

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 384 (DRAFT 2)

ORDINANCE NO. 91 21

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-7.5) AT PUAPUAA 1ST AND 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-20:PORTION OF 1.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-87, Article 3, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Puapuaa 1st and 2nd, North Kona, Hawaii, shall be Single Family Residential (RS-7.5):

Beginning at a nail in concrete at the northwest corner of this parcel of land, the northeast corner of Lot 10 and on the southeasterly side of R.P. 1669, L.C. Aw. 8516-B:3 to Kamaikui, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 71.98 feet South and 1119.17 feet East and running by azimuths measured clockwise from True South:

Following along the middle of an old stonewall along the southeast boundary of R.P. 1669, L.C. Aw. 8516-B:3 to Kamaikui for the following thirty eight (38) courses:

- 1. 254° 59' 30" 40.45 feet to a nail in rock;
2. 256° 53' 30" 195.37 feet to a "+" cut in rock;

3.	250°	02'	16.70 feet to a nail in rock;
4.	255°	18'	88.89 feet to a nail in rock;
5.	249°	55' 30"	101.23 feet to a "+" cut in rock;
6.	253°	43' 30"	33.76 feet to a nail in rock;
7.	246°	00'	70.33 feet to a "+" cut in rock;
8.	242°	45'	42.95 feet to a nail in rock;
9.	246°	11'	30.23 feet to a nail in rock;
10.	252°	17' 30"	78.42 feet to a "+" cut in rock;
11.	260°	05'	12.34 feet to a 1/2 inch pipe;
12.	247°	49'	13.07 feet to a nail in rock;
13.	235°	48'	19.41 feet to a "+" cut in rock;
14.	244°	52'	24.91 feet to a nail in rock;
15.	243°	52' 30"	37.28 feet to a "+" cut in rock;
16.	240°	52'	26.78 feet to a 1/2 inch pipe;
17.	246°	15'	77.74 feet to a "+" cut in rock;
18.	249°	56' 30"	45.51 feet to a nail in rock;
19.	252°	59'	89.15 feet to a 1/2 inch pipe;
20.	246°	21'	81.63 feet to a "+" cut in rock;
21.	253°	29'	55.11 feet to a nail in rock;
22.	247°	26'	15.27 feet to a "+" cut in rock;
23.	254°	45'	21.89 feet to a "+" cut in rock;
24.	247°	49'	46.44 feet to a "+" cut in rock on Kuakini Wall;
25.	240°	16'	36.17 feet to a 1/4 inch pipe;
26.	250°	54' 30"	61.62 feet to a 1/2 inch pipe;

- 27. 238° 12' 36.56 feet to a "+" cut in rock;
- 28. 252° 20' 97.00 feet to a "+" cut in rock;
- 29. 242° 44' 37.39 feet to a "+" cut in rock;
- 30. 251° 22' 29.12 feet to a 1/2 inch pipe;
- 31. 267° 38' 15.05 feet to a "+" cut in rock;
- 32. 239° 30' 39.84 feet to a "+" cut in rock;
- 33. 245° 09' 34.78 feet to a "+" cut in rock;
- 34. 234° 55' 25.37 feet to a "+" cut in rock;
- 35. 245° 59' 38.90 feet to a "+" cut in rock;
- 36. 243° 38' 30" 23.66 feet to a nail in rock;
- 37. 266° 35' 15.75 feet to a "+" cut in rock;
- 38. 250° 29' 48.14 feet to a 1/2 inch pipe on the southwest side of Kuakini Highway;

Thence along the southwest side of Kuakini Highway for the next eight (8) courses:

- 39. Along a curve to the right having a radius of 1597.02 feet, the chord azimuth and distance being: 345° 03' 45" 37.55 feet to a nail in concrete;
- 40. Thence along a curve to the right having a radius of 2142.70 feet, the chord azimuth and distance being: 347° 02' 55" 98.16 feet to a 1/2 inch pipe;
- 41. 348° 21' 40" 229.99 feet to a nail in concrete;
- 42. Thence along a curve to the left having a radius of 1567.89 feet, the chord azimuth and distance being: 346° 29' 10" 102.60 feet to a nail in concrete;

