

BILL NO. 30  
Draft 3

ORDINANCE NO. 05 113

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 - 5 ACRES (A-5a) TO MULTIPLE FAMILY RESIDENTIAL (RM-2.5) AT PUAPUA'AIKI 1<sup>ST</sup> AND PUAPUA'ANUI 1<sup>ST</sup>, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-5-17:19.

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 Puapua'aiki 1<sup>st</sup> and Puapua'anui 1<sup>st</sup>, North Kona, Hawai'i shall be Multiple Family Residential (RM-2.5):

Beginning at the Northwesterly corner of this parcel of land, being also along the Easterly side of Kuakini Highway (F.A.S.P. No. S-229(1)), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO", being 578.53 North and 2.877.36 East and running by azimuths measured clockwise from True South:

- |    |              |        |  |
|----|--------------|--------|--|
| 1. | 251° 54' 00" | 134.10 | feet along Lot 2, being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui; |
| 2. | 252° 05' 06" | 43.12  | feet along Lot 2, being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui; |
| 3. | 249° 53' 15" | 23.07  | feet along Lot 2, being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui; |
| 4. | 260° 35' 20" | 31.24  | feet along Lot 2, being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui; |

5.	266°	51'	30"	57.70	feet along Lot 2, being also Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
6.	254°	52'	40"	36.98	feet along the middle of an ancient stonewall, being also along Lot 2, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
7.	245°	28'	45"	28.89	feet along the middle of an ancient stonewall, being also along Lot 2, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
8.	262°	11'	50"	47.31	feet along the middle of an ancient stonewall, being also along Lot 2, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
9.	249°	23'	45"	64.25	feet along the middle of an ancient stonewall, being also along Lot 1, being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
10.	263°	42'	30"	41.92	feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
11.	254°	13'	40"	21.70	feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
12.	263°	10'	50"	28.26	feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;

13.	248°	21'	30"	34.17	feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
14.	233°	38'	00"	12.37	feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
15.	258°	01'	40"	84.72	feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
16.	272°	37'	30"	20.53	feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
17.	254°	40'	45"	22.28	feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
18.	258°	37'	30"	37.35	feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
19.	270°	13'	50"	31.59	feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;

20. 241° 05' 50" 17.06 feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
21. 235° 29' 45" 30.26 feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
22. 252° 15' 50" 11.93 feet along the middle of an ancient stonewall, being also along Lot 1, same being also along Royal Patent 1669, Land Commission Award 8516-B, Apana 3 to Kamaikui;
23. 5° 25' 00" 181.16 feet along Lot 2 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams;
24. 278° 26' 30" 37.85 feet along Lot 2 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams;
- Thence, along Lot 2 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams on a curve to the right with a radius of 1669.00 feet, the chord azimuth and distance being:
25. 291° 23' 00" 747.57 feet:
- Thence, along Lot 2 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams on a curve to the left with a radius of 56.00 feet, the chord azimuth and distance being:
26. 274° 15' 20.5" 56.12 feet;

- |     |      |     |     |        |  |
|-----|------|-----|-----|--------|--|
| 27. | 244° | 11' | 11" | 123.00 | feet along Lot 2 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams;  |
| 28. | 334° | 11' | 11" | 98.00  | feet along Lot 2 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams;  |
| 29. | 64°  | 11' | 11" | 285.00 | feet along Lot 2 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams;  |
| 30. | 334° | 11' | 11" | 246.47 | feet along Lot 2 of Pualani Makai, being also along the remainders of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams, and Royal Patent 7819, Land Commission Award 8559-B, Apana 8 to William C. Lunalilo, (Certificate of Boundaries No. 159); |

Thence, along Lot 3 of Pualani Makai, being also along the remainders of Royal Patent 7819, Land Commission Award 8559-B, Apana 8 to William C. Lunalilo, (Certificate of Boundaries No. 159), and Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams on a curve to the right with a radius of 300.00 feet, the chord azimuth and distance being:

31. 114° 29' 18" 121.62 feet;

32. 126° 11' 00" 60.00 feet along Lot 3 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams;

Thence, along the remainder of Lot 3 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams on a curve to the left with a radius of 300.00 feet, the chord azimuth and distance being:

33. 71° 55' 00" 487.05 feet;

Thence, along Lot 4 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams on a curve to the right with a radius of 3953.00 feet, the chord azimuth and distance being:

34. 134° 48' 00' 654.68 feet:

Thence, along Lot 4 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams on a curve to the left with a radius of 150.00 feet, the chord azimuth and distance being:

