

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 93
(Draft 4)

ORDINANCE NO. 95 98

AN ORDINANCE AMENDING SECTION 25-103 (PUNA 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-1a) AT KEAAU, PUNA, HAWAII, COVERED BY TAX MAP KEY 1-6-03:10.

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

SECTION 1. Section 25-103, 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 Keaau, Puna, Hawaii, shall be Agricultural (A-1a):

Beginning at the east corner of this parcel of land and along the southerly side of Keaau-Pahoa Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "OLAA", being 3,433.98 feet North and 8,374.26 feet East, thence running by azimuths measured clockwise from true South:

1. 52° 18' 2,096.03 feet along the remainder of R.P. 7223, L.C. Aw. 8559-B, Ap. 16 to William C. Lunailo;
2. 142° 18' 1,050.10 feet along Lot A-18-A-2-B, Land Court Application 1053;
3. 232° 18' 1,478.70 feet along Lot A-18-A-2-B, Land Court Application 1053;
4. 320° 25' 345.00 feet along the remainder of R.P. 7223, L.C. Aw. 8559-B, Ap. 16 to William C. Lunailo (Lot 10-A);

5. 298° 30' 118.95 feet along the remainder of R.P. 7223, L.C. Aw. 8559-B, Ap. 16 to William C. Lunalilo (Lot 10-A);
6. 228° 00' 154.17 feet along the remainder of R.P. 7223, L.C. Aw. 8559-B, Ap. 16 to William C. Lunalilo (Lot 10-A);
7. 232° 00' 400.00 feet along the remainder of R.P. 7223, L.C. Aw. 8559-B, Ap. 16 to William C. Lunalilo (Lot 10-A);
8. 321° 54' 610.13 feet along Keaau-Pahoa Road to the point of beginning and containing an area of 44.341 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 applicant, successor or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Final Subdivision Approval of the subdivision development shall be secured within five years from the effective date of this change of zone ordinance. As represented by the applicant, the proposed subdivision shall not exceed a maximum of 36 lots (includes the visitor center lot).
- C. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the project with respect to parks and recreation, fire, police, solid waste disposal facilities, and roads. The fair share contribution shall be initially based

on the representations contained within the change of zone application and shall be increased or reduced proportionally if the lot counts are adjusted. The total fair share contribution or its proportionate amount based upon incremental subdivision shall be due and payable prior to final subdivision approval of each increment of the subject property. The fair share contribution for each 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 acceptable to the director, in consultation with the affected agencies shall have a maximum combined value of **\$253,370.60**. The fair share contribution shall be as follows:

1. **\$122,179.75** to the County to support park and recreational improvements and facilities;
2. **\$5,894.00** to the County to support police services and facilities;
3. **\$11,641.35** to the County to support fire services and facilities;
4. **\$5,596.70** to the County to support solid waste facilities; and
5. **\$108,558.80** to the State or County to support road and traffic improvements.

The fair share contribution described above shall be adjusted annually beginning three years after the

effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution in cash, the applicant may construct such facilities related to parks and recreation, fire, police, solid waste disposal facilities, and roads. The cost of constructing the improvements required in Condition G shall be credited against the sum specified in Condition C(5) for road and traffic improvements. For purposes of administering Condition C, the cost of any improvements required or made in lieu of the fair share contribution shall be such amount as approved by the Planning Director, upon consultation with the appropriate agencies. Any improvements constructed by the applicant to satisfy this condition shall be located within the region impacted by the proposed development.

- D. Restrictive covenants in the deeds of all the subdivided lots shall:
1. Require that all uses established on the lots be in conformance with the requirements of Chapter 205, Hawaii Revised Statutes (State Land Use Law) and Chapter 25, Hawaii County Code (Zoning Code);
 2. Prohibit the construction of an ohana dwelling or a second dwelling unit on each lot until the completion of the Keaau-Pahoia Bypass; and

3. Disclose to all lot owners within the subject property that the 50-foot wide roadways which extend to the southeast and southwest boundaries of the subject property shall be dedicated to the County upon the mayor's request.
4. Provide that pursuant to Condition E of this ordinance, the applicant and all lot owners shall consent to the dedication of such roadway lots and agree to execute any documents and perform any acts necessary to accomplish said dedication.

A copy of the covenants with the above requirements shall be submitted to the Planning Department for review and approval and a copy of the approved covenants shall be recited in an instrument executed by the applicants and the County prior to final subdivision approval for any portion of the subject property. The Planning Director shall promptly deliver such document to the Bureau of Conveyances for recordation. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.

- E. The applicant shall provide county-dedicable standard 50-foot wide roadways extending to the southeast and southwest boundaries of the property meeting with the approval of the Department of Public Works and which shall be dedicated to the County upon the mayor's request.

- F. 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.
- G. Prior to Final Subdivision Approval or issuance of a certificate of occupancy for commercial facilities permitted under any special permit, whichever occurs first, the applicant shall:
1. Install street lights and appropriate safety rails or features at the Keaau-Pahoa Road intersection near the subject property meeting with the approval of the Department of Transportation-Highways Division;
 2. If deemed appropriate by the Department of Water Supply in consultation with the Department of Public Works, relocate the existing public water pipe stand shall to a location along and within the Keaau-Pahoa Road right-of-way.
- H. 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.

- I. 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 applicant, successors or assigns, and that are not the result of its 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; and
 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).
- J. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the area to its original or more appropriate designation. This recommendation does not, however, sanction the specific plans submitted with the application as

they may be subject to change given specific code and regulatory requirements of the affected agencies.

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.

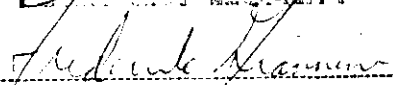
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

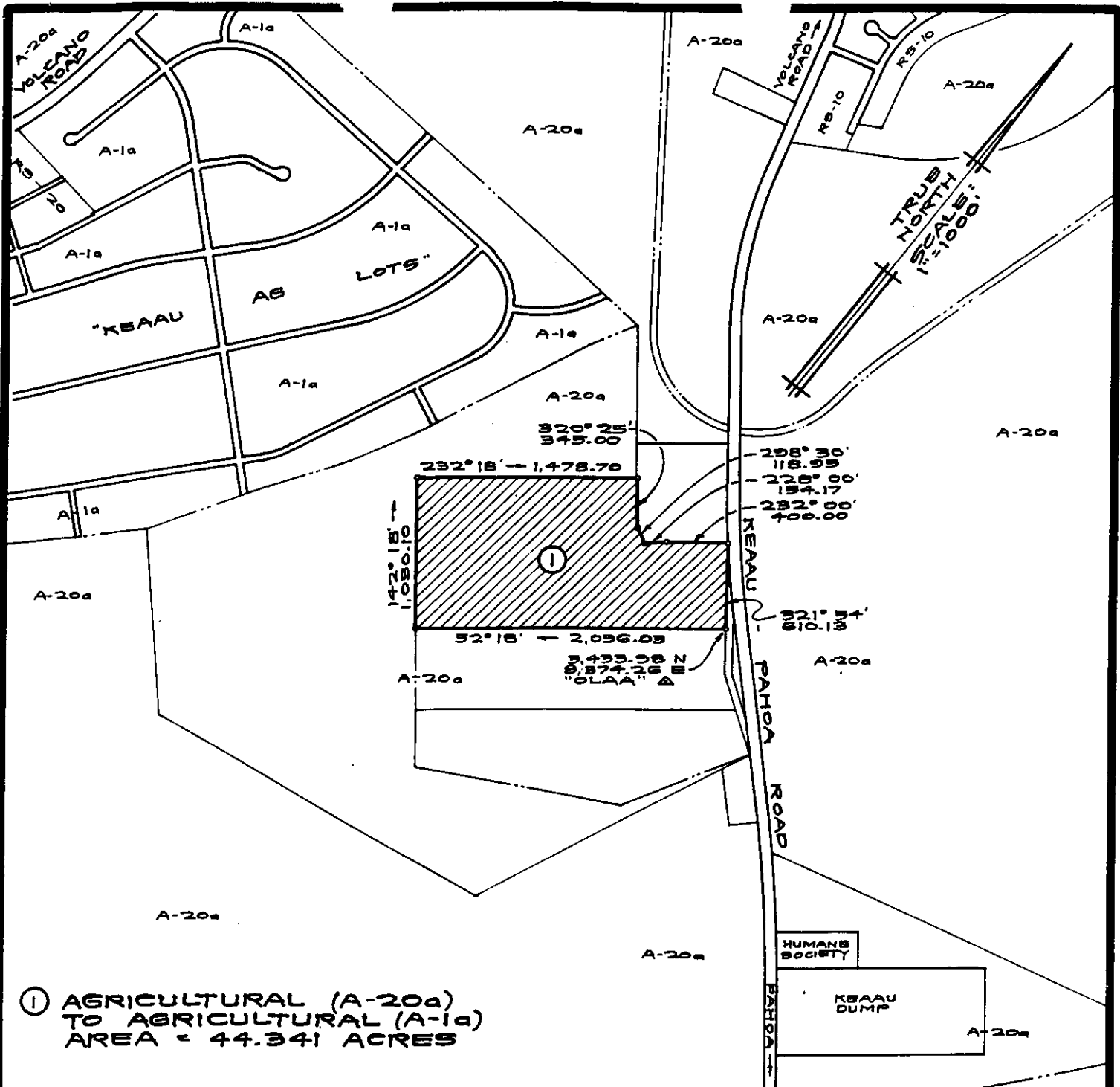
Date of Introduction: June 20, 1995
Date of 1st Reading: August 2, 1995
Date of 2nd Reading: August 16, 1995
Effective Date: August 23, 1995

APPROVED as to
FORM and LEGALITY



DEPUTY COMMISSIONER COUNSEL
COUNTY OF HAWAII

Date 8/21/95



① AGRICULTURAL (A-20a) TO AGRICULTURAL (A-1a) AREA = 44.341 ACRES

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-103 (PUNA 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-1a) AT KEAAU, PUNA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
 COUNTY OF HAWAII

TMK = 1-6-03 = 10

APRIL 4, 1995

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 4)

Introduced By: Takashi Domingo
 Date Introduced: June 20, 1995
 First Reading: August 2, 1995
 Published: N/A

REMARKS:
Referred back to Planning Committee - 06/20/95


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		
	6	2	1	0

Second Reading: August 16, 1995
 To Mayor: August 17, 1995
 Returned: August 23, 1995
 Effective: August 23, 1995
 Published: August 31, 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		
	7	2	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 AUG 22 1995


 COUNCIL CHAIRMAN


 COUNTY CLERK

Approved/Disapproved this 23 day
 of August, 1995.


 MAYOR, COUNTY OF HAWAII

Bill No.: 93 (Draft 4)
 Reference: C-400/PC-49; PC-61
 Ord. No.: 95 98