

AH Committee

From: Kelly King
Sent: Monday, July 01, 2019 9:58 AM
To: KELLY DIRECT
Cc: Kate Griffiths; AH Committee
Subject: FW: July 3rd Meeting on Affordable Housing
Attachments: Testimony for July 3rd Meeting on Affordable Housing Committee Review of Polanui Gardens and Makila Rural East Applications.docx

With Aloha,



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Subject: July 3rd Meeting on Affordable Housing

Aloha Members

I was unable to attend the June 19th and 25th meetings of the Affordable Housing Committee. Attached is written testimony which I gather is still acceptable for the re-convened July 3rd meeting.

Respectfully
David Jenkins

Testimony for July 3rd Meeting of the Affordable Housing Committee to Review Polanui Gardens and Makila Rural East Applications.
Testimony re. Proceedings of June 19th and June 25th Meetings.

My name is David Jenkins, resident of Kahului testifying in opposition to approval of these projects.

1. This is obviously intended as an “end run” around the West Maui Community Plan.

Work done so far on the Plan, very clearly presented to you by Pam Eaton, shows overwhelming community opposition to intensive development of the fields below Launiupoko. Peter Martin is aware that this will be the outcome of the Plan review and is abusing the 201-H fast track process for affordable housing to gain approval for the overall development of market priced housing ahead of the plan coming out.... affordable housing is not the main intention of either of these developments.

2. These projects are two out of three segmented parts of Peter Martin’s original 2015 Makila Rural project. There is HI State legislation prohibiting the breaking up of a large project in to smaller pieces to avoid appropriate review.

Makila Rural was first presented in 2015 (Docket No. A 15-799) but subsequently was withdrawn. Council members should note that this original proposal for one big development acknowledged that there would be significant environmental impact (225 dwellings on 270 acres) and therefore the developer was going to produce a full Environmental Impact Statement.

3. Peter Martin then sold part of the area to Greg Brown of Brown Development. Brown presented his plans for ‘Makila Kai’ as if it was a small standalone project.

It was clear that this was segmentation of the one large Makila Rural Project in to three smaller parcels, Polanui Gardens, Makila Kai and Makila Rural East with the express purpose of avoiding the need for environmental assessment through using the 201-H provisions.

Makila Kai was the leading edge...if approved the Council would have no grounds for turning down Polanui Gardens and Makila Rural East and so the original grand plan of Makila Rural would have been achieved piecemeal. Pretty transparent.

This has been a historic approach by HI developers resulting in a State Statute specifically prohibiting it...Statute 11- 200-7.

Council members should note that the State Office of Planning in commenting on the Makila Kai application advised the last Council that this type of segmentation was an abuse of the 201-H process. That position from the State Planners applies equally to these projects.

4. Reviewing the video of the June 25th meetings raises concerns that Council members are not being well advised by County employees on the legal importance of this segmentation issue when it comes to planning decisions.

At one point Council member Rawlins-Fernandez asked 'is this segmentation'? Planning Director McLean responded 'I don't know if there is a legal definition of segmentation'.

State Statute 11-200-7 is a clear and unambiguous legal definition and obviously applies to these applications.

Even more concerning is that Council members were given a very dubious/challengeable interpretation of State Statute 11-200-7 by Corporate Counsel Kushi (?) who stated that since 'they are different landowners we are looking at it as three separate projects'.

It is concerning to hear this interpretation being given by Maui County's legal department.

One has to be willfully blind to *intent* to accept that two closely held private corporate entities, Makila Rural East and Polanui Gardens, both owned and controlled by Peter Martin are independent just because they have different names.

Full information on the segmentation Statute which is as valid today for judging these applications as it was in 2017 when Polanui Gardens was first floated is in the public record....Attorney Wright to Maui County Planning Dept. employee Danny Diaz copy William Spence February 14th 2017. I would encourage your review given the conflicting advice you are being given by Corporate counsel.

5. Key concerns leading to the rejection of Makila Kai by the previous Council apply equally if not more so to these applications. In the last year concerns over water, fire danger, road access etc. have intensified.

You heard public testimony on June 19th on the dire water situation in this arid area and how it is affecting small farmers and the Hawaiian families with kuleana water rights.

You have received expert testimony that the proposed ATU septic systems in these proposals are not a 'magic bullet' fix for the problem of sewage this close to the ocean. Maintenance costs are expensive and necessary to keep them operating as advertised. The proposed density really should be connected to a town sewage system but that would be a much more expensive proposition for the developer. Again this indicates this is the wrong location for this density of development on septic systems.

The community expressed great fear of vulnerability to fire when objecting to Makila Kai in 2017. . At that time it was hypothetical but the devastating Lahaina fire with housing losses showed those fears were well placed. That experience shows the risk to intensive development in this arid area. The plans do nothing to address the issue of Kai Hele Ku Street being the single outlet in the event of fire and you heard emotional personal testimony from residents on that issue.

It should also concern Council members that the Fire Department has a hands off approach to these concerns. Under questioning from Council member Paltin the FD representative could not say whether there is a policy on distance from a fire station for a new development of this size. He was not re-assuring on proactivity of fire prevention activity (education and inspections seem to be it). He confirmed that there are no standards for the number of entrances or exits for this number of dwellings. He had no objections to the developer proposing 20 foot roads asking exemptions from code. The County employee responsible for buses seemed more concerned with road width than the FD representative!

It seems that the 201-H provisions are being used/abused to minimize the cost of infrastructure development for the developer across all these community concerns. Approval of these projects will leave the community picking up the tab for these environmental and safety problems long after the developer has profited and moved on.

6. Summary

The developer strategy is totally transparent and cynical. The 201-H process with its 45 day clock is being abused to force you in to fast tracking urban sprawl in to an unsuitable location over the objections of the West Maui community.

With other better locations already approved for affordable housing there is no compelling need for you to be put under this pressure. Please reject these proposals.

Respectfully
David Jenkins