

BILL NO. 366
(Draft 3)

ORDINANCE NO. 05 33

AN ORDINANCE AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICTS ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO RESIDENTIAL AND AGRICULTURAL (RA-2a) AT OULI, SOUTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY 6-2-11:9.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-7, Article 8, Chapter 25 (Zoning Code) of the Hawai'i 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, Hawai'i, shall be Residential and Agricultural (RA-2a):

Beginning at the Northwesterly corner of this parcel of land, being also the Northeastly corner of Lot 8-B of Anekona Estates and being a point on the Southerly side of Kawaihae-Waimea Road (F.A.P. NRH 11-C), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 14,747.05 feet North and 15,100.97 feet West and running by azimuths measured clockwise from True South:

Thence, from a tangent azimuth of 249° 44' 09" 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:

- 1. 235° 00' 09.5" 306.71 feet to a point;
- 2. 220° 16' 10" 45.75 feet along the Southerly side of Kawaihae-Waimea Road (F.A.P. NRH 11-C) to a point;
- 3. 343° 42' 743.06 feet along Lot 10 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;

- | | | | |
|----|----------|--------|--|
| 4. | 73° 42' | 328.70 | feet along the Northerly side of Kanehoa Street to a point; |
| 5. | 163° 42' | 619.54 | feet along Lot 8-B of Anekona Estates and along the remainder of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to James Young Kanehoa to the point of beginning and containing an area of 5.0067 Acres. |

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(s), its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
 - B. The applicant(s), 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. Final Subdivision Approval of the subject property shall be secured within five (5) years from the effective date of this ordinance.
 - 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 owners of the property may also impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State of Hawai'i 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. No access to the property shall be allowed to and from Kawaihae Road (Highway 19).
- F. At the time improvements at the Kawaihae Road - Anekona Street or Kawaihae Road - Kanehoa Street intersection are made by the State Department of Transportation, the applicant(s), its successors or assigns 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 subdivision will not be approved until a letter of 'no effect' is received from the State Historic Preservation Office to the Department of Planning.
- I. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

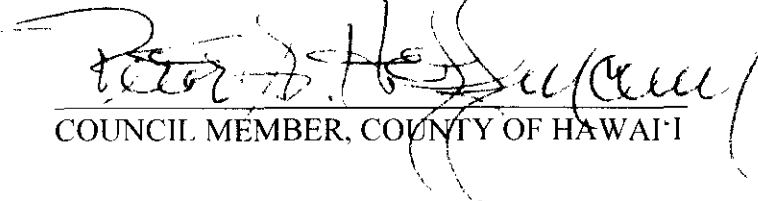
- J. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- K. An initial extension of time for the performance 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 applicant(s), 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(s) should require an additional extension of time, the Planning Director shall submit the applicant(s)' request to the County Council for appropriate action.

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning 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.

