

AFFORDABLE HOUSING COMMITTEE

Council of the County of Maui

MINUTES

September 29, 2020

Online Only

RECONVENE: 1:33 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Tasha Kama, Chair
Councilmember Michael J. Molina, Vice-Chair (in at 2:36 p.m.)
Councilmember Riki Hokama (in at 1:40 p.m.)
Councilmember Kelly T. King (in at 1:36 p.m.)
Councilmember Alice L. Lee
Councilmember Tamara Paltin
Councilmember Keani N.W. Rawlins-Fernandez
Councilmember Shane M. Sinenci
Councilmember Yuki Lei K. Sugimura (in at 1:40 p.m.)

STAFF: Alison Stewart, Legislative Analyst
Ana Lillis, Legislative Analyst
James Forrest, Legislative Attorney
Stacey Vinoray, Committee Secretary

Evan Dust, Executive Assistant, Councilmember Tasha Kama
Kate Griffiths, Executive Assistant, Councilmember Kelly Takaya King
Sarah Freistat Pajimola, Executive Assistant, Councilmember Keani N.W. Rawlins-Fernandez
Trinette Furtado, Executive Assistant, Councilmember Keani N.W. Rawlins-Fernandez

ADMIN.: Mimi DesJardins, Deputy Corporation Counsel, Department of the Corporation Counsel
Linda R. Munsell, Deputy Director, Department of Housing and Human Concerns
Clyde “Buddy” Almeida, Housing Administrator, Department of Housing and Human Concerns
Jessica Crouse, Assistant Housing Administrator, Department of Housing and Human Concerns
Michele McLean, Planning Director, Department of Planning
Jordan Molina, Deputy Director, Department of Public Works
Shayne Agawa, Deputy Director, Department of Environmental Management
Paul Haake, Fire Captain, Department of Fire and Public Safety
Representatives of Lihau’ula LLC
Kyle Ginoza, Project Manager

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Peter Martin, Developer

OTHERS: Glenn Tremble, President, Olowalu Water Company
Lawrence Carnicelli
(15) additional attendees

PRESS: Akaku: Maui Community Television, Inc.

**AH-1(7): AFFORDABLE HOUSING PROJECTS (CHAPTER 201H, HAWAII
REVISED STATUTES) INDEPENDENT DEVELOPMENT OF
LIHAU'ULA WORKFORCE HOUSING PROJECT (OLOWALU))**

CHAIR KAMA: . . . *(gavel)*. . . The Affordable Housing Committee recessed meeting of September 23rd will now reconvene today on...what's today? Tuesday, September 29th at 1:33 p.m. Thank you, Members, for showing up today. Thank you, especially to you, Vice-Chair Rawlins-Fernandez. I got a message that you would probably have to be excused, but wow, you came today and you made quorum. So thank you so very much, I appreciate it very much. So when you're not speaking, please mute your microphone. And all nine members of the Council are members of the Committee. And so my name is Tasha Kama. I'm the Chair of the Affordable Housing Committee. I'd like to say aloha 'auinala to the Members who are here. Member Shane Sinenci, all the way from Hana. Aloha.

COUNCILMEMBER SINENCI: Aloha 'auinala, Chair, and in Chinese, xiàwǔ hǎo.

CHAIR KAMA: Xiàwǔ hǎo. Oh, my gosh. Same to you. Also, all the way from Molokai, our Council Vice-Chair, Keani Rawlins-Fernandez. Aloha.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha 'auinala, Chair. And I'm going to go with Chair Lee's greetings from this morning because I can't repeat what Member Sinenci said. I haven't practiced. I'm guessing that's Mandarin or Cantonese. So I'm going to go with chào buổi san --

COUNCILMEMBER LEE: Trưa.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- chewy.

COUNCILMEMBER LEE: Trưa is afternoon. Afternoon. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Trưa. Chào trưa. I'm messing it up. Ako *(phonetic)*.

CHAIR KAMA: Maika'i. All the way from Lahaina, we're going to say aloha to Member Tamara Paltin. Aloha, Tamara.

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COUNCILMEMBER PALTIN: Aloha 'auinala, and I'm going to blaze my own path and say, "ia orana".

CHAIR KAMA: Ah, ia orana.

COUNCILMEMBER LEE: What does that mean?

CHAIR KAMA: Whoa.

COUNCILMEMBER LEE: Did you make that up?

COUNCILMEMBER PALTIN: Hi.

COUNCILMEMBER LEE: Oh, okay.

COUNCILMEMBER PALTIN: I think Rapa Nui, from Rapa Nui.

COUNCILMEMBER LEE: Oh, all right.

COUNCILMEMBER RAWLINS-FERNANDEZ: And Tahiti.

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

CHAIR KAMA: And so we're going to go to Wailuku and say aloha to our Council Chair, Ms. Alice Lee. Give it to us today, Alice.

COUNCILMEMBER LEE: Madam...Okay. Madam Chair?

CHAIR KAMA: Yes.

COUNCILMEMBER LEE: Carrying over from what I said in the morning, it's afternoon in Vietnam. So chào buổi trưa. Chào buổi trưa means, "It's another great day in the neighborhood in Central Maui."

CHAIR KAMA: Chào buổi trưa. Wonderful. It's good to know that our neighborhoods are very...are bright and neighborly, and it's a good day today.

COUNCILMEMBER LEE: Yeah.

CHAIR KAMA: So I think Member Molina is probably going to join us later, but I'm going to excuse him for now. I don't see Member Hokama or Member Sugimura, and Member King is also excused from today's meeting . . . *(inaudible)*. . . too.

COUNCILMEMBER KING: No, I'm here. No, I'm here.

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CHAIR KAMA: You are . . . *(inaudible)*. . . Oh, there you are. Thank you for showing up. Thank you for coming.

COUNCILMEMBER KING: Down here in the corner.

CHAIR KAMA: Okay. Okay. Thank you. Oh, thank you for being here. I appreciate it. So aloha to you too, Ms. Kelly King. Welcome.

COUNCILMEMBER KING: Aloha 'auinala, Chair.

CHAIR KAMA: So also we...okay, so in the rare event that something happens, I end up being disconnected from all of you, according to Rule 7c, it says if I get disconnected, then the Members who are left, you are supposed to elect among you, a temporary Chair until I can reconnect, and that's in the absence of a Vice-Chair. So hopefully I don't get disconnected, but if I do, I know you will carry on amongst the rest of you. So I am very confident that you all could do that. But I'm also confident too, that I won't get disconnected. So...but thank you all for being here. So we also have from the Administration, for the Department of Housing --

COUNCILMEMBER LEE: Keani has her hand up. Madam Chair, Keani has her hand up.

CHAIR KAMA: Oh, yes. Go ahead, Keani.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I was thinking, you know, Murphy's Law, we just plan for it. And I was going to suggest our Council Chair step in as...as Chair.

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: If no one has any objections.

COUNCILMEMBER LEE: I'd be happy to, but who's your Vice-Chair?

COUNCILMEMBER RAWLINS-FERNANDEZ: Member Molina.

CHAIR KAMA: Mr. Molina.

COUNCILMEMBER LEE: Oh. Oh, okay. Okay. I got it.

COUNCILMEMBER KING: No objections. I have no objections.

CHAIR KAMA: Okay. Thank you. Thank you, team. Doing well. So I'd like to say aloha to the Department of Housing and Human Concerns with Ms. Linda Munsell, the Deputy Director. Good afternoon, Linda.

MS. MUNSELL: Good afternoon, Chair and Committee Members.

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CHAIR KAMA: I would also like to say good afternoon to Buddy Almeida, the Housing Administrator. Aloha, Buddy.

MR. ALMEIDA: Aloha, Chair. Good afternoon, Committee Members.

CHAIR KAMA: I would also like to say good afternoon to Jessica Crouse, the Assistant Housing Administrator. Aloha, Jessica.

MS. CROUSE: Aloha. Good afternoon, Chair and Members.

CHAIR KAMA: We also have, from the...the Department representatives from Planning and Public Works, Environmental Management, Parks and Recreation, Transportation, and Water Supply, are all on call. We also have representatives for the Fire Chief and the Chief of Police on call, as well. So today, I want to say aloha to Corp. Counsel, Ms. Mimi DesJardins. Aloha, Mimi.

MS. DESJARDINS: Aloha and good afternoon, everyone.

CHAIR KAMA: Also want to say hello to our Affordable Housing Committee Staff, which is Ms. Ana Lillis, our Legislative Analyst. Good afternoon, Ana.

MS. LILLIS: Good afternoon, Chair.

CHAIR KAMA: I want to say good afternoon to Stacey Vinoray, our Committee Secretary.

MS. VINORAY: Good afternoon, Chair and Members.

CHAIR KAMA: I also want to say good afternoon to our Legislative Attorney, Mr. James Forrest.

MR. FORREST: Hello, Chair and Councilmembers.

CHAIR KAMA: We also have with us other resources for this afternoon. For the applicant, Lihau'ula LLC, Mr. Peter Martin, majority Owner of Lihau'ula LLC. Good afternoon, Peter. Well, I saw him earlier, but I know he'll be here.

MR. MARTIN: Good afternoon, Chair. I couldn't find my mic.

CHAIR KAMA: We also have...oh, okay. That happens. We also have Mr. Dylan Payne, Mr. Al Linder (*phonetic*), and Mr. Kamuela Guth, they're all real estate representatives for LLC. Aloha, gentlemen.

UNIDENTIFIED SPEAKER: Hello, how's it going?

CHAIR KAMA: Fine, thank you.

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CHAIR KAMA: We also have Ms. Heidi Bigelow, who is a project manager for Lihau'ula LLC. Aloha, Heidi. And we have Mr. Glenn Tremble and Mr. Dave Minami, Olowalu Water Company Inc. representatives.

MR. TREMBLE: Aloha, Chair.

CHAIR KAMA: Aloha, guys. Hello. Thank you. So welcome, everyone, and thank you for returning to this recessed meeting of the Affordable Housing Committee. We have one single item on the agenda. We have the Affordable Housing Project (Chapter 201H, Hawaii Revised Statutes) Independent Development of Lihau'ula Workforce Housing Project in Olowalu, or AH1-7 [sic]. We have received from the Director of Housing and Human Concerns, a miscellaneous communication dated September 9th, 2020, and attached to that communication was the application for the Lihau'ula Workforce Housing Project in Olowalu. And this proposed project consists of 40 single-family homes offered for sale to qualified households earning between 80 and 140 percent of the area median income as set forth by the Department of Housing and Human Concerns...the Affordable Sales Price Guidelines. The project also includes nine market rate single-family residential lots, and ten market rate one-acre agricultural lots. Further, there are three proposed resolution [sic]: one to approve Lihau'ula as proposed, one to approve with modifications, and the third to disapprove the application. So Members, with respect to this application under HRS section 201H-38, we can approve it as presented, approve it with modifications, or disapprove it. As Council, we must act by October 24th, 2020. If Council does not act, the project will be considered approved. We can recommend one of the three proposed resolutions, or we can choose to recommend filing the resolutions and related actions. Members, I would like, if possible, to get a decision today on this application, and I suspect that if we are to recommend approval, it will be with additional modifications. Member Paltin has had an extensive list for us to consider, and so I will be asking the applicants if the proposed modifications are acceptable since a recommendation for approval with modifications that cannot be met by the applicant is effectively a recommendation to deny. So at this time, we have already closed our oral testimony, so we would not be taking any further oral testimony for today's agenda item. So Deputy Director Munsell, there were questions that were asked of you orally at our last meeting, so at this time I would like to ask if you would be able to respond or reply to those questions or offer any additional comments that you may have on the application.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Yes, Ms. Rawlins-Fernandez? Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I just...I'm assuming that perhaps on your video screen, you didn't see Member Sugimura and Member Hokama join us for attendance.

CHAIR KAMA: You are correct. I do not. So...I don't see them. But are they...okay. Member Hokama? Aloha, Member Hokama.

COUNCILMEMBER HOKAMA: Good afternoon, Chair.

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CHAIR KAMA: Thank you for being here today. And Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah. Thank you, Chair. I cannot logon with the office online, so I'm holding my phone. At some point I'm going to put it down, but --

CHAIR KAMA: Okay.

COUNCILMEMBER SUGIMURA: -- yeah, I can't get into the County website. Thanks.

CHAIR KAMA: Okay. Well, thank you for being with us. Thank you Member Rawlins-Fernandez, I appreciate that. So Ms. Munsell, you may continue.

DISCUSSION

MS. MUNSELL: Thank you, Chair. My name's Linda Munsell. I'm the Deputy Director for the Department of Housing and Human Concerns. At the last meeting, three questions were presented to the Department for response, and the first one was, "Why does the purchase price of a home increase as the interest rate decreases?" Buddy Almeida, who is our Housing Administrator, has a background in mortgages and lending, and he also updates these charts for us every year. So I've asked him to put together an explanation of the relationship between the interest rates and the home prices. I think he would do a much better job of that than I will. So I'll turn it over to Buddy.

CHAIR KAMA: Thank you.

MR. ALMEIDA: All right. Thank you, Chair. My name is Buddy Almeida, the Housing Administrator. The easiest way to explain the process is...how the chart is designed is to protect the affordable or workforce buyer from interest rate rising. So basically, how to do that is, what we do is...take for example, if you were comparing 4 and 4½ percent on our Affordable Sales Price Guidelines. If you were to look at a three-bedroom home at 100 percent area median income for both of those interest rates, which is 97,500, I believe is the area median income for Maui County, and if you were to calculate the mortgage, the principal and interest mortgage payments for both of those transactions, they would be identical. So what it does is, as interest rates rise, the purchase prices adjust so that the homeowner is afforded the same mortgage payment, no matter what the interest rate is. Thank you, Chair.

CHAIR KAMA: Okay. Thank you. Yes, Ms. Lee?

COUNCILMEMBER LEE: I have a clarification question for...for Buddy. So Buddy, I'm not sure I've heard that version of an explanation before, but in general, the lower your interest rate, the lower your payment. Your...the higher the interest rate, the higher your payment. So if you have a low interest rate, you can qualify for more. If you have a high interest rate, chances...chances are you can't qualify for that much more. So isn't that the general rule?

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MR. ALMEIDA: Thank you, Chair Lee.

COUNCILMEMBER LEE: I think that was the question.

MR. ALMEIDA: Yes. And basically, how the sales price guidelines work is to make sure that if you were to look at the same principal balance for both purchases at 4 and 4½ percent, the payments at 4½ percent are going to be higher because the interest rate is higher on the same principal balance. You've got to lower that principal balance to an amount where at 4½ percent, the payment is the same as at 4 percent. So that's basically what we're doing with this chart. If the buyer can't afford...see if you keep all things equal, purchase price is 500,000, you have an interest rate of 4 percent, you're going to have a principal and interest payment of x amount. At 4½ percent, that payment is going to go up, and the buyer is not going to be able to afford that. So we need to adjust the purchase price downwards so that the payment is equal.

CHAIR KAMA: So I have a question then.

COUNCILMEMBER LEE: Okay. But Buddy...Buddy, another thing is, although most Members don't get involved with this because it's primarily administrative. You don't really establish the interest rate until maybe the developer is ready to market the homes. So you know, like right now, the...you use an interest rate of maybe 4 percent. A year and a half ago, two years ago, it was 5 percent. It's the average in the market. So I'm not...

MR. ALMEIDA: That's correct.

COUNCILMEMBER LEE: Okay, so I --

MR. ALMEIDA: . . . *(inaudible)*. . .

COUNCILMEMBER LEE: -- I just thought your explanation was interesting. Kind of different. Thank you.

UNIDENTIFIED SPEAKER: Chair . . . *(inaudible)*. . .

CHAIR KAMA: Yes, Ms. Tamara Paltin, you had a question?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Almeida. I can't see you, but I can hear you. But my question...I guess my follow up on that would be, you know, where like say at 4.5 it's 507,000, at 4 percent it's 537,000 or around there. Does the person that's...or the developer or the entity that is selling the house get paid the same amount, regardless of the interest rate and the purchase price and what not? Or do they get paid more with a lower interest rate?

MR. ALMEIDA: Thank you, Member Paltin for the question. The purchase prices are what, as...as you mentioned, are stated on the Affordable Sales Price Guidelines. So that's

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their set purchase prices to the homeowner. I'm...you know, profit margins are different for, you know, each project. Obviously...basically, how the formula works is to make sure we can keep the affordable buyer in that market so they can still try and get a home purchased whether or not the interest rates rise. That's the main issue with regards to the formula. Because what I did...because you brought up...the numbers that you just brought up, if you have a chance, you can go Google any mortgage calculator. You mention those numbers 537 and the other one was like 507 at 4½, and if you punch in the different interest rates, you'll get a mortgage payment, principal, and interest of \$2,566 for each one. So that's what the formula is doing.

COUNCILMEMBER PALTIN: I understand that, but is the seller getting more if the buyer has a lower interest rate?

MR. ALMEIDA: The prices get set when the developer goes to market on his units. So his prices are then fixed. I...you know, obviously, at that point, they can't change. So he's locked into those sales prices to the workforce buyers.

COUNCILMEMBER PALTIN: Okay. Thank you.

MR. ALMEIDA: Um-hum.

CHAIR KAMA: Ms. Rawlins-Fernandez, do you have your hand up?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KAMA: Okay. Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: I have a follow-up question for Mr. Almeida.

CHAIR KAMA: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: First, is it possible to turn on your video, Mr. Almeida?

MR. ALMEIDA: There we go.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yay. Nice to see you.

MR. ALMEIDA: Good to see you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So my first question is...so you said the 4.5 right now is the average rate. Where do you get the average interest rate?

MR. ALMEIDA: At the beginning of each calendar year, the Division surveys the local banks and determines where the interest rate pricing is at that time. Rates have been so low for so long that the lowest the chart can go is 4 percent. So we've been at 4 percent for three or four years now because rates have been at this range and have not

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changed for quite some time. But we do poll, every January, to just make sure that there's been no change, and we make the adjustment at that time.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Is there a reason the chart does not go down to 3 percent if you said that it does go below 4 percent? Is there a reason it doesn't go to 3 percent to be more accurate?

MR. ALMEIDA: I can check with the Department of Housing and Urban Development. They're the ones who assist with the formulas used in setting up the table, and find out if there's a reason why they do not go below 4 percent. I could get that information for you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, great. Mahalo, Mr. Almeida. Mahalo, Chair.

CHAIR KAMA: You're welcome. Okay. So Ms. Munsell, have you answered all the questions that the Committee had last week?

MS. MUNSELL: That was the first question. There are two additional questions --

CHAIR KAMA: Okay.

MS. MUNSELL: -- as well.

CHAIR KAMA: Thank you.

MS. MUNSELL: So the second question that was asked is, "Why are the AMIs...why are the AMIs included in the 2020 HUD guidelines significantly higher than those of 2019? Weren't the guidelines released in May, two months after the pandemic and the subsequent layoffs began?" The HUD area median income was released after the pandemic began. The actual calculations of those incomes are based on data that is actually several years old. So...and then those are adjusted for inflation. So for instance... just to give you an example, the 2019 area median income was...and these are based on...they're calculated using data from the American Community Survey, and the ACS is part of the U.S. Census Bureau. And so I'll just try to give you an idea of the calculations between the two years. So essentially, there are a number of data sets that they can use, and if there is a statistically reliable one-year ACS estimate, HUD likes to use the one-year data. In 2019, for instance, reliable one-year data was not available. So an average of several years were used to calculate the income, and then they were adjusted for inflation. So in this case, in 2019, the data that they used would have been a subset of data for incomes between 2012 and 2016. So there's a potential to use five years' data just to get statistical accuracy. For 2020 AMI, the 2017 one-year ACS median income was determined to be statistically reliable. So they used that data and a projection of the consumer price index for 2020 to estimate the current year AMI. So the increase...the significant increase that you saw between the 2020 income data would have been result of the Census Bureau ACS survey that was done for Maui County for these various areas, and then adjusted for inflation. Just as an aside, ACS does send out these surveys every year, so please encourage people to

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respond to those surveys so that the data that we get is accurate. Let's see...so the HUD median...okay, so it was released after the pandemic began, and then adjusted. No one actually expected to see a change in the data immediately...to these HUD AMIs. However, we are going to see a change in the long term. Exactly what that effect is going to be, we don't know yet, but I expect that the Census Bureau and the folks that run the numbers already have statistical experts working on that question. But I think what you're immediately looking for is what happens to our families. That's really the question. So a family who had been earning at about 100 percent of the AMI previous to the pandemic, and that's almost about \$100,000 a year. So if they've been earning a 100 percent AMI before the pandemic, and then as a result of the pandemic, they experienced a 20 percent income loss, for instance. Instead, they would now be earning about \$78,000 a year, and those folks would be in...fall into the 80 percent AMI category. If that same family, instead of getting a 20 percent loss in income, experienced a 40 percent loss of income, then they would be in the range of about \$58,000 a year instead, and they would fall in the 60 percent AMI range. So if the family that was at a 100 percent wanted to purchase a workforce home now falls into the 80 percent bracket, the purchase price that they would qualify would be in the 80 percent bracket area. So they would not be buying a home at the 100 percent AMI, they would be buying a home at the 80 percent AMI that reflects their actual income. Does that make sense?

CHAIR KAMA: Yeah. Yeah. Questions, Member [sic]? Yes, Ms. King?

COUNCILMEMBER KING: Thank you, Chair. So thank you for being here, Linda. So I just wanted to clarify then, what you're saying is if somebody experienced a 40 percent drop in income, they would be priced out.

MS. MUNSELL: Um-hum.

COUNCILMEMBER KING: They would not be able to afford these homes.

MS. MUNSELL: So in the way that this...oh, thank you for the question. So the way that the workforce homes are structured in this particular project, the sales only go down to, I believe, it's 80 percent AMI.

COUNCILMEMBER KING: Um-hum.

MS. MUNSELL: So yes, it's correct. They would no longer fall into this...they would no longer qualify for one of these homes.

COUNCILMEMBER KING: Okay. And then...and I know we have statistics on unemployment. I don't know how...do we have statistics on how many people, you know, fallen down 40 percent or lower...their income, do we know that?

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MS. MUNSELL: You know, I don't have that information, Ms. King. Maybe we could get somebody from like Economic Development or one of the other organizations that actually run statistical numbers because that's not...that would not be an area of my expertise.

COUNCILMEMBER KING: Yeah, I just was asking because that's...you know, that's a...we have such high employment numbers that there's likely to be a lot of people who can't reach that threshold now. Thank you. Thank you for answering the question.

MS. MUNSELL: Please...Please don't...yeah. And thank you...thank you for asking. It's going to be several years before this project actually is ready to sale...sell homes. And of course, we don't know what's going to happen with the economic situation, but my expectation is that these numbers, the AMI numbers, will relatively soon start to reflect the economic reality that we're seeing now. It's going to take a little while, but those averages do start to come into play. And if we're lucky, then we will have actually recovered economically and we won't be in this situation, so that's our hope.

COUNCILMEMBER KING: Okay. Well, we can hope...I mean, the...the flip side of that is it could...the AMI could significantly drop.

CHAIR KAMA: Yeah.

COUNCILMEMBER KING: You know, what would that do to the developers' profit margin? Thank you.

CHAIR KAMA: Thank you.

MS. MUNSELL: Were there...I'm sorry, was there any other questions? I just want to make sure that I'm covering everybody. All right. So --

CHAIR KAMA: I don't think . . . *(inaudible)*. . . go ahead.

MS. MUNSELL: -- okay. Thank you. Thank you, Chair. So the third question had to do with the market study, and the question read, "In plain English, please explain your comment. The market study included, appears to be discrepant with information...with respect to information currency. And the comment appeared on page 102 of the application." I don't recall what the...what data was originally included in the original 201H draft application, but the final draft in front of you includes an up-to-date market study that was completed by Fukuda Valuation & Consulting, and that study is dated January 2019. The market study is actually Appendix F in your binder, and the Department has no issues with the current market study as being presented to the Committee today.

CHAIR KAMA: Okay.

MS. MUNSELL: And that was the last of the questions.

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CHAIR KAMA: Thank you. Members, do you have any other additional questions for our Housing Department? Okay. Thank you. Okay. Seeing none. So we had a lot of questions that went to the developer, so why don't we just go to them and see if you can...they can get your questions answered. So Mr. Ginoza, are you there?

MR. GINOZA: Oh, yes.

CHAIR KAMA: Okay. There you go. Okay. So I think...

MR. GINOZA: Hi. Good afternoon.

CHAIR KAMA: Hi. So the Committee had a lot of questions for you. So why don't we go through the questions that they had, and then see if they have any additional questions as you respond to them.

MR. GINOZA: Sure.

CHAIR KAMA: Go ahead.

MR. GINOZA: Oh. So would you like me to go question by question --

CHAIR KAMA: Yes.

MR. GINOZA: -- from Ms. Paltin.

CHAIR KAMA: Yes. Similar to how the Housing Director . . . (*inaudible*). . . that this is a question, she gave the answer, and allowed the Members to ask any other questions that they might have, and we'll just take it from there. Thank you.

MR. GINOZA: Sure. So the first question was, "the Lihau'ula project approved by this resolution and exemption set forth"...wait, do you want me to read it in its entirety or summarize it?

CHAIR KAMA: Well, summarize, I think, would be better. We --

MR. GINOZA: Okay.

CHAIR KAMA: -- as long as we get the gist of the question.

MR. GINOZA: Yeah. So this...this condition was talking about starting construction of the project within two years of the effective date of the resolution, and we're acceptable to...to that.

COUNCILMEMBER PALTIN: Chair?

CHAIR KAMA: Somebody had a question?

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COUNCILMEMBER PALTIN: Oh, it's me.

CHAIR KAMA: Yes, Ms. Tamara Paltin?

COUNCILMEMBER PALTIN: Those were the conditions that I had proposed on the testimony 167.

CHAIR KAMA: Yes, we're not --

COUNCILMEMBER PALTIN: Yeah.

CHAIR KAMA: -- we're going to take the questions first, and then we're going to go through all of the conditions, Mr. Ginoza.

MR. GINOZA: Oh, okay.

COUNCILMEMBER PALTIN: Yeah. I mean, I realize that was my first question that I asked, like "how do you feel about the conditions," but procedurally, maybe we want to answer the questions before we --

CHAIR KAMA: Yes. Yeah.

COUNCILMEMBER PALTIN: -- start diving into the conditions.

CHAIR KAMA: Into the conditions. Yes.

COUNCILMEMBER PALTIN: So kind of my bad for how I asked the question.

CHAIR KAMA: Well, we didn't know where we were going at that time, so...but we know now. We know now. Okay, Mr. Ginoza, continue with the questions.

MR. GINOZA: Sure. Sorry about that. So the first question was with regards to the existing private water system that is present at Olowalu. So the question was asking any kind of effects to the stream and aquifer, and as far as an engineering report that would be required by the County Department of Water Supply. So Lihau'ula LLC, the developer, has been in communication with Olowalu Water Company, which is the potable, private, PUC regulated potable water supplier in the area. And actually, in the room, I also have Glenn Tremble, who's the manager of the water company. So we have been in contact with them, and upon 201H approval, we...we ironed out the details for the line extension request. The water company derives the potable water from the Olowalu aquifer. So it's groundwater sourced, and not stream sourced. And so because of that, the Olowalu stream flow would not be impacted by Olowalu Water Company potable water. The Olowalu aquifer has a sustainable yield in excess of 2 million gallons per day, and we currently, with the Olowalu Water Company, draw somewhere around 100,000 gallons per day or a little more than that, so about 5 percent or so of the sustainable yield. And the project itself is anticipated to draw...or to consume on the order of just over 100,000 gallons per day. So it roughly doubled

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the current usage from the aquifer from 100,000 to around 200,000 gallons per day when the sustainable yield is in excess of 2 million gallons per day. And the last question was with regards to the final DOH approved engineering report, and that's something that would be required as part of the final subdivision approval. It's a County requirement, so we...upon approval for the 201H project, as we go in for preliminary subdivision and the requirements for final subdivision is when we'd submit that report. That's all I have for this question. Thank you.

CHAIR KAMA: Thank you. Members, do you have any other questions for the Developer? Okay. Yes, Ms. Paltin?

COUNCILMEMBER PALTIN: So I just wanted to clarify from when we were watching the CPAC, there were a number of testifiers from the Olowalu Mauka subdivision that I believe were also getting water from Olowalu Water Company, and they had issues about them not being able to have their full allotment of water that they needed. I just was wondering why...if they're having trouble with water, why would you wait for the 201H to extend the system since there's already a need for the Mauka folks.

MR. GINOZA: Chair, may I?

CHAIR KAMA: Go ahead.

MR. GINOZA: So the concern that was brought up at CPAC, as I recall, was that the Mauka folks had some issues with the non-potable side of the Olowalu Water Company. So if you recall, a number of years ago, there was an extreme storm that took out part of our system, and we're trying to basically replace the system on the non-potable side, but this project would not be using the non-potable system. We're proposing utilizing solely the potable water system, which would be sourced from aquifers. So we are working on reestablishing the supply...enough supply for the non-potable system part of the Olowalu Water Company, which has impacted the Olowalu Mauka folks that testified previously.

COUNCILMEMBER PALTIN: Okay. And you're not proposing to help out the Olowalu Mauka folks with their non-potable needs?

MR. GINOZA: As far as...I mean, the water company is working on trying to...to reestablish enough source, but it's separate. I mean, it's the water company, not Lihau'ula, doing that. So I mean, they're working on that separate from this project.

COUNCILMEMBER PALTIN: Oh. Okay. Thank you.

CHAIR KAMA: Okay. Any other questions, Members? Okay. So if not we...so at this time, I think is a good time --

MR. GINOZA: Chair, do you want --

CHAIR KAMA: -- is someone speaking?

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MR. GINOZA: Chair, do you want me to go through the rest of the questions?

CHAIR KAMA: Yes.

MR. GINOZA: Okay. So the next question was with regards to the Department of Health response regarding the predicted use of IWSs, Individual Wastewater Systems. And so there was a little bit of confusion initially as far as what was included in the project design and when we got the comment letter. So to resolve that confusion, on June 11th of this year, I reached out to the State Department of Health Wastewater Branch Chief to explain what the project was about and to understand whether or not she would allow individual wastewater systems to be utilized for the project. And I included as part of the packet that I sent to you all yesterday, her...my inquiry and her response that indeed, individual wastewater systems would be allowed for this project. And Sina Pruder, who was...who is the Branch Chief, is Roland Tejano's Supervisor, who initially wrote the comment letter. Thank you.

CHAIR KAMA: Good. Any questions, Members? If not, Mr. Ginoza, do you have more questions that you have to answer?

MR. GINOZA: Yes, please.

CHAIR KAMA: Go ahead.

MR. GINOZA: Please provide the zoning on the planned 0.69 acre park. Because of input we received from the community, and from the Planning Department in particular, there is a desire to provide mauka to makai access, as well as additional access points...vehicular access points for the project. And so by accommodating a trail...a ten-foot wide trails...trail through the project as well as a additional vehicular access points, we eliminated the 0.69 acre park. So that's no longer in the site plan.

COUNCILMEMBER PALTIN: Okay. I guess my follow up to that would be, with the mauka to makai vehicular access, what safeguards are going to be in place for the sensitive cultural and archaeological sites? I mean, right now when you go into Olowalu Valley, there's folks just parking randomly...the petroglyphs and what not. So is there some sort of a plan to protect the many significant cultural and archaeological sites within the area, while giving the vehicular access to those areas?

MR. GINOZA: So for this project...this project only deals with a 28-acre parcel at the makai portion of Olowalu. And so for...for this particular project, we are providing a trail through the project as well as vehicular access, but we are not addressing...because we're not the landowner or the...yeah, the landowner for the rest of the Olowalu ahupua'a. So I mean, I can say that that's...you know, we instituted, and based on the Planning Department's input, the trail system to connect greenways which are both mauka and makai of the project. So because we don't deal with the --

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COUNCILMEMBER PALTIN: That's kind of...okay. All right. I accept your answer, but it's kind of disingenuous because the owner of this...it's...it's all Peter Martin, Olowalu Elua Associates, he's the common thread. But if there's no other cultural or archaeological protections in place, and just access through your property to the mauka portions, I understand. Thank you.

