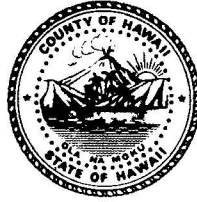


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **10 101** BILL NO. 274

AN ORDINANCE AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – TWENTY ACRES (A-20a) AND SINGLE-FAMILY RESIDENTIAL – 7,500 SQUARE FEET (RS-7.5) TO SINGLE-FAMILY RESIDENTIAL – 15,000 SQUARE FEET (RS-15), SINGLE-FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10), SINGLE-FAMILY RESIDENTIAL – 7,500 SQUARE FEET (RS-7.5), AND OPEN AT PAHOA, NORTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY: 5-5-019:025 AND 027 (PORTIONS).

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-7, Article 8, Chapter 25 (Zoning Code) of the Hawai'i 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, Hawai'i, shall be Open (O):

AREA 1 (A-20a to OPEN)

Beginning at the north corner of this parcel of land, the direct azimuth and distance from the northwest corner of Lot 343, Land Court Application 1120 (Map 80) being: 102° 52' 500.00 feet, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE", being 14,722.62 feet North and 6,892.50 feet East, thence running by azimuths measured clockwise from true South:

- 1. 345° 31' 05" 117.44 feet along the remainder of R. P. 7794, L.C. Aw. 10,911 to Umi (Area 4);

2. 102° 52' 38.01 feet along the remainder of R. P. 7791, L.C. Aw. 10,911 to Umi (Area 2);
3. Thence along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi, along the remainder of Grant 2768 to Kaaua and along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) on a curve to the right with a radius of 350.00 feet, the chord azimuth and distance being:
15° 09' 400.00 feet;
4. 192° 52' 504.00 feet along Lot 289, Ld. Ct. App. 1120 (Map 49), along the remainder of Grant 2768 to Kaaua and along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi to the point of beginning and containing an area of 0.530 acre.

The district classification of the following area situated at Pahoia, North Kohala, Hawai'i, shall be Open (O):

AREA 2 (RS-7.5 to OPEN)

Beginning at the northeast corner of this parcel of land, being also the northwest corner of Area 3, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE", being 14,608.90 feet North and 6,921.87 feet East, thence running by azimuths measured clockwise from true South:

1. 345° 31' 05" 107.62 feet along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi and along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) (Area 3);
2. 7° 05' 33" 122.91 feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) (Area 3);
3. 20° 44' 38" 83.27 feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) and

				along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi;	
4.	43°	24'	15"	70.41	feet along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi;
5.	56°	01'	19"	78.96	feet along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi, along the remainder of Grant 2768 to Kaaua and along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80);
6.	145°	38'		19.84	feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80);
7.	192°	52'		5.45	feet along Lot 289, Ld. Ct. App. 1120 (Map 49);
8.	Thence along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80), along the remainder of Grant 2768 to Kaaua and along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi (Area 1) on a curve to the left with a radius of 350.00 feet, the chord azimuth and distance being:				195° 09' 400.00 feet;
9.	282°	52'		38.01	feet along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi (Area 1) to the point of beginning and containing an area of 0.397 Acre.

The district classification of the following area situated at Pahoa, North Kohala, Hawai'i, shall be Single-Family Residential – 10,000 square feet (RS-10):

AREA 3 (RS-7.5 to RS-10)

Beginning at the northwest corner of this parcel of land, being also the northeast corner of Area 2, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE", being 14,608.90 feet North and 6,921.87 feet East, thence running by azimuths measured clockwise from true South:

1. 282° 52' 155.40 feet along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi and along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) (Area 4);
2. Thence along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) on a curve to the left with a radius of 300.00 feet, the chord azimuth and distance being:
332° 58' 32" 192.46 feet;
3. 44° 16' 88.91 feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80);
4. Thence along same on a curve to the left with a radius of 500.00 feet, the chord azimuth and distance being:
41° 19' 41" 51.27 feet;
5. 128° 23' 22" 21.00 feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80);
6. 121° 00' 133.97 feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80);
7. 187° 05' 33" 122.91 feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) (Area 2);
8. 165° 31' 05" 107.62 feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) and along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi (Area 2) to

the point of beginning and containing an area of 0.990 acre.

