BILL NO.	50	
(D	raft 10)	

ORDINANCE NO. 00 1

AN ORDINANCE AMENDING ORDINANCE NO. 91 21, WHICH RECLASSIFIED THE DISTRICT CLASSIFICATION OF LAND FROM UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-7.5) AT PUAPUAA 1ST AND 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-20:1 (formerly portion of 1).

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

SECTION 1. Ordinance No. 91 21 is amended as follows:

"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 Puapuaa 1st and 2nd, North Kona, Hawaii, shall be Single Family Residential [(RS-7.5)] (RS-10):

Beginning at a nail in concrete at the northwest corner of this parcel of land, the northeast corner of Lot 10 and on the southeasterly side of R.P. 1669, L.C. Aw. 8516-B:3 to Kamaikui, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 71.98 feet South and 1119.17 feet East and running by azimuths measured clockwise from True South:

Following along the middle of an old stonewall along the southeast boundary of R.P. 1669, L.C. Aw. 8516-B:3 to Kamaikui for the following thirty-eight (38) courses:

1.	254°	59'	30"	40.45	feet to a nail in rock;
2.	256°	53'	30"	195.37	feet to a "+" cut in rock;
3.	250°	02'		16.70	feet to a nail in rock;
4.	255°	18'		88.89	feet to a nail in rock;
5.	249°	55'	30"	101.23	feet to a "+" cut in rock;
6.	253°	43'	30"	33.76	feet to a nail in rock;

70.33 feet to a "+" cut in rock; 246° 00' 7. 42.95 feet to a nail in rock; 8. 242° 45' feet to a nail in rock; 246° 30.23 9. 11' feet to a "\sumset" cut in rock; 252° 17' 30" 78.42 10. 11. 260° 05' 12.34 feet to a 1/2 inch pipe; 13.07 feet to a nail in rock; 12. 247° 49' feet to a "+" cut in rock; 19.41 13. 235° 48' 24.91 feet to a nail in rock; 14. 244° 52' 243° 52' 30" 37.28 feet to a "+" cut in rock; 15. feet to a 1/2 inch pipe; 16. 240° 52' 26.78 feet to a "+" cut in rock; 246° 15' 77.74 17. 249° 30" 45.51 feet to a nail in rock; 18. 56' 89.15 feet to a 1/2 inch pipe; 252° 59' 19. feet to a "+" cut in rock; 246° 81.63 20. 21' 21. 253° 29' 55.11 feet to a nail in rock; feet to a "+" cut in rock; 15.27 22. 247° 26' feet to a "+" cut in rock; 254° 45' 21.89 23. feet to a "+" cut in rock on Kuakini Wall; 46.44 24. 247° 49' feet to a 1/4 inch pipe; 240° 16' 36.17 25. 26. 250° 54' 30" 61.62 feet to a 1/2 inch pipe; feet to a "+" cut in rock; 36.56 27. 238° 12'

feet to a "+" cut in rock;

97.00

28.

252°

20'

29.	242°	44'		37.39	feet to a "+" cut in rock;
30.	251°	22'		29.12	feet to a 1/2 inch pipe;
31.	267°	38'		15.05	feet to a "+" cut in rock;
32.	239°	30'		39.84	feet to a "+" cut in rock;
33.	245°	09'		34.78	feet to a "+" cut in rock;
34.	234°	55'		25.37	feet to a "+" cut in rock;
35.	245°	59'		38.90	feet to a "+" cut in rock;
36.	243°	38'	30"	23.66	feet to a nail in rock;
37.	266°	35'		15.75	feet to a "+" cut in rock;
38.	250°	29'		48.14	feet to a 1/2 inch pipe on the southwest side of Kuakini Highway;
					Thence along the southwest side of Kuakini Highway for the next eight (8) courses;
39.	Along	a curve	e to the right	having a r	radius of 1597.02 feet, the chord azimuth and distance being: 345° 03' 45" 37.55 feet to a nail in concrete;
40.	Thenc	e along	a curve to the	ne right ha	wing a radius of 2142.70 feet, the chord azimuth and distance being: 347° 02′ 55″ 98.16 feet to a 1/2 inch pipe;
41.	348°	21'	40"	229.99	feet to a nail in concrete;
42.	Thenc	e along	a curve to th	ne left hav	ing a radius of 1567.89 feet, the chord

