

ORDINANCE NO. 02 15

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-1a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT KUKUAU 2ND, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-3-50:71.

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

SECTION 1. Section 25-8-33, 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 Kukuau 2nd, South Hilo, Hawaii, shall be Single Family Residential (RS-10):

Beginning at the north corner of this parcel of land, being the west corner of Lot 20, Sunrise Ridge Subdivision, Unit 2-B and being the northeast corner of Government Land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 3,094.85 feet South and 616.16 feet West, thence running by azimuths measured clockwise from True South:

1. 318° 51' 13" 146.96 feet along Lot 20, Sunrise Ridge Subdivision, Unit 2-B;
2. 35° 17' 40.00 feet along Lahou Street;
3. Thence along Lahou Street, along a curve to the left with a radius of 45.00 feet, the chord azimuth and distance being: 326° 33' 51.5" 83.86 feet;
4. Thence along Park Site, along a curve to the left with a radius of 12.00 feet, the chord azimuth and distance being: 40° 05' 21.5" 14.70 feet;
5. 2° 20' 167.75 feet along Park Site;

6. Thence along Park Site, along a curve to the right with a radius of 412.00 feet, the chord azimuth and distance being:
5° 40' 03.5" 47.93 feet;
7. Thence along Park Site, along a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:
343° 38' 35.5" 17.13 feet;
8. Thence along Park Site, along a curve to the right with a radius of 34.00 feet, the chord azimuth and distance being:
7° 13' 32" 51.27 feet;
9. 326° 10' 74.13 feet along Park Site;
10. 35° 41' 30" 289.37 feet along Lot 327, Land Court Application 1205 (Map 73);
11. 139° 09' 4.00 feet along Road Lot "D", a portion of Royal Patent 5706, Land Commission Award 8521-B, Part 2 to G.D. Hueu;
12. 182° 21' 40" 801.40 feet along Government Land to the point of beginning and containing an area of 1.7817 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 secure Final Subdivision Approval within five (5) years from the effective date of this ordinance.
- C. All driveway connections to Lahou Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawai'i County Code. Applicant shall repair the sidewalk

fronting the subject property, meeting with the approval of the Department of Public Works.

- D. Wastewater disposal shall be via connection to the County's sewer system, meeting with the requirements of the Department of Environmental Management.
- E. Restrictive covenants in the deeds of all the proposed lots within the subject property shall prohibit the placement of gravel or other similar material on plastic or other impervious surfaces in areas within fifteen (15) feet of any street(s) or drainage channel(s) or other drainage improvement(s). The purpose of this condition is to minimize the potential for gravel or other similar material to wash into street or drainage improvements during storm events.
- F. Restrictive covenants in the deeds of all the proposed lots within the subject property shall prohibit the construction of a second dwelling unit and condominium property regimes 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.
- G. 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 G. 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. For purposes of administering Condition G, 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.

- 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. When the DLNR-HPD finds sufficient mitigation measures have been taken, subsequent work on the project shall proceed.
- I. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies.
- J. Should the Hawai‘i County 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.

K. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:

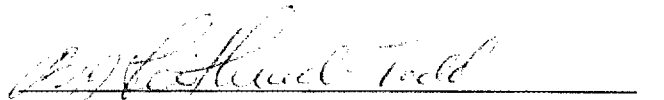
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, its successors or assigns, and that are not the result of their fault or negligence.
2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
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.

- L. 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.

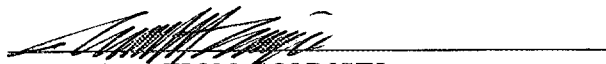
INTRODUCED BY:

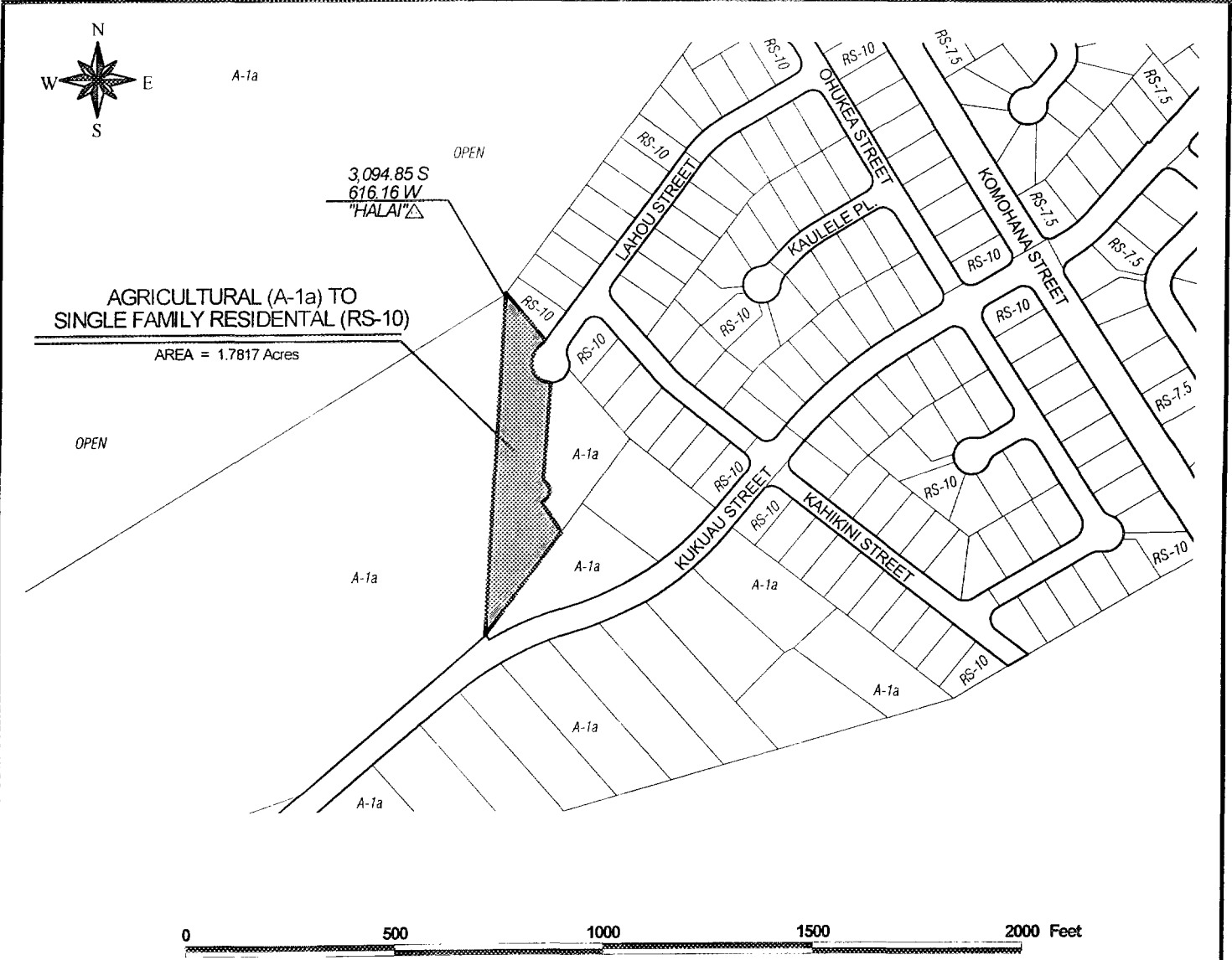

COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: January 9, 2002
Date of 1st Reading: January 9, 2002
Date of 2nd Reading: January 24, 2002
Effective Date: February 4, 2002

APPROVED AS TO FORM AND LEGALITY


CORPORATION COUNSEL
DATED: 1-31-02



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP) ARTICLE 8, CHAPTER 25
 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT
 CLASSIFICATION FROM AGRICULTURAL (A-1a) TO SINGLE FAMILY RESIDENTIAL (RS-10)
 AT KUKUAU 2nd, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

TMK :2-3-50:071

Oct. 5, 2001

EXHIBIT "A"

(Uohara: 1047)

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

DRAFT 5

Introduced By: Bobby Jean Leithead-Todd
Date Introduced: January 9, 2002
First Reading: January 9, 2002
Published: January 20, 2002

REMARKS: _____

Second Reading: January 24, 2002
To Mayor: January 25, 2002
Returned: February 4, 2002
Effective: February 4, 2002
Published: February 18, 2002

REMARKS: _____

| 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 | | | |
| | 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

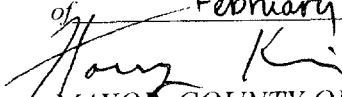
Date 1.31.02


COUNCIL CHAIRMAN


COUNTY CLERK

Bill No.: 139 (DRAFT 5)
Reference: C-428.6/PC-49
Ord No.: **02 15**

Approved/Disapproved this 4th day
of February, 20 02


MAYOR, COUNTY OF HAWAII