

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 166
(Draft 3)

ORDINANCE NO. 98 8

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO RESIDENTIAL AND AGRICULTURAL (RA-.5) AT HONOKOHAU 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-4-06:38.

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

SECTION 1. Section 25-8-3, Article 8, 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 Honokohau 2nd, North Kona, Hawaii, shall be Residential and Agricultural (RA-.5):

Beginning at the Northwesterly corner of this parcel of land, being also an angle point on the Easterly side of Palani Road, the coordinates of said point of beginning referred to Hawaiian Plane Coordinate System, Zone I, being 309,553.68 feet North and 335,638.41 feet East and running by azimuths measured clockwise from True South:

- 1. 262° 14' 15" 388.09 feet along the Southeasterly side of Palani Road and along the Southerly boundary of Royal Patent 7587, Land Commission Award 11216, Apana 36 to M. Kekauonohi to a point;
- 2. 271° 36' 20" 109.18 feet along the remainder of Land Commission Award 9971, Apana 9 to W. P. Leleiohoku to a point;
- 3. 349° 38' 486.76 feet along Lot 1 and along the remainder of Land Commission Award 9971, Apana 9 to W. P. Leleiohoku to a point;

4. 67° 40' 36" 205.53 feet along Lot 2 and along the remainder of Land Commission Award 9971, Apana 9 to W. P. Leleiohoku to a point;
5. 132° 35' 599.76 feet along Lots 2 and 4 and along the remainder of Land Commission Award 9971, Apana 9 to W. P. Leleiohoku to a point;
6. 222° 35' 25.00 feet along Lot 6 and along the remainder of Land Commission Award 9971, Apana 9 to W. P. Leleiohoku to a point;
7. 132° 35' 0.36 feet along Lot 6 and along the remainder of Land Commission Award 9971, Apana 9 to W. P. Leleiohoku to a point;

Thence, following along Lot 6 and along the remainder of Land Commission Award 9971, Apana 9 to W. P. Leleiohoku on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:

8. 176° 09' 26" 27.57 feet to a point;

Thence, following along the Easterly side of Palani Road on a curve to the left with a radius of 270.00 feet, the chord azimuth and distance being:

9. 212° 42' 41" 65.99 feet to the point of beginning and containing an area of 5.055 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 applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.

- B. The applicants, 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 Rural District.
- C. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of this ordinance.
- D. Final Subdivision Approval of the proposed subdivision within the subject property shall be secured from the Planning Director within five (5) years from the effective date of the Change of Zone ordinance.
- E. All interior subdivision roadways shall be constructed to County dedicable roadway standards meeting with the approval of the Department of Public Works.
- F. Access to the subject property from Palani Road shall meet with the requirements of the Department of Public Works. The entrance roadway sight distance shall meet the requirements of the Statewide Design Manual. All lots shall be accessed from one common access road.
- G. In conjunction with Final Subdivision Approval, provide paved shoulder along the entire subject property's Palani Road frontage, meeting with the approval of the Department of Public Works. The roadway section fronting the subject property along Palani Road which shall provide for the future road widening of Palani Road to a 80-foot wide right-of-way, including roadway improvements thereon, shall be subdivided and dedicated to the County of Hawaii upon its completion.

- H. A Traffic Impact Analysis Report shall be submitted for review and approval by the Department of Public Works prior to the final subdivision approval. Prior to the issuance of the certificate of occupancy for any portion of the subject property, the applicant shall be responsible for constructing and/or paying for its pro rata share of any traffic mitigation measures required by the Traffic Impact Analysis Report for the subject property.

- I. Restrictive covenant(s) in the deeds of all the proposed lots within the subject property shall prohibit the construction of a second dwelling unit on each lot. A copy of the proposed covenant(s) to be recorded with the 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 approved covenant shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances in conjunction with the issuance of Final Subdivision Approval for any portion of the subject property. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.

- J. A drainage study of the project site, if required, shall be prepared for review and approval by the Department of Public Works, 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 prior to the issuance of Final Subdivision Approval.

