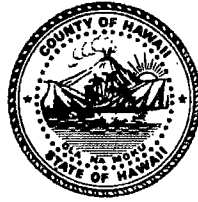


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 15 106 BILL NO. 93

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO AREA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – TWENTY ACRES (A-20a) TO FAMILY AGRICULTURAL – THREE ACRES (FA-3a) AT KAŪMANA HOMESTEADS, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-5-003:024.

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 Kaūmana Homesteads, South Hilo, Hawai'i, shall be Family Agricultural – Three Acres (FA-3a):

Beginning at a point at the southwest corner of this parcel of land being also the southeast corner of Lot 15-B subdivision of Lot 15, Grant 4050 to J. S. Canario and on the northwesterly side of Kaūmana Drive the coordinates of said point of beginning referred to Government Survey Triangulation Station "HĀLA'I" being 13,349.81 feet south and 22,456.11 feet west and running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|---|
| 1. | 179° 53' | 282.84 | feet along Lot 15-B, subdivision of Lot 15, Grant 4050 to J. S. Canario; |
| 2. | 179° 53' | 126.76 | feet along subdivision of Lot 15, Grant 4050 to J. S. Canario; |
| 3. | 89° 53' | 480.00 | feet along subdivision of Lot 15, Grant 4050 to J. S. Canario to a point at the easterly side of a Homestead Road (30-foot wide); |

- | | | | |
|----|----------|----------|---|
| 4. | 179° 53' | 574.10 | feet along the easterly side of a Homestead Road (30-foot wide); |
| 5. | 269° 53' | 1,752.01 | feet along Lot 15-B, subdivision of portion Lot 15; |
| 6. | 359° 50' | 295.30 | feet along Lot 13, Grant 4049 to W. C. Borden; |
| 7. | 61° 28' | 1,446.56 | feet (revised) along parcel A (Government Land) and along the northwesterly side of Kaūmana Drive to the point of beginning and containing an area of 25.003 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:

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. The applicants shall construct necessary water system improvements (including but not limited to installation of water mains (8" minimum diameter of mains from Country Club Drive) capable of delivering water at adequate pressure and volume under peak flow and fire-flow conditions and installation of a service lateral to accommodate a 5/8-inch meter for the proposed additional lots and remit the prevailing facilities charge, as determined by the Department of Water Supply and convey these improvements to the County Water Board prior to Final Subdivision Approval.

- F. Final Subdivision Approval 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 of the Subdivision Code shall be granted to support the subdivision of the subject property.
- 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. Access from Kaūmana Drive shall be limited to one (1) access serving four proposed lots. The location of this access shall be determined based on a site distance analysis prepared by the applicant's engineer and approved by the Department of Public Works.
- J. In order to resolve the encroachment of Kaūmana Drive onto a portion of the subject property, a road lot that encumbers the encroachment area and extending no further than the extent of the existing 10-foot road-widening easement, as determined by the Department of Public Works, shall be included on plat maps submitted to the Planning Department for subdivision review. Documents necessary to effectuate the dedication of this roadway lot at no cost to the County shall be executed by the applicant within one (1) year from issuance of Final Subdivision Approval for the proposed 5-lot subdivision.

- K. 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 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.
- L. The method of sewage disposal shall meet with the requirements of the Department of Health.
- M. 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.
- N. 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.
- O. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the Department of Water Supply.
- 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 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.

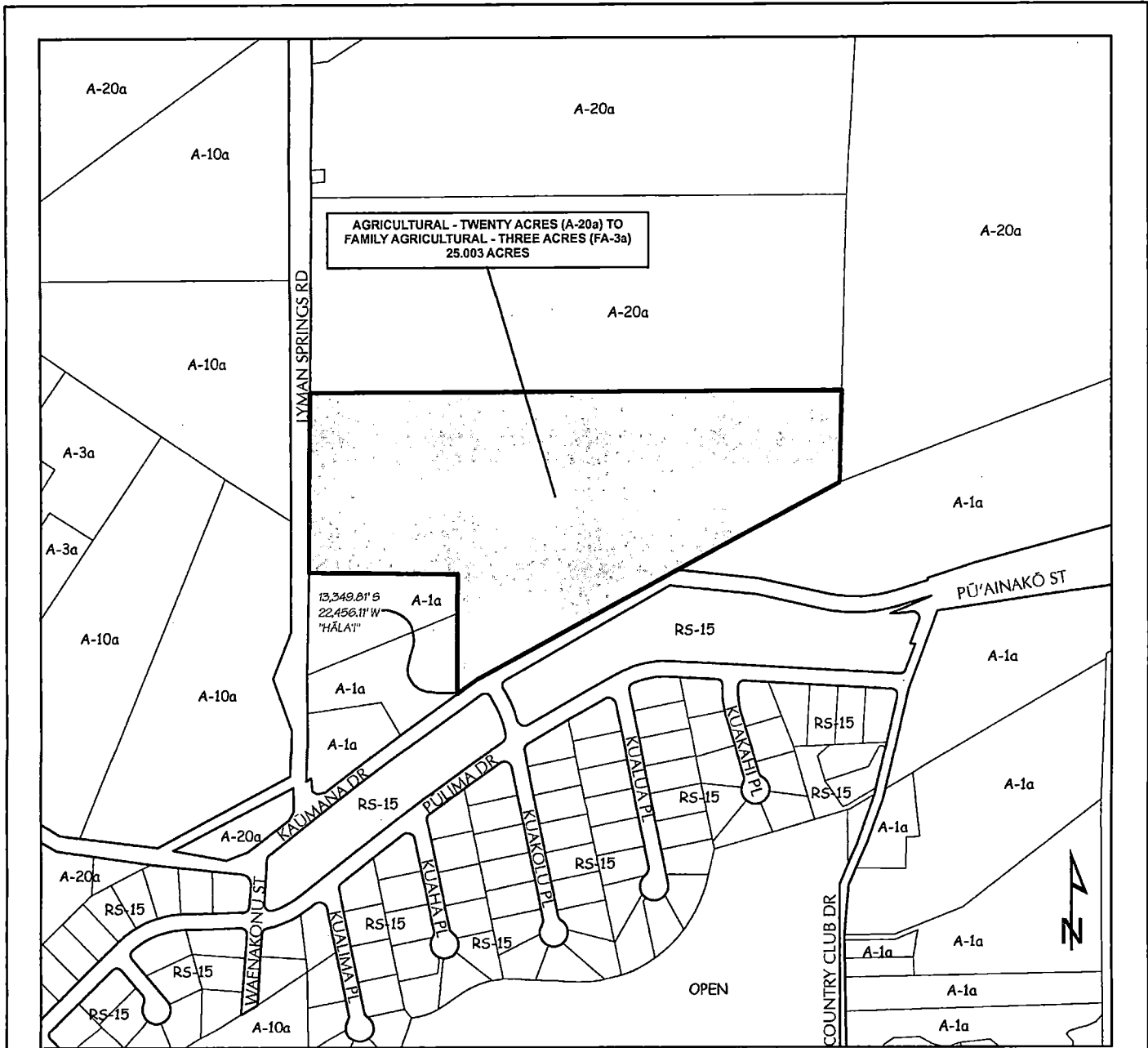
INTRODUCED BY:

 (B/R)
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: October 20, 2015
Date of 1st Reading: October 20, 2015
Date of 2nd Reading: November 3, 2015
Effective Date: November 20, 2015

REFERENCE Comm. 473



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO AREA ZONE MAP) ARTICLE 8,
 CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION),
 BY CHANGING THE DISTRICT CLASSIFICATION FROM
 AGRICULTURAL - TWENTY ACRES (A-20a) TO
 FAMILY AGRICULTURAL - THREE ACRES (FA-3a)
 AT KAŪMANA HOMESTEADS, SOUTH HILO, HAWAI'I

MAP PREPARED BY:
 COUNTY OF HAWAI'I, PLANNING DEPARTMENT

DATE: JUNE 19, 2015

TMK: (3) 2-5-003:024

EXHIBIT "A"

Rodrigues
 Map: 1360

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

COUNTY CLERK
 COUNTY OF HAWAII

2015 NOV 20 AM 3:45

Introduced By: Greggor Ilagan (B/R)
 Date Introduced: October 20, 2015
 First Reading: October 20, 2015
 Published: October 31, 2015

REMARKS: _____

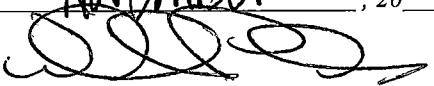
Second Reading: November 3, 2015
 To Mayor: November 12, 2015
 Returned: November 20, 2015
 Effective: November 20, 2015
 Published: November 28, 2015

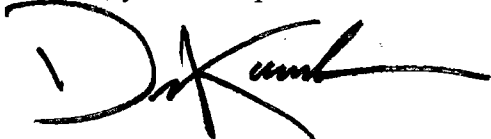

REMARKS: _____

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			
	7	0	2	0

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

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

Approved/Disapproved this 20th day
 of November, 2015

 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRPERSON

 COUNTY CLERK

Bill No.: 93
 Reference: C-473/PC-30
 Ord No.: 15 106