

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

November 15, 2018

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Land Use Committee, having met on October 17, 2018, October 31, 2018, and reconvened on November 2, 2018, makes reference to County Communication 17-12, from Council Chair Mike White, relating to requests for Council approval of affordable housing projects pursuant to Chapter 201H, Hawaii Revised Statutes ("HRS").

By correspondence dated September 14, 2018 (received on October 4, 2018), Craig Hirai, Executive Director, Hawaii Housing Finance and Development Corporation, State Department of Business Economic Development & Tourism ("HHFDC"), transmitted the following:

1. An application for the development of the proposed Wailuku Apartment Rental Housing Project, pursuant to Section 201H-38, HRS, on property identified for real property tax purposes as tax map key (2) 3-5-001:064. The application, prepared for Legacy Wailuku LLC, is for the development of 195 affordable rental units and 129 market-rate rental units on approximately 14.4 acres bordered by Waiale Road, East Kuikahi Drive, and Honoapiilani Highway, Wailuku, Maui, Hawaii. As proposed, the project will include nine residential structures, a recreation and leasing center, four outdoor play areas, a pool, and a community center.
2. A proposed resolution entitled "APPROVING THE AFFORDABLE WORKFORCE HOUSING PROJECT BY LEGACY WAILUKU LLC PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES." The purpose of the proposed resolution is to approve the proposed project with various exemptions from certain requirements contained in the Maui County Code ("MCC") and the Revised Charter of the County

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of Maui (1983), as amended ("Charter"), relating to planning, zoning, construction standards for subdivisions, the development and improvement of land, and the construction of dwelling units.

3. A proposed resolution entitled "APPROVING WITH MODIFICATION THE AFFORDABLE WORKFORCE HOUSING PROJECT BY LEGACY WAILUKU LLC PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES." The purpose of the proposed resolution is to approve the proposed project with the modifications in Exhibit "A" and various exemptions from certain requirements contained in the MCC and the Charter relating to planning, zoning, construction standards for subdivisions, the development and improvement of land, and the construction of dwelling units.
4. A proposed resolution entitled "DISAPPROVING THE AFFORDABLE WORKFORCE HOUSING PROJECT BY LEGACY WAILUKU LLC PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES." The purpose of the proposed resolution is to disapprove the proposed project

Pursuant to Section 201H-38, HRS, the Council shall approve, approve with modifications, or disapprove affordable housing projects by resolution within 45 days after the preliminary plans and specifications for the project have been submitted to the Council, or the project shall be deemed approved. The Council has until November 18, 2018, to act on the application, or it will be deemed approved as submitted.

Your Committee notes that, according to the application, the project will contain 27 studio units of 424 square feet; 108 one-bedroom, one-bath units of 552 square feet; 135 two-bedroom, two-bath units ranging from 741 to 812 square feet; and 54 three-bedroom, two-bath units ranging from 934 to 956 square feet. Of the 195 affordable units, 55 will be offered for rent at 50 to 80 percent of area median income ("AMI"), based on HHFDC rent guidelines. Fifty-five units will be offered for rent at

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81 to 100 percent of AMI, 55 units will be offered at 101 to 120 percent of AMI, and 30 units will be offered at 121 to 140 percent of AMI.

The parcel is owned by Kehalani Agricultural Investors LLC. By correspondence dated September 6, 2018, the landowner authorized Schatz Collaborative LLC and Legacy Wailuku LLC to file the application. Legacy Wailuku LLC is identified as the Developer in the application, and Schatz Collaborative LLC is the Developer's contact.

Your Committee notes a Final Environmental Assessment for the project was prepared and provided to your Committee along with the application.

Your Committee further notes the matter of the State Land Use District Boundary Amendment for the property was transmitted separately by County Communication 18-303, from Councilmember Robert Carroll. The Director of Housing and Human Concerns subsequently transmitted the proposed District Boundary Amendment bill to your Committee, by correspondence dated October 4, 2018. The Developer did not request an exemption under Section 201H-38, HRS, from the requirement that the State Land Use District Boundary be amended from the Agricultural District to the Urban District. However, the Developer did seek certain exemptions from the application and procedural requirements of the proposed District Boundary Amendment.

Your Committee also notes the Limited Warranty Deed transmitted with the application and recorded with the Bureau of Conveyances on April 18, 2016, references documents dated 1990, 1992, and 2003, containing conditions. By correspondence dated October 14, 2018, Linda Schatz, Principal, Schatz Collaborative, transmitted a title report from Title Guaranty removing these exceptions because the parcel is not within the Wailuku Project District 3 boundary.

According to the application, the property has a State Land Use District classification of Agricultural, a Community Plan designation of Future Growth Reserve, and County zoning of Agricultural District. The property is located within the Maui Island Plan Urban Growth Boundary.

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Your Committee notes the project would support various strategies, objectives, and policies of the Countywide Policy Plan, including the following:

- "Expand housing opportunities for residents." (Countywide Policy Plan, Section III.E, page 41, and Section IV.E, page 57)
- "Reduce the affordable housing deficit for residents." (Objective E.1, page 57)
- "Ensure that an adequate and permanent supply of affordable housing, both new and existing units, is made available for purchase or rental to our resident and/or workforce population, with special emphasis on providing housing for low- to moderate-income families." (Policy E.1.a, page 57)
- "Seek innovative ways to lower housing costs without compromising the quality of our island lifestyle." (Policy E.1.b, page 57)
- "Increase and maintain the affordable housing inventory." (Objective E.3, page 58)

Your Committee further notes the project would support various goals, objectives, and policies of the Maui Island Plan, including the following:

- "Maui will have safe, decent, appropriate, and affordable housing for all residents developed in a way that contributes to strong neighborhoods and a thriving island community." (Maui Island Plan, Goal 5.1, page 5-6)
- "Provide affordable housing, rental or in fee, to the broad spectrum of our island community." (Objective 5.1.3, page 5-8)
- "Reduce the cost to developers of providing housing that is affordable to families with household incomes 160 percent and below of annual median income." (Objective 5.1.6, page 5-10)
- "Support fast-track processing procedures for the following housing-related entitlements: affordable housing projects/units;

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indigenous Hawaiian housing/units; and special-needs housing units." (Policy 5.1.6.a, page 5-10)

In the application, the Developer requested specific exemptions from the MCC to expedite the delivery of the proposed affordable housing units, including exemptions from obtaining a Community Plan Amendment and Change in Zoning, and procedural requirements associated with a District Boundary Amendment. The Developer also requested an exemption from the requirement under Article 8, Chapter 8, of the Charter, relating to procedures for the District Boundary Amendment.

