

COUNTY OF HAWAI‘I PLANNING DEPARTMENT
BACKGROUND AND RECOMMENDATION

HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION
AMENDMENT TO CHANGE OF ZONE ORDINANCE NO. 24 37
(PL-REZ-2025-000080 /AMEND PL-REZ-2023-000054)

HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION has submitted an application for an amendment to Conditions K (Affordable Housing) and Condition I (Fair Share Contribution) of Change of Zone Ordinance No. 24 37, which amended Ordinance No. 10-101, which reclassified approximately 18.38 acres of land from an Agricultural 20-acre (A-20a) to a Single Family Residential-15,000 square foot (RS-15), Single Family Residential-10,000 square foot (RS-10), Single Family Residential-7,500 square foot (RS-7.5) and Open zoning districts. The property is situated along the north (makai) side of the Akoni Pule Highway approximately 600 feet west of the Kohala High and Elementary School complex, Pāhoa, North Kohala, Hawai‘i, TMK: (3) 5-5-019:025 and 027.

PROPOSED ACTION

1. **Applicant’s Request:** An amendment to Condition K (Affordable Housing) and Condition I (Fair Share Contribution) of Change of Zone Ordinance No. 24 37 which was approved in 2024 to grant a time extension for the applicant to secure Final Subdivision Approval. The proposed amendment language is as follows (material to be added is underlined and material to be removed is bracketed and struck-through):
 - (I) *Should the Applicant develop residential lots on the subject property, the*
~~*[The]*~~ *Applicant shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall become due and payable prior to receipt of Final Subdivision Approval. The fair share contribution for each lot shall be based on the number of lots developed. 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 maximum combined value of \$16,641.15 per single family residential lot. The fair share contribution per single family residential lot shall be allocated as follows:

- 1. **\$8,024.66** per single family residential lot to the County to support park and recreational improvements and facilities;*
- 2. **\$387.11** per single family residential lot to the County to support police facilities;*
- 3. **\$764.59** per single family residential lot to the County to support fire facilities;*
- 4. **\$334.75** per single family residential lot to the County to support solid waste facilities; and*
- 5. **\$7,130.04** per single family residential 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. ~~[This condition shall not apply to any ‘self help’ lots included in the executed affordable housing agreement referenced in Condition K.]~~

- (K) ~~[KAs represented by the Applicant, 32 of the 33 lots in the proposed subdivision shall be developed and sold as part of an affordable housing program, in accordance with mutually agreeable terms between the Applicant and the County Office of Housing and Community Development, using the provisions of Chapter 11, Article 1, Hawai‘i County Code relating to Affordable Housing Policy. Said agreement shall be executed prior to receipt of Final Subdivision Approval of any portion of the project.]~~ 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 as evidenced by an executed and recorded affordable housing agreement which shall be provided to the Planning Department by the Applicant prior to Final Subdivision Approval. Fair share requirements under Condition I shall be conditionally waived for affordable housing units or lots, if the Applicant executes an affordable housing agreement to provide fifty (50) to one hundred (100) percent of the development as affordable housing units or lots. If the affordable housing units or lots are not produced and sold or rented in accordance with the affordable housing agreement, any fair share requirements under Condition I that were waived will become due and payable.

REASON FOR THE REQUEST

2. According to the applicant, the purpose of these amendments is to allow them to utilize the County of Hawaii's Affordable Housing Production Program (AHP) to help develop the final phases of the 'Kumakua Self Help Housing' project. The AHP was created in 2022 via an amendment to Chapter 11 (Housing) of the Hawaii's County Code, which appropriates at least \$5 million annually the County Office of Housing and Community Development (OHCD) to facilitate programs that support affordable housing production (more specific information on the AHP can be found on OHCD's website at the following link: <https://www.housing.hawaiicounty.gov/grants-funding/affordable-housing-production-program-ahp>). In its 2023 rezone amendment application, HICDC committed to dedicating 32 of the 33 planned lots for affordable housing and this commitment was formalized in Condition K of the subject rezone ordinance. At the time of the original amendment, neither the applicant nor the Planning Department were aware that this condition language conflicts with the AHP's funding rules. Specifically, Section 3-5(6)(b) of the AHP Administrative Rules states: "The affordable housing units required by receipt of program funds shall not be used to fulfill any other obligation for affordable housing units as required by law or other subsidy obligations." Due to this provision, HICDC is currently unable to apply AHP funds toward the 32 lots mandated by Condition K, since

those lots are being used to meet a zoning ordinance condition. To resolve this conflict, the Planning Department collaborated with OHCD to develop standard affordable housing condition language that aligns with AHP rules and encourages the development of additional affordable housing lots/units by offering incentives, such as relief from Fair Share requirements, in return for voluntarily provided affordable units well beyond the 20% required by housing code. The proposed amendments are consistent with the new standard condition language and satisfy the intent of the original Condition K, which is to create a significant number of affordable lots.

3. **Landowner:** Hawaii Island Community Development Corporation.
4. **Supportive Information:** The applicant has submitted the attached in support of the request: **(Planning Department Exhibit 1 – Change of Zone Amendment Request dated May 12, 2025).**

ADDITIONAL BACKGROUND INFORMATION

5. The applicant's last amendment request was heard by the Leeward Planning Commission (LPC) on February 29, 2024. As there have been no significant project changes due to the inability to obtain AHP funding, the background report provided to the LPC for the February 29, 2024 hearing is still applicable and can be found at the following link:

<https://records.hawaiicounty.gov/weblink/Browse.aspx?dbid=1&startid=128338>

AGENCIES – NO RESPONSE

6. Office of Housing and Community Development.

PUBLIC COMMENTS PROVIDED

7. None as of the date of this writing.

PLANNING DIRECTOR'S RECOMMENDATION

Upon review of the request, **the Planning Director recommends that the Planning Commission forward a favorable recommendation to amend Condition I (Fair Share) and Condition K (Affordable Housing) of Change of Zone Ordinance No. 24 37 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 on additional information presented at the public hearing. The Planning Director's favorable recommendation is based on the following findings:

As stated above, the applicant is requesting to amend two conditions of the subject Change of Zone ordinance to facilitate their ability to utilize funds from the County's Affordable Housing Production (AHP) program to develop the final phases of the 'Kumakua Self Help Housing' project. In their application for their last amendment, the applicant committed to dedicating 32 of the 33 planned lots for affordable housing. As had been the Planning Department's practice at the time, the applicant's commitment was memorialized in the affordable housing condition (Condition K). Additionally, to help defray the cost of developing these affordable lots, the Planning Director added language to the fair share condition (Condition I) to provide relief from the requirement to pay fair share on the affordable lots.

At the time of the original amendment, neither the applicant nor the Planning Department were aware that this condition language conflicts with the AHP's funding rules, specifically around the prohibition of AHP funding use for affordable housing units/lots that are required by law. Because Condition K treats the 32 affordable units as a zoning requirement, AHP funding cannot be applied to them under Section 3-5(6)(b) of the program rules.

To resolve this conflict, the Planning Department collaborated with OHCD to develop new standard affordable housing condition language for change of zone ordinances that aligns with AHP rules and encourages the development of additional affordable housing lots/units by offering incentives, such as relief from Fair Share requirements, in return for voluntarily provided affordable units well beyond the 20% required by housing code.

The applicants' proposed amendments to Conditions I and K are generally consistent with the department's updated standard condition language and continue to support the original intent of promoting the development of a substantial number of affordable residential lots.

The Planning Director recommends one modification: removal of the applicants' proposed introductory clause to Condition I, which states, "Should the Applicant develop residential lots on the subject property, the [The] ...". This conditional phrasing is more appropriate in the context of commercial zoning, where residential development is

permitted but not required. However, because the subject property is zoned Single-Family Residential (RS-7.5 and RS-10), the creation of residential lots is an expected outcome. As such, the inclusion of this qualifying language is unnecessary.

Additionally, there have been no changes to the subject property, proposed development, or associated land use entitlements since the most recent amendment in 2024, which granted a time extension for subdividing the final phases of the ‘Kumakua Self-Help Housing’ project. Therefore, the justification provided for that amendment remains valid. These include consistency with the General Plan, the North Kohala Community Development Plan, and the Zoning Code; the availability of necessary infrastructure; and continued compliance with Coastal Zone Management (CZM) requirements, including the protection of historic, cultural, and natural resources.

The proposed revisions to Conditions I and K remain consistent with these overarching policy objectives and will further facilitate the applicant’s efforts to provide critically needed affordable housing in the North Kohala region.

Lastly, this recommendation is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the proposed use, prior to its commencement or establishment upon the subject properties. 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 findings presented, **the Planning Director recommends a favorable recommendation to the applicant’s proposed amendment to Condition I (Fair Share) as modified by the Director and Condition K (Affordable Housing) be forwarded to the County Council.**

The accompanying draft bill to amend Ordinance No. 24 37 is provided for your consideration. Please note the proposed conditions of approval attached to the draft bill, including updates to conditions to reflect current standard condition language, including adding tolling language, updating fair share amounts, and adding ordinance nullification/reversion language as required by the Zoning Code. Material to be deleted is

bracketed and struck through; new material is underscored.



HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION
100 PAUAHI STREET, SUITE 201 • HILO, HAWAII, 96720

May 12, 2025

Jeff Darrow
Planning Director
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

Subject: Amendment to Rezoning Ordinance 24-37 Condition K and I

Dear Mr. Darrow:

The Hawaii Island Community Development Corporation (HICDC) requests the amendment of Ordinance 24-37 Condition K and Condition I. The purpose of the amendment is to allow the affordable housing project to utilize funds from the County of Hawaii Affordable Housing Production Program (AHPP) and other funding sources.

HICDC represented that 32 of the planned 33 lots would be used for affordable housing. This representation has been incorporated into Condition K in excess of what Chapter 11 (Housing) would require. The Chapter 11 requirement is that affordable housing credits equal to 20% of the units be provided, in this case 6.6 credits would be required as opposed to 32 units as required by Condition K.

The Administrative Rules for Affordable Housing Production Program (AHPP) Section 3-5 (6)(b) states:

The affordable housing units required by receipt of program funds shall not be used to fulfill any other obligation for affordable housing units as required by law or other subsidy obligations.

