

COUNTY OF HAWAII STATE OF HAWAII

Bill No. 109 (Draft 2)

ORDINANCE NO. 89 104

AN ORDINANCE AMENDING SECTION 25-86 (NORTH AND SOUTH KONA 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 KALOKO, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-24:7.

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

SECTION 1. Section 25-86, 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 Kaloko, North Kona, Hawaii shall be Agricultural (A-3a):

Beginning at the East corner of this parcel of land, on the Southwesterly side of Hao Street, being also the North corner of Lot 2 of Block 3, Kaloko-Mauka Subdivision, Increment 1 (File Plan 994), the coordinates of which referred to Government Survey Triangulation Station "MOANUIAHEA" being 14,684.72 feet South and 3,638.21 feet West and running by azimuths measured clockwise from True South:

- 1. 14° 20' 1,514.72 feet along Lot 2 of Block 3, Kaloko-Mauka Subdivision, Increment 1 (File Plan 994);
2. 162° 00' 1,618.42 feet along remainder of R. P. 8214 L. C. Aw. 7715, Ap. 11 to Lota Kamehameha;
3. 194° 20' 575.85 feet along the Southeasterly side of Kaloko Drive;

thence along the South corner of the intersection of Kaloko Drive and Hao Street, on a curve to the right with a radius of 50.00 feet, the chord azimuth and distance being:

- 4. 254° 45' 86.96 feet, thence;
- 5. 315° 10' 920.00 feet along the Southwesterly side of Hao Street to the point of beginning and containing an area of 21.605 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 applicant, successors or assigns, shall be responsible for complying with all conditions of approval; (B) Subdivision plans shall be submitted within one year from the effective date of change of zone. Final subdivision approval shall be secured within one year from the date of receipt of tentative subdivision approval; (C) It shall be demonstrated to the satisfaction of the Planning Director that substantial agricultural activity is being conducted on all of the proposed lots within three years from the date of receipt of final subdivision approval. 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 it provides a major source of income to the person(s) who reside on the property; or (2) If the property is dedicated for Agriculture uses in accordance with applicable Department of Finance, Real Property Tax Division's procedures. This condition shall be incorporated in each of the deeds for the proposed lots and shall be duly recorded with the State Bureau of Conveyances and with a copy filed with the Planning Department; (D) Petitioner shall install a drainage system, which will dispose of its pro rata share of pre-existing basin flow and subdivision's flow due to development, meeting with the approval of the Department of Public Works. The pro rata share ratio computation also shall be reviewed and approved by the Department of Public Works; (E) For the purpose of funding a fully channelized intersection with turning lanes at the intersection of Kaloko Drive and Hawaii Belt Road, a payment of \$3,000 per lot shall be submitted to the Planning Department for deposit into an escrow account prior to receipt of final subdivision approval; (F) Access to the proposed lots shall meet with the approval of the Department of Public Works; (G) An archaeological reconnaissance survey shall be conducted, and the report shall be filed with the Planning Department in conjunction with the

subdivision application; (H) 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; (I) All other applicable laws, rules, regulations, and requirements shall be complied with; (J) An annual program report shall be submitted to the Planning Department on the anniversary date of the effective date of the change of zone outlining the status of the proposed development and the conditions of approval are being satisfied. This condition shall be released after all of the conditions have been satisfied and complied with; (K) 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; and, (L) 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 nonperformance 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; 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 and shall also rescind any subdivision approval affected by this change of zone.

SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

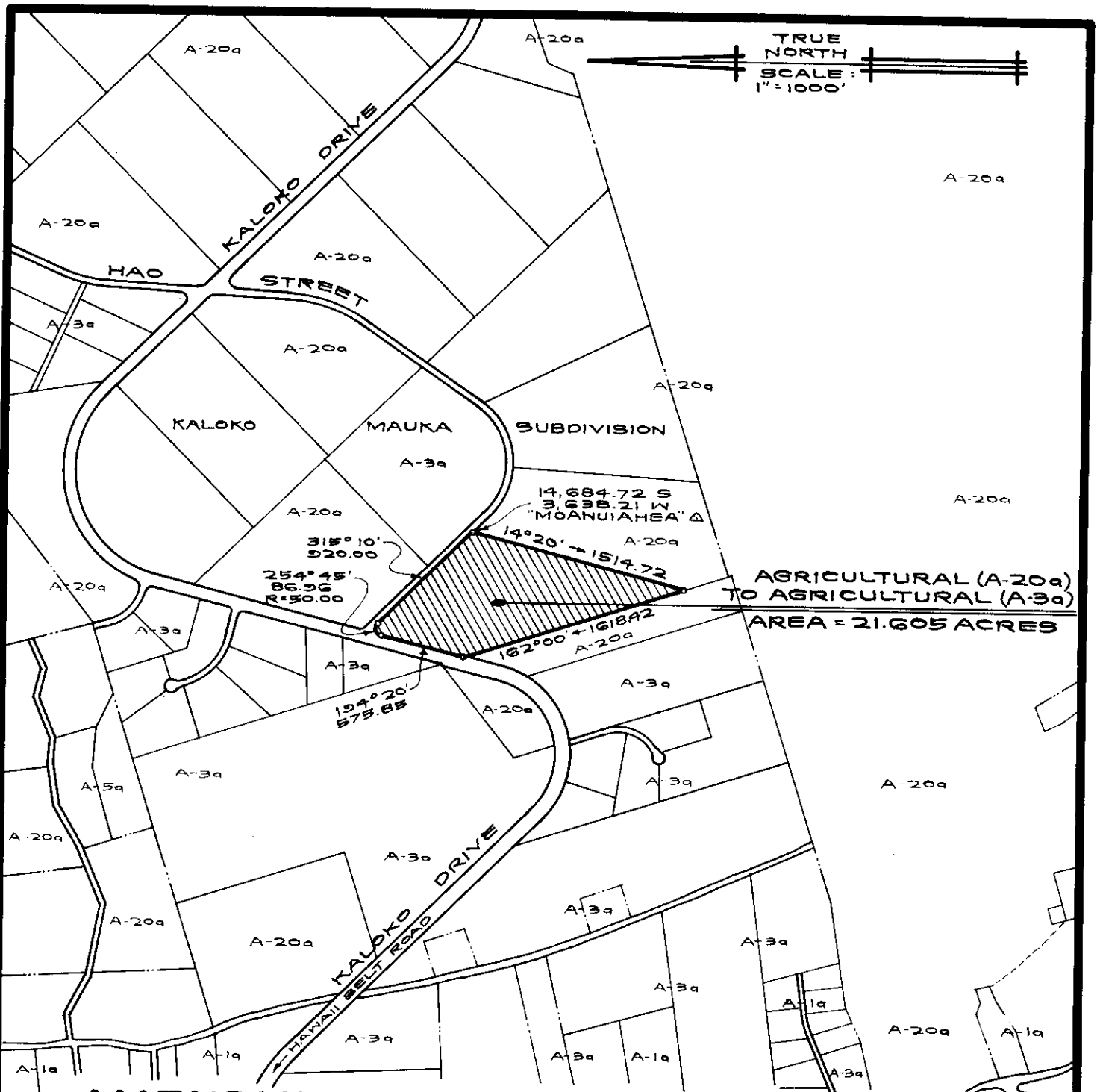
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: June 21, 1989
Date of 1st Reading: June 21, 1989
Date of 2nd Reading: July 5, 1989
Effective Date: July 12, 1989



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-86 (NORTH AND SOUTH KONA 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 KALOKO, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 7-3-24 : 7

JAN. 27, 1989