

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 422
(Draft 2)

ORDINANCE NO. 91 54

AN ORDINANCE AMENDING SECTION 25-97 (THE HAMAKUA DISTRICT HOMESTEADS ZONE MAP) AND SECTION 25-98 (THE HONOKAA-HAINA-KUKUIHAELE ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, AS AMENDED, RELATING TO MODIFICATION OF CONDITIONS OF ORDINANCE NO. 341 AS AMENDED BY ORDINANCE NO. 85 18, WHICH RECLASSIFIED CERTAIN LANDS FROM AGRICULTURAL (A-5a) AND AGRICULTURAL (A-40a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT PAALAEA, PAPAANUI, HAINA AND NAMOKU, HAMAKUA, HAWAII, COVERED BY TAX MAP KEY 4-5-10:1, 31, 121, 108-116 (FORMERLY 4-5-10:Portion of 1,2,31).

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

SECTION 1. Sections 25-97 and 25-98, Article 3, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to modify conditions of Ordinance No. 341 as amended by Ordinance No. 85 18 as follows:

"SECTION 3. Sections 1 and 2 of this ordinance shall take effect forthwith upon the conditions that (A) the petitioner, successors, or its assigns shall be responsible for complying with all of the stated conditions of approval; (B) TMK: 4-5-10: 1 & 121 (formerly 2) shall be developed in two increments. The first increment shall consist of a maximum of 60+ acres and the second increment the remaining area. Subdivision plans for the second increment shall be submitted after development has occurred in the first increment as determined by the Planning Director. "Development" means

that building permits have been issued for single family 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; (C) a channelized intersection with left-turn storage lanes and acceleration and deceleration lanes shall be constructed at the Pakalana Street-Hawaii Belt Road intersection meeting with the approval of the State Department of Transportation, Highways Division. These improvements shall be constructed in conjunction with Final Subdivision Approval for the first increment of TMK: 4-5-10: 1 and 121 (formerly 2); (D) none of the lots shall have direct access from the Hawaii Belt Road; (E) a drainage system in accordance with the requirements of the Department of

Public Works shall be installed for the area makai of the Hawaii Belt Road. These improvements shall be installed in conjunction with Final Subdivision Approval of the first increment for TMK: 4-5-10: 1 and 121 (formerly 2); (F) the method of sewage disposal shall meet with the approval of the appropriate governmental agencies; and (G) all other applicable rules, regulations and requirements, including those of the Department of Water Supply, shall be complied with; (H) As represented by the petitioner, a minimum area of 15 acres within the second zoning increment shall be set aside for an affordable and/or elderly housing project. Said project shall be coordinated with the appropriate State and/or County housing agencies in having either government or some private entity develop this area. Appropriate affordable housing credits, pursuant to the County affordable housing policy in effect at the time a specific housing program for this area is consummated with the appropriate State and/or County housing agencies, may be given to the petitioner, its assigns or heirs. This credit shall be applicable only to affordable housing requirements involving projects within the Hamakua District; (I) an extension of time for the performance of conditions within the ordinance, with the exception of Conditions C and E, 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 change of zone; 4) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year); and 5) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation; (J) 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 applicant's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance; and (K) 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 of TMK: 4-5-10: 1, 121, 31, 118 and 119 and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

SECTION 2. In the event that any portion of the ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

