

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 80
(Draft 2)

ORDINANCE NO. 97 91

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-10a) TO SINGLE FAMILY RESIDENTIAL (RS-15) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-4-65:04.

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

SECTION 1. Section 25-8-33, 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-15):

Beginning at a pipe at the northwest corner of this parcel of land, the southeast corner of Lot 1 of Kahalani Estate Subdivision File Plan 1470, and on the west side of Kupulau Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 14416.31 feet south and 3317.91 feet west and running by azimuths measured clockwise from true South:

1. 355° 40' 259.57 feet along Kupulau Street;
2. Thence along Lot 5 (roadway portion) along a curve to the right having a radius of 30.00 feet, the chord azimuth and distance being: 40° 40' 42.43 feet to a pipe;
3. 85° 40' 150.00 feet along Lot 5 (roadway portion) to a pipe;
4. Thence along Lot 5 (roadway portion) along a curve to the left having a radius of 400.00 feet, the chord azimuth and distance being: 65° 27' 30" 276.35 feet to a pipe;
5. 45° 15' 268.00 feet along Lot 5 (roadway portion) to a pipe;

6. Thence along Lot 5 (roadway portion) along a curve to the right having a radius of 350.00 feet, the chord azimuth and distance being: 65° 27' 30" 241.80 feet to a pipe;
7. 85° 40' 116.31 feet along Lot 5 (roadway portion) to a pipe;
8. 175° 40' 642.31 feet along Lot 5 to a pipe;
9. 265° 40' 986.61 feet along Lots 7, 6, 5, 4, 3, 2 and 1 of Kahalani Estate Subdivision, File Plan 1470 to the point of beginning and containing an area of 10.230 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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The effective date of this change of zone ordinance shall be upon the completion of the proposed Waiakea Homesteads water system improvements as determined by the Department of Water Supply.
- C. 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.
- D. Final Subdivision Approval of the proposed subdivision development shall be secured within five (5) years from the effective date of the rezoning. The subdivision plans shall delineate a 10-foot wide no vehicular access planting screen easement along the subject property's eastern boundary of the proposed lots

bordering the 40-foot future road widening setback line and the 30-foot radius line along Kupulau Road.

- E. Within five years from the effective date of this ordinance, the applicant shall subdivide and dedicate to the County of Hawaii upon its request, the 40-foot future road widening setback section and the 30-foot radius section along Kupulau Road fronting the subject property.
- F. 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.
- G. A Solid Waste Management Plan for the subject property shall be submitted for review and approval to the Department of Public Works in conjunction with the submittal of subdivision plans to the Planning Director.
- H. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject property with respect to 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 **\$3,748.31 per lot**. Based upon the applicant's representation of intent to subdivide and develop up to twenty-six (26) residential lots, the indicated total fair share contribution is **\$97,456.06**, 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 H. The fair share contribution shall be allocated as follows:

1. **\$168.40 per lot**, for an indicated total of **\$4,378.40** to the County to support police facilities;
2. **\$332.61 per lot**, for an indicated total of **\$8,647.86** to the County to support fire facilities;
3. **\$145.62 per lot**, for an indicated total of **\$3,786.12** to the County to support solid waste facilities;
4. **\$3,101.68 per lot**, for an indicated total of **\$80,643.68** 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 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 required in Conditions E, shall be credited against the sum specified in Condition H(4) for road and traffic improvements. For purposes of administering Condition H, 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.

- 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. Should any remains of historic sites such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources - Historic Preservation Division (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. Restrictive covenant in the deeds of all the proposed residential lots within the subject property shall prohibit the construction of an ohana dwelling or a second dwelling unit on each lot. A copy of the proposed covenant 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 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 Director upon its receipt from the Bureau of Conveyances.
- L. 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.

- 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 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 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

