

**AFFORDABLE HOUSING COMMITTEE**  
Council of the County of Maui

## MINUTES

# June 13, 2022

## Online via BlueJeans Link

**RECONVENE: 9:10 a.m.**

**PRESENT:** Councilmember Michael J. Molina, Vice-Chair  
Councilmember Tasha Kama, Member (out 9:20 a.m.; in 10:03 a.m.)  
Councilmember Kelly Takaya King, Member  
Councilmember Alice L. Lee, Member  
Councilmember Tamara Paltin, Member  
Councilmember Keani N.W. Rawlins-Fernandez, Member (arrived at 9:30 a.m.)  
Councilmember Shane M. Sinenci, Member  
Councilmember Yuki Lei K. Sugimura, Member

**EXCUSED:** Councilmember Gabe Johnson, Chair

**STAFF:** Paige Greco, Legislative Analyst  
Alison Stewart, Legislative Analyst  
Richard E. Mitchell, Legislative Attorney  
Stacy Vinoray, Committee Secretary  
Jean Pokipala, Council Services Assistant Clerk

Kate Griffiths, Executive Assistant to Councilmember Johnson  
Autumn Ness, Executive Assistant to Councilmember Johnson  
Roxanne Morita, Executive Assistant to Councilmember Johnson  
Evan Dust, Executive Assistant to Councilmember Kama  
Lois Whitney, Executive Assistant to Councilmember Kama  
Davideane Kama-Sickels, Executive Assistant to Councilmember Kama  
Axel Beers, Executive Assistant to Councilmember King  
Ellen McKinley, Executive Assistant to Councilmember King  
Laura L. McDowell, Executive Assistant to Councilmember Molina  
Sarah Freistat Pajimola, Executive Assistant to Councilmember  
Rawlins-Fernandez

Mavis Oliveira-Medeiros, Council Aide, Hāna Council Office  
Denise Fernandez, Council Aide, Lānaʻi Council Office  
Daniel Kanahele, South Maui District Office  
Anabelle Hernandez, Council Aide, Makawao-Haʻikū-Pāʻia Council Office

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- ADMIN.:** Mimi DesJardins, Deputy Corporation Counsel, Department of the Corporation Counsel  
Linda Munsell, Deputy Director, Department of Housing and Human Concerns  
Clyde “Buddy” Almeida, Housing Administrator, Department of Housing and Human Concerns  
Jordan E. Hart, Deputy Director, Department of Planning  
Jordan Molina, Director, Department of Public Works  
Robert Schmidt, Deputy Director, Department of Environmental Management  
Shayne Agawa, Deputy Director, Department of Water Supply  
Michael Gormley, Firefighter IV, Department of Fire and Public Safety  
Johann Lall, Geographic Information Systems Analyst IV, Planning Long Range Division  
Jared K. Dudoit, Police Officer III, Department of Police
- OTHERS:** Lawrence Carnicelli, Vice President of Development, Alaula Builders  
Doyle Betsill, President, Alaula Builders  
Vince Bagoyo, Owner, V-Bagoyo Development Group LLC  
Ron Ped, President, Ronald James Ped Architect, PC  
Stacy Otomo, President, Otomo Engineering, Inc.  
Lisa Rotunno-Hazuka, Owner, Archaeological Services Hawaii, LLC  
Tyler Fujiwara, Maui Chief Transportation Manager, Austin, Tsutsumi & Associates  
Jeff Pantaleo, Archaeological Services of Hawaii  
Vernon Kalanikau  
(18) others
- PRESS:** *Akakū: Maui Community Television, Inc.*  
*Kehaulani Cerizo, The Maui News*
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**ITEM AH-17: HALE WAIPU‘ILANI WORKFORCE HOUSING PROJECT  
(KĪHEI)**

VICE-CHAIR MOLINA: . . .*(gavel)*. . . The Affordable Housing Committee meeting will now come to order. Today’s date is June 13, 2022. The time is 9:10 a.m. My name is Mike Molina, I’m the Committee Vice-Chair. I’ll be your meeting facilitator today on behalf of Committee Chair Johnson, who is currently off-island right now. And you, Members, and members of the public, I apologize for the late start this morning. Apparently, there were some technical glitches going on, but these glitches, I have heard, are now cleaned up for the time being anyway. And for the record, I am transmitting out of the Pā‘ia District Office this morning, and I’m accompanied by District Specialist Anabelle Hernandez. And Members, if you recall, on June 6, we did take public testimony for the one item

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on our agenda today, which is AH-17, the Hale Waipu'ilani Workforce Housing Project. Testimony was taken on the 6th and closed that day, so no public testimony will be taken for this recessed meeting. Joining me this morning, I'd like to recognize our Council Chair Alice Lee, who will also be giving us our greeting for the day. Aloha and good morning, Chair Lee.

COUNCILMEMBER LEE: Aloha, Mr. Chair. The morning greeting is namaste, and that means, literally, I bow to you and all my colleagues. Looking forward to another great day...although it's not really that great...it's not the great GREAT, it's the AH. All right. And as you know, I'm in the Chambers. There's nobody here. I feel like this is a Chair's meeting because that's all I see are chairs. And no one else is here except our Staff. Thank you.

VICE-CHAIR MOLINA: Thank you, Chair Lee. My goodness, you're on a roll this morning with word play. Terrific. Man, what did you have for breakfast? I want some. All right. Let's go find out who else is here. And also, by the way, Members, just a reminder...and, of course, the Sunshine Law, if you're not in the Council Chamber, again, please identify by name who, if anyone else, is in the room, vehicle, or workspace, wherever you are. Let's go now to Councilmember King from South Maui. Aloha and namaste.

COUNCILMEMBER KING: Aloha and namaste, Chair. Nice to see Chair Lee in the Chambers. Sorry we're not all with you again. But I am broadcasting from my home office, and there's nobody in the room with me. My husband is two rooms away. We have no public testimony today because we closed it the other day, so nothing to report from district office. Good morning, everyone.

VICE-CHAIR MOLINA: Okay. Thank you very much, Member King. Let's find out how we're doing in the neighborhood. Aloha and namaste, Councilmember Kama.

COUNCILMEMBER KAMA: Aloha kakahiaka, Chair, and namaste to all of my fellow colleagues this morning. I am here in my home in my workstation, and in the next room is Lena and her caregiver, getting ready to leave for the day. Thank you, Chair.

VICE-CHAIR MOLINA: Okay. Mahalo, Member Kama. Let's check in on Mr. Sinenci out there in East Maui. Aloha and namaste.

COUNCILMEMBER SINENCI: Namaste, Chair, and aloha kakahiaka kākou, mai Maui Hikina. Nice to see everybody. I am here at the Hāna Culture Center with my Staff, Mavis Medeiros, and we're happy to see everyone. Aloha.

VICE-CHAIR MOLINA: Aloha, Mr. Sinenci. And let's go out to West Maui and check in on Member Paltin. Aloha and namaste.

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COUNCILMEMBER PALTIN: Namaste a me aloha kakahiaka kākou. Broadcasting live and direct from Malu Ulu Olele here at the Lāhainā District Office in historic Lāhainā Town. With me I have EA Angela Lucero and District Office Staff Christian Balagso, and we have no testifiers at this time. Thank you.

VICE-CHAIR MOLINA: Okay. Mahalo, Member Paltin. And let's check in with our Upcountry Councilmember Yuki Lei Sugimura. Aloha and namaste.

COUNCILMEMBER SUGIMURA: Aloha. Namaste. I love seeing Council Chair in the Council Chamber in your chair. Great. I wish I was there. So this morning I am in Kula. I am purposely taking the meeting from home, and my husband is downstairs. But today is my son's birthday, so at noon we're Zooming with him. And so I am staying home so that he and I can be together. And I even baked him a cake...my son a cake. So that's his...we're going to have birthday party by ourselves with him. But I wish I was at the Chambers. I would love to be there with Chair Lee. Thanks, everybody. I am looking forward to this meeting. Thanks.

VICE-CHAIR MOLINA: All right. Mahalo, Member Sugimura. And you're such a good mom. And what time after the meeting do we come up to the house for the birthday celebration? Just kidding.

COUNCILMEMBER SUGIMURA: Yeah, come up 12:00 noon.

VICE-CHAIR MOLINA: 12:00 noon. Okay, fantastic. And I believe Member Rawlins-Fernandez is running a little bit late this morning. As soon as she checks in we'll make sure we recognize her presence for matters today that are on our agenda, which is the one item, the AH-17 Hale Waipu'ilani Project. For Administration, we've invited the Deputy Director for Housing and Human Concerns, Linda Munsell; Corporation Counsel Mimi DesJardins; Planning Director Jordan Hart; Public Works Director Jordan Molina; and we have a representative scheduled to join us from Environmental Management at some time this morning. And also we have the...we've invited the Department of Water Supply, Deputy Director Shayne Agawa. And departments that are on-call in case there are any questions from the Members are Fire, Police, Emergency Management Agency, Parks and Recreation. Department of Transportation is unavailable during the meeting. We'll send any written correspondence if questions do arise for them. Our Committee Staff, hardworking as always, Legislative Analysts Paige Greco and Alison Stewart, Legislative Analyst [sic] Remi Mitchell, Committee Secretary Stacy Vinoray, and Assistant Clerk Jean Pokipala. Very good. All right, Members, as I mentioned earlier, we have...public testimony has already been taken on this matter and closed. So let's get right into the subject matter, Hale Waipu'ilani Workforce Housing project. An application for this development under Chapter 2.97, Maui County Code, was submitted on May 18, 2022. The Council has until July 17 to approve, approve with modifications,

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or disapprove the project, or the project will be deemed approved. So if the Council basically does not take any type of action, the project will be deemed approved. The project would...is currently located at 16 East Waipu'ilani Road in Kihei, and consists of 28 multi-family units for sale to households earning between 80 to 140 percent AMI. We're joined by the developer representatives, who have been designated as resources, along with Mr. Vernon Kalanikau. Developer representatives include Lawrence Carnicelli, Vice-President of Development, Alaula Builders; Doyle Betsill, President of Alaula Builders; Vince Bagoyo, owner of Vince Bagoyo Development Group LLC; Ron Ped, President of Ronald James Ped Architect; Stacy Otomo, President of Otomo Engineering; Lisa Rotunno-Hazuka, owner of Archaeological Services Hawai'i, LLC; and Tyler Fujiwara, Maui Chief Transportation Manager, currently working out of the Austin Tsutsumi office. So, Members, we'll just go ahead and start. I've been told the applicant wants to do an additional presentation. Any of the applicant's representatives would like to come online right now to, I guess, provide additional information on the project? I see Mr. Carnicelli. Good morning.

MR. CARNICELLI: Namaste, Chair. Good morning.

VICE-CHAIR MOLINA: Morning.

MR. CARNICELLI: So, yeah, we have a brief slide presentation just to kind of summarize and update where we are. And if you don't mind, I'll do a share screen and just try to run through this as quickly as I can.

VICE-CHAIR MOLINA: Okay. Please proceed, Mr. Carnicelli.

MR. CARNICELLI: Okay. Can you see my screen?

VICE-CHAIR MOLINA: Yeah, we can certainly see it.

MR. CARNICELLI: Okay. There we go. All right. So, thank you, Chair. 100 percent workforce housing, 2.97 application. So here's the location, as you guys know, in Central/North Kihei. Here is the project site right here. We have East Waipu'ilani Road. This is South Kihei Road. Oceanfront is Waipu'ilani Beach Park. This is the North South Collector Road, Pi'ilani Highway, and up here is where the new roundabout is going in. Here's the project site itself. On the makai side is...oop...on the makai side is South Kihei Road, to the north is East Waipu'ilani, Kauha'a Street to the south, and the neighborhood to the...on the mauka side, surrounded on all four sides, this is an infill project. So if you look at...this as 100 percent workforce housing for-sale units, has all of the normal owner occupied restrictions. It's infill and, just so you guys know, we're on our sixth revision of this due to outreach that we've done with the community. Here's some of the studies that we've had to do, and the analysis on the project. I won't read each one of them. This is the timeline. If everything goes as planned, we'll

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have families moving in the end of next year. Fast track is three and a half years, concept to completion. Here's the project itself. Again, this...the orientation on the makai side is you're going to have a road going all the way through. We've got ingress-egress on Kauha'a Street and East Waipu'ilani. There are 28 units. On the right-hand side here, on the south side, are two townhome duplexes, and then there are six fourplexes, one bedroom, two bedroom, three bedroom. The permeable concrete that shows on the screen there, that's actually...it was brought up in the last meeting. Due to KCA's input, we actually...that was actually removed from the project. We still do have the grass block and all the other features that we talked about before. Of course, we've discussed with you, this is a middle...missing middle housing project. This is marked growth. Here's just some of the renderings here. This is from the Kauha'a side. Again, just some conceptals and renderings. Kind of go through those. You guys have actually seen these before in our meeting on...in January. So here's the breakdown. One bedrooms, two bedrooms, and three bedrooms. The two bedrooms and three bedroom units are actually duplicates of what's going on at Hale Kaiola, just up the street. The one bedrooms is the 450 square feet units, and we'll have two of those. So I don't know if we really need go over the demand, I think everybody knows what the demand is here on Maui. Just as an...just to sort to show, we have 77 people on the wait list for Hale Kaiola right now who keep asking about what's going to happen here. We have over 1,200 residents on our active buyers list. HCA, Jeff Gilbreath, I talked to him on Friday and he said, Lawrence, we could actually sell out Hale Waipu'ilani ourselves. They have 60 qualified families ready to go. And, you know, leading up to last week's meeting, we did just a short petition to see, you know, who would want affordable housing and who's in favor of it. In less than a week we got over 400 signatures. So we all know what the demand is. But, of course, there's concerns. So we want to address some of those concerns. Regional flooding is on the front page of the Maui News. This is the concern with the neighbors is that, yes, Kihei has a regional flooding problem. This particular region, this particular area is a FEMA designated AH, which is called a fringe flood area, which allows no water course alteration and the base flood elevation here is six feet. So talking about base flood elevation, in the last meeting, one of the testifiers brought up that these would have to then be on seven foot stilts, and have to be seven feet in the air. That is actually not the case, it's seven feet above mean sea level. And Deputy Director Jordan Hart actually said...sent the Chair and the Committee a correspondence last week clarifying that that is seven feet above sea level. The site itself is between about four and six feet, so these homes would be somewhere between one and three feet over the ground. So if we go to site specific flooding, yes, Kihei has a regional flooding issue. However, we want to talk about this site specifically. You know, we cannot solve the regional flooding issues. I don't think it's reasonable to ask someone to support the regional flooding issues. However, we aim to improve the situation. And this really goes to...this is engineering. There's standards. Maui County Code 19.62, Maui County Code 18.20.31...130. If we don't meet the standards, we don't get building permits. We can't make the situation worse. So

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we have Stacy Otomo with Otomo Engineering on the line, you can talk to him about the engineering of it. You can also talk to Director Jordan Molina about it, but we can't make the situation worse. And if you think about it, the conversations that were brought up in the last meeting were all about regional issues, not site specific issues. So hopefully we can discuss that with the engineers. The current situation on the north side, or on the mauka side of the road...the property...is a CMU wall about one to three feet, so no runoff comes on or off the property from the mauka side. From the south side here on Kauha'a, there's a retaining wall roughly about four feet tall. No runoff on or off the site from the south side. Along the makai side are rock walls and CMU walls somewhere between six and eight feet tall with the exception of the home at the far end here on the south side, which has a chain link fence, and there's a chain link fence on the East Waipu'ilani side. So as far as any drainage coming on or off the site right now in its current state would only happen in the two chain link fence areas. And so that's the current situation, and we aim to...actually, we should improve that. Wetlands came up. So currently, the jurisdiction for wetlands is the Army Corps of Engineers. The Army Corps of Engineers gave us a letter saying that it does not include wetlands. I will admit that, yes, there is talk about doing a wetland overlay district in Kihei. However, we don't know what the rules are for that, we don't know it's going to be codified, we don't have administrative rules. And then even if we had all of those things, we don't have determinations, we don't know what this site would or would not be once all those things are in place. So right now, again, if you want to go to the engineering, talk to Director Molina about that, it's currently designated not a wetland. Traffic, Tyler Fujiwara did the traffic study for us. And one of the main things that we did in outreach to the community was we had ingress and egress off of both sides, and Tyler's here to answer any questions that you have about traffic. Regional issues are regional infrastructure. As you guys know, Liloa Street or the North South Collector Road is about ready to start. And the very first phase of that...if you look at the bottom picture there, the very first phase of that is actually right here in East Waipu'ilani, so that is actually where the first phase of the regional infrastructure is actually going is near...in this neighborhood. And also, there is...this is a schematic...or this is from the Public Works Department right here. This particular intersection is South Kihei Road and East Waipu'ilani, so there is infrastructure regionally that is in the works in Kihei. Pricing, we didn't really talk about pricing the last meeting, but I'm sure it will come up. And in January, I brought up to you guys the deferred payment mortgage program. There is no deferred payment mortgage program right now. You did put \$2 million into the deferred payment mortgage program. However, we don't have an actual process, so we couldn't include it in our application as one of the things we wanted to do. I'd be more than happy to talk to you about that if you have questions about it, but we wanted to use the deferred payment mortgage program to help each one of these homeowners buy down the price. This particular matrix that you're looking at was actually generated by Jeff Gilbreath, who is the architect of the Maui County Comprehensive Affordable Housing Program. Pricing, I know you

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guys have talked in the past about HOA fees and how it adds to the cost of affordability. Here's what's included: water, sewer, trash, Internet, property insurance, landscaping and reserves. These are things that would just be paid individually by homeowners, they're paid collectively in an HOA. Flood insurance...these homes are unlike the homes that exist in the neighborhood now. The homes that exist in the neighborhood now are not built out of the flood plain. They're in the flood plain, and they have to have flood insurance. These homes would be build out of the flood plain, and what we will do is we will get a letter of map amendment or a LOMA, which actually drops the flood insurance requirement because they're actually built out of the flood plain. And I'm working with Sandy Rice, who is a long time mortgage broker on this, if you want to...she's available for questions if you wanted to talk to her later in the meeting as well. Affordable pricing PMI, Sandy and I also did talk about it, that when you do your loan to value ratios, you can actually use the appraised value as the market rate, and not what you buy it for, which actually impacts the PMI. I know you guys have talked about this before. So then lastly, I think that this is why this conversation is really difficult for you guys, you do have a hard choice. This is unlike many of the things that comes before you. This is a fully entitled property. It's zoned R-3, it's community plan residential, it's in the urban growth boundary, it's in the state urban growth boundary. And when the owners bought this property two years ago, they could have just built market-rate homes. This is what they could have done. They could have gone down that road and done what many people do, and they said, no, you know what, we want to...we have ties to Hawai'i, we live in Hawai'i, we want to build workforce housing. And so that's what we did, and we went down this road to try to build workforce housing rather than market-rate housing. And the thing about...you know, that's interesting about the conversation that you guys are going to have and the tough decision you have to make is some of the, you know, concerns, drainage, runoff, you know, regional infrastructure and all of that is actually going to be the same whether there's market rate single-family homes or workforce housing homes. And that is all I have, Chair. I appreciate the time. I will stop sharing now.

