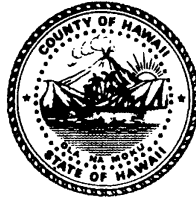


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 19 12

BILL NO. 1
(DRAFT 2)

AN ORDINANCE AMENDING ORDINANCE NO. 99 42 WHICH RECLASSIFIED LANDS FROM OPEN (O) TO PROJECT DISTRICT (PD) AT KAUPULEHU, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-2-003: PORTION OF 1.

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

SECTION 1. Section 3 of Ordinance No. 99 42 is amended as follows:

~~“SECTION 3. [This change in district classification is conditioned upon the following:]~~

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. This project area shall be called the Kaupulehu Project District. The development period for the Kaupulehu Project District will be 20 years from the effective date of approval of ~~the~~ this amended Project District Ordinance.

- C. The Kaupulehu Project District shall consist of not more than 1,078.634 acres with 869.698 acres for Residential, golf course and ancillary related development; 197.936 acres for the “Urban” Coastal Planning Area and 11 acres for Commercial development. Any amendment to these acreages shall require an amendment to the Kaupulehu Project District Ordinance.
- D. The maximum number of units to be allowed within the Kaupulehu Project District shall be 1,030 units. Any increase in the number of units shall require an amendment to the Kaupulehu Project District Ordinance.
- E. There shall be no residential, commercial or similar type developments in the Coastal Planning Area other than those specified in the Integrated Resources Management Plan. The Coastal Planning Area shall be described by metes and bounds, and the restrictions shall be specified in the covenant(s) in the property deed. A copy of the metes and bounds, and proposed covenant(s) to be recorded with the Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision Approval or Final Plan Approval or land alteration activities, whichever occurs first. A copy of the approved covenant(s) shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances prior to the issuance of Final Subdivision Approval or Final Plan Approval or land alteration activities, whichever occurs first.
- 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 Kaupulehu Project District within the 869.698 acres for

Residential, golf course and ancillary related development and the 11 acres for

Commercial 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. Restaurants.
28. Retail establishments.
29. Schools.
30. Telecommunication antennas and towers as permitted under Section 25-4-12 of the Zoning Code.
31. Temporary real estate offices as permitted by Section 25-4-8 of the Zoning Code.
32. Theaters.
33. Time share units.
34. Utility substations, wastewater treatment plants, landscaping and vehicle maintenance service yards.
35. Visitor Information Center.
36. 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.
37. 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 Kaupulehu Project District shall be as follows:
 - a. 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 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 Kaupulehu 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 development phase in the Kaupulehu Project District.
- J. Construction of the residential units, commercial development, golf course and other related improvements shall commence only after Final Subdivision Approval and Final Plan Approval has been secured.
- K. The applicant shall provide assurance satisfactory to the Department of Water Supply and the Planning Director, upon consultation with the State Department of Health and Department of Land and Natural Resources, that water sources of sufficient quality and quantity has been established. Such satisfactory assurance can be met by the actual drilling and testing of a well site of the water source or by the submittal of a hydrological study certifying that a water sources of sufficient quality and quantity can be established at the designated locations.
- L. Upon compliance with Condition 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 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 occupied until the approved water source is developed.
- M. The interior roadway requirements for the Kaupulehu Project District shall be designed to resort standards as allowed by the Subdivision Code and as represented in Section 3.3.1 of the applicant's Project District Application.

- N. Access(es) to the project site shall meet with the approval of the Departments of Transportation-Highways Division and Public Works as follows:
1. If warranted, a fully channelized intersection improvements, including but not limited to traffic lights and/or an overpass or underpass, shall be provided meeting with the approval of the Department of Transportation prior to initial occupancy of residential units gaining access from the respective intersection. The cost of such improvements shall be borne by the applicant to the extent of the project's projected traffic impacts and may be credited to or deducted from the applicant's fair share contribution for road and traffic improvements, as required under Condition W.
 2. A traffic monitoring program at the intersection of Queen Kaahumanu 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, an under pass, or overpass, are required as determined by the findings of subsequent monitoring and analysis, the applicant shall provide the improvements to the extent of the project's projected traffic impacts in conformance with the requirements of the State Department of Transportation, Highways Division.
 3. All internal roadways within the proposed development shall be constructed in accordance with the Resort Standards or other applicable provisions of the Zoning Code and the Subdivision Code.
 4. A roadway connection to the adjacent property along the southwestern boundary shall be provided meeting with the approval of the Department of Public Works.