35. 113° 49' 00" 130.26 feet:

Thence, along Lot 4 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams on a curve to the left with a radius of 100.00 feet, the chord azimuth and distance being:

36. 100° 08' 00" 41.75 feet;

37. 112° 11' 00" 126.00 feet along Lot 4 of Pualani Makai being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams and the Old Kailua-Keauhou Middle Road;

38. 124° 53' 00" 85.49 feet along Lot 4 of Pualani Makai, being also along the remainder of the Old Kailua-Keauhou Middle Road and Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams;

39. 77° 31' 34" 143.74 feet along Lot 4 of Pualani Makai, being also along the remainder of Royal Patent 6716, Land Commission Award 4887, Apana 2 to Thomas Sams;

Thence, along the Easterly side of Kuakini Highway (F.A.S.P. No. S-229(1)) on a curve to the left with a radius of 2222.70 feet, the chord azimuth and distance being:

40. 166° 37' 32" 69.87 feet;

Thence, along the Easterly side of Kuakini Highway (F.A.S.P. No. S-229(1)) on a curve to the left with a radius of 1677.02 feet, the chord azimuth and distance being:

41. 165° 01' 28" 41.01 feet to the point of beginning and containing an area of 14.872 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, its successors or assigns shall be responsible for complying with all stated conditions of approval.
- B. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within ninety days from the effective date of this ordinance. The applicant shall finalize the allocation of water commitments sufficient to allow the proposed development prior to Final Plan Approval.

- C. Construction of the proposed development shall be completed within five (5) years from the effective date this ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).
  
- D. As represented by the applicant, the project shall be restricted to the use of rental housing only for a period of not less than 20 years from the issuance of a certificate of occupancy. Any change to this condition will require an amendment to the change of zone ordinance.
  
- E. If Department of Transportation requires an amended Traffic Impact Analysis Report (TIAR), it shall be submitted to the Department of Transportation for review and approved prior to the issuance of Final Plan Approval. All accesses, including roadway and/or intersection improvements, shall meet with the approval of the Department of Transportation.
  
- F. The applicant, successors, or assigns shall improve the intersection at the principal access on the Hawai'i Belt Road at the north end of T.M.K. No. 7-5-17:1, at the Pualani Estates Subdivision Road, including, but not limited to, a deceleration and exclusive left-turn lane into T.M.K. No 7-5-17: 1. Intersection improvements shall be as required by the Department of Transportation. The applicant shall pay for the cost of upgrading the traffic signal lights at the intersection of the Hawai'i Belt Road and the



Pualani Estates Subdivision Road to accommodate 4-way traffic. Said improvements, plus the main spine road through the Pualani Estates Subdivision to Hualalai Road, shall be completed prior to the issuance of a certificate of occupancy for any residential structures on the subject site.

- G. The applicant, successors, or assigns shall construct a right-turn deceleration lane and a right-turn acceleration lane at the secondary entrance located south of the main intersection meeting with the approval of the State Department of Transportation, and any other improvements that may be required by the DOT. If DOT opposes the use of the second access to the commercial development, all access shall be from the northern access point. Otherwise, the southern access shall be limited to right-in, right-out movements only. Said improvements shall be completed prior to the issuance of a certificate of occupancy for non-residential structures or final inspection of any residential structures.
  
- H. The applicant, successors, or assigns shall be subject to the "Declaration Re Road Construction" recorded with the State of Hawaii Bureau of Conveyances on June 18, 2004 (Doc No. 2004 123556) and shall improve "Easement 1" to County dedicable standards with curbs, gutter and sidewalk improvements meeting with the approval of the Department of Public Works, prior to the issuance of any certificates of occupancy for non-residential structures or prior to any final inspections for residential structures, from Kuakini Highway to Lot 1, SUB 7814 (the frontage road lot). The applicant, successors or assigns shall also complete the road connection from Easement "1" to the main project intersection, including bridging the floodway, to County dedicable standards, and from Easement "1" to the southerly project access, to County dedicable standards, prior to the issuance of a certificate of occupancy for non-residential structures or final inspection for any residential structures.