43. Thence along a curve to the left having a radius of 1185.92 feet, the chord azimuth and distance being:

azimuth and distance being: 346° 29' 10" 102.60 feet to

a nail in concrete;

321° 48' 40" 919.13 feet to a nail in concrete;

44.	Thence along a curve to the left having a radius of 1567.89 feet, the chord
	azimuth and distance being:
	297° 08' 10" 102.60 feet
	to a nail in concrete;

- 45. 295° 15' 40" 924.20 feet to a 1/2 inch pipe;
- 46. Thence along a curve to the right having a radius of 4543.66 feet, the chord azimuth and distance being:

 295° 32' 59" 45.77 feet to a pipe;

Thence along the middle of an old stonewall along the northwesterly boundary of R.P. 4475, L.C. Aw. 7713:43 to V. Kamamalu for the next twenty one (21) courses:

47.	38°	21'		13.93	feet to a pipe;
48.	56°	48'	30"	42.82	feet to a pipe;
49.	43°	18'	30"	39.01	feet to a pipe;
50.	54°	58'	30"	82.86	feet to a pipe;
51.	62°	03'		37.06	feet to a pipe;
52.	54°	50'	30"	40.89	feet to a "+" cut in rock;
53.	49°	05'		43.51	feet to a pipe;
54.	48°	29'	30"	41.69	feet to a pipe;
55.	55°	45'	30"	38.41	feet to a pipe;
56.	49°	06'		95.44	feet to a pipe;
57.	52°	28'		24.88	feet to a pipe;
58.	41°	05'	30"	63.24	feet to a "+" cut in rock;
59.	60°	34'	30"	54.70	feet to a pipe;

60.	57°	45'		34.42	feet to a "+" cut in rock;
61.	50°	34'		43.91	feet to a pipe;
62.	62°	38'		27.23	feet to a pipe;
63.	74°	26'		34.87	feet to a pipe;
64.	49°	33'		42.62	feet to a pipe;
65.	36°	54'	30"	37.08	feet to a pipe;
66.	44°	43'		41.90	feet to a pipe;
67.	46°	55'	30"	85.51	feet to a pipe in concrete on Kuakini Wall;
					Thence along a survey fixed by Decree issued by the Judge of the Circuit Court of the Third Circuit, State of Hawaii, under C.A. No. 493 and dated February 8, 1960, for the next seven (7) courses:
68.	52°	23'	30"	52.36	feet along a stonewall to a spike in concrete on the south face of said wall;
					Thence along the south face of said stonewall for the next six (6) courses:
69.	57°	58'	30"	117.10	feet to a spike in concrete;
70.	61°	27'	30"	132.53	feet to a spike in concrete;
71.	54°	33'		102.06	feet to a pipe in concrete;
72.	57°	34'		124.43	feet to a pipe in concrete;
73.	54°	47'	30"	201.74	feet to a pipe in concrete;
74.	54°	59'	30"	91.24	feet to a spike in concrete;
75.	148°	08'		450.00	feet along Parcel A along the remainder of R.P. 7819, L.C. Aw. 8559-B, Apana 8 to Wm. C. Lunalilo to a spike in concrete;

76.	58°	08'		800.00	feet along Parcel A along the remainder of R.P. 7819, L.C. Aw. 8559-B, Apana 8 to Wm. C. Lunalilo to a pipe;
77.	148°	08'		455.88	feet along Lots 2A, 3A and 4A to a pipe in concrete;
78.	Thenc	e along	Lot 4A alo	ng a curve	to the right having a radius of 5050.00 feet, the chord azimuth and distance being: 149° 08' 176.26 feet to a pipe in concrete;
79.	60°	08'		50.00	feet along Lot 4A to a spike in concrete;
80.	150°	34'	30"	78.63	feet along Lot 4A and 5A to a spike in concrete;
81.	241°	01'		50.00	feet along Lot 5A to a spike in concrete;
82.	Thenc	e along	Lots 5A, 6.	A, 7A and 8	8, along a curve to the right having a radius of 5050.00 feet, the chord azimuth and distance being: 155° 51' 05" 851.24 feet;
83.	160°	41'	10"	724.42	feet along Lots 8, 9 and 10;
84.	Thenc	e along	Lot 10 alor	ng a curve t	o the right having a radius of 2050.00 feet,

84. Thence along Lot 10 along a curve to the right having a radius of 2050.00 feet, the chord azimuth and distance being:

161° 11' 03" 35.64 feet to the point of beginning and containing an area of 108.336 Acres.

