


COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 216
(Draft 2)

ORDINANCE NO. 00 40

AN ORDINANCE AMENDING ORDINANCE NO. 93-66, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO GENERAL COMMERCIAL (CG-10) AND OPEN (O) AT KEAHUOLU, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-4-08:PORTION OF 12.

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

SECTION 1. Ordinance No. 93-66 is amended as follows:

"SECTION 1. Section [25-87, Article 3,] 25-8-3 (North Kona Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of properties described hereinafter as follows:

The district classification of the following area situated at Keahuolu, North Kona, Hawaii, shall be [Office Commercial (CO-10)] General Commercial (CG-10):

PARCEL 1:

Beginning at the north corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHUOLU" being 3,318.15 feet north and 10,919.89 feet east, thence running by azimuths measured clockwise from True South:

1. 331° 11' 853.73 feet along Lot 1 of Keahuolu Subdivision (File Plan 2041);
2. Thence along Lot 1 of Keahuolu Subdivision (File Plan 2041), on a curve to the right with a radius of 10,000.00 feet, the chord azimuth and distance being:
331° 49' 30" 223.98 feet;

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|-----|---|----------|---|
| 3. | 332° 28' | 1,064.45 | feet along Lot 1 of Keahuolu Subdivision (File Plan 2041); |
| 4. | Thence along Lot 1 of Keahuolu Subdivision (File Plan 2041), on a curve to the left with a radius of 6,000.00 feet, the chord azimuth and distance being: | | |
| | | | 330° 59' 310.63 feet; |
| 5. | 329° 30' | 647.26 | feet along Lot 1 of Keahuolu Subdivision (File Plan 2041); |
| 6. | 59° 30' | 166.00 | feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041); |
| 7. | 90° 30' | 164.87 | feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041); |
| 8. | 11° 23' | 41.32 | feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041); |
| 9. | 73° 45' | 1,276.90 | feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041); |
| 10. | 179° 53' | 288.02 | feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041); |
| 11. | 186° 02' | 1,064.94 | feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041); |
| 12. | Thence along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041), on a curve to the right with a radius of 1,240.00 feet, the chord azimuth and distance being: | | |
| | | | 101° 48' 47.5" 395.23 feet; |

13. 110° 59' 385.97 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041);
14. Thence along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041), on a curve to the left with a radius of 1,530.00 feet, the chord azimuth and distance being:
88° 56' 10.5" 1,148.63 feet;
15. 132° 38' 320.32 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041);
16. 156° 58' 596.89 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041);
17. 250° 35' 1,145.81 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041);
18. Thence along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041), on a curve to the left with a radius of 7,000.00 feet, the chord azimuth and distance being:
245° 53' 1,147.14 feet;
19. 241° 11' 204.50 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041), to the point of beginning and containing area of 114.018 Acres, more or less. (Refer to Parcel 1 as shown on Exhibit "A".)

The district classification of the following area situated at Keahuolu, North Kona, Hawaii, shall be Open (O):

PARCEL 2:

Beginning at the east corner of this parcel of land, on the northwesterly side of Palani Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHUOLU" being 8.89 feet north and 12,792.22 feet east, thence running by azimuths measured clockwise from True South:

1. Along the northwesterly side of Palani Road, on a curve to the right with a radius of 1,890.10 feet, the chord azimuth and distance being:
62° 29' 36" 319.86 feet;
2. 67° 20' 50" 1,064.55 feet along the northwesterly side of Palani Road;
3. Thence along the northwesterly side of Palani Road, on a curve to the left with a radius of 736.80 feet, the chord azimuth and distance being:
63° 33' 06" 97.55 feet;
4. 147° 25' 32" 42.21 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041);
5. Thence along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041), on a curve to the left with a radius of 905.00 feet, the chord azimuth and distance being:
125° 32' 24.5" 674.68 feet;
6. 179° 53' 283.39 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041);
7. 253° 45' 1,276.90 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041);
8. 191° 23' 41.32 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041);

9. 270° 30' 164.87 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041);
10. 239° 30' 166.00 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041);
11. 329° 30' 673.68 feet along the remainder of Lot 1 of Keahuolu Subdivision (File Plan 2041);
12. Thence along Lot 1 of Keahuolu Subdivision (File Plan 2041), on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being:
283° 34' 11" 43.11 feet;
to the point of beginning and containing area of 28.202 Acres, more or less. (Refer to Parcel 2 as shown on Exhibit "A".)

