

ORDINANCE NO. 99 109

AN ORDINANCE AMENDING ORDINANCE NO. 85-48, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-1a), AGRICULTURAL (A-2a), AGRICULTURAL (A-600a) AND OPEN (O) ZONED DISTRICTS AT KAAUHUUH, KAHEI, KEALAHWEA 1ST, 2ND & 3RD, HONOIPU, PUAKEA, KUKUIPAHU, ILIO LAHUIKI, AWALUA, HAENA AND KAPUNAPUNA, NORTH KOHALA, HAWAII, TAX MAP KEY: 5-5-1:60, 64; 5-5-3:17 AND PORTIONS OF 9 & 16; AND 5-6-1:20 & 21.

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

SECTION 1. Ordinance No. 85-48, is amended as follows:

"SECTION 2. These changes in district classification are conditioned upon the following:

- (A) [the] ~~The~~ petitioner, its successors or assigns shall be responsible for complying with all of the stated conditions of approval[;].
- (B) [the] ~~The~~ subject area shall be zoned in three increments. The first increment shall consist of a maximum of 57 lots encompassing approximately 150 contiguous acres within the Agricultural one-acre, two-acre or the Open zoned districts. The two Agricultural six hundred acre zoned parcels shall also be included in the first increment. The second increment shall consist of a maximum of 57 lots encompassing approximately 150 contiguous acres within the Agricultural one-acre, two-acre or Open zoned districts. The third increment shall include the remaining area. The zoning of the second increment shall become effective upon final subdivision approval for the first increment and the development of agricultural activity on one of the Agricultural six hundred acre parcels. The zoning of the third increment shall become effective upon final subdivision approval for the second increment and the development of the agricultural activity on both of the Agricultural six hundred acre parcels. As used herein, "agricultural activity" means 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 animals or aquatic life that are propagated for economic or personal use. An agricultural activity will be considered to have been developed (1) if such activity is intensively utilizing a minimum of 50% of the usable land area of the affected property(ies); or (2) if a level of production, greater than or equal to that which could be achieved on 50% of the usable land area, is achieved on a smaller area through alternative production technology[;].

- (C) [subdivision] Subdivision plans and drainage plans, meeting with the approval of the Department of Public Works, for each increment shall be submitted within one year from the effective date of the change of zone for that increment. Final subdivision and drainage plans for each increment shall be submitted within one year from the effective date of the tentative subdivision approval for that increment[;].
- (D) [restrictive] Restrictive deed covenants for each lot shall be submitted to the Planning Department for review and approval prior to its submittal to the Bureau of Conveyances for recordation with final subdivision plat maps. These covenants shall include but not necessarily be limited to the following: (1) each developable parcel shall be subject to requirements for active agricultural activities to ensure the land is productively used; (2) each developable parcel shall be restricted from any further subdivision. The restrictive covenants contained herein are encumbrances running with the land, and shall be binding on all parties and persons claiming under them until such time that the land is rezoned to a more appropriate zoning designation[;].
- (E) [drainage] Drainage systems as required by the Department of Public Works shall be installed[;].
- (F) [roadway] Roadway improvements, meeting with the approval of the Department of Public Works and the State Department of Transportation, Highways Division, shall be provided[;].

- (G) [an agricultural standard roadway shall be provided prior to final subdivision approval of the third increment, from the Agricultural one and two acre zoned parcels down to Maliu Road. Maliu Road shall be improved, as may be required by the Department of Public Works. Each parcel shall be granted a perpetual easement to utilize the subject roadway as an alternative access to the subdivision;] A roadway stubout to the perimeter boundary of the third increment for a future roadway connection shall be provided in conjunction with the subdivision of the third increment.
- (H) [a] A qualified archaeologist shall be contracted to conduct an archaeological reconnaissance of the project area. Two copies of the final report shall be sent to the State Department of Land and Natural Resources, Division of State Parks, and one copy to the County Planning Department for review and comment prior to final subdivision approval of the first increment. After reviewing the final report, further recommendations toward the mitigation and/or preservation for any cultural resources may be made. These further recommendations, if any, shall be implemented and completed prior to the start of any construction activity[;].
- (I) [should] Should any unanticipated archaeological sites, including subsurface remains such as burials or cave shelters, be discovered during grading of the property, work within the affected area shall cease. The Planning Department shall be notified, and work shall not resume within the affected area until the Planning Department has approved the disposition of the [sites(s);] site(s).
- (J) [a] A minimum area of one acre, encompassing the Kukuipahu Heiau site, shall be fenced and turned over to the State of Hawaii. The petitioner, its successors or assigns, shall not be held responsible for maintaining the fence[;].
- (K) [the] The lessee of the parcel below Maliu Road shall be granted a license to withdraw water from the Kohala Ditch in sufficient quantities to meet the projected agricultural water requirements of the lessee's agricultural program[; and].

