

From: [James Agena](#)
To: [LPCtestimony](#); [WPCtestimony](#)
Cc: [Sidney Fuke](#)
Subject: Notice of Proposed Change in Parcel Designation TMK 7-3-009-063
Date: Friday, November 15, 2024 2:31:28 PM
Attachments: [Letter 11-15 Parcel 63 Designation w-attachments 2.pdf](#)

Dear Sir or Madam,

As counsel and manager, on behalf of Kaloko Residential Park, LLC, owner of property described as TMK 7-3-009:063 ("Parcel 63"), and regarding the Notice dated October 10, 2024, KRPL objects to the proposed redesignation of Parcel 63 to Conservation.

Reasons are set forth in the attached letter/testimony. Further, please be advised that Mr. Sidney Fuke, and Mr. Gregory Ogin are authorized consultants for KRPL.

Please contact me should you have any questions.

James Y. Agena
Kaloko Residential Park LLC
ph. no. (808) 532-9588
email: jya@agenaesq.com

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JAMES Y. AGENA

Attorney At Law

James Y. Agena, LLC
a Hawaii limited liability law company

Four Waterfront Plaza, Suite 430
500 Ala Moana Boulevard
Honolulu, Hawaii 96813

mailing address:
P.O. Box 27
Honolulu, HI 96810

Telephone (808) 532-9588
Email: jya@agenaesq.com

November 15, 2024

County of Hawaii
Leeward Planning Commission
Windward Planning Commission
101 Pauahi Street, Ste. 3
Hilo, HI 96720

Via email to: LPCtestimony@hawaiicounty.gov; WPCtestimony@hawaiicounty.gov;
and U.S. Mail

Re: Hawaii County General Plan Comprehensive Review/
Notice of Proposed Change in Parcel Designation
TMK: 7-3-009:063, O'oma 2nd, Kaloko, North Kona, Hawaii

Dear Sir or Madam:

My office represents Kaloko Residential Park, LLC ("KRPL"), owner of property described as TMK 7-3-009:063 ("Parcel 63"), regarding the subject matter set forth in your Notice dated October 10, 2024. KRPL respectfully objects to the proposed redesignation of Parcel 63 from the existing LUPAG of Urban (expansion) to the proposed GPLU of Conservation. Attached for reference is a map depicting Parcel 63 and surrounding properties, and the County information as to Parcel 63 in general. Please consider the following:

The Designation Was An Error. Upon receipt of the Notice, KRPL (by Greg Ogini) was placed in contact by Zendo Kern, Director, with April J. Surprenant, AICP, of the office of Long Range Planning & Board of Appeals, Hawaii County Planning Department. It is our understanding from contact with that office that the designation was made in error. Possibly a GIS or mapping mistake that is in the process of being corrected.

KRPL is Not a Party to a "Lanihau master plan." The Notice states that the reason for the designation is the "Lanihau master plan." This reason is vague and ambiguous as KRPL has no prior notice of a Lanihau master plan, nor anything that would require the sudden designation of its property. KRPL owns Parcel 63, and its 47 acres of previously designated Urban-expansion that it is comprised of, not any other entity.

If this designation involves Lanihau Properties LLC and some manner of plan it proposes, then it is clear that it does not own, nor have an interest in Parcel 63. Nor is it known what exactly are the reasons for the need to convert Parcel 63, to Conservation zoning. It is unfair and impossible to rebut the designation without knowing the specific and authorized reasons for it. ¹

The adjacent property to the south of Parcel 63, is owned by Lanihau Properties LLC (“Lanihau Properties”), and designated as TMK No. 7-4-008:081. See attached map. In the event this involves a development per a master plan proposed by Lanihau Properties, for its own benefit, which includes the redesignation of Parcel 63, which Lanihau Properties obviously does not own, it is obviously suspect and unjust. The Lanihau Properties plan needs to designate its own property for Conservation purposes to fulfill whatever intent it might have.

