

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 83  
(Draft 5)

ORDINANCE NO. 93 76

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO THE [DELETION OF CONDITION B AND THE MODIFICATION OF CONDITION D] AMENDMENTS TO CONDITIONS OF ORDINANCE NO. 90-63, WHICH RECLASSIFIED 99.3 ACRES OF LAND FROM AN UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-7.5) AND (RS-20) AT PUAPUAAIKI AND PUAPUAANUI, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-17:28 AND 29.

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

SECTION 1. Ordinance No. 90-63 is amended as follows:

"SECTION 1. Section 25-87, 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 Puapuaaiki and Puapuaanui, North Kona, Hawaii, shall be Single Family Residential (RS-7.5):

PARCEL 1:

Beginning at the Northwesterly corner of this parcel of land, being also a point on the Easterly side of the Hawaii Belt Road (Project No. F.A.S.P. 11A-03-69), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 1,083.07 feet North and 4,585.29 feet East and running by azimuths measured clockwise from True South:

Thence, for the next thirty-two (32) courses following along the Southerly boundary of Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui and along the middle of an ancient stonewall, all angle points marked by galvanized nails driven in set-stones on top of wall unless noted otherwise herein:

1. 250° 24' 71.42 feet;

2.	244°	50'		49.86 feet;
3.	238°	04'	30"	88.39 feet;
4.	254°	35'	10"	50.44 feet;
5.	237°	19'	50"	61.99 feet;
6.	252°	38'	50"	32.91 feet;
7.	243°	16'	15"	47.62 feet;
8.	250°	16'	50"	63.34 feet;
9.	238°	19'	10"	39.58 feet;
10.	252°	21'	10"	44.13 feet;
11.	244°	37'	50"	63.05 feet;
12.	241°	43'		84.51 feet;
13.	252°	18'	40"	108.43 feet;
14.	249°	47'	10"	68.44 feet;
15.	246°	46'	10"	48.86 feet;
16.	249°	39'	50"	133.77 feet;
17.	246°	56'		79.55 feet;
18.	238°	51'	30"	62.56 feet;
19.	244°	32'	40"	53.09 feet;
20.	250°	04'		72.07 feet;
21.	242°	42'	20"	81.56 feet;
22.	256°	02'	15"	40.36 feet;
23.	236°	43'	30"	54.19 feet;
24.	247°	20'	45"	28.34 feet;
25.	260°	19'	10"	92.13 feet;
26.	250°	23'	30"	56.34 feet to a galvanized nail in a "+" cut in set-stone;

- 27. 248° 32' 54.28 feet;
- 28. 254° 46' 38.44 feet;
- 29. 251° 08' 40" 111.09 feet;
- 30. 250° 13' 10" 151.96 feet;
- 31. 252° 13' 138.54 feet;
- 32. 265° 56' 30" 65.91 feet to a pipe;

Thence, for the next five (5) courses following along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams:

- 33. 346° 47' 30" 148.02 feet along Parcel 2 and also along the Westerly side of a stonewall to a pipe;
- 34. 347° 14' 30" 201.76 feet along Parcel 2 and also along the Westerly side of a stonewall to a pipe;
- 35. 72° 37' 32.30 feet along Parcel 2 and also along the Northerly side of a stonewall to a pipe;
- 36. 350° 59' 55.95 feet along Parcel 2 and also along the Westerly side of a stonewall to a pipe;
- 37. 341° 55' 109.94 feet along Parcel 2 and also along the Westerly side of a stonewall to a "+" cut on stone;

Thence, for the next seven (7) courses following along the remainder of Royal Patent 7819, Land Commission Award 8559-B, Apana 8 to William C. Lunaliilo:

- 38. 341° 20' 185.49 feet along Parcel 4 to a pipe;
- 39. 262° 42' 494.33 feet along Parcel 4 to a pipe;

Thence, for the next five (5) courses following along the remainder of Lot 1:

40. 350° 30' 420.00 feet to a point;

Thence, following on a curve to the right with a radius of 400.00 feet, the chord azimuth and distance being:

41. 16° 45' 353.83 feet to a point;

Thence, following on a curve to the right with a radius of 10.00 feet, the chord azimuth and distance being:

42. 272° 45' 15.26 feet to a point;

43. 322° 30' 105.72 feet to a point;

