

ORDINANCE NO. 16 10

BILL NO. 128

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 RESIDENTIAL AND AGRICULTURAL – ONE-HALF ACRE (RA-.5a) AT PANA'EWA HOUSE LOTS, 2ND SERIES, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-056:002.

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 Pana'ewa House Lots, 2<sup>nd</sup> Series, South Hilo, Hawai'i, shall be Residential and Agricultural – One-Half Acre (RA-.5a):

Beginning at the west corner of this lot, the north corner of Lot 11 of Pana'ewa House Lots, 2<sup>nd</sup> Series, and on the southeast side of Mamaki Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HĀLA'I" being 19,013.45 feet South and 14,575.44 feet East, as shown on Government Survey Registered Map HSS Plat 922-A, thence running by azimuths measured clockwise from True South:

1. 237° 41' 30" 245.66 feet along the southeast side of Mamaki Street;
2. Thence along the westerly side of Awa Street on a curve to the right having a radius of 50.00 feet, the chord azimuth and distance being 289° 20' 45" 78.43 feet;

- |    |              |        |                                                                                                                                    |
|----|--------------|--------|------------------------------------------------------------------------------------------------------------------------------------|
| 3. | 341° 00'     | 409.49 | feet along the westerly side of Awa Street;                                                                                        |
| 4. | 57° 41' 30"  | 200.06 | feet along Government Land;                                                                                                        |
| 5. | 147° 41' 30" | 460.00 | feet along Lot 11 of Pana'ewa House Lots, 2 <sup>nd</sup> Series, to the point of beginning and containing an area of 2.666 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 applicants, its successors, or assigns shall be responsible for complying with all of the stated conditions of approval.

B. 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.

- C. 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.
  
- D. Final Subdivision Approval of the subject property shall be secured within five (5) years from the effective date of this ordinance.
  
- E. If required, a drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to the submittal of plans for subdivision review. Any drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works, prior to the issuance of Final Subdivision Approval.
  
- F. The applicants shall make its fair share contribution to mitigate the potential regional impacts of the property 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 lot shall be based on the actual number of residential units developed. The fair share contribution in 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 maximum combined value of **\$13,506.70** 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. **\$6,513.17** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$314.20** per single family residential unit to the County to support police facilities;
3. **\$620.58** per single family residential unit to the County to support fire facilities;
4. **\$271.70** per single family residential unit to the County to support solid waste facilities; and
5. **\$5,787.06** 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.

- G. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicants shall comply with the requirements of Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to Final Subdivision Approval.

- H. 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.
- I. 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-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
- J. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements.
- K. 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, its 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 Director 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 subject 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.

