

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 178

ORDINANCE NO. 00 6

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM RESORT (V), MULTIPLE FAMILY RESIDENTIAL (RM-3 AND RM-10), VILLAGE COMMERCIAL (CV-10) AND OPEN (O) TO PROJECT DISTRICT AT KAUPULEHU, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-2-10:1, PORTION OF 2, 8, 9; 7-2-12:2.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-8-3, Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kaupulehu, North Kona, Hawaii, shall be Project District:

Beginning at the southwest corner of this parcel of land, on the northerly side of Queen Kaahumanu Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "AKAHIPUU" being 20,974.30 feet North and 6,383.09 feet West, thence running by azimuths measured clockwise from True South:

1. 150° 03' 55" 5,074.59 feet along Grant 2121 to Pupule;
2. 288° 20' 40" 172.80 feet along Lots 7 and 6 of Hualalai Resort "K-1" Subdivision (File Plan 2184);
3. 275° 11' 164.76 feet along Lot 5 of Hualalai Resort "K-1" Subdivision (File Plan 2184);
4. 298° 48' 116.03 feet along Lot 4 of Hualalai Resort "K-1" Subdivision (File Plan 2184);
5. 291° 38' 126.34 feet along Lot 3 of Hualalai Resort "K-1" Subdivision (File Plan 2184);



16. Thence along Lot 1 of Hualalai Resort "K-1" Community Meeting Facility Subdivision (File Plan 2222), on a curve to the left with a radius of 939.82 feet, the chord azimuth and distance being:  
241° 50' 54" 113.17 feet;
17. Thence along Lots 1 and 2 of Hualalai Resort "K-1" Community Meeting Facility Subdivision (File Plan 2222) and the easterly end of Lot 28 (Waiulu Street) of Hualalai Resort "K-1" Subdivision (File Plan 2184), on a curve to the left with a radius of 770.00 feet, the chord azimuth and distance being:  
222° 02' 35" 433.61 feet;
18. 292° 20' 162.11 feet along the remainder of Lot 10 (Ka'upulehu Drive) of Hualalai Resort (Amended) (File Plan 2180) and along Lot 3 of Hualalai Resort (Amended) (File Plan 2180);
19. 348° 39' 351.00 feet along Lot 3 of Hualalai Resort (Amended) (File Plan 2180);
20. 334° 57' 538.57 feet along Lot 3 of Hualalai Resort (Amended) (File Plan 2180);
21. 312° 02' 561.64 feet along Lot 3 of Hualalai Resort (Amended) (File Plan 2180);
22. 281° 55' 77.94 feet along Lot 3 of Hualalai Resort (Amended) (File Plan 2180);
23. 343° 07' 261.00 feet along Lot 4 of Hualalai Resort (Amended) (File Plan 2180);
24. 239° 27' 399.10 feet along Lot 4 of Hualalai Resort (Amended) (File Plan 2180);
25. 277° 37' 82.44 feet along Lot 4 of Hualalai Resort (Amended) (File Plan 2180);

26. 199° 58' 151.10 feet along the remainder of Lot 4 of Hualalai Resort (Amended) (File Plan 2180);
27. Thence along the remainder of Lot 4 of Hualalai Resort (Amended) (File Plan 2180), on a curve to the left with a radius of 375.00 feet, the chord azimuth and distance being:  
175° 07' 315.18 feet;
28. 150° 16' 66.43 feet along the remainder of Lot 4 of Hualalai Resort (Amended) (File Plan 2180);
29. Thence along the remainder of Lot 4 of Hualalai Resort (Amended) (File Plan 2180), on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:  
195° 16' 28.28 feet;
30. 240° 16' 16.56 feet along the remainder of Lot 4 of Hualalai Resort (Amended) (File Plan 2180);
31. Thence along the remainder of Lot 4 of Hualalai Resort (Amended) (File Plan 2180), on a curve to the right with a radius of 40.00 feet, the chord azimuth and distance being:  
260° 19' 35" 27.44 feet;
32. Thence along the remainder of Lot 4 of Hualalai Resort (Amended) (File Plan 2180), on a curve to the left with a radius of 45.00 feet, the chord azimuth and distance being:  
253° 13' 51" 41.08 feet;
33. 259° 03' 257.22 feet along the remainder of Lot 4 of Hualalai Resort (Amended) (File Plan 2180);
34. 355° 23' 145.77 feet along Lot 6-K, along the remainder of R.P. 7843, L.C. Aw. 7715, Apana 10 to L. Kamehameha;
35. 338° 27' 503.00 feet along Lot 6-K, along the remainder of R.P. 7843, L.C. Aw. 7715, Apana 10 to L. Kamehameha;

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|-----|---|----------|---|
| 36. | 319° 35'  | 517.00   | feet along Lot 6-K, along the remainder of R.P. 7843, L.C. Aw. 7715, Apana 10 to L. Kamehameha; |
| 37. | 251° 23'  | 195.00   | feet along Lot 6-K, along the remainder of R.P. 7843, L.C. Aw. 7715, Apana 10 to L. Kamehameha; |
| 38. | 189° 53'  | 140.00   | feet along Lot 6-K, along the remainder of R.P. 7843, L.C. Aw. 7715, Apana 10 to L. Kamehameha; |
| 39. | 239° 33'  | 95.91    | feet along Lot 6-K, along the remainder of R.P. 7843, L.C. Aw. 7715, Apana 10 to L. Kamehameha; |
| 40. | 338° 20' 48"  | 1,598.84 | feet along the remainder of R.P. 7843, L.C. Aw. 7715, Apana 10 to L. Kamehameha;                |
| 41. | Thence along the northerly side of Queen Kaahumanu Highway, on a curve to the left with a radius of 9,400.02 feet, the chord azimuth and distance being:<br>74° 32' 52" 380.14 feet;  |          |   |
| 42. | 163° 23' 21"  | 10.00    | feet along the northerly side of Queen Kaahumanu Highway;                                       |
| 43. | Thence along the northerly side of Queen Kaahumanu Highway, on a curve to the left with a radius of 9,410.02 feet, the chord azimuth and distance being:<br>64° 06' 23.8" 3,035.74 feet to the point of beginning and containing an area of 279.18 acres, more or less. |          |   |

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

SECTION 2. This change in district classification is conditioned upon the following:

- A. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.

- B. This project area shall be called the Hualalai Resort Project District. The development period for the Hualalai Resort Project District will be 20 years from the effective date of approval of the Project District Ordinance.
- C. The Hualalai Resort Project District shall consist of not more than 279.179 acres for residential, commercial, golf course, golf clubhouse and open space and ancillary related development. Any amendment to this acreage shall require an amendment to the Hualalai Resort Project District Ordinance.
- D. The maximum number of residential units to be allowed within the Hualalai Resort Project District shall be 612 units. Any increase in the number of units shall require an amendment to the Hualalai Resort Project District Ordinance.
- E. There shall be a 150-foot wide open space fronting Queen Ka'ahumanu Highway. A copy of the metes and bounds, and proposed covenant(s) to be recorded in the Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision Approval, Final Plan Approval, or land alteration activities, whichever occurs first. The approved covenant(s) shall be recorded in the Bureau of Conveyances prior to the issuance of Final Subdivision, Final Plan Approval, or land alteration activities, whichever occurs first. A copy of the recorded covenant(s) shall be provided to the Planning Department.
- F. The applicant shall disclose to all potential buyers of lots or units within the proposed project that internal infrastructure and community facilities shall be developed and maintained privately and that the County is not obligated to construct any public facilities within the project area.
- G. The following permitted uses as defined in Chapter 25 (Zoning Code)

Ordinance No. 96-160 are to be allowed in the Hualalai Resort Project District within the 279.179 acres for residential, commercial, golf course and ancillary related development:

1. Amusement and recreation facilities, indoor.
2. Art galleries, museums.
3. Automobile service stations.
4. Bars.
5. Business services.
6. Churches, temples and synagogues.
7. Day care centers.
8. Convenience stores.
9. Community buildings.
10. Display for products sold elsewhere.
11. Dwellings, single-family.
12. Dwellings, double-family or duplex.
13. Dwellings, multiple-family.
14. Farmers Market.
15. Financial institutions.
16. Golf courses and related golf course uses, including golf driving ranges, golf maintenance buildings and golf club houses.
17. Home Occupations as permitted within Section 25-4-13 of the Zoning Code.
18. Major outdoor amusement and recreation facilities.
19. Medical clinics.
20. Meeting facilities.
21. Model homes.
22. Neighborhood parks, playgrounds, tennis courts, swimming pools, and similar neighborhood recreational areas and uses.

