

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 294
(Draft 2)

ORDINANCE NO. 98 114

AN ORDINANCE AMENDING ORDINANCE NO. 90-139, WHICH RECLASSIFIED THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-3a) AT KAHUA, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-9-08:5.

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

SECTION 1. Ordinance No. 90-139 is amended as follows:

"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. Subdivision plans shall be submitted to the Planning Department within one year from the effective date of the change of zone. Final subdivision approval shall be secured within one year from the date of receipt of tentative subdivision approval. Minimum lot sizes shall be determined by calculating the total area within the proposed lot lines exclusive of easements for access and drainage purposes and future road widening setback areas.
- C. It shall be demonstrated to the satisfaction of the Planning Director that substantial agricultural activity is being conducted on the lots to be rezoned within three years from the effective date of [final subdivision approval] this ordinance. For the purpose of this condition, "agriculture " shall be defined as the cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timber; game propagation; raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are

propagated for economic or personal use. Agricultural activity will be considered substantial:

- (1) If it provides a major source of income to the person(s) who resides on the property; or
- (2) If the property is dedicated for Agriculture uses in accordance with applicable Department of Finance, Real Property Tax Division's procedures.

This condition shall be incorporated in each of the deeds for the proposed lots and duly recorded with the State Bureau of Conveyances. A copy of the recorded deeds shall be filed with the Planning Department within one year from the date of final subdivision approval.

- D. Prior to submittal of preliminary subdivision plans, an archaeological reconnaissance survey report shall be submitted and approved by the Planning Department in consultation with the Department of Land and Natural Resources-Historic Sites Section.
- E. Should any unanticipated archaeological sites or features be uncovered during land preparation activities, work within the affected area shall cease and the Planning Director notified. Work within the affected area shall not resume until clearance is obtained from the Director.
- F. A drainage system shall be installed in accordance with the requirements of the Department of Public Works.
- G. Only one access shall be allowed to the proposed subdivision from Ala Kahua Drive. Such access shall meet with the approval of the Department of Public Works.

- H. All other applicable laws, rules, regulations and requirements shall be complied with.
- I. 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 may, at the developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance.
- J. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the change of zone. The report shall address the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
- K. An 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); and

- (5) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.

L. [Further, should] Should any of the conditions not be met or substantially complied with in a timely fashion, the Director [shall] may initiate rezoning of the area to its original or more appropriate designation."

SECTION 2. Material to be deleted is bracketed. New material is underscored.

SECTION 3. In the event that any portion of the 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:

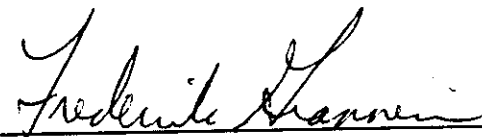


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: October 21, 1998
Date of 1st Reading: October 21, 1998
Date of 2nd Reading: November 6, 1998
Effective Date: November 19, 1998
REFERENCE: Comm. 979.01

APPROVED AS TO FORM AND LEGALITY:



CORPORATION COUNSEL

DATED: 11/16/98

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

Time 2:40 p.m. By K

Date 11/23/98

(DRAFT 2)

County Council

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: October 21, 1998
 First Reading: October 21, 1998
 Published: N/A

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

Second Reading: November 6, 1998
 To Mayor: November 12, 1998
 Returned: November 23, 1998
 Effective: November 19, 1998
 Published: December 4, 1998

REMARKS:

(DRAFT 2)

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	
	6	0	3	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:

[Signature]
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 11/16/98

[Signature]
 COUNCIL CHAIRMAN

[Signature]
 COUNTY CLERK

Approved/Disapproved this 19 day
 of November, 19 98

[Signature]
 MAYOR, COUNTY OF HAWAII

Bill No.: 294 (Draft 2)
 Reference: C-979.01/PC-150
 Ord. No.: 98 114