

COUNTY OF HAWAII STATE OF HAWAII

Bill No. 115

ORDINANCE NO. 89 111

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, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-9-06:2.

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, North Kohala, Hawaii, shall be Agricultural (A-3a):

Beginning at the Southernmost corner of this parcel of land, being also the Easternmost corner of Lot 20 of Land Court Consolidation 117 and being a point on the Northwesternly side of the existing roadway and running by azimuths measured clockwise from True South:

- 1. 141° 26' 2,187.87 feet along Lot 20 of Land Court Consolidation 117 to a point;

Thence, for the next four (4) courses following along the middle Keawewai Gulch, the direct azimuths and distances being:

- 2. 217° 27' 32.98 feet to a point;
- 3. 223° 36' 30" 169.04 feet to a point;
- 4. 279° 30' 30" 203.84 feet to a point;
- 5. 210° 04' 35" 185.57 feet to a point;

6. 321° 26' 1,934.85 feet along Lot 18 of Land Court Consolidation 117 to a point;

Thence, following along the Northwesterly side of the existing roadway on a curve to the right with a radius of 1,960.00 feet the chord azimuth and distance being:

7. 28° 33' 47" 422.47 feet to a point;
8. 34° 45' 124.47 feet along the Northwesterly side of the existing roadway to the point of beginning and containing an area of 24.105 Acres.

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

SECTION 2. These changes in district classification are conditioned upon the following: (A) The applicant, 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 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; (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) 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; (F) Access to the proposed lots shall be from an interior subdivision roadway. No direct access shall be allowed from the Kohala Estates main access road; (G) All other applicable laws, rules, regulations and requirements be complied with; (H) Should the County 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; (I) 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, (J) 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; 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. Should any of the conditions not be met or substantially complied with in a timely fashion, the director shall 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 the ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

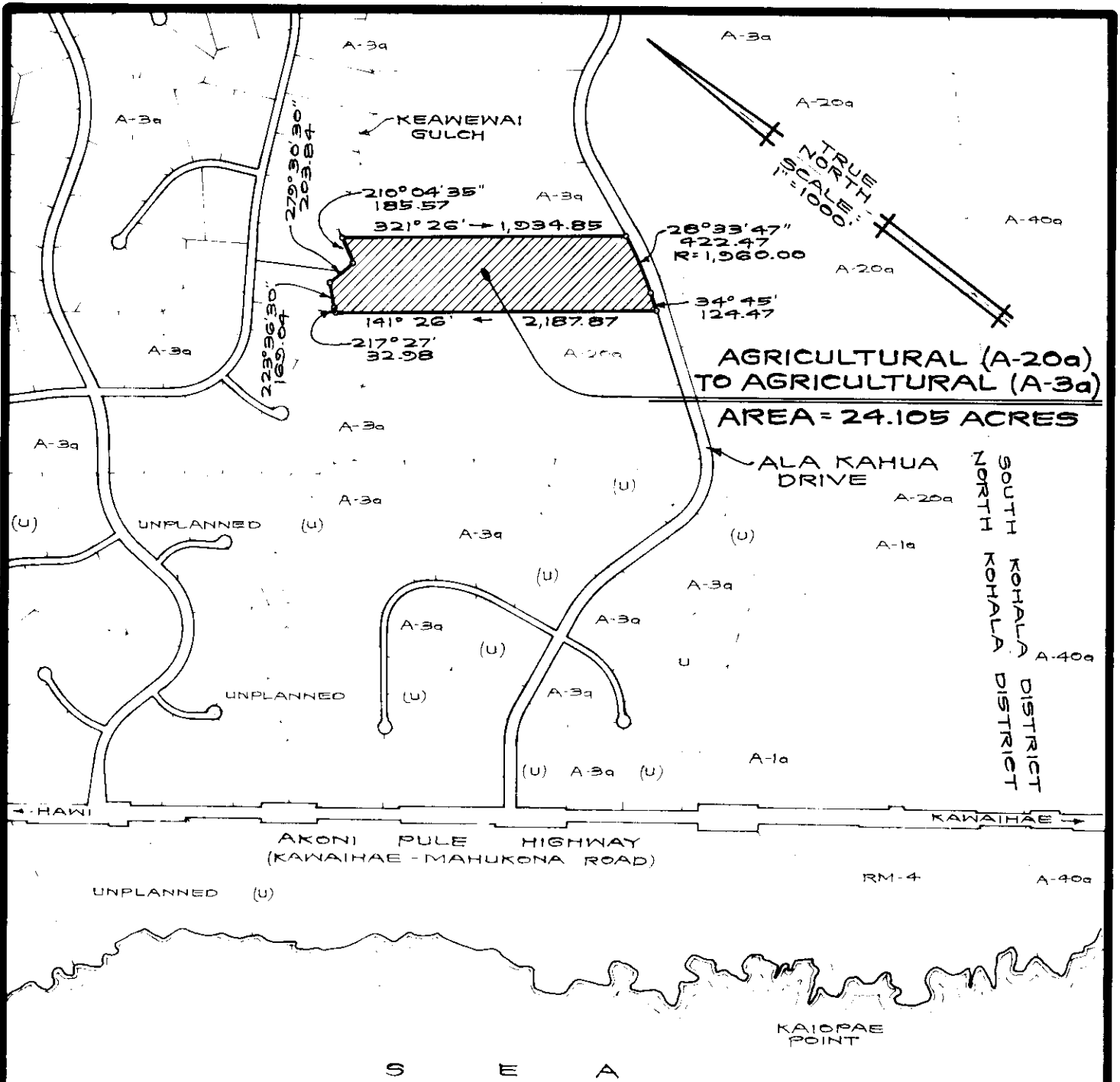
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: July 19, 1989
Date of 1st Reading: July 19, 1989
Date of 2nd Reading: August 16, 1989
Effective Date: August 24, 1989



AMENDMENT TO THE ZONING CODE

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, NORTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII