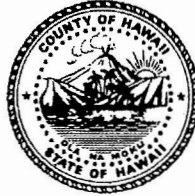


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 41

(DRAFT 2)

ORDINANCE NO. 23 52

AN ORDINANCE AMENDING SECTION 25-8-2 (NORTH AND SOUTH KONA 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 – TEN ACRES (A-10a) AT KALOKO, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 7-3-027:003.

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

SECTION 1. Section 25-8-2, 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 Kaloko, North Kona, Hawai'i, shall be Agricultural – Ten Acres (A-10a):

Beginning at the Southwesterly corner of this parcel of land, being also the Northwesterly corner of Lot 4 of Block 9 of Kaloko Mauka Subdivision, Increment 2 (File Plan 1010) and being a point on the Easterly side of Haleamau Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 10,032.37 feet South and 3,920.84 feet East and running by azimuths measured clockwise from True South:

1. 195° - 35' 650.00 feet along the Easterly side of
 Haleamau Street to a point;

Thence, for the next three (3) courses following along the remainder of Royal Patent 8214, Land Commission Award 7715, Apana 11 to Lota Kamehameha:

- | | | | |
|----|--------------|----------|---|
| 2. | 285° 35' | 1,127.48 | feet along Lot 8 of Block 9 of Kaloko Mauka Subdivision, Increment 2 (File Plan 1010) to a point; |
| 3. | 5° 10' | 1,012.45 | feet along Lot 7 and Lot 5 of Block 9 to Kaloko Mauka Subdivision, Increment 2 (File Plan 1010) to a point; |
| 4. | 120° 21' 48" | 1,355.38 | feet along Lot 4 of Block 9 of Kaloko Mauka Subdivision, Increment 2 (File Plan 1010) to the point of beginning and containing an area of 22.665 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, its successors or assigns ("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. Prior to issuance of Final Subdivision Approval, the applicant shall show on the subdivision plat map the existing meter locations with the meter numbers and shall designate in writing which lots within the proposed subdivision will be assigned the existing water service. Should the existing water meters or service laterals not front the parcel that they will serve, the applicant shall relocate the water meters or service laterals meeting with the approval of Department of Water Supply.
- D. Final Subdivision Approval of the proposed agricultural subdivision shall be secured from the Planning Director within five (5) years from the effective date of this ordinance. The Applicant shall reserve the following easements and special setbacks in perpetuity for purposes of protecting and maintaining naturally forested areas and shall delineate such easements and setbacks on plans submitted for subdivision review:
 - 1. A 100-foot-wide "forest reserve easement" along the existing roadway frontage of the subject property, exclusive of the access point permitted by the Department of Public Works.
 - 2. A 30-foot-wide "forest reserve easement" along all lot lines not covered by the 100-foot easement.
 - 3. For new structures proposed after the effective date of this ordinance, a 100-foot-wide structural setback in lieu of the required 30-foot setback along the existing property's public street frontage to provide an additional buffer.

- E. Restrictive covenant(s) in the deeds of all the proposed agricultural lots fronting Haleamau Street shall specify and uphold the easements and setbacks set forth in Condition D. The restrictive covenant(s) shall also specify that, including the area comprising the forest reserve easements described in Condition D, no less than eighty percent (80%) of the entire lot area shall be retained in forest. 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.
- F. Restrictive covenants in the deeds of all the proposed lots within the subject property 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. A Forest Management Plan for the proposed lots within the subject property shall be prepared and submitted for review and approval by the Planning Director in consultation with the State Department of Land and Natural Resources. The forest management plan shall require the following:
1. Include a minimum, the best forest and reforestation practices program for implementation and other applicable forestry management criteria, including those of the State Department of Land and Natural Resources (i.e. Forest Stewardship Program).

