

AFFORDABLE HOUSING COMMITTEE
Council of the County of Maui

M I N U T E S

Council Chamber

February 13, 2019

CONVENE: 1:34 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Tasha Kama, Chair
Councilmember Michael J. Molina, Vice-Chair
Councilmember Riki Hokama
Councilmember Alice L. Lee
Councilmember Keani N.W. Rawlins-Fernandez
Councilmember Shane M. Sinenci
Councilmember Yuki Lei K. Sugimura (in at 2:00 p.m.)

NON-VOTING MEMBER:

Councilmember Tamara Paltin (in at 3:42 p.m.)

STAFF: Leslee Matthews, Legislative Analyst
Stacey Vinoray, Committee Secretary

Zhantell Lindo, Council Aide, Molokai Council Office (via telephone conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)

Mavis Oliveira-Medeiros, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: Jeffrey Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel

Will Spence, Acting Director, Department of Housing and Human Concerns

Clyde A. "Buddy" Almeida, Housing Administrator, Department of Housing and Human Concerns

Michele McLean, Acting Director, Department of Planning

David C. Goode, Acting Director, Department of Public Works

OTHERS: (9) other people seated in gallery

PRESS: *Akaku Maui Community Television, Inc.*

CHAIR KAMA: . . . (*gavel*) . . . The meeting of the Affordable Housing Committee will come to order. Today is February 13, 2019. It is now 1:34 p.m., and as I call this meeting to order if everyone would please silence their noisemakers, whatever that may be, I

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would certainly appreciate it. I'd like to welcome our Committee Members to the meeting. I'm Tasha Kama, I am the Chair of the Affordable Housing Committee, and so I'd like to welcome the Vice-Chair, Councilmember Mike Molina.

VICE-CHAIR MOLINA: Good afternoon, Madam Chair.

CHAIR KAMA: And aloha to Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: . . .*(inaudible)*. . .

CHAIR KAMA: Aloha. Good afternoon, Councilmember Alice Lee

COUNCILMEMBER LEE: Aloha, Chair.

CHAIR KAMA: And aloha, Councilmember Shane Sinenci.

COUNCILMEMBER SINENCI: Aloha, Chair.

CHAIR KAMA: And we do have quorum today and Ms. Yuki Lei Sugimura will be in with us shortly and Ms. Keani Rawlins-Fernandez is excused for now. Oh there you are.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha, Chair.

CHAIR KAMA: Thank you for showing up, I'm glad you're here today. And our Committee non-voting members are Chair Kelly King and Tamara Paltin. So, with us today we have the, from the Administration is the Acting Director of Housing and Human Concerns, Mr. Will Spence to my right.

MR. SPENCE: Good afternoon, Chair.

CHAIR KAMA: And we have also to my right, is Acting Director of Planning, Michele McLean.

MS. McLEAN: Aloha, Chair.

CHAIR KAMA: Aloha. And we also have sitting next to her the Acting Director of Public Works, Mr. David Goode. Aloha, David.

MR. GOODE: Aloha.

CHAIR KAMA: And we have with us from Corporation Counsel, Mr. Jeff Ueoka.

MR. UEOKA: Good afternoon, Chair.

CHAIR KAMA: Good afternoon, and we have with us our Committee Staff, Leslee Matthews our Legislative Analyst.

MS. MATTHEWS: Good afternoon, Chair.

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CHAIR KAMA: Aloha, Ms. Matthews. And also, Stacey Vinoray our Committee Secretary. So, Members, we have on our agenda three items today, and my goal for today's meeting is for the Department of Housing and Human Concerns, Planning, and Public Works to provide an educational opportunity for us to learn about the affordable housing process in Maui County. AH-17(1) Land Use Entitlements for Affordable Housing from the Department of Housing and Human Concerns. AH-17(2) Land Use Entitlements for Affordable Housing from the Department of Planning, and also AH-17(3) Land Use Entitlements for Affordable Housing from the Department of Public Works. So, I'd like to begin with public testimony, and our testimony will be limited to only the items on the agenda, and so if you haven't already please sign up with our Staff for your testimonies. So, your testimony is limited to three minutes, and upon request up to one minute to conclude. If you are still testifying beyond that time, I will kindly ask you to complete your testimony. And when testifying please state your name, and who you are representing, and if you are a lobbyist I'd like to know that also. So, why don't we check in with our District Offices. Ms. Matthews?

. . . BEGIN PUBLIC TESTIMONY . . .

MS. MATTHEWS: Madam Chair, we have reached out to the District Offices, the phone is inoperable right now to connect to all of the offices, but we've checked with them, and there's no testifiers, and we've notified them to e-mail us if they do have testifiers.

CHAIR KAMA: Thank you. So, is there anyone in the Chambers who has signed up to testify?

MS. MATTHEWS: Madam Chair there is no one signed up to testify.

CHAIR KAMA: Okay. So, having no testifiers in the audience, if it's okay with the Councilmembers if we could just close public testimony?

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR KAMA: Thank you. So, public testimony is now closed.

. . . END OF PUBLIC TESTIMONY . . .

AH-17(1) LAND USE AND ENTITLEMENTS (DEPARTMENT OF HOUSING AND HUMAN CONCERNS)

CHAIR KAMA: So, Members, we now have a presentation by Acting Director of Housing and Human Concerns, Mr. Will Spence. So, Mr. Spence, please proceed with your presentation, please.

. . . BEGIN PRESENTATION . . .

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MR. SPENCE: Thank you, Madam Chair and Members. We're here today to discuss of course AH-17(1). The Chair requested that we provide the Members with an overview of the 201H process, Maui County Code 2.96, and a new section of our Code 2.97. And so, and we'll cover a little bit of jargon that we use and give some explanations et cetera. So, first off what is 201H, and why is it used? The second, everybody refers to 201H-38 out of Hawaii Revised Statutes, what that is, is a section that is supposed to fast track approvals for affordable housing. One thing that it requires is once an application is sent from my office to the County Council, the County Council has 45 days to act on it. But it also grants a lot of authority to the County Council, it allows you to grant exemptions in order to speed things up related to planning requirements like zoning, Maui Island Plan, community plans. It allows exemptions from construction standards that may be brought, be lessened a little bit so you're not adding additional, unnecessary costs to a project, and it can also, you can also provide fees exemptions. So, again the all the fees when you add up building permits, driveway permits et cetera it adds up to a substantial amount reducing those fees, thus lowers the cost of the individual units. But why 201H? The State Legislature recognized that our land entitlement processes are very difficult. With the Land Use Commission, and the County processes they are, they're lengthy, they add considerable cost to the process. You'll also see this, a very similar slide in Acting Director McLean's presentation. Typically, if you have a piece of property that you want to entitle for a project affordable housing or anything it takes about seven years to go through the process, that's almost an entire real estate cycle. So, if you have to go to deal with the State District anything over 15 acres you have to go to the State Land Use Commission. Oh I should back up, first you have to do an EA which the approval process can take about six months, but you spend about a year assembling all of the different studies, and everything. So, you have a year and a half going into that. You get to the State Land Use Commission with all the attorneys, and the expert witnesses, all the things that, that entails, you're looking at, at least a year. If you have to amend the community plan, and the zoning you come to, you apply to the Department of Planning, you go through their application process, that can take a number of years, and to finally get to the County Council where these things are changed by ordinance. The thing is, is that it, it's time, it's speed, and it's predictability all the way through the process. It's...and then if you happen to be in the SMA then that could take an additional six months to a year. So, you're looking at a significant amount of time to be able just to get the basic, the very basic permission to start construction. After that comes all of your grading permits, and building permits, installation of infrastructure et cetera. So, the process that we go through first it starts with an EA or an EIS may or may not be required depending if any of the triggers in Hawaii Revised Statutes 343 are touched on. So, that process may take, like I said that may take six months to a year once we receive a documents. The, we review the, once the 343 process is done we then receive the 201H application, we send it out to the various County agencies for their review, they will make comments, more than likely they're going to be very similar to what took place with the EA or the EIS. After that we get all the agency comments back, the Director then reviews the application, and says if it's acceptable or not, and then we, if it is acceptable we send it to the County Council excuse me, and we also, and we send a draft resolution to Corporation Counsel for their review. We request that the appropriate committee, we

