

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

October 5, 2007

Committee
Report No.

07-110
As Amended

NOTE: The recommendation contained in this committee report was amended by the Council at its meeting of October 5, 2007, by deleting the bracketed material and underscoring the new material. This committee report was then adopted as amended.

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Policy Committee, having met on September 4, 2007, September 12, 2007, and September 18, 2007, makes reference to County Communication No. 07-13, from the Council Chair, relating to Council approval of proposed affordable housing projects pursuant to Chapter 201H, Hawaii Revised Statutes (HRS).

By correspondence dated August 24, 2007, the Director of Housing and Human Concerns transmitted the following:

1. A document entitled "Application for Affordable Housing Development Pursuant to Section 201H-38, Hawai'i Revised Statutes: Maui Lani Site 6D Affordable Housing Project", for the development of the proposed Maui Lani Site 6D Affordable Housing Project in Kahului, Maui. The project consists of 48 two-bedroom/one-bath units (791 sq. ft.) and 24 three-bedroom/two-bath units (1,083 sq. ft.). All of the rental units will be offered to families earning less than 80 percent of Maui County's median family income. The Director recommended approval of the proposed project under Section 201H-38, HRS.
2. A proposed resolution entitled "APPROVING THE MAUI LANI SITE 6D AFFORDABLE HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES". The purpose of the proposed resolution is to approve the project with various exemptions, including exemptions from traffic and roadway improvements impact fees, the Comprehensive Zoning Ordinance, and the Project District Phase II and Phase III approval process.

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3. A proposed resolution entitled "APPROVING WITH MODIFICATION THE MAUI LANI SITE 6D AFFORDABLE HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES". The purpose of the proposed resolution is to approve the proposed project with the modifications in Attachment "1" and various exemptions, including exemptions from the traffic and roadway improvements impact fees, the Comprehensive Zoning Ordinance, and the Project District Phase II and Phase III approval process.
4. A proposed resolution entitled "DISAPPROVING THE MAUI LANI SITE 6D AFFORDABLE HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES". The purpose of the proposed resolution is to disapprove the proposed project.

Your Committee notes that pursuant to Section 201H-38, HRS, the Council shall approve, approve with modification, or disapprove affordable housing projects by resolution within 45 days after the preliminary plans and specifications for the project have been submitted to the Council, or the project shall be deemed approved. The Council has until October 8, 2007 to act on this application, or it will be deemed approved.

Your Committee further notes that the Maui Lani Site 6D Affordable Housing Project (the project) is proposed by Maui Lani Partners (the applicant).

Your Committee further notes that the applicant has authorized Munekiyo & Hiraga, Inc., to prepare, file, process, and obtain all necessary applications for the implementation of the project.

By correspondence dated August 31, 2007, your Committee's Chair transmitted a petition signed by eight "residents of Maui Lani" in opposition to development of the affordable multi-family housing project next to Pomaikai School.

By correspondence dated August 31, 2007, Anu Kothandaraman submitted testimony in opposition to the low-income housing project.

At its meeting of September 4, 2007, your Committee met with the Director of Housing and Human Concerns; the Director of Finance; the Director of Public Works; the Director of Environmental Management; the Director of Water Supply; the Deputy Director of Transportation; the Assistant Housing Administrator, Department of Housing

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and Human Concerns; a Lieutenant in the Fire Prevention Bureau, Department of Fire and Public Safety; a Sergeant, Department of Police; the Chief of Planning and Development, Department of Parks and Recreation; a Deputy Corporation Counsel; Leiane Paci and Darren Suzuki, Maui Lani Partners; and Mich Hirano, Munekiyo & Hiraga, Inc.

Your Committee received public testimony from two individuals who opposed the project because of its location next to an elementary school.

Your Committee received an overview of the project from Mr. Hirano. He explained that the project involves the development of 72 multi-family rental units in the Wailuku-Kahului Project District 1 (Maui Lani) that would be affordable to families earning less than 80 percent of the County's median income. He stated that the applicant would like to modify the description of its project, to provide 60 two-bedroom units and 12 three-bedroom units, instead of the originally proposed 48 two-bedroom units and 24 three-bedroom units.

Mr. Hirano also gave an overview of the requested exemptions as follows: an exemption from Title 14, Maui County Code (MCC), to allow the project to be exempt from traffic impact fees for multi-family units; an exemption from Title 19, MCC, to allow the project to proceed as a multi-family project with a greater density, higher maximum building height, and greater setbacks; and an exemption from Title 19, MCC, to exempt the project from the Project District Phase II and Phase III approval processes.

