

Mori, Ashley

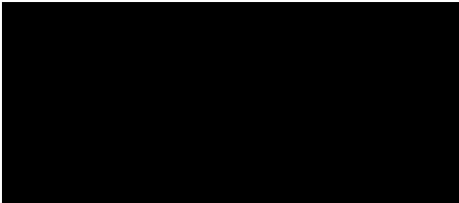
From: [REDACTED]
Sent: Thursday, October 31, 2019 3:42 PM
To: General Plan
Subject: comments on draft General Plan 2040
Attachments: WShipman GP 2040 comments.pdf; ATT00001.htm

Aloha,

Please see our attached comments on the draft General Plan 2040.

Mahalo,
[REDACTED]

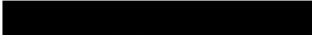
2019 NOV 1 AM 9 19
PLANNING DEPARTMENT
COUNTY OF HAWAII



October 31, 2019

Michael Yee, Director
County of Hawaii Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720-3043

Dear Director Yee:

Subject: Draft General Plan 2040

Kea'au, Puna, Hawai'i Island

This is in follow up to the meeting of September 17, 2019 with your staff to discuss 
 comments/concerns regarding the draft General Plan 2040.
Participants in the meeting included the following:

Bethany Morrison, Long Range Division
LeAna Gloor, Long Range Division
Maija Jackson, Planning Division
Margaret Farias, President, W.H. Shipman, Limited
Kimo Lee, Director of Development, W.H. Shipman, Limited
Tom Yeh, Yeh & Moore LLC, Attorneys at Law
Bill Moore, William L. Moore Planning, Inc.,

This letter is intended to summarize the information and comments presented to your staff during this meeting. These comments are primarily concerned with the draft General Plan 2040's proposed Puna Future Land Use Map (FLUM) designations for Shipman's lands in this District. Comments/concerns with respect to the draft General Plan 2040's Goals, Objectives, Policies and Actions will be provided to you and your staff in a separate letter.

Shipman is the owner of approximately 17,000 acres of land within the Puna District. These lands include over 15,600 acres in and around the village of Kea'au as well as 1,200 acres of land within and south of Volcano Village. These lands, as well as the existing General Plan Land Use Pattern Allocation Guide (LUPAG) map designations are shown on Exhibit 1.

Shipman has three (3) major concerns with the proposed FLUM designations within its lands. These include:

1. Proposed Low Density Urban (LDU) designation within Shipman's land in the Kea'au Village area bounded by Hawaii Belt Road (Highway 11), Kea'au Bypass (Highway 130) and the Kea'au Agricultural Lots (referred to as "Kea'au Village");
2. Proposed LDU and Productive Agriculture designation of the Shipman lands to the west of Hawaii Belt Road (referred to as "Kea'au Regional Center"); and
3. Proposed Natural Area (NA) designation of the Shipman lands including the areas

around Kea'au Village, between Kea'au Village and Hawaiian Paradise Park, and around Volcano Village (referred to as "Keaau Agricultural Areas").

The following is a summary of the information presented to the Planning Department staff on these specific FLUM concerns at our September 17, 2019 meeting.

1. Kea'au Village

When the Puna CDP was adopted in 2008 and further amended in November 2010, June 2011, and December 2011, it addressed the challenge of Puna's rapid population growth (37% from 2000 to March 2007) by creating a framework to manage growth and discourage the sprawl effects of existing subdivisions. By focusing development toward both the existing village and regional commercial center, the Puna CDP encouraged a more efficient, environmentally sustainable land use pattern. Kea'au Village was one of those identified Regional Town Centers where the enhanced role of the existing village could expand commercial uses, facilitate farmers markets and community gathering places, opportunities for special needs housing, and infrastructure to support more compact development and multi-modal travel. The overall objective of the Puna CDP was for Kea'au and Pāhoa to provide more services and employment within identified town centers.

A copy of the Puna CDP's Kea'au Village and Regional Town Center concept is included as Exhibit 2.

In recognition of the Puna CDP's Kea'au Village plans, in 2014, the Hawaii County Council adopted Resolution 464-14 (Exhibit 3) directing the Planning Department to initiate an amendment to the General Plan to reclassify this (as well as some surrounding lands) from LDU to MDU to encourage the Village to develop in keeping with the community's desire for a sustainable live, work, and play growth pattern. The amendment was intended to facilitate the goals of the Puna Community Development Plan (CDP).

In 2015, Hawaii County Council adopted Ordinance No. 15-82 reclassing these lands to MDU (Exhibit 4).

In reliance on these adopted plans, Shipman began master planning its Kea'au Lands in accordance with the existing LUPAG map MDU designation and the Puna CDP designation of the area as a Village and Regional Center.

In 2016, Shipman initiated its planning to seek entitlements for these lands as well as a portion of the Kea'au Regional Center east of Hawaii Belt Road, including preparation of an Environmental Assessment in compliance with Chapter 343, Hawaii Revised Statutes. On August 10, 2018, the Planning Department accepted the Draft EA. On September 18, 2019, Shipman, submitted the pre-Final EA for approval by the Planning Department and subsequent publication in the Office of Environmental Quality Control (OEQC) Environmental Notice.

In our review of the proposed Puna FLUM, we noted that the majority of the Kea'au Village

lands that were reclassified from LDU to MDU by Ordinance No. 15-82, are now proposed to be designated back to Low Density Urban (LDU). This designation is described as:

Residential, with ancillary community and public uses, and neighborhood and convenience-type commercial uses; overall residential density may be up to six units per acre.

This limitation on commercial uses (convenience type) and residential density (maximum of 6 units per acre) is completely contrary to Shipman's Kea'au Village Master Plan as well as the Puna CDP's recognition of Kea'au as a Village and Regional Center.

Based on the above, Shipman is requesting that its Kea'au Village lands be designated as Medium Density Urban as provided by General Plan Amendment Ordinance No. 15-82. These proposed designations are shown on Exhibit 6, Proposed Revisions to the Puna Future Land Use Map. These proposed revisions are consistent with the existing General Plan LUPAG map designation as well as the Puna CDP Kea'au Regional Center map.

The draft General Plan 2040 also includes a new planning concept which proposes to identify Urban Service Areas (USA). More specifically, draft Policy 493 states:

Establish Urban Service Areas within Urban Growth Areas serviced by existing water and wastewater infrastructure services at a community level of distribution (public or private).

The Kea'au Village Area is not currently served by an existing wastewater system. However, a private wastewater system is proposed to be developed as part of Shipman's Kea'au Village Master Plan development project. The requirement that the USA only include areas serviced by existing water and wastewater systems does not recognize the existing or planned expansion of such services.

Furthermore, we do not have any objections to the concept of the USA, but we do have significant concerns about including the designation as part of the FLUM. The proposed General Plan Policies establish either requirements or limitations on activities based on the USA boundaries. An example of this is proposed Policy 333 which states:

Limit the locations of government facilitated or mandated affordably priced housing units to Urban Service Areas.