The district classification of the following area situated at Pahoa, North Kohala, Hawai‘i, shall be Single-Family Residential – 10,000 square feet (RS-10):

AREA 4 (A-20a to RS-10)

Beginning at the northwest corner of this parcel of land, being also the northwest corner of Lot 343, Land Court Application 1120 (Map 80), the coordinates of said point of beginning referred to Government Survey Triangulation Station “PUU O NALE”, being 15,210.07 feet North and 7,003.85 feet East, thence running by azimuths measured clockwise from true South:

- | | | | |
|----|--|--------|--|
| 1. | 281° 10' 20" | 619.27 | feet along Lot 177-B, Ld. Ct. App. 1120 (Map 35); |
| | | | Thence along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) for the next eight (8) courses, the direct azimuths and distances being: |
| 2. | 12° 52' | 417.24 | feet (Area 8); |
| 3. | 102° 52' | 146.00 | feet (Area 7); |
| 4. | 192° 52' | 59.00 | feet (Area 5); |
| 5. | 102° 52' | 302.00 | feet (Area 5); |
| 6. | 12° 52' | 76.64 | feet (Area 5); |
| 7. | Thence along same on a curve to the left with a radius of 400.00 feet, the chord azimuth and distance being: | | |
| | | | 5° 11' 30" 106.84 feet; |
| 8. | 357° 31' | 54.83 | feet (Area 5); |
| 9. | Thence along Area 5 on a curve to the left with a radius of 300.00 feet, the chord azimuth and distance being: | | |
| | | | 354° 36' 02" 30.52 feet; |

10.	102° 52'	155.40	feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) and along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi (Area 3);
11.	165° 31' 05"	117.44	feet along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi (Area 1);
12.	192° 52'	500.00	feet along the remainder of R. P. 7794, L. C. Aw. 10,911 to Umi and along Lot 177-A, Ld. Ct. App. 1120 (Map 35) to the point of beginning and containing an area of 6.191 acres.

The district classification of the following area situated at Pahoa, North Kohala, Hawai'i, shall be Single-Family Residential – 7,500 square feet (RS-7.5):

AREA 5 (A-20a to RS-7.5)

Beginning at the southeast corner of this parcel of land, being also the northwest corner of Area 6, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE", being 14,509.63 feet North and 7,356.50 feet East, thence running by azimuths measured clockwise from true South:

Along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) for the next eight (8) courses, the direct azimuths and distances being:

- | | | | |
|----|---|--------|----------------|
| 1. | 102° 52' | 290.43 | feet; |
| 2. | Thence along Area 4 on a curve to the right with a radius of 300.00 feet, the chord azimuth and distance being:
174° 36' 02" 30.52 feet; | | |
| 3. | 177° 31' | 54.83 | feet (Area 4); |

4. Thence along Area 4 on a curve to the right with a radius of 400.00 feet, the chord azimuth and distance being:
185° 11' 30" 106.84 feet;
5. 192° 52' 76.64 feet (Area 4);
6. 282° 52' 302.00 feet (Area 4);
7. 12° 52' 106.28 feet (Areas 4 and 7);
8. Thence along Area 7 on a curve to the left with a radius of 480.00 feet, the chord azimuth and distance being:
3° 25' 157.62 feet;
9. 353° 58' 2.78 feet (Area 7) to the point of beginning and containing an area of 1.805 Acres.

The district classification of the following area situated at Pahoā, North Kohala, Hawai'i, shall be Single-Family Residential – 15,000 square feet (RS-15):

AREA 6 (RS-7.5 to RS-15)

Beginning at the northwest corner of this parcel of land, being also the southeast corner of Area 5, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE", being 14,509.63 feet North and 7,356.50 feet East, thence running by azimuths measured clockwise from true South:

Along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) for the next six (6) courses, the direct azimuths and distances being:

1. 282° 52' 206.04 feet (Area 7);
2. 12° 52' 158.65 feet (Area 7);
3. Thence along a curve to the right with a radius of 150.00 feet, the chord azimuth and distance being:
83° 13' 19" 112.60 feet;
4. 105° 16' 62.55 feet;

5. Thence along a curve to the left with a radius of 400.00 feet, the chord azimuth and distance being:
184° 37' 147.85 feet;
6. 173° 58' 50.27 feet to the point of beginning and containing an area of 0.783 acre.

