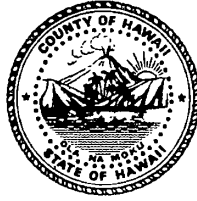


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 18 95 BILL NO. 177

AN ORDINANCE AMENDING SECTION 25-8-19 (NORTH HILO DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – TWENTY ACRES (A-20a) TO AGRICULTURAL – FIVE ACRES (A-5a) AT PĀPA‘ALOA, NORTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 3-5-004:023.

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

SECTION 1. Section 25-8-19, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2016 Edition, as amended) is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Pāpa‘aloha, Hawai'i, shall be Agricultural – 5 acres (A-5a):

Beginning at a 1/2" pipe (found) at the westerly corner of this parcel of land, being also the north corner of Lot 26 at the east side of Kihalani Homestead Road, the coordinates of said Point of Beginning referred to Government Survey Triangulation Station "PĀPA‘ALOA" being 1,415.69 feet north and 1,614.22 feet west, as derived from the subdivision of Lot 28 approved October 11, 1948 by HCPTC as SUB #56 and running by azimuths measured clockwise from true South:

- | | | | |
|----|--------------|--------|--|
| 1. | 214° 58' 00" | 138.00 | feet along Kihalani Homestead Road to a 1/2" pipe found, thence; |
| 2. | 199° 26' 00" | 197.00 | feet along Kihalani Homestead Road to a 1/2" pipe found, thence; |

3.	193°	51'	00"	16.00	feet Kihalani Homestead Road to a 1/2" pipe found, thence, along a Plantation Ditch Reserve the following 12 courses;
4.	258°	38'	00"	174.60	feet thence;
5.	297°	48'	00"	119.00	feet thence;
6.	283°	48'	00"	46.00	feet thence;
7.	310°	30'	00"	119.00	feet thence;
8.	2°	00'	00"	78.00	feet thence;
9.	349°	02'	00"	79.00	feet thence;
10.	306°	16'	00"	93.00	feet thence;
11.	280°	11'	00"	70.00	thence;
12.	295°	57'	00"	66.00	thence;
13.	255°	04'	00"	73.00	thence;
14.	297°	25'	00"	100.50	thence;
15.	327°	04'	00"	76.00	along same to a 1/2" pipe near top of Kihalani Gulch, thence;
16.	28°	18'	00"	420.00	along a 10 feet Reserve near top of Kihalani Gulch to a 1/2" pipe found, thence;
17.	357°	12'	00"	182.12	along a 10 feet Reserve near top of Kihalani Gulch to a 2" pipe found, thence;
18.	131°	15'	00"	1,046.00	feet along Lot 26, Grant 8570 to George K. Lonoehu, to the Point of Beginning, enclosing an area of 11.06 acres, 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 (2016 Edition, as amended), 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, their successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant, their successors or assigns shall comply with all applicable County, State and Federal laws, codes, rules, regulations and requirements.
- C. Restrictive covenants in the deeds of all proposed lots shall give notice that the terms of the zoning ordinance prohibit the construction of a second dwelling unit (also known as a farm dwelling or additional farm dwelling) and/or condominium property regimes (CPR) on each lot. Prior to the submittal of plans for subdivision review, this restrictive covenant shall be recorded against the parent lot(s) with applicability to all lots subsequently created from the parent lot(s). A copy of the proposed covenant(s) shall be submitted to the Planning Director for review and

approval prior to recordation with the State of Hawai‘i Bureau of Conveyances, with a copy of the recorded document to be filed with the Planning Department along with the subdivision application.

- D. The applicant, their 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.
- E. The applicant, their successors or assigns shall notify prospective purchasers, buyers, tenants or lessees of all lots that farming operations and practices on adjacent or contiguous land in the State Land Use Agricultural District area 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.
- F. 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.
- G. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance. No variance from the minimum water and road requirements in Hawai‘i County Code Chapter 23 and 25 shall be granted to subdivide the property.
- H. The plat submitted for subdivision approval shall be revised so that the lot configuration meets the Department of Water Supply’s Water System Standards for subdivisions, which allows for only one (1) lot to be out of the pressure zone. The plat shall also show the existing meter locations with the meter numbers.

- I. The applicant shall designate in writing to the Department of Water Supply which lot within the proposed subdivision will be assigned the existing service. Should the existing water meter or service lateral not front the parcel that it will serve, the existing meter or service lateral would need to be relocated to comply with the DWS Rules and Regulations.
- J. All development generated runoff shall be disposed of on site and not be directed toward any adjacent properties. A drainage study prepared by a civil engineer licensed in the State of Hawai'i shall be submitted to and approved by the Department of Public Works, and any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to the issuance of a construction permit.
- K. All earthwork and grading activity shall conform to the Hawai'i County Code Chapter 10, Erosion and Sedimentation Control, and Chapter 27, Flood Control.
- L. All driveway connections to Kihalani Homestead Road shall conform to Hawai'i County Code Chapter 22, County Streets.
- M. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- N. In the unlikely event that any surface or subsurface historic properties and/or resources, such as lava tube openings, concentrations of artifacts, structural remains or human skeletal remains are found during construction activities, the applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and immediately contact the State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651 for further guidance. The applicant shall also notify the Planning Department immediately after

contacting the DLNR-SHPD. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

- O. 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.


- P. 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. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

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

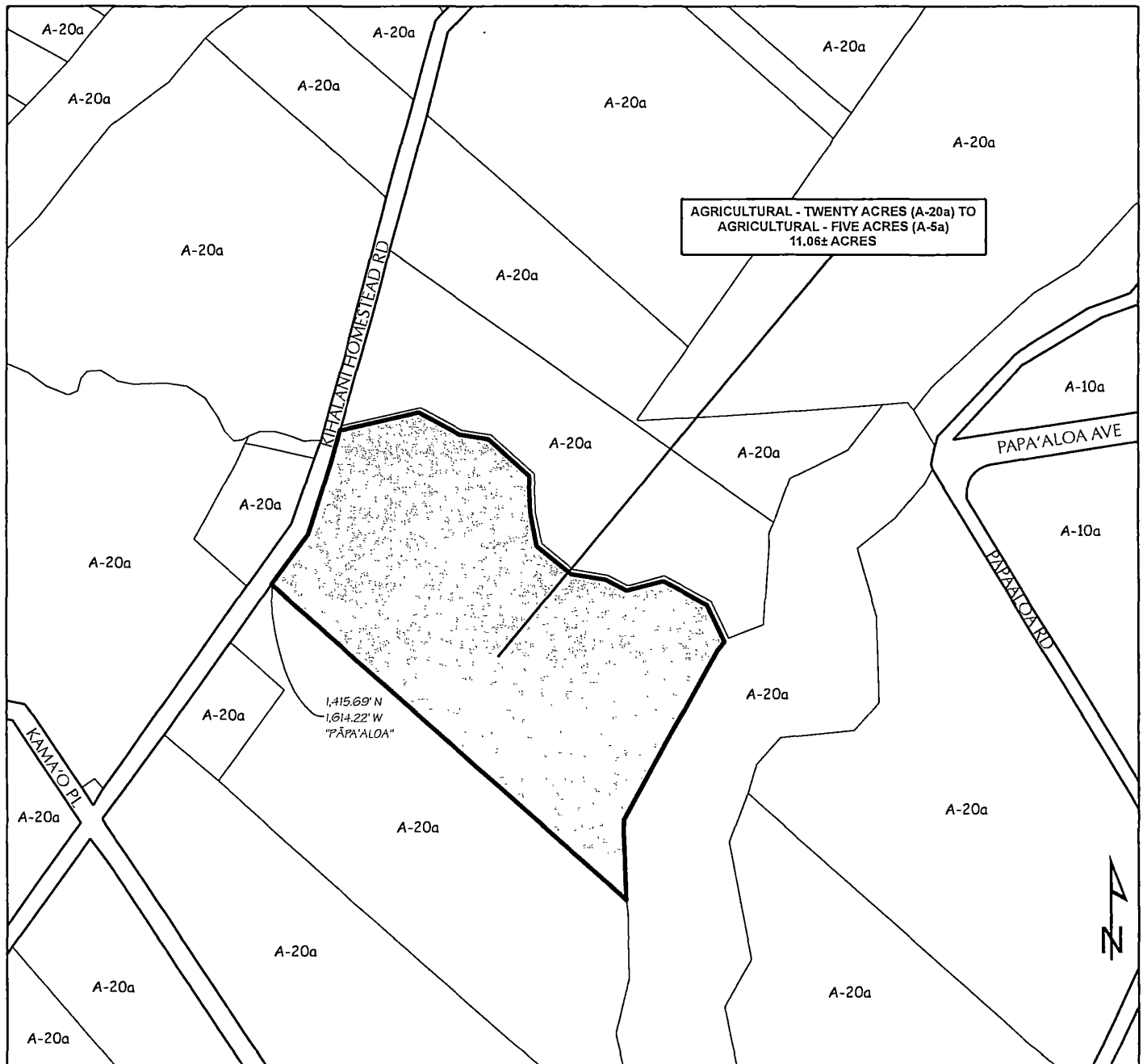
INTRODUCED BY:

 B/R

COUNCIL MEMBER, COUNTY OF HAWAI'I

_____ Kona, Hawai'i
Date of Introduction: September 5, 2018
Date of 1st Reading: September 5, 2018
Date of 2nd Reading: September 19, 2018
Effective Date: October 1, 2018

REFERENCE Comm. 1024



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-19 (NORTH HILO DISTRICT ZONE MAP) ARTICLE 8,
CHAPTER 25 (ZONING) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED),
BY CHANGING THE DISTRICT CLASSIFICATION FROM
AGRICULTURAL - TWENTY ACRES (A-20a) TO
AGRICULTURAL - FIVE ACRES (A-5a)
AT PĀPĀ'ALOA, NORTH HILO, HAWAI'I

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

TMK. (3) 3-5-004-023

DATE: April 23, 2018

EXHIBIT "A"

Andrus
Map: 1398

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

COUNTY CLERK
COUNTY OF HAWAII

2018 OCT -2 AM 8:49

Introduced By: Karen Eoff (B/R)
Date Introduced: September 5, 2018
First Reading: September 5, 2018
Published: September 15, 2018

REMARKS: _____

Second Reading: September 19, 2018
To Mayor: September 27, 2018
Returned: October 2, 2018
Effective: October 1, 2018
Published: October 13, 2018

REMARKS: _____

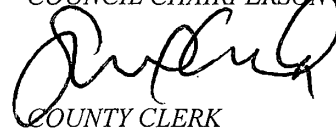
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kanuha	X			
Lee Loy	X			
O'Hara	X			
Poindexter	X			
Richards	X			
Ruggles			X	
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kanuha	X			
Lee Loy	X			
O'Hara	X			
Poindexter	X			
Richards			X	
Ruggles			X	
	7	0	2	0

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




COUNCIL CHAIRPERSON



COUNTY CLERK

Disapproved this 1st day
of October, 2018



MAYOR, COUNTY OF HAWAII

Bill No.: 177
Reference: C-1024/PC-69
Ord No.: 18 95