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COUNTY OF HAWAI'I PLANNING DEPARTMENT

LAND USE COMMISSION  
STATE OF HAWAII  
2016 JAN 22 A 9:22

BEFORE THE LAND USE COMMISSION

STATE OF HAWAI'I

In the Matter of the Petition of

QUEEN LILI'UOKALANI TRUST

To Amend the Agricultural District Boundary into the Urban District for approximately 919.366 acres and to Amend the Conservation District Boundary into the Urban District for approximately 188.358 acres, at Keahuolu, Island, County and State of Hawaii, Hawaii Tax Map Key Nos. (3) 7-4-08: por. 2, por. 12

DOCKET NO. A89-646

COUNTY OF HAWAI'I PLANNING DEPARTMENT'S RESPONSE TO PETITIONER'S FIRST AND SECOND SUPPLEMENTAL MEMORANDUM IN SUPPORT OF ITS MOTION FOR ORDER MODIFYING THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER FILED AUGUST 28, 1991; COUNTY EXHIBITS "1"- "3"; CERTIFICATE OF SERVICE

**COUNTY OF HAWAI'I PLANNING DEPARTMENT'S RESPONSE TO  
PETITIONER'S FIRST AND SECOND SUPPLEMENTAL MEMORANDUM IN  
SUPPORT OF ITS MOTION FOR ORDER MODIFYING THE FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND DECISION AND ORDER FILED AUGUST 28, 1991**

The County of Hawai'i Planning Department ("Department") by and through its undersigned counsel, pursuant to Hawai'i Administrative Rules, Section 15-15-37, hereby offers its response to *Petitioner's Motion for Order Modifying the Findings of Fact, Conclusions of Law, and Decision and Order filed August 28, 1991*, filed August 14, 2015, which were

supplemented by *Petitioner's First and Second Supplemental Memoranda* filed on October 16, 2015 and January 11, 2016, respectively.

The Petitioner's Motion For Order Modifying the Findings of Fact, Conclusions of Law, and Decision and Order filed by the State Land Use Commission ("LUC") on August 28, 1991 ("1991 Decision and Order"), and filed with same on August 14, 2015 ("Motion"), requests that the LUC remove 212.333 acres of State Land Use designated Agricultural lands located makai of the Queen Ka'ahumanu Highway from the Petition area. These lands were identified as "Phase III" within the 1991 Decision and Order.

**A. BACKGROUND**

1. The 1991 Decision and Order, in reclassified Phase I and II, collectively consisting of 545.391 acres located mauka of the Queen Ka'ahumanu Highway, into the Urban District while ordering that Phase III, consisting of 212.333 acres located makai of the Queen Ka'ahumanu Highway, be incrementally reclassified to the Urban District subject to "prima facie" showing of substantial completion of Phases I and II. Petitioner's proposal for all phases comprising a total of 895.391 acres was an "urban activity center" consisting of a centralized business and financial plaza, retail and commercial office space, government/civic center, regional shopping center, regional hospital, business/light industrial park, hotel and a college campus. Note that there was no residential component in this original proposal.
2. In 1993, the Hawai'i County Council approves change of zone for Phases I and II to a General and Office Commercial (CG-10, CO-10) zoning districts for 286.684 acres of land and Open (O) zoning district for 28.202 acres of land, subject to conditions of approval. *See* County Exhibit "1".

