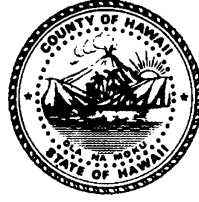


COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

ORDINANCE NO. 19 51 BILL NO. 32

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA 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 – FIVE ACRES (A-5a) TO FAMILY AGRICULTURAL – ONE ACRE (FA-1a) AT ‘O‘OMA, 1ST, NORTH KONA, HAWAI‘I, COVERED BY TAX MAP KEY: 7-3-005:112.

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

SECTION 1. Section 25-8-3, 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 ‘O‘oma 1st, North Kona, Hawai‘i, shall be Family Agricultural – 1 Acre (FA-1a):

Beginning at the northeasterly corner of this parcel of land, being the northwesterly corner of Grant 3821 to Kaulainamoku, along the southerly side of Lot 4, Kona Acres Subdivision, Unit I, Increment B, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 8,717.98 feet south and 11,588.35 feet west, thence running by azimuths measured clockwise from true South:

- | | | | |
|----|--------------|--------|--|
| 1. | 358° 14' 00" | 634.00 | feet along the westerly side of Grant 3821 to the northerly side of road (20.00 foot wide); |
| 2. | 94° 20' 00" | 125.00 | feet along the northerly side of road (20.00 feet wide) to the easterly side of Alanui Kauila; |

3.	146°	26'	00"	152.00	feet along the easterly side of the Alanui Kauila;
4.	149°	30'	00"	104.00	feet along the same;
5.	147°	24'	00"	70.00	feet along the same;
6.	142°	31'	00"	97.00	feet along the same;
7.	124°	36'	00"	218.00	feet along the same;
8.	126°	50'	00"	131.00	feet along the same;
9.	134°	00'	00"	47.00	feet along the same;
10.	137°	10'	00"	178.65	feet along the easterly side of Alanui Kauila to the southerly side of Kona Acres Subdivision, Unit I, Increment A;
11.	276°	52'	57"	783.87	feet along the southerly side of Kona Acres Subdivision, Unit I, Increment A and Unit I, Increment B to the point of beginning and containing an area of 5.966 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 (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 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 is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full in accordance with Rule 5 of the Department of Water Supply’s Rules and Regulations.
- D. Prior to issuance of Final Subdivision Approval, the applicant shall construct necessary water system improvements as required by the Department of Water Supply.
- E. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.
- F. Should the applicant, successors or assigns develop residential uses, 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 Hawai‘i 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.

- G. The connection of Lalei Street and Hane streets, both minor County streets, shall be constructed as proposed to County dedicable standards according to guidelines incorporated in the American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets for an appropriate design speed and meet the sight distance requirements of DPW, Engineering Division. The applicant shall install street lights, signs and markings meeting with the approval of the DPW, Traffic Division.
- H. All driveway connections to a County road shall conform to Chapter 22, Streets, of the Hawai'i County Code. Driveways shall conform to County Standard Details R-37 and R-38.
- I. All development generated runoff shall be disposed of on site and not be directed toward any adjacent properties. A drainage study of the project site shall be prepared by professional civil engineer licensed in the State of Hawai'i 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 in a manner meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
- J. The applicant shall comply with Chapter 11-55, Water Pollution Control, Hawai'i Administrative Rules, Department of Health, which requires an NPDES permit for certain construction activity.

- K. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- L. In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- M. 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 **\$14,329.89 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. **\$6,910.13** per single family residential unit to the County to support park and recreational improvements and facilities;

2. **\$333.35** per single family residential unit to the County to support police facilities;
3. **\$658.40** per single family residential unit to the County to support fire facilities;
4. **\$288.25** per single family residential unit to the County to support solid waste facilities; and
5. **\$6,139.77** 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.

- N. 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.
- O. Comply with all applicable County, State and Federal Laws, rules, regulations and requirements.

- 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 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 HAWAI'I

 Kona , Hawai'i
Date of Introduction: April 10, 2019
Date of 1st Reading: April 10, 2019
Date of 2nd Reading: April 24, 2019
Effective Date: May 7, 2019

REFERENCE Comm. 120



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP) ARTICLE 8,
 CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED),
 BY CHANGING THE DISTRICT CLASSIFICATION FROM
 AGRICULTURAL - FIVE ACRES (A-5a) TO
 FAMILY AGRICULTURAL - ONE ACRE (FA-1a)
 AT 'O'OMA 1ST, NORTH KONA, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 7-3-005:112

DATE: April 12, 2017

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

COUNTY CLERK
COUNTY OF HAWAII
2019 MAY -8 AM 10:14

Introduced By: Ashley Kierkiewicz (B/R)
Date Introduced: April 10, 2019
First Reading: April 10, 2019
Published: April 20, 2019

REMARKS: _____


Second Reading: April 24, 2019
To Mayor: May 2, 2019
Returned: May 8, 2019
Effective: May 7, 2019
Published: May 25, 2019



REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff			X	
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter	X			
Richards	X			
Villegas	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter	X			
Richards	X			
Villegas	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 7th day
of May, 2019.

MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRPERSON

COUNTY CLERK

Bill No.: 32
Reference: C-120/PC-16
Ord No.: 19 51