MR. GINOZA: I'm not saying there's no activities going on, just part of the Lihau'ula project, we're not...we're not implementing anything from a...from...from this side of things. I'm not...I'm not familiar, to be honest, about what other activities might be occurring more mauka of this...of this parcel. I'm not saying that nothing's happening, I just am not aware of anything, and had not researched it.

CHAIR KAMA: Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Since Mr. Ginoza doesn't know anything about mauka of the project, and Mr. Martin is on, I don't know if Member Paltin would want to hear from Mr. Martin since he would probably know since he's the landowner.

MR. GINOZA: Well, Chair, I do have Lawrence Carnicelli with me in the room, who would be more...most abreast with what's going on in the...in the mauka property. So if you would allow me, I'd like to turn the floor over to Lawrence Carnicelli, please.

CHAIR KAMA: Okay.

MR. CARNICELLI: Aloha, Chair.

CHAIR KAMA: Aloha.

MR. CARNICELLI: Aloha, Members. So I guess, thank you for having me. It's good to see everybody here. So Member Paltin, I guess, what is your...what is your concern and/or question that you would like to have addressed about the mauka lands in Olowalu?

CHAIR KAMA: Protections.

COUNCILMEMBER PALTIN: So yeah. Mr. Ginoza had told us that the .69-acre park was being scratched because folks wanted mauka access...mauka to makai access, vehicular. And you know, knowing that there is lot of sensitive cultural archaeological burials in the area, when you just give vehicular access, what kind of protections are in place to, you know, just prevent folks from, you know...when I used to work at the beach, people like to just stack rocks randomly, or throw them, or you know, there's...there's places that are very sensitive. The more mauka you go and...I mean, we have a whole booklet of sensitive archaeological stuff, you know. So what sort of...by giving the access, the vehicular access and what not, what sort of protections are in place for all those cultural and archaeological sites?

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MR. CARNICELLI: Okay. It's interesting because I feel like I need to hand the camera back to...to Mr. Ginoza, because now you're asking about the vehicle access within the project. I don't...Olowalu Elua is not...I know that you said that...that it's a common thread, but I don't know anything about this project, right. So when he says mauka to makai within the project, I'm assuming it's within the project because Lihau'ula doesn't have anything to do with mauka to makai then going, say, beyond just the parcel with which Lihau'ula is on. So if you had questions beyond Lihau'ula, I would be more than happy to address those. But within Lihau'ula, I honestly don't know what that is. I mean, I'd love...and I agree, there are, you know, lots of sensitive archaeological sites within Olowalu, and there's an archaeological mitigation plan that's...that's in place for Olowalu to address a lot of those things. And so again, I don't know, within the project, about what this mauka to makai thing is, but if you had...you mentioned something about the petroglyphs or what not. I mean, if you wanted to talk more about those types of things, I'd be more than happy to help you out. But within the project, I don't know what that is.

COUNCILMEMBER PALTIN: Okay. Thank you. Let's move on.

MR. CARNICELLI: Okay.

CHAIR KAMA: Okay. We're back to Mr. Ginoza.

MR. GINOZA: Okay. The...the next thing was whether or not the developer will install the IWSs for the individual wastewater systems for...for each unit, and if so, which type of IWS, septic or ATU, and would it be included as part of the price of the home? Will homeowners have to pay that separately and how many bedrooms would be accommodated? We are intending, or we will install an IWS for each of the 40 affordable homes that we're proposing. And in discussions with the State and the County, they had advised us that we could do septic systems, and you know, we...I mean, that's...we proposed septic systems and we are, you know, interested in discussions with this body as to, you know, the appeal of ATUs or any other type systems. These systems would be covered within the cost of...as part of the cost of the home. It's not going to be a separate cost to these homeowners. And right now, the IWSs would be sized for the number of bedrooms for...that we are constructing. So whether it's three or four bedroom for each IWS. Thank you.

CHAIR KAMA: Mr. Sinenci, you have a question, sir?

COUNCILMEMBER SINENCI: Mahalo, Chair. Mahalo, Mr. Ginoza. So yeah, the question was, you know, with the...with the ATUs, the treatment systems, oftentimes, right, you're going to need the...the electricity...the maintenance of those systems. So should the residents, should they somehow knock off or they no longer work, what is the alternative? Or are owners supposed to just be strictly using the ATU and not quickly convert to a septic system afterwards?

MR. GINOZA: Chair?

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CHAIR KAMA: Yes. Go ahead, Mr. Ginoza.

MR. GINOZA: So the ATU would be like any other component of the house that you bought... that you purchased, that the homeowner would be responsible to ensure that the hardware is working properly. And that's...that's kind of where we're...it's debatable which system to use because as you mentioned, there are additional costs related to operating an ATU, whether it's that ongoing electric cost for...for the aerobic system or the twice annual maintenance that's required --

CHAIR KAMA: Um-hum.

MR. GINOZA: -- for the ATU. So that's something where it is...it is better treatment, and we've had that discussion with the State Department of Health on, you know, which way do we go. I mean, there are different...definite advantages to ATUs, but also some disadvantages. And you know, will the homeowners...you know, like other components of their homes, how do they handle when something perhaps malfunctions or if they're in...in need of repair. So it's something that we felt that it should be similar to any other component of the home, that it's the homeowner's responsibility to maintain and operate the system within their property.

CHAIR KAMA: Okay.

COUNCILMEMBER SINENCI: Is there a way where we can see or...that the operation of an ATU? I was just curious, but that's just...thank you, Chair.

CHAIR KAMA: You're welcome, Mr. Sinenci. Continue, Mr. Ginoza.

MR. GINOZA: So if I could just elaborate real quick on that.

CHAIR KAMA: Sure.

MR. GINOZA: So a septic system versus a ATU. The ATU has an additional level of treatment where...whereas a septic system basically takes...leaves the scum layer and the sludge layer within the...that primary tank and takes the wastewater. The ATU has a bubbler that does additional treatment to the wastewater before taking it to the leach field. So it's an additional level of treatment. If you didn't have the bubblers, and if you didn't have the electricity going, effectively you'd have a septic system. So it's a similar type system --

COUNCILMEMBER SINENCI: And how much work --

MR. GINOZA: -- I'm sorry?

COUNCILMEMBER SINENCI: -- I'm sorry. How much square foot of the leach is required for each ATU on property?

CHAIR KAMA: Interesting.

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MR. GINOZA: Maybe, I'm not certain, but maybe 20 feet by 60 feet for the leach field. And an estimate on the...the electricity cost is probably about a \$120 per year, and the biannual maintenance on the order of \$500 to \$700 a year.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair.

MR. GINOZA: Again, the next question was will there...will there be a HOA that provides maintenance? So there will be HOA, Homeowners' Association, that provides maintenance of the common areas, including the internal roadways, the trail, and the drainage basin. And maybe I misspoke. When I mentioned the trail, it would be a ten-foot wide walking trail, and additional vehicular access through the interior roop low...loop road. So it wouldn't be...so that was what I meant by the connection of going mauka to makai. But there will be a HOA for this project. The next question is, "Does the developer intend to dedicate roads to the County or will the County...or will the roads remain private?" We're intending for the interior roadways to remain private, and there's no intention right now to dedicate to the County. The next question is, "The County of Maui's"..."please respond to DNLR's comment that only planning to...that only planning to capture increased runoff in a 50-year event is inadequate and would result in almost direct transport of polluted runoff into the ocean." We...we follow the County of Maui's standards with the 50-year, one-hour storm. So if it's something that there should be a higher standard, then we're not aware. We're following what the County of Maui through Public Works has...has indicated. The next question is...

CHAIR KAMA: Ms. Paltin had a question, Mr. Ginoza.

MR. GINOZA: Sorry about that.

CHAIR KAMA: Go ahead.

COUNCILMEMBER PALTIN: I just was wondering, you know, we received a lot of testimony about the significance of the Olowalu reef, and we had presentations in this morning's Climate Adaptation Resilience Committee [sic] that, you know, things are...are really changing faster than we have time to update the code. I will put in a PAF to update the code...hearing your response, but you know, things are changing faster than we can keep up with, and is there no way that, you know, I don't see that the County Code is addressing the DLNR's concerns about this really significant reef area just makai...hundreds of yards makai of this project. And if that's the best you can do, well, then that's the best you can do, but let me know, is that the best you can do?

MR. GINOZA: Chair? Chair, may I?

CHAIR KAMA: Mr. Ginoza?

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MR. GINOZA: Sorry. I mean, when we...we...we designed to what the County standards are, and I guess, what other standard are you...are you asking for? Because you know, what we look at --

COUNCILMEMBER PALTIN: 100-year storm. I would ask for a 100-year storm.

MR. GINOZA: -- we can take that into consider [sic]. I don't know what the difference between a 100-year versus a 50-year, and so we...we can look at that. But that's...that was the reason why we looked at the 50-year storm. But that's definitely something we can look at. May I continue? The next question was, "Please respond to DLNR's comment, without evaluation of potential impacts, it's unlikely that the appropriate mitigations will be put in place." We...you know, we are committed to installing the appropriate mitigation measures mandated by the County of Maui, and there are controls in place through the permitting process to ensure that we adhere to the County of Maui rules. So for DLNR to say that we... we would not adhere, I would say that's incorrect, and through the permitting process, that's kind of the safeguard to ensure that we stick to what we say we'll do. The next question is, "Please respond to the land uses...Land Use Commission's concerns regarding the parcelization of the project site and the inclusion of the neighborhood park in the proposed boundary amendment. In your response, please explain why you didn't include plans for the areas adjacent to the project site as requested by the LUC." So the developer doesn't have any intention of parcelization, whereby, after this 201H project is approved, we'd go through a neighboring process and try to process another 201H project. That is not the intention. And if you...if you recall from the...if you read what the Wastewater Division Chief of the State's...what we mentioned to them, and what they had asked us for, is that they would approve IWSs for this project, but no subsequent projects in the area because of this parcelization. So there would be controls in place to prevent that. As I previously mentioned, the neighborhood park is no longer...no longer applies to this comment.

COUNCILMEMBER PALTIN: Chair, I just had a follow up on that one.

CHAIR KAMA: Yes, go ahead, Ms. Paltin.

COUNCILMEMBER PALTIN: When you say that there's no intention of the developer, are you speaking on behalf of all the subsidiaries? Like I can understand that Lihau'ula has no intention of developing the surrounding parcels, are you also speaking on behalf of Olowalu Elua Associates, Olowalu Mauka, Olowalu Makai, Camp Olowalu, and so on and so forth, or are you speaking only behalf of Lihau'ula?

MR. GINOZA: Oh, I guess officially, I'm only speaking on behalf of Lihau'ula. But what I wanted to assure you is that the State would not allow a similar project that would not connect to a wastewater treatment plant for a similar project in addition to this one. I believe that is one of the reasons why there's concern about...what they call parcelization.

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COUNCILMEMBER PALTIN: So if Olowalu Elua or Olowalu Mauka came with a 201H project that was going to build their own wastewater treatment system, that wouldn't have any effect because then they're developing their own wastewater system, and Department of Health wouldn't interfere because they're...now they're following the guidelines?

CHAIR KAMA: Right.

MR. GINOZA: Yes.

COUNCILMEMBER PALTIN: Okay. Thank you.

MR. GINOZA: Can I move on to the next question?

CHAIR KAMA: Yes, by all means, Mr. Ginoza.

MR. GINOZA: "As requested by the LUC, please clarify as to whether the exemptions for grubbing, grading, excavating, extend to the permits themselves. If so, please provide your response to their request for an assessment." So the requested exemptions for grading and grubbing apply to the payment of fees only. We still would apply for and secure grading and grubbing permits themselves prior to project implementation. And the last question, it was, "Page 133 of Appendix C includes the following description, the wells gets dry if pumped continuously for 24 hours, and we have to slow down the pump at night to allow the wells to fill up to a certain extent. Is that description reflective of the current state of the area's water resources? If not, why were those pages included?" The reference was to a plantation area irrigation well that...the context was in absence of having stream water, where would they get their irrigation water from. So this is a different source than where we would secure potable water from. And the reason why we included this page is it was part of the archaeological inventory survey.

CHAIR KAMA: Amazing. Ms. Fernandez...Ms. Paltin, go ahead.

COUNCILMEMBER PALTIN: Thank you. And then I got these responses to my questions at...I know Member Molina is not here, but he had asked for the dollar amount of the fee and waiver exemptions, and I didn't see that. Did you --

CHAIR KAMA: . . . *(inaudible)* . . .

COUNCILMEMBER PALTIN: -- send it to him specifically? Or...I just was interested in the answer to that question as well.

CHAIR KAMA: Good. Good.

MR. GINOZA: I didn't get the question, but we can formulate a more formal list of what the fee exemption request would be, I mean, would amount to.

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COUNCILMEMBER PALTIN: Oh, I only printed out my questions and sent them because I figured you might have had a hard time writing it down. But at the end of the meeting last time, Member Molina asked you verbally, so I guess he didn't send the...a copy written of his question.

CHAIR KAMA: So are you able to answer that question, Mr. Ginoza?

MR. GINOZA: I...I know --

CHAIR KAMA: The fee?

MR. GINOZA: -- did you want to go line...I mean, we've...for instance, I know some of them, I mean, just offhand that I looked up just in case. So for instance the park assess --

CHAIR KAMA: Good.

MR. GINOZA: -- the park assessment fee comes out to almost...just over \$740,000 for the project. And there are some other fees that, you know, including the smaller fees with relation to fire code and electrical plumbing code, those amount to, you know, in the maybe \$100,000 to \$200,000 range. But I can get a more formal listing of all the codes...of all the fee waivers.

CHAIR KAMA: Okay. I think that would be helpful to --

MR. GINOZA: Okay.

CHAIR KAMA: -- Mr. Molina, and to the rest of the Committee too.

COUNCILMEMBER PALTIN: As well as the exemption.

MR. GINOZA: And there also two other...oh.

COUNCILMEMBER PALTIN: Fee waivers and exemptions.

MR. GINOZA: Yeah. There're also two other...other things that came up in...that I had written down as far as items that...to address, and one was that there was some assertion that we only...that a lot of mainland buyers or transients end up getting a lot of these 201H homes. And when we did some research, all were 100 percent owner-occupant of the 164 homes that we had previously done via the 201H, and only six out of the 164 were any resident less than five years living here. So the data we have suggests, and really indicates that, you know, it is these long-term local...longer-term locals and not...not somebody who just lived here one year and gotten a home. And the second thing is with regards to the purported SMA violations...I don't know if you had questions about that first part before we go on the SMA issues. Chair, can I move on?

CHAIR KAMA: Yes, Ms. King?

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COUNCILMEMBER KING: Thank you, Chair. So I just wanted to back track on something that Mr. Ginoza said. Isn't that the requirement, that you just...you have to live here a year before you can put your name in the lottery?

MR. GINOZA: Yes, that is correct, but --

COUNCILMEMBER KING: You made a state...you made a statement that you can't just live here one year and then get one of these homes, so I just wondered how that jives with the actual minimum requirement for a year of residency?

MR. GINOZA: I'm sorry, maybe I misspoke. I meant that, I think that people were indicating that a lot of people living here only one year was getting in, and not what people consider local residents. And so we looked through our data to verify that indeed, all but six of our buyers were here...were residents for over five years. So maybe I misspoke earlier.

COUNCILMEMBER KING: Oh, okay. But...but that's...but you're required to put everybody into a lottery if they only . . . *(inaudible)*. . .

MR. GINOZA: Absolutely.

COUNCILMEMBER KING: Okay.

MR. GINOZA: Absolutely.

COUNCILMEMBER KING: Thank you. Thank you, Chair.

CHAIR KAMA: You're welcome.

MR. GINOZA: So can I go to the SMA issues, or do you want to see that some other time?

CHAIR KAMA: If the Members have no more questions, yes, we can take the conditions.

COUNCILMEMBER KING: Chair?

CHAIR KAMA: Yes, Ms. King?

COUNCILMEMBER KING: I just have...I just wanted to --

CHAIR KAMA: Yes?

COUNCILMEMBER KING: -- I don't know if you can see him, but I just wanted to let you know that Councilmember Molina has joined the meeting.

CHAIR KAMA: You're right, I don't see him.

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COUNCILMEMBER KING: I see him under his bridge, so I just thought I'd mention it.

