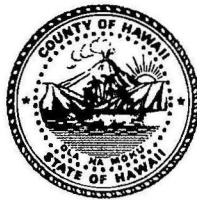


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 21 40 BILL NO. 32  
(DRAFT 2)

AN ORDINANCE AMENDING ORDINANCE NO. 04 149 WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 5 ACRES (A-5a) TO SINGLE FAMILY RESIDENTIAL – 20,000 SQUARE FEET (RS-20) AT KALAOA 1<sup>ST</sup> AND 2<sup>ND</sup>, 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 2 of Ordinance No. 04 149 is amended as follows:

“SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code (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, 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.]~~ The applicant, successors, or assigns are responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full.
- C. Final subdivision approval shall be secured within five (5) years from the effective date of this amended 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.]~~ Access to the proposed lots shall be from Mahilani Drive. Access shall meet the requirements of the Department of Public Works. The existing driveway onto Māmalahoa Highway shall be removed prior to issuance of Final Subdivision Approval.
- E. A 10-foot wide “no vehicular access planting screen” easement shall be delineated along all lots fronting ~~[Mamalahoa]~~ Māmalahoa 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]~~ Sedimentation Control of the Hawai'i County Code.
  
- J. 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.
  
- ~~[J]K.~~ [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.] In the 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 demolition and/or construction work, the applicant shall 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. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

~~[K.]~~L. 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 actual number of residential lots 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 ~~[\$9,671.44]~~ \$15,030.92 per additional single family residential ~~[unit]~~ lot. ~~[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 total amount shall be determined with the actual number of lots according to the calculation and payment provisions set forth in this condition. The fair share contribution shall be ~~[allocated]~~ as County Council deems reasonable, which may be less when considering the merits of the application, or as follows:

1. ~~[\$4,663.74]~~ 7,248.17 per single family residential ~~[unit]~~ lot ~~[for an indicated total of \$9,327.48]~~ to the County to support park and recreational improvements and facilities;

2. ~~224.98~~349.65 per single family residential lot ~~[for an indicated total of \$449.96]~~ to the County to support police facilities;
3. ~~444.36~~690.61 per single family residential ~~[unit]~~ lot ~~[for an indicated total of \$888.72]~~ to the County to support fire facilities;
4. ~~194.55~~302.36 per single family residential ~~[unit]~~ lot ~~[for an indicated total of \$389.10]~~ to the County to support solid waste facilities;
5. ~~4,143.81~~6,440.12 per single family residential ~~[unit]~~ lot ~~[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 Hawai'i County Council.

~~[L.]~~M. 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.]~~N. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

~~[N.]~~O. ~~[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, successors, or assigns should require an additional extension of time, the Planning Director shall submit the applicants request to the County Council for appropriate action.

[~~Θ~~.]P. 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 2.** Material to be deleted is bracketed and stricken. New material is underscored.

