

September 1, 2022 Committee meeting

AFFORDABLE HOUSING COMMITTEE  
Amendment Summary Form

Legislation: Resolution 22-193.

*Tamara M. Paltin*

Proposer: Tamara Paltin, Councilmember.

Description: Add modifications to Exhibit “B” related to workforce housing credits, animals on the project site, trees and landscaping, plant composting and recycling, owner-occupancy, Wailuku Water Reservoir #10, future requests for Changes in Zoning or Community Plan Amendments, and a date when the Resolution and Exemptions will lapse.

Motion: Move to insert the following modifications on Exhibit “B”:

1. **Exemption From Residential Workforce Housing Policy Not Granted**

Exemption C in Exhibit “A” is not granted. Kuikahi Village Workforce Housing Project is subject to Section 2.96.050, Maui County Code.

2. **Animals Restricted**

The homeowners’ association (“HOA”) must restrict animals on the project site to indoor pets only and prohibit the feeding of feral cat colonies. In addition, the HOA must provide bait stations for rodents and mongooses and covered trash receptacles.

3. **Fruit Trees Prohibited**

Fruit trees are prohibited on the project site.

4. **Landscaping Limited**

Landscaping on the project site must be limited to xeriscaping and drought-tolerant native plants.

5. **Composting and Recycling Areas Required**

The HOA must provide areas for plant composting and recycling.

6. **Units Owner-Occupied in Perpetuity**

All units must be owner-occupied in perpetuity. This requirement must also be listed in the HOA's governing documents. Violations of this requirement will be subject to fines paid to the HOA.

7. **No County Liability for Wailuku Water Reservoir #10**

The County cannot be held liable for any dam breach or failure at Wailuku Water Reservoir #10. In addition, the County reserves the right to withhold any pending Certificate of Occupancy until the Wailuku Water Company satisfies all of the Department of Land and Natural Resources ("DLNR") safety requirements for Reservoir #10 within the DLNR's allotted timeframe.

8. **DBA Required for Change in Zoning or Community Plan Amendment**

Any additional Changes in Zoning or Community Plan Amendments to the project site will require a State Land Use Commission District Boundary Amendment ("DBA") unless the Land Use Commission's staff and the Planning Director verify in writing that a DBA is not required.

9. **Construction Required Within 10 Years**

This Resolution, including these Exemptions, will lapse and become void if construction of the units has not started within 10 years of this Resolution's effective date.

10. **Compliance Reports Required**

Annual compliance reports must be submitted to the Council and Planning Director until the development is complete or for 10 years, whichever is sooner.

- Reasons:
1. Section 2.96.050(3), Maui County Code, provides a process for developments composed of 100 percent residential workforce housing units.
  2. In correspondence dated November 23, 2020, the DLNR's Division of Forestry and Wildlife Services, , wrote of their animal-related concerns. This modification is proposed to address these concerns. Reference: Volume 1, Application for Chapter 2.97, pages 291-292.
  3. The prohibition of fruit trees is to remove an attraction for axis deer.
  4. The Wailuku-Kahului Community Plan, under both "Goals, Objectives, Policies, and Implementing Actions" and "Planning Standards," states that urban design should "incorporate drought tolerant plant species and xeriscaping in future landscape planting."
  5. It has been shown that composting significantly cuts down on the amount of trash that goes to landfills and reduces the costs and carbon emissions associated with taking waste to landfills.
  6. The County is facing a housing crisis, and there is a need to ensure these units remain owner-occupied and are not purchased by housing speculators.
  7. In correspondence dated November 8, 2021, the Maui Emergency Management Agency raised concerns regarding Wailuku Water Reservoir #10, an earthen dam. They stated: "Due to the location of the project and the reservoir, there is a concern that drainage downstream may become an issue, causing loss of life and damage to property if the dam did breach or there was an imminent failure." Reference: Volume 1, Application for Chapter 2.97, pages 393-394.

In addition, in correspondence dated December 2, 2021, the Department of Public Works wrote that Reservoir #10 has been classified as a “high hazard” dam by DLNR due to one or more physical or operational conditions and deficiencies. The Department of Public Works recommended further consultation with DLNR and the Department of Planning on the flood risk due to Wailuku Water Reservoir #10. Reference: Volume 1, Application for Chapter 2.97, pages 443-444.

This modification is intended to ensure these concerns are addressed prior to occupancy.

8. In correspondence dated December 2, 2020, the State Land Use Commission expressed concerns about the “deliberate parcelization” of the project, and if the project would remain under the 15-acre threshold. This modification is proposed to address these concerns. Reference: Volume 1, Application for Chapter 2.97, pages 304-306.
9. Many things could change in the County in a decade. Having the Resolution and Exemptions lapse will allow a future Council to reevaluate the project, taking those changes into account.
10. Annual compliance reports will ensure future County officials are able to provide oversight on compliance with the agreement conditions in a timely manner.