

COUNTY OF HAWAI'I PLANNING DEPARTMENT BACKGROUND REPORT

**PLANNING DIRECTOR INITIATED
ANDY/KERRY XIE TRUST, WEI LIN ZHAO, EULIX CHIU, FANG/HAN TRUST, FRED
MING LI
REPEAL CHANGE OF ZONE ORDINANCE NOS. 19-38, 09-50, 09-49, 06-138,
06-137, 95-118, 92-36, 90-10, 86-49, 533 (1980), and 594 (1973)
(PL-PDI-2026-000015)**

The Planning Director has initiated the repeal of Change of Zone Ordinance Nos. 19-38, 09-50, 09-49, 06-138, 06-137, 95-118, 92-36, 90-10, 86-49, 533 (1980), and 594 (1973), amendment to Section 25-8-3 (North Kona Zone Map) and 25-8-5 (Kailua Urban Zone Map), Chapter 25, Article 8, of the Hawai'i County Code 1983 (2016 edition, as amended), which will revert the current zoning of 3.331 acres from Village Commercial-7,500 square feet (CV-7.5) to its original Double-Family Residential-3,750 square feet (RD-3.75) and 3.227 acres from Multiple-Family Residential-2,500 square feet (RM-2.5) to its original Unplanned (Agricultural-5 acres) zoning district. The subject parcel is located on the north side of Hualālai Road, approximately 1,000 feet east of its intersection with Kuakini Highway, Hienaloli 4th & 5th, North Kona, Hawai'i, TMK: 7-5-010:013.

PLANNING DIRECTOR'S REQUEST

1. **Request:** The owners of the subject property submitted a written request to the Planning Director, dated June 30, 2025, to repeal Ordinance No. 19-38 with the intent of reverting the zoning of the property to its original zoning districts **(Planning Department Exhibit 1- Request Letter)**. Given that there are numerous preceding ordinances to Ordinance No. 19-38, the Planning Director is therefore initiating a repeal of Change of Zone Ordinance Nos. 19-38, 09-50, 09-49, 06-138, 06-137, 95-118, 92-36, 90-10, 86-49, 533 (1980), and 594 (1973), to revert the zoning of 3.331 acres from Village Commercial-7,500 square feet (CV-7.5) to its original Double-Family Residential-3,750 square feet (RD-3.75) and

3.227 acres from Multiple-Family Residential-2,500 square feet (RM-2.5) to its original Unplanned (Agricultural-5 acres) zoning district. Please note the Zoning Code was amended in 1996 to redesignate all lands in the Unplanned district to Agricultural-5 acres (A-5a).

2. **Zoning District Purpose, Density and Uses:** The applicants are essentially requesting a “downzoning” as the current zoning designations allow up to approximately 172 residential units and upon reversion of the property to its original zoning district established in 1967, a maximum of 76 residential units (including 38 ADUs) in the RD-3.75 zoned area and 4 residential units (including 3 ADUs) in the A-5a zoned area.

According to the Zoning Code, the Village Commercial district provides for a broad range or variety of commercial and light industrial uses that are necessary to serve the population in rural areas where the supplementary support of the general business uses and activities of a central commercial district is not readily available.

The Double-Family Residential district provides for moderate density use characterized by the establishment of single or double-family dwellings on each building site. It applies to areas with developed community facilities. It may occupy a transitional area between RS districts and those districts having a more intense use of land.

The Multiple-Family Residential district provides for medium and high-density residential use. It covers areas with full community facilities and services. It may occupy transition areas between commercial or industrial areas and other districts of less intense land use.

The Agricultural district provides for agricultural and very low density agriculturally based residential use, encompassing rural areas of good to marginal agricultural and grazing land, forest land, game habitats, and areas where urbanization is not found to be appropriate.

Requirements for establishing a land use in these zoning districts, including lists of the variety of permitted uses, are shown in Section 25-5-120 to 128 (**Planning**

Department Exhibit 2 – Zoning Code Requirements for CV District), Section 25-5-20 to 27 (**Planning Department Exhibit 3 – Zoning Code Requirements for RD District**), Section 25-5-30 to 38 (**Planning Department Exhibit 4 – Zoning Code Requirements for RM District**) and Section 25-5-70 to 77 (**Planning Department Exhibit 5 – Zoning Code Requirements for A District**) of the Zoning Code.

3. **Reason for Request:** The landowners recently purchased the subject property and do not intend to pursue the original proposed development of a 104-unit senior independent living community. As such, the landowners wish to revert a 3.331-acre portion of the property to its original RD-3.75 zoning district to develop a 38-unit double-family residential project. Additionally, the landowners wish to revert a 3.227-acre portion of the property to its original Unplanned, now A-5a zoning district to be maintained for unspecified agricultural uses and to develop a single-family dwelling and 3 accessory dwelling units (ADUs). Ordinance No 92-35 amended the state land use boundary district of a 3.227-acre portion of the property from a State Land Use Agricultural District to a State Land Use Urban District and the landowners wish to retain the existing Urban designation.
4. **Landowners:** Andy/Kerry Xie Trust, Wei Lin Zhao, Eulix Chiu, Fang/Han Trust, Fred Ming Li.

STATE AND COUNTY PLANS

5. **State Land Use District:** Urban.
6. **General Plan Land Use Pattern Allocation Guide (LUPAG) Map Designation:** Medium Density Urban, 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).
7. **County Zoning:** Village Commercial-7,500 square feet (CV-7.5) and Multiple Family Residential-2,500 square feet (RM-2.5).
8. **Kona Community Development Plan (KCDP):** The KCDP, originally adopted by the Hawai'i County Council on September 25, 2008, and most recently

amended on September 18, 2019, identifies the property as located within the Kona Urban Area and within the Kailua Village Redevelopment Regional Center area.

9. **Special Management Area:** The subject parcel is approximately 1,100 feet from the nearest shoreline and is not situated within the Special Management Area.

DESCRIPTION OF SUBJECT PROPERTY AND SURROUNDING AREA

10. **Subject Property:** The subject, irregularly shaped property is vacant of structures or uses and is situated on the northeast side of Hualālai Road, approximately 1,000 feet mauka (east) of its intersection with Kuakini Highway. A future road widening lot (Lot A-2) along the Hualālai Road frontage was subdivided out by a previous landowner (SUB 08-000814), however, the current landowner intends to nullify this subdivision should the request to repeal Ordinance No. 19-38 be approved.
11. **Surrounding Land Uses/Zoning:** Surrounding properties are zoned Residential (RS-10, RD-3.75, RM-2.5, RM-1), Commercial (CV-7.5), Resort (V-1.25) and Agricultural (A-5a), with uses primarily consisting of residential, commercial and vacant land. There is an assisted living facility on the property to the north (TMK 7-5-010:015), operating under Use Permit No. 174. The Aloha Kona Subdivision borders the subject property to the southeast, and properties to the west contain commercial uses including a credit union, doctor's offices and tour operations. TMK 7-5-009:067, located south of the subject property, was rezoned to RM-2.5 by Ordinance No. 05-074, as amended by Ordinance No 15-104, and is currently vacant.
12. **Flood Insurance Rate Map (FIRM):** The property is classified as Flood Zone "X", an area of minimal flood hazard.
13. **Flora/Fauna Resources:** A formal flora or fauna survey of the property was not conducted by the applicant as the property is in an existing urban area and contains no known rare or endangered flora or fauna.
14. **Archaeological/Cultural/Historical Resources:** Historic sites were identified on the subject property during an archeological inventory survey (AIS) in 1990,

including a section of the Kuakini Wall and a burial site. The AIS recommended that the sites be designated for preservation. A preservation plan, approved by the State Historic Preservation Division (SHPD) in 1992, stipulates a 10-foot no excavation buffer and a 20-foot no construction buffer for the burial site.

Additionally, the preservation plan states that the Kuakini Wall must be preserved and stabilized, with the exception of a single breach for a roadway.

Subsequently, SHPD provided comments to the applicant to recommend full implementation of preservation measures for both sites prior to initiation of construction activities on the property (**Planning Department Exhibit 6 – June 22, 2009 Letter**). Additionally, SHPD noted the potential for additional site assessments and requested installation of protective fencing around both the burial site and the remaining sections of Kuakini Wall, to be completed prior to approval of a grading permit. According to comments dated April 7, 2026, SHPD has no objections to the proposed rezone repeal, however they request the opportunity to review future projects on the subject property, which may include providing more information with an archeological literature review, field inspection and an AIS. The landowner has acknowledged that future permitting processes will require consultation with SHPD.

15. **Public Access:** There is no designated public access to the mountain or shoreline through the property.

UTILITIES AND SERVICES

16. **Access:** Access to the property is from Hualālai Road, a county-maintained roadway with a pavement width of 20-22 feet, with no shoulders and a 50-foot-wide right-of-way. The General Plan identifies Hualālai Road as a collector street that requires a minimum right-of-way width of 60 feet. Several conditions included in the rezone ordinances required the applicant to complete road improvements, including dedication of a future road widening strip, widening and realignment of Hualālai Road, construction of concrete curb, gutter and sidewalk, drainage improvements, streetlights, signs and any relocation of utilities, meeting with approval of the Department of Public Works (DPW). Additionally, access to

the property was limited to one approach with a left turn storage lane on Hualālai Road, except for a gated emergency access at the mauka end of the property. By letter dated February 20, 2026, DPW notes that the requirements of Conditions D through L of Ordinance 19-38 provide public welfare and safety and that DPW recommends their inclusion on comparable future developments on the subject property. The landowners have noted that they are willing to subdivide and donate to the County the land necessary for the County to widen Hualālai Road and provide shoulder improvements after issuance of Plan Approval and building permits for a project as permitted by the RD-3.75 zoning district.

17. **Water:** By letter dated December 12, 2008, the Department of Water Supply (DWS) stated that the subject property had a water commitment of 50 units of water, which included 28 units committed through previously existing service laterals, and for which facilities charges had been paid, and another 22 units committed through payment of a water commitment deposit (**Planning Department Exhibit 7 – December 12, 2008 Letter**). In comments pertaining to the current request, DWS notes that regarding the water commitment of 22 units, pursuant to Rule 5 of the Department's Rules and Regulations, the water commitment will be forfeited with the rezone ordinance repeal, along with the water commitment deposit. The landowners have corresponded with DWS and are in ongoing discussions regarding water commitments for the subject property.
18. **Wastewater:** Kona CDP Policy PUB-4.4 (Sewer Priorities) identifies shoreline properties and properties within one mile of the shoreline as areas for the highest priority of expanding the sewer system within the Kona Urban Area. The policy states that any new subdivision within one mile of the shoreline shall either hook up to the public sewer system or provide a private treatment system, and/or install dry sewer lines. The policy also indicates that private wastewater collection systems within the one-mile zone shall be designed and constructed to County standards to enable potential connection to the County sewer system. The

subject property is located about 0.20 miles from the shoreline and therefore will be required to hook up to the County sewer system. Based on comments provided for Ordinance 19-38, the Department of Environmental Management, Wastewater Division, recommended compliance with Condition L, which required the applicant to conduct a sewer study and make any necessary improvements to connect the proposed project to the County sewer system.

19. **Solid Waste:** There are no municipal waste collection services in the County. All solid waste generated by the subject property will require private disposal at an approved landfill.
20. **Utilities and Services:** Electric, cable, and telephone services are available to the property. Kona Community Hospital is located in Kealahou. Police and fire services are located in Kealahou and Kailua-Kona.

