

ORDINANCE NO. 03 98

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-20a) TO FAMILY AGRICULTURAL (FA-3a) AND AGRICULTURAL (A-10a) AT KEALAKEHE HOMESTEAD, FIRST SERIES, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-4-3:7.

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 Kealakehe Homesteads, First Series, North Kona, Hawaii, shall be Family Agricultural (FA-3a):

Parcel A:

Beginning at the Northwesterly corner of this parcel of land, being also the Northeasterly corner of the remainder portion of Lot 2 and being a point on the Southerly side of Homestead Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 13,509.29 feet North and 10,012.21 feet East and running by azimuths measured clockwise from True South:

- |    |              |        |   |
|----|--------------|--------|---|
| 1. | 252° 41'     | 318.40 | feet along the Southerly side of Homestead Road to a point;   |
| 2. | 342° 58' 30" | 411.26 | feet along the Westerly side of Upper Government Road to a point;   |
| 3. | 72° 58' 30"  | 318.39 | feet along the remainders of Lot 2 of Kealakehe Homesteads, First Series and Grant 6272 to K. Kapae to a point; |

- |    |              |        |  |
|----|--------------|--------|--|
| 4. | 162° 58' 30" | 409.64 | feet along the remainders of Lot 2 of Kealakehe Homesteads, First Series and Grant 6272 to K. Kapae to the point of beginning and containing an area of 3.000 Acres. |
|----|--------------|--------|--|

The district classification of the following area situated at Kealakehe Homesteads, First Series, North Kona, Hawai'i, shall be Agricultural (A-10a):

Parcel B:

Beginning at the Northeasterly corner of this parcel of land, being also the Northwesterly corner of the remainder portion of Lot 2 and being a point on the Southerly side of Homestead Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 13,509.29 feet North and 10,012.21 feet East and running by azimuths measured clockwise from True South:

- |    |              |          |   |
|----|--------------|----------|---|
| 1. | 342° 58' 30" | 409.64   | feet along the remainders of Lot 2 of Kealakehe Homesteads, First Series and Grant 6272 to K. Kapae to a point;   |
| 2. | 252° 58' 30" | 318.39   | feet along the remainders of Lot 2 of Kealakehe Homesteads, First Series and Grant 6272 to K. Kapae to a point;   |
| 3. | 342° 58' 30" | 160.54   | feet along the Westerly side of Upper Government Road to a point;   |
| 4. | 351° 29'     | 356.09   | feet along the Westerly side of Upper Government Road to a point;   |
| 5. | 65° 00'      | 907.00   | feet along the Northerly side of 20-ft Homestead Road to a point;   |
| 6. | 162° 05' 30" | 1,089.45 | feet along Lots C-2-A, D, 3, 4 and 5 and along Grant 3743 to W. Kaloio to a point;                                |
| 7. | 256° 36'     | 650.62   | feet along the Southerly side of Homestead Road to the point of beginning and containing an area of 18.725 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, Hawai'i Revised Statutes, relating to permissible uses within the State Land Use Agricultural District.
- C. 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. All farm dwellings within the proposed subdivision shall be provided with separate water service from the Department of Water Supply.
- D. Prior to the submittal of plans for subdivision review, the applicant shall secure written approval from the Department of Land and Natural Resources (DLNR) for the Archaeological Inventory Survey report dated September 2000 and its

recommended mitigation measures. Mitigation measures as approved by the DLNR shall be implemented and completed prior to conducting any land alteration activities within the project site.

- E. Final Subdivision Approval of the proposed subdivision within the subject property shall be secured from the Planning Director within five (5) years from the effective date of this ordinance. Plans shall indicate the location of the existing drinking water well (Honokohau Production Well and Reservoir Site) and the 1,000 feet radius within which no cesspool or septic tank system is allowed. Plans shall also indicate a minimum 15-foot wide road-widening easement along all three (3) sides of the project site frontages with the surrounding Homestead Roads.
  
- F. A drainage study of the subject property, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed or bonded meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
  
- G. Restrictive covenants in the deeds of all the proposed agricultural lots within the subject property shall (1) give notice that the terms of the zoning ordinance prohibit the construction of a second dwelling unit and condominium property regimes on each lot; and 2) specify the requirements of the Department of Health, if any, regarding the establishment of wastewater treatment systems within 1,000 feet of the Honokohau Well site. These restrictions may be removed by amendment of this ordinance by the County Council. The owner 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 State of Hawai'i 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.

- H. The applicant shall dedicate, at no cost to the County, a 15-foot wide portion of the 21.7-acre project site along its frontages with the Homestead Roads for road widening purposes at such time as may be required by the Department of Public Works.
- I. To the Homestead Road situated along the northern boundary of the project site at its intersection with the Mamalahoa Highway, the applicant shall provide improvements to sight distance meeting with the approval of the Department of Public Works if used as the access to the subdivision, prior to the issuance of Final Subdivision Approval.
- J. All wastewater systems shall comply with the rules and regulations of the State Department of Health governing wastewater systems.
- K. 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.
- L. 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.

- M. Comply with all applicable rules, regulations and requirements of the affected agencies for approval of the proposed development.
  
- N. 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.
  
- O. 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.