VICE-CHAIR MOLINA: Okay. Thank you very much, Mr. Carnicelli. All right, Members. This is how the Chair plans to proceed. First, we'll start the Q and A session with Mr. Carnicelli as it relates to the presentation. Give you, Members, up to three minutes and if you need a follow up, one minute just to keep us...keep time a little bit tight. And then afterwards I'll open the floor up for any of our other resource personnel as it relates to the project or the proposed exemptions. And we'll see how far we get through the discussion. Of course, if there's any proposed modifications, I think we would need a motion on the floor at the time, but we'll see how it goes first, and if there is a recommendation for approval or what have you, we'll deal with it when we cross that bridge. All right, Members? So right now, if you have any questions for Mr. Carnicelli as it relates to the presentation, please make it be known. Or I'll just go ahead and start first then. You know, one basic question, I guess, Mr. Carnicelli, there is this term that's used called



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material house bond. Can you give me details what that's about? And I think it's probably related to one of your exemptions. Can you provide...

MR. CARNICELLI: Yeah. Thank you, Chair. Yeah, thank you, Chair. As a matter of fact, in going through trying to prepare for this meeting, I believe that Mr. Betsill is actually better suited to answer that question about a material house bond. So if Mr. Betsill can do that.

VICE-CHAIR MOLINA: Okay. All right. Good morning, Mr. Betsill.

MR. BETSILL: Namaste. Namaste. The material house bond was just an effort on our part to give clarification as how we would bond the project. Because when it says bond in the ordinance, it doesn't say surety bond or material house bond. The difference in...is that a surety company can bond the project, or one of our local material houses, like Honsador or Miyake, can bond the project. And we just wanted to specify that we wanted to use the material house bond going forward.

VICE-CHAIR MOLINA: Okay. Thank you very much for that clarification, Mr. Betsill. I'm going to open up the floor to the other Members for questions. But before we do that, Chair would like to recognize Member Rawlins-Fernandez to our proceedings this morning. Aloha and namaste.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair. My apologies for my tardiness. I'm at the Moloka'i District Office, alone at the office. Mahalo, Chair.

VICE-CHAIR MOLINA: Okay. Mahalo, Member Rawlins-Fernandez. Okay, I believe I saw Member Paltin's hand go up earlier, as well as, I believe, Member King, and then Chair Lee. Member Paltin. Go ahead, you can proceed with your questions for Mr. Carnicelli.

COUNCILMEMBER PALTIN: Thank you. I was wondering if Mr. Carnicelli could clarify that what he was saying about no flood insurance is required now? Like on page 22 of the booklet, it says since the project is in flood hazard area, the homeowners' association will be responsible for flood insurance.

MR. CARNICELLI: Thank you, Member Paltin. Yeah. And thank you for the opportunity to clarify. So there's different types of insurance, there's the homeowners' itself having...you know, the homeowners' association having insurance, and then there is the actual homeowners themselves having personal flood insurance. And so with the homes being out of flood zone, the homeowners themselves would not carry flood insurance. But there would be a minimum amount of flood insurance that the homeowners; association itself would have to carry.

COUNCILMEMBER PALTIN: Oh, so there is going to be flood insurance through the

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homeowners' association but the individual homeowners don't need flood insurance, is what you're saying?

MR. CARNICELLI: Correct. That's how we understand it, is when you're not in the flood zone, we're not required that requirement. But we...you know, we do have to do a LOMA, we're going to have to do a letter of...a map amendment to get the homes...to certify that the homes are out of the flood plain. The flood insurance that the homeowners' association would cover...carry is really to cover if there were a flood event, there would have to be cleanup and things of that nature, but none of the structures themselves will be in the flood plain, including the common area buildings.

COUNCILMEMBER PALTIN: And can you just clarify what the cleanup would be...what would be for then if they're not in the flood plain?

MR. CARNICELLI: Well, there may be flooding that would occur, that is a possibility when you're in the AH zone. However, the homes themselves are not in the flood plain.

COUNCILMEMBER PALTIN: So where would you be cleaning up? South Kihei Road?

MR. CARNICELLI: The driveway, the parking lot.

COUNCILMEMBER PALTIN: Oh, okay. All right. Thanks.

MR. CARNICELLI: Yeah, not regionally, but on site. The homeowners' association wouldn't be responsible for regional issues.

VICE-CHAIR MOLINA: Okay. Thank you very much, Member Paltin. Let's go to Member King, followed by Chair Lee.

COUNCILMEMBER KING: Thank you, Chair. Aloha, Lawrence. Thanks for being here. So I wanted you to clarify the difference between the flood zone and the flood plain. Because I think it's in the flood zone, but because you've raised it up, it's out of the flood plain. Is that what we're hearing?

MR. CARNICELLI: Yeah, now you're starting to get into engineering terminology that I don't know exactly...I mean, maybe you can go to either Stacy Otomo or Director Molina for the exact verbiage. But, yes, as we understand it, that is what it is, is that it's...they're built out...the flood zone is...FEMA flood zone is AH six feet. The flood plain would then be the six feet. We have to be a foot above that.

COUNCILMEMBER KING: Okay. So it's...you're not...it's just a difference in how high the structures are.

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MR. CARNICELLI: Correct.

COUNCILMEMBER KING: And then what's the HOA fee?

MR. CARNICELLI: Right now, we did a preliminary, and it was about \$350 a month is about what we had anticipated.

COUNCILMEMBER KING: And everybody pays the same, regardless of what your median income is, or where you fit in the median income?

MR. CARNICELLI: What we've done historically is we've done it the...you have a percentage ownership of the association based on the square footage of your unit. So the person who has the unit that's 450 square feet would have a lesser cost than the person that has a...or the family that has the...you know, the unit that's 1,360 square feet.

COUNCILMEMBER KING: Okay.

MR. CARNICELLI: So yes, it would be based on income in that regard.

COUNCILMEMBER KING: Okay. And then...you know, Chair, I have another question, it's not directly related to the presentation, so I...do you want me to hold that one?

VICE-CHAIR MOLINA: No, go ahead. If you want to go ahead and ask Mr. Carnicelli now.

COUNCILMEMBER KING: Okay. Yeah, I wanted to bring up the idea that our absent Chair, Gabe Johnson, was working on as far as the idea of a land swap, being able to trade some County land for this property, put this project on a piece of property that's not in the flood zone, and not in a disputed wetland. And I just wanted to verify...because I got a note from him that you were...that the developers are amenable, and that the Housing Department was amenable to that idea.

MR. CARNICELLI: Yeah, thank you for the question, Ms. King. It gets complicated because I guess...is...you know, my understanding is that that has to be initiated by the Administration, and from what I gather, it's not really part of this...you know, today's proceedings. Is that what, you know, we're here today to do is, you know, make a decision on the 2.97 application. No matter what happens today or, you know, in the future, that...you know, that can still happen, you know, if initiated by the Administration.

COUNCILMEMBER KING: Okay. And I didn't get back from him where he's at with the meeting that he had with the Administration, so I can't speak for . . .(timer

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*sounds*). . . that is...I think that's a possibility. Thank you for your responses. Thank you, Chair.

MR. CARNICELLI: Thank you.

VICE-CHAIR MOLINA: Okay. Thank you, Member King. Let's go to Chair Lee. Questions for Mr. Betsill...Mr. Carnicelli?

COUNCILMEMBER LEE: Thank you, Chair. Mr. Carnicelli, you mentioned that you had several meetings with the community. When was your last one, and have you made any progress with them?

MR. CARNICELLI: That's a great question. I believe that the last meeting that we've had with the community would've been in April. And some of the immediate neighbors aren't happy, yeah, I mean, just to be frank with it. They would like single-family homes to be built there. They don't want the workforce housing to go in there. They said...you know, Rick Alexander, who you all know, and you get his emails, he talks about how Grandma Betty wanted five lots there, and so that's...they haven't really wavered off of that very much, to be perfectly frank.

COUNCILMEMBER LEE: So you have 28 units. Will 14 come in from the right, and 14 from the left road?

MR. CARNICELLI: They can go in and out either way. It doesn't matter. We anticipate, you know, whatever traffic is easiest is where they'll come and go from. And maybe that's a question also from Tyler...for Tyler Fujiwara, who's with Austin, Tsutsumi. But they can come and go either way, there's no...okay, this is for you guys and that's for that...for you is...the driveway goes all the way through.

COUNCILMEMBER LEE: Well, I'm just saying from a practical point of view, if I'm living at the beginning of one side of the street, I wouldn't be coming in from the other side of the street, right?

MR. CARNICELLI: Yeah, that may be true.

COUNCILMEMBER LEE: Yeah. Okay. That's all the questions I have for now. Thank you.

VICE-CHAIR MOLINA: Okay. Thank you, Chair Lee. All right. See...Member Sinenci, questions for Mr. Carnicelli? Proceed.

COUNCILMEMBER SINENCI: Thank you, Chair. And good morning, Mr. Carnicelli. Yeah, I...did we list how many homes in the different AMIs? How many for the 80 to 100, 100 to 120? Do you have that slide available?

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MR. CARNICELLI: You know what? I apologize, Member Sinenci. I did not have that in front of me. I do believe, if I go off the top of my head, that it was...it's 8 in the below moderate, it will be 14 in the moderate, and then 4 in the above moderate, I believe is that what it is. But it's in the package, and I'm sorry, I don't have that exact page. I'm sorry, it's 6 in the above moderate. So it's 8, 14, and 6.

COUNCILMEMBER SINENCI: Okay. And those are...I know you have two rooms and three bedrooms? . . .*(inaudible)*. . .

MR. CARNICELLI: Yeah, we have...I'm sorry. We have one bedroom, two bedrooms, and three bedroom units, and then we have two different types of three bedroom homes.

COUNCILMEMBER SINENCI: So those are also separated into those AMI groups?

MR. CARNICELLI: Correct.

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

VICE-CHAIR MOLINA: All right. Thank you very much, Mr. Sinenci. Any other Members have questions for Mr. Carnicelli at this point? Member Sugimura, go ahead.

COUNCILMEMBER SUGIMURA: Oh, this is maybe a question for Mr. Carnicelli, as well as the Members. So I was wondering if any of the Members had conditions, we could look at it before we get to that point. So that's all. I just want to see things and be familiar with it so that when we go through this discussion of the department...I mean of this project, we could have all the information. Thank you.

VICE-CHAIR MOLINA: Yeah. Thank you for that, Member Sugimura. At this point right now, it's just to...just feeling the Members out for questions for Mr. Carnicelli and his presentation. At some point, if there are any proposed amendments to the...you know, as it relates to the project, I think the appropriate action would be, I guess, to put the matter on the floor first via motion. But for now, I'm just doing the Q and A first. Then after we get through the Q and A--not only from Mr. Carnicelli, but also our resource personnel--then we'll see what the body wants to do at that point. All right. Anyone else that has not had a chance to ask Mr. Carnicelli questions? Otherwise I'll go back to Member Paltin and Chair Lee.

COUNCILMEMBER PALTIN: Oh, thank you, Chair.

VICE-CHAIR MOLINA: Okay, Member Paltin.

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COUNCILMEMBER PALTIN: I didn't have a question, I just was...to answer Member Sugimura's...I sent my modification in, so it should be uploaded on Granicus.

VICE-CHAIR MOLINA: Okay. Thank you for that information, Member Paltin. All right, Chair Lee.

COUNCILMEMBER LEE: Thank you, Chair. Mr. Carnicelli, would you say that the two main objections by the neighborhood folks are traffic issues and the drainage problem?

MR. CARNICELLI: Yes, it is...I would say that the regional issues that Kihei is facing is the main objection from the neighbors.

COUNCILMEMBER LEE: Okay.

MR. CARNICELLI: Is...you know, Kihei has traffic problems, Kihei has flood problems. Yes.

COUNCILMEMBER LEE: Okay. So the...you also mentioned that the project would not be increasing drainage problems or flooding, but nor will it be improving the situation. Why wouldn't it be improving the nearby vicinity? Because wouldn't you be absorbing the water that would flow to the neighboring properties?

MR. CARNICELLI: Again, we're getting into an engineering question. Just to oversimplify, you know, in my mind how it was told to me is that the amount of runoff that comes off the site will decrease, so there'll be less runoff than there is now. And the runoff that does come off of the site will be of higher quality. So that is how the engineering has been explained to me. And if you want to...again, if you want to talk to, you know, Director Molina and/or Stacy Otomo --

COUNCILMEMBER LEE: Okay.

MR. CARNICELLI: -- I'm sure that they --

COUNCILMEMBER LEE: Yeah, I would like to --

MR. CARNICELLI: -- can talk about the specifics.

COUNCILMEMBER LEE: -- ask...I would like to ask the engineer, Mr. Chair, because I thought you'd be absorbing all the runoff. You would be containing any runoff potentially from their property. You'd be containing it right there. So can we ask the engineer?

VICE-CHAIR MOLINA: Sure. Of course, Chair Lee. Mr. Otomo, if you can come online to add further clarification to Chair Lee's questions. Good morning, Mr. Otomo.

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Please proceed.

MR. OTOMO: Good morning, Chair, Members of the Committee. To answer Councilmember Lee's question, we are mitigating the increase in runoff and a little bit more on the site. So post-development, there'll be less runoff from the site onto the neighboring properties. And I think...you know, this project is not going to solve the regional drainage problems in this particular area. If you look at the exhibit that Mr. Carnicelli put up in his presentation, on the mauka side, or the eastern property line, there's either retaining wall or low curb along that entire front property line. So the runoff from the mauka properties onto this property is somewhat limited because of that. On the makai side, or the western boundary of this property, this five neighboring properties, the northern four properties actually have walls along there which does not allow runoff from this property to get onto their properties. The fifth property is the most southernly property along this...along Kauha'a Street intersection. . . .*(timer sounds)*. . . That property has a chain link fence. So currently, that's where the runoff goes, into this person's property at that corner. At the end of the day, we're going to be decreasing the amount of runoff that comes off the property onto the neighboring property, but we not able to mitigate the entire runoff, but it will definitely be a decrease.

COUNCILMEMBER LEE: Thank you. It'll definitely be a decrease if you didn't have a chain link fence there too, right?

MR. OTOMO: Yeah.

COUNCILMEMBER LEE: Thank you.

VICE-CHAIR MOLINA: Okay. Thank you very much, Chair Lee. Let's go to, I believe, Member King had a hand up. Go ahead.

