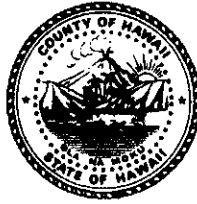


# COUNTY OF HAWAII



# STATE OF HAWAII

ORDINANCE NO. 06 69 BILL NO. 250

AN ORDINANCE AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO SINGLE FAMILY RESIDENTIAL (RS-7.5) AT PAHOA, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-5-008:PORTION OF 046.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-8-7, Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code 1983 (2005 Edition), is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Pahoa, North Kohala, Hawaii, shall be Single Family Residential (RS-7.5):

Beginning at the southeast corner of this parcel of land and along the northerly side of Hawi-Niulii Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU-O-NALE" being 13,502.86 feet North and 7,383.16 feet East, thence running by azimuths measured clockwise from true South:

1. 102° 52' 595.33 feet along Hawi-Niulii Road;
2. Thence along Hawi-Niulii Road on a curve to the left with a radius of 2,899.79 feet, the chord azimuth and distance being:  
101° 20' 18" 154.68 feet;
3. 192° 52' 580.00 feet along Lot 178, Land Court Application 1120;
4. Thence along Lot 178, Land Court Application 1120 and the remainder of Lot 4-A on a curve to the left with a radius of 350.00 feet, the chord azimuth and distance being:  
195° 09' 400 feet;
5. 282° 52' 689.88 feet along the remainder of Lot 175;
6. 12° 52' 287.35 feet along same;

- |    |         |        |   |
|----|---------|--------|---|
| 7. | 98° 18' | 87.94  | feet along Exclusion 1, Land Court Application 1120;                              |
| 8. | 1° 55'  | 693.84 | feet along same to the point of beginning and containing an area of 15.000 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 1983 (2005 Edition), 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. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" prior to final subdivision approval. The applicant shall make any improvements required by the Department of Water Supply.
  - 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. Access to Hawi-Niulii Road, including the provision of adequate sight distances, shall meet with the approval of the State Department of Transportation.
- E. Install streetlights, signs and markings meeting with the approval of the State Department of Transportation.
- F. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy or final subdivision approval.
- G. 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.
- H. 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.
- I. 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.

- J. 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 applicant shall be exempt from fair share requirements for all units sold or rented to households earning less than 80% of the median family income. 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 **\$9,991.21** per single family residential unit. The applicant shall be required to submit information regarding the amount of units sold or rented to households earning more than 80% of the median family income to calculate the total amount of fair share contribution owed by the applicant.

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

1. **\$4,817.93** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$232.42** per single family residential unit to the County to support police facilities;

3. **\$459.06** per single family residential unit to the County to support fire facilities;
4. **\$200.98** per single family residential unit to the County to support solid waste facilities; and
5. **\$4,280.82** per single family residential unit to the County to support road and traffic improvements.

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.

- K. 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.
- L. 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, provided further that, because the applicant has represented that the project will predominately be for affordable housing, the applicant shall generate affordable housing credits on-site not less than one hundred percent (100%) of the units developed. Affordable housing credits in excess of the basic requirements of Chapter 11, Article 1, Hawaii County Code, Section 11-4 and 11-5 shall be credited to the applicant, its successors, or assigns, and be transferable under Section 11-15. The affordable housing plan shall be approved by the

Administrator of the Office of Housing and Community Development prior to final subdivision approval.

- M. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- N. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
- O. 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).

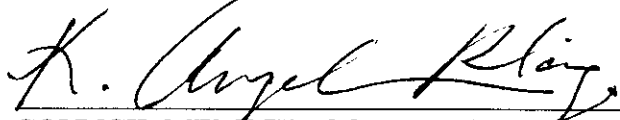
5. If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.

