

COUNTY OF HAWAI'I

STATE OF HAWAI'I

BILL NO. 343

Draft 4

ORDINANCE NO. 04 149

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 - 5 ACRES (A-5a) TO SINGLE FAMILY RESIDENTIAL – 20,000 SQUARE FEET (RS-20) AT KALAOA 1ST AND 2ND, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-3-011:068.

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 1st and 2nd, North Kona, Hawai'i shall be Single Family Residential – 20,000 square feet (RS-20):

Beginning at a ¾ inch pipe (found) at the Southeasterly corner of this parcel of land, being also the Northeasterly corner of Lot 1 and being a point on the Westerly side of Hawaii Belt Road (F.A.P.F-10(5)), the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 4,614.00 feet South and 8,759.10 feet West and running by azimuths measured clockwise from True South:

Thence, for the next six (6) courses following along the remainder of Grant 3027 to Heucu:

1. 86° 20' 30" 37.95 feet along Lot 1 to a point;
2. 93° 28' 30" 78.47 feet along Lot 1 to a point;
3. 95° 20' 30" 104.89 feet along Lot 1 to a point;
4. 88° 34' 45.03 feet along Lot 1 to a ½ inch pipe (found);
5. 93° 09' 30" 4.29 feet along Lot 1 to a ½ inch pipe (found);

- 6. 191° 56' 383.98 feet along Lot A to a ¾ inch pipe (found);
- 7. 268° 17' 15" 154.77 feet along the Southerly side of Mahilani Drive to a point;

Thence, following along the Westerly side of Hawaii Belt Road (F.A.P. F-10(5)) on a curve to the left with a radius of 5,769.56 feet, the chord azimuth and distance being:

- 8. 355° 13' 26" 249.82 feet to a point;
- 9. 353° 59' 143.35 feet along the Westerly side of Hawaii Belt Road (F.A.P.F-10(5)) to the point of beginning and containing an area of 1.8628 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. 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 shall be secured within five (5) years from the effective date of this ordinance.
- D. Access to the proposed lots (B-1 and B-2) shall be from Mahilani Drive. Access to proposed lot B-3 shall be from an existing access on Mamalahoa Highway. Access shall meet with the requirements of the Department of Public Works.
- E. A 10-foot wide no vehicular access planting screen easement shall be delineated along all lots fronting Mamalahoa Highway.
- F. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
- G. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works in conjunction with Final Subdivision Approval.
- H. Restrictive covenants in the deeds of all proposed residential lots shall prohibit the construction of a second dwelling unit and condominium property regimes and any further subdivision of 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 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 approved covenant(s) shall be recited in an instrument executed by the applicant and the County and recorded

with the Bureau of Conveyances for any portion of the subject property. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.

- I. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawaii County Code.
- J. Should any undiscovered 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 mitigation measures have been taken.
- K. 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 receipt of Final Subdivision Approval or within five (5) years from the effective date of this change of zone ordinance, whichever occurs first. The fair share contribution for each additional lot shall be based on a maximum density for each additional 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 **\$9,671.44** per additional single family residential unit. Based upon the applicant's representation of intent to develop a total of two (2) additional single-family residential units, the indicated total of fair share contribution is **\$19,342.88** for the additional 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 K. The fair share contribution shall be allocated as follows:

1. **\$4,663.74** per single family residential unit for an indicated total of **\$9,327.48** to the County to support park and recreational improvements and facilities;
2. **\$224.98** per single family residential for an indicated total of **\$449.96** to the County to support police facilities;
3. **\$444.36** per single family residential unit for an indicated total of **\$888.72** to the County to support fire facilities;
4. **\$194.55** per single family residential unit for an indicated total of **\$389.10** to the County to support solid waste facilities;
5. **\$4,143.81** per single family residential unit for an indicated total of **\$8,287.62** 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 the approval of the Hawaii County Council.

- L. 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.
- M. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- N. 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 applicants, 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 applicants should require an additional extension of time, the Planning Director shall submit the applicants' request to the County Council for appropriate action.

- O. 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.

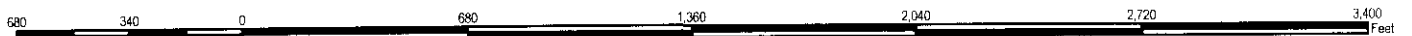
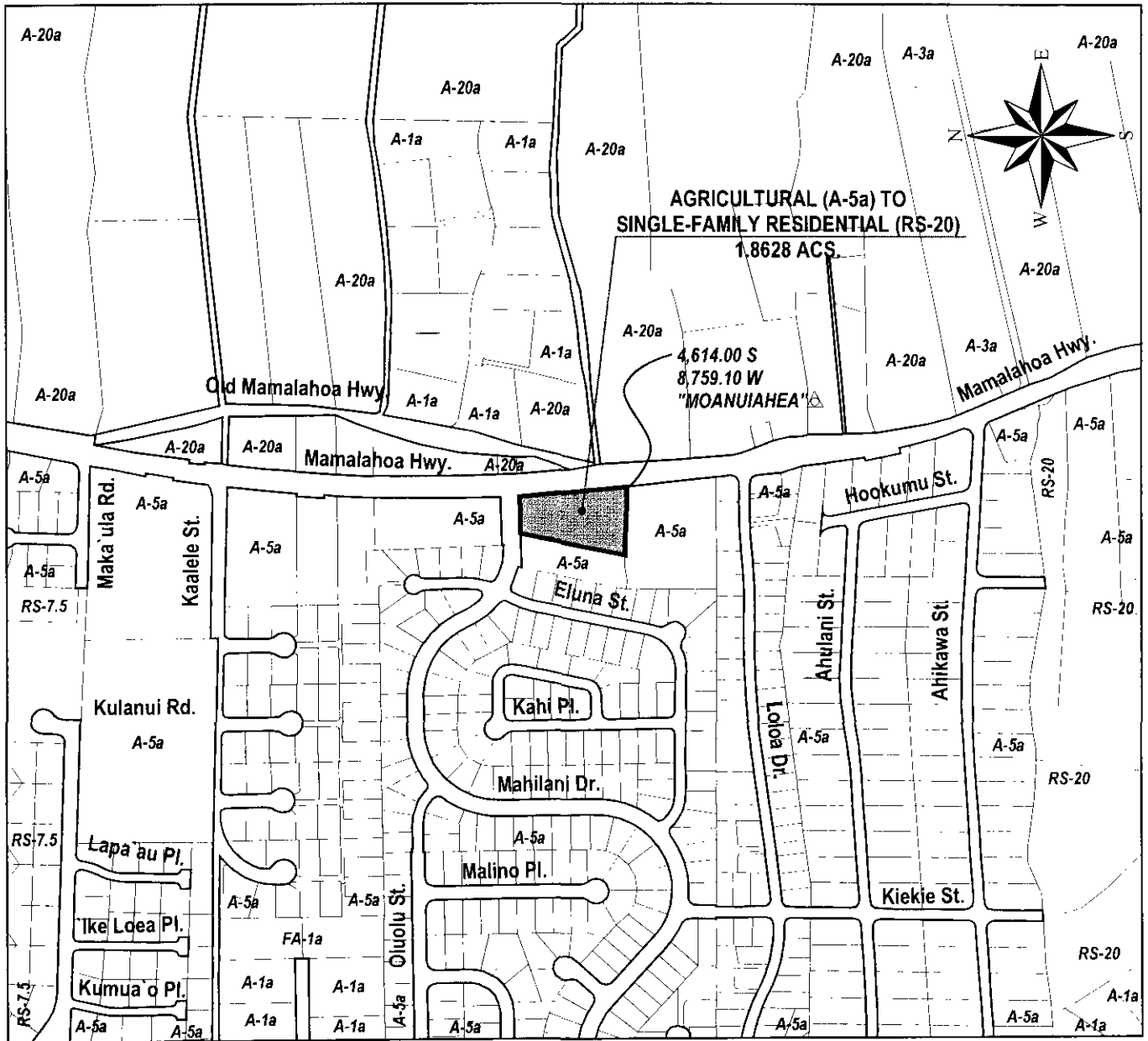
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

_____ Kona _____, Hawai'i

Date of Introduction: November 10, 2004
Date of 1st Reading: November 10, 2004
Date of 2nd Reading: November 24, 2004
Effective Date: December 8, 2004

REFERENCE: Comm. 788.3



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-20)
 AT KALAOA 1st and 2nd, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

0-780
 23-141

OFFICE OF THE COUNTY CLERK
 County of Hawaii
Kona, Hawaii

DEC 11 11 15

(Draft 3)

Introduced By: Leningrad Elarionoff
 Date Introduced: November 10, 2004
 First Reading: November 10, 2004
 Published: November 21, 2004

REMARKS: _____

Second Reading: November 24, 2004
 To Mayor: November 29, 2004
 Returned: December 9, 2004
 Effective: December 8, 2004
 Published: December 15, 2004

REMARKS: _____

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			
	5	1	3	0

Draft 4)

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			
	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:

[Signature]
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date December 1, 2004

Approved/Disapproved this 8th day
 of December, 20 04

[Signature]
 MAYOR, COUNTY OF HAWAII

[Signature]
 COUNCIL CHAIRMAN

[Signature]
 COUNTY CLERK

Bill No.: 343 (Draft 4)
 Reference: C-788.3/PC-115
 Ord: 04 149