

AFFORDABLE HOUSING COMMITTEE

Council of the County of Maui

M I N U T E S

September 13, 2022

1:30 p.m.

Online via BlueJeans Link

RECONVENE: 1:44 p.m.

PRESENT: Councilmember Gabe Johnson, Chair
Councilmember Michael J. Molina, Vice-Chair
Councilmember Tasha Kama, Member
Councilmember Kelly Takaya King, Member
Councilmember Alice L. Lee, Member
Councilmember Tamara Paltin, Member
Councilmember Keani N.W. Rawlins-Fernandez, Member
Councilmember Shane M. Sinenci, Member
Councilmember Yuki Lei K. Sugimura, Member (Out at 3:04 p.m.; In at 3:42 p.m.)

STAFF: Paige Greco, Legislative Analyst
Alison Stewart, Legislative Analyst
Richard E. Mitchell, Legislative Attorney
Shelly Espeleta, Supervising Legislative Analyst
Stacey Vinoray, Committee Secretary
Jean Pokipala, Council Services Assistant Clerk
Lei Dinneen, Council Services Assistant Clerk
Nalani Fujihara, Hawaiian Language Communications Specialist

Kate Griffiths, Executive Assistant, to Councilmember Johnson
Roxanne Morita, Executive Assistant to Councilmember Johnson
Ana Lillis, Executive Assistant to Councilmember Molina
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 McDowell, Executive Assistant to Councilmember Molina
Jade Rojas-Letisi, Executive Assistant to Councilmember Molina
Angela Lucero, Executive Assistant to Councilmember Paltin
Noelani Ahia, Executive Assistant to Councilmember Rawlins-Fernandez
Dawn Lono, Executive Assistant to Councilmember Sinenci

Mavis Oliveira-Medeiros, Council Aide, Hāna District Office
Denise Fernandez, Council Aide, Lānaʻi District Office

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

Anabelle Hernandez, Makawao-Ha'ikū-Pā'ia District Office
Zhantell Lindo, Council Aide, Moloka'i District Office
Daniel K. Kanahele, Council Aide, South Maui District Office
Christian Balagso, Council Aide, West Maui District Office

ADMIN.: Mimi DesJardins, Deputy Corporation Counsel, Department of Corporation Counsel
Lori Tsuhako, Director, Department of Housing and Human Concerns
Clyde "Buddy" Almeida, Housing Administrator, Department of Housing and Human Concerns
Jacky Takakura, Deputy Director, Department of Planning
Jordan Molina, Director, Department of Public Works
Wendy Taomoto, Engineering Program Manager, Department of Water Supply
Michael Gormley, Lieutenant, Department of Fire and Public Safety
Conrad Guerrero, Lieutenant, Department of Fire and Public Safety

OTHERS: Alaula Builders:
Lawrence Carnicelli, Alaula Builders, Project Representative (*in Chamber*)
Doyle Betsill, Alaula Builders, President (*in Chamber*)
Ron Ped, Ronald James Ped, Architect
Stacy Otomo, Otomo Engineering, President
Charlene Shibuya, Munekiyo Hiraga, Planners
Karlynn Fukuda, Munekiyo Hiraga, Planners
Kelcee Fujimoto, Austin Tsutsumi & Associates, Traffic Engineer
Bill Mitchell, Hawaii Land Design, Landscape Architect

Additional attendees: (3)

PRESS: *Akakū: Maui Community Television, Inc.*

ITEM AH-35: KUIKAHI VILLAGE WORKFORCE HOUSING PROJECT (WAILUKU)

CHAIR JOHNSON: . . .(*gavel*). . . Aloha and halo ola keta (*phonetic*). Will the recessed Affordable Housing Committee meeting please come back to order. I'm Gabe Johnson, your Committee Chair. And Members, in accordance with the Sunshine Law, if you're not in the Council Chamber, please identify by name who, if anyone, is present with you. Members joining us today are Committee Vice-Chair Mike Molina.

VICE-CHAIR MOLINA: Aloha, Mr. Chairman, and I...forgive me, I...I forgot our word of the day, our cultural word greeting. If you could repeat that for me? Is it ola...

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

CHAIR JOHNSON: Halo ola keta.

VICE-CHAIR MOLINA: Hale...halo ola keta. There you go. All right. Greetings to you, my colleagues, and everyone else tuning in for our recessed Affordable Housing meeting. I'm transmitting out of my residence here in Makawao, and my wife is at home, as well as the family pets. And no testifiers to report out of the district office out in Pā'ia. Mahalo.

CHAIR JOHNSON: Mahalo, Councilmember. Let's move on to Councilmember Tasha Kama. Halo ola keta to you, Councilmember.

COUNCILMEMBER KAMA: Aloha 'auinalā, Chair, and halo ola keta to my colleagues. I am here in my workspace, and I am alone. Looking forward to a brief, but expeditious, AH meeting. Thank you, Chair.

CHAIR JOHNSON: Amen to that, Councilmember. Okay. Let's move on to Councilmember Kelly Takaya King. Halo ola keta to you, Councilmember.

COUNCILMEMBER KING: Halo ola keta to you. And aloha, everyone. I am transmitting from my home office, and there's nobody in the office with me. I...well, we don't have any testimony today, so I don't have to report on that. And yes, looking forward to another good meeting.

CHAIR JOHNSON: Wonderful, wonderful. Okay. Let's move on to Council Chair Alice Lee. Halo ola keta to you, Chair Lee.

COUNCILMEMBER LEE: Hi, Chair. Halo ola keta. I'm home alone in my workspace, looking forward to your meeting. The birds are chirping, and the dogs are snoring. Doesn't that sound familiar?

CHAIR JOHNSON: It sounds familiar. . . .*(laughing)*. . . Okay. Let's move on to Councilmember Tamara Paltin. Halo ola keta to you, Councilmember.

COUNCILMEMBER PALTIN: Halo ola keta, and aloha 'auinalā kākou. Broadcasting live and direct from the West Maui District Office here in historic Lāhainā Town, where we have partly cloudy skies. And I have with me Angela Lucero and Christian Balagso, and we're looking forward to some action today.

CHAIR JOHNSON: Ask and thy shall receive. Okay. Let's move on to Councilmember Keani Rawlins-Fernandez, and the greeting of the day is halo ola keta to you, Councilmember.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha 'auinalā, Chair, mai Moloka'i Nui a Hina. I'm at the Moloka'i District Office alone on my side of the office, and we have our Community Outreach Specialist Zhantell Lindo on the other side of the office.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

Just...just also to let you know, I don't know why, but there's like an echo-y sound when you speak.

CHAIR JOHNSON: Yeah, we've been struggling with our audio for some reason today, so maybe I'll not speak so loud. Let's move on to Councilmember Shane Sinenci. Halo ola keta to you, Councilmember.

COUNCILMEMBER SINENCI: Hello, Chair. Ola keta mai Maui Hikina, and aloha kakahiaka kākou. We're here today happy to support for affordable housing from the Hāna District Office at 4979 Uakea Road. I'm here with District Staff Mavis Medeiros and Dawn Lono. Happy to be here. Aloha.

CHAIR JOHNSON: Aloha. And last, but not least, in the building is Councilmember Yuki Lei Sugimura. Halo ola keta to you, Councilmember.

COUNCILMEMBER SUGIMURA: Halo ola keta to you, all the Members. I am in my office on the 8th Floor, and looking forward to approving this project. So, thank you.

CHAIR JOHNSON: Thank you. Okay. So, Members, from the Administration we have Department of Housing and Human Concerns Director Lori Tsuhako, along with Housing Administrator Buddy Almeida; Deputy...or Department of Public Works Director Jordan Molina; Department of Water Supply Deputy Director Shayne Agawa; Engineering Program Manager Wendy Taomoto; Planning Department Director Michele McLean; and Deputy Corporation Counsel Mimi DesJardins. We also have requested the following departments to be on-call, and that's Transportation, Environmental Management, Police, Finance, Fire and Public Safety, and Maui Emergency Management Agency. Our Committee Staff is Legislative Analysts Paige Greco and Alison Stewart; Legislative Attorney Remi Mitchell; Committee Secretary Stacey Vinoray; Assistant Clerks Jean Pokipala and Lei Dinneen. Representatives of the developer are also joining us today, and Lawrence Carnicelli is here. So, that's who's here today, Members. We're going on to our agenda items, and our agenda items today are AH-35, Kuikahi Village Workforce Housing Project; AH-36, Bill 127 (2022), Relating to the Reclassification of the State Land Use District for the Kuikahi Village Workforce Housing Project in Wailuku. As a reminder, testimony for AH-35 is closed. If there's anyone who would like to testify on AH-36, you will have the opportunity once we get to that item. So, let's continue with deliberations on AH-35. So, Members, I'd like to refer to you...to a new ASF that reflects our September 6th discussion on the exemptions in Exhibit A. This ASF can be found in Granicus, and I...do we know the number yet? It's...it's...it should be the last one up on Granicus. So, I was thinking, without objections, I would like to substitute the version of Exhibit A (*audio interference*).

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR JOHNSON: Seeing no objections. Okay. Members, Exhibit A incorporates the

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

requested and eligible exemptions as amended, approved, or deleted per our previous discussion. I think it would do us well to take a five-minute recess right now for everyone to read the substituted version. What has been incorporated in this Exhibit A is language from the departments in X and V as in Victor. What was also agreed to on the floor during our last discussions through consensus and language from OCS on some of the funds that we talked about that the body wanted to be reimbursed. When we come back, I would first like to get feedback from...comments from the developer, and then any questions from the body. So, Members, without objection, I would like to take this recess for five minutes, and it's 1:51, so we'd come back at 1:56.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR JOHNSON: Okay. Seeing no...no objections, the time is now 1:51...

COUNCILMEMBER KING: Chair?

CHAIR JOHNSON: So...okay. I'm sorry, I see some hands. I was going to take a five-minute recess to...let me just...before we do that, it's number 13 on Granicus. But Chair Lee, you had your hand up?

COUNCILMEMBER LEE: Can we have it emailed as well? I only...mine only goes up to 12, although I'm going to --

CHAIR JOHNSON: Okay.

COUNCILMEMBER LEE: -- restart it now.

CHAIR JOHNSON: Certainly. We'll send you the email, and then if you just refresh your browser, it might pop up. That's what we're...

COUNCILMEMBER LEE: Oh, I just got the 13.

CHAIR JOHNSON: Okay. Councilmember King, you had your hand up? Same issue?

COUNCILMEMBER KING: The same issue. I just...I just saw it on Granicus, the last one just came on.

COUNCILMEMBER LEE: Yeah.

CHAIR JOHNSON: Okay. Great. So, how about we take a five-minute recess, we can review it, and we'll come back because it just popped up. So, the time is 1:52, at 1:57 we'll come back from our recess. The Affordable Housing Committee is now in recess. . . .(gavel). . .

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

RECESS: 1:52 p.m.

RECONVENE: 2:00 p.m.

CHAIR JOHNSON: . . . *(gavel)*. . . Okay. Members, now that we're back from our...oh, the Affordable Housing Committee is now back from its five-minute recess. Okay. Members, let's move on to...let's have a chat with Mr. Carnicelli on...on these...on this recently amended ASF. So, Mr. Carnicelli?

MR. CARNICELLI: Thank you, Chair. Good to be here. Good to see everybody. We have looked over the new ASF, Exhibit A, and I have placed some language in the chat that we would like to add to V as in Victor. Everything else appear okay.

CHAIR JOHNSON: Okay. And you said you wrote it in the chat?

MR. CARNICELLI: Yes, sir. *(audio interference)*

CHAIR JOHNSON: Okay. So, we'll read that into the record. So...and nothing shall preclude the deferral of subdivision water system requirements for subsequent large-lot subdivisions of the 133.4...04 acres, I assume that's acres?

MR. CARNICELLI: Yes, sir.

CHAIR JOHNSON: Okay. All right. Thank you for that. So, let's see. Members, do you have any questions or concerns you would like addressed in this...in...okay. We have a hand up from Councilmember King.

COUNCILMEMBER KING: Yeah, Chair, it sounds like we're...we're saying that the...the 133 is going to be automatically subdivided, but I thought the...the exemptions we were looking at were only for the parcel for this housing development, which was just under the 15 acres required to go to the Land Use Commission. So, I'm not understanding why they're asking us now to exempt the 133 acres.

CHAIR JOHNSON: Yeah. Let's...let's bring up Mimi DesJardins to speak on it. Ms. DesJardins, are you on the call?

MS. DESJARDINS: I am. Can you hear me? Sorry, I'm in Boston.

CHAIR JOHNSON: Loud and clear. *(audio interference)*

MS. DESJARDINS: Okay. Thank you. So, when this parcel...when...when the DBA takes effect, and you subdivide out that smaller parcel, the...that's the less than 15 acres, it automatically does away with the original large lot. It's really a two-lot subdivision. You're going to have a large 133 acres, and then the little parcel that becomes the project. So, it is a two-lot subdivision. What I understand is that the

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

concern is, what sort of deferrals are applied to the lot that's not being used for this project. And I think what I would ask you to do is to maybe call Ms. Taomoto and ask her because I think she's got a pretty good understanding of what the process is for that large-lot subdivision issue. And we actually did provide some language that'll come up, I believe, in a little...or...or is actually in this new Exhibit A that I hope addresses that, which is V like Victor.

COUNCILMEMBER KING: Why would you say that we're doing away with the 133-acre lot? I mean we're creating 133-acre lot along with the just under 15-acre lot. Isn't that what we're doing?

MS. DESJARDINS: Well, you're creating (*audio interference*) with the original large lot that it is right now. What exists right now is being subdivided into two parts.

COUNCILMEMBER KING: Right. But we're not...we're not saying that we're going to exempt the 133 acres if...and...or ready for it subdivision, that's a totally separate issue, right?

MS. DESJARDINS: The thing is, is that at...at some point in the future, when that 133 acres is to be used for whatever purpose, you are deferring subdivision requirements that are on...are going to be placed on that lot because it is being subdivided right now into two lots. There are...it's a deferral of subdivision requirements when you subdivide. That's what's happening.

COUNCILMEMBER KING: Subdivision water system requirements. Does that mean it automatically gets water? Just the language sounds a little bit scary to me.

MS. DESJARDINS: Yeah. I understand your concern. What (*audio interference*) there is a provision in the law that allows for deferral of certain water and fire safety requirements that is being deferred right now until further subdivision or development of this property. So, if you just look at your little 14.97 acres, when that development commences, my...my understanding is at that point, those deferrals will no longer be deferred, and they're expected to meet the Code requirements for both fire safety and water. And so, the same would apply for the other piece of land that's now its own parcel, the 133 acres, it also has deferment requirements because it's part of the subdivision. It's a two-lot subdivision.

COUNCILMEMBER KING: So...so, that language, you said your understanding was that once the subdivision happens, that if anything further happens on the 133 acres, it will still have to go through all of the permit issues, but --

MS. DESJARDINS: That's correct.

COUNCILMEMBER KING: -- say that. So, is there some way to put that language in there so it doesn't look like we're just erasing all these requirements for 133 acres?

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

MS. DESJARDINS: So, I think that if you look at paragraph V, the purpose of paragraph V is to try to address those concerns. It was the original version of paragraph M that was proposed by the developer. So, I would look...and...and again, I would ask Ms. Taomoto to also chime in on that. But if you read that, it...it talks about the further requirements that are being deferred now, and what those requirements will be in the...when those two parcels are further developed.

COUNCILMEMBER KING: Okay. What is the...can you say exactly the language that says that? Because I...I just...I don't see...

MS. DESJARDINS: Do you see *(audio interference)*

COUNCILMEMBER KING: I'm on V, yeah...I'm on V, and...

MS. DESJARDINS: Oh, yeah, I think you have to read the paragraph in its entirety together to understand what's...what the requested deferral is, and then the fact that you folks would be...the proposal is that you would be granting a deferral of subdivision requirements from 14.05, as well as the Fire Code requirements, until the parcels are developed, further subdivided, or water service is requested. So, those would be the triggers for the *(audio interference)* subdivision requirements under the Code.

CHAIR JOHNSON: So, let's clear that up. That's in Section V as in Victor, that would be the third paragraph down; is that right, Ms. DesJardins? And Councilmember King, you see that paragraph?

COUNCILMEMBER KING: It says additionally, the two-lot subdivision is granted a deferral of subdivision requirements section until the parcels are developed, further subdivided, or water services requested. Until...until...does that mean until the 133-acre parcel? Because it just says *(audio interference)*

CHAIR JOHNSON: *(audio interference)*

MS. DESJARDINS: So...so, if you read into the last...very last paragraph of that section, it says, when the project site is developed, resubdivided, or water service is requested, the applicant or its successor must construct the subdivision requirements only applicable to the project site. When the remaining 133-acre parcel is developed, further subdivided, or water service is requested, the applicant or successor must construct the subdivision requirements only applicable to the 133.4-acre parcel.

COUNCILMEMBER KING: Yeah, I...I understand that, I don't see where it says that they have to apply for...you know, that they still have to apply for permits for that one. And because we don't know what they're going to do with it, right?

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

CHAIR JOHNSON: Let me...let me follow up on that, Councilmember King. So, Mimi...Ms. DesJardins, is the applicant's concern already addressed in paragraph 3 of the exemption, or is it *(audio interference)*

MS. DESJARDINS: He feels that his concern is addressed in paragraph V or not because I believe it is, but if he doesn't think it *(audio interference)* I would...I would defer to Ms. Taomoto to look at that.

CHAIR JOHNSON: Sure. We asked Ms. Taomoto to be on the call. Ms. Taomoto, are you here today?

MS. TAOMOTO: Can you hear me?

CHAIR JOHNSON: Loud and clear.

MS. TAOMOTO: Okay. Because my...my BlueJeans isn't...wasn't working this morning also, so...can you state the applicant's concern again? Because it was a little fuzzy.

CHAIR JOHNSON: Okay. Let's have Mr. Carnicelli *(audio interference)*

MR. CARNICELLI: Thank you, Chair. Ms. Taomoto, essentially this is what we're looking to do is, we have 148 acres. We want to separate it into a 14.97 and a 133. We would like for the 133 just exist as if it does in its current condition as the 148, right? So, it's...all we're doing is carving out the 14.97, and we're leaving the 133 as it is currently. Does that make sense?

CHAIR JOHNSON: Ms. Taomoto?

MS. TAOMOTO: Yes. But what is your concern with...so, what the language reads is a standard deferral language for basically large-lot subdivision. So, are you saying that you're not agreeable to deferring the subdivision requirements triggered by the two-lot subdivision that applies to the 133-acre parcel?

CHAIR JOHNSON: Mr. Carnicelli?

MR. CARNICELLI: Thank you, Chair. I...I guess, Ms. Taomoto, if you're agreeable that the 133 is a large-lot, and if we do a...you know, if in the future we do a large-lot subdivision and we get...what we currently...with a...with a large-lot subdivision, if you're...if you think that the language in V covers that, then that's great. Then...then if you feel it covers it, then we think it covers it, and we're okay.

CHAIR JOHNSON: Okay. Ms. Taomoto?

MS. TAOMOTO: So, what you read on the revised latest V, in my opinion, states that both

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

the lot...two-lot subdivision of the current parcel to create the 133 and 14.97, all of the subdivision requirements will be deferred, and that deferral is specifically addressed in the last paragraph, which says independent of each child parcel, when a child parcel re-subdivides or develops, which is building permit or water service, it will be required to construct the water system...I mean the subdivision improvements. Regardless if it's Water, Fire, or Public Works, when it triggers any of these, it will be required. And that...I'm saying it's a standard large-lot deferral language in the Public Works' Title 18 subdivisions. So, we're treating this two-lot subdivision similar to how we treat large-lot subdivisions. The reason why Water Department needed to be specifically addressed, and what...what is brought up as a concern is because of the last paragraph of that Section 18.16.270, which states that the Public Works Director can defer subdivision for improvements along adjacent streets, et cetera. But the last paragraph says water requirements pursuant to the rules and regulations of the Department of Water Supply shall be installed for large lot. So, that's why we, Water Department, had to be specifically addressed. But to be clear of the Council's intentions, and I think everybody is...willingness is to write the language how you see drafted to make it clear that all subdivision requirements are being deferred, which includes water and specifically the Fire Department's Title 16.04C.470. And Chair Johnson, only because you guys are using the Title 18, where the first sentence reads authorized under the Director of Public Works, whereas the Director of Public Works does not have jurisdiction over Title 14 and the Fire Code, yeah? So, we wanted to make sure it was clarified that as well as the Public Works' jurisdiction, those two other sections are also covered.

CHAIR JOHNSON: Okay. So, that's...it sounds like the developer is amendable to that, right, Mr. Carnicelli?

MR. CARNICELLI: Thank you, Chair. And if I may, I...I understand Ms. Taomoto speaking about this current two-lot subdivision. Our concerns are about a future large-lot subdivision. This is...this...this parcel is zoned Ag, we will have 133-acre ag parcel that we may, in the future, need to do a large-lot subdivision. We would like to have the same requirements that are in the Code today around...requirements for a large-lot subdivision to apply to that 133. So, again, almost talking about like two different subdivisions. Okay. Hypothetical in the future, I get what...what Ms. Taomoto is saying right now in the two lot, from saying in the future on that 133, we want to be able to have the same advantages that we have now with the 148 applicable to the 133.

MS. TAOMOTO: Chair Johnson, can I --

CHAIR JOHNSON: Go ahead, Ms. Taomoto.

MS. TAOMOTO: -- add that what he's asking is really a large lot would be under the Department of Public Works, so if you can ask Director Molina to clarify. Because

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

he's talking about a hypothetical advantage that he...it's not being clear what advantage is specifically being concerned about. So, if Director Molina could address that. Thank you.

CHAIR JOHNSON: Certainly. Let's call upon Director Molina. If you're on the call.

MR. MOLINA: Good afternoon, Chair. I...I don't quite...quite understand the scenario. But I guess what I would like to request, so I can kind of better understand and advise the Committee, is maybe if I could get a...a brief recess to discuss with the applicant what the...you know, what the subdivision strategy he's looking at is, and then I can provide some guidance. Thank you.

CHAIR JOHNSON: Okay. Does five minutes sound good for you?

MR. MOLINA: Yeah, that should be sufficient. Thank you.

CHAIR JOHNSON: Okay. Before we take our five-minute break (*audio interference*)...echo here. Go ahead, Councilmember Paltin.

COUNCILMEMBER PALTIN: I was wondering if we don't ask any Public Work questions if we can continue on, and they can ask...have their discussion on the side?

COUNCILMEMBER KING: I'm okay with that, Chair, as long as we can just set this aside for now.

CHAIR JOHNSON: Okay. Yeah. My (*audio interference*)

COUNCILMEMBER KING: Because my concern...my concern is really, you know, hedging bets against what...what other requirements that a Council may approve in the future and, you know, I don't think you can just like say nothing else...nothing else would apply to this 133 parcel. There may be some things that...that Council does with these large...large-lot deferrals in the future. But I don't think anybody should be able to hedge their bets against what policies come down in the future. So, that's my main concern.

CHAIR JOHNSON: Yeah. Valid points. So, I...I saw Mr. Carnicelli nodding his head. He'll probably reach out through texts so we don't have to take a break and we can just move on. And that really moves us on to the next point about...so, Members, I know that you requested breakdowns of the cost of the funds that we talked about reimbursing the Affordable Housing Fund. So, Mr. Carnicelli, would you like to speak on that? Okay. Mr. Carnicelli, I'm asking in regards to the breakdown of the affordable housing funds, and how much you're asking, and is that possible to determine the total amount, how much you'll be asking from the Affordable Housing Fund?

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

MR. CARNICELLI: Yes, thank you, Chair. There...as far as what we're requesting in the Affordable Housing Fund is solely tied to the offsite improvements requested by the Planning Department and the Department of Public Works to do curbs, gutters, sidewalks along Kuikahi Drive. That's the only thing that we're actually asking for (*audio interference*). I know that the Committee had talked about using funds for other items, which we're amenable to discuss. I know that Ms. Taomoto always likes to talk about the water redevelopment fees, and include that. We're not requesting that, but if the...the Department...or I'm sorry, if the Committee is...if that's the body's wish, we're willing to do that as well. The estimates of what...say the offsite improvements would be is roughly about \$500,000 for the curbs, gutters, and sidewalks along Kuikahi Drive. The water redevelopment fees are about \$631,000.

CHAIR JOHNSON: Okay. So, thank you for that update, Mr. Carnicelli. So, that was one of my questions, and I didn't see any other hands up. So, thank you, Members. I...oh, we do have...we do have hands. Let's move to Councilmember Paltin, followed by Councilmember Sugimura.

COUNCILMEMBER PALTIN: Thank you, Chair. I think I'm...I'm going off of your question. When I...when I look at your ASF and I see...so, I guess before I even get to that question, I just want to make sure that I am clear on your ASF. In Section 2 and Section 3 on page 6 of your ASF, Section 2 says waivers of A, B, C, D, E, F, G, H, and number 3 says fee...fee reimbursement. So, I just wanted to clarify that the departments that are giving waivers for that A through H can get reimbursed? Is...is that what we're saying?

CHAIR JOHNSON: Let's ask Remi Mitchell on that one.

COUNCILMEMBER PALTIN: (*audio interference*) your ASF.

MR. MITCHELL: Thank you, Chair Johnson. Yes, Chair Paltin...Member Paltin, that is what we're saying.

COUNCILMEMBER PALTIN: Okay. Thank you for clarifying that. And then just one other follow up. What...was what Mr. Carnicelli was saying about, did that relate to letter O on page 2? Including curbs, gutters, and sidewalks along Kuikahi Drive for the project...I thought...is that the one that he's talking about, that Public Works and Planning wanted to have put in the curbs, gutters, sidewalks along Kuikahi Drive? And so then we wouldn't exempt them from that, but we would pick up the tab...for clarification.

CHAIR JOHNSON: Mr. Mitchell?

MR. MITCHELL: Chair Johnson, thank you. Member Paltin, I think that's a question for Mr. Carnicelli. There's no reference to that in V, so when you say is that he's talking

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

about, I'm interpreting that to mean when he refers to his concerns as discussed in V.

COUNCILMEMBER PALTIN: No, no.

MR. MITCHELL: His...oh. Oh, so what do you mean?

COUNCILMEMBER PALTIN: Because he was just saying...he was saying the only money he's requesting is for the improvements that Planning and Public Works are requesting, and I think that's the curbs, gutters, sidewalks along Kuikahi Drive. But I don't see a reference to Section 3 for letter O.

MR. MITCHELL: Can we ask that of Mr. Carnicelli please? I think --

COUNCILMEMBER PALTIN: Sorry, yes.

MR. MITCHELL: -- we'll get a clearer *(audio interference)*. Okay.

MR. CARNICELLI: Thank you, Chair. And thank you, Member Paltin. No, when we were speaking about the...I...I wasn't particularly speaking about the...the offsite improvements. It is...again, I just go to...it's just the balance of the parcel being the 133 and...and the large-lot subdivision requirements. I did put additional language in the chat that we had suggested, and...you know, before the meeting just going back and forth with the Chair's office and...to kind of further show.

COUNCILMEMBER PALTIN: So, which --

MR. CARNICELLI: But...but as far as...

COUNCILMEMBER PALTIN: -- which is the portion that Planning and Public Works didn't want to exempt you from? I thought that was O.

MR. CARNICELLI: Yeah, it's...it is...it is the curbs, gutters, sidewalks, which I do believe is O.

COUNCILMEMBER PALTIN: So, then that should be part of Section 3 and not be exempted because I thought the other day you had an agreement where you were going to pay for that, but we would reimburse you out of the Affordable Housing Fund. Because Public Works and Planning did not want to exempt you on that, so you're going to go ahead and do it and we would reimburse you. Is that not correct?

MR. CARNICELLI: Affirmative.

CHAIR JOHNSON: Okay. Let's clarify this with Ms. DesJardins because Section 2 doesn't get reimbursed in my understanding.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

MS. DESJARDINS: So...

COUNCILMEMBER PALTIN: Yeah, I said Section 3.

CHAIR JOHNSON: Miss...

MS. DESJARDINS: Chair, if I could?

CHAIR JOHNSON: *(audio interference)*

MS. DESJARDINS: The number 2 waivers, those are waivers that the departments don't anticipate generating any revenue from because it already says in the law that if you have a 100 percent *(audio interference)* project you are not going to pay those fees, period. And that's why you've removed them from the reso from Exhibit A. That's why we have some blank letters. So, I don't know that those would be reimbursed because they're not anticipated. For example, the park dedication assessment fee under 18.16.320, for 100 percent affordable housing project, Parks doesn't expect to get anything out of the Affordable Housing Fund for that. It's the fees that are being exempted, like water system development fee, you know, the ones that we don't normally, you know, exempt that I think are...you're looking at reimbursement. That's just my thought on that. But for the fee reimbursement section, number 3, I think we have to remember that Maui County Code 3.35, the Affordable Housing Fund has a whole protocol in it about budget amendments and...and Council approval of anything that's used out of that fund. So, I don't know that number 3 can necessarily be inferred to say oh, it's just going to come out of the Affordable Housing Fund. I think you still have to follow the provisions of 3.35, which would be DHHC requesting those and...or budget amendments requesting those...those money *(audio interference)*

COUNCILMEMBER PALTIN: Thank you. I --

MS. DESJARDINS: So, I just...

COUNCILMEMBER PALTIN: -- I understood that. It seems like that answers the opposite of what Remi answered for my first question, which is okay. I just...I mean I just wanted clarification, so if that's the final answer, that's the final answer. But I guess then my...my question is O, specifically for letter O, we're not exempting that because we'd put a Section 3. Like a C, Section 3 or something like how J has. Because I thought we had come to an agreement with the Administration via Public Works and Planning, and the developer via Mr. Carnicelli, that they were going to build it and that they would request reimbursement from the Affordable Housing Fund, and us, the Council, would approve the budget amendment. And I'm sorry, Mr. Molina, that I said I wouldn't say anything about Public Works.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

CHAIR JOHNSON: Yes, yes. Director Molina, go ahead.

MR. MOLINA: Sorry. I just want to make a point of clarification. So, I guess item O, as it relates to Title 16, is one of the triggers for doing road improvements. This is a trigger that's tied to building permit applications. So, if there was no subdivision involved, and they were just pulling building permits, this is a way we can get them to do frontage improvements. In Title 18, as part of a subdivision, it also is a mechanism for triggering frontage improvements. So, if you eliminated O, it would not eliminate the existing requirements under Title 18, which have not been exempted from what I see, so they're still on the hook for those frontage improvements.

COUNCILMEMBER PALTIN: Okay. Thank you. So...so that would be under P and the partial exemption?

MR. MOLINA: Yeah. So, P...no. So, P is a different Code provision that pertains to consistency with zoning and community plans. So, that's not directly related to improvement...frontage improvement.

COUNCILMEMBER PALTIN: So, basically O isn't the one that you and Planning were talking about then?

