

COUNTY OF HAWAII

STATE OF HAWAII

BILL NO. 19
(Draft 3)

ORDINANCE NO. 97 39

AN ORDINANCE 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 AGRICULTURAL (A-3a) TO RESIDENTIAL AND AGRICULTURAL (RA-1a) AT KALOKO, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-8:32.

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

SECTION 1. Section 25-87, 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 Kaloko, North Kona, Hawaii, shall be Residential and Agricultural (RA-1a):

Beginning at the Northeasterly corner of this parcel of land, being also the Northwesterly corner of Lot 1-B-1-A and being a point on the Southerly side of Kaloko Drive, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 13,325.11 feet South and 7,516.59 feet West and running by azimuths measured clockwise from True South:

- 1. 352° 43' 35" 718.13 feet along Lot 1-B-1-A and along the remainder of Royal Patent 8214, Land Commission Award 7715, Apana 11 to Lota Kamehameha to a point;
- 2. 79° 08' 15" 124.83 feet along Lot 1-B-2-A and along the remainder of Royal Patent 8214, Land Commission Award 7715, Apana 11 to Lota Kamehameha to a point;
- 3. 162° 18' 179.19 feet along Royal Patent 3744, Land Commission Award 9242 to Keawehookino to a point;
- 4. 245° 42' 8.18 feet along Lot 1 and along the remainder of Royal Patent 8214, Land Commission Award 7715, Apana 11 to Lota Kamehameha to a point;

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| 5. | 160° 16' | 65.73 | feet along Lot 1 and along the remainder of Royal Patent 8214, Land Commission Award 7715, Apana 11 to Lota Kamehameha to a point; |
| 6. | 75° 30' | 116.94 | feet along Lot 1 and along the remainder of Royal Patent 8214, Land Commission Award 7715, Apana 11 to Lota Kamehameha to a point; |

Thence, for the next eight (8) courses following along the Easterly side of Mamalahoa Highway:

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| 7. | 157° 22' 30" | 109.74 | feet to a point; |
| 8. | 165° 34' | 69.22 | feet to a point; |
| 9. | 171° 52' 30" | 112.76 | feet to a point; |
| 10. | 174° 11' 30" | 54.19 | feet to a point; |
| 11. | 184° 44' 30" | 74.29 | feet to a point; |
| 12. | 171° 42' 30" | 66.95 | feet to a point; |
| 13. | 164° 07' 30" | 107.65 | feet to a point; |

Thence, following on a curve to the right with a radius of 50.00 feet, the chord azimuth and distance being:

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| 14. | 224° 06' 07" | 86.58 | feet to a point; |
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Thence, following along the Southerly side of Kaloko Drive on a curve to the right with a radius of 991.74 feet, the chord azimuth and distance being:

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| 15. | 292° 28' 50" | 289.81 | feet to a point of beginning and containing an area of 4.910 Acres. |
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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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicants, successors or assigns shall be responsible for complying with all requirements of Chapter 205, Hawaii Revised Statutes, relating to permissible uses within the State Land Use Rural District.
- C. Final Subdivision Approval of the proposed agricultural subdivision within the subject property shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- D. Access(es) to the subject property from the Old Mamalahoa Highway shall be constructed meeting with the approval of the Department of Public Works.
- E. To provide for future road widening improvements, a 10-foot future road widening fronting the subject property along the Old Mamalahoa Highway and beyond the existing 30-foot right-of-way shall be delineated on subdivision plans. The 10-foot future road widening shall be dedicated to the County of Hawaii upon its request and at no cost to the County.
- F. Restrictive covenant(s) in the deeds of all the proposed agricultural lots within the subject property shall prohibit the construction of an Ohana or 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 Director for review and approval prior to the issuance of Final Subdivision Approval. A copy of the approved covenant(s) shall be recited in an instrument executed by the applicants and the County and recorded with the Bureau of Conveyances in conjunction with the issuance of Final Subdivision Approval.

