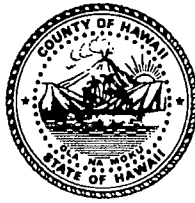


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 24 37 BILL NO. 150
(DRAFT 2)

AN ORDINANCE AMENDING ORDINANCE NO. 10-101, WHICH RECLASSIFIED LANDS 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 2 of Ordinance No. 10-101 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)~~~~(4)~~ 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 (“Applicant”) 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.]~~The Applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full. Furthermore, the Applicant shall construct and dedicate necessary water system improvements as 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)]~~ ten (10) years from the effective date of this amended ordinance.
- D. ~~[Access to the project site from the Akoni Pule Highway shall meet with the approval of the State Department of Transportation.]~~ All roadways shall be constructed in compliance with roadway requirements and conditions of the variance (PL-VAR-2023-000040) issued on November 15, 2023.
- 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.~~] 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 Department of Land and Natural Resources - State Historic Preservation Division (DLNR-SHPD) 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.
- 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.]~~

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 become due and payable prior to receipt of Final Subdivision Approval. The fair share contribution for each lot shall be based on the number of lots developed. 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 \$16,641.15 per single family residential lot. The fair share contribution per single family residential lot shall be allocated as follows:

1. \$8,024.66 per single family residential lot to the County to support park and recreational improvements and facilities;
2. \$387.11 per single family residential lot to the County to support police facilities;
3. \$764.59 per single family residential lot to the County to support fire facilities;
4. \$334.75 per single family residential lot to the County to support solid waste facilities; and
5. \$7,130.04 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. This condition shall not apply to any 'self help' or other affordable housing lots included in the executed affordable housing agreement referenced in Condition K

- 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.]~~ KAs represented by the Applicant, 32 of the 33 lots in the proposed subdivision shall be developed and sold as part of an affordable housing program, in accordance with mutually agreeable terms between the Applicant and the County Office of Housing and Community Development, using the provisions of Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing Policy. Said agreement shall be executed prior to receipt of Final Subdivision Approval of any portion of the project.
- 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.] An initial extension of time for the performance of conditions within this ordinance may be requested in accordance with Section 25-2-44, subsections (c) and (d), of the Hawai'i County Code.~~

N. If the applicant fails to fulfill any conditions of the zone change within the specified time limitations, the Planning Director or County Council may initiate the process for enactment of an ordinance reverting the affected property back to its original zoning designation or a more appropriate zoning designation in accordance with Section 25-2-43 of the Hawai'i County Code."

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.

