

COUNTY OF HAWAI'I PLANNING DEPARTMENT
RECOMMENDATION

LA SERVICES INC.

CHANGE OF ZONE APPLICATION NO. PL-REZ-2024-000069

Upon careful review of the request against the guidelines for granting a change of zone, the Planning Director is recommending that an **unfavorable recommendation for a Change of Zone from a Single-Family Residential-10,000 square feet (RS-10) zoning district to a Village Commercial-10,000 square feet (CV-10) zoning district be forwarded to the County Council**. Since this recommendation is made without the benefit of public testimony, the Director reserves the right to modify and/or alter this position based upon additional information presented at the public hearing. This unfavorable 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 Village Commercial-10,000 square feet (CV-10) zoning district for a 6,920-square-foot portion of a 25,955-square foot parcel. The Village Commercial (CV) zoning district, with a minimum area required for each building site of 10,000 square feet, would allow a maximum density of two building sites (lots) for the 25,955-square foot parcel. In addition, although the applicant states there are no current plans for development, any permitted use in the CV-zoning district can be established on the 6,920-square-foot rezone area should the change of zone request be approved, including the potential maximum density of 5 double-family residential units or 5 multiple-family residential units.

The 6,920-square-foot rezone area was recently consolidated with an adjacent 19,035.1-square-foot parcel under the same ownership, which established the 25,955-square foot subject property. The objective of the current request is to establish a unified zoning designation of CV-10 for the entire property. Although the applicant notes that the rezone area would be ready for commercial use following approval of the change of zone, there is no current plan to develop the rezone area.

In considering a change of zone initiated by a property owner or other person which proposes to change the zoning district classification of any property, the Planning Director shall consider the purposes of the existing and proposed zoning district and the purposes of the Zoning Code (Chapter 25 of the Hawai‘i County Code) and shall recommend a change of zone only where it will result in a more appropriate land use pattern that will further the public necessity and convenience and the general welfare, and be consistent with the goals, policies and standards of the General Plan as well as the standards of the Zoning Code.

The Zoning Code for the County of Hawaii is the legal instrument that regulates the use of land. The Zoning Code implements the General Plan and is a document dealing with existing conditions and shorter-range needs. The Zoning Code is the County’s primary land use control. The Zoning Code sets out the various types of zoning districts and uses allowed within each district. Zoning maps, established by ordinance, define the zoning districts for the island on a parcel-by-parcel basis.

This unfavorable recommendation is based on the fact that the request does not meet the concurrency standards for water as required by Section 25-2-46 of the Zoning Code.

Discussion regarding the provision of water service to the proposed rezone area and concurrency requirements.

In 2007, the Hawai‘i County Council adopted Ordinance 07 99 to add concurrency requirements to the Zoning Code, setting standard expectations for water supply for change of zone actions. Section 25-2-46(m) of the Zoning Code states, “*A zoning amendment application shall not be granted unless: (1) the department of water supply has determined that it can meet the water requirements of the project and issue water commitments using its existing system; or (2) specific improvements to the existing public water system, or a private water system equivalent to the requirements of the department of water supply will be provided to meet the water needs of the project and conditions of zoning delay occupancy until the necessary improvements are actually constructed.*”

Although the applicant has no current plans for construction on the rezone area, should the change of zone request to CV-10 be granted, the applicant would be able to establish any use permitted in CV-10 zoning, including a variety of commercial uses such as restaurants and automobile service stations, 5 double-family residential units or 5 multiple-family residential units. Concurrency requirements established by the County Council mandate that adequate water is available to service the potential of higher density development.

According to the Department of Water Supply (DWS), an existing 8-inch waterline within Māmalahoa Highway, fronting the recently consolidated parcel, supplies water to two (2) existing 5/8-inch meters, with each meter limited to one unit of water with an average daily usage of 400 gallons. DWS states that the existing water system cannot support the proposed change of zone and cannot provide additional water beyond the existing services. Further, DWS notes that in order to make water available, extensive improvements and additions would be required to the DWS system including storage, booster pumps and distribution facilities, for which sufficient County funding is not available. Lastly, the existing 8-inch waterline is inadequate to provide the required fire flow of 2,000 gallons per minute for fire protection, as required by DWS Water System Standards for commercial zoning. Additionally, DWS's existing storage facilities that serve the area are inadequate to provide the requisite volume of water needed for fire protection as required per DWS Water System Standards.

