

**LAND USE COMMITTEE**  
Council of the County of Maui

**MINUTES**

**February 17, 2016**

**Council Chamber, 8<sup>th</sup> Floor**

**CONVENE:** 1:35 p.m.

**PRESENT:** VOTING MEMBERS:  
Councilmember Robert Carroll, Chair  
Councilmember Gladys C. Baisa  
Councilmember Elle Cochran  
Councilmember Don Couch  
Councilmember Stacy Crivello  
Councilmember Don S. Guzman (in 1:38 p.m.)

**EXCUSED:** VOTING MEMBERS:  
Councilmember Michael P. Victorino, Vice-Chair

**STAFF:** Scott Jensen, Legislative Analyst  
Raynette Yap, Committee Secretary  
  
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)

**ADMIN.:** William Spence, Planning Director, Department of Planning  
Carol Reimann, Director, Department of Housing and Human Concerns  
Clyde "Buddy" Almeida, Assistant Housing Administrator, Department of Housing and Human Concerns  
David Taylor, Director, Department of Water Supply  
Jennifer Oana, Deputy Corporation Counsel, Department of the Corporation Counsel  
Jeffrey Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel

*In the gallery:*  
Kurt Wollenhaupt, Planner V, Department of Planning

**OTHERS:** John Sindoni  
Mike Moran  
Tom Croly  
Plus (1) Other

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**PRESS:**       *Akaku Maui County Community Television, Inc.*

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CHAIR CARROLL: . . .*(gavel)*. . . This Land Use Committee meeting of February 17, 2016 will come to order. I'm Councilman Robert Carroll, Chair of the Land Use Committee. And, first of all, may I request that anybody has anything makes noise, please turn it off. Our Committee Members this morning: Michael Victorino, Vice-Chair of the Committee, is excused; and we have with us Gladys Baisa --

COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR CARROLL: --Elle Cochran --

COUNCILMEMBER COCHRAN: Aloha, Chair.

CHAIR CARROLL: --Don Couch --

COUNCILMEMBER COUCH: Good afternoon, Chair.

CHAIR CARROLL: --and Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR CARROLL: Non-voting Members, we do not have with us today. We have Department of Housing and Human Concerns; and Department of Planning; Department of the Corporation Counsel; John Sindoni, Manager, Royal Main Properties, LLC; Committee staff - Raynette Yap, Committee Secretary, and Scott Jensen, our Legislative Analyst. Today we have have a single item on our agenda. It involves a request transmitted by the Department of Housing and Human concerns for a time extension for construction initiation date of Kaiwahine Village 201H project in Kihei. For individuals who will be testifying in the Chamber, please sign up at the desk located in the lobby. Testimony is limited to the item listed on the agenda today. Pursuant to Rules of Council, each testifier will be allowed to testify for up to three minutes. When testifying, please state your name and the name of any organization you are representing. We also have with us, Ms. Lono, in Hana.

MS. LONO: Good afternoon, Chair. This is Dawn Lono at the Hana Office.

CHAIR CARROLL: Thank you. Ms. Fernandez, in Lanai.

MS. FERNANDEZ: Good afternoon, Chair. This is Denise Fernandez on Lanai.

CHAIR CARROLL: Good afternoon. And, Ms. Alcon, on the island of Molokai.

MS. ALCON: Good afternoon, Chair. This is Ella Alcon on Molokai.

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CHAIR CARROLL: Good afternoon. Mr. Jensen?

MR. JENSEN: Mr. Chair, there are two testifiers who've signed up. The first will be John Sindoni. He'll be testifying as a representative of Royal Main Properties LLC, and he'll be followed by Mike Moran.

UNIDENTIFIED SPEAKER *(on the telephone conference bridge line)*: Hello?

COUNCILMEMBER COCHRAN: Who's that?

UNIDENTIFIED SPEAKER: Hello?

CHAIR CARROLL: Yes?

COUNCILMEMBER COCHRAN: Recess.

UNIDENTIFIED SPEAKER *(on the telephone conference bridge line)*: This is Nissan Motors?

MR. JENSEN: Recess.

COUNCILMEMBER COUCH: Recess, recess.

COUNCILMEMBER COCHRAN: Recess.

COUNCILMEMBER BAISA: Recess.

UNIDENTIFIED SPEAKER *(on the telephone conference bridge line)*: Hello?

COUNCILMEMBER COUCH: Bob, recess --

COUNCILMEMBER BAISA: Recess.

MR. JENSEN: Take a short recess.

COUNCILMEMBER COUCH: --recess.

CHAIR CARROLL: Short recess. . . .*(gavel)*. . .

**RECESS: 1:37 p.m.**

**RECONVENE: 1:38 p.m.**

CHAIR CARROLL: . . .*(gavel)*. . .

**. . . BEGIN PUBLIC TESTIMONY . . .**

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CHAIR CARROLL: Mr. Jensen?

MR. JENSEN: Yes, Mr. Chair, again, the first testifier is John Sindoni.

COUNCILMEMBER COUCH:: He's calling it again.

COUNCILMEMBER COCHRAN: Now what.

COUNCILMEMBER COUCH: Same guy is calling in again.

MR. SINDONI: Hello, good afternoon. My name is John Sindoni and I am the managing member of Royal Main Properties LLC, the owner of the Kaiwahine Village property.

CHAIR CARROLL: Do you wish to give testimony?

MR. SINDONI: I've just, I sent a couple of letters in to you folks and to the DHHC and have met with them in a timely manner to ask for the extension for two years so I can get this property up and running. I've had a difficult time over the last two and a half years trying to raise the capital. I can't, I'm not strong enough myself to do it and it's very difficult to find developers who aren't concerned more about money than the actual needs of our community, and I've owned this property for 11 years. I've been trying for 11 years to put something good together for the community so I could participate and help the affordable housing community. And I'm requesting that the extension, I have found a financial investor who will commit to do the project, who's large enough to do the project, who's done projects on Maui and Oahu and on the mainland, who will commit to me subject to me getting the extension and the reapproval of my water lateral plan with DWS.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier? Ms. Cochran? And we have Mr. Guzman with us.

COUNCILMEMBER GUZMAN: Thank you, Chair.

COUNCILMEMBER COCHRAN: Oh --

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: --Chair. Oh, Chair, you're gonna have Mr. Sindoni here as a resource person while --

CHAIR CARROLL: Yes.

COUNCILMEMBER COCHRAN: --we go through...

CHAIR CARROLL: He will be available.

COUNCILMEMBER COCHRAN: Okay. I can wait 'til then --

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CHAIR CARROLL: He will be available ...*(inaudible)*...

COUNCILMEMBER COCHRAN: --while we go through this and serve for questioning then.

MR. SINDONI: Sure.

COUNCILMEMBER COCHRAN: Okay.

CHAIR CARROLL: Thank you.

COUNCILMEMBER COCHRAN: Thank you, Chair.

CHAIR CARROLL: Anything else for right now? All right, Mr. Sindoni, thank you.  
Mr. Jensen?

MR. JENSEN: Mr. Chair, the last testifier signed up is Mike Moran, testifying as a representative of Kihei Community Association.

MR. MORAN: Aloha, Chair Carroll and Committee Members, Mike Moran for the Kihei Community Association. All of you are very familiar with residential projects which received all required conditions and then do not break ground for years and sometimes decades. We believe a seemingly prudent measure was taken by a prior Council to rectify this dilemma by imposing a limit to break ground as well as a completion date. However, if this action permits an allowance to request an extension as time expires with no penalty, this is self-defeating. Perhaps if the developer was required to post a bond to be forfeited if the requirement is not fulfilled, this process could achieve what was intended. However, we know not all projects or those developing them are on equal footing. A project that proclaims to be 100 percent affordable is allowed to skip normal requirements because of the dire need for our community and using the 201H process called fast track. As we examine this project this afternoon, we understood almost five years ago, a very close five-four Council vote approved this and seven Members are still on the Council but just four are voting Members of this Committee with two new Members. But some reservations were mentioned among those approving in 2011 including then Chair Baisa's foretelling "it remains to be seen if this ever gets built." Five years later, nothing. So what now? In conversing with Mr. Sindoni, he explained to us he had lost the major funding but believes he is now able to secure what is needed if you allow a 2-year extension and still complete the project by the original cutoff date of 2021. At this point with this information we have been able to secure, we believe the reasonable choice is allow this two additional years. What is the alternative? Refusing the extension means what? No chance for this affordable at all? So while we commend the Council for placing this time restriction to ensure projects are not land-banked, in this case allowing the extension seems the best choice. However, we once again bring up actions by the Council about 18 years ago with the Council's, not the community's Kihei-Makena Community Plan as Mr. Couch reminds us. It is your plan and in part three, policy recommendations implementing actions and standards for the Kihei-Makena region, a

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provision states “upon implementation of this plan, it shall be required that adequate facilities and infrastructure will be built concurrent with the future development.” Our community does not see this happening. Mahalo. Just under the wire.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier? Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair, and thank you, Mr. Moran, for being here. So, it seems like through, the whole thing was, is you, the KCA is in support of the two-year extension?