MR. MOLINA: Yeah. So, O is okay to come out because we're already talking about it through subdivision with Title 18, so R talks about the widening, but it's limited only to the internal roadways. And U talks about curb and gutter, but it's talking about the...inside the project. So, those other...those existing provisions outside of the project on the frontage road would still apply as the Code currently provides for.

COUNCILMEMBER PALTIN: Okay. Thank you. Thank you for clearing that up. I'm done. Thank you, Chair.

CHAIR JOHNSON: Thank you. All right. Now, we have Councilmember Sugimura, and I think after that, I'd like to move on. So, go ahead, Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: I wonder, Chair, your ASF, if you could go item by item instead of skipping around. Just say done, not done, right? That's what you're talking about. Unless everybody else...

CHAIR JOHNSON: *(audio interference)*

COUNCILMEMBER SUGIMURA: Go ahead.

CHAIR JOHNSON: I believe that's what we did last meeting, we went through them all, and this was kind of like because we --

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

COUNCILMEMBER SUGIMURA: *(audio interference)*

CHAIR JOHNSON: -- consolidated, this is the new updated version of that. I really don't want to go back and do that all over again.

COUNCILMEMBER SUGIMURA: Okay. Okay. I just...I...I just wanted to make sure that we got everything and whatever. So, if everybody else is fine --

CHAIR JOHNSON: Yeah.

COUNCILMEMBER SUGIMURA: -- I'm fine. It's written in my...both books. So, thanks.

CHAIR JOHNSON: Okay. Thank you for that. So, let's move on and...to discussion on modifications of the project. And I know Councilmember Paltin had an ASF with modifications, and that's number 9 in Granicus. So, Councilmember Paltin, would you like to introduce your ASF?

COUNCILMEMBER PALTIN: Thank you, Chair. And...and since I introduced the ASF, there has been some developments in the conversation, and I...I don't mind going through them one by one if...if you would like or...

CHAIR JOHNSON: Certainly.

COUNCILMEMBER PALTIN: Okay. We already disposed of number 1, so we don't need to talk about that. Number 2, I had an email conversation with Mr. Carnicelli last night, and he said that some folks would like dogs outside on a leash. I'm okay with that. The main reason for indoor pets and specifically indoor cats is the response from DOFAW regarding endangered birds. So, I would like to skip...stick to indoor cats, bait stations for rodents and mongoose, and covered trash receptacles. If the majority of the body would like to allow leashed dogs and them to be outside, I am okay with that. Number 3...

CHAIR JOHNSON: Okay. Let me jump in real quick here, Councilmember. Because if the Members are curious where this is on Granicus, it's number 9. Okay. So...and Chair Lee, do you want this one emailed to you as well? I see your hand up.

COUNCILMEMBER LEE: No, I just don't agree with leashed dogs.

CHAIR JOHNSON: Okay.

COUNCILMEMBER LEE: Why can't they be...why can't they be loose if...if they're in an enclosed area?

COUNCILMEMBER PALTIN: Oh, if they're in an enclosed area, I'm...yeah, that's...

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

COUNCILMEMBER LEE: Oh, okay.

COUNCILMEMBER PALTIN: Sorry. I...enclosed...not running...roaming free dogs. Dogs not roaming free I'm okay with. Fruit trees or, you know, edible fruits, I was concerned about axis deer invasion trying to eat the fruit trees, but if it's not a concern with other people, then I'm okay with eliminating it. Landscaping limited. They thought that it would not be able to do shade trees, which I mean I kind of think kukui and hau can be shade trees, but I'm not sticking to that if they don't want it...if you guys don't want it. Composting and recycling areas, he said can do, and I'm...want to stay with that. Unit owner occupied in perpetuity, they said can do. I want to stay in...consistent with that. Number 7, they say it's already in the Code, or in 2.97.190, so we don't need that specifically. I would substitute it with...for number 7. Wailuku water reservoir, the developer must disclose to all potential homebuyers the potential risk, and that Reservoir #10 has been classified as a high-hazard dam...potential dam by the Department of Land and Natural Resources, or whatever the current status is at the time of sale. Just full disclosure.

CHAIR JOHNSON: Let's...I'm going to jump in here and let Mimi DesJardins speak on that because that's kind of an important topic. Ms. DesJardins?

MS. DESJARDINS: Thank *(audio interference)* So, after the last meeting I did draft a hold harmless agreement, and Mr. Carnicelli and I were bouncing that back and forth, but we did not have enough time to come to a consensus. But he did represent to me that he would work with the County to come up with an indemnification agreement that's above and beyond just the 2.97.190 indemnification, which is just simply indemnifying based on the fast-track nature of these...the permit process. But we were unable to come to a meeting of the minds. So, I'd like to get Mr. Carnicelli's commitment that he and I...that there would be some language in the modifications that a hold harmless agreement shall be worked out between the County and the developer to address not only the dam in general, but the notice of deficiency that was issued by the Department of Land and Natural Resources in September of 2021.

COUNCILMEMBER PALTIN: I like that. Good.

CHAIR JOHNSON: Okay.

COUNCILMEMBER PALTIN: In addition to the disclosure.

MS. DESJARDINS: In addition to the --

CHAIR JOHNSON: Let's --

MS. DESJARDINS: -- disclosure.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

CHAIR JOHNSON: -- let's see if we can get Mr. Carnicelli to...to agree to that. Mr. Carnicelli?

MR. CARNICELLI: Thank you, Chair. Yes, Ms. DesJardins and I have been going back and forth in trying to work something out that they can live with and we can live with in regards to an indemnification. *(audio interference)* And as far as Member Paltin's request for disclosure, as she read it, that I don't see anything wrong with what she said read into the record.

CHAIR JOHNSON: Great. Thank you. And then we'll probably have that typed up in chat so we can get clarification. Go ahead, Miss...Councilmember Paltin. Please continue.

COUNCILMEMBER PALTIN: Maybe Ms. Milner can assist me with that because she's my brain. Okay. Number 8, I believe Mr. Carnicelli agreed to in our email last night. Number 9, I would like to withdraw 100 percent because timing is covered under 2.87.160, so withdraw that. And number 10 is covered under 2.97.180, so withdraw that as well. And that brings me to the conclusion of my ASF, folks.

CHAIR JOHNSON: Okay. So, that sounds good. Councilmember Paltin, can you say for the record which one you'd like to be added as modifications? And then we'll go around for questions. So, which ones for the record.

COUNCILMEMBER PALTIN: Number 2 is very important to me, although I'm...I'm okay with not free roaming animals except for cats got to be indoors, feral cat colonies. Number 5, number 6--number 7 with the disclosure and whatever Ms. DesJardins and Mr. Carnicelli can come up with--and number 8.

CHAIR JOHNSON: Okay. Members, you heard them, you circled them on your chart, you know which ones we're talking about. Do we have any discussion? Okay. We got Councilmember King, followed by Councilmember Sinenci.

COUNCILMEMBER KING: Okay. I...I...I agree with all of these, although the only one that I think is going to be difficult is number 2. And, you know, I don't know how you...if you have a fenced yard that you can allow your dogs to run around there, but not your cats is what I'm hearing. So, does that mean that you can get in trouble if you have your cat in your backyard, even if it's fenced?

COUNCILMEMBER PALTIN: Yeah, cats got to be indoors.

COUNCILMEMBER KING: So...so, what would be...how would you enforce that? Like what would be the penalties? Is it the HOA that has to enforce it?

COUNCILMEMBER PALTIN: Yes.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

COUNCILMEMBER KING: And it could be a penalty. And so, that would basically be another...like basically complaint driven, I'm assuming. Because I don't think there's anybody running around everybody's back...backyards to see if they have loose cats. And I'm...and I'm asking this as someone who...I'm not a cat person, but you know, my assessment of cats is it's really hard to control where they go, you know. So...

COUNCILMEMBER PALTIN: That's why the --

COUNCILMEMBER KING: Yeah.

COUNCILMEMBER PALTIN: -- the requirement is for indoor only as per the feedback that we received from DOFAW as part of...I think it's page 100...I forget the exact page, but...I don't know if folks read DOFAW's feedback.

COUNCILMEMBER KING: Is this something they're trying to...trying to instigate in all new subdivisions?

COUNCILMEMBER PALTIN: No, it's because of the water reservoirs up at the top that attract the endangered birds, and they *(audio interference)*.

COUNCILMEMBER KING: Oh, okay. So, it's specific to this region and this project then?

COUNCILMEMBER PALTIN: Yeah. On page 143, DOFAW is concerned about attracting vulnerable birds to areas that may host non-native predators, such as cats, rodents, and mongoose. Additionally, blah, blah, blah, minimize predator presence, specifically remove cats...I mean we could just say no cats, place bait stations for rodents and mongoose, and provide covered trash receptacles. Page 144, Book 1.

COUNCILMEMBER KING: Okay. No, that's...that's...I mean that was a good explanation. Thank you for that. I just...I didn't understand the...if it was a specific request of this subdivision or if there's something they're trying to do Statewide, so...

COUNCILMEMBER PALTIN: Because of the State listed water birds, such Hawaiian duck, Hawaiian stilt, Hawaiian coot, and Hawaiian goose.

COUNCILMEMBER KING: So, I'm good with...with that...with changing that to just addressing cats so...because I, you know, I agree that dogs should be able to be loose in the backyard.

CHAIR JOHNSON: Yeah. Yeah. *(audio interference)*.

COUNCILMEMBER KING: Although my dog *(audio interference)*. I have had a dog that killed a bird in my backyard one time.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

COUNCILMEMBER PALTIN: Oh.

COUNCILMEMBER KING: I don't know how you can...I mean it was mynah bird, it wasn't like an endangered species, but I don't know how you can stop that from happening if something lands in your yard.

CHAIR JOHNSON: Well, definitely the...the Hawaiian stilts and all those other birds that Councilmember Paltin mentioned love to hang out at the reservoir, so . . . *(timer sounds)*. . . we...I agree with that.

COUNCILMEMBER KING: Okay. *(audio interference)*.

CHAIR JOHNSON: Okay.

COUNCILMEMBER KING: That's all...that was my main concerns. I have a better understanding *(audio interference)*. Thank you.

CHAIR JOHNSON: Thank you. Okay. Councilmember Sinenci?

COUNCILMEMBER SINENCI: Yeah, thank you, Chair. And...and mahalo, Member Paltin. I'm...I'm supportive of the...having the dogs be able to roam within an enclosed yard. In fact, we learned while we were in Lānaʻi that the owners also DNA your dog. So, if...if...if your dog randomly poops along the sidewalk, they can...you can get fined if...if your dog is...is linked to...to their...the records. So, we...so, this is not very restrictive, but we found that Lānaʻi is very restrictive when it comes to...to dogs being leashed. Thank you.

COUNCILMEMBER PALTIN: I want to DNA all the poop in my yard.

CHAIR JOHNSON: Okay. Members --

COUNCILMEMBER PALTIN: Because I know it's *(audio interference)*.

CHAIR JOHNSON: -- getting off the rails a little bit here. But it is...you know, my dog Hoku on Lānaʻi does have DNA *(audio interference)*. Okay. He's great, that's what I'm saying. But anyways, so he's...he's in full support with everything. So, does anybody else have anything else they want to add to Councilmember Paltin's ASF? Because we're going to do this just like we've done with other *(audio interference)* consensus and then *(audio interference)*.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR JOHNSON: Yes. Go ahead, Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo, Member Paltin,

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

for these conditions. I fully support them. Number...okay, the one to hold harmless...oh here, number 7. Yeah. Okay. Ms. DesJardins...oh, two things. I guess one, how effective will that hold harmless clause be for the County in protecting itself; and two, it's...it's holding the developer...it's requiring the developer to disclose. Would we also be able to require any realtors or any future...or the homeowners...future disclosure. It...it stops at the developer. So, developer and any, you know, future sellers to disclose, and then that way it's...it's always included.

MS. DESJARDINS: Well, you know, I guess the question is, once that notice of deficiency is cleared up, what...what really is the duty to disclose that there's a dam and reservoir nearby. And...and I know the realtors have rules of disclosure that they're required when they sell homes. I bet you Mr. Carnicelli knows more about that than I do. But that would be one way that there would be some...I think there's some legal requirements to disclosure. We would try our best to balance a hold harmless agreement that's fair to the developer, but protects the County, given the nature of that reservoir dam, given its current condition, given that there's a notice of deficiency, but given also that I understand that the County also drains water into that reservoir. So, it's not...we are not completely disconnected from that reservoir, and we need to look into that and make sure that we're balancing correctly between what our duties of care are, and...and the developer. So, that's what we're working on and that's why we take probably a little bit more time to come up with something fair and reasonable. And of course, if we couldn't, we'd have to come back to you folks for approval of the language, I would suppose, if we can't work it out ourselves.

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

CHAIR JOHNSON: Okay. Thank you. We have a question from Committee Vice-Chair Molina, followed by Chair Lee.

VICE-CHAIR MOLINA: Thank you very much, Mr. Chair. Ms. DesJardins, still continuing on that line of questions from the Vice-Chair regarding the reservoir and so forth. Even if an applicant signs it, and God forbid, something happens, they could still find a way to hold the County responsible, could they? I mean if you get a lawyer, and you get...I guess depending on what actually happens, it's still a possibility yeah?

CHAIR JOHNSON: Ms. DesJardins?

MS. DESJARDINS: Thank you for the question. Yeah, we...we always anticipate lawsuits, but the question is, have we put ourselves in a position where we can defend ourselves to the best of our abilities. So, what we're trying to do is to be able to, you know, basically walk into the courtroom with a sense we did what we could, and...and didn't ignore this (*audio interference*). But yes, of course, we'll...we'll

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

probably end up getting sued, but we will do our best to make sure that we've covered...you know, covered our bases. That's all we can do.

VICE-CHAIR MOLINA: Yeah. I guess...I guess damage control, if you will, so to speak, if we are sued, and at least we have some ammunition to defend ourselves, yeah.

MS. DESJARDINS: Right. The concern is that there is a notice of deficiency that's been issued, and everybody's aware of it, and...and I know that there's discussion about them coming into...you know, coming into compliance with what the DLNR is requiring, and we're...we believe they're doing that in good faith. But we need to do our own due diligence to make sure that we're satisfied that people are safe.

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

CHAIR JOHNSON: Okay. Let's move on to Chair Lee, followed by Councilmember Paltin.

COUNCILMEMBER LEE: Can I move to another item instead of the dam?

CHAIR JOHNSON: Certainly.

COUNCILMEMBER LEE: Okay. On number 6, perhaps this question would go to Director of Housing and Human Concerns, Ms. Tsuhako.

CHAIR JOHNSON: My understanding is she left the meeting, but we do have --

COUNCILMEMBER LEE: Oh, she left the meeting?

CHAIR JOHNSON: -- *(audio interference)* on the call.

COUNCILMEMBER LEE: Okay. Well, maybe I can ask our attorney, Mimi DesJardins. Mimi, can you tell me, how does the County enforce owner occupancy in perpetuity when a house's economic...reaches economic obsolescence, probably in 50, 60 years?

MS. DESJARDINS: Well --

CHAIR JOHNSON: Ms. DesJardins?

MS. DESJARDINS: -- *(audio interference)* this isn't that it remain affordable for 50 or 60 years, it's that the person that owns it lives in it. So, that's the...it is a separate concept, right? And...and so, it would have to be enforced by DHHC. I think they receive complaints sometimes from folks in subdivisions who say, I understand that there's a provision and somebody's not, you know, following through with it. But I...you'd have to ask...

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

COUNCILMEMBER LEE: No, what I'm...what I'm saying is that people don't live forever, and neither does the house. So, how...how will the Department handle a house that's 70, 80, whatever years old, and these people die? I mean...

