

ORDINANCE NO. 02 97

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-2a) AT KAPALAALAEA 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-7-7:46.

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 Kapalaalaea 2nd, North Kona, Hawaii, shall be Family Agricultural (FA-2a):

Beginning at a 1/2 inch pipe (set) at the Northwesterly corner of this parcel of land, being also the Southwesterly corner of Lot 1-A-1 and a point on the Easterly end of Road Parcel in the Keauhou Uka Subdivision, Unit II, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 18,448.80 feet South and 13,562.42 feet East and running by azimuths measured clockwise from True South:

Thence, for the next four (4) courses following along Lot 1-A-1 of this subdivision and along the remainder of Grant 3019 to Kaaipulu:

1. 248° 30' 85.55 feet to a 1/2 inch pipe (set);
2. 258° 53' 470.27 feet to a 1/2 inch pipe (set);
3. 250° 00' 407.89 feet to a 1/2 inch pipe (set);
4. 168° 53' 246.39 feet to a spike (set);

Thence, for the next thirteen (13) courses following along middle of stonewall and along Land Commission Award 4452, Apana 2 to Hazaleleponi Kalama:

5.	246°	03'	50"	11.84	feet to a ½ inch pipe (found);
6.	254°	44'	30"	39.55	feet to a ½ inch pipe (found);
7.	248°	29'	30"	82.09	feet to a ½ inch pipe (found);
8.	237°	46'		23.84	feet to a ½ inch pipe (set);
9.	248°	54'	30"	31.85	feet to a ½ inch pipe (found);
10.	258°	20'	50"	67.51	feet to a ½ inch pipe (found);
11.	264°	30'		41.32	feet to a ½ inch pipe (found);
12.	254°	34'	30"	63.63	feet to a ½ inch pipe (found);
13.	262°	56'	30"	52.06	feet to a ½ inch pipe (found);
14.	244°	10'		49.60	feet to a ½ inch pipe (found);
15.	254°	21'	10"	69.30	feet to a ½ inch pipe (found);
16.	246°	59'		49.87	feet to a ½ inch pipe (found);
17.	257°	34'		64.63	feet to a ½ inch pipe (found);

Thence, for the next four (4) courses following along the remainder of Grant 3019 to Kaaipulu:

18.	352°	04'	10"	152.26	feet along Lot 1-A-4 of this subdivision to a ½ inch pipe (set);
19.	84°	35'	30"	4.28	feet to a ½ inch pipe (set);
20.	76°	10'	10"	209.75	feet to a ½ inch pipe (set);
21.	356°	34'	20"	335.27	feet to a ½ inch pipe (set);
22.	66°	41'	10"	246.86	feet along Royal Patents 4475 and 6856, Land Commission Award 7713, Apana 6 to V. Kamamalu to a ½ inch pipe (set);

Thence, for the next four (4) courses following along Lot 1-A-3 of this subdivision and

along the remainder of Grant 3019 to Kaaipulu:

23.	168° 53'	237.93	feet to a ½ inch pipe (set);
24.	70° 00'	539.38	feet to a ½ inch pipe (set);
25.	78° 53'	470.00	feet to a ½ inch pipe (set);
26.	68° 30' 0"	90.00	feet to a ½ inch pipe (set);
27.	175° 56' 10"	20.96	feet along Road Parcel of Keauhou Uka Subdivision, Unit II, to the point of beginning and containing an area of 5.001 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, 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 applicants, 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. The applicants

shall also provide water service for the proposed subdivision from Mamalahoa Highway, meeting the requirements of the Department of Water Supply.

- C. Final Subdivision Approval of the proposed family-agricultural subdivision shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- D. Access to lots within the proposed subdivision shall comply with the requirements of the Department of Public Works.
- E. 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.
- F. Restrictive covenant(s) in the deeds of all the proposed family-agricultural lots shall prohibit the construction of a second dwelling unit and condominium property regimes 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(s) shall be recited in an instrument executed by the applicants and recorded with the Bureau of Conveyances prior to the issuance of Final Subdivision Approval.
- G. 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-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.

- H. The applicants shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed subdivision within the subject property.
- I. Should the Hawai'i County 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.
- J. 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 applicants, 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).
 5. If the applicants should require an additional extension of time, the Planning Director shall submit the applicant's request to the County

Council for appropriate action.

- K. 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.

