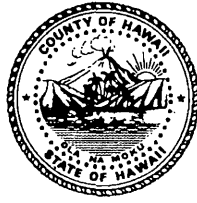


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 20 25 BILL NO. 141
(DRAFT 2)

AN ORDINANCE AMENDING SECTION 25-8-7 (NORTH & SOUTH KOHALA DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE-FAMILY RESIDENTIAL – 15,000 SQUARE FEET (RS-15) TO RESIDENTIAL & AGRICULTURAL – FIVE ACRES (RA-5a) AT KAHUA 1ST, NORTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY: 5-9-001:008.

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 (2016 Edition, as amended) is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kahua 1st, North Kohala, Hawai'i, shall be Residential and Agricultural – 5 acres (RA-5a):

Beginning at a point at the North corner of this piece of land, being also the East corner of portion of Government land Pahinahina and on the Southwesterly side of Kawaihae Māhukona Road, Section II, Project No. A-270-01-62, the coordinates of which referred to Hawai'i State Plane Coordinate System, Zone 1 being 453,109.73 feet North and 375,771.74 feet East, and running by true azimuths referred to the Meridian of Government Survey Triangulation Station "PUU PILI" and measured clockwise from South:

- | | | | | | |
|----|------|-----|-------|--------|--|
| 1. | 322° | 00' | 30.5" | 24.31 | feet along the Southwesterly side of Kawaihae Māhukona Road; |
| 2. | 52° | 00' | 30.5" | 20.00 | feet along the Southwesterly side of Kawaihae Māhukona Road; |
| 3. | 322° | 00' | 30.5" | 550.00 | feet along the Southwesterly side of Kawaihae Māhukona Road; |

4.	52°	00'	30.5"	10.00	feet along the Southwesterly side of Kawaihae Māhukona Road;
5.	322°	00'	30.5"	100.00	feet along the Southwesterly side of Kawaihae Māhukona Road;
6.	232°	00'	30.5"	20.00	feet along the Southwesterly side of Kawaihae Māhukona Road;
7.	322°	00'	30.5"	400.00	feet along the Southwesterly side of Kawaihae Māhukona Road;
8.	232°	00'	30.5"	20.00	feet along the Southwesterly side of Kawaihae Māhukona Road;
9.	322°	00'	30.5"	500.00	feet along the Southwesterly side of Kawaihae Māhukona Road;
10.	52°	00'	30.5"	40.00	feet along the Southwesterly side of Kawaihae Māhukona Road;
11.	322°	00'	30.5"	400.00	feet along the Southwesterly side of Kawaihae Māhukona Road;
12.	232°	00'	30.5"	40.00	feet along the Southwesterly side of Kawaihae Mahukona Road;
13.	322°	00'	30.5"	151.70	feet along the Southwesterly side of Kawaihae Māhukona Road;
14.	26°	03'		889.95	feet along Lot 9, as shown on Map 4 of Ld. Ct. Cons. 129;

Thence along highwater mark (vegetation line) as of January 7, 1993 for the next thirteen (13) courses, the direct azimuths and distances between points on said highwater mark being:

15.	136°	21'	40"	516.93	feet;
16.	155°	00'		250.00	feet;
17.	128°	30'		95.00	feet;

18.	180°	20'	142.80	feet;
19.	93°	00'	104.00	feet;
20.	154°	05'	253.40	feet;
21.	157°	15'	225.20	feet;
22.	57°	40'	106.30	feet;
23.	176°	35'	213.10	feet;
24.	98°	00'	172.85	feet;
25.	105°	20'	83.55	feet;
26.	89°	00'	181.00	feet;
27.	150°	20'	77.35	feet;
28.	206°	50' 35"	1,075.00	feet along portion of the Government land of Pahinahina to the point of beginning and containing an area of 37.880 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 1983 (2016 Edition, as amended), 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), their successor(s) or assign(s) shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant(s), their successor(s) or assign(s) shall be responsible for complying with all conditions as required under Special Management Area (SMA) Use Permit Application No. SMA-19-000073.
- C. The applicant(s), their successor(s) or assign(s) shall be responsible for complying with all applicable County, State, and Federal Laws, codes, rules, regulations, and requirements.
- D. Prior to the receipt of Final Subdivision Approval, an agreement shall be filed with the Planning Department for review and acceptance that shall acknowledge the owner(s) of all lots utilizing the private water system that potable water from the Department of Water Supply's system is currently not available; and that the Department of Water Supply is not obligated to nor will bear the responsibility of supplying public water to those lots on the private system. The approved agreement shall be recorded with the State Bureau of Conveyances and a copy of its recordation to be filed with the Planning Department within three (3) months of the date of issuance of Final Subdivision Approval.
- E. Final Subdivision Approval shall be secured within five (5) years from the effective date of the change of zone ordinance.
- F. Restrictive covenants in the deeds of all proposed lots within the 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 owner of the

property may also, in addition, impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State 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.

