



ORDINANCE NO. 02 21

AN ORDINANCE AMENDING ORDINANCE NO. 98-87, WHICH AMENDED ORDINANCE NO. 90-008, AND WHICH RECLASSIFIED LANDS FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-3a) AT KAHUA 1ST, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-9-07:7.

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

SECTION 1. Ordinance No. 98-87 is amended as follows:

“SECTION 1. Section [25-95A] 25-8-7, Article [3] 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 Kahua 1st, North Kohala, Hawaii, shall be Agricultural (A-3a):

Beginning at the Westernmost corner of this parcel of land, being also the Northernmost corner of Lot 13 of Land Court Consolidation 117 and running by azimuths measured clockwise from True South:

Thence, following along the Southeasterly side of the existing roadway on a curve to the right with a radius of 660.00 feet, the chord azimuth and distance being:

- 1. 245° 49' 28" 476.87 feet to a point;
- 2. 267° 00' 37.78 feet along the Southeasterly side of an existing roadway to a point;
- 3. 324° 47' 2,384.25 feet along Lot 15 of Land Court Consolidation 117 to a point;
- 4. 46° 24' 40" 505.39 feet along Hawaiian Homes Land to a point;

5. 144° 47' 2,569.29 feet along Lot 13 of Land Court Consolidation 117 to the point of beginning and containing an area of 28.832 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 applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval;
- B. The applicant, 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. Subdivision plans shall be submitted to the Planning Director within one year from the effective date of the change of zone. Final subdivision approval shall be secured within ~~[three]~~ five (5) years from the effective date of this ordinance. 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;
- D. 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 date of final subdivision approval. 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;

- E. 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;
- F. 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;
- G. A drainage system shall be installed in accordance with the requirements of the Department of Public Works;
- H. 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;
- I. All other applicable laws, rules, regulations and requirements shall be complied with;

- J. 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;
- K. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the zone change. The report shall address the status of the development and the compliance with the conditions of approval. This conditions 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; and,
- L. 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; and
 - 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.

M. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall 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 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

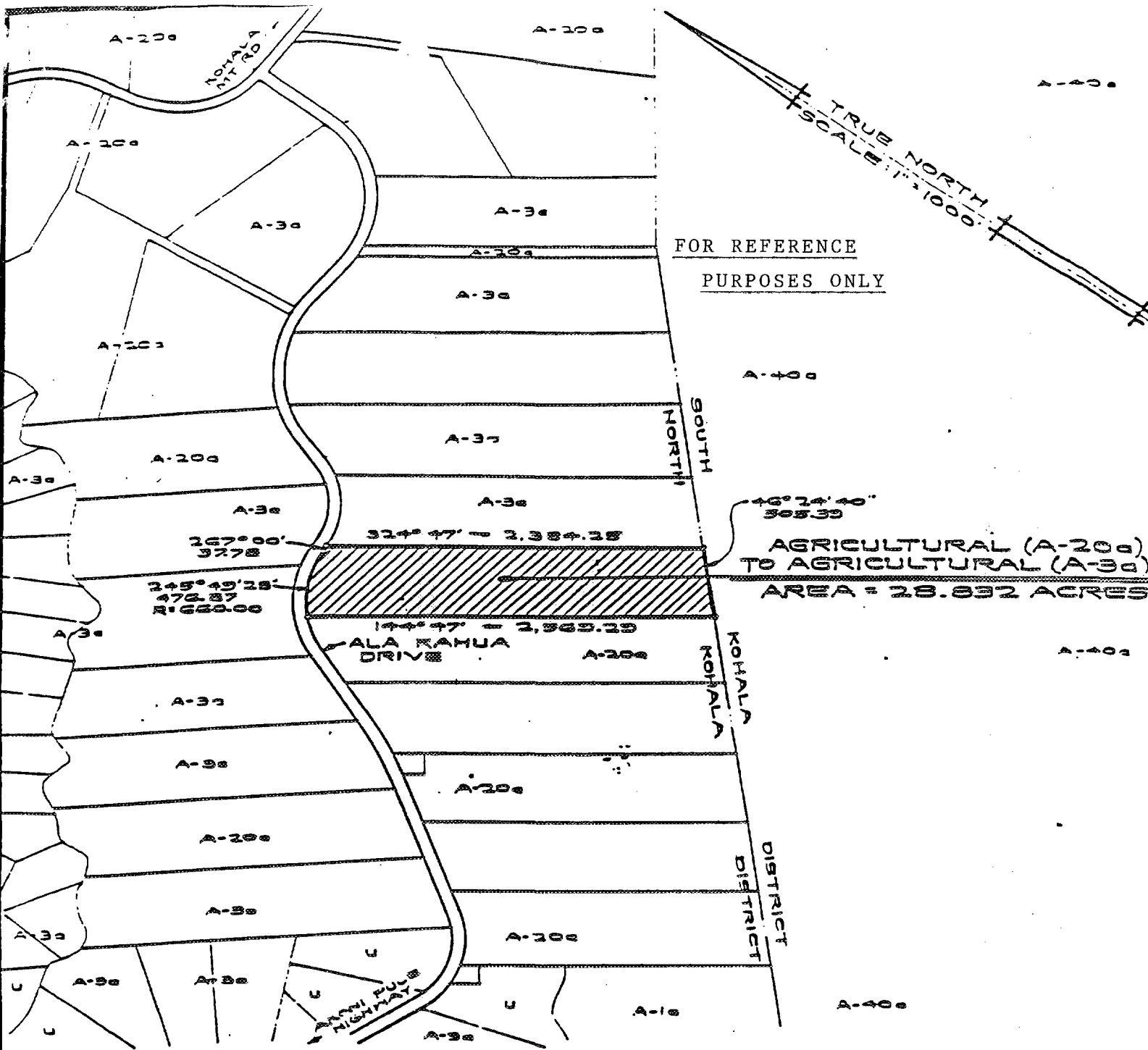
Hilo, Hawaii

Date of Introduction: January 24, 2002
Date of 1st Reading: January 24, 2002
Date of 2nd Reading: February 6, 2002
Effective Date: February 12, 2002
REFERENCE: Comm: 452

APPROVED AS TO FORM AND LEGALITY



CORPORATION COUNSEL
DATED: 28-02



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-95 A (NORTH AND SOUTH KOHALA DISTRICTS ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-200) TO AGRICULTURAL (A-300) AT KAHUA 1ST, NORTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 5-9-07 : 7

OCT. 17, 1989

EXHIBIT "A"

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

Introduced By: Bobby Jean Leithead-Todd
Date Introduced: January 24, 2002
First Reading: January 24, 2002
Published: February 3, 2002

REMARKS: _____

Second Reading: February 6, 2002
To Mayor: February 8, 2002
Returned: February 13, 2002
Effective: February 12, 2002
Published: February 26, 2002

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			
	7	1	1	0

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			
	8	1	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 2-8-02

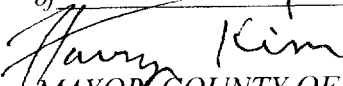

COUNCIL CHAIRMAN


COUNTY CLERK

Bill No.: 149

Reference: C-452/PC-54

Ord No.: 02 21

Approved/Disapproved this 12th day
of February, 2002

MAYOR, COUNTY OF HAWAII