The district classification of the following area situated at Keahuolu, North Kona, Hawaii, shall be General Commercial (CG-10):

PARCEL 3:

Beginning at the west corner of this parcel of land, on the northeasterly side of Queen Kaahumanu Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHUOLU" being 1,624.55 feet north and 7,041.56 feet east, thence running by azimuths measured clockwise from True South:

1. 238° 45' 258.82 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041);
2. Thence along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041), on a curve to the right with a radius of 6,000.00 feet, the chord azimuth and distance being:
244° 40' 1,236.98 feet;

- | | | | |
|-----|---|----------|---|
| 3. | 250° 35' | 246.21 | feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041); |
| 4. | 336° 58' | 596.89 | feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041); |
| 5. | 312° 38' | 320.32 | feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041); |
| 6. | Thence along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041), on a curve to the right with a radius of 1,530.00 feet, the chord azimuth and distance being: | | |
| | | | 268° 56' 10.5" 1,148.63 feet; |
| 7. | 290° 59' | 385.97 | feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041); |
| 8. | Thence along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041), on a curve to the left with a radius of 1,240.00 feet, the chord azimuth and distance being: | | |
| | | | 281° 48' 47.5" 395.23 feet; |
| 9. | 6° 02' | 1,064.94 | feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041); |
| 10. | 359° 53' | 511.41 | feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041); |
| 11. | Thence along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041), on a curve to the right with a radius of 905.00 feet, the chord azimuth and distance being: | | |
| | | | 305° 32' 24.5" 674.68 feet; |

12. 327° 25' 32" 42.21 feet along the remainder of Lot 2 of Keahuolu Subdivision (File Plan 2041);
13. Thence along the northwesterly side of Palani Road, on a curve to the left with a radius of 736.80 feet, the chord azimuth and distance being:
48° 43' 19" 282.04 feet;
14. 36° 48' 20" 270.42 feet along the northwesterly side of Palani Road;
15. Thence along the north corner of the intersection of Palani Road and Queen Kaahumanu Highway, on a curve to the right with a radius of 200.00 feet, the chord azimuth and distance being:
76° 19' 20" 254.52 feet;
16. 115° 50' 20" 257.75 feet along the northeasterly side of Queen Kaahumanu Highway;
17. 111° 15' 54" 250.80 feet along the northeasterly side of Queen Kaahumanu Highway;
18. 115° 50' 20" 750.00 feet along the northeasterly side of Queen Kaahumanu Highway;
19. 25° 50' 20" 10.00 feet along the northeasterly side of Queen Kaahumanu Highway;
20. 115° 50' 20" 613.60 feet along the northeasterly side of Queen Kaahumanu Highway;
21. Thence along the northeasterly side of Queen Kaahumanu Highway, on a curve to the right with a radius of 4,960.00 feet, the chord azimuth and distance being:
132° 17' 40" 2,810.05 feet;
to the point of beginning and containing 172.666 Acres, more or less. (Refer to Parcel 3 as shown on Exhibit "A".)

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

SECTION 2. These changes in district classification are made subject to the following conditions:

- (A) [the] The applicant, its successors or assigns, hereinafter collectively referred to as "the applicant," shall be responsible for complying with all of the stated conditions of approval[;].

- (B) [the] The changes in district classification shall become effective in two increments. The first increment shall be comprised of "Lot 1" consisting of 49.9 acres zoned CG-10 and the second increment shall be comprised of "Lot 2" consisting of the remaining 265.1 acres, of which 123.9 acres are zoned CG-10, 28 acres zoned Open and 113.2 acres zoned [CO-10,] CG-10 both increments are as described in Exhibit "B" attached hereto and made a part hereof. The rezoning for Lot 1 shall become effective when the applicant either (1) has received a written commitment from the Department of Water Supply, subject only to reasonable and customary limitations on the water usage and availability, for the amount of water supply deemed necessary for the applicant's proposed uses within Lot 1; or (2) has provided assurances satisfactory to the Department of Water Supply and Planning, upon consultation with the State Department of Health and State Department of Land and Natural Resources, that a water source(s) of sufficient quality and quantity for the applicant's proposed uses within Lot 1 has (have) been established, and that an agreement has been entered into with the County through its Department of Water Supply and Planning, together with the appropriate bond, surety or other security deemed acceptable by the Planning Director, for the actual development of a proven source(s) and its water transmission and distribution system. The rezoning for Lot 2 shall become effective when the applicant has provided

