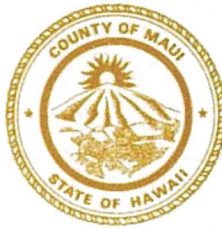


MICHAEL P. VICTORINO
Mayor

MICHELE CHOUTEAU MCLEAN, AICP
Director

JORDAN E. HART
Deputy Director



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OFFICE OF THE MAYOR

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DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

January 31, 2020

Honorable Michael P. Victorino, Mayor
County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P Victorino 2/3/20
Mayor Date

For Transmittal to:

Honorable Tamara Paltin, Chair
Planning and Sustainable Land Use Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Councilmember Paltin:

SUBJECT: ADVISORY COMMITTEES TO THE MAUI PLANNING COMMISSION (PSLU-44)

Your Committee previously discussed this matter at meetings on January 8 and 22, and is scheduled to discuss it again on February 5. We would appreciate your consideration of the following questions and comments.

1. **What authority should the advisory committees have, and what authority can they have?**

The Maui Planning Commission (MPC) has delegated the Hana Advisory Committee (HAC) to conduct all public hearings for matters in the Hana Community Plan region. This would include applications for County special use permits, State special permits, bed and breakfast homes, short-term rental homes, Special Management Area (SMA) use permits, changes in zoning, community plan amendments and State land use district boundary amendments. However, the HAC does not have approval authority over any of these applications, although the MPC typically follows its recommendation.

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You may wish to consider granting approval authority to the HAC and any new advisory committees. With accompanying amendments to relevant sections of Title 19, Maui County Code (MCC), the advisory committees could have approval authority over County special use permits, bed and breakfast homes, short-term rental homes and use determinations. This would give decision-making authority to these communities and would eliminate what would otherwise be an additional step in the permit approval process.

It should be noted that Chapters 205 and 205A, Hawaii Revised Statutes, would have to be amended to give the advisory committees approval authority over State special permits and SMA permits, respectively, and amendments to the County Charter and the MPC's rules would also be needed to give the advisory committees authority over SMA permits.

The Planning Department requests that the HAC and any new advisory committees be given the same authority so that each advisory committee would follow the same procedures. This would make the process simple, clear and understandable for the community, applicants, the Department, other agencies, and any other interested party.

2. Should the advisory committees be limited to matters under the MPC's authority?

At your January 8 and 2 meetings, and at the January 27 Alliance of Maui Community Associations meeting, members of the community indicated an interest in having the advisory committees provide input on issues beyond those that are before the MPC. For example, an earlier version of one of the proposed bills included agricultural subdivisions as a matter on which the advisory committee would comment.

If this is the direction that the Committee wishes to go, then input beyond the Planning Department might be warranted so that the structure and staffing could be better understood.

3. What role would the advisory committees play in the community plan update process?

As you know, the community plan (CP) update process involves an appointed Community Plan Advisory Committee (CPAC), the planning commission and the Council. For those CP regions that have an advisory committee, the advisory committee could serve the function of the CPAC. This would require a related

amendment to Chapter 2.80B, MCC. Otherwise, the advisory committees would add an additional step to the CP update process.

The County Charter requires the MPC to review general plan revisions; a Charter amendment would, therefore, be needed to remove the MPC from the CP update process and replace it with the advisory committees for those CP regions that have advisory committees, though this might be a desirable option. Chapter 2.20B, MCC, would also need to be amended.

4. Will additional personnel be needed?

As you are aware, additional Department personnel will be needed to staff the advisory committees. At least one planner and one clerical position will be needed, perhaps more depending on the advisory committees' authority. The Department of the Corporation Counsel might also require additional personnel to provide support, also depending on the advisory committees' authority. If any of the proposed bills moves forward, we would ask that they be accompanied by, or be timed with, necessary budget ordinances to provide the needed staffing. The effective date of any ordinance can be adjusted so that it would coincide with meeting staffing needs.

5. Are there issues with other provisions?

Sec. 2.28.060.A.4. Having alternates will assist in the advisory committees not having to cancel meetings due to lack of quorum, which has occurred frequently with the HAC, and occasionally with each of the planning commissions. However, if approval authority is given to the advisory committees as described above, then the alternates would have to attend all meetings, even if they are not called on to vote, in order to be able to deliberate and vote if needed when a contested case matter is considered at more than one meeting.

Sec. 2.28.060.A.5. This is an opportunity to address a concern regarding filling of vacancies. The terms of our board and commission members expire at the end of March, and so the Administration and Council are generally prepared with new members to fill these seats beginning in April. However, when there is an anticipated or expected vacancies other than when a term ends, such as when a member notifies us that he or she will be moving to the mainland in two months, we must wait until the vacancy occurs before beginning the process to fill it. This can be addressed by allowing vacancies or anticipated vacancies to be filled in the appropriate manner.

Sec. 2.28.060.D.3. The proposed 60-day time limit is reasonable but it could create difficulties if, for example, the applicant is not available when the advisory committee meets, additional information is needed for the advisory committee to

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make its decision, or there are other legitimate reasons for the delay. This could be amended so that the 60-day requirement applies to situations where the applicant is available and the advisory committee has been provided all required information.

Sec. 2.28.070. Regarding the membership requirements, it might be confusing when some members are appointed by the Mayor and others by the Council when the advisory committee is first created and when there are vacancies. It might also be challenging to verify the third-generation resident requirement.

Sec. 2.28.080. Another concern relates to the existing language relating to Native Hawaiian law training requirements. We fully support having this training, but it is rarely offered on Maui and is difficult for our board and commission members, especially those from Lanai, Molokai and Hana, to attend the training when it is held on Oahu or other islands; this often requires an overnight stay, which many members are not able to do. The Department will cover all related costs, including hotel, ground transportation and per diem, but some members simply cannot be away from home for that amount of time. This results in members not being able to comply with this code provision.

Lastly, if it appears that this issue may take additional time to formulate a final bill, you might also or alternatively wish to consider creating residency requirements on the MPC so that it has geographic representation, such as one seat per CP region.

Thank you for this opportunity to share our questions and comments with the Committee. We repeat our request that the HAC and any new advisory committees be given the same authority so that each advisory committee would follow the same procedures.

Please feel free to contact me should you have any questions or require additional information.

Sincerely,



MICHELE MCLEAN, AICP
Planning Director

xc: Moana Lutey, Corporation Counsel (pdf)
Clayton Yoshida, Planning Program Administrator (pdf)
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