

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 267
(Draft 5)

ORDINANCE NO. 96 74

AN ORDINANCE AMENDING SECTION 25-95B (UPOLU POINT - KAAUHUUHUU 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 KAAUHUUHUU HOMESTEADS, KAAUHUUHUU, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-5-2:12.

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

SECTION 1. Section 25-95B, 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 Kaauhuhu Hmstds.,

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

Beginning at a point at the southwest corner of this parcel of land being also the northwest corner of Kohala Ditch and on the easterly side of the Hawi Road the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE" being 7,715.03 feet North and 4,586.34 feet East and running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|--|
| 1. | 178° 54' | 726.40 | feet along the easterly side of the Hawi Road; |
| 2. | 270° 00' | 210.00 | feet along the remainder of Lot 59, Grant 10,443 to Antone Silva; |
| 3. | 178° 54' | 100.00 | feet along the remainder of Lot 59, Grant 10,443 to Antone Silva; |
| 4. | 90° 00' | 210.00 | feet along remainder of Lot 59, Grant 10,443 to Antone Silva to a point at the easterly side of the Hawi Road; |

| | | | |
|-----|----------|---------|--|
| 5. | 178° 54' | 1174.22 | feet (revised) along the easterly side of the Hawi Road; |
| 6. | 232° 48' | 111.53 | feet (revised) along the southeasterly side of Kaauhuhu Road; |
| 7. | 279° 26' | 382.90 | feet (revised) along the southerly side of Kaauhuhu Road; |
| 8. | 288° 05' | 691.30 | feet along the southerly side of Kaauhuhu Road; |
| 9. | 0° 00' | 1798.12 | feet (revised) along the westerly side of Kaauhuhu Road; |
| 10. | 136° 00' | 161.93 | feet (revised) along the northeasterly side of the Kohala Ditch; |
| 11. | 92° 58' | 268.00 | feet along the northerly side of the Kohala Ditch; |
| 12. | 86° 35' | 449.60 | feet along the northerly side of the Kohala Ditch; |
| 13. | 52° 17' | 135.20 | feet along the northwesterly side of the Kohala Ditch; |
| 14. | 85° 00' | 150.00 | feet along the northerly side of the Kohala Ditch to the point of beginning and containing an area of 46.9479 Acres. |

NOTE: Boundaries have been revised to relate to original boundaries (found) on the ground.

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. The applicant shall submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of this change of zone.
- C. Final Subdivision Approval of the proposed agricultural subdivision shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- D. As the subject property consists of Class B soils, covenant in the deeds of all the proposed agricultural lots shall require that all uses established on the lots be in conformance with the statutory requirements of Chapter 205, Hawaii Revised Statutes (State Land Use Law) and Chapter 25, Hawaii County Code (Zoning). 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 with a copy of the recorded covenant to be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- E. Access(es) to the subject property from Kaauhuhu Road shall be constructed in a manner meeting with the approval of the Department of Public Works.
- F. No access(s) shall be permitted to the subject property from Hawi Road, except for the lot containing the existing dwelling.

- G. Prior to the final subdivision approval for any portion of the subject property, except for the consolidation/resubdivision of the lot containing the existing dwelling, the applicant shall improve the section of Kaauhuhu Road fronting the subject property which lies between Hawi Road and the opposite side of the southern most driveway or access road into the subdivision to a minimum 20-foot wide pavement with 5-foot wide stabilized grass shoulders.
- H. To provide for future road widening improvements, the applicants shall delineate on plans for final subdivision approval, a 10-foot wide future road-widening easement fronting the subject property along Kaauhuhu Road and beyond the existing 30-foot wide right-of-way. The 10-foot wide easement shall be dedicated to the County upon its request and at no cost to the County, provided that the County shall be responsible for the processing of all appropriate conveyance documents.
- I. For the purpose of maintaining existing view planes, the applicant shall reserve a 100-foot wide building setback in perpetuity along the Hawi Road for all the proposed lots of the subject property fronting Hawi Road and shall delineate such setback on plans submitted for subdivision review. Said restriction shall be included in the deeds of the respective lots.
- J. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the director in consultation with the Department of Land and Natural Resources-Historic Preservation Division when it finds that sufficient mitigative measures have been taken.

