

COUNTY OF HAWAI‘I PLANNING DEPARTMENT
RECOMMENDATION

DR. LOI CHANG-STROMAN
CHANGE OF ZONE APPLICATION NO. PL-REZ-2024-000061

Upon careful review of the request against the guidelines for granting a change of zone, the Planning Director is recommending that **a favorable recommendation of the Change of Zone request be forwarded to the County Council.** Since this recommendation is made without the benefit of public testimony, the Planning Director reserves the right to modify and/or alter this position based upon additional information presented at the public hearing. This favorable recommendation is based on the following findings:

The applicant is requesting a Change of Zone from a Single-Family Residential-10,000 square feet (RS-10) zoning district to a Neighborhood Commercial-10,000 square feet (CN-10) zoning district for 16,161-square feet of land. The CN zoning district, with a minimum area required for each building site of 10,000 square feet, would allow a maximum density of 1 building site. In addition, although the applicant proposes to maintain use as a medical facility, any permitted use in the CN-zoning district can be established on the property should the change of zone request be approved, including the potential maximum density of 12 multiple-family residential units.

The applicant is a medical doctor specializing in internal medicine, practicing at the existing Urgent Care of Kona, on the subject property. His wife is a dermatologist practicing at the existing Kona Dermatology medical facility, also on the subject property. The requested change of zone will allow for expanded services and opportunities at these clinics beyond the restrictions allowed by the subject property's existing Use Permit (Use Permit No. 88-008 or USE 66). Should the change of zone be approved, the applicant intends to request to revoke the existing Use Permit. Additionally, the applicant proposes to convert 500 square feet of the existing building for use as a durable medical equipment retail service.

Immediately upon approval of the Change of Zone, the applicant expects to adjust operational hours and begin providing additional medical services. Minimal costs are expected for the proposal, although the applicant has recognized that a change of use

building permit may be required by the Department of Public Works to establish the retail use.

In order to consider an area for any type of zoning designation, the applicable goals, policies, and standards of the General Plan must be adequately addressed. It is only through such a comprehensive policy analysis approach that evaluations and decisions can be made to better time and stage developments to achieve growth determined by the General Plan and related planning documents. The implications of these evaluations and decisions must also be considered as they may have an impact on similar areas in the County.

The change of zone request from a Single-Family Residential-10,000 square feet (RS-10) zoning district to a Neighborhood Commercial-10,000 square feet (CN-10) zoning district conforms to applicable goals, policies, and standards of the General Plan. The subject, irregularly shaped, 16,161-square foot property is sloped towards Kuakini Highway, and located at the 400-foot elevation level. The property has been developed with a medical facility, parking lot and driveway, with some landscaping along the frontage with Kuakini Highway and Sunset Drive.

Surrounding lands are zoned Single-Family Residential 10,000-square feet (RS-10), Neighborhood Commercial 10,000-square feet (CN-10), Neighborhood Commercial 7,500-square feet (CN-7.5), Multiple-Family Residential 1,500-square feet (RM-1.5), Agricultural 1-acre (A-1a) and Agricultural 5-acre (A-5a). Existing surrounding land uses include commercial, retail, offices, and medical facilities, as well as multiple-family and single-family residences.

According to the Zoning Code, the CN district applies to strategically located centers suitable for commercial activities which shall be of such size and shape as will accommodate a compact shopping center which supplies goods and services to a residential or working population on a frequent need or convenience basis. This district is distinguished from a central commercial district which provides general business and broad services to a city or region. The proposed development is consistent with providing goods and services to a residential or working population; thus, the request is consistent with the surrounding land use pattern and the intent of zoning designation.

