

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

March 9, 2018

Committee
Report No. _____

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

Chair and Members:

Your Land Use Committee, having met on February 14, 2018, makes reference to County Communication 17-12, from Council Chair Mike White, relating to requests for Council approval of affordable housing projects pursuant to Chapter 201H, Hawaii Revised Statutes (“HRS”).

By correspondence dated January 25, 2018, the Director of Housing and Human Concerns transmitted a proposed resolution entitled “APPROVING A VARIATION FROM THE APPROVED PLANS AND SPECIFICATIONS FOR THE KAIWAHINE VILLAGE 201H PROJECT TO ALLOW FOR TWO AND THREE BEDROOM RENTAL UNITS.”

The purpose of the proposed resolution is to approve a variation to the plans and specifications approved by Resolution 11-23, as amended by Resolution 16-32, to allow for the 120 residential workforce housing units in the Kaiwahine Village 201H project to be rental units instead of units for sale, and for all 120 units in the project to be two- and three-bedroom units to be rented to households earning 60 percent or less of the area median income.

Your Committee notes the Council’s Land Use Committee (2011-2013 Council term) previously reported on this matter through Committee Report 11-16, which recommended that a proposed resolution, entitled “APPROVING WITH MODIFICATION THE KAIWAHINE VILLAGE PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES,” be adopted, and that proposed resolutions to approve without modification and to disapprove the project be filed. At its meeting of March 18, 2011, the Council adopted the recommendations in Committee Report 11-16 (Resolution 11-23).

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Your Committee also notes the Council (2015-2017 Council term) received County Communication 16-43, from the Chair of the Land Use Committee, transmitting a proposed resolution entitled "APPROVING A TIME EXTENSION OF THE CONSTRUCTION INITIATION DATE FOR THE KAIWAHINE VILLAGE 201H PROJECT." At its meeting of March 4, 2016, the Council adopted the proposed resolution, as amended (Resolution 16-32), and filed County Communication 16-43.

Your Committee further notes Resolution 11-23 approved the development of the proposed Kaiwahine Village affordable housing project on approximately 9.289 acres at the intersection of Kaiwahine Street and Hale Kai Street in Kihei, Maui, Hawaii, identified for real property tax purposes as tax map key (2) 3-8-004:028. The project was to be 100 percent affordable and consist of a total of 120 one-, two-, and three-bedroom multi-family units for sale for families earning 60 to 80 percent of Maui County's median income.

Resolution 11-23 required that construction of the project begin within five years of adoption of the resolution and be completed within ten years. Accordingly, construction was required to begin by March 18, 2016 and be completed by March 18, 2021.

Although the landowner, Royal Main Properties, LLC, requested a five-year time extension to the construction initiation date in 2016, the Department of Housing and Human Concerns recommended a two-year time extension, which was approved by Resolution 16-32, allowing construction to begin by March 18, 2018. Resolution 16-32 also stated no further time extensions would be considered or granted.

At its meeting of February 14, 2018, the Director of Housing and Human Concerns said the landowner, Royal Main Properties, LLC, is no longer a part of the project development team. The project developer is now Urban Housing Communities ("Developer"), and the managing member is Ikaika Ohana. Your Committee notes the President of Ikaika Ohana is Doug Bigley and its Director of Operations for Hawaii is Randy Hiu. Mr. Bigley is also the Chief Executive Officer for the Developer.

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The Director of Housing and Human Concerns said the Developer has been able to identify and secure funding mechanisms for the project as a rental development for households earning 60 percent or less of the area median income.

The Director also said the Developer would be able to build the project in one phase, rather than two. She said the Developer has committed to fulfilling the various requirements imposed on the project, including resurfacing Kaiwahine Street, and would do everything possible to ensure what happened at the Front Street Apartments (with the units returning to market rate) cannot happen at Kaiwahine Village.

Mr. Bigley described the requested variations to the plans and specifications, the funding mechanisms to be used for the Project, the development team, and project demand. He said his involvement with the project began in earnest about 1.5 years ago, and while the project would work well as a rental development, it would not work as a for-sale development. He requested the time to start construction of the project be extended from March 18, 2018, to June 30, 2018, and said it had been determined that issuance of a grubbing and grading permit would constitute start of construction. He said the application for a grubbing and grading permit was submitted on or about January 10, 2018.

A Deputy Corporation Counsel confirmed the Council could by resolution grant a time extension, despite the prior Council's prohibition against it in Resolution 16-32.

The Deputy Director of Public Works provided a status update on the application for a grubbing and grading permit. She said the application had been routed to the Department of Land and Natural Resources, State Historic Preservation Division ("SHPD"), and the United States Department of Agriculture, Natural Resources Conservation Service, for comment, and the Department is awaiting feedback from SHPD before deciding on the permit application.

Your Committee notes the landowner has been unable to commence construction of the project these past seven years. Mr. Bigley said there

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is a purchase contract pending with the landowner, contingent upon approval of the requested variations and time extension and the completion of financing. Mr. Bigley said the Developer has received financing commitment letters and awards totaling \$54.2 million. Your Committee discussed the significant financing the Developer had managed to obtain and noted requests for Council approval of HOME Investment Partnerships Program ("HOME") and Housing Trust Fund monies must still be considered.

Your Committee noted a request for approval of HOME funding earlier transmitted to the Council did not account for both phases of the project and would need to be revised.

A representative of the Department of Housing and Human Concerns said the Department had discussed with a Deputy Corporation Counsel what would constitute the start of construction. A joint determination had been made that approval of a grubbing and grading permit would satisfy the requirement.