The district classification of the following area situated at Pahoa, North Kohala, Hawai'i, shall be Single-Family Residential – 15,000 square feet (RS-15):

AREA 7 (A-20a to RS-15)

Beginning at the northwest corner of this parcel of land, being also the northeast corner of Area 8 the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE", being 15,035.39 feet North and 7,888.29 feet East, thence running by azimuths measured clockwise from true South:

1. 281° 10' 20" 176.68 feet along Lot 177-B, Ld. Ct. App. 1120 (Map 35);
 2. 284° 45' 35.02 feet;
- Thence along Lot 176, Ld. Ct. App. 1120 (Map 32) for the next nine (9) courses, the direct azimuths and distances being:
3. 18° 15' 100.94 feet;
 4. 49° 30' 107.00 feet;
 5. 2° 11' 75.30 feet;
 6. 52° 38' 82.88 feet;
 7. 34° 19' 199.18 feet;
 8. 13° 23' 115.87 feet;
 9. 55° 56' 51.30 feet;
 10. 19° 00' 30" 71.79 feet;

11.	338° 37'	199.67	feet;
12.	98° 18'	291.26	feet along Grant 737 to Kapana;
13.	192° 52'	287.35	feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80);
14.	102° 52'	206.04	feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) (Area 6);
15.	173° 58'	2.78	feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) (Area 5);
16.	Thence along same on a curve to the right with a radius of 480.00 feet, the chord azimuth and distance being: 183° 25' 157.62 feet;		
17.	192° 52'	47.28	feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) (Area 5);
18.	282° 52'	146.00	feet along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) (Area 4);
	Thence along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) (Area 8) for the next eight (8) courses, the direct azimuths and distances being:		
19.	12° 52'	47.28	feet;
20.	31° 58' 06"	103.18	feet;
21.	299° 09'	60.09	feet;
22.	212° 18'	135.76	feet;
23.	301° 38'	140.78	feet;
24.	206° 46'	209.03	feet;

- 25. Thence along a curve to the left with a radius of 590.00 feet, the chord azimuth and distance being:
201° 46' 102.84 feet;
- 26. 196° 46' 200.44 feet to the point of beginning and containing an area of 4.741 acres.

The district classification of the following area situated at Pahoa, North Kohala, Hawai‘i, shall be Open (O):

AREA 8 (A-20a to OPEN)

Beginning at the northeast corner of this parcel of land, being also the northwest corner of Area 7 the coordinates of said point of beginning referred to Government Survey Triangulation Station “PUU O NALE”, being 15,035.39 feet North and 7,888.29 feet East, thence running by azimuths measured clockwise from true South:

Along the remainder of Lot 343, Ld. Ct. App. 1120 (Map 80) for the next eight (8) courses, the direct azimuths and distances being:

- 1. 16° 46' 200.44 feet (Area 7);
- 2. Thence along same on a curve to the right with a radius of 590.00 feet, the chord azimuth and distance being:
21° 46' 102.84 feet;
- 3. 26° 46' 209.03 feet (Area 7);
- 4. 121° 38' 140.78 feet (Area 7);
- 5. 32° 18' 135.76 feet (Area 7);
- 6. 119° 09' 60.09 feet (Area 7);
- 7. 211° 58' 06" 103.18 feet (Area 7);
- 8. 192° 52' 464.52 feet (Areas 7 and 4);

9. 281° 10' 20" 282.26 feet along Lot 177-B, Ld. Ct. App. 1120 (Map 35) to the point of beginning and containing an area of 2.943 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:

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (1) 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 the project site from the Akoni Pule Highway shall meet with the approval of the State Department of Transportation.

- E. 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 Final Subdivision Approval.

- F. 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.

- G. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Subdivision Approval.

- H. 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.

- I. 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 Subdivision 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 **\$12,059.55** 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. **\$5,815.33** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$280.53** per single family residential unit to the County to support police facilities;
3. **\$554.09** per single family residential unit to the County to support fire facilities;

4. **\$242.59** per single family residential unit to the County to support solid waste facilities; and
5. **\$5,167.02** 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.

- J. 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.
- K. 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, Hawai'i County Code relating to Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to Final Subdivision Approval.
- L. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- M. 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.

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:

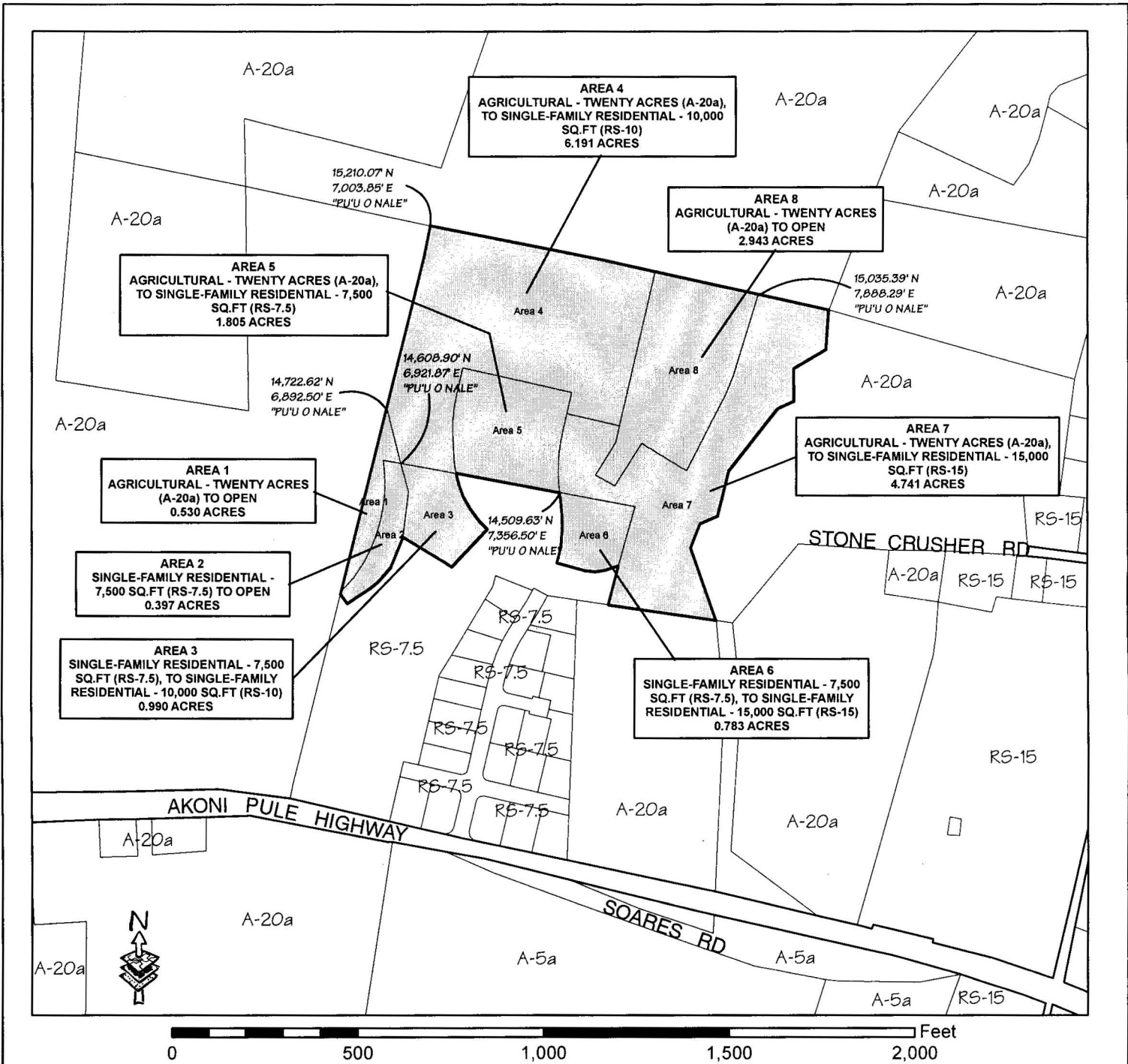


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: September 21, 2010
Date of 1st Reading: September 21, 2010
Date of 2nd Reading: October 6, 2010
Effective Date: October 22, 2010

REFERENCE: Comm: 888



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 - TWENTY ACRES (A-20a) AND SINGLE-FAMILY RESIDENTIAL - 7,500 SQ.FT (RS-7.5), TO SINGLE-FAMILY RESIDENTIAL - 15,000 SQUARE FEET (RS-15), SINGLE-FAMILY RESIDENTIAL - 10,000 SQUARE FEET (RS-10), SINGLE-FAMILY RESIDENTIAL - 7,500 SQUARE FEET (RS-7.5), AND OPEN. AT PAHOA, NORTH KOHALA DISTRICT, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

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

RECEIVED

Introduced By: Donald Ikeda
Date Introduced: September 21, 2010
First Reading: September 21, 2010
Published: September 30, 2010

REMARKS: _____


Second Reading: October 6, 2010
To Mayor: October 14, 2010
Returned: October 22, 2010
Effective: October 22, 2010
Published: November 1, 2010



REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann	X			
Ikeda	X			
Naeole-Beason	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
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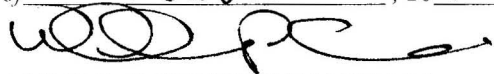
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann			X	
Ikeda	X			
Naeole-Beason	X			
Onishi	X			
Yagong			X	
Yoshimoto	X			
	7	0	2	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII
Date OCT 20 2010


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 274
Reference: C-888/PC-91
Ord No.: **10 101**


Approved/Disapproved this 22nd day
of October, 2010

MAYOR, COUNTY OF HAWAII