

Draft RFP for a Comprehensive Affordable Housing Plan—Memo of Introduction for the Affordable Housing Committee --January 24 ,2019

The draft RFP for a Comprehensive Affordable Housing Plan that is attached to this memo is the work product of Stand Up Maui and Maui Tomorrow over the five months since the Administration presented its Strategic Plan for Attainable Housing to this Committee on August 6. Our draft is exactly that, a work in progress that we know the Council and its staff, and the Administration staff, can and will want to modify and improve it, if you decide to issue an RFP for a Housing Plan.

Our draft RFP has been reviewed and critiqued by literally dozens of housing advocates and professionals, who have provided suggestions for improvements over the past five months. I want to thank in particular Stan Franco, Kehau Filimoeatu, Thelma Kealoha, Kevin Carney, Bill Greenleaf, Lucienne de naie, Simon Russell, Autumn Ness, Denise Boswell, Tom Cook, Jim Hammett, Lawrence Carnicelli, Scott Shapiro, Ray Phillips, Vince Bagoyo, Delene Osorio, and Dick Mayer, who also helped prepare the PowerPoint slides I will be using to make the presentation.

We also received very helpful input and information from the Administration: Linda Munsell, and Buddy Almeida; Saumalu Mataafa and Stacy Crivelo; Marcy Martin; and Michele Mclean.

None of them is responsible for any mistakes in this draft, and they all don't endorse all of the points covered.

There is one other issue that is not covered in the draft RFP: how to pay for it.

**Can the Affordable Housing Fund be used to pay for an Affordable Housing Plan?**

Deputy\_Corporate Counsel Mimi des Jardins tells me no, based on her department's interpretation of the Maui County Code (not the Charter, as I previously and erroneously believed). I think they are reading the code provision too narrowly, but fortunately, the Council can just amend the code if it wants to spend money in the Affordable Housing Fund for the Plan we propose or for other planning projects. In July this year, that fund will have an uncommitted balance of at least \$7 million.

**Maui County Charter:** Section 9-20. Affordable Housing Fund. . . . **The revenues . . . in this fund shall be utilized for the . . . expansion of affordable housing. . . including . . . planning . . .**

**Maui County Code** Section 3.35.040 - Use of fund.

**The council may make appropriations from the affordable housing fund for the following:**

**C. For planning, . . . of affordable . . . housing . . . ;**

(Ord. 3481 § 3 (part), 2007)

*Michael Williams, 1/24/19*

*President, Maui Tomorrow Foundation*

*Treasurer, Stand Up Maui*

DRAFT Request for Proposals to Create a Comprehensive Affordable Housing Plan for Maui County  
From Stand Up Maui and Maui Tomorrow Foundation

Prepared by Michael Williams with help and advice from many others

[MichaelWilliams@PueoFarm.com](mailto:MichaelWilliams@PueoFarm.com)

808-264-4884

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**1) INTRODUCTION**

a) On behalf of the Maui County Council, the Office of Council Services (“OCS”) intends to engage the services of a qualified Contractor to create a Comprehensive Affordable Housing Plan. The

purpose of the Request for Proposals (“RFP”) is to solicit sealed proposals to establish a contract through competitive procurement for the services described in these specifications. These specifications provide information concerning the objectives, scope, general methodology, conduct of the investigation, and instructions for submitting a proposal. All provisions of these specifications and instructions shall be part of the contract executed by the Contractor selected and the Chief Procurement Officer (“CPO”), unless otherwise expressly provided in the contract. The CPO may delegate his authority under the contract to the extent permitted by law. The draft report for the plan is due on \_\_\_\_\_ 15, 2021. Since time is of the essence, once the highest-ranked proposal is determined, OCS will verify with the Hawaii Compliance Express (“HCE”) online system to determine whether the Contractor is compliant with State-required certificates. Pursuant to Hawaii Revised Statutes (“HRS”) Section 103D-310(c), upon award of the contract, the Contractor shall be registered with HCE to demonstrate compliance with applicable State laws.

## **2) CANCELLATION**

a) This RFP may be canceled and any or all proposals rejected in whole or in part, without liability to the County, when it is in the best interest of the County.

## **3) TERMS**

a) Definitions. Unless the context requires otherwise, terms used in this document shall have the following definitions:

i) “Contractor” means the Offeror who has been awarded the contract to perform the plan.

ii) “Sub-contractor” means any separate consultant the Contractor needs for specialized knowledge on one or more aspects of the Plan

ii) “Council” means the Maui County Council.

iii) “Chief Procurement Officer” means the Chair of the Maui County Council, or the Chair’s designated representative.

iv) “County” means the County of Maui.

v) “Department” means the County’s Department of Housing and Human Concerns.

vi) “Offeror” means any individual, partnership, firm, corporation, joint venture, or representative (or agent) responding to the RFP.

vii) “infrastructure” encompasses all necessary roads, sidewalks, water lines, wastewater lines and facilities, as well as parcels set aside for parks, open spaces, schools, and commercial centers needed to support each cluster of housing projects.

viii) “attainable housing” means all housing units for households with income between 0 and 140% of AMI.

ix) “affordable housing” means units for households with incomes below 80% AMI.

x) “workforce housing” means units for households with incomes between 81% and 140% AMI

xi) “market housing” means units for households with incomes greater than 140% AMI (in 2019, incomes above \$116,200).

xii) “housing project” means any group of housing units to be built by a single developer on land owned by a single entity, whether county, state, Hawaiian Homelands, or private persons.

xiii). “Public Housing Authority” means a 501c3 organization in which the county has the right to appoint some board members, and which will also have board members representing community associations, developers, construction contractors and construction unions. It will have the power to accept land, buildings, and funds donated to it by the County for the purpose of creating attainable housing, to use the County and State bonding capacity to raise capital, and to let contracts for the development and management of attainable housing projects.

xiii) “AMI” means the area median household income as defined by HUD. In 2019, the AMI in Maui County for a family of four was \$83,300.

#### **4) RFP SCHEDULE AND SIGNIFICANT DATES**

a) The schedule represents OCS’s best estimate of the schedule that will be followed. All times indicated are Hawaii Standard Time (“HST”). If a component of this schedule is delayed, the rest of the schedule will likely be shifted by the same number of days. Any change to the RFP Schedule and Significant Dates shall be reflected in and issued in an addendum. The approximate schedule is as follows, and dates are subject to change:

Release of Request for Proposals \_\_\_\_\_

Due Date to Submit Questions \_\_\_\_\_

OCS’s Response to Questions \_\_\_\_\_

Proposals Due Date and Time \_\_\_\_\_

Proposal Evaluation \_\_\_\_\_

(Note to Council: it would be beneficial to create a bid evaluation committee comprised of 9 community stakeholders, one to be appointed by each Councilmember to review the proposals and to rank each proposal for Council action).

Discussion with Priority Listed Offerors (if necessary) \_\_\_\_\_

Notice of Award \_\_\_\_\_

Contract Start Date \_\_\_\_\_

**The first Deliverable:** A report analyzing whether and how the County should create a Public Housing Authority and/or a separate Housing Department is due \_\_\_\_\_ 2020, along with draft legislation (a bill or charter amendment or both).

**Draft Comprehensive Plan** Due \_\_\_\_\_, 2020

Community Meetings \_\_\_\_\_, 2020

**Final Report** Due \_\_\_\_\_ -

## **5) OVERVIEW**

a) The 2019 Hawaii Housing Planning Study (“Planning Study”) suggested the State is in an affordable housing crisis, due to the current and projected lack of affordable housing units for its residents. It estimates that by 2025, Maui County will need another the Tables 32 and 33, this study says Maui County needs about 1400 Workforce units by 2025 (80-140% AMI), and about 4300 Affordable units (0-80% AMI), using HUD’s Income classification, or about 5700 “Attainable” units, using Mayor Victorino’s terminology. There are two caveats to these projections. First, the Planning Study did not estimate the additional housing units needed to eliminate the “doubling-up” problem: *“The analysis for Tables 32 and 33 did not account for people who are currently doubled-up for economic reasons.”* (p 44). Second, it is not clear how many housing units it estimated are “in the pipeline” and may be subtracted from the numbers in Tables 32 and 33.

b) Several studies, reports, investigative groups, and workshops at both the County and State levels over the years have identified an increasing demand for affordable housing. Despite the demand, delivering supply has been an ongoing challenge. The Mayor’s Strategic Plan, presented to the Affordable Housing Committee on August 7, 2019, estimated that about 6,000 attainable homes were in the pipeline and that the County needed an additional 9,000 attainable homes by 2025. However, the Department of Housing and Human Concerns admitted in that August presentation that a large share of the “pipeline” units are not likely to be built by 2025. Despite these uncertainties, it is clear that Maui County needs several thousand new attainable homes not yet in the pipeline.

c) The County could benefit from a Contractor to present the most efficient county strategies, after analyzing past and current housing-related policies and actions, especially including the two SMS reports from 2018 analyzing the County’s affordable housing policies and presenting an implementation plan, as well as the Mayor’s Strategic Plan presented in August 2019, and the new SMS Study, and then to draw up a comprehensive plan to address the lack of attainable housing. The Contractor would incorporate working knowledge of the County’s housing history and collaborate with all sectors, including public, private, social service agencies, financial institutions, environmental agencies, cultural preservation agencies, and developers to increase the County’s attainable housing inventory. *Don’t spend time telling us things we already know from prior reports and studies.*

d) Maui County has not built very many affordable housing units in the past ten years, and most of what was built was for the higher end of the income spectrum, 80-140% AMI. Most of those units had relatively brief deed restrictions and have reverted to market priced housing. The proposed plan should seek to prioritize the construction of homes for families below 80% AMI, with lengthy periods of deed restrictions—30-75 for rentals, 20 years to perpetuity for for-sale homes.

e) The goal of the comprehensive plan is to establish a year by year roadmap, and an actual housing project map in the form of planned small towns or communities, to meet the current and long-term needs of attainable housing for County residents which would show where all 6,000+ attainable homes would be best located. It is expected most of them would be in new planned mixed-use communities with some market rate housing space included. These would include neighborhood retail, and live-work structures for small businesses.

f) The Plan would also identify and locate the necessary areas for schools, parks, bus stops, community centers, business and commercial operations, biking and hiking trails, and open space within each planned community.

g) The Plan will identify the capital and operating funding needed year by year as the build out of infrastructure and housing occurs, and the best options for the sources of such funds, including the County Affordable Housing Fund, other appropriations of general County revenue, County bonding capital, state and federal funds, and private social impact foundations. Future revenue streams from the sale or leasing of County land to commercial businesses in the planned communities, from the money generated by the for-sale units when sold, and from the rents on all rental housing created.

h) The Plan will take into consideration future impacts of climate change regarding safe location of long-term attainable housing, which may include relocation or new construction of roadways, increased hazards from flooding due to sea level rise and stormwater runoff, increased fire episodes due to increases in atmospheric temperatures, and impact on current infrastructure.

