

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 534 (Draft 3)

ORDINANCE NO. 92 7

AN ORDINANCE AMENDING SECTION 25-114 (CITY OF HILO ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-3a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-4-03:PORTION OF 21.

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

SECTION 1. Section 25-114, 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 Waiakea, South Hilo, Hawaii, shall be Single Family Residential (RS-10):

Beginning at the east corner of this parcel of land, being the south corner of Lot A-2, a portion of Grant 10,897 to Leopold F. Sternemann or Heirs and on the northerly side of Kawailani Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 12,232.78 feet South and 1,145.49 feet East, thence running by azimuths measured clockwise from True South:

- 1. 85° 40' 440.00 feet along Kawailani Street;
2. Thence along Lot 619-A-3, along a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being: 130° 40' 28.28 feet;
3. 175° 40' 548.39 feet along Lot 619-A-3;
4. 265° 40' 460.00 feet along Lot 619-A-3;

5. 355° 40' 568.39 feet along Lot A-1 and Lot A-2, being portions of Grant 10,897 to Leopold F. Sternemann or Heirs to the point of beginning and containing an area of 6.0003 Acres.

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

SECTION 2. These changes in district classification are 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 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; (C) subdivision plans shall be submitted within one year from the effective date of the zone change. Final Subdivision Approval shall be secured within two years from the date of receipt of tentative subdivision approval; (D) access to the proposed lots shall meet with the approval of the Department of Public Works. Interior subdivision roads shall be provided with curbs, gutters, and sidewalks meeting the approval of the Department of Public Works; (E) underground utilities shall be constructed; (F) a 10-foot wide road widening strip along the Kawaiiani Street frontage of the property shall be set aside and delineated on the subdivision plans. All structural setbacks shall be taken from this future road widening line; (G) drainage improvements shall meet with the approval of the Department of Public Works; (H) the method

of sewage disposal shall meet with the approval of the appropriate government agencies; (I) 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 the Hawaii County Housing Agency Resolution No. 65. This housing plan shall be approved by the County Housing Agency prior to final subdivision; 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 further that the applicant may transfer ownership in the property to an affiliate or in a manner consistent with prior representations to the County Housing Agency;

(J) restrictive covenants in the deeds of all residential zoned 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. 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. A copy of a typically recorded

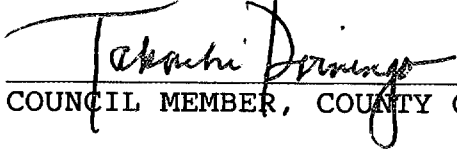
covenant shall be filed with the Planning Department within one year from the date of final subdivision approval; (K) should any infrastructure improvements related to Kawailani/Komohana intersection be required of future developers, the applicants, successors or assigns of this project shall work with the Planning Department to pay for their pro rata share of improvements. The pro rata share determination and its implementation shall be approved by the Planning Department in consultation with the Department of Public Works or any County agency having jurisdiction over any future infrastructure improvements; (L) the applicant, successors or assigns shall be responsible for paying any additional real property taxes owed as a result of withdrawing the property from dedicated agricultural use to residential use prior to the sale of any lot; (M) all other applicable laws, rules, regulations, and requirements shall be complied with; (N) 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 applicants' election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance; (O) 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 with and the Planning Director acknowledges that further reports are not required; and (P) 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 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.