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

SECTION 2. [This change] <u>These changes</u> in district classification [is] <u>are</u> conditioned upon the following:

- (A) [that the] <u>The</u> 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 for

[200] 120 units to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the effective date of [approval of the change of zone. The applicant shall consummate a water agreement for the remaining 153 units with the Departments of Water Supply and Planning within ninety days from the date of approval of the change of zone. The zoning of the property shall not be in effect until the water commitment payment is accepted by the Department of Water Supply and the water agreement is consummated;] this ordinance.

- (C) Ithe property shall be subdivided in two increments. The first increment shall consist of a maximum of 60 contiguous acres (exclusive of the park, school, and water tank sites and major archaeological preservation areas) and the second increment the remaining area. Subdivision plans may be submitted for the second increment after development has occurred in the first increment as determined by the Planning Director. "Development" means that building permits have been issued for dwelling units and construction has been partially completed to the extent that roofs have been constructed on a minimum of twenty-five percent of the number of lots proposed for the first increment. In lieu of actual construction, the applicant may enter into an agreement with the Planning Department to assure the County that the dwellings will be constructed within a given period. Such agreement shall be secured by a surety bond, certified check or other security acceptable to Corporation Counsel and the Planning Department. Upon final execution of such agreement and filing of the security with the County, subdivision plans for the second increment may be submitted prior to the actual construction of the dwellings in the first increment;
- (D) subdivision plans for the first increment shall be submitted within one year from the effective date of the change of zone.] Final subdivision approval which shall provide for no more than 120 residential lots shall be secured within [one year from the date of receipt of tentative subdivision approval.] five years from the

effective date of this ordinance. Plans for necessary infrastructural improvements, including intersection improvements, sewer collection and transmission lines and, if appropriate, an interim sewage treatment system, shall be submitted in conjunction with construction drawings for final subdivision approval of the first increment[;]. Further, no second dwellings shall be permitted on the lots.

- [(E)] (D) [a] A drainage system shall be installed meeting with the requirements of the Department of Public Works[;].
- [(F)] (E) [access(es)] Access(es) shall meet with the approval of the Department of Public Works. No individual lots shall have direct access from either Kuakini Highway or Alii Highway. Kuakini Highway-Kahakai access road intersection shall be improved with a channelized intersection [and traffic signal conduits and pull boxes] which [meet] meets [with] the requirements of the Department of Public Works. [The Kuakini Highway-Kahakai access road intersection shall be provided with a traffic signal as follows:
 - the design for the traffic signal will be submitted to the Department of Public Works for review and approval in conjunction with construction drawings for final subdivision approval of the first increment;
 - the traffic signal conduits and pull boxes will be installed during construction of the Kahakai access road intersection with Kuakini Highway. These improvements shall be provided prior to final subdivision approval of the first increment or as otherwise provided by Chapter 23 (Subdivision Control). A channelized intersection at the Alii Highway-main access road intersection shall be constructed;]

A road reserve lot, comprised of a sixty foot right-of-way, shall be set aside in the event future residents of the subdivision determine, pursuant to their bylaws, to develop a second access from the subdivision to the Alii Highway, which shall be built in accordance to the Department of Public Works.

