

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 283
(Draft 2)

ORDINANCE NO. 96 87

AN ORDINANCE AMENDING SECTION 25-102 (LAUPAHOEHOE-NINOLE 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-5a) AT KIHALANI, NORTH HILO, HAWAII, COVERED BY TAX MAP KEY 3-5-5:2.

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

SECTION 1. Section 25-102, 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 Kihalani, North Hilo, Hawaii, shall be Agricultural (A-5a):

Beginning at the Southerly corner of this parcel of land being the Westerly corner of Grant 9759 along the Westerly side of Kihalani Homestead Road, the coordinates of said point of beginning referred to Government Survey Triangulation "Papaalooa" being 3,713.70 feet North and 559.00 feet West, thence running by azimuths measured clockwise from True South;

- 1. 131° 15' 00" 874.00 feet along the Northerly side of Grant to 9759;
2. 258° 00' 00" 132.06 feet along the Easterly side of the Government Reserve (10.00 feet wide);
3. 204° 28' 00" 214.09 feet along the same;
4. 189° 15' 00" 93.93 feet along the same;
5. 206° 45' 00" 141.09 feet along the same;

- 6. 311° 15' 00" 500.00 feet along the Southerly side of Grant 6237 to Elias Kaeha Kaiwa;
- 7. 350° 04' 00" 88.00 feet along the Westerly side of Kihalani Homestead Road;
- 8. 325° 50' 00" 371.00 feet along the same;
- 9. 336° 16' 00" 101.65 feet along the same;
- 10. Along the Westerly side of Kihalani Homestead Road on a curve to the right with a radius of 125.00 feet, the chord azimuth and distance being: 28° 57' 30" 198.85 feet;
- 11. 81° 39' 00" 185.40 feet along the Westerly side of Kihalani Road to the point of beginning and containing an area of 10.3166 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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicants, its 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 shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.

- D. Access(es) to Kihalani Homestead Road shall be constructed in a manner meeting with the approval of the Department of Public Works.
- E. A wastewater disposal system shall meet with the approval of the Department of Health.
- F. To provide for future road widening improvements, the applicants shall delineate on plans for final subdivision approval, a 5-foot wide future road-widening easement fronting the subject property along Kihalani Homestead Road and beyond the existing 40-foot wide right-of-way. 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 [State Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD)] planning director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the [DLNR-HPD] the planning director in consultation with the State Department of Land and Natural Resources-Historic Preservation Division 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 assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

- H. Comply with applicable laws, rules, regulations and requirements of other affected agencies for approval of the project.

- 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 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).

- 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: July 3, 1996
Date of 1st Reading: July 3, 1996
Date of 2nd Reading: July 18, 1996
Effective Date: July 26, 1996