The Developer provided your Committee with a breakdown of the estimated savings associated with the requested exemptions, totaling \$3,001,043 in County fees or charges, \$1,566,660 in physical construction improvements, and \$250,000 in the approval and entitlement process and land costs.

Ms. Schatz shared a preliminary project timeline for the project. She said the project would first deliver Building 1, comprised of the first set of 36 affordable units. Building 2 would be the first set of 36 market-rate units, and thereafter each building would alternate between affordable and market-rate units at approximate intervals of two months.

Mr. Hirai said HHFDC is bringing this project forward because the income group of 60 to 100 percent of AMI is particularly difficult to build for and service. He said most subsidies, including low-income-housing tax credits, are targeted for 60 percent or less of AMI.

Your Committee discussed the project and the various exemptions being requested.

Your Committee revised the requested exemption from the parks and playgrounds requirements listed in Section 18.16.320, MCC, for clarity. As revised, the project will be exempt from any park dedication requirements in excess of the four small parks and playgrounds improvements shown on Exhibit "3" to the proposed resolution approving the project with modifications.

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The Deputy Director of Environmental Management said because this is a private multi-family-unit development, the County would not be involved in trash collection. He also said the expansion cost of the Wailuku-Kahului Wastewater Treatment Facility has been satisfied, although the assessment fee in Chapter 14.35, MCC, is still in place. Your Committee, therefore, supported the requested exemption from the wastewater assessment fee.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed resolution approving the project with modifications, entitled "APPROVING WITH MODIFICATION THE WAILUKU APARTMENT RENTAL HOUSING PROJECT BY LEGACY WAILUKU LLC, PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES," approved as to form and legality. The revised proposed resolution incorporates two proposed modifications, revisions recommended by your Committee, and nonsubstantive revisions.

The first proposed modification establishes commencement and completion deadlines for construction of the project. The second modification voids approval of the project if the Developer does not receive Council approval for the proposed District Boundary Amendment from Agricultural to Urban within 180 days of the effective date of the resolution.

By correspondence dated October 22, 2018, the Fire Chief opposed the waiver of fees associated with Fire Code plan and permit reviews and inspections. He said the Department's two fire plan reviewers are funded by these fees. Your Committee received an excerpt from the Fiscal Year 2019 Budget ordinance reflecting the balances in the Plan Review, Processing, and Inspection Revolving Fund, and allowed the exemption to remain.

Your Committee notes the bulk of discussion concerning project impacts and mitigation measures related to street improvements and traffic concerns. The Deputy Director of Public Works requested the exemption from Section 16.26B.3600, MCC, relating to improvements to

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public streets, be revised to clearly articulate specific improvements that would be allowed as exemptions from existing MCC requirements. As revised, the exemption allows overhead utility lines; sidewalks, bicycle lanes, swales (in lieu of curbs and gutters) along Kuikahi Drive and Waiale Road; pavement widening along Kuikahi Drive and Waiale Road; and land dedication to widen the Kuikahi Drive right-of-way. Attached Exhibits "2A" and "2B" to the revised proposed resolution approving the project with modifications provide detail of some of these improvements.

The Deputy Director recommended five modifications be added relating to (1) preparation of a transportation demand management plan and report; (2 and 3) analysis and evaluation of the Waiale Road-Kuikahi Drive signalized intersection and transmittal of both a preliminary and a final optimized timing plan; (4) conducting a study relating to traffic patterns at the Kaohu Street-Waiale Road intersection; and (5) preparation of an updated traffic assessment report. Each requirement would apply at a specified stage of project development.

Your Committee asked the Developer for the estimated cost of each of the five recommended actions. Your Committee supported recommendations 1, 2, 3, and 5, but did not support recommendation 4 because of concerns it was not directly related to the project itself.

The Deputy Director also recommended the exemption related to landscape planting and beautification be revised to allow for flexibility in the required number, species, and location of street trees, and to remove the reference to Honoapiilani Highway, which is a State highway. She also requested the landscape planting and beautification plan be reviewed by the Department prior to approval.

Your Committee voted 6-0 to recommend adoption of the revised proposed resolution approving the project with modifications and filing of the other two proposed resolutions. Committee Chair Carroll and members Cochran, Guzman, King, Sugimura, and White voted "aye." Committee Vice-Chair Hokama and members Atay and Crivello were excused.

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Your Committee is in receipt of a revised proposed resolution approving the project with modifications, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Land Use Committee RECOMMENDS the following:

1. That Resolution _____, attached hereto, entitled "APPROVING WITH MODIFICATION THE WAILUKU APARTMENT RENTAL HOUSING PROJECT BY LEGACY WAILUKU LLC, PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES," be ADOPTED;
2. That the proposed resolution, attached hereto, entitled "APPROVING THE AFFORDABLE WORKFORCE HOUSING PROJECT BY LEGACY WAILUKU LLC PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES," be FILED;
and
3. That the proposed resolution, attached hereto, entitled "DISAPPROVING THE AFFORDABLE WORKFORCE HOUSING PROJECT BY LEGACY WAILUKU LLC PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES," be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



