

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 228
(Draft 2)

ORDINANCE NO. 00 53

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO RESIDENTIAL (RS-15) AT KALAOA 4TH, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-005:98.

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 Kalaoa 4th, North Kona, Hawaii, shall be Residential (RS-15):

Beginning at the southwest corner of this parcel of land, being also the northwest corner of Lot 2, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA", being 6,928.18 feet South and 10,747.49 feet West, thence running by azimuths measured clockwise from true South:

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|----|--------------|--------|---|
| 1. | 186° 50' | 193.30 | feet along the remainder of Grant 1607 to Nawahie (Lot B, 50-ft. road); |
| 2. | 277° 09' 30" | 69.24 | feet along Grant 1608 to Kekeleaukai; |
| 3. | 273° 46' | 388.62 | feet along same; |
| 4. | 271° 33' 30" | 445.47 | feet along same; |
| 5. | 272° 09' | 112.62 | feet along same; |
| 6. | 267° 56' 30" | 138.54 | feet along same; |

- | | | | |
|----|-------------|----------|--|
| 7. | 6° 50' | 281.50 | feet along the remainder of Grant 1607 to Nawahie (Lot A, 50-ft. road); |
| 8. | 96° 38' 46" | 1,150.01 | feet along the remainder of Grant 1607 to Nawahie (Lot 2) to the point of beginning and containing an area of 5.984 Acres. |

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 applicants, successors or assigns shall be responsible for complying with all of the stated conditions of approval.

- 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. Final Subdivision Approval of the proposed subdivision within the subject property shall be secured from the Planning Director.

- D. The subject property shall be subdivided in two increments. The first increment shall consist of a maximum of seven (7) lots based upon the water rights available from the Department of Water Supply. Subdivision for the second increment shall be submitted only after the Department of Water Supply grants to the applicants the necessary water commitments for each of the proposed lots of the second increment.

- E. To further the provisions of Condition D, covenants in the deed of all the subdivided lots within the subject property shall prohibit the granting of any

variance from the minimum water requirements to subdivide the lots without improvements to the existing water system facilities, meeting with the standards of the Department of Water Supply. 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 of the first increment. A copy of the approved covenant shall be recited in an instrument executed by the applicants and the County and recorded with the Bureau of Conveyances with a copy of the recorded covenant to be filed with the Planning Department upon its receipt from the Bureau of Conveyances.

- F. Roadway and access to all lots within the proposed subdivision shall meet with the approval of the Department of Public Works. The improvements within the proposed subdivision shall include underground utilities.
- G. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works in conjunction with Final Subdivision Approval.
- H. Restrictive covenants in the deeds of all proposed residential 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 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 applicants 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.

- I. An Archaeological Data Recovery Plan and Preservation Plan shall be submitted for the review and approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD). Proposed mitigation treatment (preservation in place or disinternment/ reinternment) for burial sites within the subject property 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 Archaeological 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. An interpretation/mitigation plan which shall include buffer zones, signage and long-range preservation concerns shall be submitted to the Planning Director prior to Final Subdivision Approval.

- J. 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-State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.

- K. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicants shall comply with the requirements of Chapter 11, Article 1, Hawaii County Code relating to Affordable Housing Policy. This requirement shall be approved by the County Housing Agency prior to final subdivision approval of each increment.

- L. The following species shall be encouraged to be used for landscaping of the individual lots: *alaha'e (Canthium odorantum)*, 'ulei shrubs (*Osteomeles anthyllidifolia*), akia (*Wikstroemia* sp. 'ala'ala-wai-nui (*Peperomia tetraphylla*), huehue vine (*Cocculus trilobus*) and lama trees (*Diospyros sandwicensis*).
- 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 sixteen (16) residential units, the indicated total of fair share contribution is **\$115,826.56** 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 **\$55,853.60** to the County to support park and recreational improvements and facilities;

2. \$168.40 per single-family residential unit for an indicated total of **\$2,694.40** to the County to support police facilities;
3. \$332.61 per single-family residential unit for an indicated total of **\$5,321.76** to the County to support fire facilities;
4. \$145.62 per single-family residential unit for an indicated total of **\$2,329.92** to the County to support solid waste facilities; and
5. \$3,101.68 per single-family residential unit for an indicated total of **\$49,626.88** 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 F shall be credited against the sum specified in Condition M (5) for 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. The applicants shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed subdivision within the subject property.
- 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. 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, 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).
 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.

