

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 30

(Draft 2)

ORDINANCE NO. 95 50

AN ORDINANCE AMENDING SECTION 25-109 (KA'U DISTRICT 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 KIOLAKAA, KA'U, HAWAII, COVERED BY TAX MAP KEY 9-4-03:15.

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

SECTION 1. Section 25-109, 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 Kiolakaa, Ka'u, Hawaii, shall be Agricultural (A-3a):

Beginning at the north corner of this parcel of land, on the southwest boundary of Grant 808 to Kaulia on the southeast side of Mamalahoa Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "STEIN 2" being 1,817.59 feet North and 15,248.28 feet West, thence running by azimuths measured clockwise from True South:

- 1. 308° 41' 40" 537.71 feet along Grant 808 to Kaulia to a "+" in ahu (found and adopted);
2. 46° 36' 30" 366.92 feet along R.P. 6784, L.C.Aw. 10758 to Pa;
3. 60° 44' 30" 271.81 feet along L.P. S-8559, L.C.Aw 7434 to Kikaupea, along stonewall;
4. 59° 48' 178.07 feet along L.P. S-8559, L.C.Aw. 7434 to Kikaupea, along stonewall and along fence;

5. 140° 44' 563.00 feet along R.P. 7329, L.C.Aw. 9438 to Kauko, partly along stonewall;
6. Thence along the southeast side of Mamalahoa Highway, on a curve to the left with a radius of 255.00 feet, the chord azimuth and distance being:
227° 25' 45" 7.97 feet;
7. 226° 32' 83.41 feet along the southeast side of Mamalahoa Highway;
8. Thence along the southeast side of Mamalahoa Highway, on a curve to the right with a radius of 194.45 feet, the chord azimuth and distance being:
244° 00' 116.73 feet;
9. 261° 28' 66.69 feet along the southeast side of Mamalahoa Highway;
10. Thence along the southeast side of Mamalahoa Highway, on a curve to the left with a radius of 380.00 feet, the chord azimuth and distance being:
252° 03' 30" 124.24 feet;
11. 242° 39' 133.41 feet along the southeast side of Mamalahoa Highway;
12. Thence along the southeast side of Mamalahoa Highway, on a curve to the left with a radius of 230.00 feet, the chord azimuth and distance being:
221° 47' 30" 163.79 feet;
13. 200° 56' 31.32 feet along the southeast side of Mamalahoa Highway to the point of beginning and containing an area of 9.341 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 applicants, its 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. [If required, a variance from the water requirements of the Subdivision Code must be secured prior to Final Subdivision Approval.]
- C. 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.
- D. Access(es) to the subject property from Mamalahoa Highway shall be constructed in a manner meeting with the approval of the Department of Transportation.
- E. Restrictive covenant(s) in the deeds of all the proposed residential-agricultural lots shall prohibit the construction of 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(s) shall be recited in an instrument executed by the applicants and the County and recorded with the Bureau of Conveyances prior to the issuance of Final Subdivision Approval.

[F. Should any improvements to the water system in the area be required for future development of the area be required, the applicant, its successors, or assigns shall pay for their pro rata share of the improvements. The pro rata share determination and its implementation shall be approved by the Planning Director in consultation with the Manager of the Department of Water Supply or any agency with jurisdiction over future improvements to the water system.]

[G.]E. 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.

[H.]G. 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.

[I.]H. An initial extension of time for the performance of

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 require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.

[J.] 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:

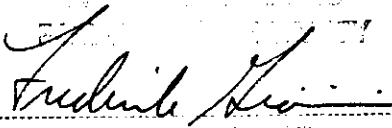


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

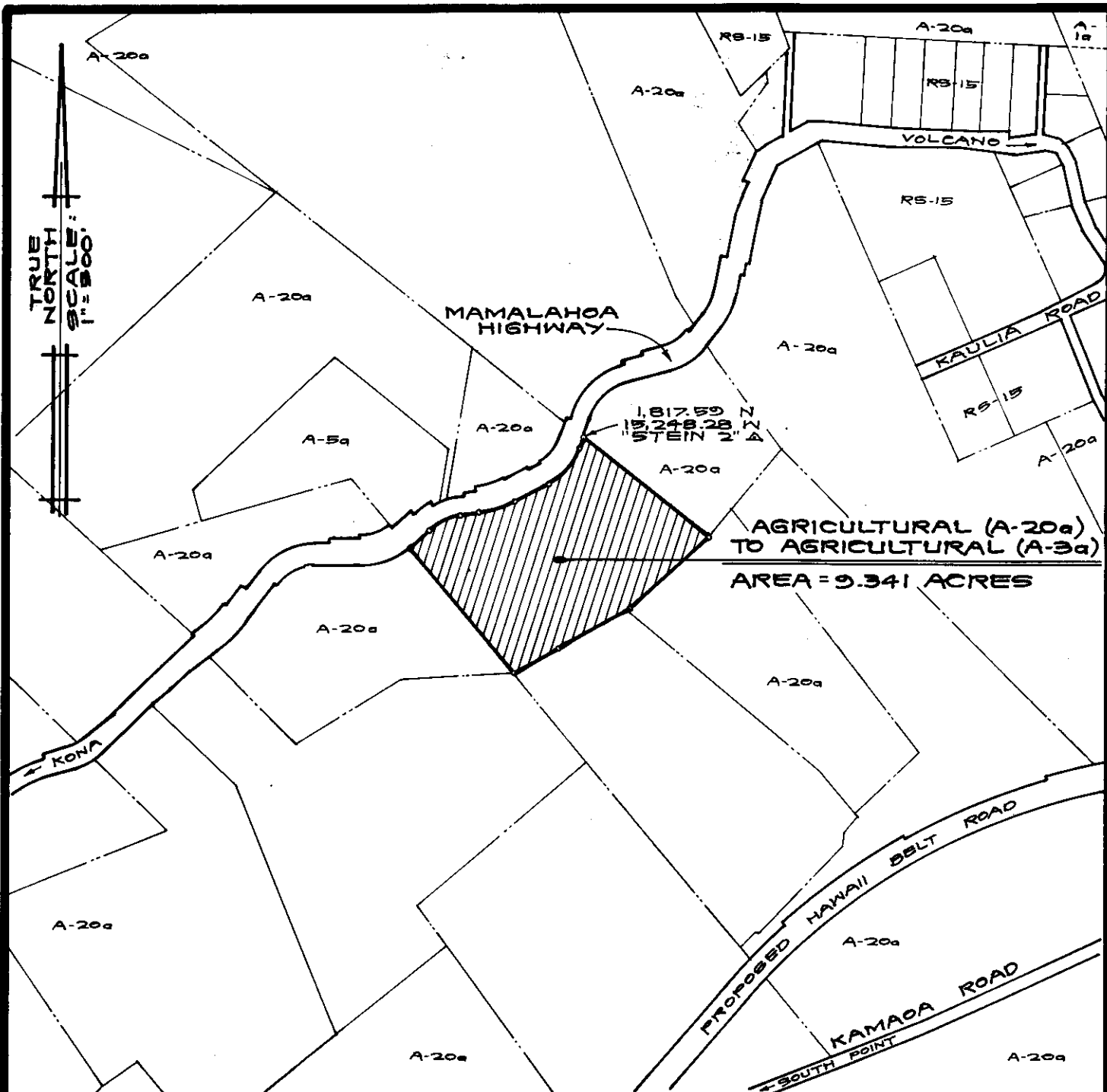
Date of Introduction: March 1, 1995
Date of 1st Reading: March 1, 1995
Date of 2nd Reading: March 15, 1995
Effective Date: March 21, 1995

APPROVED as to
FORM AND CONTENT



CORPORATE COUNSEL
COUNTY OF HAWAII

Date 3/18/95



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-109 (KA'U DISTRICT 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 KIOLAKAA, KA'U, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 9-4-03 : 15

NOV. 25, 1994

EXHIBIT "A"

(CLYDE M. AND DIANE S. KANESHIRO)

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

1995 MAR 21/PC

(DRAFT 2)

Introduced By: Keola Childs
 Date Introduced: March 1, 1995
 First Reading: March 1, 1995
 Published: N/A

REMARKS:

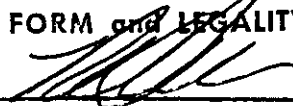
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Bonk-Abramson	X			
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Rath	X			
Ray	X			
Smith	X			
	9	0	0	0

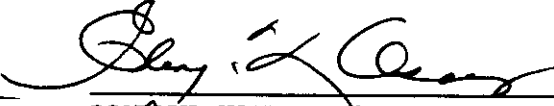

Second Reading: March 15, 1995
 To Mayor: March 16, 1995
 Returned: March 21, 1995
 Effective: March 21, 1995
 Published: March 28, 1995

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			
	9	0	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 MAR 20 1995


 COUNCIL CHAIRMAN

 COUNTY CLERK

Approved/Disapproved this 21 day
 of March, 19 95.


 MAYOR, COUNTY OF HAWAII

Bill No.: 30 (Draft 2)
 Reference: C-154/PC-20
 Ord. No.: 95 50