

Stephen K. Yamashiro
Mayor

EA



6/15/99: -0- LM
9/15/99
7/21/00
3/9/01

Virginia Goldstein
Director

Russell Kokubun
Deputy Director

FSA-SUB-13-001285
FSA-SUB-16-001672

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

July 15, 1998

Robert E. Bethea, Esq.
Bethea, Black, Nishimura & Leithead
688 Kinoole Street, Suite 210
Hilo, HI 96720

Dear Mr. Bethea:

Change of Zone Ordinance No. 95 70 (REZ 798)
Applicant: Kealakekua Development Corporation
Request: Amendment to Conditions B, C & Y of Ordinance No. 95 70
Tax Map Key: 8-2-12:12 and Portion of 1

For your information, we are attaching Ordinance No. 98 63, amending Ordinance No. 95 70 which reclassified lands from an Agricultural (A-20a) to Agricultural (A-1a, A-3a, A-200a, A-255a and A-8000a) at Kealakekua, Kiloa, Waipunaula, Kalama, Kumu and Kalamakowali, South Kona, Hawaii.

Sincerely,

Virginia Goldstein

VIRGINIA GOLDSTEIN
Planning Director

Lkdc01.syw
Atts.

cc/att: Planning Commission
Mr. Sachi Noma
West Hawaii Office
Subdivision Section ✓
Kazu Hayashida, Director/DOT-Highways, Honolulu

off. date
6/21/98-2003

Conds. B, C, D, E, G, H, J, K, L, O, P, R

FSC(P) = \$3,619,580.00

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 232

'98 JUL 10 AM 10 13
PLANNING DEPT.
COUNTY OF HAWAII

ORDINANCE NO. 98 63

AN ORDINANCE AMENDING ORDINANCE NO. 95-70, WHICH RECLASSIFIED LANDS FROM AN AGRICULTURAL (A-20a) TO AGRICULTURAL (A-1a, A-3a, A-200a, A-255a AND A-8000a) AT KEALAKEKUA, KILOA, WAIPUNLA, KALAMA, KUMU, AND KALAMAKOWALI, SOUTH KONA, HAWAII, COVERED BY TAX MAP KEY 8-2-12:12 AND A PORTION OF 1.

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

SECTION 1. Ordinance No. 95-70, is amended as follows:

SECTION 2. These changes in district classification are conditioned upon the following:

(A) The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval;

(B) The effective date of the change of zone shall be:

[(1)] when the applicant provides assurance satisfactory to the Departments of Water Supply and Planning, upon consultation with the State Department of Health and the Department of Land and Natural Resources, that a water source(s) of sufficient quality and quantity has/have been established within [two] five years from the enactment of this [ordinance] amendment; provided that a maximum one year extension may be granted by the Planning Director with reasonable and sufficient justification.[]; and

(2) an agreement together with the appropriate bond, surety or other security deemed acceptable by the Planning Director, is executed between the applicant and the County through its Departments of Water Supply and Planning for the actual development of proven source and its water transmission and distribution system to County Dedicable Standards within one year from the official date of compliance with condition B(1);

setback and a 50-foot wide landscape buffer. Such easement and the right-of-way acquisition documents for the proposed Koa Road access corridor shall be delineated on plans submitted for subdivision review of the first increment. The Koa Road corridor alignment shall be generally located south of the Kealakekua Shopping Center at its connection with Mamalahoa Highway, as represented by the applicant.

- (F) A wastewater disposal system shall be constructed in a manner meeting with the approval of the State Department of Health and/or the Department of Public Works, whichever is applicable.
- (G) A detailed drainage study of the entire project area shall be prepared by the applicant for review and approval by the Department of Public Works prior to submittal of plans for subdivision review for any portion of the project site or prior to any land alteration whichever comes first. Drainage improvements, including any flooding mitigation measures as required by the chief engineer, shall be constructed and/or installed in a manner meeting with the approval of the Department of Public Works. The drainage study may include a program for the sequenced installment of the drainage system improvements.
- (H) An archaeological mitigation plan shall be prepared and submitted for approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division and Hawaiian community organizations, prior to submitting plans for subdivision review. The Plan shall consist of two subplans:
- (1) an archaeological data recovery plan for the sites to undergo data recovery; and
 - (2) a detailed interim protection preservation plan for the sites to undergo preservation. Approved mitigation measures shall be implemented prior to or in conjunction with any land alterations within the project area.
- The Plan shall also include a detailed map of known lava tube/cave systems

2. Construct shoulder, road widening, overlay and restriping improvements to establish a two-way left turn lane along Mamalahoa Highway from Kamigaki Market to KeeKee Street;
 3. Construct shoulder, drainage, road widening, overlay and restriping improvements to provide a south bound left-turn pocket at Haukapila Street (Kona Hospital intersection); a two-way left turn lane between Halekii Street and Haukapila Street; and signalization at the Mamalahoa Highway-Haukapila Street intersection; and
 4. Widen shoulder areas to provide a minimum of five southbound and five northbound bus pullouts along Mamalahoa Highway between Koa Road and Kuakini Highway.
- (L) Subdivision plans for the subject property shall include road stub outs to its north and south boundaries below the 3,500 foot elevation and shall be approved by the Department of Public Works and the Planning Department.
- (M) The applicant shall participate in a program to construct the South Kona Mamalahoa Bypass road and shall participate in the funding and construction of any regional roadway improvements as may be required by the State Department of Transportation, provided that any costs borne by the applicant shall be credited and limited to the amount of its fair share contribution for regional impacts, as required in Conditions K and P.
- (N) To ensure that the Goals and Policies of the Recreation Element of the General Plan are implemented, the applicant shall:
1. Designate and provide camping sites and related equestrian and nature-interpretive trail systems within the subject property meeting with the approval of the planning director in consultation with the director of parks and recreation. The camping sites may be limited to members and guests of non-profit organizations, primarily those serving resident youth of Hawaii County, registered with the Department of Commerce and consumer Affairs of the State of Hawaii for non-commercialized

increased or reduced proportionally if the lot counts are adjusted. The fair share contribution based on the total number of lots for the first increment shall become due and payable prior to final subdivision approval of any portion of the first increment of the subject property. The fair share contribution for the total number of lots of the second increment shall be due and payable prior to final subdivision approval for any portion of the second increment of the subject property. The fair share contribution for each lot shall be based on a maximum density for each lot as determined by the zoning resulting from this change of zone. The fair share contribution in a form of cash, land, facilities, or any combination thereof acceptable to the director, in consultation with the affected agencies shall have a maximum combined value of \$3,619,580.00. The fair share contribution described above shall be adjusted annually beginning three years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct such facilities related to parks, fire, police, solid waste disposal facilities, and roads with the approval of the appropriate agency(ies). Any improvements constructed by the applicant to satisfy this condition shall be located within the region.

- (Q) Comply with all applicable laws, rules, regulations and requirements of the affected agencies.
- (R) Restrictive covenants in the deeds of all of the proposed lots within the subject property shall prohibit the construction of a second dwelling or an Ohana Dwelling unit. The construction of Farm Dwellings on each lot may be permitted provided approval is secured from the Planning Director. Restrictive covenants for all lots within the subject property shall require agricultural activity. A copy of the proposed covenant(s) to be recorded with the Bureau of Conveyances shall be submitted to the Planning Department for review and approval prior to final subdivision approval for any portion of the first increment of the subject property. A copy of the approved covenants shall be

- (T) Within the A-8000a zoned area, no infrastructure improvements shall be allowed except those improvements required for the maintenance of existing facilities, those improvements identified in the forest management plan, and those improvements within the designated camp sites.
- (U) Street lights within the project site shall be minimized to the best extent practicable and shall be installed only where required by the Department of Public Works for safety purposes.
- (V) An integrated pest management plan and noxious weed control plan shall be submitted for agricultural uses for review and approval by the Planning Director in consultation with the Department of Land and Natural Resources, Forestry and Wildlife Division.
- (W) 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.
- (X) An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this change of zone. The report shall address in detail 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.
- (Y) An extension of time for the performance of conditions within the ordinance, with the exception of Condition [C]B, 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;

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

'98 JUL 2 AM 10 50

Introduced By: Bobby Jean Leithead-Todd (B/R)
 Date Introduced: June 1, 1998
 First Reading: June 1, 1998
 Published: June 8, 1998

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

Second Reading: June 16, 1998
 To Mayor: June 19, 1998
 Returned: July 2, 1998
 Effective: July 2, 1998
 Published: July 10, 1998

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council and published as indicated above.

APPROVED AS TO
 FORM AND LEGALITY:

Patricia K. O'Leary

DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date JUN 23 1998

Approved/Disapproved this 2 day

of July, 19 98

John W. Waihele
 MAYOR, COUNTY OF HAWAII

James A. ...
 COUNCIL CHAIRMAN
Donald ...
 COUNTY CLERK

Bill No.: 232
 Reference: C-822/PC-109
 Ord. No.: 98 63