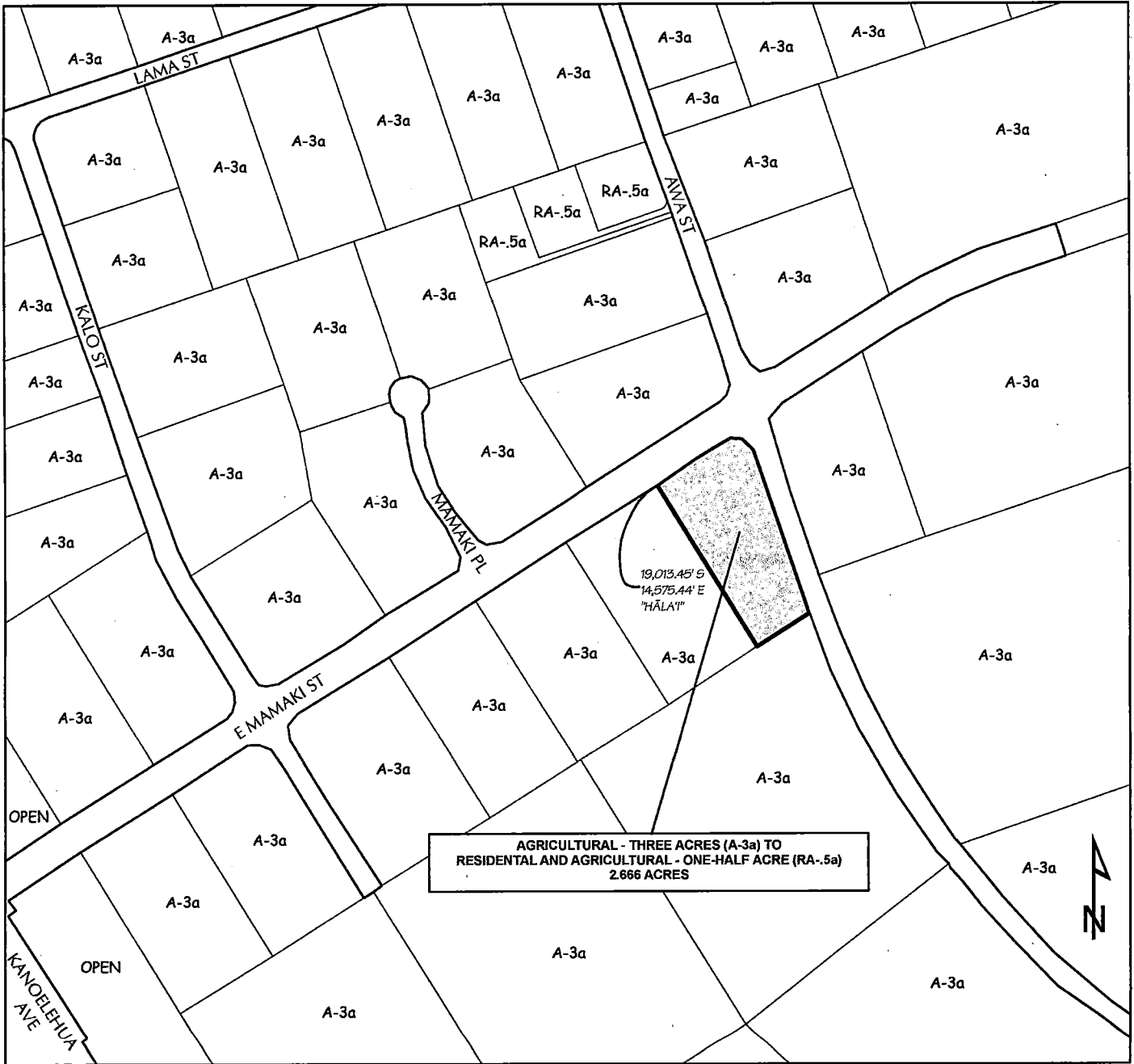
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

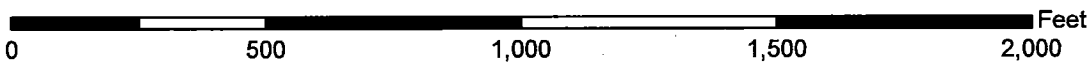
  
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COUNCIL MEMBER, COUNTY OF HAWAII

    Hilo    , Hawai'i  
Date of Introduction: January 22, 2016  
Date of 1st Reading: January 22, 2016  
Date of 2nd Reading: February 3, 2016  
Effective Date: February 22, 2016

REFERENCE Comm.     612



AGRICULTURAL - THREE ACRES (A-3a) TO  
 RESIDENTIAL AND AGRICULTURAL - ONE-HALF ACRE (RA-.5a)  
 2.666 ACRES



# 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  
 RESIDENTIAL AND AGRICULTURAL - ONE-HALF ACRE (RA-.5a)  
 AT PANA'EWA HOUSE LOTS, 2ND SERIES, SOUTH HILO, HAWAII

MAP PREPARED BY:  
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 2-2-056:002

DATE: August 11, 2015

EXHIBIT "A"

Takehiro  
 Map: 1363

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

2016 FEB 23 PM 2:31

Introduced By: Greggor Ilagan (B/R)  
 Date Introduced: January 22, 2016  
 First Reading: January 22, 2016  
 Published: January 30, 2016

REMARKS: \_\_\_\_\_  
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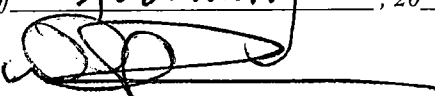
Second Reading: February 3, 2016  
 To Mayor: February 11, 2016  
 Returned: February 23, 2016  
 Effective: February 22, 2016  
 Published: March 5, 2016


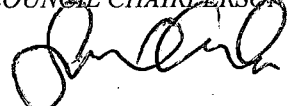
REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung			X	
David	X			
Eoff	X			
Ilagan	X			
Kanuha	X			
Onishi	X			
Paleka	X			
Poindexter	X			
Wille	X			
	8	0	1	0

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 22<sup>nd</sup> day  
 of February, 2016  
  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 128  
 Reference: C-612/PC-42

Ord No.: 16 10