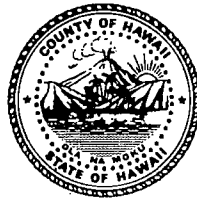


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 166

ORDINANCE NO. 24 55

(DRAFT 2)

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA 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 – 20 ACRES (A-20a) TO FAMILY AGRICULTURAL – 5 ACRES (FA-5a) AT NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 7-3-024:003.

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 North Kona, Hawai'i, shall be Family Agricultural – 5 Acres (FA-5a):

Beginning at the Easternmost corner of this parcel of land, being also the Northwestern corner of Lot 8 and being a point on the Southerly side of Kaloko Drive, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 13,675.05 feet South and 1,144.90 feet West and running by azimuths measured clockwise from True South:

- |    |          |          |   |
|----|----------|----------|---|
| 1. | 45° 10'  | 1,399.98 | feet along Lot 8, Lot 7 and Lot 6 of Block 3 of Kaloko Mauka Subdivision, Increment 1 and along the remainder of Royal Patent 8214, Land Commission Award 7715, Apana 11 to Lota Kamehameha to a point; |
| 2. | 135° 10' | 472.87   | feet along Lot 4-A of Block 3 of Kaloko Mauka Subdivision, Increment 1 and along the remainder  |

of Royal Patent 8214, Land Commission Award 7715, Apana 11 to Lota Kamehameha to a point;

Thence, for the next four (4) courses following along the Easterly side of Hao Street:

3. 215° 10' 554.70 feet to a point;

Thence, following on a curve to the left with a radius of 1,030.00 feet, the chord azimuth and distance being:

4. 198° 51' 30" 578.46 feet to a point;

5. 182° 33' 341.50 feet to a point;

Thence, following on a curve to the right with a radius of 50.00 feet, the chord azimuth and distance being:

6. 248° 51' 30" 91.57 feet to a point;

7. 315° 10' 1,020.00 feet along the Southerly side of Kaloko Drive to the point of beginning and containing an area of 21.942 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. The Applicant shall submit the required water commitment payment to the Department of Water Supply in accordance with its “Water Commitment Guidelines Policy” within one hundred and eighty (180) days from the effective date of this change of zone ordinance. 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 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 frontages of the subject property, exclusive of the sight distances and access points permitted by the Department of Public Works;
  - 2. A 30-foot “forest reserve easement” along all proposed lot lines not covered by the 100-foot easement; and
  - 3. 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 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 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 at 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 plan shall be reflected in restrictive covenants for the proposed lots within the subject property. A copy of the covenants shall be submitted to the Planning Director for review and approval. 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. As represented by the Applicant, no land-clearing activities within the subject property shall occur prior to the issuance of Final Subdivision Approval, with the exception of such clearing activities minimally necessary to satisfy the requirements for Final Subdivision Approval. 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 perpetually govern the proposed lots within the subject property.
- H. Access to Kaloko Drive and Haō Street including the provision of adequate sight distances, shall comply with Chapter 22 (County Streets) of the Hawai'i County Code and shall meet with the approval of the Department of Public Works.
- I. All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.

- J. All development generated runoff shall be disposed of on-site and not be directed toward any adjacent properties. A drainage study shall be prepared 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.
- K. Individual Wastewater Systems for each proposed lot shall comply with the requirements of the State Department of Health.
- L. 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 and/or the United States Fish and Wildlife Service.
- M. 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.
- N. 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 and shall be based on the actual number of additional lots created. The fair share

contribution in the 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 (3) 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 **\$16,641.15** per residential lot. The fair share contribution per residential lot shall be allocated as follows:

1. **\$8,024.66** per residential lot to the County to support parks and recreational improvements and facilities;
2. **\$387.11** per residential lot to the County to support police facilities;
3. **\$764.59** per residential lot to the County to support fire facilities;
4. **\$334.75** per residential lot to the County to support solid waste facilities; and
5. **\$7,130.04** per residential lot 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 pursuant to Section 2-162.1(a) of the Hawai'i County Code.

- O. 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 Fee Ordinance.

- P. The Applicant shall comply with all applicable County, State and Federal laws, rules, requirements, and regulations.
  
- Q. If the applicant fails to fulfill any conditions of the zone change, the Planning Director or County Council may initiate the process for enactment of an ordinance reverting the affected property back to its original zoning designation or a more appropriate zoning designation in accordance with Section 25-2-43 of the Hawai'i County Code.
  
- R. An initial extension of time for the performance of conditions within this ordinance may be requested in accordance with Section 25-2-44, subsections (c) and (d), of the Hawai'i County Code.

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.

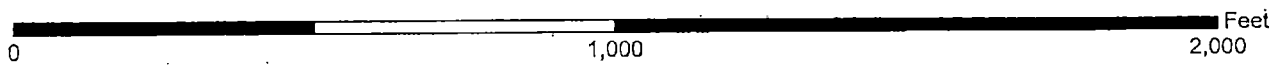
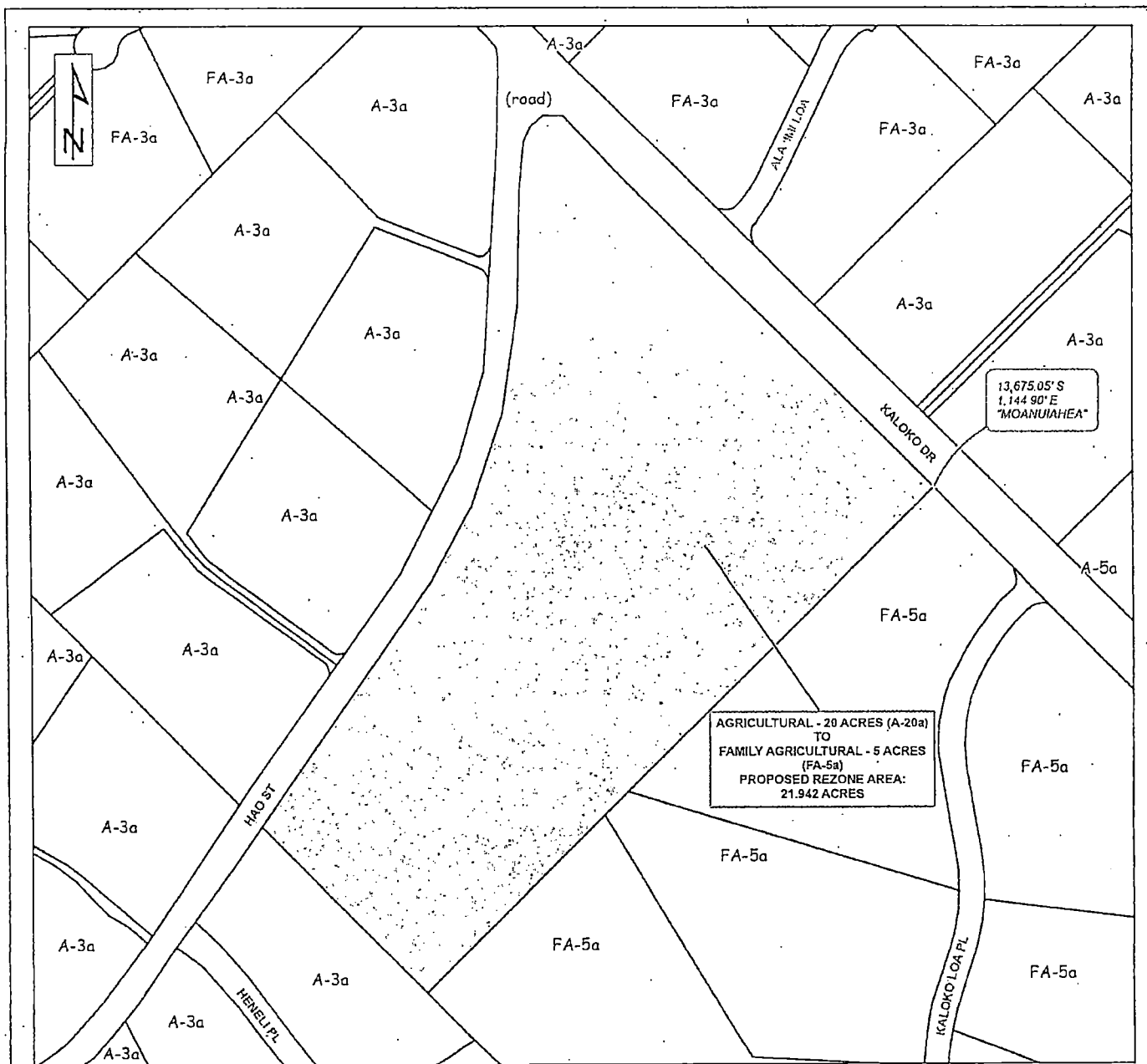
INTRODUCED BY:

  
 COUNCIL MEMBER, COUNTY OF HAWAI'I

          Kona          , Hawai'i  
 Date of Introduction: July 10, 2024  
 Date of 1st Reading: July 10, 2024  
 Date of 2nd Reading: July 24, 2024  
 Effective Date: August 1, 2024

REFERENCE Comm.           885.9





# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH 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 ACRES (A-20a)  
 TO FAMILY AGRICULTURAL - 5 ACRES (FA-5a)  
 AT NORTH KONA, HAWAII

MAP PREPARED BY:  
 COUNTY OF HAWAII, PLANNING DEPARTMENT

DATE: April 1, 2024

TMK: (3) 7-3-024:003

Ryan Leese  
 Map: 1460

EXHIBIT "A"

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

COUNTY CLERK  
COUNTY OF HAWAII  
2024 AUG -6 PM 3: 54

(Draft 2)

Introduced By: Dr.Holeka Goro Inaba (B/R)  
Date Introduced: July 10, 2024  
First Reading: July 10, 2024  
Published: July 19, 2024

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

Second Reading: July 24, 2024  
To Mayor: July 30, 2024  
Returned: August 6, 2024  
Effective: August 1, 2024  
Published: August 16, 2024

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


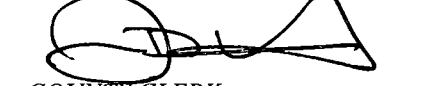
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Evans	X			
Galimba	X			
Inaba	X			
Kagiwada		X		
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy			X	
Villegas		X		
	6	2	1	0

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		
	7	2	0	0

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

Approved/Disapproved this 15<sup>th</sup> day  
of August, 2024.

  
MAYOR, COUNTY OF HAWAII

  
COUNCIL CHAIRPERSON  
  
COUNTY CLERK

Bill No.: 166 (Draft 2)  
Reference: C-885.9/LAAC-63  
Ord No.: 24 55