P. 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.

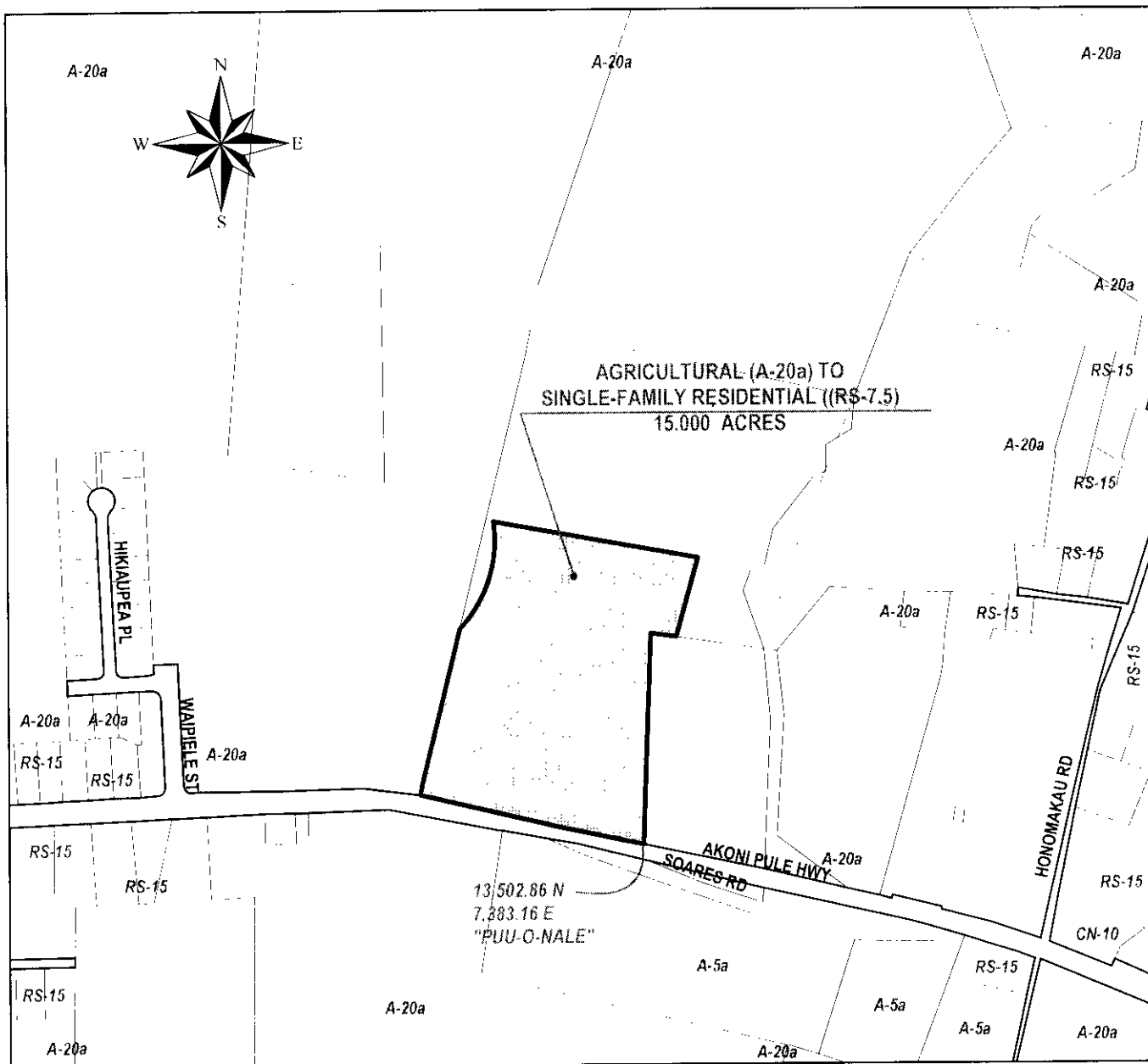
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: May 2, 2006  
Date of 1st Reading: May 2, 2006  
Date of 2nd Reading: May 17, 2006  
Effective Date: May 22, 2006

REFERENCE: Comm: 765.



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA ZONE MAP)  
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE  
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION  
 FROM AGRICULTURAL (A-20a)  
 TO SINGLE-FAMILY RESIDENTIAL (RS-7.5)  
 AT PAHOA, NORTH KOHALA, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII



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

Introduced By: K. Angel Pilago  
Date Introduced: May 2, 2006  
First Reading: May 2, 2006  
Published: May 12, 2006

REMARKS: \_\_\_\_\_  
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Second Reading: May 17, 2006  
To Mayor: May 18, 2006  
Returned: May 22, 2006  
Effective: May 22, 2006  
Published: May 31, 2006

REMARKS: \_\_\_\_\_  
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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			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
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Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	9	0	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:

Ay D. Self  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date 5-19-06

[Signature]  
COUNCIL CHAIRMAN

[Signature]  
COUNTY CLERK

Bill No.: 250  
Reference: C-765/PC-64  
Ord No.: 06 69

Approved/Disapproved this 22nd day

of May, 2006  
[Signature]

ACTING MAYOR, COUNTY OF HAWAII