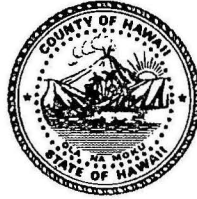


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 21 64 BILL NO. 57
(DRAFT 4)

AN ORDINANCE AMENDING ORDINANCE NO. 13 98 WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 3 ACRES (A-3a) TO SINGLE FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-4-003:POR. 021.

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

SECTION 1. Section 2 of Ordinance No. 13 98 is amended as follows:

“SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 [~~2005 Edition~~] (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 days from the effective date of this amendment]~~ 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 of the proposed subdivision development shall be secured within seven (7) years from the effective date of this amendment;]~~

~~[D.]~~C. Access to the proposed lots shall meet with the approval of the Department of Public Works. ~~[All driveway connections to Kawailani Street shall conform to Chapter 22, Streets and Sidewalks of the Hawaii County Code.]~~ Interior subdivision roads shall be provided with curbs, gutters, and sidewalks meeting the approval of the Department of Public Works~~;~~. Subdivision access and driveway connections to and from Kawailani Street shall not be allowed;

~~[E.]~~D. Underground utilities shall be constructed;

~~[F.]~~E. A 10-foot wide road widening strip along the Kawailani Street frontage of the property shall be set aside and delineated on the subdivision plans. All structural setbacks shall be taken from this future road widening line;

~~[G.]~~F. A drainage study of the property, if required, shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works prior to Final Subdivision Approval;

~~[H.]~~G. The method of sewage disposal shall meet with the ~~[approval]~~ requirements of the ~~[appropriate government agencies]~~ State Department of Health;

- [F.]H. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties;
- [J.]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 Resources- 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];~~
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.]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 lot counts are adjusted. The fair share contribution shall become due and payable prior to receipt of Final Subdivision Approval. The fair share contribution for each lot shall be based on a maximum density for each lot as determined by the zoning resulting from this change of zone. 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 the amendment to the ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a maximum combined value of ~~\$13,081.99~~ per single-family residential unit. Based upon the applicant's representation of intent to develop a total of nineteen (19) single-family residential units, the indicated total of fair share contribution is ~~\$248,557.81~~ for the 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. The fair share contribution per single-family residential unit shall be allocated as follows:

- ~~\$6,308.37~~ per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of \$119,859.03 to the County to support park and recreational improvements and facilities;
- ~~\$304.32~~ per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of \$5,782.08 to the County to support police facilities;
- ~~\$601.06~~ per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of \$11,420.14 to the County to support fire facilities;
- ~~\$263.15~~ per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of \$4,999.85 to the County to support solid waste facilities;

- ~~\$5,605.09 per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of \$106,496.71 to the County to support road and traffic improvements;]~~

The applicant shall make its fair share contribution to mitigate the potential regional impacts of the development with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall become due and payable prior to receipt of Final Subdivision Approval and shall be based on the actual number of additional residential lots created. 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 combined value of \$15,057.57 per single-family residential lot. The total amount shall be determined with the actual number of residential lots according to the calculation and payment provisions set forth in this condition. The fair share contribution per single-family residential lot shall be allocated as follows:

1. \$7,261.03 per single-family residential lot to the County to support park and recreational improvements and facilities;
2. \$350.27 per single-family residential lot to the County to support police facilities;
3. \$691.83 per single-family residential lot to the County to support fire facilities;
4. \$302.89 per single-family residential lot to the County to support solid waste facilities; and

5. \$6,451.55 per single-family residential lot 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;

~~[L.]~~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;

~~[M.]~~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, Hawai'i County Code relating to Affordable Housing Policy. This requirement shall be approved by the ~~[County Housing Agency]~~ Administrator of the Office of Housing and Community Development prior to final subdivision approval;

~~[N.]~~M. Restrictive covenants in the deeds of all residential zoned lots shall 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 Department for review and approval prior to the

issuance of final subdivision approval. A copy of the recorded covenant shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances;