assurances satisfactory to the Departments of Water Supply and Planning, upon consultation with the State Department of Health and State Department of Land and Natural Resources, that a water source(s) of sufficient quality and quantity for the applicant's proposed uses within Lot 2 has (have) been established and has been entered into an agreement with the County through its Department of Water Supply and Planning, together with the appropriate bond, surety or other security deemed acceptable by the Planning Department, for the actual development of a proven source(s) and its water transmission and distribution system. Provided, however, that the applicant shall fulfill the requirements of this condition of zoning of Lot 1 within three (3) years from the effective date of this ordinance and for zoning of Lot 2 within [~~five (5)~~] ten (10) years [after the effective date of zoning for Lot 1] from the effective date of this amendment. No time extensions granted pursuant to Condition (R) of this ordinance shall cumulatively exceed one (1) year for each lot, notwithstanding any other provisions to the contrary contained therein. The actual effective date of zoning for each lot shall be certified in writing by the Planning Director upon the determination that the applicant has satisfied the requirements of Condition (B) for each lot[;].

- (C) [a] A Master Plan for the subject property (Phase I consisting of 315 acres) shall be submitted to the Planning Director within (1) one year from the effective date of the rezoning of Lot 1. The Master Plan shall set forth and generally describe the following: size and shape of each development phase (A-1, A-2, A-3, etc.), the proposed uses therein, infrastructure systems including public facilities, roadways and bike lanes, estimated phasing of infrastructure and site development, landscaping and environmental/physical theme or image, and other topics deemed appropriate by the applicant[;].

- (D) [a] A detailed Historic Preservation Plan to treat the 32 significant historic sites in the project area and for data recovery of 123 sites significant for their information content shall be reviewed and approved by the Planning Department, in consultation with the State Department of Land and Natural Resources-Historic Preservation Division, prior to submitting plans for plan approval review or subdivision review, whichever occurs first. This Plan shall consist of a detailed archeological data recovery plan (scope of work with research design) and a detailed preservation plan. The Planning Department and the State Department of Land and Natural Resources Historic Preservation Division shall verify in writing the successful execution of the plan, prior to the land altering activities in the area of historic sites. Proposed mitigation treatment (preservation in place or disinterment/reinterment) for burial sites must be approved by the State Department of Land and Natural Resources before detailed mitigation plans are finalized for these sites[;].
- (E) [should] Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken[;].
- (F) [preliminary] Preliminary vehicular access to Lot 1 from Queen Kaahumanu Highway (i.e., [Queen Liliuokalani] Makala Blvd.) shall meet with the approval of the State Department of Transportation and

preliminary vehicular access to Lot 1 from Palani Road (i.e., Main Street Promenade) shall meet with the approval of the Department of Public Works. The Main Street Promenade” shall be constructed and connected between [Queen Liliuokalani Blvd.] Makala Boulevard and Palani Road, in two (2) stages. The first stage shall consist of a preliminary vehicular access (hereinafter defined as road improvements constructed to non-dedicable standards meeting with the safety and design requirements of the Department of Public Works) connecting [Queen Liliuokalani] Makala Boulevard to Palani Road prior to the issuance of the first certificate of occupancy for Lot 1. The second stage shall consist of upgrading the preliminary vehicular access to dedicable standards including curb, gutter, and sidewalk improvements concomitant with the development of all CG-10 zoned lands. The appropriate incremental plans for these roadway improvements shall be submitted to the Department of Public Works for review and approval[;].

- (G) [vehicular] Vehicular access points onto [Queen Liliuokalani] Makala Boulevard shall meet with the approval of the Department of Public Works. The [Queen Liliuokalani] Makala Boulevard shall be constructed and connected between Queen Kaahumanu Highway and the “Mid-Level Road” in two (2) stages. The first stage shall consist of a preliminary vehicular access (as defined in Condition F) connecting Lot 1 with Queen Kaahumanu Highway. The preliminary vehicular access shall be extended toward the Mid-Level Road on an incremental basis concomitant with each related phase of development. The second stage shall consist of upgrading the preliminary vehicular access to dedicable standards including curb, gutter, and sidewalk improvements, concomitant with the development of [CO-10] CG-10 zoned lands within Lot 2[;].