The establishment of USA and the adoption of this policy would effectively preclude any government sponsored or subsidized housing project from being developed in Kea'au Village (or anywhere in Puna).

Additionally, if these USA boundaries are established as part of the FLUMs, any revisions to these areas will require a General Plan amendment.

2. Kea'au Regional Center.

The Puna CDP identified that a portion of Shipman's lands west of Hawaii Belt Road (HWY 11) should be developed for regional uses serving the broader Puna District as well as the greater Hilo area. This area is currently designated as Urban Expansion by the General Plan LUPAG map (see Exhibit 1).

In recognition of Puna CDP and the existing LUPAG map designation, Shipman included an approximately 15 acre development within its Kea'au Village Master Plan EA for development as part of the regional center. In addition, for over 10 years, Shipman has been coordinating with State and County agencies about a potential Kea'au Civic Center development in this general area, adjacent to the Shipman Park including sites for a library, Police and Fire station and mass transit hub. A map of the conceptual Civic Center is included as Exhibit 5.

The draft FLUM proposed to designate this area for LDU and Productive Agricultural uses (see Exhibit 6).

Based on the Puna CDP recommendations, the existing LUPAG map designation and the on-going planning activities, Shipman is requesting that this area be designed as LDU and MDU on the proposed Puna FLUM. These designations will allow for the orderly planning and future development of these areas as the need for the Kea'au Village Regional Center expands.

3. Kea'au Agricultural Lands

Shipman has a long history of supporting agricultural uses of its lands, including the original ranching operations conducted by the family and then leasing the lands as part of Puna Sugar Company. The vast majority of its lands are currently utilized or reserved for agricultural activities.

These lands are currently designated as Important Agricultural Lands or Extensive Agriculture by the LUPAG map (see Exhibit 1).

The draft Puna FLUM proposes to designate a portion of these lands as Productive Agriculture, with smaller areas proposed for designation as Pastoral. However, significant areas of lands that are currently designated as Extensive Agriculture are now proposed to be classified as "Natural Area". This designation is defined as:

Lands not considered suitable for productive agriculture; areas to be kept in a largely natural state with minimal facilities consistent with open space uses. Includes areas vulnerable to natural hazards, steep slopes, lava fields, and areas set aside for cultural and/or natural resource preservation purposes.

The proposed Natural Area designation includes over 7,000 acres of land along the Shipman

southern boundary along Hawaiian Paradise Park and Orchidland subdivisions, as well as over 1,000 acres of its lands in the Volcano Village area.

While these lands are not the most productive areas, they do have agricultural value and they are part of the areas that Shipman is actively seeking uses/lessees for.

While the permitted uses under the Zoning would generally control the development/use of these lands, the draft General Plan 2040 goes on to specifically require that all **land use decisions shall be consistent** with such plan or element as adopted. More specifically, the proposed Section on Consistency with Plan states:

all actions, programs, or projects and land use decisions, **shall be consistent** with such plan or element as adopted.

The draft General Plan further states that:

A land use decision shall be consistent with the General Plan if the land uses, densities or intensities, and other aspects of development permitted by such order, code or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the General Plan and if it meets all other criteria enumerated by the General Plan.

While we are not sure as to how the Planning Department/County will interpret the activities that will be allowed under this designation if the General Plan is adopted as currently drafted, the proposed language will create uncertainty with respect to allowable development activities under this designation. For instance, a proposed solar energy project which may be located on lands proposed to be designated as Natural Area has received community support for the concept and is consistent with the State and the County's renewable energy policies and statutes. Such lands are currently designated as Agriculture under current LUC, General Plan and zoning designations. The proposed designation of such lands as Natural Area would potentially prevent such a project from proceeding.

Based on this, Shipman is requesting that the areas proposed as Natural Area be designated as Productive Agricultural Lands or Pastoral¹ or as shown on Exhibit 6. As to the latter designation, we reiterate our concern that permitted uses should be clarified to include uses other than grazing or pasture uses, including the ability to place greenhouses and other productive agricultural structures in such areas.

We appreciate the opportunity to meet with your staff and to provide our comments/concerns on the Puna Future Land Use Map designations.

¹ The definition of Pastoral must include the full range of agricultural activities that are allowed by Chapter 205 and the Hawaii County Zoning Code (HCC Chapter 25). The proposed definition of Pastoral by the General Plan may be interpreted to limit or exclude "intensive applications of modern farming methods and techniques".

Planning Director
October 31, 2019
Page No. 6

As we stated earlier, comments on the draft General Plan 2040's Goals, Objectives, Policies and Actions has been covered by [REDACTED] counsel, the Law Offices of Yeh & Moore, in a separate letter dated October 31, 2019.

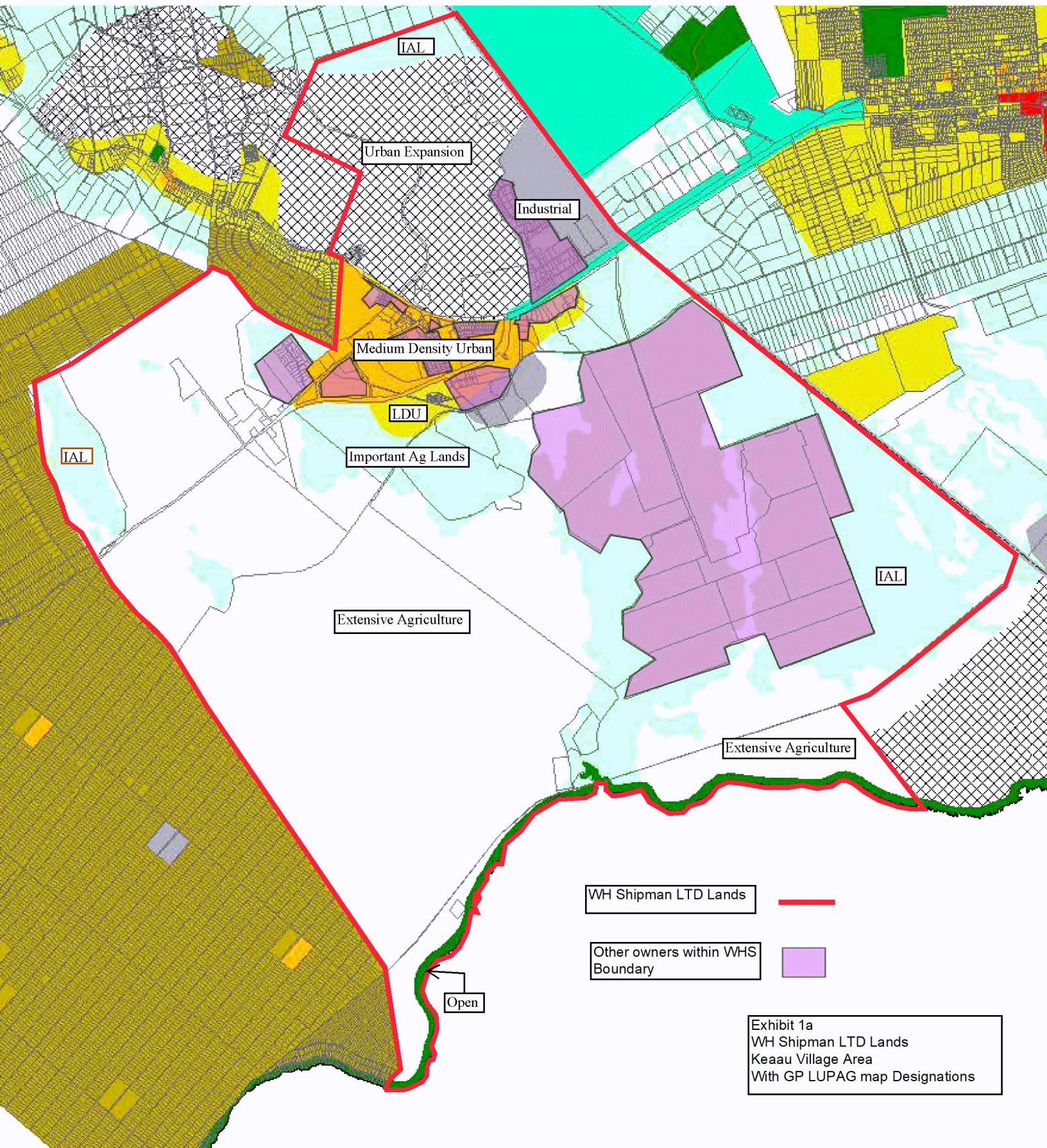
Thank you for the opportunity to provide our comments on the draft General Plan 2040. Please feel free to contact me or [REDACTED] if you have any questions or require any further information on this matter.

