

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 62
(Draft 2)

ORDINANCE NO. 97 73

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 KAHALUU, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-8-10:PORTION OF 50.

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 Kahaluu, North Kona, Hawaii, shall be Single Family Residential (RS-15):

Beginning at the West corner of this parcel of land, on the Northeasterly side of Keali'i Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAUHOU COAST" being 9,745.88 feet North and 3,838.91 feet East, thence running by azimuths measured clockwise from True South:

1. 246° 30' 742.56 feet along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu;
2. 296° 30' 243.79 feet along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu;
3. 17° 11' 30" 344.19 feet along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu;
4. Thence along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu, on a curve to the left with a radius of 995.00 feet, the chord azimuth and distance being:
358° 46' 30" 628.69 feet;
5. 340° 21' 30" 618.70 feet along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu;
6. 35° 00' 68.40 feet along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu;

7. 125° 00' 617.28 feet along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu, and the Northeasterly side of Keali'i Street;
8. Thence along the Northeasterly side of Keali'i Street, on a curve to the right with a radius of 970.00 feet, the chord azimuth and distance being:
147° 32' 743.45 feet;
9. 170° 04' 433.96 feet along the Northeasterly side of Keali'i Street to the point of beginning and containing an Area of 21.319 Acres, 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 applicant, its 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 (90) days from the effective date of this ordinance.
- C. Final Subdivision Approval for the proposed subdivision development within the subject property shall be secured from the Planning Director within five (5) years from the effective date of the Change of Zone ordinance.
- D. All interior subdivision roadways shall be constructed to County dedicable roadway standards meeting with the approval of the Department of Public Works.
- E. Access to the subject property from Kealii Street and/or Kaluna Street shall meet with the requirements of the Department of Public Works. None of the subdivided lots within the subject property shall have direct access to Kealii Street.

- F. Curb, gutters and sidewalks, constructed to residential standards, shall be provided along the entire Kealii-Kaluna Street frontage of the subject property, exclusive of access point(s), prior to the issuance of Final Subdivision Approval.
- G. As agreed to by the applicant, restrictive covenants in the deeds of all the proposed residential lots within the subject property 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 Director for review and approval prior to the issuance of 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 in conjunction with the issuance of Final Subdivision Approval for any portion of the subject property. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- H. In lieu of actual improvements, applicant may enter into an agreement with the County to assure the County that infrastructural improvements as specified within Conditions D, E, and F will be constructed by way of a development agreement, surety bond, certified check or other security acceptable to Corporation Counsel and the Planning Director. Upon final execution of such agreement and/or filing of the security with the County, Final Subdivision Approval for the proposed development may be granted prior to the actual construction of required infrastructural improvements.
- I. 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.
- J. A final archaeological inventory survey report and mitigation plan shall be prepared and submitted for approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division, prior to submittal of plans for subdivision review or any land

alteration activities within the subject property. The applicant shall obtain written verification from the Department of Land and Natural Resources-Historic Preservation Division that the applicable portions of the approved plan have been properly executed, prior to the issuance of Final Subdivision Approval or commencing any land altering activities within the subject property.

- K. 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 Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) immediately notified. Subsequent work shall proceed upon an archaeological clearance from the (DLNR-HPD) when it finds that sufficient mitigative measures have been taken.

- L. A solid waste management plan, prepared in conformance with the requirements of the Integrated Solid Waste Management Plan, shall be submitted by the applicant to the Department of Public Works for review and approval prior to the issuance of Final Subdivision Approval of the subject property.

- M. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works in conjunction with Final Subdivision Approval of the subject property.

- 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 additional 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 forty-five (45) residential lots, the indicated total fair share contribution is **\$325,762.20**, 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 \$157,088.25 to the County to support park and recreational improvements and facilities;**
2. **\$168.40 per lot, for an indicated total of \$7,578.00 to the County to support police facilities;**
3. **\$332.61 per lot, for an indicated total of \$14,967.45 to the County to support fire facilities;**
4. **\$145.62 per lot, for an indicated total of \$6,552.90 to the County to support solid waste facilities;**
5. **\$3,101.68 per lot, for an indicated total of \$139,575.60 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 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. For purposes of administering Condition N, the fair market value of land contributed for such roadway segment and the cost of constructing its improvements shall be subject to the review and approval of the director, upon consultation with the appropriate agencies.

