

AFFORDABLE HOUSING COMMITTEE
Council of the County of Maui

MINUTES

September 18, 2019

Council Chamber, 8th Floor

CONVENE: 1:31 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Tasha Kama, Chair
Councilmember Michael J. Molina, Vice-Chair (out at 4:52 p.m.)
Councilmember Riki Hokama (in at 1:34 p.m.; out at 3:42 p.m.;)
Councilmember Keani N. W. Rawlins-Fernandez (in at 1:34 p.m.)
Councilmember Alice Lee
Councilmember Shane M. Sinenci
Councilmember Yuki Lei K. Sugimura (in at 1:34 p.m.)

NON-VOTING MEMBERS:

Councilmember Tamara Paltin (out at 8:10 p.m.)

STAFF: Alison Stewart, Legislative Analyst
John Rapacz, Legislative Attorney
Stacey Vinoray, Committee Secretary

Don Atay, Executive Assistant to Councilmember Shane Sinenci

ADMIN.: Ed Kushi, First Deputy Corporation Counsel, Department of the Corporation
Counsel
Linda R. Munsell, Deputy Director, Department of Housing and Human
Concerns
Clyde "Buddy" Almeida, Housing Administrator, Department of Housing and
Human Concerns
Jordan Hart, Deputy Director of Planning, Department of Planning

OTHERS: Makila Kai, LLC:
Greg Brown, Greg Brown Development
Tom Schnell, PBR Hawaii
Dennis Poma, Principal Engineer, Owner, Advanced Compliance Solutions

Attendees: (32)

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

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**ITEM AH-1(3): INDEPENDENT DEVELOPMENT OF THE MAKILA FARMS PROJECT
(LAHAINA) (MISC)**

CHAIR KAMA: . . .*(gavel)*. . . The meeting of the Affordable Housing Committee shall now come to order. Today is September 18, 2019 and it is now 1:31 p.m. This meeting is reconvened from our September 11, 2019 [sic] meeting of the Affordable Housing Committee, which previously was reconvened from September 10th. So, I'd like to ask everybody to please silence all their noise-making devices. So, I am Tasha Kama, I'm the Chair of the Affordable Housing Committee, and with me today is my Vice-Chair Mike Molina. Aloha, Mr. Molina.

VICE-CHAIR MOLINA: Aloha, Madam Chair.

CHAIR KAMA: And Mr. Shane Sinenci. Good morning. Good afternoon.

COUNCILMEMBER SINENCI: Good afternoon, Chair. Aloha.

CHAIR KAMA: And with us again is Miss Alice Lee. Aloha, Ms. Lee.

COUNCILMEMBER LEE: Madam Chair. And again, buen dia from all the way from South America.

CHAIR KAMA: Thank you for that, Ms. Lee. And with us is our Non-Voting Member, Ms. Tamara Paltin. Good afternoon.

COUNCILMEMBER PALTIN: Aloha Auinala, Chair.

CHAIR KAMA: Aloha Auinala.

COUNCILMEMBER SINENCI: Aloha Auinala.

CHAIR KAMA: And I think who'll coming shortly is Ms. Keani Rawlins-Fernandez and Ms. Yuki Lei Sugimura. Ms. Kelly King is not a Voting Member and she'll probably be joining us if she deems able to. So also with us is the Department of Housing and Human Concerns' Ms. Linda Munsell. Aloha, Linda.

MS. MUNSELL: Aloha, Chair.

CHAIR KAMA: And Buddy Almeida.

MR. ALMEIDA: Good afternoon, Chair.

CHAIR KAMA: Good afternoon. And also with us is, from Corp. Counsel, Mr. Ed Kushi. Welcome back, Ed. I miss you. And we have our Project Director and staff with us, Mr. Greg Brown, and Mr. Tom Schnell from PBR Hawaii. Aloha.

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MR. BROWN: Good afternoon, Chair. Thank you.

CHAIR KAMA: Good afternoon. Welcome back, Tom.

MR. SCHNELL: Thank you.

CHAIR KAMA: And also with us, we have our Committee Staff, Ms. Alison Stewart, our Legislative Analyst. Aloha, Alison. And Stacey Vinoray, the Committee Secretary. Aloha. Thank you for being with us. And Mr. John Rapacz, our Attorney. Aloha. Welcome for being here. So, this afternoon, Members, we are continuing this agenda item, AH-1(3), the Affordable Housing Project, Chapter 201H, Hawaii Revised Statutes, Independent Development of the Makila Farms Project in Lahaina. Members, we have received information regarding the proposed 201H project, and have asked all of our questions. And for today, I'd like the Committee to take action on this item on today's meeting. So I want you to think about these three things. Does this Committee want to recommend approval of the 201H application as proposed? Does the Committee want to propose modifications to the 201H application, after which the Committee would recommend approval? Or does the Committee want to recommend disapproval of the 201H application, regardless of any possible modifications? And, so think about that, as I welcome Mr. Riki Hokama to our presence this afternoon. Aloha. Welcome. Oh, and Ms. Sugimura, thank you for joining us also.

COUNCILMEMBER SUGIMURA: Good afternoon.

CHAIR KAMA: And Ms. Keani Rawlins. Okay. Thank you. Now we have a full slate today. Thank you all for joining us. Aloha Keani.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha, Chair.

CHAIR KAMA: So, for those of you who just came in, so we're going through modifications today, and I wanted you all to think about the three questions. We're either going to, today, pass this application with modifications, without modifications, or not at all. So, as Chair of the Committee, I just want to offer some modifications for the 201 application that I have, and then I'd like to ask all of you for your modifications, take a recess, allow Staff to collate the modifications according to similarities, and bring it back to us, at which time, we will be able to, by consensus, agree on the modifications, and proceed in that manner. Any questions or comments? Thank you. So, I would like to proceed with my modifications, and just to enter it into the record, and then I will be followed up by Mr. Molina, if you would also read your modifications into the record. And then Ms. Keani Rawlins, if you read your modifications. And is there anyone else with modifications that they would like read into the record? Okay. So, just for now, just three of us. Number one, I'd like to change the distribution to workforce homes. 12 homes, or 32 percent of the homes, priced for very low and low-income households, earning between 50 and 65 percent of the median income. Meaning, if you earn between \$41,900 and \$54,470, that's what I'd like to have 12 homes, for people earning that income. I'd like to have 14 homes, or 37 percent of

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those homes, priced for low income households earning between 66 and 85 percent of the median income, or for those households who are earning \$71, 230, I'd like to have 14 homes for people who earn that amount of money a year. See? I'd like 12 homes, or 31 percent of those homes, priced for low income and below moderate income households earning between 86 and 100 percent of the median income. In other words, if you earned \$83,800, I'd like to see 12 homes in that price range. I'd like to extend the affordability requirement from the stated, in the Maui County Code 2.96, to a 30-year requirement for all of the workforce housing units, and any sales within that 30-year period will be at the AMI appropriate guidelines, as issued by the Department of Housing and Human Concerns, as of the date of the proposed sale. Homeowners selling their homes within the 30-year period would be permitted to retain 3 percent appreciation per year. I'd like to be able to allow the provision of second farm dwellings for the workforce housing lots, and require that these dwellings are subject to the same restrictions as all of the other workforce housing units. I'd like to provide housing plans for the workforce housing units that are consistent with the AMI allocation proposed in my modification number one. I'd like to provide a gravel walking path consistent with an agricultural area, rather than the asphalt path proposed in the application. I'd like to accept the exemptions proposed by the applicant, with the following modifications: permit lots with less than 200 feet for the subdivision proposed in the application, an exemption from Section 19.30A.030, Maui County Code. B: I'd like to permit exemptions from Section 19.30A.030.G and 19.30A.040., Maui County Code, such that the proposed subdivision can be approved and amending any existing agreements limiting the future subdivision of the subject tax lots. Seven: To the extent legally permissible, restrict the availability of the workforce housing unit to residents of the Maui County and provide, if possible, a preference for existing residents of the greater Lahaina area, or those employed in that same general area. And eight: Adding to the conditions of approval, a requirement for the developer to assist in the provision of a homebuyer's financial education program for those purchased in workforce housing, and that program must include an individual development account program. And, so, with these dated modifications, I'd like to continue with the Committee Vice-Chair, for his modifications to be entered into the record.

VICE-CHAIR MOLINA: Thank you very much, Madam Chair. As you remember, and Members, recall, at the last meeting, I had something, like, I think 12 proposed modifications, but the developer has already met a lot of it, and I think the only one that I had a real interest was the possibility of adding more units for the affordable...adding that, I guess, privilege of having a farm dwelling for the affordable units. I'd like to withdraw that, 'cause I think the market units, they have that privilege of adding that farm dwelling, whereas the 19 affordable lots, don't. So, my only issue is about the...adding more density to the whole project. So, but again, that's my thoughts, but, you know, the rest of the Committee can, you know, consider that as well. And I just wanted clarification on your No. 3, where it says, allow the provision of second farm dwellings for the workforce housing lots, and require that these dwellings are subject to the same restrictions as all of the other workforce

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housing units. Are you saying that...now, my understanding is, you have a main dwelling, the house.

CHAIR KAMA: Which is...yes.

VICE-CHAIR MOLINA: Oh. Okay. That's what you mean by a second...

CHAIR KAMA: Yes.

VICE-CHAIR MOLINA: Okay. I thought it was –

CHAIR KAMA: Yes.

VICE-CHAIR MOLINA: --adding, like, two ohanas –

CHAIR KAMA: No.

VICE-CHAIR MOLINA: --and the main house.

CHAIR KAMA: No.

VICE-CHAIR MOLINA: Oh. Oh, Okay. Okay. All right.

CHAIR KAMA: So, it's a 19 workforce, plus one.

VICE-CHAIR MOLINA: Okay. Something I would like considered, that if the Committee decides to allow farm dwelling units on the affordable housing lots, that they be restricted to being rentals, and they follow affordable rental guidelines. 'Cause we certainly don't want property owners to take advantage of renters and charge them exorbitant sums for rent. So, if they're given that privilege, that these farm dwellings be kept as, you know, kept as affordable so renters are not exploited for additional monies. And, I guess, maybe, that is a consideration for the market-rate units as well. So, any farm dwelling units, that they be rentals, and that they have to follow the affordable –

CHAIR KAMA: Got it.

VICE-CHAIR MOLINA: --rental guidelines. So, that's all I have, Madam Chair. Thank you.

CHAIR KAMA: Thank you, Mr. Molina. Ms. Keani Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KAMA: Thank you.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I have five. Within the CC&R's, or other documents designating a homeowner's association, at least 50 percent board membership must be from lots 1 through 19, the workforce housing lots. Developer to subsidize workforce housing lots as was proposed in Makila Kai proposal to pencil out construction and offering to 50 percent to 100 percent AMI. Developer may not vary from workforce plans submitted in final application to enable workforce homes to be provided quickly and at prices affordable to buyers. No lots may switch irrigation systems to potable water. And, homebuyers may get to choose, as in accordance with the law, the institution that they would pre-qualify for a loan. Mahalo, Chair.

CHAIR KAMA: Any other modifications?

COUNCILMEMBER PALTIN: Chair?

CHAIR KAMA: Yes?

COUNCILMEMBER PALTIN: I had a point of clarification.

CHAIR KAMA: Yes?

COUNCILMEMBER PALTIN: In the last meeting that we had on this, you mentioned that maybe we can to the State Department of Transportation about the ingress and egress about exit number five. Just wondering, if we did hear anything?

CHAIR KAMA: I haven't.

COUNCILMEMBER PALTIN: Oh. So, you sent it, and they didn't respond?

CHAIR KAMA: I don't think I went there. I didn't talk to the DOT.

COUNCILMEMBER PALTIN: Oh. I thought that was a question that the Committee was going to send –

CHAIR KAMA: Did...

COUNCILMEMBER PALTIN: --when we had that conversation last meeting.

CHAIR KAMA: Did we do that? I didn't think we did. Was this last week? Right?

COUNCILMEMBER PALTIN: The last time we met on it.

CHAIR KAMA: Yeah.

COUNCILMEMBER PALTIN: I thought the Committee was going to ask the question about the possibility...

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CHAIR KAMA: . . .*(inaudible)*. . . It didn't get done.

COUNCILMEMBER PALTIN: Oh. Okay. Thanks.

VICE-CHAIR KAMA: You're welcome. So, if there are no other modifications, I'd like to call for recess, and let the Staff go to work and consolidate all of these similarities. Recess. . . .*(gavel)*. . .

RECESS: 1:44 p.m.

RECONVENE: 2:19 p.m.

CHAIR KAMA: . . .*(gavel)*. . . The Affordable Housing Committee of September 18th will now reconvene at 2:19 p.m. So, I just want to make mention, for the record, that Ms. Paltin has submitted her modifications. There are 12 of them, and we will go over them later. But, at this time, we're going to ask Mr. Tom Schnell of PBR to say a few words.

MR. SCHNELL: Good afternoon, Councilmembers. I was asked to make a clarification regarding the workforce homes, and the number of workforce homes, and how that would work out. So, I would like to refer to Chair Kama's proposed mods, number one. She is proposing 12 homes in the low income group, or very low, low income group; 14 homes in the low income and the median income, or between 66 and 85 percent of the median income, and then 12 homes for the low income and below moderate groups. If you add that together, it's a total of 38 homes, and I'd like to explain on the plan, how that could be achieved.

. . .BEGIN PRESENTATION. . .

MR. SCHNELL: So I have the plan up here. The homes down here, or the lots down here, these would be workforce lots, and these would also be workforce lots. All of the lots are two acres. And with the subdivision, these would be created into separate TMK's. So, there would be 19 TMK's, and that's how we came up with the original 19 workforce homes. But to be able to increase the number of workforce homes, the ag ordinance does allow two workforce homes. Or, sorry, two farm dwellings per lot, and CPR allows a mechanism for separate ownership of those two homes. So, one TMK could have two homes per TMK, and the ownership would be controlled by a condominium property regime on those two...or on that one lot, TMK lot. So, just for an example, the area here...this is our dedicated agricultural area. It's part of the lot, and it's a two-acre lot, and this is the buildable area here. This buildable area here, on these lots, the buildable area is about 30,000 square feet. On these lower lots, they're two acres, but they're a different shape, and the buildable areas shown here are about 24,000 square feet. So, it's easily...two homes could be provided in those areas. If, for example, I would say, Kahului, a lot of homes are 10,000 square feet, or maybe 7,500 square feet. So, even...take these at the top of the...as an example, if the

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buildable area's 30,000 square feet, that's still allows 15,000 square feet per home. So it's still a relatively large lot.

MR. BROWN: I wanted to add to that, that in Launiupoko currently, there are many two-acre lots, and just about every one of them in Launiupoko is CPR'd this way already. So, it's consistent with what is going on in the neighborhood. And the Maui County Ag Ordinance says that the majority of your lot shall be farmed. In this case, we are going to be farming the majority of the lot, and probably very few other lots up there actually are doing majority farming. So, it's consistent.

MR. SCHNELL: And I'd like to say a little bit about, the way that this could be controlled, that we think the best way this could be controlled is if Greg would additionally build all of the 38 homes, and those 38 homes were entered into the lottery, and the workforce buyers were chosen for 38 homes. That way, when they buy the home, they're subject to the 30-year buyback restriction. Now, for example, if folks could later build a home and rent it out, we would have less, or Housing and Human Concerns would have less control over the rental rates, or, you know, it would have to be constantly monitored. But if all 38 homes were built at one time and sold in the lottery, then all of those buyers would be subject to that initial 30-year buyback, so it streamlines the regulation and the sales of the homes, as far as controlling that they go to workforce buyers, and that they're reserved for workforce buyers.

. . .END OF PRESENTATION. . .

CHAIR KAMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, I have a question.

CHAIR KAMA: Yes? Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. How large are the lots after you take away the green belt buffer and the halau resource conservation? I'm sure they vary.

MR. SCHNELL: So, on these lots, on the top row, this area's about 30,000 square feet, in the light green. And in these lots down here, this area's about 24,000 square feet.

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

CHAIR KAMA: Thank you. Okay, so now the...our Staff has put together the modifications based on similarities. So, I'm going...so they did it by topics. So, I'm going to read the topics, and then they're going to share with us which of the modifications that we have done are similar. Yes, Ms. Paltin?

COUNCILMEMBER PALTIN: I just wanted to say for number four of my list of –

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CHAIR KAMA: Yes?

COUNCILMEMBER PALTIN: --modifications, I wanted to amend that one on the floor, if that's all right. I mean, whenever is the time, but, I –

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: --didn't want to go forward with it as it is written. I wanted to amend it.

CHAIR KAMA: Okay. When it comes to that. John, did you get that from...okay. Thank you. Okay, so the first topic was the one on time frame. So, Alison?

MS. STEWART: So, the modifications that we received from Members that deal with the timeframe would be from Councilmember Paltin. Number one, number two, and the number four that she just discussed, in terms of when the project should start, and its completion, and when the workforce housing units should be built.

CHAIR KAMA: So, those were all one, that was...

MS. STEWART: Those are the modifications that relate to timeframes for the project.

CHAIR KAMA: Okay.

MS. STEWART: They all come from Member Paltin. Her point number one, --

CHAIR KAMA: Uh huh.

MS. STEWART: --construction of the project within two years, or else the resolution is void.

COUNCILMEMBER PALTIN: So, did you want me to read them all or something?

MS. STEWART: Yeah. I think that might be best.

COUNCILMEMBER PALTIN: Oh. Okay. Sorry. Okay. My modifications to deal with timeframe. Number one, the Makila Farms Workforce Housing Project approved by this resolution, and the exemptions set forth, shall all lapse and become void if: construction of the project has not started within two years of the adoption of this resolution. Start of construction shall mean the visible start of grading, pursuant to a valid grading permit, as needed for the development of the 76.1 acres containing the 19 residential workforce housing units. See the signs, yeah? They said, they want housing now, not ten years from now.

CHAIR KAMA: Uh huh.

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COUNCILMEMBER PALTIN: So, number two: the developer shall act in good faith and with its reasonable best efforts to complete construction of all 19 residential workforce housing units on the 76.1 acres with all related roads and infrastructures not later than 5 years from the effective date of this resolution. And, number four, I wanted to amend, the developer shall develop all workforce housing units before or concurrently with the...and then scratch out, development and concurrently with the sale of market lots...market-rate lots, or within five years, whichever they choose.

CHAIR KAMA: Okay. So, I wanted to know if there was anyone that had anything...any comments to say about the number one, number two, and number four from Member Paltin's modifications? Yes, Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. So, Member Paltin is just...she's keeping with the original plan that has 19 workforce housing, whereas your plan would double that number to 38?

CHAIR KAMA: We're just talking about the timeframe.

COUNCILMEMBER SINENCI: Oh. Okay.

CHAIR KAMA: We're talking about timeframe.

COUNCILMEMBER PALTIN: Yeah. I can amend it –

COUNCILMEMBER SINENCI: All right.

COUNCILMEMBER PALTIN: --to say something like, construction of all residential workforce housing, then take the number out, and then we discuss that at a different time.

CHAIR KAMA: So, okay. So let's do it this way. Easier, maybe. Is there consensus on this, on the timeframe, or not? 'Cause if we have consensus, let's just say yes, and move on, go to the next one. Or if not, we don't have consensus on this, we have people that want to amend it. We have things they want to say about it, then we'll put it on the side and keep going. Yes?

COUNCILMEMBER SUGIMURA: I want to know how realistic it is for us to ask that of the developer. I don't...I've never built anything of this magnitude.

MR. BROWN: I mean, yeah. So, and certainly, should...the timeframe should start from when all County and State permits are issued. And it would be much better to put a five-year timeframe, because unforeseen things can certainly hold up the project, and it would be a shame to go through all this and get the entitlements and have the time run out.

MR. SCHNELL: If I could just add. So, if the 201H resolution is approved, the first thing Greg needs to do is to drill the well and test the well. So, that could take, let's say,

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four to six months. And then we have to comply with, show me the water, and that could take some time too. And we can't get subdivision approval until we get a letter from Department of Water Supply regarding, show me the water. So, that, I mean...we'll move things as quickly as possible, but the time period could take 18 months to 2 years before those approvals are received. So, I think that's...if Greg had subdivision approval, that would be no problem. He could move forward as quickly as possible.

CHAIR KAMA: So, if I understand what you're saying, then, is, the timeframe is too short. You'd like to be able to see maybe five years after subdivision approval? Is that what you're saying?

MR. BROWN: Yes. And it would be nice to add a clause there to say that that time would stop if it's anything out of my control during the five years.

CHAIR KAMA: And the clock stops if something happens, like a hurricane or whatever? Act of God?

COUNCILMEMBER SUGIMURA: Act of God.

CHAIR KAMA: Okay. So...

COUNCILMEMBER SINENCI: Chair?

CHAIR KAMA: Yes, Mr. Sinenci?

COUNCILMEMBER SINENCI: Did you say five years after subdivision approval? Not five years from the acceptance -

COUNCILMEMBER PALTIN: I just was putting -

COUNCILMEMBER SINENCI: --of this reso?

CHAIR KAMA: Yeah.

COUNCILMEMBER PALTIN: --those in, 'cause I felt like that's what was represented to the people. Like, we can have you in your home in two years from now. And then, that's why I like to make the conditions to, like, reflect what was represented to the people, because when it doesn't happen the way it is --

UNIDENTIFIED SPEAKER: Yeah.

COUNCILMEMBER PALTIN: --then we get the blame a lot of times.

CHAIR KAMA: Right.

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COUNCILMEMBER PALTIN: Like, when the story is told, and then reality's –

UNIDENTIFIED SPEAKER: Right.

COUNCILMEMBER PALTIN: --not, so I just want what's on paper to represent what the story was.

CHAIR KAMA: So, right now we're writing the paper. And if they're telling us that they can't do it until after five years the subdivision's approved, then at least we can put that on paper and say, okay, you get your final subdivision approval in a year or two, then within five years, it should be done. That's what we're saying. It's just time.

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

CHAIR KAMA: That's what I'm proposing to you folks. What do you guys think?

COUNCILMEMBER HOKAMA: Chair?

CHAIR KAMA: Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: So, my disappointment in hearing this is that, how we're going to get subdivision when we don't even know how many lots we're going to allow. Because I think that should be a point of our discussion. I am not a supporter of property regimes. I find that a way of circumventing certain requirements that we expect regular subdivisions to provide a community. So, in general, my thing is, you can say property regimes but how many fractions of percentages are we going allow the ownership? And I don't...and we purposefully have a sliding rule of scale on agricultural lot subdivision. We have a policy. Is this to circumvent our own law on sliding scale? I mean, we're going to need to decide, because, you know, I was going and basing my decisions for this on the proposal that was presented to us and was printed and what we...the people testified on. I appreciate your willingness to try and double the amount, but again, the issue is now with property regimes, who then is the so-called invisible owners of...because there's no metes and bounds anymore. Okay? So, if you guys want to discuss, that's fine with me, but I'm happy to move forward on what I know –

CHAIR KAMA: The 19.

COUNCILMEMBER HOKAMA: --that was presented to us here, Chair. And I believe that a clock is appropriate, you know? We're going to need to find a working clock that helps to fit their needs to take into account we're not the fastest people to review and approve permits –

CHAIR KAMA: Yeah.

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COUNCILMEMBER HOKAMA: --okay? The State is not the fastest regarding SHPD and historic preservation subdivision review. Our own County application before State subdivision is delayed by years, so, I understand the comment, Mr. Brown, but if one of the ways you say you can help us is, if we consider allowing to build all of the units at one time, then for me, that means that's less time you need, because you're going to build it and you're going to say, we want it built. You can build 30 units in 18 months. We'll find a way to do it. Okay. The burden is on you, not on us, to comply.

COUNCILMEMBER PALTIN: Chair?

COUNCILMEMBER HOKAMA: I'm ready, Chair.

CHAIR KAMA: Thank you. Yes?

COUNCILMEMBER PALTIN: Given what Mr. Hokama was saying, I don't know if you want to take up 6B, which addresses that...of my modifications is that condominium conversion, or further subdivision of any of the 34 lots in the project is prohibited. And the reason that I put that in there is, people that I know in Launiupoko where condominium property regimes are widely used, hate it. You know? Like, they all share, like, one driveway, and there's all sorts of mina mina fights, and they're like, whatever you do, if you get in office, don't allow CPR's. So, I mean, just...I guess they had a similar experience to Mr. Hokama.

CHAIR KAMA: Okay. So in terms of items one, two and four, and six, if you want to take it. Do you want to take it up as consensus? Do you want to pass it on and go onto the next modification?

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Yes, Ms. Keani Rawlins?

COUNCILMEMBER RAWLINS-FERNANDEZ: I think what Member Hokama, the point that Member Hokama makes, I agree with that. Perhaps before taking up the timeline, we should talk about the number of houses and how that's going to happen –

CHAIR KAMA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: --and before we talk about . . .

CHAIR KAMA: Mister....okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Mahalo, Chair.

CHAIR KAMA: Mr. Brown?

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MR. BROWN: Yeah. I did want to clarify that I do plan to build all 38 workforce houses in one phase, all concurrently at the same time, before I build all of the market-rate homes. And I, you know, to clarify on the CPR, I've been up there the whole time, and I haven't heard all these problems with the CPR. I've been involved in many of them, and what the CPR has done for most of the folks who live up there, has made it so they could afford to live up there. 'Cause if the properties weren't CPR'd, they'd be all \$7 million homes instead of 2 to \$5 million dollar homes. So, that's the reason most of them are up there, and that's what we're trying to do here, is make it affordable to let some of the local people finally get up there with the rest of the folks. And even though I agree it's not the best mechanism in the world, it's a good mechanism to put the people on the land and let them get up there and enjoy it with everybody else. So that's the reasoning behind the CPR.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Yes, Ms. Keani Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. And, so what happens if the CPR framework is no longer part of our law? Meaning, what if there is no condominium regime that would be available under Maui County Code?

MR. BROWN: You mean if this...in the future, if Maui County Code changes, and CPR's...any CPR's that are already existing would be grandfathered in. So, that happened on the Big Island. You can't CPR over there anymore, but all the ones that are there are still existing. So it wouldn't change the subdivision.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, I guess my question is for Corp. Counsel. Or . . . so, in putting this condition, once we approve this application, are we then committing to allowing this project to have a right to condominiumizing? Even if that law is repealed?

MR. KUSHI: If I understand your question, Member Rawlins, if you don't see anything that prohibits it, it is allowable – CPR. You know, it's allowable right now. In any zoning district or State district, perhaps, except, conservation. But again, CPR is not a function of the County. It's a function of the Real Estate Commission, and the County has no control over CPR's. The only control the County has is if this one lot is divided into five CPR's, and there's five dwelling units on, there's a Public Works or Planning rule saying, if it's four or more dwelling units, then it becomes a subdivision, then the subdivision code kicks in. In this instance, I think the intent is just to CPR two units; one lot into two units. But again, if you don't put a prohibition on it, which you can, it will be allowable. My question is that, if you allow a CPR on one of these affordable units, then you have two separate units fully alienable. Can sell it to anybody, Tom, Dick and Harry. Then each unit has a...is a farmed...is an ag unit, then does each unit also allow two units on the lot? For one unit, one lot, you can have four units. That's something maybe the Planning Department should address. Then you're timing the density by four times.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Kushi. Mahalo, Chair.

