

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 42 (Draft 4)

ORDINANCE NO. 03 40

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 KALAOA 4TH, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-10:29.

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 Single Family Residential (RS-15):

Beginning at the Northwesterly corner of this parcel of land, being also the Northeasterly corner of Lot 47-B-1 of this subdivision, the Southeasterly corner of Road Parcel and being a point on the Southerly side of the Alanui Kauhini (Government Road), the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 6,082.67 feet South and 13,689.08 feet West and running by azimuths measured clockwise from True South:

- 1. 268° 59' 16.34 feet along the Southerly side of the Alanui Kauhini (Government Road) to a point;
2. 272° 46' 30" 408.01 feet along the Southerly side of the Alanui Kauhini (Government Road) to a point;
3. 0° 28' 30" 1.73 feet along Lot 6-A and along Grant 1608 to Kekeleaukai to a point;
4. 357° 27' 30" 116.80 feet along Lot 6-A and along Grant 1608 to Kekeleaukai to a spike;

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| 5. | 358° 02' 30" | 181.23 | feet along Lot 6-A and along Grant 1608 to Kekeleaukai to a spike (Found); |
| 6. | 357° 57' 30" | 75.34 | feet along Lot B-4 and along Grant 1607 to Nawahie to a ¾ inch pipe (Found); |
| 7. | 0° 41' | 116.32 | feet along Lot B-4 and along Grant 1607 to Nawahie to a P.K. nail (Found); |
| 8. | 359° 47' | 192.16 | feet along Lot 4 and along Grant 1607 to Nawahie to a nail (Found); |
| 9. | 106° 39' | 123.80 | feet along Lot 214 of Kona Palisade, Unit I (File Plan 1061), along Grant 2972 to Kaapau and Kama and along the Northerly end of Ahiahi Street to a point; |
| 10. | 103° 29' | 409.00 | feet along the Northerly end of Ahiahi Street, along Lot 213 of Kona Palisade, Unit I (File Plan 1061), along Lots 107, 106, 105 and 104 of Kona Palisade, Unit II (File Plan 1087) and along Grant 2972 to Kaapau and Kama to a spike (Found); |
| 11. | 93° 08' | 454.14 | feet along Lots 103, 102, 101, 100, 97 and 96 of Kona Palisade, Unit II (File Plan 1087) and along Grant 2972 to Kaapau and Kama to a point; |

Thence, for the next three (3) courses following along Lot 47-B-1 of this subdivision and along the remainders of Lot 47-B and Grant 3750 to Kahananui:

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|-----|--------------|--------|------------------|
| 12. | 241° 25' 30" | 643.14 | feet to a point; |
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Thence, following on a curve to the right with a radius of 300.00 feet, the chord azimuth and distance being:

- | | | | |
|-----|--------------|--------|--|
| 13. | 167° 05' 45" | 162.07 | feet to a point; |
| 14. | 182° 46' | 81.61 | feet to the point of beginning and containing an area of 8.2560 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.
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- 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. 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.
 - D. Roadway and access to all lots within the proposed subdivision shall meet with the approval of the Department of Public Works.

- E. The extension of Ahiahi Street through the project site and extending to its common boundary with TMK: 7-3-10: 36, Lot 47-B-1 shall be constructed to County dedicable standards and dedicated to the County of Hawai'i prior to or in conjunction with the issuance of Final Subdivision Approval. Further, the applicant shall consult with the owner(s) of TMK: 7-3-10:36, Lot 47-B-1 and shall make its best effort to facilitate the construction of a County dedicable standard road beyond the end of the Ahiahi Street extension described above to Kauhale Street in conjunction with the subdivision of the subject property. A report of this effort shall be submitted to the Planning Director prior to receipt of Final Subdivision Approval.

- F. 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.

- G. Restrictive covenants in the deeds of all the proposed lots within the subject property shall give notice that the terms of the zoning ordinance prohibit: (1) condominium property regimes; and (2) for any lot less than 30,000 square feet within the subject property, construction of a second dwelling. This restriction may be removed by amendment of this ordinance by the County Council. 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.

- H. All proposed single family dwellings within the proposed subdivision shall be

provided with separate water service from the Department of Water Supply.

- I. The applicant shall prepare an archaeological inventory survey and data recovery/mitigation plan for the review and approval of the Planning Director, in consultation with the Department of Land and Natural Resources-State Historic Preservation Division (SHPD), prior to the submittal of plans for subdivision review and/or any land alteration activities within the project site. All archaeological mitigation measures that are required by the approved data recovery/mitigation plan shall be fully implemented by the applicant prior to the submittal of plans for subdivision review and/or any land alteration activities within the project site.
- J. 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 units/lots without a dwelling and/or valid residential building permit 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. Further, any additional dwelling(s) on a subdivided lot within the subject site shall be subject to the appropriate fair share contribution and shall be due and payable to the Planning Department. The payment receipt shall be submitted to and acknowledged by the Planning Department and the Building Division prior to the issuance of a building permit. 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 lot/unit. Based upon the applicant's representation of intent to develop up to six (6) residential units/lots, the indicated total of fair share contribution is **\$47,257.20** 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 **\$22,788.24** to the County to support park and recreational improvements and facilities;
2. \$183.22 per single-family residential unit for an indicated total of **\$1,099.32** to the County to support police facilities;
3. \$361.88 per single-family residential unit for an indicated total of

- \$2,171.28** to the County to support fire facilities;
4. **\$158.43** per single-family residential unit for an indicated total of **\$950.58** to the County to support solid waste facilities; and
 5. **\$3,374.63** per single-family residential unit for an indicated total of **\$20,247.78** 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 Conditions D and E shall be credited against the sum specified in Condition L (5) for road and traffic improvements.

