

REQUEST FOR LEGAL SERVICES

Date: October 25, 2021
From: Gabe Johnson, Chair
Affordable Housing Committee

TRANSMITTAL

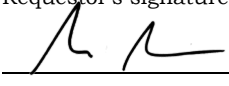
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Mimi DesJardins, Esq.

Subject: HALE PILINA 2.97 HOUSING PROJECT (AH-2(1))

Background Data: Please see the attached resolution and exhibits 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-2(1).

Work Requested: ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

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

☐ 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., October 26, 2021
REASON: For posting on the November 5, 2021 Council meeting agenda.

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)

ah:ltr:002(1)acc01:ans

Attachment

Resolution

No. _____

APPROVING WITH MODIFICATIONS THE INDEPENDENT DEVELOPMENT OF THE HALE PILINA RENTAL HOUSING PROJECT UNDER CHAPTER 2.97, MAUI COUNTY CODE

WHEREAS, Catholic Charities Housing Development Corporation, a nonprofit subsidiary of Catholic Charities Hawai'i, proposes the development of the residential workforce housing project known as the Hale Pilina Family Affordable Rental Housing Project ("Project"), on approximately 4.865 acres of land located in Kahului, Maui, Hawai'i, identified for real property tax purposes as Tax Map Key (2) 3-7-013:026 (Parcel 26); and

WHEREAS, the proposed Project will consist of four three-story buildings containing 178 rental units, including 108 one-bedroom units of approximately 442 square feet, 70 two-bedroom units of approximately 683 square feet, and an additional two-bedroom unit for a resident manager; and

WHEREAS, the proposed Project is a 100 percent workforce housing project, and all 178 units will be rented to households earning 60 percent or less of area median income, as established by the U.S. Department of Housing and Urban Development; and

WHEREAS, the Project will provide needed residential housing to meet the current and growing demand for housing in Maui County; and

WHEREAS, the Project is being independently developed under Chapter 2.97, Maui County Code ("MCC"); and

WHEREAS, under Chapter 2.97, MCC, 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 2.97.170, MCC, the Council must approve, approve with modification, or disapprove the Project by resolution within 60 days after the Department of Housing and Human Concerns has submitted the preliminary plans and specifications for the Project to the Council, which submittal occurred on September 13, 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:

Resolution No. _____

1. That based upon the transmittals and the representations of the Department of Housing and Human Concerns and Catholic Charities Housing Development Corporation, 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 September 13, 2021, under Chapter 2.97, MCC; except that Catholic Charities Housing Development Corporation 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. 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. Any substantial deviation from the preliminary plans and specifications must be submitted to the Council for prior approval;

4. The final plans and specifications constitute the zoning, building, construction, and subdivision standards for the Project

3. In the event of any conflict between the plans and specifications of the Project and this Resolution, terms of the Resolution and any Exhibits will control; and

4. 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 Catholic Charities Housing Development Corporation.

APPROVED AS TO FORM AND LEGALITY:

MIMI DESJARDINS
Deputy Corporation Counsel
County of Maui

2020-1927

2021-09-08 Hale Pilina Resolution Approving with Modifications

ah:misc:002(1)areso01a:ans

EXHIBIT A
HALE PILINA RENTAL HOUSING PROJECT
EXEMPTIONS

The following exemptions from Maui County Code (“MCC”) provisions are approved for the Hale Pilina Rental Housing Project (“Project”):

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

An exemption is granted from Chapter 2.80B, MCC, to allow the Project to proceed without obtaining a Community Plan Amendment or Change in Zoning. The Project site is designated as “Park” in the Wailuku-Kahului Community Plan, and is zoned “P-1, Public/Quasi-Public”. The Project will follow “A-2 Apartment” development standards and permitted uses, as proposed in the Project plan and specifications.

2. Exemptions from Sections 8.04.040 and 8.04.050 – Disposal Permits and Charges

An exemption is granted from Sections 8.04.040 and 8.04.050, MCC, to allow the Project to proceed without obtaining a disposal permit for construction related waste.

3. Exemption from Section 14.07.030 – Waster System Development Fees

An exemption is granted from Section 14.07.030, MCC, to exempt the Project from water system development fees.

4. Exemption from Chapter 14.12 – Water Availability

An exemption from water availability policy is provided under Section 14.12.030(F), MCC, for developments comprised of 100 percent workforce housing units that are within the central water system service area.

5. Exemption from Chapter 14.35 – Wastewater Assessment Fees

An exemption from wastewater assessment fees for facility expansion of the Wailuku/Kahului Wastewater Treatment Center is provided under Section 14.35.080(B), MCC, for developments comprised of 100 percent workforce housing units.

6. 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, MCC, to exempt the Project from fire, electrical, plumbing, and building permit fees, including plan review and inspection fees.

7. Exemption from Section 16.26B.3600 – Improvements to Public Streets

An exemption is granted from Section 16.26B.3600, MCC, to allow the Project to proceed without undergrounding existing overhead utility lines.

8. Exemption from 18.16.320 – Parks and Playgrounds

An exemption from park requirements is provided under Section 18.16.320(i)(5), for developments comprised of 100 percent workforce housing units. The Project will provide a privately owned and maintained park for Project residents.

9. Exemption from Chapter 19.31 – Public/Quasi-Public Districts

An exemption is granted from Chapter 19.31, MCC, to allow the Project to follow A-2, Apartment District development standards and permitted uses, as provided in Chapter 19.12, MCC, and as proposed in the Project plan and specifications.

10. Exemptions from Sections 19.36B.020 and 19.36B.030 – Designated Number of Off-Street Parking and Loading Spaces

An exemption is granted from Sections 19.36B.020 and 19.36B.030, MCC, to allow the Project to provide only one parking space per unit, including two-bedroom units. The Project will provide additional parking spaces for a monthly fee on a first-come, first-served basis. The Project will also provide additional stalls for visitors, loading, and ADA-compliant stalls and access aisles.

11. Exemption from Chapter 20.08 – Soil Erosion and Sedimentation Control

An exemption from grubbing and grading permit and inspection fees is provided under Section 20.08.090(D) for developments comprised of 100 percent workforce housing units.

EXHIBIT B
HALE PILINA RENTAL HOUSING PROJECT
MODIFICATIONS

1. The resolution and exemptions will lapse and become void if construction has not started within two years of receiving approved building permits, except that an extension may be granted by Council approval by resolution.
2. Developer must complete construction of all units, with related infrastructure, within five years of receiving the first building permit, except that an extension may be granted by Council approval by resolution.
3. Developer must develop and manage the Project in substantial compliance with all representations made to the Council and its Affordable Housing Committee, and to the community, 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.
4. Developer must provide a stub out for recycled water before Project completion, in consultation with the Department of Environmental Management.
5. Developer must provide energy-saving window treatments, photovoltaic carports, and solar water heating, or sufficient space on all building rooftops for future photovoltaic installation, as well as solar lighting for the Project's parking lots and park, if possible.
6. Developer must provide fencing for the Project's park area, with a gate to be managed by the Project for additional ingress and egress in case of emergency.
7. Developer must make best efforts to ensure internal roads, sidewalks, and pathways interconnect and promote safety, accessibility, multimodal transportation, and "Vision Zero Maui" and "Complete Streets" principles.
8. The Project's landscaping plan must include native Hawaiian climate-adapted plants or fruit-bearing trees, such as avocado, fig, or ulu.

9. In the interest of further enhancing the Project's visual and neighborhood aesthetics, the Developer must consider using a more vibrant color scheme, cultural murals, and other improvements to the building facades.

ah:misc:002(1)areso01a_Exhibit B