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M I N U T E S  
LAND USE COMMITTEE  
Council of the County of Maui  
Council Chamber  
September 12, 2007

APPROVED:  
  
Committee Chair

1     **RECONVENE:** 1:33 p.m.

2

3     **PRESENT:** Councilmember Michael J. Molina, Chair  
4                   Councilmember Joseph Pontanilla, Vice-Chair  
5                   Councilmember Michelle Anderson, Member

6                                 (Arrive 2:20 p.m.)

7                   Councilmember Gladys C. Baisa, Member

8                                 (Leave 5:38 p.m.)

9                   Councilmember G. Riki Hokama, Member

10                                (Arrive 4:27 p.m.)

11                   Councilmember Jo Anne Johnson, Member

12                                (Arrive 2:23 p.m.)

13                   Councilmember Danny A. Mateo, Member

14                   Councilmember Michael P. Victorino, Member

15

16     **EXCUSED:** Councilmember Bill Kauakea Medeiros, Member

17

18     **STAFF:** Tammy M. Frias, Committee Secretary

19                   Carla M. Nakata, Legislative Attorney

20

21                   Morris Haole, Executive Assistant to

22                                 Councilmember Bill Kauakea Medeiros

23                   Stephanie Ohigashi, Executive Assistant to

24                                 Councilmember Michael P. Victorino

25

1 Jock Yamaguchi, Executive Assistant to  
2 Councilmember Michelle Anderson

3

4 **ADMIN.:** Clayton Yoshida, Planning Program  
5 Administrator, Current Planning  
6 Division, Department of Planning  
7 Vanessa Medeiros, Director, Department  
8 of Housing and Human Concerns  
9 Lori Tshako, Deputy Director,  
10 Department of Housing and Human  
11 Concerns

12 James A. Giroux, Deputy Corporation  
13 Counsel, Department of the  
14 Corporation Counsel

15

16 **OTHERS:** Charles Jencks, Owner's Representative,  
17 Honua`ula Partners, LLC  
18 Steven J. Goodfellow,  
19 Goodfellow Bros., Inc.  
20 Gwen Ohashi Hiraga, Principal,  
21 Munekiyo & Hiraga, Inc.  
22 (Applicant's entitlement consultant)  
23 Blaine J. Kobayashi, Esq.,  
24 Carlsmith Ball LLP  
25 (Applicant's attorney)

1 Kimokeo Kapahulehua  
 2 Shannon S. Guillermo  
 3 Additional attendees (10)  
 4

5 **PRESS:** Akaku--Maui County Community Television, Inc.  
 6 . . . . .

7 **ITEM NO. 38: CHANGE IN ZONING AND PROJECT DISTRICT**  
 8 **PHASE 1 APPROVAL FOR "HONUA`ULA/WAILEA**  
 9 **670" RESIDENTIAL DEVELOPMENT**  
 (C.C. No. 01-334)

10 CHAIR MOLINA: (Gavel). The recessed Land Use  
 11 Committee meeting of September 10th, 2007 is  
 12 now in session.

13 Members, it is 1:32. For the record, we  
 14 have in attendance Molina, Mateo, Baisa,  
 15 Johnson, Pontanilla, and Victorino. Because  
 16 our Policy Committee meeting overlapped today,  
 17 went a little long, Members, I'm going to give  
 18 you additional time to reenergize yourself for  
 19 a long day. So we will recess this meeting  
 20 until 2:15. 2:15, Members.

21 This meet is in recess. (Gavel).

22 **RECESS: 1:33 p.m.**

23 **RECONVENE: 2:20 p.m.**

24 CHAIR MOLINA: (Gavel). The recessed Land Use  
 25 Committee meeting of September 10th, 2007 is

1           now back in session. For the record, we have  
2           Members Mateo, Anderson, Baisa, Pontanilla,  
3           and Molina.

4                   Members, you've been handed a revised  
5           matrix, and what I would like to do, if  
6           there's no objections, I'd like to give you  
7           guys a few minutes to go over it, and we'll  
8           recess and I want you to come back and make  
9           any comments, and from there we will proceed.  
10          Okay?

11                   Any objections to proceeding in that  
12          manner? Member Anderson.

13   COUNCILMEMBER ANDERSON: Well, no objections. I  
14          just want to make sure that we understand what  
15          it is we're looking at.

16   CHAIR MOLINA: Yes, this is the matrix. It's the  
17          revised one that --

18   COUNCILMEMBER ANDERSON: That it's revised to  
19          reflect what, Mr. Chair?

20   CHAIR MOLINA: The comments that were made when we  
21          discussed all of the conditions from our first  
22          pass through. You'll find all the -- I guess  
23          the comments that were made in the comments  
24          section in the first column. Self  
25          explanatory.

1 COUNCILMEMBER ANDERSON: So is it self explanatory  
2 in those conditions that have not reached  
3 consensus?

4 CHAIR MOLINA: Yes, it should say.

5 COUNCILMEMBER ANDERSON: Thank you.

6 CHAIR MOLINA: So I want to give you guys some time  
7 to go over this, and then we'll come back. Is  
8 15 minutes sufficient time, Members?

9 COUNCILMEMBER ANDERSON: Yeah.

10 CHAIR MOLINA: Okay. All right, well, with that  
11 being said, I'll give you 17. All right, we  
12 shall recess this meeting until 2:40 to give  
13 you time to go over the matrix, the new matrix  
14 that's been given out with all of your  
15 comments from our prior discussions, and we  
16 have Member Johnson just joining us.

17 So meeting in recess until 2:40.

18 (Gavel).

19 **RECESS: 2:23 p.m.**

20 **RECONVENE: 2:40 p.m.**

21 CHAIR MOLINA: The reconvened -- shall I say  
22 recessed meeting of September 10th, 2007 Land  
23 Use Committee is now back in session. We're  
24 on LU-38.

25 Members, you have been given a few

1 minutes to review the revised matrix, and if  
2 you had taken note under the comments section,  
3 you will see what was discussed, at least  
4 according to what was recorded by Staff. So  
5 being that we have the Housing Director  
6 standing by -- I initially had wanted to  
7 proceed first with your comments on what's  
8 been documented thus far. I would prefer now  
9 instead let's hear the Housing Director, as it  
10 relates to Condition Number 5, which is on  
11 page -- page 4.

12 COUNCILMEMBER BAISA: Five.

13 CHAIR MOLINA: That will be page 5, yeah. Page 5,  
14 Condition 5, Maui Planning Commission  
15 Condition 5. So any objections to proceeding  
16 in that manner? I know Ms. Medeiros has a  
17 very tight schedule, so --

18 COUNCILMEMBER BAISA: No objections.

19 CHAIR MOLINA: -- I wanted to get a discussion on  
20 that particular condition. And, again, for  
21 the record, we have in attendance Members  
22 Molina, Mateo, Anderson, Baisa, Johnson, and  
23 Victorino.

24 Okay, Members, if you'll take note of  
25 the comments, if I could have Staff read the

1           comments as it related to Condition Number 5.

2   MS. NAKATA:   The status is that we discussed the  
3           condition on August 1st and August 8th.  On  
4           August 1st we discussed that Chapter 296 is  
5           silent regarding the -- regarding increasing  
6           the number of workforce units if they're built  
7           outside the project area, and that no  
8           consensus was reached on this condition.

9   CHAIR MOLINA:  Okay, thank you, very much,  
10           Ms. Nakata.

11                   So with that being said, Members, we  
12           have Director Medeiros here.  Questions for  
13           the Director as it relates to this proposed  
14           condition?  And of course the Applicant here,  
15           Mr. Jencks, is available to answer any of your  
16           questions as it relates to Condition 5.

17                   Mr. Mateo, are you able to ask a  
18           question at this time?

19   COUNCILMEMBER MATEO:  Chairman, I have no questions  
20           for the Director.  It's for Mr. Jencks that I  
21           will wait for.

22   CHAIR MOLINA:  Okay, Members, any questions for the  
23           Director?  I guess not at this time.  So I'll  
24           ask Member -- oh, we may have one here from  
25           Member Anderson.

1                   Member Anderson, question for the  
2                   Director?

3   COUNCILMEMBER ANDERSON: I'm just wondering if the  
4                   Director has had any discussions regarding an  
5                   agreement with the Wailea folks? It says an  
6                   agreement shall be executed between WPC and  
7                   the County of Maui stipulating terms and  
8                   conditions for the provision of housing prior  
9                   to approval of any ministerial permits by the  
10                  County of Maui.

11                  I think, Mr. Chair, that we need to  
12                  have -- we need -- we need to know as a  
13                  Council what they're discussing, what  
14                  direction they're heading in. I don't think  
15                  that this is something that we should leave to  
16                  the Administration after the -- after we've  
17                  already approved the project. I don't think  
18                  ministerial approval is soon enough.

19                  I think we all need to know going into  
20                  this and approving this project what the  
21                  conditions are going to be, what we're going  
22                  to get for the residents of the County, and  
23                  not leave it to after the fact.

24   CHAIR MOLINA: All right. Director Medeiros, are  
25                  you able to --

1 COUNCILMEMBER VICTORINO: Mr. Chair, point of order.

2 CHAIR MOLINA: Hang on.

3 COUNCILMEMBER VICTORINO: Am I wrong in saying

4 that --

5 CHAIR MOLINA: State your point.

6 COUNCILMEMBER VICTORINO: -- whenever things are

7 bracketed, that means they're taken out?

8 Could you look at --

9 CHAIR MOLINA: Can you cite specifically where

10 you're making your --

11 COUNCILMEMBER VICTORINO: What Ms. Anderson has just

12 stated, if you go all the way up to housing,

13 it's bracketed, provide -- then it says

14 bracketed housing, and then it's bracketed all

15 the way down to that point, and I think it's

16 been replaced with work house -- work housing

17 accordance with the Chapter 2.96. Am I

18 reading wrong or is --

19 CHAIR MOLINA: Okay, can you tell us what page

20 you're on?

21 COUNCILMEMBER VICTORINO: That one, number 5 on page

22 5.

23 CHAIR MOLINA: Which column?

24 COUNCILMEMBER VICTORINO: On column 3, I guess

25 column 4, Department of Planning, 727 draft.

1 CHAIR MOLINA: Typically a bracket would indicate --

2 COUNCILMEMBER VICTORINO: It was deleted, yeah,

3 so --

4 CHAIR MOLINA: And if it's underscored, that mean --

5 that means it's been added.

6 COUNCILMEMBER VICTORINO: No, it's not underscored.

7 It's been -- I think, now, I may be wrong, and

8 I apologize if I am wrong.

9 COUNCILMEMBER ANDERSON: No, no, you're right,

10 but -- if I may, Mr. Chair?

11 CHAIR MOLINA: Member Anderson.

12 COUNCILMEMBER ANDERSON: You know, we got a problem

13 here because we've got four columns of the

14 same condition written in various ways. And

15 according to the County Code, we're supposed

16 to be looking at the conditions from the

17 Planning Commission.

18 CHAIR MOLINA: That's correct.

19 COUNCILMEMBER ANDERSON: And so that's the condition

20 in column 1 that we're supposed to be working

21 off of.

22 CHAIR MOLINA: Yeah. I think the third column

23 condition is the one that was, I guess,

24 clarification from the Planning Department and

25 bracketing out the --

1 COUNCILMEMBER ANDERSON: Well, I mean, I don't know  
2 that the Planning Department has any authority  
3 to change the Planning Commission's  
4 conditions. They don't have that authority.  
5 So legally what we must be looking at is the  
6 Planning Commission's conditions, and then if  
7 we want to adopt the changes that the Planning  
8 Department has made, then that's our choice.  
9 And I respect Member Victorino for bringing up  
10 this different version, and I don't know  
11 that -- well, maybe Member Mateo should weigh  
12 in on what the condition in column 3 says,  
13 because I still feel like, you know, this is a  
14 large Project District, supposedly 20-year  
15 build out.

16 I think we need to have it tied up  
17 before we go in, you know, before we finalize  
18 this. I'm not comfortable letting the  
19 conditions be negotiated between the Applicant  
20 and the Department with the Council having  
21 really no oversight. I think we saw what  
22 happened this morning, and so I'd like to see  
23 it tightened up now. And if the Director  
24 could give us any indication as to whether or  
25 not they've even had any discussions with the

1           Applicant, I think that would be helpful in  
2           giving us some idea what direction they're  
3           going in, and if it's the -- if the Department  
4           has been involved in this proposal for 200  
5           units in the light industrial area in North  
6           Kihei.

7   CHAIR MOLINA:   Okay, thank you, Member Anderson.  
8           And we were about to do that, until a point of  
9           order was called by Mr. Victorino.   And,  
10          again, no consensus has been reached on the  
11          condition, and that's why we're discussing it  
12          right now.

13                 So if there's no other considerations,  
14          like to yield the floor to Director Medeiros.  
15          And, again, if you look at that third column,  
16          again, nothing has been finalized.   All the  
17          underscored language was put in, I believe, by  
18          the Planning Department based on the  
19          consideration of the housing policy that was  
20          enacted before -- you know, well after the  
21          condition that was proposed by the Maui  
22          Planning Commission.

23                 So, Director Medeiros.

24   MS. MEDEIROS:   Thank you.   I think I mentioned it  
25          before, and I'll basically mention it again

1           very simply that it is our Department's desire  
2           that this project should be subject to Chapter  
3           2.96, plain and simple.  Whatever Chapter 2.96  
4           says, if this project is approved, that's what  
5           they should follow.

6                     It would be premature to be discussing  
7           any type of affordable housing agreement prior  
8           to knowing whether the project is approved or  
9           not.  Any conditions that are put -- placed on  
10          the project with respect to these proceedings  
11          would have to be incorporated into any  
12          affordable housing agreement.

13 CHAIR MOLINA:  Member Anderson.

14 COUNCILMEMBER ANDERSON:  And so have you had any  
15          discussions regarding the 200 units off-site?

16 MS. MEDEIROS:  There's no discussion at this point.  
17          Again, it's all premature based on what ends  
18          up as part of this proceedings.

19 COUNCILMEMBER ANDERSON:  So you haven't had any  
20          discussions with them at all?

21 MS. MEDEIROS:  No.

22 COUNCILMEMBER ANDERSON:  Okay.  That's what I wanted  
23          to know.  Thank you, Chair.

24 CHAIR MOLINA:  Okay, thank you, Member Anderson.

25                     Member Johnson, questions for the

1 Director?

2 COUNCILMEMBER JOHNSON: Yes, thanks, Vanessa. My --  
3 I guess the meeting this morning is prompting  
4 this next question, because I know that our  
5 Residential Workforce Housing Policy with  
6 regard to the HUD guidelines -- now, we were  
7 talking about rentals in one aspect, not  
8 including utilities, not including maintenance  
9 fees, and then on the other hand HUD actually  
10 when they're doing their -- I guess their  
11 figures or they're putting out their little  
12 information sheets, they actually do include  
13 that.

14 Now, that was with regard to rental, but  
15 when I'm looking at a house for sale, and I  
16 know that we come up with the income level  
17 that would satisfy the HUD guidelines as far  
18 as homes that have to be produced for people  
19 within certain income categories, when you're  
20 doing your calculation for the actual house,  
21 you know, and the housing price, what is  
22 generally included in the for sale component?  
23 Does it include all of the, you know, like  
24 taxes and water and utilities and insurance  
25 and everything else? Is that all included, or

1 is it just the price for the house based on  
2 their income and then all the other stuff is  
3 added in?

4 CHAIR MOLINA: Director Medeiros?

5 MS. MEDEIROS: Again, you know, in the purchase of a  
6 home, you're purchasing a home or you're  
7 purchasing the property, or if it happens to  
8 be a condo, you're purchasing that portion of  
9 it. The inclusion of any type of utility is  
10 not part of the purchase of the home. That  
11 becomes your kuleana once you own the home.

12 In terms of -- you know, just sort of  
13 looking at the affordable sales price  
14 guidelines, which -- because we have  
15 voluminous pages of this. The affordable  
16 sales price guidelines -- and, again, it's  
17 based on the median income information that's  
18 produced by HUD, and then information is taken  
19 off of that based on the different categories,  
20 whether it's very low, low, below moderate,  
21 moderate, above moderate, et cetera, et  
22 cetera, et cetera, and then it's also based on  
23 number of bedrooms and it's based on interest  
24 rates.

25 The sales price information is based on

1           the median family income established by HUD,  
2           the number of years for a fixed-rate mortgage,  
3           which is typically 30 years, the percentage of  
4           gross monthly income for housing expenses,  
5           including principal and interest payment only,  
6           and that's 30 percent, and based on a  
7           percentage of purchase price down payment,  
8           which is 5 percent. So our figures that are  
9           in that chart are based on these assumptions.

10       COUNCILMEMBER JOHNSON: Okay. One of the -- one of  
11       the problems that I see cropping up, even  
12       though we're using HUD's guidelines with  
13       regard to the income level of the applicants  
14       for these mortgages or these homes, one of the  
15       things I think that is occurring is you have  
16       all these other additional expenses that are  
17       added on top of what your base mortgage is,  
18       including landscaping and all these other  
19       things, which may not be actually computed in  
20       the cost of doing a mortgage. Some of the  
21       homes are not even -- if it's, I guess, a  
22       package house it would include, you know,  
23       you're refrigerator, your stove, and all of  
24       those types of things, but I guess my concern  
25       is coming in that have we actually tested,

1 based on the real world, what a person who's  
2 making the HUD median income, what that person  
3 would actually be able to realistically afford  
4 when you add in all of those additional  
5 expenses?

6 Because I can tell you when I even look  
7 at some of the narrow parameters when people  
8 barely qualify for mortgages, sometimes just  
9 the add-ons like a car payment, it will bump  
10 them right out so they don't qualify for the  
11 loan. So I just want to find out in the real  
12 world, has your Department taken a look at all  
13 those add-ons and then come up and tested  
14 whether or not that home for purchase is  
15 really affordable to that family making that  
16 amount of money.

17 MS. MEDEIROS: No, we haven't looked at that. And  
18 part of the reason for that, too, is the  
19 numbers are not static. You know, the cost of  
20 maintenance for common areas or association  
21 fees are different depending on which  
22 subdivision you go to and what the criteria  
23 is. So it's difficult to try and factor those  
24 costs in across the board, because it's not a  
25 static amount. It varies. So -- and then

1 going back to the other question about, you  
2 know, again, real world and what the real  
3 person can actually afford, again, using the  
4 HUD median guidelines is probably the most  
5 simple and practical because we can get that  
6 information very quickly.

7 If it is a desire to look at Maui  
8 County's real world, it would take an  
9 extensive assessment and research to determine  
10 what the true median income is for Maui County  
11 and then do all of those calculations, and I  
12 can't at this point even determine how long it  
13 would take us to get that assessment done.

14 COUNCILMEMBER JOHNSON: Yeah, and I'm just -- I'm  
15 looking at this very simplistically. If you  
16 took an applicant let's say from Mr. -- just  
17 take Mr. Spencer's project, for example, and  
18 you calculate out -- and I'm sure some of the  
19 mortgage lenders have already gone through  
20 this exercise. When they go to fill out their  
21 papers or their application to apply for a  
22 mortgage, they have all these lists of what  
23 the expenses are, and that's all I'm looking  
24 at. Because I just want to know  
25 realistically, even when you look at somebody

1           who is making 75, 85, 95,000 dollars a year,  
2           what is their take home? You know, at the end  
3           of the day, what do they really have in terms  
4           of expendable capital, and then just even do a  
5           conservative estimate?

6                        That's all I'm looking for, because I  
7           personally would like to -- and I suppose, you  
8           know, working a little while with one of the  
9           mortgage brokers I might be able to do this,  
10          but if you have somebody that's actually gone  
11          through the experience, like with your  
12          first-time home buyers or Lokahi's experience,  
13          just what are we looking at? Because I hate  
14          to think that our policy, even using the HUD  
15          guidelines, is not workable. Because from  
16          what we heard at the meeting on Monday  
17          evening, it seems like our affordable housing  
18          policy, at least in terms of its practical  
19          applicability, is not even realistic to most  
20          of the people who were in attendance.

