

COUNTY OF HAWAII STATE OF HAWAII



Bill No. 304
(Draft 3)

ORDINANCE NO. 87 10

AN ORDINANCE AMENDING SECTION 25-88 (SOUTH KONA DISTRICT ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO AGRICULTURAL (A-2a) AT KAAWALOA, SOUTH KONA, HAWAII, COVERED BY TAX MAP KEY 8-1-09:PORTIONS OF 2 and 14.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-88, Article 3, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kaawaloa, South Kona, Hawaii, shall be Agricultural (A-2a):

Beginning at the Westernmost corner of this parcel of land, being also the Northernmost corner of Lot 4-A of this subdivision and a point on the Southeasterly side of Kaawaloa Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LAE O KANONI" being 21,831.10 feet North and 771.64 feet West and running by azimuths measured clockwise from True South:

1. 240° 06' 23.77 feet along the Southeasterly side of Kaawaloa Road to a point;

2. 240° 38' 520.66 feet along the
Southeasterly side of
Kaawaloa Road to a point;

Thence, for the next eight (8) courses following
along the Southwesterly side of Napoopoo Road:

3. 327° 35' 300.72 feet along the
Southwesterly side of
Napoopoo Road to a point;
4. 319° 39' 178.81 feet to a point;
5. 320° 48' 30" 103.98 feet to a point;
6. 329° 59' 162.15 feet to a point;
7. 341° 59' 52.17 feet to a point;
8. 358° 40' 38.30 feet to a point;
9. 351° 43' 47.11 feet to a point;
10. 339° 31' 95.15 feet to a point;

Thence, for the next seven (7) courses following
along the remainder of Royal Patent 4386 and 7532,
Land Commission Award 8452, Apana 10 to
A. Keohokalole:

11. 59° 20' 729.45 feet to a point;
12. 147° 11' 310.11 feet along Lot 7-A of this
subdivision to a point;
13. 144° 45' 40" 113.75 feet along Lot 7-A of this
subdivision to a point;
14. 234° 49' 30" 273.15 feet along Lot 4-A of this
subdivision to a point;
15. 148° 22' 170.26 feet along Lot 4-A of this
subdivision to a point;
16. 53° 54' 45.51 feet along Lot 4-A of this
subdivision to a point;
17. 148° 22' 364.82 feet along Lot 4-A of this
subdivision to the point
of beginning and
containing an area of
14.451 Acres.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. This change in district classification is conditioned upon the following: A) the petitioner, successors or its assigns shall be responsible for complying with all of the stated conditions of approval; B) it shall be demonstrated to the satisfaction of the Planning Director that substantial agricultural activity is being conducted on the lands being considered for subdivision under this change of zone request. 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. An agricultural activity will be considered substantial: (1) if such activity is implementing a conservation program for the affected property(ies), as approved by the applicable soil and water conservation district directors and filed with the Soil Conservation Service; (2) if it provides a major source of income to the person(s) who reside on the property; or (3) if the property is dedicated for Agriculture uses in accordance with applicable Tax Department procedures and that such agriculture dedication shall be made a deed covenant and duly recorded with the State Bureau of Conveyances and with a copy

filed with the Planning Department. Each approved lot must comply with one or more of the above requirements to satisfy the conditions of approval of this change of zone request; although nothing contained herein shall prevent the keeping of horses for personal use, horsebreeding, in and of itself, shall not be considered a substantial agricultural activity for the purposes of complying with the requirements of the subject condition; C) as suggested by and agreed to by the petitioner, at a minimum the following covenants shall also be incorporated in the deed for the proposed lots and duly recorded with the State Bureau of Conveyances and a copy filed with the Planning Department; modifications making these covenants more restrictive may be incorporated; (1) only one single family residence shall be constructed on each lot. There shall be no Ohana Zoning, nor shall additional dwellings be constructed as "farm dwellings"; (2) the residential building site on each lot shall be limited to one quarter acre in size. At the time when a building permit is first taken out for the construction of a residence, the lot owner shall designate on the site plan and stake out on the ground an area one quarter acre in size surrounding his residence. This area may be used for any and all residential and related uses. The remaining area shall be used only for agricultural purposes as defined in Paragraph B above. However, existing trees with a trunk of 12" or more need not be cut down and the area under them is exempted from

this provision. If such an established tree dies or is destroyed, the lot owner may at his option replant another in its place and the area under the new tree shall likewise be exempted. Nothing contained herein shall preclude the construction of barns, equipment sheds, shade houses, green houses, or other agriculturally related buildings on the portion of the property that is to be used only for agricultural purposes; (3) each lot shall not be further subdivided during the term of this agreement; (4) Duration. The covenants, conditions and restrictions herein contained are to run with the land and shall be binding on all parties and persons claiming under them for a period of 40 years or until such time that the land is reclassified to a land use district other than an agricultural district (whichever is longest); and any deed, lease, agreement of sale, mortgage, or other instrument of conveyance of the Property shall expressly refer to this Declaration; (5) incorporate notice that this is an agricultural area and that neighboring land owners outside the subdivision are entitled to pursue all activities permitted in an agricultural area as defined by Hawaii Revised Statutes including but not limited to noise, smell, and legal use of pesticides; D) subdivision plans shall be submitted to the Planning Department within one year from the effective date of the zone change. Final subdivision approval shall be secured within one year from the date of receipt of tentative

subdivision approval; E) a drainage system shall be installed in accordance with the requirements of the Department of Public Works; F) a minimum 100 foot structural setback along the Napoopoo Road boundary shall be provided for future road improvements and included in the deed for all proposed lots; and G) all other applicable rules, regulations and requirements be complied with. The Planning Director may administratively grant extensions to the foregoing time condition. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the property to its original or more appropriate designation.