- G. In conjunction with Final Subdivision Approval, the applicant shall construct the necessary water distribution pipelines, service laterals, and fire hydrants.
- H. Access to the subject property from, and any improvements within the Akoni Pule Highway shall be constructed meeting with the requirements and approval of the State Department of Transportation.
- I. All proposed structures will be set back a minimum of 150 feet from Akoni Pule Highway to meet visual impact concerns.
- J. All proposed structures shall be sited a minimum of 100 feet from the shoreline mauka of the ala loa/Jeep road.
- K. All proposed structures shall have a maximum height of 25 feet and that height determination will be made in accordance with Chapter 25, Article 1. General Provisions of the Hawai'i County Code 1983 (2016 Edition, as amended).
- L. The applicant shall record with the Bureau of Conveyances metes and bounds measurements for all site preservation easements, shoreline access easements, public access trails, and public access parking located throughout the subject property within six (6) months after Final Subdivision Approval.

- M. All roadways within the proposed subdivision shall meet with the requirements of the Subdivision Code. Improvements within the proposed subdivision shall include underground utilities for all home sites.
- N. An advanced treatment unit septic system, such as the Cyclic Biological Treatment (CBT) system, shall be completed by each respective landowner in conjunction with the construction of a dwelling prior to the issuance of the Certificate of Occupancy.
- O. 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 the construction of any proposed structures on the property.
- P. The applicant shall comply with the Department of Health's Hawai'i Administrative Rules (HAR) Chapter 11-55, rules regarding Water Pollution Control, which requires an NPDES permit for certain construction activities.
- Q. A drainage study of the project site, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed in a manner meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
- R. The applicant, its successors or assigns, shall prepare a Solid Waste Management Plan prior to securing Final Subdivision Approval for the proposed development within the subject property meeting with the approval of the Department of Public Works. A copy of the approved Plan shall be submitted to the Planning Director.

- S. All earthwork and grading activity shall conform to the Hawai'i County Code Chapter 10, Erosion and Sedimentation Control, and Chapter 27, Flood Control.
- T. During all development activities, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects in the State of Hawai'i.
- U. The applicant shall submit to the State Historic Preservation Division for review and acceptance a revised Data Recovery Plan, a Preservation Plan, and an appropriate Burial Treatment Plan that meets the requirements of Hawai'i Administrative Rules (HRS) §13-278-3, §13-277, and §13-300.33 respectively, prior to subdivision approval. A copy of the accepted report shall be submitted to the Planning Director prior to project commencement.
- V. In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the development and/or construction work, the applicant will cease work in the immediate vicinity of the find, protect the find from additional disturbance, and contact the State Historic Preservation Division at (808) 933-7651.
- W. 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.
- X. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval 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.

Y. 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, 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.

Z. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the area to its original or more appropriate designation.

SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "BIR" followed by a flourish.

COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i
Date of Introduction: March 25, 2020
Date of 1st Reading: March 25, 2020
Date of 2nd Reading: April 8, 2020
Effective Date: April 20, 2020

REFERENCE Comm. 764.5

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

COUNTY CLERK
 COUNTY OF HAWAII

2020 APR 21 PM 1:16

(Draft 2)

Introduced By: Ashley L. Kierkiewicz (B/R)
 Date Introduced: March 25, 2020
 First Reading: March 25, 2020
 Published: April 4, 2020

REMARKS: _____

Second Reading: April 8, 2020
 To Mayor: April 16, 2020
 Returned: April 21, 2020
 Effective: April 20, 2020
 Published: May 2, 2020

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder		X		
Kierkiewicz	X			
Lee Loy	X			
Poindexter	X			
Richards	X			
Villegas	X			
	8	1	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter	X			
Richards	X			
Villegas	X			
	9	0	0	0