## **6) BACKGROUND**

a) Chapter 2.96, Maui County Code (“MCC”), was codified in December 2006, establishing a 50 percent affordability requirement and a 25-year deed restriction on workforce housing projects. In 2007, the “Show Me the Water” bill passed, which required water availability prior to project approval, posing an even greater restriction for developers. An economic recession between the years 2008 and 2012 also severely affected future housing developments. In fact, the County had merely one workforce housing agreement executed, and three workforce homes built and sold during the period 2006 through 2014.

b) Revisions to Chapter 2.96, MCC, were made in December 2014 to decrease the affordability requirement to 25 percent to incentivize developers to build more housing. Since then, 17 workforce housing agreements have been executed. However, the rate in which housing is being built on Maui still fails to keep up with demand.

c) In 2017, legislation was passed relating to affordable accessory dwelling units, subject to size, family member, and income restrictions which it was hoped lead to the construction of additional ADUs.

d) Also, in 2017, the County passed legislation creating a new fast track scheme for projects containing 100% affordable housing, codified as Chap2.97 of the MCC.

e) A 2014 census report revealed a total of 71,006 housing units in the County. Of those units, 53,177 are occupied, 8,269 are vacant and still available, and 9,561 are vacant and unavailable due to short-term rentals and seasonal use. It is not clear however, how the census data accommodates the 11,000 condominiums on Maui that are legal to be operated as short term rentals, either because they are in a Hotel/Resort zone or were grandfathered in under the Minatoya exception for condo buildings built before 1992, on Apartment-zoned land. None of these 11,000 condos have permits to operate as STRs, but most of them do.

f) In 2016, the Planning Study indicated that 24.2 percent of Maui residents pay more than 50 percent of their household income towards housing, compared to 18 percent statewide. The 2019 Planning Study estimated that at least 34% of Maui residents pay more than 30% of their household income.

g) The 2019 Planning Study indicated the percentage of crowding and doubling up, where multiple generations of families reside in the same household, rose to 22.5 percent in the County, an increase of nearly 10% over the 2016 estimate.

h) The 2016 Planning Study further reported the County's housing production in 2014 in the County resulted in just 1,267 units built, compared to 3,534 units built in 1990. The 2019 version does not provide County-specific numbers.

i) An alarming trend showed the County's housing inventory is being purchased by a growing number of out-of-state buyers. A 2015 report from the State Department of Economic Development & Tourism ("DBEDT") said 47 percent of neighbor-island homes are sold to out-of-state buyers. Other reports have put this as high as 52%. The buying pressure from this international demand for second (or third, fourth) homes here has depleted the available housing inventory even further, contributes to an increase of vacant (seasonal) units and non-affordable rentals, and drives housing prices far above what most local buyers can pay.

j) According to the World's Best Awards 2017, released by the publication Travel + Leisure, Maui was named the number one island in the world for the sixth year in a row and is continually recognized as a top visitor destination. This world-wide recognition attracts many who decide to relocate to Maui, further affecting the overall housing inventory for local residents.

k) Current requirements that are likely increasing the cost of building more housing include: geographic limitations; high cost of construction and materials; lack of major off-site infrastructure; high cost of impact fees (water development, park, and various permitting fees) which is estimated to be approximately \$23,000 per new unit built according to the Hawaii Housing Finance and Development Corporation; and government regulations such as land use, community plan designations, zoning, and permitting.

Maui County seeks proposals from qualified urban planning professionals to develop a comprehensive plan to create the affordable (<80% AMI) and workforce housing (81-140% AMI) needed by 2026.

## **7) Components of the Comprehensive Plan end product**

The end product will have these components, set out in more detail in the sections below:

- a. A map showing the exact location of each proposed housing project, as well as the new infrastructure required: roads, sidewalks, water lines, wastewater pipes and treatment facilities, parks, open spaces, and land for new schools. The total number of housing units in the housing projects shall match the “needs” by AMI reported by DHHC on August 7, 2019, as revised after the analysis of the new SMS Housing needs report from SMS on January 10, 2020. Be sure to consider equity Transportation Oriented Development principles to maximize the opportunity for the residents in these new homes to have access to various forms of mass transit.
- b. Sample RFPs soliciting bids from private developers for housing projects on land acquired or to be acquired by the County—for affordable and workforce housing rental projects, and for affordable and workforce housing for-sale projects.
- c. A timeline for the completion of each housing project and its necessary infrastructure.
- d. A financial plan for the funding of each housing project and its necessary infrastructure, including the cost of land acquisition by the state or county. For any given project, the funds may come from County or state special funds, general revenues, or bonds, from federal sources such as HOME, HUD, CDBGs, USDA, and from Social Impact investments and grants. All non-profit developers operating in Hawaii are familiar with and well-versed in combining these various funding sources for the construction of affordable housing. Many for-profit developers are familiar with the County’s Chap 2.97 Workforce Housing Fast Trak program. The year of expenditure and the possible sources of funds should be specified for each project. Identify every state and federal program or fund, including Social Impact grants from private foundations, that can be utilized by the County or the new Public Housing Authority in the creation of the housing projects and estimate the amount of such funding each year. For potential new housing in Wailuku, Hali’imaile, parts of Makawao, and Kaunakakai on Moloka’i, evaluate how the federal subsidy for investments in Opportunity Zones could help build attainable housing.
- e. Estimate how expansion of the existing First time Homebuyers program, which provides a county loan to help with mortgage down payments, could facilitate more or cheaper for sale homes in the Workforce Housing projects. Since these loans will be paid back when the house next changes hands, estimate what amount of bond funds would be available to finance this program. These silent seconds can allow bank financing to be more comfortable with longer deed restrictions on for sale attainable homes. Determine if there are other ways to achieve the goal of long deed restriction periods.
- f. Research and report on programs to ease the security deposit burden on low-income renters, such as a County-financed security deposit insurance fund that would reassure landlords that funds in lieu of tenant-provided security deposits are available.
- g. A county workforce plan for the buildout of the infrastructure—how many additional positions will be needed in the departments of Public Works, Environmental Management, Water Supply, and Planning, each year, to do the work. Or, could much of this workforce increase be within a new Public Housing Authority, funded by sources other than the County? Or, would it be better to contract this work out to independent companies? What are strategies for the best cost/benefits for the county, trying not to add long term liabilities for lifetime health and pension costs, for what will be a temporary increase in full time positions?

- h. Consider the economics if some of the land to be developed for housing will include vacant for-sale lots where the buyers can build their own homes.
- i. For rental projects that will be owned by the County and/or a new Public Housing Authority, calculate the net income to pay off bonds from the rent/revenue streams, after allowing for reasonable management and maintenance costs. Also calculate the residual value of such properties at the end of 30 years.
- j. As an alternative, describe the feasibility of simply leasing the County-owned land to a developer, who then will construct, own and operate the rental units, similar to the just approved Keawe Street Apartments, and the prospective Pulelehua low income rental project.
- k. For the capital costs of infrastructure and land acquisition financed by the county, what will be the annual cost of payments of principal and interest if bonds are used? Do this for each project, and for the year each capital injection will be needed.
- l. Provide a detailed list and sequence of any zoning changes, special permits, and other entitlement events necessary before each housing project can begin construction. Will project districts work for this? Outline strategies to stream line the entitlement process. Provide a plan for all rezoning that can be started as soon as possible for the parcels where housing projects are slated to be built.
- m. Provide a schedule of TMKs which the county or state should acquire from private landowners, through negotiation or eminent domain, or by trading land owned by HHL or private owners for county or state land not suitable for attainable housing.
- n. Provide a schedule identifying the total number of planned housing units for each income tranche/segment of the AMI spectrum which shall match the “need” data presented by the DHCC in its 8/7/19 power point show, as updated by the new SMS report published on January 10, 2020.
- o. Develop a policy for extensive public participation in the planning for all proposed affordable and workforce housing projects in each community plan area.

#### **8) General Guidelines for the Plan drafters:**

- a. “For sale” units must be deed restricted—but for how long? The Plan should evaluate various models of shared equity, including the in-perpetuity land trust model, or simple in-perpetuity deed restrictions. Evaluate the only local model of in-perpetuity deed restrictions on or-sale homes in the nascent Pulelehua project.
- b. Alternatively, for each “for sale” home that has a limited deed restrictive period, the Plan should set out the increase in financing cost to the project were the deed restrictions made for perpetuity. The county should have the right of first refusal whenever rental property deed restrictions expire, and for any for-sale homes sold before their deed restrictions expire..