43. Thence along a curve to the left having a radius of 1185.92 feet, the chord azimuth and distance being: 321° 48' 40" 919.13 feet to a nail in concrete;
44. Thence along a curve to the left having a radius of 1567.89 feet, the chord azimuth and distance being: 297° 08' 10" 102.60 feet to a nail in concrete;
45. 295° 15' 40" 924.20 feet to a 1/2 inch pipe;
46. Thence along a curve to the right having a radius of 4543.66 feet, the chord azimuth and distance being: 295° 32' 59" 45.77 feet to a pipe;

Thence along the middle of an old stonewall along the northwesterly boundary of R.P. 4475, L.C. Aw. 7713:43 to V. Kamamalu for the next twenty one (21) courses:

47. 38° 21' 13.93 feet to a pipe;
48. 56° 48' 30" 42.82 feet to a pipe;
49. 43° 18' 30" 39.01 feet to a pipe;
50. 54° 58' 30" 82.86 feet to a pipe;
51. 62° 03' 37.06 feet to a pipe;
52. 54° 50' 30" 40.89 feet to a "+" cut in rock;
53. 49° 05' 43.51 feet to a pipe;
54. 48° 29' 30" 41.69 feet to a pipe;
55. 55° 45' 30" 38.41 feet to a pipe;
56. 49° 06' 95.44 feet to a pipe;
57. 52° 28' 24.88 feet to a pipe;

58.	41° 05' 30"	63.24 feet to a "+" cut in rock;
59.	60° 34' 30"	54.70 feet to a pipe;
60.	57° 45'	34.42 feet to a "+" cut in rock;
61.	50° 34'	43.91 feet to a pipe;
62.	62° 38'	27.23 feet to a pipe;
63.	74° 26'	34.87 feet to a pipe;
64.	49° 33'	42.62 feet to a pipe;
65.	36° 54' 30"	37.08 feet to a pipe;
66.	44° 43'	41.90 feet to a pipe;
67.	46° 55' 30"	85.51 feet to a pipe in concrete on Kuakini Wall;

Thence along a survey  
fixed by Decree issued by  
the Judge of the Circuit  
Court of the Third  
Circuit, State of Hawaii,  
under C.A. No. 493 and  
dated February 8, 1960,  
for the next seven (7)  
courses:

68.	52° 23' 30"	52.36 feet along a stonewall to a spike in concrete on the south face of said wall;
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Thence along the south  
face of said stonewall for  
the next six (6) courses:

69.	57° 58' 30"	117.10 feet to a spike in concrete;
70.	61° 27' 30"	132.53 feet to a spike in concrete;
71.	54° 33'	102.06 feet to a pipe in concrete;
72.	57° 34'	124.43 feet to a pipe in concrete;

73. 54° 47' 30" 201.74 feet to a pipe in concrete;
74. 54° 59' 30" 91.24 feet to a spike in concrete;
75. 148° 08' 450.00 feet along Parcel A along the remainder of R.P. 7819, L.C. Aw. 8559-B, Apana 8 to Wm. C. Lunalilo to a spike in concrete;
76. 58° 08' 800.00 feet along Parcel A along the remainder of R.P. 7819, L.C. Aw. 8559-B, Apana 8 to Wm. C. Lunalilo to a pipe;
77. 148° 08' 455.88 feet along Lots 2A, 3A and 4A to a pipe in concrete;
78. Thence along Lot 4A along a curve to the right having a radius of 5050.00 feet, the chord azimuth and distance being: 149° 08' 176.26 feet to a pipe in concrete;
79. 60° 08' 50.00 feet along Lot 4A to a spike in concrete;
80. 150° 34' 30" 78.63 feet along Lots 4A and 5A to a spike in concrete;
81. 241° 01' 50.00 feet along Lot 5A to a spike in concrete;
82. Thence along Lots 5A, 6A, 7A and 8, along a curve to the right having a radius of 5050.00 feet, the chord azimuth and distance being: 155° 51' 05" 851.24 feet;
83. 160° 41' 10" 724.42 feet along Lots 8, 9 and 10;

