

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 331  
(Draft 3)

ORDINANCE NO. 99 36

AN ORDINANCE 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 FAMILY AGRICULTURAL (FA-1a) AT KEALAKEHE HOMESTEADS, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-4-4:33.

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

SECTION 1. Section 25-8-3, Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kealakehe Homesteads, North Kona, Hawaii, shall be Family Agricultural (FA-1a):

Beginning at a 1/2 inch pipe in concrete (found) at the Northeasterly corner of this parcel of land, being also a point on the Southerly boundary of Grant 3456 to G. McDougall and being a point on the Westerly side of Mamalahoa Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 13,427.91 feet North and 8,358.02 feet East and running by azimuths measured clockwise from True South:

1. 326° 09' 60.38 feet along the Westerly side of Mamalahoa Highway to a 1/2 inch pipe in concrete (set);

Thence, following along the Westerly side of Mamalahoa Highway on a curve to the left with a radius of 286.00 feet, the chord azimuth and distance being:

2. 317° 07' 30" 89.73 feet to a 1/2 inch pipe in concrete (set);
3. 72° 51' 30" 168.66 feet along the remainder of Grant 3924 to P. Peahi to a 1/2 inch pipe in concrete (set);
4. 345° 00' 122.97 feet along the remainder of Grant 3924 to P. Peahi to a "+" on rock (found);

Thence, for the next eight (8) courses following along Royal Patent 5123, Land Commission Award 10950 to Waiwaiole:

- |     |              |        |   |
|-----|--------------|--------|---|
| 5.  | 82° 53' 30"  | 49.53  | feet to a nail in concrete (found);   |
| 6.  | 83° 32'      | 69.13  | feet to a 1/2 inch pipe in concrete (set);  |
| 7.  | 75° 15' 30"  | 37.98  | feet to a 1/2 inch pipe in concrete (set);  |
| 8.  | 77° 26' 30"  | 43.26  | feet to a 1/2 inch pipe in concrete (set);  |
| 9.  | 74° 41' 30"  | 57.06  | feet to a 1/2 inch pipe in concrete (set);  |
| 10. | 71° 26'      | 61.73  | feet to a 1/2 inch pipe in concrete (set);  |
| 11. | 74° 49'      | 56.05  | feet to a 1/2 inch pipe in concrete (set);  |
| 12. | 71° 18' 30"  | 33.19  | feet to a 1/2 inch pipe in concrete (set);  |
| 13. | 73° 06' 30"  | 284.67 | feet along Royal Patent 5228, Land Commission Award 8608, Apana 1 to Kaahui to a "+" on rock (found);           |
| 14. | 163° 36' 50" | 232.53 | feet along Lot 8-A of the Kealakehe Homesteads and along Grant 3965 to W. H. Kalaiwaa to a "+" on rock (found); |
| 15. | 252° 51' 30" | 804.25 | feet along Grant 3456 to G. McDougall to the point of beginning and containing an area of 4.201 Acres.          |

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

SECTION 2. This change in district classification is conditioned upon the following:

- A. The applicant, its 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.
- C. Final Subdivision Approval of the proposed subdivision within the subject property shall be secured from the Planning Director within five (5) years from the effective date of the Change of Zone ordinance.
- D. Driveway access to the proposed subdivision shall be from Mamalahoa Highway, meeting with the approval of the Department of Public Works. The entrance roadway sight distance shall meet the requirements of the Statewide Design Manual. All accesses to and within the proposed subdivision shall comply with the requirements of the Subdivision Code and the approval of the Department of Public Works.
- E. To provide for future road widening improvements, roadway frontage equal to half the difference between the existing right-of-way and the proposed 50 foot right-of-way as required by the General Plan shall be delineated on subdivision plans. The future road widening shall be dedicated to the County of Hawaii upon its request at no cost to the County.
- F. Restrictive covenants in the deeds of all the proposed lots within the subject property shall prohibit the construction of 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 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.

- G. A drainage study of the project site, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works, prior to the issuance of Final Subdivision Approval.
  
