

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 662

ORDINANCE NO. 92-116

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 7-3-24:5.

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 Northeasterly corner of this parcel of land, being also the Northwesterly corner of Lot 4 of Block 3 of Kaloko Mauka Subdivision, Increment 1 (File Plan 994) and being a point on the Southerly side of Hao Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 14,706.93 feet South and 2,739.00 feet West and running by azimuths measured clockwise from True South:

1. 333° 35' 1,294.30 feet along Lot 4 of Block 3 of Kaloko Mauka Subdivision, Increment 1 (File Plan 994) and along the remainder of Royal Patent 8214, Land Commission Award 7715, Apana 11 to Lota Kamehameha to a point;

2. 71° 45' 1,149.21 feet along Royal Patent 7587, Land Commission Award 11216, Apana 36 to M. Kekauonohi (Certificate of Boundaries No. 138) to a point;
3. 182° 35' 1,296.15 feet along Lot 2 of Block 3 of Kaloko Mauka Subdivision, Increment 1 (File Plan 994) and along the remainder of Royal Patent 8214, Land Commission Award 7715, Apana 11 to Lota Kamehameha to a point;

Thence, following along the Southerly side of Hao Street on a curve to the left with a radius of 530.00 feet, the chord azimuth and distance being:

4. 243° 52' 30" 509.17 feet to the point of beginning and containing an area of 23.030 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 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 two years from the date 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 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 shall be duly recorded with the State Bureau of Conveyances and a copy shall be filed with the Planning Department within one year of the date of final subdivision approval of the lots; (D) drainage improvements shall meet with the approval of 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 inventory survey shall be conducted, and the report shall be submitted with the subdivision application for review and approval by the Planning Department, in consultation with the Department of Land and Natural Resources; (H) should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken; (I) all other applicable laws, rules, regulations and requirements shall be complied with; (J) 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 the performance in accordance with the requirements of the Unified Impact Fees Ordinance; (K) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the Change of Zone. 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 and the Planning Director acknowledges that further reports are not required; and, (L) an 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 the 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 shall initiate rezoning of the area to its original or more appropriate designation.

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.

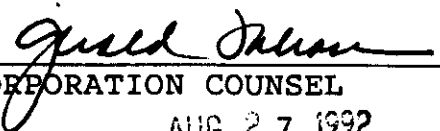
INTRODUCED BY:

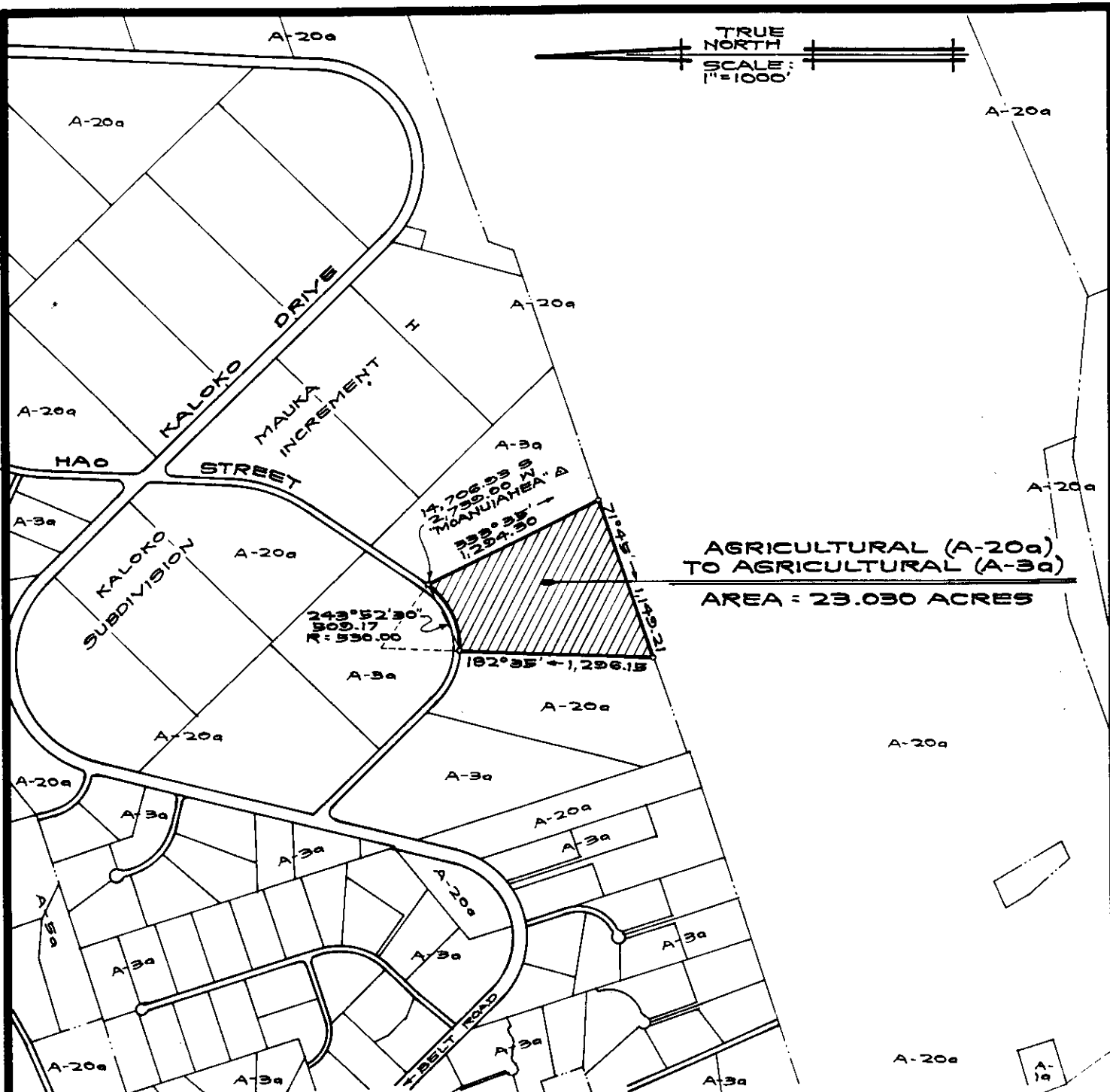

COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: October 7, 1992
Date of 1st Reading: October 7, 1992
Date of 2nd Reading: October 21, 1992
Effective Date: October 29, 1992

APPROVED AS TO FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL
DATED: AUG 27 1992



AMENDMENT TO THE ZONING CODE

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PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 7-3-24 : 5

DEC. 2, 1992

EXHIBIT "A"

(RITCHIE AND DEBRA MUDD)