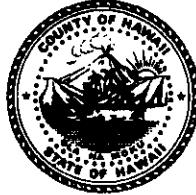


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 07 71 BILL NO. 76

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 – 10 ACRE (A-10a) TO FAMILY AGRICULTURAL – 3 ACRE (FA-3a) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-4-065:034.

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 Family Agricultural – 3 acre (FA-3a):

Beginning at the southeast corner of this parcel of land, and on the west side of Kupulau Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 15,362.57 feet South and 3,246.21 feet West and running by azimuths measured clockwise from True South:

- 1. 85° 40' 986.61 feet along Lot 2;
- 2. 175° 40' 256.66 feet along Lot 34;

Thence along the south side of Koaniani Street, the direct azimuths and distances between points for the next six (6) courses being:

- 3. 265° 40' 116.31 feet;
- 4. Thence along a curve to the left having a radius of 400.00 feet, the chord azimuth and distance being:

- | | | | | |
|--|--|--|--------------|--------------|
| | | | 245° 27' 30" | 276.35 feet; |
|--|--|--|--------------|--------------|
- 5. 225° 15' 268.00 feet;
- 6. Thence along a curve to the right having a radius of 350.00 feet, the chord azimuth and distance being:

	245° 27' 30"	241.80 feet;
--	--------------	--------------
- 7. 265° 40' 150.00 feet;
- 8. Thence along a curve to the right having a radius of 30.00 feet, the chord azimuth and distance being:

	310° 40'	42.43 feet;
--	----------	-------------
- 9. 355° 40' 579.40 feet along the west side of Kupulau Street to the point of beginning and containing an area of 10.000 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, 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 one hundred eighty (180) 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 construction of single-family dwellings and related improvements or other substantial buildings or subdivision roads within areas designated "AE" or shaded Zone "X" by the Flood Insurance Rate Map (FIRM). Restrictive covenants in the deeds of all lots shall give notice of the terms of this rezoning condition. No residential lots may be created which lack a buildable area. 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.
- E. The property shall not be subdivided into more than two lots unless the Flood Insurance Rate Map is revised to provide an additional buildable area.
- F. All driveway connections to Kupulau Road shall conform to Chapter 22, Streets, of the Hawaii County Code.
- G. The applicant(s) shall provide a 40-foot wide future road widening setback along the entire property frontage along Kupulau Road.

- H. 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.

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

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

- K. 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.

- L. Comply with all applicable County, State and Federal Laws, rules, regulations and requirements.

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:

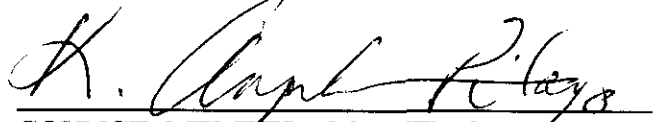
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.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

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.

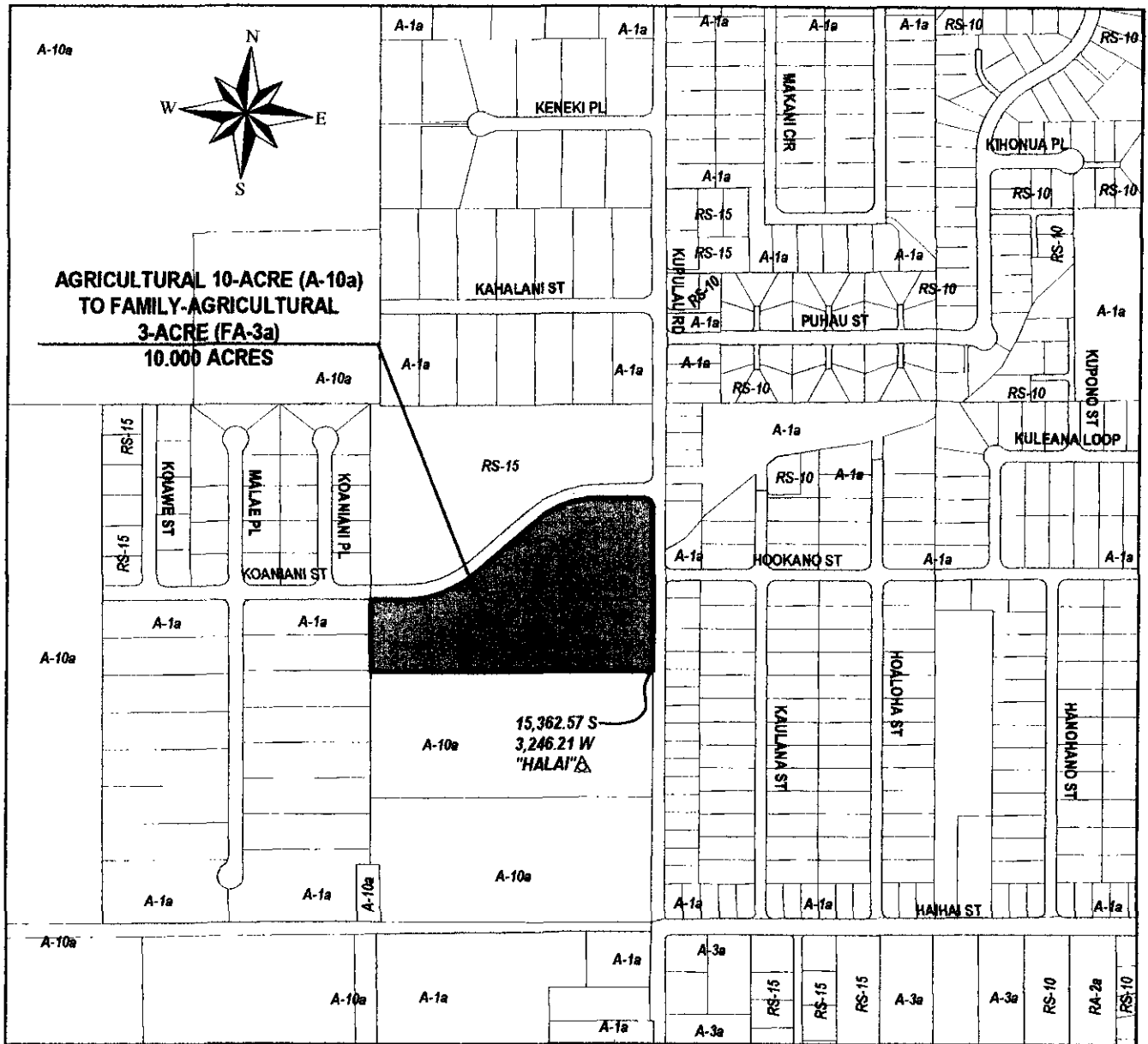
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Kona , Hawai'i

Date of Introduction: April 18, 2007
Date of 1st Reading: April 18, 2007
Date of 2nd Reading: May 2, 2007
Effective Date: May 17, 2007

REFERENCE: Comm. 256



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 10-ACRE (A-10a)
 TO FAMILY-AGRICULTURAL 3-ACRE (FA-3a)
 AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

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

Introduced By: K. Angel Pilago
Date Introduced: April 18, 2007
First Reading: April 18, 2007
Published: N/A

REMARKS: _____

Second Reading: May 2, 2007
To Mayor: May 11, 2007
Returned: May 22, 2007
Effective: May 17, 2007
Published: May 31, 2007

REMARKS: _____

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			
	9	0	0	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:

[Signature]
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date MAY 16 2007

[Signature]
COUNCIL CHAIRMAN
[Signature]
COUNTY CLERK

Approved/Disapproved this 17th day
of May, 2007.

[Signature]
ACTING MAYOR, COUNTY OF HAWAII

Bill No.: 76
Reference: C-256/PC-26
Ord No.: 07 71