- K. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fee 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 applicants, its 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).
- 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:

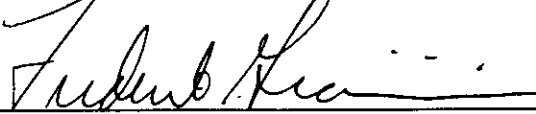


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

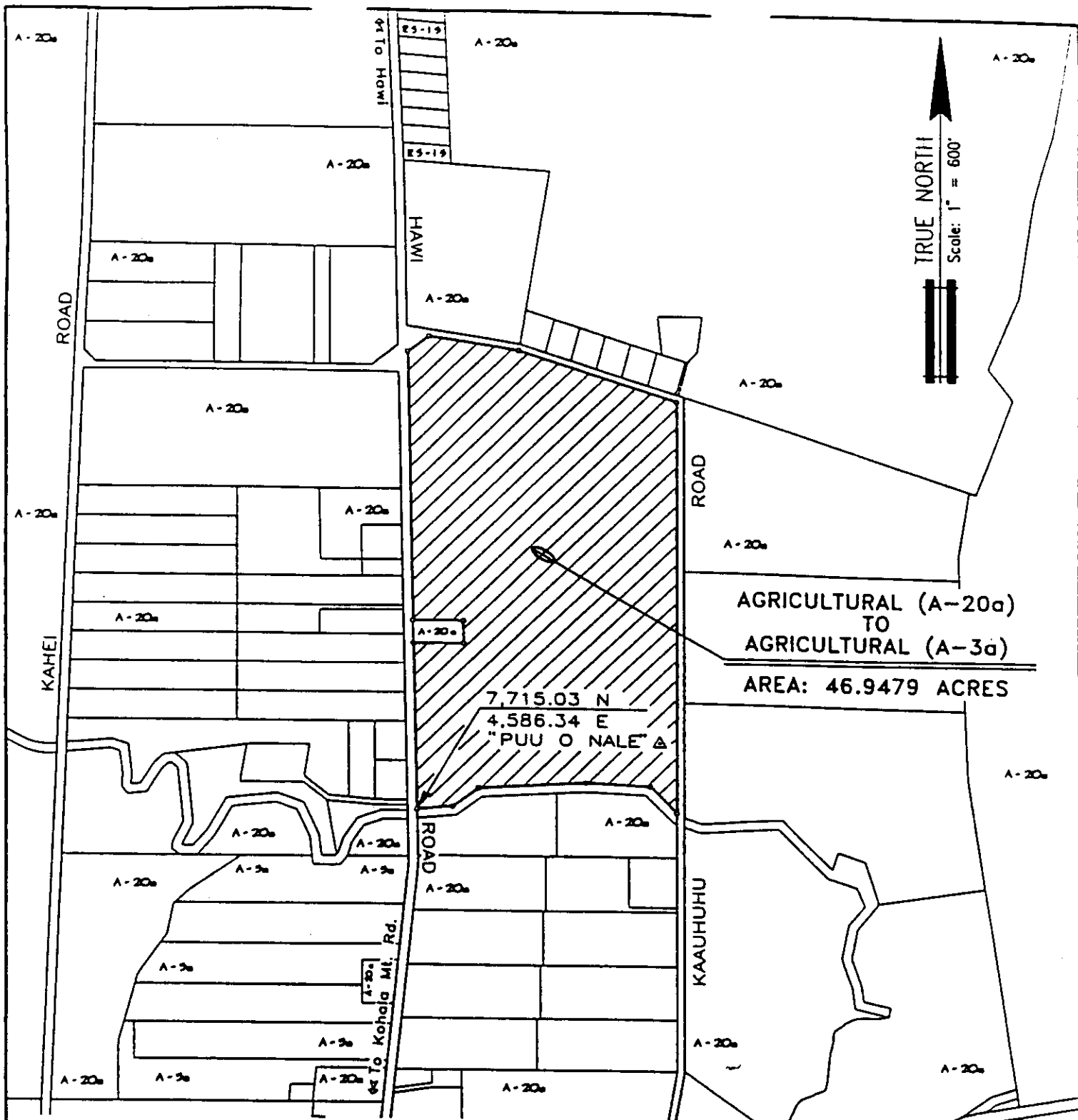
Date of Introduction: June 3, 1996
Date of 1st Reading: June 3, 1996
Date of 2nd Reading: June 19, 1996
Effective Date: June 27, 1996

APPROVED AS TO FORM AND LEGALITY



DEPUTY CORPORATION COUNSEL

DATED: 6/20/96



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-95B (UPOLU POINT - KAAUHUHU HOMESTEADS 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 KAAUHUHU HOMESTEADS, KAAUHUHU, NORTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 3)

Introduced By: Takashi Domingo
Date Introduced: June 3, 1996
First Reading: June 3, 1996
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 | | | |
| | 8 | 1 | 0 | 0 |

Second Reading: June 19, 1996
To Mayor: June 20, 1996
Returned: June 27, 1996
Effective: June 27, 1996
Published: July 8, 1996

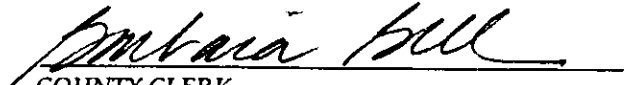
REMARKS:

(DRAFT 5)

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| Osorio | X | | | |
| Rath | X | | | |
| Ray | X | | | |
| Smith | X | | | |
| | 7 | 1 | 1 | 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 27 day
of June, 19 96.


MAYOR, COUNTY OF HAWAII

Bill No.: 267 (Draft 5)
Reference: C-1155/PC-118
Ord. No.: 96 74