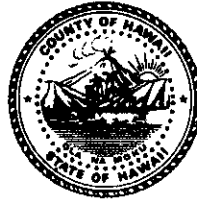


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **07 135** BILL NO. 126

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 ACRE (A-3a) TO FAMILY AGRICULTURAL – 2 ACRE (FA-2a) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-5-040:018.

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 – 2 acre (FA-2a):

Beginning at the south corner of this parcel of land, being also the west corner of Grant 10,389 to (Mrs.) Riki Fujimoto and on the northeasterly side of Akala Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAUMANA", being 816.48 feet North and 778.34 feet East, thence running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|--|
| 1. | 143° 48' | 166.00 | feet along Akala Road; |
| 2. | 112° 20' | 498.05 | feet along Akala Road; |
| 3. | 186° 50' | 21.60 | feet along Akala Road; |
| 4. | 249° 26' | 677.00 | feet along Grant 4093 to A. McAulton (Lots 3-A and 3-B); |
| 5. | 345° 36' | 465.00 | feet along R.P. 5516, L.C. Aw. 4983 to Kukeleau (Lot A-1); |

6. 55° 39' 30" 234.15 feet along Grant 10,389 to (Mrs.) Riki Fujimoto (Lot 2) to the point of beginning and containing an area of 4.852 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 applicants, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicants 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 or other substantial buildings within areas designated "A" 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. 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. All driveway connections to Akala Road shall conform to Chapter 22, Streets, of the Hawaii County Code.
- F. The applicants shall provide a 15-foot wide future road widening setback along the entire property frontage along Akala Road.
- 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. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- 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 applicants, 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 applicants 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.

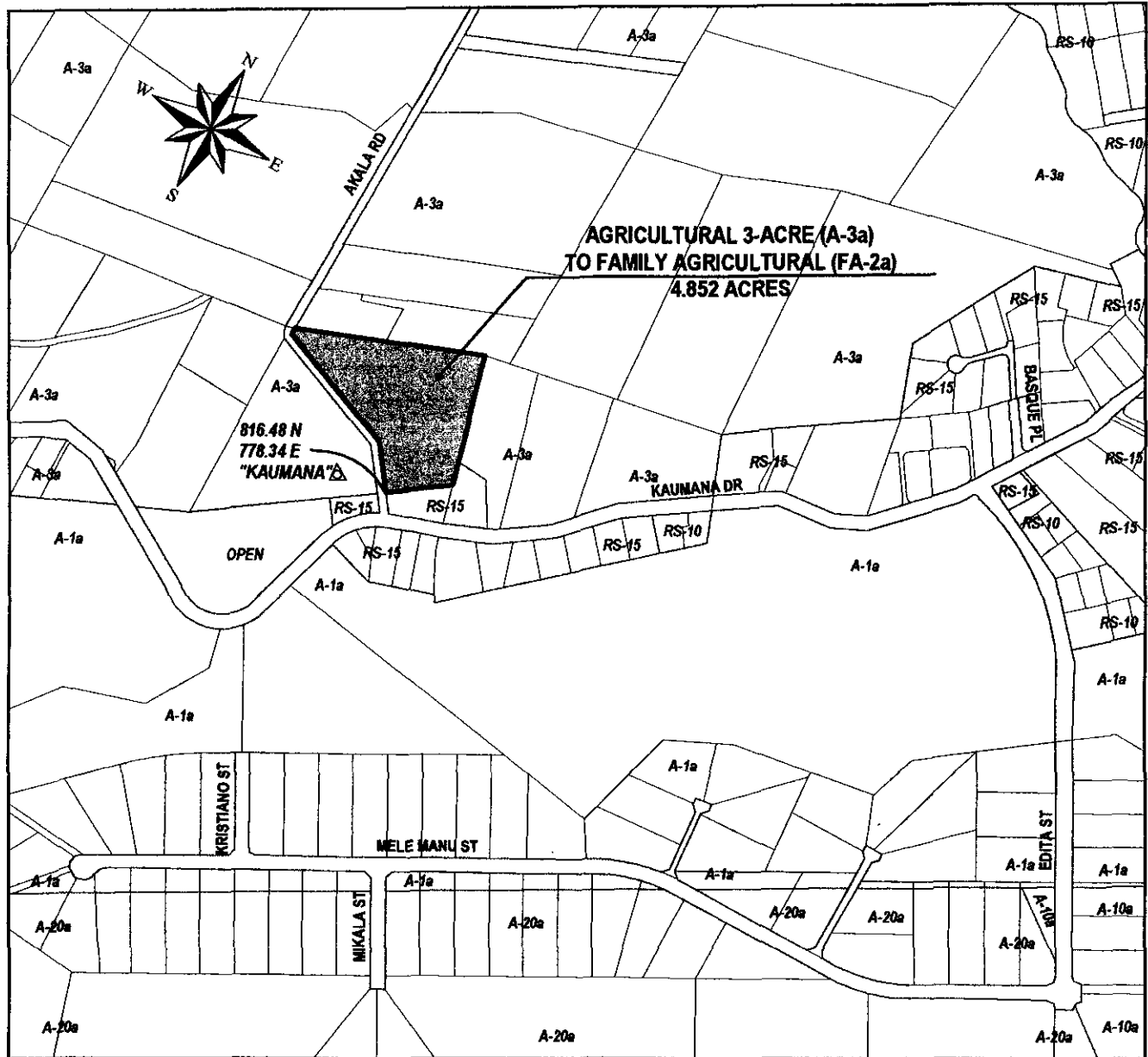
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Kona , Hawai'i

Date of Introduction: September 6, 2007
Date of 1st Reading: September 6, 2007
Date of 2nd Reading: September 19, 2007
Effective Date: October 10, 2007

REFERENCE: Comm. 509



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-ACRE (A-3a)
 TO FAMILY-AGRICULTURAL 2-ACRE (FA-2a)
 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: Pete Hoffmann
Date Introduced: September 6, 2007
First Reading: September 6, 2007
Published: N/A

REMARKS: _____

Second Reading: September 19, 2007
To Mayor: September 27, 2007
Returned: October 10, 2007
Effective: October 10, 2007
Published: October 18, 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			
	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			
	9	0	0	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:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date OCT - 2 2007


COUNCIL CHAIRMAN

COUNTY CLERK

Approved/Disapproved this 10th day
of October, 20 07


MAYOR, COUNTY OF HAWAII

Bill No.: 126
Reference: C-509/PC-40
Ord No.: 07 135