21   MS. MEDEIROS: I think, just to add a little bit  
22          on -- again, when people are qualifying for  
23          mortgages, there's generally two percentages  
24          that are looked at. Number one is the  
25          percentage of your income, again, in terms of

1           affordability of the property that you want to  
2           purchase, and then mortgages tend to also look  
3           at not only your income, but they look at your  
4           debts, what -- besides the mortgage payment,  
5           what other debts do you have. And there is a  
6           percentage, and it varies a little bit. It  
7           can run from, I believe, like 38 percent up to  
8           41 percent for different types of loans. And  
9           that 41 percent would represent your total  
10          household expenses. And this supposedly  
11          incorporates, you know, the gas, the electric,  
12          the telephone, you know, and it should also  
13          incorporate if there's any maintenance fees  
14          for the subdivision that you're in.

15                        So there is a percentage that's  
16          generally used in terms of qualifying for  
17          mortgages, but, you know, we can certainly  
18          look to see if we can put together some real  
19          world figures. You know, I don't know if it's  
20          actually out there, but just understanding  
21          that there's a lot of variability in what may  
22          be going on.

23   COUNCILMEMBER JOHNSON: Yeah, and, Mr. Chair, I  
24          think, from my perspective anyway, having  
25          heard the testimony we did on Monday evening,

1           and then also with what we went through this  
2           morning, we're looking at this as the Council  
3           in kind of a simplistic way, and yet from what  
4           we're gathering from the people that are  
5           actually trying to qualify, first of all, to  
6           purchase the housing and then to actually meet  
7           the monthly obligations and expenses so they  
8           would not have to go into foreclosure, that's  
9           where I think we have to check our policy  
10          against the workability and, I guess, what's  
11          out there, what kind of expenses are we  
12          looking at. Because maybe what we're looking  
13          at is different from what the person can  
14          actually purchase. Because if you're looking  
15          at -- I guess the rule of thumb is 30 percent,  
16          that's what you should be expending no more  
17          than that on your monthly rental, maybe a  
18          little bit more for a mortgage, but from what  
19          I'm hearing, it's -- it's not happening.

20                    So that's why I know it's kind of  
21          difficult, Ms. Medeiros, to give me a pat  
22          answer, because it's going to be varied  
23          depending on each person's situation, but I  
24          really would -- even if there's just some  
25          examples that Lokahi has where you, you know,

1 take off the identifying information, I just  
2 would like to know that. Because this  
3 component is really going to be very  
4 important, I think, to me personally when I  
5 look at is what we're doing workable. Thank  
6 you.

7 CHAIR MOLINA: Okay, thank you, Member Johnson.

8 Members, any other questions for the  
9 Director before I call up the Applicant?  
10 Mr. Pontanilla.

11 VICE-CHAIR PONTANILLA: Thank you. If the Director  
12 is going to find out information in regards to  
13 qualifications, if she could expand that. I  
14 understand that especially the Spencer  
15 project, that there are a lot of people that  
16 signed up for the project, a lot of people  
17 that had gone for pre-approval, and when the  
18 time came for selection, those that were  
19 pre-approved all of a sudden couldn't meet the  
20 financial obligations so they were taken off  
21 the list.

22 And basically, you know, what Member  
23 Johnson had mentioned, you know, pre-approved,  
24 I go out and buy one car, you know, I  
25 started -- you know, I start to make -- start

1 to -- increasing my debts after at  
2 pre-approval.

3 CHAIR MOLINA: Director, do you have any comments?

4 MS. MEDEIROS: No. I mean, exactly what he's saying  
5 is correct. One of the challenges is too many  
6 people want the big cars with the big tires,  
7 and, you know, that immediately knocks them  
8 off -- I see a lot of new homeowners, new  
9 homes that we pass by, and I always get very  
10 concerned when I see a new home and I see two  
11 brand new cars in there, and I wonder if, you  
12 know, they're going to make it. And  
13 realistically, from a financial perspective,  
14 you know, why would you, you know, pay for a  
15 car for 30 years because you incorporate it as  
16 part of your loan? It doesn't make  
17 any financial sense, because long after that  
18 car is dead and gone, you're still paying for  
19 it. But, you know, what has happened in,  
20 again, the real world is that the ability to  
21 make mortgages and to refinance is touted so  
22 highly that a lot of people are getting in way  
23 over their heads, and we may start to see a  
24 drop, you know, in this -- in next year, we'll  
25 start to see some real crunches in the credit,

1           and, you know, we may be headed towards some  
2           potential foreclosures.

3 CHAIR MOLINA:   Okay, thank you for your comments.

4           Member Baisa?

5 COUNCILMEMBER BAISA:   Yes, Chair.   I remember a  
6           conversation that we had in here a while back,  
7           and it was brought up by Member Victorino, and  
8           I think he hit the nail on the head, and that  
9           was talking about credit counseling, which I  
10          think is a real issue.   Because if you go to  
11          the bank -- and I happen to be very closely  
12          allied with a couple that just bought a  
13          brand-new home, and, you know, people look at  
14          their income and they look at a chart and they  
15          say, okay, well, you qualify.   Well, I think  
16          that's what's happening throughout the nation,  
17          and we're seeing these foreclosures and  
18          things, is that we're doing creative financing  
19          to help people qualify, although they're not  
20          really ready.

21                 Those of us who have bought homes and  
22          have suffered to pay for them, like I did for  
23          over 30 years, know that once you buy a house,  
24          you don't only pay the mortgage.   You know,  
25          now we want carpets and we want drapes and we

1           want better furniture and we want -- and the  
2           maintenance becomes an issue. And if you buy  
3           a new home nowadays, you're getting involved  
4           in having to take care of a yard, and then you  
5           want a storage building and on and on into the  
6           night. We know how this is.

7                        But I don't think often that is looked  
8           at, and it goes back to your basic education  
9           about credit, handling your money, and not  
10          buying the big car with the big tires when,  
11          you know, something smaller or secondhand,  
12          maybe a rental car would work for you to get  
13          back and forth to work, and just your general  
14          knowledge of money.

15                       And so I like our first-time home buyers  
16          education program. I think that it should  
17          almost be made a requirement, that anybody,  
18          you know, who is in a situation where they're  
19          kind of needing special attention because of  
20          their financial status to qualify for a home,  
21          definitely should be required to do that. And  
22          we're part of waiting for a home in Hawaiian  
23          Homes, and they stress it big time. And I  
24          know that Director Medeiros has been involved  
25          in teaching home buyers and requiring that

1 people that are going to go into Hawaiian  
2 Homes, to go through all this credit  
3 counseling, first time home buying, so that  
4 they will minimize having to, you know, have a  
5 foreclosure later on.

6 And I think that's where we have to put  
7 a lot of attention, and we might even make it  
8 a requirement, that in order for you to  
9 qualify for this affordable housing, that you  
10 have to, you know, have this background;  
11 otherwise, we're going to run into trouble.  
12 Because it's not a simple matter of qualifying  
13 for a mortgage. It's being able to pay that  
14 payment every month for the next 30 years.

15 CHAIR MOLINA: Thank you, Member Baisa.

16 Mr. Victorino?

17 COUNCILMEMBER VICTORINO: Thank you, Mr. Chair, and  
18 to echo the same sentiments, they're different  
19 generations. We're in the 21st century.  
20 We're taught differently. Member Baisa has  
21 said many times, I don't buy unless I have the  
22 money to pay for it. Right?

23 COUNCILMEMBER BAISA: Just economics.

24 COUNCILMEMBER VICTORINO: That's economics. We have  
25 a different generation. My own family -- and

1 I know this from practical experience -- has  
2 done just what you said, bought a vehicle and  
3 put it on the mortgage. When I found that  
4 out -- I found that out, I was very livid  
5 about it, but they don't understand the  
6 profound effect in the overall scheme of  
7 things, the long term.

8 The other thing we've seen a real  
9 degradation, even worse than our reefs, is  
10 savings. Our young people don't even save  
11 today. Ask any banker. This is very, very  
12 crucial because if you don't have the money on  
13 that rainy day when it really needs to be  
14 there, they're going to be in big trouble. We  
15 can set all the policies -- and I will be the  
16 first to say the working people need to be  
17 protected. We need to get housing for them.  
18 We need to get them affordable. We need to  
19 make sure that they can buy them or rent them.  
20 But when it comes to doing things afterwards,  
21 everyone in this room will tell you, and drive  
22 down -- Jessie Spencer's homes right now, I  
23 agree, it's almost all brand-new cars parked  
24 outside. I can hardly afford a new car, but  
25 that's the way this generation thinks.

1           So I warn them. What we do here can  
2           help them, but if they don't know how to help  
3           themselves, Mr. Chair, they're setting  
4           themselves up to fail. More importantly, we  
5           have developers who have come forth, who are  
6           trying their best, and we keep putting more  
7           and more conditions to make it better for  
8           them. I hope they understand that we can only  
9           do so much and the ball falls back in their  
10          park, in their court, and if they don't do it  
11          right, they'll still end up to where they may  
12          never be able to own a home because they've  
13          never taken the time to learn how to own a  
14          home, not just have affordable homes for them.

15                 Thank you, Mr. Chair.

16 CHAIR MOLINA: Thank you, Mr. Victorino. Words --  
17                 excellent words of wisdom from our kupuna in  
18                 regards to --

19 COUNCILMEMBER VICTORINO: Thank you.

20 CHAIR MOLINA: -- planning for the future through  
21                 saving. You know, as I'm listening to this  
22                 conversation, I'm analogizing the purchase of  
23                 a home with raising a son or a daughter. It's  
24                 not just about clothing and feeding and  
25                 providing shelter. There's all the

1           incidentals that you have to consider along  
2           the way.

3                        So we shall segue now with -- Member  
4           Anderson, question for the Director?

5   COUNCILMEMBER ANDERSON:   Yes, please.

6   CHAIR MOLINA:   Okay, proceed.

7   COUNCILMEMBER ANDERSON:   Thank you.  I'm trying to  
8           find a place in our ordinance that talks about  
9           selection.  Here we go.  Selection.  Is there  
10          any oversight by the County in the selection  
11          process?

12   CHAIR MOLINA:   Director.

13   MS. MEDEIROS:   What do you mean by selection  
14          process?  Selection for what?

15   COUNCILMEMBER ANDERSON:   For the affordable housing.

16   MS. MEDEIROS:   I believe that the ordinance clearly  
17          states that it is the developer who is  
18          responsible for creating the wait list, and  
19          they are responsible for all of that process.

20   COUNCILMEMBER ANDERSON:   Right.  And so you folks  
21          don't over -- have any oversight at all?

22   MS. MEDEIROS:   There's no provisions in the  
23          ordinance that requires us to monitor any of  
24          that.  I believe, however, the developer is  
25          required to provide reports to us.

1 COUNCILMEMBER ANDERSON: You know, we've heard too  
2 many examples lately, Mr. Chairman, of where  
3 the selection process is not being handled in  
4 a fair manner. And I just feel like the  
5 Department should have some oversight, at  
6 least, you know, the requirement that the  
7 list -- there's a wait list and then they have  
8 to check for eligibility, but it just seems to  
9 me that *(end of tape)* the developer, it just  
10 opens up so many opportunities for you come  
11 support my project and I'll make sure you get  
12 a house. And we've heard that already, not to  
13 mention people who have submitted an  
14 application, they qualified, they were high on  
15 the list when they first submitted their  
16 application, and then they show up a week  
17 later and all of a sudden they're at the  
18 bottom of the list and they no longer are  
19 eligible because there's not enough houses to  
20 go around.

21 We also heard about the people who have  
22 applied and the developer is telling them they  
23 have to use a certain mortgage company. The  
24 mortgage company withholds approval and the  
25 90-day time limit comes in before they get an

1 approval, and then the developer is able to  
2 sell the house at a higher price. And whether  
3 or not the person is approved for the mortgage  
4 doesn't matter anymore because they no longer  
5 qualify because it's out of their price range.

6 So, I mean, we can sit here and, you  
7 know, make all these great conditions for  
8 affordable housing, but if we don't have any  
9 control over how the selection process is run,  
10 then, you know -- you know, we're leaving it  
11 open for favoritism and fraud, and people will  
12 take advantage of it. We've heard too often  
13 in the last several months of instances of  
14 that happening, and I just think we need some  
15 control in place.

16 And, you know, I believe that the  
17 Department could develop some internal policy  
18 or even some regulations to further implement  
19 this that would help in that regard, but I  
20 just -- I just don't like the idea that  
21 there's no oversight by the County, because  
22 without that oversight -- you know, I had  
23 complaints that someone at Jessie Spencer's  
24 project, she qualified, she got all the way to  
25 an interview with Mr. Spencer, and then was

1 told because she wasn't married, that she  
2 didn't qualify. You know, how are you going  
3 to afford this because you're not married and  
4 you have three kids? Well, my boyfriend is  
5 going to help me with the payments. Your  
6 boyfriend lives with you? Yeah. Well, why  
7 don't you get married? Well, we're not ready  
8 to get married yet. And all of a sudden she  
9 didn't qualify anymore.

10 You know, and it really rubs me the  
11 wrong way, because single mothers -- and, you  
12 know, think about it, more than 50 percent of  
13 all marriages end in divorce, and that means  
14 50 percent of our families out there are  
15 headed by a single mother. And they deserve  
16 to have a home probably more than anybody, and  
17 they're being singled out and left behind.

18 You know, I've heard of other instances,  
19 well, I really prefer to sell these houses to  
20 first members of my church or employees of my  
21 company. You know, I mean, what are we doing?  
22 We're setting up a policy here to help the  
23 people, you know, on an equal basis hopefully,  
24 but it's not being implemented equally. And,  
25 you know, I think we need some kind of

1 control.

2 So it says that the selection for  
3 purchase shall be made by a lottery  
4 administered by the developer, its partner, or  
5 its management company and overseen by the  
6 Department. So you're supposed to be  
7 overseeing it.

8 MS. MEDEIROS: That's only the lottery.

9 COUNCILMEMBER ANDERSON: Well, that's part of the  
10 selection process that I'm talking about.  
11 Maybe we need to have -- well, I'm just going  
12 to leave it at that for now, Mr. Chairman.

13 The other thing I wanted to know was,  
14 you know, you gave -- you gave us -- shoots, I  
15 wish I had my stuff from this morning. Have  
16 you -- have you guys established any kind of  
17 standard for the minimum square footage for  
18 rental -- for anything at a hundred percent  
19 and below?

20 CHAIR MOLINA: Director?

21 COUNCILMEMBER ANDERSON: I know you've got one  
22 bedroom, two bedroom, but are you attaching  
23 that to any size square footage?

24 MS. MEDEIROS: I believe that size is not part of  
25 our jurisdiction to determine.

1 COUNCILMEMBER ANDERSON: So if you -- well, you  
2 know, a little common sense goes a long way.  
3 If someone comes in and says they want to do a  
4 one-bedroom, you know, 350 square foot unit at  
5 one bedroom, that's okay with you?

6 MS. MEDEIROS: Well, again, determination of size is  
7 governed by building code, so they would have  
8 to be looking at building code and building  
9 permitting process first to determine whether  
10 or not that size would be acceptable.

11 COUNCILMEMBER ANDERSON: Well, you know, it would be  
12 helpful if you could give us, you know, let's  
13 just say based on building code. Because,  
14 yeah, building code is good, as long as it's  
15 not a 201G or a 201H, rather, because we had a  
16 201H come in here and they -- they got  
17 exemptions from the building code, which I  
18 don't understand how they got away with that,  
19 but that was before we could amend anything,  
20 and the bedroom, you know, was just big enough  
21 for a bed. No dresser, no nothing, a bed.

22 So I'm just wondering if there's any --  
23 any way that you could put together for us,  
24 Ms. Director, a matrix showing, you know, what  
25 the square footage. You know, I mean, the

1           only thing in the building code is for -- I  
2           think for bedrooms. It doesn't have a minimum  
3           size for a kitchen, a minimum size for a  
4           living room. It's just the bedrooms.

5 MS. MEDEIROS: Again, you know, we certainly would  
6           love to help you with this, but this is not an  
7           area that we're specialized in, and this is  
8           certainly something that should be asked of  
9           Public Works with respect to their Plans  
10          Review section, because that is their area of  
11          expertise.

12 COUNCILMEMBER ANDERSON: But you're the one that  
13          meets with the developer and formulates an  
14          agreement, and so there should be some minimum  
15          standard that is out there for everyone to  
16          follow, rather than just saying go talk to  
17          Public Works. I mean, maybe that's something  
18          that we need to amend into the housing  
19          ordinance. Because I think we need some  
20          consistency, Mr. Chairman.

21                 You know, how fair is it for one  
22          developer to do, you know, say, a one-bedroom  
23          unit at 350 square feet for 80 percent income  
24          and then someone else to do 450 or 500 square  
25          feet? There's not any equity there, and we're

1           going to have problems with that down the road  
2           unless there's a standard set.  And I  
3           certainly think you have the authority to set  
4           a standard, Madam Director, because it's your  
5           responsibility to meet with the developer and  
6           work out an agreement for anything under 100  
7           percent income.

8                        So then the only thing -- my last  
9           question, Mr. Chair, for the Director is the  
10          only thing you guys have oversight on, then,  
11          is the lottery itself, is that correct, in the  
12          selection process?

13  MS. MEDEIROS:  Yes.

14  COUNCILMEMBER ANDERSON:  And so what do you do in  
15          that oversight?

16  MS. MEDEIROS:  I would presume, then, we would stand  
17          there during the lottery and listen to them  
18          call the names out to make sure the names are  
19          called in proper order.

20  COUNCILMEMBER ANDERSON:  But you don't have any  
21          oversight as to the -- who gets on the wait  
22          list and -- well, I guess that takes care of  
23          it, if it's all done by lottery.

24                        Okay, thank you, Chair.

25                        Thank you, Madam Director.

1 CHAIR MOLINA: Thank you, Member Anderson.

2 Mr. Pontanilla? Oh, hang on,

3 Mr. Pontanilla, before I recognize you, just a  
4 quick follow-up to Member Anderson's question.

5 Madam Director, or maybe Mr. Giroux, if  
6 you could answer this, if you happen to be on  
7 a waiting list for a project that was approved  
8 by the County for an affordable unit and you  
9 feel that there's been some injustice done to  
10 you in terms of, you know, you were suddenly  
11 disqualified or you moved down the list, who  
12 would you see besides the County? Are there  
13 other agencies to file a complaint or a  
14 concern even if the project was not -- for  
15 example, if the project is not federally  
16 funded or State funded, it's privately funded,  
17 is it generally the County first?

18 MS. MEDEIROS: Primarily any complaints with respect  
19 to housing would go to the Fair Housing  
20 Officer, which we do have an officer for the  
21 County of Maui, and any complaints that come  
22 in would have to be investigated. People can  
23 also call the HUD office directly, because  
24 they have a Fair Housing Officer there.

25 CHAIR MOLINA: Okay, thank you. Mr. Pontanilla.

1 VICE-CHAIR PONTANILLA: Thank you. Since the  
2 Director came from Department of Hawaiian  
3 Homelands, I know Department of Hawaiian  
4 Homelands, they do have a lottery system. In  
5 the lottery system they put all the names into  
6 a basket of some kind and they just draw. In  
7 our housing policy, I'm hoping it's done the  
8 same. You know, you have all the people  
9 gather at one place and you just draw names.  
10 Can you explain the Hawaiian Homelands  
11 process?

