



ORDINANCE NO. 02 31

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 NEIGHBORHOOD COMMERCIAL (CN-10) AT KALAOA 4TH, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-5:PORTIONS OF 32 AND 33.

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 Neighborhood Commercial (CN-10):

Beginning at the Southeasterly corner of this parcel of land, being also the Northeasterly corner of Lot B-1 and being a point on the Westerly side of Hawaii Belt Road (F.A.P. No. F-10(5)), the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 6,720.35 feet South and 8,295.62 feet West and running by azimuths measured clockwise from True South:

1. 87° 13' 30" 264.17 feet along Lot B-1 and along Grant 1607 to Nawahie to a point;
2. 88° 09' 151.60 feet along Lot B-1 and along Grant 1607 to Nawahie to a point;
3. 176° 46' 30" 337.46 feet along Lot 3 and along the remainder of Grant 1608 to Kekeleaukai to a point;
4. 266° 46' 30" 387.38 feet along Lot 4 and along the remainder of Grant 1608 to Kekeleaukai to a point;

Thence, following along the Westerly side of Hawaii Belt Road (F.A.P. No. F-10(5)) on a curve to the right with a radius of 1,392.40 feet, the chord azimuth and distance being:

5. 352° 03' 14" 344.34 feet to the point of beginning and containing an area of 3.200 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 applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant shall substantially comply with the representations made in its change of zone application for the proposed commercial development.
- C. The proposed uses shall not exceed the number of units of water which are available and have been committed to the subject property by the Department of Water Supply. Any further development shall occur only when sufficient County water becomes available by construction of on- and off-site water system improvements. All water system improvements shall meet with the requirements of the Department of Water Supply prior to the issuance of Final Subdivision Approval or Final Plan Approval, whichever occurs first.
- D. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to commencing construction, Final Plan Approval for the proposed development shall be secured from the Planning Director in accordance with Plan Approval pertaining to the Zoning Code. Plans shall identify existing and proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use. Landscaping shall also be indicated on the plans for the purpose of mitigating any

adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).

- E. All subdivision roads shall be constructed to County dedicable standards with concrete curbs, gutters and sidewalks. Roadway connections to adjoining parcels shall be provided meeting with the approval of the Department of Public Works. These roads shall be open to public traffic.

- F. All roadways within the proposed development shall follow the guidelines incorporated in the Hawaii Statewide Uniform Design Manual for Streets and Highways. Concrete curbs, gutters, and sidewalks shall be required in areas of pedestrian traffic.

- G. A drainage study of the subject property shall be prepared and submitted for review and approval to 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. Access to the subject property from Mamalahoa Highway shall meet with the requirements of the State Department of Transportation. The entrance roadway sight distance shall meet the requirements of the Hawaii Statewide Uniform Design Manual for Streets and Highways.

- I. Mamalahoa Highway shall be improved with a left-turn storage lane and right-turn deceleration lane at the entrance roadway to the subject property as required by the State Department of Transportation or as otherwise determined by the Department of Transportation after review of the Traffic Impact Analysis Report (TIAR), in conjunction with Final Subdivision Approval or actual

occupancy of the project, whichever comes first. Street lighting shall be provided at the project access with Mamalahoa Highway prior to the issuance of Final Subdivision Approval or Final Plan Approval, whichever occurs first.

- J. A minimum 25-foot wide road widening and landscaping setback shall be provided along the subject property's frontage with Mamalahoa Highway, meeting with the approval of the Department of Transportation. Except for the proposed roadway access, the remaining property line shall be designated as "No Access Permitted."

- K. A Traffic Impact Analysis Report (TIAR) shall be submitted to the Department of Transportation with a copy to the Planning Director for review and approval. Any traffic improvements that may be required by the approved TIAR shall be provided by the applicant prior to the issuance of Final Subdivision Approval or Final Plan Approval for any use, whichever occurs first.

- L. The applicant shall comply with the requirements of the Fire Department relating to Fire Apparatus Access Road Grade. A portion of the subject property has been identified by the County of Hawaii as the site for the Kalaoa regional fire and police substation. The applicant shall offer this site to the County of Hawaii for this use. This offer shall be in effect for a period of one year after the effective date of this ordinance. Should the County acquire the site, the applicant, its successors or assigns shall receive credit for impact-related fees for any of their future developments that require infrastructural impact contributions. The amount of this credit will be determined by the planning director based on the fair market value for the site.

- M. If required, the applicant shall comply with the State Department of Health's requirements of Chapter 23, Hawaii State Department of Health Administrative Rules, Title 11, "Underground Injection Control."
- N. Wastewater generated from the development shall be disposed of in a manner meeting with the approval of the State Department of Health.
- O. The applicant shall submit a solid waste management plan for the development to the Department of Environmental Management, Solid Waste Division for its review and approval. A copy of the approved plan shall be submitted to the Planning Department prior to the issuance of Final Subdivision Approval or Final Plan Approval for any use, whichever occurs first.
- P. 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.
- Q. Comply with all applicable laws, rules, regulations and requirements of the affected agencies for approval of the proposed development within the subject property.
- R. 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.

- S. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment 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.
- T. 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.

