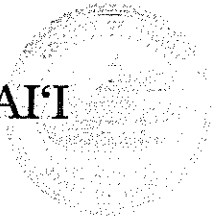


(H111)

COUNTY OF HAWAII

STATE OF HAWAII



2002 JUN 5 AM 11 09

BILL NO. 203

(Draft 2)

ORDINANCE NO. 02 69

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 6-2-11:26.

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 west corner of this parcel of land, being the north corner of Lot 27 and on the southeasterly side of Easement "22" (for road and utility purposes), being a portion of Lot 30, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 10,825.03 feet north and 17,689.78 feet west, thence running by azimuths measured clockwise from true South:

1. Following along Easement "22" (for road and utility purposes), being a portion of Lot 30, along a curve to the left with a radius of 45.00 feet, the chord azimuth and distance being:

145°	58'	46.5"	51.22	feet;
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2. 274° 38' 974.25 feet along Lot 30, Lot 25 and Lot 24;
3. 16° 23' 40" 348.46 feet along Lot 23 to the middle of Keanuiomano Stream;

Thence following along the middle of Keanuiomano Stream, with all its windings, the direct azimuths and distances for the

next two (2) courses being:

- | | | | |
|----|-------------|--------|--|
| 4. | 84° 07' | 165.79 | feet to a "+" on boulder; |
| 5. | 71° 24' 30" | 247.90 | feet to a DK nail; |
| 6. | 159° 33' | 473.85 | feet along Lot 27; |
| 7. | 94° 38' | 279.53 | feet along Lot 27 to the point of beginning and containing an area of 5.248 acres, more or less. |

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 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. Final Subdivision Approval for the subdivision shall be secured within five (5) years from the effective date of this ordinance. The drainage easement that encumbers the area along Keanuimano Stream shall be shown and identified on all plans.
- D. Restrictive covenants in the deeds of all the proposed lots within the subject property shall give notice that the terms of the zoning ordinance prohibit the construction of a second dwelling unit and condominium property regimes on each lot. This restriction may be removed by amendment of this ordinance by the County Council. The owner of the property may also, in addition, impose private covenants restricting the number of dwellings. 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 Aho Place 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 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. The applicants 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 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

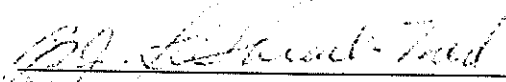
Council for appropriate action.

- 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: May 1, 2002
Date of 1st Reading: May 1, 2002
Date of 2nd Reading: May 15, 2002
Effective Date May 30, 2002

REFERENCE: Comm. 573.1

OFFICE OF THE COUNTY CLERK
 County of Hawaii
Hilo, Hawaii

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: May 1, 2002
 First Reading: May 1, 2002
 Published: N/A

REMARKS: _____

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

Second Reading: May 15, 2002
 To Mayor: May 20, 2002
 Returned: May 31, 2002
 Effective: May 30, 2002
 Published: June 14, 2002

REMARKS: _____

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

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 5/23/02

[Signature]
 COUNCIL CHAIRMAN

[Signature]
 COUNTY CLERK

Bill No.: 203, Draft 2
 Reference: C-573.1/PC-80
 Ord No.: 02 69

Approved/Disapproved this 30th day
 of May, 2002

[Signature]
 MAYOR, COUNTY OF HAWAII