AGENCY COMMENTS

21. **Department of Water Supply (Planning Department Exhibit 8 – February 6, 2026 Letter)**
22. **Office of Housing and Community Development (Planning Department Exhibit 9 –February 18, 2026 Letter)**
23. **Department of Public Works – Engineering Division (Planning Department Exhibit 10 – February 20, 2026 Memo)**
24. **Department of Land and Natural Resources – State Historic Preservation Division (Planning Department Exhibit 11 – April 7, 2026 Letter)**

LANDOWNERS' RESPONSE TO AGENCY COMMENTS

25. **Letter from Landowners in Response to Multiple Agency Comments (Planning Department Exhibit 12 – April 9, 2026 Letter)**

PUBLIC COMMENTS

26. As of the time of this writing, the Planning Department has received no public comments regarding this request.

Daryn Arai
Land Use Planning Consultant

June 30, 2025

Mr. Jeffrey Darrow, Planning Director
County of Hawai'i Planning Department
101 Pauahi Center, Suite 3
Hilo, HI 96720

Dear Director Darrow:

Subject: Repeal of Change of Zone Ordinance No. 19-38 to allow for reversion of zoning districts of 6.467 acres of land to its original zoning district designations of RD-3.75 and A-5a (formerly Unplanned)

Landowners: Andy Xie and Kerry Xie as Trustees of the Andy and Kerry Xie Family Trust; Fred Ming Li; Jack Qun Fang and Bo Han as Co-trustees of the Fang/Han Living Trust, U/A; Wei Lin Zhao; and Eulix Chiu

TMK: 7-5-010:013 (Lots A-1 & A-2 Road Widening Lot), Hienaloli 4th & 5th, North Kona

The undersigned owners of the above-described property hereby authorize the submittal of this letter requesting the repeal of Ordinance No. 19 38 to allow for the reversion of the current zoning districts affecting said properties with a combined land area of 6.558 acres to its original zoning districts of Double Family Residential-3,750 square feet of land area per unit (RD-3.75) and Agricultural-minimum lot size of 5 acres (A-5a).

More specifically, the requested repeal of Ordinance No. 19 38 will result in 3.227 acres reverting from RM-2.5 to A-5a (previously Unplanned) and 3.331 acres from CV-7.5 to RD-3.75.

Reason for Request

The landowners, who recently purchased the subject properties, have no desire to amend the performance deadlines within Ordinance No. 19-38 in order to pursue the original proposed development of a 104-unit senior independent living community.

Upon careful consideration, the landowners wish to revert a 3.331-acre portion of the subject property to its original RD-3.75 zoning in order to pursue the development of a 37-unit double-family (duplex) residential project.

For that 3.227-acre portion of the subject property reverted to the A-5a zoning district, the landowners will maintain this portion as a single agricultural parcel. This same portion of the

Mr. Jeffrey Darrow, Planning Director
County of Hawai'i Planning Department
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June 30, 2025

subject property was redesignated from the State Land Use Agricultural to the Urban in 1992 via Ordinance No. 92-35, and the landowners wish to retain this Urban designation given the subject property's location within the Kona Urban Area as designated by the Kona Community Development Plan.

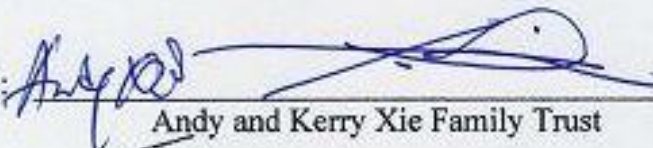
We hope that this letter provides enough foundation for you to initiate proceedings to repeal Ordinance No. 19-38. Should additional information be necessary, please do not hesitate to contact me.

Sincerely,



DARYN ARAI
Land Use Planning Consultant

APPROVED for Submittal:

BY: 
Andy and Kerry Xie Family Trust

BY: 
Fred Ming Li

BY: _____
Wei Lin Zhao

BY: _____
Eulix Chiu

BY: _____
Fang Han Trust

6-30-2025
Date

6-30-2025
Date

Date

Date

Date

Mr. Jeffrey Darrow, Planning Director
County of Hawai'i Planning Department
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June 30, 2025

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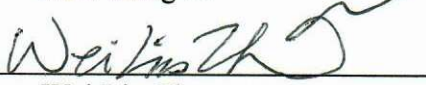
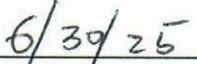
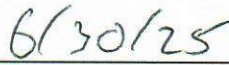
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Sincerely,



DARYN ARAI
Land Use Planning Consultant

APPROVED for Submittal:

BY: _____	_____
Andy and Kerry Xie Family Trust	Date
BY: _____	_____
Fred Ming Li	Date
BY:  _____	 _____
Wei Lin Zhao	Date
BY:  _____	 _____
Eulix Chiu	Date
BY: _____	_____
Fang Han Trust	Date

Mr. Jeffrey Darrow, Planning Director
County of Hawai'i Planning Department
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June 30, 2025

For that 3.227-acre portion of the subject property reverted to the A-5a zoning district, the landowners will maintain this portion as a single agricultural parcel. This same portion of the subject property was redesignated from the State Land Use Agricultural to the Urban in 1992 via Ordinance No. 92-35, and the landowners wish to retain this Urban designation given the subject property's location within the Kona Urban Area as designated by the Kona Community Development Plan.

We hope that this letter provides enough foundation for you to initiate proceedings to repeal Ordinance No. 19-38. Should additional information be necessary, please do not hesitate to contact me.

Sincerely,



DARYN ARAI
Land Use Planning Consultant

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Date

BY: _____
Fred Ming Li

Date

BY: _____
Wei Lin Zhao

Date

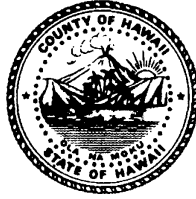
BY: _____
Eulix Chiu

Date

BY:   _____
Fang Han Trust

06-30-2025
Date

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 19 38 BILL NO. 23
(DRAFT 2)

AN ORDINANCE AMENDING: (1) ORDINANCE NO. 09-049, WHICH AMENDED ORDINANCE NO. 95-118, WHICH AMENDED ORDINANCE NO. 92-036, WHICH RECLASSIFIED LANDS FROM UNPLANNED (U) AND DOUBLE-FAMILY RESIDENTIAL – 3,750 SQUARE FEET (RD-3.75) TO MULTIPLE FAMILY RESIDENTIAL – 2,500 SQUARE FEET (RM-2.5) AND VILLAGE COMMERCIAL – 7,500 SQUARE FEET (CV-7.5), RESPECTIVELY, AT HIENALOLI 4TH AND 5TH, NORTH KONA, HAWAI'I, TAX MAP KEY: 7-5-010: PORTION OF 013 (FORMERLY 7-5-023:063); AND (2) ORDINANCE NO. 09-050, WHICH AMENDED ORDINANCE NO. 06-138, WHICH AMENDED ORDINANCE NO. 90-010, WHICH AMENDED ORDINANCE NO. 86-049, WHICH RECLASSIFIED LANDS FROM MULTIPLE FAMILY RESIDENTIAL – 2,000 SQUARE FEET (RM-2) TO VILLAGE COMMERCIAL – 7,500 SQUARE FEET (CV-7.5) AT HIENALOLI 5TH AND 6TH, NORTH KONA, HAWAI'I, TAX MAP KEY: 7-5-010: PORTION OF 013 (FORMERLY 7-5-023:064 AND 067).

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

SECTION 1. Section 1 and Section 2 of Ordinance No. 92-036 are repealed.

SECTION 2. Section 1 of Ordinance No. 86-049 is repealed.

SECTION 3. The district classification of the following area situated at Hienaloli 4th North Kona, Hawai'i shall be Multiple Family Residential (RM-2.5):

Beginning at the Southwesterly corner of this parcel of land, being also a point on the Northerly boundary of Lot 375 of Aloha Kona Subdivision (File Plan 871), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 1,994.27 feet South and 2,638.27 feet East and running by azimuths measured clockwise from True South:

Thence, for the next seven (7) courses following along the remainders of Lot A-1 and Royal Patent 1600 and 1930 to Asa Thurston, Land Commission

Award 387, Part 4, Section 2 to the American Board of Commissioners for Foreign Missions:

1.	160°	09'	29.34	feet along stonewall to a point;
2.	172°	05'	19.70	feet partially along stonewall to a point;
3.	164°	48'	25.00	feet to a point;
4.	156°	40'	58.10	feet partially along stonewall to a point;
5.	141°	07'	50.20	feet along stonewall to a point;
6.	146°	49'	35.90	feet along stonewall to a point;
7.	172°	31'	42.02	feet along stonewall to a point;
8.	257°	55'	2.01	feet along stonewall and along Royal Patent 7904, Land Commission Award 4226 to Kuae to a spike (found);
9.	165°	21'	3.56	feet along stonewall and along Royal Patent 7904, Land Commission Award 4226 to Kuae to a 1/2 inch pipe (found);
10.	252°	39' 30"	443.06	feet along Land Commission Award 7716, Apana 5 to R. Keelikolani to a point;
11.	259°	46'	6.16	feet along Land Commission Award 7716, Apana 5 to R. Keelikolani to a 1/2 inch pipe in concrete (found);
12.	252°	40'	5.36	feet along Land Commission Award 7716, Apana 5 to R. Keelikolani to a point;

Thence, for the next four (4) courses following along the Southerly side of the Keopu Channel Improvement Parcel 17 (County of Hawaii, Owner):

13. 317° 24' 30" 73.20 feet to a point;

Thence, following on a curve to the left with a radius of 150.00 feet, the chord azimuth and distance being:

14. 305° 09' 30" 63.65 feet to a 1/2 inch pipe (found);

15. 292° 54' 30" 197.59 feet to a point;

16. 342° 48' 16.26 feet to a 1/2 inch pipe (found);

17. 72° 51' 37" 642.08 feet along Lots 361, 362, 363, 364, 365, 371, 372, 373, 374 and 375 of Aloha Kona Subdivision (File Plan 871) and along Land Commission Award 8524-B, Part 3 to Peke to a rebar in concrete (found);

18. 80° 55' 37" 11.25 feet along Lot 375 of Aloha Kona Subdivision (File Plan 871) and along Land Commission Award 8524-B, Part 3 to Peke to the point of beginning and containing an area of 3.227 Acres.