CHAIR KAMA: Oh, thank you. I hear him.

VICE-CHAIR MOLINA: I'm under the bridge, Madam Chair.

CHAIR KAMA: I hear him. Well, welcome, Mr. Molina. Thank you for being here.

VICE-CHAIR MOLINA: Thank you, Madam Chair. Apologize for being late.

CHAIR KAMA: No. I know you were excused, but thank you. So Mr. Molina, do you have any questions that you'd like to ask the developer since you're here?

VICE-CHAIR MOLINA: Yeah, Madam Chair, but I'm not sure where we're at right now, so I...I don't want to, you know, ask something that was already asked. But at a later point, I'll join in.

CHAIR KAMA: Okay.

VICE-CHAIR MOLINA: I have some questions for the Planning Department --

CHAIR KAMA: Okay.

VICE-CHAIR MOLINA: -- but just continue on, please. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Ms. Rawlins-Fernandez, yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mr. Ginoza was going to continue on with the questions that he has. The next questions was SMA's. I don't think we're there yet with the conditions. Mr. Ginoza has some questions that he's responding to.

MR. GINOZA: Yeah. So if you don't mind, I'd like to go over the SMA --

CHAIR KAMA: Oh, okay.

MR. GINOZA: -- concerns that were brought up prior to any conditions, and I don't know if you'd want to have --

CHAIR KAMA: Go ahead.

MR. GINOZA: -- have other Departments chime in, but anyway, so --

CHAIR KAMA: No.

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MR. GINOZA: -- regarding the SMA concerns --

CHAIR KAMA: Thank you.

MR. GINOZA: -- those actually have not...are not directly related to Lihau'ula, but it is with Olowalu Elua, and I do have Lawrence Carnicelli, who can respond to it more appropriately than I do rather than me giving it to you second hand. So if you don't mind, I'd like to turn it over to Lawrence.

MR. CARNICELLI: Aloha, Chair.

CHAIR KAMA: Go ahead.

MR. CARNICELLI: If I may?

CHAIR KAMA: Yeah.

MR. CARNICELLI: Okay. So at the last meeting, there were some...some concerns brought up about the reef specifically, and runoff and environmental concerns in Olowalu, and...and rightly so. We know the significance of the reef there in Olowalu and the importance of it. And so first, I guess I would like to reiterate again that Olowalu Elua doesn't have anything to do with Lihau'ula, however, I still think that it's important to address these concerns. You know, I mean...and to talk about them. So there...there were some pictures that were shown that when you looked at them were quite shocking, right? Is red and murky turbid waters in Olowalu, and near an area where we were doing a scope of work. And I just want to say that multiple government agencies have gone out there, and they have said that that turbid water is not due to mauka to makai runoff. As a matter of fact, I got a phone call late last night for a quote, unquote, like sort of "surprise" visit from the Department of Health this morning. And I met somebody with the Clean Water Division out there this morning, and we went and walked the coastline again. And she reiterated what everyone else has said, which is that yes, there is concerns out there, but it's coastal erosion that's happening, just as it is all up and down West Maui. You go all the way from Ukumehame all the way up to, you know, Kahana and beyond that, right? I mean, we see red water all the time. You know, I surf and I see it a lot. So I'm out there multiple times a week, and when it's high surf, I'm out there every day. Again, there's no evidence of, you know, runoff mauka to makai. Is there coastal erosion? Yes, there's absolutely coastal erosion. I believe one person had indicated something about "failed BMPs." Ironically enough, there was one time there was an indication of a failed BMP, but ironically enough, it was the high surf pushing the BMPs mauka. It wasn't from anything coming mauka going into the ocean. So that's...that's just to address that and say like, hey, you know, we are...we are aware of what's going on, we're being proactive, and nothing that we're doing is...is what was, I guess, conflated to be. So as far as the scope of work that we did out at Hekili Point...I'll just sort of break it down into three areas. The first one was to clear government land for public access at our expense. So is the government...the DLNR doesn't have the resources, they don't have the money to maintain their own land on the lateral access through

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Olowalu. So as we've done multiple times before, we have cleared the land for the DLNR at our expense. The other thing that we did was we cleared invasive species in the conservation land, and if you guys are familiar with Patrick and Naomi Guth? The Guths went out there and hand planted native and endemic species in the conservation area. So they did that. And then the last scope of work was...in about 2017, Olowalu Elua went to the United States Department of Agriculture and instituted a soils conservation plan, and got an NRCS permit to address the soil conservation in Olowalu. Hekili Point is tract 1901, field 3, which is a...is an orchard, and so that is what is occurring out there...was occurring out there, and then got stopped due to some concerns. And so there was a stop work order issued, and so that's on pause right now. But...so that was the...as I just said, breaking it down into three things. The third one was to institute the soils conservation plan. So I actually think...it's actually pretty cool, you know, when you look at some of the stuff's going out there. I would love to have any of you out there if you want to walk the beach with me and check out what's going on out there at Olowalu. I mean, it's...as most people know, it's one of the coolest places on the island, and I would encourage you guys all to come out and join me out there. So...let me just see if there's anything else that I wanted to say. Oh, oh, the other part too, that I guess I would just throw out there is the Department of Public Works has already stated that no grubbing and grading permit was needed for the work that we did out there. So I'll just stop at that point. So if there's any questions that would like to be addressed?

CHAIR KAMA: Yes. Ms. Paltin?

COUNCILMEMBER PALTIN: Yeah. My question is involving not Olowalu Elua Associates, it's involving the fines for illegal work in Olowalu Stream without a permit. Olowalu Water Company, who's involved in this project, poured concrete in Olowalu Stream without a permit, and I believe they were fined for that. And so just...those were my questions. And like Lawrence said, Olowalu Elua is not Lihau'ula, but Olowalu Water Company is the entity that's proposing to provide water for Lihau'ula. So my question revolving [sic] violations and fines would be more centered around Olowalu Water Company doing illegal work in the stream without a permit.

MR. CARNICELLI: Yeah. Okay. I...I'm...I can pass that on to the representative for Olowalu Water Company if you'd like to have those addressed.

MR. TREMBLE: Hi, Council. My name's Glenn Tremble. I represent the Olowalu Water Company. I hope you can hear me.

CHAIR KAMA: Yeah.

MR. TREMBLE: I think Kyle indicated earlier, in 2016, there was a storm that affected the diversions that Olowalu Water uses for the agricultural water that we deliver throughout Olowalu's properties. As Kyle mentioned, there is a dual water system, which means there's two lines going through most places...the mauka and the makai areas. And what was part of an old plantation system, was adapted to be utilized by Olowalu Water Company for the irrigation water. In the storm of 2016, the diversion

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that was on State land a mile mauka of Olowalu property was wiped out, along with a diversion that is just inside Olowalu property called the lower intake. The lower intake was not used for the last 15 years, it was unnecessary, so we weren't diverting water using the lower intake, we were taking only from the upper intake. Once the stream flow damaged both diversions, rather than restore the upper diversion, we immediately...we went into an emergency mode. We notified the Army Corps of Engineer [sic] of the work, we sent pictures and sent them about the emergency relief in the stream, and we discussed it with CWRM, but we did not apply to restore the diversion that got wiped out. And that was the subject of the after-the-fact permit that we got to basically restore a diversion that was already there, and we...we accepted the fine for the work that was done to restore the ag water utilizing that diversion. So that, I hope, answers your question.

COUNCILMEMBER PALTIN: I guess the question is, why didn't you apply for the permit? Were you not aware that it was needed?

MR. TREMBLE: We...we...it was under emergency act. The Governor issued an emergency act to restore waters in 'Īao Stream and our streams at the time, and we believed we were following the rules, notifying the Army Corps of the work we were doing. We didn't understand that there was another permit to get approved. People were out of water, their crops were dying and we...we sandbagged the diversion, and then began work. We thought we were covered. That's the only explanation I have.

COUNCILMEMBER PALTIN: Okay. Just...because the work that you did deprived other folks downstream of water as well, and that's why the complaint was filed --

MR. TREMBLE: It did not.

COUNCILMEMBER PALTIN: And --

MR. TREMBLE: That's not a true statement.

COUNCILMEMBER PALTIN: Its --

MR. TREMBLE: We are the distributors of all the water through Olowalu property, upstream and downstream.

COUNCILMEMBER PALTIN: I'm not talking about your people, but okay. Thank you.

MR. TREMBLE: You're welcome.

CHAIR KAMA: Mr. Sinenci, you had a question?

COUNCILMEMBER SINENCI: Thank you, Chair. I just had a clarification question. You know, at the last meeting, you talked about Lihau'ula does not fall within the SMA, but in this...from the . . . (*audio interference*). . . do they fall into the SMA zone, Lihau'ula, Mr. Ginoza?

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MR. GINOZA: No. The Lihau'ula property is outside of the SMA.

COUNCILMEMBER SINENCI: But the Olowalu Elua falls within the SMA --

MR. GINOZA: Yes.

COUNCILMEMBER SINENCI: -- boundaries?

MR. GINOZA: Yes.

COUNCILMEMBER SINENCI: So are...is...are both projects going to the planning for an...it is part of the SMA permit for Elua that's across the street? Because it looks like, in one of the Maui Planning Department...the Commission...September 12th...this 2000... so this might be from the...but I was just wondering if...are they both under the same SMA permit? Is Elua --

CHAIR KAMA: Mr. Ginoza?

COUNCILMEMBER SINENCI: -- is Elua part of this? I know Mr. Carnicelli said that it wasn't, but because of the...I don't know if Mr. Martin may have applied for both...for the SMA permit or something. I'm just getting clarification, Chair.

CHAIR KAMA: Thank you.

MR. GINOZA: Sure. And maybe we confused things a little bit, and it was really to provide clarity on some other things that people brought up. So the...the SMA type concerns were solely for Olowalu Elua that have no real bearing on this project. But Chair wanted us to respond to any concerns that were brought up at the last meeting, which is why we had Mr. Carnicelli here to be able to address that so as to not cloud this project with concerns from a different project. So you are exactly right that this project has nothing to do with Olowalu Elua and the permits and the concerns they have, but it was just brought up as part of the testimony, so the Chair wanted us to address it.

COUNCILMEMBER SINENCI: And that...and so because Olowalu Elua falls in the SMA zone, they need to apply for a permit on that section.

CHAIR KAMA: Um-hum.

COUNCILMEMBER SINENCI: . . . *(audio interference)*. . . looks like Mr. Carnicelli...there were some, right, some violations for erosion from the Department of Land and Natural Resources for Olowalu Elua that I'm . . . *(audio interference)*. . . okay. Thank you, Chair, for that clarification.

CHAIR KAMA: You're welcome, Mr. Sinenci. Ms. Rawlins-Fernandez, question?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I wasn't clear when you got a response from Mr. Carnicelli because the information that I have here is that there was a violation. That "failure to submit a request for determination of structures and activities in the shoreline setback area and obtain a shoreline setback approval or variance, grading, grubbing in the shoreline setback . . . (*audio interference*). . . where documented burial site, tree cutting, clearing, other ground altering activities and installation of irrigation. Grading, grubbing of approximately three acres, tree cutting of approximately half acre, trenching and installing irrigation and water lines, other ground altering activities, and installation of four metal shipping containers and a concrete pad." Is that not --

MR. CARNICELLI: I'm sorry, is...what was the question?

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, you said...I thought I heard you say there wasn't a violation? I was just clarifying.

MR. CARNICELLI: I did not say there wasn't a violation. What I said was...is that the erosion that...that...there was no runoff. There's no runoff from the site into the ocean is what I said. Is that the turbid waters and the brown waters in the ocean are due to coastal erosion, and not erosion from the site. The things that you had read are alleged violations from the County that we have since responded to, and...and are in the process of going through...the appeal process to that...to those violations. Those alleged violations.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay. So when you told us that you cleared land for DLNR at your expense, but I'm assuming that wasn't with a SMA permit or an exemption from the SMA that...is that not the same thing?

MR. CARNICELLI: So how it works is, there are certain items that are exempt under the SMA law.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. But you have to apply for the exemption.

MR. CARNICELLI: So hang on. I'll explain...I'll just say is, yes. So technically, if I wanted to go mow my lawn or cut a rose for my wife, technically, I would have to apply for an assessment in order to do that. And then you would say like, okay, well, the assessment then says, yes, you're exempt, and then you can go ahead and cut that rose and give it to your wife. And so there...so...so the process is one which, okay, you know, not everybody asks for permission when they mow their lawn. And so those are exempt activities with which we were doing for the DLNR at our expense, and we did an after-the-fact assessment, and that's where we are right now.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. I just...I think mowing lawns and digging near documented burial sites are like slightly different.

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MR. CARNICELLI: Yeah. And we...it is...is...the activities with which we did next to the archaeological sites were monitored by an archaeologist, and in adherence to the archaeological monitoring plan for the area.

CHAIR KAMA: Thank you.

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

CHAIR KAMA: You're welcome, Ms. Fernandez. Mr. Molina, are you ready for a question here?

VICE-CHAIR MOLINA: Yeah, Madam Chair, but I saw Member Sugimura had her hand up first, so I'll go after her.

CHAIR KAMA: Oh, okay. Okay. I don't see . . . (*inaudible*). . .

COUNCILMEMBER SUGIMURA: I just want to point out --

CHAIR KAMA: Go ahead.

COUNCILMEMBER SUGIMURA: -- information. So this project is Lihau'ula, and we keep on looking back to back...or back and forth to different projects, and I really wish we would just stay on topic and if there are violations that were done with the other project, this is not on the agenda today. And so I know Mr. Ginoza is trying to answer all of our questions, but if we just stick to what's on the agenda, and if there are other projects that had problems, I mean, it's not on the agenda. So Chair, if you don't mind, if we could just stick with that.

CHAIR KAMA: Thank you.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KAMA: Okay. Thank you. Members, let's all get back on track. Thank you, Ms. Sugimura. Mr. Ginoza, any more questions you have yet to answer?

MR. GINOZA: I believe that's all that --

CHAIR KAMA: Okay.

MR. GINOZA: -- that was asked.

CHAIR KAMA: Okay. I think Mr. Molina had a question.

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair and Mr. Ginoza. Just wondering if you're able to answer the...I have couple questions related to water. Does the project have...received from the Olowalu Water Company a will-serve letter, and will any of that...will the project be using County water as well?

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MR. GINOZA: We do not have a physical will-serve letter, but we can get one. And in our discussions with the water company, there is adequate source, and they will be able to serve. There is no County water available in this area. It's within...this area is served by the Olowalu Water Company, and there's no water...County of Maui water resources available.

VICE-CHAIR MOLINA: Okay. And is there any non-potable water source for the project as it relates to irrigation?

MR. GINOZA: No. Not as...not as currently designed.

COUNCILMEMBER MOLINA: Okay. All right. Thank you, Mr. Ginoza. Thank you, Madam Chair.

MR. GINOZA: Thank you.

CHAIR KAMA: You're welcome, sir. Any other questions, Members? So Mr. Ginoza, you answered all the questions from the Members from the last meeting? Okay. So Members, it is now 2:58. Yes, Ms. Paltin?

COUNCILMEMBER PALTIN: Thank you. I did have one other question --

CHAIR KAMA: . . . *(inaudible)*. . .

COUNCILMEMBER PALTIN: -- that I had requested last time. It was for --

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: -- Ms. DesJardins.

CHAIR KAMA: Oh, okay.

COUNCILMEMBER PALTIN: And she said she would answer it --

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: -- this week.

MS. DESJARDINS: Hi, there. Okay. So the question that Ms. Paltin posed was, "if a land title issue arises, who would be held accountable to rectify the matter? The owner of the units or the developer?" I'll give you the short answer. The short answer is, is that I did verify with Mr. Ginoza that the developer will be utilizing a warranty deed with each of the purchasers, and at the time that they apply for their mortgage with the bank, they will also...the mortgage company and the bank will also require both the title insurance, as well as a title report. So essentially, no bank is going to loan money if there's clouded title. They're not going to feel comfortable doing that. However, part

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of your closing costs and escrow is to purchase title insurance. So in the event, however, that everybody thinks that title is clear and fine, and in fact, there is a warranty deed in this case. So I think you can be assured, at least up to this point, that title is technically clear. Then if you were to be served a lawsuit, what most people would do then is just tender that suit to your title insurance company that you, you know, that you hired at the time that you did your purchase, and then they would take the matter over from there. So that's kind of your short answer.

