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February 22, 2022

Mr. Daniel E. Orodener, Executive Officer
State of Hawai'i Land Use Commission
State Office Tower, Leiopapa A Kamehameha
235 South Beretania Street, Room 406
Honolulu, Hawai'i 96813

**RE: 2022 ANNUAL REPORT to the Land Use Commission Docket No. A03-744 -
Successor Petitioner SMC KONA LLC
TMK: (3) 7-2-005-001**

Dear Mr. Orodener,

Successor Petitioner SMC KONA, LLC ("Petitioner") submits its 2022 Annual Report to the Land Use Commission, State of Hawai'i in compliance with Condition 26 of the Findings of Fact and Conclusions of Law, and Decision and Order in Docket No. A03-744 ("Decision and Order") approved on June 13, 2005.

Status Report on Commission's Conditions of Approval

As to the Conditions of Approval in the Commission's Decision and Order, here is a status report on compliance.

1. Affordable Housing.

Petitioner shall provide affordable housing opportunities for residents of the State of Hawai'i to the satisfaction of the County, acting in accordance with the County's Ordinance No. 05-23, Affordable Housing Policy for the County of Hawai'i. Petitioner shall provide no less than 100 onsite affordable units in accordance with the Petitioner's representations to the Commission or whatever number of affordable units is deemed acceptable by the County in accordance with the County's Ordinance No. 05-23, Affordable Housing Policy for the County of Hawai'i, whichever is greater. The location and distribution of the affordable housing units or other provisions for affordable housing shall be under such terms as may be mutually agreeable between the Petitioner and County.

Petitioner will work with the County of Hawaii to satisfy its requirements consistent with Ordinance No. 05-23, Affordable Housing Policy for the County of Hawai'i. All affordable housing units will be built within the Petition area. There will be not less than 100 affordable housing units. Petitioner has had discussions with the County Office of Housing & Community Development and provided for their review a draft of the housing agreement in October 2021. Petitioner anticipates building

affordable units incrementally on the site. When finalized, Petitioner will submit the agreement for approval by the Administrator of the Office of Housing and Community Development.

2. Public School Facilities.

Petitioner shall contribute to the development, funding and construction of public-school facilities as determined by and to the satisfaction of the DOE. Petitioner shall enter into an agreement with the DOE covering the specific terms of such contribution prior to final subdivision approval and file such agreement with the Commission and the County.

An agreement has been executed with DOE under which Petitioner proposed to provide the DOE with either the rent-free use of 8,000 square feet building for 20 years or payment of per unit impact fees to satisfy this condition.

3. Wastewater Facilities.

Petitioner shall design and construct its wastewater disposal system in compliance with the requirements of the County and the DOH.

Petitioner has obtained the required State Department of Health approvals for the onsite injection wells, which may or may not be used in the final wastewater treatment plant design.

4. Wastewater Agreement for Underground Injection Offsite.

Prior to final subdivision approval, Petitioner shall provide the Commission and the County with a copy of the executed agreement to inject wastewater underground offsite and above the UIC line on the adjacent State-owned land to the south of the Petition Area, or with other such landowner and location as approved by DOH.

Upon further review of the situation for the backup underground injection well required by the State Department of Health for the sewer treatment plant, Petitioner determined that the well could be located within the Petition area. The State Department of Health concurred. Petitioner will update the disposal well permits as required by DOH.

5. Traffic Impact and Mitigation.

Petitioner shall fund, design and construct its share of local and regional transportation improvements as determined by the SDOT and the County, which includes but is not limited to:

- a. Midlevel connection with Ka'iminani Drive.**

Petitioner shall provide at its sole cost and expense a two-lane roadway between the Petition Area and Ka'iminani Drive in an alignment approved by the County and the University and the acceptable to any other State agency with a property interest in the land on which the two-lane roadway is located.

This is also required by Condition U of the County Rezoning Ordinance No. 21 27.

The alignment of the road was approved by the State Department of Land & Natural Resources. The roadway was constructed in 2013 -2014. This roadway is currently open to the public and provides access to the University of Hawai'i campus and Palamanui.

b. Mauka-Makai Connector Road.

A mauka-makai connector road providing public access between Queen Kaahumanu Highway and the Mamalahoa Highway shall be provided at Petitioner's sole cost and expense. Said mauka-makai connector road shall connect to Mamaloahoa Highway as Petitioner and the County may agree.

Petitioner will comply with this condition. The County of Hawaii zoning conditions concerning the connector roads between Queen Kaahumanu Highway and Mamalahoa Highway will be complied with.

c. Right-Of-Way for an Alternative Mauka-Makai Connector Road.

Petitioner shall reserve a right-of-way along the east (*mauka*) portion of the Petition Area to support the possible future connection to the Mamalahoa Highway. Petitioner shall construct at its sole cost and expense all portions of said future road that is within the Petition Area. Any proposed road construction plans and associated utility easements which may impact the Lowland Dry Forrest Preserve shall be subject to prior review and approval of the Commission and shall include consultation with the County, such that County engineering standards or other County requirements do not adversely impact the Lowland Dry Forest Preserve.

Petitioner's plans include rights-of-way that will allow connection to a new connector to Mamalahoa Highway. Petitioner will be responsible for the costs of the road within the project which will provide that connection.

d. Request to Limit Vehicle Traffic on Portions of Makalei Drive.

In the event that the mauka-makai road connector road utilizes Makalei Drive, to promote greater traffic safety, Petitioner shall prior to final subdivision approval, use reasonable efforts to petition the County to limit motor vehicle traffic on Makalei Drive as a through street, as its

transverses Makalei Estates, to only those vehicles that have gross vehicle weight of less than 10,000 pounds.

Petitioner will comply with this condition.

6. Integrated Natural Cultural Resource Management Plan (INCRMP).

Petitioner shall implement the revised INCRMP including completion of all plans (with appropriate approvals), covenants and easements required under the revised INCRMP. Such implementation shall include, but not be limited to the following:

Petitioner has been implementing this condition. Petitioner is drafting Master Covenants that will apply to the Petition area. The covenants will include the provisions described in the Integrated Natural Cultural Resource Management Plan (INCRMP). Petitioner is also drafting Master Design Guidelines which will apply to development within the Petition Area. The design guidelines cover preservation of certain landforms. Petitioner will also be preparing Conservation Easements to cover the preservation access described in the INCRMP. Drafts of the documents will be circulated to the Land Use Commission and the County Planning Department. The Cultural Advisory Committee has met and will be meeting periodically in the future.

Petitioner obtained the following additional studies which were attached to the First Annual Report as Exhibits B, C, D, and E respectively. Exhibit B is an Update Biological Study done by Dr. Patrick Hart. Exhibit C is a study done by Robert Peck regarding insects and invertebrates in the Project Area. Exhibit D is a survey done by Dr. Patrick Hart regarding the Hawai'ian Hawk ('Io). Exhibit E is a study done by Marcos Gorresen and Kathryn Turner in November 2005 regarding the Hawai'ian Hoary Bat in the Project Area.

Dr. Robert Rechtman of ASM Associates has completed the data recovery plan which has been approved by the State Historic Preservation Division.

An inventory map showing all preservation sites is currently being finalized. All preservation areas have been fenced so they are clearly visible. Petitioner completed clearing of the fire break area around the dry land forest and continues to monitor it. Cultural monitors will be utilized as appropriate.

a. Preservation of Significant Historic, Cultural, and Natural Resources.

Petitioner shall preserve all of the identified significant historic, cultural, and natural resources on the Petition Area as represented by the Petitioner to the Commission.

Petitioner will comply with this condition. As reported above, these sites have been identified and marked. They are also shown on the Inventory Map.

b. **Historic Preservation Mitigation Plan.**

Petitioner shall submit data recovery plans and preservation plans to the SHPD and obtain approval of those plans within one year of the issuance of this Decision and Order. If said plans as approved vary from those incorporated into the revised INCRMP, Petitioner shall amend the revised INCRMP to reflect SHPD's recommendations and submit the amended revised INCRMP to the Commission for its approval prior to final subdivision approval.

The State Historic Preservation Division has approved the Data Recovery Plan and the Preservation Plan. The approval letter was previously submitted. There are no changes to these plans which were incorporated into the INCRMP.

Pursuant to the above approval, Petitioner has completed the data recovery as outlined in the approved Data Recovery Plan.

c. **Preservation of Lowland Dry Forest.**

Petitioner shall permanently protect the Lowland Dry Forest Preserve. Any proposed road construction plans, irrigation well sites and proposed access and utility easements which may impact the Lowland Dry Forest Preserve shall be subject to prior review and approval of the Commission.

Petitioner will comply with this condition. As reported above, a fire break and fence around the perimeter of the dryland forest has been established. Petitioner has the additional information from the updated biological study. Potential corridors and sites for roads, irrigation wells, and access and utility easements have been identified and will not impact the Lowland Dry Forest Preserve.

d. **Coordination of Lowland Dry Forest Preservation Efforts.**

Petitioner shall use reasonable efforts to coordinate its preservation of the Lowland Dry Forest Preserve with the State of Hawai'i Department of Land and Natural Resources as the Lowland Dry Forest Preserve extends in some places onto the neighboring state-owned property. Such coordination shall include, but not be limited to: sharing information regarding updated biological surveys; coordinating the development of a fire prevention plan; establishing appropriate firebreaks; and exploring contingencies for using the Project's irrigation systems to control brush fires.

Discussions continue with the State DLNR and non-profit groups regarding the management and stewardship of the Lowland Dry Forest Preserve and possibly some of the forest area on the State lands.

Firebreaks have been established around the Palamanui dry forest preserve and a plan for a firebreak around some adjacent lands has been agreed upon by DLNR and U.S. Fish and Wildlife Services.