The General Plan is intended to be used as a policy guide for the coordinated growth and development of all sectors of the County. It sets forth goals, policies, standards, and courses of action to accommodate growth without congestion, to designate

and preserve the lands needed for residential use, commercial and visitor services, industry, agriculture, and open space, and to coordinate these uses with the County's service and circulation systems. The overall goals, policies and standards are set forth to physically plan the lands in the County in the best interest of the island's residents. Land Use is one of the principal focal points of public concern and policy. The Land Use Element provides the primary basis for direct control and guidance of publicly and privately owned resources. The request conforms to the following goals and policies of the General Plan Land Use Element:

- *Allocate appropriate requested zoning in accordance with the existing or projected needs of neighborhood, community, region and County.*
- *Zoning requests shall be reviewed with respect to General Plan designation, district goals, regional plans, State Land Use District, compatibility with adjacent zoned uses, availability of public services and utilities, access, and public need.*
- *Achieve a broader diversification of local industries by providing opportunities for new industries and strengthening existing industries.*
- *Provide for commercial developments that maximize convenience to its users.*
- *Provide commercial developments that complement the overall pattern of transportation and land usage within the island's regions, communities, and neighborhoods.*

The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County.

The subject property is designated Medium Density Urban (mdu) by the LUPAG Map which includes uses such as village and neighborhood commercial and single family and multiple family residential and related functions (multiple family residential - up to 35 units per acre). As a neighborhood commercial use, the medical facility will continue to provide services to single-family and multiple-family residential users in the surrounding area.

The Kona Community Development Plan (CDP) identifies the property as situated within the Kona Urban Area (KUA), though not situated within any Regional

Center Transit Oriented Development (TOD) Areas. The proposed change of zone would allow for the continuation of a relevant commercial use that would be in alignment with the commercial, retail and service-related developments in the surrounding area.

Based on the preceding, the request conforms to the goals and policies of the General Plan and Kona CDP.

All essential utilities and services are available to the site. The subject property is accessed from Sunset Drive, a County-owned and maintained road with approximately 24-foot-wide pavement within a 44-foot-wide right-of-way that takes access from Kuakini Highway, a State-owned and maintained roadway. The State Department of Transportation (DOT) notes that there would not be a significant increase in the number of trips generated at the site, and no adverse impacts to State highways.

The Department of Public Works (DPW), Engineering Division, recommends that the applicant provide improvements to the subject property's Sunset Drive frontage consisting of, but not limited to, pavement widening with a sidewalk, concrete curb and gutter, drainage improvements and any required utility relocation, meeting with the requirements of the Americans with Disabilities Act. The improvements shall be located within a 3-foot road widening setback and dedication of the widening and improvements should be at no cost to the County.

The applicant has requested relief from DPW's recommendations, noting that improvements to the property's Sunset Drive frontage would be excessive and not be proportional to the scope of the applicant's request, given there is no proposal to expand the footprint of the medical facility. The Planning Director is agreeable to providing such relief based both on the applicant's reasoning and the impractical nature of installing a short segment of curb, gutter, and sidewalk in a location not likely to be used by pedestrians nor connects to any other pedestrian facilities in the area. However, the Director recommends that the applicant subdivide and dedicate a 3-foot-wide future road widening strip along the property's Sunset Drive frontage when requested by DPW and to pay their pro-rata share for future construction of roadway improvements by the County. A condition of approval will be included to address the preceding.

According to the Department of Water Supply (DWS), the subject parcel is currently served by an existing 1-inch meter which is limited to 4 units of water at an average of 400 gallons per day, per unit, or a total of 1,600 gallons per day. DWS notes that should the type of use change from the current use (including the proposed durable

medical equipment retail service), there would be a requirement for the applicant to submit estimated maximum daily water usage calculations. Upon receipt of the water usage calculations, if the existing 1-inch meter cannot accommodate the estimated demand, facilities charges shall be remitted and installation of a larger or additional meter and a reduced pressure type backflow prevention assembly would be required, meeting with approval of DWS. Finally, DWS notes that the existing 8-inch waterline fronting the parcel is inadequate to provide the required 2,000-gallons per minute of flow for fire protection as per DWS standards and the applicant is advised to consult with the Fire Department for any fire protection requirements or alternatives. A response from the applicant notes that they are agreeable to DWS conditions and will work with the Fire Department to address fire protection requirements. Conditions of approval will be included to address the preceding.

