

LAND USE COMMITTEE

Council of the County of Maui

MINUTES

October 31, 2018

Council Chamber, 8th Floor

CONVENE: 1:35 p.m.

PRESENT: Councilmember Robert Carroll, Chair
Councilmember Riki Hokama, Vice-Chair
Councilmember Alika Atay (out 3:17 p.m.)
Councilmember Elle Cochran (in 1:48 p.m.)
Councilmember Stacy Crivello
Councilmember Don S. Guzman (in 1:50 p.m., out 4:45 p.m., in 4:48 p.m.)
Councilmember Kelly T. King
Councilmember Yuki Lei K. Sugimura
Councilmember Mike White (in 1:51 p.m.)

STAFF: Carla Nakata, Legislative Attorney
Saumalu Mataafa, Legislative Analyst (LU-2(5), LU-64)
Leslee Matthews, Legislative Analyst Trainee (LU-2(5), LU-64)
Rayna Yap, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)

Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: William Spence, Director, Department of Housing and Human Concerns (LU-2(5), LU-64)
Paul Haake, Captain, Department of Fire and Public Safety (LU-2(5), LU-64)
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works (LU-2(5), LU-64)
Nolly Yagin, Engineering Division, Department of Public Works (LU-2(5), LU-64)
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel (LU-2(5), LU-64)

Seated in the gallery:

Michele McLean, Planning Director, Department of Planning

Tara Furukawa, Planner, Department of Planning

Livit Callentine, Planner, Department of Planning

Walt Pacheco, Radio Shop Communications Coordinator, Maui Police Department

David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel (LU-67)

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OTHERS: Nicole DeRego (LU-2(5), LU-64)
Joseph Aquino (LU-2(5), LU-64)
Stan Franco (LU-2(5), LU-64)
Ivan Lay (LU-2(5), LU-64)
Bruce U'u (LU-2(5), LU-64)
Craig Hirai, Executive Director, Hawaii Housing Finance and
Development Corporation (LU-2(5), LU-64)
Ken Takahashi, Housing Development Specialist, Hawaii Housing
Finance and Development Corporation (LU-2(5), LU-64)
Ben Lee, Clifford Planning and Architecture (LU-2(5), LU-64)
Lisa Rotunno-Hazuka, Archaeological Services Hawaii (LU-2(5), LU-
64)
Linda Schatz, Principal, Schatz Collaborative (LU-2(5), LU-64)
Darren Unemori, Warren S. Unemori Engineering (LU-2(5), LU-64)
Vince Bagoyo, Vince Bagoyo Development Consulting Group
(LU-2(5), LU-64)
Michael Munekiyo, Munekiyo Hiraga (LU-2(5), LU-64)
Erin Mukai, Munekiyo Hiraga (LU-2(5), LU-64)
Tyler Fujiwara, Traffic Engineer, Austin, Tsutsumi and Associates
(LU-2(5), LU-64)
Tom Welch, Attorney, Mancini, Welch and Geiger LLP (LU-2(5), LU-
64)
Rich Conte, Wireless Resources, Inc. (LU-67)
Pete Jaeger, Wireless Resources, Inc. (LU-67)
(5) additional attendees

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

CHAIR CARROLL: . . .*(gavel)*. . . Land Use Committee meeting of October 31st will come to order. I'm Councilmember Robert Carroll, Chair of the Land Use Committee. May I first request if anything, anybody has anything that makes noise, please turn it off or put it on the silent mode. With us this afternoon, we have the Vice-Chair of the Committee, Mr. Hokama.

VICE-CHAIR HOKAMA: Good afternoon.

CHAIR CARROLL: Kelly King.

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

CHAIR CARROLL: Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good afternoon, Chair.

CHAIR CARROLL: Alika Atay.

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COUNCILMEMBER ATAY: Good afternoon.

CHAIR CARROLL: And Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR CARROLL: Excused at this time are Elle Cochran who will join us later. All right. We have Jeffrey Ueoka, Corporation Counsel [sic]; David Galazin, Deputy Corporation Counsel for LU-67; Will Spence, Director of Housing and Human Concerns; Buddy Almeida, Department of Housing and Human Concerns; Michele McLean, the Planning Director; Tara Furukawa, Planner, Department of Planning; Rowena Dagdag-Andaya, Deputy Director for Public Works. We have Craig Hiraki [sic], Executive Director, Hawaii Housing Finance Development Corporation; and Ken Takahashi, Manager, HHFDC. For LU-67, we have Rich Conte on behalf of Sprint Wireless, Association Apartment Owners of Maui Lani Terraces. Our Staff, we have Rayna Yap, our Secretary; Legislative Analyst Samuel [sic] Maafa [sic]; Legislative Analyst Leslee Matthews; Legislative Attorney Carla Nakata; Dawn Lono, Hana District Office Staff; Denise Fernandez, Lanai District Office Staff; and Ella Alcon, Molokai District Staff. We have LU-2(5), Affordable Housing Project, Chapter 201H, Hawaii Revised Statutes, Hawaii Apartment . . . Wailuku Apartment Rental Housing Project; LU-64, District Boundary Amendment for Wailuku Apartment Rental Housing Project; LU-67, Conditional Permit for Sprint Wireless Telecommunications at 3740 Lower Honoapiilani Highway, Lahaina. For people giving testimony today, testimony will be accepted only on the agenda items. When you reach the podium, please give your name and identify yourself and if you represent any organization. Proceed.

MS. MATTHEWS: Good afternoon, Chair. Our first testifier in the Chamber is Nicole DeRego testifying on LU-2(5) and LU-46.

. . . BEGIN PUBLIC TESTIMONY . . .

MS. DeREGO: Good afternoon. I'm Nicole DeRego. I'm here on behalf of a single mom raising two kids. I'm in support of this. You know, it's a beginning, you know. We do need a lot more affordable rentals and affordable housing for us single parents. So, I am in support of this. Thank you.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR CARROLL: Thank you. Any clarification needed from the testifier? And Ms. Cochran has joined us.

COUNCILMEMBER COCHRAN: Thank you, Chair.

MS. MATTHEWS: Chair, next testifier is Joseph Aquino testifying on LU-2(5) to be followed by Stan Franco.

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CHAIR CARROLL: If you're the next one up, could you kind of go, move over toward the ramp over there.

MR. AQUINO: Aloha, Chair. My name is Joseph Aquino and I'm representing myself. I'm in support of LU-2(5). You know, this is what the people want – affordable homes and something that they can afford and raise their family here in Hawaii and on Maui. So, I'm in favor of this project.

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

MS. MATTHEWS: Chair, our next testifier is Stan Franco testifying on LU-2(5) to be followed by Ivan Lay.

MR. FRANCO: Good afternoon, Chair, Members of the Land Use Committee. I do have concerns about this project and others have expressed some of those concerns so I'm not going to talk about those. I think everybody has said the same thing that we need affordable rentals, we need housing. I've been a housing advocate for the last 30 plus years. But here's what my testimony is about. You know, we are being asked, as a County, to give exemptions to this developer and my question is, what do we get in place of those exemptions? What does the County, what does the people of Maui County get? So, I want to suggest three ideas and I don't know if this can be incorporated into this 201H application or not. But what I heard is that the restrictive affordability period is 30 years. I suggest go to 50 years. We had 50 years for the Front Street Apartments, they reduced it to 15 through a loophole and we've had all these problems with that development. But the people that went into that project believed that they had 50 years for affordability. I want to change this . . . recommend a change in this from 30 to 50. The second item is that I'm a little bit concerned because there are market units here that some of the units will be used for short-term rentals. We've had so much concern in this community, including myself, about a lot of homes being turned into short-term rentals and not having long-term rental homes for our people. So, I recommend that the Council say that all 324 rental units be kept for long-term rental use only instead of allowing for short-term rentals. Again, this is, I think, consistent with what people have been saying and what I believe should happen and it will build a community there because they won't have people that are visitors amongst the people that are living there. And the third thing is something that I'm not so proud about suggesting but I think I feel it in my heart and I think a lot of people on this island feel it in their heart. Legacy Partners are not from here. They're from the mainland. And we've had too many mainland corporations come in, build something, and then leave. So, I'm recommending that, at a minimum, Legacy Partners will commit to own and manage this development for a minimum of ten years. Now, their website says that they're an owned and managed company, so they manage their own, and they're very proud of their property management because they've received awards. So, I'm trying to make this concrete so that we can believe that we're not having an agency that or company that's coming in and just leaving after a short period of time. Thank you.

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CHAIR CARROLL: Any clarification needed from the testifier? Ms. King?

COUNCILMEMBER KING: Okay. Thank you for being here, Mr. Franco. Is there anything on the website of this company that leads you to believe that they've done this . . . they've owned and managed other properties that they've left after a short period of time?

MR. FRANCO: Nothing that I can . . . not on their website. You know, their website says that they have received awards for their property management. I think it's something that we kind of have, as local people in our hearts, we've seen it too many times that people come in say they're going to do certain things. When we give them all the approvals, they leave after a short period of time and then we get beholding on to that project and what will happen with the project. So, it's maybe, as I mentioned, it's not the most proudest recommendation that I can make but I think we should have some assurance that Legacy Partners will stay with us so that if anything happens in that project, that we can go back to them and say, we gave you all this exemptions so please do what you need to do to make this a good development.

COUNCILMEMBER KING: Okay. Thank you.

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

MR. FRANCO: Thank you.

CHAIR CARROLL: And Mr. Guzman is with us. Thank you, Mr. Guzman. Proceed.

MS. MATTHEWS: Okay. Mr. Chair, our next testifier is Ivan Lay to be followed by Bruce U'u. Mr. Lay is testifying on LU-2(5).

MR. LAY: Good afternoon. Good afternoon, Chair Carroll and fellow Councilmembers. I'm very honored to be in front of you and testifying on this project that is very much needed here on the island - affordable rentals, apartment rentals. There is a big need for this. There's a need out there. The expenses are really high to get anything else out there right now. There's competition and families and even single people coming over here. And our kids alone are having a hard time to find a place that's why they end up at our own house. We have to give them the ability to move out, get on their own, get their apartment, start their life, become the adults that they need to become and move on in their life, so they can purchase a home or try and save up to purchase a home while staying at these affordable houses. Traffic is an issue for here, right? If they're living close to the schools, the medical centers, the grocery stores, your pharmacies, if they're close to it, aren't we lessening the traffic? If they were further away, wouldn't we add to the traffic 'cause they'd have to travel in towards there? Right now, we can move these people to an area where they can actually bike to some places. The school might be a little far but it's closer than where they would have been normally. School congestion - it's there already. You guys talk about school congestion we have that problem already. Getting these kids closer to school does not increase the congestion. We already have that. So, let's move on with this affordable project, affordable apartments. We gotta step forward. We gotta . . . how many of you out here can actually say my grandkids

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are going to live on Maui? Not many, yeah. We'd like to have that security where you can say that. And the only way we can do that is we start affordability now. Thank you.

CHAIR CARROLL: Any clarification needed from the testifier? Ms. King?

COUNCILMEMBER KING: Yeah, I have a question. Thank you for being here, Mr. Ivey [sic]. So, what is the range of, you know, when you're talking about your kids, your grandkids, what is the range that you would see them being able to afford for a rental?

MR. LAY: Well, right now, an affordable is what 400,000 or 500,000 which means the husband and wife have to work at the same time just to have this house built. We have to make it where at least we can get back to old times where we have one parent working and one parent staying at home. There has to be . . .

COUNCILMEMBER KING: What would that range be like? What kind of rent would you expect to pay?

MR. LAY: Depending on what job opportunities are out there. And it all depends on our kids' desire on getting ahead themselves. I mean, it's easy to say we can go as low as we can but our kids themselves have to have high expectations on what they want to be. And with these high expectations, they get better jobs.

COUNCILMEMBER KING: Okay. But you don't have like a range that you would consider?

MR. LAY: No, I would hope that it would go down but when have we ever seen that?

COUNCILMEMBER KING: Right. Well, we're talking affordable so I'm just trying to get an idea of what is deemed affordable.

MR. LAY: Affordable would be like four to five, right?

COUNCILMEMBER KING: Four to five.

MR. LAY: Hundred.

COUNCILMEMBER KING: For a rental?

MR. LAY: Oh, for a rental.

COUNCILMEMBER KING: Yeah.

MR. LAY: Oh, boy, okay, for a rental, apartment rentals we're looking at probably 1,000 to 1,200.

COUNCILMEMBER KING: A thousand to 1,200?

MR. LAY: Yeah.

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COUNCILMEMBER KING: Okay. Thank you.

MR. LAY: Thank you.

CHAIR CARROLL: Anything further? Proceed.

MS. MATTHEWS: Mr. Chair, our final testifier signed up to testify is Bruce U'u testifying on LU-2(5).

MR. U'U: Aloha all. Good afternoon. Thank you for allowing me to testify. My name is Bruce U'u, lifelong resident of Maui; Field Representative, Carpenters Union. And had a mom here who spoke on saying she was a single parent and, you know, it was interesting is a, as I reflect, is that my mom got a house, low-income house in Paia under Elmer Cravalho's term. And she bequeathed the house to me. I'm a carpenter so I built her a house. We had land in Kuau from my grandparents, built her a house. So, I now have that house that the Council passed years ago. My son, by the way, that house I still have and with the equity that we gained in the house we bought a lot Upcountry and I will bequeath that house to one of my kids. My son who lives with me until recently has two kids of his own and he got the Kulamalu Affordable rentals up there and the question, I heard the question was what's affordable? Well, in comparison to the market, it's tough. My son was paying 1,200 for a bedroom with two kids and his girlfriend. And that bedroom just had a two-burner. And he thought, wow, you know, dad. I said, dude, you might as well just come home. He barely can make 'em. He's a lifeguard by the way. He's struggling with the rent right now but he's making it. He's smiling, again, I think the dignity that he feels overcomes the adversity that he goes through. And we're here to help so I'd like to see more of these get approved. I know we've been talking about affordable housing, we've been talking about low-income housing and when we do bring up housing, we bring up rentals. And here's an opportunity to make something happen. The problem at times with housing was the down payment. Everybody had hard times with down payment. Here's an opportunity again for get the guys or girls off their feet, let them spread the wings like my son. Let him become his own individual. I testified earlier that he couldn't grow up under my roof. It was hard, and so I love that part, that satisfaction as a dad, hoping . . . I testified at Kulamalu and unknowingly my son got 'em. That gave me so much satisfaction, so I like bequeath that to other families on Maui. I hope you guys support this project. Aloha everybody. Happy Halloween!

CHAIR CARROLL: Any clarification needed from the testifier?

COUNCILMEMBER KING: Can I...yeah, thank you.

CHAIR CARROLL: Mr. Guzman followed by Ms. King.

COUNCILMEMBER KING: Oh.

CHAIR CARROLL: Ms. King. False reading over there.

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COUNCILMEMBER KING: Okay. Thank you. Thank you for being here, Mr. U'u.

MR. U'U: Thank you.

COUNCILMEMBER KING: So, I just wanted to ask the same question because you mentioned that your son was renting for 1,200 and that was not affordable?

MR. U'U: Uh-huh.

COUNCILMEMBER KING: So, . . .

MR. U'U: Well, 1,200 . . . he was by himself. Him and his two kids at 1,200 was hard.

COUNCILMEMBER KING: Okay.

MR. U'U: It was hard.

COUNCILMEMBER KING: Because these are rentals and they're kind of in that range and higher.

MR. U'U: So, but if you give 'em a house, I will say he rented a bedroom. I don't think that gives you too much dignity renting in a room of four rooms, you're renting a bedroom at 1,200. I think this part could offset when you get your own place you can call home, you know. I think . . . and he's living it now, right, so I can see the difference in him now.

COUNCILMEMBER KING: Okay. So, you would feel that that would be affordable if it was a whole apartment, I mean, they're apartments so if it was a whole apartment that would be affordable?

MR. U'U: I would say that's doable.

COUNCILMEMBER KING: Okay.

MR. U'U: Definitely I'd say it's doable. That's a fighting chance. And that's what I like give my kids. I like give 'em one, and our kids, I like give 'em a fighting chance.

COUNCILMEMBER KING: Okay. Thank you.

