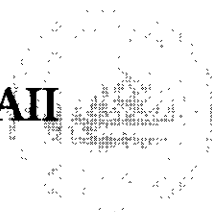


COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 313
(Draft 2)

ORDINANCE NO00 120

AN ORDINANCE AMENDING SECTION 25-8-4 (SOUTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-1a AND A-5a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT KĒ'EKĒ'E 2ND, SOUTH KONA, HAWAII, COVERED BY TAX MAP KEY 8-1-3:PORTIONS OF 34 AND 50.

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

SECTION 1. Section 25-8-4, 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 areas situated at KĒ'ekĒ'e 2nd, South Kona, Hawaii, shall be Residential (RS-10):

Parcel 1:

Beginning at the Northeasterly corner of this parcel of land, being also the Northwesterly corner of Lot 4 of Hale and being an angle point on the Southerly boundary of Lot 29-A as shown on Map 25 of Land Court Application 1609, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OHAU" being 1,345.39 feet North and 10,718.22 feet East and running by azimuths measured clockwise from True South:

Thence, for the next four (4) courses following along stonewall and along the remainder of Grant 977 to Par aunau:

- 1. 346° 11' 112.63 feet along Lot 4 of Hale KĒ'ekĒ'e to a point;
2. 348° 18' 133.76 feet along Lot 4, the Westerly end of Road "A" and Lot 3 of Hale KĒ'ekĒ'e to a point;

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|----|----------|-------|---|
| 3. | 1° 33' | 3 .55 | feet along Lot 3 of Hale Kē'ekē'e to a point; |
| 4. | 351° 36' | 58.25 | feet along Lot 3 of Hale Kē'ekē'e to a point; |
| 5. | 349° 18' | 12.63 | feet along Lot 26-G of Hale Kē'ekē'e and along the remainder of Roadway to a point; |

Thence, for the next six (6) courses following along Northerly face of stonewall and along Grant 977 to Panaunau:

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|-----|-------------|-------|------------------|
| 6. | 76° 10' | 36.23 | feet to a point; |
| 7. | 68° 46' | 68.01 | feet to a point; |
| 8. | 78° 37' 30" | 38.11 | feet to a point; |
| 9. | 84° 40' 30" | 25.83 | feet to a point; |
| 10. | 75° 28' | 92.18 | feet to a point; |
| 11. | 71° 34' | 40.16 | feet to a point; |

Thence, for the next three (3) courses following along the remainders of Lot 26 and Grant 977 to Panaunau:

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|-----|----------|--------|--|
| 12. | 180° 34' | 166.09 | feet along Lot 26-B of Hale Kē'ekē'e to a point; |
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Thence, following along Lots 26-B, 26-C and 26-E of Hale Kē'ekē'e on a curve to the right with a radius of 45.00 feet, the chord azimuth and distance being:

- | | | | |
|-----|--------------|-------|------------------|
| 13. | 163° 10' 50" | 88.40 | feet to a point; |
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Thence, for the next three (3) courses following along middle of stonewall:

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|-----|--------------|--------|--|
| 14. | 152° 21' 40" | 188.74 | feet along Lot 26-E of Hale Kē'ekē'e to a point; |
|-----|--------------|--------|--|

- | | | | |
|-----|--------------|--------|--|
| 15. | 269° 03' 30" | 221 57 | feet along Lot 54-A as shown on Map 28, Lot 42-A as shown on Map 28 and Lot 41-A as shown on Map 25 of Land Court Application 1609 to a point; |
| 16. | 271° 30' | 85 08 | feet along Lot 41-A and Lot 29-A as shown on Map 25 of Land Court Application 1609 to a point; |
| 17. | 266° 50' | 29 90 | feet along Lot 29-A as shown on Map 25 of Land Court Application 1609 to the point of beginning and containing an area of 2.654 Acres. |

Parcel 2:

Beginning at the Northeasterly corner of this parcel of land, being also the Southeasterly corner of Lot 19 and being a point on the Westerly side of Hawaii Belt Road (Mamalahoa Highway), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OHAU" being 1,078.26 feet North and 11,134.40 feet East and running by azimuths measured clockwise from True South:

Thence, following along the Westerly side of Hawaii Belt Road (Mamalahoa Highway) on a curve to the left with a radius of 2,322.01 feet, the chord azimuth and distance being:

- | | | | |
|----|--------------|-------|------------------|
| 1. | 357° 44' 43" | 10 50 | feet to a point; |
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Thence, for the next six (6) courses following along Northerly face of stonewall and along Grant 977 to Panaunau:

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|----|-------------|--------|------------------|
| 2. | 82° 07' | 52 11 | feet to a point; |
| 3. | 78° 21' 30" | 53 33 | feet to a point; |
| 4. | 76° 47' | 112 52 | feet to a point; |
| 5. | 81° 24' | 98 70 | feet to a point; |
| 6. | 82° 53' 30" | 35 89 | feet to a point; |

- | | | | |
|-----|--------------|--------|--|
| 7. | 76° 10' | 6.16 | feet to a point; |
| 8. | 169° 18' | 12.63 | feet along Lot 26-A of Hale Kē'ekē'e and along the remainder of Roadway to a point; |
| 9. | 259° 25' 50" | 251.25 | feet along stonewall, along Lots 3, 2, and 1 of Hale Kē'ekē'e and along Grant 977 to Panaunau to a point; |
| 10. | 261° 25' | 106.75 | feet along Lot 19 and along Grant 977 to Panaunau to the point of beginning and containing an area of 4,995 Square Feet. |

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 applicant, its 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 90 days of the effective date of the change of zone ordinance.
- C. Final Subdivision Approval for the residential subdivision be secured within five (5) years from the effective date of this ordinance.
- D. Restrictive covenants in the deeds of all residential lots within the proposed subdivision shall prohibit the construction of a second dwelling unit on each lot. A copy of the proposed covenants to be recorded with the Bureau of Conveyances shall be submitted with the plans for subdivision to the Planning

Director for review and 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 in conjunction with the issuance of Final Subdivision Approval.

- E. Interior subdivision roadways and its connection to the Mamalahoa Highway, including any intersection improvements to the Mamalahoa Highway shall be constructed meeting with the requirements and approval of the Department of Public Works.
- F. All roadways within the proposed subdivision shall be constructed meeting with the requirements of Chapter 23, Subdivision Code. Roadway improvements within the proposed subdivision shall include curb, gutter and sidewalks
- G. A drainage study of the subject property, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed or bonded meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
- H. 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.
- I. 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 six (6) residential units, the indicated total of fair share contribution is **\$43,434.96** 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 I. The fair share contribution shall be allocated as follows:

1. \$3,490.85 per single-family residential unit for an indicated total of **\$20,945.10** to the County to support park and recreational improvements and facilities;
2. \$168.40 per single-family residential unit for an indicated total of **\$1,010.40** to the County to support police facilities;
3. \$332.61 per single-family residential unit for an indicated total of **\$1,995.66** to the County to support fire facilities;
4. \$145.62 per single-family residential unit for an indicated total of **\$873.72** to the County to support solid waste facilities; and

5. \$3,101.68 per single-family residential unit for an indicated total of **\$18,610.08** 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 E shall be credited against the sum specified in Condition I (5) for road and traffic improvements. For purposes of administering Condition I, 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.

- J. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessments of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

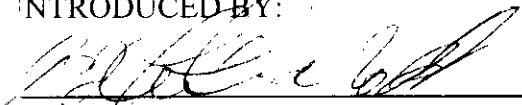
- K. In lieu of actual construction of infrastructural improvements as conditioned above, the applicant may enter into an agreement with the Planning Director and the Department of Public Works and the Department of Water Supply, if applicable, to assure the County that the infrastructural improvements will be constructed together with the appropriate bond, surety or other security deemed acceptable to the Planning Director and the Corporation Counsel. Upon execution of such agreement and/or filing of the security with the County, if applicable, Final Subdivision Approval for the subject property or portions thereof may be granted prior to the actual construction of required infrastructural improvements unless otherwise restricted herein.
- L. Comply with applicable laws, rules, regulations and requirements of other affected agencies for approval of the proposed development within the subject property, including the Department of Health.
- M. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. 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.
- N. 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, its 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).
- O. 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:



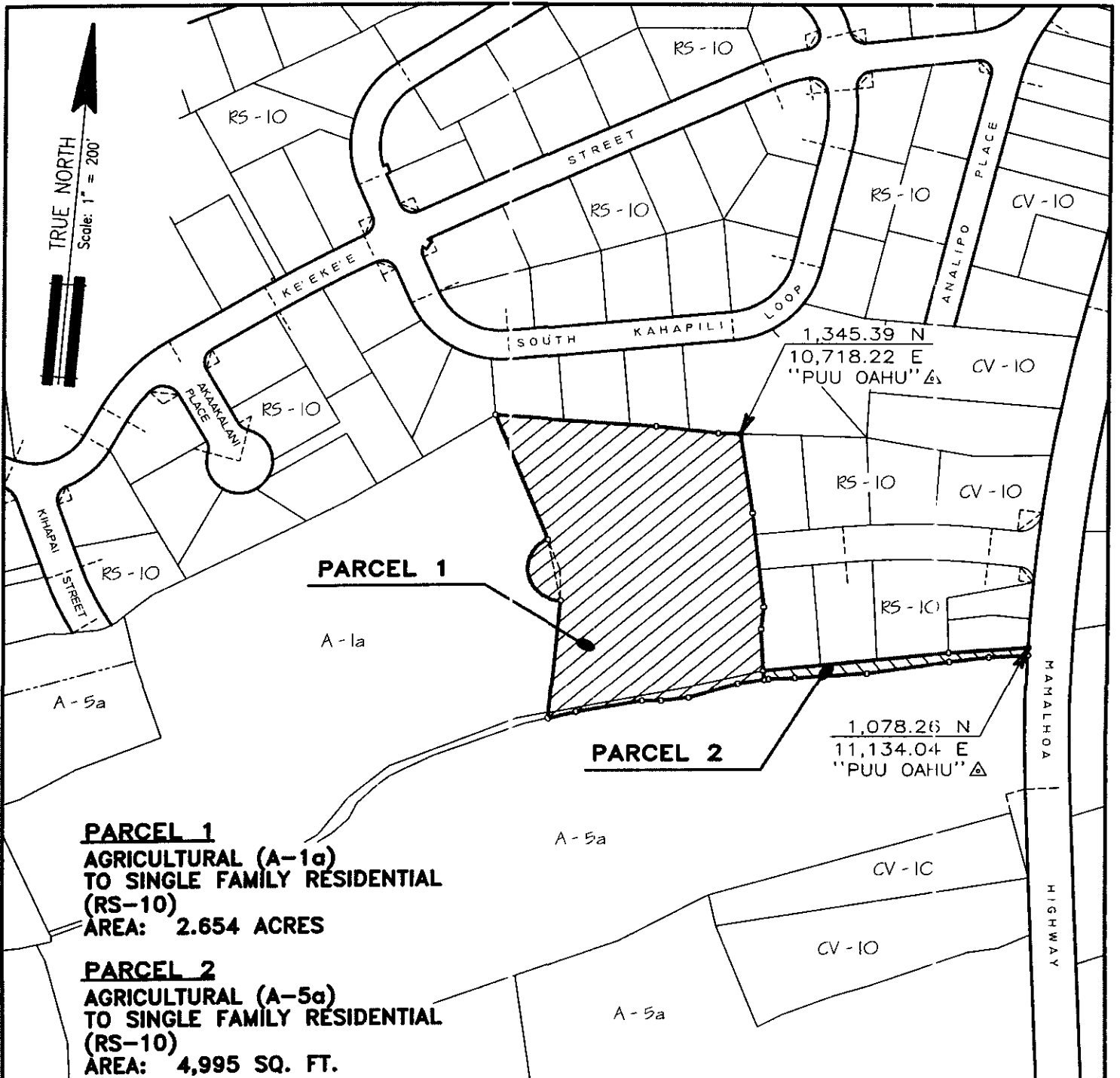
 COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: September 20, 2000
 Date of 1st Reading: September 20, 2000
 Date of 2nd Reading: October 4, 2000
 Effective Date: October 12, 2000

APPROVED AS TO FORM AND LEGALITY

 CORPORATION COUNSEL
 DATED: _____



PARCEL 1
 AGRICULTURAL (A-1a)
 TO SINGLE FAMILY RESIDENTIAL
 (RS-10)
 AREA: 2.654 ACRES

PARCEL 2
 AGRICULTURAL (A-5a)
 TO SINGLE FAMILY RESIDENTIAL
 (RS-10)
 AREA: 4,995 SQ. FT.

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-4 (SOUTH KONA ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM- AGRICULTURAL (A-1a & A-5a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT KEEKEE 2ND, SOUTH 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
 Date Introduced: September 20, 2000
 First Reading: September 20, 2000
 Published: N/A

REMARKS: _____

Second Reading: October 4, 2000
 To Mayor: October 6, 2000
 Returned: October 12, 2000
 Effective: October 12, 2000
 Published: October 23, 2000

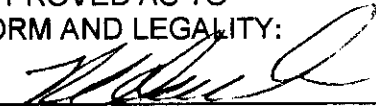
REMARKS: _____

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			
	8	0	1	0


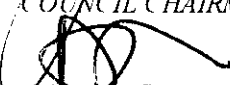
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	0	1	0

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 10/11/00


 COUNCIL CHAIRMAN

 COUNTY CLERK

Approved/Disapproved this 12 day
 of October, 2000.


 MAYOR, COUNTY OF HAWAII

Bill No.: 313 (Draft 2)
 Reference: C-908.001/PC-114
 Ord. No.: 00 120