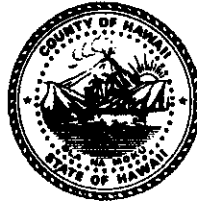


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 25

ORDINANCE NO. 07 39

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – 3 ACRES (A-3a) TO RESIDENTIAL AND AGRICULTURAL - .5 ACRE (RA-.5a) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-56:23.

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 1983 (2005 Edition), 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 Residential and Agricultural - .5 acre (RA-.5a):

Beginning at the southeast corner of this parcel of land, being also the northeast corner of Grant S-14,480 to Midori Kimura and Hisae Tokuoka Kimura and on the westerly side of Awa Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 18,348.67 feet South and 14,664.46 feet East, thence running by azimuths measured clockwise from true South:

1. 71° 00' 480.80 feet along Grant S-14,480 to Midori Kimura and Hisae Tokuoka Kimura (Lot 17);
2. 161° 00' 240.00 feet along Grant S-14,802 to Riichi Kuba and Eiko Nakao Kuba (Lot 20);
3. 251° 00' 480.80 feet along Grant S-14,047 to Masaji Kawazoe and Jane Nagako Sugayama Kawazoe (Lot 58), Grant S-14,165 to Shizu Sugawara, Miyoki Sugawara and Tsune Sugawara (Lot 57) and Grant S-14,145 to Charles Kazuo Sakaguchi (Lot 56);

4. 341° 00' 240.00 feet along Awa Street to the point of beginning and containing an area of 2.649 Acres.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 (2005 Edition), 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 180 days from the effective date of this ordinance.
- C. Final Subdivision Approval of the subject property shall be secured within five (5) years from the effective date of this ordinance.
- D. 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.

- E. All driveway connections to Awa Street shall conform to Chapter 22, County Streets, of the Hawaii County Code.
- F. All development generated runoff shall be disposed of on site and not be directed toward any adjacent properties.
- G. If required, a drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to the submittal of plans for subdivision review. Any drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works, prior to the issuance of Final Subdivision Approval.
- H. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- I. 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.

J. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall become due and payable prior to receipt of Final Plan Approval. The fair share contribution for each lot shall be based on the actual number of residential units developed. The fair share contribution in 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 **\$10,368.57** per single family residential unit. The total amount shall be determined with the actual number of units according to the calculation and payment provisions set forth in this condition. The fair share contribution per single family residential unit shall be allocated as follows:

1. **\$4,999.91** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$241.20** per single family residential unit to the County to support police facilities;
3. **\$476.39** per single family residential unit to the County to support fire facilities;
4. **\$208.57** per single family residential unit to the County to support solid waste facilities; and

5. **\$4,442.50** per single family residential unit to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicant may contribute land and/or construct 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 review and recommendation of the Planning Director, upon consultation with the appropriate agencies and approval of the County Council.

- K. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawaii County Code relating to Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to Final Subdivision Approval or Final Plan Approval, whichever is applicable.
- L. The applicant(s) shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- M. 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.
- N. 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.

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.

