

HOUSING AND LAND USE COMMITTEE
Council of the County of Maui

M I N U T E S

March 22, 2023

**Online via BlueJeans Link
and Council Chamber**

RECONVENE: 9:00 a.m.

PRESENT: Councilmember Tom Cook, Vice-Chair
Councilmember Alice L. Lee, Member (Out 9:16 a.m.)
Councilmember Tamara Paltin, Member (Out 10:40 a.m.; In 10:42 a.m.; Out 10:46; In 10:50 a.m.; Out 11:39 a.m.)
Councilmember Keani N.W. Rawlins-Fernandez, Member (In 9:03 a.m.)
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member (In 10:17 a.m.)
Councilmember Nohelani U'u-Hodgins, Member

EXCUSED: Councilmember Tasha Kama, Chair
Councilmember Gabe Johnson, Member

STAFF: Ana Lillis, Legislative Analyst
Paige Greco, Legislative Analyst
Richard E. Mitchell, Legislative Attorney
Stacey Vinoray, Committee Secretary
Lenora "Lei" Dinneen, Council Services Assistant Clerk
Nalani M. Fujihara, Communications Specialist

Evan Dust, Executive Assistant to Councilmember Kama
Lois Whitney, Executive Assistant to Councilmember Kama
Davideane Kama-Sickels, Executive Assistant to Councilmember Kama
Stacy N. Takahashi, Executive Assistant to Councilmember Cook
Jared Sam P. Agtunong, Executive Assistant Councilmember Cook
Michele McLean, Executive Assistant to Councilmember Lee
Susan Clements, Executive Assistant to Councilmember U'u-Hodgins
Laura McDowell, Executive Assistant, Councilmember U'u-Hodgins
Sarah Sexton, Executive Assistant to Councilmember U'u-Hodgins
Kate Griffiths, Executive Assistant, to Councilmember Johnson
Roxanne Morita, Executive Assistant to Councilmember Johnson
Axel Beers, Executive Assistant to Councilmember Johnson
Braedon Wilkerson, Executive Assistant to Councilmember Rawlins-Fernandez
Noelani Ahia, Executive Assistant to Councilmember Rawlins-Fernandez
Dawn Lono, Executive Assistant to Councilmember Sinenci
Gina Young, Executive Assistant to Councilmember Sinenci

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Mavis Oliveira-Medeiros, Council Aide, Hāna Residency Area Office
Denise Fernandez, Council Aide, Lāna‘i Residency Area Office
Jade Rojas-Letisi, Makawao-Ha‘ikū-Pā‘ia Residency Area Office
Zhantell Lindo, Council Aide, Moloka‘i Residency Area Office
Bill Snipes, Council Aide, South Maui Residency Area Office
Christian Balagso, Council Aide, West Maui Residency Area Office

ADMIN.: Mimi DesJardins, Deputy Corporation Counsel, Department of
Corporation Counsel
Saumalu Mataafa, Deputy Director, Department of Housing and Human
Concerns
Jordan Molina, Director, Department of Public Works
Kathleen Ross Aoki, Acting Planning Director, Department of Planning
Tammy Yeh, Civil Engineer VI, Department of Water Supply

OTHERS: Grant Chun, Executive Director, Hale Mahaolu
Debbie Cabebe, Executive Director, Maui Economic Opportunity, Inc.
Mohannad “Moe” Mohanna, President, HighRidge Costa

In gallery:

Chris Sugidono, Senior Associate, Munekiyo-Hiraga
Ashley Otomo, Civil Engineer, Otomo Engineering Inc.
Trevor Yucha, Archaeologist, Cultural Surveys Hawaii

Additional attendees: (14)
PRESS: Akakū: Maui Community Television, Inc.

ITEM HLU-2(1): HOUSING PROJECTS UNDER CHAPTER 2.97,
MAUI COUNTY CODE: RESOLUTIONS 23-78,
23-79, and 23-80, RELATING TO THE HALE
MAHAOLU KE KAHUA RENTAL HOUSING
PROJECT (WAILUKU)

VICE-CHAIR COOK: . . .*(gavel)*. . . Will the Housing and Land Use Committee recessed meeting of February 28th, 2023, come to order? It is March 22nd, 2023, at 9:00 a.m. I am Tom Cook, Vice-Chair of the Housing and Land Use Committee. This online meeting is being conducted in accordance with the Sunshine Law. As a reminder, Members, when your name is called, if you are not with me in the Council Chamber, please identify by name who, if anyone, is in the room, vehicle, or workspace with you today. Minors do not need to be identified. Now, I’d like to introduce the Committee Members. Council Chair Alice Lee. Member Lee, I can’t hear you.

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COUNCILMEMBER LEE: Can you hear me now?

VICE-CHAIR COOK: Yes, I can. Welcome and good morning.

COUNCILMEMBER LEE: Okay. Good morning, Chair. I'm here in my workspace at home for the morning session. And no one is here, and the morning greeting is Elo hi from Timor-Leste, which is a little country in Asia. Thank you. No one's here.

VICE-CHAIR COOK: Councilmember Tamara Paltin.

COUNCILMEMBER PALTIN: Aloha kakahiaka.

VICE-CHAIR COOK: Councilmember Keani Rawlins-Fernandez. I don't see her online.

MS. GRECO: She is excused.

VICE-CHAIR COOK: Okay, excused. Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: Aloha, Chair. Elo hi. I know that Staff in Hāna is having some connectivity issue. So, we'll probably hear from them. Oh, there's no testifiers at the Hāna District Office. Thank you.

VICE-CHAIR COOK: Councilmember Nohe U'u-Hodgins.

COUNCILMEMBER U'U-HODGINS: Good morning, Chair.

VICE-CHAIR COOK: Council Chair [sic] Kama and Councilmember Johnson have recused themselves from the 2.97 project item and are excused from this meeting. Representing the Department of Corporation Counsel, we have with us today Mimi DesJardins, Deputy Corporation Counsel.

MS. DESJARDINS: Good morning, Chair. Good morning, Members.

VICE-CHAIR COOK: From the Department of Housing and Human Concerns, I'd like to welcome Deputy Director Saumalu Mataafa.

MR. MATAAFA: Good morning, Chair. Good morning, Committee Members.

VICE-CHAIR COOK: Other Department Directors will be on-call for this meeting. Representing the project we have Grant Chun, Executive Director, from Hale Mahaolu; Debbie Cabebe, Executive Director from Maui Economic Opportunity; Chris Sugidono, Senior Associate, Munekiyo and Hiraga. The other specialists from the project team we designated as resource people...persons are available. And our OCS Committee Staff, Ana Lillis, Paige Greco, Legislative Analysts;

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Stacey Vinoray, Committee Secretary; Remi Mitchell, Legislative Attorney. Thank you, Members, for attending today's HLU Committee meeting. This is a continuation of our March 8th, 2023, meeting, which was recessed...which was a recessed meeting from February 28th, 2023. We closed public testimony at the February 28th, 2023 meeting. No further oral testimony can be accepted. You are welcome to provide written testimony via eComment system on the mauicounty.us website. I'd like to welcome Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, mai Maui nui a Kama. My apologies for my tardiness.

VICE-CHAIR COOK: It is in my...it is my intent to move this item out of Committee today. I will not poll for another meeting time. I strongly request that the questions on Exhibit "A" and the modifications be thoughtfully asked relating to the motions you might be considering given our time limit today. If we don't pass this item out today, there is very little room for us to pass the item by April 22nd to avoid being in auto-approval. With that said, Members, we are continuing our deliberations on the agenda items. HLU-2(1) Housing Projects Under Chapter 2.97, Maui County Code, Resolutions 23-78, 23-79, 23-80, relating to the Hale Mahaolu Ke Kahua Rental Housing Project (Wailuku). I'd like to continue our review of the revised Exhibit "A." This is posted on the agenda and available in the meeting details in Granicus 7. To refresh your memory...Members' memory, we left off on item 1J, which relates to the applicant requesting an exemption from improvements to public streets, which would include them installing sidewalks. Acting Director Molina informed us the Department's opposition to the request, and the applicant maintained they would like to receive the exemption. The applicant said that 40 units could not be constructed if public street improvements were mandated on their side of the right-of-way. Public Works stated they would be open to modifying the standard public street improvements to accommodate the units. The applicant further informed us they would be submitting a cost estimate of the exemptions requested prior to this meeting, which should be available now in Granicus. I'd like to resume taking questions on the rest of the Public Works relating exemptions 1J, K, L, M, before moving on. I will only entertain motions to amend Exhibit "A" after we discuss all of the exemptions and waivers. Members, does anyone have questions for Public Works or the applicant regarding the exemption request? Staff will be timing two-minute rounds for each Member. I would like to begin with Chair Lee.

COUNCILMEMBER PALTIN: Chair, I had a point of information.

VICE-CHAIR COOK: Member Paltin.

COUNCILMEMBER PALTIN: Oh, thank you. It's my understanding that we can't amend the substituted document. And so, unless we reconsider and go back to the original document, then it can be amended. So, the vote count matters on a

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reconsideration, and I have a thing I need to go to at 11:30. So, if we're going to amend...I mean we're not allowed to amend the substituted document is my understanding. And so, either we pass it, or we don't. So, I was wondering if I could move to reconsider the substitution so that if there are any amendments needed, then it could be made, otherwise we can't amend the substituted document. And so, then it doesn't matter on the whole discussion.

MR. MITCHELL: Chair Cook, if I could share some additional information?

VICE-CHAIR COOK: Thank you.

MR. MITCHELL: So, Member Paltin is correct that with the previous motion to substitute that passed, if we're going to make amendments, we need to do one of two things. Either move to reconsider, and we can reconsider on a simple majority vote. All of the Members who previously voted on that motion to substitute are present in the room, if all are present to vote. But if we don't have the same Members who voted on the motion to substitute, we then need a super majority. So, if Member Paltin needs to leave early, that might create the need for super majority vote because we don't have the same Members in the room who voted on the motion to substitute. And the other option would be a motion to suspend the rules, but that requires a higher vote count too. So, I just wanted to clarify the last point that Member Paltin made.

VICE-CHAIR COOK: Member Paltin.

COUNCILMEMBER PALTIN: And, I'm not sure, was Member Sugimura in the room for that other vote as well? We might need to wait for her to come back...come in as well.

VICE-CHAIR COOK: So, I'd like to request a five-minute recess, and thank you for bringing this up. It is now 9:10, we'll recess at [sic] 9:15. . . .(gavel). . .

RECESS: 9:10 a.m.

RECONVENE: 9:16 a.m. (Excused: TK, GJ, AL, YS)

VICE-CHAIR COOK: . . .(gavel). . . We're reconvening the meeting at 9:16. Chair will now entertain a motion to suspend the rules of...Rule 6 [sic] of the County Council in order to amend Exhibit "A."

COUNCILMEMBER PALTIN: So moved.

VICE-CHAIR COOK: Do we have a second?

COUNCILMEMBER U'U-HODGINS: Second.

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VICE-CHAIR COOK: Okay. Moved by Member Paltin, seconded by U'u-Hodgins. Discussion?

COUNCILMEMBER PALTIN: I think we had heard from some of the departments that they would like some amendments, and I'm open to amending it. So, I made the motion. That's one of the ways to do it.

VICE-CHAIR COOK: Okay. I'm sorry. I'm having a hard time hearing you. Could you repeat that?

COUNCILMEMBER PALTIN: We heard from some of the Departments, like Water and Public Works, that they'd like some amendments to the substitution. And this seems like an easy way for us to accomplish that. And so, I'm willing to make the motion so that we have the free rein to be able to amend it. Otherwise, there's really no point in continuing to discuss. Thank you.

VICE-CHAIR COOK: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Okay. So, the motion is to suspend rules in order to make amendments to Exhibit "A." Okay. Are we suspending all Council rules, which rules, and then, do we need to make a motion later to have the rules be back in effect?

MR. MITCHELL: Thank you, Chair Cook. Member Rawlins-Fernandez, I heard that the motion was to suspend Rule 6 [sic]. I'm looking at that rule now. And yes, we would need to move to reinstate the rules afterwards.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Mitchell. So, we're suspending Rule 6 [sic] to make amendments to Exhibit "A" and when we've completed our amendments, then we would reinstate Rule 6 [sic]?

