

ORDINANCE NO. **03 134**

AN ORDINANCE AMENDING ORDINANCE NO. 97-65 WHICH AMENDED ORDINANCE NO. 92-123, WHICH CHANGED THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-1a) AT OLAA, PUNA, HAWAI'I, COVERED BY TAX MAP KEY 1-7-17:3.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Ordinance No. 97 65 is amended as follows:

"SECTION 2. This change in district classification is conditioned upon the following:

- (A) the applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval;
- (B) subdivision plans shall be submitted to the Planning Department within one year [from the effective date of the change of zone The plans shall indicate a "no access" planting screen easement along the Hawaii Belt Road frontages of Lots 6, 35 and 36. Final Subdivision Approval shall be secured within two years] from the effective date of this ordinance;
- (C) the applicant shall [provide channelization] be responsible for construction and/or paying for its pro rata share of traffic signalization and related improvements at the intersection of the Hawaii Belt Road and [South] Huina Road in a manner meeting with the approval of the Departments of Transportation and Public Works[, prior to securing Final Subdivision Approval. This requirement may be satisfied through the execution of a bond with the County to ensure the construction of these improvements]. To assist in the cost of providing the traffic signalization, the applicant may coordinate the construction of the improvements with other interested surrounding property owners in the immediate area. Should other interested property owners contribute to the construction of the traffic signalization and related improvements, the applicant's pro rata share shall be 50% of the said cost.

Furthermore, the applicant shall fund or participate in the construction of its pro rata share in conjunction with said contribution by other interested owners. In the event the traffic lights are constructed by a party(ies) other than the applicant, the applicant shall reimburse said party(ies) its 50% share prior to or upon activation of the lights. In any event, construction of the traffic signalization shall be completed within five years from the effective date of this ordinance or prior to the issuance of the first building permit within the proposed subdivision, whichever is earlier;

- (D) interior subdivision access roadways shall meet with the approval of the Department of Public Works. Access shall not be permitted directly onto the Hawaii Belt Road [and Huina Road], except for the existing driveway access to serve tax map key 1-7-17:17 only. Access to the proposed [lots] subdivision shall be [via a 60-foot right-of-way on the existing South Road right-of-way fronting the subject property] from Huina Road. That portion of [South] Huina Road on the property frontage shall be improved to county dedicable standards [up to a length of 450 feet from the Belt Highway. Land along the balance of the subject property fronting South Road shall be set aside and delineated on the subdivision plans to allow for a future 60-foot wide road, inclusive of the existing South Road right-of-way]. Applicant shall also make any necessary shoulder improvements to Huina Road between its property line and the Huina Road-Hawaii Belt Highway (Highway 11) intersection within the County right-of-way, if required by the Department of Public Works, and to the extent not covered by current State improvements. None of the proposed lots shall have direct access from Huina Road. A 5-foot future road widening strip shall be dedicated to the County along the Huina Road frontage upon request by the County subsequent to final subdivision approval. Should the applicant choose to provide access to the project area from South Road, the applicant shall improve South Road meeting with the approval of the Departments of Public Works and Transportation, including dedication of necessary right-of-way. In the event access is not provided to South Road, the applicant shall delineate a

15-foot wide future road widening setback along the South Road frontage and shall dedicate the setback area when subdivided by the County;

- (E) access to the subject property shall meet with the approval of the Departments of Transportation and Public Works;
- (F) drainage improvements, if required, shall be provided in a manner meeting with the approval of the Department of Public Works, prior to securing Final Subdivision Approval of the proposed development;
- (G) restrictive covenants in the deeds of all the proposed lots 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 Department for review and approval prior to final subdivision approval. A copy of a typically recorded covenant shall be filed with the Planning Department within one year from the date of final subdivision approval;
- (H) should any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall be encountered, work in the affected area shall cease and the Planning Department immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken;
- (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 applicant'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 Change of Zone. 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 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 applicant, 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 the Zoning Code; 3) granting of the time extension would not be contrary to the General plan or the Zoning Code; 4) the time extension granted shall not 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. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director [shall] may initiate rezoning of the area to its original or more appropriate designation."

SECTION 3. Material to be deleted is bracketed and material to be added is underscored.

