

# Resolution

No. 22-131

APPROVING WITH MODIFICATIONS THE INDEPENDENT DEVELOPMENT  
OF THE HALE WAIPU'ILANI WORKFORCE HOUSING PROJECT  
UNDER CHAPTER 2.97, MAUI COUNTY CODE

WHEREAS, Van Bruce Investments, LLC, proposes the development of the workforce housing project known as the Hale Waipu'ilani Workforce Housing Project ("Project") on approximately 1.53 acres of land, located at 16 East Waipu'ilani Road, Kihei, Maui, Hawai'i, and identified for real property tax purposes as Tax Map Key (2) 3-9-046:011;

WHEREAS, the proposed Project is 100% affordable, consisting of 28 for-sale multi-family units;

WHEREAS, all units will be sold to households earning between 80-140 percent of the area median income, as established by the U.S. Department of Housing and Urban Development;

WHEREAS, the Project will provide needed residential housing to meet the current and growing demand for housing in Maui County; and

WHEREAS, the Project is being independently developed under Chapter 2.97, Maui County Code ("MCC");

WHEREAS, under Chapter 2.97, MCC, the Council of the County of Maui ("Council") may approve certain exemptions for the Project, and the requested exemption list is attached as Exhibit "A";

WHEREAS, under Section 2.97.170, MCC, the Council must approve, approve with modification, or disapprove the Project by resolution within 60 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 May 18, 2022; and

WHEREAS, under 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 based upon the transmittals and the representations of the Department of Housing and Human Concerns and Van Bruce Investment, LLC, the Council approves the Project with the modifications specified in Exhibit "B"

including the Project's preliminary plans and specifications, as submitted to the Council on May 18, 2022, under Chapter 2.97, MCC; except that Van Bruce Investment, LLC must 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, unless exempted as specified in Exhibit "A";

2. The final plans and specifications for the Project will be 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 submitted to the Council;

3. Any substantial deviation from the preliminary plans and specifications must be submitted to the Council for prior approval;

4. The final plans and specifications constitute the zoning, building, construction, and subdivision standards for the Project;

5. In the event of any conflict between the plans and specifications of the Project and this resolution, terms of this resolution and any exhibits will control; and

6. 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 Van Bruce Investment, LLC.

APPROVED AS TO FORM AND LEGALITY:

/s/ Mimi Desjardins

MIMI DESJARDINS

Deputy Corporation Counsel

County of Maui

2021-0973

2022-05-12 Hale Waipu'ilani Resolution Approving with Modifications

**Resolution No.** 22-131

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Shirley K. Lee", is written over a horizontal line.

Upon the request of the Mayor.

# **PROPOSED LIST OF EXEMPTIONS AND FEE WAIVERS MAUI COUNTY CODE CHAPTER 2.97.120 AND 2.97.150**

Maui County Code, Chapter 2.97.120, Residential Workforce Housing Policy Incentives and Exemptions states that, *"Notwithstanding any law to the contrary, an applicant may include in its application a request for exemption or modification of any section of this code provided that the project still meets the minimum requirements for health and safety."*

The proposed Hale Waipu'ilani Workforce Housing Project will be 100% affordable pursuant to Maui County Housing and Human Concerns' Affordable Sales Price Guidelines. The proposed project intended to serve unmet demand for fee simple affordable residential housing units for families earning 80% to 140% of Maui's median income.

The exemption requests following below are necessary to achieve and maintain financial feasibility of the proposed workforce housing project and thereby reduce the per unit cost of the project. The following proposed exemptions are summarized following below:

## **A. MCC Title 2, Administration and Personnel**

1. Exemption from MCC 2.96.050, Residential Workforce Housing Credits, is requested to allow 100% of the units to qualify for workforce housing credits.
2. Clarification is sought for MCC 2.97.160 to state that the form of bonding to ensure that construction is completed will be in the form of a material house bond.

## **B. MCC Title 8.04, Health and Safety**

1. An exemption from MCC 8.04.040 and 050, Refuse Collection and Landfill is requested to exempt the proposed project from obtaining a construction waste disposal permit and paying disposal fees during construction. This exemption will cease once the residential units are occupied.

## **C. MCC Title 12, Streets, Sidewalks, and Public Places**

1. Per MCC 2.97.150, an exemption from MCC 12.08.050, Permit Fee, is requested that no fees will be required for the approval and construction of the driveways.
2. To provide flexibility, an exemption from MCC 12.24B, Landscape Planting and Beautification, is requested to exempt the project from standard landscaping requirements. Landscaping will be provided in accordance with the Conceptual Landscape Plan prepared for the proposed project (see Appendix M).

