

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 13
(Draft 2)

ORDINANCE NO. 99 51

AN ORDINANCE AMENDING ORDINANCE NO. 90 63, AS AMENDED BY ORDINANCE NO. 93 76, WHICH RECLASSIFIED THE DISTRICT CLASSIFICATION OF LAND FROM UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-7.5) AND (RS-20) AT PUAPUAAIKI AND PUAPUAAANUI, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-17:28 AND 29.

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

SECTION 1. Ordinance No. 90 63, as amended by Ordinance No. 93 76, is amended as follows:

"SECTION 2. These changes in district classification are conditioned upon the following:

~~[(A)]~~ ~~[the]~~ The applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval[;].

~~[(B)]~~ ~~[the]~~ The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the date of approval of the change of zone[;].

~~[(C)]~~ ~~[revised]~~ Revised tentative subdivision plans for the proposed development shall be submitted to the Planning Department within one year from the effective date of this change of zone amendment. Final subdivision approval shall be secured within ~~[two]~~ five years from the effective date of this change of zone amendment. Plans for necessary infrastructural improvements, including off-site roadway and an off-site water system, shall be submitted in conjunction with construction drawings for final subdivision approval[;].

[(DD)].[a] A drainage system shall be installed in accordance with the requirements of the Department of Public Works[;].

[(E)].[access(es)] ~~Access(es)~~ shall meet with the approval of the Departments of Transportation-Highways Division and Public Works. Further, Queen Kaahumanu Highway shall be improved with a fully channelized intersection, including deceleration, acceleration and left-turn lane(s), and which may include signalization, meeting with the requirements of the Department of Transportation. These improvement shall be provided prior to the occupancy of the first house(s) within the subdivision. Traffic signals shall be installed by the applicant, successors or assigns at such time when warranted and deemed necessary by the State Department of Transportation-Highways Division[;].

[(F)].[the] ~~The~~ interior subdivision roads shall be provided with curbs, gutters and sidewalk improvements; and a mauka-makai collector road shall be constructed within the subject property which shall include a mauka stubout in a manner which would lead toward eventual connection to Hualalai Road. The applicant shall delineate and dedicate to the County of Hawaii a sixty-foot right-of-way within the mauka portion of the subject property for this eventual connection to Hualalai Road. The costs of construction for this connection to Hualalai Road shall not be the responsibility of the applicant. The applicant shall also provide a private one-way single lane paved access easement extending to Hualalai Road through the subject property to be used only for emergency purposes which may be gated with an appropriate breakaway feature. This access shall be designed to permit only a right turn exit from the subject property with striping and demarcation for safety measures. The applicant shall maintain the emergency access until such time the construction of the mauka-makai collector road is completely connected to Hualalai Road and at which time the emergency access shall be abandoned. The applicant shall provide selected internal north-south

roadways which extend to the boundaries to provide future traffic connection with adjacent properties and shall include in the restrictive covenants in the deeds of all the proposed lots informing all purchasers that the streets within the subject property may become future thoroughfares connecting to adjoining properties. These improvements shall be provided within twenty-four (24) months from the date of final subdivision approval and meeting with the approval of the Department of Public Works[;].

[(G)]. [an] An archaeological data recovery and preservation plan shall be submitted to the Department of Land and Natural Resources, Historic Sites Section and the Planning Department for review and acceptance prior to preliminary plat map submittal. The archaeological data recovery and preservation shall be in conformance with the accepted plan and shall be completed prior to any land alterations on the property[;].

[(H)]. [should] ~~Should~~ any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken[;].

[(I)]. [to ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall work with the Office of Housing and Community Development and the Planning Department to formulate a housing plan for the development to assure it addresses the affordable housing needs of the community and the affordable housing condition imposed by the State Land Use Commission. This housing plan shall be approved by the County Housing Agency prior to final subdivision approval provided that the applicant shall

notify the County Housing Agency of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the property prior to visible commencement of construction on the property; provided, however, that the applicant may transfer ownership in the property to an affiliate or in a manner consistent with prior representations to the County Housing Agency;] 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.