MR. U'U: Thank you. Aloha.

CHAIR CARROLL: Any further clarification needed from the testifier?

COUNCILMEMBER COCHRAN: Chair? Chair?

CHAIR CARROLL: Ms. Cochran?

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COUNCILMEMBER COCHRAN: That's okay. I'm right in front of you. Good afternoon, Mr. U'u. Thank you for being here.

MR. U'U: Good afternoon.

COUNCILMEMBER COCHRAN: Yeah, I think the question is about the word affordable, and in reference to your son I think too 'cause I'm looking up the number ranges of what rentals they're saying are going to be for this project. And so like, at the 100 percent \$1,500 is what the rent is looking to be for a one-bedroom.

MR. U'U: Uh-huh.

COUNCILMEMBER COCHRAN: Is that affordable? It's not going to be affordable according to your numbers currently that your son is paying for a home.

MR. U'U: You know, well, my son had a bedroom at 12 and he made it work. A bedroom. He didn't have a living room. Now, we're talking a cramped space with one window. And now he has one and I don't know what he's paying now. I should have asked 'em what he's paying now, right now but that is an opportunity, to me, that I see in comparison to what we're facing the market, I consider that a huge discount. I see no one else out there with affordable rentals in the market units that has none. I think it's exhausted all the . . . I'm putting my house up to rent and I'm going to rent it, I give you an example. And I'm trying to do it . . . I'm going long-term and the market is crazy out there. I'm going to rent 'em to my niece. I'm looking at renting to my niece so you know I'm going to be short changed on comparison to the market but that's discounted. I wouldn't call it market, but I'll call it discounted definitely.

COUNCILMEMBER COCHRAN: Okay. Because statistics show that a person earning \$15.00 an hour can afford \$860.00 a month. And all of these price ranges are grand, minimum grand and up. So, already I mean I'm looking at this the word "affordable" really isn't equating to what our workforce working class can afford. So, well let's, you know, hope for the best here.

MR. U'U: Like I said, my son was renting market and he couldn't pull it off. So, he came home with me for four more years. So, thank you guys for your time. Aloha.

CHAIR CARROLL: Thank you. That was our last testifier?

MS. MATTHEWS: Yes, Mr. Chair. That's all.

CHAIR CARROLL: I'm gonna check with the District Offices. Hana, do you have anybody waiting to give testimony?

MS. LONO: Good afternoon, Chair. This is Dawn Lono at the Hana Office and there is no one waiting to testify.

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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.

CHAIR CARROLL: Thank you. Lanai, you have anybody 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. Members, having no one else in the Chamber and the District Offices waiting to give testimony, if there's no objection, we will close public testimony.

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Public testimony is now closed.

. . .END OF PUBLIC TESTIMONY. . .

CHAIR CARROLL: And Chair White has joined us. Thank you, Mr. White. Members, because the first two items on our agenda today relate to the same project, the Chair will call on both at the same time.

ITEM LU-2(5): AFFORDABLE HOUSING PROJECTS (CHAPTER 201H, HAWAII REVISED STATUTES) (WAILUKU APARTMENT RENTAL HOUSING PROJECT)

ITEM LU-64: DISTRICT BOUNDARY AMENDMENT FOR WAILUKU APARTMENT RENTAL HOUSING PROJECT (CC 18-303)

CHAIR CARROLL: LU-2(5), Affordable Housing Projects (Chapter 201H, Hawaii Revised Statutes) (Wailuku Apartment Rental Housing Project). LU-64, District Boundary Amendment for Wailuku Apartment Rental Housing Project. We are to consider the proposed application for the development of the proposed Wailuku Apartment Rental Housing Project, pursuant to 201H-38, Hawaii Revised Statutes, on property identified for real property tax purposes as tax map key (2) 3-5-001:064. The application, prepared for Legacy Wailuku LLC, is for the development of 195 affordable units and 129 market-rate units on approximately 14.4 acres bordered by Waiale Road, East Kuikahi Drive, and Honoapiilani Highway, Wailuku, Maui, Hawaii. The proposed development will include nine residential structures, one recreation and leasing center, four outdoor play areas, a pool, and community center. The Committee is in receipt of a revised proposed resolution which amends the exempt list for clarity, incorporates the Committee's revisions to the exemption regarding parks and playgrounds, and attaches proposed modifications for the project. The Council's 45-day deadline to act on the project is November 18, 2018. If the Council fails to act by that deadline, the project will be deemed approved as submitted. Members, the Chair would like to request that

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Linda Schatz of Schatz Collaborative be designated a resource person pursuant to Rule 18(A) of the Rules of the Council.

COUNCILMEMBER SUGIMURA: No objections.

CHAIR CARROLL: Ms. Schatz is a principal consultant for the developer. Ms. Schatz has a number of consultants here with her this morning, including project development and planning consultants, architects, engineers, landscape architect, archaeologist, and attorneys. I'd like to ask that she identify for the record and, if the Members have no objections, that they should all be designated as resource persons pursuant to Rule 18(A) of the Rules of the Council as having special expertise on aspects of this project. Any objections?

COUNCILMEMBERS: No objections.

CHAIR CARROLL: And I'd like to call her forward to introduce these people.

MS. SCHATZ: Thank you, Chair and Councilmembers. I'll list the consultants – Vince Bagoyo from Bagoyo Development Consulting Group; Michael Munekiyo from Munekiyo Hiraga; Erin Mukai from Munekiyo Hiraga; Ben Lee from Clifford Planning & Architecture; Darren Unemori from Warren S. Unemori Engineering; Tyler Fujiwara from Austin, Tsutsumi & Associates; Lisa Rotunno-Hazuka from Archaeological Services Hawaii; myself from Schatz Collaborative; Thomas Welch from Mancini, Welch & Geiger; and of course here today is also HHFDC – Craig Hirai and Ken Takahashi from Hawaii Housing Finance Development Corporation.

CHAIR CARROLL: Thank you. Members, we're going to begin with the Fire Department. Fire Department, could you please come forward? And if you could identify yourself at the microphone, and if you could explain your Department's comments on the correspondence dated October 22nd, 2018, relating to Fire Code fee exemptions.

MR. HAAKE: Thank you, Chair. Captain Paul Haake from the Fire Department. In regards to the plan review fees, we just want the Committee to know that our plan reviewers two of 'em are funded by the fees collected for plan review. And that's all we want to share right now.

CHAIR CARROLL: Anybody have any questions for Fire?

COUNCILMEMBER SUGIMURA: Mr. Chair?

CHAIR CARROLL: Yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Just for clarification. So, what Captain Haake is saying that they're opposing waiving the fees, right? 'Cause on our spreadsheet it says that total savings on County fees and/or charges would be \$61,110. So, you're opposing that 13, I mean, \$313.00 per unit . . . per unit savings.

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MR. HAAKE: Thank you. I'm not sure what the breakdown is per unit and I'm not sure we're opposing the exemption from the fees. We just want you to know that our plan reviewers their salaries are funded by the plan review fee.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR CARROLL: Anything further from Fire?

COUNCILMEMBER COCHRAN: Chair? Chair?

CHAIR CARROLL: Oh, okay, Ms. Cochran followed by Mr. Atay.

COUNCILMEMBER COCHRAN: Thank you, Mr. Haake. And so, you have the letter from Fire Chief Thyne is respectfully opposing the option to have us waive the fee and the description and justification is what you explained so that's awesome. And so, should this occur I'm taking it that the amount would have to be given to you folks out of General Fund, I guess, rather than it becoming via this fee and funding source in order to pay for your plan review . . . plan reviewers? Because it's paying for what their salaries and what is that what it gets paid to?

MR. HAAKE: So, the plan review fees are collected in a fund and that fund is used to pay for the salaries for our plan reviewers. And, you know, if we don't collect the fees for this then, in essence, they're not paying for their plan review. And so, the job of the plan review for this project would not be funded by their project. Would be funded by the fees collected for other projects.

COUNCILMEMBER COCHRAN: Okay. So, are . . . oh, Mr. Ueoka . . . I guess Mr. Ueoka has something to say.

MR. UEOKA: Thank you, Chair. Just quick clarification. I believe you'll feel the effects in the next fiscal year because you won't have to do a budget amendment to pay for these guys this year because it is a fund that pays it forward, in a sense, where you already have the money that you guys appropriated to pay for FY '19 to pay the salaries. So, it would probably be in FY '20 where you'd see the occurrence but for FY '19 I don't believe Fire would need a budget amendment to pay for these two plan reviewers. It would be felt down the road . . . probably the next fiscal year if, if anything at all. Thank you, Chair.

COUNCILMEMBER COCHRAN: Okay. Thank you. So, all right, so it's not like your plan reviewers are going to go do this work and not get paid to do the work.

UNIDENTIFIED SPEAKER: No, no, no.

COUNCILMEMBER COCHRAN: Okay, but down the road, as Mr. Ueoka stated, the next FY perhaps there could be a shortage should they . . . anyways, okay. Just wanted clarification on that. Thank you for your time, Fire Department.

CHAIR CARROLL: Mr. Atay?

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COUNCILMEMBER ATAY: Thank you, Chair. Thank you, Mr. Haake, for being here. I just wanted clarification on the Fire Department's reviewing and involvement in interpreting the plans. There's a 300-foot long cul-de-sac and I'm questioning whether the Fire Department or fire trucks have that ability with large vehicles to do the turnaround in that cul-de-sac. Is that sufficient enough? You guys reviewed that? I didn't see any position on that.

CHAIR CARROLL: Fire?

MR. HAAKE: Thank you. Yeah, whenever there's long dead-end roads --

COUNCILMEMBER ATAY: Yeah.

MR. HAAKE: --we're required to have the turnarounds, so our trucks don't have to reverse all the way back out. And so, during our plan review process, that's one of the things that is addressed is the ability to turn our apparatus around without much difficulty. So, you know, not being intimate with this review but knowing that that's what we do, I would have to say that if the turnaround was approved by our office, by our plan reviewers, then it should be sufficient to turn the truck around.

COUNCILMEMBER ATAY: Thank you. Thank you, Chair.

CHAIR CARROLL: Anything further for Fire? Mr. Guzman?

COUNCILMEMBER GUZMAN: Chair, may I hear from the applicant in regards to the exemption for the fees and what the total amount that would be, specifically?

CHAIR CARROLL: Yeah, I was going to call the applicant now.

COUNCILMEMBER GUZMAN: Okay. Thank you.

CHAIR CARROLL: Ms. Schatz, could you please come down? You heard the concerns of Fire and the Members, could you please address your position?

MS. SCHATZ: Yes. Let me pull up our fee calculation. We did submit a value assigned to this exemption and I'm looking for it this moment. The current total savings in County fees and charges at this point that we are seeking is roughly about \$3 million. And per affordable unit it's about \$9,000 per affordable unit that will help subsidize the affordable component.

CHAIR CARROLL: Any questions from the developer? Mr. Guzman?

COUNCILMEMBER GUZMAN: Oh, thank you. Thank you, Ms. Schatz, for being here. Do you have the breakdown for the fire exemption specifically?

MS. SCHATZ: Yes, it's \$61,110.

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COUNCILMEMBER GUZMAN: Is that broken down per unit?

MS. SCHATZ: If I could ask one of my consultants who has the technical information to answer that particular question to come up, Vince Bagoyo?

CHAIR CARROLL: Proceed.

MR. BAGOYO: Thank you. The per unit savings is \$313.00 for the exemptions on Fire Code 16.04(C).

COUNCILMEMBER GUZMAN: Three hundred and ten dollars . . .

MR. BAGOYO: Three hundred and thirteen dollars.

COUNCILMEMBER GUZMAN: Thirteen per unit, okay. Thank you.

MR. BAGOYO: Sure.

CHAIR CARROLL: Any further questions for the applicant? None. Thank you. Members, there's been some concern about this. Is there anything further that anybody would like to bring up about Fire or the exemption? All right. We shall move on. Public Works, at the last meeting, your Department said it would like to recommend some traffic mitigation measures and your Department --

COUNCILMEMBER GUZMAN: Chair?

CHAIR CARROLL: --also had comments on proposed Exemption 2.

COUNCILMEMBER GUZMAN: Chair, I apologize. I was trying to ask one more follow-up question to Fire?

CHAIR CARROLL: Proceed.

COUNCILMEMBER GUZMAN: May I? Oh, thank you. So, in the past I've realized that we haven't . . . we've always granted this exemption, and this is the first I've heard that the monies go to the plan reviewers somehow appropriated to their salary. What did you guys do in the past when several other exemptions . . . this is not the first 201H. We've done several of them. So, I'm just curious why now are you informing the Council and making this an issue? I'm just curious 'cause this is literally the first time I've heard that this money was actually used for salary purposes.

MR. HAAKE: Thank you, Councilmember. I'm not exactly sure why it wasn't brought up previously, but you know when we were . . . we were asked about the exemption this time we did want you guys to know that that's where the salaries for the plan reviewers come from. It doesn't come from our normal operating budget. It comes out of the plan review fund.

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COUNCILMEMBER GUZMAN: Okay. Thank you, Chair.

CHAIR CARROLL: Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, we've done many projects over the decades and so, for me, this Chief, this Fire Administration has chosen to present it in this manner. But what the Captain has provided us today is what is in the County Code by ordinance. Okay. We take care of plan review fees for the Department of Fire and where those revenues go to support equivalent personnel for the Department's requirements of review of construction plans. So, that's by County law that's in the Code on how we use their fees to appropriate in the annual budget funding for positions as well as support requirements of the plan review operations. So, again, I just appreciate that this Chief chose this manner to remind us that there is impacts to exemptions especially. And he's just making us aware that this is one of the sources that pays for positions that review requirements of processing permits. That's all, Chairman. Thank you.

CHAIR CARROLL: Members, after the discussion, I'd like to entertain a motion to amend to remove the exemption from the Fire Code fees. The Chair will entertain a motion to amend Exhibit "B" of the proposed resolution approving with modification, Exemption 4, by deleting the phrase "16.04C, Fire Code," in line 2, and the word "fire" in line 4.

COUNCILMEMBER COCHRAN: Chair, so moved. So move, Chair.

CHAIR CARROLL: Moved by Ms. Cochran.

VICE-CHAIR HOKAMA: Second.

CHAIR CARROLL: And seconded by Mr. Hokama. Discussion? I brought this forward because there seemed to be some concerns.

COUNCILMEMBER SUGIMURA: Chair?

CHAIR CARROLL: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, I guess we're talking about what is the bigger picture, what is the impact of . . . if you do not do this, the cost is \$61,110 for the whole project of fees that the Department will not collect. So, I'm just wondering how much . . . I don't know if anybody here has that answer but how much is in that pot, so to speak, because they don't only do 201H projects. They do more projects than this. So, what is the total impact? I think we're looking at broad strokes, you know, larger than just this one project. So, what, how much is in that account and is there enough to pay for? How many 201H projects do we do, you know, what impact has happened with other projects that we've exempted in terms of paying for their wages and benefits?

CHAIR CARROLL: So, you would like to know the impact --

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COUNCILMEMBER SUGIMURA: Uh-huh.

CHAIR CARROLL: --of the exemptions that we've had on the other projects, how it has affected the Fire Department?

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR CARROLL: Fire, could you comment on that? Or are you able to comment on that? As long as the green light is on, it's on.

MR. HAAKE: Thank you, Chair. Thank you, Councilmember. You know, at this time, I don't believe I am able to comment on that impact. I'm thinking our Administration, you know provided this comment to keep you informed, you know, whether . . . and then the part about if a project merits qualify them for the exemption, we would, you know, rely on you guys to make that decision. We just wanted to let you guys know that this is what's involved when you do make your decision and future decisions. Thank you.

CHAIR CARROLL: Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. Yeah, it's a . . . I wouldn't say interesting, but I do understand, and I do appreciate the new, I guess, the new change in leadership in the Fire Department and them now taking on a stand on whether or not 201Hs should be exempt from the Fire fees. But I guess what I'm referring back to what Ms. Sugimura is trying to look at is, it does allow us on the Council floor to get a bigger picture if, in fact, these exemptions affect the Department in great detail. So, if this is the first time, I've heard of it and it's in the Code and now we have a new regime that wants to really stick to keeping their fees for the payment of their planners, I guess we need to know if this in fact does affect the Department because it's been ongoing for quite some time at least since I've been on the Council? So, that's important for us to know and to make a rational decision whether or not we should exempt this or not.