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meet with the appropriate committee chair request that they be scheduled, and then the 45-day requirement kicks in once the County Council receives it. The Council may then...usually during your proceedings you will call each of the different agencies in the Fire Department, Planning Department, of course my office, Police, whoever may have some sort of input into the project, and you'll ask them if they have comments, and discussions, et cetera. The, a lot of discussion is centered around the exemptions, whether you're exempting them from requirements of community plan or zoning, you may be exempting, you know, all the different fees as said before. Right now we have, we've had 14 201H projects approved on island or excuse me in the County, and then there's three that are pending that we have yet to transmit to the Committee. First off going from east to west we have the Hana Affordable, that's 25 units that's going to be I believe Habitat for Humanity is going to be taking that over, much needed housing in Hana. Upcountry we have Hale Mahaolu Ewalu Phase I, and Phase II that's 60 units. Kula Ridge up in Waiakoa over by Morihara Store, that's sum total Upcountry 199 units. South Maui both of these projects are currently under construction so Kenolio Apartments broke ground, actually both of them broke ground latter part of 2018; 304 units, rental units total. Now Central Maui is the hot spot for 201Hs, it started with Waikapu Gardens 1 and 2, went on to different Wailua...Waiale Elua, Waikapu Development Ventures most recently Wailuku Apartments, and then Kahului Lani up in the kind of upper right towards, on Kane Street in Vevau. We have two 201Hs on the west side that are currently under construction, many units...at least for Kahoma Homes project most of the homes are already constructed, and people are living in them. You have three projects that have yet to come to this Council, they are currently in process. And then you have the Lanai Affordable Housing Project that you will be, also be seeing soon for some amendments, and that's going to comprise 372 units. The results of the 201H approvals, it's been pretty successful. The developers of affordable homes have chosen this route, and it's been successful to get units approved, and get them under construction, and completed. So more than half of the approved units have, are either under construction or have been completed at this time. Okay so that's 201H, that's a brief overview, I'll be happy to entertain questions later. The work, we're gonna touch on 2.96 the Residential Workforce Housing Policy, and what this is it's not really zoning, but it's referred to as inclusionary zoning, and what it does is it says any developer wanting to build a project, at least 25 percent of the units within that project have to be affordable. The purpose of the said chapter is to encourage the provision, and maintenance of residential workforce housing units both for purchase, and rental to meet the needs of our workforce, students, and special housing target groups. The triggers, any project, any subdivision that comes in with ten or more lots, ten or more apartments, if a hotel wants to add ten or more units, conversion of ten or more units in a hotel to dwelling units or timeshares, and when any hotel increases the number of rooms by ten or more that'll trigger the 25 percent requirement. I said...so above the 25 percent requirement if a developer wants to provide more units then they may choose to get credits for those units, and I'll touch on credits in just a second. The, we have to do a workforce housing agreement, that's something that is, comes to our office we sign off on it, and it's recorded against the deed or deeds of the properties. So, if there's a subdivision this agreement is recorded on all of them. The requirements for units, affordable units may be satisfied of course by providing the units themselves, they can

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do an in-lieu fee, and we have not had anybody choose this option as yet which I would much rather see the units than providing us with some money. It goes to credits, we can...somebody who owes, you know, 25 units let's say, affordable units they can go purchase those credits from someone else who has already provided them, or they may donate improved or unimproved land. So, this is a term, I want to say what is AMI, this is a term that you're going to hear a lot, and what it is, is area median income, and what it is, the household income it's not the individual person. So if you have, you have husband and wife working, both of them are making \$40,000 a year the 100 percent mark is 80,000 so that would be approximately the Maui County AMI. How is this determined? It's something that the Census, I mean it starts with the Census every ten years, and then every five years the American Community Survey also done by the Census Bureau is conducted, and that information is taken by the housing and urban, the Department of Housing and Urban Development, and distilled down into the AMI. We can make adjustments for Hana, Molokai, and Lanai, and we do that because of the very different communities with very different economies. There are...to be able to qualify for, well these are the requirements when you do certain developments whether you're doing ownership or you're doing rental. So, if you're providing housing below 80 percent we have a deed restriction on the for-sale properties of ten years. If they're 50 percent it's eight; if it's 20 percent above moderate income it's the deed restriction is five. Rental units have a straight 30-year affordable requirement. And the question also comes up is what are credits? This is a term used quite a bit that you'll hear bandied about as you get developers coming in and requesting 201H projects or, you know, other approvals. There's really two types, there's tax credits and then there are housing credits themselves talking about the individual units. So, the big one is a Federal program through the Internal Revenue Service, it reduces...what it does is each state gets a certain number of credits based on their population. The, they then go through a process where they look at different projects, developers come in, and say hey I want to build affordable housing, I want to qualify for these credits, and they go through a vetting process, it's very competitive to do. The, what it does once the credits are established you'll get investors come in, they could be big corporations or banks or whatever, they don't have to be attached to housing necessarily, but they will purchase these credits, and it will reduce their tax liability on a one-to-one basis. So, if say the, say a developer wants to get a million dollars' worth of credits, a bank will come along and they will purchase those as a discount, they get a million dollars' worth of tax credits, and say they purchased those credits for \$750,000 that 750 goes into the actual construction of the project. It's, this is nationwide the number one way to finance affordable housing. There are income restrictions, it only applies to rentals, you know, apartment buildings or maybe single-family housing rentals. There are certain income restrictions for renters, and they have to maintain, all the projects have to maintain a 30-year affordability restriction. State tax credits are very similar, the...of course it's only on State taxes. They are administered through the Hawaii Housing Finance Development Corporation. It pretty much mirrors the Federal program, but the reduce, reduction in tax liability is only for five years, and not for ten. You also have a special provision for Hawaiian Homes. Under Hawaii Revised Statutes 46-15 it says if someone comes along, and builds housing on Hawaiian Home Lands the County shall issue credits, now these are housing credits not tax credits. So, if someone builds 50 homes on Hawaiian Home

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Lands the County issues, says okay, Mr. Developer, you have satisfied a lot of people's affordable housing requirements, here are your credits. And when developers come in maybe they want to build luxury or they want to build apartments, you know, more upper end or whatever, and they owe us affordable homes or apartments they can go buy these requirements, they can go buy these credits from the first developer, and have their liabilities satisfied. Same for County credits, someone comes in and builds, you know, builds more affordable homes over their standard 25 percent required, they may request additional credits, they may be used in any community plan area. So, if somebody builds in Wailuku they may...a developer in Kihei may be able to use those. So, back to, you know, the applicability of 2.96 there are...so a developer goes through this process, they get their credits they do whatever they have to do in meeting the requirements of the Code. The people who can buy or rent into these projects they have to be U.S. citizens, or permanent resident aliens residing in the County. There are certain income requirements, they can't make more than 140 percent of the area median income, the...and they have certain asset requirements, they can't have too much money in the bank or other assets, and they can't have had owned real property in the United States for the last three years, that would be residential property. The number of units that we have approved or obtained is under 2.96 is significant, but it is not as successful as the 201H process; 765 units have been approved 234 have been completed to date. Now, the last process that we have is something brand new, it has not been used yet although I have had a couple of developers approach me on doing this. It's a new chapter, adopted ordinance 4941, very late 2018. It is very, very similar to the State's 201H process except it adds some additional incentives. The, and it's only applicable to a 100 percent affordable projects where 201H is just the majority of the units have to be affordable. It's to establish a process by which developers of 140...100 percent affordable workforce housing projects may seek fast-track development and apply for County exemptions from the Code. Okay, the requirements are all units must be less than 140 percent AMI, the developer in this case deposits a refundable application fee, and that fee is only refundable after the units are built. The, there are income...there's a group distribution and deed restrictions that follow in 2.96, and a big difference here between this and 201H, here Council has 60 days to approve. I know that having sat through many of the 201H proceedings with the Council, 45 days is not enough for the Council to, Council feels to make an educated decision. So, the 16 days, excuse me the 60 days is for Council review. If you make, take no action then the Housing Director has 14 days then if no action it's automatically approved. I don't see that happening very often, but that has been built into the Code. They, the approvals they have two years to start, and five years to complete construction, that's also something that is missing from the requirements in 201H though the Council has traditionally put in timing requirements. The exemptions they can request are similar to 201H, you can request exemptions from zoning, General Plan, subdivision requirements, and State land use districts so, you can take a piece of agricultural land, and treat it as if it's zoned R1 or Apartment or something like that. You can also get other exemptions say fees, say from the fees that are normally applied. It also provides real property tax exemptions. For the time that the project must remain affordable you can get exemptions from all real property taxes, that's quite a [sic] incentive. Once they go market if, they go market then that exemption disappears. There are exemptions for water availability,

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you know, "Show Me the Water" that doesn't have to apply to either on Central or West Maui systems, and of course there's the fee waivers from parks dedication, wastewater, building permits, et cetera. Okay, Madam Chair, that was a whirlwind tour, I'm...there's a lot in there, and I'm very happy to discuss any details.

. . . END PRESENTATION . . .

CHAIR KAMA: Thank you, Mr. Spence. So, Members...yes, Ms. Lee?

COUNCILMEMBER LEE: Were you going to say something first?

CHAIR KAMA: Yes, I was going to ask if you all had questions by all means.

COUNCILMEMBER LEE: Mental telepathy.

CHAIR KAMA: Okay, great minds.

COUNCILMEMBER LEE: Yeah.

CHAIR KAMA: Go ahead, Ms. Lee.

COUNCILMEMBER LEE: Thank you, Madam Chair. So, I'm not sure, Mr. Spence, if you were the Planning Director back in 2006.

MR. SPENCE: No.

COUNCILMEMBER LEE: No.

MR. SPENCE: I was not, I started in 2011.

COUNCILMEMBER LEE: Eleven. Oh you missed all the good stuff. Okay in, from 2000...the end 2004 through the end of 2006 that's how long we worked on 2.96. I mean it was a long, long process. And one of the most, and it was a very problematic ordinance even when it finished as you know because it, the worst thing to ever come about in that ordinance was the 50 percent requirement, and then for seven years because of that nobody built affordable housing. I think we had 13 units, and that's one of the reasons why we're so far behind today. That's what happens when you create unreasonable laws. But my recollection is, and I worked with...and by the way the Administration did not support this bill, it was everybody else.