Sincerely,

Handwritten signature of Margaret A. Farias in black ink.A solid black rectangular redaction box covering the printed name and title of the signatory.

Attachments

XC: Tom Yeh, Yeh & Moore LLLP, Attorneys at Law
Bill Moore, William L. Moore Planning, Inc.



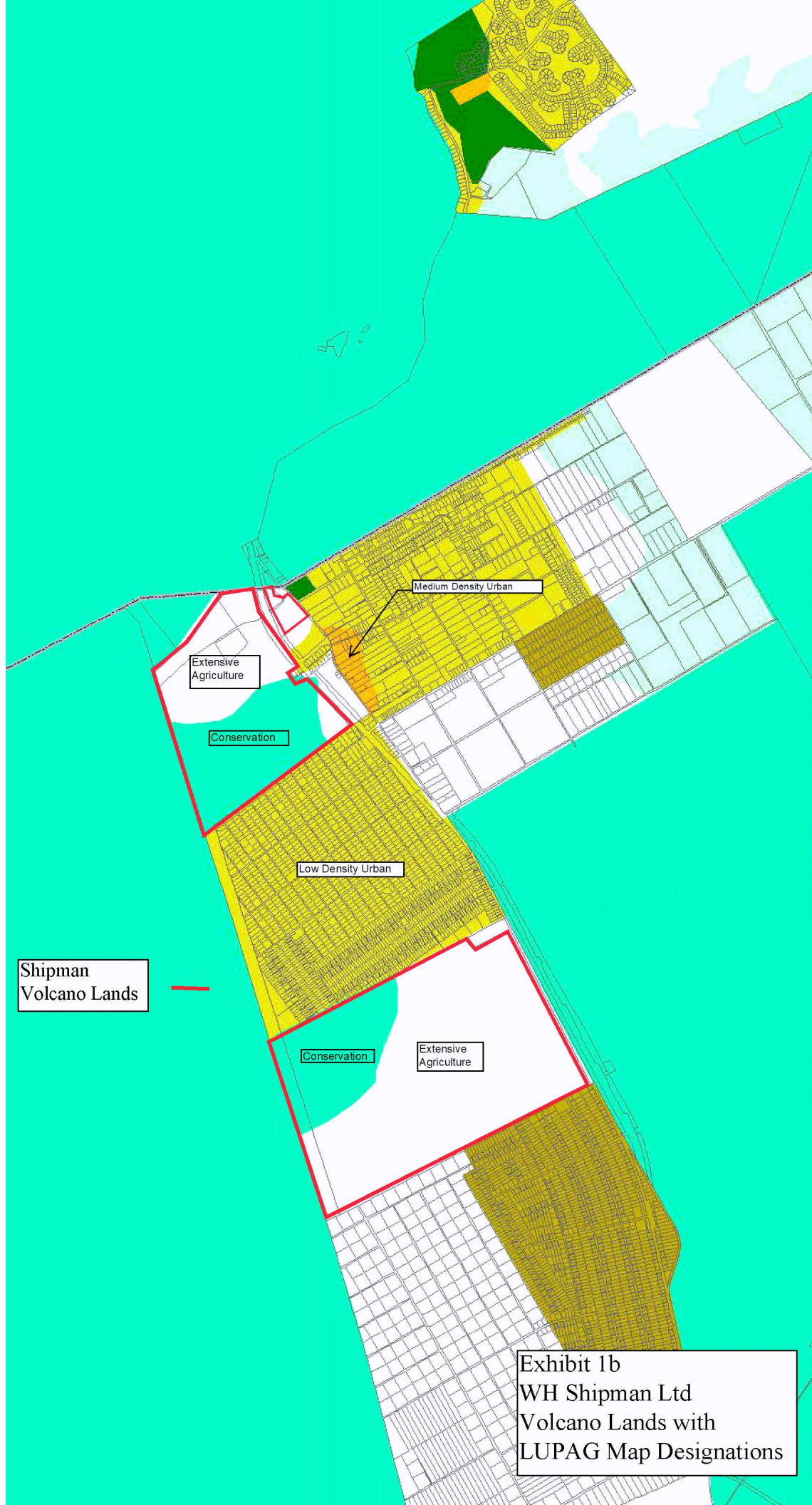
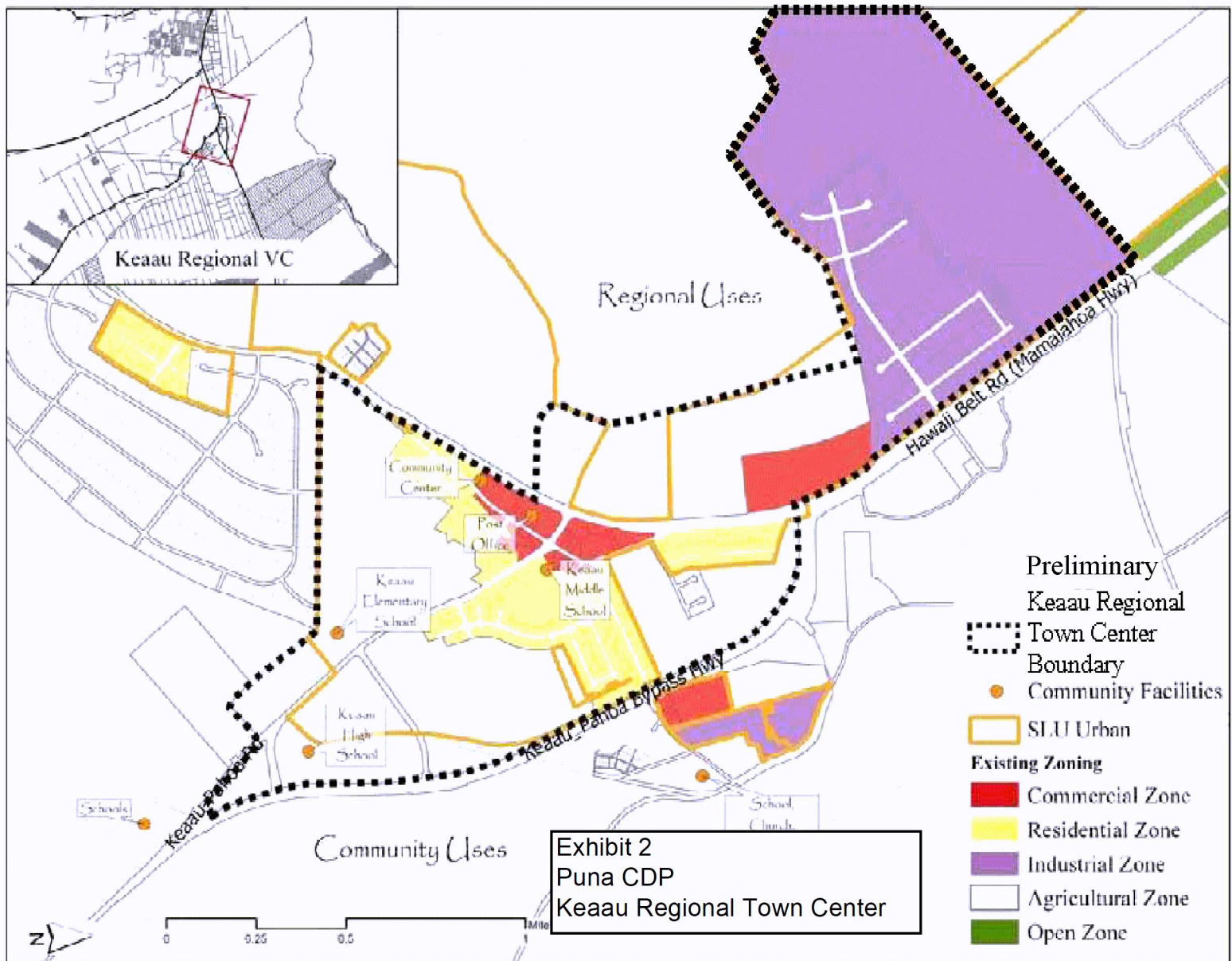
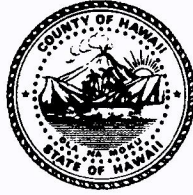