MR. MORAN: Yes, sir. We feel that in this case, every case is individual. And with the help of Mr. Couch’s Office, I was able to communicate with Mr. Sindoni. When he explained the situation to us in detail, we felt this was the prudent direction to extend it for two years.

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

CHAIR CARROLL: Any further clarification needed for the testifier?

COUNCILMEMBER COCHRAN: Chair?

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. Mr. Moran, thank you for being here. And so what has changed within the five years that have given you confidence that this will finally happen?

MR. MORAN: I don’t think, Committee Member Cochran, I don’t think I would use the word confidence but we tried to look at the alternatives. It’s like my understanding is today you say yes or no to an extension. If you say no, and then there’s like a month left ‘til it expires, then I would have to assume it’s not going to get built unless somebody else comes along and that will probably take many more years so we felt this is the prudent action is what harm is it going to do to give him two more years to see if he can get it done. He says, you know, and you heard him, I had talked to him and he told you guys the same thing he told me. He now feels he does have funding and again that was our understanding. What other choice is there, to say no and punish and say okay now what will get built as opposed to giving him two year, two more years? I certainly have no guarantee and I don’t expect poor Mr. Sindoni has any guarantee either but that’s what he is professing so we’re saying, I guess that’s the best action to take.

COUNCILMEMBER COCHRAN: Okay, thank you. And previously when this was discussed, KCA supported it?

MR. MORAN: Honestly, we weren’t in a position five years ago, while KCA has been around forever, but we were not established as well as we are now, where we do a formal review. So we just looked at it and said, we were one of those that were asking, how

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many projects are we gonna say okay to and then ten years go by and nothing. So we felt with putting a term limit on it seemed like the right thing to do but again it's sometimes, it's tough comparing apples and oranges, not picking on them but because we all know if a huge corporate entity like A&B has much greater resources than a small entity and sometimes one rule doesn't fit everyone. Is that...

COUNCILMEMBER COCHRAN: Okay. So, no? Is the answer no? You folks weren't in a position to take a --

MR. MORAN: Well --

COUNCILMEMBER COCHRAN: --to make a decision on this back then?

MR. MORAN: --we...exactly.

COUNCILMEMBER COCHRAN: So no? You didn't have a...

MR. MORAN: We did not give a formal yes or no at that time.

COUNCILMEMBER COCHRAN: Okay. Thank you very much.

MR. MORAN: Sorry for the long answer.

COUNCILMEMBER COCHRAN: No, no problem. Thanks, Mr. Moran. Thank you, Chair.

CHAIR CARROLL: Thank you. Any further clarification needed from the testifier? Seeing none --

MR. MORAN: Thank you.

CHAIR CARROLL: --thank you. Mr. Jensen?

MR. JENSEN: Mr. Chair, no one else is signed up to give testimony in the Chamber. Someone's approaching.

CHAIR CARROLL: Please come forward and when you finish please go outside and sign up the form. Thank you.

MR. CROLY: Thank you, Chair, Tom Croly. You know, when this item came up I didn't remember it but then as we got into it, I remember going to the site inspection that we had five years ago at this location and I, it just prompted me to remember that I did think it was a good location for this type of project. But what I wanted to share with you was, I've recently been trying to educate myself on why don't these affordable housing projects get built? Because besides this one we've seen, you know, many other of the 201Hs come through. And I've spoken to several different developers along the way and I've spoken to people who are involved in these projects and just what was brought up, this idea that when these folks come before you looking for the

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entitlements, they don't have their financing lined up and they can't get their financing lined up because no one's gonna finance a project or commit money to a project that doesn't have the entitlements. Now, if this applicant says he now has a good chance of lining that up, I would not wanna pull the rug out from under him at this point. But I do agree that the process is, if for the way we do it, it's a little bit backwards in that we hope that the person appearing here as the developer is going to honestly be able to do it but he can't honestly stand here at the 201H phase and say, yes I can do this because there's, unless he's a really rich guy with the whole bunch of money in his pocket, no one is gonna commit money to a project that doesn't first have all the entitlements in place. So, I hope that today you grant this extension and hope this folk can get his entitlements or can get his funding and make this project a reality. Thank you.

CHAIR CARROLL: Thank you. Any questions for the testifier? Seeing none, thank you. Lanai, do you have anyone waiting to give testimony?

MS. FERNANDEZ: There's no one waiting to testify at the Lanai Office.

CHAIR CARROLL: Thank you. Molokai, is there anyone waiting to give testimony?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR CARROLL: Thank you. Hana, do you have anyone waiting to give testimony?

MS. LONO: There's no one waiting in Hana to testify.

CHAIR CARROLL: Thank you. Is there anyone in the gallery wishes to come down, come down now. Seeing none, if there's no objection, I will close public testimony.

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Public testimony is now closed.

**. . . END OF PUBLIC TESTIMONY . . .**

**ITEM NO. 2(2): AFFORDABLE HOUSING PROJECTS (CHAPTER 201H, HAWAII REVISED STATUTES), KAIWAHINE VILLAGE PROJECT (KIHEI)**

CHAIR CARROLL: The Committee is in receipt of correspondence dated October 30, 2015, from the Director of Housing and Human Concerns, transmitting a proposed resolution to grant a five-year time extension to the construction initiation date for Kaiwahine Village 201H project on 9.286 [sic] acres at the intersection of Kaiwahine Street and Hale Kai Street, Kihei, Maui, Hawaii, identified by real property tax purposes as tax key (2) 3-8-004; [sic] 028. The Committee is also in receipt of correspondence dated February 4, 2016, from the Department of Corporation Counsel,

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transmitting a revised proposed resolution entitled Approving a Time Extension of the Construction Initiation Date from Kaiwahine Village 201H Project. The purpose of the revised proposed resolution is to approve a 2-year extension to the construction initiation date imposed by Modification 4 of Resolution 11-23, which then requires that the project construction begin by March 18, 2018 and be completed by March 18, 2021. Resolution 11-23 was adopted in 2011 and granted certain exemptions to the developer under the 201H process. Modification 4 of the resolution required that the project begin construction within five years by March 18, 2016 in order to ensure that the project fulfilled the promise of a fast-track housing. I requested a revised proposed resolution after comments received from the Department of Housing and Human Concerns concerning their position regarding the original transmitted resolution. Those comments are in your binder. Please note the correspondence dated February 11, 2016 from Mr. Masden of the Department of Education regarding an outstanding Education Contribution Agreement for this project. As the correspondence indicates that DOE has not received a response from either the Department of Housing and Human Concerns or the developer regarding this matter. We will start by asking the Department of Housing and Human Concerns for a short overview regarding this request.

MS. REIMANN: Thank you, Chair. Good afternoon. The Kaiwahine Project is a 120-unit multifamily condo low-income project for families earning 60 to 80 percent of the area median income. The developer has been in contact with our Department over the past several months and they indicated that they had encountered barriers to getting finances as he indicated in his testimony and they requested an extension. Originally they asked for five years; however, the Department is requesting a two-year extension to be granted. The developer indicates that the project has secured financial backing with the new partner and that the property should break ground in approximately 18 months. Thank you.

CHAIR CARROLL: Thank you. Mr. Spence, does the Department have any comment at this time?

MR. SPENCE: Good afternoon, Mr. Chairman, Members. We don't really have any comments. We would, other than, we would support the extension at the discretion of this Committee.

CHAIR CARROLL: Thank you. I'm gonna call Mr. Sindoni down to the podium now and open the floor for questions. Could you please come down to the podium? Members, the floor is now open. Ms. Cochran, followed by Mr. Couch.

COUNCILMEMBER COCHRAN: Thank you, Chair. And aloha, thank you, Mr. Sindoni, for being here. Who are your new partners?

MR. SINDONI: My new partner is Jupiter Holdings. They are, have offices in Oahu and in Newport Beach.

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COUNCILMEMBER COCHRAN: And is there projects here on the island or in the State that you can point to --

MR. SINDONI: They...

COUNCILMEMBER COCHRAN: --that they've done?

MR. SINDONI: They have a, they own a number of properties here on Maui, two on the upper West Side. They are involved with Alexander & Baldwin and have purchased properties from them on the mainland and here on Maui. And recently, they, A&B just repurchased the Napili Shopping Center from them. I've known and have been associated with them for a number of years and he will commit to do the project with me. This would be the first affordable housing project he's done but he understands the need and the desire to help the affordable housing community. If I could get the extension and also have Department of Water Supply reapprove my water lateral plan that was originally approved and there was no changes when we resubmitted, I will be able to get that commitment and secure the financing I'm gonna do. There I ...*(inaudible)*... get this thing off the ground finally after 11 years of ownership.

COUNCILMEMBER COCHRAN: Okay. And so, the credits that you stand to gain from this project, it's 120 housing credits?

MR. SINDONI: There's 120 --

COUNCILMEMBER COCHRAN: Twenty?

MR. SINDONI: --credits that will not become redeemable until after the property is constructed and then they would become redeemable if I could locate people who would be interested in purchasing affordable housing credits.

COUNCILMEMBER COCHRAN: And I'm sure you've been following the project directly next door to yours that got approved yesterday here? The A&B Project, Kamalani?

MR. SINDONI: Oh yes. The, A&B and I have been in contact for, over these past 11 years. We share the same issues with water pressure that they're gonna have on Phase II of their project and they have verbally committed to me that once they get started, they've already are in the design phase for the water storage facility at a higher elevation and they're in the design phase right now. They are trying to work with the County to interface with the other existing water storage facilities in the area. And once they're completed with the design and then they'll go to the cost, and once it is costed out, they will issue me a participation proposal and a cost proposal for my pro-rata share to help participate in the water storage facility that they're going to build. And I anticipate them having that proposal, I would say within the next nine months.

COUNCILMEMBER COCHRAN: Okay. And since upon water...can I ask? You said something, having some kind of discussion with Department of Water Supply --

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MR. SINDONI: Right.

COUNCILMEMBER COCHRAN: --and a lateral connection? Is this the connection...

MR. SINDONI: Right. We were approved for two two-inch water lines and meters for the property. The water lateral plan expired so we called up the Deputy Director and somebody in the Engineering Department and told them what had happened and that we would like to resubmit it for reapproval. They asked if there was any changes. We said no, that we resubmitted it back in November. Department of Public Works has already approved the plan but Department of Water Supply has been inundated with urgent projects. It's been very difficult to get them to give me the reapproval. If I could ask you for your help to help intervene for me that I could just get that, that's gonna secure...the only other issue that I have with Jupiter Holdings is the water lateral reapproval, which will be in compliance with the County agreement that we have for the issuance of our, for our water. We are not going to install the water meters initially. I know there is a water storage issue. They're short on water storage up there. However, we think we could mitigate everything once we get the new water storage facility going. And if you could help me to get someone to just sign off, I'll be able to secure these funds and finally do something for, you know, I've been trying to do for 11 years. Believe me if I had the money, I've even asked A&B to help me but A&B, you know, has their own program but they would be willing to accommodate us to participate in this which would, it's gonna help the water for everybody in our neighborhood. All the water pressure there, our area is where the water pressure is bad for a lot of people. This is gonna take care of all of that. And I would be proud to be part of it.

COUNCILMEMBER COCHRAN: Okay. Thank you. That kinda leaves a lot of, I guess more questions for me though --

MR. SINDONI: Okay.

COUNCILMEMBER COCHRAN: --in, especially, Chair, with his water issues. It doesn't sound like it's quite solved.

MR. SINDONI: No, we were issued. Well, it's because...

COUNCILMEMBER COCHRAN: So, and you're...

MR. SINDONI: --the water lateral design --

COUNCILMEMBER COCHRAN: Right.

MR. SINDONI: --was last.

COUNCILMEMBER COCHRAN: And if I can finish, and your new partners, I think are having sort of a concern too. It sounds like you said Jupiter and this reapproval of the

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water lateral with Department of Water Supply is kind of a, contingent upon them buying in fully, right? Am I right?

MR. SINDONI: I have two contingencies, the extension and the reapproval of the water lateral plan. The water plan that was already approved has no changes, it's all the same and they asked us to resubmit it, which we did and it's been taking a little longer because other projects have, were stated as urgent and I've just had to be patient. And I thought it would be...if I could get your help to get that secured, I could get this project off the ground.

COUNCILMEMBER COCHRAN: Okay. Well, thank you. I'll release the floor to others to ask questions, Chair, for now. Thank you. And thank you, Mr. Sindoni.

CHAIR CARROLL: Thank you, Ms. Cochran.

MR. SINDONI: Thank you.

CHAIR CARROLL: Mr. Couch, followed by Ms. Baisa.

COUNCILMEMBER COUCH: Thank you. Thank you, Mr. Chair. Thank you, Mr. Sindoni, for being here. You know, when you came up to us in 2011, you wanted the 201H process because...usually it's called a fast-track process so we could get you through the process quickly so you can get your project going. So it implies that there was a rush, and now did your funder fall out or did you not have the funding at the time?

MR. SINDONI: After we were approved in 2011, we joined forces with an affordable housing developer that has done a lot of projects over on Oahu and over on the mainland. We hooked up to them for 18 months and he failed to perform. That's what threw us in turmoil. It takes a certain person who thinks more of the community and less of his pocketbook, okay, who has a vision to help, okay. If I had the money myself, believe me, sir --

COUNCILMEMBER COUCH: Sure

MR. SINDONI: --I would have had it done already. Okay, that's why I'm asking your help today. I mean I've owned it for 11 years. I've been able to hang on and I'm trying my best and it, people out there are greedy, okay. They don't seem to understand some of the issues and our concerns and needs of our own community. I'm only trying to do my part for my island so I can sail off into the sunset, okay, and get retired someday, okay, maybe move back to Hana where I originally started but I need your help.

COUNCILMEMBER COUCH: So, and I understand that. I understand sometimes you get some people that are gonna fall through but...

MR. SINDONI: It's taken me two and half years to find another \_\_\_\_\_. I've talked to many people but it's taken me this two and a half years to locate Jupiter Holdings who would commit to me if they could get the, these entitlements back, and they know that

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from Maui County, they're not gonna have a problem with getting our two two-inch water lines and I'll have enough time to get all my, everything, all my plans and specs to get ready. It's gonna take, you know, nine months, six to nine months to do that. And I said the first thing we're gonna do, we're not gonna ask to put in the water meters. We're, first thing we're gonna do is of course, start on our, all our architectural and engineering but we wanna put the landscape well drilled and get that first 'cause we wanna use the landscape water, not potable water, during the construction. And we also could get started on the park, which we've agreed to try to upgrade and fix up so the community can have a nicer park than the condition it's in now.

COUNCILMEMBER COUCH: Well, as Ms. Cochran talked about, yesterday's meeting was about that, an adjacent park and that park so that's going along. The question I have is, you know, what happens when this next, if this next guy falls through?

MR. SINDONI: Well, I have a commitment from them in writing subject to these two issues.

COUNCILMEMBER COUCH: Can we get copies of that?

MR. SINDONI: I don't have that with me but they've already presented me a letter to join forces with me. I didn't bring that because...I can get it as soon as I get the, my water lateral done and my extension done. I'd be happy to come back and bring it to you.

COUNCILMEMBER COUCH: Yeah, Mr. Chair, if we can get a copy of that letter prior to Council approval 'cause this is just Committee. If this passes through, I would like to see that. That kinda, you know, hinges on my final vote is that we have some sort of commitment 'cause, you know, that would help. Now, what about the pavement, the condition that you have to pave...

MR. SINDONI: Yes, that was a condition that you gave me back in 2011.

COUNCILMEMBER COUCH: And...

MR. SINDONI: I asked if...I would be happy to do my pro-rata share for that but the condition that was imposed was for me to do the entire Kaiwahine from Hale Kai Street all the way down to the highway, the Piilani Highway. Now, I know through my conversations with A&B that they're gonna do something down on the bottom.

COUNCILMEMBER COUCH: Right.

MR. SINDONI: I certainly cannot afford on my own to do it all by myself but I would be, I wanna participate and help in any way I can.

COUNCILMEMBER COUCH: Okay, thank you, Chair.

CHAIR CARROLL: Ms. Baisa?

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COUNCILMEMBER BAISA: Yes, Chair, thank you very much. And thank you, Mr. Sindoni, for being here.

MR. SINDONI: Nice to see you, Ms. Baisa.

COUNCILMEMBER BAISA: And I appreciate your passion about wanting to build affordable housing.

MR. SINDONI: Thank you.

COUNCILMEMBER BAISA: We certainly need to build affordable housing and we're always glad that there's people that are willing to do it but as you know, I am the Chair of the Water Resources Committee and I am concerned about your concerns with the Water Department and what's going on there. You mentioned in your...we have a mention in here and I think it's from the letter that we received from Ms. Reimann, has a copy of your letter attached to it that says I have scheduled a meeting with the Deputy Director of DWS, and I don't know when this letter is dated.

MR. SINDONI: This is back in September.

COUNCILMEMBER BAISA: In September?

MR. SINDONI: Twenty fifteen.

COUNCILMEMBER BAISA: Okay. We are now in February.

MR. SINDONI: Yes.

COUNCILMEMBER BAISA: When you met with them, what did you find out?

MR. SINDONI: I met with him and Tammy Yeh, from their Engineering Department and they wanted to review the project, which they did. And about six weeks later, they called Stacy Otomo, our civil engineer, and asked them to please resubmit the plan. And since we've resubmit the plan, it's been very difficult to get finalization from them because they've been so busy.

COUNCILMEMBER BAISA: So the plan was submitted when?

MR. SINDONI: Let's see, I believe it was the first week of November and then November 18<sup>th</sup>, the Department of Public Works sent their approval in and we've been waiting for DWS hopefully to do the same so it would be in compliance with the agreement that we have for our lines. Now, other concerns they have was the water pressure, which I think I addressed and there was two possibilities in the event, let's say that A&B refused, you know, didn't build a water storage facility. My civil engineer and myself submitted a proposal to Mr. Meyer showing a...they had mentioned that there was a problem with water storage in the area. We offered to donate a 400,000-gallon tank on the existing site that were the closest to my property and with booster pumps, and we also, we're

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going to...a previous Administration had given the okay for a, another affordable housing developer to hook into the main transmission line, which was a big no-no but they did it anyway. And I offered to take them off that line, put it into our line and go up there until the main one was built and they would have additional fire flows that the Fire Department was asking for because of the lack of storage, and this would certainly help them but nothing has happened. Okay.

COUNCILMEMBER BAISA: Okay. Well, thank you very much. You know, I really would like to give you the extension. It certainly makes sense that, you know, we have this much in it and you have this much in it. So, you know, another two years is really not unreasonable, but, Chair, I really would like to have some confirmation from the Water Department as to the status of this plan before we make a decision.

CHAIR CARROLL: Any further discussion --

COUNCILMEMBER BAISA: I don't think so.

CHAIR CARROLL: --Members?

COUNCILMEMBER COUCH: With him. No more with him.

COUNCILMEMBER COCHRAN: Yeah, that's fine.

COUNCILMEMBER CRIVELLO: No, I have one.

COUNCILMEMBER COCHRAN: Oh, yeah, go ahead ...*(inaudible)*...

CHAIR CARROLL: Okay, Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you. Thank you for being here.

MR. SINDONI: Thank you.

COUNCILMEMBER CRIVELLO: If this extension does not get approved, what's your alternative?

MR. SINDONI: My alternative? Well, the property is, was...this is what happened. When I first bought the property, in the master plan, it's zoned for R-1 for a 50-lot subdivision. I hired Chris Heart and Associates to help my planner to help me do a District Boundary Amendment and a Change in Zoning and we were approved a few years later for the 47-lot subdivision. At that hearing and here in this Chamber, Jo-Ann Ridao, who was the previous Director of DHHC approached me and asked me if I would consider making the project all affordable. We got together and she's...and started telling me all about all the affordable housing, the need for affordable housing and it inspired me so much that I tried to do 100 percent, okay. And the second lowest tier, on top of it. Okay. Believe me, if I have all the money myself, we wouldn't be standing here today. We'd be celebrating for the affordable housing community. I

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wanna...please give me an opportunity to get this finally off the ground. It's been very difficult to find the right combination of people to have the same vision that we have.

COUNCILMEMBER CRIVELLO: I appreciate that but my question was, if this does not give you an extension, what's your alternative with the usage of the land?

MR. SINDONI: The only alternative I would have would be a 47-lot subdivision. On a 6,000-square foot lot with no ohanas --

COUNCILMEMBER CRIVELLO: Okay.

MR. SINDONI: --allowed.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR CARROLL: Mr. Couch, did you have anything more?

COUNCILMEMBER COUCH: Not for him.

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. Highlighting, jumping on the train of questioning from Ms. Crivello, the 47 lots, that would not be affordable though, right? That would all be market --

MR. SINDONI: That would be market.

COUNCILMEMBER COCHRAN: --homes? Right. And so...

MR. SINDONI: Okay. That's why I elected not to do market.

COUNCILMEMBER COCHRAN: Right. And so originally your Change in Zoning went from Ag to R-1?

MR. SINDONI: Correct.

COUNCILMEMBER COCHRAN: Is that correct?

MR. SINDONI: Yes.

COUNCILMEMBER COCHRAN: And then you had District Boundary Amendments from Ag to Urban?

MR. SINDONI: Correct.

COUNCILMEMBER COCHRAN: And currently, what kind of taxes are you paying on this land?

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MR. SINDONI: I am paying right now about \$2,500 a year.

COUNCILMEMBER COCHRAN: So Ag rates? Sounds like Ag taxation.

MR. SINDONI: No it's, the property is zoned R-1.

COUNCILMEMBER COCHRAN: But that I believe the rate...yeah.

MR. SINDONI: I don't know what the rate is but the property is zoned R-1.

COUNCILMEMBER COCHRAN: And, 'cause that's been one of my sticklers, Chair, is when we do changes from Ag to any other type of zoning or it should get into a different tax bracket, that the owner, applicant, whatever, is not paying the new zoning change or rate they ought to be. 'Cause actually I have his tax here, and it is Ag still so I think there's a disconnect. This is another example of disconnect between when we do changes on land use and it doesn't relate to RPT. And here we're losing money, I'm sorry that he wants...he's already kinda stuck, you know, with money issues but it's what's due this County.

CHAIR CARROLL: I agree. It's been an ongoing problem.

COUNCILMEMBER COCHRAN: So --

MR. SINDONI: I had no...

COUNCILMEMBER COCHRAN: --just another example. And my other, so but my question for Mr. Sindoni right now is about the Department of Education --

MR. SINDONI: Yes.

COUNCILMEMBER COCHRAN: --issue and what's been occurring. I guess the last transmittal in our binder is the DOE has not received any word from either Department or yourself?

MR. SINDONI: I was not aware of that but I had already agreed to whatever, what we got approved for and I agree to give that money. And I still...

COUNCILMEMBER COCHRAN: Okay.

MR. SINDONI: And I'll agree again today.

COUNCILMEMBER COCHRAN: And...

MR. SINDONI: I had no idea that they...I was not --

COUNCILMEMBER COCHRAN: Okay.

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MR. SINDONI: --notified.

COUNCILMEMBER COCHRAN: And I don't doubt that you agree with it but the point is they've been sending agreement forms with no responses so I'm not sure who's managing this for you on your behalf or what the County is doing but --

MR. SINDONI: I have...

COUNCILMEMBER COCHRAN: --I guess --

MR. SINDONI: I've never received anything.

COUNCILMEMBER COCHRAN: --they've sent...I mean I have the forms right here. You can sign them now but...

MR. SINDONI: I'll be --

COUNCILMEMBER COCHRAN: Okay

MR. SINDONI: --happy to do whatever you...

COUNCILMEMBER COCHRAN: All right, I just...so that was the question, Chair, in our binders as we all know the letters from DOE.

CHAIR CARROLL: Yes, I made sure that was in the binder.

COUNCILMEMBER COCHRAN: Yeah. Well thank you for inputting that there. So we know on his behalf, he's good to go but somebody needs to, I guess, officially respond back --

MR. SINDONI: I will be...

COUNCILMEMBER COCHRAN: --to the Department of Education about that.

MR. SINDONI: I would be happy to if you just direct me into the...I'll be happy to tell them I'm fully committed to the Department of Education. In our first testimony in 2011, when it was brought up, we were more than happy --

COUNCILMEMBER COCHRAN: Right

MR. SINDONI: --to do that.