CHAIR KAMA: And your question is?

COUNCILMEMBER LEE: Getting to it. Okay. The question is when we were working on it, and I'm not sure if, if you were here also, Corp. Counsel, but the problem...what we tried to do and I remember with Ed Kushi we tried to figure a way to insert a provision whereby the people who could qualify for the workforce housing had to live on Maui for one year. The...no, Buddy, you're shaking your head so did you, did somebody

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take that out? Or is it still in there? Because we had a tier whereby those who were living on Maui for at least one year were, had first preference, and then after that people from, who hadn't been here for a year would have second preference. So, I'm just wondering if that provision is still in the ordinance or if it's not.

CHAIR KAMA: Mr. Spence or Mr. Almeida?

UNIDENTIFIED SPEAKER: Ueoka.

CHAIR KAMA: Mr. Spence?

MR. SPENCE: Okay. I'll let Jeff answer.

CHAIR KAMA: Oh ____.

MR. UEOKA: Thank you, Chair. I believe the only overhaul I've, I haven't done...it was like you said, it was Mr. Kushi who was doing 2.96 before. I came on later, I believe in 2014 there was that was the only revamp I was a part of. I don't believe we took out any one-year requirement; however, currently in 2.96 there is a residency preference. Once you get into durational residency requirements you get a little more questionable on the constitutionality of if being that we part of the United States there is the right to travel. The residency preference is typically viewed as okay. The deeper you go into that type of matter I guess the shakier the grounds, the ground gets, but as far as I know myself and Mr. Almeida we did not remove a one-year residency requirement from 2.96. Thank you, Chair.

COUNCILMEMBER LEE: Thank you. Good to hear.

CHAIR KAMA: Thank you. Members? Yes, Mr. Molina.

VICE-CHAIR MOLINA: Yeah, Madam Chair, I guess I'll start it off, and I'll focus on 201H. My personal opinion, I have questions about I know it's a State-initiated process, but yet, you know, we're...the Council was put under a 45-day clock.

MR. SPENCE: Right.

VICE-CHAIR MOLINA: The developers rush, they use this process, but rushed okay, Council makes a decision then where's the housing? Yeah. And the community gets frustrated, and I know there might have been some other obstacles or elements that have, you know, impeded the building of houses, but I just question the usefulness of this process, you know. So, I guess in the presentation maybe from, Mr. Spence or Mr. Almeida, you know, there's 612 201H units that are under construction so where are they? If you can elaborate specifically, and do you have any projected completion dates of these 612 units, and how many of it, of these 612 are rental? I know it's kind of a loaded question, but, you know, so it's like three questions in one, but --

CHAIR KAMA: Mr. Spence?

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VICE-CHAIR MOLINA: --Mr. Spence or Mr. Almeida.

MR. SPENCE: Thank you. I know there are right down the street here on Waiale there's two projects that are currently under construction. Hale Mahaolu Ewalu up in Pukalani is under construction, and they will be coming in for Phase II. The Kahoma Homes project is under construction, Kahoma Village is currently under construction. I know the Waikapu Gardens 1 and 2 are complete. The ones that are approved of all of those are now seeking other approvals like they're coming in for their grading permits. I mean the approval process is one thing, that's only one of the many hurdles that a developer has to do. The Kula Ridge project, they're, my understanding is they're starting to drill a well or they're getting permission to drill a well. The Hana Affordable Housing has run into some financing difficulties, they are now looking to Habitat for Humanity to take over the project and complete it. So, you have to understand the approval is only one part of it, that's a basic permission okay you are now, you can now go build this, then they have all these other hurdles they have to meet; water supply, grading, building permits, engineering, drainage...

VICE-CHAIR MOLINA: So, Mr. Spence, if I could just interject so, basically, it's us then creates the delays, the permit process that's --

CHAIR KAMA: Yes.

VICE-CHAIR MOLINA: --the problem, and maybe not so much the 201H, it's us, it's ourselves which is why I've heard from the prior Administration maybe in this Administration we need to expedite the permit process, that's the holdup. Yeah, maybe that's why we don't have these houses being built as fast as many of our citizens would like. So, my apologies for interrupting.

CHAIR KAMA: Thank you. Thank you.

VICE-CHAIR MOLINA: Proceed, Mr. Spence. Yeah.

MR. SPENCE: And thank you. That's, the permitting process is a part of it, there are two parts the entitlement process, there's the permitting process. The entitlement process like one of my first slides was takes seven to ten years to just get entitled, that's the permission. Okay now it's like just to get the permission to then go get a grading permit then go get a building permit, so seven to ten years just for that part of it. So, I'll just say it's very difficult in Hawaii to get entitlements, we lack fully entitled land where you can go build. That's why they're going 201H 'cause it cuts that seven to ten years down to about a year and a half. So, that's significant for investors, that's significant for the land holder who's trying to get financing of multimillion dollars for projects. It's, that's a big chunk of it. The permit process, yes that needs to be approved as well.

VICE-CHAIR MOLINA: Okay, I guess in the business, in the industry is time is money yeah. But, you know, it's just, and I know it's not your fault it's the system we got so, which is why I think with the Administration we need to look at ways of how we can

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streamline this process. And maybe part of it is on the developers themselves too, I don't know if they're, you know, what the effort is when it comes to affordable housing versus market housing it seems like when it comes to building market housing oh, that easy to do, the affordable part well I don't know just a perception that's out there. So, I have more questions to ask, but I'll yield the floor to my fellow colleagues --

CHAIR KAMA: Thank you.

VICE-CHAIR MOLINA: --Chairman.

CHAIR KAMA: Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. This question is for Mr. Spence, you mentioned the number 50 homes. What is the significance of that number 50 homes, and what changes when you have above 50 homes or less than 50 homes?

MR. SPENCE: Thank you, Madam Chair, and thank you, Mr. Sinenci, for the question. I'm not...

COUNCILMEMBER SINENCI: I think one of the projects you said something about 50 homes.

MR. SPENCE: Oh, okay. If we're talking about the 201H the percentage of affordable homes?

COUNCILMEMBER SINENCI: Yes.

MR. SPENCE: Okay. So, that's not necessarily 50 homes, that applies to any size project. To qualify for the 201H process you have to provide at least 50 percent of the rentals or the for-sale units or rental units more than half of those have to be on an affordable basis. So, if you have 300 units, you have to provide 151 of those as affordable. So, it applies to any size project.

COUNCILMEMBER SINENCI: Okay. It wasn't more about the affordability, but just that number that triggers certain types of either permits or added steps that you would need to go, you know, if you have less than 50 homes then maybe you don't need to go through some of the permitting process versus if you, if your project was geared towards a larger development then cutting it down to just a certain amount might help to streamline the project or just or maybe just kind of avoid some of the, you know, the red tape so to speak.

MR. SPENCE: Okay. Yeah. It's, Madam Chair, the, it's not the size of the project that matters, it's the process. This is what we're talking about, it's the process that developers go through in order to provide housing so they're trying to, there's a number of builders out there who really want to provide affordable homes, cutting the time, cutting the costs, they can pass all that on to the purchasers or the renters. It doesn't matter if it's a hundred units, 50 units, 300 units it's the process that they're

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trying to go through that reduces, they're trying to reduce the red tape of the process no matter what the size of the project.

COUNCILMEMBER SINENCI: Okay. Thank you. Second question, do you know of any State ordinance or law that prohibits prefab housing?

MR. SPENCE: I'm not aware of any particular State law that says you can't do prefab. We are currently looking, I've had a number of developers come to me, and say hey, Will, I want to do some prefab housing or tiny homes. . . . *(clears throat)* . . . Excuse me. The prefab is a broad term, they can be full size, 1,000, 2,000 square foot homes those can be prefab brought in and plunked down on site. There's a lot of discussion on homes made from container shells either just an individual shell or, you know, put together to add for additional square feet. Or there's also a lot of discussion on tiny homes, and those are considered prefab as well. And so, I have people coming to me going hey I want to do a tiny home village let's...and so I'm guiding them through this process that they can come to the Council for approval.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair.

CHAIR KAMA: You're welcome. Any other questions? Oh welcome, Yuki Lei, our Councilmember.

COUNCILMEMBER SUGIMURA: Yeah. Thank you. Sorry I was late, Chair.

CHAIR KAMA: Okay. You have a question?

COUNCILMEMBER SUGIMURA: Yeah, I do. So, on this, thank you for this --

MR. SPENCE: Yes.

COUNCILMEMBER SUGIMURA: --Maui 201H projects as of February 2019, and I noticed that on some that are not completed is there like a time schedule that they need to complete by?

MR. SPENCE: It is...I would have to look up each, you know, as you know each one has passed by Council resolution. A lot of them have time limits on them, I'm not sure all of them do, I'd have to go back and look at each one. The, if they can't complete within a certain timeframe they have to come back to the Council and say hey are you willing to extend my time? If the Council grants that, great, if not then the project is pau.

COUNCILMEMBER SUGIMURA: Okay. So, who's my neighbor is Kula Ridge.

MR. SPENCE: Yes.

