

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 317
(Draft 2)

ORDINANCE NO. 95 1

AN ORDINANCE AMENDING SECTION 25-88 (SOUTH KONA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO AGRICULTURAL (A-1a) AT KEEKEE 2ND, SOUTH KONA, HAWAII, COVERED BY TAX MAP KEY 8-1-03:34 AND PORTION OF 50.

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

SECTION 1. Section 25-88, Article 3, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of properties described hereinafter as follows:

The district classification of the following area situated at Keekee 2nd, South Kona, Hawaii, shall be Agricultural (A-1a):

PARCEL 1:

Beginning at the Northeasterly corner of this parcel of land, being also the Southeasterly corner of Lot 26, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OHAU" being 1,015.87 feet North and 10,779.91 feet East and running by azimuths measured clockwise from True South:

- 1. 349° 18' 12.63 feet along the remainder of Grant 977 to Panaunau to a point;

Thence, for the next twenty (20) courses following along the Northerly face of stonewall and along the remainder of Grant 977 to Panaunau:

2.	76° 10'	36.23 feet to a point;
3.	68° 46'	68.01 feet to a point;
4.	78° 37' 30"	38.11 feet to a point;
5.	84° 40' 30"	25.83 feet to a point;
6.	75° 28'	92.18 feet to a point;
7.	71° 34'	74.24 feet to a point;
8.	65° 38'	132.42 feet to a point;
9.	59° 39' 30"	63.34 feet to a point;
10.	47° 50'	20.98 feet to a point;
11.	42° 43'	37.34 feet to a point;
12.	23° 13' 30"	25.05 feet to a point;
13.	44° 19' 30"	31.28 feet to a point;
14.	53° 32' 30"	84.02 feet to a point;
15.	64° 14'	31.68 feet to a point;
16.	75° 02'	36.55 feet to a point;
17.	68° 26'	125.70 feet to a point;
18.	48° 41'	12.74 feet to a point;
19.	71° 19'	26.90 feet to a point;
20.	68° 00'	46.04 feet to a point;
21.	64° 37'	45.20 feet to a point;
22.	144° 44' 30"	7.40 feet along Royal Patent 4034, Land Commission Award 8455-E, Apana 1 to Pauole to a point;

Thence, for the next nine (9) courses following along
stonewall, along Lot 26
and along the remainder of
Grant 977 to Panaunau:

- | | | | | |
|-----|------|-----|-----|---|
| 23. | 246° | 11' | 30" | 126.69 feet to a point; |
| 24. | 247° | 10' | | 121.62 feet to a point; |
| 25. | 256° | 37' | | 50.61 feet to a point; |
| 26. | 234° | 28' | | 93.30 feet to a point; |
| 27. | 214° | 12' | | 66.05 feet to a point; |
| 28. | 226° | 41' | | 70.47 feet to a point; |
| 29. | 244° | 26' | | 185.71 feet to a point; |
| 30. | 254° | 28' | | 235.75 feet to a point; |
| 31. | 252° | 27' | | 106.78 feet to the point of
beginning and containing
an area of 9,719 square
feet. (Refer to Parcel 1
as shown on Exhibit "A".) |

The district classification of the following area situated at Keekee 2nd, South Kona, Hawaii, shall be Agricultural (A-1a):

PARCEL 2:

Beginning at the Southeasterly corner of this parcel of land, being also a point on the Northerly side of an existing Roadway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OHAU" being 1,015.87 feet North and 10,779.91 feet East and running by azimuths measured clockwise from True South:

Thence, for the next nine (9) courses following along stonewall, along the Northerly side of the existing Roadway and along the remainder of Grant 977 to Panaunau:

- | | | | | |
|----|-----|-----|--|-------------------------|
| 1. | 72° | 27' | | 106.78 feet to a point. |
| 2. | 74° | 28' | | 235.75 feet to a point; |
| 3. | 64° | 26' | | 185.71 feet to a point; |