MS. DESJARDINS: Right, but somebody's going to buy it.

COUNCILMEMBER LEE: Perpetuity is forever, right?

MS. DESJARDINS: Right, but somebody is going to purchase that house, and the idea is they're not going to rent it out. There is...it isn't going to have a renter, it's going to have an owner. So, whoever lives in that house owns that house, is on the deed.

COUNCILMEMBER LEE: Okay. Okay. What happens at...at the end of the life of the house?

CHAIR JOHNSON: *(audio interference)*

MS. DESJARDINS: Well *(audio interference)* sell that lot and rebuild the house or whatever will happen, but the owner of that house will still need to live there always, that's what the provision says.

COUNCILMEMBER LEE: Okay. So, the owner of the...we have to have a plan...I mean we can't just expect people at the end of their lives to renovate the house because they...they would have to sell it to somebody who...who will be owner occupants. What if they don't want to sell it? Is...you see the...the house is finite, and the people are finite.

MS. DESJARDINS: Sure. But that's true with...

COUNCILMEMBER LEE: But...but the...but the requirement is not finite...it's forever, perpetuity.

MS. DESJARDINS: So, the idea is forever and ever, you can never rent this house. I can't buy the house and then turn it into even a long-term rental, period.

COUNCILMEMBER LEE: Okay. Well, I'm...I'm not talking about that, Mimi. I'm talking about...like you're...you're 90 years old, you...you stayed in that house all...all your life, and then you die, you know. I mean that house needs to be renovated, needs to be rebuilt, whatever, yeah?

MS. DESJARDINS: Right.

COUNCILMEMBER LEE: So, I mean the County will have to have a plan for those kinds of circumstances.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

MS. DESJARDINS: Well, let's just say I die and I leave it to my daughter, now she owns it. Now she's on the deed. She has to either not [sic] live in it or sell it. I mean I'm not sure how else to articulate that.

COUNCILMEMBER LEE: Yeah. Well, because you know, perpetuity sounds great until you're 80, 90 years old, get sick and die, you know, then we have to look at the implementation of our requirements. So, that's what I was asking. And I was just wondering how the Director was planning to enforce something like this.

MS. DESJARDINS: I think...

COUNCILMEMBER LEE: Because the house is not going to last that long.

MS. DESJARDINS: Okay. Yeah, no, I totally understand what you're saying, but all I can say, as a matter of law, it just can't be a rental, that's all. But how they...how they will enforce that is up to DHHC.

COUNCILMEMBER LEE: I mean, you know, if there was some kind of buyback or something like that, it would kind of make sense. But right...it's...it's open ended, and it's like, you know, we are putting this requirement on somebody, and hoping it'll work out. You know, nobody's thinking beyond somebody's lifetime. Okay. Thank you.

CHAIR JOHNSON: *(audio interference)*

COUNCILMEMBER LEE: And that's one of the reasons why I have reservations about this particular requirement. Thank you, Chair.

CHAIR JOHNSON: Thank...thank you. I just think, you know, trying to, you know, make it to where they can't rent. So, we have a question from Councilmember Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I just wanted to defend my number 6 and my number 7. My number 7, the reason why I was wanting to get that was we're...us, the County, is making a deal with Kuikahi or Mr. Carnicelli and his whole group...we're doing that, us two guys talking like this. Meanwhile, DLNR and Wailuku Water Company are doing their own thing over here, and we don't have any say about what those guys are doing over here, and they don't really interfere with what we're doing over here. So, it's just...there's two separate things, but they impact each other, and...and that was just my way to say that I acknowledge that they're doing this and...and, you know, we want them to...to think about the people that will be living here. So, that was my explanation further for number 7. Because we're not in a deal with Wailuku Water Company, we're not the State DLNR, and...and so, that was my way to acknowledge it and disclose it because we need the housing. So, that's my defense for number 7. It's...it's kind of a junk situation, but it is what it is. My number 6, if you read the lettering, it really has nothing to

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

do with DHHC, it says violation...like the HOA's governing documents are going to enforce this. It's going to be violations will be subject to fines paid to the HOA. And the reason for this is, you know, we've all seen affordable housing flip out of affordability. People say oh, it's not realistic to force someone to keep this property for 15 years or 30 years...now we're talking about them keeping it for 90 years or being 80 or 90. It's just saying that this affordable housing is going to be for the people that live and work here for in perpetuity. Like, you know, how many affordable housing projects have we seen where we built housing for affordable, and next thing you know, my neighbor is speculating short-term rental or whatever. You know, this is...we can't find housing for our teachers, we can't find housing for police, we can't find housing for all these people. Our local people can't compete with the folks coming from the mainland and buying houses sight unseen. This is to X all that out, you know. If you're going to die, sell it to someone who lives and works here. Because that's what we need, that's the...that's what everybody is saying. Like oh, we can't find teachers because they...there's no housing, we can't find doctors, there's no housing, we cannot find police, on and on. And so, it...it's like the argument that we need housing in all ranges. So, once it flips out of affordability, somebody can sell it for however much price they want, but they got to sell it to our workforce or, you know, it could be a retiree if they can afford it, but it's somebody that's going to be a part of our community, not an off-island speculator, an on-island speculator. We need houses for the people that live and work here, and this is trying to do that. And the developer agreed to it, and it will be enforced by the HOA. Thank you.

CHAIR JOHNSON: Okay.

COUNCILMEMBER LEE: Chair? Chair?

CHAIR JOHNSON: Chair Lee, go ahead.

COUNCILMEMBER LEE: Okay. Thank you. I...I'd like feel free to express my point of view and not have somebody refute it every time I say something. That's one. And number two, obviously you don't belong to an HOA, and the homeowners association is not in any position to be buying houses. You know, they're not set up that way. So, that's all I'm saying, how do you implement something like this in a realistic way? So, I'm not talking about ideas and aspirations, I'm talking about reality and how do you make things work. So, that's...that's my two cents. And thank you, Chair --

CHAIR JOHNSON: Okay.

COUNCILMEMBER LEE: -- for letting me express myself. Thank you.

CHAIR JOHNSON: Certainly. Okay. So, all right, we're going to have a little more discussion, but I think eventually we're going to...I want to call for consensus, okay.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

So, go ahead, Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I fully support number 7. Owner occupied in perpetuity, that's definitely what we need to prevent further speculation of offshore investment people finding...people wanting to invest here. It ends the commodification of our housing, which I fully support. And in doing so, it keeps the value a little lower so that it will be more affordable because you can't use it as an investment property. So, it remains more attainable for our local people. I think it's a beautiful idea. And, you know, us on the Committee and the Council, we all deliberate, and we hear each other's point of views, and then we comment on it, and that's part of deliberation. That's just how it...it works. My question is for Ms. DesJardins for 2.97.160 and 2.180 [sic] (*audio interference*) annual report. Member Paltin included those stipulations in her number 9 and 10, which I appreciate because we need those kinds of timelines associated with projects so that they're enforceable for the appropriate departments to enforce. For (*audio interference*) codified in .160 or .180, who enforces those if it's not being complied with?

CHAIR JOHNSON: Ms. DesJardins?

MS. DESJARDINS: Thank you. I...those would be enforced by the Department of Housing and Human Concerns, I would imagine, and they would also be embedded in the...should be embedded in the residential workforce housing agreement. But yeah, that would be within their jurisdiction.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for answering the question. So, basically .160 requires that the project be completed in five years after the adoption of the resolution. What happens if it's not?

CHAIR JOHNSON: Ms. DesJardins?

MS. DESJARDINS: So, I think we had a similar situation with the housing project in Hāna, where they're...they unfortunately had timed out, they didn't get the project done in time, and so I think it was Member Sinenci who actually initiated a reso to extend the time. But the way that it had come up was they were applying for a grant, and we went back and looked to see if they were (*audio interference*) deadlines, and they were not. So, they were told that the grant would expire was my recollection. And so at that point, I think they went to Member Sinenci and asked for an extension. Sometimes the extensions are coming up and the developer will say, we're running up against the deadline, DHHC will initiate a reso to extend that deadline and bring it to you folks for approval.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Ms. DesJardins, for those comments on those two sections. Okay. So, it's 2, 5, 6, 7, and 8. I support those. I would like to add to 7 that the duty to disclose until there is no deficiency with the

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

dam, or some kind of language like that. Ms. DesJardins, would we (*audio interference*) for...for anytime the house is sold, not just the developer?

MS. DESJARDINS: Okay. So, perhaps OCS could work on language of that nature. One thing I wanted to point out is I'm not sure that a certificate of occupancy is what is issued for a single-family residence. I think actually, you had a question about that, Member Rawlins-Fernandez. I...

COUNCILMEMBER RAWLINS-FERNANDEZ: Right.

MS. DESJARDINS: There's (*audio interference*) but we would make sure we use the correct term, whatever it is for those types of houses.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Ms. DesJardins. Yeah. So, single-family houses don't have occupancy...certificate of occupancy, but multifamily residences do, and that's what the Code says. Mahalo. Mahalo, Chair.

CHAIR JOHNSON: Okay.

MS. DESJARDINS: So, we could say something like or the (*audio interference*) depending on the unit.

CHAIR JOHNSON: Thank you, Ms. DesJardins. So, Members, I...I think we could probably lump these together and see if we can get consensus on them. And for the record it's 2, 5, 6, and 7. And that's correct, Councilmember Paltin...2, 5, 6, and 7? Okay. Members, do we have consensus on these?

COUNCILMEMBER RAWLINS-FERNANDEZ: And...and 8, right? And 8? Yeah, 2, 5, 6, 7, and 8.

CHAIR JOHNSON: Okay. All right. So, Councilmember Sugimura, you don't have consensus on these? Do you want to pull one out?

COUNCILMEMBER SUGIMURA: Consensus on 5...sorry, on 6. I agree with Chair Lee on that in terms of the responsibility of perpetuity being on the HOAs.

CHAIR JOHNSON: So, that would be number 6, the owner and owner occupied one, is that what you're referring to?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR JOHNSON: Okay. We can pull out number 6. And then, Chair Lee, you had your hand up?

COUNCILMEMBER LEE: I don't agree with number 2 either. I have a cat at home that

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

stays at home outside. You know, I...I...we have the reputation of being the most over regulated system on...you know, in the State of Hawai'i, so I can see why.

CHAIR JOHNSON: Okay. So, let's go with the ones we do have consensus on. We have 5, 7, and 8. Is that correct, Members...5, 7, and 8. Do I hear consensus?

COUNCILMEMBERS: Consensus.

COUNCILMEMBER LEE: 2.

CHAIR JOHNSON: That's the ones that we do have consensus on.

COUNCILMEMBER LEE: Okay.

CHAIR JOHNSON: Okay.

COUNCILMEMBER LEE: 5, 7, and 8.

CHAIR JOHNSON: So, the ones...thank you. So, the ones we don't have, I guess we'll take it to a vote, okay. So, for number 2, I...we're going to have to do a roll call vote. And then after these two, we'll...we'll take our afternoon break. So, number 2...Staff, will you call a roll call vote for number two?

(Informal voting on trying to achieve consensus on CM Paltin's amendments begins)

MS. GRECO: Councilmember Sugimura.

COUNCILMEMBER SUGIMURA: No.

MS. GRECO: Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aye.

MS. GRECO: Council Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

MS. GRECO: Councilmember Paltin.

COUNCILMEMBER PALTIN: Oops, wrong button. Aye.

MS. GRECO: Council Chair Lee.

COUNCILMEMBER LEE: No.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

MS. GRECO: Councilmember King.

COUNCILMEMBER KING: We didn't change the language in this, did we?

CHAIR JOHNSON: No.

COUNCILMEMBER KING: So, it still says indoor pets only. Okay. So, I'm going to say no. We didn't get the issue of the dogs settled, it looks like.

MS. GRECO: Councilmember Kama.

COUNCILMEMBER KAMA: No.

MS. GRECO: Committee Vice-Chair Molina.

VICE-CHAIR MOLINA: No.

MS. GRECO: Committee Chair Johnson.

CHAIR JOHNSON: Aye.

MS. GRECO: You have four "ayes," five "noes." The motion does not pass.

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

**NOES: Vice-Chair Molina and Councilmembers Kama,
 King, Lee and Sugimura.**

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION FAILS.

CHAIR JOHNSON: Okay. All right. Members, so let's move on to the other one that we have...this was number 6, the owner occupied in perpetuity. Yes. Staff, will you call for the roll call vote for that one?

MS. GRECO: Councilmember Sugimura.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

COUNCILMEMBER SUGIMURA: No.

MS. GRECO: Councilmember Sinenci.

COUNCILMEMBER SINENCI: Aye.

MS. GRECO: Council Vice-Chair Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aye.

MS. GRECO: Councilmember Paltin.

COUNCILMEMBER PALTIN: Aye.

MS. GRECO: Chair Lee.

COUNCILMEMBER LEE: No.

MS. GRECO: Councilmember King.

COUNCILMEMBER KING: Aye.

MS. GRECO: Councilmember Kama.

COUNCILMEMBER KAMA: No.

MS. GRECO: Committee Vice-Chair Molina.

VICE-CHAIR MOLINA: No.

MS. GRECO: Committee Chair Johnson.

CHAIR JOHNSON: Aye.

MS. GRECO: We have five “ayes,” four “noes.” The motion (*audio interference*).

September 13, 2022

- 31 -

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

Planning Commission is allowed 120 days. And we can bring up Ms. DesJardins to speak on this, but this was one of my modifications. And let's get Ms. DesJardins on before...and then we take some questions. Ms. DesJardins, will you speak on this?

MS. DESJARDINS: Thank you, Chair.

COUNCILMEMBER RAWLINS-FERNANDEZ: Is --

CHAIR JOHNSON: Oh --

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, how --

CHAIR JOHNSON: I'm sorry.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- how...how is that different than 2.87.160 [sic]?

CHAIR JOHNSON: It's with the DBA. So, Ms. DesJardins, could you explain that?

MS. DESJARDINS: So, my understanding from the language is that these deadlines would actually start effective as of the passage of the ordinance allowing the DBA, rather than the passage of the reso approving the project. So, it in essence is an extension from what's already in 2.97. So, it's tweaking the time of completion slightly by having it timed by the passage of that bill, rather than the reso.

CHAIR JOHNSON: The last sentence was really important right, Ms. DesJardins? By passage of the bill, as opposed to the resolution; is that correct?

MS. DESJARDINS: That...that...that's what I understand that you're asking is that...because it may delay this project slightly to have the Planning Commission look at it, remember, the Charter requires that the Planning Commission review a direct referral from Council within 120 days. So, they're going to have a quick turnaround on their recommendations and comments when they look...once they look at your direct refer reso on the DBA to the Maui Planning Commission, but it should be a fairly quick turnaround.

CHAIR JOHNSON: Okay. Councilmember Rawlins-Fernandez, does that answer your question? And then I'll move on to Chair Lee after.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Mahalo, Chair. So, would everything in 2.97.160 be the same except for instead of within five years of the adoption of the resolution, that it would be the passage of DBA into ordinance? Is that the only difference, or are there other differences?

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

CHAIR JOHNSON: My understanding is the...Ms. DesJardins?

MS. DESJARDINS: That...that's what I'm hearing you say, Chair, is that you're just...it looks like you're changing resolution with bill, right, or ordinance, so it does...that...that's exactly right, Member Rawlins-Fernandez, it's just going to be...it's going to be triggered by the ordinance passing, right? And then coming in for an extension, but the DBA doesn't have to be extended by ordinance, it can be extended by reso, which is good because it's quicker that way too, if they need a time extension.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And then 2.97.160 already says extensions may be allowed by Council by resolution, not bill. So, that's not a change from 2.97 either. Just to let *(audio interference)*.

