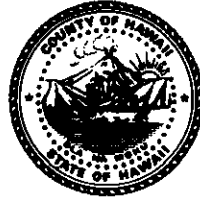


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 07 106 BILL NO. 82  
(DRAFT 3)

AN ORDINANCE AMENDING ORDINANCE NO. [02-21] 02-21, WHICH AMENDED ORDINANCE NO. 98-87, WHICH AMENDED ORDINANCE NO. 90-008, AND WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 20 ACRE (A-20a) TO AGRICULTURAL – 3 ACRE (A-3a) AT KAHUA 1<sup>ST</sup>, NORTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY 5-9-007:007.

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

**SECTION 1.** Ordinance No. [02-21] 02-21 is amended as follows:

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

- 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] Hawai'i Revised Statutes, relating to permissible uses within the State Land Use Agricultural District;
- C. [~~Subdivision plans shall be submitted to the Planning Director within one year from the effective date of the change of zone.~~] Final subdivision approval shall be secured within five (5) years from the effective date of this amended ordinance. Minimum lot sizes shall be determined by calculating the total area within the proposed lot lines exclusive of easements for access and drainage purposes and future road widening setback areas;
- D. It shall be determined to the satisfaction of the Planning Director that substantial agricultural activity is being conducted on the lots to be rezoned within three years

from the date of final subdivision approval. For the purpose of this condition, "agriculture" shall be defined as the cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage, and timber; game propagation; raising of livestock, including but not limited to poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use. Agricultural activity will be considered substantial: (1) If it provides a major source of income to the person(s) who resides on the property, or (2) If the property is dedicated for Agriculture uses in accordance with applicable Department of Finance, Real Property Tax Division's procedures. This condition shall be incorporated in each of the deeds for the proposed lots and duly recorded with the State Bureau of Conveyances. A copy of the recorded deeds shall be filed with the Planning Department within one year from the date of final subdivision approval;

- E. Prior to submittal of preliminary subdivision plans, an archaeological reconnaissance survey report shall be submitted and approved by the Planning Department in consultation with the Department of Land and Natural Resources-Historic Sites Section;
- F. Should any unanticipated archaeological sites or features be uncovered during land preparation activities, work within the affected area shall cease and the Planning Director notified. Work within the affected area shall not resume until clearance is obtained from the Director;
- G. A drainage system shall be installed in accordance with the requirements of the Department of Public Works;
- H. Only one access shall be allowed to the proposed subdivision from Ala Kahua Drive. Such access shall meet with the approval of the Department of Public Works;

- I. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Subdivision Approval;
- ~~[F.]J.~~ ~~[All other applicable laws, rules, regulations and requirements shall be complied with]~~ The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements;
- ~~[J.]K.~~ Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein may, at the developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance;
- L. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Hawai'i County Code, Chapter 11, as it relates to affordable housing. Compliance with Chapter 11 shall be approved by the Administrator of the Office of Housing and Community Development prior to receipt of Final Plan Approval and/or Final Subdivision Approval;
- ~~[K.]M.~~ An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the zone change. The report shall address the status of the development and the compliance with the conditions of approval. This conditions 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; ~~[and]~~
- ~~[L.]N.~~ ~~[An initial extension of time for the performance of conditions within the permit~~

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 granting of the change of zone; and,~~
- 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); 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.] If the applicant should require an additional extension of time, the applicant shall submit its request to the Hawai'i County Council for appropriate action; and~~

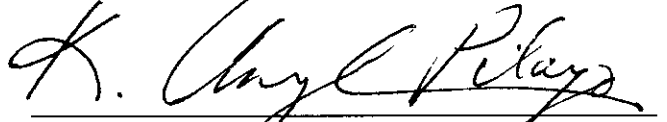
[~~M.~~]O. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation.”