5. No lots shall have direct access from the Queen Kaahumanu Highway except through an access point approved by the State Department of Transportation.
 6. The applicant shall provide an updated Traffic Impact Analysis Report (TIAR) and Traffic Signal Warrant Study if and when required by the State Department of Transportation.
- O. A detailed drainage study shall be prepared and submitted for review and approval to the Department of Public Works prior to submittal of plans for Subdivision and/or Plan Approval review of the residential, commercial and golf courses subdivisions. The Study shall take into consideration the tile drainage system, retention basins and 'reduced turf' design to be incorporated into the golf courses. 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.
- P. 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.
- Q. A Solid Waste Management Plan shall be prepared meeting with the approval of 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.
- R. A wastewater treatment system shall be constructed to service the residential and commercial developments meeting with the approval of the Department of Health.

- S. A final comprehensive public access plan, to be developed in consultation with community groups and in accordance with applicable conditions of approval of the Land Use Commission Decision and Order (Docket No. A93-701), shall be submitted to the Planning Director and shall include mauka-makai and lateral shoreline accesses, description of trail width and surfacing, parking area(s), signage, emergency response considerations, restrictions on use (if any), provision of recreational and restroom facilities at appropriate locations, and related improvements. Implementation of the public access plan shall be completed ~~[with the opening of the golf course.]~~ within one year from the effective date of this amended Project District Ordinance.
- T. 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. This requirement shall be approved by the County Housing Agency prior to Final Subdivision Approval of any portion of the residential area.
- U. Integrated Resources Management Plan dated June 1998 or any amendments approved thereafter by affected agencies shall be made a part of this ordinance as Appendix A. The implementation recommendations and management guidelines shall govern the use of the Coastal Planning Area and other resources.
- V. ~~[Should any unidentified sites or remains such as artifacts, shell, bone, or chareoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the State Department of Land and Natural Resources Historic Preservation Division (DLNR-HPD) and the Hawaii Island Burial Council, if applicable, shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD and/or the Burial Council when it is found that sufficient mitigative measures have been taken.]~~ The applicant shall comply with mitigation and preservation plans approved by the Department of Land and Natural

Resources-State Historic Preservation Division. 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.

- W. [~~The applicant shall make its fair share contribution to mitigate potential regional impacts of the subject project with respect to roads, parks and recreation, fire, police and solid waste disposal facilities. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of proposed residential lots in each such increment. The fair share contribution, in a form of cash, land, facilities or any combination thereof, acceptable to the director in consultation with the affected agencies, shall be determined by the County Council. The fair share contribution shall have a maximum combined value of \$4,645.29 per multiple-family residential unit and \$7,239.16 per single-family residential unit. Based upon the applicant's representation of intent to develop up to 1,030 residential units, the indicated total of fair share contribution for 500 multiple-family residential units is \$2,322,645.00 and 530 single-family residential units is \$3,836,754.80 whichever is applicable. However, the total amount shall be increased or reduced in proportion with the actual number of units according to the calculation and payment provisions set forth in this Condition W. The fair share contribution shall be allocated as follows:~~

1. ~~\$2,291.39 per multiple family residential unit for an indicated total of \$1,145,695.00 and \$3,490.85 per single family residential unit for an indicated total of \$1,850,150.50 to the County to support park and recreational improvements and facilities;~~
2. ~~\$72.42 per multiple family residential unit for an indicated total of \$36,210.00 and \$168.40 per single family residential unit for an indicated total of \$89,252.00 to the County to support police facilities;~~
3. ~~\$222.77 per multiple family residential unit for an indicated total of \$111,385.00 and \$332.61 per single family residential unit for an indicated total of \$176,283.30 to the County to support fire facilities;~~
4. ~~\$99.29 per multiple family residential unit for an indicated total of \$49,645.00 and \$145.62 per single family residential unit for an indicated total of \$77,178.60 to the County to support solid waste facilities; and~~
5. ~~\$1,959.42 per multiple family residential unit for an indicated total of \$979,710.00 and \$3,101.68 per single family residential unit for an indicated total of \$1,643,890.40 to the State or County to support road and traffic improvements.~~

