

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 8  
(Draft 3)

ORDINANCE NO. 99 91

AN ORDINANCE AMENDING ORDINANCE NO. 92-51, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL (A-3a) TO RESIDENTIAL (RS-10) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-4-37:36 (FORMERLY 2-4-37:PORTION OF 16).

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

SECTION 1. Ordinance No. 92-51 is amended as follows:

"SECTION 2. This change in district classification is 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 applicant shall submit the required water commitment payment 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) [~~subdivision~~] Subdivision plans shall be submitted within one year from the effective date of the zone change. Final Subdivision Approval shall be secured within [~~two~~] five years from the date of receipt of tentative subdivision approval[;].
- (D) [~~access~~] Access to the proposed lots from Kupulau Road shall meet with the approval of the Department of Public Works. The proposed development's interior access roadways shall meet with the approval of the Department of Public Works and the Fire Department[;].

- (E) [the] The applicant shall provide a minimum 20-foot wide pavement with 3-foot wide shoulders within that portion of Kupulau Road fronting the subject property [to Ainaola Drive] meeting with the approval of the Department of Public Works prior to Final Subdivision Approval of any further subdivision of the subject property beyond the proposed 3-lot subdivision or bonding to ensure that the improvements are constructed[;].
- (F) [the] The applicant shall provide drainage improvements as may be required by, and meeting with the approval of, the Department of Public Works[;].
- (G) [the] The method of wastewater disposal shall meet with the approval of the appropriate government agencies[;].
- (H) [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, which shall be consistent with the interim affordable housing policy of the County as contained in the Hawaii County Housing Agency Resolution No. 65. This housing plan shall be approved by the County Housing Agency prior to final subdivision; 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 property prior to visible commencement of construction on the property; provided further 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.

- (I) [restrictive covenants in the deeds of all residential-zoned lots shall prohibit the construction of ohana dwelling units. A copy of the proposed covenant(s) shall be submitted to the Planning Department for review and approval prior to final subdivision approval. Written assurance for implementation of this condition, which has met with the approval of the Planning Department, shall be submitted to the Planning Department prior to final subdivision approval. A copy of a typically recorded covenant shall be filed with the Planning Department within one year from the date of final subdivision approval;] 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(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.
- (J) [prior] Prior to Final Plan Approval or Final Subdivision Approval for the project, should the County determine that additional improvements in the project area are required (i.e. roadways, parks, police, fire etc.), the applicant and its successors or assigns shall pay or contribute its pro rate share of such additional improvements. Satisfaction of this condition may be by entering into a development agreement with the County when such a development agreement is authorized. Any pro rata share of improvements paid or contributed to the project area shall be credited to any future impact fees[;].
- (K) [all] All other applicable laws, rules, regulations, and requirements shall be complied with[;].

- (L) [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 may, at the applicants' election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance[;].
- (M) [an] An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the Change of Zone. 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 with and the Planning Director acknowledges that further reports are not required[; and].
- (N) [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 applicants, 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] may 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 [shall] may initiate rezoning of the 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

