

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

March 2, 2016

Council Chamber, 8th 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

EXCUSED: VOTING MEMBERS:
Councilmember Michael P. Victorino, Vice-Chair
Councilmember Don S. Guzman

STAFF: Scott Jensen, Legislative Analyst
Raynette Yap, Committee Secretary
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, Housing Administrator, Department of Housing and Human Concerns
Paul Meyer, Deputy Director, Department of Water Supply
Tammy Yeh, Civil Engineer VI, Department of Water Supply
Jeffrey Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel

In the gallery:

Kurt Wollenhaupt, Planner V, Department of Planning

OTHERS: John Sindoni
Plus (1) Other

PRESS: Akaku Maui County Community Television, Inc.
Colleen Uechi, The Maui News

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CHAIR CARROLL: . . .*(gavel)*. . . This Land Use Committee meeting of March 2, 2016 will come to order. I'm Councilmember Robert Carroll, Chair of the Land Use Committee. First of all, may I request that anybody that has any cell phones or anything that makes noise, please turn it off; as entertaining as it might be. With us this morning, we have excused, we have the Vice-Chair of the Committee, Mr. Victorino is excused. And with us we have Gladys Baisa --

COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR CARROLL: --Elle Cochran --

COUNCILMEMBER COCHRAN: Aloha, Chair.

CHAIR CARROLL: --Don Couch --

COUNCILMEMBER COUCH: Aloha and good afternoon, Chair.

CHAIR CARROLL: --and Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR CARROLL: And Don Guzman is also excused. Department of Housing and Human Concerns, we have Carol Reimann and Buddy Almeida. Department of Planning, we have Will Spence. Department of Water Supply, we have Deputy Director Paul Meyer. Corporation Counsel, we have Jeffrey Ueoka.

MR. UEOKA: Good afternoon, Chair.

CHAIR CARROLL: The applicant's representatives John Sindoni, manager, Royal Main Properties, LLC. Committee Staff, we have Raynette Yap, Committee Secretary, and Scott Jensen, our Legislative Analyst. Today we 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 the construction initiation date of the Kaiwahine Village 201H project, Kihei. For individuals who'll be testifying in the Chamber, please sign at the desk located at the 8th floor lobby, just outside the Chamber door. If you'll be testifying from remote testimony locations, specified on the meeting agenda, please sign up with the Council Staff location. Testimony will be limited to the items on the agenda today. Pursuant to the Rules of the 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. Mr. Jensen?

MR. JENSEN: Mr. Chair, there are currently no one signed up to testify in the Chamber.

CHAIR CARROLL: Molokai, do you have anybody waiting to give testimony?

MS. ALCON: Good afternoon, Chair. This is Ella Alcon on Molokai and there is no one here waiting to testify.

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

MS. FERNANDEZ: Good afternoon, Chair. This is Denise Fernandez on Lanai and there is no one waiting to testify.

CHAIR CARROLL: Thank you. If there's anyone wishing to give testimony, please come down. Seeing none, if there's no objections, we will close public testimony.

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Public testimony is now closed.

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

CHAIR CARROLL: The Committee will continue its review today with a matter last discussed at our last meeting, February 17, 2016. The Committee is in receipt of correspondence dated October 30, 2015, from Director of Housing and Human Concerns, transmitting a proposed resolution to grant a five-year time extension to the construction initiation date of the Kaiwahine Village 201H project on 9.289 acres at the intersection of Kaiwahine Street, Kihei, Maui, Hawaii. And the Committee has already... we have the revised one with it at two years. The Committee also is in receipt of correspondence dated February 4, 2016, from the Department of Corporation Counsel, transmitting a revised proposed resolution entitled Approving a Time Extension for the Construction Initiation Date for the Kaiwahine Village 201H Project. Purpose of the revised proposed resolution is to approve a two-year extension for the construction initiation date imposed by Modification 4 of Resolution 11-23, which would then require that 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 for 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 fast-track housing. I requested that the revised proposed resolution after comments received from the Department of Housing and Human Concerns concerning their position regarding the original transmitted resolution. These comments are in your binders. Following the February 17, 2016 meeting, I requested additional clarifications from the Director of Water Supply, the Director of Housing and Human Concerns, and the applicant. Please note the response from the applicant dated February 23, 2016, as well as the Director of Housing and Human Concerns dated March 1, 2016. Please note the correspondence dated February 11, 2016 from Mr. Masden, Department of Education, regarding an outstanding education contribution agreement for this project. The correspondence indicates the 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

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overview regarding this request and entertain any questions regarding a response to my request dated February 22, 2016. Ms. Reimann?