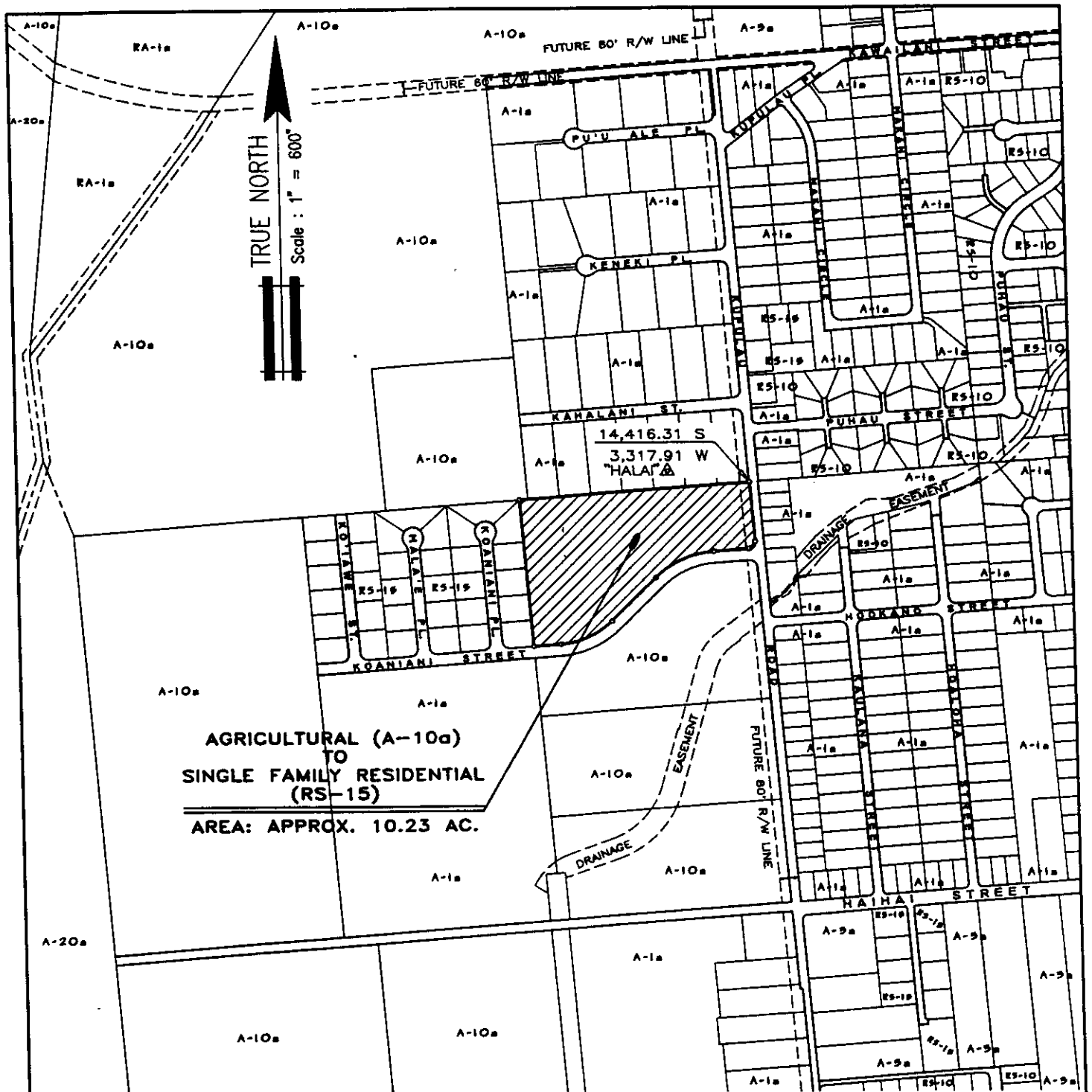
Hilo, Hawaii

Date of Introduction: June 2, 1997
Date of 1st Reading: June 2, 1997
Date of 2nd Reading: June 18, 1997
Effective Date: July 3, 1997

APPROVED AS TO FORM AND LEGALITY


DEPUTY CORPORATION COUNSEL

DATED: 6/23/97



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-10a) TO SINGLE FAMILY RESIDENTIAL (RS-15) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 2-4-65:4

MARCH 18, 1997

EXHIBIT "A"

(HAKALAU FARMS)
(REZ)

OFFICE OF THE COUNTY CLERK
 County of Hawaii
Hilo, Hawaii

RECEIVED

(DRAFT 2) 27 JUL 3 PM 1 03

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: June 2, 1997
 First Reading: June 2, 1997
 Published: June 8, 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			
	9	0	0	0

Second Reading: June 18, 1997
 To Mayor: June 19, 1997
 Returned: July 3, 1997
 Effective: July 3, 1997
 Published: July 13, 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			
	9	0	0	0

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

FORM AND LEGALITY:

Frederick Kiani
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date: 6/23/97

Approved/Disapproved this 3 day
 of July 19 97

Neil Abernethy
 MAYOR, COUNTY OF HAWAII

James Colwell
 COUNCIL CHAIRMAN

Donald Haida
 COUNTY CLERK

Bill No.: 80 (Draft 2)
 Reference: C-280/PC-55
 Ord. No.: 97 91