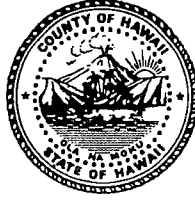


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 24 38 BILL NO. 151  
(DRAFT 2)

AN ORDINANCE AMENDING ORDINANCE NOS. 00-90 AND 91-27, WHICH RECLASSIFIED LANDS FROM OPEN (O) TO VILLAGE COMMERCIAL (CV-10) AT KEAHUOLŪ, NORTH KONA, HAWAI'I COVERED BY TAX MAP KEY 7-4-015:015 (PORTION).

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

**SECTION 1.** Section 2 of Ordinance No. 91-27, as amended by Ordinance No. 00-90 is amended as follows:

~~“SECTION 2. [This change in district classification is conditioned upon the following:]~~  
In accordance with Section 25-8-44, 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 comply with all of the stated conditions of approval;~~

- (B) ~~final Plan Approval of the development shall be secured from the Planning Department within ten years from the effective date of this amendment. To assure adequate time for plan approval review and in accordance with Chapter 25-2-72 (Zoning Code), plans shall be submitted a minimum of forty five days prior to the date by which plan approval must be secured. Plans shall indicate internal driveway circulation with the adjacent Kona Coast Shopping Center;~~
  
- (C) ~~construction shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter;~~
  
- (D) ~~improvements to Eho Street extension, including curbs, gutters and sidewalks, shall be constructed within the existing 60 foot wide roadway easement from Eho Street to Queen Kaahumanu Highway meeting with the approval of the Department of Public Works. These improvements shall be completed prior to issuance of a certificate of occupancy for any portion of the commercial development;~~
  
- (E) ~~driveway access(es) shall be approved by the Department of Public Works;~~
  
- (F) ~~improvements to Eho Street Queen Kaahumanu Highway intersection shall meet with the approval of the Departments of Transportation-Highways Division and Public Works;~~
  
- (G) ~~a drainage system meeting with the requirements of the Department of Public Works shall be installed;~~
  
- (H) ~~all other applicable laws, rules, regulations and requirements be complied~~

with;

- (I) ~~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 may, at the developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance;~~
  
- (J) ~~an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the zone change. The report shall address the status of the development 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 Planning Director acknowledges that further reports are not required; and~~
  
- (K) ~~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 applicants, 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 change of zone;~~
  
  - 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); and

~~5) 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. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation.]~~

- A. The applicant, its successors, or assigns (“Applicant”) shall be responsible for complying with all the stated conditions of approval.
  
- B. The Applicant shall submit estimated maximum daily water usage calculations, prepared by a professional engineer licensed in the State of Hawai‘i, to the Department of Water Supply (DWS) for review and approval. The water usage calculations should include the estimated peak-flow in gallons, per minute, and the total estimated maximum daily water usage in gallons per day. A water commitment deposit shall be paid to the DWS thereafter in accordance with Rule 5 of the DWS’s Rules and Regulations. The Applicant is responsible for constructing any necessary water system improvements as may be required by DWS and maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full.
  
- C. The Applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property, which must be inspected and approved by the DWS.

- D. The Applicant shall implement any improvements required by the Fire Department and/or DWS to ensure that fire protection requirements can be met for commercial zoning.
  
- E. All earthwork activities including grading, grubbing, and stockpiling shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
  
- F. All driveway connections to 'Eho Street shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
  
- G. All development-generated runoff shall be disposed of on-site and not directed toward any adjacent properties. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works (DPW) prior to the issuance of Final Plan Approval. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of DPW prior to construction of any structures on the subject property.
  
- H. The property shall connect to the public sewer in accordance with Section 21-5 of the Hawai'i County Code prior to issuance of a Certificate of Occupancy.
  
- I. The Applicant shall comply with the recommendations of the Plan for Archaeological Monitoring, TMK:(3) 7-4-015:15, Land of Keahuolu, North Kona District, Island of Hawaii dated November 2007 and approved by the State Historic Preservation Division on January 9, 2008.
  
