

COUNCIL OF THE COUNTY OF MAUI  
**HOUSING AND HUMAN SERVICES  
COMMITTEE**

July 27, 2004

Committee  
Report No. 04-116

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Housing and Human Services Committee, having met on June 28, 2004, makes reference to County Communication No. 04-124, from Councilmember Joseph Pontanilla, relating to a presentation on the revised Pu`unoa Village Affordable Housing Project, and transmitting correspondence dated April 23, 2004, from the President and Chief Executive Officer of Smith Development, the applicant's representative.

The purpose of the presentation is to update your Committee on the proposed revisions to the 54-acre Pu`unoa Village Affordable Housing Project in Lahaina, Maui, prior to action on a revised project proposal by the Housing and Community Development Corporation of Hawaii (HCDCH).

Your Committee notes that the Pu`unoa Affordable Housing Project, proposed jointly by Kauaula Associates, LLC (the applicant) and HCDCH, was previously considered by your Housing and Human Services Committee and reported on by Committee Report No. 03-154, as amended. The Council adopted Resolution No. 03-177, entitled "DISAPPROVING THE PU`UNOA AFFORDABLE HOUSING PROJECT PURSUANT TO SECTION 201G-118, HAWAII REVISED STATUTES" at its December 9, 2003 meeting.

By correspondence dated June 1, 2004, the Chair of your Committee transmitted correspondence dated May 24, 2004, from David C. Goode, Vice President, Development Operations, Smith Development, to the Mayor summarizing the Administration's comments concerning proposed changes to the project.

By correspondence dated June 18, 2004, the Chair of your Committee transmitted information relating to the Pu`unoa Village Affordable Housing Project printed from the Smith Development website.

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By correspondence dated June 18, 2004, Michele McLean, Land Use Planner, Smith Development, transmitted a brief overview of the project and a summary of the key revisions made.

By correspondence dated June 24, 2004, the Chair of your Committee requested that the Corporation Counsel be prepared to comment on whether inclusion of a plan prioritizing potential buyers by residency, as contained in the original application would, in and of itself, require the Council to deny a revised application.

Your Committee is in receipt of written testimony in support of the proposed project. Your Committee is also in receipt of a petition dated June 2004 containing six signatures urging that the proposed project be denied.

At its meeting, your Committee met with the Director of Housing and Human Concerns; the Planning Director; a Deputy Corporation Counsel; Kent Smith, President and Chief Executive Officer, Smith Development; Michele McLean, Land Use Planner, Smith Development; and David Goode, Vice President of Development Operations, Smith Development.

Mr. Smith gave introductory remarks, noting that, when the original application was disapproved, a number of Council members encouraged the applicant to bring the project back. Mr. Smith informed your Committee that in the intervening period, the applicant met with governmental agencies and prepared a revised application, which has been submitted to HCDCH for its consideration.

Your Committee questioned the applicant's decision to again proceed with HCDCH as the sponsoring agency, rather than the County. Mr. Smith informed your Committee that the Administration was unwilling to sponsor the project.

Your Committee received a presentation from Smith Development. Ms. McLean outlined the steps taken since the earlier proposal was denied in December 2003, including community outreach efforts. The applicant anticipates the HCDCH Board will meet in early to mid-August in Lahaina, after which the application, if approved, will be transmitted to the Council.

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Ms. McLean provided an overview of the project, which will remain in the same location, and revisions made to the earlier proposal, including the following: (1) the addition of a community day care center; (2) provision for solar water heaters at no additional cost in all affordable homes; (3) more parks and more homes; (4) a revised site plan realigning some of the roadways; (5) a 60-foot buffer along Kauaula Stream; (6) a change over to the County wastewater system; (7) confirmation that no stream or surface water would be used for the project, with potable water for all uses; (8) an increase in the percentage of affordable homes to 60 percent of the 268-unit project, or 160 affordable homes; (9) an increase in the range of affordability to start at 60 percent of the Housing and Urban Development (HUD) median income; (10) incorporation of a standard ten-year buyback and three-year owner occupancy requirement; (11) a revised site plan; (12) incorporation of the use of the cane haul road to the south; (13) widened subdivision roadways to address concerns expressed by the Department of Fire and Public Safety; and (14) a streamlined homeowner's association budget, reducing the fee from \$92 to \$77 per month.