MS. DESJARDINS: Well, except...yeah, except the DBA *(audio interference)* be approved by ordinance, right, not by a reso. So, if you, for example, have a reso...a DBA ordinance, you normally would have to amend that ordinance to allow an extension, but if you're going to...yeah, it's just a technicality, but you're absolutely right.

COUNCILMEMBER RAWLINS-FERNANDEZ: I hear what you're saying. Mahalo, Ms. DesJardins.

MS. DESJARDINS: Thank you. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR JOHNSON: Okay. Chair Lee?

COUNCILMEMBER LEE: Comments from the developer?

CHAIR JOHNSON: Mr. Carnicelli?

MR. CARNICELLI: Thank you, Chair. And thank you, Chair Lee, for the question. This...this makes sense. You know, we came in requesting a DBA from the Council. Corporation Counsel and OCS both has disagreed with our assessment that we didn't need to go to the Planning Commission *(audio interference)* have us go to the Planning Commission. So, this accounts for that, saying that you basically...our timeline starts after we get all of our discretionary approvals, not just the passage of this resolution. So, this...this actually works.

COUNCILMEMBER LEE: Thank you.

CHAIR JOHNSON: Okay. Seeing no questions. How about this, Members, do we have consensus on this first one? Consensus?

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

COUNCILMEMBERS: Consensus.

CHAIR JOHNSON: All right. Thumbs up. Okay. Great. Moving along at the speed of light. Number 2, developer must develop and manage the project in substantial compliance with all representations made to the Council, and its Affordable Housing Committee, and to the community, to obtain approval of this resolution. The County has the right to deny the issuance of permits if, and as long as, the developer is in breach of any of these modifications. This was not in there, so I'm putting it in there. Basically saying...you know, this is not to disparage anybody, but if you don't do what you're supposed to do, all bets are off. Any questions on that? Okay. Go ahead, Vice Committee Chair [sic] Molina.

VICE-CHAIR MOLINA: Yeah. Thank you, Chair. Can I hear from Corporation Counsel?

CHAIR JOHNSON: Ms. DesJardins?

MS. DESJARDINS: *(audio interference)*, Chair. If you look at the proposed *(audio interference)*, it does say in it that they shall comply...be in substantial compliance. I believe we normally put that language in, it comes from 201H, but we definitely want to make sure that's in there. The part about the building permits is not in there, but I would suggest that you also...I think it's a good...good modification to put in there.

VICE-CHAIR MOLINA: Okay. Thank you very much. Thank you, Chair.

CHAIR JOHNSON: Okay. Members, any other discussion on that? Then I'm going to call for consensus. All right. Consensus, Members? Thumbs up?

COUNCILMEMBERS: Consensus.

CHAIR JOHNSON: Okay. Great. Moving along. Wonderful. Number 3. Okay, this one is important to me. To the extent permitted by law, the applicants selected by lottery must be ranked by the total length of time each has been a resident of the County. The workforce housing units must then be offered in the order of the ranking. So, basically that's Bill 111, if you recall, giving like a preference to our residents. However, it might...this is basically putting this in as a modification with a bill that we...had already passed in the past because it might...it's not taking effect yet. So, I'm going to...okay. We do have a hand up from Councilmember Rawlins-Fernandez, but that's basically what I was going for.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I fully support your proposal. Just a clarifying question because I don't have the language in front of me...is it on Granicus?

CHAIR JOHNSON: No, it's not. I can...

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. If it's not, it's not a big deal. Okay. I just wanted to see if you wanted to add, you know, like language that would clarify within each AMI. (*Audio interference*) of duration of time here within each AMI, right? Because when they do the lottery, they choose by AMI. No? Is that not correct?

CHAIR JOHNSON: Let's ask Mr. Carnicelli on how...how they imagine the process to be. Mr. Carnicelli?

MR. CARNICELLI: Thank you, Chair. I think that's a fantastic question, Member Rawlins-Fernandez. Ultimately, this is going to be overseen by the Department of Housing and Human Concerns. Yes, there is a...there'll be four separate lotteries right, for us, and so we will have to do this. As I understand it, and just to clarify for the record, you know, all of the applicants will be in a hat for this particular AMI category. We will then pull four names. Whoever has the longest residency, their name gets pulled, they...they are then offered the home. If they choose it, then the other three people go back into the lottery. We pull four names again until we've exhausted that particular lottery (*audio interference*). That's how I understand it to be.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo, Mr. Carnicelli. And so would...so because...so, would the AMI levels be enough, or...because it's mixed housing types, is that why there are four?

CHAIR JOHNSON: You...you mean four names drawn?

COUNCILMEMBER RAWLINS-FERNANDEZ: I guess I'm not super clear on how this is going to work. Because there's...there's the tiny homes, there's the condos, there's the...and different people will be qualifying for a different housing type. I don't know. Let me...let me think through my question a little bit.

CHAIR JOHNSON: Maybe have Mr. Carnicelli explain a little more about you would imagine that process to be. Mr. Carnicelli?

MR. CARNICELLI: Yeah. Thank you, Chair. Yes, it is going to get a little bit messy just because of the fact that...that the unique part of this neighborhood having so many different unit types. So, there are a couple of different of the AMI categories that have, you know, more than one housing type in that category. So, how it...how...how we've done it in the past is, you know, if you're the first person chosen, then all of the homes within that AMI category you get to choose. So, if you want to choose a two-bedroom condo rather than a townhome, you know, or whatever's been...then that's going to be that person's choice. If you're the last person in that particular category, you're going to just get whatever is...you know, not been spoken for up to that point. But yeah, it's going to be a bit of a complicated matrix for us,

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

but we knew that coming into it, and we're willing (*audio interference*).

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And then last clarifying question for you, Chair. For the five years, would...would it be in total...I forget what we did exactly for Bill 111, five years, for their entire lives or, you know, five consecutive years from the last --

CHAIR JOHNSON: Right.

COUNCILMEMBER RAWLINS-FERNANDEZ: -- (*audio interference*)?

CHAIR JOHNSON: Thank you for that question. It's going to be in total. So, we don't want to punish people going away to the mainland for college and coming back, so we're going to say in total. That you might have gone for a bit, but in total, your years is going to be the number.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo...

CHAIR JOHNSON: And I'll read it...I'll read it...what Ms. Stewart had written in the chat here, and then I'll...I'll let some other Members speak. But proposed modification, to the extent permitted by law, the applicants selected by lottery must be ranked by the total length of time each has been a resident of the County. The workforce housing units must then be offered in order of the rankings. So, I saw Committee Vice-Chair's hand up, followed by Chair Lee.

VICE-CHAIR MOLINA: Yeah. Thank you, Mr. Chair. Since it would be the Housing...they're charged to administer, can we get their take on it? Because, you know, I heard Mr. Carnicelli say this could get messy. I mean is it something you guys would be able to handle? And...and good that Chair Lee is following up too because she was a Housing Director, so she could also add some perspective to this. So...so, Mr. Chair, with your permission, could we have Housing provide comment?

CHAIR JOHNSON: Certainly. Mr. Almeida, are you on the call still?

MR. ALMEIDA: Yes, Chair, I'm here. Thank you, Mr. Molina, for the question. Typically how the process works is after the approval of the project, when they are getting ready to market, they have to submit a marketing plan to us. And we have to review the plan, which includes how they will work their lottery and their waitlist. And then we have to review it, Corp. Counsel sometimes has to take a look at it. We need to make sure that...basically these are approvals, so I would have to take a look at what Mr. Carnicelli is proposing, review it, and then, you know, have the Director sign off on it. Again, this is a first with regards to the unit type mix, and the fact that we're hitting, again, all the AMI categories. So, it is going to be a first with regards to structure, but we would need to review it thoroughly to be able to approve it...I mean, you know, concur with the proceedings as far as how they're

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

going to do it.

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

CHAIR JOHNSON: Thank you. Chair Lee?

COUNCILMEMBER LEE: Buddy...Buddy, can you come back on? My question has to do with --

MR. ALMEIDA: Sure, Chair.

COUNCILMEMBER LEE: -- the applicants. Are you planning to put all applicants in the same drum, or are you going to sort them by income qualifications?

MR. ALMEIDA: Thank you for the question, Chair Lee. That would be on the developer's...I mean basically, Bill 111 is still a work in progress with regards to how the end product is going to be. I can only speak on to how we...we do it currently. And presently, the developers hold the lotteries, and they would have to qualify, you know, everyone into a specific AMI category. And then they'd have to pull and fill, you know, the home selections, and then a waitlist for each AMI category. So, that's typically how it's done. So, they would have to do separate drawings for each AMI bracket --

COUNCILMEMBER LEE: Yeah.

MR. ALMEIDA: -- that the --

COUNCILMEMBER LEE: Okay.

MR. ALMEIDA: -- project has, yeah.

COUNCILMEMBER LEE: Yeah. I would think so. Thank you.

MR. ALMEIDA: Thank you.

CHAIR JOHNSON: So, Members, do we have any other questions on this? I...I know the developers...oh, go ahead, Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. What...what is your opinion on citing the ordinance that Bill 111 became and ask...you know, put in that condition that it would follow what...how...the stipulations of the lottery proceedings in...in Bill 111. Since it was passed into law, you know, we worked on like modifying it for *(audio interference)* miss any pieces of it in this proposed condition.

CHAIR JOHNSON: I'm okay with it, but let's ask Mr. Almeida. I see his camera on.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

Mr. Almeida, are you okay with following Bill 111?

MR. ALMEIDA: I can't speak for the Administration on that, Chair. I would have to defer to Director Tsuhako with regards to her opinion in that matter. I know that Deputy Director Munsell was out...is currently on a team that's going over trying to put together, you know, how we're going to propose Bill 111, but I would defer to Ms. Tsuhako to get you a more detailed response to that update.

CHAIR JOHNSON: So, the bill is written --

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So...

CHAIR JOHNSON: -- but we haven't figured out a way to get...you know, the...you know, there's the theory and then the practice, we're trying to get that part sorted out. So, I guess maybe if they're not there yet, maybe this language might be preferable? I'm...I'm up to either one, I just want to make it work. So, I see Mr. Carnicelli wants to speak to this, but Councilmember Rawlins-Fernandez, do you want to hear any more from the developer?

COUNCILMEMBER RAWLINS-FERNANDEZ: Well, it was for Mr. Almeida.

CHAIR JOHNSON: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, DHHC would be open to this proposal, but not the law that Bill 111 became?

MR. ALMEIDA: Yeah, thank you, Member Rawlins-Fernandez. I can't speak for the Administration. I'm here to answer questions specific to the project or Housing procedures. With regards to their interpretation, or what they're thinking with regards to Bill 111, I would want to get a response from Director Tsuhako on that. Thank you.

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

CHAIR JOHNSON: Okay. I'm going to ask Mr. Carnicelli, if you want to add a little bit more to that.

MR. CARNICELLI: Thank you, Chair. I understand the Member's concern...again, talking about the practicality of it. You know, Bill 111 (*audio interference*) the Housing Division has been (*audio interference*) all the kinks haven't been worked out. What...what we would like to say is, we want to adhere to the spirit and the intent of that bill. Without having it all...you know, all of the details knocked out, it would be a little bit hard to say okay, we have to follow all of this. Is...you know, on the record, right, I have representations. We want to...we want to adhere to the intent of it, but without having all of the details finalized, it would be a little hard to say

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

that you have to follow all the details when...

CHAIR JOHNSON: So, your preference is, what we have written in the chat then is what I'm understanding, as opposed to actual Bill 111 language?

MR. CARNICELLI: Yeah, we can live with...with, you know, what the Chair has proposed.

CHAIR JOHNSON: Okay.

MR. CARNICELLI: So, thank you.

CHAIR JOHNSON: Thank you. You know, Members, I'm trying to put, you know, locals first. You know, it's...it's a residential preference that we...we've gone through this Committee for many, many hours of discussion, so that's really my intent of this. And I don't see any other hands up, so I figure I'll ask for consensus, Members. Any other...do you have consensus on this one, that's number 3 listed in the chat? Okay. I see some thumbs up. I don't...

COUNCILMEMBERS: Consensus.

CHAIR JOHNSON: Okay. Great. All right. Wonderful. Let's move on to the next one. And this one is number 4, and it's a real simple sentence, and I will have Mr. Carnicelli speak to it. But developer must construct sidewalks on all frontage streets with the assistance of the Affordable Housing Fund. So, that's my...that's my modification, and I...my understanding is the estimated cost would be around 500,000 addition of the...of the project, but we could assist with the affordable housing funds. Mr. Carnicelli, would you like to speak on that?

MR. CARNICELLI: Thank you, Chair. I think your modification is pretty straightforward and speaks to itself. I think that Member (*audio interference*) also brought that up (*audio interference*) first clarification, I think it spells it out readily and clearly.

CHAIR JOHNSON: Thank you. You know, I...this...if you look at this project, it is the ideal walkabout...walkable town. They have mixed use in there, there's going to be little shops, why would I want to drive to this little shop if I lived in that area? I would like to walk, and I'd like to walk safely if I (*audio interference*). So, I would like a sidewalk, if possible, if I was one of those folks. So, I saw Councilmember King's hand up. Councilmember?

COUNCILMEMBER KING: Yeah, I would like to walk too, Chair. I...I...we're still waiting for sidewalks in South Maui. But what we...what...what...I just wanted to find out what you were talking about when you said all frontage.

CHAIR JOHNSON: Kuikahi is...is the only frontage street is my understanding, but let's ask Mr. Carnicelli; is that correct, Mr. Carnicelli?

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

MR. CARNICELLI: Yes, Chair, that is...is correct. This is the *(audio interference)*.

COUNCILMEMBER KING: So, you're just talking about needing sidewalks along Kuikahi?

MR. CARNICELLI: Correct. Is...is...in front of the project, in front of the neighborhood, we will...is not all the way up and down Kuikahi Drive, but along Kuikahi Drive in front of our...in front of our new neighborhood. That's...that's...

COUNCILMEMBER KING: Okay. And do you see people walking...do you...I mean I've just heard a lot about how steep that road is. So, do you think that's a practical area for people to be walking up and down?

MR. CARNICELLI: Believe it or not, there's a lot of walkers in that neighborhood. I think a lot of . . .*(inaudible)*. . . folks, you know, they like...the grade is there as far as exercise. There are full curbs, gutters, sidewalks, trees, everything like that on the north side of the road. The...the side of the road that we're on, the south side of the road, has a bike path and a...and a huge...huge shoulder where there are some cars that do park there. So, it's...it is wide enough. And...and so, we're going to put our portion in, so when...if anything happens in the future, those will, you know, complete *(audio interference)* sets of curbs, gutters, sidewalks *(audio interference)*.

COUNCILMEMBER KING: Okay. So...but there was a...you know, this project here at Kaiola, Hale Kaiola, there was a requirements for sidewalks there too, and somehow they're not going to happen now. So, what...what's the difference between that requirement, do you need to go back and ask the County to pay for it?

CHAIR JOHNSON: Mr. Carnicelli?

MR. CARNICELLI: No, I think that there...there was a little bit of a misunderstanding with what happened in...on the Hale Kaiola project. We were never obligated to do frontage improvements on...on Ohukai. Department of Public Works was always going to do that on...on Ohukai, but...now, they will still do them, but they now have to go get an SM1 from the Planning Commission in order to do those road improvements on Ohukai...which will happen, they just have to go get *(audio interference)*.

COUNCILMEMBER KING: Yeah, I don't understand that. So, why would they need it for that, and not need it for Kuikahi...and you guys won't need it for Kuikahi?