SECTION 4. The district classification of the following area situated at Hienaloli 4th North Kona, Hawai'i shall be Village Commercial (CV-7.5):

Beginning at a 1/2 inch pipe (found) at the Northwesterly corner of this parcel of land, being also the Northeasterly corner of Lot A-2 (Road Widening Lot) and being an angle on the Northeasterly side of Hualalai Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 2,004.99 feet South and 2,083.75 feet East and running by azimuths measured clockwise from True South:

1. 239° 05' 449.95 feet along Lot 1 and along Land Commission Award 7716, Apana 5 to R. Keelikolani to a 1/2 inch pipe in concrete (found);

2.	257°	55'	71.20	feet partially along stonewall and along Royal Patent 7904, Land Commission Award 4226 to Kuae to a point;
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Thence, for the next seven (7) courses following along the remainder of Lot A-1 and along the remainder of Royal Patent 1600 and 1930 to Asa Thurston, Land Commission Award 387, Part 4, Section 2 to the American Board of Commissioners for Foreign Missions:

3.	352°	31'	42.02	feet along stonewall to a point;
4.	326°	49'	35.90	feet along stonewall to a point;
5.	321°	07'	50.20	feet along stonewall to a point;
6.	336°	40'	58.10	feet partially along stonewall to a point;
7.	344°	48'	25.00	feet along stonewall to a point;
8.	352°	05'	19.70	feet along stonewall to a point;
9.	340°	09'	29.34	feet along stonewall to a point;
10.	80°	55' 37"	69.16	feet along Lot 376 of Aloha Kona Subdivision (File Plan 871) and along Land Commission Award 8524-B, Part 3 to Peke to a 1/2 inch pipe in concrete (found);
11.	342°	04' 37"	110.94	feet along Lot 376 of Aloha Kona Subdivision (File Plan 871) and along the remainder of Land Commission Award 8524-B, Part 3 to Peke to a point;

Thence, for the next six (6) courses following along Lot A-2 (Road Widening Lot):

12.	72°	00' 40"	105.80	feet along the remainders of Land Commission Award 8524-B, Part 3
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to Peke and Grant S-15700 to James F. Boe to a point;

Thence, following along the remainder of Grant S-15700 to James F. Boe on a curve to the right with a radius of 470.00 feet, the chord azimuth and distance being:

13. 80° 57' 05" 146.08 feet to a point;

14. 89° 53' 30" 86.32 feet along the remainder of Grant S-15700 to James F. Boe to a point;

Thence, from a tangent azimuth of 101° 22' 20" following along the remainders of Grant S-15700 to James F. Boe, Land Commission Award 8524-B, Part 3 to Peke and Royal Patent 1600 and 1930 to Asa Thurston, Land Commission Award 387, Part 4, Section 2 to the American Board of Commissioners for Foreign Missions on a curve to the right with a radius of 250.00 feet, the chord azimuth and distance being:

15. 122° 49' 182.80 feet to a point;

16. 144° 15' 40" 17.58 feet along the remainder of Royal Patent 1600 and 1930 to Asa Thurston, Land Commission Award 387, Part 4, Section 2 to the American Board of Commissioners for Foreign Missions to a point;

17. 152° 21' 54.43 feet along the remainder of Royal Patent 1600 and 1930 to Asa Thurston, Land Commission Award 387, Part 4, Section 2 to the

American Board of Commissioners
for Foreign Missions to the point of
beginning and containing an area of
3.240 acres.

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

SECTION 5. Section 1 of Ordinance No. 09-049 is repealed.

SECTION 6. Section 1 of Ordinance No. 09-050 is repealed.

SECTION 7. 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.

A. The applicant, successors, or assigns shall be responsible for complying with all of the
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" within one hundred eighty (180) days from the effective date
of this amendment.]~~ Prior to the issuance of a water commitment by the
Department of Water Supply (DWS), the applicant shall submit the anticipated

maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i to the DWS. A water commitment deposit shall be paid to the DWS within 180 days from the effective date of this ordinance in accordance with Rule 5 of the Department of Water Supply's Rules and Regulations for the initial commitment of 50 units of water. The applicant shall obtain water commitments to develop the requested number of residential units prior to submitting plans for Final Plan Approval for any portion of the project. 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.

- C. Construction of the proposed development as substantially represented by the applicant as an independent senior living facility, or as permitted by its zoning district classification shall be completed within five (5) years from the effective date of this ~~[additional amendment]~~ ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the amended proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code.
- D. A future road widening strip along the Hualālai Road project frontage as determined by the Department of Public Works shall be ~~[subdivided and]~~ dedicated to the County ~~[within two years from the effective date of this amendment]~~ prior to the issuance of a Certificate of Occupancy.
- E. The applicant shall realign and provide collector street improvements to the entire project frontage along Hualālai Road consisting of, but not limited to, right-of-way and pavement reconstruction and widening with concrete curb, gutter and sidewalk, drainage improvements, streetlights, signs and markings and any relocation of utilities, meeting with the approval of the Department of Public Works. The widened and improved area shall provide for opposing left turn lanes

along with any necessary pavement transitions[?] , unless otherwise approved by the Department of Public Works. The applicant shall construct the additional improved street right-of-way at no cost to the County, prior to receipt of a Certificate of Occupancy.

- F. Access to Hualālai Road shall be limited to one approach, located as approved by the Department of Public Works. An additional gated access should be provided at the mauka end of the property to the existing County flood control access road for emergency access purposes and be gated. The applicant shall provide a left turn storage lane on Hualālai Road to the subject property prior to the issuance of a Certificate of Occupancy[?] , unless otherwise approved by the Department of Public Works. All sight distances to the approach shall meet the requirements of the Hawai'i Statewide Uniform Design Manual (AASHTO).
- G. Any utility poles in the road right-of-way shall be installed as shown on DPW Standard Detail R-35 (Revised). The applicant shall provide any necessary easements for installation of such utilities.
- H. Any vehicular security gate shall be located a minimum of 60 feet (exclusive of gate swing) from the proposed Hualālai Road right-of-way with a turnaround on the County road side of the gate. This 60-foot requirement shall not apply to the emergency access.
- I. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
- J. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works. The recommended drainage system shall be constructed, meeting with the approval of the Department of Public Works, prior to the issuance of a Certificate of Occupancy.

K. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai‘i County Code.

L. Comply with Chapter 11-55, Water Pollution Control, Hawai‘i Administrative Rules, Department of Health, which requires a NPDES permit for certain construction activity.

~~[K.]~~M. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management prior to the issuance of a Certificate of Occupancy.

~~[L.]~~N. The Department of Environmental Management requires the submittal of a sewer study by the applicant to the County of Hawai‘i, Wastewater Division (COH-WWD). The sewer study is intended to define the wastewater flow contribution from the proposed development, evaluate the impact to the existing County-owned sewer system and if necessary, propose an upgrade of the private 8-inch sewer line serving the proposed development based on the results of the sewer study. The sewer study shall be prepared in accordance with the City & County of Honolulu Design Standards. If applicable, design plans for construction of a new sewer extension shall also be submitted to the COH-WWD for review and approval. If the private sewer line is intended to be dedicated to the County of Hawai‘i, as-built plans of the private 8-inch line and details of the new connection to the sewer line shall be submitted to the COH-WWD for review and approval. Documents shall be prepared in accordance with Hawai‘i County Code Chapter 21- Sewers, Hawai‘i Administrative Rules, Title 11, Chapter 62- Wastewater Systems, and COH-WWD Sewer Standards.

O. Prior to the initiation of construction work or ground disturbance on the property, or prior to receipt of Final Plan Approval, whichever occurs first, the applicant shall assess the additional features at Site 13673 that were found during a

May 20, 2009 SHPD site visit and submit an appropriate report to SHPD, which may include an updated AIS, for its approval, and implement preservation and burial treatment measures as approved by the State Historic Preservation Division in the 1992 Preservation Plan, or a revised Preservation Plan.

~~[M.]P.~~ ~~[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 Resources-- State Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.]~~ In the unlikely 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, cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division 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.

~~[N.]Q.~~ 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 Plan Approval ~~[or within five years from the effective date of this amended change of zone ordinance, whichever occurs first]~~. The fair share contribution for each lot shall be based on the actual number of residential units developed. 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 the amendment to the ordinance, based on the percentage

change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a maximum combined value of [~~\$7,383.36~~]\$9,195.34 per multiple family residential unit ([~~\$11,506.13~~]\$14,329.89 per single family residential unit). The total amount shall be determined by the actual number of units according to the calculation and payment provisions set forth in this condition. The fair share contribution per multiple-family residential unit (single family residential unit) shall be allocated as follows:

1. [~~\$3,642.00~~]\$4,535.80 per multiple family residential unit ([~~\$5,548.46~~]\$6,910.13 per single family residential unit) to the County to support park and recreational improvements and facilities;
2. [~~\$115.11~~]\$143.36 per multiple family residential unit ([~~\$267.66~~]\$333.35 per single family residential unit) to the County to support police facilities;
3. [~~\$354.08~~]\$440.97 per multiple family residential unit ([~~\$528.66~~]\$658.40 per single family residential unit) to the County to support fire facilities;
4. [~~\$158.81~~]\$196.54 per multiple family residential unit ([~~\$231.45~~]\$288.25 per single family residential unit) to the County to support solid waste facilities;
5. [~~\$3,114.36~~]\$3,878.67 per multiple family residential unit ([~~\$4,929.90~~]\$6,139.77 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; provided however, that the cost of providing and constructing the improvements required in Conditions D and E may be credited against the sum specified in Condition ~~N(5)~~Q(5) for road and traffic improvements.

~~[Θ.]~~R. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

~~[P.]~~S. 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.

~~[Q.]~~T. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this amendment. The report shall address the status of the development and the extent to which the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.

~~[R.]~~U. Comply with all applicable County, State and Federal laws, rules, regulations and requirements.

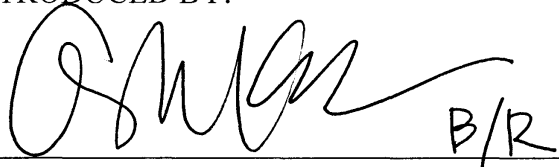
V. If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission and the Hawai'i County Council for appropriate action.

W. 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.

SECTION 8. 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 9. This ordinance shall take effect upon its approval.

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "B/R" followed by a flourish, is written over a horizontal line.

COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i
Date of Introduction: March 13, 2019
Date of 1st Reading: March 28, 2019
Date of 2nd Reading: April 10, 2019
Effective Date: April 25, 2019

REFERENCE Comm. 92.3



T&M Prop. LLC
Map: 1391

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

COUNTY CLERK
COUNTY OF HAWAII

2019 APR 26 PM 3:01

(Draft 2)

Introduced By: Ashley L. Kierkiewicz (B/R)
Date Introduced: March 13, 2019
First Reading: March 28, 2019
Published: April 6, 2019

REMARKS: Postponed: March 13, 2019

Second Reading: April 10, 2019

To Mayor: April 18, 2019

Returned: April 26, 2019

Effective: April 25, 2019

Published: May 11, 2019

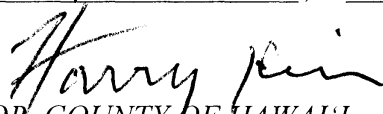
REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter			X	
Richards	X			
Villegas	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter	X			
Richards	X			
Villegas	X			
	9	0	0	0

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

Approved Disapproved this 25th day
of April, 2019


MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRPERSON


COUNTY CLERK

Bill No.: 23 (Draft 2)

Reference: C-92.3/PC-9

Ord No.: 19 38

Section 25-5-115. Minimum building site average width.

Each building site in the CG district shall have a minimum building site average width of sixty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-116. Minimum yards.

The minimum yards in the CG district shall be as follows:

- (1) Front or rear yards, fifteen feet; and
- (2) Side yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side yard adjoins the side yard of a building site in an RS, RD, RM or RCX district, there shall be a side yard which conforms to the side yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-117. Landscaping of yards.

- (a) All front yards in the CG district shall be landscaped, except for necessary access drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.
- (b) Where any required side or rear yard in the CG district adjoins a building site in an RS, RD, RM or RCX district, the side or rear yard shall be landscaped with a screening hedge not less than forty-two inches in height, within five feet of the property line, except for necessary drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 12.)