Your Committee received comments on the application from the members of the Administration. There were no objections to the project, provided that all applicable sections of the Maui County Code are followed.

Your Committee expressed concern that the units are only affordable to families earning very close to 80 percent of the County's median income, as the rents are set just below the 80 percent level provided by the Department of Housing and Human Concerns.

Your Committee also expressed concern that the applicant's proposal would add utilities, maintenance fees, and association fees to the base rent and push the total rent above the 80 percent of median income limit.

Your Committee requested more information about the applicant's plan to convert the rental units to a higher income bracket or sell them to residents earning up to 160 percent of median income.

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Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated September 5, 2007, your Committee's Chair transmitted a copy of Ordinance No. 1872, Bill No. 95 (1989), relating to a change in zoning for the Wailuku-Kahului Project District 1 (Maui Lani).

By correspondence dated September 11, 2007, Mich Hirano, Munekiyo & Hiraga, Inc., responded to questions and comments discussed during your Committee's meeting of September 4, 2007. The correspondence transmitted a copy of Ordinance No. 1872. Mr. Hirano called to your Committee's attention the ordinance's affordable housing condition, that at least 20 percent of the residential units in the Wailuku-Kahului Project District 1 (Maui Lani) be affordable to residents earning between less than 80 percent and 140 percent of median income with 5 percent affordable to families earning less than 80 percent of the median income, and a copy of the Department of Housing and Human Concerns' 2007 Income Limits and Affordable Rent Guidelines. Mr. Hirano also clarified the affordable rental range that the subject application is targeting.

At its meeting of September 12, 2007, your Committee met with the Director of Housing and Human Concerns; the Assistant Housing Administrator, Department of Housing and Human Concerns; the Director of Water Supply; the Corporation Counsel; Leiane Paci and Darren Suzuki, Maui Lani Partners; and Mich Hirano, Munekiyo & Hiraga, Inc.

There was no public testimony.

Your Committee received a copy of the "2006 Affordable Rent guidelines (HUD Median)", dated March 22, 2006, from Councilmember Anderson.

Mr. Hirano reviewed his correspondence dated September 11, 2007.

Ms. Paci urged your Committee to recommend adoption of the proposed resolution approving the subject application. She said that the applicant is proud of the project, which she said is responsive to community concerns and would help to address the County's affordable housing crisis in a responsible manner.

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In response to your Committee's questions, Ms. Paci and Mr. Hirano noted the following:

1. The subject application is intended to partially fulfill the affordable housing condition in Ordinance No. 1872. The ordinance does not specify a duration for the affordable term.
2. The project would have an affordable term of 25 years. During the first 15 years (first phase), units will be available to families earning less than 80 percent of the median income. During years 16-25 (second phase), units will be available to families earning 120 percent to 160 percent of the median income. The applicant is committed to minimizing undue hardship to families in the transition between Phase I and Phase II and upon the conclusion of the affordable term.
3. The project could be under construction in less than one year after the Council's approval.
4. Maintenance and similar fees shall be considered as part of the base rent.

Mr. Suzuki and Mr. Hirano responded to your Committee's questions about water availability for the project. They contended that sufficient water would be available for the project and noted that the applicant has drilled three wells. They also noted that the applicant has been closely consulting with the Department of Water Supply, and that all necessary infrastructure and compliance with applicable permitting requirements for the project would be in place prior to construction.

In addition, the Director of Water Supply responded to your Committee's questions about water availability for the project. He advised that, although he did not have all relevant information, it appeared that the wells would provide sufficient water for the project. He also noted that the project's water would not likely impact the County's water supply.

In response to your Committee's questions, the Director of Housing and Human Concerns provided information about the affordable rent guidelines, and the project's certification as an affordable housing proposal under Chapter 201H, HRS.

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Your Committee discussed possible modifications to the project. Your Committee raised concerns about the affordable rental range for the second phase, the breakdown of the types of affordable units, possible means of facilitating water conservation for the project, and possible means of ensuring that the project's units remain affordable in perpetuity (for example, by a transfer of the project's ownership from the applicant to the County or a nonprofit organization).

Ms. Paci expressed the applicant's ability to accommodate some of the possible modifications that were discussed. She advised, however, that it would not be economically feasible to comply with a modification suggested by your Committee's Chair that would alter the targeted affordable rental range for the second phase. Your Committee notes that the subject application states that units in the second phase would be available to families earning between 120 percent to 160 percent of median family income. Your Committee's Chair recommended that units in the second phase shall be available to families earning between 80 percent to 160 percent of median family income.

Your Committee discussed the possible impacts if the Council disapproved the subject application. Your Committee noted that if the project was not processed as a Chapter 201H affordable housing project, the Council would not have a role in reviewing the applicant's proposal for satisfying the condition in Ordinance No. 1872.

Your Committee discussed the County's affordable housing crisis and acknowledged the need to facilitate the provision of affordable housing units as soon as possible. Thus, your Committee expressed its hope that, with further deliberations, it would be able to recommend approval of the subject application, with reasonable modifications.

Your Committee's Chair requested that Committee members submit proposed modifications, in writing, for consideration at a future meeting.

Your Committee deferred consideration of the matter pending further discussion.

By separate correspondence dated September 14, 2007, Councilmember Baisa, Councilmember Victorino, and Councilmember Johnson each submitted proposed modifications to the project.

By correspondence dated September 17, 2007, your Committee's Chair provided a list of eight proposed modifications to the project.

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At its meeting of September 18, 2007, your Committee met with the Director of Housing and Human Concerns; the Assistant Housing Administrator, Department of Housing and Human Concerns; a Deputy Corporation Counsel; Leiane Paci and Darren Suzuki, Maui Lani Partners; and Gwen Hiraga , Munekiyo & Hiraga, Inc.

Your Committee received public testimony from a representative of the Maui Housing Council in support of the project.

Your Committee received written testimony from Ms. Paci, providing comments on the proposed list of modifications.

Your Committee expressed a desire to maintain the affordable units in the less than 80 percent of median affordable range for longer than the applicant's proposed 15 years.

Ms. Paci confirmed that the applicant did not foresee a problem with any of the proposed modifications, except for the modification that units in the second phase shall be available to families earning between 80 percent to 160 percent of median family income. She restated that the project would not be financially viable if it was required to stay affordable at the lower range of affordability for the entire 25-year period.

Your Committee agreed to provide the County the option to purchase the property, within the 15-year affordable period, at a mutually agreeable price, so that it could stay affordable beyond the first 15-year phase. Your Committee also agreed that in the event the County does not exercise its right to purchase the property, the applicant or its management company should maintain all of the units affordable to residents earning less than 160 percent of the median income with 50 percent of the units at the less than 80 percent of median affordable range for the second phase of the project.

After reviewing a revised list of proposed modifications, your Committee voted to recommend adoption of the proposed resolution to approve the project with the following five modifications:

1. That any required maintenance fees, homeowners' association fees, community association fees, and other similar fees shall be considered as part of the base rent.
2. That the project consist of 60 two-bedroom units and 12 three-bedroom units.

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3. That all units have low-flow, dual-flush toilet facilities and solar water heaters.
4. That the County shall have a right to purchase the project during the first 15-year affordable rental period, at a mutually agreeable price.
5. That in the event the County does not exercise its option to purchase, the second phase of the project must be comprised of units that are affordable to families earning less than 160 percent of the median income, with 50 percent of the units staying available to families earning below 80 percent of the median income.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality, incorporating your Committee's suggested revisions.

Your Policy Committee RECOMMENDS the following:

1. That Resolution No. _____, as revised herein and attached hereto, entitled "APPROVING WITH MODIFICATION THE MAUI LANI SITE 6D AFFORDABLE HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES", be [ADOPTED] FILED;
2. That Resolution No. _____, attached hereto, entitled "APPROVING THE MAUI LANI SITE 6D AFFORDABLE HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES", be FILED; and
3. That Resolution No. _____, attached hereto, entitled "DISAPPROVING THE MAUI LANI SITE 6D AFFORDABLE HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES", be [FILED] ADOPTED.

Adoption of this report is respectfully requested.

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DANNY A. MATEO **Chair**

BILL KAUAKEA MEDEIROS **Member**

G. RIKI HOKAMA **Vice-Chair**

MICHAEL J. MOLINA **Member**

MICHELLE ANDERSON **Member**

JOSEPH PONTANILLA **Member**

GLADYS C. BAISA **Member**

MICHAEL P. VICTORINO **Member**

JO ANNE JOHNSON **Member**