

ORDINANCE NO. 02 113

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA 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-20) AT HIENALOLI 2<sup>ND</sup>, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-5-10:PORTION OF 65.

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 Hienaloli 2<sup>nd</sup>, North Kona, Hawai'i, shall be Single Family Residential (RS-20):

Beginning at the Northeasterly corner of this parcel of land, being also the Northwesterly corner of Lot 2 of this subdivision and being a point on the Southerly boundary of Lot 1-B as shown on CSF 16687 (Government Land, State of Hawai'i), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 7,399.75 feet North and 2,486.05 feet East and running by azimuths measured clockwise from True South:

1.     306°   19'                     485.84     feet along Lot 2 of this subdivision and along the remainder of Land Commission Award 7716, Apana 5 to R. Keelikolani to a point;

Thence, for the next thirty-nine (39) courses following along middle of stonewall and along Royal Patent 1600 and 1930, Land Commission Award 387, Part 4, Section 2 to American Board of Commissioners for Foreign Missions:

Thence, for the next six (6) courses following along the Northerly side of Lot 15 (Roadway) of Kealoha, Increment 1:

2.     86°    27'                     31.67     feet to a point;

3.	74° 35'	37.57	feet to a point;
4.	76° 26'	25.90	feet to a point;
5.	83° 19'	56.85	feet to a point;
6.	85° 50'	38.95	feet to a point;
7.	80° 04'	60.32	feet to a point;
8.	93° 23'	44.02	feet along middle of stonewall, along the Northerly side of Lot 15 (Roadway) of Kealoha, Increment 1, along Royal Patent 1600 and 1930, Land Commission Award 387, Part 4, Section 2 to American Board of Commissioners for Foreign Missions and along the Northerly end of Kawena Street to a point;
9.	79° 50'	55.85	feet along middle of stonewall, along the Northerly end of Kawena Street, along the Northerly side of Lot 17 (Roadway) of Kealoha, Increment 1, and along Royal Patent 1600 and 1930, Land Commission Award 387, Part 4, Section 2 to American Board of Commissioners for Foreign Missions to a point;

Thence, for the next fifteen (15) courses following along middle of stonewall, along the Northerly side of Lot 17 (Roadway) of Kealoha, Increment 1 and along Royal Patent 1600 and 1930, Land Commission Award 387, Part 4, Section 2 to American Board of Commissioners for Foreign Missions:

10.	81° 03'	77.45	feet to a point;
11.	78° 38'	60.92	feet to a point;
12.	84° 23'	44.70	feet to a point;
13.	83° 28'	39.75	feet to a point;
14.	75° 25'	19.34	feet to a point;

15.	48° 35'	7.65	feet to a point;
16.	88° 47'	8.67	feet to a point;
17.	68° 08'	44.28	feet to a point;
18.	72° 32'	36.26	feet to a point;
19.	76° 07'	46.80	feet to a point;
20.	75° 08'	26.25	feet to a point;
21.	83° 59'	56.21	feet to a point;
22.	69° 49'	19.95	feet to a point;
23.	79° 31'	35.03	feet to a point;
24.	70° 54'	17.72	feet to a point;
25.	58° 42'	25.70	feet along middle of stonewall, along the Northerly side of Lot 17 (Roadway) and Lot 1 of Kealoha, Increment 1 and along Royal Patent 1600 and 1930, Land Commission Award 387, Part 4, Section 2 to American Board of Commissioners for Foreign Missions to a point;

Thence, for the next fifteen (15) courses, following along the middle of stonewall, along Lot 1 of Kealoha, Increment 1 and along Royal Patent 1600 and 1930, Land Commission Award 387, Part 4, Section 2 to American Board of Commissioners for Foreign Missions:

26.	73° 26'	15.34	feet to a point;
27.	91° 14'	40.89	feet to a point;
28.	10° 29'	9.33	feet to a point;
29.	70° 59'	43.63	feet to a point;
30.	78° 51'	32.80	feet to a point;
31.	72° 11'	17.66	feet to a point;