CHAIR KAMA: You're welcome. Okay, so, Members, we got a couple of things in these three or four modifications. CPR. Yes or no, consensus? And then the timing, five years or two years, and is it after final subdivision approval or not? So, let's take it from CPRs, because if you don't want CPR's, then we gotta know that. So, yes, Mr. Sinenci?

COUNCILMEMBER SINENCI: Just had a question about the CPRs. Mr. Brown did mention that if we didn't do all 38 at the beginning, then...and you did it later, then those additional units wouldn't be...wouldn't have the 30-year...is that what you? If you did those CPR's later, then it wouldn't be subject to the 30-year affordable...is that correct?

MR. SCHNELL: It would be harder to control. Somebody would have to monitor that –

COUNCILMEMBER SINENCI: It would be to control. Okay.

MR. SCHNELL: --so, if you did them all up front, you know that they're all going to affordable buyers.

COUNCILMEMBER SINENCI: Okay. Thank you, Chair.

COUNCILMEMBER HOKAMA: Chair?

CHAIR KAMA: Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: Yes. I just want the Members to also take into consideration, the Department of Finance has supported in the past, and the Mayor has already transmitted for this term, a bill to adjust condominiums and impact projects. Some of the conditions, like this, which I support. So, I'm just giving...I'll be pushing that bill to Committee process, Chair. Thank you.

CHAIR KAMA: So, Mr. Brown, maybe I wanna ask you this, then. Based upon what Ms. Paltin has put into her modifications, can you live with that, or no?

MR. BROWN: It would make the project really difficult to do if we had to put restrictions on these lots that none of the other lots up there have. Right now, the other lots don't have a restriction on CPR, and that's...oh, I thought you were...

CHAIR KAMA: Yeah, the timing. It's about the timing.

MR. BROWN: Oh. About the timing. On the --

CHAIR KAMA: The two years.

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COUNCILMEMBER SUGIMURA: Two years.

MR. BROWN: --timing. On the timing, I would like to see it five years from the date of all approvals. And like I said, I plan to get going on it right away and build all of them in one phase, but to put a shorter timeframe and have something happen and lose the approvals.

COUNCILMEMBER HOKAMA: Chair?

CHAIR KAMA: Yes.

COUNCILMEMBER HOKAMA: Question for clarification.

CHAIR KAMA: Yes?

COUNCILMEMBER HOKAMA: When you mention about the well component and six months for drilling testing, that's for your non-potable requirements, right? And so, the County requires you to get that non-potable number squared away before subdivision, because you show us the Launiupoko for the potable rating. I'm more concerned about the potable water?

COUNCILMEMBER PALTIN: . . .*(inaudible)*. . .

MR. BROWN: The Department of Water also wants the well drilled, that is part of show me the water, and pumped, before they'll let the subdivision proceed.

COUNCILMEMBER HOKAMA: They want you to have a test, or the pump test? Okay. Thank you, Chair.

CHAIR KAMA: Thank you. So, were you finished?

MR. BROWN: Yeah. I believe so. I said I'd prefer to see five years.

COUNCILMEMBER SUGIMURA: Five years from adoption of the resolution?

CHAIR KAMA: Yes. Yes. John Rapacz?

MR. RAPACZ: Thank you, Chair. Just to clarify one item. CPR-ing the lots would not allow additional farm dwellings on the lots. Each lot gets two farm dwellings. One of them is a thousand square feet or less. By CPR-ing, you would simply be allowing those farm dwellings to be sold individually, so that on a lot that's condominiumized into two units, each unit would have one farm dwelling, and that farm dwelling could be sold separately from the other one. And that way, you could get 38 affordable units, each individually sold. They would...none of them would have to be rented out, because they were owned by one person, and rented out by that person to someone else. So the CPR is a way of allowing the sale of 38 individual farm dwellings.

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COUNCILMEMBER HOKAMA: . . .*(inaudible)*. . .

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: I have a question. Oh. I'm sorry.

CHAIR KAMA: Mr. Kushi?

MR. KUSHI: Madam Chair, I would say, you know, I understand what Mr. Rapacz is saying, but get it officially from the Planning Department.

CHAIR KAMA: Okay. Oh. There's the Planning Department. Mr. Hart, will you please join us? And thank you for smiling. . . .*(chuckle)*. . . Good afternoon.

MR. HART: Good afternoon, Chair, and Members. Jordan Hart, Deputy Director of Planning. The representation that Mr. Rapacz made is correct. Two farm dwellings per lot. One item I do want to clarify is, that these are farm dwellings. In the context of the County of Maui, that means that 51 percent of the parcel is being operated as ag, and so I know there was some discussion about this in the past, but a critical component to each of those individual CPR owners, is that they're able to control and make sure...well, they don't need to control, but there needs to be certainty that there is farming going on, on the portion that equals their 51 percent of responsibility for farming. So, some level of certainty that that can be either ensured by those homeowners, or some other entity in perpetuity, is necessary.

CHAIR KAMA: Thank you, Mr. Hart. Yes, Mr. Kushi?

MR. KUSHI: Yes. Thank you, Mr. Hart. Madam Chair, to throw in another curveball, okay, if that's the case, two farm dwellings per lot. You condominiumize, you get one dwelling each lot. But the ordinance also says, two dwellings, farm dwellings, per lot, one of which shall not exceed 1,0000 square feet. That means, one can be a mansion, and one can be only 1,000 square feet. So, what are they going to do? Choose?

COUNCILMEMBER PALTIN: To further complicate this, it was my understanding that you can only have one ATU per lot, and then if you only have one ATU per lot, would that be per condominiumized lot, or per original 34 lots. And then also, would the max of five bedrooms, so, one can only have two, and the other can only have three bedrooms? Or one can have one bedroom and the other one can have four bedrooms? And then there's no adding on of bedrooms once that's decided. And I don't understand how, like, you couldn't do 34, when that's your original thing, was 34. That was the original book that we read, was 34.

MR. BROWN: So, that's incorrect, that you can only have one ATU per lot, and we've got a civil engineer here that works with the Department of Health frequently who can explain that to you. There was some incorrect testimony posted by somebody who's

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not a civil engineer this morning; said that's wrong. And we're glad to bring up the engineering, go over that when the time comes, and to go back to the one and two bedrooms that Mr. Kushi had brought up, there's a huge need for one and two bedroom homes for our workforce. The whole time we've been going through this, we have this outcry from teachers and people just getting started; they can't afford three and four bedroom homes. So 19 more one and two bedroom homes is just a blessing to this community on the west side, and what they all need, they need little starter homes that they can get into. These homes are going to start at \$161,000, you know? This is unheard of, and yeah, we gotta allow the CPR to make it happen, and we gotta build some smaller homes, but they can add on and build up to these in the future, and you can have two ATU. The requirement of an ATU is only on 10,000 square feet, not per TMK. And it can be for two dwellings.

CHAIR KAMA: Okay, Members, so we're back at, do we have –

COUNCILMEMBER SUGIMURA: Aye.

CHAIR KAMA: --consensus on the CPR's...

COUNCILMEMBER HOKAMA: No.

CHAIR KAMA: Okay. I heard one...yes, Ms. Lee?

COUNCILMEMBER LEE: No, no. I was just going to vote yes.

CHAIR KAMA: Okay. Well, let's do roll call votes on the CPR's. Okay.

COUNCILMEMBER LEE: Is this to allow them, or what? What is the question?

CHAIR KAMA: First, it's, well, we're doing the modifications, and in the first modification, we're talking about timing. So, the timeframe we talked about was whether it's about two years and after the adoption of the resolution, and I said maybe we need after subdivision approval, five years. And, so that's what...and then the CPR issue came up, so I just wanted to make sure we had...we're clear about what we're talking about, so, let's talk about the CPR's, if we're going to CPR's. Let's see if we have consensus on that. If we do, then let's go on to see if we have consensus on the five years or the two years, consensus at the time of the –

UNIDENTIFIED SPEAKER: Chair?

CHAIR KAMA: --resolution, or is it going to be after final subdivision approval? Because what the developer has said, is that they need more time, that two years after the resolution is not enough --

UNIDENTIFIED SPEAKER: Right.

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CHAIR KAMA: --time for him.

COUNCILMEMBER SUGIMURA: So, Chair?

CHAIR KAMA: Yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Because I don't know much about CPRs...and right now, I think it was said that it's a State-controlled policy; it's not us. But right now, it's legal, right now, nothing has changed, right? So, what you're asking us is, is we want to change this so that no CPRs...

CHAIR KAMA: Not change it, I'm just asking, because if you folks don't want the CPRs, does that mean that we don't want this project to go through? Are we saying, we don't want the modification? I'm trying to get consensus on all the modifications, starting with the timeframe, and the CPR is part of that timeframe.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Yes, Ms. Keani Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. So, you're seeking consensus, --

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: --meaning that everyone agrees, and if even one Member doesn't agree, then we already don't have consensus.

CHAIR KAMA: Correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: So I think maybe a roll call vote wouldn't be necessary.

CHAIR KAMA: We'll do a roll call vote anyway.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR KAMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure.

CHAIR KAMA: Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. I know your intention is to increase the housing at this location, but at this point, I want to support ag use, so no.

COUNCILMEMBER SUGIMURA: So, no, wait, Chair?

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CHAIR KAMA: I don't...yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So...

COUNCILMEMBER SINENCI: For the CPR, right? CPR?

CHAIR KAMA: Yeah.

COUNCILMEMBER SUGIMURA: So now we're throwing at ag use, right? So if you look at this map, based upon what was presented from the developers, you have that halau area in dark green, and then you have the homes that are –

CHAIR KAMA: In light green.

COUNCILMEMBER SUGIMURA: --in light green, then a road, then more homes, and then you have all the –

CHAIR KAMA: . . .(inaudible). . .

COUNCILMEMBER SUGIMURA: --other ag area, --

CHAIR KAMA: Yeah.

COUNCILMEMBER SUGIMURA: --so we do have ag. This is...the unusual thing about this project is that it is ag.

COUNCILMEMBER SINENCI: Chair?

COUNCILMEMBER SUGIMURA: There is ag.

CHAIR KAMA: Yes, sir?

COUNCILMEMBER SINENCI: No, it's just my vote. Just one vote.

CHAIR KAMA: Yes. And that's fine.

COUNCILMEMBER SINENCI: Yeah. No to the CPR.

CHAIR KAMA: Thank you. Ok, Mr. Molina?

VICE-CHAIR MOLINA: Clarification? So, we're voting on two issues: the CPRs, and the amount of time the developer...

CHAIR KAMA: Just CPRs.

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VICE-CHAIR MOLINA: Just CPRs. Okay. No.

CHAIR KAMA: Miss Lee?

COUNCILMEMBER LEE: Aye. Yes.

CHAIR KAMA: Ms. Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: No.

CHAIR KAMA: Okay. Mr. Hokama?

COUNCILMEMBER HOKAMA: No.

CHAIR KAMA: Ms. Paltin?

COUNCILMEMBER PALTIN: Oh. I'm not supposed to vote. Or, you want me to vote?

COUNCILMEMBER SUGIMURA: She's not a Committee Member.

CHAIR KAMA: I guess they said no. I would have...okay. Go ahead, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR KAMA: Thank you. Okay. So it seems like you're right. We don't have the votes for the CPR. So, Mr. Brown, so can we do it without those CPR's? Can you do your project without CPR's?

MR. BROWN: Can we take a recess –

CHAIR KAMA: Sure, let's recess.

MR. BROWN: --. . .*(inaudible)*. . .

CHAIR KAMA: . . .*(gavel)*. . .

RECESS: 2:52 p.m.

RECONVENE: 3:01 p.m.

CHAIR KAMA: . . .*(gavel)*. . . The Affordable Housing Committee of September 18th will now reconvene at 3:01, and Mr. Brown, will you please continue our discussion?

MR. BROWN: So I'd like to propose that there'd be no CPR, but that any of the lots could have a second farm dwelling on the market or the workforce. The workforce lots, if they built a second farm dwelling in the future could be for their ohana, and the market-rate lots, you know, they couldn't CPR, they could build an ohana as well.

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

MR. SCHNELL: They could not sell that ohana to a separate entity, so it would need to be a true ohana. So, it could be for their family members, it could be for their grandmother, or something like that, but they can't sell it to somebody they don't...you know, separate selling.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Yes, Ms. Keani Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, okay. So the main dwelling would be...the lowest cost is 161,000?

MR. BROWN: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: And so, if, at the same time, the second dwelling is built on it, how much would the entire parcel be?

MR. BROWN: So we're not proposing to build the second dwelling for anybody. They'd build that in the future, if they wanted, for their -

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh. I see.

MR. BROWN: --kids, maybe for their kids, when their kids are older, their, like Tom was saying, their in-laws, or family members, if they needed more space.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So what you had said previously about building the two units per parcel, were...that's...we're scrapping that?

MR. BROWN: We'd scrapped that, 'cause we're saying no CPR now.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Right. Okay. Mahalo.

MR. BROWN: Unless you changed your mind. No?

COUNCILMEMBER RAWLINS-FERNANDEZ: I didn't. Mahalo. Mahalo, Chair.

CHAIR KAMA: Thank you. Yes, Mr. Kushi?

MR. KUSHI: Chair? Madam Chair?

CHAIR KAMA: Yes?

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MR. KUSHI: For clarification, that last meeting, I think the Planning Director clarified, it's not ohana, it's a second farm dwelling. So it needs to be accessory to the ag use, yeah?

CHAIR KAMA: Thank you, Mr. Kushi. Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: Chair, and –

CHAIR KAMA: Yes?

COUNCILMEMBER HOKAMA: Again, yeah? I appreciate the adjustment, 'cause I'm more amenable to this revised proposal, but just so that everybody's clear on, in the taxation side, because of the ag component, the 51 percent, as Director Hart brought up, if the owner is using his main domicile to help support that 51 percent, that owner does not qualify for homeowner's rate and exemption now. That is by County Code, existing. You can verify that with Finance. That's what we tried to correct in the BF-70 in last term, okay? It was not approved by Council, so be aware, you use your house for the business, you don't have any homeowner standing, and you will pay regular taxation on the business, ag business. Thank you.

CHAIR KAMA: Thank you, Mr. Hokama. Any other...yes? Any other comments? Okay. So, now, let's talk about the timeframe. So Mr. Brown, it seems as if...oh, I don't know for sure, but does five years sound reasonable or unreasonable? And can you lay out for us a timeframe?

MR. BROWN: So the timeframe would be as soon as we get the resolution passed here, we would proceed with our well, 'cause we have a well serve letter from CWRM to drill a well. That could take through the six months to drill it and prove the well, and provide the information needed to the Department of Water Supply. They, realistically, could take a few more months to process, show me the water. During that time, we'll be having our engineers process the other subdivision requirements with the hope that within a year, the County will get through all this. In the past, it's taken the County two years on projects before, if there's a little hiccup here or there, it can certainly get drug on. The hope would be it would get done within a year. We'd be ready to hit the ground running, and we would attempt to build every one of the homes within a year, all of the workforce homes in one phase all at one time. And I'm quite confident we could. We'd build a few of the market homes while that happened. You know, there's a lot of things that can happen beyond our control. If you leave it out there with a short time frame, some of the people will want to oppose, will just try litigation to hold you up for a year and a half, which is not hard to do. And then they know your entitlement will fail, so we don't want to give them that carrot and make that available to them.

CHAIR KAMA: So, if you were to count the calendar as of today, what would be your time certain date for completion?

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MR. BROWN: If all things, and all the stars all lined up, I would like to think within two to two and a half years. There's all the houses out there. If there was delays by the County, or, you know, a natural disaster, other things, it could be stretched out five years, you know? I've been sitting on this land for four years, now. Usually I own lots up there for about 9 to 12 months and I build and sell on them, so, I'm certainly not ready to sit on it for another five years; I can tell you that. We want to get going on it. We're going to as soon as we can.

COUNCILMEMBER SUGIMURA: So five years?

MR. BROWN: Yeah.

COUNCILMEMBER PALTIN: I'm okay with amending my thing to five years.

COUNCILMEMBER SUGIMURA: Five years.

MR. BROWN: Thank you.

CHAIR KAMA: Thank you, miss...yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So that's a really good point about receiving a lawsuit and delaying the project, you know, by somebody else, and how do...Corp. Counsel, how can we word this so that if that happens, it wouldn't just automatically just kill the project? You know what I mean? It's not us –

CHAIR KAMA: Mr. Kushi?

COUNCILMEMBER SUGIMURA: --but...just to...

CHAIR KAMA: Unforeseen?

COUNCILMEMBER SUGIMURA: Unforeseen...

MR. KUSHI: Yeah. If I understand the question, if there's litigation involved?

COUNCILMEMBER SUGIMURA: If a situation happens, let's say we pass the project, I don't know, by ending of next month or something, and then...or October 1 or whatever, and then we started the project...

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

COUNCILMEMBER SUGIMURA: Okay. Well, whatever, 11th of October, that we need to, and then somebody decides to sue, you know, the developer and delays the project past the two year, past the five year, but has nothing to do with...what does he have to do if that happens?

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MR. KUSHI: Well, if I understand the scenario, if someone sues...if this body passes this resolution, passes the project, and it was a five year completion date?

COUNCILMEMBER SUGIMURA: Mm-hmm.

MR. KUSHI: Okay. And in the meantime, some third party sues the developer, not related to what the Council did. By the way, you have immunity with what you're doing now.

COUNCILMEMBER SUGIMURA: Okay.

MR. KUSHI: But a third party sues the developer, and if I was the third party, I had the court get an injunction against him. Having done that, being the developer, I would come back to you and say, please extend the deadline because of forces not in my control, or because of a separate court order.

COUNCILMEMBER SUGIMURA: Okay, so...

MR. KUSHI: You could put that kind of language in the conditions, so –

COUNCILMEMBER SUGIMURA: Okay, so we...

MR. KUSHI: --provided that they come before the Council for an extension, at least 6 months before the end of the dead...drop date deadline.

COUNCILMEMBER SUGIMURA: Okay. So you're going to help us develop that language?

MR. KUSHI: We could.

COUNCILMEMBER SUGIMURA: Please? Thank you.

COUNCILMEMBER PALTIN: . . .*(inaudible)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Yes?

COUNCILMEMBER SUGIMURA: Just in case.

CHAIR KAMA: Yes, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, speaking of lawsuits, I think the last proposal, there was a lawsuit, yeah? The Makila Kai? I believe that there was a lawsuit. And so if we're anticipating another lawsuit because one had already been previously filed, then we can already anticipate that trying to push this, you know, housing project here where a lot of community members have adamantly expressed opposition to this location, and the whole purpose of going through the

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whole 201H process, and having our backs against the wall with a 45-day clock, would really defeat the whole purpose of trying to expedite this project because...I mean, we can already...yeah. So, it looks like Mr. Brown would like to respond to that?

MR. BROWN: You know, I just wanted to clarify that last time, the guy who filed the lawsuit has a short-term rental permit, an active one. He lived right across the street from it, and his –

COUNCILMEMBER RAWLINS-FERNANDEZ: Point of order? I don't know if that is applicable to what we're discussing right now.

MR. BROWN: Well, you were talking about the surrounding people who were opposing it and filing lawsuits, I thought, and so, the guy who did file it has a short-term rental permit and a \$5 million home, so that's who you have not wanting the affordable homes up there.

COUNCILMEMBER SUGIMURA: So, I didn't mean that he was going to get sued. I just wanted to, in case something like that happens...

CHAIR KAMA: In the event of an unforeseen...

COUNCILMEMBER SUGIMURA: Yeah. To have language in there –

CHAIR KAMA: Yeah.

COUNCILMEMBER SUGIMURA: --so that he's not...the project doesn't get automatically killed, you know? In respect for all this work that everybody's doing, right? It truly is a project...

CHAIR KAMA: Yeah.

COUNCILMEMBER SUGIMURA: Would be good to see.

CHAIR KAMA: Okay. So...

MR. SCHNELL: If I could clarify one point?

CHAIR KAMA: Yes, Mr. Schnell?

MR. SCHNELL: I'm not...I don't have the lawsuit in front of me, but I did review it at the time that it came in a couple years ago, on the previous project. I think one of their points was that previously, when Peter Martin was also proposing the two projects on both sides of him, that would result in segmentation. Since those projects are not on the table at this point, the segmentation argument point, if that's what they were...I mean,

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they wouldn't have a basis to file a lawsuit on segmentation. They might come up with other claims. That was one of their main points.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

CHAIR KAMA: Thank you. So I think if we put that language into the reso, Mr. Kushi, it'd be ok?

COUNCILMEMBER SUGIMURA: Thank you, Mr. Kushi.

UNIDENTIFIED SPEAKER: Yeah.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR KAMA: Thank you. Okay. So, do we have consensus, then, on this? Yes, Mr. Molina?

COUNCILMEMBER SUGIMURA: Five years.

VICE-CHAIR MOLINA: I'm okay with the five years, Chair.

CHAIR KAMA: Thank you. Thank you. Thank you, Ms. Paltin. Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: Five years from –

COUNCILMEMBER SUGIMURA: From?

COUNCILMEMBER HOKAMA: --when?

COUNCILMEMBER SUGIMURA: Final subdivision.

CHAIR KAMA: Is it...

COUNCILMEMBER PALTIN: My wording says five years after adoption of this resolution.

COUNCILMEMBER HOKAMA: I would like . . .*(inaudible)*. . . for us to move on, Chair, but my thing is, I think three years is enough, and for Mr. Brown, why wouldn't he want to get it done as fast as possible?

COUNCILMEMBER SUGIMURA: He does.

COUNCILMEMBER HOKAMA: Okay? Because I'm holding him not only to the percentages, but the numbers of ranges of the earnings you've already stated on the record, okay? 41,900 to 54,470. You stay there for...okay? So if they gonna make this work, the faster they can develop it, to get that 161,000 mark, is to their advantage. Five years from now, this number is going to change, Chair. Okay? But this is what I'm agreeing

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to, what you're proposing to me. So for me, it is advantageous to do it in one year if you can, not five years. So, that's his clock for himself, Chair.

CHAIR KAMA: But we're giving him some time. Thank you, Mr. Hokama.

COUNCILMEMBER HOKAMA: . . .*(inaudible)*. . .

CHAIR KAMA: Yes, Ms. Keani Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, the modification on Ms. Paltin's proposal says, construction of the project has not yet started within two years, and we're determining the number now?

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Of the adoption of this resolution?

CHAIR KAMA: Right.

COUNCILMEMBER RAWLINS-FERNANDEZ: So it doesn't say from the time of subdivision approval?

CHAIR KAMA: Right. It doesn't. So we're just...yeah. That's what I want to put in there. Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, your proposal is, five years after subdivision approval?

CHAIR KAMA: Right.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. I think I'm more on board with Member Hokama. Three years.

COUNCILMEMBER SUGIMURA: I disagree. Five.

CHAIR KAMA: So, what happens if he doesn't do it in two years? Yes, Ms. Lee?

COUNCILMEMBER LEE: Thank you, Madam Chair. If I were the developer, any of us were the developer, we would want it done as fast as possible, --

CHAIR KAMA: . . .*(inaudible)*. . .

COUNCILMEMBER LEE: --because for every day it's not completed, it's costing me thousands and thousands of dollars. So nobody in their right mind would want to delay this project. So, I say five years, in case there are unforeseen circumstances. Thank you.

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COUNCILMEMBER SUGIMURA: I agree.

CHAIR KAMA: Thank you.

COUNCILMEMBER PALTIN: I just...

CHAIR KAMA: Mr. Molina?

COUNCILMEMBER PALTIN: Oh. Sorry.

VICE-CHAIR MOLINA: Yeah, Madam Chair. If I could just quickly add, if this was on the mainland, I think two years is reasonable. This is Maui County, you know? We have a history of delays. So, that's why I think, you know, I'm just being honest. So, thank you.

MR. RAPACZ: Madam Chair?

CHAIR PALTIN: Mr. Sinenci? Yes, Mr. Rapacz, and then Member Sinenci.

MR. RAPACZ: Thank you, Chair. Just to clarify, there are two different timeframes in Member Paltin's proposed modifications. The first one, the two year timeframe, is to start construction, and that means, show me the visible start of grading pursuant to a valid grading permit. That's the two year timeframe, not building anything, not subdividing; just starting construction. Item number two is a five year timeframe for completing construction of all 19 residential workforce housing units. So, if you folks are going to impose a timeframe, we'll need to know whether you're talking about start of construction, or...and completion of construction of all units. And, generally, start of construction doesn't mean vertical construction, it means preparation of the lot through a grading permit or any kind of grading for infrastructure.

CHAIR KAMA: So, in other words, day one of turning dirt?

MR. RAPACZ: Yes. That would be one timeframe that's proposed in item one. And then the second timeframe is an overall five years –

CHAIR KAMA: Completion?

MR. RAPACZ: --to complete construction of all 19 affordable units.

COUNCILMEMBER PALTIN: And that was meant to be from the –

MR. RAPACZ: Date of...

COUNCILMEMBER PALTIN: --five years from when you start to construct it to when you finish the construction.

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CHAIR KAMA: Okay. So, Mr. Sinenci?

COUNCILMEMBER SINENCI: That was my question. Thank you, Chair.

CHAIR KAMA: So did you get it answered?

COUNCILMEMBER SINENCI: Yep. I did.

CHAIR KAMA: Mr. Molina, did you have something to say?

VICE-CHAIR MOLINA: No.

CHAIR KAMA: Okay. Okay. So, with that clarification from Mr. Rapacz, do we have consensus on Ms. Paltin's item 1 and item 2? So...

COUNCILMEMBER SUGIMURA: With five years, right? For number one?

CHAIR KAMA: So are we all...okay, so what number one says is, he has an...what it says written, he has two years to turn the dirt, basically. To put the shovel in, and do something, correct, John? And then, after he does that, then in number four, or two, it says, once he does that, he only has five years to finish construction of all of that, is that correct?

COUNCILMEMBER PALTIN: Yeah. We might have to change that in number two to ten years, sorry, because, yeah, it's from the effective date of this resolution. So, if we're going from five years...did you guys decide on adoption of the resolution or subdivision approval? Sorry.

CHAIR KAMA: No. We're still in discussion with that.

COUNCILMEMBER PALTIN: Okay.

CHAIR KAMA: Yes.

COUNCILMEMBER PALTIN: So, the second one hinges on the first one.

CHAIR KAMA: Yeah.

COUNCILMEMBER PALTIN: 'Cause it wouldn't make sense to say, five years from the date of the resolution if part one says five years.

CHAIR KAMA: Five years. Correct.

COUNCILMEMBER PALTIN: So it would...they have to make sense.

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CHAIR KAMA: Ms. Lee?

COUNCILMEMBER LEE: Well, everybody knows who's been attending my meetings on existing streets. Public Works says it takes two, maybe three years or more to get a final subdivision approval. So, I would suggest that we ask the developer which is a reasonable time. You know, it's not like we're developers, okay?

CHAIR KAMA: Yeah.