- 4. 46° 41' 70.47 feet to a point;
- 5. 34° 12' 66.05 feet to a point;
- 6. 54° 28' 93.30 feet to a point;
- 7. 76° 37' 50.61 feet to a point;
- 8. 67° 10' 121.62 feet to a point;
- 9. 66° 11' 30" 126.69 feet to a point;
- 10. 150° 46' 190.10 feet along stonewall and
along Royal Patent 4034,
Land Commission
Award 8455-E, Apana 1 to
Pauole to a point;

Thence, for the next three (3) courses following along
stonewall and along Royal
Patent 3883, Land
Commission Award 9753-B,
Apana 1 to Paiwa:

- 11. 247° 07' 40.55 feet to a point;
- 12. 237° 01' 30" 87.36 feet to a point;
- 13. 244° 30' 122.89 feet to a point;
- 14. 154° 35' 174.58 feet along stonewall,
along Royal Patent 3883,
Land Commission
Award 9753-B, Apana 1 to
Paiwa and along Royal
Patent 6322, Land
Commission Award 7036 to
Kahue to a point;
- 15. 227° 26' 59.23 feet along Lot 9 of Keekee
Subdivision, Increment III
(being also along Royal
Patent 3864, Land
Commission Award 7210,
Apana 1 to Kini and along
Lot A-6-A-13 as shown on
Map 24 of Land Court
Application 1609) to a
point;

- | | | | |
|-----|--------------|--------|--|
| 16. | 238° 55' 30" | 293.48 | feet along Lot 9 of Keekee Subdivision, Increment III (being also along Lot A-6-A-13 as shown on Map 24 of Land Court Application 1609) and along Lots A-6-A-9 and A-6-A-8 as shown on Map 24 of Land Court Application 1609 to a point; |
| 17. | 234° 12' 30" | 235.65 | feet along Lots A-6-A-8, A-6-A-4 and A-6-A-3 as shown on Map 24 of Land Court Application 1609 to a point; |
| 18. | 269° 03' 30" | 221.57 | feet along Lots 54-A and 42-A as shown on Map 28 and along Lot 41-A as shown on Map 25 of Land Court Application 1609 to a point; |
| 19. | 271° 30' | 85.08 | feet along Lots 41-A and 29-A as shown on Map 25 of Land Court Application 1609 to a point; |
| 20. | 266° 50' | 29.90 | feet along Lot 29-A as shown on Map 25 of Land Court Application 1609 to a point; |

Thence, for the next four (4) courses following along the remainder of Grant 977 to Panaunau:

- | | | | |
|-----|----------|--------|---|
| 21. | 346° 11' | 112.63 | feet to a point; |
| 22. | 348° 18' | 133.76 | feet to a point; |
| 23. | 1° 33' | 31.55 | feet to a point; |
| 24. | 351° 36' | 58.25 | feet to the point of beginning and containing an area of 8.7195 Acres. (Refer to Parcel 2 as shown on Exhibit "A".) |

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

SECTION 2. These changes in district classification are conditioned upon the following:

- A. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Plans for the proposed subdivision shall be submitted to the Planning Department and Final Subdivision Approval secured within five (5) years from the effective date of this ordinance.
- C. 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, and fruits 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 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.

- D. As agreed to by the applicant, restrictive covenants in the deeds of all the proposed residential-agricultural lots shall prohibit the construction of an ohana dwelling or a second dwelling unit on each lot. A copy of the proposed covenant(s) to be recorded with the Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision Approval. A copy of the approved covenant shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances prior to the issuance of Final Subdivision Approval.
- E. A wastewater disposal system shall be constructed in a manner meeting with the approval of the State Department of Health and/or the Department of Public Works, whichever is applicable.
- F. A drainage system meeting with the approval of the Department of Public Works shall be designed and constructed to handle the design surface runoff, prior to the issuance of Final Subdivision Approval of the subdivision development.

