

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 51
(Draft 2)

ORDINANCE NO. 95 55

AN ORDINANCE AMENDING SECTION 25-114 (CITY OF HILO ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-10a) AND (A-3a) TO AGRICULTURAL (A-1a) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-2-48:PORTION OF 13.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-114, Article 3, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of properties described hereinafter as follows:

The district classification of the following area situated at Waiakea, South Hilo, Hawaii, shall be Agricultural (A-1a):

PARCEL 1:

Beginning at the southwest corner of this parcel of land, being also the southeast corner of Grant 13,033 to Takeo and Sadame Matsuyama Watanabe and on the northerly side of Makalika Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 16,043.62 feet South and 15,354.40 feet East, thence running by azimuths measured clockwise from true South:

- 1. 161° 00' 1,122.00 feet along Grant 13,033 to Takeo and Sadame Matsuyama Watanabe and along Grant 13,032 to Yoshio and Itsuko Okamoto;
- 2. 251° 00' 415.00 feet along Grant 13,029 to Shigeru and Chieko Yoshimura Matsuyama;
- 3. 341° 00' 439.50 feet along the remainder of Grant 13,030 to Tsugio and Asako Miyamoto (Lots 2-E and 2-C);

4. 71° 00' 395.00 feet along the remainder of Grant 13,030 to Tsugio and Asako Miyamoto (Lots 2-B and 2-A);
5. 341° 00' 662.50 feet along the remainder of Grant 13,030 to Tsugio and Asako Miyamoto (Lot 2-A);
6. Thence along same on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:
296° 00' 28.28 feet;
7. 71° 00' 40.00 feet along Makalika Street to the point of beginning and containing an area of 4.502 Acres. (Refer to Parcel 1 as shown on Exhibit "A").

The district classification of the following area situated at Waiakea, South Hilo, Hawaii, shall be Agricultural (A-1a):

PARCEL 2:

Beginning at the southwest corner of this parcel and on the northerly side of Makalika Street, the direct azimuth and distance from the southwest corner of Lot A being: 251° 00' 814.60 feet, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 16,218.84 feet South and 14,845.52 feet East, thence running by azimuths measured clockwise from true South:

1. 161° 00' 644.00 feet along the remainder of Grant 13,033 to Takeo and Sadame Watanabe (remainder of Lot A);
2. 251° 00' 200.00 feet along Grant 13,032 to Yoshio and Itsuko Okamoto (Lot 4-A);
3. 161° 00' 644.00 feet along the remainder of Grant 13,032 to Yoshio and Itsuko Okamoto (Lot 4-A);
4. 71° 00' 1,014.60 feet along Grant 13,032 to Yoshio and Itsuko Okamoto (Lot

4-A);

5. 161° 00' 70.00 feet along Awa Street;
6. Thence along the remainder of Grant 13,031 to Noboru Nakayama and Hatsuyo Nakahara Nakayama on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:
296° 00' 28.28 feet;
7. 251° 00' 732.78 feet along the remainder of Grant 13,031 to Noboru Nakayama and Hatsuyo Nakahara Nakayama;
8. 161° 00' 444.00 feet along the same;
9. 251° 00' 1,664.42 feet along Waiakea-Uka Flood Control (Job No. P-1978A);
10. 341° 00' 4.97 feet along Government Land;
11. 251° 00' 50.00 feet along Government Land;
12. Thence along Railroad Avenue on a curve to the right with a radius of 2,815.00 feet, the chord azimuth and distance being:
343° 20' 47" 162.45 feet;
13. 345° 00' 183.00 feet along Railroad Avenue;
14. Thence along Railroad Avenue on a curve to the left with a radius of 5,780.00 feet, the chord azimuth and distance being:
343° 27' 40" 310.45 feet;
15. 71° 00' 1,081.65 feet along the remainder of Grant 13,030 to Tsugio and Asako Miyamoto (Lot 2-E-4 and remainder of Lot A);
16. 341° 00' 1,122.00 feet along the remainder of Grant 13,030 to Tsugio and Asako Miyamoto (Remainder of

Lot A);

17. 71° 00' 538.20 feet along Makalika Street to the point of beginning and containing an area of 37.247 Acres. (Refer to Parcel 2 as shown on Exhibit "A").

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. These changes in district classification are conditioned upon the following:

- A. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Plans for the proposed subdivision shall be submitted to the Planning Department and Final Subdivision Approval secured within five (5) years from the effective date of this ordinance. As represented by the applicant, the proposed subdivision shall not exceed a maximum limit of 22 lots. Upon the issuance of Final Subdivision Approval for the lots, the Planning Director shall initiate a change of zone of lands encumbered by the 9-hole pitch and putt golf course into an Open-zoned District classification.
- C. As agreed to by the applicant, restrictive covenants in the deeds of all the proposed lots shall prohibit the construction of an ohana dwelling or a second dwelling unit on each lot. 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 shall be recited in an instrument executed by the applicant and the County, recorded with the Bureau of Conveyances, and a copy of the recorded covenant filed with the Planning Department upon its receipt from the Bureau of Conveyances.

- D. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.

- E. The Applicant shall pay its fair share contribution to address potential regional impacts of the project with respect to park, fire, police, solid waste disposal facilities, sewer 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 final subdivision approval of any portion of the agricultural-zoned area within the project site. 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 acceptable to the director, in consultation

with the affected agencies shall have a maximum combined value of \$ 151,298.62. The fair share contribution described above shall 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). In lieu of paying the fair share contribution, the applicant may construct such facilities related to park, fire, police, solid waste disposal facilities, sewers and roads with the approval of the appropriate agency(ies).

- F. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- G. 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.

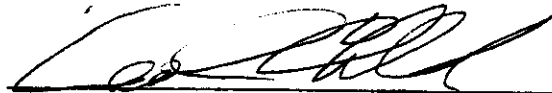
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
5. Should the applicant require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.

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

SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

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

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: April 5, 1995
Date of 1st Reading: April 5, 1995
Date of 2nd Reading: April 19, 1995
Effective Date: April 26, 1995

APPROVED AS TO FORM AND LEGALITY:



DEPUTY CORPORATION COUNSEL

DATE: 4/24/95

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 2)

Introduced By: Keola Childs
 Date Introduced: April 5, 1995
 First Reading: April 5, 1995
 Published: N/A

REMARKS:

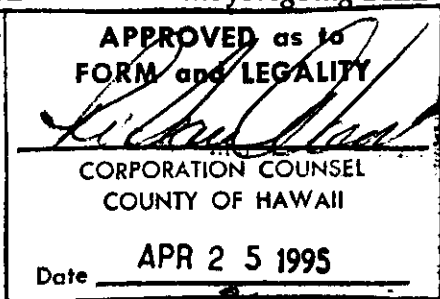
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Bonk-Abramson		X		
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Rath	X			
Ray	X			
Smith	X			
	8	1	0	0

Second Reading: April 19, 1995
 To Mayor: April 20, 1995
 Returned: April 26, 1995
 Effective: April 26, 1995
 Published: May 3, 1995

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Bonk-Abramson		X		
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Rath	X			
Ray	X			
Smith	X			
	8	1	0	0

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



[Signature]
 COUNCIL CHAIRMAN
[Signature]
 COUNTY CLERK

Approved/Disapproved this 26 day of April, 19 95.

[Signature]
 MAYOR, COUNTY OF HAWAII

Bill No.: 51 (Draft 2)
 Reference: C-232/PC-37
 Ord. No.: 95 55