- O. 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.
- P. 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, 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; and
 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).
- Q. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject 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

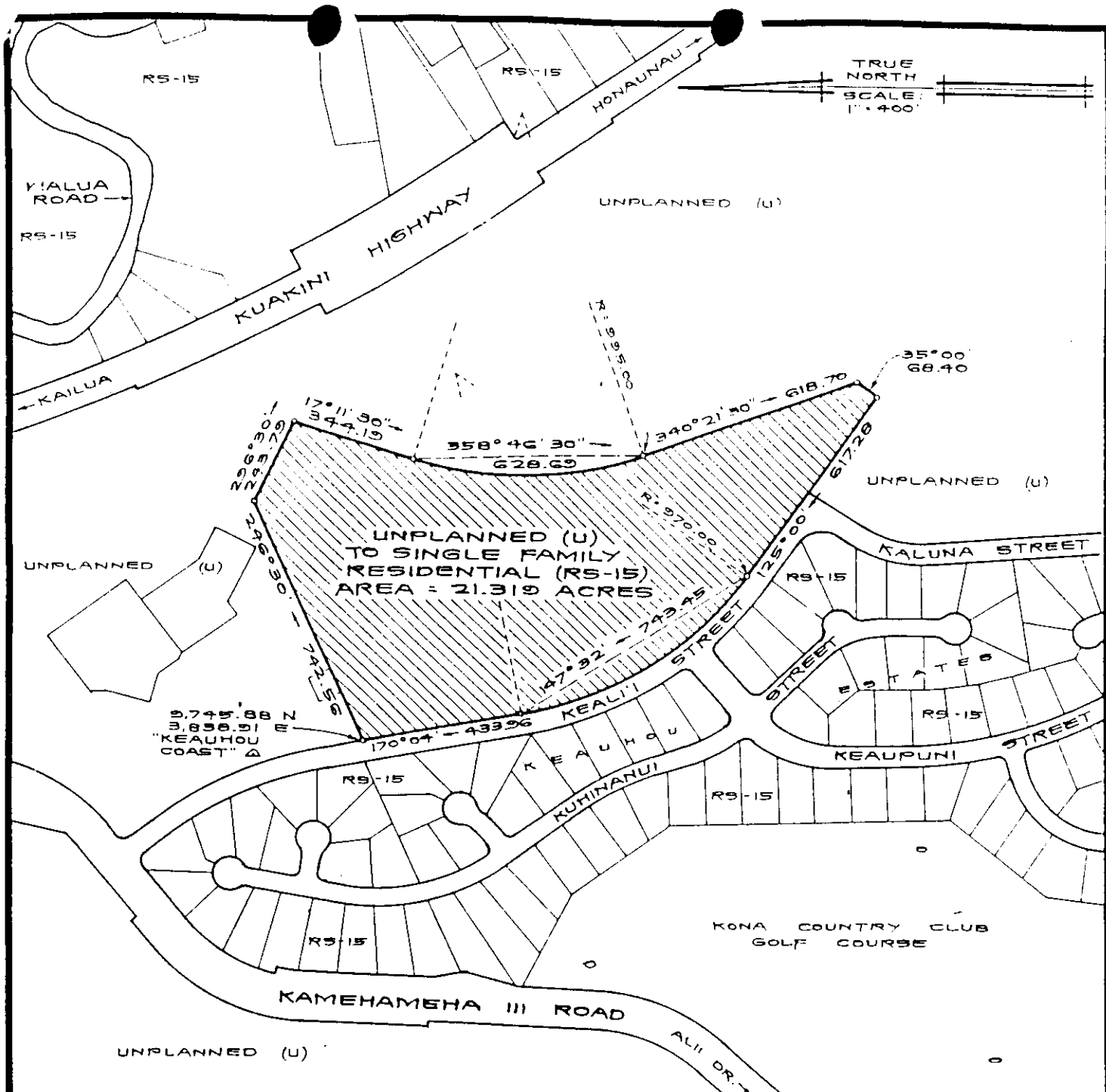
Hilo, Hawaii

Date of Introduction: May 20, 1997
Date of 1st Reading: May 20, 1997
Date of 2nd Reading: June 2, 1997
Effective Date: June 9, 1997

APPROVED AS TO FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL

DATE: 6/4/97



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 KAHALUU, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 7-8-10 : PORTION OF 50

JAN. 31, 1995

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

'97 JUN 9 AM 10 49

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: May 20, 1997
 First Reading: May 20, 1997
 Published: May 29, 1997

REMARKS:

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			
	8	0	1	0

Second Reading: June 2, 1997
 To Mayor: June 3, 1997
 Returned: June 9, 1997
 Effective: June 9, 1997
 Published: June 17, 1997

REMARKS:

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			
	8	0	1	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:

[Signature]

DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 6/4/97

[Signature]

COUNCIL CHAIRMAN

[Signature]
 COUNTY CLERK

Approved/Disapproved this 7 day
 of June 19 97

[Signature]
 MAYOR, COUNTY OF HAWAII

Bill No.: 62 (Draft 2)
 Reference: C-267/1995/PC-46
 Ord. No.: 97 73