

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 170
(Draft 5)

ORDINANCE NO. 96 9

AN ORDINANCE AMENDING SECTION 25-97 (HAMAKUA DISTRICT HOMESTEADS AREA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-40a) TO AGRICULTURAL (A-1a) AT HAUOLA, OPIHILALA, HAMAKUA, HAWAII, COVERED BY TAX MAP KEY 4-3-3:31.

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

SECTION 1. Section 25-97, 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 Hauola, Opihilala, Hamakua, Hawaii, shall be Agricultural (A-1a):

Beginning at the South corner of this parcel of land being the Northwest corner of The Old Main Road and Pohakea Road. The coordinates of said point of beginning referred to Government Survey Triangulation Station "Opihilala" being 188.92 feet North and 250.42 feet West, thence running by azimuths measured clockwise from True South;

1. 114° 06' 00" 506.96 feet along the Northerly side of the Old Main Road;
2. Along a curve to the right on the Northerly side of the Old Main Road with a radius of 975.00 feet, the chord azimuth and distance being 115° 38' 30" 52.46 feet;
3. 117° 11' 00" 436.59 feet along the Northerly side of the Old Main Road;
4. Along a curve to the right on the Northerly side of the Old Main Road with a radius of 1475.00 feet, the chord azimuth and distance being 119° 26' 30" 116.25 feet;

5. 121° 42' 00" 370.02 feet along the Northerly side of the Old Main Road;
6. Along a curve to the left on the Northerly side of the Old Main Road with a radius of 275.00 feet, the chord azimuth and distance being 97° 08' 30" 228.59 feet;
7. 72° 35' 00" 360.88 feet along the Northerly side of the Old Main Road to the middle of Waipunahina Gulch;
8. Along the middle of Waipunahina Gulch to the Southerly side of the Hawaii Belt Road FAP F-019-2(4) the direct azimuth and distance being 206° 51' 00" 511.49 feet;
9. 291° 17' 00" 1880.51 feet along the Southerly side of the Hawaii Belt Road FAP F-019-2(4);
10. Along a curve to the right on the Southerly side of the Hawaii Belt Road with a radius of 1860.20 feet the chord azimuth and distance being 291° 53' 40" 39.68 feet;
11. 20° 28' 30" 384.38 feet along the Westerly side of Pohakea Road to the point of beginning and containing an area of 14.913 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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. 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.

- C. The subject property shall be developed in two increments. The number of lots in the first increment shall not exceed the number of units of water which are available and have been committed to the subject property by the Department of Water Supply. Final Subdivision Approval of the first increment shall be secured within five (5) years from the effective date of this ordinance. The subdivision plans shall delineate a 10-foot wide strip for no-vehicular access planting screen easement along the property's frontage bordering the State highway.
- D. Covenants in the deeds of all the subdivided lots shall require that all uses established on the lots are in conformance with the statutory 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 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.
- E. To further the provisions of Condition C, covenants in the deeds of all the subdivided lots shall prohibit the granting of any variance from the minimum water requirements to 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. In conjunction with final subdivision approval for the first increment of the proposed development, the applicant shall:
1. Improve the section of Hauola Road fronting the subject property which lays between Pohakea Place and the opposite side of the western most driveway or access road into the subdivision lots of the first increment, whichever distance is greater, to a minimum 20-foot wide pavement width with 6-foot wide stabilized gravel shoulders;
 2. Re-surface the existing roadway pavement of Pohakea Road fronting the subject property to its intersection with the Hawaii Belt Road;
 3. Improve the intersection of Hauola and Pohakea Roads with a minimum 20-foot right-of-way curve radius.
- G. The balance of roadway improvements to Hauola Road fronting the subject property shall be improved to a minimum 20-foot wide pavement with 6-foot wide stabilized gravel shoulders in conjunction with final subdivision approval of the second increment of the proposed development.
- H. All roadway and drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval for the subdivision development.
- I. 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.

J. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject property with respect to parks and recreation , fire, police, solid waste disposal facilities, and roads. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of additional proposed lots in each such increment. 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 **\$7,239.16 per lot**. Based upon the applicant's representation of intent to subdivide and develop up to thirteen lots, the indicated total fair share contribution is **\$86,869.92** which applies only to the additional density created, however, the total amount shall be increased or reduced in proportion with the actual number of subdivided lots according to the calculation and payment provisions set forth in this Condition J. The fair share contribution shall be allocated as follows:

1. \$3,490.85 per lot, for an indicated total of **\$41,890.20** to the County to support park and recreational improvements and facilities;

2. \$168.40 per lot, for an indicated total of **\$2,020.80** to the County to support police facilities;
3. \$332.61 per lot, for an indicated total of **\$3,991.32** to the County to support fire facilities;
4. \$145.62 per lot, for an indicated total of **\$1,747.44** to the County to support solid waste facilities;
5. \$3,101.68 per lot, for an indicated total of **\$37,220.16** to the State or County to support road and traffic improvements.

The fair share contributions 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, the applicant may construct and contribute improvements/facilities related to parks and recreation, fire, police, solid waste disposal facilities, and roads within the region impacted by the proposed development, subject to the approval of the director. The cost of constructing the improvements required in Conditions F and G shall be credited against the sum specified in Condition J(5) for road and traffic improvements. For purposes of administering Condition J, the value of land contributed or 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.

- K. 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.

- L. 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; 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).