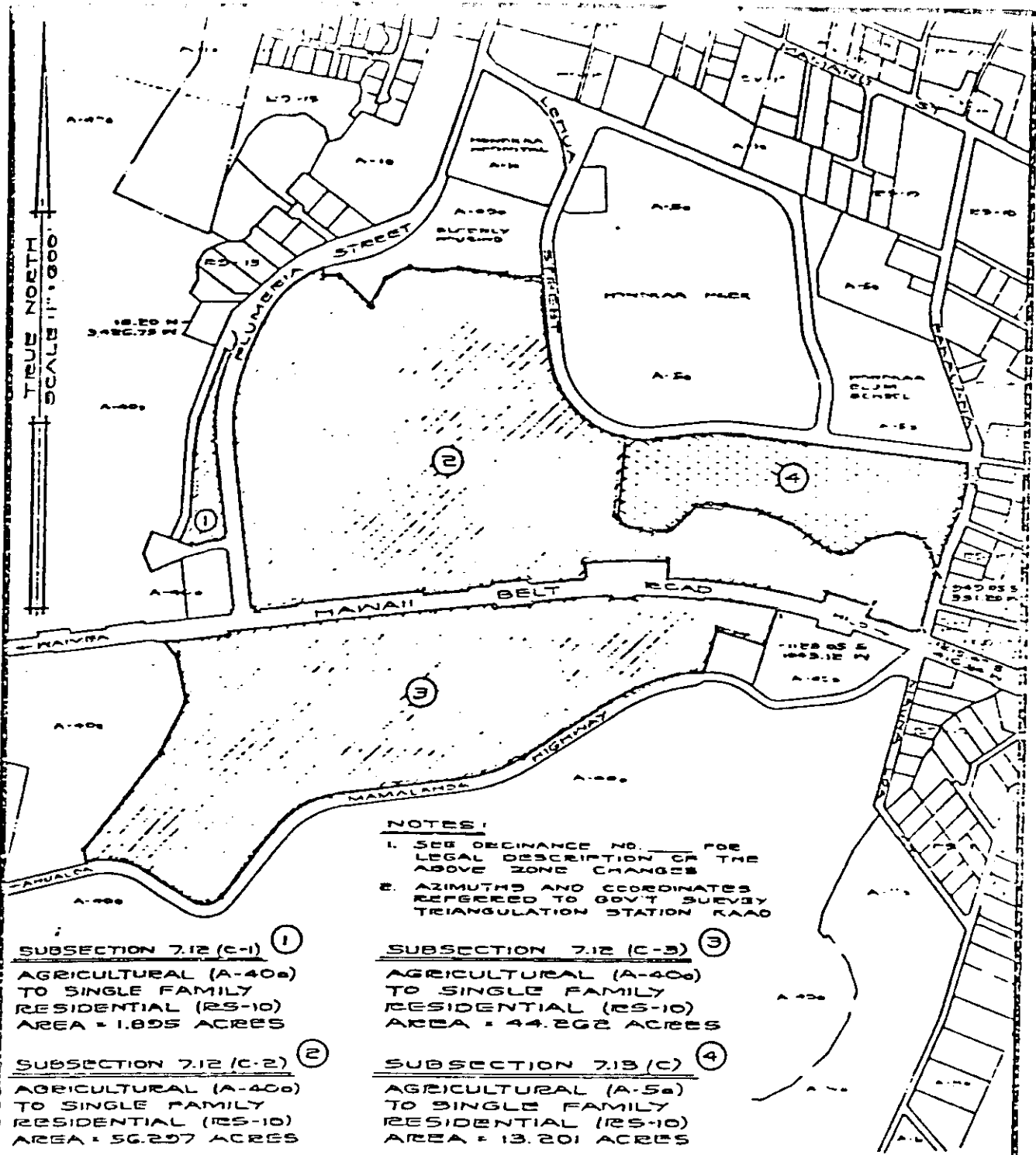
Hilo, Hawaii

Date of Introduction: May 15, 1991
Date of 1st Reading: May 15, 1991
Date of 2nd Reading: June 5, 1991
Effective Date: June 14, 1991

APPROVED AS TO FORM AND LEGALITY:


CORPORATION COUNSEL

DATED: _____



NOTES:
 1. SEE ORDINANCE NO. _____ FOR LEGAL DESCRIPTION OF THE ABOVE ZONE CHANGES
 2. AZIMUTHS AND COORDINATES REFERRED TO GOVT SURVEY TRIANGULATION STATION KAAD

SUBSECTION 7.12 (C-1) ①
 AGRICULTURAL (A-40a)
 TO SINGLE FAMILY
 RESIDENTIAL (RS-10)
 AREA = 1.895 ACRES

SUBSECTION 7.12 (C-3) ③
 AGRICULTURAL (A-40a)
 TO SINGLE FAMILY
 RESIDENTIAL (RS-10)
 AREA = 44.262 ACRES

SUBSECTION 7.12 (C-2) ②
 AGRICULTURAL (A-40a)
 TO SINGLE FAMILY
 RESIDENTIAL (RS-10)
 AREA = 56.297 ACRES

SUBSECTION 7.13 (C) ④
 AGRICULTURAL (A-5a)
 TO SINGLE FAMILY
 RESIDENTIAL (RS-10)
 AREA = 13.201 ACRES

AMENDMENT TO THE ZONING CODE

AMENDMENT NO. 3 TO SECTION 7.12, THE HAMAKUA DISTRICT HOMESTEADS AREA ZONE MAP AND AMENDMENT NO. 3 TO SECTION 7.13, THE HONOKAA-HAINA-KUKUIHAELE ZONE MAP OF CHAPTER 8 (ZONING CODE), ARTICLE 2, HAWAII COUNTY CODE, AS AMENDED, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) AND AGRICULTURAL (A-40a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT PAALAEA, PAPAANUI, HAINA AND NAMOKU, HAMAKUA, HAWAII.

DATE OF PUBLIC HEARING: SEPT. 8, 1977
 DATE OF APPROVAL:
 ORDINANCE NO.
 PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

Introduced By: Takashi Domingo
 Date Introduced: May 15, 1991
 First Reading: May 15, 1991
 Published: _____

ROLL CALL VOTE

	AYES	NOES	ABS	EX
ARAKAKI	X			
DE LIMA	X			
DOMINGO	X			
HALE	X			
KOKUBUN	X			
LAI	X			
MAKUAKANE	X			
RUDDLE	X			
SCHUTTE			X	
	8	0	1	0

REMARKS:

(DRAFT 2)

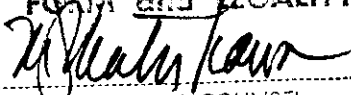
Second Reading: June 5, 1991
 To Mayor: June 6, 1991
 Returned: June 14, 1991
 Effective: June 14, 1991
 Published: June 19, 1991

ROLL CALL VOTE

	AYES	NOES	ABS	EX
ARAKAKI	X			
DE LIMA	X			
DOMINGO	X			
HALE	X			
KOKUBUN	X			
LAI	X			
MAKUAKANE	X			
RUDDLE	X			
SCHUTTE	X			
	9	0	0	0

REMARKS:

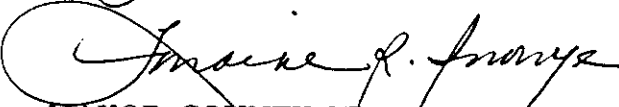
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council and published as indicated above.

APPROVED as to
 FORM and LEGALITY

 CORPORATION COUNSEL
 COUNTY OF HAWAII
 Date June 10, 1991


 COUNCIL CHAIRMAN


 Dep. COUNTY CLERK

Approved/Disapproved this 14th day
 of June, 19 91


 MAYOR, COUNTY OF HAWAII

Bill No.: 422 (Draft 2)
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