

COUNTY OF HAWAI'I

STATE OF HAWAI'I

BILL NO. 70

(Draft 2)

ORDINANCE NO. 03 69

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 MULTIPLE-FAMILY RESIDENTIAL (RM-2.5) AT PUA'A 1ST, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-5-10:61.

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 Pua'a 1st, North Kona, Hawaii shall be Multiple-Family Residential (RM-2.5):

Beginning at a spike (found) at the Northwesterly corner of this parcel of land, being also the Southwesterly corner of Lot 10 of Land Court Application 1874 as shown on Map 2 (The Pines at Kailua-Kona I) and being a point on the Easterly side of Hualalai Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 2,948.65 feet South and 4,229.35 feet East and running by azimuths measured clockwise from True South:

- 1. 261° 50' 49" 3.45 feet along Lot 10 of Land Court Application 1874 as shown on Map 2 (The Pines at Kailua-Kona I) to a ½ inch pipe (set);
- 2. 264° 04' 29" 186.15 feet along Lot 10 of Land Court Application 1874 as shown on Map 2 (The Pines at Kailua-Kona I) to a ½ inch pipe (set);

- | | | | |
|----|--------------|--------|---|
| 3. | 259° 09' 49" | 990.06 | feet along Lot 10 of Land Court Application 1874 as shown on Map 2 (The Pines at Kailua-Kona I) and along the Westerly side of Queen Kaahumanu Highway (F.A.P. Project No. 11A-03-69) to a ½ inch pipe (found); |
| 4. | 334° 11' | 538.21 | feet along the Westerly side of Queen Kaahumanu Highway (F.A.P. Project No. 11A-03-69) to a ¾ inch pipe (found); |
| 5. | 88° 23' 20" | 520.51 | feet along stonewall, along the Westerly side of Queen Kaahumanu Highway (F.A.P. Project No. 11A-03-69) and along Grant 1744 to Kahaunaele to a pipe a 1 ¼ inch pipe in concrete marked "36"; |
| 6. | 93° 38' 49" | 175.70 | feet along stonewall and along Grant 1744 to Kahaunaele to a 1 ¼ pipe in concrete marked "34"; |

Thence, for the next six (6) courses following along the Easterly side of Hualalai Road:

Thence, following on a curve to the left with a radius of 165.00 feet, the chord azimuth and distance being:

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|----|--------------|--------|--------------------------------|
| 7. | 125° 33' 38" | 79.58 | feet to a "+" on rock (found); |
| 8. | 111° 36' 19" | 248.00 | feet to a ½ inch pipe (found); |

Thence, following on a curve to the left with a radius of 425.00 feet, the chord azimuth and distance being:

- | | | | |
|-----|--------------|--------|--------------------------------|
| 9. | 101° 02' 19" | 155.87 | feet to a "+" on rock (found); |
| 10. | 90° 28' 19" | 69.51 | feet to a ½ inch pipe (found); |

Thence, following on a curve to the right with a radius of 175.00 feet, the chord azimuth and distance being:

- | | | | |
|-----|--------------|--------|------------------------------|
| 11. | 113° 30' 59" | 137.01 | feet to a ½ inch pipe (set); |
|-----|--------------|--------|------------------------------|

12. 136° 33' 39" 81.84 feet to the point of beginning and containing an area of 9.262 Acres, more or less.

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. 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. As recommended by and in a manner meeting with the approval of the Department of Water Supply, the applicant shall provide water system improvements necessary to support the provision of water to the project site prior to the issuance of Final Plan Approval for any portion of the proposed development. These improvements may include the extension of an existing 8-inch water line in Welo Street at its junction with Hoene Place in the Kailua View Estates Subdivision and crossing the Queen Ka'ahumanu Highway to the

subject property. In addition, the 170-gpm booster pump station at the 0.05-MG Aloha Kona reservoir may be upgraded to accommodate the proposed project. Finally, the existing 0.1-and 0.3-million gallon reservoirs that would service the subject property may require additional storage capacity.

- D. Final Plan Approval for any structure or use on the subject property and its related improvements shall be secured from the Planning Director in accordance with the Zoning Code, Sections 25-2-71 (c)(3), 25-2-72, 25-2-74 and 25-4-12 within five (5) years from the effective date of this ordinance. Plans shall identify proposed structures, fire protection measures, access roadway(s) and driveway(s), parking area(s) and landscaping associated with the proposed development.
- E. A burial treatment plan for any burials identified within the project site and an archaeological monitoring plan for the entire property shall be prepared for the review and approval of the Department of Land and Natural Resources-Historic Preservation Division and implemented prior to the submittal of plans for Plan Approval Review or the commencement of any land alteration activities.
- F. The archaeological site identified for preservation (Site 21762) by the Inventory Survey Report prepared for the subject property dated August 1999 shall be preserved and the appropriate archaeological preservation easements established in a manner meeting with the approval of the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division, prior to the issuance of Final Plan Approval for any portion of the proposed development.
- G. The applicant shall provide a left-turn lane within Hualalai Road at the entrance to the proposed development in a manner meeting with the approval of the

Department of Public Works prior to the issuance of a certificate of occupancy for any portion of the proposed development.