HICDC will use all 32 lots for affordable housing, however, the existing Condition K and the AHPP rules will not allow the use of AHPP for those homes. What is being requested are amendments that do not prohibit the use of the AHPP funds for any units beyond the normal requirements of Chapter 11. The conditions in Ordinance 24-37 and the implications for the AHPP have been reviewed by the Planning Department, the Office of Housing and Community Development and the applicant. As a result the following amendments to Condition K and I are proposed (deletions are bracketed and struck through, new language is underlined):

- K. ~~[As represented by the Applicant, 32 of the 33 lots in the proposed subdivision shall be developed and sold as part of an affordable housing program, in accordance with~~

~~mutually agreeable terms between the Applicant and the County Office of Housing and Community Development, using the provisions of Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing Policy. Said agreement shall be executed prior to receipt of Final Subdivision Approval of any portion of the project.] 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 as evidenced by an executed and recorded affordable housing agreement which shall be provided to the Planning Department by the Applicant prior to Final Subdivision Approval. Fair share requirements under Condition I shall be conditionally waived for affordable housing units or lots, if the Applicant executes an affordable housing agreement to provide fifty (50) to one hundred (100) percent of the development as affordable housing units or lots. If the affordable housing units or lots are not produced and sold or rented in accordance with the affordable housing agreement, any fair share requirements under Condition I that were waived will become due and payable.~~

- I. Should the Applicant develop residential lots on the subject property, the [The] Applicant shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall become due and payable prior to receipt of Final Subdivision Approval. The fair share contribution for each lot shall be based on the number of lots developed. 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 maximum combined value of \$16,641.15 per single family residential lot. The fair share contribution per single family residential lot shall be allocated as follows:

1. **\$8,024.66** per single family residential lot to the County to support park and recreational improvements and facilities;
2. **\$387.11** per single family residential lot to the County to support police facilities;
3. **\$764.59** per single family residential lot to the County to support fire facilities;
4. **\$334.75** per single family residential lot to the County to support solid waste facilities; and
5. **\$7,130.04** per single family residential 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. ~~[This condition shall not apply to any 'self help' lots or other affordable housing lots included in the executed affordable housing agreement referenced in Condition K.]~~

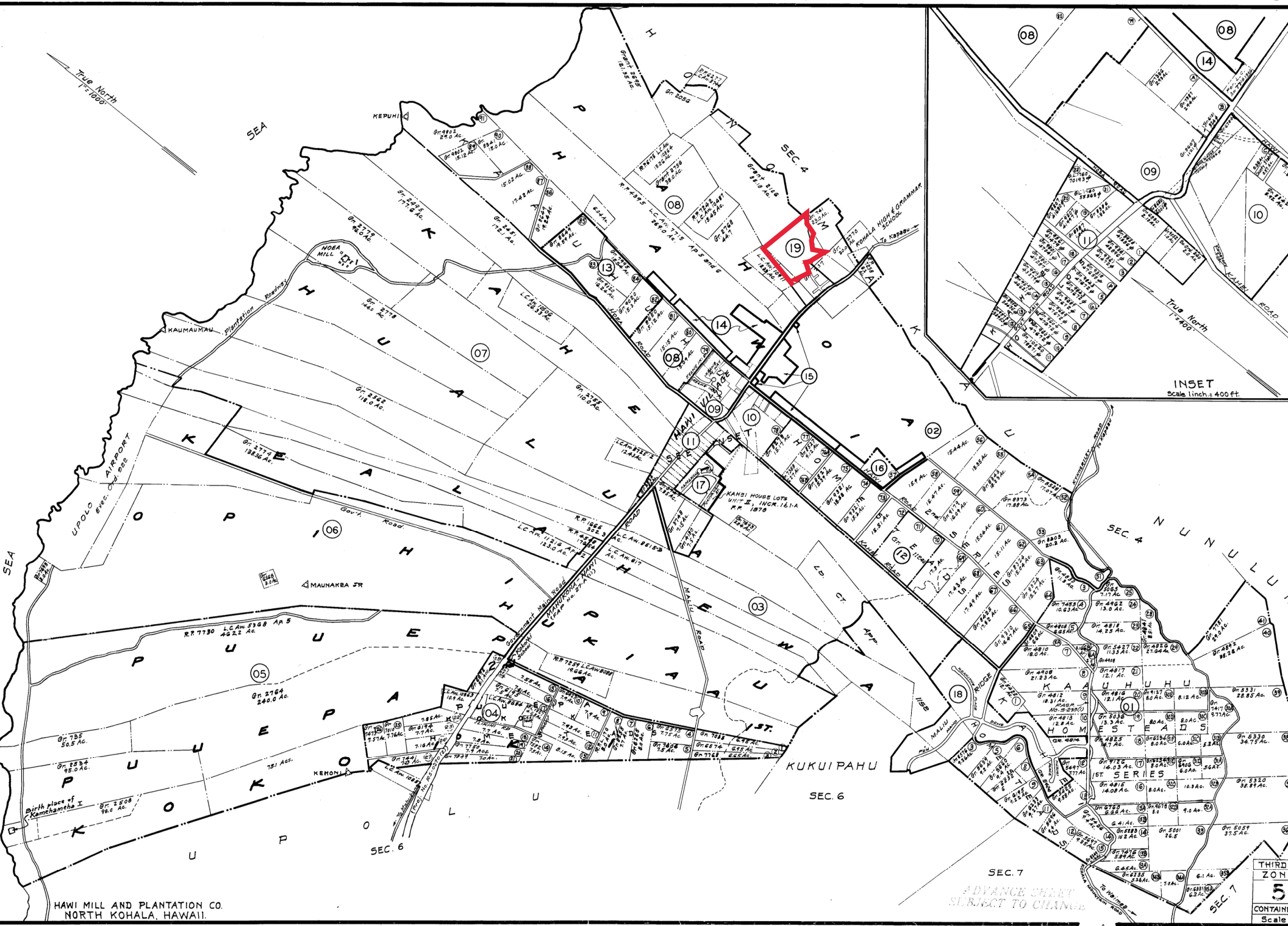
We believe that this is a reasonable request, meets with the original intent of Condition K, and will facilitate development of affordable housing at this site.

