

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 228
(Draft 2)

ORDINANCE NO. 94 54

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA 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 KALAOA 4TH, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-05:13.

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

SECTION 1. Section 25-87, 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 Kalaoa 4th, North Kona, Hawaii, shall be Agricultural (A-3a):

Beginning at the Southeasterly corner of this parcel of land, being also the Southwesterly corner of Lot 5-A of this subdivision and on the Northerly side of Grant 1607 to Nawahie, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 6,532.43 feet South and 12,296.72 feet West and running by azimuths measured clockwise from True South:

1. 97° 45' 685.99 feet along Grant 1607 to Nawahie to a point;
2. 97° 34' 30" 280.49 feet along Grant 1607 to Nawahie to a point;

3. 178° 02' 30" 181.23 feet along middle of stonewall, along Lot 47 and along Grant 3750 to Kahananui to a point;
4. 177° 27' 30" 116.80 feet along middle of stonewall, along Lot 47 and along Grant 3750 to Kahananui to a point;
5. 180° 28' 30" 21.75 feet along stonewall and along Alanui Kauhini (Government Road) to a point;
6. 179° 03' 117.93 feet along stonewall and along Lot 10 of Kona Coastview Subdivision, Unit V (File Plan 1029) and along Grant 1606 to Kanehailua to a point;
7. 274° 34' 107.15 feet along stonewall and along Kona Coastview Subdivision, Unit V (File Plan 1029) and along Grant 1606 to Kanehailua to a point;
8. 278° 23' 107.20 feet along stonewall and along Lot 8 of Kona Coastview Subdivision, Unit V (File Plan 1029) and along Grant 1606 to Kanehailua to a point;
9. 274° 29' 196.57 feet along stonewall and along Lots 7 and 6 of Kona Coastview Subdivision, Unit V (File Plan 1029) and along Grant 1606 to Kanehailua to a point;
10. 272° 44' 321.93 feet along stonewall and along Lots 6, 5, 4, 3 and 2 of Kona Coastview Subdivision, Unit V (File Plan 1029) and along Grant 1606 to Kanehailua to a point;

11. 279° 27' 30" 224.87 feet along stonewall and along Lots 2 and 1 of Kona Coastview Subdivision, Unit V (File Plan 1029), along Grant 1606 to Kanehailua, along the Southerly end of Kauwila Street and along Lot 80 of Kona Coastview Subdivision, Unit IV (File Plan 975) to a point;

12. 0° 20' 407.10 feet along Lot 5-A of this subdivision and along the remainder of a portion of Grant 1608 to Kekeleaukai to a point;

Thence, following along Lot 5-A of this subdivision and along the remainder of a portion of Grant 1608 to Kekeleaukai on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being:

13. 318° 54' 51" 39.69 feet to a point;

14. 7° 29' 43" 38.44 feet along Lot 5-A of this subdivision and along the remainder of a portion of Grant 1608 to Kekeleaukai to the point of beginning and containing an area of 9.962 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, its successors, or assigns shall be responsible for complying with all of the stated conditions of approval;

- (B) the applicant shall construct necessary water system improvements to support the proposed subdivision development in a manner meeting with the approval of the Department of Water Supply, prior to the issuance of Final Subdivision Approval;
- (C) Final Subdivision Approval of the proposed subdivision development shall be secured from the Planning Director within three (3) years from the effective date of this change of zone ordinance.

Final plat maps shall indicate the existing easement along the southern boundary of the subject property as reflected on the Final Plat Map No. 4562. Prior to the issuance of Final Subdivision Approval, the applicant shall grant an easement for the roadway and utility purposes over the Kauwila Street Extension (Easement A-1) to the County of Hawaii, with a provision that the County shall purchase the fee interest in the easement for one (1) dollar. The easement shall be in a form acceptable to the Planning Director and shall be recorded with the Bureau of Conveyances concurrently with the final plat map for the proposed 3-lot subdivision;

