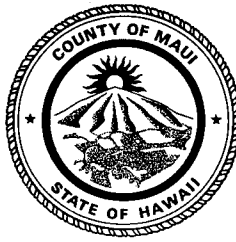


ALAN M. ARAKAWA
Mayor



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OFFICE OF THE
COUNTY COUNSEL

2013 AUG 30 AM 8:42

RECEIVED

August 30, 2013

T O: Robert Carroll, Chair
Land Use Committee

F R O M: Jeffrey Ueoka, Deputy Corporation Counsel

JU

SUBJECT: AFFORDABLE HOUSING PROJECTS (CHAPTER 201H, HAWAII
REVISED STATUTES) (WAIKAPU GARDENS, PHASE II) (LU-3(1))

Transmitted per your request of August 28, 2013 are the following revised resolutions:

1. "RESOLUTION APPROVING THE WAIKAPU GARDENS PHASE II PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES";
2. "RESOLUTION APPROVING WITH MODIFICATION THE WAIKAPU GARDENS PHASE II PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES"; and
3. "RESOLUTION DISAPPROVING THE WAIKAPU GARDENS PHASE II PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES."

If you have any questions, please contact me.

Enclosures

S:\CLERICAL\EK\MEMO\carrollwaikapugardensphII(LU-3)(1).wpd

Resolution

No. _____

APPROVING THE WAIKAPU GARDENS PHASE II PURSUANT TO
SECTION 201H-38, HAWAII REVISED STATUTES

WHEREAS, JES Corporation, a Hawaii corporation, proposes the development of the Waikapu Gardens Phase II and related improvements (the "Project") for qualified residents on approximately 10.501 acres in Waikapu, Maui, Hawaii, identified for real property tax purposes as Tax Map Key No. (2)3-5-002:016; and

WHEREAS, the proposed Project will provide a total of forty-eight (48) single-family dwelling units to families earning eighty (80) to one hundred and forty (140) percent of Maui County's median family income; and

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

WHEREAS, on August 26, 2013, the Department of Housing and Human Concerns submitted the preliminary plans and specifications and accompanying Application for Affordable Housing Subdivision ("Application") to the Council of the County of Maui ("Council") recommending approval of the Project pursuant to Section 201H-38, Hawaii Revised Statutes ("HRS"); 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 Department of Housing and Human Concerns has submitted the preliminary plans and specifications for the Project to the Council, which submittal occurred on August 26, 2013; and

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 Department of Housing and Human Concerns and JES Corporation, the Council approves the Project, including the Project's preliminary plans and


Resolution No. _____

specifications, as submitted to the Council on August 26, 2013, pursuant to Section 201H-38, HRS; provided that JES Corporation 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 "1", attached hereto and made a part hereof; 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 Housing and Human Concerns, 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. 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 JES Corporation.

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

**WAIKAPU GARDENS PHASE II AFFORDABLE HOUSING
SUBDIVISION – PROPOSED EXEMPTIONS PURSUANT TO
SECTION 201H-38, HAWAII REVISED STATUTES**

**A. EXEMPTIONS FROM TITLE 2, MCC, ADMINISTRATION AND
PERSONNEL**

1. An exemption from Chapter 2.80B, MCC, General Plan and Community Plans, shall be granted to permit the project to proceed without obtaining a community plan amendment.
2. An exemption from Section 2.80B.030, MCC, incorporating by reference Exhibit “B” to Chapter 2.80B, MCC, “The Maui Island Plan,” shall be granted to exempt the project from the Protected Area designation of Preservation for the property.

**B. EXEMPTIONS FROM TITLE 12, MCC, STREETS, SIDEWALKS, AND
PUBLIC PLACES**

1. An exemption from Chapter 12.08, MCC, Driveways, shall be granted to exempt the project from driveway permit and inspection fees.

C. EXEMPTION FROM TITLE 14, MCC, PUBLIC SERVICES

1. An exemption from Chapter 14.35, MCC, Wastewater Assessment Fees for Facility Expansion for the Wailuku/Kahului Wastewater Treatment System, shall be granted to exempt the project from wastewater assessment fees.

**D. EXEMPTIONS FROM TITLE 16, MCC, BUILDINGS AND
CONSTRUCTION**

1. Exemptions from MCC Chapters 16.04B, Fire Code, 16.18B, Electrical Code, 16.20B, Plumbing Code, and 16.26B, Building Code, shall be granted to exempt the project from fire, electrical, plumbing, and building permit fees, as well as inspection fees.

E. EXEMPTIONS FROM TITLE 18, MCC, SUBDIVISIONS

1. An exemption from Section 18.20.020, MCC, Sewage Disposal, relating to sewer lateral connections for residences, shall be granted to allow for the use of double laterals instead of single laterals to the single-family homes.
2. Exemptions from Section 18.04.030, MCC, Administration, and Section 18.16.020, MCC, Compliance, shall be granted to exempt the project from obtaining a change in zoning and community plan amendment.

F. EXEMPTION FROM TITLE 19, MCC, ZONING

1. An exemption from Chapter 19.30A, MCC, Agricultural District, shall be granted to permit the development and use of the subject parcel for single-family residential purposes. Further, this exemption shall allow the subdivision of the property in the plat configuration shown in Appendix "C" of the Application. The following zoning standards shall apply to the proposed lots:

Minimum lot size:	5,000 Square Feet
Height:	No building shall exceed 2 stories or thirty (30) feet in height

Setbacks:

Front yard	Minimum of 15 feet
Garage	Minimum of 20 feet
One-story homes (side and rear)	Minimum of 6 feet
Two-Story Homes (side and rear)	Minimum of 10 feet

G. EXEMPTIONS FROM TITLE 20, MCC, ENVIRONMENTAL PROTECTION

1. An exemption from Section 20.08.090, MCC, Grubbing and Grading Permit Fees, shall be granted to exempt the project from grubbing, grading, and permit fees, as well as inspection fees.

