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COUNTY OF MAUI
AFFORDABLE HOUSING POLICY PLAN
FINAL REPORT

Prepared for the Office of Council Services
County of Maui – August 15, 2018

CONTENTS

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EXECUTIVE SUMMARY

- The goal of the study was to review and, where appropriate, recommend changes in policies to drive an increase in production of affordable housing units in Maui County. The project employed the following processes:

    - Review of past and current housing policies at the County, State, and national levels;
    - Identification of barriers to the development of affordable housing and suggestions for policy changes to address those barriers;
    - Identification of any incentives that would increase the production of affordable housing.

- A review of the literature on the impact of regulation on the quest for affordable housing policy has evolved over time. It has, in 2017, reached a point where it is widely accepted that regulation is a major contributor to high housing prices and the major barrier to producing affordable housing.
    - Hawai‘i's housing markets are more regulated than most other housing markets in the nation. Honolulu's score on the Wharton Residential Land Use Regulatory Index (Wharton Index) is the highest in the nation.

- Based on the literature and review of current policies, Maui County has a reasonable and defensible housing objective. The policy recognizes the need for more housing at all levels and shows a preference for development in established urban areas (with jobs, entitlements, infrastructure and zoning) rather than greenfield development or master planned communities.

- Maui County housing policy is an inclusionary housing policy. It places responsibility for funding residential housing projects on the developer, which is consistent with the principle that the cost of growth in the County will be paid by the prime beneficiaries of growth, the people who will occupy or operate the new residences and commercial buildings. Inclusionary housing policy has been particularly attractive in areas with high housing prices associated with high demand and low supply. These areas often have high population and employment growth, high housing demand, limited housing development, and high land and construction costs. Maui County has all of those characteristics. Finally, inclusionary housing policy is attractive because it reduces the local government's infrastructure costs.
    - A major challenge to building affordable housing by relying on IZ is that it primarily produces workforce housing units (80 to 140% AMI) at a slow rate (one to two affordable units for every four to five market units). Developers that rely on generating income to achieve a minimum level of return on each project will not develop a low-income rental housing project (<50% AMI) because of the slow and

low-income flow. Therefore, low-income affordable housing projects must be subsidized by State and County Government.

- There are two kinds of “affordable housing”, housing intended for households with annual incomes less than 80 percent of AMI, and "workforce housing", intended for households with annual incomes between 80 percent and 140 percent of AMI. There is a need for about 12,448 housing units intended for those two groups between 2015 and 2025[1]. Among those units, 9,529 (75.3%) are low-income housing units and 3,119 units are workforce housing units.

- During the review of County planning documents, we found many regulations of the type that would hinder the production of affordable housing. However, most of those regulations have been reduced in the years since they were originally written. The MCC 2.96 housing policy is restrictive but has been revised downward such that its fundamental requirements are like other Hawai‘i Counties. Outside of MCC 2.96 and MCC 2.86, other regulations are augmented with exemptions covering county projects, 100 percent affordable projects, affordable housing, or workforce housing. Some of those are mandated and others are to be applied at the discretion of a department or division director. The overall effect is to add considerable flexibility to the process of monitoring and approving affordable housing projects.
    - While exemptions and incentives are available, they do not appear to be used to encourage projects that will build workforce or affordable units. This is likely due to the added cost to the County should fees be waived and/or the cost of paying for infrastructure improvements necessary to make the project feasible.

- Workforce housing will be developed under inclusionary housing policy in a housing market that is growing. Should the market rate and luxury housing market on Maui slow down then the production of workforce housing will also slow down. Affordable housing, particularly for rental units for households earning less than 80 percent of AMI, relies on significant funding from Federal, State and County Government. To begin to meet the needs identified above, the County will have to undertake a proactive strategy and find a way to provide the additional investment that will be required.

- The major barriers for both not-for-profit and for-profit developers[2] to undertaking projects of any type on Maui were:
    - Rate of Return – every developer requires a minimum rate of return on any project. Anything that reduces revenue or increases cost reduces the rate of return, often to a level that makes the project unfeasible.

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[1] See Maui County Affordable Housing Implementation Plan, Section Forecast, Table 2. Total of 13,949 needed units, 1,301 of which are intended for households with incomes greater than 140 percent of AMI, leaves 12,648 units needed to accommodate households in the two affordable housing classifications.

[2] From Stakeholder interviewers conducted by SMS.

- Time – the extended time required from initial application through the entitlements process and permitting to final Council approval is extremely long and unpredictable resulting is increased cost and uncertainty.

- Uncertainty – to obtain financing for a project requires lenders/funders to have faith that the project will be completed on schedule and within a budget. The longer it takes for a project to be approved, the more it costs, and the less certainty a lender/funder will have, resulting in lenders pulling out of a project or requiring a higher rate of return. The Council or Departments adding conditions to a project late in the approval process is considered a major source of uncertainty for developers and their funders.

- The recommendations for policy modifications were designed to address the three major types of barriers in these areas:
  - Pro-active infrastructure development;
  - Funding for infrastructure development;
  - Sustainability for low income affordable rental units;
  - Pro-active zoning;
  - Increasing flexibility within 2.96;
  - Fast-track procedures;
  - Informal one-stop departmental review;
  - Increased funding for the Affordable Housing Fund.

- The recommendations for County Operations and Organizational Structure included:
  - Development of an Affordable Housing Plan that describes how the County will move forward to meet the housing needs of residents over the next five to ten years;
  - Identifying a person to be the "Development Coordinator." This person will have a background in residential development and negotiation skills to work with the developers to increase the number of affordable and workforce housing units built on Maui. This person will have the responsibility to proactively identify new projects, as well as work with developers on new projects and the authority to apply exemptions and incentives as needed;
  - Consider limiting conditional approvals;
  - Encourage Public-Private partnerships; and
  - Developing two databases to support and track the development of affordable and workforce housing.

I. INTRODUCTION

This report presents the results of a study conducted at the request of the Maui County Council under the direction of the Maui County Office of Council Services.

PURPOSE

The goal of the study was to review and where appropriate recommend changes in policies to drive an increase in production of affordable housing units in Maui County. The project employed the following processes:

- Review of past and current housing policies at the County, State, and national levels;
- Identification of barriers to the development of affordable housing and suggestions for policy changes to address those barriers;
- Identification of any incentives that would increase the production of affordable housing.

BACKGROUND

The Hawai‘i Housing Planning Study, 2016, Maui County (HHPS) was the sixth in a series of comprehensive housing studies conducted in the State of Hawai‘i[3]. It described a continuously increasing housing problem in Hawai‘i that had reached crisis proportions by 2016. Between 2006 and 2016, HHPS studies uncovered progressively more evidence that among the causes of high housing prices, government regulation was the most detrimental. Experience in Maui County was consistent with those findings. Based on the historical record, strong inclusionary regulations promulgated between 2004 and 2012 produced only three new affordable housing units in eight years. Thus, at the request of the Maui County Council, the Office of Council Services commissioned the present study of housing-related policies that affect the production of affordable housing units in the County of Maui. The study was intended to lead to a plan to increase production of affordable housing units.

METHOD

The project approach was to develop affordable housing policy recommendations using the following study procedures:

- ***Policy Review:*** We conducted a review of historical and current policies, laws, rules, regulations, and procedures related to the development of affordable housing in Maui County. We noted items that regulated affordable housing production or acted as barriers to affordable housing development. We conducted a literature search for inclusionary and

[3] Previous editions of HHPS were conducted in 1992, 1997, 2004, 2006, 2011, 2013 and 2016.

alternative housing policies, and reviewed financing tools to produce affordable housing units.

- ***Collaboration and Coordination:*** **Stakeholder Interviews.** Affordable housing policy issues and impacts were developed in collaboration with Maui County housing stakeholders[4] (public interest groups, housing advocates, developers, etc.) and County agencies with responsibility for the County's role in monitoring and promoting affordable housing development.

- ***Operations and Organizational Structure:*** We reviewed resources, especially human resources required for affordable housing development at Maui County Departments involved in producing, facilitating, or monitoring affordable housing units, and identified any need for improvement or expansion.

- ***Policy Recommendations:*** Based on the results of the policy review, collaboration with stakeholders and an organizational audit, we developed a set of affordable housing policies or procedures to encourage development of affordable housing units in Maui County.

- ***Policy Plan:*** We prepared a final set of policies and procedures for short-term action by the Maui County Council to encourage production of affordable housing units in the County of Maui.

The Affordable Housing Policy planning project was conducted simultaneously with the Affordable Housing Implementation study and findings of both studies contribute to the implementation plan.

[4] See acknowledgements on page iii.

II. AFFORDABLE HOUSING POLICY REVIEW

A. BACKGROUND

One of the major tasks of the Affordable Housing Policy Project was to review affordable housing policies for Maui, past and current, and policies used by other jurisdictions including the Federal Government, the State of Hawai‘i, and Hawai‘i’s other three counties. That task was accomplished according to the steps shown below.

Review Policies

- Reviewed the Maui County Charter, the MCC, and Federal, State, and local regulations or policies that affect affordable housing production, with a view toward increasing affordable housing production in Maui County

Recommend Amendments

- Identified Charter and MCC amendments with potential for reducing delay and cost of AH
- Focused attention on streamlining permitting and encouraging production
- Considered public-private partnerships, special districting, declaring a state of emergency
- Identified affordable housing funding opportunities available to Maui County
- Other changes to laws, policies, or administrative rules (Federal, State, or County)

Operations and Organizational Needs

- Reviewed operations, staffing, and organizational charts for relevant County Departments
- Made recommendations for changes to streamline operations and improve production

Produce an Affordable Housing Policy Plan

- Developed enabling legislation and a process for implementation
- Recommended Funding alternatives for Maui County
- Ensured the Plan may serve as a policy guide to address future housing needs
- Incorporated the County Housing Fund, and other financing methods

B. REVIEW OF AFFORDABLE HOUSING LITERATURE

The research on affordable housing policy began with a local and national policy scan. The foundation of the scan was the 14 years of housing policy research most recently reported in HHPS 2016. From 2002 through 2016, the literature described a host of investigations that weighed many facets[5] of the appearance and proliferation of a set of housing markets characterized by very high prices, high demand, limited supply, and volatile market activity. These markets, which included Hawai‘i as well as San Francisco, Los Angeles, Portland, Seattle, Boston, New York, and Miami, had record-breaking price run-ups and impressive bubble bursting

[5] Geography, construction costs, land availability, taxes, military housing and allowances, vacation rentals, income, income inequality, employment, tourism and tourism advertising, and government regulations, to name a few.

in the early 90s and again between 2002 and 2008. We will concentrate our comments here on the impact of regulations on housing affordability.

Regulations affect housing prices in many ways. In Hawai‘i, conditions are typically put in place at the time of initial permitting of a new project (State Land Use Boundary Amendment or County Zoning). Conditions may be standard or negotiated on a case-by-case basis. After that, the developer must work out how the conditions will be followed or implemented for upcoming increments of the project, and gain government authorization to proceed. At this point, specific units are identified as “affordable” to HUD-specified income groups. Prices for those units are set and published as schedules are updated annually by HCDCH and the counties. Once a unit has been sold, conditions may be imposed on the resale of the unit. The process of managing housing production in any jurisdiction involves terminology that can be confusing.

Fundamental Affordable Housing Policy Assumptions

This section presents a set of important considerations related to affordable housing policy making.

Target Markets for Affordable Housing: Affordable housing policy in general is aimed at specific tenant types. In the United States, affordable housing is generally constructed for a market that consists of households with annual incomes that are 50 to 140 percent of the area median income (AMI)[6]. The income boundaries were developed to facilitate the “cost burden” approach to affordable housing. We consider that any household paying more than 30 percent of its gross annual income for shelter is “burdened”. That household will not have sufficient remaining income for family necessities – food, clothing, education, transportation, entertainment, etc. (Glaeser and Gyourko, 2018).

Based on the guidelines above, the following is a way of looking at Maui County’s target markets for housing units using the HUD defined AMI levels for 2018.

[6] As defined by the U.S. Housing and Urban Development Guidelines.

Maui County Housing* Family of Four, 2 Bedroom, 4% prevailing interest rate	Type of Unit**
Market to Luxury 140%+ More than $113,960 Rental: above: $2,564/mo; SFD above $533,970; MF above $480,490	Market to Luxury
Workforce 101 – 140% Equal to/less than $113,960 Rental: max of $2,564/mo; SFD max $533,970; MF max $480,490	Rental or For Sale
Moderate Income 81-100% AMI Equal to/less than $81,400 Rental: max of $1,832/mo; SFD max $381,395; MF max $343,230	Rentals Low priced MFD or SFD
Low Income 51 -80% AMI Equal to/less than $65,120 Rental: max of $1,465/mo; SFD max $305,150; MF max $274,635	Subsidized Rentals Low priced MF
Very Low Income 31% -50% AMI Equal to/less than $40,700 Subsidized Rent: max of $916/mo	Subsidized Rentals
Extremely Low Income ≤30% AMI Equal to/less than $24,420 Section 8; max of $550/mo	Section 8 Public Housing

Housing for families with AMI over 140 percent is considered market-rate housing. Housing for families with AMI between 80 percent and 140 percent AMI is considered Workforce Housing. Housing for families with AMI less than 80 percent is primarily subsidized Rental Housing. In the lowest levels these are extremely low rent levels that are often supplemented with transfer payments such as Section 8.

Types of Housing Markets: Not all affordable housing policies will work in all housing markets. There are three main types of housing markets in the United States.

- Type 1: In markets with growing populations and economies and light regulations, the supply curve is flat, prices are reasonable, and supply follows demand closely [Atlanta, Dallas, Oklahoma City, Ames Iowa].

- Type 2: In markets with growing populations and economies, with very heavy regulations, the supply curve is rising, prices are very high, and supply is limited [San Francisco, Seattle, and Hawai‘i].

- Type 3: In markets with no- or slow-growth populations and economies, and light regulations, the supply curve is level or fixed, prices are very low, and demand is very low [Detroit; Gary, Indiana; Akron, Ohio].

Maui's housing market is a Type 2 market, and we will focus on regulations and solutions that affect Type 2 markets.

Major Tenets Underlying the New Housing Policy: There is a large and growing literature on the impact of regulation on the quest for affordable housing policy. It has, in 2017, reached a point where it is widely accepted that regulation is a major contributor to high housing prices and the major barrier to producing affordable housing. Extracting the most important elements of these recent findings will be useful for any review of affordable housing policy. We are indebted to several scholars, and to Spencer Gardner (2017a) for the following points.

1. **Developers don't pay the costs of construction; tenants and buyers do**

A developer who doesn't pass costs on will not be in business for very long. For this reason, anything that makes development costlier for developers makes housing costlier for people. Time is money, so convoluted permitting processes make housing more expensive.

2. **Housing demand is regional**

Regulation may stop a specific neighborhood from growing but it won't stop people from moving to Maui. Every house that doesn't get built in in one community will get built somewhere else, often outside the urban boundary. For market rate and higher priced housing this statement is particularly true. For families or individuals at the lowest levels of AMI the lack of housing units will result in overcrowded households or homelessness.

3. **If zoning and building codes mandate expensive housing, housing will be expensive**

Most zoning codes place minimums on the house sizes, lot sizes, and countless other factors that affect the cost of building housing. Rules are usually established without considering affordable construction types or even the need for affordable housing.

Causes and Effects of Over Regulation

Hawai'i's housing markets are more regulated than most other housing markets in the nation. Honolulu's score on the Wharton Residential Land Use Regulatory Index (Wharton Index) is the highest in the nation and David Callies (2010) has painstakingly described the large number of individual regulations that affect housing development in the State.

In August 2007, Hawai'i accepted an invitation from HUD to join the "National Call to Action for Affordable Housing through Regulatory Reform" initiative. A statewide Affordable Housing Regulatory Barriers Task Force, comprised of representatives from the counties, business, labor, developers, architects, non-profit service providers, the state, and the legislature, was convened to address regulatory barriers to affordable housing. The task force noted that *"in the context of*

building homes that are affordable, government regulations often work against the goal of delivering more affordable housing. Although government policies and regulations are often intended to control or direct growth, target resources, and prioritize areas of importance, the unintended consequence is often that these regulations add to the cost of building affordable homes. Many regulations are in place to ensure health and safety and to protect natural resources. However, all regulation has some direct or indirect effect on the supply and cost of housing." The task force identified 14 regulatory barriers including the duplicative and lengthy land use entitlement process, lack of consistency and synergy in state and county agency reviews, impact fees and exactions, fiscal policy, and administrative processes.

The negative effects of heavy regulation on affordable housing markets extends well beyond the price of housing. For instance, some researchers have found that highly regulated housing markets hinder the movement of labor from one market to another and that decreases GDP overall[7]. There are many, many more.