The Designation Would Deprive KRPL of its Intended Use. KRPL intends to develop Parcel 63, along with other of its properties in the vicinity, to create a compact, mixed-use, master-planned community offering a wide range of housing types and affordability, and a variety of businesses and employment opportunities. This includes providing housing for the working families of Hawai'i nearby areas of workforce demand, resultantly improving overall quality of life through the reduction of commuting and facilitation of everyday function.² To achieve this goal KRPL would seek a land use reclassification and zoning changes to permit these uses.

A designation of Parcel 63 to Conservation would effectively prevent KRPL from proceeding with the intended development. Further, the designation would preclude KRPL from

¹ Conservation being: (1) protecting watersheds and water sources; (2) preserving scenic and historic areas; (3) providing park lands, wilderness, and beach reserves; (4) conserving indigenous or endemic plants, forestry, fish, and wildlife; (5) preventing floods and soil erosion; (6) retaining open space areas to enhance the present or potential value of abutting or surrounding communities; (7) using areas of value for recreational purpose, other related activities, and other permitted uses not detrimental to a multi-use conservation concept.

² The KRPL's intended use of the property addresses the goals of the Keahole to Kailua Development Plan, prepared by the County of Hawaii Planning Department, and adopted by resolution by the Hawaii County Council in April 1991. The Development Plan is intended to serve as an implementing tool for the County General Plan and be a flexible guide for the future growth and development of the area. The Keahole to Kailua Development Plan encompasses an area of approximately 17,000 acres in the North Kona District extending from the Kau ahupuaa to the north, Mamalahoa Highway to the east, Palani Road and Kailua Village to the south, and the shoreline to the west. The overall goal established for the Development Plan is as follows:

“To develop a mixed residential, commercial, resort, industrial and recreational community, with approximately 8,000 or more residential units, in a functional, attractive, and financially viable manner. The community will include appropriate shoreline uses, public facilities, and infrastructure.”

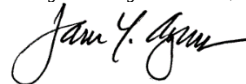
realizing the economic benefit of the potential of the property, and have the effect of a governmental “taking” of property without just compensation. KRPL has paid a substantial amount of real property taxes in the past totaling approximately \$250,000.00 based upon an Agricultural classification, and an expectation that it would be permitted to use the property for at least that purpose. Attached is the webpage from the County real property tax office describing the assessed market land value of \$3,339,400.00 and property taxes paid.

KRPL Has Protested in the Past to a Conservation Designation. The Draft 2040 County of Hawaii General Plan had proposed that KRPL property, including Parcel 63, be designated as Conservation or Low Density Urban. KRPL submitted an objection in November 2019, based upon many of the same reasons made in this letter. The 2019 objection in the form of a letter from its attorneys to the Planning Department is attached hereto, and incorporated herein by reference. KRPL renews the arguments made in 2019, in connection with the currently proposed designation.

KRPL reserves the right to supplement this letter with further documentation and/or testimony.

Should you have any questions, please contact the undersigned.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "James Y. Agena", written in a cursive style.

