

COUNTY OF HAWAII

STATE OF HAWAII

BILL NO. 268
(Draft 3)

ORDINANCE NO. 96 75

AN ORDINANCE AMENDING SECTION 25-95B (UPOLU POINT - KAAUHUUHOMESTEAD ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO AGRICULTURAL (A-3a) AT KAHEI, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-5-01:119.

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

Beginning at the Southeast corner of this parcel of land, on the West side of Homestead Road, being also the Northeast corner of Lot 8-B (Map 9) of Land Court Application 1122, the coordinates of which referred to Government Survey Triangulation Station "PUU O NALE" being 2,189.67 feet North and 5,888.04 feet East and running by azimuths measured clockwise from true South:

- | | | | | | |
|----|------|-----|-----|--------|--|
| 1. | 50° | 16' | 30" | 29.33 | feet along Lot 8-B (Map 9) of Land Court Application 1122; |
| 2. | 80° | 16' | 30" | 352.56 | feet along Lot 8-B (Map 9) of Land Court Application 1122; |
| 3. | 82° | 13' | | 35.97 | feet along Lot 8-B (Map 9) of Land Court Application 1122; |
| 4. | 170° | 18' | 45" | 294.59 | feet along Lot 8-B (Map 9) of Land Court Application 1122; |

5.	100° 59'		16.48	feet along Lot 8-B (Map 9) of Land Court Application 1122;
6.	77° 49'		148.35	feet along Lot 8-B (Map 9) of Land Court Application 1122;
7.	141° 34'		41.54	feet along Lot 8-B (Map 9) of Land Court Application 1122;
8.	139° 07'		478.00	feet along Lot 8-B (Map 9) of Land Court Application 1122;
9.	229° 02'		198.55	feet along Grant 4817 to Manuel Assencao;
10.	256° 45'		210.26	feet along Lot 8-E-2 (Map 10) of Land Court Application 1122;
11.	351° 55'	15"	526.93	feet along Lots 8-E-2 and 8-E-3 (Map 10) of Land Court Application 1122;
12.	259° 39'		203.02	feet along Lot 8-E-3 (Map 10) of Land Court Application 1122;
13.	350° 43'		18.49	feet along Lot 8-E-3 (Map 10) of Land Court Application 1122;
14.	260° 50'	45"	286.74	feet along Lot 8-E-3 (Map 10) of Land Court Application 1122;
15.	276° 04'		41.01	feet along Lot 8-E-3 (Map 10) of Land Court Application 1122;
16.	297° 31'		25.96	feet along Lot 8-E-3 (Map 10) of Land Court Application 1122;
17.	320° 50'		42.07	feet along Lot 8-E-3 (Map 10) of Land Court Application 1122;
18.	52° 38'		14.83	feet along the Northwesterly side of Homestead Road;
19.	10° 10'		202.80	feet along the West side of Homestead Road;

20. 3° 20' 35.99 feet along the West side of Homestead Road to the point of beginning and containing an area of 6.493 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 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. [Plans shall reflect the 5-foot wide future road-widening strip fronting the subject property.]
- D. 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 two lots, the indicated total fair share contribution is **\$7,239.16**, 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 D. The fair share contribution shall be allocated as follows:

1. \$3,490.85 per lot, for an indicated total of **\$3,490.85** to the County to support park and recreational improvements and facilities;
2. \$168.40 per lot, for an indicated total of **\$168.40** to the County to support police facilities;
3. \$332.61 per lot, for an indicated total of **\$322.61** to the County to support fire facilities;
4. \$145.62 per lot, for an indicated total of **\$145.62** to the County to support solid waste facilities;
5. \$3,101.68 per lot, for an indicated total of **\$3,101.68** 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. For purposes of administering Condition D, 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.

- E. ~~[The] To provide for future road widening improvements, the~~ applicants shall ~~[dedicate] delineate on plans for final subdivision approval,~~ a 5-foot wide future road-widening ~~[strip of land] easement~~ fronting the subject property ~~along the Homestead Road and [,] beyond the existing 40-foot wide right-of-way[,]~~ to the County of Hawaii in accordance with the Subdivision Code requirement and meeting with the approval of the Department of Public Works]. The 5-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.
- F. 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 planning director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the planning director in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) when it finds that sufficient mitigative measures have been taken.