~~The fair share contributions described above shall be adjusted annually beginning three years after the effective date of the change of zone, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute 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 approval of the director. The cost of providing and constructing the improvements required in Conditions M and N shall be credited against the sum specified in Condition W (5) for road and traffic improvements. For purposes of administering Condition W, the fair market value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be subject to review and approval of the director, upon consultation with the appropriate agencies.~~

~~Upon approval of the fair share contributions or in lieu contributions by the director, the director shall submit a final report to the Council for its information that identifies the specific approved fair share and/or in lieu contributions, as allocated, and further implementation requirements.]~~

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 for the additional lots to be created. The fair share contribution shall become due and payable prior to receipt of Final Subdivision Approval. The fair share contribution shall be based on the actual number of additional lots created. 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 this amended Project District Ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a combined value of **\$9,195.34** per multiple family residential unit and **\$14,329.89** per single family residential unit. The total amount shall be determined with the actual number of units according to the calculation and payment provisions set forth in this condition. The fair share contribution per single family residential unit and multiple family residential unit shall be allocated as follows:

1. **\$4,535.80** per multiple family residential unit and **\$6,910.13** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$143.36** per multiple family residential unit and **\$333.35** per single family residential unit to the County to support police facilities;
3. **\$440.97** per multiple family residential unit and **\$658.40** per single family residential unit to the County to support fire facilities;

4. \$196.54 per multiple family residential unit and \$288.25 per single family residential unit to the County to support solid waste facilities; and
5. \$3,878.67 per multiple family residential unit and \$6,139.77 per single family residential unit to the County to support road and traffic improvements.

The cost of providing and constructing the improvements required in Conditions M and N shall be credited against the sum specified in Condition W (5) for road and traffic improvements. In lieu of paying the fair share contribution, the applicant(s) 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.

- X. Should the Council adopt a Unified Impact Fee 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 Fee Ordinance.
- Y. Comply with all other applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development within the subject property.
- Z. 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.
- AA. 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, the compliance with the conditions of approval of both this ordinance and the State Land Use Commission conditions. 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.

BB. [~~Twenty (20) years from the effective date of the Kaupulehu Project District Ordinance, the applicant shall submit an overall status report of the project, including the percentage of the completed development. The Planning Director shall also provide an assessment of the development of the Project District and its compliance with conditions of approval for transmittal to the Planning Commission for their review and recommendation and then forwarded to the County Council for their review and action.~~] If the applicants should require an additional extension of time, the Planning Director shall submit the applicants' request to the Planning Commission and the Hawai'i County Council for appropriate action.

CC. 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 2. Material to be repealed is bracketed and stricken. New material is underscored.

SECTION 3. 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 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