- (H) [the] The applicant shall install improvements, which may [included] include signalization at the “Main Street Promenade”/Palani Road intersection, meeting the approval of the Department of Public Works. The strip of land fronting the subject property for additional right-of-way along Palani Road to allow for future road widening to the 80-foot right-of-way mandated by the County General Plan shall be subdivided and dedicated to the County upon its request. The applicant shall construct an extension of Luhia Street connecting to [Queen Liliuokalani] Makala Boulevard as a preliminary vehicular access (as defined in Condition F) meeting with the approval of the Department of Public Works on or by December 31, 1995. Prior to the issuance of certificate of occupancy for any portion of Lot 1, the applicant shall construct the proposed [Queen Liliuokalani] Makala Boulevard extension west (makai) to connect with Kuakini Highway as a preliminary vehicular access (as defined in Condition F) meeting with the approval of the Department of Public Works, except that, that portion of the extension of Kuakini Highway to the [Queen Liliuokalani] Makala Boulevard extension may consist of upgraded improvements meeting with the approval of the Department of Public Works[;].
- (I) [the] The applicant shall inform the Department of Public Works on a timely basis of archaeological surveys and reports which may impact the layout and design of the “Mid-Level Road”. The applicant shall dedicate to the county upon its request the portion of lands owned by the applicant as delineated within the right-of-way of the “Mid-Level Road” which included its extension south of Palani Road to the southern boundary of the ahupua’a of Keahuolu. Provided that the dedication of lands for any portion of the “Mid-Level Road” or its extension shall not be required

prior to the applicant's receipt of a Certificate of Occupancy for Lot 1. Any participation from the applicant in the funding and dedication of roadway and traffic improvements shall not exceed its pro rata share of said improvements made necessary by the increased traffic resulting from the applicant's development of the subject property[;].

- (J) [the] The applicant shall meet with the requirements of the Department of Transportation-Highway Division for the development of the subject property. Provided however, that the signalization of the [Queen Liliuokalani] Makala Boulevard-Queen Kaahumanu Highway intersection meeting with the approval of the Department of Transportation-Highway Division shall be installed prior to issuance of a certificate of occupancy for any portion of the subject property[;].
- (K) [an] An overall landscaping master plan, which included landscaping along the property's frontages along Palani Road and Queen Kaahumanu Highway and a program for the ongoing maintenance of the landscaping in accordance with the landscaping master plan, shall be submitted to the Planning Director for review and approval, in consultation with the Chief Engineer prior to the issuance of final subdivision approval and/or final plan approval, whichever occurs first[;].
- (L) [the] The applicant shall install bike routes or lanes throughout the project where required by the Planning Director in consultation with the Chief Engineer as a matter of pedestrian and bicyclist safety[;].
- (M) [a] A drainage system shall be installed meeting with the approval of the Department of Public Works[;].

- (N) [the] The applicant shall construct all on site and off site sewer system improvements required by the Department of Public Works and State Department of Health[;].
- (O) [comply] Comply with all applicable laws, rules, regulations and requirements, including those of the Department of Health, Fire, and the Department of Water Supply[;].
- (P) [an] An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required[;].
- (Q) [should] Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions of the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance[; and,].
- (R) [an] An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:
- a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, its successors or assigns, (i.e., which shall include, but not be limited to the presence of archaeological trails or sites or the presence of

endangered species of flora or fauna) and that are not the result of their fault or negligence;

- (b) granting of the time extension would not be contrary to the general plan or zoning code;
- (c) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone;
- (d) 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); and
- (e) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action. Should any of the conditions not be met or substantially complied with in a timely fashion, the 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

