

ORDINANCE NO. **03 163**

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO FAMILY AGRICULTURAL (FA-2a) AT O'OMA 1<sup>ST</sup>, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-3-7:40 AND 41.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

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

The district classification of the following area situated at O'oma 1<sup>st</sup>, North Kona, Hawaii shall be Family Agricultural (FA-2a):

Beginning at the Northeasterly corner of this parcel of land, being also the Northwesterly corner of Lot 51 of the Homestead Lots, Akahipuu Section (Map No. 6) and being a point on the Southerly side of Homestead Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 9,465.42 feet South and 10,338.87 feet West and running by azimuths measured clockwise from True South:

- 1.        358° 14'                                637.15        feet along Lot 51 of the Homestead Lots, Akahipuu Section (Map No. 6) and along Grant 3805 to L. Kahinu to a point;

Thence, for the next three (3) courses following along Grant 2027 to K. K. Kameheu:

- 2.        85° 22'                                272.66        feet along Lots 23 of Kona Hills Estates Subdivision Unit I, (File Plan 1695) and Lot 22 of Kona Hills Estates Subdivision, Unit II (File Plan 2169) to a point;

- |    |              |          |   |
|----|--------------|----------|---|
| 3. | 104° 36'     | 244.60   | feet along Lots 21 and 20 of Kona Hills Estates Subdivision Unit II (File Plan 2169) to a point;  |
| 4. | 93° 52'      | 726.50   | feet along Lots 20, 19, 18, and 15 of Kona Hills Estates Subdivision, Unit II (File Plan 2169) to a point;  |
| 5. | 93° 45'      | 417.50   | feet along the Northerly end of Lot 40 (Private Roadway), along Lot 14 of Kona Hills Estates Subdivision, Unit II (File Plan 2169) and along Grant 2027 to K. K. Kameheu to a point;  |
| 6. | 91° 30' 10"  | 1,186.96 | feet along middle of stonewall and along Lot 56 of the Homestead Lots, Akahipuu Section (Map No. 6) and Grant 4273 to E. M. Paiwa to a point;   |
| 7. | 178° 16' 07" | 705.18   | feet along stonewall and along Lot 61 of Kona Acres Subdivision, Unit 2, Increment A (File Plan 1348) and along Grant 5046 to K. Kama, Jr., along the Northerly end of Kukuna Street and along Lots 9, 8 and 7 of Kona Acres Subdivision, Unit 2, Increment A (File Plan 1348) and along Grant 5046 to K. Kama, Jr. to a point; |
| 8. | 274° 20'     | 2,846.27 | feet along the Southerly side of Homestead Road (20-Ft. Wide) to the point of beginning and containing an area of 42.793 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 applicant(s), 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. Prior to this payment, water calculations with anticipated maximum daily water usage as recommended by a registered engineer shall be submitted to the Department of Water Supply.
  
- C. The applicant(s), its successors or assigns shall be responsible for complying with all requirements of Chapter 205, Hawai'i Revised Statutes, relating to permissible uses within the State Land Use Agricultural District.
  
- D. Final Subdivision Approval of the subject property 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 give notice that the terms of the zoning ordinance prohibit the construction of a second dwelling unit and condominium property regimes on each lot. This restriction may be removed by amendment of this ordinance by the County Council. The owners of the property may also impose private covenants

restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State of Hawai'i 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. Kukuna Street shall be extended to the eastern boundary of TMK: 7-3-007:041 to allow for future connectivity. It shall be on an alignment meeting with the approval of the Planning Director in consultation with the Department of Public Works.
- G. To allow for future vehicular and pedestrian access and circulation, the subdivision shall have at least one road connection to the northern, southern, and eastern boundaries of the subject property. These roads shall be constructed to County dedicable standards and shall be aligned in a manner meeting with the approval of the Planning Director in consultation with the Department of Public Works, except that the northern alignment shall be at a location where it allows for a future connection to the mauka extension of Hi'olani Street.
- H. All roadways within the proposed subdivision shall be constructed to County dedicable standards and shall remain open to public traffic or be dedicated to the County upon request at no cost to the County.
- I. Install streetlights, signs, and markings meeting with the approval of the Department of Public Works, Traffic Division.
- J. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.

- K. An Archaeological Preservation and Burial Treatment Plan shall be submitted for the review and approval of the Planning Director, in consultation with the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD). Proposed mitigation treatment for burial sites within the subject property shall be approved by the Historic Preservation Division's Hawai'i Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Archaeological Preservation and Burial Treatment Plan shall be submitted to the Planning Director for its files prior to submitting plans for Final Plan Approval review or prior to the issuance of any land alteration permits.
  
- L. 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.
  
- M. A drainage study of the subject property, if required, shall be prepared by the applicant and submitted to the Department of Public Works for review and approval, prior to Final Subdivision Approval. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works.
  
- N. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Public Works, Department of Water Supply and Department of Health.

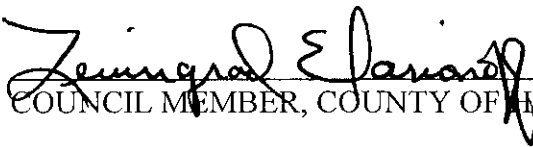
- O. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being complied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.
- P. 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(s), 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 applicant(s) should require an additional extension of time, the Planning Director shall submit the applicant(s)' request to the County Council for appropriate action.