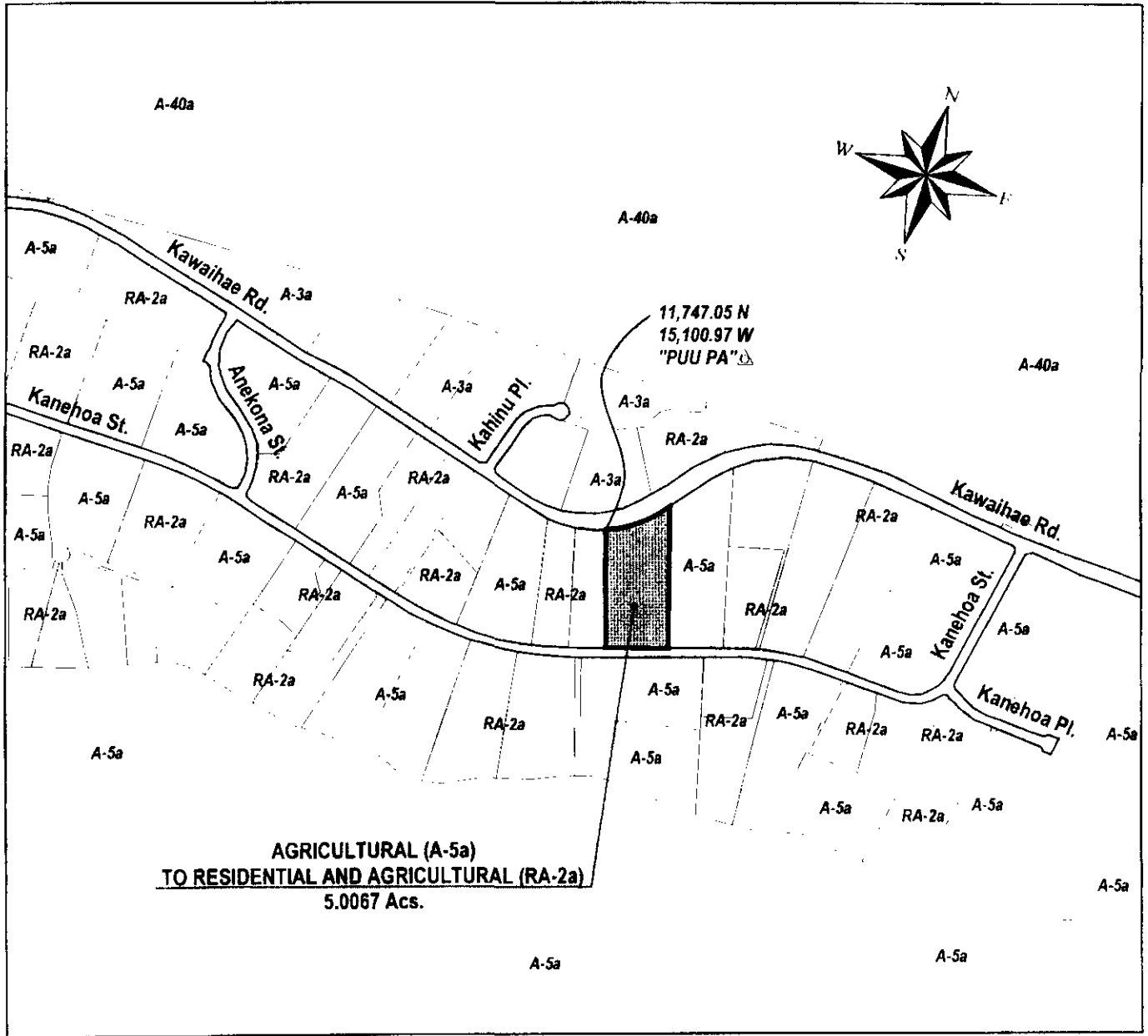
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: December 21, 2004
Date of 1st Reading: February 2, 2005
Date of 2nd Reading: March 1, 2005
Effective Date: March 17, 2005

REFERENCE: Comm: 132



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH & 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

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Hilo, Hawai'i

Introduced By: Angel Pilago/Pete Hoffmann
Date Introduced: December 21, 2004
First Reading: February 2, 2005
Published: N/A

REMARKS: December 21, 2004 - Deferred

Second Reading: March 1, 2005
To Mayor: March 15, 2005
Returned: March 17, 2005
Effective: March 17, 2005
Published: March 23, 2005

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann		X		
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	8	1	0	0

(Draft 3)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann		X		
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson		X		
Pilago	X			
Safarik	X			
	7	2	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:

[Signature]
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 3/16/05

[Signature]
COUNCIL CHAIRMAN

[Signature]
COUNTY CLERK

Bill No.: 366 (Draft 3)
Reference: C-132 /PC-123
Ord No.: 05 33

Approved/Disapproved this 17th day
of March, 2005
[Signature]
MAYOR, COUNTY OF HAWAII