The Palamanui Dry Forest Working Group has been formed and is composed of Dr. Pat Hart, Lisa Hadway, Roger Harris and Susan Cordell. This group has met several times in recent years. This group continues to have discussions with the North Kona Dry Land Forest Group about cooperative efforts to preserve the native dry land forests.

Petitioner and the Working Group have met with other interested community groups, including the University of Hawai'i, about participating in the management of the preserve and forest preservation.

e. Preservation of Flora Outside of Lowland Dry Forest.

Petitioner shall preserve all flora that are federally listed as Endangered Species throughout the Petition Area. Petitioner shall to the extent practicable, preserve flora identified as non-endangered indigenous and Species of Concern by incorporating such plants into the Project's landscaping and exclusionary fenced areas.

Petitioner will comply with this condition. Several such plants have been fenced in the Petition Area.

f. Unidentified Archaeological Finds.

If any burials, archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, or stone platforms, paving's or walls are discovered during the course of construction of the Project, then all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD that mitigative measures have been implemented to its satisfaction.

Petitioner will comply with this condition. No incidents have been reported to date.

g. Preservation of Native Hawai'ian Gathering and Access Rights.

Petitioner shall preserve and protect any established Native Hawai'ian traditional and customary rights exercised for subsistence, cultural and religious practices on the Petition Area.

Petitioner will comply with this condition.

h. Updated Biological Survey.

Petitioner shall submit an updated biological survey of the Petition Area to the Commission before construction of the Project begins. The updated biological survey shall include but not be limited to, detailed information pertaining to any significant invertebrates and Hawai’ian Hoary Bats within the Petition Area.

Petitioner has submitted the additional studies in its first annual report regarding updated biological study, insects and invertebrates, Hawai’ian Hawk and Hawai’ian Hoary Bat.

Based on the presence of a specimen of the ‘aiea (host tree for the moth) in the Petition Area, Robert Peck’s study indicated there was a probability of locating the Blackburn’s Sphinx Moth in the Petition Area. Since the time of the study, Petitioner’s botanist Patrick Hard has been in the area of said tree but did not see any moths. Dr. Hart will continue to inspect those areas to see if there are signs of the moth.

Gorresen and Turner’s report recommended preventing tree cutting or grubbing in forested areas during September through May during breeding season of the Hoary Bat. Although Petitioner will be conducting construction activities during the breeding season of the bat, most construction will take place in open areas with few standing trees. No forested areas will be affected.

Petitioner has enacted the following safeguards to protect the bat: a) Prior to the start of construction in forested areas, Petitioner will have the bat biologists go through the area where roads and waterlines will be constructed to perform reconnaissance for any Hoary Bats that may be present; b) Petitioner will have bat biologists perform inspections at construction sites for the bat in September and December. If bats are sighted in a construction area during breeding season, the biologist will be immediately consulted on mitigative measures to prevent harm to the Hoary Bat and those measures will be implemented. Construction activities have been very minimal over the past five years.

i. Cultural Monitor for Grubbing and Grading Activities.

Petitioner shall retain the services of an appropriate number of qualified cultural monitors such that all grubbing and grading activities within the Petition Area are duly monitored.

Petitioner has complied, and will continue to comply with this condition.

7. Open Space Buffer.

Petitioner shall maintain an open space buffer on the Petition Area along Queen Kaahumanu Highway with a minimum width of 800 feet. The only man-made structures allowed in this open space buffer shall be the Northern Project

Access Road, the Project's wastewater treatment plant, limited portions of the Project's golf course, and a groundwater monitoring well – as represented by the Petitioner to the Commission. Petitioner shall appropriately screen such uses to maintain the visual continuity of such buffer.

Petitioner has complied with this condition. An Open Space Buffer notice has been recorded in the Bureau of Conveyances as Document No. 2007-006828.

8. Civil Defense.

Petitioner shall, on a fair-share basis, fund and construct adequate civil defense measures as determined by the State and County Civil Defense Agencies.

Petitioner will comply with this condition.

9. Air Quality Monitoring.

Petitioner shall participate in an air quality-monitoring program as specified by DOH.

Petitioner will comply with this condition.

10. Noise and Avigation Easement.

Petitioner shall notify all prospective buyers and future occupants of the Petition Area or portions of the Petition Area that over flights can occur from aircraft using KOA airport. Petitioner shall grant to the State an avigation (right of flight) and noise easement in the form prescribed by the SDOT on any portion of the Petition Area subject to noise levels exceeding 55Ldn.

Petitioner will comply with this condition.

11. Notification of Potential Nuisances – Agricultural.

Petitioner shall notify all prospective and future buyers and future occupants of the Petition Area or portions of the Petition Area of potential odor, noise and dust pollution if there are any lands in the Agricultural District surrounding the Petition Area.

Petitioner will comply with this condition. Documents for this purpose will be developed in conjunction with the Petitioner's sales and leasing documents.

12. Notification of Potential Nuisances – HELCO.

Petitioner shall notify all prospective buyers and future occupants of the Petition Area or portions of the Petition Area of the potential noise and air quality impacts associated with the existing use and proposed improvements to Hawaii Electric Light Company, Inc.'s Keāhole Generating Station and Airport Substation.

Petitioner will comply with this condition. Documents for this purpose will be developed in conjunction with the Petitioner's sales and leasing documents.

13. Hawai'i Right to Farm Act.

Petitioner shall notify all prospective buyers and future occupants of the Petition Area or portions of the Petition Area that the Hawai'i Right to Farm Act, Chapter 165, HRS, limits the circumstances under which pre-existing farm activities may be deemed a nuisance if there are any lands in the Agricultural District surrounding the Petition Area.

Petitioner will comply with this condition.

14. Drainage Improvements.

Petitioner shall fund the design and construction of drainage improvements required as a result of the development of the Petition Area to the satisfaction of the appropriate State and County agencies.

Petitioner will comply with this condition.

Drainage studies have been completed and approved by the applicable County and State agencies. Drainage plans have also been approved by the County Department of Public Works and the State Department of Health. County Department of Public Works also reviews and approves all grading plans.

15. Integrated Solid Waste Management Plan.

Petitioner shall cooperate with the DOH and the County to conform to the program goals and objectives of Chapter 342G, HRS, and the County's approved integrated solid waste management plans in accordance with a schedule and timeframe satisfactory to the DOH. Petitioner shall, in coordination with appropriate State and County government agencies, assist in the planning and promotion of solid waste recycling facilities for the Project. This condition shall be included in the Project's CC&Rs.

Petitioner will comply with this condition and is discussing the same with both the State and County. An initial solid waste management plan has been approved by the County by letter dated August 29, 2008.

16. Groundwater and Near Shore Water Monitoring.

Petitioner shall participate in the coastal water-monitoring program with the SDOT Airports Division. Petitioner shall conduct groundwater monitoring from a monitoring well to be located at the *makai* end of the Petition Area. Monitoring programs and mitigation measures shall be approved by the DOH.

Petitioner is complying with this condition. Petitioner and State Department of Transportation Airports Division engineers have agreed that monitoring will be coordinated with Airport monitoring programs. Petitioner constructed the subject monitoring well by December 31, 2008, and this well is being monitored and managed by the State Airport engineers at Keāhole Airport.

Since a golf course will not be constructed, Petitioner believes that the risk of contamination of ground water from fertilizers or other chemicals has been substantially reduced.

17. Water Service.

Petitioner shall fund and construct adequate water source, storage, and transmission facilities and improvements as represented to the Commission and as required by the County Department of Water Supply to accommodate the Project.

Petitioner will comply with this condition. Petitioner has constructed water system improvements and dedicated said improvements to the County Water Board in accordance with the water agreement approved by Petitioner and Water Board. Improvements include an eleven-million-dollar waterline and storage reservoir constructed in 2014. This system serves the University of Hawai'i Community College at Palamanui (on the adjacent State-owned land), which commenced operations in 2015. Additional water system improvements are ongoing. The water agreement between the County Water Board is currently being updated.

Petitioner still plans to develop brackish water wells for irrigation. Due to the deletion of the golf course, the placement and capacity of those irrigation wells is being reassessed.

18. Best Management Practices.

Petitioner shall implement best management practices to reduce or eliminate soil erosion and groundwater pollution and implement dust control measures during the development process in accordance with DOH guidelines.

Petitioner will comply with this condition.

19. Water Conservation Measures.

Petitioner shall implement water conservation measures and best management practices, such as use of indigenous and drought tolerant plants and to the extent possible, use Species of Concern and Endangered Species, and incorporate such measures into common areas landscape planning, and shall incorporate low flow fixtures into the construction of all residential and commercial units.

Petitioner will comply with this condition.

The covenants and design standards for Palamanui will require owners to use a list of plants which will include indigenous and drought tolerant plants common to the area. Low flow fixtures will be part of the design standards as well.

20. Energy Conservation Measures.

Petitioner shall incorporate solar energy and energy conservation techniques where feasible into design of all residential and commercial units.

Petitioner will comply with this condition.

21. Hazardous Materials.

Storage and/or disposal of hazardous materials on the Petition Area shall comply with all applicable DOH requirements and all necessary permits shall be obtained.

Petitioner will comply with this condition.

22. Golf Course.

Petitioner shall comply with the principles of the DOH's "Guidelines Applicable to Golf Courses in Hawai'i" (July 2002, Version 6). Petitioner shall develop and maintain the golf course in accordance with the Audubon International's Signature Silver Program Standard. To the extent practicable, the Petitioner will utilize R-1 recycled wastewater to irrigate the golf course.

During the rezoning application the former Petitioner Hiluhilu Development, LLC revised the project by agreeing not to develop the golf course.

Since there will be no golf course, many of the potential impacts such as leaching of fertilizers and pesticides arising from the operation of a golf course will be lessened.

Petitioner will be using the treated wastewater in part for irrigation. The wastewater will be treated to produce waters of R-1 quality. The treated wastewater will be used for irrigation of landscaped portions of the road, the 20-acre active park area, passive parks and for landscaping of the common areas.

The treated wastewater will also be available for irrigation of larger areas such as the hotel site and for use in the plant propagation activities for native Hawai'ian plants.

Although the elimination of the golf course lessens the recreational opportunities for golfers, the recreational opportunities for the general public increased with the provision of the 20-acre active park area. The baseball and soccer fields, along with the outdoor performing arts center and associated facilities that will be part of the first phase of the park master plan will benefit the entire Kona community. The County Department of Parks & Recreation has expressed the need for these recreational opportunities in Kona.

23. University Inn and Conference Center.

As represented before the Commission, the Project shall include an approximate 120-unit University Inn and Conference Center, which shall serve as a business hotel and provide accommodations in conjunction with University operations. The University Inn and Conference Center shall not be designed and operated as resort-type hotel or be used for time-share purposes.

Petitioner will comply with this condition.

24. Compliance with Representations to the Commission.

Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to so develop Petition Area may result in reversion of the Petition Area to its former classification, or change to a more appropriate classification.

Petitioner will comply with this condition. During the rezoning process, Petitioner had to modify plans which were presented to the Commission. The adoption of the County's Kona Community Development Plan in 2008 also required revisions to the Project plans presented to the Commission. Nevertheless, the current Project remains in substantial compliance with the representations made to the Commission.

During the County rezoning process, Petitioner was asked, and subsequently agreed to cover a number of costly off-site capital improvements. These included \$5,000,000 for the University building on State land and the construction of Road 4. Petitioner also had to comply with the new affordable housing requirements and its attendant costs.

In order to partially offset the increased cost, Petitioner discussed an increase in the number of residential units for Palamanui. The rezoning ordinance authorized a maximum of 1,116 units which is 271 more units than originally planned, which remains in substantial compliance with the representations made to the Commission. The main constraint on the actual number of units that can be built will most likely be the water units available.

The supporting infrastructure for Palamanui, even with the increased residences will be more than adequate. Petitioner is having an updated traffic study prepared for review by the State DOT and County DPW. The data from the updated study shows that the planned road and intersection improvements will be adequate for Palamanui.

25. Notice of Change of Ownership.

Petitioner shall provide notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, prior to development of the Petition Area.

Petitioner took ownership of Palamanui on April 1, 2022 by that certain Limited Warranty Deed, recorded at the Bureau of Conveyances, State of Hawaii as Doc. No. A-81310260. Petitioner will file a transfer of ownership contemporaneously with this report. Petitioner will comply with this condition in the future.

26. Annual Reports.

Petitioner shall timely provide without any prior notice, annual reports to the Commission, OP and the County in connection with the status of the subject Project proposed for the reclassification area, and Petitioner's progress in complying with the conditions imposed. The annual report shall be submitted in a form prescribed by the executive officer of the Commission. The annual report shall be due prior to or on the anniversary date of the approval of the Petition.

This report is being submitted in compliance with this Condition 26.

27. Release of Conditions.

The Commission may fully or partially release the conditions provided herein as to all or any portion of the Petition Area upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

Petitioner is not seeking to be released from any conditions imposed at the present time.

28. Notice of Imposition of Conditions.

Within seven days of the approval date of the Petition, the Petitioner shall (a) Record with the Bureau of Conveyances a statement that the Petition Area is subject to conditions imposed herein by the Commission; and (b) File a copy of such recorded statement with the Commission.

The Notice of Imposition of Conditions was recorded in the Bureau of Conveyances on June 23, 2005, as Document No. 2005-123996.

29. Recordation of Conditions.

Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances within sixty days after the receipt of the Decision and Order pursuant to Section 15-15-92, HAR.

The Conditions contained in the Decision and Order were recorded in the Bureau of Conveyances on September 7, 2005, as Document No. 2005-178780.

Please note that the County of Hawai'i amended its zoning ordinances applicable to this project by way of Ordinance No. 21 25 (MCX-20 zoning) effective March 16, 2021, and

December 9, 2022

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Ordinance No. 21 27 (Project District zoning) effective March 31, 2021. A copy of the County amended ordinances are enclosed for your convenience.

If you have any questions or comments, I may be reached at (808)842-4929 or at maiu@nanhawaii.com

Very truly yours,

A handwritten signature in black ink, appearing to read 'M. P. K. Aiu', written in a cursive style.

Micah P.K. Aiu
In House Counsel

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 21 25 BILL NO. 10

AN ORDINANCE AMENDING ORDINANCE NO. 09 131 WHICH RECLASSIFIED LANDS FROM PROJECT DISTRICT (PD) TO INDUSTRIAL-COMMERCIAL MIXED – 20,000 SQUARE FEET (MCX-20) AT KA'Ū, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 7-2-005:001.

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

SECTION 1. Section 2 of Ordinance No. 09 131 is amended as follows:

“SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 [~~2005 Edition~~] (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 applicant shall comply with all conditions of approval of the State Land Use

Commission's Decision and Order (Docket No. A03-744) dated May 19, 2005.

- C. The applicant shall comply with the applicable conditions of Ordinance No. [06 ~~105 effective July 17, 2006~~] 09 132 effective November 4, 2009, and any applicable amendments thereof.

- D. The applicant shall submit a revised water system master plan for review and approval by the Department of Water Supply, and comply with the requirements of the Water Agreement including completion and dedication of necessary water system improvements, prior to the issuance of Final Subdivision Approval.

- E. Final Subdivision Approval shall be secured within [~~five (5)~~] ten (10) years from the effective date of this amended ordinance. Construction of the Queen Ka'ahumanu Highway-University Drive intersection and University Drive from Queen Ka'ahumanu Highway to Ane Keohokālole Highway shall be completed prior to Final Subdivision Approval.

- F. Prior to construction on each of the lots, the applicants, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements), Chapter 25 (Zoning Code), Hawai'i County Code.

- G. Access to the ~~[property]~~ rezone area shall meet with the approval of the Department of Transportation and the Department of Public Works.
- H. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and submitted to the Department of Public Works prior to receipt of Final Subdivision Approval. Drainage improvements shall be constructed, meeting with the approval of the Department of Public Works, prior to the ~~[receipt of]~~ issuance of a certificate of occupancy for any buildings~~[, or final subdivision approval for any subdivision creating single family residential lots]~~.
- I. The existing Solid Waste Management Plan with the Department of Environmental Management shall be followed. Approved recommendations and mitigation measures shall be implemented in a manner meeting with the approval of the Department of Environmental Management.
- J. A wastewater treatment system shall be constructed, meeting the approval of the State Department of Health and/or Department of Environmental Management, whichever is applicable. All wastewater shall be treated at an approved wastewater treatment plant, to a minimum of secondary treatment, with R-1 effluent, unless a greater level of treatment is required by the Department of Health. Wastewater shall be used for irrigation of landscaping or other beneficial reuse to the maximum extent feasible.
- K. An Emergency Response Plan shall be submitted to the Civil Defense Agency for review and approval, prior to the issuance of a certificate of occupancy.
- L. 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 receipt of Final Subdivision Approval; in addition, any affordable housing credits earned from the industrial-commercial mixed zone shall be applied to the original and remaining project district from which this zoning was removed and shall be constructed on-site in the original project district defined in Ordinance No. ~~[]~~ 09 132, as amended.

- M. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it is found that sufficient mitigation measures have been taken.
- N. 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.

~~[O. Total retail space (not including restaurants) shall not exceed 75,000 square feet under roof until the construction of the Queen Ka'ahumanu Highway, Phase II widening improvements to four lanes from Kealakehe Parkway to the Kona International Airport at Keāhole has been secured by the state entering into a construction contract for the improvements. The square footage of improvements leased to the University of Hawai'i shall not count against this limit.]~~

~~[P.]Q.~~ Comply with all other applicable County, State and Federal laws, rules, regulations and requirements.

~~[Q.]P.~~ An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of this ordinance ~~[Project District Ordinance]~~. The report shall include, but not be limited to, 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 Director acknowledges that further reports are not required.

~~[R.]Q.~~ ~~[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 applicant, 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 Project District.~~
- ~~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).~~

5-} If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the County Council for appropriate action.

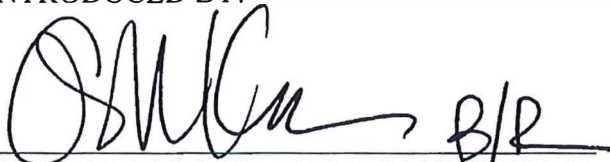
R. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the subject area to its original or more appropriate designation.

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.

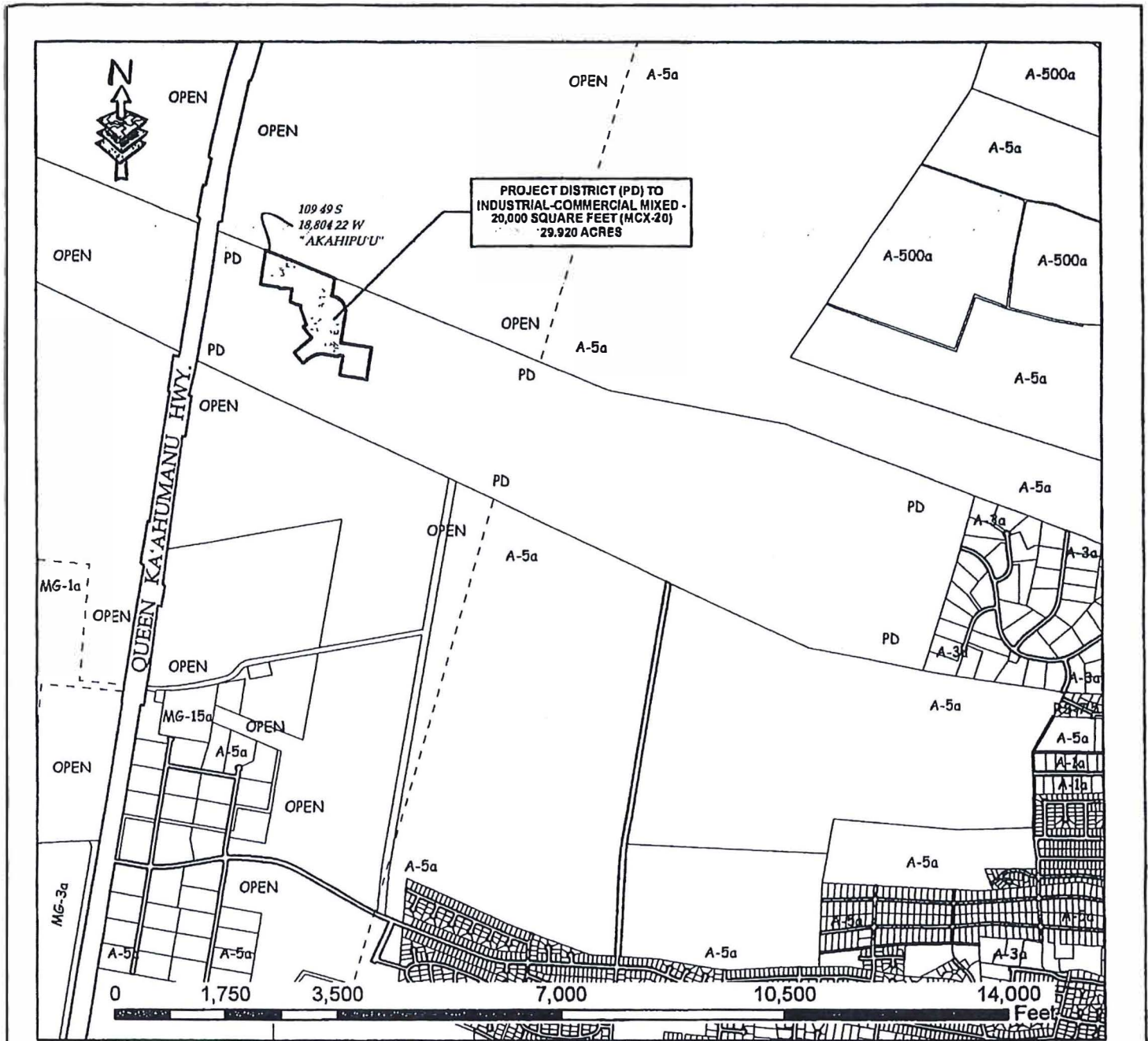
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Hilo , Hawai'i
Date of Introduction: February 17, 2021
Date of 1st Reading: February 17, 2021
Date of 2nd Reading: March 3, 2021
Effective Date: March 16, 2021

REFERENCE Comm. 50



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP) ARTICLE 8,
CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION),
BY CHANGING THE DISTRICT CLASSIFICATION FROM PROJECT DISTRICT (PD) TO
INDUSTRIAL-COMMERCIAL MIXED - 20,000 SQUARE FEET (MCX-20) AT
KAU, NORTH KONA, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT
FOR REFERENCE ONLY

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

COUNTY CLERK
 COUNTY OF HAWAII

2021 MAR 16 AM 9:41

Introduced By: Ashley L. Kierkiewicz (B/R)
 Date Introduced: February 17, 2021
 First Reading: February 17, 2021
 Published: February 26, 2021

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Richards	X			
Villegas	X			
	9	0	0	0

REMARKS: _____

Second Reading: March 3, 2021
 To Mayor: March 11, 2021
 Returned: March 16, 2021
 Effective: March 16, 2021
 Published: April 2, 2021

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Richards	X			
Villegas	X			
	9	0	0	0

REMARKS: _____

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



COUNCIL CHAIRPERSON

~~Approved~~ Disapproved this 16 day
 of March, 2021



COUNTY CLERK



MAYOR, COUNTY OF HAWAII

Bill No.: 10
 Reference: C-50/PC-9
 Ord No.: 21 25

COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 11

(DRAFT 2)

ORDINANCE NO. 21 27

AN ORDINANCE AMENDING ORDINANCE NO. 09 132 WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 3 ACRES (A-3a) and OPEN (O) TO PROJECT DISTRICT (PD) AT KA'Ū, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 7-2-005:001.

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

SECTION 1. Section 2 of Ordinance No. 09 132 is amended as follows:

“SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 [~~2005 Edition~~] (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.a The applicant shall comply with all conditions of approval of the State Land Use Commission's Decision and Order (Docket No. A03-744) dated May 19, 2005, or amendments thereof.
- C.a The term 'occupancy' in this amended ordinance means the same as defined in Section 25-2-46(c) of Hawai'i County Code, which states: "Occupancy means (1) the issuance of a certificate of occupancy for a commercial, multi-family, industrial building, hotel or other structure requiring a certificate of occupancy; or (2) the issuance of a building permit for residential buildings that do not require a certificate of occupancy; or (3) final subdivision approval for subdivisions where dwellings are allowed, but dwellings are not being constructed before sale of any lot."
- ~~[C.]~~D. The applicant shall provide a revised Water Master Plan to the Department of Water Supply that correlates the necessary water system improvements with the proposed phasing of the development's Regulating Plan. The applicant shall comply with the conditions as set forth in the ~~[Water Agreement between K-W Kau, LLC and the Water Commission of the County of Hawai'i dated June 15, 1999]~~ Water Agreement between Palamanui Global Holdings LLC and the Water Board of the County of Hawai'i dated August 7, 2013, or amendments thereof.
- ~~[D.]~~E. The project shall consist of a maximum of 695.282 acres for single-family and multi-family residential, commercial uses, hotel, university and public school facilities, dry forest preserve, archaeological and cave preserve areas, active and passive parks, a trail system and supporting infrastructure.
- ~~[E.]~~F. The maximum number of residential units allowed shall be 1,116 units, including the on-site affordable housing units.
- ~~[F.]~~G. The maximum number of hotel rooms shall be 120.

[G.]H. Commercial spaces for medical, office, retail, classrooms and health related uses and hotel shall be limited to 72.08 acres.

[H.]I. Active and passive parks (Open, Park and Preservation) shall be developed on a minimum of 177.8 acres. A "Constraints Area" which includes the approximately 55-acre dry forest preserve, archaeological sites/cave and park areas, shall be set aside in the project area.e

[I.]J. The uses allowed in the Project District shall be all permitted uses allowed by right in the RS, RM, CN and CV zoned districts, and a golf course and related facilities. Uses allowed by Use Permit in the CV district may be allowed.

[J.]K. ~~[A detailed Master Plan of the Project District, which includes the location and number of residential lots and units, hotel, commercial uses, parking, golf course, open space and recreational areas and other related improvements on the property, shall be submitted to the Planning Director within two (2) years from the effective date of the Project District Ordinance or prior to submission of plans for plan approval or subdivision approval, whichever occurs first.]~~ The applicant shall develop the project and its infrastructure consistent with the Master Plan known as the "Regulating Plan" contained in Exhibits A-1 through A-11, and Table 4, 8, 9, and 12 of the Application. Within ninety (90) days of the effective date of this amended ordinance, the Applicant shall provide to the Planning Department two hard copies and one electronic copy of the Regulating Plan marked FINAL, with the following changes:

- e Revise the phasing plans, project street types, roadway cross sections, and thoroughfare assemblies (Exhibits A-5 through A-11) of the Regulating Plan to reflect the road right-of-way width, roadway improvements, road construction phasing and road disposition (dedicated vs. private) described in the revised conditions of this amended ordinance.e

- e Label Road 7 (Kealaka‘a Street Extension) on Exhibits A-1 and A-5.e
- e Realign University Drive (Road 2) to create a continuous roadway without intersection at the transition between the “green” and “pink” segment on the Regulating Plan, Exhibit A-5.e
- e Revise Exhibits A-1, A-7, to remove reference to ‘Main Street’ and replace with ‘Ane Keohokālole Highway Extension’,e
- e Revise the phasing plans within the Regulating Plan to be consistent with Condition P (Public Park condition).e

The Planning Director may approve changes made by the applicant to the Regulating Plan to accommodate evolving land use concepts, topographical/physical conditions, cost, and related matters to assure the orderly and timely implementation of the Project District, so long as the changes are not significant, as determined by the Planning Director, and do not change the permitted land uses, overall densities, open space requirements, and infrastructure requirements, and are not contrary to the amended Project District Ordinance.

~~[K.]L. [Substantial construction of the proposed development shall commence within five (5) years from the effective date of the Project District Ordinance. “Substantial construction” means the actual start of construction of project infrastructure under a bona fide contract of not less than ten million dollars (\$10,000,000.00). Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai‘i County Code. Plans shall identify proposed structures, fire protection measures, paved accesses and parking stall, and other improvements associated with the proposed uses.] Construction of the Palamanui Project District shall be completed~~

within twenty (20) years from the effective date of this amended ordinance. The applicant shall submit to the Planning Director detailed site plans for the development in accordance with Section 25-6-46 and 25-6-47, Chapter 25 (Zoning Code), Hawai'i County Code.

