



ORDINANCE NO. 04 29

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-15) AT PUAPUAANUI, NORTH KONA, HAWAI‘I, COVERED BY TAX MAP KEY 7-5-17:21.

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 Puapuaanui, North Kona, Hawai‘i, shall be Single Family Residential (RS-15):

Beginning at the Northeast corner of this parcel of land, at the corner of Lots 2 and 4 and on the Westerly side of Kailua-Holualoa Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station “KAHELO”, being 1,775.08 feet North and 7,869.60 feet East, and running by azimuths measured from true South:

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|----|--------------|--------|--|
| 1. | 7° 34’ 00” | 70.60 | feet along Lot 2 and a 20-ft. Road and Utility Easement; |
| 2. | 13° 09’ 50” | 524.26 | feet along Lot 2 and a 20-ft. Road and Utility Easement; |
| 3. | 75° 41’ 30” | 233.71 | feet along the remainder of R.P. 7819, L.C. Aw. 8559-B, Ap. 8 to Wm. C. Lunalilo; |
| 4. | 172° 31’ 00” | 161.88 | along Lot A, being also along the remainder of R.P. 7819, L.C. Aw. 8559-B, Ap. 8 to Wm. C. Lunalilo; |

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|----|--------------|--------|---|
| 5. | 82° 42' 00" | 694.33 | feet along Lots A and B, being also along the remainder of R.P. 7819, L.C. Aw. 8559-B, Ap.8 to Wm. C. Lunalilo; |
| 6. | 161° 20' 00" | 185.49 | feet along Lot B, being also along the remainder of R.P. 7819, L.C. Aw. 8559-B, Ap.8 to Wm. C. Lunalilo; |

Thence along the middle of an old stonewall, being also along the Royal Patent 6716, Land Commission Award 4887, Part 2 to Thomas Sams for the next eighteen (18) courses:

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|-----|--------------|--------|-------|
| 7. | 245° 29' 30" | 96.86 | feet; |
| 8. | 225° 32' 10" | 81.03 | feet; |
| 9. | 232° 47' 10" | 39.17 | feet; |
| 10. | 220° 48' 45" | 24.55 | feet; |
| 11. | 250° 49' 30" | 42.37 | feet; |
| 12. | 253° 11' 00" | 145.66 | feet; |
| 13. | 316° 48' 45" | 21.69 | feet; |
| 14. | 243° 48' 00" | 116.45 | feet; |
| 15. | 253° 44' 50" | 52.97 | feet; |
| 16. | 266° 38' 50" | 100.46 | feet; |
| 17. | 246° 23' 10" | 129.72 | feet; |
| 18. | 251° 19' 15" | 46.07 | feet; |
| 19. | 326° 00' 30" | 27.33 | feet; |
| 20. | 299° 10' 50" | 42.30 | feet; |
| 21. | 225° 12' 40" | 102.17 | feet; |

- 22. 256° 49' 30" 46.06 feet;
- 23. 263° 30' 20" 34.83 feet;
- 24. 255° 52' 30" 118.06 feet to the point of beginning and containing an area of 9.095 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(s), its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
 - B. Final Subdivision Approval of the subject property shall be secured within five (5) years from the effective date of this ordinance.
 - C. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the date of approval of the change of zone.

- D. 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 the construction of a second dwelling unit and condominium property regimes on each lot. This restriction may be removed by amendment of this ordinance by the County Council. The owners of the property may also impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State of Hawai'i 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.
- E. The applicant shall provide an easement for future road widening within the subject property to allow widening of Hualalai Road on the subject property side equal to one-half the difference between the existing right-of-way width and 60 feet. The easement shall be dedicated to the County at no cost.
- F. The applicant shall construct proposed Roadway Lot A to County dedicable standards and dedicate the roadway to the County at no cost. Concrete curb, gutters and sidewalks shall be provided along the length of proposed Road Lot A to maintain consistency with the proposed road section in the adjoining Hualalai Heights Subdivision. The improvements shall meet with the approval of the Department of Public Works.
- G. The private road access to Hualalai Road serving proposed lots A-1 through A-6 including the provision of adequate sight distances, shall meet with the approval of the Department of Public Works. The pavement shall be widened to comply with the Subdivision Code. The approach shall be reconstructed to align with Hualalai Street and a turnaround shall be provided in conformance with the

Subdivision Code. The approach grade shall provide for the future widening of Hualalai Road to 60 feet.

