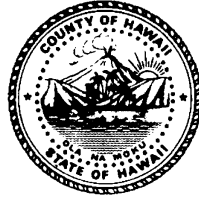


COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

ORDINANCE NO. 19 92 BILL NO. 90

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO 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 – THREE ACRES (A-3a) TO SINGLE FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) AT WAIĀKEA, SOUTH HILO, HAWAI‘I, COVERED BY TAX MAP KEY: 2-4-080:013.

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 (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 Waiākea, South Hilo, Hawai‘i, shall be Single Family Residential – 10,000 square feet (RS-10):

Beginning at the northwest corner of this parcel of land, being the southeast corner of Lot 66, Ahualani Subdivision, Unit 1, File Plan 1453, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 14,145.374 feet South and 257.67 East and running by azimuths measured clockwise from True South:

- |    |          |        |   |
|----|----------|--------|---|
| 1. | 265° 40' | 303.70 | feet along Lot 23, Mailani Street and Lot 22 of Ahualani Subdivision, Unit 1, File Plan 1453; |
| 2. | 355° 40' | 911.90 | feet along Lots 75, 64, 63, 56, 55, 48, 47 and 40 of Hoomalu Street Subdivision;              |

3. 85° 40' 400.55 feet along Lots 1-B and 2-B;
4. Thence along Lot 4-B, along a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being: 130° 40' 42.43 feet;
5. 175° 40' 408.86 feet along Lot 4-B;
6. 265° 40' 126.85 feet along Lot 4-B;
7. 175° 40' 473.04 feet along Lots 4-B, 3-B, 3-A, 2 and 1 to the point of beginning and containing an area of 7.631 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 applicant, 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. 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.
- D. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.
- E. Prior to issuance of Final Subdivision Approval, the applicant shall construct necessary water improvements, which shall include but not be limited to: 1) water mains capable of providing water at adequate pressure under peak-flow and fire-flow conditions; minimum diameter of which shall be six (6) inches; 2) service laterals that will accommodate a 5/8-inch meter to front each lot; 3) fire hydrants spaced no more than 600-feet apart. On dead-end streets, the last fire hydrant shall be located at one-half (1/2) the distance from the last house, or unit, fronting the property or driveway or access to the property; and 4) subject to other agencies requirements to construct improvements within the road right-of-way fronting the property affected by the proposed development, the applicant shall be responsible for the relocation and adjustment of the Department's affected water system facilities, should they be necessary.
- F. The applicant shall provide improvements to the proposed Mailani Street extension consisting of, but not limited to, pavement widening with concrete curb,

gutter and sidewalk, drainage improvements and any required utility relocation, meeting the requirements of the Americans with Disabilities Act and the approval of the Department of Public Works. The proposed Mailani Street extension shall match with the existing Mailani Street which includes 50-feet of right-of-way width.

- G. Mailani Street Extension shall be built to County dedicable standards, including the provision of concrete curbs, gutters, and sidewalks, and dedicated to the County upon Final Subdivision Approval.
- H. Construction within the County right-of-way shall conform to Chapter 22, County Streets, of the Hawai‘i County Code.
- I. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to the construction of any proposed structures on the property.
- J. The applicant shall comply with the Department of Health’s Hawai‘i Administrative Rules (HAR) Chapter 11-55, rules regarding Water Pollution Control, which requires an NPDES permit for certain construction activities.
- 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. 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.

- M. 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 development and/or construction work, the applicant will 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.
- N. A septic system, meeting with the approval of the Department of Health, shall be completed by each respective landowner in conjunction with the construction of a dwelling prior to the issuance of the Certificate of Occupancy.
- O. 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 **\$14,696.92** 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. **\$7,087.11** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$341.89** per single family residential unit to the County to support police facilities;
3. **\$675.26** per single family residential unit to the County to support fire facilities;
4. **\$295.64** per single family residential unit to the County to support solid waste facilities; and
5. **\$6,297.02** 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.

- P. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to Final Subdivision Approval.
- Q. 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.
- R. 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(s) should require an additional extension of time, the Planning Director 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 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.

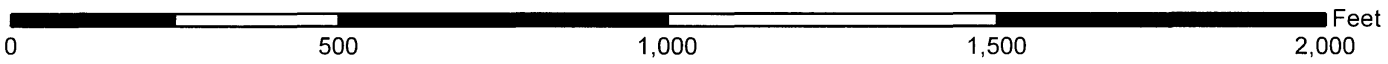
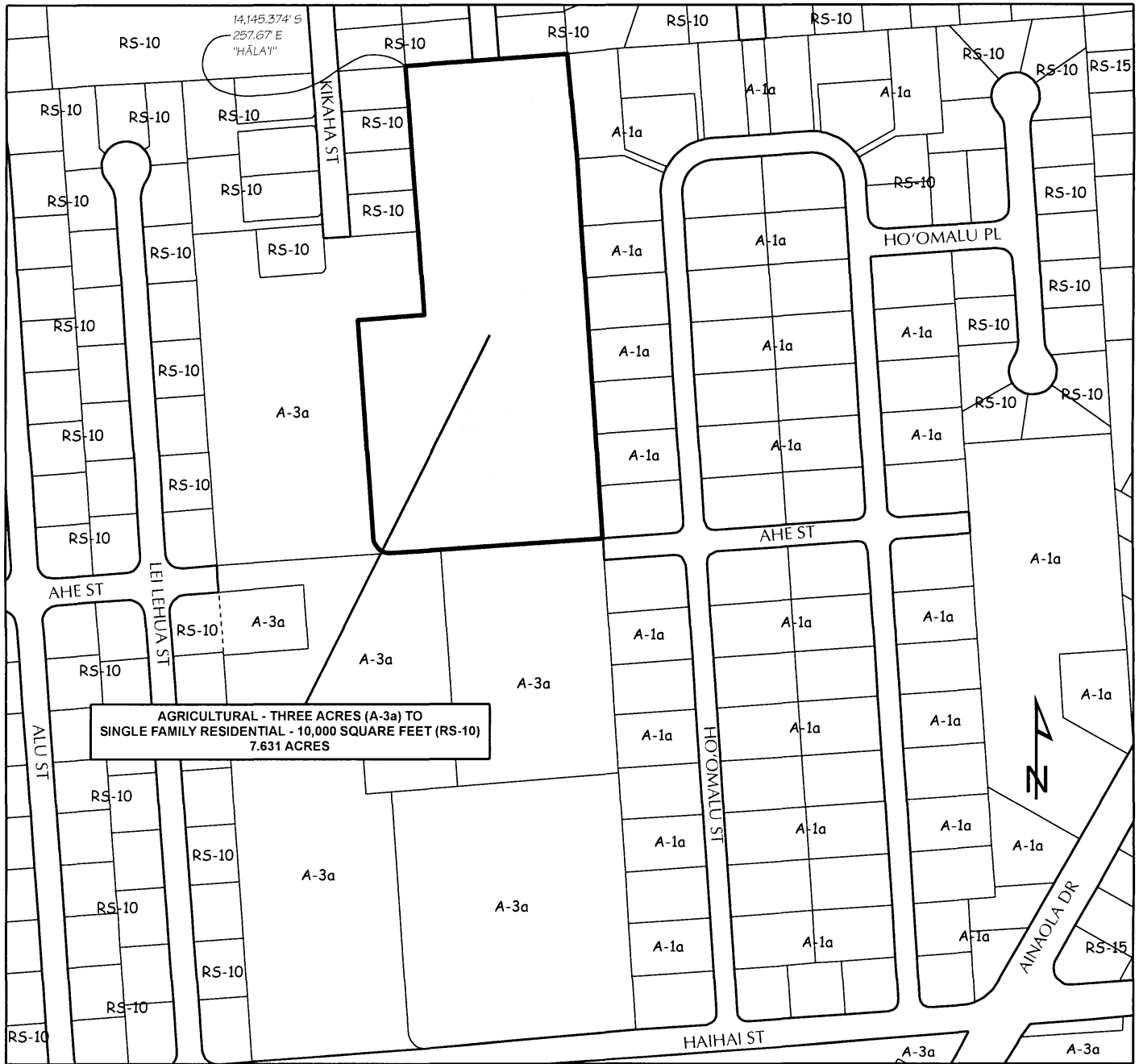
INTRODUCED BY:

  
\_\_\_\_\_  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i  
Date of Introduction: August 21, 2019  
Date of 1st Reading: August 21, 2019  
Date of 2nd Reading: September 4, 2019  
Effective Date: September 18, 2019

REFERENCE Comm. 366





# **AMENDMENT TO THE ZONING CODE**

AMENDING SECTION 25-8-33 (CITY OF HILO 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 - THREE ACRES (A-3a) TO  
SINGLE FAMILY RESIDENTIAL - 10,000 SQUARE FEET (RS-10)  
AT WAIĀKEA, SOUTH HILO, HAWAI'I

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

TMK: (3) 2-4-080:013

DATE: March 11, 2019

EXHIBIT "A"

Umemoto  
Mao: 1408

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

COUNTY CLERK  
 COUNTY OF HAWAII  
 2019 SEP 18 PM 2:02

Introduced By: Ashley L. Kierkiewicz (B/R)  
 Date Introduced: August 21, 2019  
 First Reading: August 21, 2019  
 Published: August 31, 2019

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

Second Reading: September 4, 2019  
 To Mayor: September 12, 2019  
 Returned: September 18, 2019  
 Effective: September 18, 2019  
 Published: September 28, 2019

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


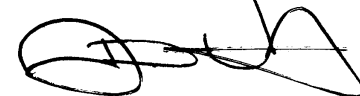
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter			X	
Richards	X			
Villegas			X	
	7	0	2	0

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 18<sup>th</sup> day  
 of September, 2019

  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 90  
 Reference: C-366/PC-29  
 Ord No.: 19 92