44. 333° 30' 64.50 feet to a point;

Thence, for the next thirty-four (34) courses following along the middle of an ancient stonewall and also along the Northerly boundary of Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu, all angle points being marked with galvanized nails driven in set-stones on top of the stonewall:

45. 331° 30' 30" 20.18 feet;

46. 59° 26' 30" 14.13 feet;

47. 45° 54' 15" 12.32 feet;

48. 55° 55' 40" 114.99 feet;

49. 57° 30' 10" 23.08 feet;

50. 61° 52' 15" 113.83 feet;

51. 66° 38' 10" 140.03 feet;

52. 67° 14' 50" 123.03 feet;

53. 63° 08' 10" 91.13 feet;

54. 69° 25' 40" 56.10 feet;

55.	67°	51'	50"	105.82 feet;
56.	52°	59'	30"	40.69 feet;
57.	62°	12'	40"	22.63 feet;
58.	67°	12'		97.04 feet;
59.	58°	51'		24.92 feet;
60.	62°	50'		57.28 feet;
61.	73°	55'	10"	78.84 feet;
62.	64°	53'	30"	34.57 feet;
63.	74°	57'	30"	18.72 feet;
64.	84°	23'	40"	20.20 feet;
65.	89°	29'	40"	32.58 feet;
66.	85°	26'	50"	75.75 feet;
67.	75°	41'	15"	135.87 feet;
68.	68°	13'	15"	150.48 feet;
69.	67°	52'		40.51 feet;
70.	70°	54'	40"	153.97 feet;
71.	67°	01'	50"	112.31 feet;
72.	69°	04'	15"	78.07 feet;
73.	66°	00'	10"	92.63 feet;
74.	70°	35'	15"	78.71 feet;
75.	47°	34'	40"	16.94 feet;
76.	70°	23'	50"	22.18 feet;
77.	62°	34'		19.27 feet;
78.	52°	38'	50"	23.61 feet;

Thence, for the next five (5) courses following along the Easterly side of the Hawaii Belt Road (Project No. F.A.S.P. 11A-03-69):

- 79. 154° 11' 11" 433.95 feet to a point;
- 80. 244° 11' 11" 20.00 feet to a point;
- 81. 154° 11' 11" 1,101.00 feet to a point;
- 82. 64° 11' 11" 20.00 feet to a point;
- 83. 154° 11' 11" 207.23 feet to a point of beginning and containing an area of 91.732 Acres, more or less. (Refer to Parcel 1 as shown on Exhibit "A").

The district classification of the following area situated at Puapuaanui, North Kona, Hawaii, shall be Single Family Residential (RS-20):

PARCEL 2:

Beginning at a pipe at the Southeasterly corner of this parcel of land being also a point on the Westerly side of Hualalai Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 788.83 feet North and 8,228.96 feet East and running by azimuths measured clockwise from True South:

Thence, following along the middle of an ancient stonewall and also along the Northerly boundary of Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu for the next sixteen (16) courses, all angle points being marked with galvanized nails driven in set-stones on top of the stonewall:

- 1. 63° 21' 15" 13.07 feet;
- 2. 83° 45' 18.12 feet;
- 3. 78° 32' 15" 55.68 feet;
- 4. 76° 58' 60.06 feet;
- 5. 63° 04' 10" 163.64 feet;
- 6. 68° 02' 61.69 feet;

- |     |             |              |
|-----|-------------|--------------|
| 7.  | 75° 19' 30" | 40.03 feet;  |
| 8.  | 73° 16'     | 34.02 feet;  |
| 9.  | 48° 04' 10" | 28.86 feet;  |
| 10. | 54° 14' 20" | 12.65 feet;  |
| 11. | 61° 05' 40" | 58.18 feet;  |
| 12. | 52° 24'     | 116.75 feet; |
| 13. | 52° 58'     | 137.34 feet; |
| 14. | 62° 18' 40" | 18.06 feet;  |
| 15. | 77° 26' 30" | 34.89 feet;  |
| 16. | 70° 20' 20" | 112.79 feet; |

Thence, for the next eleven (11) courses following along the remainder of Royal Patent 7819, Land Commission Award 8559-B, Apana 8 to William C. Lunalilo:

Thence, for the next five (5) courses following along the remainder of Lot 1:

