

REQUEST FOR LEGAL SERVICES

RECEIVED
CORPORATION COUNSEL
2018 OCT 25 PM 2:02

Date: October 25, 2018
From: Robert Carroll, Chair
Land Use Committee

TRANSMITTAL
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Jeffrey Ueoka, Esq.

Subject: AFFORDABLE HOUSING PROJECTS (CHAPTER 201H, HAWAII REVISED STATUTES) (WAILUKU APARTMENT RENTAL HOUSING PROJECT) (LU-2(5))

Background Data: Please review and, if appropriate, approve as to form and legality the attached revised proposed resolution approving the project with modification, incorporating revisions made by the Committee at its meeting of October 17, 2018, a new Exhibit "A" with two proposed modifications, and nonsubstantive revisions. An approved hard copy of the resolution is requested with your response.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

RECEIVED
OFFICE OF THE COUNTY COUNCIL
2018 OCT 25 PM 8:34

Requestor's signature <i>Robert Carroll</i> Robert Carroll	Contact Person Carla Nakata or Saumalu Mataafa (Telephone Extension: 7659 or 7665)
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- ROUTINE (WITHIN 15 WORKING DAYS)
- PRIORITY (WITHIN 10 WORKING DAYS)
- RUSH (WITHIN 5 WORKING DAYS)
- URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): October 29, 2018
REASON: For discussion at the October 31, 2018 Land Use Committee Meeting

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>JTU</u>	ASSIGNMENT NO. <u>2017-0096</u>	BY:
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):

DEPARTMENT OF THE CORPORATION COUNSEL

Date 10/25/18

By [Signature]

(Rev. 7/03)

Resolution

No. _____

APPROVING WITH MODIFICATION THE
WAILUKU APARTMENT RENTAL HOUSING
PROJECT BY LEGACY WAILUKU LLC,
PURSUANT TO SECTION 201H-38,
HAWAII REVISED STATUTES

WHEREAS, Legacy Wailuku LLC, a Delaware limited liability company, proposes the development of the Wailuku Apartment Rental Housing Project (“Project”), pursuant to Section 201H-38, Hawaii Revised Statutes (“HRS”) for qualified residents on land identified for real property tax purposes as tax map key (2) 3-5-001:064, Wailuku, Maui, Hawaii; and

WHEREAS, the Project will have 195 residential workforce housing rental units and 129 market-rate rental units, for a total of 324 rental units; and

WHEREAS, on October 4, 2018, the Hawaii Housing Finance and Development Corporation (“HHFDC”) submitted the preliminary plans and specifications and the accompanying Application (“Application”) to the Maui County Council, recommending approval of the Project pursuant to Chapter 201H, HRS; and

WHEREAS, pursuant to Section 201H-38, HRS, the Council shall approve, approve with modification, or disapprove the Project by resolution within forty-five (45) days after HHFDC submits the preliminary plans and specifications for the Project to the Council, or the Project shall be deemed approved; and

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

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

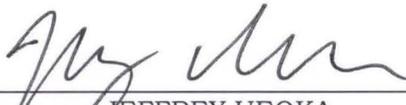
1. That based upon the transmittals and the representations of HHFDC and Legacy Wailuku LLC, the Council approves the Project with the modifications attached hereto as Exhibit “A” and made a part hereof, including the Project’s preliminary

Resolution No. _____

plans and specifications as submitted to the Council on October 4, 2018, pursuant to Section 201H-38, HRS; provided that the Project shall comply with all statutes, ordinances, Charter provisions, and rules of governmental agencies relating to planning, zoning, and construction standards for subdivisions, development and improvement of land, and the construction of units thereon, except for the exemptions specified in Exhibit B," attached hereto and made a part hereof; and

2. That the final plans and specifications for the Project shall be deemed approved by the Council if the final plans and specifications do not substantially deviate, as determined by the Executive Director of HHFDC, from the preliminary plans and specifications approved by the Council; and
3. That any substantial deviation from the preliminary plans and specifications shall be submitted to the Council for prior approval; and
4. That the final plans and specifications shall constitute the zoning, building, construction, and subdivision standards for the Project; and
5. That certified copies of this resolution shall be transmitted to the Director of Housing and Human Concerns, Planning Director, Director of Public Works; Executive Director of HHFDC, and Legacy Wailuku LLC.