3. In 2000, the Hawai'i County Council approves a change of zone that essentially modifies the original 1993 change of zone by redesignating the CO-10 lands consisting of 114.018 acres to CG-10, subject to modified conditions of approval. This 2000 ordinance effectively supplants the 1993 ordinance. *See* County Exhibit "2". Note that zoning conditions only effectuated CG-10 zoning for a 49.9-acre portion of the overall project site that encompasses the Macy's, Kmart and Regal Theater complexes, with the remaining balance of 264.986 acres within Phases I and II maintaining its native Agricultural-minimum lot size of 5 acres (A-5a) zoning until such time potable water availability is certified by the Planning Director.
4. Petitioner proceeds with development of "Makalapua Shopping Center" within Phase I, which currently accommodates Macys, Regal Cinemas and Kmart retail establishments on approximately 25.4 acres of land. The remainder of Phase I and all of Phase II remain vacant due changing market conditions and topographical considerations not ideally suited for solely commercial development.
5. The area makai of the Queen Ka'ahumanu Highway and adjacent to the south of the Petitioner's Phase III project area has seen significant growth in recent years with the 2008 opening of the Kona Commons, which includes an approximately 130,000 square-foot shopping center and a 160,000 square-foot Target store, along with other free-standing establishments like McDonalds, Ross Dress for Less and Bank of Hawaii.
6. On lands adjacent to the east of Phase III, is the Old Kona Airport State Recreation Area being managed by the County of Hawai'i. The County is working to implement the Kailua Park Master Plan (*see* County Exhibit "3") that will rehabilitate 117-acres

within the Old Kona Airport State Recreation Area to provide a range of improvements to the area to serve the regional recreational need of the Kona community along with new access roads that will realign and tie in with existing and proposed roadway systems within the Petitioner's Phase III project area as shown on Petitioner's Exhibit 9.

**B. CURRENT LAND USE DESIGNATIONS**

7. County General Plan-Land Use Pattern Allocation Guide (LUPAG) Map identifies the area encompassing all of Phase III as Urban Expansion Area, which could allow for a mix of high density, medium density, low density, industrial, industrial-commercial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. *See* Petitioner's Exhibit 6.
8. Kona Community Development Plan (Kona CDP) – identifies lands encompassing the southern portion of the Phase III project area as being situated within a Regional Center Transit Oriented Development (Regional TOD). *See* Petitioner's Exhibit 10. This particular Regional TOD is identified as “Makaeo Village”, a major retail center planned near the Old Kona Airport Park. As a mixed use village, the plan is to introduce residential uses into the mix, design a complementary relationship to the Old Kona Airport Park, and to integrate a transit hub or major park and ride facility for commuters (primarily resort workers).
9. County Zoning – Agricultural-minimum lot size of 5 acres (A-5a). *See* Petitioner's Exhibit 7.
10. Special Management Area (SMA) – Phase III is situated within the SMA.

C. **PETITIONER'S MOTION**

11. According to the Petitioner, it has revised its development plan for the area encompassing Phases I through III to better fit the needs of the community. They recognize the need in Kona for a broad range of mixed-housing choices that will appeal to different age groups and levels of affordability for the community. In response to this need, the Petitioner has developed a new land plan that will integrate such housing options within a new, more sustainable development plan than originally contemplated. Therefore, Petitioner's land plan now envisions residential and commercial development within all phases.
12. Petitioner motions to seek the release of Phase III from the 1991 Decision and Order compelling the completion of Phases I and II before Urban reclassification is effectuated for Phase III. This will allow Petitioner to pursue a separate State Land Use District boundary amendment for the majority of Phase III lands in order to accommodate the Petitioner's new land development plan and phasing for its Makalapua lands.
13. An exception is an area of less than 15 acres ("MPD Area") within Phase III and adjacent to existing Urban designated lands that comprise the Kona Industrial Area. The area that includes the MPD Area and portions of the existing Kona Industrial Area is referred to as the Petitioner's proposed "Makalapua Project District" that will encumber about 68.51 acres of mixed use commercial, residential and hotel development with ancillary uses and facilities. As shown on Petitioner's Exhibit 1, this MPD Area will be processed through the County as a State Land Use boundary amendment that will, if approved, become a part of the Makalapua Project District

rezoning that will also include a portion of the existing Kona Industrial Area (*see* Petitioner's Exhibit 9).

**D. COUNTY'S RESPONSE TO PETITIONER'S MOTION**

The County of Hawai'i supports the Petitioner's Motion for Release of Phase III from the 1991 Decision and Order. Evidence on the ground has clearly shown the stagnation that has occurred on commercial development within Petitioner's Phase I and II, with growth in recent years concentrated on lands situated makai of the Queen Ka'ahumanu Highway and immediately adjacent to the south of Phase III. The area in proximity to Phase III as well as that area encompassing Kailua Village further to the south have been identified as two (2) of a total of four (4) Regional TODs within the Kona CDP. This particular Regional TOD encompassing a portion of Phase III is identified as "Makaeo Village", a major retail center planned near the Old Kona Airport Park. As a mixed use village, the plan is to introduce residential uses into the mix, design a complementary relationship to the Old Kona Airport Park, and to integrate a transit hub or major park and ride facility for commuters.

The Petitioner has already been in contact with the County of Hawai'i Department of Parks and Recreation (P&R) to coordinate its proposed Makalapua Project District development concept with the P&R implementation of the Kailua Master Plan Park improvements. This includes the realignment of Kuakini Highway from within the existing park boundaries to adjoining lands within the Petitioner's Phase III and aligning interior access roads within the Petitioner's Phase III with proposed park entrances defined within the Kailua Park Master Plan.

The release of Phase III lands from the 1991 Decision and Order will allow the Petitioner to approach the County with a State Land Use boundary amendment for an area of less than 15 acres in order to help facilitate the application for zoning to implement the Petitioner's

Makalapua Project District concept that will then, in turn, help to facilitate the programming of roadway and utility improvements in coordination with P&R and in support of the Kailua Park Master Plan that will, in turn again, be a step towards establishing the Makaeo Village Regional TOD as called for in the Kona CDP.

The Petitioner's Phase I and II performance under the terms of the 1991 Decision and Order can all be addressed at the time the Petitioner's plans for its Keahuolū Land Plan ("KLP") is finalized somewhere towards the end of 2016, which will then provide a foundation for any motion to address compliance issues with the 1991 Decision and Order and for the petition to reclassify the remainder of the Phase III lands to the Urban district. But it can be difficult to look at the bigger picture when legislated mandates prevent reasonable coordination of land use and infrastructural improvements that will serve two relatively significant projects like the Petitioner's Makalapua Project District and the County's Kailua Airport Master Plan. Aside from the MPD Area, both the State Land Use Commission and the County will have a future opportunity to determine the fate of any petition or motion that affects the lands within the Petitioner's 1,350-acre KLP. In the meantime, support of the Petitioner's motion will only allow for the release of 14.37 acres for final land use disposition with the County. The County concludes that this is a reasonable approach if it helps facilitate land use and infrastructural planning within this important Regional TOD.

DATED: Hilo, Hawai'i, January 20, 2016.

COUNTY OF HAWAI'I PLANNING  
DEPARTMENT

By 

WILLIAM V. BRILHANTE, JR.  
Assistant Corporation Counsel  
Its Attorney

**COUNTY EXHIBIT "1"**



COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 64  
(Draft 3)

ORDINANCE NO. 93 66

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM UNPLANNED (U) TO OFFICE COMMERCIAL (CO-10), 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. Section 25-87, Article 3, 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):

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 y 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:

COUNTY EXHIBIT "1"



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 the 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:



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 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 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, 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 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 1 has (have) been established, and that an agreement has been entered into with the County through its Departments 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 the 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 entered into an agreement with the County through its Departments 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. Provided, however, that the applicant shall fulfill the requirements of this condition for the zoning