ROBERT CARROLL, Chair

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

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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.
3. Legacy Wailuku LLC shall prepare a Transportation Demand Management plan and report ("TDM") for the project for review by the Department of Public Works ("Department"). The TDM shall be submitted to the Department prior to the issuance of the Project's first Certificate of Occupancy.
4. Legacy Wailuku LLC shall analyze and evaluate the Waiale Road-Kuikahi Drive signalized intersection and submit a preliminary optimized timing plan for review and implementation by the Department when the development reaches the threshold of 50 percent occupancy. The parameters for the traffic data collection needed to perform the optimization study shall be provided by the Department.
5. A final optimized timing plan based on final Project trip generation shall be submitted within 180 days after the issuance of a temporary Certificate of Occupancy for the final (ninth) apartment building to be constructed on the property.
6. Legacy Wailuku LLC shall provide an updated traffic assessment report to the Department for review prior to the issuance of the final Certificate of Occupancy for the final (ninth) apartment building to be constructed on the property. This report shall provide information on the development's actual motorized and non-motorized traffic generation versus projections in the original traffic report, level of service at the Project's access points and adjacent intersection, mitigation

EXHIBIT "A"

recommendations having a rational nexus to the Project, and outcomes of the TDM after implementation, and recommend any additional transportation improvements for future Capital Improvement Program and planning purposes.

lu:misc:002(5)modifications02

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 to allow flexibility in the required number, species, and location of street trees along Waiale Road and Kuikahi Drive. The Conceptual Landscape Plan prepared by a licensed landscape architect, attached hereto as Exhibit "1," shall be reviewed by the Department of Public Works prior to approval.
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.** Exemptions are granted from this section to allow:
 - a. Overhead utility lines;
 - b. Sidewalks, bicycle lanes, swales (in lieu of curbs and gutters) along Kuikahi Drive and Waiale Road, as indicated on Exhibits "2A" and "2B";
 - c. Pavement widening along Kuikahi Drive and Waiale Road as indicated on Exhibits "2A" and "2B"; and
 - d. Land dedication to widen the Kuikahi Drive right-of-way as indicated on Exhibit "2A."
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.

EXHIBIT "1"



NOTE: ALL LANDSCAPE PLANTING AREAS SHALL BE PLANTED WITHIN THE SPECIFIED TIME FRAME AND SHALL BE MAINTAINED THROUGHOUT THE PROJECT CONSTRUCTION PERIOD.

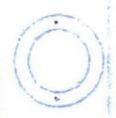
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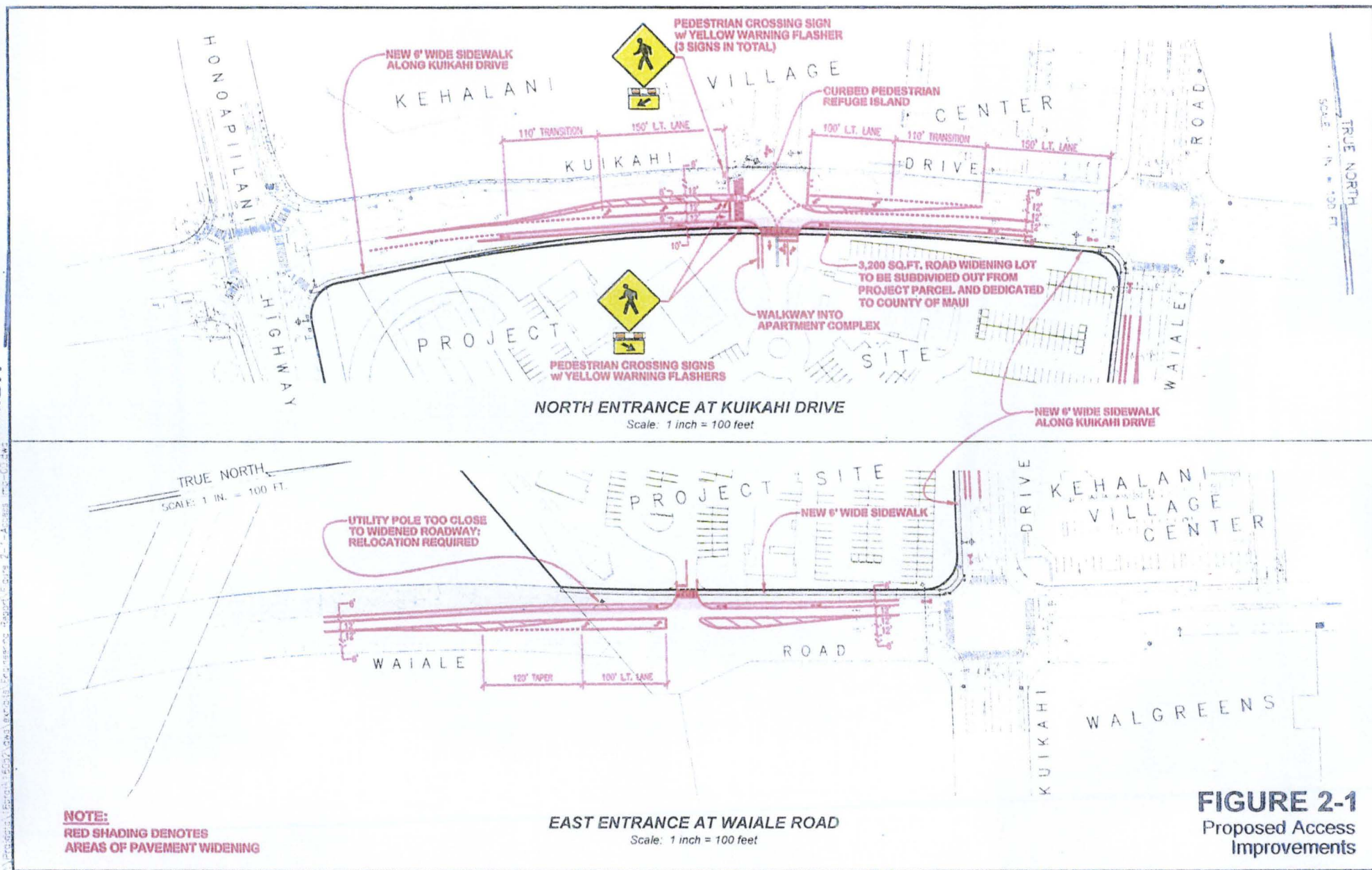
WAILUKU WORKFORCE APARTMENTS