MR. CARNICELLI: It's not in the SMA. Kuikahi is not in the SMA.

COUNCILMEMBER KING: Oh, oh, I see.

MR. CARNICELLI: So...yeah. It *(audio interference)*.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

COUNCILMEMBER KING: But...but your SMA that you go for Kaiola doesn't qualify, they have to get a separate one?

CHAIR JOHNSON: Carnicelli?

MR. CARNICELLI: Yeah, because...is...is the SMA major that was obtained for Hale Kaiola did not include the road improvements (*audio interference*) Public Works project, and so Public Works is the one that actually has to get the (*audio interference*) --

COUNCILMEMBER KING: Okay.

MR. CARNICELLI: -- for work that they're doing.

COUNCILMEMBER KING: Well, let's not make that mistake again hopefully. All right. Thank you. Thank you, Chair.

CHAIR JOHNSON: Thank you. Okay. Any other hands? I don't see...oh, we do have one from Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'm supportive of your proposal. I'm wondering if you would...instead of locking it into the Affordable Housing Fund, if you would be open to language that is in number 3, fee reimbursement...where it says the Affordable Housing Fund or, if necessary, another fund will be used for this. So, just making it possible for...so, let's say, Federal funds become available that it could...Federal funds could be used for this or something. So, with the legislative --

CHAIR JOHNSON: (*audio interference*)

COUNCILMEMBER RAWLINS-FERNANDEZ: -- intent (*audio interference*).

CHAIR JOHNSON: Staff, did you get the friendly amendment? Okay. I see some nodding heads, and it sounds good to me. Any other hands up for this discussion? Otherwise I'll call for consensus. Oh, go ahead, Chair Lee.

COUNCILMEMBER LEE: I'd like to hear the developer's comments on this proposal.

CHAIR JOHNSON: Mr. Carnicelli...okay, Mr. Carnicelli?

MR. CARNICELLI: Thank you, Chair, and Chair Lee. I think that if additional funds other than the (*audio interference*) fund were available, it wouldn't slow anything down on our end. You know, it didn't cost us any time, then...then sure, that if it comes from another pot, as it were, that would be fine.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

COUNCILMEMBER LEE: Did you say if it doesn't cost us any more time?

MR. CARNICELLI: Yes. Yes, Chair Lee. As...as long as...what...from my standpoint is if we're saying hey, listen, we're going to get Federal funds to do this, as an example, but it's going to take us two years to get Federal funds, that...that wouldn't work. So, saying to allow you the flexibility to get it from another fund is fine, as long as it doesn't cost us time.

COUNCILMEMBER LEE: Okay. That...that doesn't sound too promising. Other funds, like Federal funds, do take time. Okay. Thank you very much for your feedback.

CHAIR JOHNSON: Okay. Any other hands on this proposed modification? Go ahead, Councilmember Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Adding other funds isn't going to make require other funds, it can come from affordable housing funds, but I don't want to preclude ourselves from any additional funds that may not take more time to receive, and then construct the project. So, it's not requiring it to come from Federal funds, or any funds that would make it take longer, we're just opening the door to other possibilities and other options. And if there are no other options, then it would come from the Affordable Housing Fund, and I would support that. So, I just wanted to clarify, Chair, when we...when you ask for consensus, will you please clarify what is that your proposal is. Mahalo, Chair.

CHAIR JOHNSON: Okay. I see Councilmember Sugimura's hand up.

COUNCILMEMBER SUGIMURA: Could it also come from general funds, other funds. It'd be general funds, affordable housing funds, and then, of course, if we are able to get the Federal competitive funds, yes, that would take a while, but maybe it could replace existing funds in the County once...once we get it. But general funds, I...

CHAIR JOHNSON: So, any funds. With the assistance of the affordable housing funds or any other funds. Does that sound pretty straightforward, folks? Okay. All right. Members, I'm going to ask for consensus on this. Do we have consensus?

COUNCILMEMBERS: Consensus.

CHAIR JOHNSON: Do we know for the legislative intent, Staff? Okay, great. Consensus. Members, those were my major proposals...or I'm going to say, my major modifications. I just want to kind of take a step back before we move further about the idea of the upcoming legislation, Bill 107, regarding the affordable sales price guidelines (*audio interference*). Now, if that passes on second reading, we would go do a public-private partnership with this development and ideally buy down these homes. So, I think if...if we get to that point, I want to ask Mr. Carnicelli in regards to that. Mr. Carnicelli or Mr. Betsill, is it...I don't know who would like to speak on

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

that, on the idea of trying to change the affordable sales price guidelines of this project by maybe either using the affordable housing funds. And I see Mr. Betsill is here at the podium, so the floor is yours.

MR. BETSILL: Thank you, Chair. I understand your proposal. We're reluctant to commit to something that doesn't...we don't know what the final results are. And...but we're 100 percent willing to work with you to bring the prices down on these homes. So, what we would like to do is keep this a partnership, where it's a public-private partnership, and we're approved under the current AMI guidelines, but that we're open to, in the future, whatever funds you want to bring forward to give to the homeowners or to us. But I think the preferred route is to the homeowners directly. We're open to buying down those prices through your funding to bring the...bring the homes back to a more affordable price point. But we just want to keep the current...we want to keep the current format, and work with the current format for that, to accomplish those goals. We see that as a true partnership.

CHAIR JOHNSON: Okay. Thank you. I just wanted...you know, I just wanted to, you know, kind of plant that seed, if you will. You know, if we're looking at a 200-home project that might be around \$20 million of...of a buydown to make that true...to make that fit the Bill 107 proposed affordable sales price guidelines. So, I'm not going to ask for a modification at this time, but I do want to recognize that we should work...you know, work in a public-private partnership, and when we get to that bridge, we can...we can speak on that. *(Audio interference)* marketing plan, time, or whatever we...we would deem as a body necessary, but the goal is to make this a truly affordable project.

MR. BETSILL: And we...we...we support that goal 100 percent. We'd just like to do it within the...we have a current framework that we've been working on for two...under for two years. We've got several million dollars invested in this venture. We just want to make sure it's going to be able to move forward, but we welcome 100 percent your participation and assistance in bringing these to a more affordable price point as...as time evolves. I can assure you, we'll work with you any way possible to accomplish that goal.

CHAIR JOHNSON: That's wonderful news. I'm...I'm sure the community really appreciates it. Thank you so much.

MR. BETSILL: Thank you.

CHAIR JOHNSON: So, Members, that...that takes us to the end of my proposed modifications. If anybody else has any, you can go ahead and state them right now, but...oh, go ahead, Ms. Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I would like to revisit Member Paltin's number 2.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

CHAIR JOHNSON: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: And so, in its entirety, it reads, the homeowners association must restrict animals on the project site to indoor pets only, and prohibit the feeding of feral cat colonies. In addition, the HOA must provide bait stations for rodents and mongooses, and trash receptacles. Okay. So, the homeowners association must restrict cats on the project site to indoor only, and prohibit the feeding of feral cat colonies.

CHAIR JOHNSON: So, is that your modification?

COUNCILMEMBER RAWLINS-FERNANDEZ: I think that's...we talked about dogs and dogs being outside, and enclosed, and on leashes, and I think that was starting to get a little complicated. Oh...oh, and yeah, and the last (*audio interference*) because we do want...this Council did say that we wanted to protect seabirds. And so if we're going to protect seabirds, DOFAW told us that there are endangered birds above the project that we would like to protect. So, I will try again to get a majority vote on Member Paltin's proposal. Mahalo, Chair.

CHAIR JOHNSON: Okay. Members, any other further discussion on it? Okay. Go ahead, Chair Lee.

COUNCILMEMBER LEE: This project will be surrounded by thousands of homes, existing homes that don't have these restrictions. So, why should this project have restrictions, is my concern. Thank you.

CHAIR JOHNSON: Okay. And we have a hand up from Councilmember Paltin.

COUNCILMEMBER PALTIN: Because it's right below a reservoir that attracts these birds on this side of the street, and Public Works is proposing to build another water retention area because this reservoir is deficient and too big. And those water features attract these birds that are listed by the State. So --

COUNCILMEMBER LEE: Well, the birds are on --

COUNCILMEMBER PALTIN: -- this side of the highway...

COUNCILMEMBER LEE: -- the birds are on top and on the side.

COUNCILMEMBER PALTIN: Oh, I wasn't done. So, the...

COUNCILMEMBER LEE: Why don't you finish. Finish.

COUNCILMEMBER PALTIN: Thank you. So, the...the majority of the homes are on the

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

other side of Kuikahi. There are some homes above it, but it's like the saying of, you know, oh, well, everybody else is kicking this guy when he's down, so why don't we just kick him as well. So, that's...and in my discussion with the DOFAW guy-- dude...I forget his name--anyway, he really wanted these, and he said he had no way to create it, but the Council, through conditions, could create it. And so, it's a County-State partnership.

CHAIR JOHNSON: Okay. Chair Lee, followed by Councilmember King.

COUNCILMEMBER LEE: So, Chair, how many times are we going to go back these things? If...if somebody doesn't win a vote, they keep bringing it up...is that how it works now?

CHAIR JOHNSON: If it's different than the original one.

COUNCILMEMBER LEE: We voted on it already.

VICE-CHAIR MOLINA: Motion to reconsider should have been...sorry, Chair.

CHAIR JOHNSON: Well...okay. That's your question, Chair Lee? Okay. Councilmember Rawlins-Fernandez, is your proposal to do...what is different than Councilmember Paltin's?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Councilmember Paltin's original proposal, you must restrict "animals" on the project site, and then it was expressed about dogs being on leashes, and enclosed areas, and that it shouldn't apply to dogs, but there was an explicit concern about cats because cats hunt birds. And so, there...there was...Member King expressed interest in restricting the cats, and that would be a fifth vote. Mahalo, Chair.

CHAIR JOHNSON: Okay. And I saw...okay, we got Councilmember King, followed by Councilmember Sinenci.

COUNCILMEMBER KING: Okay. So, I was just going to ask, did...so, is there a new wording then, is that what was being proposed so we can allow the...you know, dogs off leashes in the back...in enclosed areas, I guess is the thing. Because the problem with cats is that they climb the fences, and they...you can't keep them in an enclosed area. I'm assuming that's why indoor is being proposed, and I don't have a problem with that, honestly. It's just I didn't want...we hadn't changed the wording, so...the proposal now is to change the wording to allow dogs within enclosed yards? Is that...is that what I'm hearing?

COUNCILMEMBER RAWLINS-FERNANDEZ: It just...it just applies to cats.

COUNCILMEMBER KING: Okay.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

CHAIR JOHNSON: Okay. Councilmember Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Yeah, my sister had a bunch of cats that got out, and this...this roaming male cat kind of got to them, and then we had to go fix...then we had double the number of cats within a month or so. So, I mean even though...when they get out, then these roaming cats will come around and...and...and then that's how we start getting the colonies. So, I think...and then...of course, then we had to go and take all of the cats in and get them all fixed, clipped and everything like that. So, I...I think keeping them indoors would...is a good idea. So, I pledge my support.

CHAIR JOHNSON: We had some hands up, I saw Councilmember Paltin, followed by Councilmember Kama, and I'll get to (*audio interference*). Members, I just want to let you know, we have a hard stop at 5:00. This...this...or this Chamber needs to be cleaned, so just letting you know, folks. Go ahead. I think it was Kama...Councilmember Kama, followed by Councilmember Paltin.

COUNCILMEMBER KAMA: Oh, okay. Well, thank you, Chair. I just wanted to ask the question of Member Paltin that, you know, if you prohibit the feeding of feral cats, that means they're going to be hungry, they're going to be looking for food, they might be looking for a bird or two, I don't know. Would it make sense to allow the community to feed the feral cats? At least they're all full, at least at some point maybe they could do what Member Sinenci just mentioned about spaying them. So, I'm not sure, so...so, that's my question to you, Member Paltin.

CHAIR JOHNSON: Okay. Let me jump in...

COUNCILMEMBER PALTIN: First thing, thanks...

CHAIR JOHNSON: Councilmember Paltin, let me jump in real quick. So, you know, I worked in conservation before, and the trap and the release, all the biologists are against that style. That does not seem to work. It...it tends...it just doesn't seem to work as far as the data goes. Capture and release is kind of a big no-no in biologist circles. That being said, Councilmember Paltin, the question was for you.

COUNCILMEMBER PALTIN: Oh, I just was...wanted to remind Members of the like six hours of testimony we had when Member Hokama proposed that. Basically a lot of cats don't always hunt or kill birds because they're hungry. This area doesn't have like people living there right now, so we want to keep it not a feral cat colony right now. And yeah, basically the...the six hours we heard of testimony when Member Hokama proposed his thing. But if I can just slide in...if...I hope that answers your question, in addition to Member Johnson's. And then I just wanted to say the guy's name was Scott Fretz, and he works with DOFAW. And I had the conversation with him, and we had a long discussion. And then I had the conversation with

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

Mr. Carnicelli afterwards, and this was the solution that we came up with...very long conversation. He's an expert in the Division of Forestry and Wildlife, Scott Fretz.

CHAIR JOHNSON: Thank you for that. Thank you, Councilmember Kama. I see Chair Lee's hand up.

COUNCILMEMBER LEE: Yeah. Chair, we didn't revise the wording to include dogs would be allowed. So, the homeowners association must restrict animals except for dogs in enclosures on the project site to indoor pets only, or something to that effect. Because the wording, as it stands, includes dogs.

CHAIR JOHNSON: Okay. Have you seen what Councilmember Rawlins-Fernandez has written in the chat?

COUNCILMEMBER LEE: No, I haven't. She should --

CHAIR JOHNSON: Okay. Let's *(audio interference)*

COUNCILMEMBER LEE: -- propose it verbally.

CHAIR JOHNSON: Okay. I'll read it out for the record for everyone. The homeowners association, or HOA, must restrict cats on the project site to indoor only, and prohibit the feeding of feral cat colonies. In addition, the HOA must provide bait stations for rodents and mongoose...mongooses, and covered trash receptacles. So, it totally leaves out the word "dog," and written in chat, and we read it for the record. So, does that satisfy your concern, Chair Lee?

COUNCILMEMBER LEE: No. I...I think we should be very specific about the words that...that dogs will be exempt. So, excluding dogs.

CHAIR JOHNSON: Okay.

COUNCILMEMBER LEE: So, add --

CHAIR JOHNSON: So...okay. Like...

COUNCILMEMBER LEE: -- the words...add the words, "excluding dogs."

CHAIR JOHNSON: Councilmember Rawlins-Fernandez, as the writer, would you consider that a friendly...friendly amendment?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. That doesn't make sense at all. It says restrict cats, it doesn't...it doesn't...it's not...it doesn't have anything about animals, so it wouldn't make sense to put the HOA must restrict cats on

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

(audio interference)

COUNCILMEMBER LEE: You're breaking up, you're breaking up. Can't hear you.

COUNCILMEMBER RAWLINS-FERNANDEZ: I can't do anything about that. It doesn't make sense to...to add it. It only talks about cats, it's not animals, so it...I don't know.

COUNCILMEMBER LEE: Well, I...I...I think we need to be explicit about dogs. Something to the effect this does not include dogs.

CHAIR JOHNSON: Okay. Chair Lee, would you be *(audio interference)*

COUNCILMEMBER LEE: It doesn't hurt to...it doesn't hurt to be overly explicit.

CHAIR JOHNSON: Okay. Maybe Staff, can you help with that? Because I mean I'm not...I'm not sure if you...where that would go, Chair Lee.

COUNCILMEMBER LEE: Well, at the end, you could just say the feeding of feral cats...okay. This restriction does not apply to dogs.

