

REQUEST FOR LEGAL SERVICES

Date: October 23, 2017
From: Robert Carroll, Chair
Land Use Committee

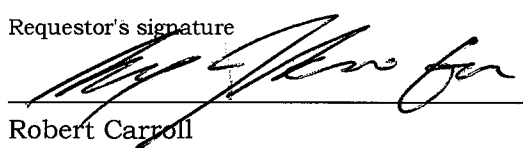
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Jeffrey Ueoka, Esq.

Subject: AFFORDABLE HOUSING PROJECTS (CHAPTER 201H, HAWAII REVISED STATUTES) (INDEPENDENT DEVELOPMENT OF 100 PERCENT AFFORDABLE HANA HOUSING PROJECT) (LU-2(2))

Background Data: Attached is a mark-up of the resolution approving the project with modifications, incorporating the revisions made by the Committee at its meeting of October 18, 2017, and nonsubstantive revisions. Also attached is a "clean" copy of the exemptions. An electronic version of the exemptions and modification will also be transmitted. An approved hard copy of the resolution is required with your response.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

Requestor's signature  Robert Carroll	Contact Person Carla Nakata (Telephone Extension: 7659)
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ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): October 25, 2017, 4:30 p.m.
REASON: To submit for posting on the November 3, 2017 Council meeting agenda.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

Resolution

No. _____

APPROVING WITH MODIFICATIONS THE INDEPENDENT DEVELOPMENT OF THE 100 PERCENT AFFORDABLE HANA HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES

WHEREAS, GTH Land Company, ^{, Inc.,} ~~LLC~~, a Hawaii Limited Liability Company, proposes the development of the 100 percent Affordable Hana Housing Project (the "Project") for qualified residents on approximately 7.22 acres located at 4356 Hana Highway, Hana, Maui, Hawaii, identified for real property tax purposes as ~~Tax Map Key No. (2) 1-3-004:001 (por.); and~~ ⁶

WHEREAS, the ~~proposed~~ Project will consist of twenty-five ~~(25)~~ lots suitable for the construction of single family dwelling units; and

WHEREAS, all twenty-five ~~(25)~~ lots will be sold at prices set forth in Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, the Project will provide needed residential workforce housing lots to meet the current and growing demand for housing; and

WHEREAS, on October 5, 2017, the Department of Housing and Human Concerns submitted the preliminary plans and specifications and accompanying application to the Council of the County of Maui ("Council") ⁽²⁾ recommending approval of the Project pursuant to Chapter 201H, Hawaii Revised Statutes ("HRS"); and

WHEREAS, the Project is being independently developed pursuant to Section 201H-41, HRS; and

WHEREAS, pursuant to Section 201H-38, HRS, the Council may approve certain exemptions for the Project, ~~the requested exemption list is~~ attached hereto and made a part hereof as Exhibit "B"; and ^{which exemptions are}

WHEREAS, pursuant to Section 201H-38, HRS, the Council shall approve, approve with modification, or disapprove the Project by resolution within forty-five ~~(45)~~ days after the Department of Housing and Human Concerns has submitted the preliminary plans and specifications for the Project to the Council, which submittal occurred on October 5, 2017; and

WHEREAS, pursuant to 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:

Resolution No. _____

1. That based upon the transmittals and the representations of the Department of Housing and Human Concerns and GTH Land Company ~~LLC~~, ^{, Inc.} the Council approves the Project with the modifications specified in Exhibit "C", including the Project's preliminary plans and specifications, as submitted to the Council on October 5, 2017, pursuant to Section 201H-38, HRS; provided that GTH Land Company ~~LLC~~, shall comply with all statutes, ordinances, charter provisions, and rules of governmental agencies relating to planning, zoning and construction standards for subdivisions, development and improvement of land, and the construction of units thereon, except for the exemptions specified in Exhibit "B"; and

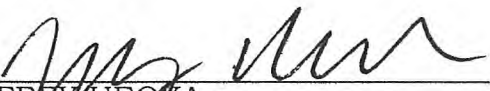
2. That the final plans and specifications for the Project shall be deemed approved by the Council if the final plans and specifications do not substantially deviate, as determined by the Director of Housing and Human Concerns, from the preliminary plans and specifications approved by the Council. Any substantial deviation from the preliminary plans and specifications shall be submitted to the Council for prior approval. The final plans and specifications shall constitute the zoning, building, construction, and subdivision standards for the Project; and

3. ^{That} GTH Land Company ~~LLC~~, ^{, Inc.} shall sell the lots at the prices set forth in Exhibit "A"; and

4. ^{That} In the event of any conflict between the plans and specifications of the Project and this Resolution, ^{the} terms of the Resolution and any exhibits ^{attached} thereof shall control; and

5. That certified copies of this resolution be transmitted to the Director of Public Works, the Planning Director, the Director of Housing and Human Concerns, and GTH Land Company ~~LLC~~, ^{, Inc.}


APPROVED AS TO FORM
AND LEGALITY:



JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

100% AFFORDABLE HANA HOUSING PROJECT

LOT PRICING



	Percentage of Area Median Income			
	>80	80 – 100	101 – 120	121-140
Price	\$118,150	\$129,650	\$177,200	\$206,750
# of Lots	5	8	4	8

**201H Exemption Requests
for the proposed
100% Affordable Hana Housing Project**

The 100% Affordable Hana Housing pProject ("project") ~~is will provide~~ 100% affordable single—family housing. The project is seeking the following exemptions pursuant to Section 201H-38, Hawaii Revised Statutes ("HRS").

These exemptions will automatically terminate if the ~~Hana Affordable Housing~~ project has not commenced construction within four (~~4~~) years of the adoption date of ~~the is resolution~~ 201H Approval. For this purposes of this resolution, construction of the project shall be considered to have commencement commenced will be defined as when the owner has obtained grading permits and has executed a construction contract for the project. Extensions ~~to this termination will~~ may be granted ~~at the discretion of the County Council and passed~~ by Council Rresolution.

~~As a 100% affordable housing project the project will seek to reduce fees as per Chapter 2.96.20 of the Maui County Code.~~

**A. Exemption from Title 2, Maui County Code ("MCC"),
Administration and Personnel**

1. An exemption from ~~Section~~ Chapter 2.80B, MCC, General Plan and Community Plans, shall be granted to permit the project to proceed without obtaining an amendment to the Maui Island Plan or the Hana Community Plan ~~Amendment~~.

B. Exemption from Title 8, MCC, Health and Safety

1. An exemption from ~~Section~~ Chapter 8.04, MCC, Refuse Collection and Landfills, shall be granted to exempt the project from the requirement of obtaining a construction waste disposal permit and making payment of the permit fees during the construction phase of the project. This exemption shall not apply to ~~but not~~ long—term, ongoing operations.

C. Exemptions from Title 12, Streets, Sidewalks and Public Places

1. An exemption from ~~Section~~ Chapter 12.08, MCC, Driveways, shall be granted to exempt the project from making payment of driveway permit and inspection fees.

2. An Exemption from Section 12.24A.070(D), MCC, Planting of street trees, shall be granted to ~~delete-exempt the project from~~ the requirement ~~for-of planting~~ street trees.

*Note: The ~~proposed~~ project site road will be connected to Hana Highway. The right-of-way ~~width~~ will be 44 feet wide ~~and-with~~ 20 feet of pavement. Within the project site there will be no curbs, gutters, or sidewalks, and the road shoulders will be grassed. The cul-de-sacs will have an edge of pavement radius of 43 feet and a right-of-way radius of 50 feet.

D. Exemption from Title 14, MCC, Public Services

1. An exemption from ~~Section-Chapter~~ 14.70, MCC, Impact Fees for Traffic and Roadway Improvements in Hana, Maui, Hawaii, shall be granted to exempt the project from traffic impact fees, should such fees be adopted prior to the issuance of building permits for the project.

E. Exemptions from Title 16, MCC, Buildings and Construction

1. The project shall conform to ~~Section-Chapter~~ 16.04C, MCC, Fire Code; ~~Section-Chapter~~ 16.18B, MCC, Electrical Code; ~~Section-Chapter~~ 16.20B, MCC, Plumbing Code; and ~~Section-Chapter~~ 16.26B, MCC, Building Code; as stated at the time of the filing of the 201H-38 application (October 5, 2017), despite any subsequent amendments to ~~these-sections~~ the Fire Code, Electrical Code, Plumbing Code, or Building Code, or any updates to these ~~sections-Chapters~~ adopted prior to the issuance of the last building permit for the project. This does not pertain to future renovations of buildings or units, only to new construction.

F. Exemptions from Title 18, MCC, Subdivisions

1. An exemption from Section 18.04.030, MCC, Administration, and related land use consistency and conformity requirements of Title 18, shall be granted to exempt the project from the requirement of obtaining a eChange in zZoning, -or Community Plan Amendment, or Maui Island Plan Amendment to enable subdivision approval.
2. An exemption from Section 18.16.130, MCC, Cul-de-sacs, shall be granted to allow the project road ~~C~~cul-de-sac to exceed 550 feet in length and serve more than 20 lots;

provided that a truck turnaround and fire lane will be constructed to ensure that emergency access is not compromised by these exemptions.

3. An exemption from Section 18.16.220, MCC, Lots--Size and Sshape, shall be granted to allow lot sizes, widths, shapes, and orientation, and minimum building setback lines within the Pproject that are not in conformance with the provisions of Title 19, Chapter Section 19.02A.030, MCC, Permitted property uses, Interim District.
4. An exemption from Section 18.16.230, MCC, Lots--Minimum Ssizes, shall be granted to allow lot sizes within the Pproject that are not in conformance with the provisions of Title 19, Chapter Section 19.02A.030, MCC, Permitted property uses, Interim District.
5. An exemption from Section 18.20.030, MCC, Pavement of streets, shall be granted to allow the project to be developed as follows: The proposed project site road will be connected to Hana Highway. The right-of-way width will be 44 feet wide and with 20 feet of pavement. Within the project site there will be no curbs, gutters, or sidewalks, and the road shoulders will be grassed. The cul-de-sacs will have an edge of pavement radius of 43 feet and a right-of-way radius of 50 feet.
- ~~6. An exemption from Section 18.20.040 MCC, Existing streets, shall be granted to allow the project to be developed as follows: The proposed project site road will be connected to Hana Highway. The right of way width will be 44 feet wide and 20 feet of pavement. Within the project site there will be no curb, gutters, or sidewalks and the road shoulders will be grassed. The cul de sacs will have an edge of pavement radius of 43 feet and a right of way radius of 50 feet.~~
- 7.6. An exemption from Section 18.20.060, MCC, Street lights, shall be granted to not exempt the project from the requirement of constructing street lights within the subdivision.
- 8.7. An exemption from Section 18.20.070, MCC, Sidewalks, shall be granted to exempt the project from the requirement of not require the construction ofng sidewalks. Note: A tTwelve (12)--foot-wide grass shoulders will be provided on both sides of internal subdivision roadways. A seven ~~(7)~~ --

foot-wide grass shoulder will be provided at cul-de-sac locations.

~~9.8.~~ An exemption from Section 18.20.080, MCC, Curbs and gutters, shall be granted to ~~not exempt the project from the requirement of~~require installation ~~of~~ing curbs and gutters within the subdivision.

~~10.9.~~ An exemption from Section 18.20.100, MCC, Pedestrian ways, shall be granted to ~~not exempt the project from the requirement of providing~~ pedestrian ways in conformance with this section within the project. Note: A ~~t~~Twelve ~~(12)~~ foot-wide grass shoulders will be provided on both sides of subdivision roadways. A seven ~~(7)~~ foot-wide grass shoulder will be provided at cul-de-sac locations.

~~11.~~ ~~An exemption from Section 18.20.105 MCC, Traffic calming elements, shall be granted to not require installation of traffic calming elements.~~

~~12.10.~~ An exemption from Section 18.20.140, MCC, Utility lines and facilities, shall be granted to allow ~~for proposed above ground~~ utility lines (electric, telephone, street lighting, cable television, and other utilities, if any) on the project site to be installed above ground.

~~13.11.~~ An exemption from Section 18.20.240, MCC, Zoning Rrestrictions, shall be granted to allow ~~Exemption the director to approve a preliminary plat or subdivision map despite noncompliance from compliance~~ with the provisions of Title 19, MCC, where such provisions have been exempted by this resolution.

~~14.12.~~ An exemption from Section 18.20.260, MCC, Certification, shall be granted to allow ~~S~~subdivision improvements to be considered complete and acceptable for final approval after such improvements are so certified in writing to be complete and constructed to the standards described herein.

~~15.13.~~ An exemption from Section 18.20.270, MCC, Final approval and release of surety, shall be granted to allow ~~for the F~~final approval and release of surety ~~shall to~~ be based upon the subdivision roadway and infrastructure improvements described herein.

~~16.14.~~ An exemption from Section 18.40.010, MCC, Acceptance Guidelines, shall be granted for roadways and infrastructure improvements. The County of Maui ~~will~~may accept ownership and maintenance of the subdivision roadway and infrastructure improvements located within the subdivision right-of-way, as described herein.

G. Exemptions from Title 19, MCC, Zoning

1. An exemption from ~~Section Title 19, Article I, 19.02A~~, MCC, Interim Zoning Provisions, shall be granted to exempt the project from the Interim District development standards. The project ~~will be built similar to~~shall comply with the uses and standards of Chapter 19.08, MCC, the relating to R-3 Residential Districts, except that the minimum lot width for Lot 25 shall be 50 feet~~development standards~~.

~~*Note: The minimum lot width shall be 50 feet for the project.~~

~~The project will comply with the following sections of Chapter 19.08, MCC, Residential Districts:~~

~~Section 19.08.040A — Area Regulations. The minimum lot area shall be ten thousand square feet in R-3 Residential Districts.~~

~~Section 19.08.050 — Height Regulations. No buildings shall exceed two stories nor thirty feet in height.~~

~~Section 19.08.060A — Yards. There shall be a front yard of fifteen feet, sideyard of six feet, and rear yard of six feet within the project. Side and rear yards for two-story structures shall be ten feet.~~

2. An exemption from Section 19.68.020~~(B)(8)~~, MCC, Applications, —State Land Use District Boundaries, Applications, B.8 shall be granted to exempt the project from the requirement of paying a filing fee~~requirements~~.
3. An exemption from Section 19.68.020~~(C)(2)~~, MCC, Applications, State Land Use District Boundaries, Applications, C.2 shall be granted to exempt the project from the notification notice of application and timing requirements.

4. An exemption from Section 19.68.030, MCC, Procedures, State Land Use District Boundaries, Procedures, A shall be granted to exempt the project from the Maui Planning Commission public hearing requirements and the timing requirement for newspaper notification.

~~5. An exemption from Section 19.68.030, MCC, State Land Use District Boundaries, Procedures, B shall be granted to exempt the project from the timing requirement for newspaper notification.~~

5. An exemption from Chapter 19.510, MCC, Application and Procedures, to exempt the project from the application, public hearing, and procedural requirements associated with this project.

H. Exemptions from Title 20, MCC, Environmental Protection

1. An exemption from Section 20.08.090, MCC, Grubbing and Grading Permit Fees, shall be granted to exempt the project from payment of grading, grubbing, and excavation permit fees, as well as inspection fees.

I. Exemption from the State General Excise Tax

1. The County of Maui does not object to the Developer seeking an exemption for the State of Hawaii's General Excise Tax in accordance with Section 201H-37, HRS.

J. Exemptions from Sections 8-8.4 and 8-8.6, Revised Charter of the County of Maui (1983), as amended

1. An exemption from Sections 8-8.4 and 8-8.6, Revised Charter of the County of Maui (1983), as amended, shall be granted to exempt the project from the requirements of planning commission review, public hearing, and transmittal of findings and recommendations to the Council on the proposed amendment to the State Land Use District Boundary.

MODIFICATION

EXHIBIT "C"

MODIFICATION

1. The Developer shall record in the Bureau of Conveyances of the State of Hawaii a restriction permanently providing that the use or operation of any dwelling on the lots for transient or short-term rentals, including any rental for a term of less than 180 days, is prohibited.

**201H Exemption Requests
for the proposed
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These exemptions will automatically terminate if the project has not commenced construction within four years of the adoption of this resolution. For purposes of this resolution, construction of the project shall be considered to have commenced when the owner has obtained grading permits and has executed a construction contract for the project. Extensions may be granted by Council resolution.

A. Exemption from Title 2, Maui County Code (“MCC”), Administration and Personnel

1. An exemption from Chapter 2.80B, MCC, General Plan and Community Plans, shall be granted to permit the project to proceed without obtaining an amendment to the Maui Island Plan or the Hana Community Plan.

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3. An exemption from Section 18.16.220, MCC, Lots--Size and shape, shall be granted to allow lot sizes, widths, shapes,

and orientation, and minimum building setback lines within the project that are not in conformance with the provisions of Section 19.02A.030, MCC, Permitted property uses, Interim District.

4. An exemption from Section 18.16.230, MCC, Lots--Minimum sizes, shall be granted to allow lot sizes within the project that are not in conformance with the provisions of Section 19.02A.030, MCC, Permitted property uses, Interim District.
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9. An exemption from Section 18.20.100, MCC, Pedestrian ways, shall be granted to exempt the project from the requirement of providing pedestrian ways in conformance with this section within the project. Note: Twelve-foot-wide grass shoulders will be provided on both sides of subdivision roadways. A seven-foot-wide grass shoulder will be provided at cul-de-sac locations.
10. An exemption from Section 18.20.140, MCC, Utility lines and facilities, shall be granted to allow utility lines (electric,

telephone, street lighting, cable television, and other utilities, if any) on the project site to be installed above ground.

11. An exemption from Section 18.20.240, MCC, Zoning restrictions, shall be granted to allow the director to approve a preliminary plat or subdivision map despite noncompliance with the provisions of Title 19, MCC, where such provisions have been exempted by this resolution.
12. An exemption from Section 18.20.260, MCC, Certification, shall be granted to allow subdivision improvements to be considered complete and acceptable for final approval after such improvements are so certified in writing to be complete and constructed to the standards described herein.
13. An exemption from Section 18.20.270, MCC, Final approval and release of surety, shall be granted to allow for the final approval and release of surety to be based upon the subdivision roadway and infrastructure improvements described herein.
14. An exemption from Section 18.40.010, MCC, Acceptance guidelines, shall be granted for roadways and infrastructure improvements. The County of Maui may accept ownership and maintenance of the subdivision roadway and infrastructure improvements located within the subdivision right-of-way, as described herein.

G. Exemptions from Title 19, MCC, Zoning

1. An exemption from Title 19, Article I,, MCC, Interim Zoning Provisions, shall be granted to exempt the project from the Interim District development standards. The project shall comply with the uses and standards of Chapter 19.08, MCC, relating to R-3 Residential districts, except that the minimum lot width for Lot 25 shall be 50 feet.
2. An exemption from Section 19.68.020(B)(8), MCC, Applications, State Land Use District Boundaries, shall be granted to exempt the project from the requirement of paying a filing fee.
3. An exemption from Section 19.68.020(C)(2), MCC, Applications, State Land Use District Boundaries, shall be granted to exempt the project from notice of application and timing requirements.

4. An exemption from Section 19.68.030, MCC, Procedures, State Land Use District Boundaries, shall be granted to exempt the project from the Maui Planning Commission public hearing requirements and the timing requirement for newspaper notification.
5. An exemption from Chapter 19.510, MCC, Application and Procedures, to exempt the project from the application, public hearing, and procedural requirements associated with this project.

H. Exemption from Title 20, MCC, Environmental Protection

1. An exemption from Section 20.08.090, MCC, Grubbing and grading permit fees, shall be granted to exempt the project from payment of grading, grubbing, and excavation permit fees, as well as inspection fees.

I. Exemption from the State General Excise Tax

1. The County of Maui does not object to the Developer seeking an exemption for the State of Hawaii's General Excise Tax in accordance with Section 201H-37, HRS.

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1. An exemption from Sections 8-8.4 and 8-8.6, Revised Charter of the County of Maui (1983), as amended, shall be granted to exempt the project from the requirements of planning commission review, public hearing, and transmittal of findings and recommendations to the Council on the proposed amendment to the State Land Use District Boundary.