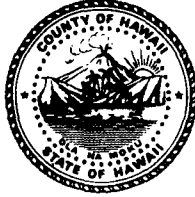


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 12 46 BILL NO. 138
(DRAFT 3)

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 - THREE ACRES (A-3a) TO FAMILY AGRICULTURAL – ONE ACRE (FA-1a) AT PONAHAHAWAI, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-5-040:019.

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 Ponahawai, South Hilo, Hawai'i, shall be Family Agricultural – One Acre (FA-1a):

Beginning at a spike found at the southern most corner of this parcel of land, also being the southeast corner of Lot B-2-B, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAUMANA" being 423.87 feet North and 205.36 feet East and thence running by azimuths measured clockwise from true South:

- | | | | | | |
|----|------|-----|-----|-------------|---|
| 1. | 180° | 23' | 29" | 685.63 feet | along Lot B-2-B and Lot B-2-A to a pipe set on Lot B-2-A boundary also being the south side of 30 foot wide Akala Road, said point is not at a corner of Lot B-2-A; |
| 2. | 292° | 20' | 00" | 487.19 feet | along the south side of 30 foot wide Akala Road to a pipe set; |
| 3. | 323° | 48' | 00" | 156.46 feet | along same to a spike found at the northern most corner of Lot 1; |

4. 55° 39' 27" 663.37 feet along Lot 1 and State of Hawai'i land, to the point of beginning and containing an area of 4.747 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 applicants, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicants, 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 required water commitment payment shall be submitted 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 system improvements

(including but not limited to installation of a service lateral to accommodate a 5/8-inch meter for the proposed additional lot and fire hydrants within 300 feet of each lot) and remit the prevailing facilities charge, as determined by the Department of Water Supply and convey these improvements to the County Water Board prior to Final Subdivision Approval. The applicants, successors or assigns shall execute an Elevation Agreement with the Department of Water Supply prior to water service being provided to the proposed lot.

- D. Final Subdivision Approval for development shall be secured within five (5) years from the effective date of this ordinance. As represented by the applicants, the subject property shall be subdivided to create no more than two lots, due to the proximity of Kaumana Caves. Restrictive covenants in the deeds of all proposed lots shall give notice that the terms of the zoning ordinance shall prohibit further subdivision of the subdivided lots. This restriction may be removed by amendment of this ordinance by the County Council.
- E. Restrictive covenants in the deeds of all 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 owner of the property may also, in addition, impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State 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.
- F. The applicants shall provide a 15-foot wide future road widening setback along the entire property frontage along Akala Road.

- G. All new driveway connections to Akala Road shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
- H. Any new construction or substantial improvements shall comply with the requirements of Chapter 27, Floodplain Management, of the Hawai'i County Code.
- I. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- J. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. If required, a drainage study shall be prepared and submitted to the Department of Public Works and any required drainage improvements shall be constructed, meeting the approval of the Department of Public Works prior to Final Subdivision Approval.
- K. All earthwork activity, including grubbing and grading, shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
- L. 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-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.

- M. 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.
- N. The applicants, successors or assigns shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- O. 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 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 property 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.

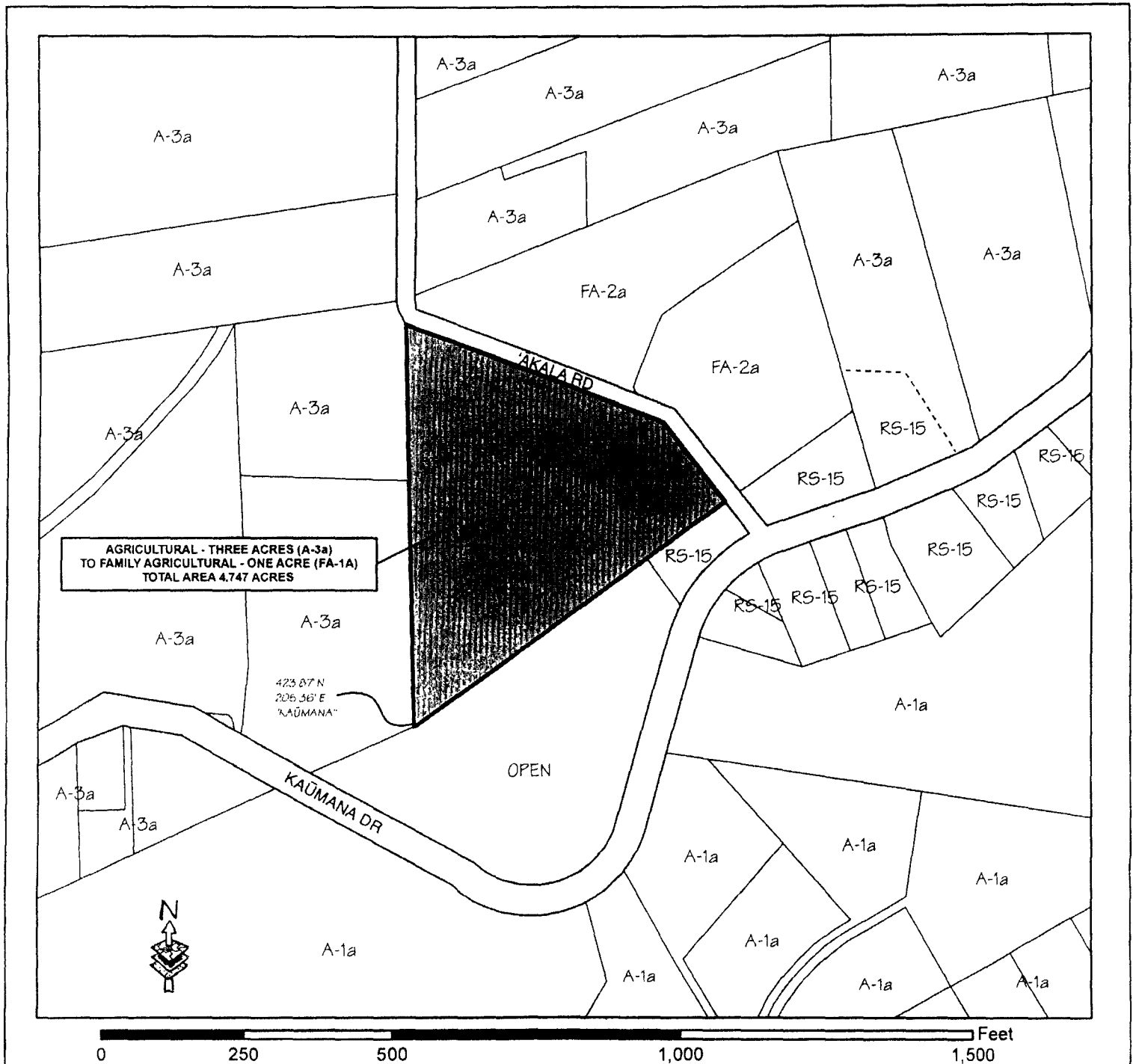
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i
Date of Introduction: March 21, 2012
Date of 1st Reading: March 21, 2012
Date of 2nd Reading: April 4, 2012
Effective Date: April 26, 2012

REFERENCE: Comm. 451.7



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 THREE ACRES (A-3a) TO
FAMILY AGRICULTURAL - ONE ACRE (FA-1a),
AT PONAHAWAI, SOUTH HILO, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

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

35

36

2:00

Introduced By: Donald Ikeda
Date Introduced: March 21, 2012
First Reading: March 21, 2012
Published: N/A

REMARKS: _____

Second Reading: April 4, 2012
To Mayor: April 16, 2012
Returned: April 26, 2012
Effective: April 26, 2012
Published: May 11, 2012

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann			X	
Ikeda	X			
Onishi	X			
Pilago			X	
Smart	X			
Yagong		X		
Yoshimoto	X			
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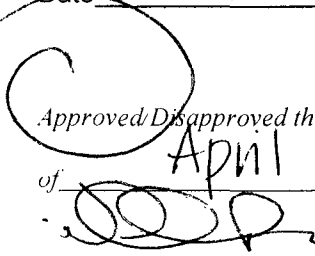
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas			X	
Ford	X			
Hoffmann	X			
Ikeda	X			
Onishi	X			
Pilago	X			
Smart	X			
Yagong		X		
Yoshimoto	X			
	7	1	1	0

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 4/24/12


Approved/Disapproved this 26th day
of April, 2012
MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRPERSON


COUNTY CLERK

Bill No.: 138 (Draft 3)

Reference: C-451.7/PC-45

Ord No.: 12 46