

**COUNCIL OF THE COUNTY OF MAUI**  
**HOUSING AND**  
**HUMAN SERVICES COMMITTEE**

August 23, 2005

**Committee**  
**Report No.**

05-110

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 July 25, 2005, July 27, 2005 and August 4, 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 July 11, 2005, the Director of Housing and Human Concerns transmitted the following:

1. An application for the development of the proposed Hale Mua Affordable Housing Subdivision in Waiehu, Maui. The project consists of a 466-lot single family subdivision, with 238 affordable house-lot packages, 209 market-priced lots, and 19 large lots to be sold at market prices. The affordable house-lot packages are for families whose incomes are between 70 percent and 100 percent of Maui County's median family income. The proposed project is located on approximately 238 acres, identified as TMK: (2) 3-3-02:031, adjacent to the Wailuku Country Estates agricultural subdivision. The Director recommends approval of the proposed project under Section 201G-118, HRS.
2. A proposed resolution entitled "APPROVING THE HALE MUA AFFORDABLE HOUSING SUBDIVISION 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 the Community Plan; the Comprehensive Zoning Ordinance; the filing of Project District Phase II and Phase III applications to permit the realignment of Imi Kala Street; the standards for curbs, gutters and sidewalks; wastewater assessments and wastewater system connection fees; permit and inspection fees for driveways, grubbing and grading; permit fees for fire, electrical, plumbing, and building demolition; traffic impact fees; and park and playground dedications.

**COUNCIL OF THE COUNTY OF MAUI**  
**HOUSING AND**  
**HUMAN SERVICES COMMITTEE**

August 23, 2005  
Page 2

**Committee**  
**Report No.**     05-110

3.     A proposed resolution entitled “DISAPPROVING THE HALE MUA AFFORDABLE HOUSING SUBDIVISION 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 August 24, 2005 to act on this application, or it will be deemed approved.

Your Committee further notes that the Hale Mua Affordable Housing Subdivision is proposed by Hale Mua Properties, LLC (the applicant) and sponsored by the Department of Housing and Human Concerns (DHHC).

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

Your Committee is in receipt of written testimony from 13 people in support of the proposed project because of the need for affordable housing. Your Committee is also in receipt of written testimony from 4 people opposed to the proposed project because it would increase traffic congestion, create overcrowding at Waihee Elementary School, strain the existing inadequate infrastructure, and change the “country feel” of the area.

By correspondence dated July 25, 2005 , the Council Chair transmitted a copy of a letter dated July 15, 2005, with attachments, from Mahealani Ventura-Oliver, representing several defendants in a Complaint to Quiet Title Civil No. 05-01-0178 (3), to Tom Leuteneker, attorney for the applicant. According to Ms. Ventura-Oliver, the applicant “does not possess record title or the right of adverse possession to the subject property”.

At its meeting of July 25, 2005, in Waihee, your Committee met with the Mayor; the Director of Housing and Human Concerns; the Planning Director; a Planner, Department of Planning; the Director of Transportation; the Director of Water Supply; the Deputy Director of Public Works and Environmental Management; the Deputy Director of Parks and Recreation; the Acting Assistant Chief, Department of Police; a

**COUNCIL OF THE COUNTY OF MAUI**  
**HOUSING AND**  
**HUMAN SERVICES COMMITTEE**

August 23, 2005  
Page 3

**Committee**  
**Report No.**      05-110

Deputy Corporation Counsel; Michael Munekiyo, President, Munekiyo & Hiraga, Inc.; and Sterling Kim, President, Hale Mua Properties, LLC.

Your Committee received correspondence from Mr. Munekiyo, which included project information, subdivision maps and information regarding two affordable house models.

Your Committee received an overview of the proposed project from Mr. Munekiyo. He noted that the project qualifies under HRS Section 201G-118 because the project proposes that 51 percent of the units will be sold to families earning not more than 100 percent of Maui County's median family income. He also noted that the project proposes 238 affordable homes on lots averaging 5,000 square feet, 209 market lots averaging 10,000 square feet, and 19 large lots on parcels between 2 to 25 acres.