12 CHAIR MOLINA: Madam Director.

13 MS. MEDEIROS: To the best of my ability, to be  
14 honest with you, the concept that you just put  
15 together a bunch of names and you just draw is  
16 not real. What happens is you do have people  
17 on a wait list. They are on the wait list in  
18 order of their application date. When a new  
19 project is -- or development is coming up,  
20 they will send notices to everybody. They  
21 will do an information meeting. They will  
22 advise them of the project, and each person on  
23 the wait list will be provided with a form in  
24 which they have to indicate whether or not  
25 they're interested in that -- that

1 development. That's usually a first step.

2 All those who are not interested is now  
3 taken off that list. Now you start to work  
4 with a sub list. If it's a -- if it's lease  
5 awards, specifically for vacant lots, then  
6 whatever your sub list is you start from there  
7 from number one, work your way down. If it is  
8 a development in which there will be house  
9 packages, then there's a qualifying  
10 requirement. And so the families would have  
11 to complete financial information,  
12 pre-approval requirements, and, therefore, all  
13 of those who meet the requirements now move on  
14 to the next sub list, and that would be the  
15 final sub list. So in reality you could have,  
16 you know, someone who is number 20 on the wait  
17 list in your sub list actually be number one  
18 because they sort of moved over the hurdles  
19 and they suddenly become number one.

20 But it is a very strict and restrictive  
21 process. It is highly monitored by the  
22 Department. The lottery process itself is not  
23 necessarily done by the Department itself,  
24 because they contract that work out.

25 VICE-CHAIR PONTANILLA: Thank you.

1 CHAIR MOLINA: Thank you, Mr. Pontanilla.

2 VICE-CHAIR PONTANILLA: Do you see the Department in  
3 doing something similar to this with the  
4 management company?

5 MS. MEDEIROS: Part of the problem is that we don't  
6 control the list, so, again, we could stand  
7 there and we could watch a lottery process and  
8 we could determine that, yes, you pick names  
9 out of a basket and you've created this list,  
10 but you have no control over the list.

11 Now, the alternative, and, again, only  
12 if it's legislated, would be to require a  
13 central list for all affordable developments,  
14 and not only -- I'm afraid to even suggest  
15 that because the County did have a list many,  
16 many years ago and the list eventually died  
17 because affordable housing died. It is  
18 possible. It could be done. It will create  
19 quite a bit of additional work and we would  
20 either have to restructure our Housing  
21 Division to bring on additional people to  
22 handle that, and it would be structured very  
23 similar to what Hawaiian Homelands has in  
24 their departments, and/or the list would be  
25 controlled internally by the County and you

1           could, again, contract out, when it comes to  
2           projects, the processing.

3 VICE-CHAIR PONTANILLA: Thank you. Thank you,  
4           Chair.

5 CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla.  
6           Member Anderson?

7 COUNCILMEMBER ANDERSON: I like that idea. You  
8           know, when you want to talk about fairness, I  
9           think you have to have the government involved  
10          because the government knows what the Fair  
11          Housing Act says and they follow it. And I  
12          know that it's up on their website, and, you  
13          know, after an experience that we had, with  
14          someone who was denied a house because they  
15          weren't married, I like the idea of having  
16          government control the wait list and have a  
17          central list. And then when a project comes  
18          forward, you know, it would be a matter of  
19          calling, I don't know -- we'd have to work it  
20          out. But it wouldn't mean that everybody  
21          would go into the lottery, because if somebody  
22          is on a wait list and they want to live in  
23          West Maui, they wouldn't necessarily want to  
24          be in the lottery for something in South Maui.  
25          So maybe when the wait list is created,

1           you could put it under different categories.  
2           You know, I want to be on the wait list for  
3           South Maui and for Central Maui but not for  
4           West Maui, and that way, you know, people  
5           don't have to worry about, you know, rushing  
6           and meeting a deadline to get on this wait  
7           list or this wait list. You know what I mean?  
8           Just one central list, and I don't know, you  
9           know, how hard that is to do, but I think that  
10          that's really the fair way to go about it.

11                   And then the other -- you know, you get  
12          on the wait list and then you have to qualify,  
13          and that's where I'm concerned is people  
14          not -- people getting bumped off for not  
15          qualifying, you know, in a certain time frame.  
16          But I guess that's for another time and  
17          discussion, Mr. Chairman, but I do like the  
18          suggestion.

19   CHAIR MOLINA:   Okay, thank you, Member Anderson. I  
20                   think we had some very good in-depth  
21                   discussion on a real interesting and serious  
22                   matter.

23                   So, now, Members, I'd like to give the  
24                   applicant an opportunity to respond to your  
25                   questions.

1           Mr. Jencks, thank you for waiting so  
2           patiently. I guess I'll ask the first  
3           question before I turn it over to Mr. Mateo,  
4           just a brief question. At Monday night's  
5           hearing, we heard a lot of comments about the  
6           affordability or the price of the homes. Can  
7           you just state for the record what are the  
8           price ranges we're looking at for the proposed  
9           affordable units?

10       MR. JENCKS: Certainly, Mr. Chair, and thank you for  
11       asking me to come down. If you have in front  
12       of you the Residential Workforce Housing  
13       Ordinance that was passed by this Council last  
14       year, and you look to page 9, or maybe I'll  
15       just reference Section 2.96.060 of that  
16       ordinance, Section E, "Sales Price - Single  
17       Family Dwelling Units." On page 9 you'll see  
18       numbers 3, 4, 5, and 6 at the top of the page.  
19       This section of this agreement addresses the  
20       price at which we can sell a single-family  
21       dwelling based upon the number of bedrooms.

22                I've got a -- I was anticipating this  
23       question, Mr. Chair, and I brought a chart.  
24       This is the chart -- the HUD chart -- the 2007  
25       chart that's used by Ms. Medeiros's Division.

1           It's for Maui with 100 percent median income  
2           of 69,900. And I'd like to pass this out and  
3           reference this with regard to the answer to  
4           your question, if you don't mind.

5 CHAIR MOLINA: Okay. We'll have Staff assist you to  
6           pass this out.

7 MR. JENCKS: This chart, Mr. Chair, provides  
8           information relative to housing prices  
9           relative to a specific interest rate. The  
10          left-hand column, top to bottom, has interest  
11          rates from 5.375 percent to 6.625 percent. So  
12          we're -- you know, I would say we're in the  
13          realm of reasonableness with regard to a  
14          prevailing interest rate for mortgages today,  
15          and I've used the 6 percent range. I think  
16          that's kind of where we are in the market. If  
17          the interest rate, I might add, goes up, the  
18          housing prices go down, okay, because we have  
19          to respond to whatever the interest rate is at  
20          the time.

21                 You will note in the -- in the ordinance  
22                 it says that the price of a one-bedroom unit  
23                 shall be based upon 70 percent of the median  
24                 income of the wait list area adjusted to the  
25                 respective target income group.

1                   Now, as I read that statement, and you  
2                   look at this chart, you go to the 70 percent  
3                   column, across the top, low income in yellow,  
4                   70 percent, the low income at 70 percent is  
5                   \$48,930. With me so far, everybody?

6 COUNCIL MEMBERS: Uh-huh.

7 MR. JENCKS: Move your finger down that column to  
8                   the 6 percent column on the left-hand side. A  
9                   one-bedroom home at 6 percent interest rate at  
10                  70 percent of the sales price, as I read this  
11                  ordinance, has to sell for \$150,360. That's  
12                  how I read the ordinance and that's how I read  
13                  this chart.

14                  Now, if I may, go to number 4 in the  
15                  ordinance. The price of a two-bedroom unit,  
16                  goes on, is at 85 percent of the median.  
17                  There is no 85 percent chart here. It goes  
18                  from 80 to 90, but move your finger to the  
19                  right, go to the 90 percent bracket, which  
20                  would be the conservative value at 6 percent,  
21                  a two-bedroom, \$193,270. Everybody with me so  
22                  far?

23 COUNCIL MEMBERS: Yeah.

24 MR. JENCKS: Number 5, the three-bedroom unit, 100  
25                  percent. So go to the 100 percent column,

1           which is 69,900, which is the County median,  
2           at 100 percent, 6 percent, for a  
3           three-bedroom, is \$306,800. Then last but not  
4           least a four-bedroom unit can be priced at 115  
5           percent of the median. And there is no 115,  
6           but I went to 120 percent, a four-bedroom,  
7           \$423,430.

8                        So, Mr. Chair, in direct answer to your  
9           question, if I read this ordinance correctly,  
10          and someone correct me if I'm wrong, based  
11          upon this chart, which is what Ms. Medeiros is  
12          using in her Department, those are the sales  
13          prices for a single-family one-, two-, three-,  
14          and four-bedroom home at a 6 percent interest  
15          rate based upon the 70, 85, 100, and 115  
16          percent of the County median.

17 CHAIR MOLINA: Thank you, Mr. Jencks, for that very  
18                in-depth response.

19                        Mr. Mateo.

20 MR. JENCKS: You're welcome.

21 COUNCILMEMBER MATEO: Chairman, thank you very much,  
22           and I'm glad you asked that question, because  
23           I was -- I included that with comments that  
24           would, again, reference Monday's meeting,  
25           because I believe the terms that -- the term

1           that was used to describe what they had  
2           perceived as costs for the affordables, I  
3           think the word was delusional. So I think we  
4           kind of now have a better understanding and  
5           got part of the smoke away from that  
6           particular caricature of what affordable is.

7                     Mr. Jencks, I wanted to just ask you an  
8           outright question, because as a developer you  
9           know that this County's Residential Workforce  
10          Housing Policy had been challenged via  
11          lawsuit, and because it is in court we really  
12          don't know at this point what the outcome is  
13          going to be. They don't know. It's going to  
14          be okay, but they don't know.

15                    I wanted to ask you, because you're  
16          moving forward with your project now, your  
17          commitment in abiding by this -- this policy  
18          as your project goes through this process that  
19          we're doing now.

20   MR. JENCKS: If I may, Mr. Chair.

21   CHAIR MOLINA: Mr. Jencks.

22   MR. JENCKS: You know, those of us in the  
23          development community get a lot of email, and  
24          the lawsuit was sent out to a lot of different  
25          people for everybody to look at. I'm going to

1 tell you today I didn't read that lawsuit. I  
2 don't want to read the lawsuit. I just don't  
3 want to know what it has to say.

4 In direct answer to your question,  
5 Mr. Mateo, we came into this process six years  
6 ago, and when I came on board -- and I don't  
7 really care what went on with the Planning  
8 Commission in 2000. I don't really care what  
9 was said ten years ago. I said we would build  
10 whatever the Council needs us to build for  
11 affordable housing.

12 And we've watched the percentage  
13 increase over time, whether it's County policy  
14 or this ordinance that was passed. We have an  
15 ordinance in front of us today. I said to you  
16 in this Chamber that we would abide by that  
17 bill. I'm going to tell you today that this  
18 project will abide by that bill, what it says  
19 today. We will build 50 percent affordable  
20 housing irrespective of what happens with the  
21 lawsuit.

22 COUNCILMEMBER MATEO: Thank you very much for that  
23 clarification, Mr. Jencks.

24 Throughout the last number of evenings  
25 with testimony, we've heard over and over

1           again the reference of the 250 units that was  
2           proposed to be built off-site. Will you  
3           consider relocating that 250 off-site units to  
4           be put back on-site?

5 MR. JENCKS: Mr. Chair, if I may?

6 CHAIR MOLINA: Mr. Jencks.

7 MR. JENCKS: I said in this Chamber that we would  
8           abide by this bill. This bill says you can  
9           build them in the Kihei-Makena Community Plan  
10          District. What I heard at the meeting was a  
11          lot of invective, inaccurate statements about  
12          the purpose and the intent of those affordable  
13          units. I want to make it real clear on the  
14          record here today the reason why we proposed  
15          that project was, A -- and maybe the  
16          Director -- she will agree with me, I'm not  
17          sure, but I would say to you today in Maui  
18          County there's a -- there's a need for  
19          affordable rentals in this County. We own the  
20          land. We have the land under our control.  
21          We're in the process for civil improvements  
22          and approval. The idea was to build product  
23          now. Instead of in 670, three years down the  
24          road when I could actually put a shovel in the  
25          ground, build product that could address a

1           need.

2                       We did not have the intent, never even  
3           thought about the idea of segregating people,  
4           putting the poor people in North Kihei.  
5           There's a need for policemen, firemen,  
6           teachers to have an apartment they can afford.  
7           This ordinance calls -- I think it's 60  
8           percent, okay. The intent was to get  
9           something done early, get it underway to  
10          address a need, pure and simple. If this  
11          Council wants everything built in the project,  
12          that's fine, but the bill says anywhere in the  
13          Community Plan District. We said, gee, we've  
14          got the land. Here's an opportunity to  
15          address a need. Let's do something good,  
16          something that's right. If the Council wants  
17          it in the project, fine.

18   COUNCILMEMBER MATEO: Thank you. I guess the  
19          follow-up to that would be if the 250 units is  
20          in fact going to be built on-site, will that  
21          be also built first?

22   MR. JENCKS: The bill requires us to build  
23          affordable product at the same time we build  
24          market-rate product. And I can tell you that  
25          it doesn't make any sense -- I mean, you can't

1           borrow money from a bank to build an  
2           affordable -- a project without the right  
3           number of units. For affordable product,  
4           you've got to be looking at at least 200  
5           units. It just doesn't make any economic  
6           sense to go anything less than that. So,  
7           yeah, these are going to be built in pretty  
8           substantial increments because that's the only  
9           way it works financially.

10 COUNCILMEMBER MATEO: Okay, thank you, Mr. Jencks.

11           And I guess the other question that we heard,  
12           and I guess it was insinuated -- because at  
13           Monday's meeting there was a table of the  
14           union workers, and the construction of your  
15           project, therefore -- because it was  
16           referenced that right now there is so much  
17           jobs going on right now that there was a  
18           limited amount of labor force that might be  
19           available. Your project, what is your  
20           commitment to local labor?

21 MR. JENCKS: Mr. Chair?

22 CHAIR MOLINA: Mr. Jencks.

23 MR. JENCKS: Our commitment is first local labor.

24 COUNCILMEMBER MATEO: Thank you. And I guess just  
25           to ask you the projection or the timetable of

1           the number of homes that you're projecting to  
2           have constructed per year, because this is a  
3           long-range plan, 20-year plan?

4   MR. JENCKS:  We talked about that here in the  
5           Chamber before, and I've told you it's pretty  
6           difficult in Maui County to build and sell,  
7           build and sell 100 units a year.  It's really  
8           tough to do that.  If you look at Jessie's  
9           project, which is a good benchmark, he did a  
10          201G and it took him a lot longer than he  
11          thought and a lot more money than he thought  
12          to actually get his permits and get stuff in  
13          the ground that he could actually build and  
14          then sell and close for people.

15                 So, I mean, I'll stand by -- the hundred  
16          units a year is pretty tough.  You've got -- I  
17          mean, you've got to put the pedal to the  
18          metal.  You've got to do a lot of work.  You  
19          need cooperation.  And this bill actually  
20          provides for that for affordable.  It says --  
21          there's some incentives here to get, you know,  
22          some additional benefits if you're building  
23          affordable housing.  A hundred units a year,  
24          whether it's affordable or market is pretty  
25          much it, guys.  I mean, you can only do so

1           much. There's only so much labor out there.  
2           There's only so many toilets that can be  
3           delivered per day in a container by Matson. I  
4           mean, there's just a limitation on the amount  
5           of work you can do per year.

6                        I know there's -- Mr. Goodfellow's  
7           construction company, he's got -- he's got  
8           great equipment, very high tech, very well  
9           organized, and Mokulele is a good example, but  
10          even with that kind of company there's only so  
11          much you can do per month. It's a fact of  
12          life.

13 COUNCILMEMBER MATEO: Thank you. And finally,  
14          Mr. Jencks, I like your commitment to using  
15          local labor, and I like your commitment in  
16          complying to the requirements of the  
17          Residential Housing Policy, because that means  
18          the purpose and the intent of the housing  
19          policy is to take care of our local residents.  
20          So 50 percent of your project, at least we  
21          will know, have a commitment to the local  
22          residents of this community.

23 MR. JENCKS: You heard it here first.

24 COUNCILMEMBER MATEO: And it's apparently going to  
25          be more than -- more than the 50 percent,

1           because you're going to be looking at  
2           primarily locals, right? I'm not talking  
3           color of skin.

4 MR. JENCKS: This ordinance really gives you good  
5           direction. You know, I've talked to Jessie a  
6           lot about this idea about selling homes first  
7           to policemen or firemen. You really can't do  
8           that, but, I mean, that's the intent. People  
9           want to get homes to the folks who live here  
10          and work here. And if you drive -- by the  
11          way, coming to and fro this meeting, which I  
12          do a lot these days, if you drive H Pi`ilani  
13          Highway and you look at Jessie's project, look  
14          at the first row of houses by the highway,  
15          there's at least two police cars in driveways  
16          in that project. I mean, there's a lot of  
17          people who really need it. It's working.  
18          It's working.

19 COUNCILMEMBER MATEO: Mr. Jencks, just out of  
20          curiosity, if I may, last question, Mr. Chair.

21 CHAIR MOLINA: Proceed, Mr. Mateo.

22 COUNCILMEMBER MATEO: Just out of curiosity, the  
23          high-end homes, the so-called high-end homes.

24 MR. JENCKS: The McMansions?

25 COUNCILMEMBER MATEO: Okay.

1 MR. JENCKS: Term of art.

2 COUNCILMEMBER MATEO: 50 percent of the project, you  
3 know, I don't know what that number is for the  
4 higher end. High end for you is going to  
5 start where?

6 MR. JENCKS: Well, by definition, Mr. Mateo, the  
7 high end is going to start above the 160  
8 percent level. Because we -- this ordinance  
9 requires us to build homes at 160 percent, and  
10 I think it's 20 percent of the total number.  
11 From that point, it will go up.

12 COUNCILMEMBER MATEO: Okay, and *(end of tape)*.

13 MR. JENCKS: You know, part of the -- part of the  
14 methodology here is -- and we've discussed  
15 this before, is to create value so you can  
16 sell properties at a high value to pay for all  
17 this other stuff you've got to do.

18 On the golf course, most certainly they  
19 will be lot programs. It will be subdivided  
20 and it will be sold as lots for people to  
21 build their home that they choose to build,  
22 and it will be whatever the market can bear,  
23 frankly.

24 COUNCILMEMBER MATEO: I thought you were going to  
25 take out the golf course, no?

1 MR. JENCKS: No.

2 COUNCILMEMBER MATEO: Okay. So I was just trying to  
3 get to the idea that it's going to start at  
4 150,300 plus, which is the affordables, and I  
5 just wanted to know, you know, what -- is it  
6 1.5, 1.6, 2.9, what is your ceiling that  
7 you're looking at?

8 MR. JENCKS: Ceiling?

9 COUNCILMEMBER MATEO: Well --

10 MR. JENCKS: You know, if you're looking at  
11 market-rate lots on a golf course today, they  
12 don't exist. Okay. There's a significant  
13 demand for that. If you build a 200-acre golf  
14 course, public or private, and you put homes  
15 on it, there's about 150,000 lineal feet of  
16 frontage on that golf course. Every foot of  
17 that has got value. So what you want to do is  
18 you want to maximize your value, but maximize,  
19 as well, the design relationship between those  
20 homes and the golf course. Because, once  
21 again, I've got to pay for all of the stuff  
22 I've got to do somehow. I don't know, a  
23 quarter-acre lot on a golf course, couple  
24 million dollars.

25 COUNCILMEMBER MATEO: Well, to make it easier for

1           you so you don't have to calculate those  
2           things, just do away with the golf course and  
3           make everything standard across the way.

