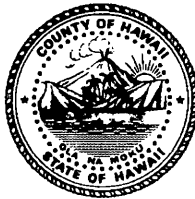


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **22 122** BILL NO. 222

AN ORDINANCE AMENDING SECTION 25-8-19 (NORTH 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 – 20 ACRES (A-20a) TO FAMILY AGRICULTURAL – ONE ACRE (FA-1a) AT 'O'OKALA, NORTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 3-9-001:023, AND 031.

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 'O'okala, North Hilo, Hawai'i, shall be Family Agricultural – One Acre (FA-1a):

Beginning at the Southeast corner of Parcel 4 of Tax Map Key (3) 3-9-01, the coordinates of which referred to Government Survey Triangulation Station "HUMU'ULA" being 5,709.26 feet North and 1,792.09 feet West, and running by azimuths measured clockwise from True South:

1. 192° 33' 29" 967.81 feet, along Parcel 4 and Lot 161, along remainder of Grant 2467 to Hanehane and Ka'awapu'upu'uole; thence, along Parcel 24, along remainder of Grant 2467 to Hanehane and Ka'awapu'upu'uole on a curve to the right with a radius of 1,462.66 feet, the chord azimuth and distance being:

2.	309°	53'	58"	138.68	feet;
3.	312°	37'		590.00	feet, along the Parcel 24, along remainder of Grant 2467 to Hanehane and Ka'awapu'upu'uole;  thence, along Parcel 24, along remainder of Grant 2467 to Hanehane and Ka'awapu'upu'uole on a curve to the left with a radius of 686.88 feet, the chord azimuth and distance being:
4.	298°	14'	01"	341.25	feet;  thence, along Government (Crown) Land of 'O'okala and Manowaialee, along the middle of Alaiialoa Gulch, for the next nine calls, the direct azimuths and distances being:
5.	45°	04'		53.00	feet;
6.	13°	30'		123.70	feet;
7.	0°	41'		94.15	feet;
8.	328°	23'		40.20	feet;
9.	273°	43'	30"	50.35	feet;
10.	272°	20'	30"	57.60	feet;
11.	327°	38'		44.00	feet;
12.	342°	41'		53.27	feet;
13.	350°	51'		34.23	feet, to the North side of Old Māmalahoa Highway;  thence, along the North side of Old Māmalahoa Highway on a curve to the right with a radius of 419.70 feet,

					the azimuth to the radius center being: 159° 47' 32" the chord azimuth and distance being:
14.	71°	01'	01"	17.94	feet;
					thence, along the North side of Old Māmalahoa Highway on a curve to the right with a radius of 323.48 feet, the chord azimuth and distance being:
15.	84°	24'	45"	136.40	feet;
16.	96°	35'		886.93	feet, along the North side of Old Māmalahoa Highway;
					thence, along the North side of Old Māmalahoa Highway on a curve to the right with a radius of 310.00 feet, the chord azimuth and distance being:
17.	103°	18'		72.51	feet;
18.	110°	01'		56.94	feet, along the Northern side of Old Māmalahoa Highway, to the point of beginning and containing an Gross area of 15.404 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(s), its successor(s) or assign(s) ("Applicant") shall be responsible for complying with all of the stated conditions of approval.
- B. The Applicant 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. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.
- D. The Applicant is responsible for maintaining valid water commitments to support the proposed development until such time that required water facilities charges are paid in full.
- E. The Applicant shall construct necessary water system improvements as required by the Department of Water Supply, which may include, but not be limited to, 1) service laterals that will accommodate a 5/8-inch meter to front each lot, 2) water mains capable of delivering water at adequate pressure and volume under peak-flow and fire-flow conditions; minimum diameter of mains shall be six (6) inches, 3) fire hydrants spaced no more than 600 feet apart, 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 application shall be responsible for the relocation and adjustment of the Department of Water Supply's affected water system facilities, should they be necessary.

- F. No variance from the minimum water requirements in Hawai'i County Code Chapters 23 and 25 shall be granted to the property. Should there be additional water units available in the future from the Department of Water Supply this condition shall be automatically adjusted to the then current standards.
- G. All driveway connections and construction within the Old Māmalahoa Highway Right-of-Way shall conform to Chapter 22, County Streets, of the Hawai'i County Code. Access to Old Māmalahoa Highway, including the provision of adequate site distances, shall meet with the approval of the Department of Public Works.
- H. Prior to Final Subdivision Approval, the applicant shall install necessary safety devices (i.e. guardrails) along the subject properties Old Māmalahoa Highway frontage, provided no utility relocation is required, if required by the Department of Public Works.
- I. The Applicant shall provide their pro-rata share for the construction of full improvements to the entire property frontage along Old Māmalahoa Highway consisting of, but not limited to, paved shoulders, bike lanes, and swales, drainage improvements and any required utility relocation meeting with the approval of the Department of Public Works (DPW). The pro-rata share for roadway improvements specified in this condition shall be determined by the DPW and shall become due and payable to the County of Hawai'i within six (6) months from the date that formal notice is served upon the Applicant by the DPW regarding a program for the installation of paved shoulders, bike lanes, and swales, drainage improvements and any required utility relocation along the properties frontage of Old Māmalahoa Highway. In the event the pro-rata share is

not paid prior to receipt of final subdivision approval, restrictive covenant(s) in the deeds of all the proposed lots shall specify the pro-rata share obligation contained in this condition. In that event, a copy of the proposed covenant(s) to be recorded with the 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.

- J. 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 professional civil engineer licensed in the State of Hawai'i and submitted to the Department of Public Works. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of Final Subdivision Approval.
- K. All earthwork and grading activity shall conform to Hawai'i County Code Chapter 10, Erosion and Sedimentation Control, and Chapter 27 Flood Control.
- L. A National Pollutant Discharge Elimination System (NPDES) permit and an Underground Injection Control (UIC) permit, if required, shall be secured from the State Department of Health before the commencement of construction activities.
- M. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- N. In the 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, the Applicant shall

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.

- O. To protect any Hawaiian Hoary Bats in the vicinity of the property, barbed wire fencing shall not be used on the property and woody vegetation over 15 feet in height shall not be removed during bat breeding season of June 1st to September 15th.
  
- P. If any listed waterbirds such as the Hawaiian Duck, Hawaiian Stilt, Hawaiian Coot or Hawaiian Goose (Nēnē) are present during any construction activities, cease all activities within 100 feet of the bird. Work may continue after the bird leaves of its own accord. If a nest is discovered at any point, the Hawai'i Island Branch DOFAW Office shall be contacted.
  
- Q. If trees are to be cut, particularly during the breeding season from March to September, the area shall first be surveyed to ensure no Hawaiian Hawk ('Io) nests are present.
  
- R. 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.
  
- S. The Applicant(s) shall make its fair share contribution to mitigate the potential regional impacts of the property 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 lot shall be based on the number of lots developed. 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 maximum combined value of **\$15,636.59** per single family residential lot. The fair share contribution per single family residential lot shall be allocated as follows:

- A. \$7,540.24** per single family residential lot to the County to support park and recreational improvements and facilities;
- B. \$363.74** per single family residential lot to the County to support police facilities;
- C. \$718.44** per single family residential lot to the County to support fire facilities;
- D. \$314.54** per single family residential lot to the County to support solid waste facilities; and
- E. \$6,699.63** per single family residential lot to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the Applicant(s) 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. The cash value to implement the off-site road improvement requirement outlined in Condition H shall be credited against the road and traffic improvements assessment.



- T. 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.
- U. The Applicant shall comply with all applicable County, State and Federal Laws, rules, regulations and requirements.
- V. 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 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).

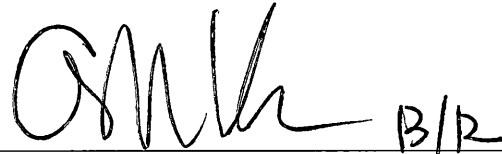
If the Applicant should require an additional extension of time, the Planning Department shall submit the Applicant's request to the County Council for appropriate action.

W. 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.

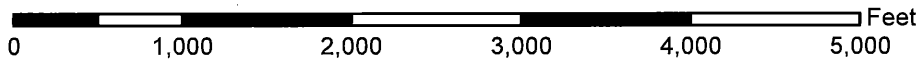
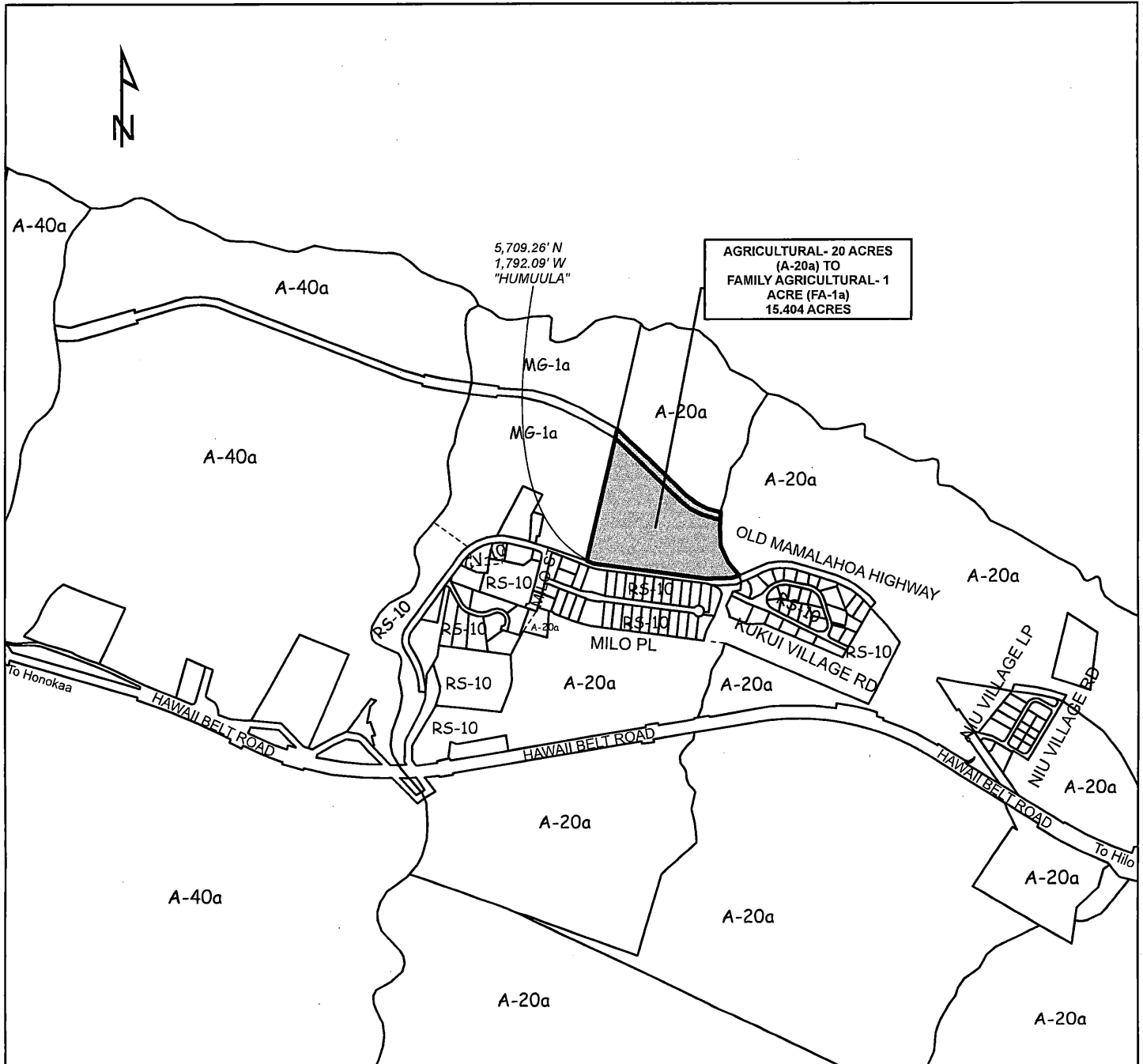
INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'B/R', written over a horizontal line.

COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i  
Date of Introduction: November 2, 2022  
Date of 1st Reading: November 2, 2022  
Date of 2nd Reading: November 16, 2022  
Effective Date: December 5, 2022

REFERENCE Comm. 1031



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-19 (NORTH-HILO DISTRICT ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL- 20 ACRES (A-20a) TO FAMILY AGRICULTURAL- 1 ACRE (FA-1a) AT OOKALA, NORTH HILO, HAWAII

MAP PREPARED BY:  
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 3-9-001:023;031

DATE: September 18, 2022

EXHIBIT "A"

Leonard Cardoza Trust  
Map: 1440

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

COUNTY CLERK  
 COUNTY OF HAWAII

2022 DEC -5 PM 3: 35

Introduced By: Ashley L. Kierkiewicz (B/R)  
 Date Introduced: November 2, 2022  
 First Reading: November 2, 2022  
 Published: November 11, 2022

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
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Second Reading: November 16, 2022  
 To Mayor: November 25, 2022  
 Returned: December 5, 2022  
 Effective: December 5, 2022  
 Published: December 23, 2022



REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Richards	X			
Villegas	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy			X	
Richards				
Villegas			X	
	6	0	2	0

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

Approved/Disapproved this 5<sup>th</sup> day  
 of December, 2022.  
  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 222  
 Reference: C-1031/PC-82  
 Ord No.: 22 122