



BILL NO. 202
(DRAFT 2)

ORDINANCE NO. 22 109

AN ORDINANCE AMENDING SECTION 25-8-4 (SOUTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL -- 1 ACRE (A-1a) TO SINGLE-FAMILY RESIDENTIAL -- 10,000 SQUARE FEET (RS-10) AT KEALAKEKUA, SOUTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 8-1-008:004.

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

SECTION 1. Section 25-8-4, 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 Kealakekua, South Kona, Hawai'i, shall be Single-Family Residential District -- 10,000 square feet (RS-10):

Beginning at the Northwesterly corner of this parcel of land, being also the Northeasterly corner of Lot 2 of this subdivision and being a point on the Southerly boundary of Parcel 188 TMK: 8-1-006 (3rd Division), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PU'U OHAU," being 6,201.12 feet South and 11,871.10 feet East and running by azimuths measured clockwise from True South:

Thence, for the next seven (7) courses following along the remainder of Royal Patent 4386, Land Commission Award 8452, Apana 10 to A. Keohokalole:

- | | | | |
|----|--------------|--------|--|
| 1. | 249° 56' 40" | 247.74 | feet along Parcels 188 and 062 of TMK: (3) 8-1-006 and along Lot B to a point; |
| 2. | 251° 00' | 304.44 | feet along Parcel 001 of TMK: (3) 8-1-006 to a point; |

- | | | | | | |
|----|------|-----|-----|--------|---|
| 3. | 252° | 33' | | 320.95 | feet along Parcel 001 of TMK: (3) 8-1-006 to a point; |
| 4. | 319° | 30' | 40" | 153.97 | feet along Lots 11, 10, and 9 of Captain Cook Village subdivision to a point; |
| 5. | 48° | 39' | 40" | 744.95 | feet along Parcel 003 of TMK: (3) 8-1-008 to a point; |
| 6. | 333° | 27' | | 48.28 | feet along Parcel 003 of TMK: (3) 8-1-008 to a point; |
| 7. | 17° | 09' | 30" | 91.36 | feet along Parcel 003 of TMK: (3) 8-1-008 to a point; |

Thence, from a tangent azimuth of 117° 03' 11" following along the Northeasterly side of Māmalahoa Highway on a curve to the right with a radius of 715.00 feet, the chord azimuth and distance being:

- | | | | | | |
|----|------|-----|-----|--------|------------------|
| 8. | 131° | 40' | 34" | 361.02 | feet to a point; |
|----|------|-----|-----|--------|------------------|

Thence, for the next six (6) courses following along Lot 2:

- | | | | | | |
|-----|------|-----|-----|-------|---|
| 9. | 152° | 40' | | 59.82 | feet to a point; |
| 10. | 158° | 13' | | 35.96 | feet to a point; |
| 11. | 177° | 37' | | 12.02 | feet to a point; |
| 12. | 158° | 09' | 30" | 31.69 | feet to a point; |
| 13. | 139° | 09' | | 11.95 | feet to a point; |
| 14. | 159° | 04' | | 88.08 | feet to the point of beginning and containing an area of 6.875 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 (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.
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- A. The applicant, its successors or assigns ("Applicant") shall comply with all of the stated conditions of approval.
 - B. The Applicant shall maintain valid water commitments to support the proposed subdivision until such time that required water facilities charges are paid in full.
 - C. Prior to issuance of Final Subdivision Approval, the Applicant shall construct necessary water system improvements meeting with the approval of the Department of Water Supply.
 - D. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.
 - E. Prior to submittal of a subdivision application, the applicant shall have a traffic assessment prepared by a State-licensed engineer and submitted to the State Department of Transportation. The assessment shall include an evaluation of ingress and egress design options which may include limiting access to right-in, right-out movements and/or having a limited secondary access. The assessment shall provide specific recommendations and improvements fronting the subject site that best address sight distance and overall safe ingress and egress vehicular

movements. The County shall not grant Final Subdivision Approval until the design options and recommendations in the traffic assessment, as selected and approved by the State Department of Transportation, are completed.