- I. Access to Kuakini Highway, including the provision of adequate sight distances, shall meet with the approval of the Department of Public Works. An exclusive left turn lane and a right turn deceleration lane shall be provided on Kuakini Highway at the Easement 1 access road approach. The access shall align with the opposing entry to Kahakai Estates Subdivision. Requirement improvements may include, but not be limited to, pavement and shoulder widening, pedestrian activated cross walk lights, drainage improvements and relocation of utilities. A system of drywells shall be installed to address existing local drainage on the mauka side of Kuakini Highway flowing to the proposed access approach. Said improvements shall be completed prior to the issuance of a certificate of occupancy for any residential structures on the subject site.
- J. The main spine mauka/makai road within the proposed development shall be improved to County dedicable standards with curbs, gutter and sidewalk improvements and if accepted by the County, a bike path, prior to issuance of a certificate of occupancy. The applicant shall provide necessary easements for road and drainage improvements in favor of T.M.K. No. 7-5-17: 1 so that the property can be developed independently of T.M.K. No. 7-5-17: 19. The applicant, its successors, or assigns shall convey its interest in the easement and all improvements therein to the County upon their completion.
- K. Install streetlights, signs and markings meeting with the approval of the Department of Public Works.
- L. A drainage study shall be prepared and submitted for the review and approval of the Department of Public Works prior to the issuance of Final Plan Approval. If deemed necessary by the Department of Public Works, the appropriate Federal Emergency Management Agency (FEMA) clearances and/or approvals shall be secured prior to issuance of any land

disturbance permit affecting the area covered by the work within the “AE” zone or the corrected effective base flood plain. The applicant shall construct all necessary drainage improvements including the flood channel prior to the issuance of a certificate of occupancy for non-residential structures or final inspection of any residential structures.

- M. The proposed flood channel shall be maintained in private ownership and a maintenance program for the channel shall be submitted to the Department of Public Works for their review and approval.
  
- N. No residential structures shall be constructed within areas designated “AE” or “shaded” Zone “X” by Flood Insurance Rate Maps (FIRM) as amended by any applicable LOMR. Restrictive covenants in the deeds of all single family residential lots shall give notice of the terms of this rezoning condition. No single-family residential lots may be created which lack a buildable area. This restriction may be removed by amendment of this ordinance by the County Council. If appropriate, 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.
  
- O. A National Pollutant Discharge Elimination System (NPDES) permit and an Underground Injection Control (UIC) permit, if required, shall be secured from the State Department of Health before the commencement of construction activities.

- P. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
- Q. The applicant shall perform an engineering study to determine if the sewer line has adequate capacity to handle the proposed flows. If the offsite sewer line does not have adequate capacity, the applicant shall be responsible for necessary improvements. Sewer lines shall be installed within the development to connect with the County's sewer system, meeting with the approval of the Department of Environmental Management, and prior to the issuance of a Certificate of Occupancy.
- R. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- S. A Data Recovery Plan and/or an Archaeological Preservation and Burial Treatment Plan, if required, shall be submitted for the review and approval of the Planning Director, in consultation with the Department of Land and Natural Resources – State Historic Preservation Division (DLNR-SHPD). Proposed mitigation treatment for the burial sites within the subject property shall be approved by the SHPD's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Archaeological Preservation and Burial Treatment Plan shall be submitted to the Planning Director for its files prior to submitting plans for Final Plan Approval review or prior to the issuance of any land alteration permits, whichever occurs first.
- T. 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 Resource – State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

- U. As represented by the applicant, within ninety (90) days after the effective date of this ordinance, the applicant shall solicit the input of the State Department of Education (DOE), community, and County Council to determine which government agency or entity, such as a DOE-certified “public charter” school, would be the recipient of this school site. The school site and any improvements thereon shall be conveyed via lease to the identified recipient for \$1.00 for the duration of the lease, with the understanding that said entity or agency would be able to secure additional funds as may be necessary to have a school opened prior to or in conjunction with the issuance of a residential occupancy permit on the subject property. Further, should the school use be terminated for any reason, the land and improvements thereon shall be conveyed in fee to the County of Hawai‘i at no cost within thirty (30) days of the date of termination.

Within sixty (60) days of the identification of the receiving agency or entity, a draft of an agreement reflecting the terms outlined in this ordinance, shall be submitted to the County Council for its review and approval.

As further represented by the applicant, the applicant, successors, or assigns shall, 1) prior to the issuance of a building permit for any residential or commercial structures on the subject site, a) subdivide and dedicate or cause the dedication of 5 acres of land within the T.M.K. 7-5-17: 19 and/or T.M.K. 7-5-17: 23 for a school site to the State DOE or a DOE-certified “public charter”; and b) provide the necessary infrastructure

to the site, including vehicular access and utility systems; and 2) prior to the issuance of a Certificate of Occupancy for any residential structures on the subject site, make the necessary on-site land improvements for the school and associated playground area, as well as construct or cause the construction of up to \$600,000 of building or structural improvements as may be mutually agreed to between the applicant and the receiving agency or entity. These improvements are designed to facilitate the opening of a school prior to the occupancy of any residential structures on the subject property.