SECTION 4. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

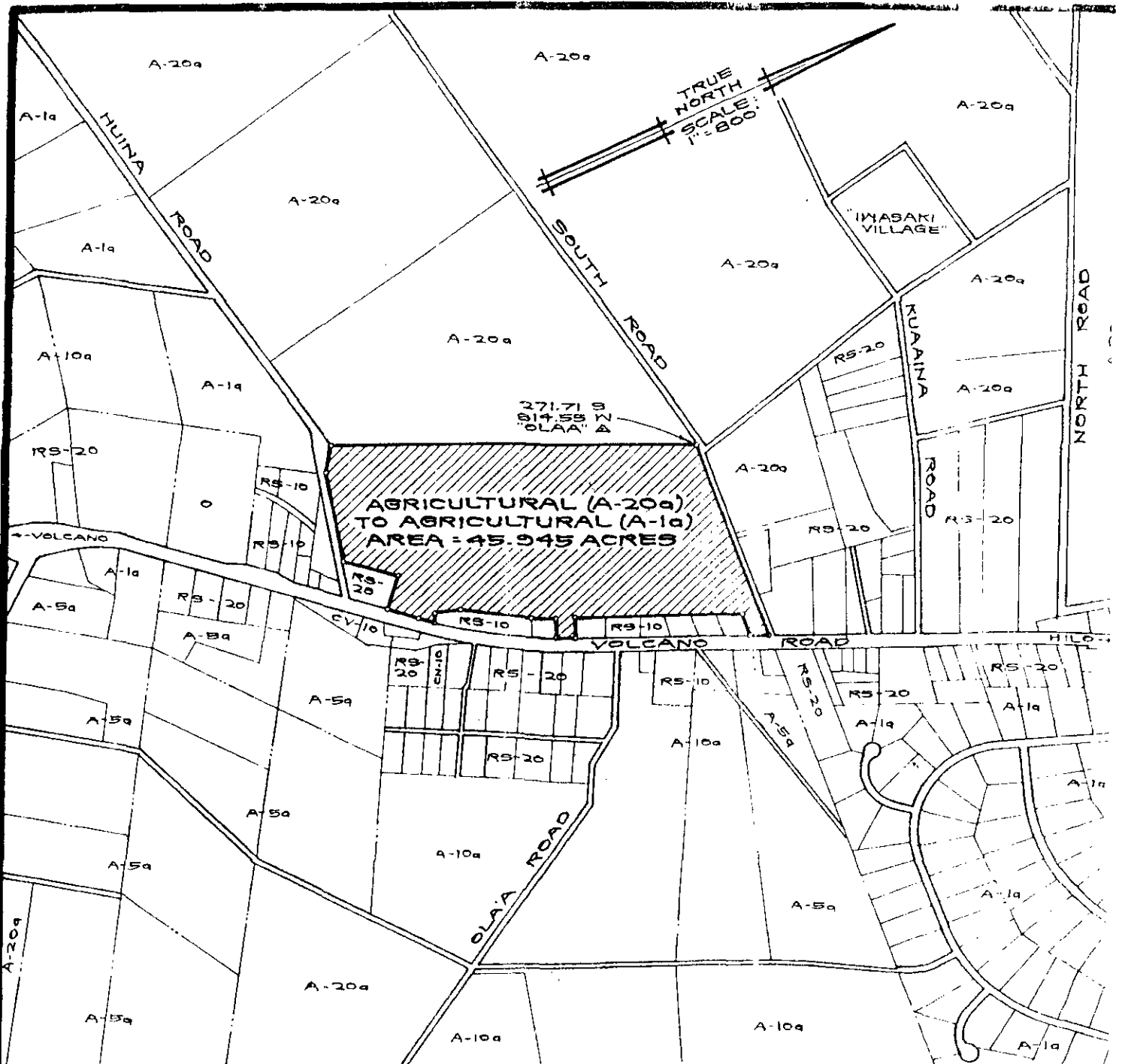
SECTION 5. This ordinance shall take effect upon its approval.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i
Date of Introduction: September 17, 2003
Date of 1st Reading: September 17, 2003
Date of 2nd Reading: October 8, 2003
Effective Date: October 16, 2003
REFERENCE: Comm. 309.3



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-103 (PUNA DISTRICT ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-1a) AT OLAA, PUNA, HAWAII.

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
 County of Hawaii
 Hilo, Hawaii

RECEIVED

(Draft 3)

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Introduced By: James Y. Arakaki
 Date Introduced: September 17, 2003
 First Reading: September 17, 2003
 Published: October 5, 2003

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Reynolds	X			
Safarik	X			
Tulang	X			
Tyler		X		
	7	2	0	0

Second Reading: October 8, 2003
 To Mayor: October 13, 2003
 Returned: October 17, 2003
 Effective: October 16, 2003
 Published: November 2, 2003

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Holschuh	X			
Jacobson			X	
Reynolds	X			
Safarik	X			
Tulang	X			
Tyler		X		
	6	1	2	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:

[Signature]
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 10/13/03

[Signature]
 COUNCIL CHAIRMAN
[Signature]
 COUNTY CLERK

Bill No.: 136 (Draft 3)
 Reference: C-309.3/PC-56
 Ord No.: 03 134

Approved/Disapproved this 16th day
 of October, 20 03
[Signature]
 MAYOR, COUNTY OF HAWAII