H. EXEMPTIONS FROM CHAPTER 8.04, MCC, REFUSE COLLECTION AND LANDFILLS

1. An exemption from Section 8.04.040, MCC, Disposal Permits – Application and Suspension, shall be granted to exempt the project from the requirement of a refuse disposal permit.

I. EXEMPTIONS FROM 302A -1601 TO 1612, HAWAII REVISED STATUTES (HRS)

1. An exemption from Sections 302A -1601 through 302A-1612, HRS, State Department of Education School Impact Fees, shall be granted to exempt the project from State DOE school impact fees.

J. EXEMPTIONS FROM SECTION 237-29, HRS

1. An exemption from Section 237-29, HRS, State General Excise Tax, shall be granted to exempt the project from State General Excise Tax (GET).

K. EXEMPTIONS FROM CHAPTER 14.07, MCC, WATER SYSTEM DEVELOPMENT FEES SCHEDULE

1. An exemption from Section 14.07.030, MCC, Water System Development Fee Schedule, shall be granted to exempt the project from the Department of Water Supply's water system development fee.

L. EXEMPTIONS FROM CHAPTER 467, HRS

1. An exemption from Chapter 467, HRS, Real Estate Brokers and Sales Persons, shall be granted to exempt the project from the use of real estate brokers and salespersons.

Resolution

No. _____

APPROVING WITH MODIFICATION THE WAIKAPU GARDENS PHASE II
PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES

WHEREAS, JES Corporation, a Hawaii corporation, proposes the development of the Waikapu Gardens Phase II and related improvements (the "Project") for qualified residents on approximately 10.501 acres in Waikapu, Maui, Hawaii, identified for real property tax purposes as Tax Map Key No. (2)3-5-002:016; and

WHEREAS, the proposed Project will provide a total of forty-eight (48) single-family dwelling units to families earning eighty (80) to one hundred and forty (140) percent of Maui County's median family income; and

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

WHEREAS, on August 26, 2013, the Department of Housing and Human Concerns submitted the preliminary plans and specifications and accompanying Application for Affordable Housing Subdivision ("Application") to the Council of the County of Maui ("Council") recommending approval of the Project pursuant to Section 201H-38, Hawaii Revised Statutes ("HRS"); 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 Department of Housing and Human Concerns has submitted the preliminary plans and specifications for the Project to the Council, which submittal occurred on August 26, 2013; and

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 Department of Housing and Human Concerns and JES Corporation, the Council approves the Project

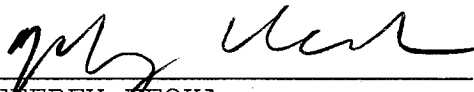
Resolution No. _____

with the modifications specified in Exhibit "1", including the Project's preliminary plans and specifications, as submitted to the Council on August 26, 2013, pursuant to Section 201H-38, HRS; provided that JES Corporation 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 "2", attached hereto and made a part hereof; 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 Housing and Human Concerns, from the preliminary plans and specifications approved by 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. 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 JES Corporation.

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY DEOKA
Deputy Corporation Counsel
County of Maui

MODIFICATIONS

EXHIBIT "1"

**WAIKAPU GARDENS PHASE II AFFORDABLE HOUSING
SUBDIVISION – PROPOSED EXEMPTIONS PURSUANT TO
SECTION 201H-38, HAWAII REVISED STATUTES**

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L. EXEMPTIONS FROM CHAPTER 467, HRS

1. An exemption from Chapter 467, HRS, Real Estate Brokers and Sales Persons, shall be granted to exempt the project from the use of real estate brokers and salespersons.

Resolution

No. _____

DISAPPROVING THE WAIKAPU GARDENS PHASE II PURSUANT
TO SECTION 201H-38, HAWAII REVISED STATUTES

WHEREAS, Section 201H-38, Hawaii Revised Statutes ("HRS"), provides a process for the review and development of affordable housing subdivision projects, where suitable projects can be exempted from 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, provided that such projects meet minimum requirements for health and safety and fulfill affordability criteria; and

WHEREAS, JES Corporation, a Hawaii corporation, submitted an application for the development of the proposed Waikapu Gardens Phase II and related improvements (the "Project") for qualified residents on approximately 10.501 acres in Waikapu, Maui, Hawaii, identified for real property tax purposes as Tax Map Key No. (2) 3-5-002:016, pursuant to Section 201H-38, HRS, to the Department of Housing and Human Concerns of the County of Maui; and

WHEREAS, on August 26, 2013, the Department of Housing and Human Concerns submitted the preliminary plans and specifications and accompanying Application for Affordable Housing Subdivision ("Application") to the Council of the County of Maui recommending approval of the Project pursuant to Section 201H-38, HRS; 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 Department of Housing and Human Concerns has submitted the preliminary plans and specifications for the Project to the Council, which submittal occurred on August 26, 2013; and

WHEREAS, pursuant to Section 4-1 of the Revised Charter of the County of Maui (1983), as amended, and Section 201H-38, HRS, the Council is authorized to act by resolution; now, therefore,


Resolution No. _____

BE IT RESOLVED by the Council of the County of Maui:

1. That the Council disapproves the Project submitted to the Council on August 26, 2013, 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 Housing and Human Concerns, and JES Corporation.

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

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