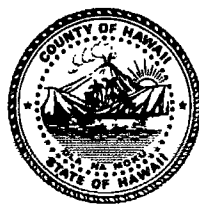


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 16 46 BILL NO. 164

AN ORDINANCE AMENDING ORDINANCE NO. 99 36, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – FIVE ACRES (A-5a) TO FAMILY AGRICULTURAL – ONE ACRE (FA-1a) AT KEALAKEHE HOMESTEADS, 1ST SERIES, KEALAKEHE, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 7-4-004:033.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Ordinance No. 99 36 is amended as follows:

“SECTION 1. Section 25-8-3, 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:

SECTION 2. [~~This change in district classification is conditioned upon the following:~~] 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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. ~~[The required water commitment payment for the additional lot shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of this ordinance.]~~ The applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full. The applicants shall comply with all requirements of the Department of Water Supply including the construction of all necessary water improvements prior to final subdivision approval.
- C. Final Subdivision Approval of the proposed subdivision shall be secured from the Planning Director within five (5) years from the effective date of ~~[the Change of Zone]~~ this ordinance.
- D. ~~[Driveway access to the proposed subdivision shall be from Mamalahoa Highway, meeting with the approval of the Department of Public Works. The entrance roadway sight distance shall meet the requirements of the Statewide Design Manual.]~~ A common driveway access approach for all proposed lots to Māmalahoa Highway, including the provision of adequate site distances, shall meet with the approval of DPW. All accesses to and within the proposed subdivision shall comply with the requirements of the Subdivision Code and the approval of the Department of Public Works.
- E. To provide for future road widening improvements, ~~[roadway frontage]~~ a future road widening equal to half the difference between the existing right-of-way and the proposed ~~[50]~~ 60 foot right-of-way as required by the General Plan shall be delineated on subdivision plans. ~~The future road widening shall be dedicated to the County of Hawai'i upon its request at no cost to the County.~~

- F. Restrictive covenants in the deeds of all the proposed lots within the subject property shall prohibit the construction of a second dwelling unit on each lot. 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 for any portion of the subject property. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- G. A drainage study of the project site, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to issuance of Final Subdivision Approval.
- H. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls 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 DLNRHPD when it finds that sufficient mitigative measures have been taken.
- I. ~~[The applicant shall make its fair share contribution to mitigate potential regional impacts of the subject project with respect to roads, parks and recreation, fire, police and solid waste disposal facilities. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and payable prior to final subdivision~~

approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of proposed residential lots in each such increment. The fair share contribution, in a form of cash, land, facilities or any combination thereof, acceptable to the County Council. The fair share contribution shall have a maximum combined value of \$7,239.16 per single family residential unit. Based upon the applicant's representation of intent to develop up to two (2) residential units, the indicated total of fair share contribution is \$ 14,478. 32 for single family residential units. However, the total amount shall be increased or reduced in proportion with the actual number of units according to the calculation and payment provisions set forth in this Condition I. The fair share contribution shall be allocated as follows:

1. — ~~\$3,490. 85~~ per single family residential unit for an indicated total of ~~\$6,981.70~~ to the County to support park and recreational improvements and facilities;
2. — ~~\$168.40~~ per single family residential unit for an indicated total of ~~\$336.80~~ to the County to support police facilities;
3. — ~~\$332. 61~~ per single family residential unit for an indicated total of ~~\$665.22~~ to the County to support fire facilities;
4. — ~~\$145. 62~~ per single family residential unit for an indicated total of ~~\$291. 24~~ to the County to support solid waste facilities; and
5. — ~~\$3,101.68~~ per single family residential unit for an indicated total of ~~\$6,203.36~~ to the State or County to support road and traffic improvements.

~~The fair share contributions described above shall be adjusted annually beginning three years after the effective date of the change of zone, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute 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 approval of the director. The cost of providing and constructing the improvements required in Condition E shall be credited against the sum specified in Condition I (5) for road and traffic improvements. For purposes of administering Condition I, the fair market value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be subject to review and approval of the director, upon consultation with the appropriate agencies.~~

~~Upon approval of the fair share contributions or in lieu contributions by the director, the director shall submit a final report to the Council for its information that identifies the specific approved fair share and/ or in lieu contributions, as allocated, and further implementation requirements.]~~

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.

- J. 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.

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 applicant, 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).]~~

If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.

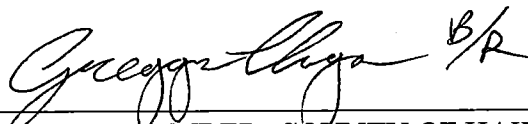
L. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject area to its original or more appropriate designation.”

SECTION 2. Material to be deleted is bracketed and struck through and material to be added is underscored.