COUNCILMEMBER SUGIMURA: So, can you give me an update of what's happening? I mean they are right behind my fence.

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MR. SPENCE: I'm sorry I did...I just did not bring all those resos --

COUNCILMEMBER SUGIMURA: Oh.

MR. SPENCE: --with me, but I'm happy to look that up, and provide it to you.

COUNCILMEMBER SUGIMURA: Okay. 'Cause they still haven't built, so.

MR. SPENCE: I know, they've, again it's the approval is one thing. You're not gonna go invest a couple million dollars in a well until you have some kind of approval. So, this is only one of the hurdles, then they go after the other hurdles that are in front of them. I know it's like right next door.

COUNCILMEMBER SUGIMURA: Right next door. Thank you.

CHAIR KAMA: Any other questions, Members? Yes, Member Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I wanted to follow up on both Councilmember Molina and Sugimura's request. So, when you provide that information to Ms. Sugimura will you like include that in the spreadsheet that you provided us? The timeline for all the buildings?

MR. SPENCE: Okay the expiration dates?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MR. SPENCE: Okay I can re-do that, and I can put the approval date, and the expiration date.

COUNCILMEMBER RAWLINS-FERNANDEZ: Great. That would be wonderful.

MR. SPENCE: If applicable. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MR. SPENCE: Not all of them have...

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Not all of them have an expiration date.

MR. SPENCE: Yeah, so, we'll, I'll get that for you.

COUNCILMEMBER RAWLINS-FERNANDEZ: And, so in that resolution does it include information on what happens if the project is not completed by the expiration date?

MR. UEOKA: Chair, if I may?

CHAIR KAMA: Yes, Mr. Ueoka.

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MR. UEOKA: Thank you. Typically, if they...our thing is more if they don't begin construction within two years what happens then is the entitlements granted through the 201H would expire, and sometimes it's the, also the district boundary amendment if any approval was granted there it would expire. We always talk about it during the 201H hearings that we may run a little bit into problems if they start the project, and do substantial compliance, but they don't finish within the five years which is often given. I hope we never have to look into that, but it's a little more difficult if the developer has relied on, they've started in good faith, and they're not able to finish in five years for whatever reason, you know, but it's the start time we really look at, if they haven't started doing anything we feel it's reasonable to remove their entitlements. We haven't come into that yet, and I hope we never do, but that's probably what would, that's what we expect would happen. Thank you, Chair.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Ueoka. So, Mr. Spence, you mentioned that no one's approached you about prefab houses development.

MR. SPENCE: On no they, I'm sorry if I didn't state that clearly, I have been approached --

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay.

MR. SPENCE: --about prefab housing.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for that clarification.

MR. SPENCE: Absolutely.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MR. SPENCE: Yeah. And that's when I went into the, what prefab is, it could be a full-size houses, it could be --

COUNCILMEMBER RAWLINS-FERNANDEZ: Container.

MR. SPENCE: --like container kind of stuff --

COUNCILMEMBER RAWLINS-FERNANDEZ: Right.

MR. SPENCE: --or tiny homes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay I was just gonna mention the Kahauiki Village on Nimitz on Oahu.

MR. SPENCE: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: 'Cause that's prefab, right?

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MR. SPENCE: Yes. Those are premade units that get plunked down on there. We're talking with one developer who has connections in China with...they are not converted containers, they have never been shipping containers, but they start with that shell which is very durable and lasts a very long time, and they outfit those shells with kitchens, cabinets, bathroom, et cetera, bedrooms, everything inside insulated, and they put siding on them, and they're actually I'm pretty impressed at how pretty they are. We're talking, you know, \$60,000 - \$70,000 for a 40-footer, and then if you want to put them together they can custom do stuff on order, it's a pretty interesting thought. So, yeah that's already being discussed with one developer.

CHAIR KAMA: Thank you for answering that question.

COUNCILMEMBER RAWLINS-FERNANDEZ: Thank you.

MR. SPENCE: Yes.

CHAIR KAMA: Anymore?

COUNCILMEMBER RAWLINS-FERNANDEZ: That's it. Mahalo, Chair. Mahalo, Mr. Spence.

CHAIR KAMA: Thank you. Councilmember Lee?

COUNCILMEMBER LEE: Thank you, Madam Chair. This is what I wasn't going to say, but years ago we looked into manufactured homes in Canada, and we went up there to look at the factory. The problem was it's cheap over there, but when you try and transport them over sea that's where the cost is. So, the project that...Ms. Rawlins-Fernandez, thanks, Rawlins-Fernandez mentioned they were lucky, because Matson volunteered and paid for the transport of those units from Japan. So, if we could get a, you know, a similar situation, similar deal that would be great. But the real reason why I was raising my hand --

CHAIR KAMA: Yeah . . . *(inaudible)*. . . getting to that.

COUNCILMEMBER LEE: --was to ask in the next break, at the next break if Staff could raise the temperature, because it's getting so cold in here you can hang beef. Yeah. Thank you.

CHAIR KAMA: Thank you. Any more questions? Yes, Member Molina.

VICE-CHAIR MOLINA: Thank you, Madam Chair. And I appreciate the question that was asked earlier about the taking away entitlements of projects that not have, you know, not being built after so many years. You know, continuing on that line maybe, Madam Chair, under your signature or if the Department could provide us, 'cause I understand there's one project that's sitting there for nine years, was approved nine years ago, and I guess it's still...and is that true? And I'd just like an explanation on it if the Department has that information.

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CHAIR KAMA: Mr. Spence?

VICE-CHAIR MOLINA: And I know they have to come to Council for extensions yeah like it was stated, so.

MR. SPENCE: Okay. And I, Buddy is conferring with me, and yes that is the Kula Ridge project. I, we believe that's the Kula Ridge project. I will double check on that, I will get you the reso as well as Ms. Sugimura.

VICE-CHAIR MOLINA: Okay.

CHAIR KAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I'm fairly confident Kula Ridge does not have a timeline in it, does not have a deadline for a start. Oh, not for the 201H, but, Mr. Almeida is saying with the State land use there was some sort of time limit on their approvals there, but again as, you know, we're not the State so we can't really touch their...but...their limitations, but the County one we didn't include one in. Thank you.

VICE-CHAIR MOLINA: Okay. And, you know, it's been said that, you know, land and infrastructure costs is one of the reasons or deterrent for, you know, creative...for affordable housing not being created. So, I'm just wondering about the usage of the Affordable Housing Fund, has that ever been utilized to purchase land or developing infrastructure? 'Cause that's usually one of the concerns developers share with us. Has the fund been used for that purpose in the past?

MR. SPENCE: Okay. Yes, thank you. The Ewalu project in Pukalani up at Kulamalu that was used, we've used affordable housing funds to purchase land up there. Usually there's, we do a plan every year for the affordable housing funds, and we go through a request for proposal process and say we have these funds available, please provide us with a proposal and we request, you know, a bunch of information. And so we've just recently gone through that process, and we will be transmitting, actually Budget Director will be transmitting that to the appropriate committee shortly. So, there's some good stuff in there, I'm looking forward to it. But yes, the affordable housing funds can be used for land, infrastructure, other things that will aid in the affordability of housing.

CHAIR KAMA: Okay.

VICE-CHAIR MOLINA: Thank you. And then can the Department better review, and scrutinize all of these 201H projects so that way we don't have these projects that could take forever to get built? Any suggestions? And as far as what can we do on the Council to help?

MR. SPENCE: The biggest problem, once approvals...I don't think we can do any more scrutiny on the approval process. The documents that you will see are going to be hundreds of pages long, they are essentially an EIS. They include all of the

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environmental impacts, the archeological inventory surveys, the drainage reports, cultural assessments, et cetera. That review process is very rigorous and very thorough, it's what happens after the approvals are given, they may indeed run into infrastructure problems like we're talking Kula Ridge with, in, my understanding the big thing is the water. So, they've been taking, you know, trying for a long time to resolve that. So, once approval is done, you know, I don't know how else to say it except there are still hurdles to be done. If we wanted to take up and help with the infrastructure, we...that's probably the number one thing that keeps projects from being built is if we participate in that we will see a lot more of approved projects go ahead and start construction.

VICE-CHAIR MOLINA: Okay. Thank you very much for your response, Mr. Spence, and forgive me, I just it's certainly a passion of mine, and a lot of people out there in the community who's just frustrated that why things take --

MR. SPENCE: Right.

VICE-CHAIR MOLINA: --as long as they do, and of course with the need for more housing especially for our workforce families out there, well families at all levels 'cause Maui's just getting so out of control in terms of housing prices. So, you know, Madam Chair, under your leadership, I guess all of us it's incumbent on us, and the Council working with the Administration to take the bull by the horns and, you know, help expedite the process here to put our, give our citizens the opportunity to stay here, and not have to move away. Thank you.

CHAIR KAMA: Thank you. Members, any other questions? Thank you. So, seeing none I would like to be able to defer this with no objections.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused KK)

ACTION: DEFER.

CHAIR KAMA: Thank you. We'll call a brief recess. . . . (*gavel*) . . .

RECESS: 2:28 p.m.

RECONVENE: 2:33 p.m.