- J. In the 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, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the Department of Land and Natural Resources - State Historic Preservation Division (DLNR-SHPD) 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.

K. Should the Applicant develop residential units on the subject property, the Applicant shall make its fair share contribution to mitigate the potential regional impacts of the development 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 Final Subdivision Approval, whichever is applicable, and shall be based on the actual number of additional residential units or lots created. The fair share contribution in the 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 ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a combined value of **\$10,678.45** per multiple family residential unit or lot (**\$16,641.15** per single family residential unit or lot). The total amount shall be determined with the actual number of residential lots/units according to the calculation and payment provisions set forth in this condition. The fair share contribution per multiple family residential unit or lot (single family residential unit or lot) shall be allocated as follows:

1. \$5,267.38 per multiple family residential unit or lot (\$8,024.66 per single family residential unit or lot) to the County to support park and recreational improvements and facilities;
2. \$228.24 per multiple family residential unit or lot (\$387.11 per single family residential unit or lot) to the County to support police facilities;
3. \$512.10 per multiple family residential unit or lot (\$764.59 per single family residential unit or lot) to the County to support fire facilities;
4. \$228.24 per multiple family residential unit or lot (\$334.75 per single family residential unit or lot) to the County to support solid waste facilities; and
5. \$4,504.25 per multiple family residential unit or lot (\$7,130.04 per single family residential unit or lot) 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 pursuant to Section 2-162.1(a) of Hawai'i County Code.

- L. 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.
- M. 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 or Final Subdivision Approval, whichever occurs first.
- N. The Applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements.
- O. If the applicant fails to fulfill any conditions of the zone change within the specified time limitations, the Planning Director or County Council may initiate the process for enactment of an ordinance reverting the affected property back to its original zoning designation or a more appropriate zoning designation in accordance with Section 25-2-43 of the Hawai'i County Code.
- P. Final Plan Approval shall be secured within ten (10) years from the effective date of this amendment.
- Q. An initial extension of time for the performance of conditions within this ordinance may be requested in accordance with Section 25-2-44, subsections (c) and (d), of the Hawai'i County Code.”