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 HAWAI'I

Kona, Hawai'i

Date of Introduction: April 20, 2016
Date of 1st Reading: April 20, 2016
Date of 2nd Reading: May 4, 2016
Effective Date: May 23, 2016

REFERENCE Comm. 748

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

COUNTY CLERK
COUNTY OF HAWAII

2016 MAY 23 PM 1:03

Introduced By: Greggor Ilagan (B/R)
Date Introduced: April 20, 2016
First Reading: April 20, 2016
Published: April 30, 2016

REMARKS: _____

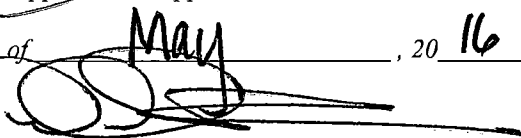
Second Reading: May 4, 2016
To Mayor: May 12, 2016
Returned: May 23, 2016
Effective: May 23, 2016
Published: June 4, 2016

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

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

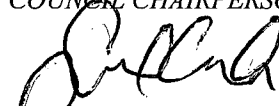
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

Approved/Disapproved this 23rd day
of May, 20 16


MAYOR, COUNTY OF HAWAII



COUNCIL CHAIRPERSON

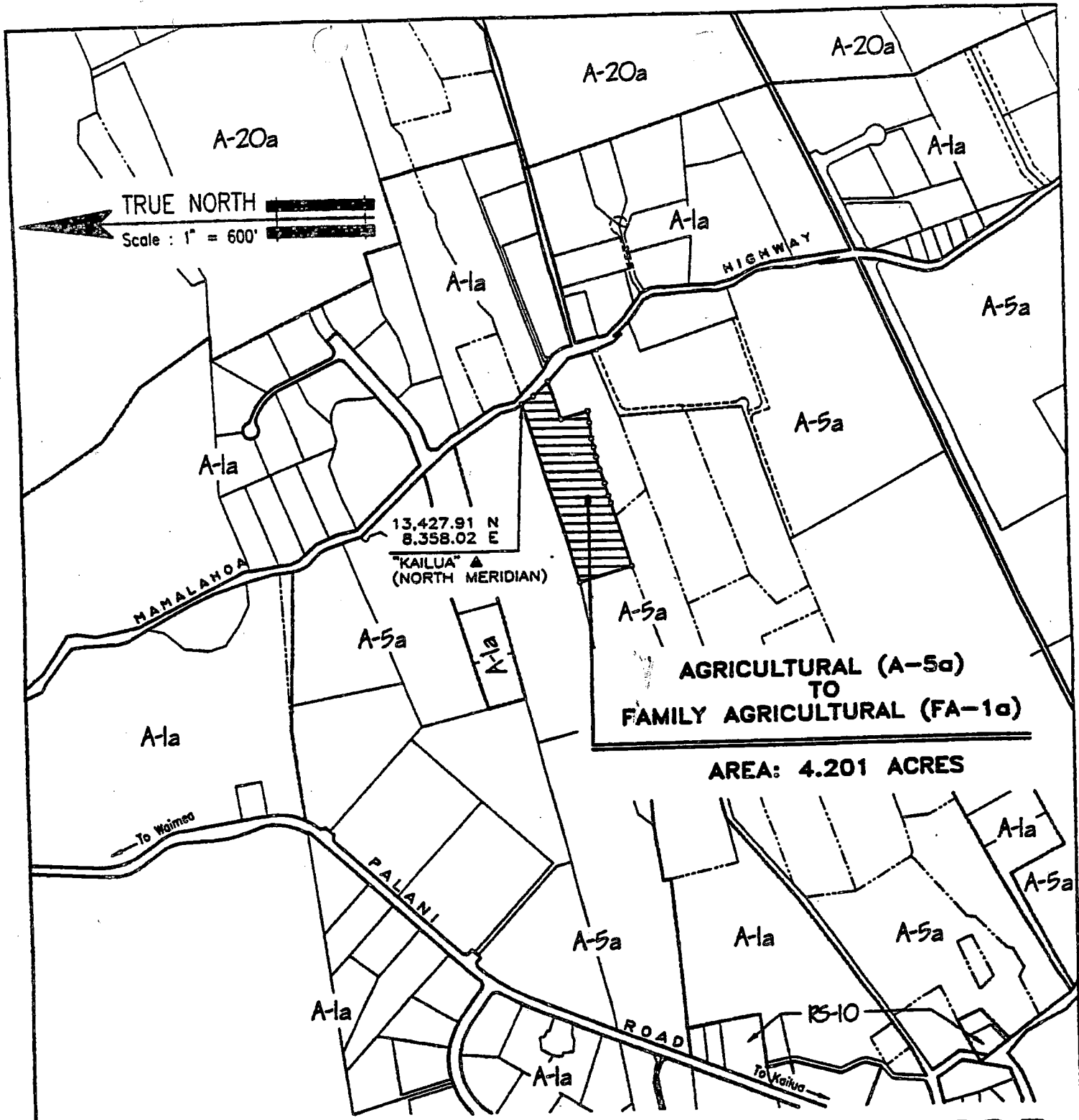


COUNTY CLERK

Bill No.: 164

Reference: C-748/PC-52

Ord No.: 16 46



**AGRICULTURAL (A-5a)
TO
FAMILY AGRICULTURAL (FA-1a)**
AREA: 4.201 ACRES

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO FAMILY AGRICULTURAL (FA-1a) AT KEALAKEHE HOMESTEADS, 1ST SERIES, KEALAKEHE, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

SEPT. 30, 1998
(Kenneth K. Leong)

TMK : 7-4-4:33

EXHIBIT "A" KENNETH K. LEONG TRUST

FOR REFERENCE ONLY

EXHIBIT A