- H. Install street lights, signs and markings, meeting with the approval of the Department of Public Works Traffic Division.
- I. Any vehicular security gate and path of gate swing on the private roads serving the proposed subdivision, shall be located a minimum distance of 40 feet from any County road right-of-way.
- J. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. The applicant shall provide a drainage study meeting with the approval of the Department of Public Works.
- K. 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.
- L. The applicant(s) shall comply with all applicable laws, rules, regulations and requirements of affected agencies.
- M. The applicant shall pay its fair share contribution to address potential regional impacts of the project with respect to roads, park, fire, police and solid waste disposal facilities. The fair share contribution shall be initially based on the representations contained within the change of zone application and may be increased or reduced proportionally if the lot counts are adjusted. The fair share

contribution shall become due and payable prior to final subdivision approval of any portion of the subject property or within five (5) years from the effective date of this change of zone ordinance, whichever occurs first. The fair share contribution for each lot shall be based on a maximum density for each lot as determined by the zoning resulting from this change of zone. The fair share contribution in a form of cash, land, facilities or any combination thereof shall be determined by the County Council. The fair share contribution may be adjusted annually beginning three years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a maximum combined value of **\$9,472.12** per single family residential unit. Fair share contributions shall be allocated as follows:

1. **\$4,567.62** per single family residential unit for an indicated total of **\$95,920.02** to the County to support park and recreational improvements and facilities;
2. **\$220.34** per single family residential unit for an indicated total of **\$4,627.14** to the County to support police facilities;
3. **\$435.21** per single family residential unit for an indicated total of **\$9,139.41** to the County to support fire facilities;
4. **\$190.54** per single family residential unit for an indicated total of **\$4,001.34** to the County to support solid waste facilities;
5. **\$4,058.41** per single family residential unit for an indicated total of **\$85,226.61** to the State or County to support road and traffic improvements;

In lieu of paying the fair share contribution, the applicant may construct such facilities related to park, fire, police and solid waste disposal facilities subject to the review and recommendation of the Planning Director, upon consultation with the appropriate agencies and approval of the Hawaii County Council.

- 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 annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this ordinance. The report shall address the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.

- 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(s), 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(s) 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 Planning 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.