Although the applicant has proposed using the existing 8-inch water line to supply water to the rezone area for any new development, comments from DWS clarify that additional water is not available. Furthermore, the applicant has not proposed another method of providing water that would comply with concurrency requirements, such as a private water system equivalent to DWS standards.

Section 25-2-46(n) of the Zoning Code states, *"To facilitate the development of village centers in rural areas that are not currently served by a public water system, the council may waive the water supply requirements for zoning amendments for commercial or light industrial uses in areas that do not currently have a public water system, and where the department of water supply has no plans to build a public water system, and*

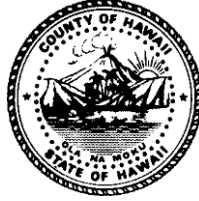
which are (1) designated as an “urban and rural center” or “industrial area” on table 14-5 of the general plan and (2) designated for urban use on the land use pattern allocation guide map of the general plan; provided that conditions of zoning shall require water supply consistent with public health and safety needs such as sanitation and fire-fighting. However, this section of code does not apply to the subject application because the rezone area is in Nā‘ālehu, which is served by a public water system. The public water system simply does not have the ability to provide additional water beyond the existing services and the existing waterline does not have the ability to provide the fire flow needed for commercial zoning.

The surrounding area of Nā‘ālehu consists primarily of lots that have maintained their original zoning since the adoption of the Zoning Code in 1967. There are three instances of nearby parcels that were rezoned to CV-7.5 zoning, however these change of zone actions were approved prior to the establishment of concurrency requirements.

As discussed above, the proposed request for a change of zone does not meet the minimum concurrency requirements for water, as set forth in Hawai‘i County Code, Section 25-2-46.

Based on the above discussion, the Planning Director is recommending that the Windward Planning Commission forward an unfavorable recommendation for the proposed change of zone request to the Hawai‘i County Council.

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. _____ BILL NO. _____
(Planning Dept.)

AN ORDINANCE AMENDING SECTION 25-8-30 (NĀ'ĀLEHU ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE ZONE MAP CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL 10,000 SQUARE FEET (RS-10) TO VILLAGE COMMERCIAL 10,000 SQUARE FEET-(CV-10) AT NĀ'ĀLEHU, KA'U, HAWAI'I, COVERED BY TAX MAP KEY: 9-5-009:001.

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

SECTION 1. Section 25-8-30, 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 Nā'ālehu, Ka'u, Hawai'i, shall be Village Commercial-10,000 square feet (CV-10).

Beginning at a ½ inch pipe at the Northeast corner of this lot, being also the Southwest corner of Lot 1, and a point on the West side of Lot 26, a 20-foot roadway. The coordinates of said point of beginning referred to Government Survey Triangulation Station "HONUAPO NEW" being 8,876.37 South and 12,469.77 West and thence running by true azimuths measured clockwise from true South:

- | | | | | | |
|----|------|-----|-----|-------|--|
| 1. | 341° | 26' | 00" | 74.00 | feet along the South side of Road Lot 26 to a curve to the right with a radius of 20 feet and chord azimuth and distance of; |
| 2. | 170° | 02' | 00" | 5.98 | feet to a 3-inch pipe; |
| 3. | 77° | 26' | 00" | 86.10 | feet to a nail; |

- | | | | | | |
|----|------|-----|-----|-------|---|
| 4. | 161° | 26' | 00" | 80.00 | feet to a ½ inch pipe; |
| 5. | 257° | 26' | 00" | 87.00 | feet to a ½ inch pipe being the point of beginning and containing an area of 6,920.3 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

