

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 22
(Draft 3)

ORDINANCE NO. 97 42

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 UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-15) AT PAHOEHOE 3RD, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-7-08:30 AND 96.

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 Pahoehoe 3rd, North Kona, Hawaii, shall be Single Family Residential (RS-15):

Beginning at the Northeasterly corner of this parcel of land, being also a point on the Westerly side of Kuakini Highway (F.A.S.P. No. S-229 (1)), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 8,596.34 feet South and 9,142.26 feet East and running by azimuths measured clockwise from True South:

Thence, following along the Westerly side of Kuakini Highway (F.A.S.P. No. S-229 (1)) on a curve to the right with a radius of 5,689.58 feet, the chord azimuth and distance being:

1. 339° 22' 43" 173.44 feet to a point;

Thence, for the next thirty-six (36) courses following along stonewall and along Grant 1748 to Kapahu:

2. 93° 17' 40.88 feet to a point;
3. 71° 50' 19.33 feet to a point;
4. 66° 46' 30" 28.96 feet to a point;
5. 80° 45' 30" 84.70 feet to a point;

6.	88°	56'	30"	21.03	feet to a point;
7.	72°	15'		19.98	feet to a point;
8.	82°	27'	30"	50.94	feet to a point;
9.	70°	58'	30"	141.05	feet to a point;
10.	65°	54'	30"	75.56	feet to a point;
11.	82°	28'	30"	28.66	feet to a point;
12.	61°	21'		66.54	feet to a point;
13.	83°	16'		50.46	feet to a point;
14.	66°	42'		38.58	feet to a point;
15.	97°	57'	30"	17.86	feet to a point;
16.	68°	29'	30"	97.62	feet to a point;
17.	70°	41'		48.22	feet to a point;
18.	85°	38'	30"	83.58	feet to a point;
19.	62°	01'	30"	22.41	feet to a point;
20.	78°	38'		23.32	feet to a point;
21.	67°	34'	30"	51.08	feet to a point;
22.	70°	07'		45.97	feet to a point;
23.	80°	56'		29.13	feet to a point;
24.	56°	16'		22.00	feet to a point;
25.	74°	52'	30"	72.40	feet to a point;
26.	61°	51'	30"	93.17	feet to a point;
27.	64°	56'	30"	22.55	feet to a point;
28.	74°	54'		57.51	feet to a point;

29.	64°	00'	30"	38.61	feet to a point;
30.	54°	34'	30"	28.10	feet to a point;
31.	68°	37'	30"	37.67	feet to a point;
32.	75°	25'	30"	47.51	feet to a point;
33.	58°	03'		15.67	feet to a point;
34.	87°	04'		21.77	feet to a point;
35.	74°	50'		34.09	feet to a point;
36.	79°	09'	30"	54.14	feet to a point;
37.	86°	48'	30"	29.87	feet to a point;
38.	77°	31'		38.12	feet along Grant 1748 to Kapahu to a point;
39.	86°	43'		387.00	feet along Grant 1748 to Kapahu to a point;
40.	86°	35'		539.00	feet along Grant 1748 to Kapahu to a point;
41.	89°	27'		624.00	feet along Grant 1748 to Kapahu to a point;
42.	176°	49'	40"	87.58	feet along middle of the Great Wall of Kuakini and along Grant 1927 to Kipapa to a point;
43.	180°	23'	43"	118.80	feet along middle of the Great Wall of Kuakini and along Grant 1927 to Kipapa to a point;

Thence, for the next twenty-seven (27) courses following along Royal Patent 1668, Land Commission Award 8520-B, Apana 3 to G. Lahilahi:

44.	273°	48'	43"	563.60	feet to a point;
45.	263°	01'	43"	155.00	feet to a point;
46.	263°	01'	43"	280.00	feet along middle of stonewall to a point;
47.	269°	50'	43"	48.30	feet to a point;