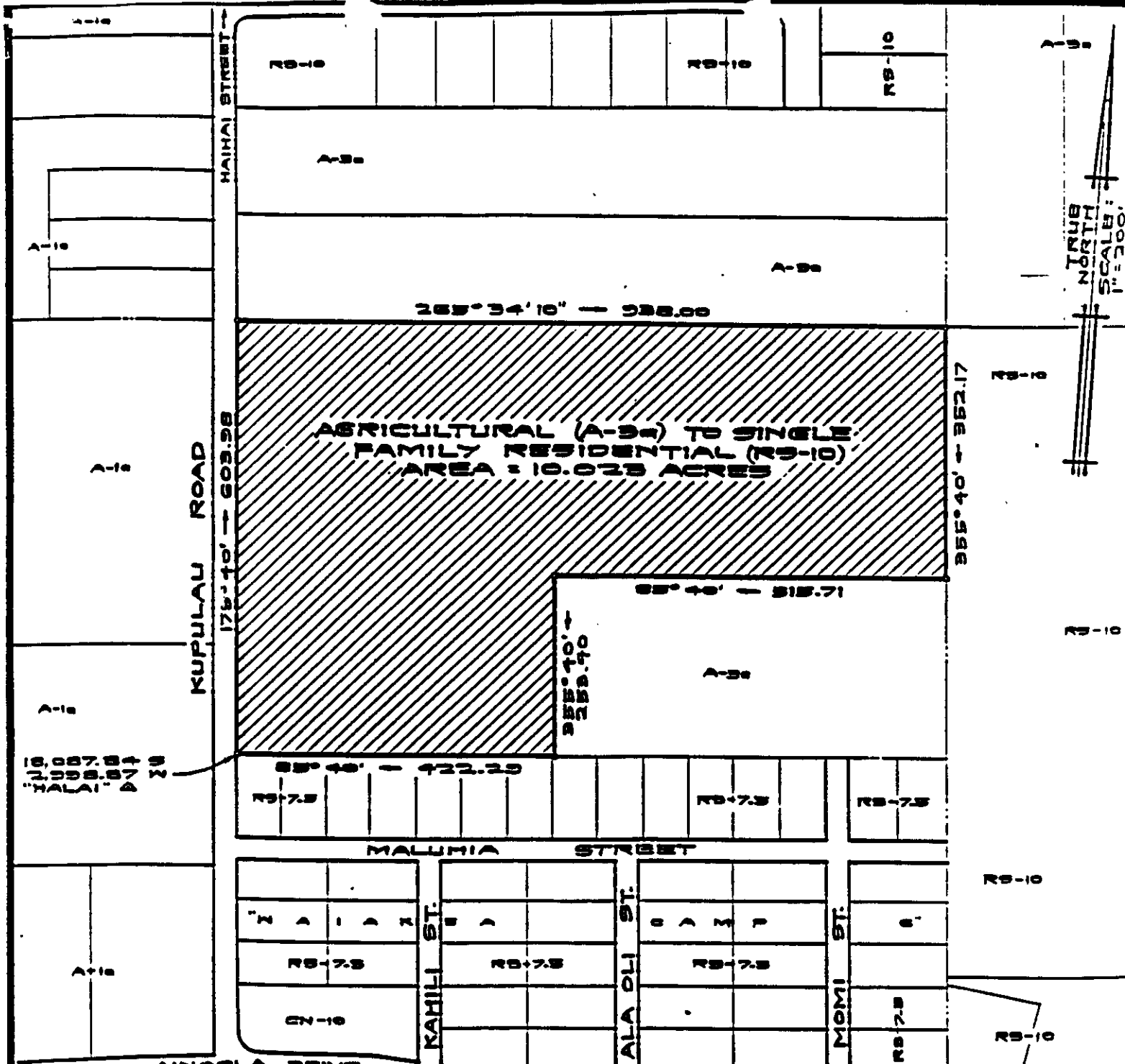
Date of Introduction: July 28, 1999  
Date of 1st Reading: July 28, 1999  
Date of 2nd Reading: August 11, 1999  
Effective Date: August 19, 1999

REFERENCE: Comm. 24.002

APPROVED AS TO FORM AND LEGALITY

  
CORPORATION COUNSEL

DATED: 8/16/99



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-114 (CITY OF HILO ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-3a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY: PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK : 2-4-37 : PORTION 16

FEB. 13, 1992

EXHIBIT "A"

(WAIAKEA DEVELOPMENT VENTURES)

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED  
(DRAFT 3)

Introduced By: Ms. Leithead-Todd  
 Date Introduced: July 28, 1999  
 First Reading: July 28, 1999  
 Published: N/A

REMARKS: \_\_\_\_\_  
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Second Reading: August 11, 1999  
 To Mayor: August 13, 1999  
 Returned: August 19, 1999  
 Effective: August 19, 1999  
 Published: September 7, 1999

REMARKS: \_\_\_\_\_  
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*99 AUG 19 ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd				
Pisicchio	X			
Smith				
Tyler	X			
Yagong	X			
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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			
	9	0	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 M. ...  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date 8/16/99

James ...  
 COUNCIL CHAIRMAN  
[Signature]  
 COUNTY CLERK

Approved/Disapproved this 19 day  
 of August, 19 99

Hept Youmasho  
 MAYOR, COUNTY OF HAWAII

Bill No.: 8 (Draft 3)  
 Reference: C-24/PC-37  
 Ord. No.: 99 91