MR. MITCHELL: Yes, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Mitchell. Mahalo, Chair.

VICE-CHAIR COOK: Okay. Staff?

MS. GRECO: Excuse us, Chair. I think we had a minor miscommunication. It's Rule 16, not Rule 6. If I could get a confirmation from our Legislative Attorney?

VICE-CHAIR COOK: Okay. I need another five-minute recess.

MR. MITCHELL: Correct. And Member Cook, I can answer the question quickly. The issue is with the requirement of Robert's Rules. So, the correct rule to suspend

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in the Rules of Procedure is not 6, it's 16, which states that Robert's Rules of Order will govern the rules of parliamentary practice and procedure for the Council in Committee meetings in all cases in which they are not inconsistent with law or the Rules of the Council. It's Robert's Rules that's creating a challenge with the motion to substitute Exhibit "A" now being amended. So, we're trying to undo that so that we can entertain the amendments.

VICE-CHAIR COOK: So, for clarity, we're amending...we're voting to suspend Robert's Rules Number 16 of the Council in order to amend. Okay. We've had...do we need another motion and second? That was clarity. Can we do a roll call vote? No? All in favor?

COUNCILMEMBERS VOICED AYE. (Excused: TK, GJ, AL, YS)

VICE-CHAIR COOK: Chair Lee. Aye. Five "ayes," two excused.

VOTE: AYES: Vice-Chair Cook, and Councilmembers Paltin, Rawlins-Fernandez, Sinenci, Sugimura, and U'u-Hodgins.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Chair Kama and Councilmembers Johnson, Lee, and Sugimura.

MOTION FAILS.

MR. MITCHELL: We need six Members to suspend.

VICE-CHAIR COOK: We need six, and...so if we could see if Chair Lee is having connection difficulties? Because she was recently with us.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair.

VICE-CHAIR COOK: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I won't speak for her, but I have a inclination that she will vote yes to this motion. And in the meantime, perhaps we can continue on with the exemptions, and then that way when Chair

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Lee reappears, we can do the motion at that time and make any amendments at that time.

VICE-CHAIR COOK: Okay. Staff?

MS. LILLIS: Yes, Chair. We can...we are getting in touch with Chair Lee right now to see if she can be available. And Public Works, we understand, is connected to the call at this time, and we can...the Committee can ask them questions.

MR. MITCHELL: For the record, Chair, could we have the motion and second withdrawn and wait for Chair Lee to return to do the motion again?

COUNCILMEMBER PALTIN: Withdrawn.

VICE-CHAIR COOK: Okay.

MS. LILLIS: So, Chair, you were at resuming taking questions on the rest of the Public Works related exemptions 1J, K, L and M.

VICE-CHAIR COOK: Okay. I need a five-minute. . . .(gavel). . .

RECESS: 9:22 a.m.

RECONVENE: 9:31 a.m. (Excused: TK, GJ, AL, YS)

VICE-CHAIR COOK: . . .(gavel). . . Okay. Members, now that we have quorum, we're back to...Members, does anyone have questions for Public Works or the applicant regarding the exemption request? Staff will be timing two-minute rounds for each Member. I would like to start with Chair Lee, who is apparently still having connection details. Councilmember Paltin, questions?

COUNCILMEMBER PALTIN: Thank you, Chair. I would ask Director Molina if he had any alternative amendments to J, K, L and M that would work for him to suggest?

VICE-CHAIR COOK: Director Molina.

MR. MOLINA: Yeah, good morning. Jordan Molina, Director with Public Works. Thank you for the question. We did meet with the applicant's civil engineer to discuss kind of a site constraint that might affect accommodating the frontage improvements, and there are some deviations from standards that needs to be contemplated. Nothing we think is unreasonable. But we have to get a little creative to fit everything in this tight...this tight area. The right-of-way is narrow, and they are physically constrained by the sand dune behind the property. So, what we...what I recommended to them was...let me get my language. Ke Kahua. There we go. So, my recommended amendment was that the project be required

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to construct its frontage improvements to urban standards as required by Title 16 and 18, including, but not limited to, pavement widening, right-of-way widening, curb, gutter, sidewalk . . . *(timer sounds)*. . . relocating underground utilities, provided that the Director may modify applicable standards to accommodate site constraints. And then the other big issue with that one was whether we were going to support funding the cost of those improvements for the project. So, I would say if we...that would also be part of this condition, is that they get that support from the County for those improvements. Otherwise we think . . . *(inaudible)*. . .

COUNCILMEMBER PALTIN: Director Molina, if you could put those wordage in the chat, I think our Staff would be appreciative. Thank you, Chair.

VICE-CHAIR COOK: Councilmember Rawlins-Fernandez, questions?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So, I wanted to clarify. Based on the discussion that...aloha, Director Molina. Mahalo for being with us. Based on the discussion that you and Member Paltin just had, those deviations from the standards, would it still...and maybe it's not a question for you, maybe it's a question for Mr. Chun. Would it still cost the project 40 units if the sidewalks are built with those deviations from standards?

MR. CHUN: Good morning, Chair. Good morning, Member Keani Rawlins-Fernandez. Before I begin, I'd just like to make sure to introduce our partner in this venture. Sitting next to me is Mr. Moe Mohanna from Highridge Costa, who is here today to join me in addressing any questions that might be...that might come up. But yeah, in response to your question, yeah, that is a continuing concern of ours. The project is constrained because of the width of the property, and we want to make sure that...the bottom line is providing the units. Of course, we'll continue to work with the Department to ensure that we can accommodate whatever might be possible going forward. But we request the continuing inclusion of the exemption in the language of the exhibit so as to afford us the opportunity to number one, first and foremost, maintain the units, and also to ensure the viability of our application for funding with the State.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Chun. Mahalo, Chair.

MR. CHUN: Thank you.

VICE-CHAIR COOK: Councilmember Sinenci, questions re: to the Department or the applicant?

COUNCILMEMBER SINENCI: None at this time, Chair.

VICE-CHAIR COOK: Okay. Councilmember Sugimura is excused. Councilmember

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U‘u-Hodgins.

COUNCILMEMBER U‘U-HODGINS: Thank you, Chair. Aloha, Director Molina. I have a quick question. Can you just describe to me the difference of what's typical in a sidewalk project, and then what the modification might look like. I know you said urban standards, but I don't know what the urban standards are. If you could just maybe give me a quick example of maybe what the difference is. Thank you.

MR. MOLINA: Thank you, Member U‘u-Hodgins. Yeah, so urban standards generally talk about curb, gutter, sidewalk. Generally, the...in this case what we would be looking at modifying is the width of the sidewalk at certain locations where we...kind of in the middle of the project, there's sort of a pinch point where it's the narrowest portion. We also might look at narrowing the travel lanes to recover some of that shoulder area. We also looked at whether all those additional current lanes are necessary because those might be able to be modified or eliminated to make room for those shoulder improvements. That's generally the extent of it, is just ensure we can fit the curb, gutter, sidewalk along the frontage and in the right-of-way.

VICE-CHAIR COOK: Any further questions, Member?

COUNCILMEMBER U‘U-HODGINS: Not right now. Thank you so much.

VICE-CHAIR COOK: Okay. Member Paltin, is there a need for a second round of questions?

COUNCILMEMBER PALTIN: Thank you. I'm satisfied with his first answer.

VICE-CHAIR COOK: Okay. Thank you. Seeing no other questions on exemptions relating to Public Works, I'd like to move on to exemptions relating to the Planning Department, Exemptions 1H, 1I, 1N through 1S. Exemption 1H, request reduction in the amount of required parking spaces for the project from two stalls per unit to one per unit, and those stalls required for the clubhouse. For the public's knowledge, units under 3,000 square feet are normally required to have two onsite parking spaces, and parking would normally be required for the clubhouse. Does the Planning Department have objections to these requests to the exemptions? Director?

MS. AOKI: Good morning.

VICE-CHAIR COOK: Good morning.

MS. AOKI: Good morning, Chair. Good morning, Councilmembers. We have no objections.

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VICE-CHAIR COOK: Seeing that there's no objections, does the Members have any questions for Planning? Member Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Yes, just one question for Ms. Aoki. I mean what would be the...if...if the project did not have this exemption, just hypothetically, what would that mean?

VICE-CHAIR COOK: Director?

MS. AOKI: That they would have to meet the required code for two, and provide the parking for the clubhouse, which would...I think Mr. Chun could explain better than I. But I would imagine if you're going to take up space with parking spaces, then you're going to have less units. That's...but Mr. Chun can probably elaborate on that more than I.

VICE-CHAIR COOK: Mr. Chun, would you like to answer?

MR. CHUN: Thank you, Chair Cook. Thank you for the question, Member Sinenci. Yeah, to clarify, just to put everything in context, the...the property will have 274 stalls, which we find in our experience is more than adequate for 120 units. Even...even if we were to allocate two units per...two stalls per unit, we'd still have over 30 stalls available for the...you know, for guests and for the nonprofit building, as well as the clubhouse building. Typically the one-bedroom units do not have two vehicles, in our experience. And so, we...although this is a deviation from Chapter 2 point...Chapter 19.36, we are confident that there are more than adequate stalls to accommodate all users on the property, including those who are, you know, utilizing the ancillary facilities.

COUNCILMEMBER SINENCI: Okay. Follow up, Chair. And so, I mean again, I'm just kind of asking at this point. . . .*(timer sounds)*. . . You think it'll greatly...if the project didn't have this exception, it would greatly affect the size of the project.

MR. CHUN: We'd probably lose at least a building.

COUNCILMEMBER SINENCI: About a building?

MR. CHUN: Yeah.

COUNCILMEMBER SINENCI: Okay. All right. Thank you, Mr. Chun. Thank you, Chair.

VICE-CHAIR COOK: Members, any other questions? Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I just had a question, Mr. Chun, of

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what you said of your experiences, that...of running senior housing, but this is not going to be senior housing, right? Or do you have experience of running housing not for seniors as well, and that it's this way?

MR. CHUN: Yes. Thank you for the question, Member Paltin. To clarify, yes. We do also run nonsenior housing. Luana Gardens in Kahului, Lāhainā Surf in Lāhainā, Kulamalu Hale in Pukalani are all Hale Mahaolu Projects. And so, my statements are consistent with our experiences at those properties.

COUNCILMEMBER PALTIN: And this property is not going to be limited to seniors?

MR. CHUN: That's correct. Yes.

COUNCILMEMBER PALTIN: And is it the space constraints still in effect even if you were to do like some tandem parking stalls?

MR. CHUN: Yes. It's a pretty tight constraint site, and the site planners have done, I think, a really excellent job of maximizing utilization of the space...maximizing units while accommodating for ample parking.

COUNCILMEMBER PALTIN: And being that Members in these seats may get the complaints if there is extra cars parked on the side of the road, would you incorporate that into your tenant selection plan, like for one bedrooms, you can't have more than one car, or just kind of leave it up to chance?

MR. CHUN: We generally wouldn't include a provision like that in our tenant selection plan. But as I indicated, it's generally not an issue.

COUNCILMEMBER PALTIN: Yeah, but we're the ones are going to get the complaints if it is an issue so just trying to, you know... . . .*(timer sounds)*. . . we get a lot of complaints. Thank you, Chair.

VICE-CHAIR COOK: Thank you. Members, further questions? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. My question is on Exemption N. I don't know if this would be a question for our attorneys, or Staff that helped with the Chair's...oh, is this not the right one? Yeah. With Member Kama's proposal to amend Exhibit "A." I thought we were removing N...okay. I see Mr. Chun nodding his head. Okay. That's all. So, go ahead Mr. Chun.

MR. CHUN: Yeah, just to put it on the record...put my nod of head on the record. Yeah, I understand that as well, Member Rawlins-Fernandez. I think that Staff clarified earlier that Item N would not be a part of the exhibit.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Chun. Mahalo, Chair.

MR. CHUN: Mahalo.