- G. A drainage study of the subject property, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval of the subject property.
- H. Prior to Final Subdivision Approval, the applicant shall prepare a Solid Waste Management Plan for the the proposed development within the subject property meeting with the approval of the Department of Public Works.
- I. An archaeological study/survey of the subject property shall be prepared and submitted for review and approval by the Planning Director in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD), prior to the submittal of plans for subdivision review or any land alteration activity of the subject property, whichever occurs first. Should significant historical sites be found within the subject property which merit preservation or the implementation of mitigative measures, the applicants shall prepare and submit an archaeological preservation/mitigation plan for review and approval by the Planning Director in consultation with DLNR-HPD, prior to the issuance of Final Subdivision Approval or any land alteration activity of the subject property, whichever occurs first.
- J. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease, and the DLNR-HPD shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.

K. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of proposed residential lots in each such increment. The fair share contribution may be in a form of cash, land, facilities, or any combination thereof acceptable to the director in consultation with the affected agencies, provided that the fair share contribution to address the potential road impacts less the fair market value of land contributed in Condition E, shall be in the form of cash and shall be applied to improving the Kaloko Drive/Hawaii Belt Road intersection. The fair share contribution shall have a maximum combined value of **\$7,239.16 per lot**. Based upon the applicant's representation of intent to subdivide and develop up to four (4) residential lots, the indicated total fair share contribution is **\$28,956.64**, however, the total amount shall be increased or reduced in proportion with the actual number of subdivided lots according to the calculation and payment provisions set forth in this Condition K. The fair share contribution shall be allocated as follows:

1. **\$3,490.85** per lot for an indicated total of **\$13,963.40** to the County to support park and recreational improvements and facilities;
2. **\$168.40** per lot, for an indicated total of **\$673.60** to the County to support police facilities;

3. \$332.61 per lot, for an indicated total of **\$1,330.44** to the County to support fire facilities;
4. \$145.62 per lot, for an indicated total of **\$582.48** to the County to support solid waste facilities; and
5. \$3,101.68 per lot, for an indicated total of **\$12,406.72** to the State or County to support road and traffic improvements.

The fair share contributions described above shall be adjusted annually beginning three years after the effective date of the change of zone, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute land, improvements/facilities related to parks and recreation, fire, police, solid waste disposal facilities, and roads within the region impacted by the proposed development, subject to the approval of the director. The fair market value of land contributed pursuant to Condition E shall be credited against the sum specified in Condition K(5) for road and traffic improvements. For purposes of administering Condition K, the fair market value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be subject to the review and approval of the director, upon consultation with the appropriate agencies.

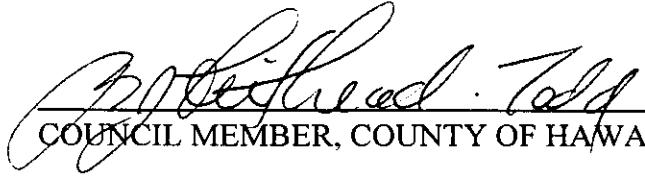
- L. Comply with applicable laws, rules, regulations and requirements of other affected agencies for approval of the development within the subject property.
- M. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:

1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, its 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).
- N. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject property 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:

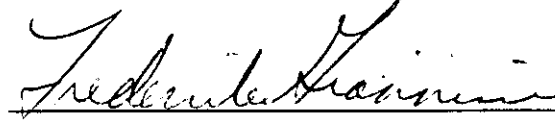


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: February 19, 1997
Date of 1st Reading: February 19, 1997
Date of 2nd Reading: March 7, 1997
Effective Date: March 13, 1997