- G. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the easements of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- H. 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).
- I. 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:

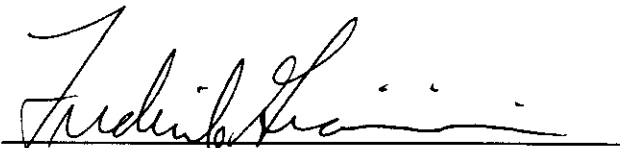

COUNCIL MEMBER, COUNTY OF HAWAII

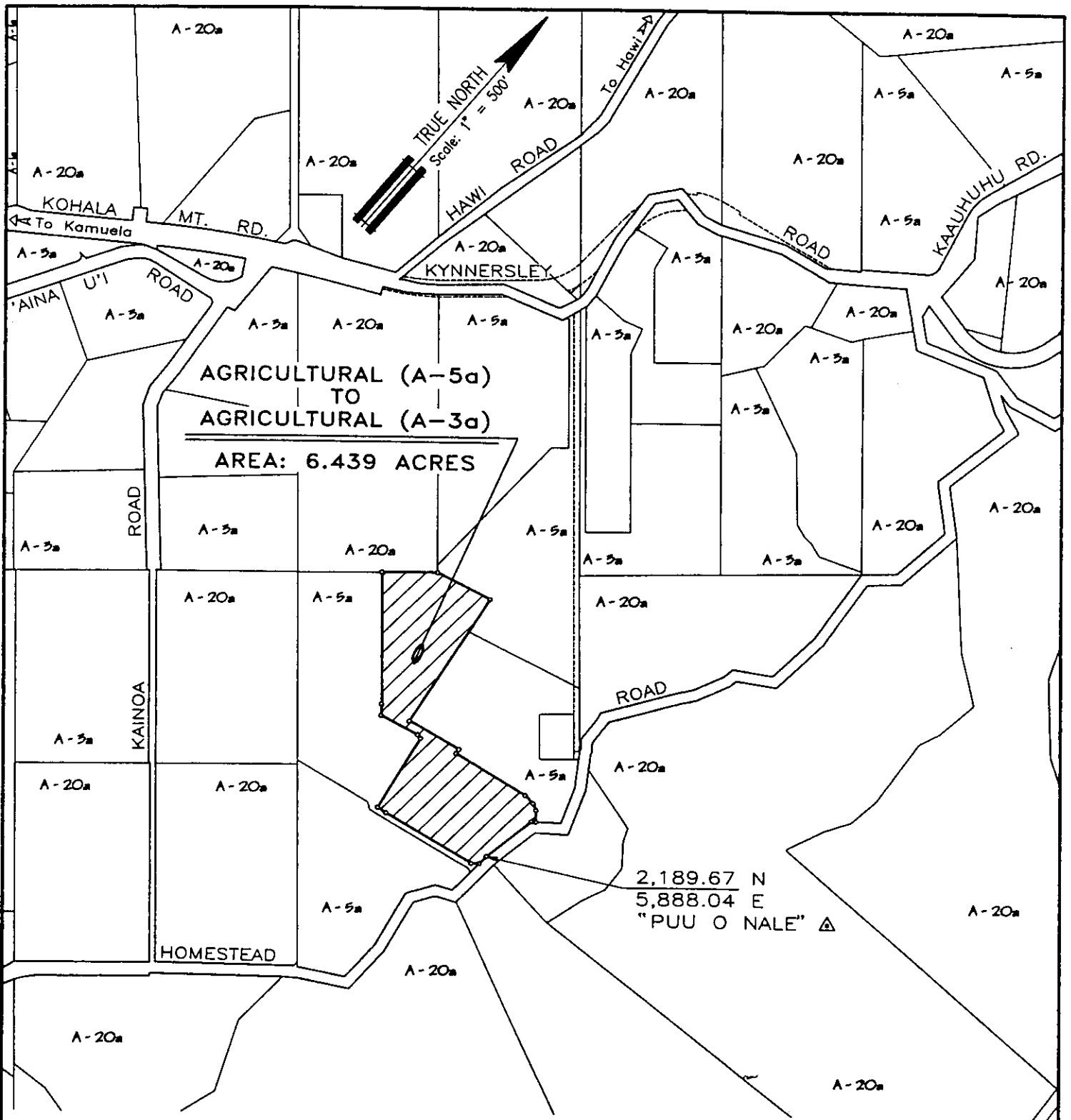
Hilo, Hawaii

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-5a) TO AGRICULTURAL (A-3a) AT KAHEI, 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:

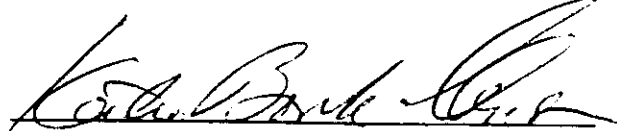
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Bonk-Abramson		X		
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Rath	X			
Ray	X			
Smith	X			
	8	1	0	0

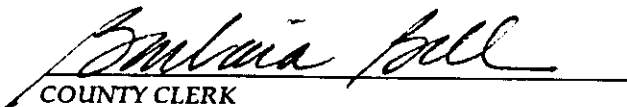
Second Reading: June 19, 1996
 To Mayor: June 20, 1996
 Returned: June 27, 1996
 Effective: June 27, 1996
 Published: July 8, 1996

REMARKS:

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

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, 1996


 MAYOR, COUNTY OF HAWAII

Bill No.: 268 (Draft 3)
 Reference: C-1156/PC-119
 Ord. No.: 96 75