Exhibit 1b
WH Shipman Ltd
Volcano Lands with
LUPAG Map Designations

Kea'au Regional Town Center



RESOLUTION NO. **464 14**

(DRAFT 2)

A RESOLUTION REQUESTING THE PLANNING DIRECTOR TO INITIATE AN INTERIM AMENDMENT TO THE COUNTY OF HAWAI‘I GENERAL PLAN TO REVISE THE LAND USE PATTERN ALLOCATION GUIDE MAP DESIGNATIONS FOR THE KEA‘AU REGIONAL TOWN CENTER, KEA‘AU, PUNA, HAWAI‘I.

WHEREAS, on September 10, 2008, the County of Hawai‘i (“County”) adopted the Puna Community Development Plan (“CDP”) by Ordinance No. 08-116 with the themes of preserving and respecting natural, historical and cultural features, addressing growth management and focusing on sustainable approaches to transportation; and

WHEREAS, to manage growth by encouraging a more efficient and environmentally-sustainable land use pattern, the Puna CDP designated specific parts of Kea‘au as a Regional Town Center (Exhibit A) to provide a wide range of commercial, residential and public/quasi-public uses for the Puna district in addition to Regional Town Centers in Pāhoa and Hawaiian Paradise Park; and

WHEREAS, the Puna CDP, as amended by Ordinance No. 10-104, sets forth the following objectives and actions relating to regional town centers:

Land Use Pattern Objective 3.1.2.c

“Enhance the role of existing and new village/town centers by allowing expanded commercial uses, facilitating the development of farmers markets and community gathering places, opportunities for special needs housing, and infrastructure to support more compact development form and multi-modal travel.”

Land Use Pattern Objective 3.1.2.e

“Target investments in public services and infrastructure to promote the development of village/town centers and, secondarily, to serve the peripheral subdivision areas.”

Land Use Pattern Action 3.2.3.c

“Recommend reviewing the Urban Expansion Area designations in the County of Hawai‘i General Plan LUPAG, except where they correspond to the recommended Regional Town Center and industrial boundaries.”; and

WHEREAS, the County of Hawai‘i General Plan (“General Plan”) Land Use Pattern Allocation Guide (LUPAG) map designations for the Kea‘au Regional Town Center area are inconsistent with the Objectives, Actions and Land Use Recommendations of the Puna CDP; and

WHEREAS, there are inconsistencies between the existing zoning designations and the General Plan LUPAG map designations in the areas in the vicinity of Ulupono Street and Milo Street; and

WHEREAS, the Kea‘au Regional Town Center includes a range of public and quasi-public facilities such as Kea‘au Elementary, Middle and High Schools, the Department of Education administrative complex office, ‘Ōla‘a Community Center, police and fire stations, the County’s Shipman Gym, and the County’s Herbert C. Shipman Park (mauka of Highway 11), charter schools, senior citizen housing and self help housing facilities, churches and related facilities; and

WHEREAS, the Kea‘au Regional Town Center presents an opportunity to apply the following smart growth principles, which are discussed in the Puna CDP:

- Creating walkable neighborhoods
- Creating a range of housing opportunities and choices
- Fostering a distinctive community with a sense of place; mixing land uses
- Preserving open space, agricultural land, and critical habitats by directing growth to an existing village
- Taking advantage of compact building design and
- Providing a range of transportation choices; and

WHEREAS, future development of the Kea‘au Regional Town Center would provide a basis for efficient road, bikeway and pedestrian networks, improved wastewater treatment, the ability for government to develop a new civic/community center and transit hub to serve upper and lower Puna, expanded or new parks and open space, greater water capacity, increased employment, affordable housing, and other necessary public and quasi-public infrastructure; and

