

COUNTY OF HAWAI'I PLANNING DEPARTMENT
RECOMMENDATION

WILLIAM COX MORRIS

CHANGE OF ZONE APPLICATION NO. PL-REZ-2025-000083

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 – 20,000 square feet (RS-20) zoning district to a Village Commercial – 20,000 square feet (CV-20) zoning district for a 25,111-square-foot portion of a 3-acre parcel of land. The CV zoning district would allow for a broader range of commercial uses than are permitted under the existing residential designation.

The purpose of the rezoning request is to separate the proposed commercial portion of the property through subdivision and to develop an approximately 1,275-square-foot café/deli. The proposed commercial lot (Lot 2B-1) would be created through Subdivision Application PL-SUB-2023-000138, which has received tentative approval. Associated site improvements include a driveway connection to Old Volcano Road, five parking stalls (one EV), a potable water storage tank, a fire suppression catchment tank, and an individual wastewater system. The remainder of the 3-acre parcel would retain its RS-20 zoning.

Upon approval of the rezoning request, the applicant plans to complete subdivision and construction of the café/deli within approximately two years. The estimated cost of the proposed commercial development is \$300,000.

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-20,000 square feet (RS-20) zoning district to a Village Commercial-20,000 square feet (CV-20) zoning district conforms to applicable goals, policies, and standards of the General Plan. The proposed change of zone from Single-Family Residential – 20,000 square feet (RS-20) to Village Commercial – 20,000 square feet (CV-20) for a 25,111-square-foot portion of the subject property is consistent with the goals, policies, and standards of the County of Hawai‘i General Plan. Relevant General Plan goals emphasize providing economic opportunities compatible with social and natural environments, encouraging land use patterns that balance residential and commercial growth, and supporting compact village development that is served by adequate infrastructure and services. The proposed CV-20 zoning aligns with these objectives by situating a small-scale commercial use within an established village setting, proximate to existing infrastructure and adjacent to other commercial parcels. Additionally, the site lies within the State Land Use Urban District, further supporting its appropriateness for higher-intensity land use consistent with General Plan designations. Based on these considerations, the requested rezoning conforms to the applicable goals, policies, and standards of the General Plan.

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:

- *Goal (Section 14.1.2): Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the*

County (p. 21). The proposed rezoning provides for a balanced mix of residential and commercial uses within the subdivision, ensuring compatibility with the surrounding residential and commercial character of Volcano.

- *Policy (Section 14.1.3): Zone urban-type uses in areas with access to community services, employment centers, and adequate public utilities and facilities (p. 21). The site is located along Old Volcano Road, within proximity to existing commercial uses, public services, and utilities, making it a suitable location for village-scale commercial development.*
- *Policy (Section 14.1.3): Allocate requested zoning in accordance with the existing or projected needs of the neighborhood, community, region, and County (p. 21). The café/deli will contribute to the availability of local commercial services in Volcano, consistent with the community's needs for small-scale, village-oriented commercial activity.*
- *Standard (Section 14.1.4): 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 (p. 21). The project site is designated Medium Density Urban under the LUPAG map, is located within the State Land Use Urban District, is proximate to existing commercial zoning, and can be adequately served by planned infrastructure improvements.*

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 Low Density Urban (ldu) by the LUPAG Map which includes residential uses, with ancillary community and public uses, and neighborhood and convenience-type commercial uses; overall residential density may be up to six units per acre. Medium Density Urban (mdu) is within 250 feet east of the subject property. The proposed zoning from RS-20 to CV-20 would be consistent with these designations.

The proposed change of zone from RS-20 to CV-20 is consistent with the Puna Community Development Plan (PCDP), which emphasizes strengthening existing village and town centers by encouraging compact, mixed-use development. The subject property is located along Old Volcano Road in close proximity—approximately 300 feet—to the designated Volcano Community Village Center. The PCDP envisions such centers as focal

points for commercial services, community gathering places, and local employment opportunities. Relevant PCDP policies include enhancing the role of existing and new village/town centers by allowing expanded commercial uses and facilitating rezoning requests for appropriately located commercial uses adjacent to or within village centers. The requested CV-20 designation will allow development of a small café/deli, which aligns with the PCDP's objectives to promote a vibrant local economy, provide services in proximity to residential areas, and support multi-modal, compact village development. While the project site is technically outside the mapped boundary of the Volcano Community Village Center, the PCDP expressly states that its maps are intended as guidelines rather than strict boundaries, allowing for flexibility in considering rezonings adjacent to designated centers. Therefore, the proposed rezoning conforms to the goals and policies of the PCDP.