- |     |          |                         |
|-----|----------|-------------------------|
| 17. | 153° 30' | 64.50 feet to a point;  |
| 18. | 142° 30' | 105.72 feet to a point; |

Thence, following on a curve to the left with a radius of 10.00 feet, the chord azimuth and distance being:

- |     |         |                        |
|-----|---------|------------------------|
| 19. | 92° 45' | 15.26 feet to a point; |
|-----|---------|------------------------|

Thence, following on a curve to the left with a radius of 400.00 feet, the chord azimuth and distance being:

- |     |          |                                       |
|-----|----------|---------------------------------------|
| 20. | 196° 45' | 353.83 feet to a point;               |
| 21. | 170° 30' | 420.00 feet to a point;               |
| 22. | 262° 42' | 200.00 feet along Parcel 4 to a pipe; |

- |     |      |         |  |
|-----|------|---------|--|
| 23. | 352° | 31'     | 161.88 feet along Parcel 4 to a pipe;  |
| 24. | 352° | 31'     | 189.92 feet along a House Lot owned by Julian F. Gouveia and wife to a pipe; |
| 25. | 246° | 13'     | 222.30 feet along a House Lot owned by Julian F. Gouveia and wife to a pipe; |
| 26. | 336° | 13'     | 335.19 feet along Lot 2 of this subdivision to a point;                      |
| 27. | 245° | 22' 40" | 321.43 feet along Lot 2 of this subdivision to a point;                      |

Thence, for the next three (3) courses following along the Westerly side of Hualalai Road:

- |     |      |         |  |
|-----|------|---------|--|
| 28. | 312° | 25'     | 8.34 feet to a pipe;   |
| 29. | 321° | 28' 10" | 33.88 feet to a pipe;  |
| 30. | 324° | 29' 30" | 54.62 feet to a pipe at a stonewall intersection at the Southeast corner of this tract of land and on the Northerly boundary of Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu to the point of beginning and containing an area of 7.592 Acres, more or less. (Refer to Parcel 2 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 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) [the area shall be subdivided in two increments. The first increment shall consist of a maximum of sixty contiguous acres, and the second increment, the remaining area. Subdivision plans may be submitted for the second increment after development has occurred in the first increment as determined by the Planning Director. "Development" means that building permits have been issued for 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]revised tentative subdivision plans for the proposed development shall be submitted to the Planning Department within one year from the effective date of this change of zone amendment.]; (D) subdivision plans for the first increment

shall be submitted within one year from the effective date of the change of zone.] Final subdivision approval shall be secured within [one] two years from the effective date of [receipt of tentative subdivision approval] this change of zone amendment. Plans for necessary infrastructural improvements, including [sewage treatment plant,] off-site roadway and an off-site water system, shall be submitted in conjunction with construction drawings for final subdivision approval [of the first increment]; ([E]D) a drainage system shall be installed in accordance with the requirements of the Department of Public Works; ([F]E) access(es) shall meet with the approval of the Departments of Transportation-Highways Division and Public Works. Further, Queen Kaahumanu Highway shall be improved with a fully channelized intersection, including deceleration, acceleration and left-turn lane(s), and which may include signalization, meeting with the requirements of the Department of Transportation. These improvements shall be provided prior to [final subdivision approval or as otherwise provided by Chapter 23 (Subdivision Control)] the occupancy of the first house(s) within the subdivision. Traffic signals shall be installed by the applicant, successors or assigns at such time when warranted and deemed necessary by the State Department of Transportation-Highways Division; ([G]E) the interior subdivision roads shall be provided with curbs, gutters and sidewalk improvements; [that portion of] and a mauka-makai collector road shall be constructed within the [subdivision

shall be constructed] subject property which shall include a mauka stubout in a manner which would lead toward eventual connection to Hualalai Road. The applicant shall delineate and dedicate to the County of Hawaii a sixty-foot right-of-way within the mauka portion of the subject property for this eventual connection to Hualalai Road. The costs of construction for this connection to Hualalai Road shall not be the responsibility of the applicant. The applicant shall also provide a private one-way single lane paved access easement extending to Hualalai Road through the subject property to be used only for emergency purposes which may be gated with an appropriate breakaway feature. This access shall be designed to permit only a right turn exit from the subject property with striping and demarcation for safety measures. The applicant shall maintain the emergency access until such time the construction of the mauka-makai collector road is completely connected to Hualalai Road and at which time the emergency access shall be abandoned.[; and] The applicant shall provide selected internal north-south roadways[shall] which extend to the boundaries to provide future traffic connection with adjacent properties and shall include in the restrictive covenants in the deeds of all the proposed lots informing all purchasers that the streets within the subject property may become future thoroughfares connecting to adjoining properties. These improvements shall be provided [prior to] within twenty-four (24) months from the date of final

