

COUNTY OF HAWAII STATE OF HAWAII



Bill No. 201

ORDINANCE NO. 90 017

AN ORDINANCE 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 UNPLANNED (U) TO AGRICULTURAL (A-3a) AT KAHUA 1ST, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-9-06:10.

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

SECTION 1. Section 25-95 A, 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 Southwesterly corner of this parcel of land, being also the Southeasterly corner of Lot 65 and being a point on the Northerly side of Lot 74 (Road Parcel) of this subdivision, and running by azimuths measured clockwise from True South:

- 1. 173° 00' 819.67 feet along Lot 65 of this subdivision and along the remainders of Lots 28 and 27 of Land Court Consolidation 117 (Map 3) to the middle of the Keawewai Gulch to a point;

Thence, for the next two (2) courses following along Lot 310 of Land Court Consolidation 117 (Map 12) and along the middle of the Keawewai Gulch, in all of its meanderings, the direct azimuths and distances being:

- 2. 269° 11' 40" 263.29 feet to a point;
- 3. 259° 08' 178.56 feet to a point;

4. 1° 29' 15" 886.21 feet along Lot 63 of this subdivision, along Lot 26 of Land Court Consolidation (Map 3) and along the remainder of Lot 34 (Road Parcel) of Land Court Consolidation (Map 3) to a point;

Thence, following along the Northerly side of Lot 74 (Road Parcel) of this subdivision on a curve to the left with a radius of 330.00 feet, the chord azimuth and distance being:

5. 96° 19' 31" 317.66 feet to the point of beginning and containing an area of 7.064 Acres, more or less.

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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval; (B) Subdivision plans shall be submitted to the Planning Department within one year from the effective date of the 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 the lots to be rezoned within three years from the date 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. Agricultural activity will be considered substantial: (1) If it provides a major source of income to the person(s) who resides 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 duly recorded with the State Bureau of Conveyances. A copy of the recorded deeds shall be filed with the Planning Department within one year from the date of final subdivision approval; (D) 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; (E) A drainage system shall be installed in accordance with the requirements of the Department of Public Works; (F) Only one access shall be allowed to the proposed subdivision from the private roadway. Such access shall meet with the approval of the Department of Public Works; (G) All other applicable laws, rules, regulations and

requirements shall be complied with; (H) 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; (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:

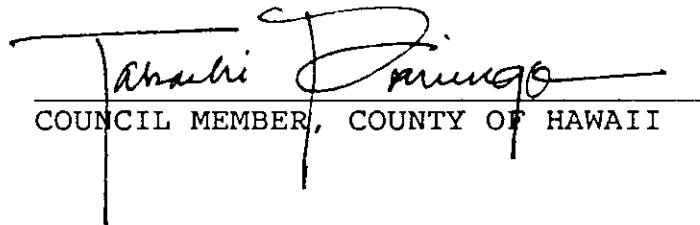
- 1) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns and that are not the result of their fault or negligence;
- 2) granting of the time extension would not be contrary to the General Plan or Zoning Code;
- 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 shall initiate rezoning of the area to its original or more appropriate designation.

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.

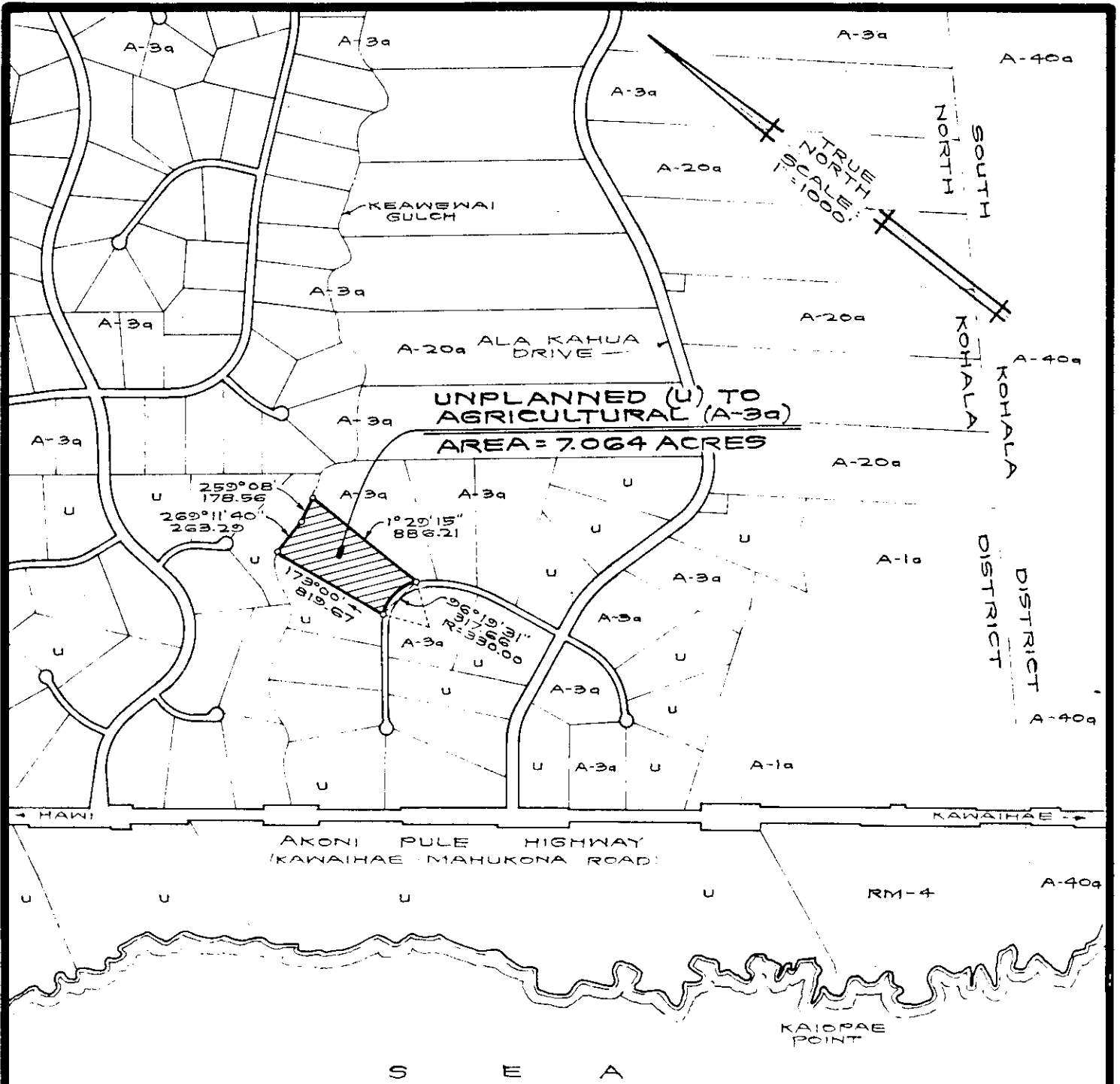
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: February 7, 1990
Date of 1st Reading: February 7, 1990
Date of 2nd Reading: February 21, 1990
Effective Date: March 1, 1990



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 UNPLANNED (U) TO AGRICULTURAL (A-3a) AT KAHUA 1ST, NORTH KOHALA, HAWAII.

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK: 5-9-06: 10

NOV. 16, 1989