All essential utilities and services are available to the site. Access to the subject property is from Old Volcano Road, a County-maintained roadway with a roughly 20-foot-wide pavement and unimproved grass shoulders within an approximately 40-foot-wide right-of-way. There is no existing driveway access to subject parcel. There was no Traffic Impact Analysis Report (TIAR) included with the application as the proposed project does not meet the 50 peak-hour trip threshold to require a TIAR.

The Department of Public Works (DPW) did not submit formal comments on this application regarding impacts or requirements on Old Volcano Road. The traffic section concludes that anticipated trips from the café/deli are modest (about 12 peak-hour trips) and that no additional roadway improvements beyond the driveway connection are required.

According to the Department of Water Supply (DWS), County water is currently not available to the subject parcel. To meet demand, the applicant proposes to truck in potable water for storage in an on-site tank for the proposed deli, with a separate catchment tank provided for fire suppression. The Department of Health and Department of Water Supply require that any private potable water system and fire suppression storage comply with applicable health and safety standards prior to construction and use. The preceding will be added as a condition of approval.

There is no municipal sewer system servicing the subject area. The proposed commercial development will require the construction of an Individual Wastewater System

(IWS) to be approved by the Department of Health. The preceding will be added as a condition of approval.

Solid waste will be handled through commercial haulers or disposal by the landowner into authorized landfill sites or transfer stations; this includes waste generated during construction-related activities.

Police, fire and medical services are available nearby in Volcano. Electrical and telephone services are available to the site. A condition of approval will require the applicant 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 does not contain severe geological or topographical constraints that would render the land unusable. The site is generally level with gently sloping terrain and moderately well-drained soils, is located in FEMA Flood Zone X (areas outside the 500-year flood), and lies within Lava Flow Hazard Zone 3 and Earthquake Zone D, conditions that can be adequately addressed through compliance with County building codes and standard engineering practices.

The request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management Area. The subject property is located approximately 12 miles inland from the coastline at an elevation of about 3,700 feet and is outside of the County's Special Management Area (SMA). As such, the proposed change of zone and commercial development will not affect shoreline access, beach protection, or coastal resources. While the entire island is within the broader Coastal Zone Management Area established under Chapter 205A, Hawai'i Revised Statutes, the project site's inland location and limited scale of development ensure that the request is not contrary to the objectives and policies of Chapter 205A.

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: The subject property has been previously cleared

for residential use and formerly contained a dwelling that no longer exists. A formal archaeological study has not been conducted, but review of historical aerial photographs and land use records indicates that the site has been disturbed and used for residential purposes in the past. No known archaeological, cultural, or historic sites are recorded on the property. The project was submitted to the SHPD for review under their Ch. 6E-42 criteria. SHPD responded that they had no issues with the proposed rezoning but requested to be notified when any ground disturbance occurs.

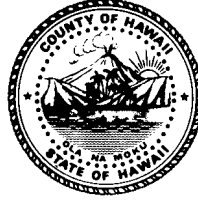
- The valued cultural, historical, and natural resources found in the rezoning area: No specific cultural or historic resources are documented within the rezoning area. The parcel is not adjacent to the shoreline, and no known traditional or customary Native Hawaiian practices are identified as occurring on the site. Vegetation present includes native and non-native species, such as ‘ōhi‘a lehua and hāpu‘u ferns, but these are common within the Volcano area and not identified as unique or culturally protected resources.
- Possible adverse effect or impairment of valued resources: Given the site’s prior disturbance, current vacant condition, and distance from the shoreline, the likelihood of significant adverse effects to traditional or customary Hawaiian rights is low. No evidence indicates that the property has been or is currently used for Native Hawaiian gathering, religious, or cultural practices. However, as with any ground-disturbing activity, there is the potential for subsurface cultural or archaeological resources to be encountered during construction.
- Feasible actions to protect native Hawaiian rights: To address the potential for inadvertent discoveries, all work will cease in the affected area if cultural or archaeological resources are encountered, and appropriate consultation and clearance will be sought from the State Historic Preservation Division (SHPD) and the County Planning Department before resuming construction. Additionally, the applicant has indicated willingness to honor any legitimate traditional or customary access or gathering claims, should they arise. These measures will ensure that Native Hawaiian rights are respected and protected in compliance with the PASH and Ka Pa‘akai o Ka‘āina decisions.

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 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-20,000 square feet (RS-20) to a Village Commercial-20,000 square feet (CV-20) zoning district would result in an appropriate land use pattern that would further benefit the general public.

