

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 88
(Draft 2)

ORDINANCE NO. 99 86

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH 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-2a) AT KAPALAALAEA 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-7-7:29.

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

SECTION 1. Section 25-8-3, 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 Kapalaalaea 2nd, North Kona, Hawaii, shall be Family Agricultural (FA-2a):

All of that certain parcel of land (portion of the land described in and covered by Royal Patent Grant Number 3019 to Kaaipulu) situate, lying and being approximately 700 feet Easterly of Walua Road, at Kapalaalaea 2nd, North Kona, Island and County of Hawaii, State of Hawaii, being Lot 1-A-1, same being portion of Lot 1-A, containing an area of 5.001 acres, and being more particularly described as follows:

Land situated approximately 700 feet Easterly of Walua Road, at Kapalaalaea 2nd, North Kona, Island and County of Hawaii, State of Hawaii, being portions of Lot 1-A and Grant 3019 of Kaaipulu:

Beginning at a 1/2 inch pipe (set) at the Southwesterly corner of this parcel of land, being also the Northwesterly corner of Lot 1-A-2 and a point on the Easterly end of a Road Parcel in the Keauhou Uka Subdivision, Unit II, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 18,448.80 feet South and 13,562.43 feet East and running by azimuths measured clockwise from true South:

1. 175° 56' 10" 237.23 feet along Road Parcel and Lot 9 of the Keauhou Uka Subdivision, Unit II and along the remainder of Grant 3019 to Kaaipulu to

1/2 inch pipe (found);
 Thence, for the next eighteen (18) courses
 following along the middle of stonewall,
 along Land Commission Award 4452,
 Apana 2 to Hazaleleponi Kalama;

2.	257°	28'	30"	33.62	feet to a 1/2 inch pipe (found);
3.	271°	09'	30"	32.88	feet to a 1/2 inch pipe (found);
4.	264°	12'		32.46	feet to a 1/2 inch pipe (found);
5.	276°	43'		17.60	feet to a 1/2 inch pipe (found);
6.	253°	30'	50"	75.44	feet to a 1/2 inch pipe (found);
7.	232°	53'		28.61	feet to a 1/2 inch pipe (found);
8.	242°	30'		25.56	feet to a 1/2 inch pipe (found);
9.	259°	01'	30"	73.99	feet to a 1/2 inch pipe (found);
10.	249°	59'		38.62	feet to a 1/2 inch pipe (found);
11.	264°	21'	30"	29.58	feet to a 1/2 inch pipe (found);
12.	254°	38'	30"	25.30	feet to a 1/2 inch pipe (found);
13.	259°	28'	45"	111.95	feet to a 1/2 inch pipe (found);
14.	248°	02'	30"	25.48	feet to a 1/2 inch pipe (found);
15.	258°	01'		33.37	feet to a 1/2 inch pipe (found);
16.	241°	27'	30"	23.11	feet to a 1/2 inch pipe (found);
17.	253°	18'	30"	79.85	feet to a 1/2 inch pipe (found);
18.	247°	55'	30"	98.93	feet to a 1/2 inch pipe (found);
19.	246°	03'	50"	156.22	feet to a spike (set)

Thence, for the next four (4) courses

following Lot 1-A-2 of this subdivision and along the remainder of Grant 3019 to Kaaipulu;

- | | | | |
|-----|----------|--------|---|
| 20. | 348° 53' | 246.39 | feet to a 1/2 inch pipe (set); |
| 21. | 70° 00' | 407.89 | feet to a 1/2 inch pipe (set); |
| 22. | 78° 53' | 470.27 | feet to a 1/2 inch pipe (set); |
| 23. | 68° 30' | 85.55 | feet to the point of beginning and containing an area of 5.001 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 required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of this ordinance.
- C. Final Subdivision Approval of the proposed subdivision within the subject property shall be secured from the Planning Director.
- D. Access to lots within the proposed subdivision shall comply with the requirements of the Department of Public Works.
- E. 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.

- F. Restrictive covenants in the deeds of all proposed residential lots shall prohibit the construction of a second dwelling unit on each lot. A copy of the proposed covenant(s) to be recorded with the Bureau of Conveyances 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 and recorded with the Bureau of Conveyances for any portion of the subject property. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- G. 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.
- H. The applicants shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed subdivision within the subject property.
- I. 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 Fees Ordinance.
- J. 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).
 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.
- K. 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:

