

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 176

ORDINANCE NO. 96 5

AN ORDINANCE AMENDING SECTION 25-95A (NORTH AND SOUTH KOHALA 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 HANAULA, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-4-3:8.

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

SECTION 1. Section 25-95A, 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 Hanaula, North Kohala,

Hawaii, shall be Agricultural (A-3a):

Beginning at the Northeast corner of this piece of land and on the Southwest side of Hawi-Niulii Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE", being 11,363.73 feet North and 12,796.20 feet East, and running by azimuths measured clockwise from True South:

- 1. 41° 11' 2,124.15 feet along Grant 1553 to Haaheo;
- 2. 107° 23' 251.30 feet along Grant 2744 to Makuaole and Hoolani;
- 3. 216° 45' 1,535.29 feet along the remainder of Grant 2689 to Luuluu;
- 4. 285° 27' 27.73 feet along same;
- 5. 213° 22' 437.80 feet along same;

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|-----|------|-----|--------|---|
| 6. | 288° | 10' | 78.00 | feet along same; |
| 7. | 202° | 22' | 130.02 | feet along same; |
| 8. | 290° | 34' | 128.61 | feet along the Southwest boundary of Hawi-Niulii Road; |
| 9. | 20° | 34' | 35.00 | feet along a jog in the Southwest boundary of Hawi-Niulii Road; |
| 10. | 290° | 34' | 235.71 | feet along the Southwest boundary of Hawi-Niulii Road to the point of beginning and containing an area of 15.035 Acres, more or less. |

(NOTE: Department of Taxation, Tax Maps Bureau of the State of Hawaii covering Tax Map Key 3rd Div. 5-4-03: 8 shows a roadway running over and across a portion of the land herein described.)

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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicants, successors or assigns shall be responsible for complying with all requirements of Chapter 205, Hawaii Revised Statutes, relating to permissible uses within the State Land Use Agricultural District.
- C. Final Subdivision Approval of the proposed subdivision development shall be secured within five (5) years from the effective date of this change of zone ordinance.

- D. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of this ordinance.
- E. Covenants in the deeds of all the subdivided lots shall state that no variance from the minimum water requirements shall be granted to further subdivide the lots without improvements to the existing water system facilities, meeting with the standards of the Department of Water Supply. 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 with a copy of the recorded covenant to be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- F. Access shall meet with the approval of the State Department of Transportation Highways Division and/or the County Department of Public Works.
- G. All grading and grubbing activities and drainage improvements shall meet with the approval of the County Department of Public Works.
- 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 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).
- 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.

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 15, 1995
Date of 1st Reading: December 15, 1995
Date of 2nd Reading: January 3, 1996
Effective Date: January 12, 1996

