

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 15 34 BILL NO. 17

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 WAIĀKEA HOMESTEADS 2ND SERIES, WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-4-034:045.

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 2ND Series, South Hilo, Hawai'i, shall be Family Agricultural – One Acre (FA-1a):

Beginning at the northeast corner of this parcel of land, being also the northwest corner of Lot 5 and on the southerly side of Hoohoaloha 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 thence running by azimuths measured clockwise from true south:

1. 325° 48' 40" 353.19 feet along Lot 5;
2. 83° 52' 13" 498.37 feet along Lot A-2;
3. 175° 40' 200.98 feet along Lot 3-A;
4. 216° 00' 189.21 feet along Lot 3-A; thence along Lot 3-A along a curve to the right, having a radius of 80.00 feet, the chord azimuth and distance being:

5. 240° 50' 67.20 feet;
6. 265° 40' 82.69 feet along Lot 3-A; thence along the Southerly side of Hoohoaloha Street along a curve to the left, having a radius of 45.00 feet, the chord azimuth and distance being:
7. 308° 11' 04" 76.20 feet to the point of beginning and containing an area of 3.002 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 applicants, 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. No variance from the minimum water and road requirements shall be granted to subdivide the lots.
- 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 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 applicants 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 **\$13,312.70** 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. **\$6,419.62** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$309.68** per single family residential unit to the County to support police facilities;
3. **\$611.66** per single family residential unit to the County to support fire facilities;
4. **\$267.79** per single family residential unit to the County to support solid waste facilities; and
5. **\$5,703.94** per single family residential unit to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicants 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. 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 shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the Department of Water Supply.
- 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 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 applicants should require an additional extension of time, the Planning Department shall submit the applicants' 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:

 B/R

COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

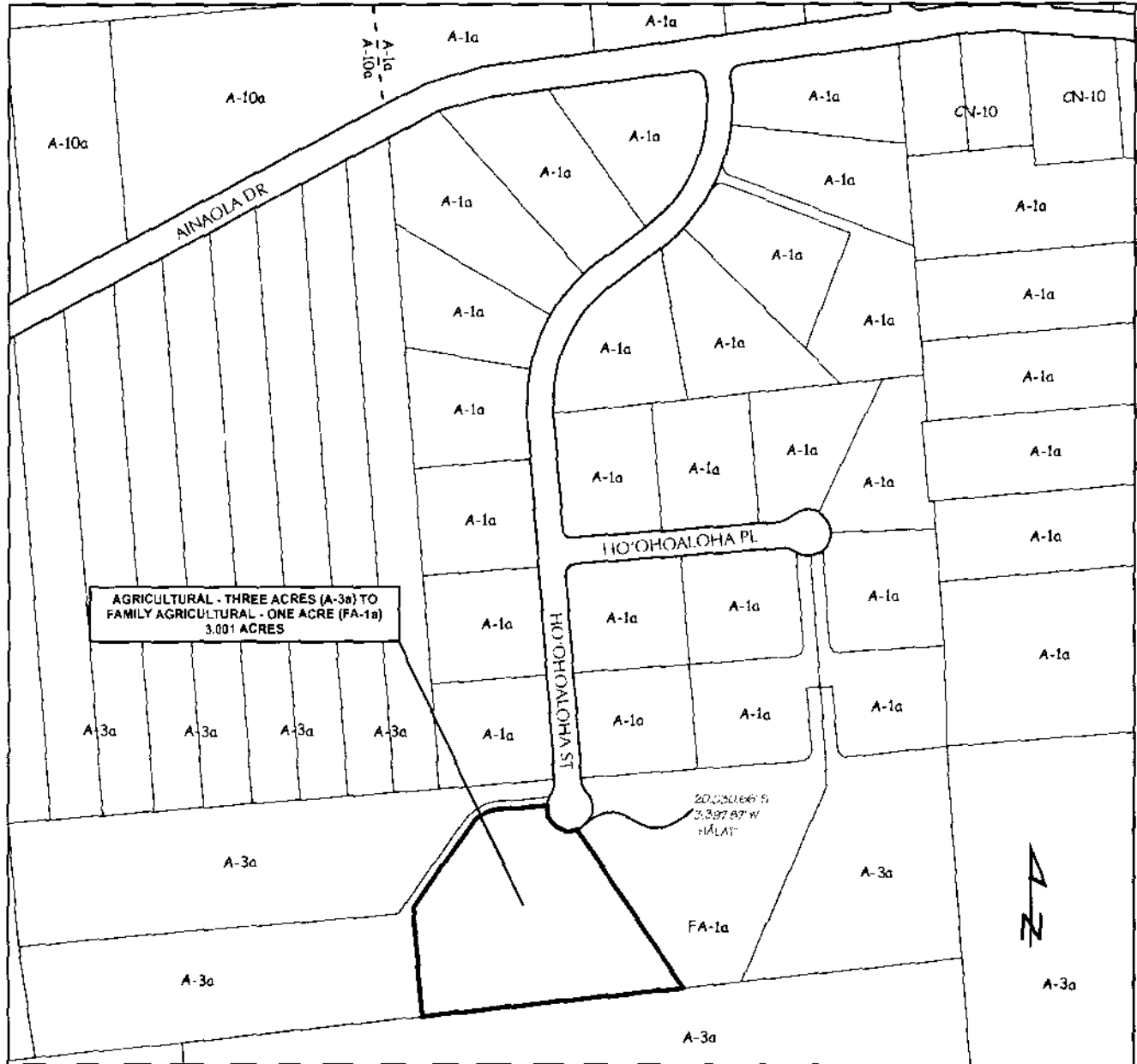
Date of Introduction: February 18, 2015

Date of 1st Reading: February 18, 2015

Date of 2nd Reading: March 4, 2015

Effective Date: March 23, 2015

REFERENCE Comm. 63



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 WAIĀKEA HOMESTEADS 2ND SERIES, WAIĀKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 2-4-034:045

DATE: OCTOBER 9, 2014

EXHIBIT "A"

Melvin and Brenda Morris
 Map: 1350

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

COUNTY CLERK
 COUNTY OF HAWAII

2015 MAR 24 AM 11: 07

Introduced By: Greggor Ilagan (B/R)
 Date Introduced: February 18, 2015
 First Reading: February 18, 2015
 Published: February 28, 2015

REMARKS: _____

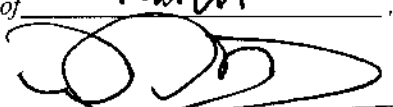
Second Reading: March 4, 2015
 To Mayor: March 12, 2015
 Returned: March 24, 2015
 Effective: March 23, 2015
 Published: April 4, 2015


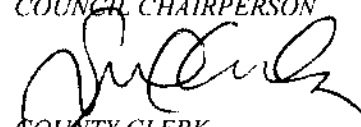
REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Ilagan	X			
Kanuha	X			
Onishi	X			
Paleka	X			
Poindexter	X			
Wille	X			
	9	0	0	0

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	AYES	NOES	ABS	EX
Chung	X			
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Paleka	X			
Poindexter	X			
Wille	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 23rd day
 of March, 2015

 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRPERSON

 COUNTY CLERK

Bill No.: 17
 Reference: C-63/PC-4
 Ord No.: 15 34