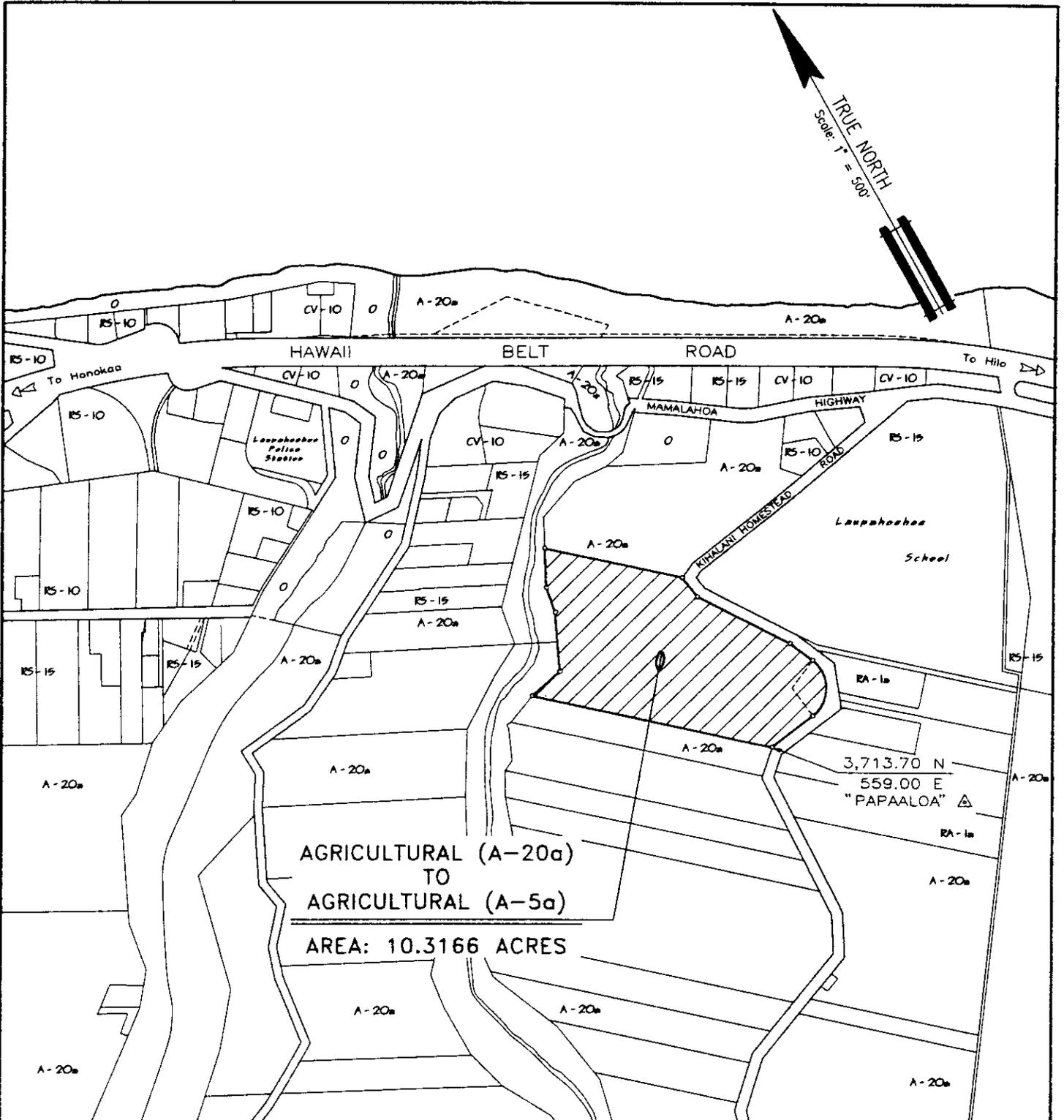
REFERENCE: Comm. 1221.01

APPROVED AS TO FORM AND LEGALITY



DEPUTY CORPORATION COUNSEL

DATED: 7/19/96



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-102 (LAUPAHOEHOE - NINOLE 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-5a) AT KIHALANI, NORTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

08 JUL 20 11:11 AM '96
(DRAFT 2)

Introduced By: Takashi Domingo
 Date Introduced: July 3, 1996
 First Reading: July 3, 1996
 Published: N/A

REMARKS:

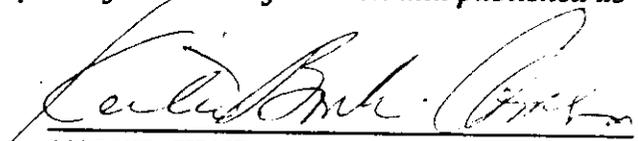
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Arakaki	X			
Bonk-Abramson		X		
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Rath	X			
Ray	X			
Smith	X			
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Second Reading: July 18, 1996
 To Mayor: July 19, 1996
 Returned: July 26, 1996
 Effective: July 26, 1996
 Published: August 2, 1996

REMARKS:

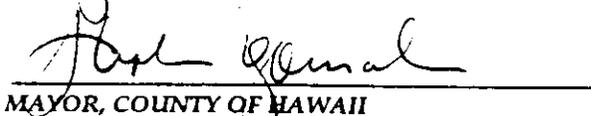
ROLL CALL VOTE				
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Bonk-Abramson		X		
Childs	X			
De Lima			X	
Domingo	X			
Osorio	X			
Rath	X			
Ray	X			
Smith	X			
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I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council and published as indicated above.


 COUNCIL CHAIRMAN


 COUNTY CLERK

Approved/Disapproved this 26 day
 of July, 1996.


 MAYOR, COUNTY OF HAWAII

Bill No.: 283 (Draft 2)
 Reference: C-1221/PC-129
 Ord. No.: 96 87