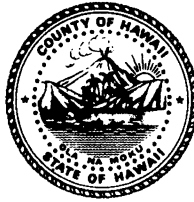


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 08 72 BILL NO. 274

AN ORDINANCE AMENDING ORDINANCE NO. 95 55 WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 10 ACRES (A-10a) AND AGRICULTURAL – 3 ACRES (A-3a) TO AGRICULTURAL – 1 ACRE (A-1a) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-48:93 AND PORTION OF 13.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Ordinance No. 95 55 is amended as follows:

“SECTION 1. Section ~~[25-114]~~ 25-8-33, Article ~~[3]~~ 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 Agricultural - 1 acre (A-1a):

“SECTION 2. ~~[This change in district classification is conditioned upon the following:]~~
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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Plans for the proposed subdivision shall be submitted to the Planning Department and Final Subdivision Approval secured within five (5) years from the effective date of this ~~[ordinance]~~ amendment. ~~[As represented by the applicant, t]~~ The proposed residential-agricultural subdivision shall not exceed a maximum limit of ~~[22]~~ 25 lots. ~~[Upon the issuance of Final Subdivision Approval for the residential-agricultural lots, the Planning Director shall initiate a change of zone of lands encumbered by the 9 hole pitch and putt golf course into an Open-zoned District classification.]~~
- C. As agreed to by the applicant, restrictive covenants in the deeds of all the proposed residential-agricultural lots shall prohibit the construction of a second dwelling unit on each lot. 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 approved covenant shall be recited in an instrument executed by the applicant and the County, recorded with the Bureau of Conveyances, and a copy of the recorded covenant filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- D. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to Final Subdivision Approval.
- E. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an

archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.

[E]F. ~~[The Applicant shall pay its fair share contribution to address potential regional impacts of the project with respect to park, fire, police, solid waste disposal facilities, sewer and roads. 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 residential-agricultural lot counts are adjusted. A pro rata portion of the contribution, based upon the density of the land affected, shall become due and payable, at the discretion of the Planning Director, in the event the Applicant conveys an ownership, leasehold, or controlling development interest in the land prior to receiving its subdivision approval of any portion of the agricultural-zoned area within the project site. Otherwise, said contribution shall be satisfied in conjunction with the receipt of Final Subdivision Approval of the affected land. The fair share contribution for each residential-agricultural lot shall be based on a maximum density for each lot as determined by the applicant with the concurrence of the Planning Director. The fair share contribution in a form of cash, land, facilities, or any combination thereof shall have a maximum combined value of \$ 151,298.62. In lieu of paying the fair share contribution, the applicant may construct such facilities related to park, fire, police, solid waste disposal facilities, sewers and roads with the approval of the appropriate agency(ies).]~~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 Subdivision Approval. The fair share contribution for each lot shall be based on the actual number of residential units developed. 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 \$10,976.69 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 multiple family residential unit (single family residential units) shall be allocated as follows:

1. \$5,293.15 per single family residential unit to the County to support park and recreational improvements and facilities;
2. \$255.34 per single family residential unit to the County to support police facilities;
3. \$504.33 per single family residential unit to the County to support fire facilities;
4. \$220.80 per single family residential unit to the County to support solid waste facilities; and
5. \$4,703.06 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.

[F]G. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

H. 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 Hawai'i County Code, Chapter 11, as it relates to affordable housing. Compliance with Chapter 11 shall be approved by the Administrator of the Office of Housing and Community Development prior to receipt of Final Plan Approval and/or Final Subdivision Approval.

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

[G]J. ~~[An initial extension of time for the performance of conditions within the ordinance, with the exception of Condition B, 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); and~~
- (5) Should the applicant require an additional extension of time, the Planning

Director shall submit the applicant's request to the Planning Commission
and the Hawai'i County Council for appropriate action.

[H]K. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation.”

SECTION 2. Material to be deleted is bracketed and struck through. New material is underscored.

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.

