

COUNTY OF HAWAII STATE OF HAWAII

2002 AUG 26 AM 8 38

PLANNING DEPARTMENT COUNTY OF HAWAII

BILL NO. 224 (Draft 4)

ORDINANCE NO. 02 93

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 6-2-7:2.

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 3-A of this subdivision and being a point on the Southerly side of Kawaihae Road (F.A.P. NO. N.R.H. 11-C), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 12,797.73 feet North and 7,739.56 feet West and running by azimuths measured clockwise from True South:

- 1. 247° 44' 10" 411.00 feet along the Southerly side of Kawaihae Road (F.A.P. NO. N.R.H. 11-C) to a point;
2. 337° 44' 10" 425.00 feet along Lot 1 of Kamuela Plantation, Unit 1 (File Plan 1716) 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 middle of Keanuiomano Stream and along Government Land (State of Hawaii), the direct azimuth and distance being:

- 3. 55° 45' 421.85 feet to a point;

Thence, for the next four (4) courses following along Lot 3-A of this subdivision and along the remainder of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to James Young Kanehoa:

- |    |              |        |  |
|----|--------------|--------|--|
| 4. | 146° 00'     | 190.00 | feet along the remainder of Lot 2 of Kamuela Plantation, Unit 1 (File Plan 1716) to a point;   |
| 5. | 131° 02'     | 287.21 | feet along the remainders of Lots 2 and 3 of Kamuela Plantation, Unit 1 (File Plan 1716) to a point;   |
| 6. | 247° 44' 10" | 169.36 | feet along the remainder of Lot 3 of Kamuela Plantation, Unit 1 (File Plan 1716) to a point;   |
| 7. | 157° 44' 10" | 70.00  | feet along Lot 3 of Kamuela Plantation, Unit 1 (File Plan 1716) to the point of beginning and containing an area of 5.000 Acres, More or Less. |

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

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code, the County Council finds the following conditions are:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
  - (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.
- 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, Hawai'i 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 10-foot wide driveway easement, 10-foot wide no vehicular access planting screen easement, drainage easement reserve area and 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. 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. 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.
- F. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies, including the Department of Water Supply and

the Department of Health.


- G. Should the Hawai'i County 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.
- H. 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.

- I. 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 4. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 5. This ordinance shall take effect upon its approval.

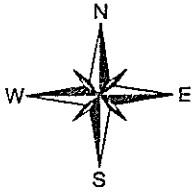
INTRODUCED BY:

  
\_\_\_\_\_  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: July 3, 2002  
Date of 1st Reading: July 3, 2002  
Date of 2nd Reading: July 31, 2002  
Effective Date: August 19, 2002

REFERENCE: Comm. 642.3



A-40a

RS-15

RS-15

RS-15

12,797.73 N  
7,739.56 W  
"PUU PA" Δ

KAWAIHAE-WAIMEA ROAD

A-5a

A-5a

A-5a

KEANUJOMANO  
STREAM

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

AREA = 5.000 Acres

A-5a

A-5a

A-5a

0 300 600 900 1200 Feet

# AMENDMENT TO ZONING CODE

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

PREPARED BY: PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK:6-2-007:002

MARCH 3, 2002

EXHIBIT "A"

(HAWAII PREPARATORY ACADEMY:1057)

OFFICE OF THE COUNTY CLERK  
 County of Hawaii  
Hilo, Hawaii

(DRAFT 3)

Introduced By: Bobby Jean Leithead-Todd  
 Date Introduced: July 3, 2002  
 First Reading: July 3, 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	
	5	0	4	0

(DRAFT 4)

Second Reading: July 31, 2002  
 To Mayor: August 8, 2002  
 Returned: August 20, 2002  
 Effective: August 19, 2002  
 Published: September 3, 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 8/13/02

[Signature]  
 COUNCIL CHAIRMAN  
[Signature]  
 COUNTY CLERK

Bill No.: 224, Draft 4  
 Reference: C-642.3/PC-87  
 Ord No.: 02 93

Approved/Disapproved this 19<sup>th</sup> day

of August, 2002  
[Signature]  
 MAYOR, COUNTY OF HAWAII