Section 25-5-118. Other regulations.

- (a) Plan approval shall be required for all new structures and additions to existing structures in the CG district, except for construction of one single-family dwelling and any accessory buildings per lot.
- (b) Exceptions to the regulations for the CG district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 13; am 2015, ord 15-33, sec 4.)

Division 12. CV, Village Commercial Districts.**Section 25-5-120. Purpose and applicability.**

The CV (village commercial) district provides for a broad range or variety of commercial and light industrial uses that are necessary to serve the population in rural areas where the supplementary support of the general business uses and activities of a central commercial district is not readily available.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-121. Designation of CV districts.

Each CV (village commercial) district shall be designated by the symbol "CV" followed by a number which indicates the minimum land area, in number of thousands of square feet, required for each building site.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-122. Permitted uses.

- (a) The following uses shall be permitted in the CV district:
- (1) Adult day care homes.
 - (2) Amusement and recreation facilities, indoor.
 - (3) Apiaries.
 - (4) Art galleries, museums.
 - (5) Automobile sales and rentals.
 - (6) Automobile service stations.
 - (7) Bars.
 - (8) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (9) Boarding facilities, rooming, or lodging houses, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
 - (10) Business services.
 - (11) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (12) Commercial parking lots and garages.
 - (13) Convenience stores.
 - (14) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (15) Crop production.
 - (16) Day care centers.
 - (17) Dwellings, double-family or duplex, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
 - (18) Dwellings, multiple-family, provided that the maximum density shall be one thousand two hundred fifty square feet of land area per rentable unit or dwelling unit.
 - (19) Dwellings, single-family.
 - (20) Family child care homes.
 - (21) Farmers markets. When the vending activity in a farmers market involves more than just the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products for more than two days a week, the director, at the time of plan approval, shall restrict the hours of use, maintenance and operations and may require improvements as determined appropriate to ensure its compatibility with the existing character of the surrounding area.
 - (22) Financial institutions.

- (23) Group living facilities.
- (24) Home occupations, as permitted under section 25-4-13.
- (25) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
- (26) Hotels, when the design and use conform to the character of the area, as approved by the director.
- (27) Laboratories, medical and research.
- (28) Lodges.
- (29) Manufacturing, processing and packaging light and general, except for concrete or asphalt products, where the products are distributed to retail establishments located in the immediate community, as approved by the director.
- (30) Medical clinics.
- (31) Meeting facilities, including special events, as permitted under section 25-4-17.
- (32) Model homes, as permitted under section 25-4-8.
- (33) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
- (34) Offices.
- (35) Personal services.
- (36) Photography studios.
- (37) Public uses and structures, as permitted under section 25-4-11.
- (38) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops, which are designed to primarily serve the local area.
- (39) Repair establishments, major, when there are not more than five employees, as approved by the director.
- (40) Repair establishments, minor.
- (41) Restaurants.
- (42) Retail establishments.
- (43) Schools.
- (44) Short-term vacation rentals.
- (45) Special events.
- (46) Telecommunication antennas and towers, as permitted under section 25-4-12.
- (47) Temporary real estate offices, as permitted under section 25-4-8.
- (48) Theaters.
- (49) Utility substations, as permitted under section 25-4-11.
- (b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the CV district, provided that a use permit is issued for each use:
 - (1) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - (2) Major outdoor amusement and recreation facilities.
 - (3) Yacht harbors and boating facilities.

- (c) Residential uses in connection with the operation of any permitted uses shall be permitted in the CV district.
 - (d) Buildings and uses similar to the permitted uses listed in subsection (a) above shall be permitted in the CV district, as approved by the director.
 - (e) Buildings and uses normally considered accessory to the uses permitted in this section shall also be permitted in the CV district.
- (1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 14; am 2014, ord 14-86, sec 12; am 2018, ord 18-114, sec 12; am 2021, ord 21-26, sec 12; am 2024, ord 24-65, secs 7 and 10; am 2025, ord 25-55, sec 12; ord 25-66, sec 21.)

Section 25-5-123. Height limit.

The height limit in the CV district shall be thirty feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-124. Minimum building site area.

The minimum building site area in the CV district shall be seven thousand five hundred square feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-125. Minimum building site average width.

Each building site in the CV district shall have a minimum building site average width of sixty feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-126. Minimum yards.

The minimum yards in the CV district shall be as follows:

- (1) Front or rear yards, fifteen feet; and
- (2) Side yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side yard adjoins the side yard of a building site in an RS, RD, RM or RCX district, there shall be a side yard which conforms to the side yard requirements for dwelling use of the adjoining district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-127. Landscaping of yards.

- (a) All front yards in the CV district shall be landscaped, except for necessary access drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.
 - (b) Where any required side or rear yard in the CV district adjoins a building site in an RS, RD, RM or RCX district, the side or rear yard shall be landscaped with a screening hedge not less than forty-two inches in height, within five feet of the property line, except for necessary drives and walkways, and except for the construction of one single-family dwelling and accessory buildings per lot.
- (1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 14.)

Section 25-5-128. Other regulations.

- (a) Plan approval shall be required for all new structures and additions to existing structures in the CV district, except for construction of one single-family dwelling and any accessory buildings per lot.
 - (b) Exceptions to the regulations for the CV district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.
- (1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 15; am 2015, ord 15-33, sec 4.)

Division 13. MCX, Industrial-Commercial Mixed Districts.**Section 25-5-130. Purpose and applicability.**

The purpose of the MCX (industrial-commercial mixed use) district is to allow mixing of some industrial uses with commercial uses. The intent of this district is to provide for areas of diversified businesses and employment opportunities by permitting a broad range of uses, without exposing nonindustrial uses to unsafe and unhealthy environments. This district is intended to promote and maintain a viable mix of light industrial and commercial uses.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-131. Designation of MCX districts.

Each MCX (industrial-commercial mixed use) district shall be designated by the symbol “MCX” followed by a number which indicates the minimum land area, in number of thousands of square feet, required for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-132. Permitted uses.

- (a) The following uses shall be permitted in the MCX district:
 - (1) Agricultural products processing, minor.
 - (2) Amusement and recreation facilities, indoor.
 - (3) Apiaries.
 - (4) Art galleries, museums.
 - (5) Art studios.
 - (6) Automobile sales and rentals.
 - (7) Automobile service stations.
 - (8) Bars, nightclubs and cabarets.
 - (9) Broadcasting stations.
 - (10) Business services.
 - (11) Car washing.
 - (12) Catering establishments.
 - (13) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.

Division 2. RD, Double-Family Residential Districts.**Section 25-5-20. Purpose and applicability.**

The RD (double-family residential) district provides for moderate density use characterized by the establishment of single or double-family dwellings on each building site. It applies to areas with developed community facilities. It may occupy a transitional area between RS districts and those districts having a more intense use of land.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-21. Designation and density of RD districts.

Each RD (double-family residential district) shall be designated on the zoning map by the symbol "RD" followed by the number "3.75" which requires that the minimum land area for each dwelling unit shall be three thousand seven hundred fifty square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-22. Permitted uses.

(a) The following uses shall be permitted in the RD district:

- (1) Adult day care homes.
- (2) Apiaries.
- (3) Bed and breakfast establishments as permitted under section 25-4-7.
- (4) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
- (5) Crop production.
- (6) Dwellings, double-family or duplex.
- (7) Dwellings, single-family.
- (8) Family child care homes.
- (9) Group living facilities.
- (10) Home occupations, as permitted under section 25-4-13.
- (11) Household henneries, as permitted under section 25-4-18.
- (12) Meeting facilities, as permitted under section 25-4-17.
- (13) Model homes, as permitted under section 25-4-8.
- (14) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
- (15) Public uses and structures, as permitted under section 25-4-11.
- (16) Short-term vacation rentals situated in the general plan resort and resort node areas.
- (17) Telecommunication antenna and towers, as permitted under section 25-4-12.
- (18) Temporary real estate offices, as permitted under section 25-4-8.
- (19) Utility substations, as permitted under section 25-4-11.

(b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RD district, provided that a use permit is issued for each use:

- (1) Care homes.
- (2) Crematoriums, funeral homes, funeral services, and mortuaries.

Planning Dept.
Exhibit <u>3</u>

- (3) Day care centers.
 - (4) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - (5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (6) Medical clinics.
 - (7) Schools.
 - (8) Special events.
 - (9) Yacht harbors and boating facilities.
 - (c) Buildings and uses normally considered directly accessory to the uses permitted under this section shall also be permitted in the RD district.
- (1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 4; am 2014, ord 14-86, sec 4; am 2018, ord 18-114, sec 6; am 2019, ord 19-100, sec 4; am 2021, ord 21-26, sec 6; am 2024, ord 24-65, secs 7 and 10; am 2025, ord 25-55, secs 8 and 9; ord 25-66, sec 11; ord 25-85, sec 3.)

Section 25-5-23. Height limit.

The height limit in the RD district shall be thirty-five feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-24. Minimum building site area.

The minimum building site area in the RD district shall be seven thousand five hundred square feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-25. Minimum building site average width.

Each building site in the RD district shall have a minimum average width of sixty feet, plus two feet for each five hundred square feet of required building site area in excess of seven thousand five hundred square feet, except that no building site shall be required to have an average width of more than one hundred fifty feet.
(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-26. Minimum yards.

The minimum yards in the RD district shall be as follows:

- (1) On a building site with a required area of seven thousand five hundred square feet to and including nine thousand nine hundred ninety-nine square feet:
 - (A) Front and rear yards, fifteen feet; and
 - (B) Side yards, eight feet.
- (2) On a building site with a required area of ten thousand square feet to and including nineteen thousand nine hundred ninety-nine square feet:
 - (A) Front and rear yards, twenty feet; and
 - (B) Side yards, ten feet.

- (3) On a building site with a required area of twenty thousand square feet or more:

(A) Front and rear yards, twenty-five feet; and

(B) Side yards, fifteen feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1997, ord 97-88, sec 2.)

Section 25-5-27. Other regulations.

- (a) There may be more than one double-family dwelling or more than two single-family dwellings or any combination thereof on each building site in the RD district; provided that the minimum land area requirement for each dwelling unit is met.
- (b) There shall be at least fifteen feet between the exterior walls of each main structure on the same building site in the RD district.
- (c) Plan approval shall be required for all new buildings and additions to existing buildings in the RD district, except for construction of one single-family dwelling and any accessory buildings per lot.
- (d) An accessory dwelling unit may be located on any building site in the RD district, as permitted under article 6, division 3 of this chapter.
- (e) Exceptions to the regulations for the RD district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 3; am 2015, ord 15-33, sec 4; am 2024, ord 24-70, sec 9.)

Division 3. RM, Multiple-Family Residential Districts.

Section 25-5-30. Purpose and applicability.

The RM (multiple-family residential) district provides for medium and high density residential use. It covers areas with full community facilities and services. It may occupy transition areas between commercial or industrial areas and other districts of less intense land use.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-31. Designation and density of RM districts.