PRELIMINARY LANDSCAPE PLAN

RUSSELL Y. GILSH



LP-1



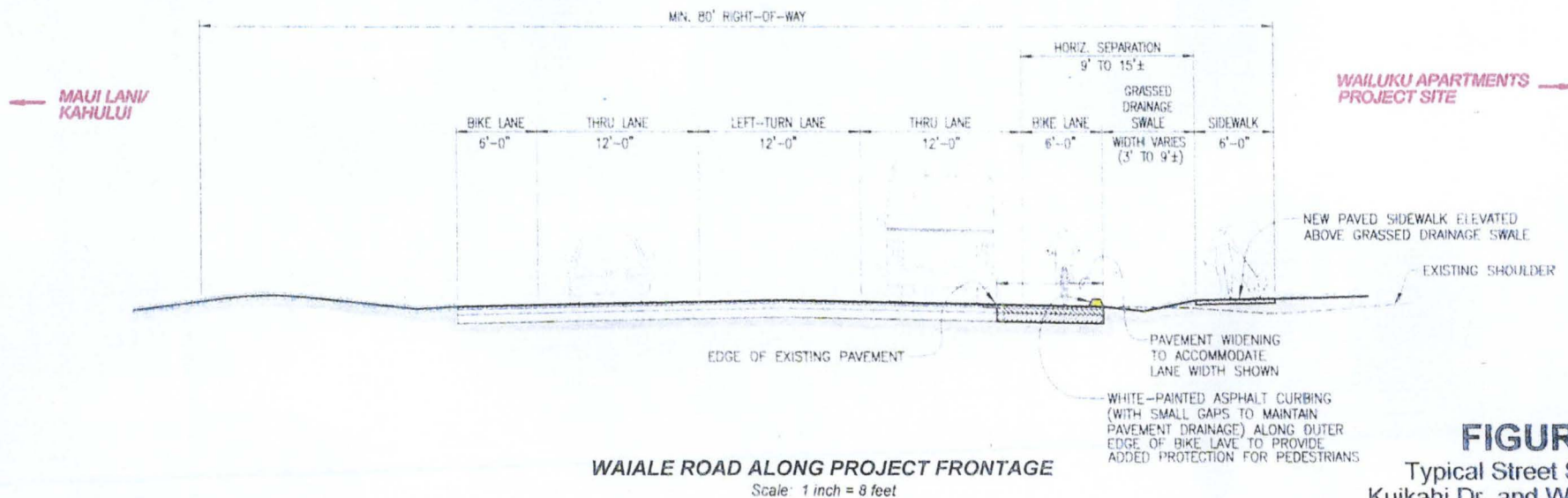
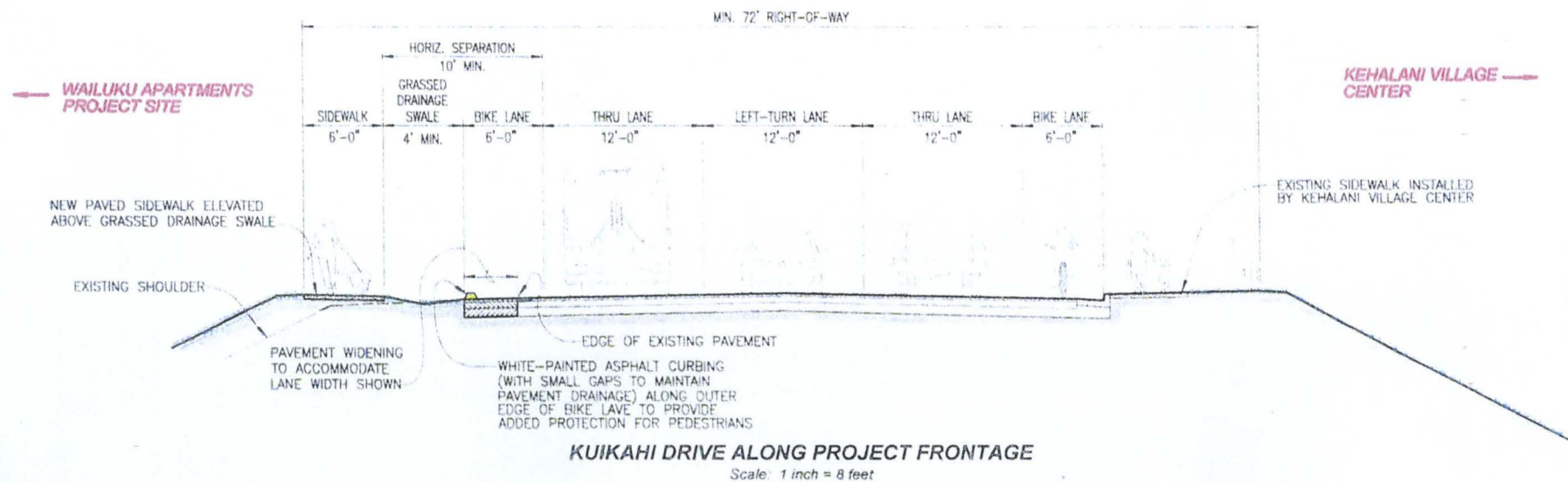
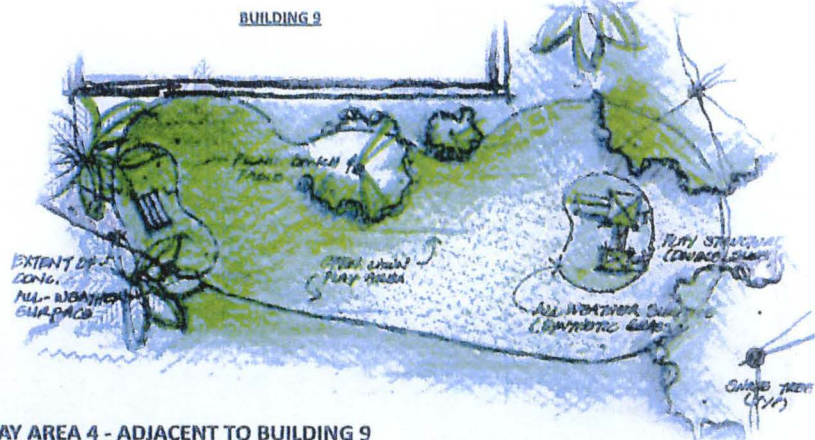
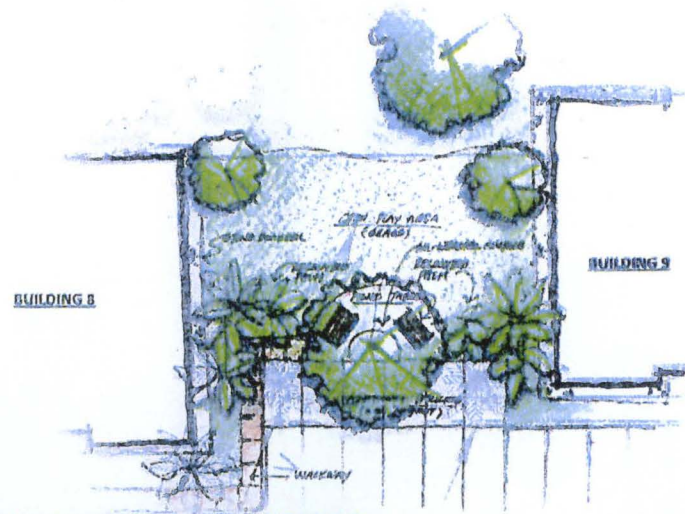


FIGURE 2-2
Typical Street Sections:
Kuikahi Dr. and Waiale Rd.



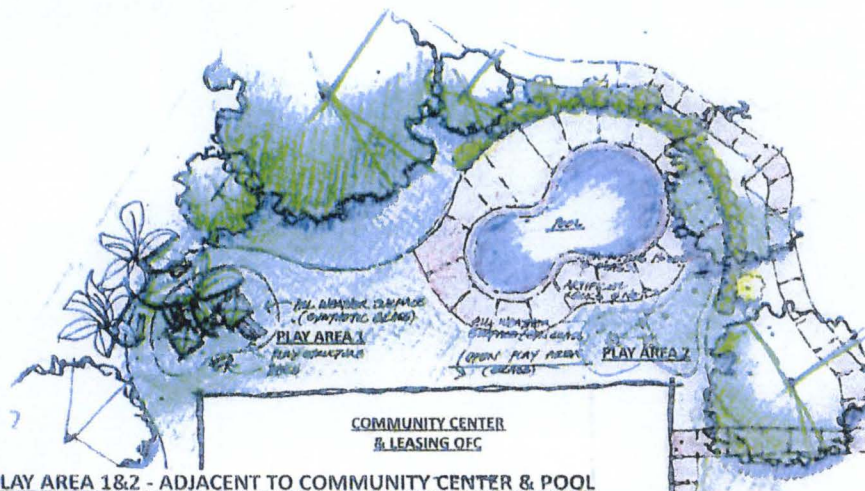
PLAY AREA 4 - ADJACENT TO BUILDING 9

(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

RESOLUTION

No. _____

APPROVING THE AFFORDABLE WORKFORCE 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 Wailuku Apartments (the "Project") for qualified residents on approximately 14.416 acres located on the east side of Honoapiilani Highway, Wailuku, Maui, Hawaii, on that parcel identified for real property tax purposes as Tax Map Key (2) 3-5-1:64 (the "Property"); and

WHEREAS, the Property is presently owned by Kehalani Agricultural Investors LLC, a member of Developer, who has contractually committed to convey the Property to Legacy Wailuku LLC upon its obtaining Project approvals; and

WHEREAS, the Project will have a total of 195 residential workforce housing rental units and, in addition, 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 accompanying Application ("Application") to the Council of the County of Maui ("Council"), recommending approval of the Project pursuant to Chapter 201H, Hawaii Revised Statutes ("HRS"); and

WHEREAS, pursuant to Section 201H-38, HRS, the Council shall approve, approve with modification, or disapprove the Project by resolution within forty-five (45) days after the HHFDC has submitted 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 the HHFDC and Legacy Wailuku LLC, the Council approves the Project, including the Project's preliminary plans and specifications, as submitted to the Council on October 4, 2018, pursuant to Section 201H-38, HRS; provided that Legacy Wailuku LLC 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 "A", attached hereto and made a part hereof;

2. That the final plans and specifications for the Project shall be deemed approved by the Council if the final plans and specifications do not substantially deviate, as determined by the Director of HHFDC, from the preliminary plans and specifications submitted to the Council;

3. That any substantial deviation from the preliminary plans and specifications shall be submitted to the Council for prior approval;

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 be transmitted to the Director of Public Works, the Planning Director, HHFDC and Legacy Wailuku LLC.

APPROVED AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, consisting of stylized cursive letters, is written over a horizontal line.

Deputy Corporation Counsel
County of Maui

EXHIBIT "A"

WAILUKU AFFORDABLE RENTAL APARTMENT PROJECT - PROPOSED EXEMPTIONS FROM THE MAUI COUNTY CODE (MCC) PURSUANT TO SECTION 201H-38HRS

- 1. MCC 2.80B 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. Section 2.80B.070 sets out the requirements for and establishes the nine (9) community plans for the County. The subject property is designated "Future Growth Reserve" in the Wailuku-Kahului Community Plan Map. The appropriate land use designation for the proposed project is "Multi-Family". As such, an exemption from the requirements for a Community Plan Amendment (CPA) is sought in order to expedite the development of the affordable rental units and meet affordable rental target thresholds.
- 2. MCC 12.24A Landscape Planting and Beautification.** An exemption is granted from the requirements for the required number, sp and location of street trees along Honoapi'ilani Highway, Wai'ale Road and Ku'ikahi Drive. Instead, landscaping to be provided in accordance with the Conceptual Landscape Plan prepared by Landscape Architect Russell Y. Gushi and attached hereto as Exhibit "1".
- 3. MCC 14.35 Wastewater Assessment Fees for Facility Expansion for the Wailuku/Kahului Wastewater Treatment System.** Exemption is granted to allow the project to receive its building permits without the need to pay wastewater assessment fees for the project in its entirety. Although Section 14.35.080 pertaining to Exemptions, exempts County housing projects and facilities from the provisions of this chapter, the project is privately funded with 60% of the units falling within the affordability parameters of Chapter 2.96. This exemption clarifies that the applicant is seeking a waiver from the need to pay wastewater assessment fees for the entire 324 units of the project.
- 4. MCC Title 16 Building and Construction.** Exemptions are granted from MCC 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. MCC 16.26B Building Code.** Section 16.26B.3600, Improvements to Public Streets, allows the Director of Public Works to require certain improvements, such as undergrounding of overhead utility lines, bicycle lanes, curbs and gutters, sidewalks and street lighting improvements when public streets are adjacent to the property on which any new structure(s) will be situated. Exemption is granted for construction of curbs and gutters along Ku'ikahi Drive, Wai'ale Road and Honoapi'ilani Highway, provided that improvements shall be provided as shown on Exhibits "2A" and "2B" attached hereto.

