, but again, I'd be willing to support the Member of the district or a number around between a 100 and 125 if, if, if that doesn't get as much support. Any thoughts? The first number was a 150. I could do a motion for 150 or --

COUNCILMEMBER WHITE: Chair, if, if you'd like to hold off and wait for the, the information that Mr. Stone --

CHAIR COUCH: I'm fine with that if we can get some information.

COUNCILMEMBER WHITE: --I'm fine with that.

CHAIR COUCH: If we can get some more information if the testifier and, and maybe the organization can come up with some information for us. That's fine with me as well. Okay, so we gonna kinda take a look at that number when it comes up. Now, --

COUNCILMEMBER COCHRAN: Wait, sorry, excuse me, Chair?

CHAIR COUCH: Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: I think, you know how to...the answer to the B&B question yeah or no?

MS. FLAMMER: It's a little--it's, it's in the mid-50's. You have a good memory.

COUNCILMEMBER COCHRAN: Okay.

CHAIR COUCH: Okay, any other comments from the Members or the Department as far as things to add and subtract before we get to some of the big ones? And before we do that then, I'd like to take our afternoon break. Members, how does 3:20 look? Is that okay for everybody? Alright so we're gonna be in recess until 3:20. . .(gavel). . .

RECESS: 3:07 p.m.

PLANNING COMMITTEE MINUTES

Council of the County of Maui

February 27, 2012

too, because now I understand...well as a matter fact I recognize some...Brian Perry. There's...they have a real shortage of reporters and there's so much going on that they can't often...they don't often cover these. So in fairness, you really have to say the Council has had a lot of exposure, and that's not criticizing you in any way whatsoever, but to let you know the process has been a long, ongoing process. So that's my...those are my questions. Can we see the "Hopper Amendment" and can you do...can the staff be asked at some point to go through a scenario with a new application and with an application from someone who is currently operating an illegal. Thank you very much.

CHAIR COUCH: Thank you, Ms. Schaefer. Members, any questions to the testifier? Seeing none, thank you, Ms. Schaefer. Jim Smith, and, Members, Jim Smith is the last person to sign up to testify. If anybody else wants to testify, go on back and sign up and then come on up when Mr. Smith is done.

MR. SMITH: Chairperson Couch, Members of the Planning Commission [*sic*], this is so right, the tension between individual power, entrepreneurship, and community. This is where this belongs. I served on the Citizen Advisory Committee for Paia-Haiku in 1992 through '94 and our plan was adopted, and that to me is what you need to look to, okay. Now it says policy recommendation but you understand that that's just a courtesy, because community plan amendments have to go through approval. And the policies that we developed, okay, are reflected in the land use boundaries, okay. It's not just a few citizens, that's what makes our system so beautiful. In our community plan that land use, okay. And this would be No. 13 on Page 16 of the real copy, not the .pdf copy. It says that the proliferation of this use and subsequent changes in character of the region's coast, okay. It should be, okay, not happening. In other words a bed and breakfast should not be situated near the shoreline. That's our policy recommendation, not near the shoreline, okay. It also says and this is kind of interesting is that this is a regulation and that these policies should be regulated, not enforced, regulated. So you turn a person next door into an enforcer and he's got to go twice and there's got to be X number, but no, this is a regulatory scheme. If you eliminate the regulatory scheme, you've changed our government, and this bill does that. What about condominiumization of agricultural land? Single-family residential is used in an informal way and in a formal way. When you talk about density, 5,000 square feet less, single-family residential, agricultural dwellings, ag dwellings, but you cannot say oh, single-family residential is okay because it has to do with density and that has to do with land. But all of this is being glossed over because of zeal possibly, but inexperience also, but we need to look at that. We need to do that first, you can't have bed and breakfast having 50, short-term residential having 50, transient vacation rental having 50 overlap. And you are the Planning Committee and you will protect us, and I know this. Thank you.