of Lot 1 within three (3) years from the effective date of this ordinance and for zoning of Lot 2 within five (5) years after the effective date of zoning for Lot 1. 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 Master Plan for the subject property (Phase I consisting of 315 acres) shall be submitted to the Planning Director within one (1) 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 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 archaeological 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 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 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 vehicular access to Lot 1 from Queen Kaahumanu Highway (i.e., Queen Liliuokalani 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. 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 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 access points onto Queen Liliuokalani Boulevard shall meet with the approval of the Department of Public Works. The Queen Liliuokalani 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 zoned lands within Lot 2; (H) the applicant shall install improvements, which may 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 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 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 Boulevard extension may consist of upgraded improvements meeting with the approval of the Department of Public Works; (I) 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 includes 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 applicant shall meet with the requirements of the Department of Transportation-Highway Division the development of the subject property. Provided however, that the signalization of the Queen Liliuokalani Boulevard-Queen Kaahumanu Highway intersection meeting 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 overall landscaping master plan, which includes 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 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 drainage system shall be installed meeting with the approval of the Department of Public Works; (N) 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 with all applicable laws, rules, regulations and requirements, including those of the Department of Health, Fire, and the Department of Water Supply; (P) 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 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; and, (R) 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, successors or assigns, (i.e. which shall include, but not be limited to, the presence of

archeological 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 shall initiate rezoning of the area to its original or more appropriate designation.

SECTION 3. In the event that any portion of the 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.

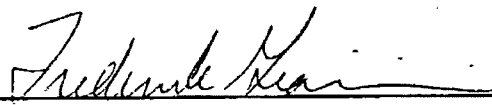
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: June 2, 1993  
Date of 1st Reading: June 2, 1993  
Date of 2nd Reading: June 16, 1993  
Effective Date: June 22, 1993

APPROVED AS TO FORM AND LEGALITY:

  
CORPORATION COUNSEL

DEPUTY

DATED: 6/22/93

STATE OF HAWAII

WATER TANK

MID LEVEL CONNECTOR ROAD

PHASE I URBAN DISTRICT

PROPOSED ROAD

PROPOSED  
C2  
25.71

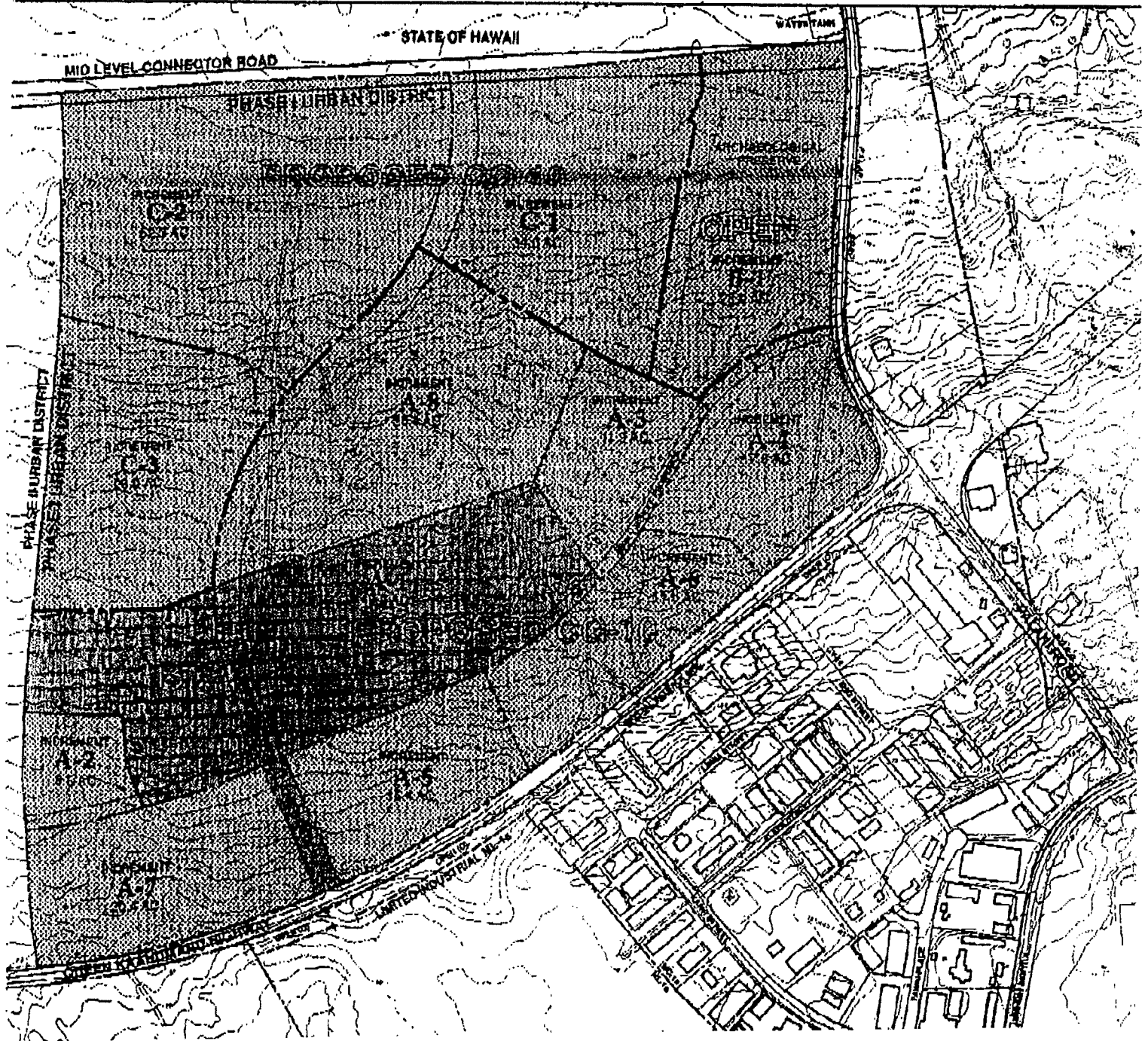
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**COUNTY EXHIBIT "2"**

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;

- |     |   |              |   |
|-----|---|--------------|---|
| 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;

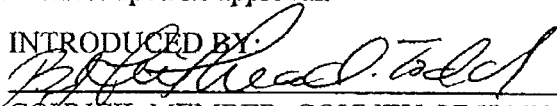
(c) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone;

(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

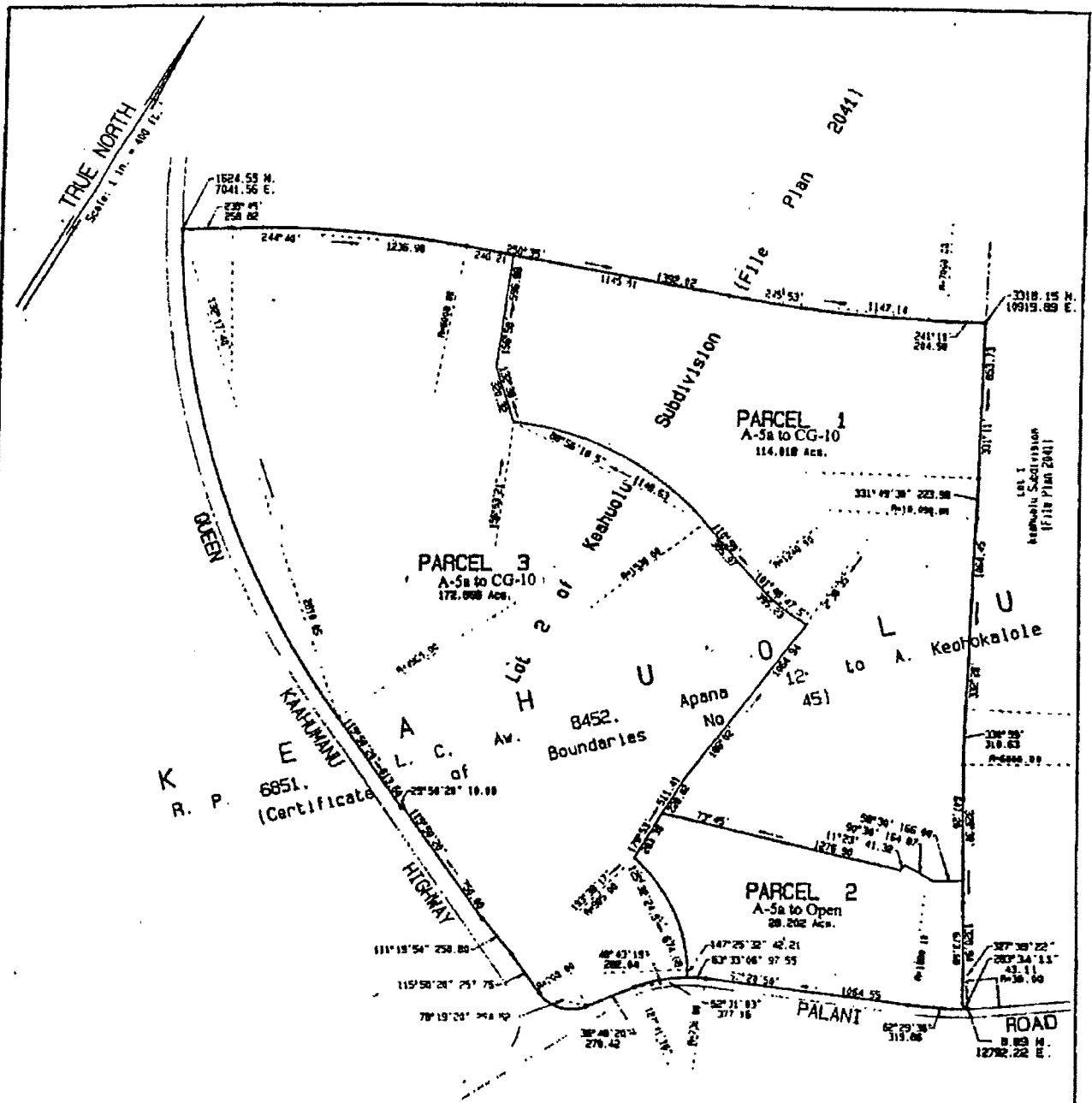
Date of Introduction: April 5, 2000  
Date of 1st Reading: April 5, 2000  
Date of 2nd Reading: April 19, 2000  
Effective Date: April 26, 2000