COUNCILMEMBER LEE: So, you know, for us to be picking dates out of the sky, is not reasonable. I think we have to ask him. He's the one that has to build it.

COUNCILMEMBER SUGIMURA: I think he told us before.

MR. BROWN: Yeah. I think, you know, like, Councilmember Lee pointed out, every day we hold onto this, it costs us a lot of money and we do not want to hold onto this. We want to get going as fast as we can, and we want to get it done, and I would...we can agree to the five year and then the ten years, Councilmember Paltin clarified it needed to be, if there was a consensus on that. I'd be fine with that.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR KAMA: Okay. So, are we clear where we're at now?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR KAMA: Mr. Sinenci? Tell us. Talk to us.

COUNCILMEMBER SINENCI: Sorry. So, it's the five years from the adoption of this reso, and then ten years to complete the entire project?

CHAIR KAMA: I wanted to insert, from final subdivision approval. That's what I wanted to do, but I think...so, I think five years from the adoption of the resolution. If it's helpful to you to understand that, I think I'd be okay with that.

COUNCILMEMBER SUGIMURA: Okay.

MR. BROWN: Chair?

CHAIR KAMA: Yes?

MR. BROWN: Yeah. I can be okay with that.

CHAIR KAMA: You'd be okay with that, too, right?

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MR. BROWN: If we could put in the suggested language by Mr. Kushi about anything...an unforeseen, out of our control, that we were discussing, where I could come back and extend the resolution, --

CHAIR KAMA: You got that? Okay.

MR. BROWN: --then. That would be fine.

CHAIR KAMA: Okay. So, Mr. Sinenci understands that. So, is there consensus on what we just discussed...we need to...

COUNCILMEMBER SUGIMURA: Consensus.

CHAIR KAMA: Consensus? Ms. Paltin, consensus?

COUNCILMEMBER PALTIN: Oh?

CHAIR KAMA: I still want...because we're going to visit you when it comes up full Council --

COUNCILMEMBER PALTIN: Yeah. That's fine.

CHAIR KAMA: --so it'd be nice if we knew ahead of time where you're at too.

COUNCILMEMBER PALTIN: Yes. That's fine with me.

CHAIR KAMA: Okay. Thank you. Okay. Mr. Sinenci, Mr. Molina, consensus? Ms. Lee? Ms. Keani Fernandez and Mr. Hokama? Consensus on one and two?

COUNCILMEMBER RAWLINS-FERNANDEZ: I don't know. Chair?

CHAIR KAMA: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: I can't find where it says...but, in application, you know, it was presented that it would be complete in two years. So I don't know at what point it was being measured at, and so, I think it's misleading to, you know, present the project as something that would be completed, you know, in two years, and now we're saying ten years. I don't know.

COUNCILMEMBER SUGIMURA: Or sooner.

UNIDENTIFIED SPEAKER: It doesn't have to...

CHAIR KAMA: I don't think it has to take ten years. I think what the discussion has been, is that it is to the full advantage of a developer to be able to complete his project ASAP. I mean, he can write it out for ten years, but he just said he's losing money. So we can give him ten, but he doesn't have to take the whole ten. I mean, to me...

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COUNCILMEMBER PALTIN: For me, it's important that folks know that it was –

CHAIR KAMA: It was the timeframe.

COUNCILMEMBER PALTIN: --presented that it would be done in two years, and we wanted it done in two years, but that's not what would be agreed to by them. So when this project isn't done in two years, don't look at us and blame us, 'cause we tried, I think. I mean, you know?

CHAIR KAMA: Yeah.

COUNCILMEMBER PALTIN: And I gotta disagree with Ms. Lee's statement. I don't know if she's driven around West Maui; there's so many developments that are just standing there, you know? So that's the impetus of this for me, is, like, I see half work done developments all over the place. Half entitled developments all over the place. If people met their entitlements that they got for affordable housing in any kind of timely manner, we wouldn't be in this crisis, you know? You got Kapalua Mauka, you got Pulelehua, you got all these things where there was no timeframe, and it's the people that suffers for it. So I just want it to be abundantly clear that we made our best effort to make the representation match the paper. This is the best that we could get consensus on. That's all. I want everyone to be clear on that.

CHAIR KAMA: Yes?

COUNCILMEMBER PALTIN: Like, because, if you only came to the presentation and heard, we're going to have these houses up in two years, and two years from now, they're not up, then who's gonna get the blame, you know?

MR. BROWN: Chair?

CHAIR KAMA: Mr. Brown?

MR. BROWN: Yeah. You know, considering it takes the two years, which it could to get subdivision approval, then what was represented is we would build the homes in two years. We can't start until we have our permits and our subdivision approval. So that would equal four years, and so we're really looking for one more year past that for any unforeseen delays.

COUNCILMEMBER PALTIN: I understand that. What you're making clear to me right now wasn't made abundantly clear in the presentation. So a lot of people hear what they want to hear –

MR. BROWN: Okay.

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COUNCILMEMBER PALTIN: --and so, you know, if they're like, hey they said it was going to be having houses in two years, and it's 2022 and we don't got no houses, and just want to make it clear that we did everything in possible to get that for them and we weren't able to do it, so don't blame us.

MR. BROWN: Understood.

CHAIR KAMA: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: I guess everybody is anxious for housing, and that's what I'm hearing. I appreciate all the honesty that's coming out from this discussion, but the developer's gonna have to build it, and he's trying to give us his best, honest answer, and I can only respect that, you know? So, thank you.

COUNCILMEMBER LEE: Madam Chair?

CHAIR KAMA: Yes, Ms. Lee?

COUNCILMEMBER LEE: Just to make some clarifications, here. The developer is not, upon getting approval of his project, will have to go through the gauntlet of the Administration. That means a lot of departments...getting a lot of approvals from each Department. And one of the reasons why Maui County and the State of Hawaii is one of the worst places to do business, and that is a fact, is because legislators like us pile on conditions. Conditions to the point where it renders the project no longer feasible, and that's why they end up in the graveyard of affordable homes, because they cannot move forward. So it's incumbent on us to be a little more understanding and try to expedite all these affordable homes wherever we can, because that's the pledge that all of us made during the campaign. Thank you.

CHAIR KAMA: Thank you. So, Members, can we move on?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR KAMA: Thank you. Okay. So the next one was the AMI, Alison? Is...yes?

MS. STEWART: . . .*(inaudible)*. . .

CHAIR KAMA: Okay. Okay. So, number one should read, construction of the project has not started within five years of the adoption of the resolution. And that was the number five. And then in the...in item two, it was not later than ten years from the effective date of the resolution. That's what it was.

COUNCILMEMBER SUGIMURA: Yes.

CHAIR KAMA: Okay.

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COUNCILMEMBER PALTIN: Consensus. This throws off the timing for number four a little bit, but the main gist of number four was that because the developer represented that he may not be developing all of the market rate lots, the impetus was, you know, so many projects on the west side that built their market rate homes and then just left the State or country, whatever. So, the intention of this was to have the market...

CHAIR KAMA: The workforce housing...

COUNCILMEMBER PALTIN: ...workforce housing to be –

CHAIR KAMA: Completed.

COUNCILMEMBER PALTIN: --developed before the sale of the market rate lots, or before, you know, not allow that kind of thing to happen anymore.

CHAIR KAMA: Right. So you wanted the...so you got that, the completion of the workforce housing, right? Before...

COUNCILMEMBER PALTIN: Yeah. The developer shall develop all workforce housing units before or concurrently with the sale of market rate lots. And I originally had development, but then he said that he might not be the developer for all the market rate lots. So, like, if you sell one market rate lot, then you gotta also sell one workforce lot kind of thing, you know. I mean, --

CHAIR KAMA: Right. You're correct.

COUNCILMEMBER PALTIN: --there's 19, 15, little bit different, but don't just run away with the market lots without providing the workforce first.

CHAIR KAMA: Yes. I can agree to that.

MR. BROWN: Yeah. We can agree to that. I believe it's also into 2.96, so we have to abide by that, but yes.

COUNCILMEMBER PALTIN: Okay.

CHAIR KAMA: Okay. Thank you. Okay, Alison?

MS. STEWART: So the AMI modifications presented include number one of Chair Kama's proposed modifications, number one of Member Molina's modifications –

COUNCILMEMBER SUGIMURA: Oh. I thought he didn't.

MS. STEWART: --and then also, related to that would be also number three of Member Molina's modifications.

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CHAIR KAMA: I don't have Mr. Molina's modifications.

MS. STEWART: You don't have one?

COUNCILMEMBER PALTIN: It's on Granicus.

CHAIR KAMA: Oh. Okay. Could I have it on paper?

MS. STEWART: Molina's modifications?

CHAIR KAMA: Does everyone have Mr. Molina's modifications?

COUNCILMEMBER SUGIMURA: It's on Granicus from last week.

CHAIR KAMA: Yeah. I like mine in paper. Thank you, Nicole.

COUNCILMEMBER PALTIN: I have one, so you don't need to make for me.

CHAIR KAMA: Okay.

MR. BROWN: Chair, can I ask for clarification?

CHAIR KAMA: Yes, you may.

MR. BROWN: I thought I may have heard Councilmember Molina said he was withdrawing some of those, but I may have heard incorrectly.

COUNCILMEMBER SUGIMURA: Yeah. I thought he said that.

CHAIR KAMA: What did you do, Mr. Molina?

COUNCILMEMBER SUGIMURA: He said he got it covered.

VICE-CHAIR MOLINA: Madam Chair, can I request a brief recess?

CHAIR KAMA: Yes, you may. Sure. Recess. 3:29 is what I'm calling it. . . .(gavel). . .

RECESS: 3:29 p.m.

RECONVENE: 3:42 p.m.

(Excused: RH)

CHAIR KAMA: . . .(gavel). . . The Affordable Housing Committee of September 18th will now reconvene at 3:42 p.m. I'd like to take a temperature check of our Members here. The Chair's intent is to call for a dinner break at 5:30, and if anybody is willing to stay

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after that, if we're not done by that time, I need to know that so I'll know if I'm buying dinner for you all. So, Mr. Sinenci, are you here for the duration?

COUNCILMEMBER SINENCI: Yes. I'm amenable.

CHAIR KAMA: Thank you. Mr. Molina?

VICE-CHAIR MOLINA: Madam Chair, I was asked to attend a Haiku Community Association meeting tonight at 6:30. However, because of the importance of this matter, I will see if I can ask any one of my Staff to represent me at the Haiku meeting tonight. So I'm willing to go for the duration this evening.

CHAIR KAMA: Thank you. Ms. Lee?

COUNCILMEMBER LEE: I'll be staying, but I want to warn you that I'm very hungry. . .
(chuckle). . .

CHAIR KAMA: Okay. Thank you. Ms. Fernandez-Rawlins [*sic*].

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I made plans to fly home tomorrow, so I'll be here overnight, and will stay as long as necessary. Member Lee already has my dinner order, as well as Member Sinenci's.

CHAIR KAMA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: That doesn't violate Sunshine Law, 'cause we weren't going to vote on it. . . *(chuckle)*. . .

UNIDENTIFIED SPEAKER: You never talk about it.

COUNCILMEMBER RAWLINS-FERNANDEZ: And you don't have to cover the costs. Like, I'll pay for my own, but mahalo.

CHAIR KAMA: Thank you. Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So I have a speaking thing at six. Let me go make some phone calls, but I want to be here.

CHAIR KAMA: Okay. Ms. Paltin? Okay. Thank you. Yes, Mr. Molina?

VICE-CHAIR MOLINA: Sorry, Madam Chair. How long was your dinner break, your intentions was? Hour, hour and a half? Well, only because...

CHAIR KAMA: How long does it take you to eat?

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VICE-CHAIR MOLINA: Well, yeah. I may have to address a personal matter. I have a four-legged animal in the house –

COUNCILMEMBER SUGIMURA: Aw.

VICE-CHAIR MOLINA: --that I may need to let out. But I just got to run up to Makawao and come back, so that's all. Or, you guys can do one hour and I'll just be a little late coming back, but, you know...and hopefully you don't vote before I get back, if you do.

CHAIR KAMA: 5:30 we'll take a break, right, for dinner, and then –

VICE-CHAIR MOLINA: Yeah.

CHAIR KAMA: --we'll reconvene at what, 6:30? 6:30?

VICE-CHAIR MOLINA: Yeah. I could be back here, you know, if I don't get hit with a ticket, I could be back here by 7, so...I'll eat on the run.

CHAIR KAMA: Thank you. Okay, so, thank you very much, and I'm sure my Staff heard that, so thank you. Okay, so, the next item for discussion is the 30-year restrictions. So, my proposal number two and Ms. Paltin's proposal number six both talk about . .

MS. STEWART: Chair?

CHAIR KAMA: Yes?

MS. STEWART: It's Alison.

CHAIR KAMA: Yes, Alison.

MS. STEWART: Did you want to do your AMI and distribution of the homes?

CHAIR KAMA: Oh, that's right. You know, I don't think you gave me back my page.

COUNCILMEMBER SUGIMURA: Six, seven, and six.

CHAIR KAMA: Yeah. That's why I ended up with that. Yes, I'm sorry. Okay. So, the next one was the AMI's. So, my number one AMI –A, B, and C –I went from 12 homes to 6 homes, and at 32 percent price for very low and low-income households earning between 50 and 65 percent of the median income, meaning that if you earn between \$41,900 and \$54,470, you're eligible for one of those six homes. And item B was having seven homes at 37 percent of the low-income households for those earning between 66 percent and 85 percent of the median income, or if you earned no more than \$71,230 and be eligible for one of the seven homes. And then six homes at 31 percent of the AMI price for low-income and below moderate income households

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earning between 86 and 100 percent of the median income, meaning if you made no more than \$83,800. So, that is my AMI, and –

COUNCILMEMBER SUGIMURA: Consensus.

CHAIR KAMA: --I don't know if any...did anybody else have any AMI's besides...okay. So, and I think Member Rawlins-Fernandez had 50 to 100 percent, and so this is...

COUNCILMEMBER SUGIMURA: Covers this.

CHAIR KAMA: That's what your...let me see. It says...

COUNCILMEMBER SUGIMURA: Developer to subsidize workforce housing lots.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: My number two came from the November 1st meeting, where Mr. Brown pledged a \$50,000 gift for all workforce homebuyers to reduce the price of homes –

COUNCILMEMBER SUGIMURA: The other project.

COUNCILMEMBER RAWLINS-FERNANDEZ: --based on a median income and minus the \$50,000 gift.

COUNCILMEMBER SUGIMURA: Yeah. Wrong project.

CHAIR KAMA: So you support the AMI of 50 to 100 percent. That's what we're...yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh. Okay.

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR KAMA: Yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: But we're talking about Makila Farms, right?

CHAIR KAMA: Yes. That's what she's saying.

COUNCILMEMBER SUGIMURA: Right? So, we're not talking...okay.

CHAIR KAMA: Yeah. We're...right, number two on Ms. Fernandez' moderate...modifications.

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COUNCILMEMBER SUGIMURA: Okay.

MR. BROWN: So Chair, may I?

CHAIR KAMA: Yes.

MR. BROWN: So, that was a proposal from Makila Kai, the last project a few years ago. The \$50,000 subsidy, that's when we were at the 80 to 140 percent AMI, so this project, we went and we offered to go from the 50 to 80 percent AMI, but we didn't offer that \$50,000 subsidy. So there's definitely no way we could do both when we're selling the homes for \$161,000.

CHAIR KAMA: Right. So it doesn't apply here.

COUNCILMEMBER SUGIMURA: No. So, consensus to your proposal, Chair.

CHAIR KAMA: Yes?

COUNCILMEMBER PALTIN: Did Member Molina withdraw his ones?

CHAIR KAMA: Oh. Mr. Molina, I'm sorry.

VICE-CHAIR MOLINA: Yeah. Thank you, Madam Chair, for –

CHAIR KAMA: Thank you.

VICE-CHAIR MOLINA: --my number one, just withdraw it, and I can support your recommendation.

CHAIR KAMA: Okay.

COUNCILMEMBER SUGIMURA: Okay. Good.

CHAIR KAMA: Thank you, Mr. Molina. Okay, so do we have consensus on the AMI, 50 to 100 percent?

COUNCILMEMBER SUGIMURA: Consensus.

COUNCILMEMBER PALTIN: 50 to 100 percent.

CHAIR KAMA: Thank you. Thank you. Shall we move on?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR KAMA: Yes, Ms. Paltin?

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COUNCILMEMBER PALTIN: For yours one, it was going to be six, seven, six.

CHAIR KAMA: Six, seven, six.

COUNCILMEMBER PALTIN: Okay.

CHAIR KAMA: So now we're on the 30-year restrictions, so my number two on my proposed modifications and Ms. Paltin's number 6a. So they both talk about 30-year deed restriction. Do we have consensus?

COUNCILMEMBER SUGIMURA: Consensus to yours?

CHAIR KAMA: To both. 'Cause they both almost say the same thing.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR KAMA: 30-year deed.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR KAMA: Okay? There's consensus there? Yes, Ms. Lee?

COUNCILMEMBER LEE: Is there any consideration for the owners to have, I think like you have, would be permitted to retain three percent appreciation per year?

CHAIR KAMA: Well, that's what...

COUNCILMEMBER LEE: Is that yours?

CHAIR KAMA: Yeah. So –

COUNCILMEMBER PALTIN: That's what we're deciding on right now.

CHAIR KAMA: -we both agreed on the 30-year restriction.

COUNCILMEMBER LEE: Yeah.

CHAIR KAMA: And then, on mine, there's a tag that says, to retain three percent appreciation per year, meaning that they will be able to get something after, I mean, if they sell within their 30 years with a lease, recapturing at least three percent of whatever appreciation that they put into the home.

COUNCILMEMBER PALTIN: And then mine also adds on that if no loans are approved due to the 30-year deed restriction, the developer may request of the Council of the County of Maui via resolution an adjustment of the deed restriction.

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CHAIR KAMA: Right.

COUNCILMEMBER PALTIN: The developer shall not sell the unit at market rate. So, it's...the first part is the same, and then the other two are different, but we agree to both of them.

CHAIR KAMA: We agree. Yeah. Yes, Mr. Molina?

VICE-CHAIR MOLINA: Yeah, Madam Chair. My numbers four and five kind of incorporates what Member Paltin, as well as yourself, too, so.

CHAIR KAMA: Incorporate that too, yes. Yes. Thank you. So do we have consensus?

VICE-CHAIR MOLINA: Consensus.

CHAIR KAMA: Thank you. So, can we move on?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR KAMA: So, Staff, did you get all of that? Okay. Thank you. If we're going too fast, let us know. So we're going to move on to short-term rentals. I think Ms. Paltin's 6c. And I think, Mr. Molina, yours was number –

VICE-CHAIR MOLINA: Number 12.

CHAIR KAMA: --12.

COUNCILMEMBER SUGIMURA: Oh. I thought withdrew his.

CHAIR KAMA: So, do we have...so, as you are all reading it, is there consensus on these two? Ms. Paltin? Members? 6c on Ms. Paltin, and number 12 on Mr. Molina?

COUNCILMEMBER PALTIN: In fact, I kind of like Member Molina's wording a little bit better
–

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: --because he doesn't specify, you know, the –

COUNCILMEMBER SUGIMURA: Time.

COUNCILMEMBER PALTIN: --lots. He says, entire project, and yeah. I would use the entire project language.

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CHAIR KAMA: So you want us to use that language? You want Staff to use that language as opposed to yours?

COUNCILMEMBER PALTIN: Yeah. I don't know if we want to combine it and say, 'cause his says transient, short-term rentals, bed and breakfasts. I don't know that we need to say, including any rentals for a term of less than 180 days is prohibited, 'cause that's the definition of short-term.

CHAIR KAMA: Short-term.

COUNCILMEMBER PALTIN: So I don't know if we need to be redundant on that.

CHAIR KAMA: Well, I think Staff got it, and then they can just go ahead and word it the way it should be, yeah?

COUNCILMEMBER PALTIN: Makes sense.

CHAIR KAMA: Okay. Yes, Ms. Lee?

COUNCILMEMBER LEE: When you finish with that one, I'd like to go back to 6a.

CHAIR KAMA: Okay. So, is there a consensus on the short-term rentals?

COUNCILMEMBER PALTIN: Yes.

CHAIR KAMA: Okay. Thank you. Okay. Let's go back to 6a.

COUNCILMEMBER LEE: A. Okay. What does, provided that, however, that if no loans are approved due to the 30-year deed restriction, the developer may request of the County Council, an adjustment of the deed restriction...what does that mean?

CHAIR KAMA: Ms. Paltin? Yes?

COUNCILMEMBER PALTIN: To me, that means, if nobody's able to qualify for the loan because of the 30-year deed restriction. But we can also check in with Member Molina, because he has that as his number five, I think.

CHAIR KAMA: Number four and five, yeah? Mr. Molina?

COUNCILMEMBER PALTIN: Number five is about the no loans approved due to the 30-year deed restriction.

UNIDENTIFIED SPEAKER: Oh. Four, four.

COUNCILMEMBER LEE: Well, okay.

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COUNCILMEMBER PALTIN: Five.

COUNCILMEMBER LEE: Don't just repeat the words. What does that mean?

COUNCILMEMBER PALTIN: That if they can't get a loan, and the loaner person, the lender, says, we're not going to give you that rate, because you have a 30-year deed restriction, and if nobody can qualify for a loan and that's the reason they're told by the lender, then come back to us and we'll change it so that they can get a loan.

COUNCILMEMBER LEE: So you're talking about the initial buyer?

COUNCILMEMBER PALTIN: Yes.

COUNCILMEMBER LEE: Okay. And...I see. Okay. I doubt that's going to happen, but okay. That doesn't seem to be an obstruction.

CHAIR KAMA: Okay. Thank you. So, the next we're going to talk about is wells and water. And that is Ms. Rawlins-Fernandez number two, second to the last bullet, and Ms. Paltin's number five.

COUNCILMEMBER PALTIN: And then also probably Member Molina's numbers seven, nine, look like water as well.

CHAIR KAMA: Seven, nine.

VICE-CHAIR MOLINA: Six, seven, nine. Yeah.

CHAIR KAMA: Six, seven, nine.

COUNCILMEMBER PALTIN: Oh. Sorry. Six, seven, and nine.

VICE-CHAIR MOLINA: Madam Chair?

CHAIR KAMA: Yes, sir?

VICE-CHAIR MOLINA: And, you know, again, with my proposals, I just, during the question and answer session at our previous meetings, the developer did respond. And if...I'll leave it to you if you want to memorialize this as well as part of the modifications. But we already have the developer on record. And if we again want to reaffirm that we have the option of asking Mr. Brown again, his thoughts. Thank you.

CHAIR KAMA: Okay. Thank you. So, Ms. Paltin?

COUNCILMEMBER PALTIN: And for me, I, again, like Member Molina's wording about non-potable water demand of all units within the project. That way there's no question

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about whatever happens, lots or whatever. That's kind of...I feel like it's a little bit cleaner.

MR. BROWN: Chair, may I?

CHAIR KAMA: Yes, Mr. Brown?

MR. BROWN: I just want to clarify on Member Paltin's statement, where it says the market shall absorb the cost of the non-potable water system, that it would be referring to the...it wouldn't be referring to the water, the future maintenance of it. You're referring to the initial system; initial distribution system.

COUNCILMEMBER PALTIN: Thank you for the clarification.

CHAIR KAMA: So is there a consensus on this? Okay. Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: What is the, this, Chair?

CHAIR KAMA: What is that?

COUNCILMEMBER PALTIN: Five? Oh, no. Sorry.

CHAIR KAMA: Go ahead, Ms. --

COUNCILMEMBER PALTIN: Member Molina's number six, number seven, and --

CHAIR KAMA: Nine.

COUNCILMEMBER PALTIN: --nine. My number five. Mine and Member Molina's five and six need to include, initial distribution system after it says, market rate lots shall absorb the cost of the non-potable water systems' initial distribution system. And then, are we also consensusing Member Molina...I mean, Vice-Chair Rawlins-Fernandez --

CHAIR KAMA: Yes.

COUNCILMEMBER PALTIN: --no lots may switch irrigation systems to potable water?

CHAIR KAMA: Yes. That's consensus.

COUNCILMEMBER PALTIN: Okay.

CHAIR KAMA: Yes.

COUNCILMEMBER PALTIN: All of 'em, consensus?

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CHAIR KAMA: Yes. Okay.

COUNCILMEMBER SUGIMURA: Is that okay?

CHAIR KAMA: Thank you. So, we're moving on to wastewater.

COUNCILMEMBER LEE: Number?

VICE-CHAIR MOLINA: Madam Chair? I had that as –

CHAIR KAMA: Yes?

VICE-CHAIR MOLINA: -numbers 10 and 11 on mine.

CHAIR KAMA: Thank you. I think that other piece of paper.

UNIDENTIFIED SPEAKER: I'll wait.

CHAIR KAMA: Wait, let me look. See, now he got in the yellow. So what number was that?
Mr. Molina's 10 and 11.

VICE-CHAIR MOLINA: Madam Chair, would you –

CHAIR KAMA: Yes?

VICE-CHAIR MOLINA: --like me to read that into the record?

CHAIR KAMA: Please, sir.

VICE-CHAIR MOLINA: Okay. Number 10 says, each individual wastewater system shall be pumped every three to five years and properly maintained. And number 11, the maintenance schedule for each individual wastewater system shall be managed and enforceable by the homeowner's association for the entire project. Thank you.

MR. BROWN: Yes. We're in agreement.

COUNCILMEMBER LEE: Consensus.

CHAIR KAMA: Yes?

COUNCILMEMBER SUGIMURA: You're fine?

COUNCILMEMBER LEE: Consensus.

UNIDENTIFIED SPEAKER: Chair?

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COUNCILMEMBER PALTIN: I have number, or, letter D of six; D is also on there.

COUNCILMEMBER SUGIMURA: D? Oh.

COUNCILMEMBER PALTIN: Makila Farms will utilize a decentralized system of aerobic treatment unit individual wastewater systems, one each lot. The developer will provide one ATU, which can accommodate up to five bedrooms. Furthermore, these ATU will be maintained by the Makila Farms' HOA.

MR. BROWN: So I'd like to follow the Department of Health rules on that, if we can. 'Cause you can put more than one ATU on, especially now that we're going to allow a second farm dwelling for the workforce; if they had a four or five bedroom home, and then they want to build a three bedroom little cottage in the future, they'd have to have two systems on it. And the same with the market properties.

COUNCILMEMBER PALTIN: Were you going to provide that ATU for them?

MR. BROWN: I'm going to put the first ATU on for them, yes. That would be a five-bedroom ATU, so they could add on a cottage, but then if they wanted to expand further than that, I'd hate to see them limited to only one, I guess. When I read this, it sounds like it was...it says one each lot.

COUNCILMEMBER PALTIN: Oh. Sorry. I'm on the wrong one. It's supposed to say, on. That was the revised one. It should say, on each lot, --

MR. BROWN: Okay.

COUNCILMEMBER PALTIN: --the develop..., sorry, that was my bad, I read it wrong too. On each lot, the developer will provide one ATU, which can accommodate up to five rooms. Furthermore, these ATU's will be maintained by the Makila Farms HOA.