Sincerely,

Keith Kato

Digitally signed by Keith
Kato
Date: 2025.05.13
11:48:35 -10'00'

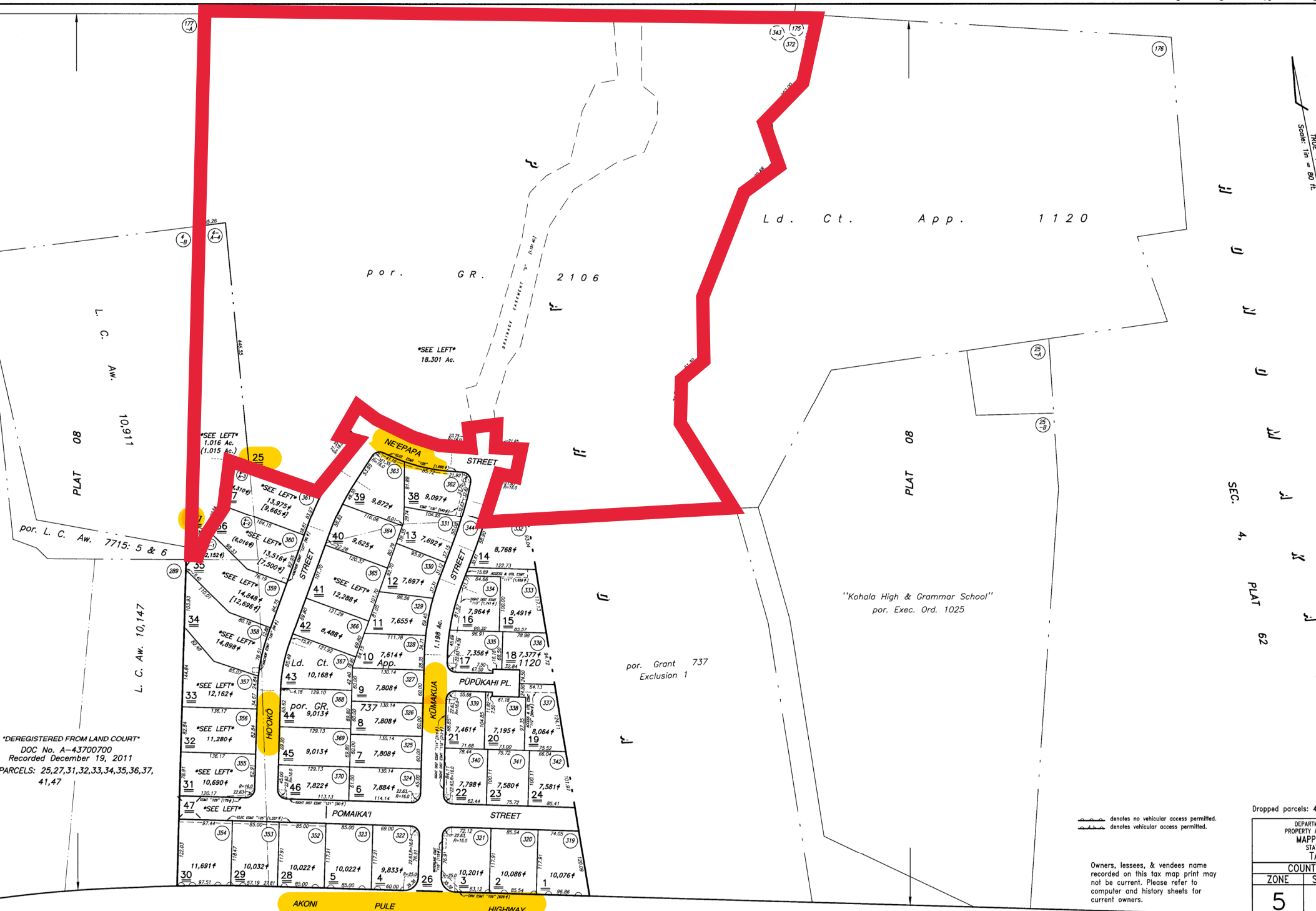
Keith H Kato
Executive Director



HAWI MILL AND PLANTATION CO.
NORTH KOHALA, HAWAII.

ADVANCE SHEET
SUBJECT TO CHANGE

THIRD
ZON
5
CONTAIN
Scale



"DEREGISTERED FROM LAND COURT"
DOC No. A-43700700
Recorded December 19, 2011
PARCELS: 25,27,31,32,33,34,35,36,37,
41,47

denotes no vehicular access permitted.
denotes vehicular access permitted.

