

Resolution

No. 25-15

APPROVING EXCEPTIONS FROM THE CONDITIONS OF SECTION 3.35.070,
MAUI COUNTY CODE, FOR THE KILOHANA MAKAI PROJECT

WHEREAS, on February 28, 2024, the Maui County Council adopted Ordinance No. 5618, Bill No. 4 (2024), appropriating up to \$4,929,088 of Affordable Housing Funds to Aina Lani Pacific LLC for on-site infrastructure for the Kilohana Makai project, located in Kihei Maui, Hawaii and identified for real property tax map purposes as Tax Map Key No. (2) 3-9-004:141(the "Project"); and

WHEREAS, in accordance with section 3.35.070, MCC, a grant or loan agreement for the distribution of Affordable Housing Funds must contain certain conditions and restrictions, unless otherwise approved by the Council by Resolution; and

WHEREAS, because the Project is a for-sale project, Aina Lani Pacific LLC and is unable to comply with certain requirements of section 3.35.070, Maui County Code ("MCC"); and

WHEREAS, Aina Lani Pacific LLC is requesting exceptions from section 3.35.070, MCC, and the proposed exceptions are attached hereto and incorporated herein as Exhibit 1; and

WHEREAS, in accordance with section 4-1 of the Revised Charter of the County of Maui (1983), as amended, the Council is authorized to act by resolution; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. Kilohana Makai being developed by Aina Lani Pacific LLC, is hereby granted exceptions to the requirements of section 3.35.070, MCC, as set forth on Exhibit 1.
2. The Mayor or his designee are authorized to execute any documents and take all necessary actions to effectuate the intent of this Resolution.
3. That certified copies of this resolution shall be transmitted to the Finance Director, the Director of Housing, and Aina Lani Pacific LLC.

APPROVED AS TO FORM
AND LEGALITY:



KRISTINA C. TOSHIKIYO
Deputy Corporation Counsel
County of Maui
LF 2024-0326
2024-11-05 Reso exceptions 3.35.070, MCC

EXHIBIT 1

Exceptions to the requirements of Section 3.35.070.A, Maui County Code

1. An exception from section 3.35.070.A.1, Maui County Code (“MCC”), requiring that, “[t]itle to any real property must be held in perpetuity by the grantee or borrower unless conveyed to the County or to a qualified nonprofit or community land trust[,]” to the extent necessary to allow residential workforce housing units to be sold to selected purchasers.
2. A partial exception from section 3.35.070.A.2, MCC, so that Aina Lani Pacific LLC, is not required to provide annual reports documenting the progress towards “implementing long-term management of the affordable housing project[,]” since the Project is a for-sale development, there will not be any “longer-term management”.
3. An exception from section 3.35.070.A.3, MCC, requiring that, “[t]he project must not be sold, exchanged, divested, or converted to other uses that are inconsistent with the purposes set forth in this chapter without the prior approval of the council by resolution[,]” to the extent necessary to allow residential workforce housing units to be sold to selected purchasers.
4. An exception from section 3.35.070.A.4, MCC, requiring that, “if the grantee or borrower dissolves or is adjudicated bankrupt, title to any real property that has been funded or improved by a grant or loan issued from the fund must be conveyed to the County or to a qualified nonprofit or community land trust as approved by the council by resolution[,]” so that Aina Lani Pacific LLC, is able to obtain financing for the project as lenders will require that their loan to be the first lien on the property.

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Sheri Lee". The signature is written in black ink and is positioned above a horizontal line.

Upon the request of the Mayor.