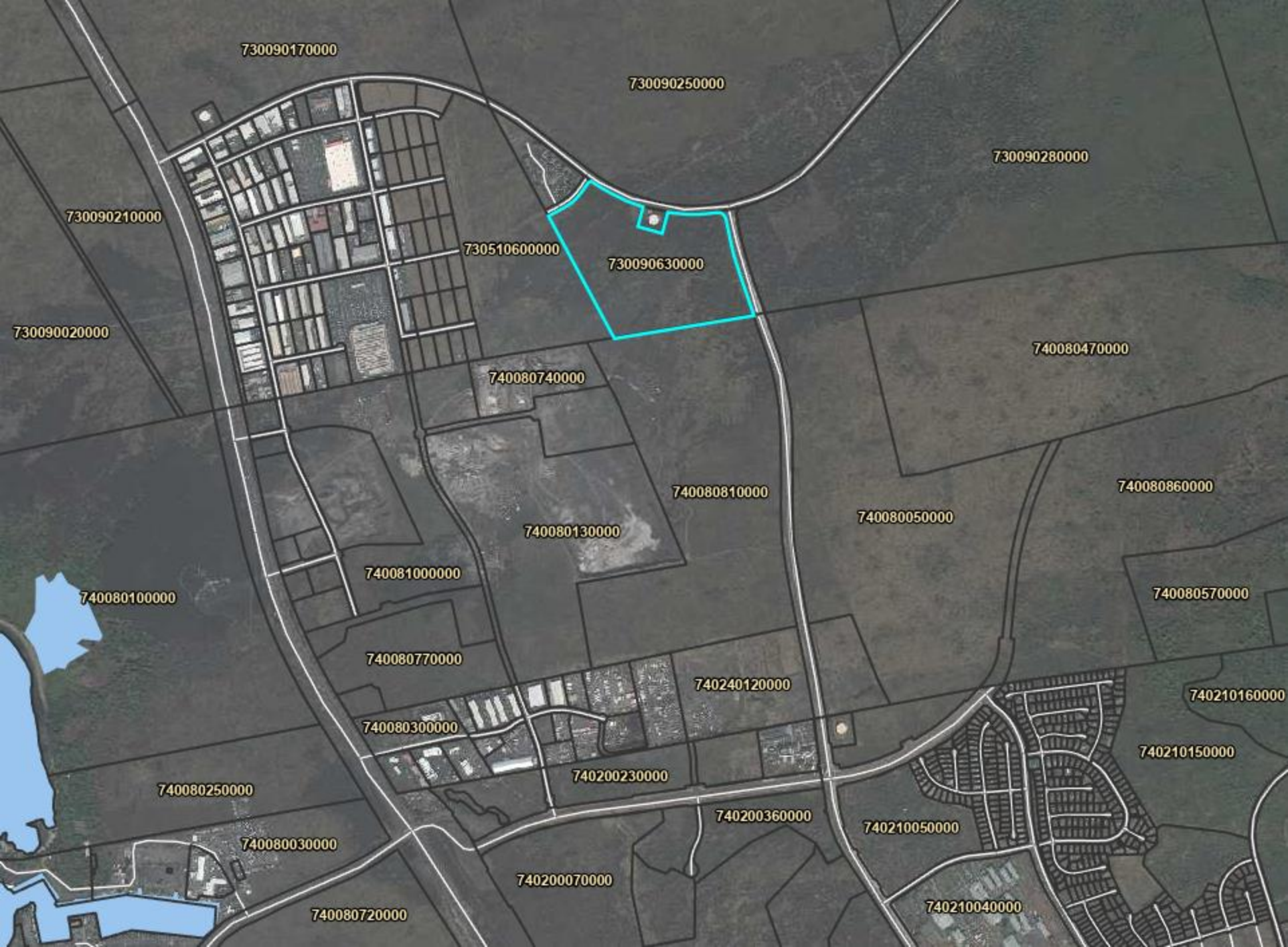
James Y. Agena

Attachments

C: Kaloko Residential Park LLC

County of Hawaii Planning Department 74-5044 Ane Keohokālole Highway,
Building E, 2nd Floor, Kailua-Kona, Hawai‘i.

ATTACHMENT 1



730090170000

730090250000

730090280000

730090210000

730510600000

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740210160000

740080300000

740210150000

740200230000

740080250000

740200360000

740210050000

740080030000

740200070000

740210040000

740080720000

Parcel Information

Parcel Number	730090630000
Location Address	HINA LANI STREET
Project Name	OOMA-KALOKO
Property Class	AGRICULTURAL
	Property Class refers to Tax Classification ONLY. For Zoning information, please go to Planning Department GIS Public Layers (hawaiicounty.gov) or email planning@hawaiicounty.gov
Neighborhood Code	B7000-1
Legal Information	LOT B-1-B 46.869 AC
Land Area (acres)	46.8690
Land Area (approximate sq ft)	2,041,614

[View Map](#)

[Plat \(TMK\) Maps](#)

Owner Information

Owner Names	Mailing Address
KALOKO RESIDENTIAL PARK LLC Fee Owner, Tenants in Severalty	KALOKO RESIDENTIAL PARK LLC 500 ALA MOANA BLVD STE 4430 HONOLULU HI 96813 4933

Assessment Information

[⊞ Show Historical Assessments](#)