MS. REIMANN: Aloha, Chair, Members of the Committee. As Chair...

COUNCILMEMBER COUCH: You need to speak into the mic.

MS. REIMANN: Hello?

CHAIR CARROLL: Yeah, please, I can't hear you.

MS. REIMANN: Is it working?

COUNCILMEMBER COUCH: Better.

MS. REIMANN: Okay. Good afternoon, Chair...

COUNCILMEMBER COUCH: You gotta turn it up.

CHAIR CARROLL: You know what, it has to face you --

MS. REIMANN: It has to face me? Okay.

CHAIR CARROLL: --and then your voice will go inside.

MS. REIMANN: Aloha. Now I can hear myself. Thank you. As Chair indicated, the developer's 201H expires March 18, 2016 and they're requesting an extension. Mr. Sindoni has ensured the Department that the project has secured financial backing with a new partner and that the property should break ground in approximately 18 months. Therefore we are requesting a two-year extension. So the Department did receive Chair Carroll's memo, February 22nd, regarding question that arose during the last meeting and we have responded and we are here today to answer any additional questions. Also, Mr. Sindoni, the developer is also present today to answer any other questions you may have. Thank you.

CHAIR CARROLL: Thank you. Any questions for the Department of Housing and Human Services [*sic*] concerning the letter or a report? If not, I will continue. We will continue by asking whether the Department of Planning has any comment on this matter. Mr. Spence or Mr. Almeida? Thank you, Mr. Spence.

MR. SPENCE: Thank you, Mr. Chairman. Members, the Department doesn't have any comments at this time.

CHAIR CARROLL: Members, do you have any questions for the Department of Planning? Seeing none, thank you.

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MR. SPENCE: I think the only thing that I would say is that I'm certainly hopeful that this project does get build [*sic*]. But, that's...

CHAIR CARROLL: Thank you, Mr. Spence.

MR. SPENCE: Thank you.

CHAIR CARROLL: Next, I will ask the Director of Water Supply to explain his response, which is in your binders, to my request to comment on the status of approvals identified by Mr. Sindoni at last month's meeting.

MR. MEYER: Good afternoon, Chair and Members. Paul Meyer, Deputy of Water. I have with me today, Tammy Yeh. Tammy is our district engineer for the Central District. This project is proposed to be constructed in the Central District. The Department has no objection to the request for extension on this permit. And we received a communication last week asking a couple of questions about water supply for the project. We wrote a letter dated the 26th which I understand got delivered a little bit late to this Committee. But, nonetheless, indicates we're willing to proceed to approve the water service and water lateral plan for the project. There are...this is a little bit complicated in the sense that we don't have adequate tankage in the pressure zone for this project. What we regard as adequate tankage. But we think we found the economical solution for the developer and applicant and, of course, satisfactory solution for the Department. Be happy to try and answer any questions you may have.

CHAIR CARROLL: Thank you. The floor is open. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I noticed in the last paragraph of your letter talking about that they may need to increase the size to a 12-inch waterline. How likely is that? Because...and I need to ask, I guess, Mr. Sindoni, but how much that would cost and how that affects the affordability of the units?

MR. MEYER: You know, I can't guess as to what the incremented cost if you're asking why that's necessary. It's really just a question of flow given the ambient pressure and the water supply whether we can get the appropriate flow for fire protection for the project.

COUNCILMEMBER COUCH: Just for fire protection, not necessarily the flow...I mean, the pressure in each units? That's a separate --

MR. MEYER: Yes, sir.

COUNCILMEMBER COUCH: --issue from the pressure issue? Okay.

MR. MEYER: It just relates to the fire flow.

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COUNCILMEMBER COUCH: And you're also saying that they entered into this elevation agreement until A&B builds their thing? That's gonna be the cheapest solution right now? What is that effect gonna have on the units? I mean the pressure...