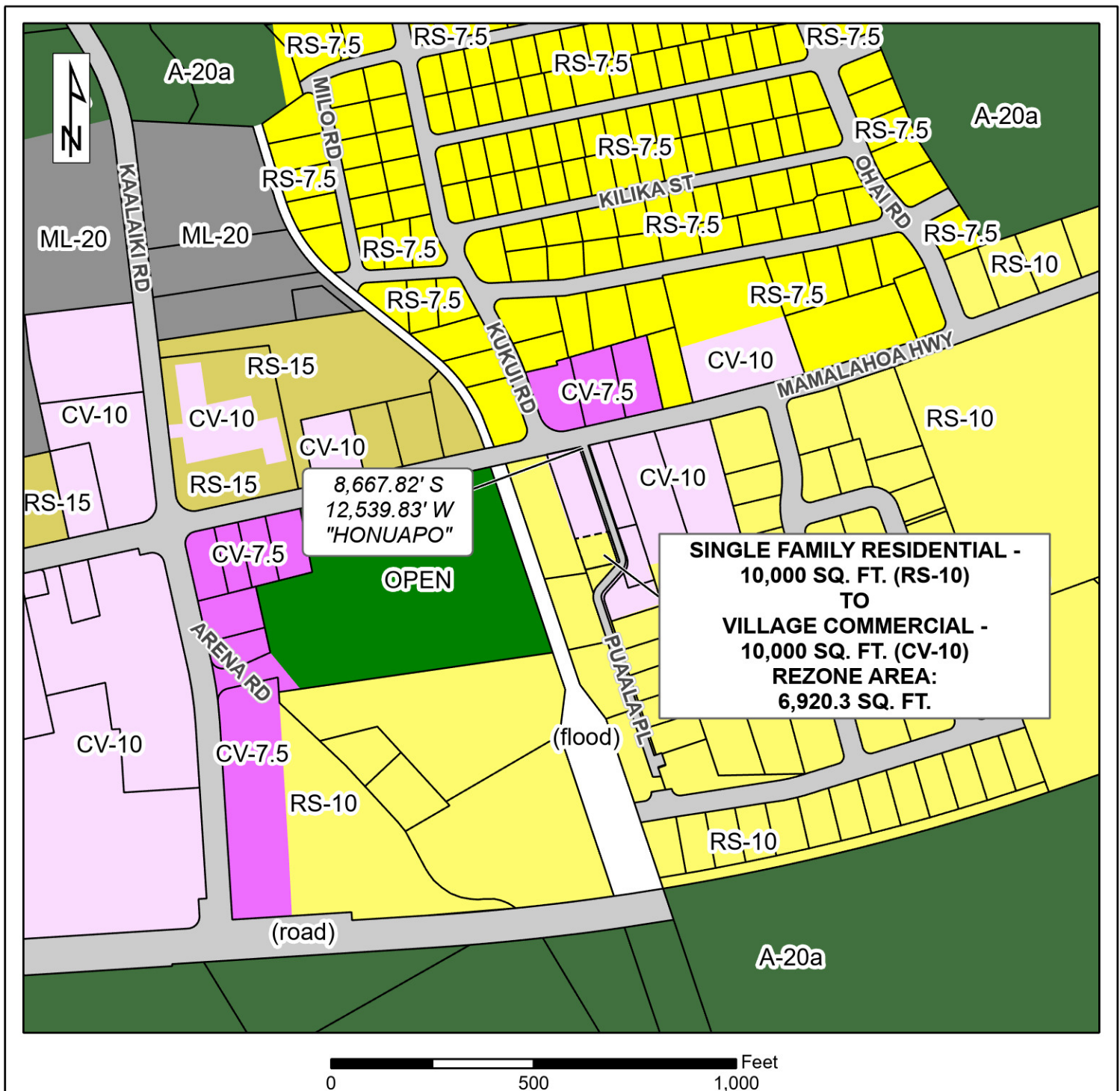
_____, Hawai'i

Date of Introduction:

Date of 1st Reading:

Date of 2nd Reading:

Effective Date:



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-30 (NA'ALEHU 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
VILLAGE COMMERCIAL - 10,000 SQ. FT. (CV-10)
AT NA'ALEHU, KA'U, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 9-5-009:001

DATE: March 7, 2025

EXHIBIT "A"

L.A. Services Inc.