Ms. McLean informed your Committee that traffic impacts lie at the heart of the Mayor's opposition to the project, and addressed other concerns related to the project. She stated that the project boundaries steer clear of title questions. She further stated that the proceedings before the State Land Use Commission (LUC) relate primarily to the use of agricultural lands, and the applicant will need to submit a separate petition to the LUC concerning the proposed district boundary amendment from agricultural to urban.

Ms. McLean further informed your Committee that the sales prices of the homes are directly tied to the HUD percentages and interest rates. Escalating interest rates, therefore, make the project time sensitive.

Your Committee received oral testimony from eight individuals, two of whom supported the proposed project, and five of whom opposed it. The other individual testified in support of the applicant's attempts to meet with the board of directors and members of the Puamana Community Association.

The testifiers supporting the project emphasized the need for affordable housing in the area and the need to have the community reach consensus on the project.

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The testifiers opposing the project voiced concerns about: (1) the lack of clear title to the property; (2) traffic delays; (3) native Hawaiian gathering rights in the area; (4) the adequacy of a 60-foot buffer; (5) ongoing litigation involving the area; (6) recharge of the affected water wells; (7) ingress and egress; (8) failure to address all of the concerns of the Department of Police; (9) location; (10) the source of the water supplying Launiupoko Water Company; and (11) preservation of cultural artifacts and historical sites.

The Director of Housing and Human Concerns informed your Committee that the deadline for agency comment on the proposed revised application is July 6, 2004. The Department's comments will be geared toward ensuring that the proposed pricing is in compliance with affordable housing guidelines. Preliminarily, the revised pricing appears to fall within such guidelines.

Your Committee requested a copy of the affordable housing guidelines from the Department, and a copy of the PowerPoint presentation from Smith Development.

Your Committee discussed the sales prices that might apply by income category, noting that the actual prices will be affected by the interest rates then in effect. There were concerns expressed regarding the upper end of the income range being used to determine the price of the affordable homes. The revised application contemplates homes priced to be affordable to buyers within a range of 60 to 140 percent of median income. The Director of Housing and Human Concerns reported that County guidelines require that at least 51 percent of the units be affordable, and that the Department typically places a ceiling on prices of up to 120 percent of median income. It was noted that the revised project places 45 of the 160, or 28 percent, of the affordable units at 130 to 140 percent of the median income.

The Deputy Corporation Counsel noted that Maui County Code (MCC) Section 18.04.055 defines "affordable housing" to include persons or families within four income groups: "very low income", "lower income", "moderate income", and "above-moderate income". The last group is defined as "those earning more than one hundred twenty percent but not more than one hundred forty percent of the area median income". The Code section would apply to County subdivisions, including expedited subdivision procedures when a County-sponsored project goes through MCC Chapter 2.86. It bears upon the

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Administration's interpretation of what is affordable. The Deputy Corporation Counsel noted, however, that this is a State project, not a County project.

The Director of Housing and Human Concerns noted that no matter what definition is employed, whether State or County, 140 percent of median income and below is within the discretionary range. The Department, however, views 140 percent as a ceiling and not a requirement.

The Director further informed your Committee that the Department does not recommend that County affordable housing projects include the more than 120 but not more than 140 percent median income group; conversely, it also does not usually recommend housing include families at 60 to 70 percent of median income because it is difficult for prospective buyers to qualify for financing.

The Director confirmed that, as proposed, the application complies with HUD's definition of affordability. She noted that the Department finds itself in a difficult position because other departments seem to have concerns with the project.

Your Committee noted that the shared equity aspect of the program has been deleted from the revised application.

