

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 672

(Draft 2)

ORDINANCE NO. 92 131

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-15) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-4-03:PORTION OF 28.

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-15):

Beginning at the southeast corner of this parcel of land, the northeast corner of Lot 78 of Kawailani Place Unit II, File Plan 1412, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 10,526.06 feet South and 682.69 feet West and running by azimuths measured clockwise from True South:

- 1. 85° 40' 643.00 feet along Lot 78, the north end of Oihana Street, Lots 72, 71, 70, 69 and 68 of Kawailani Place Unit II, File Plan 1412;

2. 175° 40' 80.68 feet along Lot 521-A;
 Thence along the remainder of a portion of Grant 8854 to George W. Willfong for the next ten (10) courses, the azimuths and distances between points being:
3. 222° 15' 159.30 feet;
 4. 210° 15' 100.00 feet;
 5. 194° 30' 240.00 feet;
 6. 176° 50' 90.00 feet;
 7. 166° 15' 135.00 feet;
 8. 179° 00' 355.00 feet;
 9. 205° 50' 210.00 feet;
 10. 235° 40' 155.00 feet;
 11. 229° 05' 115.00 feet;
 12. 216° 40' 92.31 feet;
 13. 355° 40' 1,474.48 feet along Grant 11633 to Tamotsu Shiroma to the point of beginning and containing an area of 13.199 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 Policy" within ninety (90) days from the effective date of the change

of zone ordinance; (C) subdivision plans shall be submitted within one year from the effective date of the change of zone. Final Subdivision Approval shall be secured within two years from the date of tentative subdivision approval; (D) access shall meet with the approval of the Department of Public Works; (E) drainage improvements shall meet with the approval of the Department of Public Works; (F) the method of sewage disposal shall meet with the approval of the Department of Health; (G) 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 or subsequent policies. This housing plan shall be approved by the County Housing Agency prior to final subdivision approval 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; (H) as agreed to by the applicant, restrictive covenants in the deeds of all residential zoned lots shall prohibit the construction of a second dwelling unit on each lot. 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; (I) the applicant shall designate an off-site one-acre park area which shall be improved by grading, grassing, and fencing in conjunction to final subdivision approval meeting the approval of the Planning Director in consultation with the Director of Parks and Recreation. Further, a park maintenance and operation plan shall be submitted for review and approval by the Planning Director in consultation with the Director of Parks and Recreation prior to issuance of a certificate of occupancy for residential development; ([I]J) should any infrastructure improvements related to the Kawaiiani-Komohana intersection be required of future developers, the applicant, successors, or assigns of this project shall 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 other agency having jurisdiction over any future infrastructure improvements; ([J]K) all other applicable laws, rules, regulations and requirements shall be complied with;

([K]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 developer's election, be satisfied by the performance in accordance with the requirements of the Unified Impact Fees Ordinance; ([L]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 and the Planning Director acknowledges that further reports are not required; and, ([M]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 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 the 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 (ie. a condition to be performed within one year may be extended for up to one addition 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

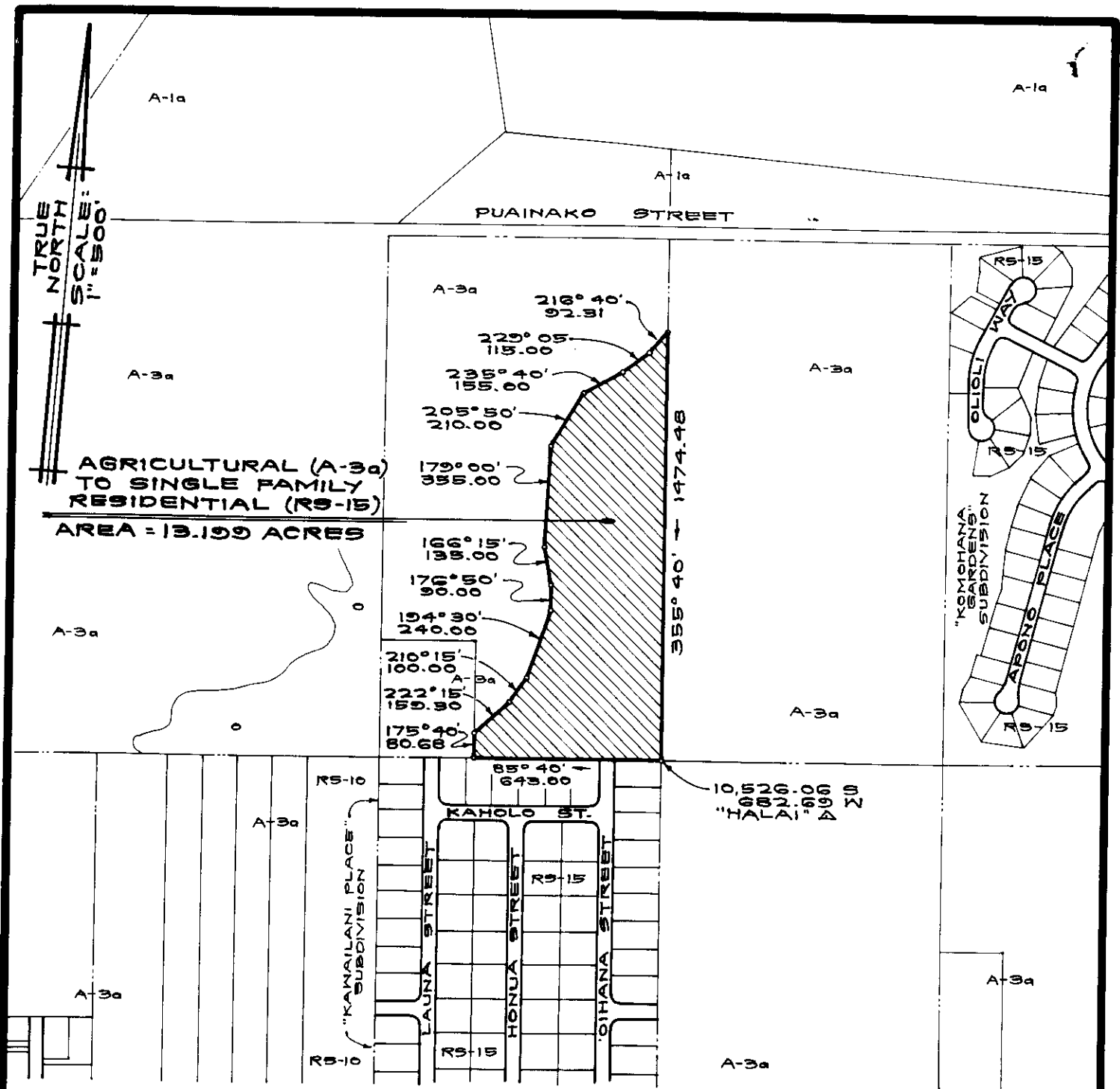
Date of Introduction: November 5, 1992
Date of 1st Reading: November 5, 1992
Date of 2nd Reading: November 18, 1992
Effective Date: November 27, 1992

APPROVED AS TO FORM AND LEGALITY:


CORPORATION COUNSEL

DATE: _____

DEPUTY



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-15) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 2-4-03 : PORTION OF 28

JULY 1, 1992

EXHIBIT "A"

(TONG ASSOCIATES)