

ORDINANCE NO. 04 126

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-3a) AT HONU Aula, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-5-24:25.

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 Honu Aula, North Kona, Hawai'i shall be Family Agricultural (FA-3a):

Beginning at a 1/2 inch pipe (set) at the Northeasterly corner of this parcel of land, being also the Southeasterly corner of Lot A-1-A of this subdivision and being a point on the Westerly side of Mamalahoa Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 11,927.20 feet North and 10,046.41 feet East and running by azimuths measured clockwise from True South:

Thence, for the next ten (10) courses following along the Westerly side of Mamalahoa Highway:

- 1. 342° 55' 45.20 feet along the Easterly face of stonewall to a point;
- 2. 344° 53' 19.10 feet along the Easterly face of stonewall to a point;
- 3. 350° 42' 7.00 feet to a point;

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|-----|----------|-------|---|
| 4. | 347° 08' | 47.30 | feet to a point; |
| 5. | 343° 15' | 23.50 | feet along the Easterly face of stonewall to a point; |
| 6. | 3° 30' | 7.40 | feet to a point; |
| 7. | 339° 48' | 47.30 | feet along the Easterly face of stonewall to a point; |
| 8. | 338° 58' | 15.00 | feet to a point; |
| 9. | 335° 00' | 27.00 | feet along the Easterly face of stonewall to a point; |
| 10. | 332° 27' | 52.30 | feet along the Easterly face of stonewall to a point; |

Thence, for the next twenty-seven (27) courses following along the remainder of Grant 3100 to J. W. Kuakamauna:

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|-----|---------|-------|--|
| 11. | 73° 30' | 34.81 | feet along the middle of stonewall to a point; |
| 12. | 86° 09' | 3.60 | feet to a point; |

Thence, for the next three (3) courses following along middle of stonewall:

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|-----|---------|-------|------------------|
| 13. | 66° 53' | 26.70 | feet to a point; |
| 14. | 62° 03' | 29.90 | feet to a point; |
| 15. | 68° 04' | 48.70 | feet to a point; |
| 16. | 77° 20' | 9.00 | feet to a point; |

Thence, for the next three (3) courses following along middle of stonewall:

- | | | | |
|-----|---------|-------|------------------|
| 17. | 68° 27' | 43.10 | feet to a point; |
| 18. | 76° 30' | 29.80 | feet to a point; |
| 19. | 75° 09' | 21.40 | feet to a point; |

20. 66° 15' 7.20 feet to a point;

Thence, for the next seven (7) courses following along middle of stonewall:

21. 78° 45' 42.60 feet to a point;

22. 79° 37' 35.90 feet to a point;

23. 75° 40' 41.80 feet to a point;

24. 80° 57' 30.20 feet to a point;

25. 79° 41' 41.30 feet to a point;

26. 74° 00' 44.00 feet to a point;

27. 67° 28' 18.70 feet to a point;

28. 72° 07' 8.60 feet to a point;

Thence, for the next five (5) courses following along middle of stonewall:

29. 71° 37' 53.20 feet to a point;

30. 74° 55' 81.30 feet to a point;

31. 75° 28' 34.60 feet to a point;

32. 170° 44' 78.20 feet to a point;

33. 171° 29' 195.20 feet to a point;

34. 169° 53' 51.90 feet to a point;

Thence, for the next nine (9) courses following along middle of stonewall:

35. 170° 46' 43.00 feet to a point;

36. 167° 33' 50.80 feet to a point;

37. 180° 26' 3.90 feet to a point;

38.	255° 41' 30"	58.05	feet along Lots B and A-2 and along Land Commission Award 7337 to Kaaikoele to a point;
39.	235° 58'	24.64	feet along Lot A-2 and along Land Commission Award 7337 to Kaaikoele to a point;
40.	256° 07'	126.30	feet along Lot A-2 and along Land Commission Award 7337 to Kaaikoele to a point;
41.	242° 49' 30"	120.19	feet along Lots A-2 and A-1 and along Land Commission Award 7337 to Kaaikoele and Land Commission Award 7346 to Kaina to a point;
42.	249° 36'	113.62	feet along Lot A-1 and along Land Commission Award 7346 to Kaina to a point;
43.	242° 45' 30"	49.74	feet along Lot A-1 and along Land Commission Award 7346 to Kaina to a ½ inch pipe (set);
44.	338° 40'	182.15	feet along Lot A-1-A of this subdivision and along the remainder of Grant 3100 to J. W. Kuakamauna to a ½ inch pipe (set);
45.	248° 40'	116.17	feet along Lot A-1-A of this subdivision and along the remainder of Grant 3100 to J. W. Kuakamauna to the point of beginning and containing an area of 6.069 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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.

- B. The applicant shall submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of this change of zone.

- C. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.

- D. Vehicular access to Mamalahoa Highway shall be limited to one common driveway approach.

- E. A future road widening setback equal to one-half the difference between the existing width and 80 feet on Mamalahoa Highway shall be delineated on plans submitted for Final Subdivision Approval.

- F. The applicant shall remove any encroachments or obstructions within the County right-of-way.

- G. 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.

- H. All development generated runoff shall be disposed of on site and not be directed toward any adjacent properties.

- I. The method of sewage disposal shall meet with the requirements of the State Department of Health.

- J. 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.

- K. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

- L. 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.

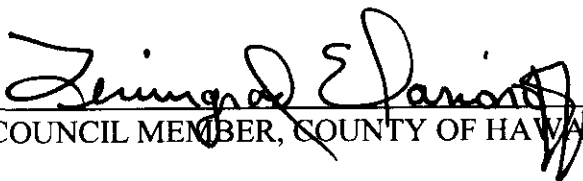
- M. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:
 - 1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors 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).
 - 5. If the applicant should require an additional extension of time. The Planning Department shall submit the applicant's request to the County Council for appropriate action.

N. 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.

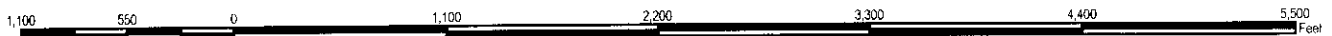
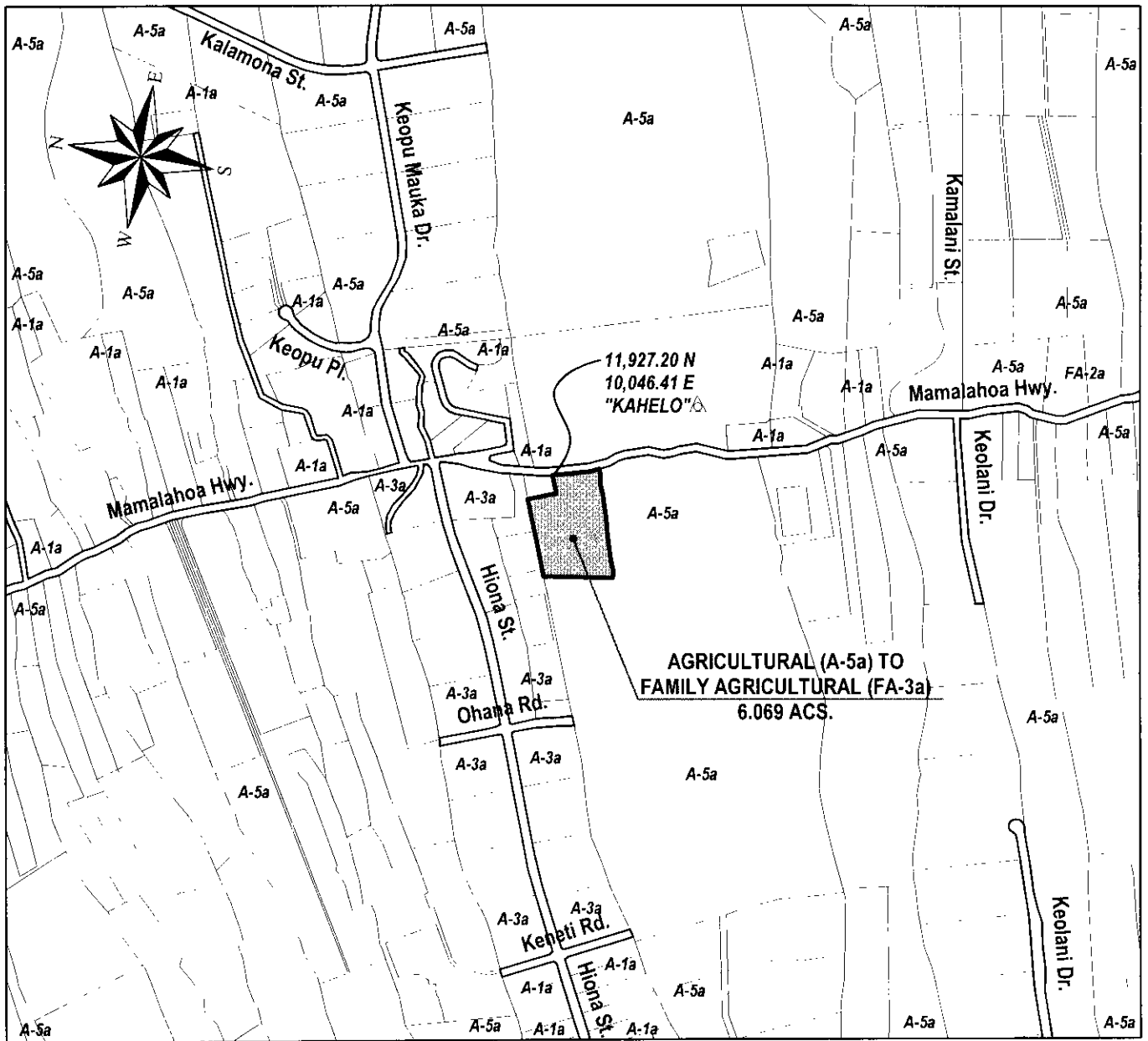
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: October 20, 2004
Date of 1st Reading: October 20, 2004
Date of 2nd Reading: November 10, 2004
Effective Date: November 19, 2004

REFERENCE: Comm. 768.2



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-3a)
 AT HONUULA, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

11/17/04 10:09:12

Introduced By: Leningrad Elarionoff
 Date Introduced: October 20, 2004
 First Reading: October 20, 2004
 Published: N/A

REMARKS: _____

Second Reading: November 10, 2004
 To Mayor: November 16, 2004
 Returned: November 22, 2004
 Effective: November 19, 2004
 Published: November 28, 2004

REMARKS: _____

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			
	5	2	2	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			
	6	1	2	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 11/17/04

Approved/Disapproved this 17th day of November, 2004

[Signature]
 MAYOR, COUNTY OF HAWAII

[Signature]
 COUNCIL CHAIRMAN

[Signature]
 COUNTY CLERK

Bill No.: 325 (Draft 2)
 Reference: C-768.2/PC-108
 Ord: 04 126