The accompanying draft bill to amend Section 25-8-23 (Volcano-Mt. View 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 25-8-23 (VOLCANO-MT. VIEW ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE ZONE MAP CLASSIFICATION FROM SINGLE-FAMILY RESIDENTIAL – 20,000 SQUARE FEET (RS-20) TO VILLAGE COMMERCIAL 20,000 SQUARE FEET (CV-20) AT OLA'A, VOLCANO, HAWAI'I, COVERED BY TAX MAP KEY NO. 1-9-005:006 (POR.)

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

SECTION 1. Section 25-8-23, 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 Ola'a, Volcano, Hawai'i, shall be Village Commercial, – 20,000 square feet (CV-20):

Beginning at the westerly corner of this parcel of land on the northeasterly bound of Lot 2A, the coordinates of said point of beginning being referred to Government Survey Triangulation Station "KULANI" being 33,848.30 Ft. South and 21,155.25 Ft. East, and thence running by azimuths measured clockwise from True South:

1. 239° 31' 0" 132.30 feet, by a line of division through said Lot 2B, to a point;
2. Thence, by a line of division through said Lot 2B, along a curve to the right having a radius of 15.00 feet, the following chord azimuth and distance;

- | | | | | | |
|----|------|-----|-----|--------|---|
| 3. | 284° | 31' | 01" | 21.21 | feet; to a point; |
| 4. | 329° | 31' | 01" | 143.64 | feet, by a line of division through said Lot 2B, to a point on the northwesterly side of Old Volcano Road; |
| 5. | 50° | 08' | 00" | 149.29 | feet, along the northwesterly sideline of Old Volcano Road, to a point at the easterly corner of said Lot 2; |
| 6. | 149° | 31' | 00" | 182.98 | feet, along the northeasterly bound of said Lot 2A, to the point of beginning and containing an area of 25,111 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. Material to be repealed is bracketed and stricken. New material is underscored. In printing this ordinance, the brackets, bracketed and stricken material, and underscoring need not be included.

SECTION 4. 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 5. 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:

WILLIAM COX MORRIS
CHANGE OF ZONE APPLICATION NO. PL-REZ-2025-000083
CONDITIONS OF APPROVAL

- A. The applicant, successors or assigns (“Applicant”) shall be responsible for complying with all stated conditions of approval.
- B. Final Subdivision Approval shall be secured within five (5) years from the effective date of this 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.
- C. Construction of the proposed development, or as permitted by the zoning district classification, shall be completed within five (5) years from the effective date of Final Subdivision Approval.
- D. Prior to construction, the Applicant shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai‘i County Code. Plans shall identify all existing and/or proposed structure(s), paved driveway access and parking stalls associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department’s Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai‘i County Code.
- E. The applicant shall develop sufficient water storage to meet the requirements of the Department of Health and the Fire Department for sanitation and firefighting purposes for the proposed development. The water storage facility shall be

completed prior to Certificate of Occupancy and kept filled with enough water to meet the applicable Department of Health and Fire Department requirements.

- F. Prior to the receipt of Final Subdivision Approval, an agreement shall be filed with the Planning Department for review and acceptance that shall acknowledge the owner(s) of all lots utilizing the private water system that potable water from the Department of Water Supply's system is currently not available; and that the Department of Water Supply is not obligated to nor will bear the responsibility of supplying public water to those lots on the private system. The approved agreement shall be recorded with the State Bureau of Conveyances and a copy of its recordation to be filed with the Planning Department within three (3) months of the date of issuance of Final Subdivision Approval.
- G. All driveway connections to Old Volcano Road shall conform to Hawai'i County Code Chapter 22, County Streets.
- H. All development-generated runoff shall be disposed of on-site and not directed toward any adjacent properties.
- I. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawai'i County Code.
- J. The method of sewage disposal shall meet the requirements of the State Department of Health.
- K. 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 receipt of an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- 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