Your Committee noted the proposed resolution states the project is contingent upon the residential workforce housing units being rental units for a period of 60 years. In light of a financing requirement that the units remain in the rental pool for 65 years, your Committee revised the WHEREAS clause accordingly. Your Committee was nonetheless concerned the project would prematurely be converted to a market-rate project, considering the ongoing situation with the Front Street Apartments development in Lahaina, Maui. Your Committee voted to amend the proposed resolution to require the Developer to record a deed restriction on the property to address this concern. The deed restriction would require that units be rented to households earning 60 percent or less of the area median income at the rates determined by the United States Department of Housing and Urban Development.

Your Committee revised the proposed resolution to incorporate an extended construction initiation date of September 30, 2018, and an extended construction completion date of September 30, 2021, amounting to extensions for each of slightly over six months. Your Committee

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included language stating that completion of construction would be evidenced by the issuance of certificates of occupancy for all 120 units in the project.

Your Committee deleted the second WHEREAS clause in the proposed resolution and inserted three new WHEREAS clauses to supplement the factual background underlying the request. Your Committee also revised the title and incorporated nonsubstantive revisions to the proposed resolution.

Your Committee voted 7-2 to recommend adoption of the proposed resolution as revised. Committee Chair Carroll and members Atay, Crivello, Guzman, King, Sugimura, and White voted "aye." Committee Vice-Chair Hokama and member Cochran voted "no."

Your Committee is in receipt of a revised proposed resolution, entitled "APPROVING A VARIATION FROM THE APPROVED PLANS AND SPECIFICATIONS TO ALLOW FOR TWO AND THREE BEDROOM RENTAL UNITS AND A TIME EXTENSION OF THE CONSTRUCTION INITIATION AND COMPLETION DATES FOR THE KAIWAHINE VILLAGE 201H PROJECT," approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

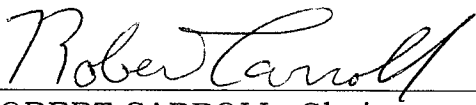
Your Land Use Committee RECOMMENDS that Resolution _____, attached hereto, entitled "APPROVING A VARIATION FROM THE APPROVED PLANS AND SPECIFICATIONS TO ALLOW FOR TWO AND THREE BEDROOM RENTAL UNITS AND A TIME EXTENSION OF THE CONSTRUCTION INITIATION AND COMPLETION DATES FOR THE KAIWAHINE VILLAGE 201H PROJECT," be ADOPTED.

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This report is submitted in accordance with Rule 8 of the Rules of the Council.



ROBERT CARROLL, Chair

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Resolution

No. _____

APPROVING A VARIATION FROM THE
APPROVED PLANS AND SPECIFICATIONS TO ALLOW FOR
TWO AND THREE BEDROOM RENTAL UNITS
AND A TIME EXTENSION OF THE CONSTRUCTION INITIATION AND
COMPLETION DATES FOR THE KAIWAHINE VILLAGE 201H PROJECT

WHEREAS, Resolution 11-23 approved with modifications the Kaiwahine Village project (“Project”); and

WHEREAS, the proposed plans and specifications contemplated one hundred and twenty (120) residential workforce housing units that would be offered for sale to households earning between sixty percent (60%) and eighty percent (80%) of area median income; and

WHEREAS, the owner of the Project, Royal Main Properties, LLC, now desires for the one hundred and twenty (120) residential workforce housing units to be rental units; and

WHEREAS, the one hundred and twenty (120) residential workforce housing units will be two (2) and three (3) bedroom units; and

WHEREAS, said units shall be rented to households earning sixty percent (60%) or less of area median income; and

WHEREAS, the County acknowledges the need for rental units serving the target income group; and

WHEREAS, funding for the Project is contingent upon the residential workforce housing units being rental units for a period of sixty-five (65) years; and

WHEREAS, there are no other substantial deviations from the proposed plans and specifications; and

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WHEREAS, Resolution 16-32 approved a two-year time extension to the construction initiation date imposed by Modification 4 of Resolution 11-23, with construction to begin by March 18, 2018, and be completed by March 18, 2021; and

WHEREAS, the grading and grubbing permit for the Project has not yet been approved, and, therefore, construction has not yet started; and

WHEREAS, a further time extension to the construction initiation date has been requested, until June 30, 2018, rather than March 18, 2018; 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:

1. That the Council approves this variation from the plans and specifications approved in Resolution 11-23 to allow the one hundred and twenty (120) residential workforce housing units in the Project to be rental units; and
2. That, notwithstanding any reference in Resolution 11-23 and any related documents to the contrary, all one hundred and twenty (120) residential workforce housing units in the Project shall be two (2) and three (3) bedroom units that shall be rented to households earning sixty percent (60%) or less of area median income; and
3. That it hereby approves a time extension to the construction initiation date imposed by Resolution 16-32, which shall be until September 30, 2018; and
4. That construction of the Project shall begin by September 30, 2018, and the Project shall be completed by September 30, 2021, with completion being evidenced by the issuance of certificates of occupancy for all one hundred and twenty (120) units in the Project; and
5. That except for the variation and time extension authorized by this resolution, all other aspects of Resolution 11-23 and any related documents shall remain in full force and effect; and
6. That the Developer shall record a deed restriction on the property

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requiring that units be rented to households earning sixty percent (60%) or less of the area median income at the rates determined by the United States Department of Housing and Urban Development.

7. That certified copies of this resolution shall be transmitted to the Director of Public Works; the Planning Director; the Director of Finance; the Director of Housing and Human Concerns; and Royal Main Properties, LLC.

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY ULOKA
Deputy Corporation Counsel
County of Maui
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