

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 98

ORDINANCE NO. 95 128

AN ORDINANCE AMENDING SECTION 25-86 (NORTH AND SOUTH KONA DISTRICTS 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-8a) AT KALAOA 1ST, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-02: 23 AND 27.

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

SECTION 1. Section 25-86, 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 Kalaoa 1st, North Kona, Hawaii, shall be Agricultural (A-8a):

Beginning at the Southwesterly corner of this parcel of land, being also the Southeasterly corner of Lot 38 of the Homestead Lots, Akahipuu Section (Registered Map No. 6) and being a point on the Northerly side of a 20-Ft. Wide Homestead Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 4,414.32 feet South and 6,296.37 feet West and running by azimuths measured clockwise from True South:

Thence, for the next thirteen (13) courses following along Lot 38 of the Homestead Lots, Akahipuu Section (Registered Map No. 6) and along Grant 3771 to D. Kinoulu:

1. 183° 07' 43.80 feet partly along middle of stonewall to a point;

2. 179° 08' 42.20 feet to a point;

Thence, for the next ten (10) courses following along middle of stonewall:

3. 181° 07' 41.30 feet to a point;  
4. 181° 58' 47.20 feet to a point;  
5. 182° 37' 53.20 feet to a point;  
6. 182° 16' 50.30 feet to a point;  
7. 179° 42' 39.90 feet to a point;  
8. 181° 02' 56.90 feet to a point;  
9. 183° 11' 41.10 feet to a point;  
10. 182° 18' 48.80 feet to a point;  
11. 181° 48' 47.70 feet to a point;  
12. 179° 34' 37.80 feet to a point;  
13. 180° 10' 59.18 feet partly along middle of stonewall to a point;  
14. 274° 01' 1,310.65 feet along the Southerly side of a 20-Ft. Wide Homestead Road to a point;

Thence, for the next nine (9) courses following along middle of stonewall and along Tract 5 of the Makaula-Ooma Tract (Government Land-State of Hawaii):

15. 359° 10' 42.83 feet to a point;  
16. 1° 16' 55.10 feet to a point;  
17. 0° 10' 145.00 feet to a point;  
18. 0° 41' 50.20 feet to a point;  
19. 1° 55' 56.40 feet to a point;  
20. 0° 03' 55.10 feet to a point;  
21. 1° 25' 58.20 feet to a point;

22. 0° 17' 70.30 feet to a point;  
23. 358° 14' 73.60 feet to a 1/2 inch pipe  
(Found);

Thence, for the next three (3) courses following along stonewall and along the Northerly side of a 20-Ft. Wide Homestead Road:

24. 81° 45' 67.18 feet to a point;  
25. 89° 32' 116.03 feet to a 1/2 inch pipe  
(Found);  
26. 95° 34' 45" 646.02 feet to a point;

Thence, for the next four (4) courses following along the Northerly side of a 20-Ft. Wide Homestead Road:

27. 92° 12' 208.17 feet partly along  
stonewall to a point;  
28. 94° 24' 30" 81.21 feet along stonewall to a  
1/2 inch pipe (Found);  
29. 96° 29' 203.47 feet to a point;  
30. 89° 08' 30" 2.76 feet to the point of  
beginning and containing  
an area of 18.650 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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Final Subdivision Approval of the proposed subdivision shall be secured within three (3) years from the effective date of this change of zone ordinance.

- C. Covenants in the deeds of all the subdivided lots shall 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). 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 applicant and the County and recorded with the Bureau of Conveyances with a copy of the recorded covenant to be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- D. The applicant, its successors or assigns shall contribute a pro-rata share contribution for the improvement of either government homestead roads adjoining the project site should either of these government homestead roads be improved to County standards.
- E. Should any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall be encountered, work in the affected area shall cease,

Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.

- F. 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.
- G. 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 applicants, 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).

H. 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.

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.

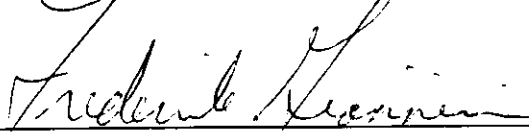
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

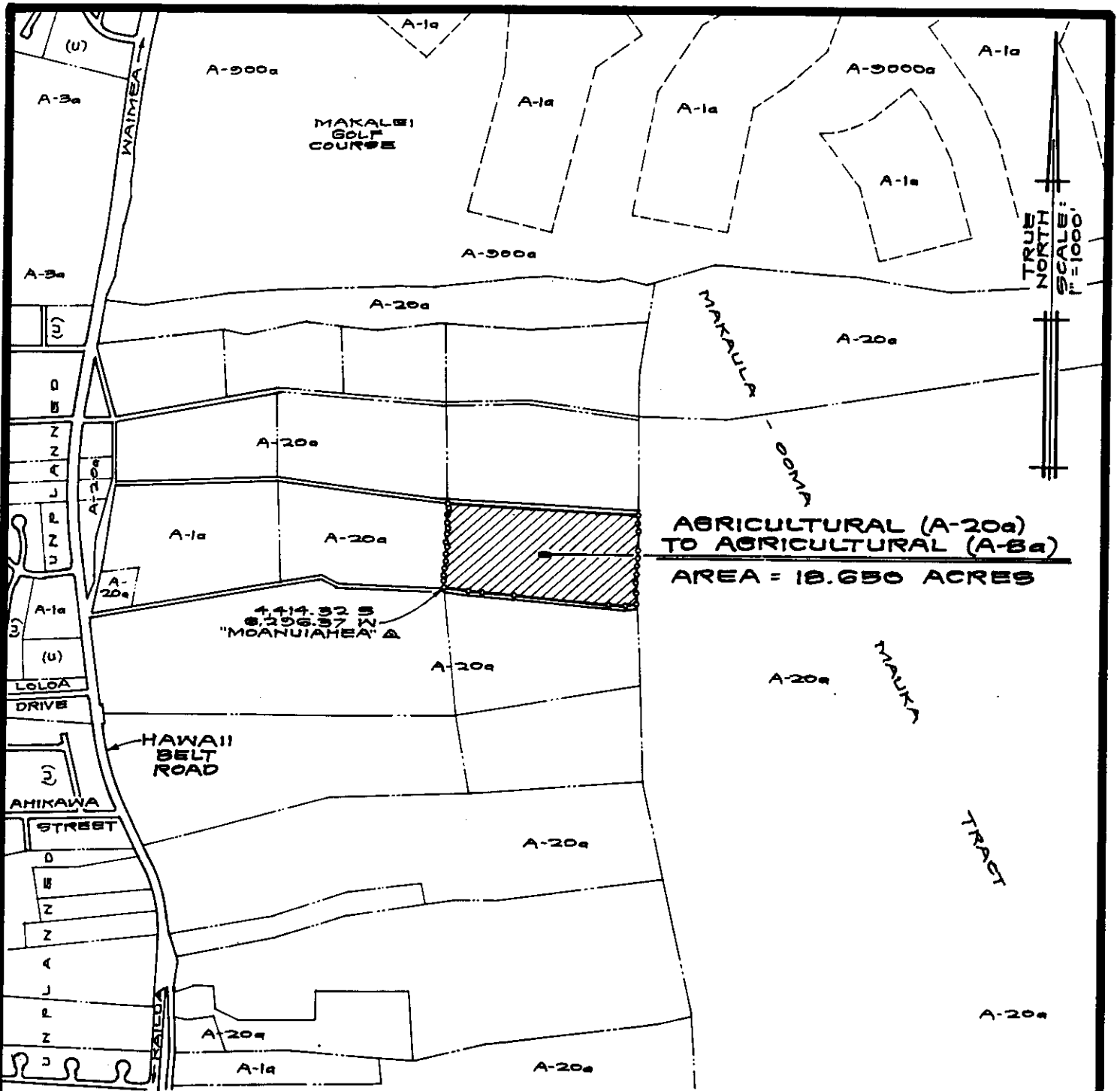
Hilo, Hawaii

Date of Introduction: October 18, 1995  
Date of 1st Reading: October 18, 1995  
Date of 2nd Reading: November 1, 1995  
Effective Date: November 9, 1995

APPROVED AS TO FORM AND LEGALITY:

  
DEPUTY CORPORATION COUNSEL

DATE: 11/3/95



**AGRICULTURAL (A-20a)  
TO AGRICULTURAL (A-3a)  
AREA = 18.650 ACRES**

**AMENDMENT TO THE ZONING CODE**

AMENDING SECTION 25-86 (NORTH AND SOUTH KONA DISTRICTS 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 KALAOA 1ST, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK : 7-3-02 : 23 AND 27

MAR. 9, 1995

EXHIBIT "A"

(LUCKY "D" INC.)

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

95 NOV 18 11:15 E

Introduced By: Takashi Domingo  
 Date Introduced: October 18, 1995  
 First Reading: October 18, 1995  
 Published: October 26, 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			
	9	0	0	0

Second Reading: November 1, 1995  
 To Mayor: November 2, 1995  
 Returned: November 9, 1995  
 Effective: November 9, 1995  
 Published: November 20, 1995

REMARKS:

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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
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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.

  
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 COUNCIL CHAIRMAN

  
 \_\_\_\_\_  
 COUNTY CLERK

Approved/Disapproved this 9 day  
 of November, 1995.

  
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 MAYOR, COUNTY OF HAWAII

Bill No.: 98  
 Reference: C-456/PC-81  
 Ord. No.: 95 128