

ORDINANCE NO. 04 21

AN ORDINANCE AMENDING SECTION 25-8-22 (PUNA DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-5a) AT KEAAU, PUNA, HAWAI'I, COVERED BY TAX MAP KEY 1-6-141:001.

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

SECTION 1. Section 25-8-22, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Keaau, Puna, Hawai'i shall be Agricultural (A-5a):

Beginning at the northwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "OLAA" being 12962.30 feet North and 5743.85 feet East and running by azimuths measured clockwise from True South:

- | | | | | | |
|----|------|-----|-----|--------|---|
| 1. | 270° | 40' | 32" | 644.86 | feet along Lot 9677, Land Court Application 1053 as shown on Map 559; |
| 2. | 196° | 25' | | 100.00 | feet along Lot 9677, Land Court Application 1053 as shown on Map 559; |
| 3. | 223° | 19' | 56" | 218.81 | feet along Lot 9677, Land Court Application 1053 as shown on Map 559; |

- | | | | |
|----|---|---------|--|
| 4. | 236° 01' 18" | 286.59 | feet along Lot 9677, Land Court Application 1053 as shown on Map 559; |
| 5. | Thence along Lot 3, Land Court Application 1689, along a curve to the left having a radius of 1166.28 feet the chord azimuth being: | | 332° 31' 32" 826.95 feet; |
| 6. | 21° 00' | 71.36 | feet along Lot 9187, Land Court Application 1053 as shown on Map 515; |
| 7. | 90° 33' | 1439.38 | feet along Lot 9187, Land Court Application 1053 as shown on Map 515; |
| 8. | 183° 23' 49" | 379.50 | feet along Lots A-31-A-4 and A-31-A-3, Land Court Application 1053 as shown on Map 134 to the point of beginning and containing an area of 14.587 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. Final Subdivision Approval of the subject property shall be secured within five (5) years from the effective date of this ordinance.
- C. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within ninety days from the effective date of this ordinance.
- D. The method of sewage disposal shall meet with the approval of the State Department of Health.
- E. 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.
- F. The applicant shall comply with all other applicable laws, rules, regulations and requirements of affected agencies, including the Department of Public Works, Fire Department and the Department of Health for the development of the subject property.
- G. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not

be limited to, the status of the development and the extent to which the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.

H. 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.

I. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:

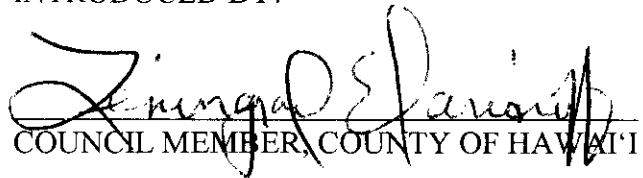
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicants, successors or assigns, and that are not the result of their fault or negligence.
2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
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).

- J. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the 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.