48.	248°	15'	43"	85.00	feet to a point;
49.	265°	07'	43"	183.70	feet to a point;
50.	253°	19'	43"	14.60	feet to a point;
51.	253°	19'	43"	111.00	feet along middle of stonewall to a point;
52.	259°	35'	43"	134.40	feet along middle of stonewall to a point;
53.	261°	42'	43"	252.00	feet along middle of stonewall to a point;
54.	262°	44'	43"	125.00	feet along middle of stonewall to a point;
55.	252°	09'	43"	87.13	feet to a point;
56.	247°	30'	43"	90.40	feet to a point;

Thence, for the next ten (10) courses following along middle of stonewall:

57.	252°	57'	43"	73.60	feet to a point;
58.	266°	46'	43"	49.00	feet to a point;
59.	269°	41'	43"	55.20	feet to a point;
60.	254°	36'	43"	50.50	feet to a point;
61.	250°	39'	43"	140.70	feet to a point;
62.	264°	26'	43"	85.00	feet to a point;
63.	244°	26'	43"	92.20	feet to a point;
64.	254°	03'	43"	92.70	feet to a point;
65.	264°	39'	43"	37.70	feet to a point;
66.	257°	38'	43"	79.30	feet to a point;
67.	252°	00'	13"	61.60	feet to a point;
68.	252°	00'	13"	111.30	feet to a point;
69.	243°	51'	43"	56.40	feet along middle of stonewall to a point;

70. 263° 58' 43" 58.80 feet to the point of beginning and containing an area of 14.013 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, its successors or assigns shall be responsible for complying with all conditions of the change of zone.
- 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 (90) days from the effective date of the change of zone ordinance.
- C. Final Consolidation/Resubdivision Approval shall be secured from the Planning Director within five years from the effective date of this change of zone ordinance.
- D. The applicant shall prepare an overall roadway circulation plan for the entire development of the subject property for review and approval by the Planning Director, in consultation with the Chief Engineer, Department of Public Works, prior to the granting of final subdivision approval for any residential lot within the subject property. In approving the roadway circulation plan, the plan shall take into consideration the regional circulation requirements to provide for the efficient movement of goods and people within the region bounded by Holualoa ahupua'a to the north and Keauhou ahupua'a to the south. The circulation plan shall identify the location of the major roadway systems within the subject property and all stub-outs to properties abutting the north and south boundaries of the subject property. The Planning Director in consultation with the Chief Engineer, may require that a mauka-makai connector road or portions thereof, providing or facilitating a connection between Kuakini Highway and either Alii

Highway or the proposed Alii Drive, be part of such roadway circulation plan and the required subdivision improvements. Such roads shall be constructed consistent with the required standards of the County and dedicated to the County in conjunction with the phased subdivision and development of the subject property; provided any such required road connection between subdivision circulation roadways and Kuakini Highway shall be constructed or financially assured pursuant to Chapter 23 (Subdivision Code), Hawaii County Code, prior to the issuance of building permits for the dwelling units within the subject property. Any road connecting to Kuakini Highway shall be a minor road as defined by Chapter 23 (Subdivision Code), Hawaii County Code and shall not exceed fifty (50) feet in width.

- E. A new access road to the subject property, other than by way of Alii Drive, meeting with the approval of the Department of Public Works shall be provided prior to the granting of final subdivision approval of any portion of the subject property other than the creation of a roadway lot and remainder areas. In lieu of the actual construction of such an approved access road which lays entirely within the subject property or within lands fully controlled by the applicant, as the Planning Director shall determine, the applicant may enter into an agreement with the County, pursuant to the provisions of Chapter 23 (Subdivision Code), Hawaii County Code, to assure the County that the required improvements will be constructed together with the appropriate bond, surety or other security deemed acceptable to the County. Upon execution of such agreement and filing of the security with the County, if applicable, final subdivision approval for the subject property or portions thereof shall be granted prior to the actual construction of the required improvements. Should the new access be provided by way of Alii Highway, final subdivision approval for the subject property or portions thereof may be granted upon determination by the Chief Engineer that the segment of Alii Highway between Kuakini

Highway and Kamehameha III Road has been financially assured and construction contracts executed.

- F. Upon the determination of the required right-of-way for the Alii Highway project and/or connector road between such highway and the makai boundary of the subject property, and upon completion of the right-of-way subdivision(s) for such roadway portions, the applicant shall dedicate the right-of-way portion(s) in fee simple to the County upon its request.
- G. All accesses, including intersection improvements shall meet with the approval of the Department of Public Works.
- H. All roadways within the proposed development within the subject property shall be constructed with underground utilities meeting with the approval of the Department of Public Works.
- I. A drainage system as required by the Department of Public Works shall be installed.
- J. The method of sewage disposal including the provision of dry sewer lines shall meet with the requirements of the appropriate governmental agencies.
- K. A Cultural Resources Management Plan shall be submitted for sites recommended for preservation including the Kuakini Wall. The management plan, including provisions for buffer areas, structural setbacks and a maintenance program, shall be submitted to the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) and the Planning Director for review and approval. Approval of the plan shall be secured from the DLNR-HPD prior to final subdivision approval of any portion of the subject property.

- L. Should any unanticipated sites including subsurface remains, such as burials or cave shelters, be discovered during grading of the property, work within the affected area shall cease. The DLNR-HPD shall be notified and work shall not resume within the affected area until the DLNR-HPD has approved the disposition of the site(s).

- M. A Solid Waste Management Plan for the the proposed development within the subject property meeting with the approval of the Department of Public Works, shall be prepared by the applicant prior to Final Subdivision Approval.

- N. 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. 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 thirty residential lots, the indicated total fair share contribution is **\$217,174.80**, 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 N. The fair share contribution shall be allocated as follows:

1. \$3,490.85 per lot for an indicated total of **\$104,725.50** to the County to support park and recreational improvements and facilities;
2. \$168.40 per lot, for an indicated total of **\$5,052.00** to the County to support police facilities;
3. \$332.61 per lot, for an indicated total of **\$9,978.30** to the County to support fire facilities;
4. \$145.62 per lot, for an indicated total of **\$4,368.60** to the County to support solid waste facilities; and
5. \$3,101.68 per lot, for an indicated total of **\$93,050.40** 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 cost of constructing the improvements required in Conditions D and E, the fair market value of land contributed pursuant to Condition F, and prior cash contributions towards the planning of the Alii Highway project, shall be credited against the sum specified in Condition N(5) for road and traffic improvements. For purposes of administering Condition N, 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.

- O. 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 Office of Housing and Community Development that the applicant's affordable housing requirements, if any, have been mutually agreed to prior to Final Subdivision Approval for any portion of the subject property.

- P. All other applicable rules, regulations and requirements of the affected government agencies shall be complied with.

- Q. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or assessments of impacts fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

- R. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this change of zone. The report shall address in detail 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 Director acknowledges that further reports are not required.

- S. An initial extension of time for the performance of conditions within the Ordinance may be granted by the 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.

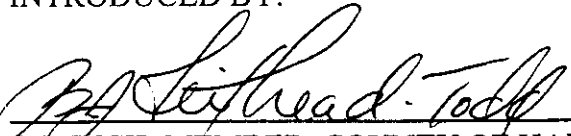
 - 2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.

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 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).
- T. 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