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

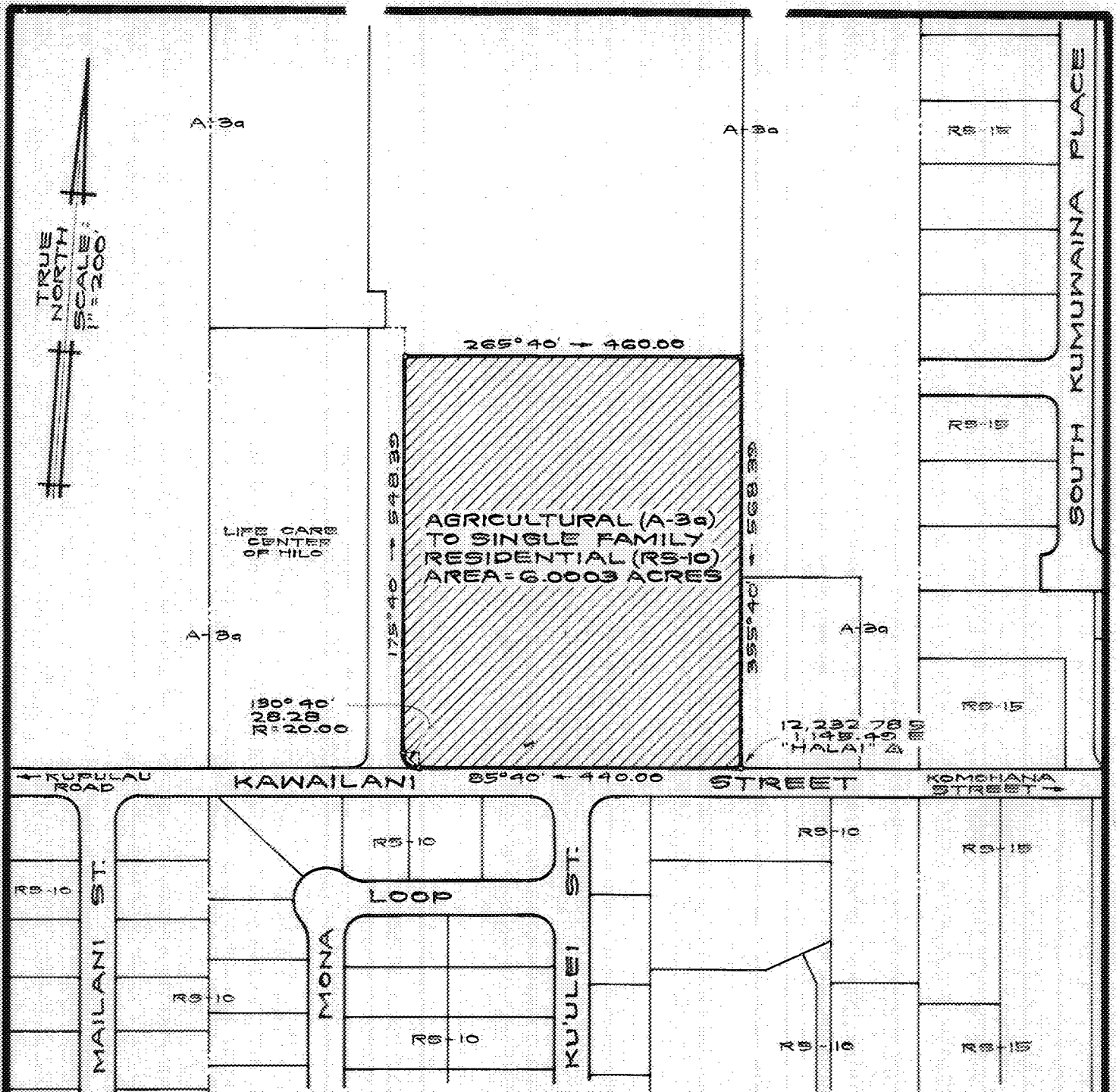
Hilo, Hawaii

Date of Introduction: December 18, 1991
Date of 1st Reading: December 18, 1991
Date of 2nd Reading: January 8, 1992
Effective Date: January 22, 1992

APPROVED AS TO FORM AND LEGALITY:

CORPORATION COUNSEL

DATE: _____



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-114 (CITY OF HILO ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-3a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAI-KEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 2-4-03 : 21 (PORTION)

OCT. 21, 1991

EXHIBIT "A"

(KAWAILANI ESTATES PARTNERSHIP)

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

(DRAFT 2)

ROLL CALL VOTE

Introduced By: Takashi Domingo
 Date Introduced: December 18, 1991
 First Reading: December 18, 1991
 Published: _____

	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:

(DRAFT 3)

ROLL CALL VOTE

Second Reading: January 8, 1992
 To Mayor: January 9, 1992
 Returned: January 22, 1992
 Effective: January 22, 1992
 Published: January 31, 1992

	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.

[Signature]

[Signature]
 COUNCIL CHAIRMAN

1-16-92

[Signature]
 COUNTY CLERK

Approved/Disapproved this 22nd day
 of January, 1992

[Signature]

MAYOR, COUNTY OF HAWAII

Bill No.: 534 (Draft 3)
 Reference: 92 7
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