CHAIR JOHNSON: So, after covered trash and receptacles, period, this restriction...

COUNCILMEMBER LEE: No, no, no. No, no, before that. After...after feral cat colonies.

CHAIR JOHNSON: Feral cat colonies, period. This restriction does not apply to dogs. In addition, the HOA fee...

COUNCILMEMBER LEE: In enclosed areas yeah, enclosed areas. Just want to be clear.

CHAIR JOHNSON: Okay. Staff is telling me they understand the intent and...okay. We got a hand up. I'm sorry. Councilmember Paltin?

COUNCILMEMBER PALTIN: I can't support free-roaming dogs. We had an incident in Launiupoko where the dogs killed all the goats and...

COUNCILMEMBER LEE: No, I said enclosed areas. I said enclosed areas.

COUNCILMEMBER PALTIN: Oh, I didn't see that in the chat.

COUNCILMEMBER LEE: No, I just said that. Before you --

COUNCILMEMBER PALTIN: So...

COUNCILMEMBER LEE: -- before you raised your hand, I said...I said at the end of cat

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

colonies --

COUNCILMEMBER PALTIN: I was...I was...it's still my turn.

COUNCILMEMBER LEE: -- this does not include dogs in enclosed areas.

COUNCILMEMBER PALTIN: Okay. Then I think we need to be specific that no free-roaming dogs will be allowed either. Because we've had issues with free-roaming dogs in my district.

CHAIR JOHNSON: Let me jump in right here because we do have a leash law, right? So, kind of redundant because you're supposed to be having your dog on a leash as it is now.

COUNCILMEMBER LEE: Up to you.

CHAIR JOHNSON: Oh, it's up to me? I'm joking. Okay. We got some hands. How is this getting such a rabid discussion? No pun intended. Go ahead, Councilmember Kama.

COUNCILMEMBER KAMA: Thank you, Chair. I think this particular item is a directive to the HOA. So, when the HOA is formed, that's something the developer will do. And so, in...in the HOA, I mean, you know, they're going to have how you formulate that and all that, and this is just going to be one of those things that's going to be in the HOA. And that's what we, as the Council, is putting onto the HOA. I think the more clear it is...sometimes when we read stuff, it says oh, this is about cats, but not dogs. So, I think...I think we should be as clear for these homeowners as possible so that it's clear to them. That's all I'm saying, Chair. Just let us be clear what our intent and expectations are. Thank you.

CHAIR JOHNSON: Okay. Members, I kind of want to wrap this one up, but we'll...we'll keep going if you want to. But okay, we have some hands. Councilmember Rawlins-Fernandez, followed by Councilmember Sugimura.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, should we also exempt birds and rabbits, and should we list them?

COUNCILMEMBER LEE: If you want to.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. We're going to list them all? What about horses? Horses? Yes, no?

COUNCILMEMBER LEE: Giraffes.

CHAIR JOHNSON: Okay, okay.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR JOHNSON: I'm...I'm...okay. Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: So, since I'm losing Jerry Paredes, and not being able to finish my PAF on chickens, can you add chickens here? Because the...I mean seriously, right, I get calls every month about feral chickens. So, if you're going to go at it, please add feral chickens, and do not feed feral chickens because they're all around. They're worse than...well, (*audio interference*) the list that we're going. But I agree, I agree with what Chair is saying about dogs, you know, they're going to be in an enclosed area, so it's exempt. But I really feel strongly about chickens. And if you're going to --

CHAIR JOHNSON: Okay.

COUNCILMEMBER SUGIMURA: -- start adding detail then add that, you know.

CHAIR JOHNSON: So, I heard dogs and chickens as well as the cats. Can we --

COUNCILMEMBER SUGIMURA: Well...

CHAIR JOHNSON: -- can we end it on this one? Because...is...is this...is this fair enough that we kind of...kind of discussed this enough? Okay. Councilmember King?

COUNCILMEMBER KING: I think we're getting off...off topic of the reason for this, and the reason is the fact that the birds are attracted to the water that's nearby. I don't think chickens actually attack the birds. I don't know, maybe they do, but I haven't heard that that's a problem. I thought we were addressing a problem that DOFAW had...had expressed to Member Paltin, and you know, this is...this is in their wheelhouse, this is what Department of Forestry and Wildlife does. So, you know, I've never seen a rabbit attack a bird, but I don't know, is that...is that a thing? You know, if we could just focus on the reason we're doing this, which is to protect the native birds. I think we...we have something that we can vote on right now.

CHAIR JOHNSON: Okay. We have Councilmember...or Committee Vice-Chair Molina.

VICE-CHAIR MOLINA: Thank...thank you, Mr. Chairman. Non-animal-related question, more procedurally, were your intentions to end at 5:00? We still have one more item on the agenda as well, yeah. So, I don't know, do you want to start asking Members about their availability to go on with this? Because I know you set aside Thursday as a potential recess date, but my personal preference, I'm hoping we can wrap it up today or tonight. Just your thoughts, how far away are we from...

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

CHAIR JOHNSON: Thank you. That's a really important question, it's very timely. I plan to defer the last item on the agenda, but we still have to open it up for public testimony. So, hopefully, we can wrap this up, you know. So, that's...that's my...that's your Chair's intent.

VICE-CHAIR MOLINA: Okay. So, support you, Chair, wanting to move this...expedite it as much as possible. Thank you.

CHAIR JOHNSON: Thank you. Thank you so much. Okay. Members...oh, Councilmember Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Add *(audio interference)*.

CHAIR JOHNSON: Councilmember Rawlins-Fernandez, do you see that in the chat? Oh, look, we voted on it already.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah, there's...there's chickens...there's chickens in it now. I was just...I was wanting to say that this only applies to cats, but if we're going to put chickens, it's not related to *(audio interference)* thing, recommendation, but I...but I understand what Member Sugimura is saying about the *(audio interference)* of one's property. I feel indifferent to chickens, but if...if --

CHAIR JOHNSON: Would...would...

COUNCILMEMBER RAWLINS-FERNANDEZ: -- that's something that Member Sugimura is like *(audio interference)*. Yeah. I...I don't care. If we're going to put chickens in it, that's fine. I was just going to say that this only applies to cats and that way...because it needs to say that the dogs in enclosed areas...enclosed areas. And then I don't...so then they can't be on a leash in an unenclosed area.

CHAIR JOHNSON: Well, we have a leash law, right, so that's...that's the standing law. So, I guess really...I'm...I'm impartial to either, Members. There's two proposals, we have one written by Staff and one written by Ms. Rawlins-Fernandez. So, the folks who wanted to add more to that, feel free to raise your hand and talk which one you like. Miss...Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Sorry, I like Paige, her amendment.

CHAIR JOHNSON: Okay.

COUNCILMEMBER LEE: Yeah.

CHAIR JOHNSON: Thank you. I see Ms. DesJardins on the call. And, Ms. DesJardins, are we getting into legal...legal issues?

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

MS. DESJARDINS: I just want to mention that it is, right now, a violation of Maui County Code Chapter 6.04.040 to allow a dog to threaten, kill, or harm an endangered species, to run free. I mean all of those things right now, it is illegal, and it has some pretty hefty fines. Some of the violations include the possibility of jail time, so there is a very strict use of the Code. And in my own experience, I've seen people brought to court for this type of thing, so...but it does...it appears to apply just to dogs, not cats and chickens and other animals. Just *(audio interference)*.

CHAIR JOHNSON: So, Ms. DesJardins, how's that language written by Staff, does that seem legally sound?

MS. DESJARDINS: It...it would be completely different. Well, let's see, there's two things here. I'm sorry. Let's see. The feeding of feral cats, dogs are allowed in enclosed areas. Yeah, that's very consistent with what the law is right now, so that's fine.

CHAIR JOHNSON: Okay.

MS. DESJARDINS: Sorry *(audio interference)*.

CHAIR JOHNSON: Okay. Members....one more?

MS. DESJARDINS: It doesn't...oh, the dog...the dog penalties. Sorry.

CHAIR JOHNSON: I'm sorry. You said what about the dog penalties?

MS. DESJARDINS: I'm sorry, it...it...it's consistent in that it doesn't contradict Maui County Code 6.04.040, I believe it is, which talks about not allowing dogs *(audio interference)* not allowing them to kill endangered species or any other animal.

CHAIR JOHNSON: Okay. Thank you for that, Ms. DesJardins. Okay. Members, we kind of came on there...let's...let's...we went through a pretty good robust debate on this. Can we get consensus on what the Staff has written into the chat? Do we have thumbs-up consensus?

COUNCILMEMBERS: Consensus.

CHAIR JOHNSON: Wow. Great. Wonderful. Okay. That is...that takes us to the end of the all of the modifications, Members. I'm...we're...so, okay. Councilmember Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. I just had a clarifying question for Mr. Carnicelli about the two items that he wanted funded by the...the Affordable Housing Fund. One was the 600,000 for the water, and what was the other one?

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

CHAIR JOHNSON: The road frontage improvement. Do you want Mr. Carnicelli to speak on that?

COUNCILMEMBER SINENCI: Yeah, I just...I just missed the number on that one.

MR. CARNICELLI: Thank you, Member Sinenci. The road frontage improvements along Kuikahi Drive are going to be estimated to be around \$500,000. That's roughly what we anticipate it to be.

COUNCILMEMBER SINENCI: And...and the other one was again?

MR. CARNICELLI: The water redevelopment fees to the Department of Water Supply is...is about 631,000.

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

CHAIR JOHNSON: Okay. I was reminded, Members...if you recall, we were going to bring up Director Molina in regards to that V as in Victor exhibit. So, before we go on to actually making a motion, we can get this one item...last item cleared up. So, Director Molina, are you on the call? Have you spoken with Carnicelli, and you guys come to some type of language that would be appropriate for both sides?

MR. MOLINA: Thank you, Chair. I kind of want to break down the scenario to make sure Council is on the same page. So, what I understand is the intent is to allow this first subdivision as though the 15-acre parcel already existed. So, that...that remnant, 133 acres, doesn't have any strings attached to it, and will be subject to whatever requirements of the Code that exist at the time of future development. And I think that the language does this, except that there is some confusion on whether the deferred improvements can be exempted in the future. So, let's say they come down the road and do another 2.97 or a 201H project, and they chop up the 133 acres. Will they be required to build all those deferred improvements at that time, or can they obtain another deferral with that subsequent future project approval? That is not entirely clear in this...the way it's written currently. So, perhaps just if...if the intent is to allow future affordable projects to commence and not affect...or not be affected by this current approval, then language should be added to the effect that provided...you know, improvements may be deferred again upon approval of a future workforce housing project, or as allowed to by a Council approval. Thank you, Chair.

CHAIR JOHNSON: Oh, we have a hand up, but Director Molina, if you don't mind, you know, writing that down so we can read it in the record and (*audio interference*). Okay. Councilmember Paltin, followed by Councilmember King.

COUNCILMEMBER PALTIN: Thank you. My condition 8, I believed passed with consensus, and that's additional Change in Zoning be on this first 15 acres is going

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

to have to go through the State Land Use Commission and require that they...the State Land Use Commission do a district boundary amendment. Because otherwise it would be parcelization (*phonetic*). And so, at that time, I would imagine the LUC would take up that matter about whether or not they can continue to defer or...or not, regardless if it's a 2.97 or a 201H. Because number 8, we...which we had consensus on, said that they need to go to the Land Use Commission for any further development beyond this 15 acres. So, would that be sufficient, that the State Land Use Commission takes it up at that time and...and says whether or not they can defer?

CHAIR JOHNSON: . . .(*inaudible*). . . questions for Director Molina.

MR. MOLINA: I would...I would double check with Corp. Counsel, but I don't think that would resolve the issue because these are County requirements, and the State Land Use Commission would not be able to override County requirements. So, the County needs to grant that authority to override those conditions of it...its own conditions.

COUNCILMEMBER PALTIN: Okay. Thank you.

CHAIR JOHNSON: Okay. So...oh, we have a question from Chair...Councilmember King.

COUNCILMEMBER KING: Thank you, Chair. I thought the issue that were talking about, maybe Mimi can clear this up, because I thought she had said that what Mr. Carnicelli was asking for in that language he put in the chat was already in those conditions that we approved. So, that's what I thought we were trying to work out is, you know, the concerns that Director Molina has. I thought that what Mimi was telling us was that that language would suffice. So, I thought that...you know, I thought they were...that's what they were trying to work out, whether that language was clear enough to require any...any additional work on the 133 acres to have to go through, you know, an additional process for water and permits and all that.

CHAIR JOHNSON: Okay. Ms. DesJardins?

COUNCILMEMBER KING: (*audio interference*) Mimi?

MS. DESJARDINS: I'm sorry?

COUNCILMEMBER KING: Well, you know, when I first brought up the concern of the language that Mr. Carnicelli put in the chat, I thought what you were telling us was, you know, that it's already in the conditions that we passed, that...that the...that language requires them to come back for any additional...you know, if they wanted to take the 133 acres and subdivide it again, or make another housing development, that that language is already in there. That the only thing...

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

MS. DESJARDINS: That's correct.

COUNCILMEMBER KING: Okay. Because the only thing that we'll be exempting is whatever --

MS. DESJARDINS: Yeah.

COUNCILMEMBER KING: -- requirements they would have to do on a normal basis to subdivide this original property. But it doesn't mean that they can't...they don't have to go back to...through the whole process if they develop the 133 acres.

MS. DESJARDINS: I think at the very end of Mr. Carnicelli's statement though, he raised something that isn't in this language. And that is, he was saying, I want the 133 acres to be treated as if it had never been subdivided, like it was...it had no deferrals attached to it. That's the problem that I see in the law, is that the law doesn't allow us to just take the 133 and pretend like it already exists, and we're just going to parcel out the 14.97. There are deferral things, and we've protected the County's laws by putting this language together, and then what I'm hearing is he'd like it to be treated like brand new. And that...and so, the question is, can you defer deferrals? And I don't have an answer to that legally because I've never seen it. But I don't...I don't believe you can just pretend like the 133 was its own mother parcel, which is, I think, what...

COUNCILMEMBER KING: Correct. That was...well, that was my original concern and...you know, and I --

MS. DESJARDINS: Yeah.

COUNCILMEMBER KING: -- think as far as us feeling like if...you know, once they do get the 133 subdivided out, that they're going to...they still would have go back to...through the whole process if they decide to develop it. You know, that that's already in the language. So, you know, I...I was...I just...I was a little bit...you know, that's kind of the...the...the apprehension and concern I have when I saw the language in Mr. Carnicelli's proposal is...

MS. DESJARDINS: So, if the intent is to adopt the language that's proposed here, not Mr. Carnicelli's language, and I believe it's more legal as...in terms of the Code, to do it the way we've drafted it. And when you subdivide, there are deferrals that need to be addressed later. He's going to have to address those deferrals, and then any further deferrals possibly, depending on what he does with the land. He'll have to come back and get, you know, entitlements or (*audio interference*). I don't know.

COUNCILMEMBER KING: Okay. So, that...that answers my question. I think the language that we have, and that we've already approved, is sufficient.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

CHAIR JOHNSON: Okay.

COUNCILMEMBER KING: And I think that meets Mister...Director Molina's needs too.
Director Molina?

CHAIR JOHNSON: Director Molina, would you like to speak on this? And I see Councilmember Sinenci after you.

