

LINDA LINGLE  
GOVERNOR  
STATE OF HAWAII



MICAH A. KANE  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

BEN HENDERSON  
DEPUTY TO THE CHAIRMAN

KAULANA H. PARK  
EXECUTIVE ASSISTANT

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 1879

HONOLULU, HAWAII 96805

December 26, 2007

The Honorable Christopher J. Yuen  
Planning Director  
County of Hawaii  
101 Pauahi Street, Suite 3  
Hilo, Hawaii 96720-3043

Dear Mr. Yuen:

Subject: Designation of Zoning  
Kealakehe, North Kona, Hawaii  
TMK No.: (3) 7-4-008:072

Please be advised that, pursuant to the Memorandum of Agreement Between the County of Hawaii and the Department of Hawaiian Home Lands ("Department") dated December 27, 2002, the Department hereby designates the district classification for the land referenced above by tax map key above as "Project District."

The referenced parcel consists of 200 acres. The State Land Use District classification for the property is Urban. The Hawaii County Land Use Pattern Allocation Guide Map designates the property Urban Expansion. It is anticipated that the development of the property will include a mix of commercial uses that are permitted within the Project District classification. Enclosed is a summary of the standards for this Project District, together with a metes and bounds description. In the future, we will refer to this property's zoning as the "Kealakehe Makai Project District."

The Kealakehe Makai Project District is also consistent with the Department's Hawaii Island Master Plan commercial designation for this property.

000001

The Honorable Christopher J. Yuen

December 26, 2007

Page 2

Please feel free to contact Linda Chinn, Administrator of our Land Management Division should you have any questions about the information that we have provided in this letter.

Aloha and Mahalo,

A handwritten signature in black ink, appearing to read 'MK', with a long horizontal stroke extending to the right.

Micah A. Kane, Chairman  
Hawaiian Homes Commission

Enc.

c: Commissioner Malia Kamaka

**KEALAKEHE MAKAI PROJECT DISTRICT  
DEPARTMENT OF HAWAIIAN HOME LANDS**

**Project District Area.**

The project district area shall be called the Kealakehe Makai Project District. It is located at Kealakehe, North Kona, Island of Hawaii, and comprises 200 acres. A metes and bounds description of the project district area is attached.

**General Description of Planned Development.**

The Department of Hawaiian Home Lands ("DHHL") has leased the project district area ("DHHL parcel") to Kona Marina Development, LLC ("Lessee"). The DHHL parcel is to be developed with a mix of uses including commercial enterprises that serve visitor and local resident demands, open space, community facilities, and infrastructure to support those uses, as well and regional infrastructure needs.

**Residential and Hotel/Time Share Unit Density.**

The Kealakehe Makai Project District does not include a residential component. The maximum number of hotel/time share units-within the 200 acre parcel is 800 units.

**Project Infrastructure and Community Facilities.**

Internal infrastructure and community facilities are planned to be developed privately. The State and County shall not be obligated to construct any public facilities within the DHHL parcel. However, DHHL and Lessee are currently engaged with State and County agencies in coordination of regional infrastructural improvements within and adjacent to the DHHL parcel and intend to continue to work with those agencies.

**Permitted Uses.**

The permitted uses set forth in section 25-6-43, Chapter 25, Hawaii County Code will also be permitted in the Kealakehe Makai Project District.

### **Design Standards.**

The following design standards shall apply within the Kealakehe Makai Project District:

1. Landscaping for the development shall comply with the Planning Department's Rule No. 17, Landscaping Requirements.
2. The minimum building site area shall be 5,000 square feet.
3. The maximum height limit shall be 120 feet.
4. The minimum average lot width shall be 60 feet.
5. Minimum front, rear and side yards shall be the same as those within the General Commercial (CG) district.
8. The minimum off-street parking and loading space requirements for the Kealakehe Makai Project District will comply with the minimum standards as required by the Zoning Code (effective December 1, 2007), including compliance with the American Disabilities Act (ADA) requirements.
9. Interior roadways may be designed to private road standards as allowed by the Subdivision Code.
10. For purposes of identifying other design standards or criteria that are not specifically set forth above, those applicable to the General Commercial (CG) district will apply in the Kealakehe Makai Project District, unless other standards and criteria are adopted prior to actual construction of the development.