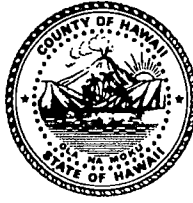
Owners, lessees, & vendees name
recorded on this tax map print may
not be current. Please refer to
computer and history sheets for
current owners.

Dropped parcels: 47

DEPARTMENT OF PROPERTY ASSESSMENT MAPPI STAT TA
COUNTY OF HAWAII
ZONE 5
SCALE: 1

PRINTED: 1

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 24 37 BILL NO. 150
(DRAFT 2)

AN ORDINANCE AMENDING ORDINANCE NO. 10-101, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – TWENTY ACRES (A-20a) AND SINGLE-FAMILY RESIDENTIAL – 7,500 SQUARE FEET (RS-7.5) TO SINGLE-FAMILY RESIDENTIAL – 15,000 SQUARE FEET (RS-15), SINGLE-FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10), SINGLE-FAMILY RESIDENTIAL – 7,500 SQUARE FEET (RS-7.5), AND OPEN AT PAHOA, NORTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY: 5-5-019:025 AND 027 (PORTIONS).

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

SECTION 1. Section 2 of Ordinance No. 10-101 is amended as follows:

“SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 [~~(2005 Edition)~~] (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)~~(4)~~ 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.

A. The applicant, its successors or assigns (“Applicant”) shall be responsible for complying with all stated conditions of approval.

- B. ~~[The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its “Water Commitment Guidelines Policy” prior to final subdivision approval. The applicant shall make any improvements required by the Department of Water Supply.]~~The Applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full. Furthermore, the Applicant shall construct and dedicate necessary water system improvements as required by the Department of Water Supply.
- C. Final Subdivision Approval of the proposed subdivision shall be secured from the Planning Director within ~~[five (5)]~~ ten (10) years from the effective date of this amended ordinance.
- D. ~~[Access to the project site from the Akoni Pule Highway shall meet with the approval of the State Department of Transportation.]~~ All roadways shall be constructed in compliance with roadway requirements and conditions of the variance (PL-VAR-2023-000040) issued on November 15, 2023.
- E. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of Final Subdivision Approval.
- F. A National Pollutant Discharge Elimination System (NPDES) permit and an Underground Injection Control (UIC) permit, if required, shall be secured from the State Department of Health before the commencement of construction activities.

- G. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Subdivision Approval.
- H. ~~[Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resource—State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.]~~ In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the Department of Land and Natural Resources - State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- I. ~~[The applicant shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall be initially based on the representations contained within the change of zone application and may be increased or reduced proportionally if the unit counts are adjusted. The fair share contribution shall become due and payable prior to receipt of Final Subdivision Approval or within five years from the effective date of this change of zone ordinance, whichever occurs first. The fair share contribution for each unit shall be based on the number of units developed. The applicant shall be exempt from fair share requirements for all units sold or rented to households earning less than 80% of the median family income. 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 maximum combined value of \$12,059.55 per single family residential unit. The applicant shall be required to submit information regarding the amount of units sold or rented to households earning more than 80% of the median family income to calculate the total amount of fair share contribution owed by the applicant.~~

~~The fair share contribution per single family residential unit shall be allocated as follows:~~

- ~~1. \$5,815.33 per single family residential unit to the County to support park and recreational improvements and facilities;~~
- ~~2. \$280.53 per single family residential unit to the County to support police facilities;~~
- ~~3. \$554.09 per single family residential unit to the County to support fire facilities;~~
- ~~4. \$242.59 per single family residential unit to the County to support solid waste facilities; and~~
- ~~5. \$5,167.02 per single family residential unit 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.]~~

The Applicant shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall become due and payable prior to receipt of Final Subdivision Approval. The fair share contribution for each lot shall be based on the number of lots developed. 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 maximum combined value of \$16,641.15 per single family residential lot. The fair share contribution per single family residential lot shall be allocated as follows:

1. \$8,024.66 per single family residential lot to the County to support park and recreational improvements and facilities;
2. \$387.11 per single family residential lot to the County to support police facilities;
3. \$764.59 per single family residential lot to the County to support fire facilities;
4. \$334.75 per single family residential lot to the County to support solid waste facilities; and
5. \$7,130.04 per single family residential 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. This condition shall not apply to any 'self help' or other affordable housing lots included in the executed affordable housing agreement referenced in Condition K

- J. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

- K. ~~[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 Subdivision Approval.]~~ KAs represented by the Applicant, 32 of the 33 lots in the proposed subdivision shall be developed and sold as part of an affordable housing program, in accordance with mutually agreeable terms between the Applicant and the County Office of Housing and Community Development, using the provisions of Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing Policy. Said agreement shall be executed prior to receipt of Final Subdivision Approval of any portion of the project.
- L. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements.
- M. ~~[An initial extension of time for the performance of conditions within the ordinance may be granted by the Director upon the following circumstances:~~
- ~~1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.~~
 - ~~2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.~~
 - ~~3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.~~
 - ~~4. The time extension shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).~~

5. ~~If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.~~

~~Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the area to its original or more appropriate designation.]~~ 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.