- [(G)] (F) [the] The main access [road and interior subdivision roads] road(s) shall be provided with curbs, gutters and sidewalk improvements and [underground utilities. Interior north-south roadways] may be privately owned subject to the approval of the Department of Public Works. Other interior roads may be privately owned with any improvements subject to the approval of the Department of Public Works. All utilities within the subdivision shall be placed underground. Roadway connections shall extend to the [boundaries] subject property's southern boundary to provide [connection] connections with existing and future roadways to adjacent properties. [Roadway access to Kahakai Elementary School shall be constructed prior to occupancy of the first increment affecting lands adjacent and to the north of Kahakai School. This roadway connection shall meet with the approval of the Department of Public Works and the Department of Education;]

 Any connection to Papala Street will be for emergency purposes only.
- [the Alii Highway right-of-way and associated easements within the property shall [(H)](G)be dedicated to the County within six months of the date of final right-of-way determination by the Department of Public Works. That section of the Alii Highway within the property shall be constructed in accordance with the requirements of the Department of Public Works prior to the issuance of final subdivision approval of the second zoning increment or upon a determination by the County that the roadway be constructed, whichever occurs first; Upon the determination of the required right-of-way of the Alii Highway by the Department of Public Works and the completion of the right-of-way subdivision by the County, the applicant shall dedicate such right-of-way and any resulting remnants of the subject property to the west of the right-of-way in fee simple to the County upon its request. At the same time, the applicant shall dedicate to the County a sixty-foot wide right-of-way between Alii Drive and Alii Highway reserving to itself a sewer easement to permit the development of a sewer interceptor line by the applicant for its project. The applicant shall make its fair share contribution for the proposed Alii Highway project.

- [(I)] (H) [should] Should either an Improvement District or Community Facilities District be implemented for the construction of the proposed Alii Highway, the applicant, successors or assigns shall automatically be a participant in [the Improvement District,] such district, provided, however, that the contribution of land and the construction of improvements can be credited [towards] toward the applicant's [Improvement District] district assessment.
 - (I) A Traffic Impact Analysis Report (TIAR) shall be prepared and submitted for review and approval to the Department of Public Works prior to submittal of plans for subdivision review.
 - [an] An [intensive] archaeological inventory survey, data recovery and **(J)** mitigation/interpretation plan as well as resulting reports shall be submitted for review and approval by the Planning [Department] Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD), prior to submitting preliminary subdivision plans [of the first increment] or prior to any land preparation activity, whichever occurs first. Mitigation shall include, but not be limited to, the preservation of Kuakini Wall with [approved buffers] a ten meter minimum buffer on both sides of the wall measured from its base, in the form of written easements and the formulation of historic preservation area(s). Easements and preservation areas shall be delineated on maps submitted for subdivision approval. Restrictive covenants approved by the Planning [Department] Director, in consultation with the [Department of Land and Natural Resources-Historic Sites Section] DLNR-HPD, shall provide for continued preservation and maintenance of the [sties] sites to be preserved. The proposed subdivision shall breach Kuakini Wall at only one point approved by the Planning [Department] Director in consultation with the [Department of Land and Natural Resources; DLNR-HPD. Said breach shall be done in accordance with a plan, approved by the Planning Director in consultation with DLNR-HPD and monitored by a qualified archaeologist, using mechanical and non-mechanical means to ensure the integrity of the Kuakini Wall, and stabilizing the wall's two

open ends to prevent the structure from collapsing.

- (K) [a burial treatment plan and detailed mitigation measures shall be approved by the Department of Land and Natural Resources prior to submitting preliminary subdivision plans for the first increment or prior to any land preparation activity, whichever occurs first;] Proposed mitigation treatment (preservation in place or disinternment/reinternment) for burial sites shall be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for subdivision review and prior to any approval for any land alteration permits.
- (L) [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] DLNR-HPD shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the [Planning Department]

 DLNR-HPD when it finds that sufficient mitigative measures have been taken[;].
- (M) That parcel identified as the sewer easement makai of the proposed project, which would basically connect Alii Highway or Parkway to Alii Drive, would be dedicated in fee simple to the County for sewer and roadway purposes upon completion of a sewer line in the parcel by the developer. [sewer] Sewer collection and system transmission lines shall be constructed to the Alii Drive interceptor [meeting with the approval of the Department of Public Works. In the event that any portion of the development is completed prior to completion of the municipal interceptor serving the development, the applicant shall also construct an interim sewage treatment system, which location and design] provided; however, that if the first phase of the project to the east of the Kuakini Wall contains lots with a minimum lot size of one acre or more, said lots may be