- M. 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

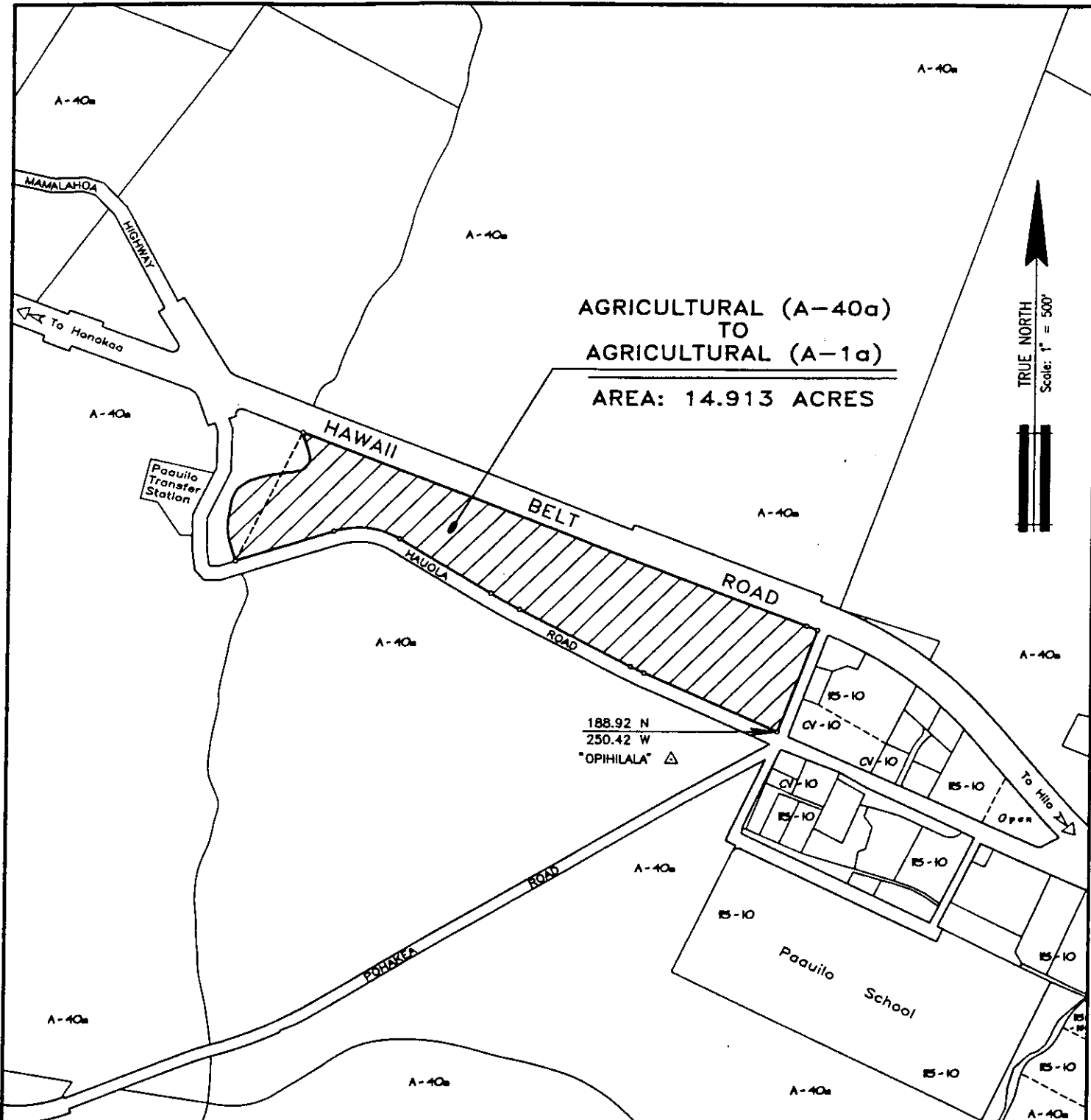
Hilo, Hawaii

Date of Introduction: December 5, 1995
Date of 1st Reading: December 5, 1995
Date of 2nd Reading: February 12, 1996
Effective Date: February 23, 1996

APPROVED AS TO FORM AND LEGALITY


DEPUTY CORPORATION COUNSEL

DATED: 2/13/96



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-97 (HAMAKUA DISTRICT HOMESTEADS AREA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-40a) TO AGRICULTURAL (A-1a) AT HAUOLA, OPIHILALA, HAMAKUA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

'96 FEB 26 AM 8 07

Introduced By: Takashi Domingo
 Date Introduced: December 5, 1995
 First Reading: December 5, 1995
 Published: N/A

REMARKS:
12/05/95 - Referred back to PC

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	1	1	0

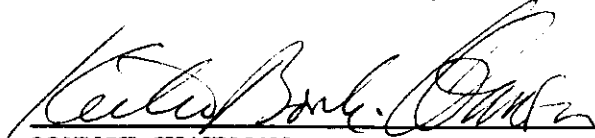
Second Reading: February 7, 1996
 To Mayor: February 12, 1996
 Returned: February 26, 1996
 Effective: February 23, 1996
 Published: March 4, 1996

REMARKS:

(DRAFT 5)

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			
	8	1	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 23 day
 of February, 1996.


 MAYOR, COUNTY OF HAWAII

Bill No.: 170 (Draft 5)
 Reference: C-779/PC-84
 Ord. No.: 96 9