

COUNTY OF HAWAI‘I

STATE OF HAWAI‘I

BILL NO. 230
(Draft 4)

ORDINANCE NO. 02 95

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI‘I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO SINGLE FAMILY RESIDENTIAL (RS-15) AT KALAOA 4TH, NORTH KONA, HAWAI‘I, COVERED BY TAX MAP KEY 7-3-5:97.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I:

SECTION 1. Section 25-8-3, Article 8, Chapter 25 (Zoning Code) of the Hawai‘i 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, Hawai‘i, shall be Single Family Residential (RS-15):

Beginning at the Southwest corner of this parcel of land, being also the Northwest corner of Lot 1, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA", being 7,067.06 feet South and 9,555.55 feet West, thence running by azimuths measured clockwise from true South:

1. 186° 50' 289.16 feet along the remainder of Grant 1607 to Nawahie (Lot A, 50-ft. road);
2. 267° 56' 30" 25.15 feet along Grant 1608 to Kekeleaukai;
3. 266° 53' 30" 711.70 feet along same;
4. 268° 09' 225.99 feet along same;
5. 267° 13' 30" 264.17 feet along same;
6. Thence along Hawai‘i Belt Road, F.A.P. F-10(5) on a curve to the right with a radius of 1,392.40 feet, the chord azimuth and distance being: 0° 27' 42" 63.42 feet;

7. Thence along Hawai'i Belt Road, F.A.P. F-10(5) on a curve to the right with a radius of 1,869.95 feet, the chord azimuth and distance being: 2° 01' 56" 17.33 feet;
8. 92° 17' 52" 10.00 feet along Hawai'i Belt Road, F.A.P. F-10(5);
9. Thence along Hawai'i Belt Road, F.A.P. F-10(5) on a curve to the right with a radius of 1,869.95 feet, the chord azimuth and distance being: 4° 31' 56" 145.03 feet;
10. 6° 46' 8.24 feet along Hawai'i Belt Road, F.A.P. F-10(5);
11. 95° 33' 57" 336.44 feet along the remainder of Grant 1607 to Nawahie (Parcel A);
12. 85° 00' 445.39 feet along same;
13. 6° 38' 46" 159.68 feet along same;
14. 96° 38' 46" 442.32 feet along the remainder of Grant 1607 to Nawahie (Lot 1) to the point of beginning and containing an area of 6.904 acres.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawaii County Code, the County Council finds the following conditions are:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
- (2) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:
 - (A) Protection of the public from the potentially deleterious effects of the proposed use, or
 - (B) Fulfillment of the need for public service demands created by the proposed

use.

- A. The applicant, 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 ninety (90) days from the effective date of this ordinance.
- C. Lots within the proposed subdivision 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.
- D. No variance shall be sought or granted to allow the subdivision of lots not served by a county-approved water system.
- E. Final Subdivision Approval of the proposed subdivision shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- F. Roadway and access to all lots within the proposed subdivision shall meet with the approval of the Department of Public Works. The improvements within the proposed subdivision shall include underground utilities.
- G. If required to be dedicated, all subdivision roads shall be constructed to County dedicable standards and dedicated to the County of Hawai'i. The applicant shall

consult with the Planning Department and the Department of Public Works regarding additional roadway connections to adjoining parcels, prior to the submittal of plans for subdivision review.

- H. Improvements to that portion of 'Ili 'Ili Street in the immediate vicinity of the subject property, as determined by the Department of Public Works, shall be completed prior to the issuance of Final Subdivision Approval. These improvements may include pavement overlays, a drywell, street lights, and markings. The applicant shall dedicate its interest in 'Ili 'Ili Street to the County of Hawai'i upon completion of the required street improvements and prior to the issuance of Final Subdivision Approval.
- I. A drainage study for the project site shall be conducted by the applicant and approved by the Department of Public Works, prior to the submittal of plan for subdivision review. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works in conjunction with the issuance of Final Subdivision Approval.
- J. No second dwelling and no condominium property regimes may be constructed on any of the lots. A covenant stating this restriction as well as a notification of additional wastewater requirement for all lots within 1,000 feet of the Kalaoa Well shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances for all portions of the subject property. 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 recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.

- K. All construction activity involving the use of heavy equipment or machinery relating to the development of the subdivision and any structures thereon shall be prohibited on Sundays, provided further that no construction activity shall occur on any day before 7:00 a.m. and after 5:00 p.m.

- L. 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 -- 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 sufficient mitigative measures have been taken.

- M. 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, Hawai'i County Code relating to Affordable Housing Policy. This requirement shall be approved by the County Housing Agency prior to final subdivision approval of each increment.

- N. 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 fifteen (15) residential units, the indicated total of fair share contribution is **\$118,143.00** 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 N. The fair share contribution shall be allocated as follows:

1. \$3,798.04 per single-family residential unit for an indicated total of **\$56,970.60** to the County to support park and recreational improvements and facilities;
2. \$183.22 per single-family residential unit for an indicated total of **\$2,748.30** to the County to support police facilities;
3. \$361.88 per single-family residential unit for an indicated total of **\$5,428.20** to the County to support fire facilities;
4. \$158.43 per single-family residential unit for an indicated total of **\$2,376.45** to the County to support solid waste facilities; and
5. \$3,374.63 per single-family residential unit for an indicated total of **\$50,619.45** 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 H shall be credited against the sum specified in Condition N (5) for road and traffic improvements. For purposes of administering Condition N, 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.

- O. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed subdivision within the subject property.
- P. 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.
- Q. 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, 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.

- R. 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: July 31, 2002
Date of 1st Reading: July 31, 2002
Date of 2nd Reading: August 14, 2002
Effective Date: August 28, 2002

REFERENCE: Comm. ~~673.3~~



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 KALAOA 4TH, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 4)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: July 31, 2002
 First Reading: July 31, 2002
 Published: August 11, 2002

REMARKS: _____

Second Reading: August 14, 2002
 To Mayor: August 23, 2002
 Returned: August 28, 2002
 Effective: August 28, 2002
 Published: September 11, 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			
	8	1	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			
	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:

Patricia K. O'Neil
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 8/20/02

Michael A. Cabral
 COUNCIL CHAIRMAN
Harry Kin
 COUNTY CLERK

Bill No.: 230 (Draft 4)
 Reference: C-673.3/PC-90
 Ord No.: 02 95

Approved/Disapproved this 23rd day

of August, 2002

Harry Kin
 MAYOR, COUNTY OF HAWAII