

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 238

ORDINANCE NO. 98 68

AN ORDINANCE AMENDING SECTION 25-8-28 (KAU DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-5a) AT KIOLAKAA, KAU, HAWAII, COVERED BY TAX MAP KEY 9-4-3:58.

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

SECTION 1. Section 25-8-28, 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 Kiolakaa, Kau, Hawaii, shall be Agricultural (A-5a):

Beginning at the east corner of this parcel of land and on the northwesterly side of Kamaoa Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Stein 2" being 625.59 feet South and 15,196.49 feet West, and running by azimuths measured clockwise from true South:

Along the windings of the southeasterly side of an old stonewall and along the northwesterly side of Kamaoa Government Road, the direct azimuth and distance being:

- 1. 47° 35' 38" 992.65 feet;
- 2. 141° 01' 02" 906.26 feet along the northeasterly boundary of Grant 819 to Kauhihiwa;
- 3. 231° 01' 1,032.02 feet along Lots 1 and 2 and also the remainder of Grant 2650 to Kauhihiwa;

4. 323° 48' 10" 848.00 feet along the southwesterly boundary of R.P. 7328, L.C. Award 7592 to Kauhiahiwa to the point of beginning and containing an area of 20.37 acres, a little more or less.

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 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. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" prior to June 30, 1998.
- D. Final Subdivision Approval of the proposed subdivision within the subject property shall be secured from the Planning Director within five (5) years from the effective date of the Change of Zone ordinance.
- E. Access to the subject property from Kamaoa Road shall meet with the requirements of the Department of Public Works. The entrance roadway sight distance shall meet the requirements of the Statewide Design Manual.
- F. 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 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.

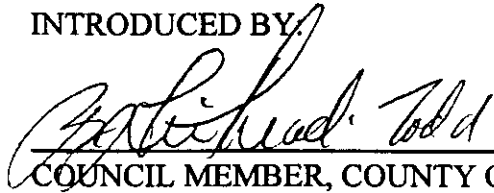
- G. Should the Council adopt a Unified Impact-Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fee Ordinance.
  
- H. An initial extension of time for the performance 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 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).

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

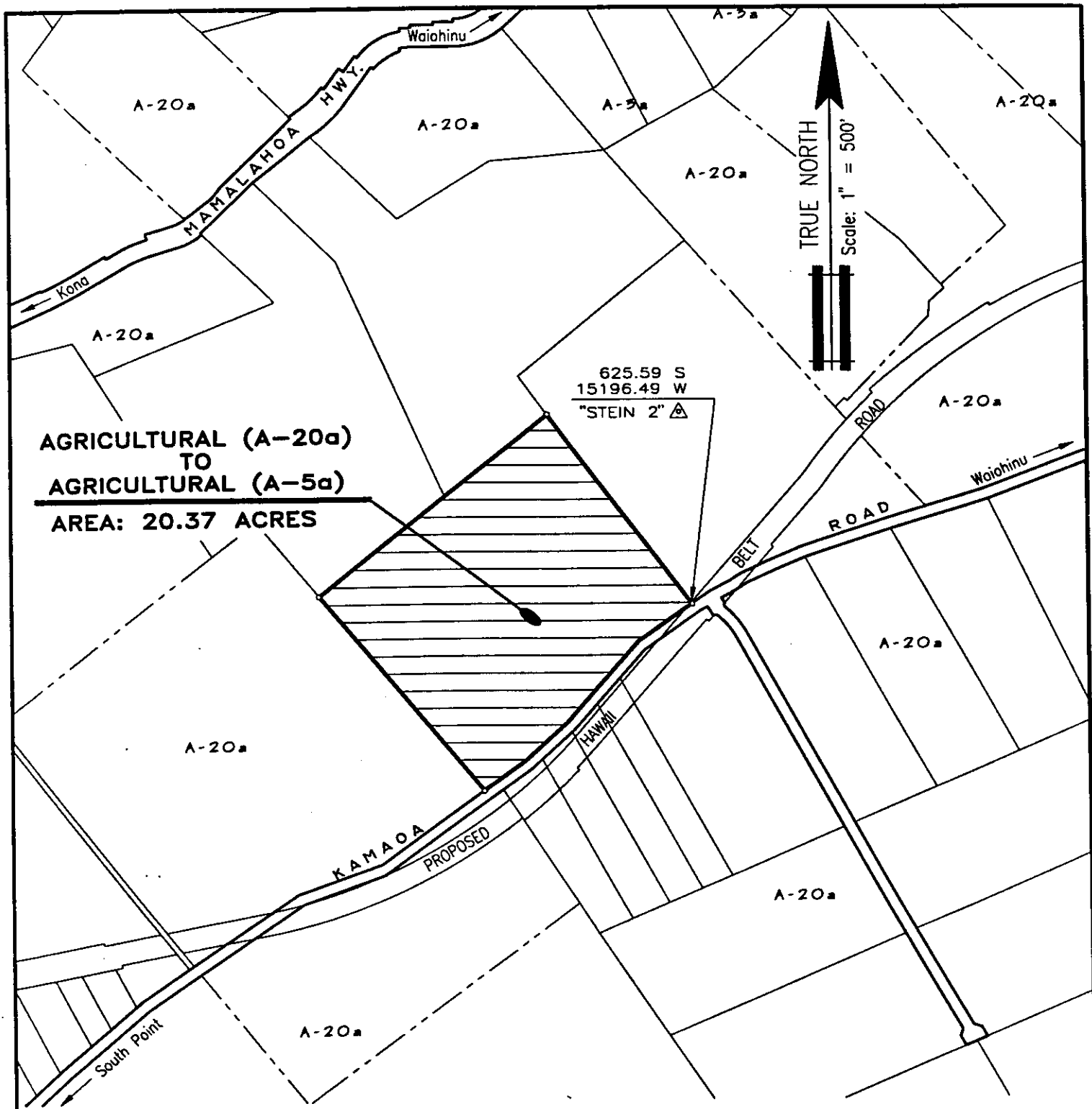
Date of Introduction: June 1, 1998  
Date of 1st Reading: June 1, 1998  
Date of 2nd Reading: June 16, 1998  
Effective Date: July 2, 1998

REFERENCE: Comm. 829

APPROVED AS TO FORM AND LEGALITY

  
\_\_\_\_\_  
CORPORATION COUNSEL

DATED: \_\_\_\_\_



**AGRICULTURAL (A-20a)  
TO  
AGRICULTURAL (A-5a)  
AREA: 20.37 ACRES**

# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-28 (KA'U DISTRICT ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-5a) AT KIOLAKAA, KA'U, HAWAII.

PREPARED BY: PLANNING DEPARTMENT  
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

\*98 JUL 2 AM 10 50

Introduced By: Bobby Jean Leithead-Todd  
 Date Introduced: June 1, 1998  
 First Reading: June 1, 1998  
 Published: N/A

ROLL CALL VOTE				
COUNCIL	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
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REMARKS:  
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Second Reading: June 16, 1998  
 To Mayor: June 19, 1998  
 Returned: July 2, 1998  
 Effective: July 2, 1998  
 Published: July 10, 1998

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			
	9	0	0	0

REMARKS:  
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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:**

Rose K. Ota  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date JUN 23 1998

Approved/Disapproved this 2 day  
 of July, 19 98

Steph Spindler  
 MAYOR, COUNTY OF HAWAII

James A. ...  
 COUNCIL CHAIRMAN  
Donald ...  
 COUNTY CLERK

Bill No.: 238  
 Reference: C-829/PC-115  
 Ord. No.: 98 68