(L) [all] All other applicable rules, regulations and requirements, including those of the Department of Health and Department of Water Supply shall be [compiled] complied with. Should any of the foregoing conditions not be met, rezoning of the area to its original or more appropriate designation may be initiated."

SECTION 2. In the event that any portion of the ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

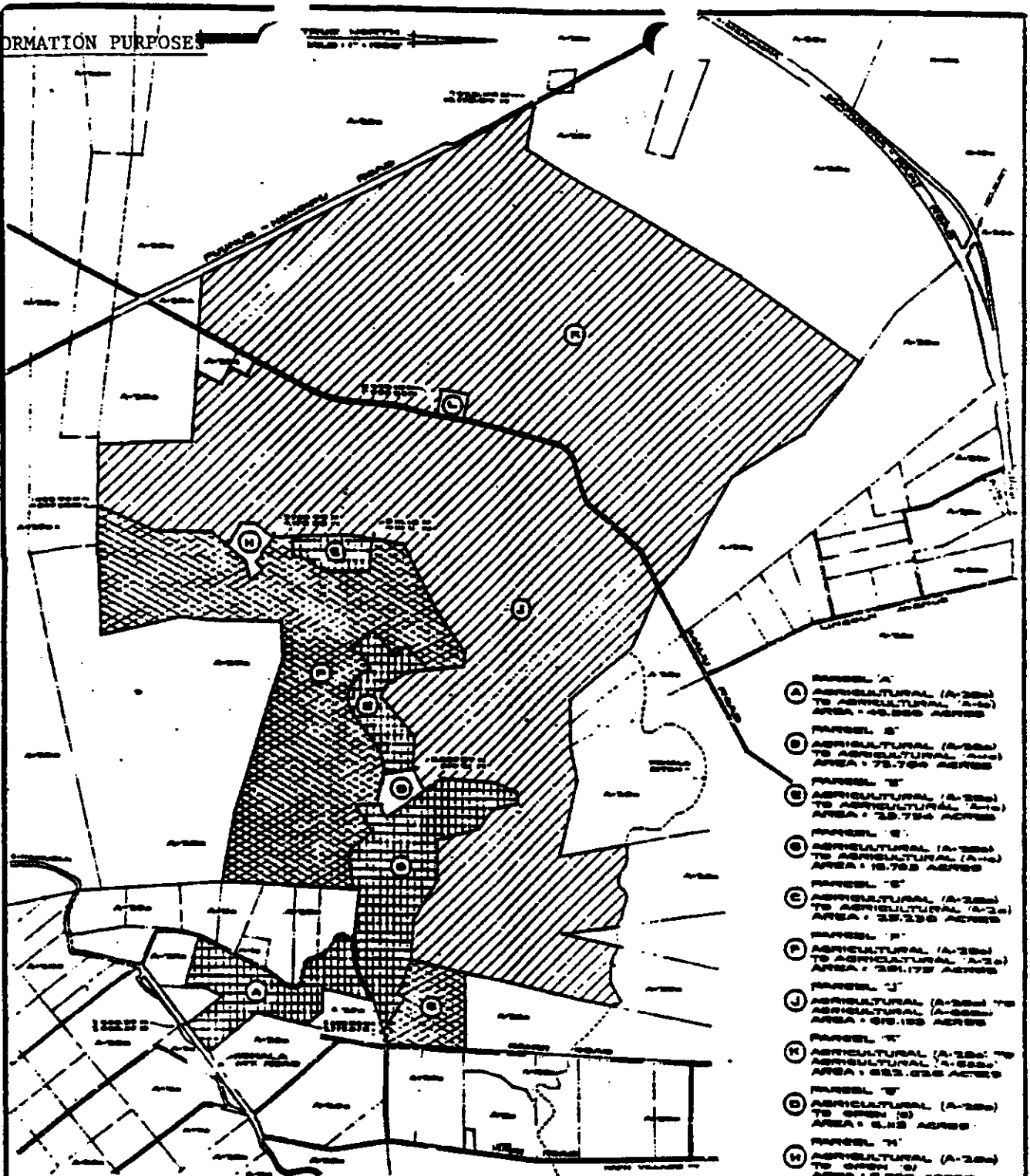
Date of Introduction: August 25, 1999
Date of 1st Reading: August 25, 1999
Date of 2nd Reading: September 9, 1999
Effective Date: September 21, 1999
REFERENCE: Comm. 393.007