6. MCC 18.16.320 Parks and Playgrounds. Pursuant to Section 18.16.320(1)(5), Park Assessment Fees are exempt for workforce housing projects. As sixty percent of the proposed project involves workforce housing units, this portion of the project is exempt from payment of the parks and playgrounds assessment fee. Nevertheless, the proposed project also includes four (4) small parks/playgrounds improvements that vary between 1,200 sq. ft. and 2,000 sq. ft. in size, as shown on Exhibit "3" attached hereto. As such, an exemption for the parks and playground assessment fee is granted for the market portion of the project (i.e. 40 percent of the total units) since provisions for parks and playgrounds will be provided onsite.

7. MCC 18.04 General Provisions and 18.16.020 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 and/or community plan amendment to enable subdivision approval. An exemption from MCC 18.16.020 is granted to exempt the project from General Plan conformity requirements.

8. MCC 18.20 Subdivision Improvements. Exemption 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 are granted for the portions of the project adjacent to Wai'ale Road and Ku'ikahi Drive. Instead the project will provide an at-grade sidewalk and bike path along Wai'ale Road and Ku'ikahi Drive with a raised asphalt curb painted white to delineate the pedestrian safety zone, as shown on Exhibits "2A" and "2B" attached hereto.

9. MCC 19.30A, 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, Apartment District 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. MCC 19.36A, Off-Street Parking. An exemption is granted from Section 19.36A.070 Walls, Fences and Landscaping, to allow for the flexibility in the placement of fences and shade trees as set out in the proposed conceptual site plan.

11. MCC 19.68 State Land Use District Boundaries; MCC 19.510 Application and Procedures; County of Maui Charter, Chapter 8 of Article 8, Department of Planning. Each of the foregoing provisions of the MCC and County Charter sets forth specific procedures for the processing of a State District Boundary Amendment (DBA) for parcels having a land area of 15-acres or less. Exemptions are granted from the foregoing provisions of the MCC and County Charter to enable the DBA request to proceed directly to the Maui County Council. Accordingly, the DBA request will not require the preparation of a DBA application as required by code, and will not require processing through the Maui Planning Commission. Instead, review and comment on the DBA request is being addressed through the Chapter 343, HRS process and the Section 201H process.

PROPERTY LINE - TYP. SYM.

EXISTING OPEN DRAINAGE CHANNEL WITH EXISTING NATURAL VEGETATION TO REMAIN - TYP. SYM.

4 FT. HIGH MIN. SECURITY FENCE - TYP. SYM.

COVERED PARKING - TYP. SYM.

SMALL TREES - TYP. SYM.

EXISTING ELECTRICAL EASEMENT

TRASH ENCLOSURE - TYP. SYM.

SHRUBS/GROUND COVER/MULCH - TYP. SYM.

LARGE ACCENT SHRUBS - TYP. SYM.

OPEN LAWN PLAY AREA

SINGLE-TRUNKED PALMS - TYP. SYM.

SCREEN HEDGE - TYP. SYM.

PROPERTY LINE - TYP. SYM.

MEDIUM-SIZED SHADE TREES - TYP. SYM.

NATURALIZED VEGETATION - TYP. SYM. (USE OF NATIVE HAWAIIAN PLANTS)

LARGE SHADE TREES - TYP. SYM.

OPEN LAWN - TYPICAL

SWIMMING POOL

COMMUNITY CENTER/EASING

SPECIMEN SHADE TREE

MAIN ENTRANCE

EAST KULIKAH DRIVE

PROPERTY LINE - TYP. SYM.

COVERED PARKING - TYP. SYM.

ENTRANCE

SHRUBS/GROUND COVER/MULCH - TYP. SYM.

WAI'ALE ROAD

HONOPILANI HIGHWAY

BUILDING 1

BUILDING 2

BUILDING 3

BUILDING 4

BUILDING 5

BUILDING 6

BUILDING 7

BUILDING 8

BUILDING 9

PARKING A

PARKING B

PARKING C

PARKING D

PARKING E

PARKING F

PARKING G

EXISTING ELECTRICAL EASEMENT

OPEN LAWN PLAY AREA

EXISTING NATURAL VEGETATION TO REMAIN - TYP. SYM.

EXISTING DRAINAGE CHANNEL TO REMAIN

PRELIMINARY LANDSCAPE PLAN

Scale: 1" = 50' - 0"