APPROVED AS TO FORM AND LEGALITY



JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

lu:misc:002(5)aresomodification01

MODIFICATIONS

1. Construction of the Wailuku Apartment Rental Housing Project ("Project") shall commence within two years of the effective date of this resolution. Commencement of construction shall mean the visible start of grading, pursuant to a valid grading permit as needed for the development of the property. Legacy Wailuku LLC shall act in good faith and with its reasonable best efforts to complete construction of the 195 residential workforce housing units, with all related roads and infrastructure, no later than five years after the effective date of this resolution.
2. Project approval shall lapse and become void if by the end of 180 days from the effective date of this resolution, Legacy Wailuku LLC has failed to receive the Maui County Council's approval of a State Land Use District Boundary Amendment from Agricultural to Urban for the property.

lu:misc:002(5)modifications01

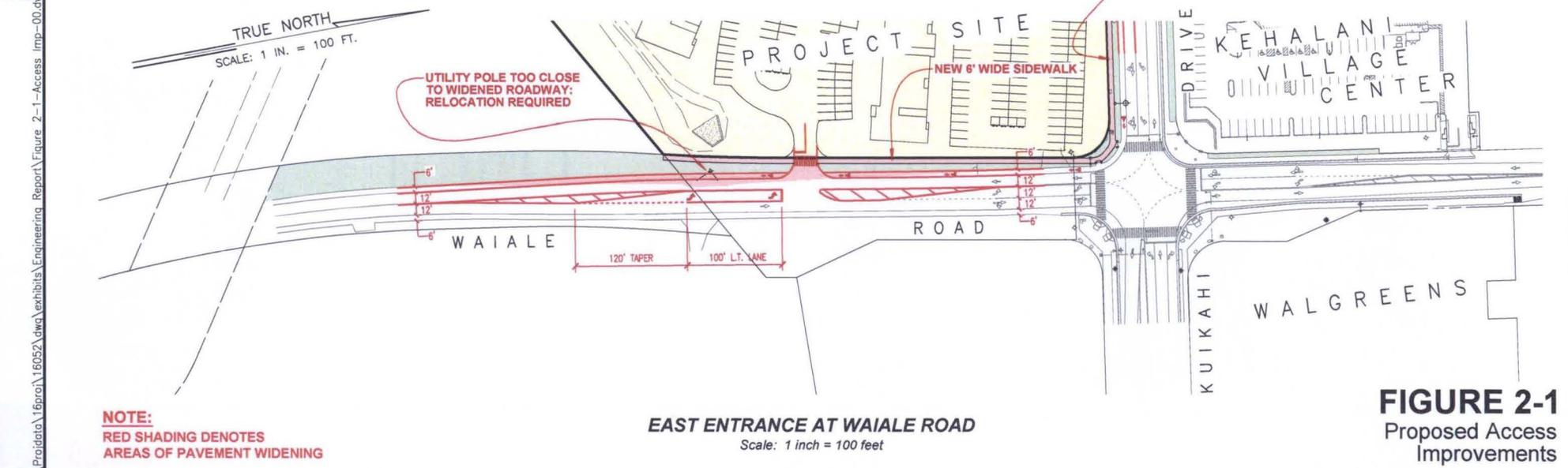
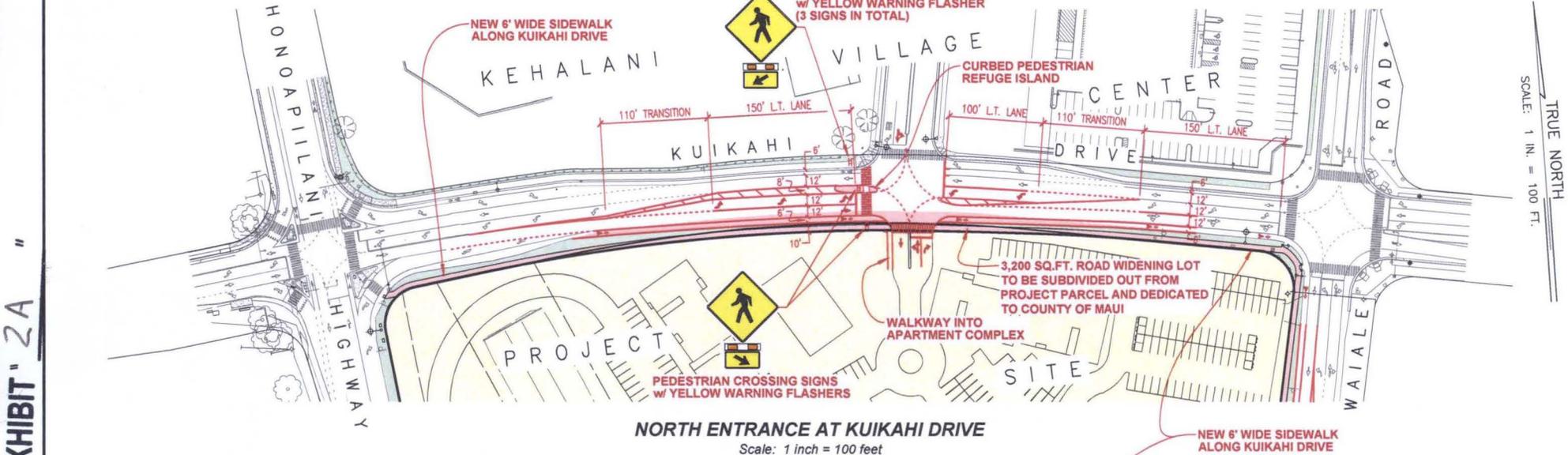
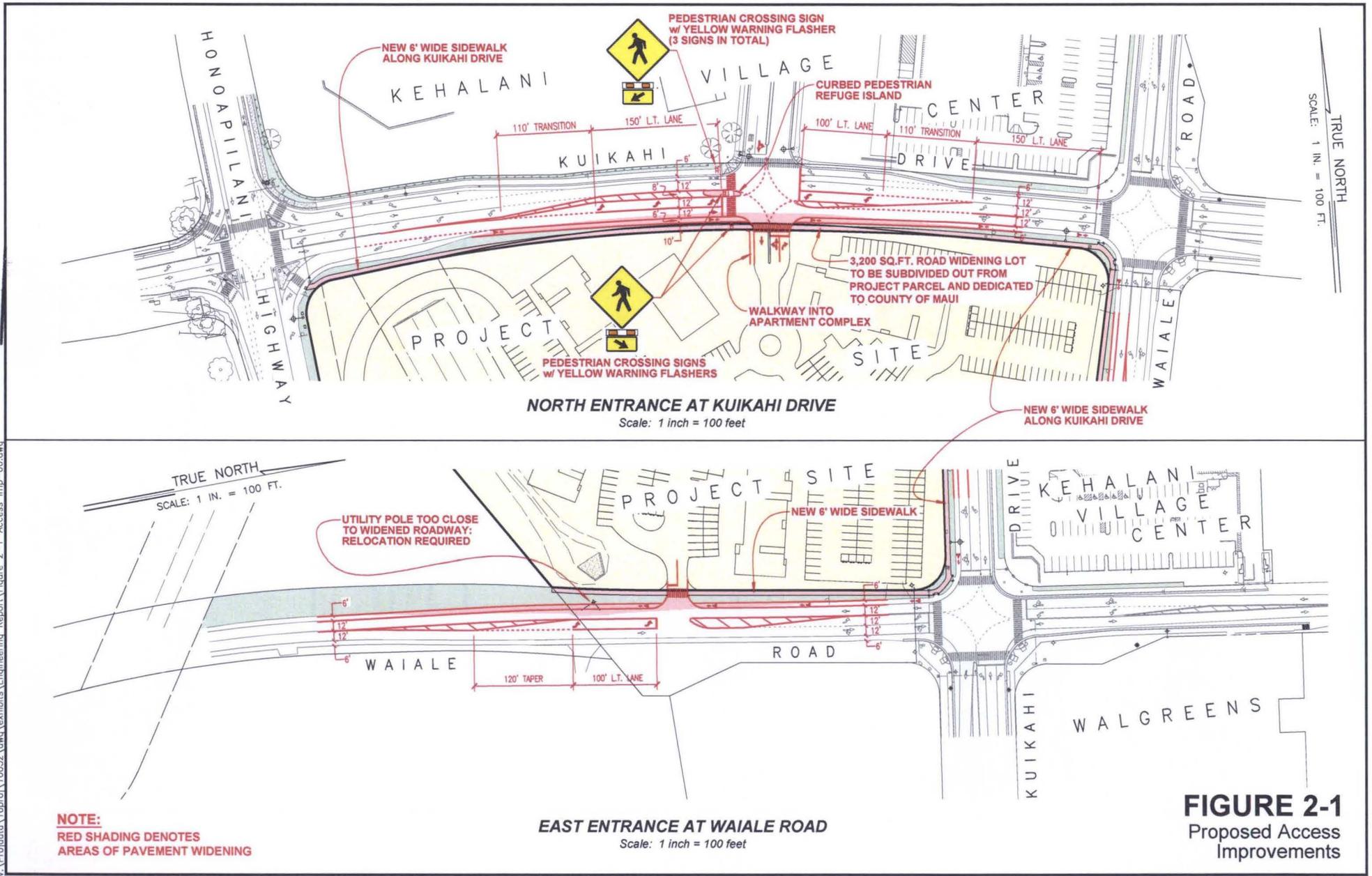
EXHIBIT "A"

EXHIBIT "B"

**WAILUKU APARTMENT RENTAL HOUSING PROJECT -
EXEMPTIONS PURSUANT TO SECTION 201H-38,
HAWAII REVISED STATUTES**

1. **Chapter 2.80B, Maui County Code ("MCC"), General Plans and Community Plans.** An exemption is granted from Chapter 2.80B, MCC, General Plan and Community Plans, to permit the project to proceed without obtaining a Community Plan Amendment.
2. **Chapter 12.24A, MCC, Landscape Planting and Beautification.** An exemption is granted from the number, species, and location of street trees along Honoapiilani Highway, Waiale Road, and Kuikahi Drive required by Chapter 12.24A, MCC, Landscape Planting and Beautification. Landscaping will be provided in accordance with the Conceptual Landscape Plan attached hereto as Exhibit "1."
3. **Chapter 14.35, MCC, Wastewater Assessment Fees for Facility Expansion for the Wailuku/Kahului Wastewater Treatment System.** An exemption is granted to allow the project to receive its building permits without paying wastewater assessment fees for facility expansion for the Wailuku/Kahului wastewater treatment system.
4. **Title 16, MCC, Buildings and Construction.** Exemptions are granted from Chapters 16.04C, Fire Code, 16.18B, Electrical Code, 16.20B, Plumbing Code, and 16.26B, Building Code, to exempt the project from fire, electrical, plumbing, and building permit, plan review, and inspection fees.
5. **Section 16.26B.3600, MCC, Improvements to Public Streets.** An exemption is granted from the requirement, pursuant to Section 16.26B.3600, MCC, that curbs and gutters be constructed along Kuikahi Drive, Waiale Road, and Honoapiilani Highway. Improvements shall be provided as shown on Exhibits "2A" and "2B," attached hereto.
6. **Section 18.04.030, MCC, Administration, and Section 18.16.020, MCC, Compliance.** An exemption is granted from Section 18.04.030, MCC, Administration, and related land use consistency and conformity requirements of Title 18, to exempt the project from obtaining a Change in Zoning or Community Plan Amendment. An exemption from Section 18.16.020, MCC, Compliance is granted to exempt the project from General Plan conformity requirements.

7. **Section 18.16.320, MCC, Parks and Playgrounds.** The project includes four small parks and playgrounds improvements that vary between 1,200 square feet and 2,000 square feet in size, as shown on Exhibit "3," attached hereto. An exemption from Section 18.16.320, MCC, shall be granted to exempt the project from any park dedication requirements in excess of these improvements.
8. **Chapter 18.20, MCC, Subdivision Improvements.** Exemptions are granted from Sections 18.20.040, 18.20.070, and 18.20.080, MCC, as they relate to the urban standards for curbs, gutters, and sidewalks for the portions of the project adjacent to Waiale Road and Kuikahi Drive. The project will provide an at-grade sidewalk and bike path along Waiale Road and Kuikahi Drive with a raised asphalt curb painted white to delineate the pedestrian safety zone, as shown on Exhibits "2A" and "2B," attached hereto.
9. **Chapter 19.30A, MCC, Agricultural District.** An exemption from Chapter 19.30A, MCC, is granted to permit the development and use of the property for multi-family residential use, recreational uses and structures, and accessory uses according to the permitted uses, accessory uses and buildings, and development standards of the A-2 Apartment District pursuant to the provisions set forth in Chapter 19.12, with one exception: a utility shed will be located within the setback area, in the location shown on the plans submitted with the 201H application, approximately ten (10) feet from the property boundary.
10. **Section 19.36A.070, MCC, Walls, Fences, and Landscaping.** An exemption is granted from Section 19.36A.070, MCC, Walls, Fences and Landscaping, to allow for flexibility in the placement of fences and shade trees as set out in the proposed conceptual site plan.
11. **Chapter 19.68, MCC, State Land Use District Boundaries; Chapter 19.510, MCC, Application and Procedures; Article 8, Chapter 8, Revised Charter of the County of Maui (1983), as amended.** Exemptions are granted from Chapters 19.68 and 19.510, MCC, and Article 8, Chapter 8, of the Revised Charter of the County of Maui (1983), as amended, to enable the District Boundary Amendment request to proceed directly to the Maui County Council. The District Boundary Amendment request will not require the preparation of a District Boundary Amendment application and will not require processing through the Maui Planning Commission.



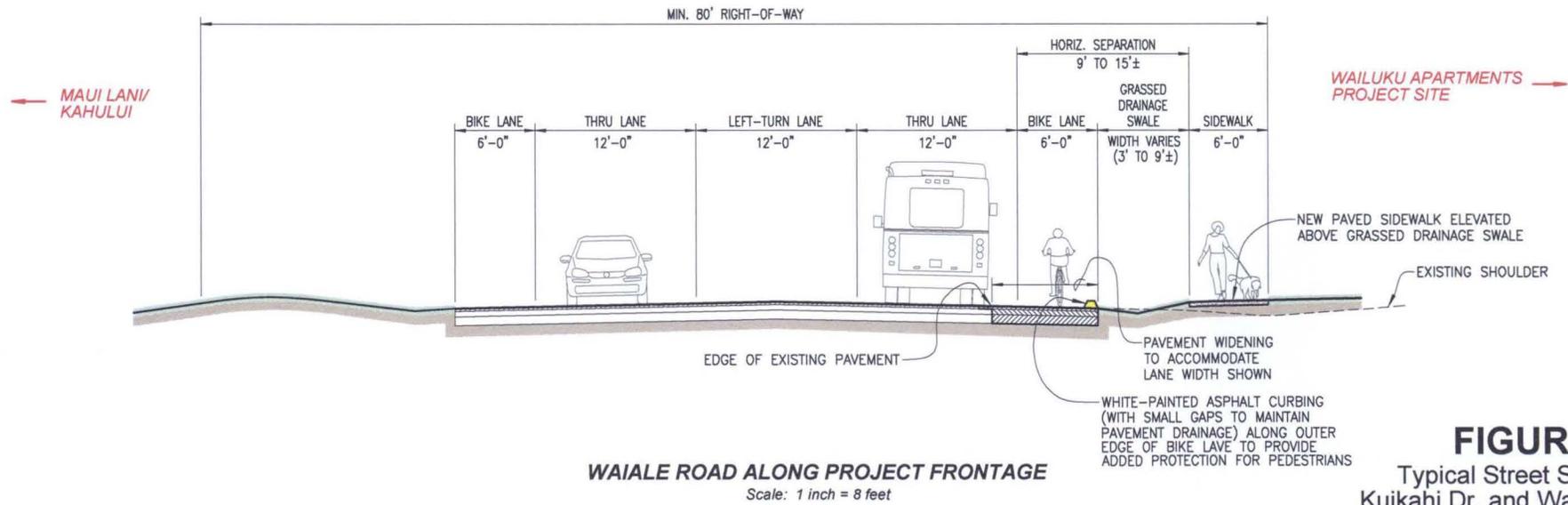
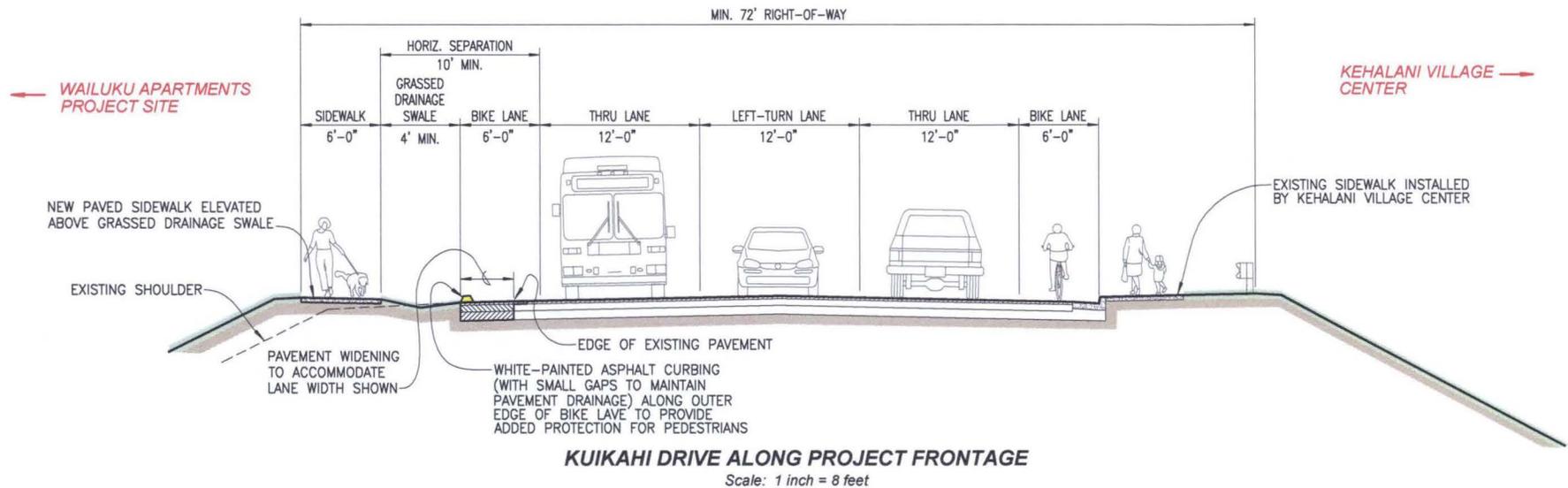
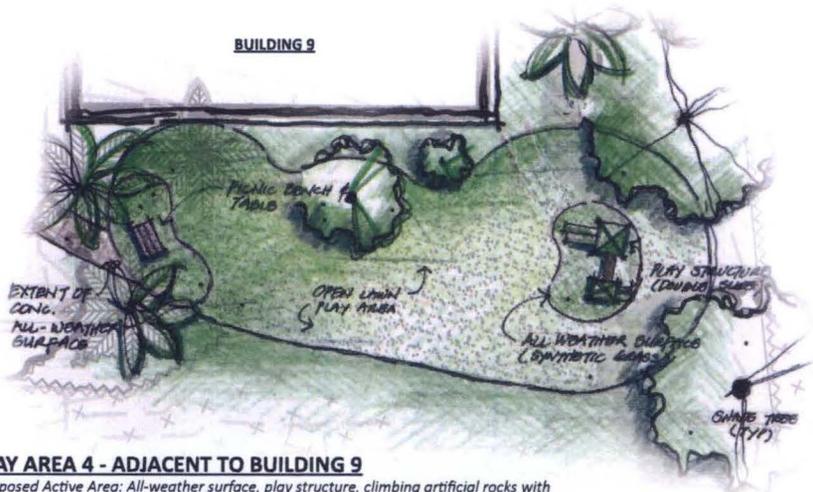
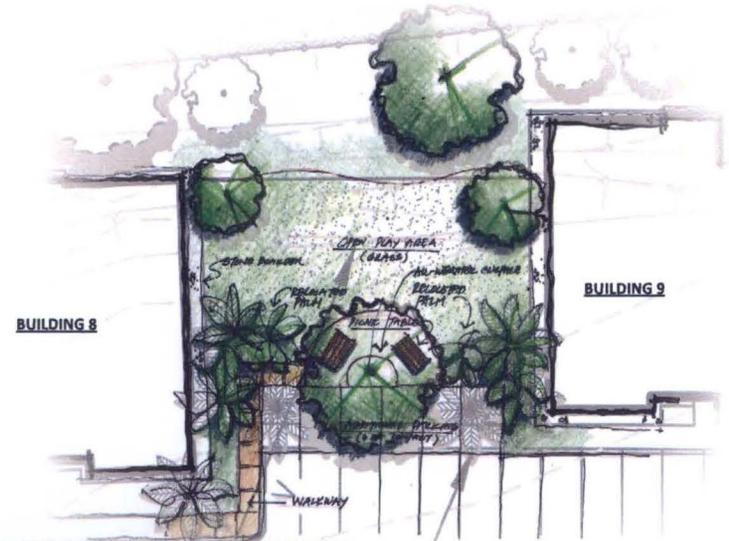


FIGURE 2-2
 Typical Street Sections:
 Kuikahi Dr. and Waiale Rd.



PLAY AREA 4 - ADJACENT TO BUILDING 9

(Proposed Active Area: All-weather surface, play structure, climbing artificial rocks with picnic table & bench in proposed open grassed play area.)



PLAY AREA 3 - BETWEEN BUILDINGS 8 & 9

(Proposed Passive Area: All-weather surface, picnic tables & bench in proposed open smaller grassed play area. Additional tandem parking provided.)



PLAY AREA 1&2 - ADJACENT TO COMMUNITY CENTER & POOL

(Proposed Active Area: PA 1: All-weather surface, play structure, climbing artificial rocks and benches in proposed open grassed play area. PA 2: All-weather surface, climbing rocks & cargo nets w/ 3ea putting holes.)



OPEN LAWN PLAY AREA CONCEPTS

WAILUKU APARTMENTS

NOVEMBER 13, 2017