

ORDINANCE NO. 04 127

AN ORDINANCE AMENDING SECTION 2-8-8 (UPOLU POINT – KAAUHUUHOMESTEADS ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – 20 ACRE (A-20a) TO FAMILY AGRICULTURAL – 1 ACRE (FA-1a) AT KOKOIKI, NORTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY 5-5-4:33.

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

SECTION 1. Section 2-8-8, 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 Kokoiki, North Kohala, Hawai'i, shall be Family Agricultural – 1 acre:

Beginning at the Southwesterly corner of this parcel of land, being also the Northwesterly corner of Lot 25 of Puuepa-Kokoiki Homesteads and being a point on the Northeasterly side of an existing 30-Ft. Wide Roadway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEHONI" being 411.49 feet South and 840.23 feet East and running by azimuths measured clockwise from True South:

- 1. 133° 58' 30" 260.90 feet along the Northeasterly side of an existing 30-Ft. Wide Roadway to a point;
- 2. 229° 32' 30" 762.00 feet along the remainders of Lot 26 of Puuepa-Kokoiki Homesteads and Grant 7473 to Martha Koolau to a point;
- 3. 311° 03' 30" 127.50 feet along Lot 2 and along Grant 2764 to Kamoe and Kai to a point;
- 4. 308° 13' 61.64 feet along Lot 1 and along Grant 2764 to Kamoe and Kai to a point;

5. 44° 06' 771.08 feet along Lot 25 of the Puuepa-Kokoiki Homesteads and along Grant 7010 to Zolobabela Kaai to the point of beginning and containing an area of 3.936 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, 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. Final Subdivision Approval of the proposed subdivision development shall be secured within five (5) years from the effective date of this change of zone ordinance.
- D. Only one additional lot (total of two lots) will be allowed.

- E. Restrictive covenants in the deeds of proposed Lot 1 shall give notice that the terms of the zoning ordinance prohibit the construction of a second dwelling unit and condominium property regimes (CPR). The prohibition of a second dwelling is excluded for proposed Lot 2 since the two existing dwelling units on the property will be situated on that lot. Proposed Lot 2, however, shall be prohibited from being CPR'd. This restriction may be removed by amendment of this ordinance by the County Council. The owners of the property may also 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.

- F. All driveway connections to Kokoiki Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.

- G. The applicant shall provide a 10-foot wide future road widening setback easement along the length of the property fronting Kokoiki Street.

- H. All grading and grubbing activities and drainage improvements shall meet with the approval of the County Department of Public Works.

- I. A drainage study of the subject property, if required, shall be prepared by the applicant and submitted to the Department of Public Works for review and approval, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works.

- J. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
- K. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawaii County Code.
- L. 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 Resource – State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
- M. 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 shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- N. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- 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, 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).
- P. Should any of the conditions not be met or substantially complied with in a timely fashion, the 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.