2. The forest management program shall include a restrictive covenant for the proposed lots within the subject property which shall be recorded with the Hawai'i Bureau of Conveyances and/or Land Court. A copy of the covenants to be recorded shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision Approval. A copy of the approved covenant(s) shall be recited in an instrument executed by the Applicant and the County and recorded with the Bureau of Conveyances prior to the issuance of Final Subdivision Approval.
 3. If more than twenty percent (20%) of the subject property has been cleared or grubbed prior to the submittal of the Forest Management Plan or the recording of the restrictive covenant(s), the reforestation program for any cleared or grubbed area(s) in excess of the 20% within the subject property shall be substantially implemented prior to the issuance of Final Subdivision Approval.
 4. This Forest Management Plan shall govern the proposed lots within the subject property for a period of fifty (50) years and its termination may be considered after the 50-year period has elapsed by amending this ordinance requiring County Council approval by ordinance.
- H. 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 Department of Land and Natural Resources - State Historic Preservation Division (DLNR-SHPD) 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.

- I. Should any state or federally listed or endangered species be found on the subject property, the Applicant shall comply with all applicable requirements of Department of Land and Natural Resources - Division of Forestry and Wildlife.
- J. Access(es) to the subject property from Haleamau Street shall comply with Hawai'i County Code, Chapter 22 (County Streets).
- K. The Applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject property with respect to roads. The fair share contribution shall become due and payable prior to receipt of Final Subdivision Approval. The fair share contribution shall be based on the actual number of additional lots created. The fair share contribution to address the potential road impacts shall be in the form of cash and/or in-kind services approved by the County Council and shall be applied to improving the Kaloko Drive/Māmalahoa Highway intersection. Based upon the Applicant's representation of intent to subdivide and develop up to one additional lot, the fair share contribution is **\$15,636.59** per additional lot. The fair share contribution shall be adjusted annually by the Hawai'i County Planning Department, beginning three years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index. Upon approval of the fair share contribution, the Planning Director shall submit a final report to the County Council for its information that identifies the specific approved fair share contributions, as allocated, and further implementation requirements.
- L. 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.
- M. The Applicant shall comply with all applicable County, State and Federal codes, laws, rules, regulations and requirements for the proposed development.

- N. An initial extension of time for the performance of conditions within the ordinance may be requested in accordance with Section 25-2-44 of the Hawai'i County Code.
- O. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the property 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.

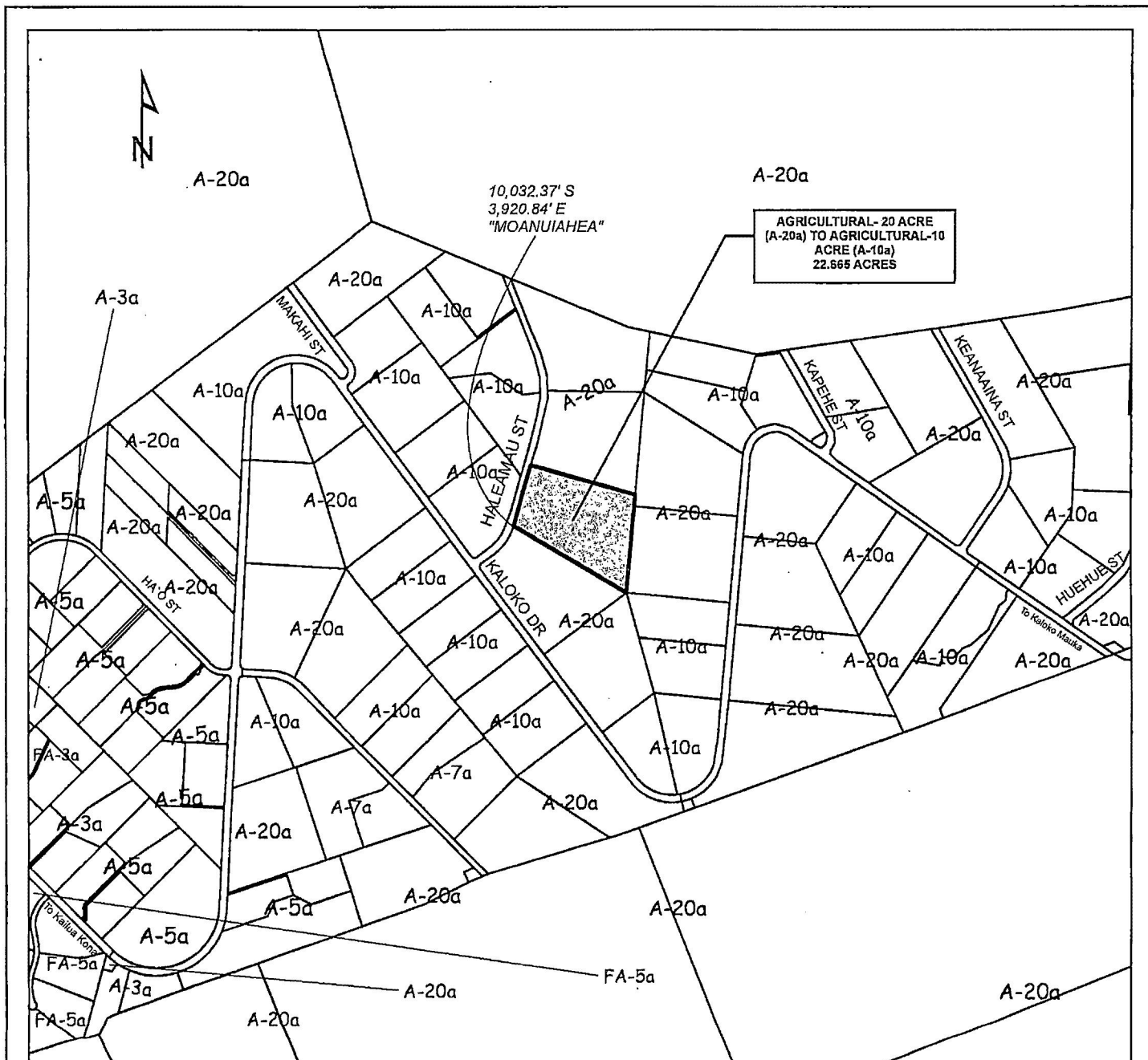
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

 B/R
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i
Date of Introduction: May 17, 2023
Date of 1st Reading: May 17, 2023
Date of 2nd Reading: June 7, 2023
Effective Date: June 21, 2023

REFERENCE Comm. 210.2



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-2 (NORTH & SOUTH KONA 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 ACRE (A-20a) TO AGRICULTURAL-10 ACRE (A-10a)
AT KALOKE, NORTH KONA, HAWAII.

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 7-3-027:003

DATE: December 8, 2022

EXHIBIT "A"

Charles & Ann Stevenson, John Fumo
Map: 1448

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

COUNTY CLERK
COUNTY OF HAWAII

2023 JUN 23 AM 8:39

(Draft 2)

Introduced By: Dr. Holeka Goro Inaba

Date Introduced: May 17, 2023

First Reading: May 17, 2023

Published: May 26, 2023

REMARKS:

Second Reading: June 7, 2023

To Mayor: June 9, 2023

Returned: June 23, 2023

Effective: June 21, 2023

Published: June 30, 2023

REMARKS:

ROLL CALL VOTE

	AYES	NOES	ABS	EX
Evans	X			
Galimba	X			
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Villegas			X	
	8	0	1	0

ROLL CALL VOTE

	AYES	NOES	ABS	EX
Evans	X			
Galimba	X			
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	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 21 day
of June, 2023

[Signature]
MAYOR, COUNTY OF HAWAII

[Signature]
COUNCIL CHAIRPERSON

[Signature]
COUNTY CLERK

Bill No.: 41 (Draft 2)

Reference: C-210.2/LAAC-17

Ord No.: 23 52