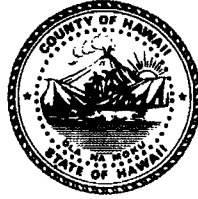


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 13 101 BILL NO. 111

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – FIVE ACRES (A-5a) TO FAMILY AGRICULTURAL – TWO ACRES (FA-2a) AT MAIHI 2ND, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-9-003:PORTION 033.

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

SECTION 1. Section 25-8-3, 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 Maihi 2nd, North Kona, Hawai'i, shall be Family Agricultural – Two Acres (FA-2a):

Beginning at a nail found in concrete on the East line of Old Government Road, for the Northwest corner of this parcel of land and a Southwest corner of a 13.53 acre tract of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OHAU", being 12,182.18 feet North and 8,237.86 feet East, and running by azimuths measured from true South:

Thence, for the next four (4) courses, following along the remainder of Grant 989 to Kuakea:

- | | | | |
|----|--------------|--------|--------------------------------------------------------------------------------------------------------------------|
| 1. | 254° 45' 55" | 522.03 | feet along said 13.54 acres to a set ½" iron pipe for the Northeast corner of this herein-described tract of land; |
| 2. | 345° 30' 50" | 163.30 | feet over and across said lot 1 to a set ½" iron pipe; |

- Thence along Lot 2, with the following three (3) courses;
- | | | | |
|----|-------------|--------|-------------------------------------------|
| 3. | 74° 08' 20" | 133.06 | feet to a found ½" iron pipe in concrete; |
| 4. | 73° 25' 50" | 373.25 | feet to a found ½" iron pipe in concrete; |
- Thence following a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:
- | | | | |
|----|--------------|-------|----------------------------------------------------------------------------------------|
| 5. | 125° 59' 53" | 32.06 | feet to a found ½" iron pipe in concrete on the East line of said Old Government Road; |
|----|--------------|-------|----------------------------------------------------------------------------------------|
- Thence along the East line of Old Government Road, with the following two (2) courses;
- | | | | |
|----|--------------|-------|------------------------------------------------------------------------------------|
| 6. | 177° 54' 00" | 65.87 | feet to a set ½" iron pipe; |
| 7. | 158° 57' 00" | 84.73 | feet to the point of beginning and containing an area of 2.00 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, 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 for that portion of the project site situated within the State Land Use Agricultural District.
- C. Final Subdivision Approval for development shall be secured within five (5) years from the effective date of this ordinance.
- D. 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.
- E. To provide for future road widening improvements, a ten (10)-foot wide future road widening setback shall be delineated on the subdivision plat map along the subject property’s Hooper Road frontage and shall be subdivided and dedicated to the County of Hawai‘i upon request at no cost to County.
- F. The applicant shall conduct a location survey to show the location of existing features relative to the Hooper Road right-of-way boundary and the future road widening setback, including but not limited to pavements, walls, trees and utilities prior to Final Subdivision Approval. If required by the Department of Public

Works, the applicant shall, at no cost to the County, remove or assume the County or designated agent will remove the subject property owner's encroachments (if any) within the Hooper Road right-of-way and the future road widening setback area.

- G. Prior to the filing of an application for the subdivision of the subject property or any land alteration activities, the Applicant shall conduct an archaeological inventory survey of the subject property, or portion thereof, and implement all required mitigation measures in a manner meeting with the approval of the State Department of Land and Natural Resources-Historic Preservation Division
- H. All new driveway connections to Hooper Road shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
- I. Any new construction or substantial improvements shall comply with the requirements of Chapter 27, Floodplain Management, of the Hawai'i County Code.
- 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 applicant, 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 applicant, 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 applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the County Council for appropriate action.
- P. 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:

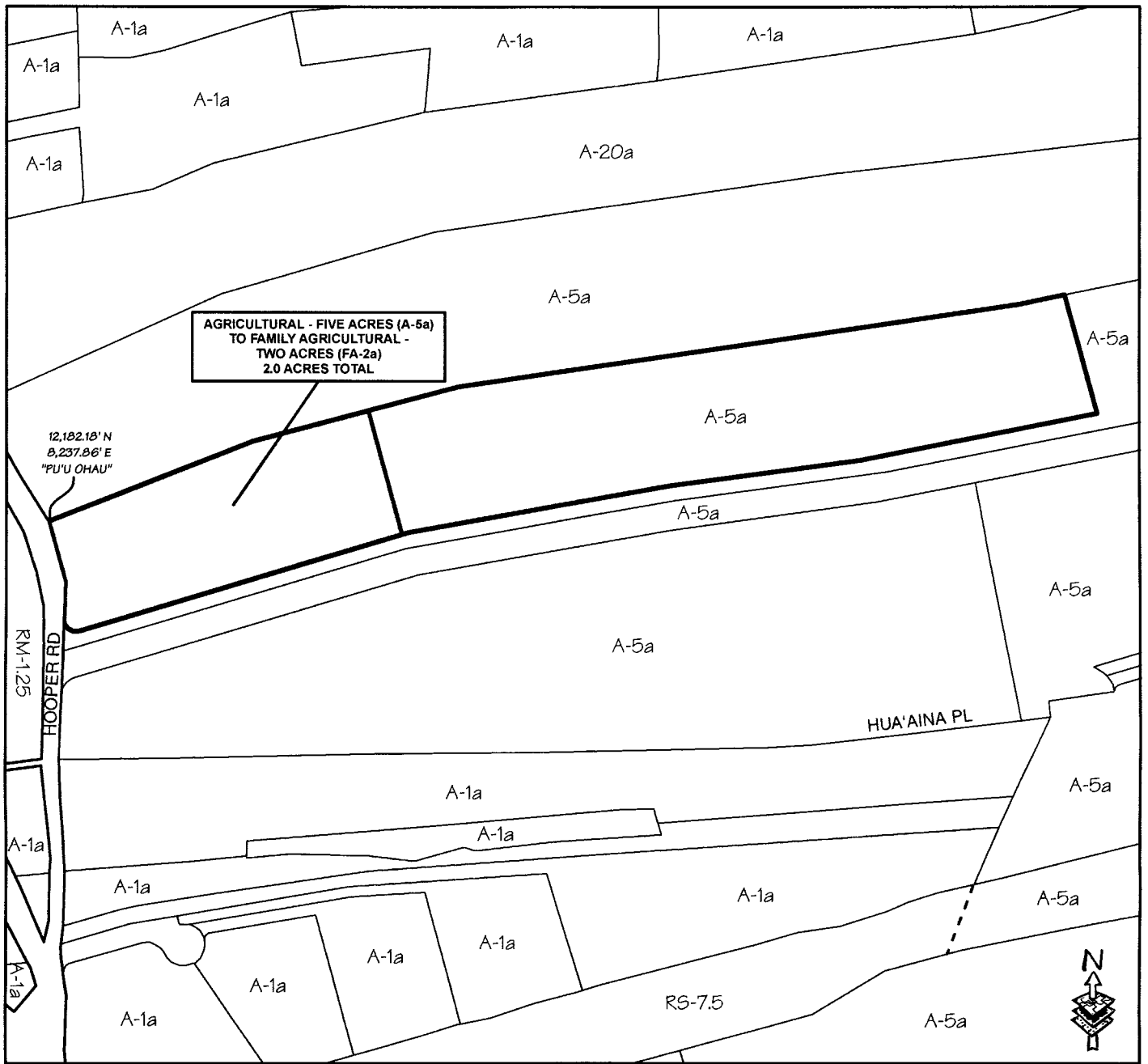


B/R

COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i
Date of Introduction: September 18, 2013
Date of 1st Reading: September 18, 2013
Date of 2nd Reading: October 2, 2013
Effective Date: October 16, 2013

REFERENCE Comm. 391



AGRICULTURAL - FIVE ACRES (A-5a)
 TO FAMILY AGRICULTURAL -
 TWO ACRES (FA-2a)
 2.0 ACRES TOTAL

12,182.18' N
 8,237.86' E
 "PU'U OHAU"

RM-1.25
 HOOPER RD

HUA'AINA PL

RS-7.5

0 125 250 500 750 1,000 Feet



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP) ARTICLE 8,
 CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION),
 BY CHANGING THE DISTRICT CLASSIFICATION FROM
 AGRICULTURAL - FIVE ACRES (A-5a) TO
 FAMILY AGRICULTURAL - TWO ACRES (FA-2a),
 AT MAIHI 2ND, NORTH KONA, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

COUNTY CLERK
 COUNTY OF HAWAII

2013 OCT 17 PM 1:12

Introduced By: Zendo Kern (B/R)
 Date Introduced: September 18, 2013
 First Reading: September 18, 2013
 Published: N/A

REMARKS: _____

Second Reading: October 2, 2013
 To Mayor: October 10, 2013
 Returned: October 17, 2013
 Effective: October 16, 2013
 Published: October 25, 2013

REMARKS: _____

| ROLL CALL VOTE | | | | |
|----------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Eoff | X | | | |
| Ford | X | | | |
| Ilagan | X | | | |
| Kanuha | X | | | |
| Kern | X | | | |
| Onishi | X | | | |
| Poindexter | X | | | |
| Wille | X | | | |
| Yoshimoto | X | | | |
| | 9 | 0 | 0 | 0 |

| ROLL CALL VOTE | | | | |
|----------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Eoff | X | | | |
| Ford | X | | | |
| Ilagan | X | | | |
| Kanuha | X | | | |
| Kern | X | | | |
| Onishi | | | X | |
| Poindexter | | | X | |
| Wille | X | | | |
| Yoshimoto | X | | | |
| | 7 | 0 | 2 | 0 |

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.




COUNCIL CHAIRPERSON



COUNTY CLERK

Approved/Disapproved this 16th day
 of October, 2013



MAYOR, COUNTY OF HAWAII

Bill No.: 111

Reference: C-391/PC-44

Ord No.: 13 101