MR. BROWN: Yeah. I think that's fine, as long as we just clarify they're not limited to only one ATU.

COUNCILMEMBER PALTIN: Okay. That's not in this wording. I don't know --

MR. BROWN: Okay.

COUNCILMEMBER PALTIN: --if that is --

MR. BROWN: Okay. It's okay then.

COUNCILMEMBER PALTIN: --essential or not.

CHAIR KAMA: Yes, Ms. Lee?

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COUNCILMEMBER LEE: You know, I prefer, being that none of us are engineers, prefer that we actually reference the Department of Health regulations, and any other State or County agency that oversees these types of wastewater systems.

COUNCILMEMBER SUGIMURA: Agreed.

COUNCILMEMBER LEE: I mean, I have no idea what ATU is. I mean, you know? I mean, let's...

COUNCILMEMBER PALTIN: That's not what this is doing. This is doing that...memorializing that the developer is the one...ATU's are expensive, and so it's memorializing that the developer is going to provide one ATU, which can accommodate up to five rooms. It's not that he change things meaning. So, I mean, you can ask him if he's good with it, but that's what he promised the people, is, like, he was going to develop the ATU lot. It's not, he's going to provide the house, and they gotta provide the ATU.

COUNCILMEMBER LEE: Okay. Again, for almost every project, there are, you know, boiler plate language, words that say, you know, you are required to meet all the –

COUNCILMEMBER SUGIMURA: Wastewater.

COUNCILMEMBER LEE: --rules and laws of the Department of Health, of the, this and that Department, and so forth. So, you know, if the developer now doesn't have a problem with this language, that's fine. But I'd hate for us to get into the weeds when we have no clue what the DOH requires, or what our wastewater department or division requires. It's, I don't know. You know, I hate to be plucking little requirements here and there, when they have all their rules laid out, you know, in their department. So, again...

COUNCILMEMBER PALTIN: I'm not clear. Are you talking about, like, their cesspool rules, that have to be converted to septic in 2050, or, I mean, part of the concern was septic, and that's why he went with ATU's. So just trying to make the representations made to the public match what's on the paper in this case. I'm not asking for more stuff. That was an accident "e" in there, and just trying to make what the representation was match the paper.

COUNCILMEMBER LEE: Okay.

COUNCILMEMBER PALTIN: I don't think they can afford the house and the ATU.

COUNCILMEMBER LEE: The...and that's fine. That's fine, but personally, I have no idea whether to provide one ATU to accommodate up to five rooms, what that means. I'm just following along, you know, with the –

MR. SCHNELL: If I could...

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COUNCILMEMBER LEE: --with the requirements here. So that's why...I'm fine, if you guys feel you can handle this, you know, condition, that's fine. But I don't like to get into too many of these types of conditions when we have no authority over this, nor even knowledge of this, or expertise in this. So that's my whole point. So, maybe the developer can just answer this and then we can move on.

CHAIR KAMA: Mr. Schnell?

MR. SCHNELL: If I can answer the question, and then Greg might have something to add on. So, I do have the Department of Health rules in front of me. And it's Section 11-62-31.1.

COUNCILMEMBER LEE: Okay. Let me stop you right there. And my whole point is, you are subject to all of the Department of Health rules.

MR. SCHNELL: That's correct.

COUNCILMEMBER LEE: This one and every other one in there. That's my point.

MR. BROWN: Yeah. I made the same note when I went over these originally, that I'd just like to be subject to the rules, exactly like you're saying, but I also see what Councilmember Paltin just wants to make sure that we're going to put the ATU and not try to back down and go to a septic or something else. I think we could just easily clarify it and say, --

CHAIR KAMA: Say yes.

MR. BROWN: --the developer will provide an ATU --

CHAIR KAMA: Yeah.

MR. BROWN: --with each home and follow the DOH rules.

COUNCILMEMBER SUGIMURA: Right.

CHAIR KAMA: Right.

COUNCILMEMBER LEE: And follow the DOH rules.

CHAIR KAMA: Yeah.

COUNCILMEMBER LEE: That's what I like. Thank you.

MR. BROWN: Okay.

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COUNCILMEMBER PALTIN: So my question on that is, if it's not a five room ATU, then say they get a one room ATU, and then they want to add on rooms later on, like what was represented, do they then have to put in another ATU and make it be for another room, or, how's that going to work realistically?

CHAIR KAMA: Mister...

MR. SCHNELL: If I could clarify? So, the Department of Health rules do say that you can have one ATU or individual wastewater system per five bedrooms, okay? So, the way you...and it doesn't have to be in one dwelling; it could be in one dwelling or two dwellings. So if you had a three bedroom main house, and a two bedroom second dwelling, that could be serviced by one ATU.

COUNCILMEMBER PALTIN: Yeah, one ATU, with a capacity for five bedrooms?

MR. SCHNELL: Five. Yes.

COUNCILMEMBER PALTIN: Yeah. That's kind of what I meant. One ATU, which can accommodate up to five rooms, is what it says.

MR. BROWN: So, we could say the developer will provide ATU's with a minimum of five bedroom capacity each. You just want to make sure we're not going to try to put a one bedroom ATU in, I guess, if someone builds a one bedroom so they can expand in the future?

COUNCILMEMBER PALTIN: Yeah. So, the exact wording is, on each lot, the developer will provide one ATU, which can accommodate up to five rooms. Furthermore, these ATU will be maintained by Makila Farms HOA.

MR. BROWN: I understand what you're saying, but I understand what Councilmember Lee's saying too, 'cause I'd hate for Planning, Department of Health to get that and say, well, this is all...read it different than we are, because we've added this language and not followed their rules, saying you can't add another ATU if you have more than five.

COUNCILMEMBER PALTIN: You can't add another ATU if you have more than five?

MR. BROWN: You could. Say they built a five bedroom home and a three bedroom cottage...

COUNCILMEMBER PALTIN: And then add another ATU? That doesn't...this doesn't preclude that?

MR. BROWN: Okay. As long as Mr. Kushi can clarify that.

COUNCILMEMBER PALTIN: Yeah.

COUNCILMEMBER LEE: I can clarify that.

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CHAIR KAMA: Thank you.

COUNCILMEMBER PALTIN: Or maybe Mr. Rapacz.

CHAIR KAMA: Ms. Lee?

COUNCILMEMBER LEE: Yeah. Thank you, Madam Chair. I don't mind Ms. Paltin being specific about these things. The only danger is that when rules change by the Department of Health, or any other State agency or County agency, you may be caught, you know, not being in compliance. And that's why I say, again, you want to be specific, be specific, but also follow it according to DOH rules, or whoever, whichever agency, so that way you don't...you're not stuck in this situation and neither is the County being liable for making a requirement that is no longer, you know, that is no longer in effect. So those are the kinds of things that I worry about. Thank you.

CHAIR KAMA: Thank you. Yes, Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. And, at the last meeting, I'm just dovetailing off everybody's comments, at the last meeting we were told that just one ATU for five bedrooms. And so now we've got this memo saying that we can add another ATU, and so if we're doing accessory or another accessory building on each of the lots, that'll take us potentially over, what is that, 34, that would be over the 50 required to trigger sewage plant? No? Can you explain?

MR. BROWN: Yeah, it doesn't, 'cause the rules clearly say if you're on one acre or greater, that doesn't apply. And because they are on two acres each, then it's...that doesn't apply to this project.

COUNCILMEMBER SINENCI: Okay.

CHAIR KAMA: So, Members, do we have consensus on this? Yes, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. So I think, maybe, I can propose an amendment so that everyone's points are addressed. Okay. Okay. So, here. On each lot, the developer shall provide, at minimum, one ATU that accommodates up to five bedrooms, in accordance with Chapter 11, Section 62 of the Hawaii Administrative Rules. These ATU's will be maintained by the Makila Farms HOA.

COUNCILMEMBER PALTIN: That works.

CHAIR KAMA: Is that consensus?

MR. BROWN: Yes.

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COUNCILMEMBER LEE: Consensus.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

CHAIR KAMA: Thank you, guys. I heard the women, but I didn't hear the guys. But yes, we have consensus. So, we're gonna have recess. I gotta order your food. . . .*(gavel)*. . .

RECESS: 4:11 p.m.

RECONVENE: 4:29 p.m.

(Excused: RH)

CHAIR KAMA: . . .*(gavel)*. . . The Affordable Housing Committee of September 18, 2019, will now reconvene at 4:29 p.m., and the last round of modifications was the last of the modifications that we came to agreement upon in terms of similarities. And now we have, left with us, is the...no, we have one left. We have strict compliance left to do. So, Ms. Rawlins-Fernandez, for her third bullet on her page, and Ms. Paltin's number 11. So, if you want to take a look at those.

COUNCILMEMBER SUGIMURA: So, was Paltin number three, and what?

CHAIR KAMA: No, it was --

COUNCILMEMBER SUGIMURA: Sorry.

CHAIR KAMA: --Paltin number 11, and Rawlins-Fernandez, third bullet.

COUNCILMEMBER SUGIMURA: 11 and Rawlins-Fernandez, third.

COUNCILMEMBER PALTIN: This third one, that was kind of hard to read. Oh. You got a good one.

UNIDENTIFIED SPEAKER: How did you get that?

COUNCILMEMBER SUGIMURA: All look same.

COUNCILMEMBER PALTIN: Yeah. It's just, I can't read them.

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

COUNCILMEMBER PALTIN: . . .*(inaudible)*. . .

CHAIR KAMA: Ms. Paltin? No, let's take Ms. Rawlins-Fernandez. Could you please read your modification, please?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Sure. Developer may not vary from workforce plans submitted in final application to enable workforce homes to be provided quickly and at prices affordable to buyers. I like Member Paltin's language, and I think...yeah. I'll try to figure out a way to incorporate it into Member Paltin's, and then we can just have one.

CHAIR KAMA: So, Members, while Ms. Rawlins-Fernandez is trying to merge the two, is there consensus on these two modifications that are now going to be merged into one?

COUNCILMEMBER SUGIMURA: I would like to hear from the developer.

CHAIR KAMA: Yes. Okay. Thank you.

MR. BROWN: Yes. So we proposed different house plans, and we hired an architectural firm on the mainland called 359 Architecture, who specializes in workforce communities and these type of homes that can be added onto easily. So, they flew out here and did a planning charrette and looked at all the different architecture styles and interviewed a lot of people, and came up with these homes, which I think are a big improvement over the Makila Kai plans two years ago and are more suited for the 50 to 80 percent AMI and the way we're trying to build them so they can be added on. So we would not want to go backwards to the Makila Kai plans, we want to stick with these ones.

CHAIR KAMA: So I have a question. So, the plans that you submitted in the proposal are the same plans that you're talking about now? Or are they different?

MR. BROWN: No.

CHAIR KAMA: Because it seems...

MR. BROWN: The proposal that we, in the PowerPoint, they were in the beginning, but they're not the same as the ones that were in the application, 'cause at that time, we were 80 to 140, and now we're 50 to 100 percent AMI.

CHAIR KAMA: Okay. Okay. Thank you. Yeah.

UNIDENTIFIED SPEAKER: It's not better, just cheaper.

COUNCILMEMBER SUGIMURA: Yeah. That's better.

CHAIR KAMA: How are you coming around there, Ms. Rawlins-Fernandez?

COUNCILMEMBER PALTIN: Chair?

CHAIR KAMA: Yes?

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COUNCILMEMBER PALTIN: Did you also wanna include 11c as well? And if so, I wanted to say, the entire project instead of the 34 lots.

CHAIR KAMA: Well, I think what...if I'm assuming that Ms. Keani Rawlins-Fernandez, when she was saying she wanted to fold in yours and hers, that she was including 11a, b, and c.

COUNCILMEMBER PALTIN: Oh. Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: I think if...Chair?

CHAIR KAMA: Yes? Go right ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: I think if your number one is a condition, that they couldn't deviate from, then I think it would satisfy my number three.

CHAIR KAMA: Okay. Thank you.

COUNCILMEMBER SUGIMURA: I think...Chair?

CHAIR KAMA: Yes?

COUNCILMEMBER SUGIMURA: So, I think what the developer has tried to do is find solutions so he can have truly affordable units. I think we're, you know, like, splitting hairs. Like, what kind of Member Lee is saying; that we don't need to...I think he's going to take us there, you know?

CHAIR KAMA: Thank you. So, Ms. Paltin's number 11a, b, and c, is there consensus on that? Mr. Schnell?

MR. SCHNELL: If I could –

CHAIR KAMA: You have a comment?

MR. SCHNELL: --make a comment on number...Councilmember Paltin's number 11. So, a says, the project shall be developed in conformance with the residential district standards. What we had proposed was agricultural district standards. And so, the residential district standards are different than agricultural standards. For example, the roadway widths, curbs, gutters, and things like that, we're proposing to conform to ag district standards in 1930(A). And that's consistent with the rest of the neighborhood in that area. So, agricultural district standards so it looks and feels and has the character of the rest of the neighborhood.

CHAIR KAMA: Do you have any comments about b and or c, Mr. Schnell?

VICE-CHAIR MOLINA: Madam Chair?

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CHAIR KAMA: Yes, Mr. Molina?

VICE-CHAIR MOLINA: Can I ask Mr. Schnell a question before he proceeds?

CHAIR KAMA: Yes.

VICE-CHAIR MOLINA: So, the difference between the residential standards and the ag standards, is one more restrictive than the other?

COUNCILMEMBER SUGIMURA: Planning?

MR. SCHNELL: Perhaps the Deputy Planning Director could address that. Yeah.

VICE-CHAIR MOLINA: Okay.

MR. HART: I apologize, I was writing out notes. Could you repeat?

VICE-CHAIR MOLINA: Yeah. The question is, the residential district standards versus the agriculture district standards. Is, like, one more restrictive than the other?

MR. HART: They're...in different ways, yes. You know, you can't raise pigs in the residential district. You must farm in the agricultural district. There's a number of different competing provisions and requirements and restrictions in each.

VICE-CHAIR MOLINA: So if it was residential districts, then the homeowner has the option not to farm, then. Which kind of defeats the intent of...

MR. HART: That's true, and that would require a district boundary amendment and a couple of other things, but yes, that would be a situation...if this was urban and it was being proposed for a strictly residential, there would be no farming obligation.

VICE-CHAIR MOLINA: Okay. Thank you. Thank you, Madam Chair.

CHAIR KAMA: Thank you. So, Ms. Paltin, going back to your 11 -

COUNCILMEMBER SUGIMURA: A.

CHAIR KAMA: --a. Are you okay with that?

COUNCILMEMBER PALTIN: I'm okay if everyone else is okay with agricultural. I'm okay with it.

CHAIR KAMA: Members? Okay with that? Okay. Thank you. Oh, Ms. Keani Rawlins-Fernandez, yes?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, 11c is also amended to the entire project, and 34 lots...it would replace 34 lots, yeah?

COUNCILMEMBER SUGIMURA: It is 34 lots. Just replace 34 lots with entire project. It is 34 lots.

COUNCILMEMBER RAWLINS-FERNANDEZ: But it would read, the entire project shall be limited to residential and ag use.

CHAIR KAMA: Yes, Mr. Hart?

MR. HART: Chair, if I could...I don't...I'm not certain of the intent of this. Could I get a better explanation?

COUNCILMEMBER PALTIN: I guess the intention was to make sure it was for living and farming, kind of, and not, like, you know, welding or --

CHAIR KAMA: Mercantile.

COUNCILMEMBER PALTIN: --other types of things, like...

COUNCILMEMBER SUGIMURA: Commercial business.

MR. HART: Let me just say that there are a lot of things that can go along with intensive farming activities that, you know, we would normally want to see people doing in the ag district. I mean, gentleman's estates are not appropriate, and ideally, all of the people that are living in all these units, including the market-rate lots are aggressive farmers. And they might be welding, or handling machinery, or doing all kinds of intensive things. Anyway...

COUNCILMEMBER PALTIN: I guess limiting it to living and farming, was the intention. Like, it wasn't supposed to be, like, hotels, or...

MR. HART: That could not be permitted at all, but there are a lot of other uses in the agricultural district that are permitted. I'm wondering if you had intended to exclude some of those others, but I'm almost wondering if it's...

COUNCILMEMBER PALTIN: So, would somebody within this entire project be allowed to raise pigs?

MR. HART: Yes. They should all.

COUNCILMEMBER SUGIMURA: Agriculture.

COUNCILMEMBER PALTIN: Okay. That's kind of what I wanted. I mean, if they wanted to do agriculture, then they should be allowed to do agriculture.

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MR. HART: Now, I will say that there are other...

COUNCILMEMBER PALTIN: Can have three sows? Right? Per lot?

MR. HART: There are other uses that are permitted in the agricultural district that are not exactly farming, but anyway.

COUNCILMEMBER PALTIN: So you want...you think I should take it out?

MR. HART: I would prefer that it...I would prefer just to not have to limit it to residential and agricultural uses.

UNIDENTIFIED SPEAKER: Unnecessary.

MR. BROWN: We're in the ag zone, so we're keeping it in agriculture, so we're subject to the agriculture's ordinance and zoning. So we can only do what is allowed in ag. We don't really need the residential in there, 'cause we have the first and second farm dwellings within the ag ordinance.

MR. HART: I feel that the agricultural zoning district is sufficient for the Planning Department to understand, you know, what's appropriate. Are there...if there are uses in the agricultural zoning district that you're concerned about, that you feel are not appropriate for this subdivision, maybe that's appropriate to...

COUNCILMEMBER PALTIN: So, at one time in history, and I'm not sure if that's still the case, but there was word on the street, like, if you have a farm in Launiupoko, you're not allowed to have chickens and cock...and pigs and, like...

MR. HART: There...excuse me. Apologize. There are not prohibitions against CC&R's regulating or limiting someone's ability to farm. So, I don't think that those kinds of things can be done any further. And when those were being done was on the association level, typically, in the past.

COUNCILMEMBER PALTIN: So it can't be done anymore?

MR. HART: No. Those...you can't limit somebody's ability to do agricultural uses through association regulations anymore.

MR. BROWN: And we have no intention in restricting any ag uses, period. So, that's not in our plan.

COUNCILMEMBER PALTIN: Okay. I mean, whatever the will of you guys.

CHAIR KAMA: Yes, Ms. Rawlins-Fernandez?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So, just to clarify, then, putting in c, the entire project shall be limited to residential and ag uses, it would just be redundant. So it doesn't, like, matter.

UNIDENTIFIED SPEAKER: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: So if it's there, it's not like it's gonna negatively affect the project, it's just clarifying, you know, what the law already says. Mahalo, Chair.

CHAIR KAMA: It's redundant, but it wouldn't hurt, right?

COUNCILMEMBER RAWLINS-FERNANDEZ: Right.

MR. HART: Unless there's some sort of confusing and unforeseen circumstance where we have to figure out this relates to the agricultural zoning code.

CHAIR KAMA: Okay. Members, consensus?

MR. SCHNELL: Madam Chair?

CHAIRKAMA: Oh, yes. Mr. Schnell?

MR. SCHNELL: I have one point of clarification regarding the ag district standards. So the ag district standards are found in 19.30A.030, District Standards. And, you know, one of the first things we were asked when we went into the Planning Department, even for Makila Kai years ago, is that the Planning Department wants some sort of framework, so, 'cause if 201H projects start creating their own standards, they have a hard time of keeping track. So if we reference what standards we're going to be complying with under the code, they have a very clear picture of what's required. However, we are asking for one exemption to the ag district standards, and it's 19.30A.300 Subsection B. It says, minimum lot with 200 feet. We are asking an exemption for only the minimum lot width, and the reason for that being is that if you look on the screen, these lots here are all two acres, which meet the minimum size requirement. But the width of these lots here, in order for us to get this number of lots in, is less than 200 feet. So these are 200 feet up here, but we do need that one exemption to allow lot widths less than 200 feet for lots 1 through 12.

COUNCILMEMBER PALTIN: For me, since the CPRs are off the table, I'm okay with adding that exemption into the language.

COUNCILMEMBER SUGIMURA: I'm okay with that. They're getting two acres of land, I mean...

CHAIR KAMA: Okay. So there's consensus.

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COUNCILMEMBER SUGIMURA: Oh yeah.

COUNCILMEMBER PALTIN: Just add that in, not what he just said.

CHAIR KAMA: So, did you get that, John?

COUNCILMEMBER PALTIN: That exception.

CHAIR KAMA: Go ahead, John.

MR. RAPACZ: Thank you, Chair. Would the applicant be willing to state a minimum lot width? Right now, you're just saying it would be less than 200, but that leaves it wide open.

MR. SCHNELL: We could be okay with 100 feet. I don't know the exact dimension of these lots. I think they're 115, but just to give us a margin of error, if we could say a minimum lot width of 100, that would be fine.

MR. RAPACZ: Thank you. One comment on the previous question, sorry. And I would agree with the Deputy Planning Director, that it may introduce some confusion to say that the lots are limited to residential and agricultural uses. The agricultural zoning district allows many uses that are not agricultural. It allows minor utility facilities, solar farms, historic restoration, a number of things –

COUNCILMEMBER PALTIN: Take it out.

MR. RAPACZ: --that are not agricultural uses.

CHAIR KAMA: Throw that out.

MR. RAPACZ: So, since they are not asking for an exemption from the uses, then the regular...all of the uses allowed within the ag district would be allowed.

CHAIR KAMA: Okay. So to make that work, you'd want to delete c, right?

MR. RAPACZ: I think that –

COUNCILMEMBER SUGIMURA: I agree.

CHAIR KAMA: Did you get that, John?

MR. RAPACZ: --c only might confuse the issues.

COUNCILMEMBER SUGIMURA: Agree. Consensus.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

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CHAIR KAMA: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: I don't think we want solar farms on these lots?

MR. RAPACZ: Okay. And that's what the Deputy was asking. He said –

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

MR. RAPACZ: --unless there are uses you're concerned about, then this would be the time to address that.

CHAIR KAMA: Right. So you –

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR KAMA: --say, no solar farms, right? That's what you want to say, is that what you're... 'cause solar farms are allowed as an ag use.

COUNCILMEMBER RAWLINS-FERNANDEZ: In ag zone.

CHAIR KAMA: Right. But if you don't want it, then you probably need to say it. That's what Mr. Hart is saying.

MR. HART: That's clearer for us to...

CHAIR KAMA: So you can enforce that?

MR. HART: ...for us to administer this subdivision after it exists. Because, as Mr. Schnell was saying, basically, the project is proposing that they would have an amended minimum lot width, and all other conditions are equal to the agricultural zoning district. So if we are intending to limit...anything beyond, as an example, farming and living, if that's what you intended to do, it'd be easier to delete from the menu of existing uses. I guess you could do it the opposite.

COUNCILMEMBER PALTIN: For me, I'm okay with solar farms, 'cause I've seen the fire in Lahaina, and it went right around the solar, and they still work. I personally think this whole area should be solar farm, 300 acres, but I'm in some discussions on that as well, if this doesn't work out.

CHAIR KAMA: Ms. Lee?

COUNCILMEMBER LEE: Jordan? About how many permitted uses are allowed in the ag district?

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MR. HART: I apologize. I'm scrambling on my phone trying to pull up this zoning code. Thank you very much.

COUNCILMEMBER LEE: Like, 25, 30? Something like that?

MR. HART: There's basically eight principal uses, and then there's approximately 10, 14, approximately 15 accessories.

COUNCILMEMBER LEE: So, eight plus fifteen?

MR. HART: Yes. Approximately.

COUNCILMEMBER LEE: 23?

MR. HART: Yeah. And those 15...yeah. That's correct.

COUNCILMEMBER LEE: Okay. Which would be easier to list? What's permitted, or list what's not permitted?

MR. HART: Well, what is agriculture use? It can be complicated, what is agricultural use, is. There's, as an example, principal uses: agricultural, agriculture, agricultural land conservation, agricultural parks, animal and livestock raising, including animal feedlots and sales yards, private agricultural parks as defined herein. Then there's minor utility facilities as mentioned, historic restoration, and solar. So there's variations.

COUNCILMEMBER LEE: Yeah. In the past, we've never done all of this before, because it's, you know, more than likely, we're not going to have agricultural parks within a residential, somebody's yard, yeah? So there are things that automatically, nobody would list, but, you know, knowing this group, yeah? Let's list them all so we can get on with this show. So, which would be easier: to list the 14, or list the 8, you know?

MR. HART: Really, what I was saying, is, if there are ones that you do not want to see, let's call those out, rather than saying it's only these two. It's more clear to understand what we're trying to prevent.

COUNCILMEMBER LEE: Okay. Well, you know, somebody has to come up with a list that we can go over, and then we can be done with this. Otherwise, we're going to be here all night, talking about, well, we shouldn't allow airports. You know, we shouldn't allow spaceships, and, you know, --

COUNCILMEMBER SUGIMURA: Windfarm.

COUNCILMEMBER LEE: --I mean, you know?

COUNCILMEMBER PALTIN: Golf courses.

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COUNCILMEMBER LEE: Let's...we've never had to do this in the past, --

UNIDENTIFIED SPEAKER: Olympic swimming pool.

COUNCILMEMBER LEE: --but, like I said, in order to move on, --

COUNCILMEMBER SUGIMURA: Let's move on.

COUNCILMEMBER LEE: --somebody has to work on a list that we can look at, and then make a decision on it. I think everybody understands that we approve of residents, well, to some extent, residential use and, you know, agricultural use, but, you know, let's not get hung up on details all night. So, if somebody can work on a list...can somebody work on a list? John, why don't you work on the list, since you brought it up? No, and then after the break, you know, after the dinner, we can go over this one again. How's that?

MR. HART: Chair?

CHAIR KAMA: Yes?

MR. HART: If I might...it seemed like Councilmember Paltin was concerned about potential uses entering in. I was wondering if, you know, you might be the one better able to identify what you're trying to prevent. Then...

COUNCILMEMBER LEE: She probably doesn't know the whole list, though.

MR. HART: I believe she's reviewing it at this moment.

COUNCILMEMBER LEE: Oh. Okay. So now we're going to go over the whole list, right now?

MR. HART: No. I just meant that...

CHAIR KAMA: She's going over what she can't live with.

COUNCILMEMBER SUGIMURA: Like solar farms.

COUNCILMEMBER PALTIN: Well, I don't have a problem with solar farms, but I think under permitted uses be where it says accessory uses that are incidental; two farm dwellings per lot, one of which shall not exceed 1,000 square feet of developable area. Like, one for, like, that kind of stuff. I like that.

MR. HART: Yeah.

COUNCILMEMBER PALTIN: And, you know, I'm not too fond of golf.

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COUNCILMEMBER LEE: No. Okay. But everybody needs to see the list, Tamara. Not only you.

UNIDENTIFIED SPEAKER: What...

COUNCILMEMBER PALTIN: It's in your County Code.

COUNCILMEMBER LEE: I know, but we're going to have to take some time to do that.

COUNCILMEMBER PALTIN: Okay. You want copies of the list then, Chair?

CHAIR KAMA: Is this a recess?

COUNCILMEMBER LEE: Well, I suggesting we do this after dinner, you know?

COUNCILMEMBER PALTIN: Okay. Maybe make copies of this and look it over, over dinner.