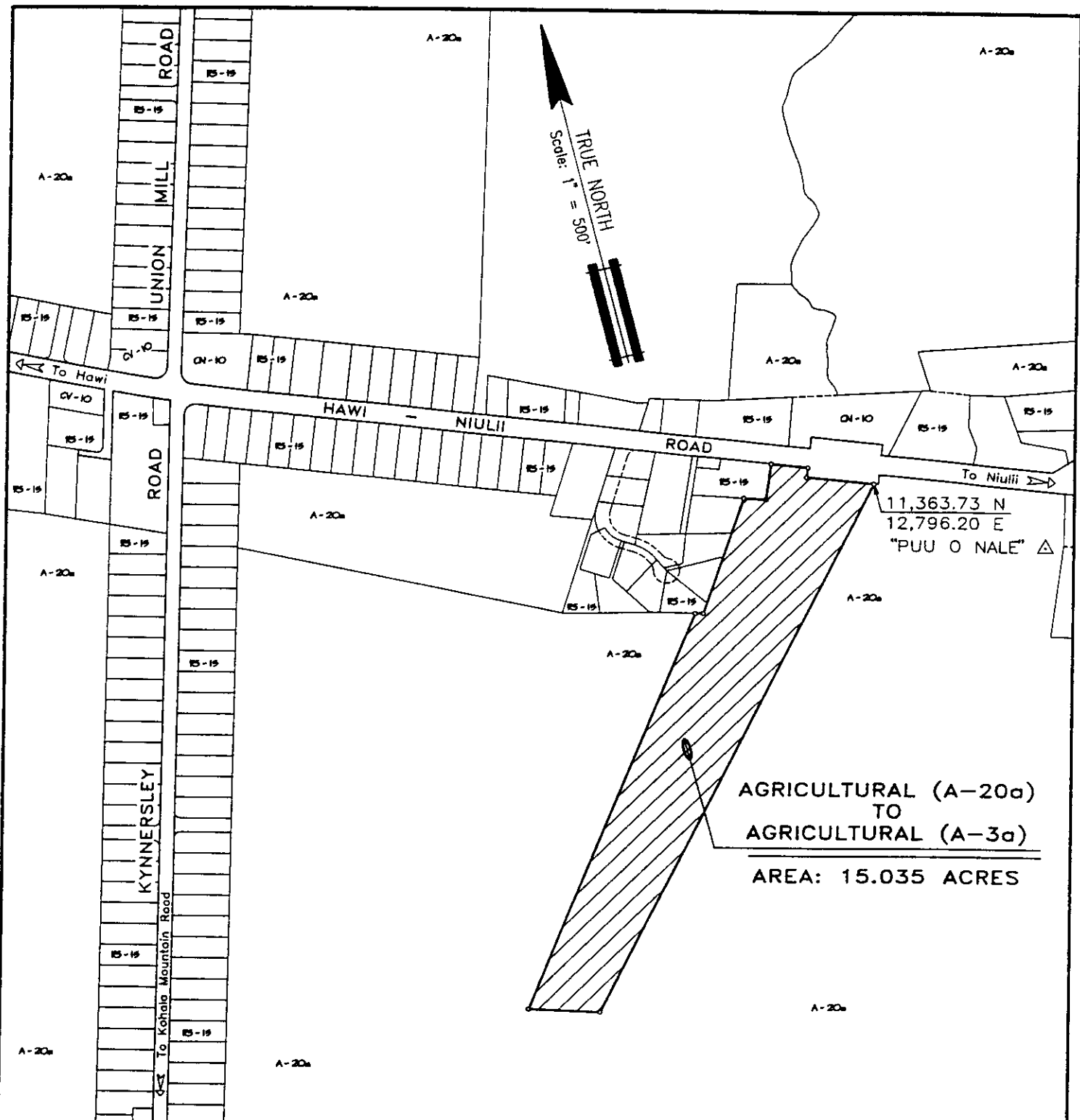
REFERENCE: Comm. 822

APPROVED AS TO FORM AND LEGALITY:



DEPUTY CORPORATION COUNSEL

DATE: 1/5/96



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-95A (NORTH AND SOUTH KOHALA 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 HANAULA, NORTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo Hawaii

RECEIVED

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Introduced By: Takashi Domingo
 Date Introduced: December 15, 1995
 First Reading: December 15, 1995
 Published: N/A

REMARKS:

Second Reading: January 3, 1996
 To Mayor: January 4, 1996
 Returned: January 12, 1996
 Effective: January 12, 1996
 Published: January 24, 1996

REMARKS:

OFFICE OF COUNTY CLERK
 COUNTY OF HAWAII

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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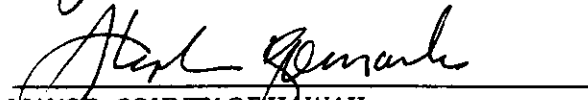
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Domingo	X			
Osorio	X			
Rath	X			
Ray	X			
Smith	X			
	9	0	0	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council and published as indicated above.


 COUNCIL CHAIRMAN


 COUNTY CLERK

Approved / Disapproved this 12 day
 of January, 19 96.


 MAYOR, COUNTY OF HAWAII

Bill No.: 176
 Reference: C-822/PC-92
 Ord. No.: 96 5