VICE-CHAIR COOK: Thank you, Members. Any further questions before we move on? Further follow-up question for Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Just a follow up on...so, the State Land Use district boundary. So, I think in the last meeting, Mr. Chun, that with the funding from HHFDC, we were waiting until next year? Would this now not like...being a permitted exemption, and the process of getting a State Land Use district boundary amendment through the County Planning Commission...I don't know how long that takes. Does that affect your folks' timeline and the funding from HHFDC?

MR. CHUN: I'll let Mr. Mohanna correct me if I'm inaccurate, Member Rawlins-Fernandez. But my understanding is no, that Chapter 2.97 approval would allow us to proceed with our request to the State.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Chun. Mahalo, Chair.

VICE-CHAIR COOK: Thank you. Member Hodgins.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, I see...

MS. DESJARDINS: Thank you. Sorry. I just wanted to, on Exemption N...and I think if Ms. Aoki is still on the line. My understanding is, is that that exemption just applies to whether or not they're going to submit an application. But because this is a direct referral from Council, my understanding is they don't have to actually submit a formal DBA exemption application, which is what that is for. But I think Ms. Aoki is probably the subject matter expert on that. So, even if you applied that exemption and allowed that, their DBA still has to go to the Planning Commission, they just don't have to fill out a formal application because it's a direct referral from Council. Is that correct, Planning?

MS. AOKI: That's my understanding. There's a bad echo. That's my understanding as well. . . .*(timer sounds)*. . . That's my understanding as well. We're not going to exempt the DBA, we're just not going to require them to submit the application. And we would process it as we normally would. We would create a permit number in the map system. We would use the documents that they provided for the 2.97. We would have everything that we would need.

MS. DESJARDINS: That's what my understanding was, that it would be simply the whole 2.97 application would be their application. So, you could still apply N, and you're not doing anything to the DBA.

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MS. AOKI: That's my understanding as well.

VICE-CHAIR COOK: Okay. Applicant?

MR. CHUN: Yeah. My apologies, Member Rawlins-Fernandez and Chair Cook. Corporation Counsel and Director Aoki are correct. I misstated. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Chun. So, Chair, just for further confusion. For clarification, would this exemption stand, or would it be removed then? If it's something that is supported by Council. Is it permitted?

VICE-CHAIR COOK: Applicant?

MR. CHUN: Yeah. Consistent with Director Aoki's comment, as well as Corporation Counsel, the exemption . . . *(timer sounds)*. . . would stand, but it's just a procedure...it's to allow...the district boundary amendment would still have to be considered by the Department, but this would allow for the transmittal to come from Council. So, yeah. So, it would...it would not exempt the need for the boundary amendment, just to facilitate the process. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Chun. Mahalo, Chair.

VICE-CHAIR COOK: Further questions?

COUNCILMEMBER U'U-HODGINS: Yes. Thank you.

VICE-CHAIR COOK: Okay. Member Hodgins.

COUNCILMEMBER U'U-HODGINS: Aloha. I have a quick question to build on what Member Paltin was asking you about parking. So, you guys have 28 one-bedroom units, 60 two-bedroom units, and 32 three-bedroom units. Do your two and three-bedroom units usually come with two parking stalls? And then your one-bedroom units come with one. And if the one-bedroom unit requested two parking stalls, is that an allowable thing for you guys?

MR. CHUN: We've been able...generally been able to accommodate requests. We seldom...we'll frequently have households with just one vehicle regardless of the number of bedrooms. So, there's normally not an issue with accommodating, you know, unusual circumstances where, say, maybe a couple lives in a one-bedroom and there were two vehicles.

COUNCILMEMBER U'U-HODGINS: And then from my understanding, the clubhouse is going to be used by the existing people who live there, and so, they could just walk over and not need any further parking. And then what about the nonprofit

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building. You guys had some allocated stalls for the nonprofit for people maybe coming in?

MR. CHUN: That's correct. Thank you.

COUNCILMEMBER U'U-HODGINS: Okay. Thank you so much.

VICE-CHAIR COOK: Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I had a question for Ms. Aoki regarding letter R? Just because, you know, when we were at the HCPO, some of our colleagues from different counties had brought up that they ran into a problem for these types of projects in the agricultural district where because it wasn't changed the zoning, that they were not able to enforce about agricultural activities going on. And just wondering if you envisioned that being a problem in this case. I think it may have had something to do with chickens.

MS. AOKI: Ah, those great chickens. I mean as far as we're concerned, if you're exempted from the Ag district, then we would not enforce agricultural requirements. So, chickens are a whole 'nother thing, but if you were raising fowl, raising those kinds of things, it would be...you would be exempt from that. So, they're asking to do an urban use, you know, so, I'm not quite sure what the example was that you're referring to. But there have been many, many types of projects like these that were in the Ag district that are exempt from zoning requirements of the Ag, 19.3A.

COUNCILMEMBER PALTIN: Yes. If they were doing agricultural uses that were not residents that think that they're in a kind of urban district don't appreciate if that would create a conflict. Because you wouldn't be enforcing urban standards because it's still underlying zone is agriculture. . . .*(timer sounds)*. . .

MS. AOKI: But they're being asked to be exempt from Ag. So, they wouldn't be permitted to do Ag uses on the property because they're being exempt from that zoning. Does that make sense?

COUNCILMEMBER PALTIN: Yes. Thank you.

MS. AOKI: Okay. Okay, thanks.

VICE-CHAIR COOK: Members, any further questions? Can we move on? Member Sinenci.

COUNCILMEMBER SINENCI: Yeah, maybe. I don't know if this is for Director Molina, but maybe Grant...Mr. Chun can. Do we have a bus service...access to bus service outside of the project? Public bus transportation?

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MR. CHUN: Currently there's bus service in the vicinity, and we'll continue to work with the County Department of Transportation once there actually is a project there to accommodate for bus service along that corridor. One of the design goals for the frontage and entry for the area is to, again, work with the County Department of Transportation to accommodate a bus stop as well. But they've got to make their assessment as far as demand and need. But, yeah, no, we're more than willing and actually looking forward to providing that for residents.

COUNCILMEMBER SINENCI: Do you know how far the current bus stop is from the project?

MR. CHUN: If I'm not mistaken it's around the corner, closer to the entrance to Waiehu Heights.

COUNCILMEMBER SINENCI: Oh, near the cemetery there?

MR. CHUN: Not across the street, but around the corner on Waiehu Beach Road.

COUNCILMEMBER SINENCI: Right. Because I think having residents have access to bus service could reduce some of the, you know...

MR. CHUN: Yeah.

COUNCILMEMBER SINENCI: -- the parking and the car access.

MR. CHUN: Yeah. And we...we've received indication from, you know, County Transportation that...I mean to the extent that there actually are people living along that corridor and there's the demand and they're all about trying to meet the needs of the community. So, it's been a good discussion, and we feel that, you know, once there's actually residents in the area, that they'll...that we'll all share an interest in providing for that transportation need.

COUNCILMEMBER SINENCI: Great. Thank you. Thank you, Chair.

VICE-CHAIR COOK: Thank you. Members, are there any other burning questions for the Planning...applicant regarding these six exemptions? Okay. Members, the last part of Exhibit "A" are the waivers. These have already been granted in 2.97.150. It's my strong preference not to entertain questions on these because they are established in 2.97. The applicant's submission on estimated costs of these waivers has been presented to us. We now need to decide if we want to amend Exhibit "A"--after exemptions in Exhibit "A" we'll work--okay. After the exemptions in Exhibit "A" we'll work through the project's modifications. We need to remove our substitute motion.

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MS. LILLIS: Chair, could we have maybe a three-minute recess?

VICE-CHAIR COOK: Please. Okay. Chair will take a five-minute recess. . . .*(gavel)*. . .

RECESS: 9:58 a.m.

RECONVENE: 10:16 a.m. (Excused: TK, GJ, AL, YS)

VICE-CHAIR COOK: . . .*(gavel)*. . . The Housing and Land Use Committee meeting will now reconvene at 10:16 a.m. Okay. Members, we cannot move to suspend Rule 16 because we need at least six Members present. So, let's move to modifications. Member Paltin.

COUNCILMEMBER PALTIN: I have an ASF on Granicus, I'd like to move to accept that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

COUNCILMEMBER PALTIN: It's a transmittal dated March 2nd. Would you like me to read it?

VICE-CHAIR COOK: Please.

COUNCILMEMBER PALTIN: Sure. Modifications, Hale Mahaolu Ke Kahua Affordable Housing Community 2.97. One, the Hale Mahaolu Ke Kahua Affordable Housing Community, also known as the "Project," approved by this resolution and the exemptions set forth in Exhibit "A" shall all lapse and become void if construction of the residential workforce housing units has not started within two years of the effective date of this resolution. Start of construction shall mean the visible start of grading pursuant to a valid grading permit as needed for the development of the work...of the residential workforce housing units. Two, the Developer shall act in good faith and with reasonable best efforts to complete construction of all residential workforce housing units with related roads and infrastructure not later than five years from the effective date of this resolution. And for my discussion, this is kind of a standard 201H, 2.97 kind of condition, because the need is great, and we're doing our end for the fast tracking, and so we want to realize the houses within five years. We've seen the Ikaika Ohana complete the Kupuohi project within that amount of time. Keawe Street looks on time. I think Kaiola already did it. So, it's kind of a standard. I didn't invent it and I wouldn't take credit, but putting it forward.

VICE-CHAIR COOK: Would any Members like to speak to the motion? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I would be happy to hear feedback from the developers first, and then I do have comments.

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VICE-CHAIR COOK: Okay. Mr. Chun.

MR. CHUN: Thank you, Mr. Chair. And thank you very much, Member Rawlins-Fernandez. Yeah, no, our comment pertains to the language of the requested modification. We think is unnecessary because Chapter 2.97 already has a two-year start and five-year completion standard included in the ordinance itself. The proposed language of the modification is slightly different from what's in the ordinance, and that slight difference creates some concern for us because the ordinance actually accommodates for the flexibility of the Council to approve extension should it become necessary. And as I indicated in the past, the timing of our...the timing reflected in our County processes don't necessarily sync up with funding requirements and funding deadlines. And so, we want to make sure that we have the flexibility, should it become necessary, to basically adhere to the existing conditions of the ordinance. And we think that the policy concern as far as start within two years and completion within five years is already addressed by language that's already in the ordinance. So, we would respectfully request that the...this particular modification not be included in the...in the resolution.

VICE-CHAIR COOK: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So, I was going to speak in support of the motion, and just provide additional background on why this is important. Because in 2019, when both Member Paltin and I joined the Council, when we tried to work with the Planning Department on enforcing conditions on previously approved projects...projects that, unlike this one, was half market and then half affordable, where the market rate housing was built...all of it was built, and then the affordable housing half wasn't completed. And so, without having timelines in place, the Department has trouble enforcing conditions if they're making a "good faith effort." So, I think like having timelines in place are really important when putting conditions. So, that's why I am supportive of these kind of conditions. So, I found the timing of completion in 2.97.160. And it reads, "Construction of the project shall be initiated within two years of the adoption of the resolution, and shall be completed within five years of the adoption of the resolution. For purposes of this section, construction of the project shall be considered initiated when the building permit is issued and construction of a building has begun. Extensions may be allowed by Council by resolutions. Upon commencement of construction, the developer shall work with the Department of Public Works on a form of bonding to insure the construction is completed within the designated time frame." So, that's what that says, and I haven't had enough time to compare the two to see how they differ. I do see that in Member Paltin's introduced condition, it does say that the housing...so that it started within two years of the effective date of this resolution. . . .(inaudible). . . So, I don't know if Member Paltin...and then the second condition does have not

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later than five years after the effective date of this resolution, without the flexibility of Council approving extensions. I was hoping perhaps, Member Paltin, if there was any other differences that were important that she could illuminate that for us, Chair.

VICE-CHAIR COOK: Member Paltin, clarification?

COUNCILMEMBER PALTIN: Thank you. I can be okay with the issuance of building permits rather than the visible start of grading. It was my intent not to stay extensions.

VICE-CHAIR COOK: I want to acknowledge Member Sugimura, and your comment.

COUNCILMEMBER SUGIMURA: Thank you. I don't know if they're finished with their discussion.

VICE-CHAIR COOK: I apologize. Who's...