Mr. Munekiyo further noted that although the affordable homes are targeted to various income categories, the applicant's intent is to provide homes at the lowest possible price to all income categories. He noted that if Hale Mua Properties, LLC can obtain the required approvals, delivery of the affordable homes would be in late 2007 or early 2008.

The Director of Housing and Human Concerns noted that based on a 6 percent mortgage interest rate, the affordable home prices would be between \$173,900 to \$258,900.

The Mayor noted that the applicant initially proposed a 100-percent-affordable-housing project, but his Administration asked the applicant to consider allowing some units to be sold at market prices so that the project could address infrastructure needs such as a bridge over Iao Stream and wastewater system improvements.

The Planning Director stated the following: (1) that prime agricultural land, which was intended to serve as a separation between Wailuku and Waihee, is being converted to an Urban designation; (2) that the large 2- to 25-acre lots should remain in the State Agricultural designation and not be changed to urban; (3) that the lots should only use non-potable water for agriculture; (4) that the fee exemption should apply to the affordable lots only, not to the market lots or the large agricultural lots; (5) that there are 228 possible ohana units, which would increase the number of total units to 694 units; and (6) that Waihee Elementary School is currently beyond its capacity.

**COUNCIL OF THE COUNTY OF MAUI**  
**HOUSING AND**  
**HUMAN SERVICES COMMITTEE**

August 23, 2005  
Page 4

**Committee**  
**Report No.**     05-110

Your Committee received public testimony from 20 people. Twelve testifiers supported the proposed project, and 8 opposed the proposed project.

Supporters of the proposed project noted the pressing need for affordable housing for working families. Various supporters noted that traffic, water and other infrastructure concerns need to be addressed when this project is developed.

Opponents of the proposed project raised the following objections: (1) that the proposed project will increase traffic congestion in the area; (2) that the proposed project will stress an already limited supply of water; (3) that the applicant does not have clear title to the project site; and (4) that Waihee Elementary School will not be able to accommodate additional students from the proposed project.

Your Committee received written testimony from two people in support of the proposed project, and correspondence stating that the applicant does not have clear title to the project site.

Your Committee recessed its meeting to July 27, 2005, in the Council Chamber.

At its reconvened meeting of July 27, 2005, your Committee met with the Mayor; the Director of Housing and Human Concerns; the Planning Director; a Planner, Department of Planning; the Director of Transportation; the Director of Water Supply; the Deputy Director of Public Works and Environmental Management; the Deputy Director of Parks and Recreation; the Acting Assistant Chief, Department of Police; a Deputy Corporation Counsel; Michael Munekiyo, President, Munekiyo & Hiraga, Inc.; Sterling Kim, President, Hale Mua Properties, LLC.; Tom Leuteneker, Esq., counsel for Hale Mua Properties, LLC; Wayne Arakaki, President, Wayne I. Arakaki Engineer, LLC; Julian Ng, President, Julian Ng, Incorporated; and Michael Dega, Ph.D., General Manager, Scientific Consultant Services, Inc.

Mr. Munekiyo provided your Committee a document entitled "Hale Mua Affordable Housing Subdivision: Section 201G-118 Application Overview".

Mr. Munekiyo also provided your Committee with a computer-generated slide show that described the proposed project and the exemptions that are requested by the applicant. He noted that the applicant is concurrently pursuing a District Boundary amendment from the State Land Use Commission from Agriculture and Rural to Urban.

**COUNCIL OF THE COUNTY OF MAUI**  
**HOUSING AND**  
**HUMAN SERVICES COMMITTEE**

August 23, 2005  
Page 5

**Committee**  
**Report No.**     05-110

The Mayor provided your Committee with a "Hale Mua Project Analysis Map", showing an aerial view of various existing and proposed projects and related roadways.