COUNCILMEMBER RAWLINS-FERNANDEZ: No objections.

CHAIR KAMA: Okay. So we're going to put this in our parking lot. Okay. Okay. So, let us continue on.

COUNCILMEMBER SUGIMURA: Well, he's going to drive all the way home to Makawao to feed his dog.

COUNCILMEMBER PALTIN: Oh, you know why? Dogs might bite Gary.

CHAIR KAMA: So, now let's proceed with Ms. Paltin and my modifications, and Ms. Rawlins' modifications. So, I've got one, two, three, four, five modifications left, that we haven't discussed. Ms. Rawlins has two left, and Ms. Paltin has three, six, eight left. So we should take the easy one first. Let's take Ms. Rawlins-Fernandez, her first bullet and her last bullet on her modification page.

COUNCILMEMBER PALTIN: And then, I think, also, Member Molina had number eight, maybe, we didn't cover.

CHAIR KAMA: Well, Mr. Molina said that he was okay with...

COUNCILMEMBER PALTIN: Oh. Okay.

CHAIR KAMA: Because he had already spoken to the developers –

COUNCILMEMBER PALTIN: Okay.

CHAIR KAMA: --and he was okay with everything.

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COUNCILMEMBER PALTIN: So everything else on his is okay?

CHAIR KAMA: Yeah. Yeah. Okay. So, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. So you want me to read it?

CHAIR KAMA: Please.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. One: within the CC&R's, or other documents designating an HOA, at least 50 percent board membership must be from lots 1 through 19, the workforce housing lots.

CHAIR KAMA: Consensus?

COUNCILMEMBERS: Consensus.

CHAIR KAMA: Consensus?

COUNCILMEMBER SUGIMURA: Developer has thumbs up.

CHAIR KAMA: Okay. The developer's is?

COUNCILMEMBER LEE: Consensus.

CHAIR KAMA: Oh. Thank you very much. Okay. And then the last one, Ms. Rawlins-Fernandez? Your last bullet.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Oh, okay. The lender should be one of the buyer's choice.

CHAIR KAMA: Consensus?

COUNCILMEMBERS: Consensus.

CHAIR KAMA: If you're going to borrow the money, you should go to whoever you want to borrow the money from.

COUNCILMEMBER SUGIMURA: Yeah.

COUNCILMEMBER LEE: The lender should what?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR KAMA: The buyer.

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COUNCILMEMBER RAWLINS-FERNANDEZ: I'll make it a complete sentence.

COUNCILMEMBER LEE: Oh, the buyer.

CHAIR KAMA: The buyer has the choice of choosing his own –

COUNCILMEMBER SUGIMURA: The lender.

COUNCILMEMBER RAWLINS-FERNANDEZ: The buyer.

CHAIR KAMA: --lender.

COUNCILMEMBER LEE: Oh. I see. Okay. Yeah. Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: It's not reiterating the law.

CHAIR KAMA: And not the developer's lender. Yeah.

COUNCILMEMBER LEE: Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. That's the law anyway.

UNIDENTIFIED SPEAKER: Okay. Consensus.

CHAIR KAMA: Thank you. Okay. So, that was Ms. Rawlins-Fernandez' --

UNIDENTIFIED SPEAKER: So we're done?

CHAIR KAMA: --and so let's go to mine. So, my number four, five, six, seven and eight. So, I can read it, and then you all can say, consensus, consensus . . . *(inaudible)* . . .

COUNCILMEMBER PALTIN: After each one? You want us consensus?

CHAIR KAMA: Yeah. After each one. Yes. Thank you. Okay. Number four. Provide housing plans for the workforce housing units that are consistent with the AMI allocation proposed in my modification number one.

COUNCILMEMBER SUGIMURA: Consensus, right?

CHAIR KAMA: Consensus?

COUNCILMEMBER SUGIMURA: Yeah.

UNIDENTIFIED SPEAKER: Consensus.

CHAIR KAMA: Thank you. Number five...oh, you got that already?

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

CHAIR KAMA: Did everybody get that?

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR KAMA: Okay. Yeah. So that's your plan. Does it have on top of there, the AMI's on there, too?

COUNCILMEMBER SUGIMURA: No. It has a design and how many bedrooms.

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: The AMI doesn't change this, right? The plans? If it's a 50, 60, 70, 80, 90 percent AMI, the plan is the same?

CHAIR KAMA: Mm-hmm.

COUNCILMEMBER PALTIN: Okay.

CHAIR KAMA: Right? Yeah. Okay. Thank you. Okay. Number five. Provide a gravel walking path consistent with an agricultural area, rather than asphalt path proposed in the application.

COUNCILMEMBER SUGIMURA: Consensus. That's good, right?

CHAIR KAMA: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, I have a question on this one.

CHAIR KAMA: Yes? Go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Sorry, I missed the last meeting. But what gravel walking path is this?

CHAIR KAMA: Can you show them on the map, Mr. Brown, or Mr. Schnell?

MR. SCHNELL: So, on this map...this has been changed from the application. But in the application, we had an asphalt sidewalk along this side of the road here. You can see where my mouse is moving. On the mauka side of the workforce housing road. We're now proposing a gravel pathway on the makai side, not asphalt gravel. That would be more keeping with the ag district. Actually, the ag district doesn't require any sidewalks, so this would be an additional walking path.

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COUNCILMEMBER RAWLINS-FERNANDEZ: So, Chair, in your proposed condition, would the gravel walking path be on lots one through thirteen, or the mauka 19 through 14? Basically, would the asphalt sidewalk still be there or no?

CHAIR KAMA: There's an asphalt...

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh.

CHAIR KAMA: There is an asphalt...it's instead of asphalt, gravel.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER PALTIN: Instead of asphalt on the mauka, it's gravel on the makai now.

MR. SCHNELL: That's correct. Not road, sidewalk. Or walking path.

COUNCILMEMBER RAWLINS-FERNANDEZ: Walking path. Okay. So not sidewalk? There's no sidewalks?

CHAIR KAMA: Right.

MR. SCHNELL: That's correct.

CHAIR KAMA: It's a walking path, not a sidewalk, as we know a sidewalk.

COUNCILMEMBER RAWLINS-FERNANDEZ: Where is the walking path? It's like, not along the side the road?

MR. SCHNELL: Yeah, it's essentially –

COUNCILMEMBER RAWLINS-FERNANDEZ: Where a sidewalk would be?

MR. SCHNELL: --where a sidewalk would be, yes. It would be a gravel walking path to the right.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh. Okay.

CHAIR KAMA: Like a shoulder, I guess, but not...a shoulder with a pathway, I guess.

MR. SCHNELL: So we're proposing the gravel walkway on –

COUNCILMEMBER RAWLINS-FERNANDEZ: Makai.

MR. SCHNELL: --makai side. It's lots one through twelve.

COUNCILMEMBER PALTIN: And then they could –

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MR. SCHNELL: This one is twelve.

COUNCILMEMBER PALTIN: --go out that area, yeah? Like a mock hiking trail? From there, they can go up the hiking trail?

MR. SCHNELL: Yeah. They could connect to the already established walking path, mauka makai path, yeah.

COUNCILMEMBER PALTIN: My only question is the HOA going to maintain that? Like, maintain gravel versus maintaining asphalt, so that's going to be under the HOA? And it's not going to add to the price of the HOA?

MR. BROWN: Well, whether it's asphalt or gravel, they'd have to maintain it. So, the HOA would maintain it.

COUNCILMEMBER PALTIN: And you don't think it'll add significantly to the HOA expenses?

MR. BROWN: No. I don't think so. It's not a lot to maintain a gravel path.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Last question, Chair.

CHAIR KAMA: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: So, initially, it was going to be asphalt, and now it's gravel. What was the reason for that?

MR. BROWN: You know, initially, when we were doing Makila Kai, it was a rural subdivision, and that's when we had the asphalt. And then when we switched the application, to be honest with you, I didn't catch that it was still in there. I'm not aware of any agricultural subdivisions in the State that have a gravel or a asphalt path. Most of them have neither, but we thought we would leave a gravel path in anyway, or propose to, once we lowered the AMI.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. 'Cause I thought we were, like, moving toward, you know, like ADA compliance, and, you know, making it more friendly for people of all abilities. I don't know. I thought that was what we were doing as a Council.

MR. SCHNELL: If I can clarify, one of the thoughts about putting the gravel path on the makai side was that it would help for drainage. So, the drainage that comes down from the paved road could be captured by the gravel path, rather than if it was a hard surface, it would just be more impervious surfaces. So that's where that suggestion came from.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay. So, all right. I was just thinking of those with all abilities, but I don't know. Okay.

CHAIR KAMA: Thank you. Next, number six. Exempt the exemptions proposed by the applicant with the following modifications: permit lots with less than 200 feet for the subdivision proposed in the application. Exemption from Section 19.30A.030 of the Maui County Code. B: permit exemption from Section 19.30A.030.G and 19.30A.040, Maui County Code, such as the proposed subdivision can be approved and amending any existing agreements limiting the future subdivision of the subject tax lots. Consensus? Questions? Comments?

COUNCILMEMBER PALTIN: For A, can we change it to what Rapacz...

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: 100.

COUNCILMEMBER PALTIN: ...Mr. Rapacz clarified. So, permit lot widths less than 200 feet down to minimum of 100 feet.

CHAIR KAMA: Was that what your wording was, John?

COUNCILMEMBER PALTIN: Or, I don't...yeah. I don't know the wording.

COUNCILMEMBER RAWLINS-FERNANDEZ: Minimum 100 feet.

MR. RAPACZ: Sorry. Yes, the applicant said that they thought 100 feet was a safe minimum.

CHAIR KAMA: Okay. Okay, thank you. So is there consensus? Yes? Oh, I'm sorry, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. For B, the last line, --

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: --existing agreements limiting the future subdivision of the subject tax lots. Can someone explain what that means?

CHAIR KAMA: Mr. Schnell, you want to explain that?

MR. SCHNELL: Sure. I can explain. So, the Sections 19.30A.030G and 19.30A.040, go to the original subdivision of this area and the ag ordinance that has the sliding scale. And these are three 25-acre lots, or, roughly, 25 acres totals 76 acres. They are under a lot allocation agreement that says they cannot be further subdivided per these sections. So, what we needed to do is allow further subdivision of these three TMK's

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into the two acre lots that we're proposing for the workforce development to be able to achieve the subdivision of all of these lots in the project.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Schnell. So, in your response, you're saying that this 6B is limited to the workforce housing lots, and not the market rate?

MR. SCHNELL: No. It's limited to all three TMK's that comprise the parcel –

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, so the entire project?

MR. SCHNELL: --or, project right now. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Can you hold that? Should we add that for clarity, or...?

MR. SCHNELL: I do have it stated a slightly different way that I can put forth for consideration. Give me a minute to find it, thought. I have a lot of files here.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MR. SCHNELL: Our attorney drafted that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mr. Hart, looks like has --

CHAIR KAMA: Yeah?

COUNCILMEMBER RAWLINS-FERNANDEZ: --a lightbulb.

CHAIR KAMA: Mr. Hart?

MR. HART: Just pointing out that they're asking for an exemption, correct? It's an exemption?

CHAIR KAMA: Yes.

MR. HART: Because these are subject to the...they were already part of a subdivision since it...yeah. This whole project cannot happen unless that exemption is granted.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So this is the ag subdivision law?

MR. HART: The sliding scale. So, basically, these need to create a series of lots smaller and smaller, and then they break into medium-size chunks, and you have some large chunks. And there's lot allocations that can remain. If you can't subdivide anymore, you have to record that you cannot subdivide these lots anymore. These are...these three lots that comprise this project are those types of lots. And, so the exemption is

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to allow them to be re-subdivided this way as proposed. So, it's not that you would be noting it, it's that they must be granted this exemption by you in order to do this proposed action.

COUNCILMEMBER RAWLINS-FERNANDEZ: So it's kind of going against the spirit of the law. Like, the intention of it was to preserve agriculture, and we're going to be further subdividing lands that was initially intended for larger...so, the sliding scale.

MR. HART: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Larger, larger lots. Larger ag lots to ensure that Maui would still have larger ag lots. And so we're going to go against the spirit of that law to subdivide further.

MR. HART: So, I can say a few things. Number one, 201H is created to allow applicants or agencies to put forward an opportunity to create affordable housing. That's what...this mechanism also exists under Hawaii Revised Statute, that's what the applicant is proposing here. You know, what you decide to do with it is the Council discretion.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Mr. Hart.

CHAIR KAMA: MR. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. And this was what one of the testifiers had brought up. And, so, under that Code, it says that this Chapter, as recorded with the Bureau of Conveyances. So if the prior subdivision was recorded with the Board of Conveyances, what happens now? Does the applicant need to...I know the 201H is giving the exemption, but what happens to what has been recorded at the Bureau of Conveyances? Mr. Hart?

CHAIR KAMA: Mr. Hart?

MR. HART: I presume it can be...it'll be lifted with the, you know, approval of the resolution. They could remove the recordation.

CHAIR KAMA: Members?

MR. SCHNELL: I could also clarify. So, the lot allocation agreements apply to the larger subdivision that was done many years ago, and this exemption would only allow an exemption for these three TMK's that comprise this project area, and would not . . . we would not amend the other allocation, or the allocation agreements for the rest of the lots that were originally subdivided.

COUNCILMEMBER SINENCI: They could still come with a 201H application, yeah?

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MR. SCHNELL: That would be up to your discretion and review at that time, yeah.

COUNCILMEMBER SINENCI: Okay.

CHAIR KAMA: Members, consensus?

COUNCILMEMBER LEE: Consensus.

COUNCILMEMBER PALTIN: For me, I'm not sure yet, but I don't want to hold up your proceedings.

CHAIR KAMA: Okay. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Me too.

CHAIR KAMA: Okay. Yes, Ms. Lee?

COUNCILMEMBER LEE: I want to remind the Members that we have approved previous projects through 201H process. Jordan, Atherton? Oh no, he didn't use, but he got something like a project district. They call it a different name now, right?

MR. HART: We created new zoning code for this project.

COUNCILMEMBER LEE: Yeah. The new zoning code. And what is the name of that?

MR. HART: Form-based code? Is that what we're referring to right now? Not sure what we're . . .

COUNCILMEMBER LEE: Instead of project district –

MR. HART: No.

COUNCILMEMBER LEE: --we had...we have a new name for this type of development.

CHAIR KAMA: I think district boundary something.

COUNCILMEMBER LEE: Yeah, anyway.

MR. HART: Well, the State Land Use District Boundary Amendment, but that's...

COUNCILMEMBER LEE: No. Never mind.

MR. HART: Okay. I apologize. Then I'm not --

COUNCILMEMBER LEE: You're not...no, no.

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MR. HART: --grabbing the term you're looking for.

COUNCILMEMBER LEE: You can't call it by the specific name of the project, you know? Like, a project district is Maui Lani. Project district is Kehalani, so forth, okay? Atherton's Waikapu Country Town, whatever it is, didn't it have its own standards, which actually sort of contradicts, you know, our agriculture sliding scale, you know, standards? And agricultural . . .

MR. HART: I believe that we're discussing form-base code, but I'm not sure.

COUNCILMEMBER LEE: Well, there's only one Atherton project, Jordan.

MR. HART: No, no. Then I think that the term you're reaching for is form-base code.

COUNCILMEMBER LEE: Okay. Let's call it that.

MR. HART: Okay.

COUNCILMEMBER LEE: Whatever you want to call it. Okay. I thought I asked a question, but never mind.

MR. HART: No. I don't...what? Okay. I apologize, then. I got lost in a train.

COUNCILMEMBER LEE: Okay. I was using that as an example, but I'm also saying that, we've had quite a few 201H projects, which were developed on ag land, and which did not follow the sliding scale. Let's take Waikapu Gardens, yeah? There's no sliding scale there. There's all residential projects, smaller lots, not following the scale. You know, it's the same thing here. There's no difference.

MR. HART: I completely agree. It's the 201H.

COUNCILMEMBER LEE: Finally, I made a point. Thank you.

MR. HART: Oh, no. I believe that I said that to Councilmember Rawlins-Fernandez earlier. This is a proposal that's being made to the Council. There's some benefit to the community, there's some benefit to the developer. The Council will decide whether or not the balance is fair for the Council.

MR. BROWN: You know, if I could clarify too, that there's not going to be large-scale farming ever on these three lots. They're already entitled to allow me to build three homes and three cottages, and put three barns on them. And that's what's going on with all the rest of 'em up there, so I'm trying not to put three luxury homes and three luxury cottages. And instead build workforce housing on it. And I think this land probably will have a larger agricultural operation with the cattle farming in the halau resource gardens than any other project up there does, so, you're not going to save the land by

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not allowing workforce housing on it. You're going to allow more luxury homes to be built on it, is what's going to happen on it, unfortunately.

COUNCILMEMBER LEE: Yeah. Also, Madam Chair...and, so thank you, Jordan, for that clarification. And then we just recently, maybe last year, maybe earlier this year, similarly, used the 201H process in Hana for affordable housing on ag land. Huh? Right?

MR. HART: I did represent that project, personally, Councilmember.

COUNCILMEMBER LEE: So this, what we're doing here, is fairly commonplace. You know, this is not unique, using the 201H process on this particular property. This is not unique. We do it all over the County, correct?

MR. HART: Absolutely. It's a tough decision to make, but that's what you're here for.

COUNCILMEMBER LEE: Yeah. All right. Thank you.

CHAIR KAMA: Okay. So is this, number seven, in the parking lot? It's in the parking lot. Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Number six.

CHAIR KAMA: Number six is in the parking lot.

COUNCILMEMBER PALTIN: 6B, right? 6B?

CHAIR KAMA: 6B, yes. Thank you. So let's move on to seven. Thank you. To the extent legally permissible, restrict the availability of the workforce housing units to residents of Maui County and provide, if possible, a preference for existing residents of the greater Lahaina area, or those employed in that same general area. Yes, Ms. Lee?

COUNCILMEMBER LEE: Corp. Counsel, and Ms. Munsell. Comments?

MR. KUSHI: Madam Chair?

CHAIR KAMA: Yes, Mr. Kushi?

MR. KUSHI: Member Lee, as far as restricting the availability to Maui residents, that's fine. As far as preference for existing residents in the Lahaina area, I have questions about that.

CHAIR KAMA: Okay.

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MR. KUSHI: But as far as existing residents employed in the Lahaina area, I believe that may be permissible because the entitle of this project is workforce housing. But I need to check on the existing residents of greater Lahaina.

COUNCILMEMBER LEE: Thank you. Ms. Munsell?

CHAIR KAMA: Thank you, Mr. Kushi.

MS. MUNSELL: Thank you for the question. I agree with Corp. Counsel's review of that question.

CHAIR KAMA: Mr. Kushi, yes?

MR. KUSHI: I'll get back to you before final reading.

CHAIR KAMA: Okay. Thank you.

COUNCILMEMBER SUGIMURA: Before what?

CHAIR KAMA: Okay. In two weeks. Okay, so, but other than that, Members, is there a consensus?

COUNCILMEMBER SUGIMURA: Consensus.

COUNCILMEMBER LEE: Consensus, provided it's legal.

CHAIR KAMA: Well, everything's legal, except the preference for existing residents. That's the only thing that Mr. Kushi is questioning. But, other than that, the other stuff is good. Right, Mr. Kushi.

MR. KUSHI: Yes. The existing residents, who live in Lahaina area.

CHAIR KAMA: Yes.

COUNCILMEMBER PALTIN: And the employed part too.

MR. KUSHI: I said the employment part, I believe, will pass.

COUNCILMEMBER PALTIN: Oh. Okay.

CHAIR KAMA: Yeah.

COUNCILMEMBER SUGIMURA: Because it's workforce.

COUNCILMEMBER PALTIN: Employed specifically in Lahaina, or just...that part is okay?

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MR. KUSHI: As described, it's the greater Lahaina area.

COUNCILMEMBER PALTIN: Oh. Okay.

MR. KUSHI: Whatever that means.

COUNCILMEMBER PALTIN: Even better. Probably, like, within the District that I need to live in, would be the greater Lahaina area. To represent, or to meet the residency requirements, right?

MR. KUSHI: Right. The intent of this provision to be...to be give preference, versus, you know, Wailuku residents, Paia residents, Upcountry residents, who happen to work in Lahaina.

COUNCILMEMBER PALTIN: I don't know. I mean, it sounds good, but many...I mean, either way, it's okay. I mean, there's a lot of families that are from Lahaina that now live out of the District, but, it doesn't really matter to me. Whatever you want to do.

CHAIR KAMA: We'll only have 19 homes, and I'm sure that there's gonna be a whole lot of people applying from that area itself who work there and who live there, and we're going to have to say no to many of them.

COUNCILMEMBER PALTIN: Whatever your preference, Chair.

CHAIR KAMA: Thank you.

COUNCILMEMBER PALTIN: Okay.

CHAIR KAMA: Yes, Ms. Lee?

COUNCILMEMBER LEE: I have a feeling that if you don't live in Lahaina right now, or if you don't work in Lahaina right now, and you live and work in Kula, I doubt if they're going to want to go all the way to Lahaina, so. I think we're pretty safe, as long as we find the right verbiage to be legal.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR KAMA: And I'll leave that up to the people with the wisdom to do that. Okay. So, I think...I'm going to just mark that as consensus, and I'm going to start with Mr. Kushi's name. So he'll get back to us about that. Okay. Number eight. Adding to the conditions of approval, a requirement for the developer to assist in the provision of a homebuyer's financial education program for those purchasing workforce housing and that a program must include an individual development account program, or an IDA. You guys good with that?

COUNCILMEMBER SUGIMURA: Consensus.

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CHAIR KAMA: Consensus? Consensus? Okay. So, that is all of mine. So we're going to go to Ms. Paltin's, beginning with Ms. Paltin's number three. Yes.

COUNCILMEMBER SUGIMURA: Oh, the height of the build.

CHAIR KAMA: Okay. So, Ms. Paltin, would you like to read your number three, please?

COUNCILMEMBER PALTIN: Oh. Sure. Sorry about that. The height of all buildings, including but not limited to the 19 residential workforce housing units and all homes to be constructed on lots sold at market prices shall be limited to one story.

MR. BROWN: That's fine.

COUNCILMEMBER LEE: Chair? . . .*(inaudible)*. . .

MR. RAPACZ: Chair?

CHAIR KAMA: Yes, Mr. Rapacz?

MR. RAPACZ: Thank you. Just to clarify, it would still be the, I believe it's 30-foot height limit, whether it's one story or two stories.

COUNCILMEMBER PALTIN: That's fine with me, I think.

COUNCILMEMBER SUGIMURA: 30-foot? That's...

MR. RAPACZ: 35.

COUNCILMEMBER SUGIMURA: 35?

COUNCILMEMBER PALTIN: Shall be limited to 35...

MR. RAPACZ: The maximum height of any dwelling shall be 30 feet.

COUNCILMEMBER PALTIN: 30 feet?

MR. RAPACZ: Yeah.

COUNCILMEMBER LEE: That's more than one story.

COUNCILMEMBER PALTIN: Oh. Okay. Oh, so, one story.

CHAIR KAMA: You want us to...

COUNCILMEMBER PALTIN: I would go with one story.

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CHAIR KAMA: What is one story?

MR. RAPACZ: There is no...

COUNCILMEMBER SUGIMURA: Mr. Hart has something to say.

CHAIR KAMA: Oh. Mr. Hart?

MR. HART: Chair, this ties into the earlier issue we were talking about, about agricultural zoning and uses and things like that. So, let's say somebody did want to do some sort of agricultural use and they had an agricultural utility structure, or were doing something that they needed a larger building, or some sort of elevator for crops, or you know, are they going to be limited –

COUNCILMEMBER PALTIN: Yes.

MR. HART: --in their ability to carry out productive agriculture operations?

COUNCILMEMBER PALTIN: Yeah.

MR. HART: Anyway. If that's what you would like to do, it'd be easier if they were specific. Like, as Mr. –

COUNCILMEMBER PALTIN: Each one?

MR. HART: --Rapacz said, a hard, definable line. So if it's 30, that's fine.

COUNCILMEMBER PALTIN: Okay. I guess the question was, is there a definition for one story?

MR. HART: Yes. I believe we can determine a story. And if you also have a maximum height, that's fine. But what I was bringing in is, there may be other types of structures on ag land which are not residences, and if they're all limited to 30 feet as well, then we can interpret.

COUNCILMEMBER PALTIN: Yeah. I don't think a majority of the residents want, like, super tall structures over there, including the market rate lots or workforce.

CHAIR KAMA: I have a question. How tall is it from here to the ceiling? What do you think? I don't know, I'm asking. Anybody? Just take a guess. What you think?

COUNCILMEMBER RAWLINS-FERNANDEZ: I don't think it's a full canoe length, and a canoe is 40 feet. Maybe 35?

CHAIR KAMA: Well, that's tall.

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UNIDENTIFIED SPEAKER: 15?

CHAIR KAMA: So is that...

COUNCILMEMBER LEE: Well, but you know, Madam Chair?

CHAIR KAMA: Yes?

COUNCILMEMBER LEE: Ms. Rawlins-Fernandez had a good point. What about tractors and those big farm equipment things?

CHAIR KAMA: What about them?

MR. BROWN: So...

COUNCILMEMBER LEE: Well, they're tall.

MR. BROWN: I might say, just limit only the dwellings to a certain height restriction, like 25 feet instead of 30. But don't limit the agricultural buildings, or maybe the dwellings would be one story limited to 25 feet, and the agricultural buildings would be whatever they're going to be.

COUNCILMEMBER PALTIN: I'm good with limited to one story, 25 feet max. Works for me. I don't know how you guys feel about the agricultural buildings, so you can...we can discuss it or what.

CHAIR KAMA: Yes, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mr. Hart, is there a limit to the number of agricultural use structures that are allowed on the parcels? Like, barns and sheds, like tractor sheds.

MR. HART: Not really. Provided you're actually doing a legitimate agricultural operation.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

CHAIR KAMA: So, I guess this is consensus, with...did you want to add the 25 feet for the one story?

COUNCILMEMBER PALTIN: Yeah. So, the height of...so, it would be instead of the height of all buildings, you want it to say, the height of all -

MR. BROWN: Dwellings.

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COUNCILMEMBER PALTIN: --dwellings, or all homes to be constructed on...within the entire project shall be limited to one story, or 25 feet, instead of talking about all buildings, which could be a agricultural building.

CHAIR KAMA: So, this includes all of them?

COUNCILMEMBER PALTIN: Just the houses, not the agricultural buildings. Just the houses.

CHAIR KAMA: So, the height of the homes?

COUNCILMEMBER PALTIN: Yeah.

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: ...within the entire project shall be limited to one story,

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: --or 25 feet.

CHAIR KAMA: Okay. And there's no mention of the farm dwellings?

COUNCILMEMBER PALTIN: Yeah, no mention of that.

CHAIR KAMA: Okay.

COUNCILMEMBER PALTIN: So that would be whatever the regular is.

CHAIR KAMA: Whatever that might be. Okay. So, Members, do we have consensus on Ms. Paltin's number three? The Temptations are singing. Consensus on number three from Ms. Paltin?

