

## AH Committee

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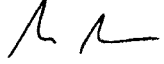
**From:** Jocelyn Moniz <Jocelyn.Moniz@co.maui.hi.us>  
**Sent:** Friday, August 27, 2021 8:42 AM  
**To:** AH Committee  
**Cc:** Mimi Desjardins; Raynette Yap  
**Subject:** AH-1(1) Hokuao 201H Housing Project  
**Attachments:** 2021-08-27 AH-1(1) closing RAFL Hokuao resolution with modifications.pdf

Good morning AH Committee,

Please see the attached signed resolution with modifications along with exhibits A&B for the Hokuao 201H Housing Project.

Thanks,  
Joce

# REQUEST FOR LEGAL SERVICES

**Date:** August 26, 2021  
**From:** Gabe Johnson, Chair   
Affordable Housing Committee

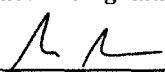
**TRANSMITTAL**

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

**Subject:** HÖKŪAO 201H HOUSING PROJECT (AH-1(1))

**Background Data:** Please see the attached resolution approving the project with modifications. Please sign if the resolution is legally defensible. If the resolution is not legally defensible, please provide a public memo explaining your reasons. Confidential legal advice is not sought. Please submit the response to ah.committee@mauicounty.us with reference to AH-1(1).

**Work Requested:** ☒ FOR APPROVAL AS TO FORM AND LEGALITY  
☐ OTHER:

|   |   |
|---|---|
| Requestor's signature<br><br>Gabe Johnson | Contact Person<br><u>Alison Stewart or James Forrest</u><br>(Telephone Extension: 7661 or 7137, respectively) |
|---|---|

☐ 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): 9:00 a.m., August 27, 2021  
REASON: For posting on the September 3, 2021 Council meeting agenda.

**FOR CORPORATION COUNSEL'S RESPONSE**

|                  |                          |         |
|------------------|--------------------------|---------|
| ASSIGNED TO: MDJ | ASSIGNMENT NO. 2021-0011 | BY: jcm |
|------------------|--------------------------|---------|

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):  
Per your request please see attached.

DEPARTMENT OF THE CORPORATION COUNSEL

Date 08/27/2021

By /s/ Mimi Desjardins

(Rev. 7/03)

ah:ltr:001(1)acc01:ans

Attachment

# Resolution

No. \_\_\_\_\_

APPROVING WITH MODIFICATIONS THE INDEPENDENT DEVELOPMENT OF  
THE HŌKŪAO HOUSING PROJECT UNDER SECTION 201H-38,  
HAWAII REVISED STATUTES

WHEREAS, Pūlāma Lānaʻi, a Hawaii corporation, proposes the development of the Hōkūao Housing Project (“Project”) on approximately 76 acres of land, which is identified for real property tax purposes as Tax Map Keys (2) 4-9-002:061 (por.), (2) 4-9-014:001 (por.), and (2) 4-9-014:009 (por.) in Lānaʻi City, Hawaiʻi; and

WHEREAS, the proposed Project will consist of a residential development of 150 single-family homes, with 76 homes for rent to qualified households earning between 80 and 140 percent of Maui’s area median income, and 74 homes for rent at market rates; and

WHEREAS, the proposed Project will provide a one-acre park, a 1,500-square-foot community center for use by the Lānaʻi community, and 60 parking stalls for residential and intermittent parking; and

WHEREAS, the Project will provide needed residential workforce housing to meet the current and growing demand for housing on Lānaʻi; and

WHEREAS, the Project is being independently developed under Section 201H-41, Hawaiʻi Revised Statutes (“HRS”); and

WHEREAS, under Section 201H-38, HRS, 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”; and

WHEREAS, under Section 201H-38, HRS, the Council must approve, approve with modifications, or disapprove the Project by resolution 45 days after the Department of Housing and Human Concerns (“DHHC”) has submitted the preliminary plans and specifications for the Project to the Council, which submittal occurred on July 21, 2021; 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 DHHC and Pūlāma Lānaʻi, the Council approves the Project with the

Resolution No. \_\_\_\_\_

modifications specified in “Exhibit B,” including the Project’s preliminary plans and specifications, as submitted to the Council on July 21, 2021, under Section 201H-38, HRS; except that Pūlāma Lāna‘i 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. That 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. That the final plans and specifications will constitute the zoning, building, construction, and subdivision standards for the Project;
4. That any substantial deviation from the final plans and specifications must be submitted to the Council for prior approval;
5. That in the event of any conflict between the plans and specifications of the Project and this Resolution, terms of the Resolution and its 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 Pūlāma Lāna‘i.

APPROVED AS TO FORM AND LEGALITY

/s/ Mimi Desjardins

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Deputy Corporation Counsel  
County of Maui

ah:misc:001(1)areso01:ans

**EXHIBIT A**  
**HŌKŪAO HOUSING PROJECT**  
**EXEMPTIONS**

The following exemptions from Maui County Code provisions are approved for the Hōkūao Housing Project (“Project”):

**1. Exemption from Chapter 2.80B – General Plan and Community Plans**

An exemption is granted from Chapter 2.80B, Maui County Code, to allow the Project to proceed without obtaining a Community Plan Amendment. The Project site is designated as “Park,” “Open Space,” “Mixed-Use Residential,” and “Public/Quasi-public” in the Lāna‘i Community Plan map. The exemption will allow the Project to follow “Single Family” and “Park” design standards and permitted uses, as proposed.

**2. Exemption from 12.24A.070(D) – Street Trees**

An exemption is granted from Section 12.24A.070(D), Maui County Code, to allow flexibility in the number, species, and location of street trees in the Project, except that the Project must use native plants and fruit-bearing trees adaptive to the climate and elevation, such as avocado, fig, and ulu. The Conceptual Landscape Plan prepared by a licensed architect, and attached as “Exhibit 1,” must be reviewed by the Department of Public Works prior to final subdivision approval.

**3. Exemption from 16.26B.3600 – Improvements to Public Streets**

An exemption is granted from Section 16.26B.3600, Maui County Code, to allow the Project flexibility in the construction of frontage improvements along public streets.

**4. Exemptions from Chapters 16.04C, 16.18B, 16.20B, and 16.26B – Fire Code, Electrical Code, Plumbing Code, and Building Code**

An exemption is granted from Chapters 16.04C, 16.18B, 16.20B, and 16.26B, Maui County Code, to exempt the 76 residential workforce housing units from fire, electrical, plumbing, and building permit fees, including plan review and inspection fees. This exemption does not apply to the market rate units in the Project.

**5. Exemptions from Chapters 16.04C, 16.08A, and 16.26B – Fire Code, Residential Code, and Building Code**

An exemption is granted from Chapters 16.04C, 16.08A, and 16.26B, Maui County Code, to allow the Project to proceed under the Fire, Residential, and Building Code provisions as stated at the time of the filing of building permit applications.

**6. Exemption from 18.04.030 – Subdivisions – Administration**

An exemption is granted from Section 18.04.030, Maui County Code, as well as related land use consistency and conformity requirements of Title 18, to allow the Project to proceed without obtaining a Change in Zoning or Community Plan Amendment. The Project will be developed to the standards outlined in this exemption list.

**7. Exemption from 18.16.050 – Minimum Right-of-Way and Pavement Widths**

An exemption is granted from Section 18.16.050, Maui County Code, to allow the proposed minimum rights-of-way and pavement widths as shown in an exhibit to be provided to the Department of Public Works for approval prior to final subdivision approval.

A 41-foot right-of-way with 20 feet of pavement is proposed for 9th Street and Fraser Avenue and for approximately 250 feet along the 9th Street extension, followed by a 50-foot right-of-way with 20 feet of pavement for the balance of the 9th Street extension. A 50-foot right-of-way with 20 feet of pavement is proposed for the 12th Street extension from Fraser Avenue. Project plans also include 20 feet of pavement and 10 feet of paved parallel parking spaces for all interior roads.

**8. Exemption from 18.16.320 – Parks and Playgrounds**

An exemption is granted from the requirements of Section 18.16.320, Maui County Code. The proposed Project includes a one-acre park, in addition to a community center and comfort stations totaling 2.10 acres. The park will be open to the public, and privately owned and maintained.

**9. Exemption from 18.16.320(B)(3) – Parks and Playgrounds**

An exemption is granted from the requirements of Section 18.16.320(B)(3), Maui County Code, for subdividers to enter into a park assessment agreement with the County.

**10. Exemption from 18.20.080 – Curbs and Gutters**

An exemption is granted from Section 18.20.080, Maui County Code, to allow grass swales within the Project's internal roadways, not including 9th and 12th Streets.

**11. Exemptions from Chapters 19.02A, 19.07, and 19.30A – Interim Zoning, Open Space Districts, and Agricultural District**

An exemption is granted from Chapters 19.02A, 19.07, and 19.30A, Maui County Code:

- a. To allow for the development and subdivision of the property in the conceptual site configuration as shown in “Exhibit 2,” which may be amended by the Director of Public Works. The Project will follow “Single Family” and “Park” design standards and permitted uses, including supporting infrastructure requirements. The following zoning standards will apply to the Project’s residential and park areas, as shown in “Exhibit 2”:

**Residential Area:**

Lot size: 8,000 square feet.

