

POLICY COMMITTEE

Council of the County of Maui

MINUTES

July 24, 2007

Council Chamber, 8th Floor

CONVENE: 1:35 p.m.

PRESENT: Councilmember Danny A. Mateo, Chair
Councilmember G. Riki Hokama, Vice-Chair
Councilmember Gladys C. Baisa, Member
Councilmember Jo Anne Johnson, Member
Councilmember Bill Kauakea Medeiros, Member
Councilmember Michael J. Molina, Member (in 1:39)
Councilmember Joseph Pontanilla, Member
Councilmember Michael P. Victorino, Member

EXCUSED: Councilmember Michelle Anderson, Member

STAFF: Gayle Revels, Legislative Analyst
David Raatz, Legislative Attorney
Yvette Bouthillier, Substitute Committee Secretary
Leinaala Kihm, Executive Assistant to Councilmember Bill Kauakea Medeiros

ADMIN.: Vanessa A. Medeiros, Director, Department of Housing and Human Concerns
Edward S. Kushi, Jr., Deputy Corporation Counsel, Department of the
Corporation Counsel (substituting for First Deputy Traci Fujita Villarosa)

Seated in the gallery:

Ed Okubo, Housing Administrator, Department of Housing and Human
Concerns

Herman Andaya, Assistant Housing Administrator, Department of Housing
and Human Concerns

OTHERS: Stan Franco, Housing for the Local People
Christopher J. Cole, Esq. of McCorriston Miller Mukai Mackinnon LLP
(Developer's Attorney)
Robert G. Klein, Esq., of McCorriston Miller Mukai Mackinnon LLP
(Developer's Attorney)
Daryl Fletcher, representing No Ka Oi Development LP

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

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CHAIR MATEO: . . .(*gavel*). . . Policy Committee meeting for July 24, 2007, will come to order. Good afternoon, everyone, uh--

COUNCIL MEMBERS: Good afternoon.

CHAIR MATEO: For the record, the Members present with us this afternoon we have the Vice-Chair of the Committee Council Chair Hokama. Also with us Member Baisa, Member Johnson, Member Medeiros, Member Pontanilla, and Member Victorino.

COUNCILMEMBER VICTORINO: Good afternoon, Chair.

CHAIR MATEO: Joining us in a little while is Member Molina, and excused for this afternoon is Member Anderson. Members, in addition to those of us who are with us this afternoon, joining us from the Administration Deputy Corporation Counsel Ed Kushi, Jr., and the Director of the Housing and Human Concerns Department Ms. Medeiros. And for the Committee Staff with us this afternoon we have our Committee Analyst Ms. Revels, we have our legal analyst Mr. Raatz, as well as our secretary for this afternoon we have Ms., Ms. Bouthillier.

So, Members, we have just one item on our agenda this afternoon, but before going into that one item, Ms. Bouthillier is there any one signed up for testimony this afternoon?

MS. BOUTHILLIER: (nodded yes)

CHAIR MATEO: Thank you. We're gonna go ahead and start with our testimonies, Members, and the first individual signed up to testify this afternoon is Mr. Stan Franco. And while Mr. Franco is advancing to the podium, those of us in the gallery if you have your cell phones or pagers on this would be a real good opportunity to turn them off. And Mr. Franco, you're also representing Housing for the Local Person.

MR. FRANCO: Yes.

CHAIR MATEO: Thank you very much.

. . .BEGIN PUBLIC TESTIMONY. . .

MR. FRANCO: Good afternoon, Chair Mateo, and Members of the Policy Committee. My name is Stan Franco, and I am the Chair of the Housing for the Local Person (HLP). We are a community group of faith based organizations and individuals with the stated purpose to work for housing for those who want to live, work, and raise their families on Maui.

To add, today I am speaking for the resolution entitled "DISAPPROVING THE APPEAL OF THE RESIDENTIAL WORKFORCE HOUSING POLICY FOR THE

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PROPOSED KAMAOLE HEIGHTS AND KAMAOLE PLANTATION MULTI-FAMILY RESIDENTIAL PROJECTS". I speak for this resolution because the arguments used by Mr. Hart and Mr. Cole to support the appeal from the requirements of the Residential Workforce Housing Policy (herein I'll be referencing as Policy) has no relationship or nexus to the purpose and intent of the policy.

