

REQUEST FOR LEGAL SERVICES

Date: February 11, 2020
From: Alice L. Lee, Council Chair


Memo to: TRANSMITTAL
DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Mimi DesJardins, Esq.

Subject: KEAWE STREET APARTMENTS PROJECT (LAHAINA) (AH-001(5))

Background Data: Please see attached revised resolution and exhibits, incorporating amendments made at February 7, 2020, Council meeting and nonsubstantive amendments.

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

Requestor's signature,  _____ Alice L. Lee	Contact Person <u>Alison Stewart</u> (Telephone Extension: <u>7661</u>)
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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): _____

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)

paf:ans:20-076a

Attachment

Resolution

No. 20-11

APPROVING WITH MODIFICATIONS THE KEAWE STREET APARTMENTS AT THE VILLAGES OF LEIALI'I BY IKAIKA OHANA PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES

WHEREAS, Ikaika Ohana, a Hawaii nonprofit corporation, proposes the development of the Keawe Street Apartments at the Villages of Leialii ("the Project") for qualified residents on approximately 28.5 acres located in Lahaina, West Maui, on the parcel identified for real property tax purposes as tax map key (2) 4-5-021:003 (portion); and

WHEREAS, the Project will have a total of 200 affordable multifamily rental housing units, including up to three manager units; two community centers; on-site laundry facilities; a playground; community gardens; and off-street parking; and

WHEREAS, the affordable multifamily rental housing units will be developed and rented to qualified individuals earning 60 percent or below the Housing and Urban Development area median income; and

WHEREAS, the Project will provide needed affordable rental units to meet the current and growing demand for housing; and

WHEREAS, on December 31, 2019, the Department of Housing and Human Concerns submitted the preliminary plans and specifications and accompanying the application to the Council of the County of Maui, recommending approval of the Project, in accordance with Chapter 201H, Hawaii Revised Statutes ("HRS"); and

WHEREAS, under Section 201H-38, HRS, the Council may approve certain exemptions for the Project, and the approved exemption list is attached as Exhibit "A"; and

WHEREAS, under Section 201H-38, HRS, the Council must approve, approve with modification, or disapprove the Project by resolution within 45 days after the Department of Housing and Human Concerns submits preliminary plans and specifications to the Council, which occurred for the Project on December 31, 2019; and

WHEREAS, in accordance with 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 Ikaika Ohana, 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 December 31, 2019, in accordance with Section 201H-38, HRS, if Ikaika Ohana complies 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, except for the exemptions specified in Exhibit "A";
2. That the final plans and specifications for the Project will 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 must be submitted to the Council for prior approval. The final plans and specifications will constitute the zoning, building, construction, and subdivision standards for the Project; and
3. That certified copies of this Resolution be transmitted to the Director of Public Works, the Planning Director, the Director of Housing and Human Concerns, Ikaika Ohana, and Ms. Denise Iseri-Matsubara, Interim Executive Director, Hawaii Housing Finance and Development Corporation.

APPROVED AS TO FORM AND LEGALITY

MIMI DESJARDINS
Deputy Corporation Counsel
County of Maui

ah:misc:001(5)areso02:ans

EXHIBIT "A"

KEAWE STREET APARTMENTS AT THE VILLAGES OF LEIALI`I

EXEMPTIONS

The following exemptions from Maui County Code provisions are approved for the Keawe Street Apartments at the Villages of Leiali`i ("the Project").

1. An exemption is granted to permit the Project to proceed without obtaining a Community Plan Amendment. County Code provision: **Chapter 2.80B, "General Plan and Community Plans."**
2. Exemptions are granted to exempt the developer from fire, electrical, and plumbing inspection fees and from building permit, plan review, and inspection fees. County Code provisions: **Chapters 16.04C, "Fire Code"; 16.18B, "Energy Code"; 16.20B, "Plumbing Code"; and 16.26B, "Building Code."**
3. An exemption is granted to permit the Project to proceed without obtaining consistency in land use designations. County Code provision: **Section 18.04.030(A), relating to Subdivisions.** The Project site has a State land use designation of "Urban," is within the Urban Growth Boundary of the Maui Island Plan, has a Community Plan designation of "Agriculture," and has a County zoning designation of Agricultural District.
4. An exemption is granted to exempt the Project from the County zoning designation of Agricultural District and to allow the Project to follow the development standards and permitted uses of an A-1 Apartment District zoning designation, as contained in Chapter 19.12, Maui County Code—except that the maximum height limit may be increased from 35 feet to 55 feet above existing grade. County Code provision: **Chapter 19.30A, "Agricultural District."**
5. An exemption is granted to permit the developer to provide 50 off-street parking stalls for the community center primarily intended to serve the Project residents. County Code provision: **Section 19.36B.020, relating to Off-Street Parking and Loading.**
6. An exemption is granted to exempt the developer from grubbing and grading permit fees. County Code provision: **Section 20.080.90, relating to Soil Erosion and Sedimentation Control.**

EXHIBIT “B”

KEAWE STREET APARTMENTS AT THE VILLAGES OF LEIALI`I

MODIFICATIONS

1. **Start of construction:** The Keawe Street Apartments at the Villages of Leiali`i (the “Project”) approved by this resolution and the exemptions set forth in Exhibit “A” will all lapse and become void if construction of the residential workforce housing units has not started within five years of the effective date of this resolution. Start of construction means the visible start of grading, in accordance with a valid grading permit as needed for the development of the 28.5 acres containing the residential workforce housing units. The developer has provided a start date of November 2020.
2. **Completion of construction:** The developer must act in good faith and with its reasonable best efforts to complete construction of all residential workforce housing units, with related roads and infrastructure, not later than the end of the year 2023.
3. **Wastewater:** The developer must ensure connection to the County’s wastewater system is provided along the Kapunakea Street alignment, identified in the developer’s presentation as the “green line” connection.
4. **Second access road:** The developer, in coordination with the County, must make its best efforts to provide a second access road to the project site.
5. **Safe pedestrian access:** The developer, in coordination with the County, must make its best efforts to provide safe pedestrian access from the project site to the commercial centers at Keawe Street.
6. **Access to burial sites:** The developer must construct a gated entryway from the new public road to provide access to native Hawaiian lineal descendant family burial sites mauka of the project site.
7. **Archaeological monitoring plan:** The developer must submit its proposed archaeological monitoring plan to the County Council for a 45-day review concurrent with the State Historical Preservation Division’s review.
8. **Name and landscape plan:** The developer must consult with the County Council on a culturally appropriate name and landscape plan for the development, including plaques recognizing the historical significance of

the land to be placed at each community center, each manager residence, and all entrances and exits.

9. **Maximum useful life:** The developer must make its best efforts to maximize the useful life of the development as an affordable residential workforce housing project.
10. **Compliance:** The Project must be developed in substantial compliance with the representations made to the County Council in obtaining approval of this resolution. The County has the right to deny the issuance of building permits if, and as long as, the developer is in breach of any of these modifications.

paf:ans:20-076d