~~[O.]~~N. There shall be no construction of single-family dwellings and related improvements, other substantial buildings, or subdivision roads within areas designated [~~“AE”~~,] “AH” [~~or “shaded” Zone “X”~~] by the Flood Insurance Rate Maps (FIRM) [~~except that subdivision roads can be building in “shaded” Zone “X”~~]. Restrictive covenants in the deeds of all lots shall give notice of the terms of this rezoning condition. No residential lots may be created which lack a buildable area. This restriction may be removed by amendment of this ordinance by the County Council. 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;

~~[P.]~~O. Should any infrastructure improvements related to the Kawaihoni/Komohana Streets intersection be required of future developers, the applicants, successors or assigns of this project shall work with the Planning Department to pay for their pro rata share of improvements. The pro rata share determination and its implementation shall be approved by the Planning Department in consultation with the Department of Public Works or any County agency having jurisdiction over any future infrastructure improvements;

~~[Q.]~~—The applicant, successors or assigns shall be responsible for paying any additional real property taxes owed as a result of withdrawing the property from dedicated agricultural use to residential use prior to the sale of any lot;]

- ~~[R.]P.~~ The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements;
- ~~[S.]Q.~~ An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the amendment to the ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being satisfied. 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; and
- ~~[T.]~~ ~~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.]~~
- R. 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.
- S. Prior to the issuance of Final Subdivision Approval, the applicant, successors, or assignees shall construct roadway improvements within the 50-foot-wide roadway easement located within TMK (3) 2-4-003:097 from the entrance at Kawaihāni Street to the entrance of the proposed subdivision consisting of approximately 20-foot pavement widening to accommodate paved parking spaces and a three-foot-wide asphalt paved swale to accommodate pedestrian access along the western side of the subject parcel. The applicant shall construct these improvements to match with existing pavement conditions.

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.

