

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 16 16 BILL NO. 129

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 ACRE (RA-1a) AT PANA'EWA HOUSE LOTS, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-052:027.

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, South Hilo, Hawai'i, shall be Residential and Agricultural – One Acre (RA-1a):

Beginning at a 1-inch pipe at the northwest corner of this lot, the northeast corner of Lot 39 of Pana'ewa House Lots and on the south side of Government Road (50.00 feet wide), the coordinates of said point of beginning referred to Government Survey Triangulation Station "HĀLA'I" being 16907.75 feet south and 12998.37 feet east, as shown on Government Survey Registered Map H.T.S. Plat 922, thence running by azimuths measured clockwise from true South:

1. 251° 00' 221.24 feet along the South side of Government Road (50.00 feet wide) to a 1-inch pipe;

- |    |          |        |  |
|----|----------|--------|--|
| 2. | 341° 00' | 538.27 | feet along Lot 37 of Pana'ewa House Lots to a 1-inch pipe;   |
| 3. | 71° 00'  | 221.24 | feet along Lot 51 of Pana'ewa House Lots to a 1-inch pipe;   |
| 4. | 161° 00' | 538.27 | feet along Lot 39 of Pana'ewa House Lots to the point of beginning and containing an area of 2.73 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, 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. The applicant is responsible for maintaining a valid water commitment to support the proposed zoning until such time that required water facilities charges are paid in full. Prior to issuance of Final Subdivision Approval, the applicant shall construct necessary water system improvements as required by the Department of Water Supply, which may include, but not be limited to, (a) a service lateral that will accommodate a 5/8-inch meter fronting each lot, (b) installation of at least one fire hydrant, and (c) subject to other agencies' requirements to construct improvements within the road right-of-way fronting the property affecting the proposed development, the applicant shall be responsible for the relocation and adjustment of the Department's affected water system facilities, should they be necessary.
- F. 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) and Planning Department

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.

G. 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 transportation facilities. 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 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 **\$13,506.70** per single family residential unit. The total amount shall be determined based on the actual number of units or lots created 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 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.

- H. 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.
- I. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements.
- J. 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).

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the property 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.

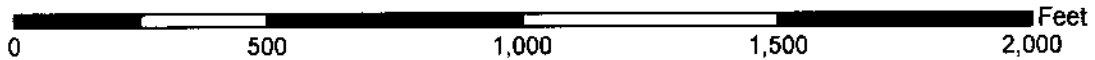
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: February 17, 2016  
Date of 1st Reading: February 17, 2016  
Date of 2nd Reading: March 2, 2016  
Effective Date: March 16, 2016

REFERENCE Comm. 615



# **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 ACRE (RA-1a)  
 AT PANA'EWA HOUSE LOTS, SOUTH HILO, HAWAII

MAP PREPARED BY:  
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

2016 MAR 17 AM 10:44

Introduced By: Greggor Ilagan (B/R)  
 Date Introduced: February 17, 2016  
 First Reading: February 17, 2016  
 Published: February 27, 2016

REMARKS: \_\_\_\_\_  
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Second Reading: March 2, 2016  
 To Mayor: March 10, 2016  
 Returned: March 17, 2016  
 Effective: March 16, 2016  
 Published: March 26, 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			
	9	0	0	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 16<sup>th</sup> day  
 of March, 2016

  
 MAYOR, COUNTY OF HAWAII



COUNCIL CHAIRPERSON

  
 COUNTY CLERK

Bill No.: 129  
 Reference: C-615/PC-46  
 Ord No.: 16 16