Height: No building will exceed two stories or 30 feet in height, measured from finished grade.

Setbacks: Five feet – front yard.

Six feet – side and rear yard, except one zero lot line may be permitted on an adjacent property boundary.

**Park Area:**

Lot size: One acre.

Height: No building will exceed two stories or 45 feet in height, measured from finished grade.

Setback: 10 feet – front, side, and rear yard.

- b. To allow the following uses:

- 1) Single family housing units;
- 2) Accessory structures such as carports, parking areas, small-scale energy systems, fences and walls, and storage sheds; and
- 3) Park recreational buildings and structures, such as gazebos, pavilions, courts, and pools.

**12. Exemptions from Chapters 19.08 and 19.27A – Residential Districts and Park Districts**

An exemption is granted from Chapters 19.08 and 19.27A, Maui County Code, to allow the permitted uses for Residential Districts in the Project’s residential areas as shown in “Exhibit 2”; and to allow the permitted uses

for Park Districts under Section 19.27A.030, Maui County Code, excluding golf courses, in the Project's park areas as shown in "Exhibit 2"; and to include the following additional permitted uses:

- 1) Utility facilities, minor; and
- 2) Utility services, as provided in Chapter 19.04, Maui County Code.

**13. Exemption from 19.30A.040 – Limitations on Resubdivision**

An exemption is granted from Section 19.30A.040, Maui County Code, to allow for residential, infrastructure, and public facility use on lots to be created relative to lands included in County of Maui Subdivision File Number 6.180.

**14. Exemption from 2.96.040(C)(2) – Residential Workforce Housing Requirements – Income Group Distribution**

An exemption is granted from Section 2.96.040(C)(2), Maui County Code, to allow the Project to provide the residential workforce housing units for rent to "above-moderate," "moderate," and "below-moderate" income-qualified residents in perpetuity, and in the approved distribution percentages. In consideration for this exemption, Pūlama Lānaʻi will provide 39 rental units at Iwiōle Hale for "very low" and "low" income-qualified residents in perpetuity, subject to a residential workforce housing agreement.

**15. Exemption from 2.96.070(B) – Residential Workforce Housing Restrictions – Rental Units**

An exemption is granted from the requirements of Section 2.96.070(B), Maui County Code, for a 30-year deed restriction for residential workforce housing rental units. Pūlama Lānaʻi will provide the 76 units as residential workforce housing units in perpetuity, at affordable rental rates specified by HUD affordable rental guidelines, as adjusted by the Department of Housing and Human Concerns, subject to a residential workforce housing agreement.

**16. Exemption from 2.96.070(F) – Residential Workforce Housing Restrictions – Graduated Income Tenants**

An exemption is granted from Section 2.96.070(F), to allow the Project to include "above-moderate" income-qualified residents as "graduated income tenants" for the 76 residential workforce housing units.

**17. Exemption from 2.96.100(A)(3) – Applicant Selection Process – Rental Units – Wait List Procedure**



An exemption is granted from 2.96.100(A)(3), Maui County Code, to allow Pūlama Lānaʻi to follow the wait list procedure for the 76 residential workforce housing units as outlined below:

- Pūlama Lānaʻi will maintain a wait list for the residential workforce housing units only. The wait list will be used to fill any vacancy in the residential workforce housing units.
- Qualified residents on the wait list will receive first priority for available residential workforce housing units.
- Qualified nonresidents on the wait list will not be eligible for residential workforce housing units until the wait list has been exhausted of all qualified residents.
- Residential workforce housing units will be offered to qualified residents in the order in which their names are on the wait list, so long as units are available in the income group for which they qualified.
- Residential workforce housing units will be offered to qualified nonresidents in the order in which their names are on the wait list.

**18. Exemption from 2.96.100(D) – Application Selection Process – Rental Units – Selection Priority**

An exemption is granted from Section 2.96.100(D), Maui County Code, to allow the Project to include “above-moderate” income-qualified residents as applicants for the residential workforce housing units, and to provide selection priority for the residential workforce housing units as outlined below:

For the initial offering, a lottery will be held for qualified applicants. Subsequent units will be made available to qualified applicants on the wait list. Qualified applicants on the wait list will need to update their contact information with Pūlama Lānaʻi should there be any changes. Pūlama Lānaʻi will make its best efforts to contact qualified applicants on the wait list should a unit become available. If the qualified applicant on the wait list is unreachable, the next qualified applicant will be notified about the available unit.

**Step 1:** Qualify applicants for residential workforce housing units.

- Each interested applicant may obtain a rental application in person at the Pūlama Lānaʻi Housing Office.
- Each interested applicant will need to complete a rental application and submit it to the Pūlama Lānaʻi Housing Office.
- During the qualification process, applicants must meet the eligibility criteria set by Sections 2.96.020 and 2.96.090(B)(1), (2), (3), (4), (5), and (7).

- Pūlama Lāna‘i will complete the following due diligence on each completed application (not an exhaustive list):
  - Verification of financial information, including income level.
  - Credit Check.
  - LIHTC questionnaire.

**Step 2:** Qualified applicants will enter a lottery for the initial offering only.

- Residential workforce housing units will be offered to qualified applicants in the order in which their names were drawn in the lottery, so long as units are available in the income group for which they were qualified.
- If there are more qualified applicants chosen than units available, a wait list will be established and qualified applicants will be added to the wait list in the order in which their names were drawn in the lottery.
- The lottery will be held once, at the commencement of the Project. Subsequent qualified applicants will be added to the wait list in the order in which they were qualified.

**Step 3:** Wait list procedure will be as outlined in Exemption 18.

**Step 4:** Execute rental agreement.

- When a residential workforce housing unit becomes available, Pūlama Lāna‘i will confirm if the applicant is still qualified and will execute a rental agreement.
- Pūlama Lāna‘i will provide to the Department of Housing and Human Concerns the following information to verify the rental of the units to eligible renters:
  - Applicant’s final rental application.
  - Executed rental agreement.
  - All signed Federal and State tax returns, or any other documents, used to determine eligibility.

**Step 5:** Annual verification of qualified applicants.

- Qualified applicants for residential workforce housing units will need to self-certify that the information used to qualify them for the unit has not changed.

**19. Exemption from 2.96.160(B) and (C) – Fast Track Permitting**

Given the exceptional circumstances involved in this Project, including safety concerns if adjacent units are not developed concurrently, an exemption is granted to allow fast track permitting of the residential workforce housing units and the market rate units in the Project.

ah:misc:001(1)areso01a\_Exhibit A

# EXHIBIT 1

## Conceptual Landscape Plan



Pocket Park 1 Natural Elements: Boulders, log tunnel, chipped wood fall surface, rope, benches.

Pocket Park 2 Natural Elements: Log pyramid or swing set, chipped wood fall surface, rope ladder, benches.

Pocket Park 3 Natural Elements: Logs, chipped wood fall surface, rope ladder, benches, shade trees.