CHAIR CARROLL: Thank you, Mr. Guzman. Any further discussion to the motion? Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. My concern is we don't know what the balance in the fund is, so we don't know whether this is going to have any impact on the ability to cover the expenses that it's meant to cover. My concern is, at this point, I don't know how many other amendments are going to be put forth. This is a small one based on the total, but I'm concerned that what often happens in this Chamber is its death by a thousand cuts. And so, I'm not going to support this motion unless and until we get a sense of what, you know, what other proposals there might be. If you can tell us that this is the only one, then I may support it. But if I can't have some assurances that this is the only one or there's not going to be more than maybe one or two others of fairly insignificant measure, then I simply can't support this at this time. If it doesn't . . . if the funds still has plenty than it's going to get, it gets a lot of money from a lot of private developers that are not generating affordable housing and so I'm . . . yeah, I support the Department, but I also feel that we need to make sure that we're not adding significant

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costs. At this point, I don't know what we're adding so I won't support it. Thank you, Chair.

CHAIR CARROLL: Any further discussions on the motion on the floor? Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, I think the discussion has been healthy. I think that is part of our due diligence requirements are so I, for one, appreciate this discussion currently. But to help this be moved along, I right now would ask since I'm part of that motion, you know, for Ms. Cochran and I to maybe withdraw, allow you to finish the other Departments, so we get a sense of what may be actually propose and then we can get into decision making, Chairman. 'Cause I'd like to know what Public Works is going to recommend to us in modifications and whether or not we're going to make certain adjustments and agree to those revisions. So, I can appreciate Mr. White's request. I accept it as a nice request and, you know, I would ask maybe Ms. Cochran if we'll help move it along and we'll withdraw our motion and let you finish up with at least Public Works first to get that sense, Chairman.

CHAIR CARROLL: Thank you, Mr. Hokama. Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair? Yeah, that's fine but I want to revisit this. So, it's not off the table. I mean, yeah, I will withdraw this initial motion, but I definitely want to return to it.

CHAIR CARROLL: And we can come back to it at any time.

COUNCILMEMBER COCHRAN: Okay. Very good.

CHAIR CARROLL: The motion has been withdrawn. Any objections? Hearing none. We shall now proceed with Public Works. And thank you, Fire, for coming. Public Works, at the last meeting, your Department said that it would like to recommend some traffic mitigation measures, and your Department also had comments on the proposed Exemption 2 and suggested revisions to Exemption 5. Since you provided the Committee with your written comments relating to the two exemptions and five proposed modifications for the project, could you please go over your comments with the Committee, starting with your proposed revisions to Exemption 2?

MS. DAGDAG-ANDAYA: Good afternoon, Chair. Again, for the record, my name is Rowena Dagdag-Andaya and in the spirit of Halloween I am Rosie the Riveter, cultural icon of World War II strong women, and here with me today is Nolly Yagin. He is our engineer with the Department's Engineering Division, and we're here to answer any questions that you have and also to give you an update on the modifications that we are proposing for this project. I believe that a copy of our proposed modifications may have already been distributed to all of you. So, Chair, if you want me to start with some of these proposed measures that we are . . . we can start from there.

CHAIR CARROLL: Maybe you can start with two please.

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MS. DAGDAG-ANDAYA: Sure.

CHAIR CARROLL: Thank you.

MS. DAGDAG-ANDAYA: Chair, for the landscape planting and beautification, if you take a look at your handout the one dated October 31st, 2018, on the back on Page 2, it lists Exemption No. 2, relating to Maui County Code 12.24A Landscape Planting and Beautification. So, we are recommending the following language: *An exemption is granted to allow flexibility in the required number, spaces, and location of street trees along so we're requesting to delete [Honoapiilani Highway] but keep Waiale Road, and Kuikahi Drive. A conceptual landscape plan prepared by the landscape architect Russel Y. Gushi and attached hereto as Exhibit "1" shall be reviewed by the Department of Public Works strike out [and the State Department of Transportation] prior to final approval.* So, the Department is . . . our jurisdiction is limited to just County roads which is why we're recommending the deletion of Honoapiilani Highway, and also taking out reference to State Department of Transportation because we can't, we don't normally act on their behalf or make decisions on their behalf. So, this is the suggested revision for Exemption No. 2.

CHAIR CARROLL: Thank you. And Members, any questions for Public Works? Ms. King?

MS. DAGDAG-ANDAYA: Chair, may I make one correction? I think earlier Attorney Ueoka said that I said the word spaces but it's actually species in line 1.

CHAIR CARROLL: Okay. Thank you. Ms. King?

COUNCILMEMBER KING: Thank you. Okay, so does this mean that there's still a requirement along Honoapiilani Highway that the DOT has to deal with?

CHAIR CARROLL: Ms. Dagdag?

MS. DAGDAG-ANDAYA: Chair, I would defer to the DOT for their requirements.

COUNCILMEMBER KING: Okay.

MS. DAGDAG-ANDAYA: So, we're only limited to what we're required to review under 12.24A and the landscape planting.

COUNCILMEMBER KING: Okay. So, basically, it's almost saying the same thing. You're just specifying --

MS. DAGDAG-ANDAYA: Yes.

COUNCILMEMBER KING: --where those . . . the area is. Okay. Thank you.

CHAIR CARROLL: Mr. Hokama?

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VICE-CHAIR HOKAMA: Do we really want to just be so specific and name Mr. Gushi? I know he's a very good, very licensed, very capable landscape architect. But if he doesn't produce the plan then it's so specific, I will say that disqualifies it if he doesn't do it.

MS. DAGDAG-ANDAYA: The Department doesn't have any concerns if you want to strike out reference to a specific landscape architect. I think . . .

VICE-CHAIR HOKAMA: I thought you folks were requiring it this way. No?

MS. DAGDAG-ANDAYA: No, we don't necessary . . . it was the applicant's proposal. So we --

VICE-CHAIR HOKAMA: Okay.

MS. DAGDAG-ANDAYA: --amended their proposal. However, I mean if to provide greater flexibility we can change the language so that it doesn't make reference to a specific architect or consultant.

VICE-CHAIR HOKAMA: Okay, thank you. No, I didn't know it was from . . . I thought might be your language.

MS. DAGDAG-ANDAYA: No, sir.

VICE-CHAIR HOKAMA: Okay. 'Cause I would just be satisfied with a licensed landscape architect because we can go after the license if something screws up.

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

VICE-CHAIR HOKAMA: And debar the entity too.

CHAIR CARROLL: Anyone else have any comment? Mr. Guzman?

COUNCILMEMBER GUZMAN: Chair, I would agree with Mr. Hokama too because if what so happens if Mr. Gushi passes away, you know, the project may not move forward. It could happen, and it could nullify this, so I'd rather have the flexibility of just putting a licensed architect language in there.

CHAIR CARROLL: Any further questions for Public Works? If not, I'm going to ask the applicant if they would come down and give comments?

MS. SCHATZ: Chair, we have no issue with that. We're fine with making that adjustment.

CHAIR CARROLL: Thank you. All right, Members, if you could proceed and we'll move on. When we are finished with all of these . . .

MS. NAKATA: Excuse me, Mr. Chair.

CHAIR CARROLL: Yes.

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MS. NAKATA: Could Staff please clarify, so would it still contain the reference about an attachment as Exhibit “1”? So, it would say . . . would it now say, the conceptual landscape plan prepared by a licensed architect attached hereto as Exhibit “1” shall be reviewed by the Department of Public Works prior to final approval?

CHAIR CARROLL: Ms. Andaya?

MS. DAGDAG-ANDAYA: Chair, again, this is another bit of language that was prepared by the applicant. But if you want to remain consistent and provide that flexibility, then we can strike out the words “attached hereto as Exhibit ‘1’”, and then that way the language or the sentence reads: *A conceptual landscape planting plan prepared by a licensed landscape architect shall be reviewed by the Department of Public Works prior to final approval.* Okay.

CHAIR CARROLL: Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, I prefer to retain the language for couple of reasons. One, as we note in our approvals of similar type of projects, we’re approving it as we are understanding in its presentation and conceptual plan to us as it . . . and that’s what we’re approving. So, if we have plans on that helping us make that decision, better be part of the attachments because that’s part of the basis of approval is on the conceptual ideas and designs, they have shown us to approve the project that needs to be a part of the record. Thank you, Chairman.

CHAIR CARROLL: Any further comment? All right. Exemption 5 and then we have five additional modifications that Public Works has proposed. Would you like to proceed on that, Ms. Andaya?

MS. DAGDAG-ANDAYA: Chair, I believe there’s also another letter prepared by our office to the Committee and if I could just have a minute just to gather that, please?

CHAIR CARROLL: We’re going to call a two-minute recess. Please remain seated. . . .(gavel). . .

RECESS: 2:28 p.m.

RECONVENE: 2:29 p.m.

CHAIR CARROLL: . . .(gavel). . . Ms. Andaya?

MS. DAGDAG-ANDAYA: And Chair, yes . . . going to proposed Exemption No. 5 with respect to Maui County Code 16.26B Building Code, Section 16.26B.3600, Improvements to Public Streets. We have the . . . in our letter dated October 24th, 2018 to the Chair and this Committee, we propose the following language to read: Exemptions are granted from this section to allow: a) overhead utility lines; b) sidewalks, bicycle lanes, swales (in lieu of curbs and gutters) along Kuikahi Drive and Waiale Road, as indicated on

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Exhibits “2A” and “2B”; c) pavement widening along Kuikahi Drive and Waiale Road as indicated on Exhibits “2A” and “2B”; and d) land dedication to widen the Kuikahi Drive right-of-way as indicated on Exhibit “2A”. Initially, we had concerns over the previous language because we wanted to make it clear what the applicant’s request for exemption was. And the listing that we provide in our letter dated October 24th makes it clear as to what they’re asking for. For exemption, the exemption for overhead utility lines, our Code requires that any new development puts in underground utilities. And, you know, this is, I know . . . my understanding is this is something that Maui Electric has supported the undergrounding of utility lines but there have been other projects, other 201H projects that have asked for exemption from that part of the Building Code or Subdivision Code. And so, you know, I think this body has allowed that exemption in the past. For Exemption b) sidewalks, bicycle lanes, and swales so what the applicant is asking is that they do put in sidewalks, bicycle lanes, and swales in lieu of curbs and gutters. There had been a question at the last meeting as to, you know, do we need, you know, is it safer to have a curb or gutter as opposed to an at-grade sidewalk. And, you know, there . . . I have Nolly here who can explain a lot more about, you know, why we require them in urban settings. But I also wanted to point out that there are other areas that have grass swales in addition to a sidewalk. So, in the past, we’ve . . . the Department has allowed swales in combination with a sidewalk for development projects. What’s nice about this project, if you take a look at the attachments, it shows that next to the bicycle lane they have this raised kind of like an asphalt curb and then the grass swale begins and then you have the sidewalk. On the other side of the street, on the Foodland side of the street, you have the bicycle lane, there’s no . . . and then you have a curb and then the sidewalk. There’s no like grassed swale that provides that additional buffer. So, I think you actually have a ten-foot buffer if you count the bicycle lane and the swale before it hits the sidewalk. So, in some communities, you know, that’s acceptable. You look at Puunene Avenue, you have grass swales and then sidewalk. And portions of, other portions of Kahului have that as well. And for us, for the Department, you know, what they are providing is a big improvement from what’s there right now. And because they’re providing a safe place to walk or a sidewalk or a paved, you know, somewhat paved area for people to walk on, to us, that’s minimally acceptable. And I think that’s all that I have.

MR. YAGIN: Good afternoon, Chair. Yeah, from the last meeting, I understand that there was some concern about not having a curb and gutter next to the sidewalk. You know, typically the curb and gutter is there as a drainage, as a way of routing drainage runoff. Some people do look at it as a way of protecting the sidewalk but it . . . or pedestrians but it does have . . . so, in a way, it does have the ability to redirect errant vehicles but only up to a certain speed. I think what’s more important is giving the ability for vehicles that run off the road some space to recover, if they need to. And in this case, there is that six-foot bike lane and a swale so that does equate to about ten feet of recovery space. It allows the driver to recover and not hit anything and maybe even go airborne if they are a certain speed. So, in a way, to not have the curbs and gutters there with the pedestrians with the sidewalks at that far back, it can be considered safe. Thank you.

CHAIR CARROLL: Members, any questions or no, discussion? Mr. Hokama?

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VICE-CHAIR HOKAMA: Chairman, would you also allow other Public Works questions besides this specific curb and gutter component?

CHAIR CARROLL: Yes. You have the list over there. There's five different items...

VICE-CHAIR HOKAMA: Yeah. No, I understand that. But part of the improvements of course is with . . . my issue area is Kuikahi. We already get issues at Waiale, yeah, with crosswalks across Ka Hale O Ke Ola housing, MCCC areas, yeah. So, this propose a great concern to me enough I don't know whether, you know, give this _____ support. Any issues for ADA requirements regarding slope and grade?

MR. YAGIN: Thank you, Chair. The . . . regarding slope, typically the sidewalks they need to follow the roadway grade. And given the roadway grade already I don't believe it would hit that . . . it wouldn't comply with the minimum slopes required by ADAGG for accessibility. I think it's like 5 percent and only for a certain distance you need a landing space. This makes it . . . the existing slope makes it impractical too to try and hit those standards, those guidelines.

VICE-CHAIR HOKAMA: Okay. So, they would be in violation of the ADA, but because this is government, we're going to exempt ourselves?

MR. YAGIN: Yeah, you know, there is some language in the ADAGG that allows compliance to the maximum extent feasible. So, meaning that if you have a slope that say . . . like say Wailuku Heights, for instance, it's built on the side of a mountain, so you really can't design the sidewalks to be accessible. I mean, you can. There's a lot of money involved there. But you can declare that it is impractical to do so.

VICE-CHAIR HOKAMA: So, as far as this project is concerned, the slope is greater than normally allowed under ADA but we're going to exempt ourselves off?

MR. YAGIN: We don't . . . we're not exempting the slopes but there is language in the ADAGG that allows that the existing slope be accommodated. So, because they can't accommodate it with the existing road slope, it's actually acceptable.

VICE-CHAIR HOKAMA: I would assume it's acceptable for us as a Department but is it acceptable for the person that needs to use it, our disabled?

MR. YAGIN: Yeah, it's difficult especially in Wailuku Town where there is a lot of grade here. Towns like Kahului they're a bit more lucky just 'cause --

VICE-CHAIR HOKAMA: It's flat.

MR. YAGIN: --it's flat, yeah.

VICE-CHAIR HOKAMA: Okay. Well, thank you for your response, Mr. Yagin.

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MR. YAGIN: Thank you.

VICE-CHAIR HOKAMA: Chairman, thank you.

CHAIR CARROLL: Any further questions on this from Public Works? Corporation Counsel, do you have any comment?

MR. UEOKA: No, Chair, thank you.

CHAIR CARROLL: Thank you. All right, Public Works, you want to continue?

MS. DAGDAG-ANDAYA: Yes, Chair. If you'd like to go over the proposed modifications, No. 1 in your letter you had requested for the Department to please provide language for the additional mitigation measures for transportation in the area that your Department wishes to propose as stated at the meeting. And we have a number of modifications. And I'm going to refer back to the handout dated October 31st, 2018, starting with . . . we have five proposed modifications and starting with No. 1, *that Legacy Wailuku LLC shall prepare a Transportation Demand Management Plan and Report (hereafter referred to as the TDM) for the project for review by the Department of Public Works. The TDM shall be submitted to the Department of Public Works prior to the issuance of the project's first Certificate of Occupancy.* For the Committee members, a Transportation Demand Management Plan contains strategies for reducing the amount of vehicle trips from a project. The TDM also would provide estimates as to what the percentages for the number of vehicle trips that would be reduced. So, this is something that we don't typically require for many projects. In the past, the need for a TDM or the requirement of a TDM has always been through a condition. So, this is what we proposed that the applicant provide so that we get a better understanding of how their project, you know, how they're able to reduce the amount of vehicle trips from their development.