The power to regulate land use and building types has been recognized as a right and responsibility of government for a long time. It is not regulation that is the issue, but over-regulation. Separating "bad" regulations (that is, overregulation and regulatory barriers) from "good" regulation is a difficult task. One cannot look solely at the impact of these regulations on the price of housing because many regulations may increase the price of housing by affecting the desirability of the neighborhood where it is located or the quality of the structure. Similarly, the concept of economic efficiency is inadequate to differentiate between regulation and overregulation. To the extent that the social costs of a regulation exceeds its social benefits, the rule or ordinance would meet the criteria of excessive and unnecessary. However, some regulations may generate a surplus of benefits over costs, but the benefits will primarily apply to higher income families and the costs to low- and moderate-income families.

Some have said that regulations lead to an inefficient housing market. Markets are expected to sort supply and demand such that specific household needs are filled by an appropriate property. In highly regulated markets like Hawai‘i, the market seems to be unable to cope with that task. Not only are some lower income households placed in units beyond their means, but some higher income families are placed in units that would better serve poorer households.

For this study, the more relevant research comes from Somerville and Mayer (2001, 2003). They found that heavy regulation causes the filtering[8] process to be reversed. That is, heavy regulation,

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[7] Hsieh and Moretti, 2017) calculated that GPD would be 9 percent higher if there were higher production of new housing units in Type 2 housing markets.

[8] Bradford, Chris. 2008. "When property values rise, low-quality housing "filters up" to the high-quality housing sub-market. The reason is that rising rents encourage landlords to invest more in the property. When property values fall, high-quality housing "filters down" to the low-quality housing sub-market. The reason is that falling rents encourage landlords to invest less in property. The key in either case is that old housing costs more to maintain than new housing." We have several more citations on this. Filtering is a simple idea that ends up being very

marked by low supply elasticity, causes affordable units to filter up and become unaffordable[9]. That means regulation negatively affects the affordable housing stock, making Regulation counterproductive.

Persistence of Regulation

It is widely accepted in 2018 that strong regulation of housing production will result in high housing prices, decreasing elasticity of supply, and low supply, especially in Type 2 markets[10]. By 2005, economists were asking the question, "If demand greatly exceeds supply, why don't developers jump at the opportunity?" The problem, they found, was that government regulations stifle supply.

Supporters of inclusionary housing policy regulations believe they will offset the negative externalities of development (crowded schools, traffic and its associated delays, cost of infrastructure, etc.). Research suggests the negative externalities persist and the effects of regulation are not nearly large enough to justify the costs of regulation (Glaeser and Gyourko, 2018, p. 22).

In Maui County, the costs of infrastructure are passed to developers of housing and hotels. The costs themselves are then passed to the residential and visitor occupants of new housing and accommodations. Housing prices rise at an increased rate, population growth continues to cause the externalities like crowded schools and public services, and increased traffic. In addition, the cost of infrastructure becomes a barrier to development as more projects run into funding problems.

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complicated. One of the issues that adds to that complexity is that regulations change the relationship. See Also, Rosenthal 2018, Hertz 2015.

[9] Specifically, "regulation increases the probability that a rental unit currently deemed affordable will become unaffordable, owner-occupied, or demolished, relative to staying affordable", p. 53.

[10] The literature search conducted for HHPS 2016 captured the first 15 years of the research. Glaeser and Gyourko (2018, pp14-16) summarizes the technical research since 2015. Gyourko and Molloy (2017) is the most recent and most comprehensive review of the work on regulation.

What works?

In the last two years there have been several studies, articles, and government actions that focus on developing affordable housing policy that works. Much of that effort has been aimed at deregulation in jurisdictional housing markets. Some scholars, focusing on these early attempts at deregulation, are decidedly pessimistic. Glaeser and Gyourko (2018) note Massachusetts 40b, 40R, and 40S programs have been less than successful and Mukherjee (2017) agrees. Similar programs implemented in San Francisco and Chicago have met with varying degrees of success. The problems include effective resistance from local pressure groups, losing so much in political negotiations that policies are ineffective, and lack of enforcement provisions (needs citations). Furthermore, it can get expensive. Freeman and Schuetz (2017) point out that "effective policies to develop and preserve affordable housing, particularly in high-opportunity neighborhoods, require increased public and private funding and political support".

On a much more positive note, Kenneth Rosen and his colleagues (2017), writing about events in San Francisco of late, have produced a set of policy actions that can be taken to solve for affordable housing in that city. We have reproduced some of them below.

A. **Reducing Regulatory Hurdles to Development**

1. Reduce Fees and Streamline Approvals
2. Minimize Lot Sizes
3. Expedite and Simplify Environmental Review
4. Override Local Regulatory Hurdles with Statewide Reforms
5. Localized Reforms

B. **Increasing New Home Construction**

1. Prefabrication and Modular Housing
2. Accessory Dwelling Units
3. Trade Schools and Apprentice Programs
4. Tax Credits for New Construction Homebuyers

C. **Mortgage Availability**

1. Improving Access to Credit for Consumers
2. Debt-to-Income Ratio
3. Alternative Measures of Credit Scores
4. Reducing Post-Foreclosure Lending Aversion
5. Regulations, Rulemaking, and Legal Protections
6. FHA Lending
7. Making Small Loans Profitable

Rosen's recommendations also included a caution against one-sided policy pursuit, suggesting "…preserving the environment and access to open space are important and necessary goals that are key to ensuring sustainable development. However, to avoid unnecessary barriers to development, such preservation needs to be balanced with a combination of designated spaces where new development is encouraged and greater density zoning to provide more opportunities for infill development in other areas of the community." p.7.

Rosen's policy A4 reflects another frequently mentioned issue in recent affordable housing policy studies. Housing policy can be addressed at several levels of government. Traditionally, real estate development has been the *kuleana* of local government. For that reason, over-regulation of housing markets has been laid at the gates of local government. Some recent studies[11] see broader, state government action as a way of over-riding homeowner control of the planning process and NIMBYism. Maui County's early action to take responsibility for affordable housing and to take a fresh look at regulation in housing policy should be noted here. It might obviate the need for State action and it may pave the way for cooperative action at two levels of government.

Finally, Strong Towns (Gardner 2017a) reminds us that we should not seek deregulation for the sake of deregulation and that not all de-regulation works to the advantage of affordable housing policy (Gardner 2017b). There are good reasons that government regulates land development. Certainly, there is no advantage in deregulating to punish the regulators, nor will there be guaranteed advantage in having government step back from the business of housing development. We ought to be seeking (1) to ensure government is cognizant of the effects of their actions, and (2) that all actors apply cost and benefits analysis to policy alternatives.

In the end, as Gardner reminds us, "In the face of complexity, cities would do well to heed Nassim Taleb's *Via Negativa:* First, do no harm. By addressing obstacles to building new housing, cities can at least be sure they're not part of the problem."

C. MAUI COUNTY HOUSING POLICY

Administration of the affordable housing program is largely the duty of the Department of Housing and Human Concerns (DHHC). Other County entities, including the Planning Department, Public Works Department, Water Department, Environmental Services, County Council, Office of the Mayor, and other agencies play major roles in affordable housing development. The DHHC proceeds according to published guidelines.

Historical Policy Actions

Even before 2005, Maui County housing policy was fundamentally an inclusionary housing policy. In 2006, Chapter 2.96 of the Maui County Code (MCC) was codified, establishing a 50 percent affordability requirement and a 25-year deed restriction on workforce housing projects.

Between 2006 and 2014, the County had only one workforce housing agreement executed, and three workforce homes built and sold. Revisions to Chapter 2.96, MCC, were made in December 2014 to decrease the affordability requirement to 25 percent to incentivize developers to build more housing. Since then, 17 workforce housing agreements have been executed. However, the rate in which housing is being built on Maui still fails to keep up with demand.

[11] For example, Glaeser 2017, p.4; Metcalf 2018, p.75; Rosen, et. al. 2018, p. 13 etc.; Milsap and Farren 2018 throughout; Clapham 2019; Freeman and Schuets 2017, p 221.

The cost of housing in Maui County is unaffordable to a substantial portion of residents. In 2016, the Hawai‘i Housing Planning Study indicated that 24.2 percent of Maui residents pay more than 50 percent of their household income towards housing, compared to 18 percent statewide. Another important factor in the housing situation is the increasing number of residential units being purchased by out-of-state buyers. A 2015 report from the State Department of Economic Development and Tourism (DBEDT) found that 47 percent of neighbor-island homes are sold to out-of-state buyers. This has depleted the available housing inventory even further and continues to contribute to an increase of vacant (seasonal) units and non-affordable rentals.

Current impediments that are likely compounding the cost of building more housing include: geographic limitations; high cost of construction and materials; lack of major off-site infrastructure; high cost of impact fees (water development, park, and various permitting fees) which is estimated to be approximately $23,000 per new unit built according to the Hawai‘i Housing Finance and Development Corporation; and government regulations such as land use, community plan designations, zoning, and permitting.

The DHHC must develop and implement goal-setting and long-term strategic planning to meet the current and future affordable housing needs of the County. According to the Director of the DHHC, the Department’s focus is to acquire parcels of land, identify infrastructure, and partner with developers through the RFP process. As this process alone does not equate to housing units being built at the rate they are needed, the Council appropriated funds in the FY 2018 Budget to focus on a policy analysis and implementation plan specific to affordable housing development in the County.

Current Maui Housing Affordable Policy Review

To review current policies effectively, SMS created and assembled a policy matrix [see Policy Matrix in Appendix C]. The matrix was used to evaluate and prioritize alternative policy amendments suited to housing needs and the character of communities in Maui County. The process was carried out as shown below.

- Assemble policy elements as a base for analysis
- Classify elements according to their impact on affordable housing production
- Add characteristics of policies that describe current conditions (policy) in Maui County, comparable policies in other counties, and provide alternatives as needed
- Select a set of policy elements for consideration by OCS and the Council.

Policy Analysis

In accordance with the RFP, we concentrated on housing regulations in our search for effective affordable housing policy. The three other ways to affect housing prices: direct provision of housing units, voucher systems, and rent control (Metcalf, 2017) have been left for a future study.

Classification

The policy analysis task made use of the policy matrix to identify and evaluate many possible policy alternatives. The matrix defined the analysis process. Policy types made up the rows of the matrix and set limits on the types of issues to be considered. The initial list was taken from Rosen, et.al (2017). The matrix was augmented to create list of policy issues unique to Maui.

The County has an affordable housing policy that sets out conditions on the sale or rental of units considered “affordable”, restrictions on resale of those units for up to 10 years, and provisions for buybacks and calculation of the buyer’s share of appreciation in the price of a unit to be resold (Maui County Code, Chapter 2.96).

The County has a policy mandating that developers of 10 or more lots or dwelling units must construct residential workforce housing for residents, equivalent to at least 25 percent (Section 2.96.040). If the units remain available only to income-qualified groups in perpetuity, the developer needs to only provide at least 20 percent of the market rate units.

The requirements for providing affordable housing units are also made specific with respect to the income distribution (Section 2.96.060) for both ownership and rental units.

Restrictions are also placed on the length of time the unit shall remain available at below-market prices (Section 2.96.070) for ownership and rental units. These sustainability rules are accomplished through deed restrictions limiting the sales price or appreciation levels for units produced for sale or rent at below market prices.

Ownership Units:

a. 30 percent for "below-moderate income" residents subject to a 10-year deed restricted period.
b. 50 percent for "moderate income" residents subject to an 8-year deed restricted period.
c. 20 percent for "above-moderate income" residents subject to a 5-year deed restricted period.

Rental Units

a. One-third for "very low income" and "low income" residents subject to a 30-year deed restricted period.
b. One-third for "below-moderate income" residents subject to a 30-year deed restricted period.
c. One-third for "moderate income" residents subject to a 30-year deed restricted period.

Maui County Affordable Housing Program

Qualified Project	Any development, including the subdivision of land and/or the construction of single-family dwelling units, two-family dwelling units, multi-family dwelling units, or hotels.			
	Ten or more lots, lodging units, time share units, or dwelling units. A conversion of 10 or more units to dwelling units or time share units. Developments that increase the number of lodging or dwelling units in a hotel by 10 or more.			
Units Required	25% of the market rate units [20% of total units]. 20% if units remain available only to income-qualified groups in perpetuity. [16% total]			
Unit Distribution		Below Mod	Moderate	Above Mod
	For sale	30%	50%	20%
	For rent	33%	33%	33%
Sustainability	**For sale**	10 years	8 years	5 years
	For rent	30 years	30 years	30 years

Affordable Sales Price Guidelines are published annually based on the following factors:

- Median family income as established by the U.S. Department of Housing and Urban Development (HUD).
- Number of years for a fixed-rate mortgage loan with no discount points.
- Percentage of gross monthly income for housing expenses (principle and interest payment only).
- Percentage of the purchase price for down payment.

The developer satisfies the requirements by offering for sale or offering for rent dwelling units. The developer may also convey units to a qualified housing provider or pay a fee in lieu of the required residential workforce housing units.

According to MCC 2.96.040, the in-lieu fee per unit shall be equal to 30 percent of the average projected sales price of the market rate dwelling units and/or undeveloped lots in the development. The in-lieu fee shall be designated in the residential workforce housing agreement and be secured by a lien on market rate units.

The developer can apply residential workforce housing credits accrued from a previous development to satisfy the workforce housing requirement. Credits are issued for each residential workforce housing unit sold or rented to an income eligible individual in the appropriate income group, that is more than the residential workforce housing requirement (Section 2.96.050).

Infrastructure

CPP makes it clear that developing infrastructure (and more of it) is a policy of Maui County: III. I.1.4 Direct growth in a way that makes efficient use of existing infrastructure and to areas where there is available infrastructure capacity. However, it is also clear that the enhancement and maintenance of infrastructure is a county responsibility and the planning, funding, development,

and implementation of infrastructure according to county standards, is the responsibility of developers.

This recommendation is based on, across the nation, the lack of adequate infrastructure being listed as a primary impediment to developing affordable housing. Maui County has experienced this problem for years and continues to struggle with it today. County policy currently places the responsibility for providing new infrastructure of all kinds on developers and users of new developments, including housing. The policy is codified in MCC 2.96, Maui's affordable housing policy.

Workforce housing units developed by a master developer under 2.96 are affected by infrastructure because the value of the market rate units is increased by the infrastructure costs, fees and exactions that affect all development under MCC 2.96.

Streamlining Subdivision and Permitting Processes

The complexity of the subdivision approval and permitting processes, its duplicative nature, and its further complication by State land use provisions have all been cited as major problems for housing and affordable housing developers. The process is difficult to understand, sometimes requiring developers to use experienced professionals to make their way through the system. It is time consuming and causes project costs to rise (as the clock ticks on gap funding). Funders and developers have told us that they encounter greater risks in Maui County than in other counties, and that risk can affect funding.

Long-standing inclusionary housing policies are associated with many regulations and tend to make streamlining difficult. This causes most reviewers to choose fast-tracking and one-stop permitting and approval as the standby solutions. There have been discussions about implementing a "one-stop-shop" for permitting but no formal request for implementation. Recently, DHHC has implemented fast-tracking and a form of multi-departmental meeting that serves the same purpose as a one-stop service, without the heavy commitments, offers guidance and pre-review editing for affordable housing developers and brings together the other department for meet with the developer at the start of the approval process to identify any significant hurdles for the project prior to making major project decisions.

There is substantial agreement that the processes of subdivision and building permit review should be streamlined and that streamlining will benefit everyone involved in the process. That sentiment is longstanding. The literature has talked about streamlining for years and many local studies have recommended it. Years of housing and affordable housing conferences, bringing together housing stakeholders on all sides of the issue, have recommended streamlining State and County processes. The Maui County planning process has treated this issue (MIP, pp. 5-6) and has recommended streamlining (MIP Implementing Action 5.1.3.1, p.8; 5.1.6-Action 2). We are not aware of any major studies that disagree with streamlining and none have recommended against it. We have seen some comments in the past that streamlining is an excuse not to act.

Streamlining can be applied to entitlements, subdivision, and permitting processes at the level of "housing" and at the level of "affordable housing". In the case of affordable housing, the impact

would be to reduce cost and time associated with affordable housing and residential workforce housing. It would make those projects more feasible, shorten the development and construction phases of the projects, and thereby increase the number of affordable housing units in Maui County. In the case of market rate housing and the affordable housing units they must produce under MCC 2.96, streamlining would decrease total project costs and shorten planning, design, construction, and sales time. Other market forces held equal, that would bring down the prices for all new units, and effect downward pressure on all Maui County housing prices. Thus, while some have suggested streamlining for affordable housing projects or only for residential workforce housing projects, it seems a more reasonable approach to apply streamlining across the board.

Based on Literature, Maui County housing policy history, and current issues, we might summarize as follows:

- Maui County has a reasonable and defensible housing objective. The policy recognizes the need for more housing at all levels and shows a preference for development in established urban areas (with jobs, entitlements, infrastructure and zoning) rather than greenfield development or master planned communities.
- Maui County (along with State and Federal agencies) has over-regulated the Housing production process and evolved into an extremely time-consuming review process.
- Maui County's housing policy is inclusionary zoning (IZ). IZ has been found to have some serious drawbacks, especially as an independent housing policy. The County, like many jurisdictions dealing with IZ, now sees the necessity for augmenting or controlling IZ.
    - A major challenge to building affordable housing by relying on IZ is that it primarily produces workforce housing units (80 to 140% AMI). Developers that rely on generating income to achieve a minimum level of return on each project will not develop a low-income rental housing project because of the slow and low-income flow. Therefore, low income affordable housing projects must be subsidized by State and County Government.
- Maui County actively pursues public and private partners in producing housing (especially affordable housing) but does so with what both sides have admitted is a negative attitude toward developers.
- Current policy better serves a slow-growth or no-growth policy than any other (planning model). It pleases NIMBYs and last persons in the door and fails to serve native sons and little guys.

D. STATE AND COUNTY AFFORDABLE HOUSING POLICIES

The challenge of providing residents with affordable and workforce housing is prevalent throughout the State of Hawai'i today. Historically, up through the 1970s, new public housing projects were developed and financed by the Federal, State and County Government. During the Reagan Administration (1981 to 1989), Federal financing for low income housing projects was reduced significantly. In the 1990s, the State of Hawai'i and Counties decided to stop being developers of public housing projects, and instead provide funding and incentives to encourage development. Since that time, development of affordable housing throughout the State has been minimal.

The following table shows that from 2006 to 2016 the percent of households that are crowded and doubled up has been increasing at a steady rate for most of the counties – this is a sign of a lack of housing units that residents can afford. Note that the number of people who are homeless also increased during this time – another sign of insufficient low-income affordable rental units.

Crowding, State and Counties of Hawai'i, HHPS 1992 through 2016

	Year	Total Households	Crowded[a]	Doubled Up[b]	Crowded and/or Doubled Up[c]
Honolulu	1992	247,349	23.2%		32.0%
	1997	272,234	10.6%		27.2%
	2003	292,003	10.1%	10.0%	17.6%
	2006	303,149	8.1%	9.7%	15.2%
	2011	310,882	13.3%	13.8%	22.9%
	2016	317,459	11.4%	11.9%	21.0%
Maui	1992	34,266	26.8%		25.9%
	1997	39,252	10.4%		24.8%
	2003	43,687	11.0%	8.7%	17.3%
	2006	49,484	7.7%	9.6%	15.3%
	2011	54,132	10.7%	13.0%	19.2%
	2016	55,059	9.8%	14.1%	21.4%
Hawai`i	1992	39,789	18.7%		26.0%
	1997	46,271	7.9%		24.3%
	2003	54,644	7.0%	9.3%	14.4%
	2006	61,213	6.9%	11.2%	15.9%
	2011	67,096	8.4%	11.3%	17.2%
	2016	66,989	7.4%	11.1%	16.0%
Kaua`i	1992	16,981	17.4%		26.3%
	1997	18,817	9.1%		25.4%
	2003	20,460	6.0%	12.5%	16.1%
	2006	21,971	6.6%	11.9%	15.5%
	2011	23,201	10.5%	11.7%	18.1%
	2016	23,369	8.9%	11.5%	19.2%
State	1992	338,385	22.2%		30.3%
	1997	376,574	10.2%		26.5%
	2003	410,794	9.6%	10.0%	17.1%
	2006	435,818	7.8%	10.0%	15.3%
	2011	455,311	12.1%	13.2%	21.4%
	2016	462,876	10.5%	12.0%	20.2%

Source: Housing Demand Survey, 1992, 1997, 2003, 2006, 2011, 2016.
a. Based on more than one person per room for 1992-2011, then 2 persons per bedroom for 2016.
b. More than one family group in a single housing unit (See Glossary).
c. Before 2003, question asked if a household was crowded or doubled up. After 2003, HHPS measured crowded and doubled up separately and then combined them.
Source. Estimates from ACS 5-year data 2014. "Housing stock" includes occupied housing units and vacant plus available units. Units with no payment include owner units with paid mortgages and units occupied without payment of cash rent.

The table below shows that a particularly daunting challenge for the State and Counties is providing housing for households with income less than 80 percent AMI. As noted earlier, the IZ approach to housing policy tends to benefit workforce housing for households with 80 percent and higher AMI, rather than lower income rentals for households below 80 percent AMI.

Housing Demand by Income Classification, Counties & State of Hawai‘i, 2015-2025

		HUD Income Classification (% of Area Median Income)								Total
		Less than 30	30 to 50	50 to 60	60 to 80	80 to 120	120 to 140	140 to 180	180+	
State of Hawai‘i		15,511	12,507	6,352	9,458	8,291	5,378	1,695	5,501	64,693
	Honolulu	6,105	4,414	2,364	4,115	4,075	2,130	867	1,778	25,848
	Maui	2,947	2,775	1,414	2,393	1,626	1,493	500	801	13,949
	Hawai‘i	4,966	3,917	2,292	2,200	2,193	1,295	122	2,624	19,609
	Kaua‘i	1,493	1,401	282	750	397	460	206	298	5,287
		Income Classifications								Total
		Less than $30k	$30k to $45k	$45k to $60k	$60k to $75k	$75k to $100k	$100k to $150k	More than $150k		
State of Hawai‘i		16,998	13,691	6,984	10,293	9,054	5,853	1,820		64,693
	Honolulu	6,556	4,740	2,539	4,419	4,376	2,287	930		25,848
	Maui	3,127	2,944	1,500	2,539	1,725	1,584	530		13,949
	Hawai‘i	5,733	4,522	2,646	2,540	2,532	1,495	142		19,609
	Kaua‘i	1,582	1,485	299	795	421	487	218		5,287

Source: Housing Demand Survey and DBEDT Housing Demand 2015-2025

Each county has undertaken a housing policy approach similar to Maui County’s inclusionary housing policy. [Appendix D describes this in greater detail.]

Honolulu is distinguished by its true Inclusionary Zoning policy, i.e., the policy is applied when a request for a change in zoning appears at the Department of Planning and Permitting. Other counties apply their inclusionary zoning policy upon a request for permitting

On Maui, the 2.96 policy is applied to residential and resort developments. The same is true of Kaua‘i. Honolulu policy applies only to residential developments, and Hawai‘i County policy applies to residential, resort, and commercial/industrial projects. Maui and Kaua‘i target HUD income levels from 80 to 140 percent of AMI. Honolulu targets 80 to 120 percent of AMI, and Hawai‘i County includes units affordable to households with incomes between 60 and 140 percent of AMI.

The County of Kaua‘i approved Ordinance No. 860 to support its affordable housing efforts. The purpose of this ordinance is to “establish by law a housing policy in furtherance of the goals and objectives identified for the Kaua‘i County Housing Agency in Section 2-1.16 of the Kaua‘i County

Code 1987. Ordinance No. 860 includes workforce housing requirements for residential and resort developments, and codifies procedures used to administer housing development programs. The Ordinance is effective June 10, 2008 as Ordinance No. 860.[12]

Note that while this policy is now available to developers on Kaua'i, according to Gary Mackler, Development Coordinator for the County, none of the most recent developments have used the 860 option. Instead, projects have come together through negotiations using a combination of waivers that were already available in Kaua'i County codes.

Recently the City and County of Honolulu have undertaken actions to add low-income/affordable rental units by acquiring and renovating older underutilized multi-family units and one commercial property. Like Kaua'i, these efforts have been done outside of specific policies.

State and County Government Agencies

The State and Counties have overlapping involvement with housing issues.

- The State's housing agency, the Hawai'i Housing Finance and Development Corporation (HHFDC), has broad powers to develop, encourage, own and operate housing. As a State agency, it can approve projects and waive a wide range of exactions and requirements to promote affordable housing through the "201H-038" process. HHFDC is also a major source of funding for affordable housing units, particularly targeting households with less than 60% AMI.

- The State Land Use Commission reviews petitions to change the classification of land, notably for large development projects. When it approves a change, it can attach detailed conditions to the approval, including demands that a share of housing be priced for low- or moderate-income Hawaii resident buyers. A typical condition may be that the developer must develop an affordable housing plan acceptable to the County before the property is zoned or subdivided. However, the Commission could impose its own guidelines, and has done so in the past. In the early 1990s, the Land Use Commission imposed the 60% affordable criterion for housing projects.

- The Department of Hawaiian Home Lands (DHHL) controls more than 200,000 acres. Its mission is to use its assets on behalf of Native Hawaiian beneficiaries, who may be awarded residential, agricultural or pastoral leases. As a State agency founded by an Act of Congress, DHHL is not subject to County authority. In the past, the Department's most common form of transfer has been a 99-year lease for a dollar a year.

[12] https://www.kauai.gov/Housing

- The Counties control zoning, subdivision, and building permits. They have personnel to review plans and monitor construction. They administer the Section 8 rental program and several other programs to support renters and homeowners. They also maintain the Real Property Tax databases in which all the lands of the state are listed.

State and County Incentives for Inclusionary Requirements

The goal of an inclusionary requirement is to enable developers to earn "normal" profits while capturing some share of "excess profits" for public benefit by building workforce housing that would have otherwise not been built. Any incentive a city can offer to make development more profitable enables the imposition of a higher inclusionary requirement than the developer would otherwise think was feasible.

Government can encourage the development of affordable housing by offering incentives to developers to offset the costs to the developer of providing below market rate workforce housing units. Incentives could be impact fee reimbursements, waivers or postponement plans; administrative construction fee exemptions; development plan fee waivers; priority processing for qualifying projects; sales tax rebates; property tax abatement; low income housing tax credits; private activity bonds to finance construction; density bonus programs that allow more housing units per acre than would otherwise be permitted; alternative design standards and other incentives.

Impact fees are charges that are designed to compensate a community for the cost of extending the infrastructure to support new development, e.g., to help pay for the additional roadway capacity, water and waste water facilities, schools, parks, and fire protection facilities. Also included are programs that provide incentives that pay for the purchase, development or rehabilitation of rental housing that is targeted to older adults, people with disabilities, low income people in rural areas and other special populations.

Some communities offer incentives to offset the cost of providing affordable housing units, but most incentives are seen as a way to reduce but not totally eliminate the economic burden to developers.

- **Density bonus** is the most common incentive is the ability to build increased density allowing increased units per acre, per floor or increased height which would allow more units to be built on a site.
- **Expedited processing** moves projects with an affordable component to the front of the line in zoning, planning and building permit processing. Faster processing reduces risk and financing costs and allows developers to bring projects to market faster. However, in practice it can be difficult to implement, especially if this incentive is given out to a high share of the projects and resources to process permits are limited.
- **Fee waivers** on required payments such as permits, impact fees, or planning fees.
- **Parking requirement reduction** to decrease the cost of construction and provide flexibility in design.

- **Tax Abatement** is an option as property taxes are a significant annual expense associated with housing. Some communities offer a partial abatement or complete waiver of property taxes to owners of projects with affordable housing.

State of Hawai'i Incentives

Fast Tracking Process Exemptions

The State of Hawai'i has created incentives for affordable housing production through legislation to "fast track" these projects. Under HRS 201H-38, the Hawai'i Housing Finance and Development (HHFDC) can exempt an affordable housing project from statutes, ordinances and rules related to planning, zoning, and subdivision, so long as the project is not disapproved by the County Council and the Land Use Commission within a 45-day period after submission. Quick processing and exemptions from requirements can allow developers to produce units at less cost. The fast-track process has risks for all parties.

Exemption from General Excise Tax

HI Revised Statutes 201H-36(a), in accordance with section 237-29, states that the corporation may approve and certify for exemption from general excise taxes any qualified person or firm involved with a newly constructed, moderately, or substantially rehabilitated project:

- (1) Developed under the sponsorship of a private nonprofit organization providing home rehabilitation or new homes for qualified families in need of decent, low-cost housing; or
- (2) Developed by a qualified person or firm to provide affordable rental housing where at least fifty per cent of the available units are for households with incomes at or below 80% of the area median family income as determined by the United States Department of Housing and Urban Development, of which at least 20% of the available units are for households with incomes at or below 60% of the area median family income as determined by the United States Department of Housing and Urban Development; or
- (3) Effective from July 1, 2018, to June 30, 2022, developed under a contract described in section 104-2(i)(2) by a qualified person or firm to provide affordable rental housing; provided that:
    - (A) The allowable general excise tax and use tax costs shall apply to contracting only and shall not exceed $7,000,000 per year in the aggregate for all projects approved and certified by the corporation; and
    - (B) All available units are for households with incomes at or below 140% of the area median family income as determined by the United States Department of Housing and Urban Development, of which at least 20% of the available units are for households with incomes at or below 80% of the area median family income as determined by the United States Department of Housing and Urban Development.

Low-Income Housing Tax Credit

The Low-Income Housing Tax Credit (LIHTC) Program is a financing tool for private developers and non-profit entities to construct or rehabilitate affordable rental units. Federal and state tax

credits may be used to obtain a dollar-for-dollar reduction in income tax liability for 10 years. The tax credits may be sold to a qualified investor in exchange for an equity investment in the project. The federal LIHTC is a program administered by the Internal Revenue Service. The HHFDC is responsible for the administration of the LIHTC program for the State of Hawai‘i. A state LIHTC equal to 50 percent of the federal LIHTC is also available to qualified applicants.

To qualify for a tax credit, owners must meet these general guidelines in addition to other program requirements (see Section 42 of the Internal Revenue Code for specific eligibility):

- Income restriction: The tax credit is available only for units rented to low-income occupants. This means that a project must have:
  - at least 20% of its units rented to households with incomes of 50% or less of area median income; or
  - at least 40% of the units must be rented to households with incomes of 60% or less of area median income.
- Rent restriction: Low-income rents are restricted based on the number of bedrooms in the unit and the area median income as established annually by HUD. If the tenant pays for utilities, the rent must be adjusted by the applicable utility allowance.

Honolulu City & County (Ordinance 18-1)

- **Real property taxes** are kept at the current assessment during the construction and marketing period.
  - Any incremental increase in valuation of the real property primarily attributable to the qualifying construction work will be exempt.
  - Based on the assessed value of the property for the tax year immediately preceding the tax year of the building permit.
  - Exemption expires three years after building permit, issuance of certificate of completion, or issuance of certificate of occupancy.

- **Real property tax exemptions** that apply exclusively to affordable housing rental dwelling units during the period in which the rental unit is subject to an affordable housing agreement.
- **Waiver of wastewater system facility charges**.
- **Waive plan review and building permit fees**.
  - For the residential portion of the project equal to the percentage of affordable dwelling units.
- **Waive park dedication requirements**.

Kaua‘i County

Kaua‘i also has incentives to encourage developers to satisfy workforce housing requirements. The County of Kauai’s incentives work to reduce the developer’s costs by lowering the number of workforce housing units required to satisfy the workforce housing requirements.

- I**ntegration** – If the workforce housing units are interspersed with the market units in the project then the requirement is reduced by 25 percent of the previous requirements.

- **Single-Family Units** – If all the required units are single-family detached units for sale then the requirement is reduced by 25 percent; if the units are single-family attached units then the requirement is reduced by 20 percent.
- **Building Green** – If all units in the project are built with green principles then the requirement is reduced by 0.5 to 5 percent.
- **Low-Income Rental Units** – Rental units may be substituted for for-sale units. The period of affordability is 40 years and 1) if workforce housing unit is affordable to households earning no more than 60 percent of Kaua‘i median household income, each rental unit will be equal to two required workforce housing units; or 2) if housing unit is affordable to those earning no more than 80 percent of median income, each rental unit will be equal to 1.5 required units.
- **Density Bonus** – The County also has a density bonus of increasing the total number of allowable residential units on a project site by 10 percent and decreasing the minimum lot size by 10 percent, if all workforce units are integrated with the market units. This bonus is not available in the agricultural district or rural districts.

Hawai‘i County:

- **Section 11-8. Density bonus** – Any project subject to an affordable housing requirement under this chapter that fulfills its housing requirement by constructing affordable dwelling units for sale or rent or by donating finished lots with infrastructure shall be entitled to a density bonus increasing the total number of residential units that may be constructed on the site by ten percent, and decreasing the minimum lot size by ten percent, compared to the number of units otherwise allowable and the minimum lot size as established by the zoning code.
- **Section 19-87. Exemption for low- and moderate-income housing** – Real property used for a housing project is exempt from real property tax, except the minimum tax.

Recommendations

In Hawai‘i, in addition to the general excise tax exemption allowed under HRS 201H-36, real property tax exemptions and other exemptions (e.g., income tax) should be considered for specifically designated affordable/workforce housing projects. For example, real property tax incentives may include property tax exemptions or deferments with specific time limits and/or dollar amounts, subject to existing statute or ordinance.

Those in opposition to incentives state that, if inclusionary housing requirements are modest enough to be absorbed by land prices, then any incentives merely move the cost from landowners back onto the public. Incentives such as tax abatements and fee waivers reduce revenues available to jurisdictions just as cash subsidies to development projects would. Even planning incentives such as density bonuses, which appear free, result in increased infrastructure and other public costs.

E. FUNDING FOR AFFORDABLE HOUSING PROJECTS

Funding Options

Funding sources to be considered for base funding of projects includes Federal, State, County and Private grant money. Access to most of these sources includes a lengthy application and approval timeline, requiring work towards these funding sources to start early. All appropriate sources should be pursued in tandem when possible. Gap funding includes below market rate loans and bonds, as well as Low Income Housing Tax Credits, to be used when all grant opportunities have been completed.

Base Funding

The **Affordable Housing Fund** currently has three sources of funding: funds paid by developers in lieu of providing residential workforce housing units, two percent of real property tax revenues, and any additional monies donated to the fund.

Federal dollars potentially received through the **Notice of Funding Availability (NOFA)**, released each July, can be accessed by submitting a project proposal to the local Continuum of Care (CoC) for consideration. If the project is found to be competitive it may be submitted with the CoC's funding request package in September to HUD and if selected, funded partially or fully. More commonly, renewal projects are given an advantage within the CoCs selection process. Money can, however, be reallocated from old, less successful projects, to partially or fully fund new projects, through this process. In addition to general program type funding, specific opportunities for funding under the NOFA include **Supportive Housing for Elderly**, **Supportive Housing for Persons with Disabilities**, **Assisted-Living Conversion Programs**, **Rural Rental Housing Program,** and special bonus projects each year. If declined by the local CoC to be included in the collective NOFA application, projects may apply directly to HUD as Solo Applicants.

Funds from the **National Housing Trust Fund (HTF)** and **HOME Program Funds (HOME)**, are federal funds split between City and County of Honolulu and outer island counties, 50/50, each year. The outer island allocation rotates through each County each year. Maui County received this funding in PY2017 of $1,425,000 from the HTF and $3,000,000 from the HOME program and will not receive funds again until PY2020. Funds may be used for the production, preservation, and rehabilitation of affordable rental housing through the acquisition, new construction, reconstruction, or rehabilitation of nonluxury units.

Federal **Community Development Block Grant (CDBG)** funding can be accessed by the county annually and in the most recent program year amounted to $1,803,099. This program requires that at least 70 percent of funds be used for activities that benefit low and moderate income persons and meet one of the national community development objectives. These grants are flexible and can be used to support projects in many ways, including infrastructure costs.

State funded grants through the legislative **Grant in Aid** process is an opportunity to fund projects using state resources, however, a low percentage of applicants are granted approval.

Funding from independent private grant foundations should also be pursued.

Gap Funding

Additional state funds can be accessed through the consolidated application for financing with HHFDC. This includes below market rate interim construction financing through the **Dwelling Unit Revolving Fund**, equity gap low interest loans through the **Rental Housing Revolving Fund**, and the **Hula Mae Multi-Family Bond** providing tax exempt revenue bonds.

Private Activity Bonds issued by the state are capped but play a key role in financing affordable housing. The state issues bonds and uses the proceeds from the sales to make loans to developers to build housing. As developers make payments on their loans back to the housing agencies, the latter repay the bondholders. Only five percent of the bond cap total is designated for Maui County, with an additional 50 percent allowed to be allocated anywhere in the state.

Low Income Housing Tax Credit (LIHTC) continue to play an important role in funding affordable housing projects. The 2017 federal tax cuts may lower the effectiveness of this method, by lowering the tax liability of corporations that may have previously invested in these programs, but to what level is yet to be seen. Before applying, secure or concurrently apply with HHFDC for any tax-exempt private activity bonds or loans for the project and secure base funding. Overall project feasibility, which relies mainly on financial likelihood of the project's completion, accounts for almost 20% of the criteria score when deciding what projects are awarded LIHTCs. The least amount of credits to make the project feasible will be granted, if any. The application deadline for volume capped LIHTCs (9%) is June 15 and the non-volume capped LIHTCs (4%) are accepting on a rolling basis throughout the year. Once approved, pursue private investors to purchase the project credits.

Once a developer has site control, they should apply for 201H with the County or with HHFDC. This is an expedited processing tool that allows for greater cost savings for the project, not a direct funding mechanism. The State requires that projects are primarily for households at or below 140 percent area median income. Counties may maintain more strict requirements.

Expanding Resources

The **Affordable Housing Fund** is a major source of funding for the sector. Considering the current ways in which money is raised for this fund, opportunity to expand funding from traditional sources includes increasing property tax contributions from two to four percent as well as increasing the charge per undeveloped residential workforce housing unit for developers. Considering the limitations of the current sources of the fund, additional sources could be considered below.

Imposing a **Transfer Tax**, as a percentage tax or a flat fee on market rate property sales could be an additional way to raise money for the affordable housing fund. Limiting this to only apply on property sales over a certain price point or on second homes will prevent the tax from effecting low and moderate-income buyers.

Impact or Inclusionary Fees would be fees on new development to cover the "impact" of additional density or use in a community caused by the new development. Affordable housing costs can potentially be included in these impact charges and capital can be raised for the affordable housing fund, as well as for infrastructure. Exemptions of these fees would be created for affordable housing projects.

Inclusionary Housing Ordinances (IHO) would require market rate developers, in areas with active IHOs, to put new below market rate units on site within their development or within a mile of the permitted project, alternatively, they would pay a high fee into the affordable housing fund. IHOs allow policy makers to encourage focused affordable housing development in particular areas.

Inclusionary Housing Fees (IHF) are like IHOs but based by the percent of housing units produced rather than by zone in which units are being developed. All developers pay into fund or work with non-profits to develop units at other locations. This approach is less targeted and provides less incentive to develop in preferred areas, however, being applied to all developments, it also generates more housing or funds.

Additional Financing Mechanisms

Real Estate Investment Trusts (REITs) are publicly traded investment funds that often invest in affordable housing projects, though they prefer to own rather than partner. Based off data from the SEC, only 6.5 percent of REITs investments in Hawai‘i are in residential real estate but there are more than 36 REITs operating locally, with assets valued at over $7.8 billion. Accessing this source of funding could create new opportunities in the sector.

The **Community Re-investment Act** encourages banks and financial institutions to help meet the needs of borrowers in all segments of their communities, with a focus on low and moderate-income populations. The non-specific evaluation process for CRA compliance allows for investments in affordable housing within the community, such as below market rate loans being offered to developers of affordable housing, to be considered during the review process. Below market rate loans motivated by CRA compliance should be pursued for all aspects of project funding.

Tax Increment Financing (TIF) and **Infrastructure Financing Districts (IFD)** both employ Value Capture Bonds (VCB), generating funds using current or future property taxes. TIFs divert future property tax revenue increases from a defined area or district toward an economic development project or public improvement project in the community. TIF subsidies are not appropriated directly from a city's budget, but the city incurs a loss through foregone tax revenue. IFDs divert existing property taxes to a special financing district for redevelopment. Traditionally property owners vote to approve development decisions with special funds, and so, as an affordable housing development tool it is weak as the projects are more likely chosen to relate to infrastructure. Both TIF and IFDs are not short-term viable options as they would require significant time to adjust state and local rules surrounding the legality of such funding techniques.

F. BARRIERS TO DEVELOPING AFFORDABLE HOUSING

Developing affordable housing requires many participants from the public, private and government sectors. The strategy was to interview representative members of all these groups and find out how they see the AH development process in Maui County. Interviewees were asked about the roles they have played, how things went, the major problems they encountered, the things that worked, and the aspects of housing development in Maui County that need to be changed.

We talked to about 40 people or agencies during the project. A list of the individuals interviewed can be found in Acknowledgements. Interviewees were assured that specific comments would not be attributed to any individuals or agencies interviewed to encourage them to be candid and as direct as they liked.

The average interview time was about an hour and many of our subjects talked to us several times at our initiative or theirs. They sent us documents, data, and pieces of information they remembered after we left their offices. Our subjects were interested, ready with their opinions, and offered solutions when they had them. Many were opinionated; some were animated; most were critical of the system as it stands.

Three prevalent themes emerged as the major barriers to developing affordable housing in Maui:

- **Rate of Return** – developers, even not-for-profit entities need for projects to “pencil out” to achieve at least a minimum rate of return. For profit developers need to satisfy their owners/shareholders. Not-for-profits need to at least break even and more to ensure their ongoing operations. So, requirements that decrease revenue or increase costs reduces the rate of return and they will no longer commit to the project.

- **Time** – it takes too long to get through the necessary zoning and permitting processes (State and County). The process almost always takes more time than scheduled which adds to development costs and increased uncertainty for funders.

- **Certainty –** for projects to get the funding required to start and complete a project requires potential funders (both private and public) to have faith that the project will be completed as designed, within the time frame scheduled and with minimal changes. The lower the level of certainty surrounding a project, the higher the minimum rate of return required to attract funders.

Overall Developers rely on similar calculations to determine if a housing project is feasible for their organization. Developers work to achieve at least a minimum rate of return. Rate of Return is calculated by dividing the sum of revenue by the sum of development cost. The following shows examples of the type of revenue and costs used in the calculations. Note that this is a simplistic presentation, but it will serve as a foundation to highlight barriers to development.

Rate of Return

How developers "pencil out a project."

Revenue Sources / Development Costs = Rate of Return

Revenue Sources include:

- Rent (monthly income spread out over years)
- Sales price of a house

Development Costs include:

- Land & Related Costs
  - Acquisition
  - Agency & Utility Fees
  - Surveys & Studies (pre-development) required for changes in zoning within the State Land Use Commission and Maui County Land Use Committee
- Hard Cost
  - Brick & Mortar Costs
  - Contractor Fee
- Soft Cost
  - Design,
  - Engineering,
  - Financing,
  - Administrative Fees
  - Developer & other Fees
  - Process to Move the Project Through the Permitting Stages
- Operating Costs
  - Lease & Pre-conversion
  - Commissions
  - Marketing & Leasing
  - Maintenance
  - Model
- Contingency

Rate of Return

- The return to investors for supporting this project. The greater the risk of the project not being completed, and/or not being completed in a timely manner the higher the return required

Revenue Sources

As noted earlier Maui County Affordable Housing Program requires any development or conversion to provide a given percent of affordable units.

Qualified Project	Any development, including the subdivision of land and/or the construction of single-family dwelling units, two-family dwelling units, multi-family dwelling units, or hotels.			
	Ten or more lots, lodging units, time share units, or dwelling units. A conversion of ten or more units to dwelling units or time share units. Developments that increase the number of lodging or dwelling units in a hotel by 10 or more.			
Units Required	25% of the market rate units [20% of total units]. 20% if units remain available only to income-qualified groups in perpetuity. [16% total]			
Unit Distribution		Below Mod	Moderate	Above Mod
	For sale	30%	50%	20%
	For rent	33%	33%	33%
Sustainability	**For sale**	10 years	8 years	5 years
	For rent	30 years	30 years	30 years

As shown in the graphic below the levels of rent and prices of housing units varies significantly by household AMI. If a project includes units targeting moderate income households, their market rate units are more likely to be at the luxury level to offset the lower revenue from those moderate households. This creates a housing challenge for the middle market rate housing in the County.

Maui County Housing* Family of Four, 2 Bedroom, 4% prevailing interest rate	Type of Unit**	Type of Developer
Market to Luxury 140%+ More than $113,960 Rental: above: $2,564/mo; SFD above $533,970; MF above $480,490	Market to Luxury	Luxury & Market Rate Developers
Workforce 101 – 140% Equal to/less than $113,960 Rental: max of $2,564/mo; SFD max $533,970; MF max $480,490	Rental or For Sale	Workforce Housing Developers Projects likely to be a mix of market and affordable housing; multi-family or smaller single-family dwellings: rentals or for purchase.
Moderate Income 81-100% AMI Equal to/less than $81,400 Rental: max of $1,832/mo; SFD max $381,395; MF max $343,230	Rentals Low priced MFD or SFD	
Low Income 51 -80% AMI Equal to/less than $65,120 Rental: max of $1,465/mo; SFD max $305,150; MF max $274,635	Subsidized Rentals Low priced MF	Low-Income Housing Developers/State/County With Federal & State subsidies for units targeting <60% AMI Often requires donated land
Very Low Income 31% -50% AMI Equal to/less than $40,700 Subsidized Rent: max of $916/mo	Subsidized Rentals	
Extremely Low Income ≤30% AMI Equal to/less than $24,420 Section 8; max of $550/mo	Section 8 Public Housing	State & County Public Housing

The guidelines also tend to lead developers to support their affordable housing requirement to provide for sale units rather than rentals. Income from for sale units are recognized soon after the units are constructed. Rental income comes in monthly at much lower amounts. The time value of money reduces the revenue to be recognized from rental units.

Development Costs

The following are types of costs that interviewees described as making projects too expensive to undertake.

Infrastructure

Developers, housing advocates, and government personnel were in substantial agreement that the requirement that a developer be responsible for all on-site and off-site infrastructure improvements was a significant impediment to the construction of affordable housing units in the County of Maui. The cost of these improvements makes it difficult to design, fund, and construct affordable units.

With respect to on-site improvements, the requirement is like those applied in many other districts in Hawai‘i and across the nation. Off-site improvements are often considered the responsibility of the community (the government). Stakeholders were more likely to be critical of Maui County's requirement that they be responsible for the off-site improvements.

They also made a distinction between development inside and outside of the growth boundary. The requirement to pay for off-site improvement at some distance from the urban boundary was more serious but perhaps more acceptable. The requirement to provide off-site improvements inside the growth boundary, and especially in developed areas may be less expensive, but less acceptable.

Funding Costs

Most developers were able to find the sources of funding that they needed for projects that addressed housing needs targeting 80 percent and higher AMI households. Even low-income affordable developers said they had funding for their projects initially, however because of lengthy delays in the entitlement and approval process, funding sources dropped out or required a higher rate of return on their funds.

For affordable rental projects, particularly those targeting below 60 percent AMI, there was recognition that State and/or County subsidies were required for projects to become a reality. Based on interviews with developers and HHFDC it is estimated that the average cost to develop a low income affordable rental unit (including land acquisition) runs about $400,000 to $500,000 on average for a multi-family development with a mix of one, two and three-bedroom units. Funding frequently included grants, donated private or public land, funds from LIHTC, HOME or HHFDC, and Maui County Affordable Housing Trust Fund.

LIHTCs have lower value beginning in 2018 because of the corporate tax cuts put into place. This requires more time and energy being put into finding financing options.

Marketing Restrictions

The operational cost of complying with Maui's Affordable Housing Program (Section 2.96.090) is quite specific with regards to buyer qualifications for affordable units and this adds to development costs. For 90 days after the sale of affordable units has been announced, units or lots must be offered to residents on a waitlist for the group for which they have been priced (e.g., "below moderate income"). Should the units not sell in that time, they can be offered for the same price to the next more affluent income group (i.e., to "moderate income" residents for housing that has failed to sell to "below moderate income" buyers) for another ninety days. Units can be offered to the next higher income group every 90 days until the units are sold or there are no more income group available. If the units still have not sold, units will be offered to nonresidents on the wait list. Any units that remain unsold may be offered at market rate without deed restrictions. The County will receive 50 percent of the difference between the original sale price and the actual market price. The unit would still be counted as meeting the developer's obligation to produce affordable housing.

Time

The entitlement and approval process for a housing development that is 100 percent affordable housing or an IZ development with some affordable units is very long.

The entitlement process is too lengthy because there are four layers:

- State Land Use Commission Plans,
- Zoning Plans,
- General Island Plan, and
- Community Plan. When maps from each are superimposed, they cannot be reconciled and thus the plots cannot be developed.

Going through the State Land Use Commission requires a minimum of a year and often requires an Environmental Assessment or Environmental Impact Study which add time and costs. Additionally, a developer will be required to go before the County Council Land Use Committee to change zoning. The process to prepare for this submission can take another year.

Suggestions to overcome this barrier included identifying properties that can be up-zoned for affordable housing now rather than waiting for landowners to apply on their piecemeal requests for change in zoning.

The permitting process has been identified as a lengthy process. Delays have led to a Fast Track directive to expedite permit review for workforce housing projects

All proponents for affordable housing interviewed identified a strong anti-development sentiment throughout Maui County. These groups/individuals show up at community meetings and public hearings to push back against development, particularly in their neighborhood. At times elected officials have yielded to these groups and have required developers to conduct additional studies and/or community meetings.

Even if a project is submitted to Maui County under 201H, developers have reported that few actual applications are heard by the Land Use Committee each year. The reason for this is unclear, but it appears to be related to scheduling of Committee meetings – ensuring that there is a sufficient number of meetings within the 45-day limit. If a developer pushes to have their project submitted to the Committee, the understanding is if it does not fit within the schedule the project will be denied.

Certainty

Being confident that the process to have a project reviewed and approved by County Departments and Council has a reasonable, pre-determined time frame, known and reasonable conditions will increase the certainty of projects being developed. Certainty is reduced when:

- Plans have been reviewed and approved by staff, yet it is unclear whether the Council will approve the project. The Council has been known to add conditions to projects even after the projects have been approved by Departments. These conditions often increase costs, which leads to a need to find additional financing which increases time. This uncertainty near the end of the process is an added risk that makes developers hesitant to invest the time and money into the process;
- The process takes too long and the added time means higher costs for the project;
- Zoning and ordinances are too prescriptive, too narrow in their focus which makes them difficult to comply with, especially early in the process. They need to be broader with greater flexibility.
- The Maui Community Plan indicates where housing should be built, the developer follows the requirements, but frequently the NIMBY process wins out.
- Developers can walk away from projects if they don't pencil out. Add too many costs, delay too long and the project won't work out - financing will be difficult.

Interviewees were clear that most of the barriers to development could be overcome if the County better understood what developers must consider when determining the feasibility of a project and if the County had someone with the responsibility and authority to negotiate the terms of projects that worked for both the developer and the County. Note that many developers were willing to share their project pro forma with the County with an understanding that it would remain confidential. This will enable the County "negotiator" to understand where flexibility in County requirements will be necessary to make the project happen.

This issue was tied to the concept of "partnership" between developers and government agencies who were both interested in providing affordable housing for the people of the County. Developers reasoned that the two should work together to solve problems of off-site infrastructure development. Some government stakeholders could understand that concept even while they worried about how to fund such large projects. Other government stakeholders were less flexible and maintained a view that developers should fund all infrastructure improvements.

G. POLICY REVIEW

Current Housing Policy in the County of Maui

As noted earlier, Maui County housing policy history, and current issues, we might summarize as follows[13].

- Maui County has a reasonable and defensible housing objective. The policy recognizes the need for more housing at all levels and shows a preference for development in established urban areas (with jobs, entitlements, infrastructure and zoning) rather than greenfield development or master planned communities.
- Maui County (along with State and Federal agencies) has over-regulated the Housing production process and evolved an extremely time-consuming review process.
- Maui County's housing policy is inclusionary zoning (IZ). IZ has been found to have some serious drawbacks, especially as an independent housing policy. The County, like many jurisdictions dealing with IZ, now sees the necessity for augmenting or controlling IZ.
- Maui County actively pursues public and private partners in producing housing (especially affordable housing) but does so with what both sides have admitted is a negative attitude toward developers.

Because of these policies, Maui County's inability to produce affordable housing for households with incomes below 140 percent of HUD AMI has reached crisis proportions.

- Exemptions from regulations and fees vs. rewriting housing policy
- Infrastructure as impediment vs. infrastructure as a fundamental element of housing planning
- Funding as an impediment vs. funding as an element of planning/policy
- Structuring administration for affordable housing development.

[13] This is a gross simplification, written with all the benefits of hindsight, and is in no way intended to reflect poorly on any person or agency involved in developing housing or affordable housing for Maui over the past 40 years. Its most basic findings, however, are difficult to ignore and few would disagree.

Current policy better serves a slow-growth or no-growth policy than any other (planning model). It pleases NIMBYs and last persons in the door and fails to serve native sons and little guys.

1. Housing Policy Development is Long-Range and Comprehensive

Housing policy is complex, dispersed, and entrenched. It will require a comprehensive approach and sustained effort to redesign the entire policy. History has shown that piecemeal change may not work well.

The Title 19 Zoning Reform provides an excellent opportunity to redevelop Maui County Housing Policy.

Getting some affordable housing projects on the board and completed does not require redeveloping or revamping housing policy for Maui County.

2. Housing Process can be Short-Range and Specific

Getting housing projects on the board may not require any formal housing policy change.

It requires: (a) selecting properties with few impediments; (b) exemption from regulations, fees, and taxes; (c) expedited review and approval; and single-minded pursuit of those units.

That may require some alterations to current process, including limiting the power of Departments to add conditions without an appropriate nexus, limiting the opportunity for council to add conditions, and more.

3. The Housing Process Needs to Have Different Strategies based on Target Markets and Related Types of Development

The following chart which has evolved throughout this report describes how different housing market targets require different types of units that are produced by different types of Developers, requiring different Action Steps on behalf of the County. This does not require different policies be enacted because 2.96 already allows for exemptions. What is required is that the Development Coordinator for the County understand the challenges of a project and applies the exemptions when appropriate.

Maui County Housing* Family of Four, 2 Bedroom, 4% prevailing interest rate	Type of Unit**	Type of Developer	# Needed on Maui by 2025***	Strategies and Action Steps
Market to Luxury 140%+ More than $113,960 Rental: above: $2,564/mo; SFD above $533,970; MF above $480,490	Market to Luxury	Luxury & Market Rate Developers	1,301	2.96 Workforce Housing
Workforce 101 – 140% Equal to/less than $113,960 Rental: max of $2,564/mo; SFD max $533,970; MF max $480,490	Rental or For Sale	Workforce Housing Developers Projects likely to be a mix of market and affordable housing; multi-family or smaller single-family dwellings: rentals or for purchase.	2,306	Partner with Developers. **Negotiate** to maximize the number of affordable units relative to market units. May require providing incentives such as waiving fees, State tax, County taxes, exemptions from funding offsite infrastructure, etc. Developer should share pro forma (to remain confidential) to ensure that County waivers are not resulting in excessive profits.
Moderate Income 81-100% AMI Equal to/less than $81,400 Rental: max of $1,832/mo; SFD max $381,395; MF max $343,230	Rentals Low priced MFD or SFD		813	
Low Income 51 -80% AMI Equal to/less than $65,120 Rental: max of $1,465/mo; SFD max $305,150; MF max $274,635	Subsidized Rentals Low priced MF	Low-Income Housing Developers/State/County With Federal & State subsidies for units targeting <60% AMI Often requires donated land	3,807	County provides the land, goes through the permitting process, and issues an RFP seeking a low income housing developer. Likely a not-for-profit to oversee development & management. Will require fee waivers, infrastructure installation, and incentives. Federal & State subsidies for units targeting <60% AMI
Very Low Income 31% -50% AMI Equal to/less than $40,700 Subsidized Rent: max of $916/mo	Subsidized Rentals		2,775	
Extremely Low Income ≤30% AMI Equal to/less than $24,420 Section 8; max of $550/mo	Section 8 Public Housing	State & County Public Housing	2,947	Identify County/State Parcels Work with Hawai'i Public Housing Authority to develop project. Section 8

III. AFFORDABLE HOUSING POLICY RECOMMENDATIONS

This study begins from the proposition that the housing situation in the County of Maui has reached a critical point. Since 2005, housing supply in the County has lagged housing demand every year. In 2016, demand exceeded supply by 13,949 units[14], which would require producing about 1,550 housing units per year between 2015 and 2025. The State's latest estimate shows that Maui's housing market must produce 1,600 units per year between 2019 and 2025 to meet the needs of Maui's growing population. As shown in the chart on page 36, the need for affordable housing for households with incomes less than 80 percent AMI makes up 68 percent of the total demand.

Maui County housing policy, having been in place during the period of shortage (2005-2017) is seen as the root of todays' housing problems. It is also true that Maui County's housing policy was characterized by significant regulation during those years and regulation has long been associated with attenuated supply. As early as 2003, HHPS said regulation was related to high housing prices. By 2013 regulation was listed among the causes of an excess of demand over supply. By 2016 it was the primary cause of supply shortages. Now scholars and practitioners agree that regulation is the major problem in the nation's housing crisis. That viewpoint is prevalent in Hawai'i as we see housing experts speak out against over-regulation and electoral candidate debates find all sides favoring the deregulation of housing policy.

The County has recognized the regulation issue and has been working toward reducing the regulatory burden on affordable housing for the last decade. That effort focused first on making affordable housing projects exempt from many regulatory barriers and second on progressively reducing the regulations on workforce housing policy.

Maui Housing Policy

The Maui County Charter (Charter) establishes the Department of Housing and Human Concerns with the responsibility for housing. The Countywide Policy Plan (CPP) sets forth guidelines for housing policy especially in Section 5. The Maui Island Plan (MIP) adds detail to the policy (Section 5) and merges the Maui experience and community values with housing policy. The Maui County Code (MCC) codifies the policy in several titles. Title 2.86 contains the affordable housing codes and Title 2.96 codifies Maui's residential workforce housing policy. Title 19 is the zoning section, Title 18 covers subdivision rules and Title 16 deals with subdivisions. Other housing related codes are found in Titles 20 Environmental Protection, 14 Public Services, 12 Streets, Sidewalks, and Public Places, and 13 Parks and Recreation.

Maui County housing policy is inclusionary housing policy. It places responsibility for funding residential housing projects on the developer which is consistent with the principle that the cost of growth in the County will be paid by the prime beneficiaries of growth – the people who will occupy or operate the new residences and commercial buildings. Inclusionary housing policy has

[14] See Maui County Affordable Housing Implementation Report, Forecasts, Table 2, p.5.

been particularly attractive in areas with high housing prices associated with high demand and low supply. These areas often have high population and employment growth, high housing demand, limited housing development, and high land and construction costs. Maui County has all those characteristics. Finally, inclusionary housing policy is attractive because it reduces the local government's infrastructure costs.

Inclusionary housing policy has recently been described as a fast-growing policy type with many advantages, especially for producing affordable housing. While most observers today would say the inclusionary housing, policy has not worked well for Maui County. Its supporters counter that it was faulty implementation that caused the problem rather than the policy itself. As noted earlier in the literature review Jacobus cautions that" policies must be designed with care to suit local conditions and guarantee requirements to not overburden development." Elsewhere, Jacobus commented on Maui's inclusionary policy, saying that the 50-percent affordable level was too high and the requirement for sustainability in perpetuity would make it difficult to produce many affordable units[15].

This brief treatment of inclusionary housing policy does not describe all benefits that might result from a well-designed, aggressively implemented policy. Neither does it give credit to the scholars and practitioners who write about the problems associated with inclusionary housing policy. Four of their findings seem relevant to this discussion.

First, Maui's experience suggests that inclusionary policy has not produced a "steady supply of new affordable housing resources". The well-known study by UHERO (2013) claims that it has not worked well in Honolulu, either. Further we note that in later in his report Jacobus (2015) notes that inclusionary housing policy tends to work well in an up market and not so well in a down market.

Second, inclusionary housing policy is associated in the literature with over regulation. (Calder, 2017). In the early development of Inclusionary Zoning the policy was a way to slow the pace of development and limit in-migration of new residents. Some local ordinances were shaped by persons for whom development itself was the problem, and regulation was the way to solve it. While we have not tracked Maui inclusionary housing policy back to that era, it is widely agreed that Maui County's version of inclusionary housing policy is prescriptive, detailed, and has in the past included some very strict regulations. At one point, Maui's residential workforce housing policy required every builder of 10 or more units to produce 50-percent of them at below-market prices and sell those units with deed restrictions that would hold them as affordable in perpetuity. In our conversations with Maui housing stakeholders, there was wide agreement among developers, affordable housing advocates, environmentalists, County administrative personnel

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[15] Rick Jacobus as quoted in a letter to the Honorable Kymberly Marcos Pine, Chair, Committee on Zoning and Housing from Kathy K. Sokugawa, Acting Director, Department of Planning and Permitting, City and County of Honolulu, March 12, 2018; attachment, p.8.

[16] See Maui County Affordable Housing Implementation Plan, Section Forecast, Table 2. Total of 13,949 needed units, 1,301 of which are intended for households with incomes greater than 140 percent of AMI, leaves 12,648 units needed to accommodate households in the two affordable housing classifications.

and other observers that relaxing regulations on residential housing development is a reasonable tactic at this point.

Third, the Maui County housing policy is a passive policy. As described in MCC 2.96, the County can begin action on workforce housing projects when a developer files a development plan. Then DHHC moves to assist the developer to prepare a Residential Workforce Housing Agreement (RWHA). The regulations represented in MCC 2.96 guide the construction of the RWHA. If no developer files an intention to build units for a specific income group or in a specific geographic area of interest, then no action will take place, regardless of the demand or the level of need. Thus, as it exists in the code, Maui County's housing policy makes no provision for proactive housing development and generates no need for a housing plan.

Finally, we consider are two kinds of "affordable housing", housing intended for households with annual incomes less than 80 percent of AMI, and "workforce housing" intended for households with annual incomes between 80 percent and 140 percent of AMI. We have shown a need for about 12,448 housing units intended for those two groups between 2015 and 2025[16]. Among those units, 9,529 (75.3%) are low income housing units and 3,119 units are workforce housing units. The lion's share of the affordable units needed are to serve low income households. Those units can be developed without using MCC 2.96 or HRS 201H and are subject to MCC 2.86. Both project types are subject to MCC sections covering subdivision, zoning, building codes, environmental protection and water, and to a lesser extent, public services, streets and sidewalks, and parks and recreation. Recommended changes to MCC 2.96, Maui's workforce housing code, will affect about 25 percent of affordable housing need for the next several years.

One objective of the present study was to identify barriers to the production of affordable housing. Barriers were expected to be associated with codified regulations (either in the Charter or the Code). For each barrier/code, we would recommend a solution and identify the code to be amended.

During the review of County planning documents, we found many regulations of the type that would hinder the production of affordable housing. However, most of those regulations have been reduced in the years since they were originally written. The MCC 2.96 housing policy is restrictive but has been revised downward such that its fundamental requirements are like other Hawaii Counties. Outside of MCC 2.96 and MCC 2.86, other regulations are augmented with exemptions covering county projects, 100 percent affordable projects, affordable housing, or workforce housing. Some of those are mandated and others are to be applied at the discretion of a department of division director. The overall effect is to add considerable flexibility to the process of monitoring and approving affordable housing projects.

[16] See Maui County Affordable Housing Implementation Plan, Section Forecast, Table 2. Total of 13,949 needed units, 1,301 of which are intended for households with incomes greater than 140 percent of AMI, leaves 12,648 units needed to accommodate households in the two affordable housing classifications.

Overview

The Maui County Council has called for a review of housing policy and barriers to developing affordable housing units, and for recommendations to change the policy. We will summarize those recommendations here.

We do not recommend a change from Maui County's inclusionary housing policy. While the policy is controversial and the debate contentious, we have found no convincing evidence that it cannot work if properly formulated and implemented.

More important, there is no ready policy with which to replace Maui's inclusionary housing policy. Developing a new policy, or re-installing the old one, would not happen easily or quickly. The Council is seeking actions that can produce results in the short run. Replacing the housing policy is not consistent with that objective[17].

Based on barriers to the production of affordable housing, we developed a set of broad guidelines for selecting affordable housing policy recommendations.

- Move toward proactive housing policy, policy that does not depend on reaction to developer plans, that originates from Maui County housing plans.
    - Low income affordable rentals will only be originated by the County or State.
- Move toward greater flexibility in regulations for affordable and workforce housing.
- Recognize differences between low and moderate-income housing[18] and workforce housing.
- Generate a longer list of policy change recommendations and cull from it a set of policy actions that can be quickly enacted.

[17] State of Hawai'i , Office of Governor Linda Lingle, "Report of the Governor's Affordable Housing Regulatory Barriers Task Force," December 2008.

[18] Suitable for households with annual household incomes below 80 percent of the Area Median Income (AMI) and workforce housing(between 80 and 140 percent AMI).

A. RECOMMENDED MODIFICATIONS TO MAUI COUNTY AFFORDABLE HOUSING POLICY

Infrastructure

Holding developers responsible for offsite infrastructure costs is a barrier to affordable housing production. The rule was identified by developers, housing advocates, and county personnel as an impediment that has halted or seriously delayed affordable housing development projects. Any project without existing infrastructure, the cost of water, sewer, roads and utilities adds substantially to unit costs, which in turn raises sales prices for market rate housing, decreases revenue needed to offset the reduced revenue from affordable units, affects production time, and can hinder financing. For affordable housing projects outside the urban growth boundary this can present a significant problem. For affordable redevelopment projects the requirement to pay for infrastructure upgrades can be even more problematic.

Three approaches can be applied to mitigate this problem: (1) exempt affordable housing and workforce housing inside the urban growth boundary from the requirements, (2) exempt affordable redevelopment projects from infrastructure upgrade costs; and (3) work to change the role of infrastructure development in Maui County.

Maui County Code currently requires developers to pay for any offsite infrastructure required to complete a project. The code also exempts affordable housing projects from many of the same requirements, usually at the discretion of a Department Director. Some of our informants noted that the Director does not always make the exemption they need. But the exemption is there.

Other Maui County documents exhibit a more flexible approach to developing infrastructure for housing. The Maui Island Plan (MIP) states[19] that the County ought to (1) give priority to developing infrastructure to support affordable housing, (2) use financing tools to develop affordable housing infrastructure, and (3) tailor infrastructure levels of service to control housing costs and maintain safety. There is, therefore, precedent for recommending that the County take a fresh look at an active role in the development of infrastructure to support affordable housing.

[R1] Recommend that the County Council draft legislation to establish ***proactive infrastructure development*** as a planning principle for the County of Maui. As lead agency, the Department of Planning will be assisted by the Departments of Water Supply, Wastewater, Environment, and Fire. The legislation should call for a plan to designate geographic areas or sets of parcels for County development of water, wastewater, and roadway resources as a guide to development of affordable and workforce housing (all housing, actually) to areas where it is needed (the four areas, and or the list). The plan should stipulate the level and types of infrastructure needed, the rationale (nexus) for development in each area, and the specific parcels to be included. The plan should specify the funding sources for each infrastructure project, and a timeline with expected

[19] Maui Island Plan, Section 5 Housing, items 5.1.4.1, 5.1.4.b, 5.1.4.c, pp. 5-9.

start and finish dates. The initial plan should be available by the end of calendar 2018 and the project should be updated at least annually.

Rationale: Proactive infrastructure development is a major step in the direction of developing an active housing policy for Maui County. It recognizes the County's responsibility in providing infrastructure for the well being and livelihoods of the people of Maui County. It is consistent with the General Plan and especially with the MIP recommended treatment of the County's power to develop infrastructure. Proactive infrastructure development will guide development and especially housing to areas where it is needed and where there are jobs and amenities to serve the occupants of new housing. It is also consistent with inclusionary housing policy because all on-site infrastructure and off-site infrastructure outside of the intended areas will be the responsibility of the developer. It will, however, make it more profitable for development within growth boundaries than outside of them. That is an appropriate role for County infrastructure development within the Urban Growth Boundaries. The County can also adopt minimum and desirable infrastructure level-of-service standards so that the development process is more predictable and transparent.

The total cost of infrastructure to the county and developers can be reduced by adopting proactive infrastructure development because the County has access to funding options that are not available to developers. There are more options available for funding infrastructure than in the past and it should be possible to develop development-leading infrastructure without increasing property taxes. Therefore, we propose a recommend a funding strategy.

[R2] Recommend that County Council draft legislation to include in its proactive infrastructure program, the funding actions listed below.

- Apply for infrastructure grant funds (or loans) from the Hawai'i Green Infrastructure Authority;
- Instruct the Community Development Block Grants Program officer to apply for a State CDBG Infrastructure Fund;
- Increase the local option fuel tax by five cents per gallon to be used for infrastructure costs and improvements within the county.

Rationale: These and other funding sources must be identified and used to fund the proactive infrastructure program in Maui County. Just as proactive infrastructure funding will be a continuing policy-related operation, so too the funding of that infrastructure will be a continuing obligation of the participating Departments. Fuel taxes are used throughout the State and County to support new roads and maintenance under the logic that drivers who use more fuel, drive more miles and therefore should fund more of the maintenance of the roads. Fuel taxes also are funded by visitors and residents alike. The proposal is to increase funding of all types of infrastructure to minimize the need for Developers to bear higher costs.

Sustainability

Sustainability is an important issue. For many years, the affordable housing units we built and sold or rented at below market rates remained in the affordable housing inventory until they changed hands. For owned units, the unit was later sold at market prices, providing a windfall for the owner and reducing the affordable housing inventory. For rented units managed by private sector owners or property managers would return to market level after a few years and below market rates

The standard way of handling this this is to attach deed restrictions. Proponents say it is necessary and the only way to make inclusionary policy work. Developers say it makes it difficult to sell or rent the units – and the County responds by allowing developers to sell the below market units at higher rates, thus defeating the purpose of the inclusionary policy.

The alternative is to transfer the title of newly built affordable units to a Non-Profit Community Land Trust for management. This effectively keeps the below-market units out of the market-rate housing market. Often partnering with a proven not-for-profit entity in the development process will be the best option. Note that by transferring the project to a Community Land Trust takes the property and any related income out of the control of the County. However, given that this is a low-income rental project it is likely that the rent revenue will barely cover the maintenance and management of the project.

[R3] Recommend that the County Council draft legislation to amend MCC Section 2.96 to enable the transfer of 100 percent low-income rental projects targeting households with incomes below 60 percent AMI to a Community Land Trust as another option to deed restrictions.

Rationale: Given that the County and State will have to be major funders for this type of housing project, it is important that once the project is developed it remains low-income affordable rental. One of the best ways to ensure sustainability is to transfer the project to a community land trust managed by a Maui not-for-profit (or other organizations in the rest of the state.) The income generated from the rentals will be used by the not-for profit to manage and maintain the property. A community land trust is an alternative to deed restrictions. It is an option that takes responsibility for ownership or management of the property from the County and places in the hands of an experienced Community Land Trust provider. Maui County currently has one not-for-profit Community Land Trust organization and on Hawai‘i Home Ownership Center headquartered on O‘ahu has started exploring options in Maui County.

Zoning

Many housing development projects require a zoning change before permits can be approved. The process of change zoning codes is expensive and time consuming. It also demands significant time and resources from Maui County Department personnel and the requests for changes arrive on an unpredictable schedule. If the number of zoning changes could be reduced,

the impact on affordable housing development could be reduced, to the benefit of the departments, developers, and the people of Maui County.

In a proactive zoning process, the County identifies land parcels that come to their attention in the early stages of a development project, and parcels that the County would like to see developed. They then change zoning codes to facilitate the development process. The process is usually done infrequently to reduce the burden on the department personnel. The Maui Department of Planning recently assembled a list of properties that would benefit from rezoning[20] as a demonstration of how the process might work for Maui County.

A representative body, usually a County Council, must review and approve the proactive zoning decisions. The Council's approval should be based on the likelihood that rezoning will result in significant addition to the stock of affordable and workforce housing units.

[R4] Recommend that the Maui County Council draft legislation directing the Department of Planning to establish a ***proactive zoning program*** as a continuing activity in support of affordable and workforce housing. The ordinance will direct the Department to prepare a continuing proactive zoning plan that describes how parcels will be identified and selected for zonings changes, the method of assigning the changes, the review and approval process, and the recording of zoning changes. The plan will begin from the list of properties that are likely to require a change in zoning recently prepared by the Department of Planning and will be updated periodically. The initial plan should be available by the end of calendar 2018 and the project should be updated at least annually. Council will review all proposed zoning changes and approve those with a demonstrated ability to facilitate development of affordable and workforce housing.

Rationale: Proactive zoning is another step in the direction of developing an active housing policy for Maui County. It allows the County to take the initiative in furthering development of affordable and workforce housing. It saves work and reduces the cost of development for all parties. It is consistent with the County's planning documents and maintains control of zoning procedures in the legislative branch of government. Proactive zoning has a role in steering development toward areas where it is needed and consistent with the planning documents.

The total cost of affordable housing development to the county and developers can be reduced by adopting proactive zoning. Further, it contributes to streamlining the entitlement process.

[R5] Recommend that the Maui County Council draft legislation to encourage more 2.96 developments of market, workforce and affordable housing. These can include:

- Number of affordable units required. Currently 2.96 requires 20 to 25 percent of market units be affordable. Recommend reducing this percent required by up to 50 percent as an incentive for the developer to provide housing for a lower AMI range. For example, if

[20] SMS Research & Marketing Services, Inc. 2018. Maui County Affordable Housing Implementation Plan, Table B7: Residential Community Plan Designations – Up zone and other land use change possibilities, pp. 51-54.

developers were to build affordable rental units for below 80 percent AMI instead of for above 80 percent AMI fewer total affordable rental units would be required,

Rationale: This change is consistent with what Kaua'i currently uses as an incentive. Also, this encourages building housing units for AMI groups below 80 percent which is Maui County's greatest need.

- Adjust income ranges restrictions for Affordable Housing. Recommend changing the range and allocation requirement of for purchase affordable units. Change from units to be sold to those earning below 80-140 percent of AMI to below 80-120 percent and eliminate the prescriptive percentage for given AMI ranges. For this change do not enable affordable housing to be converted to market-rate housing if not sold within a given time-period.

  Rationale: Stakeholders have reported that the current prescriptive requirement has made it difficult to find buyers at the higher AMI because they would rather purchase unrestricted market housing. Likewise, households at below 90 percent AMI have greater difficulty qualifying for a mortgage. Allowing flexibility within the AMI range will allow Developers to market units to better meet the needs of workforce housing units. Requiring the units to remain in affordable housing will ensure Developers market properties to the appropriate target markets and that the units are not sold at market rates.

Streamlining Subdivision and Permitting Processes

The complexity of the subdivision approval and permitting processes, its duplicative nature, and its further complication by State land use provisions have all been cited as major problems for housing and affordable housing developers. The process is difficult to understand, sometimes requiring developers to use experienced professionals to make their way through the system. It is time consuming and causes project costs to rise (as the clock ticks on gap funding). Funders and developers have told us that they encounter greater risks in Maui County than in other counties, and that risk can affect funding.

Long-standing inclusionary housing policies are associated with many regulations and tend to make streamlining difficult. This causes most reviewers to choose fast-tracking and one-stop permitting and approval as the standby solutions. Maui County has discussed one-stop processing in the past, but it did not reach the point of proposed legislation. Recently, DHHC drafted a plan review fast track process to expedite turnaround time for review by all departments. [We understand this document is being circulated among Department Heads for comment.] Another option to speed up the approval process was undertaken by DHHC. Upon completion of a Residential Workforce Development Agreement, the DHHC Director arranged a meeting with the Developer and other Department heads instrumental in issuing permits and conditions. The purpose of the meeting was to review the initial plans and identify initial development challenges for the project. To the best of our knowledge this was not a required meeting, but one that

everyone we spoke with said was worthwhile for both the Developer and the County. Therefore, the following streamlining actions are recommended.

[R6] Recommend that the County Council draft legislation that codifies the existing **fast-tracking procedure** initiated by the Department of Housing and Human Concerns. The ordinance would direct the Department of Housing and Community Concerns and other Departments involved with housing project review and approval assign to priority to affordable and residential workforce housing projects submitted to their Departments[21].

[R7] Recommend that the County Council draft legislation that requires the informal **one-stop departmental review** system currently being facilitated by DHHC. The ordinance will direct the Department, through its Housing Division, to host and facilitate a meeting between developers of residential workforce housing projects and representatives of all departments involved in housing development review and approval. The meetings should be held as soon after the developer begins of preparing the RWHA and after the Departments have been able to review the project plan. Scheduling, agenda, and logistics are to be the responsibility of DHHC.

Rationale: Recommendations for streamlining the housing development process in Maui County are supported in the literature and in interviews with Developers and County Department heads. There have been many conferences and task forces on affordable housing over the last decade in Hawai‘i. All of them named streamlining housing entitlements and permitting processes as very important to solving Hawai‘i’s housing problems. Those were summarized in Transit Oriented Development, 2012. The informants in this study, the Orion Title 19 Study, and many other affordable housing stakeholder interviews at SMS have all repeated the need for streamlining housing policy across the state and in all counties. These recommended actions complement the 2.96 and 201H streamlining efforts. The recommended procedures have been tried and results appreciated by participants in the process. They offer guidance to affordable housing developers and bring a preliminary look at the projects before the final plans are laid down. They provide the opportunity to avoid delays for both sides. Streamlining is consistent with Maui planning documents, especially the MIP.

Funding

Maui County’s Affordable Housing Fund is the County’s primary source of funding for affordable housing. The AHF has three sources of funding: funds paid by developers in lieu of providing residential workforce housing units; two percent of real property tax revenues; and any other monies donated or set aside for the fund. In June 2018, the fund had approximately $29 million available for affordable housing for the next fiscal year. Given that the average cost of one low income affordable rental unit is estimated to be between $400,000 and $500,000, the current $20

[21] Many Departments already give higher priority to residential workforce housing projects, some still use the first-come-first-served priority system.

million is well below what will be needed to produce over 4,000 units by 2025. Clearly a substantial increase in funding for the AHF will be useful.

[R8] Recommend the County Council draft legislation as described below.

- Increase the property tax rate for second home properties that are not being rented long term by fifty cents per thousand dollars of assessed value and assign the additional revenue to the AHF.
  - Residents who claim their unit as their primary residence will be exempt from this increase.
  - A procedure will need to be developed for second home owners to submit documentation that they are renting their unit for a minimum of six months at a time to be exempt from this increase. Note that an owner who is renting their home as a vacation rental or a long-term rental and not reporting income, may have to decide whether to report rental income and receive an exemption or just pay the additional tax.

- Increase the property tax rate for commercial residential properties by fifty cents per thousand dollars of assessed value and assign the additional revenue to the AHF.

- Increase the in-lieu price per unit for residential workforce housing agreements by $1,000 and place the additional revenue in the AHF.

- Establish a real estate transfer tax on visitor units, TVRs, and residential housing not affordable to Maui residents with household incomes below 200 percent of AMI.

Rationale: These three strategies are both feasible and lucrative. The current tax rate for second homes on Maui is $5.2 per $1,000 of assessed value. If there are 9,000 second homes in the County, with an average tax assessed value of $500,000, increasing the second home tax rate by fifty cents would produce a revenue stream of about $2.25 million dollars a year. The tax rate for commercial residential units (vacation rentals) is $4.56 and there are many more of them. MIP, p. 5-4. Dedicate this increase to the AHF.

At current levels of workforce housing production, in-lieu fees for workforce housing units are producing very little revenue for the AHF. Increasing the fee would be less A surcharge on the fees would produce even less. As production increases, however, fees may be more attractive. As housing production increases, however, either there will be more units delivered, or more revenue for the AHF.

Transfer taxes are a surcharge on the conveyance tax. Every time a unit of the types defined above is transferred from one own to another, the surcharge is levied, and the revenue transferred to the AHF.

IV. OPERATIONS AND ORGANIZATIONAL STRUCTURE

Currently the responsibility for different aspects of affordable housing development is shared among several County Departments. The following are the Departments with the most significant impact on affordable housing development and their stated missions and goals as shown below:

- The mission of the Department of Housing & Human Concerns is to support and enhance the social well-being of the citizens of Maui County. Its goal related to housing is to" **expand affordable housing opportunities** for low and moderate-income families and support the development of special needs housing.
- The Housing Division is within the Department of Housing and Human Concerns. The objective of the Housing Division is to **create housing opportunities** for low and moderate-income residents through partnerships with community organizations to:
  - Develop long-term affordable rental housing units
  - Increase availability of home ownership opportunities
  - Develop special needs housing with appropriate support services.
- The Mission of the Department of Planning is "To manage growth in a sustainable manner that balances our economy, culture and environment." The Department is responsible for housing in the areas of: proposing zoning legislation; drafting updates to the General Plan, Maui Island Plan and Community Plans; presenting reports and providing recommendations on development proposals.
- The Department of Public Works administers the County's subdivision, building, electrical, plumbing, grading and other construction related ordinances. It maintains the County of Maui Public Records Information, Building Inspection Section, Building Permit Section, Building Plan Review Section, Civil Construction and Inspection Section, Electrical and Plumbing Permit and Inspection Sections, and Subdivision Section. The Department is also responsible for providing engineering and inspection services to plan, design and construct highway, drainage, and bridge replacement projects for the County.
- The Department of Finance includes the real property Assessment Division. The Division administers the discovery, listing and valuation of all real property in the County of Maui for real property tax purposes. They assist the Real Property Board of Review in processing appeals. The Division maintains tax map keys (TMK) and the geographic information system (GIS) parcel layer.
- The mission of the Departments of Environmental Management is "to protect the public's health, safety, property, and environment by **developing** and operating the County's infrastructure, primarily in the areas of Wastewater Reclamation, Solid Waste, and Environmental Protection and Sustainability.
  - As it relates to housing development, this Department coordinates planning activities, schedules division capital improvement project (CIP) construction building permit applications and construction plan, assists the public with

questions, concerns and location of sewers connection laterals, providing construction inspection for new connections.

- The mission of the Department of Water Supply is to "provide clean water efficiently."
  - The Water Resources & Planning Division is responsible for: permit and environmental reviews; planning information systems; regulatory compliance, water resource management and conservation.
  - The Engineering Division is responsible for: **revising all development plans for conformity with departmental standards**; preparing plans and specifications for water supply projects; administering DWS Capital Improvement Projects (CIP) and coordinates consultant contracts; preparing and administering agreements with public agencies and private developers, preparing plans and specifications for in-house projects and conducting studies, tests, and investigations on water resources. The division develops and maintains water supply standard and conducts studies for feasibility of pipeline alignment and sites for reservoirs, pump stations and other facilities.
- Responsibility for the Community Development Block Grants Program (CDBG) falls within the Office of the Mayor. The CDBG main objective is to "improve communities, primarily for persons of low and moderate income by providing decent housing, suitable living environments and expanded economic opportunities.
  - CDBG is a program of the US Department of Housing and Urban Development (HUD). It is the principal federal program providing grants to state and local governments to devise innovative and constructive approaches to improve the physical, economic and social conditions in their communities which will benefit persons of low and moderate income.
- The Department of Management within the Office of the Mayor and under the direction of the Managing Director is responsible for: County-Wide Capital Improvement (CIP) Coordination and Special Projects (CIP) Assistance. They provide departments with special construction related services with priority given to those departments that lack internal project management and oversight expertise. The Housing Division is supported by the expertise within this office.

A. STRENGTHS AND AREAS FOR IMPROVEMENT

Strengths

- Throughout the Departments staff understand the need for affordable housing in Maui County and say they are committed to doing their best to seeing it happen.
- Every Department claims they are not a hurdle to more affordable housing being constructed.

- When a project qualifies for a "residential workforce housing project as outlined in MCC, Chapter 2.96", the Director of DHHC calls a meeting with other Department Heads who will be responsible for reviewing the project application to familiarize them with the project.
- The Housing Division has received approval for a Public Housing and Development Specialist. This is the first position with specific responsibilities for the steps required to develop affordable housing projects. This position also requires participation in the short and long-term planning of affordable housing together with providing recommendations. Kauai County has four positions with the qualifications stated in this position description.

Areas for improvement

- There is no specific proactive Affordable Housing Plan with stated goals, objectives, strategies and action steps to increase the number of low-income rentals or affordable housing units for Maui County. The Charter, CPP, MIP, and MCC do not specify that a housing plans or an affordable housing plan is required for the County of Maui. The Housing Division appears to have the responsibility to *develop long-term affordable rental housing units and increase the availability of home ownership opportunities*, but no specific plan on how to achieve this has been developed. The closest document to a plan is the Chapter 2.96 – Residential Workforce Housing Policy.
- For affordable housing and rental projects to be approved and permitted requires almost every Department to participate in the review process. Most Departments are currently reviewing plans within the 30-day requirement. There appear to be no consequences if a Department takes more time.
    - Based on interviews for the most part Departments conduct reviews on a first-come first served basis. At the same time, they recognize the 30-day turnaround on affordable housing projects but don't necessarily complete their review within that time resulting in lengthy approval times.
- The process to get an Affordable Housing Project approved and permitted can take years. Meanwhile the Mayor's Office and Department Heads change every four to eight years, and Councilmembers may also change. The impact of this turnover is that it takes time for new Department Directors to understand their roles and responsibilities, for new Councilmembers to understand the multitude of codes, ordinances and laws, etc. This further delays projects completing the process in a timely fashion because the Developer often needs to "educate" the new people.
    - A hypothetical example is the Director of DHHC has been working closely with HHFDC and knows a lot about how to get affordable housing moving. Given that this is an appointed position the Director may change with the upcoming change in administration.
    - There are a lot of vacancies within many of the Departments that may contribute to plans not being reviewed as quickly or as thoroughly as possible. For example, within the Housing Division of the eight staff members not assigned to Section 8 only five of the positions are currently filled. The other positions are going through

the sometimes-lengthy hiring process. This reduces the ability of the Division to be more proactive.

- Position salary rating levels may also be relatively low in this time of low unemployment. For example, a typical annual salary for engineers on Maui is about $81,221[22] and the salary range for a SR 26 (the new position in the Housing Division) starts at $58,092.

- The Director of DHHC has eight divisions reporting to him/her – all are important, and she is doing the job very well. However, it may be preferable to have more focus just on affordable housing if that is a priority for the County. Replacing the Director with only months remaining in this administration may be challenging.
- The Capital Improvements (CIP) program within the Managing Director's Office has been depleted in positions and resources and they are no longer able to provide the Housing Division with the assistance they need to support affordable housing development. This is/was the group primarily responsible for capital improvements in all sectors.
- For-profit and not-for profit developers all want three things: minimal time spent in the approval process for a project; to achieve at least a minimum return on their project; and certainty that once the project is approved by all the relevant State and County departments that the project will be approved by the County Council. Interviews indicate that conditions added to a project by the Council create huge uncertainty resulting in more time spent on the approval process and calculated rates of return below the minimum. Many of the projects pending that have affordable housing components are due to conditions being added to the project by the Council based on interviews. Ideally the addition of conditions should be eliminated for low income rental and affordable housing projects.
- The Land Use Committee reviews very few 201H applications each year. It appears they prefer to review one application at a time and will begin a review when there are a sufficient number of committee meetings within the 45-day period. This limits the number of 201H projects approved each year.
- Each affordable housing project is unique: the site, the plan, the funding, infrastructure requirements, etc. For projects to be approved and built requires a partnership between the developer and the County. A successful process requires negotiation and some flexibility between the partners. Maui County does not appear to have the staff, the assigned responsibility, nor the "tool box" of options to successfully negotiate the number of affordable housing projects that will be required to fill the housing need in the County. Interviews with Developers and other Counties stated that each project requires negotiation and flexibility.

[22] Living Wage Calculation for Maui County, Hawai'i, www.Livingwage.mit.edu.

B. RECOMMENDED MODIFICATIONS TO COUNTY OPERATIONS & ORGANIZATIONAL STRUCTURE

Organizational Change

[R9] Recommend that the mission of the Department of Housing and Human Concerns be changed to include: "responsible for leading the development and implementation of an Affordable Housing Plan and reporting on results annually." Include developing and implementing an affordable housing plan among the powers, duties, and functions of the Department. This will be in addition to or in place of the current powers, that the Director must develop a "plan of action" designed to meet human needs in the county." (Section 8-10.3(1)).

Rationale: currently there is no plan to proactively increase the number of affordable rentals and for-purchase units in the County to meet anticipated demand. The Division of Housing within DHHC is the only entity that currently has objectives to "develop long term affordable housing and increase the availability of home ownership opportunities.

The Charter, in Chapter 10 Department of Housing and Human Concerns, establishes authority for housing in name, but does not mention housing among the powers, duties, and functions of the Department. It does list among those powers, that the Director must develop a "plan of action" designed to meet human needs in the county." (Section 8-10.3(1)). That description falls short of a directive to produce a housing plan, or and affordable housing plan, for the County of Maui.

Personnel

Short term - **Recommend** that the new Director of Department of Housing and Human Concerns have a background in residential development, financing or community planning. [Note: this position was filled as this report was being finalized.]

Rationale: The current Housing Division staff do not have expertise in development or planning. Having a Director who has the background and can take the lead in the affordable housing planning efforts will enable the process to move forward at a faster pace. In addition, this position can train current staff with the skills to plan and implement affordable housing projects.

[R10] Recommend that when selecting a person for the new position in the Housing Division (HC-0188) consideration be given to those individuals having a background in residential development and the understanding of what is needed to complete agreements with developers and monitor implementation. The job title should be Development Coordinator a person who will act as a negotiator of affordable and workforce housing projects. The Civil Service level should be upgraded to 26. This individual should be supported by a dedicated staff member from the Managing Director's Capital Improvement Projects group.

Rationale: The current Housing Division staff do not have a background in residential development and project development necessary to use the exemptions and waiver "tools" and financing options to enable the project approval process to proceed Note that the current SR of the position may not be high enough to attract a person with this level of expertise.

Process Change

Recommend a broad review of policies and rules governing conditional approvals. Preserve the ability for Departments and Council to protect the rights, health, and safety of the people of Maui. Limit the ability to apply conditions without a reasonable nexus to the project and redesign procedures if necessary.

Rationale: *In every interview with for-profit and not-for-profit Developers* the addition of conditions to a project, after all Department approvals have been met, significantly increases the cost of a project and therefore the need to secure additional funding. Knowing that conditions can be applied increases the level of uncertainty for every project and makes funders less likely to support Maui projects. Many of the approved projects for 100 percent affordable or those market projects that include affordable housing units per inclusionary zoning that are currently pending are due to the need to secure additional funding to meet conditions.

Partnership

[R11] Recommend that Public-Private Partnerships be encouraged and supported to enhance the development of affordable housing on Maui County.

Specifically:

Rationale: CPP recognizes the need for public-private partnerships in many areas, including housing. Specifically, in 2007 they called for "Develop public-private and non-profit partnerships that facilitate the construction of quality affordable housing. The word never appears in MCC.

In a sense, every application for residential development represents an opportunity for public-private partnership. Certainly, every time a Residential Workforce Housing Agreement is prepared, a form of public-private partnership is possible.

Developers told us that they wanted public-private partnerships. Maui County Department Directors told us they wanted public-private partnership – "real partnership" they called it – in producing affordable housing for Maui County.

The word "partnership" does not appear in MCC -- even in section 2.96, where the relationship between County and developers are defined. There is no code to define a procedure for public private partnership in producing affordable housing units.

Data Collection, Tracking & Usage

[R12] Recommend directing the Department of Public Works, Department of Planning and Department of Housing and Human Concerns, and Department of Finance work together to develop a database that can be used to support the development and ongoing tracking of an Affordable Housing Plan.

There are at least two types of databases recommended: the first similar to the one prepared by SMS to review and analyze parcels that could be used for affordable and workforce housing; the second is tracking the number and type of affordable and workforce housing built.

Rationale: SMS had to create our own database for this project with the assistance of the Department of Planning. While useful for this project longer term a more robust database will be required to support the development of a data-supported

County zoning information is not easily accessible at the parcel level – because zoning codes need to be added to the online parcel lookup data and/or publicly available as a GIS layer

Inconsistencies between PITT codes[23] and zoning codes cause notable delays in identifying suitable parcels for development

DHHC maintains a list of projects that have signed Workforce Agreements. However, the list does not indicate the Target Market for the affordable or Workforce Housing (for example 80 to 120 percent AMI), nor does it indicate how many of the units were rented to or purchased by the Target Market (for example, 10 units were sold to households in the 80 to 100 percent AMI.) From the current data, the success of 2.96 or 201H in placing low income or workforce families in housing is unclear.

[23] PITT Codes are used by tax departments to identify the appropriate property tax level for each property. It is important because the often the tax department has the best database of properties in the County.

V. CONCLUSION

The Project

The objective of this project was to identify the best ways to increase the number of affordable housing units in the County.

We conducted a policy review that included a literature search, a review of Maui County planning documents including the General Plan and Community Plans, the CPP, MIP, and MCC. We developed a policy matrix for analysis and developed/gathered a large set of recommendations for policy action.

We also conducted an operations and staff audit of housing-related activities conducted by Maui County Departments, reviewed the data on housing need, conducted a review and analysis of incentives that might be offered to banks and developers to incent them to build more housing units in the future.

All that material was combined in our final analysis which produced the final set of policy recommendations shown in the previous section.

The Situation

Housing supply is very low and has been very low since before the great recession. The story of Maui's experience with strongly regulated workforce housing rules[24] is well known across the State and around the county. Three workforce housing units were produced in eight years under the first iteration of 2.96.[25]

Years of very low supply has generated a backlog of demand that is described in Maui as a "critical situation". After revising the stringent rules of the earlier policy in 2014 the number of workforces housing agreements increased from one to 17 agreements of which four are currently under construction. Prices are still climbing, and sales are slower than the expanding economy would suggest. Many observers have said they believe the lack of supply is due to over-regulation. That is what has brought the Maui County Council to commission this Study.

[24] A 50 percent workforce housing requirement and sustainability in perpetuity.

[25] Department of Housing & Human Concerns presentation of on Maui County Chapter 2.96 – Workforce Housing Ordinance, Carol Reimann, Director of Housing & Human Concerns.

Housing Types

There are three types of housing considered here: affordable housing, workforce housing, and market rate housing.

Market rate housing is what developers usually produce without incentive. It is also the base for workforce housing. Market rate housing is suited to the needs of households with incomes greater than 140 percent of AMI. It is subject to all housing and development regulations, plus the requirements of MCC 2.96 (if 10 units or more).

Affordable housing (aka Workforce Housing) has typically been supplied by local, state, and federal governments. As such, it must be supplied at below-market prices. It is heavily or wholly subsidized. Affordable housing is suited to the needs of households with incomes less than 80 percent of AMI. It is subject to all housing and development regulations, plus the requirements of MCC 2.86.

Residential workforce housing is a new form of housing sometimes associated with inclusionary housing policy. It is supplied by developers of market rate housing according to requirements set by government and is therefore paid for by the owners of new market rate homes. It is supplied at below-market prices and is subsidized, but not by government. Residential workforce housing is suited to the needs of households with incomes between 80 and 140 percent of AMI. It is subject to all housing and development regulations, plus the requirements of MCC 2.96.

Our research[26] says that 13,949 units will be needed between now and 2025. Of those, about 1,301 are market rate units (units suitable for households with incomes above 140 percent AMI) – people who want a unit that is not being supplied. Of the remaining 12,648 units, 75 percent of affordable units and 25 percent are residential workforce housing units.

The Policy

Maui housing is inclusionary housing policy. It affects all projects except affordable housing projects. Inclusionary housing policy is often associated with regulation, and regulation is associated with high housing prices and a shortage of supply. The work of this study was concentrated on regulation and amendments that might be applied to reduce regulations.

The stakeholder interviews agreed that the rules are tough, but the problem was how they were applied. They also said the reasons for the current hang-up maybe funding, but the reason their projects did not get through the final Council Meeting was “conditions”. The code says the policy is strict. It also shows there is ample flexibility in its many exemptions.

[26] Hawai‘i Housing Planning Study 2016

Overall, the 2.96 code and most of the code governing zoning, permitting, subdivision, water, wastewater, streets and roadways, etc., have the same characteristics. They are comprehensive and protectionist. They allow exemptions for affordable housing, 100 percent affordable projects, workforce housing and any government project.

The previous section listed several policy changes to facilitate movement toward a new housing policy for affordable housing in Maui County.

- Entitlements: Most problematic are those from the State Land Use Commission.
- Infrastructure: Very strict policy. Has wide ranging impacts on feasibility and long-range housing price inflation
- Regulations: We have limited our recommendations to adjusting the 2.96 requirements to what seems to be the optimal setting these days.
- Process: Recommendations are made to change process than to change regulations.
- Partnership: We have some cautions regarding partnership and attitude.

Developing a new housing policy for Maui County will require more than enacting the recommendations that appear in the previous section. The personnel at Maui's administrative and legislative agencies must act collaboratively to produce affordable and workforce housing units.

Proactive Policy

Maui County Housing Policy contains very strict regulations and very lenient exemptions. Recall that stakeholders – developers, advocates, and government personnel – agreed that the issues were not as much the nature of regulations but the way those regulations were applied. They spoke of inconsistent application and a negative attitude toward development and developers. Recall also that even the strongest supporters of exclusionary housing policy agree that the system works well in a hot market and not so well in a cold market. That would suggest that a wise and effective housing policy manager would apply the regulations differently in different situations. When demand is high and household incomes are growing, then hold tight to the reins and let MCC 2.96 collect workforce housing units. When the economy cools down, sales are slow, and income growth is slow, invoke exemptions to speed the approval process, encourage construction, produce needed units, and boost the economy.

A Housing Plan

Policy study demonstrates a need for a plan with updating and management on an ongoing basis. The plan will be a functional plan generated by and maintained by the Housing Division. It will guide government's proactive development activity.

A good pattern for the housing plan might be the housing functional plan published last year, *The Hawai'i State Plan: Housing*[27]. That document identifies four major issues in housing Statewide: rental housing, homeownership, impediments to residential development, and building a Housing Information System. It then provides program objectives and solutions for each of these. While Maui County will have its own issues and objections, those can be formulated according to the pattern in the State Plan and take advantage of opportunities for collaboration on mutual interests.

The Maui plan will begin with the number of units to be built next year. The plan will make specific procedures for accomplishing the task. The work will be evaluated each year. The objective of evaluation is continuous improvement rather than accountability.

Personnel

The audit of DHHC Housing Division found no problems with the positions, people, or personnel policies there. However, if Maui County adopts a more active housing policy, if the responsibility for the Maui County Housing Functional Plan is lodged in DHHC, and if the responsibility for producing affordable housing units is understood to lie with government, then the personnel required to staff the new DHHC will change dramatically.

The new position at Housing Division is well described. The job title should be Development Coordinator a person who will act as a negotiator of affordable and workforce housing projects. The Civil Service level should be upgraded to 26.

The next Director must be charged with the development and execution of a Housing Functional Plan with the understanding that he or she is also responsible for making it work. Any additional personnel if any, should job descriptions, experience, and skills like those of the new position.

Engineering support will be needed. This investigation suggests that there is no immediate need to hire an engineer. A staff member from Capital Improvement Projects should be dedicated to supporting DHHC proactive development efforts.

Funding

Someone in the Housing Division must also be continuously involved with generating funding for affordable and workforce housing in Maui County. The Housing Functional Plan should include that responsibility. The recommendations for funding the Affordable Housing Fund and Proactive Infrastructure depend on a continuing search for funding.

[27] Published by the Hawai'i Housing Finance and Development Corporation, February 21, 2017.

Data

An effective proactive housing policy depends first on information. It is needed for planning, operation and evaluation. During this study, trying to identify barriers to development and evaluating what works and what does not, we found ourselves lacking in useful information. Passive housing policy does not generate a strong need for information. Proactive housing policy will demand reliable databases.

The housing information databases needed are:

- **Projects:** A set of housing projects that use any form of government funding or assistance, along with number of units, type (affordable, workforce, market), government program and funding sources, estimated start and finish dates, etc.
- **New Units:** A set of housing units completed and ready for market in each calendar year by type.
- **Properties:** List of vacant and underutilized properties to support proactive zoning with characteristics useful in developing affordable and workforce housing, developed by the Housing Division, and approved by the County Council. The list should include the presence or absence of appropriate off-site infrastructure.

VI. APPENDIX

APPENDIX A: BIBLIOGRAPHY

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APPENDIX B: GLOSSARY OF AFFORDABLE HOUSING POLICY TERMS

Affordable housing requirement: A regulation imposing a statutory requirement that a developer produce affordable housing units as a condition for permitting. The requirement may be expressed as a number of units or a percent of total units. It may be placed on residential or non-residential development projects. It may require production within the project, outside the boundaries of the project, and may allow payment or land transfer in lieu of production.

Affordable pricing: Prices at which units are considered affordable a specific HUD income levels are set by the jurisdiction and may change from time to time or place to place

Ancillary housing regulations: The set of laws or administrative rules in place at administrative units (departments) responsible for managing non-housing agencies whose operations affect housing production.

Buy back agreements: The jurisdiction has the right of first purchase to buy the property at time of sale, at a price based on the original affordable price, plus compensation for improvements, plus a limited return on the original buyer's investment.

Buyer qualifications: The jurisdiction may define the qualifications of persons who can purchase affordable housing units, including, income levels, homeless status, residency, etc.

Counter Inclusionary Policies: A set of procedures to create incentives for affordable housing production through exemptions from regulations and relaxing zoning rules and building codes. Usually refers to comprehensive policy and procedures such as Massachusetts 40B or HHFDC's 201H-38.201-38.

Density bonuses: An agreement whereby producers of affordable units receive the right to build at higher densities (by allowing smaller lot sizes, more units per acre, increased building heights, multi-family building, etc.) as an incentive to build affordable housing units.

First-time homebuyer requirement: Buyers of affordable housing may be limited to persons without existing homes or an equity share in existing homes.

Housing credits: As discussed above these credits provide an incentive for increasing production of affordable units.

Housing credits: If a developer produces more affordable units than required, the extra units may be conferred as credits against future development. Credits may be transferred or sold to other developers. Credits may be applied to individual affordability levels, or to any combination of affordability levels, or may be applied ads a comprehensive credit system.

Housing policy: A broad and inclusive term used to describe the overall agreement of the jurisdiction (County) as to the goals and objectives, programs and tasks, resources and procedures, methods and measurements to be employed in producing housing units for the people of the jurisdiction.

Housing program: A specific set of rules and regulations, procedures and operation set forth to describe how a policy will be promulgated in the jurisdiction.

Housing regulations: A set of laws or administrative rules the prescribe the ways that policy will be administered within the administrative body (department) charged with responsibility of managing housing production.

Inclusionary housing policy: an affordable housing tool that links the production of affordable housing to the production of market-rate housing. Inclusionary zoning policies either require or encourage new residential developments to make a certain percentage of the housing units affordable to low- or moderate- income residents.

Limits on resale: Conditions on affordable units included in the deed that affect resale of the units for several years. Terms vary by jurisdiction, by specific development agreements, and by the income level of the occupants. These usually include:

Owner-occupancy requirement: A requirement that purchasers attest that they will occupy the unit and not rent it or leave it vacant for a specific period.

Shared appreciation agreements: An agreement to split the appreciation at time of same between the seller and the jurisdiction, according to a preset agreement. The jurisdiction's share is used for further development of affordable housing units.

Streamlining: Fast-tracking or one-stop service.

Time Limits: If insufficient qualified buyers are located to occupy affordable units, jurisdictions may allow units to be sold to less qualified buyers. For instance, if insufficient qualified buyers at any level can be found, the developer can sell affordable units to unqualified buyers at market prices.

APPENDIX C: MAUI COUNTY POLICIES MATRIX

(See next page)

Maui County Affordable Housing Policy Matrix – Version 8

Identifiers			Maui Policy				Some Policy Considerations		
Issue	Sub-issue	Detail	Current Policy	Source	CPP[1]	HSPH[2]	New Policy	Ref	Comment
Land Availability	Land acquisition	Land banking			III.E.1.c		Adopt land banking like Kaua'i Co. Ord[3].	TIG, p.10.; Orion[4], p.18.	
		Community Land Trusts	Na Hale O Maui: A Community land Trust.	http://www.nahaleomaui.org/			Expanded, additional land trusts	SAT. p.7.; inf.; Orion, p.18.	Owns the land, sustainable in perpetuity
		Land exchange	LUC and county land use agencies control	HRS 171-64-7, 171-84			Sell 2 properties to get $ for AH		Any type of exchange OK
		Coordinate jurisdictions	65-yr lease; would req, LUC amendment		III.E.3.e		Comprehensive, Statewide plan proposed	TIG, p.11.	May move exchange to State
		Sell or lease State land					Allow 99-year lease: LUC amendment	HHAP2017, p.58	
	Land Types	Agricultural lands	Protect ag lands				Allow AH development on ag land	Orion, p. 18-9.	A zoning issue
Development Strategies	Land Development	Greenfield developments							
		Infill	Encourage infill development	CPP, p.74	III.E.2.d		Set infill, redevelopment standards	Orion, p.20.	Also need to identify parcels.
			Encourage dev. near existing infrastructure		III.J.1.e				
		Directed growth	Direct new development to existing communities	CPP, p.74	III.J.1.h				
		For Renters	No rent-to-own programs				Create rent-to-own programs	AHS[5], p. 7.	
	Unit Types	Rental units	Supply is very low;				Focus on affordable rentals	HHPS2017; Informants	Affordables are subsidized, rentals need management.
		Renovate/redevelop public hsg.	PH is a State responsibility	HRS		III.R.A(4)(a)	Renovate/redevelop public housing units	HSPH, p.15.	Partner with HPHA[6]?
		Buy or refurbish AH units	Currently allowed; CDBG and HUD funds available			III.R.A(4)(b)	Assist in acquisition/rehab of rentals	HSPH, p.15.	Hard to find
		Use non-profit managers	*NR*				Use non-profit management firms	informants	Assumes they are available
		Permanent Supportive Housing	*NR*. Homelessness handled by Human Concerns			III.R.A(1)(d)	Homelessness is a housing issue. Support permanent supportive housing for special needs and chronic homeless.	Rosen; informants	Currently they will compete for affordable rentals.
		Self-help housing	Allowed				Increased production of self-help units	informants	Self-help works well, but not for everyone, produces few units.
	Developers	AH developers	Have experience in getting funding				See partnerships		
			Large-scale developers, New developers						
		Relevant to partnerships	Planners as facilitators, or negotiators						
	Partnership	Partnership		No reference to partnership in MCC.	III.E.1.f,n		Partner w. State for mixed use developments that include rentals.	HSPH, p. 14.	All developments are public-private partnerships under 2.96.
		State				III.R.A(2)(b)	Work with DHHL	Informants	Some DHHL informants say Maui Co. is hard to deal with.
		DHHL				III.R.A(2)(a)	Encourage private/public partnerships	AHS, p.7.	
		Private agencies					Partner to produce AH rental units	HSPH p. 13.	
		Attitude	Some say there is an attitude that Maui Co. cannot trust developers; or landowners	Informants; Review of public meetings			Reduce number of reviews	Informants	Fewer reviews, less antagonism.
Entitlements	LUC amendment process	Applications processed as they arrive, developer driven	"...can be duplicative, time-consuming, and potentially unnecessary." HHAP[7] p. 59 LUC approves projects 15 acres or less.				REC: Regional boundary amendment process. Supplemental steps: Raise allowable dba to 60 acres or less Limit SLUC responsibility to infrastructure, schools, highways, State facilities.	HHAP2017, p.60.	State approval times are measured in years - County approval times measured in weeks. Some Action is required
	Subdivision Requirements	Park dedication	Provide a park, in lieu money, improvements to an existing park, or combination of these. 500 sq. ft. per unit, or 250 sq. ft. for AH. Exemption: all residential workforce housing units shall be exempt from this section.	MCC 18.16.320 A, B(1) MCC 18.16.320 MCC 18.16.320 I(5)			Exempt AH from park dedication	Informants	Two sides: more AH units, living in an area with no parks maybe.
Building Codes	General	Green building codes	Governed by Residential Code (no big prob)	MCC 16.08 A	III.I.3.IAb		Adopt and green building code	CPP, p. 872	Green Building codes may be an impediment to AH.
		Vacation rental units (VRUs)	Maui has an ordinance?				Handle VRUs in zoning code	Orion, p.18.	
	Housing Stock issues	"Monster houses"	Not addressed yet?				Regulate or tax multi-bedroom houses	Orion[8], p. 16.	Honolulu policy; Title 19 Final Report advises caution

1 County of Maui, 2017. 2030 General Plan (GP), Countywide Policy Plan (CPP), March 24, 2010.
2 Hawai'i State Plan: Housing (HSPH), Hawai'i Housing Finance and Development Corporation, February 21, 2017.
3 Ordinance No. 860 establishes by law a housing policy under Section 2-1.16 of the Kaua'i County Code 1987. It includes workforce housing requirements for residential and resort developments and codifies procedures to administer housing development programs. Compare MCC 2.96.
4 Orion Planning & Design. 2018. Title 19 Zoning Code Audit: Final Report, March 2018.
5 2017 Maui County Affordable Housing Summit Executive Summary.
6 Hawai'i Public Housing Authority.
7 Hawai'i Housing Action Plan, Department of Business Economic Development and Tourism, Office of Planning, 2017.
8 Orion Planning & Design. 2018. Title 19 Zoning Code Audit: Final Report, March 2018 (Orion).

Policy Matrix

Page 1

Maui County Affordable Housing Policy Matrix – Version 8

Identifiers			Maui Policy				Some Policy Considerations		
Issue	Sub-issue	Detail	Current Policy	Source	CPP[9]	HSPH[10]	New Policy	Ref	Comment
Zoning	Rezoning Guide development Up zoning		Rezoning is difficult, time-consuming, and expensive. Have developers build infrastructure if they need it MCC 19.10.050; public sentiment may not allow	Title 19 Rezoning Audit, p. 16.			Proactive rezoning code; revise zoning Build infrastructure and use it to guide development. Consider up zoning. Can mean taller buildings, here greater density.	ZCA, p.6; AHS, p.7, informants, Orion, p.16. Informants SAT, p.8.; Metcalf[11], p.73	Even before Title 19 revision, begin to move parcels. Asking County to take control of the development process Appropriate for infill, redevelopment. Very difficult.
	Density Restrictions Residential	Minimum lot size	R-1 6,000; R-2 7500; R-3 10,000 (per unit)[12] Increased density not to exceed 10% (for AH)	MCC 19.08.040 A MCC 19.08.040 B			Eliminate barriers in general Smaller lot sizes for farm labor dwelling units	ZCA[13] p.16, AHS, p. 7; Orion, p.16; Rosen[14], pp. 9-11 TIG, rec., p.12.	Rosen describes advantages and disadvantages, offers logic for change.
		Maximum Height	2 stories; 30 feet						Zoning regulations are more stringent than Honolulu but not overwhelming. All are subject to waiver or negotiation in the case of workforce housing. Density issues were most frequently mentioned by informants.
		Minimum lot width	R-1 60; R-2 65; R-3 70 feet	MCC 19.08.040					
		Yard size	1-story: Front 15 feet, side 6 feet, rear 6 feet 2-story: Front 15, side 10 feet, back 10 feet.	MCC 19.08.060					
	Duplexes	Minimum lot size	D-1 7,500; D-2 10,000	MCC 19.10.050					
		Maximum Height	35 feet	MCC 19.10.050					
		Minimum lot width	D-1 65; D-2 65	MCC 19.10.050					
		Yard size	1-story: Front 15 feet, side 6 feet, rear 20 feet 2-story: Front 15, side 10 feet, back 20 feet.	MCC 19.10.050					
	Apartments	Minimum lot size	A-1: 10,000; A-2: 10,000	MCC 19.12.050			Provide flexibility in lot sizes for affordable and workforce housing	Informants	Issue is flexibility rather than changing regulations
		Maximum Height	A-1: 35 feet, A-2: 60 feet	MCC 19.12.050					The proposed comprehensive zoning review may change many individual regulations over the next 2-3 years. Proactive zoning, already being discussed in Maui County will also change zoning issues related to affordable housing.
		Minimum lot width	A-1: 70; A-2: 70	MCC 19.12.050					
		Yard size	A-1: Front 15 feet, side 10 feet, rear 15 feet A-2: Front 15 feet, side 10 feet, back 20 feet.	MCC 19.12.050					
		Lot coverage	A-1: 25%; A-2: 35%	MCC 19.12.050					
		Maximum lot coverage	A-1: 40% for lots 3 acres of more, 50% others A-2: 90%	MCC 19.12.050					
	Construction regulations	Max floor area ratio							
	Parking restrictions						Reduce Parking restrictions Re-evaluate parking space requirements	CZA, p. 18; SAT. p.8.	Orion, p.18: enforcing parking regulations may be an "unreasonable proposition".
	Building materials								
	Building type	Manufactured homes Missing middle Accessory dwelling units Tiny houses	 One per lot None	MCC 16.20B.1706 electric MCC 16.20B.101.4.1 plumbing MCC 19.35.050	III.E.2.a		Prefab, modular homes Consider new housing types Explore using tiny houses as affordable units	Rosen, p. 19. ZCA, p. 17; Orion, p. 16. TIG, p. 4; Rosen, p.22. TIG, p. 6.	Modular reduces cost by 40%, but supply has been unreliable. Orion: duplexes, triplexes, multiplexes, courtyard apts., bungalow courts, mixed use, ADUs, prefab, and modular. Need zoning changes, education. Rosen says ADUs produce useful numbers of units, "especially in supply-constrained" housing markets."
	Complete Streets		No mention				Roll back or suspend complete streets development requirements	Informants	

[9] County of Maui, 2017. 2030 General Plan, Countywide Policy Plan, March 24, 2010.
[10] Hawai'i State Plan: Housing, Hawai'i Housing Finance and Development Corporation, February 21, 2017.
[11] Metcalf favors reducing regulations, but not "getting rid of all regulations", "We want our communities to be beautiful, to nurture a sense of belonging, to express the aspirations of our civilization". We want to prevent "racial segregation through land use policies".
[12] Zero lot line (townhouses) can have two units in 6,000 square feet (missing middle?)
[13] Maui County, Title 19 Zoning Code Audit, Final Report, March 2018. (ZCB)
[14] Rosen's objective is to increase homeownership after the recession. His observations and recommendations cover rentals and affordable housing as well.