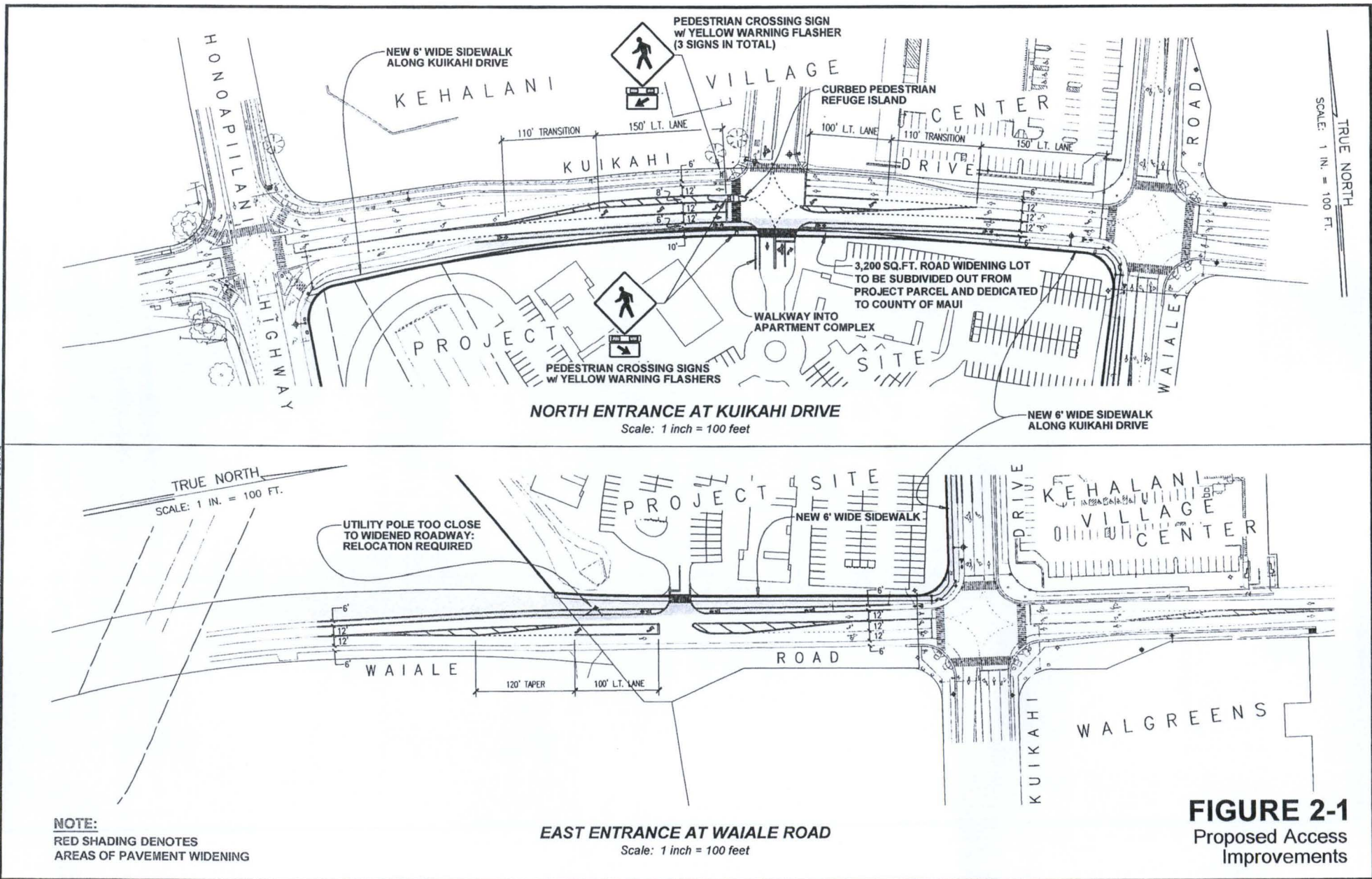
NORTH

PRELIMINARY PLANT LIST:

1. LARGE SHADE TREES:
(30' Canopy or Larger)
e.g.: Kulul
Kamahi
Koa
2. MEDIUM-SIZED SHADE TREES:
(18' Canopy Max.)
e.g.: Koa
Mauka
Ho'ala
Halea
Koa'e
Halea'e
3. SMALL TREES:
(10' Canopy Max.)
e.g.: 'Ohia
Halea
Koa'e
Halea'e
4. LARGE SPECIMEN SHADE TREE:
e.g.: Monkeypod (Existing Ornate tree to be relocated)
5. SINGLE-TRUNKED PALMS:
e.g.: Coconut
Loulu
6. MULTI-TRUNKED PALMS:
e.g.: Areca
MacArthur
7. SHRUBS:
e.g.: A'ali'i
Anapapa
Blue Vitex
Nani
Koko'o Ke'oke'o
Ulei
Beach Naupaka
Pikake
Ma'o
Kulul
8. GROUND COVERS:
e.g.: 'Ilima papa
Nehe
Kupukupu Fern
Pii Grass
Pohinahina
Nalo Papa
'Ukuku
9. GRASSES:
e.g.: Hybrid Bermuda
El Toro Zoysia

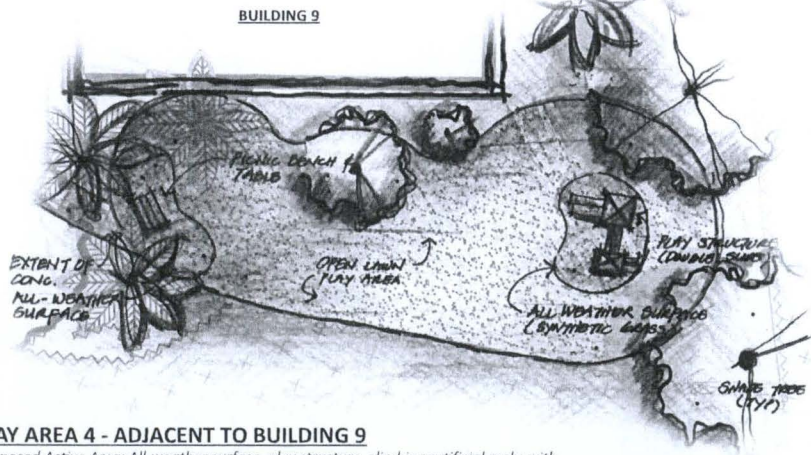
NOTE: ALL LANDSCAPE PLANTING AREAS SHALL BE IRRIGATED WITH AN AUTOMATIC IRRIGATION SYSTEM UTILIZING WATER AND ENERGY CONSERVING EQUIPMENT AND PRACTICES.