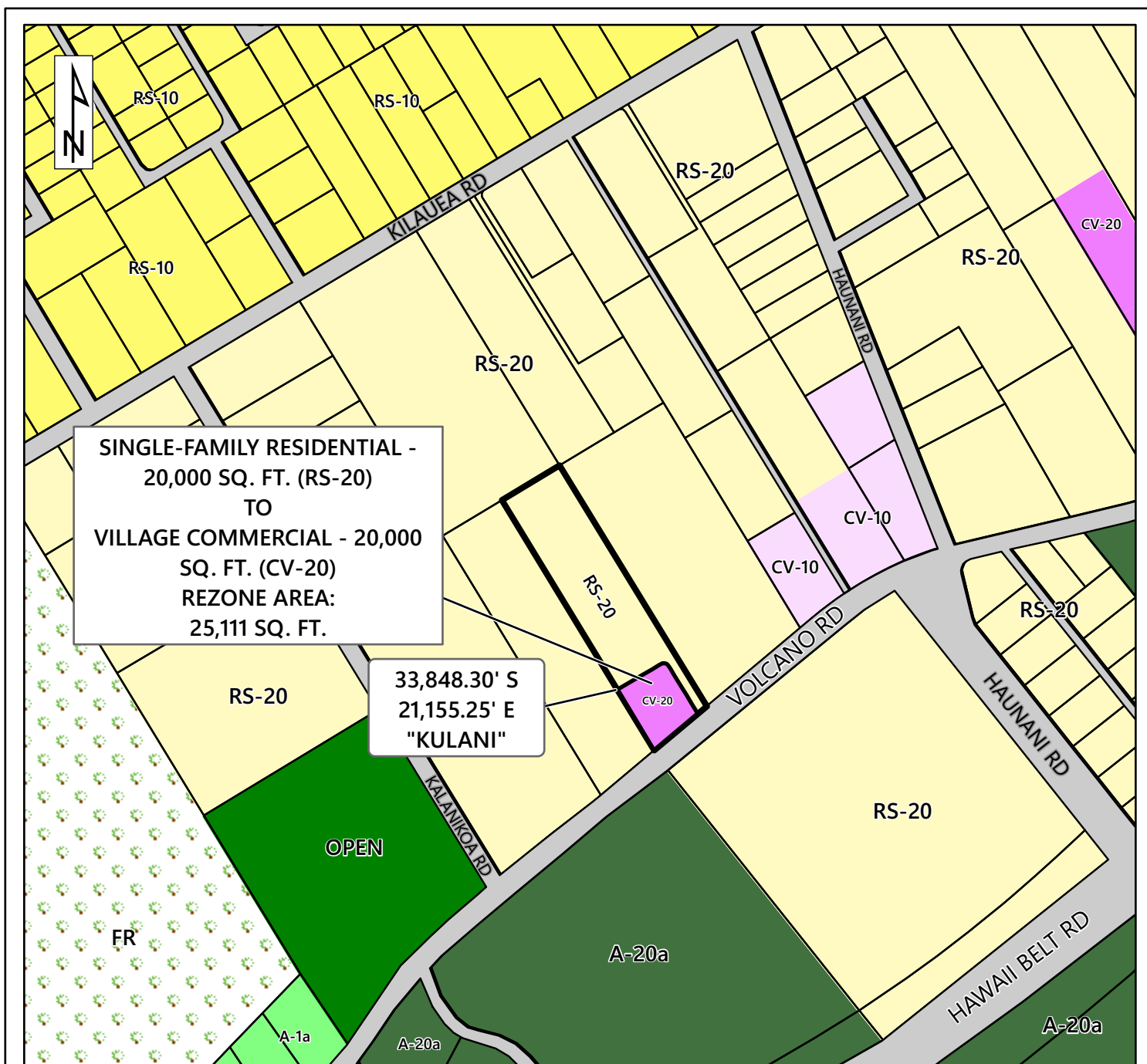
waste disposal facilities and roads for the additional residential units to be created. The fair share contribution shall become due and payable prior to receipt of Final Plan Approval and shall be based on the actual number of additional residential units created. The fair share contribution in the 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 **\$11,500.24** per multiple family residential unit. The total amount shall be determined with the actual number of residential units according to the calculation and payment provisions set forth in this condition. The fair share contribution per multiple family residential unit shall be allocated as follows:

1. **\$5,672.74** per multiple family residential unit to the County to support park and recreational improvements and facilities;
2. **\$179.29** per multiple family residential unit to the County to support police facilities;
3. **\$551.51** per multiple family residential unit to the County to support fire facilities;
4. **\$245.81** per multiple family residential unit to the County to support solid waste facilities; and
5. **\$4,850.89** per multiple 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 pursuant to Section 2-162.1(a) of Hawai'i County Code.

- M. The Applicant shall comply with all applicable County, State and Federal codes, laws, rules, regulations and requirements.

- N. Should the County 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.
- O. 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 Plan Approval or Final Subdivision Approval. Fair share requirements under Condition L 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 L that were waived will become due and payable.
- 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 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.



0 250 500 1,000 Feet

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-23 (VOLCANO-MT. VIEW 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 - 20,000 SQ. FT. (RS-20) TO
VILLAGE COMMERCIAL - 20,000 SQ. FT. (CV-20)
AT OLA'A, VOLCANO, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 1-9-005:006

DATE: June 30, 2025

EXHIBIT "A"

William Morris