

COUNTY OF HAWAII STATE OF HAWAII

Bill No. 192
(Draft 2)

ORDINANCE NO. 90 27

AN ORDINANCE AMENDING SECTION 25-95A (NORTH AND SOUTH KOHALA DISTRICTS ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO MODIFICATIONS OF CONDITIONS F AND H OF ORDINANCE NO. 866 AS AMENDED BY 83 14, WHICH RECLASSIFIED CERTAIN LANDS FROM AGRICULTURAL - 20 ACRES (A-20a) TO AGRICULTURAL - 10 ACRES (A-10a), AGRICULTURAL - 5 ACRES (A-5a) AND AGRICULTURAL - 3 ACRES (A-3a) AT KAHUA 1ST, KAHUA AND WAIKA, KAHUANUI AND KAHUALIILII, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEYS 5-9-01:Portion 10; 5-9-09:1-53; 5-9-10:1-30 and 59; 5-9-11:2-85; 5-9-12:1-38; 5-9-13:1-100; and 5-9-14:1-54 (FORMERLY TMK: 5-9-01:12; and Portion of 10).

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

SECTION 1. Ordinance No. 866 as amended by Ordinance 83 14 is amended as follows:

"This subsection is conditioned upon the following:

- (A) that the petitioners, successors, or their assigns, shall be responsible for complying with all of the stated conditions of approval;
- (B) that a drainage system meeting with the approval of the Chief Engineer shall be installed;
- (C) that channelized intersections be provided at the Kawaihae-Mahukona Road prior to final subdivision approval of the first increment of three-acre lots and the Waimea-Kohala Road prior to final subdivision approval of the first increment of ten-acre lots;
- (D) that all lots five acres and less in size shall not have access directly off of the mauka-makai arterial;
- (E) that roadways are planned constructed to tie-in to adjacent state properties;
- (F) [that a water system, including necessary power, water storage and transmission lines, which meets the

requirements of the Department of Water Supply Rules and Regulations for dedication shall provide potable water to all lots in the development for domestic, agricultural, and fire protection purposes provided that "dedication", as used herein, merely describes the quality of the system and in no way binds or obligates the Water Commission to accept dedication of the system;] that a water system(s), including necessary power facilities, water storage, and transmission lines, shall be developed to provide water to all lots in the development for domestic, agricultural, and fire protection purposes. Any potable water system developed for domestic or other uses shall meet the dedicable requirements of the Department of Water Supply Rules and Regulations, provided that the Water Commission shall in no way be bound or obligated to accept dedication of the potable water system to the County; (G) that water for domestic, agricultural, and fire protection purposes shall be provided to all lots of the existing Kohala Estates Subdivision Phase I simultaneous with the supply of water to any other phase of the development; (H) [that a third water source and system shall be completely developed and constructed which shall provide an estimated one million gallons of potable water per day to the entire development prior to final subdivision approval of the third increment.] that, prior to final subdivision approval of the third increment, an additional well or other source of potable water shall be developed to provide additional potable water to satisfy the

needs of the entire development and all outstanding water commitments, provided that non-potable water made available to the development at a quantity and quality meeting with the approval of the Planning Department may be used to partially satisfy Condition F. Additional storage and transmission facilities may be constructed subsequent to final subdivision approval on the basis of need, as determined by the Planning Department in consultation with Department of Water Supply, provided that a surety bond or other acceptable security for such construction is submitted to the Planning Department prior to final subdivision approval. An agreement to assure execution of Conditions F, G, and H shall be entered into with the County of Hawaii and approved by Corporation Counsel as to form and legality within sixty days of the effective date of this ordinance; (I) that the property shall be developed on an incremental basis. There shall be no more than three increments of which the first shall consist of not more than 940⁺ acres in ten-acre lots and 450⁺ acres in three-acre lots. The second increment shall consist of 558⁺ acres in three-acre lots. The third increment shall consist of 552⁺ acres in five-acre lots; (J) that the zoning for the second increment shall be effective upon the establishment of appropriate agricultural activity on fifty percent of the ten-acre lots and fifty percent of the three-acre lots in the first increment based on a determination by the Planning Director. The zoning for the third increment shall be effective upon the


establishment of appropriate agricultural activity on fifty percent of the three-acre lots in the second increment based on the Director's determination. 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 appropriate 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; or 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 Planning Department and Bureau of Conveyances; or 4) if the property is purchased in whole or in part through an agricultural or farm loan obtained from a federal, state or private institution; (K) that final subdivision approval of the first increment shall be submitted within one year from the effective date of the subject rezoning request; ([K]L) 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 agricultural use provisions as defined in Condition No. J above; and ([L]M) that a performance report shall be submitted to the Planning Director and forwarded to the Council prior to the Director's determination that appropriate agricultural activity has occurred in the first and second increments. The report shall contain information on the status of compliance of Conditions F, G, H, I, J, and K; ([M]N) that all other applicable rules, regulations and requirements shall be complied with. [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.]; (O) should any of the foregoing 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 2. Material to be deleted is bracketed. New material is underscored.

SECTION 3. 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 Adoption: March 23, 1990
Effective Date: April 9, 1990