

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 92
(Draft 2)

ORDINANCE NO. 97 98

AN ORDINANCE AMENDING SECTION 25-8-4 (SOUTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO FAMILY AGRICULTURAL (FA-1a) AT KAHAULOA 2ND, SOUTH KONA, HAWAII, COVERED BY TAX MAP KEY 8-2-08:57.

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

SECTION 1. Section 25-8-4, Article 8, 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 Kahauloa 2nd, South Kona, Hawaii, shall be Family Agricultural (FA-1a):

Beginning at the Southeasterly corner of this parcel of land, being also a point on the Northerly side of Napoopoo Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PALEMANO" being 3,247.24 feet North and 7,054.75 feet East and running by azimuths measured clockwise from True South:

Thence, for the next seven (7) courses following along the Northerly side of Napoopoo Road:

1. 86° 47' 282.87 feet to a point;
2. 100° 13' 115.30 feet to a point;
3. 123° 19' 145.50 feet to a point;

Thence, following on a curve to the right with a radius of 247.84 feet, the chord azimuth and distance being:

4. 136° 54' 45" 116.52 feet to a point;
5. 150° 30' 30" 58.11 feet to a point;

Thence, following on a curve to the left with a radius of 149.56 feet, the chord azimuth and distance being:

6. 124° 08' 15" 132.86 feet to a point;
7. 97° 46' 39.50 feet to a point;
8. 187° 46' 140.04 feet along 0.3 M.G. Reservoir Site (Government Land (State of Hawaii)) and along the remainder of Royal Patent 1930, Land Commission Award 387, Part 4, Section 2 to American Board of Commissioners for Foreign Missions to a point;
9. 269° 39' 30" 138.78 feet along the remainder of Royal Patent 1930, Land Commission Award 387, Part 4, Section 2 to American Board of Commissioners for Foreign Missions to a point;

Thence, for the next six (6) courses following Lot 1 and along Grant 1181 to G. B. Kalaau:

10. 270° 50' 17.98 feet to a point;
11. 271° 15' 131.00 feet to a point;
12. 268° 55' 128.00 feet to a point;
13. 253° 06' 30" 250.33 feet to a point;
14. 268° 14' 30" 121.66 feet to a point;
15. 267° 59' 102.52 feet to a point;

Thence, for the next three (3) courses following along the remainder of Royal Patent 4513, Mahele Award 32 to Kanele:

16. 357° 59' 255.91 feet to a point;
17. 87° 59' 170.00 feet to a point;

18. 351° 43' 30" 260.00 feet to the point of beginning and containing an area of 7.429 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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant, 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. The applicant shall construct applicable water system improvements meeting with the approval of the Department of Water Supply in conjunction with Final Subdivision Approval.
- D. 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 days from the effective date of this ordinance.
- E. Final Subdivision Approval of the proposed agricultural subdivision within the subject property for no more than six lots shall be secured from the Planning Director within five (5) years from the effective date of this change of zone.
- F. A drainage study of the subject property, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.

- G. Access(es) to the subject property from Napoopoo Road shall be constructed meeting with the approval of the Department of Public Works.
- H. 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 may be in a form of cash, land, facilities, or any combination thereof acceptable to the director in consultation with the affected agencies. The fair share contribution 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 six lots, the indicated total fair share contribution is **\$43,434.96**, 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 H. The fair share contribution shall be allocated as follows:
1. **\$3,490.85** per lot, for an indicated total of **\$20,945.10** to the County to support park and recreational improvements and facilities;
 2. **\$168.40** per lot, for an indicated total of **\$1,010.40** to the County to support police facilities;

3. \$332.61 per lot, for an indicated total of **\$1,995.66** to the County to support fire facilities;
4. \$145.62 per lot, for an indicated total of **\$873.72** to the County to support solid waste facilities;
5. \$3,101.68 per lot, for an indicated total of **\$18,610.08** 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 the change of zone, 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 H, the fair market value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be subject to the review and approval of the director, upon consultation with the appropriate agencies.

- I. 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 Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
- J. To ensure that the agricultural uses in the surrounding area are maintained, restrictive covenant(s) in the deeds of all the proposed agricultural lots within the

subject property shall indicate full disclosure on the Right to Farm Act and that possible odor, noise and other impacts may result from existing and/or proposed agricultural activities on surrounding or nearby lands. A copy of the proposed covenant(s) 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 applicant and the County in conjunction with the issuance of Final Subdivision Approval for any portion of the subject property. A copy of the recorded document shall be filed with the Planning Director upon its receipt from the Bureau of Conveyances.

- K. 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, 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).