COUNCILMEMBER LEE: Sorry. We were talking about distance, how far...

CHAIR KAMA: Consensus on number three.

COUNCILMEMBER LEE: Okay. Number three. Sure.

CHAIR KAMA: Thank you.

COUNCILMEMBER LEE: The 25 feet?

CHAIR KAMA: Thank you. Yes.

COUNCILMEMBER LEE: 25 feet. Okay.

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CHAIR KAMA: Yes.

COUNCILMEMBER LEE: One story, 25 feet.

CHAIR KAMA: Yes. Thank you.

COUNCILMEMBER LEE: Got it.

CHAIR KAMA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR KAMA: Okay. So, we're going to go to Ms. Paltin's 5D.

COUNCILMEMBER PALTIN: Or, you mean 6E?

CHAIR KAMA: Is it 6? Okay. Yep. You got that? Sorry, it is 6.

COUNCILMEMBER PALTIN: 6...I think we went over...did we go over D already?

CHAIR KAMA: Did we? Yeah.

COUNCILMEMBER PALTIN: So, 6E.

CHAIR KAMA: So we're on 6...we did B. So we're on 6E. E for echo. Okay. Ms. Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. So, just you know, seeing how you guys feel about this. I thought it was a good idea, but we'll see. For an initial marketing period of 120 days, market-rate lots shall be offered to first-time homebuyers only, as defined by criteria set forth in Section 2.96.090(b)(5), MCC, which provides that for a period of three years before the submittal of the ownership application, an applicant shall not have had an interest of 50 percent or more in real property in fee or leasehold in the United States where the unit or land is deemed suitable for dwelling purposes. Unless the applicant is selling an affordable unit and purchasing a different affordable unit that is more appropriate for the applicant's family size.

COUNCILMEMBER LEE: Madam Chair?

CHAIR KAMA: Ms. Lee?

COUNCILMEMBER LEE: May we have comments from Ms. Munsell?

CHAIR KAMA: Ms. Munsell?

MR. SCHNELL: Yes, hello?

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COUNCILMEMBER PALTIN: Oh, Munsell.

MR. SCHNELL: Oh. Sorry.

CHAIR KAMA: Ms. Munsell.

MR. SCHNELL: I thought you were addressing me. Sorry.

MS. MUNSELL: I believe that wording is pretty consistent with the requirements of 2.96, but yes, I don't see an issue with that in particular, assuming that the developer doesn't. I think it's consistent wording.

COUNCILMEMBER LEE: Well, what about the part...

MS. MUNSELL: So, I'm sorry. Market-rates, no. Not the market-rates. It's only the affordable.

COUNCILMEMBER LEE: Okay. It's been a while since I've reviewed 2.96, and then the last part of the sentence, the last sentence, says, unless the applicant is selling an affordable unit, and purchasing a different affordable unit that is more appropriate for the applicant's family size. So, is that in 2.96? You took it all from 2.96?

COUNCILMEMBER PALTIN: No, not that part.

COUNCILMEMBER LEE: Oh. Okay.

MR. BROWN: I'd like to just we'll comply with 2.96, 'cause this is referring to the market lots
-

CHAIR KAMA: Yeah.

MR. BROWN: --not the affordable lots. We can't agree to sell the market lots to affordable buyers and the -

COUNCILMEMBER SUGIMURA: First-time homebuyers.

MR. BROWN: --workforce lots to affordable buyers.

COUNCILMEMBER PALTIN: Oh. It wasn't to affordable, it's first-time homebuyers. So, give everybody a chance to be a homeowner.

MR. BROWN: Oh. I see. So...

COUNCILMEMBER PALTIN: For 120 days.

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MR. BROWN: So, if the first-time homebuyer wants to pay the same price as any other market-rate buyer, they would have preference?

COUNCILMEMBER PALTIN: Give them like 120 day head start so that more people can realize the dream of being a first-time homebuyer.

COUNCILMEMBER LEE: I don't think --

COUNCILMEMBER PALTIN: Just throwing it out there.

COUNCILMEMBER LEE: --the market people...I don't really think the market people will be -

-

COUNCILMEMBER PALTIN: Qualified.

COUNCILMEMBER LEE: --going after a dream. They'll already had the dream, because they can afford the market units.

UNIDENTIFIED SPEAKER: Right.

COUNCILMEMBER LEE: So, to restrict it to first-time homebuyers for the market products, I think might be -

COUNCILMEMBER PALTIN: For 120 days.

COUNCILMEMBER LEE: --very limiting. Huh?

COUNCILMEMBER PALTIN: For the first 120 days. After that, if they can't find anyone within 120 days, open the floodgates.

COUNCILMEMBER LEE: Well, that's up to you.

MR. BROWN: I mean, I would rather not, in case we want to sell some of them and create some cash flow for the project and we're unable to sell many first-time homebuyers.

COUNCILMEMBER SUGIMURA: Yeah. I concur. I've been to the -

CHAIR KAMA: Yes?

COUNCILMEMBER SUGIMURA: --drawing of 372 names, and it's really exciting, but they're going after something very different. And I think we've accommodated first-time homebuyer opportunities, what is it, 4 million, and splitting that pot up amongst the first 66 or whatever, and I love the thought, Ms. Paltin, but let's not mix the two and have market homes get delayed because of having to wait 'till we have the first-time homebuyer drawing or whatever it is. Let's not mix the two up, and let's focus on

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what we're trying to do. And I cannot support this, although I understand why you wanna do it.

COUNCILMEMBER PALTIN: So my question, based on Mr. Brown's response is, if you're going to sell a market-rate lot, you have to do it concurrently with the workforce housing. So you're not gonna sell any market-rate lots until you sell a workforce housing lot.

MR. BROWN: That's correct.

COUNCILMEMBER PALTIN: Just verifying, 'cause I didn't understand, based on your response.

CHAIR KAMA: Okay. So, does that mean, Ms. Paltin, that you would withdraw this?

COUNCILMEMBER PALTIN: Yeah. If we don't have consensus, I'll withdraw it.

CHAIR KAMA: Okay. Is there consensus or no?

COUNCILMEMBERS: No.

COUNCILMEMBER PALTIN: Okay.

CHAIR KAMA: Okay. Thank you.

COUNCILMEMBER PALTIN: Thank you, Ms. Paltin.

CHAIR KAMA: So, it is 5:30, and dinner has arrived, and we're gonna call for a dinner break until 6:30 this evening.

COUNCILMEMBER PALTIN: You wanna just do 8 real fast? I think it should be easy.

CHAIR KAMA: Is that a promise, Ms. Paltin? I don't know if you know how to do anything easy. . . .(chuckle). . .

COUNCILMEMBER PALTIN: The project shall comply with all applicable requirements of Chapter 2.96 MCC and Chapter 201H, HRS.

COUNCILMEMBER LEE: Automatic.

UNIDENTIFIED SPEAKER: Consensus.

CHAIR KAMA: Okay. Thank you.

COUNCILMEMBER PALTIN: Okay.

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CHAIR KAMA: Recess.

COUNCILMEMBER PALTIN: Just moving it along.

CHAIR KAMA: . . .(gavel). . .

RECESS: 5:30 p.m.

RECONVENE: 6:36 p.m.

CHAIR KAMA: . . .(gavel). . . The Affordable Housing Committee of September 18th will now reconvene at 6:36 p.m. So we're going to continue with Ms. Paltin's modifications. And, so we skipped seven, and we went to eight, because it would have been faster. So we're going to go right back to number seven. Is that correct, Ms. Paltin?

COUNCILMEMBER PALTIN: That's correct. I got consensus over here.

CHAIR KAMA: Okay. So, would you like to read your...

COUNCILMEMBER PALTIN: Oh. I'm sorry. My bad. The construction of accessory dwellings shall be prohibited in the project area.

CHAIR KAMA: Consensus?

COUNCILMEMBER SUGIMURA: No.

CHAIR KAMA: Number six. Number seven?

COUNCILMEMBER SUGIMURA: No. Number seven, right?

CHAIR KAMA. Seven.

COUNCILMEMBER SUGIMURA: No. Agriculture allows one main farm dwelling and another. So, Paltin number seven.

CHAIR KAMA: Mr. Hart, do you want to help us with this? Number seven of Ms. Paltin's modifications?

MR. HART: How so?

CHAIR KAMA: So, she's saying that...oh, Ms. Paltin? Go ahead.

COUNCILMEMBER PALTIN: So, in number seven, condition would be, the construction of accessory dwellings shall be prohibited in the project area.

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MR. HART: So, earlier while I was sitting here, it seemed like there was a discussion where these dwellings were going to be permitted. So I don't really...I mean, like, what do I say to that line? I'm not sure.

CHAIR KAMA: So, Ms. Paltin?

COUNCILMEMBER PALTIN: I'm not sure. I didn't ask for your comment.

MR. HART: Sorry.

COUNCILMEMBER PALTIN: You could say, great idea?

MR. HART: In the context of the agricultural district, they can be permitted. If this Council wanted to put a condition on this 201H approval that they would not exist, then that's possible.

CHAIR KAMA: So, Members?

COUNCILMEMBER PALTIN: Good answer.

COUNCILMEMBER LEE: Yes. Can we hear from the –

CHAIR KAMA: Ms. Lee?

COUNCILMEMBER LEE: --developer?

CHAIR KAMA: Yes.

MR. BROWN: I mean, we're trying to create housing, and I think all these additional accessory dwellings create a lot more housing. So it would be a shame to see them removed when they're complying with the agricultural zoning district.

CHAIR KAMA: Yes, Mr. Hokama? You wanted to say something?

COUNCILMEMBER HOKAMA: Thank you, Chair. My understanding of what is on the table is, one main structure, allowing up to another secondary housing structure that would have a capacity of five bedrooms or the capacity of the . . .

COUNCILMEMBER SUGIMURA: ATV.

COUNCILMEMBER HOKAMA: ...yeah, your alternative unit. And then the accessory dwelling, as I will say is, if as long as it's associated to the agricultural –

COUNCILMEMBER SUGIMURA: Zone.

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COUNCILMEMBER HOKAMA: --use of the land, that's clearly in the code. Agricultural accessory dwelling.

MR. HART: I would like to point out that even the primary dwelling is accessory to agriculture in the agricultural district. So, there is no dwellings without agricultural operation. That's pursuant to HRS 205. But you can build a second dwelling in a agricultural district under normal circumstances, provided you're farming.

COUNCILMEMBER SUGIMURA: Mr. Kushi?

CHAIR KAMA: Yes, Mr. Kushi?

MR. KUSHI: Madam Chair? Maybe I can clarify and sort it to Mr. Hart confirming this. In the ag district zoning, as an accessory use, it says two farm dwellings per lot, one of which shall not exceed 1,000 square feet. One farm labor dwelling per five acres of lot area. So, in this case, I don't see any five acre lots.

MR. HART: That's right.

MR. KUSHI: So, there's no opportunity to have a farm labor dwelling. In the context of the ag zoning versus residential zoning, there's no...in the ag zoning, there's no such thing as an accessory dwelling. It's either a farm dwelling or a farm labor dwelling.

CHAIR KAMA: So?

COUNCILMEMBER HOKAMA: Part of the code.

COUNCILMEMBER PALTIN: So, are you saying it's not allowed anyway?

CHAIR KAMA: Accessory dwellings are not. Farm dwellings are.

COUNCILMEMBER SUGIMURA: Accessory dwellings. So just the . . .*(inaudible)* . . .

COUNCILMEMBER PALTIN: So, consensus?

COUNCILMEMBER SUGIMURA: Consensus not to take it in.

CHAIR KAMA: Or?

COUNCILMEMBER SUGIMURA: Do not agree. Yeah. Just follow the code. So just don't put this in.

CHAIR KAMA: Okay. So we'll delete this seven?

COUNCILMEMBER SUGIMURA: Delete.

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COUNCILMEMBER PALTIN: Okay.

COUNCILMEMBER SUGIMURA: I say delete.

CHAIR KAMA: Consensus to delete number seven?

COUNCILMEMBER LEE: Consensus.

CHAIR KAMA: Thank you.

COUNCILMEMBER PALTIN: Okay. Number nine?

CHAIR KAMA: Number nine. Thank you.

COUNCILMEMBER PALTIN: Okay. The State Department of Transportation must approve exit number five, ingress and egress from and to Honoapiilani Highway.

COUNCILMEMBER SUGIMURA: Developer.

MR. BROWN: So, you know, I had let you know when I met with you and when we proposed the PowerPoint that in no way were we saying that we were guaranteeing the Department of Transportation would approve an additional egress. What I did say is that, before we proposed it, we met with the Fire Department, and we specifically asked them if we put an easement and a gate on our property, and there is an emergency, will you access it? And they said, absolutely, whether or not it's approved by anyone. If there's an emergency, we'll come through it. And then I had let you know that we could work with the DOT and do our best to try and get them to accept it. I think everyone knows it can take years to work with them to get an egress accepted, so I don't think that's something that could be a condition of this project.

COUNCILMEMBER PALTIN: So, we met quite a while ago. Have you made any progress? Have you talked to anyone from the State?

MR. BROWN: No. We're waiting to see if the resolution passes before we start that lengthy process. But I did hear the Fire Department say that most, or a lot of places only have one way in, and if you have two, and that's great and that's all they need, and any more than two is really good, and we're talking about number five here.

COUNCILMEMBER PALTIN: And in our discussions, I asked, what if the fire comes from the north, from Punakea Street, coming to the south?

MR. BROWN: So then, that number six there, the one that goes all the way out onto the bypass, where Mr. Firestein sent us a picture of the 20 feet of it that has gravel that looked like it was improved so a car could drive on it. They can drive right out to the bypass toward the south, from up Kai Hele Ku Street.

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COUNCILMEMBER PALTIN: So, number nine is a hard stay for me, due to the safety of whoever would live there. We have a fire coming from this angle here. I feel like the affordable workforce people will be trapped in there. So it's a hard stay for me.

MR. BROWN: I think, you know, I've got the Fire Department's comments. They said they see no problem at all for this, and they thought it was one of the safer developments that they've seen and really commended us for coming in and working with them, and adding all the wonderful things we did to make it more safe. And they clearly pointed out by putting the buildings on the land, it would make it less of a fire danger for the area, rather than not building it. So I'd just refer back to them.

COUNCILMEMBER PALTIN: Yeah. That's great, but they're not the ones voting today.

CHAIR KAMA: So, I'm going to put number nine in the parking lot with number 6B, and we'll come back to that later, if that's okay with Members?

MR. RAPACZ: Excuse me, Chair?

CHAIR KAMA: So, let's go on to --

MR. RAPACZ: Excuse me?

CHAIR KAMA: --number...

MR. RAPACZ: Excuse me, Chair?

CHAIR KAMA: Yes, I'm sorry.

MR. RAPACZ: Over here.

CHAIR KAMA: Yes, Mr. Rapacz?

MR. RAPACZ: And I'm sorry. We moved through number seven a little more quickly than I expected. It wasn't clear to me. Does number seven mean that, or does the Committee's consensus on number seven mean that every lot --19 affordables, 15 market --each one of those can have two farm dwellings on it?

CHAIR KAMA: I thought we just struck that from the whole...we just deleted that.

COUNCILMEMBER SUGIMURA: So I think...

CHAIR KAMA: So did you still want to question that?

MR. RAPACZ: So, which way...so, I know there was a question about whether accessory dwelling is the correct term, and I agree that it's not.

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CHAIR KAMA: Right.

MR. RAPACZ: It would be second farm dwelling. So, under number seven, was the Committee's consensus that there will only be one farm dwelling per lot?

COUNCILMEMBER SUGIMURA: Chair?

CHAIR KAMA: Yes?

MR. RAPACZ: That would be a total of 34?

CHAIR KAMA: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So I think our discussion ended up to be, we're gonna allow them to follow the law as it's stated in the agriculture –

CHAIR KAMA: Use.

COUNCILMEMBER SUGIMURA: --district.

MR. RAPACZ: Okay. So, that would then be back to two farm dwellings per lot.

CHAIR KAMA: Yeah.

COUNCILMEMBER SUGIMURA: Which is...

MR. RAPACZ: Okay. Now what that...that raises a question. If...that would mean there are 38 farm dwellings allowed on the affordable lots, and 30 –

COUNCILMEMBER SUGIMURA: On the market.

MR. RAPACZ: --30 market. Now, if you're not going to condominiumize, I don't know how you will be able to sell separately –

COUNCILMEMBER SUGIMURA: They're not selling them.

MR. RAPACZ: --two farm dwellings on each lot.

COUNCILMEMBER SUGIMURA: They're not selling it.

UNIDENTIFIED SPEAKER: Right.

MR. RAPACZ: What are they doing with it?

CHAIR KAMA: Ms. Paltin?

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COUNCILMEMBER PALTIN: The second dwelling would probably be a rental –

COUNCILMEMBER SUGIMURA: Rental?

COUNCILMEMBER PALTIN: --which Mr. Hokama said would raise their taxes, but that's their own choice.

MR. RAPACZ: Okay. Because the Administrative Rules require, for 201H, require that more than 50 percent of the total dwelling units shall be for low, very low moderate, and moderate income houses. And that raises a question for me. If you are only counting 19 farm dwellings as affordable, but you're building...but you're counting 30 units on the market lots, you've lost your 50 percent balance. Since you are not able to sell those additional 19 on the affordable lots as 201H for sale units.

CHAIR KAMA: I see.

MR. BROWN: We're not selling the market ones either, though.

MR. RAPACZ: Oh, you're . . . *(inaudible)* . . .

COUNCILMEMBER HOKAMA: Chair? Point of order, please?

CHAIR KAMA: Yes?

COUNCILMEMBER HOKAMA: You know, discussion is for the Members, not for the Staff, okay?

CHAIR KAMA: Yep.

COUNCILMEMBER HOKAMA: And I'll help support whatever you want to maintain decorum in this meeting, but at this time it's between the Members. The Staff has something to share to you, Chair, please take a recess.

CHAIR KAMA: Thank you. Ms. Lee?

COUNCILMEMBER LEE: I have a question for Ms. Munsell. With the 201H, 51 percent, 49 percent, codified?

MS. MUNSELL: Yes. That's part of the rule.

COUNCILMEMBER LEE: Part of the rule?

MS. MUNSELL: Part of the law. Sorry. It's part of the 201H law.

COUNCILMEMBER LEE: You know, because when I was there, it was the practice. It wasn't the law. So since then, an ordinance has been passed?

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COUNCILMEMBER SUGIMURA: You're looking it up.

COUNCILMEMBER LEE: Okay. While you're checking that, Corp. Counsel, can we...since the 201H allows exemptions, could we be exempted from that provision? Could we using the, invoke an exemption from that? If 51 percent is required affordable versus market, can we exempt this project from that?

MR. KUSHI: If I, Madam Chair...If I understand the question, can you, on resale...you're talking about on resale, pursuant to 2.96?

COUNCILMEMBER LEE: No, just. . . not resale. In order to approve the project as being eligible.

COUNCILMEMBER PALTIN: . . .*(inaudible)*. . .

MR. KUSHI: No. The issue brought up by Staff was you're not meeting the ratio. But, you know, I beg to differ in that initially, you are. You're over 51 percent. In the future, if these people decide to build an ohana, a second farm dwelling, then the issue becomes on if they want to sell the lot with two dwellings or not. Can they sell it to a qualified buyer within that 30-year period? So, you know, I guess that's the issue, but in terms of that requirement on resale, if the original buyer wants to sell within the 30 years. Not the market rates, though. The requirements of 2.96, again, you could waive those. You better go find it, that specific provision.

COUNCILMEMBER LEE: Okay. So your interpretation is different, then?

MR. KUSHI: Well...

COUNCILMEMBER LEE: Your interpretation on the original units, yeah? As part of this application, you know, there are more affordables than there are market units?

MR. KUSHI: Yeah. Madam Chair?

CHAIR KAMA: Yes?

MR. KUSHI: Member Lee, I believe the Department's looking at it from the initial standpoint. What is the developer providing versus if you're going with the ag law, what the ag law permits after the project is completed. Now, what if, you know, all these 19 owners of the workforce housing, they can't afford to build a second farm dwelling? No harm, no foul. But what if they do? I guess that's the question. You know, what if they want to sell within that 30-year restriction period?

COUNCILMEMBER LEE: Okay. I understand this better. It seems clear to me that this project is in compliance with 201H. Thank you.

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COUNCILMEMBER SUGIMURA: It is in compliance. Is, yes in compliance.

CHAIR KAMA: Oh, Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. I just had a question for Mr. Kushi. You know, you said that the second dwelling is just if you had five acres, and we don't...these just is two acre –

COUNCILMEMBER SUGIMURA: Two acres.

COUNCILMEMBER SINENCI: --lots. So, the second dwelling would not be allowed at this. Just clarification.

CHAIR KAMA: Mr. Kushi?

MR. KUSHI: Yeah. Chair, subject to a Planning correcting move, no. That five acre minimum is for a farm labor dwelling.

COUNCILMEMBER SUGIMURA: Farm labor dwelling.

MR. KUSHI: Okay. A farm labor dwelling, which would then be the third dwelling. Automatically, the zoning code allows two farm dwellings, and if you conduct a big farm, five acres, more than five acres, you wanna maybe hire ranch hands, or ag people, then you build a farm labor dwelling. But it has to be more than five acres, and there's a lot of other conditions on there too, showing income, et cetera, et cetera. Now that's on Maui. Molokai is a little bit different.

VICE-CHAIR MOLINA: Madam Chair? Sorry.

CHAIR KAMA: Yes, Mr. Molina?

VICE-CHAIR MOLINA: Yeah. Thank you. Can I ask this question of maybe Planning Director?

CHAIR KAMA: Sure.

VICE-CHAIR MOLINA: Because we're talking about now, with both the market and the affordables having the opportunity to build an additional farm dwelling, if it goes over a total of 50 units over the years, will there be a...is there a requirement that, like, a sewage treatment plant or some other large, you know, infrastructure that needs to be built if there's over, say, 50 units total, with the . . .

MR. HART: Chair?

CHAIR KAMA: Yes?

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VICE-CHAIR MOLINA: Is there anything...

MR. HART: I'm not certain of that kind of a...that's not really a Department of Planning area of expertise.

VICE-CHAIR MOLINA: Okay. So that's probably more like Environmental Management or Department of Health?

MR. HART: Potentially, yeah. State Department of Health. Yeah, potentially.

COUNCILMEMBER PALTIN: Chair? I think they said -

CHAIR KAMA: Yes?

COUNCILMEMBER PALTIN: --a couple times that it's...if it's one acre, then you cannot. But if it's one per acre, so there's 68 acres, so you can have 68 units, I think, they said, in the Agricultural District. But you can confirm with the applicant, if anybody wants to.

VICE-CHAIR MOLINA: I'm just curious if it would trigger, if we go over x amount of units, if it would trigger a requirement to build an infrastructure such as a sewage treatment plant?

CHAIR KAMA: Yes, Mr. Brown?

MR. BROWN: Chair? We have a civil engineer who's a wastewater expert here, who's familiar with them, and has an ongoing relationship with the Department of Health, --

CHAIR KAMA: Good.

MR. BROWN: --who came to speak on this, if you would like to hear from him.

COUNCILMEMBER SUGIMURA: Yes, please.

CHAIR KAMA: Members, you'd like to hear from him?

COUNCILMEMBER SUGIMURA: Yes, please.

CHAIR KAMA: Yes, please.

VICE-CHAIR MOLINA: Okay.

CHAIR KAMA: Please, come on down. So, Mr. Molina...

VICE-CHAIR MOLINA: Yeah.

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CHAIR KAMA: So, if you could introduce yourself, and then Mr. Molina can repeat the question.

MR. POMA: Yes. Is this on?

CHAIR KAMA: Go ahead. Yes.

MR. POMA: Hi. Good evening. Dennis Poma –

COUNCILMEMBER SUGIMURA: Oh. Good.

MR. POMA: --the Principal Engineer and Owner of Advanced Compliance Solutions. We do cesspool upgrades, septic systems. I'm a supplier of aerobic systems; design aerobic systems on all islands. And to that question, we kind of answered it earlier. So, there is --I don't know the exact citation off the top of my head, but within HAR 1162, there's a provision that provides developers to provide one IWS, up to 50, unless your land is one acre or greater. So then you can exceed the 50, provided you have the land is one acre or greater. These are two acre lots, so they would be allowed one unit per one acre.

VICE-CHAIR MOLINA: Okay. So, basically, simply what the answer is, no. It wouldn't trigger, if, say everybody, you know, had a whole bunch of people doing farm dwellings.

MR. POMA: Yeah. It's about density, so that intention is there to...provided you have adequate area, then it's not about density anymore, and that's why the one acre.

VICE-CHAIR MOLINA: Okay. Thank you for that. Thank you, Madam Chair.

CHAIR KAMA: Yes, Ms. Paltin?

COUNCILMEMBER PALTIN: Oh. I have a ATU question. So, my question is, I think it's great that the developer has pledged to build one ATU for each house that can accommodate five bedrooms. I don't know much about ATU's but I had heard, like, it's kind of like a aerobic, or alive, kind of thing. So if you don't...if you have a one bedroom unit, and you have a five bedroom unit ATU, is there a problem with too much water, too little water?

MR. POMA: Oh. Great question. So, the larger the unit, the better treatment you'll get. So, if a one bedroom is discharging into a five bedroom system, then it'll have more retention. You'll actually receive better biological treatment and reaction in the system. So, by the time it discharges, it will be less than what the units are rated for. So, the more you come closer to the capacity, that's what the NSF 40 standard is for; for the systems to be tested to those capacity units. So, the less going into it, the better treatment you actually get out of the unit.

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COUNCILMEMBER PALTIN: So, there's no DOH rule that you can only have a 25 percent overage?

MR. POMA: That's for septic, and the reason for that is, septic systems are not...are designed a little bit differently and function different than aerobic. So, an aerobic system, let's say, is a 600-gallon per day capacity, the actual unit is 1200 gallons or more, and that's because there's a retention and a recirculation within the system, whereas a septic system, at 600 gallons per day, is, essentially, like a 600-gallon tank, and it's a direct passthrough.

COUNCILMEMBER PALTIN: And, DOH does allow more than one ATU on a TMK? Is that true?

MR. POMA: Yes. So the standard is, you're allowed one IWS, or a ATU or septic system, for every 10,000 square feet of land area. And could be up to two dwellings attached to the IWS, up to five bedrooms, or 1,000 gallons.

COUNCILMEMBER PALTIN: Okay. And I was wondering if you could tell me the life...like, the general life span of an ATU.

MR. POMA: The span of the tank itself is based on the integrity of the tank, which is 50, 100 years. They're all state-of-the-art materials these days. So, they used to be steel tanks, which would corrode –

COUNCILMEMBER PALTIN: Corrode.

MR. POMA: --and such, and concrete tanks that leak and such, but today's composite materials are designed to last indefinitely. There is ATU's. Aerobic systems have one mechanical part, which is a blower, an air blower. So, those air blowers will last you from seven years to fifteen years, and will require replacement. And that's what the service...that's part of the reason for the service contractor, the semi-annual requirements for inspection, is to make sure the blower is working adequately.