MR. MEYER: It's actually an agreement that the owners of the units agree to accept what may be slightly lower pressure than we would normally deliver to a project. That should not impair the project in any material way, but it's...and it's a borderline case until the new tank gets developed which should supply a higher pressure regime for this project and the upper portion of A&B's project as well.

COUNCILMEMBER COUCH: So typically in a borderline case like that, this is...I keep forgetting, it's 120 units right? When you say you might have a pressure problem...now that's if everybody turns on all their faucets right? Or is that a situation where three or four people, you know, before they go to bed or early in the morning when they're all taking showers, that might be...where's the range, I guess, is...

MR. MEYER: Okay. I'm going to ask Ms. Yeh to answer the question. That, it's a borderline question and we simply wanna make that we're safe in this issue.

COUNCILMEMBER COUCH: Okay.

MS. YEH: Good afternoon. I'm Tammy Yeh, district engineer for Central Maui. For this project, the Kaiwahine Village currently would be serviced off of the 36-inch transmission line. Due to pressure, you know, roughly it's about...the adjacent...I think it's called the Ohukai subdivision which is right adjacent to this property. Right now we see pressures of as low as 60. But as you mentioned, you know, people use water all, in their home all at the same time, it could fluctuate. So it could drop below our standard of the 40 psi which we like to provide for people. So, and not only that, but his property, John Sindoni's property, does go higher up in elevation which then decreases pressure obviously as you go further up the hill. So that's why we would like to have this agreement in place to ensure that, you know, that if it does come up that they are aware that they'll have...they can put in a booster pump station and tank if they want to. But until the A&B tank comes online...that agreement can be removed or deleted from that property. So --

COUNCILMEMBER COUCH: Okay.

MS. YEH: --yeah. So it's not a forever thing. Yeah.

COUNCILMEMBER COUCH: So it's kind of a worse-case scenario.

MS. YEH: Correct.

COUNCILMEMBER COUCH: My concern is going to be, you know, getting the calls of hey, how come this is...our pressure is so low, but if you got the agreement.

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MS. YEH: Right, right, right.

COUNCILMEMBER COUCH: Okay. And in your letter, Mr. Meyer, it says that you don't think the 350,000 gallon auxiliary water tank with booster pumps is enough to keep the pressure up?

MR. MEYER: Under circumstances like this where we have adjoining projects and a sort of a step-wise increment, you build the system and according to proper system standards and good engineering practices, that would dictate that you have one tank and not rely upon booster pumps and smaller tanks that would become obsolete in two years, three years. These are 50 to 100-year assets and it's the kind of thing that the Department wants to make sure that it's, they're planned for properly, installed properly and maintainable and that's the reason for the determination as to the larger tank being the appropriate solution.

COUNCILMEMBER COUCH: Okay. And lastly, if I may, Mr. Chair, you talk about there's gonna be this pressure issue if they...and if they sign the elevation agreement that's gonna be enough to satisfy you. But at the same time, there's an issue with, potentially an issue with the fire pressure right? Fire service pressure? So, I guess, it sounds like if there's gonna be an issue with domestic pressure now, then there already is gonna be the issue with fire pressure or...

MR. MEYER: No, that's not the case. There'll be adequate water for fire protection for the subdivision. The fire trucks have pumps on board.

COUNCILMEMBER COUCH: Okay.

MS. YEH: Just to add to that, yeah, so because we really don't know what the gallon per minute will be as a requirement for fire protection, that's why that statement about 8-inch to a 12-inch...I mean, just assume...that's assuming if they need a 2,000 gpm, which is kind of typical for these projects, that that's how we got the 8 to 12 upsizing. As far as like the pressure concern, yeah there might be...until we know exactly what they're coming in for...I mean, I know it's 120 units, approximately, but until we see the building permit, which specifies exactly what they're building, that's when we go ahead and, you know, work with Fire Department and all of that for the fire protection requirements. But pressure-wise, it is, I guess, a possibility depending on the timeline of the A&B tank and their project that they may have to build like a tank or booster, perhaps to supply the pressure needed for the fire protection.

COUNCILMEMBER COUCH: Until they can...okay.

MS. YEH: Yeah, I mean, but I can't really say --

COUNCILMEMBER COUCH: Sure.

MS. YEH: --for sure one way or the other, but --

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COUNCILMEMBER COUCH: Okay.