- (D) the applicant shall prepare engineering drawings for the Kauwila Street Extension through the subject property. The design of the roadway shall accommodate its future extension to OneOne Street and/or to other roadways located to the south of the subject property. The design shall meet with the approval of the Department of Public Works. Prior to the issuance of Final Subdivision Approval, the applicant shall grade the Kauwila Street Extension to its designed "sub-grade" in accordance with the approved

engineering plans and shall provide appropriate interim drainage measures;

- (E) access to all lots within the proposed subdivision shall meet with the approval of the Department of Public Works;
- (F) drainage improvements, if required, shall be provided in a manner meeting with the approval of the Department of Public Works, in conjunction with Final Subdivision Approval;
- (G) an archaeological inventory survey/mitigation plan of the subject property, or portion thereof, shall be conducted in a manner meeting with the approval of the Planning Director, in consultation with the State Department of Land and Natural Resources-Historic Preservation Division, prior to the issuance of Final Subdivision Approval or any land alteration activities within the subject property, whichever occurs first. Mitigative measures to ensure that archaeological features located within the subject property, including the historic house platform within a larger enclosing wall and a possible small family shrine or agricultural heiau, shall be implemented at a time and in a manner meeting with the approval of the Planning Director;
- (H) should any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall be encountered, work in the affected area shall cease and the Planning Department 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) It shall be demonstrated to the satisfaction of the Planning Director that agricultural activity is being conducted on the subdivided lots 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, vegetable, 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 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;
- (2) if it provides a second 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 State Bureau of Conveyances and a copy of the recorded deeds shall be filed with the Planning Department within one year from the date of Final Subdivision Approval.

Each approved lot must comply with at least one of the above requirements to satisfy the conditions of approval of this ordinance;

- (J) all other applicable laws, rules, regulations and requirements of the affected agencies shall be complied with;
- (K) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of this ordinance. 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 with and the Planning Director acknowledges that further reports are not required;
- (L) 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 shall be credited towards the requirements of the Unified Impact Fees Ordinance; and
- (M) 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;
- 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.

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

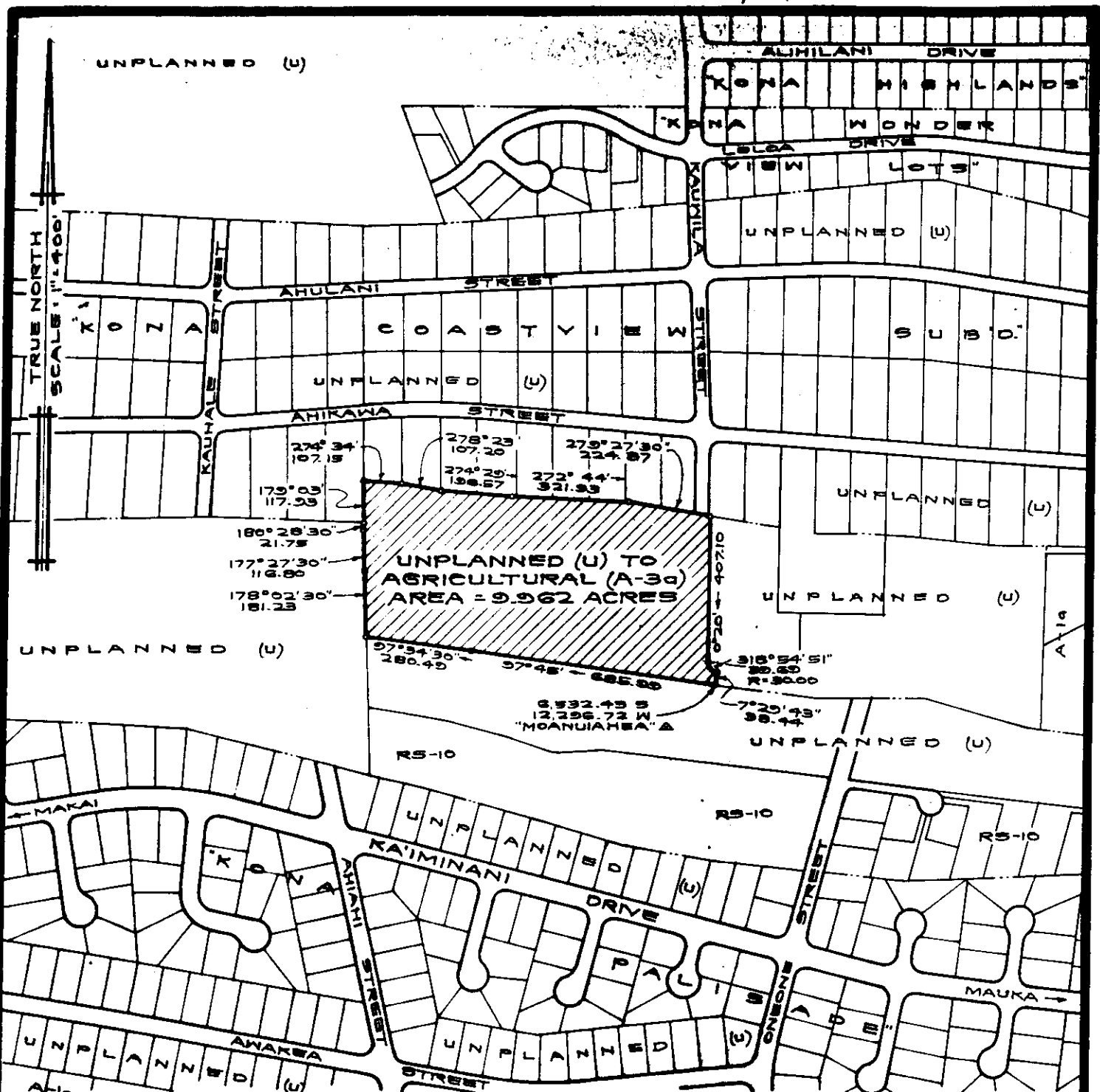
Hilo, Hawaii

Date of Introduction: April 27, 1994
Date of 1st Reading: April 27, 1994
Date of 2nd Reading: May 11, 1994
Effective Date: May 18, 1994

APPROVED AS TO FORM AND LEGALITY:


CORPORATION COUNSEL

DATE: MAY 17 1994



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-87 (NORTH KONA 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 KALAOA 4TH, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 7-9-05 : 13

FEB. 4, 1994

OFFICE OF THE COUNTY CLERK

County of Hawaii
Hilo, Hawaii

RECEIVED

'94 MAY 18 PM 1 28

OFFICE OF COUNTY CLERK
COUNTY OF HAWAII

(Draft 2)

Introduced By: Takashi Domingo
Date Introduced: April 27, 1994
First Reading: April 27, 1994
Published: _____

REMARKS:


ROLL CALL VOTE				
	AYES	NOES	ABS	EX
ARAKAKI	X			
BONK-ABRAMSON	X			
CHILDS	X			
DE LIMA	X			
DOMINGO	X			
HALE	X			
RATH	X			
ROSEHILL	X			
SCHUTTE	X			
	9	0	0	0



Second Reading: May 11, 1994
To Mayor: May 12, 1994
Returned: May 18, 1994
Effective: May 18, 1994
Published: May 25, 1994

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
ARAKAKI			X	
BONK-ABRAMSON	X			
CHILDS	X			
DE LIMA	X			
DOMINGO	X			
HALE	X			
RATH	X			
ROSEHILL	X			
SCHUTTE	X			
	8	0	1	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council and published as indicated above.

APPROVED as to
FORM and LEGALITY

COUNTY COUNSEL
COUNTY OF HAWAII
Date: MAY 17 1994


COUNCIL CHAIRMAN

COUNTY CLERK

Approved/Disapproved this 18 day
of May, 1994


MAYOR, COUNTY OF HAWAII

Bill No.: 228 (Draft 2)
Reference: Comm. 951/PC-105
Ord. No.: 94 54