**D. MCC Title 14, Public Services**

1. MCC Chapter 14.07.030, Water System Development Fees, is requested to exempt the proposed project from water system development fees.
2. MCC Chapter 14.10.040, Temporary Meter Charges and Water Use Restrictions, is requested to exempt the proposed project from temporary meter charges and restrictions on water use of temporary meter during construction of the project. This exemption will cease once the project is completed.
3. Per MCC 2.97.150, an exemption from MCC 14.34.080, Collection/Transmission system process assessment fee, is requested to exempt the proposed project from collection/transmission system upgrade fees for the Kihei Regional Wastewater Treatment System.
4. Per MCC 2.97.150, an exemption from MCC 14.68, Impact Fees for Traffic and Roadway Improvements in Kihei and Makena, Maui, Hawaii, is requested to exempt the proposed project from traffic impact fees.

**E. MCC Title 16, Building and Construction**

1. Per MCC 2.97.150, exemptions from MCC 16.04C, Fire Code; 16.18B, Electrical Code; 16.20B, Plumbing Code; and 16.26B, Building Code, is requested to exempt the proposed project from Fire, Electrical, Plumbing, and building permit fees, as well as plan review and inspection fees.
2. MCC 16.26B.3600, Improvements to Public Streets, is requested to exempt the proposed project will not be required to make improvements pertaining to the undergrounding of overhead utility lines, road widening, or other improvements along Waipu'ilani Street. Improvements proposed by the applicant are to construct curbs, gutters, a sidewalk, and underground utilities fronting the project as shown in project's conceptual plan (see Appendix B). The developer will not be required to construct a sidewalk along Kauha'a Street

**F. MCC Title 18, Subdivision**

1. Should a subdivision be deemed necessary for any reason, an exemption from MCC 18.04 General Provisions and Title 18.16.020, Compliance, is requested as related to land use consistency and conformity requirements of MCC Title 18, and any requirement to obtain a change in zoning and/or community plan amendment to enable the subdivision approval, should subdivision for any purpose be deemed necessary.
2. Per MCC 2.97.150, an exemption to MCC 18.16.320, Parks and Playgrounds, is requested to exempt the proposed project from parks assessment fees.

**EXHIBIT A**

3. An exemption from MCC 18.16.050, minimum right-of-way and pavement widths, and 18.16.060 widening of existing right-of-way is requested. The road widening fronting the proposed project will be in accordance with applicant's plan as shown in Appendix C, Exhibit 5 of the Preliminary Engineering Report (PER).
4. Should a subdivision be deemed necessary for any reason, an exemption from MCC 18.20.070 is requested to allow the applicant to construct sidewalk along the project frontage on E. Waipu'ilani Street only rather than both sides of the street. Sidewalks to be constructed pursuant to the conceptual plans.

**G. MCC Title 19, Zoning**

1. An exemption from Chapter 19, MCC, is requested to permit the development and use of the subject property for multi-family affordable workforce residential use, and accessory use according to the permitted uses in multi-family development. The proposed project will be subject to the height regulations pursuant to MCC 19.080.050 at 30 feet as defined in MCC 19.04.040, and yard specifications from MCC 19.08.060, with minimum front yard of 15 feet, side yards at 6 feet, and rear yard at 6 feet.
2. An exemption from MCC 19.04.050 and MCC 19.510.010B is requested to exempt the project from any building permit resubmittal fees.
3. An exemption from MCC 19.08.020, Permitted Uses, is requested to allow the construction of two-story multi-family dwellings.
4. An exemption from MCC 19.08.060, is requested to allow the structures within the setbacks limited to at-grade sidewalks and lanais.
5. If necessary, to provide flexibility, an exemption from MCC 19.36B.080, Landscaping, is requested to exempt the project from standard landscaping requirements. Landscaping will be in accordance with the Conceptual Landscaping Plan as shown in Appendix M.
5. Allow the applicant the flexibility to use grass-block parking for the proposed project.

**H. MCC Title 20**

1. Per MCC 2.97.0150, an exemption from MCC 20.08.090, Grubbing and Grading Permit Fees, is requested to exempt the proposed project from grubbing, grading, and excavation permit fees, as well as inspection fees.

Per MCC 2.97, the purpose of this code is to establish a process by which developers of 100 percent residential workforce housing projects may seek fast track development of the projects by applying for County exemptions from MCC 2.97. As such, the above

**EXHIBIT A**

listed exemptions for this proposed project meets the provision of this code. These exemptions will expedite the delivery of affordable workforce housing and assist the project meet the affordable workforce housing targets. The proposed exemptions do not compromise the health and safety provision of the proposed Hale Waipu'ilani Workforce Housing Project.

**I. MCC 2.96.090 D**

The developer will follow the selection priority outlined in 2.96.090.D, with the exception of 2.96.090.D.4.d, which is amended as follows:

d. Any units that remain unsold may be offered at no more than 140% of AMI with deed restrictions. In this event, the developer shall still be deemed to have satisfied the requirement for producing a residential workforce housing unit.

**EXHIBIT "B"**