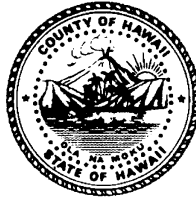


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 81

ORDINANCE NO. 19 88

AN ORDINANCE 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 KIHALANI, NORTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 3-5-004:030.

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 Kihalani, North Hilo, Hawai'i, shall be Agricultural – 5 acres (A-5a):

Beginning at an iron pipe on the east corner of this lot on Kihalani Homestead Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PĀPA'ALOA" being 2,251.4 ft. North and 1,380.2 ft. West, as shown on Government Survey Registered Map No. 2496, and running by True South azimuths:

- | | | | |
|----|-------------|--------|---|
| 1. | 13° 51' 00" | 538.00 | feet along Homestead Road to a pipe at ditch; |
| 2. | 93° 58' 00" | 117.00 | feet along the north side of the ditch reserve; |

3.	77°	30'	00"	88.00	feet along the north side of the ditch reserve;
4.	150°	08'	00"	90.00	feet along the north side of the ditch reserve;
5.	130°	08'	00"	68.00	feet along the north side of the ditch reserve;
6.	92°	03'	00"	130.00	feet along the north side of the ditch reserve;
7.	119°	33'	00"	55.00	feet along the north side of the ditch reserve;
8.	90°	20'	00"	57.00	feet along the north side of the ditch reserve;
9.	16°	02'	00"	75.00	feet along the north side of the ditch reserve;
10.	121°	22'	00"	95.00	feet along the north side of the ditch reserve;
11.	109°	37'	00"	115.00	feet along the north side of the ditch reserve;
12.	92°	33'	00"	83.00	feet along the north side of the ditch reserve;
13.	43°	34'	00"	29.00	feet along the north side of the ditch reserve to 10 ft. reserve along edge of gulch;
14.	164°	55'	00"	99.00	feet along reserve 10 ft. from edge of gulch;
15.	206°	47'	00"	91.00	feet along reserve 10 ft. from edge of gulch;
16.	240°	17'	00"	100.00	feet along reserve 10 ft. from edge of gulch;

17.	223°	21'	00"	163.00	feet along reserve 10 ft. from edge of gulch;
18.	217°	53'	00"	237.00	feet along reserve 10 ft. from edge of gulch;
19.	235°	13'	00"	176.00	feet along reserve 10 ft. from edge of gulch;
20.	219°	23'	00"	122.00	feet along reserve 10 ft. from edge of gulch to a pipe;
21.	311°	15'	00"	525.00	feet along Lot 7-A to the Point of Beginning, enclosing an area of 11.57 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 applicants, their successors or assigns shall comply with all applicable County, State and Federal laws, codes, rules, regulations and requirements.
- C. The applicants, 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.
- D. The applicants, 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.
- E. 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.
- F. 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 an 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.

- G. Prior to Final Subdivision Approval, the applicants shall cancel the Additional Farm Dwelling Agreement (FDA -08-000231) recorded on December 8, 2008.
- H. 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.
- I. The plat submitted for subdivision approval shall show the existing County water meter locations with the meter numbers. Should the existing water meters or service laterals not front the parcels that they will serve, they will need to be relocated to comply with Department of Water Supply (DWS) Rules and Regulations.
- J. Prior to receipt of Final Subdivision Approval, the applicants shall execute an Elevation Agreement with the Department of Water Supply due to one of the proposed lots being located at an elevation where the DWS cannot provide adequate water pressure.
- K. 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 for any new structure or driveway.

- L. All earthwork and grading activity shall conform to the Hawai'i County Code Chapter 10, Erosion and Sedimentation Control, and Chapter 27, Flood Control.
- M. Any new construction within the Kihalani Homestead Road right-of-way shall conform to Hawai'i County Code Chapter 22, County Streets.
- 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 applicants 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 applicants 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. 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.

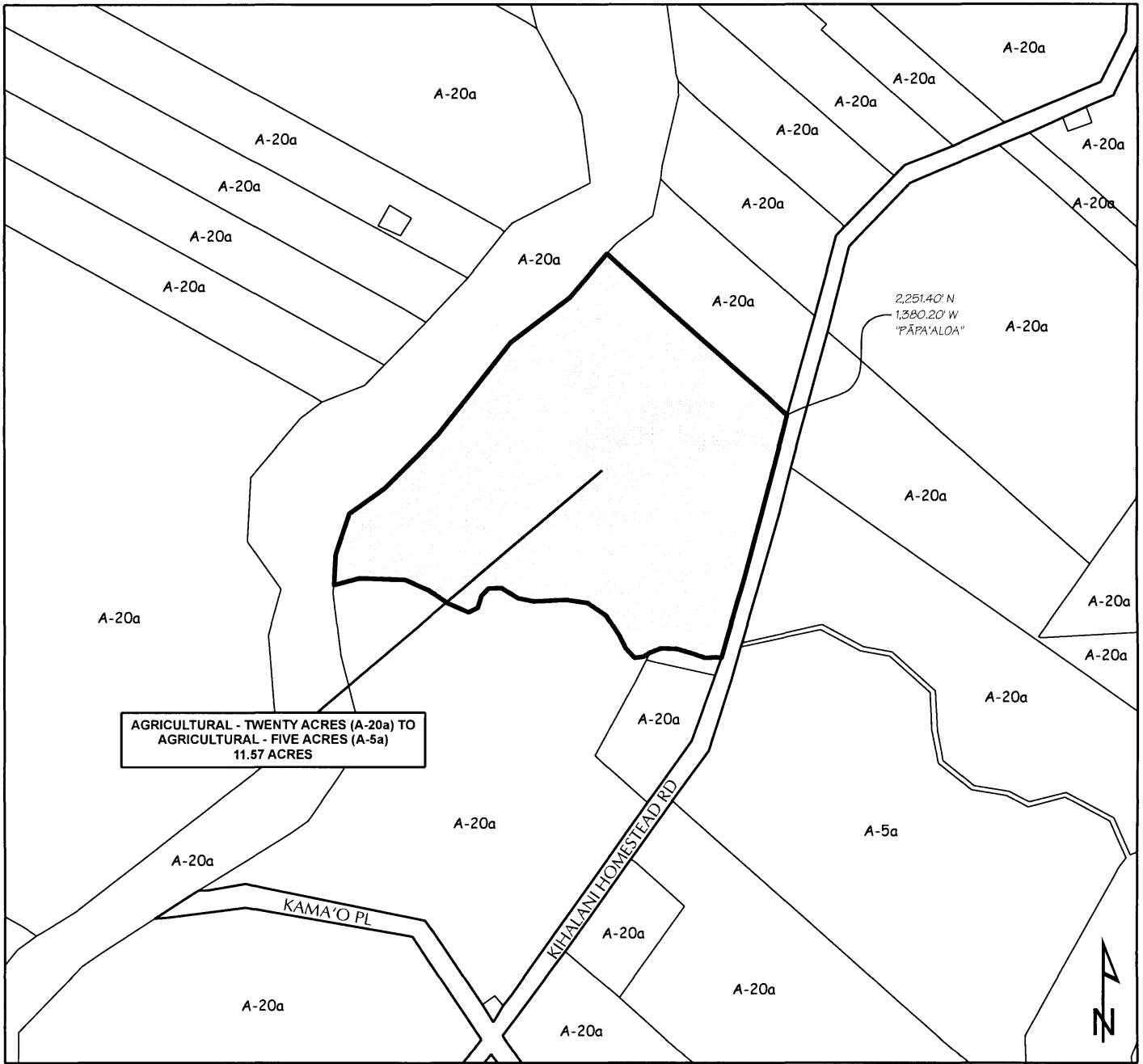
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

 Kona , Hawai'i
Date of Introduction: July 9, 2019
Date of 1st Reading: July 9, 2019
Date of 2nd Reading: July 24, 2019
Effective Date: August 8, 2019

REFERENCE Comm. 313



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 KIHALANI, NORTH HILO, HAWAI'I

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

TMK: (3) 3-5-004:030

DATE: February 6, 2019

EXHIBIT "A"

Freeman
Map: 1407

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

COUNTY CLERK
 COUNTY OF HAWAII

2019 AUG -8 PM 3:21

Introduced By: Ashley L. Kierkiewicz (B/R)
 Date Introduced: July 9, 2019
 First Reading: July 9, 2019
 Published: July 20, 2019

REMARKS: _____

Second Reading: July 24, 2019
 To Mayor: August 1, 2019
 Returned: August 8, 2019
 Effective: August 8, 2019
 Published: August 17, 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			
	9	0	0	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 8th day
 of August, 2019.

Harry J. ...
 MAYOR, COUNTY OF HAWAII

[Signature]
 COUNCIL CHAIRPERSON
[Signature]
 COUNTY CLERK

Bill No.: 81
 Reference: C-313/PC-25
 Ord No.: 19 88