AH-17(2) LAND USE AND ENTITLEMENTS (DEPARTMENT OF PLANNING)

CHAIR KAMA: . . . (*gavel*) . . . The Affordable Housing Committee of February 13, 2019 will now come back to order. So, we have, Members, before us a presentation by the Acting Director of Planning, Ms. Michele McLean. So, Ms. McLean, if you'd go ahead and share with us your presentation.

MS. McLEAN: Thank you, Chair.

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CHAIR KAMA: You're welcome.

MS. McLEAN: My presentation is relatively brief, because it deals with how the 201H process involves the Planning Department. So, the 201H process that was just described, the fast-track process what that means for the Planning Department. So, you've seen the slide before, this is the one that Will stole from me, I didn't steal it from him just so you know. This shows our complex land use regulatory process, all the layers that apply to most pieces of land in the County. and what's not included in that layer is also the Maui Island Plan so for Maui island there's an additional layer. So, when we talk about land use entitlements, what does that mean? It means your State land use designation, your community plan designation, on the island of Maui the Island Plan designation, your zoning as well as any special designations. So, if a developer or landowner goes through what we call the entitlement process that means they seek these entitlements, these designations for a certain purpose. And entitlements can also involve what I have listed here is EA triggers so the requirement under State law to prepare an Environmental Assessment or an Environmental Impact Statement, and the most common trigger that we see when it comes to housing development is the use of State or County lands or funds. Those are EA triggers under State law, now certainly there's some exemptions to that so like our day to day activities where we're spending County resources we don't have to do an EA for everything we do on a day-to-day basis. But if we're talking about developing affordable housing on County land for example, that's an EA trigger. There's also an EA trigger if you amend the community plan designation, if a private owner amends the community plan, that's also an EA trigger. But it's important to note that if the Council or the County meaning the Planning Department initiates a community plan change then that is not an EA trigger, because it's the County initiating that process. So, this is just general, again just a general land use regulatory process. And what we call discretionary approvals that this is the normal process, not the fast-track process, and Will touched on this a little bit in his presentation. If you want to amend your State land use designation for property greater than 15 acres that has to go to the State Land Use Commission. But if it's less than 15 acres then this Council has the authority to make that decision. It doesn't have to go to the State Land Use Commission, the County...the Council makes that decision. I have a little asterisk there because the island Planning Commission will make a recommendation on that before it comes to the Council. And the Council also has authority over community and island plan amendments and changes in zoning. And also for those the island Planning Commission first makes a recommendation. And the island Planning Commissions have authority over the special management area. That doesn't come to the Council, that's solely under the purview of the Planning Commissions. So, again for a regular discretionary approval, the regular process you go to the Planning Commission first and they make recommendations to the County Council, and if the parcel's larger than 15 acres then you also have to go to the State if you're changing your State designation. So, that's the typical discretionary approval process. Now, for a fast-track process, the one that Will described. The Planning Department as well as other agencies review and comment on that application, but it does not go to the Planning Commission. The Planning Commission under the regular process holds a public

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hearing, and makes a recommendation to Council. For 201Hs the Planning Commissions do not review it. And part of the process also includes waivers, Will touched upon that as well, and relating to the Planning Department the applicant asks for waivers that relate to the land use entitlements to the zoning, the community plan, and the island plan. So, rather than changing those designations you get waivers from them instead. And so that can relate to the sizes of lots, that can relate the number of units you can have per lot, the heights of buildings, the setbacks of buildings, as well as uses, design guidelines or various policies. So, what we typically see is Ag land, right? That has a two acre minimum lot size, you're allowed one farm dwelling, or two farm dwellings one of which can't exceed a 1,000 square feet, building height I think is 35 feet in the Ag District. And so if you have Ag property, rather than changing your State district, amending the community plan, changing the zoning you do this fast track process where you go straight to the Department of Housing and Human Concerns, agencies make comments, and you say, you know, instead of two acres I want to subdivide into 4,000 square foot lots, and I want to build single-family homes or you can say I want to develop that Ag lot for multifamily purposes, and have four-story apartment buildings. So, it allows you, it allows the applicant to basically create their own zoning for that property. They request waivers from what the other land use entitlements would require and come up with their own development standards. Typically, that's done in a waiver process, I want to be waived from this requirement and that requirement. From our point of view, from the Department's point of view to administer that in the long term we'd rather it just spell out clearly what do you want to do, what do you want your heights to be, what do you want your density to be, what do you want your setbacks to be, just tell us what you intend to develop so that it's very clear, very straightforward. And you can, the applicant can get waivers from zoning and community plan. They don't technically get a waiver from the State land use district boundary amendment, but the regular process is waived. So, again it doesn't have to go through Commission it doesn't have to go through all those steps, it comes straight to the Council for a bill to change the State land use district boundary without having to go through the Commission and public hearing process. So, it's technically not waived, but the effect is the same as having a fast-track process. Now, it's important to note with all of that you cannot get waivers from SMA so if the properties in the SMA you still have to go through the regular SMA process. If you need a flood development permit you still have to get that, and if there are EA or EIS triggers you still have to go through the environmental review process. So, again just as a recap for the Planning Department, we do not process the application as we usually do that's processed through the Department of Housing and Human Concerns. The Planning Commission doesn't conduct a public hearing or review it. Every now and then it may be that the Commission reviews or comments on an EA if an EA is required, but generally the Commission doesn't see it. And then the Department also comments on the waivers requested by the developer, and again we want good design, we want it to be livable, it needs to be clear to everybody, to the Council, to the people who are going to live there, to the developer, to us what uses and standards apply so that we can enforce that. And these get reviewed by full Council by a resolution so that's only one reading, it's not a bill that has two readings, they're approved just by one reading although if there's a State land use district change that is an ordinance with two readings. And again, SMA and environmental

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reviews if they apply are still required. And that's it from the Planning Department. Chair, if I could --

CHAIR KAMA: Yes.

MS. McLEAN: --make a couple other comments that I think might be helpful. The prioritization policy, the new law 2.97 in the County Code, that is relatively new, and that does involve as Members were speaking about for us giving priority review to those projects. So, we review building permits, we review most building permits for zoning compliance and whether it's through a 201H or any process, if those are prioritized then they simply go on the top of the pile, and we get to them next. So, we are prepared to follow that, that policy in making sure that these projects get reviewed as quickly as possible. And we also, with the previous Council we've had various correspondence with previous Councils about ideas to promote affordable housing. We've provided a list of ideas, I sent those to Councilmember Lee and to the Chair, we'd be happy to take another look at that, maybe update it, revise it. We had also previously provided a list of possible parcels that the County could initiate land use entitlement changes for that would be there're infill or they're close to infrastructure, we'd be happy to provide that information to the Committee. And one thing that we did for the ongoing West Maui Community Plan update process is one of the sessions that we did was a panel of affordable housing developers who spoke very honestly and frankly with the public that assembled that day about what it takes to develop affordable housing. What the risks are, what the costs are, how the long the process takes, and it was wonderful for them to speak so openly and honestly 'cause you don't necessarily always get that 'cause some of it is industry secrets if you will of how they're able to be successful, but that might be something we could help --

CHAIR KAMA: Yes.

MS. McLEAN: --put together so that you hear directly from them what these challenges are, and how they are succeeding --

CHAIR KAMA: Yes.

MS. McLEAN: --when they do succeed. So, thank you --

CHAIR KAMA: Thank you.

MS. McLEAN: --for allowing me to make those extra comments.

CHAIR KAMA: Members...is there a question in this?

COUNCILMEMBER LEE: Yes.

CHAIR KAMA: Member Lee?

COUNCILMEMBER LEE: Two of them in fact.

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CHAIR KAMA: Okay. Go ahead.

COUNCILMEMBER LEE: Thank you, Madam Chair. Michele, Ms. McLean, now when you talk about 201Hs is that one of the major drawbacks to using that process is if you had a fire and the underlying zoning is Ag, and you are not in compliance with the underlying zoning, how do you handle that when the resident now wants to rebuild his house?

MS. McLEAN: We do view the 201H approvals as an entitlement. It doesn't go through a Change in Zoning and have an ordinance that applies, but it has the 201H resolution and the approval so it has the same effect of zoning if you will.

COUNCILMEMBER LEE: Okay. Good. One, that's one. Okay, the next one is as you probably know of course I don't know if you were born yet, but in the '70s, and the '80s, yeah, there was no housing policy, and the Council which was practically half, part time, half time at the time didn't really deal with housing that much, it was really the Mayor and the Planning Commission. The housing exactions came, started with the Mayor and Planning Commissions, and but at least they used a rational nexus and that rational nexus was employee housing. So, every time they approved a hotel or a major business they required some kind of housing for employees. And then in the '90s it changed all of a sudden to fit our needs really, there was no real rational nexus. When a developer of housing had to build more housing that actually didn't make sense, and then I remember Corp. Counsel during that period of time saying ,you know, be careful of those exactions, number one there is no rational nexus, and number two conditional zoning was really something they frowned upon, because as lawmakers when we create laws it's supposed to be consistent, you know, apply to everyone, not you hit the big developers with big exactions, and you hit the little developers with little exactions. So, I'm not sure if you can answer this or Corp. Counsel what is the legal basis for us adding all of these types of conditions on these projects when number one it varies according to different projects, and number two there's no rational nexus?