CHAIR CARROLL: Members? Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. What do you estimate the cost of such a study to be?

MS. DAGDAG-ANDAYA: Chair, we don't . . . Council Chair, we don't have that estimate but I believe that the applicant may have estimated that or has done research on how much such a plan would cost.

COUNCILMEMBER WHITE: Okay, thank you. Thank you, Chair.

CHAIR CARROLL: Did you want the applicant to comment?

COUNCILMEMBER WHITE: No, I'm sure they'll be coming up for a lot of other things, so I'll let them do it all at one time. Thank you.

CHAIR CARROLL: Any further comment?

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VICE-CHAIR HOKAMA: Chairman? Chairman?

CHAIR CARROLL: Mr. Hokama?

VICE-CHAIR HOKAMA: Thank you, Chairman. So, your proposal for us to consider this afternoon you're looking at this to be a modification, and to the 201H you want us to consider as conditions to the District Boundary Amendment? 'Cause I don't have a problem with either vehicle.

MS. DAGDAG-ANDAYA: Chair?

CHAIR CARROLL: Mr. Andaya?

MS. DAGDAG-ANDAYA: That was a question that we actually had, and I want to defer it to our Corporation Counsel because we weren't sure whether or not these modifications also had to be in the DBA, the District Boundary Amendment. But we did prepare these modifications and in the event the Committee wanted to, you know, we have no objections to adding this to a DBA, if needed.

CHAIR CARROLL: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I did speak with the Department about it, Mr. Hokama, and my advice to them was you can put 'em in both, either one is fine. I just thought it was easier to put 'em in the 201H modification since typically this body approves the with modification. So, there already is a document there so, but they will have to comply whether it's in this, whether it's in the DBA modifications in there, conditions or if it's in both. So, I just thought it would be simpler to put it in this document. Thank you, Chair.

VICE-CHAIR HOKAMA: Chairman, thank you. You know, I appreciate Corporation Counsel's comment. And I appreciate the Department's proposal. You know, I think if we can work with the applicant, I prefer this be part of the District Boundary Amendment because this ties into what we really need to understand the regional component of what we're trying to solve. Okay, 'cause I get it from both sides. I hear those that want the housing and I still hear those that live in the area that gotta live with all the impacts. So, I think this is some very good work we're going to do this afternoon, Chairman, but I think it should be part of DBA. Because when we look at the Planning Department's response to this very same thing, Ms. Choteau dated October 29, on her Page 4 in response to No. 7, which she's saying that this project will not necessitate unreasonable investment in public infrastructure or support services. I would kind of agree with that, but I think with this project and others from what we hear from existing Waikapu and other components of the Waiale-Wailuku area, and still recognize Waikapu's interest, I would say, Chairman, the Department should have been honest because I think this project will, not necessarily unreasonable, it's going to necessitate accelerated investment of the County. Okay. We're going to have to make decisions on whether we're going to expand and lengthen Kamehameha Avenue to what we had forecast in the '60s. We're going to need to see how we're going to connect because this project is

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going to impact Maui Lani and Kuikahi intersection. And what is the biggest factor for us right now that impacts, it's our regional park with activities. There is only one exit basically for that monster park, okay, and until we figure out additional road systems, including Kamehameha Avenue, we're going to be having great, great, great morning and afternoon issues that our people are going to be bitching to us about. Okay. And yeah, we're being asked to do a lot, Chairman, 'cause we just heard today. An approval says the County is willing to forfeit \$3 million minimum. Okay, minimum three million from our side. So, I think we're doing our part in this, but I will not ignore the need of us making sure that the existing components be discussed and understood how we're going to have to pay for that. Okay. Because this project is not going to contribute to that road project. They will not generate enough revenues, I can tell us that now, we know that as a fact, Chair. So, we're going to need to take that money from someplace else to build this road system too so this regional issue. Let's just be real and upfront, okay. We can pass this but let's be ready to accelerate construction and CIP and what it takes to pay for it, Chairman. Thank you.

CHAIR CARROLL: Ms. Andaya, you had something else to add?

MS. DAGDAG-ANDAYA: Chair, if there are no, any other questions on Modification No. 1, we can move on to No. 2?

CHAIR CARROLL: Members, I think we need to finish with No. 1 before we go down. These are the recommendations that they have, if we wish to adopt them or not. I'm going to go over there and ask for a motion and we'll put it on the floor, and we need to work through one through five.

VICE-CHAIR HOKAMA: We can do all five one time, Chairman, fine with me.

CHAIR CARROLL: I'm sorry?

VICE-CHAIR HOKAMA: You want to do all five one time?

CHAIR CARROLL: We could but it seems like that might get a little difficult in the discussion portion if we . . . I'll tell you what . . .

COUNCILMEMBER WHITE: Chair?

CHAIR CARROLL: Do we have any consensus on No. 1? Is there a consensus if that is an --

COUNCILMEMBER WHITE: No.

CHAIR CARROLL: --appropriate one?

COUNCILMEMBER WHITE: No.

CHAIR CARROLL: No consensus.

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COUNCILMEMBER WHITE: Again, Chair, if you don't mind, I'd like to go through all five and then ask the . . .

CHAIR CARROLL: And then we come back?

COUNCILMEMBER WHITE: And then ask for what the costs are?

CHAIR CARROLL: If there are no objections, we'll go through all five and then we'll come back and vote. All right, we'll go to No. 2, please?

MS. DAGDAG-ANDAYA: Chair, and No. 2 is, *that Legacy Wailuku LLC shall analyze and evaluate the Waiale Drive-Kuikahi Drive signalized intersection and submit a preliminary optimized timing plan for review and implementation by the Department of Public Works when the development reaches the threshold of 50 percent occupancy. The parameters for the traffic data collection needed to perform the optimization study shall be provided by the Department of Public Works.* And I just want to make a note that Items 2 or Modifications 2 and 3 go together because we're requesting that a preliminary optimized timing plan be provided in Modification 2 when the development reaches a certain threshold. And then No. 3 states: *That a final optimized timing plan based on final project trip generation shall be submitted within 180 days after the issuance of a temporary Certificate of Occupancy for the final or ninth apartment building to be constructed on the property.* So, Chair and Committee, Items 2 and 3 would allow the Department to work with the developer in studying the intersection at Waiale and Kuikahi Drive. That intersection is currently under our control, so we also maintain the traffic signals there. And getting a good understanding of what the, you know, the optimized, optimal timing plan would help the Department and that's the reason why that we're asking for this modification. Now, in No. 3, we ask that the final optimization or optimized plan be submitted 180 days after temporary CO. Basically, we're saying that after, you know, we can issue a temporary CO and then within that six months we'd like to be able to get a final or optimized, final optimized timing plan just so that we get a good understanding of how the, at full occupancy, how that project affects, you know, trip generation from full build-out would affect that intersection. So, again, 2 and 3 go together.

CHAIR CARROLL: Thank you. Any comment on 2 and 3? Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. The County has lots and lots of intersections. Who does the studies? Who does these studies and say the intersections that you control in other parts of Kahului? Are those . . . are payments for those studies requested by the private landowners if there's no development going on and there are challenges with the intersection?

MR. YAGIN: Chair, our Department actually looks at, reviews the timing at our existing intersections and we, once we're able to do traffic counts typically that's when we'll do some adjustments on the timing. So, we do it ourselves. Yeah, you're right, when there are larger developments then we'll rely on those developments that impact those intersections to come in but typically we'll take care of it ourselves.

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COUNCILMEMBER WHITE: And what is the general cost of the Department doing so itself?

MR. YAGIN: The counts are the one that are the biggest ticket item. The counts roughly two-hours worth of staff of time or consultant time. And as far as running the analysis itself, maybe less than an hour. But the biggest cost is the data collection. Typically, for an intersection, we can spend, if we hire a consultant, we're probably looking at about 3 to 5,000 per intersection.

COUNCILMEMBER WHITE: So, for . . . you said two hours of work?

MR. YAGIN: Well, somebody actually has to stand out there or sit out there and count the cars for two hours in the morning, two hours in the afternoon. That will give us an idea.

COUNCILMEMBER WHITE: For just one day or multiple days?

MR. YAGIN: Like a typical day so middle of the week. Yeah, one time just to get a feel for what the average traffic is like.

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

CHAIR CARROLL: Any further comment? One, two and three. Ms. Cochran?

COUNCILMEMBER COCHRAN: I'm kind of wondering one, two and three and four, so a TIAR would generally take care of all of these, right? But this didn't go through that. Is that why these modifications are being suggested?

MS. DAGDAG-ANDAYA: Chair?

CHAIR CARROLL: Ms. Dagdag?

MS. DAGDAG-ANDAYA: So, No. 1, the TDM we're asking for that, we're asking for the optimized timing plan – the preliminary and a final, and we're also asking for No. 4, a study at Kaohu and Waiale Drive. So, those three will kind of lead into No. 5, which is an updated traffic assessment report. Right now, they have a current study done, the traffic impact assessment report but what we are asking the applicant to do is also provide an updated one once they have their final CO. So, all of the information gathered in one, two, three and four will give, will provide information for No. 5.

COUNCILMEMBER COCHRAN: Okay. I just assumed that's what's included in our No. 5. No? I guess not.

MS. DAGDAG-ANDAYA: Chair? Not necessarily because the current TIAR has language in there about transportation demand management but it didn't offer, I don't think it offered any strategies. So, we're asking for like a separate report that would indicate what the applicant would encourage at their project to reduce vehicle trips. You know, we did meet with the applicant after the last meeting and they've had experience in this

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area with other projects in other communities where they've offered things like rideshare program. We've also seen things like an organized walking school bus for the kids that live in the development. And there may be some parking, you know, solutions. I can't say exactly what those strategies would be but getting an idea of what their strategies that they want to do would be very helpful.

COUNCILMEMBER COCHRAN: Okay. And a follow-up, Chair? So, are any of these going to assist I think Mr. Hokama was alluding to the cumulative effects of all the other projects either coming online or soon to be possibilities of along Waiale or any of the roads in that vicinity? You know, looking at the overall rather than piecemeal'ing this versus the, you know, is that involved here for them to be persuaded or, you know, urged to work with other developers and to caution, look together at the overall impacts of each other's impacts?

MS. DAGDAG-ANDAYA: Chair? I think that can be answered with No. 5 and also with No. 4. So, maybe what I'll do is I'll just go through 4 and 5 and then I can, we can answer that question that you had. So, Item No. 4, the modification states: *That Legacy Wailuku LLC shall conduct a study of geometrics, traffic controls and resulting vehicular movement patterns at the Kaohu Street-Waiale Drive intersection to identify opportunities for optimizing traffic flow through this intersection. Such studies shall be completed and submitted to the Department of Public Works within 180 days after the issuance of a temporary Certificate of Occupancy for the final (ninth) apartment building to be constructed on the property.* So, just to go over where Kaohu Street-Waiale Drive intersection is, it's the one at the bottom where our baseyard, our Highways' baseyard is located. Right now, you have an all-way stop and, in the mornings, that intersection gets backed up because you have our truck traffic from our baseyards because not only Public Works is there. You have Environmental Management as well, all the refuse trucks there. And then you have school traffic there, you have people getting to work and other places. This study will help us get a better understanding of how we can optimize traffic flow through that area because it does get backed up. It's pretty . . . pretty long, I mean, in both ways from the St. Anthony side and the cemetery side. So, that's one area that we're looking at and so combined with Kaohu Street-Waiale Drive we also have improvements on the STIP right now for Waiale and Waiinu intersection improvement there. And I think we've been working with Maui Lani to get that intersection improvement in motion. I believe there's another intersection at Olomea where the cemetery and the prison are, you know, next to each other. So, there's that other developer contribution I think from Kehalani. You know, there's also planning currently being done by our Department with respect to multi-modal transportation. We had a study done last year with our consultant, SSFM, and they've done a preliminary study on pedestrian trips, bicycle trips, and what kind of improvements can be made there to encourage multi-modal transportation. So, all of that will . . . all of that information is going to be good, good information for us to develop a regional plan for the area and address some of those concern about traffic congestion and how it is we plan for the future. So, in addition to No. 4, we also are asking that for No. 5: *That Legacy Wailuku LLC provide an updated traffic assessment report to our Department for review prior to the issuance of the final Certificate of Occupancy for the final (ninth) apartment building to be constructed on the property.* So, I think the next

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part provides information on what this updated traffic assessment does. This report shall provide information on the development's actual motorized and non-motorized traffic generation versus projections in the original traffic report. So, we're asking them to take a look at the motorized vehicular trips and non-motorized. So, we're looking at pedestrian, bicycle. Okay. We're also looking at level of service at the project's access points along Kuikahi and Waiale Drive or Waiale Road and adjacent intersections. Mitigation recommendations having a rational nexus to the project, we're asking them to take a look at that as well. The outcomes of the TDM plan after implementation and we're also asking that the updated report recommend any additional transportation improvements for future Capital Improvement Program and planning purposes. So, that's what we're asking for in Modification No. 5. And I think that's what, you know, that last part about recommending any additional transportation improvements for future Capital Improvement Program and planning purposes, that . . . I mean, that's going to be really key for us in the Department.

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: Thank you. Thanks for running over the modifications. The last three are required after Certificate of Occupancy so what's your experience? Basically, you're trying to get something from them after the fact, so what's your experience with the success of that? What if it doesn't happen, you know, there's the consequences. How do you make sure that something happens after the final Certificate has been authorized?

MS. DAGDAG-ANDAYA: Chair? So, you know we had a project out in Wailea recently and on Wailea Ike Drive and what we did was we didn't have final occupancy. We provided a temporary Certificate of Occupancy until they were able to get their crosswalk designed and constructed. So, I think at this point, the developer has already been able to construct that crosswalk and get their final CO. So, there's that one project that I'm aware of. I don't know if . . . I can ask Nolly if he has any but, yeah, that's one of the reasons why we have temporary CO listed for the other modifications here in our list. That information helps us, helps the applicant build on their updated traffic assessment report.

COUNCILMEMBER KING: Okay. And then a temporary CO . . . what's the difference between a temporary CO and a final CO? You can't move in until you get the final?

MS. DAGDAG-ANDAYA: Chair? No, you can move in. It's just that you won't be able to get final CO, final occupancy.

COUNCILMEMBER KING: So, they can move in, they can start paying rent and all that but is there like a certain date by which you have to have the final CO or things reversed?

MS. DAGDAG-ANDAYA: Typically, we've . . . no, we've requested 12 months for them to get their final CO.

COUNCILMEMBER KING: Okay. But it's a request?

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MS. DAGDAG-ANDAYA: It's a . . . you know we've . . . for other projects yeah, it's a request. And we've been able to successfully work with the applicants to obtain their final CO for their projects.

COUNCILMEMBER KING: Okay. Thank you.

COUNCILMEMBER SUGIMURA: Chair?

CHAIR CARROLL: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. I like this discussion as I think part of the concerns from . . . that we've heard from the community was transportation and the impact. And I gather then what Public Works has just shared is to help mitigate some of the concerns that we heard from the community and the impact along the way to study the impact that the project will create. And the broader perspective, which we all know, this area which is allowed to have this development, you know, not only this but other . . . I'm just looking at the impact of other projects to this. Will your studies then analyze that also?

MR. YAGIN: Chair, so just like it had districts so what we looked to get out of the studies that we're asking for, yeah, so when the original TIAR was done everything is assumptions, projections that sort of thing. What we're looking to get out of these updates and these studies are actual . . . what the project actually generates, and what are the real impacts that they . . . what are the real impacts of the project – how many vehicles that they actually generate out of their site or entering their site. We're also asking for non-motorist data because we just we don't have a good feel for what these projects do. Once we have that, then we can use the actual data to do, to look at their new timings, any actual projects that we can implement in the area to help because yeah, typically, if we just go on projections, sometimes these projections don't really fit our conditions here. And so, that's what we hope to get out of this updated traffic report is real numbers that we can work with.

COUNCILMEMBER SUGIMURA: If I could, Chair, tied to that then for the other projects that are going on in that area I don't remember this particular kind of reports being asked by the project that we just approved. But is this something that you typically will be gathering data from the other projects, like Maui Lani and everybody else that kind of uses that same roadways? So, I'm just trying to look at the total traffic impact versus just this one project because if we just minutely look at this, which is before us, it is, you know, basically important but, as you know, there's other projects coming up, so it can't be only this one project that has traffic impacts.