- K. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall secure the concurrence of the Office of Housing and Community Development that the applicant's affordable housing requirements, if any, have been mutually agreed to prior to the Final Subdivision Approval for any portion of the subject property.

- L. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
- M. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject property with respect to parks and recreation, fire, police, solid waste disposal facilities, and roads. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of additional proposed residential lots in each such increment. The fair share contribution may be in a form of cash, land, facilities, or any combination thereof acceptable to the director in consultation with the affected agencies. The fair share contribution shall have a maximum combined value of **\$7,239.16 per lot**. Based upon the applicant's representation of intent to subdivide and develop up to ten (10) residential lots, the indicated total fair share contribution is **\$72,391.60**, however, the total amount shall be increased or reduced in proportion with the actual number of subdivided lots according to the calculation and payment provisions set forth in this Condition M. The fair share contribution shall be allocated as follows:

1. \$3,490.85 per lot, for an indicated total of **\$34,908.50** to the County to support park and recreational improvements and facilities;
2. \$168.40 per lot, for an indicated total of **\$1,684.00** to the County to support police facilities;
3. \$332.61 per lot, for an indicated total of **\$3,326.10** to the County to support fire facilities;
4. \$145.62 per lot, for an indicated total of **\$1,456.20** to the County to support solid waste facilities;
5. \$3,101.68 per lot, for an indicated total of **\$31,016.80** to the State or County to support road and traffic improvements.

The fair share contributions described above shall be adjusted annually beginning three years after the effective date of the change of zone, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute improvements/facilities related to parks and recreation, fire, police, solid waste disposal facilities, and roads within the region impacted by the proposed development, subject to the approval of the director. The cost of providing and constructing the improvements required in Condition G and Condition H, shall be credited against the sum specified in Condition M(5) for road and traffic improvements. For purposes of administering Condition M, the fair market value of land contributed for such roadway segment and the cost of constructing its improvements shall be subject to the review and approval of the director, upon consultation with the appropriate agencies.

- N. Should the Council adopt a Unified Impact-Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fee Ordinance.
- O. Comply with applicable laws, rules, regulations and requirements of other affected agencies for approval of the proposed development within the subject property.
- P. 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 applicants, its 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).
- Q. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject 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:

Bob Keithland, Todd
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: December 17, 1997
Date of 1st Reading: December 17, 1997
Date of 2nd Reading: February 4, 1998
Effective Date: February 17, 1998