APPROVED AS TO FORM AND LEGALITY

  
CORPORATION COUNSEL

DATED: 4/26/00

REFERENCE: Comra. 682.002



MAP SHOWING  
**PROPOSED ZONING CHANGES**

At Keahuolu, North Kona, Island of Hawaii, Hawaii

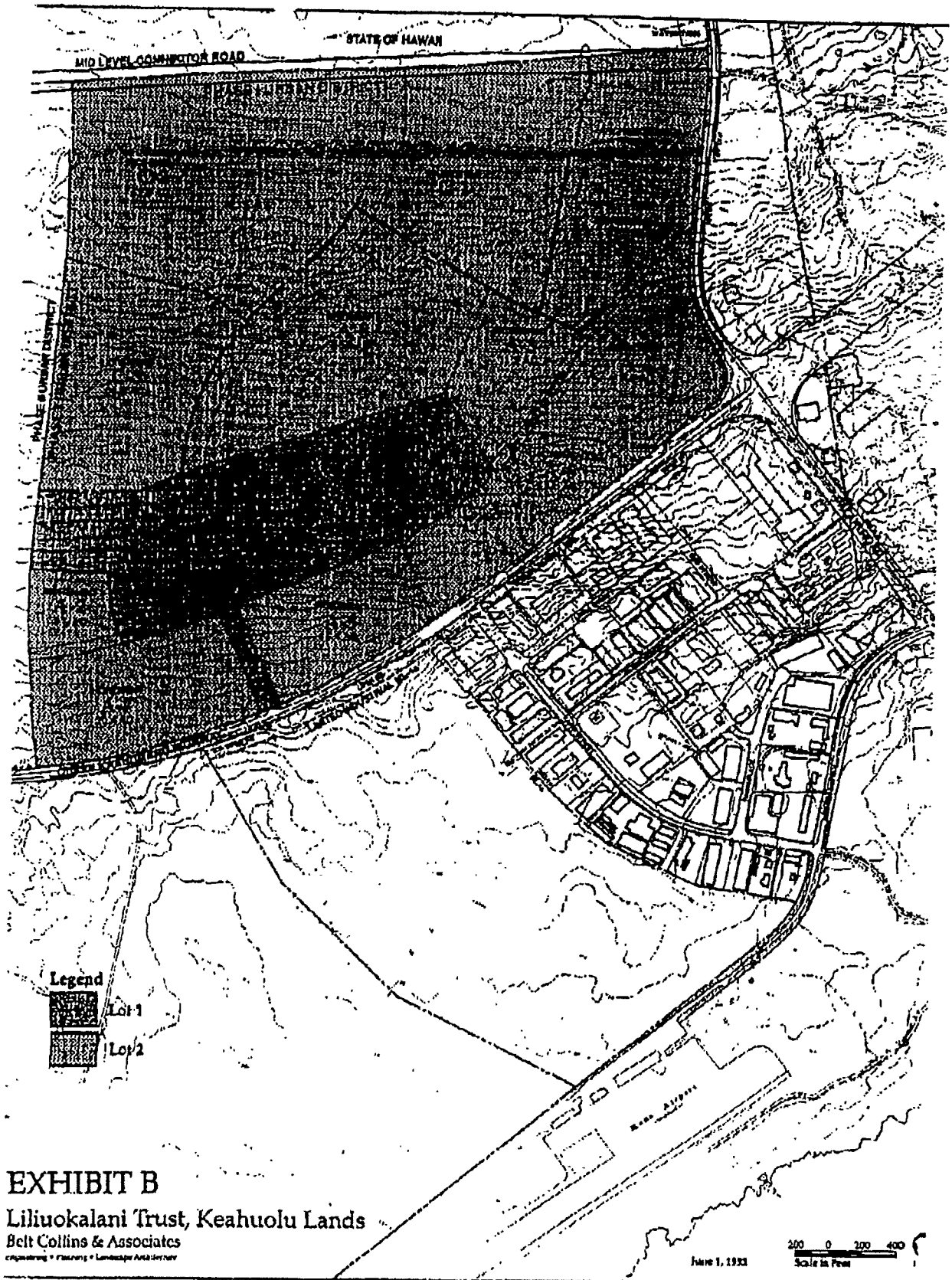
See Map Key 7-4-08; portion 12

OWNER:  
 Liliuokalani Trust  
 c/o First Hawaiian Bank  
 Trust Division  
 P. O. Box 3250  
 Honolulu, Hawaii 96811

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

MARCH 10, 1988

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



**EXHIBIT B**  
 Liliuokalani Trust, Keahuolu Lands  
 Belt Collins & Associates  
 engineering • planning • landscape architecture

200 0 200 400  
 Scale in Feet

June 1, 1993

8-216

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

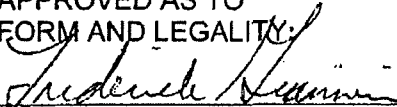
REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff			X	
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
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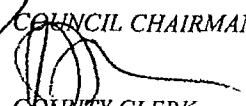
(DRAFT 2)

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

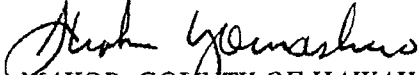
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

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

**COUNTY EXHIBIT "3"**



BEFORE THE LAND USE COMMISSION

STATE OF HAWAI'I

In the Matter of the Petition of

QUEEN LILI'UOKALANI TRUST

To Amend the Agricultural District Boundary into the Urban District for approximately 919.366 acres and to Amend the Conservation District Boundary into the Urban District for approximately 188.358 acres, at Keahuolu, Island, County and State of Hawaii, Hawaii Tax Map Key Nos. (3) 7-4-08: por. 2, por. 12

DOCKET NO. A89-646

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was duly served upon the following in the manner indicated below on January 20, 2016:

	<u>Hand Delivery</u>	<u>U.S. Mail</u>
BENJAMIN A. KUDO, ESQ. Ashford & Wriston, LLP 999 Bishop Street, Suite 1400 Honolulu, Hawai'i 96813 Attorney for Petitioner	( )	(X)
LEO R. ASUNCION, Jr., AICP Acting Director Office of State Planning 235 South Beretania Street, 6 <sup>th</sup> Floor Honolulu, Hawai'i 96813	( )	(X)
BRYAN C. YEE, Esq. Department of the Attorney General Hale Auhau, 3 <sup>rd</sup> Floor 425 Queen Street Honolulu, Hawai'i 96813 Attorney for State Office of Planning	( )	(X)



	<u>Hand Delivery</u>	<u>U.S. Mail</u>
MARK VAN PERNIS, ESQ. 75-167F Hualalai Rd., Ste B Kailua-Kona, HI 96740 Attorney for Intervenor	( )	(X)
HAWAII ELECTRIC LIGHT COMPANY, INC. 1200 Kilauea Ave. Hilo, Hawai'i 96720	( )	(X)
HAWAII ELECTRIC LIGHT COMPANY, INC. 54 Halekauwila Street Hilo, Hawai'i 96720	( )	(X)
HAWAII ELECTRIC LIGHT COMPANY, INC. P.O. Box 1027 Hilo, Hawai'i 96721-1027	( )	(X)
HILO ELECTRIC LIGHT COMPANY, LIMITED 1200 Kilauea Avenue Hilo, Hawai'i 96720	( )	(X)
HILO ELECTRIC LIGHT COMPANY, LIMITED 54 Halekauwila Street Hilo, Hawai'i 96720	( )	(X)
HILO ELECTRIC LIGHT COMPANY, LIMITED P.O. Box 1027 Hilo, Hawai'i 96721-1027	( )	(X)
GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED, now known as HAWAIIAN TELCOM, INC. 1177 Bishop Street Honolulu, Hawai'i 96813	( )	(X)
GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED, now known as HAWAIIAN TELCOM, INC. 161 Kinoole Street Hilo, Hawai'i 96720	( )	(X)

	<u>Hand Delivery</u>	<u>U.S. Mail</u>
GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED, now known as HAWAIIAN TELCOM, INC. P.O. Box 2200 Honolulu, Hawai'i 96841	( )	(X)
WATER BOARD OF THE COUNTY OF HAWAI'I 345 Kekūanaō'a Street, Suite 20 Hilo, HI 96720	(X)	( )
HAWAII PLANNING MILL LTD., dba HPM BUILDING SUPPLY 380 Kanoelehua Avenue Hilo, Hawai'i 96820	( )	(X)
HAWAII PLANNING MILL LTD., dba HPM BUILDING SUPPLY 16-166 Melekahiwa Street Keaau, Hawai'i 96749	( )	(X)
STATE OF HAWAI'I, DEPT. OF TRANSPORTATION 869 Punchbowl Street Honolulu, HI 96813	( )	(X)
KMART CORPORATION 3333 Beverly Rd., Dept. 824 RE Hoffman Estates, IL 60179	( )	(X)
MACY'S WEST 1600 Pauahi Tower 1003 Bishop Street Honolulu, HI 96813	( )	(X)
KM KONA PARTNERS 1288 Ala Moana Blvd., Ste 208 Honolulu, HI 96814	( )	(X)
WALLACE THEATER CORPORATION 7132 Regal Ln. Knoxville, TN 37918-5803	( )	(X)

REGAL CINEMAS, INC.  
1136 Union Mall, Suite 301  
Honolulu, HI 96813

Hand Delivery

U.S. Mail

( )

(X)

DATED: Hilo, Hawai'i, January 20, 2016.



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WILLIAM V. BRILHANTE, JR.  
Attorney for County of Hawai'i  
Planning Department