

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 235
(Draft 3)

ORDINANCE NO. 98 65

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-5a) TO RESIDENTIAL AND AGRICULTURAL (RA-.5a) AT PUA A 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-10:POR. 4.

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 Puaa 2nd., North Kona, Hawaii, shall be Residential and Agricultural (RA-.5a):

Beginning at a found spike at the Southeast corner of this parcel of land, being also the North corner of Lot 38, Land Court Application 1666 (Map 6) and on the Westerly side of Hienaloli-Kahului Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 5,032.15 feet North and 7,327.36 feet East, and running by azimuths measured clockwise from True South:

Thence, along, close to and crossing stonewall, along Land Court Application 1666 for the next three (3) courses;

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|----|-----|-----|-----|-------------|---|
| 1. | 77° | 53' | 45" | 225.61 feet | along Lots 38 and 37 to a found pipe; |
| 2. | 78° | 53' | 40" | 567.07 feet | along Lots 37, 34, 33 and 30 to a found pipe; |
| 3. | 85° | 29' | 00" | 229.10 feet | along Lots 30, 29 to a point; |

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|----|--------------|-------------|--|
| 4. | 166° 40' 15" | 654.89 feet | along the remainder of Grant 1744 to Kahaunaele, crossing Parcel 4 to a point;

Thence, along Royal Patent 7845, Land Commission Award 7715, Apana 13 to Lota Kamehameha for the next two (2) courses; |
| 5. | 256° 40' 15" | 923.28 feet | to a found pipe; |
| 6. | 251° 57' 15" | 13.87 feet | to a found pipe;

Thence, along Hienaloli-Kahului Road (40-Ft. wide) for the next three (3) courses; |
| 7. | 350° 43' | 375.23 feet | to a found spike; |
| 8. | 337° 30' | 144.46 feet | to a point; |
| 9. | 323° 46' | 218.25 feet | to the point of beginning and containing an area of 14.989 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 applicant, successors or assigns shall be responsible for complying with all requirements of Chapter 205, Hawaii Revised Statutes, relating to permissible uses within the State Land Use Rural District.

- 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 within the subject property shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- E. Access to the subject property from Hienaloli-Kahului Road shall meet with the requirements of the Department of Public Works. The entrance roadway sight distance shall meet the requirements of the Statewide Design Manual. All lots shall be accessed from one common access road.
- F. In conjunction with Final Subdivision Approval, the applicant shall provide roadway improvements along the entire subject property's Hienaloli-Kahului Road frontage, equal to half the difference between 50 feet and the existing right-of-way width, meeting with the requirements and approval of the Department of Public Works. The applicant shall dedicate the right-of-way portion(s) in fee simple to the County of Hawaii upon its request.
- G. All roadways within the proposed subdivision shall be constructed to County dedicable roadway standards meeting with the approval of the Department of Public Works.
- H. In order to ensure the safety of bicyclists and pedestrians, the applicant shall provide paved shoulders along the entire Hienaloli-Kahului Road frontage of the subject property meeting with the approval of the Department of Public Works.

- I. A drainage study of the project site, if required, shall be prepared and submitted for review and approval to the Department of Public Works, prior to submittal of plans for subdivision review. 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.
- J. 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.
- K. Restrictive covenant(s) in the deeds of all the proposed residential/agricultural 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(s) shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances 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.
- L. 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.
- M. 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 fifteen (15) residential units, the indicated total of fair share contribution is **\$108,587.40** 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 M. The fair share contribution shall be allocated as follows:

1. \$3,490.85 per single-family residential unit for an indicated total of **\$52,362.75** to the County to support park and recreational improvements and facilities;
2. \$168.40 per single-family residential unit for an indicated total of **\$2,526.00** to the County to support police facilities;
3. \$332.61 per single-family residential unit for an indicated total of **\$4,989.15** to the County to support fire facilities;
4. \$145.62 per single-family residential unit for an indicated total of **\$2,184.30** to the County to support solid waste facilities; and
5. \$3,101.68 per single-family residential unit for an indicated total of

\$46,525.20 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 Conditions E, F, and H shall be credited against the sum specified in Conditions M (1) and M (5) for park and road and traffic improvements. For purposes of administering Condition M, 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.

Upon approval of the fair share contributions or in lieu contributions by the director, the director shall submit a final report to the Council for its information that identifies the specific approved fair share and/or in lieu contributions, as allocated, and further implementation requirements.

- N. 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.
- O. Comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development within the subject property.