COUNCILMEMBER SUGIMURA: Are you done?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Member Sugimura, and aloha. Yes. Mahalo, Member Paltin, for answering my question. Mahalo, Chair, for indulging me. Mahalo.

COUNCILMEMBER SUGIMURA: Okay. Thank you. Thank you. Sorry very much. I was late. I had some family things. Family first. So, I apologize. But anyway. So, I want to speak against the motion, and I value what the developer is saying, Hale Mahaolu, who has experience, lots of experience in this, and understands that the more barriers we put up, it'll stop us from having the housing that we so need being built. So, leave it as it is my strong feeling on that. So, I'm going to be voting against this if it ever comes up. Thank you.

VICE-CHAIR COOK: Thank you. Member Sinenci, comments?

COUNCILMEMBER SINENCI: On this particular issue, Chair?

VICE-CHAIR COOK: I said do you have any comments on the motion?

COUNCILMEMBER SINENCI: None. Thank you.

VICE-CHAIR COOK: Member U'u-Hodgins.

COUNCILMEMBER U'U-HODGINS: You know, it's interesting because both are a give and take. So, if we went by 2.97, and we started their timeline at the issuance of their grading...or their building permit, it's actually before the visible start of

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construction, except there is very little play for the allowable extensions. So, it's kind of an interesting give and take in this situation. But I'm happy to support the language in 2.97 as is.

VICE-CHAIR COOK: Okay. The Chair...I would...from my experience in building, the Chair would not support the motion simply because of all the potential delays. I strongly feel holding the developer accountable to their timeline, and the fact that this is 100 percent affordable, the market component of the comment by Member--which I acknowledge--I don't think will come into play on this. So, Staff? Roll call vote?

MS. GRECO: Roll call vote? Chair, proceeding with the roll call vote to include Councilmember Paltin's modifications in Exhibit "B." Councilmember U'u-Hodgins.

COUNCILMEMBER U'U-HODGINS: No.

MS. GRECO: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: No.

MS. GRECO: Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aye.

MS. GRECO: Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

MS. GRECO: Councilmember Paltin.

COUNCILMEMBER PALTIN: Aye.

MS. GRECO: Council Chair Lee. She's excused. Councilmember Johnson.

VICE-CHAIR COOK: Excused.

MS. GRECO: Committee Vice-Chair Cook.

VICE-CHAIR COOK: No.

MS. GRECO: And Committee Chair Kama.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair? I'm sorry, point of clarification. Excused and recused for the record? Oh, excused and recused, right, for the

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record?

MS. GRECO: Chair, for the record, Councilmember Johnson is excused and recused. And the final Member is Committee Chair Kama.

VICE-CHAIR COOK: She's recused and excused.

MS. GRECO: So, you have three "ayes," three "noes," and two recused and excused, and one excused, so the motion fails.

VOTE: AYES: Councilmembers Paltin, Rawlins-Fernandez, and Sinenci.

NOES: Vice-Chair Cook and Councilmembers Sugimura and U'u-Hodgins.

ABSTAIN: None.

ABSENT: None.

EXC.: Chair Kama and Councilmembers Johnson and Lee.

MOTION FAILS.

VICE-CHAIR COOK: Okay. Members, any more modifications? Member Paltin.

COUNCILMEMBER PALTIN: I move to suspend Council Rule 16 so that modifications could be made to Exhibit "A."

VICE-CHAIR COOK: There's a first and second. I believe we have enough Members currently for that. Okay. All Members in agreement? Okay.

MS. GRECO: Excuse me, Chair. For the record, Councilmember Paltin moved. Who seconded? Councilmember U'u-Hodgins.

VICE-CHAIR COOK: Yes.

COUNCILMEMBER PALTIN: Did you want to call for the question?

COUNCILMEMBER SUGIMURA: How about discussion? Sorry, I missed the earlier part of the meeting, so...

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VICE-CHAIR COOK: Yeah.

COUNCILMEMBER SUGIMURA: Can I hear from Corp. Counsel? Can I hear from Mister...our OCS Attorney? Who's making determinations on this? Oh, Mr. Mitchell.

VICE-CHAIR COOK: Mr. Mitchell.

MR. MITCHELL: Thank you, Chair. And thank you, Member Sugimura. Because we, at the last HLU meeting, substituted Exhibit "A" that prevents the Members from making further amendments to that exhibit. So, we have chosen to suspend the rules, which...Rule 16 in particular, which relates to Robert's Rules. And in those rules, it requires, in order to undo a motion to substitute a motion for reconsideration with six votes. And so, we approached it by saying let's suspend the rules on this one issue, so that Members can now amend the substituted document, and we'll go back to the original, and then proceed with the project...considering the project.

COUNCILMEMBER SUGIMURA: Thank you. So, by accepting this, let's say we vote yes. You need six votes to suspend the rules, which is pretty serious. Then, we would be left with the original bill that the...that was submitted to us. Please clarify.

MR. MITCHELL: We would not be left with the original Exhibit "A" I think is what you're referring to.

COUNCILMEMBER SUGIMURA: Right, right, right.

MR. MITCHELL: What we would be left with is the ability to then reconsider the...I'm confusing myself here. We're going to then have the option to amend the Exhibit "A" as a result of that motion.

COUNCILMEMBER SUGIMURA: So, we would still be...excuse me. But then we'll still be discussing the Exhibit "A" that we were originally talking about. We're just suspending the rules and we would be able to amend...

MR. MITCHELL: The substituted Exhibit "A."

COUNCILMEMBER SUGIMURA: The substituted Exhibit "A."

MR. MITCHELL: Correct.

COUNCILMEMBER SUGIMURA: So, if I have one concern, which I think Corp. Counsel said that we needed to look at the one exemption that was being asked for about the DBA. The only way to address that and address us to...address Corp.

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Counsel's concern is to do this...what you're suggesting. Is that what you're suggesting?

MS. LILLIS: If I can jump in. For their DBA, the question that I believe you're speaking to was the Charter...

COUNCILMEMBER SUGIMURA: Right. Mandated.

MS. LILLIS: Yes, yes. The Charter request to have it waived, and that has been removed. That is not in the Exhibit "A" that is available on Granicus...the ASF from Chair Kama.

COUNCILMEMBER SUGIMURA: So, like what number is it? N...is that right? Is that right, Ana?

MS. LILLIS: No. The number...there is not...the Charter...sorry, guys. The Charter waiver, they asked for an exemption from the Charter. And that is not in the Exhibit "A" that we are working from. The Exhibit "A" that we are working from is available on Granicus, and it's Item Number 7.

COUNCILMEMBER SUGIMURA: 7, okay.

MR. MITCHELL: And that is...Member Sugimura, if I could follow up with my response to you.

COUNCILMEMBER SUGIMURA: Okay.

MR. MITCHELL: And then we would move to reinstate Rule 16. Just that one rule. So, we wouldn't suspend all the rules, it's just 16, and then we would move to reinstate after we've gone through this process of amending the substitute exhibit.

COUNCILMEMBER SUGIMURA: So, Rule 16 is what? What is Rule 16?

MR. MITCHELL: It's the rule in the Rules of Procedure that says our default rules are Robert's Rules. That's all it says.

COUNCILMEMBER SUGIMURA: So, what kind of exposure are we leaving ourselves to?

MR. MITCHELL: There is no liability for suspending rules. There is no private right of action. The rules are intended to provide the body with a manner of orderly proceeding with its meetings. So, there is no liability there. There is one rule, obviously, the rule relating to testimony that parallels what's required in the Sunshine Law. So, that does have some exposure for us, but we're not suspending that rule.

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COUNCILMEMBER SUGIMURA: Okay.

VICE-CHAIR COOK: Member Rawlins-Fernandez, I believe you had a question?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I was going to just try to help the conversation along. And a reminder that Member Paltin has to leave at 11:00, which is less than half an hour. So, that's why I was going to also try to move the conversation along a little quicker because a lot of what was discussed had already been discussed. So, I will vote in favor of the motion to suspend Rule 16, which is, as Mr. Mitchell said, our Council rules that reference Robert's Rules of Order where our Council Rules is silent, and that's the Rules of Procedure that we would follow. In order to make amendments to this substituted document, we would need to suspend Robert's Rules, which we would follow, because it's Robert's Rules that would prohibit us from amending a document in a motion to substitute. Number...or letter N, which is the exemption of the district boundary amendment, is reworded so that the application is what is being exempted in N, and we had that discussion a little earlier. So, that it's not an exemption from the DBA, but rather it's a request for either...for the County to direct refer the application to the Planning Commission for their consideration of approval of the district boundary amendment. I think I touched upon all the issues that were being discussed, and hopefully that helps to clarify for all of us here and for the public following along. Mahalo, Chair.

VICE-CHAIR COOK: Okay. I'm going to call for a vote. All in favor of suspending Rule 16?

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

VICE-CHAIR COOK: Five "ayes," one "no."

COUNCILMEMBER SUGIMURA: No. We can call roll call vote.

VICE-CHAIR COOK: Okay. Roll call vote.

MS. GRECO: Chair, proceeding with the roll call vote to move to suspend Rule 16 of the Rules of the Council. Councilmember U'u-Hodgins.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, before we take the vote. May I have a second turn to speak to the motion? It's your call. You don't have to recognize me.

VICE-CHAIR COOK: Staff?

MS. GRECO: Chair, it's up to your decision if you'd like to entertain more discussion.

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If not, we can proceed with the roll call vote. It's up to you.

VICE-CHAIR COOK: Members, would you like to have more discussion?

COUNCILMEMBER RAWLINS-FERNANDEZ: I'll make it quick.

VICE-CHAIR COOK: Sorry?

COUNCILMEMBER RAWLINS-FERNANDEZ: I'll make it quick.

VICE-CHAIR COOK: Okay. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. If this vote fails, then we will not be able to proceed with amending the Exhibit "A." I'm not super sure if we'd be able to amend it all one by one in time before we lose six Members. Six Members are required to do it, but I guess if we're going to five votes, simple majority, we can painstakingly go through all the technical amendments that OCS did with all the exemptions. So, if this vote fails, that's what happens. So, I just wanted to make sure that everyone understood what's going to happen. Again, Member Paltin leaves in about 24 minutes, and if we don't suspend Rule 16, which I'm not always a big fan of suspending rules, but for this particular thing, procedural, it's not that super big of a deal. But that's, that's what we're going to have to do. And I mean, that's just the consequences of the...of our actions, so that's the repercussions if this vote fails. Mahalo, Chair.

VICE-CHAIR COOK: Thank you for your comments. Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I'm concerned with letter C. We heard from the Water Department that they have a balanced budget. And in the past with 2.97 projects, although we've granted this exemption, we've had to come back and undo that and get the money from the affordable housing fund instead. So, leaving it in and continuing on this is just going to cluster it up in the future, and we're going to have to do all this other unefficient [sic] stuff. So, I mean there's really no point to stay until 11:00 if we're not amending this, and I can leave right now. But, you guys' call.

VICE-CHAIR COOK: Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah, thank you. So, I am voting against this because I...I support affordable housing. I support us being able to build based upon what the developer has said that they can build with. But if we start adding amendments and conditions and changes, guess what? We're not going to have this project. We've done it before. We had a project come before us. We voted against it. I lost. Some of the other Members lost. And we lost the housing, affordable housing. So, I am not going to support this motion because I want us

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to stay focused, support the developer. My main concern was the Charter, the DBA situation, which Staff has confirmed that is not in this. So, therefore, my big concern is not present. I want us to stay focused, support the project as a developer has said they can't remember. Every single dollar we add to that, it takes away a house in the future. The exemption from the Fire Code, which was one of them, it's like a million dollars. You think Fire Code, small kine, right? No. It is big. So, those are the kind of actions that we are...we are impacting if we're not careful. This is not a project that has market and affordable. This is 100 percent affordable. Rentals, no less. For people who really need it. The people we care about, we talk about. We don't want them to be homeless, you know. There's all of that that's in my heart. So, yeah. we want to add on maybe more amendments, but I do not. I want...I want these...more conditions. I do not. I want this to stay pure as possible. So, thanks for allowing me to give my, you know, long reason. But I'm going to be voting against this motion. Thank you.