- U. 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

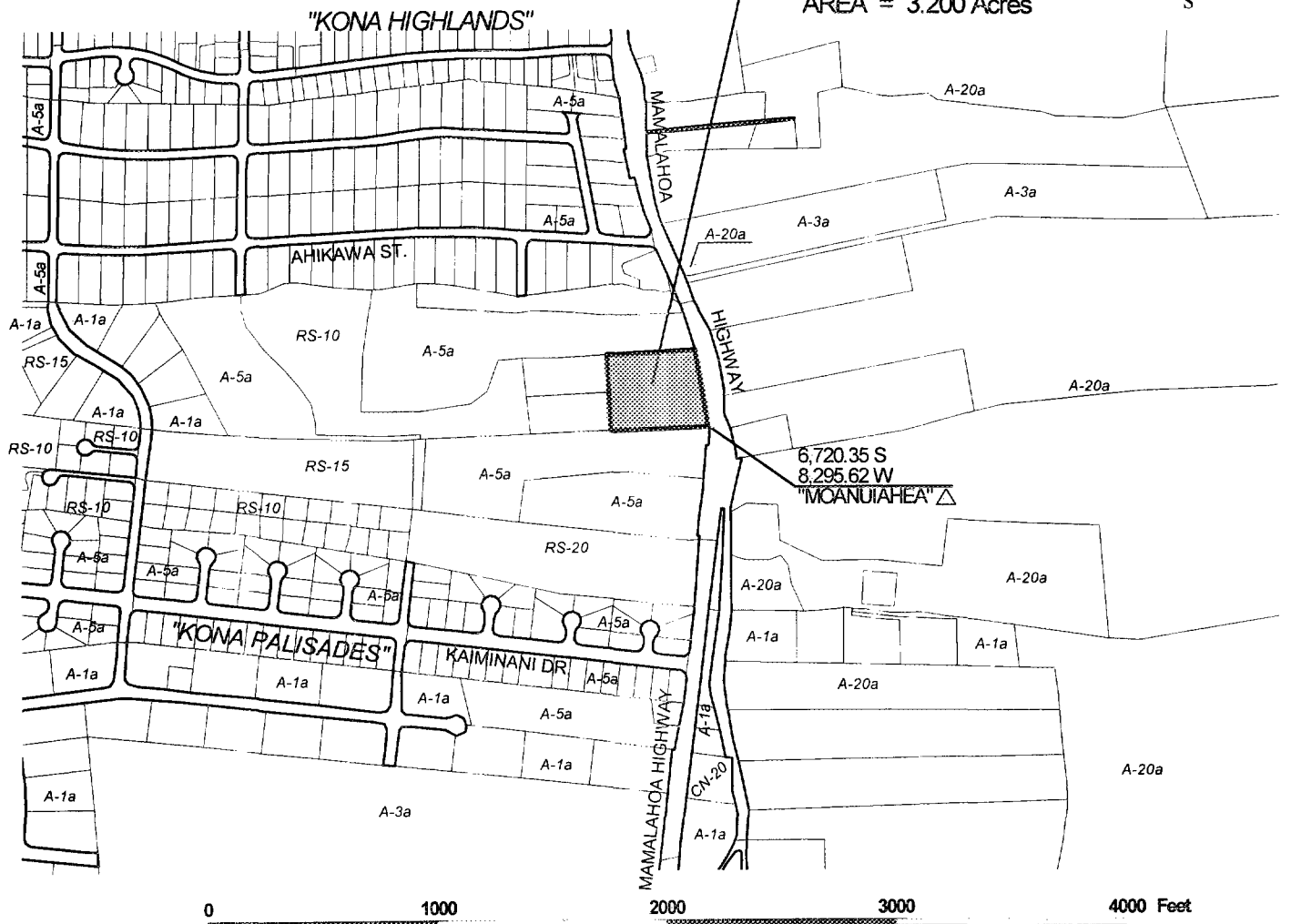
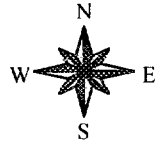
Hilo, Hawaii

Date of Introduction: February 6, 2002
Date of 1st Reading: February 21, 2002
Date of 2nd Reading: March 8, 2002
Effective Date: March 19, 2002

REFERENCE: Comm. 478.1

AGRICULTURAL (A-5a) TO
NEIGHBORHOOD
COMMERCIAL (CN-10)

AREA = 3.200 Acres



AMENDMENT TO THE ZONING CODE

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 NEIGHBORHOOD COMMERCIAL (CN-10)

AT KALAOA 4th, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 7-3-005:PORTION 032 AND PORTION 033

OCT. 10, 2001

EXHIBIT "A"

(De Luz)

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: February 6, 2002
 First Reading: February 21, 2002
 Published: N/A

REMARKS: _____

Second Reading: March 8, 2002
 To Mayor: March 11, 2002
 Returned: March 19, 2002
 Effective: March 19, 2002
 Published: April 2, 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			
	9	0	0	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	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:

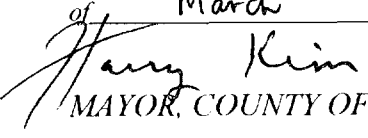
Michael Koyama
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 3/19/02


 COUNCIL CHAIRMAN


 COUNTY CLERK

Bill No.: 154 (Draft 2)
 Reference: C-478.1/PC-58
 Ord No.: 02 31

Approved Disapproved this 19th day
 of March, 2002

 MAYOR, COUNTY OF HAWAII