**SECTION 2.** Material to be deleted is bracketed and struck through. New material is underscored.

**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.

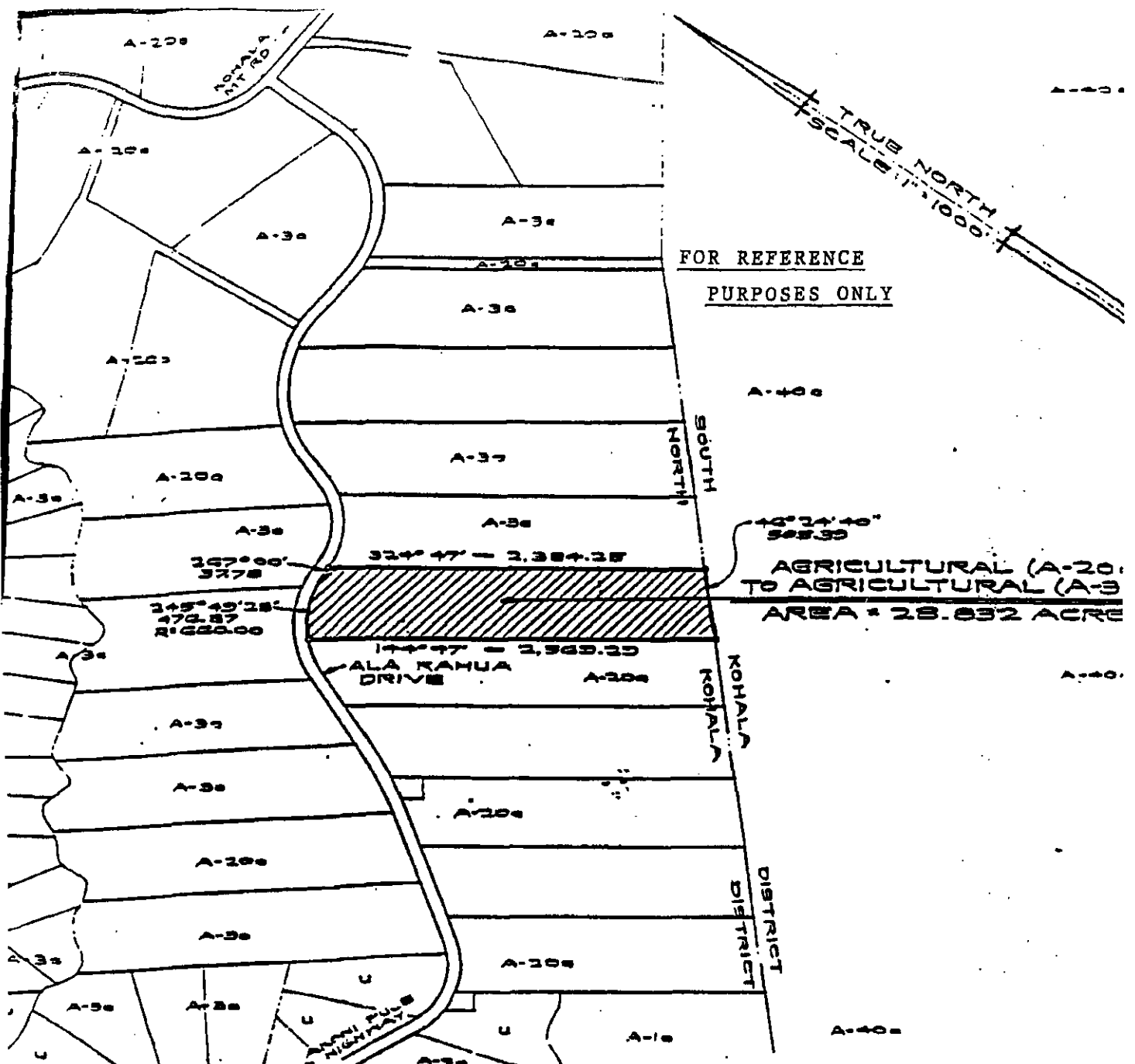
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona Hawai'i

Date of Introduction: July 10, 2007  
Date of 1st Reading: July 10, 2007  
Date of 2nd Reading: July 25, 2007  
Effective Date: August 14, 2007

REFERENCE: Comm. 306.7



## AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-95 A (NORTH AND SOUTH KOHALA DISTRICTS 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-3a) AT KAHUA 1ST, NORTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK : 5-9-07 : 7

OCT. 17, 1989

XHIRT "A"

OFFICE OF THE COUNTY CLERK  
County of Hawai'i  
Kona, Hawai'i

(Draft 2)

Introduced By: K. Angel Pilago  
Date Introduced: July 10, 2007  
First Reading: July 10, 2007  
Published: N/A

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Second Reading: July 25, 2007  
To Mayor: August 2, 2007  
Returned: August 14, 2007  
Effective: August 14, 2007  
Published: August 24, 2007


REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa			X	
Hoffmann	X			
Ikeda			X	
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto	X			
	7	0	2	0

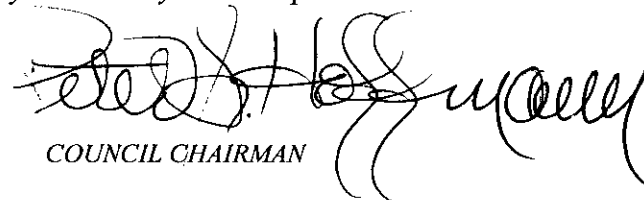
(Draft 3)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa	X			
Hoffmann	X			
Ikeda	X			
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto	X			
	9	0	0	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:  
  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date \_\_\_\_\_

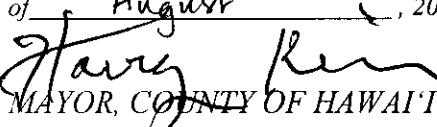
  
COUNCIL CHAIRMAN

  
CASEY JANNA  
COUNTY CLERK

Bill No.: 82 (Draft 3)

Reference: C-306.7/PC-35

Ord No.: **07 106**

Approved/Disapproved this 14<sup>th</sup> day  
of August, 2007  
  
MAYOR, COUNTY OF HAWAII