[L.]M. The following design standards shall apply:

- 1 Landscaping for the development shall comply with the Planning Department's Rule No. 17, Landscaping Requirements. Landscaping rules, such as the screening of single-family residential from commercial areas, shall be applied according to the actual uses.
- 2 The height limit for structures within the project area shall not exceed the following:
 - a Single-family residential development: 35 feet
 - b Multiple-family residential and hotel developments: 45 feet
 - c Office and retail commercial development: 45 feet.
- 3 The minimum off-street parking and loading space requirements of Chapter 25, Hawai'i County Code shall be complied with, including compliance with the American Disabilities Act (ADA) requirements.

[M.]N. ~~[The variances from Chapters 23 (Subdivision) and 25 (Zoning), Hawai'i County Code, as presented in Planning Department Exhibit 2 (Applicant's November 21, 2005 letter with attached Tables pages 1 to 6 related to Variance Requested from Sections in Subdivision and Zoning Codes, and Applicant's Figure 2 - Conceptual Character of Town Center/Residential Village Center, Figure 3a - Residential Village Center Alternative: 4,000 SF Lot, Figure 3b - Residential Village Center~~

~~Alternatives: 6,000 SF Lot, Figure 4a – Conceptual Plan: Roadway Concepts – Dedicable, Figure 4b – Conceptual Plan: Roadway Concepts – Nondedicable, and Figure 5 – Residential Village Center Alternatives: Zone Lot Line Concepts) shall be allowed under the Project District. The applicant shall submit detailed plans to the Planning Director showing street designs and cross-sections, and adjacent building designs, with the Master Plan. The Planning Director may require modifications to the street sections to provide sufficient on-street parking where the plans do not provide adequate off-street parking (such as the 4,000-square-foot lots with a one-car garage and insufficient setbacks to allow parking in driveways), and may require further changes necessary for public safety and convenience. All roads built with the variances allowed under this condition will be non-dedicable. With regard to the requested zero-line building setbacks, the applicant shall conform to the current Hawai‘i County Building Code requirements. As part of the Master Plan, the applicant shall submit plans for pedestrian movement through the project district, which shall identify areas where sidewalks will be included to permit safe pedestrian access to the Town Center and other important points in the development.] Any variances from Hawai‘i County Code, Chapter 23 (Subdivision Code) and Chapter 25 (Zoning Code) needed to implement this project are hereby granted so long as the variances conform with the Regulating Plan and Kona CDP, as amended.~~

[N.]O. The permitted hotel, designated as the “University Inn and Conference Center,” shall function as a business hotel and in conjunction with University operations. It shall not be operated under a time-share plan or other arrangement that provides for shared ownership of individual units on the basis of time intervals, or club membership allowing periodic use.

[O. — Occupancy of the hotel shall not be granted until the construction of the Queen Ka‘ahumanu Highway, Phase II widening improvements to four lanes from Kealahou Parkway to the Kona International Airport at Keahole has been secured by the State entering into a construction contract for the improvements, or

~~until improvements construction has commenced on the 20,000 square foot University building, or the building's completion has been assured by bond or other security acceptable to the Planning Director, whichever comes first.]~~

P.e To ensure that the commercial development corresponds with the applicant's representations regarding neighborhood-scale commercial development, no single retail establishment shall have more than 45,000 square feet of developed area under roof.e

[Q. ~~Total retail space (not including restaurants) shall not exceed 75,000 square feet under roof until the construction of the Queen Ka'ahumanu Highway, Phase II widening improvements to four lanes from Kealakehe Parkway to the Kona International Airport at Keahole has been secured by the state entering into a construction contract for the improvements. The square footage of improvements leased to the University of Hawai'i shall not count against this limit.]~~

[R.]Q. The applicant shall set aside a "Constraints Area" including the approximately 55-acre dry forest preserve, archaeological sites/cave and park areas on the project site. Features in the "Constraints Area" shall be shown on all plans submitted for subdivision approval or site plan approval.

[S.]R. [The Applicant shall develop one 20-acre park site prior to the issuance of the building permit for the 101st single-family or multi-family residence within the Project. The 20-acre active park site shall include:

(1) ~~One Pony Plus League baseball-softball field including:~~

(a)~~e~~ ~~A regulation backstop;~~e

(b)~~e~~ ~~A regulation dugout for each side of the field;~~e

- (e) — ~~Portable bleachers to seat a minimum of 50 persons in each bleacher — one bleacher for each of the sidelines;~~
 - (d) — ~~Appropriate fencing to protect the spectators;~~
 - (e) — ~~Appropriate fencing to protect the teams;~~
 - (f) — ~~Fencing for the perimeter of the baseball field;~~
 - (g) — ~~ADA accessible pathways to reach the baseball-softball field from the parking area;~~
 - (h) — ~~Placement of grass for appropriate areas of the field; and~~
 - (i) — ~~An irrigation system installed for the playing field.~~
- (2) — ~~One Little League baseball-softball field including:~~
- (a) — ~~A regulation backstop;~~
 - (b) — ~~A regulation dugout for each side of the field;~~
 - (c) — ~~Portable bleachers to seat a minimum of 50 persons in each bleacher — one bleacher for each of the sidelines;~~
 - (d) — ~~Appropriate fencing to protect the spectators;~~
 - (e) — ~~Appropriate fencing to protect the teams;~~
 - (f) — ~~Fencing for the perimeter of the baseball field;~~

- (g) — ~~ADA accessible pathways to reach the baseball softball field from the parking area;~~
 - (h) — Placement of grass for appropriate areas of the field; and
 - (i) — ~~An irrigation system installed for the playing field.~~
- (3) — One regulation adult/high school soccer field that shall include:
- (a) — ~~Portable bleachers to seat a minimum of 50 persons in each bleacher _____ for each of the sidelines;~~
 - (b) — ~~ADA accessible pathways to reach the soccer field from the parking area;~~
 - (c) — Placement of grass for appropriate areas of the field; and
 - (d) — An irrigation system installed for the soccer field.
- (4) — One standard size dog park.
- (5) — ~~One comfort station, 30 x 60 feet with lighting, water, and ADA compliant restroom facilities and ADA accessible pathways from the parking area, constructed to specification and placed in locations to be determined by the department of parks and recreation;~~
- (6) — ~~One paved parking lot with 56 full size parking stalls and 4 van-accessible ADA parking stalls for a total of 60 paved parking stalls connected by ADA accessible pathways to all~~

~~activity areas of the park, hardened with fencing and a gate so that unauthorized vehicles cannot access the park after hours.~~

~~The 20-acre active park shall be constructed to county-dedicable standards with the specific requirements to be determined in consultation with the Department of Parks and Recreation, and the county shall accept dedication.]~~

The applicant shall provide a minimum of twenty (20) acres of land for a public park and neighborhood open space in accordance with the Kona Community Development Plan. A park master plan for Phase I and Phase II park improvements outlining the park areas and types of improvements will be developed by the applicant and accepted by the Department of Parks and Recreation. Phase I park improvements shall be developed by the applicant and dedicated to the County during Phase I of the "Regulating Plan" as described in Condition K, and shall consist of a 10-acre public park to include one regulation adult/high school soccer field, one baseball field with bleachers, one standard size dog park, comfort station, parking, landscaping, and related improvements as outlined in the park master plan. Phase I shall also include an outdoor performing arts center consisting of a minimum of two (2) acres, inclusive of a stage as well as a grassy and/or natural viewing and sitting area. The center may be within or without of the 10-acre park area and shall be operational before the submittal of any land subdivision or building permit applications for any residential development beyond the aggregate of the already approved five hundred (500) residential units. The land and its improvements shall be dedicated to the County upon the County's request. Phase II park improvements, consisting of only undeveloped land area, the size of which would be the difference between the land area for Phase I and twenty (20) acres shall be dedicated to the county at no cost within six (6) months of the County's request.

~~[F.]S.~~ There shall be an 800-foot setback from the Queen Ka'ahumanu Highway. No structures, other than those allowed under Condition No. 7 of the Land Use Commission's Decision and Order, shall be allowed within the 800-foot setback area. A copy of the metes and bounds description for this open space area, and proposed covenant(s) shall be submitted to the Planning Director for review and approval prior to receipt of Final Site Plan Approval or land alteration activities, whichever occurs first. The approved covenant(s) shall be recorded in the Bureau of Conveyances prior to the issuance of Final Site Plan Approval, or land alteration activities, whichever occurs first. A copy of the recorded covenant(s) shall be provided to the Planning Department.

~~[U.]T.~~ All project utilities shall be underground.

~~[V.]U.~~ The applicant shall construct the following roads and improvements within and outside of its property as identified in the Hawai'i County General Plan and the Kona Community Development Plan (CDP) Official Concurrency Map, Figure 4-3, adopted as Ordinance No. 08 131 effective September 25, 2008 and as depicted in the Applicant's FINAL Regulating Plan:

1. University Drive (Road 2 - Kona CDP Map, Figure 4-3 and Road 2 on Applicant's Regulating Plan, Exhibit A-1) within the property from the Queen Ka'ahumanu Highway to ~~[Makalei Drive]~~ Palamanui's eastern property boundary:
 - a. Prior to the construction of any segment of University Drive (Road 2), the applicant shall prepare a new traffic impact assessment with mitigation recommendations for the project full build-out and project phasing, meeting the requirements of the Department of Transportation and submit it to the State Department of Transportation (DOT)

for approval. All mitigation shall be approved by DOT in writing and shall be implemented by the applicant.

