

ORDINANCE NO. 05 3

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 FAMILY AGRICULTURAL (FA-3a) TO SINGLE FAMILY RESIDENTIAL (RS-15) AT WAIAKEA HOMESTEADS, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-4-38:16.

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 Homesteads, South Hilo, Hawai'i, shall be Single Family Residential (RS-15):

Beginning at the northwest corner of this parcel of land, being the northeast corner of Lot 1, a portion Grant 8641 to Jennie L. Aona and on the south side of Haihai Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 16,262.54 feet South and 2,536.18 feet West, thence running by azimuths measured clockwise from True South:

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|----|----------|--------|--|
| 1. | 265° 40' | 150.00 | feet along Haihai Street; |
| 2. | 355° 40' | 730.00 | feet along Lot 917-A-1, being a portion of Grant 8641 to Jennie L. Aona; |
| 3. | 85° 40' | 150.00 | feet along Roadway Lot 11, a portion of Grant 8641 to Jennie L. Aona; |
| 4. | 175° 40' | 730.00 | feet along Lots 5, 4, 3, 2 and 1, being portions of Grant 8641 to Jennie L. Aona to the point of beginning and containing an area of 2.5138 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. 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. 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. Provide a minimum six-foot high landscaping buffer on the mauka (west) side of the subject property.
- G. 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 terminate with a suitable turnaround. Individual lot access to Haihai Street shall be prohibited.
- H. Restrictive covenants in the deeds of all proposed lots shall require the homeowners to maintain the private road.
- I. Install street lights, signs and markings, meeting with the approval of the Department of Public Works Traffic Division.
- J. 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.
- 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. The applicant shall comply with all applicable County, State, and Federal laws, rules, requirements, and regulations 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 **\$9,671.44** per single-family residential unit. Based upon the applicant's representation of intent to develop a total of five (5) additional single-family residential units, the indicated total of fair share contribution is **\$48,357.20** for the additional single-family residential units. However, the total amount shall be incremental or reduced in proportion with the actual number of units according to the calculation and payment provisions set forth in this condition. The fair share contributions shall be allocated as follows:

1. **\$4,663.74** per single-family residential unit for an indicated total of **\$23,318.70** to the County to support park and recreational improvements and facilities;
2. **\$224.98** per single-family residential unit for an indicated total of **\$1,124.90** to the County to support police facilities;
3. **\$444.36** per single-family residential unit for an indicated total of **\$2,221.80** to the County to support fire facilities;

4. **\$194.55** per single-family residential unit for an indicated total of **\$972.75** to the County to support solid waste facilities;
5. **\$4,143.81** per single-family residential unit for an indicated total of **\$20,719.05** 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. 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.
- R. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:

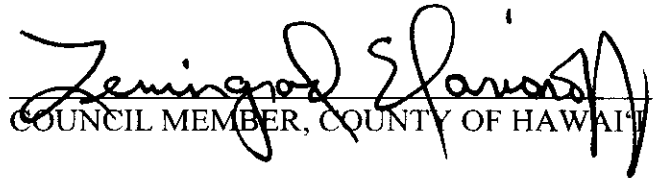
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
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).

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.

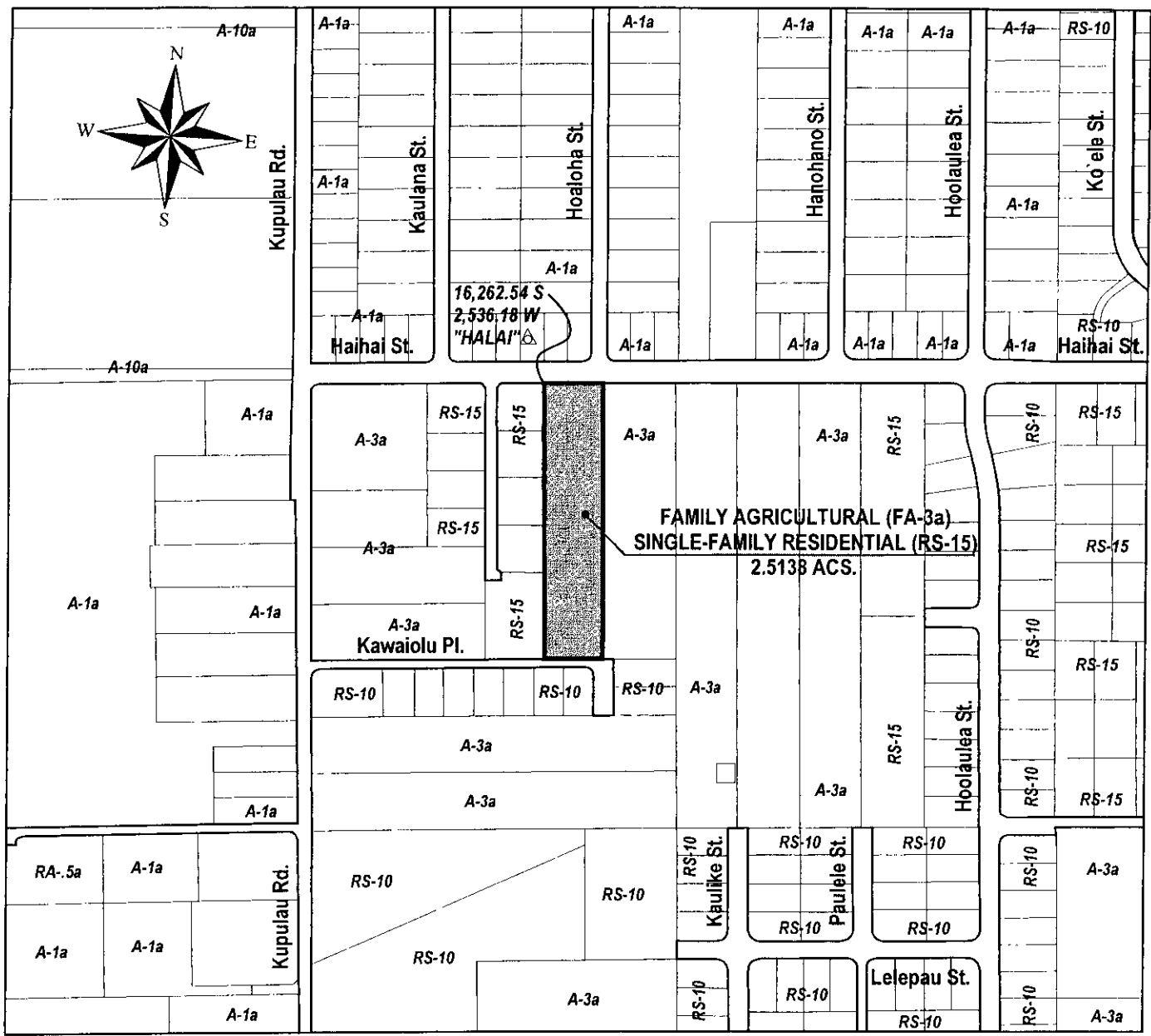
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Hilo , Hawai'i

Date of Introduction: November 24, 2004
Date of 1st Reading: November 24, 2004
Date of 2nd Reading: January 5, 2005
Effective Date: January 11, 2005



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 FAMILY AGRICULTURAL (FA-3a)
 TO SINGLE-FAMILY RESIDENTIAL (RS-15)
 AT WAIAKEA HOMESTEADS, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Hilo, Hawai'i

(Draft 3)

2005 JAN 12 PM 8 02

Introduced By: Leningrad Elarionoff
Date Introduced: November 24, 2004
First Reading: November 24, 2004
Published: December 5, 2004

REMARKS: _____

Second Reading: January 5, 2005
To Mayor: January 6, 2005
Returned: January 12, 2005
Effective: January 11, 2005
Published: January 16, 2005

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			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh			X	
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	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:

M. J. C. [Signature]
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date *January 11, 2005*

[Signature]

COUNCIL CHAIRMAN

[Signature]
COUNTY CLERK

Bill No.: 359 (Draft 3)
Reference: C-824.3/PC-120
Ord No.: **05 3**

Approved/Disapproved this 11th day
of January, 2005
[Signature]
MAYOR, COUNTY OF HAWAII