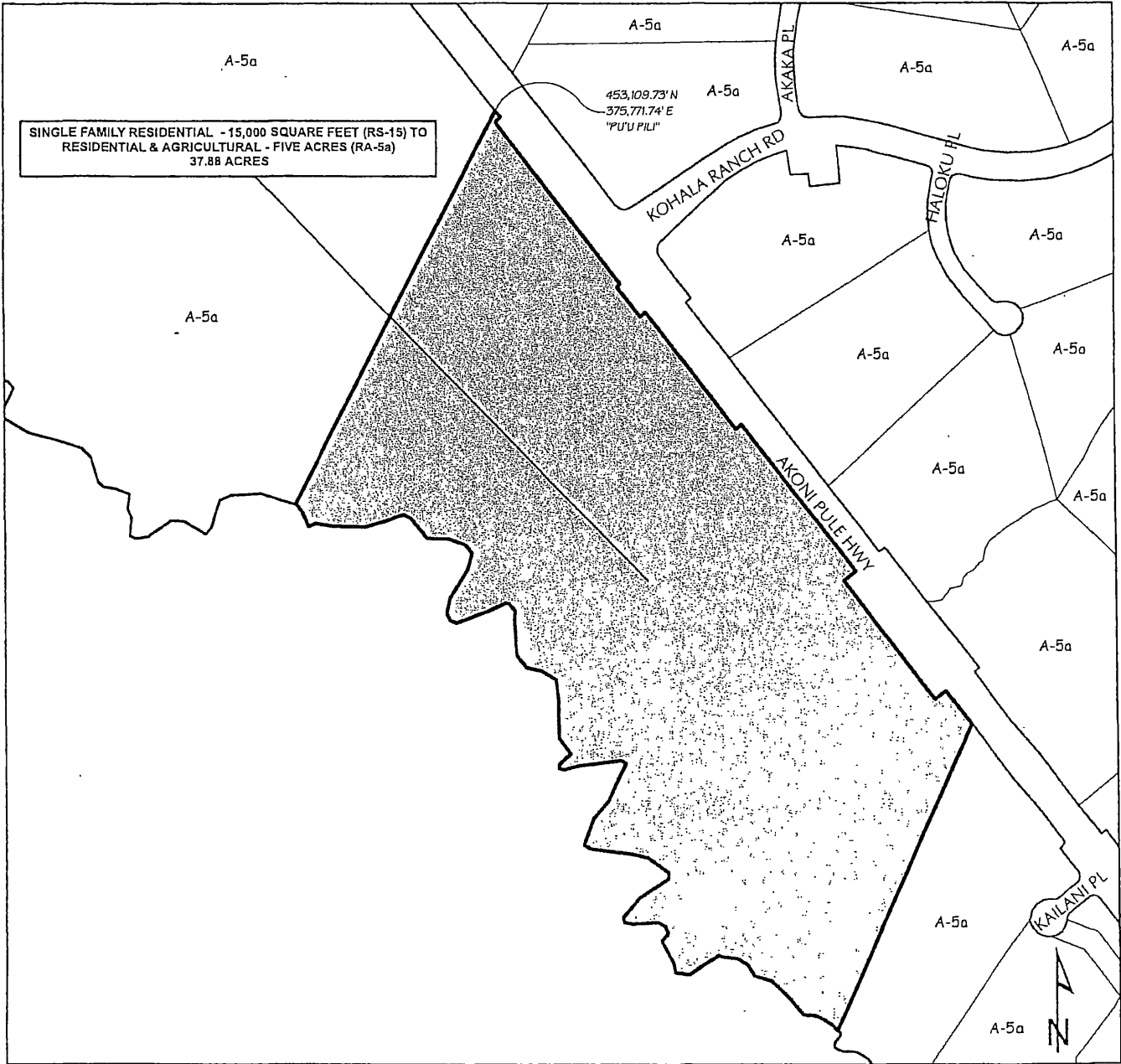
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

Approved/Disapproved this 20th day
 of April, 2020.

Harry Kim
 MAYOR, COUNTY OF HAWAII

[Signature]
 COUNCIL CHAIRPERSON
[Signature]
 COUNTY CLERK

Bill No.: 141, Draft 2
 Reference: C-764.5/PC-47
 Ord No.: 20 25



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH & SOUTH KOHALA DISTRICT ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL - 15,000 SQUARE FEET (RS-15) TO RESIDENTIAL & AGRICULTURAL - FIVE ACRES (RA-5a) AT KAHUA 1ST, NORTH KOHALA, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 5-9-001:008

DATE: September 25, 2019

EXHIBIT "A"

Kohala Shoreline LLC
Map: 1413