CHAIR KAMA: Mr. Ueoka, if you may.

MS. McLEAN: The...

CHAIR KAMA: Go ahead. Okay.

MS. McLEAN: If I may make an initial comment? With the projects that we have to take through the Planning Commission, we do a staff report and recommendation, and we do the land use analysis, and in the zoning process, the Change in Zoning process it does allow for conditions to be imposed to mitigate potential impacts. So, if a project has traffic impacts let's say, they can be required to add a turning lane or to install a traffic light, but that is the nexus that you're asking about. Beyond that I defer to Corp. Counsel, but I would comment that I do agree that the housing requirement being imposed on housing developments doesn't really make a whole lot of sense, and we don't impose requirements on new commercial developments. We do on hotels but

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not on commercial, and I agree the requirement should be imposed on developments that create needs for housing for employees.

CHAIR KAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I'll try and answer Councilmember Lee's question. Also, I believe that's why 2.96 was implemented, it's a 25 percent for big developments, small developments, it shouldn't matter. I guess the principle is it's kind of, I believe the term's inclusionary zoning for that type of thing so there is a connection between creating market housing so you need to create a little bit of residential workforce housing to help out with the issue at hand. There is a, I think everyone can agree there is a public issue here, like almost a crisis of the lack of residential workforce housing units. So, I believe that is an underlying concern which is addressed by this. I will say that 2.96 does apply to any development, it just has to be ten lots or more. So, certain industrial subdivisions I believe we have asked them to satisfy the requirements of 2.96. I'm not aware of too many commercial developments that end up in multiple units. Typically, a commercial development is like a shopping center right, where it's one big unit with small leases here and there. So, I'm...we can look further into that or we can do legislation or I'm sorry you guys can do legislation to adapt to that, but I will say it's ten or more lots as far as the Department of Housing and Human Concerns or then more units in a subdivision. I hope that addresses what you're talking about, we do feel that this is legitimate and would withhold judicial scrutiny or be upheld under judicial scrutiny. Thank you.

COUNCILMEMBER LEE: Thank you, Mr. Ueoka.

CHAIR KAMA: Ms. Lee?

COUNCILMEMBER LEE: One last question. Okay, I know we do it, and we're all guilty of it, you know, it's not like we're gonna stop, but it is a stretch that it's, you know, there is a rational nexus. We tried to do a commercial requirement, because now when we, whenever you're talking about employee housing that's a real impact, a real one, and we...the East Coast actually started first in Boston, and we tried to get more, and more...but whatever little we proposed or tried to propose at that time, you know, was I mean it's like going against a brick wall. So, maybe now is another time where people, you know, have gone through, have had the experience of a commercial requirement on housing that, you know, we can just use some of the best, the better legislation that's available throughout, you know, from any one of the municipalities. So, you know, I appreciate your answer, and I like the way you dance around it. Thank you, Jeff.

CHAIR KAMA: Questions, Members? Yes, Mr. Molina.

VICE-CHAIR MOLINA: Yeah, thank you, Madam Chair, and, Ms. McLean, thank you for sharing with those of our, us who have returned to the Council, and the new Members to the Council that you provided some information to the previous Council suggestions as to what can help with, expedite affordable housing. You know with regards to the

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workforce housing policy I, that my dear colleague, Ms. Lee referenced earlier I believe I was part of that Council that supported it and, you know, I remember there was one member that even suggested 80 percent requirement then we ended up whittling it down to 50 percent, and since that time it has been brought down. So, your opinion as a, the Planning Director, your thoughts as to the benefits or problems with this bill as far as hindering affordable housing if I could get your take on it?

MS. McLEAN: The 50 percent requirement hindered all housing, not just affordable housing. We only saw very small projects, individual multi-multimillion dollar homes coming on line rather than a whole mixture that we had prior to that. So, the lower number has, has already been producing results since it was dropped down to 25 percent. And I think looking at ways to improve upon it even further whether it's expanding it to include not, to not be based necessarily on a unit but any large enough projects that would have some sort of housing impact should be assessed for that. And there are, you know, it's, we just need some brainstorming sessions to bring in people involved in different aspects of the industry, whether they be developers or lenders, Habitat, other people who have experiences saying, you know, just this little change would really help, and if we put those handful of small changes together it could really add up to some significant incentives.

VICE-CHAIR MOLINA: Okay. Well, thank you for your thoughts and, you know, Madam Chair, just for the record I believe it was another wonderful former colleague of mine, Mr. Mateo who initiated that policy, and it was certainly well intended, and I believe most if not all of the Councilmembers supported it, and obviously we didn't have a crystal ball so, we didn't anticipate, you know, not having as much affordable housing. but I just want to state for the record it was done with good intentions, and like any legislation over time sometimes tweaking needs to take place so I just want to give kudos to my former colleague out there, and as well as some of my former colleagues who supported that bill as well. And one last quick follow-up for Ms. McLean, you know, of course you have to talk story a lot with the developers, can you share with us some of their difficulties and concerns that they maybe not want to share with us the Councilmembers, but maybe with what you hear? You see it a lot and hear it a lot so anything that you can share with us so, 'cause I think we want to help, and maybe for whatever reasons developers get painted in a dark picture, and the funniest thing though we need somebody to build the houses 'cause it sure as heck ain't gonna be the County. So, whether we like it or not we have to work with the developers to get affordable housing. So, but I know there's the bottom line involved with it, but anyway, Ms. McLean, if you could share some thoughts that in your exchanges with developers about the complications --

CHAIR KAMA: Yes, go ahead.

VICE-CHAIR MOLINA: --for making housing affordable on Maui?

MS. McLEAN: Sure. There is the uncertainty of the entitlement process, that's a big concern. It largely, you know, like so many of the discussions I've had with the Council over the last few weeks, it largely comes down to money. And when a developer is looking at a project, there's a lot of risk involved. At the end there can be

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significant reward, but there's a lot of money at risk upfront and that stays at risk for a long time, and so it's really looking at what is the value of that risk, is it worth the profit you're gonna make in the end. And we in the government and in the public tend to look at that profit at the end only, we don't look at you've had this debt that you've been financing with all of this risk for this long period of time to get to that end, and there's it, it's just the, you know, the mindset to be successful in that business of understanding the risk and reward relationship that we in government don't always sympathize with. And I'm not saying I, you know, I have a feeling one way or the other about the profit that they make, but I do understand the amount of risk that they take and the amount of money that they often have on the line for a very long time. And it's not the developer who puts that money out, it's the developer gets investors, gets lenders really so they're accountable to other people to pull off this project and pay off their debt, and then they get their payoff in the end, but we're talking many, many years before they get there. And, you know, we are quick to assess them for impacts, which is the right thing to do, if they're creating impacts they need to mitigate for those, but I think there is a tendency to maybe push that to the farthest limit thinking, oh you're gonna be making all this money, but without necessarily being cognizant of what's at risk the whole way through.

VICE-CHAIR MOLINA: Yeah and thank you for your perspective, Ms. McLean, because you've been in both the private sector and the public sector so you know, you've been around, so I think, Madam Chair, it's important that, you know, everyone not only ourselves but the public get educated to understand both perspectives the side of the developer and then of course our side. And we may not be aware of all of these challenges that the developer faces when putting out, you know, investing in a project which is a very high risk, and that again is a potential hindrance as to why, you know, affordable housing projects can take a while. So, but my main thrust I guess here with all of my, you know, I'm usually a little bit more expressive than I am normally, but again we want to find a way we can fix and expedite the process so we can get the housing that we need for all of our citizens here, especially those in the workforce community in critical work areas 'cause, you know, if we don't take the bull by the horns real soon then, you know, pretty soon nobody can afford a house on Maui, but thank you.

CHAIR KAMA: Right so we now have two bulls in front of us. So this Council has the privilege and actually the responsibility if it wants to, and it should, because I hear the passion coming from you to make it maybe a little bit more easier that if some of the things that we are putting in is making it difficult then our job isn't to make things difficult it's supposed to make things easy for everybody, not too easy, but not so burdensome too that the risks that's taken is a bad risk. Where that there's so much uncertainty that they would not even contemplate that risk. So, two bulls, Members, that's what we've got so far. Any other questions from the Council? Yes, Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Thank you, Chair.

CHAIR KAMA: Yes.

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COUNCILMEMBER SUGIMURA: So, when we hear projects and we hear testifiers and people are saying they didn't know, so in your process how many times is there community engagement that is required just through the many steps that the project has to go through for approval? I don't know if you have a comment on that.

MS. McLEAN: If someone goes through the regular entitlement process, the only public hearing and public notice requirement...well, there are two notification processes. One is they have to send out a notice of application to the properties within a 500-foot radius, and then when the public hearing is scheduled before the island Planning Commission they have to do a notice of public hearing to that same group, and the Planning Department also publishes a notice in the newspaper of the public hearing. If an EA or EIS is required that's, that happens prior to that, and that's incumbent upon the applicant to do their outreach. There isn't a specific community engagement component to that, we always, always, always recommend that applicants talk to their neighbors, talk to their community association or whatever group might be there. It's not a requirement in the Code, but we strongly, strongly, strongly recommend it, but other than that there're just the two specific notifications that are required.