- (a) Each RM (multiple-family residential) district shall be designated on the zoning map by the symbol "RM" followed by a number which indicates the required land area, in thousands of square feet, for each dwelling unit or for each separate rentable unit in the case of boarding, rooming, or lodging houses, fraternity or sorority houses.
- (b) In case any of the permitted uses have dormitories, two beds shall be equivalent to one separate rentable unit for purposes related to the required land area in the RM district.
- (c) The maximum density designation in the RM district shall be .75 or seven hundred fifty square feet of land area per dwelling unit or separate rentable unit.
- (d) In the RM district the following density designations shall be used: .75, 1, 1.5, 2, 2.5, 3, 3.5, 4 and upward in 0.5 increments.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-32. Permitted uses.

- (a) The following uses shall be permitted in the RM district:
- (1) Adult day care homes.
 - (2) Apiaries.
 - (3) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (4) Boarding facilities, rooming, or lodging houses.
 - (5) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (6) Commercial or personal service uses, on a small scale, as approved by the director, provided that the total gross floor area does not exceed one thousand two hundred square feet and a maximum of five employees.
 - (7) Crop production.
 - (8) Dwellings, double-family or duplex.
 - (9) Dwellings, multiple-family.
 - (10) Dwellings, single-family.
 - (11) Family child care homes.
 - (12) Group living facilities.
 - (13) Home occupations, as permitted under section 25-4-13.
 - (14) Household henneries, as permitted under section 25-4-18.
 - (15) Meeting facilities, as permitted under section 25-4-17.
 - (16) Model homes, as permitted under section 25-4-8.
 - (17) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
 - (18) Public uses and structures, as permitted under section 25-4-11.
 - (19) Short-term vacation rentals situated in any of the following:
 - (A) General plan resort and resort node areas.
 - (B) Outside the general plan resort and resort node areas, in multiple family dwellings within a condominium property regime as defined and governed by chapters 514A or 514B, Hawai'i Revised Statutes.
 - (20) Telecommunication antenna and towers, as permitted under section 25-4-12.
 - (21) Temporary real estate offices, as permitted under section 25-4-8.
 - (22) Time share units situated in any of the following:
 - (A) Areas designated as resort under the general plan land use pattern allocation guide (LUPAG) map.
 - (B) Areas determined by the director to be within resort areas identified by the general plan land use element, except for retreat resort areas.
 - (C) Areas determined for such use by the council, by resolution.
 - (23) Utility substations, as permitted under section 25-4-11.
- (b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RM district, provided that a use permit is issued for each use:
- (1) Care homes.
 - (2) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (3) Day care centers.

- (4) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - (5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (6) Medical clinics.
 - (7) Schools.
 - (8) Special events.
 - (9) Yacht harbors and boating facilities.
 - (c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the RM district.
- (1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 5; am 2014, ord 14-86, sec 5; am 2018, ord 18-114, sec 7; am 2019, ord 19-100, sec 5; am 2021, ord 21-26, sec 7; am 2024, ord 24-65, secs 7 and 10; am 2025, ord 25-55, secs 8 and 9; ord 25-66, sec 12; ord 25-85, sec 3.)

Section 25-5-33. Height limit.

- (a) In areas in the County outside of the City of Hilo, the height limit in the RM district shall be forty-five feet.
 - (b) In the City of Hilo, the height limit in the RM district shall be one hundred twenty feet.
- (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-34. Minimum building site area.

The minimum building site in the RM district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-35. Minimum building site average width.

Each building site in the RM district shall have a minimum average width of sixty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-36. Minimum yards.

Minimum yards in the RM district shall be as follows:

- (1) Front and rear yards, twenty feet; and
 - (2) Side yards, eight feet for a one-story building, plus an additional two feet for each additional story.
- (1996, ord 96-160, sec 2; ratified 1999, ord 96-160, sec 1.)

Section 25-5-37. Landscaping.

Landscaping shall be provided on a minimum of twenty percent of the total land area of any building site in the RM district, except for lots containing only one single-family dwelling and accessory buildings. Parking areas shall not be included within the area required for landscaping on any building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999, am 2005, ord 05-155, sec 4.)

Section 25-5-38. Other regulations.

- (a) There may be more than one main building on any building site in the RM district.
- (b) Distance between main buildings on the same building site in the RM district shall be at least fifteen feet.
- (c) Plan approval shall be required for all new buildings and additions to existing buildings in the RM district, except for construction of one single-family dwelling and any accessory buildings per lot.
- (d) Exceptions to the regulations for the RM district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 5; am 2015, ord 15-33, sec 4.)

Division 4. RCX, Residential-Commercial Mixed Use Districts.**Section 25-5-40. Purpose and applicability.**

The RCX (residential-commercial mixed use) district provides for the mixing of some small-scale service type commercial uses in a district that is primarily residential in character. The intent of this district is to allow a residential area to have certain convenience type of commercial uses so as to provide more of a neighborhood character to the residential area.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-41. Designation and density of RCX districts.

- (a) Each RCX (residential-commercial mixed use) district shall be designated on the zoning map by the symbol "RCX" followed by a number which indicates the required land area, in thousands of square feet for each dwelling unit, or for each separate rentable unit in the case of boarding, rooming, or lodging houses, fraternity or sorority houses, or for each commercial unit.
- (b) In case any of the permitted uses have dormitories, two beds shall be equivalent to one separate rentable unit for purposes related to the required land area in the RCX district.
- (c) The maximum density designation in the RCX district shall be .75 which means seven hundred fifty square feet of land area per dwelling unit or separate rentable unit.
- (d) In the RCX district the following density designations shall be used: .75, 1, 1.5, 2, 2.5, 3, 3.5, 4 and upward in 0.5 increments.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-42. Permitted uses.

- (a) The following uses shall be permitted in the RCX district:
 - (1) Adult day care homes.
 - (2) Apiaries.
 - (3) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (4) Boarding facilities, rooming, or lodging houses.

- (3) On a building site with a required area of twenty thousand square feet or more:

(A) Front and rear yards, twenty-five feet; and

(B) Side yards, fifteen feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1997, ord 97-88, sec 2.)

Section 25-5-27. Other regulations.

- (a) There may be more than one double-family dwelling or more than two single-family dwellings or any combination thereof on each building site in the RD district; provided that the minimum land area requirement for each dwelling unit is met.
- (b) There shall be at least fifteen feet between the exterior walls of each main structure on the same building site in the RD district.
- (c) Plan approval shall be required for all new buildings and additions to existing buildings in the RD district, except for construction of one single-family dwelling and any accessory buildings per lot.
- (d) An accessory dwelling unit may be located on any building site in the RD district, as permitted under article 6, division 3 of this chapter.
- (e) Exceptions to the regulations for the RD district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 3; am 2015, ord 15-33, sec 4; am 2024, ord 24-70, sec 9.)

Division 3. RM, Multiple-Family Residential Districts.

Section 25-5-30. Purpose and applicability.

The RM (multiple-family residential) district provides for medium and high density residential use. It covers areas with full community facilities and services. It may occupy transition areas between commercial or industrial areas and other districts of less intense land use.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-31. Designation and density of RM districts.

- (a) Each RM (multiple-family residential) district shall be designated on the zoning map by the symbol "RM" followed by a number which indicates the required land area, in thousands of square feet, for each dwelling unit or for each separate rentable unit in the case of boarding, rooming, or lodging houses, fraternity or sorority houses.
- (b) In case any of the permitted uses have dormitories, two beds shall be equivalent to one separate rentable unit for purposes related to the required land area in the RM district.
- (c) The maximum density designation in the RM district shall be .75 or seven hundred fifty square feet of land area per dwelling unit or separate rentable unit.
- (d) In the RM district the following density designations shall be used: .75, 1, 1.5, 2, 2.5, 3, 3.5, 4 and upward in 0.5 increments.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-32. Permitted uses.

- (a) The following uses shall be permitted in the RM district:
- (1) Adult day care homes.
 - (2) Apiaries.
 - (3) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (4) Boarding facilities, rooming, or lodging houses.
 - (5) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (6) Commercial or personal service uses, on a small scale, as approved by the director, provided that the total gross floor area does not exceed one thousand two hundred square feet and a maximum of five employees.
 - (7) Crop production.
 - (8) Dwellings, double-family or duplex.
 - (9) Dwellings, multiple-family.
 - (10) Dwellings, single-family.
 - (11) Family child care homes.
 - (12) Group living facilities.
 - (13) Home occupations, as permitted under section 25-4-13.
 - (14) Household henneries, as permitted under section 25-4-18.
 - (15) Meeting facilities, as permitted under section 25-4-17.
 - (16) Model homes, as permitted under section 25-4-8.
 - (17) Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.
 - (18) Public uses and structures, as permitted under section 25-4-11.
 - (19) Short-term vacation rentals situated in any of the following:
 - (A) General plan resort and resort node areas.
 - (B) Outside the general plan resort and resort node areas, in multiple family dwellings within a condominium property regime as defined and governed by chapters 514A or 514B, Hawai'i Revised Statutes.
 - (20) Telecommunication antenna and towers, as permitted under section 25-4-12.
 - (21) Temporary real estate offices, as permitted under section 25-4-8.
 - (22) Time share units situated in any of the following:
 - (A) Areas designated as resort under the general plan land use pattern allocation guide (LUPAG) map.
 - (B) Areas determined by the director to be within resort areas identified by the general plan land use element, except for retreat resort areas.
 - (C) Areas determined for such use by the council, by resolution.
 - (23) Utility substations, as permitted under section 25-4-11.
- (b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the RM district, provided that a use permit is issued for each use:
- (1) Care homes.
 - (2) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (3) Day care centers.

- (4) Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
 - (5) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (6) Medical clinics.
 - (7) Schools.
 - (8) Special events.
 - (9) Yacht harbors and boating facilities.
 - (c) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the RM district.
- (1996, ord 96-160, sec 2; ratified April 6, 1999; am 2012, ord 12-28, sec 5; am 2014, ord 14-86, sec 5; am 2018, ord 18-114, sec 7; am 2019, ord 19-100, sec 5; am 2021, ord 21-26, sec 7; am 2024, ord 24-65, secs 7 and 10; am 2025, ord 25-55, secs 8 and 9; ord 25-66, sec 12; ord 25-85, sec 3.)

Section 25-5-33. Height limit.

- (a) In areas in the County outside of the City of Hilo, the height limit in the RM district shall be forty-five feet.
 - (b) In the City of Hilo, the height limit in the RM district shall be one hundred twenty feet.
- (1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-34. Minimum building site area.

The minimum building site in the RM district shall be seven thousand five hundred square feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-35. Minimum building site average width.

Each building site in the RM district shall have a minimum average width of sixty feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-36. Minimum yards.

Minimum yards in the RM district shall be as follows:

- (1) Front and rear yards, twenty feet; and
 - (2) Side yards, eight feet for a one-story building, plus an additional two feet for each additional story.
- (1996, ord 96-160, sec 2; ratified 1999, ord 96-160, sec 1.)

Section 25-5-37. Landscaping.

Landscaping shall be provided on a minimum of twenty percent of the total land area of any building site in the RM district, except for lots containing only one single-family dwelling and accessory buildings. Parking areas shall not be included within the area required for landscaping on any building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999, am 2005, ord 05-155, sec 4.)

Section 25-5-38. Other regulations.