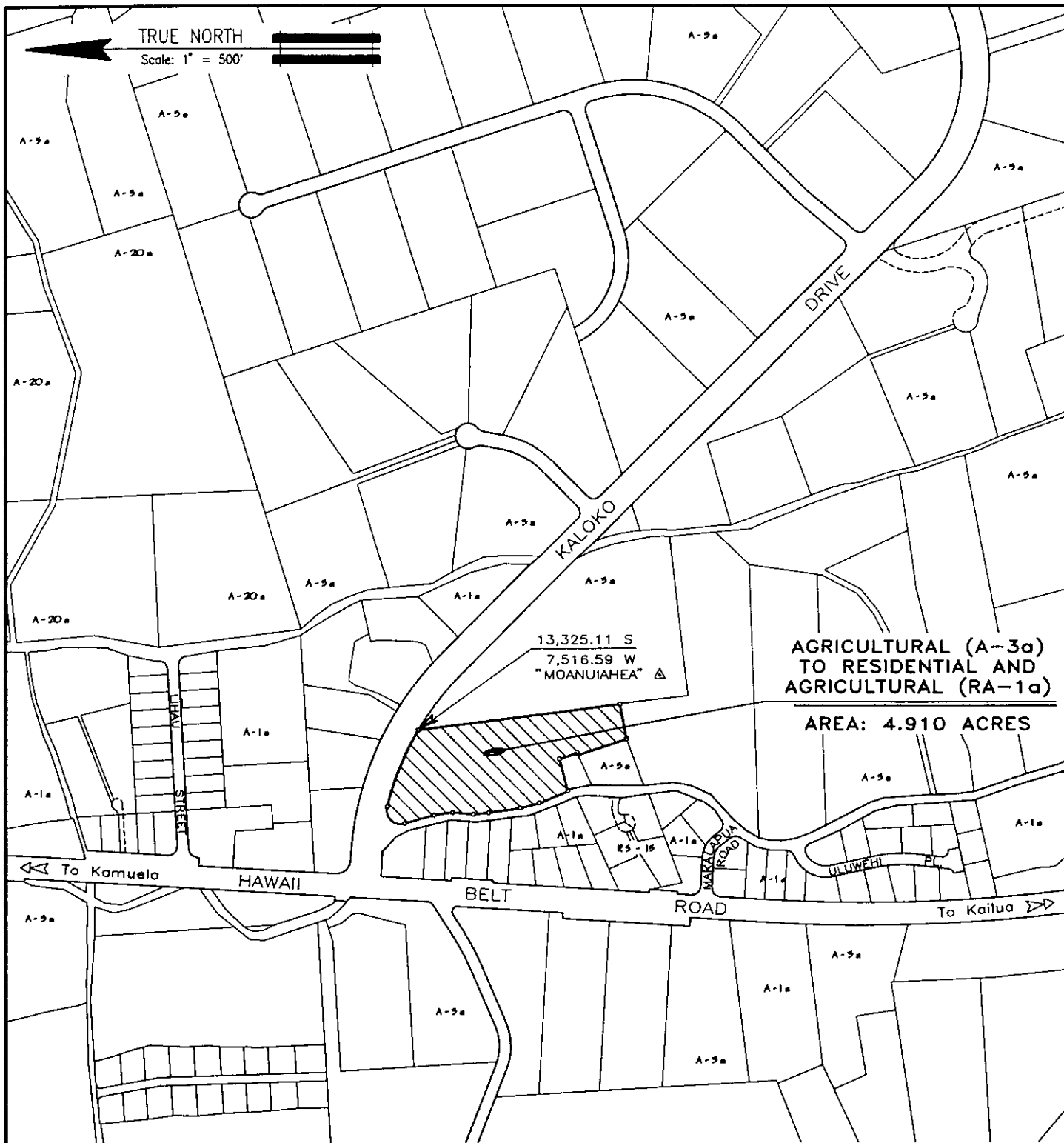
APPROVED AS TO FORM AND LEGALITY



CORPORATION COUNSEL

DEPUTY

DATED: 3/10/97



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 AGRICULTURAL (A-3a) TO RESIDENTIAL AND AGRICULTURAL (RA-1a) AT KALOKO, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

(DRAFT 3)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: February 19, 1997
 First Reading: February 19, 1997
 Published: February 28, 1997

REMARKS:

Second Reading: March 7, 1997
 To Mayor: March 7, 1997
 Returned: March 13, 1997
 Effective: March 13, 1997
 Published: March 21, 1997

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki				
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council and published as indicated above. APPROVED AS TO

FORM AND LEGALITY:

Fidelis H. Hiramani
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 3/10/97

James A. ...
 COUNCIL CHAIRMAN

Donald D. ...
 COUNTY CLERK

Approved/Disapproved this 13 day
 of February, 19 97

Steph ...
 MAYOR, COUNTY OF HAWAII

Bill No.: 19 (Draft 3)
 Reference: C-63/Pc-20
 Ord. No.: 97 39