## Hokuao Homes 201H Housing

Landscape Amenities Plan

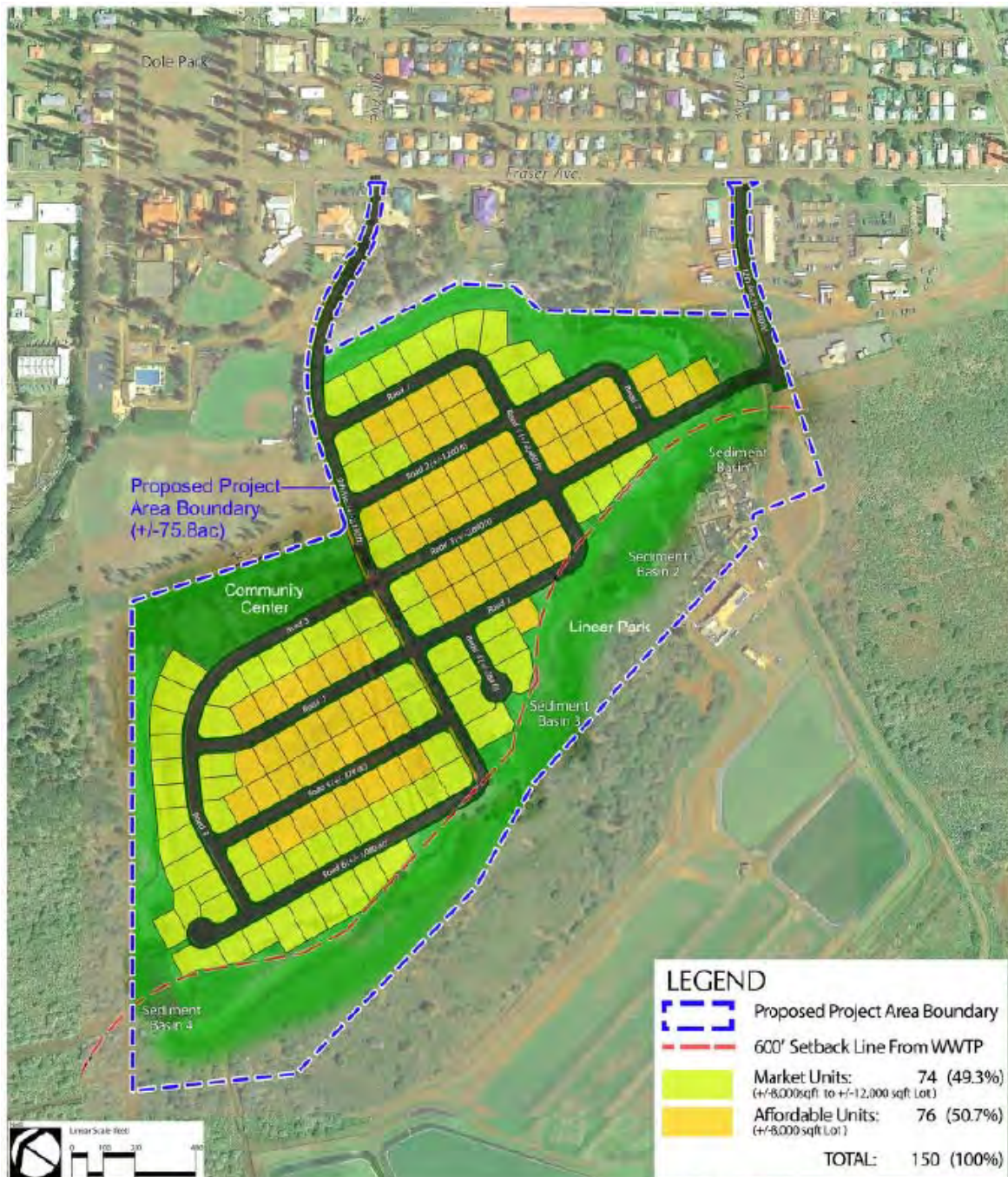
10/16/2020

BELT COLLINS

# EXHIBIT 2

## Conceptual Site Plan





**Hokuao Homes 201H Housing**  
 Conceptual Lot Plan  
 10/16/2020



## **EXHIBIT B**

### **HŌKŪAO HOUSING PROJECT**

#### **MODIFICATIONS**

1. No condominium property regimes are allowed within the Hōkūao project site. No further subdivision of land for additional dwellings is allowed within the Hōkūao project site.
2. Developer must establish a policy to affirmatively protect any Pūlama Lānaʻi employee residing within the Project to express themselves freely, even in opposition to Pūlama Lānaʻi or its affiliates, without fear of retaliation from the company, or loss of home or employment.
3. The Project's proposed one-acre park and community center must be completed prior to construction of the last market rate unit.
4. Developer must reserve 10 residential workforce housing units for teachers in grades Pre-K through 12 residing on Lanaʻi. Teachers will be required to complete the same application and verification process as any other applicant. Should there be fewer than 10 teachers who apply or qualify for units, the remaining reserved units may be offered to other qualified applicants. Developer must coordinate with the Department of Housing and Human Concerns to establish the specific procedures for implementing the selection priority for teachers.
5. Developer must act in good faith and with best efforts to develop internal roads, sidewalks, and pathways that promote safety and accessibility, multimodal transportation, and "Vision Zero Maui" and "Complete Streets" principles.
6. Developer must develop a stub out for water and a stub out for wastewater in coordination with, and for the use of, the County's Lanaʻi Affordable Housing Project on the parcel adjacent to the Hōkūao Housing Project.
7. Developer must develop all residential workforce housing units, including related roads and infrastructure, before or concurrently, and at the same ratio with the market rate units.



8. Developer must complete construction of all residential workforce housing units, with related roads and infrastructure, within 10 years of receiving the first building permit, except that an extension may be granted by Council approval by Resolution.
9. The Resolution and Exemptions will lapse and become void if construction of the units has not started within two years of receiving approved building permits for the residential workforce housing units.
10. The Resolution and Exemptions will lapse and become void if the required District Boundary Amendment is not granted within two years of the effective date of this Resolution.
11. Short-term rental homes and other transient accommodations are prohibited within the Project.
12. Rental of residential workforce housing units at market rate is prohibited, even in the temporary absence of income-qualified applicants.
13. Developer must satisfy the conditions of Chapter 14.12, Maui County Code, Water Availability.
14. Developer must develop and manage the project in substantial compliance with all representations made to the Council and its Affordable Housing Committee 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.

ah:misc:001(1)areso01\_Exhibit B

# Resolution

No. \_\_\_\_\_

## APPROVING THE INDEPENDENT DEVELOPMENT OF THE HŌKUAO 201H HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES

WHEREAS, Pūlāma Lānaʻi, a Hawaii corporation, proposes the development of the Hōkūao 201H Housing Project (the "Project") for qualified residents on approximately 76 acres of land, which is identified for real property tax purposes as Tax Map Key Nos. (2) 4-9-002:061(por.), (2) 4-9-014:001(por.), and (2) 4-9-014:009(por.) in Lānaʻi City, Lānaʻi; and

WHEREAS, the proposed Project will consist of a residential development consisting of 150 single family homes, with seventy-six (76) homes exclusively for lease by renters falling within the Housing and Urban Development's low-income guidelines and seventy-four (74) homes to be rented at market rates; and

WHEREAS, the proposed Project will provide a one-acre park, a 1,500-square foot community center for use by the Lānaʻi community, and 60-parking stalls for use by the Project residents; and

WHEREAS, the Project will provide needed residential workforce housing to meet the current and growing demand for housing on Lānaʻi; and

WHEREAS, on July 21, 2021, the Department of Housing and Human Concerns ("DHHC") submitted the preliminary plans and specifications and accompanying application to the Council of the County of Maui ("Council") recommending approval of the Project pursuant to Chapter 201H, Hawaii Revised Statutes ("HRS"); and

WHEREAS, the Project is being independently developed pursuant to Section 201H-41, HRS; and

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

WHEREAS, pursuant to Section 201H-38, HRS, the Council shall approve, approve with modification, or disapprove the Project by resolution within forty-five (45) days after the DHHC has submitted the preliminary plans and specifications for the Project to the Council, which submittal occurred on July 21, 2021; and

Resolution No. \_\_\_\_\_

WHEREAS, pursuant to 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 DHHC and Pūlāma Lānaʻi, the Council approves the Project, including the Project's preliminary plans and specifications, as submitted to the Council on July 21, 2021, pursuant to Section 201H-38, HRS; provided that Pūlāma Lānaʻi shall 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 thereon, except for the exemptions specified in Exhibit "A", attached hereto; and

2. That the final plans and specifications for the Project shall be deemed approved by the Council if the final plans and specifications do not substantially deviate, as determined by the Director of DHHC, from the preliminary plans and specifications submitted to the Council. Any substantial deviation from the preliminary plans and specifications shall be submitted to the Council for prior approval. The final plans and specifications shall constitute the zoning, building, construction, and subdivision standards for the Project; and

3. In the event of any conflict between the plans and specifications of the Project and this Resolution, terms of this Resolution and any exhibits thereof shall control; and

4. That certified copies of this Resolution be transmitted to the Director of Public Works, the Planning Director, the Director of DHHC, and Pūlāma Lānaʻi.

APPROVED AS TO FORM  
AND LEGALITY:

/s/ Mimi Desjardins

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MIMI DESJARDINS  
Deputy Corporation Counsel  
County of Maui  
2020-1925  
Hōkūao Approve

**1. Exemption from Title 2, MCC, Administration and Personnel**

**a. Exemption from MCC 2.80B – General Plan and Community Plans**

**Discussion:** An exemption is requested from the above noted provision to permit the project to proceed without obtaining a community plan amendment. The project site is designated as “Park”, “Open Space” and/or OS-1 and/or OS-2, “Mixed-Use Residential”, and “Public/ Quasi-public” in the Lānaʻi Community Plan Map. The exemption will allow the project to proceed with the “Single Family” and “Park” uses as proposed.

**2. Exemption from Title 12, Streets, Sidewalks and Public Places**

**a. Exemption from MCC 12.24A.070(D) – Planting of Street Trees**

**Discussion:** An exemption is requested from the above noted provision to allow flexibility in the number, species, and location of street trees in the Hōkūao Housing project. The Conceptual Landscape Plan prepared by a licensed architect, attached here as **Exhibit “A”** shall be reviewed by the Department of Public Works prior to approval.

**3. Exemptions from Title 16, MCC, Buildings and Construction**

**a. Exemption from MCC 16.04C, 16.18B, 16.20B and 16.26B – Fire Code, Electrical Code, Plumbing Code and Building Code**

**Discussion:** An exemption is requested from the above noted provision to exempt the 76 affordable housing units from fire, electrical, plumbing, and building permit fees, as well as plan review and inspection fees. This exemption shall not apply to the market rate units in the project.

**b. Exemption from MCC 16.04C, 16.08A and 16.26B – Fire Code, Residential Code and Building Code**

**Discussion:** An exemption is requested to allow the project to proceed under the aforementioned codes as stated at the time of the filing of the 201H-38 application, despite any subsequent amendments to Chapters 16.04C, 16.08A, or 16.26B, MCC, or any updates to the Fire Code, Residential Code, or Building Code adopted prior to the issuance of the last building permit for the project.

**4. Exemptions from Title 18, MCC, Subdivisions**

**a. Exemption from MCC 18.04.030 – Administration**

**Discussion:** An exemption is requested from the above noted provision as well as related land use consistency and conformity requirements of Title 18. The exemption would exempt the project from obtaining a change in zoning and/or community plan amendment to enable subdivision approval, and instead allow for the project to be developed to the standards outlined in this exemption list.

**b. Exemption from MCC 18.16.050 – Minimum Right of Way and Pavement Widths**

**Discussion:** An exemption is requested from the above noted provision. The proposed project includes a 41 ft. right-of-way, with 20 ft. of pavement at Ninth Street and Fraser Avenue, and for approximately 250 ft. along the Ninth Street extension, followed by a 50 ft. right-of-way with 20 ft. of pavement for the balance of the Ninth Street extension. Project

plans also include 20 ft. of pavement and 10 ft. of paved parallel parking spaces for all interior roadways. A 50 ft. right-of-way with 20 ft. of pavement is provided for the Twelfth Street extension from Fraser Avenue.

**c. Exemption from MCC 18.16.320 – Parks and Playgrounds.**

**Discussion:** An exemption is requested from the above noted provision. The proposed project shall contain a 1-acre park in addition to the community center and comfort stations, totaling 2.10 acres. The park shall be open to the public and privately owned and maintained.

**d. Exemption from MCC 18.16.320.B.3 – Parks and Playgrounds,**

**Discussion:** An exemption is requested from the above noted provision regarding the requirement of the subdivider to enter into a park assessment agreement.

**e. Exemption from MCC 18.20.070 – Sidewalks**

**Discussion:** An exemption is requested from the above noted provision. Project plans include a 5.5 ft. sidewalk starting from Ninth Street and Fraser Avenue for approximately 250 ft., which connects to a 7.5 ft. wide sidewalk for the balance of the Ninth Street extension. Plans also include an 8 ft. wide sidewalk for the Twelfth Street extension from Fraser Avenue to the project roadways.

**f. Exemption from MCC 18.20.080 – Curbs and Gutters**

**Discussion:** An exemption is requested from the above noted provision to allow grass swales within the project area.

**5. Exemptions from Title 19, MCC, Zoning**

**a. Exemption from MCC 19.02A, 19.07 and 19.30A – Interim Zoning, Open Space Districts and Agriculture District**

**Discussion:** An exemption is requested from the above noted provision to permit the development and use of the parcel for single family and park purposes, including supporting infrastructure requirements. Further, this exemption shall allow the subdivision of the property in the conceptual plat configuration shown in **Exhibit “B”**, which may be amended by the Director of Public Works. The following zoning standards shall apply to the proposed development.

It is further noted that the proposed uses described below will be limited to the Residential and Park areas indicated in **Exhibit “B”**.

**Residential Use:**

Minimum lot area: 8,000 square feet

Height: No building shall exceed two-stories or 30 feet in height, measured from finished grade

Setback: Five (5) feet front yard

Six (6) feet side and rear yard; except one zero lot line may be permitted on an adjacent property boundary.

**Park Use:**

Minimum lot area: One (1) acre

Height: No building shall exceed two-stories or forty-five (45) feet in height, measured from finished grade

Setback: Ten (10) feet front yard  
Ten (10) feet side and rear yard

**b. Exemption from MCC 19.02A, 19.07 and 19.30A – Interim Zoning, Open Space Districts and Agriculture District**

**Discussion:** An exemption is requested from the above noted provision to allow the following principal uses: 1) single family units; and 2) accessory structures such as carports; parking areas; energy systems, small-scale; fences and walls; storage sheds; and park recreational buildings and structures, including, but not limited to gazebo, pavilions, courts, and pools.

**c. Exemption from MCC 19.08, 19.09 and 19.12 – Residential District, R-0 Zero Lot Line Residential District and Apartment District**

**Discussion:** An exemption is requested to allow for permitted uses under the aforementioned provision in the areas noted for residential use in **Exhibit “B”** and 19.27A.030 PK General park districts, except Golf courses, and except GC Golf course districts, shall be permitted for the portion of the project area noted for Park use in **Exhibit “B”**; including the following additional uses:

- Utility facilities, minor; and
- Utility services

**d. Exemption from MCC 19.30A.040 – Limitations on Resubdivision**

**Discussion:** An exemption is requested from the above noted provision to allow for the residential, infrastructure, and public facility use on lots to be created relative to lands included in County of Maui Subdivision File No. 6.180.

**6. Exemption from Title 2, MCC, Administration And Personnel  
MCC 2.96.040.C.2. - Residential workforce housing requirements**

*C. Income group distribution.*

*2. Unless an exemption is granted by the director, the percentage of rental units within each income group shall be as follows:*

- a. One-third of the rental units shall be for "very low income" and "low income" residents.*
- b. One-third of the rental units shall be for "below-moderate income" residents.*
- c. One-third of the rental units shall be for "moderate income" residents.*

**Discussion:** An exemption is requested from the above noted provision to allow the proposed project to provide for one hundred percent of the project's affordable rental units for the "below-moderate," "moderate," and "above-moderate" income levels.

Currently, on Lānaʻi, there are 110 affordable rental units, 39 of which are under the Pūlama Lānaʻi's control (e.g., Pūlama Lānaʻi provides units at rates that meet the County's adjusted HUD affordable rental rates for the island). The thirty year affordable term that was imposed on these 39 units have recently expired. Pūlama Lānaʻi will continue to make these affordable rental units available in perpetuity in the "very low" and "low" income levels. This provision will be codified in the housing agreement with DHHC.

Pūlama Lānaʻi proposes to make available the 76 affordable units at Hōkūao to "below moderate," "moderate," and "above moderate" income levels. There are no affordable rental units available for income levels from 62 percent to 140 percent AMI on island. The 76 affordable units will add 69 percent more affordable units on Lānaʻi, increasing the affordable units to 186. Pūlama Lānaʻi will make the 76 affordable units available in perpetuity in the "below moderate," "moderate," and "above moderate" income ranges. This provision will be codified in the housing agreement with DHHC.

**7. Exemption from Title 2, MCC, Administration And Personnel**  
**MCC 2.96.070.B. - Residential workforce housing restrictions - rental units.**

**B. *Deed restrictions.***

1. *The rental residential workforce housing unit shall be subject to the requirements of this chapter for thirty years, commencing on the date of initial occupancy.*
2. *For the thirty-year deed-restricted period, the following shall apply:*
  - a. *The owner must notify the department upon a decision to sell the rental development and the County shall have the first option to purchase the rental development from the owner; said option shall be available to the County for a period of one hundred and twenty days from receipt of written notice from the owner and shall not apply to sales by reason of foreclosure.*
  - b. *Any new owner must comply with the deed restrictions.*
  - c. *Owner or owner's representative shall submit proof of compliance with income guidelines for rentals quarterly.*
3. *Within ninety days of the expiration of the thirty-year deed-restricted period, the owner shall offer the County the right to purchase the property at market value as determined by the owner.*
4. *The deed restriction shall set forth the number of units in the development that shall be designated as residential workforce housing units along with the relative income group of those units. The deed restriction may, but shall not be required to, identify specific units as residential workforce housing units.*

**Discussion:** An exemption is requested from the above noted provision to waive the requirement for a deed restriction for the 76 affordable rental units. Pūlama Lānaʻi will

keep the 76 affordable units at affordable rental rates, as specified by the HUD affordable rental guidelines, as adjusted by the department for Lānaʻi, in perpetuity.

8. ***Exemption from Title 2, MCC, Administration And Personnel***  
**MCC 2.96.070.F. - Residential workforce housing restrictions - rental units.**

*F. Graduated income tenants. For those tenants who have graduated to a higher income group during the term of the lease but still remain within an appropriate income group, if owner or owner's representative elects to continue to lease to tenant, the monthly rental rate shall be the rate for the income group which tenant is within. For those tenants who during the term of the lease have graduated to an income level that is in excess of the income groups for rental units, if owner or owner's representative elects to continue to lease to tenant, the annual rental rate shall be equivalent to thirty percent of tenant's gross income. Owner or owner's representative shall be responsible for paying County in accordance with section D, above. Owner or owner's representative shall make its reasonable best efforts to maintain the proper distribution of rentals across the "very low income" and "low income," "below-moderate income," and "moderate income" groups.*

**Discussion:** An exemption is requested from the above noted provision to allow the project to include the “above moderate” income group as a graduated income tenant within the 76 affordable units.

9. ***Exemption from Title 2, MCC, Administration And Personnel***  
**MCC 2.96.100.A(3) - Applicant selection process—Rental units.**

A. Wait List Procedure.

*3. Selection for rental units shall be made by a lottery administered by the developer, its partner, or its management company and overseen by the department, subject to the applicant meeting the eligibility criteria established in subsection B of this section.*

**Discussion:** An exemption is requested from the above noted provision for the prescribed process for the preparation of a wait list for the project. Pūlama Lānaʻi is instead proposing the following wait list process for the 76 affordable units in the project.

Wait List

- Qualified residents on the wait list shall receive first priority for the available affordable units. Qualified nonresidents on the wait list will not be offered an affordable rental unit the wait list has been exhausted of all qualified residents.
- Affordable rental units will be offered to qualified residents in the order in which their names are on the wait list, provided that there is a unit available in the income group for which they qualified. Qualified nonresidents will be offered an affordable rental unit in the order in which their names were added on the wait list.
- Pūlama Lānaʻi will maintain a wait list for the affordable units only. The wait list will be used to fill any vacancy for the affordable units.



10. **Exemption from Title 2, MCC, Administration And Personnel  
MCC 2.96.100.D - Applicant selection process—Rental units.**

D. *Selection Priority.*

1. *Residents on the wait list shall receive first priority for the available units. Nonresidents on the wait list may rent a residential workforce housing unit once the wait list has been exhausted of all residents.*
2. *The developer, its partner, or its management company may do a mass mailing of housing applications to applicants on the wait list.*
3. *The residential workforce housing units shall be offered to residents in the order in which their names were drawn in the lottery, provided that there is a unit available in the income group for which they qualify. Nonresidents will then be offered residential workforce housing units in the order in which their names were drawn in the lottery, provided that there is a unit available in the income group for which they qualify.*
4. *The developer, its partner, or its management company shall submit copies of the following information to the department to verify the rental of residential workforce housing units to eligible renters:*
  - a. *Applicant's completed final rental application;*
  - b. *Executed rental lease; and*
  - c. *All signed federal and state tax returns used to determine eligibility, or any other documents used to determine eligibility by the developer, its partner, or its management company.*
5. *The developer, its partner, or its management company shall maintain a wait list for the development after all of the units are rented, which shall be used to fill any vacancy.*
6. *Any rental unit vacancy shall be filled by an applicant in the same income group as the original tenant to maintain an equal distribution of rentals across the "very low income" and "low income," "below-moderate income," and "moderate income" groups.*
7. *An owner of a residential workforce housing rental development intending to sell the development shall notify the department in writing prior to the closing of the sale, and shall provide documentation to the department that the prospective new owner acknowledges and is aware of the terms, conditions, and restrictions encumbering the development as set forth in section 2.96.070.*

**Discussion:** An exemption is requested from the above noted provision to allow Pūlama Lānaʻi to utilize the provisions noted below in regards to the selection process for applicants for the 76 affordable rental units and to allow for the inclusion of the “above moderate” income group for the affordable rental units.

For the initial offering of the affordable units, a lottery will be held for qualified applicants. Subsequent affordable units will be made available to qualified applicants on the wait list. Qualified applicants on the wait list will need to update their contact information with Pūlama Lānaʻi should there be any changes. Pūlama Lānaʻi will make its best effort to contact qualified applicants on the wait list should an affordable unit become available. If

the qualified applicant on the wait list is unreachable, the next qualified applicant will be notified about the availability of an affordable unit.

**Step 1:** Qualify applicants for the affordable units

- Each interested applicant may obtain a rental application in person at the Pūlama Lānaʻi Housing Office
- Each interested applicant will need to complete a rental application and submit it to the Pūlama Lānaʻi Housing Office
  - During the qualification process, applicants will need to meet the eligibility criteria set by MCC 2.96.020 and MCC 2.96.090.B.1, 2, 3, 4, 5, and 7.
  - Pūlama Lānaʻi will complete the following due diligence on each completed application (not an exhaustive list):
    - Verification of financial information, including but not limited to income level
    - Credit Check
    - In person interview with all household members

**Step 2:** Qualified applicants will enter into a lottery for the first offering only (i.e., lottery will only be offered once at the commencement of the project)

- Affordable units will be offered to qualified applicants in the order in which their names were drawn in the lottery, provided that there is an affordable unit available in the income group for which they qualified.
- If there are more qualified applicants chosen during the lottery than affordable units available, a wait list will be established and qualified applicants will be added to the wait list in the order in which their names were drawn in the lottery.
- The lottery will be held once, at the commencement of the project. Subsequent qualified applicants will be added to the wait list in the order in which they were qualified.

**Step 3:** Wait list (same procedure as above, included here for continuity)

- Qualified residents on the wait list shall receive first priority for the available affordable units. Qualified nonresidents on the wait list will not be offered an affordable rental unit the wait list has been exhausted of all qualified residents.
- Affordable rental units will be offered to qualified residents in the order in which their names are on the wait list, provided that there is a unit available in the income group for which they qualified. Qualified nonresidents will be offered an affordable rental unit in the order in which their names were added on the wait list.
- Pūlama Lānaʻi will maintain a wait list for the affordable units only. The wait list will be used to fill any vacancy for the affordable units.

**Step 4:** Execute rental agreement

- When an affordable unit becomes available, Pūlama Lāna'i will confirm if the qualified applicant is still qualified and execute a rental agreement.
- Pūlama Lāna'i will provide to the Department of Housing and Human Concerns the following information to verify the rental of the affordable units to eligible renters:
  - Qualified applicant's final rental application,
  - Executed rental agreement, and
  - All signed federal and state tax returns used to determine eligibility, or any other documents used to determine eligibility.

**Step 5:** Annual verification of qualified applicants in the affordable units

- Qualified applicants in the affordable rental units will need to self-certify that the information used to qualify them for the affordable unit has not changed.

**11. Exemption from Title 2, MCC, Administration And Personnel  
MCC 2.96.160.B – Fast track permitting.**

*B. Project qualifications. A project comprised of 100 percent residential workforce housing units with a fully-executed residential workforce housing agreement between the developer and the County, recorded in the bureau of conveyances or registered in the land court, in compliance with this chapter, shall be eligible for fast track permitting.*

**Discussion:** An exemption is requested to allow the proposed project to qualify for utilization of this provision for fast track permitting processes related to the building permits (including electrical and plumbing permits) and grading permits for affordable and market units as part of the proposed project. The exemption is requested to include the "above moderate" units as residential workforce housing units.

**12. Exemption from Title 2, MCC, Administrative And Personnel  
MCC 2.96.160.C – Fast track permitting.**

*C. Permits subject to fast track permitting. Qualified projects may utilize the fast track permitting process to expedite the review and issuance of all County permits necessary for the development of the project site, including subdivision applications, civil construction plan permits, and other plans and permits associated with the development of the project site. Building permits shall only be expedited for residential workforce housing units.*

**Discussion:** An exemption is requested to include the "above moderate" rental units to qualify as residential workforce housing units that would qualify for fast track permitting provisions. Additionally, the provision would apply to the affordable and market units.

# **EXHIBIT A.**

## **Conceptual Landscape Plan**



**Pocket Park 1** Natural Elements: Boulders, log tunnel, chipped wood fall surface, rope, benches.

**Pocket Park 2** Natural Elements: Log pyramid or swing set, chipped wood fall surface, rope ladder, benches.

**Pocket Park 3** Natural Elements: Logs, chipped wood fall surface, rope ladder, benches, shade trees.



## Hokuao Homes 201H Housing

Landscape Amenities Plan

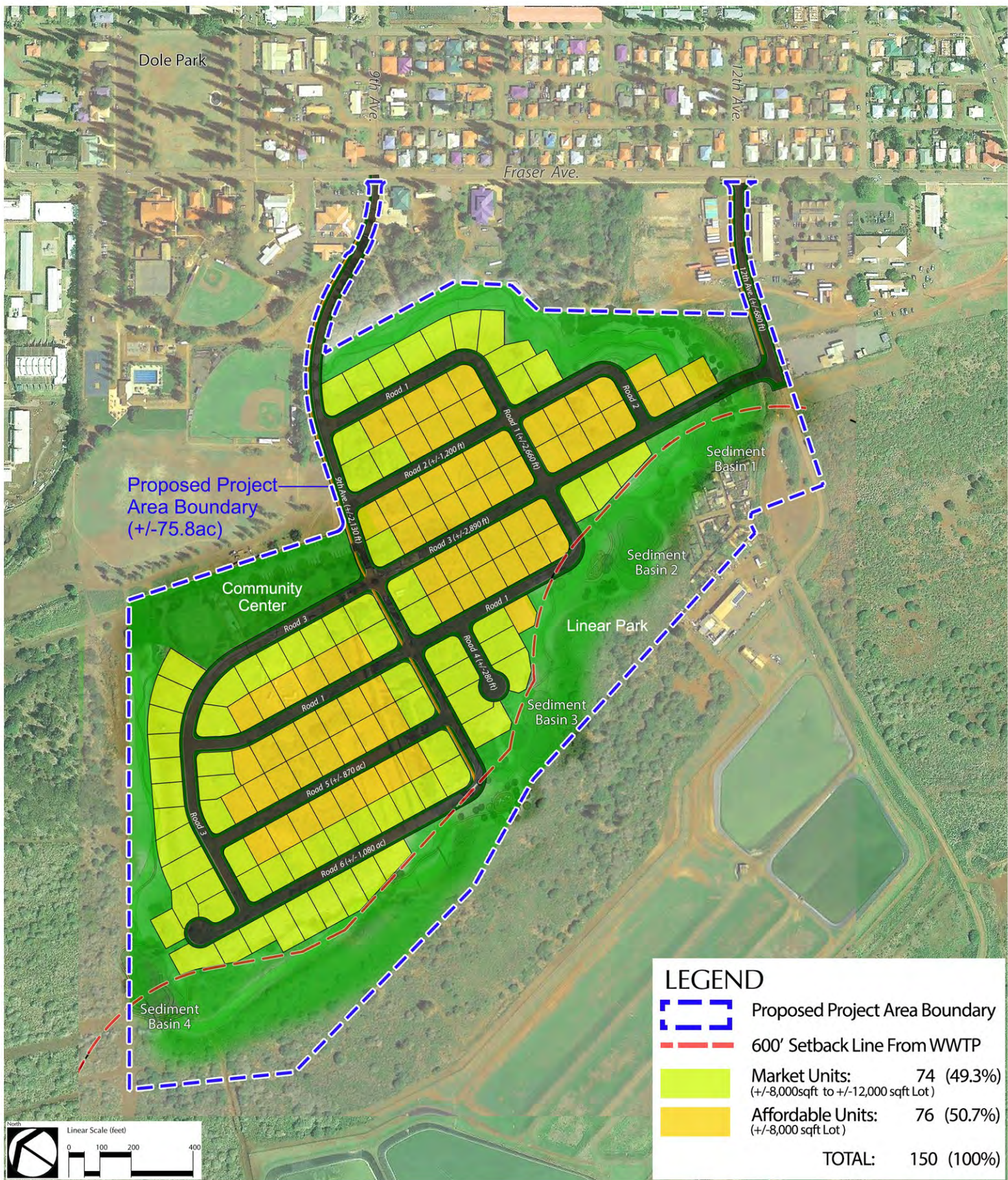
10/16/2020

BELT COLLINS

## **EXHIBIT B.**

### **Conceptual Site Plan**





# Hokuao Homes 201H Housing Conceptual Lot Plan 10/16/2020



# Resolution

No. \_\_\_\_\_

## DISAPPROVING THE INDEPENDENT DEVELOPMENT OF THE HŌKUAO 201H HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES

WHEREAS, Pūlāma Lānaʻi, a Hawaii corporation, proposes the development of the Hōkūao 201H Housing Project (the "Project") for qualified residents on approximately 76 acres of land, which is identified for real property tax purposes as Tax Map Key Nos. (2) 4-9-002:061(por.), (2) 4-9-014:001(por.), and (2) 4-9-014:009(por.) in Lānaʻi City, Lānaʻi; and

WHEREAS, the proposed Project will consist of a residential development consisting of 150 single family homes, with seventy-six (76) homes exclusively for lease by renters falling within the Housing and Urban Development's low-income guidelines and seventy-four (74) homes to be rented at market rates; and

WHEREAS, the proposed Project will provide a one-acre park, a 1,500-square foot community center for use by the Lānaʻi community, and 60-parking stalls for use by the Project residents; and

WHEREAS, the Project will provide needed residential workforce housing to meet the current and growing demand for housing on Lānaʻi; and

WHEREAS, on July 21, 2021, the Department of Housing and Human Concerns ("DHHC") submitted the preliminary plans and specifications and accompanying application to the Council of the County of Maui ("Council") recommending approval of the Project pursuant to Chapter 201H, Hawaii Revised Statutes ("HRS"); and

WHEREAS, the Project is being independently developed pursuant to Section 201H-41, HRS; and

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

WHEREAS, pursuant to Section 201H-38, HRS, the Council shall approve, approve with modification, or disapprove the Project by resolution within forty-five (45) days after the DHHC has submitted the preliminary plans and specifications for the Project to the Council, which submittal occurred on July 21, 2021; and



Resolution No. \_\_\_\_\_

WHEREAS, pursuant to 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 the Council disapproves the Project submitted to the Council on July 21, 2021, pursuant to Section 201H-38, HRS; and
2. That certified copies of this Resolution be transmitted to the Director of Public Works, the Planning Director, the Director of DHHC, and Pūlāma Lānaʻi.

APPROVED AS TO FORM  
AND LEGALITY:

/s/ Mimi Desjardins

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MIMI DESJARDINS  
Deputy Corporation Counsel  
County of Maui  
2020-1925  
Hōkūao disapprove

**1. Exemption from Title 2, MCC, Administration and Personnel**

**a. Exemption from MCC 2.80B – General Plan and Community Plans**

**Discussion:** An exemption is requested from the above noted provision to permit the project to proceed without obtaining a community plan amendment. The project site is designated as “Park”, “Open Space” and/or OS-1 and/or OS-2, “Mixed-Use Residential”, and “Public/ Quasi-public” in the Lāna‘i Community Plan Map. The exemption will allow the project to proceed with the “Single Family” and “Park” uses as proposed.

**2. Exemption from Title 12, Streets, Sidewalks and Public Places**

**a. Exemption from MCC 12.24A.070(D) – Planting of Street Trees**

**Discussion:** An exemption is requested from the above noted provision to allow flexibility in the number, species, and location of street trees in the Hōkūao Housing project. The Conceptual Landscape Plan prepared by a licensed architect, attached here as **Exhibit “A”** shall be reviewed by the Department of Public Works prior to approval.

**3. Exemptions from Title 16, MCC, Buildings and Construction**

**a. Exemption from MCC 16.04C, 16.18B, 16.20B and 16.26B – Fire Code, Electrical Code, Plumbing Code and Building Code**

**Discussion:** An exemption is requested from the above noted provision to exempt the 76 affordable housing units from fire, electrical, plumbing, and building permit fees, as well as plan review and inspection fees. This exemption shall not apply to the market rate units in the project.

**b. Exemption from MCC 16.04C, 16.08A and 16.26B – Fire Code, Residential Code and Building Code**

**Discussion:** An exemption is requested to allow the project to proceed under the aforementioned codes as stated at the time of the filing of the 201H-38 application, despite any subsequent amendments to Chapters 16.04C, 16.08A, or 16.26B, MCC, or any updates to the Fire Code, Residential Code, or Building Code adopted prior to the issuance of the last building permit for the project.

**4. Exemptions from Title 18, MCC, Subdivisions**

**a. Exemption from MCC 18.04.030 – Administration**

**Discussion:** An exemption is requested from the above noted provision as well as related land use consistency and conformity requirements of Title 18. The exemption would exempt the project from obtaining a change in zoning and/or community plan amendment to enable subdivision approval, and instead allow for the project to be developed to the standards outlined in this exemption list.

**b. Exemption from MCC 18.16.050 – Minimum Right of Way and Pavement Widths**

**Discussion:** An exemption is requested from the above noted provision. The proposed project includes a 41 ft. right-of-way, with 20 ft. of pavement at Ninth Street and Fraser Avenue, and for approximately 250 ft. along the Ninth Street extension, followed by a 50 ft. right-of-way with 20 ft. of pavement for the balance of the Ninth Street extension. Project

plans also include 20 ft. of pavement and 10 ft. of paved parallel parking spaces for all interior roadways. A 50 ft. right-of-way with 20 ft. of pavement is provided for the Twelfth Street extension from Fraser Avenue.

**c. Exemption from MCC 18.16.320 – Parks and Playgrounds.**

**Discussion:** An exemption is requested from the above noted provision. The proposed project shall contain a 1-acre park in addition to the community center and comfort stations, totaling 2.10 acres. The park shall be open to the public and privately owned and maintained.

**d. Exemption from MCC 18.16.320.B.3 – Parks and Playgrounds,**

**Discussion:** An exemption is requested from the above noted provision regarding the requirement of the subdivider to enter into a park assessment agreement.

**e. Exemption from MCC 18.20.070 – Sidewalks**

**Discussion:** An exemption is requested from the above noted provision. Project plans include a 5.5 ft. sidewalk starting from Ninth Street and Fraser Avenue for approximately 250 ft., which connects to a 7.5 ft. wide sidewalk for the balance of the Ninth Street extension. Plans also include an 8 ft. wide sidewalk for the Twelfth Street extension from Fraser Avenue to the project roadways.

**f. Exemption from MCC 18.20.080 – Curbs and Gutters**

**Discussion:** An exemption is requested from the above noted provision to allow grass swales within the project area.

**5. Exemptions from Title 19, MCC, Zoning**

**a. Exemption from MCC 19.02A, 19.07 and 19.30A – Interim Zoning, Open Space Districts and Agriculture District**

**Discussion:** An exemption is requested from the above noted provision to permit the development and use of the parcel for single family and park purposes, including supporting infrastructure requirements. Further, this exemption shall allow the subdivision of the property in the conceptual plat configuration shown in **Exhibit “B”**, which may be amended by the Director of Public Works. The following zoning standards shall apply to the proposed development.

It is further noted that the proposed uses described below will be limited to the Residential and Park areas indicated in **Exhibit “B”**.

**Residential Use:**

Minimum lot area: 8,000 square feet

Height: No building shall exceed two-stories or 30 feet in height, measured from finished grade

Setback: Five (5) feet front yard

Six (6) feet side and rear yard; except one zero lot line may be permitted on an adjacent property boundary.

**Park Use:**

Minimum lot area: One (1) acre

Height: No building shall exceed two-stories or forty-five (45) feet in height, measured from finished grade

Setback: Ten (10) feet front yard  
Ten (10) feet side and rear yard

**b. Exemption from MCC 19.02A, 19.07 and 19.30A – Interim Zoning, Open Space Districts and Agriculture District**

**Discussion:** An exemption is requested from the above noted provision to allow the following principal uses: 1) single family units; and 2) accessory structures such as carports; parking areas; energy systems, small-scale; fences and walls; storage sheds; and park recreational buildings and structures, including, but not limited to gazebo, pavilions, courts, and pools.

**c. Exemption from MCC 19.08, 19.09 and 19.12 – Residential District, R-0 Zero Lot Line Residential District and Apartment District**

**Discussion:** An exemption is requested to allow for permitted uses under the aforementioned provision in the areas noted for residential use in **Exhibit “B”** and 19.27A.030 PK General park districts, except Golf courses, and except GC Golf course districts, shall be permitted for the portion of the project area noted for Park use in **Exhibit “B”**; including the following additional uses:

- Utility facilities, minor; and
- Utility services

**d. Exemption from MCC 19.30A.040 – Limitations on Resubdivision**

**Discussion:** An exemption is requested from the above noted provision to allow for the residential, infrastructure, and public facility use on lots to be created relative to lands included in County of Maui Subdivision File No. 6.180.

**6. Exemption from Title 2, MCC, Administration And Personnel  
MCC 2.96.040.C.2. - Residential workforce housing requirements**

*C. Income group distribution.*

*2. Unless an exemption is granted by the director, the percentage of rental units within each income group shall be as follows:*

- a. One-third of the rental units shall be for "very low income" and "low income" residents.*
- b. One-third of the rental units shall be for "below-moderate income" residents.*
- c. One-third of the rental units shall be for "moderate income" residents.*

**Discussion:** An exemption is requested from the above noted provision to allow the proposed project to provide for one hundred percent of the project's affordable rental units for the "below-moderate," "moderate," and "above-moderate" income levels.

Currently, on Lānaʻi, there are 110 affordable rental units, 39 of which are under the Pūlama Lānaʻi's control (e.g., Pūlama Lānaʻi provides units at rates that meet the County's adjusted HUD affordable rental rates for the island). The thirty year affordable term that was imposed on these 39 units have recently expired. Pūlama Lānaʻi will continue to make these affordable rental units available in perpetuity in the "very low" and "low" income levels. This provision will be codified in the housing agreement with DHHC.

Pūlama Lānaʻi proposes to make available the 76 affordable units at Hōkūao to "below moderate," "moderate," and "above moderate" income levels. There are no affordable rental units available for income levels from 62 percent to 140 percent AMI on island. The 76 affordable units will add 69 percent more affordable units on Lānaʻi, increasing the affordable units to 186. Pūlama Lānaʻi will make the 76 affordable units available in perpetuity in the "below moderate," "moderate," and "above moderate" income ranges. This provision will be codified in the housing agreement with DHHC.

**7. Exemption from Title 2, MCC, Administration And Personnel**  
**MCC 2.96.070.B. - Residential workforce housing restrictions - rental units.**

**B. *Deed restrictions.***

1. *The rental residential workforce housing unit shall be subject to the requirements of this chapter for thirty years, commencing on the date of initial occupancy.*
2. *For the thirty-year deed-restricted period, the following shall apply:*
  - a. *The owner must notify the department upon a decision to sell the rental development and the County shall have the first option to purchase the rental development from the owner; said option shall be available to the County for a period of one hundred and twenty days from receipt of written notice from the owner and shall not apply to sales by reason of foreclosure.*
  - b. *Any new owner must comply with the deed restrictions.*
  - c. *Owner or owner's representative shall submit proof of compliance with income guidelines for rentals quarterly.*
3. *Within ninety days of the expiration of the thirty-year deed-restricted period, the owner shall offer the County the right to purchase the property at market value as determined by the owner.*
4. *The deed restriction shall set forth the number of units in the development that shall be designated as residential workforce housing units along with the relative income group of those units. The deed restriction may, but shall not be required to, identify specific units as residential workforce housing units.*

**Discussion:** An exemption is requested from the above noted provision to waive the requirement for a deed restriction for the 76 affordable rental units. Pūlama Lānaʻi will

keep the 76 affordable units at affordable rental rates, as specified by the HUD affordable rental guidelines, as adjusted by the department for Lānaʻi, in perpetuity.

8. ***Exemption from Title 2, MCC, Administration And Personnel***  
**MCC 2.96.070.F. - Residential workforce housing restrictions - rental units.**

*F. Graduated income tenants. For those tenants who have graduated to a higher income group during the term of the lease but still remain within an appropriate income group, if owner or owner's representative elects to continue to lease to tenant, the monthly rental rate shall be the rate for the income group which tenant is within. For those tenants who during the term of the lease have graduated to an income level that is in excess of the income groups for rental units, if owner or owner's representative elects to continue to lease to tenant, the annual rental rate shall be equivalent to thirty percent of tenant's gross income. Owner or owner's representative shall be responsible for paying County in accordance with section D, above. Owner or owner's representative shall make its reasonable best efforts to maintain the proper distribution of rentals across the "very low income" and "low income," "below-moderate income," and "moderate income" groups.*

**Discussion:** An exemption is requested from the above noted provision to allow the project to include the “above moderate” income group as a graduated income tenant within the 76 affordable units.

9. ***Exemption from Title 2, MCC, Administration And Personnel***  
**MCC 2.96.100.A(3) - Applicant selection process—Rental units.**

A. Wait List Procedure.

*3. Selection for rental units shall be made by a lottery administered by the developer, its partner, or its management company and overseen by the department, subject to the applicant meeting the eligibility criteria established in subsection B of this section.*

**Discussion:** An exemption is requested from the above noted provision for the prescribed process for the preparation of a wait list for the project. Pūlama Lānaʻi is instead proposing the following wait list process for the 76 affordable units in the project.

Wait List

- Qualified residents on the wait list shall receive first priority for the available affordable units. Qualified nonresidents on the wait list will not be offered an affordable rental unit the wait list has been exhausted of all qualified residents.
- Affordable rental units will be offered to qualified residents in the order in which their names are on the wait list, provided that there is a unit available in the income group for which they qualified. Qualified nonresidents will be offered an affordable rental unit in the order in which their names were added on the wait list.
- Pūlama Lānaʻi will maintain a wait list for the affordable units only. The wait list will be used to fill any vacancy for the affordable units.

10. **Exemption from Title 2, MCC, Administration And Personnel  
MCC 2.96.100.D - Applicant selection process—Rental units.**

D. *Selection Priority.*

1. *Residents on the wait list shall receive first priority for the available units. Nonresidents on the wait list may rent a residential workforce housing unit once the wait list has been exhausted of all residents.*
2. *The developer, its partner, or its management company may do a mass mailing of housing applications to applicants on the wait list.*
3. *The residential workforce housing units shall be offered to residents in the order in which their names were drawn in the lottery, provided that there is a unit available in the income group for which they qualify. Nonresidents will then be offered residential workforce housing units in the order in which their names were drawn in the lottery, provided that there is a unit available in the income group for which they qualify.*
4. *The developer, its partner, or its management company shall submit copies of the following information to the department to verify the rental of residential workforce housing units to eligible renters:*
  - a. *Applicant's completed final rental application;*
  - b. *Executed rental lease; and*
  - c. *All signed federal and state tax returns used to determine eligibility, or any other documents used to determine eligibility by the developer, its partner, or its management company.*
5. *The developer, its partner, or its management company shall maintain a wait list for the development after all of the units are rented, which shall be used to fill any vacancy.*
6. *Any rental unit vacancy shall be filled by an applicant in the same income group as the original tenant to maintain an equal distribution of rentals across the "very low income" and "low income," "below-moderate income," and "moderate income" groups.*
7. *An owner of a residential workforce housing rental development intending to sell the development shall notify the department in writing prior to the closing of the sale, and shall provide documentation to the department that the prospective new owner acknowledges and is aware of the terms, conditions, and restrictions encumbering the development as set forth in section 2.96.070.*

**Discussion:** An exemption is requested from the above noted provision to allow Pūlama Lānaʻi to utilize the provisions noted below in regards to the selection process for applicants for the 76 affordable rental units and to allow for the inclusion of the “above moderate” income group for the affordable rental units.

For the initial offering of the affordable units, a lottery will be held for qualified applicants. Subsequent affordable units will be made available to qualified applicants on the wait list. Qualified applicants on the wait list will need to update their contact information with Pūlama Lānaʻi should there be any changes. Pūlama Lānaʻi will make its best effort to contact qualified applicants on the wait list should an affordable unit become available. If

the qualified applicant on the wait list is unreachable, the next qualified applicant will be notified about the availability of an affordable unit.

**Step 1:** Qualify applicants for the affordable units

- Each interested applicant may obtain a rental application in person at the Pūlama Lānaʻi Housing Office
- Each interested applicant will need to complete a rental application and submit it to the Pūlama Lānaʻi Housing Office
  - During the qualification process, applicants will need to meet the eligibility criteria set by MCC 2.96.020 and MCC 2.96.090.B.1, 2, 3, 4, 5, and 7.
  - Pūlama Lānaʻi will complete the following due diligence on each completed application (not an exhaustive list):
    - Verification of financial information, including but not limited to income level
    - Credit Check
    - In person interview with all household members

**Step 2:** Qualified applicants will enter into a lottery for the first offering only (i.e., lottery will only be offered once at the commencement of the project)

- Affordable units will be offered to qualified applicants in the order in which their names were drawn in the lottery, provided that there is an affordable unit available in the income group for which they qualified.
- If there are more qualified applicants chosen during the lottery than affordable units available, a wait list will be established and qualified applicants will be added to the wait list in the order in which their names were drawn in the lottery.
- The lottery will be held once, at the commencement of the project. Subsequent qualified applicants will be added to the wait list in the order in which they were qualified.

**Step 3:** Wait list (same procedure as above, included here for continuity)

- Qualified residents on the wait list shall receive first priority for the available affordable units. Qualified nonresidents on the wait list will not be offered an affordable rental unit the wait list has been exhausted of all qualified residents.
- Affordable rental units will be offered to qualified residents in the order in which their names are on the wait list, provided that there is a unit available in the income group for which they qualified. Qualified nonresidents will be offered an affordable rental unit in the order in which their names were added on the wait list.
- Pūlama Lānaʻi will maintain a wait list for the affordable units only. The wait list will be used to fill any vacancy for the affordable units.



**Step 4:** Execute rental agreement

- When an affordable unit becomes available, Pūlama Lāna'i will confirm if the qualified applicant is still qualified and execute a rental agreement.
- Pūlama Lāna'i will provide to the Department of Housing and Human Concerns the following information to verify the rental of the affordable units to eligible renters:
  - Qualified applicant's final rental application,
  - Executed rental agreement, and
  - All signed federal and state tax returns used to determine eligibility, or any other documents used to determine eligibility.

**Step 5:** Annual verification of qualified applicants in the affordable units

- Qualified applicants in the affordable rental units will need to self-certify that the information used to qualify them for the affordable unit has not changed.

**11. Exemption from Title 2, MCC, Administration And Personnel  
MCC 2.96.160.B – Fast track permitting.**

*B. Project qualifications. A project comprised of 100 percent residential workforce housing units with a fully-executed residential workforce housing agreement between the developer and the County, recorded in the bureau of conveyances or registered in the land court, in compliance with this chapter, shall be eligible for fast track permitting.*

**Discussion:** An exemption is requested to allow the proposed project to qualify for utilization of this provision for fast track permitting processes related to the building permits (including electrical and plumbing permits) and grading permits for affordable and market units as part of the proposed project. The exemption is requested to include the “above moderate” units as residential workforce housing units.

**12. Exemption from Title 2, MCC, Administrative And Personnel  
MCC 2.96.160.C – Fast track permitting.**

*C. Permits subject to fast track permitting. Qualified projects may utilize the fast track permitting process to expedite the review and issuance of all County permits necessary for the development of the project site, including subdivision applications, civil construction plan permits, and other plans and permits associated with the development of the project site. Building permits shall only be expedited for residential workforce housing units.*

**Discussion:** An exemption is requested to include the “above moderate” rental units to qualify as residential workforce housing units that would qualify for fast track permitting provisions. Additionally, the provision would apply to the affordable and market units.

## **EXHIBIT A.**

### **Conceptual Landscape Plan**



**Pocket Park 1** Natural Elements: Boulders, log tunnel, chipped wood fall surface, rope, benches.

**Pocket Park 2** Natural Elements: Log pyramid or swing set, chipped wood fall surface, rope ladder, benches.

**Pocket Park 3** Natural Elements: Logs, chipped wood fall surface, rope ladder, benches, shade trees.



## Hokuao Homes 201H Housing

Landscape Amenities Plan

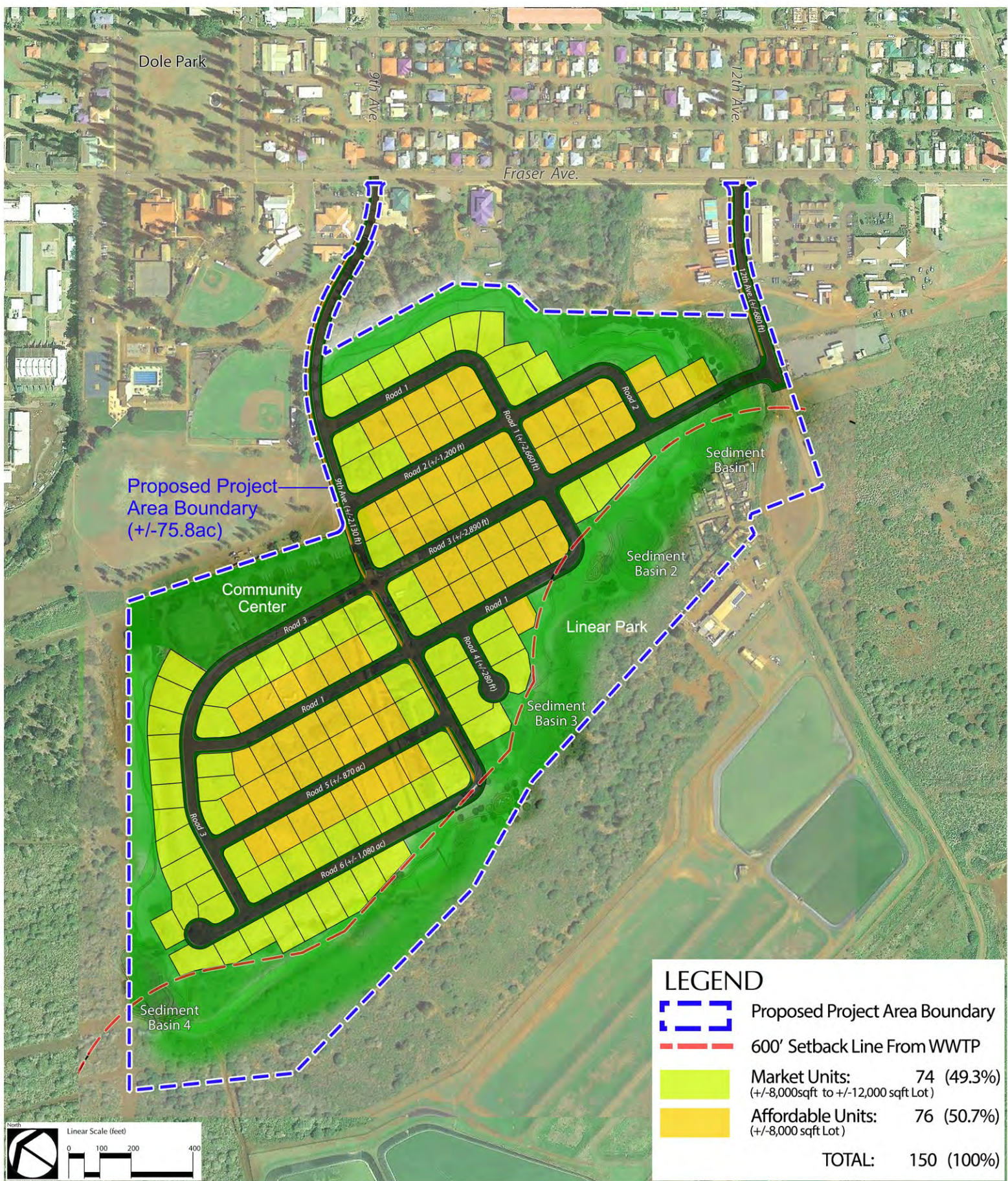
10/16/2020

BELT COLLINS

## **EXHIBIT B.**

### **Conceptual Site Plan**





# Hokuao Homes 201H Housing Conceptual Lot Plan 10/16/2020