- (a) There may be more than one main building on any building site in the RM district.
- (b) Distance between main buildings on the same building site in the RM district shall be at least fifteen feet.
- (c) Plan approval shall be required for all new buildings and additions to existing buildings in the RM district, except for construction of one single-family dwelling and any accessory buildings per lot.
- (d) Exceptions to the regulations for the RM district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 2005, ord 05-155, sec 5; am 2015, ord 15-33, sec 4.)

Division 4. RCX, Residential-Commercial Mixed Use Districts.**Section 25-5-40. Purpose and applicability.**

The RCX (residential-commercial mixed use) district provides for the mixing of some small-scale service type commercial uses in a district that is primarily residential in character. The intent of this district is to allow a residential area to have certain convenience type of commercial uses so as to provide more of a neighborhood character to the residential area.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-41. Designation and density of RCX districts.

- (a) Each RCX (residential-commercial mixed use) district shall be designated on the zoning map by the symbol "RCX" followed by a number which indicates the required land area, in thousands of square feet for each dwelling unit, or for each separate rentable unit in the case of boarding, rooming, or lodging houses, fraternity or sorority houses, or for each commercial unit.
- (b) In case any of the permitted uses have dormitories, two beds shall be equivalent to one separate rentable unit for purposes related to the required land area in the RCX district.
- (c) The maximum density designation in the RCX district shall be .75 which means seven hundred fifty square feet of land area per dwelling unit or separate rentable unit.
- (d) In the RCX district the following density designations shall be used: .75, 1, 1.5, 2, 2.5, 3, 3.5, 4 and upward in 0.5 increments.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-42. Permitted uses.

- (a) The following uses shall be permitted in the RCX district:
 - (1) Adult day care homes.
 - (2) Apiaries.
 - (3) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (4) Boarding facilities, rooming, or lodging houses.

- (e) Exceptions to the regulations for the FA district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.
 - (f) Plan approval shall be required prior to the construction or installation of any new structure or development, or of any addition to an existing structure or development which is used for minor agricultural products processing.
- (1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4; am 2024, ord 24-70, sec 8.)

Division 7. A, Agricultural Districts.

Section 25-5-70. Purpose and applicability.

The A (agricultural) district provides for agricultural and very low density agriculturally-based residential use, encompassing rural areas of good to marginal agricultural and grazing land, forest land, game habitats, and areas where urbanization is not found to be appropriate.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-71. Designation of A districts.

Each A (agricultural) district shall be designated on the zoning map by the symbol “A” followed by a number together with the lower case letter “a” which indicates the required or minimum number of acres for each building site. For example, A-10a means an agricultural district with a minimum building site area of ten acres.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-72. Permitted uses.

(a) The following uses shall be permitted in the A district:

- (1) Agricultural parks.
- (2) Agricultural products processing, major and minor.
- (3) Agricultural tourism as permitted under section 25-4-15.
- (4) Animal hospitals.
- (5) Apiaries.
- (6) Aquaculture.
- (7) Botanical gardens, nurseries and greenhouses, seed farms, plant experimental stations, arboretums, floriculture, and similar uses dealing with the growing of plants.
- (8) Campgrounds, parks, playgrounds, tennis courts, swimming pools, and other similar open area recreational facilities, where none of the recreational features are entirely enclosed in a building.
- (9) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
- (10) Crop production.
- (11) Dwelling, single-family, as permitted under chapter 205, Hawai'i Revised Statutes and as permitted under section 25-5-77(b).
- (12) Farm dwellings, as permitted under section 25-5-77(b) and (c).

- (13) Fertilizer yards utilizing only manure and soil, for commercial use.
 - (14) Forestry.
 - (15) Game and fish propagation.
 - (16) Group living facilities.
 - (17) Kennels.
 - (18) Livestock production, provided that piggeries and pen feeding of livestock shall only be located on sites approved by the State department of health and the director, and must be located no closer than one thousand feet away from any major public street or from any other zoning district.
 - (19) Public uses and structures which are necessary for agricultural practices.
 - (20) Retention, restoration, rehabilitation, or improvement of building or sites of historic or scenic interest.
 - (21) Riding academies, and rental or boarding stables.
 - (22) Roadside stands for the sale of agricultural products grown on the premises.
 - (23) Telecommunication antenna and towers, as permitted under section 25-4-12.
 - (24) Utility substations, as permitted under section 25-4-11.
 - (25) Vehicle and equipment storage areas that are directly accessory to aquaculture, crop production, game and fish propagation, livestock grazing and livestock production.
 - (26) Veterinary establishments.
 - (27) Wind energy facilities.
- (b) The following uses may be permitted in the A district, provided that a use permit is issued for each use:
- (1) Golf courses and related golf course uses, including golf course driving ranges, golf maintenance buildings and golf club houses, provided that the property is within the state land use urban or rural district. Golf courses and golf driving ranges shall not be permitted within the state land use agricultural district unless approved by the County before July 1, 2005.
- (c) The following uses may be permitted in the A district, provided that a special permit is obtained for such use if the building site is located within the State land use agricultural district:
- (1) Adult day care homes.
 - (2) Airfields, heliports, and private landing strips.
 - (3) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (4) Excavation or removal of natural building material or minerals, for commercial use.
 - (5) Family child care homes.
 - (6) Guest ranches.
 - (7) Home occupations, as permitted under section 25-4-13.
 - (8) Lodges.
 - (9) Model homes, as permitted under section 25-4-8.
 - (10) Public dumps.

- (11) Public uses and structures, other than those necessary for agricultural practices, as provided under section 25-4-11.
 - (12) Temporary real estate offices, as permitted under section 25-4-8.
 - (13) Trailer parks with density of three thousand five hundred square feet of land area per trailer, provided that plan approval is secured prior to commencing such use.
 - (14) Uses, other than those specifically listed in this section, which meet the standards for a special permit under chapter 205, Hawai'i Revised Statutes.
 - (d) The following uses may be permitted in the A district, provided that either a use permit is issued for each use if the building site is outside of the State land use agricultural district or a special permit is issued for each use if the building site is within the State land use agricultural district:
 - (1) Bed and breakfast establishments, as permitted under section 25-4-7.
 - (2) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (3) Day care centers.
 - (4) Hospitals, sanitariums, old age, convalescent, nursing and rest homes.
 - (5) Major outdoor amusement and recreation facilities.
 - (6) Medical clinics.
 - (7) Meeting facilities, including special events, as permitted under section 25-4-17.
 - (8) Schools.
 - (9) Special events.
 - (e) Buildings and uses accessory to the uses permitted in this section shall also be permitted in the A district.
 - (f) No building site shall be established after December 1, 1996 which shall in any way restrict or limit aquaculture, horticulture, production of crops, keeping of livestock, game and fish propagation, or the processing, sale or other commercial use of the products of such uses.
- (1996, ord 96-160, sec 2; ratified April 6, 1999; am 2008, ord 08-155, sec 13; am 2010, ord 10-17, sec 6; am 2012, ord 12-28, sec 9; ord 12-124, sec 8; am 2014, ord 14-86, sec 9; am 2021, ord 21-26, sec 10; am 2024, ord 24-65, secs 7, 8, and 10; am 2025, ord 25-55, secs 8 and 9; ord 25-66, sec 16.)

Section 25-5-73. Height limit.

The height limit in the A district shall be thirty-five feet for any residential structure, including any single-family dwelling, or farm dwelling, and forty-five feet for all other structures. The director may, however, permit by plan approval, any nonresidential agricultural structures to be constructed to a height of one hundred feet, if the director determines that the additional height above the forty-five foot height limit is necessary.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-74. Minimum building site area.

The minimum building site area in the A district shall be five acres.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-75. Minimum building site average width.

Each building site in the A district shall have a minimum average width of two hundred feet for the first five acres of required area plus twenty feet for each additional acre of required area. Provided that no building site shall be required to have an average width greater than one thousand feet.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-76. Minimum yards.

- (a) Except as otherwise provided in this section, the minimum yards in the A district shall be thirty feet for front and rear yards, and twenty feet for side yards.
- (b) For accessory uses such as shade cloth structures used in controlling the amount of sunlight in the raising of plants and flowers, rear, side and front yards in the A district shall be at least ten feet, except where the A district shares common boundaries with urban zones and main government roads.
- (c) For accessory uses such as plastic roofed and shade cloth wooden or metal framed structures used in controlling the amount of sunlight, rainfall, wind and other elements of nature in the raising of fruits, vegetables and similar agricultural products, rear, side and front yards shall be at least ten feet except where:
 - (1) Exterior walls of any type other than shade cloth are added to the wooden or metal framed structure;
 - (2) The specific use allowed is abandoned; and
 - (3) The A district shares common boundaries with urban zones and main government roads.

(1996, ord 96-160, sec 2; ratified April 6, 1999; am 1999, ord 99-110, sec 1.)

Section 25-5-77. Other regulations.

- (a) If any legal building site in the A district has an area of less than five acres, then the yard, minimum building site average width and height requirements for the building site shall be the same as the yard and height requirements in the FA district.
- (b) One single-family dwelling or one farm dwelling shall be permitted on any building site in the A district. A farm dwelling is a single-family dwelling that is located on or used in connection with a farm or if the agricultural activity provides income to the family occupying the dwelling.
- (c) Additional farm dwellings may be permitted in the A district only upon the following conditions:
 - (1) A farm dwelling agreement for each additional farm dwelling, on a form prepared by the director, shall be executed between the owner of the building site, any lessee having a lease on the building site with a term exceeding one year from the date of the farm dwelling agreement, and the County. The agreement shall require the dwelling to be used for farm-related purposes.

- (2) The applicant shall submit an agricultural development and use program, farm plan or other evidence of the applicant's continual agricultural productivity or farming operation within the County to the director. Such plan shall also show how the farm dwelling will be utilized for farm-related purposes.
 - (d) An accessory dwelling unit may be located on any building site in the A district, as permitted under article 6, division 3 of this chapter.
 - (e) Exceptions to the regulations for the A district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.
- (1996, ord 96-160, sec 2; ratified April 6, 1999; am 2015, ord 15-33, sec 4; am 2024, ord 24-70, sec 8.)

Division 8. IA, Intensive Agricultural Districts.

Section 25-5-80. Purpose and applicability.

The IA (intensive agricultural) district provides for the preservation of important agricultural lands as provided for in the general plan and characterized by a mix of small and large scale commercial farms and other agricultural operations which may include residential use in the form of farm dwellings closely tied to intensive agricultural use. The lands in the IA district are those lands which have the soil, quality, growing season, and moisture supply needed to sustain high yields of crops generally or of specific crops of statewide or local importance when managed according to modern farming methods. All IA districts shall be located within the State land use agricultural or conservation district.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-81. Designation of IA districts.

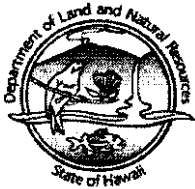
The IA (intensive agricultural) district shall be designated by the symbol "IA" followed by a number together with the lower case letter "a" which indicates the required or minimum number of acres for each building site.

(1996, ord 96-160, sec 2; ratified April 6, 1999.)

Section 25-5-82. Permitted uses.

- (a) The following uses shall be permitted in the IA district:
 - (1) Agricultural parks.
 - (2) Agricultural products processing, major and minor.
 - (3) Agricultural tourism as permitted under section 25-4-15.
 - (4) Apiaries.
 - (5) Aquaculture.
 - (6) Cemeteries, as permitted under chapter 6, article 1 of this Code.
 - (7) Crop production.
 - (8) Farm dwellings, as permitted under sections 25-5-87(b) and (c).
 - (9) Forestry.