4 MR. JENCKS:   Okay.   Okay.

5 COUNCILMEMBER MATEO:   Thank you, Mr. Jencks.

6                   And, Chairman, thank you very much.

7 MR. JENCKS:   Mr. Chair, may I just say something?

8 CHAIR MOLINA:   Sure, go ahead.

9 MR. JENCKS:   There was talk about a -- Ms. Baisa  
10           brought up the idea of a -- of education.   And  
11           what we've done, we pulled together a group of  
12           folks and we're supporting and working on a  
13           program.   We're going to actually have a  
14           school to educate people on the ability to buy  
15           an affordable house.   And the program is going  
16           to be based kind of on the DHHL program.  
17           We're actually going to hold it here on Maui.  
18           Right now, based upon our outreach, we've got  
19           I think 40 to 50 people who have signed up.  
20           Because if you go out and you talk to people,  
21           it's exactly what Ms. Medeiros is talking  
22           about, life-style decisions are made on a new  
23           four-wheel drive truck or a new boat and  
24           they're not thinking about the potential of  
25           getting into a house, what they've got to do

1 to clear up their credit, what kind of  
2 decisions we can guide them to make so they  
3 make the right decisions and don't err on the  
4 side of spending too much money on their  
5 credit cards so they can save money and  
6 actually buy one of these houses.

7 So we're going to -- our goal is to make  
8 sure that we get people in the houses --  
9 because, frankly, it doesn't -- it doesn't  
10 make any sense for me to build an affordable  
11 house and let it sit there. And I'll give you  
12 an example. If I build 200 units, okay, and  
13 they're 1,200 square feet each and it costs me  
14 250 bucks a square foot to build those homes,  
15 okay, that's -- that's a pretty good deal,  
16 we're looking at a \$60 million loan to build  
17 those 200 units. Okay? At 8 percent interest  
18 on a construction loan, the daily carry,  
19 anybody? Is \$13,200 a day in interest carry.

20 So when I start construction and I'm  
21 building those homes and I'm completing them,  
22 you can bet I want to get them built and  
23 closed as quickly as humanly possible.  
24 Because every day that unit sits there and  
25 someone hasn't closed on it, it's another

1           \$13,000 out of the pocket, which counts  
2           against if there's any profit left to begin  
3           with. It's gone.

4                    So it doesn't make any sense for me not  
5           to have people that are educated, that know  
6           what they've got to do, that are prepared  
7           ahead of time to qualify, that are squared  
8           away so when I build those homes, I can build  
9           them and sell them and close them right away.  
10          It doesn't make sense for me to do anything  
11          other than that.

12 CHAIR MOLINA: Okay, thank you for your comments,  
13          Mr. Jencks.

14                    Member Baisa, I don't know if you wanted  
15          to follow up on that comment from Mr. Jencks?

16 COUNCILMEMBER BAISA: Thank you, Mr. Jencks, for  
17          talking about the educational program. I  
18          think it's absolutely urgent that we get  
19          started now, because in the matter of trying  
20          to clear bad credit or take care of, you know,  
21          things that they might have to correct before  
22          they apply or qualify for a mortgage, it may  
23          take three years.

24 MR. JENCKS: Right.

25 COUNCILMEMBER BAISA: So it might work out just

1 right by the time, you know, the homes are up  
2 and they can sign up for a mortgage.

3 You know, there was a lot of discussion  
4 the other night in Kihei of -- I tried to make  
5 notes as I went about notable things, and  
6 Member Mateo, you know, mentioned a lot of  
7 them, but I wanted to ask -- or discuss  
8 something a little bit, and that's this issue  
9 of locating the affordable housing in the  
10 project.

11 You know, this is a difficult one,  
12 because I'm a local girl, and I've lived in  
13 several kinds of communities, and sometimes I  
14 don't know how we're going to scatter these  
15 affordable homes or you're going to group them  
16 or where you're going to put them in relation  
17 to the non-affordable homes, but, you know,  
18 local people have a certain life style. And  
19 we like to dig the imu in the backyard and we  
20 like to have the baby party and the whatever  
21 in the garage and we like to pulehu in the  
22 driveway. And I'm just wondering socially,  
23 you know, as a social worker-oriented person  
24 all my life, I certainly want equality and I  
25 certainly believe in human dignity and

1           everybody being treated with respect, and, you  
2           know, if that -- if people equate being mixed  
3           into a high-end development as doing that, I  
4           certainly wouldn't take that away, but I'm  
5           thinking about fit, fit, okay.

6                        So I decide that I'm going to dig one  
7           imu in my backyard and I'm going to cook  
8           teriyaki with my friends in the front yard and  
9           then my son's graduation party, how is that  
10          going to fly next to my neighbors who are  
11          part-time residents who come here from New  
12          York City and really don't appreciate my noise  
13          and the smells, and, you know, the way we like  
14          to live? I mean, we want to be comfortable  
15          and we don't want to be calling the police to  
16          our house all the time because we stayed up  
17          too late or we made too much noise or our baby  
18          cries, whatever it is.

19                       I'm trying to think about the social  
20          impacts, and I don't know how it works. Is  
21          there any feeling about that, how other people  
22          feel? I know there's a pressure that, you  
23          know, we want to put all of the houses in the  
24          same place. I'm just worried about the  
25          interactions and will it be comfortable for

1 everyone. And I'm not so worried about the  
2 people being irritated who want quiet and, you  
3 know, love luxury, but I'm worried about our  
4 people and will it affect their life styles  
5 and their enjoyment of their home.

6 CHAIR MOLINA: Mr. Jencks.

7 MR. JENCKS: You know, I was -- I was talking to  
8 Jessie about exactly this same issue. Because  
9 in his Waikapu project he's got affordable  
10 product and he's got market rate product. And  
11 he's doing -- Jessie is doing exactly what  
12 I've been talking about here. He's paying for  
13 a lot of the subsidy by these -- by providing  
14 these market-rate units. It's not exactly --  
15 in terms of, you know, the market rate, what I  
16 anticipate in this project is exactly that  
17 type of scenario, where we'll have the  
18 affordable mixed in with the market rate so  
19 that we can -- you know, I don't believe in  
20 total segregation, but I also believe that  
21 people like to live with like people.

22 COUNCILMEMBER BAISA: I do.

23 MR. JENCKS: Right. I mean, I left Wailea because I  
24 didn't like living down there. I moved  
25 Upcountry. I feel more comfortable there.

1           That's where I like to live. I don't believe  
2           in social engineering either, of forcing  
3           people together. You know, the idea here is  
4           to design a community where you have a lot of  
5           variability in product and you economic life  
6           style and culture, and we're not going to jam  
7           people together, but yet we want to build  
8           product so people can choose to live where  
9           they want to live.

10       COUNCILMEMBER BAISA: I think what I'm trying to say  
11           is I guess we're going to have to have some  
12           choices. And there may be people who, you  
13           know, don't mind or would prefer to be, you  
14           know, mixed in with other people of different  
15           stature or different economic background or  
16           whatever. There may be people that want to  
17           live next to people they're more comfortable  
18           with.

19       MR. JENCKS: Sure.

20       COUNCILMEMBER BAISA: You know, one of the things  
21           that totally excites me about having a home in  
22           Hawaiian Homes up in Kula is that it will be  
23           for me like going back to a plantation  
24           village --

25       MR. JENCKS: Right, uh-huh.

1 COUNCILMEMBER BAISA: -- and living with people who  
2 understand me and won't mind if my dog gets in  
3 their yard, or, you know, whatever happens.  
4 So I'm just -- I just want us to have a happy  
5 community. You know, owning a home and that's  
6 where you spend your time and all your money  
7 trying to pay for it, you want to be happy in  
8 it.

9 MR. JENCKS: Yeah, I was talking to Jessie. I like  
10 what he did in Waikapu, and I was driving by  
11 and we were talking the other day, and I said,  
12 Jessie, I love your project. I just can't  
13 stand those white fences. And he says, what's  
14 wrong with the white fences? I said, maybe we  
15 can come up with something a little different.  
16 You know, people are going to have yards.  
17 They're going to want their own space, want to  
18 do what they want to do, but defining that is  
19 really a part of the design process and that's  
20 yet to come, but making so that it's liveable,  
21 it's comfortable, like-like if you want, not  
22 if you not want.

23 COUNCILMEMBER BAISA: But at the risk of doing  
24 something that's, again, politically not  
25 popular, I want to talk about those houses

1           that you want to locate away from the project.  
2           You know, when you brought that proposal here,  
3           I may have not been paying attention, or I may  
4           not be at the same meeting, but what I  
5           understood was you had made a proposal and the  
6           proposal was we would like to build these  
7           houses over here because we'd like to get  
8           going and provide some affordable housing.  
9           And many developers in the past have either  
10          not produced affordable housing at all or  
11          have, you know, given money in lieu or done  
12          other kinds of things so nobody ever saw the  
13          affordable homes.

14                   And you were trying to say since we need  
15          affordable housing so much, let's get on with  
16          it. Let's build these apartments, and they're  
17          going to be rentals, but they will be places  
18          for people who need a place to go to go. And  
19          that's what I saw. But then, as it developed,  
20          it became a negative, like, you know, we were  
21          trying to put these people in a different  
22          place, in a ghetto, separate them, and get  
23          away from putting the houses in the project.

24                   And so I'm kind of confused, and I was  
25          happy to hear today you clarify that, again,

1           if that is the will of the Council, that  
2           you're willing to build all of the affordable  
3           housing in the project. I understand that  
4           correctly?

5 MR. JENCKS: That's correct.

6 COUNCILMEMBER BAISA: I think that's really  
7           important. Because I think there's a  
8           misunderstanding out there, and we heard a lot  
9           of it at the hearing. Would you like to say  
10          that one more time?

11 MR. JENCKS: Maybe I wasn't clear. If this Council  
12          wants all of the affordable housing in that  
13          project, considering the time frame we're  
14          talking about and all these other issues we've  
15          got to deal with as a part of the conditions,  
16          water and transportation and all that good  
17          stuff, that's fine. I'm not sure that strikes  
18          to the heart of addressing the key issue  
19          today, but if that's what this Council wants,  
20          that's fine.

21 COUNCILMEMBER BAISA: And remembering the words of  
22          my wise old mother who said be careful what  
23          you pray for, because you might just get it.  
24          We might want to consider the compatibility  
25          issues involved in, you know, putting all of

1           these people in the same place. I don't know.  
2           But I'm glad we have choices. I think that's  
3           really important.

4 CHAIR MOLINA: Thank you, Member Baisa.

5           Mr. Pontanilla.

6 VICE-CHAIR PONTANILLA: Thank you. Just for  
7           clarification, the proposal that was brought  
8           forward, you know, not too long ago about the  
9           250 units, you said that it could be built  
10          right away because of the facilities that are  
11          already there, the infrastructure. If we were  
12          to bring it back to the project, we're looking  
13          at three, four years from now?

14 MR. JENCKS: I would say three years.

15 VICE-CHAIR PONTANILLA: Okay, fine. Thank you.

16 CHAIR MOLINA: Members, any other questions for the  
17          Applicant? Member Anderson.

18 COUNCILMEMBER ANDERSON: Yeah, thank you. Charlie,  
19          if you could just -- I thought you said 200,  
20          but it's 250?

21 MR. JENCKS: What's that? The apartments?

22 COUNCILMEMBER ANDERSON: Yeah, yeah.

23 MR. JENCKS: We looked at 250.

24 COUNCILMEMBER ANDERSON: Okay. And can you tell me  
25          again, you're looking to serve what income

1 group, 70 percent?

2 MR. JENCKS: The ordinance, as I recall, says 60  
3 percent or less. Let me see if I -- for  
4 rental.

5 COUNCILMEMBER ANDERSON: Well, it says that 30  
6 percent of the ownership units shall be for  
7 below moderate income, and below moderate  
8 income is --

9 MR. JENCKS: Oh, I see what you're getting at.

10 COUNCILMEMBER ANDERSON: -- 100 percent median  
11 income, and so I'm trying to get an idea of  
12 the range. And I think the reason people were  
13 making comments about the affordables being  
14 delusional in your project is because in your  
15 project -- and maybe it is delusional for most  
16 people to think that affordable is, you know,  
17 starting at 120 percent, 368,000 going on up  
18 to 565,000, so I think that was -- that was  
19 what people were talking about. Because,  
20 again, 70 percent of our population make 100  
21 percent and below. So for 70 percent of our  
22 population, it is delusional to think that  
23 anything at 120 percent median income is  
24 affordable.

25 So what I want to know is -- wait a

1           minute. What you're building that will really  
2           be something that our residents can buy  
3           into -- and yeah, those people who are making  
4           over 100 percent of the median income and  
5           maybe, you know, have already purchased a home  
6           and have built equity, those 120 percent and  
7           above income group will be able to afford,  
8           maybe buy up in your project, but I'm talking  
9           about the 70 percent of our population who are  
10          making 100 percent and below.

11                       And so I want to know if you could be a  
12          little bit more specific on exactly what the  
13          price ranges are going to be in the  
14          apartments, how much of them are for sale, as  
15          opposed to rental, and if any of them are  
16          going to be for sale?

17 CHAIR MOLINA: Mr. Jencks.

18 MR. JENCKS: Certainly, Mr. Chair.

19                       Well, I think, Ms. Anderson, you are  
20          looking at -- on page 3 of the ordinance it  
21          says -- it's in the definition section,  
22          actually. It says, "Residential Workforce  
23          Housing means residential developments to be  
24          sold or rented to residents within one of the  
25          following income groups as established by the

1 Department." One is very low income. Two is  
2 low income. Three is below moderate. Four is  
3 moderate. Five is above moderate. And six is  
4 gap income.

5 Okay, using those terms, if you turn to  
6 page 6 -- excuse me, page 8, it says,  
7 "Residential Workforce Housing Restrictions,  
8 ownership units."

9 COUNCILMEMBER ANDERSON: Right, that's what I'm  
10 looking at.

11 MR. JENCKS: "30 percent of the ownership units  
12 shall be for below moderate income residents."

13 Below moderate --

14 COUNCILMEMBER ANDERSON: Is 100 percent.

15 MR. JENCKS: -- is 100 percent. So I've gotta -- if  
16 I'm going to build ownership units, I've gotta  
17 build them at 100 percent.

18 COUNCILMEMBER ANDERSON: 32 percent of them.

19 MR. JENCKS: Right, 30 percent of them have to be at  
20 that level. And then the next income level is  
21 30 percent, let's see, it was --

22 COUNCILMEMBER ANDERSON: But that's what I want to  
23 know, Charlie, is I want to know of these 250  
24 units, how many are going to be rental, how  
25 many are going to be for sale, and at what

1 income levels?

2 MR. JENCKS: I do not have the rental chart here  
3 with me, but the ordinance, as I understand  
4 it, says 60 percent or less of the County  
5 median. They're all apartments. None of them  
6 are for sale. It's all apartments. That was  
7 the idea.

8 COUNCILMEMBER ANDERSON: So where is the 100  
9 percent? Where is the 32 percent at 100  
10 percent?

11 MR. JENCKS: The 30 percent at 100 percent? In the  
12 project.

13 COUNCILMEMBER ANDERSON: So you're going to be  
14 selling units in the project, let's just  
15 say -- what? Say a two-bedroom, 100 percent  
16 income would be 260 -- 260,000.

17 MR. JENCKS: At the 6 percent rate?

18 COUNCILMEMBER ANDERSON: Yeah.

19 MR. JENCKS: Yeah, that's -- that's how it  
20 correlates. At 100 percent a two-bedroom unit  
21 at 6 percent is \$260,000, 260,780.

22 COUNCILMEMBER ANDERSON: And you're going to be  
23 building that within the project for sale?

24 MR. JENCKS: Yeah, uh-huh.

25 COUNCILMEMBER ANDERSON: Okay, that's -- that's the

1 first time I've heard that, Mr. Chairman. So  
2 maybe -- you know, we got a handout January  
3 '07. Did you see this? It's from the -- it's  
4 a breakdown of the Wailea 670 units.

5 MR. JENCKS: Yeah, this goes back early this year.

6 COUNCILMEMBER ANDERSON: Right.

7 MR. JENCKS: I have it in my files. I've seen it.

8 My recollection is that document came out --  
9 we were discussing does this ordinance apply  
10 to this project, and that was one of the  
11 work-ups that the Department did to  
12 demonstrate that it did.

13 COUNCILMEMBER ANDERSON: Right.

14 MR. JENCKS: Yeah.

15 COUNCILMEMBER ANDERSON: But it doesn't necessarily  
16 reflect what you're intending to do?

17 MR. JENCKS: I can't speak to that. What I'm  
18 intending to do is what the ordinance requires  
19 me to do.

20 COUNCILMEMBER ANDERSON: Okay. It would be nice if  
21 we had a breakdown of that, Mr. Chairman,  
22 something that was actual.

23 And also, just a second, Charlie, I have  
24 another question.

25 MR. JENCKS: No problem.

1 COUNCILMEMBER ANDERSON: If we could get a new chart  
2 from the Department that actually is in  
3 consonant with what the ordinance says,  
4 Director Medeiros?

5 CHAIR MOLINA: Director.

6 MS. MEDEIROS: Yes?

7 COUNCILMEMBER ANDERSON: If we could get a new chart  
8 from your Department that is in consonant with  
9 what the ordinance says, because you go from  
10 80 to 90 percent and, you know, the ordinance  
11 says -- it uses 85 percent, 115 percent. In  
12 other words, there's different categories that  
13 is in the ordinance that we don't have on this  
14 chart. You know what I'm talking about?

15 MS. MEDEIROS: No, but let me find out. What  
16 section of the ordinance are you looking at?

17 COUNCILMEMBER ANDERSON: I've got to find it again.

18 MR. JENCKS: It was, I believe -- it's page 9, at  
19 the top of the page.

20 COUNCILMEMBER ANDERSON: What page 9 are you talking  
21 about, Charlie?

22 MR. JENCKS: It's -- of the ordinance.

23 COUNCILMEMBER ANDERSON: Yeah, but I'm looking at  
24 the ordinance that's already in the County  
25 Code.

1 MR. JENCKS: Oh, I'm sorry.

2 COUNCILMEMBER ANDERSON: What page --

3 MR. JENCKS: I'm looking at the --

4 COUNCILMEMBER ANDERSON: It's page 50-13.

5 MR. JENCKS: It's actually section 2.96.060,

6 Subsection D.

7 COUNCILMEMBER ANDERSON: Yeah, here it is. Thank

8 you.

9 Did you get that, Ms. Medeiros?

10 MS. MEDEIROS: I'm trying to -- this is -- it was in

11 the definition section?

12 COUNCILMEMBER ANDERSON: No.

13 MS. MEDEIROS: No?

14 COUNCILMEMBER ANDERSON: It's section 2.96.060. If

15 you look at Item E, Sales Price. The

16 prevailing interest rate shall be used, and

17 you're giving us, you know, this chart with

18 the interest rates, and it says the price of a

19 two-bedroom unit shall be based upon 85

20 percent of the median income of the wait list

21 area. It says three-bedroom units shall be

22 based upon 100 percent of the median. A price

23 of a four-bedroom shall be based upon 115

24 percent of the median. So we don't have 85

25 percent on this chart. We don't have 115

1 percent on this chart.

2 So if you could redo the chart to  
3 include those percentages. You just go 50,  
4 60, 70, 80, 90, 100, 110, and then 120, and  
5 115 is not on here. 85 percent's not on here.

6 MS. MEDEIROS: Okay.

7 COUNCILMEMBER ANDERSON: That would be most helpful.

8 So, Mr. Jencks, you know, back in -- and  
9 I'm sorry that I don't have this on my  
10 fingertips, but you know how long it takes to  
11 find anything in these binders? Have you  
12 tried finding anything in these binders,  
13 Charlie?