There is no municipal sewer system servicing the subject property. The property is served by an existing septic system approved by the State Department of Health (DOH) which the applicant will continue to use. A condition of approval will require any additional development on the property to provide a method of sewage disposal that meets with requirements of the DOH.

Solid waste will be handled by a commercial hauler or the landowner and disposed at authorized landfill sites or transfer stations, all essential utilities are available to the property and police, fire and medical facilities are available in Kailua-Kona. A condition of approval will be included to require the applicants to meet all applicable County, State and Federal laws, rules, regulations, and requirements.

There are no severe geological or topographical problems for the property that cannot be properly rectified, or which would render the land unusable. The subject property is in an area designated as Zone “X”, an area determined to be an area of minimal flood hazard, on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). A condition of approval will be added to require that all development generated runoff will be disposed of on-site and not directed toward any adjacent properties. Thus, the proposed change of zone meets this criterion.

The request is not contrary to Chapter 205A, Hawai‘i Revised Statutes, relating to Coastal Zone Management Area. The subject property is located approximately 0.9 miles from the nearest coastline, is not situated within the Special Management Area and will not be impacted by coastal hazards and beach erosion. There

is no designated public access to the mountains or the shoreline that runs through the property. The proposed use will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai‘i Revised Statutes.

The request will not have a significant adverse impact to traditional and customary Hawaiian Rights. In view of the Hawai‘i State Supreme Court’s “PASH” and “*Ka Pa‘akai O Ka‘Aina*” decisions, the issue relative to Native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

- Investigation of valued resources: No formal archaeological reconnaissance survey, oral history of kama‘āina accounts of the area, historical survey of documentary records, or botanical study was included in the application.
- The valued cultural, historical, and natural resources found in the rezoning area: According to the applicant, no archeological or historical features are known to exist on the subject property nor is the property listed as a historic site on the State or National Register of Historic Places.

As mentioned previously, the entire subject property has been developed with a medical facility with a parking lot, driveway and related improvements for 34 years. Given the urban development of the parcel and surrounding area, it is unlikely there are endangered species of plants or animals on the subject property. According to the applicant, there are no known customary or Native Hawaiian cultural rights exercised within the subject property. No professional surveys were conducted of the flora/fauna resources on the property.

- Possible adverse effect or impairment of valued resources: Native plants and/or endangered species are unlikely to be impacted due to the already impacted property as mentioned above.
- Feasible actions to protect native Hawaiian rights: As stated by the applicant, no gathering is taking place on the site. Thus, to the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights.

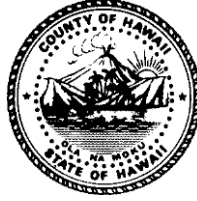
Lastly, this recommendation is made with the understanding that the applicants remain responsible for complying with all other applicable governmental requirements in

connection with the proposed use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the preceding findings, the request to rezone the property from a Single-Family Residential-10,000 square feet (RS-10) zoning district to a Neighborhood Commercial-10,000 square feet (CN-10) zoning district would result in an appropriate land use pattern that would further benefit the general public.

The accompanying draft bill to amend Section 25-8-6 (Kailua-Honalo Urban Zone Map), Article 8, Chapter 25 (Zoning) of the Hawai'i County Code, is provided for your favorable consideration. Please note the proposed conditions of approval attached to the draft bill.

COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. _____

ORDINANCE NO. _____

(PLANNING DEPARTMENT)

AN ORDINANCE AMENDING SECTION 25-8-6 (KAILUA-HONALO URBAN ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE-FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO NEIGHBORHOOD COMMERCIAL – 10,000 SQUARE FEET (CN-10) AT HŌLUALOA, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 7-7-009:008.

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

SECTION 1. Section 25-8-6, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2016 Edition, as amended) is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Hōlualoa, North Kona, Hawai'i, shall be Neighborhood Commercial – 10,000 square feet (CN-10):

Beginning at a 1/2 inch pipe (found) at the Westernmost corner of this parcel of land, being also the Southwesterly corner of Lot 9 of Sunset View Terrace Lots – Unit 1 and being a point on the Northeasterly side of Kuakini Highway (F.A.S.P. No. S-229(1)), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 14,230.14 feet South and 11,122.36 feet East and running by azimuths measured clockwise from True South:

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|----|----------|--------|--|
| 1. | 244° 11' | 133.33 | feet along Lot 9 of Sunset View Terrace Lots – Unit 1 and along the remainder of Land Patent 8289, Land Commission Award 7228 to Loe to a 3/4 inch pipe (found); |
|----|----------|--------|--|

- | | | | |
|----|----------|--------|---|
| 2. | 334° 11' | 158.05 | feet along Lot 33 and Lot 34 of Sunset View Terrace Lots – Unit 1 and along the remainder of Land Patent 8289, Land Commission Award 7228 to Loe to a 3/4 inch in concrete (found); |
| 3. | 93° 00' | 140.35 | feet along the Northerly side of Sunset Drive to a nail (found); |
- Thence, following along the Northerly side of Sunset Drive on a curve to the right a radius of 20.00 feet, the chord azimuth and distance being:
- | | | | |
|----|--------------|-------|--|
| 4. | 123° 35' 30" | 20.36 | feet to a 1/2 inch pipe (found); |
| 5. | 154° 11' | 72.88 | feet along the Northeasterly side of Kuakini Highway (F.A.S.P. No. S-229(1)) to the point of beginning and containing an area of 16,161 square feet. |

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 (2016 Edition, as amended), the County Council finds the following conditions are:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
- (2) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:
 - (A) Protection of the public from the potentially deleterious effects of the proposed use, or
 - (B) Fulfillment of the need for public service demands created by the proposed use.

SEE ATTACHED CONDITIONS

SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

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

INTRODUCED BY:

COUNCIL MEMBER, COUNTY OF HAWAI‘I

_____, Hawai‘i
Date of Introduction:
Date of 1st Reading:
Date of 2nd Reading:
Effective Date:

DR. LOI CHANG-STROMAN
CHANGE OF ZONE APPLICATION NO. PL-REZ-2024-000061
CONDITIONS OF APPROVAL

- A. The applicant(s), its successor(s), or assign(s) (“Applicant”) shall be responsible for complying with all of the stated conditions of approval.
- B. Prior to commencement of a new commercial use on the property, the Applicant shall secure and finalize all building permits as required by the Department of Public Works Building Division.
- C. Prior to the establishment of a new commercial use on the property, the Applicant shall implement any improvements required by the Fire Department and/or Department of Water Supply to ensure that fire protection requirements can be met for commercial zoning.
- D. Should the type of use within any of the existing building units change from the current use, the Applicant shall submit estimated maximum daily water usage calculations prepared by a professional engineer licensed in the State of Hawai‘i.
- E. Upon receipt of the estimated water usage calculations, if the existing 1-inch meter cannot accommodate the estimated demand, a larger or additional meter shall be installed and remittance of the prevailing facilities charge, which is subject to change, will be required. Construction plans for the meter installation will also be required, meeting with approval of the Department of Water Supply.
- F. Should a larger or additional meter be required, a reduced pressure type backflow prevention assembly shall be installed within 5 feet of the meter, which must be inspected and approved by the Department of Water Supply.
- G. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentary Control, of the Hawai‘i County Code.
- H. A 3-foot-wide future road widening strip along the property’s Sunset Drive frontage shall be subdivided and dedicated, at no cost to the County, when required by the Department of Public Works (DPW). The Applicant shall provide their pro-rata share for the construction of full improvements to the entire property frontage along Sunset Drive consisting of, but not limited to, pavement

widening with concrete curb, gutter and sidewalk, drainage improvements and any required utility relocation, meeting the approval of the DPW. This pro-rata share for roadway improvements specified in this condition shall be determined by the DPW and shall become due and payable to the County of Hawai'i within 6 months from the date that formal notice is served upon the applicant, its successors or assigns by the DPW regarding a program for the installation of curb, gutter and sidewalk improvements along the frontage of Sunset Drive in proximity to the subject property.