- L. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject property 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

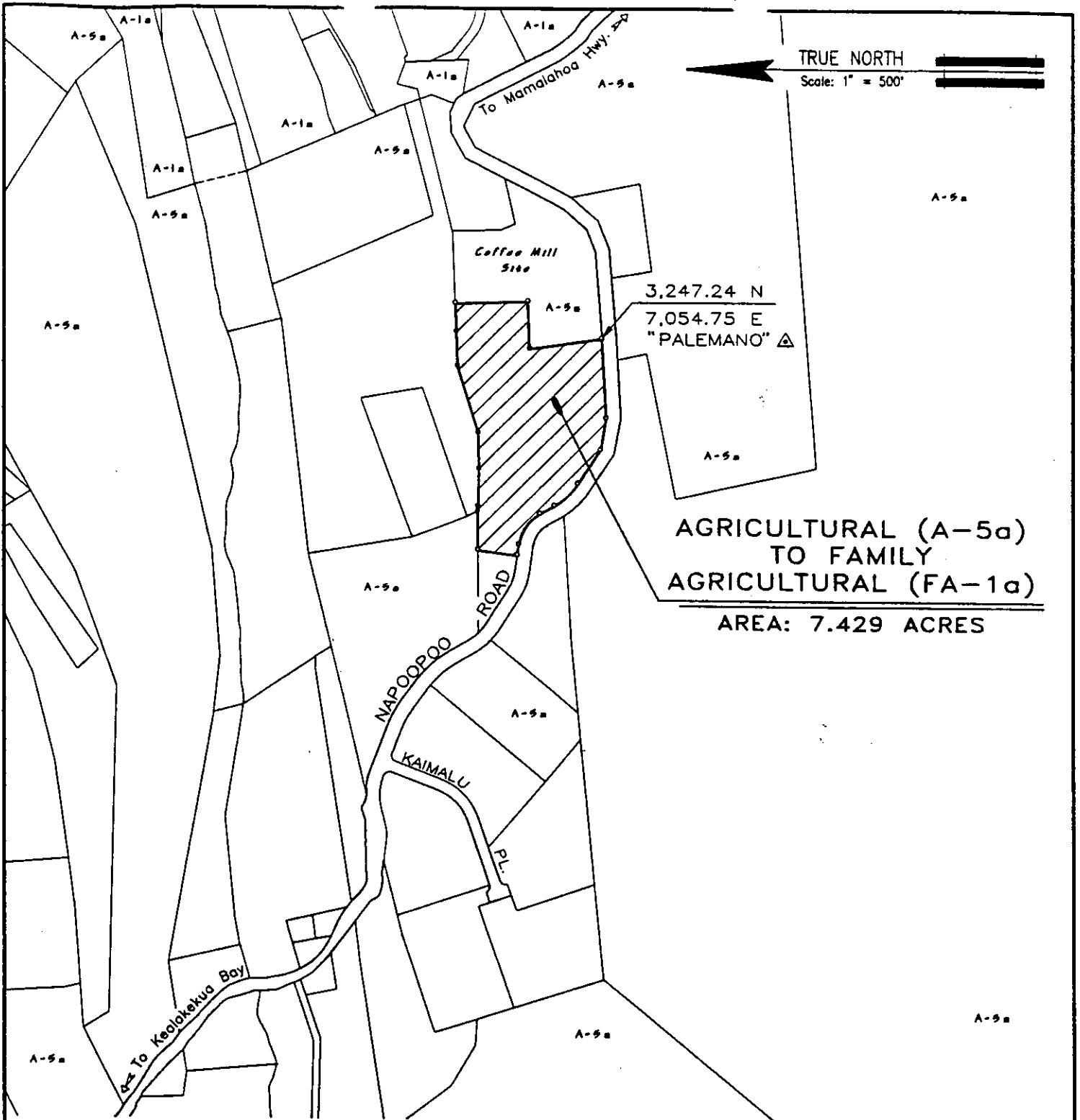
Hilo, Hawaii

Date of Introduction: June 18, 1997
Date of 1st Reading: June 18, 1997
Date of 2nd Reading: July 2, 1997
Effective Date: July 14, 1997

APPROVED AS TO FORM AND LEGALITY


DEPUTY CORPORATION COUNSEL

DATED: 7/8/97



TRUE NORTH
Scale: 1" = 500'

AGRICULTURAL (A-5a)
TO FAMILY
AGRICULTURAL (FA-1a)
AREA: 7.429 ACRES

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-4 (SOUTH KONA ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO FAMILY AGRICULTURAL (FA-1a) AT KAHAULOA 2ND, SOUTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

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(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd (B/R)
 Date Introduced: June 18, 1997
 First Reading: June 18, 1997
 Published: June 25, 1997

REMARKS:

COROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

Second Reading: July 2, 1997
 To Mayor: July 7, 1997
 Returned: July 15, 1997
 Effective: July 14, 1997
 Published: July 22, 1997

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds			X	
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	0	1	0

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

**APPROVED AS TO
FORM AND LEGALITY:**

Fredrick K...
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 7/8/97

Approved/Disapproved this 10 day
 of July, 19 97

Abigail
 MAYOR, COUNTY OF HAWAII

Donna
 COUNCIL CHAIRMAN

Donald
 COUNTY CLERK

Bill No.: 92 (Draft 2)

Reference: C-327.01/PC-57

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