MS. YEH: --it's all about timing, I guess. You know, hopefully with A&B's tank maybe they can still go ahead and construct it with them, you know, that could still be a possibility, it just depends on timing of Kaiwahine and A&B. So --

COUNCILMEMBER COUCH: Okay.

MS. YEH: --that's, I wouldn't say that's necessarily off the table or anything, so.

COUNCILMEMBER COUCH: Okay.

MS YEH: Yeah.

COUNCILMEMBER COUCH: All right. Well, thank you very much.

MS. YEH: You're welcome.

COUNCILMEMBER COUCH: Thank you, Chair.

CHAIR CARROLL: Any further discussion? Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. And so thank you, Ms. Yeh, for being here. So the County does have a standard number for water pressure? Psi that you said you would like to provide but there is no like law or certain...how does that...are you, I guess, required or mandated in a sense to give a certain amount of pressure to users?

MS. YEH: Yeah, I don't think there's like a...I don't know if you're saying like a code or ordinance saying 40, but that's just like our policy. And then when it comes to fire situations, it could drop to 20. I mean it's a possibility. When there's a big draw like that, it can drop to a 20-psi situation versus a 40 which is like a standard level that we try not to dip below. So but the 40 to 120...

COUNCILMEMBER COCHRAN: And if that occurs though, what is the consumer or whatever on the receiving end, if it does go below that type of pressure, what can they do?

MS. YEH: Well, I guess that's what the elevation agreement will...that's why we enter into elevation agreements with individuals because if we do know yeah it's marginal, we would like to enter into those because those then, in essence, say well, you know, you may be below our 40, but you do have the options to build a booster tank or whatever but that's on their dime, basically. They would have to take care of that. So it's not like they don't have options, it's just that the Water Department won't be the one to come in and build the facilities to boost their pressure for whatever pressure you need, so.

COUNCILMEMBER COCHRAN: Okay.

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MS. YEH: Yeah.

COUNCILMEMBER COCHRAN: So for this project, I guess the owner/builder/whatever would need would to let the perspective buyer know that this could be a possibility. This would be a disclosure I guess of sorts?

MS. YEH: Correct. Correct. The elevation agreement is like a, recorded with the bureau and everything so it would be, run with the land. It would run with that TMK, so.

COUNCILMEMBER COCHRAN: Okay.

MS. YEH: Yeah.

COUNCILMEMBER COCHRAN: And in this case, 'cause it's not County, it's a private if it...something happen or...it is gonna be County?

MS. YEH: Private? What do you mean private?

COUNCILMEMBER COCHRAN: Yeah, private. So they would have to deal directly with obviously the...but on the County end, pressure drops below, what is the community's option to address that? To call you folks directly and you guys would...

MS. YEH: Yeah, I mean we try and I guess figure out the situation or what's happening or maybe your system there's a break or who knows what could happen. But I guess that comes into the whole master planning of a area to figure out okay if the pressure is consistently on a low basis, then we need to obviously fix the DW side to make sure we do provide adequate --

COUNCILMEMBER COCHRAN: Okay.

MS. YEH: --pressure for people but...

COUNCILMEMBER COCHRAN: Yeah, I'll need to talk to you more about that. It's a 30-year development but pressure's really low right now. But, Chair, I do recall that I forwarded some questions to the Committee to answer and address and I don't see responses here. Do you recall my five questions I had given to this Committee? Three have, but two are still unanswered. And I don't see an official...there were just answered throughout the discussion thus far. But I don't see anything like officially typed, written in your correspondence. So if I may maybe put that on the--

CHAIR CARROLL: Yeah we can bring...

COUNCILMEMBER COCHRAN: --floor now?

CHAIR CARROLL: I am not too sure. I know everything went outside, if there's no answers that means there was no response, written response.

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COUNCILMEMBER COCHRAN: But I don't see it in your correspondence, official correspondence here via this Committee in our binder right now.

CHAIR CARROLL: Could call a short recess. Short recess. . . .(gavel). . .

RECESS: 1:55 p.m.

RECONVENE: 1:58 p.m.

CHAIR CARROLL: . . .(gavel). . . This Land Use Committee meeting is now back in session. Ms. Cochran, anything further right at this time? Or do you want to address those issues?

