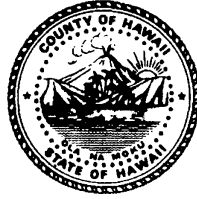


COUNTY OF HAWAI‘I



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 Section 1 and Section 2 of Ordinance No. 92-036 are repealed.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 Section 1 of Ordinance No. 86-049 is repealed.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.

~~[O.]~~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.

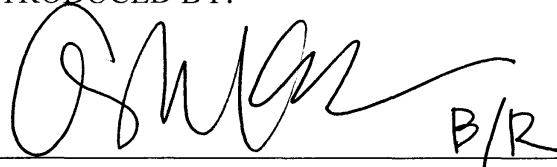
V. If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission and the Hawai'i County Council for appropriate action.

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.

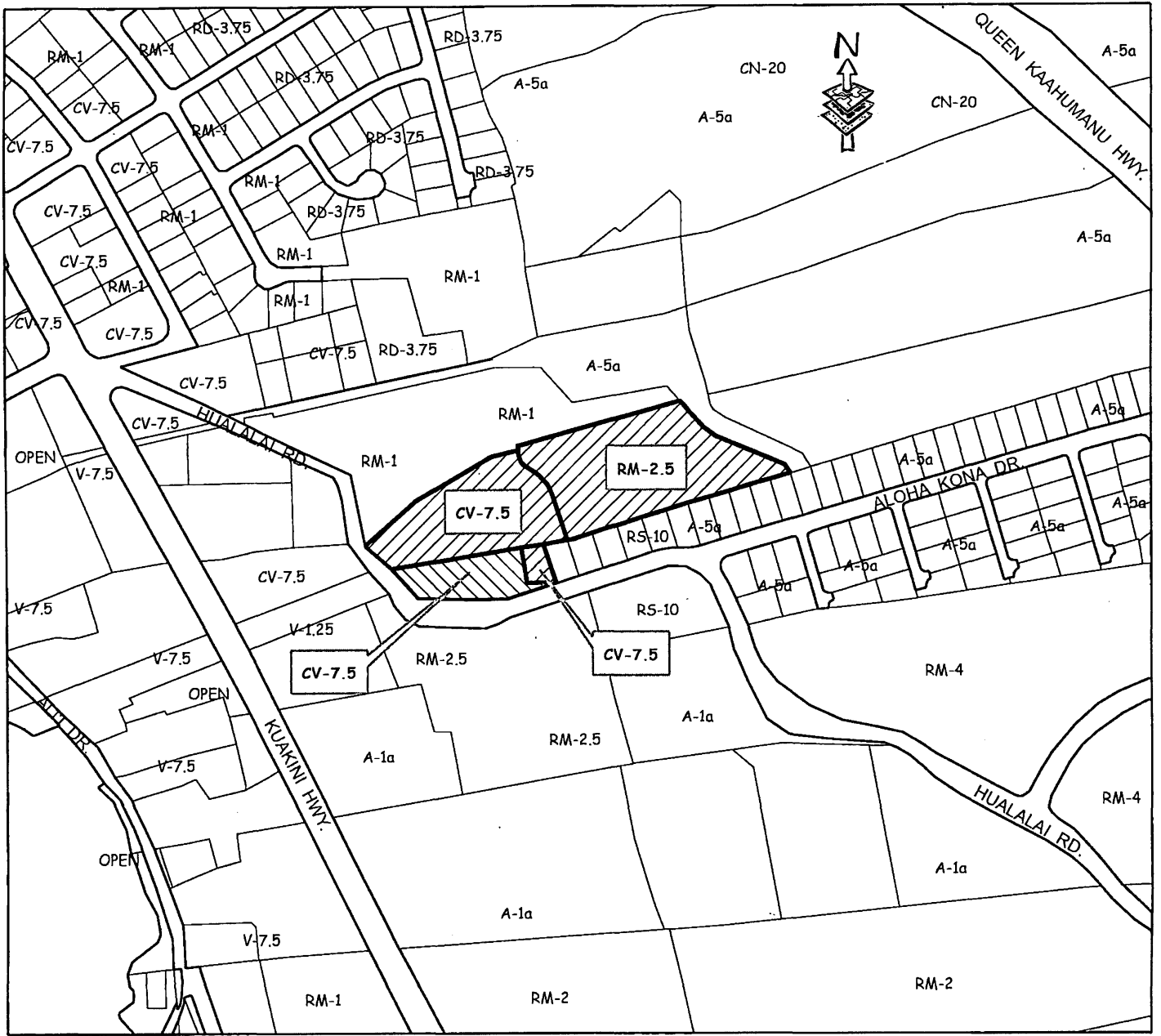
INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'B. R.', 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



**AMENDED MAP TO REPLACE ZONING MAPS FOR
ORDINANCE NO. 92-036 AND ORDINANCE NO. 86-049,
BOTH LABELED AND REFERRED TO AS "EXHIBIT A"**

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 7-5-010:013

DATE: May 18, 2017

EXHIBIT "A"

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.

Harry Kim
 MAYOR, COUNTY OF HAWAII

[Signature]
 COUNCIL CHAIRPERSON
[Signature]
 COUNTY CLERK

Bill No.: 23 (Draft 2)
 Reference: C-92.3/PC-9
 Ord No.: 19 38