- c. The Plan would evaluate the feasibility of using a “rent-to-own” model for some of the dwelling units. To the extent feasible, identify ways that even renters of affordable housing can build equity, including the possibility of tenant co-ops owning the multi-family buildings.
- d. Rental units owned by a private entity must be deed restricted for at least 30 years. Is a longer period feasible? The restriction in the just approved Keawe Street Apartments is 75 years.
- e. Evaluate Real Property tax strategies to incentivize and reward owners and developers of affordable housing, such as waiver of RP taxes for all affordable homes for the period of affordability (but not for Workforce Housing), and property tax incentives to landlords who rent to residents at affordable rents.
- f. Estimate the increase in property tax revenue in each year from the new workforce for sale housing units, including any that will have deed restrictions expire and revert to market value. To the extent inclusionary zoning under county or state law is to be utilized for some of the for-sale units, estimate the new property tax revenue from the market homes required by such schemes. Also, estimate the new property tax revenues from the new business and commercial developments required to service the housing projects.
- g. Evaluate whether Maui County needs a Public Housing Authority similar to the state’s Public Housing Authority. Provide a legal analysis as to whether the County has the power to create by ordinance or Charter Amendment a new, separate corporation to operate as a Public Housing Authority. Provide examples of Housing Authorities or Housing Departments from other jurisdictions and recommend those best suited to Maui’s needs. This recommendation should include a detailed description of the start-up funding necessary to hire the initial staff such a Public Housing Authority or locally based Community Development Corporation would need, so that it can begin developing Affordable Housing projects on land owned by the county or state. The start-up plan should specify the types of employees needed, the expertise and experience in development of housing they should have, and the salaries and benefit packages necessary to attract such employees. If using highly experienced non-profit developers would obviate the need for any new County or Authority, explain why. **This report is due before the final report, on ??? 15, 2020.**
- h. Identify all potential sources of funding for farmworker multifamily housing under the housing on Ag Land from state programs, and federal programs, including the USDA Rural Development 514/516 farmworker housing funding as an option.
- i. Identify all potential sources of social impact funding from private foundations for programs and projects designed to increase affordable housing on Maui, including training programs for first time homeowners.
- j. To the extent feasible, design the housing projects in clusters around business centers and schools and parks all walkable from most housing units, minimizing the number of new roadways and parking lots, and other infrastructure costs.
- k. Housing projects should be considered first on land designated for residential housing in the applicable community plan and Maui Island Plan, but any and all available, appropriate land should be investigated and prioritized for development. Most of these Community Plans are many years old, so if you find some land so designated no longer suitable, or you find land designated agricultural, but you think would be suitable for affordable housing, say so and state your reasons.

- l. Prioritize locating the housing projects on land that is marginal for agriculture, not so rocky or steep as to increase construction costs, and outside of Special Management areas.
- m. Include a component for farmworker housing projects on or adjacent to the County's Agricultural Park and on private land planned for diversified farming.
- n. Provide community outreach strategies for public meetings during the summer or fall of 2020 to seek community input on the preliminary comprehensive plan, especially the community association for the area of any planned community.

### **9) Schedule of Existing affordable housing projects underway**

- a. For each attainable housing project now under construction, set out the number and type of units, identify the likely occupancy dates, and show them on the comprehensive map.
- b. For each project with **pending, active or approved** plans but not yet under construction, set out the number and type of units, the steps needed before construction can start, the possible ways such steps can be accelerated, and the likely timeline of when each step can be completed, including construction start and occupancy. Show these on the comprehensive map.

### **10) Schedule of Existing Vacant Land with Housing Entitlements**

For each of the following land sites, and for any other land sites discovered in the process of developing this Plan, set out the number and type of units, identify the likely occupancy dates, and show them on the comprehensive map. Consider whether it would be feasible for the County to acquire these parcels and expedite the creation of housing on them:

- a. Waikapu Country Town
- b. A&B land N and S of Waiko Road and West of Kuilehani Highway—approximately 2300 housing units planned, with EIS done and entitlements in place.
- c. 40 acres traded to County by A&B in the same Waiko road project area.
- d. 160 units planned on another A&B parcel in the Hali'imaile area.
- e. Pulelehua development just mauka of W Maui airport, which was approved by the Land Use Commission on 9/25/19.

- f. Partner with the Hawaiian Homes Commission and the Dept. of Hawaiian Home Lands, to provide infrastructure that may be needed for adjacent or proximate County-owned properties, that are slated for the building of affordable and/or workforce housing. This would allow beneficiaries on the DHHL wait-list, to access a homestead while others on the County's Master List are also accessing property and housing.
- g. The (1,033 acre) HHFDC West Maui Project between Lahaina and Ka'anapali, better known as Villages of Leiali'i mixed-use, master planned community. This project represents a fraction of the total 2,900 to 4,600 residential units that were assessed in the 2012 Final EIS ([http://oeqc2.doh.hawaii.gov/EA\\_EIS\\_Library/2012-10-23-MA-FEIS-Villages-of-Leialii-Affordable-Housing-Project.pdf](http://oeqc2.doh.hawaii.gov/EA_EIS_Library/2012-10-23-MA-FEIS-Villages-of-Leialii-Affordable-Housing-Project.pdf)). The first housing project on this land, the Keawe Street Apartments 201H project, was just approved by the County Council on January 24, 2020. Estimate how many more of these projected state-owned housing projects will be developed by 2026.
- h. For others, see such projects listed on the website of the Maui's Association of Community Associations.

## **11) Farm Workforce Housing**

- a. On-farm Worker Housing:
  - Create a new legal zoning designation for non-permanent, modular homes. Clarify which utilities/services these homes can or cannot hook up to in order to remain classified as modular. This may require communication with the State Department of Health to ensure compliance with state law.
    - Electric:
      - independently powered through solar or generator?
      - Can be powered through the MECO grid?
    - Water
      - must be received through catchment, transport, or other methods?
      - Can hook up to residential or ag water meter?
    - Sewer
      - require composting toilets?
      - Require small independent unit grey water treatment systems?
  - Amend County Code to allow them to be placed on ag-zoned land, on active farms, to house farmworkers, at a density that is higher than the allowed zoning density for residences with a foundation on ag zoned land.
  - Consider/define what kind of terms will be used to qualify residents of these homes as "farmworkers"
    - proof of employment at the farm
    - written work trade agreements
  - Draft one master use outreach/education document for distribution to farmers so they can easily understand what kind of housing is legally allowed on a farm, at what density, and navigate the application/permitting process on their own, without paying consultants