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

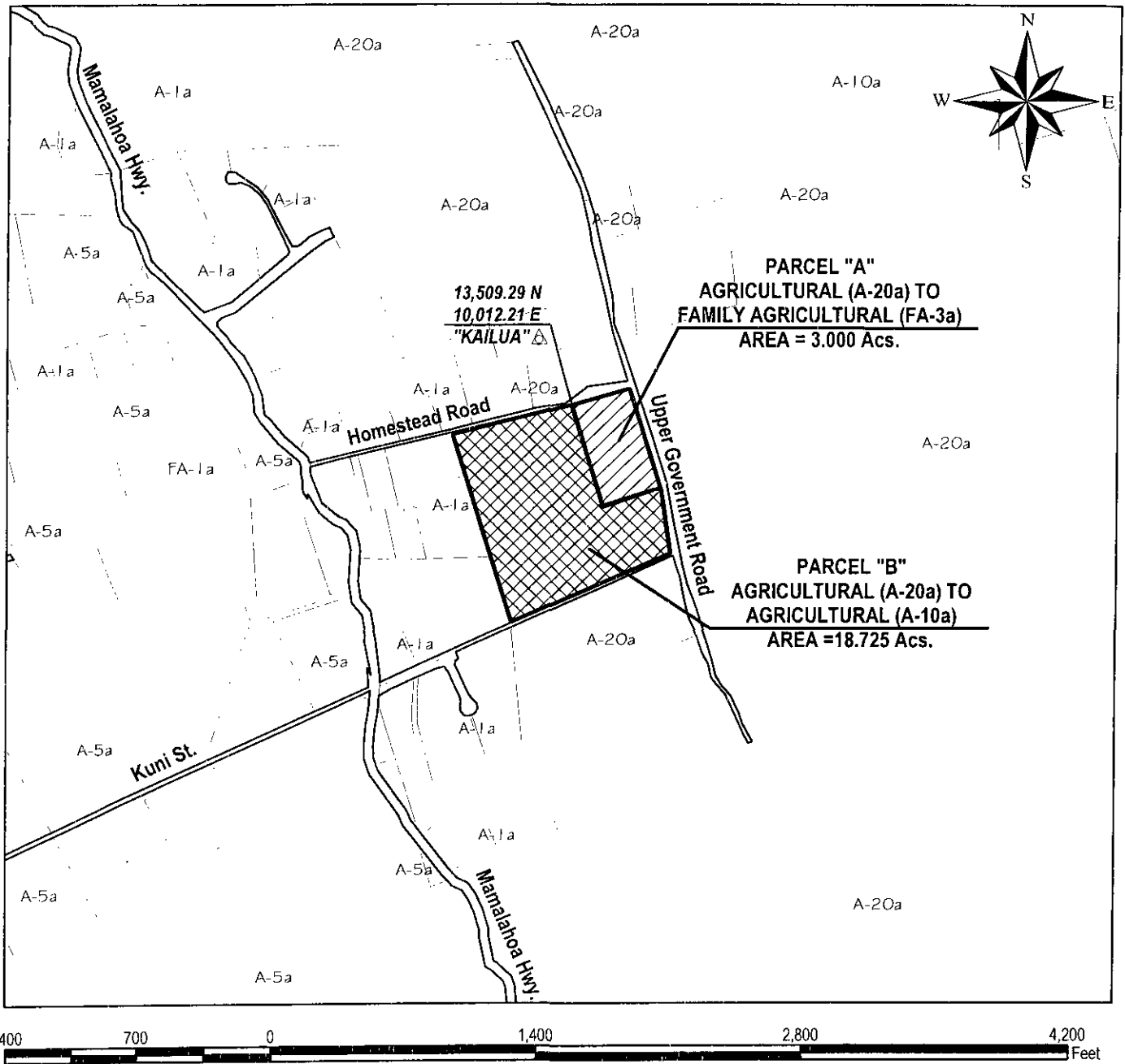
Date of Introduction: May 21, 2003

Date of 1st Reading: May 21, 2003

Date of 2nd Reading: June 4, 2003

Effective Date: June 18, 2003

REFERENCE: Comm. 226



# 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-20a)  
 TO AGRICULTURAL (A-10a) AND FAMILY AGRICULTURAL (FA-3a)  
 AT KEALAKEHE HOMESTEADS, NORTH 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:

RECEIVED  
 2003 JUN 19 PM 2 16  
 COUNTY CLERK  
 COUNTY OF HAWAII

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

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Holschuh	X			
Jacobson	X			
Leithead-Todd	X			
Reynolds	X			
Safarik	X			
Tyler	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
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.

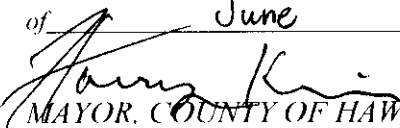
APPROVED AS TO  
FORM AND LEGALITY:

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

Date 6/16/03

  
COUNCIL CHAIRMAN  
  
COUNTY CLERK

Approved/Disapproved this 18<sup>th</sup> day  
of June, 2003

  
MAYOR, COUNTY OF HAWAII

Bill No.: 103  
Reference: C-226/PC-39  
Ord No.: 03 98