**SECTION 2.** Material to be deleted 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.

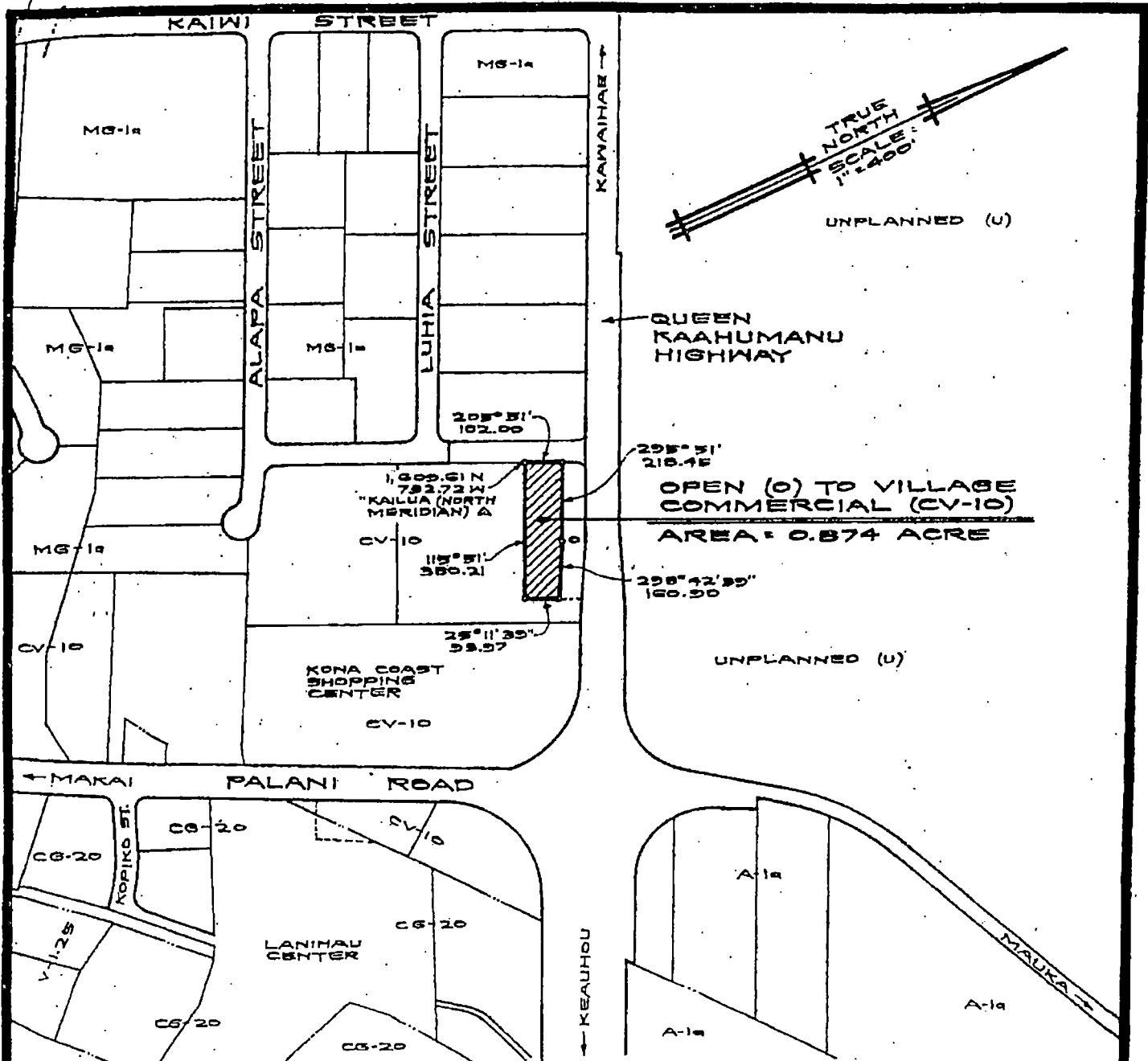
**SECTION 4.** This ordinance shall take effect upon its approval.

INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i  
Date of Introduction: May 15, 2024  
Date of 1st Reading: May 15, 2024  
Date of 2nd Reading: June 5, 2024  
Effective Date: June 14, 2024

REFERENCE Comm. 818.4



## AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-5 (KAILUA URBAN ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM OPEN (O) TO VILLAGE COMMERCIAL (CV-10) AT KEAHUOLU, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK: 7-4-15:15 (PORTION)

JAN. 31, 1989

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

COUNTY CLERK  
COUNTY OF HAWAII

2024 JUN 21 PM 3: 23

(Draft 2)

Introduced By: Dr. Holeka Goro Inaba (B/R)  
Date Introduced: May 15, 2024  
First Reading: May 15, 2024  
Published: May 24, 2024

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_


Second Reading: June 5, 2024  
To Mayor: June 13, 2024  
Returned: June 21, 2024  
Effective: June 14, 2024  
Published: July 5, 2024


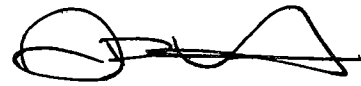
REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Evans	X			
Galimba	X			
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Villegas	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Evans	X			
Galimba			X	
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder			X	
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Villegas	X			
	7	0	2	0

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

Approved/Disapproved this 14<sup>th</sup> day  
of June, 2024.  
  
MAYOR, COUNTY OF HAWAII

  
COUNCIL CHAIRPERSON  
  
COUNTY CLERK

Bill No.: 151 (Draft 2)  
Reference: C-818.4/LAAC-57  
Ord No.: 24 38