

Resolution

No. 25-85

AMENDING RESOLUTION NO. 22-193, CD1, FD1, TO ALLOW THE
DIRECTOR OF HOUSING TO EXTEND TIME DEADLINES FOR
COMMENCEMENT OF CONSTRUCTION AND COMPLETION OF
KUIKAHI VILLAGE WORKFORCE HOUSING PROJECT

WHEREAS, on October 7, 2022, the Maui County Council (“Council”) adopted Resolution 22-193, CD1, FD1, approving with modifications the workforce housing project known as the Kuikahi Village Workforce Housing Project (“Project”) by Kuikahi Properties, LLC, in accordance with Chapter 2.97, Maui County Code, on 14.97 acres located in Wailuku, Maui, Hawaii, identified for real property tax purposes as Tax Map Key (2) 3-5-002:003 (Port.) (the “Resolution”); and

WHEREAS, The Resolution required that commencement of construction must begin within two years of the enactment of Bill 127 (2022), and be completed within four years of the effective date of Bill 127 (2022); and

WHEREAS, on May 9, 2023, the Council passed Bill No. 127, FD2 (2022), which signed by Mayor Richard T. Bissen Jr. on May 11, 2023, enacting Ordinance 5518 and granting a Conditional Boundary Amendment of the State Land Use District classification from Agricultural District to Urban District; and

WHEREAS, between the Project’s initial conceptual design in November of 2019 and the present date, there have been supply chain disruptions, material cost increases, labor shortages, wage increases, runaway inflation, and contractor price jumps. These outside events increased the Project’s costs by over 20% from its original projections; and

WHEREAS, in light of the outside events, Kuikahi Properties, LLC, has requested an additional two years to commence construction on the Project, and an additional two years to complete the Project, to provide necessary flexibility; 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. Exhibit B to the Resolution is deleted and replaced with the Exhibit B-1, which is attached and made a part of this amendment to the Resolution, and any references to Exhibit B within the Resolution are now referenced as Exhibit B-1; and

2. That certified copies of this Resolution must be transmitted to the Director of Housing, the Planning Director, Director of Public Works, and Kuikahi Properties, LLC.

APPROVED AS TO FORM AND LEGALITY



KRISTINA C. TOSHIKIYO

Deputy Corporation Counsel

LF 2022-2059

2024-09-04 Reso Kuikahi Village time extension

EXHIBIT "B-1"

**KUIKAHI VILLAGE WORKFORCE HOUSING PROJECT
MODIFICATIONS**

1. The Developer must commence construction of Kuikahi Village Workforce Housing Project ("Project") within two years of the effective date of this resolution. Commencement of construction means the visible start of grading, in accordance with a valid grading permit as needed for the development of the 14.97 acres on which the 202 residential workforce housing units must be constructed ("Property"). Kuikahi Properties, LLC, must act in good faith and with reasonable best efforts to complete construction of the 202 residential workforce housing units, with all related infrastructure, no later than four years after the effective date of this Resolution.
2. The Developer must develop and manage the Project in substantial compliance with all representations made to the Council and its Affordable Housing Committee, and in its Project application, to obtain approval of this Resolution. The County has the right to deny the issuance of permits if, and as long as, the Developer is in breach of any of these modifications.
3. To the extent permitted by law, the applicants selected by lottery must be ranked by the total length of time each has been a resident of the County. The workforce housing units must then be offered in the order of the rankings.
4. The Developer must record in the State of Hawai'i Bureau of Conveyances a deed restriction for each residential unit within the Project site to remain owner-occupied in perpetuity. This requirement must be listed in the homeowners' association ("HOA") governing documents. Violations of this requirement will be subject to fines paid to the HOA.
5. The HOA must restrict animals allowed within the Project to indoor cats and dogs in enclosed areas. Feeding feral cat colonies and feral chickens is prohibited. The HOA must provide bait stations for rodents and mongooses, including covered trash receptacles.

6. The HOA must provide areas and receptacles for plant composting and recycling.
7. The Developer must construct sidewalks, gutters, and curbs on all frontage streets, and may seek reimbursement from the County for all reasonable associated construction costs. The County intends to reimburse the Developer with funds from the Affordable Housing Fund, or another fund, for all reasonable costs related to frontage street sidewalk, gutter, and curb construction.
8. In addition to Section 2.97.190, Maui County Code, the Developer and the County, in accordance with terms approved by the Department of the Corporation Counsel, must execute a Hold Harmless Agreement that indemnifies the County against any claims of loss or damage caused by any failure of Wailuku Water Company Reservoir #10 (MA-0151) ("Reservoir #10") due to structural defects or negligence related to its operation, maintenance, upkeep, or necessary repair for which the Developer is found liable or responsible as the landowner. In the event the Developer, as the landowner, is found responsible for ensuring compliance with the conditions contained in the Notice of Deficiency ("NOD"), dated September 4, 2021, issued by the State of Hawai'i Department of Land and Natural Resources ("DLNR"), none of the Project's units may be occupied until the DLNR confirms in writing that all remediation actions have been completed.
9. The Developer must disclose to all potential Project homebuyers that Reservoir #10 received a NOD and a High Hazard Potential dam classification by the DLNR on September 4, 2021, and must disclose to the potential Project homebuyers at the time of the sale of each unit of the most current status of compliance with the conditions set forth in the NOD.

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Chris Lee", written above a horizontal line.

Upon the request of the Mayor.