- 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, 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).**
- 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

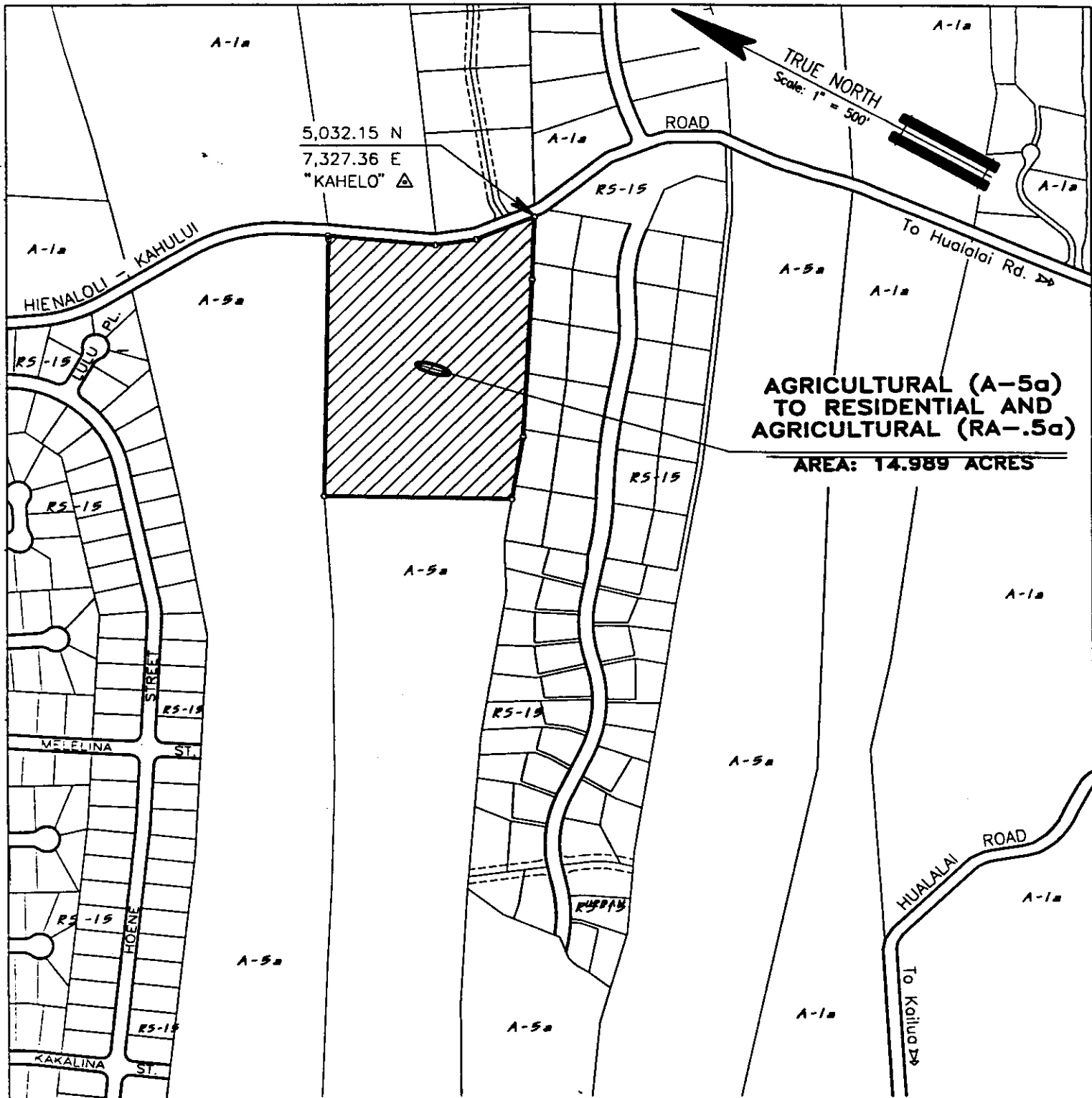
Date of Introduction: June 1, 1998
Date of 1st Reading: June 1, 1998
Date of 2nd Reading: June 16, 1998
Effective Date: July 2, 1998

APPROVED AS TO FORM AND LEGALITY



CORPORATION COUNSEL

DATED: _____



AMENDMENT TO THE ZONING CODE

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-5a) TO RESIDENTIAL AND AGRICULTURAL (RA-.5a) AT PUA A 2ND, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

RECEIVED
 '98 JUL 2 AM 10 50
 OFFICE OF THE COUNTY CLERK
 County of Hawaii
 Hilo, Hawaii

COUNTY CLERK
 COUNTY OF HAWAII

(DRAFT 3)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: June 1, 1998
 First Reading: June 1, 1998
 Published: June 8, 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			
	8	0	1	0

Second Reading: June 16, 1998
 To Mayor: June 19, 1998
 Returned: July 2, 1998
 Effective: July 2, 1998
 Published: July 10, 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

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'Fala
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date JUN 23 1998

Approved/Disapproved this 2 day
 of July, 19 98

John J. L. ...
 MAYOR, COUNTY OF HAWAII

James ...
 COUNCIL CHAIRMAN
Donald ...
 COUNTY CLERK

Bill No.: 235 (Draft 3)
 Reference: C-826.02/PC-112
 Ord. No.: 98 65