N. 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."

SECTION 2. Material to be deleted is bracketed and stricken. New material is underscored.

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.

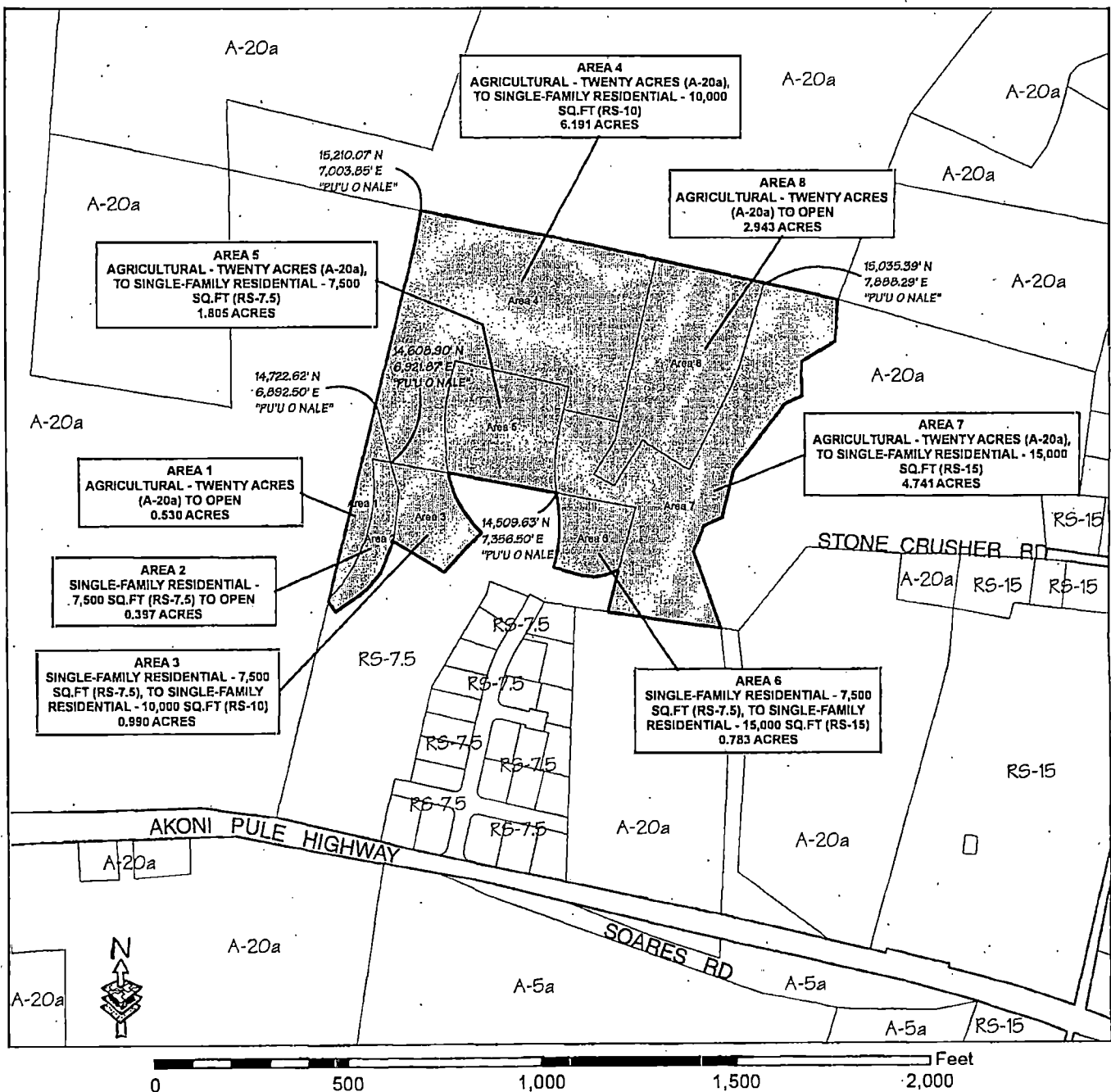
INTRODUCED BY:

 B/R

COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i
Date of Introduction: May 15, 2024
Date of 1st Reading: May 15, 2024
Date of 2nd Reading: June 5, 2024
Effective Date: June 14, 2024

REFERENCE Comm. 817.2



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION),
BY CHANGING THE DISTRICT CLASSIFICATION FROM
AGRICULTURAL - TWENTY ACRES (A-20a) AND SINGLE-FAMILY RESIDENTIAL - 7,500 SQ.FT (RS-7.5),
TO SINGLE-FAMILY RESIDENTIAL - 15,000 SQUARE FEET (RS-15),
SINGLE-FAMILY RESIDENTIAL - 10,000 SQUARE FEET (RS-10),
SINGLE-FAMILY RESIDENTIAL - 7,500 SQUARE FEET (RS-7.5), AND OPEN.
AT PAHOA, NORTH KOHALA DISTRICT, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: 5-5-019:025 and 027 (portions)

DATE: Dec. 01, 2009

EXHIBIT "A"

FOR REFERENCE ONLY

Hawaii Island Community Devel. Corp. (HICDC)
Map 1283

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

COUNTY CLERK
COUNTY OF HAWAII

2024 JUN 21 PM 3:23

(Draft 2)

