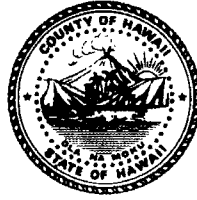


COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

ORDINANCE NO. 13 30 BILL NO. 22

AN ORDINANCE AMENDING ORDINANCE NO. 07 106, WHICH AMENDED ORDINANCE NO. 02 21, WHICH AMENDED ORDINANCE NO. 98 87, WHICH AMENDED ORDINANCE NO. 90 008, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 20 ACRES (A-20a) TO AGRICULTURAL – 3 ACRES (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. 07 106 is amended as follows.

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

In accordance with Section 25-2-44, Hawai‘i County Code 1983 (2005 Edition), 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. 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;
- J. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements;
- 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;

- 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 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;
- N. 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
- 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 and material to be added 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.

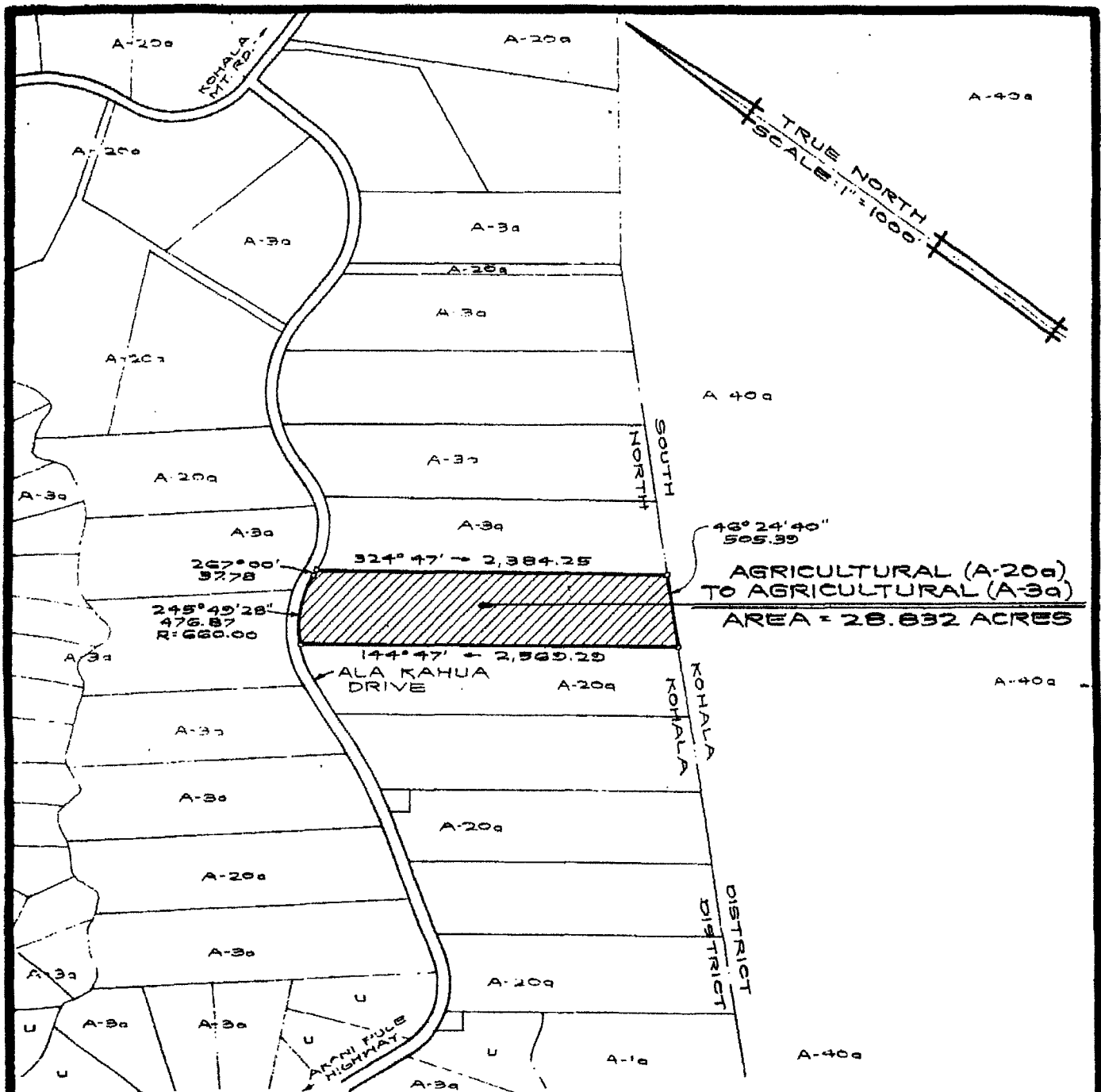
**SECTION 4.** This ordinance shall take effect upon its approval.

INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona \_\_\_\_\_, Hawai'i

Date of Introduction: February 6, 2013  
Date of 1st Reading: February 6, 2013  
Date of 2nd Reading: February 20, 2013  
Effective Date: March 13, 2013



## 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

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

Introduced By: Zendo Kern (B/R)  
Date Introduced: February 6, 2013  
First Reading: February 6, 2013  
Published: N/A

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

Second Reading: February 20, 2013  
To Mayor: February 28, 2013  
Returned: March 14, 2013  
Effective: March 13, 2013  
Published: March 21, 2013

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

ROLL CALL VOTE 2: 57				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi			X	
Poindexter	X			
Wille	X			
Yoshimoto	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	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.*


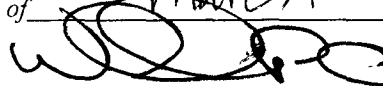
APPROVED AS TO FORM AND LEGALITY: \_\_\_\_\_

DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date MAR 11 2013

  
COUNCIL CHAIRPERSON  
  
COUNTY CLERK

Bill No.: 22  
Reference: C-68/PC-13  
Ord No.: 13 30

 Approved/Disapproved this 13<sup>th</sup> day  
of MARCH, 20 13.  
  
MAYOR, COUNTY OF HAWAII