

Draft

COUNTY OF HAWAII STATE OF HAWAII

2002 MAR 6 AM 6 14

PLANNING DEPARTMENT  
COUNTY OF HAWAII

BILL NO. 156  
(Draft 2)

ORDINANCE NO. 02 28

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 6-2-11:8.

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 Southwesterly corner of this parcel of land, being also the Southeasterly corner of Lot 7 of this subdivision and being a point on the Northerly side of Kanehoa Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 11,056.60 feet North and 15,297.89 feet West and running by azimuths measured clockwise from True South:

- 1. 170° 52' 669.02 feet along Lot 7 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;

Thence, following along the Southerly side of Kawaihae-Waimea Road (F.A.P. NRH 11-C) on a curve to the left with a radius of 603.00 feet, the chord azimuth and distance being:

- 2. 264° 21' 52" 304.58 feet to a point;
- 3. 343° 42' 619.54 feet along Lot 9 of Anekona Estates and along the remainder of Royal Patent 2237,

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

4.       73° 42'                   189.41     feet along the Northerly side of Kanehoa  
Street to a point;

Thence, following along the Northerly side of Kanehoa Street on a curve to the  
right with a radius of 1,550.00 feet, the  
chord azimuth and distance being:

5.       77° 17'                   193.75     feet to the point of beginning and containing  
an area of 5.0006 Acres.

All as shown on the map attached hereto, marked Exhibit "A" and by reference  
made a part hereof.

SECTION 2. The County Council finds the following conditions are (1) necessary to  
prevent circumstances which may be adverse to the public health, safety and welfare; and (2)  
reasonably conceived to fulfill needs directly emanating from the land use proposed with respect  
to (A) protection of the public from the potentially deleterious effects of the proposed use, or (B)  
fulfillment of the need for public service demands created by the proposed use. In this case,  
these conditions are imposed because of concerns over highway access and to control the overall  
density in the subdivision. Therefore, 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.       Final Subdivision Approval for the subdivision shall be secured within five (5)  
years from the effective date of this ordinance. The 0.519 acre drainage easement

that encumbers the entire Kanehoa Street frontage shall be shown and identified on all plans. The applicant shall provide a 10-foot wide "No Access Permitted" planting screen easement along the frontage to Kawaihae Road.

- D. Restrictive covenants in the deeds of all the proposed lots within the subject property shall prohibit the construction of a second dwelling unit and condominium property regimes 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 recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- 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 or Route 19/Kanehoa 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.

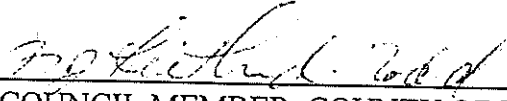
- H. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies.
- I. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- J. 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 applicant, 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 applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.

- K. 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: February 6, 2002  
Date of 1st Reading: February 6, 2002  
Date of 2nd Reading: February 21, 2002  
Effective Date: February 28, 2002

REFERENCE: Comm. 479.1

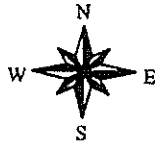
APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CORPORATION COUNSEL

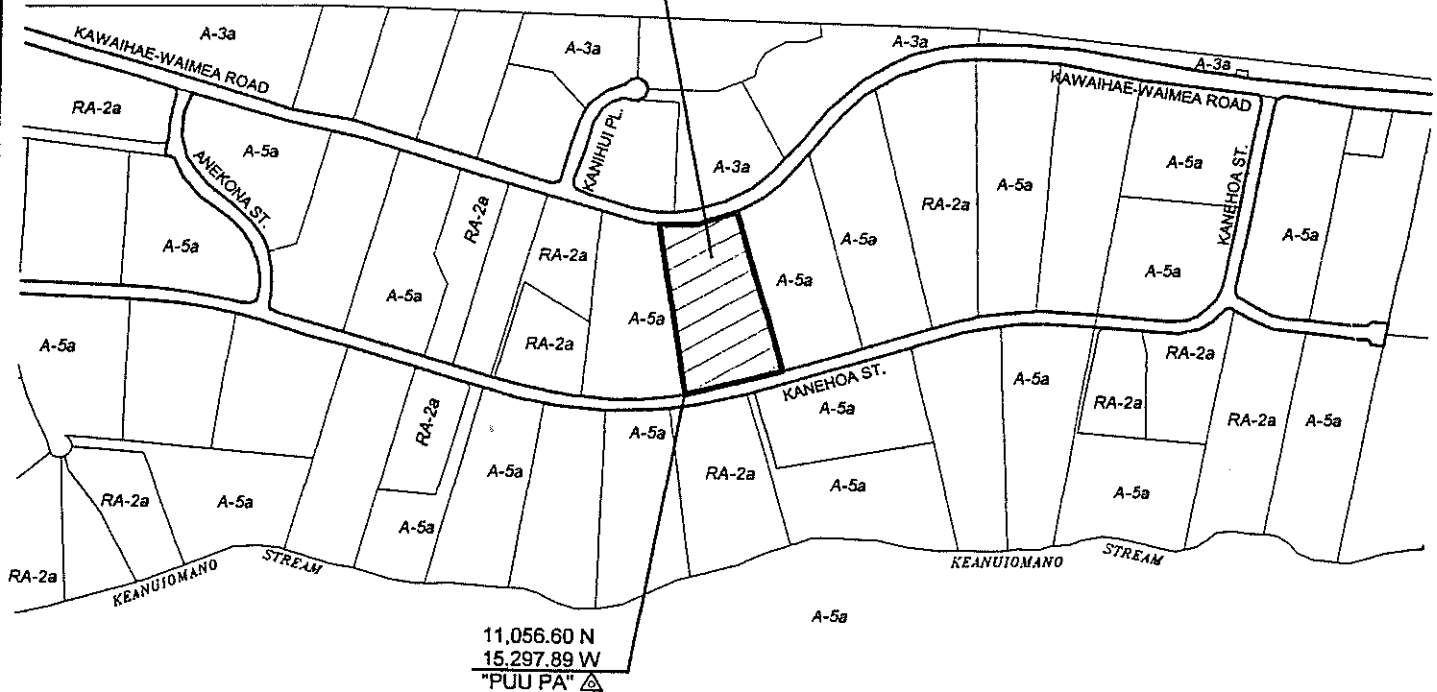
DATED: \_\_\_\_\_

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

AREA = 5.0006 Acres



A-40a



# AMENDMENT TO THE ZONING CODE

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

PREPARED BY: PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK : 6-2-11:008

SEPT. 17, 2001

EXHIBIT "A"

(Delmer)

OFFICE OF THE COUNTY CLERK  
 County of Hawaii  
Hilo, Hawaii

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd  
 Date Introduced: February 6, 2002  
 First Reading: February 6, 2002  
 Published: February 17, 2002

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		CX		
Leithead-Todd	X			
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong	X			
	8	1		0

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Second Reading: February 21, 2002  
 To Mayor: February 22, 2002  
 Returned: February 28, 2002  
 Effective: February 28, 2002  
 Published: March 7, 2002

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Safarik			X	
Tyler	X			
Yagong	X			
	6	1	2	0

REMARKS: \_\_\_\_\_  
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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:

[Signature]  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date 2-26-02

[Signature]  
 COUNCIL CHAIRMAN

[Signature]  
 COUNTY CLERK

Approved/Disapproved this 28<sup>th</sup> day  
 of February, 2002  
[Signature]  
 MAYOR, COUNTY OF HAWAII

Bill No.: 156 (Draft 2)  
 Reference: C-479.1/PC-60  
 Ord No.: 02 28