COUNCILMEMBER COCHRAN: No. Thank you, Chair.

CHAIR CARROLL: Okay. What I'd like to do now is call down the applicant. Could you please come down to the podium? I'd like to ask Mr. John Sindoni of Royal Main Properties, LLC, to answer the Members' concerns. Before I open the floor up though, Mr. Sindoni, I'd like to ask you to summarize your response to my correspondence dated to you on February 22, 2016.

MR. SINDONI: Yes, sir. You mean with the Department of Education?

CHAIR CARROLL: Try talk a little louder in the microphone.

MR. SINDONI: Can you hear me now? Hello?

CHAIR CARROLL: Yes. Okay.

MR. SINDONI: Yes. Do you mean my responses to that I sent you in the Committee?

CHAIR CARROLL: Yes, that last one, if you could comment on that.

MR. SINDONI: What would you like me --

CHAIR CARROLL: Do you have any comment?

MR. SINDONI: --to start with? The Department of Education? I am in receipt of that letter. I had contacted Mrs. Meeker as stated in the letter and we spoke and we both agree that once the, I was approved for my extension and we had the water resolved that we would make an appointment. I would sign the agreement, have it notarized, and send it back to her. And I'm due to call her tomorrow after the Committee hearing today.

CHAIR CARROLL: Thank you. Members, the floor is now open to talk, ask the applicant any questions you would like. Mr. Couch?

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COUNCILMEMBER COUCH: Thank you, Mr. Chair; and thank you, Mr. Sindoni for getting all this information for us. Thank you for the letter from Jupiter Holdings. The question I have for you - there are concerns...Jupiter Holdings concerns, number three, their item number three. In order for this project to proceed it needs to have adequate water supply and pressure; therefore, we need to be assured that DWS will provide this for the project's eventual homeowners. Without adequate water, this project cannot proceed. And in DWS' response, you sort of have that. Are you okay with that? Are they okay with that?

MR. SINDONI: I will have to kinda...I just received the letter when I got here today.

COUNCILMEMBER COUCH: Oh, okay.

MR. SINDONI: The response from DWS. And I feel very confident that I think we can work together to make it a win-win for everybody.

COUNCILMEMBER COUCH: Okay. Yeah, if this were to pass out today it takes a couple weeks before it gets to Council and it may even...is there a unilateral agreement involved in this one or we already, that was already signed, wasn't it? Yeah, so before it gets to full Council probably would like a response to the Department of Water Supply's letter.

MR. SINDONI: From Jupiter?

COUNCILMEMBER COUCH: From Jupiter.

MR. SINDONI: Yes, I'd be happy to supply that. And when would you like that by? Before...

COUNCILMEMBER COUCH: Before it comes to full Council...if it passes today before it comes to full Council.

MR. SINDONI: Absolutely.

COUNCILMEMBER COUCH: But you're okay with everything that was in the packet?

MR. SINDONI: From briefly reading it and I only read it once since I received it about 20-30 minutes ago --

COUNCILMEMBER COUCH: Okay.

MR. SINDONI: --but I will fully address it and I will fully respond to the Committee and the Committee Chair.

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

CHAIR CARROLL: Any more questions for the applicant? Ms. Cochran?

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COUNCILMEMBER COCHRAN: Chair? And thank you and thank you, Mr. Sindoni, for, you know, persevering with all this. So I hear Department is okay with allowing the laterals and, you know, all the discussion about the upper level water tank. But the actual source, the actual source that's going to be provided to the system itself is coming from where?

MR. SINDONI: The water source --

COUNCILMEMBER COCHRAN: Yeah.

MR. SINDONI: --will be coming from the County.

COUNCILMEMBER COCHRAN: Yeah. So it is...

MR. SINDONI: County water.

COUNCILMEMBER COCHRAN: Okay. So no private wells or anything on your behalf --

MR. SINDONI: No.

COUNCILMEMBER COCHRAN: --and things of that nature?

MR. SINDONI: No.

COUNCILMEMBER COCHRAN: Okay.

MR. SINDONI: We are going to drill a landscape well on the property to supply all the water for landscape through the project and also for the adjacent park.

COUNCILMEMBER COCHRAN: Okay.

MR. SINDONI: And we're also going to upgrade the park and fix it up so hopefully the kids can enjoy it.