23. Offices.
24. Personal services.
25. Photography studios.
26. Public and private utility uses and structures.
27. Real estate sales offices.
28. Restaurants.
29. Retail establishments.
30. Schools.
31. Security gates and security stations.
32. Spa and Fitness clubs.
33. Telecommunication antennas and towers as permitted under Section 25-4-12 of the Zoning Code.
34. Theaters.
35. Time share units, including units with fractional ownership and short term rental units.
36. Utility substations, wastewater treatment plants, landscaping and plant nurseries, and vehicle maintenance service yards.
37. Visitor information center.
38. Any uses similar in nature to the above permitted uses shall be permitted upon submittal of a request by the applicant and approved by the Planning Director.
39. Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted.

H. The following design standards shall apply:

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 7,500 square feet which may include flag lots.
3. The maximum allowable height limit for Single Family Residential units shall be thirty-five feet.
4. The maximum allowable height limit for Multiple Family Residential and Commercial developments shall be 45 feet.
5. The minimum average lot widths shall be determined by the applicant in conjunction with its development plans.
6. The minimum yards in the Hualalai Resort Project District shall be as follows:
  - a. Single Family Residential Development
    - (1) Front and rear yards, fifteen feet; and
    - (2) Side yards, eight feet.
  - b. Commercial Development
    - (1) Front and rear yards, fifteen feet; and
    - (2) Side yards, none, except where the adjoining building site is a residential development site, when the side yard adjoins the side yard of a residential development site, there shall be a minimum side yard of eight feet.
7. Exceptions to the regulations for the Hualalai Resort Project District regarding heights, building site areas, and yards, may be approved by the Director within a planned unit development, or cluster plan development.

8. The minimum off-street parking and loading space requirements for the Hualalai Resort Project District will comply with the minimum standards as required by the Zoning Code, including compliance with the American Disabilities Act (ADA) requirements.
  
- I. Final Subdivision or Final Plan Approval, whichever is applicable, shall be secured from the Planning Director for any of the above uses prior to the issuance of any land alteration permits for any residential or commercial development in the Hualalai Resort Project District.
  
- J. Construction of the residential units, commercial development, golf course and other related improvements shall commence only after Final Subdivision Approval or Final Plan Approval has been secured from the Planning Director.
  
- K. The actual development of the water source and its water transmission and distribution system shall be developed in conjunction with the subdivision approval process. Final inspection to the residential and commercial structures shall not be issued until the approved water source is developed and its transmission and distribution system for such source to the subject property has been constructed. Residential building permits may be issued for model home complexes, provided that such model homes will not be used for residential purposes until the approved water source is developed.
  
- L. The interior roadway requirements for the Hualalai Resort Project District may be designed to resort standards as allowed by the Subdivision Code.
  
- M. Access(es) to the project site shall meet with the approval of the Departments of Transportation-Highways Division and Public Works as follows:

1. A traffic monitoring program at the intersection of Queen Ka'ahumanu Highway shall be submitted to and approved by the State Department of Transportation, Highways Division, prior to receiving Final Plan Approval for any portion of the proposed development. If additional intersection improvements such as a fully channelized intersection with acceleration/deceleration lanes are required as determined by the findings of subsequent monitoring and analysis, the applicant shall provide the improvements in conformance with the requirements of the State Department of Transportation, Highways Division.
  2. All internal roadways within the proposed development may be constructed in accordance with the Resort Standards or other applicable provisions of the Zoning Code and the Subdivision Code.
  3. A roadway connection to the adjacent property along the southwestern boundary shall be provided meeting with the approval of the Department of Public Works.
  4. No lots shall have direct access from the Queen Ka'ahumanu Highway except through an access point approved by the State Department of Transportation.
- N. A detailed drainage study, if required, shall be prepared by the applicant for review and approval by the Department of Public Works prior to submittal of plans for Subdivision and/or Plan Approval review of the residential and golf courses subdivisions. The study shall take into consideration the tile drainage system, retention basins and 'reduced turf' design which may be incorporated into the golf course. A drainage system for each phase of development in the

project area shall be installed meeting with the approval of the Department of Public Works, prior to issuance of Final Subdivision Approval, a Certificate of Occupancy or golf course opening, whichever occurs first.