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. 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.

- N. 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.
- 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, 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.

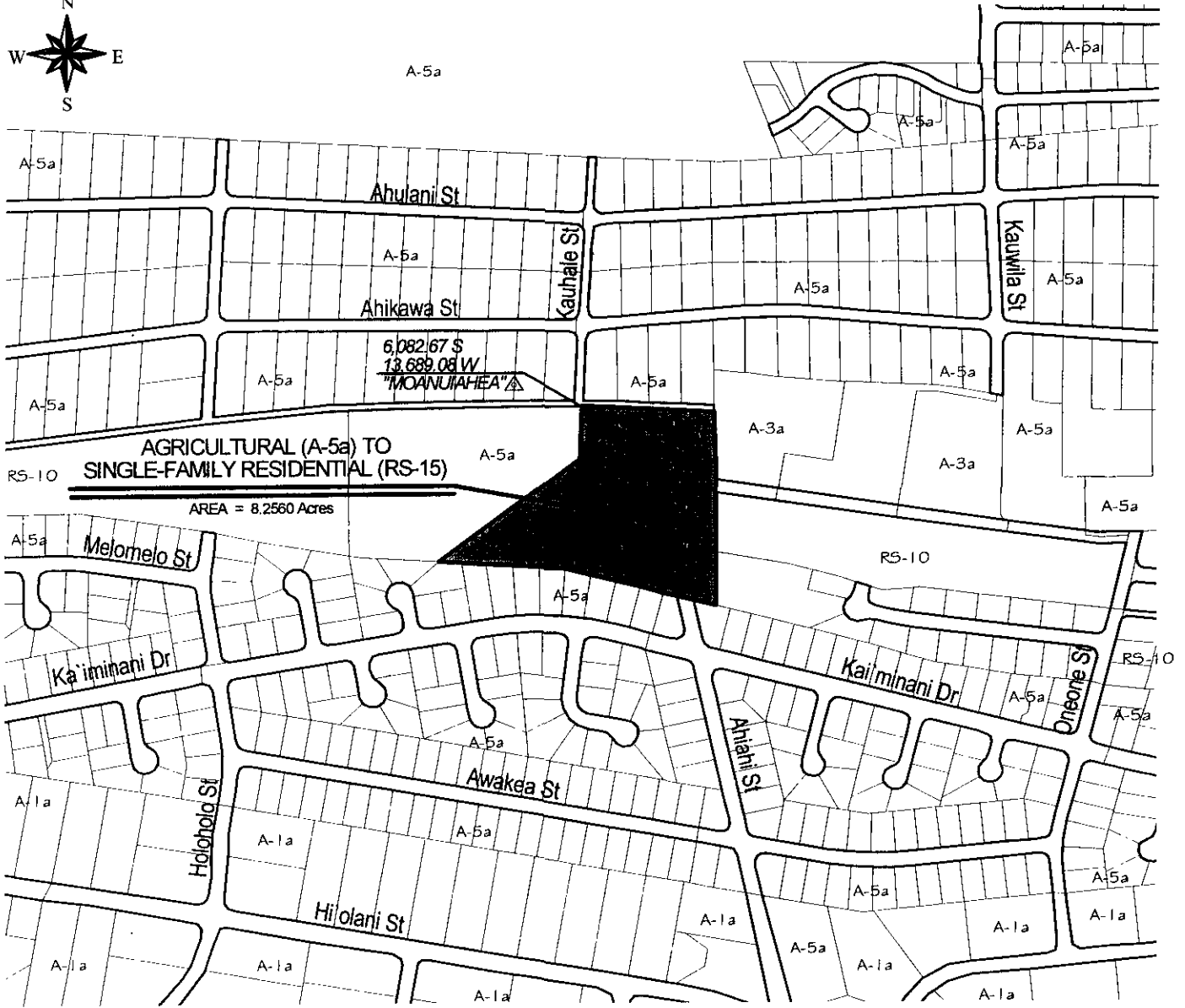
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Hilo , Hawai'i

Date of Introduction: February 5, 2003
Date of 1st Reading: February 5, 2003
Date of 2nd Reading: February 20, 2003
Effective Date: March 6, 2003

REFERENCE: Comm. 98.3



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: February 5, 2003
 First Reading: February 5, 2003
 Published: February 16, 2003

REMARKS: _____

Second Reading: February 20, 2003
 To Mayor: February 28, 2003
 Returned: March 6, 2003
 Effective: March 6, 2003
 Published: March 20, 2003

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Leithead-Todd	X			
Reynolds	X			
Safarik			X	
Tyler	X			
	7	1	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Holschuh	X			
Jacobson			X	
Leithead-Todd	X			
Reynolds	X			
Safarik	X			
Tyler	X			
	7	0	2	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:

Walter Shado
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date March 4, 2003

[Signature]
 COUNCIL CHAIRMAN
[Signature]
 COUNTY CLERK

Bill No.: 42 (Draft 4)
 Reference: C-98.3/PC-19
 Ord No.: 03 40

Approved/Disapproved this 6th day
of March, 2003
[Signature]
 MAYOR, COUNTY OF HAWAII