MR. YAGIN: Yeah, these kinds of studies are something that we'd probably look out for more in the future. We haven't asked, like especially like TDM for instance, we haven't asked that because a lot of the studies that we have reviewed, they do provide recommendations and they do implement kind of a larger scale of improvements, improvements that we agree with. Like in this case, a regional issue was brought up

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and we realized that their traffic generation isn't exactly huge. It does add to it. Like, for instance, like the TDM measures, we felt that these are fair implementable conditions or methods that we can ask of them that we felt that was not out of proportion with the project and it may work, it may help. Thank you.

CHAIR CARROLL: Members? Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. You know, I can understand the study for Kuikahi and at Waiale. What is, you know, the Deputy just went through the fact that the Kaohu Street-Waiale intersection is backed up considerably now and from what she said a lot of it is our own employees coming to work and trucks leaving the baseyard. How is it that we turn around and asked somebody who is at least three quarters of a mile or a mile away to come in and try to solve that issue that's, from what I can see, going to be very minimally impacted by this development? When you leave this development, you've got five different ways to go and a whole lot of different options after you go the five different directions. So, can you help me understand why we feel comfortable asking this of a developer that far away . . . when it's a problem now?

MR. YAGIN: That's a good question. Well, the reason why we did ask about this intersection which is pretty far away was because in the analysis, in the traffic report, they actually identified it as a sore spot. Let's just call it that.

COUNCILMEMBER WHITE: I'm sorry as a what spot?

MR. YAGIN: As a sore spot.

COUNCILMEMBER WHITE: Oh.

MR. YAGIN: As a, yeah, as a problematic spot. And so what we've been having some issues with is when projects come in and identify problems, but they just leave it at that. They just say, there is a problem there. That's it. What we do want them to do is and this is going forward for all developers is that if they do identify issues that may, that their development may not necessarily make worse, but they point out areas that are problematic with their development coming in. I mean, we do want them to at least make some suggestions about what they feel could work. The reason why we asked them for it is because they're already doing the data collection. They have that information. They've done some discussion on it already and we feel that it's just being responsible that they not only just identified the issue but actually contribute some, contribute some to the discussion of how we can fix these things. So, that's why we asked.

COUNCILMEMBER WHITE: Yeah, I don't really disagree with the thought if it's a developer-market units. The challenge that I have is when we start asking this of people who are developing affordable rentals, in particular, because they're in such short supply and making them make financial sense is so difficult that hardly any of this gets built. So, I'm just very sensitive to asking this type of development for this kind of information especially when it's likely that it's as much our intersection as it is anybody

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else's. And if anyone should be looking at it, it should be the guys in our camp not a private developer. So, that's just my thoughts. Thank you, Chair.

CHAIR CARROLL: Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. Thank you, Department. I'm wondering would you have an estimated cost for these revised comments that you have for this particular project? You have estimated costs that would be put on this project?

MS. DAGDAG-ANDAYA: Chair? I believe the applicant has an estimate that they provided so I'm going to defer to them.

COUNCILMEMBER CRIVELLO: Okay.

MS. DAGDAG-ANDAYA: Chair, the applicant did indicate to us that they had a preliminary estimate.

CHAIR CARROLL: Proceed.

MS. SCHATZ: We estimated that the total cost of Items 1, 2, 3, 4 and 5 would total roughly about \$75,000 to \$100,000 in consulting costs.

COUNCILMEMBER CRIVELLO: So, you meant . . . excuse me, Chair.

CHAIR CARROLL: Mr. White?

COUNCILMEMBER WHITE: Oh, no.

CHAIR CARROLL: Ms. Crivello?

COUNCILMEMBER CRIVELLO: So, you meant consulting costs. Is there any other costs to this in your analysis?

MS. SCHATZ: Yeah, the TDM actually will probably request for additional cost depending on what is generated as recommendations. Some options could be providing kosher options to the project for our residents who don't have a car to have access to a car for, you know, bigger grocery items and things of longer distances. We could also offer bus passes to a lot of our employees and maintenance staff who come to work so they don't get in their vehicles. And other possibly an on-site bike share program so that our tenants or our residents can actually take a bike instead of their cars. So, those costs are also potentially associated but until we go into this study, we won't actually know the total ramifications of those.

COUNCILMEMBER CRIVELLO: Okay. Thank you, Chair.

CHAIR CARROLL: Mr. White?

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COUNCILMEMBER WHITE: Thank you, Chair. And thank you for that answer but do you have it itemized by, since we're going to be voting on Nos. 1 through 5, do you have those . . . the costs for each of those five items?

MS. SCHATZ: Yes, for No. 1, we estimate roughly about 20 to 25,000. For 2, 5,000 approximately; 3 - 5,000; for Item No. 4, about 25 to 30,000; and then for No. 5 - 20 to 25.

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

CHAIR CARROLL: Any further discussion? Members, it's quarter after three. We're going to take an eight-minute recess. We stand in recess for eight minutes. . . .(gavel). . .

RECESS: 3:17 p.m.

RECONVENE: 3:27 p.m.

CHAIR CARROLL: . . .(gavel). . . This Land Use Committee meeting is now back in session. Members, we have a request from Akaku. They are not able to hear all of the Members. We need to pay a little bit more attention to coming near to your microphone so Akaku can . . . the people listening to Akaku can actually hear what we're saying. All right, Members . . .

COUNCILMEMBER WHITE: Chair?

CHAIR CARROLL: Yes.

COUNCILMEMBER WHITE: It might be helpful if they could tell us which ones of us are not close enough to the microphones to be heard properly.

CHAIR CARROLL: I really didn't feel comfortable with saying that over here.

COUNCILMEMBER WHITE: They can text us.

CHAIR CARROLL: I think those of us that are probably having a hard time being very good probably guess that you're the ones. So, we'll just leave it at that. Let's not distract the Chair any more. All right, Members, on the one dated over there, oh, is there a date on this one, oh, yeah, October 31, 2018, that this is one that the Department of Public Works recommended Council consider the following revision in Exemption 2. And that is, MCC 12.24A Landscape Planting and Beautification - An exemption is granted to allow flexibility in the required number of species and location of street trees on Waiale Road and Kuikahi Drive. A conceptual landscape plan attached to Exhibit "1" shall be reviewed by the Department of Public Works prior to final approval. That is the . . . anybody have any comments to that . . . before I make my recommendation?

COUNCILMEMBER KING: Chair?

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CHAIR CARROLL: All right, Members.

COUNCILMEMBER KING: Chair?

CHAIR CARROLL: Yes.

COUNCILMEMBER KING: Did you miss the phrase prepared by a landscape architect?

CHAIR CARROLL: I'm sorry?

COUNCILMEMBER KING: Was that in there? A conceptual landscape plan prepared by a licensed landscape architect. Did you have that in there?

CHAIR CARROLL: I don't know if you have the one that I have some markings on top here. Does she have the same one over here that we have?

MS. NAKATA: Mr. Chair, the reason that the "prepared by a licensed landscape architect" phrase was omitted is because the reference is to in attached Exhibit "1". We could go ahead and leave it in, but it would still refer to the same attached Exhibit "1".

COUNCILMEMBER KING: Right. But I thought we agreed to leave in the reference to a landscape, licensed landscape architect but we were taking the name out? And attached hereto as Exhibit "1".

MS. NAKATA: That will be fine as a friendly amendment if that's what the body prefers.

COUNCILMEMBER KING: Well, I'm just asking because I thought that's what we had agreed on, Mr. Hokama, yeah. That's what the original discussion was about just taking the name out but putting in the phrase a licensed landscape architect. Basically, it says recognizing that it should be a licensed landscape architect. We're not describing who that person should be.

MS. NAKATA: Mr. Chair, that's fine. The exemption would then read: *An exemption is granted to allow flexibility in the required number, species, and location of street trees along Waiale Road, and Kuikahi Drive. The conceptual landscape plan prepared by a licensed landscape architect attached hereto as Exhibit "1" shall be reviewed by the Department of Public Works prior to final approval.*

CHAIR CARROLL: All right. Any objections to that? All right, Members, the Chair will entertain a motion to amend Exemption 2 in a list of exemptions attached as Exhibit "B" to the revised proposed resolution, approving the project with modifications, and to read . . . could you read that again, please?

MS. NAKATA: Yes, Mr. Chair. *An exemption is granted to allow flexibility in the required number, species, and location of street trees along Waiale Road, and Kuikahi Drive. The conceptual landscape plan prepared by a licensed landscape architect attached hereto as Exhibit "1" shall be reviewed by the Department of Public Works prior to final approval.*

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COUNCILMEMBER SUGIMURA: So move.

CHAIR CARROLL: So moved by Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, are we taking them all at once?

COUNCILMEMBER WHITE: No.

COUNCILMEMBER SUGIMURA: No, one by one.

COUNCILMEMBER WHITE: I prefer one at a time.

CHAIR CARROLL: Individually because there are some concerns with some of the other ones.

COUNCILMEMBER WHITE: Second, second.

CHAIR CARROLL: Seconded by Mr. White. Discussion? Seeing none, all in favor signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Oppose? Motion carried. Eight "ayes," one excused.

VOTE: AYES: Chair Carroll, Vice-Chair Hokama, and Councilmembers Cochran, Crivello, Guzman, King, Sugimura, and White.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Atay.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR CARROLL: Number 2 – *That Legacy Wailuku LLC shall analyze and evaluate the Waiale Drive-Kuikahi Drive signalized intersection and submit a preliminary optimized timing plan for review and implementation by the Department of Public Works when the development reaches a threshold of 50 percent occupancy. The parameters for the traffic data collection needed to perform the optimization study shall be provided by the Department of Public Works.*

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COUNCILMEMBER SUGIMURA: So move.

CHAIR CARROLL: So move . . . Ms. Sugimura. Second?

VICE-CHAIR HOKAMA: Second.

CHAIR CARROLL: By Mr. Hokama. Discussion?

MS. NAKATA: Mr. Chair, Staff would just ask for a nonsubstantive revision to change Waiale Drive to Waiale Road.

COUNCILMEMBER SUGIMURA: That's fine. It says road on the . . .

CHAIR CARROLL: That wasn't what . . .

MS. NAKATA: If there's no objections . . .

COUNCILMEMBERS: No objections.

CHAIR CARROLL: Oh, okay. Thank you. All right. Now the Chair will go and ask for a motion for that.

COUNCILMEMBER WHITE: No, you have a motion.

CHAIR CARROLL: We have a motion on the floor.

COUNCILMEMBER WHITE: Yeah.

CHAIR CARROLL: All right. All those in favor signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Oppose? Motion carried. Eight "ayes," one excused.

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VOTE: **AYES:** **Chair Carroll, Vice-Chair Hokama, and Councilmembers Cochran, Crivello, Guzman, King, Sugimura, and White.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmember Atay.**

MOTION CARRIED.

ACTION: **APPROVED AMENDMENT.**

CHAIR CARROLL: Number 4 – Members, the Chair will next entertain a motion to amend the modification contained in Exhibit “A” to the revised proposed resolution approving the project with modifications by inserting a new modification to be appropriately numbered to read: *That Legacy Wailuku LLC shall conduct a study of geometrics, traffic controls and resulting vehicular movement patterns at the Kaohu Street-Waiale Drive intersection to identify opportunities for optimizing traffic flow through this intersection. Such study shall be completed and submitted to the Department of Public Works within 180 days after the issuance of a temporary Certificate of Occupancy for the final (ninth) apartment building to be constructed on the property.*

COUNCILMEMBER KING: So moved.

COUNCILMEMBER SUGIMURA: Second for discussion.

CHAIR CARROLL: Who made . . .

COUNCILMEMBER SUGIMURA: Kelly.

CHAIR CARROLL: Oh, okay. Mr. Guzman?

COUNCILMEMBER GUZMAN: No, Ms. King.

CHAIR CARROLL: Okay. Discussion?

COUNCILMEMBER SUGIMURA: Yeah. So, . . . oh, go ahead.

CHAIR CARROLL: Maker of the motion, discussion?

COUNCILMEMBER KING: Oh.

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CHAIR CARROLL: Ms. King, yes?

COUNCILMEMBER KING: Yeah, I support this, Chair, for going to look at traffic as an issue. I think everybody who lives in and around this area knows that traffic is a huge issue and it's not really realistic to say that, that's not an impact. And so, in the interest of the people who already live in that area, I think all of these modifications are good modifications and there should be obligations of a project of this size. So, there's a lot of exemptions that we're giving to this project and so, I think this is kind of the least that they could do for that area. That's my opinion.

CHAIR CARROLL: Further discussion? Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. I, again, will just state my objection to this, this particular item because I don't think it bears a close enough responsibility to the . . . or relationship to the project and is quite a distance away. And just because it's been identified as being an issue, I don't think anyone needs for this issue to be identified because it's right in our front door and it's caused largely by County employees coming to work and trucks leaving the baseyard. So, I just, again, think that this is the wrong . . . it's a wrong-headed move to charge this responsibility to an affordable housing project. Thank you.

CHAIR CARROLL: Any further discussion to the motion? Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, thank you. I appreciate Mr. White's comments. I believe it has some merits. But the intent, Chairman, of what No. 4 is trying to do I think still worthy. I wish I could condition the Departments 'cause this is one that I would definitely condition the Departments on to prepare for Council. If we're going to approve all these projects, then give us a list of all the other requirements to make this area work. Like I said earlier, whether it's the expansion and extension of Kamehameha Avenue from Kahului through Wailuku. Whatever it takes that should be something that needs to be prepared for submittal to us, so we can take it into the regional component, Chairman. I would agree maybe it's not fair to have this applicant pay for this tool that I believe is very critical for us to make better and smarter decisions in the near future, Chairman. But I don't have a problem paying for this from the County side 'cause I want us to control this regional plan, and all applicants then will follow and implement our plan. We won't be following their consultants' plans. We're going to implement the County's regional transportation plan, okay. That's, I believe, is more appropriate and I can defend using County monies to develop it through our Departments through an RFP process. And then any applicant comes in for a request like this will implement our plan regarding traffic mitigation, traffic improvements, traffic requirements. I think that might be the more fair, upfront way to deal with this type of projects in the future. But we cannot ignore the fact as I think Mr. Yagin brought up, we identify issues and then we just let it go. Okay. We cannot afford to let it go. It's costing us too much money, too much time, and time is money, Chairman, so that's my thoughts on this motion at this time. Thank you.

CHAIR CARROLL: Any . . . Ms. Sugimura?

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COUNCILMEMBER SUGIMURA: Mr. Chair, I like this discussion and I would love for our Budget Chair to allocate funding to do, the County to do a regional, you know, transportation plan, which would encompass this area and, you know, the Maui Lani all the different projects that are coming up in this area. So, I guess what I'm saying is I'm going to vote against it and along with what I'm hearing from the other Members so that this particular development is not responsible to generate or spend 25 to \$30,000 to do this study. So, thank you, Chair.

CHAIR CARROLL: Any further discussion? Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And I'm in support. In this modification though I think just the change of Drive to Road, the Waiale is a non-substantive point here. But also the discussion from Public Works, a couple other intersections were mentioned in the context of this number. Olomea, Waiinu and I'm thinking of that road and I don't know it's not Nakoa coming out of Sand Hills but the other one that's a weird intersection where you got Kaohu-Waiale and then that one road because I tried to make a left the other day and that was like a really weird place. 'Cause you're looking at a three-way and you're looking at your turn of what with all that and I heard when it first opened one of our . . . somebody, engineer dude got into an accident 'cause it's such a weird thing. But so, yeah, should those sections be named here or you're only looking at Kaohu and Waiale?

MR. YAGIN: Member Cochran, I think the road that you're referring to is Olulua Road [sic]. It's kind of like a "Y" --

COUNCILMEMBER COCHRAN: Yeah.

MR. YAGIN: --the way it joins in to.

COUNCILMEMBER COCHRAN: Yeah.

MR. YAGIN: Yeah, I mean, if we're naming the whole intersection, we should actually name it because it is part of that intersection.