- H. Should actual construction of the subject property not commence within one (1) year from the date of Final Plan Approval or within six (6) years from the effective date of this ordinance, whichever occurs first, or should such development not constitute a housing development restricted to qualified elderly persons under 42, U.S.C. §3607, a revised Traffic Impact Analysis Report (TIAR) for the proposed multiple family residential development shall be prepared and submitted for the review and approval of the Department of Public Works, prior to the submittal of plans for Plan Approval Review. The revised TIAR shall consider, at a minimum, development currently under construction and recently proposed in the vicinity of the subject property as well as the intersections of Nani Kailua Drive-Queen Ka'ahumanu Highway and Hualalai Road-Kuakini Highway. Finally, the revised TIAR shall consider the "highest and best use" of the property as provided for by the Zoning Code and as determined by the Planning Director.

- I. The applicant shall provide improvements to Hualalai Road in the immediate vicinity of the project site and submit such improvements to the County of Hawai'i for dedication prior to the issuance of a Certificate of Occupancy for any portion of the multiple family residential project. These improvements to Hualalai Road include the realignment of Hualalai Road and the widening of its right-of-way from realigned roadway centerline to collector standards; curb, gutter and sidewalk improvements along the frontage of the subject property along the widened right-of-way, and other improvements as may be required by the Department of Public Works as the result of the revised TIAR.

- J. If required by the Director of Public Works, a drainage study of the project site and immediately surrounding area shall be provided prior to the issuance of Final

Plan Approval. Drainage improvements within the project site, if required, shall be constructed meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.

- K. The applicant shall submit a Solid Waste Management Plan for the development to the Department of Environmental Management for its review and approval. A copy of the approved Plan shall be submitted to the Planning Department prior to the issuance of Final Plan Approval.
- 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, Hawaii County Code relating to Affordable Housing Policy. This requirement shall be approved by the County Housing Agency prior to final subdivision or Final Plan Approval of each increment, as applicable.
- N. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of multiple family residential units proposed to be developed by the amounts allocated hereinbelow for each such unit, and shall become due and payable prior

to the issuance of the Certificate of Occupancy for any unit on the subject property or its increments. If the subject property is developed 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 multiple family residential units 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 \$5,054.07 per multiple-family residential unit. Based upon the applicant's representation of intent to develop a total of one hundred sixty (160) multiple-family residential units, the indicated total of fair share contribution is **\$808,651.20** for multiple-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. \$2,493.03 per multiple-family residential unit for an indicated total of **\$398,884.80** to the County to support park and recreational improvements and facilities;
2. \$78.79 per multiple-family residential unit for an indicated total of **\$12,606.40** to the County to support police facilities;
3. \$242.37 per multiple-family residential unit for an indicated total of **\$38,779.20** to the County to support fire facilities;
4. \$108.03 per multiple-family residential unit for an indicated total of **\$17,284.80** to the County to support solid waste facilities; and
5. \$2,131.85 per multiple-family residential unit for an indicated total of **\$341,096.00** 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 G and I 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 development within the subject property.
- O. 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.

- P. An initial extension of time for the performance of conditions within the ordinance, with the exception of Condition H, 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:

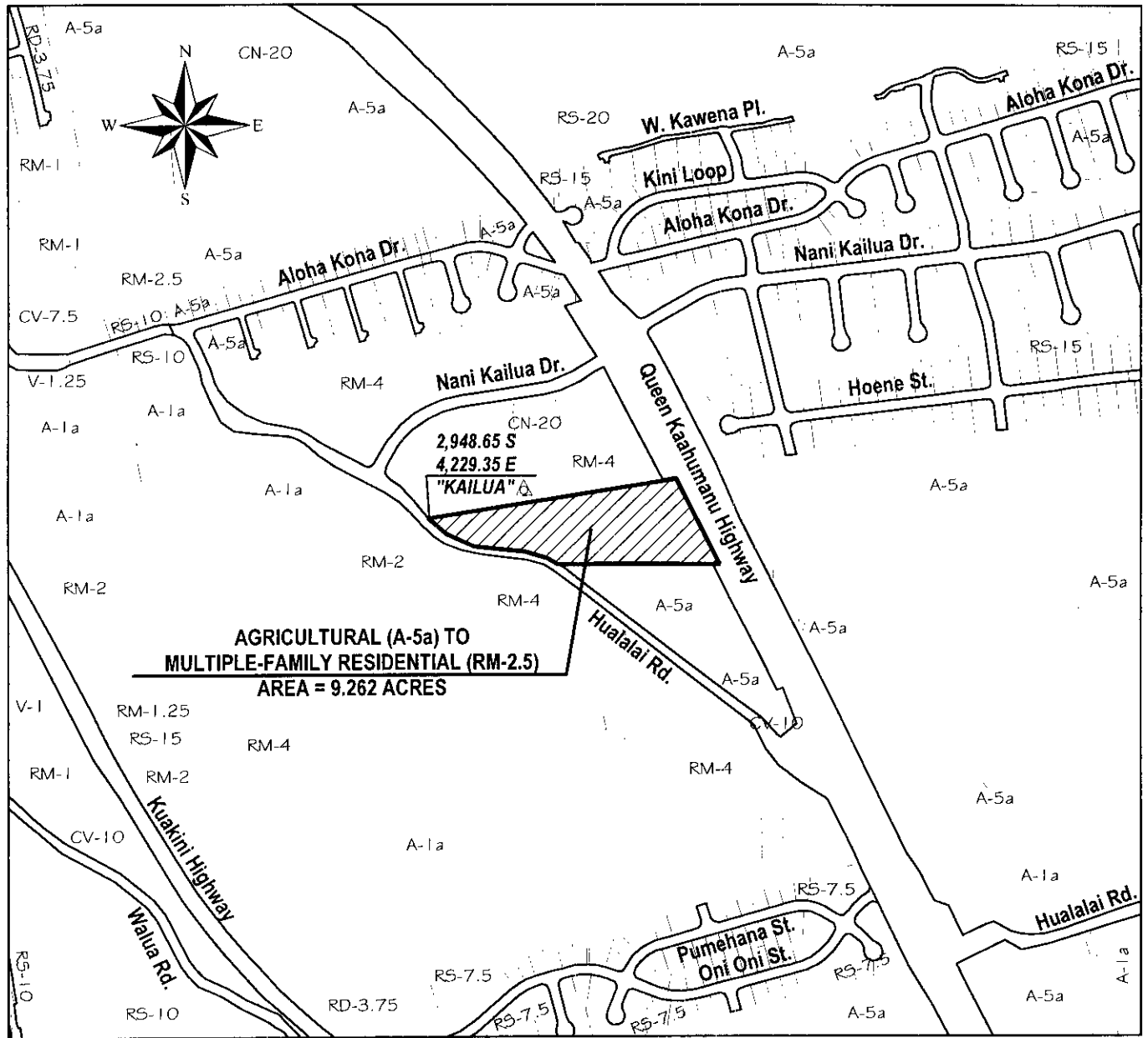


COUNCIL MEMBER, COUNTY OF HAWAII

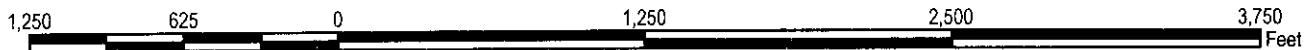
Hilo, Hawai'i

Date of Introduction: April 16, 2003
Date of 1st Reading: April 16, 2003
Date of 2nd Reading: May 7, 2003
Effective Date: May 13, 2003

REFERENCE: Comm. 167.1



**AGRICULTURAL (A-5a) TO
MULTIPLE-FAMILY RESIDENTIAL (RM-2.5)
AREA = 9.262 ACRES**



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 MULTIPLE-FAMILY RESIDENTIAL (RM-2.5)
AT PUA A 1st, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: April 16, 2003
 First Reading: April 16, 2003
 Published: April 27, 2003

REMARKS:

RECEIVED
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 COUNTY CLERK
 COUNTY OF HAWAII

Second Reading: May 7, 2003
 To Mayor: May 9, 2003
 Returned: May 14, 2003
 Effective: May 13, 2003
 Published: May 28, 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			
	9	0	0	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			
	6	0	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:

Jester Whedo

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 5/12/03

Anna C. C. C.

COUNCIL CHAIRMAN

[Signature]
COUNTY CLERK

Bill No.: 70 (Draft 2)
 Reference: C-167.1/PC-25
 Ord No.: 03 69

~~Approved~~ Disapproved this 13th day

of May, 2003

Harry Kim
MAYOR, COUNTY OF HAWAII