

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 538  
(Draft 2)

ORDINANCE NO. 95 15

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 AGRICULTURAL (A-3a) TO AGRICULTURAL (A-1a) AT KALOKO, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-08:98.

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 Kaloko, North Kona, Hawaii, shall be Agricultural (A-1a):

Beginning at the Southeast corner of this parcel of land at a point on the West side of Hawaii Belt Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 14,684.17 feet South and 8,201.34 feet West; thence running by azimuths measured clockwise from True South:

1. 82° 40' 42" 499.60 feet along Lot 2 (Remainder of L. P. 8741, L. C. Aw. 7715, Ap. 11 to Lota Kamehameha);
2. 157° 24' 30" 171.60 feet along R. P. 3972, L. C. Aw. 7797 to Kamoahoalii;

- |    |              |        |  |
|----|--------------|--------|--|
| 3. | 248° 36' 00" | 10.85  | feet along Lot 4<br>(Remainder of L. P. 8241,<br>L. C. Aw. 7715, Ap. 11 to<br>Lota Kamehameha);  |
| 4. | 176° 41' 00" | 95.99  | feet along Lot 4<br>(Remainder of L. P. 8241,<br>L. C. Aw. 7715, Ap. 11 to<br>Lota Kamehameha);  |
| 5. | 263° 03' 00" | 575.86 | feet along Lot 1-D<br>(Remainder of L. P. 8241,<br>L. C. Aw. 7715, Ap. 11 to<br>Lota Kamehameha) to a<br>point on the West side of<br>Hawaii Belt Road;                      |
| 6. | 3° 28' 00"   | 143.24 | feet along the West side<br>of Hawaii Belt Road;<br><br>Thence along a curve to<br>the left, having a radius<br>of 5769.58 feet, the<br>chord azimuth and<br>distance being: |
| 7. | 2° 51' 50"   | 121.40 | feet to the point of<br>beginning, and containing<br>an area of 3.305 Acres.   |

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. The applicant shall submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the effective date of this ordinance.

- C. Plans for the proposed subdivision shall be submitted to the Planning Department and Final Subdivision Approval secured within three (3) years from the effective date of this ordinance. Subdivision plans shall delineate a 10-foot wide, "no vehicle access" planting screen easement along the frontage of the proposed lot bordering the Mamalahoa Highway.
- D. 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.

- E. 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.
- F. A wastewater disposal system shall constructed in a manner meeting with the approval of the State Department of Health and/or the Department of Public Works, whichever is applicable.
- G. 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.
- H. 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.

- I. Access to the subject property shall be from the proposed easement which shall be constructed in a manner meeting with the approval of the Departments of Transportation-Highways Division.
- 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 \$21,718. 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 Departments of Water Supply, Public Works and Fire.
- 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 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: December 21, 1994  
Date of 1st Reading: December 21, 1994  
Date of 2nd Reading: January 4, 1995  
Effective Date: January 19, 1995

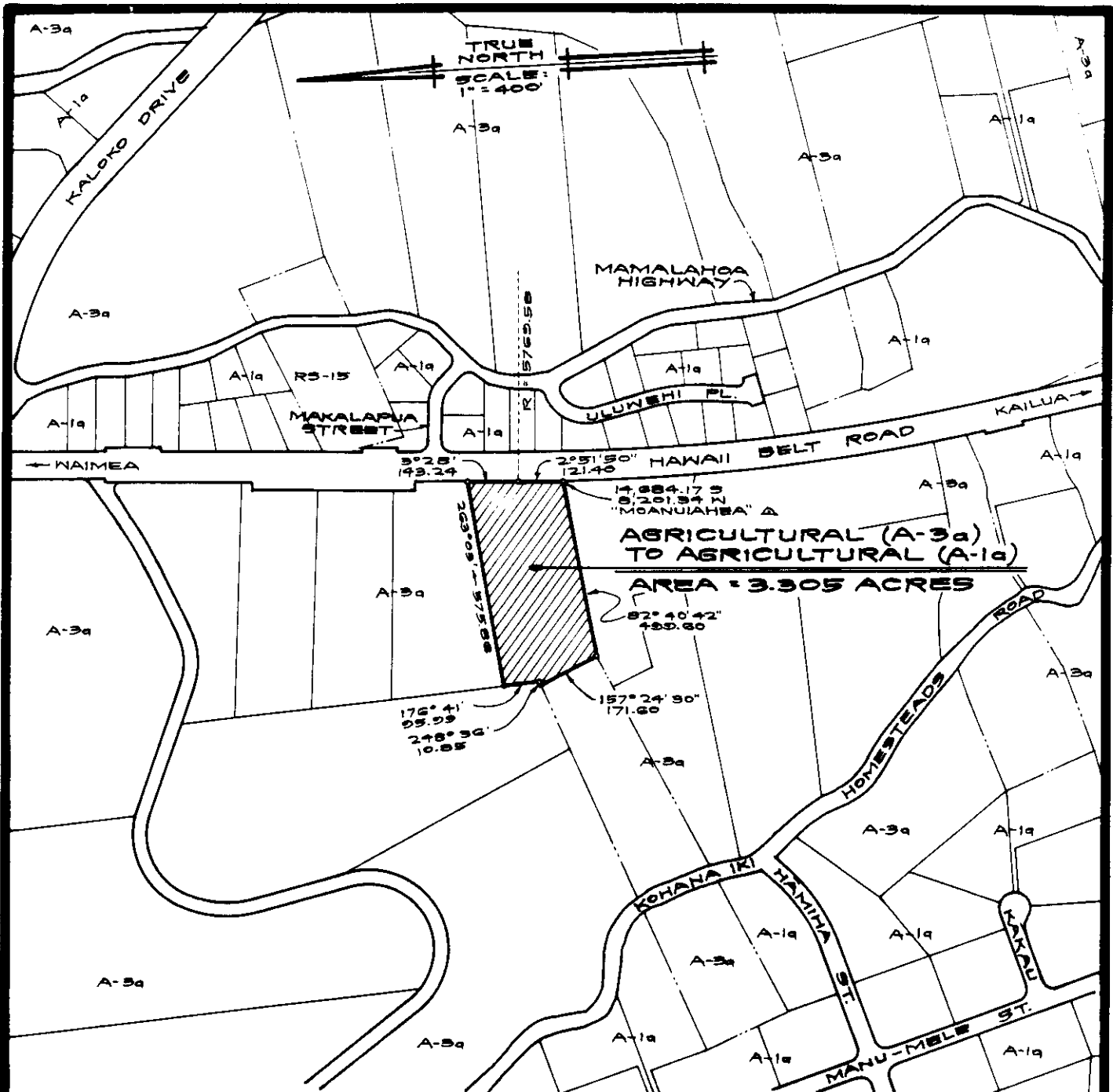
APPROVED AS TO FORM AND LEGALITY:

  
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DEPUTY CORPORATION COUNSEL

DATE: JAN 10 1995





## 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 AGRICULTURAL (A-3a) TO AGRICULTURAL (A-1a) AT KALOKO, NORTH KONA, HAWAII.

PREPARED BY: PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK: 7-3-08: 98

MARCH 27, 1990

EXHIBIT "A"

(HUBERT F. GRIEP)

**OFFICE OF THE COUNTY CLERK**  
**County of Hawaii**  
Hilo, Hawaii

95 JAN 19 AM 10 37

(DRAFT 2)

Introduced By: Takashi Domingo  
 Date Introduced: December 21, 1994  
 First Reading: December 21, 1994  
 Published: N/A

REMARKS:  
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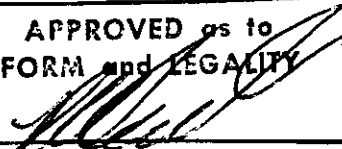
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
ARAKAKI	X			
BONK-ABRAMSON		X		
CHILDS	X			
DE LIMA	X			
DOMINGO	X			
OSORIO	X			
RATH	X			
RAY	X			
SMITH	X			
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Second Reading: January 4, 1995  
 To Mayor: January 9, 1995  
 Returned: January 19, 1995  
 Effective: January 19, 1995  
 Published: January 25, 1995

REMARKS:  
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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			
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**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 10 Jan 95

  
 COUNCIL CHAIRMAN

  
 COUNTY CLERK

Approved/Disapproved this 19 day  
 of January, 1995

  
 MAYOR, COUNTY OF HAWAII

Bill No.: 538 (Draft 2)  
 Reference: C-3141/1991/PC-148  
 Ord. No.: 95 15