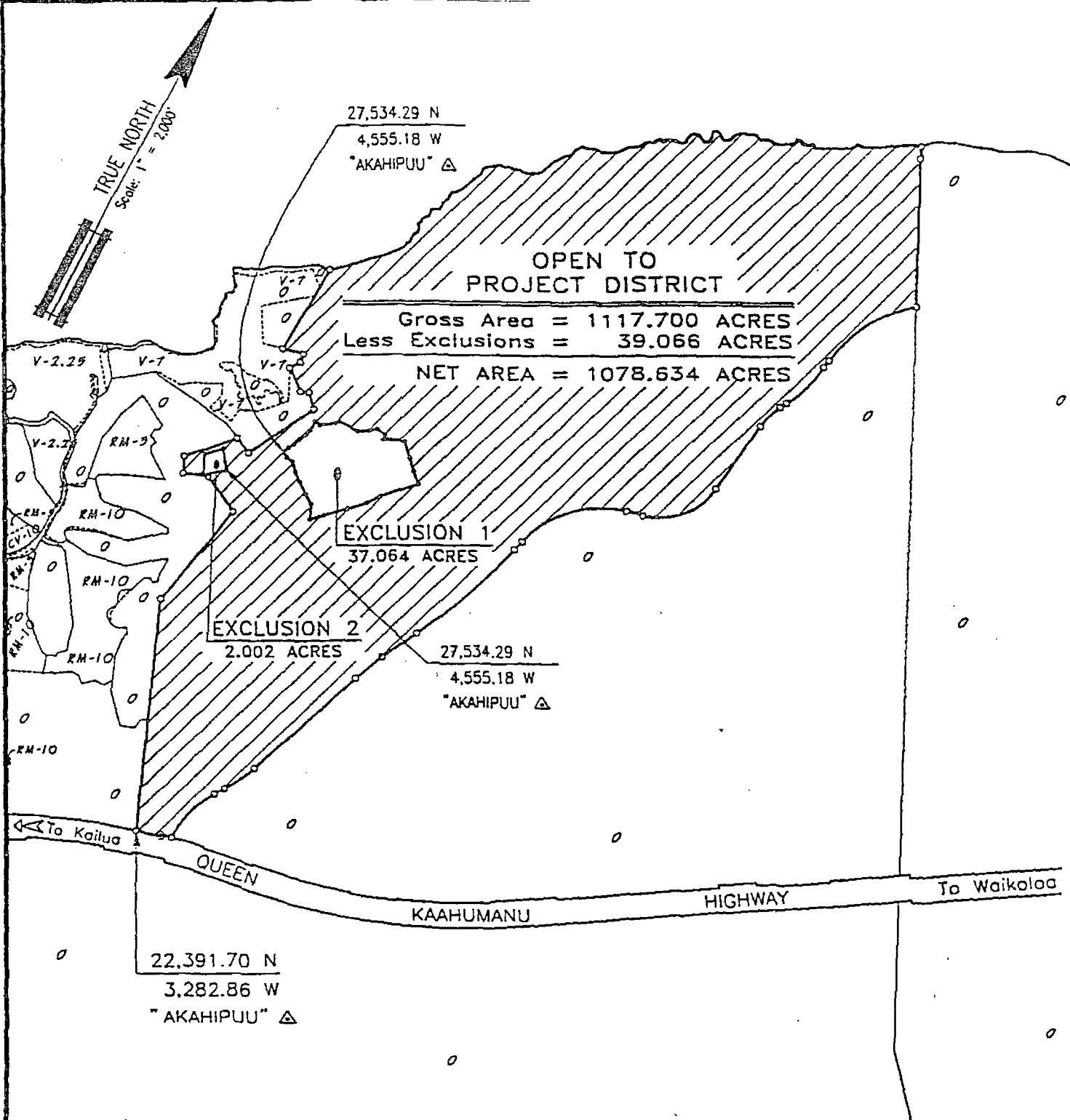
A handwritten signature in black ink, appearing to be 'A. M. K.', followed by a horizontal line and the letters 'B/R' written to the right of the line.

COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: January 23, 2019
Date of 1st Reading: January 23, 2019
Date of 2nd Reading: February 5, 2019
Effective Date: February 20, 2019

REFERENCE Comm. 13.5



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-2 (NORTH AND SOUTH KONA DISTRICTS ZONE MAP) ARTICLE 8, CHAPTER 25, (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM OPEN TO PROJECT DISTRICT AT KAUPULEHU, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 7-2-03: PORTION OF 1

OCTOBER 14, 1978

EXHIBIT "A"

(KAUPULEHU DEVELOPMENT)

FOR REFERENCE ONLY

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

**COUNTY CLERK
COUNTY OF HAWAII**

(Draft 2) 2019 FEB 21 AM 9:41

Introduced By: Ashley L. Kierkiewicz (B/R)
Date Introduced: January 23, 2019
First Reading: January 23, 2019
Published: February 2, 2019

REMARKS: _____

Second Reading: February 5, 2019
To Mayor: February 13, 2019
Returned: February 21, 2019
Effective: February 20, 2019
Published: March 2, 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.

Disapproved this 20th day
of February, 2019.


MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRPERSON


COUNTY CLERK

Bill No.: 1 (Draft 2)
Reference: C-13.5/PC-1
Ord No.: 19 12