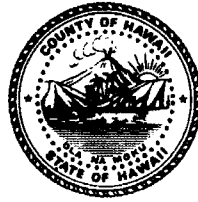


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 261

ORDINANCE NO. 14 101

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 – 3 ACRES (A-3a) TO RESIDENTIAL AGRICULTURAL – 1 ACRE (RA-1a) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-4-038:012.

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 Residential Agricultural – 1 acre (RA-1a):

BEGINNING at the northwest corner of this parcel of land, and at the southwest corner of Lot 917-L, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 17,334.87 feet south and 3,056.58 feet west, and running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|--|
| 1. | 265° 40' | 938.00 | feet along Lot 917-L; |
| 2. | 355° 40' | 150.00 | feet along portion of Lot 916; |
| 3. | 85° 40' | 938.00 | feet along Lot 1004; |
| 4. | 175° 40' | 150.00 | feet along "Gov't. Road 6 West", to the point of beginning and containing an area of 3.23 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:

- (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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
 - B. The applicant shall comply with all requirements in the Department of Water Supply's March 17, 2014 letter, including the construction of all necessary water improvements prior to final subdivision approval.
 - C. The applicant, successors, or assigns shall notify prospective purchasers, tenants, or lessees of all lots that farming operations and practices on adjacent or contiguous land in the State Land Use Agricultural District are protected under Hawai'i Revised Statutes Chapter 165, the Hawai'i Right to Farm Act. This notice shall be included in any disclosure required for the sale or transfer of all of the proposed lots.
 - D. Any action that would interfere with or restrain farming operations on adjacent or contiguous properties shall be prohibited under Hawai'i Revised Statutes Chapter 165, the Hawai'i Right to Farm Act; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the Agricultural District.

- E. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.
- F. To preserve the functional classification of Kupulau Road as a secondary arterial, access to any future lots shall be limited to the current driveway access at Kupulau Road.
- G. Should more than one additional lot be created on the 3.23-acre subject property, the applicant shall provide improvements to the subject property's entire Kupulau Road frontage, consisting of, but not limited to, pavement widening with paved shoulders and swales meeting the approval of the Department of Public Works.
- H. All development-generated runoff shall be disposed of onsite and shall not be directed toward any adjacent properties. A drainage study shall be prepared and the recommended drainage system shall be approved by the Department of Public Works.
- I. Any development within Flood Zone AE shall conform to Chapter 27, Floodplain Management, of the Hawai'i County Code.
- J. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- K. 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.

L. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the development 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 newly created 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 combined value of **\$13,081.99** 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 single family residential unit shall be allocated as follows:

1. **\$6,308.37** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$304.32** per single family residential unit to the County to support police facilities;
3. **\$601.06** per single family residential unit to the County to support fire facilities;
4. **\$263.15** per single family residential unit to the County to support solid waste facilities; and
5. **\$5,305.09** 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.

- M. 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 Chapter 11, Article 1, Hawai'i County Code relating to the Affordable Housing Policy. 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.
- N. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- O. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- P. 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 Planning Commission and 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:

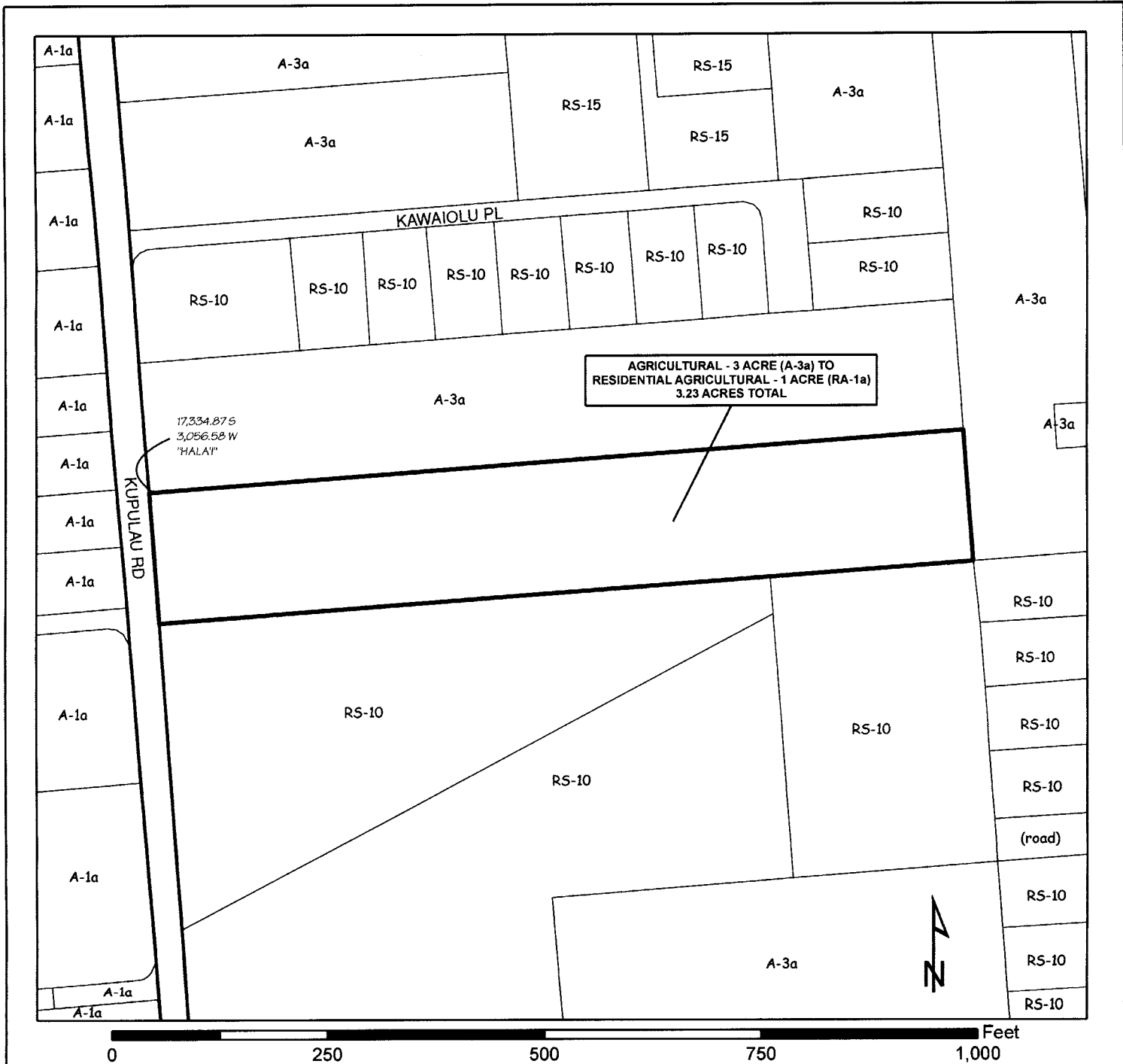


COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i

Date of Introduction: July 2, 2014
Date of 1st Reading: July 2, 2014
Date of 2nd Reading: July 18, 2014
Effective Date: August 6, 2014

REFERENCE Comm. 905



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 RESIDENTIAL AGRICULTURAL - 1 ACRE (RA-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

COUNTY CLERK
 COUNTY OF HAWAII

2014 AUG -7 AM 8:04

Introduced By: Zendo Kern (B/R)
 Date Introduced: July 2, 2014
 First Reading: July 2, 2014
 Published: July 12, 2014

REMARKS: _____

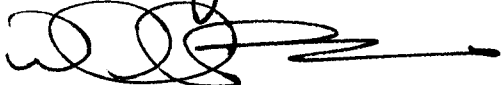
Second Reading: July 18, 2014
 To Mayor: July 28, 2014
 Returned: August 7, 2014
 Effective: August 6, 2014
 Published: August 16, 2014


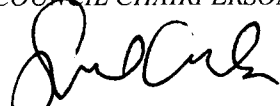
REMARKS: _____

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			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
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Ilagan	X			
Kanuha	X			
Kern			X	
Onishi	X			
Poindexter	X			
Wille	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/Disapproved this 6th day
 of August, 2014.

 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRPERSON

 COUNTY CLERK

Bill No.: 261
 Reference: C-905/PC-67
 Ord No.: 14 101