- O. A Solid Waste Management Plan shall be prepared and submitted for approval to the Department of Public Works prior to submitting plans for subdivision approval. Approved recommendations and mitigation measures shall be implemented in a manner meeting with the approval of the Department of Public Works.
- P. A wastewater treatment system shall be constructed to service the residential and commercial developments meeting with the approval of the Department of Health.
- Q. An Emergency Preparedness and Response Plan shall be submitted for review by the Planning Department in consultation with the Fire Department and the Civil Defense Agency prior to the issuance of a Certificate of Occupancy for any residential unit. The plan shall be limited to a review of the emergency roadway network and emergency contact people or association.
- R. The applicant shall comply and implement the Final Comprehensive Public Access Plan approved by the Planning Department.
- 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, Hawaii County Code, relating to Affordable Housing Policy. This requirement shall be approved by the County Housing Agency prior to Final Subdivision approval of any portion of the residential area.

- T. An archaeological mitigation and interpretation plan shall be prepared and submitted, with comments from Hawaiian community organizations, for approval by the Planning Director and the Department of Land and Natural Resources-Historic Preservation Division prior to submitting plans for subdivision review. The Plan shall consist of three subplans: (1) an archaeological data recovery plan for the sites to undergo data recovery, (2) a detailed interim protection/preservation plan for the sites to undergo preservation, and (3) an interpretation plan which shall include buffer zones, signage and long-range preservation concerns which may be submitted at a later date. Approved mitigation measures shall be implemented prior to this issuance of any land alterations permits for each phase of development within the project area.
- U. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it is found that sufficient mitigative measures have been taken.
- V. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

- W. The applicant shall comply with all other applicable requirements of the Land Use Commission conditions of approval and a copy of the written documentation of compliance with these conditions shall also be submitted to the Planning Director.
- X. Comply with all other applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development within the subject property.
- Y. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this Project District Ordinance. The report shall address in detail the status of the development, the number of units constructed, sold and occupied and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Director acknowledges that further reports are not required.
- Z. Twenty (20) years from the effective date of the Hualalai Resort Project District Ordinance, the applicant shall submit a Detailed Status Report of the Project, including the number of units completed and other related construction development. This Detailed Status Report shall be submitted to the Planning Department for transmittal to the Planning Commission for their review and recommendation and then forwarded to the County Council for their review and action.
- AA. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances.

- (1) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
- (2) Granting of the time extension would not be contrary to the General Plan or Zoning Code.
- (3) Granting of the time extension would not be contrary to the original reasons for the granting of the Project District.
- (4) The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
- (5) If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the County Council for appropriate action.

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

SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: January 5, 2000  
Date of 1st Reading: January 5, 2000  
Date of 2nd Reading: January 20, 2000  
Effective Date: January 27, 2000