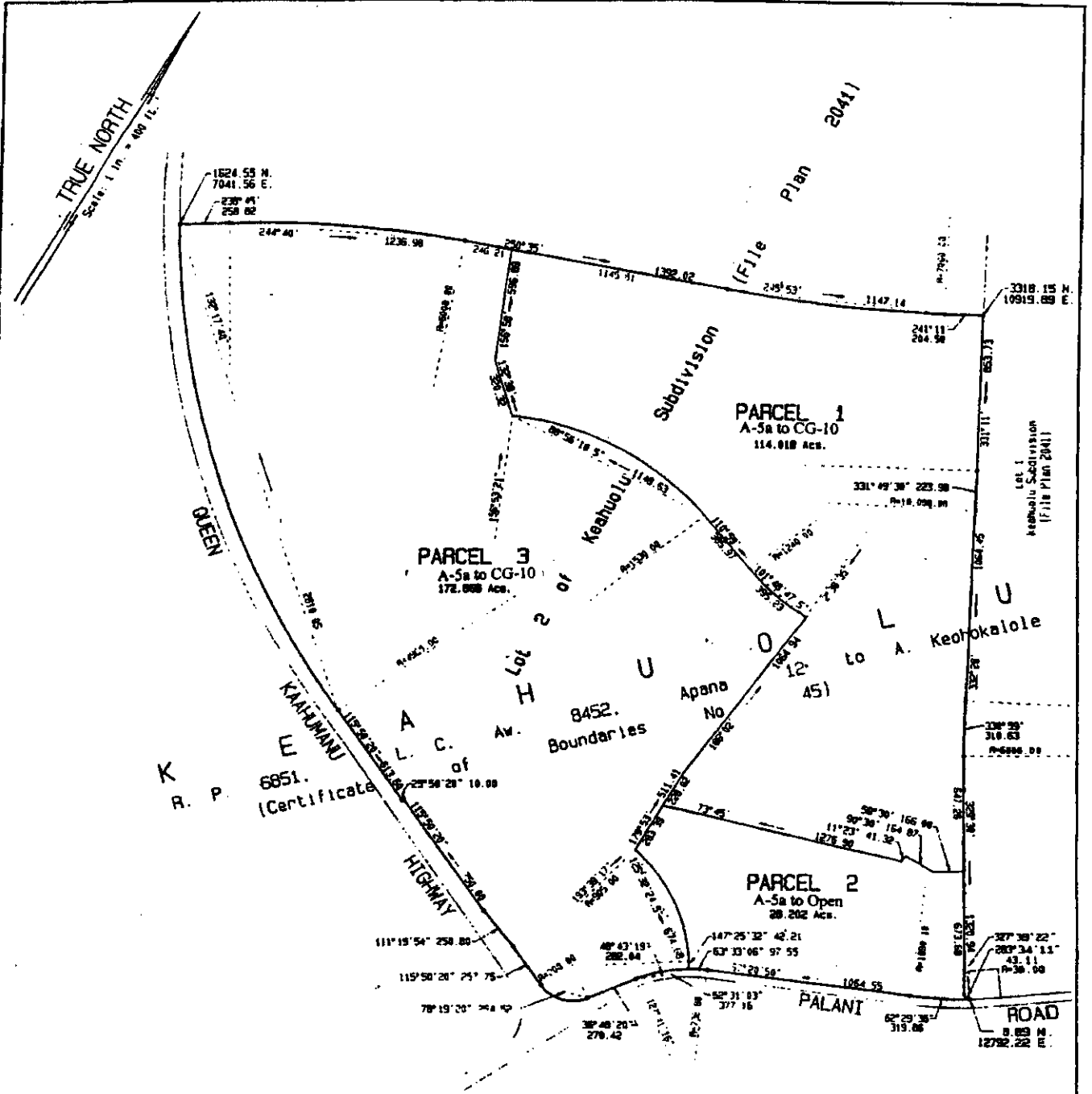
Date of Introduction: April 5, 2000
Date of 1st Reading: April 5, 2000
Date of 2nd Reading: April 19, 2000
Effective Date: April 26, 2000

APPROVED AS TO FORM AND LEGALITY


CORPORATION COUNSEL

DATED: 4/26/00

REFERENCE: Comra. 682.002



MAP SHOWING
PROPOSED ZONING CHANGES

At Kēahuolu, North Kona, Island of Hawaii, Hawaii

Tax Map Key 7-4-08; portion 12

OWNER:
 Liliuokalani Trust
 c/o First Hawaiian Bank
 Trust Division
 P. O. Box 3100
 Honolulu, Hawaii 96801

PREPARED BY:
 BELT COLLINS & ASSOCIATES
 680 Ala Moana Boulevard
 First Floor
 Honolulu, Hawaii 96813

MARCH 10, 1993

NOTES:
 1. Coordinates referred to "KEAHUOLU" Δ.