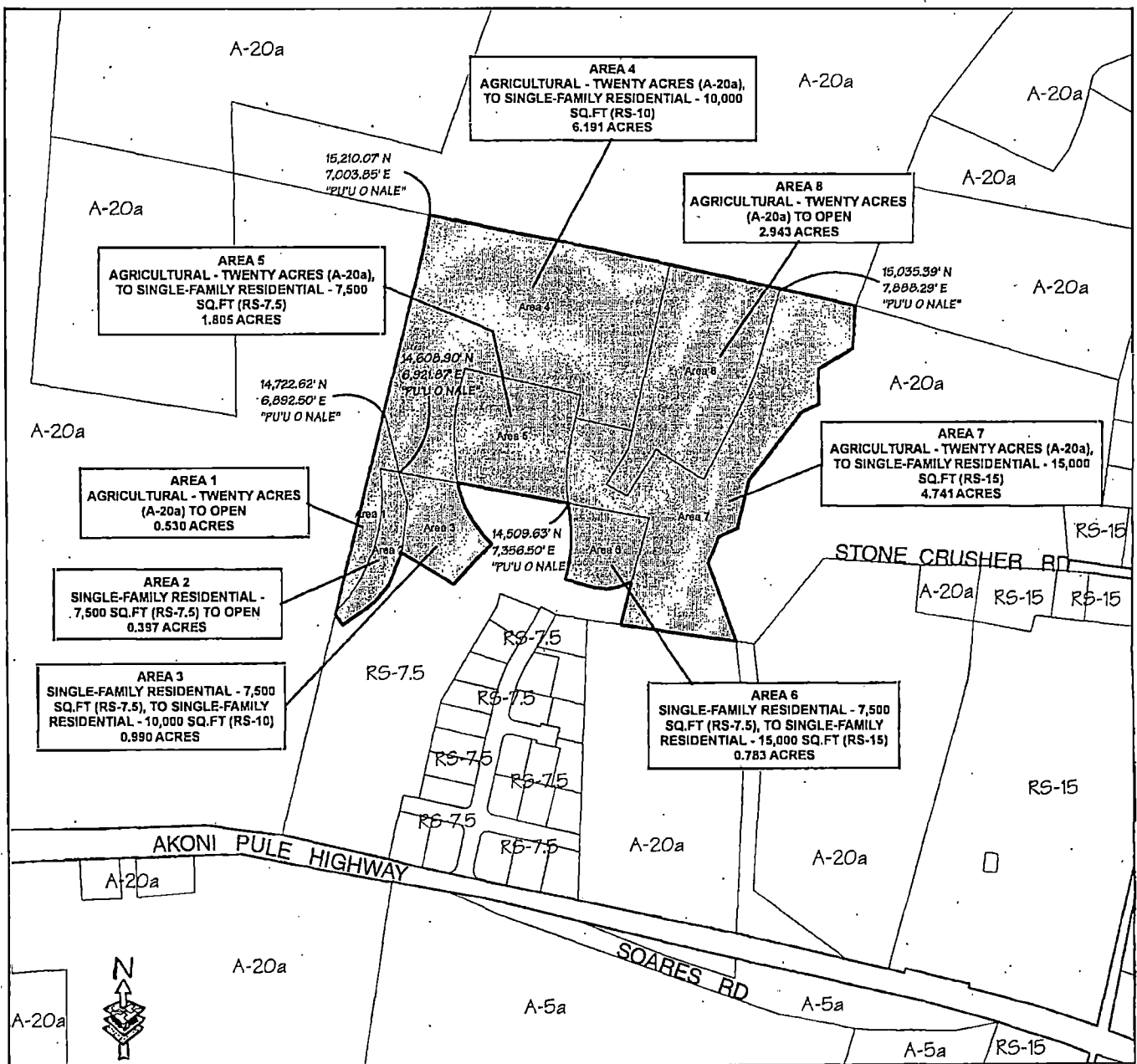
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

 B/R
COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i
Date of Introduction: May 15, 2024
Date of 1st Reading: May 15, 2024
Date of 2nd Reading: June 5, 2024
Effective Date: June 14, 2024

REFERENCE Comm. 817.2



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

TMK: 5-5-019:025 and 027 (portions)

DATE: Dec. 01, 2009

EXHIBIT "A"

FOR REFERENCE ONLY

Hawaii Island Community Devel. Corp. (HICDC)
Map 1283

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

COUNTY CLERK
 COUNTY OF HAWAII

2024 JUN 21 PM 3:23

(Draft 2)

Introduced By: Dr. Holeka Goro Inaba (B/R)
 Date Introduced: May 15, 2024
 First Reading: May 15, 2024
 Published: May 24, 2024

REMARKS: _____

Second Reading: June 5, 2024
 To Mayor: June 13, 2024
 Returned: June 21, 2024
 Effective: June 14, 2024
 Published: July 5, 2024

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Evans	X			
Galimba	X			
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Villegas	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Evans	X			
Galimba			X	
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder			X	
Kierkiewicz	X			
Kimball	X			
Lee Loy	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.

Approved/Disapproved this 14th day
 of June, 2024.

[Signature]
 MAYOR, COUNTY OF HAWAII

[Signature]
 COUNCIL CHAIRPERSON

[Signature]
 COUNTY CLERK

Bill No.: 150 (Draft 2)
 Reference: C-817.2/LAAC-56
 Ord No.: 24 37