

COUNTY OF HAWAII STATE OF HAWAII

Bill No. 471

ORDINANCE NO. 88 23

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO THE MODIFICATION OF CONDITIONS TO ORDINANCE NO. 850 WHICH RECLASSIFIED CERTAIN LANDS FROM UNPLANNED (U) TO AGRICULTURAL (A-3a) AT KA'U, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-2-05: PORTION OF 1.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-87, Article 3, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Ka'u, North Kona, Hawaii, shall be Agricultural (A-3a):

Beginning at the Northeast corner of this parcel of land, on the westerly side of Hawaii Belt Road, F. A. P. No. F-10 (5), the coordinates of which referred to Government Survey Triangulation Station "AKAHIPUU" being 5,574.46 feet South and 2,650.51 feet West and running by azimuths measured clockwise from True South:

- 1. 11° 08' 1,630.12 feet along the westerly side of Hawaii Belt Road, F. A. P. No. F-10 (5);
2. 91° 30' 25.16 feet along Government Land;
3. 103° 19' 117.11 feet along Lot 1 of Makaula Subdivision, Unit 1;
4. 105° 29' 45" 154.26 feet along Lot 3 of Makaula Subdivision, Unit 1;
5. 97° 42' 38" 190.95 feet along Lots 3 and 7-A of Makaula Subdivision, Unit 1;

6.	2° 00'	65.18 feet along Lot 7-A of Makaula Subdivision, Unit 1;
7.	93° 42' 20"	2,828.95 feet along Grant 3741 to W. H. Kailiino to a "+" cut on ahu;
8.	98° 06'	2,069.50 feet along Government Land of Makaula to a "+" cut on ahu;
9.	100° 15' 30"	2,018.50 feet along Government Land of Makaula to a " " cut on stone;
10.	115° 04'	5,166.71 feet along Government Land of Makaula;
11.	198° 10'	2,312.70 feet along remainder of L. P. 8265, Mahele Award 13-B to Paalua (Certificate of Boundaries No. 191);
12.	291° 46' 30"	800.00 feet along Government Land of Puukala to a "+" cut on rock with ahu named "Kekuakakawahie";
13.	280° 26' 30"	2,814.00 feet along Government Land of Puukala to a " " cut on rock on ahu;
14.	290° 58' 30"	5,603.00 feet along Government Land of Puukala to a "+" cut in Pahoehoe;
15.	286° 08' 20"	844.61 feet along Grant 3968 to P. M. Pahukula to a pipe in concrete;
16.	286° 19' 30"	1,522.38 feet along Lots 78, 73, 69, 65, 61, 57, 53, 49, 45, 39, 31 and 25 of Kona Ocean View Properties (File Plan 637) to a pipe in concrete;

17. 286° 21'

621.96 feet along Grant 3968 to P. M. Pahukula to the point of beginning and containing an area of 727.8 Acres.

All as as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. This change in district classification is conditioned upon the following: (A) that the petitioners, or their authorized representative, shall be responsible for complying with all of the stated conditions of approval; (B) that a drainage system in accordance with the standards of the Department of Public Works shall be installed; (C) that the property shall be developed on an incremental basis. There shall be no more than five (5) increments of which the first three (3) shall consist of 49 lots each; (D) that the zoning for Increment I shall not become effective unless and until there are legal and financial assurances satisfactory to the Department of Water Supply that water for domestic and agricultural use for Increment I will be available; provided, however, that the zoning for Increments II through V shall not become effective until adequate water for domestic and agricultural use meeting with the approval of the Department of Water Supply is available at the property line of that increment. Should the legal and financial assurance described above fail, the Council shall take action to rezone the property back to its original zoning; (E) that the zoning for the second and successive increments shall be effective upon

the establishment of agricultural use on fifty (50) percent of the lots in the preceding increment. Agricultural use is defined as the planting of crops on a minimum of two (2) acres of the respective lot; (F) that the zoning for the second and successive increments shall be effective upon the Council approval of performance reports containing information on the status of compliance of conditions (D) and (E). The performance reports shall be submitted by the petitioner to the County Council; (G) that the proposed 80-foot wide right-of-way and its improvements shall be extended to the Queen Kaahumanu Highway if and when any development occurs within the existing Conservation District portion of the parcel identified as TMK: 7-2-5:1; (H) that final subdivision approval of the first increment shall be secured [by December 1983] within one year from the effective date of this amendment and that subdivision plans for the subsequent increments shall be [completed] submitted within one (1) year [of the completion of the preceding increment. "Completion" as used herein includes securance of Final Subdivision Approval and the establishment of agricultural use] from the date of receipt of final subdivision approval of the previous increment(s); (I) that restrictive deed covenants for each lot shall be recorded with the Bureau of Conveyances together with any recordation of final subdivision plat maps. The covenants shall include mandatory participation by each lot owner in the agricultural co-op; and that the co-op shall have the authority and

responsibility for the cultivation, harvesting and marketing of all crops planted in conjunction with the development of the subdivision. Other documentation as deemed necessary by the Corporation Counsel shall be recorded or filed to meet the intent of establishing an agricultural cooperative with the full responsibility and control over the proposed agricultural park; and (J) that all other applicable rules, regulations and requirements shall be complied with[.], and (K) an initial extension of time for the performance conditions within the ordinance may be granted by the Planning Director upon the following circumstances: a) 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; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone; d) 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); and e) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action. Further, 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. [Should any of the foregoing conditions not be met, the rezoning of the subject property to its original or more appropriate zoning designation may be initiated.]

SECTION 3. Material to be deleted is bracketed. New material is underscored.

SECTION 4. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 5. This ordinance shall take effect upon its approval.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: February 3, 1988
Date of 1st Reading: February 3, 1988
Date of 2nd Reading: February 17, 1988
Effective Date: February 29, 1988