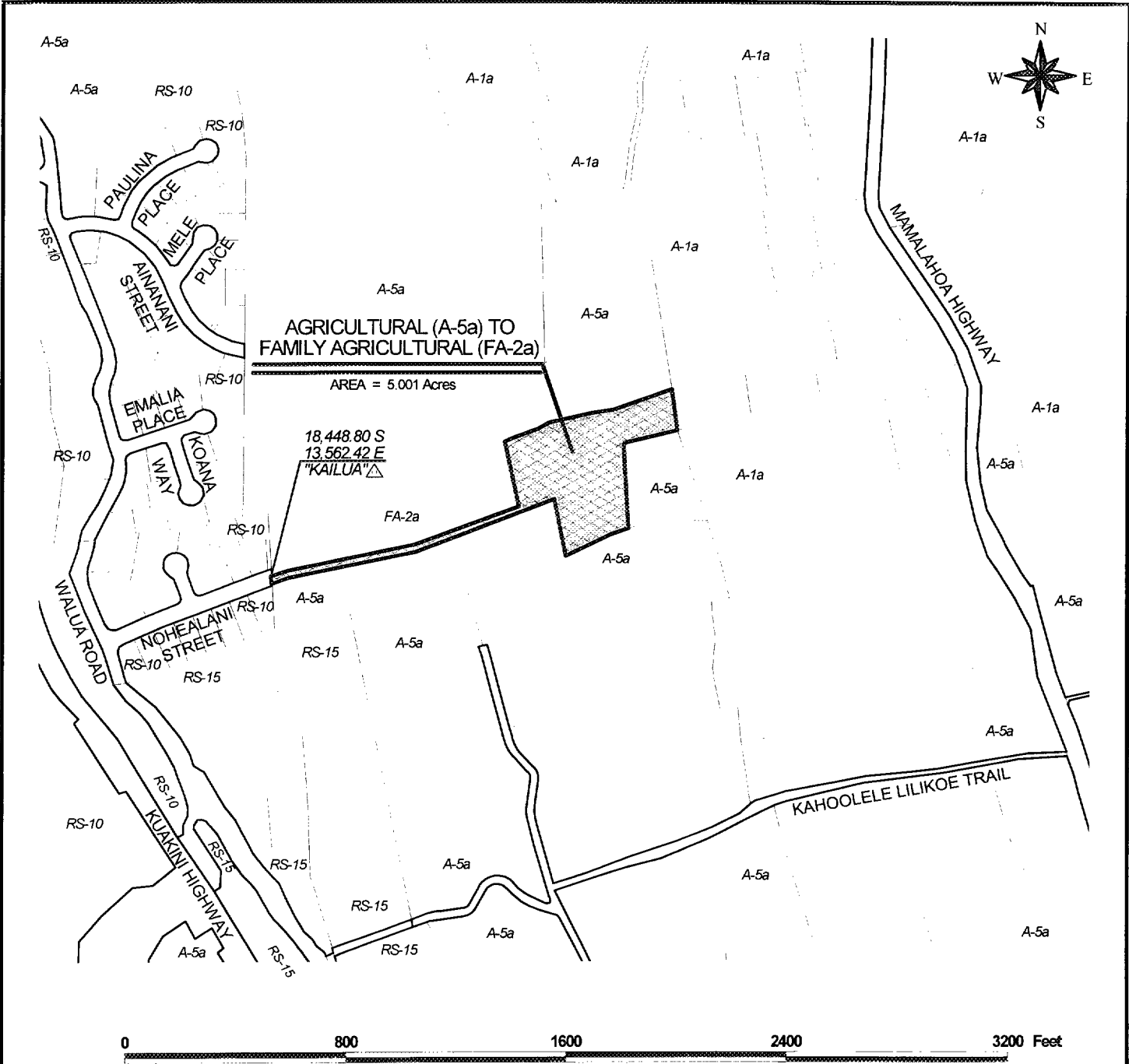
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

_____ Hilo _____, Hawai'i

Date of Introduction: July 31, 2002
Date of 1st Reading: July 31, 2002
Date of 2nd Reading: August 14, 2002
Effective Date: August 28, 2002

REFERENCE: Comm. 676.1



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-2a) AT KAPALAALAEA 2nd, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: July 31, 2002
 First Reading: July 31, 2002
 Published: N/A

REMARKS: _____

Second Reading: August 14, 2002
 To Mayor: August 23, 2002
 Returned: August 28, 2002
 Effective: August 28, 2002
 Published: September 11, 2002

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Safarik			X	
Tyler	X			
Yagong			X	
	7	0	2	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Safarik	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:

Patricia K. O'Neil
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 8/22/02

Anna Cecilia
 COUNCIL CHAIRMAN
Mark K. Kain
 COUNTY CLERK

Bill No.: 235 (Draft 2)
 Reference: C-676.1/PC-93
 Ord No.: 02 97

Approved/Disapproved this 23th day

of August, 2002.

Harry Kim
 MAYOR, COUNTY OF HAWAII