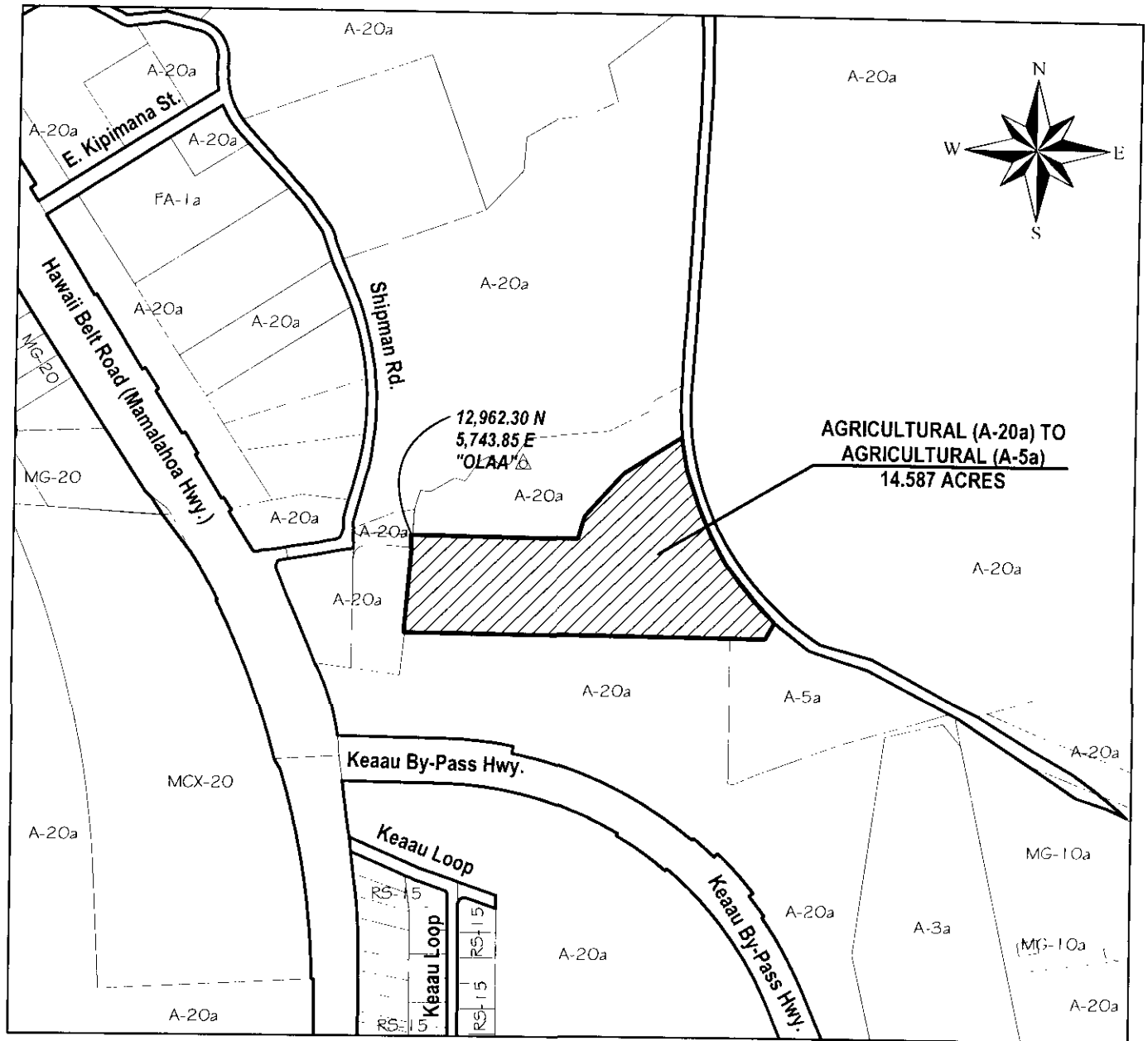
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Hilo , Hawai'i

Date of Introduction: January 23, 2004
Date of 1st Reading: February 4, 2004
Date of 2nd Reading: February 19, 2004
Effective Date: February 25, 2004

REFERENCE: Comm. 443



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-22 (PUNA DISTRICT 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-5a)
 AT KEEAAU, PUNA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

TMK: 1-6-141:001

Date: November 10, 2003

EXHIBIT "A"

(Hawaii Brewery Development Co., Inc:1114)

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

2004 FEB 25 AM 8 35

Introduced By: Leningrad Elarionoff
 Date Introduced: January 23, 2004
 First Reading: February 4, 2004
 Published: N/A

REMARKS: January 23, 2004 - Deferred

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			
	8	1	0	0

Second Reading: February 19, 2004
 To Mayor: February 20, 2004
 Returned: February 25, 2004
 Effective: February 25, 2004
 Published: March 7, 2004

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:

Diane A. Roda
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date _____

[Signature]
 COUNCIL CHAIRMAN
[Signature]
 COUNTY CLERK

Bill No.: 203
 Reference: C-443/PC-71
 Ord. No.: 04 21

Approved Disapproved this 25th day
of February, 2004
[Signature]
 MAYOR, COUNTY OF HAWAII