COUNCILMEMBER COCHRAN: Right. Yeah, I remember the condition and he was very satisfied to appease that. So, I don't have any, I'll let other people ask questions if they do, they have at this point. But I really wanna concur with Ms. Baisa's comments in regards to the Water Department. I would like to get comments from them. For me, prior to making a decision, I sure would like to hear what their take is

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on this project after all these years and where's, you know, what's the status on their behalf.

CHAIR CARROLL: Would you like somebody from the Water Department?

COUNCILMEMBER COUCH: Please.

COUNCILMEMBER COCHRAN: That would be helpful, Chair --

MR. SINDONI: May I --

COUNCILMEMBER COCHRAN: --if that's possible.

MR. SINDONI: --say something that when we were approved and Jeffery Ing was the Director at that time and when we were approved, we received a number of exemptions. One of the exemptions was the water, "Show Me the Water" bill and the other exemption was a further review by DWS. So I don't know how to interpret that, other than to, you know, they had a concern about the water pressure and I believe we addressed it in the proper way and I think it would be a moot point especially if A&B goes through, and it appears they've already started construction on their property and they're already in design for the water storage facility and we think that's the best way to get it mitigated. Now I did offer the other situation, which I just explained and we'd be happy to do that too in the event that A&B elects not to go forward with their water storage facility. And the Water Department is aware of both those scenarios.

CHAIR CARROLL: We are trying to see if we can get somebody from the Water Department to come down. If we can get them, then we'll go back to that.

COUNCILMEMBER COCHRAN: Okay. Thank you.

CHAIR CARROLL: Okay. Mr. Couch, did you have something else?

COUNCILMEMBER COUCH: Not for Mr. Sindoni.

CHAIR CARROLL: All right. Ms. Baisa? Anyone else have anything else they would like to bring up at this time?

COUNCILMEMBER COUCH: Not for him --

COUNCILMEMBER COCHRAN: Not for Mr. Sindoni.

COUNCILMEMBER COUCH: --but we've got a lot of stuff ...*(inaudible)*...

CHAIR CARROLL: Yeah it doesn't...yeah, anything. Thank you very much. We'll call you back if we need you. Thank you. Mr. Couch?

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COUNCILMEMBER COUCH: Thank you. I, too, would like to see the Water Department. I know you're trying to get him so hopefully...

CHAIR CARROLL: Yeah. I didn't foresee that and I'm sorry we're --

COUNCILMEMBER COUCH: That's okay.

CHAIR CARROLL: --trying to get hold of them now.

COUNCILMEMBER COUCH: The other thing is is I do have, I'm fine, I understand where he's coming from. This was a very, very close vote last time and I made my decision as it was coming down the line. We do need a lot of affordable housing. I would like to give the guy one more chance but, you know, how many one more chances are we gonna give? This is his only, his first time so I'm willing to consider this but I have a fear that he may, you know, if he has some issues with the conditions we put on there, especially the repaving of Kaiwahine, that it might be a situation that he's trying to sell land. I mean, I think that happened before. The condition was probably a little too expensive for him so it's my understanding that the land was for sale for a while. It's not anymore. I'm concerned about somebody selling the land and that it, coming back in and asking for yet another extension. That's what I don't want have happen. I would love to see affordable housing built in that location or anywhere for that matter. We just need to get the units built. I feel the conditions we put on there were enough to handle the traffic situation and some of the concerns that the Committee had but, you know, they're not getting any cheaper. So I, I'm really caught between a rock and a hard spot on this one. We do need the affordable housing. I'm leaning towards allowing for that to happen for the extension but I would like to figure out if there's something we can put in there regarding the sale of the land, if the land gets sold. I don't know if we can ask the Department or Corporation Counsel if there's some sort of language we can put in there about, you know, if the land gets sold, that it's not gonna, that's not immediate cause for extension or I don't know.

CHAIR CARROLL: Is that a question for Corporation Counsel?

COUNCILMEMBER COUCH: I guess. Is there some language that we can put in there that protects from the sale? You know, from...oh, Mr. Ueoka's here. Since he signed it anyway, so.

MR. UEOKA: Thank you, Chair. I'm not sure if it's, this extension is necessarily opening up all the conditions and allowing for the addition of new conditions or modifications, I should say. The reso was worded as it was to open it up for this extension so I'm not sure how would that work.

COUNCILMEMBER COUCH: But in the granting of the extension, let's say, can we, I don't know, put maybe some language and say we're not, at least, this Council is not happy with...if they sell this, we're not gonna consider another extension. 'Cause I, my concern is somebody's gonna sell it a year and a half in, you know, because he can't do it, then they're gonna say, well you know they had it for six months so we need

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another extension and I don't want to keep this extending for years and years and years.

CHAIR CARROLL: Corporation Counsel?

MR. UEOKA: Thank you, Chair. I would almost read the reso as it's written as...I don't think you can keep coming back for extensions. I think the extension was almost a one-shot deal. So, I don't think you'd be needing further protection and I'm not sure how it would work, if the next Council would be bound by the decision made today either. It's an interesting question but, and again there'll be a Committee report stating your concerns and the next body, if this were to come up because it would have to go to the Department also, the next body looking at it could reference the Committee report and say, hey, you know, this wasn't what was contemplated, no more extensions. I hope that help. Thank you, Chair.

CHAIR CARROLL: Mr. Couch?

COUNCILMEMBER COUCH: Thank you for now, Chair.

CHAIR CARROLL: Anyone else that have anything they wish to bring up at this time?

COUNCILMEMBER COCHRAN: Chair?

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. And yeah, and thank you, Mr. Couch, for bringing up, those were great points 'cause who's to say that this can't reoccur. I mean what you think is being said and what really pans out are two different things. In the end, Jeff, you're not here, we're not, I mean, who's gonna bring that point up again? So I'd like to see it in black and white personally to really state it and perhaps that's something we need to work on, Chair, is to clarify the parameters of extensions, do's and don'ts, what does this truly mean not just you can do an extension. But since, we have Mr. Ueoka here, in regards to housing credits, Mr. Ueoka, can these, can his credits, 'cause you know the project we approved yesterday, were you here? Kamalani, it's the project abutting this one and it's another, it's affordable, part affordable market. They, I guess once the credits are up for sale, anyone right, is able to purchase? I mean the, this, the new project next door can, whoever, whatever, is that what these credits, how these credits are used or transferred to others or...just kinda timely that we're here and the other project and there's credits to be used soon if it gets built.

CHAIR CARROLL: Corporation Counsel?

MR. UEOKA: Thank you, Chair. Well, the units have to be built and used for the affordable purpose prior to getting a credit. Once the credits issue, yeah, you're right, it can be used and, you know, I'd have to look further into this one whether or not they would just be usable in this community plan area or if they'll be used anywhere --

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COUNCILMEMBER COCHRAN: ...*(inaudible)*... It's usually in the district

MR. UEOKA: --but they are, credits are typically transferrable.

CHAIR CARROLL: You know what, excuse me. Could we put this on hold for a few minutes? We only have Mr. Taylor for a very short time and then we'll come back to you.

COUNCILMEMBER COCHRAN: Okay. Or hold that thought, Mr. Ueoka.

CHAIR CARROLL: Yeah, because Mr. Taylor can only stay for a very short period of time.

COUNCILMEMBER COCHRAN: Okay. Okay.

CHAIR CARROLL: And, Mr. Taylor, thank you so much for coming down at the last minute. We appreciate it. And first one is Ms. Cochran.

COUNCILMEMBER COCHRAN: Sorry?

CHAIR CARROLL: You were the one who originally asked for Mr. Taylor.

COUNCILMEMBER COCHRAN: Oh yeah and Ms. Baisa, but I guess, I don't know, Director, were you following the conversation at all here?

MR. TAYLOR: I was not, unfortunately. We weren't on-call for this meeting and I --

COUNCILMEMBER COCHRAN: Right. Okay.

MR. TAYLOR: -- haven't had time to prepare.

COUNCILMEMBER COCHRAN: No, no, it's okay. But are you familiar with the project though, Kaiwahine, when we discussed it back in 2011?

MR. TAYLOR: I remember it, I know it's mauka of the highway in North Kihei. I don't remember, there's, how, is it a 54...

COUNCILMEMBER COCHRAN: And the water, but basically the water issue with this project.

MR. TAYLOR: Okay.

COUNCILMEMBER COCHRAN: Do you recall?

MR. TAYLOR: I'm aware of the area.

COUNCILMEMBER COCHRAN: Okay, and I guess the applicant is saying there was a water lateral agreement and that's sort of gone away and he's looking to get that reapproved

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of some sort and it was water pressure issues there. But now he's saying because A&B next to Kamalani Project we just approved yesterday will build this high-storage tank that will send water down and he can work something out with them to assist in his water, I guess, pressure, whatever issue.

MR. TAYLOR: Okay.

COUNCILMEMBER COCHRAN: And this Water Department reapproval is contingent on his new partners wanting to partner. So, I guess you're here to give the question that, are you aware of this and can you answer, yes, he'll get his approval or not, I don't know or what are your comments, I guess?

MR. TAYLOR: I can't answer yes, anyone will get an approval. Approvals are based on their application, et cetera, et cetera.

COUNCILMEMBER COCHRAN: Right.

MR. TAYLOR: I recall this project had an application that said they would build a tank and reroute some line in some way and that was approved and then as they got into construction, things changed. I don't remember the details. It was quite a few years ago. What I can tell you is from our standpoint, we deal with engineering issues like piping after entitlements. There's no reason...if this is a 201H application, our Department's position is, if there's any issues with piping, tankage, it's that kind of thing, that can be dealt with in their building permit process time and we don't like to advise the Council to hold back on entitlements for local, localized engineering that can be solved with money. We'll deal with that when the plans come in. I can't promise what exactly will happen but it's certainly solvable by the applicant for enough money. It's not really an issue of the Department's inability or an entitlement issue but we would look at the application based on what they're, what they say they can build versus what the local pressure needs are at the time of their application.

COUNCILMEMBER COCHRAN: Okay. Chair, I'll let Ms. Baisa follow-up. Thank you. Thank you, Director.

CHAIR CARROLL: Thank you, Ms. Cochran. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you, Chair, and thank you, Ms. Cochran. Mr. Taylor, the applicant has come before us and a couple of things he has said are the reason why he needs this time extension because he hasn't been able to clear them up. He needs funding, which he has lined up and he says is contingent upon him receiving the entitlements because nobody wants to give him money that, you know, they don't have entitlements. And the second was that there are concerns with are having an approved water plan. And in a letter that he wrote to Ms. Reimann, he says, I have scheduled a meeting with the Deputy Director of DWS, Paul Meyer for Thursday, September 17<sup>th</sup>, regarding resubmission and reapproval of our water lateral construction document in order to secure the water for the project already approved for two two-inch water lines and meters. And subsequently, we asked him questions

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and it seems like they've worked on a couple of things, one of them being water pressure but he is, it seems like this redone water plan has gone to the Water Department and he's still pending some kind of decision. Now, we're having a hard time as a Council, you know, giving him the extension, if this water plan is a problem, we wanna know because it's, you know, it could scuttle the whole project if we don't have the water of course. So that's kinda what we're trying to find out.

MR. TAYLOR: Unfortunately, I'm not prepared with an answer for you today. I can tell you that that area is, has the A&B project --

UNIDENTIFIED SPEAKER: Yes.

MR. TAYLOR: --it's got this project. It's an area that is served directly off of our pipeline, not of, of a tank. So it has water pressure problems because the area is not served of, of a tank. The ultimate solution is to have a tank...

COUNCILMEMBER BAISA: Which he said he was willing to install.

MR. TAYLOR: Okay. So that tank has to be large enough for their project, for A&B's project et cetera, et cetera. There was, I remember in their first iteration, there was a plan to make it all work. I'm not sure if it was a cost-sharing issue. I don't remember the details of it but it's not rocket science. It can be made to work. Whether or not the different parties can come together if it's a cost sharing thing...it might be for example that we would give an approval but we can't commit to funding that hasn't yet been given by Council, by funding that may need by another developer et cetera, et cetera. So, I don't have the status on it right now for you today but again, it can be made to work. Whether or not the parties will bring the resources is a different question.

COUNCILMEMBER BAISA: Okay. Thank you. That helps.

CHAIR CARROLL: Thank you. Anything more for Mr. Taylor? Because he cannot stay with us. Mr. Couch?

COUNCILMEMBER COUCH: No, the questions were answered.

CHAIR CARROLL: Anyone? All right, Mr. Taylor, thank you so much.

MR. TAYLOR: Thank you.

CHAIR CARROLL: I appreciate you coming down at the last moment. We'll try to give you more notice next time.

COUNCILMEMBER BAISA: Thank you.

CHAIR CARROLL: All right, back to where we were with Ms. Cochran and Corporation Counsel.

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COUNCILMEMBER COCHRAN: Yeah, back to Mr. Ueoka. My main, the brunt of my question is, they build out, they have housing credits, we approve the project next door, can that project purchase these credits and then they not physically build affordable housing? That scenario could happen, yes?

MR. UEOKA: Yes.

COUNCILMEMBER COCHRAN: Yes?

MR. UEOKA: Yes.

COUNCILMEMBER COCHRAN: Okay. All right. Interesting that, the timeliness of all these but okay, thank you for your answer.

CHAIR CARROLL: Mr. Couch?

COUNCILMEMBER COUCH: I like that, interesting the timeliness. Just to let the Members know, I'm looking at the tax records. Even though the tax class is Agriculture, there is no agriculture land value in there, being taxed at the net taxable value of the market land value so I think they're paying their proper share of taxes. And I do have concern, again, the same concerns that this is gonna get...that the funding isn't there. I'd love to see that letter and I'd be, I'm willing to send this through provided we see that letter before reading. So, that's my initial take on this and I know Ms. Cochran has a few more questions. I do have a question/comment with the letter that was received with the Department of Housing and Human Concerns. There's no date on any of this. The only date that I have is January 22<sup>nd</sup> or January 19<sup>th</sup>. That's the earliest time-stamp date. I'm just, I guess may wanna ask that you'd be a little bit more careful as when you receive something even if it's an e-mail 'cause there's no date on this other than if you go down in there it says I have a scheduled meeting on September 17, 2015. So that I can at least see that, okay, that was received sometime prior to the 90 days. So, a little bit more careful on the dating of that so we, so our T's are crossed and our I's are dotted, that's all. Thank you, Chair.

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. And for Department, in regards to the correspondence from Department of Education, is there a comment from the Department? 'Cause this letter is dated just this month, February 11<sup>th</sup>, from them saying they had no response.

MR. ALMEIDA: Thank you, Chair. Thank you, Member Cochran. I also, as Mr. Sindoni mentioned, I do not recall seeing any correspondence or issues from the Department of Education come or be transmitted to our Office that needed to be addressed, so I, yeah, we have not received anything from them needing clarification to my knowledge.

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COUNCILMEMBER COCHRAN: Okay, thank you. I mean perhaps it got lost in the shuffle with Ms. Ridao leaving or something, I don't know. But now that we all are all aware, will it be now addressed?

MR. ALMEIDA: Yes, absolutely. We'll work with the developer to make sure that that's taken care of.

COUNCILMEMBER COCHRAN: Okay. All right, well, very good.

CHAIR CARROLL: Mister...thank you, Ms. Cochran. Mr. Couch?

COUNCILMEMBER COUCH: Regarding that item, I too looked up, yeah; it does say in March 2011 there was a letter written to the Department. I did look up the HRS that she's looking at and the old, you know, it would be nice if we had the old binder material but I was able to find at least the reso, and the reso does state, say that for every market-priced unit that they sell that they'll pay their, the proper share of the education impact fee. Since it's supposed to be 100 percent affordable, there's no agreement yet until they...I think they have like a 90-day, yes they have a 90-day limit as to when to sell, to get the houses, at least agreement of sale then after that they can revert to market according to the old agreement, is that correct?

CHAIR CARROLL: Corporation Counsel?

MR. UEOKA: Thank you, Chair. My understanding is, once placed on the market, the unit shall be offered for sale to households whose incomes fall between 60 and 80 percent of the area median income for a minimum of 3 years.

COUNCILMEMBER COUCH: Oh, three years.

MR. UEOKA: After the three-year affordability period, the units may be sold at market rates.

COUNCILMEMBER COUCH: Okay, so if after three years --

MR. UEOKA: Yes

COUNCILMEMBER COUCH: --then they don't have to deal with the impact fees. But according to this letter, they're saying, the DOE is saying there's no exemption for affordable units, which shocks the heck out of me if they're not giving exemptions for affordable units. So I think that's another issue that we have to check I guess. I'm sorry to bring him back down again but we need to check with him because now every unit is required to pay the school-impact fee because of the new law one month before we passed that out of Committee. The...went into effect one month before we passed that our Committee. So according to this, they have to pay the school-impact fee for every unit there, which just throws it again way out of affordability. So I'd like to ask for Mr. Sindoni if that's a deal breaker and if it's a deal breaker, then, you know, that's it.

