

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 3
(Draft 3)

ORDINANCE NO. 93 36

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-20a), (A-10a) and (A-3a) TO RESIDENTIAL AND AGRICULTURAL (RA-1a) AT KUKUAU 1ST, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-4-08:PORTIONS OF 14 AND 26.

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 Kukuau 1st, South Hilo, Hawaii, shall be Residential and Agricultural (RA-1a):

PARCEL 1:

Beginning at the north corner of this parcel of land and on the east boundary of Lot 10-F, Land Court Application 1205, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 12,597.15 feet South and 6,231.73 feet West, and thence running by azimuths measured clockwise from True South:

1. Following along the remainder of Lot 135, along a curve to the left with a radius of 1,870.00 feet, the chord azimuth and distance being:
282° 22' 17.5" 707.76 feet;
2. 32° 49' 26" 184.21 feet along Government Land of Waiakea;

3. 37° 21' 16" 1,194.70 feet along Government Land of Waiakea;
4. 186° 03' 45" 1,263.17 feet along Lot 10-E and Lot 10-F, Land Court Application 1205, to the point of beginning and containing an area of 10.033 Acres. (Refer to Parcel 1 as shown on Exhibit "A".)

The district classification of the following area situated at Kukuau 1st, South Hilo, Hawaii, shall be Residential and Agricultural (RA-1a):

PARCEL 2:

Beginning at the west corner of this parcel of land and being the north corner of Lot 10-F, Land Court Application 1205 (Map 7), the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 9,962.56 feet South and 6,330.23 feet West, and thence running by azimuths measured clockwise from True South:

1. 216° 18' 56" 307.28 feet along Portion of Royal Patent 5706, Land Commission Award 8521-B, Part 2 to G. D. Hueu;
2. 207° 13' 41" 909.21 feet along Portion of Royal Patent 5706, Land Commission Award 8521-B, Part 2 to G. D. Hueu;
3. 232° 32' 43" 112.82 feet along Portion of Royal Patent 5706, Land Commission Award 8521-B, Part 2 to G. D. Hueu;
4. 265° 40' 1,906.98 feet along the remainder of Lot 135 and remainder of Lot 136;
5. 355° 40' 983.19 feet along the remainder of Lot 136 and remainder of Lot 135;

6. 33° 07' 40" 45.04 feet along Government Land of Waiakea;
7. 50° 30' 58" 834.00 feet along Government Land of Waiakea;
8. 9° 06' 41" 1,020.86 feet along Government Land of Waiakea;
9. 20° 46' 39" 193.01 feet along Government Land of Waiakea;
10. 38° 26' 41" 1,071.07 feet along Government Land of Waiakea;
11. 32° 49' 26" 570.33 feet along Government Land of Waiakea;
12. Thence along the remainder of Lot 135, along a curve to the right with a radius of 1,870.00 feet, the chord azimuth and distance being:
102° 22' 17.5" 707.76 feet;
13. 186° 03' 45" 1,736.97 feet along Lot 10-F, Land Court Application 1205;
14. 162° 44' 15" 950.13 feet along Lot 10-F, Land Court Application 1205 to the point of beginning and containing an area of 153.479 Acres. (Refer to Parcel 2 as shown on Exhibit "A".)

The district classification of the following area situated at Kukuau 1st, South Hilo, Hawaii, shall be Residential and Agricultural (RA-1a):

PARCEL 3:

Beginning at the south corner of this parcel of land and on the westerly boundary of Government Land of Waiakea, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 9,674.18 feet South and 3,666.88 feet West, and thence running by azimuths measured clockwise from True South:

1. 175° 40' 983.19 feet along the remainder of Lot 135 and remainder of Lot 136;
2. 265° 40' 717.35 feet along the remainder of Lot 136;
3. 29° 54' 40" 509.46 feet along Government Land of Waiakea;
4. 33° 07' 40" 708.07 feet along Government Land of Waiakea to the point of beginning and containing an area of 8.328 Acres. (Refer to Parcel 3 as shown on Exhibit "A".)