- H. 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 Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
  
- I. The applicant shall make its fair share contribution to mitigate potential regional impacts of the subject project with respect to roads, parks and recreation, fire, police and solid waste disposal facilities. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of proposed residential lots in each such increment. 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 be determined by the

County Council. The fair share contribution shall have a maximum combined value of **\$7,239.16 per single-family residential unit**. Based upon the applicant's representation of intent to develop up to two (2) residential units, the indicated total of fair share contribution is **\$14,478.32** for 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 I. The fair share contribution shall be allocated as follows:

1. **\$3,490.85** per single-family residential unit for an indicated total of **\$6,981.70** to the County to support park and recreational improvements and facilities;
2. **\$168.40** per single-family residential unit for an indicated total of **\$336.80** to the County to support police facilities;
3. **\$332.61** per single-family residential unit for an indicated total of **\$665.22** to the County to support fire facilities;
4. **\$145.62** per single-family residential unit for an indicated total of **\$291.24** to the County to support solid waste facilities; and
5. **\$3,101.68** per single-family residential unit for an indicated total of **\$6,203.36** to the State or County to support road and traffic improvements.

The fair share contributions described above shall be adjusted annually beginning three years after the effective date of the change of zone, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute 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 approval of the director. The cost of providing and constructing the improvements required in Condition E shall be credited against

the sum specified in Condition I (5) for road and traffic improvements. For purposes of administering Condition I, the fair market value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be subject to review and approval of the director, upon consultation with the appropriate agencies.

Upon approval of the fair share contributions or in lieu contributions by the director, the director shall submit a final report to the Council for its information that identifies the specific approved fair share and/or in lieu contributions, as allocated, and further implementation requirements.

- J. 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.
  
- K. 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, its 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.

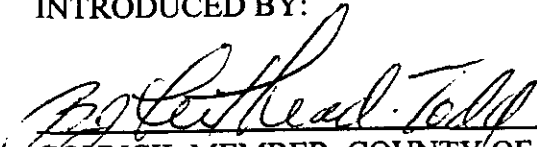
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

[K] L. 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 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.

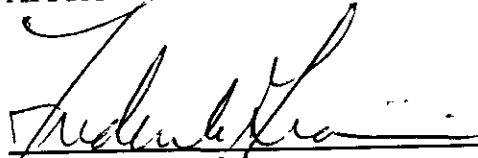
INTRODUCED BY:

  
\_\_\_\_\_  
COUNCIL MEMBER, COUNTY OF HAWAII

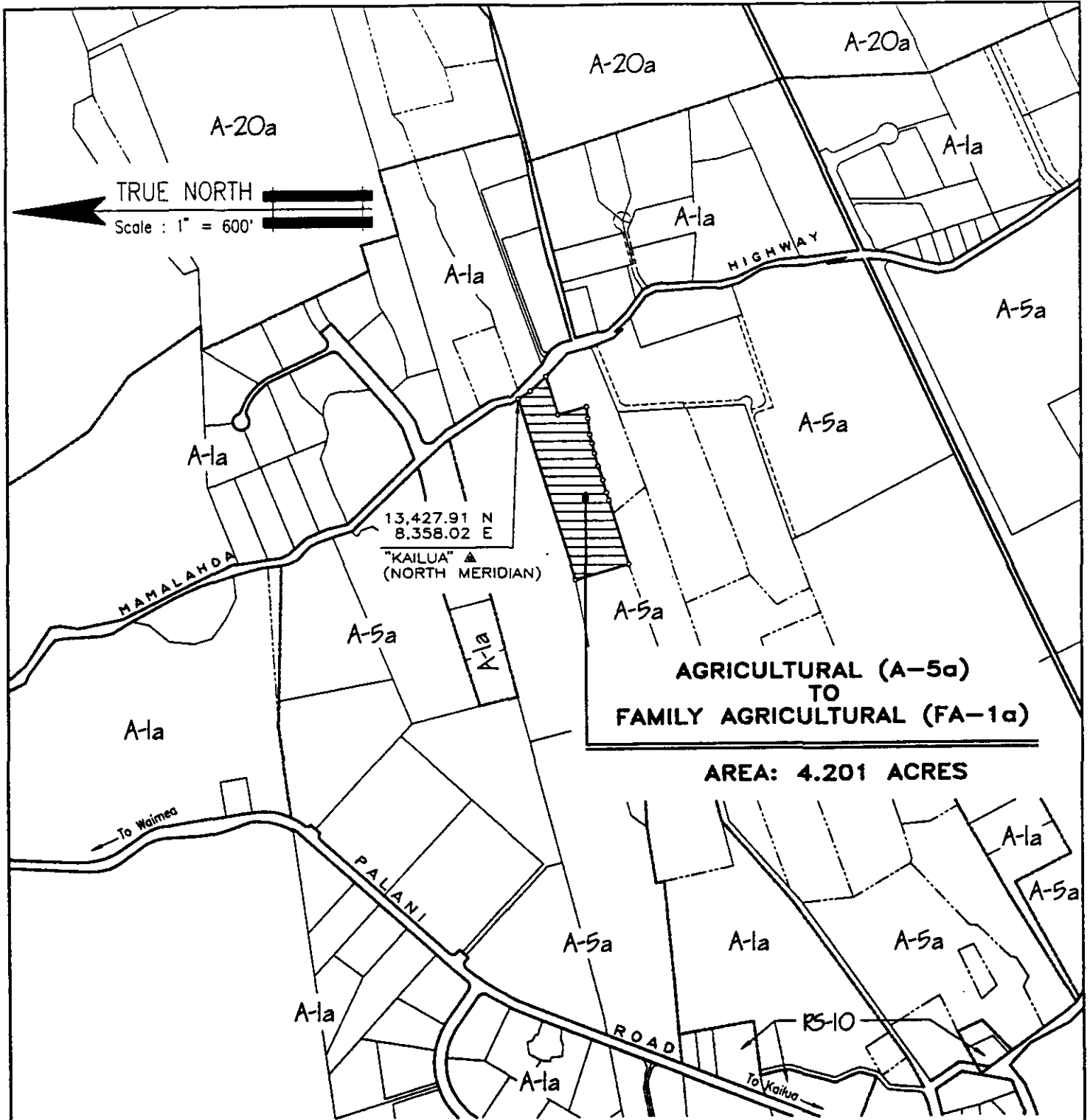
Hilo, Hawaii

Date of Introduction: November 18, 1998  
Date of 1st Reading: November 18, 1998  
Date of 2nd Reading: March 4, 1999  
Effective Date: March 15, 1999  
REFERENCE: Comm. 1050.02

APPROVED AS TO FORM AND LEGALITY

  
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CORPORATION COUNSEL

DATED: 3/10/99



# 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 FAMILY AGRICULTURAL (FA-1a) AT KEALAKEHE HOMESTEADS, 1ST SERIES, KEALAKEHE, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawai'i  
(DRAFT 3)

Introduced By: Bobby Jean Leithead-Todd  
Date Introduced: November 18, 1998  
First Reading: November 18, 1998  
Published: November 30, 1998

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

Second Reading: March 4, 1999  
To Mayor: March 8, 1999  
Returned: March 15, 1999  
Effective: March 15, 1999  
Published: March 24, 1999

REMARKS: Deferred - 12/23/98  
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\_\_\_\_\_

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
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(DRAFT 3)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	7	1	1	0

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

APPROVED AS TO  
FORM AND LEGALITY:

Frederick K. Hann  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date 3/10/99

[Signature]  
COUNCIL CHAIRMAN  
[Signature]  
COUNTY CLERK

Approved/Disapproved this 15 day  
of March, 1999

[Signature]  
MAYOR, COUNTY OF HAWAII

Bill No.: Bill 331 (Draft 3)  
Reference: C-1050/PC-163  
Ord. No.: 99 36