

ORDINANCE NO. 16 79 BILL NO. 208

AN ORDINANCE AMENDING SECTION 25-8-2 (NORTH AND SOUTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – FIVE ACRES (A-5a) TO FAMILY AGRICULTURAL – TWO ACRES (FA-2a) AT KŪKI'O 2ND & MANINI'ŌWALI, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 7-2-004:027.

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

SECTION 1. Section 25-8-2, 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 Kūki'o 2<sup>nd</sup> & Manini'ōwali, North Kona, Hawai'i, shall be Family Agricultural – 2 acres (FA-2a):

Beginning at the North corner of this lot, the East corner of Lot 4, and on the Southwest side of Lot 4 of Kūki'o Mauka Subdivision the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 6,824.95 feet North and 6,216.56 feet West, thence running by azimuths measured clockwise from True South:

- |    |              |        |   |
|----|--------------|--------|---|
| 1. | 315° 36' 53" | 326.95 | feet Lot 4 of Kūki'o Mauka Subdivision;   |
| 2. | 65° 00'      | 686.92 | feet along Lots 1 and 2;  |
| 3. | 129° 30'     | 341.70 | feet along Lot B;   |
| 4. | 245° 00'     | 725.50 | feet along Lot 4 to the point of beginning and containing an area of 5.000 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. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.
- C. Restrictive covenants in the deeds of all the proposed lots 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 owners of the property may also impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State of Hawaii 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.

- D. All development generated runoff shall be disposed of on site and not be directed toward any adjacent properties.
- E. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- 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-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- G. Comply with all applicable County, State and Federal Laws, rules, regulations and requirements.
- H. 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.

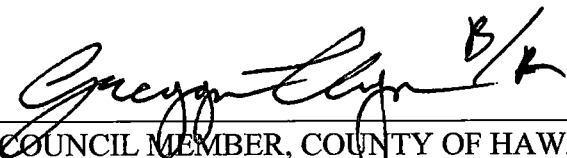
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
5. If the applicants should require an additional extension of time, the Planning Department shall submit the applicant's 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.

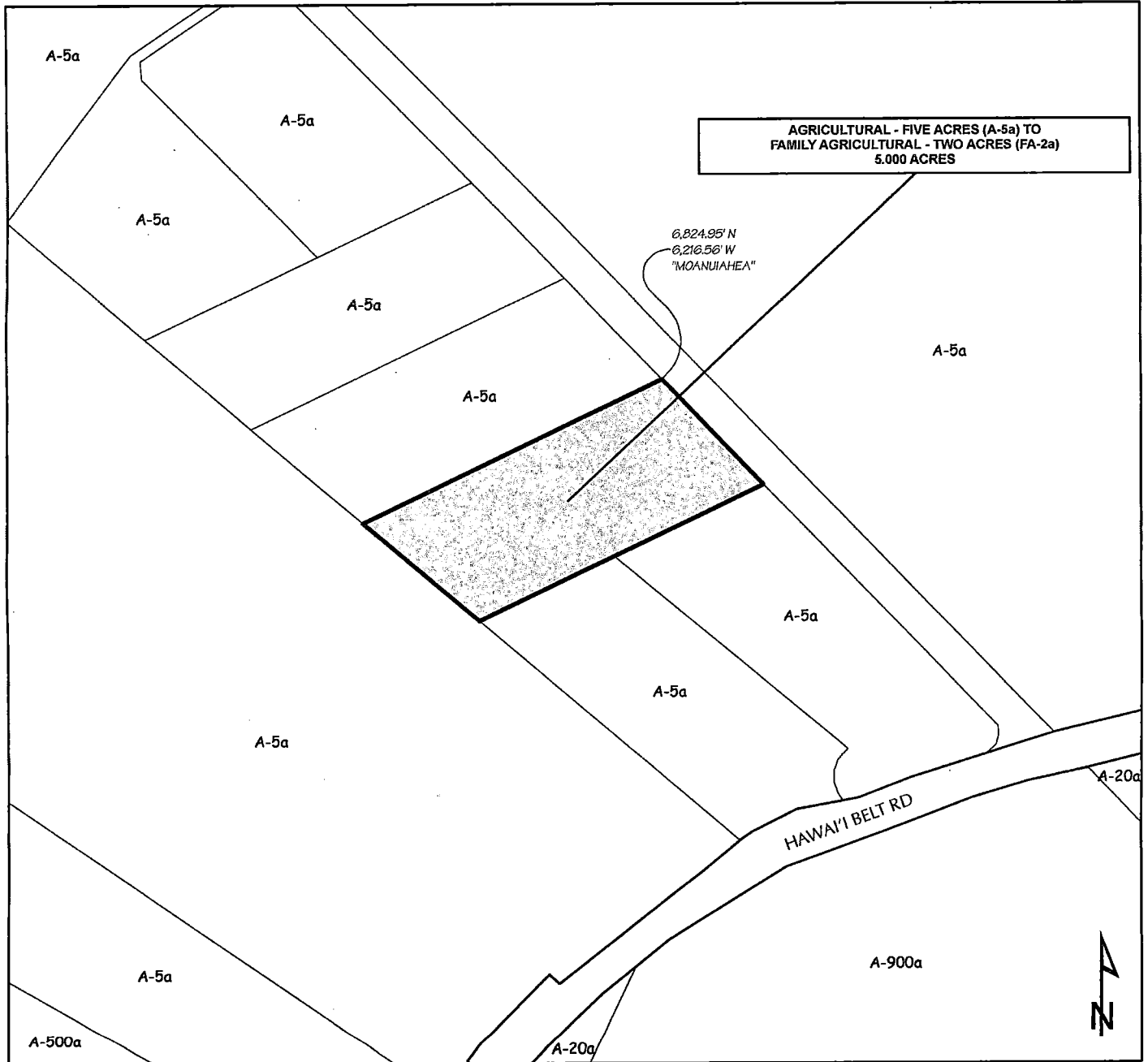
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i  
Date of Introduction: June 15, 2016  
Date of 1st Reading: June 15, 2016  
Date of 2nd Reading: July 7, 2016  
Effective Date: July 25, 2016

REFERENCE Comm. 887



# **AMENDMENT TO THE ZONING CODE**

AMENDING SECTION 25-8-2 (NORTH AND SOUTH KONA DISTRICT ZONE MAP) ARTICLE 8,  
CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION),  
BY CHANGING THE DISTRICT CLASSIFICATION FROM  
AGRICULTURAL - FIVE ACRES (A-5a) TO  
FAMILY AGRICULTURAL - TWO ACRES (FA-2a)  
AT KUKI'O 2ND & MANINI'OWALI, NORTH KONA, HAWAII

MAP PREPARED BY:  
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 7-2-004:027

DATE: January 26, 2016

EXHIBIT "A"

Carlson  
Map: 1372

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

COUNTY CLERK  
 COUNTY OF HAWAII

2016 JUL 25 PM 2:59

Introduced By: Greggor Ilagan (B/R)  
 Date Introduced: June 15, 2016  
 First Reading: June 15, 2016  
 Published: July 2, 2016

REMARKS: \_\_\_\_\_  
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Second Reading: July 7, 2016  
 To Mayor: July 15, 2016  
 Returned: July 25, 2016  
 Effective: July 25, 2016  
 Published: July 30, 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				
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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 25<sup>th</sup> day  
 of JULY, 2016  
  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 208  
 Reference: C-887/PC-65  
 Ord No.: 16 79