

(Robert Moore) 24



COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 66
(Draft 2)

ORDINANCE NO. 99 78

AN ORDINANCE AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICT 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 6-2-11:27.

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 Northwesterly corner of this parcel of land, being also the Northeasterly corner of Lot 28 of Anekona Estates and being a point on the Southerly end of existing Easement 22 for Road and Utility Purposes, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 10,780.59 feet North and 17,733.00 feet West and running by azimuths measured clockwise from True South:

Thence, for the next three (3) courses following along the remainder of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to James Young Kanehoa:

Thence, following along Lot 30 of Anekona Estates, and along the Southerly end of existing Easement 22 for Road and Utility Purposes on a curve to the left with a radius of 45.00 feet, the chord azimuth and distance being:

- 1. 224° 12' 03" 61.99 feet to a point;
- 2. 274° 38' 279.53 feet along Lot 26 of Anekona Estates to a point;

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HAWAII COUNTY
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3. 339° 33' 473.85 feet along Lot 26 of Anekona Estates to a point;

Thence, for the next two (2) courses following along Government Land (State of Hawaii) and along the middle of Keanuimano Stream, the direct azimuths and distances being:

4. 68° 07' 30" 196.62 feet to a point;
5. 74° 06' 10" 293.36 feet to a point;
6. 177° 44' 576.19 feet along Lot 28 of Anekona Estates and along the remainder of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to James Young Kanehoa to the point of beginning and containing an area of 5.002 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 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, 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.

- 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 applicant 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

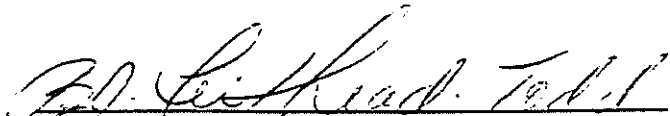
be filed with the Planning Department upon its receipt from the Bureau of Conveyances.