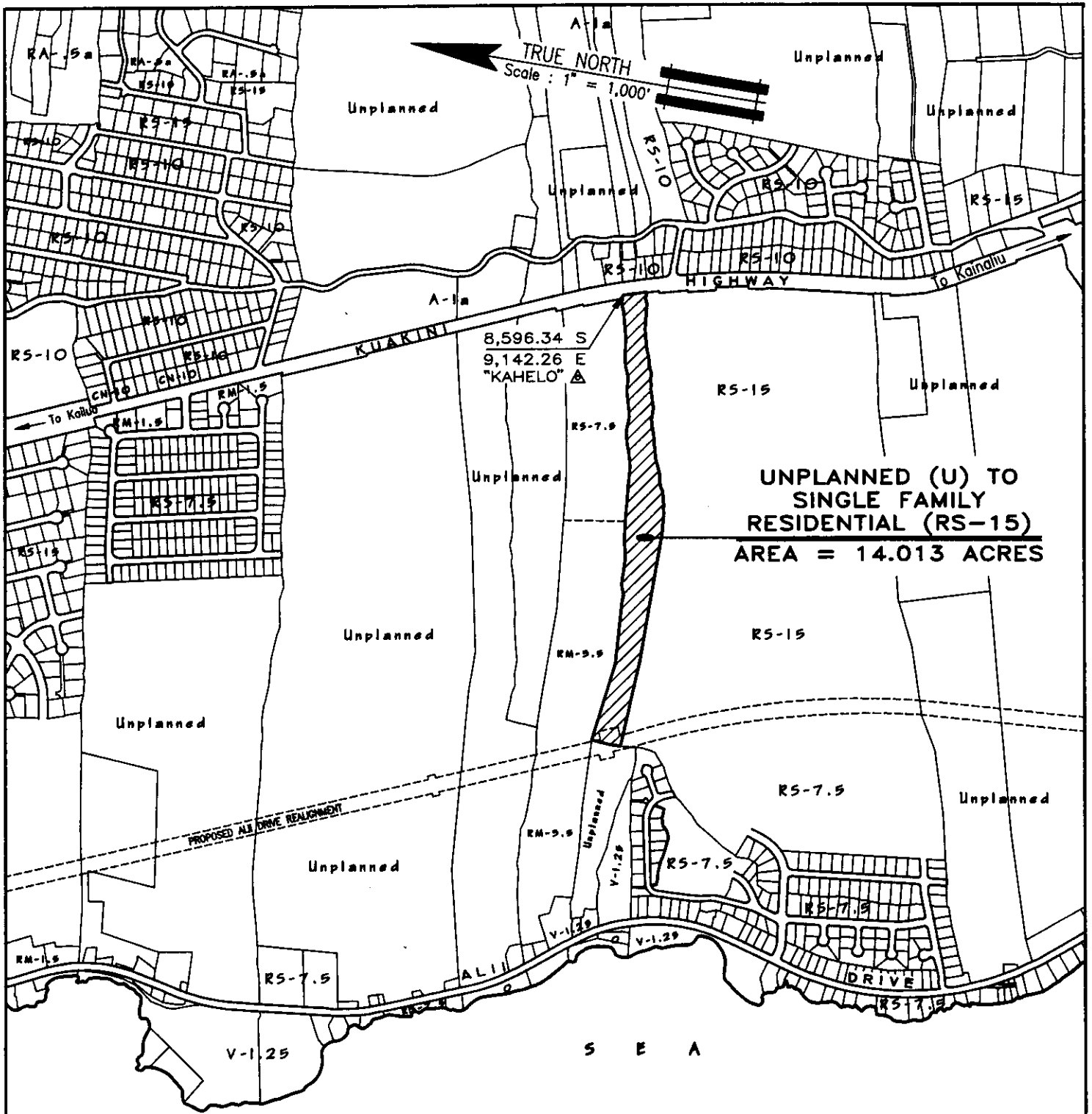
Date of Introduction: February 19, 1997
 Date of 1st Reading: February 19, 1997
 Date of 2nd Reading: March 7, 1997
 Effective Date: March 13, 1997

APPROVED AS TO FORM AND LEGALITY



DEPUTY CORPORATION COUNSEL

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 UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-15) AT PAHOEHOE 3RD, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

(DRAFT 3) 07 MAR 13 PM 2 17

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

ROLL CALL VOTE				
	GOES	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

REMARKS:

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

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

REMARKS:

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:

Frederick K. Levinson
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 3/10/97

James A. Kahala
 COUNCIL CHAIRMAN
Donald A. Oshida
 COUNTY CLERK

Approved / ~~Disapproved~~ this 13 day
 of March, 1997

John J. Garamela
 MAYOR, COUNTY OF HAWAII

Bill No.: 22 (Draft 3)
 Reference: C-65/PC-23
 Ord. No.: 97 42