

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 291
(Draft 2)

ORDINANCE NO. 98 112

AN ORDINANCE AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICTS 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-2a) AT OULI, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-2-11:22.

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

SECTION 1. Section 25-8-7, 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 Ouli, South Kohala, Hawaii, shall be Residential and Agricultural (RA-2a):

Beginning at the Northeasterly corner of this parcel of land, being also the Northwesterly corner of Lot 21 and being a point on the Southerly side of Road Lot "B" of Anekona Estates, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 11,076.55 feet North and 16,078.98 feet West and running by azimuths measured clockwise from True South:

1. 16° 23' 40" 790.21 feet along Lot 21 of Anekona Estates and along the remainder of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to James Young Kanehoa to a point;
2. 96° 30' 30" 166.09 feet along middle of Keanuiomano Stream and along Government Land (State of Hawaii) to a point;
3. 108° 30' 20" 116.46 feet along middle of Keanuiomano Stream and along Government Land (State of Hawaii) to a point;
4. 196° 23' 40" 814.44 feet along Lot 23 of Anekona Estates and along the remainder of Royal Patent 2237,

Land Commission Award 8518-B, Apana 1
to James Young Kanehoa to a point;

5. 286° 23' 40" 280.00 feet along the Southerly side of Road Lot "B" of Anekona Estates to the point of beginning and containing an area of 5.203 Acres, more or less.

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 applicants, 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. Access to the subject property from Kanehoa Street shall meet with the requirements of the Department of Public Works.

- F. At the time improvements at the Route 19/Anekona Street intersection are made by the Department of Transportation, the applicant shall pay their fair share amount for the required improvements which will be determined by the Planning Director in consultation with the Department of Transportation.

- G. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials 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.

- H. The applicants shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed subdivision within the subject property, including the Department of Health.

- I. Restrictive covenants 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 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. 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 Fees Ordinance.
- K. 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).
- L. 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:

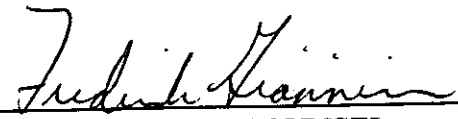


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: October 21, 1998
Date of 1st Reading: October 21, 1998
Date of 2nd Reading: November 6, 1998
Effective Date: November 19, 1998

APPROVED AS TO FORM AND LEGALITY

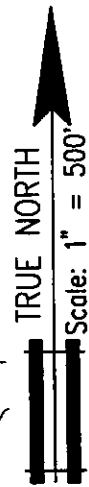


CORPORATION COUNSEL
DATED: 11/16/98

A-40a

AGRICULTURAL (A-5a) TO
RESIDENTIAL AND AGRICULTURAL (RA-2a)

AREA = 5.203 ACRES



A-40a

A-40a

A-5a

A-5a

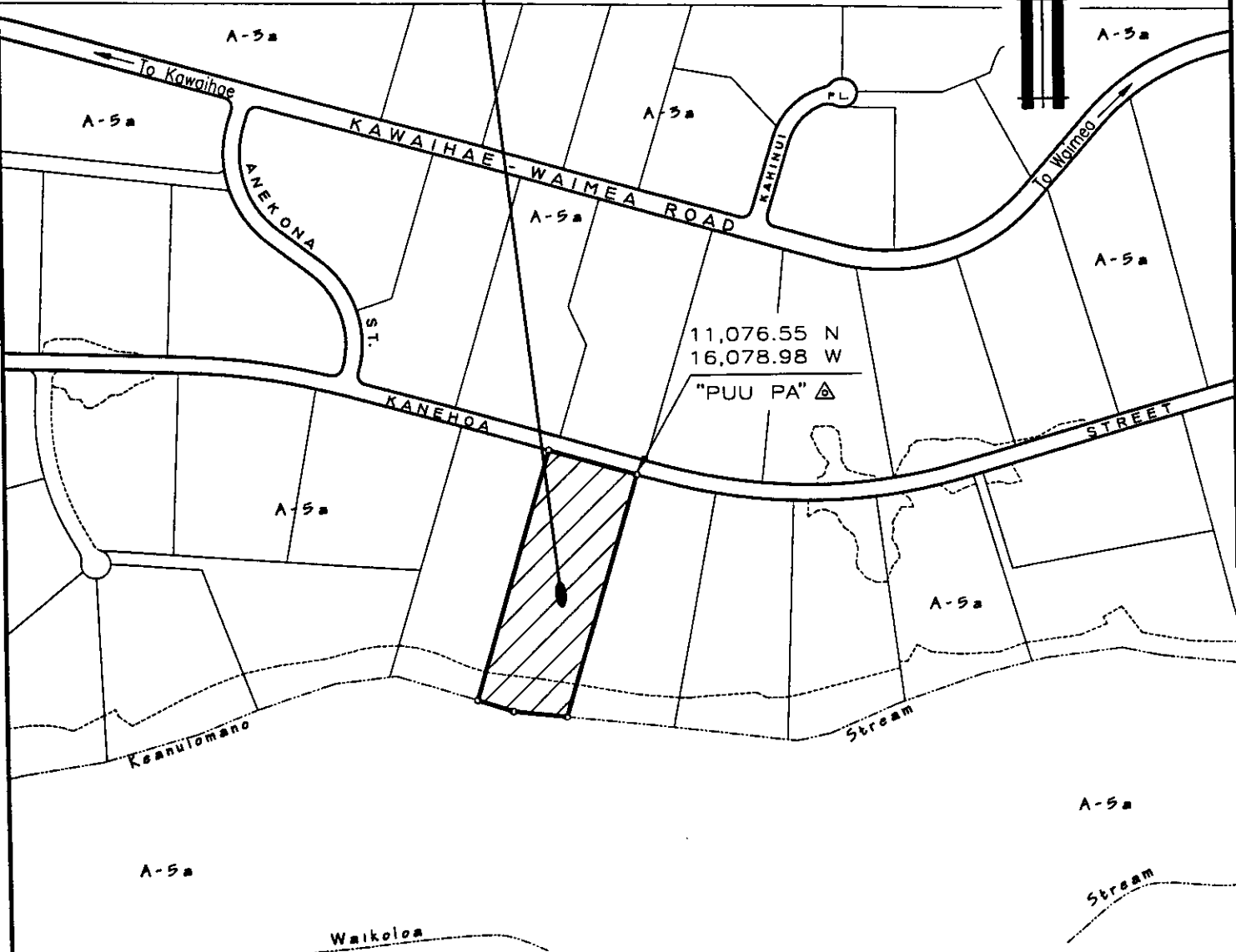
A-5a

A-5a

A-5a

11,076.55 N
16,078.98 W

"PUU PA" Δ



Waikoloa

A-5a

A-5a

Stream

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICTS 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-2a) AT OULI, SOUTH KOHALA, HAWAII.

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

Time 2:50 pm By h

Date 11/23/98

County Council

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd (B/R)
 Date Introduced: October 21, 1998
 First Reading: October 21, 1998
 Published: N/A

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: November 6, 1998
 To Mayor: November 12, 1998
 Returned: November 23, 1998
 Effective: November 19, 1998
 Published: December 4, 1998

REMARKS:

(DRAFT 2)

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	
	7	0	2	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:

Frederick Hanson
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 11/16/98

Approved/Disapproved this 19 day
 of November, 19 98

Heyle Yermarke
 MAYOR, COUNTY OF HAWAII

Donald Cheda
 COUNCIL CHAIRMAN
Donald Cheda
 COUNTY CLERK

Bill No.: 291 (Draft 2)

Reference: C-976/PC-148

Ord. No.: 98 112