- 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

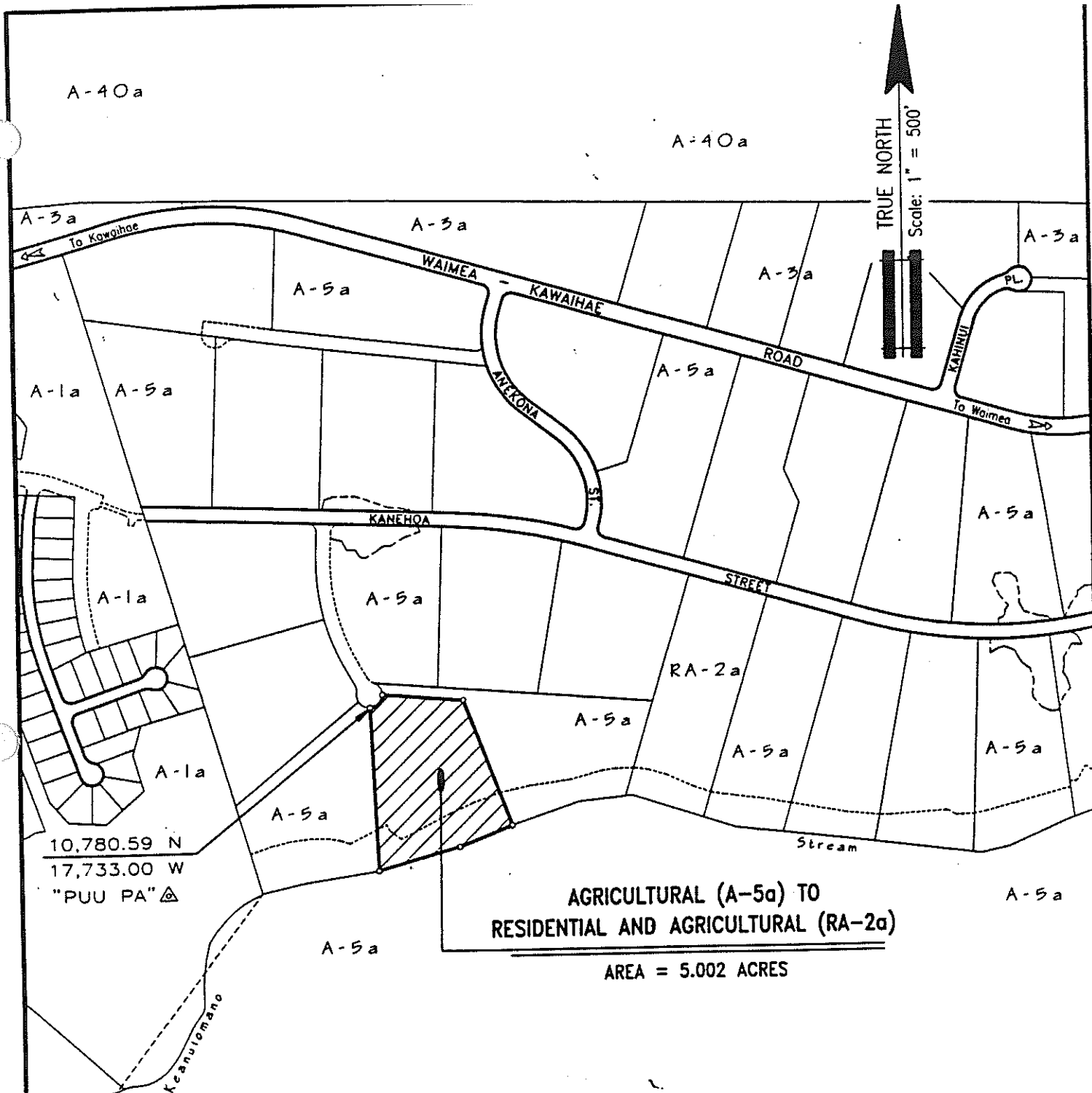
Hilo, Hawaii

Date of Introduction: May 25, 1999
Date of 1st Reading: May 25, 1999
Date of 2nd Reading: June 8, 1999
Effective Date: June 24, 1999

APPROVED AS TO FORM AND LEGALITY


CORPORATION COUNSEL

DATED: 6/16/99



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.

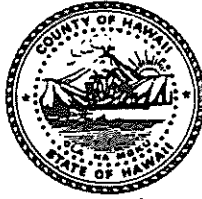
PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

MARCH 19, 1999
(ROBERT P. MARK)

TMK · 6-2-11:27

EXHIBIT "A"

Stephen K. Yamashiro
Mayor



William G. Davis
Managing Director

Henry Cho
Deputy Managing Director

County of Hawaii

25 Aupuni Street, Room 215 • Hilo, Hawaii 96720-4252 • (808) 961-8211 • Fax (808) 961-6553
KONA: 75-5706 Kuakini Highway, Suite 103 • Kailua-Kona, Hawaii 96740
(808) 329-5226 • Fax (808) 326-5663

June 17, 1999

Mr. Alan S. Konishi
County Clerk
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

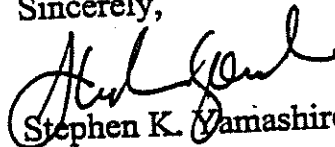
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COUNTY OF HAWAII

Dear Mr. Konishi:

Pursuant to Section 3-12 of the County Charter, I am returning Bill 64, Draft 5 and Bill 66, Draft 2 to you, so that they might become law without signature.

My concern is based upon the opinion of the Corporation Counsel that parts of these bills constitute contract zoning and attempt to impose conditions which can not be enforced.

Sincerely,


Stephen K. Yamashiro
Mayor

SKY:ch
Enclosures
FGcomm2:a/AKonishiBills.ltr

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Introduced By: Bobby Jean Leithead-Todd
Date Introduced: May 25, 1999
First Reading: May 25, 1999
Published: N/A

REMARKS:

Second Reading: June 8, 1999
To Mayor: June 14, 1999
Returned: June 23, 1999
Effective: June 24, 1999
Published: July 6, 1999

REMARKS:

ROLL CALL VOTE table with columns: AYES, NOES, ABS, EX. Rows include Arakaki, Chung, Elarionoff, Jacobson, Leithead-Todd, Pisicchio, Smith, Tyler, Yagong. Total counts: 8 AYES, 1 NOES, 0 ABS, 0 EX.

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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 6/16/99

Council Chairman and County Clerk signatures

Approved/Disapproved this ___ day of ___, 19__

MAYOR, COUNTY OF HAWAII

Bill No.: 66 (Draft 2)
Reference: C-245/PC-25
Ord. No.: 99 78