LP-1



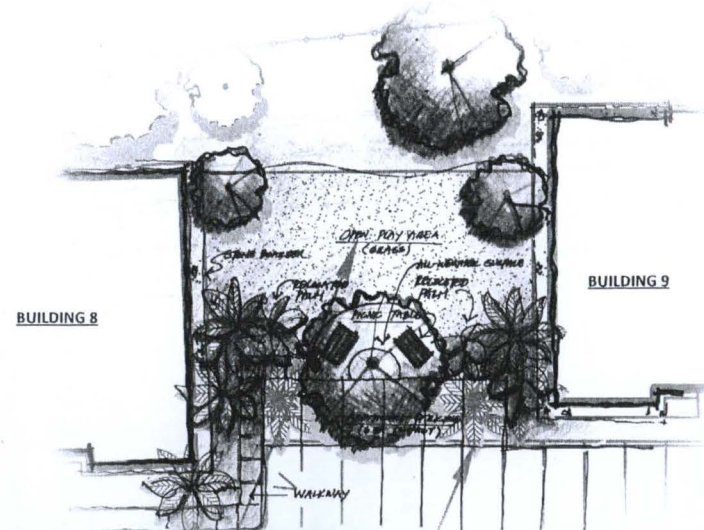


**Typical Street Sections:
Kuikahi Dr. and Waiale Rd.**



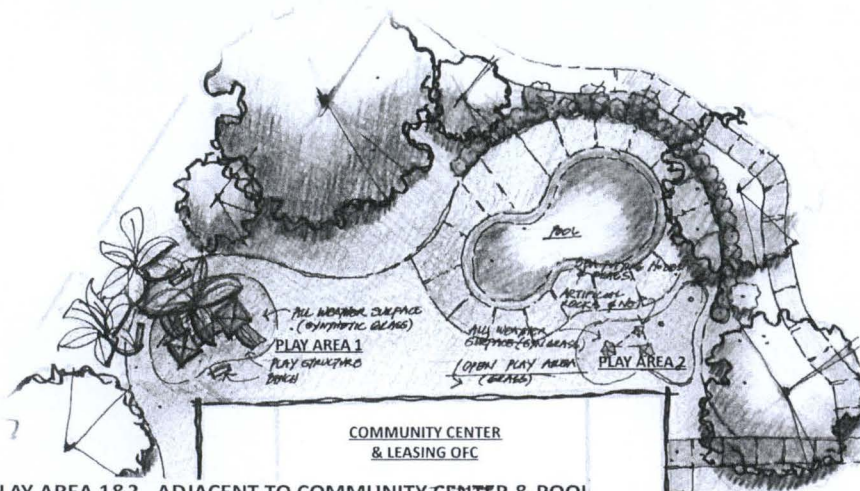
PLAY AREA 4 - ADJACENT TO BUILDING 9

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



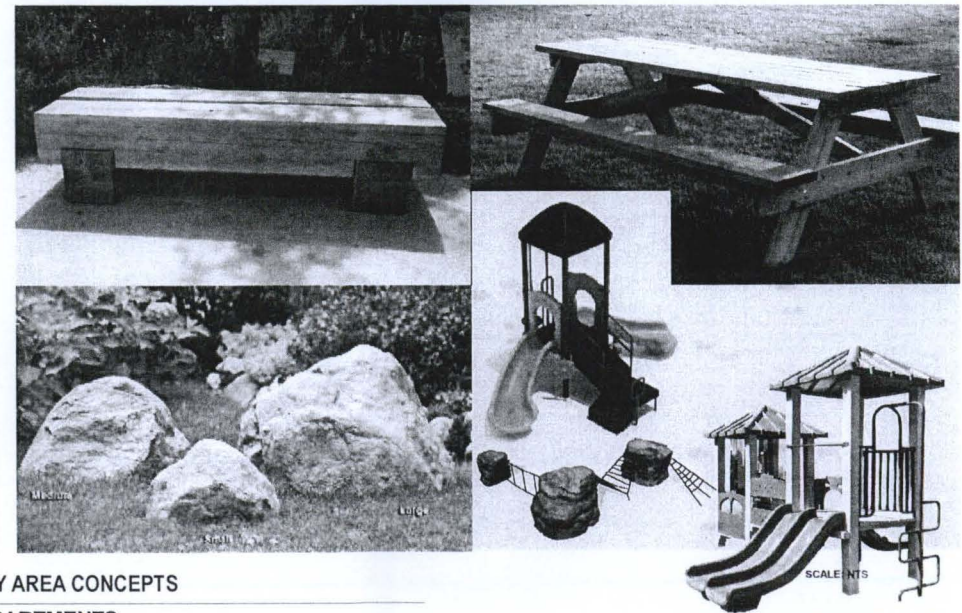
PLAY AREA 3 - BETWEEN BUILDINGS 8 & 9

(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

RESOLUTION

No. _____

DISAPPROVING THE AFFORDABLE WORKFORCE HOUSING PROJECT BY LEGACY WAILUKU LLC PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES

WHEREAS, Legacy Wailuku LLC, a Delaware limited liability company ("Legacy Wailuku LLC"), proposes the development of the Affordable Workforce Housing Project (the "Project") for qualified residents on land in Wailuku, Maui, Hawaii, identified for real property tax purposes as Tax Map Key (2) 3-5-1:64; and

WHEREAS, the proposed Project will have a total of 195 residential workforce housing rental units and, in addition, 129 market-rate 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 ("Council") recommending approval of the Project pursuant to Chapter 201H, Hawaii Revised Statutes ("HRS"); and

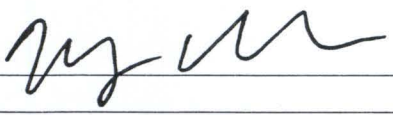
WHEREAS, pursuant to Section 201H-38, HRS, the Council shall approve, approve with modification, or disapprove the Project by resolution within forty-five (45) days after the Department submits the preliminary plans and specifications for the Project to the Council, or the Project shall be deemed approved; 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 the Council disapproves the Project submitted to the Council on October 4, 2018, pursuant to Section 201H-38, HRS; and
2. That certified copies of this resolution be transmitted to the Director of Public Works, the Planning Director, HHFDC, the Director of Housing and Human Concerns, and Legacy Wailuku LLC.

APPROVED AS TO FORM AND LEGALITY:



Deputy Corporation Counsel
County of Maui