Year	Property Class	Market Land Value	Dedicated Use Value	Assessed Land Value	Market Building Value	Assessed Building Value	Total Market Value	Total Assessed Value	Total Exemption Value	Total Taxable Value
2024	AGRICULTURAL	\$3,339,400	\$0	\$3,339,400	\$0	\$0	\$3,339,400	\$3,339,400	\$0	\$3,339,400

Land Information

Property Class	Square Footage	Acreage	Agricultural Use Indicator
AGRICULTURAL	2,041,614	46.869	

Building Division Permit & Inspections Information

<https://hawaiicountyhi-energypub.tylerhost.net/Apps/SelfService#/home>

Sales Information

Sale Date	Sale Amount	Instrument #	Instrument Type	Instrument Description	Date Recorded	Land Court Document Number	Cert #	Book/Page	Conveyance Tax	Document Type
10/19/2015	\$39,248,467	57720814	FEE CONVEYANCE	Deed	10/21/2015				392484.7	Deed
08/08/2012	\$0		FEE CONVEYANCE	Route Slip						Route Slip
11/09/2009	\$0		OTHER	Mapping Change	11/09/2009					Mapping Change

Current Tax Bill Information

Tax Period	Description	Original Due Date	Taxes Assessment	Tax Credits	Net Tax	Penalty	Interest	Other	Amount Due
2024-2	Real Property Tax	02/20/2025	\$0.00	\$0.00	\$15,611.69	\$0.00	\$0.00	\$0.00	\$15,611.69
	Tax Bill with Interest computed through 11/30/2024		\$0.00	\$0.00	\$15,611.69	\$0.00	\$0.00	\$0.00	\$15,611.69

Pay online at <http://payments.ehawaii.gov/propertytax/hawaii>
Other Payment Options [Click Here](#)

Historical Tax Information

Year	Tax	Payments and Credits	Penalty	Interest	Other	Amount Due
⊞ 2024	\$31,223.39	(\$15,611.70)	\$0.00	\$0.00	\$0.00	\$15,611.69
⊞ 2023	\$31,223.39	(\$31,223.39)	\$0.00	\$0.00	\$0.00	\$0.00
⊞ 2022	\$31,223.39	(\$31,223.39)	\$0.00	\$0.00	\$0.00	\$0.00
⊞ 2021	\$28,384.73	(\$28,384.73)	\$0.00	\$0.00	\$0.00	\$0.00
⊞ 2020	\$22,991.65	(\$22,991.65)	\$0.00	\$0.00	\$0.00	\$0.00
⊞ 2019	\$21,896.77	(\$21,896.77)	\$0.00	\$0.00	\$0.00	\$0.00
⊞ 2018	\$21,259.10	(\$21,259.10)	\$0.00	\$0.00	\$0.00	\$0.00
⊞ 2017	\$20,640.13	(\$20,640.13)	\$0.00	\$0.00	\$0.00	\$0.00

Year	Tax	Payments and Credits	Penalty	Interest	Other	Amount Due
2016	\$19,446.28	(\$19,446.28)	\$0.00	\$0.00	\$0.00	\$0.00
2015	\$18,408.43	(\$18,408.43)	(\$920.42)	(\$506.23)	\$0.00	\$0.00
2014	\$18,408.43	(\$18,408.43)	(\$920.42)	(\$1,113.71)	\$0.00	\$0.00
2013	\$18,408.43	(\$18,408.43)	\$0.00	\$0.00	\$0.00	\$0.00
2012	\$16,617.34	(\$16,617.34)	\$0.00	\$0.00	\$0.00	\$0.00
2011	\$16,617.34	(\$16,617.34)	\$0.00	\$0.00	\$0.00	\$0.00
2010	\$15,105.99	(\$15,105.99)	(\$1,510.60)	(\$249.25)	\$0.00	\$0.00

Map



Recent Sales in Area

Sale date range:

From:

To:

Sales by Neighborhood

Distance:

Feet

Sales by Distance

No data available for the following modules: Condominium/Apartment Unit Information, Agricultural Assessment Information, Residential Improvement Information, Commercial Improvement Information, Sketches, Other Building and Yard Improvements, Permit Information.

The County of Hawaii Real Property Tax Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied are provided for the data herein, its use or interpretation. The assessment information is from the last certified tax roll. All other data is subject to change.
[User Privacy Policy](#) | [GDPR Privacy Notice](#)
 Last Data Upload: 11/12/2024, 6:12:03 AM

Contact Us



ATTACHMENT 2

COPY

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE

P.O. BOX 686

HILO, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7975

WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

November 12, 2019

2019 NOV 12 PM 3 09

PLANNING DEPARTMENT
COUNTY OF HAWAII

VIA HAND-DELIVERY

Mr. Michael Yee, Planning Director
Attn: Ms. Bethany Morrison

Planning Department, County of Hawaii
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

Re: Request for Planning Director-Initiated General Plan Amendment from Low Density Urban and Conservation to Medium Density Urban for Tax Map Key Nos.: (3) 7-3-009: 017, 025, 026, 028, and 063

Dear Mr. Yee and Ms. Morrison:

On behalf of our client Kaloko Residential Park LLC ("Kaloko"), the owner of the above-referenced parcels, we are requesting Planning Director-initiated revisions to the Draft 2040 County of Hawai'i ("County") General Plan¹ (the "Draft General Plan") and the proposed Future Land Use Designation Map (the "FLUM") for North Kona, dated August 2019.

Kaloko's requested revisions relate to its properties located in Kailua-Kona, District of North Kona, County, and State of Hawaii, identified by Tax Map Key Nos.: (3) 7-3-009: 017 ("Parcel 17"), 025 ("Parcel 25"), 026 ("Parcel 26"), 028 ("Parcel 28"), and 063 ("Parcel 63") (collectively the "Property"). The Property consists of approximately 1,139 acres.

Kaloko intends to develop a mixed-use community village on the Property that integrates diverse housing offerings, mixed-use commercial and retail growth and employment opportunities, and a range of community services and facilities (inclusive of medical, lodging,

¹ In addition to the specific revisions requested herein, Kaloko joins in on the "Comments on 2019 Draft General Plan" prepared by the Law Offices of Yeh & Moore, submitted with the Planning Department on or about October 31, 2019, which objects to the Draft General Plan in its present form, and requests that it be revised to conform to its purpose, as set forth in HRS § 46-4 and the County's Charter. The Draft General Plan inappropriately contains regulatory standards rather than policy statements, which will lead to, among other things, issues of interpretation and challenge, issues of enforcement, and divesting agencies of their delegated authority to issue permits and approvals under standards which allow for the exercise of discretion.

and civic uses as well as recreational opportunities) (the “**Kaloko Residential Park**”). The Kaloko Residential Park is planned for residential uses ranging between 2,500 and 5,000 single and multiple-family residential units, and for retail-commercial uses ranging between 400,000 and 600,000 square feet of gross leasable area. There may also be areas of residential-commercial mixed uses. The Kaloko Residential Park is intended to be located on the entirety of Parcels 17, 25, 26 and 63, and approximately 163 acres of Parcel 28, excluding the 150-acre Native Dryland Forest area (collectively the “**Kaloko Residential Park Area**”).

As discussed herein, Kaloko requests that the Planning Director initiate revisions to the Draft General Plan to modify the proposed designations for the Kaloko Residential Park Area from “Low Density Urban” and “Conservation” to “Medium Density Urban,” consistent with the current Urban Expansion and Conservation designations under the Land Use Pattern Allocation Guide (“**LUPAG**”) map, the proposed Kaloko Residential Park, the adjacent lands as shown on the FLUM, and the objectives and goals of the Draft General Plan in encouraging higher-density urban development in areas not suitable for agricultural uses.² See **Exhibit 2 (LUPAG Map)**.

THE MEDIUM DENSITY URBAN DESIGNATION IS APPROPRIATE FOR THE KALOKO RESIDENTIAL PARK AREA³

Draft General Plan and FLUM

According to the Draft General Plan, the “Low Density Urban” designation allows for residential development with ancillary community and public uses, with an overall density of up to six units per acre. The “Medium Density Urban” designation allows for “[v]illage and neighborhood commercial and single-family and multiple family residential and related functions” with seven to thirty-five units per acre. See Draft General Plan at 151. The Kaloko Residential Park is projected to include single- and multi-family residential lots and units at a variety of densities, most over ten units per acre, with centralized commercial and neighborhood centers, potential residential-commercial mixed used areas and recreational facilities, all of which would conform with the “Medium Density” designation under the Draft General Plan.

