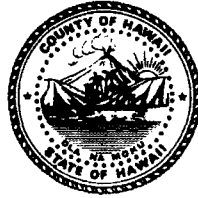


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 14 103 BILL NO. 260

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 – ONE ACRE (A-1a) AND AGRICULTURAL – THREE ACRES (A-3a) TO FAMILY AGRICULTURAL – ONE ACRE (FA-1a), AT WAIĀKEA HOMESTEADS 2<sup>ND</sup> SERIES, WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-4-034:046.

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 Homesteads 2<sup>nd</sup> Series, Waiākea, South Hilo, Hawai'i, shall be Family Agricultural – One Acre (FA-1a):

Beginning at a pipe at the northwest corner of this parcel of land being also the northeast corner of Lot 4 and on the southerly side of Ho'ohoaloha Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 20,030.66 feet south and 3,397.87 feet west, and running by azimuths measured clockwise from true South:

Thence along the easterly side of Ho'ohoaloha Street along a curve to the left having a radius of 45.00 feet, the chord azimuth and distance being:

- 1.      192° 56' 28"      75.81      feet; thence along the easterly side of Ho'ohoaloha Street along a curve to the right having a radius of 40.00 feet, the chord azimuth and distance being:

2. 155° 36' 28" 27.44 feet;
3. 265° 40' 414.00 feet along Waiākea Acres Subdivision Lots 16 and 13-A; thence along Lot 13-A along a curve to the left having a radius of 20.00 feet, the chord azimuth and distance being:
4. 220° 40' 28.28 feet;
5. 175° 40' 117.27 feet along Lot 13-A;
6. 265° 40' 25.00 feet along Lot 13-A;
7. 355° 40' 187.27 feet along Lot 6;
8. 23° 54' 30" 398.55 feet along Lot 6;
9. 83° 52' 13" 107.73 feet along remainder of Grant 11,843 to First Trust Co. of Hilo, Ltd. Trustee under the Will and of the Estate of James N. K. Keola, deceased;
10. 145° 48' 40" 353.19 feet along Lot 4 to the point of beginning and containing an area of 3.012 acres.

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(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. 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. The required water commitment payment for the additional lots 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.
- F. 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.

- G. Covenants in the deeds of all the subdivided lots shall state that no variance from the minimum water and road requirements shall be granted to subdivide the lots. A copy of the proposed covenant(s) to be recorded with the 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 approved covenant shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances with a copy of the recorded covenant to be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- H. 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.
- I. All driveway connections to Ho‘ohoaloha Street and Ho‘ohoaloha Place shall conform to Chapter 22, County Streets, of the Hawai‘i County Code.
- J. All development-generated runoff shall be disposed of onsite 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. 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.
- 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.

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.