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CHAIR CARROLL: Well, it's obvious he's gonna have to deal with it no matter what happens but...

COUNCILMEMBER COUCH: Well, I mean if he gets up here and says, you know, that extra three, I think it's gonna be about...

CHAIR CARROLL: Would you like him to go to the podium?

COUNCILMEMBER COUCH: Please.

CHAIR CARROLL: Mr. Sindoni, can you please come to the podium? Mr. Couch?

COUNCILMEMBER COUCH: Thank you. You see the letter from the State Department of Education and it says basically affordable housing projects are not exempt from school-impact fees. So that means every unit, it's a 100...how many? Hundred...

MR. SINDONI: Hundred and twenty.

COUNCILMEMBER COUCH: Hundred and twenty units. Every unit is required to have that impact fee and somebody did a calculation, I heard it going around outside that it's about \$300,000. That's an extra \$300,000 on top of everything else you have to do.

MR. SINDONI: I understand.

COUNCILMEMBER COUCH: Is that like the straw that broke the camel's back or...

MR. SINDONI: No, no.

COUNCILMEMBER COUCH: Okay.

MR. SINDONI: I wanna do our part. The margins are thin but this is more important. The affordable housing is more important and ...*(inaudible)*... the Department of Education is important. I recollect at the time in 2011 that there was no exemption for the Department of Education fee. I think at that time they quoted me around 239, \$240,000 at that time. And, I, that is in the budget.

COUNCILMEMBER COUCH: Okay.

MR. SINDONI: And I wanna do my part.

COUNCILMEMBER COUCH: Okay.

MR. SINDONI: Okay.

COUNCILMEMBER COUCH: I just wanna, I know you, 'cause you were talking about the repaving of Kaiwahine and all that is adding to the bottom line, which I understand and I just don't wanna put the break...

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MR. SINDONI: If you could help me there...

COUNCILMEMBER COUCH: Nah.

MR. SINDONI: If you could help me there --

COUNCILMEMBER COUCH: Well, you got a --

MR. SINDONI: --Mr. Couch, I would be happy to...

COUNCILMEMBER COUCH: -- few feet anyway that you, that A&B is gonna take care of.

MR. SINDONI: Well I know A&B is gonna do their part and --

COUNCILMEMBER COUCH: Yeah.

MR. SINDONI: --I certainly wanna do my part. All I was saying is that, it would be helpful if I didn't have to pay for all of it.

COUNCILMEMBER COUCH: Okay, thank you.

MR. SINDONI: Okay.

CHAIR CARROLL: Thank you. Members, looking at, there have been questions asked that I think you feel that the answers are not substantial and that we're having a problem with. It is possible because the way my calendar is that I could defer this 'til March 2<sup>nd</sup> at the next meeting. If you would like to consider that then we could have time to address Ms. Baisa and Ms. Crivello's and Mr. Couch's concerns over here, and perhaps be a little bit more concise in the replies. Mr. Couch?

COUNCILMEMBER COUCH: My only concern is it has to pass through Council; will it pass by the 18<sup>th</sup> of March?

CHAIR CARROLL: We should be able to do that if we have it on March 2<sup>nd</sup>. We have, let's see, March 18<sup>th</sup>, the cutoff day is the Council meeting that it could pass. It would be on that day. Corporation Counsel --

COUNCILMEMBER COUCH: Yeah.

CHAIR CARROLL: --would that work? If I hear it on the 2<sup>nd</sup>, it would have to go to the Council on the 18<sup>th</sup>, which is the last day that they have. It seems like it's all right but...

MR. UEOKA: Thank you, Chair. I guess if it's at that deadline that'd be fine also. Thank you.

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CHAIR CARROLL: It's a last-minute thing but the 18<sup>th</sup> is the day and that's the day the Council meeting, so. Mr. Couch?

COUNCILMEMBER COUCH: I think we have enough, I mean we have, I have, for me, I have most of the information I need to support but I just wanted that one piece of information, the letter, before we pass it at Council and I'm fine. I wouldn't wanna slow it down because of that.

CHAIR CARROLL: And we can vote on this today if the Members are comfortable with passing this out today. This is remember an extension and all of the requirements that we passed five years ago are still in effect. The extension extends everything but it doesn't take away or dilute anything that we passed out before.

COUNCILMEMBER COCHRAN: Well, Chair?

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: I prefer to defer and I mean if we don't wanna cut it close on that final day, I believe there's other, I mean special meeting maybe or there's a another Friday, March 4<sup>th</sup> or something that's a possible date too. But that's, you know, my preference so, you know, your recommendation, Chair.

CHAIR CARROLL: I'm gonna give my recommendation now. It could be possible that we could do it that way but we could also end up literally killing the whole thing too. If it doesn't, if it didn't work out so I will give my recommendation now and then we'll go into more discussion if necessary. The Chair will entertain a motion to recommend adoption of the revised proposed resolution entitled Approving the Time Extension of the Construction Initiation Date for the Kaiwahine Village Project, 201H Project; incorporating any nonsubstantive revisions.

COUNCILMEMBER COUCH: So moved.

CHAIR CARROLL: It's been moved, and second?

COUNCILMEMBER CRIVELLO: Second.

CHAIR CARROLL: I'm sorry?

COUNCILMEMBER CRIVELLO: Second.

CHAIR CARROLL: Oh Stacy. Ms. Crivello. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair, and thank you for taking it up today. Like I said it's a rock and a hard spot. We do need affordable housing and this is the quickest way to get it done if he can get it done. So, I really implore him to get us a copy of that letter, of the commitment letter for the financing, otherwise I wouldn't be able to support it at Council. Thank you.

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CHAIR CARROLL: Further discussion on the floor? Ms. Baisa?

COUNCILMEMBER BAISA: Chair, I would really prefer that we try to clarify all the missing pieces before I'm asked to support this, so I would prefer that we try to squeeze in an approval somewhere after we have an opportunity to hear from the folks that we wanna hear from.

CHAIR CARROLL: Any further discussion to the motion on the floor?

COUNCILMEMBER BAISA: As much as I am in support of affordable housing, I would prefer that we get rid of the question marks. Now or later.

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: Yeah and if people look back on the history of this, I was not in support, the first go around. And I'm not gonna be in support on this go around. I would prefer to defer. There are questions. I think, you know, rehashing that the abutting neighbor, existing neighbors were not in support of this. The infrastructure there isn't, cannot hold up. Water Department, you know, contested to that. I mean the list goes on and on and then hearing the disturbing news from Mr. Ueoka that these credits can be sold to the neighbors and then thereby, they won't have to physically build affordable housing. I mean the list goes on and on, Chair, so I have my, you know, we got shoved down our throats this project back then, 45-day clock, hurry, hurry, hurry build, we need it now, now, now, fast tracking and here we are, extension, on a fast track? So I'm, you know, no. I don't wanna set this precedence for others. And at this point, if we're gonna pull this vote, I'm not in support so, that's my comments, Chair. Thank you.

CHAIR CARROLL: Further discussion on the floor? Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah. Thank you, Chair. Just listening in, not really putting any input today but I would rather that you defer this and so it'd give an opportunity to get more information. Things...I wasn't around on the Council during that time it was presented the first time and there are still some unclear questions that need to be answered at least in my mind. Thank you.

CHAIR CARROLL: Further discussion? Mr. Couch?

COUNCILMEMBER COUCH: Yeah. I'm fine to withdraw my motion. I can count. So deferral is fine.

CHAIR CARROLL: So is there any objection to Mr. Couch withdrawing his motion?

COUNCILMEMBERS VOICED NO OBJECTIONS

CHAIR CARROLL: Seeing none, motion is withdrawn.

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MR. UEOKA: Chair?

CHAIR CARROLL: Oh, excuse me, Corporation Counsel?

MR. UEOKA: Thank you. Nothing to do with the motion or anything but just for clarification, for that neighboring project, Ms. Cochran, we, I believe we already entered into a residential workforce-housing agreement with the developer for the neighboring project. I believe the first phase is 100 something --

UNIDENTIFIED SPEAKER: One seventy.

MR. UEOKA: --170 residential workforce-housing units. Just FYI that's their plan currently. Credits never came up in the discussion for satisfying their residential workforce-housing requirements.