Units of Kamaole Heights and Kamaole Plantation projects are listed on the No Ka Oi Development LLC website to sell between 700 and \$800,000. In 2006 the Urban Land Institute (ULI) was commissioned by the Kihei Community Association to study and report on the affordable housing issue on Maui. In their report ULI stated that 77 percent of all Maui households earn 140 percent or less of the HUD median income for a family of four or approximately \$87,500 in 2006 dollars. At that 140 percent HUD median income household, ULI reported a household could afford a home priced at about 362,000 and a household with 200 percent of median income house priced at 517,000. According to ULI, none of the households covered by the provisions of the policy could afford to purchase the 700 to \$800,000 condominium units offered for sale by Kamaole Heights and Kamaole Plantation projects.

In conclusion, Kamaole Heights and Kamaole Plantation projects are not priced for the residential workforce because these projects do not meet the needs of the income-qualified households described by the policy.

And therefore this appeal for the waiver of the requirements of the policy should be denied and the resolution disapproving the appeal should be approved. Thank you.

CHAIR MATEO: Thank you, Mr. Franco. Members, questions for the testifier? Seeing none, thank you very much. Mr. Franco was the only individual who signed up to testify this afternoon. If there's any one else wanting to testify now is the time to do so. Please advance to the podium.

(note: silence)

CHAIR MATEO: Members, seeing no one advance, the Chair would like to close public testimony if there's no objections.

COUNCIL MEMBERS: No objections.

CHAIR MATEO: Thank you.

...END OF PUBLIC TESTIMONY...

ITEM NO. 9(1): APPEALS TO THE RESIDENTIAL WORKFORCE HOUSING POLICY (KAMAOLE POINTE) (C.C. No. 07-98)

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CHAIR MATEO: Members, you can, we're gonna go ahead and continue with our agenda. Members you can follow along with me on the printed agenda. We're dealing with Policy 9(1), APPEALS TO THE RESIDENTIAL WORKFORCE HOUSING POLICY (Kamaole Pointe).

Members, the Committee is in receipt of the following:

One, correspondence dated March 29, 2007, from the Council Chair, transmitting correspondence dated February 28, 2007, from the County Clerk, transmitting correspondence dated February 23, 2007, from Christopher L. Hart, President, Chris Hart & Partners, Inc., requesting a waiver from the Residential Workforce Housing Policy for the proposed Kamaole Heights and Kamaole Plantation multi-family residential projects within the Kamaole Superblock.

Two, correspondence dated June 1st, 2007, from the Chair, transmitting correspondence dated May 31st, 2007, from the County Clerk, transmitting correspondence dated May 25, 2007, from Christopher J. Cole, of McCorriston Miller Mukai Mackinnon LLP, on behalf of No Ka Oi Development, requesting a waiver from the Residential Workforce Housing Policy for the Kamaole Pointe project (formerly referred to as the proposed Kamaole Heights and Kamaole Plantation projects).

Third, correspondence dated July 13th, 2007, from the Department of the Corporation Counsel, transmitting the following: 1) a proposed resolution entitled "APPROVING THE APPEAL TO THE RESIDENTIAL WORKFORCE HOUSING POLICY FOR THE PROPOSED KAMAOLE HEIGHTS AND KAMAOLE PLANTATION'S *[sic]* MULTI-FAMILY RESIDENTIAL PROJECTS"; and 2) a proposed resolution entitled "DISAPPROVING THE APPEAL TO THE RESIDENTIAL WORKFORCE HOUSING POLICY FOR THE PROPOSED KAMAOLE HEIGHTS AND KAMAOLE PLANTATION MULTI-FAMILY PROJECTS".

Members, it is the Chair's intent to allow both Corporation Counsel and the Director of the Housing and Human Concerns Department the opportunity to provide comment before opening the floor to the Members. However, the Chair would just like to also provide additional reference.

Chapter 2.96, Residential Workforce Housing Policy. 2.96.030 of the policy, Applicability A. Any development, including the subdivision of land and/or construction of single-family dwelling units, two-family dwelling units, multi-family dwelling units, or hotels, as defined in this section, whether constructed at one time or over several years, shall be subject to this chapter upon final subdivision or building permit approval, whichever is applicable and occurs first.

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Item C. Adjustments. A developer of any development subject to this chapter may appeal to the Council for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of the development and the number of residential workforce housing units or in-lieu fees/land required.

And number 2, the appeal shall set forth in detail the factual and legal basis for the claim of reduction, adjustment, or waiver, and the developer shall bear the burden of presenting substantial evidence in support, uh, to support the appeal, including comparable and relevant technical information.