84. Thence along Lot 10 along a curve to the right having a radius of 2050.00 feet, the chord azimuth and distance being: 161° 11' 03" 35.64 feet to the point of beginning and containing an area of 108.336 Acres.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. This change in district classification is conditioned upon the following: (A) the applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval; (B) the applicant shall submit the required water commitment payment for 200 units to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the date of approval of the change of zone. The applicant shall consummate a water agreement for the remaining 153 units with the Departments of Water Supply and Planning within ninety days from the date of approval of the change of zone. The zoning of the property shall not be in effect until the water commitment payment is accepted by the Department of Water Supply and the water agreement is consummated; (C) the property shall be subdivided in two increments. The first increment shall consist of a maximum of 60 contiguous acres (exclusive of the park, school, and water tank sites and major archaeological preservation areas) and the second increment the remaining

area. Subdivision plans may be submitted for the second increment after development has occurred in the first increment as determined by the Planning Director. "Development" means that building permits have been issued for dwelling units and construction has been partially completed to the extent that roofs have been constructed on a minimum of twenty-five percent of the number of lots proposed for the first increment. In lieu of actual construction, the applicant may enter into an agreement with the Planning Department to assure the County that the dwellings will be constructed within a given period. Such agreement shall be secured by a surety bond, certified check or other security acceptable to Corporation Counsel and the Planning Department. Upon final execution of such agreement and filing of the security with the County, subdivision plans for the second increment may be submitted prior to the actual construction of the dwellings in the first increment; (D) subdivision plans for the first increment shall be submitted within one year from the effective date of the change of zone. Final subdivision approval shall be secured within one year from the date of receipt of tentative subdivision approval. Plans for necessary infrastructural improvements, including intersection improvements, sewer collection and transmission lines and, if appropriate, an interim sewage treatment system, shall be submitted in conjunction with construction drawings for final subdivision



approval of the first increment; (E) a drainage system shall be installed meeting with the requirements of the Department of Public Works; (F) access(es) shall meet with the approval of the Department of Public Works. No lots shall have direct access from Kuakini Highway. Kuakini Highway-Kahakai access road intersection shall be improved with a channelized intersection and traffic signal conduits and pull boxes which meet with the requirements of the Department of Public Works. The Kuakini Highway-Kahakai access road intersection shall be provided with a traffic signal as follows: 1) the design for the traffic signal will be submitted to the Department of Public Works for review and approval in conjunction with construction drawings for final subdivision approval of the first increment; 2) the traffic signal conduits and pull boxes will be installed during construction of the Kahakai access road intersection with Kuakini Highway. These improvements shall be provided prior to final subdivision approval of the first increment or as otherwise provided by Chapter 23 (Subdivision Control). A channelized intersection at the Alii Highway-main access road intersection shall be constructed; (G) the main access road and interior subdivision roads shall be provided with curbs, gutters and sidewalk improvements and underground utilities. Interior north-south roadways shall extend to the boundaries to provide connection with existing and future roadways to adjacent properties. Roadway access to

Kahakai Elementary School shall be constructed prior to occupancy of the first increment affecting lands adjacent and to the north of Kahakai School. This roadway connection shall meet with the approval of the Department of Public Works and the Department of Education; (H) the Alii Highway right-of-way and associated easements within the property shall be dedicated to the County within six months of the date of final right-of-way determination by the Department of Public Works. That section of the Alii Highway within the property shall be constructed in accordance with the requirements of the Department of Public Works prior to issuance of final subdivision approval of the second zoning increment or upon a determination by the County that the roadway be constructed, whichever occurs first; (I) should an Improvement District be implemented for the construction of the proposed Alii Highway, the applicant, successors or assigns shall automatically be a participant in the Improvement District, provided, however, that the contribution of land and the construction of improvements can be credited towards the applicant's Improvement District assessment. (J) an intensive archaeological survey, data recovery and mitigation/interpretation plan shall be submitted for review and approval by the Planning Department, in consultation with the Department of Land and Natural Resources, prior to submitting preliminary subdivision plans of the first increment