COUNCILMEMBER KING: Chair, I didn't have my hand...I don't have any more questions right now, unless Mr. Otomo wants to answer my question and just kind of clarify the difference between the flood zone and the flood plain. Because I don't think it was...

VICE-CHAIR MOLINA: Mr. Otomo.

MR. OTOMO: The flood zone is designated by FEMA, in this particular area it's flood zone AH with a base flood elevation of six feet. What Mr. Carnicelli was saying is by the County Code and the FEMA regulations, for the buildings to qualify for...or not to have flood insurance, the floor of the building, the finished floors of the building have to be constructed in such a way that it's one foot above the base flood elevation. So in this particular case, all of the buildings are constructed at an elevation of seven feet, which is one foot above the base flood elevation. But

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to answer your question, I think the flood plain and the flood zone that we're talking about in this case is one and the same.

COUNCILMEMBER KING: So if you elevate the building it takes it out of the flood zone? Is that what you're saying?

MR. OTOMO: Out of the...yes.

COUNCILMEMBER KING: Okay.

MR. OTOMO: Out of the flood plain.

COUNCILMEMBER KING: Right. That's what I was trying to get at is the difference between the flood plain and the flood zone. Because to me, the flood zone...

MR. OTOMO: The zone is the designation, and the...I guess the area it affects is the flood plain.

COUNCILMEMBER KING: Okay. That doesn't affect the designation of that area as a flood zone?

MR. OTOMO: Yes.

COUNCILMEMBER KING: Got you. Okay. Thank you for that. The other thing that maybe...and I don't know if you were involved in that...the issue of the proposed health center that was supposed to go on one of those lots on South Kihei Road. And we had this whole argument about whether or not it was a wetland with...you know, and what the definition of the wetland is, what a wetland is by the Army Corps of Engineers. Were you involved with that at all?

MR. OTOMO: I...it doesn't sound familiar.

COUNCILMEMBER KING: I think we were just talking to the Planning Director and, you know, my concern is that we...you know, everybody knew that that was a wetland, and had been used as a wetland for many, many years. And then when the Army Corps of Engineers came out and said that it wasn't, it prompted this...the owner to try to put a medical center on that property, but...which is the reason for the wetland preservation bill, so that we could start identifying wetlands per our definition. You know, we've been losing a lot of them because when they're dry, they're still a wetland...just because they don't have any water in them...but somehow, the Army Corps of Engineers decides that it's not a wetland. So anyway, I thought you might have been involved in that. So I'll...

MR. OTOMO: Is the...sorry, is the project you're talking about in Kahului?



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COUNCILMEMBER KING: No, Kīhei.

MR. OTOMO: Oh, okay.

COUNCILMEMBER KING: South Maui . . . *(inaudible)*. . .

MR. OTOMO: We did one in Kahului a long time ago which never got built, so...

COUNCILMEMBER KING: Okay. Oh, yeah, I know which one you're talking about. That other one that's over by Kealia...or by the pond?

MR. OTOMO: Yes.

COUNCILMEMBER KING: Okay. All right. Thank you. Thank you, Chair.

VICE-CHAIR MOLINA: Okay. Thank you, Member King. All right, Members, seeing no other hands for this round as it relates to the presentation, I'm going to go right into Q and A for the proposed exemptions.

COUNCILMEMBER KING: Chair.

VICE-CHAIR MOLINA: Yes.

COUNCILMEMBER KING: Mr. Sinenci had his hand up.

VICE-CHAIR MOLINA: Mr. Sinenci, did you have your hand up?

COUNCILMEMBER SINENCI: Yeah, just had a question for Mr. Otomo.

VICE-CHAIR MOLINA: Okay. Go ahead.

COUNCILMEMBER SINENCI: Mahalo, Chair. Aloha, Mr. Otomo.

MR. OTOMO: Morning.

COUNCILMEMBER SINENCI: Just clarification. This project is hooked up to the sewage system?

MR. OTOMO: Yes, it is. There's sewage capacity and facilities fronting the project.

COUNCILMEMBER SINENCI: Okay. And then there aren't...somebody brought up, French drains. I believe it was a neighbor that had a French drain on their property. Are there such...those included in the drainage plans?

MR. OTOMO: Oh. We looked at several options, you know, one of them is sort of like a

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French drain, what we refer to as a perforated pipe. Some of the concerns was the proximity to the ground water elevation and maintenance of the line. So right now, the majority of the drainage would be handled by onsite retention where it's easier to clean, easier to see when silt builds up in the retention basins. But that would be an option.

COUNCILMEMBER SINENCI: Oh. French drains would be the option. Thank you. Thank you, Chair.

VICE-CHAIR MOLINA: Okay. Thank you, Mr. Sinenci. All right. Member Paltin, follow-up question for Mr. Carnicelli as it relates to the presentation? Go ahead.

COUNCILMEMBER PALTIN: Oh, sorry. It was for Mr. Otomo, if that's all right.

VICE-CHAIR MOLINA: No, go ahead.

COUNCILMEMBER PALTIN: Okay. I was wondering about the retention basins. Some of the testifiers mentioned that they dig two to five feet down and they hit water. I just was wondering how deep will the retention basins be and how you won't hit water as some of the neighbors have. Like, are you familiar with ground penetrating radar or, like, what's the plan on that?

MR. OTOMO: I'm not familiar with the ground penetrating radar. We did get correspondence from the Engineering Division where they had a project in the close proximity of this project, and what they told us was that they encountered ground water at an elevation of 2.5 feet. So at the lowest spot, that means it's like a foot and a half to two feet below our existing ground surface. So we're going to use that as kind of like a guide. We're not going to get down to elevation two and a half feet.

COUNCILMEMBER PALTIN: So you're saying the retention basins . . . *(timer sounds)* . . . will be more shallow than two and a half feet?

MR. OTOMO: Yes. It would not reach up...the bottom of the basins will not reach elevation two and a half feet.

COUNCILMEMBER PALTIN: And then what happens if you hit the water table before two and a half feet because that was an estimate at another location?

MR. OTOMO: Yeah, we...like I said, the information that we do have now, it's at approximately two and a half feet elevation. We are not planning to get down that low. We're looking at probably being a foot or so above that.

COUNCILMEMBER PALTIN: And when you say two and a half foot elevation, is that like the ground is here and you're digging down less than two and a half feet for your

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retention basin?

MR. OTOMO: No, it's two and a half from mean sea level, mean sea level being elevation zero, two and a half feet being two and a half feet above mean sea level.

COUNCILMEMBER PALTIN: Oh, okay. And the elevation on this property is six feet, you said?

MR. OTOMO: It ranges from a little over four feet to six feet, and it goes higher in some places.

COUNCILMEMBER PALTIN: So you can dig down, you're thinking...

VICE-CHAIR MOLINA: Member Paltin, sorry, the bell went off earlier.

COUNCILMEMBER PALTIN: Oh, okay.

VICE-CHAIR MOLINA: So if you can save that question maybe at a later point and then we'll --

COUNCILMEMBER PALTIN: Okay.

VICE-CHAIR MOLINA: -- you'll have more opportunities to ask additional clarifying questions on the matter. So, thank you. Okay, Members, let's just go right into asking questions as it relates to the requested exemptions, either of the applicant or of our resource personnel. I'll start off first. I guess this would be for the applicants. Regarding your exemption request to allow at-grade sidewalks and lanais in the setbacks, does this mean that you're requesting reduced setbacks and to encroach onto those...the reduced setbacks as well? And if this exemption is not granted, how would that change your project design? I don't know who best to ask that question, but whoever wants to take a stab at that from the applicants. And Members, you should have those exemptions in your Granicus as well.

MR. BETSILL: Hi, Chair. Doyle Betsill again. I'll be happy to take that question. We're not asking any exemptions from setbacks for any of the structures. However, it's unclear in the Code as to whether a lanai or a sidewalk within that ten-foot setback is a violation of the setback rules. So we're just asking for clarification to note that there are some lanais that are located within the setback, and we want to make sure that there's no misunderstanding as we go through the permitting that that would be considered a violation of the setback.

VICE-CHAIR MOLINA: Okay. Thank you for that clarification. Okay, my next question for this round, for Corporation Counsel, with regards to the applicant requesting to allow two-story multi-family units. Is this exemption necessary? Because, I

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guess, 19.08.020 simply lists single-family units as a permitted use in residential districts. So basically, is this necessary as an exemption request? I guess, Ms. DesJardins, if you could add clarification for that?

MS. DESJARDINS: Thank you, Chair. I don't know the answer to that question. I'd ask you to probably ask Planning that question as opposed to me. I apologize, that's not really in my wheelhouse. Thanks.

VICE-CHAIR MOLINA: Okay, no problem. I guess, Mr. Hart, if he's online. Or whoever from the Planning Department that would like to answer that question.

MR. HART: Repeat? I apologize, I was reading.

VICE-CHAIR MOLINA: Oh, okay. No problem. The question is, I guess, the applicant is requesting to allow two-story multi-family units. And I'm just curious if this exemption is necessary because, I guess, 19.08.020 lists single-family units as a permitted use in residential districts already. So is it necessary to include this request as an exemption?

MR. HART: If the Council's intending to approve them to be able to build two-story multi-family units in the residential zoning district, then yes.

VICE-CHAIR MOLINA: Okay. All right. Thanks for that clarification. Okay, Members, next...questions for our resource personnel as it relates to the exemptions. Okay, don't raise your hands all at once now. Okay, I see Member Sugimura, followed by Member Paltin.

COUNCILMEMBER SUGIMURA: Thank you, Chair. So on exemption E (*phonetic*), Maui County Code, Title 16, Building and Construction. So since I'm going through all of the updates of building codes, I just wondered, yeah, if someone from the development team can explain why it would be exempted--Fire Code, Electrical Code, Plumbing Code, Building Code--requested to exempt the proposed project from Fire, Electrical, Plumbing, Building Code permit fees, as well as planning fee and inspection fees.

VICE-CHAIR MOLINA: Okay. This question would be for the applicant, Member Sugimura?

COUNCILMEMBER SUGIMURA: Yeah.

VICE-CHAIR MOLINA: Okay. Anyone from the...okay, I see Mr. Bagoyo coming on. Good morning, Mr. Bagoyo. Member Sugimura, would you like to repeat your question for Mr. Bagoyo?

COUNCILMEMBER SUGIMURA: Oh. I guess why all the exemption from fees for the

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different codes. I apologize if it's a standard --

VICE-CHAIR MOLINA: Mr. Bagoyo.

COUNCILMEMBER SUGIMURA: -- and I just don't know that.

MR. BAGOYO: Thank you so much for the question. Good afternoon, by the way. I'm currently in California spending some time with my newest grandson, so...

COUNCILMEMBER SUGIMURA: Oh.

MR. BAGOYO: Yeah, the exemptions...these are fees exemptions. As you know, I think if...you know, if a 201H project and 2.96, I believe most of this fees are exempt. But --

COUNCILMEMBER SUGIMURA: Okay, so standard.

MR. BAGOYO: -- what 2.97 is an incentive Code that will reduce the cost of developing these units. So that's why we've requested those fees to be exempted.

COUNCILMEMBER SUGIMURA: Okay, so it's standard. I just wanted to confirm that because --

MR. BAGOYO: . . .*(inaudible)*. . .

COUNCILMEMBER SUGIMURA: -- . . .*(inaudible)*. . . so it's not something out of the ordinary.

MR. BAGOYO: Correct.

COUNCILMEMBER SUGIMURA: Thanks for that clarification. And I guess I'll reserve for later, Chair.

VICE-CHAIR MOLINA: Okay. Thank you, Member Sugimura. Let's go to Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I thought the last time we were here we heard Ms. Taomoto say that Chapter 14 doesn't exempt fees, and then we had to do that roundabout way for Ka Hale Kaiola to get the money from the Affordable Housing Fund to pay their water fees. And so I just was wondering, if the Code doesn't allow for exemptions from the water fees, did they read that wrong again, or did they not recall from Hale Kaiola the situation, or what's going on?

VICE-CHAIR MOLINA: Okay, Member Paltin, I see both Mr. Carnicelli and Corporation Counsel DesJardins. We'll go to Corporation Counsel first, then we'll got to Mr. Carnicelli.

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MS. DESJARDINS: Thank you. So if you look at 2.97.150, Fee Waiver, there's a whole list of exemptions which it says developer shall be eligible for under 2.97 projects. And the Water Department reads 2.97 is...says that there are fee exemptions and waivers to things. Also, under 2.97.120, Exemptions, the water system development fee is not specifically listed as one of those exemptions. So the way we read it is that the Code does not say that it's limited to these exemptions. You, as the Council, can choose to provide other exemptions so long as they don't affect underlying health and safety. So if you wanted to, for example, waive the water system development fee, 2.97 doesn't prohibit you from doing that. The problem is, as we know, because Ms. Taomoto has explained, that is how the Water Department derives its resources. So the issue then becomes how do you offset that? And that's a decision for you folks, but as a matter of law, we do not read the code 2.97 to say that you cannot exempt that. But you understand then, the problem becomes, well, how can you help the Water Department come up with that money if it is an exemption that you...and I believe Member Rawlins-Fernandez pledged during Hale Palina, and then through Budget, to have it come out of General Funds which is what happened, so...but that's not my...I'm sorry. Was that not through General Funds?

COUNCILMEMBER RAWLINS-FERNANDEZ: It was Affordable Housing Fund.

MS. DESJARDINS: Oh, it was? Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Affordable Housing Fund.

MS. DESJARDINS: I apologize. I think it was originally said it might come out of the General Funds, but I think actually, it came out of Affordable Housing Funds. So that's up to you folks, I'm just telling you as a matter of law how we read the Code and what you can and cannot do. So I just wanted to clarify that. Thank you.

VICE-CHAIR MOLINA: Yeah, Member Paltin, I see Deputy Director Agawa on the call as well. Mr. Agawa, would you like to add further comments to Member Paltin's question?

MR. AGAWA: Sure. Thank you, Chair Molina. Yeah, in addition...in the Maui County Code 14.07.080, there is a list of exemptions to the Water System Development Fees, and in there there's no exemption for affordable housing. However, if you look at Section E under that 14.07.080, it does say in addition to the above, any applicant for water meter may be exempt from paying the full amount of the Water System Development Fee if specifically set forth in the annual budget. We don't have anything in our annual budget, but the Affordable Housing Fund is budgeted for affordable housing, and therefore, that may be the tie into where, as Ms. Taomoto mentioned before, if the applicant goes to the Housing and

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Human Concerns, gets a grant that's funded by the Affordable Housing, and that grant can be used to offset the Water System Development Fees.

COUNCILMEMBER PALTIN: So then what you're saying is your preference is to not exempt them now, but have them go to the Affordable Housing...or the Housing and Human Concerns and get a grant to pay for this and us not exempt it? Is that what you're saying?

MR. AGAWA: Yes, that is correct. So our interpretation of the available exemptions to the Water System Development Fees is not affordable housing per se because it's not listed as in the section Ms. DesJardins referenced. And then also, in this section that I just mentioned about exemptions to the Water System Development Fees, there's a letter E in there that says they can be...the full amount of the Water System Development Fee is specifically set forth in the annual budget. That can be offset. And I believe the Affordable Housing Fund is budgeted for affordable housing costs. Therefore, that could be the tie in for the avenue of them getting reimbursed for the Water System Development Fees through a grant from Housing and Human Concerns. . . .*(timer sounds)*. . .

COUNCILMEMBER PALTIN: The time.

VICE-CHAIR MOLINA: Okay. All right. Right on time. Thank you, Member Paltin. All right. Very quickly, Mr. Carnicelli, if you want to add something to Member Paltin's question before we go on to the next Member.

MR. CARNICELLI: Yeah. Thank you, Chair. It's a subtlety, and I completely understand where Mr. Agawa's coming from and Ms. Taomoto because of their budget. However, is the...Hale Waipu'ilani is...does not trigger HRS 343, which is the environmental assessment clause in the State Statute. And if we were to do it the way with which the Water Department is asking, and not getting the waiver and then getting the grant, it would actually trigger 343, and we would have to start all over again and go through that process. So that is why we put this in there the way that we did. I know that it's a little bit of a kooky way, you know, like you get...anyways, it's just the way with which you say okay, the money moves this way and then that way, or whatever it would be, but actually it's our preference, and it's actually needed and necessary to do it via the exemption. So, thank you, Chair.

VICE-CHAIR MOLINA: Thank you, Mr. Carnicelli. Next, anyone else with questions for our resource personnel or Mr. Carnicelli as it relates to the proposed exemptions? Okay, Member Sugimura, followed by Member King.

COUNCILMEMBER SUGIMURA: Yeah, I really wish that Mr. Carnicelli and the Water Department then would explain what you just said. So you want us to do the Maui County Code 14.070.030, Water System Development Fee is exempt, and

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that the other project, the money came from the Affordable Housing Fund. But Mr. Carnicelli, are you saying you don't want to do that?