**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.

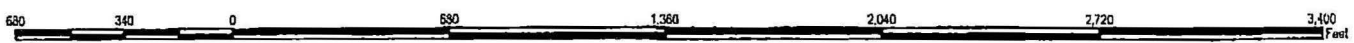
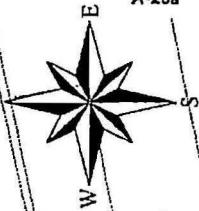
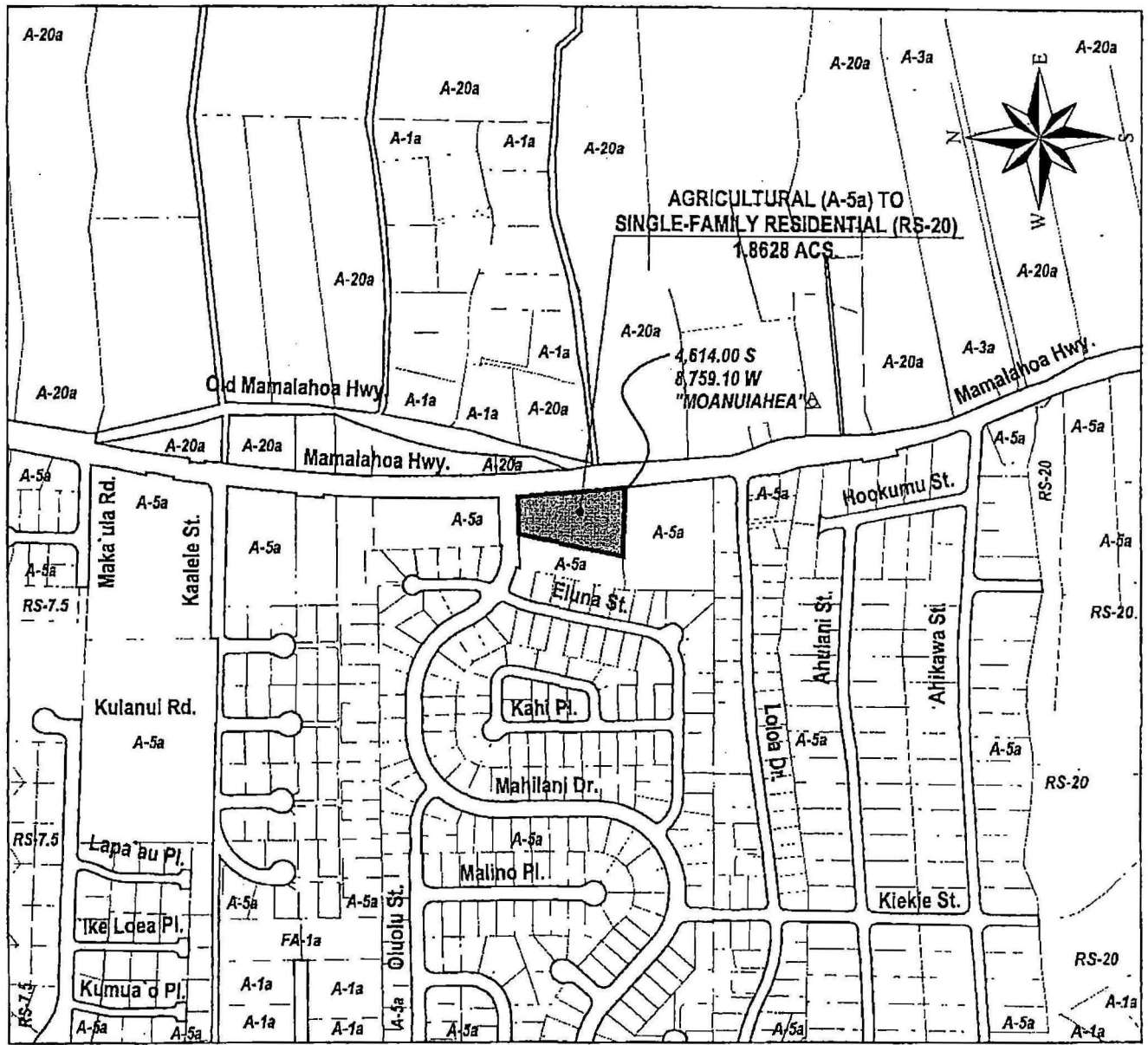
INTRODUCED BY:

A handwritten signature in black ink, appearing to read 'AM/Gu B/R', written over a horizontal line.

COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i  
Date of Introduction: May 19, 2021  
Date of 1st Reading: May 19, 2021  
Date of 2nd Reading: June 2, 2021  
Effective Date: June 21, 2021

REFERENCE Comm. 218.3



# 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

TMK: 7-3-011:068

Date: June 1, 2004

EXHIBIT "A"

(Lilian E. Mahi:1137)

## FOR REFERENCE ONLY

0-7-06  
 13-14



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

COUNTY CLERK  
 COUNTY OF HAWAII

2021 JUN 21 AM 10:48

(Draft 2)

Introduced By: Ashley Kierkiewicz (B/R)  
 Date Introduced: May 19, 2021  
 First Reading: May 19, 2021  
 Published: May 28, 2021

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

Second Reading: June 2, 2021  
 To Mayor: June 10, 2021  
 Returned: June 21, 2021  
 Effective: June 21, 2021  
 Published: July 9, 2021

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

| ROLL CALL VOTE        |      |      |     |    |
|-----------------------|------|------|-----|----|
|                       | AYES | NOES | ABS | EX |
| Chung                 | X    |      |     |    |
| David                 | X    |      |     |    |
| Inaba                 | X    |      |     |    |
| Kāneali'i-Kleinfelder | X    |      |     |    |
| Kierkiewicz           | X    |      |     |    |
| Kimball               | X    |      |     |    |
| Lee Loy               | X    |      |     |    |
| Richards              | X    |      |     |    |
| Villegas              | X    |      |     |    |
|                       | 9    | 0    | 0   | 0  |

| ROLL CALL VOTE        |      |      |     |    |
|-----------------------|------|------|-----|----|
|                       | AYES | NOES | ABS | EX |
| Chung                 | X    |      |     |    |
| David                 | X    |      |     |    |
| Inaba                 | X    |      |     |    |
| Kāneali'i-Kleinfelder | X    |      |     |    |
| Kierkiewicz           | X    |      |     |    |
| Kimball               | X    |      |     |    |
| Lee Loy               | 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.



COUNCIL CHAIRPERSON



COUNTY CLERK

Approved/Disapproved this 21 day  
 of June, 2021



MAYOR, COUNTY OF HAWAII

Bill No.: 32 (Draft 2)  
 Reference: C-218.3/PC-16  
 Ord No.: 21 40