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 required water commitment payment for the development shall be submitted 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 for the proposed development shall be submitted to the Planning Department 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 receipt of Tentative Subdivision Approval; (D) the Saddle Road (Puainako Street), Kupulau Street and Kawaiiani Street extensions affecting the subject property shall be delineated on preliminary and final

subdivision plans to allow for a right-of-way. These street extensions shall be fully graded at a vertical alignment meeting with the approval of the Department of Public Works in conjunction with Final Subdivision Approval. The Mohouli Street/Ainako Avenue roadway segment which affects the subject property shall be constructed to county-dedicable standards in a manner meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval for the proposed development. The cost of the roadway extension improvements shall be borne by the applicant and shall be credited and limited to the amount of the applicant's fair share contribution for road and traffic improvements. In lieu of the actual construction of the roadway extension improvements the applicant may elect to enter into an agreement with the County, together with the appropriate bond, surety bond or other security deemed acceptable by the Planning Director for the construction of the said roadway extension improvements; (E) intersection improvements, including the design and construction of traffic signals and related improvements other than channelization, shall be installed at the Kukuau-Komohana Street intersection meeting with the approval of the Department of Public Works by July 1994; and intersection improvements, including the design and construction of traffic signals and related improvements

shall be installed at the Mohouli-Komohana Street intersection meeting with the approval of the Department of Public Works in conjunction with the construction of the Mohouli/Ainako roadway extension; (F) as represented by the applicant, restrictive covenants in the deeds of all the proposed lots shall prohibit the construction of a second dwelling unit on each lot. A copy of the proposed covenant(s) to be recorded with the Bureau of Conveyances shall be submitted to the Planning Department for review and approval prior to final subdivision approval. A copy of the approved covenant shall be recited in an instrument executed by the applicant and the county and recorded with the Bureau of Conveyances likewise prior to final subdivision approval; (G) to ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall secure the concurrence of the County Housing Agency, upon the recommendation of the Office of Housing and Community Development, that the applicant's affordable housing requirements, if any, have been fulfilled prior to the issuance of final subdivision approval; (H) access to the development shall meet with the approval of the Department of Public Works. Access to the proposed lots shall be via the existing Kukuau-Komohana intersection and via the proposed Mohouli Street to Ainako Avenue in which the roadway segment between Kukuau Street and the Ponahawai golf course's southerly

boundary shall be constructed by the applicant to county dedicable standards up to the length adjoining the Ponahawai golf course's southerly boundary, provided that the road improvements of the proposed Ponahawai golf course have received final approval and the road improvements have been bonded. In the event that the proposed Ponahawai golf course development does not come to fruition, the applicant shall provide, in lieu of constructing the county dedicable roadway segment adjoining the golf course's southerly boundary, a contribution of three hundred thousand dollars (\$300,000); (I) drainage improvements shall meet with the approval of the Department of Public Works; (J) the method of sewage disposal shall meet with the approval of the Department of Health; (K) 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; (L) all other applicable laws, rules, regulations and requirements shall be complied with; (M) 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 shall be credited towards the requirements of

the Unified Impact Fees Ordinance; (N) 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, (O) 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 (i.e. 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.

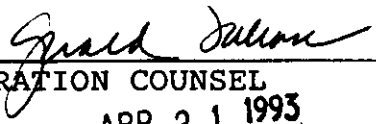
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: February 24, 1993
Date of 1st Reading: February 24, 1993
Date of 2nd Reading: April 7, 1993
Effective Date: APR 23 1993

APPROVED AS TO FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL
DATE: APR 21 1993

ROBIN J. YAHIKU
County Clerk



CONSTANCE R. KIRIU
Deputy County Clerk

HARRY A. TAKAHASHI
Legislative Auditor

COUNTY COUNCIL

County of Hawaii
Hawaii County Building
25 Aupuni Street
Hilo, Hawaii 96720

NOTE

On Bill No. 3 (Draft 3), Ordinance No. 93-36,
reference is made to a map attached hereto, marked
Exhibit "A".

Said Exhibit is not part of the duplicate copies of
this ordinance, due to its size, but is available for
viewing in the Office of the County Clerk.

If further information is needed, call 961-8255.

Robin J. Yahiku
COUNTY CLERK