32.	75°	47'	18.48	feet to a point;
33.	61°	56'	12.09	feet to a point;
34.	94°	43'	10.20	feet to a point;
35.	78°	04'	63.92	feet to a point;
36.	85°	03'	16.09	feet to a point;
37.	73°	52'	40.16	feet to a point;
38.	82°	16'	8.44	feet to a point;
39.	55°	40'	9.82	feet to a point;
40.	75°	07'	26.04	feet to a point;

Thence, following along the Easterly side of Hawai'i Belt Road (F.A.P. 11A-03-69) (Queen Kaahumanu Highway) on a curve to the left with a radius of 4,961.07 feet, the chord azimuth and distance being:

41.	138°	07'	51"	459.18	feet to a point;
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Thence, for the next eleven (11) courses following along Lot 1-B as shown on CSF 16687 (Government Land, State of Hawai'i):

42.	247°	00'	11"	104.60	feet to a point;
43.	266°	15'	11"	138.00	feet to a point;
44.	276°	10'	11"	112.00	feet to a point;
45.	237°	00'	11"	25.00	feet to a point;
46.	270°	00'	11"	79.00	feet to a point;
47.	255°	30'	11"	138.00	feet to a point;
48.	262°	00'	11"	185.00	feet to a point;
49.	245°	20'	11"	81.00	feet to a point;

- 50. 267° 00' 11" 128.00 feet to a point;
- 51. 240° 00' 11" 66.00 feet to a point;
- 52. 261° 40' 11" 135.01 feet to the point of beginning and containing an area of 9.746 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, Hawai'i 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. 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. Plat maps shall clearly show any revised flood plain base flood elevations and flood plain boundaries.

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. A flood study shall be prepared by a licensed civil engineer. This flood study and/or LOMR, if necessary, shall be submitted to the Federal Emergency Management Agency, through the Department of Public Works prior to the issuance of a grading permit. The revised flood plain base flood elevations and flood plain boundaries shall be provided and identified on the final plat map. Any drainage improvements required shall be completed prior to Final Subdivision Approval.
- F. All roadways within the proposed subdivision shall meet with the approval of the Department of Public Works.
- G. The interior roadway shall be a private roadway constructed to standards approved by the Department of Public Works and not connected to adjoining parcels other than to Kawena Street to the south. The subject property shall not have more than fifteen lots.
- H. 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 plans for subdivision review. Drainage improvements, if required, shall be constructed in a manner meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
- I. No second dwelling or condominium property regimes may be constructed on any

of the lots. A covenant stating this restriction 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.

- J. The four historic sites identified by the archaeological mitigation and preservation plan prepared by Haun and Associates as Site Nos. 22949, 22951, 22952, 22958 shall be preserved with preservation site buffers of 5 meters (16.5 feet) to 16 meters (52.5 feet) as determined by the Planning Department. Buffers shall be shown on Plans submitted for subdivision. 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.
  
- K. 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.
  
- L. 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 L. 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 by the Hawai'i County Planning Department, 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 L, 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.

- M. Wastewater shall be disposed of in a manner meeting with the requirements of the Department of Health.
- N. 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.
- O. 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.

- P. 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.
- Q. 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.

