

## AH Committee

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**From:** Tamara A. Paltin  
**Sent:** Tuesday, September 22, 2020 4:30 PM  
**To:** AH Committee  
**Cc:** Angela R. Lucero  
**Subject:** Conditions for AH1(7)  
**Attachments:** Proposed Modifications AH1(7).docx

Aloha

Attached are my proposed conditions for the Lihau'ula 201H project

Mahalo,

Tamara

### Proposed Modifications

1. The Lihau'ula Project ("Project") approved by this resolution and the exemptions set forth in Exhibit "A" shall all lapse and become void if construction of the residential workforce housing units has not started within two years of the effective date of this resolution. Start of construction shall mean the visible start of grading, pursuant to a valid grading permit, as needed for the development of the residential workforce housing units.
2. The Developer shall act in good faith and with reasonable best efforts to complete construction of all residential workforce housing units, with related roads and infrastructure, not later than five years from the effective date of this resolution.
3. The Developer shall develop all residential workforce housing units before or concurrently with the sale of the market-rate lots.
4. The distribution of the 40 residential workforce housing units across area median income ("AMI") categories shall be as follows, using the 2020 Affordable Sales Price Guidelines prepared by the County of Maui Department of Housing and Human Concerns or the Affordable Sales Price Guidelines prepared by the County of Maui in effect the year that the project is completed, whichever is lower, and the categories shall not expire:
  - a. Six homes priced for households earning between 80 percent and 90 percent AMI – (1) 3BR/2BA, (5) 4BR/2BA.
  - b. Six homes priced for households earning between 91 percent and 100 percent AMI - (1) 3BR/2BA, (5) 4BR/2BA.
  - c. Ten homes priced for households earning between 101 percent and 110 percent AMI - (1) 3BR/2BA, (9) 4BR/2BA.
  - d. Ten homes priced for households earning between 111 percent and 120 percent AMI - (1) 3BR/2BA, (9) 4BR/2BA.
  - e. Four homes priced for households earning between 121 percent and 130 percent AMI - (1) 3BR/2BA, (3) 4BR/2BA.
  - f. Four homes priced for households earning between 131 percent and 140 percent AMI - (1) 3BR/2BA, (3) 4BR/2BA.
5. The Developer shall extend the existing private water system, in accordance with the State of Hawaii, Department of Health, and CWRM - Olowalu stream IIFS standards to provide necessary domestic and fire flow demands for the project as well as continue to service the surrounding area. The County of Maui shall not grant final subdivision approval if, and as long as, the Developer is in breach of this condition.
6. The Developer must receive a "will serve" letter from Olowalu Water Company, and confirmation from the Department of Water Supply of a long-term reliable water supply for the Project.
7. The source of potable and non-potable water for the Project shall not be the Olowalu Stream.
8. Potable water shall not be used in irrigation systems for any lot or portion of the Project.
9. On each lot, the Developer shall provide, at minimum, one individual waste system, which can accommodate up to five bedrooms. All IWS shall be maintained by the Project's Homeowners Association, and in accordance with Title 11, Chapter 62, Hawaii Administrative Rules.
10. The Developer shall record in the Bureau of Conveyances of the State of Hawaii restrictions permanently providing for the following:
  - a.) The residential workforce housing units shall, by deed restriction, be owner occupied for a period of 30 years; however, if no loans are approved due to the 30-year deed restriction, the Developer may request of the Council, via resolution, an adjustment of the deed restriction. The Developer shall not sell the workforce housing units at market rate.

b.) An owner of a workforce unit that is being resold: (1) must sell the unit to an income-qualified household in the same AMI category as the original homebuyer. (2) may retain a maximum three percent appreciation per year.

c.) The use or operation of any dwelling in the Project for transient or short-term rentals, including any rental for a term of less than 180 days, is prohibited. Only long term residential use is allowed.

d.) Condominium conversion or further subdivision of any of the lots in the Project is prohibited.

11. The developer must ensure a homeowners' association is established in accordance with Chapter 421J, Hawaii Revised Statutes.
12. There shall be no accessory dwelling units (ADU) or additional farm dwellings
13. All dwellings in the Project shall be limited to two stories.
14. There shall be no on-street parking within the Project.
15. The Agricultural District permitted uses listed under Section 19.30A.050(6) and (8), relating to minor utility and solar energy facilities, shall require special use permits, as set forth in 19.30A.060.
16. The legal instrument establishing the Project's Homeowners Association ("HOA") shall require at least 50 percent of the board membership to be owners of workforce units. It shall also provide that five percent of HOA dues be donated to Mauna Kahalawai Watershed Partnership, as long as it may exist, and then to an organization that provides substantially similar services.
17. The Department of Housing and Human Concerns shall oversee the waitlist and distribution of all residential workforce housing units via lottery. No residential workforce housing units shall be promised or pledged to any applicant prior to such lottery.
18. There shall be no restrictions placed on workforce unit homebuyers in their choice of lenders, including in the pre-qualification process.
19. To the extent legally permissible, the residential workforce housing units shall be restricted to residents of Maui County, with preference given to residents currently employed or residing in the West Maui Community Plan area.
20. The Developer shall host at least one homebuyer financial education program workshop, for residential workforce housing unit applicants.
21. The Project shall comply with all applicable requirements of Chapter 2.96, MCC, and Chapter 201H, HRS.
22. The developer must construct a rough-in for a future photovoltaic system prior to final building permit inspection approval by the Department of Public Works for each unit of the project.
23. There shall be no fee waivers.
24. There shall be no exemption from 19.68.020 and 19.68.030, MCC.
25. There shall be no exemption from Section 8-8.4, Maui County Charter.
26. The Project shall be developed in substantial compliance with the representations made to the Council in obtaining approval of this Resolution. The County of Maui has the right to deny the issuance of building permits for any unit on any lot in the Project if, and as long as, the Developer is in breach of any of these modifications.
27. The developer shall provide annual status reports to the Director of Housing and Human Concerns and the Council for all affordable dwelling units, commencing with one year of the effective date of this ordinance. The status report should include: (1) The number of affordable dwelling units and market-priced units sold. (2) The income bracket for each purchaser and purchase price. (3) Status of compliance with all the conditions above.