

ORDINANCE NO. 03 94

AN ORDINANCE AMENDING SECTION 25-8-4 (SOUTH 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-3a) AT KEOPUKA, SOUTH KONA, HAWAII, COVERED BY TAX MAP KEY 8-1-7:10.

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

SECTION 1. Section 25-8-4, 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 Keopuka, South Kona, Hawaii, shall be Family Agricultural (FA-3a):

Beginning at the Southeasterly corner of this parcel of land, being also the Northeasterly corner of Lot B-1-B and being a point on the Westerly side of Mamalahoa Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LAE O KANONI" being 23,694.57 feet North and 597.76 feet West and running by azimuths measured clockwise from True South:

Thence, for the next four (4) courses following along Lot B-1-B and along the remainder of Grant 148 to Daniel Barrett:

Thence, following on a curve to the left with a radius of 26.58 feet, the chord azimuth and distance being:

- 1. 125° 18' 23" 41.75 feet to a point;
- 2. 73° 33' 642.73 feet to a point;
- 3. 354° 01' 147.91 feet to a point;

4. 355° 39' 352.19 feet to a point;

Thence, for the next five (5) courses following along stonewall, along Lot 1 and along Royal Patents 4386 and 7532, Land Commission Award 8452, Apana 10 to A. Keohokalole:

5. 83° 49' 61.63 feet to a point;

6. 78° 39' 191.52 feet to a point;

7. 90° 01' 124.00 feet to a point;

8. 87° 32' 110.20 feet to a point;

9. 80° 13' 81.50 feet to a point;

Thence, for the next three (3) courses following along the remainder of Grant 148 to Daniel Barrett:

10. 172° 16' 57" 464.38 feet along Lot A to a point;

11. 261° 21' 320.00 feet to a point;

12. 253° 33' 952.86 feet along Lots 3-A, 3-B and 1 to a point;

Thence, following along the Westerly side of Mamalahoa Highway on a curve to the right with a radius of 1,880.08 feet, the chord azimuth and distance being:

13. 356° 09' 37" 59.23 feet to the point of beginning and containing an area of 6.910 Acres.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code, the County Council finds the following conditions are:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (2) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:
 - (A) Protection of the public from the potentially deleterious effects of the proposed use, or
 - (B) Fulfillment of the need for public service demands created by the proposed use.

- 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. The required water commitment payment to accommodate the proposed two-lot subdivision 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.

- D. Final Subdivision Approval of the proposed subdivision shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.

- E. Restrictive covenants in the deeds of all the proposed agricultural lots shall give notice that the terms of the zoning ordinance prohibit the construction of a second dwelling unit and condominium property regimes on each lot. This restriction may be removed by amendment of this ordinance by the County Council. The owner(s) of the property may also, in addition, impose private covenants restricting the number of dwellings. 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 recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.

- F. All proposed farm dwellings within the proposed subdivision shall be provided with separate water service from the Department of Water Supply.
- G. The applicant shall dedicate, at no cost to the County, a 10-foot wide portion of its access pole along the Māmalahoa Highway for road widening purposes at such time as may be demanded by the Department of Public Works.
- H. All wastewater systems shall comply with the rules and regulations of the State Department of Health governing wastewater systems.
- I. 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.
- J. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessments of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- K. Comply with all applicable rules, regulations and requirements of the affected agencies for approval of the proposed development.


- L. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. 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.
- M. 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 applicant, 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.