COUNCILMEMBER PALTIN: Thank you, Ms. DesJardins. I just had a follow-up question to that answer if...

MS. DESJARDINS: Sure.

COUNCILMEMBER PALTIN: So you would get the lenders and the...you would have to get the lenders title insurance. Do all lenders title insurance allow for a third-party claim?

MS. DESJARDINS: So title insurance and a warranty deed in combination...a warranty deed is warranting that you have clear title to sell to somebody, and the title insurance is an insurance policy where the insurance company has assured itself that the title is clear. Otherwise, they would not go forward with the transaction. So it's pretty much guaranteed in every real estate transaction. And...and here's a perfect example. Like you're in the middle of closing, and now somebody's got an encroachment on your property, a fence of something. You'll get a call from the lender...the bank saying, hey, we can't close because your title is clouded by the fact that there's this encroachment, and it could be three or four feet, honestly. And unless you get that cleared up, they're not going to proceed with the transaction. But when you look at your closing, your escrow account, you'll see title insurance . . .(audio interference). . . closing costs, and you are purchasing that when you...when you get a mortgage. I'm assuming that these purchasers are all going to have mortgages.

COUNCILMEMBER PALTIN: Yeah. Yeah. I...I understand that. I was wondering if the owner can file a third-party claim on their title insurance if the bank will not?

MS. DESJARDINS: If the owner can file a third-party claim? So for example, if I'm the owner and I get sued by somebody who claims that they have title to my property that I just purchased? And so would --

COUNCILMEMBER PALTIN: And the bank.

MS. DESJARDINS: -- your insurance policy, yes.

COUNCILMEMBER PALTIN: If the bank refuses to file a claim, the owner can then file a third-party claim?

MS. DESJARDINS: Yes, it's your insurance policy. Yeah.

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COUNCILMEMBER PALTIN: Okay. Thank you. And you know, I think part of the confusion about Olowalu Elua and all of that is because Lihau'ula was lot 20 in that subdivision, so I mean, it's murky to begin with, and I guess that's the connection of things, but now it got sold to this other entity. So it is kind of on the agenda, but I see what you're saying. Let's stick to the issue.

MS. DESJARDINS: Thank you.

CHAIR KAMA: Members, it is now 3:02, and your Chair's going to call for a ten-minute recess, and then we're going to review the conditions --

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: -- if that's okay. Ms. Rawlins-Fernandez, yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: I just wanted to quickly follow up with Ms. DesJardins on Member Paltin's question.

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: So a third-party suit, approximately how much would that cost the landowner?

MS. DESJARDINS: I have no idea. I don't know. I mean, I think it really depends a lot on the claim itself, you know, if it's a valid claim or not. But I guess, you know, when you purchase property, and you get a warranty deed, and you look at the title report, and you trust the escrow, you know, that the title insurance did their job, you want to sleep at night that somebody's not going to come up and make a claim. And I feel like there's enough people that are investing in it, banks, mortgage companies, you know, to assure that it would be...it would be a rarity that you would get a valid claim. Anybody can get sued, as you know, but a valid claim, I think, would be rare.

COUNCILMEMBER RAWLINS-FERNANDEZ: And that cost would fall on the landowners? So those that have the affordable housing?

MS. DESJARDINS: I think the cost would fall on the title insurance. So you would be tendering the complaint prior to answering it to the title insurance company, and saying to them, I got sued, you guys assured me I have title, and take it over for me. That's why you buy insurance.

COUNCILMEMBER RAWLINS-FERNANDEZ: Hopefully, they won't have to sue their title company.

CHAIR KAMA: Right.

MS. DESJARDINS: Hopefully, not.

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CHAIR KAMA: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KAMA: You're welcome. Okay, Members. It is now 3:04, and we are going to be recessed until 3:15. Recess . . . *(gavel)*. . .

RECESS: 3:04 p.m.

RECONVENE: 3:16 p.m.

CHAIR KAMA: . . . *(gavel)*. . . The Affordable Housing Committee will now reconvene at 1... at 3:16 p.m. So I think we left off...we had...the developer had finished asking...answering all the questions. Members, I don't recall if anyone had any other merging or emerging questions. But if not, is it okay...it's the developer, if he's still here...if Mr. Ginoza goes on and looks at all the conditions that Ms. Paltin had...had submitted in writing, and we'll go through that and any other conditions that might have. Okay. I don't see anyone saying anything. So Mr. Ginoza?

MR. GINOZA: I'm sorry, Chair --

CHAIR KAMA: Would you please take a look at the --

MR. GINOZA: -- did you want me to read each condition, or do you want to --

CHAIR KAMA: . . . *(inaudible)*. . .

MR. GINOZA: -- just go with where people had questions.

CHAIR KAMA: I think I'd like you to read it because I think we want it entered into the record. I think also for Ms. Paltin's sake, read it.

MR. GINOZA: Certainly. So the first one was...is, "the Lihau'ula project approved by this resolution and the exemptions set forth in Exhibit A, they're all lapsed and become void if construction of the residential workforce housing units has not started within two years of the effective date of this resolution. Start of construction shall mean the visible start of grading pursuant to a valid grading permit as needed for the development of the residential workforce housing units." And from our perspective, this condition would be acceptable if we could just strike or delete the, "of the residential workforce housing units," and that if it just read, "constructive... if construction has not started within two years." Because what --

CHAIR KAMA: Thank you.

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MR. GINOZA: -- what we wanted to clarify, which is clarified in the next sentence, is that start of construction is visible start of grading, and not the actual vertical construction of homes.

CHAIR KAMA: Okay. Ms. Paltin, this is your condition.

COUNCILMEMBER PALTIN: I'm okay with that.

CHAIR KAMA: Okay. Thank you.

MR. GINOZA: The second condition is, "the developer shall act in good faith and with reasonable best efforts to complete construction of all residential workforce housing units with related roads and infrastructure not later than five years from the effective date of this resolution." And this is acceptable to us.

CHAIR KAMA: Thank you.

MR. GINOZA: The third proposed condition is, "the developer shall develop all residential workforce housing units before or concurrently with the sale of the market rate lots." And this is acceptable. The fourth proposed condition is, "the distribution of the 40 residential workforce housing units across area median income, AMI category, shall be as follows: Using the 2020 Affordable Sales Price Guidelines prepared by the County of Maui Department of Housing and Human Concerns, or the Affordable Sales Price Guidelines prepared by the County of Maui in effect the year that the project is completed, whichever is lower, and the category shall not expire." And it goes through different income brackets. And I don't know if every Member has what I had prepared and sent, so we would not be agreeable to the condition as...as written, but we had made some modifications. So would you like me to read that...the modified condition or how --

COUNCILMEMBER SUGIMURA: Yes.

MR. GINOZA: -- would you like to do it, Chair?

COUNCILMEMBER SUGIMURA: What you're agreeable to. Chair?

MR. GINOZA: Oh, okay.

CHAIR KAMA: Yeah.

MR. GINOZA: Okay. So we...so we would be a...the categories would be using the 2020 Affordable Sales Price Guidelines prepared by the County of Maui Department of Housing Human Concerns, or the Affordable Sales Price Guidelines prepared by the County of Maui in effect when the project is marketed in accordance with MCC Chapter 2.96. So following what is the 2.6...2.96 law.

CHAIR KAMA: Okay.

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MR. GINOZA: And similarly, the income brackets would be in accordance with MCC Chapter 2.96.

CHAIR KAMA: Okay. Ms. Paltin?

COUNCILMEMBER PALTIN: So the reason that I had put...or the year that the project is completed is because this is such an...a weird year, 2020, to put it lightly. And you know, if...if we're making decisions this year for what it is, and it's based on, you know, I guess 2017 guidelines or 2017 incomes as we learned from Ms. Munsell, it doesn't fit. And...and my spread out of the...of the AMI was just to, you know, spread it evenly, like let 6 of the 12 be for the 80 to 90 percent, 6 of the 12 be to the 90 to 100 percent, 10 of the 20 be 10...be 101 to 110, just make a fair distribution and...and have the guidelines in place. I had a lot of feedback on this item that the affordable guidelines as they were presented were not affordable to majority families, and so that's the reason for this condition. I'm not sure how you would like to go forward with it, but for me, I would like to stick with the condition as I wrote it. I don't know if you wanted to take a vote or just put it to the side for now or what.

CHAIR KAMA: Well, I think I'd like to hear Mr. Ginoza. What's...why is it so important that we don't do the mix as Ms. Paltin is suggesting? What...what's the impact?

COUNCILMEMBER PALTIN: You're talking specifically about the spread, right? The...like the six.

CHAIR KAMA: Yeah.

COUNCILMEMBER PALTIN: Okay.

MR. GINOZA: For us, one, it...it...increasing the number of income brackets really...it increases the amount of what needs to be done for the lottery. And, you know, as far as qualifying people and...reduces the kind of...the choices that each income group would have.

COUNCILMEMBER SUGIMURA: Ms. Lee?

COUNCILMEMBER LEE: Madam Chair?

CHAIR KAMA: Yes, Ms. Lee?

COUNCILMEMBER LEE: Okay. Our experience in the Housing Department was that when you make the categories too close, it's...it's harder to qualify people.

CHAIR KAMA: Okay.

COUNCILMEMBER LEE: They may qualify this week, and not next week. So it's better to have the 80...let's see, what is here...

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CHAIR KAMA: Oh, I see.

COUNCILMEMBER LEE: You know, 80 to 100, 100 to 120, it's better for the consumer...

CHAIR KAMA: That's right.

COUNCILMEMBER LEE: Okay. You're not doing...you're not hurting the developer, you're hurting the consumer when you put the categories too close. Thank you.

CHAIR KAMA: Okay. I understand that. So in...so in order to not hurt the consumer, we keep the spread wider, is that true? That we keep the spread wider so more of our people can qualify for those income brackets?

COUNCILMEMBER LEE: Yes, but you can --

COUNCILMEMBER SUGIMURA: Ms. Munsell has her hand up.

COUNCILMEMBER LEE: -- listen to Linda Munsell.

CHAIR KAMA: Okay. Thank you. Yes, Ms. Munsell.

MS. MUNSELL: Yeah. Thank you, Chair. Yes, Ms. Lee is correct in the reason that we have the spread that way. The other issue that has been brought up was the question about the affordable price guidelines, when they're...when it...they're in effect. Generally, the price guidelines are set, or the prices are set at the time that the marketing plan for the project is approved. So the question would be, when Mr. Ginoza and the developer have submitted their price guidelines, or their marketing plan to us, and that's the time that the sales price is set. I hope that's helpful.

CHAIR KAMA: Okay. Ms. Paltin, do you have any...a response?

COUNCILMEMBER PALTIN: I didn't understand Ms. Munsell.

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: Did she mean that the...if they market in 2021, we would use the 2021 guidelines?

MS. MUNSELL: That's correct. So we wouldn't be using the 2020 guidelines because I'm assuming that they're not going to start marketing immediately. They've got a number of things that need to occur before they can start to market this project. So you're saying that you want the construction to start in...within two years of approval. You know, they still have to get through VBA and some...and permitting and other things. Two years might be a challenge already in my...in my opinion. I'm less experienced than obviously the developer is. So you would be either looking at the 2021 or the 2022 marketing guidelines. They have to start selling these before...typically, a

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development would start marketing these before they start construction in order to get construction loans. I'm not sure what this developer's financial status is, but that's the general thing. So it would not be this year's price guidelines, it would be future price guidance...guidelines.

COUNCILMEMBER PALTIN: So the wording of the condition should actually be "using the affordable sale price guidelines [sic] in effect at the time marketing begins."

MS. MUNSELL: "At the time the marketing plan is approved." Yes.

COUNCILMEMBER PALTIN: At the time marketing plan is approved. Okay.

MS. MUNSELL: That's our standard procedure for these projects anyway, so.

COUNCILMEMBER PALTIN: Okay. So "affordable price guidelines at the time marketing plan is approved and..." All right. if you guys think it's better for the buyer with the 80 to 100, I'll go with it.

CHAIR KAMA: Okay. Thank you. Thank you, Ms. Paltin. Continue, Mr. Ginoza.

Mr. GINOZA: Thank you. Sure. The next condition is, "the developer shall..." how we'd like to say it is, "the developer shall extend the existing private water system in accordance with the Olowalu Water Company Inc. and State of Hawaii Department of Health standards to provide necessary domestic potable and fire flow demands for the project." And the reason why we would like it revised as such is because the developer doesn't control the water company, so we can't agree to continue service to the surrounding areas. And the reference to the IIFS, the CWRM instream, inter instream flow standards is not applicable because this will be groundwater used, not stream water.

CHAIR KAMA: Ms. Paltin?

COUNCILMEMBER PALTIN: Thank you. I am...question of why the count...you struck the part of the condition that says, "the County of Maui shall not grant final subdivision approval if and as long as the developer is in breach of this condition."

MR. GINOZA: Oh, sorry. That's fine.

COUNCILMEMBER PALTIN: Keep that in?

MR. GINOZA: Yeah.

COUNCILMEMBER PALTIN: And then, you know, in other developments that we had, I guess the concern was that developing the new development would take water away from the existing development. So that's why "as well as continue to service the surrounding area" was put in. I believe that was used in another development. So I'm okay with adding Olowalu Water Company. My reading would be, "the developer shall

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extend the existing private water company in accordance with the Olowalu Water Company Incorporated, and State of Hawaii, and Department of Health standards to provide necessary domestic potable and fire flow demands for the project, as well as continue to service the surrounding area. The County of Maui shall not grant final subdivision approval if and as long as the developer is in breach of this condition."

CHAIR KAMA: Mr. Ginoza?

MR. GINOZA: Chair, as I mentioned, we don't control the service to the surrounding area. It's something where if residents have concerns about the service of the water company, the Public Utilities Commission is the appropriate body to file any kind of complaints or matters as such. And actually, the reason why also that I had struck out, "the County of Maui shall not grant final subdivision" is, just based on the wording that...if we could say, "the developer shall agree to extend," then we can hold up...they can hold up final subdivision. But the way it's worded, it's as if we have to install it before we get final subdivision, and we wouldn't install it unless we knew we had final subdivision. And --

CHAIR KAMA: So what is...

MR. GINOZA: -- we can go to the line extension.

CHAIR KAMA: Ms. Paltin, did you hear what Mr. Ginoza said?

COUNCILMEMBER PALTIN: So you want to make it, "the developer shall agree to extend the existing private water system in accordance with the Olowalu Water Company Inc. and State of Hawaii Department of Health standards to provide necessary domestic potable and fire flow demands for the project, as well as the water company...Olowalu Water Company agreeing to continue to serve the surrounding area. The County of Maui shall not grant final subdivision approval if and as long as the developer is in breach of this condition."

MR. GINOZA: I guess I'm not sure why we would include, "the Olowalu Water Company continue to service the surrounding area." I mean, they're...that's not something the developer does, but I mean, they're required to do so. But that would be fine. Yeah, that would be fine if you wanted to do that.

CHAIR KAMA: That's...That's acceptable?

MR. GINOZA: Yeah.

CHAIR KAMA: Okay. So Ms. Paltin, I hope you're writing some of this stuff. I'm trying to take notes, but I'm not writing verbatim. So hopefully, at the time we go through all the conditions for a . . . *(inaudible)*. . . we'll have the verbiage available? Okay. Thank you.

COUNCILMEMBER PALTIN: Okay.

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CHAIR KAMA: Thank you.

COUNCILMEMBER PALTIN: I'm not writing it down, but my staff does really good listening to the tape over and over.

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: Sorry, Angela.

CHAIR KAMA: Okay. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Member Paltin, I think we also have the transcription app going. So if you need it, you can grab it from the transcription in Apps. It's there.

CHAIR KAMA: Oh, cool. Wow. Thank you. Okay. Mr. Ginoza?

MR. GINOZA: The next proposed condition is, "the developer must receive a will-serve letter from Olowalu Water Company and confirmation from the Department of Water Supply of a long-term reliable water supply for the project." And this is acceptable. The next one is, "the source of potable and non-potable water for the project shall not be the Olowalu Stream." This condition is acceptable because we...as I mentioned, we're not...we're not supplying non-potable water to the project. The next condition is, "potable water shall not be used in irrigation systems for any lot or portion of the project."