MR. MOLINA: Yeah. So, the...the issue would be specifically the very last sentence of this Section V, where it talks about when remaining 133-acre parcel is developed, further...or further subdivided or water service requested, applicant must construct requirements to that parcel. So, if in the future he was eligible for an additional deferral under the regular County Code, this would create a conflict because this is telling me that he doesn't...isn't allowed to get any of those additional deferrals...because it says as soon as he develops or does anything. So, this 2.97 approval for Kuikahi residential creates an encumbrance that goes forward, and would potentially supersede any other subdivision provisions that could defer improvements in the future. So, if that's...if the intent is to not allow that to happen, I...I guess either way, it should be clarified whether...you know, the...the...the recommendation is that you get a one-time deferral and that's all, or to allow him to take advantage of what the Code offers in the future.

CHAIR JOHNSON: Does the Department have a preference, Mister...Director Molina?

MR. MOLINA: So, with large-lot projects, like it's uncommon to have double deferrals because you generally have these large blocks created, and then those blocks get cut into smaller blocks, and ultimately you get to where you have the full-on residential development. So, it's not unusual to have deferrals upon deferrals. So, let's say he did another 15 acres, he would be down to 115 acres, that 115 would be eligible for a large-lot consideration as well. But if you didn't want to afford that benefit in the Code to them, then that should be clarified here.

CHAIR JOHNSON: Clarified. Okay. Councilmember Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Director Molina. So, I guess Member Paltin brought up parcelization. So, how would this not lead to parcelization?

CHAIR JOHNSON: Director?

MR. MOLINA: Yeah. So, because we're not talking about a master plan development (*audio interference*) the --

COUNCILMEMBER RAWLINS-FERNANDEZ: Well --

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

MR. MOLINA: -- 15-acre threshold, so *(audio interference)*

COUNCILMEMBER RAWLINS-FERNANDEZ: -- if...if...it is.

MR. MOLINA: But then I guess you got to ask whether that...you know, the 201H and the 2.97 processes support that or not.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Because we saw that at Launiupoko where they did have a larger planned development, and then they cut it up into smaller parcel...subdivisions so that they could get through the process without the kind of regulatory hurdles that would otherwise have...they would have had to go through. And it's already been expressed by the developer that the intention is to develop those other parcels. So, we...while there may not be a master plan that has been presented to us, it has been disclosed that...that those lands would be developed on eventually. And so, it...it is kind of avoiding those regulatory hurdles of having that entire area looked at comprehensively of the environmental impacts.

CHAIR JOHNSON: Okay. You know...

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

CHAIR JOHNSON: You...you froze, sorry, I thought you were done. My mistake.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay. Yeah, I was just...get a response from Director Molina.

CHAIR JOHNSON: Director Molina?

MR. MOLINA: That I...I think it's, you know, to your Council's purview on whether...how they want to treat this. I think it can go either way because we'll catch them eventually at building permits. But yeah, it...to your concern, you know, it is...it is a...I guess, an allowed mechanism in the law to...to pursue parcelizing in this way. Whether you want to nip...nip that now or allow it to persist is, you know, the...within the Council's purview to decide.

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

CHAIR JOHNSON: Okay. I have...I have Councilmember Sinenci's hand up, but I want to ask Mr. Carnicelli, can you speak a little bit to this? And then I'll call on Councilmember Sinenci.

MR. CARNICELLI: Thank you, Chair. And maybe there's mischaracterization as far as, you know, the intent behind this request. As...as Director Molina had stated, as...it can be interpreted...Section V can be interpreted to say we can't come and do

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

another 2.97 or a 201H...even if we go to LUC, right. So, this isn't about parcelization, it's not about saying oh, this precludes us or gives us exemptions on the 133. It just says that we can come back and try this again. That's all we're saying. Is like on this 133, we said hey, we're going to come back with the full 133 and do that. Not even 15 or whatever (*audio interference*) we're going to come back. Is we don't want this to say no, you can't do that. So, that's...that's essentially what we're just concerned about and what we would like to have addressed is that. Is to say yes, if you go to the LUC because of parcelization (*audio interference*) we can't even try it, then...because this precludes that. That's...that's the concern.

CHAIR JOHNSON: Okay. Thank you. Councilmember Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. I just wanted to ask Director Molina, is the...the buffer part of that 133 acres? And...and for future development, are they restricted because of that buffer designation?

MR. MOLINA: Yeah, I believe so, unless they pursue a...you know, 2.97 or related type exempt development approvals.

COUNCILMEMBER SINENCI: To include development on the buffer?

MR. MOLINA: Yeah. I...I would defer to Planning, but I believe that's a community plan requirement, and so I'm not sure if 2.97 allows you to waive such things, but if it did, then it would be within the Council's purview.

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

CHAIR JOHNSON: Okay. Members, we have a decision to make here. I think we had a good discussion. What do you feel like doing? Anybody have a suggestion? Councilmember Paltin?

COUNCILMEMBER PALTIN: I would move to let V stand. And if that doesn't pass, I got a backup.

CHAIR JOHNSON: Do we have consensus on letting V stay the way it is? Okay. I see consensus on it. I'm don't see any shaking heads. Okay. All right. That's the way it is then. All right. We're all done now with all of the modifications, right? So, now we're going to go to the motion. So, I don't see other hands, so the Chair will entertain a motion to recommend adoption of Resolution 22-193.

VICE-CHAIR MOLINA: (raised hand).

COUNCILMEMBER SUGIMURA: (raised hand).

CHAIR JOHNSON: Moved by Committee Vice-Chair Molina, seconded by Councilmember

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

Sugimura. Okay. Discussion?

VICE-CHAIR MOLINA: Chair?

CHAIR JOHNSON: Director [sic]?

VICE-CHAIR MOLINA: I stand in full support of the project. I want to thank the applicant for going through a vigor...rigorous process here today, as well as the previous days. So, I think this will certainly help with adding to our inventory for much-needed housing here in Maui County. So, again, I stand in full support. And thank you, Chair, for shepherding this, and for your patience with us. Thank you.

CHAIR JOHNSON: Thank you. Okay. We got Councilmember Sinenci, followed by Chair Lee.

COUNCILMEMBER SINENCI: Chair, just a question. Did the motion include all of your...the new, revised amendments, and also the additions?

CHAIR JOHNSON: We're moving...

COUNCILMEMBER PALTIN: Friendly amendment.

CHAIR JOHNSON: We're having a main motion and approving with the modifications. I'll get to that (*audio interference*).

COUNCILMEMBER PALTIN: Cool.

CHAIR JOHNSON: Okay. This is going to be approved with modifications.

COUNCILMEMBER SINENCI: Okay. Thank you.

COUNCILMEMBER PALTIN: Motion to approve with modifications.

CHAIR JOHNSON: Okay. So, let me --

COUNCILMEMBER KAMA: Second.

CHAIR JOHNSON: -- just read my script before we get...we get all off...okay. Chair will now call for a vote with recommending adoption of Resolution 22-193 entitled "APPROVING WITH MODIFICATIONS THE INDEPENDENT DEVELOPMENT OF THE KUIKAHI VILLAGE WORKFORCE HOUSING PROJECT UNDER CHAPTER 2.97, MAUI COUNTY CODE" as amended; and the filing of the other resolutions. The Chair...okay, the...the Chair notes that in preparing the resolution for the Council's consideration, Committee Staff will be directed to further the Committee's legislative intent by making nonsubstantive revisions to ensure accuracy and consistency in

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

compliance with the Maui County guide to legislative drafting. So, it was moved by...I'm sorry, I...I...I'm sorry, who moved again and seconded.

COUNCILMEMBER KAMA: Member Paltin. No, I did.

CHAIR JOHNSON: Member Paltin moved it.

VICE-CHAIR MOLINA: Yeah, yeah. Member Paltin.

COUNCILMEMBER KAMA: I did.

CHAIR JOHNSON: And seconded by Councilmember Kama.

COUNCILMEMBER KAMA: Yeah.

CHAIR JOHNSON: Okay. Thank you. So, all those in favor, raise your hand and say "aye."

COUNCILMEMBERS: Aye.

CHAIR JOHNSON: Okay. Let the record show it's nine votes that say "aye," it's unanimous and the motion has passed.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

**ACTION: Recommending ADOPTION of Resolution 22-193 and
 FILING of Resolutions 22-192 and 22-194.**

CHAIR JOHNSON: So, mahalo, Members. And mahalo, Members, and thank you all the departments, resources and testifiers for their time and participation. So, go ahead, Councilmember Rawlins-Fernandez.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

COUNCILMEMBER RAWLINS-FERNANDEZ: No, my hand wasn't up.

CHAIR JOHNSON: Does anybody want to speak on the motion?

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh. Oh, I thought that was the...so that was not the final...that was not the main motion, it was the motion to amend the main motion? I thought it was the main motion.

CHAIR JOHNSON: No. It was the main motion. I'm sorry. Did I...it was the main motion, yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay. So, the main motion passed. I...I have no further discussion. I commend you on a job well done, Chair. And mahalo to everyone for working so well together. Mahalo, Chair.

CHAIR JOHNSON: Councilmember, thank you so much. Chair Lee?

COUNCILMEMBER LEE: Sorry, I thought your...what you just said was an amendment to the main motion, the modifications. Did I mishear you? And then that...that motion was made by, let's see, Member --

VICE-CHAIR MOLINA: Paltin.

COUNCILMEMBER LEE: -- Paltin and seconded by Tasha, Member Kama.

CHAIR JOHNSON: Right. We...we had three options; to approve, approve with modifications, or disapprove. So, we chose to approve with modifications, right?

COUNCILMEMBER LEE: Okay.

CHAIR JOHNSON: So, that's what happened.

COUNCILMEMBER LEE: So, was...was that an amendment to the main motion, or that was the main motion?

CHAIR JOHNSON: It's the main motion.

COUNCILMEMBER LEE: That was the main motion.

CHAIR JOHNSON: That was the main motion, yes.

COUNCILMEMBER LEE: Okay. Because I heard somebody else say I move to...I thought it was Member Molina who moved to approve and then somebody else seconded it. I must have misheard you.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

CHAIR JOHNSON: *(audio interference)*. Okay. Sorry, I'm just going by the script for that particular part because these are tricky, but it passed unanimously, so we're all in agreement. Councilmember Sinenci?

COUNCILMEMBER SINENCI: Yeah, just my after comments. I just wanted to mahalo Mr. Carnicelli, Mr. Betsill, for bringing to us a project that has a lot of...addressed a lot of the different AMIs for our communities. And I personally have never seen a project with so many different varieties within it. So, I applaud that, and I...and I hope that we...we get to review further projects similar to...to this one. So, mahalo, Chair.

CHAIR JOHNSON: Councilmember Sugimura?

COUNCILMEMBER SUGIMURA: Thank you very much. Good job, Chair. I just wanted to thank everybody. Thanks for including my chickens. And . . .*(inaudible)*. . . for the interesting discussions. But I wanted to really thank Mr. Betsill. And when you think about it, it's not often we get a project that's 100 percent funded by the developer. I mean that takes a lot of commitment. And then Mr. Carnicelli, to go through that, and his first opening when he was kind of in tears just, you know, finally getting to this point. I...I just want to really mahalo him. He lives with his passions. And thank you, everybody, appreciate it. Thanks.

CHAIR JOHNSON: Chair Lee?

COUNCILMEMBER LEE: Yeah. I want to congratulate you, Chair Johnson. And I think congratulations are in order for the developers as well because this is innovative, and hopefully other developers will follow suit with this type of mixture. And as Member Sinenci said, a nice variety of offerings to folks in...in a fairly wide range of affordability. So, thank you for everybody's hard work. Thank you.

CHAIR JOHNSON: Thank you. Okay. And finally I just want to thank Mr. Carnicelli and Mr. Betsill as well. Thank you guys so much for sticking this out with us, sorting it all out, as they say. So, Members, I'm going to try and move on to the next one seeing that everybody's has spoken who wanted to speak.

**ITEM AH-36: BILL 127 (2022), RELATING TO THE RECLASSIFICATION
OF THE STATE LAND USE DISTRICT FOR THE KUIKAHI VILLAGE
WORKFORCE HOUSING PROJECT (WAILUKU)**

CHAIR JOHNSON: So, we got to go to AH-36 now, Bill 127 (2022), Related *[sic]* to the Reclassification of the State Land Use District for the Kuikahi Village Workforce Housing Project (Wailuku). Testimony for the AH-36...and at this time, I'll open oral testimony for AH-36, Bill 127 (2022), Related *[sic]* to the Reclassifications *[sic]* of the

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

State Land Use District for the Kuikahi Village Workforce Housing Project. So, Staff, is there anyone wishing to testify on this item?

MS. GRECO: Chair, it doesn't appear that we have any testifiers on the list.

CHAIR JOHNSON: Okay. If there's anyone else wishing to testify...to testify, please unmute and identify yourself. This is the last call. Members, seeing there are no more individuals wishing to testify, without the objection...without objection, I will close public testimony for AH-36.

COUNCILMEMBERS VOICED NO OBJECTIONS.

CHAIR JOHNSON: And include written testimony into the record. Okay. So, Members, I'm going to...I'm about to defer...oh, let me read this real quick. Deliberations...all right. So, Members, Bill 127 will allow the land for the proposed Kuikahi Village housing project to be reclassified from Agriculture District to Urban District without having to go through the State Land Use District Boundary Amendment process. This will expedite construction of the workforce housing units. And as our OCS Attorney stated in the September 6th meeting, this bill is a land use ordinance, therefore it needs to go to the Planning Commission before review per the Maui County Charter. This resolution referring Bill 127 to the planning commissions will be posted on the September 20th Council agenda. Until we have that resolution before us in a Committee, it's my intention to defer this item. However, I still would like to begin our discussions on Bill 127, and I...I would like to kind of bring up Ms. DesJardins to kind of explain why we're doing it this way. Ms. DesJardins?

MS. DESJARDINS: Yeah. Thank you, Chair. Because it's not a 201H project, which under Hawai'i Revised Statute State law allows for exemptions from County Charters, this particular...this is, I think, our first district boundary amendment on a 2.97 project. The Charter does require review by the planning commissions. And the developer had asked for an exemption from the County Charter in...in its original Exhibit A, but as you know, the Council doesn't have the authority to waive the Charter. So, it...it does need to go to the Planning Commission. And I think Council Services' idea of a direct referral from Council will help expedite that, rather than have these folks go through the application process for a district boundary amendment under the Maui County Code. And then once the Maui...the Planning Commission makes their comments and recommendations, then it will come back to you folks for action, but you'll have the added benefit of those comments from the Planning Commission.

CHAIR JOHNSON: Okay. Thank you. So, Members, does anybody wish to discuss on...on this item? Your Chair's intent is to defer it. So, seeing no...no one wishing to discuss it. So, Members, without objection, I will now defer this item.

COUNCILMEMBERS VOICED NO OBJECTIONS.

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

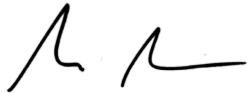
September 13, 2022

ACTION: DEFER pending further discussion.

CHAIR JOHNSON: Okay. Members, that takes us to the end of our time today. And I appreciate all of your hard work, and all of the give and take, the push and pull, and we made...we made things happen today. So, mahalo for all your hard work today. And right now, I want to thank everybody who participated in today's meeting, and I look forward to continuing your discussion on this topic. And the time is now 4:40, the meeting is adjourned. . . .*(gavel)* . . .

ADJOURNED: 4:40 p.m.

APPROVED:



GABE JOHNSON, Chair
Affordable Housing Committee

ah:min:220913:slv:ds

Transcribed by: Daniel Schoenbeck

AFFORDABLE HOUSING COMMITTEE MINUTES
Council of the County of Maui

September 13, 2022

CERTIFICATION

I, Daniel Schoenbeck, hereby certify that pages 1 through 65 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 12th day of October 2022, in Kula, Hawai'i



Daniel Schoenbeck