

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 26  
(Draft 4)

ORDINANCE NO. 03 26

AN ORDINANCE AMENDING SECTION 25-8-19 (NORTH HILO DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO RESIDENTIAL AND AGRICULTURAL (RA-1a) AT MANOWAI'OPAE HOMESTEADS, NORTH HILO, HAWAII, COVERED BY TAX MAP KEY 3-5-4:77.

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

SECTION 1. Section 25-8-21, 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 Manowai'opae Homesteads, North Hilo, Hawaii, shall be Residential and Agricultural (RA-1a):

Beginning at a point at the East corner of this parcel of land and at the top West edge of Hokuwaikahe Gulch, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Papaaloa" being 4447.87 feet North and 1158.16 feet West, and running by azimuths measured clockwise from true South:

1. 73° 47' 30" 126.57 feet along the top West edge of Hokuwaikahe Gulch;
2. 52° 17' 198.76 feet along the top West edge of Hokuwaikahe Gulch;
3. 118° 35' 688.94 feet along the remainder of Lot 65, Grant 7620 to Antonio Nobriga to a point on the South side of 30-Foot Homestead Road;

4. 253° 34' 63.79 feet along the South side of 30-Foot Homestead Road;
5. 245° 43' 177.05 feet along the South side of 30-Foot Homestead Road;
6. 298° 35' 139.78 feet along the remainder of Lot 65, Grant 7620 to Antonio Nobriga;
7. 208° 35' 84.90 feet along the remainder of Lot 65, Grant 7620 to Antonio Nobriga;
8. 298° 35' 566.90 feet along Lot 6, Grant 7062 to Manuel S. Cordeiro to the point of beginning and containing a gross area of 3.800 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 applicants, successors or assigns shall be responsible for complying with all requirements of Chapter 205, Hawaii Revised Statutes, relating to permissible uses within the State Land Use Rural District.
- C. 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.
- D. Final Subdivision Approval for the subdivision shall be secured within five (5) years from the effective date of this ordinance.
- E. Restrictive covenants in the deeds of all the proposed lots within the subject property 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 recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- F. Roadway and access to all lots within the proposed subdivision shall meet with the approval of the Department of Public Works.
- 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 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 **\$7,876.20** per single-family residential unit. Based upon the applicant's representation of intent to develop up to two (2) additional residential units, the indicated total of fair share contribution is **\$15,752.40** 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 H. The fair share contribution shall be allocated as follows:

1. \$3,798.04 per single-family residential unit for an indicated total of **\$7,596.08** to the County to support park and recreational improvements and facilities;
2. \$183.22 per single-family residential unit for an indicated total of **\$366.44** to the County to support police facilities;
3. \$361.88 per single-family residential unit for an indicated total of **\$723.76** to the County to support fire facilities;
4. \$158.43 per single-family residential unit for an indicated total of **\$316.86** to the County to support solid waste facilities; and
5. \$3,374.63 per single-family residential unit for an indicated total of **\$6,749.26** 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 C shall be credited against the sum specified in Condition H (5) for road and traffic improvements. For purposes of administering Condition H, 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.

- I. The applicants shall comply with all applicable laws, rules, regulations and requirements of the Department of Water Supply, Department of Health, Fire Department and other affected agencies.
- 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 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 applicants' request to the County Council for appropriate action.
- 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.

