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**County of Hawai'i**  
**PLANNING DEPARTMENT**

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July 7, 2017

Mr. William Walter, President  
W.H. Shipman, Ltd.  
16-523 Keaau-Pahoa Road  
Keaau, HI 96749

Dear Mr. Walter:

**SUBJECT: Request: Interpretation of Zoning Boundaries**  
**TMK: 1-6-143 022, Lot 2 & Former Lot 8-C**

Thank you for submitting the above-referenced letter with six Exhibits, A - F, pertaining to the referenced TMK. We apologize for this belated reply. The letter requests a Planning Director's determination for a county zoning boundary interpretation as to whether the subject parcel is split-zoned which results in two different classifications - Village-Commercial (CV-10) and Single-Family Residential (RS-10).

Upon review of your submittals, the official county zoning maps and other official records, the Planning Director has determined that the entire subject property is zoned in Village-Commercial (CV-10). Stated below is justification and findings to uphold this determination.

### **FINDINGS**

**1. County of Hawaii Zoned Maps/Planning Department Geographical Information System (GIS).**

The subject TMK: 1-6-143:022, is 36,895 square feet and is currently shown as split-zoned Village Commercial (CV-10) and Single Family Residential (RS-10) split-zoned on both the County of Hawaii Tax Maps (plot bond) and the Planning Department GIS maps. This is the department's handy official reference zoning map. A TMK zoning map would serve as the initial basis to determine a parcel's zoning classification or boundary; however, it is an official *reference* map, only. These maps are also referred to in formatting the department's GIS zoning maps.

2. **Hawaii County Code, Section 25-8-25, Zoning, Keaau Zone Map (adopted by Ord. 96-160, sec. 2, ratified April 6, 1999).** The subject lot is depicted as split zoned CV-10 (27,269 sq. ft.) and RS-10 (9,627 sq. ft.). (*See Exhibit 1-1996 Keaau Zone Map*)

*Note: The Zoning boundaries on the Keaau Zone Map, however, is in map form only. A written metes and bounds description of the zoning boundaries is not evident and does not accompany the Keaau Zone Map.*

3. **Hawaii County Code, Section 7.21, Keaau Zone Map (adopted 12/20/67).**

The CV-10 and RS-10 split zoned designation is not delineated on the earlier 1967 version of the Keaau Zone Map. The subject parcel is separated by a former roadway lot, Lot 8-C, as shown on the map with no zoning designation. (*See Exhibit 2-1967 Keaau Zone Map*)

In 1997, this roadway lot was subsequently consolidated into the subject TMK: 1-6-143:022, previously identified as Lot 8-C, TMK: 1-6-03:14. Its original area of 9,626 sq. ft. now extinguished, (according to archive TMK: 1-6-plat 03 [10/2/96 & 1953]) was consolidated with the subject parcel through Subdivision No. 6820 (April 1, 1997). (*See Exhibit 2-1967 Keaau Zone Map*)

*Note: The Zoning boundaries on the Keaau Zone Map, however, is in map form only. A written metes and bounds description of the zoning boundaries is not evident and does not accompany the Keaau Zone Map.*

4. **County Ord. No. 85-041, May 22, 1985 (file REZ 498).**

The adjacent RS-10 zoned area was initially established by and shown on your Exhibit "A" ordinance map as Lot A-17-C containing an area of 4.190 acres.

Further, Ord. No 85-041, describes the Lot A-17-C's metes and bounds with Lot Line (235.57) as the final lot line that contains the RS-10 zoning of 4.190 acres. This area excluded the roadway Lot 8-C; leaving it as unzoned. Today, the adjacent parcel is identified as TMK: 1-6-150:042, which adjoins the subject TMK: 1-6-143:022 at the common side lot line (235.57). The county residential RS-10 split-zoning occurs along the subject parcel's southwestern side lot line (235.57); which excludes the former roadway Lot 8-C.

This area has subsequently been subdivided into 17 lots. (*See Exhibit 3-Change of Zone Ordinance Map 85-041*)

### **Conflict**

As a result of the above findings, a three part conflict exists between the official county Keaau Zone Maps, the 1996 map vs. the 1967 map, the Planning Department's (plot bond) official

reference TMK zoning map and GIS Map, in addition to the RS-10 rezoning ordinance metes and bounds description.

A county zoning district and its boundaries are established by a metes and bounds description and in map form, according to sec. 25-3-3, discussed above; however, a zoning boundary conflict has resulted from the difference between above-referenced official zoning maps and the RS-10 rezoning ordinance metes and bounds description.

#### **Authority for Planning Director's Determination**

In this situation, where there are multiple maps depicting conflicting information as well as ordinance metes and bounds description delineating district boundaries, the Planning Director's authority to interpret the county zoning district boundaries arises from two sections in the Hawaii County Code, Chapter 25 (Zoning):

#### **Hawaii County Code, Sec. 25-3-6, Rules for Interpretation of Boundaries.**

Where uncertainty exists as to the boundaries of any of the districts as shown on the zoning map, the following three subsections of Sec. 25-3-6 pertain to the spilt-zone circumstances:

“(2) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines;”

“(5) Boundaries indicated as parallel to or extension of features indicated in paragraphs (1) through (4) of this section shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the director scaling the distance on the zoning map.”

“(6) Where physical or cultural features existing on the ground vary from those shown on the zoning map or in other circumstances not covered by paragraphs (1) through (4) of this section, the director shall determine the location of such boundaries.”

#### **Hawaii County Code, Sec. 25-3-3, Method & Effect of Establishment of districts.**

This section states: “(a) Any of the districts listed in sections 25-3-1 and 25-3-2 are or may be established for any portion of the county by being described by metes and bounds and in map form. In case of conflict between a zoning map and metes and bounds description delineating district boundaries, the latter shall control. In case of conflict between a zoning map, and any summary of ordinances as provided by subsection (d) below on one hand, and duly enacted ordinance on the other, the provisions of the ordinance shall be authoritative...”

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## DETERMINATION

The applicant's submitted maps, including referenced County Zoning maps, Ordinances, and Subdivision No. 6820 maps were used to correlate and compare the zoning classifications and boundaries with the respective lot lines of TMK: 1-6-143:22 and 42.

Based on the conflicting information, the Director referred to Hawaii County Code Section 25-3-3 and 25-4-6 to make the determining interpretation that the written metes and bounds description shall control.

The Planning Director, therefore, interprets that the CV zoning boundary is parallel to and follows the existing lot lines of TMK: 1-6-143:022 and is contained at its common side lot line (235.57). Likewise, the RS-10 zone is contained within TMK: 1-6-150:042 and the containment is completed at the common side lot line (235.57), consistent with the RS-10 metes and bounds description of rezoning Ord. No. 85-041.

In conclusion, thank you for your patience in this matter and for requesting an official zoning boundary interpretation. The purpose of the foregoing discussion and determination is to clarify the commercial-residential split-zone issue of the subject property and revise the residential zoning extension from TMK: 1-6-150 onto TMK: 1-6-143. The department's official reference county zoning maps, the (plot bond) TMK and the GIS zoning maps, will be revised in accordance with the above determination of the commercial-residential zoning boundary interpretation.

Sincerely,



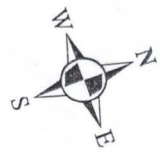
MICHAEL YEE  
Planning Director

EML/SG:nci

P:\Admin Permits Division\Letters\Zoning Inquiries\LWHShipman1-6-143-022revsg.docx

Encl: Exhibits 1-3

cc: Gilbert Bailado, GIS Section  
Mary Aken, Mapping Section  
REZ 798



**EXHIBIT**  
1

# KEAAU ZONE MAP SECTION 25-8-25 (FORMALLY SECTION 7.21)

PORTION OF ORDINANCE NO. 111  
AMENDING THE COMPREHENSIVE ZONING ORDINANCE NO. 63, REVISED  
ORDINANCES OF THE COUNTY OF HAWAII, 1967, BY ADOPTING THIS  
KEAAU ZONE MAP, PUNA, HAWAII.

DATE OF PUBLIC HEARING: 5-26-67  
DATE ADOPTED BY PLANNING COMMISSION: 7-21-67  
DATE ADOPTED BY BOARD OF SUPERVISORS: 12-20-67

PREPARED BY:  
PLANNING COMMISSION  
COUNTY OF HAWAII

TAX MAP KEY: ZONE 1

Keaau zone map, marked thereupon as section 7.21.  
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999)

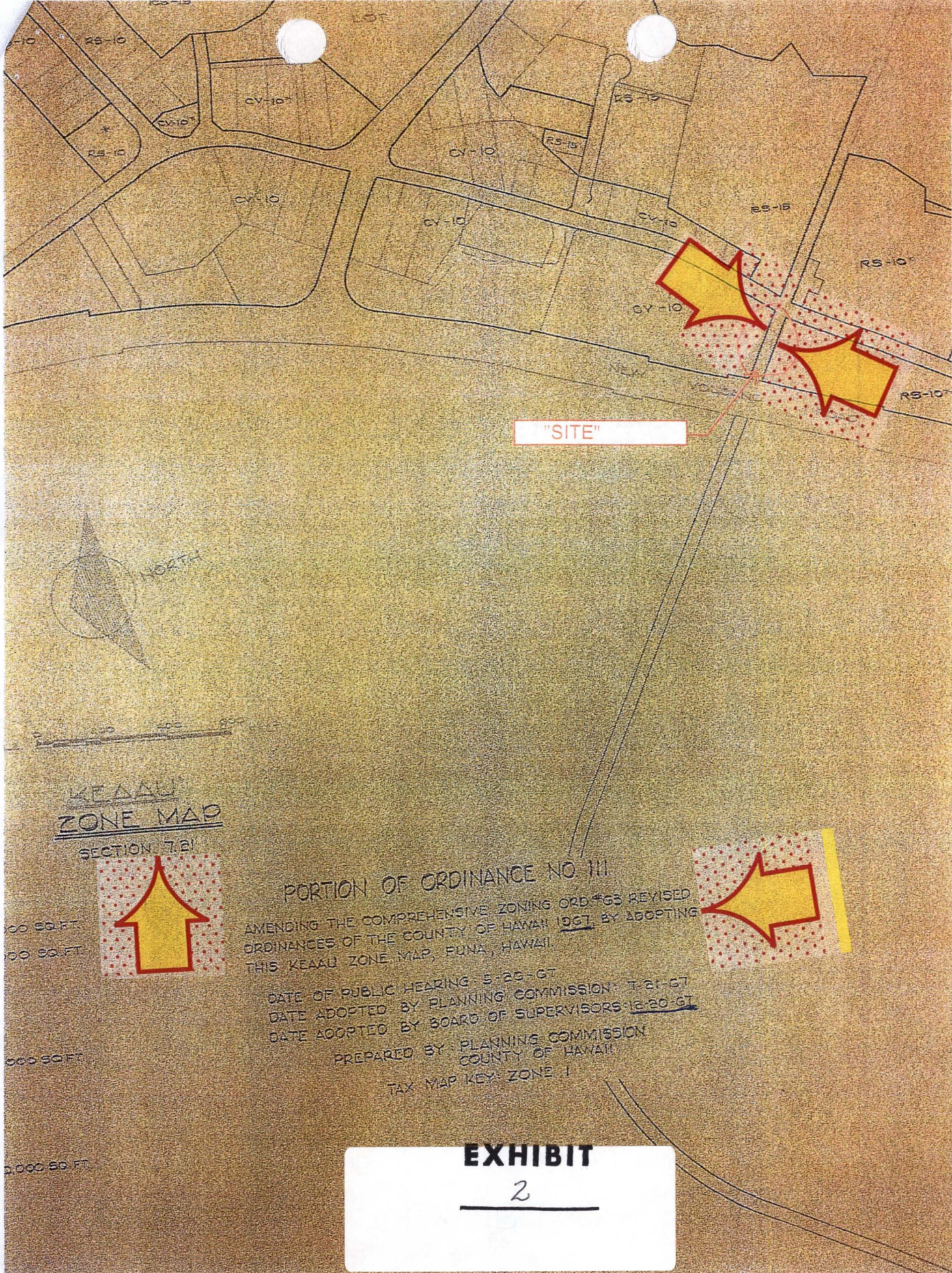


## 1996: Keaau Zone Map

REVISED DATE	ORDINANCE NUMBER
10-16-69	288
2-15-70	13 <sup>1</sup>
6-18-74	33 <sup>1</sup>
6-22-77	388 <sup>1</sup>
5-23-85	88-41 <sup>1</sup>
2-23-88	88-22 <sup>1</sup>
12-7-88	88-160
2-18-97	NZC 27.1
3-25-98	88-28 <sup>1</sup>

\*CONDITIONAL ZONING  
REVISION DATE: 2/22/17

KEAAU ZONE MAP



**KEAAU  
ZONE MAP**  
SECTION 7.21

"SITE"

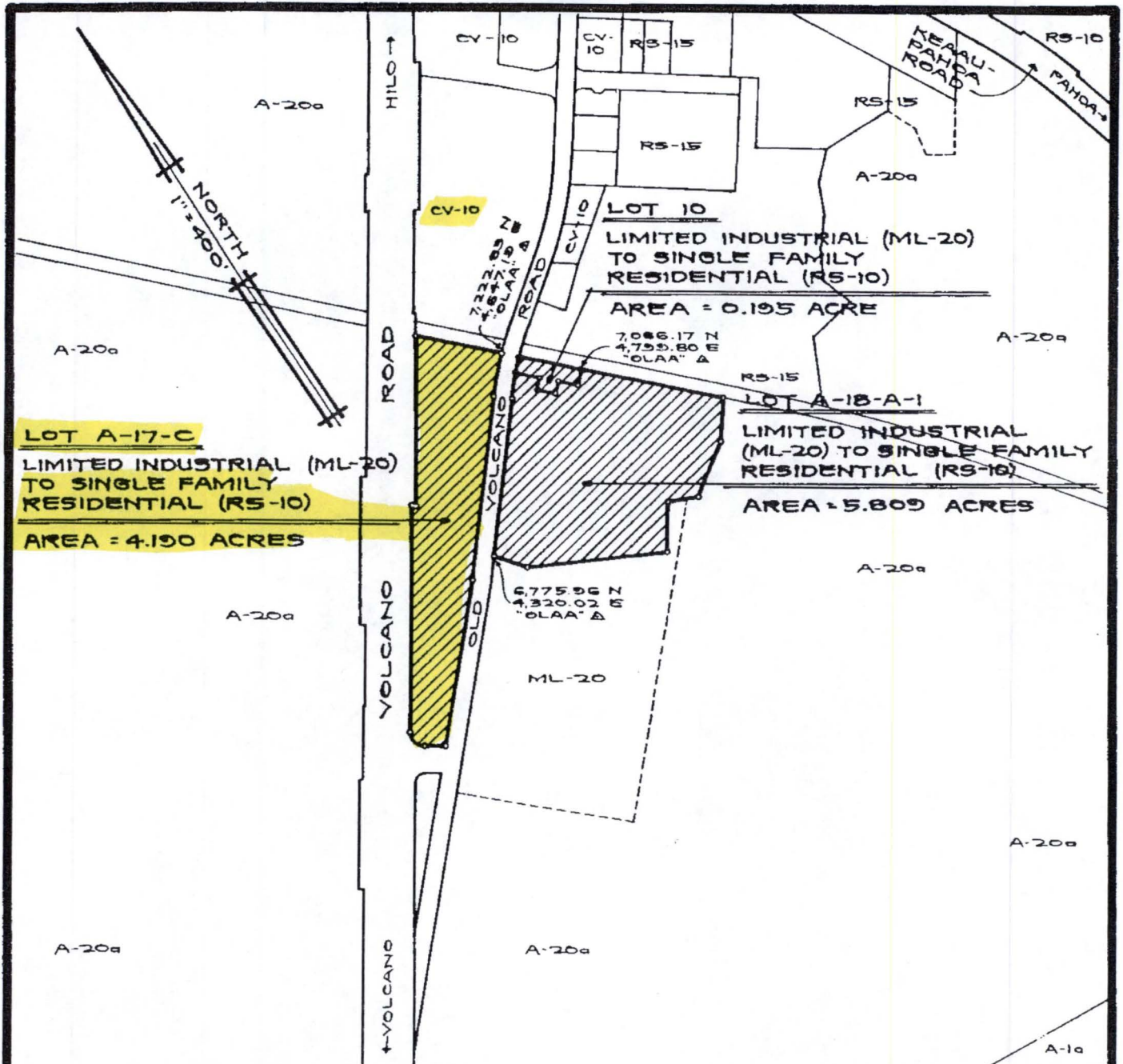
**PORTION OF ORDINANCE NO. 111**

AMENDING THE COMPREHENSIVE ZONING ORD. #63 REVISED  
ORDINANCES OF THE COUNTY OF HAWAII 1967 BY ADOPTING  
THIS KEAAU ZONE MAP, PUNA, HAWAII.

DATE OF PUBLIC HEARING: 5-25-67  
DATE ADOPTED BY PLANNING COMMISSION: 7-21-67  
DATE ADOPTED BY BOARD OF SUPERVISORS: 12-20-67

PREPARED BY: PLANNING COMMISSION  
COUNTY OF HAWAII  
TAX MAP KEY: ZONE 1

**EXHIBIT**  
2



## AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-106 (KEAAU ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM LIMITED INDUSTRIAL (ML-20) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT KEAAU, PUNA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK : 1-6-143 : 19, 20 AND PORTION OF 22

MARCH 5, 1985

EXHIBIT "A"

Change of Zone Ordin. No. 85-041 (REZ 498)

EXHIBIT

3