CHAIR KAMA: Right.

MR. GINOZA: And as I mentioned, since we're not using a dual-water system, this condition isn't acceptable because we will only have a potable water system. So whatever irrigation use there would be, would be potable water source being used. So I would prefer to strike that condition.

CHAIR KAMA: Ms. Paltin?

COUNCILMEMBER PALTIN: I just would like some clarification.

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: So when you...you're going to use a well, right?

MR. GINOZA: Yes.

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COUNCILMEMBER PALTIN: To pull the water out. Does it get filtered or anything?

MR. GINOZA: Yes. No.

COUNCILMEMBER PALTIN: Oh, no?

MR. GINOZA: I'm sorry.

UNIDENTIFIED SPEAKER: Only chlorine treatment.

MR. GINOZA: Oh, sorry. Only chlorine treatment.

COUNCILMEMBER PALTIN: Oh, okay. And so you're going to use the chlorine treatment for non-potable uses...the same water?

MR. GINOZA: Yes.

COUNCILMEMBER PALTIN: I'm not really for it because, you know, drinking water is drinking water, but I'll defer to my fellow members.

COUNCILMEMBER LEE: I have a question.

CHAIR KAMA: Who's...who's asking?

COUNCILMEMBER LEE: Me, Alice.

CHAIR KAMA: Oh, Ms. Lee, yes?

COUNCILMEMBER LEE: Okay. Kyle --

MR. GINOZA: Yes.

COUNCILMEMBER LEE: -- what about re-use? Water re-use for the wastewater...from the individual wastewater systems? There's no way to collect some of that and re-use it --

MR. GINOZA: No, because there'll be --

COUNCILMEMBER LEE: -- for irrigation?

MR. GINOZA: -- there'll be individual systems, and they wouldn't be treated to or to --

CHAIR KAMA: . . . *(inaudible)*. . .

MR. GINOZA: -- . . . *(inaudible)*. . . one system and pumped to be able to be utilized. So 100 percent of that irrigation...oh, sorry, of the IWS flows would just go into the leach field or into the septic or ATU and leach field.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Yes, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I really like Council Chair Lee's idea of re-use. We're all for that. So I guess I'm not clear why would there not be an irrigation system that's non-potable?

MR. GINOZA: Primarily, for the...for the cost of having a dual system for so few homes, and for what would be the irrigation demand for the project. That's what makes it cost prohibitive to have a dual system.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So potable water, groundwater, would be used for irrigation? Yeah. Okay. That...

MR. GINOZA: Yeah. I mean, just...like, I live in Wailuku and I use groundwater for my irrigation.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR KAMA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: I...I...I support this condition.

CHAIR KAMA: Okay. Shall we go onto condition 9?

MR. GINOZA: Sure.

CHAIR KAMA: Thank you.

MR. GINOZA: And again, I'll read what...what we'd like.

CHAIR KAMA: Yeah.

MR. GINOZA: "On each workforce lot, the developer shall provide an individual wastewater system which can accommodate the number of bedrooms in the workforce homes. Each IWS shall be maintained by the homeowner, and in accordance with Title 11, Chapter 62, Hawaii Administrative Rules." And for this, as I previously mentioned, like other facets of the home and lot, typically, the homeowner is responsible for the operation and maintenance of...of the IWS rather than the homeowners' association.

COUNCILMEMBER PALTIN: So to clarify, we're for sure using septic for the IWS? Are...you're...you're for sure using septic?

MR. GINOZA: It's something that we can discuss further. I mean, to receive your affirmative vote, we'd consider putting in ATUs. We just...we just look at, you know, the pros and cons as far as, you know, how the function of it will be with the different homeowners.

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But yeah, I mean, it's something that we definitely would consider implementing...the ATUs, if that's what this body would require.

COUNCILMEMBER PALTIN: So just coming from my perspective, I think that the ATU is the superior system, but if it's not properly maintained, then it becomes inferior. And if we're counting on the workforce to develop a maintenance schedule and maintain it themselves with the ups and downs of the economy, and the Olowalu reef bearing the results of poor maintenance...the other thing that I don't understand is the...the reason why you're not...you only want to provide the IWS for the workforce lots. Couldn't the market rate lot cost be passed on to the market rate purchaser?

MR. GINOZA: So because we're selling lot only for...for the market lots, we don't know where they would be putting their homes and where they would want the...the IWSs. So for instance, if it's an ATU or any kind of IWS, you want...you'd want to site it in an appropriate location on the lot for efficient use of the IWS. And so rather than factor in the price of putting in the IWS prior, we just not put it in the price and sell it lot only with the understanding that, for instance, you know, should we require...should you require ATUs, that we'd put it at...you know, we're not installing the ATU, but you're required to maintain, or to install and maintain the ATU. And . . .*(inaudible)* . . .

COUNCILMEMBER PALTIN: I guess I wasn't aware that you weren't developing the market rate lots. I thought you were developing them too. So you're just selling the lots. You know, just not everybody, especially, you know, West Maui, is familiar with septic or ATU, and I just would feel more comfortable if an entity was tasked with the annual maintenance of whatever the type of wastewater system it is. You know, if I were to purchase a home with septic or ATU, I wouldn't know where to begin. And you know, kids, parents-in-law, all of that...like I could easily see myself not paying attention to it, you know. I mean, I have to really focus on flushing my solar water heater. So it's just something that, you know, it feels like our reef is too precious to leave it up to individual homeowners to figure out.

MR. GINOZA: Yeah. That's something that we'd be accommodating of. It's just that we haven't had that experience of the homeowners' association maintaining those, and so...but it's not a we'd hold hard and fast against it. It...I...I understand your concerns, and that is something that we can accommodate.

COUNCILMEMBER PALTIN: And then the other part of the concern is, you know, if...if we only allow the individual wastewater system for the number of bedrooms on the house, where if somebody wanted to add on another bedroom, do they have to dig another individual wastewater system? Or I mean, obviously, this would go hand-in-hand with the no accessory dwelling units because if we're only having that amount of septic or whatever it is...individual wastewater system, then, you know, an accessory dwelling unit...we're not...there's not...you don't want to hook that up to the existing system that's only built for that number of bedrooms, right? So it...I guess it would be like, you know, no add-ons of bedrooms without an expansion of the...that should be another condition, is like, you know, until and unless the individual waste system is expanded upon, these folks can't add on a bedroom to their thing.

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MR. GINOZA: And to be honest, we haven't explored the...yeah, I think the limit is a thousand gallons for IWS, and that's for the five bedroom. What the difference in cost is of what we do for three or four bedroom. But if it's something that this body is adamant about, having it as a five-bedroom capacity ATU, then that's something that we'll definitely look at.

COUNCILMEMBER PALTIN: So for me personally, I'm not adamant. But you know, if it's a three-bedroom ATU or IWS, whatever it is, then we need to condition that there shall not be additional dwelling unit or additional bedrooms added until and unless the waste system capacity is expanded, if you understand what I'm saying. I --

MR. GINOZA: Sure.

COUNCILMEMBER PALTIN: -- I don't care either way, but the concern is the capacity of the IWS. So whatever my colleagues are amenable to, it's fine with me as long as the situation matches up, if you guys understand what I'm saying.

CHAIR KAMA: Yes. Yeah. Yeah. So Ms. Lee, and then Ms. Sugimura.

COUNCILMEMBER LEE: Yeah. So Kyle, the...I don't know about the ATUs, but I know the septic systems are expandable, right? So you could have it in your rules that, let's say, you...you build for a certain size. And then if people want to add on a ohana unit or whatever...bedroom, whatever, that they would, on their own, at their own expense, be required to expand their wastewater system. Couldn't that be written into the requirements?

MR. GINOZA: Yeah. I mean, for us, it was a matter of, you know, there was the condition of no accessory dwelling unit or farm dwelling, so why expand it. And you know, with...with especially the affordable ones, you know, a lot of them, you know, would not necessarily have the resources at the present time to expand anyway. And so if 20, 30 years down the line they want to, perhaps it's better just to upgrade the system as well. But you know, I would rather this not be like a point of contention. So whatever this body would...would prefer as far as the language on this, I mean, we're amenable to that, as far as the ATU and the size.

COUNCILMEMBER LEE: Okay. I guess the point I was just trying to make is that it...that a person is not limited to one size. If --

MR. GINOZA: Yeah.

COUNCILMEMBER LEE: -- you can expand if...if the rules allow for expansion, is what I'm saying.

MR. GINOZA: Absolutely.

COUNCILMEMBER LEE: Yeah. Okay. Thanks.

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MR. GINOZA: Thank you.

CHAIR KAMA: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: That line of questioning was what I was thinking. You know, as we plan, we shouldn't minutely plan for three bedroom, five bedroom, or whatever. If it can be planned so that, you know, it's more in the line of what Ms. Lee is saying. So I agree with . . . (*audio interference*). . .

CHAIR KAMA: Okay. Mr. Sinenci, and then Mr. Hokama.

COUNCILMEMBER SINENCI: Chair, I think...yeah, you cannot add...you don't have the capacity for your sewage, then you cannot add. So whether it's just a set amount for the three bedroom...three bedroom. If...if not, you would have to, right, either expand it or if you plan to expand, you might have to get a larger ATU unit that would accommodate that capacity later on down the line. My question, Chair, was just for clarification. So...and maybe Ms. Munsell can help me out here. So just the 40 workforce single family residences, and then there's 19 lots that will be sold, so that brings it under the...the required 50, or is it 40? You guys aren't building out the nine market rate as residences?

MS. MUNSELL: Chair?

CHAIR KAMA: Just lots.

MS. MUNSELL: Chair, I think that's a question that should be directed probably to Planning, they would have the answer to that.

CHAIR KAMA: Is Planning here?

MS. MCLEAN: Good afternoon, Chair.

CHAIR KAMA: Oh, yes. Hi there.

MS. MCLEAN: Hi.

COUNCILMEMBER SINENCI: Hi, Director.

MS. MCLEAN: What was the question again, please?

COUNCILMEMBER SINENCI: So it looks like 40 workforce single family, nine market rate lots/residences, and then ten one-acre ag lots. So which ones are we...are we building out 49 and then just selling the ten, and how does it bring it under the...the total of 50 required? Would that be the 49 residences?

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MS. MCLEAN: Actually, I think the developer would be better equipped to answer that. My understanding is that the...within the central part of the subdivision, the affordable units will be...the...the homes themselves will be built, and then the ag lots will be sold as lots. And I believe because of the lot sizes, the 50 threshold applies to the smaller lots, but not to the larger ones. And perhaps the applicant can confirm that.

MR. GINOZA: Sure. So...that's correct. So 40...maybe it's a little bit unclear. So 40 would be the workforce house and lot that we'd build. Nine would be 10,000 square foot, and we...we are unsure at this point whether or not people would just want lot only or house and lot, and that's why we say lot/residences. Because it may be --

COUNCILMEMBER SINENCI: But you could...but you could technically build out all nine because you come under the 50?

MR. GINOZA: -- yeah. So 49. So 49 would be under that...if you're referring to 11-62 for the Department of Health rules, that's what would be the 49 units to maximize the amount of residences that could be built under that regulation. And then...

COUNCILMEMBER SINENCI: Okay. So once the ten one-acre ag lots are sold, can they still build since this is a 201H, or they can only do ag?

MR. GINOZA: Yes, so --

COUNCILMEMBER SINENCI: That...That'll take it over 50.

MR. GINOZA: -- so that's the clarification that I had requested from the State Department of Health that I referred to earlier.

COUNCILMEMBER SINENCI: Okay.

MR. GINOZA: That is part of the packet in my response to Councilmember Paltin's questions, that 11-62 of Hawaii...of the State DOH rules say that, "for 10,000 square feet lots or more, you can have up to 50 before needing a treatment plant" and that...that's not inclusive of any development that has one-acre lots. So I confirmed with them that the one-acre lot portions would be exempt from the counting of up to 50. So the...to answer your question, the ten one-acre lots would not be restricted from having any farm dwelling.

COUNCILMEMBER SINENCI: Okay. Thank you for that clarification. Thank you, Chair.

CHAIR KAMA: You're welcome. Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you, Chair. I just have two areas of concern. One is the...what we're talking about now, waste treatment and approaches. So, you know, I appreciate Ms. Paltin's proposals. She made me think a lot about it. I was more concerned about another perspective of the same issue though. And so for me, maybe Corp. Counsel, Ms. DesJardins, you can listen to my consideration. I am open to

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supporting a condition of modification to approve, whereby, I would be supportive of language something like, "any additional housing units within the Olowalu region" whatever's appropriate, "abutting or adjacent properties, shall require the construction of a wastewater treatment plant that shall be dedicated to the County." And that may take care of any future issues with parcelization or over-development because one more unit on or adjacent to this project is going to set off the treatment plant requirement. And the only other thing...reason I'm proposing that is, as Ms. Paltin rightly stated from this morning's meeting, if we believe things are happening faster than not, and our eyes will not deceive us, four feet of elevation faces pretty much going across Honoapiilani Highway, and that is your project. The future SMA area. So I think, you know, again, I don't know what DOT told Mr. Ginoza, but the State roads are going to have to move somewhere because I anticipate it to be partially submerged part of the time.

CHAIR KAMA: Yeah.

COUNCILMEMBER HOKAMA: So those are my two concerns, Chair. Thank you.

CHAIR KAMA: Thank you, Mr. Hokama. Okay. So I guess we haven't resolved that, so I guess we're going to have to come back and have a deeper...deeper dive into that as we...when we come back. So next condition, Mr. Ginoza?

MR. GINOZA: Sure. "The developer shall record in the Bureau of Conveyances of the State of Hawaii, restrictions permanently providing for the following: the residential workforce housing units shall, by deed restriction, be owner-occupied for a period of ten years in accordance with 201H. The developer shall not sell the workforce housing units at market rate." So that...that's the modified condition we'd like to see, and the reason why we'd like to adhere to the 201H law is because it allows for the deed restriction, as well as after the deed restriction, shared appreciation past the ten years. So it's built into the 201H legislation...or regulation to have the longer sort of deed restriction as far as the shared appreciation.

CHAIR KAMA: Ms. Paltin?

COUNCILMEMBER PALTIN: Yeah. I think we're going to have to move on with that one as well.

CHAIR KAMA: Okay.

MR. GINOZA: Okay. So the next one is, "an owner of a workforce unit that is being resold, must sell the unit to an income qualified household in the same AMI category as the original homebuyer may retain a maximum 3 percent appreciation per year." So for us...

COUNCILMEMBER PALTIN: On that one, I'll take the developer's recommendation of 1 percent.

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MR. GINOZA: Okay. The next one is, "the use for operation of any dwelling in the project for transient or short-term rentals, including any rental for a term less than 180 days, is prohibited. Only long-term residential use is allowed." This is acceptable to us. The next question is, "condominium...sorry, condominium conversion or further subdivision of any of the lots in the project is prohibited." This condition is acceptable. The next one is, "the developer must ensure a homeowners' association is established in accordance with Chapter 421J, Hawaii Revised Statutes." That's acceptable to us. The next one is, "there shall be no accessory dwelling units, ADUs, or additional farm dwellings." This is acceptable to us, but as I commented in the response, it's something the Planning Department had made comment to us in their comment letter about allowing ADUs. So either way is fine with us. Chair, just continue? "All dwellings in the project shall be limited to two stories." That condition is acceptable. "There shall be no on-street parking within the project." This is acceptable. I don't know if you meant no overnight on-street parking or no on-street parking completely, but either way, it's acceptable to us. The next one, "the agricultural district permitted uses listed under Section 19.30A.050(6) and (8) relating to minor utility and solar energy facilities shall require special use permits as set forth in 19.30A.060." This is acceptable to us. The next one is, "the legal instrument establishing the project's homeowners' association, HOA, shall require at least 50 percent of the Board membership to be owners of workforce units." And we...the first part...so that part of the condition is acceptable to us. We thought that it was rather extreme to add to or to use a portion of the homeowners' association for a mandatory 5 percent donation to the...to the non-profit. But it's something...it's something that would be really between the homeowners' association...it doesn't really concern the developer, per se, but that was our comment.

COUNCILMEMBER PALTIN: I just added that because we did that to other 201Hs and developments, and it didn't seem fair to not be consistent.

