

COUNTY OF HAWAII STATE OF HAWAII

Bill No. 497
(Draft 2)

ORDINANCE NO. 88 49

AN ORDINANCE AMENDING SECTION 25-95A (NORTH AND SOUTH KOHALA DISTRICTS ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-3a) AT KAHUA 1ST, NORTH KOHALA, HAWAII COVERED BY TAX MAP KEY 5-9-07:6.

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

SECTION 1. Section 25-95A, 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 Kahua 1st, North Kohala, Hawaii, shall be Agricultural (A-3a):

Beginning at the Westernmost corner of this parcel of land, being also the Northernmost corner of Lot 14 of Land Court Consolidation 117 and running by azimuths measured clockwise from True South:

- 1. 267° 00' 25.60 feet along the Southeasterly side of an existing roadway to a point;

Thence, following along the Southeasterly side of the existing roadway on a curve to the left with a radius of 540.00 feet, the chord azimuth and distance being:

- 2. 240° 33' 56" 480.79 feet to a point;
- 3. 324° 47' 00" 2,248.58 feet along Lot 38 of Land Court Consolidation 117 to a point;

4. 46° 24' 40" 505.39 feet along Hawaiian Homes land to a point;
5. 144° 47' 2,384.25 feet along Lot 14 of Land Court Consolidation 117 to the point of beginning and containing an area of 26.106 Acres.

All 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) the applicants, successors or assigns shall be responsible for complying with all of the stated conditions of approval; (B) it shall be demonstrated to the satisfaction of the Planning Director that substantial agricultural activity is being conducted on the lands being considered for subdivision under the change of zone request. For the purpose of this condition "agriculture" shall be defined as the cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timber; game propagation; raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are propagated for economic or personal use. An agricultural activity will be considered substantial: (1) if such activity is implementing a conservation program for the affected property(ies), as approved by the applicable soil and water conservation district directors and filed with the Soil Conservation Service; (2) if it provides a major source of

income to the person(s) who reside on the property; or (3) if the property is dedicated for Agriculture uses in accordance with applicable Tax Department procedures and that such agriculture dedication shall be made a deed covenant and duly recorded with the State Bureau of Conveyances and with a copy filed with the Planning Department. The execution of a farm dwelling agreement may also suffice in lieu of the above requirements. Each approved lot must comply with one or more of the above requirements to satisfy the conditions of approval of this change of zone request; (C) subdivision plans shall be submitted to the Planning Department within one year from the effective date of the zone change. Final subdivision approval shall be secured within one year from the date of receipt of tentative subdivision approval; (D) a drainage system shall be installed in accordance with the requirements of the Department of Public Works; (E) only one access shall be allowed to the proposed subdivision from Ala Kahua Drive. Such access shall meet with the approval of the Department of Public Works; (F) should any unanticipated archaeological sites or features be uncovered during land preparation activities, work within the affected area shall cease and the Planning Director notified. Work within the affected area shall not resume until clearance is obtained from the director; (G) all other applicable laws, rules, regulations and requirements be complied with; (H) an annual progress report shall be submitted

to the Planning Director prior to the anniversary date of the effective date of the zone change. The report shall address the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required; and (I) 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 applicants, 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; and 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); and 5) 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.

SECTION 3. Should the council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein may at the developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance.

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.

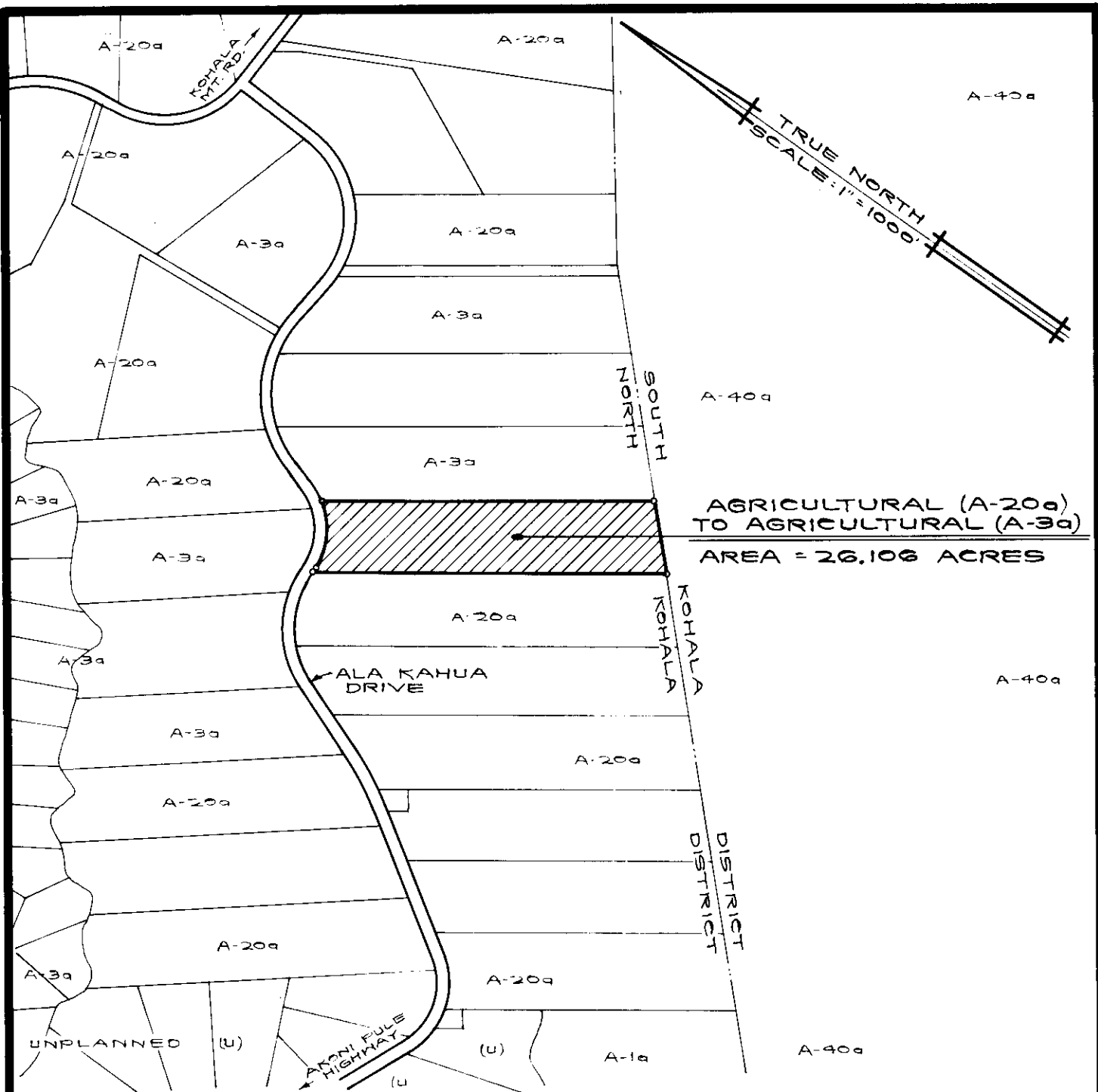
INTRODUCED BY:

*Truman Deming*

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COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: April 6, 1988  
Date of 1st Reading: April 6, 1988  
Date of 2nd Reading: April 20, 1988  
Effective Date: May 2, 1988



## AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-95 A (NORTH AND SOUTH KOHALA DISTRICTS ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-3a) AT KAHUA 1ST, NORTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK : 5-9-07 : 6

JAN. 4, 1988

EXHIBIT "A"