or prior to any land preparation activity, whichever occurs first. Mitigation shall include, but not be limited to, the preservation of Kuakini Wall with approved buffers in the form of written easements and the formulation of historic preservation area(s). Easements and preservation areas shall be delineated on maps submitted for subdivision approval. Restrictive covenants approved by the Planning Department, in consultation with the Department of Land and Natural Resources-Historic Sites Section, shall provide for continued preservation and maintenance of the sites to be preserved. The proposed subdivision shall breach Kuakini Wall at only one point approved by the Planning Department in consultation with the Department of Land and Natural Resources; (K) a burial treatment plan and detailed mitigation measures shall be approved by the Department of Land and Natural Resources prior to submitting preliminary subdivision plans for the first increment or prior to any land preparation activity, whichever occurs first; (L) should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken; (M) sewer collection and system transmission lines shall

be constructed to the Alii Drive interceptor meeting with the approval of the Department of Public Works. In the event that any portion of the development is completed prior to completion of the municipal interceptor serving the development, the applicant shall also construct an interim sewage treatment system, which location and design meets with the approval of the Departments of Public Works, Health, Planning, and Education; (N) to ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall work with the Office of Housing and Community Development and the Planning Department to formulate a housing plan for the development, which shall be consistent with the interim affordable housing policy of the County as contained in Hawaii County Housing Agency Resolution No. 65. This housing plan shall be approved by the County Housing Agency prior to final subdivision approval of the first increment provided that the applicant shall notify the County Housing Agency of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the property prior to visible commencement of construction on the property; provided, however, that Petitioner may transfer ownership in the property to an affiliate or in a manner consistent with prior representations to the County Housing Agency; (O) the applicant shall set aside a minimum of 4± acres of land for active recreational park use to service the projected

population of the development. The location of the park site with minimum grassing and grading shall meet with the approval of the Departments of Parks and Recreation and Planning. Further, the park site shall be dedicated to the County within one year after the date of receipt of final subdivision approval of the first increment; (P) the applicant shall work with the State Department of Education to designate a minimum of 1.7± acres of land for purchase by and with the concurrence of the State Department of Education. Further, the applicant shall provide its pro rata share for school facilities as may be required by and to the satisfaction of the Planning Department in consultation with the State Department of Education. The pro rata share determination and its implementation shall be approved by the Planning Department in consultation with the Department of Education prior to final subdivision approval; (Q) as agreed to by the applicant, restrictive covenants in the deeds of all the residential lots shall prohibit the construction of ohana dwelling units. A copy of the proposed covenant(s) shall be submitted to the Planning Department for review and approval prior to final subdivision approval of the first increment. Written assurance for implementation of this condition, which has met with the approval of the Planning Department, shall be submitted to the Planning Department prior to final subdivision approval of the first increment. A copy of a typically recorded covenant shall

be filed with the Planning Department within one year from the date of final subdivision approval of the first increment;

(R) comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health, Water Supply, Land and Natural Resources, Public Works, and Education; (S) should the council adopt a Unified Impact Fees ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein may, at the developers' election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance; (T) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the change of zone. The report shall address the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required; and, (U) an extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:


- 1) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence;
- 2) granting of the time extension would not be contrary to the General Plan or Zoning Code;

3) granting of the time extension would not be contrary to the original reasons for the granting of the permit; 4) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year); and 5) if the applicants should require an additional extension of time, the Planning Director shall submit the applicants' request to the County Council for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation.

SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

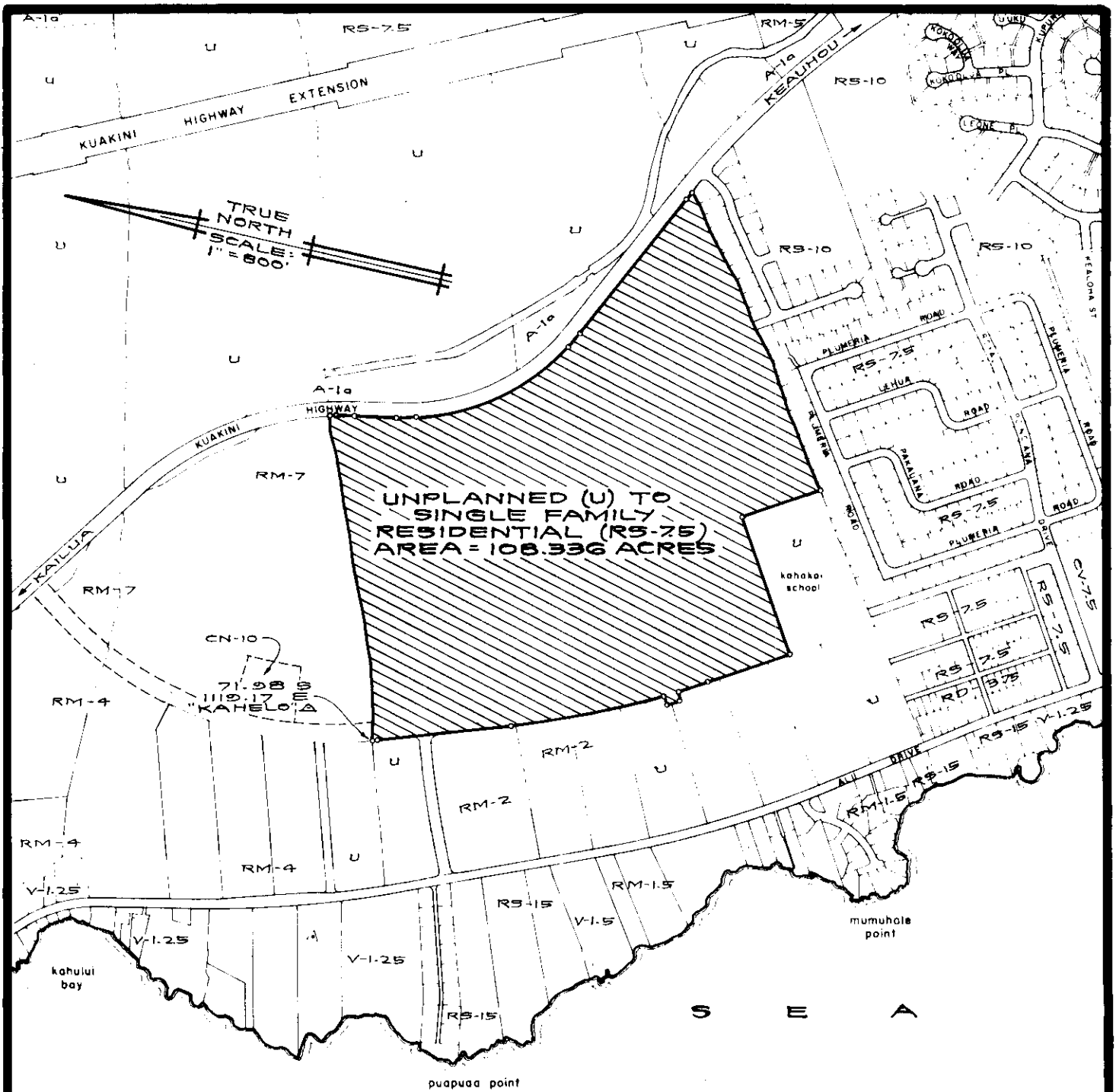
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction:	February 6, 1991
Date of 1st Reading:	February 6, 1991
Date of 2nd Reading:	March 6, 1991
Effective Date:	March 15, 1991



## AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-87 (NORTH KONA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-7.5) AT PUAPUAA 1ST AND 2ND, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK : 7-5-20 : PORTION OF 1

JUNE 6, 1990