- F. All development generated runoff shall be disposed of on site and 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 (DPW) prior to the issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of DPW prior to the construction of any proposed structures on the property.
- G. All earthwork activities including grading, grubbing, and stockpiling shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
- H. The Applicant shall comply with the State Department of Health's Hawai'i Administrative Rules, Chapter 11-55, regarding Water Pollution Control, which requires a National Pollutant Discharge Elimination System permit for certain construction activities.
- I. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- J. The Applicant shall comply with the requirements of the Archaeological Monitoring Plan approved by the State Historic Preservation Division on June 24, 2021 or any approved amendments thereto.
- K. 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 (SHPD) at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from SHPD when it finds that sufficient mitigation measures have been taken.

L. 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 units (inclusive of time share units) or 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 (3) years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index. The fair share contribution shall have a maximum combined value of **\$15,636.59** per single family residential unit. The fair share contribution per single family residential unit shall be allocated as follows:

1. **\$7,540.24** per residential lot to the County to support park and recreational improvements and facilities;
2. **\$363.74** per residential lot to the County to support police facilities;
3. **\$718.44** per residential lot to the County to support fire facilities;
4. **\$314.54** per residential lot to the County to support solid waste facilities;
and
5. **\$6,699.63** per 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.

- M. 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.
- N. 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.
- O. The Applicant shall comply with all applicable County, State and Federal codes, laws, rules, regulations and requirements for the proposed development, including the Department of Public Works, Department of Water Supply and Department of Health.
- P. 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, and that are not the result of their fault or negligence.

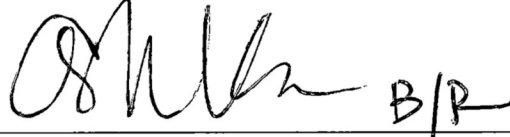
2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
4. The time extension granted shall be for a period not to exceed the period originally granted 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 should require an additional extension of time, the Planning Director shall submit the Applicant's request to the County Council for appropriate action.