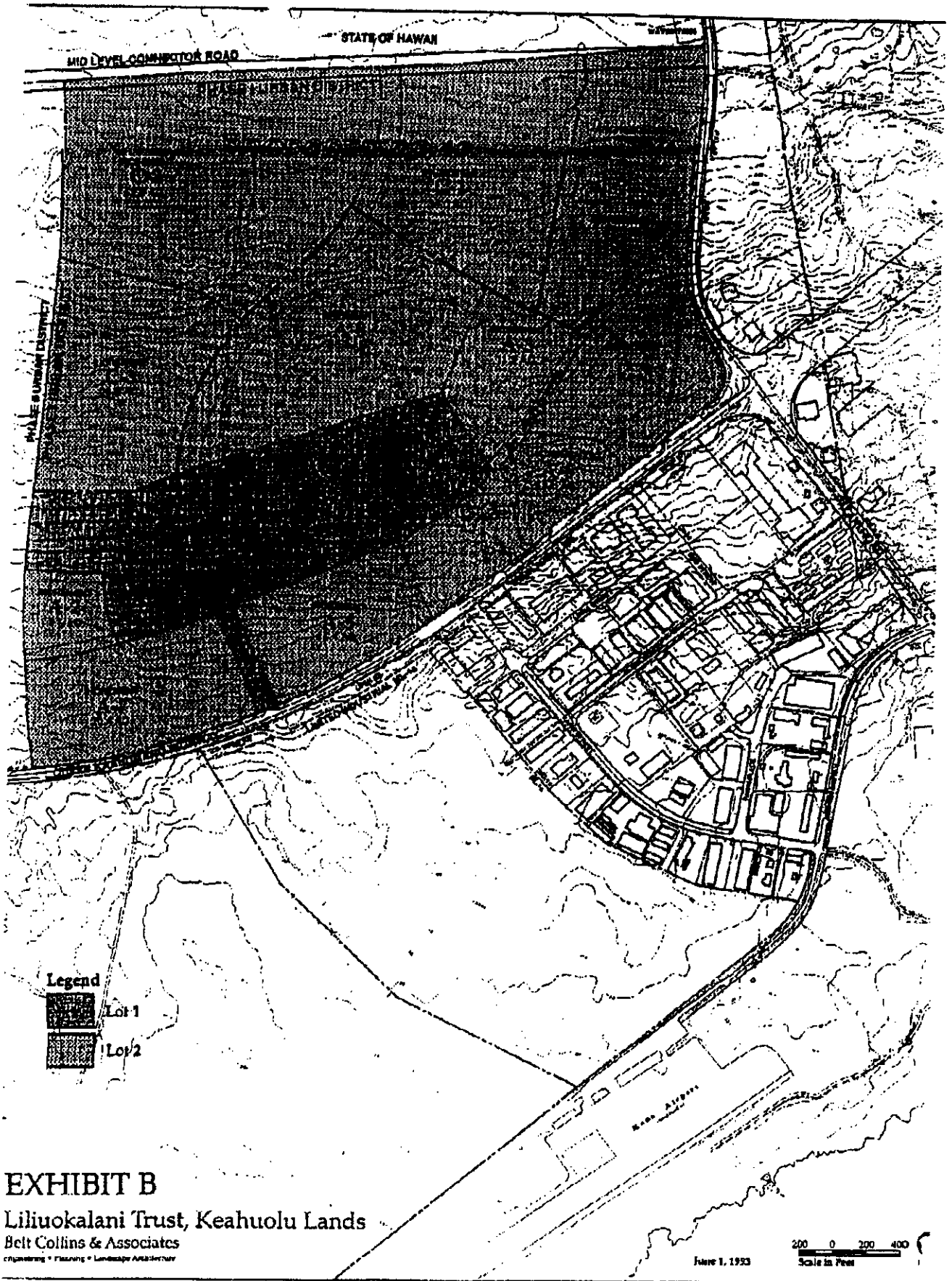


EXHIBIT B

Liliuokalani Trust, Keahuolu Lands
 Belt Collins & Associates

Engineering • Planning • Landscape Architecture

8/1/210

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

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

REMARKS: _____

Second Reading: April 19, 2000
To Mayor: April 25, 2000
Returned: April 18, 2000
Effective: April 26, 2000
Published: May 8, 2000

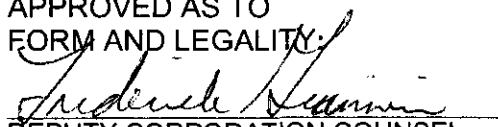
REMARKS: _____



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	0	2	0

(DRAFT 2)

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			
	9	0	0	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:

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII
Date 4/26/00


COUNCIL CHAIRMAN

COUNTY CLERK

Approved/Disapproved this 26 day
of April, 2000.


MAYOR, COUNTY OF HAWAII

Bill No.: 216 (Draft 2)
Reference: C-682/PC-90
Ord. No.: 00 40