

ORDINANCE NO. 04 96

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-3a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-4-38:8.

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

SECTION 1. Section 25-8-33, 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 Waiakea, South Hilo, Hawai'i, shall be Single Family Residential (RS-10):

Beginning at the northwest corner of this parcel of land, being the north corner of Lot E-1, being a portion of Lot 916, Grant 11,622 to Gilbert Takeo Yamaguchi and on the south side of Haihai Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAP" being 16,212.82 feet South and 1,880.06 feet West, thence running by azimuths measured clockwise from True South:

1. 265° 40' 160.00 feet along Haihai Street;
2. 355° 40' 1,180.00 feet along Lot C-1-A and Lot C-1-B, being portions of Lot 916, Grant 11,622 to Gilbert Takeo Yamaguchi;
3. 85° 40' 160.00 feet along Paulele Street and Lot 12 of Waiakea Heights Subdivision, Unit II;
4. 175° 40' 1,180.00 feet along Lot E-1, a portion of Lot 916, Grant 11,622 to Gilbert Takeo Yamaguchi to the point of beginning and containing an area of 4.334 Acres, more or less.

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.
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- A. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
  - B. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within ninety (90) days from the effective date of this ordinance.
  - C. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.
  - D. There shall be no individual lot access to Haihai Street.

- E. Provide improvements to the entire frontage of Haihai Street consisting of, but not limited to, pavement widening, drainage improvements, and any required utility relocation, meeting with the approval of the Department of Public Works.
- F. The centerline of the private street servicing the proposed subdivision off Haihai Street shall provide adequate sight distance, meeting with the approval of the Department of Public Works. The private street shall provide access to no more than six lots and shall terminate with a turnaround, meeting with the approval of the Department of Public Works.
- G. Covenants in the deed shall require the homeowners to maintain the private roads and drainageway.
- H. Install street lights, signs and markings, meeting with the approval of the Department of Public Works Traffic Division.
- I. Restrictive covenants in the deeds of all the proposed lots 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 Hawaii 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.
- J. There shall be no construction of single family dwellings and related improvements or other substantial buildings or subdivision roads within areas designated "AE" or shaded Zone "X" by Flood Insurance Rate Maps (FIRM) except that subdivision

roads can be built in shaded Zone “X.” Restrictive covenants in the deeds of all lots shall give notice of the terms of this rezoning condition. This restriction may be removed by amendment of this ordinance by the County Council. 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.

- K. All development generated runoff shall be disposed of on site and not be directed toward any adjacent properties. A drainage study shall be prepared and submitted to the Department of Public Works concurrently with the submission of preliminary subdivision plans. Any drainage improvements shall be constructed, meeting with the approval of the Department of Public Works.
- L. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- M. 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 – State Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- N. 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.

- O. Comply with all applicable laws, rules, regulations and requirements of the affected agencies for the proposed development.
- P. The applicant shall pay its fair share contribution to address potential regional impacts of the project with respect to roads, park, fire, police and solid waste disposal facilities. 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 subject property or within five (5) years from the effective date of this change of zone ordinance, whichever occurs first. 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 shall be determined by the County Council. The fair share contribution may 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). The fair share contribution shall have a maximum combined value of **\$9,472.12** per single-family residential unit. Fair share contributions shall be allocated as follows:
1. **\$4,663.74** per single-family residential unit for an indicated total of **\$41,973.66** to the County to support park and recreational improvements and facilities;
  2. **\$224.98** per single-family residential unit for an indicated total of **\$2,024.82** to the County to support police facilities;
  3. **\$444.36** per single-family residential unit for an indicated total of **\$3,999.24** to the County to support fire facilities;

4. **\$194.55** per single-family residential unit for an indicated total of **\$1,750.95** to the County to support solid waste facilities;
5. **\$4,143.81** per single-family residential unit for an indicated total of **\$37,294.29** to the State or County to support road and traffic improvements;

In lieu of paying the fair share contribution, the applicant may construct such facilities related to park, fire, police and solid waste disposal facilities subject to the review and recommendation of the Planning Director, upon consultation with the appropriate agencies and approval of the Hawaii County Council.

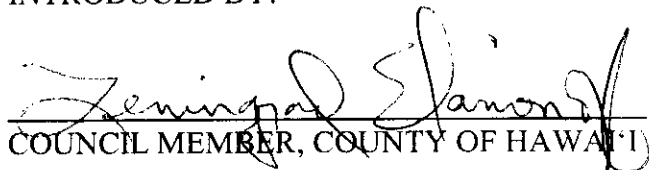
- Q. Comply with all applicable laws, rules and regulations of the affected agencies, including the Department of Public Works, Department of Water Supply and Department of Health.
- R. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of 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 have been satisfied. 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.
- S. 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).
- T. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may 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.