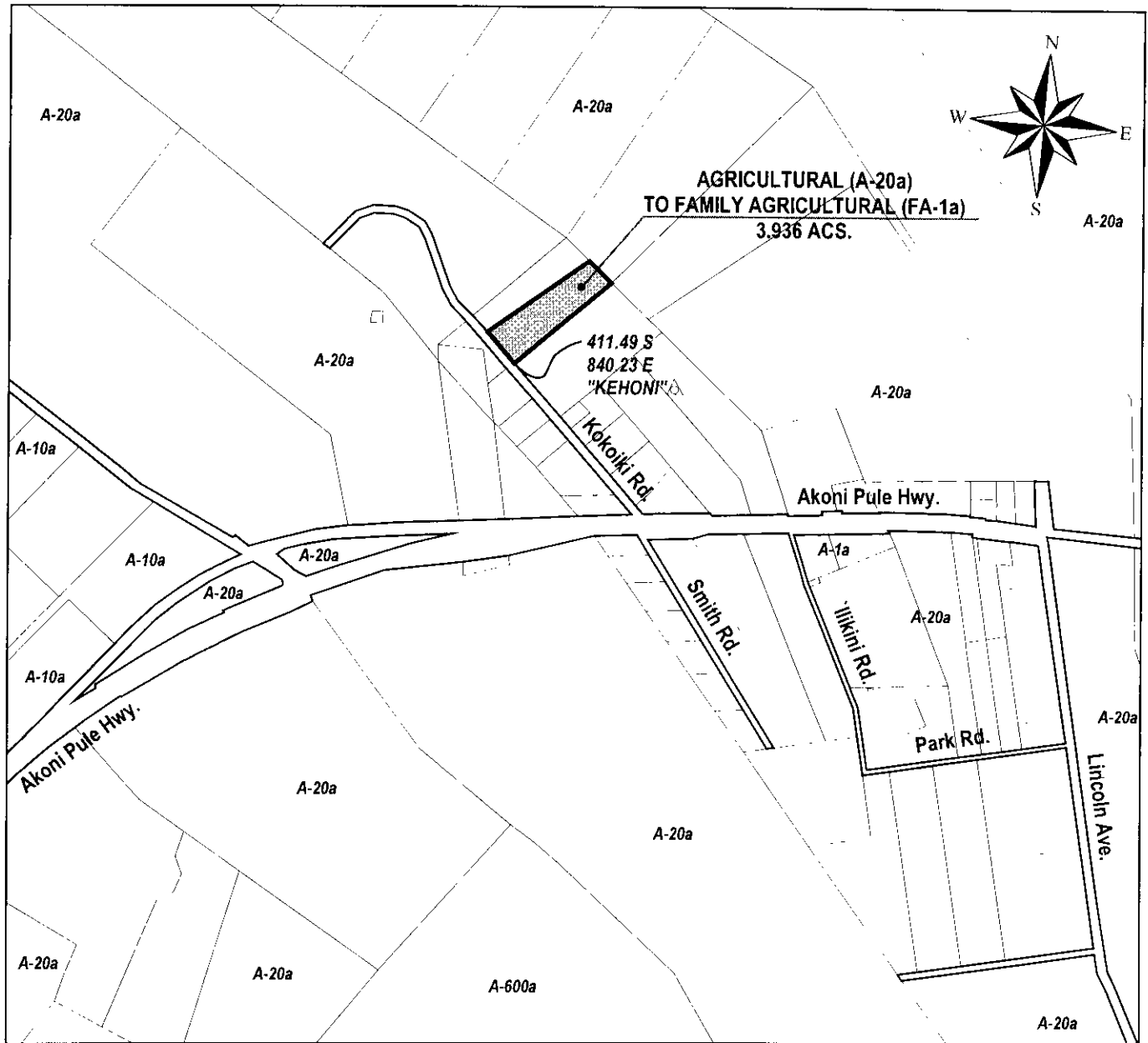
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: October 20, 2004
Date of 1st Reading: October 20, 2004
Date of 2nd Reading: November 10, 2004
Effective Date: November 19, 2004

REFERENCE: Comm. 769.2



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-8 (UPOLU POINT-KAAUHUUHOMESTEADS 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-1a)
 AT KOKOIKI, NORTH KOHALA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii
Hilo, Hawaii

2007150 28 10 9 12

Introduced By: Leningrad Elarionoff
Date Introduced: October 20, 2004
First Reading: October 20, 2004
Published: N/A

REMARKS:

Second Reading: November 10, 2004
To Mayor: November 16, 2004
Returned: November 22, 2004
Effective: November 19, 2004
Published: November 28, 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	3	0	0

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 11/17/04

Approved/Disapproved this 17th day of November, 2004.

[Signature]
MAYOR, COUNTY OF HAWAII

[Signature]
COUNCIL CHAIRMAN

[Signature]
COUNTY CLERK

Bill No.: 326 (Draft 2)

Reference: C-769.2/PC-109

Ord: 04 127