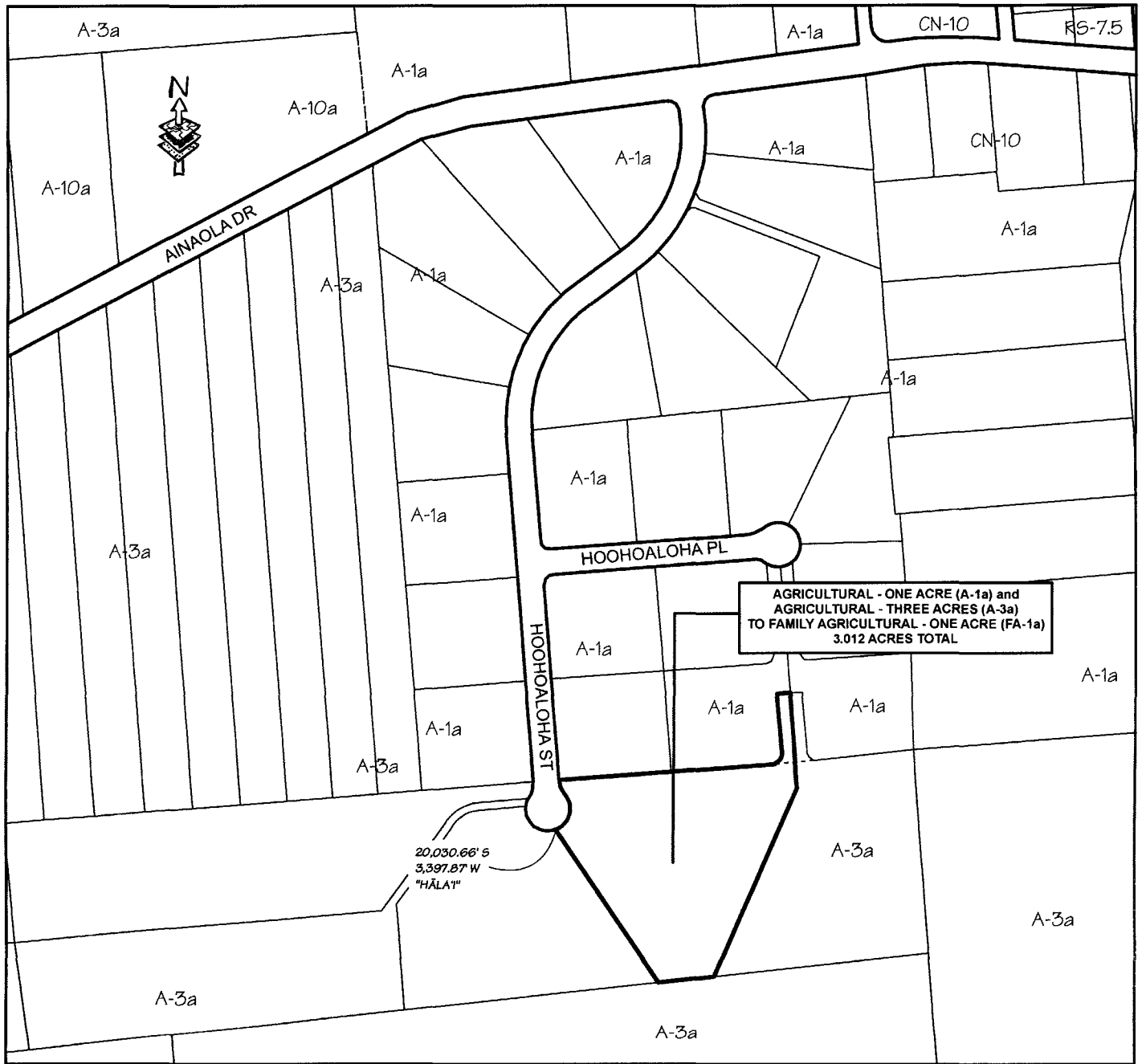
INTRODUCED BY:

  
\_\_\_\_\_  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: July 18, 2014  
Date of 1st Reading: July 18, 2014  
Date of 2nd Reading: August 6, 2014  
Effective Date: August 27, 2014

REFERENCE Comm. 904



# 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 - ONE ACRE (A-1a) and AGRICULTURAL - THREE ACRES (A-3a)  
TO FAMILY AGRICULTURAL - ONE ACRE (FA-1a)  
AT WAIĀKEA HOMESTEADS 2ND SERIES, WAIĀKEA , SOUTH HILO, 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

2014 AUG 28 PM 12: 01

Introduced By: Zendo Kern (B/R)  
 Date Introduced: July 18, 2014  
 First Reading: July 18, 2014  
 Published: July 26, 2014 (HTH)  
July 30, 2014 (WHT)

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
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Second Reading: August 6, 2014  
 To Mayor: August 14, 2014  
 Returned: August 28, 2014  
 Effective: August 27, 2014  
 Published: September 6, 2014

REMARKS: \_\_\_\_\_  
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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			
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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			
	9	0	0	0

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

Approved/Disapproved this 27<sup>th</sup> day  
 of August, 2014.  
  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 260  
 Reference: C-904/PC-70  
 Ord No.: 14 103