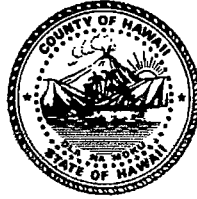


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 16 84 BILL NO. 214

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 FAMILY AGRICULTURAL – ONE ACRE (FA-1a) AT WAIĀKEA HOMESTEADS 2ND, WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-4-034:044.

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 Waiākea Homesteads 2<sup>nd</sup>, Waiākea, Hawai'i, shall be Family Agricultural – One Acre (FA-1a):

Beginning at a point at the Northeasterly corner of this parcel of land, being also the North-Easterly corner of a Lot 4, Waiākea Acres – Acres II, and on the Southwesterly side of Ho'ohoaloha Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HĀLA'I" being 20,077.77 feet South and 3,537.97 feet West and thence running by azimuths measured clockwise from True South:

- |    |         |       |   |
|----|---------|-------|---|
| 1. | 85° 40' | 82.69 | feet along Lot 4, Waiākea Acres – Acres II; thence along Lot 4, Waiākea Acres – Acres II, along a curve to the left having a radius of 80.00 feet, the chord azimuths and distance being; |
| 2. | 60° 50' | 67.20 | feet;   |

|     |          |     |        |   |
|-----|----------|-----|--------|---|
| 3.  | 36° 00'  |     | 189.21 | feet along Lot 4, Waiākea Acres – Acres II;   |
| 4.  | 355° 40' |     | 200.98 | feet along Lot 4, Waiākea Acres – Acres II;   |
| 5.  | 83° 52'  | 13" | 733.88 | feet along Lot A-2 and Lot A-1, being portions of Grant 11,843 to First Trust Co. of Hilo, Ltd., Trustee Under the Will and of the Estate of James N. K. Keola, Deceased;                                 |
| 6.  | 172° 21' | 30" | 212.77 | feet along Lot 1, Waiākea Acres – Acres II;   |
| 7.  | 265° 40' |     | 709.74 | feet revised along Lot 2-A, Waiākea Acres – Acres II;   |
| 8.  | 216° 00' |     | 221.36 | feet along Lot 2-A, Waiākea Acres – Acres II; thence along Lot 2-A Waiākea Acres – Acres II, along a curve to the right having a radius of 100.00 feet, the chord azimuths and distance being;            |
| 9.  | 240° 50' |     | 84.00  | feet;   |
| 10. | 265° 40' |     | 91.81  | feet along Lot 2-A, Waiākea Acres – Acres II; thence along the south-westerly side of Ho'ohoaloha Street, along a curve to the left having a radius of 45.00 feet, the chord azimuths and distance being; |
| 11. | 20° 10'  | 17" | 21.98  | feet to the point of beginning and containing an area of 3.5876 Acres revised more or less.   |

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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant, 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 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.

- 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.
- F. Final Subdivision Approval of the proposed subdivision development 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 shall be granted to subdivide the lots.
- 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. All driveway connections to Ho‘ohoaloha Street shall conform to Chapter 22, County Streets, of the Hawai‘i County Code.
  
- J. All development-generated runoff shall be disposed of onsite and shall not be directed toward any adjacent properties. If required, 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.
  
- K. 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.
  
- L. 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 roads. 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 in a 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 combined value of **\$13,672.20** 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. **\$6,608.08** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$317.37** per single family residential unit to the County to support police facilities;
3. **\$626.84** per single family residential unit to the County to support fire facilities;
4. **\$274.44** per single family residential unit to the County to support solid waste facilities; and
5. **\$5,845.47** 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.

- M. 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.
- N. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the Department of Water Supply.
- O. 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).

5. If the applicant 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

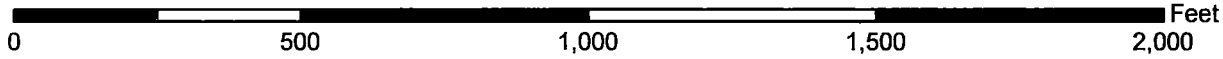
Hilo, Hawai'i  
Date of Introduction: July 19, 2016  
Date of 1st Reading: July 19, 2016  
Date of 2nd Reading: August 3, 2016  
Effective Date: August 18, 2016

REFERENCE Comm. 906





AGRICULTURAL - THREE ACRES (A-3a) TO  
 FAMILY AGRICULTURAL - ONE ACRE (FA-1a)  
 3.5876 ACRES



# **AMENDMENT TO THE ZONING CODE**

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  
 FAMILY AGRICULTURAL - ONE ACRE (FA-1a)  
 AT WAIĀKEA HOMESTEADS 2ND, WAIĀKEA, SOUTH HILO, HAWAI'I

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

TMK: (3) 2-4-034:044

DATE: February 1, 2016

EXHIBIT "A"

Brilhante  
 Map: 1373

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

COUNTY CLERK  
 COUNTY OF HAWAII

2016 AUG 18 PM 4:15

Introduced By: Greggor Ilagan (B/R)  
 Date Introduced: July 19, 2016  
 First Reading: July 19, 2016  
 Published: July 30, 2016

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_


Second Reading: August 3, 2016  
 To Mayor: August 11, 2016  
 Returned: August 18, 2016  
 Effective: August 18, 2016  
 Published: September 3, 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 18<sup>th</sup> day  
 of AUGUST, 2016.  
  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 214  
 Reference: C-906/PC-68  
 Ord No.: 16 84