LINDA LINGLE
GOVERNOR OF HAWAII



PLANNING DEPARTMENT
COUNTY OF HAWAII

JUN 25 PM 3:29

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

June 22, 2009

Steven S. C. Lim, Esq.
Carlsmith Ball LLP
P.O. Box 686
Hilo, HI 96721

LOG NO: 2009.2433
DOC NO: 0906TD07
Archaeology

Dear Mr Lim:

**SUBJECT: Chapter 6E-42 Historic Preservation Review -
Amendment to a Change of Zone Ordinance 06-137 & 06-138
(REZ 709, Docket Ref. No. 91-000003; REZ 524, Docket Ref. No. 85-00034)
Hienaloli Ahupua'a, North Kona District, Island of Hawai'i
TMK: (3) 7-5-10: 13 (por.)**

This is a follow up of our letter to Christopher Yuen dated December 4, 2008 regarding the historic preservation status of the subject residential condominium project. In our prior letter, we requested an opportunity to conduct a site visit to determine the condition of two historic properties that were designated for preservation within the project area. The applicant contacted our office in April and SHPD staff visited the project area May 20, 2009.

The preservation sites include a section of the Kuakini Wall (SIHP Site 7276) and a burial site that was identified during inventory survey in 1990 (SIHP Site 13673). The preservation plan for the burial site, approved by our office in 1992, stipulated a 10-foot no excavation buffer and a 20-foot no construction buffer. During the May 20 site visit, an interim protection fence was observed around Site 13673; however it does not appear to be at the 20-foot no construction buffer zone line. We request that prior to initiation of construction work on the site, the protective fencing be adjusted around Site 13673 so that it follows the 20-foot buffer line.

During the May 20 site visit, we also noted the presence of what appear to be additional features at Site 13673. It is uncertain whether these features are remnants of the original platform that was at the site (which was supposedly reconstructed), or are new features that were not recorded or tested during the 1990 survey. The general area of Site 13673 will need to be further assessed to determine the origin of these additional features, and they will possibly need to be documented prior to ground alteration in the vicinity of this site.

The approved preservation plan states that the Kuakini Wall will be preserved and stabilized, with the exception of a single breach for a proposed roadway. During the May 20 site visit, it was determined that the breach has been made in the wall. The edges of the breach will need to be stabilized on both sides and all remaining sections of the wall will need to be protected during additional construction activities. At this time, there is no protective fencing along the wall to indicate that it is in preservation status. We request that prior to initiation of construction work on the site, interim protective fencing is installed along both sides of the intact portions of the Kuakini Wall. The protective fencing should be set at with 15-foot construction buffer between the wall and the fencing.

Planning Dept.
Exhibit 6

054059

We will be requesting either a site visit by our staff, or a written statement from an archaeologist, to verify that the fencing around both sites is correctly in place, and the questions regarding Site 13673 are addressed prior to recommending approval of a grading permit for this project.

Please contact Theresa Donham at (808) 933-7653 if you have any questions regarding this letter.

Aloha,

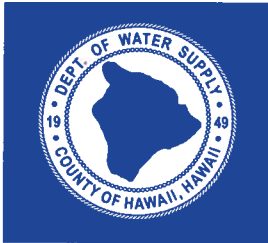
Nancy A. McMahon

Nancy McMahon, Deputy SHPO/State Archaeologist
and Historic Preservation Manager
State Historic Preservation Division

cc: Bobby Jean Leithead-Todd, Planning Director
County of Hawai'i Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720-4224

Analú K. Josephides, Culture Historian, SHPD
40 Po'okela Street, Hilo, Hawai'i 96720

ROUTE SLIP - DATE _____	
☐ DIRECTOR	_____
☐ DEPUTY	_____
☐ PVT. SECRETARY	_____
☐ LONG RANGE DIVISION	_____
☐ PLANNER	_____
☐ SHORT RANGE DIVISION	_____
☐ PLANNER	_____
☐ DRAFTING SECTION	_____
☐ DRAFTSMAN	_____
☐ GENERAL ADMINISTRATION	_____
☐ SECRETARY TO COMMISSION	_____
☐ FILE	☐ REVIEW AND COMMENT
☐ SIGN ME	☐ APPROPRIATE ACTION
☐ CIRCULATE	☐ INVESTIGATE & REPORT
☐ DRAFT REPLY	☐ RECOMMENDATION
REMARKS _____	



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKŪANAO'A STREET, SUITE 20 • HILO, HAWAII 96720
TELEPHONE (808) 961-8050 • FAX (808) 961-8657

December 12, 2008

TO: Mr. Daryn Arai, Acting, Planning Director
Planning Department

FROM: Milton D. Pavao, Manager

SUBJECT: **CHANGE OF ZONE ORDINANCE NO. 06-137 (REZ 709)**
CHANGE OF ZONE ORDINANCE NO. 06-138 (REZ 524)
REQUEST: AMENDMENT TO CONDITION C
(DEADLINE FOR FINAL PLAN APPROVAL AND
COMPLETION OF CONSTRUCTION)
APPLICANT – SAMSON LLC
TAX MAP KEY 7-5-010:013

We have reviewed the subject time extension request and have the following comments and conditions.

Please be informed that the applicant has an existing water commitment of 50 units of water for the subject parcel. Twenty-eight (28) of the units are committed through previously existing service laterals and the facilities charge has been paid. Twenty-two (22) additional units of water are committed to the subject parcel through payment of a water commitment deposit, which will expire by February 28, 2010. Each unit of water is limited to an average daily usage of 400 gallons per day.

The 22-unit water commitment may be extended beyond the expiration date in 1-year increments through payment of a \$3,300.00 water commitment deposit (22 units @ \$150.00/unit), paid prior to the expiration date. However, the Department reserves the right to evaluate whether its existing water system can still support the additional demand at the time that the water commitment time extension is requested and water availability may be subject to change.

We have no objection to the subject time extension request, subject to the applicant understanding and accepting that the Department can only support 50 units of water for the subject parcel at this time. Extensive offsite improvements would be needed to provide additional water beyond 50 units, which may include, but not be limited to, source, storage, booster pumps, and transmission facilities. Currently funding is not available and no time schedule is set for such improvements by the Department.

Our comments from our March 2, 2007 letter to the applicant (copied to your Department) still stand.

Should there be any questions, please contact Mr. Finn McCall of our Water Resources and Planning Branch at 961-8070, extension 255.

Sincerely yours,

Milton D. Pavao, P.E.
Manager



FM:dfg

copy – Samson LLC
Carlsmith Ball LLP

... *Water brings progress...*

Planning Dept.
Exhibit 7



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720

TELEPHONE (808) 961-8050 • FAX (808) 961-8657

February 6, 2026

COH PLANNING DEPT
FEB 10 2026 PM 3:02

REC'D HAND DELIVERED

TO: Mr. Jeffrey Darrow, Director
Planning Department

FROM: Keith K. Okamoto, Manager-Chief Engineer

SUBJECT: **Planning Director Initiated (PL-PDI-2026-000015) to Repeal of Change of Zone Ordinance No. 19-038 (REZ 17-000220)**
Landowners: Andy and Kerry Xie Trust, Wei Lin Zhao, Eulix Chiu, Fang and Han Trust and Fred Ming Li
Tax Map Key (3)-7-5-010:013 Hienaloli 4th and 5th, North Kona, Hawai'i

We have reviewed the subject application and have the following comments.

Please be informed that the subject parcel has an existing water commitment of 22 units of water. Pursuant to Rule 5 of the Department's Rules and Regulations, a copy of which is being forwarded to the applicant, the water commitment will be forfeit with the repeal of Change of Zone Ordinance No. 19-038. The total water commitment deposit to date of \$56,100.00 will be forfeited. If forfeited, water availability may be subject to change, depending on prevailing conditions.

Should there be any questions, please contact Mr. Michael Mori of our Water Resources and Planning Branch at (808) 961-8070, extension 257.

Sincerely yours,


Keith K. Okamoto, P.E.
Manager-Chief Engineer

MM:dfg

copy – Daryn Arai
Andy/Kerry Xie Trust (w/copy of Rule 5 of the Rules and Regulations)

Planning Dept.
Exhibit 8

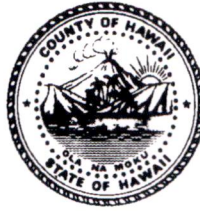
... Water, Our Most Precious Resource ... Ka Wai A Kāne ...

The Department of Water Supply is an Equal Opportunity provider and employer.

C. Kimo Alameda, Ph.D.
Mayor

William V. Brilhante, Jr.
Managing Director

Merrick Nishimoto
Deputy Managing Director



Kehaulani M. Costa
Housing Administrator

Keiko M. Mercado
Assistant Housing Administrator

County of Hawai'i
Office of Housing and Community Development

1990 Kino'ole Street, Suite 102 • Hilo, Hawai'i 96720 • (808) 961-8379 • Fax (808) 961-8685
Existing Housing: (808) 959-4642 • Fax (808) 959-9308
Kona: (808) 323-4300 • Fax (808) 323-4301

February 18, 2026

Via Electronic Mail

Planning Department
74-5044 Ane Keohokalole Hwy
Kailua Kona, HI 96740
Email: Planning@hawaiicounty.gov

**SUBJECT: RESPONSE FOR PL-PDI-2026-000015 TO REPEAL ORDINANCE 19-038
FOR PROPOSED DEVELOPMENT AT TMK (3)7-5-010:013**

The County of Hawai'i Office of Housing and Community Development (OHCD) is in receipt of your memorandum dated January 21, 2026, repeal of Ordinance 19-038 for the proposed development at TMK:(3)7-5-010:013 and provides the following comments.

OHCD recognizes that the new owner of the subject property wishes to repeal Ordinance 19-038. We also acknowledge that various owners have pursued multiple rezoning and land-use actions over the years. It is our understanding that the Planning Department has evaluated the request and determined that the owner's new request will revert the zoning to the original condition, which would not constitute a rezone, and therefore does not trigger Chapter 11 Hawai'i County Code.

We respectfully request that the Planning Department defer to OHCD for any statements related to past or current attempts to satisfy any affordable housing requirements. Additionally, we strongly recommend that any new zoning actions include an affordable housing condition.

Should you have any additional questions, please don't hesitate to contact Cristina Pineda at Cristina.Pineda@hawaiicounty.gov.

Thank you for the opportunity to comment.

A handwritten signature in black ink, appearing to read "Kehaulani".

Kehaulani M. Costa
Housing Administrator

Planning Dept.
Exhibit 9



**DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII**

DATE: February 20, 2026

Memorandum

TO: Jeffrey W. Darrow, Planning Director

FROM: Department of Public Works, Engineering Division

**SUBJECT: PLANNING DIRECTOR INITIATED (PL-PDI-2026-000015) TO REPEAL
CHANGE OF ZONE ORDINANCE NO. 19-038 (REZ 17-000220)**

Landowners: Andy and Kerry Xie Trust, Wei Lin Zhao, Eulix Chiu, Fand nd
Han Trust and Fred Ming Li

TMK: 7-5-010:013

We have reviewed the subject request dated January 21, 2026, and offer the following comments:

Hualalai Road is a County Road with a substandard right-of-way where it fronts portions of the subject property. We believe the improvements and reviews required in Items D through L of the subject Change of Zoning Ordinance provide public welfare and safety and are recommended by the Department of Public Works on developments comparable to what has been proposed by the Landowners after the repeal.