- a. Off-farm Worker Housing:
  - Identify county-owned land or lands suitable for acquisition, that can be used to build low cost, simple multi and single family units for rent/sale to our farming workforce
    - Consider/define who would manage the rent/sale of these units. (County housing department? Property management service? Currently existing housing trust or non-profit? Some kind of entity that will be formed to satisfy other goals in this plan?)
    - Consider/define what kind of terms will be used to qualify renters or buyers of units. such as:
      - proof of employment at a farm that qualifies for ag water rates, ag property tax
      - one member of the household must be a leaseholder at county ag park, or employed to work on one of the county ag park lots
- b. Develop strategies to create long term farm worker housing that remains available for farmworkers to rent, in perpetuity. Suggest strategies for handling the situation of turnover, so that current workers occupy the farmworker housing, and what to do for retiring farm workers.

### **12) Evaluation of proposed changes to the County’s inclusionary zoning program, Chap 2.96**

- a. The DHHC presentation on August 6, 2019, contained six slides proposing possible amendments to MCC 2.96 and hiring an economist to evaluate the effect of increasing or decreasing the subsidies for projects under that scheme.
- b. Provide an analysis of the likely result of reducing the affordable portion of any private project from 25% affordable to 20% or less. Given that the “need” analysis of the existing surveys call for at least 9,000 new affordable units by 2025, is it practical to expect 27,000 or more market homes to be built in Maui County?
- c. Provide an analysis of extending the required deed restrictions on for sale units to 15, 20, or 30 years, or even for perpetuity—how would such changes affect the economic feasibility of projects?
- d. Provide an analysis of requiring more of such housing for families with incomes below 80% of AMI-- how would such changes affect the economic feasibility of projects?

### **13) Evaluation of possible improvements to the County’s Fast Track 100% affordable program, Chapter2.97**

- a. Interview developers and county staff for suggestions to improve this program.
- b. Consider whether this program can generate a significant number of attainable homes on private land, and on county land.

#### **14) Evaluation of Alternative designs and materials**

- a. What savings of costs can be achieved by constructing multi-family housing units as duplexes, four-plexes, or larger apartment buildings?
- b. What savings can be achieved by making the multi-family units 4 stories high, six stories, eight stories—Less land? Efficiencies in building costs? In infrastructure costs?
- c. What forms of experimental or non-conventional designs and materials could reasonably be used for creating affordable homes in the tranches from 80% AMI and below? Tiny homes, modular or factory built homes, bamboo homes, hempcrete homes, mobile homes, etc.? Provide detailed cost estimates for such projects and indicate where on the map they could go. There is a new ten-unit tiny home development in Makawao called Forest River Tiny Homes, on Maha Rd.

#### **15) Evaluate Housing projects on land already owned by the county or state for increased density**

- a. List by location, TMKs, and acreage of all county owned land on which attainable housing could be constructed. What is the best mix of housing types to maximize the use of such parcels? (Note: The County Department of Housing and Human Concern has recently completed such an evaluation. Do not duplicate that work. In fact, we understand it found NO county-owned parcels suitable for affordable housing projects. If you confirm that, then nothing more need be done on this matter.)
- b. List by location, TMKs, and acreage of all state-owned land on which attainable housing could be constructed. What is the best mix of housing types to maximize the use of such parcels?
- c. Consult with the Hawaii Public Housing Authority about redeveloping the five housing projects it owns and operates in Mui County with more density resulting in more units. Kevin Auger told the Council's Affordable Housing Committee on August 21, 2019, that his staff could evaluate these projects if the County asked them.
- d. Consult with the Hawaii Public Housing Authority about identifying any other sites, such as the Villages of Leiali'i, where it could develop affordable rental housing with help from the county.

#### **16) Waiting lists—develop strategies for maximizing priority for existing residents**

- a. Analyze the legal ways in which the county can prioritize awarding occupancy in the affordable rental units and sales of the workforce housing to long term residents over new arrivals. See definition in MCC 2.96. Can eligibility for Workforce Housing be limited to persons already employed in Maui County?
- b. Outline the advantages and disadvantages of a county wide, or island wide, waiting list of residents wishing to occupy an attainable home.
- c. Outline the way the county can prequalify applicants on these waiting lists.
- d. Outline the way the county can keep these waiting lists up to date.

- e. Analyze the legal ways the county could prevent hundreds or thousands of mainlanders moving to Maui to take advantage of these subsidized housing units ahead of current residents. For example, consider the legal validity of restricting the waiting list to families with at least one member already employed in the County.