- G. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
- H. Access(es) to the project site shall be constructed in a manner meeting with the approval of the Departments of Transportation-Highways Division and/or Public Works, whichever is applicable.
- I. Interior subdivision roads shall be constructed in a manner meeting with the approval of the Department of Public Works.
- J. Prior to Final Subdivision Approval, the Applicant shall pay its fair share contribution to address potential regional impacts of the project with respect to park, fire, police, solid waste disposal facilities, sewer and roads. The fair share contribution shall be initially based on the representations contained within the change of zone application and may be increased or reduced proportionally if the residential-agricultural lot counts are adjusted. The fair share contribution for each residential-agricultural lot shall be based on a maximum density for each lot as determined by the zoning resulting from this change of zone. The fair share contribution in a form of cash, land, facilities, or any combination thereof shall have a maximum combined value of \$74,460. Commencing three years after the effective date of this ordinance, the fair share contributions described above shall be adjusted annually based on the

percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct such facilities related to park, fire, police, solid waste disposal facilities, sewers and roads with the approval of the appropriate agency(ies). Any contributions required by this ordinance that exceed the fair share requirement of this proposed development shall, at the applicant's request be credited towards any of the applicants future developments that require infrastructural impact contributions.

- K. A solid waste management plan shall be prepared meeting with the approval of the Department of Public Works prior to submitting plans for plan approval review or subdivision review, whichever occurs first. The plan shall include, but not be limited to, the management of solid waste generated from the construction and operating phase of the proposed development. Approved recommendations and mitigation measures shall be implemented at a time and in a manner meeting with the approval of the Department of Public Works;
- L. Comply with all applicable laws, rules, regulations and requirements, including the fire department.
- M. 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.
- N. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of this change of zone. The report shall

address in detail 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 with and the Planning Director acknowledges that further reports are not required.

- O. An initial extension of time for the performance of conditions within the ordinance, with the exception of Condition B, 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 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. Should the applicant 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 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.

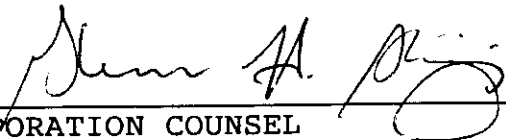
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

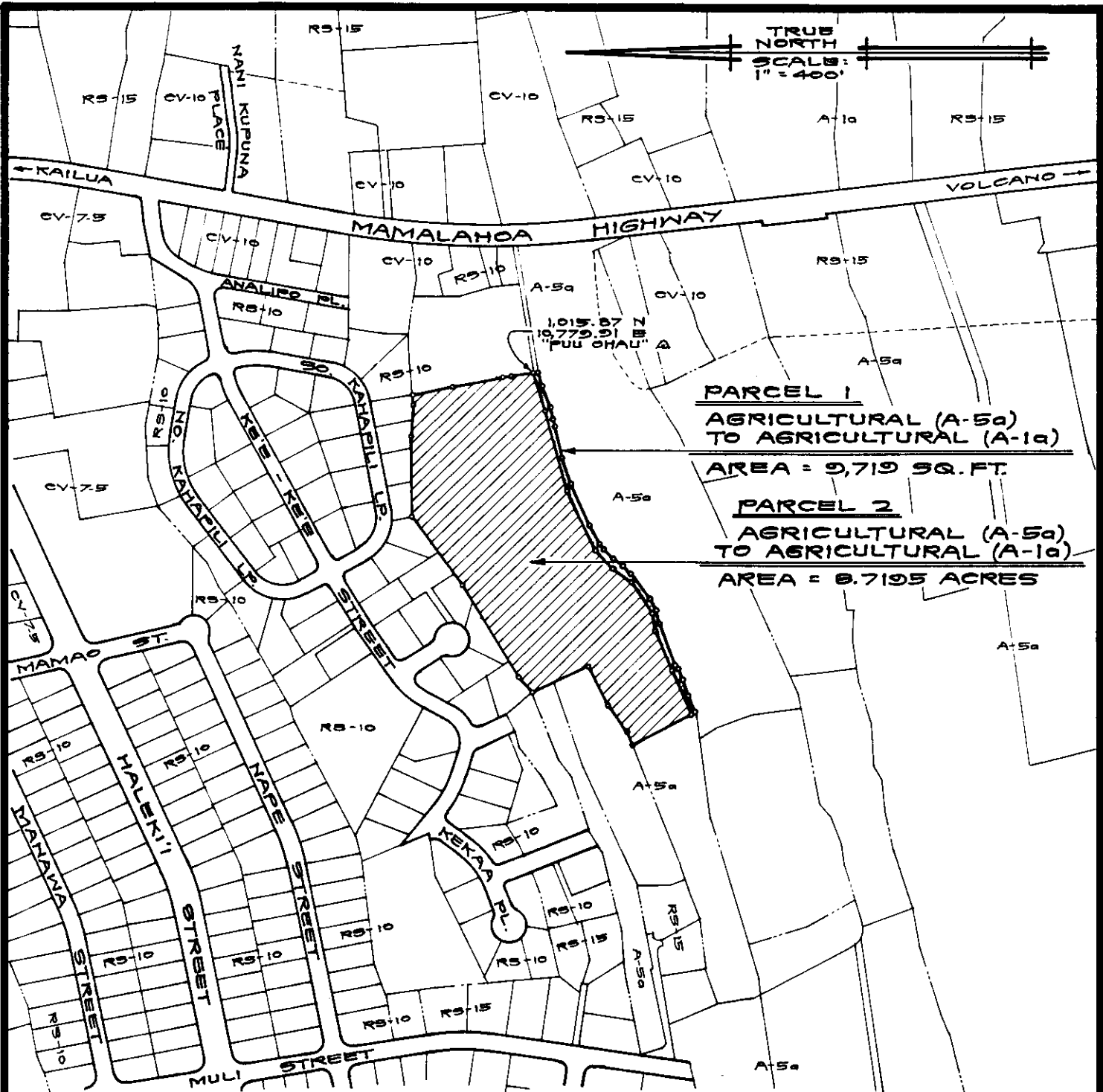
Hilo, Hawaii

Date of Introduction:	November 30, 1994
Date of 1st Reading:	November 30, 1994
Date of 2nd Reading:	December 21, 1994
Effective Date:	December 30, 1994

APPROVED AS TO FORM AND LEGALITY:


CORPORATION COUNSEL

DATED: 12-28-94



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-88 (SOUTH KONA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO AGRICULTURAL (A-1a) AT KEEKEE 2ND, SOUTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 8-1-03 : 34 AND POR. OF 50

JUNE 6, 1994

EXHIBIT "A"

(KONA SCENIC LAND, INC.)

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

1994 DEC 30 AM 11 19

(DRAFT 2) OFFICE OF THE COUNTY CLERK

Introduced By: Takashi Domingo
 Date Introduced: November 30, 1994
 First Reading: November 30, 1994
 Published: N/A

REMARKS:

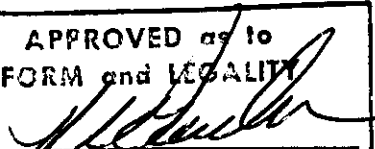
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
ARAKAKI	X			
BONK-ABRAMSON			X	
CHILDS	X			
DE LIMA	X			
DOMINGO	X			
HALE		X		
RATH	X			
ROSEHILL	X			
SCHUTTE	X			
	7	1	1	0

Second Reading: December 21, 1994
 To Mayor: December 22, 1994
 Returned: December 30, 1994
 Effective: December 30, 1994
 Published: January 8, 1995

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
ARAKAKI	X			
BONK-ABRAMSON		X		
CHILDS	X			
DE LIMA	X			
DOMINGO	X			
OSORIO	X			
RATH	X			
RAY	X			
SMITH	X			
	8	1	0	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

 CORPORATION COUNSEL
 COUNTY OF HAWAII
 Date Dec 29, 1994


 COUNCIL CHAIRMAN


 COUNTY CLERK

Approved/Disapproved this 30 day
 of December, 1994


 MAYOR, COUNTY OF HAWAII

Bill No.: 317 (Draft 2)
 Reference: C-1327/PC-146
 Ord. No.: 95 1