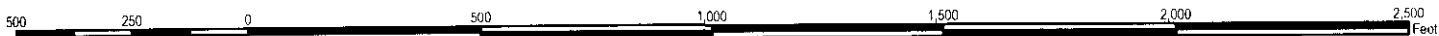
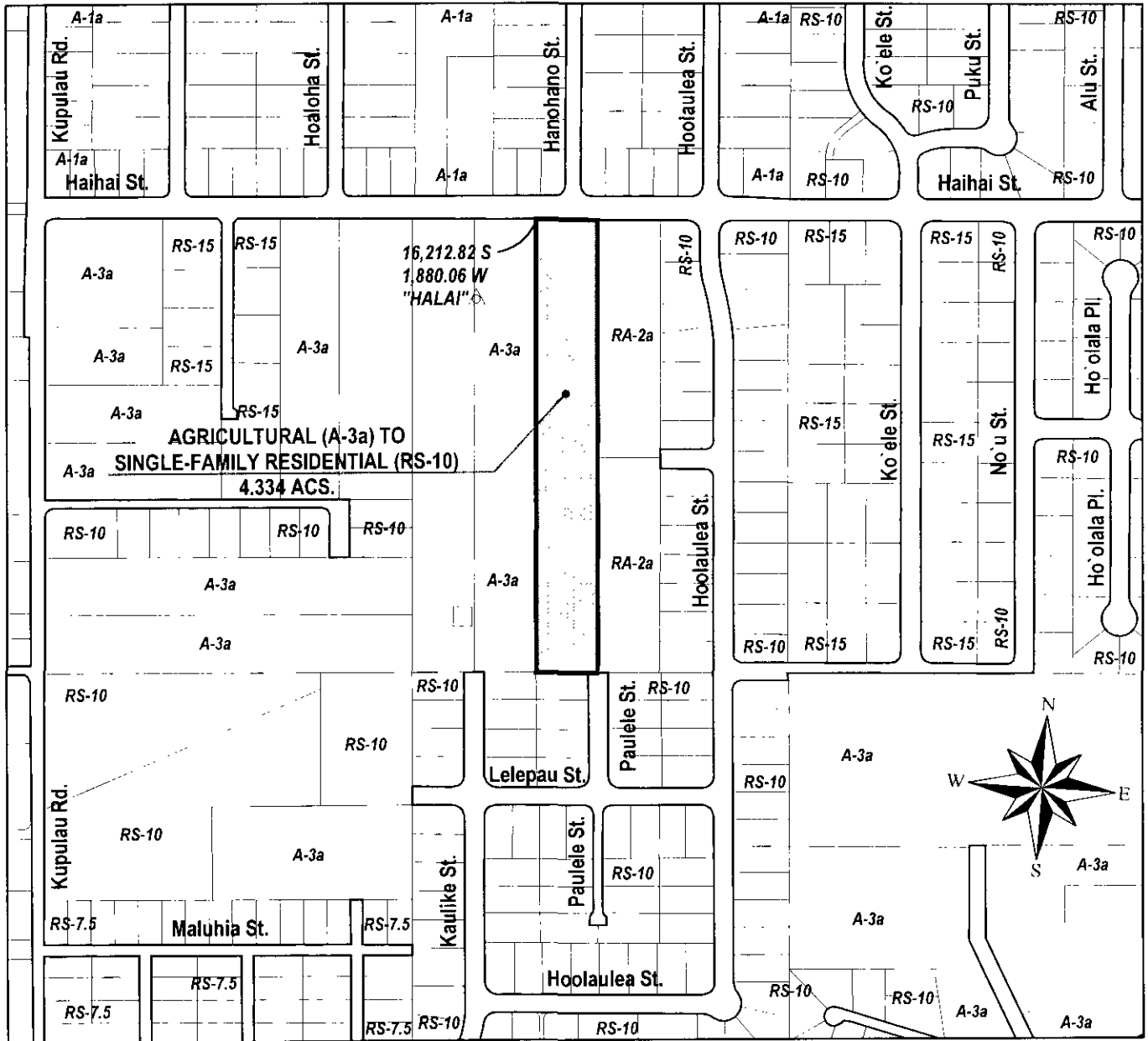
INTRODUCED BY:

  
 COUNCIL MEMBER, COUNTY OF HAWAII

          Hilo          , Hawai'i

Date of Introduction: August 4, 2004  
 Date of 1st Reading: August 4, 2004  
 Date of 2nd Reading: August 18, 2004  
 Effective Date: August 26, 2004

REFERENCE: Comm. 686.1



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP)  
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE,  
 BY CHANGING THE DISTRICT CLASSIFICATION  
 FROM AGRICULTURAL (A-3a)  
 TO SINGLE-FAMILY RESIDENTIAL (RS-10)  
 AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

2004 AUG 25 PM 4 12

Introduced By: Leningrad Elarionoff  
 Date Introduced: August 4, 2004  
 First Reading: August 4, 2004  
 Published: August 15, 2004

REMARKS: \_\_\_\_\_  
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Second Reading: August 18, 2004  
 To Mayor: August 23, 2004  
 Returned: August 26, 2004  
 Effective: August 26, 2004  
 Published: September 1, 2004

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

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
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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:

[Signature]  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date 8/24/04

Approved/Disapproved this 26<sup>th</sup> day  
 of August, 2004.

[Signature]  
 MAYOR, COUNTY OF HAWAII

[Signature]  
 COUNCIL CHAIRMAN  
[Signature]  
 COUNTY CLERK

Bill No.: 294 (Draft 2)  
 Reference: C-686.1/PC-99  
 Ord: 04 96