subdivision approval [of the first increment or as otherwise provided by Chapter 23 (Subdivision Control)] and meeting with the approval of the Department of Public Works; ([H]G) an archaeological data recovery and preservation plan shall be submitted to the Department of Land and Natural Resources, Historic Sites Section and the Planning Department for review and acceptance prior to preliminary plat map submittal [of the first increment]. The archaeological data recovery and preservation shall be in conformance with the accepted plan and shall be completed prior to any land alterations on the property; ([I]H) 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; ([J]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 to assure it addresses the affordable housing needs of the community and the affordable housing condition imposed by the State Land Use Commission. This housing plan shall be approved by the County Housing Agency prior to final subdivision approval [of the

first increment] 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, however, that [Petitioner] the applicant may transfer ownership in the Property to an affiliate or in a manner consistent with prior representations to the County Housing Agency; ([K]J) [as represented by the applicant, a minimum five-acre recreational park shall be developed within the proposed subdivision and made available in conjunction with the completion of the subdivision's infrastructure for the first increment. The cost of developing and maintaining the park shall be borne by the applicant, successors or its assigns. Deed covenants restricting the site to park use shall be submitted to the Planning Department for review and approval prior to final subdivision approval of the first increment. Written assurance for implementation of this condition shall be submitted to the Planning Department prior to final subdivision approval of the first increment.] to ensure that the Goals and Policies of the Recreation Element of the General Plan are implemented, the applicant shall construct a minimum five (5) acre recreational park within the project site for active and passive recreational uses to be dedicated and accepted by the County of Hawaii. The configuration and improvements, including but not limited to grading, grassing, irrigation, fencing along the

subject park area fronting Queen Kaahumanu Highway, and the construction of a softball field, a soccer field, parking and restroom facilities, shall meet with the approval of the Planning Department in consultation with the Department of Parks and Recreation and the Department of Public Works, prior to final subdivision approval. A park maintenance and operational plan shall be submitted for review and approval by the Planning Department in consultation with the Department of Parks and Recreation in conjunction with final subdivision approval. Until such time that the park is dedicated to and accepted by the County, there shall be adequate assurance, as determined by the Corporation Counsel, for the maintenance of the private park by recorded covenant running with the land which shall include the following: 1) obligate the subdividers, purchasers, occupants, or association in the subdivision to maintain the park in perpetuity; and 2) empower the County, through the Department of Parks and Recreation, to enforce covenants to maintain the park, authorizing the performance of maintenance work by the County in the event of failure by the subdividers, purchasers, occupants, or association in the subdivision to perform such work and permit the subjecting of land and properties in the subdivision to a lien until the cost of the work performed by the County has been reimbursed. At the minimum, access to the recreational park shall be gained from within the subdivision. The park shall be completed within one year from the occupancy of the first home; ([L]K) as

[agreed to] represented by the applicant, restrictive covenants in the deeds of all the proposed lots shall prohibit the construction of [ohana] a second dwelling unit[s] 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, [of the first increment. 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 of the first increment. A copy of a typically recorded covenant shall be filed with the Planning Department within one year from the date of] 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 [of the first increment]; ([M]L) comply with conditions of the State Land Use Commission; ([N]M) comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health, Water Supply and Public Works; ([O]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 developer's election, be satisfied by performance in accordance with] shall be credited towards the requirements of the Unified Impact Fees Ordinance; ([P]Q) an annual progress report shall be submitted

to the Planning Director prior to the anniversary date of the effective date of [the] this Change of Zone amendment. 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 ([Q]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 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 permit; 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 2. Material to be deleted is bracketed. New material is underscored.

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 be effective upon its approval.

INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

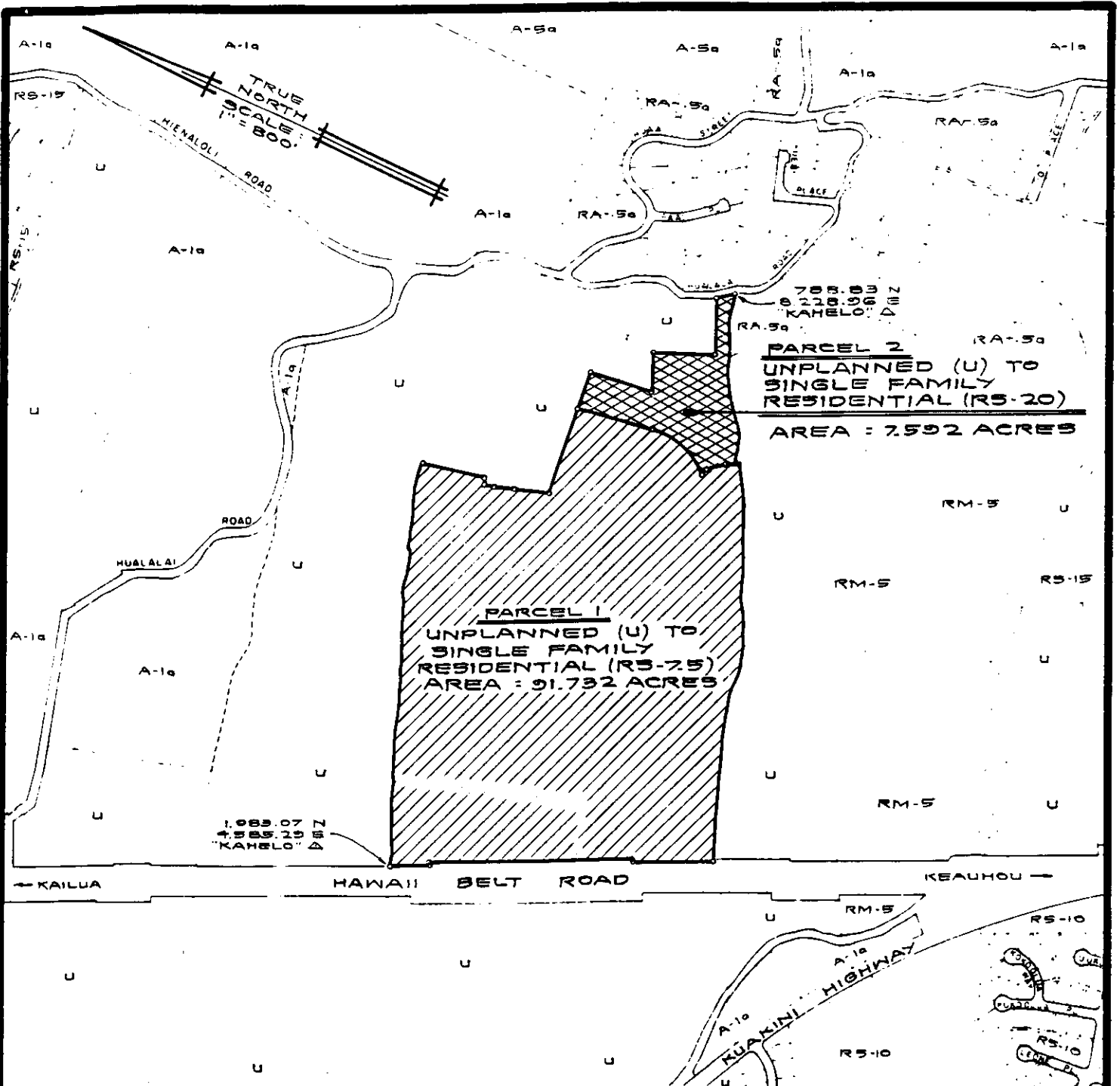
Hilo, Hawaii

Date of Introduction: July 14, 1993  
Date of 1st Reading: July 14, 1993  
Date of 2nd Reading: July 28, 1993  
Effective Date: August 9, 1993

APPROVED AS TO FORM AND LEGALITY:

  
DEPUTY CORPORATION COUNSEL

DATE: 8/5/93



## AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-87 (NORTH KONA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-7.5) AND (RS-20) AT PUAPUAAIKI AND PUAPUAANUI, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII