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J. I. A.

2003 MAR 13 PM 1 12

COUNTY OF HAWAII STATE OF HAWAII



PLANNING DEPARTMENT
COUNTY OF HAWAII

BILL NO. 18

ORDINANCE NO. 03 35

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 6-2-11:25.

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 northwest corner of this parcel of land, being the northeast corner of Lot 30 and on the southerly side of Road Lot "B", the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 11,419.05 feet North and 17,475.27 feet West, thence running by azimuths measured clockwise from True South:

1. 272° 14' 25.65 feet along Road Lot "B";
2. Thence along Road Lot "B", along a curve to the right with a radius of 1,950.00 feet, the chord azimuth and distance being: 278° 03' 50" 396.19 feet;
3. 9° 49' 30" 549.03 feet along Lot 24;
4. 94° 38' 347.56 feet along Lot 26;

5. 182° 14' 569.91 feet along Lot 30 to the point of beginning and containing an area of 5.0005 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.
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- A. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
 - B. The applicant, its 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 applicant shall install a second water meter for the second lot, meeting with the approval of the Department of Water Supply.
 - D. Final Subdivision Approval of the subject property shall be secured within five (5) years from the effective date of this ordinance.

- E. The applicant shall dissolve the existing Condominium Property Regime within one year from the effective date of this ordinance.
- F. 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.
- G. Access to the subject property from Kanehoa Street shall meet with the requirements of the Department of Public Works.
- H. 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.
- I. 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.

- J. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies.
- K. 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.
- L. 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).

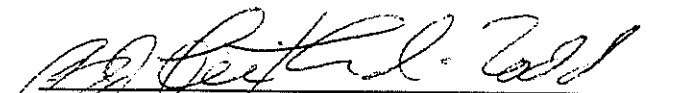
5. If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.

M. 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.

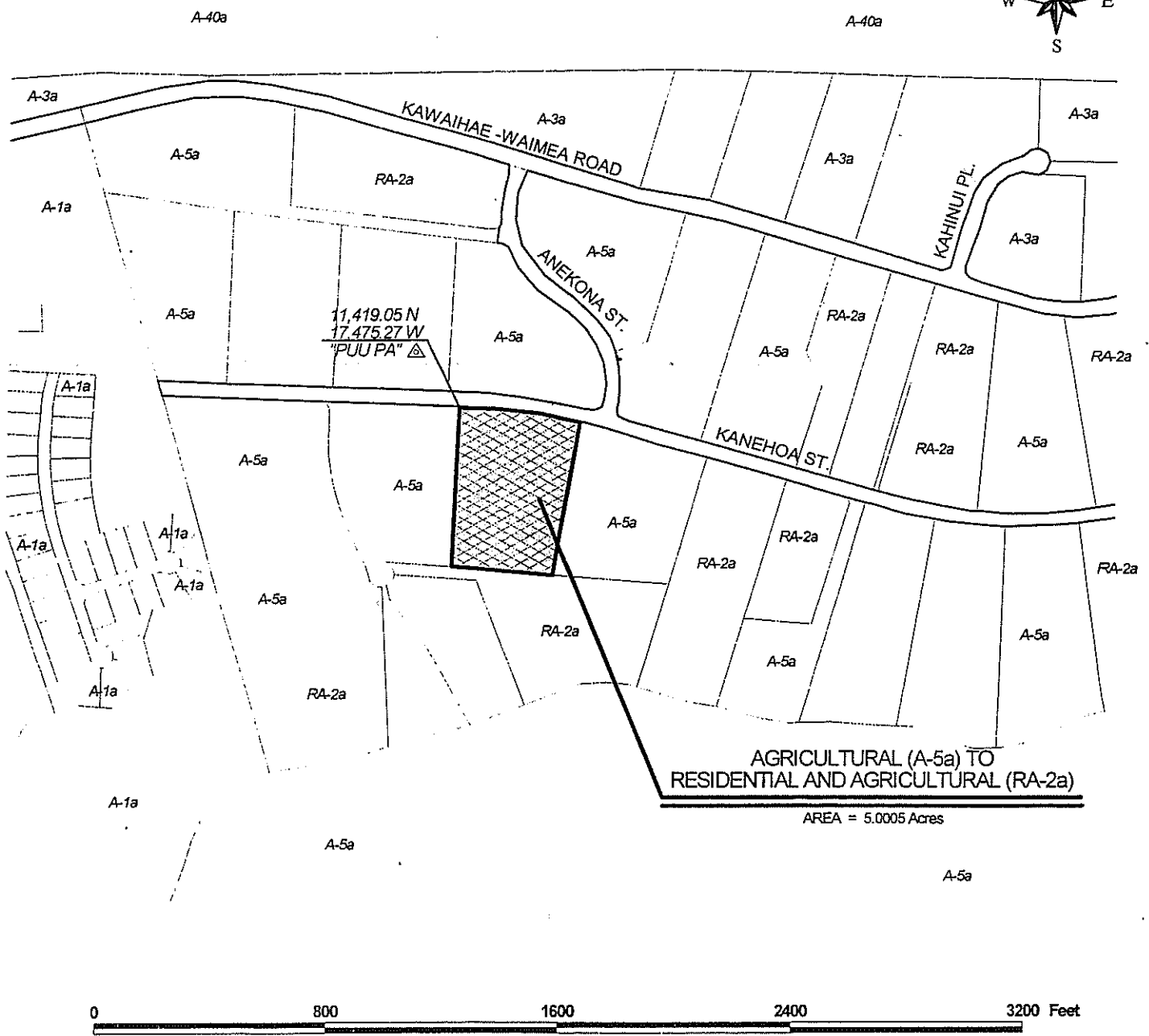
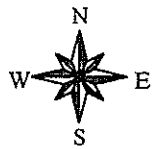
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: February 5, 2003
Date of 1st Reading: February 5, 2003
Date of 2nd Reading: February 20, 2003
Effective Date: March 6, 2003

REFERENCE: Comm. 46



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:6-2-11:25

JULY 19, 2002

EXHIBIT "A"

(FISCHLER:1071)

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

Introduced By: Bobby Jean Leithead-Todd
Date Introduced: February 5, 2003
First Reading: February 5, 2003
Published: N/A

REMARKS: _____

Second Reading: February 20, 2003
To Mayor: February 28, 2003
Returned: March 6, 2003
Effective: March 6, 2003
Published: March 20, 2003

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki			X	
Chung			X	
Elarionoff	X			
Holschuh	X			
Jacobson	X			
Leithead-Todd	X			
Reynolds	X			
Safarik	X			
Tyler	X			
	7	0	2	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Holschuh	X			
Jacobson			X	
Leithead-Todd	X			
Reynolds	X			
Safarik			X	
Tyler	X			
	6	0	3	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 March 4, 2003

[Signature]
COUNCIL CHAIRMAN
[Signature]
COUNTY CLERK

Bill No.: 18
Reference: C-46/PC-14
Ord No.: 03 35

Approved/Disapproved this 6th day
of March, 2003
[Signature]
MAYOR, COUNTY OF HAWAII