Q. 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. 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:

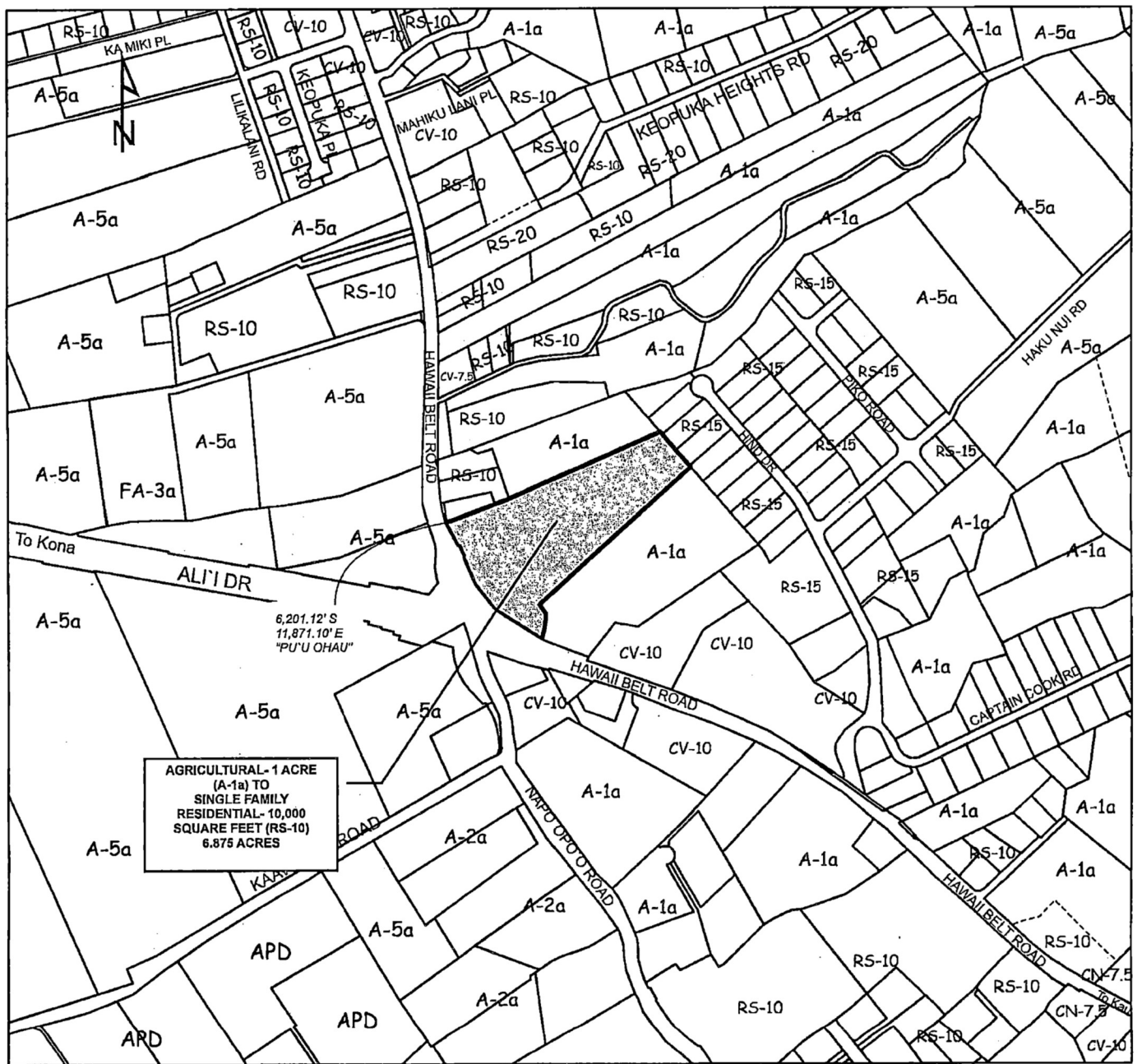
 B/R

COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i

Date of Introduction: October 5, 2022
Date of 1st Reading: October 5, 2022
Date of 2nd Reading: October 19, 2022
Effective Date: November 4, 2022

REFERENCE Comm. 945.5



6,201.12' S
11,871.10' E
"PU'U OHAU"

AGRICULTURAL-1 ACRE
(A-1a) TO
SINGLE FAMILY
RESIDENTIAL- 10,000
SQUARE FEET (RS-10)
6.875 ACRES

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-4 (SOUTH KONA ZONE MAP) ARTICLE 8,
CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED),
BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL- 1 ACRE (A-1a)
TO SINGLE FAMILY RESIDENTIAL- 10,000 SQUARE FEET (RS-10)
AT KEALAKEKUA, SOUTH KONA, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

DATE: March 24, 2022
Amy Hagen-Cowell Trust
Map: 1441

TMK: (3) 8-1-008:004
EXHIBIT "A"

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

COUNTY CLERK
 COUNTY OF HAWAII

2022 NOV -7 PM 12: 02

(Draft 2)

Introduced By: Ashley L. Kierkiewicz (B/R)
 Date Introduced: October 5, 2022
 First Reading: October 5, 2022
 Published: October 14, 2022

REMARKS: _____

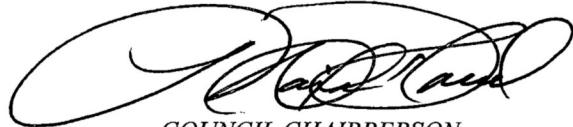
Second Reading: October 19, 2022
 To Mayor: October 28, 2022
 Returned: November 7, 2022
 Effective: November 4, 2022
 Published: November 18, 2022

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			
	8	0	1	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 4th day
 of November, 2022



MAYOR, COUNTY OF HAWAII

Bill No.: 202 (Draft 2)
 Reference: C-945.5/PC-78
 Ord No.: 22 109