

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 207 (Draft 4)

ORDINANCE NO. 98 36

AN ORDINANCE AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICTS ZONE MAP) AND SECTION 25-8-9 (HAWI - KAPAAU ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) AND SINGLE FAMILY RESIDENTIAL (RS-15) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT HANAULA, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-4-06:21 AND 36.

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

SECTION 1. Section 25-8-7, 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 Hanaula, North Kohala, Hawaii, shall be Single Family Residential (RS-10):

Beginning at the Northwesterly corner of this parcel of land, being also the Northeasterly corner of Lot 1 of Kynnersley Road Tract 2 (File Plan 659) and being a point on the Southerly boundary of Lot 3 of Kynnersley Road Tract 1 (File Plan 651), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE" being 11,995.03 feet North and 10,661.07 feet East and running by azimuths measured clockwise from True South:

Thence, for the next six (6) courses following along the remainder of Grant 2744 to Makuaole and Hoolani:

- 1. 290 34' 1,119.35 feet along Lots 3 through 18, inclusive, of Kynnersley Road Tract 1 (File Plan 651) to a point;
- 2. 31 40' 72.95 feet to a point;
- 3. 288 50' 150.00 feet to a point;
- 4. 31 40' 357.53 feet along Lot 4 to a point;

- | | | | | | |
|----|-----|-----|-----|----------|---|
| 5. | 116 | 15' | 11" | 1,166.13 | feet to a point; |
| 6. | 195 | 39' | | 303.46 | feet along Lots 5, 4, 3, 2 and 1 of Kynnersley Road Tract 2 (File Plan 659) to the point of beginning and containing an area of 9.840 Acres. (Refer to Parcel "A" as shown on Exhibit "A.") |

SECTION 2. Section 25-8-9, 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 Hanaula, North Kohala, Hawaii, shall be Single Family Residential (RS-10):

Beginning at the Northwesterly corner of this parcel of land, being also the Northeasterly corner of Lot 13 of Kynnersley Road Tract 1 (File Plan 651) and being a point on the Southerly side of the Hawi-Niulii (F.A.S.P. No. 3-A(1)), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE" being 11,906.18 feet North and 11,450.12 feet East and running by azimuths measured clockwise from True South:

- | | | | | | |
|----|-----|-----|--|-------|--|
| 1. | 290 | 34' | | 64.39 | feet along the Southerly side of the Hawi-Niulii Road (F.A.S.P. No. 3-A (1)) to a point; |
|----|-----|-----|--|-------|--|

Thence, for the next three (3) courses following along the remainder of Grant 2744 to Makuaole and Hoolani:

- | | | | | | |
|----|-----|-----|--|--------|---|
| 2. | 20 | 34' | | 194.00 | feet along Lot 15 of Kynnersley Road Tract 1 (File Plan 651) to a point; |
| 3. | 110 | 34' | | 64.39 | feet to a point; |
| 4. | 200 | 34' | | 194.00 | feet along Lot 13 of Kynnersley Road Tract 1 (File Plan 651) to the point of beginning and containing an area of 12,492 Square Feet. (Refer to Parcel "B" as shown on Exhibit "A.") |

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 3. These changes in district classification are 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 the this ordinance.
- C. Final Subdivision Approval of the proposed 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 to the subject property from Akoni Pule Highway shall meet with the requirements of the Department of Transportation. The entrance roadway sight distance shall meet the requirements of the Statewide Design Manual. All lots shall be accessed from one common access road.
- E. All roadways within the proposed subdivision shall be constructed in a manner meeting with the approval of the Department of Public Works.
- F. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works and/or State Department of Health 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 prior to the issuance of Final Subdivision Approval.
- H. The wastewater treatment and disposal system shall be designed in accordance with the requirements of the Department of Health.
- I. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11,

Article 1, Hawaii County Code, relating to Affordable Housing

- J. 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.
- K. 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.
- L. 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 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, 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 34 residential units, the indicated total of fair share contribution is **\$246,131.44** 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 L. The fair share contribution shall be allocated as follows:

1. **\$3,490.85** per single-family residential unit for an indicated total of **\$118,688.90** to the County to support park and recreational improvements and facilities;
2. **\$168.40** per single-family residential unit for an indicated total of **\$5,725.60** to the County to support police facilities;
3. **\$332.61** per single-family residential unit for an indicated total of **\$11,308.74** to the County to support fire facilities;
4. **\$145.62** per single-family residential unit for an indicated total of **\$4,951.08** to the County to support solid waste facilities; and
5. **\$3,101.68** per single-family residential unit for an indicated total of **\$105,457.12** 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. The cost of providing and

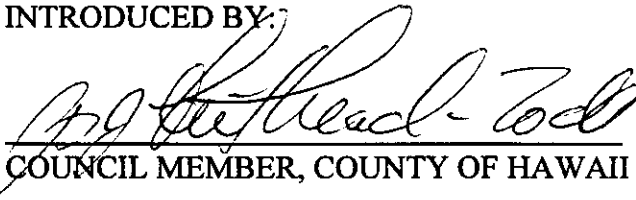
constructing the improvements required in Condition D shall be credited against the sum specified in Condition L (5) for road and traffic improvements. For purposes of administering Condition L, the fair market value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be subject to review and approval of the director, upon consultation with the appropriate agencies.