And 3, the Council shall approve or disapprove the appeal in 90 days.

With that being said, Members, the Chair is gonna allow Corporation Counsel Mr. Kushi to provide comment. Mr. Kushi.

MR. KUSHI: Yes, Chairman Mateo, Members, as we all sit here today this is the first request for an appeal, waiver, adjustment of the residential workforce housing requirement since the passage of the ordinance. As in any case, the initial one may reflect on future appeals.

Maybe just to set some, uh . . . procedural requirements, uh, procedural aspects of this appeal, in your binders there was a request from your Chair to our office asking two basic questions. Although we haven't responded in writing, I'm prepared to respond orally today.

The first question was when does the 90 day clock start? This is particularly relevant in that the developer or the appellant in this case, represented by McCorriston's law office in Honolulu, did submit a letter dated May 25th, 2007, and at the end of his letter they specifically state "to be absolutely clear and avoid any future misunderstandings..." in essence they stand on their written . . . whatever they had in their letter, and that they will not . . . and this letter would conclude their presentation of evidence. And then they further alleged that the clock starts upon the receipt of the Coun..., by the County of this letter.

So the question your Chair asked of our office is when does the clock really start? We would respond by saying the clock starts at the conclusion of presentation of evidence by the appellant, but for that conclusion to occur somebody has to hear it, and you need to have a Council hearing whether it's this Committee or the full Council because otherwise to rule . . . to have official receipt of evidence and to even consider it individually you would then be in violation of the Sunshine Law. You have to have a meeting to receive the evidence. That being the case, we would opine that 90 days, if anything, starts as of today, or in the event the developer that wants to present further evidence . . . I understand the developer's representative is in the audience. I would request that the Chair give him a last chance opportunity. If he does not want to give further evidence so

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be it, but in essence the 90 days starts when the, when this body hears the evidence. In any event, to be absolutely sure we still have time based on the calculation 90 days from May 25th, '07, would be August 24th, '07. So I would urge you to make up your minds before that time. In any event if you don't meet that, that deadline our office will defend you.

The second question that your Chair asked of our office is whether or not this body is required to conduct a contested-case hearing on these appeals. And he cites the case of the . . . Supreme Court Case of Sandy Beach Defense Fund v. City & County of Honolulu, which was ruled in 1989, and we find that that law is still the law in Hawaii, and that legislative bodies are specifically exempt from Chapter 91 . . . 91 HRS. In that that law in itself excluded or exempted legislative bodies from the contested-case procedures.

Legislative bodies can act in two ways. One as a legislative act, and a non-legislative act. That case involved the City & County of Honolulu's practice of hearing and deciding on SMA permits. All other counties in the State have delegated that authority to the Planning Commissions, and those other authorities do conduct full on contested case hearings. In the Sandy Beach case our Supreme Court basically said notwithstanding that situation, the counties are free to decide what body would be the appointing authority. In the case of City & County of Honolulu, our Supreme Court upheld their method of hearing the SMA appeals and deciding thereon--(coughed) excuse me--without conducting a full on contested-case hearing. Therefore, based on the situation we have at hand we would feel . . . opine the same, same way and that this body is not required to conduct, conduct a full on contested-case hearing. That being said, Mr. Chair, I don't know what else to say before I run out of voice.

CHAIR MATEO: Thank you, Mr. Kushi. Mr. Kushi, the Chair will be receiving your verbal explanation to this body in writing?

MR. KUSHI: Yes, sir.

CHAIR MATEO: Thank you very much, Mr. Kushi. Members, any questions for Corporation Counsel? Ms..., or the Chair would like to, before you start the Chair would like to recognize the presence of Mr. Molina. Thank you for joining us.

COUNCILMEMBER MOLINA: Good afternoon.

CHAIR MATEO: Mr. Molina, go ahead.

COUNCILMEMBER MOLINA: Thank you, Mr. Chairman. Mr. Kushi, just to follow up on your response to the question number two from Chairman Mateo, so being that it is I guess an option for this body to consider contested-case hearings, if the body were to

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decide not to hold contested-case hearings like the one we're considering today, what other appropriate body in the County would be able to hold such hearings as this?