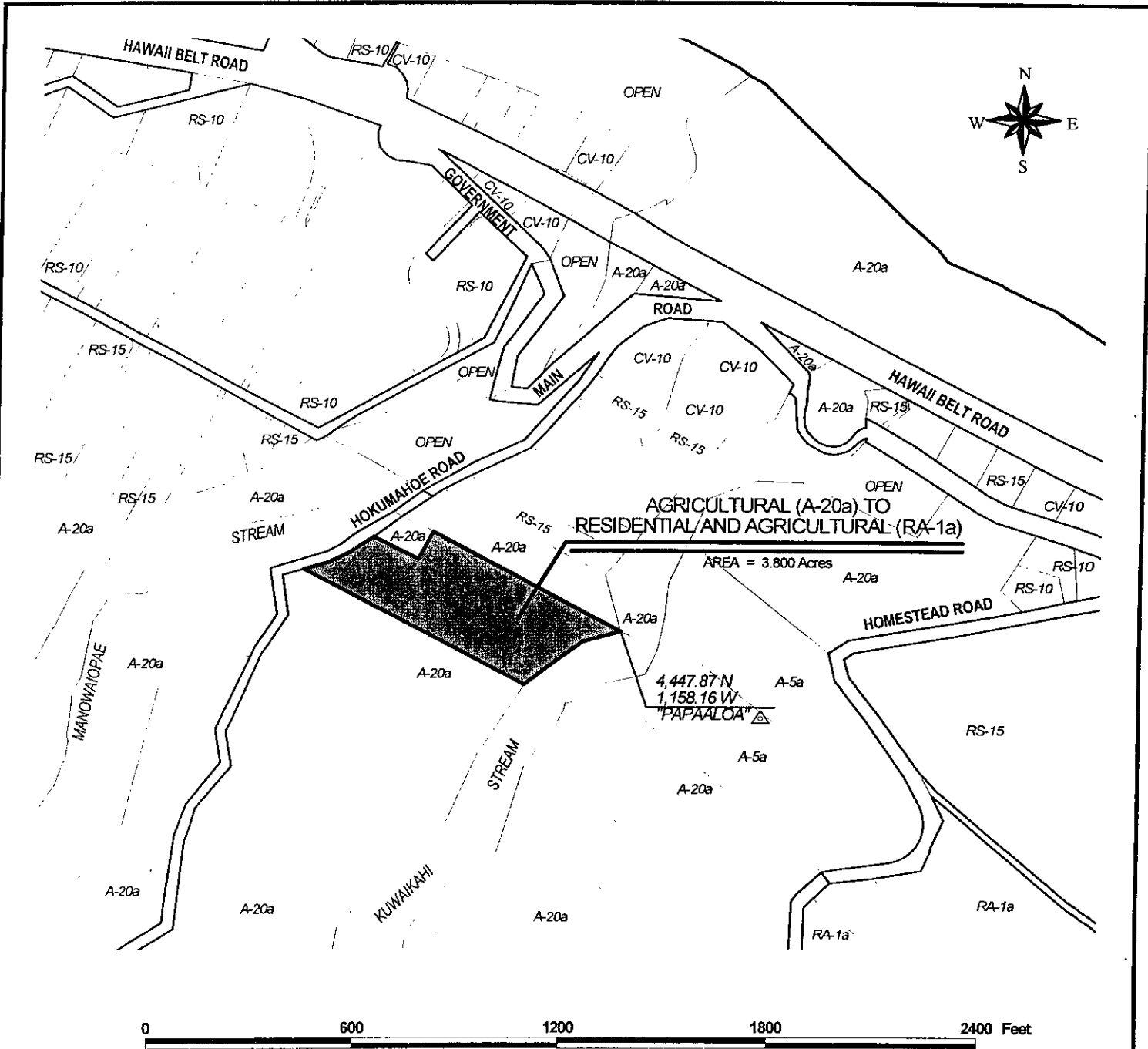
SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

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

INTRODUCED BY:

  
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COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i  
Date of Introduction: January 23, 2003  
Date of 1<sup>st</sup> Reading: January 23, 2003  
Date of 2<sup>nd</sup> Reading: February 5, 2003  
Effective Date: February 20, 2003



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-19 (NORTH HILO DISTRICT ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO RESIDENTIAL AND AGRICULTURAL (RA-1a) AT MANOWAIOPAE HOMESTEADS, NORTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK  
County of Hawaii  
Hilo, Hawaii

Introduced By: Aaron Chung  
Date Introduced: January 23, 2003  
First Reading: January 23, 2003  
Published: February 2, 2003

REMARKS: \_\_\_\_\_  
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Second Reading: February 5, 2003  
To Mayor: February 11, 2003  
Returned: February 21, 2003  
Effective: February 20, 2003  
Published: March 2, 2003

REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Holschuh	X			
Jacobson	X			
Leithead-Todd	X			
Reynolds	X			
Safarik	X			
Tyler	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Holschuh	X			
Jacobson	X			
Leithead-Todd	X			
Reynolds	X			
Safarik	X			
Tyler	X			
	8	0	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:

[Signature]  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date 2/13/03

[Signature]

COUNCIL CHAIRMAN

[Signature]

COUNTY CLERK

Bill No.: 27  
Reference: C-60/FC-22  
Ord No.: 03 27

Approved Disapproved this 20<sup>th</sup> day  
of February, 20 03

[Signature]  
MAYOR, COUNTY OF HAWAII