

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 597 (Draft 2)

ORDINANCE NO. 92 51

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 2-4-37:PORTION 16.

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 properties 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 southwest corner of this parcel of land, being also the northwest corner of Grant 11,722 to Mrs. Hamako Heianna and on the easterly side of Kupulau Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 18,087.84 feet South and 2,998.87 feet West, thence running by azimuths measured clockwise from true South:

- 1. 175° 40' 603.98 feet along Kupulau Road;
2. 265° 34' 10" 938.00 feet along Grant 8641 to Jennie L. Aona (Lot 917M);

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| 3. | 355° 40' | 352.17 feet along Grant 10,543 to Shinkichi Higa; |
| 4. | 85° 40' | 515.71 feet along the remainder of Grant 11,681 to Yasuo Matsumura; |
| 5. | 355° 40' | 253.40 feet along the remainder of Grant 11,681 to Yasuo Matsumura; |
| 6. | 85° 40' | 422.29 feet along Grant 11,751 to Gilbert E. Cox, Grant 11,732 to Mrs. Patricia S. Cox, Grant 11,719 to William R. Kuhlman, Grant 11,720 to Michio Ide, Grant 11,745 to Seijin Tokusato, Grant 11,754 to Mrs. Louise Freitas, Grant 11,721 to Merrill L. Carlsmith and Grant 11,722 to Mrs. Hamako Heianna (Lots 47 to 54, inclusive, Waiakea Camp 6) to the point of beginning and containing an area of 10.023 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 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 from Kupulau Road shall meet with the approval of the Department of Public Works. The proposed development's interior access roadways shall meet with the approval of the Department of Public Works and the Fire Department; (E) the applicant shall provide a minimum 20-foot wide pavement with 3-foot wide shoulders within that portion of Kupulau Road fronting the subject property to Ainaola Drive meeting with the approval of the Department of Public Works prior to Final Subdivision Approval or bonding to ensure that the improvements are constructed; (F) the applicant shall provide drainage improvements as may be required by, and meeting with the approval of, the Department of Public Works; (G) the method of wastewater disposal shall meet with the approval of the appropriate government agencies; (H) 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; (I) 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; (J) prior to Final Plan Approval or Final Subdivision Approval for the project, should the County determine that additional improvements in the project area are required (i.e. roadways, parks, police, fire etc.), the applicant and its successors or assigns shall pay or contribute its pro rata share of such additional improvements. Satisfaction of this condition may be by entering into a development agreement with the County when such a development

agreement is authorized. Any pro rata share of improvements paid or contributed to the project area shall be credited to any future impact fees; (K) all other applicable laws, rules, regulations, and requirements shall be complied with; (L) 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; (M) 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 (N) 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:

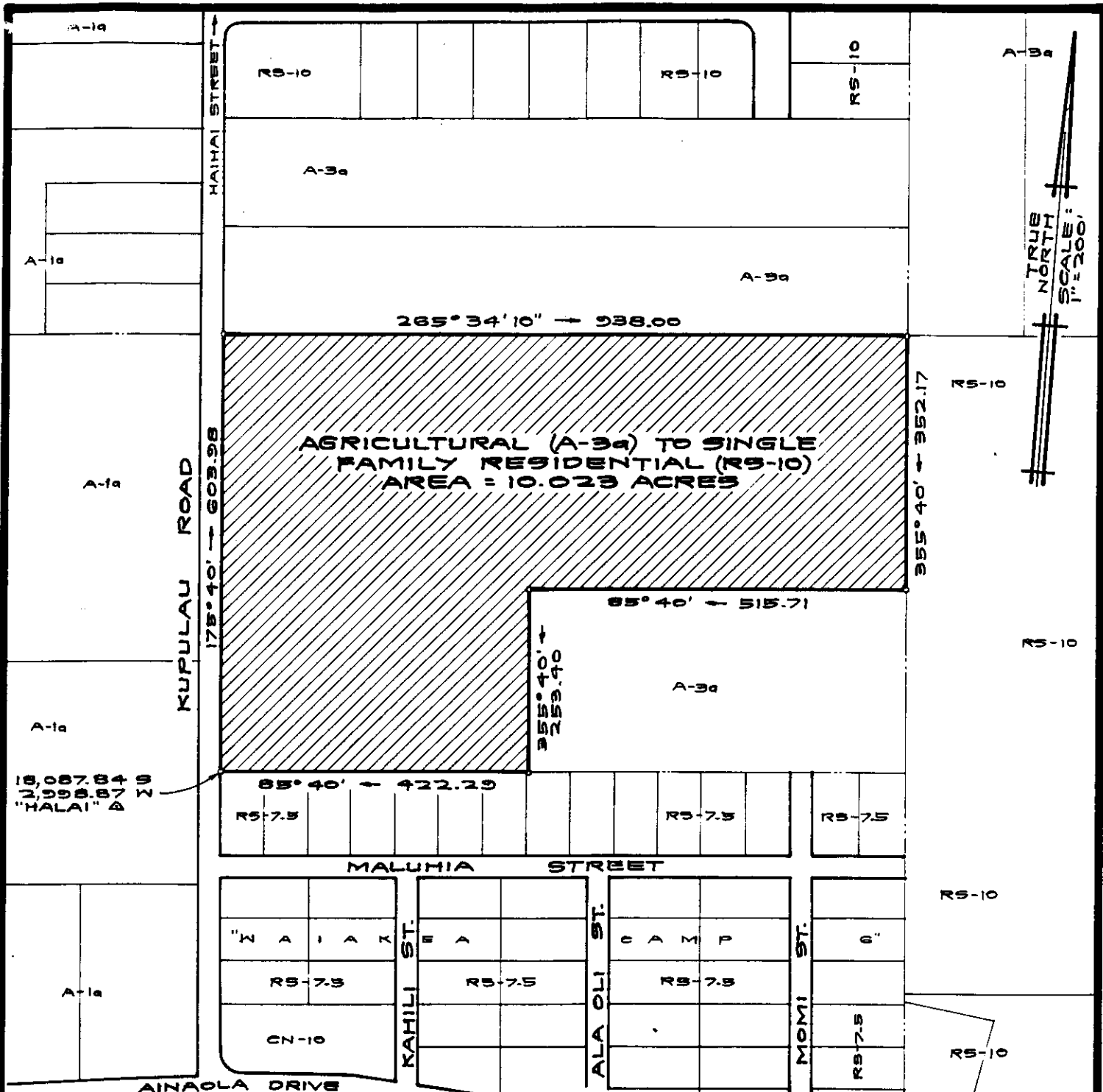

COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: May 6, 1992
Date of 1st Reading: May 6, 1992
Date of 2nd Reading: May 20, 1992
Effective Date: May 27, 1992

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel



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 WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 2-4-37 : PORTION 16

FEB. 13, 1992

EXHIBIT "A"

(WAIAKEA DEVELOPMENT VENTURES)