[a.]b. From the Queen Ka'ahumanu Highway intersection [~~to the proposed Ane Keohokalole Highway (Road 6A—Kona CDP Map, Figure 4-3), University Drive (2)] up to Road 6A of the Kona CDP Map, Figure 4-3 and Applicant's Regulating Plan, Exhibit A-1, University Drive shall consist of a public road within an 88-foot right-of-way with two lanes constructed to County-dedicable standards. From Road 6A to Palamanui's eastern property boundary, University Drive shall consist of a public road within a 60-foot wide right-of-way with two lanes constructed to County-dedicable standards. [This roadway] The entire length of University Drive shall be dedicated to the County upon its completion. The section of this roadway from the Queen Ka'ahumanu Highway to [approximately 800 feet mauka of Kamanu Street (Road 3A—Kona CDP) intersection with University Drive shall be completed simultaneous to the opening of the first building constructed on the State land for the University of Hawai'i or before July 31, 2012, whichever occurs first] approximately 200 feet makai of Road 6A on Figure 4-3, Kona CDP Map and on Exhibit A-1, Applicant's Regulating Plan) shall be completed as part of Palamanui's Phase III improvements and prior to occupancy within Phase III. The remaining section of this roadway from [the Kamanu Street (3A) to Makalei Drive] approximately 200 feet makai of Road 6A to Palamanui's eastern property boundary shall be constructed as part of Palamanui's Phase IV, [and dedicated to the County upon its completion.]a~~

[b.]c. From the proposed [Ane Keohokalole Highway (6A) to Makalei Drive] Road 6A to Palamanui's eastern property boundary, the road shall be constructed to County-dedicable standards as a minor street, except that design standards shall be varied to permit the [connection with Makalei Drive] terminus of the road at Palamanui's eastern property boundary without encroaching into the lowland Dry Forest Preserve. [The connection with Makalei Drive shall be designed to not encroach into the Lowland Dry Forest Preserve.] The grade shall not exceed ten (10) percent, except near the [connection with Makalei Drive] terminus of the road at Palamanui's eastern property boundary.

d. The Business Park may be constructed prior to Phase III provided the Queen Ka'ahumanu Highway-University Drive intersection and University Drive (Road 2) from Queen Ka'ahumanu Highway to the Ane Keohokalole Highway Extension is constructed prior to occupancy within the phase.

[e.]e. At the Queen Ka'ahumanu Highway, the intersection shall be improved in accordance with one of the following two options:

- 1) If a grade separated interchange is available to connect to Queen Ka'ahumanu Highway when the applicant is ready to construct the lower section of University Drive (Road 2), the applicant will connect to such interchange and in such case,

applicant will contribute \$1,500,000 to the Department of Transportation.

- 2) If a grade separated interchange is not available to connect University Drive (Road 2) to Queen Ka'ahumanu Highway when the applicant is ready to make the connection, applicant shall improve the intersection at its expense as required by the Department of Transportation, but shall include, at a minimum, a deceleration and an acceleration lane on Queen Ka'ahumanu Highway, a left-turn lane on Queen Ka'ahumanu Highway, and a dedicated right-turn and left-turn lane from University Drive (Road 2) to Queen [~~Kaahumanu~~] Ka'ahumanu Highway. If warranted, at the request of the Department of Transportation, the applicant shall install traffic signals and a second left-turn lane from University Drive (Road 2) to the Queen [~~Kaahumanu~~] Ka'ahumanu Highway.

- 3) The intersection improvements with the Queen Ka'ahumanu Highway shall be completed prior to [~~the opening of the first building constructed on the State land for the University of Hawai'i or before a Certificate of Occupancy is issued for any portion of the subject property or the completion of any single family residential homes, whichever occurs first~~] occupancy within Phase III.

- 2.a Ane Keohokālole Highway and former Kamanu Street (Road 3A - Kona CDP Map, Figure 4-3) from University Drive (Road 2) to a [Kaiminani] Ka'iminani Drive:

The applicant shall construct the mauka half-section of a 120-foot wide right-of-way to County-dedicable standards as a two-lane road. The applicant shall construct the intersection at [Kaiminani] Ka'iminani Drive meeting with the approval of the Department of Public Works. The intersection shall include a left-turn lane on [Kaiminani] Ka'iminani Drive. The intersections at the northern and southern end of this road shall have illumination. This road shall also be provided with a utility trench suitable for installation of future street lights by the Department of Public Works or the State Department of Transportation when such illumination is determined to be necessary. ~~[The construction of this roadway shall be completed simultaneous to the opening of the first building on the State land for the University of Hawai'i or before July 31, 2012, whichever occurs first.]~~ Further, traffic signals shall be installed at the intersection of Ka'iminani Drive and Ane Keohokālole Highway prior to the issuance of building permits for more than five hundred (500) single-family residential lots and/or multiple-family residential units, and prior to occupancy for more than thirty thousand (30,000) square feet of commercial area, and more than sixty (60) hotel units; or whenever the Department Public Works reasonably determines it is warranted; or once the Department of Public Works receives enough complaints to warrant a traffic study at the developer's cost.

- 3.a [Ane Keohokālole Highway (Road 6A - Kona CDP)] (Ane Keohokālole Highway Extension (Extension of Road 3A- Kona

CDP Map; Figure 4-3 and Main Street of Applicant's Regulating Plan, Exhibit A-1):

The portion of Ane [~~Keohokalole~~] Keohokālole Highway [(6)] within the property shall have a right-of-way width of 120 feet. The applicant shall construct a half-section, two-lane road with sidewalk, drainage improvements, and street lighting, within this 120-foot right-of-way to County-dedicable standards. The improved half-section shall be in alignment with the improved section of Ane Keohokālole Highway to the south. The remaining 60-foot width of the 120-foot wide right-of-way shall be rough graded to avoid any transition issues with adjacent properties. Permitted uses within the unimproved 60-foot wide right-of-way shall include utilities, a linear park, food trucks, farmer's market, and other similar temporary, non-structural uses as approved by the Planning Director, in consultation with the Department of Public Works, through Site Plan Approval. [This roadway shall be designed to function as a portion of a future road (Road 1—Kona CDP) connecting Highway 190 with University Drive and the Queen Ka'ahumanu Highway.] The applicant shall construct the intersection of University Drive and the Ane [~~Keohokalole~~] Keohokālole Highway Extension meeting with the approval of the Department of Public Works. [This roadway shall be dedicated to the County when the County requires it to connect with Road 1 (Kona CDP).] The section of this roadway from its current terminus fronting the University of Hawai'i- West Hawai'i campus to University Drive (Road 2) shall be completed prior to occupancy within Phase I. The section of this roadway from University Drive to the northern property boundary shall be completed prior to occupancy within Phase II. Dedication of the improved half of the right-of-way (separate road lot from the other

half) may occur once that section of roadway connects to the existing section of Ane Keohokālole Highway and shall be at no cost to the County. Dedication of the unimproved half shall be at the request of the County, occur no earlier than the dedication of the improved half, and at no cost to the County. Ane [Keohokālole] Keohokālole Highway [6A], which is dead-ended for future connections to Road 1, shall have preliminary engineering for technical feasibility and environmentally cleared for construction, a minimum of 500 feet from the subject property boundary into the adjacent properties.

4. New Connector Road (Road 1 - Kona CDP Map, Figure 4-3 and Exhibit A-1, Applicant's Regulating Plan):

~~The right-of-way width of Road 1 [within the State lands shall be 120 feet. The section of Road 1 from the State property to Highway 190 within the private properties shall have a right-of-way width of 88 feet.] from the subject property over private and State lands to Highway 190 shall be 120 feet.~~ Applicant shall construct Road 1, at its sole expense as a two-lane County-dedicable collector road, including shoulders and swales. The final design and maximum grade of Road 1 shall be determined by the Director of Public Works after consultation with the Planning Director. ~~[The applicant shall continue preparatory work for the design of Road 1, including working with the County of Hawaii to secure the right-of-way for Road 1 across State of Hawai'i lands and providing information necessary for the County of Hawai'i to arrange the right-of-way over privately owned lands. Applicant shall not be required to install utilities or streetlights, except that streetlights shall be installed by the applicant at the intersection with Highway 190. The County shall obtain the necessary right-of-way outside of applicant's property. Completion of Road 1 will~~

~~be secured by bond or other security meeting the approval of the Planning Director to guarantee that improvements will be completed by the deadline specified in this condition. The bond or other security shall be provided prior to the granting of final subdivision approval on the property containing single family lots.~~

~~The applicant shall complete Road 1 no later than six (6) years after the entire right-of-way is acquired.~~

~~The time extension provisions of Condition RR shall also apply to Road 1.] The applicant shall provide intersection improvements at Highway 190 as required by the State Department of Transportation. The applicant shall defer the submittal of any land subdivision or building permit applications for any residential development beyond the aggregate of already approved nine hundred (900) single-family or multiple-family residential units unless and until the construction cost of Road 1 is completed either by the applicant or some other entity or if an alternative public road connection between the project area to Māmalahoa Highway becomes available.~~

5.e [Kealakaa] Kealaka'a Street Extension (Road 7 on Kona CDPe Map, Figure 4-3):e

The applicant shall reserve ~~[an 88-foot]~~ 60-foot wide right-of-way for the [Kealakaa] Kealaka'a Street Extension within its property for future use as a County road. The applicant shall construct the road to County-dedicable standards as a minor collector road with e sidewalks and bike lanes on both sides, at its sole expense, and dedicate it to the County of Hawai'i upon request [when a e connection at the southerly boundary of the project is opened].e [Kealakaa Street (7)] Kealaka'a Street Extension, which is dead-

ended for future connections, shall have preliminary engineering for technical feasibility and environmentally cleared for construction, a minimum of 500 feet from the subject property boundary into the adjacent property.