COUNCILMEMBER SUGIMURA: So, I wonder, 500 feet is the common number that's used for notifications, should that be increased to a bigger, a larger scope like a 1,000 square feet or it's not necessary?

MS. McLEAN: Most certainly the larger you make it the more people you would include. If you're looking at agricultural land, you could have just a few people within that 500 feet, but if you're looking at let's say Kihei with multifamily development around you, you could be talking about thousands and thousands of people to get notified. It is written as a one size fits all so, you know, what applies on ag land applies there. Perhaps we could look at it to have a different standard for ag land, maybe that would make sense. I don't know, there...maybe not doing the neighbor notification, increasing that, maybe there are just other better ways to notify the community. Whether it's through press releases or social media there might be better ways to inform people rather than just those folks who happen to live within that circle.

COUNCILMEMBER SUGIMURA: Thank you. Thank you, Michele.

CHAIR KAMA: Yes, Member Sinenci.

COUNCILMEMBER SINENCI: Yes, Chair, I just had a question for Ms. McLean. Is there any zoning currently for residential units on Light Industrial area?

MS. McLEAN: Off the top of my head, well, the County's Light Industrial zoning allows multifamily apartments in it so if a property's zoned Light Industrial you could do industrial uses, you could do commercial uses or you could do multifamily. So, that's like in the Wailuku Industrial area and Lower Main we have a number of multifamily developments even if the area is Light Industrial. I don't know, I just don't know off the top of my head if there areas that are Light Industrial on the community plan and zoned Residential, that I don't know.

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COUNCILMEMBER SINENCI: Thank you. Well, follow-up, is there a mix use where you could have technically residential on top and commercial on the bottom?

CHAIR KAMA: Yes, go ahead.

MS. McLEAN: In our project districts that's allowed, and in some of our business districts that is allowed. We don't have a zoning district that's called mixed use, but some of our zoning districts do allow that mixture of residential and commercial, yes.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair.

CHAIR KAMA: Members, any other questions? Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman. I think this is quite timely, Department is gonna start proposing recommendations for Title 19, and I think the Department would benefit from discussions in this Committee, and we'll think like Ms. Lee's Committee to get some sense of how we projecting and the type of appropriate land use revisions that we should be considering. One to accommodate the changing needs of the construction industry, two, growth in technology and new applications. But I think as well to get some philosophy from the County on how we going to look at housing. Okay. We got to come to terms, corporate plantations took care of one thing, basically they took care of housing, they understood the premise, no housing no workers; simple, okay. The modern I would say private sector sees housing differently. Someone's gonna build the housing for the employees, not necessarily them. Okay. So, obviously we come to a problem, we have workers with no housing, and employers who need housing with no workers, but I don't feel that's the County's job to provide. It's the County's job to support and participate in and help advocate, but it's not our job to do it. So, to me that's one of the things that maybe the Council needs to determine how we look at land, Chair. Okay. If we're gonna buy in and keep prostituting the County's lands for highest and best return which is development and sales, impact on your residential affordables. If we're gonna look at residential affordable lands with a different lens of value to make it more I would say, I hate that word already "affordable," I mean for people like me the dying minority of middle class, Chair, I'm getting tired of paying okay, to be real honest I'm really getting tired of paying the bill. So, I'm looking at ways of how for people like us still want to give our fair share, but we want to see some benefits now.

CHAIR KAMA: Yes.

COUNCILMEMBER HOKAMA: We want to see our neighbors in houses, we want to see them paying taxes like us. Okay so, I would say that's some of the things that the Department needs from us is guidance on policy, and one of it is values, leadership has to provide values to this community and start making appropriate adjustments. I think, Mr. Molina hit it on the head, he brought up some good points but the Department cannot help us if we don't give the guidance in decisions made on policy and values. How does Department know that residential needs to be a little bit more

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narrow and precise in permitted uses so we don't bastardize value with permits? Okay, 'cause if we cannot support it through taxation and have clarity of the land use, we're gonna have a hard time down the road, because there'll always be a permit that goes contrary to the zoning, and I'm tired of zoning by permits too, Chair, that's not the way we do zoning. So, I hear you, but maybe temporary project districts is the way to go, set the standards, let it be enforceable within the boundary of metes and bounds and use your project district status and move forward if that's how we're gonna deal with some of the uniqueness people may be asking you and give us enough time to redo zoning and taxation.

CHAIR KAMA: Yeah.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

CHAIR KAMA: Thank you, sir. Any other questions? Okay, Members, I would like to call recess so that we can reconfigure this place so we can get the next presentation. In the meantime you have a ten-minute break. . . . *(gavel)* . . .

RECESS: 3:10 p.m.

RECONVENE: 3:23 p.m.

AH-17(3) LAND USE AND ENTITLEMENTS (DEPARTMENT OF PUBLIC WORKS)

CHAIR KAMA: . . . *(gavel)* . . . The Affordable Housing Committee of February 13, 2019 will now come back to order, and, Members, before us we have the Acting Director of Public Works before us today, Mr. Goode from Public Works. So, sir, will you please share with us your presentation?

. . . BEGIN PRESENTATION . . .

MR. GOODE: Will do.

CHAIR KAMA: Thank you.

MR. GOODE: Good afternoon, Chair, Members. David Goode here, Acting Director Department of Public Works, and pleased to give our PowerPoint in conjunction with the ones you've heard previously from Housing and Planning, and we use the same format for our PowerPoint for some consistency. And so, you'll see actually by this photo here, you know, when most of the work that the Department does in projects is more of the nitty gritty on the plan level when the actual plans get submitted, but we do some work in the entitlement stage, and we'll talk about that as well. Okay. Okay. Okay, so Department of Public Works plays a role in the discretionary approvals that you heard from Housing and Planning, so whether it's a 201H or a Change in Zoning type application we are a commenting agency along with all the other agencies so Fire, Water, Sewer Department all would have comments on the application. And so, we

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provide comments primarily in two areas, one is traffic analysis, and the other second one is drainage concepts. So, typically in these applications they have a detailed traffic study following various traffic study norms, and then the drainage work is typically fairly conceptual where they identify what water is on the site, additional water to be generated, where the additional water is going to go, and how they're gonna typically clean that water before it leaves the site. We would also comment particularly on the 201H applications on any proposed exemptions, so these kinds of exemptions that we see that affect our Department include sometimes requests to not install underground utilities, to not install sidewalks perhaps in certain locations, exemptions to not pay certain fees perhaps, building, plumbing, electrical, grading type fees, and other similar requests. And then we would represent the Department at the various hearings like the Planning Commission or meetings here at Council. So, that's typically our role in the discretionary side of the entitlement process. There are a couple different zoning categories that are not 201H, that are not Change in Zoning that we do see from time to time, and the Department has a little different role. There are two zoning classifications, one's called cluster housing and the other is the R0 overlay district. And these are administrative approvals typically with Planning and Public Works. The most I've seen are R0 overlays, I've seen very few cluster housing, but in the R0 overlays the applicant would produce a, some conceptual plans, site plans in accordance with that Code, and then circulate it between us and Planning and typically we would meet with Planning we would discuss it, and if it meets the requirements of the Code we would generally approve that. And that would allow smaller lots in say an R1, R2, R3 district to go down to 3,000 or 4,000 square feet, and some portion of the building would actually sit on the lot line. This allows for greater density, and I think under that Code everything has to be under a 140 percent of the median income sales price. So, we do see those from time to time. Those types of applications may not come to the Council. If memory serves me correct the Mokuahau Project at Lokahi Pacific did I think was an R0 project, I don't think it came to Council. I keep hitting the wrong button, sorry, this is a PDF not a PowerPoint, my bad. Okay, but where we get the most work from our Department on applications are the actual construction-related plans. So, depending on what they're proposing to build there may or may not be a subdivision, right, if it's one large lot and it's doing a condominium they're not subdividing anything typically. So, what, we would route those plans in accordance with our codes, and we'd also make sure that if there's any modifications or amendments or exemptions in the 201H approval, we'd make sure that those match up with what is being submitted. Then all the other regular permits that come with any project would generally include grading permits or permit 'cause it's usually one for a piece of property, you could have multiple grading permits or building permits for each structure, we have a building permit, electrical, plumbing, driveway, and any other work that happens in the County right of way like when they tie in their water, when they tie in their sewer to an existing roadway. So, all those get reviewed and approved by the Department. And of course when we review those plans we send them out to all the other agencies that are typically a part of those reviews so that includes of course Planning and Housing, Fire, Water, Wastewater, and also State agencies. Depending on the type of project you could have the Department of Health involved, State Historic Preservation, the State Department of Transportation especially if it's located near a State highway. And then there's the new Chapter 2.97