N. 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:

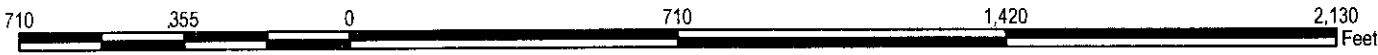
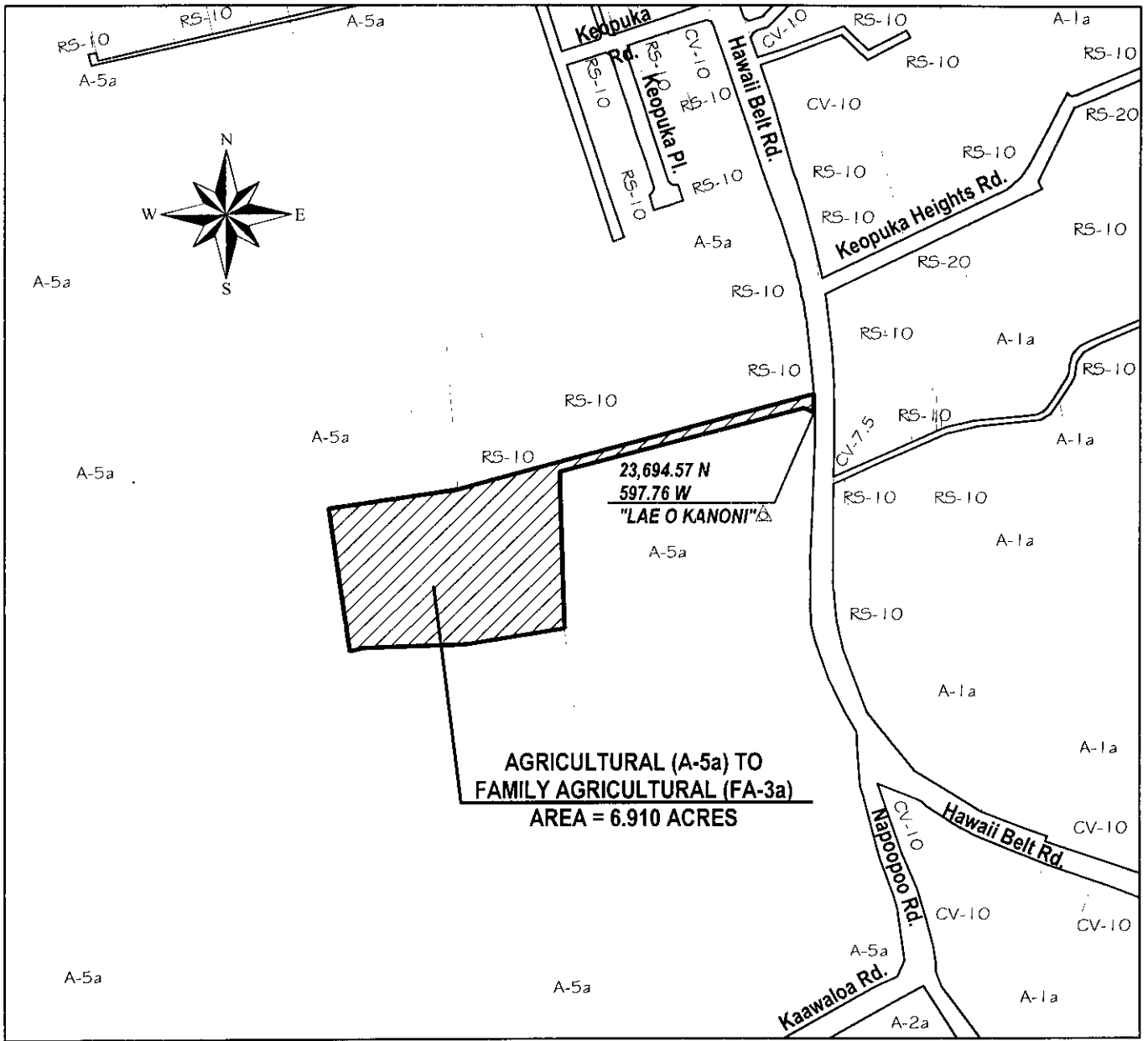


COUNCIL MEMBER, COUNTY OF HAWAI'I

_____ Hilo, Hawai'i

Date of Introduction: May 21, 2003
Date of 1st Reading: May 21, 2003
Date of 2nd Reading: June 4, 2003
Effective Date: June 18, 2003

REFERENCE: Comm. 211



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-4 (SOUTH 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-3a)
 AT KEOPUKA, SOUTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: May 21, 2003
 First Reading: May 21, 2003
 Published: N/A

REMARKS: By Request

Second Reading: June 4, 2003
 To Mayor: June 12, 2003
 Returned: June 19, 2003
 Effective: June 18, 2003
 Published: July 8, 2003

REMARKS:

RECEIVED
 '03 JUN 19 PM 2 16

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff				
Holschuh	X			
Jacobson	X			
Leithead-Todd	X			
Reynolds	X			
Safarik	X			
Tyler	X			
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Arakaki	X			
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Elarionoff	X			
Holschuh	X			
Jacobson	X			
Leithead-Todd	X			
Reynolds	X			
Safarik	X			
Tyler	X			
	8	0	1	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. Clarke
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII
 Date 6/16/03


 COUNCIL CHAIRMAN


 COUNTY CLERK

Approved/Disapproved this 18th day
 of June, 2003
Harry Kim
 MAYOR, COUNTY OF HAWAII

Bill No.: 94
 Reference: C-211/PC-38
 Ord No.: 03 94