COUNCILMEMBER PALTIN: And, just to clarify, the HOA would be responsible for maintenance of all the ATU's for the lifetime of the...like, indefinitely, forever?

MR. BROWN: Correct.

COUNCILMEMBER PALTIN: Okay. Just getting it on the record. Thank you for answering my questions.

MR. POMA: You're welcome.

CHAIR KAMA: Thank you. Yes, Ms. Keani Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Polson [sic]?

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MR. POMA: Poma.

COUNCILMEMBER RAWLINS-FERNANDEZ: Pullman [sic]?

MR. POMA: P-O-M-A. Poma.

COUNCILMEMBER RAWLINS-FERNANDEZ: Poma?

MR. POMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Mahalo for your memo, and for addressing some of the concerns. In, let's see, Item 8, HAR 11-62-31.1A1, you list here, I guess that was...it kind of...this is related to the question that Member Molina was asking. There shall be a 10,000 square feet of land area for each IWS. Further, it states the total flow into one IWS shall not exceed 1,000 gallons, and one IWS shall not serve more than five bedrooms, whether in one dwelling unit or two. A dwelling means any building which is wholly or –

MR. POMA: Partially.

COUNCILMEMBER RAWLINS-FERNANDEZ: Partially.

MR. POMA: Yep.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Typo.

MR. POMA: Partly. Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh. Partly?

MR. POMA: Partly, I think is it. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Used? Yeah. I thought it was a word I didn't know.

MR. POMA: Oh.

COUNCILMEMBER RAWLINS-FERNANDEZ: ...intended for living and sleeping. Okay. And then there are additional exceptions under this part when the lots are greater than one acre.

MR. POMA: Correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: No letter is required from the State. So, under that same...I wanna say, what's it, admin rule. It says, total development. So this is,

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1B, total development of an area shall not exceed 50 single-family, residential lots, or exceed 50 dwelling units, except for developments consisting of one dwelling unit per acre or greater.

MR. POMA: Right.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, the total development of an area shall not exceed 50 single-family, residential lots.

MR. POMA: Unless one acre or greater.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Or, exceed 50 dwelling units, except for developments consisting of one dwelling unit per acre or greater. So, the first one wouldn't apply, but because there's an, or, the second one does?

MR. POMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And in...on page three, this is item 6. Flow rates. Okay. So, you state that it has to be sized appropriately, and that it...the State reviews all plans for ATU's, and requires that units be sized appropriately. For example, if a homeowner submits plans for a two bedroom system, they will only receive approval for two bedrooms. Oh. Okay. So...but it can be the other way around?

MR. POMA: You can submit...yes. You can kind of get advanced approval for your full five bedrooms, but only construct a two bedroom home. That would provide the ability to expand your home in the future, and still be able to meet your wastewater approval.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So there wouldn't be an issue with not enough...not sufficient water going in, and it drying up?

MR. POMA: Correct. No.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Okay. Mahalo, Mr. Poma.

MR. POMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KAMA: Thank you. Thank you, Mr. Poma, for coming down. Yes, Ms. Paltin?

COUNCILMEMBER PALTIN: I didn't...I don't think I understood what Mr. Rapacz was saying, and then what Mr. Kushi was saying. I thought that Mr. Rapacz was saying about the...if the 15 market-value homes have a second dwelling, then it's 30, plus the 19, for a total of 49, and then half of that are at 50 percent, plus one, would be 25 affordable. Is that what he was saying, or something different?

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CHAIR KAMA: Were you saying that, or were you saying something different?

MR. RAPACZ: The Administrative Rules for 201H say that, more than 50 percent of the total dwelling units have to qualify under 201H. What we're hearing is that there will be, possibly, 38 units on the affordable lots, but only 15 of those will be affordable. So, that's 15 affordable units. There may be up to 30 units on the market lots. So, if you only have 15 affordables...I'm sorry, 19 –

COUNCILMEMBER PALTIN: 19.

MR. RAPACZ: --affordables, and 30 market, then you'd have not met the 50 percent affordable ratio.

COUNCILMEMBER PALTIN: So we'd need 25 affordables to meet that ratio?

MR. RAPACZ: If you're going to allow second farm dwellings on the market lots, that would be 30. So you would need 31 affordables to meet the ratio.

COUNCILMEMBER PALTIN: But 30 –

CHAIR KAMA: Okay. Yes?

COUNCILMEMBER PALTIN: --plus 19 is 49, so 50–

MR. RAPACZ: No, no. 31 total. So, 19 plus 12 more, on the affordables. Right now, only...

COUNCILMEMBER PALTIN: Oh, 'cause you're counting all 68?

MR. RAPACZ: Right now, only 19 are proposed as affordables, even though more can be built later.

COUNCILMEMBER PALTIN: Okay.

CHAIR KAMA: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, because we're dealing with today, and the project as it was proposed by the developer, I think we're only talking about 19 workforce, and 15 market. And what happens in the future, we have no control over, because we don't pay for those homes. So we cannot assume we're going to know what the future owners are gonna do. So I want us to get back on to today, and what was proposed, 'cause that's what I interpreted, what Corp. Counsel told us, you know, so...

COUNCILMEMBER PALTIN: I think—

CHAIR KAMA: Yes?

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COUNCILMEMBER PALTIN: --the control we have, is to make sure that the end project satisfies the 201H criteria, which is if we're offering 19 affordables, gotta make sure that 19 times two, maybe minus one, is the total units of it. I mean, it's just working backwards. Or, upping the number of affordable.

CHAIR KAMA: Mr. Brown, would you like to respond to that?

MR. BROWN: Could we just suggest a modification that says, the second dwelling on the workforce would have to be rented, if it was ever rented or occupied as a workforce unit, and then it qualifies as a workforce unit. Clarifies it. I know there's been many projects in the past that have or have had ohanas, and this has never came up or been an issue. It's never been an end result 20 years from now, it's been, like, Councilmember Sugimura is saying, is what the initial result is. There was several projects recently that were...ohanas allowed, but if it's a concern, we don't want any litigation over it anyways. So I would suggest we just say that it would have to be rented for 2.96 or occupied as such, if that could be a consideration. Which, I think was Mr. Molina's initial idea actually. Huh.

CHAIR KAMA: Does that sound like a consensus from the Members? Or consideration?

COUNCILMEMBER PALTIN: I'd like a lawyer's opinion, if that's okay.

CHAIR KAMA: Mr. Rapacz?

COUNCILMEMBER HOKAMA: Chair?

CHAIR KAMA: Yes?

COUNCILMEMBER HOKAMA: Before we have our Staff –

CHAIR KAMA: Oh. Mr. Hokama?

COUNCILMEMBER HOKAMA: --enter our discussions, I'm just trying to...I think our first question, we just gotta make a decision this evening, Chair, is, the project we're doing. Is it affordable component, which I believe, or attainable housing. But, what are we going to do with agricultural land? Okay? Because the way some of the fears of what is potentially can come a unit counts, you're talking about now. Rural development, not agricultural housing, or attainable housing. So, you know, from a tax angle, I wouldn't mind the 30 market units, because they're going help pay for the subsidies we're going to have to provide those to 50 to 100 percent housing, okay? Because normally they'll just pay minimum tax. They are coming a lot more in minimal basic services from the County. So, those market houses is gonna pay bigger tax load, especially if we go tiered rates. So, from a financial point of view, I like how the mix is coming out. But, I still believe if you want to use this process, you need to fulfill the requirements throughout the project's life also. So, I'm open to your condition about

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the rentals, and if need be, Chair, why no we enforce 'em? We can just say that, for the markets, if the permit approved, will push it over the percentage amount, then the permit will be denied. Which means if you're too slow, like they say, you starve at the table.

COUNCILMEMBER PALTIN: Works for me. Consensus.

CHAIR KAMA: Consensus?

COUNCILMEMBER SUGIMURA: What is the motion?

CHAIR KAMA: Who has the motion's consensus?

VICE-CHAIR MOLINA: Madam Chair?

CHAIR KAMA: On the verbiage. Yes?

VICE-CHAIR MOLINA: Yeah. So –

CHAIR KAMA: Mister...

VICE-CHAIR MOLINA: --it's just that, and maybe from...still comment as I try to get it clear. So, basically, yeah, it's first come, first serve, if you will? Okay. I was thinking something along the lines, too, maybe if...

COUNCILMEMBER HOKAMA: I like your idea, Mr. Molina.

VICE-CHAIR MOLINA: Yeah. Am I correct in...

COUNCILMEMBER HOKAMA: If you're looking at really the reality, yeah, of what a family with \$42,000 a year can afford and spend, the least thing up after purchasing is thinking about how to build one second house.

UNIDENTIFIED SPEAKER: True.

COUNCILMEMBER HOKAMA: Okay? Now, it's about how am I gonna pay my kids' education, or something else.

VICE-CHAIR MOLINA: Yeah.

COUNCILMEMBER HOKAMA: Right?

VICE-CHAIR MOLINA: Yeah. I just generally assume, you get an affordable unit, you don't have the financial means to add anything else. You gotta just worry about paying your mortgage and other things. But on the...I was thinking of something along the lines of a one-for-one. So, like, if a market unit wanted to build an ohana or a farm

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dwelling, then the, you know, then...how else can I put it? It's called a one-for-one kind of deal, so...and I know that 50 percent threshold you're talking about, Mr. Hokama, so if that amount is reached, then no more farm dwellings. Is that how I understand it?

COUNCILMEMBER HOKAMA: Well, my thing is –and I think Mr. Brown has been up front with everybody –he will be up front with the buyers too. Especially with the market guys; they gonna be paying good money for a good product. The ability to build an additional unit on that property will be dependent upon the total number of units, regarding the affordable component. If that number stays at 19, there's no additional units gonna be in the market, 'cause it'll violate the process. Simple. The guy is gonna know before he buys into your subdivision that is one of the conditions of having additional units. Affordables don't grow, the markets don't grow. And whatever market numbers can grow, those that are ready to move forward, and secure and build a second unit, could lock that in, because I'm gonna capture that tax too.

MR. BROWN: I think it's a good suggestion, 'cause it keeps it with the ratio, and it at least gives the option for the future.

COUNCILMEMBER HOKAMA: And ability for you to fulfill your commitment to us, by staying within the process parameters.

MR. BROWN: Yeah. We could live with that. It's better than them not at all.

UNIDENTIFIED SPEAKER: I agree.

CHAIR KAMA: Mr. Molina?

VICE-CHAIR MOLINA: Yeah. And I think I've got it together now. If the...kind of tying it into Member Hokama's consideration. If maybe the developer would consider one full-on scenario where, when it comes to ohanas, or farm dwellings, a market-rate ohana cannot be built until a workforce housing ohana is built. Something along those lines. And then, whoever, you know, can do it, fine, and then once we reach that threshold, then pau. I don't know. That's something that could work. It sort of ties into Mr. Hokama's consideration. So...

MR. BROWN: Yeah. That's exactly what I'm thinking, I believe what I understood, from Councilmember Hokama.

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

VICE-CHAIR MOLINA: Yeah. Okay. Either way. So...

COUNCILMEMBER SUGIMURA: So what's it? What are you saying?

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VICE-CHAIR MOLINA: So, affordable...in order for market rate to be built, then it has to be conditioned upon an affordable doing their dwelling first, and then one-for-one.

COUNCILMEMBER PALTIN: So, by my math then, three of the 15 could have a farm dwelling? Is that what the number is?

CHAIR KAMA: One-for-one.

VICE-CHAIR MOLINA: One-for-one.

MR. BROWN: It would start like that. Three could, and then as soon as a workforce one built one, then a market guy could build one.

CHAIR KAMA: Running concurrent.

VICE-CHAIR MOLINA: Yeah. Not everybody's gonna have that financial means.

CHAIR KAMA: Right.

VICE-CHAIR MOLINA: I mean, some people could do it, some people won't. So, that's the guessing game we have at this point.

CHAIR KAMA: Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

COUNCILMEMBER PALTIN: So, three off the top?

COUNCILMEMBER RAWLINS-FERNANDEZ: I'm gonna take a shot at the condition that we're discussing. Okay.

CHAIR KAMA: And I know you're going to take a shot to make it better and clearer.

COUNCILMEMBER RAWLINS-FERNANDEZ: You know it.

CHAIR KAMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Work...let's see. Okay. Workforce housing units must always remain...shall remain over 50 percent of the total units in the project area.

COUNCILMEMBER PALTIN: Can I make that say, 50 percent plus one?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. Over 50 percent. Or, if you want to say, over 51 percent?

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COUNCILMEMBER PALTIN: No. Cannot be 51 percent. Yeah. Okay. Sorry. My bad.

CHAIR KAMA: Okay. So, go ahead, and re-read it, so everyone can understand it incorporating Member Paltin's...

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh. Incorporating Member Paltin's...

COUNCILMEMBER PALTIN: But it's not going to be just over 50 percent.

CHAIR KAMA: . . .*(inaudible)* . . .

COUNCILMEMBER PALTIN: I didn't hear that part. Sorry.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Shall. Okay. Workforce housing units, or I don't know if we want to say, farm dwellings, shall remain over 50 percent of the total farm dwellings in the project area.

COUNCILMEMBER PALTIN: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Or units. Whichever.

COUNCILMEMBER PALTIN: Whatever you wanna call them. Houses.

CHAIR KAMA: So, did we get the language over there. Okay, Staff? Okay, so...it's okay, everybody?

COUNCILMEMBER SUGIMURA: Mr. Kushi? How about Mr. Kushi?

CHAIR KAMA: Consensus? I mean, Mr. Kushi?

COUNCILMEMBER SUGIMURA: Mr. Kushi.

CHAIR KAMA: Comments?

MR. KUSHI: Well, I mean, you know, 201H allows you guys a lot of flexibility, but, as a practical matter, who's gonna -

COUNCILMEMBER SUGIMURA: Monitor.

MR. KUSHI: --manage this? Oversee this?

COUNCILMEMBER SUGIMURA: Oh. That's true.

CHAIR KAMA: HOA.

COUNCILMEMBER SUGIMURA: That's the neighbors.

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CHAIR KAMA: Thank you, sir.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KAMA: Yes?

COUNCILMEMBER SUGIMURA: We're creating a nightmare.

CHAIR KAMA: Ms. Munsell?

MS. MUNSELL: Thank you, Chair. Just to comment, I mean, this is not our first 201H project that we've seen here in Council, and obviously you take each one of them individually on their own merits. But never before have we had a discussion about limiting things like a...well, that I'm aware of. And again, I'm not an expert in this area. I don't have vast experience. But, of the 14 units...projects that I looked at recently, we didn't tell them that they couldn't do ADU's at some point in the future. In fact, recently, we changed code, and Mr. Hart is much more expert at this than I am, to actually allow ADU units, to encourage additional rentals for the people who live here in Maui. I think we decrease the opportunity to 7,000 square feet. Below 7,000 square feet, to allow one ADU, and for properties that are larger than 7,500 square feet, there would be a larger opportunity. And so, this, to me, is a little bit unusual. Normally, when we pass a 201H, from an Administrative perspective, we would be looking at what the project is proposing now, again, not what they're going to be doing in the future. There's also, again, as Mr. Kushi mentioned, the issue of, you know, how do you track this, and how do you manage it? So, I would express those two concerns. Obviously, this Council's...Committee's got the right in these projects to make determinations, but I would express those two concerns.

CHAIR KAMA: Thank you. Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: Yeah, Chair. We can make this as part of the conditions or the modification requirements that they be filed, and it runs with the land. So the lot, when it's filed, after subdivision, will have that condition and register with the Bureau of Conveyances. So whoever buys it, it'll be on the document, exactly. And again, if we're talking about the affordables, you know, yeah, I think we should have some. We're subsidizing this, okay? This is not market housing, government subsidies. Tax base. We can put conditions, Chair.

CHAIR KAMA: Okay. Thank you. Yes, Ms. Rawlins-Fernandez? You have something to say?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I think this Council is a trailblazer kind of Council. We do a lot of firsts here. So, I wanted to follow up on a concern that Mr. Kushi expressed a little earlier, and maybe we can kind of figure out how to add language, or, I'm not sure, about...if one of the workforce housing units

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does build a second farm dwelling, and wants to sell before the 30-year deed restriction is up, then what do we do? 'Cause then it wouldn't be able to sell at the 161,000 cost. 'Cause it would be more, yeah?

CHAIR KAMA: Let's let Mr. Brown take that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

MR. BROWN: I might suggest that you sell it at market and put it in the housing fund. 'Cause you'd get a really good price for it in Launiupoko. You'd probably get \$1.5 million for it. And then you could use that and build a lot more housing.

COUNCILMEMBER RAWLINS-FERNANDEZ: Is that already the law? Well, I thought it was.

CHAIR KAMA: I think what we were looking at, we...the verbiage that you had created for number seven?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR KAMA: And I think we had consensus on that, did we not? Okay. Yes, Ms. Lee?

COUNCILMEMBER LEE: Okay. This trailblazer would like to add to the confusion of everything else. Yeah, sorry, sorry, my friend, but you know, I believe that Ms. Munsell and Mr. Kushi are correct. We always based applications upon what was presented to be done immediately, not what could be done, see? So, and that made life a lot simpler. You know, that we're not guessing, oh, somebody might have an ohana, and somebody else might have this. My concern is that...and Ms. Munsell, you can correct me if I'm wrong. Especially the affordables, are based on the area median income of the families of the applicants. Once you start adding assets, yeah, to the property, once you start adding liabilities in terms of, now they have to pay for that, right? Wouldn't some people no longer be eligible for that income category that they were supposed to remain in?

COUNCILMEMBER PALTIN: They have to remain in it?

CHAIR KAMA: They don't have to remain. I don't think they remain, I think you start.

COUNCILMEMBER LEE: Well, they will...okay. So what are you doing? You're using the starting salary.

CHAIR KAMA: Starting AMI.

COUNCILMEMBER LEE: Not what they're going to make in the future, but the starting salary. And that is why I believe that when we talk about the units, it's the same thing. What are we building right now? Because if you use your logic you guys are using, then when you qualify somebody, you gotta qualify them on that additional unit

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as well. 'Cause that's the way you folks are thinking. You're jumping. You're assuming that they're going to buy, or they could buy, or they could build, or blah, blah, blah. So, life would be a lot simpler if we just stuck with what's going to be built today.

CHAIR KAMA: Ms. Paltin?

COUNCILMEMBER PALTIN: Yeah, it would be simpler, but, I mean, the difference between that is there's no cap on how much anyone could earn, or if they marry into money, or if somebody dies and leaves them money. There's a strict cap on the amount of farm dwellings allowed. So, it's not like some hypothetical in the future number, it's we know the formula of how many the total...like, the total is 68 right now. Sorry. Oh. Okay. 68. So, I mean, it's not some hypothetical number, it's a hard 68. The starting of someone's salary or what their family income is, is like a huge anything goes. They could lose their job, they could marry into money, they could, you know, collect on life insurance, someone in their family. So, I mean, it's apples and oranges, to me.

COUNCILMEMBER LEE: Well, may I ask Ms. Munsell? I mean, you know, no offense, Ms. Paltin, but you've never been the Housing Director, and you've never been in charge of any project. You've never been in charge of a 201H before. She has. And Ms. Munsell, again, --

COUNCILMEMBER PALTIN: I've seen dead bodies before.

COUNCILMEMBER LEE: --do you guys look at what's being presented today, or do you start speculating, oh, if somebody's income is gonna go up, or down? It's all today. Everything is based on today. Am I correct?

MS. MUNSELL: You are correct.

CHAIR KAMA: Okay. So, we're on number seven, and it started out with, the construction of accessory dwellings shall be prohibited in the project. And it...then we went on to talk about what we did want in the project, and Ms. Rawlins-Fernandez came up with a modification that said...would you please repeat that?

COUNCILMEMBER RAWLINS-FERNANDEZ: Sure, Chair.

CHAIR KAMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Workforce housing units shall remain over 50 percent of the total units in the project area.

CHAIR KAMA: Can we all live with that?

COUNCILMEMBER SINENCI: Chair?

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CHAIR KAMA: Yes?

COUNCILMEMBER SINENCI: Were we gonna add in something about who would keep track of that number? Would it be the HOA, or the Planning Department, or –

COUNCILMEMBER SUGIMURA: Should be the Council.

COUNCILMEMBER SINENCI: --something like that? I'm just...

COUNCILMEMBER PALTIN: I think –

COUNCILMEMBER SINENCI: Is it Planning?

COUNCILMEMBER PALTIN: --Member Hokama said that it would run with the land, --

MR. HART: Chair?

COUNCILMEMBER PALTIN: --recorded in with the Bureau of Conveyance?

CHAIR KAMA: Mr. Hart?

MR. HART: Chair, if I may, it is an issue of concern. Because when it will happen is when people come in for building permits for their ohanas, then we're going to have to know how many ohanas exist. It's going to be a little bit of a challenge to monitor and control that. So I can...Ms. Munsell mentioned a second ago, and, you know, I know the Planning Department doesn't want to take responsibility for the same thing. So it's a issue of concern, is who will be responsible for correctly reporting that and making sure it's current? Because people are going to be told at certain times they can't build if this is going to be a situation. I do want to add two things for consideration. The Planning Department, if you're already going to be developing an area, we do always want to be seeing additional dwellings, you know? If you're going to be dwelling...that was the accessory dwelling ordinance that Ms. Munsell mentioned before. Basically, you're impacting the land, you're generating traffic, you might as well keep it as dense as you can. One other thing I do want to add is that, you know, there's also the sunset provision for the affordability of these houses, so it's not in perpetuity. There's a period in time where this is happening, you're approving a 201H, and after a while, the project does unwind, and it becomes, you know, a normal development. So, you know, those are all things for your consideration. Thank you.

CHAIR KAMA: So, Members? If we have consensus, we should say. If we don't, we should say that, too. Yes, Ms. Lee?

COUNCILMEMBER LEE: For the last time, I'd like to hear from the developer –

CHAIR KAMA: Okay.

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COUNCILMEMBER LEE: --I vote.

CHAIR KAMA: Mr. Brown?

MR. BROWN: I think we could live with the modification that was proposed, but I agree with the Deputy Planning Director. It would be great to be able to get the homes on there, and I believe he shared, I heard him earlier sharing the same opinion that he thought it did meet the requirement. Because it wasn't initially, it was lots to lots, and that's how it had always been looked at before. Like the Housing Director, or the Deputy Housing Director was saying. So, it seems like for this one project, we're changing, you know, what has been a precedent before, which is limiting the amount of housing to further in the future, but, you know, we can live with it, whichever way you guys decide is best.

COUNCILMEMBER SUGIMURA: What about Housing?

COUNCILMEMBER LEE: I'm ready to vote. I'm going to vote no –

CHAIR KAMA: Yes, Ms. Sugimura?

COUNCILMEMBER LEE: --but I'm ready to vote.

COUNCILMEMBER SUGIMURA: Oh.

CHAIR KAMA: Yes?

COUNCILMEMBER SUGIMURA: Yeah. I agree. We're talking about today. We're not talking about what can happen in the future. And more so, we have such a terrible enforcement problem with the County, right? Everyday, we think about short-term vacation rentals, all these illegals, illegals, illegals, and then we're creating a potential illegal by doing a grey area policy, 'cause we think something's gonna happen in the future, that it's kind of good, but we kind of don't think so. But I think today we meet the requirements, so I cannot vote for the amendment. Although I understand the thought process.

CHAIR KAMA: Okay. So we have no consensus on this then? Am I correct? Okay. So, number seven's going in the parking lot, along with 6b, seven, and nine. And I think, so...

COUNCILMEMBER PALTIN: Number ten.

CHAIR KAMA: Ten.

COUNCILMEMBER PALTIN: Each residential unit on each lot must have a map including all exits of the Makila Farms subdivision, as well as copies of all gate and bolster keys.

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CHAIR KAMA: Okay. Mr. Brown?

MR. BROWN: I think we could say that, with the sale, we could provide a current map. It would be up to them to keep that current in their home. But the keys, I don't think, would be feasible, and, like the Fire Department said, they look for the keys for two seconds, and then they cut open the gate. And usually with these, it's not keys, it's a padlock. And I know the HOA doesn't always like to give everybody the padlock numbers, 'cause then they start pulling the balusters, and going through there when they're not supposed to. So, I think half of it is a good idea to give them the map of the egress and exit in the beginning.

COUNCILMEMBER PALTIN: So, this is also a hard stay for me. You know, there's no guarantee, the amount of time the Fire Department said that they would get there in. If they get there, and they're not gonna look for keys, they're gonna Sawzall or whatever, the gates and the padlock and whatnot. We're talking about residents here in this fire-prone area, waiting for someone to come to unlock them out, or hoping that someone is there. To me, they need to have their own way out. Whenever, wherever. Whatever time of night. So, for me, this is a hard stay on this one.

CHAIR KAMA: Yes, Mr. Brown?

MR. BROWN: Yeah. How about if we proposed within the HOA docs, that the board would have to assign one person with the code, and it would be a padlock with a code? So, upon an emergency, then, the residents could call and then get that code, and then they could change it after. This way, we don't have all these keys and codes floating around and the thing becoming unlocked, and getting accessed when it's not supposed to.

COUNCILMEMBER PALTIN: To me, not...I can't accept that, because it's like, each family has to be responsible for their own personal safety, and this way, you're designating that to some other person, you know? I think each person has to have a way out whenever they need to. I mean, kua'ula winds are a real thing, fire...multiple fires are a real thing, car accidents are a real thing. I don't know how many other people seen dead bodies in their day-to-day work, but this is a hard stay for me.

COUNCILMEMBER SUGIMURA: So, where on the map are we talking about?

MR. BROWN: There are multiple ways that are open, and Councilmembers, just referring to the excessive other exit routes that we pointed out on the map, she would like everybody in the area to have a key to be able to open up the gates and balusters across all of the paths or any way out. And I don't see how we'd get every homeowner in this subdivision in Launiupoko all those keys. I mean, that...

COUNCILMEMBER PALTIN: I'm okay with not providing a key to Peter Martin's gate, 'cause that's something we don't have control over, but, all the other exits, to me, they need to have access at all times; the homeowners. They're not going to have Sawzall or

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whatever. Like, are they gonna just...you know, nobody's there to come get 'em out. They're gonna ram the gate? Is that an acceptable thing? Like, what if their car breaks and there's fire all around? Like, this, to me, this is not negotiable.

MR. BROWN: Yeah, that's just really out of our control, 'cause we don't control all those other access. They're controlled within the other area subdivisions, so we can't really tell them what they can do with their access routes, and I think this is how they've been maintained for a long time, and during the, you know, the terrible fires that we did have, they were all opened up and accessible very quickly, and everybody was able to get out. So, I mean, we can certainly look at solutions to try to help them within their HOA's, suggest solutions to where they can get people better access. I think it's a good idea. But that's out of my control, 'cause we don't...we can't impose things on other subdivisions.

CHAIR KAMA: I have a question.

COUNCILMEMBER PALTIN: Yes?

CHAIR KAMA: So, is there a way that you don't need to have a key, that you could actually push buttons? And would it be able...and would the homeowners be able to have access to those buttons, or their numbers to push, so that they can get out?

MR. BROWN: So that's what most of them are. They are a roll...like, a padlock with a four-digit number code.