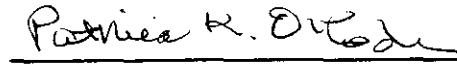


COUNCIL MEMBER, COUNTY OF HAWAII

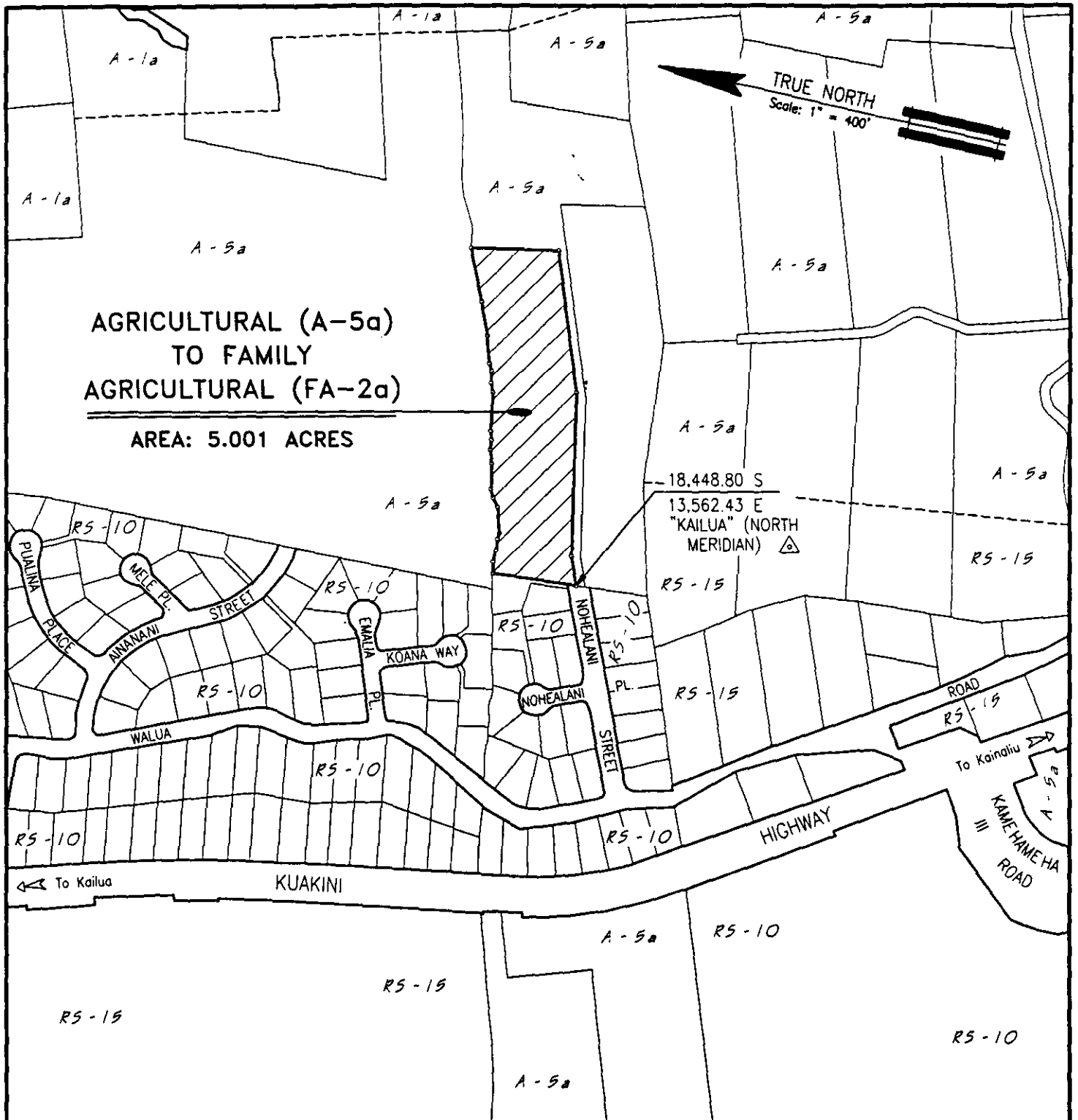
Hilo, Hawaii

Date of Introduction: July 8, 1999
Date of 1st Reading: July 8, 1999
Date of 2nd Reading: July 28, 1999
Effective Date: August 12, 1999
REFERENCE: Comm. 325 002

APPROVED AS TO FORM AND LEGALITY



CORPORATION COUNSEL
DATED: _____



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH 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-2a) AT KAPALAALAEA 2ND, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK
 County of Hawaii
 Hilo, Hawaii

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: July 8, 1999
 First Reading: July 8, 1999
 Published: N/A

REMARKS: _____

Second Reading: July 28, 1999
 To Mayor: July 30, 1999
 Returned: August 12, 1999
 Effective: August 12, 1999
 Published: August 23, 1999

REMARKS: _____

RECEIVED

ROLL CALL VOTE

99 AUG 12 PM 3 48

	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	1	0	0

ROLL CALL VOTE

	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd			X	
Pisicchio	X			
Smith			X	
Tyler	X			
Yagong	X			
	6	1	2	0

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

APPROVED AS TO
 FORM AND LEGALITY:

Patricia K. O'Leary
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date AUG 3 1999

[Signature]
 COUNCIL CHAIRMAN
[Signature]
 COUNTY CLERK

Approved/Disapproved this 12 day
 of August, 1999

[Signature]
 MAYOR, COUNTY OF HAWAII

Bill No.: 88 (Draft 2)
 Reference: C-325/PC-33
 Ord. No.: 99 86