The Planning Director informed your Committee that comments are still being compiled on the revised project. While some significant improvements have been made, the Department thus far has three areas of primary concern: water supply, storm drainage, and traffic. First, the County prefers that County water be used rather than water from a private company. Second, the storm drainage conflicts with the Lahaina Federal Flood Control Project, which has not been designed to accommodate drainage from the Pu`unoa project. The third concern, traffic, is viewed as the most significant. The Director stated that the project is still in the wrong location, and the traffic report is inadequate because it does not include a cumulative project analysis and does not analyze the proposal to use a cane haul road. Further, the Director noted that it is unclear whether the State Department of Transportation will require that an environmental assessment be done. The widened buffer of 60 feet alongside Kauaula Stream cannot be accommodated on both ends of the stream. Further, the Director agrees with the applicant that the road should be narrower than currently

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designed, and the size of the fire truck should not dictate the design of the streets. Finally, the internal circulation of the subdivision has all 268 units channeling into one intersection.

The Planning Director further noted that the Department has consistently recommended that an environmental assessment be prepared because of cumulative concerns, stating that an environmental assessment would look at alternatives.

The Director noted that moving the project north towards Kapalua would improve traffic considerations. He commented on the trips that would be generated from the subdivision, noting that other projects proposed in Lahaina have a less significant congestion area and existing traffic signals.

A number of issues and questions were expressed at the meeting, including the following: the scope of exemptions allowed under the 201G process; potential County liability and ongoing litigation; the identity of members of the applicant partnership; water, including the effect this project would have on other users, the aquifer, and relevant wells; traffic impacts, road-widening efforts, and related public safety issues; effects on the Lahaina Flood Control Project; larger development issues based on commonality of land ownership; the need for an environmental assessment; identifying alternative project sites that had been explored; community plan consistency; the sales process; and perpetual affordability.

In addition, the following requests were made: that the applicant consider two refinements to the revised application -- to incorporate a trunk road down to the cane haul road, and to widen the buffer by 20 to 40 feet on the north edge of the property; that HCDCH be requested to assess the legal concerns raised; and that the Department of the Corporation Counsel also evaluate those legal concerns.

Your Committee requested that all departmental comments be submitted at the time the revised application is submitted.

The Chair of your Committee stated that he would consider holding the decision-making meeting on the application in Lahaina.

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Ms. McLean and Mr. Goode of Smith Development fielded questions from your Committee. Mr. Goode addressed changes in the Administration's position regarding the project, noting that the Administration's earlier comment to increase access by use of a cane haul road has now changed to widening of the highway from two to four lanes from Olowalu through Lahaina.

In response to concerns regarding continued problems in dealing with the Kauaula Valley families, Mr. Goode indicated that reaching resolve between the families and the applicant is an ongoing process. He further provided a brief overview of the pending litigation, which includes a contested case proceeding before the LUC and a lawsuit against the County relating to the Kauaula Stream buffer.

With respect to site plan adjustments that have been made, Mr. Goode informed your Committee that reducing the roadway from 33 to 28 feet would add 100 square feet to every lot.

Ms. McLean confirmed that feedback such as your Committee not wanting to see affordable units priced at 130 to 140 percent of the median income would be provided to HCDCH. She invited further comments for incorporation into the application that will be considered by HCDCH.

Ms. McLean informed your Committee that the revised application would not trigger an environmental assessment requirement. The application contains all the studies that an environmental assessment would contain without going through the Office of Environmental Quality Control publication process. Adding turn lanes and storage lanes is exempt from the environmental assessment requirement, and the applicant has correspondence from the State Department of Transportation confirming the exemption.

Mr. Goode informed your Committee that no reservations are being taken at this point, nor has a lottery been started. If the applicant gets to that point, any appropriate disclosures will be made. The applicant currently does not believe there are any title issues clouding the subject property. Further, native Hawaiian gathering rights are a standard disclosure item.

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Your Committee requested that appropriate agencies and departments and the applicant be asked to respond to the issues and questions raised by your Committee.

Your Committee voted to recommend that the communication be filed.

Your Housing and Human Services Committee **RECOMMENDS** that County Communication No. 04-124 be FILED.

Adoption of this report is respectfully requested.

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JO ANNE JOHNSON Member

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MICHAEL J. MOLINA Vice-Chair

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DANNY A. MATEO Member

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