- serviced by septic tanks or other method which meets with the approval of the Departments of Public Works, Health, and Planning [and Education;].
- (N) [to] <u>To</u> 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 Hawaii County Housing Agency Resolution No. 65. This housing plan shall be approved by the County Housing Agency prior to final subdivision approval of the first increment 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 Petitioner may transfer ownership in the property to an affiliate or in a manner consistent with prior representations to the County Housing Agency;] comply with the requirements of Chapter 11, Article 1, Hawaii County Code, relating to Affordable Housing.
- (O) [the] The applicant shall set aside a minimum of [4±] 3.3 acres of land for a private active recreational park use to service the projected population of the development. The location of the park site with minimum grassing and grading shall meet with the approval of the Departments of Parks and Recreation and Planning. [Further, the park site shall be dedicated to the County within one year after the date of receipt of final subdivision approval;]
- (P) [the] <u>The</u> applicant shall work with the State Department of Education to designate a minimum of [1.7±] <u>3.8</u> acres of land for [purchase by and with the concurrence of] <u>conveyance to</u> the State Department of Education[. Further, the applicant shall provide its pro rata share for school facilities as may be required by and to the satisfaction of the Planning Department in consultation with the State Department of Education. The pro rata share determination and its

implementation shall be provided by the Planning Department in consultation with the Department of Education prior to final subdivision approval] <u>for school purposes</u>.

- (Q) [as agreed to by the applicant, restrictive covenants in the deeds of all the residential 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 of the first increment. 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 of the first increment. A copy of a typically recorded covenant shall be filed with the Planning Department within one year from the date of final subdivision approval of the first increment; Restrictive covenants in the deeds of all the proposed lots within the subject property shall prohibit the construction of a second dwelling unit on each lot, and shall prohibit further subdivision in excess of the total 120 residential lots. 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 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.
- (R) [comply] Comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health, Water Supply, Land and Natural Resources, Public Works, and Education[;].
- (S) [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 developers' election, be satisfied by

performance in accordance with] <u>shall be credited towards</u> the requirements of the Unified Impact Fees Ordinance[;].

- (T) [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 and the Planning Director acknowledges that further reports are not required[; and,].
- (U) [an] An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:
 - 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;
 - granting of the time extension would not be contrary to the original reasons for the granting of the [permit] 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 applicants should require an additional extension of time, the Planning Director shall submit the applicants' request to the County Council for appropriate action. [Further,]

V. [should] Should any of the conditions not be met or substantially complied with in a timely fashion, the Director [shall] may initiate rezoning of the subject area to its original or more appropriate designation."

INTRODUCED BY:

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.

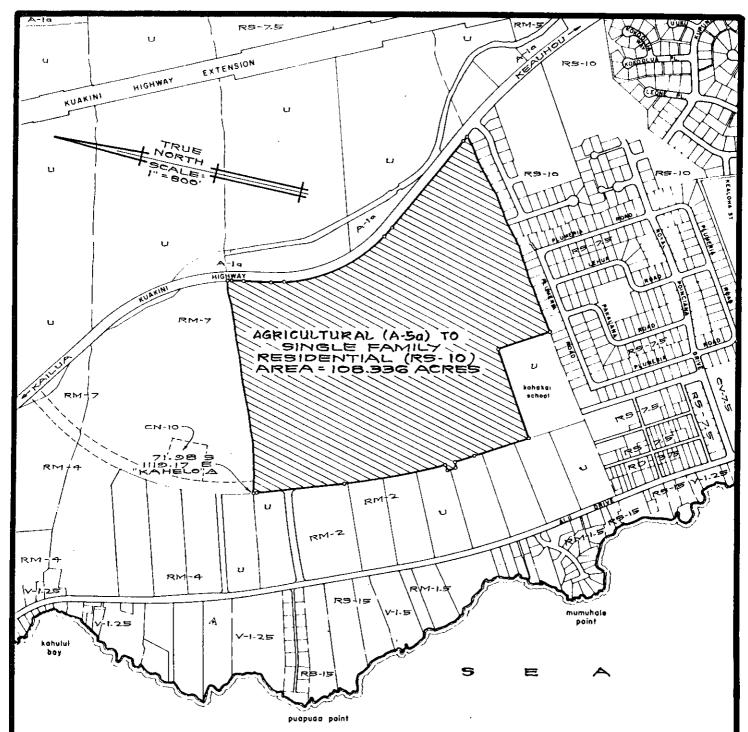
SECTION 4. This ordinance shall take effect upon its approval.

		COUNCIL MEMBER, COUNTY OF HAWAII
Hilo, Hawaii		
Date of Introduction: Date of 1st Reading: Date of 2nd Reading: Effective Date:	May 5, 1999 June 8, 1999 January 5, 2000 January 20, 2000	

APPROVED AS TO FORM AND LEGALITY

DATED: _____

CORPORATION COUNSEL



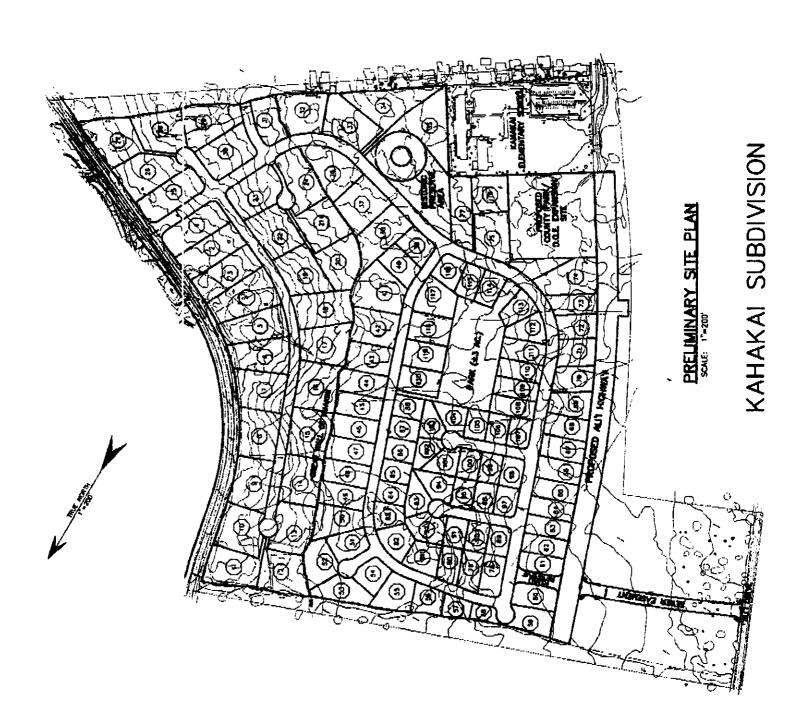
AMENDMENT TO THE ZONING CODE

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 SINGLE FAMILY RESIDENTIAL (RS- 10) AT PUAPUAA IST AND 2ND, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT COUNTY OF HAMAII

TMK: 7-5-20 : PORTION OF 1 JAN. 9, 20

JUNE 25, 1999 (Revised)
JAN. 9, 2000 (REVISED) JUNE 6, 1990



OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo , Hawaii

(DRAFT 3)

				ALL VOTE		
			UAYES'	NOES	ABS	EX
Introduced By	: Bobby Jean Leithead-Todd	Arakaki	X			
Date Introduc	ed: <u>May 5, 1999</u>	Chung	(X			
First Reading:	June 8, 1999	Elarionoff	X			
Published:	N/A	Jacobson		Х		
		Leithead-Todd	Х			
REMARKS:	05/05/99 - Deferred for	Pisicchio		Х		····
	Public Hearing	Smith	X	-		
	05/27/99 Public Hearing in	Tyler		Х		
	Kona	Yagong	Х			
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	January 20, 2000	Arakaki	X			
	February 7, 2000	Chung	X			
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	12/30/99 - Public Hearing	Smith	X			
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WATON, CC	ONEL OF HAWAII	Ord. No.:		$\overline{0}$		
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