14 MR. JENCKS: I have an equal amount of paper in my  
15 office, Member Anderson.

16 COUNCILMEMBER ANDERSON: So -- so it was easier for  
17 me to pull up this information in the minutes  
18 at our October 6th meeting of last year. You  
19 said that a one-bedroom/one-bath unit is 650  
20 to 950 square feet for a multi-family unit,  
21 that a two-bedroom/two-bath would be 1,100 to  
22 1,200 square feet for a multi-family unit, the  
23 100 to 120 percent -- don't bother writing it  
24 down, Charlie, I'll give you a copy of this --  
25 the two-bedroom/two-bath multi-family would be

1           850 to 1,100, three-bedroom/two-bath  
2           multi-family/single-family is 1,200 square  
3           feet, and then the 121 to 140 percent range  
4           would be 1,300 to 1,700 square foot homes,  
5           two-bedroom/two-bath multi-family,  
6           three-bedroom/two-bath same square footage for  
7           multi-family. Then last but not least, your  
8           words, the 1,400 to 1,900 square feet  
9           three-bedroom/two-bath single-family duplex  
10          product for the last category. These are  
11          square footages based upon a product that's  
12          being built today by D.R. Horton. So it's a  
13          combination of multi-family, some  
14          single-family condo with garages and without  
15          garages.

16                    So is that something that you're going  
17          to -- you're still sticking with --

18   MR. JENCKS:    Yeah, I --

19   COUNCILMEMBER ANDERSON:  -- and okay with?

20   MR. JENCKS:    If I may, Mr. Chair, the purpose of  
21          that summary was to -- I was asked about what  
22          we would be building, and I did some research  
23          and the idea, Members, was to, with all  
24          deference to builders on Maui, get out of the  
25          box and look whatever else is being built,

1           because there's some better ideas out there.

2                   Those are prototypes based upon what  
3           D.R. Horton is doing in Hawaii right now. And  
4           I remember some of the examples are -- one of  
5           the examples I used was Iao Parkside as an  
6           attached product. We don't have any  
7           affordable town homes on Maui, so they  
8           provided one. I also provided a single-family  
9           in a condominium concept and also a  
10          single-family in a regular lot with a garage.

11                   So, yeah, those are the ideas that we're  
12          looking at for product. Jessie's product is a  
13          nice one for a small lot. He's at about I  
14          think 6,000 square feet. The houses are 12,  
15          1,400 square feet. They work well. So all of  
16          that product is in the range that you're  
17          talking about.

18   COUNCILMEMBER ANDERSON: And so you're going to  
19          stick with -- I remember you gave us -- I  
20          don't know if it you gave it to us or you just  
21          showed it to me, examples of what the product  
22          looked like?

23   MR. JENCKS: I handed that out.

24   COUNCILMEMBER ANDERSON: You did hand it out?

25   MR. JENCKS: Yes.

1 COUNCILMEMBER ANDERSON: Okay, we'll find it. So  
2 you're going to stick with that same product?

3 MR. JENCKS: Yeah, that's -- I mean, that's what  
4 there is, and that's what people are doing.  
5 It works. It's proven. You know, I don't  
6 want to reinvent the wheel here.

7 COUNCILMEMBER ANDERSON: And so, once again, I'm  
8 sorry, I'm really tired, so if you already  
9 answered this question, my apologies. Of the  
10 250 units, how many of them are going to be at  
11 what range?

12 MR. JENCKS: The rental units?

13 COUNCILMEMBER ANDERSON: Those are all going to be  
14 rental?

15 MR. JENCKS: Yeah, I said earlier these are all --

16 COUNCILMEMBER ANDERSON: So they're all going --

17 MR. JENCKS: Per the ordinance, I think it says 60  
18 percent or less rental units.

19 COUNCILMEMBER ANDERSON: No, no, no, the median  
20 income I'm asking. Anything under 100 percent  
21 is going to be rental; is that what you're  
22 saying?

23 MR. JENCKS: No, I didn't say that.

24 COUNCILMEMBER ANDERSON: Okay, tell me what you  
25 said.

1 MR. JENCKS: You asked me if some of these apartment  
2 units would be for sale, and I said no,  
3 they're all going to be rental units. Per the  
4 ordinance they're I think rented at 60 percent  
5 or less of the County median.

6 COUNCILMEMBER ANDERSON: Okay, 60 percent or less.

7 MR. JENCKS: Let's just double check that to make  
8 sure.

9 COUNCILMEMBER ANDERSON: That's what I want to know,  
10 because we had a little problem this morning  
11 with rental figures that didn't, you know,  
12 consider utilities, which really didn't make  
13 them affordable. So I think we need to have  
14 that looked at, and I don't know if you're  
15 basing --

16 MR. JENCKS: Actually, the ordinance says, it says  
17 unless an exemption is granted by the  
18 Director, that would be Ms. Medeiros, the  
19 percentage of rental units within each income  
20 group shall be as follows, so if I build, this  
21 is what it says, one-third of the rental units  
22 shall be for very low income and low income.

23 COUNCILMEMBER ANDERSON: That's 50 percent or less.

24 MR. JENCKS: If that is -- okay. One-third of the  
25 rental units shall be for below moderate

1 income residents, and one-third for moderate  
2 income residents. That's what it says in the  
3 ordinance.

4 COUNCILMEMBER ANDERSON: Right. So one-third of the  
5 rental units will be for 100 percent of the  
6 median income?

7 MR. JENCKS: Is that the below moderate category?

8 COUNCILMEMBER ANDERSON: Yes.

9 MR. JENCKS: Yeah, that's what it says.

10 COUNCILMEMBER ANDERSON: Okay, I'll work out the  
11 numbers myself. Thank you.

12 Thank you, Chair.

13 CHAIR MOLINA: Thank you, Member Anderson.

14 Okay, Member Pontanilla. And after  
15 Member Pontanilla's questions, we'll take a  
16 short break.

17 VICE-CHAIR PONTANILLA: Thank you, Chair.

18 Mr. Jencks, the 250 units, as far as the  
19 affordable rentals or rental units, is there a  
20 non-profit organization that's going to be  
21 administering the apartments so that it stays  
22 in perpetuity?

23 MR. JENCKS: Well, if I may, Mr. Chair?

24 CHAIR MOLINA: Proceed.

25 MR. JENCKS: This ordinance says they've got to be

1 rental in perpetuity. It's self enforcing.

2 VICE-CHAIR PONTANILLA: Thank you.

3 MR. JENCKS: That's what the law says.

4 VICE-CHAIR PONTANILLA: Thank you.

5 CHAIR MOLINA: Thank you, Mr. Pontanilla.

6 COUNCILMEMBER VICTORINO: I'll wait until we come

7 back.

8 CHAIR MOLINA: You sure, Mr. Victorino? I'll allow

9 you if you want.

10 COUNCILMEMBER VICTORINO: When we come back.

11 CHAIR MOLINA: You look eager, that's why.

12 COUNCILMEMBER VICTORINO: When we come back.

13 CHAIR MOLINA: All right. We're eager for a quick

14 break. All right, we'll take a ten-minute

15 recess, Members. We shall reconvene at 4:10.

16 Meeting in recess. (Gavel).

17 **RECESS: 4:10 p.m.**

18 **RECONVENE: 4:26 p.m.**

19 CHAIR MOLINA: (Gavel). The recessed Land Use

20 Committee meeting of September 10th, 2007 is

21 now back in session.

22 Thank you very much, Members, for that

23 break. When we last left off we had

24 Councilmember Victorino prepared to ask a

25 question of the Applicant as it related to

1 Condition 5, the Affordable Workforce Housing  
2 condition.

3 And before I have Mr. Victorino ask his  
4 question, I would like to inform the body we  
5 will lose quorum at around 5:30-ish or so, and  
6 Mr. Victorino will be the last person to ask a  
7 question of the Applicant for this particular  
8 condition, because the Chair would like to  
9 move on. There's some other matters that I  
10 would like to get addressed before we lose  
11 quorum today.

12 And joining us we have Councilmember  
13 Hokama.

14 Okay, Mr. Jencks.

15 COUNCILMEMBER VICTORINO: No need to rush, Charlie,  
16 but I appreciate all what you've said to us  
17 today and your intentions, no matter what the  
18 lawsuit says, you will do what you feel we  
19 want done for the people of Maui County. The  
20 question I have for you was on this -- if I  
21 read the ordinance correctly, we have --  
22 according to the ordinance on the workforce  
23 development, there's 25 years, if I read  
24 correctly, was that in there?

25 MR. JENCKS: Yes, sir.

1 COUNCILMEMBER VICTORINO: Yeah, there is, 25 years,  
2 yeah. So if anyone wants to sell before then,  
3 we have -- we would have first right of  
4 refusal, according to the way the ordinance is  
5 written -- drawn up?

6 MR. JENCKS: If I may?

7 CHAIR MOLINA: Mr. Jencks.

8 MR. JENCKS: There is a -- in that same section, and  
9 correct me if I'm wrong, 2.96.060, Ownership  
10 Units, if you look at Section F and G, it  
11 tells you what the process is. Sales price --  
12 let's see, resale. I'm sorry, the section is  
13 resale. The maximum resale price shall be  
14 established by the Department using the  
15 following guidelines. And it says under --  
16 under H-1, Foreclosures, the County shall have  
17 the first option to purchase the unit.

18 COUNCILMEMBER VICTORINO: Okay. Okay. Then the  
19 next question I have for you, we have seen  
20 this project change hands as far as ownership  
21 is concerned, and I think the other night that  
22 was brought up again. Am I right in saying  
23 there's been a change in ownership on -- as  
24 far as this development is concerned?

25 MR. JENCKS: The property is -- the property itself

1           has changed hands numerous *(end of tape)*.

2   COUNCILMEMBER VICTORINO:   Okay.   And I understand  
3           that.   What concerns me -- and I understand  
4           your promises and commitments, you, Charlie, I  
5           know you stand there, but as this occurs or  
6           may occur again, if the new ones come in, what  
7           if they say, you know, shuck all this, forget  
8           it, goodbye?

9   MR. JENCKS:   Mr. Chair, if I may?

10   CHAIR MOLINA:   Mr. Jencks.

11   MR. JENCKS:   As I understand the process here,  
12           Mr. Victorino, this ordinance exists today.  
13           It's a matter of law.   And you're going to  
14           condition my project to be in compliance with  
15           this ordinance.   And I've stated here today in  
16           the Chambers that I will build 50 percent  
17           affordable housing in the project.   That will  
18           be a recorded document.   It doesn't disappear  
19           no matter who owns the property.

20   COUNCILMEMBER VICTORINO:   So no matter who owns the  
21           property, that will be the commitment for this  
22           project?

23   MR. JENCKS:   That's correct.

24   COUNCILMEMBER VICTORINO:   You said it on TV, and  
25           that's good enough.   The whole County has

1           heard that now. Thank you, Charlie. I  
2           appreciate it.

3 MR. JENCKS: You're welcome.

4 COUNCILMEMBER VICTORINO: Thank you, Chair.

5 CHAIR MOLINA: Thank you, Mr. Victorino.

6           Okay, Members, as I stated earlier,  
7           Mr. Victorino's question will be the last as  
8           it relates to this condition, and obviously,  
9           Members, you still have time to ask Mr. Jencks  
10          on your own or maybe at another meeting any  
11          other questions related to the housing matter.

12          At this point the Chair would like to  
13          get your input or feelings on Condition 5,  
14          three choices, I guess, if you will. We have  
15          no consensus on this proposed condition -- and  
16          I'll go ahead and read it as I guess follows  
17          to this point. Just for your information, any  
18          references to WCPT/GW Land Associates LLC will  
19          need to be changed to Honua`ula Partners, LLC.

20          Am I correct, Staff, as relates to the  
21          matrix? Okay.

22          The condition we're considering for  
23          consensus or no consensus, which is Condition  
24          5, it should read as follow: Honua`ula  
25          Partners, LLC, its successors and permitted

1            assigns shall provide -- you can follow along  
2            with me, Members, on the next to last column  
3            on page 5 -- shall provide and then we're  
4            going to go down to the underscored language,  
5            which reads, workforce housing in accordance  
6            with Chapter 2.96 Maui County Code (the  
7            Residential Workforce Housing Policy). Should  
8            any of the workforce housing -- workforce  
9            housing be located off-site, the required 50  
10           housing shall be based on  
11           the total number of combined units for the  
12           off-site project and Kihei-Makena Project  
13           District 9.

14                    Is that clear? We are working off of  
15                    that condition for consideration for  
16                    consensus. So let me go right down the line  
17                    and check with the Members. We'll start with  
18                    Mr. Victorino first. Do we have consensus or  
19                    no consensus?

20    COUNCILMEMBER VICTORINO: Consensus.

21    CHAIR MOLINA: Mr. Pontanilla?

22    VICE-CHAIR PONTANILLA: Chair, what you saying that  
23            rather -- this is -- the Planning Commission  
24            sent us their zoning requirements. This going  
25            to take place -- take the place of the --

1 MR. JENCKS: Yes.

2 VICE-CHAIR PONTANILLA: -- Planning Commission's  
3 decisions?

4 CHAIR MOLINA: Yes, as recommended by the Planning  
5 Department --

6 VICE-CHAIR PONTANILLA: Okay, fine.

7 CHAIR MOLINA: -- because of the advent of the  
8 Workforce Housing Policy. At the time the  
9 condition was first proposed there was no  
10 Workforce Housing Policy to consider, so do we  
11 have --

12 VICE-CHAIR PONTANILLA: Consensus.

13 CHAIR MOLINA: -- consensus? Okay, Mr. Hokama?

14 COUNCILMEMBER HOKAMA: I'll withhold decision yet,  
15 Chairman.

16 CHAIR MOLINA: Okay. Member Johnson?

17 COUNCILMEMBER JOHNSON: I have a question, because I  
18 know we've come up against this before. When  
19 you have off-site housing of any kind, because  
20 we don't know exactly what's going to  
21 transpire, this application basically  
22 addresses the entire project, if you will,  
23 within the Project District. When you have a  
24 project that is outside of the Project  
25 District, it's not specifically addressed

1           within the Environmental Impact Statement, and  
2           yet if we make it a requirement, you know,  
3           tying the two together when we don't even know  
4           what the issues are that are related to that  
5           particular project, my concern has always been  
6           you're putting in something that is -- it  
7           should be addressed somewhere within the  
8           Environmental Impact Statement.

9                        So I don't even know at this point -- I  
10           don't know, perhaps Corporation Counsel at  
11           some point could give me an answer, because I  
12           don't know what issues may be attached to that  
13           particular site. So if it's a choice of the  
14           developer to put it there, my concern is going  
15           to be that nowhere in any of this  
16           documentation -- and we're considering the  
17           whole project, if you will, with all of the  
18           requirements. How are you going to execute an  
19           agreement with one component potentially  
20           outside of the project area with no  
21           information whatsoever on its own impacts?

22   CHAIR MOLINA:   Okay. That is, of course, presuming  
23           if the body decides to have the 250 units  
24           outside.

25   COUNCILMEMBER JOHNSON:   Yeah.

1 CHAIR MOLINA: Mr. Giroux, are you able to comment  
2 on -- regarding Member Johnson's concern?

3 MR. GIROUX: I'm not sure if I heard the full  
4 question as far as --

5 COUNCILMEMBER JOHNSON: I'll just restate it as  
6 simply -- I won't go into too much detail, but  
7 basically if we're looking at the last part  
8 where it says the total number of combined  
9 units for the off-site project, you know,  
10 meaning that the housing is outside of the  
11 project area that we have all the  
12 environmental review information on, my  
13 question is, if that is a part of our agreeing  
14 to, you know, have this off-site and it's  
15 totally not in the -- anywhere in the  
16 Environmental Assessment documents we're  
17 looking at, and yet we're agreeing to  
18 something, I don't know what issues are, I  
19 guess, related to all of the impacts that that  
20 particular project would have that are totally  
21 irrespective of this approval. So I just  
22 wonder what have we done before?

23 CHAIR MOLINA: Mr. Giroux.

24 MR. GIROUX: I don't think that was the short  
25 question. But anyway, I'll address it. My

1           understanding is that the developer just  
2           presented to you that if you decide to have it  
3           all on one -- on-site, that he's willing to do  
4           that, so that's one determination you can  
5           make, is that you have seen the -- you know, a  
6           potential, you know, showing of the project,  
7           and you can condition that all of the housing  
8           will be on-site.

9   COUNCILMEMBER JOHNSON:   Okay.

10   MR. GIROUX:   And that would eliminate the guesswork  
11           of, you know, if they pick a future site and  
12           then you guys don't have any idea of where  
13           that's going to be or what they're going to  
14           look like and all of that.   So I think  
15           that's -- that would clear one portion up.   I  
16           believe I heard the developer say that if you  
17           condition that it be on-site, he will do the  
18           low income and affordable units on-site.

19                   So the second part -- and I believe what  
20           you're asking me is about -- if you don't  
21           condition that they all be on-site and you  
22           leave it open for him to go and look for a  
23           site and pick, that development in and of  
24           itself will have to go through whatever  
25           triggers that it triggers, meaning that if the

1 land is not ready for development, meaning  
2 that the consistency requirements aren't met,  
3 whether it needs Changes of Zoning, it needs,  
4 you know, Community Plan Amendments, those  
5 types of things, it would have to go through  
6 those in and of itself. Whether or not  
7 government monies would trigger an  
8 Environmental Assessment or a Community Plan  
9 would trigger an Environmental Assessment,  
10 we're working with a very wide hypothetical  
11 here, because it basically would be its own  
12 land use development.

13 I don't think you requiring that the  
14 calculation be used in order to find out what  
15 his requirement was would be any type of  
16 approval of any type of land use outside of  
17 that he would have to build it somewhere.

18 COUNCILMEMBER JOHNSON: Okay. I appreciate that,  
19 and I think, Mr. Chair, the language as it  
20 stands, I guess beginning at should any of the  
21 workforce housing be located off-site, you  
22 know, all of that, my personal preference is  
23 strike it, because I think it's going to be  
24 very difficult with what Mr. Giroux has just  
25 described and because if the whole goal and

1 objective is to produce affordable housing as  
2 quickly as possible, then it should be done  
3 within the project itself, because that is  
4 what, in my view, is going to be considered  
5 when we look at the environmental impacts, and  
6 those issues would have to be addressed, and  
7 then we'll have to find out from Mr. Jencks  
8 that based on our requirement of having this  
9 affordable component, if the majority chooses  
10 that, have those issues related to the  
11 affordable component, if they're going to be  
12 commingled with all the other units, kind of  
13 like what we saw the other night with another  
14 development, then we're going to have to be  
15 made aware of what the I guess environmental  
16 impacts and all the other issues are related  
17 to that, if they've not already been  
18 addressed. But they may have been addressed  
19 because originally there were a greater number  
20 of units proposed for this particular Project  
21 District.

22 So the language as it now stands, I  
23 don't have consensus on that unless the other  
24 Members agree to building this on-site.

25 CHAIR MOLINA: So your concern may be strike out

1           that portion where it says, the off-site --

2   COUNCILMEMBER JOHNSON:   Right, because I think that  
3           it should be built on-site.

4   CHAIR MOLINA:   Okay.   All right, thank you, Member  
5           Johnson.

6           Member Baisa, do we have consensus or no  
7           consensus, your comments on this?

8   COUNCILMEMBER BAISA:   A couple of comments and  
9           questions.   Number one, when I read this  
10          literally, I'd like to be clear, and I'm sure  
11          that it would also help those who may be  
12          listening or watching.   It says the required  
13          50 percent workforce housing shall be based on  
14          the total number of combined units for the  
15          off-site project and Kihei-Makena Project  
16          District 9.   He's talking originally about  
17          1,400 total units.   Does this now mean 1,400  
18          plus 250 of which 50 percent is 825, or is it  
19          1,400 still and half of that is 700?

20   CHAIR MOLINA:   Good question.   Let me get  
21          clarification.   I guess would Planning  
22          Department or Mr. Giroux like to comment?   So  
23          based on the language, you feel that may  
24          assume --

25   COUNCILMEMBER BAISA:   It could go either way.

- 1 CHAIR MOLINA: -- 1,650 total units versus 1,400?  
2 Should we make any adjustments?
- 3 COUNCILMEMBER BAISA: And I've read it both ways, so  
4 I want clarification.
- 5 CHAIR MOLINA: Okay. I guess Planning Department,  
6 you came up with this recommendation. I guess  
7 Ms. Suyama, who's unfortunately not here,  
8 could give us clarification on this.  
9 Mr. Yoshida, are you able to comment?
- 10 MR. YOSHIDA: Yes, Mr. Chairman, Members of the  
11 Committee. I believe it was the Deputy  
12 Director's intent that it be for the total  
13 number of units, so if it's 1,400 units within  
14 the project and 250 off-site, that it will  
15 be --
- 16 CHAIR MOLINA: Member Baisa.
- 17 COUNCILMEMBER BAISA: If that's the Deputy  
18 Director's interpretation, is that what the  
19 developer thinks is correct? I think we  
20 better have a meeting of the minds.
- 21 CHAIR MOLINA: I'll call up Mr. Jencks, too, and get  
22 his thoughts.
- 23 COUNCILMEMBER BAISA: Mr. Jencks, please.
- 24 CHAIR MOLINA: Or his assumptions.
- 25 MS. MEDEIROS: Chair?

1 CHAIR MOLINA: While Mr. Jencks is coming up, we  
2 have -- Director Medeiros would like to add  
3 comment.

4 MS. MEDEIROS: Yes, and actually I did want to make  
5 sure I addressed this. This condition was put  
6 in by the Planning Department without  
7 consultation with our Department. We do not  
8 agree with that statement. I think to make it  
9 very clear, from what I've been listening is,  
10 number one, we all agree that they should be  
11 subject to Chapter 2.96.

12 COUNCILMEMBER BAISA: Yes.

13 MS. MEDEIROS: Number two, which is a condition, is  
14 that, however, all affordable units should be  
15 built on the site project that they're talking  
16 about. I think that would be probably an  
17 adequate way of getting across the message  
18 that you want. Because Chapter 2.96 does  
19 allow the developer to build their affordable  
20 units on another site.

21 COUNCILMEMBER BAISA: Right.

22 MS. MEDEIROS: So I just want to make sure that we  
23 clarify, and just to note that we don't agree  
24 with the statements.

25 CHAIR MOLINA: Madam Director, so this is a

1 follow-up, so if it is the body's intent to  
2 keep the units all within the project site,  
3 then we would have to put specific language in  
4 there so that way there's no --

5 MS. MEDEIROS: I would recommend it, yes.

6 CHAIR MOLINA: -- no doubt. Okay, thank you.

7 COUNCILMEMBER BAISA: Mr. Jencks.

8 CHAIR MOLINA: Madam Baisa.

9 COUNCILMEMBER BAISA: Mr. Jencks.

10 MR. JENCKS: Yes, ma'am.

11 COUNCILMEMBER BAISA: How many units are you  
12 building?

13 MR. JENCKS: We're building 1,400 units.

14 COUNCILMEMBER BAISA: So you're not building 1,400  
15 plus 250?

16 MR. JENCKS: We're building 1,400 units.

17 COUNCILMEMBER BAISA: I think it's really important,  
18 because this has been going back and forth,  
19 and I think there is a misunderstanding. And  
20 if the intent of this Council, then, is to say  
21 1,400 and they all need to be built in the --  
22 you know, in the project, then I think we need  
23 to clarify that and then we can go forward.  
24 Because we're spending an awful lot of time  
25 talking about something that we may not even

1 consider doing.

2 CHAIR MOLINA: Okay, thank you, Member Baisa.

3 Member Anderson?

4 COUNCILMEMBER ANDERSON: Charlie, you made a  
5 commitment to build these 250 rental units,  
6 multi-family, correct?

7 MR. JENCKS: It would be apartments, yes,  
8 multi-family.

9 COUNCILMEMBER ANDERSON: Immediately? You know,  
10 once you get your zoning, you're ready to go.

11 MR. JENCKS: Okay, if I may, Mr. Chair.

12 CHAIR MOLINA: Proceed.

13 MR. JENCKS: The land that we're -- when you say  
14 commitment, this is a proposal to address a  
15 need right now in Maui County.

16 COUNCILMEMBER ANDERSON: Well, I'm saying you're --  
17 you're making the commitment to do that.

18 MR. JENCKS: Just so we're clear. Okay, the land is  
19 zoned today. It's community planned  
20 appropriately. It's zoned appropriately.  
21 It's been subdivided in a large lot format. I  
22 have a 13-acre piece in that large lot format  
23 that I can use for this project. All of the  
24 plans have been completed, submitted to the  
25 County of Maui and the State Department of

1           Transportation for review and approval,  
2           including the Department of Water Supply.

3 COUNCILMEMBER ANDERSON: The subdivision plans?

4 MR. JENCKS: That's correct, which include a  
5           one-million gallon water tank. Now, those  
6           plans have been in process for a year plus.  
7           Now, I would say to you it is most desirable  
8           that they get done so we can get underway and  
9           build that project, and we'd like to do that.

10 COUNCILMEMBER ANDERSON: So based on the breakdown,  
11           you have got to build 210 units at 80 to 100  
12           percent of the median income. And if you're  
13           building 250, then I'm assuming 40 would be  
14           moderate income, 100 percent?

15 MR. JENCKS: You mean the apartments? You're  
16           talking about the apartments?

17 COUNCILMEMBER ANDERSON: Yeah, of whole -- of the  
18           250.

19 MR. JENCKS: The apartments, the rental apartments  
20           have to -- have to meet the requirements of  
21           the ordinance, which we had this discussion a  
22           little bit earlier, it goes back to a much  
23           lower percentage income. I think it was in  
24           the 50 to 60 percent range. I don't have the  
25           option of building apartments for moderate

1 income folks, in other words.

2 COUNCILMEMBER ANDERSON: Well, that's confusing to  
3 me now, because this breakdown that we got  
4 from -- from you, Mr. Molina, doesn't comport  
5 with that.

6 So here's my question, because, you  
7 know, Mr. Chair, this is part of the hook on  
8 this, that should this project get approved,  
9 it's going to be how many years before -- at  
10 least three years before he can break ground  
11 at the Wailea 670 project, but he's offering  
12 to do these 250 units now, and so that's --  
13 that's a big hook, and I'm sure a big  
14 influence on Members in how they're going to  
15 vote.

16 So I think we need to have that in our  
17 condition. He's making a commitment to do  
18 that, so let's put it in our condition. Let's  
19 not just say, you know, should any of the  
20 affordables be off-site. I think we should  
21 have a condition that says that 250 units  
22 shall be provided. And I don't have the  
23 language yet. I'm just too exhausted to  
24 think.

25 CHAIR MOLINA: So incorporate this into Condition 5,

1           then?

2   COUNCILMEMBER ANDERSON:  Yeah, I think we need --

3   CHAIR MOLINA:  Okay, so noted.

4   COUNCILMEMBER ANDERSON:  -- to have that in there

5           because --

6   CHAIR MOLINA:  Members, objections --

7   COUNCILMEMBER ANDERSON:  -- it's not a --

8   CHAIR MOLINA:  -- to the consideration?

9   COUNCILMEMBER ANDERSON:  -- you know, he's telling

10           us this is what he's going to do, and, you

11           know, it's an incentive to get his bigger

12           project approved, so let's make sure it

13           happens.  He's telling us already that he's,

14           you know, got the subdivision ready to go.

15           He's just waiting for final approval.

16                    You know, I'm a little concerned about

17           roadway capacity, because we're already at

18           capacity at Kaonoulu, according to the State.

19           We're supposed to have 17 vehicles per -- I

20           mean 17,000 vehicles per hour is our maximum

21           carrying capacity on the highway, and at

22           Pi`ilani between Kaonoulu and Kulanihakoi,

23           they're already above that, 17,000, 18,000,

24           19,000.  These were traffic counts done in

25           2005, so it's even worse than that now.  And

1           these are State traffic counts.

2                       So have you checked into that, Charlie,  
3           as to what kind of roadway improvements might  
4           be necessary to add 250 homes mauka of the  
5           highway?

6   MR. JENCKS:  It's -- yes, I have.  The improvements  
7           are pretty dramatic.  We have to widen the  
8           Pi'ilani Highway with left-turn lanes,  
9           right-turn lanes into the property.  We also  
10          have to build the first increment of the Kihei  
11          Upcountry highway through the property, which  
12          is a four-lane divided roadway, plus a major  
13          signal that has already been conditioned by a  
14          number of projects, the light industrial  
15          project plus on the makai side, so, you know,  
16          we've taken on the responsibility of  
17          implementing all those improvements as a part  
18          of that light industrial subdivision.  So,  
19          yeah, well aware.  It's pretty significant.

20   COUNCILMEMBER ANDERSON:  And you're prepared to do  
21          all that immediately so you can get this  
22          project going?

23   MR. JENCKS:  If I -- if I -- in order to get my  
24          subdivision approved I have to agree to those  
25          improvements, and in order to build any

1           apartments, for example, or any even light  
2           industrial I have to do all those  
3           improvements.

4   COUNCILMEMBER ANDERSON:   And then what about --  
5           since you've been at this for a year, I would  
6           assume you'd have some of these answers.  Do  
7           you have to do park assessment?

8   MR. JENCKS:   For apartments, yes.

9   COUNCILMEMBER ANDERSON:   So will you be putting a  
10          park within this subdivision?

11   MR. JENCKS:   We had initially looked at the 13 acres  
12          on what kind of density we can get to make it  
13          most effective, and it would be nice to do  
14          something on-site for the people who live  
15          there, certainly.

16   COUNCILMEMBER ANDERSON:   Well, it would be nice,  
17          definitely be nice, but will you do it?

18   MR. JENCKS:   Instead of paying park fees.

19   COUNCILMEMBER ANDERSON:   I'm asking you to make a  
20          commitment to put a Park in this subdivision  
21          for the people that --

22   MR. JENCKS:   Sure, we can do that.

23   COUNCILMEMBER ANDERSON:   Okay, great.  Thank you for  
24          that.

25                        So I think we need to have a condition,

1 Mr. Chair, that states that so that it's a  
2 done deal, and then -- and then the other  
3 thing I would like to see, if Ms. Medeiros  
4 could give us her attention for a minute.

5 CHAIR MOLINA: Okay, Director Medeiros.

6 COUNCILMEMBER ANDERSON: Because these are rental  
7 units, I would like to see a reconfigured  
8 chart for rental fees, rental units. I know  
9 that you did this based on the affordable  
10 housing or the Workforce Housing Ordinance.  
11 It says the monthly rental rate shall be set  
12 by the Department based on HUD income levels,  
13 and, as I said, affordable rentals based on  
14 HUD include utilities, and they actually have  
15 a utility allowance schedule for each island  
16 in the State of Hawaii.

17 CHAIR MOLINA: Director?

18 MS. MEDEIROS: And just clarification on that, and  
19 that is for HUD projects. That's for  
20 HUD-subsidized projects. It would be --

21 COUNCILMEMBER ANDERSON: I don't know that that's  
22 necessarily true. HUD subsidized, that means  
23 a Section 8 project?

24 MS. MEDEIROS: Section 8.

25 COUNCILMEMBER ANDERSON: No. This is HUD guidelines

1           for affordable rent based on percent of  
2           income. Has nothing to do with Section 8.

3 MS. MEDEIROS: Well, again, that's what Section 8  
4           follows, is those guidelines.

5 COUNCILMEMBER ANDERSON: I'm not talking about  
6           Section 8. I think what you showed us this  
7           morning for the rental rates that you  
8           established, they're the same as mortgage  
9           payments, Director Medeiros. It did not  
10          include utilities. And, you know, to make it  
11          actually work based on somebody's income, I  
12          think you have to include the utilities.

13                 So I'd like to see a realistic rental  
14          rate that we can look at and approve,  
15          Mr. Chair. Because all these units are going  
16          to be rentals, and we want to make sure that  
17          they are actually affordable for the people in  
18          the 60, 70, 80 percent income level.

19                 And, you know, I know I haven't  
20          convinced you, because you're still arguing  
21          with me, but I think you need to go back and  
22          double check, because everything in our  
23          ordinance is based on HUD guidelines, HUD  
24          income guidelines, and, you know, Section 8 is  
25          a subsidy, but -- so I don't see how you can

1 make the comparison that -- that utilities are  
2 included in the rental rates only for Section  
3 8. Because, you know, I've got something  
4 right off the HUD guideline. It doesn't say  
5 anything about Section 8, and there's nothing  
6 in our -- in our Workforce Housing Ordinance  
7 that says anything about Section 8. It says  
8 such and such percent of the area's median  
9 income as established by HUD.

10 And I'd like to get that cleared up,  
11 Mr. Chairman, before we finalize this -- this  
12 project. Because if -- if we're stuck with  
13 what the Department's already established, it  
14 certainly isn't going to be affordable for  
15 anybody at 60 or 70 percent of the median  
16 income, unless you include the utilities.

17 So I'm making that request to have you  
18 reevaluate that, and, you know, if you don't  
19 want to change it, I'd like to see something  
20 in writing as to why you cannot do that.

21 CHAIR MOLINA: Director Medeiros, are you able to  
22 respond maybe just in writing at a later  
23 point?

24 MS. MEDEIROS: Okay. Will we receive a request in  
25 writing so we can --

1 CHAIR MOLINA: Sure.

2 MS. MEDEIROS: -- that we're extremely clear on what  
3 it is being requested and we can respond to  
4 it?

5 CHAIR MOLINA: Okay, Staff, maybe you can get  
6 together with Member Anderson to send a letter  
7 to the Director with regards to Member  
8 Anderson's consideration to the Director.

9 COUNCILMEMBER ANDERSON: So, Mr. Chair, if -- maybe  
10 Mr. Jencks, he's been pretty good at drafting  
11 conditions. Would you like to propose some  
12 language for us to add onto this that's  
13 specific to the 250 units that would work for  
14 you?

15 CHAIR MOLINA: Mr. Jencks?

16 MR. JENCKS: Well, I -- thank you, Mr. Chair.

17 As I understand the condition right now,  
18 it basically says that WCPT/GW Land  
19 Associates, its successors and permitted  
20 assigns, shall -- shall provide workforce  
21 housing in accordance with Chapter 2.96 Maui  
22 County Code Residential Workforce Housing  
23 Policy, period. That's where we are right  
24 now. So the question is how do you expand  
25 upon that to allow for this off-site?

1 COUNCILMEMBER ANDERSON: No. You didn't read the  
2 whole thing. It says, Should any of the  
3 workforce housing be located off-site, the  
4 required 50 percent workforce housing shall be  
5 based on the total number of blah, blah, blah.  
6 I'd like to see a specific -- specific  
7 language in here that makes -- that  
8 memorializes the commitment that you've just  
9 made to us.

10 CHAIR MOLINA: The 250 units.

11 COUNCILMEMBER ANDERSON: For the 250 off-site units.

12 MR. JENCKS: I was referring back to Ms. Johnson's  
13 recommendation, I guess, the balance of that  
14 be deleted, and that's where we left off.

15 CHAIR MOLINA: Right.

16 MR. JENCKS: I'm sorry.

17 COUNCILMEMBER ANDERSON: I mean, like I just said,  
18 this is a big selling point, Mr. Jencks,  
19 because we need that housing now, not in three  
20 years or not in five years. We need it now.  
21 And you're making the commitment. You're  
22 using that as a selling point to convince  
23 Members to go for this project, so let's get  
24 it in writing in this condition.

25 CHAIR MOLINA: Mr. Jencks?

1 MR. JENCKS: Well, I'm thinking.

2 COUNCILMEMBER ANDERSON: While he's thinking --

3 CHAIR MOLINA: Yeah.

4 COUNCILMEMBER ANDERSON: -- I'd like to hear from

5 Director Medeiros. She doesn't agree with

6 this, and so I'd like to know what -- how the

7 Department would view this condition? How

8 would you like to see the language written?

9 CHAIR MOLINA: Director?

10 COUNCILMEMBER ANDERSON: Because they're the ones

11 that are going to administer it, not the

12 Planning Department. So we need to hear from

13 them how they feel it should be written.

14 MS. MEDEIROS: Well, I think I mentioned it before,

15 it appeared to me that the statement made by

16 the developer was that they would build all of

17 their affordables on-site. Was that my

18 understanding?

19 CHAIR MOLINA: Initially at one point.

20 Mr. Jencks, can you add clarification?

21 MR. JENCKS: I was busy writing. I didn't -- I'm

22 sorry, I didn't hear what --

23 CHAIR MOLINA: Director, can you repeat your

24 question to --

25 MS. MEDEIROS: I just want to make sure that I --

1           that I heard earlier that the developer stated  
2           that he planned to build all the affordables  
3           on the project site. Was that correct?

4 MR. JENCKS: We have said, and I did say here today,  
5           that if wasn't acceptable building any  
6           off-site, we would certainly build them all  
7           within the project area.

8 MS. MEDEIROS: Okay. So I just wanted to make sure,  
9           because, again, I think I mentioned earlier  
10          that if that is the condition that the Council  
11          wants to make, then simply they would say that  
12          all affordables would be built on the site.

13 COUNCILMEMBER ANDERSON: Ms. Medeiros, you obviously  
14          aren't paying attention. We've been  
15          discussing for the last hour 250 units  
16          off-site that are going to be built  
17          immediately after this is approved, if this is  
18          approved. So we're asking him to write  
19          language to memorialize that in the condition.

20                 What I'm asking you is earlier you said  
21          that the Department does not agree with  
22          this -- with the language of this condition.  
23          So I want to know why you don't agree with it  
24          and what language you would like to see.

25 MS. MEDEIROS: Well, again, I simply say that we do

1 not agree with that second sentence, because  
2 Chapter 2.96 in and of itself allows for that.  
3 Chapter 2.96 --

4 COUNCILMEMBER ANDERSON: Be very specific, because  
5 you're saying -- you're saying we don't agree  
6 with the second sentence. What is the  
7 sentence you don't agree with?

8 MS. MEDEIROS: The second sentence -- the second  
9 sentence refers to should any of the workforce  
10 housing be located off-site, the required 50  
11 percent shall be based on the total number of  
12 combined units.

13 All I'm saying is that --

14 COUNCILMEMBER ANDERSON: And so what's wrong with  
15 this?

16 MS. MEDEIROS: All I'm saying is that Chapter 2.96  
17 already allows for that. You don't have to  
18 state it over again. Chapter 2.96 does allow  
19 for that to take place.

20 COUNCILMEMBER ANDERSON: So what you're saying --  
21 you have to be very specific, Ms. Medeiros,  
22 because we're dealing with a lot of  
23 information here. So what you're saying is  
24 it's just redundant to say that because it's  
25 already in the ordinance?

1 MS. MEDEIROS: Yes.

2 COUNCILMEMBER ANDERSON: Okay. Well, sometimes it's  
3 good to be redundant.

4 So that's the only problem you have with  
5 it, right?

6 MS. MEDEIROS: That's basically --

7 COUNCILMEMBER ANDERSON: Okay. *(End of tape)* you  
8 know, we could probably do away with that  
9 and -- and substitute it with a specific  
10 language to the 250 units that Charlie's  
11 committing to.

12 MS. MEDEIROS: If I can just clarify.

13 CHAIR MOLINA: Go ahead.

14 MS. MEDEIROS: Part of the reason why we did not  
15 agree with it is in terms of the way it was  
16 proposed by the Planning Division, they were  
17 attempting to add the 250 to the 1,400 to now  
18 increase the number of total units by which  
19 the developer would then be required to  
20 provide affordable housing. And all I'm  
21 saying is that in Chapter 2.96 it does allow a  
22 developer to build their affordables on a  
23 separate site within the Community Plan area.

24 COUNCILMEMBER ANDERSON: Yes, we're aware of that,  
25 but I don't see anything in here in the

1 Planning Commission's or in the Planning -- I  
2 don't see anything in here that says anything  
3 about that. So --

4 MS. MEDEIROS: Well, what they're saying is  
5 that what -- the Planning Department was  
6 indicating that -- is that on the site that  
7 they plan to build the 250 units, they would  
8 also be required to provide affordable housing  
9 for that site.

10 COUNCILMEMBER ANDERSON: Where does it say that?

11 MS. MEDEIROS: Well, that's the information that we  
12 had gotten from the Planning Department.

13 COUNCILMEMBER ANDERSON: Well, it's not in front of  
14 us. We don't have that information, and I  
15 don't see where you're getting that  
16 information. I mean, you know, things are  
17 confusing enough, Ms. Medeiros, so let's just  
18 stick with what's in front of us. And as far  
19 as your Department is concerned, the only  
20 problem you have with Condition 5, the updated  
21 draft of the Maui Planning Commission, column  
22 3, is that the second sentence talking about  
23 any of the workforce housing being off-site,  
24 that's the only thing you have a concern with  
25 is that it's redundant because it's already in

1 the Code.

2 MS. MEDEIROS: Correct.

3 COUNCILMEMBER ANDERSON: Okay, so if we could rush  
4 Mr. Jencks.

5 CHAIR MOLINA: Yeah. Okay, so --

6 COUNCILMEMBER ANDERSON: I mean, I could do this  
7 too, but I think it's better to have him write  
8 the condition, because it's his commitment.  
9 I'd like to see, you know, a commitment to a  
10 park too.

11 CHAIR MOLINA: All right. Mr. Jencks, any comments  
12 before I go to -- after Member Anderson's  
13 done, I go to Mr. Mateo.

14 MR. JENCKS: I was -- I was just scribbling here.  
15 And I just thought maybe -- and that -- and  
16 that rental units pursuant to Maui County Code  
17 Section 2.96 may be built off-site.

18 COUNCILMEMBER ANDERSON: No. That's not what you  
19 committed to, Mr. Jencks. You committed to  
20 250 units that you're going to build  
21 immediately. You've already got the  
22 subdivision going and that you're going to put  
23 a park in it.

24 So I think we need that language,  
25 Mr. Chairman, to be specific, because --

1 MR. JENCKS: You can plug in the 250. That's fine.

2 I had that written down here. I mean, that's  
3 fine.

4 COUNCILMEMBER ANDERSON: And, you know, you're using  
5 the word may, Mr. Jencks. That's not good  
6 enough. It has to be shall. 250 rental units  
7 shall be provided at the mauka intersection of  
8 Pi'ilani Highway and Kaonoulu and shall  
9 commence construction --

10 COUNCILMEMBER BAISA: Now.

11 COUNCILMEMBER ANDERSON: -- upon approval of  
12 Honua`ula Change in Zoning application.

13 CHAIR MOLINA: Member Anderson, at a later point you  
14 can get together with Staff and we can put  
15 that in --

16 COUNCILMEMBER ANDERSON: I mean, if you can get the  
17 general idea and get everyone to agree with  
18 it, and also the 250-unit subdivision shall  
19 include a park.

20 CHAIR MOLINA: Okay. Thank you, Member Anderson.

21 So the Chair -- so the Chair can get an  
22 understanding, and for all the other Members,  
23 we're going to strike out the language after  
24 the words "Workforce Housing Policy" and  
25 replace that with the specific language

1 related to the developer making a commitment  
2 for 250 units on-site in addition to a park.

3 Am I --

4 COUNCILMEMBER ANDERSON: Well, not on-site. I think  
5 we need -- I think we need to be specific to  
6 what he's saying, because he has already  
7 committed to this. It is definitely a selling  
8 point. And he's already got the land, you  
9 know, in the subdivision process. So I think  
10 we need to be very site specific about this,  
11 because he's being site specific to us in his  
12 offer. And so let's memorialize it exactly as  
13 it's being offered so that there's no  
14 question, you know, that, oh, we've decided  
15 not put it there. You know, let's be  
16 specific.

17 CHAIR MOLINA: All right, thank you.

18 Mr. Mateo, you have comments?

19 COUNCILMEMBER MATEO: Chairman, thank you very much,  
20 and I concur with Ms. Anderson. I also would  
21 like to indicate that in part I also agree  
22 with Ms. -- Ms. Medeiros in terms of the  
23 language that was cited by the Planning  
24 Department. We had this discussion a while  
25 ago with the Department. The language that

1 the Department had provided for us is contrary  
2 to the existing Housing Policy. The Housing  
3 Policy authorizes or allows for both rental  
4 and ownership to be provided within the  
5 Community Plan areas. The Department's  
6 indication goes contrary to this particular  
7 Code, and also it double dips. It requires  
8 the developer to provide twice the amount  
9 because of the grand total that's being built  
10 versus one number of units that's being built.  
11 Case in point, 1,400 units as the developer  
12 indicates, versus what the Department --  
13 Planning Department's recommendation, 1,650.  
14 So that was in error, so I definitely do agree  
15 with Ms. -- Ms. Medeiros.

16 And other than that, I just wanted the  
17 clarification because for the Members'  
18 information, just to clarify that point, under  
19 2.96.030, applicability, on page 6, under B,  
20 numbers 1 and 2, specifically clarifies the  
21 fact that the developer is able to construct  
22 these units outside of the project site and  
23 into an area within the Community Plan areas.

24 So I just wanted to clarify it --  
25 clarify that point, because we had this

1 discussion. It was for the sake of confusion,  
2 because the Department did not check and  
3 helped us to muddy the water, so we just need  
4 to take the time to clarify it at this point,  
5 and I hope the Department does not come up  
6 with more garbage to help us confuse. Thank  
7 you.

8 CHAIR MOLINA: Thank you, Mr. Mateo.

9 Okay, Members, do I have a general  
10 consensus at this point? Are we going to take  
11 out that last portion of the condition and  
12 replace it with the language specific to the  
13 250 units off-site, along with the  
14 dedication of a -- or the throw-in of a park  
15 upon approval of the matter, Honua`ula  
16 Partners? Member Anderson?

17 COUNCILMEMBER ANDERSON: Yeah, and I apologize to  
18 Ms. Medeiros, because now that I read this in  
19 its entirety, Member Mateo is right. They say  
20 the required 50 percent workforce housing  
21 shall be based on the total number of combined  
22 units for the off-site project and Makena, so  
23 that's wrong. So my apologies, but we never  
24 got that far in the sentence.

25 But that brings up a question for me,

1           and that is, Mr. Jencks, do you have any  
2           intention of building more than 250 units?

3   MR. JENCKS:   The original proposal was for 300, and,  
4           you know, I'm not -- it's 13 acres.   The Light  
5           Industrial zoning allows you to go to three  
6           stories.   It would be nice to have some  
7           flexibility there to maximize utility of the  
8           site, because it is valuable land.   Some  
9           flexibility on the total unit count might be a  
10          good idea.

11   COUNCILMEMBER ANDERSON:   So what -- you know, given  
12          the density and the 13 acres, what's the total  
13          build out that you could possibly do?   You've  
14          been at this for a year, Charlie.   Don't tell  
15          me you don't know what it is.

16   MR. JENCKS:   Well, like I say, we looked at 300  
17          units and we've taken a couple -- we've had  
18          people look at it, come back with us with  
19          ideas.   They came back with 250.   It's  
20          somewhere between -- I believe it's somewhere  
21          between the 250 and the 300 maximum.   I don't  
22          think there's any more space there for more  
23          than 300 units.   That's --

24   COUNCILMEMBER ANDERSON:   Well, remember you've got  
25          to put a park in there too.

1 MR. JENCKS: I understand that, and if you look at  
2 the -- if you look at the park ordinance,  
3 there's a specific criteria for number of  
4 square feet per unit.

5 COUNCILMEMBER ANDERSON: Right.

6 MR. JENCKS: Okay, and it tells you exactly what  
7 you've got to do, and as I look at it, this is  
8 about a quarter of an acre.

9 COUNCILMEMBER ANDERSON: A quarter of an acre.

10 Well, that would be great. And the reason --  
11 you know, I think maybe to be fair to the  
12 Department, they may have thought that you're  
13 going to be doing more than 250 affordables  
14 for Wailea 670, which is why they put this in  
15 here. Because it's true, if you do 250 that  
16 are applicable to the Wailea 670 project, but  
17 then you do an additional 50, you're going to  
18 have to do affordables for those 50 -- 50  
19 extra market units, because every subdivision  
20 now is applicable to our workforce housing  
21 ordinance.

22 MR. JENCKS: That's correct.

23 COUNCILMEMBER ANDERSON: So --

24 MR. JENCKS: Like I said previously today, the  
25 intent here is to build apartments consistent

1 with this ordinance.

2 COUNCILMEMBER ANDERSON: Right, so -- so if you do  
3 250 apartments, that would be, you know,  
4 applicable to the Wailea 670 project. Then  
5 we're fine with that. But if you come and you  
6 say -- and you end up doing 300 units, then 50  
7 of those units are going to have to provide  
8 additional workforce housing.

9 MR. JENCKS: I understand that.

10 COUNCILMEMBER ANDERSON: Okay, good.

11 MR. JENCKS: I got -- I understand the ordinance.

12 COUNCILMEMBER ANDERSON: Okay, good, thanks.

13 CHAIR MOLINA: Thank you very much, Members. The  
14 Chair will assume that this is majority  
15 consensus, at the very least, to this point  
16 for that condition. And then of course we  
17 will, along the way, if you have any  
18 additional proposals to the condition, you're  
19 free to do so.

20 Member Johnson, followed by Member  
21 Victorino.

22 COUNCILMEMBER JOHNSON: Yes, I guess my question --  
23 because that's in an SMA area; is that  
24 correct, Charlie?

25 MR. JENCKS: It is not.

1 COUNCILMEMBER JOHNSON: It is not in a Special  
2 Management Area. Okay. Then I guess my  
3 question would be to Corporation Counsel.  
4 When any project is built, wherever it may be,  
5 what is the situation with regard to the  
6 units? Because this is not within that  
7 Project District. It's outside of the Project  
8 District. Even though it might be related to  
9 it, what is it in the ordinance or is it  
10 within our authority to just simply waive the  
11 requirement for affordable housing as it  
12 relates to that specific apartment that he's  
13 talking about building?

14 CHAIR MOLINA: Corporation Counsel?

15 MR. GIROUX: Ms. Johnson, as far as looking at that,  
16 that really brings up something about the  
17 interpretation of the exemptions that are  
18 included within the bill, and I'm looking at  
19 exemptions as Section B, subcategory 6, where  
20 it looks like it starts talking about a  
21 development by a government entity, a project  
22 pursuant to Section 201H, Hawaii Revised  
23 Statutes, a community land trust, or an  
24 affordable housing project with more than the  
25 residential workforce housing units in lieu of

1 fees or in lieu of land required by Section  
2 2.96.040 of this Chapter as approved by the  
3 Director.

4 We haven't had a chance to really look  
5 at that and see how that would affect the  
6 project where somebody was actually required  
7 to do affordable housing to see if that fits  
8 within this exemption. And I would probably  
9 need a chance to take that back to my  
10 department and see if that's what -- if that  
11 scenario would actually fit within that  
12 exemption. I think I would need to work  
13 closely with the Housing Department's attorney  
14 to see if, you know, we can at least get three  
15 or four eyes on that and see what kind of  
16 interpretation we could get out of that.

17 COUNCILMEMBER JOHNSON: Yeah, and the reason I ask  
18 that, Mr. Chair, is because if it was within  
19 the project itself, it's pretty clear, but  
20 because this is outside the project, it's in a  
21 totally different zoning category. It's -- I  
22 mean, there's a lot of other things that may  
23 or may not allow it to go forward.

24 We also heard testimony the other night  
25 about the appropriateness of putting housing

1 in an industrial area. I mean, I'm looking at  
2 that right now in Lahaina, and everybody is  
3 just rolling their eyes up in their head about  
4 Opukea, because it's -- who wants to live next  
5 to Kahoma, you know, flood channel and then  
6 look out over, you know, that kind of complex,  
7 but that's a side issue. But I would be very  
8 interested to know what our Workforce  
9 Ordinance actually does, if there's an  
10 exemption that they have to apply for  
11 separately, or if it has its own set of  
12 requirements. Because I really see this as  
13 something that is a little bit confusing, and  
14 I don't want to establish precedent in this  
15 particular case unless I have all the  
16 information.

17 CHAIR MOLINA: Sure.

18 COUNCILMEMBER JOHNSON: Thank you.

19 CHAIR MOLINA: So noted. Thank you.

20 MR. JENCKS: Mr. Chair.

21 CHAIR MOLINA: Mr. Jencks, you wanted to make  
22 additional comment?

23 MR. JENCKS: Yeah, I'd like -- I just was going to  
24 ask Councilmember Johnson, what is the  
25 specific concern so that I understand it as

1 well relative to the ordinance?

2 COUNCILMEMBER JOHNSON: Well, because the Workforce  
3 Housing Ordinance is newly implemented, we're  
4 coming up with situations that we're not  
5 really sure, even ourselves, of every  
6 particular scenario that's going to be played  
7 out. I can -- my understanding is that if  
8 it's built within your housing, you know, area  
9 or your Project District, that's very clear  
10 because then you're building those units  
11 specifically for that -- that condition.

12 Now, while this may be specifically for  
13 that condition, it's outside of the project  
14 area, and my question would be what is it in  
15 our Affordable Housing Ordinance, the way that  
16 we drafted it, that specifically either allows  
17 you to apply for an exemption from the  
18 Affordable Housing Ordinance, you know, and if  
19 it does fit into that exemption category, then  
20 I want to know. That's fine. And if it does  
21 not, because it's outside the project area,  
22 then I want to know if it has its own  
23 requirements because it's built on a separate  
24 site, whatever the zoning is of that  
25 particular property. I just want to be very

1 clear if that has its own requirements for  
2 affordable housing or any other. You kind of  
3 follow where I'm going?

4 MR. JENCKS: Yes, I do, but I guess it comes back,  
5 for me, with regard to the exemption issue.

6 COUNCILMEMBER JOHNSON: Uh-huh.

7 MR. JENCKS: The whole point here is to build  
8 affordable product. That's a part of my  
9 requirement. So why would I even go to an  
10 exemption? I mean, I don't -- even though I  
11 wouldn't even consider that, because I have a  
12 finite requirement of 700 units I've got to  
13 build, so why would I even consider an  
14 exemption? But I do understand the issue  
15 about land use and if there's any other  
16 outside issues that would affect the  
17 implementation of the housing, sure.

18 COUNCILMEMBER JOHNSON: And it's just because I want  
19 to be clear and I don't want to establish  
20 precedent for other developers to come and  
21 say, oh, well, so and so did it, now I'm going  
22 to do it. And from the testimony, the other  
23 concern I have, which is irrespective of our  
24 Affordable Housing Policy, is that many people  
25 seemed to testify the other evening that they

1 question the appropriateness of putting people  
2 into an industrial area for housing. And I  
3 have many of my constituents in Lahaina right  
4 now that are very upset of where this -- I  
5 mean \$500,000 or whatever it is in terms of  
6 the prices for a particular housing  
7 development that's being put in right next to  
8 Kahoma Stream and it's in an industrial area.  
9 And everybody is questioning the  
10 appropriateness, which is also what came up  
11 the other night. So that's a side issue, but  
12 I'm not sure, because I haven't looked  
13 specifically at the site, where you would  
14 intend to place these units. I guess I'd have  
15 to see it in its general context.

16 MR. JENCKS: Which -- if I may, Mr. Chair?

17 CHAIR MOLINA: Go ahead, Mr. Jencks.

18 MR. JENCKS: Kind of takes us back. Maybe the  
19 easiest thing to do here is to go back to  
20 where the Director was coming from in the  
21 beginning, which is if you just say we need to  
22 comply, the ordinance provides for off-site.  
23 Maybe that's the easiest thing to do, and then  
24 I've got to deal with the permitting and the  
25 issue with the public, and it doesn't involve

1 the Council. It's much more straightforward  
2 and direct. Maybe that's the approach you  
3 should follow.

4 COUNCILMEMBER JOHNSON: Yeah, and because I  
5 understand both sides of it, the immediacy and  
6 the need are urgent, but then also I don't  
7 want to get into a situation, Mr. Jencks,  
8 where people somewhere down the line say, oh,  
9 yeah, you know, they settled for that and, you  
10 know, it's -- there are areas where we're  
11 going to run into conflicts, and the  
12 perception is that Wailea 670 was getting away  
13 with something because they didn't want to put  
14 these units within their particular project  
15 area because the people who would live in them  
16 were somehow not good enough. And that's the  
17 other perception, so...

18 MR. JENCKS: I heard that as well.

19 COUNCILMEMBER JOHNSON: Okay.

20 CHAIR MOLINA: Thank you, Member Johnson.

21 Thank you, Mr. Victorino, followed by  
22 Mr. Hokama.

23 COUNCILMEMBER VICTORINO: Yeah, you know, Mr. Chair,  
24 some 45 minutes ago or so I said yes to  
25 something, I don't even remember what the hell

1 I said yes to. You know, I mean, one lady  
2 says take it out, another lady says put 250  
3 in. No offense to the ladies. I don't know  
4 where we're at. Now, Ms. Baisa said she was  
5 confused. I thought I knew what I was doing  
6 till it got to that point. Now I'm confused.

7 So in this whole thing, one day soon,  
8 you're going to read it so that myself and the  
9 general public knows specifically what we're  
10 talking about, because we've sure gone in a  
11 lot of circles. And I'm going to be very  
12 honest. Government -- and I'm a little  
13 frustrated. You know, if business worked this  
14 way, we'd go broke. Simple as that. And any  
15 business person, any person out there will say  
16 that this is a process that seems to go in a  
17 big circle and never end up anywhere but,  
18 okay, so can you tell me I said yes to  
19 something 45 minutes ago, so I guess I didn't  
20 say yes to what is actually on the floor right  
21 now?

22 CHAIR MOLINA: Well, what I had asked you earlier,  
23 before Member Anderson made her recommendation  
24 and also Member Johnson, was if you had  
25 consensus with the condition as written.

1           Now --

2   COUNCILMEMBER VICTORINO:   The one I got scolded on  
3           earlier to say that that wasn't applicable  
4           because we're reading over here under Exhibit  
5           B, which was the Maui Planning Commission.

6   CHAIR MOLINA:   Yeah, we're looking at, right, the  
7           one with all the underscored lettering,  
8           Mr. Victorino.

9   COUNCILMEMBER VICTORINO:   I just feel like sometimes  
10          I may not be in the same meeting as the rest  
11          of us.

12   CHAIR MOLINA:   It's difficult.

13   COUNCILMEMBER VICTORINO:   So I apologize.

14   CHAIR MOLINA:   No, no, no apologies necessary.   It  
15          can be quite cumbersome.   Welcome to the  
16          Council.   That's government for you.

17   COUNCILMEMBER VICTORINO:   Thank you, Chair.

18   CHAIR MOLINA:   But, yeah, so, again, for the record,  
19          what we're considering is some proposed  
20          changes to the condition that was made by the  
21          Planning Department, the revisions made, and  
22          that is to take out the language that make  
23          references to off-site and instead replace it  
24          with the commitment for the 250 additional  
25          units as well as the commitment for a park and

1           upon approval of the project, should that ever  
2           occur.

3                        So in general that's what we're going to  
4           consider along the way. But because we  
5           started with you, you know, we'll move down  
6           the line, so then these conditions are being  
7           proposed -- or considerations being proposed,  
8           but, again, we're still open for comment, so  
9           that's the intent of making the go around  
10          right now, so I'm sorry to confuse you.

11 COUNCILMEMBER VICTORINO: The only comment I would  
12          make is I'd like to see this final whatever it  
13          is in writing before I say yes to anything,  
14          anything, because we have changed it many  
15          ways. You just said we taking it -- taking  
16          out the off-site and putting 250 in there, but  
17          isn't the 250 off-site, not in the project  
18          itself? I mean --

19 CHAIR MOLINA: Yeah, Mr. Victorino, at any time you  
20          can object to the proposed changes as well,  
21          so --

22 COUNCILMEMBER VICTORINO: Sometimes I'm afraid to  
23          object because I'm not sure what I'm going to  
24          object to.

25 CHAIR MOLINA: Okay.

1 COUNCILMEMBER VICTORINO: So I apologize, you know.

2 CHAIR MOLINA: Well, you don't need to. It can get  
3 a little confusing. We've been overloaded  
4 with a lot of information and considerations,  
5 so nothing to feel bad about.

6 Okay, Mr. Hokama.

7 COUNCILMEMBER HOKAMA: Chairman, thank you. For me  
8 also the word additional 250 is part of my  
9 dilemma, additional 250, that phrase. Because  
10 for me that would be a great incentive for me  
11 to consider supporting this project, 700 plus  
12 250 is 950 units affordable. That's a big  
13 hook for me because of the term that has been  
14 used, additional 250 off-site. Okay, we  
15 didn't say 250 of the 700 that is due  
16 off-site.

17 CHAIR MOLINA: Okay.

18 COUNCILMEMBER ANDERSON: Where does it say  
19 additional?

20 COUNCILMEMBER HOKAMA: But that's how I've been  
21 hearing the discussion.

22 CHAIR MOLINA: Member Hokama, if I could interject.  
23 I think we're going to have Staff work on the  
24 language in the proposal from Member -- I know  
25 when Member Anderson was giving out this

1           consideration there was no -- it wasn't, I  
2           guess, memorialized officially until we get --  
3           you know, we'll have her work with Staff or  
4           we'll work with the Committee Chair and we'll  
5           throw out language for the body to consider.  
6           So that's where we're at, and apologize for  
7           the --

8   COUNCILMEMBER HOKAMA:  No, no, Chairman, and I  
9           appreciate, you know, your patience and your  
10          perseverance to go through this very  
11          deliberately, and that's why it's government,  
12          it's a deliberate process, Chairman.

13                 But my comments would be if it is not an  
14          additional 250 to the 700, which is the 50  
15          percent of the 1,400, to me, we're not getting  
16          anything more.  To say that they're willing to  
17          do it up front, I'm not getting anything more,  
18          because we can condition this ordinance to  
19          require them anyway, regardless, that they  
20          have to produce X amount of units up front.

21                 We have learned through the years,  
22          Mr. Chairman, through various entitlements  
23          that the Council has given that -- even with  
24          this morning's project that we talked about,  
25          it's always the last to come into realization

1           and construction. We have learned that we're  
2           going to put triggers or condition the  
3           approval to tell them when we want this  
4           affordables constructed and provided for. So  
5           if we want it up front, then let's just  
6           condition the zoning accordingly. But to me,  
7           we're not getting anything more than what is  
8           already required by ordinance. So what's the  
9           hook for me? Nothing. Nothing.

10                   And part of this condition I've heard is  
11           that, you know, I have put the proposal, what,  
12           one term, two terms ago, if we got rid of this  
13           piggybacking on zoning categories, there would  
14           be no discussion on whether or not you could  
15           build a housing unit in an Industrial zoned  
16           area, because that wouldn't be allowed.  
17           You're in the right zoning category or you're  
18           not. But because we allow stacking of zoning  
19           categories, it's an allowable, permitted use,  
20           Members. And if that is something that the  
21           applicant is proposing, rightfully so, it's a  
22           permitted use by the current Code. Okay, even  
23           if we don't like it, it's a permitted use,  
24           quote, stacking.

25                   So for me, Chairman, I'm not too

1           thrilled, and with my -- you know, with my  
2           position, I'm not going to concur or give  
3           consensus to something, to me, we're getting  
4           what we're already required to get. I'm not  
5           getting anything more, from my understanding  
6           of this and listening to the discussion of my  
7           colleagues. So to me, hook doesn't exist.  
8           I'm not even motivated anything more than to  
9           see what better we can get for the community.  
10          Even with the park, unless we condition the  
11          park proposal that Ms. Anderson states  
12          accurately and specifically, the Code still  
13          allows the Department to make decisions  
14          between in lieu, cash payment, take the land,  
15          take the improvement.

16                    So I would just share that with the  
17          Members with respect to you, Mr. Chair, that  
18          that is the way that I'm viewing what is being  
19          proposed and has been discussed since the  
20          recess. Thank you.

21   CHAIR MOLINA:   Okay, thank you very much,  
22                    Mr. Hokama.

23                    Member Anderson.

24   COUNCILMEMBER ANDERSON:   Thank you, Mr. Chair.

25                    Appreciate Mr. Hokama's comments, and that's

1           why I think we need to specifically condition  
2           this, because, you know, the way the ordinance  
3           reads, they don't have to do the affordable  
4           housing any sooner than the market housing.  
5           You know, they get an occupancy certificate  
6           for the market housing the same time they get  
7           one for the affordable housing. And so the  
8           sales point for me is that they're going to do  
9           this immediately and not three years from now.  
10          And I imagine if the body wanted to, we could  
11          override the Workforce Housing Policy and say  
12          they have to do it up front. Just like -- I  
13          mean, I think we need to have them do quite a  
14          few things up front, widening of the highway,  
15          for one, but I'm trying to stay within the  
16          parameters of this Workforce Housing Policy  
17          that we just adopted, in all fairness.

18                    But I want to -- I want to add one more  
19                    twist here, and that is that I think we should  
20                    condition this also that they cannot use the  
21                    201H process. Because if they're going to do  
22                    this affordable housing project as a  
23                    stand-alone project, rather than integrate it  
24                    like the rest of the affordable housing within  
25                    the Wailea 670 project, then there's an

1           opportunity for them to use the 201H process  
2           because it's going to be 100 percent  
3           affordable. And I don't think that they could  
4           actually do that with -- well, maybe they  
5           could, but I don't think they'd get away with  
6           it, for the whole Wailea 670 project.

7                         But because it's going to be 100 percent  
8           affordable, they qualify to do the 201H, but  
9           they're actually doing it in -- in fulfillment  
10          of the Wailea 670 market-priced housing. So  
11          I'd like us to put in, you know, another  
12          caveat in this condition that says they cannot  
13          use the 201H process. Because that gives them  
14          all kinds of exemptions that I don't think  
15          they should get because this is -- they're  
16          doing this in fulfillment of the requirements  
17          for Wailea 670.

18   CHAIR MOLINA:   Okay. I think you bring up an  
19                         interesting point. If I could follow up on  
20                         that, Member Anderson, with Mr. Giroux from  
21                         Corp. Counsel.

22                         Because the 201H process is a State  
23                         vehicle, can we have -- are we allowed to do  
24                         that without getting challenged, if you will?  
25                         Not that I know Mr. Jencks would consider

1           that, but is that something we need to be  
2           aware of because it's a State *(end of tape)*  
3           telling them that, okay, you cannot use a  
4           State process as it relates to this. Any  
5           comments? I guess, in short, are we subject  
6           to challenge?

7 MR. GIROUX: Chair, I'd like to look into that a  
8           little more. As far as -- I believe that 2.96  
9           is silent on the point of how you go about  
10          producing the affordables, and I think that if  
11          you produced it going through a State -- a  
12          State process, basically all you're doing is  
13          using a Land Use tool. So, I mean, if  
14          somebody went through that, I don't see -- I  
15          don't see them as being in -- it would be a  
16          possible acceptable way to achieve their --  
17          their affordability, but I need to look into  
18          whether or not disallowing somebody from using  
19          that process would violate any State laws or  
20          constitutional issues.

21 CHAIR MOLINA: Okay, thank you. I guess we'll  
22          make --

23 COUNCILMEMBER ANDERSON: And I think -- I think,  
24          Mr. Giroux, you need to look at it in the  
25          context of what's being proposed here, that

1           this is to fulfill a condition of zoning for a  
2           larger project. You know, that may -- that  
3           criteria alone might give us the right to do  
4           that, because it's a condition of zoning.  
5           So -- because, you know, I think that that --  
6           I don't think that they should be allowed to  
7           use 201H for the off-site housing. They  
8           wouldn't be able to do it if it was on-site,  
9           so -- and I don't know, Mr. Jencks, did you  
10          have any intention of using 201H? Because you  
11          already said you've got to do all this  
12          infrastructure improvements.

13 MR. JENCKS: We hadn't even thought about it,  
14          frankly.

15 COUNCILMEMBER ANDERSON: Well, then I'm sorry I  
16          brought it up.

17 MR. JENCKS: Maybe it's a good idea. Now that  
18          you've asked the question, you know, in my  
19          mind, looking back at all the 201 -- we had  
20          201E, we had 201G and now we've got 201H.  
21          People typically use those processes because  
22          they had maybe a land use issue or a base  
23          entitlement issue, and then they sometimes  
24          used it because they had off-site cost issues,  
25          and sometimes the developers would roll into

1           that, maybe excuse from fees, water meter  
2           fees, I mean, that came up a while back.

3           The only reason -- the only thing that I  
4           see here that is of any concern to me is, you  
5           know, what Mr. Hokama brought up, which is  
6           this issue of the land use. Right now it is  
7           Light Industrial and right now today it says  
8           that apartments are a permitted use. And, you  
9           know, frankly, apartments in that district  
10          have been very successful. It combines -- the  
11          idea was to combine live/work, because you've  
12          got employment opportunity, you've got a place  
13          for people to live. You know, I think from a  
14          smart growth traditional neighborhood design  
15          concept it makes a lot of sense, but he brings  
16          up a very good point, this issue of  
17          pyramiding, and if you pursue this line of  
18          logic and then you give me a condition that  
19          I've got to do this and then a year from now  
20          perhaps the Council decides that the pyramid  
21          concept is not appropriate for these  
22          districts, then I'm stuck. I have no -- I  
23          basically have --to be really honest with you,  
24          I have no recourse. What am I supposed to do?  
25          COUNCILMEMBER ANDERSON: Well, I don't think we can

1           apply anything that we might do a year from  
2           now retroactively to you, Mr. Jencks, since  
3           you've already got your preliminary  
4           subdivision approval. And my concern is, you  
5           know, I was adamantly against using the  
6           industrial area, but once I took a look at the  
7           map -- and correct me if I'm wrong, but it  
8           appears to me that this housing subdivision or  
9           multi-family units subdivision is going to be  
10          the first thing off of Pi'ilani Highway on the  
11          new Kaonoulu Road.

12 MR. JENCKS: That's not correct.

13 COUNCILMEMBER ANDERSON: It's not correct?

14 MR. JENCKS: It's the mauka -- it's at the highest  
15          end of the property.

16 COUNCILMEMBER ANDERSON: It's the highest end of the  
17          property?

18 MR. JENCKS: Yes.

19 COUNCILMEMBER ANDERSON: So maybe we need a map of  
20          the area.

21 MR. JENCKS: Well, I had provided one, Mr. Chair, a  
22          number of times. I'd be happy to provide one  
23          now.

24 COUNCILMEMBER ANDERSON: Of the whole area?

25 MR. JENCKS: Yes, yes.

1 COUNCILMEMBER ANDERSON: Because I guess I was  
2 reading it upside down.

3 CHAIR MOLINA: Okay. So sit at the top of the  
4 mountain.

5 COUNCILMEMBER ANDERSON: So --

6 MR. JENCKS: Be happy to do that, Mr. Chair.

7 COUNCILMEMBER ANDERSON: That would be helpful.

8 MR. JENCKS: Not a problem.

9 COUNCILMEMBER ANDERSON: And the reason I don't want  
10 this 201H process to be applicable to this is  
11 because all of the -- do you own more than 13  
12 acres there?

13 MR. JENCKS: We own the entire 88.

14 COUNCILMEMBER ANDERSON: See, so they could use the  
15 201H process to get exemptions to put in the  
16 infrastructure going up to this project and it  
17 would benefit all the other stuff, all the  
18 industrial below it. So --

19 MR. JENCKS: No.

20 COUNCILMEMBER ANDERSON: That's why I think we need  
21 to make sure that they -- they cannot use the  
22 exemptions afforded in 201H. Because those  
23 exemptions can go right down to the Building  
24 Code, and, you know, I don't want to see any  
25 mini bedrooms. I want to see what you

1 committed to.

2 CHAIR MOLINA: Thank you, Member Anderson.

3 Okay, Members, the Chair's aware that  
4 several of you have to leave. I know some of  
5 you look very tired. You've a long, I guess,  
6 couple of days.

7 COUNCILMEMBER ANDERSON: Are you kidding?

8 CHAIR MOLINA: In light of the hearing. The Chair  
9 did want to discuss three matters -- three  
10 other conditions proposed by the applicant;  
11 however, in light of that, we're going to  
12 postpone that for another day. So Chair would  
13 like to throw out for your consideration --  
14 I'm going to give you a break, a short recess  
15 to go get your calendars, a recess of Monday  
16 September 17th, 4:00 p.m., or I believe Member  
17 Pontanilla has a Budget meeting, so I'd like  
18 to give you a short recess, look at your  
19 calendars. I'll confer with Mr. Pontanilla as  
20 well. So meeting in recess. Let's come back  
21 here at 5:45. (Gavel).

22 **RECESS: 5:38 p.m.**

23 **RECONVENE: 5:47 p.m.**

24 CHAIR MOLINA: (Gavel). The September 10th, 2007

25 Land Use Committee meeting is now back in

1 session. Thank you, Members, for that break,  
2 and I presume you've checked your calendars.  
3 The Chair before the break gave you a proposed  
4 recessed date of September 17th, Monday, back  
5 here at 4:00 p.m.; however, I would like you  
6 to consider 4:30. I've consulted with the  
7 Budget Chair, Mr. Pontanilla, he will more  
8 than likely need a little bit more time for  
9 his meeting. So the proposed recessed date  
10 and time is now September 17th, 4:30 p.m.,  
11 here in the Council Chambers. Any comments,  
12 Members?

13 And the Chair does not foresee a long  
14 meeting to stretch into the evening for that  
15 particular night, but I would like to get in a  
16 little bit more time to talk about some of the  
17 conditions proposed by the applicant.

18 Member Anderson?

19 COUNCILMEMBER ANDERSON: I can only stay until 6:00  
20 p.m., Mr. Chairman.

21 CHAIR MOLINA: Okay, so noted, Member Anderson.

22 Mr. Mateo, is that the same? Okay.

23 Member Johnson, any comments?

24 COUNCILMEMBER JOHNSON: No, it would be the same.

25 CHAIR MOLINA: Okay. Mr. Hokama?

1 COUNCILMEMBER HOKAMA: Chairman, happy to be present  
2 for you. I would just request that if you  
3 know what conditions or proposals that you  
4 would like the Committee to articulate --

5 CHAIR MOLINA: Sure.

6 COUNCILMEMBER HOKAMA: -- and provide comment on for  
7 Monday afternoon, if you can give us --

8 CHAIR MOLINA: Sure.

9 COUNCILMEMBER HOKAMA: -- in advance what those  
10 items would be, it would be much appreciated,  
11 Chairman.

12 CHAIR MOLINA: The Chair can do that right now, as a  
13 matter of fact.

14 COUNCILMEMBER ANDERSON: Yes, thank you.

15 CHAIR MOLINA: I would like to look at -- if we look  
16 at pages 13, which is the proposed educational  
17 fees from the Applicant. I don't believe we  
18 had a chance to discuss that, as well as the  
19 other two conditions on page 14, which is the  
20 transfer of ownership, which was not  
21 discussed, as well as the dry land forest,  
22 those were never discussed as well. So I  
23 would like to see if we can get some -- spend  
24 some time on that. And if time permits,  
25 whatever else is available. So for sure those

1 three for Monday.

2 COUNCILMEMBER ANDERSON: Mr. Chair, could you give  
3 us the --

4 CHAIR MOLINA: Yeah, page 13 and 14 of your matrix.

5 COUNCILMEMBER ANDERSON: So that would be item 4 on  
6 page 13?

7 CHAIR MOLINA: Yeah, page 13 is not actually  
8 numbered. If you look on the -- yeah, on the  
9 very bottom, yeah, that's right, Condition 4  
10 from the Applicant. It's numbered as  
11 Condition 4 from the Applicant in the second  
12 -- or third column, I should say, under  
13 educational fees, and then the last two  
14 conditions on page 14.

15 COUNCILMEMBER ANDERSON: Condition 15 and 24?

16 CHAIR MOLINA: That is correct, transfer of  
17 ownership and dry land forest, those three  
18 matters for discussion.

19 COUNCILMEMBER ANDERSON: Okay.

20 CHAIR MOLINA: And whatever else may come up as well  
21 in addition to that. So everybody all clear,  
22 then, on our recess, September 17th, 4:30  
23 p.m., right back here in the Chambers? It's a  
24 Monday, so if you plan on watching Monday  
25 Night Football, set your VCRs or something so

1 after the meeting when you get home and watch  
2 the game. So, anyway, any other  
3 announcements? Seeing none, the Chair thanks  
4 you all for -- oh, Mr. Victorino.

5 COUNCILMEMBER VICTORINO: It's a personal  
6 announcement, real quickly, because I'm  
7 already late. Aaron, my grandson's birthday  
8 today, 12 years old. Aaron, I'm on my way.  
9 Thank you.

10 CHAIR MOLINA: Oh, thank you. And I've got  
11 Mr. Pontanilla.

12 VICE-CHAIR PONTANILLA: Thank you. And today is my  
13 grandson Jason's birthday. He was born just  
14 the day after September 11th, the day that we  
15 all know. So happy birthday, Jason. I'll be  
16 there.

17 CHAIR MOLINA: Thank you. Any other announcements?  
18 Mr. Hokama.

19 COUNCILMEMBER HOKAMA: In nine months previous to  
20 this date must have been a great night,  
21 because then I would also -- like to also  
22 extend to my sister, her birthday is also  
23 today, and in my office I have John Min and  
24 his lovely wife Jean, it's also her birthday  
25 today. So to Jean Min and my sister Joy Hele,

1 happy birthday to those two ladies.

2 Thank you, Chairman.

3 CHAIR MOLINA: Thank you, Mr. Hokama.

4 Member Johnson, any announcements?

5 We'll go right down the line. I know you look  
6 like I want to go home, get some rest.

7 COUNCILMEMBER JOHNSON: No, other than the fact that  
8 Taste of Lahaina is coming up the 14th and the  
9 15th, and I just want to remind people.

10 CHAIR MOLINA: Okay. Member Anderson?

11 COUNCILMEMBER JOHNSON: Friday and Saturday.

12 CHAIR MOLINA: Any announcements? I know you've got  
13 to get to some event tonight.

14 COUNCILMEMBER ANDERSON: Yeah, I'm already going to  
15 be 20 minutes late.

16 CHAIR MOLINA: And Member Mateo?

17 COUNCILMEMBER MATEO: None.

18 CHAIR MOLINA: All right. Well, I'm going to take  
19 the opportunity, since we're talking about  
20 family, I just got a call today, my son's ship  
21 pulled into port at Pearl Harbor, and I guess  
22 they're going to make another run out to the  
23 Gulf again, so I have to do my fatherly duties  
24 and go pay him a quick visit, and so he can  
25 see his mother and sister as well. So I want

1 to thank all of our service men and service  
2 women who made the commitment. And we have  
3 Mr. Guillermo in the gallery, testified the  
4 other night, thank you for your service to our  
5 country as well.

6 So with that being said, Members, this  
7 meeting is in recess until Monday, September  
8 17th, 4:30 p.m., here in the Council Chambers.  
9 Meeting in recess. (Gavel).

10 **RECESS:** 5:52 p.m.

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C E R T I F I C A T E

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

I, Jessica R. Perry, Certified Shorthand Reporter for the State of Hawaii, hereby certify that the proceedings were taken down by me in machine shorthand and was thereafter reduced to typewritten form under my supervision; that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

I further certify that I am not attorney for any of the parties hereto, nor in any way concerned with the cause.

DATED this 11th day of October, 2007, in Honolulu, Hawaii.

  
\_\_\_\_\_  
Jessica R. Perry, CSR NO. 404