[(JJ)]. [to] To ensure that the [Goals] goals and [Policies] policies of the Recreation Element of the General Plan are implemented, the applicant shall construct a minimum five (5) acre recreational park within the project site for active and passive recreational uses to be dedicated and accepted by the County of Hawaii. The configuration and improvements, including but not limited to grading, grassing, irrigation, fencing along the subject park area fronting Queen Kaahumanu Highway, and the construction of a softball field, a soccer field, parking and restroom facilities, shall meet with the approval of the Planning Department in consultation with the Department of Parks and Recreation and the Department of Public Works, prior to final subdivision approval. A park maintenance and operational plan shall be submitted for review and approval by the Planning Department in consultation with the Department of Parks and Recreation in conjunction with final subdivision approval. Until such time that the park is dedicated to and accepted by the County, there shall be adequate assurance, as determined by the Corporation Counsel, for the maintenance of the private park by recorded covenant running with the land which shall include the following:

- 1) obligate the subdividers, purchasers, occupants, or association in the subdivision to maintain the park in perpetuity; and

- 2) empower the County, through the Department of Parks and Recreation, to enforce covenants to maintain the park, authorizing the performance of maintenance work by the County in the event of failure by the subdividers, purchasers, occupants, or association in the subdivision to perform such work and permit the subjecting of land and properties in the subdivision to a lien until the cost of the work performed by the County has been reimbursed. At the minimum, access to the recreational park shall be gained from within the subdivision. The park shall be completed within one year from the occupancy of the first home[;].

[(K)].[as] As represented by the applicant, restrictive covenants in the deeds of all the proposed lots 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 Department for review and approval prior to 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 likewise prior to final subdivision approval[;].

[(L)].[comply] Comply with conditions of the State Land Use Commission[;].

[(M)].[comply] Comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health, Water Supply and Public Works[;].

[(N)].[should] 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[;].

~~[(JO)]~~.~~[an]~~ **An** annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this Change of Zone amendment. The report shall address 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 and the Planning Director acknowledges that further reports are not required[; and].

~~[(JP)]~~.~~[an]~~ **An** 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); and
- 5) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the area to its original or more appropriate

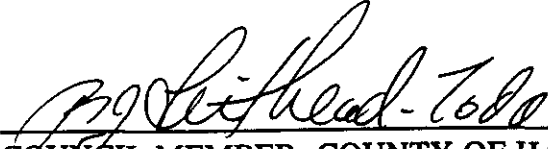
designation."

SECTION 2. Material to be deleted is bracketed. New material is underscored.

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:



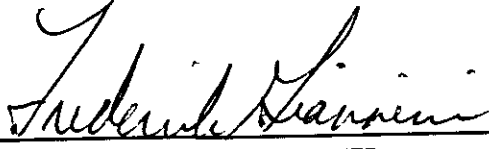
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: April 6, 1999
Date of 1st Reading: April 6, 1999
Date of 2nd Reading: April 21, 1999
Effective Date: May 4, 1999