WHEREAS, in order to meet the aforementioned objectives of the Puna CDP to facilitate future land use entitlements and enhance the role of the Kea‘au Regional Town Center, including the Puna CDP’s statement that zoning for residential development and associated neighborhood-oriented services “may occur within the LUPAG ‘alternate urban expansion areas’,” the General Plan should be more closely aligned to the Puna CDP similar to action taken in 2012 for the Pāhoa Regional Town Center by Ordinance No. 12-89; and

WHEREAS, because of the inconsistencies between the General Plan LUPAG map and the Puna CDP recommendations, growth within the Kea‘au Regional Town Center has been primarily confined to a core in which specific settlement patterns have not yet been fixed and which is currently designated *Medium Density Urban* by the General Plan-LUPAG (Exhibit B), with limited opportunity in the *Low Density Urban* area for higher density residential units and retail and office commercial uses to support the regional town center; and

WHEREAS, on February 9, 2005, the County adopted comprehensive amendments to the General Plan by Ordinance No. 05-25 to guide the pattern of future development in Hawai‘i County based on long-term goals; and

WHEREAS, the comprehensive review of the General Plan, as required per Section 16.1 of the General Plan, has not commenced; and

WHEREAS, Section 16.2, of the General Plan provides that the Planning Director may initiate interim amendments to the General Plan in accordance with the terms and provisions of Section 16.2(2); and

WHEREAS, amending Map 14 of the General Plan LUPAG from *Low Density Urban* and *Important Agricultural Land* to *Urban Expansion Area* will assist in implementing the Kea‘au Regional Town Center principles and designation of the Puna CDP; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I that it requests the Planning Director to initiate the following interim amendments to the General Plan in accordance with Section 16.2(2) of the General Plan:

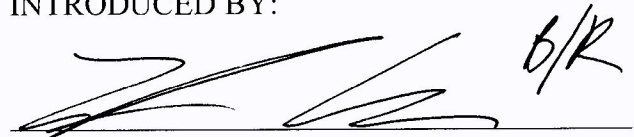
1. Amend Map 14 by changing the General Plan LUPAG map designation for the areas within the Kea‘au Regional Town Center locations designated on the Puna CDP as *Low Density Urban* and *Important Agricultural Land* to *Urban Expansion Area*.
2. Amend Map 14 by changing the General Plan LUPAG map designation for the areas located in the vicinity of Ulupono Street and Milo Street from *Low Density Urban* to *Urban Expansion Area*.

BE IT FURTHER RESOLVED that the Council is desirous of these amendments because it supports the Kea'au Regional Town Center principles and designation adopted in the Puna CDP and determines the development of the Kea'au Regional Town Center will serve the interest of the public by stimulating growth through sustainable principles that will provide for improved public infrastructure systems and facilities, direct and indirect employment, and a continued sense of place outlined herein, in the Puna CDP, and in the General Plan.

BE IT FINALLY RESOLVED that the County Clerk shall transmit a copy of this resolution to the Honorable Mayor William P. Kenoi, Planning Director Duane Kanuha, and the Windward and Leeward Planning Commissions.

Dated at Kona, Hawai'i, this 18th day of July, 2014.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

COUNTY COUNCIL
County of Hawai'i
Hilo, Hawai'i

I hereby certify that the foregoing RESOLUTION was by the vote indicated to the right hereof adopted by the COUNCIL of the County of Hawai'i on July 18, 2014.

ATTEST:



COUNTY CLERK



CHAIRPERSON & PRESIDING OFFICER

ROLL CALL VOTE

	AYES	NOES	ABS	EX
EOFF	X			
FORD	X			
ILAGAN	X			
KANUHA	X			
KERN	X			
ONISHI	X			
POINDEXTER	X			
WILLE	X			
YOSHIMOTO	X			
	9	0	0	0

Reference: C-934.1/PC-69

RESOLUTION NO. 464 14
(DRAFT 2)