Q. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning 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

Kona, Hawai'i

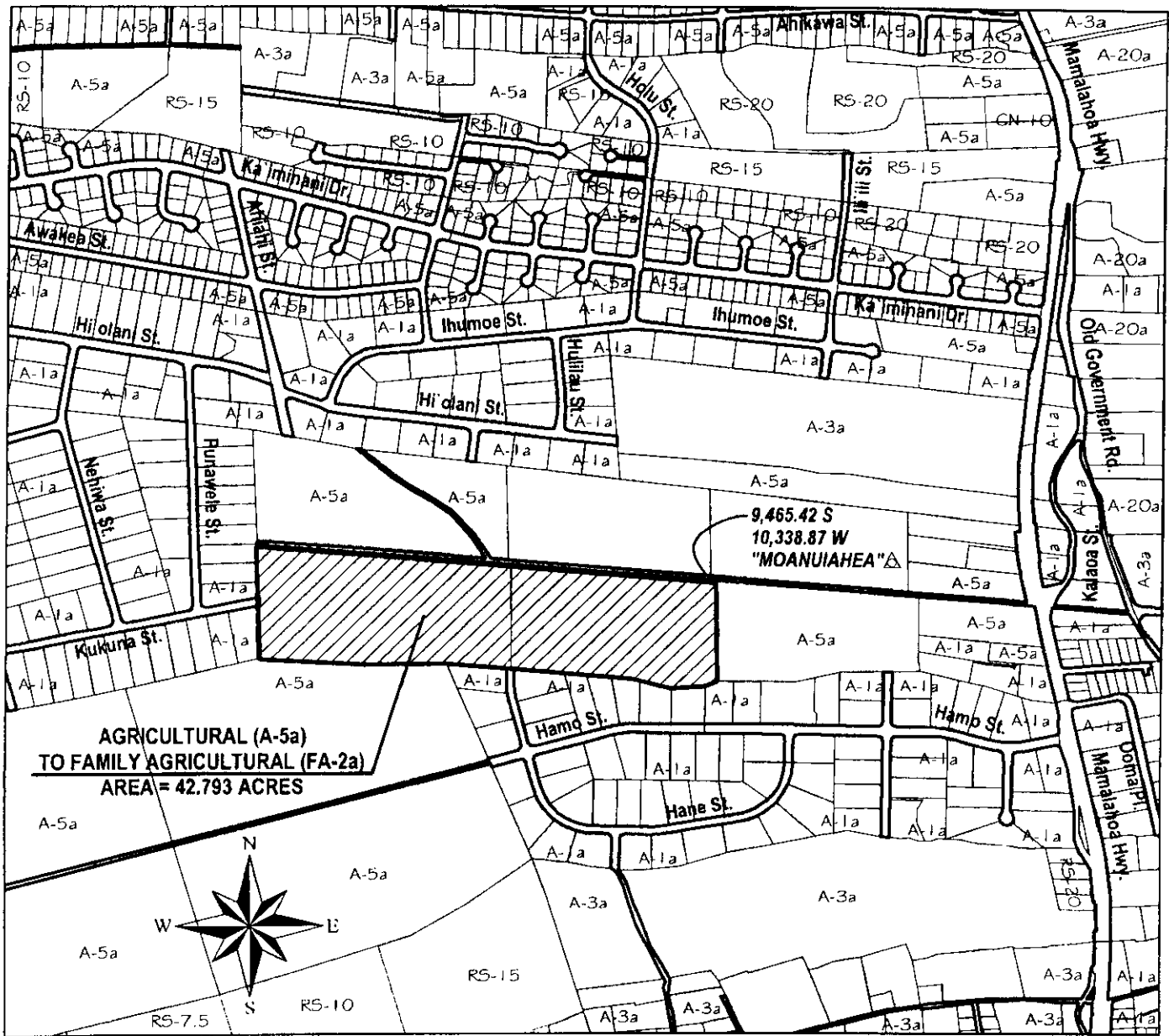
Date of Introduction: November 19, 2003

Date of 1st Reading: November 19, 2003

Date of 2nd Reading: December 3, 2003

Effective Date: December 19, 2003

REFERENCE: Comm. ~~375.1~~



# 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 OOMA 1st, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK  
 County of Hawaii  
 Kona, Hawaii

(DRAFT 2)

RECEIVED

Introduced By: Leningrad Elarionoff  
 Date Introduced: November 19, 2003  
 First Reading: November 19, 2003  
 Published: N/A

REMARKS: \_\_\_\_\_  
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Second Reading: December 3, 2003  
 To Mayor: December 9, 2003  
 Returned: December 19, 2003  
 Effective: December 19, 2003  
 Published: January 4, 2004

REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE  
 03 DEC 19 pm 2 49

	AYES	NOES	ABS	EX
Arakaki	X			
Chung				
Elarionoff	X			
Holschuh	X			
Jacobson	X			
Reynolds	X			
Safarik	X			
Tulang	X			
Tyler	X			
	8	0	1	0

ROLL CALL VOTE

	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson	X			
Reynolds	X			
Safarik			X	
Tulang	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:

PA Richard Todd  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date 12/11/03

John C. ...  
 COUNCIL CHAIRMAN

COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: Bill 165 (Draft 2)

Reference: C-375.1/PC-63

Ord. No.: 03 163

Approved/Disapproved this 19<sup>th</sup> day  
 of December, 2003

Harry Kim  
 MAYOR, COUNTY OF HAWAII