SECTION 3. In the event that any portion of the ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

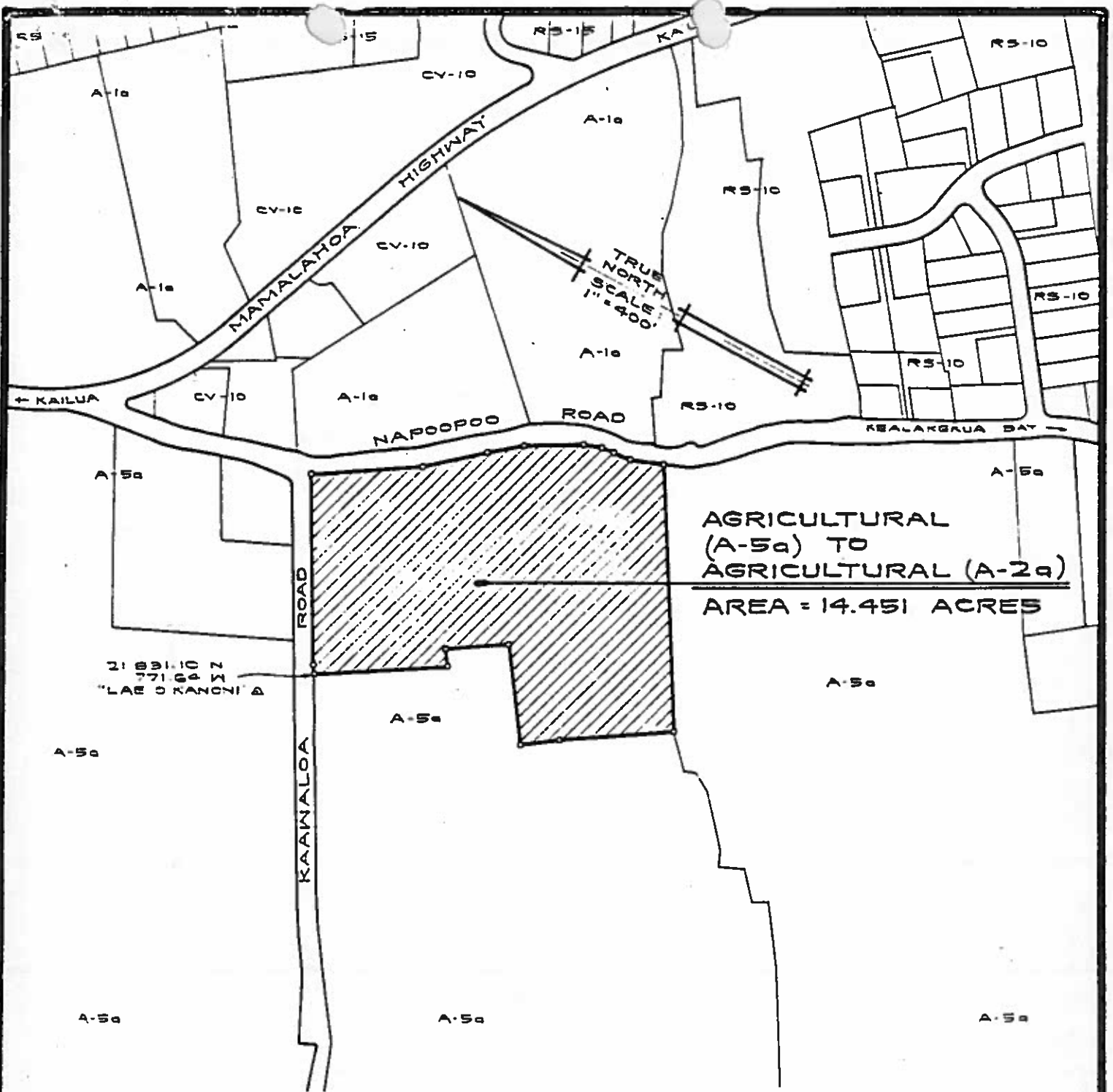
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Lehua Dunning
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: January 20, 1987
Date of 1st Reading: January 20, 1987
Date of 2nd Reading: February 4, 1987
Effective Date: February 12, 1987



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-88 (SOUTH KONA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO AGRICULTURAL (A-2a) AT KAAWALO A, SOUTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