MR. KUSHI: Mr. Chair, Member Molina, if another body is delegated the task of hearing these types of appeals and, and if that other body is deemed to be an agency as defined in Chapter 91, then they must hold a contested-case hearing. So really all other bodies, the BVA, the Planning Commission, the Animal Control Board, those, those bodies are agencies. And if an appeal such as this comes before them, then the appellant is entitled to and the agency must conduct a full on contested-case hearing.

COUNCILMEMBER MOLINA: So any one of those agencies could conduct in this case.

MR. KUSHI: Correct.

COUNCILMEMBER MOLINA: All right, thank you. Thank you, Chairman.

CHAIR MATEO: Thank you, Mr. Molina. Members, additional questions for Corporation Counsel? Ms. Johnson.

COUNCILMEMBER JOHNSON: Yes, Ed, and I'll try to make this real simple so you can just say yes or no. With regard to a letter that we got from one of our constituents, he basically alleges in the letter that because there was no I guess administrative decision on which there was any appeal, he's sort of implying that in order for anyone to appeal that somehow there would have to be some kind of a denial like let's say Ms. Medeiros, for example, would say well, we can't come to any agreement therefore or we're going to apply this, and therefore the party would then have to appeal the decision. So, you know, I, I . . . I guess if you're looking at the appeal of a, an administrative decision and we're hearing an appeal that's one thing, but if we're actually giving a hearing where this is a request irrespective of any other arrangements that have been made with the Housing and Human Concerns, do you think that this person has a valid concern or raises a valid point?

MR. KUSHI: Yes. Mr. Chair. Member Johnson, I've looked just briefly looked at Mr. Smith's letter, and although I, I tend to agree in his bottom line result, I don't think that's applicable in this stage because the ordinance itself under the adjustment provision 2.96.030, C as in cat, adjustment, basically says that if a developer of any development is subject to this chapter, meaning that they're not exempt in essence, they can then come directly to the Council. There needs . . . be not be a pre-hearing decision by any, any agency to trigger that appeal on a standing basis. If the development is on its face is subject to this chapter, that applicant, the developer can come here. So I don't think that would rule out this particular appeal.

COUNCILMEMBER JOHNSON: Okay, 'cause that's . . . my understanding when we formulated the measure was that it was just an appeal of the policy not necessarily an

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appeal of I guess some decision made by administrative official so that . . . in other words he is just appealing our policy.

MR. KUSHI: Member Johnson, it could be both . . .

COUNCILMEMBER JOHNSON: Okay.

MR. KUSHI: . . . in the way I interpret it in drafting this ordinance, this specific provision because this, as I told this body before, without this sort of adjustment provision this ordinance may be attacked on its face as unconstitutional.

COUNCILMEMBER JOHNSON: Okay, thank you very much, Mr. Kushi.

CHAIR MATEO: Thank you, Ms. Johnson. Members, additional questions for Corporation Counsel? Seeing none, we're gonna ask the Director of Housing and Human Concerns, Ms. Medeiros, to provide comment for us this morning, this afternoon, excuse me. Ms. Medeiros.

MS. MEDEIROS: Thank you, Chairman, and Members. The, the developer did meet with us in the early part of February, and it was their I guess inference that the, it was the Director who could give them an exemption. Upon reading Chapter 2.96, it was our determination that any exemptions could only be given by the Council, and therefore we directed the developer to make the appeal pursuant to section C directly to the Council.

CHAIR MATEO: Thank you very much. Members, questions for the Director? Ms., Ms Director, in your meeting with the developer, other than the interest in the appeal, did the department provide them any information relative to what the requirement was?

MS. MEDEIROS: Basically what we did was we read for them verbatim the section that was in Chapter 2.96, and just made it clear that that was the process. That there was no other process that we could see.

CHAIR MATEO: Okay. So at this, at this particular point in your, in your meeting with the developer's then they re..., did they even ask what their requirement was for the affordable component?

MS. MEDEIROS: No, not at that point.

CHAIR MATEO: Thank you very much. Members, additional questions for the department? Seeing none, thank you very much. Members, for your information as Mr. Kushi has shared with us in his remarks, the representatives from No Ka Oi Development, their legal counsel with McCorrison Miller Mukai and Mackinnon are also present with us this afternoon. I'm gonna ask the Members should you have specific questions relative to the, to the appeal request the Chair will ask the representatives if they may want to

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respond to any of the questions. However, as also mentioned by Mr. Kushi, the letter of May 24, uh, 25, 2007, they had in fact made it quite clear that they . . . the developer in, in terms of providing additional evidence is complete. So the option would be theirs whether they would like to respond to questions as well. Members, questions for any, for anyone? Fine. Members, if there are no questions, then the Chair is ready for the Chair's recommendation at this point. And before we go into that, Members, as, as a reminder, looking at the policy again, Residential Workforce Housing Policy (C)(2), clearly states the appeal shall set, shall set forth in detail the factual and legal basis for the claim of reduction, adjustment, and waiver, and the developer shall bear the burden of presenting substantial evidence to support the appeal, including comparable and relevant technical information.

Then Members I would like to forward the additional focus on 2.96.010. This is the purpose as we had adopted for the residential housing policy. And the purpose of 2.96, and I'm gonna read this to you, is to enhance the public welfare of ensuring that the housing needs of the County are addressed. And the Council finds that there is a critical shortage of affordable housing making home acquisition by the majority of County resident workers extremely difficult, and creating a shortage of affordable rental units. The resident workforce is leaving the County in search of affordable housing, and new employees are being deterred by the high cost of living. To maintain a significant resident workforce in all fields of employment, and to enhance the public safety and the general welfare of the residents of the County, resident workforce housing needs must be addressed. It is the intent of this chapter to encourage the provisions and maintenance of residential workforce housing units, for both purchase and rental, to meet the needs of income-qualified households for the workforce, students, and hou..., and the housing . . . and the special housing target groups. Members, by enacting the Residential Workforce Housing Policy, the Council had already made a finding that the impact of any applicable development is presumed to bear a reasonable relationship to the affordable housing shortage. It is therefore the Chair's recommendation that the resolution entitled "DISAPPROVING THE APPEAL TO THE RESIDENTIAL WORKFORCE HOUSING POLICY FOR THE PROPOSED KAMAOLE HEIGHTS AND KAMAOLE PLANTATION MULTI-FAMILY RESIDENTIAL PROJECTS" be adopted.

VICE-CHAIR HOKAMA: So move.

COUNCILMEMBER PONTANILLA: Second.

COUNCILMEMBER JOHNSON: Second.

CHAIR MATEO: It's been moved by Mr. Hokama, second by Mr. Pontanilla. Members, discussion? Mr. Pon..., Mr. Hokama, excuse me.

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VICE-CHAIR HOKAMA: Chairman, thank you very much. In my review of the documentation that was presented before us, as well as hearing the testimony of Mr. Franco, I personally reached the same conclusion. You would think in an appeal that part of the evidence provided to this committee would have stated some type of legal documentation whether it be a case, an opinion, a ruling, which I found interesting was not attached to the communication, Mr. Chairman. We who have lived through this situation are providing affordable housing throughout the islands of this County. I believe, Mr. Chairman, you know, we've come to the determination that it is not in the best interest of this County to be same ol' same ol'. And we need to make a direction adjustment to provide for those who are living here and not for those that would like to come and move here. So I have no problem with supporting your recommendation this afternoon to disapprove the request for waiver. Thank you.

CHAIR MATEO: Thank you, Chairman Hokama. Mr. Pontanilla followed by Mr. Molina.

COUNCILMEMBER PONTANILLA: Thank you, Chairman. I think you stated very clearly looking at the Residential Workforce Housing Policy what you read in regards to the purpose as well as the applicability of the workforce housing policy. You know we shouldn't take this thing lightly, and if we're gonna create affordable housing, we better follow this policy. So I'll be supporting your motion, Chair.

CHAIR MATEO: Thank you, Mr. Pontanilla. Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Mr. Chairman. I'll be supporting your recommendation. I guess in the letter, the May 25th letter from the applicant's representatives it mentions the . . . that this project would supply will be increasing the number of units in the County of Maui, but the issue is are these units affordable? So that's where you know I have a concern 'cause it doesn't appear at this point it they may be affordable. But for the record, if I may ask whether it be the Hou..., I believe the Housing Director, what is the developer's commitment in terms, based on the housing policy what are they committed to provide for under the current housing policy?

CHAIR MATEO: Ms. Medeiros.

COUNCILMEMBER MOLINA: Units of (inaudible)--

MS. MEDEIROS: Yeah, I'm sorry we had not calculated that. They basically wanted exemption and we didn't do any further analysis.

COUNCILMEMBER MOLINA: Okay. Alrighty. Okay. Now, although we don't have that information before us right now I thought it might be for the public's interest to know what they're obligated to provide under the terms of the housing policy. So I think this is a good first step I think to let all applicants know that you need to comply with the housing policy that is in effect right now with Maui County. So we have to put

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aside . . . well, we have to address first and foremost the needs of our residents for units that are affordable, Mr. Chairman. So I'll support the motion on the floor. Thank you.

CHAIR MATEO: Thank you, Mr. Molina. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair. I will be supporting your recommendation, and I'm going to do that because I like every elected official that I can think of in the State of Hawaii this past election promised to provide affordable housing, and I'm gonna try to stay true to that commitment. And this is an opportunity to provide affordable housing, and I will not pass it by, and I am not convinced. I read what was available, and I'm sorry that more was not available, but based on what I read, I was not convinced that we should give a waiver. So I will be supporting your recommendation, and I hope that some of this affordable housing will trickle down to our resident workforce which is in dire need of housing. Thank you.

CHAIR MATEO: Thank you, Ms. Baisa.

COUNCILMEMBER VICTORINO: Mr. Chair.

CHAIR MATEO: Mr. Victorino followed by Mr. Medeiros.

COUNCILMEMBER VICTORINO: Yeah, Mr. (end of tape 1A) recommendation, and I, in reading through the documents provided by the, the developer, on the March . . . in and they had a number of meetings, but on August 29th in 2005, the only reference I could find regarding affordable housing was in, on . . . there's no pages and I apologize, but it's on the part about correspondence. It's in . . . I don't know what section so I can tell my colleagues. Appendix A. You go to Appendix A, page 1. Actually in the next page there's a listing of the meetings and some of the minutes of the meetings, and on page 2 there's one reference that says number 3, Affordable Housing. The applicant has noted ten of the multi-family units would be sold at affordable prices. It is also noted that timeshare projects would have a been affordable housing requirement of only six. Thus, it is explained that this project would provide four more additional units than required. That's not acceptable in my means and that's the only reference I could find in reading through this, this manuscript as far as affordable housing. So I think when someone comes in and asking for a waiver A) they've gotta understand we're not gonna give waivers; and B) if they want something then they should make sure that they're ready to make that move towards affordable housing. Our people deserve it. We've talked about it. We had a conference last week Friday on it, and we're not gonna change our mind. So I, I definitely support your, your recommendation, and tell the developer that they need to go back and redo this. Thank you, Mr. Chair.

CHAIR MATEO: Thank you. Mr. Medeiros.

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COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chair. After hearing Mr. Franco's testimony and Mr. Franco, you know, is a long time kamaaina and advocate for housing in Maui County, and because he's somebody I truly respect and have a lot of credibility, and then Mr. Kushi's explanation from the legal side, and I will be supporting therefore, Chair, your recommendation that's on the floor. Thank you.

CHAIR MATEO: Thank you, Mr. Medeiros. Ms. Johnson.

COUNCILMEMBER JOHNSON: I read through their appeal, and frankly they don't talk about the number of units. They don't even lay out a proper case for pre- and post-development. Because even if you read through their rationale, if it's to be called a rationale, it makes no sense because in . . . they're accusing us of not having a rational nexus. I don't even understand what their point is. So to me I have a problem when somebody's making an appeal they should lay it out very logically. This is the number of units that we're producing, this is what we would be required to do, we have so many jobs that will be generated, you know, because everything we consider is based on that specific number of units. They talk about vague generalities of what's already out there in the market of other people helping to satisfy their obligation, that just . . . you know it's very disingenuous when you . . . we worked very hard on the policy and then to have somebody . . . I don't know. I, I just, I'm really almost offended at this because it doesn't really, it doesn't respect all the work and it's not just us. It's all the many people from the development community that participated in this. So I mean to me if you laid out a case, if you said we're not gonna generate . . . or we're gonna generate so many employee jobs before the construction, or during the construction, 'cause what they seem to be talking about is I guess after once it's occupied well, you know, for me the biggest brunt that we're having of housing and the biggest shortage is all the construction that's taking place on the West side and the South side 'cause where are all these off island, imported construction workers gonna live while this is being built? They don't even address something as, as simple as that. So I, I just, I'm very disappointed that if this is an appeal, I would hope that the next time someone comes forward with an appeal if they have a legitimate case, if they can make it and logically lay it out so that it's easier to see what the numbers are, and they have this statistical data to back it up, or they're satisfying the requirements by giving land or something else, you know, that would make sense to me. This just does not add up. Thank you.

