

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 240  
(Draft 3)

ORDINANCE NO. 98 70

AN ORDINANCE AMENDING SECTION 25-8-5 (KAILUA URBAN ZONE MAP) AND 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 DOUBLE-FAMILY RESIDENTIAL (RD-3.75) AND AGRICULTURAL (A-5a) TO MULTIPLE-FAMILY RESIDENTIAL (RM-1) AT HIENALOLI 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-10:15.

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

SECTION 1. Section 25-8-5, 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 Hienaloli 2nd, North Kona, Hawaii, shall be Multiple-Family Residential (RM-1):

Parcel 1:

Beginning at the Southwesterly corner of this parcel of land, being also the Northwesterly corner of Lot A and being a point on the Easterly side of Hualalai Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 2,004.53 feet South and 2,084.48 feet East and running by azimuths measured clockwise from True South:

1. 168° 25' 205.34 feet along the Easterly side of Hualalai Road to a point;
2. 115° 05' 297.57 feet along the Easterly side of Hualalai Road to a point;

Thence, for the next five (5) courses following along Parcel 14 of the Keopu Channel Improvement and along the remainder of Land Commission Award 7716, Apana 5 to R. Keelikolani:

3. 168° 27' 19.00 feet to a point;
4. 258° 27' 80.00 feet to a point;

- 5. 348° 27' 5.00 feet to a point;
- 6. 258° 27' 191.51 feet to a point;

Thence, following on a curve to the right with a radius of 3,975.00 feet, the chord azimuth and distance being:

- 7. 259° 10' 45" 101.17 feet to a point;
- 8. 259° 54' 30" 191.68 feet along Parcels 14 and 13 of the Keopu Channel Improvement and along the remainders of Land Commission Award 7716, Apana 5 to R. Keelikolani and Royal Patent 7904, Land Commission Award 4226 to Kuae to a point;

Thence, for the next three (3) courses following along Parcel 13 of the Keopu Channel Improvement and along the remainder of Royal Patent 7904, Land Commission Award 4226 to Kuae:

- 9. 169° 54' 30" 5.00 feet to a point;
- 10. 259° 54' 30" 130.00 feet to a point;
- 11. 265° 21' 29.81 feet to a point;
- 12. 345° 21' 239.18 feet along Land Commission Award 7716, Apana 5 to R. Keelikolani, along Lot A and along Royal Patent 1930, No. 1 to Asa Thurston, Land Commission Award 387, Part 4, Section 2 to American Board of Commissioners for Foreign Missions to a point;
- 13. 77° 55' 73.21 feet along Lot A and along Royal Patent 1930, No. 1 to Asa Thurston, Land Commission Award 387, Part 4, Section 2 to American Board of Commissioners for Foreign Missions to a point;

- |     |         |        |  |
|-----|---------|--------|--|
| 14. | 59° 05' | 450.27 | feet along Lot A and along Royal Patent 1930, No. 1 to Asa Thurston, Land Commission Award 387, Part 4, Section 2 to American Board of Commissioners for Foreign Missions to the point of beginning and containing an area of 4.063 Acres.<br>(Refer to Parcel 1 as shown on Exhibit "A.") |
|-----|---------|--------|--|

SECTION 2. 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 Hienaloli 2nd, North Kona, Hawaii, shall be Multiple-Family Residential (RM-1):

Parcel 2:

Beginning at the Southeasterly corner of this parcel of land, being also the Northeasterly corner of Lot A, an angle point on the Southerly boundary of Parcel 14 of the Keopu Channel Improvement and being the Northwesterly corner of Parcel 17 of the Keopu Channel Improvement, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 1,619.66 feet South and 2,975.56 feet East and running by azimuths measured clockwise from True South:

Thence, for the next three (3) courses following along Lot A and along Royal Patent 1930, No. 1 to Asa Thurston, Land Commission Award 387, Part 4, Section 2 to American Board of Commissioners for Foreign Missions:

- |    |             |        |  |
|----|-------------|--------|--|
| 1. | 72° 40'     | 5.36   | feet to a point;   |
| 2. | 79° 46'     | 6.16   | feet to a point;   |
| 3. | 72° 39' 30" | 443.06 | feet to a point;   |
| 4. | 165° 21'    | 235.62 | feet along Royal Patent 7904, Land Commission Award 4226 to Kuae to a point; |

Thence, for the next four (4) courses following along Parcel 14 of the Keopu Channel Improvement and along the remainder of Land Commission Award 7716, Apana 5 to R. Keelikolani:

- |    |              |        |  |
|----|--------------|--------|--|
| 5. | 265° 21'     | 83.56  | feet to a point;   |
| 6. | 313° 45'     | 147.69 | feet to a point;   |
| 7. | 259° 54' 30" | 266.83 | feet to a point;   |
| 8. | 317° 24' 30" | 60.62  | feet to the point of beginning and containing an area of 1.150 Acres. (Refer to Parcel 2 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, its successors or assigns, shall be responsible for complying with all conditions of the change of zone.
- 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. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to commencing construction, Final Plan Approval for the proposed improvements shall be secured from the Planning Director in accordance with Chapter 25-2-70 of the Zoning Code. Plans shall identify the proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use. Landscaping shall also be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties. Landscaping along the project site's boundaries shall be provided to the extent that a continuous, unbroken, heavy planting screen, no less than 5 feet in height, is established prior to the issuance of a certificate of occupancy.

- D. Access to the subject property from Hualalai 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.
- E. Hualalai Road shall be improved equal to half the difference between 50 feet and the existing right-of-way width, meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy. These improvements shall be dedicated to the County of Hawaii upon its request.
- F. In order to ensure the safety of bicyclists and pedestrians, the applicant shall construct curb, gutter and sidewalks, and relocate utilities, along the entire Hualalai Road frontage of the property meeting with the approval of the Department of Public Works. All these improvements shall be completed prior to the issuance of a certificate of occupancy.
- G. A Traffic Impact Analysis Report to enable proper design of roadways shall be prepared and submitted for approval by the Department of Public Works prior to submittal of plans for Plan Approval review.
- H. A Drainage Study shall be prepared for review and approval by the Department of Public Works. The drainage study shall be submitted to Federal Emergency Management Agency (FEMA) and a letter of map revision (LOMR) or a Physical Map Revision (PMR) shall be issued prior to construction, if required.
- I. Sewer lines shall be installed within the development to tie in with the Kealakehe Wastewater Treatment Plan, meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy.

- J. A Solid Waste Management Plan for the development shall be prepared and submitted for approval by the Department of Public Works prior to issuance of a certificate of occupancy for any portion of the project. A copy of the approved Plan shall be submitted to the Planning Department for its files.
- K. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall, if required, comply with the requirements of Chapter 11, Article 1, Hawaii County Code, relating to Affordable Housing. If the site is developed as an Assisted Living Facility as proposed, this condition shall not apply.
- L. A Cultural Resources Management Plan shall be submitted for sites recommended for preservation including the Kuakini Wall. The management plan shall include provisions for buffer areas, structural setbacks and a maintenance program shall be submitted to the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) and the Planning Department for review and approval. Approval of the plan shall be secured from the DLNR-HPD prior to final plan approval of any portion of the subject property.
- M. 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.

N. 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 multiple-family residential units proposed by the amounts allocated hereinbelow for each such unit, 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 **\$4,645.29 per multiple-family residential unit**. Based upon the applicant's representation of intent to develop up to 129 residential units, the indicated total of fair share contribution is **\$599,242.41** for multiple-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 N. The fair share contribution shall be allocated as follows:

1. **\$2,291.39** per multiple-family residential unit for an indicated total of **\$295,589.31** to the County to support park and recreational improvements and facilities;
2. **\$72.42** per multiple-family residential unit for an indicated total of **\$9,342.18** to the County to support police facilities;
3. **\$222.77** per multiple-family residential unit for an indicated total of **\$28,737.33** to the County to support fire facilities;
4. **\$99.29** per multiple-family residential unit for an indicated total of

- \$12,808.41** to the County to support solid waste facilities; and
5. **\$1,959.42** per multiple-family residential unit for an indicated total of **\$252,765.18** 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 N shall be credited against the sum specified in Condition N (5) for road and traffic improvements. For purposes of administering Condition N, 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.

If the assisted living facility is constructed, there will be minimal impact on road and park improvements when compared with the 47 single family homes which could be constructed under the current RD-3.75 zoning. In recognition of this and the public interest in providing assisted living facilities, the fair share contribution for roads and parks shall not apply, and the remaining fair share



contributions shall be imposed.

- O. 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.
- P. Comply with all other applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development within the subject property.
- Q. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this change of zone. The report shall address in detail the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Director acknowledges that further reports are not required.
- R. An initial extension of time for the performance of conditions within the ordinance may be granted by the 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 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).

S. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall 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

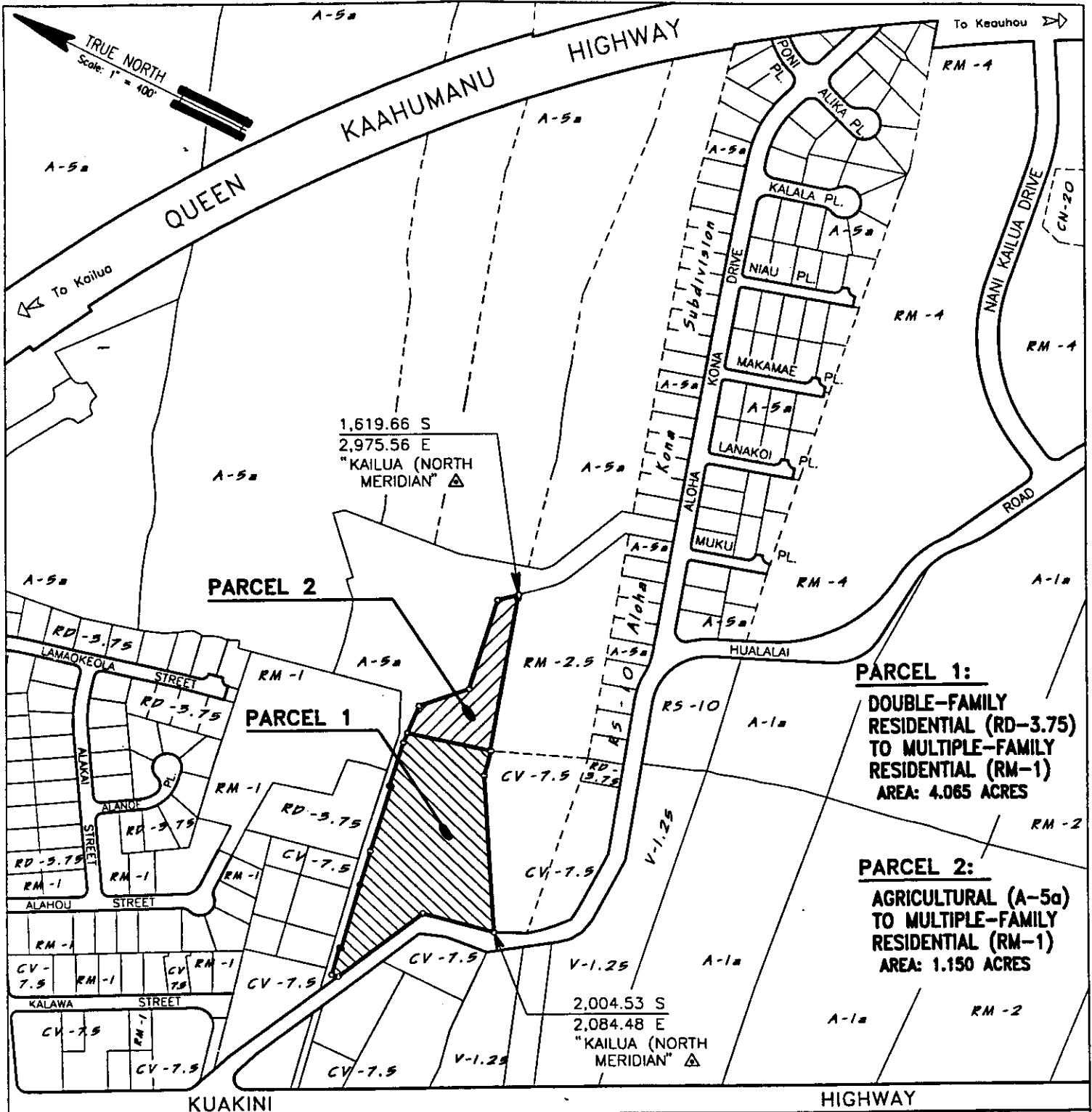
Hilo, Hawaii

Date of Introduction: 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 25-8-5 (KAILUA URBAN ZONE MAP) AND 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 DOUBLE-FAMILY RESIDENTIAL (RD-3.75) AND AGRICULTURAL (A-5a) TO MULTIPLE-FAMILY RESIDENTIAL (RM-1) AT HIENALOLI 2ND, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

(DRAFT 3)

98 JUL 2 AM 10 55

ROLL CALL VOTE

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

REMARKS:

|               | 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 16, 1998  
 To Mayor: June 16, 1998  
 Returned: July 2, 1998  
 Effective: July 2, 1998  
 Published: July 10, 1998

REMARKS:

|               | 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:**

*Barbara K. Olson*

DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date JUN 23 1998

Approved/Disapproved this 2 day  
 of July, 19 98

*Bob Leithead*  
 MAYOR, COUNTY OF HAWAII

*Donald DeBede*

COUNCIL CHAIRMAN

*Donald DeBede*  
 COUNTY CLERK

Bill No.: 240 (Draft 3)

Reference: C-830.03/PC-118

Ord. No.: 98 70