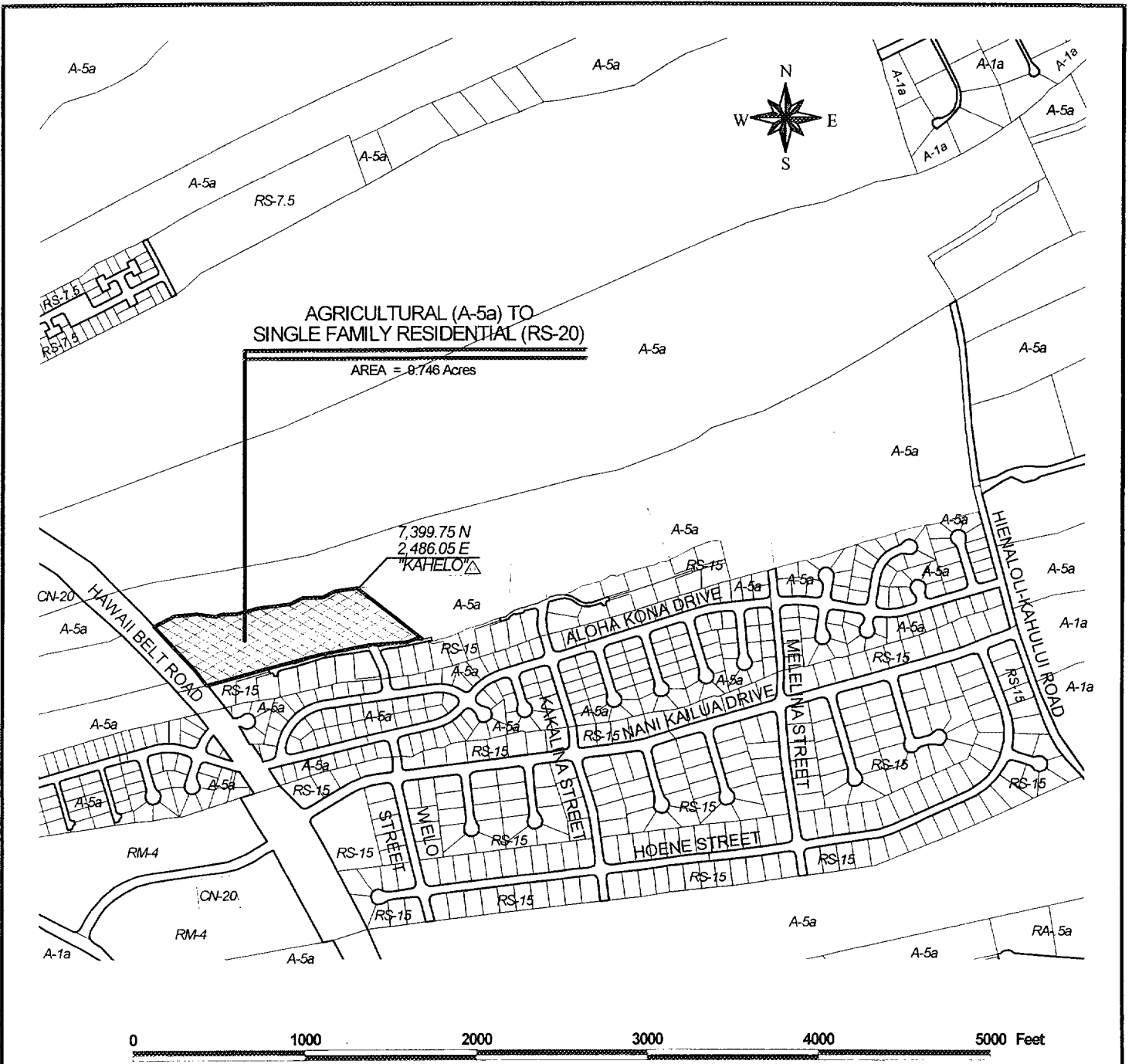
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAI'I

\_\_\_\_\_ Hilo \_\_\_\_\_, Hawai'i

Date of Introduction: August 28, 2002  
Date of 1st Reading: August 28, 2002  
Date of 2nd Reading: September 11, 2002  
Effective Date: September 25, 2002

REFERENCE: Comm. 674.13



# 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-20)  
 AT HIENALOLI 1st & 2nd, 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: August 28, 2002  
 First Reading: August 28, 2002  
 Published: September 8, 2002

REMARKS: \_\_\_\_\_  
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Second Reading: September 11, 2002  
 To Mayor: September 17, 2002  
 Returned: September 25, 2002  
 Effective: September 25, 2002  
 Published: October 9, 2002

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

(DRAFT 5)

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	
	5	1	3	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

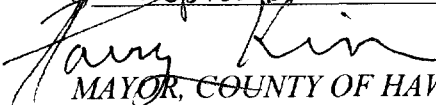
Date 9/24/02

  
 COUNCIL CHAIRMAN  
  
 COUNTY CLERK

Bill No.: 232 (Draft 5)  
 Reference: C-674.13/PC-101  
 Ord No.: **02 113**

Approved/Disapproved this 25<sup>th</sup> day

of September, 2002.

  
 MAYOR, COUNTY OF HAWAII