MR. CARNICELLI: No. What I was saying is...and to put it in simple terms, is for the Affordable Housing Fund to reimburse the Department of Water Supply rather than the Hale Waipu'ilani.

COUNCILMEMBER SUGIMURA: Because that's what we did on the other project.

MR. CARNICELLI: Correct.

COUNCILMEMBER SUGIMURA: Okay. Okay. Thank you.

VICE-CHAIR MOLINA: Okay. Thank you, Member Sugimura. Member King.

COUNCILMEMBER KING: Thank you, Chair. I was just wondering if Vernon Kalanikau ever made it on. I don't see him. He is still a designated resource person. I texted him. He was having a hard time getting on with his phone, but I did want to bring up one of the issues that he just texted me and see if we can get a response from Mr. Otomo or the Department. And I don't...do you see him there?

VICE-CHAIR MOLINA: Staff, is Mr. Kalanikau on the call? Can you verify? If not, Member King, go ahead and proceed and ask that question on behalf of Mr. Kalanikau.

MR. KALANIKAU: . . .*(inaudible)*. . .

COUNCILMEMBER KING: There he is.

MR. KALANIKAU: I'm on.

COUNCILMEMBER KING: Okay. Can you just...thank you.

MR. KALANIKAU: . . .*(inaudible)*. . .

COUNCILMEMBER KING: Vernon, can you reiterate the issue with the, you know, the need to fill in . . .*(inaudible)*. . . which, you know, the groundwater is at because it looks like it's two or three feet below surface.

MR. KALANIKAU: Yeah. So, you know, listen to Mr. Otomo and Lawrence is, you know, let's look at the amount of Meadowlands next door just north...just south of this parcel, right next. You look at that Meadowland...Meadowland project, yeah, they built on elevation. So in the floods that we have, they don't get flooding. They all good, but all the neighboring areas, including South Kihei Road, that project impacts more flooding. So we go back to this project in question right now on



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Waipu'ilani. They going gain some elevation, and how they figure out with the engineering, whatever, not going contribute more flooding. It's going contribute more flooding even with single-family homes anyway. It's just trying to mitigate less flooding. And what's...what always bothers me is we dug wells . . .*(inaudible)*. . . went only went go five, three feet from six feet and they hit water. They hit water . . .*(inaudible)*. . . their 'aina. So there's a lot of voids underneath that goes through this parcel, and if they finding that the neighbors finding water two feet from surface when they dig, I'm wondering how they going to support their structures. Just like what they did at the Meadowlands. You know, they have backfill below to support the structures. So what that do? Is that going to impact the water table below that the nearby neighbors, you know, have wells, you know? So, you know, for the engineering guys, you know, I mean, look at what happened to South Maui. I mean, look like a lot of the projects never work right, you know, Kihei is one good example of our flooding is bad already. And for the County and Public Works, you know, they kind of not there to help improve the infrastructure. In fact, in that area of Waipu'ilani, you know, it was said in our...from Jordan that's a long-term thing down the road to improve the drainage. So . . .*(timer sounds)*. . . it's just going to . . .*(inaudible)*. . . anyway, yeah, so we got to worry about what's below. What the...that's why I made comments before where, you know, if there's...if the project goes through, I think these guys need to be . . .*(inaudible)*. . . down the road . . .*(inaudible)*. . . I mean, look what happened to South Maui.

VICE-CHAIR MOLINA: Vernon.

MR. KALANIKAU: And then...

VICE-CHAIR MOLINA: Sorry to interrupt, Vernon. You know, your breaking up a little bit. Maybe you could turn off your video, and then I think your audio should come out okay.

MR. KALANIKAU: Okay. Where you guys got lost at?

VICE-CHAIR MOLINA: Yeah, I think your last sentence or two you were breaking...and you were going in and out. But maybe if you kind of repeat a little bit what you just mentioned to us earlier.

COUNCILMEMBER KING: I think I missed everything after if the project goes through.

MR. KALANIKAU: Yeah, the project...you know, my thing, you know, in general, in general, you know, if the project goes through, there's got to be accountability to the developers somewhere, somehow. I know we're not there yet, but it's something I think we probably would entertain down the road. Because once the project is built, the adjacent neighbors and the community, they all going be impacted, you know. I know Mr. Otomo been here long time, you know, with

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projects involved with drainage, and no look like the South Maui went turn out too well, yeah, right now. So that's what I wanted to say.

COUNCILMEMBER KING: Thank you. Thank you, Chair.

VICE-CHAIR MOLINA: Okay. Thank you, Member King. Before we go on to the next Member, I guess I have one question for the applicant. It's regarding your landscaping plan. You're requesting that your landscaping plan be your own, and I believe the Planning Department, I guess, opposes that. Can you explain what your landscaping plan is, and how it differs from, you know, what is required under the Code...if that's for Mr. Carnicelli or whomever from the applicant.

UNIDENTIFIED SPEAKER: Thank you, Mr. Chair.

VICE-CHAIR MOLINA: Mr. Bagoyo.

MR. BETSILL: I'll take that one. We're not asking for any specific exemptions from the Code, for instance, trees for parking, things of that nature. Basically this exemption is kind of like covering our . . . *(inaudible)*. . . if something unusual pops up in the midst of the process. Our goal is to use the drought tolerant native plants as much as possible to provide shade for the parking areas and for the homes so that we can limit the heat gains. But this is a basically generic statement. We have no intentions in our current plan to deviate from meeting the standards of the Planning Department.

VICE-CHAIR MOLINA: Okay. Thank you, Mr. Betsill, for that clarification. All right, Members, additional questions for the applicant or resource personnel? We do have, I guess, Mr. Schmidt from Environmental Management, who has joined us. I see Mr. Hart, you wanted to add further clarification to the previous question?

MR. HART: Thank you. Just in the context of Mr. Betsill's comments. I was wondering if there would be a friendly amendment to basically say, provided that all standard quantity of parking and street trees are provided. That would be satisfactory. Thank you.

VICE-CHAIR MOLINA: Okay. Thank you for that consideration. Members, any additional questions for our resource personnel?

MR. BETSILL: Quick response, Mike. We're in agreement with Mr. Hart's recommendation.

VICE-CHAIR MOLINA: Okay. Great. So noted. All right. Members, additional questions? Seeing none...oh, there we go. Member Paltin, go ahead, followed by Member Sugimura.

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COUNCILMEMBER PALTIN: Thank you. I don't know if Director Molina is on, but I had thought that he didn't want us to exempt...was it the sidewalks or the minimum right of way and pavement width?

VICE-CHAIR MOLINA: Director Molina, are you available to respond to Member Paltin's questions? There you go. Go ahead, Mr. Director.

MR. MOLINA: Thank you, Chair. Jordan Molina, Director with Public Works. Yeah, so, you know, our standard comment is to not exempt the frontage improvements. This project is requesting to be exempt from right of way widening on Waipu'ilani. We don't support that because the developments mauka...or this would be inconsistent with the developments that did their front or their widening of mauka. Also, they're requesting to not provide sidewalks on Kauha'a Street, which may be a little bit more acceptable, but given the concentration of, you know, residents on this area, I think they should be providing some sort of pedestrian way to either connect to the sidewalks across the street or to South Kihei Road. Thank you, Chair.

COUNCILMEMBER PALTIN: So you're basically for F Title 18 subdivisions, you are opposed to number 3 and 4 being exempted? Page 15.

VICE-CHAIR MOLINA: Director.

MR. MOLINA: So on the first exemption is on page 15, subsection E-2, relating to the building code trigger for street improvements. This condition reads that they will be putting improvements on Waipu'ilani consistent with their conceptual plan, Appendix B. However, that Appendix B does not depict any sort of frontage improvements on Waipu'ilani from what I can tell. Then the second exemption would be at the bottom of the page, subsection F-3, minimum rights of way being proposed per Appendix C of the PER exhibit 5. Again, the quality of that exhibit was poor in the package, so it's hard to discern what is being depicted in that exhibit map. So it's...yeah, so again, to...those are the two conceptions we have concerns with, and that they should provide the widening and that pedestrian way.

COUNCILMEMBER PALTIN: And to clarify, you're not concerned with the undergrounding of overhead utility lines, just the road widening and other improvements along Waipu'ilani?

MR. MOLINA: Yeah. I mean, overheading...or undergrounding overhead utilities can get expensive. And as far as pedestrian issue, if there's a proper frontage and sidewalks, it's not a concern.

COUNCILMEMBER PALTIN: Okay. And then I think...thought the last time you were

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here you mentioned something about using Affordable . . . *(timer sounds)*. . . Housing Funds instead.

MR. MOLINA: Correct. So these frontage improvements do add cost to these projects. And so if there's a policy by the Council to help offset those infrastructure costs, then we would recommend not exempting the improvements, but allowing...or providing support or funding to get those improvements built.

COUNCILMEMBER PALTIN: And just to follow up, would that also trigger a 343, or just the water one triggers the 343 HRS?

MR. MOLINA: As far as use of County funds?

COUNCILMEMBER PALTIN: I don't know why. That's what Mr. Carnicelli said, I believe.

VICE-CHAIR MOLINA: Member Paltin.

MR. MOLINA: So the use of County funds is a trigger for 343, so I'm not clear whether there's any workaround for housing projects, or the way that this funding would be provided at all. Thank you, Chair.

VICE-CHAIR MOLINA: Okay. Thank you. Member Paltin, we have Corporation Counsel DesJardins, who would like to add further clarification to your question. Go ahead, Corporation Counsel.

MS. DESJARDINS: Yeah. Thank you. I just want to be clear so that all of the Members understand that the reason why the trigger thing came up was because this project does not otherwise have an EA requirement. So the...one of the triggers to get an EA is the use of County funds. So whether the granting of monies could be construed as the use of County funds under the EA scheme, I can't tell you 100 percent that it would. There could be an exemption that would apply, for example. I can't right now sit here and tell you right now that would absolutely be a trigger. But I understand what the Water Department is trying to say, but any time you try and use County funds, obviously it closer to triggering. I think that's something you need to work out in terms of how these infrastructure things, if you want to use Affordable Housing Fund, are going to be reimbursed so as not to get us into a triggering situation. But as far as this particular one, if you were, for example, to...like you did with Hale Kaiola. If you came up later, and you took money out of the Affordable Housing Fund, and we reimburse that directly to the Department of Water Supply, or to the Department of Public Works, rather than it being a grant being asked for by the developer, it would seem less likely that that would be a triggering event because that is more of a interdepartmental use of those funds, as opposed to the developer coming in and getting funding directly from the County . . . *(inaudible)*. . .

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

MS. DESJARDINS: . . .*(inaudible)*. . .

COUNCILMEMBER PALTIN: Did we do this exact same thing for Kilohana Makai for their extension road on Wela Street or something like that? Wela?

MS. DESJARDINS: Did you say did we do that?

COUNCILMEMBER PALTIN: Yeah, we just did it.

MS. DESJARDINS: Yeah, I'm sorry. No, yeah. You may have. You may have.

COUNCILMEMBER PALTIN: But whatever we did, it...it has to be consistent. So if we granted Kihune 850,000 to do a road that was a condition of their project, we can grant Alaula whatever to do their frontages and their road widening because consistency, right, is like a law?

MS. DESJARDINS: I'm all into consistency. I don't know whether Kihune's project had an EA already. Was there...I mean, was an environmental assessment done? So we didn't have, like, a triggering issue? I don't have enough information to tell you whether the two things are similar or not.

VICE-CHAIR MOLINA: Okay.

MS. DESJARDINS: This project was exempted from having to do an EA, so there are issues with, you know, the more this type of funding its using --

VICE-CHAIR MOLINA: Okay.

MS. DESJARDINS: -- it might could be construed as use of County...

VICE-CHAIR MOLINA: Thank you, Ms. DesJardins. Sorry to cut you off a little bit.

MS. DESJARDINS: No, it's all right.

VICE-CHAIR MOLINA: I'm going to allow Mr. Molina one quick clarification, and after that, I'd like to go to Member Sugimura. Go ahead, Mr. Director.

MR. MOLINA: Just to add that the HRS does provide an exemption from EA involving secondary actions that trigger improvements in the public right of way. So in this case, the frontage improvements, or the applicant having to do those frontage improvements as part of those projects, the frontage becomes the secondary action and allows the exemption under the EA . . .*(inaudible)*. . . Now, the

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question becomes whether funding those improvements through the Affordable Housing Fund would qualify for this exemption or not.

VICE-CHAIR MOLINA: Okay. Thank you for that clarification, Mr. Director. All right. Before I go to Member Sugimura, just maybe quick question, Mr. Carnicelli. So this project is 100 percent all private money--am I correct--so far?

MR. CARNICELLI: That's correct, Chair.

VICE-CHAIR MOLINA: All right. Thank you. Okay, Member Sugimura. Questions for our resource personnel?

COUNCILMEMBER SUGIMURA: You know, I was going to talk about the same thing, but I think Jordan Molina answered my question about HRS and how does it all fit in. Because it really talks to me...or speaks to me greater...or policywise what we need to do in terms of the use of the Affordable Housing Fund and infrastructure. So I'm looking into that, so this is all relevant in other ways to me for how we can help move along affordable housing outside of individual projects. So I think I'll take a deeper dive in that. So thank you. I don't have any questions. Mr. Molina answered my general question about HRS. Thanks.

VICE-CHAIR MOLINA: Okay. Thank you. Thank you very much, Member Sugimura. Members, before we go on to our morning break, anyone that has not asked a question of either the applicant or resource personnel, I'd like to give you an opportunity. Seeing none. Okay, Members...oh, I see Member Kama. Go ahead.

COUNCILMEMBER KAMA: Thank you. Oh, I'm so sorry. Didn't realize you didn't see me. So I'd just like to ask the developer a question. So, Mr. Carnicelli, if this project is not approved, what are you guys going to do?

MR. CARNICELLI: We're going to have to regroup and reassess. As I said in my presentation, it's a unique situation that it's a property that's, you know, fully entitled right now and has --

COUNCILMEMBER KAMA: Yeah.

MR. CARNICELLI: -- certain entitlements that can be read, but we really don't know. You know, two years ago we decided that we wanted to build workforce housing and not...and not go the...you know, the market rate direction. So we'd have to regroup if that happens.

COUNCILMEMBER KAMA: Okay. But if you regroup and find out that you'd come back again, and there's still a lot of issues regarding that, what do you do then, do you keep regrouping and grouping and grouping?

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MR. CARNICELLI: Well, it's just...

COUNCILMEMBER KAMA: Or would you just build homes?

MR. CARNICELLI: I think that if it was the will of this body to have us build market rate homes, that's what we would have to do.

COUNCILMEMBER KAMA: I don't think that's the will of the body, I just think that if we don't get something done that you might end up doing that. That's my fear. Is that your fear? If we don't start approving these things, that's my fear. But thank you. Thank you, Chair.

MR. CARNICELLI: Understood. Thank you for the question.

VICE-CHAIR MOLINA: Thank you. Thank you, Member Kama. Before I recognize Member King or...so Corporation Counsel, just following up on the conversation between Member Kama and Mr. Carnicelli. So a project doesn't go through, they have all the entitlements to build market rate homes. Maybe, Mr. Carnicelli, with that being said, how many units could you build or market rate homes on the property that you have? First, Ms. DesJardins.

MS. DESJARDINS: Thank you. I would defer to Mr. Hart if he's still on the call because I don't know.

VICE-CHAIR MOLINA: Okay. Mr. Hart, if I could repeat the question to you. So if this project does not go through, then the applicant is already entitled then, they could build market-rate homes?

MR. HART: Yeah, they have single-family zoning, and single-family community plan designation, and they're in the urban district.

VICE-CHAIR MOLINA: Okay. And there's...basically there's nothing the community can do about it then if they wanted to try and stop the building of market rate homes. They have the entitlements already, yeah?

MR. HART: Complicated question. So it depends on what they proposed to do. Some things...okay, so they're in the special management area. Hawai'i Revised Statute allows...HRS 205A-22 allows certain tracks that proposed projects can go on, and some of them can be exempt from permit, some of them, with dollar limitation, can be approved with a Administrative permit, and others require an SMA major permit. Now, HRS 205A-22 also does provide that whenever the authority finds that the proposed action may have a significant cumulative or ecological affect, that that proposed action could be kicked up to a permit. So it really just depends on what's being proposed and what kind of mitigation measures are included on how the approval mechanism...what's the scope and what track could it fall into,

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and is it...is that track going to result in impacts? If it was, it can be kicked up to a permit.

VICE-CHAIR MOLINA: Okay. Thank you for that clarification. All righty. Let's go to...oh, quickly, Mr. Carnicelli before I recognize Member King. Potentially, if you decide to go the market rate home route, how many units at this point, or is it too early to tell?

MR. CARNICELLI: Yeah. Thank you, Chair, for the question. And like I said, we haven't made that assessment yet. You know, we made a decision a while back to go down this track and to try to build workforce housing. So we'd...like I said, we'd have to just reassess and reevaluate. As Deputy Director Hart said, there's lots of different tracks that we'd have to consider.

VICE-CHAIR MOLINA: Okay. Thank you, Mr. Carnicelli. Member King.

COUNCILMEMBER KING: Thank you, Chair. I wanted to follow up with one of the concerns that Vernon had and just ask him...I'm not sure if...Lawrence, if you're the one to answer this, or you have one of your engineers, but what type of fill would be used, and how much fill would be required to sustain the structures, you know, with all the...with the groundwater being so close?

MR. CARNICELLI: I think that's probably a Stacy question. But yeah, we're not bringing in fill...these are going to be on pier and post. It's different than the meadowlands. We're not bringing in fill to bring them up to seven feet. It's a different configuration. So I believe it's a better question for Mr. Otomo.

COUNCILMEMBER KING: But...so you could...so you feel like you can sustain the structures above without filling in any of the...any of the underground, you know, the water table?

MR. CARNICELLI: Again, that's what the engineering says, yes. So...and again, I'm not the engineer, I'm the guy...I'm not the guy that has to make those calculations and do that.

COUNCILMEMBER KING: I just wanted to find out is it your engineer, or is it County engineers, or who...which engineers are saying that? Because, you know, we've been getting...I'm sure you've heard about the problems with the...some of the other structures on the island that have basically their own engineers being approving things. So I just want to make sure that we know exactly what's happening. Seems like there would be some fill because all the neighbors are coming out and talking about how close the water table is to the surface.

MR. CARNICELLI: So our engineers design, and then there's all the different regulatory bodies do the approvals. So whether it be, you know, we have certain regulations



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via FEMA at the Federal level, there's State oversight, and then there's counter [sic] oversight as well. So, you know, it's not like we just designed it and then...trust us. All of those things is...go by engineering standards that are written, and those things have to be reviewed by the appropriate governing body, depending upon which one of those things are. Like I said, it's...19.62 of the Maui County Code is the big one, and then there's the FEMA flood zone designation as well. So we have to adhere to those standards.

COUNCILMEMBER KING: Okay. So there's no...

MR. CARNICELLI: And it's approved by somebody else, not us.

COUNCILMEMBER KING: So there's no plans to fill?

MR. CARNICELLI: Well, there's certain areas that do have some fill, but it's offset by retaining. And again --

COUNCILMEMBER KING: Okay.

MR. CARNICELLI: -- now we're starting to get into engineering stuff. But, yeah, there is...is...there's retention under the buildings, there's retention in different areas, and then there's fill in other areas to accommodate different things.

COUNCILMEMBER KING: Okay, but you probably...you don't have any . . .(inaudible). . . of how much or what type of fill will be there?

MR. CARNICELLI: Yeah, it's in the engineering report. And again, we have to retain more than we fill.

COUNCILMEMBER KING: Okay. All right. Thanks for the response. Thank you, Chair.

VICE-CHAIR MOLINA: Okay. Thank you, Member King. Okay, Members, about time where we typically take our morning recess. So with that being said, we're done with our Q and A with regards to the exemption. When we come back from recess then, the Committee will consider the various types of action that we have before us here today on this project, Affordable Housing Number AH-17, that is the Hale Waipu'ilani Workforce Housing Project. So with that said, Members, time is 10:33. This meeting, the recessed Affordable Housing meeting, of June 6, 2022, the time is 10:33. Today's date is June 13. This recessed meeting stands in recess until 10:45 a.m. this morning. Meeting in recess. . . .(gavel). . .

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**RECESS:** 10:33 a.m.

**RECONVENE:** 10:49 a.m.

VICE-CHAIR MOLINA: . . .*(gavel)*. . . The recessed Affordable Housing Committee meeting of June 6, 2022, is now back in session. The time is 10:49 a.m. Today's date is Monday, June 13, 2022. We've been discussing the Affordable Housing Item 17, the Hale Waipu'ilani Workforce Housing Project. So, Members, if...are there any additional questions for our resource personnel or the applicant? If not...oh, okay. I see Member Paltin. Proceed.

COUNCILMEMBER PALTIN: Couple more questions. Is the developer opposed to working with the Department of Public Works to install a midblock crossing at the project entrance on Kauha'a Street so residents can reach the sidewalk provided by the Meadowlands?

VICE-CHAIR MOLINA: Okay. I guess for either Mr. Betsill or Mr. Carnicelli, have at it.

MR. CARNICELLI: Thank you, Chair. Yes, 100 percent, Member Paltin. Kauha'a has sidewalks on the other side, so we definitely want to provide a --

COUNCILMEMBER PALTIN: Okay, thanks.

MR. CARNICELLI: -- crosswalk.

COUNCILMEMBER PALTIN: Limited time. So second question, is that...retention basins, are they going to be connected to Wastewater so that like when they fill up, or so that...how...I mean...you're saying that there won't be runoff to other people's properties because of the retention basins, but...and they can't go down, like, if it...the elevation is six feet, they can't go down more than, like, I don't know, 3.5, 4 feet. So is it going to be hooked up to the Wastewater, or how...how will that save people...the neighbors' properties from large storms? Or are you only talking about small storms?

MR. CARNICELLI: That's a Stacy Otomo question. Stacy, she's on limited time if you would jump in.

VICE-CHAIR MOLINA: Mr. Otomo.

MR. OTOMO: The retention basins are not going to tie into the Wastewater, that's not allowable. For clarification, we're not mitigating all of the runoff on site. However, we're going to maintain the existing drainage patterns, and actually reduce the amount of flow that gets off of this property.

COUNCILMEMBER PALTIN: So there could still be runoff onto neighbors' properties?

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MR. OTOMO: There will be, but it'll be lesser than what it is today.

COUNCILMEMBER PALTIN: Oh, okay. Because of the retention basins?

MR. OTOMO: Right. The retention basins would mitigate a portion of that, and the overflow would be less than what's running there today.

COUNCILMEMBER PALTIN: So if the retention basin were to fill up with water, that's when it overflows into the neighbors' property, and you just wait for it to drain out? Or you pump it out? Or is there...who's going to be in charge of the maintenance? The HOA?

MR. OTOMO: The HOA, yes.

COUNCILMEMBER PALTIN: And they'll pump the water out or something?

MR. OTOMO: The retention basins are normally...it either evaporates or percolates into the ground.

COUNCILMEMBER PALTIN: Percolates like to the ground water at 2.5 feet above the base elevation, it'll go into that?

MR. OTOMO: Yes.

COUNCILMEMBER PALTIN: Okay. Thank you. I guess that's my questions.

VICE-CHAIR MOLINA: Okay. Thank you, Member Paltin. Okay. Member Rawlins-Fernandez, question for the applicant or our resource personnel?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. My question is for Mr. Otomo as well, dovetailing off Member Paltin's questions. How many gallons do you anticipate the basin holding?

MR. OTOMO: I don't have the exact number with me, it's in the preliminary drainage report. But what we're obligated to do is the increase in runoff that's generated by the development for a 50-year one-hour storm, and what's coming off of the property right now, we are obligated to mitigate that increase. However, when we size this basins, you know, we tend to go a little bit more than what's required. And that's why I'm saying there's going to be less runoff from the property than is what's presently occurring right now.

COUNCILMEMBER RAWLINS-FERNANDEZ: Who ensures the basin is maintained?

MR. OTOMO: We...

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COUNCILMEMBER RAWLINS-FERNANDEZ: Who ensures the HOA maintains the basin? Do you know?

MR. OTOMO: It's going to be part of the homeowners' association's responsibility. And there will be a maintenance plan included when the construction documents are prepared.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh no. My question is who makes sure that the homeowners' association does it?

MR. OTOMO: I'll leave that question to ownership, but definitely, it is a function of the homeowners' association.

COUNCILMEMBER RAWLINS-FERNANDEZ: Now, I'm not an engineer, but I have lived experience on being very close to shoreline. I'm sorry, Chair. It looks like you're trying to stop me. Did the timer go?

VICE-CHAIR MOLINA: No, no. I was going to ask you if you would like additional clarification from Mr. Betsill or Mr. Carnicelli as it relates to your questions to Mr. Otomo.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Right after. So I know that in a storm, water doesn't percolate down because it's saturated...like, fully saturated. And it doesn't take long for water to fill an area, and then the whole area is, like completely flooded. So I guess I don't understand that idea of the basin percolating or reducing, you know, flood in the whole area during a storm. Because I grew up where as soon as the...you know, water is just a few feet down from where I grew up.

MR. OTOMO: Right. Normally during the design phase, the geotechnical engineer would be asked to perform percolation tests at various places on the property, so we would get an idea how well the soils drain. However, when we design the retention basins, the volume has to be there because the drainage standards does not allow us to use percolation rates in the design of the basin. It has to be such that the basins are . . . *(timer sounds)* . . . volumewise, we don't...we don't take up the percolation...or the anticipated percolation in the design. There's a factor of safety that's built in.

COUNCILMEMBER RAWLINS-FERNANDEZ: I heard the timer, Chair. But if you want to let Mr. Betsill clarify, or I can wait.

VICE-CHAIR MOLINA: Okay, Mr. Betsill, just briefly, if you would like to add additional clarification to Mr. Otomo's response...or Mr. Carnicelli.

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MR. CARNICELLI: Thank you, Chair. Thank you, Member Rawlins-Fernandez. I believe what you were...is who's going to be responsible for maintaining those is...whoever owns the property. If it's, you know, workforce housing homes, it would be the HOA. And if it's market rate homes, then it would be the...whoever owns those homes, that's who would be responsible for maintaining the retention basins.

COUNCILMEMBER RAWLINS-FERNANDEZ: No, no. Mahalo, Mr. Carnicelli. The question is, who makes sure that the homeowners' association does it?

MR. CARNICELLI: It's self-governed, I guess. Whether it's market rate homes or whether it's homeowners' association. I don't believe...I don't know if there's an oversight, that I don't know. I mean, maybe you could ask Mr. Hart or Mr. Molina if there's a Government oversight.

COUNCILMEMBER RAWLINS-FERNANDEZ: I guess, like, there's drainage. I don't know if homeowners' association were responsible, you know, during the Kona low for certain drainage areas that were not cleared and ended up causing a lot more damage because they weren't cleared, but...I don't know if any of the departments have a response for that on oversight. . . .*(timer sounds)*. . . Oh, Chair, you're muted.

VICE-CHAIR MOLINA: Sorry, Member Rawlins-Fernandez. Maybe let's do this. Let me ask if there's any other questions from the other Members, and then we can come back for an additional response from Director Molina. Anyone else have additional questions before I go back to Member Rawlins-Fernandez's questions from the Department, or need for clarification? Okay. Let's go back. I see Director Molina would like to add clarification to your question, Member Rawlins-Fernandez. Go ahead, Mr. Molina.

MR. MOLINA: Thank you, Chair. The drainage improvements being discussed are what is considered post-construction best management practices. As the engineering consultants mentioned, that they are required to submit a management plan to the Public Works Department governing maintenance of those facilities, and that is our duty to enforce on those maintenance programs.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Director Molina. I have...I do have a follow up, but I can yield to other questions.

VICE-CHAIR MOLINA: All right. Thank you, Vice-Chair. All right. Anyone else? Member Paltin, questions for the resource personnel or the applicant? Go ahead.

COUNCILMEMBER PALTIN: Can I ask Corp. Counsel?

VICE-CHAIR MOLINA: Proceed.

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COUNCILMEMBER PALTIN: My question is, so say it's greater than a 50-year storm, or even a 50-year storm with the one-hour rain that they're building to, and water comes off of the property, damaging the surrounding neighbors. Is the County liable for allowing this development, or as long as it's built to the engineering standards and in compliance with existing laws, it is what it is?

MS. DESJARDINS: Oh, I'll answer it like this. If this project gets its permits, and it's reviewed by the departments that are responsible for all of this, and we sign off on it, then our position is, is that they are building this in conformance with, you know, the Code and our standards. So the real question will be whether or not it was built to the standards that we approved. If they were built to those standards, would we then go to court and say we...you know, we aren't liable because we believe that this was built, you know, per the rules and regulations. So it really depends on what happens down the line. But that's why this gets reviewed by all the departments, right, so that they can sign off on this and come up with whether these folks are following the Code. Not just in your approval of this project, but then all those permits that have to come in. That's what that review would be for.

COUNCILMEMBER PALTIN: And so if everything is in compliance, but there's runoff that still hurts the neighbors, it is what it is because the Code allowed for that?

MS. DESJARDINS: Well, it's a question of fact that I think if we assume, we...you know, go through that process in the lawsuit as to what caused the flooding, what responsibility we have, do we have any...so it's a really hard question hypothetically to answer based on what we have in front of us right now.

COUNCILMEMBER PALTIN: Okay. And then Mr. Otomo...or I guess, Mr. Carnicelli, regardless if it's the market rate homes or the affordable homes, both will need retention basins, and they'll be similar, especially if the market rate home total square footage is more or equal to the affordable one. You're going to need retention basins either way?

MR. CARNICELLI: Correct. The engineering will be...we'll have to meet the engineering standards no matter what goes there. Correct, yes.

COUNCILMEMBER PALTIN: And retention basins would be the way you go either way?

MR. CARNICELLI: Yes. You have to retain...yes.

COUNCILMEMBER PALTIN: Okay. All right. Thank you.

VICE-CHAIR MOLINA: Okay. Thank you very much, Member Paltin. Members, any other questions for our resource personnel? Now, we do have a consideration for

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modifications. I believe Member Paltin mentioned it earlier, but maybe Staff, you can give me some guidance. Maybe Mr. Mitchell, procedurally, if we do consider any proposed modifications, we need to have a motion on the floor for approving with modifications; am I correct? Or maybe Mr. Mitchell? Ms. Greco?

MR. MITCHELL: . . .*(inaudible)*. . . the question, Chair Molina...yes, you'll need a motion for a change to the modifications.

VICE-CHAIR MOLINA: Okay. So that's where we're at. Thank you, Mr. Mitchell. So, Members, that's where we're at. So for us to consider any modifications, I guess, from Member Paltin and anyone else, the Chair then would have to ask the floor. Is there anyone going to propose a motion for approving with modifications as it relates to AH-17? Member Sugimura, is that a motion? Member Sugimura, sorry, you're muted. I saw your hand go up. Is that...are you asking a question or you making --

COUNCILMEMBER SUGIMURA: Yeah, thank you.

VICE-CHAIR MOLINA: -- a motion?

COUNCILMEMBER SUGIMURA: I did, yeah.

VICE-CHAIR MOLINA: Motion to...

COUNCILMEMBER SUGIMURA: Yeah. I am making a motion.

VICE-CHAIR MOLINA: Okay.

COUNCILMEMBER SUGIMURA: Yes.

VICE-CHAIR MOLINA: Is there a second for the motion?

COUNCILMEMBER KAMA: Second.

VICE-CHAIR MOLINA: Okay. That's a second from Member Kama. Okay. All right. Member Sugimura, since you have made the motion, I'll give you the floor for discussion, and then we can go to Member Paltin for her proposed modifications and...followed by any other of the...any other Members. Go ahead, Member Sugimura.

COUNCILMEMBER SUGIMURA: Okay. Well, without stating the obvious, I know we all are looking for more affordable housing, and this project proposes it. I also believe that the concerns expressed by the community of flooding, or the impacts of that, as the Director said, Mr. Molina, it'll go through the approval process and all...whatever needs to be done by the developer will be requested, and I believe

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that the responsibility will be taken by the developer to make sure that this project is safe for its residents. And, yeah, I look forward to hearing what the other Members may say, and thank you.

VICE-CHAIR MOLINA: Okay. Thank you, Member Sugimura. Member Paltin, you have some considerations for the body as it relates to modifications. We'll go to you, and then followed by Member King.

COUNCILMEMBER PALTIN: Okay, I move to amend the modifications as corresponded in Granicus item 12 that was uploaded, and it would read all units must be owner occupied in perpetuity.

VICE-CHAIR MOLINA: That is the amendment?

COUNCILMEMBER PALTIN: Oh, excuse me.

VICE-CHAIR MOLINA: Okay, all units must be...what, affordable in perpetuity? Is there a second from the...

COUNCILMEMBER PALTIN: No, no. Not affordable.

VICE-CHAIR MOLINA: Oh, sorry.

COUNCILMEMBER PALTIN: Owner occupied.

VICE-CHAIR MOLINA: Owner occupied. Sorry about that. Owner occupied. Owner occupied. Okay, everybody understand what the amendment is? We do need a second for the amendment. Okay, seconded by Member Rawlins-Fernandez. Okay, Member Paltin, you have the floor.

COUNCILMEMBER PALTIN: Thank you. For my discussion, this is somewhat in alignment with Bill 103 that I had posted on the previous Council agenda looking to modify 2.96 that Affordable and Workforce Housing that we make should never become speculator housing for people to buy and not live in. And in looking through the book that was provided to us by the consultants and the developer, when I was looking through the 500-foot radius of this property, there is about 331 parcels. And of that, 62 percent are speculator properties at least by people living outside of the County of Maui. And so we're arguing and quibbling over 28 affordable units, but I think that points to the real problem, is speculation taking up all the housing that was once for our workforce and our local families. And so in introducing the bill and introducing this modification, it's an attempt to ensure that what is being given these exemptions and what is being allowed for affordable or workforce housing, whether it remains affordable or not, is always for the people who live and work here. So that's my pitch. And on Bill 103, I think Corp. Counsel did sign off on it, so I'm assuming it's legal.



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VICE-CHAIR MOLINA: Okay. Thank you very much, Member Paltin. Member King. Oh, I'm sorry. Before I go to...Ms. DesJardins, you wanted to add something before I recognize Member King?

MS. DESJARDINS: No, I just wanted to agree. I did sign off on Bill 103, and looked at that, and I do not have an issue with that, so...

VICE-CHAIR MOLINA: Okay. Thank you.

COUNCILMEMBER PALTIN: Thanks for the confirmation.

VICE-CHAIR MOLINA: Okay. Okay, Member King.

COUNCILMEMBER KING: Thank you, Chair. If this amendment pass...I had another amendment I just wanted to find out how much of the Committee is in agreement to disapprove this project at this point. So if this amendment goes through, can I still make that amendment?

VICE-CHAIR MOLINA: Right now, I'd like to keep the discussion to the amendment from Member Paltin first, and then depending on how that goes, then you can propose an amendment as well.

COUNCILMEMBER KING: Okay.

VICE-CHAIR MOLINA: I don't know if the Members are ready to state their position just yet, but just for procedural sake, let's keep the discussion focused first on Member Paltin's proposal.

COUNCILMEMBER KING: Okay. Well, can I just...can I speak to that then?

VICE-CHAIR MOLINA: Proceed.

COUNCILMEMBER KING: Because I think...you know, obviously if it did go through, we would want to not have short-term rentals. But I speak against the motion because I don't think this is an appropriate development for this area. We heard people come out and say that the reason that they bought in that area was because that's all they could afford. So I don't think it...I don't think it's going to be a successful market home area either because people who are looking for market homes are not going to be wanting to buy something in the flood zone if there are other places available. And, you know, I would just rather...I'd rather focus on this idea of the land swap that Member Johnson has started, and see if we can work out something with the...since the developer was wanting to go forward with that, and it was supported by Ms. Munsell from Housing that...you know, that was, to me, the win-win of this situation, you know, get out of the

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potential wetland, the flooding zone. Let's avoid any unintended consequences. Thank you.

VICE-CHAIR MOLINA: All right. Thank you, Member King. Members, any other discussion as it relates to the proposed amendment from Member Paltin? Member Sugimura.

COUNCILMEMBER SUGIMURA: Chair Lee had her hand up before me, Chair. Maybe you can't see her.

VICE-CHAIR MOLINA: Oh. My apologies, Chair, I didn't see your hand. Go ahead, Chair Lee, if you would like to have the floor, and then I'll go back to Member Sugimura.

COUNCILMEMBER LEE: Thank you, Chair. Question for Member Paltin. Now, if this condition of owner occupancy in perpetuity goes through as approved, let's say I'm a owner occupant, and I have to sell my house...you know, my husband died, or whatever reason. And so the idea is I can sell it to someone who's going to be an owner occupant. But my husband dies like early. I didn't kill him, but he just dies, okay? And then...so it's been two years, so that's kind of allowing speculation, in a sense. Is there going to be any kind of restriction on the equity that a person can...because it may not be affordable after that.

COUNCILMEMBER PALTIN: If I understand your question correctly, I think 2.96 already provides for if you need to sell before the deed affordable restriction runs out...is that what you're saying, before the deed affordable restriction runs out? It has to be owner occupied as long as there's the 2.96 whatever that numbers are.

COUNCILMEMBER LEE: Okay, no. But you're adding...you're adding to the deed restriction by saying it...the house itself has to be owner occupied in perpetuity.

COUNCILMEMBER PALTIN: Correct.

COUNCILMEMBER LEE: Right?

COUNCILMEMBER PALTIN: Correct.

COUNCILMEMBER LEE: So...

COUNCILMEMBER PALTIN: So if you exceed the deed affordable restriction, it doesn't matter what you sell it for, but you have to sell it to somebody that is going to be owner occupied. So if you can get somebody that's going to live there paying \$10 million, go crazy.

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COUNCILMEMBER LEE: Well, that kind of doesn't make sense.

VICE-CHAIR MOLINA: Chair Lee.

COUNCILMEMBER LEE: I think you need to...

VICE-CHAIR MOLINA: Sorry, Chair Lee.

COUNCILMEMBER LEE: I think you need to...

VICE-CHAIR MOLINA: Would you like additional clarification from our Housing Director, Ms. Munsell on your question?

COUNCILMEMBER LEE: Yes --

VICE-CHAIR MOLINA: Would that help?

COUNCILMEMBER LEE: -- that would be helpful. Thank you.

VICE-CHAIR MOLINA: Okay. Madam Director, if you could please add further clarification to Chair Lee's question --

MS. MUNSELL: Yeah.

VICE-CHAIR MOLINA: -- that she just asked of Member Paltin?

MS. MUNSELL: Yeah, thank you. Could you rephrase that question? I'm not sure...I want to make sure I'm answering the correct thing.

COUNCILMEMBER LEE: Well, I'm asking about the deed restriction that she is proposing, which is having the unit owner occupied in perpetuity. So the first question had to do with...so I have to find...if I can't live there anymore, I have to find another buyer who is an owner occupant. But can I sell that property for whatever the market rate is? You know, whatever the market will bear, is my question. Because, you know, I can't stay there anymore.

MS. MUNSELL: Right.

COUNCILMEMBER LEE: But I did fulfill the part about, you know, being an owner occupant while I was there.

MS. MUNSELL: Right.

COUNCILMEMBER LEE: So that's my question.

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MS. MUNSELL: Thank you. Yeah, so as long as you've completed the deed restricted period, it...there's nothing that would keep someone from also requiring that these remain owner occupied for the rest of time. Not that I'm aware of.

COUNCILMEMBER LEE: What is the deed restricted period?

MS. MUNSELL: I believe for a 2.97 project, it's a...ten years.

COUNCILMEMBER LEE: Okay. All right. Thank you. So after ten years I can sell it at the...so I have to make sure my husband lives for ten years. Okay. Thank you.

VICE-CHAIR MOLINA: Thank you, Director. Thank you, Chair. So as I understand, Member Paltin, your proposal would be affordable in perpetuity...I mean, owner occupied?

COUNCILMEMBER PALTIN: Owner occupied in perpetuity --

VICE-CHAIR MOLINA: In perpetuity.

COUNCILMEMBER PALTIN: -- so it's not for, like, you know, offshore investors to speculate, like, the 62 percent of parcels surrounding this parcel in the 500 foot radius. There's like --

VICE-CHAIR MOLINA: Okay.

COUNCILMEMBER PALTIN: -- 200 of the 331 parcels that are used by...or owned by people with foreign addresses outside of Maui County.

VICE-CHAIR MOLINA: Okay.

COUNCILMEMBER PALTIN: So I mean --

VICE-CHAIR MOLINA: Thank you, Member Paltin.

COUNCILMEMBER PALTIN: -- if they're saying that they're building this for our workforce, let's ensure that it's for our workforce, you know, for all...forever.

VICE-CHAIR MOLINA: Point well taken. All right, Members, any other questions as it relates to the amendment proposal from Member Paltin? Member Sugimura, go ahead.

COUNCILMEMBER SUGIMURA: Yeah, thank you. So related to that then, I would like to hear from the developer if they have any comments.

VICE-CHAIR MOLINA: Okay, Mr. Carnicelli or Mr. Betsill.

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MR. CARNICELLI: Thank you, Chair. We understand the intent of this, and we agree. I've actually had a conversation with Member Paltin about this. As we understand it, there would be two different tracks. There would be the deed restriction track, which has to do with the sale restrictions, and then the perpetuity of owner occupant. And I think that it does agree with the intent of what we're trying to do, which is build homes for people that live here. So, yeah, owner occupant in perpetuity, we're okay with that, and are agreeable. So, thank you, Chair. And thank you, Member Paltin.

VICE-CHAIR MOLINA: Okay. Thank you very much, Mr. Carnicelli. Any other questions as it relates to the proposed amendment from Member Paltin? Okay, then the Chair will call for the vote. All those in favor of the amenable...shall we do a separate voice vote, then? Yeah, let's go ahead and do that. Okay, Staff, please go ahead and do a roll call vote for this.

MS. GRECO: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Aye.

MS. GRECO: Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aye.

MS. GRECO: Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

MS. GRECO: Councilmember Paltin.

COUNCILMEMBER PALTIN: Aye.

MS. GRECO: Council Chair Lee.

COUNCILMEMBER LEE: Aye.

MS. GRECO: Councilmember King.

COUNCILMEMBER KING: No.

MS. GRECO: Councilmember Kama.

COUNCILMEMBER KAMA: Yes.

MS. GRECO: Committee Vice-Chair Molina.

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VICE-CHAIR MOLINA: Aye.

MS. GRECO: You have seven ayes, one no. Motion carries.

VICE-CHAIR MOLINA: Okay. Thank you very much. We're now back to the main motion as amended. Vice-Chair Rawlins-Fernandez, followed by Member King.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Just a quick question regarding procedure. Did...was Member Johnson's name called in that vote?

VICE-CHAIR MOLINA: No. I believe he's not --

COUNCILMEMBER RAWLINS-FERNANDEZ: Because I didn't hear it.

VICE-CHAIR MOLINA: Yeah, I believe he's not participating.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, yeah, I...yeah, I know. But I think his name is still supposed to be called and then --

VICE-CHAIR MOLINA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- you're supposed to say excused.

VICE-CHAIR MOLINA: Yeah --

COUNCILMEMBER RAWLINS-FERNANDEZ: That's all.

VICE-CHAIR MOLINA: -- we'll state that for the record. Thank you for that. So the vote is seven to one, the amendment passes, with one excusal, Committee Chair Johnson.

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**VOTE:       AYES:   Vice-Chair Molina, Councilmembers Kama, Lee, Paltin, Rawlins-Fernandez, Sinenci, and Sugimura.**

**NOES:       Councilmember King.**

**ABSTAIN:   None.**

**ABSENT:     None.**

**EXC.:       Chair Johnson.**

**MOTION CARRIES.**

**ACTION:     APPROVE.**

VICE-CHAIR MOLINA: Okay. We'll go to Member King now. Go ahead.

COUNCILMEMBER KING: Chair. I'd like to propose an amendment to disapprove...to change the main motion to disapprove a project --

VICE-CHAIR MOLINA: Okay.

COUNCILMEMBER KING: -- for discussion if I can get a second.

VICE-CHAIR MOLINA: All right. Okay, there's been a proposal to amend the motion on the floor to disapproving the project. Is there a second?

COUNCILMEMBER LEE: Second for discussion.

VICE-CHAIR MOLINA: Okay. All right. Member King, you have the floor.

COUNCILMEMBER KING: Thank you, Chair. Thank you, Chair Lee. Yeah, this project is one of those that, again, the whole community has come out against as far as to...you know, that I know of, and we unfortunately still have not gotten the South Maui Advisory Committee going yet, or I think we would have some, you know, strong recommendations against this project if that advisory committee had gotten going. And, you know, there's a lot of talk about drainage and whether putting these houses up or down is going to work. There's a lot of talk about market rate. We heard many testifiers come out from that same area saying that this was not a good place to build in the first place, and the only reason they bought a house there was because that was all they could afford. So I don't think it's a good place for market homes either. And what I would like to see is us follow up on the idea of the land swap that seems to be amenable, and a win-win

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situation. But the other reason I think that we...this is one of the things that keeps coming up and why the wetland preservation bill is moving through the system. Because we need our own definition of what comprises a wetlands. We went through this same situation with a lot on South Kihei Road that the buyer bought sight unseen at the bottom of the recession, and had proposed to...because it was listed as business on...in the community plan, it was zoned single-family housing. So there was a huge discussion back and forth in my first term on the Council about whether or not this was a wetland, and what the...what a wetland actually is compared to what the Army Corps of Engineers' definition of a wetland is. In going through the Planning Commissions, the wetland preservation bill got great feedback on what...you know, how we should be expanding, for our personal and cultural purposes, the definition of wetlands. And I don't want to see us start approving projects that are in these areas before that bill gets going. And I was on the Council when the Council was working on a sandmining extraction bill, and right under our noses, a grading and grubbing permit got approved, like, overnight before that bill could get passed. So I think we...out of respect for the communities that are looking at the wetland preservation bill, and that understand what's happening with our wetlands, and how we keep building on them, I do not think we should push this project through. I think we can figure out a win-win situation for this project, and get it into one of our other sites that Chair Johnson is working on. So, anyway, that's my reasoning for wanting to disapprove this project. And I also want to say that we've approved...in South Maui, the community has approved other projects that these same developers have done. So this is not saying they're bad developers, this is saying this is not an appropriate affordable housing for the area that they're proposing it on. Thank you, Chair.

VICE-CHAIR MOLINA: Okay. Thank you, Member King. Members, any other discussion as it relates to the motion on the floor, which is to disapprove the project. Chair Lee, followed by Member Sinenci.

COUNCILMEMBER LEE: No comments.

VICE-CHAIR MOLINA: Sorry, I thought I saw your hand up. Okay. All right, Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you, Chair. If I may, just a question to Member King. Was this something that maybe the South Kihei Community Association or the community plan process would address?

COUNCILMEMBER KING: Yes, absolutely, we would address this. And it also could have been addressed by the South Maui Advisory Committee, had we had that up and running a year ago when we first approved it. But as you all recall, the Kihei Community Association is not in favor of this project either.



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COUNCILMEMBER SINENCI: Yeah. Thank you, Chair.

VICE-CHAIR MOLINA: Okay. Thank you, Mr. Sinenci. Members, any other discussion?  
Member Paltin.

COUNCILMEMBER PALTIN: Question for Deputy Director Munsell.

VICE-CHAIR MOLINA: Proceed.

COUNCILMEMBER PALTIN: Deputy Director Munsell, would the Administration be open to swapping 1.5 acres with the land that is around the Police Station?

MS. MUNSELL: I think...

COUNCILMEMBER PALTIN: And then initiating a change in zoning to multi...or residential multi-family?

MS. MUNSELL: Thank you for the question. As you know, anytime you talk about County-owned land, the process involved surrounding that that is pretty...it's a process. So it's on one of...it's on my list of things to discuss with the Mayor, whether he would be interested in doing that. But even if he were to agree to that, and we were to move this through Council for approval, it would be a long process. In addition, we would have to go back to the drawing board as far as the entitlements go. So, yeah, you know, certainly we're open to discussing this with the Mayor, and finding out what his position is on it, but it would be a very long process. And there's no guarantee that it would be approved.

COUNCILMEMBER PALTIN: Can you quantify, like, what you're talking about with long process?

MS. MUNSELL: Well, the property isn't zoned appropriately for housing, and so there would be that whole process that we would have to go through. It's also in the SMA, so there's that process as well. You've seen the process that we've had to go through with the Kilohana Makai project. I don't know how long ago that was initiated, but certainly that was prior to my coming into this position, so it's been more than, I don't know, three or four years since that project was initiated, and that was intended to be a County-supported change in zoning.

COUNCILMEMBER PALTIN: The Police parcel isn't in the SMA though, right? Above the highway.

MS. MUNSELL: I thought you were talking about the property surrounding the Wailea Fire Station. Currently the property surrounding the Police Station is intended to be a regional park. We've had proposals for housing on that parcel, and I think that currently...that our intention at the moment is to look and see what the

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South Maui Community Planning process would be. Certainly I can bring that as an option up to the Mayor as well. But I think we've got a lot of people competing for that parcel right now.

COUNCILMEMBER PALTIN: You're seeing...the Administration intends for it to be a regional park, but we've seen a presentation to allow 600 to 1,200 houses over there; is...that's not accurate?

MS. MUNSELL: So we've seen a lot of different uses proposed for this. Currently, the intent was to have this as a regional park. DEM has got an interest in that property, as well as Parks, and of course, we'd like to see some housing go in there. But, again, that's going to be years in the planning process. And I've seen that same presentation for housing as well, but again, the process to move that forward is not going to be, I think, the two years that's proposed for this project.

COUNCILMEMBER PALTIN: Oh, shucks, those guys were telling me July. Okay. All right. Whatever you say.

VICE-CHAIR MOLINA: All right. Thank you very much, Member Paltin and Director. Members, any other questions for Member King or the Department, the applicant, as it relates to Member King's proposed amendment to disapprove the project. Okay. Vice-Chair.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I guess question for Deputy Director Munsell, dovetailing off Member Paltin's question. So are there any other parcels that would be feasible for a land swap for this project, even if it's not in South Maui?

MS. MUNSELL: Thank you. Thank you for the question. So the only other parcel that the County owns that is correctly zoned for housing would be in the Maui Lani lots, and we had just granted some of those lots to Na Hale O Maui, as well as the hospital foundation. There are some remaining lots there. The other lot that we have that is zoned for housing in some way is Dickenson Street in Lāhainā, and I believe that that zoning allows, as I understand it, four units. Other than that, there is no appropriately zoned housing. There might be some possibility, obviously, with the coming of the Waikapū Country Town possibly, but, again, County doesn't have control of those lots. So, again, it's going to be a long process.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Deputy Director. Mahalo, Chair.

VICE-CHAIR MOLINA: Okay. Thank you, Vice-Chair Rawlins-Fernandez. If I could ask Director Munsell a question before I recognize Member Sugimura. You know, the applicant, they stated for the record they've had several community meetings on this. And I'm not sure if the comments that came from the community at these

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meetings were similar to that...what we experienced back on June 6 in terms of testimony, which seems, at least just from that meeting, you know, there was an overwhelming number of community members not supportive of this project. So with that said, was the Mayor and yourself aware of all these objections that were expressed on June 6 from all of these other community meetings, if there were this type of comments?

MS. MUNSELL: Thank you. Thank you for that question. Certainly the community meetings and the information from those meetings is included in the application. We're aware that the community has concerns about the drainage, and certainly, as a entity that isn't...we're not engineers, we're concerned as well. But you will see the comments that are in those...the documents from the various departments who have jurisdiction over those kinds of things. So, yes, while we are aware of the concerns of the community, it's up to this body to determine whether those concerns have been addressed appropriately and in a manner that makes sense to approve this additional use of the property. As mentioned, it is zoned already for housing. They are increasing the density, and that does raise some concerns for the community, but our hope is that this body will take those concerns into consideration, as well as the responses of the developer, and the departments, and the engineers.

VICE-CHAIR MOLINA: Okay. Thank you, Director. Okay, let's go to Member Sugimura, followed by Member King.

COUNCILMEMBER SUGIMURA: Yeah. Well, thank you. I understand the motion. I'm going to be voting against it because I would like to see this project move forward, and I trust that the departments, when they go through their approval process, they'll take into consideration and, you know, basically follow what the Code requires them to do to do development so that it's safe and addresses some of the concerns that were brought up. And so I'm going to be voting no. Just wanted to state that. Thank you.

VICE-CHAIR MOLINA: Okay. Thank you, Member Sugimura. Member King.

COUNCILMEMBER KING: Thank you, Chair. Just to reiterate some of my discussion with Member Johnson on this issue, since he initiated the idea of a land swap that would result in putting that land in conservation and preserving the wetland there. I don't think that market housing is going to be successful there, even if we don't approve this project. Because even the people that are there were just there because the values were so low since it was built in a flood zone, and they...that was their testimony, that that was all they could afford, so they...you know, they bought in a flood zone, that they didn't really want to. So it's...you know, I think the win-win situation is to find another parcel, and yes, it would be great to find another parcel that's already zoned for housing but, you know, I...just my experience with these kinds of projects is that they take a long time

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anyway. and they take much longer if the community is against them. So I'd like to create a win-win situation and be able to work with the developer and the Administration, and find a place that's suitable for this project, whether it's in South Maui or not. So, anyway, that was my second and final think on this. Thank you.

VICE-CHAIR MOLINA: Okay. Thank you, Member King. Mr. Sinenci.

COUNCILMEMBER SINENCI: . . .*(inaudible)*. . . Chair. And although I do support affordable housing, also supportive of not putting people in dangerous situations like this one as far as flooding. And open to...with those remarks, I am open to listening how we can better plan for water as it moves mauka from makai into South Maui. And also, of the land swap, I am also with my vote, I'm hoping that during the community plan proceedings that they can address this and...for the land swap...excuse me, the land swap we can go ahead and do it.

VICE-CHAIR MOLINA: Okay. Thank you, Mr. Sinenci. Chair Lee.

COUNCILMEMBER LEE: Thank you, Chair. Although this is a very difficult decision, I will be voting no on the motion. Primarily because we are in a housing crisis, and the fact that there will be 28 new homes for 28 families and individuals, and potentially freeing up 28 rentals for other people. So under the circumstances--and I know the people in South Maui would not like an aye vote on the project, but I'm afraid I'm going to have to make that unpopular decision, and for now, on this motion, vote no. Thank you.

VICE-CHAIR MOLINA: Thank you, Chair Lee. Member Kama.

COUNCILMEMBER KAMA: Thank you, Chair. You know, I think about our Chair who's not here this morning. And I remember he was so aggressive, and so assertive about his hair being on fire, right? So he just pushes us and tells us come on, we got to move, we got to build houses, we got to get these things...we got to get these things going. We do get them going. But then many times, they're conditioned to the point where they don't go. So they don't go at all, and nothing happens. So I wanted to ask, because I know...I know that it's a difficult thing we have to do, but I'd like to ask the developer about that swap. What is that swap going to be for them? Can I ask that, Chair?

VICE-CHAIR MOLINA: Go ahead. Mr. Carnicelli or --

COUNCILMEMBER KAMA: Thank you, Chair.

VICE-CHAIR MOLINA: -- Mr. Betsill.

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MR. CARNICELLI: Thank you, Member Kama. As Director Munsell said, you know, what does the County have to swap, right? Is...when Member Johnson originally approached us, it was, you know, are you open to options? Well, okay. What does that mean? You know, we can listen to options. But when you look at we can have 28 families move in before the end of next year, or we can start all over again somewhere else, wherever that might be, entitlements, talk to new neighbors, go back to KCA again, South Maui Advisory Committee will then be there. We're talking about years, and years, and years. So really, as a viable option, if this is like...you know, if you would like to vote down and say, okay, we're going to do a land swap, I just don't see that being a viable option at this point. And so I appreciate the question, but, you know, development on Maui is a very long arc, and it has its challenges. And we chose to take on that challenge on this particular parcel. And I'm not certain that we would do that, you know, how amenable or how appealing it would be to start all over again. So...

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

COUNCILMEMBER KAMA: Thank you. Thank you, Chair.

VICE-CHAIR MOLINA: Member Kama. All right. Anyone else before the Chair makes his comments, and then we'll call for the vote on the amendment.

MR. CARNICELLI: . . .*(inaudible)*. . . so thank you . . .*(inaudible)*. . . Thank you for the question.

VICE-CHAIR MOLINA: Thank you, Mr. Carnicelli. See Vice-Chair Rawlins-Fernandez, go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Sorry. It's...I have a question for Deputy Director Hart.

VICE-CHAIR MOLINA: Mr. Hart.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Chair. Aloha, Deputy Director Hart. If this were to be disapproved, this project under 2.97, and the developers build whatever they can under the entitlements they currently have, would an SMA still be required? A SMA, I think that would be a major, yeah?

MR. HART: Depends. So, Chair, there is a proposal of a scope here now. This scope couldn't be developed under existing land use entitlements. So let's say they reconfigure that scope into something that could be built under their existing land use entitlements, that would trigger SMA review, but it would depend on what that scope was to determine whether or not it fit into one of the tracks, you know, there's exemption. Like, for instance, what if they propose to build one single-family house on the entire parcel. There's an exemption line item for that.

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Or a minor permit, you know, it's...there's a cap of \$500,000, and then the major permit is everything else that is development with no dollar cap. And I did mention earlier that there is a contingency in HRS 205A-22, wherever the authority finds that there may be cumulative and or substantive impacts from a proposed action, then it could be required to obtain a permit. So the long or short of this is that we have to see what the revised project would be, and whether or not...you know, the Director would determine that there is a concern of impacts. If it's able to be addressed in the Administration level, or if it's...just outright triggers a major SMA permit, then it would just go right into that track.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So just to clarify, if it...if the project is over 500,000, that would just trigger a minor. And is there a dollar amount that would trigger a major?

MR. HART: Well, let me try and go over it. So there's a lot of different overlapping rules, so it's going to be difficult to just memorize these things --

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MR. HART: -- in this time. So an exemption that does not require a permit has no dollar limitation on it. A minor permit that does require...a minor permit is requiring a permit, it has a dollar cap of \$500,000. A major permit has no dollar limitation on it.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for that clarification. Okay. Mahalo, Chair for allowing me to answer [sic] that question. So I want to honor the wishes of the residents of that area, and they came out very strong in opposition of the project. And so I'm leaning toward supporting the motion on the floor as proposed by Member King. My concern is that if we disapprove this project, it has, you know, certain entitlements that would enable it to have housing built there, and not serve as wetland, as the residents testified to keeping the parcel as a wetland. And in disapproving, I would like to further honor those, you know, testifiers and the community in preserving that area as a wetland. In disapproving, you know, the developers would be able to build things without Council approval. And, you know, with an exemption, there would be very...it would be very challenging for the community to be able to stop and preserve the area, the parcel, to be a wetland. So...and it sounds like the developers are pretty set on building on that parcel. So I'm still working it through. Hopefully there will be more discussion for me to be able to consider because I'm still a little on the fence on...with this motion. Mahalo, Chair.

VICE-CHAIR MOLINA: Okay. Thank you very much, Member Rawlins-Fernandez. Any other discussion before the Chair makes his comments and calls for the vote? Okay, seeing none, the Chair...boy, this is almost like...some might call it a no-win situation, yeah? I mean, we all can agree we need more inventory and more

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housing, but at the same time, after all is taken into consideration, the concerns of the affected residents if a project like this goes in, we've all seen the effects of weather, what it can do to the area, flooding and so forth. And, you know, so we're all in tune nowadays to climate change, shoreline erosion, sea level rise, and also the movement towards managed retreat, building outside of these areas, flood zones, evacuation zones, and so forth. So the question becomes, do we want to continue putting people in places like this where there's...you know, we're a moment away from a potential big flood or, God forbid, a major disaster. So this is hard for me, but I'm going to go ahead and respect the wishes of the residents and not support moving this project forward. However, I would like to encourage the applicant to continue doing outreach with the County for a potential land swap. They've put out some very good projects in this area over the years, and I applaud them for doing their part to do a lot of outreach with the community. And so I hope they continue that and...so we can, again, expand our inventory of units, affordable units, whether it be for rental or for home ownership. Because we do have a crisis. But again, it's just a matter of location, location, location in this particular case. So it's just an unfortunate set of circumstances. The project itself, the proposal, I think is very worthy of consideration, but again, it's just where it's being put and how it could potentially peril others who are living nearby if a disaster happens to occur or excessive flooding. So that is the Chair's position on this. So with that said, Staff, please make a...do a roll call vote on the...again, if we could restate the motion, Member King.

COUNCILMEMBER KING: Chair, the motion was to disapprove the Waipu'ilani Workforce Housing Development project for this area. And...well, I already had my second and final, so I won't go on.

VICE-CHAIR MOLINA: Okay.

COUNCILMEMBER KING: Thank you.

VICE-CHAIR MOLINA: Thank you. Okay, Members, we're all clear on what the motion is. Staff, roll call.

MS. GRECO: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: No.

MS. GRECO: Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aye.

MS. GRECO: Councilmember Rawlins-Fernandez.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

MS. GRECO: Councilmember Paltin.

COUNCILMEMBER PALTIN: No.

MS. GRECO: Was that a no? Council Chair Lee.

COUNCILMEMBER LEE: No.

MS. GRECO: Councilmember King.

COUNCILMEMBER KING: Aye.

MS. GRECO: Councilmember Kama.

COUNCILMEMBER KAMA: No.

MS. GRECO: Committee Chair...Committee Vice-Chair Molina.

VICE-CHAIR MOLINA: Aye.

MS. GRECO: Committee Chair Johnson.

VICE-CHAIR MOLINA: Excused.

MS. GRECO: You have four ayes, four noes. Motion fails.

**VOTE:       AYES:   Vice-Chair Molina, Councilmembers King,  
                              Rawlins-Fernandez and Sinenci.**

**NOES:   Councilmembers Kama, Lee, Paltin and  
                              Sugimura.**

**ABSTAIN:   None.**

**ABSENT:   None.**

**EXC.:   Chair Johnson.**

**MOTION FAILS.**

VICE-CHAIR MOLINA: Okay. Thank you very much. So I presume we're back to the



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main motion, which was to approve with modifications. Any further discussion? Okay then Member Paltin as the maker of that motion, go ahead.

COUNCILMEMBER PALTIN: I move to remove the exemptions that Director Jordan Hart put that he didn't want to be exempted.

VICE-CHAIR MOLINA: Okay. Members, you've heard the motion from Member Paltin to remove the exemptions that Mr. Hart did not want...could I ask Mr. Hart again...

COUNCILMEMBER PALTIN: Director Molina. Sorry.

VICE-CHAIR MOLINA: Oh, Director Molina. Okay. Could we again hear those again, just for the record, to make that more clarity to the motion. Would you like to provide that, Member Paltin, or shall we call on Director Molina?

COUNCILMEMBER PALTIN: Yes. Please call on Director Molina.

VICE-CHAIR MOLINA: Okay. Mr. Director.

MR. MOLINA: Thank you, Chair. So those two exemption we had concerns with are on page 15 of the exemption list, subsection E2 relating to public street improvements. And I guess maybe before you go there, like, we haven't had a chance to discuss the impact to the project with the applicant on how providing that widening or providing those additional frontage improvements may affect the project. Generally speaking, you know, if there's missing pedestrian facilities or traffic facilities, we would want those through our E2 relating to public streets and F3.

COUNCILMEMBER PALTIN: E2 and F3 relating to public streets, not undergrounding of utility.

MR. MOLINA: Correct. And I guess perhaps the better approach is to allow us to have discretion and not fully exempt them from everything because there may be some...just from site planning perspective that makes sense to, you know, give a little on. But to outright exempt everything gives us...or removes that ability from that conversation.

COUNCILMEMBER PALTIN: I'm open to giving discretion to Public Works on the exemptions listed in E2 and F3 on page 15 relating to road improvements, but not undergrounding of overhead utility lines.

VICE-CHAIR MOLINA: Okay. Thank you, Member Paltin. I'd like to ask...just get comments from the applicants, maybe Mr. Carnicelli or Mr. Betsill.

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MR. CARNICELLI: Thank you, Chair. We are amenable to the changes to give the Department discretion. Not a problem.

VICE-CHAIR MOLINA: Okay. Thank you, Mr. Carnicelli. Members, anyone else like to speak to the motion made by Member Paltin?

COUNCILMEMBER KAMA: I'll second it.

VICE-CHAIR MOLINA: Okay. All right, second. Oh, yeah. Sorry. We never had the chance to hear the second. Okay, seconded was by Member Kama. All right. Additional discussion before Chair calls for the vote? All right. Shall we do a roll call, Members, on this? Okay. Staff, roll call vote, please, on Member Paltin's amendment to modify.

MS. GRECO: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Yes.

MS. GRECO: Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aye.

MS. GRECO: Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

MS. GRECO: Councilmember Paltin.

COUNCILMEMBER PALTIN: Aye.

MS. GRECO: Council Chair Lee.

COUNCILMEMBER LEE: Aye.

MS. GRECO: Councilmember King.

COUNCILMEMBER KING: No.

MS. GRECO: Councilmember Kama.

COUNCILMEMBER KAMA: Yes.

MS. GRECO: Committee Vice-Chair Molina.

VICE-CHAIR MOLINA: Aye.

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MS. GRECO: Committee Chair Johnson.

VICE-CHAIR MOLINA: Excused.

MS. GRECO: You have seven ayes, one no, one excused. Motion passes.

**VOTE:       AYES:   Vice-Chair Molina, and Councilmembers Kama, Lee, Paltin, Rawlins-Fernandez, Sugimura and Sinenci.**

**NOES:   Councilmember King.**

**ABSTAIN:   None.**

**ABSENT:   None.**

**EXC.:   Chair Johnson.**

**MOTION CARRIED.**

**ACTION:   APPROVE amendment.**

VICE-CHAIR MOLINA: Okay. All right. Thank you. Are there any other considerations for the motion on the floor as amended? Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I move to include a modification that Vernon Kalanikau or his designee will be allowed to monitor the construction of the foundation.

COUNCILMEMBER KING: Second.

VICE-CHAIR MOLINA: Okay. Motion made by Member Paltin, seconded by Member Kama [sic] to allow Mr. Kalanikau to provide assistance in monitoring of the project.

COUNCILMEMBER KING: Chair, that was my --

COUNCILMEMBER KAMA: It was Member King.

COUNCILMEMBER KING: -- I seconded.

VICE-CHAIR MOLINA: Oh, I'm sorry. Member King seconded. I apologize. Okay. Any

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discussion on the motion made by Member Paltin? Would you like to add further discussion, Member Paltin, to your proposed modification?

COUNCILMEMBER PALTIN: Yeah. You know, the water below is a resource, and they should have the okay and make sure the water source below is protected.

VICE-CHAIR MOLINA: Okay. Thank you, Member Paltin. Any other discussion before the Chair calls for the vote. Okay, Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'm supportive of the motion. I just...I guess I wanted to call on Corporation Counsel. We generally don't name names like that, that I've seen. It's usually like an entity, like Aha Moku or a designee. So I...if Ms. DesJardins can speak to that.

MS. DESJARDINS: Thank you. So I apologize, I wasn't at the last meeting, and I'm not familiar with what group that that gentleman is with, if he's just a member of the community...if somebody could clarify. Does he work for an organization?

COUNCILMEMBER PALTIN: He was consulted as a cultural resource. He's not with Aha Moku, but he's like a lineal descendant of the area.

MS. DESJARDINS: Yeah, I mean, I share Member Rawlins-Fernandez's concerns. I just don't know...if you say he's there and monitoring, and to what extent...what authority are you placing on him? Does he stop the project? I mean, I think it's vague, and I think it could be construed as not rationally related in any way to this development to just simply say he can be there in what capacity. And Member Rawlins-Fernandez is absolutely right, usually it's a cultural resource assessor, or SHPD, or somebody who's going to monitor it for a legal purpose. So I would caution against this motion for those reasons. Thank you.

VICE-CHAIR MOLINA: Thank you. Vice-Chair Rawlins-Fernandez, any other comment?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I guess the question for either Member Paltin or...I think we still have Mr. Kalanikau on. So if he is...my question for Mr. Kalanikau would be if he is a registered lineal descendant or cultural descendent of the area.

VICE-CHAIR MOLINA: Mr. Kalanikau, if you're on the call.

COUNCILMEMBER RAWLINS-FERNANDEZ: Which...

VICE-CHAIR MOLINA: Are you able to respond to...

MR. KALANIKAU: Yeah, howzit, Keani?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha.

MR. KALANIKAU: Aloha, Keani. Yes, I am, through the Burial Council, and mauka to makai. And if you may, I missed the asking of . . . *(audio interference)* . . . Council, but whether it's okay or approved by the developer to come on site, I still going document anyway. And I only saying that because that's good record to have when the project is being done, to make sure that what they say, they going to uphold, right? So that's why I was asking. Because Lawrence was...he was very open with the Hale Kaiola Project. They opened their arms and, you know, Vernon, you're welcome to come and visit the site as they work on the site. I was...I thought about the Hale Kaiola Project, if that would be okay with Lawrence and ownership for me to come. Only because the water resource, you know, needs to be overlooked, you know, because that's just my concern. Because it is a water resource, and for us Kānakas, that's...we ma'a to those things, yeah, anyway, naturally. So that's why I was asking. Thank you.

VICE-CHAIR MOLINA: Okay. Vice-Chair.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Kalanikau, for that clarification. And I guess to dovetail off of Ms. DesJardins' concern, I wanted to ask a question of Mr. Carnicelli regarding, you know, the...his willingness to work with Mr. Kalanikau on this project, and the level of authority or...you know, just how that relationship would look with enforcement, if there was anything that concerned Mr. Kalanikau, and it...you know, if he is willing to work with Mr. Kalanikau, if he...perhaps there would be some kind of designation as a cultural advisor in this project, as presented with this project, and then the condition that Member Paltin has proposed would be that, you know, the designated cultural consultant, as presented by the project instead of naming Mr. Kalanikau by name.

VICE-CHAIR MOLINA: Mr. Carnicelli, would you like to respond?

MR. CARNICELLI: Thank you, Chair. My video's not working, so I'll...I don't know exactly, I mean...I'm okay with the motion and the amendment. You know, as Vernon said, he's going to be there anyways. He's going to be looking at what we're doing. And we...you know, we welcome him. You know, just like he can come onto Hale Kaiola right now. I mean, he's got to put his hard hat on . . . *(inaudible)* . . . and his vest, like that and, you know, abide by the safety protocols. But 100 percent, yeah, we...we always welcome Vernon and his input. He obviously knows more about that area than any of us do, so, yeah, we're okay with that.

VICE-CHAIR MOLINA: Okay. Thank you, Mr. Carnicelli. All right --

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

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VICE-CHAIR MOLINA: -- thank you. Thank you, Vice-Chair. I believe...was it Member King, you had your hand up. Go ahead.

COUNCILMEMBER KING: Thank you, Chair. I just wanted to know...I was wondering if it was appropriate to name...rather than putting Mr. Kalanikau's name in there, to say the area representative for the Aha Moku. Because I believe that that's your official title, Vernon.

MR. KALANIKAU: Oh, no. I resigned some time ago.

COUNCILMEMBER KING: Okay.

MR. KALANIKAU: So I'll just going by as lineal cultural descendant, yeah.

COUNCILMEMBER KING: Okay. I thought you were still our area representative. So never mind.

VICE-CHAIR MOLINA: Okay. Thank you, Member King. So I have a question for maybe Corporation Counsel with designating Mr. Kalanikau as a lineal descendant. Now, could that also open up to anyone else in the area who's a lineal descendant that would make the same...could they make the same request of Mr. Carnicelli, and would they be obligated to also have someone else along with Mr. Kalanikau to help oversee progress of the project, should it pass?

MS. DESJARDINS: It would depend on the wording of the provision...the modification, and I would...as you have, get a consent from Mr. Carnicelli and his group to be okay with whatever your provision is. So it could be something as broad as shall work with lineal descendants in the area, make best efforts to meet their needs...I don't know how you want to word it. But as long as Mr. Carnicelli represents on the record that he's okay with what you are providing, then I'm not so concerned about whether there's, you know, a rational basis for it. But if he's okay with it, then fine.

VICE-CHAIR MOLINA: Okay. Yeah. Because I'm just, you know, thinking how Mr. Carnicelli can designate Mr. Kalanikau as the point person, so to speak, for other lineal descendants in the event other folks want to come out and provide their input. But let me ask Mr. Carnicelli his thoughts.

MR. CARNICELLI: Thank you, Chair. You know, I think, as Ms. DesJardins said, I mean, I guess it's going to depend on what the wording is. I also don't want to necessarily force Vernon to be the point person. I know he's a very busy individual, and so I don't want to necessarily burden him with that. So if you want to come up with additional language to have it be more inclusive, I mean, we'd be open to that. I guess we're just sort of curious what the language would

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actually be. So I guess, you know, we're open to working with everybody and...you know, but yet I don't want to have to force Vernon to do a bunch of extra work if other people have concerns that he has to get involved. So I don't know what it sounds like, but maybe if you can craft some language for us.

VICE-CHAIR MOLINA: Okay. Thank you very much, Mr. Carnicelli. All right, Member Paltin, with that being said, anything you want to add to, I guess, make it even more clear that it's Mr. Kalanikau?

COUNCILMEMBER PALTIN: Yeah, I'll stick with his name as being the lineal and cultural descendant that's been advising at this point and continue forward, you know...and/or his designee.

VICE-CHAIR MOLINA: Okay. So we'll leave it at that then. All right, Members, if there's no other discussion on the amendment from Member Paltin, Chair will call for the vote. Do I need to do a roll call, Members?

COUNCILMEMBER KING: Voice vote.

VICE-CHAIR MOLINA: Voice vote. All right. All those in favor of amendment, signify by saying aye and raising your hand.

**COUNCILMEMBERS VOICED AYE.**

VICE-CHAIR MOLINA: Okay. Chair will mark it eight ayes, with one excusal, Member Johnson. The amendment passes.

**VOTE:       AYES:   Vice-Chair Molina, and Councilmembers Kama, King, Lee, Paltin, Rawlins-Fernandez, Sinenci and Sugimura.**

**NOES:   None.**

**ABSTAIN:   None.**

**ABSENT:   None.**

**EXC.:   Chair Johnson.**

**MOTION CARRIED.**

**ACTION:   APPROVE amendment.**

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VICE-CHAIR MOLINA: Any other considerations on the motion as amended? Okay. Member King.

COUNCILMEMBER KING: Can I just speak to the motion as amended, Chair, before we take the vote?

VICE-CHAIR MOLINA: Okay. Proceed.

COUNCILMEMBER KING: So, you know, I just wanted to say I understand if..you know, I really appreciate the folks, my colleagues, who have supported South Maui and all of the strong opposition to this project. I think I'm going to still vote against it, but I understand if folks feel like they have to vote for it now because if we don't pass it, then it goes through as...without any amendments, correct? So if we can't pass it, we can't disapprove it, then it goes through with no amendment, and it goes through as is. I think maybe Mimi wants to confirm that.

MS. DESJARDINS: Yeah.

VICE-CHAIR MOLINA: Corporation Counsel.

MS. DESJARDINS: So with 2.97, what actually happens if you don't take action, then it goes to the Director to go through the same process. And I believe the Director has a certain number of days in order to do it, so it's a little bit different than the 2.96, but essentially, yeah . . .*(inaudible)* . . .

COUNCILMEMBER KING: Okay. So anyway, I just wanted to say that I know we all approve...we all want affordable housing, and I've always been an advocate for appropriate affordable housing. To me this is not appropriate. It doesn't mean, as I said before, that these are not good developers. They have some other projects in the community that are very appropriate that were supported by the community. So I just want to make that distinction and, you know, where we...you know, I don't want to disparage anybody but, you know, my whole thing has been always to put people and the environment over profits. And we...you know, and I understand we're always looking for more affordable housing, but we just can't be running rampant and putting it in areas that are flood zones and that are potential wetlands that...and I think it's also...I think it's also sad that we put affordable housing in these areas that are less than desirable to live in. So I'm very excited about some of the other affordable housing projects that we have coming. We've got about five more in South Maui, so it's not like we don't have affordable housing coming into my district, and at the...on the...with the approval of this Council. But to me, this is just not the right place and it's a little bit frightening to me to put a...this project in this area when we've all seen the aftermath of the floods and the drainage issues we still have in our community. So that being said, you know, I respect everyone's decision on this Council, and



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I know there's a desire to not have no decision made today, and then have it be sent to the Director for approval. So I'll just leave it like that. Thank you very much.

VICE-CHAIR MOLINA: Thank you, Member King. Anyone else who would like to speak to the motion, which is to approve the Hale Waipu'ilani Workforce Housing Project with modifications? Okay, Member Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. You know, I really agree with Member King. The part that gets me is that if we disapprove it, we're not saving the wetlands, and we're not decreasing the square footage on it. So it does feel like a Catch-22 because they showed us their plan for a four-lot subdivision with 12 houses, a six-lot subdivision with 18 houses. And the part of that that makes me sick is that none of it would be affordable, none of it would be, you know, owner occupied. It's like a speculator's dream. And so, you know, if it's an entitled piece of property where there's going to be houses on it one way or the other, my...my vote is with affordable housing. My top choice would be no houses whatsoever because of the issues in the area. And although the property may not flood itself, and although it would mitigate the water supposedly going onto the neighbors' property, how are these people going to get out on...if South Kihei Road is flooded? But it seems to me that the choice is between affordable housing or speculator housing. And if those are the only two choices, I'm not going to take speculator housing. So that's why I have to vote the other way. Thank you.

VICE-CHAIR MOLINA: Okay. Thank you, Member Paltin. Anyone else like to speak to the motion before the Chair calls for the vote? Seeing none. All right, Staff, please go ahead and do a roll call vote.

COUNCILMEMBER KAMA: Chair, did you see my hand?

VICE-CHAIR MOLINA: Oh, sorry, Member Kama. Did you have your hand up? I'm sorry, I didn't see your hand up. My apologies. Go ahead, Member Kama.

COUNCILMEMBER KAMA: I agree with all that my colleagues have said. But one thing I do want to say is that maybe that means 28 families are not going to leave Hawai'i. That we get 28 families that get to stay home and not have to leave because there's no place for them to live. So that's all I wanted to say, Chair. So, thank you.

VICE-CHAIR MOLINA: Thank you, Member Kama. Anyone else? Okay, I see Vice-Chair Rawlins-Fernandez's hand is up. Proceed.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'm going to vote in support of the motion today. As Member King articulated, that we have to take action, otherwise inaction will give the authority to the Director, and I wouldn't

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be supportive of that either. I agree with Member Paltin's comments. You know, I think they are pretty concise. Like, the decision that we have today is that we either support the motion...that we either support having housing that's for workforce--I'm not going to call it affordable--workforce, that will be occupied by the property owner, or it will be occupied by market rate houses, potentially absentee owners or short-term rentals. Who knows? But it will be out of our hands because we won't have the ability to approve or disapprove any other project that would allow...that would be...that could be built with the entitlements they already have. I would like to see this parcel preserved as a wetland, so if we can figure out some kind of feasible land swap, I would be fully in support of that. And so...but for today, I'll be supporting the motion on the floor. Mahalo, Chair.

VICE-CHAIR MOLINA: Mahalo, Vice-Chair. Anyone else like to speak to the motion? Mr. Sinenci.

COUNCILMEMBER SINENCI: Thank you. Yes, that said, I will support with reservations.

VICE-CHAIR MOLINA: Thank you, Mr. Sinenci. Anyone else? Okay. Chair will call for the vote. Staff, roll call vote, please.

MS. GRECO: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: Yes.

MS. GRECO: Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aye.

MS. GRECO: Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

MS. GRECO: Councilmember Paltin.

COUNCILMEMBER PALTIN: Aye.

MS. GRECO: Council Chair Lee.

COUNCILMEMBER LEE: Aye.

MS. GRECO: Councilmember King.

COUNCILMEMBER KING: No.

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MS. GRECO: Councilmember Kama.

COUNCILMEMBER KAMA: Yes.

MS. GRECO: Committee Vice-Chair Molina.

VICE-CHAIR MOLINA: No.

MS. GRECO: Committee Chair Johnson.

VICE-CHAIR MOLINA: Excused.

MS. GRECO: You have six ayes, two noes, one excused. Motion passes.

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

**NOES:   Vice-Chair Molina and Councilmember King.**

**ABSTAIN:   None.**

**ABSENT:   None.**

**EXC.:   Chair Johnson.**

**MOTION CARRIED.**

**ACTION:   Recommending ADOPTION of Resolution 22-131, and  
              FILING of Resolutions 22-130 and 22-132.**

VICE-CHAIR MOLINA: Okay. Thank you very much. All right, Members. So this matter will move forward to the Council for a final vote in the near future. I believe this concludes our agenda for today. Staff, is there anything the Chair needs to be made aware of before we adjourn?

MS. GRECO: No, we're all good to go. Thank you.

VICE-CHAIR MOLINA: All right. Thank you very much. And we were scheduled for an IT meeting this afternoon at 1:30. I guess maybe that's what Member Sugimura wanted to say. Member Sugimura, go ahead. I'll give you the floor.

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COUNCILMEMBER SUGIMURA: Yeah. So my meeting is cancelled, but I'm going to take that item up at another meeting. But I just wanted to get clarification. So that whole discussion about the Water Department and, you know, to use Affordable Housing Fund, as we go through this, I hope that, you know, we would be able to take care of that cost through the Affordable Housing Fund, this process. Okay. I just want that clarification. Thank you.

VICE-CHAIR MOLINA: Okay.

COUNCILMEMBER SUGIMURA: Thank you, everybody. I got to go wish my son happy birthday. Bye.

VICE-CHAIR MOLINA: Yeah. All right. Thank you very much, Member Sugimura.

COUNCILMEMBER SUGIMURA: Good meeting.

VICE-CHAIR MOLINA: All right. With that said, Members...thank you. Thank you very much for your hard work, Members, as well as Committee Staff, your own office Staffs, the applicant, thank you so much. And also to our County resource personnel for a very engaging discussion today. And also the input from the community, whether for or against the matter. I think this is a very, very good discussion. So with that said, the time is ten minutes after the hour of 12:00. The recessed Affordable Housing meeting of June 6, 2022 will now come almost to a close. The time today is...I said 12:10, the date is Monday, June 13, 2022. So this meeting is now adjourned. . . .(gavel). . .

**ADJOURNED:** 12:10 p.m.

APPROVED:



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MICHAEL J. MOLINA, Vice-Chair  
Affordable Housing Committee

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Transcribed by: Crystal Sakai

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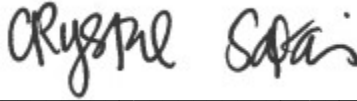
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CERTIFICATION

I, Crystal Sakai, hereby certify that pages 1 through 69 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 15th day of July 2022, in Wailuku, Hawai'i



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Crystal Sakai