- M. 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 Fees Ordinance.
- N. Comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development within the subject property.
- O. 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).
- P. 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 4. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 5. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

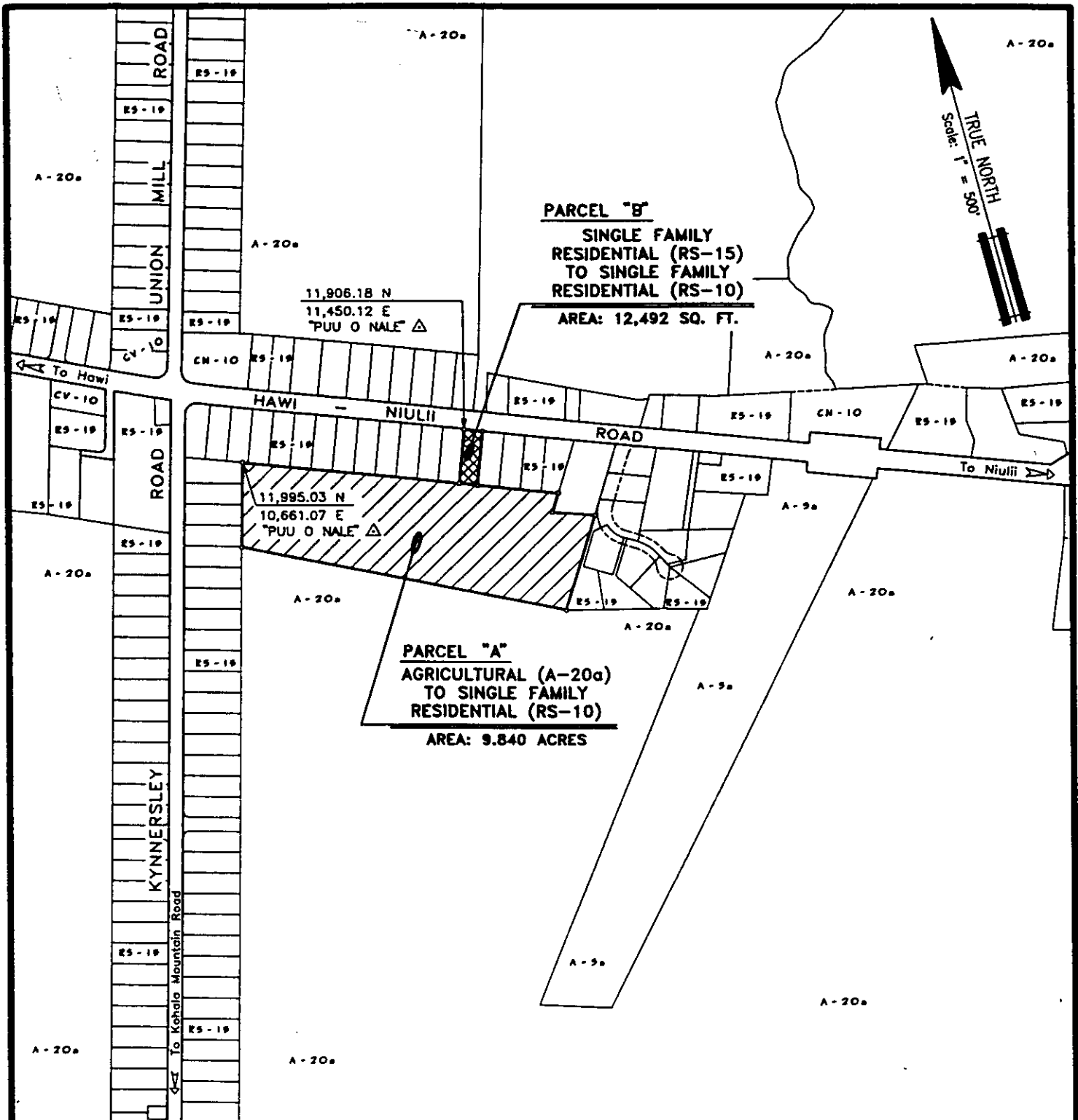
Hilo, Hawaii

Date of Introduction: April 1, 1998
Date of 1st Reading: April 1, 1998
Date of 2nd Reading: April 15, 1998
Effective Date: April 23, 1998

APPROVED AS TO FORM AND LEGALITY


CORPORATION COUNSEL

DATED: APR 22 1998



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICTS ZONE MAP) AND SECTION 25-8-9 (HAWI-KAPAAU ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) AND SINGLE FAMILY RESIDENTIAL (RS-15) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT HANAULA, NORTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

APR 24 PM 12 26

(DRAFT 3) COUNTY OF HAWAII

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: April 1, 1998
 First Reading: April 1, 1998
 Published: April 9, 1998

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: April 15, 1998
 To Mayor: April 17, 1998
 Returned: April 24, 1998
 Effective: April 23, 1998
 Published: May 1, 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	
	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:

Patricia K. O'Brien
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date APR 22 1998

Approved/~~Disapproved~~ this 23 day
 of April, 1998.

Stephane P. ...
 MAYOR, COUNTY OF HAWAII

Donna ...
 COUNCIL CHAIRMAN
Donald ...
 COUNTY CLERK

Bill No.: 207 (Draft 4)
 Reference: C-750/PC-102
 Ord. No.: 98 36