Your Committee questioned why this project proposes to construct a bridge over Iao Stream and extend Imi Kala Street to Kahekili Highway since these requirements are conditions of zoning for another project.

Mr. Munekiyo explained that the applicant recognized the need for these off-site improvements to be addressed for the betterment of the broader community. He also explained that the applicant revised their project to include market lots so they could afford to do these off-site improvements.

The Deputy Director of Public Works and Environmental Management stated that the bridge over Iao Stream, the extension of Imi Kala Street to Kahekili Highway, and the extension of Imi Kala Street to East Lower Main Street are requirements of the Wailuku-Kahului Project District 2 zoning (Piihana Project District). However, because that project has not moved forward, no efforts were made to enforce these requirements.

In response to questions raised by your Committee regarding the relationship between the market lots and the affordable homes, Mr. Munekiyo stated that the applicant intends to ensure that the market homes are built concurrent with the affordable homes through the concurrent issuance of building permits.

Your Committee expressed concern that the proposed project segregates the affordable housing with the market housing components. Mr. Munekiyo explained that the subdivision is designed to ensure efficiency in construction and provide a transition from the high density core of homes to the surrounding agricultural areas.

Your Committee noted that some of the exemptions from permit and impact fees requested in this application applies to the market as well as the affordable homes. Mr. Munekiyo stated that the intent of the applicant is to exempt only the affordable homes, and suggested that this could be clarified through a unilateral agreement.

The Deputy Corporation Counsel opined that a unilateral agreement could not be used to clarify that these exemptions apply to only the affordable units because it is clearly in conflict with the language in the application and would be considered a modification to the application.

**COUNCIL OF THE COUNTY OF MAUI**  
**HOUSING AND**  
**HUMAN SERVICES COMMITTEE**

August 23, 2005  
Page 6

**Committee**  
**Report No.** 05-110

Your Committee noted that the proposed project limits the construction of sidewalks along Kahekili Highway to the area between its two entry roadways. Your Committee also noted that as the community grows, the County may have to bear the cost of extending the sidewalks to Wailuku Town.

Your Committee questioned Mr. Ng about the traffic study included in the application. Mr. Ng stated that he was not able to meet with the community or the Department of Police to discuss traffic concerns, but he was able to address the Department's concerns provided in the Environmental Assessment.

Mr. Ng also stated that extending Imi Kala Street to Kahekili Highway will provide motorists with another roadway, and will mitigate potential traffic impacts of the proposed project. He informed your Committee that future traffic with the proposed project will be better than future traffic without the project.

Your Committee discussed the Planning Director's concerns expressed in correspondence dated June 9, 2005, to the Director of Housing and Human Concerns. The Planner stated the following: (1) that the proposed project does not conform to the Wailuku-Kahului Community Plan, which encourages the preservation of the surrounding agricultural lands and open space to ensure the separation of Wailuku and Waihee; (2) that the large 2- to 25-acre lots should remain in the State Agricultural designation and not be changed to Urban; (3) that the market lots might not be able to have an ohana dwelling since the lots remain agriculturally zoned; and (4) that the fee exemption should apply to the affordable lots only, not to the market lots or the large agricultural lots.

Your Committee noted that the Planning Director's concerns are in conflict with the Administration's recommendation to approve the application. The Planner stated that the Department of Planning's responsibility is to identify these concerns to help decision makers reach an informed decision.

Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated July 29, 2005, the Planning Director recommended that the applicant consider withdrawing the application and resubmit a modified application to address concerns regarding schools, open space, traffic and housing mix.

**COUNCIL OF THE COUNTY OF MAUI**  
**HOUSING AND**  
**HUMAN SERVICES COMMITTEE**

August 23, 2005  
Page 7

**Committee**  
**Report No.**      05-110

By correspondence dated August 1, 2005, the applicant replied that withdrawing the application would jeopardize the proposed project and that a unilateral agreement would respond to the Planning Director's concerns.

By correspondence dated August 3, 2005, Thomas L. Gross, Vicar General, Roman Catholic Church in the State of Hawaii, stated that Saint Anthony of Padua Church and School (St. Anthony) will be adversely affected by the proposed project, and that neither the Department of Public Works and Environmental Management nor the applicant has met with St. Anthony to address the alignment of Imi Kala Street and its extension with East Lower Main Street.

By correspondence dated August 4, 2005, the Chair of your Committee transmitted correspondence dated August 2, 2005, from Mr. Munekiyo, transmitting Exhibit "7" Financial Statement for Hale Mua Properties, LLC and Exhibit "8" letter from Central Pacific Bank dated September 30, 2004, which was included in the applicant's State Land Use petition.

By correspondence dated August 4, 2005, the Chair of your Committee requested that the Corporation Counsel respond to questions relating to residency requirements for the purchase of the market and/or affordable homes within the proposed project, construction of accessory dwellings on market lots, and questions about the ownership of the project site.

At its meeting of August 4, 2005, your Committee met with the Director of Housing and Human Concerns; the Planning Director; a Planner, Department of Planning; the Director of Transportation; the Director of Water Supply; the Deputy Director of Public Works and Environmental Management; the Deputy Director of Parks and Recreation; a Sergeant, Department of Police; a Deputy Corporation Counsel; Michael Munekiyo, President, Munekiyo & Hiraga, Inc.; Sterling Kim, President, Hale Mua Properties, LLC; Tom Leuteneker, Esq., counsel for Hale Mua Properties, LLC; Wayne Arakaki, President, Wayne I. Arakaki Engineer, LLC; Julian Ng, President, Julian Ng, Incorporated; and Father Raymond Mally, Pastor, St. Anthony.

Your Committee received public testimony from nine people in support of and two people in opposition to the proposed project. One person explained that he could not take a position on the proposed project until certain questions were answered.

**COUNCIL OF THE COUNTY OF MAUI**  
**HOUSING AND**  
**HUMAN SERVICES COMMITTEE**

August 23, 2005  
Page 8

**Committee**  
**Report No.**     05-110

Your Committee received written testimony from three people in support of the proposed project and correspondence signed by three individuals stating that the applicant does not have clear title to the project site.

The Deputy Corporation Counsel provided your Committee with a copy of correspondence dated July 23, 2004, to the former Chair of the Housing and Human Services Committee, from the Department of the Corporation Counsel, relating to unilateral agreements and their relationship to HRS 201G-118 applications.

Your Committee received a copy of a letter dated January 25, 2005, from Stanford Carr, President, Hawaii Land and Farming Company, Inc. to the Director of Housing and Human Concerns, relating to the Wailuku Project District 3 (Kehalani Master Planned Community).

Your Committee discussed the Planning Director's concern regarding the project's conflict with the Wailuku-Kahului Community Plan. The Director of Housing and Human Concerns noted that this concern must be weighed against the current affordable housing crisis. She further noted that 96 percent of the land in the County is either in Agriculture or Conservation use.

Your Committee discussed the effects the proposed project would have on traffic on Imi Kala Street, Mill Street and the area surrounding St. Anthony. Mr. Ng noted that the traffic study included in the Environmental Assessment incorporated future traffic generated from current and proposed projects in the surrounding area as well as additional ohana dwellings that may be constructed in the proposed project.

Your Committee expressed concern that the proposed project's required infrastructure improvements to the bridge over Iao Stream and the extension of Imi Kala Street to Kahekili Highway were satisfying the conditions of zoning for another project. The Deputy Corporation Counsel noted that the conditions imposed on the Piihaha Project District through a unilateral agreement and declaration for conditional zoning were required if certain "triggers" occurred, such as the filing of a 20-year master plan prior to preliminary subdivision approval.

The Police Sergeant noted that the Department does not support this project moving forward at this time because of traffic concerns in the area of the proposed project and a lack of manpower in the Department of Police.

**COUNCIL OF THE COUNTY OF MAUI**  
**HOUSING AND**  
**HUMAN SERVICES COMMITTEE**

August 23, 2005  
Page 9

**Committee**  
**Report No.**     05-110

Father Raymond Mally provided an overview of the communications between departments in the County Administration regarding the extension of Imi Kala Street to East Lower Main Street, and how the extension would affect St. Anthony. He noted that St. Anthony is concerned about the loss of property because a certain amount of play space is required for accreditation from the Association of Schools and Colleges.

Your Committee expressed concern that the Administration had not reached an agreement with St. Anthony.

The Planning Director noted that the project proposes that each market lot be allowed an ohana dwelling and each large lot be allowed two farm dwellings. The Planning Director also stated that he has recommended that the applicant not request a District Boundary amendment from the State Land Use Commission from Agriculture and Rural to Urban for the 19 large lots because of the potential of resubdivision of these lots.

Mr. Munekiyo noted that the applicant does not intend to allow the large lots to be further subdivided, and would consider including a provision in the covenants, code and restrictions for the subdivision, and further clarifying this issue in a unilateral agreement.

The Director of Water Supply provided an overview of several water source development projects that are anticipated to be on line by 2007 that will provide additional capacity for this proposed project.

Mr. Munekiyo noted that the applicant has an understanding with the Department of Water Supply that they will provide up to 500,000 of offsite storage capacity.

Mr. Arakaki provided an overview of the report entitled "Drainage Report and Soil Erosion Control for Hale Mua Subdivision" noting that "Spreckels Ditch" protects the proposed project from offsite runoff and may be used as a back-up system to control excessive runoff.

Mr. Leuteneker summarized the applicant's position on the issue of clear title. He noted that the applicant has a deed from Wailuku Agribusiness, Inc., but not all portions of the property have clear title. They are currently in the process of obtaining clear title for these properties.

**COUNCIL OF THE COUNTY OF MAUI**  
**HOUSING AND**  
**HUMAN SERVICES COMMITTEE**

August 23, 2005  
Page 10

**Committee**  
**Report No.**     05-110

The Deputy Corporation Counsel noted that the applicant must obtain clear title and title insurance before applying for subdivision approval. He also noted that HRS 201G-118 provides the County protection from claims related to actions taken in reviewing, approving or disapproving the proposed project.

In response to a question raised by your Committee regarding the applicant's donation of a large lot for a future school site, Mr. Munekiyo stated that the applicant has been in preliminary discussions with the State Department of Education and is willing to donate a site for the construction of a school.

Your Committee voted to recommend that it be discharged from consideration of both proposed resolutions, and that the resolutions be moved to the full Council.

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

1. That your Committee be **DISCHARGED** from further consideration of a proposed resolution, attached hereto entitled, “**APPROVING THE HALE MUA AFFORDABLE HOUSING SUBDIVISION PURSUANT TO SECTION 201G-118, HAWAII REVISED STATUTES**”; and
2. That your Committee be **DISCHARGED** from further consideration of a proposed resolution, attached hereto entitled, “**DISAPPROVING THE HALE MUA AFFORDABLE HOUSING SUBDIVISION PURSUANT TO SECTION 201G-118, HAWAII REVISED STATUTES**”.

Adoption of this report is respectfully requested.

COUNCIL OF THE COUNTY OF MAUI  
**HOUSING AND  
HUMAN SERVICES COMMITTEE**

August 23, 2005  
Page 11

Committee  
Report No. 05-110

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**DANNY A. MATEO** Chair

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**JO ANNE JOHNSON** Member

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**JOSEPH PONTANILLA** Vice-Chair

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**CHARMAINE TAVARES** Member

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**G. RIKI HOKAMA** Member