6. ~~[At the western (makai) end of Makalei Drive, the applicant shall provide safety improvements necessary to make a safe transition to University Drive (2), which may include, but not limited to, rumble strips and establishing super-elevation for the curve, as required by the Department of Public Works.~~

~~Makalei Drive is a "minor road" and will not be open to the public as a through street until Road 1 is opened for public use.]~~

6. Road 6A- Kona CDP Map, Figure 4-3 and Road 6A of Applicant's Regulating Plan, Exhibit A-1:

Road 6A shall be a public road within a 60-foot wide right-of-way and constructed in conjunction with any of the project's development requiring access from said road or during Phase IV, whichever occurs first, meeting the requirements of the Department of Public Works. This road shall be dedicated to the County upon request and at no cost to the County.

7. Road 2C- Road 2C of Applicant's Regulating Plan, Exhibit A-1:

The applicant shall provide an emergency access road within the Road 2C right-of-way from the Ane Keohokālole Highway Extension to Queen Ka'ahumanu Highway prior to occupancy within Phase I for the purpose of providing ingress and egress to

the University Village and UH West Hawai'i campus to Queen Ka'ahumanu Highway for emergency response purposes. The road shall meet County of Hawai'i Fire Code requirements for a fire apparatus access road.

- V. The collector roadways (University Drive and Ane Keohokālole Highway Extension) must be extended in conjunction with occupancy of adjacent commercial, industrial, and residential developments to provide multiple points of ingress and egress for the sake of connectivity. This may require the extension of an adjacent connector road in an earlier phase to provide the required connectivity.
- W. Roadways which will be dedicated to the County and are designated as collector roads shall have a pavement structure based on a certified pavement design substantiated by an engineer's soil report. Therefore, the 2-inch/4-inch/6-inch pavement structure in Exhibit A-6 of the Regulating Plan is not acceptable. Bike paths and swales of roadways which will be dedicated to the County, will need to have a minimum 2-inch thick asphalt concrete pavement to comply with the Department of Public Works' 2018 standard details.
- X. For roadways dedicated to the County, the trees, other landscaping, swale and shoulder areas are to be maintained by the master association established per Condition NN through a landscape maintenance agreement with the Department of Public Works. The drainage features below the swale and retention basin shall also be maintained by the master association because the master association's maintenance efforts or lack thereof will directly affect the performance of the drainage features and the retention basin.
- Y. If at any time in the future, the owner decides to dedicate any of the private roads to the County, the entire right-of-way will need to meet the minimum current dedicable standards at the time of dedication. If the master association decides they no longer want to be responsible for maintenance of roadways subject to a

landscape maintenance agreement with the County, those areas will need to be improved to current County standards.

~~[W:]~~Z. There shall be no direct access from individual lots to collector or arterial streets.

~~[X:]~~AA. Construction vehicles shall not utilize the existing section of Mākālei Drive for ingress from Highway 190 to the applicant's Project District or egress from the applicant's Project District to Highway 190, except for construction work within easements of record within Mākālei Estates on the water system (wells, mains, and tanks).

~~[Y:]~~BB. The Kona Community Development Plan discourages gated communities and cul de sacs. Gates will be prohibited across new roadways identified to service the local transportation network. Roads shall be designed to connect to adjoining properties unless construction of a through street is found to be impracticable. Where cul de sacs or dead-end streets are allowed, they shall meet the prevailing standards in ~~[the]~~ Chapter 23 (Subdivision Code), Hawai'i County Code.

~~[Z:]~~CC. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and submitted to the Department of Public Works prior to issuance of any construction permit. Drainage improvements shall be constructed, meeting with the approval of the Department of Public Works, prior to ~~[issuance of a certificate of occupancy for any buildings, or final subdivision approval for any subdivision creating single-family residential lots]~~ occupancy of each project phase.

~~[AA:]~~DD. Solid Waste Management Plan shall be prepared and submitted for approval to the Department of Environmental Management prior to submitting plans for Final Site Plan Approval review. Approved recommendations and mitigation measures shall be implemented in a manner meeting with the approval of the Department of Environmental Management.

~~[BB.]~~EE. A wastewater treatment system shall be constructed, meeting the approval of the State Department of Health and/or Department of Environmental Management, whichever is applicable. All wastewater shall be treated at an approved wastewater treatment plant, to a minimum of secondary treatment, with R-1 effluent, unless a greater level of treatment is required by the Department of Health. Wastewater shall be used for irrigation of landscaping or other beneficial reuse to the maximum extent feasible. Applicant shall comply with HAR 11-62-27, recycled water systems, in its entirety, and specifically, with HAR 11-62-27(i), as amended or replaced.

~~[CC.]~~FF. University of Hawai'i Condition. Applicant shall provide the following to relocate the University of Hawai'i operations:

- (a) Provide connection of roads and all utilities into the University of Hawai'i 500-acre site for connection to the first University building. Applicant shall allow the University of Hawai'i to connect with its wastewater and water supply systems. Applicant shall also allow the University of Hawai'i to connect electrical and telecommunication systems to facilities installed within the project. These connectivity sites shall be to the University's satisfaction and located along its northern property boundary [~~on University Drive (Road section 2A — Kona CDP)~~].
- (b) Build Applicant's wastewater treatment system to handle the wastewater from the initial University of Hawai'i building and design the wastewater treatment system to accommodate future expansion for wastewater from future expansion of the University of Hawai'i operations.
- (c) Design and construct an initial classroom and administration building of 20,000 square feet, with associated parking, at Applicant's expense. If the University of Hawai'i design results in the cost of design and construction of the building and associated parking exceeding \$5,000,000, Applicant

shall be responsible for the first \$5,000,000 and the University shall be responsible for the balance.

- (a) The building shall be constructed on the State land designated for University use.
- (b) Construction of the building shall commence as soon as the University has the required necessary consents and approvals. If the necessary consents and approvals cannot be obtained by the State, the University shall have the right to lease from Applicant appropriate space to house University of Hawai'i at West Hawai'i until the necessary consent and approvals are obtained at comparable lease rates now being paid by the University of Hawai'i until the 20,000 square foot building can be constructed on the State land at Applicant's expense.
- (c) Applicant shall commence construction of the building, or assure its construction by a bond or other security accepted by the Planning Director and the Chancellor of Hawai'i Community College, before the issuance of a certificate of occupancy for any building, other than the State Department of Education (DOE) building, or final subdivision approval for any subdivision creating single-family residential lots.
- (d) Applicant shall complete construction of the University building no later than two (2) years after the issuance of a certificate of occupancy for any building, other than the DOE building, or November 1, 2012, or final subdivision approval for any subdivision creating single-family residential lots, whichever occurs first. The location and design of the building (interior and exterior) and related improvements will be on terms determined by

the University of Hawai'i. The University of Hawai'i shall consult on design of said building with Applicant.

- (e) Immediately upon completion of the University of Hawai'i conditions CC. (1), (2), and (3) above, all improvements shall become the property of the University of Hawai'i.

~~DD~~ GG. Applicant shall enter into an agreement with the DOE, in accordance with the terms of the State Land Use Decision and Order (Docket No. A03-744) dated May 19, 2005. If Applicant's agreement with the DOE is later amended, Applicant shall file a copy of such amendment with the Planning Department and shall comply with the terms of the amended agreement. Applicant shall contribute to the DOE an 8,000 square foot building within the project site to use for a period of twenty (20) years, subject to the following conditions:

1. No rent or common area maintenance fees will be charged to the DOE.
2. The building will be used as instructional and office space for the school complexes located in west Hawai'i.
3. The building will meet DOE facility standards, with finished classrooms, workshops and offices.
4. Applicant will collaborate with the DOE on the requirements of the building in order to develop building plan subject to DOE approval.
5. The finished building will be available to the DOE within two (2) years of the issuance of a certificate of occupancy for any multifamily residential building, or within two (2) years from the completion of any single-family residential building within the development, whichever comes first.

- 6.e Following the initial twenty (20) year period when the building will be made available to the DOE, the building will be made available to the DOE for additional years, at the prevailing rental rates.
- 7.e If the DOE and Applicant determine that despite good efforts, a building cannot be provided, or the DOE no longer needs the facility and its design has not been completed, Applicant will make an equivalent school fair-share cash contribution in an amount to be determined by the DOE. This cash contribution shall be expressly reserved for use within the Kealakehe complex of schools.
- 8.e The value of the building and its use is meant to be credited against any DOE requirements under the State Land Use Decision and Order.

~~[EE.]~~ HH. An Emergency Response Plan shall be submitted to the Civil Defense Agency for review and approval, prior to the issuance of a certificate of occupancy.

~~[FF.]~~ II. 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 receipt of Final Site Plan Approval and/or Final Subdivision Approval for any subdivision creating single-family residential lots, whichever occurs first. The reduction in minimum lot sizes and the increase in density permitted by Section 11-8, Hawai'i County Code, for affordable housing built on-site shall not apply to this project district because the reduction in minimum lot sizes has already been incorporated into the conditions of this project district zoning, and the limit on residential units stated is meant to include affordable units built on-site. Applicant shall satisfy its affordable housing requirements by on-site construction of units, and not utilize any affordable housing credits generated off-site, except those credits generated in the MCX-

zoned area of the subject property. Further, as represented by the applicant, all affordable housing units shall not exceed 100% of the average median income.

[GG.]JJ. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it is found that sufficient mitigation measures have been taken.

[HH.]KK. The applicant shall implement the Integrated Natural Cultural Resource Management Plan (INCRMP) dated May 19, 2005, for the Lowland Dry Forest Preserve (Exhibit "D" and "F" to the INCRMP). Preservation actions, with fire control as a priority, shall begin no later than six months after the effective date of this ordinance.

[H.]LL. The applicant shall protect all uhiuhi and 'aiea trees, and shall use best efforts to preserve the major stands of wiliwili trees.