Introduced By: Dr. Holeka Goro Inaba (B/R)
Date Introduced: May 15, 2024
First Reading: May 15, 2024
Published: May 24, 2024

REMARKS: _____

Second Reading: June 5, 2024
To Mayor: June 13, 2024
Returned: June 21, 2024
Effective: June 14, 2024
Published: July 5, 2024

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Evans	X			
Galimba	X			
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Villegas	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Evans	X			
Galimba			X	
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder			X	
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Villegas	X			
	7	0	2	0

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

Approved/Disapproved this 14th day
of June, 2024

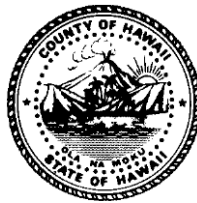
md
MAYOR, COUNTY OF HAWAII

Kimball
COUNCIL CHAIRPERSON

[Signature]
COUNTY CLERK

Bill No.: 150 (Draft 2)
Reference: C-817.2/LAAC-56
Ord No.: 24 37

COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. _____

ORDINANCE NO. _____

(Planning Department)

AN ORDINANCE AMENDING ORDINANCE NO. 24 37 WHICH AMENDED ORDINANCE NO. 10-101, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – TWENTY ACRES (A-20a) AND SINGLE-FAMILY RESIDENTIAL – 7,500 SQUARE FEET (RS-7.5) TO SINGLE-FAMILY RESIDENTIAL – 15,000 SQUARE FEET (RS-15), SINGLE-FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10), SINGLE-FAMILY RESIDENTIAL – 7,500 SQUARE FEET (RS-7.5), AND OPEN AT PĀHOA, NORTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY: 5-5-019:025 AND 027 (PORTIONS).

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

SECTION 1. Section 2 of Ordinance No. 24 37 is amended as follows:

“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.

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

INSERT CONDITIONS ”

SECTION 2. Material to be deleted is bracketed and stricken. New material is underscored.

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:

HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION
AMENDMENT TO CHANGE OF ZONE ORDINANCE NO. 24 37
(PL-REZ-2025-000080 /AMEND PL-REZ-2023-000054)
AMENDED CONDITIONS OF APPROVAL

- A. The applicant, its successors or assigns (“Applicant”) shall be responsible for complying with all stated conditions of approval.
- B. The Applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full. Furthermore, the Applicant shall construct and dedicate necessary water system improvements as required by the Department of Water Supply.
- C. Final Subdivision Approval of the proposed subdivision shall be secured from the Planning Director within ten (10) years from the effective date of this amended ordinance. The time during which required plans, reports, studies, or relevant permit applications are under review for approvals by government agencies shall not count towards the deadline established in the ordinance. To justify this tolling, the Applicant shall provide evidence of the excluded time period to the planning department for its review and approval, which shall consist of dates obtained from a government agency website, permitting program, or office indicating when the required plans, reports, studies, or permit applications were submitted, approved, denied, or returned by the government agency.
- D. All roadways shall be constructed in compliance with roadway requirements and conditions of the variance (PL-VAR-2023-000040) issued on November 15, 2023.
- E. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of Final Subdivision Approval.
- F. A National Pollutant Discharge Elimination System (NPDES) permit and an Underground Injection Control (UIC) permit, if required, shall be secured from the State Department of Health before the commencement of construction activities.

- G. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Subdivision Approval.
- H. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the Department of Land and Natural Resources - State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- I. The Applicant shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall become due and payable prior to receipt of Final Subdivision Approval. The fair share contribution for each lot shall be based on the number of lots developed. 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 maximum combined value of ~~[\$16,641.15]~~ \$17,921.82 per single family residential lot. The fair share contribution per single family residential lot shall be allocated as follows:
1. ~~[\$8,024.66]~~ \$8,642.22 per single family residential lot to the County to support park and recreational improvements and facilities;
 2. ~~[\$387.11]~~ \$416.90 per single family residential lot to the County to support police facilities;
 3. ~~[\$764.59]~~ \$823.43 per single family residential lot to the County to support fire facilities;
 4. ~~[\$334.75]~~ \$360.51 per single family residential lot to the County to support solid waste facilities; and

5. ~~[\$7,130.04]~~ \$7,678.76 per single family residential 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. ~~[This condition shall not apply to any 'self help' lots included in the executed affordable housing agreement referenced in Condition K.]~~