COUNCILMEMBER U‘U-HODGINS: Chair.

VICE-CHAIR COOK: Member U‘u-Hodgins.

COUNCILMEMBER U‘U-HODGINS: Thank you. I wanted to clarify with OCS. So, I was on the Granicus, our meeting details, and Number 7 does have the letter N in it online.

MS. LILLIS: Correct. So, letter N --

COUNCILMEMBER U‘U-HODGINS: Yeah.

MS. LILLIS: -- is for the State Land Use District boundary. And they are only being granted an exemption from submitting an application for the Planning Director. Planning does not have an issue with letter N. The applicant's original submission in Volume 1 does include a Charter exemption, which the Council cannot grant, which is why that was removed.

COUNCILMEMBER U‘U-HODGINS: Okay.

MS. LILLIS: So, this...yeah. Great.

COUNCILMEMBER U‘U-HODGINS: Thank you so much.

VICE-CHAIR COOK: Councilmember Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. Question for Ms. DesJardins.

MS. DESJARDINS: Hi, good morning.

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COUNCILMEMBER SINENCI: Yeah, I was just curious. If we don't pass this out of Committee today or...I know that there are some challenges, that we've got two Members that are...that have recused...are excused and recused themselves. And then we've got another Member we're...I mean if we don't get to pass it today, what happens then?

MS. DESJARDINS: So, ultimately, you need five Members under the Charter to vote to take any action. So, if you don't have five votes one way or the other, what will happen is, under 2.97, is that this project will time out, and then it goes to the Director of Housing and Human Concerns to either approve, disapprove, or approve with modifications within 14 days. So, it's not an automatic approval. It then...she basically sits in a place of what you folks are attempting to do now by putting exemptions, modifications, et cetera. And I just want to interject something real quick. But, you know, if regardless of how you vote on Exhibit "A," whether to waive Robert's Rules of Order, you still have the modifications that are not part of Exhibit "A," that's Exhibit "B," and that has not been substituted. So, the issue of modifications has not been addressed. And so, I got a little bit confused because Member Paltin's floor amendment was modifications, that's Exhibit "B." That's when you start adding things. So, I thought we had moved on from the discussion with Exhibit "A," but I might . . .*(inaudible)*. . . But I just wanted to clarify that. You still have to do the modifications if you want to . . .*(inaudible)*. . .

COUNCILMEMBER SINENCI: And I think Member Paltin had...had asked for the question to exempt Rule 16, because we had a sixth member. So, that's why we're at this...

MS. DESJARDINS: So, you're back to Exhibit "A." Got it. Okay. Thank you.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair.

VICE-CHAIR COOK: Okay. Further comments, Members? Staff.

MS. GRECO: Okay. Proceeding with the roll call vote to move to suspend Council Rule 16 so amendments can be made to Exhibit "A." Councilmember U'u-Hodgins.

COUNCILMEMBER U'U-HODGINS: Yes.

MS. GRECO: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: No.

MS. GRECO: Councilmember Sinenci.

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MS. GRECO: Chair, you have five “ayes,” one “no,” one excused, and two recused and excused. So, the motion fails.

EXC.: Chair Kama and Councilmembers Johnson and Lee.

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COUNCILMEMBER SUGIMURA: We need six.

VICE-CHAIR COOK: Member Paltin.

COUNCILMEMBER PALTIN: I move to reconsider substitution.

COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

VICE-CHAIR COOK: Staff.

MS. GRECO: Chair, in order to do that motion, we have to have all the Members present that moved to substitute. And we don't have all those Members because Chair Lee is not here. So, I believe now, Councilmember Paltin, you'd have to withdraw that motion. We can't make it because Chair Lee is not here.

COUNCILMEMBER RAWLINS-FERNANDEZ: Withdraw.

COUNCILMEMBER PALTIN: I'll just see if it passes or not. Could you...it just has a higher standard, right?

MS. GRECO: We...in order to even take it, we have to have all the Members present, so we can't even take a vote on it. You can't entertain it.

COUNCILMEMBER PALTIN: Okay. Withdrawn.

MS. GRECO: Thanks.

VICE-CHAIR COOK: Okay. So, Member Paltin, withdrawn?

COUNCILMEMBER PALTIN: Why not.

VICE-CHAIR COOK: Okay. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So, to clarify where we're at, we took a vote at the last meeting to substitute Exhibit "A" and we were...we were under the understanding that we would be able to further amend from there to make whatever modifications were necessary. Perhaps I can ask another question, Chair? You have some comments?

VICE-CHAIR COOK: Yeah. May I? Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes, you may.

VICE-CHAIR COOK: Okay. Members, we are now done with Exhibit "A." We're moving

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on to modifications.

COUNCILMEMBER RAWLINS-FERNANDEZ: I was actually going to ask a question about rules...on a second opinion on small boards under Robert's Rules of Order. Under small boards, there's a little more flexibility as far as amending substitutions. I remember that being a thing. And so, if we could look at...under Robert's Rules of Orders, if small boards has any flexibility in amending substitutions.

MR. MITCHELL: Thank you, Chair Cook. And thank you, Member Rawlins-Fernandez. If I could just have a moment to look into that, and see if we can have some flexibility that way, and I'll report back shortly. Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Mahalo, Mr. Mitchell. And mahalo, Chair. And we don't have to take a recess. We can continue to talk about whatever proposed modifications other Members have while Mr. Mitchell looks at that. I appreciate that. Mahalo, Chair.

VICE-CHAIR COOK: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Yeah, so did we finish all of the questions for Departments from Exhibit "A"?

VICE-CHAIR COOK: Repeat, please?

COUNCILMEMBER SUGIMURA: Oh, did we finish all of the going through what the Department has to say about Exhibit "A"? We finished the whole thing? Okay.

MS. GRECO: Councilmember Sugimura, the point of discussion that we're at is they discussed...they finished questions about Exhibit "A" and then we moved on to Exhibit "B," the modifications. Councilmember Paltin made a motion to use her posted ASF for the modifications, and that motion failed. So, now we're back to any other modifications that the Councilmembers want to propose.

VICE-CHAIR COOK: Okay. And I'd like to let the Members know that Director of Public Works had to leave at 10:30. Okay. So, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. We also received a response from the developers with the requested information on the cost of each of the exemptions. And under Exemption D from the Fire Code, they're estimating because of the cost of construction being \$33,500,000 that the formula provided in the Fire Code. So, Fire Code Plan review fee for this project is estimated to be \$41,360, not millions. Just for the record. Mahalo, Chair.

COUNCILMEMBER SUGIMURA: I stand corrected.

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VICE-CHAIR COOK: Okay.

MS. LILLIS: So, Chair, at this time you could entertain any other modifications to be added to Exhibit "B."

VICE-CHAIR COOK: Okay. Members, does anybody have...okay. Member Sinenci.

COUNCILMEMBER SINENCI: Mahalo, Chair. Yeah, I'd like to move that the Maui Burial Council create and approve a plan for any inadvertent finds during construction, and that a burial treatment plan state that burials be left in place if found, and that any of the family heirs be consulted and...and approve of such a burial treatment plan. And if we get a second, I can explain.

VICE-CHAIR COOK: Members, there's a motion. Is there a second?

COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

VICE-CHAIR COOK: Second by Member Rawlins-Fernandez. Discussion.

COUNCILMEMBER SINENCI: Thank you, Chair. And yeah, Chair, throughout this entire process, we've heard some rather very moving testimony from some of the heirs that say that they do have any burials on this site. And so, I just wanted to make sure that if there are any inadvertent finds during the construction that they be informed. Thank you, Chair.

VICE-CHAIR COOK: Any comments by the developer?

MR. CHUN: Thank you, Mr. Chair. And thank you for that suggestion, Councilmember Sinenci. Just for clarification, my...our understanding is that the existing process prescribed by stages to our preservation division accommodates for exactly what is to transpire should there be inadvertent finds, including consultation. And so, respectfully, we feel that the proposed modification is unnecessary because it's already consistent with the existing process. It's already in place.

VICE-CHAIR COOK: Any comment, Mr. Sinenci.

COUNCILMEMBER SINENCI: Yeah. Mahalo. Mahalo, Mr. Chun. Yeah...yeah, you're right, SHPD does have that. However, I mean by putting it under the Maui Burial Council, oftentimes SHPD, at the State level, they might even hold up a project should you find inadvertent finds. And oftentimes...this is the problem with SHPD, it's been...we can't get any...any support from SHPD if any finds are being made. So, this could technically keep the project from moving forward. So, having it under the Maui Burial Council, that we could technically move it

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quicker, and SHPD is always open. They understand their shortfalls at the State, and they're open to working with our local Burial Council. Thank you.

VICE-CHAIR COOK: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. In the application, it said that the AMP, the Archaeological Monitoring Plan, is supposed to be used for identification. And I see Mr. Yucha here. So, really, there shouldn't be any inadvertent finds because the plan is supposed to be used to prevent that. Am I misunderstanding that? I don't know if Mr. Chun wants to call up Mr. Yucha.

MR. CHUN: Chair Cook. Yes, Mr. Yucha is well situated to address these questions.

MR. YUCHA: Hello. Hi. So, in terms of the monitoring plan and inadvertent finds, it really, again, just goes back to the process issue for a process. The way it's addressed at SHPD, from our end, there is certainly a potential for finds still during construction for an area like this. And our job is really to make the find and report it. From that point it's really on the SHPD to determine what the find is legally, whether previously identified or inadvertent. I think the way the laws are set up, it would be still considered an inadvertent find, just because of when it's found in the process during construction, but it's certainly up to the SHPD to clarify that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Yucha. And would you be wanting to do another AIS since it's not one that you yourself or your company did, and not particularly one that you would want to stake your reputation on? The number of sampling that was done is really not sufficient.

MR. YUCHA: So, for this project, just kind of reiterating points that I made before. You know, we reviewed the previous studies and findings. We consulted with the SHPD, and I think we're all in agreement that the appropriate course of action next is to move toward monitoring for this project. That the previous study that was conducted, there had no findings apart from the testing that they did. And that, combined with other factors, like the documentation of previous land use as being in an agricultural area, makes me confident in the process and the decisions that were made. So, we would not be requesting any additional studies.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for your response to that. You know, the farming in the area we talked about not consulting the lineal descendant five out of the seven-year something. And after hearing testimony, and hearing that there are iwi in the area and that directly conflicts with the AIS. So, it's unfortunate that the answer is no, but mahalo for your response. Mahalo, Chair.

VICE-CHAIR COOK: Member Sugimura.

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COUNCILMEMBER SUGIMURA: Thank you. I think Member Sinenci, who is the maker of the motion...

VICE-CHAIR COOK: Okay, Member Sinenci.

COUNCILMEMBER SINENCI: Just a question for Mr. Yucha. Mr. Yucha, is the SHPD...current SHPD process include the Maui Burial Council?

MR. YUCHA: It does. It's typically after there is a find, whether previously identified. inadvertent. In either case, the Burial Council is included. The findings, the project is always presented before the Burial Council. The Burial Council has an opportunity to discuss, make recommendations. For previously identified finds, they have the power to also make the treatment determination for that find. For inadvertent finds, that decision goes to the SHPD.

COUNCILMEMBER SINENCI: Does it also include the involvement of lineal descendants as part of that treatment plan?

MR. YUCHA: Yeah, absolutely. And again, it's...but the way the process is structured is all of this happens after a finding and not before. But once there's a finding, one of the initial steps is notification of any recognized lineal and cultural descendants by the SHPD.

COUNCILMEMBER SINENCI: Okay. And is that stated...currently stated in that...in the process?

MR. YUCHA: Yes. Under Hawai'i Administrative Rules 13-300.

COUNCILMEMBER SINENCI: Okay. Thank you. Thank you, Chair.

VICE-CHAIR COOK: Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah. Thank you very much. So, I'm just wondering if SHPD has already...or, sorry if I'm not using the right terminology. But the Archaeological Inventory Study, has that been approved?

MR. YUCHA: Yes, that was approved. Yes.

COUNCILMEMBER SUGIMURA: So, SHPD has signed off on it, and it's been approved for this project.