**17) Rescission of short term rental permission granted by Maui County Code 19.12.020**

- a. Background: In 1991, the Maui County Council passed Ordinance 1989 prohibiting transient vacation rentals in the Apartment zone, where such use had previously been allowed. However, this restriction was applied only prospectively, so that apartment buildings operating as TVR's (or fully permitted to start construction) prior to March 4, 1991 were not so restricted.
- b. According to the Short-Term Occupancy List as of December 6, 2019 (<https://www.mauicounty.gov/DocumentCenter/View/112945/Short-Term-Occupancy-List-as-of-12062019?bidId=>), maintained and posted by the Planning Department, there are 6,752 dwelling units that meet those criteria.
- c. If the county Council were to rescind such an exemption, these apartments (condos) would become long-term rentals for residents, homeowner-occupied units, or vacant/seasonal/second homes, thus adding substantially to the housing stock available to residents.
- d. However, the owners of such units might claim this change in permitted use constitutes a "taking". The successful bidder for this RFP should answer these two questions: (1) what, if any, is the average percentage difference in market value between such an apartment/condo with and without the right to operate as a vacation rental, and if that difference is positive, would such a change in regulation be a "taking?"
- e. Note that state law anticipates and approves of such a change in zoning for apartments, so long as the non-conforming use is phased out over a reasonable period of time. HRS 46-4, says in part:

"Neither this section nor any ordinance enacted pursuant to this section shall prohibit the continued lawful use of any building or premises for any trade, industrial, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect; **provided that a zoning ordinance may provide for . . . phasing out of nonconforming uses . . . over a reasonable period of time in . . . apartment zoned areas.** "

The current County Code provision codifying this exemption is codified in Section 19.12.020 - Permitted uses:

*"Within the A-1 and A-2 districts, the following uses are permitted:*

*G. Transient vacation rentals in buildings and structures having building permits, special management area use permits, or planned development approval that were lawfully issued by and valid on April 20, 1989. Buildings and structures with such permits and approvals may be reconstructed, and transient vacation rental use shall be permitted, provided that:1.*

*The reconstruction conforms to the original building permit plans, special management area use permits, or planned development approval; and*

*The reconstruction complies with the building code and all other applicable laws in effect at the time of the reconstruction.”*

f. Marcy Martin has suggested rescinding the STR allowance only for about half, the lesser valuable half of these Minatoya units NOT on the ocean, which would be unlikely to become LTRs.

## **18) How Real Property Tax Reform can incentivize and finance Affordable Housing**

### **18-1: Creating real property tax incentives for long-term rentals**

- a. At present, Maui County’s real property tax system does not distinguish between parcels with all their dwelling units rented long-term to residents and dwelling units used as second homes or pure investment property—until this year they were both placed in the Residential class. Now they will both be placed in the new Non-owner Occupied class. The Council last year formed a Temporary Investigation Group to consider ways to create a tax incentive to reward and encourage the owners of dwellings who rent long-term. It failed to reach agreement on a method, hung up on two issues: a) the choice of what scheme to use for owners to qualify for the incentive (dedication v. declaration) and b) the complication that the tax rate applies to an entire parcel, whereas many parcels contain more than one dwelling. If one of those dwellings is occupied by the property owner, the entire parcel is now assigned to the Homeowner class, and under the revised classification scheme that takes effect July 1, 2020, as Owner-occupied. Many such property owners, but not all, have a second dwelling which may be rented to a resident, or occupied by a relative who is a resident but who pays no monetary rent. It is not feasible to create a separate tax class for such parcels without undermining the wide-set expectation that the Homeowner rate applies to the entire parcel.
- b. The solution is to divide the class of Non-Owner Occupied into two subclasses
  1. Create a new classification of **Long Term Rental** for parcels with at least one dwelling occupied by resident tenants, but with no dwelling occupied by the parcel owner (those parcels should continue to be placed in the Owner-Occupied class).
  2. Once this new class is in place, all the remaining parcels with dwellings will be in a new **Non-resident Occupied** class. The County can then raise tax rates on the thousands of high end second (vacant or seasonally-used) homes in such high demand by mainland and foreign buyers, without raising rates on any parcel with at least one long term rental unit. The new LTR parcel class can

keep the current Residential RPT rate (perhaps made more equitable by tiering), while the RPT rate can now be increased on the investor homes.

- c. *In order to create a tax incentive for Owner-occupants who rent one or more additional dwellings on their parcel to residents, the County should provide an exemption for each such dwelling in addition to the traditional homeowner exemption.* There are roughly 5,000 Ohanas on Owner-Occupied parcels—and nearly all of them are occupied by a local household. An extra \$200,000 exemption those homeowners would cost  $200 \times \$2.90 = \$580$  per parcel, or  $5,000 \times 580 = \$2,900,000$  in lower RPT revenue.
- d. *Finally, to provide an incentive to rent homes at affordable rates, an exemption to property owners in both the Owner-Occupied and Long Term Rental classes should be given an exemption (an additional exemption for the OO rentals) for each affordable long term rental.*

**18-2: Estimate how much extra revenue can feasibly be raised by increasing property tax rates on those high end “vacant” homes.**

- a. The housing market on Maui is different in two important ways from most other second home markets, not only on the mainland, but even from O’ahu’s housing market:
  - 1. Close to half of all home sales are to out-of-state buyers, and at the high end perhaps a much higher share. The contractor should provide data at various price points of all homes on Maui, as to what share of such homes are owned by non-residents.
  - 2. Maui County property tax rates are the lowest in the country, according to some reports. Because of Hawai’i’s unique division of government services between state and local government, with the state funding public education, courts, and jails, it makes sense that property tax rates stay low when they are not needed to fund such services. Maui County residents pay other taxes to fund those service on Maui: state income taxes, and the general excise tax. But the thousands of non-resident vacant-home owners pay hardly any of these state taxes. To them, the Maui housing market provides a relatively inexpensive place to park real estate investment money. The contractor should provide data on the property tax rates on high end vacant homes in other such real estate investment markets and estimate how much in higher tax rates that market could bear on Maui.
  - 3. For example, suppose there are 5,000 such “vacant” home parcels on Maui with an average value of \$1 million. This year, those parcels are in the “Residential” class, with a tax rate of \$5.60/\$1,000, which is only 0.56%. If that rate were raised, on average, to 2%, that would raise the property tax rate from \$5.60 to \$20.00/\$1000. On a second home or investment home worth \$1 million, this would increase the annual tax bill from \$5600 to \$20,000. There would be an extra \$14,400 RPT revenue from each “vacant” parcel, or  $5,000 \times \$14,400 = \$72$  million!