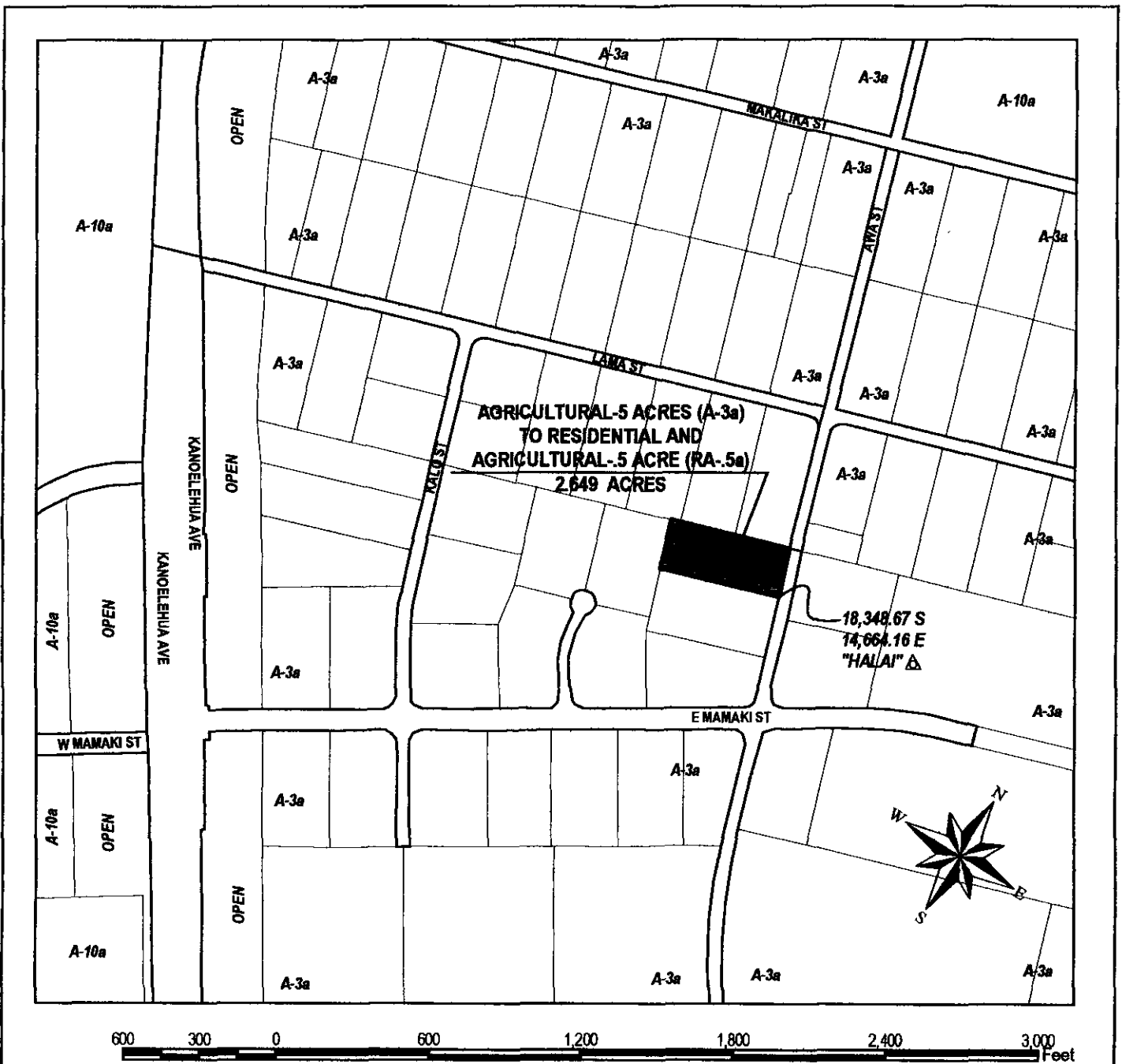
INTRODUCED BY:

  
\_\_\_\_\_  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: March 9, 2007  
Date of 1st Reading: March 9, 2007  
Date of 2nd Reading: March 21, 2007  
Effective Date: April 4, 2007

REFERENCE: Comm. 86



# 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  
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION  
 FROM AGRICULTURAL-3 ACRES (A-3a)  
 TO RESIDENTIAL AND AGRICULTURAL-.5 ACRE (RA-.5a)  
 AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII



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

Introduced By: K. Angel Pilago  
Date Introduced: March 9, 2007  
First Reading: March 9, 2007  
Published: March 17, 2007

REMARKS: \_\_\_\_\_  
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Second Reading: March 21, 2007  
To Mayor: March 28, 2007  
Returned: April 4, 2007  
Effective: April 4, 2007  
Published: April 23, 2007

REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa	X			
Hoffmann	X			
Ikeda			X	
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa			X	
Hoffmann	X			
Ikeda	X			
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto	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:

*Ang D. Sely*  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAI'I

Date MAR 30 2007

*[Signature]*  
COUNCIL CHAIRMAN  
*[Signature]*  
COUNTY CLERK

Bill No.: 25  
Reference: C-86/PC-14  
Ord No.: 07 39

Approved/Disapproved this 4<sup>th</sup> day

*Harry K.* April, 2007  
MAYOR, COUNTY OF HAWAI'I