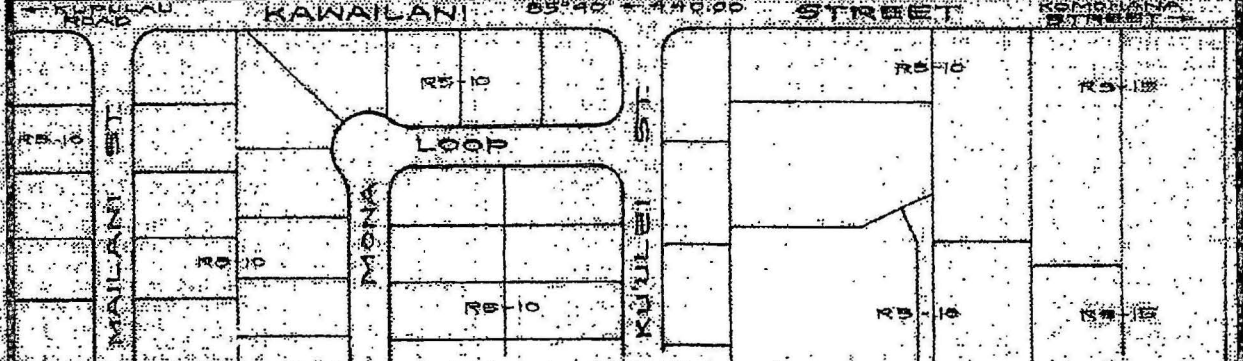
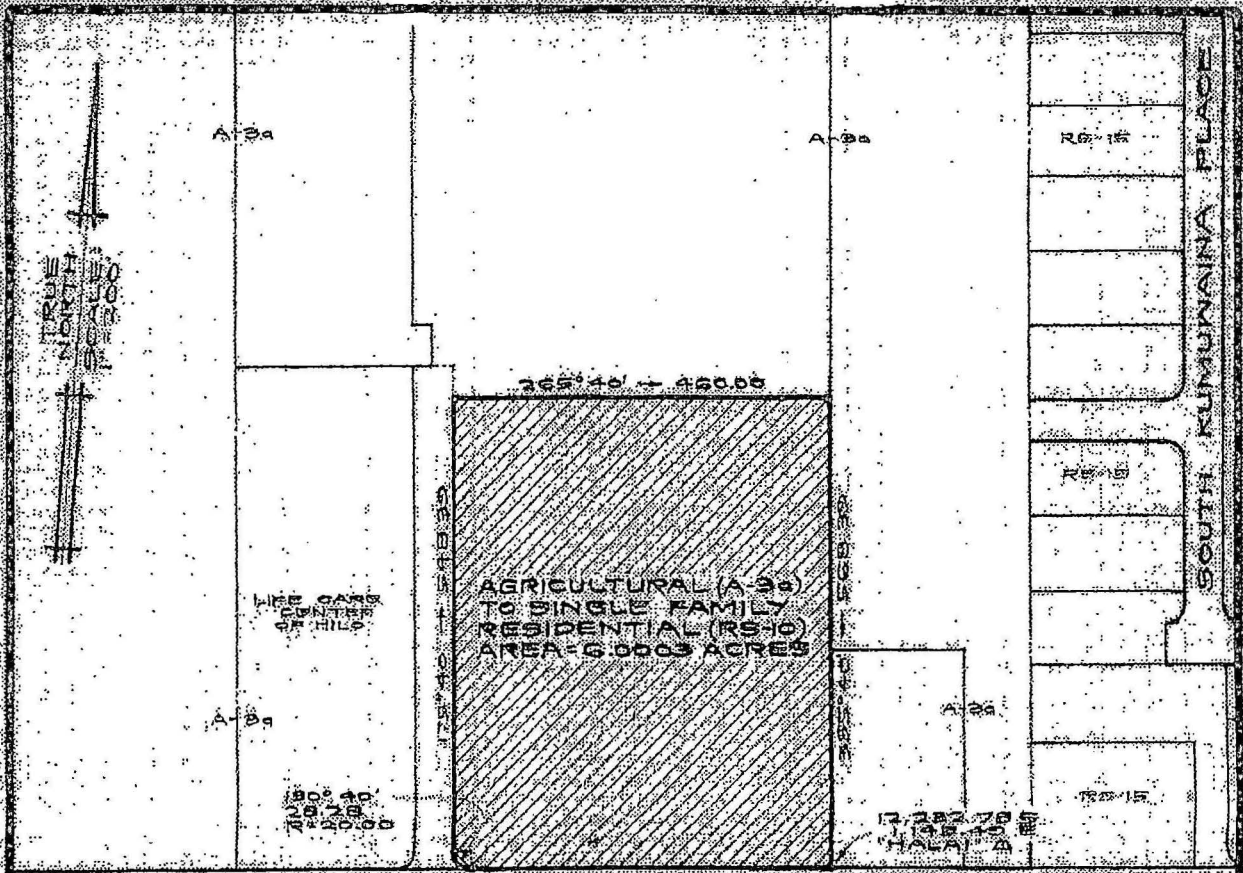
INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'B/P', written over a horizontal line.

COUNCIL MEMBER, COUNTY OF HAWAII

 Kona , Hawai'i
Date of Introduction: September 8, 2021
Date of 1st Reading: September 8, 2021
Date of 2nd Reading: September 22, 2021
Effective Date: October 6, 2021

REFERENCE Comm. 331.10



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-14 (CITY OF HILO ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-3a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIAREA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 2-4-08 : 21 (PORTION)

OCT 21, 1981

EXHIBIT "A"

FOR REFERENCE ONLY

KRISTILEE & HENRY CORREA JR. TRUST
REZ 705 (90-000044) (Amendment to Ordinance
No. 05 110 which amended Ordinance No. 92 7)

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

COUNTY CLERK
 COUNTY OF HAWAII

2021 OCT -7 AM 9:12

(Draft 4)

Introduced By: Ashley Kierkiewicz (B/R)
 Date Introduced: September 8, 2021
 First Reading: September 8, 2021
 Published: September 17, 2021

REMARKS: _____

Second Reading: September 22, 2021
 To Mayor: September 30, 2021
 Returned: October 7, 2021
 Effective: October 6, 2021
 Published: October 22, 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	
	7	0	2	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 6th day
 of October, 2021.


 MAYOR, COUNTY OF HAWAII

Bill No.: 57 (Draft 4)
 Reference: C-331.10/PC-29
 Ord No.: 21 64