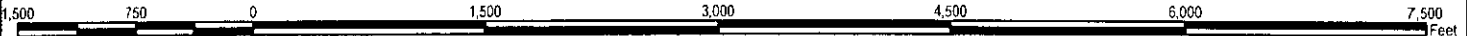
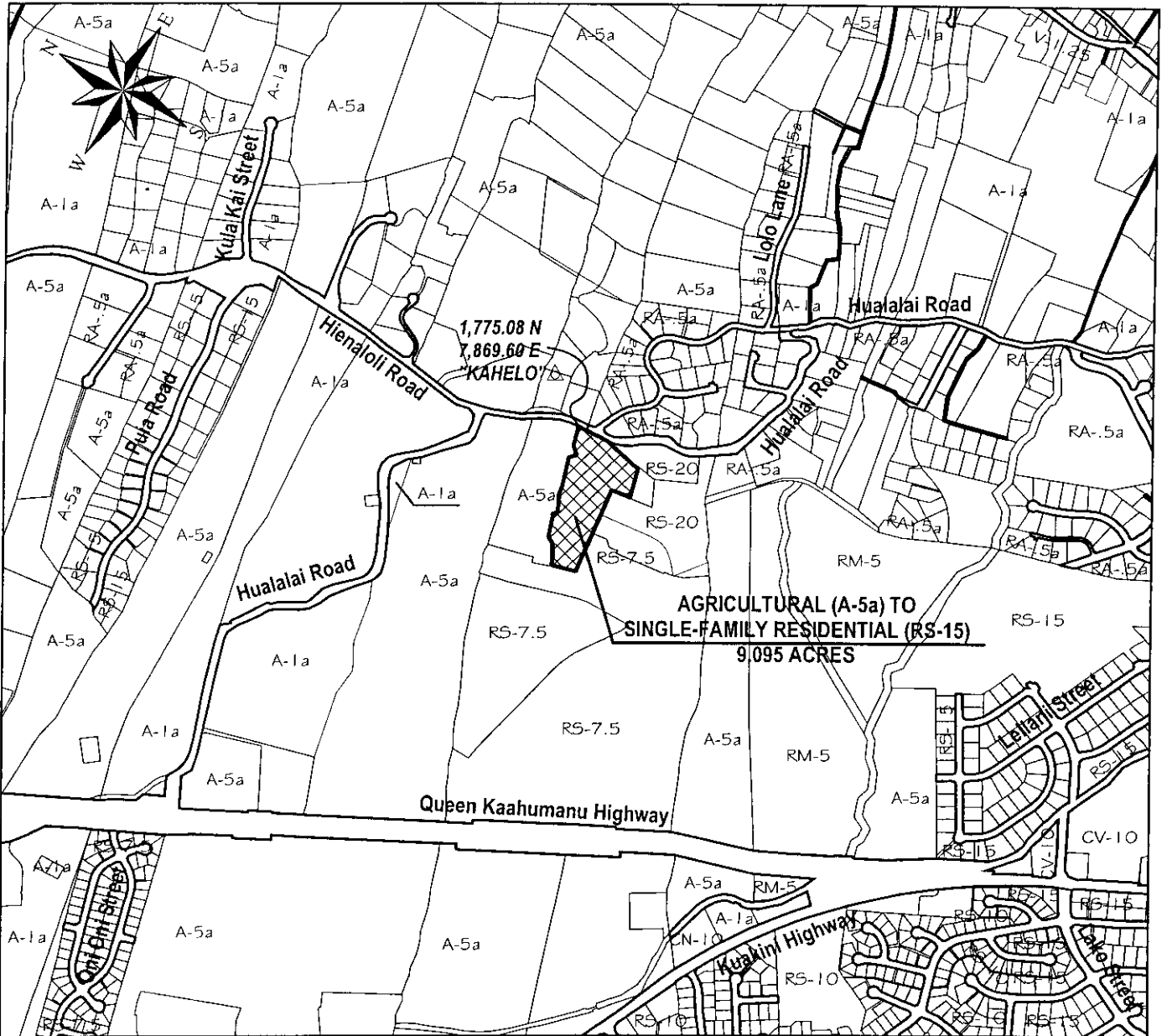
INTRODUCED BY:


 COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: February 19, 2004
 Date of 1st Reading: February 19, 2004
 Date of 2nd Reading: March 5, 2004
 Effective Date: March 18, 2004

REFERENCE: Comm. 457.1



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 PUAPUAANUI, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
 County of Hawaii
Hilo, Hawaii

Introduced By: Leningrad Elarionoff
 Date Introduced: February 19, 2004
 First Reading: February 19, 2004
 Published: February 29, 2004

REMARKS: _____

Second Reading: March 5, 2004
 To Mayor: March 9, 2004
 Returned: March 19, 2004
 Effective: March 18, 2004
 Published: April 4, 2004

REMARKS: _____

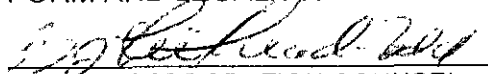
2004 MAR 19 2004 MAR 19 9 23 AM '04
 REL. FILED
 ROLL CALL VOTE

	AYES	NOES	ABS	EX
Arakaki				
Chung			X	
Elarionoff				
Holschuh			X	
Jacobson		X		
Reynolds	X			
Safarik	X			
Tulang	X			
Tyler		X		
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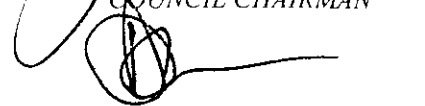
ROLL CALL VOTE

	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Reynolds	X			
Safarik	X			
Tulang	X			
Tyler	X			
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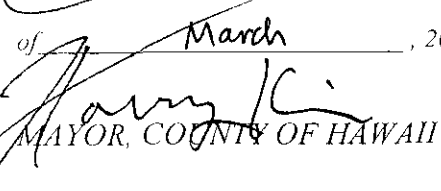
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
 FORM AND LEGALITY:

 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date _____


 COUNCIL CHAIRMAN

 COUNTY CLERK

Bill No.: 213 (Draft 2)
 Reference: C-457.1/PC-75
 Ord. No.: 04 29

Approved/Disapproved this 18th day
 of March, 2004

 MAYOR, COUNTY OF HAWAII