COUNCILMEMBER COCHRAN: Right. And thank you, appreciate that very much. And I have...I'm trying to figure out if this request would come as a added condition or any...some...that way but basically I was wondering if this Committee, this body could be informed of when and to whom affordable credits are sold? If so, if they are to be.

MR. SINDONI: I believe in my agreement with the DHHC it so states that I will keep the Housing and Human Concerns posted as to our progress. I don't think I'm allowed to entertain any transfers for them until the project is completed and their credits become redeemable.

COUNCILMEMBER COCHRAN: Okay. So...alrighty. Okay. Well, thanks, I'll follow up and make sure through Department that that's written in black and white and is stated...and stated.

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MR. SINDONI: I'm pretty sure that that's --

COUNCILMEMBER COCHRAN: Okay.

MR. SINDONI: --what we did. But --

COUNCILMEMBER COCHRAN: Okay. All right. I can follow up.

MR. SINDONI: --I'd be happy to follow up with DHHC. They've been very supportive.

COUNCILMEMBER COCHRAN: Okay. Well, very good. And again, thanks for your time.

MR. SINDONI: You're welcome.

COUNCILMEMBER COCHRAN: Thank you, Chair.

CHAIR CARROLL: Any more questions for the applicant? Any more questions for any of the departments that we have called for?

COUNCILMEMBER COCHRAN: Yeah.

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: And so in reference to the question, Department, about housing credits. Mister...you heard Mr. Sindoni say that he believes it's in whatever paperwork with you folks. Is that the case in regards to housing credits?

CHAIR CARROLL: Mr. Almeida?

MR. ALMEIDA: Thank you, Chair. And thank you, Member Cochran, for that question. Yes, the developer has executed a residential workforce housing agreement with the Department. In the agreement, it does specify that he does get 100 percent credits for this project. One-hundred twenty, I believe. The credits, as he stated, are not realized until the project is constructed and sold. So at that point, he would, you know, then earn the credits and be able to enter into agreements if he wanted to sell them at that point. Thank you.

COUNCILMEMBER COCHRAN: Okay. Thank you. But, I guess, also having this body informed of when this occurs, is that a usual, usually done at all? Or is there a way to request or is it just our place to follow and keep track? Is that how it works?

CHAIR CARROLL: Mr. Almeida?

MR. ALMEIDA: Thank you, Chair. We don't typically, I believe, submit reports with regards to the sales or transfers of credits. We do track them. The Department is not involved with the negotiations between the developer and other parties as to the sale. But we

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do have to track the transfers. So an acknowledgement from the Director is signed with regards to that transfer and we keep records accordingly. If requested, we could submit reports on certain projects to update you on the status of that. Absolutely.

COUNCILMEMBER COCHRAN: Okay.

MR. ALMEIDA: Thank you.

COUNCILMEMBER COCHRAN: Alright, well very good. Guess we can maybe make it habit of trying to track these. And, Chair, for Corporation Counsel, I have a question.

CHAIR CARROLL: Proceed.

COUNCILMEMBER COCHRAN: We can wake up Mr. Ueoka after a big lunch. Thank you, Corporation Counsel, for being here. My other question is in regards to a possible condition of sorts to make sure that we can't put an extension upon an extension. 'Cause they're here for an extension and how long are we gonna draw out giving people extensions upon an extension. So is that already a stated...not proper, you know, use or do we need to put it writing to not allow it in the future at all? Do you have any comments?

CHAIR CARROLL: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. This was thrown into the reso to allow for this extension in the first place. We can enter into some kind of agreement with...I wouldn't recommend putting it into the 201H at this point. You know, that's kind of a locked up document. We'll probably confirm...through the resolution, it'll confirm that the Council desires this extension. When we actually do an agreement with the developer, we'll make sure to throw some language in stating that it is the Council's intent that this was the final extension. And that'll probably be in your Committee report...oh, no Committee report on this one yeah. It'll probably be in the minutes of this meeting that that's the Council's intent.

COUNCILMEMBER COCHRAN: Okay. And you feel that'll cover it and it'll be strong enough? Rather than, I mean, who's going to search minutes? We do if we have to but it's not a typical practice of people to...but you know what I mean? I'd like to see it in a hard, fast document that's like, oh it states. So that's why I was wondering in the condition or some sort. But that's my question. But I hear your answer and I guess we'll take it from there then.