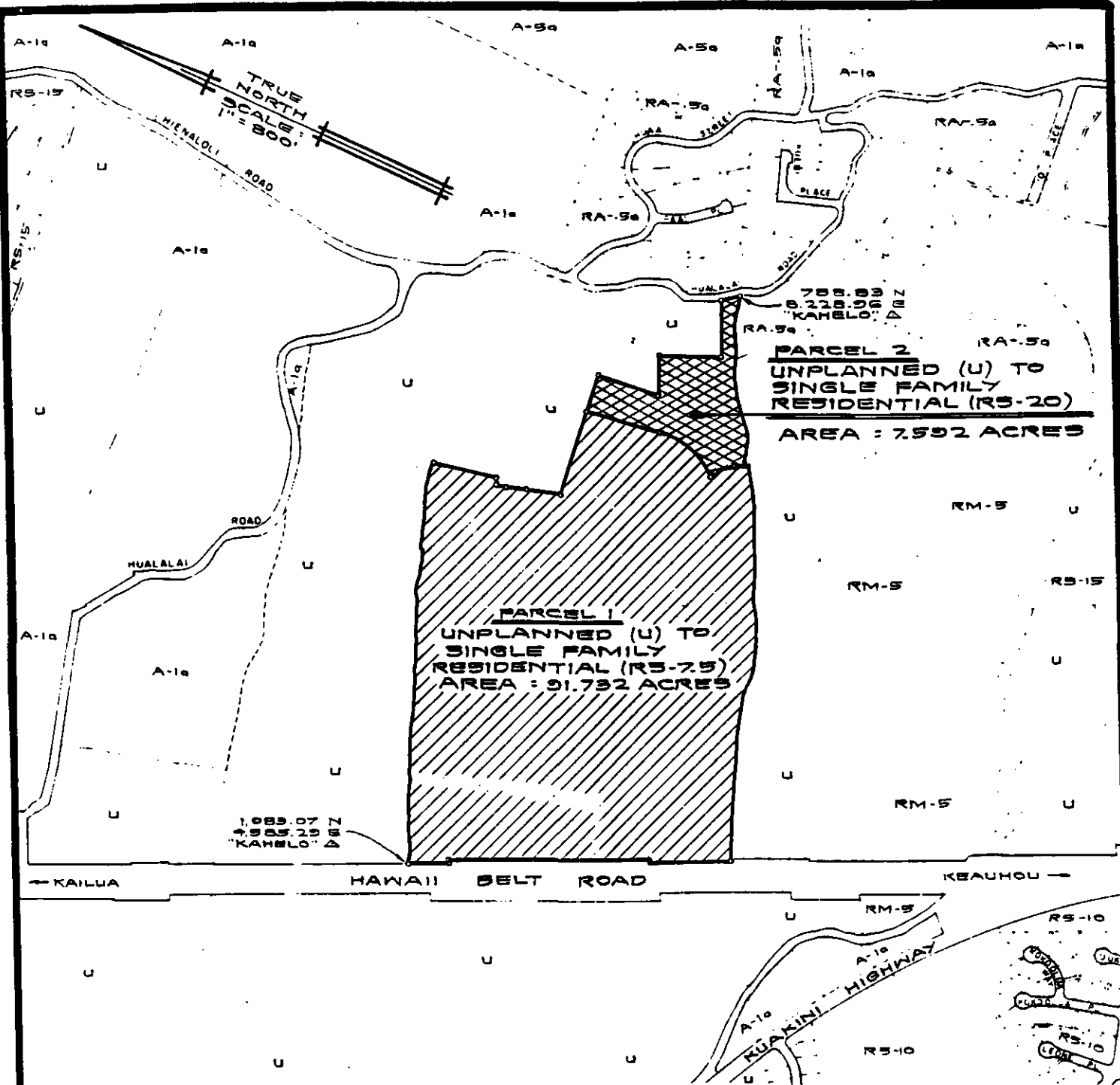
REFERENCE: Comm. 45.01

APPROVED AS TO FORM AND LEGALITY



CORPORATION COUNSEL

DATED: 4/26/99



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-87 (NORTH KONA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-7.5) AND (RS-20) AT PUAPUAAIKI AND PUAPUAANUI, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 7-5-17 : 28 AND 29

DEC. 13, 1989

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: April 6, 1999
 First Reading: April 6, 1999
 Published: N/A

REMARKS: _____

Second Reading: April 21, 1999
 To Mayor: April 23, 1999
 Returned: May 4, 1999
 Effective: May 4, 1999
 Published: May 19, 1999 (HTH & WHT)
May 24, 1999 (RFD Publications)

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	1	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	1	0	0

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

APPROVED AS TO FORM AND LEGALITY:

Fredrick Keenan
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 4/26/99

Don Oshiro
 COUNCIL CHAIRMAN
[Signature]
 COUNTY CLERK

Approved/Disapproved this 4 day
 of may, 19 99

Heath Genachon
 MAYOR, COUNTY OF HAWAII

Bill No.: 13 (Draft 2)
 Reference: C-45.01/PC-9
99 51
 Ord. No.: _____