- I. All development-generated runoff shall be disposed of onsite and shall not be directed toward any adjacent properties. Prior to commencement of a new commercial use on the property, a drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works (DPW). Any recommended drainage improvements, if required, shall be constructed meeting with the approval of DPW prior to the issuance of a Certificate of Occupancy.
- J. Prior to commencement of a new commercial use on the property, the Applicant shall be responsible for the design, purchase, and installation of streetlights and traffic control devices as may be required by the Traffic Division, Department of Public Works.
- K. The method of sewage disposal shall meet with the requirements of the Department of Health for any new commercial use on the property.
- L. Should the Applicant develop residential units on the subject property, the Applicant shall make its fair share contribution to mitigate the potential regional impacts of the development with respect to parks and recreation, fire, police, solid waste disposal facilities and roads for the additional residential units or lots to be created. The fair share contribution shall become due and payable prior to receipt of Final Plan Approval or Final Subdivision Approval, whichever is applicable, and shall be based on the actual number of additional residential units or lots created. The fair share contribution in a form of cash, land, facilities or any combination thereof shall be determined by the County Council. The fair share contribution may be adjusted annually beginning three years after the effective

date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a combined value of **\$11,018.76** per multiple family residential unit or lot. The total amount shall be determined with the actual number of residential units or lots according to the calculation and payment provisions set forth in this condition. The fair share contribution per multiple family residential unit or lot shall be allocated as follows:

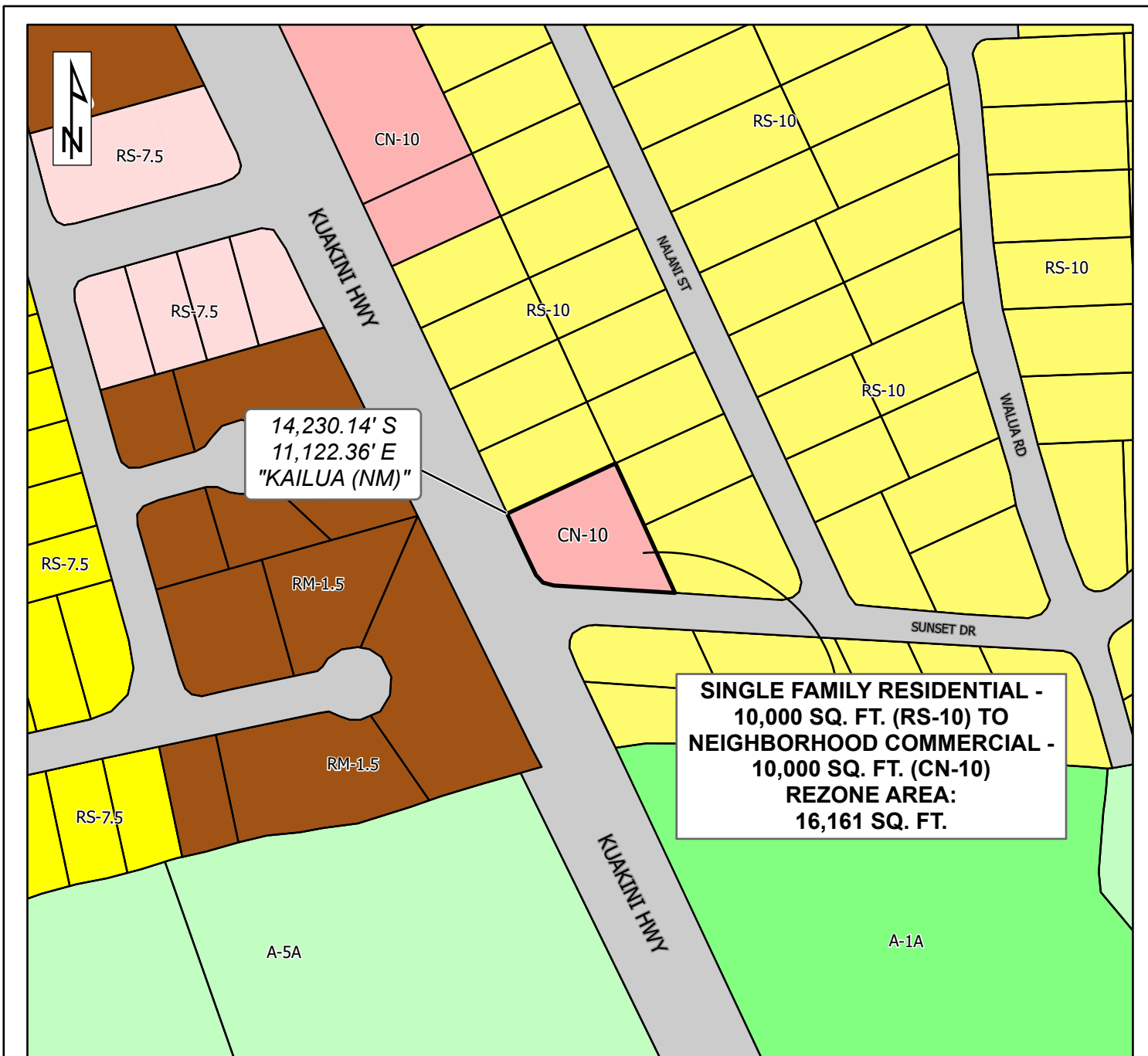
1. **\$5,435.24** per multiple family residential unit or lot to the County to support park and recreational improvements and facilities;
2. **\$171.78** per multiple family residential unit or lot to the County to support police facilities;
3. **\$528.42** per multiple family residential unit or lot to the County to support fire facilities;
4. **\$235.52** per multiple family residential unit or lot to the County to support solid waste facilities; and
5. **\$4,647.80** per multiple family residential unit or lot to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicant may contribute land and/or construct improvements/facilities related to parks and recreation, fire, police, solid waste disposal facilities and roads within the region impacted by the proposed development, subject to the review and recommendation of the Planning Director, upon consultation with the appropriate agencies and approval of the County Council pursuant to Section 2-162.1(a) of Hawai‘i County Code.

- M. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- N. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the Applicant shall comply with the requirements of Chapter 11, Article 1, Hawai‘i County Code relating to Affordable Housing Policy. This

requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to Final Plan Approval.

- O. The Applicant shall comply with all applicable County, State and Federal codes, laws, rules, regulations, and requirements.
- P. An initial extension of time for the performance of conditions within this ordinance may be requested in accordance with Section 25-2-44, subsections (c) and (d), of the Hawai‘i County Code.
- Q. If the applicant fails to fulfill any conditions of the zone change within the specified time limitations, the Planning Director or County Council may initiate the process for enactment of an ordinance reverting the affected property back to its original zoning designation or a more appropriate zoning designation in accordance with Section 25-2-43 of the Hawai‘i County Code.



0 500 1,000 Feet

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-6 (KAILUA-HONALO URBAN ZONE MAP) ARTICLE 8,
CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED),
BY CHANGING THE ZONE MAP CLASSIFICATION FROM
SINGLE FAMILY RESIDENTIAL - 10,000 SQ. FT. (RS-10) TO
NEIGHBORHOOD COMMERCIAL - 10,000 SQ. FT. (CN-10)
AT HOLUALOA, NORTH KONA, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 7-7-009:008

DATE: May 11, 2024

EXHIBIT "A"

Dr. Loi Chang-Stroman
Map: 24-61