

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 184  
(Draft 4)

ORDINANCE NO. 98 18

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-1a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT KEALAKEHE, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-4-4:16.

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

SECTION 1. Section 25-8-3, Article 8, 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 Kealakehe, North Kona, Hawaii, shall be Single Family Residential (RS-10):

Beginning at the Southwesterly corner of this parcel of land, being also the Northwesterly corner of Lot 2 of this subdivision and being a point on the Southeasterly side of Palani Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 12,033.42 feet North and 5,250.16 feet East and running by azimuths measured clockwise from True South:

- |    |          |        |   |
|----|----------|--------|---|
| 1. | 201° 43' | 403.52 | feet along the Southeasterly side of Palani Road to a 3/4 inch pipe (found);  |
| 2. | 252° 35' | 52.26  | feet along Royal Patent 4006, Land Commission Award 10306 to Nuole to a point;  |
| 3. | 263° 20' | 36.80  | feet along Royal Patent 4006, Land Commission Award 10306 to Nuole to a point;  |
| 4. | 346° 48' | 70.70  | feet partially along the Easterly face of stonewall and along the Westerly side of Homestead Road to a concrete nail (set); |

Thence, for the next fourteen (14) courses following along the Easterly face of stonewall and along the Westerly side of Homestead Road:

5.	347° 42'	31.70	feet to a 1/2 inch pipe (set);
6.	359° 30'	12.60	feet to a 1/2 inch pipe (set);
7.	8° 42'	11.80	feet to a 1/2 inch pipe (set);
8.	16° 05'	39.50	feet to a point;
9.	15° 19'	116.80	feet to a point;
10.	18° 39'	25.00	feet to a spike (set);
11.	14° 40'	12.60	feet to a spike (set);
12.	334° 52'	36.10	feet to a point;
13.	336° 28'	23.80	feet to a point;
14.	338° 19'	24.50	feet to a point;
15.	341° 19'	28.60	feet to a 1/2 inch pipe (set);
16.	15° 47'	31.80	feet to a point;
17.	18° 04'	35.80	feet to a 1/2 inch pipe (set);
18.	30° 36'	5.42	feet to a point;
19.	111° 43'	241.66	feet along Lot 2 of this subdivision and along the remainders of Lot 15 of the Kealakehe Homesteads, 1st Series and Grant 3761 to Hoopala and Pamahoa to the point of beginning and containing an area of 1.662 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, 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 of 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. Driveway access(es) to the proposed subdivision shall be limited to two access points from Palani Road, meeting with the approval of the Department of Public Works. The entrance roadway sight distance shall meet the requirements of the Statewide Design Manual. All accesses to and within the proposed subdivision shall comply with the requirements of the Subdivision Code and the approval of the Department of Public Works.**
- E. In conjunction with Final Subdivision Approval, the roadway section fronting the subject property along Palani Road required for the future widening of Palani Road to a 80-foot right-of-way shall be subdivided and dedicated to the County of Hawaii.**
- F. A drainage study of the project site, 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 in a manner meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.**
- G. 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 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 sufficient mitigative measures have been taken.

- H. 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 for the residential development of the subject property, if any, have been mutually agreed to prior to Final Subdivision Approval for any portion of the subject property.
- I. The applicant shall make its fair share contribution to mitigate potential regional impacts of the subject project with respect to roads, parks and recreation, fire, police and solid waste disposal facilities. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential units proposed to be developed by the amounts allocated hereinbelow for each such unit, and shall become due and payable prior to final subdivision approval or final plan approval for any portion of the subject property or its increments. The fair share contribution, in a form of cash, land, facilities or any combination thereof acceptable to the director in consultation with the affected agencies, shall be determined by the County Council. The fair share contribution shall have a maximum combined value of **\$7,239.16 per single-family residential unit**. Based upon the applicant's representation of intent to develop up to 5 residential units, the indicated total fair share contribution is **\$36, 195.80** for single-family residential units. However, the total amount shall be increased or reduced in proportion with the actual number of units according to the calculation and payment provisions set forth in this Condition H. The fair share contribution shall be allocated as follows:
  - 1. **\$3,490.85** per single-family residential unit for an indicated total of **\$17,454.25** to the County to support park and recreational improvements and facilities;
  - 2. **\$168.40** per single-family residential unit for an indicated total of

- \$842.00** to the County to support police facilities;
3. **\$332.61** per single-family residential unit for an indicated total of **\$1663.05** to the County to support fire facilities;
  4. **\$145.62** per single family residential unit for an indicated total of **\$728.10** to the County to support solid waste facilities;
  5. **\$3,101.68** per single-family residential unit for an indicated total of **\$15,508.40** 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 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 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.

- J. 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.
- K. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies.
- L. 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).
- M. 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:

*By Richard Todd*  
 COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: February 4, 1998  
 Date of 1st Reading: February 4, 1998  
 Date of 2nd Reading: February 18, 1998  
 Effective Date: February 24, 1998

APPROVED AS TO FORM AND LEGALITY

**DEPUTY**

*Fredrick Hansen*  
 CORPORATION COUNSEL  
 DATED: 2/23/98



OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

1998 FEB 20 AM 8 56

(DRAFT 3)

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

Introduced By: Bobby Jean Leithead-Todd  
 Date Introduced: February 4, 1998  
 First Reading: February 4, 1998  
 Published: February 11, 1998

REMARKS:

Second Reading: February 18, 1998  
 To Mayor: February 20, 1998  
 Returned: February 25, 1998  
 Effective: February 24, 1998  
 Published: March 8, 1998

REMARKS:

(DRAFT 4)

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:

*Helekele Kamin*

DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date 2/23/98

Approved/Disapproved this 24 day  
 of February 19 98

*Stephan*  
 MAYOR, COUNTY OF HAWAII

*James*  
 COUNCIL CHAIRMAN  
*Donald*  
 COUNTY CLERK

Bill No.: 184 (Draft 4)  
 Reference: C-646/PC-91  
 Ord. No.: 98 18