

# EXHIBIT 4

# Resolution

No. 21-136

## 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

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

**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 Iwiole 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

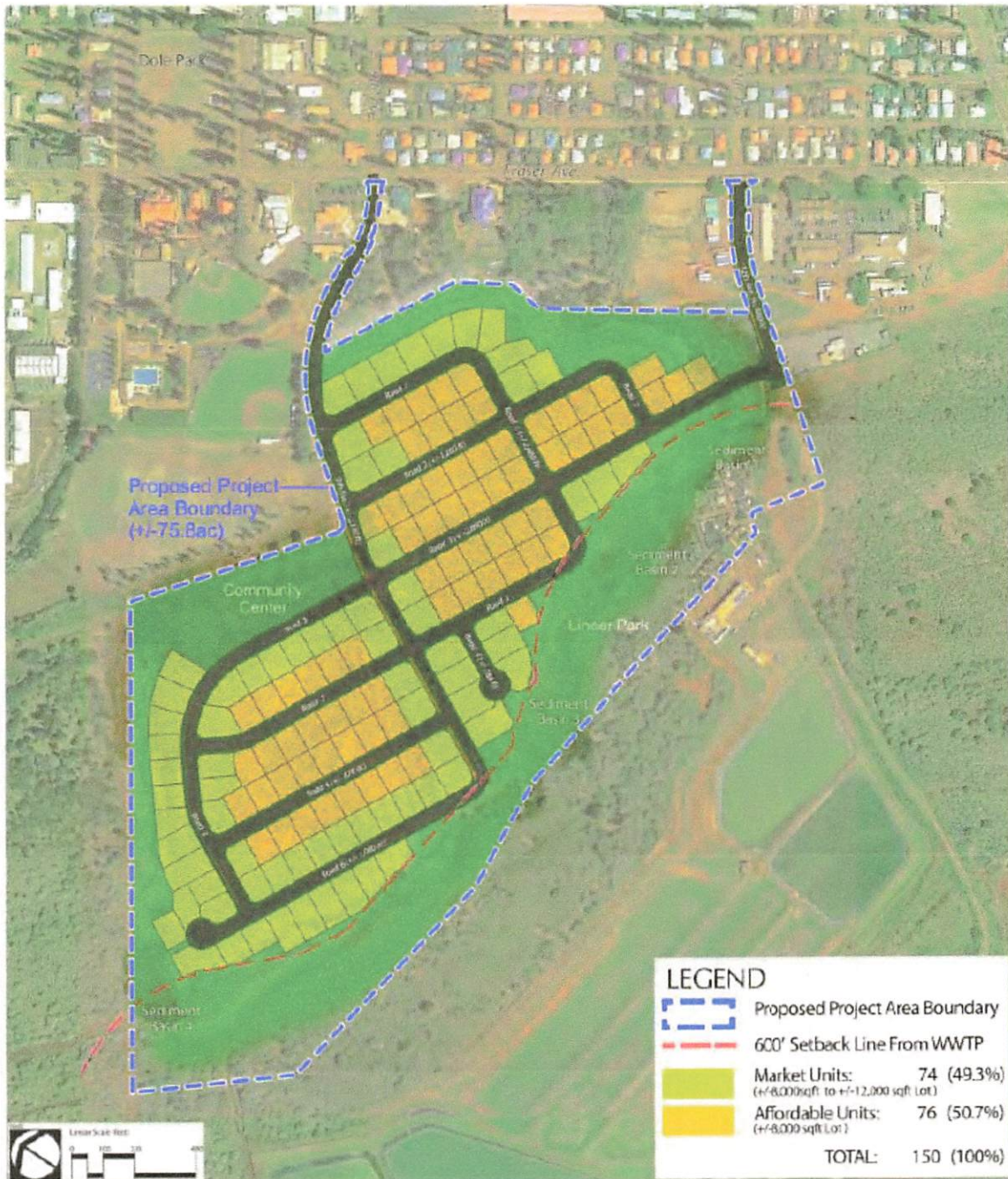
Landscape Amenities Plan

10/16/2020



# 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



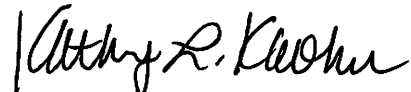
# COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

## CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 21-136, was adopted by the Council of the County of Maui, State of Hawaii, on the 3rd day of September, 2021, by the following vote:

| MEMBERS   | Alice L.<br>LEE<br>Chair | Keani N. W.<br>RAWLINS-<br>FERNANDEZ<br>Vice-Chair | Gabriel L.<br>JOHNSON | Natalie A.<br>KAMA | Kelly T.<br>KING | Michael J.<br>MOLINA | Tamara A. M.<br>PALTIN | Shane M.<br>SINENCI | Yuki Lei K.<br>SUGIMURA |
|-----------|--------------------------|--|-----------------------|--------------------|------------------|----------------------|------------------------|---------------------|-------------------------|
| ROLL CALL | Aye                      | Aye  | Aye                   | Excused            | Aye              | Aye                  | Aye                    | Aye                 | Aye                     |



COUNTY CLERK