

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 160

(Draft 2)

ORDINANCE NO. 94 3

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 SINGLE FAMILY RESIDENTIAL (RS-15) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-4-19:75.

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 a point at the Southwest corner of this piece of land, being also the Northwest corner of Lot 7, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 12,476.95 feet South and 4,844.48 feet East, and running by true azimuths measured clockwise from South:

1. 175° 40' 102.34 feet along Lot 12;
2. 217° 32' 10.29 feet along the Southeasterly side of Ainaola Drive;
3. 265° 40' 215.13 feet along Lot 1-A;

4. 355° 40' 110.00 feet along the West side of Pohakulani Street;
5. 85° 40' 222.00 feet along Lot 7 to the point of beginning and containing an area of 24,394 square feet, more or less.

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 applicants, successors, or assigns shall be responsible for complying with all of the stated conditions of approval; (B) the applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this ordinance or relating to or connected with the granting of this ordinance. (C) final subdivision approval shall be secured within three years from the effective date of the Change of Zone; (D) accesses to the subject property onto Pohakulani Street, shall meet with the approval of the Department Public Works; (E) drainage improvements, if required, shall be provided in a manner meeting with the approval of the Department of Public Works, prior to securing Final Subdivision Approval; (F) the applicants shall install a wastewater treatment system meeting with the requirements of the Department of Health; (G) should

an improvement district or similar arrangement be initiated in the future for curb, gutter, sidewalk, drainage and related improvements to Pohakulani Street, the property owner(s) shall participate automatically in such an arrangement. Written assurance for implementation of this condition, in the form of a deed covenant, shall be submitted to the Planning Director prior to final subdivision approval; (H) as agreed 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; (I) should any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall be encountered, work in the affected area shall cease and the Planning Department 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) all other applicable laws, rules, regulations and requirements shall be complied with; (K) should the Council adopt a Unified Impact-Fees Ordinance setting forth criteria for imposition

of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fee Ordinance; (L) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the ordinance. 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, (M) an initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: a) 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; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone; d) 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 e) 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

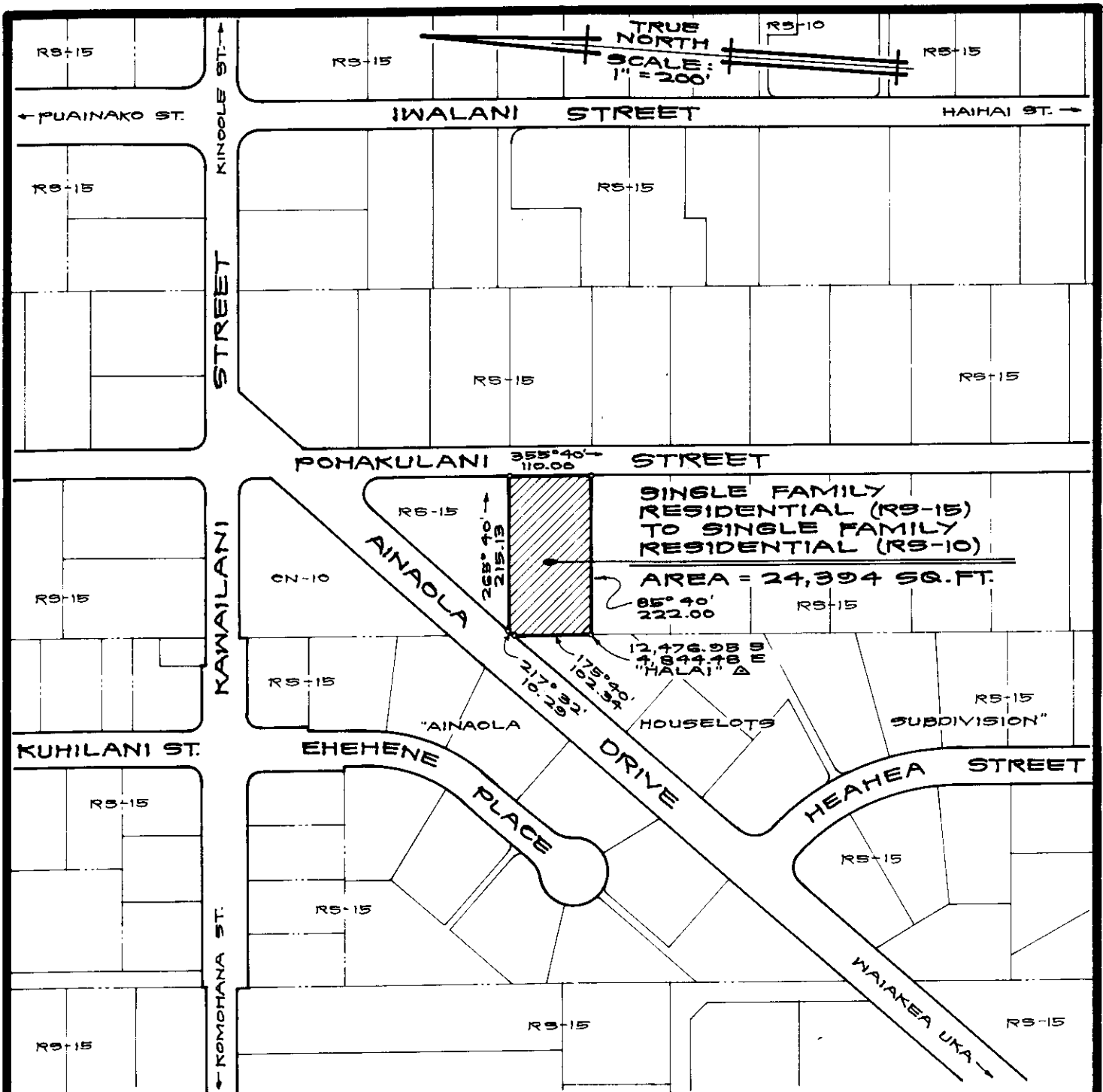
Hilo, Hawaii

Date of Introduction: December 22, 1993
Date of 1st Reading: December 22, 1993
Date of 2nd Reading: January 12, 1994
Effective Date: January 26, 1994

APPROVED AS TO FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL

DATE: JAN 18 1994



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 SINGLE FAMILY RESIDENTIAL (RS-15) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK - 2-4-19 : 75

SEPT. 29, 1993

EXHIBIT "A"

(YOSO AND KIKUKO KUWAHARA)