

COUNCIL OF THE COUNTY OF MAUI
HOUSING AND
HUMAN SERVICES COMMITTEE

April 15, 2005

Committee
Report No.

_____ 05-62

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

Chair and Members:

Your Housing and Human Services Committee, having met on March 16, 2005 and March 21, 2005, makes reference to County Communication No. 05-30, from the Council Chair, relating to Council approval of proposed affordable-housing projects pursuant to Chapter 201G, Hawaii Revised Statutes (HRS).

By correspondence dated March 3, 2005, the Director of Housing and Human Concerns transmitted the following:

1. An application for the development of the Self-Help Housing Corporation of Hawaii's (SHHCH) proposed Helani Gardens Subdivision II Project in Hana, Maui. The project proposes 14 single-family housing units for families whose incomes are 80 percent or less of the area median income for the County, as determined by the United States Department of Housing and Urban Development (HUD). The proposed project is located on approximately 6.529 acres (TMK: (2) 1-4-003:019 (portion)), approximately 4,500 feet northeast of the Hana Fire Station and adjacent to Kawaipapa Stream. The Director recommends approval of the proposed project under HRS Section 201G-118.

2. A proposed resolution entitled "APPROVING THE HELANI GARDENS SUBDIVISION II HOUSING PROJECT PURSUANT TO SECTION 201G-118, HAWAII REVISED STATUTES". The purpose of the proposed resolution is to approve the proposed project with various exemptions, including exemptions from a State Land Use District Boundary Amendment (DBA); a Community Plan Amendment; a Change in Zoning; standards for curbs, gutters and sidewalks; and park and playground dedications.

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3. A proposed resolution entitled "DISAPPROVING THE HELANI GARDENS SUBDIVISION II HOUSING PROJECT PURSUANT TO SECTION 201G-118, HAWAII REVISED STATUTES". The purpose of the proposed resolution is to disapprove the proposed project.

Your Committee notes that pursuant to HRS Section 201G-118, the Council shall approve 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 April 16, 2005 to act on this application, or it will be deemed approved.

By correspondence received on March 7, 2005, Claudia Shay, Executive Director, SHHCH, provided a summary of the exemptions requested for the project.

Your Committee received written testimony dated March 15, 2005, from five people in support of the proposed project.

At its meeting of March 16, 2005, in Hana, your Committee met with the Deputy Fire Chief; the Housing Division Administrator, Department of Housing and Human Concerns; a Deputy Corporation Counsel; and Claudia Shay, Executive Director, SHHCH.

Your Committee received a brief overview of the project from Ms. Shay. She explained that this is a 14 single-family housing SHHCH project targeted for low-income families. Ms. Shay also explained the exemptions requested under the HRS Chapter 201G application.

Ms. Shay noted that the project is limited to 14 single-family homes with a minimum lot size of 10,000 square feet to accommodate individual septic systems.

Your Committee received public testimony from three people in support of the project and from three people in opposition. The testifiers in support of the project highlighted the immediate need for affordable housing in Hana. The testifiers in opposition to the project expressed their concerns regarding drainage, traffic, and affordability of the homes for Hana residents. One testifier was concerned about possible health risks associated with electromagnetic fields emitted by electric transformers in the area.

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Your Committee also received written testimony from four people in support of the proposed project.

Your Committee recessed its meeting to March 21, 2005, at 9 a.m., in the Council Chamber.

Your Committee received correspondence dated March 16, 2005 and March 17, 2005, from seven people in support of the proposed project.

By correspondence dated March 17, 2005, the Chair of your Committee transmitted a document entitled "SELF-HELP HOUSING CORPORATION OF HAWAII HANA SELF-HELP PROJECT I SOURCES & USES STATEMENT" and a copy of the Helani Gardens Subdivision II Environmental Assessment prepared by Wayne I. Arakaki Engineer, LLC.

By correspondence dated March 21, 2005, John Blummer-Buell raised questions regarding the project's costs and requested information regarding the project.

At its reconvened meeting of March 21, 2005, your Committee met with the Director of Housing and Human Concerns; the Housing Division Administrator, Department of Housing and Human Concerns; the Deputy Director of Public Works and Environmental Management; a Planner, Department of Planning; a Deputy Corporation Counsel; Claudia Shay, Executive Director, SHHCH; and Wayne Arakaki, Owner, Wayne I. Arakaki Engineer, LLC.

Your Committee received written testimony from one person and a petition containing 138 signatures in support of the proposed project. Your Committee also received written correspondence dated March 18, 2005, from Ms. Shay, responding to questions raised by testifiers at your Committee's March 16, 2005 meeting in Hana.

Ms. Shay informed your Committee that the project is targeted for families earning below 80 percent of the HUD median income for Maui residents. She also stated that SHHCH has received various grants to pay for the "pre-development costs" of the project and that the purchasers will be able to qualify for United States Department of Agriculture Rural Development Section 502 Direct Loans. The payments of these loans are adjusted to the purchaser's income, thus making such loans affordable for lower-income families.

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Your Committee notes that the project site has been reduced to 5.184 acres. Your Committee also notes that SHHCH does not anticipate any changes to the number or size of the lots as a result of the reduction.

In response to your Committee's inquiry regarding flooding, Mr. Arakaki explained that the project is located in an area of minimal flooding according to the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency effective June 1, 1981. He also explained that the project will require the construction of dirt berms along Kawaipapa Stream, and the homes will be constructed away from the stream to prevent flooding. In addition, the homes will be elevated to help prevent flooding.

Your Committee notes that a large portion of the project's cost is due to the cost of the land and infrastructure. Your Committee further notes that the purchaser would be required to provide "sweat equity" of 32 hours per week during construction, and that there is a 10-year buy back provision with shared appreciation of equity on the land. These requirements favor existing Hana residents in qualifying for these homes.

Ms. Shay explained that the estimated cost for the homes reflect the higher cost of construction in the Hana area. She also explained that if the actual cost of construction is less than projected, the price of the home will be adjusted accordingly.

The Deputy Corporation Counsel stated that he worked with the Department of Housing and Human Concerns and SHHCH in preparing the request for a DBA, from Rural to Urban, which would reduce the minimum lot size from 0.5 acre to 10,000 square feet. He opined that the Council has the authority to grant the DBA.

The Planner stated that the Department of Planning was not aware that the applicant had requested a DBA. The Department's position is that the County does not have the authority to approve the amendment or waive the minimum lot size requirement, and that such authority resides strictly with the State Land Use Commission. The Planner further stated that although the Department of Planning supports this project, it will not approve a building permit unless it receives further clarification from the State Land Use Commission or from Corporation Counsel that the Council may in fact grant the DBA.

The Director of Housing and Human Concerns informed your Committee that the Department of Housing and Human Concerns supports this project and fundamentally disagrees with the Department of Planning's interpretation of the County's authority to approve the DBA request. She also stated that a similar request was approved by the

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Council for the West Maui Resource Center and the Department of Planning approved the building permits for that project.

Your Committee expressed disappointment that this issue had not been resolved before the application was submitted to the Council, and requested that the Department of Planning clarify its position regarding DBAs for future HRS Chapter 201G applications. Your Committee also requested that the Department of the Corporation Counsel provide a written opinion on whether the Council is authorized under HRS Section 201G-118 to grant the requested exemption to a DBA where the proposed project site is less than 15 acres.

Ms. Shay stated that any further delay would jeopardize financing for the project. She also opined that it is within the Council's jurisdiction to approve the DBA and requested that your Committee recommend that the proposed resolution approving the project be adopted.

Your Committee voted to recommend adoption of the proposed resolution entitled "APPROVING THE HELANI GARDENS SUBDIVISION II HOUSING PROJECT PURSUANT TO SECTION 201G-118, HAWAII REVISED STATUTES". Your Committee further voted to recommend that the proposed resolution disapproving the project be forwarded to the Council for consideration if the Council does not approve the project.

Your Committee is in receipt of a revised proposed resolution entitled "APPROVING THE HELANI GARDENS SUBDIVISION II HOUSING PROJECT PURSUANT TO SECTION 201G-118, HAWAII REVISED STATUTES" from the Department of the Corporation Counsel, incorporating nonsubstantive technical revisions.

Your Housing and Human Services Committee **RECOMMENDS** the following:

1. That Resolution No. _____, attached hereto, entitled "APPROVING THE HELANI GARDENS SUBDIVISION II HOUSING PROJECT PURSUANT TO SECTION 201G-118, HAWAII REVISED STATUTES", be **ADOPTED**; and

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2. That Resolution No. _____, attached hereto, entitled “DISAPPROVING THE HELANI GARDENS SUBDIVISION II HOUSING PROJECT PURSUANT TO SECTION 201G-118, HAWAII REVISED STATUTES”, be FORWARDED to the Council for consideration if the Council does not approve the project.

Adoption of this report is respectfully requested.

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