

(Scott & Susan Nakahara)

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 96  
(Draft 2)

ORDINANCE NO. 99 94

99 AUG 27 PM 3 29  
COUNTY OF HAWAII

AN ORDINANCE AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA 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 6-2-9:10.

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 the Northeasterly corner of Lot 12, File Plan 1845 along the Southerly side of Kanehoa Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Puu Pa" being 11,223.25 feet North and 11,380.33 feet West, thence running by azimuth measured clockwise from True South;

- 1. 274° 01' 40" 298.61 feet along the Southerly side of Kanehoa Street;
- 2. 9° 52' 00" 750.24 feet along the Westerly side of Lot 8, File Plan 1845 to the middle of Keanuiomano Stream;

Thence along the middle of Keanuiomano Stream in all its windings for the next two courses, the direct azimuth and distance being:

- 3. 64° 27' 29" 223.43 feet;

4. 90° 09' 47" 116.63 feet;
5. 189° 52' 00" 868.97 feet along the Easterly side of Lot 12, File Plan 1845 to the point of beginning and containing an area of 5.588 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 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.
- 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/Kanehoa Street intersection are made by the Department of Transportation, the applicants 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. Restrictive covenants in the deeds of all the proposed residential 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(s) 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.
- I. 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.

- 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).
  5. If the applicants should require an additional extension of time, the Planning Director shall submit the applicants' request to the County Council for appropriate action.
- 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.

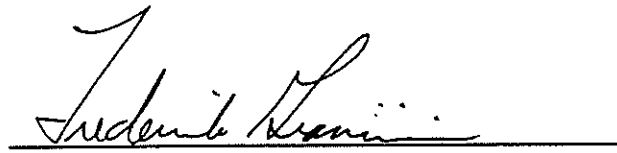
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: July 28, 1999  
Date of 1st Reading: July 28, 1999  
Date of 2nd Reading: August 11, 1999  
Effective Date: August 19, 1999

APPROVED AS TO FORM AND LEGALITY

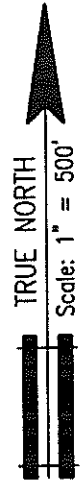
  
CORPORATION COUNSEL

DATED: 8/16/99

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

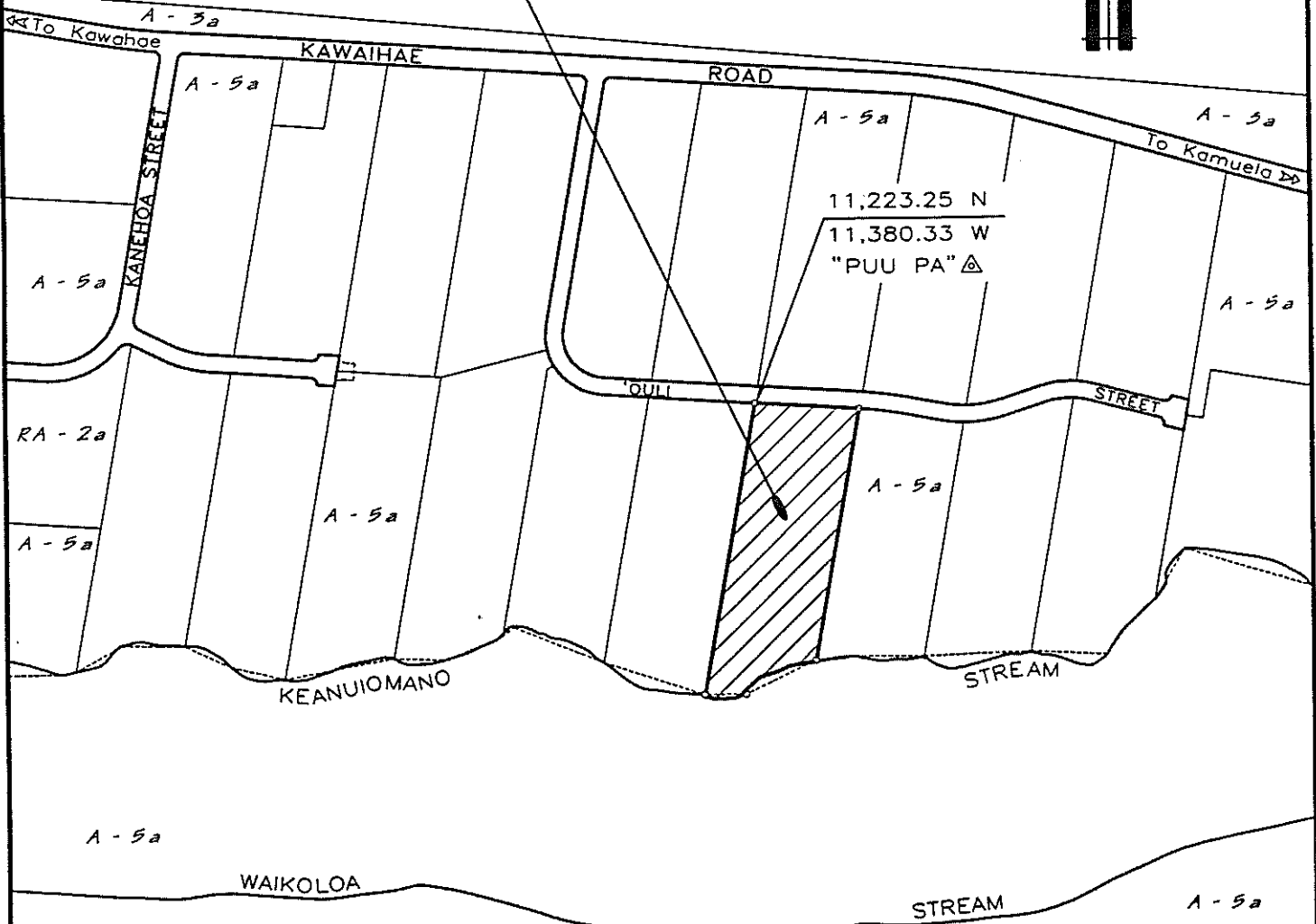
AREA = 5.588 ACRES

A-40a



A-40a

A-40a



# 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

TMK : 6-2-09:10

MARCH 26, 1999

(SCOTT & SUSAN NAKAHARA)

EXHIBIT "A"

OFFICE OF THE COUNTY CLERK  
 County of Hawaii  
 Hilo, Hawaii

(DRAFT 2) RECEIVED

Introduced By: Bobby Jean Leithead-Todd  
 Date Introduced: July 28, 1999  
 First Reading: July 28, 1999  
 Published: N/A

REMARKS: \_\_\_\_\_  
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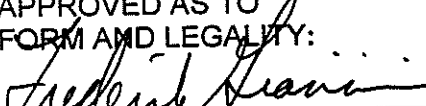
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd			X	
Pisicchio	X			
Smith			X	
Tyler	X			
Yagong	X			
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Second Reading: August 11, 1999  
 To Mayor: August 13, 1999  
 Returned: August 19, 1999  
 Effective: August 19, 1999  
 Published: September 7, 1999

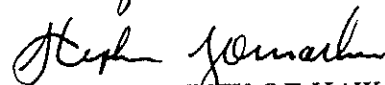
REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

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

APPROVED AS TO  
 FORM AND LEGALITY:  
  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII  
 Date 8/16/99

  
 COUNCIL CHAIRMAN  
  
 COUNTY CLERK

Approved/Disapproved this 19 day  
 of August, 1999  
  
 MAYOR, COUNTY OF HAWAII

Bill No.: Bill 96 (Draft 2)  
 Reference: C-344/PC-39  
 Ord. No.: 99 94