CHAIR KAMA: Yeah.

MR. BROWN: But the area's subdivision managers have those codes, and they're the ones who control them. So, we wouldn't be able to...you know, they would have to agree to allow us to change their CC&R and HOA rules, which, I don't think they would do, you know? I mean, they're gonna manage their own subdivisions.

CHAIR KAMA: Okay. Well, we're going to put number 10 in the parking lot too. Okay. Ms. Paltin, number 12, please?

COUNCILMEMBER PALTIN: Number 12: the Department of Housing and Human Concerns shall oversee the distribution of all affordable units via lottery. And, if possible, I'd like to add in there, also, they would oversee the waitlist. No affordable units shall be promised or pledged to applicants prior to such lottery.

MS. MUNSELL: So, the Department of Housing and Human Concerns participates often in these lotteries. We participate...Ms. Sugimura has come, Ms. Kama has come. I've seen other folks at these lotteries as well, so we do oversee those. We do look at the waitlist. We have access to that information, but we would usually work with the developer too, on this score, to make sure that it will work for all of us. But, yes, we will participate in that.

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CHAIR KAMA: What was the rest of your modifications here?

COUNCILMEMBER PALTIN: The Department of Housing and Human Concerns shall oversee the distribution and wait list –that would be the addition part –of all affordable units via lottery. No affordable units shall be promised or pledged to applicants prior to such lottery.

CHAIR KAMA: Okay. So, is there a wait list?

COUNCILMEMBER SUGIMURA: That's up to the...

CHAIR KAMA: Ms. Munsell?

MS. MUNSELL: At these AMI levels, I suspect that there will be a wait list. The lotteries that I've seen, usually, people apply for these, and are qualified for these, and then entered into a drawing. And our Department of Housing Division works with the developer to sort out those details. It's pretty...a pretty standard process that we go through, and then a wait list is established. Afterward, we get reports on the actual sales, so that we can track those things. So, I don't see that that's overly burdensome for us, or an unusual situation for a developer.

COUNCILMEMBER SUGIMURA: Consensus, then.

COUNCILMEMBER PALTIN: Consensus.

CHAIR KAMA: Consensus?

COUNCILMEMBERS: Consensus.

CHAIR KAMA: Thank you. Okay. So we have consensus. So what we do not have consensus on is 6B of my modifications, numbers 7, 9, and 10 of Ms. Paltin's modifications.

COUNCILMEMBER PALTIN: And then I'm okay with removing 11C. That was in the parking from before dinner.

CHAIR KAMA: Oh. Okay.

COUNCILMEMBER PALTIN: I'm not sure if Ms. Rawlins...Member Rawlins-Fernandez had concerns. She...but I'm okay with...

CHAIR KAMA: Okay. Is that okay?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. I guess we received this...what is this? 19.30A.050, permitted uses on ag land...ag zoned land, and the one that I was

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concerned about is, under A. Principle Uses, 6: Minor utility facilities, as defined in Section 19.04.040 of this Code, Deputy Director Hart explained to me that these minor utility facilities are generally or always government...oh, no, I guess not all government, 'cause it could be the electric company. But that...it kind of...that was the one that I kind of flagged as concerning. Mr. Hart?

MR. HART: Yeah. They're generally utility or government services.

COUNCILMEMBER RAWLINS-FERNANDEZ: And you said that it was like...

MR. HART: Oh. The definition?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes.

MR. HART: A minor utility facility means transition lines used directly in the distribution of utility services that have a minor impact on adjacent land uses, which include but are not limited to 23 kilovolt transmission substations, vaults, water wells, tanks and distribution equipment, sewage pump stations, and other similar type uses. So it's...you can envision that this similar type utility infrastructure.

COUNCILMEMBER RAWLINS-FERNANDEZ: And, so, that minor utility facilities and the solar energy facilities that are permitted uses under principal uses, what kind of permit would it require, and oversight?

MR. HART: Excuse me. I'd have to be able to look at it more specifically, based on the project that was being proposed. Solar facilities can require a special use permit. There can be scenarios where they do not require a special use permit. So it'd really be dependent on what was being proposed.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. So, I guess my concern is, that if, like, one of these utilities facilities is a permitted use, that I would like there to be some kind of a notification and approval process so that the neighbors know if there's going to be, like, a small solar farm built next door, because it's a permitted use, but if there...you know, so, like, the special uses, under 19.30A.060, those special uses require a permit from...for approval by the Maui Planning Commission, right?

MR. HART: That's correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: And the permitted uses would not necessarily be made public and have public participation in the approval process, because there really wouldn't be any approval?

MR. HART: That's correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: It would...

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MR. HART: No public review.

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. So, that's my concern.

COUNCILMEMBER PALTIN: Maybe do you want to move 6 and 8 to the special use section, so that there is a planning...or, public hearing? Is that a possibility? Or you just want to strike it completely?

COUNCILMEMBER RAWLINS-FERNANDEZ: Under the 11C?

COUNCILMEMBER PALTIN: Move...

COUNCILMEMBER RAWLINS-FERNANDEZ: ...the entire project...

COUNCILMEMBER PALTIN: Move...I think I heard you say that 6 and 8 are red flags for you under A. Principle Uses, so what if we took those out of A, and move it over to Special Uses, 19.30A.060, so there is that public chance for input?

COUNCILMEMBER RAWLINS-FERNANDEZ: Right. So then the –

COUNCILMEMBER PALTIN: Just a suggestion.

COUNCILMEMBER RAWLINS-FERNANDEZ: --condition under...your proposed condition under 11C, 'cause that's kind of where it stemmed from, would read something like, the entire project shall be limited to...sorry, I would have to, like, kind of wordsmith it.

COUNCILMEMBER PALTIN: Maybe, like, the entire project...within the entire project, permitted principle uses of Section 19.30A.050, numbers 6 and 8, would be considered special uses under 19.30A.060, and have to follow those requirements. Something like that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mr. Hart, would something like that work?

CHAIR KAMA: Mr. Hart?

MR. HART: I think that...I understand what you're doing. I think that Staff, Council Staff, can find out a more efficient way to word that. There's a exemption section that the applicant's referencing, Title 19, and basically, there's a section where they say, essentially, all other standards will be consistent with the agricultural district. Somewhere in that, you could say, with the exception that minor utility facilities, and then solar facilities, shall require special use permits.

COUNCILMEMBER RAWLINS-FERNANDEZ: That concept.

CHAIR KAMA: Okay. Staff, did we get that? Got it. Okay.

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COUNCILMEMBER RAWLINS-FERNANDEZ: If there's consensus.

CHAIR KAMA: Is there consensus on 11C, based upon the conversation and the verbiage, I think, that was said by Jordan Hart?

COUNCILMEMBER PALTIN: Consensus.

CHAIR KAMA: And that Alison says she has written down? Is there consensus with that? Yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, if you think about minor utility facilities, as defined in section dadadada, that would be...is it like, easements that MECO might need? Would that be affected? I mean, are we hindering that process? And then, the other one, with solar energy facil..., I mean, that's the way of the future, right? So, if somebody wants to put in a solar something, hey, more power for the area, I don't know.

COUNCILMEMBER RAWLINS-FERNANDEZ: Literally. Sorry.

UNIDENTIFIED SPEAKER: What?

COUNCILMEMBER PALTIN: So, you're saying no consensus?

COUNCILMEMBER RAWLINS-FERNANDEZ: You said, more power to the area.

COUNCILMEMBER SUGIMURA: Oh. I didn't hear what you said.

COUNCILMEMBER RAWLINS-FERNANDEZ: Sorry, Chair.

COUNCILMEMBER SUGIMURA: You know what I mean? I mean, I think we're digging too deep and trying to create more problems in the future. I think these are kind of good things, you know, in the ag district. They got plenty land, you know?

COUNCILMEMBER RAWLINS-FERNANDEZ: So, I understand where Member Sugimura is coming from, and that's why we put it under special use. So it's not prohibited, --

CHAIR KAMA: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: --it's just, it would require notification and like, so, if your neighbor was going to build a solar farm, --

CHAIR KAMA: You want to know.

COUNCILMEMBER RAWLINS-FERNANDEZ: --or have, like, a pump station --

CHAIR KAMA: You'd want to know.

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COUNCILMEMBER RAWLINS-FERNANDEZ: --next to you, like, I mean, that's something you probably want to know beforehand. And, if that's something that you wouldn't want, that you would want to have an opportunity to object to, and hopefully stop. And, so by leaving it under permitted uses, there would be no –

CHAIR KAMA: Notifications.

COUNCILMEMBER RAWLINS-FERNANDEZ: --participation opportunity.

COUNCILMEMBER SUGIMURA: Is that right? There would...

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. That's what Jordan said.

CHAIR KAMA: That's what Jordan said.

COUNCILMEMBER SUGIMURA: There would be none?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yes. It's a permitted use.

COUNCILMEMBER SUGIMURA: Let's hear what he has to say.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Go ahead.

MR. HART: There...as we discussed during the break, there can be situations where solar projects can, on their own, trigger special use permits, and there can also be scenarios where they do not. Minor utility facilities do not. I will say, you know, from the context of the Planning Department, the residential use of the agricultural district is generally what causes the discrepancies, you know? Something like solar energy generation is...anyway. I'll just leave it at that. You guys are free to –

COUNCILMEMBER PALTIN: Maui Meadows; how pissed off they are.

COUNCILMEMBER SUGIMURA: But they got notified. It wasn't a secret.

COUNCILMEMBER PALTIN: Yeah, but this one, they don't have to get notified.

COUNCILMEMBER SUGIMURA: And it's in agriculture. . . .*(inaudible)*. . .

CHAIR KAMA: So, does that mean that we do have consensus on 11C?

UNIDENTIFIED SPEAKER: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Consensus.

CHAIR KAMA: Yes?

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COUNCILMEMBER LEE: Consensus.

CHAIR KAMA: Okay. Consensus on 11C.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR KAMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

CHAIR KAMA: Oh. 6B on my proposal.

COUNCILMEMBER HOKAMA: So, Chair?

CHAIR KAMA: Yes, sir?

COUNCILMEMBER HOKAMA: In simple, layman's, on the street –

CHAIR KAMA: Layman's.

COUNCILMEMBER HOKAMA: --terms, 6B means that, what? No further subdivision allowed? Is that the plain language; basic understanding of 6B?

COUNCILMEMBER PALTIN: I don't think so.

COUNCILMEMBER HOKAMA: 'Cause that's why I'm just asking that simple question.

CHAIR KAMA: Th exemptions that they're asking for in 6B allows them to do this project. If they don't get the exemption, the project doesn't go through. That's basically what it means in a nutshell. Is that right, Mr. Brown?

MR. BROWN: Yes.

COUNCILMEMBER SUGIMURA: Oh. Then we must pass this. Consensus.

CHAIR KAMA: So that's the amen?

COUNCILMEMBER SUGIMURA: Amen.

COUNCILMEMBER HOKAMA: And that's why, we just need...we...common language, which the constitution –

CHAIR KAMA: Okay.

COUNCILMEMBER HOKAMA: --requires.

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COUNCILMEMBER SUGIMURA: Consensus.

CHAIR KAMA: Yes, Mr. Hart?

MR. HART: Point of clarification. That is not saying what we were discussing earlier. The other one pertained to the agricultural sliding scale, and the final lots that you're left with that cannot be re-subdivided. I believe this one is referring to condominiumizing, or re-subdividing.

CHAIR KAMA: Well this is...

COUNCILMEMBER HOKAMA: Okay. And that's why I wanted you guys to...

MR. HART: Any of the 34 lots in the project, 6B.

COUNCILMEMBER HOKAMA: 'Cause we said we're not allowing property regimes.

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

CHAIR KAMA: It says...

COUNCILMEMBER SUGIMURA: Permit exemption from Section...

MR. HART: I apologize.

COUNCILMEMBER SUGIMURA: Okay. Let's get clarity.

CHAIR KAMA: After...this is the first in the parking lot, and then we have Ms. Paltin's 7, 9, and 10. And, so, while they're doing that back there...so, this is what my plan is, is to, after we're done with all the modifications, call for a short recess and have Staff make sure that they have all the modifications that we've had consensus on so that they can be able to read it so that we all know what it is we said yes to, and we understood what we said yes to. Then have them all read it out, and then do the motion to accept them.

COUNCILMEMBER HOKAMA: Just have it printed out for us.

CHAIR KAMA: Printed out? Okay.

COUNCILMEMBER HOKAMA: Yeah. I think that's -

CHAIR KAMA: Better.

COUNCILMEMBER HOKAMA: --better for all the Members -

CHAIR KAMA: Okay. Then the reading. Okay.

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COUNCILMEMBER HOKAMA: --before we vote.

COUNCILMEMBER LEE: So what you're saying is that you're going to try and get consensus on all, if not most all of...

CHAIR KAMA: On all the modifications that we've brought forth tonight; yes. And so...

COUNCILMEMBER LEE: What if you can't get consensus on one or two items?

COUNCILMEMBER SUGIMURA: . . .*(inaudible)*. . .

CHAIR KAMA: Well, we'll cross that bridge when we get to it.

COUNCILMEMBER SUGIMURA: Yeah. We'll delete it.

CHAIR KAMA: Hey, I'm still praying up here. I don't know about you guys sitting down there.

COUNCILMEMBER LEE: Well...

CHAIR KAMA: Yes?

COUNCILMEMBER LEE: You know, I just, it's not too much progress when you go from the parking lot to crossing the bridge, you know? We gotta get to the end goal, right?

CHAIR KAMA: Yeah.

COUNCILMEMBER LEE: Okay. So...

CHAIR KAMA: But we crossed the bridge.

COUNCILMEMBER LEE: So the idea is that –

CHAIR KAMA: So we're in the parking lot.

COUNCILMEMBER LEE: --if we can't reach consensus, we just vote it up or down, and then we forward.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR KAMA: Yeah.

COUNCILMEMBER LEE: Okay. Thank you.

CHAIR KAMA: Pretty much. Thank you. Yes, Ms. Paltin?

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COUNCILMEMBER PALTIN: I just was...sorry, I didn't mention this earlier, but I just was wondering if we were going to include, like, a standard language modification that something like the developer...what the developer represented will be significantly the same. We didn't put any conditions on the cattle ranch or the halau resource area, and I'm, to some extent, okay with that, because I don't want to lock them in to, like, a halau resource area, but something needs to be going on there, whether it's cattle or halau or something. Like, so, the standard condition language that the development would significantly match what was represented or something. I think they probably have that language on file or something.

COUNCILMEMBER SUGIMURA: What does that mean?

CHAIR KAMA: I'm sorry. I have to call a recess, but, let's hold that thought. . . .(gavel). . .

RECESS: 7:51 p.m.

RECONVENE: 8:05 p.m.

CHAIR KAMA: . . .(gavel). . . The night is getting long, the Staff is getting tired, and if it's okay with you all –

COUNCILMEMBER SUGIMURA: Yes. Yes, Chair?

CHAIR KAMA: --I'd like to be able to ask for a recess for Monday at 9 'o clock.

COUNCILMEMBER SUGIMURA: You don't want us to vote tonight?

CHAIR KAMA: Your Staff doesn't want to vote tonight.

COUNCILMEMBER SINENCI: The 23rd?

CHAIR KAMA: The 23rd. Yes, Ms. Lee?

COUNCILMEMBER LEE: Okay. Before you talk about getting consensus on going home and rescheduling, I'd like clarification on something. Because, as you know, I was the Housing Director for eight years, but since then, you know, rules, laws could have changed. But I'd like to ask Ms. Munsell, who's the Director of Housing and Human Concerns, about the issue of the requirement for affordable units in a 201H application. Ms. Munsell?

CHAIR KAMA: Ms. Munsell, did you get that question?

MS. MUNSELL: Yes. And I apologize, again, I was looking in the...for the 50 percent, or the 51, or more than 50 percent requirement, and I'm not finding that, actually, in the law, but rather, finding it in the Administrative Rules, under 15-307-52. And what it

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says here is that the project is primarily designed for lower-income housing, as determination by the corporation. Project shall be primarily designed for lower-income housing. If the project meets the requirements set forth in, you know, Section 15-307-26, which is what it outlines what's supposed to be in the application, essentially. So I'm not seeing something that says specifically 50 percent or more. It's prim..., the definition appears. And I'm...before we meet again, I'll confirm that, but it says primarily for.

COUNCILMEMBER LEE: So my point is, it doesn't say 51 percent, it doesn't say 60 percent. It uses the word primarily, but it also defers to the counties, and that's the reason why the HRS was created, is to give the counties the ability to expedite projects. So I'm glad Ms. Munsell found that in the Admin Rules, and she is going to do a little bit more research on it, but there's no such thing as 51 percent, okay? Thank you.

CHAIR KAMA: Yes, mister...

MR. RAPACZ: Thank you, Chair. The Hawaii Administrative Rules for 201H, in Section 15-307-26 Part C, the developer's supposed to state, first of all, the approximate number of dwelling units in the proposed project.

COUNCILMEMBER SUGIMURA: Okay.

MR. RAPACZ: I don't know what that number is. We've heard 19, we've heard market lots. I don't know how many units on the market lots. I don't know what the proposed number is of dwelling units. It then goes on to say, more than 50 percent of the total dwelling units shall be for very low, low, low moderate, and moderate income households. So, the 50 percent comes directly out of the Administrative Rules that the Deputy Director just cited.

COUNCILMEMBER LEE: Okay.

MS. MUNSELL: Thank you, Mr. Rapacz. I appreciate that.

COUNCILMEMBER LEE: Okay. And then she is gonna research it a little bit more, but thank you, John, for that. Or we still have the other alternative of adding additional accessory units so that the majority of the units will continue to be affordable, yeah?

CHAIR KAMA: Yes. So can we get back to the issue of a recess?

COUNCILMEMBER LEE: Yeah. I just needed clarification on that.

CHAIR KAMA: Good. I'm glad you did.

COUNCILMEMBER LEE: Yeah. Okay. Thanks.

CHAIR KAMA: And you'll be getting more later, I'm sure.

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COUNCILMEMBER LEE: I hope so.

CHAIR KAMA: Okay. So, Members...yes, miss...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. It sounds like you want to find a recess date, and then adjourn.

CHAIR KAMA: Well, I think that we found one for Monday.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh. I'm sorry, and then recess.

CHAIR KAMA: And recess.

COUNCILMEMBER RAWLINS-FERNANDEZ: Not adjourn.

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: I have two more conditions that I wanted to propose, so I just wanted to make sure that we don't –

CHAIR KAMA: You want to read it into...

COUNCILMEMBER RAWLINS-FERNANDEZ: --recess before...

CHAIR KAMA: Okay. Read it...

COUNCILMEMBER RAWLINS-FERNANDEZ: ...into the record.

CHAIR KAMA: Okay. Let's get to the consensus for the recess date, then I want you to read it into the record, and then get it typed up for us, and we'll send it over to –

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR KAMA: --OCS so that...and then we'll put this in our parking lot. Because we're done with the rest of the consensus, so they're gonna write that together. So when we meet again, we're gonna go through the issues in the parking lot, and your two.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay.

CHAIR KAMA: Okay?

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COUNCILMEMBER RAWLINS-FERNANDEZ: That's acceptable. Mahalo.

CHAIR KAMA: So...yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: So the 23rd, there's an affordable housing convention, or meeting, on Oahu that I was planning to attend. I wasn't sure if that was something that you had planned to attend.

CHAIR KAMA: No. I have another meeting. But I gotta come here, because I don't know of any other dates. Yes, Ms. Lee, and then Mr. Sinenci?

COUNCILMEMBER LEE: You know, I realize that you want to go home, but I would like to suggest that we do not accept any more conditions after tonight, because –

CHAIR KAMA: Is there a consensus on that?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR KAMA: Members?

COUNCILMEMBER SUGIMURA: Yes.

CHAIR KAMA: Thank you. So we'll take Ms. Keani Fernandez' in tonight.

COUNCILMEMBER LEE: Yeah.

CHAIR KAMA: Thank you.

COUNCILMEMBER LEE: Yeah. Because, you know, we can go on forever, you know, doing this, yeah?

CHAIR KAMA: Yeah.

COUNCILMEMBER LEE: Thank you.

CHAIR KAMA: Thank you. Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Monday, I'm at a Native Hawaiian conference on Oahu.

CHAIR KAMA: Anybody else going to the CNHA Conference? Just you two. Okay.

COUNCILMEMBER SINENCI: I will be back by Thursday.

COUNCILMEMBER SUGIMURA: We have...

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CHAIR KAMA: What is that, mister...what did you say, Mr. Sinenci?

COUNCILMEMBER SINENCI: I'll be back on Thursday, if you want to reconsider.

CHAIR KAMA: Yes, Ms. Keani Fernandez-Rawlins [sic]?

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, I have two items on my agenda tomorrow. The first one needs to happen, but the second one, I think I could defer, if Members are available tomorrow. All Members are in EDB, and, perhaps I could complete the meeting within an hour. Would two hours be enough, tomorrow?

CHAIR KAMA: Members, will two hours tomorrow be enough for all of us?

COUNCILMEMBER LEE: Yes.

COUNCILMEMBER SUGIMURA: I'm ready to vote.

CHAIR KAMA: You all promise? I'll make you promise.

COUNCILMEMBER SUGIMURA: Promise.

CHAIR KAMA: You're not getting fed tomorrow. . . .(chuckle). . . I'm just joking. Okay. So, is that possible, Mr. Rapacz? So, we, again, probably need the Chair's approval, so, I have to call her.

VICE-CHAIR MOLINA: Madam Chair?

CHAIR KAMA: Yes?

COUNCILMEMBER SUGIMURA: Recess.

CHAIR KAMA: Yes, Mr. Molina?

VICE-CHAIR MOLINA: And, also, if, for some unlikely reason, we need more than two hours, then, I think after maybe Mr. Hokama's committee meeting, if anybody wants to do a late afternoon, I could -

COUNCILMEMBER HOKAMA: You can have whatever you want.

VICE-CHAIR MOLINA: Yeah.

COUNCILMEMBERS: . . .(chuckle). . .

CHAIR KAMA: Thank you, Mr. Hokama.

VICE-CHAIR MOLINA: Look at everybody. Thank you.

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COUNCILMEMBER SUGIMURA: Finish this.

CHAIR KAMA: Okay. So, I'm going to recess. We're going to call the Chair for her permission to do a recess for tomorrow. Maybe around, what, 11 'o clock? Or, 10:30? What?

COUNCILMEMBER RAWLINS-FERNANDEZ: 10.

CHAIR KAMA: 10?

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah.

CHAIR KAMA: At 10?

COUNCILMEMBER RAWLINS-FERNANDEZ: I'll just...we'll start the meeting at 9:00, and then, I mean, most of the Members are here in EDB, so they're aware that I'm going to keep the meeting an hour, and I'll adjourn the meeting -

CHAIR KAMA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: --at 9:50 or something. And then we can -

CHAIR KAMA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: --go...reconvene.

CHAIR KAMA: And then if we don't finish, then we'll allow Mr. Hokama to have his committee meeting, and then whatever time after that, we'll go ahead and use that time. So, and after that, it should be finished. Members? Okay. Thank you, Mr. Hokama. Thank you, Ms. Rawlins-Fernandez. So I'm going to recess and call-

COUNCILMEMBER LEE: Wait, wait, wait. She has her two...your two things. Hurry up.

COUNCILMEMBER SUGIMURA: Modifications.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh. Okay.

CHAIR KAMA: Oh. I'm sorry. Yes. Read it into the record.

COUNCILMEMBER RAWLINS-FERNANDEZ: Well, I mean, we still need to go into recess, and then come back, --

CHAIR KAMA: Yes.

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COUNCILMEMBER RAWLINS-FERNANDEZ: --because you have to call the Chair, and then you have to tell us –

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: --when the recess date is going to be at.

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. But I'll read this now. Okay. So, this condition was something that, when I met with Mr. Brown and Mr. Schnell, they were amenable to. So, this is...it was inspired by Member Lee.

CHAIR KAMA: You inspired her to come up with another condition.

COUNCILMEMBER RAWLINS-FERNANDEZ: From the Waikapu Country Town condition. So, five percent of the monthly annual HOA dues, or dues from the HOA, will be donated to Mauna Kahalawai Watershed Partnership, and if it no longer exists, an organization that does substantially similar work to protect the watershed.

MR. BROWN: I guess I'd be amenable to that, if you vote yes for the project. Seriously, I mean, seriously. I mean...

CHAIR KAMA: And your second?

COUNCILMEMBER RAWLINS-FERNANDEZ: And the second...okay. Since it's going to go into the parking lot, and then we can amend it. But, to the point that Member Paltin was making, I think there's really no assurances in writing, aside from strict or substantial compliance to what was represented to us verbally, and in the meeting documents, that the halau resource cultivation area and the cattle pasture will be there after the project is developed. So, a halau resource cultivation area shall be created in lots 13 through 19, and a cattle pasture shall be created in lots 1 through 12...1 through 11. And, yeah. I can make that better by the time that we reconvene.

CHAIR KAMA: Okay. Well, thank you. So, yes?

COUNCILMEMBER PALTIN: I had a question. You know, when it said...when we both said, like, if they are sold before 30 years, does the County automatically have right of first refusal on those affordable homes that are sold prior to the 30 year deed restriction?

CHAIR KAMA: I didn't put that in mine. Did you want to put that in yours?

COUNCILMEMBER PALTIN: Yeah.

CHAIR KAMA: Okay.

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COUNCILMEMBER PALTIN: Thanks.

CHAIR KAMA: Alison, could you add that? Yes, Ms. Lee?

COUNCILMEMBER LEE: Ms. Munsell, they do this all the time, so they have a whole system. Follow 2.96.

CHAIR KAMA: Oh. Is that a given?

UNIDENTIFIED SPEAKER: Yeah.

CHAIR KAMA: Oh. It's a given?

COUNCILMEMBER PALTIN: Oh. Okay. Perfect.

CHAIR KAMA: It's a given. It's okay.

COUNCILMEMBER PALTIN: Yeah. That was, like, my question.

CHAIR KAMA: Thank you. Yeah. Recess. . . .(gavel). . .

RECESS: 1:44 p.m.

RECONVENE: 2:19 p.m.

CHAIR KAMA: The Affordable Housing Committee of September 18th is now reconvening. Okay, Members, so we all agreed by consensus and take into consideration Mr. Hokama's authoritative voice that we have all decided . . . 1, 2, 3, 4, 5, 6 – all 8 eight of us, that we're going to meet tomorrow and we're going to recess today's meeting and reconvene tomorrow at 10:00 a.m. Thank you to Ms. Keani Rawlins-Fernandez. And if we don't finish during her time, that Mr. Hokama has consented to allowing us to utilize whatever time he has left and we'll meet after his Committee meeting tomorrow afternoon. And this is by consensus of all eight of us, correct?

COUNCILMEMBERS: Yes.

CHAIR KAMA: Okay? Well, thank you. This meeting is now in recess. . . .(gavel). . .

RECESSED: 8:20 p.m.

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APPROVED:



TASHA KAMA, Chair
Affordable Housing Committee

ah:min:190918r-d

Transcribed by: Nicole Siegel