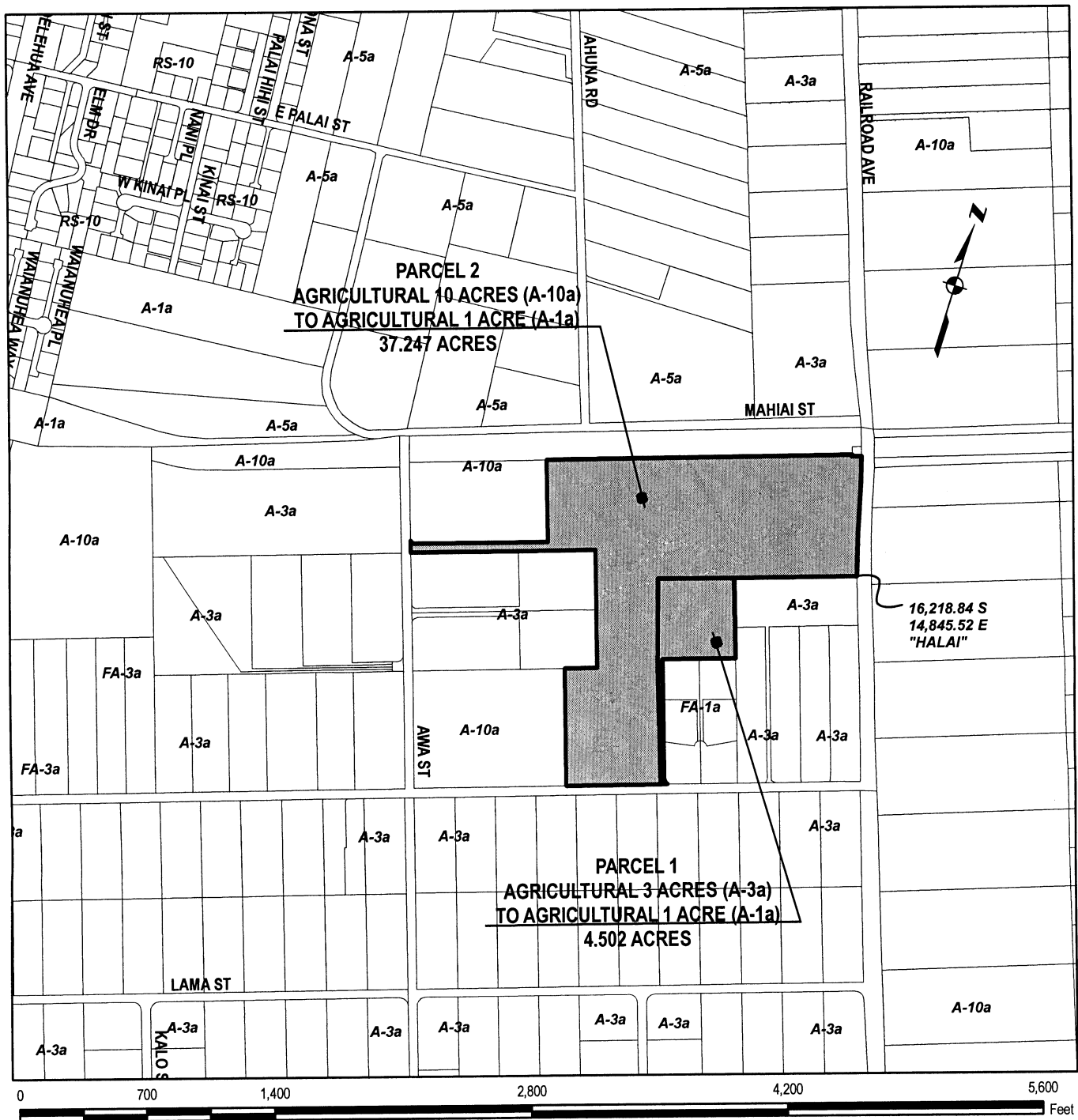
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i

Date of Introduction: April 22, 2008
Date of 1st Reading: April 22, 2008
Date of 2nd Reading: May 7, 2008
Effective Date: May 20, 2008

REFERENCE: Comm. 1113



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 ACRES (A-10a) AND AGRICULTURAL 3 ACRES (A-3a)
 TO AGRICULTURAL 1 ACRE (A-1a)
 AT WAIAKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

Introduced By: K. Angel Pilago
Date Introduced: April 22, 2008
First Reading: April 22, 2008
Published: May 2, 2008

REMARKS: _____

Second Reading: May 7, 2008
To Mayor: May 15, 2008
Returned: May 21, 2008
Effective: May 20, 2008
Published: May 30, 2008

REMARKS: _____

RECEIVED

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	
	5	2	2	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			
	7	1	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:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date MAY 16 2008


COUNCIL CHAIRMAN


COUNTY CLERK

Bill No.: 274
Reference: C-1113/PC-81
Ord No.: 08 72

Approved/Disapproved this 20th day

of May, 2008


MAYOR, COUNTY OF HAWAII