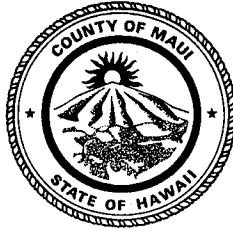


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MEMO TO: Mike White, Council Chair

FROM: ~~Michael~~ J. Hopper, Deputy Corporation Counsel

DATE: June 8, 2016

SUBJECT: **A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY CODE, TO ADOPT THE UPDATED LANAI COMMUNITY PLAN** [PAF 16-108/Bill 67(2016), As Amended]

In response to your June 7, 2016 request to approve the 2016 Lanai Community Plan as to form and legality, I am unable to approve the ordinance at this time due to an inconsistency created by an amendment to Table 9.3, Section 9.08, on page 9-15 of Exhibit 1 attached to the ordinance. Specifically, this language states:

Designate all lands within the coastline Open Space, with the exception of existing and appropriately designated urban areas and Kuleana landholdings. Regulate the coastline Open Space lands using special management area regulations. A 50-100 year coastal erosion rate analysis shall be developed. Where new major waterfront structures or developments are to be approved, open space preservation should be assured by employing a shoreline setback based upon the erosion rate established by the coastal erosion rate analysis.

This language was taken from the 1998 community plan, but is ambiguous and appears unnecessary. If its purpose is to require a specific community plan land use designation in a specific location, the appropriate action would be to simply designate the lands on the plan, rather than listing it

COUNTY COMMUNICATION NO. 16-105

Mike White, Council Chair

June 8, 2016

Page 2

as an implementing action. This would eliminate ambiguity as to what “within the coastline” means and where the designation should be made.

In fact, the 1998 plan had designated the vast majority of land along the coastline as “open space” in the land use maps in the plan. However, the current community plan land use map 9.2 designates much of the coastal land “conservation” to match the state designation. This creates an inconsistency, as the implementing action says that lands “within the coastline” should be open space, but many of the lands within the coastline are now conservation.

To resolve this inconsistency, I recommend that the language in 9.08 be deleted, and the appropriate designation on the community plan land use map be adopted. The Council may retain the current designations in the coastal areas on the land use map, or may consider changing those designations.

MJH:lk

2014-3062

2016-06-08 PC-11 PAF 16-108 (2016), as Amended, Memo to White