² The Land Study Bureau land classification system classified the Property’s soil with “unclassified,” “E,” and “D” ratings; Class E soils are considered “very poor” for agricultural production and are only marginally suitable for agricultural uses whereas Class D soils are considered “poor” with a nominal 30-54% overall productivity rating.

³ Parcel 25 is located within the State Land Use (“SLU”) Urban District and Agricultural District. Parcels 26, 28, and 63 are presently located within the SLU Agricultural District whereas Parcel 17 is located within the SLU Conservation District. The Kaloko Residential Park Area is currently zoned Agricultural, Minimum Lot Size 5 acres (A-5a), which allows for “very low density agriculturally-based residential use, encompassing rural areas of good to marginal agricultural and grazing land,” with the exception of Parcel 17 which is zoned Open. See County Code § 25-5-70. The lands within the SLU Conservation and Agricultural require processing of a petition with the State Land Use Commission for a SLU District Boundary Amendment to Urban, which Kaloko will process to be followed by a County Project District Rezoning. Approximately 190 acres of Urban District lands within Parcel 25 were reclassified in the 1980’s for golf use (this project was abandoned), and a Motion to Amend Conditions for this area will be processed with the State Land Use Commission to conform the proposed development of these existing Urban District lands with the proposed development of the Kaloko Residential Park project.

The Urban section (Section 5 - Land Use Planning) of the Draft General Plan establishes objectives, policies, and action plans related to urban areas. According to the Draft General Plan, the main objective is to “[i]ncrease residential density within Urban areas to an average density of 10 units per acre and increase the mixed use development pattern” with the goal being to “[p]rovide adequate access for multi-family residential projects to arterial streets, shopping facilities, schools, employment centers, and other services.” *See* Draft General Plan at 122.

The master-planned Kaloko Residential Park would significantly advance the aforementioned objectives, goals, and policies. First, the Kaloko Residential Park would address the need for urban areas with a higher density in the North Kona area. The North Kona area is appropriately seeing urban infill development and proposals, consistent with the 2008 Kona Community Development Plan and the 2010 draft Kona Village Design Guidelines. Kaloko Residential Park is strategically located at the intersections of the major regional lateral traffic corridors of Queen Ka’ahumanu Highway and Ane Keohokalole Highway, and the mauka-makai collector road of Hina Lani Street, between the town of Kailua-Kona and the Kona International Airport. This rapidly developing area in the northern portion of the North Kona District and proximate to the Kona International Airport at Keahole is proposed to become the residential, commercial and industrial heart of West Hawai‘i. The area has a long-standing and growing residential base and will continue to be the focus of residential and related development as the Island’s population grows. Second, the Kaloko Residential Park would provide much needed employment opportunities and recreational facilities to North Kona. In other words, the Kaloko Residential Park is precisely the type of area that should be designated as “Medium Density Urban” rather than “Low Density Urban” and “Conservation” on the FLUM.

LUPAG

The 2005 General Plan designation for the Kaloko Residential Park Area is “Urban Expansion” on the LUPAG map. *See Exhibit 2.*⁴ The Urban Expansion Area “allows for a mix of high density, medium density, low density, industrial, industrial-commercial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined.” Based on the aforementioned, the “Medium Density Urban” designation for the entire Kaloko Residential Park Area (with the exception of the proposed Conservation designation for the area of the Dryland Forest within a portion of Parcel 28) is consistent with prior determinations by the Planning Director in the 2005 General Plan.

Should you have any questions, please feel free to contact me at 935-6644. Thank you for your attention to this matter.

⁴ The 150-acre Native Dryland Forest on Parcel 28 is designated “Conservation.” This area is proposed to be designated “Conservation” on the FLUM and Kaloko is intending to preserve this area as a Native Dryland Forest.

Planning Director
November 12, 2019
Page 4

Sincerely,

A handwritten signature in black ink, appearing to be 'SCL' or similar, followed by a small flourish.