MR. YUCHA: Yes. Correct.

COUNCILMEMBER SUGIMURA: And burial treatment plan?

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MR. YUCHA: So, the way the process is set up is that if there's a find, then a burial treatment plan would be required. But we never...for this project, or for any project, we never do any sort of pretreatment or arrangements prior to a finding. It's all kind of on a case-by-case basis. It relies heavily on consultation with descendants and the SHPD and others.

COUNCILMEMBER SUGIMURA: Okay. And so, it sounds like from what you're saying...and I understand where Member Sinenci is coming from with his cultural sensitivity. But it sounds like everything is in place and we don't need to add this modification. And I think you had become our most favorite testifier or resource. So, thank you very much for, you know, your knowledge in this area, and I'm sure, after having to come back and forth, back and forth, that you're going to make sure this project proceeds with the sensitivity that Member Sinenci is asking for. So, I don't think we need to add this as a modification. I mean, you're going to make it happen. So, thank you.

MR. YUCHA: Thank you.

VICE-CHAIR COOK: Any further questions for the expert? Member Sinenci, any desire to change your motion, or is it still on the floor?

COUNCILMEMBER SINENCI: Yeah, we can...yeah. We'll call for the question. I appreciate Mr. Yucha. I have yet to see it. I mean, he stated 13-300, and I understand that SHPD has jurisdiction. I just wanted to make sure that the family and the Burial Council was part of that process. So, if we could, Chair, just call for the question that we include this language as a modification.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair. For my second and final.

VICE-CHAIR COOK: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I speak in strong support of this motion for...oh, mahalo, Mr. Yucha. After all the testimony that we heard that contradicts the AIS that was...that no one really wants to stake their reputation on. The testing is very insufficient. There is no standards under SHPD that we heard of. And there...it's about who you know, and who is paying your bills and, you know, we can't look away when those are some of the factors involved in decision making. This is the very least that we can do to address the racist system that continues to oppress our people. The very least. And so, I will be supporting this motion, and I will continue to, in my Committee, provide education so that it holds up a mirror to individuals so they can see themselves for who they are. Mahalo, Chair.

VICE-CHAIR COOK: Okay. Any other discussion or we'll call for the vote. Roll call vote.

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MS. LILLIS: Chair, the motion as we heard it was the Maui Burial Council create an improved plan for any inadvertent finds during construction, and that a burial treatment plan, burial should be left in place if found, and that any of the family heirs be consulted and approve such burial treatment. And OCS would request to do any nonsubstantive provisions if this motion passes.

COUNCILMEMBER SINENCI: Yes, friendly.

MS. GRECO: Councilmember U'u-Hodgins.

COUNCILMEMBER U'U-HODGINS: Yes.

MS. GRECO: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: No.

MS. GRECO: Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aye.

MS. GRECO: Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

MS. GRECO: Councilmember Paltin.

COUNCILMEMBER PALTIN: Aye.

MS. GRECO: Council Chair Lee.

VICE-CHAIR COOK: Excused.

MS. GRECO: Councilmember Johnson.

VICE-CHAIR COOK: Recused and excused.

MS. GRECO: Committee Vice-Chair Cook.

VICE-CHAIR COOK: No.

MS. GRECO: Committee Chair Kama.

VICE-CHAIR COOK: Recused and excused.

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MS. GRECO: Chair, you have four "ayes", two "noes", one excused, two recused and excused. The motion fails.

VOTE: AYES: Councilmembers Paltin, Rawlins-Fernandez, Sinenci, and U'u-Hodgins.

NOES: Vice-Chair Cook and Councilmember Sugimura.

ABSTAIN: None.

ABSENT: None.

EXC.: Chair Kama and Councilmembers Johnson and Lee.

MOTION FAILS.

MS. LILLIS: So, Chair, you would...you can now entertain other modifications if there are any from the Members.

VICE-CHAIR COOK: Members? Okay, Members, I will now entertain any additional modifications. Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I don't have this written up, so it's not going to be beautiful. Just work with me here. So, to add modification to require the developer...oh, I cannot see. I attempted to in a short amount of time, so let's see how this goes. The developer shall include in the request for funding, the fees for each of the following: disposal charges...let's see. Fire Code, Electrical Code, Plumbing Code, Building Code, disposal permit application fee, water system development fee schedule from the affordable housing fund. . . .*(inaudible)*. . .

COUNCILMEMBER PALTIN: . . .*(inaudible)*. . .

VICE-CHAIR COOK: Staff, do you have that? Could you repeat?

MS. GRECO: Could you repeat it?

COUNCILMEMBER RAWLINS-FERNANDEZ: Would you like me to repeat that? Okay. Okay, okay, we're going to try again. All right. So, all the fees that were provided for us, mahalo to the developers for providing that. In the exemptions, this modification is to require the developer to include in their request for funding all these fees. Because I believe in the last budget session under the affordable

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housing fund, there was a request for \$6 million to support the construction of this project. And the total for all the exemptions are \$816,293. So...and that's an estimate, right? That's the projected estimate that they provided us. So, it would be approximately \$820,000 for . . .(inaudible). . .

VICE-CHAIR COOK: Councilmember Paltin.

COUNCILMEMBER PALTIN: I'm supportive. I thought it was like \$996,000. But either way I'm supportive.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. The number that Member Paltin said.

COUNCILMEMBER PALTIN: Or whatever the total amount is. Because this is just an estimate. So, you know, I mean I'm fine with the County paying for the money out of the affordable housing fund. I'm okay with that.

VICE-CHAIR COOK: Any comment from the applicant?

MR. CHUN: Thank you, Chair Cook. And thank you for the proposed language, Councilmember. Respectfully, our position remains unchanged. The language of Chapter 2.97 already accommodates for the majority of these exemptions. And to the extent there are administrative vehicles that the County of Maui Administration needs to or would like to employ in order to make certain funds whole, you know, we have no problem or objection to that. As I previously referenced in earlier comments, bringing the developer into the middle of that transfer seems really, respectfully, sort of clunky, and a process that number one, is something we would, number one, prefer not to be a part of, but number two, it also does affect our application because if there is a situation presented in the funding for the project where we may receive sort of a replenishment of funds to accommodate for these amounts, based upon some discretionary application to a County Department, it affects the total project cost. And as I mentioned previously, the total project cost is what ultimately we need to, in good faith, reflect when we go to the State for funding. And so, every time we do something like this, even if there is the possibility of these funds being replenished, we have to include these funds in our total project cost...which means, unit costs goes up, which means our viability to bring funding and housing to our community is reduced. So, that's why, respectfully, we have no problem with...like I said, the County Administration and Departments working with one another to effectuate, making certain funds whole as deemed appropriate. But please, don't put an affordable housing developer in the middle of that. Thank you.

VICE-CHAIR COOK: Thank you for your comment. Member Paltin, and then Member Sugimura.

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COUNCILMEMBER PALTIN: Thank you, Chair. I'd like to hear from Ms. DesJardins regarding the water situation, which she had said they're eligible to apply for is discretionary. But, if he feels what we went through with the Kaiola Project when we did grant that, what was the fallout.

MS. DESJARDINS: Chair.

VICE-CHAIR COOK: Yes.

MS. DESJARDINS: So, my recollection of that is that...for example, for Hale Pilina, I think, is the one that sticks out the most. And I think that was when Member Rawlins-Fernandez pledged to refund the water system development fee out of the budget, which worked out great because they were able to give you the exact number. Because right now, you wouldn't know what the exact number is until closer to development. And then that...the funds were reimbursed directly to the Water Department is my understanding through the budget process. The way that the Department, our Department reached this 2.97 is our discretionary, nondiscretionary exemptions. And the way it's worded right now, anything in the code can be waived. If you don't want that to be the case, then I think the code needs to be amended to specifically state that. But as it is right now, if a developer has to ask for County funding, I agree with Mr. Chun, that it probably would affect his funding. It could trigger an environmental assessment, but in this case an environmental assessment has already been . . . *(inaudible)*. . . But there are definitely mechanisms during the budget process to be able to refund that to the Water Department. I would highly recommended just from the fallout that I've heard you folks having to take in . . . *(inaudible)*. . . where you've allowed the water system development fee to be waived. But that's about all that I have to comment on there. Member Paltin, I hope that helps.

COUNCILMEMBER PALTIN: Sorry, I was...I guess maybe Tammy Yeh, because she was citing their code for the water chapter, if you weren't aware. Maybe I can ask Tammy Yeh about the restrictions that they're up against.

MS. DESJARDINS: That would be a different matter, it's just that I'm looking at 2.97, which allows for discretionary waivers of fees, and that's where you folks have in the past given that concession to develop . . . *(inaudible)*. . .

COUNCILMEMBER PALTIN: Thank you. Is Tammy Yeh available?

MS. LILLIS: Chair, yes. Tammy Yeh is connected to the call. We can ask for a response from the Department of Water Supply representative. Tammy Yeh, if you are connected to this call, please unmute yourself.

MS. YEH: This is Tammy Yeh for the Department of Water Supply. Can you hear me?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

MS. YEH: Okay. Thank you. I'm sorry, what was the question? I believe it...I believe it was about our code. So, our code for the water system development fee, there is no...there is no exact language for exempting the water system development fee. I know there's other departments, like Wastewater, that does have that built into their...to their code. But as far as I'm aware, there is none. But, I guess Mimi was...or...was stating that I guess the Council or Committee is able to exempt it. So, I guess that's...I guess that's what her interpretation is. But as far as I'm aware, on the Chapter 14 side of things, there is no direct language stating that the Department can exempt water system development fees.

COUNCILMEMBER PALTIN: So, there's no mechanism for you guys to do that?

MS. YEH: No. Not that I'm aware of. But...and like I said, I guess with that Chapter 2.96 or 7, that I guess you guys could do it in that direction. But as far as Chapter 14, no, there is none that I'm aware of.

COUNCILMEMBER PALTIN: Okay. And the time we did it, what happened?

MS. YEH: So, the project, I believe, was the Hale Pilina project. I believe the developer estimated the meter size at that time. They're not in construction yet either. They're still in the design phase. So, I have not seen that request for a water meter to be installed yet. So, I'm not sure how the paperwork, or how that goes yet. But, that...that amount for the water system development fee is...is in the affordable housing fund.

COUNCILMEMBER PALTIN: Okay. So, they were at the same point that we're at now, but they knew what size water meters they were going to use, is what you're saying?

MS. YEH: I believe they did estimate it. I did get an email or a call, I can't recall, from the developer's consultant, the civil engineers. And they did get an estimate on the size of meter they need for this project. I didn't check it or anything. They were just getting an estimate. So, it's not been approved yet in that sense.

COUNCILMEMBER PALTIN: Thank you. Thank you, Chair.

VICE-CHAIR COOK: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Yeah, thank you. I wonder if I could hear from the Housing Department on this.

VICE-CHAIR COOK: Deputy Director?

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MR. MATAAFA: Do you have a specific question?

COUNCILMEMBER SUGIMURA: Just this discussion about waiving the water use fee.

MR. MATAAFA: So, the Department doesn't have any objection from it coming from the affordable housing fund. But we will stand on our previous testimony, that we would ask the developer to apply for it, because that's the only mechanism that we have right now.

COUNCILMEMBER SUGIMURA: So, if I could, if the Council--because we're right now hitting budget. If the Council put it in...I guess we don't have a project yet, unless...if this is approved. But what is your opinion about that, if the Council puts it in as one of the conditions for the affordable housing fund for Fiscal Year '24 budget?

MR. MATAAFA: Yes. So, if it does get put in their completed application, then we would execute a grant agreement with the developer at that point. Another potential option too, is maybe looking at general funds to also put it within the Department of Water Supply. One of the challenges that we have as a Department is we only have one person that really looks at CIP projects. And so, if you want subject matter expertise when you're processing and administering the grant agreement for the water system development fee, it would be appropriate for the Water Department to have oversight over that. So, that's kind of the challenges we're working through right now is...with our affordable housing fund is trying to figure out a way to make sure that, you know, the expertise to administer that grant from the appropriate department is there. We do have some CIP experience in our Department, but...

VICE-CHAIR COOK: Deputy Director, please speak closer into the mic.

MR. MATAAFA: Sorry. Sorry, I'm a soft speaker. But yeah, so we do have some expertise, but we only have about...we only have one member right now that does CIP. So, we're working on the mechanics of affordable housing fund right now to see how we can make sure that the Department of Water Supply would be able to administer funding for the project.

COUNCILMEMBER SUGIMURA: Because I think I'm hearing the developer say that they don't want to be the one that is...is interfacing with all the Departments to get this done. So, I just wondering if the Housing and Human Concerns Department had some kind of mechanism in place so that we can, you know, solve it today and not have them, you know, ricocheting amongst all the applicable departments.

MR. MATAAFA: Yes. Thank you, Chair. Yeah, so again I'll say, we won't object to if you

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put it in the budget, we'll just have to go through that formal process that we currently have now to process the application.

COUNCILMEMBER SUGIMURA: Okay.

MR. MATAAFA: Thank you.

COUNCILMEMBER SUGIMURA: Thank you.

VICE-CHAIR COOK: Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I wanted to add to...information to the motion, because I just gave the total. So, the breakdown for, you know, those following at home. For the Fire Code exemption, it's 41,360 estimated; Electrical Code, 13,311; the Plumbing Code, the plumbing permit fees, 26,325; the building permit fee is estimated at 330,880; disposal permits, \$25; water system development fee, which is what we were discussing is 404,392 is the estimate; and for the costs of the improvement for sidewalk, gutters, curbs is 180,000. So, that's how we came up with 900-something...million-ish, I guess.

COUNCILMEMBER PALTIN: Thousand.

COUNCILMEMBER RAWLINS-FERNANDEZ: What did I say?

COUNCILMEMBER PALTIN: Million.

COUNCILMEMBER RAWLINS-FERNANDEZ: No, all of it. When you add all of it together, and I said 800-something thousand, and you guys 900-something thousand, so I just said about a million. Okay.

VICE-CHAIR COOK: So, we've already stated the amounts that we have...

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, so the Water Department is self-funded, and that's a, you know, pretty significant amount. So, I wouldn't want to leave them high and dry. They should be made whole. And, you know, while I agree with Mr. Chun's comments, you know, right now like that's the process that we have in place. And perhaps we can, you know, address that in the code later. But I wouldn't want to leave our Public Works and Water Departments both with this significant amounts of money. Mahalo, Chair.

VICE-CHAIR COOK: Member U'u-Hodgins.

COUNCILMEMBER U'U-HODGINS: Thank you, Chair. So, to clarify, because we have a lot of comments going back and forth. But my understanding is, one part of the code says we can, another part of the code says they cannot, and both our

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County Departments don't talk to each other, or work with each other, so that we don't have to get a third-party involved to kind of fix that discrepancy; is that correct?

MR. MATAAFA: Chair.

COUNCILMEMBER U'U-HODGINS: Because that seems a little like backwards.

MR. MATAAFA: Thank you, Member U'u-Hodgins. Yes. So, right now, there's currently no mechanism in the code that would allow for it, so we have to work on those changes as a Department to figure that part out.

COUNCILMEMBER U'U-HODGINS: Okay. Let us know how we can help.

MR. MATAAFA: Okay. I appreciate it.

COUNCILMEMBER U'U-HODGINS: Thank you.

VICE-CHAIR COOK: I have a question for the Deputy Director. How has this been...this is like...we've done dozens and dozens of 2.96. How has this been addressed in the past? No, 2.97. Thank you. It's been...it's been a challenging day.

COUNCILMEMBER PALTIN: 2.97 is a newer process, so we're still working out the kinks. It's meant to be a 201H for 100 percent affordable projects. So, there's only a handful of projects. In the first project we had, we approved all of these, and then they came back and told us that was a problem. So, that's the reason why we're here right now. Because nobody...after they told us it was a problem, nobody fixed the problem.

VICE-CHAIR COOK: So, Deputy Director, is that up to the Council to fix this problem?

MR. MATAAFA: Thank you, Chair. Right now there are issues within the Department to look at, you know, how we utilize affordable housing funds. I think it's...2.97 process is pretty new. I believe Tamara, Councilmember Paltin, is correct that we've only handled three so far. So, we are working through our processes and the usage of the affordable housing fund and figuring out the infrastructure...how infrastructure projects can take advantage of that fund will be something that we'll be looking at closely. Because we do want to make sure...again, like I said, that, you know, if it does come out of the affordable housing fund that the appropriate department is able to oversee that process. So, I would just ask for you guys to give us the courtesy and a little bit of time to figure that part out. Thank you.

VICE-CHAIR COOK: Okay. Thank you. Staff, where are we at?

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MS. GRECO: If discussion has exhausted, we have one clarifying question. So, Councilmember Rawlins-Fernandez made this motion, but we did not hear a second. Do we have a seconder?

COUNCILMEMBER PALTIN: Second.

MS. GRECO: Okay. Seconded by Councilmember Paltin. And the motion, Councilmember Rawlins-Fernandez, correct me if this is wrong, but it's to require the developer to include in their request for funding all of the fees requested in their correspondence listed in Granicus Number 16, and allow OCS to make any nonsubstantive revisions.

COUNCILMEMBER RAWLINS-FERNANDEZ: That sounds correct. Mahalo, Ms. Greco.

MS. GRECO: Great. So, proceeding with the roll call vote on that motion. Councilmember U'u-Hodgins.

COUNCILMEMBER U'U-HODGINS: No.

MS. GRECO: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: No.

MS. GRECO: Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aye.

MS. GRECO: Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

MS. GRECO: Councilmember Paltin.

COUNCILMEMBER PALTIN: Aye.

MS. GRECO: Council Chair Lee.

VICE-CHAIR COOK: Excused.

MS. GRECO: Councilmember Johnson.

VICE-CHAIR COOK: Recused and excused.

MS. GRECO: Committee Vice-Chair Cook.

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VICE-CHAIR COOK: No.

MS. GRECO: Committee Chair Kama.

VICE-CHAIR COOK: Recused and excused.

MS. GRECO: Chair, you have three “ayes,” three “noes,” one excused, and two recused and excused. So, the motion fails.

VOTE: **AYES:** **Councilmembers Paltin, Rawlins-Fernandez,**
 and Sinenci.

NOES: Vice-Chair Cook and Councilmembers Sugimura and U'u-Hodgins.

ABSTAIN: None.

ABSENT: None.

EXC.: Chair Kama and Councilmembers Johnson and Lee.

MOTION FAILS.

MS. LILLIS: Chair, you can now entertain any other potential modifications.

VICE-CHAIR COOK: Members, we will now entertain any other modifications, if there are any. If not, we'll move on. Okay.

MS. LILLIS: Chair, at this time you can take a vote on approving the project. But OCS Staff would like to request a five-minute recess before that.

VICE-CHAIR COOK: Okay. Request a five-minute recess. We will be...it is now 11:22, we'll reconvene at 11:27. . . .*(gavel)*. . .

RECESS: 11:22 a.m.

RECONVENE: 11:37 a.m. (Excused: TK, GJ, AL, TP)

VICE-CHAIR COOK: . . . *(gavel)*. . . The Housing and Land Use Committee meeting will now reconvene at 11:37 a.m. Members, I will entertain a motion to recommend approval of Resolution 23-79, Approving the Project with Modifications to Council.

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COUNCILMEMBER SUGIMURA: So moved, Chair.

VICE-CHAIR COOK: So moved by Member Sugimura.

COUNCILMEMBER SUGIMURA: Yes.

VICE-CHAIR COOK: Is there a second?

COUNCILMEMBER U'U-HODGINS: Second.

VICE-CHAIR COOK: Second by Member U'u-Hodgins.

COUNCILMEMBER SUGIMURA: Yes.

VICE-CHAIR COOK: Discussion?

COUNCILMEMBER SUGIMURA: Yeah. So, thank you everybody for bringing us to this point. As you have heard through a lot of testimony, there...this project, to me, is highly unusual. You have the two nonprofits who are bringing this project to us, this 2.97, MEO, Hale Mahaolu. And these are the people that, in the County, we look towards to help us with helping those that are not as fortunate as others. They live and eat and breathe the passion that we all talk about. They are bringing to us 120 affordable housing rentals to the people who maybe would not be able to afford. The people who maybe...I just visited this project in Pukalani, and they were homeless. These people that were homeless now have houses. I mean they just broke my heart. And these are the kinds of people maybe we would touch with this project. So, I really want this project to happen. It is so rare to have the...I don't really look at them as developers, but the makers of...you know, of this project that are bringing...they are bringing this to us. I fully support it. 120 affordable rentals. I'm going to passionately support this. So, thank you, Chair, for allowing me to make the motion.

VICE-CHAIR COOK: Member Hodgins, your second. Discussion.

COUNCILMEMBER U'U-HODGINS: Thank you, Chair. Thank you, folks, for bringing forth this project. I support affordable housing. My sister-in-law...I guess, former sister-in-law...and my niece and my nephew live in the Upcountry Kulamalu home. And if she can make a home as a single mother with two children in school, I hope other people have that same opportunity to do so. So, I support this project, and I support affordable homes. Thank you.

VICE-CHAIR COOK: Member Sinenci, comment?

COUNCILMEMBER SINENCI: Thank you, Chair, for my opportunity. I was so hoping

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to work with the developers on some of the issues that we had brought up and proposed in the amendments and the modifications. Unfortunately, as we have discussed this project, Chair, you know, lack some sufficient infrastructure. The site is a narrow site that flanks Kahekili Highway and the Waiehu Dune system. We've heard testimony about the drainage issues, the Imi Kala bridge improvements, and the need to upgrade the Kahekili Highway to include adequate sidewalks, bus stops, and traffic calming measures, and especially when considering future development across the highway. And the long slender site does not accommodate for a buffer and sidewalk along the highway due to the required number of parking stalls, and why I feel maybe the developer should reconsider the size of the project. Another issue has been the question of clear title to this property. MEO received this property as a quitclaim deed from a former developer who probably possibly knew some of the issues that this property had. As we heard through numerous testimony, the quitclaim deed only transfers the interest of the property and not the clear title. The recent court case was for a trespassing issue, I understand, and not for any land entitlement issues. We heard in testimony how Land Commission Awards from the Hawaiian Kingdom often got lost in translation, especially when they were moving from...to the TMK system of land management, and that this property was part of a much larger LCA Award. We've heard from the Pehuino heirs, and they've expressed their claims to this property throughout this entire process. They have clearly stated that they have kuleana in protecting their lineal ties to this place, including protecting their family burials. The AIS does not guarantee the desecration of these burials, especially with sporadic trenching on the property. The AIS is from an older AIS and for farm dwelling, needs to be redone to include more careful inquiry and monitoring of cultural burials. I understand the DHHL [sic] funding timeline is...for this project is not for another year. So, I'm hoping that this is sufficient time to address the infrastructure improvements to Kahekili Highway, to address the land title issue, and to upgrade the AIS for the impacts of a much larger project than just a farm dwelling. If we were to significantly alter the Waiehu community landscape, then we should take the time to consider all of the potential impacts, Chair. Thank you.

VICE-CHAIR COOK: Any other comments before we vote? Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I want to thank MEO, Hale Mahaolu, and Highridge Costa for the work that you folks do to serve our community. A lot of the projects that Hale Mahaolu manages and has spearheaded development of has benefited our community tremendously. MEO offers amazing programs from womb to tomb that also tremendously benefit our community. And I've only heard great things about Highridge Costa and the projects that you folks do. I cannot support this project for a lot of the reasons that Member Sinenci outlined. But I felt it was important to acknowledge all the good work that you folks do. In earlier comments, we heard that there was a lot of testimony in support. There was also a lot of testimony against this project.

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And when we say that these units would benefit those who are not as fortunate, you have to ask the question, why are they not as fortunate. Was it perhaps because our land was stolen from us, our kingdom was overthrown, and genocide committed against us. Are those some of the reasons that there are those in this community who are just not as fortunate as us?

VICE-CHAIR COOK: Thank you for your comments.

