

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 456

ORDINANCE NO. 91 82

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, KAHUA AND WAIKA, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-9-06:3.

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

Beginning at the Southeasterly corner of this parcel of land, being also the Northeasterly corner of Lot 21 as shown on Map 3 of Land Court Consolidation 117 and being a point on the Westerly side of Ala Kahua Drive and running by azimuths measured clockwise from True South:

- 1. 141° 26' 2,163.82 feet along Lot 21 as shown on Map 3 of Land Court Consolidation 117 to a point;

Thence, for the next five (5) courses following along the middle of Keawewai Gulch, the direct azimuths and distances being:

- 2. 248° 46' 30" 81.99 feet along Lot 211 as shown on Map 12 of Land Court Consolidation 117 to a point;

- 3. 215° 31' 74.63 feet along Lot 211 as shown on Map 12 of Land Court Consolidation 117 to a point;

- | | | | |
|----|--------------|----------|---|
| 4. | 185° 11' 10" | 185.34 | feet along Lot 211 as shown on Map 12 of Land Court Consolidation 117 to a point; |
| 5. | 227° 38' 40" | 61.65 | feet along Lot 209 as shown on Map 12 of Land Court Consolidation 117 to a point; |
| 6. | 217° 27' | 165.17 | feet along Lots 209 and 208 as shown on Map 12 of Land Court Consolidation 117 to a point; |
| 7. | 321° 26' | 2,187.87 | feet along Lot 19 as shown on Map 3 of Land Court Consolidation 117 to a point; |
| 8. | 34° 45' | 521.97 | feet along the Westerly side of Ala Kahua Drive to the point of beginning and containing an area of 24.870 Acres. |

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

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. Minimum lot sizes shall be determined by calculating the total area within

the proposed lot lines exclusive of easements for access and drainage purposes and future road widening setback areas;

(C) it shall be demonstrated to the satisfaction of the Planning Director that 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, and 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. 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 Department notified. Work within the affected area shall not resume until clearance is obtained from the Planning Department;

(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 Ala Kahua Drive. Such access shall meet with the approval of the Department of Public Works;

(G) comply with all other applicable laws, rules,

regulations and requirements; (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 include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied 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 applicant, 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 permit; 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

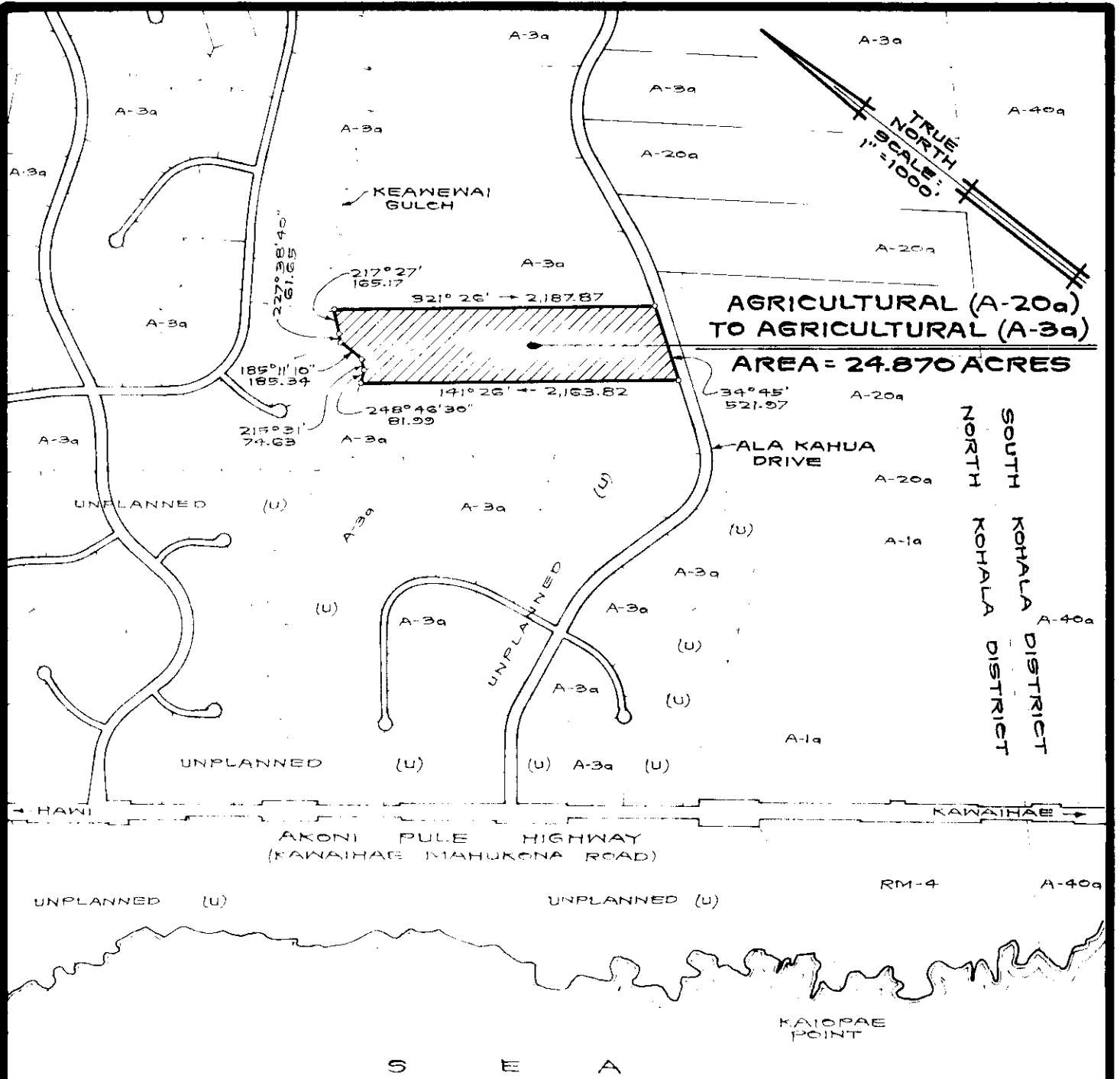
Hilo, Hawaii

Date of Introduction: August 7, 1991
Date of 1st Reading: August 7, 1991
Date of 2nd Reading: August 21, 1991
Effective Date: August 29, 1991

APPROVED AS TO FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL

DATE: 6/24/91



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 1ST, KAHUA AND WAIKA, NORTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 5-9-06 : 3

JUNE 3, 1991