CHAIR MATEO: Thank you, Ms. Johnson. Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Mr. Chairman, for the second and last time for re. . . , regards to the motion. For I guess the public's information this is an application for 124 units. According to what I read here from the applicant's document provided to us, 124 units and based on the housing policy of 50 percent half of that would have to be designated for affordable. So I just wanted to share that with the public. Thank you.

CHAIR MATEO: Thank you, Mr., Mr. Molina.

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MS. MEDEIROS: Mr. Chairman.

CHAIR MATEO: Ms. Medeiros, go ahead.

MS. MEDEIROS: Yeah, if I could actually provide further clarification. It actually talks about two developments. There's not sufficient information showing the number of units that the second development which I'm trying to research, but it appears that the second development also provides approximately 124 units approximately so that would be another 60 some units. So total would be approximately 120 to 124 units.

CHAIR MATEO: Thank you, Ms. Medeiros. Mr. Molina. Additional questions for the department.

COUNCILMEMBER MOLINA: Nope. That's it for me. Thank you, Chairman.

CHAIR MATEO: Thank you. Members, additional questions, comments? Mr. Hokama.

VICE-CHAIR HOKAMA: Chairman, may I have a minute recess with, with you please.

CHAIR MATEO: Sure, no problem. The Committee will stand in recess until 2:15. We're in recess. . . .(gavel). . .

RECESS: 2:12 p.m.
RECONVENE: 2:15 p.m.

CHAIR MATEO: . . .(gavel). . . Meeting of the Policy Committee for July 24, 2007, will reconvene. Members, before the Chair calls for the vote, the Chair would like to make an offer to the re..., legal representatives for the No Ka Oi Development, and offer them the opportunity to respond to a few questions. Whether they'd like that opportunity the Chair would like to allow you that opportunity.

MR. KLEIN (spoke from the audience): Respectfully Chair we decline.

CHAIR MATEO: And please identify yourself, please.

MR. KLEIN: My name is Robert Klein, representing the developer.

CHAIR MATEO: Thank you very much. Members, Mr. Klein representing the developer has decided to decline responding to questions. Thank you very much. Members, at this time we do have a motion on the floor. The Chair will call for the question. All those in fav..., I'm sorry. Ms. Johnson, go ahead.

COUNCILMEMBER JOHNSON: Did we have to close public testimony?

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CHAIR MATEO: We already did.

COUNCILMEMBER JOHNSON: Oh, we already did. Oh, okay. I wasn't sure.

CHAIR MATEO: No problem. Thank you very much. Members, all those in favor of the motion signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR MATEO: Opposed?

VOTE: AYES: Councilmember, Baisa, Johnson, Medeiros, Molina, Pontanilla, Victorino, Vice-Chair Hokama, and Chair Mateo.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Anderson.

MOTION CARRIED.

ACTION: Recommending ADOPTION of proposed resolution disapproving the appeal to the Residential Workforce Housing Policy for the proposed Kamaole Heights and Kamaole Plantation multi-family residential projects.

CHAIR MATEO: Members, thank you very much. This takes care of Committee business for this afternoon. I thank the Members for your attendance today. Are there any announcements?

VICE-CHAIR HOKAMA: Mr. Chairman.

COUNCILMEMBER PONTANILLA: Do we need to file the communication?

UNIDENTIFIED SPEAKER: Do we need to file it?

COUNCILMEMBER MOLINA: Does the motion include . . . would require filing?

POLICY COMMITTEE MINUTES
Council of the County of Maui

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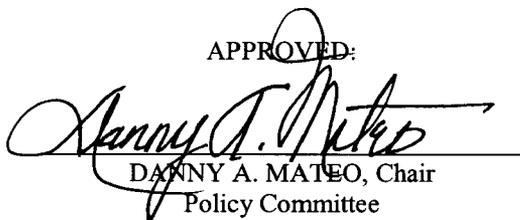
CHAIR MATEO: No.

COUNCILMEMBER MOLINA: Thank you.

CHAIR MATEO: Thank you. It's an umbrella item, yeah. Thank you. Members, with no questions, no more questions, no announcements, the Policy Committee meeting for July 24, 2007, is adjourned. . . .(gavel). . .

ADJOURN: 2:18 p.m.

APPROVED:



DANNY A. MATEO, Chair
Policy Committee

pol:min:070724:yb

Transcribed by: Yvette Bouthillier