COUNCILMEMBER RAWLINS-FERNANDEZ: I'm not done. So, we did attempt to collaborate. Member Sinenci introduced a condition that was shot down. We did hear the request from the Department, that I introduced a proposal so that we can make them whole, and that was also shot down. All these things we're trying to do to collaborate because Members on the Council said that they wanted to work together, so we're trying to work together, and it was all shot down. The Imi Kala bridge, if it's built, will expose more iwi kupuna, and it'll be desecrated. I think I would have more respect for those on the Council if they just said, we don't care about the desecration of iwi kupuna, that we need to build more houses so that we can continue to colonize this place. Just say it. We don't care about the desecration of iwi kupuna, and we don't care about whatever title and mo'oku'auhau that title has. Just say it. Mahalo, Chair.

VICE-CHAIR COOK: Thank you for your comments. Member Sugimura.

COUNCILMEMBER SUGIMURA: Yeah. That is not...I support this project, and I believe that the infrastructure, the way that the project will be built, they will be sensitive and care. I mean, we heard from the archaeologist back and forth, back and forth, he was our favorite resource. I believe that the project will be done in a way that protects those that we care about. I just want to say it. I don't want somebody to call me a racist or that I'm against something, because I'm not. I want housing, like I think all of us do. I want this project to happen. And again, I'm going to say, because of who the developers are, MEO and Hale Mahaolu, they are probably the greatest advocate for those people that, you know, that we care about. And...my second and final. Thank you.

VICE-CHAIR COOK: Thank you. Chair would like to make a comment before I vote.

COUNCILMEMBER SUGIMURA: Yes.

VICE-CHAIR COOK: I am very sensitive to all of the concerns. It is not lost on me. I am not calloused in any way and unreceptive. This particular project is...I mean, it's so unique for the 60 percent and below. The people who are going to be living there are basically...I believe many of them are currently houseless. I believe that many of the people that will have the benefit of having a residence, and what I like to say is like a pillow to put their head on at night, and a place for their family to be together, and to be able to eat and share and have a community services

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there. The location, if it could be a different location, would be great. I believe that if we delay this project for any reasons that this project will not be built, and I haven't seen many projects like this come before us before. I'm hopeful that we can be united and find a place in our heart that what we're trying to do is be compassionate, to be loving, to be inclusive. And it's not perfect, but I think it's warranted, and I support the project. But I am receptive and I do care. So, that's Chair's comment. Follow up with Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair, for your comments. I can hear your heart, and I know you come from a good place. I think this project is amazing too. 60 percent AMI and below, like that's just unheard of. These are working miracles. I'm just really sorry that it's in the wrong place. I tried really hard to get you a location that would be better because I wanted to support you folks in the work that you guys are doing. Because this is a great project, and I do want people to have a place to rest their head at night, and not one where they're continuing to be pushed out from their homelands. That's why I introduced the land swap, and I understood that it would take a little longer, but I think it's worth it. And that's still on the table. Mahalo, Chair.

VICE-CHAIR COOK: Staff. Call for a vote?

MS. GRECO: I'm sorry, Chair. I see Councilmember Sinenci's hand up.

VICE-CHAIR COOK: Okay. Member Sinenci, please...you have a comment?

COUNCILMEMBER SINENCI: Thank you, Chair, for my second and final. And mahalo to all my fellow Councilmembers for their mana'o nui. So, I'm thinking about this recent *Civil Beat* op-ed entitled, "The Weaponization of Affordable Housing." And yesterday, in the Mayor's State of the County Address, you know, he said he's putting 8 percent of the real property tax towards affordable housing projects. However, and we all understand that we do need housing for our most vulnerable residents. But it shouldn't come at the expense of environmental, cultural, historic preservation regulations, community plans, zoning, and permitting exemptions. The fact of the matter is that when we talk about housing our people, we're going on three generations of native Hawaiians not receiving homesteads. That's three generations of not establishing equity and generational wealth through home ownership. Three generations denied what was supposed to be the promise of U.S. Statehood status, and a generation that has died waiting. So, yeah we're talking about 120 rentals, but we're still not going to fix that system making justice, Chair. Thank you.

VICE-CHAIR COOK: Thank you. Any other further comments? Okay. Call for the vote.

MS. GRECO: Chair, proceeding with the main motion to approve the project with modifications, but to be clear, the only change is the substituted version of

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Exhibit "A" that's in Granicus Number 7. Councilmember U'u-Hodgins.

COUNCILMEMBER U'U-HODGINS: Yes.

MS. GRECO: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Yes.

MS. GRECO: Councilmember Sinenci.

COUNCILMEMBER SINENCI: No.

MS. GRECO: Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: A'ole.

MS. GRECO: Councilmember Paltin.

VICE-CHAIR COOK: Excused.

MS. GRECO: Council Chair Lee.

VICE-CHAIR COOK: Excused.

MS. GRECO: Councilmember Johnson.

VICE-CHAIR COOK: Recused and excused.

MS. GRECO: Committee Vice-Chair Cook.

VICE-CHAIR COOK: Yes.

MS. GRECO: Committee Chair Kama.

VICE-CHAIR COOK: Recused and excused.

MS. GRECO: Chair, you have three "ayes," two "noes," two excused, and two recused and excused. The motion fails.

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VOTE: AYES: Vice-Chair Cook and Councilmembers Sugimura and U'u-Hodgins.

NOES: Councilmembers Paltin, Rawlins-Fernandez, and Sinenci.

ABSTAIN: None.

ABSENT: None.

EXC.: Chair Kama and Councilmembers Johnson, Lee, and Paltin.

MOTION FAILS.

VICE-CHAIR COOK: Thank you. Comment, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Could we possibly have our Legislative Attorney speak to what happens now? Does the item stay in Committee? What happens next?

VICE-CHAIR COOK: Mr. Mitchell.

MR. MITCHELL: Should we...thank you, Chair. Should we take the votes on the remaining resolutions? There are two other resolutions. So, should we take the votes on the remaining resolutions that were agendized?

MS. LILLIS: No.

MR. MITCHELL: Does that present a conflict of interest?

MS. GRECO: So, Chair, some possible options are, there's two other resolutions. One is to approve the project exactly as the applicant submitted it. Another is to disapprove the project. Another option is to defer this item, and then it would just stay on the Committee's master agenda. And then after April 22nd, the project would then move on to the Department of Housing and Human Concerns, and they have 14 days to approve, approve with modifications, or disapprove. So, your three options are act on approving the application exactly as submitted, disapprove, or defer the item.

VICE-CHAIR COOK: Comment, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. We have five more minutes until this meeting is supposed to be over. I'm kind of entertaining the

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idea of making a motion to disapprove, but I don't really want to waste everyone's time because we know what the votes will be. So, if the items...if the two resolutions are not...if no motions are made to act upon the two remaining resolutions, do all three resolutions just stay in Committee after that?

MS. LILLIS: Chair? Yes, that is correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And then I think April 22nd is the deadline for Council to take legislative action, otherwise it goes to the Department, at which point they would have 14 days to make a decision on approve, approve with modifications, disapprove, or it would be automatically approved without any action from the Department.

MS. LILLIS: That is correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Ms. Lillis. I guess I would have a question for the Department, Chair.

VICE-CHAIR COOK: Okay. Deputy Director.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Chair. My question for the Department--I don't have my calendar. So, it's 14 days. There were some modifications that we attempted to make, and if...it looks like we're not going to be able to move this out of Committee. And if we don't move this out of Committee, then it won't have an opportunity to be voted on at Council, in which case time would lapse, and the Department would then have to make a decision. Are you able to share now if some of the modifications that were proposed and were not approved here in Committee would be considered to be included if the Department decides to approve this project?

MR. MATAAFA: Thank you, Chair. Thank you for the question, Member Rawlins-Fernandez. So, I took a copious amount of notes for everybody here at today's meeting. It sounds like the...the item will be stuck here in Committee and it looks like it'll probably be sent to the Director's desk, as you outlined. So, Director and I will discuss everything that was discussed here, and we'll make our determination based off of the discussions that you've had here in Council...and with the other Departments as well. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Deputy Director. May I ask a question of Corporation Counsel?

VICE-CHAIR COOK: Yes, you may.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Ms. DesJardins.

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MS. DESJARDINS: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: After a decision is made by the Department, how will the Council and the public know what was decided by the Department...and maybe Deputy knew too. Sorry.

VICE-CHAIR COOK: Deputy?

MS. DESJARDINS: Saumalu, do you want to go ahead and answer that question, or do you want me to answer it?

MR. MATAAFA: I'll defer to Counsel. Thank you.

MS. DESJARDINS: Okay. So, my understanding from reading this is that the Director will make a decision, and then I would imagine that that decision would be made just based on a letter or an announcement, but there isn't really any instruction in 2.97 about anything more specific than that. But my recommendation would be to do a formal announcement, either through publication or letter of transmittal to the Chair, so you folks would be made aware of what the decision is. But I'll look into it further as well before that comes . . .*(inaudible)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. DesJardins. Under 2.97.160, Timing of Completion, the timing of the project is based upon the adoption of a resolution. So, two years of the adoption of a resolution, and then five years after. What happens now that 2.97.160 doesn't...if this project is...if approved by the Department, how does the 2.97.160 apply without a resolution?

MS. DESJARDINS: So, because Council can only take action via a resolution, I think the logical response would be then that as of the date of that letter or that announcement, that formal announcement would start the clock for the Department. Since their mechanism would be within 14 days to make a formal decision about this project in order for it not to just lapse out of their hands and then become approved without modification and with . . .*(inaudible)*. . . So, that's what I would be recommending to DHHC, is to use that date as the trigger.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. DesJardins.

MS. DESJARDINS: But the correct...the further question that needs to be resolved on this later is how...if there are changes that need to be made to the project or to the timing, we would have to look further into how those...whose hands those changes would be made because right now it's by resolution by Council to make changes to time.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. DesJardins.

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MS. DESJARDINS: New territory.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. Absolutely. So, I'm wondering if perhaps this might...may need to be cleaned up with a bill. Because the language is very specific to a resolution, and it seems that if a future developer would be approved without a resolution, that there...there could be an argument that this timeline wouldn't apply under our code.

MS. DESJARDINS: So, one thing that I think the DHHC could do to address that is to put a specific timeline in the modifications, and then that timeline could say, for example, this shall be completed consistent with 2.97, and then you're going to come back to the Director to get an extension of that time. So, we'll look at all of that. Those are great questions.

COUNCILMEMBER RAWLINS-FERNANDEZ: Beautiful. Mahalo, Ms. DesJardins. I know that Deputy Director is taking copious notes on that, so I hope that makes it into agreement if the project is approved. Mahalo, Chair.

VICE-CHAIR COOK: If I could interrupt all this. Director...Deputy Director, you had a comment?

MR. MATAAFA: Thank you, Chair. No. Corporation Counsel summed it up pretty well. So, thank you.

VICE-CHAIR COOK: Okay. Members, seeing that we have exhausted the Committee's options, with no objections, the Chair would like to defer this item.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Ex. TK, GJ, AL, TP).

VICE-CHAIR COOK: Thank you all.

MS. LILLIS: The item is now deferred and...

COUNCILMEMBER SUGIMURA: Meeting adjourned.

VICE-CHAIR COOK: Meeting is now deferred.

MS. LILLIS: Nope, nope, nope.

VICE-CHAIR COOK: Nope. Okay.

MS. LILLIS: So, the item is deferred, Chair. And, you...yeah, the meeting is adjourned, and state the time.

VICE-CHAIR COOK: Okay, one more time. Members, seeing we have exhausted the

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Committee's options, with no objections, the Chair would like to defer this item.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Ex. TK, GJ, AL, TP).

VICE-CHAIR COOK: No objections. This concludes today's Housing and Land Use Committee meeting. The time is now 11...I mean, 12:02 p.m. This meeting is now adjourned. . . .(gavel). . .

ADJOURNED: 12:02 p.m.

APPROVED:



TOM COOK, Vice-Chair
Housing and Land Use Committee

hlu:min:230322r-d:slv:ta

Transcribed by: Terianne Arreola

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CERTIFICATION

I, Terianne Arreola, hereby certify that pages 1 through 55 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 28th day of April 2023, in Wailuku, Hawai'i



Terianne Arreola