- J. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

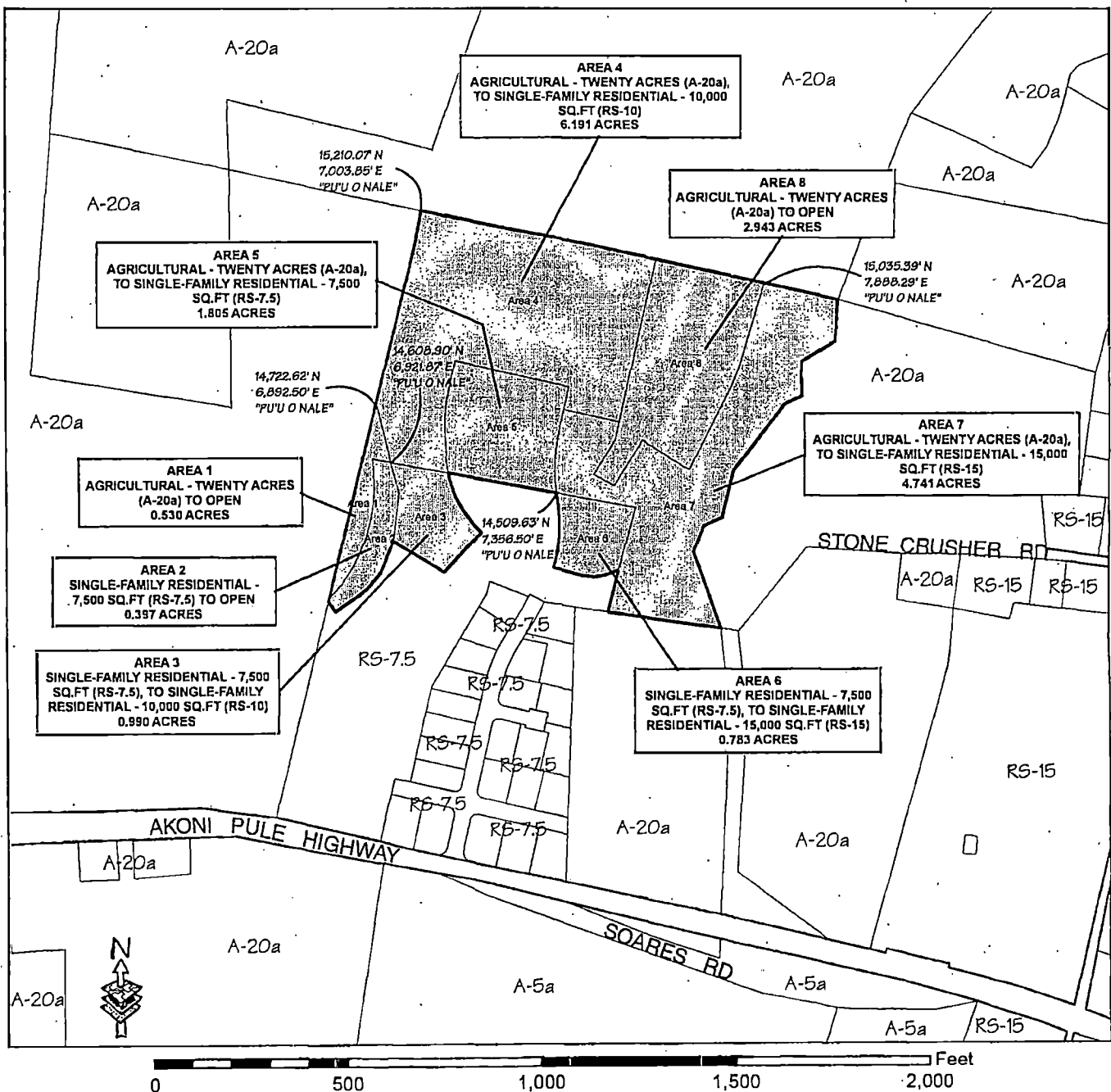
- K. ~~[As represented by the Applicant, 32 of the 33 lots in the proposed subdivision shall be developed and sold as part of a self help, affordable housing program, in accordance with mutually agreeable terms between the Applicant and the County Office of Housing and Community Development, using the provisions of Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing Policy. Said agreement shall be executed prior to receipt of Final Subdivision Approval of any portion of the project.]~~ 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 as evidenced by an executed and recorded affordable housing agreement which shall be provided to the Planning Department by the Applicant prior to Final Subdivision Approval. Fair share requirements under Condition I shall be conditionally waived for affordable housing units or lots, if the Applicant executes an affordable housing agreement to provide fifty (50) to one hundred (100) percent of the development as affordable housing units or lots. If the affordable housing units or lots are not produced and sold or rented in accordance with the affordable housing agreement, any fair share requirements under Condition I that were waived will become due and payable.

- L. The applicant shall comply with all applicable County, State and Federal laws, rules,

regulations and requirements.

M. 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.

N. ~~[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.]~~ If any conditions have not been completed by the deadline, or if a time extension request has not been submitted in accordance with section 25-2-44(c), the Planning Department shall inform the Applicant that the ordinance is null and void without further action by the County. In that event, the zoning designation of the property(s) affected by the ordinance shall automatically revert to its immediate prior zoning designation.



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION),
BY CHANGING THE DISTRICT CLASSIFICATION FROM
AGRICULTURAL - TWENTY ACRES (A-20a) AND SINGLE-FAMILY RESIDENTIAL - 7,500 SQ.FT (RS-7.5),
TO SINGLE-FAMILY RESIDENTIAL - 15,000 SQUARE FEET (RS-15),
SINGLE-FAMILY RESIDENTIAL - 10,000 SQUARE FEET (RS-10),
SINGLE-FAMILY RESIDENTIAL - 7,500 SQUARE FEET (RS-7.5), AND OPEN.
AT PAHOA, NORTH KOHALA DISTRICT, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: 5-5-019:025 and 027 (portions)

DATE: Dec. 01, 2009

EXHIBIT "A"

FOR REFERENCE ONLY

Hawaii Island Community Devel. Corp. (HICDC)
Map 1283