We note that the property and roadway may be exempted from the improvements and reviews typically required of developments similar to that proposed by the landowners by this repeal.

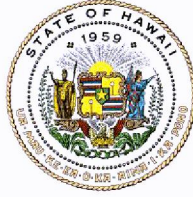
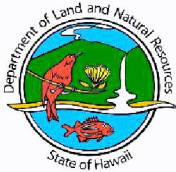
However, should the Planning Director determine that repeal of the Change of Zone Ordinance is reasonable, we defer to the director's authority.

Questions may be referred to Amy Cook at 961-8695.

Planning Dept.
Exhibit 10

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD, STE 555
KAPOLEI, HAWAII 96707

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

CIARA W.K. KAHAHANE
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

April 7, 2026

Jeff Darrow, Director
County of Hawai'i
Planning Department
101 Pauahi Street, Suite 3
Hilo, HI 96720
planning@hawaiiicounty.gov

IN REPLY REFER TO:
Project No. 2026PR00115
Doc. No. 2603SN06
Archaeology

Dear Mr. Darrow:

SUBJECT: **Hawaii Revised Statutes (HRS) §6E-42 Historic Preservation Review—
County of Hawai'i Planning – Rezone Reversion PL-PDI-2026-000015
Repeal of Change of Zone Ordinance No. 19-38
Lanikai 1 and 2 Ahupua'a, North Kona District, Island of Hawai'i
TMK: (3) 7-5-010:013 (Lots: A-1 & A-2 Road Widening Lot)**

This letter provides the State Historic Preservation Division's (SHPD's) review of the County of Hawaii Planning Department's (Planning) request for comments on the subject rezone reversion (PL-PDI-2026-000015) application. SHPD received this submission on February 2, 2026, which included a letter from the applicant's consultant requesting Planning repeal a County of Hawaii Ordinance dated June 30, 2025, and a copy of the original ordinance (COZ Ordinance No. 19 38).

The current submittal indicates that the landowners are requesting that the current zoning district for the project parcel be reverted to its original designation that will result in 3.227 acres reverting from RM-2.5 to A-5a (previously Unplanned) and 3.331 acres from CV-7.5 to RD-3.75. The 3.227-acre portion of the subject property will remain a single agricultural parcel under A-5a zoning. This portion was redesignated from State Land Use Agricultural to Urban in 1992 (Ordinance No. 92-35), and the landowners want to keep the Urban designation due to the property's location in the Kona Urban Area per the Kona Community Development Plan.

SHPD records indicate that the proposed project area was subject to an archaeological inventory survey (Barrera 1990). The survey identified 7 historic properties, of which 5 are located within the proposed project area. The documented State Inventory of Historic Places (SIHP) sites consist of the Great Wall of Kuakini (50-10-28-07276), a habitation platform (50-10-28-13670), a rectangular platform (50-10-28-13672), a free-standing stone wall (50-10-28-13671), and a burial cyst (50-10-28-13673) identified during data recovery. The archaeological data recovery report (Barrera 1995) documented mitigation measures for the previous project. Construction activities on the parcel exposed a lava tube (SIHP 50-10-28-19038) that contained numerous artifacts. SIHP 50-10-28-19038 was believed to be connected to SIHP 50-10-28-13574, however it appeared to be blocked at the east end of the tube and outside the current project area.

The previous archaeological survey does not meet the current standards for an AIS established in Hawaii Administrative Rules (HAR) Chapter 13-276. Previously unidentified historic properties may be located within the subject parcel. **SHPD has no objections** to the proposed repeal of the existing zone ordinance, however, **SHPD requests** the opportunity to review any future projects within the current

parcel in order to determine the potential for a proposed project to have an adverse impact to historic properties.

At this time, SHPD has insufficient information to determine the potential of future development to impact historic properties. **SHPD requests** that an archaeological literature review and field inspection (LRFI). If previously- or newly-identified historic properties exist in the current project area, **SHPD will request** that an AIS be completed, including identification and documentation of all sites and features, and assessments of site integrity and significance, and eligibility for listing in the Hawaii Register of Historic Places, and that an AIS report meeting the requirements of HAR §13-276-5 be submitted for review and acceptance prior to permit issuance.

SHPD looks forward to the opportunity to review the results of the identification process. For a list of approved archaeological consultants, please visit the SHPD website at:
<http://dlnr.hawaii.gov/shpd/about/branches/archaeology/>

Following the completion of the LRFI, SHPD requests the LRFI report, along with a copy of this letter, be submitted to SHPD HICRIS Project No. 2026PR00115 in response to the request.

Please contact Sean Nāleimaile, Hawaii Island Archaeologist IV, at Sean.P.Naleimaile@hawaii.gov for any matters regarding archaeological resources or this letter.

Aloha,



Jessica Puff, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: Jessica Andrews, jessica.andrews@hawaiicounty.gov

Daryn Arai
Land Use Planning Consultant

April 9, 2026

Mr. Jeffrey Darrow, Planning Director
County of Hawai'i Planning Department
101 Pauahi Center, Suite 3
Hilo, HI 96720

Dear Director Darrow:

Subject: Response to Agencies' Comments regarding Repeal of Change of Zone Ordinance No. 19-38 to allow for reversion of zoning districts of 6.467 acres of land to its original zoning district designations of RD-3.75 and A-5a (formerly Unplanned)
Landowners: Andy Xie and Kerry Xie as Trustees of the Andy and Kerry Xie Family Trust; Fred Ming Li; Jack Qun Fang and Bo Han as Co-trustees of the Fang/Han Living Trust, U/A; Wei Lin Zhao; and Eulix Chiu
TMK: 7-5-010:013 (Lots A-1 & A-2 Road Widening Lot), Hienaloli 4th & 5th, North Kona

The owners of the above-described property, through this letter, wishes to respond to agencies' comments received in response to the above-described action pending before your office and the Leeward Planning Commission and as provided below:

Department of Water Supply (memo dated February 6, 2026)

The Department of Water Supply (DWS) has indicated that the subject property has an existing water commitment of 22 units of water that will be forfeit upon the repeal of Ordinance No. 19-038 along with water commitment deposits paid to date of \$56,100.00.

The owners of the subject property believes that a forfeit of all the water commitment deposits paid to date is inconsistent with DWS rules and is requesting reconsideration of this proposed action, as explained in further detail below.

At the request of the landowners, the Planning Director initiated the repeal Ordinance No. 19-038 in order to dispose of Ordinance No. 19-038 that originally presented a 104-unit senior independent living community on the 6.558-acre property. Based on this original representation, the previous landowner secured water commitments for an additional 22 units of water to supplement the existing 28-units of water allocated to the property. The previous and current landowners have been paying the annually required water commitment fees with the understanding that a total of 50 units of water can be made available to the subject property subject to compliance with departmental policies and requirements.

With an effective date of May 11, 2019, Ordinance No. 19-038 required the completion of the proposed 104-unit independent senior living facility or other uses allowed within the Multiple Family (RM-2.5) and Village Commercial (CV-7.5) zoning districts on or before May 11, 2024. Since this performance deadline has lapsed, there are really only 3 options:

1. Amend Ordinance No. 19-038 to allow for additional time to complete the senior independent living facility or other permitted multiple-family and/or commercial uses;
2. Apply for a new rezoning that will present a new development concept; or
3. Repeal Ordinance No. 19-038 to revert the lands back to its original RD-3.75 and A-5a configuration.

The current landowners, who purchased the subject property in February 2024, have no desire to pursue the development of a 104-unit senior living facility nor do they wish to attempt any effort to secure a time extension to complete a higher-density project. Upon repeal of Ordinance No. 19-038 and reversion of the property back to its original RD-3.75 and A-5a zoning districts, the landowners will then pursue the development of 19 duplex residential units (38-units total) on the RD-3.75 zoned lands and a single-family dwelling plus 3 additional dwelling units (ADUs) on the A-5a zoned lands.

As discussed above, use of the property is “in limbo” until such time the County Council acts upon the landowners’ request to revert the zoning of the property back to its original zoning designations that existed prior to June 27, 1973. The action by the Planning Director to repeal Ordinance No. 19-038 will not deprive the landowner of any use of the subject property and will simply remove an impediment to the development of the land by eliminating an existing ordinance that envisioned a much larger project that is no longer being pursued that will then allow a new and smaller project to move forward.

For the reasons explained above, the landowners have requested that the Department of Water Supply to reconsider its position that the pending action to repeal Ordinance No. 19-038 will result in the forfeiture of all water commitment deposits paid to date totaling \$56,100.00.

The Department of Water Supply has consistently expressed over the years that its water system can only support 50 dwelling units on the subject property. We understand the Department’s rules regarding the issuance of water commitments for “...*a proposed new project or development, meeting the Department’s minimum standards...*” that is associated with “...*rezoning requests, Land Use change requests, all other project development requests*”. Technically speaking, the repeal of Ordinance No. 19-038 is a “rezoning request”, a “Land Use change request” and a “project development request” as this action seeks to change the zoning of the subject property back to its original and

more appropriate designation in order to support a smaller, 38-unit duplex residential community and a single-family dwelling plus 3 ADUs on a separate 5-acre agricultural lot.

In summary, the landowners are requesting that a total of 14 additional units of water be made available to support the currently proposed project and that the water commitment deposits equal to 14 additional units paid 17 times be credited towards the final facilities charges for the smaller project. The landowners understand that the water commitment deposits for 8 additional units of water may be forfeited due to the smaller overall scope of the current project.

We are anticipating a meeting with the department in mid-April. This issue should have no direct effect on the repeal action which the landowner continues to support.

State Dept of Land & Natural Resources-Historic Preservation (letter dated April 7, 2026)

The landowners acknowledge that SHPD has no objection to the Director-initiated repeal of Ordinance 19-38. As with all uses of land, the landowners are aware of existing permitting processes that require consultation with and actions by SHPD.

Department of Public Works (memo dated February 20, 2026)

The Department of Public Works (DPW) has recommended that road widening and shoulder improvements to Hualalai Road fronting the subject property, as expressed by Conditions D through L of Ordinance No. 09-038, be required due to public welfare and safety considerations associated with the development of the subject property as may be allowed by the

Landowners are willing to subdivide and donate the land necessary to widen Hualalai Road *after* the issuance of Plan Approval and issuance of building permits for a duplex project as permitted by the RD-3.75 zoning district. Once land necessary for the road widening has been granted final subdivision approval, the County be able to secure ownership of the land and pursue any desired road shoulder improvements as it deems fit.

Office of Housing and Community Development (OHCD) (memo date February 18, 2026)

The landowners appreciate the confirmation by OHCD that the proposed repeal of Ordinance No. 19-038 does not constitute a rezoning action and therefore, does not trigger Chapter 11 of the Hawai'i County Code regarding Affordable Housing.

Mr. Jeffrey Darrow, Planning Director
County of Hawai'i Planning Department
Page 4 of 4
April 9, 2026

We hope that this letter provides an adequate and appropriate response to the comments received from the reviewing agencies. Should additional information be necessary, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daryn Arai', with a stylized flourish at the end.

DARYN ARAI
Land Use Planning Consultant

copy via email: Andy Xie, et. al.