COUNCILMEMBER COCHRAN: Okay. Right.

MR. YAGIN: Olulua Drive, I believe.

COUNCILMEMBER COCHRAN: Yeah. And Chair and Public Works, so then but the other intersections on Waiale . . . the Waiinu and Olomea I think you brought up, should those be here also?

MR. YAGIN: Yeah, there are other studies . . . there are studies that take care of those other intersections.

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COUNCILMEMBER COCHRAN: Okay, so not needed. Okay. So, if there's a way to add in that other whatever that road is, that "Y" road.

MR. YAGIN: Olulua Drive.

COUNCILMEMBER COCHRAN: Olulua Drive into this modification. We're going to need an amendment?

CHAIR CARROLL: So you want that in?

COUNCILMEMBER COCHRAN: Yeah, just to clarify and make, you know, be more specific here.

CHAIR CARROLL: Okay.

COUNCILMEMBER COCHRAN: Is that nonsubstantive or . . .

CHAIR CARROLL: Ms. Nakata, for the verbiage on that?

MS. NAKATA: Chair, maybe if Staff could get a bit of clarification from Public Works, are they referring to adding Olulua Drive on to where it says, at the Kaohu Street-Waiale Road intersection. Is that where the Olulua Drive would be added or is there a separate intersection?

CHAIR CARROLL: Corporation Counsel or . . .

MR. YAGIN: Chair, yes, that's correct. So, it would read, *patterns at the Kaohu Street-Waiale Road-Olulua Drive intersection.*

CHAIR CARROLL: All right? Any objections, Members, to the change in verbiage?

COUNCILMEMBERS: No objections.

CHAIR CARROLL: All right. Any further discussion? Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah, thank you. I just would like to understand or know whether or not the additional, I mean, we're looking at if we're going to include No. 4 and No. 5 that would be an additional about 75,000 looks like. No, 60,000 roughly. Would that be . . . would the cost of those studies and those additional I guess planning that was, you know, basically relayed to us by the applicant that these car sharing and pedestrian-type programs, would that cost be transferred to the renters somehow to increase the rent?

CHAIR CARROLL: Ms. Andaya, could you address that?

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MS. DAGDAG-ANDAYA: Chair, I can't really answer that. I think that's something that the developer should answer whether or not these costs get transferred to them, yeah, that's a developer question.

COUNCILMEMBER GUZMAN: Yeah, 'cause we're talking about affordable rentals, yeah, and if we're going to increase costs for the construction and development in such rental units then --

CHAIR CARROLL: Would you like to call the developer down?

COUNCILMEMBER GUZMAN: --does that transferred to the rentees?

CHAIR CARROLL: Would you like to call the developer?

COUNCILMEMBER GUZMAN: Yes, yes, please.

CHAIR CARROLL: Could you please come to the podium? You heard the concerns.

MS. SCHATZ: Yes. As it stands right now, we are trying to subsidize affordable units and so if we do have these increasing costs, we would try to recoup that in our market rate rents and increase those rents to handle it. We would also try to find other areas where we might be able to save in the project to cover these additional increases.

COUNCILMEMBER GUZMAN: One more question to follow up. You mentioned you had potential programs like sharing, car sharing and things like that buying bus tickets for your renters.

MS. SCHATZ: Uh-huh.

COUNCILMEMBER GUZMAN: Would that still apply even though you don't have to do No. 4?

MS. SCHATZ: If we didn't have to do No. 4, that would still apply because No. 1 likely would recommend those solutions. And so, Item No. 1, which is the TDM would, might have recommendations such as that in which we would have to fund those programs in order to try to help reduce traffic.

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

CHAIR CARROLL: Any further discussion to the motion on the floor? Seeing none. All those in favor signify by saying "aye."

COUNCILMEMBER KING: Aye.

COUNCILMEMBER COCHRAN: Aye.

CHAIR CARROLL: Oppose?

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COUNCILMEMBER SUGIMURA: No.

CHAIR CARROLL: Roll call.

MS. NAKATA: Vice-Chair [sic] King?

COUNCILMEMBER KING: Aye.

MS. NAKATA: Councilmember Don Guzman?

COUNCILMEMBER GUZMAN: No.

COUNCILMEMBER KING: Also, I'm not Vice-Chair.

MS. NAKATA: Councilmember [sic] Riki Hokama?

VICE-CHAIR HOKAMA: No.

MS. NAKATA: Councilmember Elle Cochran?

COUNCILMEMBER COCHRAN: Aye.

MS. NAKATA: Councilmember Yuki Lei Sugimura?

COUNCILMEMBER SUGIMURA: No.

MS. NAKATA: Councilmember Stacy Crivello?

COUNCILMEMBER CRIVELLO: No.

MS. NAKATA: Councilmember Mike White?

COUNCILMEMBER WHITE: No.

MS. NAKATA: Mr. Chair . . . oh, I'm sorry. Committee Chair Carroll?

CHAIR CARROLL: Aye.

MS. NAKATA: Mr. Chair, motion fails. We have one, two, three "ayes" and . . .

COUNCILMEMBER SUGIMURA: One, two, three . . . four "ayes."

COUNCILMEMBER KING: Yeah, four "ayes."

COUNCILMEMBER SUGIMURA: Four "ayes."

MS. NAKATA: Excuse me, one, two, three . . . four "ayes" and four "noes," motion fails.

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CHAIR CARROLL: That's the problem with having eight Members instead of nine. Anyway, okay, the motion has failed.

COUNCILMEMBER COCHRAN: Who's the other "aye?"

COUNCILMEMBER SUGIMURA: So one, two, three, four . . .

COUNCILMEMBER COCHRAN: Wait, wait, wait.

COUNCILMEMBER SUGIMURA: There's five "noes": Guzman, Hokama, me --

COUNCILMEMBER COCHRAN: Yeah.

COUNCILMEMBER SUGIMURA: --Crivello and White.

CHAIR CARROLL: Five; and three "ayes."

MS. NAKATA: Okay. Thank you for the correction. Three "ayes," five "noes."

COUNCILMEMBER WHITE: Yeah.

MS. NAKATA: Motion fails.

CHAIR CARROLL: The motion has failed.

COUNCILMEMBER SUGIMURA: Oh yeah, oh I'm sorry, yeah.

VOTE: AYES: Chair Carroll, and Councilmembers Cochran and King.

NOES: Vice-Chair Hokama, and Councilmembers Crivello, Guzman, Sugimura, and White.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Atay.

MOTION FAILED.

CHAIR CARROLL: All right. We're going to have to go down to the District Boundary Amendment bill.

COUNCILMEMBER WHITE: We have one --

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COUNCILMEMBER SUGIMURA: One more. Got to do 5.

COUNCILMEMBER WHITE: --more. No. 5.

COUNCILMEMBER COCHRAN: What happened to 5?

COUNCILMEMBER WHITE: No. 5. No. 5, Chair.

COUNCILMEMBER SUGIMURA: The last item.

CHAIR CARROLL: I thought . . . oh. Thank you, Mr. White. The Chair will entertain a motion to amend the modifications contained in Exhibit "A" to the revised proposed resolution approving the project with modifications by inserting a new modification to be appropriately numbered to read: *That Legacy Wailuku LLC shall provide an updated traffic assessment report to the Department of Public Works for review prior to the issuance of the Final Certificate of Occupancy for the final (ninth) apartment building to be constructed on the property.*

VICE-CHAIR HOKAMA: I make the motion.

CHAIR CARROLL: Moved by Mr. Hokama.

COUNCILMEMBER SUGIMURA: Second.

CHAIR CARROLL: Seconded by Ms. Sugimura. Discussion? Mr. Guzman?

COUNCILMEMBER GUZMAN: Chair, the applicant can proceed with No. 5 without the condition precedent of No. 4, correct?

MS. DAGDAG-ANDAYA: Chair, yes, that's correct.

COUNCILMEMBER GUZMAN: Okay. Thank you.

CHAIR CARROLL: Any further discussion to the motion?

COUNCILMEMBER COCHRAN: Chair?

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: Is a traffic assessment report different from a traffic impact assessment report, a TIAR because this is just a TAR?

MR. YAGIN: It can be. What we're actually expecting is that we're not looking for a full blown TIAR with descriptions, narratives and discussion. What we're looking for is what did the project produce? And so, I know they brought up an estimate of about 20 to 25,000 but at this point we haven't discussed with them exactly what that format is. I mean,

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it could be down to tables, charts, and that sort of thing. And we're just looking for that data. So, in short, it's just an assessment. We just want to see what was really produced versus what they projected.

COUNCILMEMBER COCHRAN: Chair?

CHAIR CARROLL: Ms. Cochran?

COUNCILMEMBER COCHRAN: So, you're looking for . . . I guess their impacts per se but not any mitigative measures, nothing to, you know, take care of what they're claiming they're gonna, the types of impacts they're gonna create?

MR. YAGIN: No, that's correct.

COUNCILMEMBER COCHRAN: You're not looking for that?

MR. YAGIN: We're just looking for what are their actual produced impacts.

COUNCILMEMBER COCHRAN: And why not?

MS. DAGDAG-ANDAYA: Chair, if I may, if the scope would, I mean, the defined scope would be determined between the applicant and the Department. But what we have in the second paragraph is basically what the report should look like. So, regardless if it's a TIAR or a traffic assessment report, the report should provide what's outlined in the second paragraph of No. 5.

COUNCILMEMBER COCHRAN: Okay. Better than nothing.

CHAIR CARROLL: Any further discussion to the motion on the floor? All in favor signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Oppose?

COUNCILMEMBER WHITE: No.

COUNCILMEMBER CRIVELLO: No.

CHAIR CARROLL: One . . . two "noes." Six "ayes," two "noes." Motion passes. Thank you.

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MS. NAKATA: That's correct.

COUNCILMEMBER KING: Okay.

CHAIR CARROLL: All right. Conditions. *Condition 1 – This ordinance is conditional upon the Council's passage of a resolution approving, with modifications, the independent development of Wailuku Apartments pursuant to Section 201H-38, Hawaii Revised Statutes (the "201H Resolution"). Any comment? I'm just going to go right through all of the resolutions over here, all of the conditions. I'll ask for comment, if anybody has comment and then we'll stop; otherwise, I'll go right through. No. 2 – If the 201H resolution shall expire due to the developer's failure to start physical construction on the Property by the time deadline set forth in the 201H Resolution, this ordinance shall also terminate accordingly [sic] with the expiration of the 201H Resolution. No. 3 – Developer shall act in good faith and with its reasonable best efforts to complete all of the 195 rental residential workforce housing units on the Property with all related infrastructure not later than the fifth (5th) anniversary of the effective date of the 201H Resolution. No. 4 – The Property shall be developed as a residential workforce housing project in accordance with the 201H Resolution. No. 5 – The 195 residential workforce housing units and the 129 market rate units shall be for rental only, and not for sale to individual home buyers as condominium units for their own occupancy. No. 6 – All residential workforce housing units and all market rate units shall be subject to the restriction that no unit shall be leased for occupancy of any period shorter than one hundred eighty (180) days. No. 7 – The Property shall be developed in strict compliance with the representations made to the Council in obtaining approval of the State District Boundary Amendment. Any comment on any of the conditions?*

COUNCILMEMBER KING: I have a question, Chair?

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: Couple questions. One is, maybe it's not appropriate here but there's nothing in here that requires the residential workforce housing units to be built first. Is that . . . would that be an appropriate place to put that?

CHAIR CARROLL: I believe so. Can you comment, Mr. Spence?

MR. SPENCE: Thank you, Mr. Chairman. Could you repeat the question?

COUNCILMEMBER KING: Well, there's nothing in here that specifically requires the residential workforce housing units to be built first. So, is that, is it appropriate to put that here or is it in the previous bill?

MR. UEOKA: Chair, if I may?

COUNCILMEMBER KING: For the market units.

CHAIR CARROLL: Mr. Ueoka?

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MR. UEOKA: Thank you, Chair. Typically, for these projects will when we're doing the residential workforce housing agreement that we work out with the developer based on the terms of this and the DBA and the 201H resolution we incorporate the terms of Chapter 201H, HRS. But essentially, we also incorporate Chapter 2.96, Maui County Code, which does have a provision stating that the residential workforce housing units are built at the same time or prior to the market units. So, it is covered but you could add it in if you wanted to also. Thank you.

COUNCILMEMBER KING: Okay. But it's not necessary to put it in this? I mean, it will be covered by the . . . in the previous bill that we haven't passed yet?

MR. UEOKA: Yes, Member King, it will be covered in the residential workforce housing agreement if these matters pass. Thank you.

COUNCILMEMBER KING: Okay. And then what about the length of affordability? Thirty years.

MR. UEOKA: That's a little weird. It's in 2.96, we have the 30 years for rentals. I believe 201H is a ten-year. But I believe in their application they did state in one of these books that it will be a 30-year deed restriction. That is my understanding. So, it's in the application which they must abide by.

COUNCILMEMBER KING: Okay. So, we don't need to put it in to the District Boundary Amendment?

MR. UEOKA: As far as I understand, it's covered in the application, so, no. Thank you.

COUNCILMEMBER KING: Okay. So, I'm just wonder, I'm just confused because it seems like we're pulling the cart before the horse. We went to this bill, we're going to approve this bill before we approve the other bill so a little confusing.

CHAIR CARROLL: All right. Any further discussion? Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, I thought Ms. King brought up some valid concerns for the Committee. So, they're asking for an expedited process. We get it on our side. And yet, the condition can state that's all they need to do is give best effort to complete the 195 units in five years, and if they don't, it's okay. Is that what we're saying in the Condition No. 3?

CHAIR CARROLL: Mr. Ueoka?

MR. UEOKA: Yes. Thank you, Chair. Yes, Mr. Hokama. It's a reasonable best effort to complete. We're not sure on what sort of penalty provision we could include after five years have gone by and they've substantially complied with the work. And I believe the 201H resolution has a two-year commencement requirement and a five-year completion

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requirement also. But as far as some sort of penalty if they do not complete all the units in five years, I don't see one in this language. Thank you, Chair.

MR. SPENCE: Mr. Chairman?

CHAIR CARROLL: Yes, Mr. Spence.

MR. SPENCE: Just a comment. This is going to be 324 units within nine buildings. That's not like, it's not like a regular single-family housing project where you could build all of the market units and put off the workforce units to some other time. They're going to be mixing all the units within these nine structures. It's not going to be, you know, typically what we would think of is in a single-family kind of development. So, these are going to be mixed in. It wouldn't make sense to build the market stuff first and then have ongoing or, you know, either ongoing construction or, you know, leaving some portion of this project out. It just wouldn't work that way. So, I'm pretty satisfied that, you know, the timing of the construction for all aspects would be . . . it's just not going to present a problem.

VICE-CHAIR HOKAMA: No, I would prefer that we just require that the 195 rentals be completed within five years. Okay. Because we know what the market . . . we just got the report on the luxury market sales of this island and we know it's going what 30 percent since last year. So, you know, we're not sticking out head in the sand. We know the reality of our properties up there. I would say for No. 3, I would ask the Committee to consider that all 195 be completed within five years. And No. 4, I think we need to revise it. The property will be developed as a residential housing project. Let's call it what it is. It's a residential project, not a workforce housing project with a hundred and something market. Okay. And then, the last one that I have a concern about is number—I don't know where it is—No. 6, can the unit be released or re-rented or sub-rented? We tell them they can do less than 180 but we don't say whether or not they can re-rent the facility. Once they qualify again, can they relet the property? Is that a tenant benefit or opportunity they have? 'Cause I've seen it done with vultures. Okay.

MR. UEOKA: So, . . .

VICE-CHAIR HOKAMA: I get the unit somebody says I'll pay you a hundred bucks more for your unit. So, I would re-rent it to the guy for \$100 more than I would have to pay.

MR. UEOKA: Are you talking about the residential workforce housing units --

VICE-CHAIR HOKAMA: Yes.

MR. UEOKA: --in particular?

VICE-CHAIR HOKAMA: The rentals, yeah, I'm concerned about the rentals.