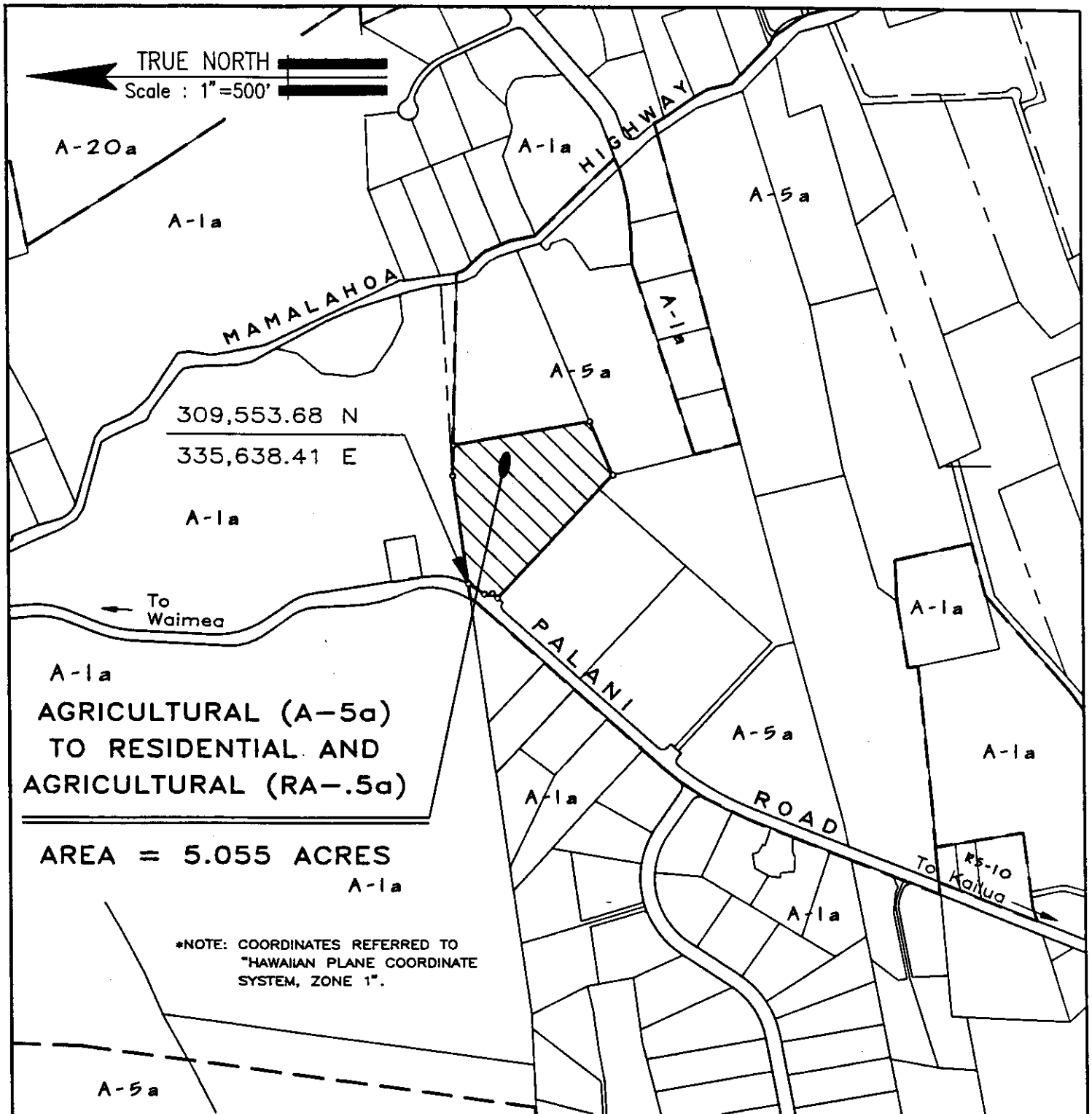
APPROVED AS TO FORM AND LEGALITY

Fredricka Korman

DEPUTY

CORPORATION COUNSEL

DATED: 2/6/98



309,553.68 N
335,638.41 E

A-1a
AGRICULTURAL (A-5a)
TO RESIDENTIAL AND
AGRICULTURAL (RA-.5a)

AREA = 5.055 ACRES
A-1a

*NOTE: COORDINATES REFERRED TO
"HAWAIIAN PLANE COORDINATE
SYSTEM, ZONE 1".

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO RESIDENTIAL AND AGRICULTURAL (RA-.5a) AT HONOKOHAU 2ND, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 7-4-6:38

JULY 16, 1997

EXHIBIT "A"

(Ma'ila Ohana Partnership)
(REZ)

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

13 FEB 19 1998

(DRAFT 3)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: December 17, 1997
 First Reading: December 17, 1997
 Published: December 26, 1997

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	
	8	0	1	0

Second Reading: February 4, 1998
 To Mayor: February 5, 1998
 Returned: February 17, 1998
 Effective: February 17, 1998
 Published: February 24, 1998

REMARKS:

01/07/98 - Deferred.

(DRAFT 3)

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			
	8	0	1	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:


 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 2/6/98

Approved/Disapproved this 17 day
 of Februn, 1998.


 MAYOR, COUNTY OF HAWAII



COUNCIL CHAIRMAN


 COUNTY CLERK

Bill No.: 166 (Draft 3)

Reference: C-574/PC-82

Ord. No.: 98 8