APPROVED AS TO FORM AND LEGALITY



CORPORATION COUNSEL

DATE: _____



- PARCEL A
 (A) AGRICULTURAL (A-200) TO AGRICULTURAL (A-10) AREA - 49,000 ACRES
- PARCEL B
 (B) AGRICULTURAL (A-200) TO AGRICULTURAL (A-10) AREA - 75,700 ACRES
- PARCEL C
 (C) AGRICULTURAL (A-200) TO AGRICULTURAL (A-10) AREA - 25,750 ACRES
- PARCEL D
 (D) AGRICULTURAL (A-200) TO AGRICULTURAL (A-10) AREA - 16,700 ACRES
- PARCEL E
 (E) AGRICULTURAL (A-200) TO AGRICULTURAL (A-10) AREA - 25,230 ACRES
- PARCEL F
 (F) AGRICULTURAL (A-200) TO AGRICULTURAL (A-10) AREA - 20,170 ACRES
- PARCEL G
 (G) AGRICULTURAL (A-200) TO AGRICULTURAL (A-10) AREA - 20,170 ACRES
- PARCEL H
 (H) AGRICULTURAL (A-200) TO OPEN (O) AREA - 6.42 ACRES
- PARCEL I
 (I) AGRICULTURAL (A-200) TO OPEN (O) AREA - 8,870 ACRES
- PARCEL J
 (J) AGRICULTURAL (A-200) TO OPEN (O) AREA - 2,000 ACRES
- PARCEL K
 (K) AGRICULTURAL (A-200) TO OPEN (O) AREA - 2,000 ACRES
- PARCEL L
 (L) AGRICULTURAL (A-200) TO OPEN (O) AREA - 2,000 ACRES

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 15-61 (NORTH AND SOUTH KOHALA DISTRICTS ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATIONS FROM AGRICULTURAL (A-200) TO AGRICULTURE (A-10), AGRICULTURAL (A-20) TO AGRICULTURE (A-10), AGRICULTURAL (A-200) TO AGRICULTURE (A-10), AGRICULTURAL (A-200) TO OPEN (O) AT KAALIHUHU, KAHEI, KEALANENA 1ST, 2ND AND 3RD, HONOPIU, PUAKA, KUKUIPAPU, ILE O LANUKI, ANAUA, HANNA AND KAPU-NAPUNA, NORTH KOHALA, HAWAII.

NOTE: OPERATIONS REFERRED TO PLAN & MAP 2

PREPARED BY: PLANNING DEPARTMENT COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
 County of Hawaii
Hilo, Hawaii

(DRAFT 3)

RECORDED

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: August 25, 1999
 First Reading: August 25, 1999
 Published: N/A

REMARKS: _____

39 SEP 21 12 34
 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 | 3 | 0 | 0 |

Second Reading: September 9, 1999
 To Mayor: September 14, 1999
 Returned: September 21, 1999
 Effective: September 21, 1999
 Published: October 4, 1999

REMARKS: _____

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 | 3 | 0 | 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:

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

Date SEP 16 1999

[Signature]
 COUNCIL CHAIRMAN
[Signature]
 COUNTY CLERK

Approved/Disapproved this 21 day
 of September, 1999

[Signature]
 MAYOR, COUNTY OF HAWAII

Bill No.: 114 (Draft 3)
 Reference: C-393.001/PC-47
 Ord. No.: 99 109