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MR. UEOKA: Okay. For the residential workforce housing units, there are certain exemptions under hardship under Chapter 201H with approvals that like if you get sent off, military, you get called to military service, you're allowed to sublet your apartment or something. There's certain allowances. But generally speaking there's an owner-occupancy requirement so it should not be allowed. I'm not saying it doesn't occur because like anything else there's enforcement issues, but it is not allowed per the rules. And as for the markets, I don't think there's any controls as to . . . they might have something in their own CC&Rs or some sort of rental agreement, I should say for this project 'cause it's a rental, but that would be subletting. I'm not sure if you guys are as concerned about the market units in subletting as much as the residential workforce housing units. So, it should not be allowed because it should be owner-occupied . . . I keep saying owner-occupied, but it should be rented to an individual and not sublet. Thank you.

VICE-CHAIR HOKAMA: No, I appreciate your comments. I'm just trying to make sure that it is black and white, and we have the hammer and we need to pound it. That's what I expect. Okay. I need a hammer to . . . I believe in enforcement, so I need the big hammer to slam.

CHAIR CARROLL: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. So, Mr. Hokama, I think No. 6 its main intent is to make sure that there's no short-term rentals in this project. Hundred eighty days is the limit for short-term rental so that's the intent of this. And just by its nature for the residential workforce housing units, they should be occupied by the renter and not sublet for except for an exceptional circumstance. Thank you, Chair.

VICE-CHAIR HOKAMA: Thank you, Chairman.

CHAIR CARROLL: All right. Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair, thank you. I appreciate Mr. Hokama's more clarifying these points. I think, you know, calling it what it is the project is called Wailuku Apartment Rental Housing. Why can we not use this title all the way through the document – Wailuku Apartment Rental Housing Project, you know. If we're going to call it and name it what it's named, that's what it's named, right? I mean, it's just kind of jumping around here. So, whether that's on purpose so you can take things out of context, I don't know. But if we want to be consistent and have it read what it is, it is Wailuku Apartment Rental Housing. Yes? No? Just asking. So, I mean, if there's a way to . . . No. 1 says Wailuku Apartments, okay, we're partly there to the title. You know, then the rest are just saying residential workforce housing units or residential . . . I don't know, it's just the verbiage, I guess. I'm looking at the verbiage across the board here and wanting to be consistent --

MR. SPENCE: Mr. Chairman?

COUNCILMEMBER COCHRAN: --for starters.

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CHAIR CARROLL: Mr. Spence?

MR. SPENCE: Just a comment. You can call it whatever you like. If the verbiage is important to you, that's fine with me. The teeth are going to come within the workforce housing agreement that they signed with us that requires that these be rentals. So, I'm not overly concerned about what this particular bill says. They've made the representation these are rentals that we're going to follow through on that with the agreement they've signed with us.

COUNCILMEMBER COCHRAN: And so, I like the change. Mr. Hokama wanted that it be built within that five years and, if not, how's about we get \$3 million worth of it since we're subsidizing 'em in exemptions is what they're asking for. So, you pay us back what we gave you.

MR. SPENCE: Oh, I'm not sure why you're looking at me on this. I'm not the decision maker.

COUNCILMEMBER COCHRAN: Well, I think you're going to create that workforce housing agreement.

CHAIR CARROLL: Yes, Mr. Ueoka?

MR. UEOKA: Thank you, Chair. That would have to be something you guys impose. I wouldn't place it in the workforce housing agreement without . . . when we draft these workforce housing it's based on what you guys, as the policy makers of the County, have put in the County Code and what the State lawmakers are putting in 201H. Currently, I don't believe that's a requirement that I'm aware of for this one so, if you want to add it in, it would be a requirement, yeah, they would probably add it in here and in the 201H. And just for clarification, well, theoretically, if it were a \$3 million worth of exemptions and they don't build all the project, technically, they wouldn't have gotten \$3 million worth of exemptions because they didn't build the whole project out, and that was the total exemption amount. But please check with the developer on whether that's feasible to them or not also. Thank you.

COUNCILMEMBER COCHRAN: So, is there going to be a modification here on the effective date portion? What number was that . . . 3? I think to just give them the kind of leeway of making their best efforts versus they will complete. Not a shall, not a maybe, I mean, not a maybe but an actual shall . . . on No. 3.

COUNCILMEMBER KING: Chair? I just want to make a suggestion that we go through these one at a time like we did before and then we can make amendment proposals as we go through the various conditions. Or was your intent to make all the amendments and then vote on all of them together?

CHAIR CARROLL: Does anyone have anything that they would . . . Mr. Ueoka, do you have comments?

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MR. UEOKA: Thank you, Chair. I believe Ms. King's inquiring if you want to go through these and make motions on 1 through . . . Conditions 1 through 7 and modify each one or approve --

COUNCILMEMBER KING: As we go through.

MR. UEOKA: --as you go along. I believe that's her request on the floor, Chair.

CHAIR CARROLL: And for modifications we did not approve just 1 and 2. I would like to address that one now on the 201H. And I'm sorry it got stuck under the papers over here. All right, really quickly. *No. 1 – construction of Wailuku Apartment Rental Housing Project shall commence within two years of the effective date of this resolution. Amendment or construction shall mean the visible start of grading pursuant to a valid grading permit as needed for the development of the property.*

COUNCILMEMBER COCHRAN: Wait, where are we? Wait, wait, wait. Where are we?

COUNCILMEMBER CRIVELLO: Chair?

CHAIR CARROLL: Yes.

COUNCILMEMBER CRIVELLO: Can you clarify, where are we? The Department of Public Works' modification or the Boundaries?

CHAIR CARROLL: Like I said, this is the one we skipped over for the 201H portion, not for the other side. It got left out.

COUNCILMEMBER CRIVELLO: Oh.

CHAIR CARROLL: I thought we had done it, but the Staff caught me on that.

COUNCILMEMBER KING: What document?

VICE-CHAIR HOKAMA: Chairman? Chairman? Recess.

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

RECESS: 4:20 p.m.

RECONVENE: 4:21 p.m.

CHAIR CARROLL: . . .(gavel). . . The Land Use Committee meeting is called back to order. Sorry for the confusion, Members. I got some stuff lost underneath over here. All right. Ms. King's request to hear Exhibit "C" – Conditions, one through seven, one by one. And we shall proceed. *This ordinance is conditional upon the Council's passage of a resolution approving, with modifications, the independent development of Wailuku Apartments pursuant to Section 201H-38, Hawaii Revised Statutes (the "201H Resolution"). Any*

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comment? *If the 201H Resolution shall expire due to the developer's failure to start physical construction on the Property by the time deadline set forth in the 201H Resolution, this ordinance shall also terminate conversely [sic] with the expiration of the 201H Resolution. Developer shall act in good faith and with its reasonable best efforts to complete all of the 195 rental residential workforce housing units on the Property with all related infrastructure not later than the fifth (5th) anniversary of the effective date of the 201H Resolution.*

COUNCILMEMBER KING: Chair?

CHAIR CARROLL: Yes?

COUNCILMEMBER KING: I'd like to propose an amendment for No. 3 to delete the words, "act in good faith and with its reasonable best efforts to". So, it will read: *Developer shall complete all of the 195 rental residential workforce housing units on the Property with all related infrastructure not later than the fifth (5th) anniversary of the effective date of the 201H Resolution.*

COUNCILMEMBER COCHRAN: Second.

CHAIR CARROLL: Been moved and seconded.

COUNCILMEMBER KING: So, this does what we talked about earlier and it requires those 195 units to be completed within five years.

CHAIR CARROLL: Mr. Ueoka, any comment? All right, Mr. White and then Mr. Guzman? You had comment?

COUNCILMEMBER WHITE: I'll make a comment before you turn it over to the developer. I think it might be a little more fair if we were to say the fifth anniversary of the start of construction or something of that sort because this is putting it . . . they have to depend on the County to approve all the drawings and everything else. So, the permitting process is not an easy process so, I think we're hobbling the developer to some degree. Let them speak for themselves.

CHAIR CARROLL: And before I call on the developer, Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah, that was . . . Mr. White is on point. We do take quite a bit of time on some of the subdivision approvals and things like that. So, there should be some triggering language in there to start the five years. And my other question is, who determined the five years? Was that on our end? Did we decide five years or did the applicant agree to five years going into this condition? And is it practical for them to finish all nine in five years?

CHAIR CARROLL: Five years was the last one we used on the last 201H. Mr. Ueoka?

COUNCILMEMBER GUZMAN: Yeah.

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MR. UEOKA: Thank you, Chair. Yeah, Mr. Guzman, it was discussed before this meeting and before this was drafted, they did agree to the five years and they felt five years was a practicable number.

COUNCILMEMBER GUZMAN: Okay.

MR. UEOKA: However, it was with the little looser language I will say of reasonable best effort. So, thank you, Chair.

COUNCILMEMBER GUZMAN: And Chair, I would recommend that if you are going to use a . . . the "shall" language, then you give an exemption, I mean, exception to at least come back and say, if they haven't built it in, completed in five they can come back to Council for renewal or extension of the condition.

CHAIR CARROLL: Okay.

COUNCILMEMBER GUZMAN: Extension of the anniversary date of the 5th, 5th year.

CHAIR CARROLL: That they could apply for one extension?

COUNCILMEMBER GUZMAN: Yeah, something like that. We're still in discussion but we can ask the applicant how they feel about this amendment.

CHAIR CARROLL: Applicant, do you have any comment on that?

MR. WELCH: Yes, Chair, thank you. I'm Tom Welch on the legal side of the development team. I think the . . . Member Guzman's proposal would work. The reason that, I think the traditional reason that you put in good faith and best efforts is that it prevents it from being an absolute deadline because if it's an absolute deadline and it's missed regardless of cause the consequences are very difficult to determine. Maybe the project has to be torn down. That would certainly be true under the District Boundary Amendment. That's a condition it means . . . and it's breached, the zoning . . . the State zoning land use rules are breached, and it actually becomes an invalid or automatically repealed District Boundary Amendment so the consequences goes back to Agriculture you have to tear everything down. So, a reasonable exit clause is very important, and I think that suggestion that we just made would be acceptable. The good faith best efforts is a sort of an easier way to adjudicate the matter when it happens because it would depend on the facts. And if it's for good cause shown and we apply in a timely manner for an extension, that would be a good solution.

CHAIR CARROLL: Thank you. So, you're proposing to have good efforts resolution that one extension will be allowed?

COUNCILMEMBER GUZMAN: Chair, I wouldn't limit it to just one. I just would just say under general terms they're allowed to come back to request for an extension on good cause. Something to that effect.

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CHAIR CARROLL: Mr. Ueoka, do you have any proposed verbiage for that? It sounds simple but . . .

MR. UEOKA: Thank you, Chair. I believe Member Guzman gave some very good language, you know, just developer shall be allowed to come in for extensions subject to Council approval and good cause, you know. And it would be up to this body to determine and preferably I guess by reso, I don't know if it would be by resolution or would have to amend this ordinance. I'm not sure. I hope we never have to use the extension clause of course but I think it's a good idea to leave it broad and leave it available. And again, it will be this body's prerogative as to whether or not to exercise it. Thank you, Chair.

CHAIR CARROLL: So, it would read the applicant can come forward and apply for one, for an extension with Council approval . . . to be approved by the Council.

MR. UEOKA: Yeah, Chair. In general, I think we probably be better if we were to work on the language and get it to you guys before first, assuming this goes through, before first reading. I'm always hesitant. I'm not good enough at drafting language to do it on the floor on the fly like this. Thank you.

COUNCILMEMBER CRIVELLO: Chair, do we have a motion on the floor?

CHAIR CARROLL: Pardon?

COUNCILMEMBER CRIVELLO: Do we have a motion on the floor?

COUNCILMEMBER COCHRAN: Yes, yes.

CHAIR CARROLL: No.

COUNCILMEMBER COCHRAN: Yes.

COUNCILMEMBER CRIVELLO: Doesn't Kelly have a motion?

COUNCILMEMBER COCHRAN: Yeah.

CHAIR CARROLL: I just read it. We don't have a motion.

VICE-CHAIR HOKAMA: We have an amendment.

CHAIR CARROLL: I just read it and then we were discussing it.

COUNCILMEMBER COCHRAN: No.

MS. YAP: Chair?

COUNCILMEMBER KING: Motion and then Mr. Guzman talked about amending it.

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CHAIR CARROLL: Yeah, had a motion to . . .

COUNCILMEMBER KING: I made a motion, it was seconded and Mr. Guzman . . . we're in discussion right now.

MS. NAKATA: Mr. Chairman, the motion on the floor is to amend Condition No. 3 by removing the phrase "act in good faith and with its reasonable best efforts too." So, that Condition 3 would read: *Developer shall complete all of the 195 rental residential workforce housing units on the property with all related infrastructure not later than the fifth (5th) anniversary of the effective date of the 201H resolution.* So, that motion to amend is pending.

CHAIR CARROLL: Okay. And then we're talking about adding on to that modifying that resolution? Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, my understanding is that's what Ms. King proposed. Mr. Guzman is asking us to consider a secondary component which would be the opportunity of appeal or request of an extension. Yeah, we understand things can happen. So, I'm open to that extension . . . a extension. Okay. Why we're fast-tracking if we're going to keep giving extensions to projects, okay. Come in for the regular process then. It will work for me. Second though, Chairman, the request for the extension should be coming in at least 12 months before the expiration of this condition. By the time the Department reviews and sends it to us and we're going to schedule, the clock keeps ticking. I don't need to make the decision one week before the expiration of the condition, okay. I expect us to have sufficient time to vet it well and look at their proposal under the conditions they're saying they cannot perform, and then we can make our decision. So, I think we should at least say, request for extension must be no later than 12 months before the 5th year. One year before the anniversary whatever it be. But don't come in one month before the expiration and ask us to move.

CHAIR CARROLL: I think Ms. King's one is very clear and Mr. Guzman's one is very clear and what you have described. If there's no objection, me and the Staff will go over there and put the proper verbiage to meet the intent and have it ready at first reading if this goes.

COUNCILMEMBER KING: Yeah, I think we need to . . . I don't think it's real clear between what Mr. Guzman proposed and what Mr. Hokama is saying. I think we need to make a decision – is it multiple extensions or is it an extension? I think that's one issue that's not clear. But I like the idea of, yeah, setting a date on when that extension has to be requested previous to the end of the five years. But I think we need to, we can't just leave it open like that for someone else to write. We have to decide as a Council what, you know, how we want to go. I would prefer to leave it as "an extension" because I do think this is why we give these, you know, these exemptions that they're asking for is because they're trying to fast-track it. And so, leaving it open-ended is not fast-tracking. So, I would agree with Mr. Hokama on that point.

CHAIR CARROLL: Mr. Guzman?

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COUNCILMEMBER GUZMAN: Chair, I would rather that we allow it to be more flexible so that if there is an extension that is requested, it's with good cause. And at that point, you have a decision by the body to grant it. The body may not even grant the first extension. But if it does something may or may not happen, and later on it comes back. You know, the practicality of things, things get delayed and maybe they come back for a second. The first one gets granted and the second one doesn't get granted by the Council. It's with cause. It's this body to determine whether or not they grant it. So, you know, one shot, one bite of the apple may be detrimental to the whole construction. Like you say, the whole zoning, tear down half the construction. You know, what's been built has to be torn down and placed back into Ag zone. You know, that's a lot of investment. And we're talking about rent, you know, affordable rentals here. So, I understand where we're going. We want to get it definite that it will get built. Promises, assurances that it will get built within five years. But the practicality of things, things happen. And if it's not good cause when they come forward, then hey, deny the first request, and that's the end of it. But allow at least the opportunity for them to come in and show good cause.

COUNCILMEMBER CRIVELLO: Chair?

COUNCILMEMBER GUZMAN: Thank you.

COUNCILMEMBER CRIVELLO: In support of what Mr. Guzman is saying and I hear him and for that reason I don't see why we need to amend what is being said – developer shall act in good faith and its reasonable best efforts, dah-dah-dah-dah-dah. So, I understand where Councilmember King and Hokama are coming from and their understanding but if we're concerned as to what Mr. Guzman how he's explaining it and what the consequences may or can be, I would not vote in favor of this amendment and just remain -- the developer shall act in good faith. Thank you.

CHAIR CARROLL: All right, Members, we have a motion on the floor from Ms. King. There's been discussions about adding on to it. But Ms. King is not _____ so we could just take a motion, we could . . . we don't have any consensus right now on any additions to Ms. King's motion.

COUNCILMEMBER GUZMAN: Chair, may I ask the maker of the motion to do a friendly amendment to add in language which would have to be drafted right at this moment in time. Language that would . . . okay, let me try to make this happen here. To read as follows: The developer shall complete all of the 195 rental residential workforce housing units on the property with all related infrastructure no later than the fifth (5th) anniversary of the effective date of the 201H resolution. And developer may be allowed to come in, may be allowed to apply for an extension to the Council on good cause, for good cause.

CHAIR CARROLL: All right. That can be a friendly amendment or we can take a vote.

COUNCILMEMBER GUZMAN: Did you want to add something, Mr. Ueoka?

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CHAIR CARROLL: Mr. Ueoka?

MR. UEOKA: If I may, I believe it was discussed, Mr. Guzman, also that they need to apply for this 12 . . . extension within 12 months --

COUNCILMEMBER GUZMAN: Yes.

MR. UEOKA: --of the expiration of the fifth (5th) year.

COUNCILMEMBER GUZMAN: Yeah, within 12 months of the fifth (5th) year.

MR. UEOKA: Prior to 12 months? At least 12 months, yeah. At least 12 months prior to the expiration of the fifth (5th) year. Thank you.

COUNCILMEMBER GUZMAN: So, the intent is there. It may not be worded completely as it should be, but the intent of the rationale is stated on the floor. So, then I'm asking the maker of the motion if she would allow that to happen.

COUNCILMEMBER KING: I think that I would prefer to have that couched as an amendment to the motion.

COUNCILMEMBER GUZMAN: Yeah, okay. So, I move to amend Ms. King's motion.

CHAIR CARROLL: All right, move to amend the motion, Ms. King's motion. Is there a second?

VICE-CHAIR HOKAMA: Second.

CHAIR CARROLL: It's been moved and seconded. Further discussion?

COUNCILMEMBER COCHRAN: Chair, is there a length to this extension? Or is that just the discussion of the Council to determine?

UNIDENTIFIED SPEAKER: . . . *(inaudible)* . . .

COUNCILMEMBER COCHRAN: Yeah, but shouldn't there be a limit? What's the point in a 201H fast-track if we're going to give extensions?

CHAIR CARROLL: Mr. Ueoka?

MR. UEOKA: Thank you, Chair.

COUNCILMEMBER COCHRAN: And exemptions, and, and, and.

CHAIR CARROLL: Mr. Ueoka?

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MR. UEOKA: Thank you, Chair. I won't get into the whether it's a good idea or bad idea or anything but as currently worded my understanding is it would be up to the applicant or the developer to come in and tell the Council how much time they need and show cause for why they need that time. And it would be up to this body to say, yeah, you get "x" amount of years, yeah you get "x" amount of days or yeah you get "x" amount of months. So, as worded right now, it is up to the applicant to ask and the Council to grant as worded right now. That's my understanding. Thank you, Chair.

COUNCILMEMBER GUZMAN: Yeah, that's correct, Chair, if I may.

CHAIR CARROLL: Mr. Guzman?

COUNCILMEMBER GUZMAN: It's bringing back the decision to the Council. So, if the developer needs an extension, they come to the Council with good cause. They gotta show why they need the extension and the Council, at that point, can make the decision, yes, we grant the extension or no, we don't. But at least there's an opportunity for the developer to come forth and state the reasons why they're asking for the extension. Because if it's completely unilateral wherein it's at complete deadline, I mean, something very innocent could happen and they lose the opportunity to complete the project or tear down the project. We don't know. But if we put the language "good cause" then they've got to show us what exactly is the reason for the delay. And it would be our decision or the future Council's decisions to grant it or not.

COUNCILMEMBER KING: Chair?

CHAIR CARROLL: Ms. King?

COUNCILMEMBER GUZMAN: Or the time limitation as well. You can say, yeah, you'll have one week left we'll grant you an extension for a week. You know, that's absurd but I'm just saying that you can say the Council could then make a decision or we'll grant you two more years. I mean, it just gives the discretion back to the Council.

CHAIR CARROLL: Ms. King?

COUNCILMEMBER KING: Yeah, I think I can accept that if we're talking about an extension, then the Council decides for how many years. And if you, if it's taking someone five years and they don't know how much longer they need to finish it, there's something wrong there. So, if they come back for one extension, that should be it. We should have good cause at that point. So, I can support that --

COUNCILMEMBER COCHRAN: Chair?

COUNCILMEMBER KING: --amendment.

COUNCILMEMBER COCHRAN: So, I'm not in support. First off, fast-tracking, giving exemptions, millions of dollars' worth and then in their preliminary project timeline, I know it's preliminary they're saying in this they're going to be fully completed by March

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2022. This five-year thing gives them a whole extra year just on their proposal to this body to push through this project already. So, now we're going . . . anyways, that's where we have no teeth any more. How many 201Hs we talk about it every day have not been produced? So, I'm not in support.

CHAIR CARROLL: All right, we have a motion to amend. There is a motion on the floor. I'm going to call for the question. All in favor signify . . .

MS. NAKATA: Mr. Chair?

CHAIR CARROLL: Yes.

MS. NAKATA: Could Staff ask . . . Staff's understanding is that Member Guzman is proposing to add a second sentence to Condition 3 – developer may be allowed to apply. Can that just be revised to – developer may apply as opposed to may be allowed to apply?

COUNCILMEMBER GUZMAN: Yeah, may. That's fine, Chair.

CHAIR CARROLL: Okay. All right, that's the motion to amend the original motion. All right, all in favor signify by saying "aye."

COUNCILMEMBER GUZMAN: Aye.

COUNCILMEMBER SUGIMURA: Aye.

CHAIR CARROLL: Oppose?

COUNCILMEMBER COCHRAN: No.

CHAIR CARROLL: No? Raise your hands, please, so I can . . .

COUNCILMEMBER COCHRAN: No.

CHAIR CARROLL: No. One "no?"

COUNCILMEMBER SUGIMURA: One "no."

CHAIR CARROLL: All right. Motion passes. Seven "ayes" --

COUNCILMEMBER SUGIMURA: One excused.

CHAIR CARROLL: --one "no." Eight "ayes," one "no."

COUNCILMEMBER SUGIMURA: Seven "ayes."

MS. NAKATA: Mr. Chair, seven "ayes."

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CHAIR CARROLL: Seven “ayes,” one “no,” one excused. All right, we got it right that time. Thank you.

VOTE: AYES: Chair Carroll, Vice-Chair Hokama, and Councilmembers Crivello, Guzman, King, Sugimura, and White.

NOES: Councilmember Cochran.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Atay.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

COUNCILMEMBER KING: Okay. So back to the main motion.

COUNCILMEMBER SUGIMURA: Chair?

CHAIR CARROLL: Moving on.

COUNCILMEMBER SUGIMURA: Chair?

COUNCILMEMBER COCHRAN: On the main motion.

COUNCILMEMBER KING: We’re back to the main motion.

COUNCILMEMBER COCHRAN: Main motion.

CHAIR CARROLL: Yes.

COUNCILMEMBER SUGIMURA: Oh, sorry. Okay. We’ll do that. I have a question.

CHAIR CARROLL: We’re back to the . . .

COUNCILMEMBER KING: The main motion.

CHAIR CARROLL: Main motion as amended.

COUNCILMEMBER KING: Yeah.

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CHAIR CARROLL: All right. Any further discussion to the main motion, as amended?
Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. I voted for the amendment because without the amendment I couldn't support Ms. King's motion. But I still feel that the right thing to do is to leave the wording as is, so I won't be supporting this.

CHAIR CARROLL: Thank you. All those in favor of the motion, as amended, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Oppose?

COUNCILMEMBER COCHRAN: No.

COUNCILMEMBER CRIVELLO: No.

CHAIR CARROLL: One "no?"

COUNCILMEMBER SUGIMURA: Three "noes."

CHAIR CARROLL: Okay. Seven "ayes," one "no," one excused, right?

COUNCILMEMBER SUGIMURA: Six.

COUNCILMEMBER COCHRAN: What?

CHAIR CARROLL: I'm sorry. Okay. All those that voted no please raise your hand. Okay. Very good. All right. Three "noes" . . .

COUNCILMEMBER KING: Five "ayes."

MS. MATTHEWS: One excused.

CHAIR CARROLL: Okay. Five "ayes," three "noes," one excused. All right. It's getting later.

COUNCILMEMBER KING: Motion passes.

CHAIR CARROLL: Okay.

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VICE-CHAIR HOKAMA: Chairman?

CHAIR CARROLL: Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Regarding No. 4, I would propose an amendment.

CHAIR CARROLL: Proceed.

VICE-CHAIR HOKAMA: That the condition be reworded to say the property shall be developed as a residential housing project in accordance . . . shall be developed as a residential housing project known as Wailuku Apartment Rental Housing Project developed in accordance with the 201H Resolution.

COUNCILMEMBER COCHRAN: Second.

CHAIR CARROLL: Been moved and seconded. Discussion, Mr. Hokama?

VICE-CHAIR HOKAMA: I just think we need to be a little bit more accurate and let's just call the project what it is. It is not a 100 percent workforce housing project.

COUNCILMEMBER COCHRAN: Right.

VICE-CHAIR HOKAMA: So, let's not fool nobody. Okay.

CHAIR CARROLL: Any further discussion on the amendment to No. 4? All in favor signify . . .

MS. NAKATA: Mr. Chair, did Councilmember Hokama delete the word "workforce"? I'm sorry, I couldn't quite hear.

VICE-CHAIR HOKAMA: Yes.

MS. NAKATA: Okay, thank you.

CHAIR CARROLL: Any further discussion? All those in favor of the motion signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR CARROLL: Oppose?

COUNCILMEMBER WHITE: No.

CHAIR CARROLL: One "no." All right.

COUNCILMEMBER KING: Six "ayes."

CHAIR CARROLL: One missing. Five . . .

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COUNCILMEMBER KING: Six “ayes,” two excused.

CHAIR CARROLL: Five “ayes” . . .

COUNCILMEMBER KING: Six “ayes.”

CHAIR CARROLL: One . . .

COUNCILMEMBER KING: Six “ayes.”

CHAIR CARROLL: And two absent [*sic*], Mr. Guzman and Mr. Atay, motion passes.

COUNCILMEMBER CRIVELLO: And one “no.”

COUNCILMEMBER COCHRAN: No.

COUNCILMEMBER WHITE: Six “ayes.” Six “ayes,” one “no,” and two excused.

CHAIR CARROLL: Six “ayes,” one “no,” one [*sic*] excused.

VOTE: AYES: Chair Carroll, Vice-Chair Hokama, and Councilmembers Cochran, Crivello, King, and Sugimura.

NOES: Councilmember White.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Atay and Guzman.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR CARROLL: All right. Anything further to these –

COUNCILMEMBER WHITE: Chair?

CHAIR CARROLL: --seven conditions?

COUNCILMEMBER WHITE: Chair?

CHAIR CARROLL: Yes. Yes, Mr. White?

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CHAIR CARROLL: The Chair finds that acceptable.

VICE-CHAIR HOKAMA: Okay.

CHAIR CARROLL: All right.

VICE-CHAIR HOKAMA: But one more thing, Chairman, please, okay, many of us have had plans from four o'clock today, okay, or earlier. Many of us now we gotta readjust all our schedules because we don't know when we're going to finish this meeting that you want to force to finish today. Okay. We all have commitments, Chairman. So, we just need a sense of do we finish, or do we take and make sense and see if we have an opportunity for tomorrow?

COUNCILMEMBER SUGIMURA: Recess. Let's recess.

VICE-CHAIR HOKAMA: Because I don't trust everything on the fly, Chairman. Things get lost in the shuffle. 'Cause we don't see what we're approving. And, again, Chairman, we all have other requirements whether it's family or not for this evening.

CHAIR CARROLL: One-minute recess. . . .*(gavel)*. . .

RECESS: 4:50 p.m.

RECONVENE: 4:53 p.m.

CHAIR CARROLL: . . .*(gavel)*. . . All right, Members, the Chair has agreed that we could recess until two o'clock on Friday. But we're all right next to passing out what we're doing right now – the State Land Use one. I'd like to go over there and see if we could finish that because I think we're right done with it already. Really, we've gone through everything on it. All right. And then we'll recess this meeting until two o'clock on Friday. But since we've gone this far on it, I don't want to come there Friday and then everybody say, oh, what did we say and all of that. So, . . .

COUNCILMEMBER WHITE: Recommendation, Chair?

CHAIR CARROLL: The Chair will entertain a motion to recommend adoption of the revised proposed resolution approving the project with modification.

MS. NAKATA: Excuse me, Chair?

CHAIR CARROLL: Wait, wait.

MS. NAKATA: I think you're on the District Boundary Amendment bill.

CHAIR CARROLL: To amend the State Boundary District from Agriculture . . . oh, okay, I'm sorry. I started to read the one right above it. Entertain a motion to recommend passage

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on first reading on the proposed bill entitled, A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO URBAN DISTRICT CONDITIONAL BOUNDARY AMENDMENT FOR PROPERTY SITUATED AT WAILUKU [sic], MAUI, HAWAII, TAX KEY MAP [sic] number (2) 3-5-001:064, CONTAINING A TOTAL OF 14.416 ACRES, and to file County Communication 18-303.

COUNCILMEMBER WHITE: So move, Chair, with the correction that it's Waikapu rather than Wailuku.

CHAIR CARROLL: Yes, as modified.

COUNCILMEMBER SUGIMURA: Second.

CHAIR CARROLL: It's been moved and seconded. Discussion? All in favor signify by saying "aye."

VICE-CHAIR HOKAMA: Chairman?

CHAIR CARROLL: Oh, I'm sorry, Mr. Hokama.

VICE-CHAIR HOKAMA: Thank you, Chairman. I'm going to speak in support with reservations this evening on this motion, Chairman. Again, my heart burns is, again, with our Departments. I don't think we do good enough job in reviewing this application to give Council the appropriate documentation and information to justify. Just doing District Boundary Amendments without the necessary components that I feel is pertinent that the Land Use Commission is provided before they make their own decisions especially regarding reviews on the technical issues where thereby the Staff provides them with a report that contains Findings of Fact Conclusion of Law. Okay. We get none of that regarding this District Boundary request. So, that's, for me, one of the areas of improvement that I believe we need to have the Departments, if they want to keep pushing these types of applications to us, then we need a better vetment [sic] regarding boundary amendments on Land Use reclassifications. Okay. Whether it's Housing Department, Planning Department, I don't care. We need something better. And like I said earlier on this issue, Chairman, if this passes, I believe we need to send a letter to the Departments and tell them to start following up regarding the components that's going to make this project actually work. So, I expect from Public Works a recommendation on what road projects they're going to make to ensure that this thing can work, reduce the traffic impact component from a regional standpoint, and then present something for us to consider because I want people to implement our plan in the future. I'm tired of doing this type of work this way. Okay. It doesn't work, and, in the end, we end up paying big money. Okay. Nobody counts how much we gotta empty out from General Fund after the fact for all these other components we're going to be required to do after the decision. Okay. Nobody takes that into account. I can tell you this County pays a lot on this Makawao Highlands and all the other projects we did we end up paying big time after the decision, Chairman. Thank you.

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 31, 2018

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: AA)

ACTION: DEFER LU-2(5) and LU-67 PENDING FURTHER DISCUSSION.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR CARROLL: All right. Members, thank you so much.

COUNCILMEMBER SUGIMURA: Meeting in recess.

CHAIR CARROLL: This Land Use Committee meeting stands in recess until Friday, at 2:00 p.m. We stand in recess. . . . *(gavel)* . . .

RECESS: 4:59 p.m.

APPROVED:



ROBERT CARROLL, Chair
Land Use Committee

lu:min:181031:js

Transcribed by: Jo-Ann Sato

LAND USE COMMITTEE MINUTES
Council of the County of Maui

October 31, 2018

CERTIFICATE

I, Jo-Ann Sato, 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 27th day of November, 2018, in Pukalani, Hawaii



Jo-Ann Sato