REFERENCE: Comm. 565

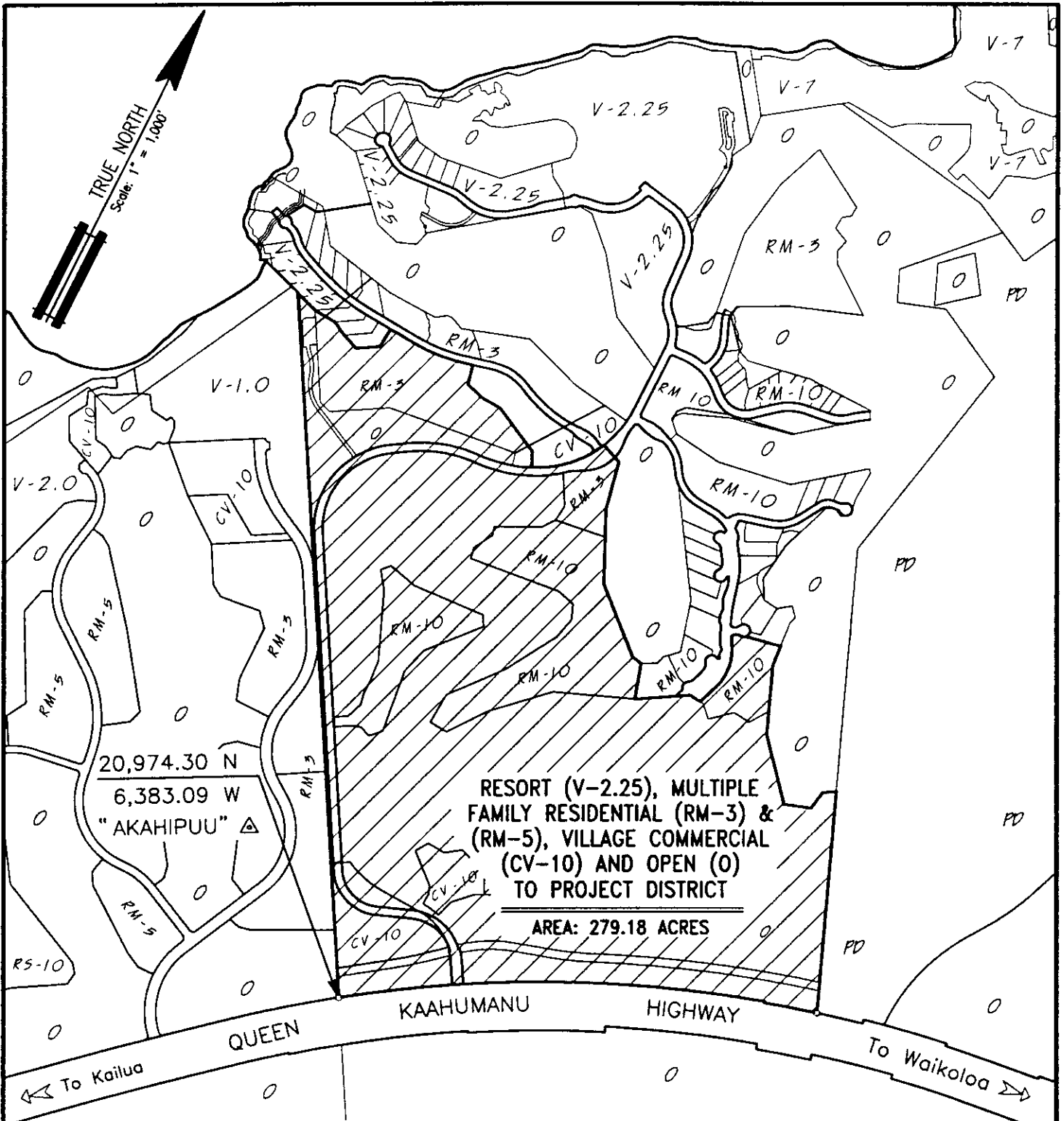
APPROVED AS TO FORM AND LEGALITY

**DEPUTY**

  
CORPORATION COUNSEL

DATED: 1/26/00





# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP) ARTICLE 8, CHAPTER 25, (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM RESORT (V-2.25), MULTIPLE FAMILY RESIDENTIAL (RM-3) & (RM-10), VILLAGE COMMERCIAL (CV-10) & OPEN (O) TO PROJECT DISTRICT AT KAUPULEHU, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK  
County of Hawaii  
Hilo, Hawaii

Introduced By: Bobby Jean Leithead-Todd  
Date Introduced: January 5, 2000  
First Reading: January 5, 2000  
Published: N/A

REMARKS: \_\_\_\_\_  
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Second Reading: January 20, 2000  
To Mayor: January 25, 2000  
Returned: January 27, 2000  
Effective: January 27, 2000  
Published: February 7, 2000

REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	1	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd			X	
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	7	1	1	0

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

APPROVED AS TO  
FORM AND LEGALITY:

*Ludvik Kuan*  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date 1/26/00

*Ann O'Connell*  
COUNCIL CHAIRMAN  
*[Signature]*  
COUNTY CLERK

Approved/Disapproved this 27 day

of January, # 2000.

*Stephen Yamashiro*  
MAYOR, COUNTY OF HAWAII

Bill No.: 178  
Reference: C-565/PC-76  
Ord. No.: 00 6