[JJ.]MM. The applicant shall implement the INCRMP for the cave areas (Exhibit "E" to the INCRMP).

[KK.]NN. The applicant shall implement the Archaeological Preservation Plan (Exhibit "C" to the INCRMP), along with any amendments and modifications thereto as approved by the State Historic Preservation Division.

[LL.]OO. The Planning Director may approve modifications to the INCRMP conforming to the general purposes of the INCRMP, after consultation with the DLNR-DOFAW.

~~[MM.]~~PP. To ensure that the property will be developed as an integrated project, the applicant shall establish covenants to all deeds to any parcels, except parcels to be conveyed to individual residents, that require a master association to administer the development of the project district in accordance with the conditions of land use approvals. The covenants shall give notice that the various parcels are subject to an overall zoning that requires coordinated development. Until the master association is formed, the applicant shall be responsible for ongoing duties such as the management of the Dry Forest Preserve Area and other stewardship duties, water, wastewater, and other utility maintenance, maintenance of private roadways and public roadway elements subject to a landscape maintenance agreement with the County, maintenance of privately-owned civic and open spaces, and for contingent project responsibilities. After the formation of the master association, those responsibilities, except for offsite infrastructure requirements, shall be transferred to the master association.

~~[NN.]~~QQ. 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 ~~[on the sale or lease of residential units subject to such contribution]~~ prior to Final Site Plan Approval and Final Subdivision Approval. The fair share contribution shall have a maximum combined value of ~~[\$7,383.36]~~ \$9,645.17 per multiple family residential unit (~~[\$11,506.13]~~ \$15,030.92 per single family residential unit). The total amount shall be determined with the actual number of units according to the calculation and payment provisions set forth in this condition. The fair share contribution per multiple family residential unit (single family residential units) shall be allocated as follows:

1. ~~[\$3,642.00]~~ \$4,757.69 per multiple family residential unit (~~[\$5,548.46]~~ \$7,248.17 per single family residential unit) to the County to support park and recreational improvements and facilities;

2. ~~[\$115.11]~~ \$150.37 per multiple family residential unit (~~[\$267.66]~~ \$349.65 per single family residential unit) to the County to support police facilities;
3. ~~[\$354.08]~~ \$462.54 per multiple family residential unit (~~[\$528.66]~~ \$690.61 per single family residential unit) to the County to support fire facilities;
4. ~~[\$157.81]~~ \$206.16 per multiple family residential unit (~~[\$231.45]~~ \$302.36 per single family residential unit) to the County to support solid waste facilities; and
5. ~~[\$3,114.36]~~ \$4,068.41 per multiple family residential unit (~~[\$4,929.90]~~ \$6,440.12 per single family residential unit) to the County to support road and traffic improvements.

~~[The fair share contribution shall be waived for the affordable housing units.]~~ In lieu of paying the fair share contribution, the applicant may contribute land and/or construct improvements/facilities related to fire, police, road and traffic improvements and solid waste disposal facilities 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. With respect to the fair share contribution for parks and recreation, that contribution for all residential units will be satisfied when Applicant completes and offers for dedication all of the land facilities for the active use park described in Condition [~~“S”~~] “Q” above. ~~[The fair share contribution for roads will be satisfied upon completion of the University Drive (Road sections 2A, 2B, and 2C), Kamanu Street Extension (Road 3A), Ane Keohokālole Highway (Road 6A), Kealaka‘a Street Extension (Road 7), and Road 1 and their associated intersections.]~~ The construction and land costs associated with the construction, as described in Condition T, of Road 1, Road 2, Road 3A,

Road 6A, and Road 7 shall be credited against the road and traffic fair share requirements.

This condition shall not apply to any housing units constructed within the subject property to meet the affordable housing requirement in Chapter 11 (Housing), Section 11-4(b), Hawai'i County Code, and so certified by the County Office of Housing and Community Development, excluding any units constructed for excess housing credits.

~~[OO.]RR.~~ 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.

~~[PP.]SS.~~ Comply with all other applicable County, State and Federal laws, rules, regulations and requirements.

~~[QQ.]TT.~~ An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of this Project District Ordinance. The report shall include, but not be limited to, the status of the development, the bond status including the premium payments, 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 approved by the appropriate departments and the Director acknowledges that further reports are not required.

~~[RR.]UU.~~ ~~[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 applicant,~~

~~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 Project District.~~

~~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).~~

5.] If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the County Council for appropriate action.

VV. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the subject area to its original or more appropriate designation.

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:

 B/R

COUNCIL MEMBER, COUNTY OF HAWAII

 Kona , Hawai'i
Date of Introduction: March 3, 2021
Date of 1st Reading: March 3, 2021
Date of 2nd Reading: March 17, 2021
Effective Date: March 31, 2021

REFERENCE Comm. 51.11

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

COUNTY CLERK
 COUNTY OF HAWAII
 2021 MAR 31 PM 1:51

(Draft 2)

Introduced By: Ashley L. Kierkiewicz (B/R)
 Date Introduced: March 3, 2021
 First Reading: March 3, 2021
 Published: March 12, 2021

REMARKS: _____

Second Reading: March 17, 2021
 To Mayor: March 25, 2021
 Returned: March 31, 2021
 Effective: March 31, 2021
 Published: April 16, 2021

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Richards	X			
Villegas	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David			X	
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Richards	X			
Villegas	X			
	8	0	1	0

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

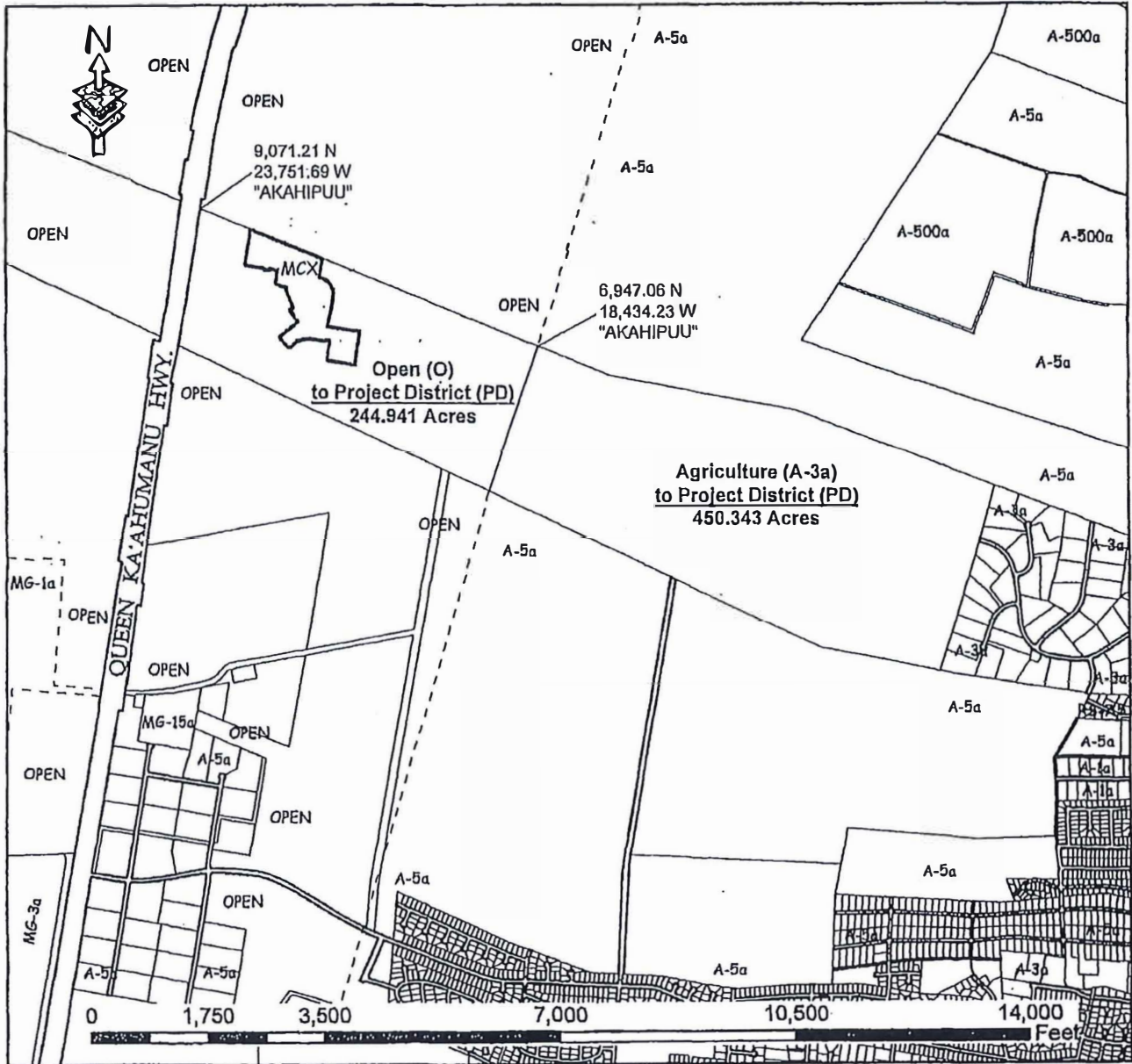

 COUNCIL CHAIRPERSON

~~Approved~~ Disapproved this 31st day
 of March, 2021


 COUNTY CLERK


 MAYOR, COUNTY OF HAWAII

Bill No.: 11 (Draft 2)
 Reference: C-51.11/PC-11
 Ord No.: 21 27



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE
 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT
 CLASSIFICATION FROM AGRICULTURAL (A-3a) AND OPEN (O)

TO PROJECT DISTRICT (PD)
 AT KAU, NORTH KONA, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT