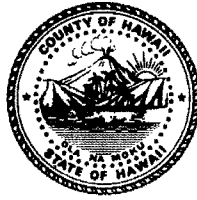


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 12 112 BILL NO. 258

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 – 1 ACRE (FA-1a) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-4-004:072.

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 Waiākea, South Hilo, Hawai'i, shall be Family Agricultural – 1 acre (FA-1a):

Beginning at a pipe set at the southwest corner of this parcel of land, also being a southeast corner of Lot 3-B-1 of Lot 909 of Waiākea Homestead Lots 1<sup>st</sup> Series, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 18,029.57 feet South and 5,972.02 feet East and thence running by azimuths measured clockwise from true South:

- |    |      |     |     |        |      |  |
|----|------|-----|-----|--------|------|--|
| 1. | 175° | 40' | 00" | 175.00 | feet | along Lot 3-B-1 of Lot 909 of Waiākea Homestead Lots 1 <sup>st</sup> Series to a pipe set; |
| 2. | 265° | 40' | 00" | 737.24 | feet | along Lot 2 of Lot 909 of Waiākea Homestead Lots 1 <sup>st</sup> Series to a pipe found;   |
| 3. | 355° | 40' | 00" | 155.00 | feet | along the west side of Laula Road to a pipe set;   |

Thence, on a curve to the right with a radius of 20.00 feet the chord azimuth and distance being:

- |    |     |     |     |        |      |   |
|----|-----|-----|-----|--------|------|---|
| 4. | 40° | 40' | 00" | 28.28  | feet | along Lot 3-B-1 of Lot 909 of Waiākea Homestead Lots Series to a pipe set;                |
| 5. | 85° | 40' | 00" | 717.24 | feet | along same to the point of beginning and containing an area of 2.960 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(s), 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. Final Subdivision Approval of the proposed subdivision development shall be secured within five (5) years from the effective date of this change of zone ordinance.
- D. Restrictive covenants in the deeds of all proposed lots within the 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 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.
- E. The applicant shall identify a five (5)-foot wide future road widening setback along the entire property frontage of Laula Road and a forty (40)-foot wide future road widening setback along the entire rear property line for the proposed Iwalani Street extension on the Preliminary and Final Subdivision Plat Maps. To the extent practical, the proposed lots shall be configured to meet the minimum building site area of one (1) acre, exclusive of the required future road widening setbacks. The two future road widening setbacks shall be subdivided and dedicated to the County of Hawai'i at no cost upon request.
- F. All driveway connections to Laula Road shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
- G. 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.

- H. 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 mitigative measures have been taken.
- I. 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.
- J. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the Department of Water Supply.
- K. 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.

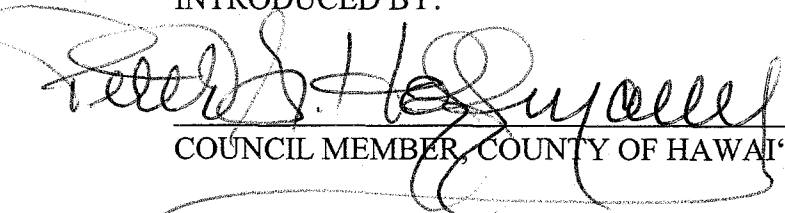
3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for 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.

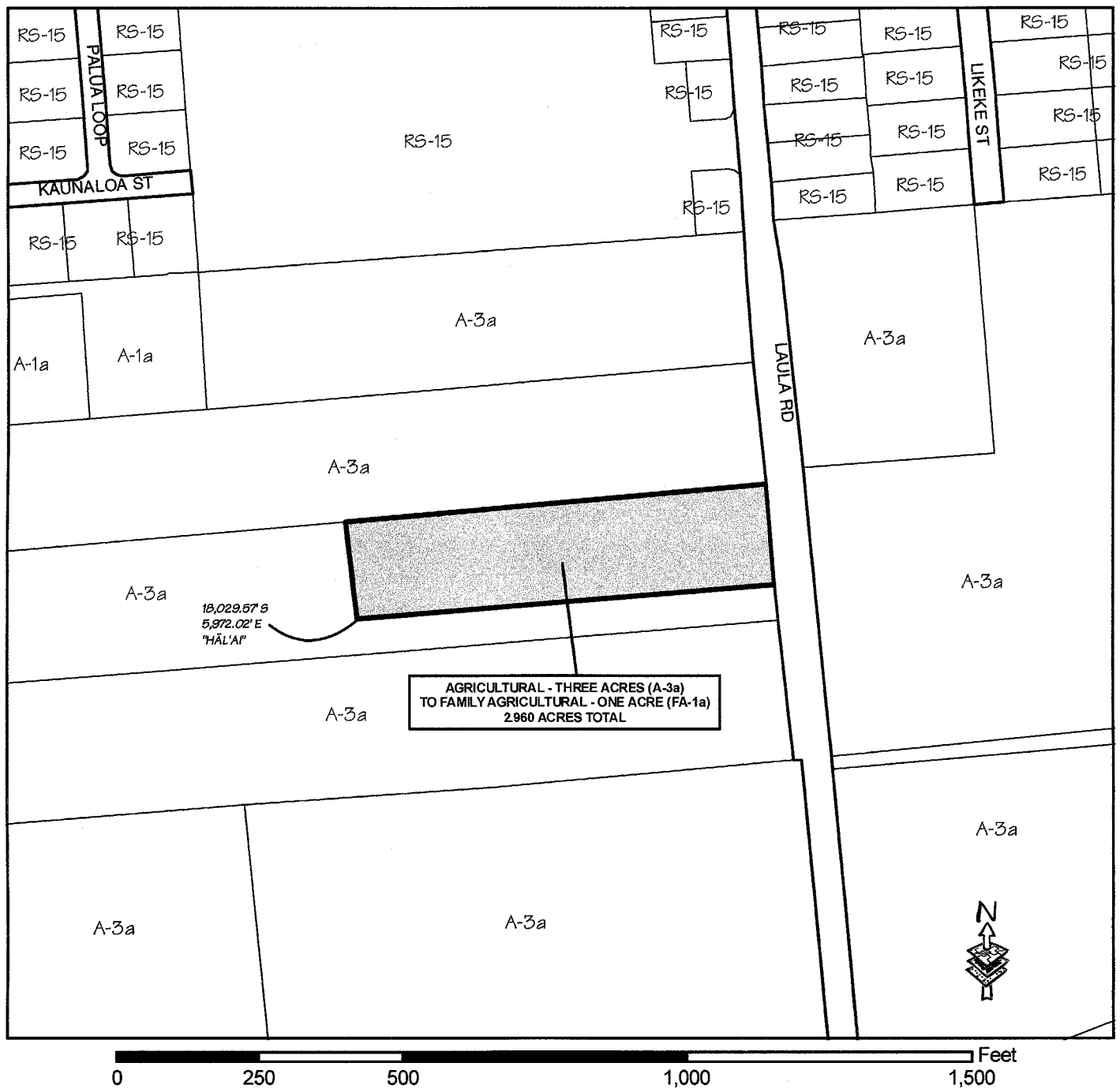
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i

Date of Introduction: July 3, 2012  
Date of 1st Reading: July 3, 2012  
Date of 2nd Reading: July 19, 2012  
Effective Date: August 10, 2012

REFERENCE: Comm: 728



# 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 ACRES (A-3a) TO  
FAMILY AGRICULTURAL- 1 ACRE (FA-1a),  
AT WAIĀKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:  
COUNTY OF HAWAII, PLANNING DEPARTMENT

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

COUNTY CLERK  
COUNTY OF HAWAII

2012 AUG 10 PM 3:37

Introduced By: Pete Hoffmann  
Date Introduced: July 3, 2012  
First Reading: July 3, 2012  
Published: N/A

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Second Reading: July 19, 2012  
To Mayor: July 27, 2012  
Returned: August 10, 2012  
Effective: August 10, 2012  
Published: August 21, 2012

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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ROLL CALL VOTE				
		NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann	X			
Ikeda	X			
Onishi	X			
Pilago	X			
Smart	X			
Yagong	X			
Yoshimoto	X			
	9	0	0	0

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			
	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:

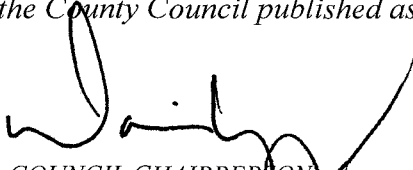
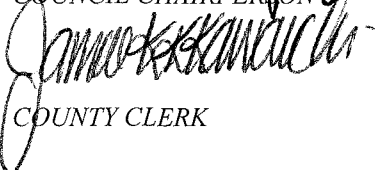
  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date JUL 31 2012

Approved/Disapproved this 10<sup>th</sup> day

of AUGUST, 20 12

  
MAYOR, COUNTY OF HAWAII

  
COUNCIL CHAIRPERSON  
  
COUNTY CLERK

Bill No.: 258

Reference: C-728/PC-51

Ord No.: 12 112