MR. UEOKA: Chair?

COUNCILMEMBER COCHRAN: Mr. Ueoka.

CHAIR CARROLL: Mr. Ueoka, I'm sorry.

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MR. UEOKA: Possibly could put it in the be it resolved portion of the resolution. It's just not a...this was an abnormal thing. So, yeah.

COUNCILMEMBER COCHRAN: Okay.

MR. UEOKA: Thank you.

COUNCILMEMBER COCHRAN: Thank you for dealing with abnormalities. Thank you, Chair.

CHAIR CARROLL: And we can also reflect this discussion in the Committee report that this Committee did not desire that another extension be...we can also reflect this in the Committee report that the Committee did not desire another extension to be granted. In the Committee report.

COUNCILMEMBER COCHRAN: Yeah, consensus or whatever you...

COUNCILMEMBER COUCH: Okay. Consensus

CHAIR CARROLL: Anything further? Mister...oh, you surprised me. Alright. Anything further?

MR. SINDONI: Chairman? May I say something else again in reference Elle Cochran's statement about the credits?

CHAIR CARROLL: Okay.

MR. SINDONI There is a form...

CHAIR CARROLL: Is there any object to hearing from the applicant?

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Alright. You may proceed.

MR. SINDONI: In the County affordable housing agreement that we all signed, there is a form stating any sale or transfer for the credits and all documented, from us to whomever, at what time, and it's a form that's incorporated in the agreement. And that's the form that we were asked to use and that's the form that we will use to keep everybody posted and abreast of what we're doing.

COUNCILMEMBER COCHRAN: Okay. Alright.

MR. SINDONI: Okay.

COUNCILMEMBER COCHRAN: Thank you very much, Mr. Sindoni.

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CHAIR CARROLL: Alright. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And this is to the Department. I don't have...you know, last time I had the old binder stuff, but I didn't get it this time. One quick question - how long is the affordable sale period? I believe it was three years. Is that correct?

UNIDENTIFIED SPEAKER: Yes.

COUNCILMEMBER COCHRAN: He's nodding yes.

MR. SINDONI: Yes.

COUNCILMEMBER COUCH: Okay. Yeah, it's three years. Okay.

CHAIR CARROLL: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. Mr. Couch, you're referring to how long they have to sell the units or how long the affordability requirement or...

COUNCILMEMBER COUCH: The affordability.

MR. UEOKA: Affordability is ten years, I believe.

COUNCILMEMBER COUCH: I'm sorry. How long they have to...I mean, they have to sell it at the affordable price for how...keep it at the affordable price for how long?

MR. UEOKA: Yeah, approximately works out to three years. It's a...usually it's a graduated scale.

COUNCILMEMBER COUCH: Okay.

MR. UEOKA: Thank you.

COUNCILMEMBER COUCH: Thank you. So it's not one of those 90-day...I've seen all these other agreements that says you have 90 days and then it doesn't have to be affordable. There's one in my district right now that's going on that they're not going to sell it in 90 days. They got two weeks left and it's gonna jump right to market which I'm a little upset about. That's a different item.

CHAIR CARROLL: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. The language currently in 2.96 is depending on what income category the house is in or the home or unit is in, it stays there for 90 days. If it's not sold within 90 days, it goes up to the next category. So if you're already at the top category, then you're right, it is 90 days and it goes from I guess, before was like 140 to 160 to market. If you're at like below 80 then it'd go to 80 after 90 days. Then

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it'd go to 100 after 90 days, so it can take a while. But for those high-end ones, yeah, it could be 90 days.

COUNCILMEMBER COUCH: Right. But I think we put language, I remember seeing it last meeting that we put language in there for three years. I seem to recall three years is one of the whereases. And I think Mr. Sindoni is agreeing with that. Alright, I just wanted to make sure. Thank you.

CHAIR CARROLL: We'll wait to see if Mr. Ueoka can find something on that. In the meantime, Ms. Cochran?

COUNCILMEMBER COCHRAN: But I have another task for Mr. Ueoka to do but it's a quick question, maybe he can multitask here, look up and listen to my question at the same time. So you said for this, you know, to make our intent known, maybe in the be it resolved section, one it states the hereby approves a two-year time extension. So maybe in that area, one time only two-year extension. Something like that? So it's just saying one time only for this extension. It seems kind of simple. He had a thumbs up so I'm thinking he's...