EXHIBIT A

Figure 5-1: Kea'au Regional Town Center

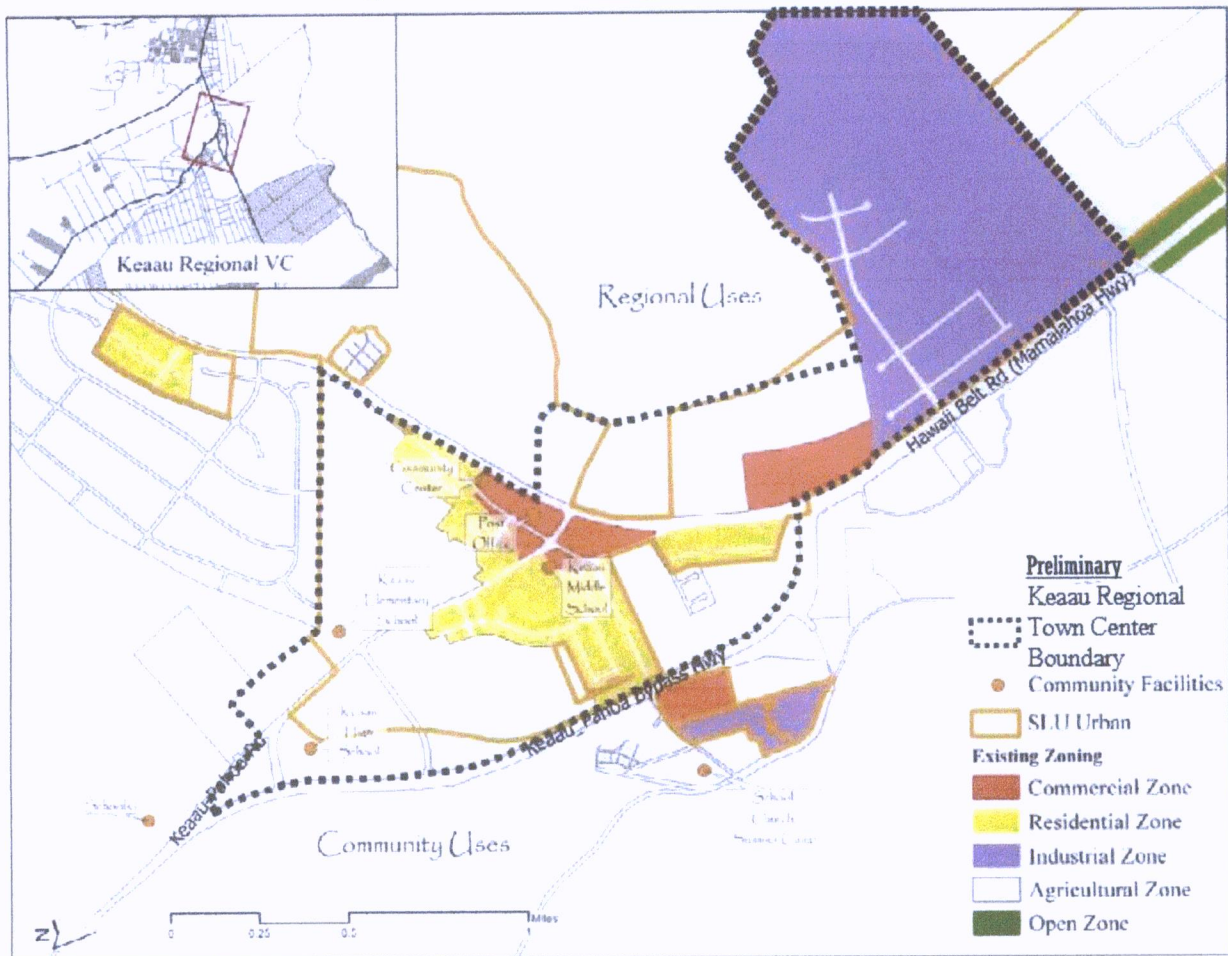
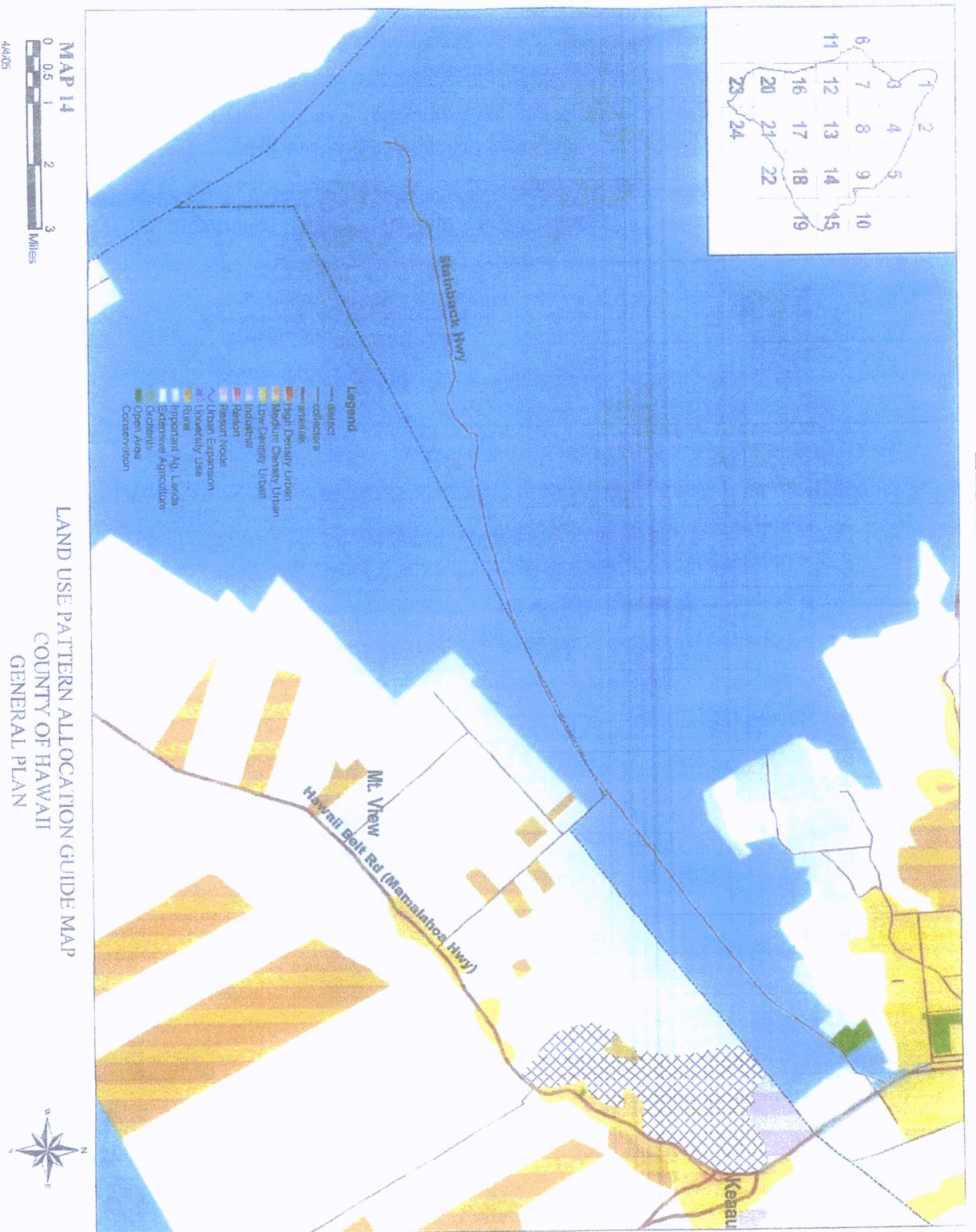
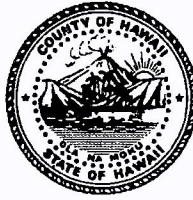


EXHIBIT B



COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 15 82 BILL NO. 72

AN ORDINANCE AMENDING THE COUNTY OF HAWAI'I GENERAL PLAN AS ADOPTED BY ORDINANCE NO. 05 25 AND AMENDED BY ORDINANCE NOS. 06 153, 12 89 AND 14 87, AND BY AMENDING MAP 14 OF THE LAND USE PATTERN ALLOCATION GUIDE MAP BY CHANGING THE LAND USE DESIGNATION FROM LOW DENSITY URBAN AND IMPORTANT AGRICULTURAL LAND TO MEDIUM DENSITY URBAN FOR KEA'AU VILLAGE AND THE IMMEDIATELY SURROUNDING AREAS, KEA'AU VILLAGE, KEA'AU, PUNA, ISLAND OF HAWAI'I.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Purpose. The purpose of this ordinance is to amend Map 14 of the County of Hawai'i General Plan Land Use Pattern Allocation Guide (LUPAG) Map in accordance with Section 3-15, Hawai'i County Charter, and Section 16.2 Interim Amendments, Hawai'i County General Plan adopted by Ordinance No. 05 25 and amended by Ordinance Nos. 06 153, 12 89 and 14 87.

SECTION 2. The County of Hawai'i General Plan Land Use Pattern Allocation Guide (LUPAG) Map is hereby amended to designate the area in the vicinity of Kea'au Village and immediately surrounding areas, Kea'au, Puna, Island of Hawai'i, from "Low Density Urban" and "Important Agricultural Land" to "Medium Density Urban" all as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect other provisions of this ordinance.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: August 19, 2015
Date of 1st Reading: August 19, 2015
Date of 2nd Reading: September 2, 2015
Effective Date: September 25, 2015

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Hilo, Hawai'i

COUNTY CLERK
COUNTY OF HAWAII

2015 SEP 25 PM 12:03

Introduced By: Greggor Ilagan (B/R)
Date Introduced: August 19, 2015
First Reading: August 19, 2015
Published: August 29, 2015

REMARKS: _____

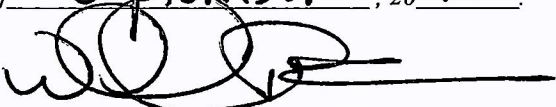
Second Reading: September 2, 2015
To Mayor: September 11, 2015
Returned: September 25, 2015
Effective: September 25, 2015
Published: October 3, 2015

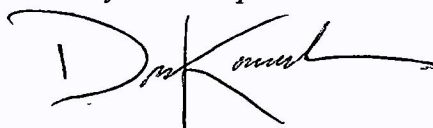
REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Ilagan	X			
Kanuha	X			
Onishi	X			
Paleka	X			
Poindexter	X			
Wille	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Ilagan	X			
Kanuha	X			
Onishi	X			
Paleka	X			
Poindexter	X			
Wille	X			
	9	0	0	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

Approved/Disapproved this 25th day
of September, 2015

MAYOR, COUNTY OF HAWAII

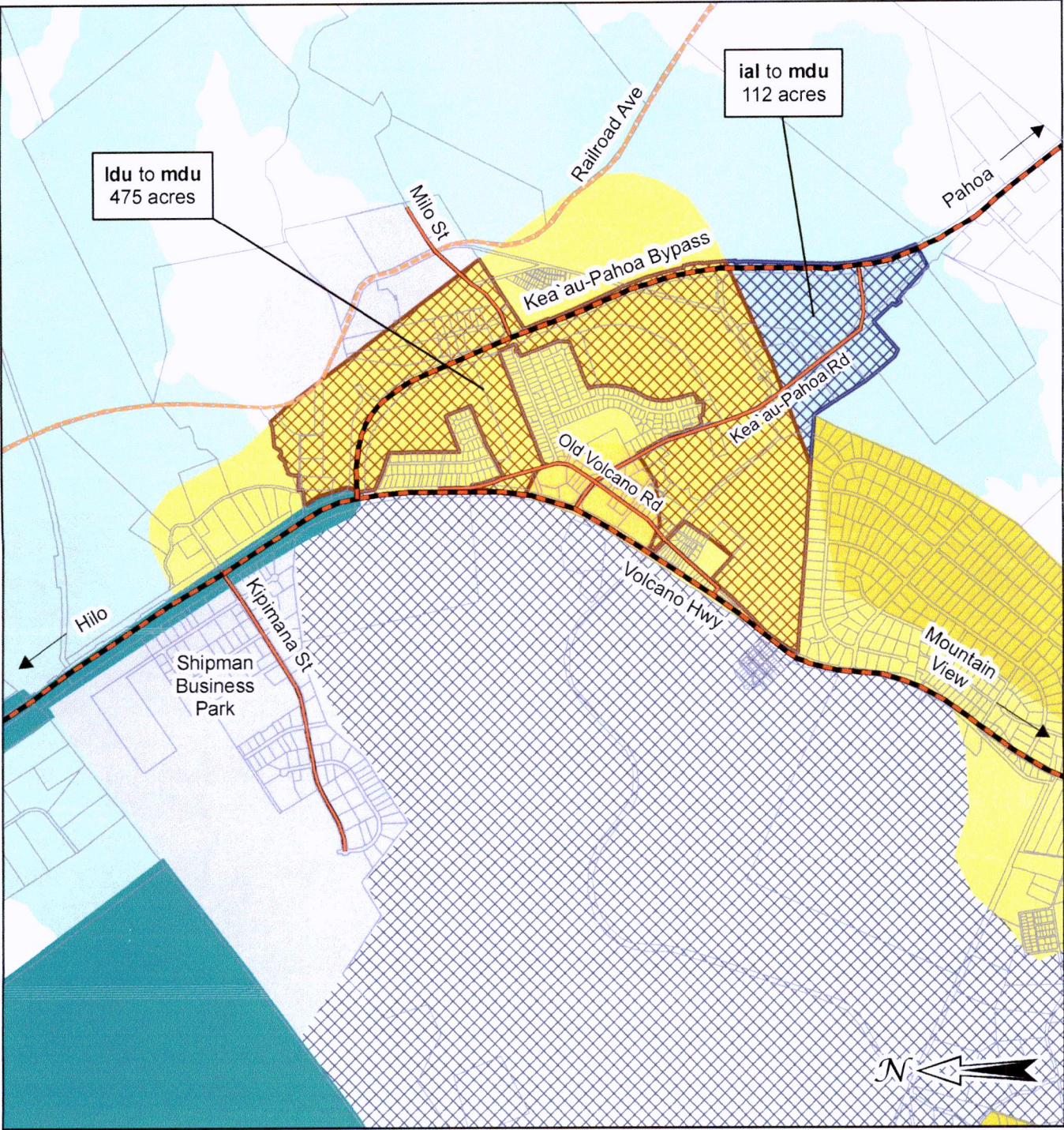

COUNCIL CHAIRPERSON

COUNTY CLERK

Bill No.: 72
Reference: C-398/PC-24
Ord No.: 15 82

Proposed General Plan Amendments for Kea'au Town Center

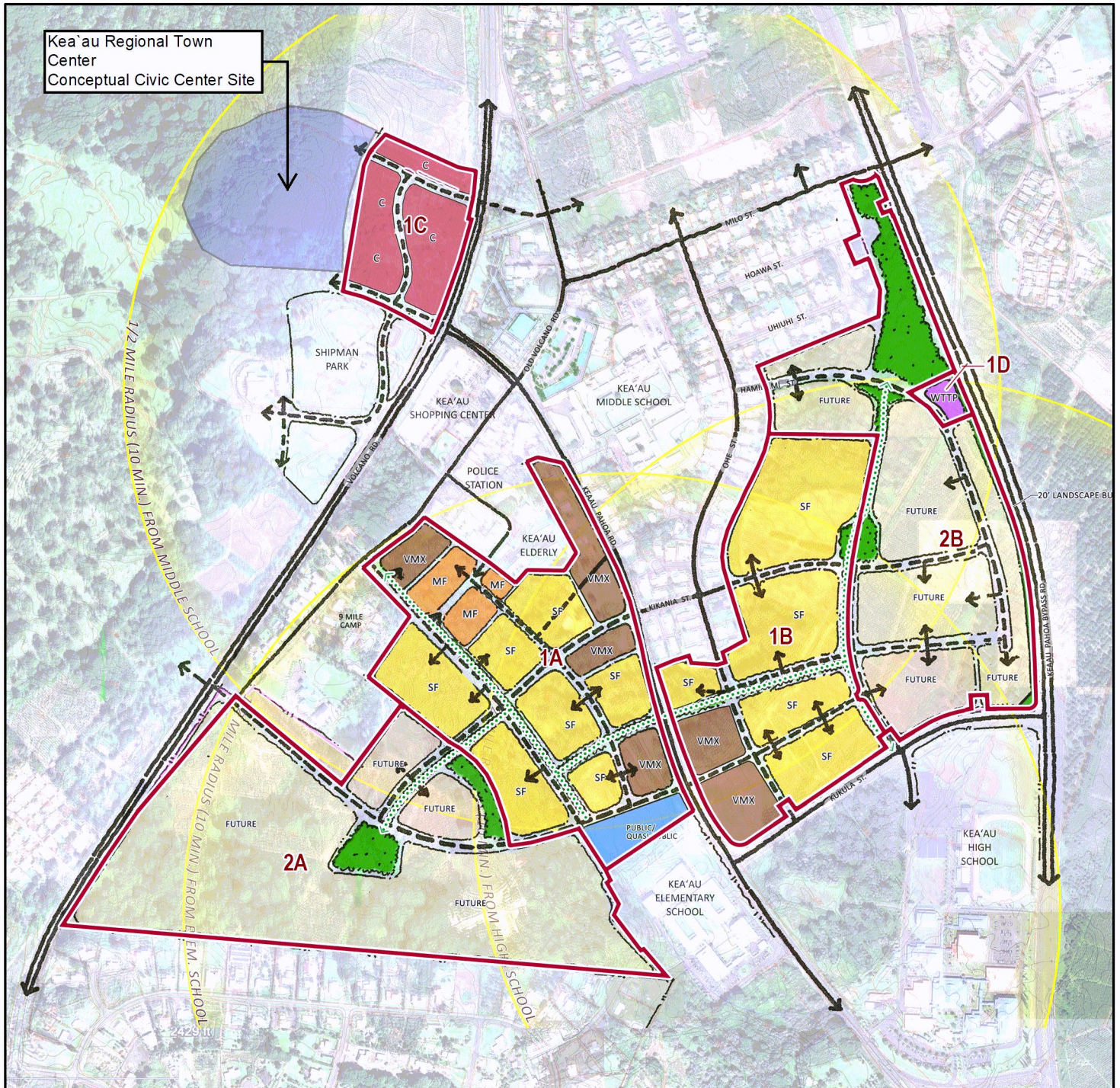
-  Low Density Urban (ldu) to Medium Density Urban (mdu)
-  Important Agricultural Lands (ial) to Medium Density Urban (mdu)



Map prepared by Hawai'i County Planning Department
Revised April 22, 2015

0 0.125 0.25 0.5 0.75 1 Miles

Q:\Hawaii\WH Shipman\photoshop



LEGEND

- C Commercial
- VMX Village Mixed Use (Residential/Commercial)
- SF Single Family Residential
- MF Multi-family Residential
- Public / Quasi Public
- Open Space/ Buffer
- WWTP Wastewater Treatment Plant
- Existing Road
- Proposed Road
- Multi-modal Greenway
- Project Sub-Area Boundary

Exhibit 5

Kea'au Village Master Plan
with Conceptual Civic Center Site

Kea'au Village Master Plan

WH Shipman Ltd.
North

Island of Hawai'i
Not to scale



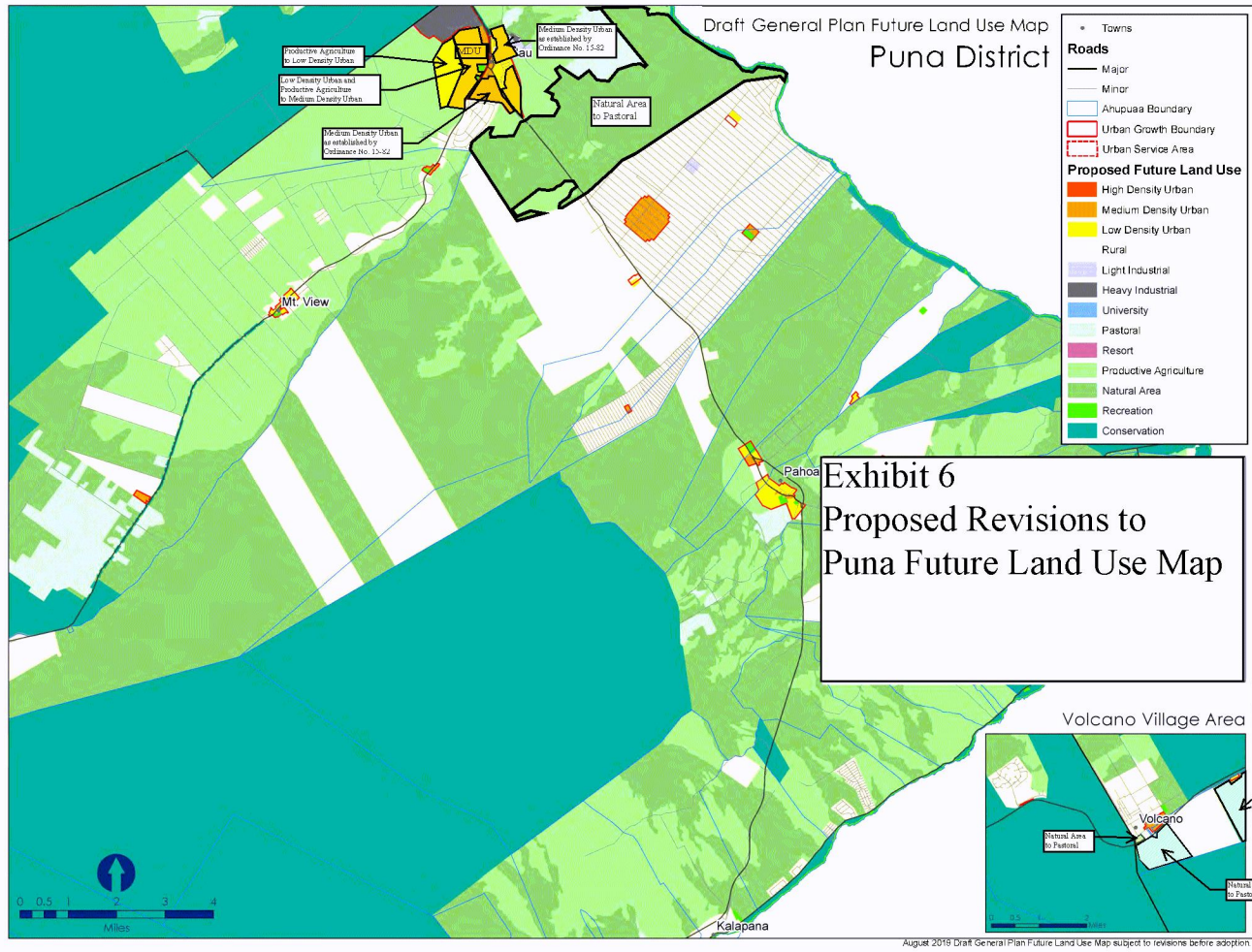


Exhibit 6
Proposed Revisions to
Puna Future Land Use Map

August 2015 Draft General Plan Future Land Use Map subject to revisions before adoption