Steven S.C. Lim

Enclosures

xc with enclosures: Client

EXHIBIT 1

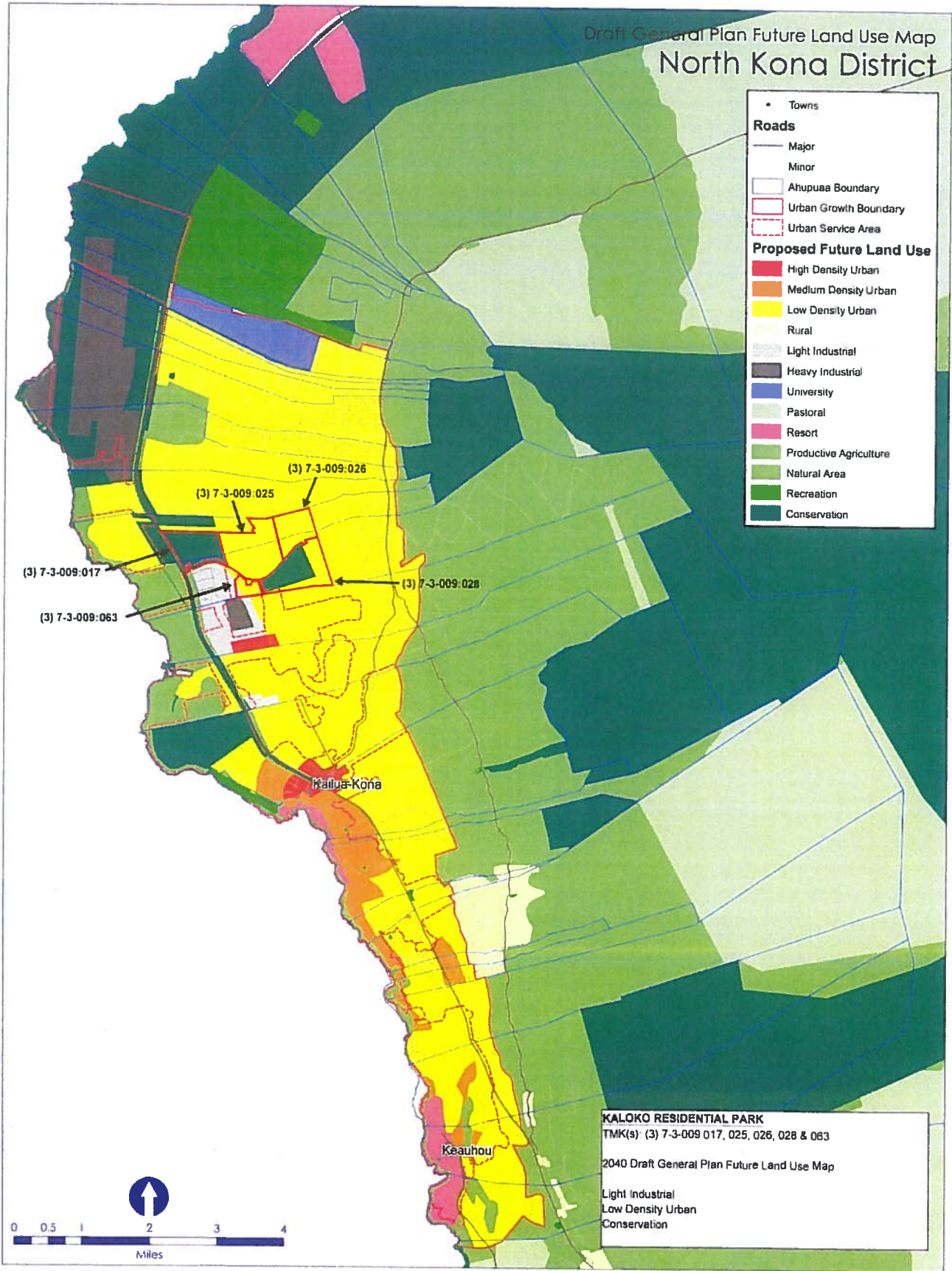


EXHIBIT 2