MR. GINOZA: Okay. So either way. "The Department of Housing and Human Concerns shall oversee the waitlist and distribution of all residential workforce housing units via lottery. No residential workforce housing units shall be promised or pledged to any applicant prior to such lottery." This condition is acceptable to us. "There shall be no restrictions placed on workforce unit homebuyers in the choice of their lender...in their choice of lenders, including in the prequalification process." This condition is acceptable. "To the extent legally permissible, the residential workforce housing units shall be restricted to residents of Maui County, with a preference given to residents currently employed or residing in the West Maui community planned area." This condition is acceptable. "The developer shall host at least one homebuyer financial education program workshop for residential workforce housing unit applicants." This is acceptable. "The project shall comply with all applicable requirements of Chapter 2.96 MCC and Chapter 201H HRS." This condition is acceptable. "The developer must construct a rough-in for a future photovoltaic system in the workforce homes prior to the final...prior to final building permit inspection approval by the Department of Public Works for each unit of the project." So we had added, "in the workforce homes" which would be acceptable for us. "There shall be no fee waivers." This condition adds considerable cost to the project, and I mean, we could discuss further.

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I mean, as I mentioned, there are significant costs that we had factored into not paying, which would afford us to have, you know, rather than closer to 50 to 60...68 percent affordable homes. But we're willing to...to speak more on this. "There shall be no exemption from 19.68.020 and 19.68.030 MCC." So these...these...this condition isn't acceptable to us because it would require us to go through the conventional process, which adds considerable amount of time in having to go through Planning Commission and other steps before coming to you. And because you are the...the legislative...the approving body, whether we do this process that we're currently engaged in or...which would exempt us from these two rules that we're asking for, or if we go to the conventional system, you guys would still...I mean, sorry, this body will still be the approving body. So that's why we would prefer, and we object to the condition of not being able to exempt ourselves from those two rules. And similarly, the next condition is, "there shall be no exemption from Section 8-8.4 Maui County Charter...sorry, Maui County Charter." And that provision also allows us to utilize this current process to...and rather than the conventional process, which would speed things up with this process. And again, you are the decision-making authority in either process. "The project shall be developed in substantial compliance with the representations made to the Council in obtaining approval of this resolution. The County of Maui has a right to deny the issuance of building permits of any unit on any lot in the project, if and as long as, the developer is in breach of any of these modifications." So this condition is acceptable. The next one, "the developer shall provide annual status reports to the Director of Housing and Human Concerns and the Council for all affordable dwelling units, commencing with one year of the effective date of this ordinance. The status report should include: (1) the number of affordable dwellings and market priced units sold; (2) the income bracket for each purchaser and purchase price; (3) status of compliance with all of...all the conditions above." This condition is acceptable. "Please provide further..." oh, sorry. The next one is...are the questions, so that was the last condition, I believe.

CHAIR KAMA: So we're on 28?

MR. GINOZA: So that...that was...I had aggregated both Ms. Paltin's question...I mean, sorry, proposed conditions as well as the questions that she had asked. So number 28 on, we had discussed earlier when you had wanted me to go over the questions first.

CHAIR KAMA: Oh, okay. Okay. Okay.

MR. GINOZA: I believe there are only 27 conditions. Proposed conditions.

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: I don't want to preclude anybody else from doing their conditions. I just was brainstorming, and I didn't mean to --

CHAIR KAMA: Good.

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COUNCILMEMBER PALTIN: -- to steal the show.

CHAIR KAMA: No.

COUNCILMEMBER PALTIN: So if anybody else had conditions, I don't want to stop you.

CHAIR KAMA: Absolutely. Okay. I saw Mr. Sinenci's hand.

COUNCILMEMBER SINENCI: Thank you, Chair. Yeah. I just had a question for Director McLean. Should the developer pull grading, grubbing permits, is that...does that require archaeological monitoring during the construction?

MS. MCLEAN: Thank you for the question, Councilmember Sinenci. Grading permits are administered through the Department of Public Works, and typically, yes, grading permits are sent to SHPD for review before issuance, but they would be the ones to confirm that.

COUNCILMEMBER SINENCI: Thank you. Thank you, Chair.

CHAIR KAMA: Any other questions? Oh, yes, Mr. Molina?

VICE-CHAIR MOLINA: Yeah. Thank you, Madam Chair. I'd like to propose a modification for consideration.

CHAIR KAMA: Yes.

VICE-CHAIR MOLINA: This will be, "a secondary emergency evacuation access will be provided in the event of wildfires." I don't know if that's a...sort of bright idea, but again...and I'd like to get feedback from Mr. Ginoza, if possible.

CHAIR KAMA: Go ahead. Yes. Mr. Ginoza?

MR. GINOZA: Sure. So as part of the...the site plan, I mean, we have multiple accesses. Not only the ones that are currently proposed to be roadways, but also, you can see the fire lane, as well as a roadway easement on the left side, which could also be used to...to vacate.

VICE-CHAIR MOLINA: And...and that was sufficient with the Fire Department?

MR. GINOZA: I...I actually didn't receive a...a comment letter back, but I believe they're...they're here.

CHAIR KAMA: They're here.

VICE-CHAIR MOLINA: Okay.

CHAIR KAMA: I think Mr. Haake is here.

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VICE-CHAIR MOLINA: Yeah. Yeah.

CHAIR KAMA: Mr. Haake?

MR. GINOZA: Okay. So there would be access through Luawai or the other one, but go ahead.

MR. HAAKE: Hi, Chair. We're here.

CHAIR KAMA: Hi. Would you like Mr. Molina to repeat the question? I think we're looking for an emergency evacuation and access for this project, and do you have any comments regarding that?

MR. HAAKE: We see that there's two ways to get into the property. Maybe Mr. Ginoza can share the access for the Councilmembers?

MR. GINOZA: Sure.

CHAIR KAMA: Mr. Ginoza?

MR. GINOZA: So as you can see, off of Luawai, there would be two accesses to get out of the project. And then off of the cane haul road, there would be another fire lane access. And to the left of the project, you will see a road...future roadway easement that would connect to that...that path if it's...I mean, on that side of the...the subdivision. So there will be multiple accesses for the Fire Department and for evacuation.

VICE-CHAIR MOLINA: Okay. Thank you, Mr. Ginoza.

MR. GINOZA: I don't know how specifically...okay. Sorry about that.

VICE-CHAIR MOLINA: No. No worries. I just want to make sure if that's okay with the Fire Department, then I'll withdraw that proposal. But if what you already have is sufficient as far as the Fire Department, they're okay with it, then fine.

MR. HAAKE: Chair, this is. . . (*audio interference*). . .

CHAIR KAMA: Yes. Yes.

MR. HAAKE: So the plan...the plan that we have, I asked Mr. Ginoza to share because I'm not sure the plan that I have currently is --

CHAIR KAMA: The same?

MR. HAAKE: . . .(*audio interference*). . . those things.

CHAIR KAMA: Okay.

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MR. HAAKE: But I see one access off of Luawai, I believe. And then I see another one that supposedly goes to the cane haul road. And that's the plan that we have currently.

MR. GINOZA: And yeah, so...

MR. HAAKE: But if we were to review this, we would require two ways out of the property. So sounds like Mr. Ginoza's updated plan has more ways to get out than the two that's shown on our...our plan.

CHAIR KAMA: So Mr. Ginoza, it seems like you have to update the Fire Department with your updated plan? With your two access . . . *(inaudible)*. . .

MR. GINOZA: So what happened was...yeah, we...you know, as a result of the input we received, we updated the plan, and then we sent them this...this revised application. So I guess maybe they still have an older copy of the application. I can definitely send them the revised site plan. I didn't realize they did not have it, but we did...we did honor the request to have more access points --

CHAIR KAMA: Okay.

MR. GINOZA: -- through the project.

CHAIR KAMA: Mr. Molina?

MR. GINOZA: So I will do that.

CHAIR KAMA: Thank you.

VICE-CHAIR MOLINA: Well...well --

CHAIR KAMA: Is that sufficient for you, Mr. Molina?

VICE-CHAIR MOLINA: -- yeah, I guess. But I...because I...apparently there's two different plans here, so...which is sort of why I kind of threw that out there, where we memorialize by modifying this proposal by having secondary emergency evacuation access will be provided in the event of wildfires. So that way, we're clear and we're sure. Because Mr. Ginoza has one version of the plan, which is updated. The Fire Department has an older version. So I mean, it's either that or we...

CHAIR KAMA: You want to have one here?

VICE-CHAIR MOLINA: Yeah. I'll just throw it in there for --

CHAIR KAMA: Okay.

VICE-CHAIR MOLINA: -- to be sure.

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CHAIR KAMA: No harm. Right. There's no harm.

VICE-CHAIR MOLINA: If that's okay with you, Mr. Ginoza.

MR. GINOZA: Yes.

VICE-CHAIR MOLINA: Okay.

CHAIR KAMA: Okay.

VICE-CHAIR MOLINA: All right. Thank you.

CHAIR KAMA: That's good.

MR. HAAKE: Thank you, Chair. If Mr. Ginoza provides the updated plan, we'd be happy to provide comment.

CHAIR KAMA: Thank you, Mr. Haake.

MR. GINOZA: Absolutely.

CHAIR KAMA: Okay. Okay. We got that. Okay. Members...yes, Mr. Sinenci?

COUNCILMEMBER SINENCI: Yeah. Thank you, Chair. The last meeting, we had that one woman from a land trust. She was looking to maybe partner and to...you know, our concerns was about bringing down some of the costs of the homes. After this...today's meeting, we're talking about 70 percent of the homes that are over \$600,000. We talked about ATU maintenance fees, HOA fees, title insurance, all on top of those...your mortgage rates. So I was wondering if the developer was open to working with the land trust to bring down...you know, you have nine...nine lots, or 19 total, and are you guys open to working with land trust, at least to bring down some of these costs. I mean, you're still over...and then after today, discussing ATU maintenance fee, HOA fees, title insurance, that's just additional for your mortgage payment. So I was just...I mean, Mr. Ginoza, are you guys...afford to work with some of these non-profits to bring down the cost of some of your homes?

MR. GINOZA: Yes. So we...we are amenable to working more with the non-profits. We had talked about...talked about it in the context of some of the 12, perhaps all of the 12 on the lowest bracket.

CHAIR KAMA: Right.

MR. GINOZA: You know, we're selling it to them, you know, pretty much at the cost of having the lots ready. And because they'll be able to...through sweat equity, be able to build much more cheaply than others would, then that would significantly reduce the cost of what would be that lowest bracket. So we're exploring...you know, if it's...if the

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number's the full 12 that they will do...that, you know, they accommodate that lowest bracket or, you know, what...what can really be done. But yeah, we are amenable to putting more units --

COUNCILMEMBER SINENCI: Okay.

MR. GINOZA: -- toward Nahale and with Habitat.

COUNCILMEMBER SINENCI: And I'm open to making that a condition, Chair, or support that as well.

CHAIR KAMA: How would you like to verbalize that, Mr. Sinenci?

COUNCILMEMBER SINENCI: Mr. Ginoza, you're open to all 12 being...working with --

MR. GINOZA: Sure.

COUNCILMEMBER SINENCI: -- with the nonprofits?

MR. GINOZA: Yeah.

COUNCILMEMBER SINENCI: Having the...okay.

CHAIR KAMA: Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you, Chair. One of the things that I had liked about this original proposal...and again, I'm open to some of the modifications, especially Ms. Paltin's. But I can tell you in my 20-plus years, this is one of the few so called "affordable projects" that I feel is trying to attain what we had in...tried to do through policy. And for me, this is not a affordable housing project to fit the whole spectrum of affordability. This is, for me, an upper spectrum of the affordable component of affordable housing, and what I like about it is they're not asking me for government subsidy or support to artificially adjust value. And that's the one thing that I think we should remember and try to look at, is that this project is meeting affordability of the upper end, not necessary [sic] the lower end. But this project for me was never about the 80 percent component of affordability, was always about those that were pretty much our so called, "County professionals", firefighters, police, EMS, wastewater, parks, that category is what I was hoping we could address with this type of project. So, you know, I'm open to you folks giving proposals, but if we're going to allow nonprofits to come back to us and tell us they need couple of million dollars, then we going back to where we were, subsidizing a project that pretty much could have stand on its own. When are we going to allow the private sector to do what they were supposed to do without us subsidizing it? Because we still got to subsidize the lower end, which I don't have a problem, but I really don't need to subsidize this project that I feel has made some sense to take care the upper level of affordability. Because look at the sales prices lately on the markets. That's our local guys buying too, and they paying for markets. Thank you, Chair.

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CHAIR KAMA: Thank you, Mr. Hokama, for that point. Any other questions for the developer or the departments or anyone else? Yes, Mr. Molina?

VICE-CHAIR MOLINA: Yeah. Thank you, Madam Chair. I'd like to throw out one other modification for consideration.

CHAIR KAMA: Yes, Mr. Molina?

VICE-CHAIR MOLINA: I believe in the application, there was no indication of a park or a open space set aside for the residents. So therefore, I would like to propose a modification that would read as follows, "a park or open space shall be provided consisting of at least 10,000 square feet", and I'd like to get comment from Mr. Ginoza if possible.

CHAIR KAMA: Mr. Ginoza?

MR. GINOZA: Are we able to...I'm not familiar with the requirement off hand. Are we able to give that or accommodate that request on a neighboring property, or do we have to do it within the property? Because that's something that --

CHAIR KAMA: In your project.

MR. GINOZA: -- we...we could...

CHAIR KAMA: Who can answer that question? Ms. DesJardins?

MS. DESJARDINS: I don't have an answer to that, whether you can do that on a neighboring property or without expanding out your project or redefining the configuration of it. Maybe Planning would...would have some input on that.

CHAIR KAMA: Ms. McLean, are you with us?

MS. MCLEAN: Yes.

CHAIR KAMA: Okay.

MS. MCLEAN: Regarding parks assessments, you probably know that there is a parks assessment requirement as part of the subdivision code, and that a certain amount of land per lot is assessed either to contribute the land or contribute its equivalent cash value. And so that means that those parks can be developed off site. In terms of incorporating a park into this project, I would agree with Corporation Counsel that if it's part of this project, it should be included in the project area. But it would be up to the Committee and the Council to decide if that requirement can be fulfilled another way, off site or in the region, and that's acceptable to the Council, then you would just want to include that some way in the approval, that the project shall include, you know, satisfaction of park requirements in this particular way.

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CHAIR KAMA: Um-hum.

MS. MCLEAN: Now if that land needs any sort of entitlement related to the 201H, it would have to be included --

CHAIR KAMA: In the project.

MS. MCLEAN: -- in the project area. But if it's otherwise entitled and can be appropriately designated, then it could be separate parcel.

CHAIR KAMA: Okay. Mr. Molina --

VICE-CHAIR MOLINA: Yeah.

CHAIR KAMA: -- what is your preference?

VICE-CHAIR MOLINA: I tell...I think better in the project area, if possible. So...

CHAIR KAMA: Absolutely.

VICE-CHAIR MOLINA: Close to the residents.

CHAIR KAMA: Absolutely. Right. Okay.

MS. MCLEAN: Chair, if I could also add, an earlier version of the site plan did include a park. The layout of the site plan now, I think, is an improvement over the...some of the earlier versions.

CHAIR KAMA: Um-hum.

MS. MCLEAN: The earlier versions did include a park --

CHAIR KAMA: Okay.

MS. MCLEAN: -- within the project area, and removing that was a...detracted from the project. Didn't enhance it. Thank you.

CHAIR KAMA: Mr. Ginoza?

MR. GINOZA: We'd have to look at it, but it may...it's something I can take back and try to see where we can accommodate it. That's why I was just trying to find out what our options are as far as like Director McLean mentioned, whether it could just be --

CHAIR KAMA: Okay.

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MR. GINOZA: -- within the community planned area or within the project. If it has to be within the project itself, we got to kind of look and try to determine if there is an area we can put something without it being in a --

CHAIR KAMA: Um-hum.

MR. GINOZA: -- not so good spot, right?

VICE-CHAIR MOLINA: Thank you.

CHAIR KAMA: Thank you, Mr. Molina. Ms. Sugimura, and then Ms. Paltin.

COUNCILMEMBER SUGIMURA: Thank you. Thank you, Chair. So did the project put in a walk...walking path to satisfy some of these kinds of requirements?

MR. GINOZA: Yes. So as Director McLean had mentioned, and as I had mentioned previously, we had a...a small neighborhood park, like a pocket park. But in response to some of the community concerns, as well as the Department for having a walking path...so we put in provisions for a ten-foot wide walking path going kind of mauka to makai --

CHAIR KAMA: Okay.

MR. GINOZA: -- as well as having these additional accesses, it necessitated a revision of the site plan, which basically consumed that pocket park that we had.

COUNCILMEMBER SUGIMURA: Um-hum.

MR. GINOZA: So that was the cause for the elimination of the .6...of that...of that neighborhood park, and it's something that we, you know, can look at again to see where we might be able to put it. So...yeah, I'd like to be able to see if we could accommodate that request.

CHAIR KAMA: Thank you. Very nice. Anything else, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: No.

CHAIR KAMA: Okay. Ms. Paltin?

COUNCILMEMBER PALTIN: I have a question for Ms. DesJardain [sic] --

CHAIR KAMA: Yes.

COUNCILMEMBER PALTIN: -- Jardins. Okay. Mimi, I just was wondering, you know, I saw the response from DOH to Mr. Ginoza, and I was wondering, is it possible...I mean, I don't know that DOH can exempt them from environmental review HRS 343-5(a)(9)?

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MS. DESJARDINS: So as far as Chapter 343 goes in general, there is no . . . *(audio interference)*. . . for Chapter 343 review in this project. I don't know whether...so I don't think --

COUNCILMEMBER PALTIN: I thought further...

MS. DESJARDINS: . . . *(inaudible)*. . . is accepting them?

COUNCILMEMBER PALTIN: More than...more than 50 wastewater treatment units isn't a trigger?

MS. DESJARDINS: So it sounds like, from Mr. Ginoza's explanation from DOH, if I followed it, is that the addition of the one-acre lots does not take this over the 50 limit under the Hawaii Administrative Rules, Title 11; is that correct? Is that what you got from DOH?

MR. GINOZA: Yes.

MS. DESJARDINS: Okay. So if that's the case, then that would not trigger a 343 assessment. That in and of itself...if that's correct, based on the email that he attached to the...to your responses. That's what DOH's position is. I could look into it further, but I don't have any reason to disbelieve DOH in terms of their assessment of HAR Title 11.

COUNCILMEMBER PALTIN: I just don't see how DOH trumps 343...the statute.

MS. DESJARDINS: No. They don't...well, it's their administrative rule so let me look into that if there's time...if we're going to recess this meeting, I can look. I don't have an answer...adequate answer off the top of my head, but based on what Mr. Ginoza is saying, it sounds like DOH would take the position it doesn't trigger 343, but I can look at that.

COUNCILMEMBER PALTIN: Yeah. Because my understanding is the rule for DOH is the one-acre, one lot. 343 has no such rule. 343 just says, "over 50 wastewater units." So DOH isn't the reviewing agency of the 343.

MS. DESJARDINS: Yeah. I don't...you know, the other thing you might do is you might ask DEM if they have a representative here. They might know off the top of their head, otherwise I'd have to look into it.

COUNCILMEMBER PALTIN: I think Mr. Agawa's on the line.

MS. DESJARDINS: Maybe he...yeah, maybe he...

CHAIR KAMA: All right. So someone from DEM?

MR. AGAWA: Hi, Chair and Councilmembers.

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CHAIR KAMA: Mr. Agawa, are you here?

MR. AGAWA: Yes.

CHAIR KAMA: Oh. Okay.

MR. AGAWA: Hi.

CHAIR KAMA: Hi.

MR. AGAWA: Although...you know, the individual wastewater systems is not under County jurisdiction --

CHAIR KAMA: Okay.

MR. AGAWA: -- it's under State DOH. When I looked at Hawaii Administrative Rules 11-62, specifically under subchapter 3, and if anybody has that up, it's on page 62-48. My interpretation of what that says, allows over 50 with the one-acre parcels. It's spelled out in item 1...let's see, part B. Page 62-48, item 1, subchapter 3, part B. So my interpretation is that it...it is allowed, what they're proposing. Keep in mind, this is not under our jurisdiction. This is DOH. This is just my interpretation of how it's written in Hawaii Administrative Rules.

COUNCILMEMBER PALTIN: I think --

MR. AGAWA: Which one trumps which? I can't speak on that.

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: -- 343 is implemented by HAR 11-200, not 11-62. That's why.

MR. AGAWA: Yeah. 11-62 is...subchapter 3 is specifically regarding individual wastewater systems. That is kind of the guideline that engineering follows...development follows, to my understanding. And again, which one trumps which, I...I don't know.

COUNCILMEMBER PALTIN: I kind of think it's H...the environmental review is triggered because there's more than 50 wastewater units. DOH has their rules, but 343 is a State statute.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: I heard someone.

COUNCILMEMBER RAWLINS-FERNANDEZ: . . . *(audio interference)*. . . Rawlins-Fernandez.

CHAIR KAMA: Yes, Ms. Rawlins-Fernandez?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I just wanted to concur with Member Paltin that it's a State statute...343, and the admin rules fall under statute, and 11-200 is what implements the statute, and not 11-62.

CHAIR KAMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: And so...I mean, and I...I understand Ms. DesJardins would need to like look a little more into it --

CHAIR KAMA: Um-hum.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- but really, I mean, that's why we have Corporation Counsel here to help us --

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- with interpretations of the law.

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: But my understanding of the law is what Member Paltin just stated.

CHAIR KAMA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: I'm not taking the place of Corporation Counsel. I'm just --

CHAIR KAMA: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- that's just my opinion.

CHAIR KAMA: Thank you. Okay. Members, we are at the end of our day. This Chair is not going to hold you over any more later than we already are. So I'm going to recess this meeting. I'm going to ask the Staff to put together all the conditions that we talked about. Get it written up in order, hopefully send it out to all of us so that over the next week...because the next meeting for Affordable Housing is on Monday, October 5th, okay? So...at 9 o'clock in the morning. So we're going to recess until that day, at which time we'll have a clean set of eyes on our conditions, and we can go through each of them individually, and we can have a deeper dive into each of them and continue making our decision on that day. I think I saw Ms. King's hand was up. Yes, Ms. King?

COUNCILMEMBER KING: Yeah. Thank you, Chair. The...so how are you going to write up the conditions because it sounded like there was some that we weren't in agreement with between the proposal...

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CHAIR KAMA: They're going to be written up...they're going to be written up the way we heard them today, or maybe just right off of what Mr. Ginoza had. There are some that he said were good. There are some that Ms. Paltin said, you know, she's not satisfied with that, and those are the ones that we're going to have to take a deeper dive on. And I'm hoping that I captured some of them, and I'm hoping the Staff captured some of them too, the ones that we're going to have to take a deeper discussion on. And that's what we're going to do on Monday.

COUNCILMEMBER KING: Okay. So we'll use the same version that's right now in Granicus that's got Mr. Ginoza's corrections in it?

CHAIR KAMA: We're going to use that, plus the comments that we heard today, and the discussion that went between Ms. Paltin, Mr. Ginoza, and many of you over here too, including the new conditions that Mr. Sinenci, Mr. Molina, and comment from Mr. Hokama.

COUNCILMEMBER KING: Okay. And then can we also expect to have a legal opinion on 343?

CHAIR KAMA: Yes. Yes. Also that too. Gives Mimi a few days to work on that.

COUNCILMEMBER KING: Okay. Thank you.

CHAIR KAMA: Ms. Paltin?

COUNCILMEMBER PALTIN: Also, Member Molina's original questions in writing.

CHAIR KAMA: So about the waiver and the fees, right? Or the cost? Right, Mr. Molina?

VICE-CHAIR MOLINA: That's right.

CHAIR KAMA: Okay. Thank you. Thank you for that. Yes, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: You know, we went over a lot of the conditions, I had a few conditions too, but --

CHAIR KAMA: Oh, okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- honestly, you know, the conditions that weren't acceptable to the developer were kind of deal breakers for me, and so...

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CHAIR KAMA: Okay. Well, let's talk about it. The deal breakers, if they're not...if they're deal breakers, we should talk about it, right? And so you had conditions you --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. So I...I...I'm just...yeah, I do have some conditions, but I didn't want to like waste everyone's time. Because if those conditions are not acceptable, then I'm not going to be voting for the project.

CHAIR KAMA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: So that...that...you know, that...that's...that would kind of be my vote --

CHAIR KAMA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- as of right now, if that is where the developer stands on these conditions. And so I don't know if, you know, other Members feel that way about those conditions. If, you know, they're not acceptable to the developer, if they already have a decision on how they would vote for this project --

CHAIR KAMA: Right. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- so, you know, we don't waste everyone's time.

CHAIR KAMA: So do you want to submit what you've got in writing, as well as take up...I mean...and then we will take up some of those that were in question, that the...that the developer said were unacceptable to him, or it's unacceptable to us. So do you have some of those in writing or no?

COUNCILMEMBER RAWLINS-FERNANDEZ: I do have them in writing. But I was just --

CHAIR KAMA: Would you like to submit them?

COUNCILMEMBER RAWLINS-FERNANDEZ: -- I was trying to get a gauge on where everyone is at to save you time, Chair. Because if everyone is, you know, still open to some of these conditions not being part of the project, then, you know, I think a discussion, you know, a further discussion is warranted. But if those are deal breakers for other members as well, then, you know, perhaps a recess is unnecessary.

CHAIR KAMA: Well, I think a recess is still necessary because to ask everybody to take a gauge now without having many of the things in the front of them...I know people would want to have them in the front so they can look at it, I guess, understand it, get some good feelings about it or clear...clarity. But I think we're still going to have to do the recess. That's my sense, Ms. Rawlins-Fernandez. Thank you. Ms. Lee?

COUNCILMEMBER LEE: Madam Chair, I'm not totally against trying to gauge where most people are without voting because...I appreciate Member Rawlins-Fernandez making her comments because you could waste a whole lot of time. If people already decided

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they're not even going to support this, and then come back with more conditions, I mean, it's just not reasonable to do something like that. I think if we're...I...I think I'm open--I can just speak for myself--I'm open to trying to work out some of the unresolved issues. That's my attitude going in. I do not have any deal breakers like Ms. Rawlins-Fernandez, but if other people do have them, they may as well say it now. Because if there's like five of you who have those deal breakers, you may as well tell us now because this project is not going to go forward anyway.

COUNCILMEMBER PALTIN: Okay. So is this like discussion? Or...or like...

CHAIR KAMA: No. Actually, I'm trying to get to a recess.

COUNCILMEMBER RAWLINS-FERNANDEZ: We weren't going to take a vote. What we're...what we're encouraging is not wasting everyone's time. So if others have deal breakers like I do, then, you know, we're...we're taking an unofficial gauge of where everyone stands as of right now. After going through these conditions and, you know, a bunch of those conditions were not acceptable to the developer. And those, in order for, you know, my vote to go through, need to be acceptable.

CHAIR KAMA: But my whole sense is like Ms. Lee, is that if our job is to be able to create more housing, better housing, and a better place in however we can do it, I think we owe it to our people to have a discussion. And that's my whole sense of things.

COUNCILMEMBER RAWLINS-FERNANDEZ: I...and so I think that's where we disagree --

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- and...and as I stated --

CHAIR KAMA: True.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- multiple times throughout the --

CHAIR KAMA: Absolutely.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- the past --

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- term, that --

CHAIR KAMA: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- I'm all in support of affordable housing, but not at all and any cost. It cannot put too much restraint on our resources or impact our environment, you know, to the point --

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CHAIR KAMA: I agree.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- that we're destroying our environment.

CHAIR KAMA: I agree. But without a deeper dive and a better...bigger discussion with everyone included, you...it's...it's difficult to gauge in a...such a time right now. I'd rather that we take the recess, come back, and do a deeper dive, and give the opportunity to the developer...his due. That's my sense of things, Members.

COUNCILMEMBER RAWLINS-FERNANDEZ: Member Sinenci has his hand up.

CHAIR KAMA: Yes, Member Sinenci?

COUNCILMEMBER SINENCI: Thank you, Member Rawlins-Fernandez. Thank you, Chair. Yeah, my question to Staff is just the timelines. Chair, you mentioned an October 24th deadline, and so I don't know if we require two Council meetings, or does the project still need to go through a district boundary amendment? So I mean, just checking on timelines if we're going to go ahead and defer to the 6th?

CHAIR KAMA: So...so we're good on time, Mr. Sinenci. Thank you for that question. So Member...yes, Ms. King?

COUNCILMEMBER KING: Sorry to prolong this, but you know, one of my big sticking points is the Community Plan. And I've read through the testimony where people are concerned that this is not compliant with either the existing Community Plan or the updated Community Plan, which still has to go through Council review. And so if we're going to meet on October 5th, can I request that we get comment...and not right now because I don't want to prolong your meeting, but can I get written comment from the Planning Department on how this project does or doesn't comply with the Community Plan, the West Maui Community Plan?

CHAIR KAMA: Ms. McLean, are you still with us, or did you clock out for the day?

MS. MCLEAN: Yes, Chair.

CHAIR KAMA: There you are. Thank you.

MS. MCLEAN: Thank you. Sure, we can provide comment. I'm always reluctant to provide comments on a plan that is still in the process, that hasn't been adopted yet. But certainly, that...the plan in the...in the process where it is now is a reflection of the direction that the community wants to take. I think more so, though, the 201H process allows for projects to not be in compliance with zoning and community plans. So we could give a very detailed analysis of it not being in compliance, and then the developer could request a waiver from those --

COUNCILMEMBER KING: Sure.

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MS. MCLEAN: -- restrictions.

COUNCILMEMBER KING: Sure. But that's part of what's going to help me make my mind up, you know, is whether to give that waiver because...and if you can comment on whether it's compliant with the existing Community Plan and the proposed updated Community Plan, that would be helpful.

CHAIR KAMA: Thank you, Ms. McLean.

MS. MCLEAN: I'll see what we can do between now and then.

COUNCILMEMBER KING: Thank you.

CHAIR KAMA: Ms. Lee?

COUNCILMEMBER LEE: Yes, Madam Chair. Can I ask for...for you to ask the Department of Housing and Human Concerns to give their comments on where the other 10,000 houses are coming from, okay?

CHAIR KAMA: Okay.

COUNCILMEMBER LEE: Because if we don't do this 40, it's not like we have people knocking down our door to build housing. So somebody's got to do the housing, who's going to do the housing? Thank you.

CHAIR KAMA: Ms. Paltin?

COUNCILMEMBER PALTIN: You know, in response to Member Lee's question, when Kapalua Mauka got its approval, there was supposed to be 40 affordable housing before the first market rate housing was ever built. Then Maui Land and Pine sold Mahana Ridge to Nong Shim, and he built two luxury homes, and there's no 40 affordable housing, so that would be a good start.

CHAIR KAMA: Yeah. Thank you. Members, it is the end of the day...

COUNCILMEMBER LEE: You know...Madam Chair? Madam Chair? Madam Chair?

CHAIR KAMA: Yes? Yes? Go ahead.

COUNCILMEMBER LEE: When I ask for some information, could we not have people comment on my request? It's my request, okay? If they have arguments for other projects or other issues, that's fine. But when I ask for something, it's only for, you know, I need to make the decision, I need that information. Thank you.

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER PENDING FURTHER DISCUSSION.

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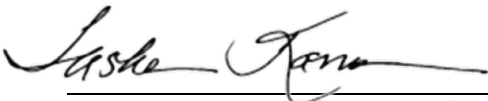
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CHAIR KAMA: Thank you. So Members, this meeting is now adjourned. We're going to recess until October 5th at 9 a.m. Thank you. . . .*(gavel)*. . .

RECESS: 4:42 p.m.

APPROVED:



TASHA KAMA, Chair
Affordable Housing Committee

ah:min:200929r-d

Transcribed by: Jaylene K. Hamilton

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CERTIFICATION

I, Jaylene K. Hamilton, hereby certify that pages 1 through 67 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 27th day of October 2020, in Wailuku, Hawai'i

A handwritten signature in dark ink, reading "Jaylene K. Hamilton", is written over a horizontal line.

Jaylene K. Hamilton