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: April 19, 2000

Date of 1st Reading: April 19, 2000

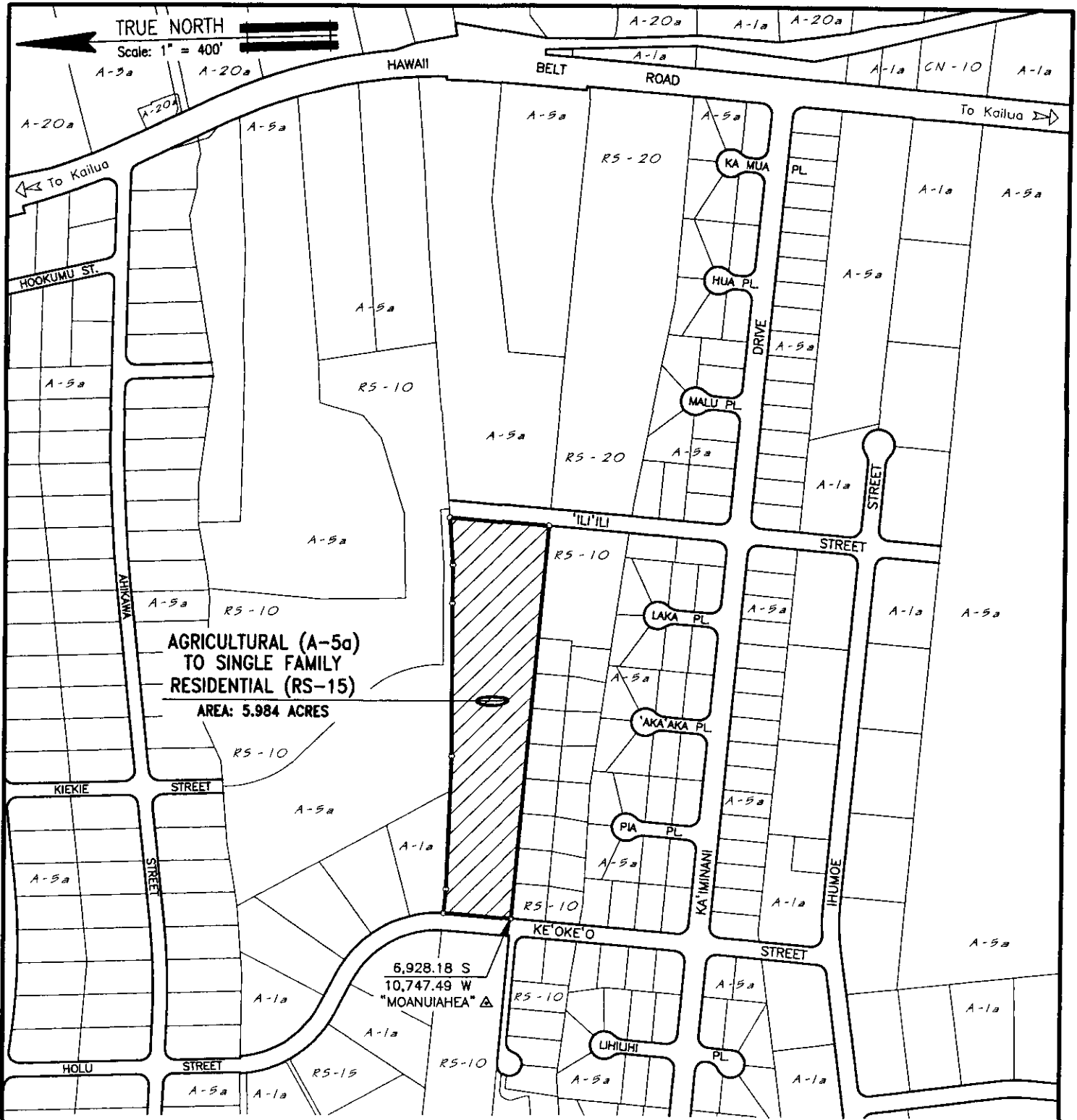
Date of 2nd Reading: May 3, 2000

Effective Date: May 17, 2000

APPROVED AS TO FORM AND LEGALITY


CORPORATION COUNSEL

DATED: 5/11/00



AGRICULTURAL (A-5a)
TO SINGLE FAMILY
RESIDENTIAL (RS-15)
AREA: 5.984 ACRES

6,928.18 S
10,747.49 W
"MOANUIAHEA" ▲

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-15) AT KALAOA 4TH, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd (B/R)

Date Introduced: April 19, 2000

First Reading: April 19, 2000

Published: April 28, 2000

May 1, 2000 (RFD Publ.)

REMARKS: _____

Second Reading: May 3, 2000

To Mayor: May 9, 2000

Returned: May 17, 2000

Effective: May 17, 2000

Published: June 5, 2000

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			
	9	0	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:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 5/11/00


COUNCIL CHAIRMAN

COUNTY CLERK

Approved/Disapproved this 17 day

of May, 2000


MAYOR, COUNTY OF HAWAII

Bill No.: 228 (Draft 2)

Reference: C-703/PC-94

Ord. No.: 00 53