COUNCILMEMBER COCHRAN: Thank you, Mr. Ueoka. But they could in turn change their mind and seek this other route in fulfilling the workforce housing?

MR. UEOKA: Chair, if I may?

CHAIR CARROLL: . . .*(inaudible)*. . .

MR. UEOKA: Thank you. Theoretically, yes but they already did sign an agreement with us regarding construction on the 170 units, so, but they could come back and amend and do stuff but --

COUNCILMEMBER COCHRAN: Okay.

MR. UEOKA: --yeah, we feel good about that project going forward. Thank you.

COUNCILMEMBER COCHRAN: Okay. Well, thank you. We'll see. Thank you.

CHAIR CARROLL: Members, I would like to --

COUNCILMEMBER GUZMAN: Chair?

CHAIR CARROLL: --before calling Mr. Couch again or Mr. Guzman, I would like to say that if we do defer this matter, I cannot guarantee that it can be heard again in time to have the Council pass it out before the 18<sup>th</sup>. As Chair, I cannot guarantee you that that will happen and you need to be aware of that. Mr. Couch?

COUNCILMEMBER COUCH: So are you saying you are gonna bring it up on the March 2<sup>nd</sup> meeting?

CHAIR CARROLL: I would bring it up on the March 2<sup>nd</sup> meeting and then it would be okayed on the 18<sup>th</sup> --

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COUNCILMEMBER COUCH: Well --

CHAIR CARROLL: --day of...

COUNCILMEMBER COUCH: --you have another option, too, is waive Committee referral.

CHAIR CARROLL: Yeah, I would defer 'til the 8<sup>th</sup>...March 2<sup>nd</sup> and then it could be heard by the full Council on the 18<sup>th</sup>.

COUNCILMEMBER COCHRAN: It could also be heard on the 4<sup>th</sup>.

CHAIR CARROLL: Pardon?

COUNCILMEMBER COCHRAN: It could also be heard on the 5<sup>th</sup>, 4<sup>th</sup> or 5<sup>th</sup>.

COUNCILMEMBER BAISA: Fourth.

COUNCILMEMBER COUCH: Fourth of March --

CHAIR CARROLL: I think we have...

COUNCILMEMBER COUCH: --by waiving Committee referral

CHAIR CARROLL: Yeah. It's...

COUNCILMEMBER COUCH: If time is of the essence.

COUNCILMEMBER BAISA: Yeah.

COUNCILMEMBER COCHRAN: Yeah.

COUNCILMEMBER COUCH: So just that other, but I would request that we have a list. You know my concern is the letter. If we have a list of what the concerns are that we could get those answered by the next meeting that would be nice.

CHAIR CARROLL: All right. Further discussion? Ms. Baisa?

COUNCILMEMBER BAISA: Well this, you know, I'm pretty, I was pretty confident that we could have a meeting on the, your next meeting and on the, what is it, the 2<sup>nd</sup>. And that we could hear it on the 4<sup>th</sup> if we really wanted to so that gets it approved. But if we're hearing that we might, there is a possibility that we won't meet a deadline, then that scares the heck out of me because, you know, we are trying to get affordable housing built. And if we miss that deadline, what that does mean?

CHAIR CARROLL: Corporation Counsel?

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MR. UEOKA: Thank you, Chair. It would mean the, they would miss the requirement contained in, I believe, modification 4 and all the entitlements from the 201H process would expire, terminate, whichever word you'd like to use, but they'd lose their 201H designation. Thank you.

COUNCILMEMBER BAISA: No, I'm not willing to take that risk, you know, I really would like to have more information to make a decision but I'm not willing to take that risk. So, if we're gonna move this out of Committee today, then it's gonna have to be taken up unless we do something. It's gonna be taken up at the, what is it, the March 4<sup>th</sup> Council meeting, which means we're gonna be doing Committee work on the floor if we wanna satisfy whatever is hanging, so we don't have a whole lot of choices here.

CHAIR CARROLL: Ms. Crivello?

COUNCILMEMBER CRIVELLO: Chair, you know, like Guzman I wasn't here five years ago but, you know, how it passed, that's for those that are still here to explain that. But I have to say before I got on Council and while I'm on Council, I still hear we need affordable homes. We need affordable homes. But what I've witnessed since I've been on is where are the affordable homes? So if there are a lot of questions that was not answered five years ago and needs to be answered today, maybe that's what we need to do. And if the developer loses the option or the opportunity to, or if we lose the opportunity to build affordable homes, oh well, so what else is new?

CHAIR CARROLL: So far it's been very interesting. All right, Members. And it's all our concern, I will speak for every Member over here that we all want affordable housing. I don't think that's anything that any Member's gonna say we don't want. There are concerns with this and we need to judge right now if these concerns are enough to ask for a deferral. Again, the Chair cannot guarantee with a deferral and a hearing because of the timeframe that all will go smoothly. I cannot guarantee you that. That would be not proper. So we can defer it and I think we can make it work but there is a possibility that we might have problems with that. Mr. Guzman, followed by Ms. Cochran.

COUNCILMEMBER GUZMAN: Thank you, Chair. You know, what, I guess what's holding me back is basically a question of whether the property, the investor, the Jupiter Holdings, is investing in the development or are they investing in the purchase of the property. And when Mr. Couch is asking for certification or a letter of investment, I wanted to see where exactly are they investing. And that's pure and simple on, in my mind, you know, what is this actually leading to? Are we developing? Are we building new homes? Are we giving opportunity to sell at, you know, market-price homes later down the road? I don't know. I wanna get more information on the investor. And that's where my holdup is. And if that comes in a letter in first reading, then I'm okay with that too but that's my hold up on it. Thank you.

CHAIR CARROLL: Ms. Cochran --

COUNCILMEMBER COCHRAN: Thank you...

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CHAIR CARROLL: --followed by Mr. Couch.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, you know, again here we are shoved into that corner, hurry up, make your decision, hurry, hurry up when we gave them everything they wanted, the whole fast track, your exemptions that come along with it and everything else under the sun. Now, we're the bad guys, not supporting affordable housing because, what? It's not right on our behalf. Again, I feel that pressure where why is it all put on us? So I pulled up Jupiter Holdings and yeah, their core thing is real estate. And I'm wondering how after we added up Department of Education fees and repaving the road and infrastructure, Mr. Sindoni himself said there's a very small margin for profit. I don't see a company like this worth billions of dollars wanting to invest in some manini, small marginal thing here. So obviously, there's something bigger but we can get that letter that Mr. Couch is looking for from his supposed partners, great. But Chair, I'm very confident that we can make this happen by the deadline. I understand you need to lay out, there's a risk and you can't promise anything. It's like going in for surgery, there's always a chance some complication can happen, you know --

CHAIR CARROLL: That's a very good...

COUNCILMEMBER COCHRAN: --so I'm just saying you have to lay all the, right, lay all the cautions and we move forward. So, Chair, I still stand on deferral and having our questions answered. Thank you.

CHAIR CARROLL: And again, I think we can do it but I just wanted to be honest with the Committee because it is such a, really 11<sup>th</sup> hour, 11<sup>th</sup> minute that I cannot make guarantees for you. Mr. Couch?

COUNCILMEMBER COUCH: I'm fine. I would rather, I'd rather bring it out now and, but I'm not sure of, which way, if somebody else who was considering not adopting today would make the motion, I'd gladly second it.

CHAIR CARROLL: All right, if we have a consensus then, if there's no objection, we will defer this matter until Wednesday, March 2<sup>nd</sup>.

COUNCILMEMBER COCHRAN: Consensus.

COUNCILMEMBER BAISA: Consensus.

COUNCILMEMBER COCHRAN: I say consensus.

CHAIR CARROLL: Yes, Wednesday, March 2<sup>nd</sup>. Is there any objections?

COUNCILMEMBERS: No objections.

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CHAIR CARROLL: This meeting is now deferred and will be heard again at 1:30 p.m. on March 2<sup>nd</sup>.

COUNCILMEMBERS VOICED NO OBJECTIONS. (excused: MV)

**ACTION: DEFER pending further discussion.**

CHAIR CARROLL: Having no further business, this Land Use Committee stands adjourned. . . .(gavel). . .

**ADJOURN:** 2:57 p.m.

APPROVED:



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ROBERT CARROLL, Chair  
Land Use Committee

lu:min:160217:acqp

Transcribed by: Ann Carmel Q. Pugh

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CERTIFICATE

I, Ann Carmel Q. Pugh, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 4<sup>th</sup> day of March, 2016, in Kula, Hawaii



Ann Carmel Q. Pugh