

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 46
(Draft 3)

ORDINANCE NO. 01 47

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 SINGLE FAMILY RESIDENTIAL (RS-15) AT KEAUHOU 1ST, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-8-11:PORTION OF 8.

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 Keauhou 1st, North Kona, Hawaii, shall be Single Family Residential (RS-15):

Beginning at a 3/4 inch pipe at the Southwesterly corner of this parcel of land, being also the Southeasterly corner of Lot 1-B, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAUHOU COAST" being 4,598.35 feet North and 4,747.37 feet East and running by azimuths measured clockwise from True South:

- 1. 176° 03' 15" 192.83 feet along Lot 1-B and along Royal Patent 4475, Land Commission Award 7713, Apana 7 to V. Kamamalu to a 3/4 inch pipe;
2. 265° 11' 30" 238.48 feet along Lot 1-B and along Royal Patent 4475, Land Commission Award 7713, Apana 7 to V. Kamamalu to a point;

Thence, for the next five (5) courses following along the remainder of Land Commission Award 10258, Apana 3 to Maikai:

- |    |             |        |                                                                                                                                                                                            |
|----|-------------|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3. | 00° 43'     | 17.50  | feet along Westerly face of stonewall to a point;                                                                                                                                          |
| 4. | 353° 38'    | 63.20  | feet to a point;                                                                                                                                                                           |
| 5. | 43° 10'     | 19.30  | feet along Westerly face of stonewall to a point;                                                                                                                                          |
| 6. | 359° 43'    | 26.00  | feet to a point;                                                                                                                                                                           |
| 7. | 358° 12'    | 62.10  | feet partially along Westerly face of stonewall to a point;                                                                                                                                |
| 8. | 82° 15' 32" | 222.06 | feet along stonewall and along Royal Patent 4475, Land Commission Award 7713, Apana 7 to V. Kamamalu to the point of beginning and containing an area of 43,107 Square Feet or 0.990 Acre. |

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. Final Subdivision Approval for the residential subdivision development shall be secured within five (5) years from the effective date of the ordinance.
- C. 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.

- D. Access(es) and intersection roadway improvements to the subject property from Kaluna Street shall be constructed meeting with the requirements and approval of the Department of Public Works.
- E. 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, gutters and sidewalks.
- F. 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.
- G. The applicant, its successors or assigns shall submit a Solid Waste Management Plan for the development to the Department of Public Works for review and approval. A copy of the approved Plan shall be submitted to the Planning Department prior to the issuance of Final Subdivision Approval.
- H. An Archaeological Data Recovery Plan and Preservation Plan shall be submitted for the review and approval of 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 final subdivision approval and/or prior to any approval for any land alteration permits. An interpretation/mitigation plan for the subject property and specifically the Keauhou Trail shall include buffer zones, a system for perpetual public access, signage and long-range preservation concerns shall be submitted to the Planning Department prior to Final Subdivision Approval.

- I. 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.
  
- J. 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 (2) residential units, the indicated total of fair share contribution is **\$15,752.40** 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 J. The fair share contribution shall be allocated as follows:

1. \$3,798.04 per single-family residential unit for an indicated total of **\$7,596.08** to the County to support park and recreational improvements and facilities;
2. \$183.22 per single-family residential unit for an indicated total of **\$366.44** to the County to support police facilities;
3. \$361.88 per single-family residential unit for an indicated total of **\$723.76** to the County to support fire facilities;
4. \$158.43 per single-family residential unit for an indicated total of **\$316.86** to the County to support solid waste facilities; and
5. \$3,374.63 per single-family residential unit for an indicated total of **\$6,749.26** 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 D shall be credited against the sum specified in Condition J (5) for road and traffic improvements. For

purposes of administering Condition J, 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.

- K. 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.
- L. 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.
- M. Comply with all applicable rules, regulations and requirements of the affected agencies for approval of the proposed development.

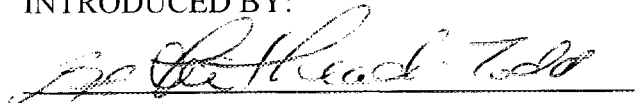
- N. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition 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.
- O. 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.

P. 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 18, 2001  
Date of 1st Reading: April 18, 2001  
Date of 2nd Reading: May 2, 2001  
Effective Date: May 9, 2001

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CORPORATION COUNSEL

DATED: \_\_\_\_\_

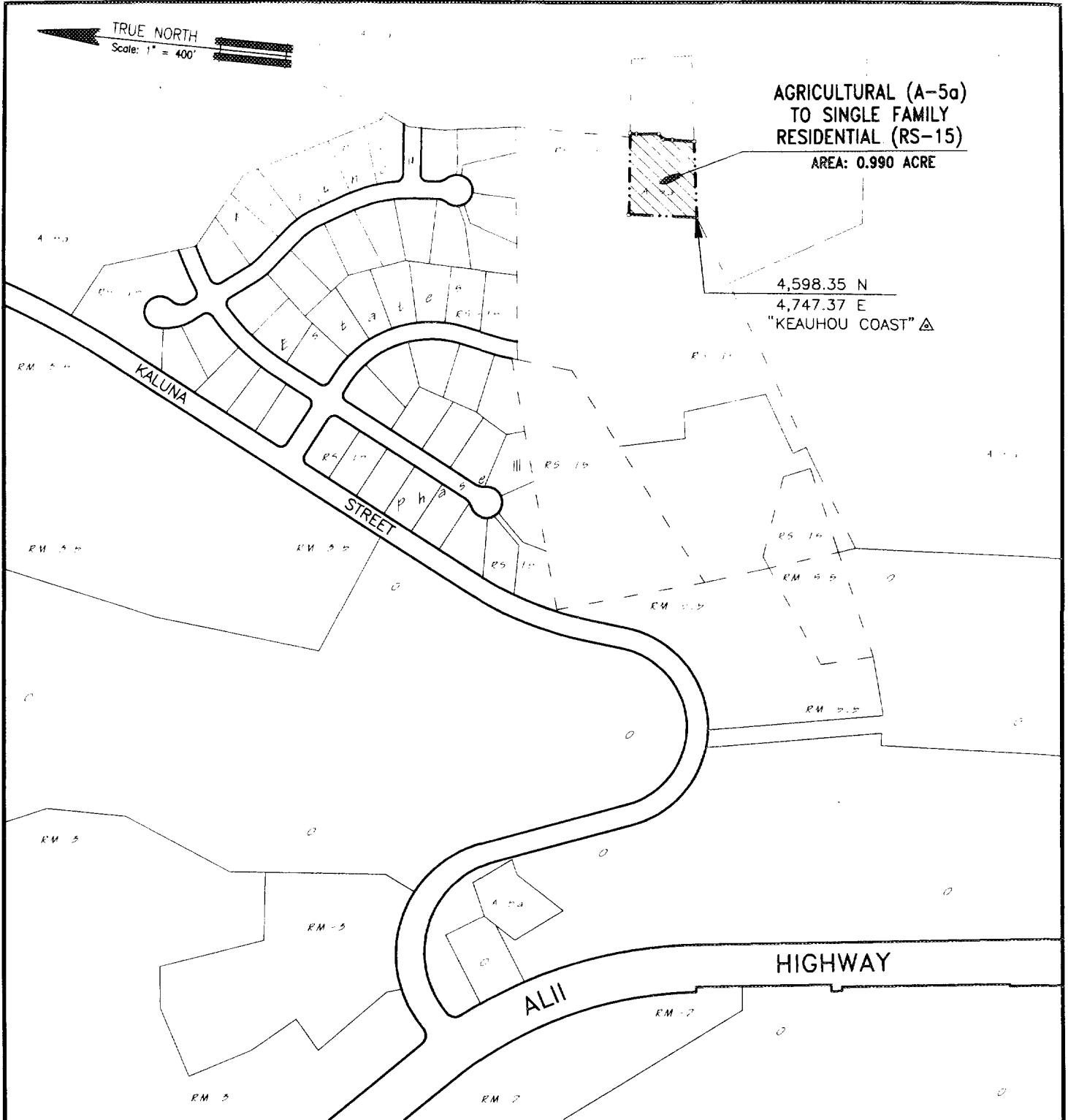


TRUE NORTH  
Scale: 1" = 400'

AGRICULTURAL (A-5a)  
TO SINGLE FAMILY  
RESIDENTIAL (RS-15)

AREA: 0.990 ACRE

4,598.35 N  
4,747.37 E  
"KEAUHOU COAST" Δ



## 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 KEAUHOU 1ST, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawai'i

Hilo, Hawai'i

(Draft 3)

Introduced By: Bobby Jean Leithead-Todd  
 Date Introduced: April 18, 2001  
 First Reading: April 18, 2001  
 Published: April 27, 2001

REMARKS: \_\_\_\_\_  
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Second Reading: May 2, 2001  
 To Mayor: May 7, 2001  
 Returned: May 10, 2001  
 Effective: May 9, 2001  
 Published: May 16, 2001

REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd			X	
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong	X			
	7	1	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki			X	
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong	X			
	7	1	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:

[Signature]  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date May 7, 2001

[Signature]  
 COUNCIL CHAIRMAN  
 COUNTY CLERK

Approved/Disapproved this 9<sup>th</sup> day  
 of May, 2001

[Signature]  
 MAYOR, COUNTY OF HAWAII

Bill No.: 46 (Draft 3)  
 Reference: C-159/FC-20  
 Ord. No.: 01 47