b. (Here is how we estimate this 5,000 number: RPT records show 71,000 housing units. There are 27,000 Owner-Occupied parcels--- But: there are 5,000 Ohanas on OO parcels; So 32,000 housing units are on OO parcels. That leaves 39,000 other housing units. Subtract 2500 Timeshares, leaves 36,500. Subtract 12,000 STRs, leaves 24,500. Subtract 3000 LTR apartments in apartment buildings that are not condominiumized, leaves 21,500 homes (not parcels) as either LTRs or vacant.

The census data in the Maui County Databook estimates there are about 22,000 renter households. If 8,000 of these are in ohanas on OO parcels or in real apartment buildings, that leaves 14,000 in the housing units on Non-O parcels. That leaves about 7500 vacant homes, but many of these are on two unit parcels. Some non-O parcels have more than one unit rented long term—the County RPT division doesn't have that number. We won't know for sure until we ask all Non-OO property owners to declare any LTRs—which they will want to do to get the new LTR rate instead of the ne much higher Non-resident parcel rate. But 7500 vacant homes on 5,000 Non-Resident-occupied parcels seems a reasonable estimate. No doubt most of these are at the high end of the value scale.)

c. About 50-60% of this extra \$72 million in RPT revenue could fund the implementation of this Comprehensive Affordable Housing Plan (allow hundreds of millions in bond sales), and the rest of the new revenue could allow the County to cut fees on rubbish collection, vehicle taxes, etc., benefitting every resident directly. It would also allow a generous GET rebate to low income households to offset the anticipated GET surcharge.

Just an extra \$40 million tax revenue a year, If devoted to paying the principal and interest on a 30-year bond sale, would allow about \$800 million in bond funds. (The contractor should provide the formula for calculating the size of a bond issue for any given annual increase in tax revenue devoted to paying the bonds off.)

### **19) What zoning reforms would encourage the construction of new long-term rentals?**

a. Recently, the County Council reformed zoning law restrictions on accessory dwelling units (ADUs) ('ohanas) on homeowner parcels. Ordinance No. 4936 (the "ohana bill") took effect on December 24, 2018, amending Chapter 19.35 and other related code provisions. It allows several changes and enhancements of 'ohanas that are hoped will encourage the construction of more accessory dwelling units by homeowners or landlords. It allows larger ADUs with larger decks, both covered and uncovered, and larger carports and garages. It allows two ADUs on many lots, where before there could be only one. It allows ADUs in the Interim District. It also prohibits any of these ADUs from being used for vacation or short term rentals, not even as B&Bs. These reforms do not apply at all to ag-zoned land, and there are limits in rural zones.

- b. The contractor should try to obtain data on what effect, if any, these changes in ADU rules have had in terms of creating new rental homes and recommend any other feasible zoning law changes that would incentivize the creation of new housing units by existing property owners.
- c. The contractor should evaluate whether and how the restrictions on ADUs on land zoned a rural or ag might be relaxed and estimate what effect such change would have on the number of long term rentals.

## **20) AWARD CRITERIA**

- a. Compliance with the RFP
- b. Having the right, qualified team:
  - 1. Urban planning experience in large planned community developments;
  - 2. Cost estimate capacity of all infrastructure necessary;
  - 3. Financing experience for both infrastructure and for the housing projects;
  - 4. Community outreach experience
  - 5. Development experience for housing
  - 6. Ability to evaluate the County and state approval processes including ways to start zoning changes as early as possible.
  - 7. Ability to evaluate and recommend the best county structure to facilitate the implementation of the plan—public housing authority? Partnerships with developers for each planned community?
- c. Can you meet the schedule for development of the plan?
- d. Community outreach—a workable plan that fits the schedule to involve and get input from all community groups in the areas to be designated for the planned attainable housing communities
- e. Ability to evaluate the need for and design of and cost of water supply, wastewater treatment and recycling, road construction, need for schools and parks.
- f. Proposals that have these characteristics will be evaluated more favorably;
  - 1. Points will be added for creative solutions utilizing the principles of Traditional Neighborhood Development: Conserving, Compact, Complete, Complex, Connected, Convivial, and Cost-effective.
  - 2. Priority be given to Contractors who propose to use local Maui- or Hawaii-based teams.
  - 3. Priority will be given to contractors with deep experience in designing urban plans for affordable housing elsewhere.
  - 4. Priority will be given to design firms that have won awards on other housing and community plans.
- g. Ability to evaluate the various capital sources other than county funds for transportation infrastructure, such as state rental car fees, GET surcharge, federal highway funds, and the like.

