

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 348
(Draft 4)

ORDINANCE NO. 01 6

AN ORDINANCE 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 RESIDENTIAL-COMMERCIAL MIXED USE (RCX-2) AT KEAHUOLU, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-4-8.PORION OF 1

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 Keahuolu, North Kona, Hawaii, shall be Residential-Commercial Mixed Use (RCX-2)

Beginning at the north corner of this parcel of land, on the easterly side of Palani Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (North Meridian)" being 4,377.84 feet North and 3,584.34 feet East, thence running by azimuths measured clockwise from True South

- 1 332° 00' 983.83 feet along the remainder of R P 6851, L C Aw. 8452, Apana 12 to A Keohokalole,
- 2 57° 25' 2,400.00 feet along R P 7456, L.C Aw 8559-B, Apana 11 to William C Lunahlo,
- 3. 56° 25' 104.00 feet along R P. 7456, L C Aw 8559-B, Apana 11 to William C Lunahlo,
- 4 191° 46' 93.44 feet along the easterly side of Henry Street,

- | | | | |
|----|---|----------|---|
| 5 | 237° 25' | 370 00 | feet along Lot 2-A (Electrical Substation Site), along the remainder of R P 6851, L C Aw 8452, Apana 12 to A Keohokalole, |
| 6 | 147° 25' | 252 93 | feet along Lot 2-A (Electrical Substation Site), along the remainder of R P 6851, L C. Aw 8452, Apana 12 to A Keohokalole, |
| 7 | 54° 07' | 36 06 | feet along Lot 2-A (Electrical Substation Site), along the remainder of R.P. 6851, L C Aw 8452, Apana 12 to A Keohokalole, |
| 8 | 144° 07' | 20 00 | feet along the southeasterly side of Palani Road, |
| 9 | 234° 07' | 1,102 85 | feet along the southeasterly side of Palani Road, |
| 10 | Thence along the southeasterly side of Palani Road, on a curve to the left with a radius of 1,452 70 feet, the chord azimuth and distance being 210° 42' 30" 1,154 26 feet, | | |
| 11 | 187° 18' | 81 57 | feet along the easterly side of Palani Road to the point of beginning and containing an area of 23 339 acres, more or less. |

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 applicant shall participate, on a fair share basis, in the funding and construction of adequate water source, storage, and transmission facilities and improvements to accommodate the proposed project as determined by the County of Hawaii Department of Water Supply Compliance with Condition B shall be

satisfied prior to the applicant's submittal of the required water commitment payment in Condition C

- C The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy "
- D Final Subdivision Approval for the residential-commercial mixed use subdivision development shall be secured within ten (10) years from the effective date of this ordinance
- E The applicant shall participate, on a fair share basis, in the funding and construction of local and regional transportation improvements and programs, including dedication of rights-of-way as determined by the State Department of Transportation and the County Department of Public Works prior to the issuance of Final Subdivision Approval
- F Based on a Traffic Impact Analysis Report (TIAR) conducted within one (1) year of Final Subdivision Approval, the applicant shall provide all roadway improvements required by the State Department of Transportation and the County Department of Public Works prior to the issuance of certificate of occupancy
- G. Future road widening setbacks shall be provided fronting the entire property along Palani Road equal to half the difference between the existing right-of-way and the proposed 80-foot right-of-way The setback line shall be delineated on the subdivision plans Improvements within the future road widening setback area shall meet with the approval of the Department of Public Works, and said area including any required improvements shall be dedicated to the County of Hawaii upon its request at no cost to the County

- H Access(es) and intersection roadway improvements to the subject property from Palani Road shall be constructed meeting with the requirements and approval of the Department of Public Works
- I Provide a left-turn lane on westbound Palani Road at all three proposed project entrances with a left-turn refuge lane for the commercial driveway and for one of the residential driveways exiting the project
- J Provide a right-turn/deceleration lane along Palani Road at all three proposed project entrances and a right-turn lane on eastbound approach of Palani Road at its intersection with Henry Street
- K All roadways within the proposed residential-commercial mixed use development shall be constructed meeting with the requirements of Chapter 23, Subdivision Code Roadway improvements to be dedicated to the County within the proposed subdivision shall include curb, gutter and sidewalks
- L Install street lights, signs and markings meeting with the approval of the Department of Public Works, Traffic Division
- M The applicant shall fund, on a fair share basis, the design and construction of drainage improvements required as a result of the development and meeting with the approval of the County Department of Public Works. 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

- N. The applicant shall submit a Solid Waste Management Plan for the development to the Department of Public Works for its review and approval. A copy of the approved Plan shall be submitted to the Planning Department prior to the issuance of Final Plan Approval.

- O. The applicant shall submit an Archaeological Data Recovery Plan for the five significant historic sites on the subject property to the State Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) for its review and approval. The applicant shall submit a copy of the approved Final Archaeological Data Recovery Plan, as well as written verification from DLNR-SHPD that the plan has been successfully executed, to the Planning Director for the Department's files prior to submitting plans for Final Subdivision Approval and/or prior to any approval for any land alteration permits.

- P. Should any previously unidentified burials, archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, or stone platforms, pavings or walls be found, the applicant shall stop work in the immediate vicinity 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 mitigative measures have been implemented to its satisfaction.

- Q. 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 Policy. This requirement shall be approved by the County Housing Agency prior to Final Subdivision Approval or the issuance of building permits, whichever is applicable.

- R The applicant shall contribute to the development, funding and/or construction of school facilities, on a fair share basis, as determined by and to the satisfaction of the Department of Education (DOE) A fully executed written agreement setting forth the contribution and timing of contributions shall be agreed upon by the applicant and the DOE prior to Final Subdivision Approval or the issuance of building permits, whichever is applicable
- S The applicant shall participate in the funding and construction of adequate wastewater transmission and disposal facilities, on a fair share basis, as determined by the County of Hawaii Department of Public Works and the State Department of Health prior to Final Subdivision Approval or the issuance of building permits, whichever is applicable
- T The applicant shall, on a fair share basis, fund and construct adequate civil defense measures as determined by the County and State Civil Defense agencies prior to Final Subdivision Approval or the issuance of building permits, whichever is applicable
- U 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 \$7,876.20 per single-family residential unit. Based upon the applicant's representation of intent to develop up to two hundred fifty (250) residential units, the indicated total of fair share contribution is **\$1,969,050** 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 U. The fair share contribution shall be allocated as follows:

1. \$3,798.04 per single-family residential unit for an indicated total of **\$949,510.00** to the County to support park and recreational improvements and facilities,
2. \$183.22 per single-family residential unit for an indicated total of **\$45,805.00** to the County to support police facilities,
3. \$361.88 per single-family residential unit for an indicated total of **\$90,470.00** to the County to support fire facilities,
4. \$158.43 per single-family residential unit for an indicated total of **\$39,607.50** to the County to support solid waste facilities, and
5. \$3,374.63 per single-family residential unit for an indicated total of **\$843,657.50** 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 Conditions E, F, G, H, I, J, K and L shall be credited against the sum specified in Condition U (5) for road and traffic improvements. For purposes of administering Condition U, 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.

- V 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.
- W In lieu of actual construction of infrastructure 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 infrastructure 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 infrastructure improvements unless otherwise restricted herein. A certificate of occupancy shall not be issued until the infrastructure improvements have been constructed.

- X The applicant shall notify all prospective buyers of the property of the potential odor, noise and dust pollution associated with surrounding Agricultural District lands

- Y Applicant shall notify all prospective buyers of the property that the Hawaii Right-to-Farm Act, Chapter 165, Hawaii Revised Statutes, limit the circumstances under which pre-existing farm activities may be deemed a nuisance

- Z Comply with all applicable laws, rules, regulations and requirements of other affected agencies for approval of the proposed development within the subject property

- AA 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

- BB 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 applicant, 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

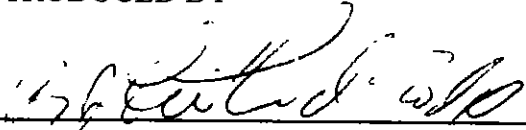
- 3 Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone
- 4 The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year)
- 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

CC 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

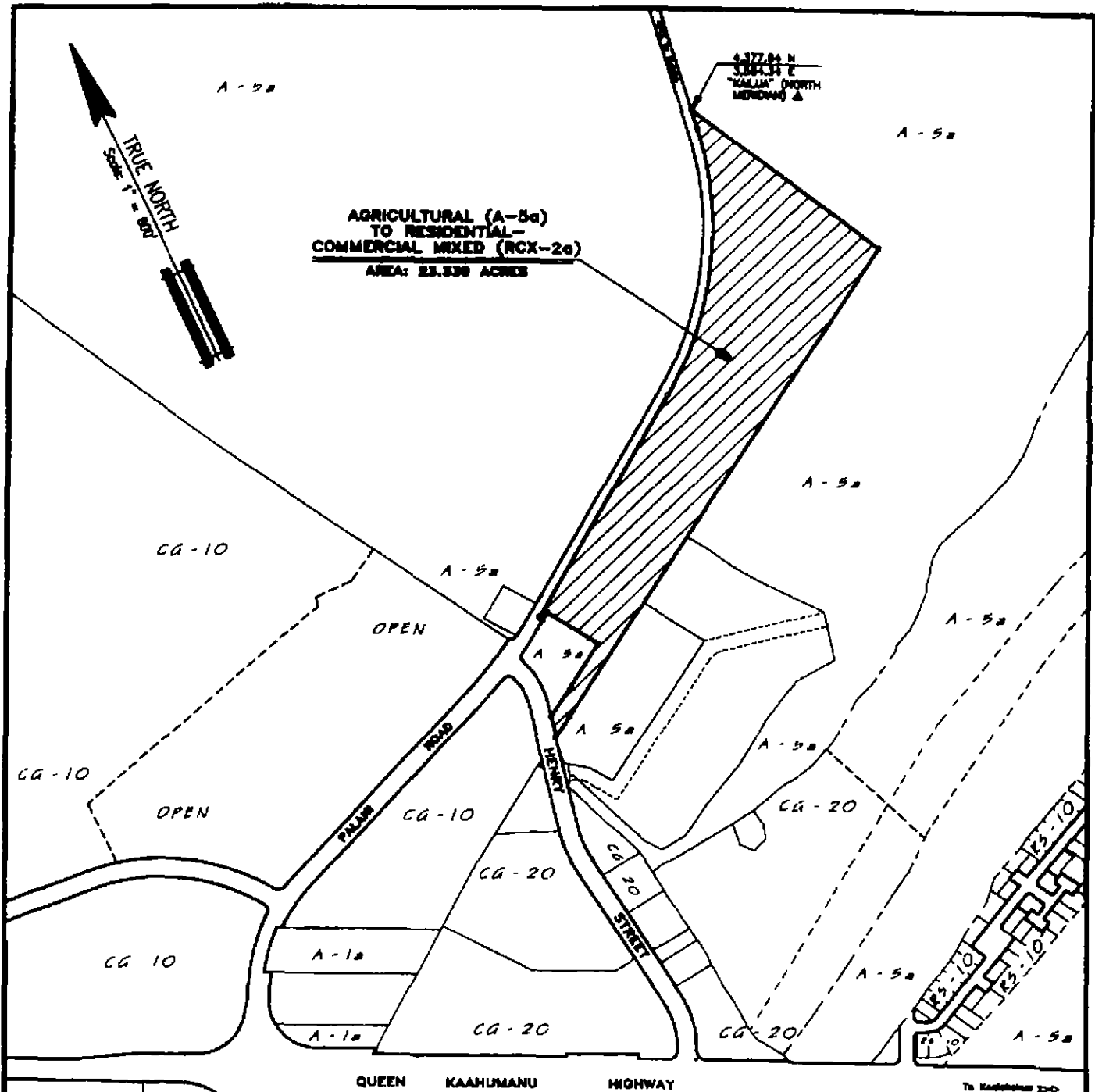
Hilo, Hawaii

Date of Introduction December 20, 2000
Date of 1st Reading December 20, 2000
Date of 2nd Reading January 10, 2001
Effective Date January 25, 2001

APPROVED AS TO FORM AND LEGALITY

CORPORATION COUNSEL

DATED: _____



**AGRICULTURAL (A-5a)
TO RESIDENTIAL-
COMMERCIAL MIXED (RCX-2a)**
AREA: 23,330 ACRES

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 RESIDENTIAL-COMMERCIAL MIXED (RCX-2a) AT KEAHUOLU, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

(Draft 3)

Introduced By: Bobby Jean Leithead-Todd (B/R)
Date Introduced December 20, 2000
First Reading December 20, 2000
Published December 29, 2000 &
January 2, 2001

REMARKS 11/29/00 - Deferred

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

Second Reading January 10, 2001
To Mayor January 11, 2001
Returned January 25, 2001
Effective January 25, 2001
Published February 5, 2001

REMARKS _____

(Draft 4)

| ROLL CALL VOTE | | | | |
|----------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Arakaki | X | | | |
| Chung | X | | | |
| Elarionoff | X | | | |
| Jacobson | | X | | |
| Leithead-Todd | X | | | |
| Pisicchio | | | X | |
| Safank | X | | | |
| Tyler | X | | | |
| Yagong | | | X | |
| | 6 | 1 | 2 | 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:

[Signature]
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 1-17-01

[Signature]
COUNCIL CHAIRMAN
[Signature]
COUNTY CLERK

Approved/Disapproved this 25th day

of January, 2001

[Signature]
MAYOR, COUNTY OF HAWAII

Bill No 348 (Draft 4)

Reference C-971(98-00)/C-44.1/PC-124

Ord No 01 6