EXHIBIT "A"

STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

August 24, 2000

C.S.F. No. 23,008

PORTION OF THE GOVERNMENT LAND  
OF KEALAKEHE

PARCEL 1

Kealakehe, North Kona, Island of Hawaii, Hawaii

Beginning at the east corner of this parcel of land and on the southwest side of Queen Kaahumanu Highway Widening, Project No. 19AB-02-97, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHUOLU" being 4646.65 feet North and 5314.51 feet East, thence running by azimuths measured clockwise from True South:-

1. 57° 59' 20"                      821.25 feet along Addition to Kealakehe Wastewater Treatment Plant;
2. Thence along Addition to Kealakehe Wastewater Treatment Plant on a curve to the right with a radius of 1440.00 feet, the chord azimuth and distance being:  
67° 24' 40"      471.48 feet;
3. 76° 50'                              266.67 feet along Addition to Kealakehe Wastewater Treatment Plant;
4. 166° 50'                            1210.00 feet along Addition to Kealakehe Wastewater Treatment Plant;
5. 76° 50'                              2138.25 feet along Addition to Kealakehe Wastewater Treatment Plant;
6. 123° 04' 20"                      1166.04 feet along Parcel 2 of the Government Land of Kealakehe;
7. 213° 04' 20"                      1345.23 feet along the southeast side of Kealakehe Parkway;

8. 213° 04' 20" 30.00 feet along the southeast side of Kealakehe Parkway;
9. Thence along the southeast side of Kealakehe Parkway on a curve to the right with a radius of 1440.00 feet, the chord azimuth and distance being:  
213° 40' 09" 30.01 feet;
10. Thence along the southeast side of Kealakehe Parkway on a curve to the right with a radius of 1440.00 feet, the chord azimuth and distance being:  
222° 24' 21" 407.77 feet;
11. Thence along the southeast side of Kealakehe Parkway on a curve to the right with a radius of 1440.00 feet, the chord azimuth and distance being:  
231° 20' 29" 40.00 feet;
12. Thence along the southeast side of Kealakehe Parkway on a curve to the right with a radius of 1440.00 feet, the chord azimuth and distance being:  
239° 03' 47" 347.28 feet;
13. 245° 59' 20" 1201.98 feet along the southeast side of Kealakehe Parkway;
14. Thence along the southeast side of Kealakehe Parkway on a curve to the left with a radius of 1560.00 feet, the chord azimuth and distance being:  
244° 23' 34.5" 86.90 feet;
15. Thence along the southeast side of Kealakehe Parkway on a curve to the left with a radius of 1560.00 feet, the chord azimuth and distance being:  
241° 59' 20" 44.00 feet;
16. Thence along the southeast side of Kealakehe Parkway on a curve to the left with a radius of 1560.00 feet, the chord azimuth and distance being:  
239° 35' 05.5" 86.90 feet;
17. 237° 59' 20" 151.11 feet along the southeast side of Kealakehe Parkway;
18. Thence along the southwest corner of the intersection of Kealakehe Park and Queen Kaahumanu Highway Widening, Project No. 19AB-02-97 on a curve to the right with a radius of 50.00 feet, the chord azimuth and distance being:  
282° 59' 20" 70.71 feet;

- 19. 327° 59' 20" 3523.56 feet along the southwest side of Queen Kaahumahu Highway Widening, Project No. 19AB-02-97 to the point of beginning and containing an AREA OF 200.000 ACRES.

Vehicle access shall not be permitted into and from Kealakehe Parkway over and across Courses 10, 12, 13, 14, 16 and 17 of the above-described parcel of land.

Vehicle access also shall not be permitted into and from Queen Kaahumanu Highway Widening, Project No. 19AB-02-97 over and across Courses 18 and 19 of the above-described parcel of land.

Reserving to the State of Hawaii, its successors and assigns, a Perpetual Non-Exclusive Irrigation Easement as shown on plan attached hereto and made a part hereof and more particularly described as follows:

Beginning at the east corner of this easement, being also the initial point of beginning of the above-described parcel of land, thence running by azimuths measured clockwise from True South:-

- 1. 57° 59' 20" 60.00 feet along Addition to Kealakehe Wastewater Treatment Plant;
- 2. 147° 59' 20" 3573.56 feet;
- 3. 237° 59' 20" 10.00 feet along the southeast side of Kealakehe Parkway;
- 4. Thence along the southeast corner of the intersection of Kealakehe Parkway and Queen Kaahumanu Highway Widening, Project No. 19AB-02-97 on a curve to the right with a radius of 50.00 feet, the chord azimuth and distance being:  
282° 59' 20" 70.71 feet;

23,008


C.S.F. No. \_\_\_\_\_

August 24, 2000

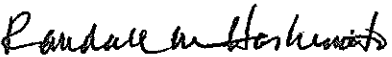
5. 327° 59' 20"

3523.56 feet along the southwest side of Queen  
Kaahumanu Highway Widening, Project  
No. 19AB-02-97 to the point of beginning  
and containing an AREA OF 4.910  
ACRES.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By:   
Stanley T. Masegawa  
Licensed Land Surveyor No. 3632 gm

Reviewed and Approved by:

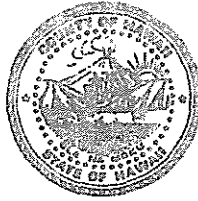
  
Randall M. Hashimoto  
State Land Surveyor

Compiled from CSF 12168,  
14056, 14057, 15706, 19656,  
20876 and other Govt. Survey  
Records.  
TMK: 7-4-08:por. 3





Harry Kim  
Mayor



Christopher J. Yuen  
Director

Brad Kurokawa, ASLA  
LEED® AP  
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224  
(808) 961-8288 • FAX (808) 961-8742

February 4, 2008

Mr. Micah A. Kane, Chairman  
Hawaiian Homes Commission  
STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS  
P. O. Box 1879  
Honolulu, HI 96805

Dear Mr. Kane:

**SUBJECT: DESIGNATION OF ZONING  
KEALAKEHE, NORTH KONA, HAWAII  
TAX MAP KEY: (3) 7-4-008:072**

We acknowledge receipt of your letter dated December 26, 2007, designating "Project District" zoning for TMK No. 7-4-008:072, a 200 acre parcel located on the makai side of the Queen Kaahumanu Highway, generally mauka of the Honokohau Boat Harbor. We concur that this is your prerogative under Paragraph III (C) of the Memorandum of Agreement between the Department of Hawaiian Home Lands and the County of Hawai'i. We will revise our zoning maps to show this zoning designation. The letter specifies a maximum of 800 hotel and timeshare units in this Project District, plus an unspecified amount of commercial uses and public facilities. This zoning designation appears to involve the project called "Kona Kai 'Ola," proposed by Jacoby Development under contract with DHHL.

Under Par. III.D of the MOA, "all normal land use controls will be applied by Hawaii County to DHHL property according to the zoning district selected by DHHL. Except as specifically provided in the Agreement, DHHL will follow all normal land use procedures, regulations, and standards applicable to the zoning district."

Mr. Micah A. Kane, Chairman  
Hawaiian Homes Commission  
STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS  
Page 2  
February 4, 2008

In a Project District, those normal procedures and regulations include a detailed site plan, under H.C.C. sec. 25-6-46. The site plan must be fairly detailed because it substitutes for the normal plan approval requirements. Please see sec. 25-6-47 to 49. We will expect, at some point, to receive this detailed site plan, and pursuant to H.C.C. 25-6-48, the planning director's approval is a prerequisite to any development on the property. The planning director can require conditions or changes to the proposed site plan, though not, of course, to the extent of negating the zoning. The planning director can, among other factors, require conditions or changes to assure that "within reasonable limits, any natural and man-made features of community value are preserved." Sec. 25-6-47(7).

Project District zoning is a bit different from the typical zoning districts in Hawai'i County in that standards such as setbacks and height limits are not set in the zoning code as they are for other types of zoning, but are set out in the Project District rezoning ordinance. Here, of course, there is no rezoning ordinance, so your letter includes a set of "Design Standards." These include a maximum height limit of 120 feet. Please note that aspects such as the proposed heights of buildings should be included in the detailed site plan, and that this would be one of the items that the planning director can modify. (The height limits in commercial and resort zones elsewhere in Kona would not exceed 45'.)

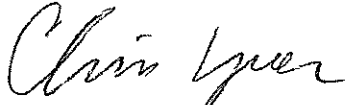
Under Par. IV.F of the MOA: "Should DHHL elect to convert its land to a more intensive land use, DHHL will be responsible for upgrading the onsite infrastructure to accommodate the new use, and will consult with the County regarding the need to upgrade offsite infrastructure. DHHL and the County shall negotiate the extent to which DHHL will be responsible for any such offsite improvements requested by the County. DHHL shall be responsible for project-related offsite improvements to the extent that these would be required of other developers with similar projects. If offsite improvements benefit other property, DHHL and the County shall cooperate so that DHHL bears only its fair share of these improvement costs."

If a purely private developer were seeking to do the same project in this location, substantial offsite infrastructure improvements would probably be imposed as a condition of zoning. Ord. 07-99, setting concurrency standards, for example, requires that major developments contribute to fix regional traffic problems when the roads are below a specified level of service. The County has been in discussions with Jacoby Development on some of these issues, and we expect that these will continue, consistent with the MOA.

Mr. Micah A. Kane, Chairman  
Hawaiian Homes Commission  
STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS  
Page 3  
February 4, 2008

If you have any questions, please contact Planning Director Chris Yuen.

Sincerely,



CHRISTOPHER J. YUEN  
Planning Director

CJY:pak  
Wpwin60/Chris 08 - Kane - DHHL Honokohau zoning designation reply.doc

cc: Mayor Harry Kim  
Kona Planning Department  
Corporation Counsel  
TMK - 7-4-008:072