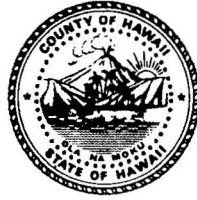


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 10 102 BILL NO. 284
(DRAFT 2)

AN ORDINANCE AMENDING SECTION 25-8-16 (HĀMĀKUA DISTRICT HOMESTEAD AREA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – FORTY ACRES (A-40a) TO AGRICULTURAL – TEN ACRES (A-10a) AT KAWELA, HĀMĀKUA, HAWAI'I, COVERED BY TAX MAP KEY: 4-6-011:039.

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

SECTION 1. Section 25-8-16, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), are amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kawela, Hāmākua, Hawai'i, shall be Agricultural – Ten Acres (A-10a):

Beginning at a ½ inch pipe, at the southeast corner of this parcel of land, being also the northwest corner of the intersection of Hawai'i Belt Road (F.A.P. No. F-019-1 (1) and Homestead Road Reserve, the coordinates of which referred to Government Survey Triangulation Station "KUILEI" being 5969.18 feet south and 2019.44 feet west and running by azimuths measured clockwise from true South:

Thence along the north side of Hawai'i Belt Road (F.A.P. No. F-019-1 (1), on a curve to the right with radius of 5689.58 feet the azimuth to the radius center being 172° 08' 21", the chord azimuth and distance being:

- 1. 82° 39' 40.5" 103.69 feet to a ½ inch pipe;
- 2. 83° 11' 1238.65 feet along the north side of Hawai'i Belt Road (F.A.P. No. F-019-1 (1) to a ½ inch pipe;

3.	173°	11'		10.00	feet along a jog on the north side of Hawai'i Belt Road (F.A.P. No. F-019-1 (1) to a ½ inch pipe;
4.	83°	11'		500.00	feet along the north side of Hawai'i Belt Road (F.A.P. No. F-019-1 (1) to a ½ inch pipe;
5.	353°	11'		10.00	feet along a jog on the north side of Hawai'i Belt Road (F.A.P. No. F-019-1 (1) to a ½ inch pipe;
6.	83°	11'		150.00	feet along the north side of Hawai'i Belt Road (F.A.P. No. F-019-1 (1) to a ½ inch pipe;
7.	83°	11'		50.00	feet along the north side of Hawai'i Belt Road (F.A.P. No. F-019-1 (1) to a ½ inch pipe;
8.	83°	11'		167.77	feet along the north side of Hawai'i Belt Road (F.A.P. No. F-019-1 (1) to a ½ inch pipe;
9.	210°	34'	30"	6.65	feet along Government (Crown) Land of Honokaia to a "+" cut on concrete post (found);
10.	201°	39'	20"	990.20	feet along Government (Crown) Land of Honokaia to a "+" cut on concrete post (found);
11.	187°	35'		329.30	feet along Government (Crown) Land of Honokaia to a "+" cut on concrete post (found);
12.	230°	17'	20"	613.60	feet along Government (Crown) Land of Honokaia to a "+" cut on concrete post (found);
13.	211°	46'		89.30	feet along Government (Crown) Land of Honokaia to a ½ inch pipe;

- | | | | |
|-----|----------|---------|--|
| 14. | 277° 36' | 1816.60 | feet along remainder of Royal Patent 7394, Land Commission Award 8559-B, Apana 1 to W.C. Lunalilo, (Certificate of Boundaries 22) to a “+” cut on concrete post (found); |
| 15. | 23° 50' | 1330.35 | feet along the west side of Homestead Road Reserve to the point of beginning and containing an area of 71.178 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 1983 (2005 Edition), the County Council finds the following conditions are:

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (1) 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, successors or assigns shall be responsible for complying with all requirements of Chapter 205, Hawai'i Revised Statutes, relating to permissible uses within the State Land Use Agricultural District.

- C. The water commitment payment shall be made to the Department of Water Supply in accordance with its “Water Commitment Guidelines Policy” within one hundred and eighty (180) days from the effective date of this ordinance. The applicant shall construct necessary water improvements (including but not limited to installation of a service lateral to accommodate a 5/8-inch meter for one of the proposed lots) and remit, as may be needed, the prevailing facilities charge, as determined by the Department of Water Supply. All relevant improvements shall be completed prior to receipt of Final Subdivision Approval. Furthermore, water from this meter shall not be shared with the other proposed lots for potable water purposes.
- D. Should the applicant be successful in obtaining a variance from the minimum water system requirements of the Subdivision Code, the applicant shall provide a private potable water system to the remaining proposed five (5) agricultural lots. The system shall consist of the following:
1. Two (2) potable wells, each capable of generating a minimum of 6,000 gallons per day. A report prepared by an engineer licensed in the State of Hawai`i attesting to the quality and capacity of these wells shall be provided to the Planning Department in conjunction with the subdivision application;
 2. A minimum 15,000 gallon storage tank to service each of the two (2) wells; and
 3. A water transmission system, pumps, and related appurtenances to service each of the proposed five (5) agricultural lots from the private potable well.

An engineer licensed in the State of Hawai`i shall design and prepare the construction plan of the private water system. This plan, together with a written report describing the water system as well as identifying the specific areas – including construction material – where the system differs from either the Department of Water Supply’s Rules and Regulations or the American Water Works Association standards shall be provided to the Planning Department and Department of Water Supply for its information. The licensed engineer shall also supervise the construction of the private water system and, upon completion, provide a written report to the Planning Department and Department of Water Supply.

- E. An agreement shall be filed with the Planning Department for review and acceptance and eventual recordation with the State Bureau of Conveyances. The agreement shall acknowledge the owner(s) of all lots utilizing the private water system that potable water from the Department of Water Supply’s system is currently not available; and that the Department of Water Supply is not obligated to nor will bear the responsibility of supplying public water to those lots on the private system.
- F. Final Subdivision Approval of the proposed agricultural subdivision shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- G. 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.

- H. Access to the Hawai'i Belt Road (Highway 19) shall be limited to a single access point and shall be situated a minimum of 880 feet from the intersection of Kapuna Road and the Hawai'i Belt Highway. The location and construction of this access shall meet with the approval of the State Department of Transportation.
- I. Vehicular access to individual lots shall not be allowed from the Hawai'i Belt Road. The applicant shall provide a 10-foot wide no vehicular access planting screen easement on the properties with frontage along the Hawai'i Belt Road.
- J. A drainage study of the project site, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed in a manner meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
- K. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
- L. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Subdivision Approval.

- M. An Archaeological Inventory Survey, including proposed mitigation measures, shall be submitted for the review and approval of the State Department of Land and Natural Resources – State Historic Preservation Division (DLNR-SHPD) prior to the issuance of any land alteration permits or the submittal of plans for Final Subdivision Approval, whichever occurs first.
- N. 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 Resource – State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- O. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the Department of Health-Safe Drinking Water Branch for the proposed water system.
- P. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- Q. An initial extension of time for the performance of conditions within the permit 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 Hawai'i County Council for appropriate action.
- R. Should any of the conditions not be met or substantially complied with in a timely fashion, the 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.

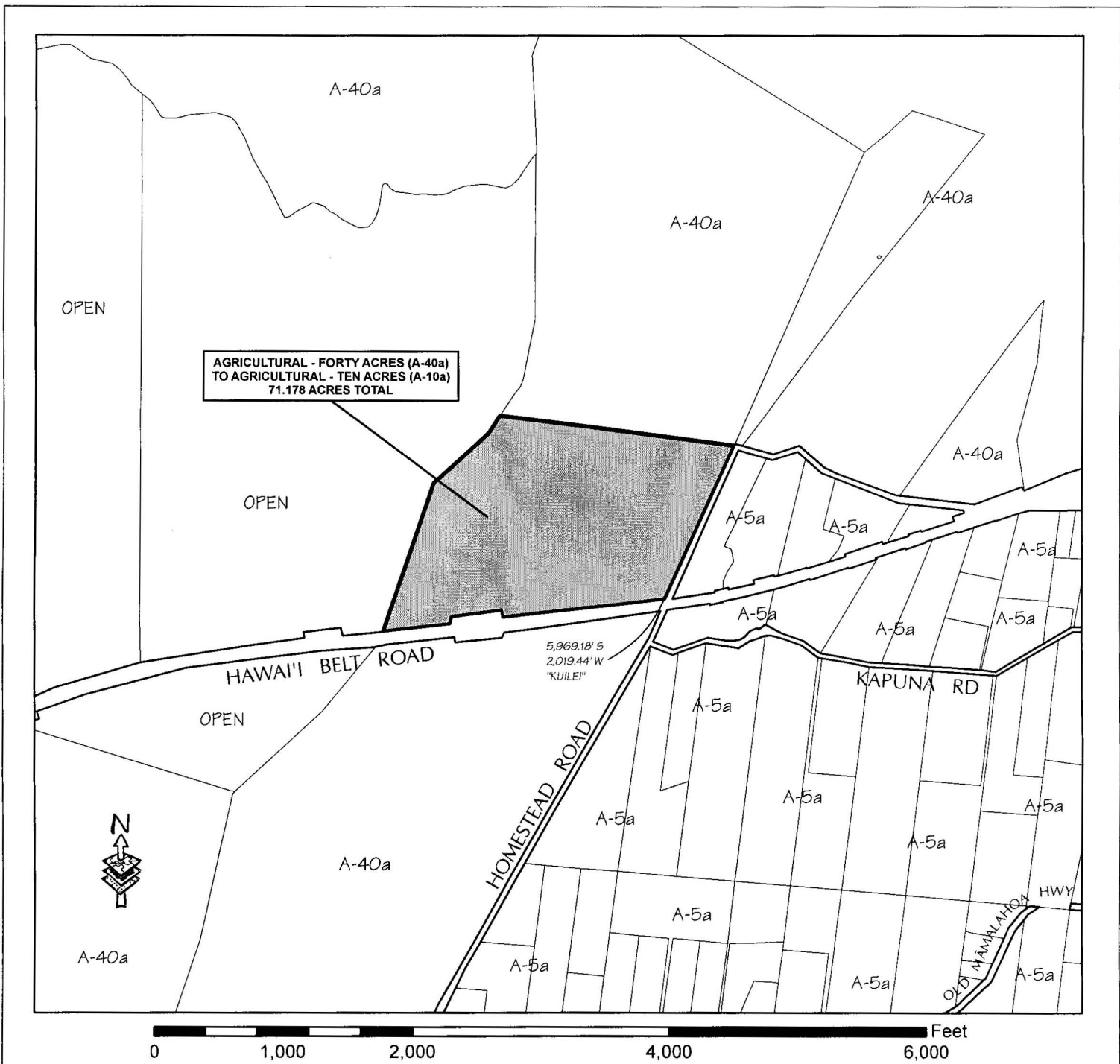
INTRODUCED BY:



 COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i
 Date of Introduction: September 21, 2010
 Date of 1st Reading: September 21, 2010
 Date of 2nd Reading: October 6, 2010
 Effective Date: October 22, 2010

REFERENCE Comm. 904.2



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-16 (HĀMĀKUA DISTRICT HOMESTEAD AREA ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL - FORTY ACRES (A-40a) TO AGRICULTURAL - TEN ACRES (A-10a) AT KAWELA, HĀMĀKUA, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

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

Introduced By: Donald Ikeda
Date Introduced: September 21, 2010
First Reading: September 21, 2010
Published: N/A

REMARKS: _____

Second Reading: October 6, 2010
To Mayor: October 14, 2010
Returned: October 22, 2010
Effective: October 22, 2010
Published: November 1, 2010

REMARKS: _____

REC'D MED



ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann	X			
Ikeda	X			
Naeole-Beason			X	
Onishi	X			
Yagong	X			
Yoshimoto	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell			X	
Hoffmann	X			
Ikeda	X			
Naeole-Beason	X			
Onishi	X			
Yagong			X	
Yoshimoto	X			
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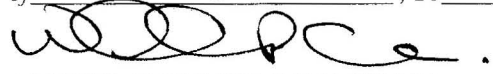
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII
Date OCT 20 2010


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 284 (Draft 2)
Reference: C-904.2/PC-92
Ord No.: 10 102


Approved/Disapproved this 22nd day
of October, 2010

MAYOR, COUNTY OF HAWAII