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that was recently passed, we haven't had a project come through yet, but I understand there's at least one that's interested in using this process. So, again we would comment on the application, they would have a full application including this environmental document that's required under that code. So, we would generally review for traffic and drainage and make comments back to Housing in this case. There is a section in the Code, 2.97.160 which requires our Department to work with the developer on bonding, the bonding requirements, so that's one area that we, you know, we have to test the waters on the very first one that comes in, Chair. And with all these projects now with the fast-track ordinance that was also recently passed, like Ms. McLean was saying any of these reviews that come in that have qualified for this fast-track review would simply go to the top of the pile. So, once it comes in it becomes the next application that's reviewed. So, this slide I just decided to call the intangibles. So, once a project is up and running and they're at the stage where they're submitting plans or they're actually in construction, things just come up that one can never predict, and so what we try to do is we try respond quickly and accurately 'cause one thing we've all heard is that time is money in these projects. I can recall one project, I think it was that Lokahi Pacific one where there was some issue came up, I can't remember what it was, but if they didn't have an answer within a couple of days their framer was going to go to another job, and he wasn't gonna come back for two weeks. So, those are the kind of things that happen on the ground that we try to keep in mind and know that, you know, time is money, in this case time is delay and money, and everything else. We're fair, you know, but we're tough when need 'cause if they ask for something we can't do we gotta tell them no, but then we also try to over use this term, think out of the box, and try to find solutions. If we have to tell them no we try to, we ask what are you trying to accomplish? What are your needs here? And where perhaps could we work with you, you know, in our codes? And finally, I like this last bullet the best, because we try to remember someone's gonna live in this home. You know and so if that decision can be done quickly enough to eliminate that two-week delay, you know, which may have 'caused an issue later on with their loan and maybe they didn't get their loan but if they had it two weeks earlier, all these things add up but in the end someone is gonna live in the home. And that's, that completes it, Chair, short and sweet and happy to answer any questions you folks may have.

. . . END PRESENTATION . . .

CHAIR KAMA: Thank you. Members, questions for, Mr. Goode?

COUNCILMEMBER SINENCI: Yes, Chair.

CHAIR KAMA: Yes, Mr. Sinenci.

COUNCILMEMBER SINENCI: Yeah so, thank you, Mr. Goode. On page, was it your fifth slide, other agencies review of construction-related plans, and you listed the different agencies and departments that the plans need to go through. And one of the, you know, the criticisms was just either the delay or you would have to walk through your

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plans through each of the departments. Right now where are all these departments located? Across town, --

CHAIR KAMA: Geographically.

COUNCILMEMBER SINENCI: --within a couple of miles? I mean, you know, I mean one of the issues, Chair, was trying to kind of consolidate --

CHAIR KAMA: One-stop shop.

COUNCILMEMBER SINENCI: --a lot of one area where you could, you know, just kind of keep the time down, and where you could kind of see, and I know it's not that easy, but it was just some of the suggestions that we've been given. If you can respond?

MR. GOODE: Sure. So, I think I may have mentioned last week when I was here about our desire to get to e-plans whereas plans come in they can be sent out electronically, you know, you could live in Morocco, we'd get them at the same time. Currently though we have generally paper plans, and so they need to be...if you need to have three sets 'cause you have three agencies or eight sets whatever the permit requires, you know, we've taken those plans, and then we get them out to the agencies. So, the other agencies typically, I can't remember how it works, but they, I think they come and get them daily or every other day or whatever it might be so there's potential for delay there, it's typically not very long. The State agencies are on island. In the case of I think we talked about SHPD when I was here last week they may pick it up locally but it may be reviewed on Oahu, right, or Big Island depending on where they're at. Even the Department of Health could be reviewing on Oahu but they pick it up locally.

COUNCILMEMBER SINENCI: So, those departments they wouldn't have a site here on Maui, it's the State is always on Oahu? Is there any chances or some of them having an office here on Maui?

MR. GOODE: Yeah, Chair and Mr. Sinenci, so they generally have offices here, but whether they have reviewing staff is the question. Sometimes they do, sometimes they don't.

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

CHAIR KAMA: I think, I thought the question was where are they geographically located, I'm not sure, but I'm now curious about that so Department of Planning is where? Public Safety and Fire is...I mean are they all in this building or are they somewhere else?

MR. GOODE: Well, Planning's over at One Main.

CHAIR KAMA: One Main.

MR. GOODE: Fire is down in Waikapu. Water Supply is fifth floor, Housing is One Main, and they also have the Liholiho building, right, or they moved out of there. That's right, down on Wells Street. Department of Health is across the street, their main

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office. State Historic Preservation is across the police station right next to *The Maui News*, and DOT, State DOT is down by the airport.

CHAIR KAMA: Mr. Sinenci, were you asking that, geographically locations?

COUNCILMEMBER SINENCI: It was just, yeah, it was just some constructive criticism about, you know, just kind of walking your plans through all the different departments, and just some suggestions that, you know, if we could consolidate a couple just for time constraints.

CHAIR KAMA: Okay.

COUNCILMEMBER SINENCI: I know that's just not an easy task, but just sharing that.

CHAIR KAMA: Okay, thank you. Any other questions? Yes, Mr. Molina.

VICE-CHAIR MOLINA: Yeah, Madam Chair, thank you, and thank you, Mr. Goode, for the presentation and, you know, looking through all the different hands that permits have to go through and all the different agencies, and I know earlier I had stated to Mr. Spence my frustrations that maybe some of this is on us, but applicants too need to bear responsibility, because in fairness, you know, we, it's not only on us 'cause if the applicant does not have the appropriate information needed for the permit approvals, that takes up some time as well. And as you had mentioned in your presentation, you try, you and your Department you try to do your best and I'm sure, Ms. McLean and as well as, Mr. Spence and their departments they try to work expediently on behalf of the applicant to get, expedite matters, but if the information that is needed is not there from the applicant, it's not there so that takes time as well. So, but I appreciate, Mr. Goode, I guess it's to be consistent with, Mayor Victorino's pledge to the public about more customer service oriented and I guess it would, I presume it would apply to this as well to get matters, you know, done in an appropriate amount time so we can see these projects move forward a bit more expeditiously. Any thought from yourself as to how you are emphasizing the Mayor's message to your various members of your Department as we're dealing with permits, DSA for example?

MR. GOODE: Yeah. Thank you, Chair and Mr. Molina. So, for our Department we measure this in our performance measures. So, you'll see it at budget time. So, we measure all our permits and I think it's in median days, you know, from the time we get them to the time that we finish our comments, and you will find that our median days for residential and commercial is under, I think, under ten days on, you know, on a median basis. So, occasionally we have ones that are pretty complex and it takes, you know, all of our 30 day review time, and other times it can be as quick as a day 'cause it's very a straightforward, simple plan. So, we measure it primarily in the number of days, and we have really great staff, they're very well trained. I'm worried that they're going to be retiring, and backfilling those positions, but that, I think that's the greatest measure I think that we have, they watch it very closely. So, that's one part of the customer service package, and the other part is we have walk-ins on a pretty regular basis, you know, people come in and say, hey I'm thinking of doing this, you know, or,

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you know, do I, if I do this do I need a building permit, and so those, you know, we want to handle those walk-ins, you know, efficiently, and I know they have an open-door policy there so that's another way to make sure that, you know, those folks are getting well served. And it can be tightened up a bit as relates to sometimes there's misunderstanding about what was said, or they said oh no need a permit, but they actually did need one so we try to make sure that even they follow up with in writing with an e-mail saying, thanks for coming in today, here's what you said you're thinking about doing, and this work does need a permit so later on there isn't a misunderstanding, you know, should there have been a permit. So, that's, for our role that's where we're focused.

VICE-CHAIR MOLINA: Alright. Thank you, Mr. Goode. Thank you, Madam Chair.

CHAIR KAMA: Thank you. Any other questions, Members? I just I think have one, you know, for the building permits or the grading permits or all the permits that need to be given, is there a fee for each of the permits or is it just one fee or any fee at all?

MR. GOODE: So, Madam Chair, there are fees for all of them, there are exemptions to the fees if the project is I think 100 percent affordable and then there's basically no fee. The fees as, you know, percentage of the actual construction costs are less than, way less than you pay GET, but they do help fund the program so, you'll see at budget the amount of fees we collect for each of those, and how it rolls into helping to pay salaries. So, we have two funds, you'll see in DSA...General Fund, of course all the monies mixed in General Fund, and also our, we call the plan review fund it's actually got a much longer name, but when we initially get building plans, and review them that fee stays within that fund and it helps, I think we're up to 14 employees are paid for by the fund, it might be 16. So, you'll see it at budget, so it is partially paying for itself.

CHAIR KAMA: Thank you. Members, if there are no other questions I'd like to be able to defer this item with no objections.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused KK)

ACTION: DEFER.

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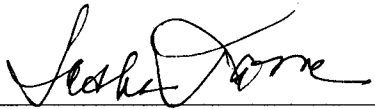
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CHAIR KAMA: Thank you. So, seeing as how there is no more business on the agenda, this meeting is closed. . . . *(gavel)* . . .

ADJOURN: 3:43 p.m.

APPROVED BY:

A handwritten signature in black ink, appearing to read 'Tasha Kama', is written over a horizontal line.

TASHA KAMA, Chair
Affordable Housing Committee

ah:min:190213:ck

Transcribed by: Cheryl von Kugler

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CERTIFICATE

I, Cheryl von Kugler, hereby certify that 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 8th day of March, 2019, in Kihei, Hawaii

A handwritten signature in black ink, appearing to read "Cheryl von Kugler", written over a horizontal line.

Cheryl von Kugler