CHAIR CARROLL: Mr. Ueoka?

MR. UEOKA: Yeah, Chair --

COUNCILMEMBER COCHRAN: Something like that.

MR. UEOKA: --that would communicate the Council's --

COUNCILMEMBER COCHRAN: Okay.

MR. UEOKA: --decision.

COUNCILMEMBER COCHRAN: Okay.

MR. UEOKA: Thank you.

COUNCILMEMBER COCHRAN: Alright.

CHAIR CARROLL: Thank you. We'll just give Mr. Ueoka a minute to research Mr. Couch's question. We're giving him some time.

COUNCILMEMBER COUCH: While he's doing, can we have a short recess?

CHAIR CARROLL: Recess?

COUNCILMEMBER COUCH: Yeah.

CHAIR CARROLL: Very short recess to the call of the Chair. . . .(gavel). . .

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RECESS: 2:15 p.m.

RECONVENE: 2:17 p.m.

CHAIR CARROLL: . . .*(gavel)*. . . This Land Use Committee meeting is called back to order. Alright, Members, any further questions for the Administration? Anyone here before I give my recommendation? Alright. This is a little bit different recommendation than usual. The Chair will call the Members' attention to County Communication 16-43 on this Friday's Council meeting agenda. In order to avoid putting the Council in a situation which discussion would have to be made March 18, 2016 regarding Committee recommendations, I was going to defer this matter today so it can be considered in two days. It is already on the Council agenda. I intend to waive the Rules of the Council and bring it forward and the entire Council vote on it. Now there were several things that were requested. Now they should be here before that meeting. If they are not, we have two choices - we can either vote it down...well three choices - vote it down, vote for it, or we can just continue it at a later date. We are under no obligation for all three; however, if all the information is there, it would be appropriate to take the action and vote yea or nay. Any further questions? We don't vote on this today. This is just my recommendation for consensus if the Committee would agree to this action. Is there any disagreement? Mr. Couch?

COUNCILMEMBER COUCH: I don't think I have a problem with that. I just, trying to remember what the initial expiration date. I'm trying to find it in the reso.

CHAIR CARROLL: The initial what?

COUNCILMEMBER COUCH: The initial expiration date was.

CHAIR CARROLL: Eighteenth I believe.

COUNCILMEMBER COUCH: Is that the actual...it's March 18th

CHAIR CARROLL: Yeah. It's...

VICE-CHAIR COUCH: So that's why we're doing it on the 4th?

CHAIR CARROLL: That's why it was kinda critical to do it --

COUNCILMEMBER COUCH: Gotcha.

CHAIR CARROLL: --on that day. If it's not...if we don't pass it out on the 18th --

COUNCILMEMBER COUCH: It's done.

CHAIR CARROLL: --it's dead.

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COUNCILMEMBER COUCH: Okay.

CHAIR CARROLL: So there's not really an awful lot of choice if we want to give it a chance.

COUNCILMEMBER COUCH: Okay.

CHAIR CARROLL: So, if there is no objection, we will take no action today. We will defer this item and we will bring it up on the Council agenda on Friday.

COUNCILMEMBERS: No objections.

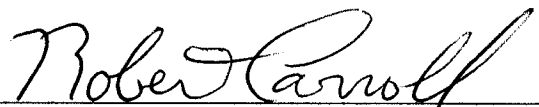
COUNCILMEMBERS VOICED NO OBJECTIONS. (excused: DG, MV)

ACTION: DEFER pending further discussion.

CHAIR CARROLL: I'd like to thank you and thank you for all the Administration and Staff that have participated today. With no further business, this meeting stands adjourned. . . .(gavel). . .

ADJOURN: 2:19 p.m.

APPROVED:



ROBERT CARROLL, Chair
Land Use Committee

lu:min:160302:kt

Transcribed by: Kimberly Tabon

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CERTIFICATE

I, Kimberly Tabon, 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 14th day of March, 2016, in Kahului, Hawaii

A handwritten signature in black ink, appearing to read "Kimberly Tabon", is written over a horizontal line.

Kimberly Tabon