

COUNTY OF HAWAII

STATE OF HAWAII

BILL NO. 14
(Draft 2)

ORDINANCE NO. 01 19

AN ORDINANCE AMENDING SECTION 25-8-8 (UPOLU POINT – KAAUHUUHOMESTEADS 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-3a) AT KAHEI, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-5-1:122.

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

SECTION 1. Section 25-8-8, 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 Kahei, North Kohala, Hawaii, shall be Family Agricultural (FA-3a):

Beginning at the North corner of this parcel of land, being also the West corner of Lot 23-B-1, being also a portion of Grant 4818 to Peter R. Nelson, on the South side of a Government Road, the coordinates of which referred to Government Survey Triangulation Station "PUU O NALE" being 3,229.48 feet North and 4,846.06 feet East, and running by azimuths measured clockwise from true South:

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|----|--------------|--------|--|
| 1. | 319° 17' | 962.80 | feet along Lots 23-B-1 and B, along Grant 4818 to Peter R. Nelson; |
| 2. | 319° 02' | 410.94 | feet along Land Court Application 1788; |
| 3. | 76° 45' | 439.30 | feet along Lot 8-E-3 (map 10) of Land Court Application 1122; |
| 4. | 171° 55' 15" | 138.80 | feet along Lot 8-C-2 (map 14) of Land Court Application 1122; |
| 5. | 76° 45' | 210.26 | feet along Lot 8-C-2 (map 14) of Land Court Application 1122; |

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|-----|----------|--------|---|
| 6. | 139° 16' | 27.15 | feet along Grant 4817 to Manuel Assencao; |
| 7. | 182° 11' | 587.15 | feet along Lot 8-E-1 (map 10) of Land Court Application 1122; |
| 8. | 229° 17' | 60.00 | feet along Lot 8-E-1 (map 10) of Land Court Application 1122; |
| 9. | 139° 17' | 466.62 | feet along Lot 8-E-1 (map 10) of Land Court Application 1122; |
| 10. | 78° 00' | 8.96 | feet along Lot 8-E-1 (map 10) of Land Court Application 1122; |
| 11. | 198° 00' | 56.00 | feet along the Southerly side of a Government Road to the point of beginning and containing an area of 6.473 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, 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. Final Subdivision Approval of the proposed subdivision development shall be secured within five (5) years from the effective date of this change of zone ordinance.

- D. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works in conjunction with the issuance of Final Subdivision Approval.
- E. The wastewater treatment and disposal system shall be designed in accordance with the requirements of the Department of Health.
- F. 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.
- G. Restrictive covenants in the deeds of all the proposed residential lots within the subject property 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 receipt from the Bureau of Conveyances.
- H. Access to the subject property shall be designed in accordance with Chapter 22 of the Hawaii County Code and meet with the approval of the Department of Public Works.

- 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. Comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development within the subject property.

- 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 applicants, 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

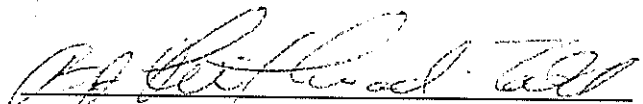
Planning Director shall submit the applicant's request to the County Council for appropriate action.

- 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:

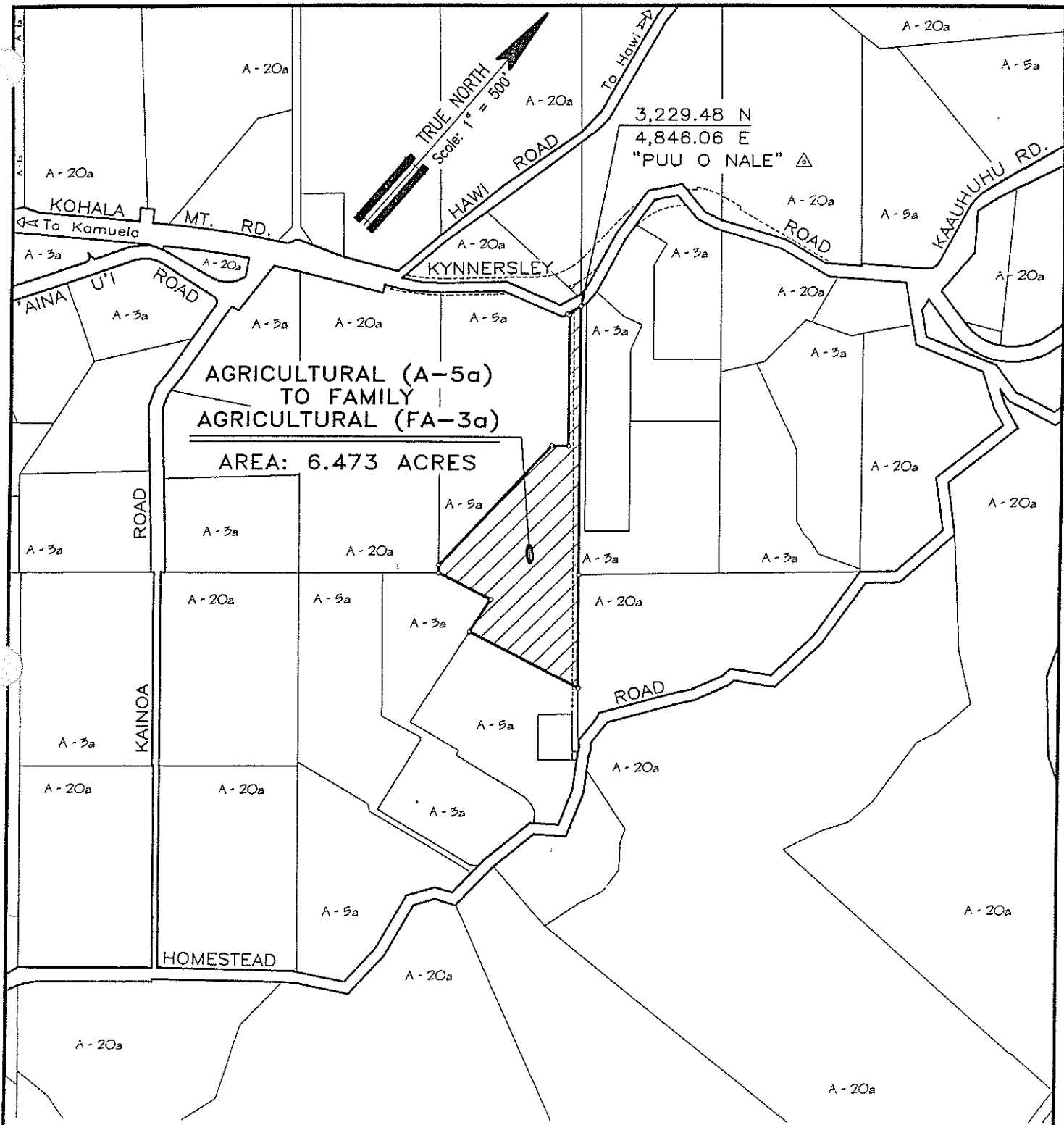

COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: January 24, 2001
Date of 1st Reading: January 24, 2001
Date of 2nd Reading: February 5, 2001
Effective Date: February 13, 2001

APPROVED AS TO FORM AND LEGALITY


CORPORATION COUNSEL
DATED: February 09, 2001



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-8 (UPOLU POINT - KAAHUHU HOMESTEADS 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-3a) AT KAHEI, NORTH KOHALA, 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 (b/r)
 Date Introduced: January 24, 2001
 First Reading: January 24, 2001
 Published: N/A

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong	X			
	9	0	0	0

Second Reading: February 5, 2001
 To Mayor: February 8, 2001
 Returned: February 13, 2001
 Effective: February 13, 2001
 Published: February 26, 2001

REMARKS: _____



ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong	X			
	9	0	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:


 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date February 9, 2001


 COUNCIL CHAIRMAN

 COUNTY CLERK

Approved/Disapproved this 13th day
 of February, 2001


 MAYOR, COUNTY OF HAWAII

Bill No.: 14 (Draft 2)

Reference: C-47/PC-6

Ord. No.: 01 19