- V. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. 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 unit counts are adjusted. The fair share contribution shall become due and payable prior to receipt of Final Plan Approval or within five years from the effective date of this change of zone ordinance, whichever occurs first. The fair share contribution for each unit shall be based on the number of units developed. 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 **\$6,206.06** per multiple family residential unit (**\$9,671.44** per single family residential unit). Based upon the applicant's representation of intent to develop a total of 250 multiple family residential units, the indicated total of fair share contribution is **\$1,551,515.00** for the 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.

The fair share contribution per multiple family residential unit (single family residential unit) shall be allocated as follows:

1. **\$3,061.27** per multiple family residential unit (**\$4,663.74** per single family residential unit) to the County to support park and recreational improvements and facilities for a total of **\$765,315.50**;
2. **\$96.75** per multiple family residential unit (**\$224.98** per single family residential unit) to the County to support police facilities for a total of **\$24,187.50**;
3. **\$297.62** per multiple family residential unit (**\$444.36** per single family residential unit) to the County to support fire facilities for a total of **\$74,405**;
4. **\$132.65** per multiple family residential unit (**\$194.55** per single family residential unit) to the County to support solid waste facilities for a total of **\$33,162.50**; and
5. **\$2,617.77** per multiple family residential unit (**\$4,143.81** per single family residential unit) to the County to support road and traffic improvements for a total of **\$654,442.50**.

In lieu of paying the fair share contribution, the applicant may contribute land and/or construct 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 review and recommendation of the Planning Director, upon consultation with the appropriate agencies and approval of the County Council. Improvements to the drainage as it crosses under Kuakini Highway, the road

improvements at the Kuakini Highway intersection, and the mauka/makai spine road up to the entrance of the proposed rental housing project shall be credited against the road fair share.

Relative to the requirements for the school as outlined in Condition U, the value of land – which shall be based on the per acre purchase cost of the applicant -, the cost of the infrastructure (road and utility) to the subject site, and the cost of site preparation for the school and playground area shall be credited against the park and recreation fair share. The construction of any structures on the subject site shall be credited against the balance, if any, of the park and recreation fair share of this ordinance and/or any future park and recreation fair share requirement for T.M.K. 7-5-17: 23 and 26.

- W. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
  
- X. 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. The affordable housing plan shall be approved by the County Housing Agency prior to final subdivision approval or final plan approval, whichever occurs first. The housing requirement shall be met by the provision of affordable housing onsite, and not by use of any affordable housing credits generated offsite or by any in-lieu fees. Further, as represented by the applicant, a minimum of twenty (20) percent of the units will be rented at the 80% or less than median income level and the remaining at the 120% or less than median income level. Affordable housing credits in excess of the basic requirement outlined in Chapter 11, Article 1, Hawaii County Code, shall



be credited to the applicant, its successors or assigns.

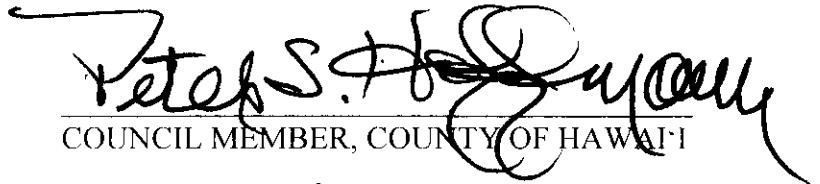
- Y. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
  
- Z. An initial extension of time for the performance of conditions within the ordinance may be granted by the Director upon the following circumstances:
  - 1. The non-performance 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 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.

AA. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the 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:

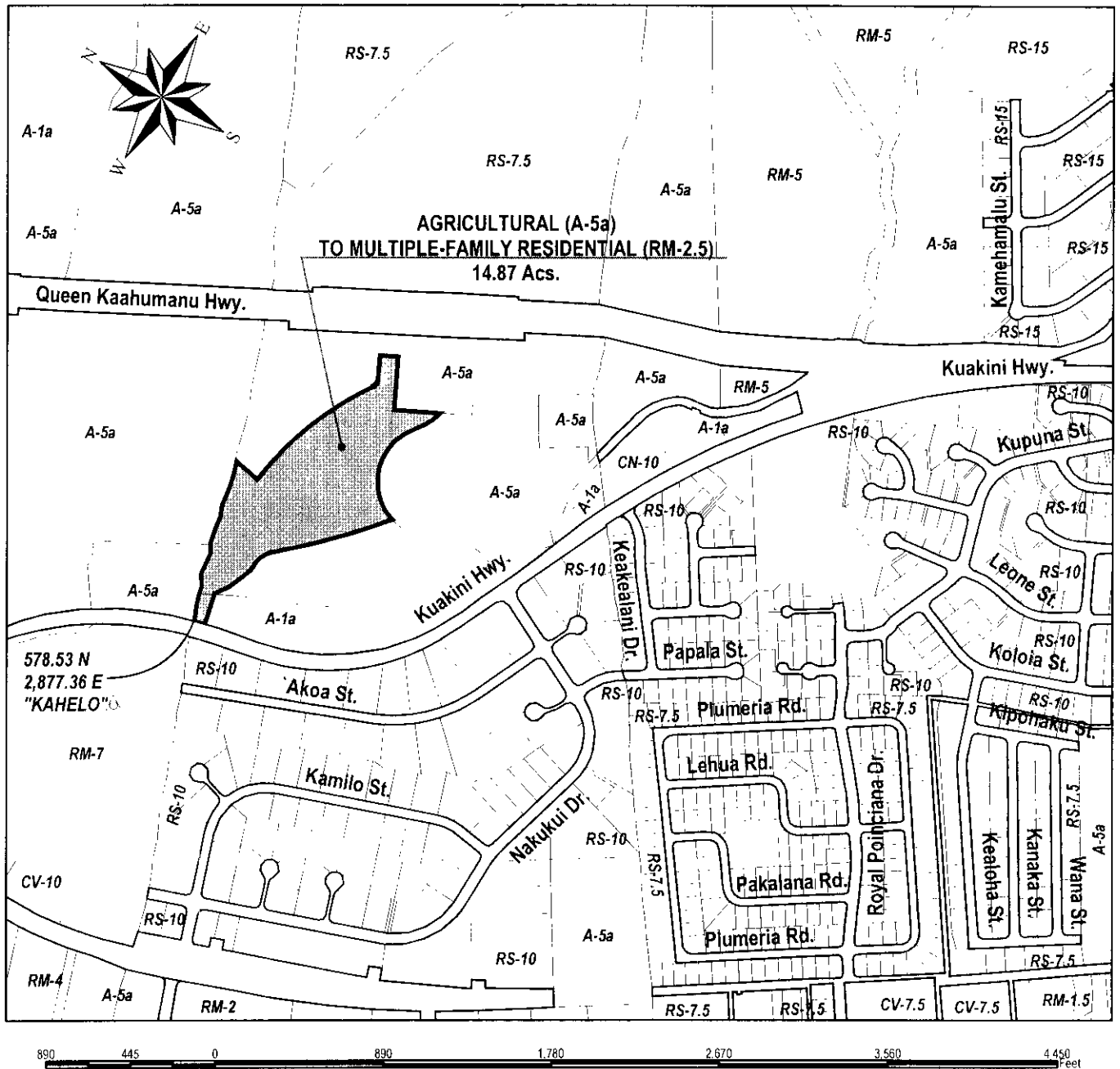
  
COUNCIL MEMBER, COUNTY OF HAWAII

  
COUNCIL MEMBER, COUNTY OF HAWAII

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

Date of Introduction: July 7, 2005  
Date of 1st Reading: July 7, 2005  
Date of 2nd Reading: July 22, 2005  
Effective Date: August 5, 2005

REFERENCE: Comm. 106.71



# 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 PUAPUA`AIKI 1st AND PUAPUA`ANUI 1st, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK  
County of Hawai'i  
Hilo, Hawai'i

Introduced By: Pete Hoffmann/K. Angel Pilago  
Date Introduced: July 7, 2005  
First Reading: July 7, 2005  
Published: July 17, 2005

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Second Reading: July 22, 2005  
To Mayor: July 25, 2005  
Returned: August 5, 2005  
Effective: August 5, 2005  
Published: August 11, 2005

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson		X		
Pilago	X			
Safarik	X			
	8	1		0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson		X		
Pilago	X			
Safarik	X			
	8	1	0	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:

*Michael Keith Tavel*  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date *7/22/05*

*[Signature]*  
COUNCIL CHAIRMAN

*[Signature]*  
COUNTY CLERK

Bill No.: 30 (Draft 3)

Reference: C-106.71/PC-25

Ord No.: **05 113**

Approved/Disapproved this *3<sup>rd</sup>* day  
of *August*, 20 *05*  
*Harry Kim*  
MAYOR, COUNTY OF HAWAII