

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 257
(Draft 3)

ORDINANCE NO. 94 85

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 UNPLANNED (U) TO AGRICULTURAL (A-3a) AT KAHUA AND WAIKA, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-9-05:18 AND PORTION OF 7.

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

Beginning at the Northwest corner of this parcel of land, being also the Northeast corner of Lot 50-B of Ld. Ct. Cons. 117, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PILI", being 15,759.31 feet South and 28,707.29 feet West, thence running by azimuths measured clockwise from true South:

1. 288° 15' 30" 96.21 feet along Lot 33 of Ld. Ct. Cons. 117 (Ala Kahua Drive) to the beginning of a curve having a radius of 540.00 feet;

thence along Lot 33 of Ld. Ct. Cons. 117 (Ala Kahua Drive) and along said curve to the left the direct chord azimuth and distance:

- | | | |
|-----|--------------|---|
| 2. | 279° 49' 46" | 158.31 feet along said chord to Lot 8-A of Ld. Ct. Cons. 117; |
| 3. | 324° 47' | 188.00 feet along Lot 8-A of Ld. Ct. Cons. 117; |
| 4. | 234° 47' | 110.00 feet along Lot 8-A of Ld. Ct. Cons. 117; |
| 5. | 144° 47' | 124.82 feet along the remainder of Lot 8-A of Ld. Ct. Cons. 117 to Lot 33 of Ld. Ct. Cons. 117 (Ala Kahua Drive) and the beginning of a curve having a radius of 540.00 feet; |
| | | thence along Lot 33 of Ld. Ct. Cons. 117 and along said curve to the left the direct chord azimuth and distance: |
| 6. | 257° 03' | 16.21 feet along said chord to Lot 9 of Ld. Ct. Cons. 117; |
| 7. | 324° 47' | 674.81 feet along Lot 9 of Ld. Ct. Cons. 117 to Lot 599 of Ld. Ct. Cons. 117 and the middle of a gulch; |
| 8. | 54° 47' | 46.38 feet along Lot 599 of Ld. Ct. Cons. 117 and the middle of said gulch; |
| 9. | 66° 29' | 74.72 feet along Lot 599 of Ld. Ct. Cons. 117 and the middle of said gulch; |
| 10. | 84° 46' | 84.23 feet along Lot 599 of Ld. Ct. Cons. 117 and the middle of said gulch to Lot 598 of Ld. Ct. Cons. 117; |
| 11. | 59° 04' | 140.79 feet along Lot 598 of Ld. Ct. Cons. 117 and the middle of said gulch; |

12. 22° 46' 45" 89.09 feet along Lot 598 of Ld. Ct. Cons. 117 and the middle of said gulch;
13. 36° 46' 30" 126.97 feet along Lot 598 of Ld. Ct. Cons. 117 and the middle of said gulch to Lot 597 of Ld. Ct. Cons. 117;
14. 46° 35' 73.57 feet along Lot 597 of Ld. Ct. Cons. 117 and the middle of said gulch to Lot 590 of Ld. Ct. Cons. 117;
15. 162° 31' 11" 1,010.72 feet along Lots 590, 589 and 50-B of Ld. Ct. Cons. 117 to the point of beginning and containing 7.737 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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- (B) Final Subdivision Approval shall be secured within three (3) years from the effective date of this ordinance.
- (C) Access to the subject properties from Ala Kahua Drive shall meet with the approval of the Department of Public Works.
- (D) Drainage system easements and improvements, if required, shall be established and constructed in a manner meeting with the approval of the Department of Public Works, prior to the issuance of Final Subdivision Approval.

- (E) Wastewater shall be disposed of in a manner meeting with the requirements of the Department of Health.
- (F) 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 satisfactory:
- (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.

- (G) The applicant shall comply with all other applicable laws, rules, regulations and requirements of the affected agencies, including those of the Department of Water Supply and Department of Public Works.
- (H) Should any unidentified sites or remains, such as lava tubes, 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) Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- (J) 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.
- (K) 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).
5. If the applicant should request 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

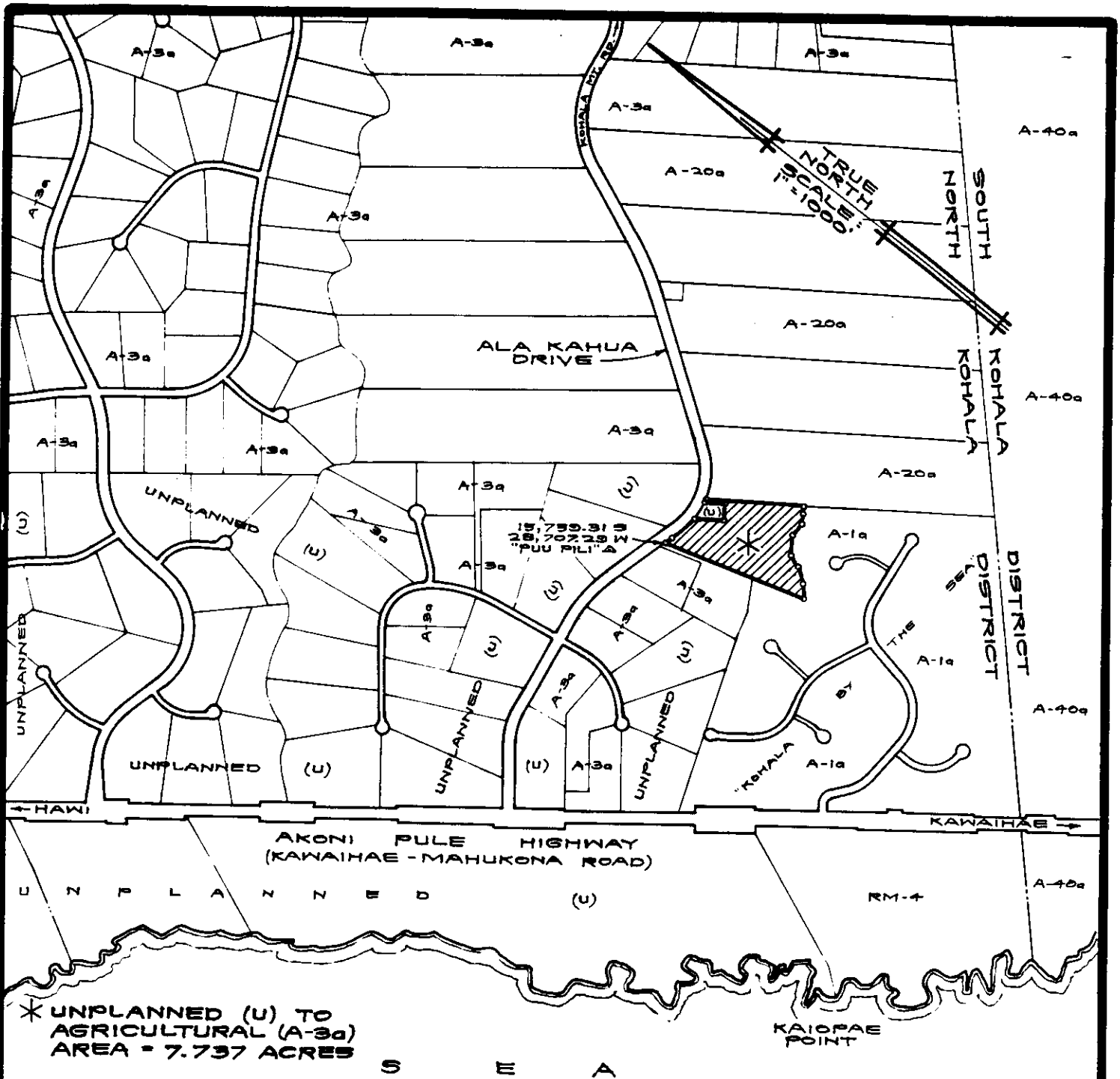
Hilo, Hawaii

Date of Introduction: July 6, 1994
Date of 1st Reading: July 6, 1994
Date of 2nd Reading: August 10, 1994
Effective Date: August 18, 1994

APPROVED AS TO FORM AND LEGALITY:

DEPUTY CORPORATION COUNSEL

DATE: _____



* UNPLANNED (U) TO AGRICULTURAL (A-3a) AREA = 7.737 ACRES

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 AND WAIKA, NORTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 5-9-05 : 1B AND PORTION OF 7

MARCH 31, 1994

EXHIBIT "A"

(ROBERT G. AND LOVETTE M. BLACK)

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

RECEIVED

'94 AUG 18 PM 3 29

OFFICE OF COUNTY CLERK
 COUNTY OF HAWAII

Introduced By: Takashi Domingo
 Date Introduced: July 6, 1994
 First Reading: July 6, 1994
 Published: N/A

REMARKS:

RECEIVED

'94 AUG 17 PM 4 13

(DRAFT 2) OFFICE OF COUNTY CLERK

COUNTY OF HAWAII 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			
	7	2	0	0


Second Reading: August 10, 1994
 To Mayor: August 11, 1994
 Returned: August 18, 1994
 Effective: August 18, 1994
 Published: August 28, 1994

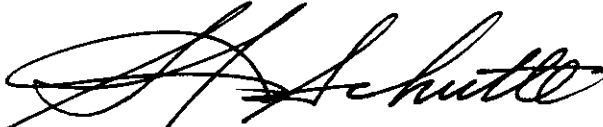
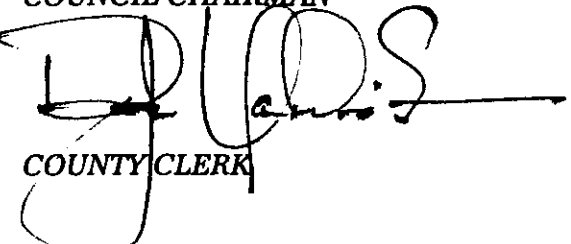
REMARKS:
July 20, 1994 - Deferred (Dr. 2)

(DRAFT 3)

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

 ASSISTANT CORPORATION COUNSEL
 COUNTY OF HAWAII
 Date 8/17/94


 COUNCIL CHAIRMAN

 COUNTY CLERK

Approved/Dissatisfied this 14 day
 of Sept, 1994


 MAYOR, COUNTY OF HAWAII

Bill No.: 257 (Draft 3)
 Reference: C-1092/PC-119
 Ord. No.: 94 85