

Rec. 8/31/05
Gave to Bryan 9/14/05
(working on 120 task)

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 114
(Draft 2)

ORDINANCE NO. 05 120

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 6-2-9:26.

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 Northwesterly corner of this parcel of land, being also the Northeasterly corner of Lot 14 of Anekona Estates, and being a point on the Southerly side of Kanehoa Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 11,333.57 feet North and 13,707.42 feet West and running by azimuths measured clockwise from True South:

- 1. 274° 01' 40" 34.16 feet along the Southerly side of Kanehoa Street to a point;

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

Thence, from a tangent azimuth of 94° 01' 40" following along Lot 25-A of Kanehoa Subdivision on a curve to the left with a radius of 10.00 feet, the chord azimuth and distance being:

- | | | | |
|----|--------------|--------|--|
| 2. | 51° 56' 30" | 13.40 | feet to a point; |
| 3. | 9° 52' | 413.13 | feet along Lot 25-A of Kanehoa Subdivision to a point; |
| 4. | 274° 01' 40" | 494.10 | feet along Lots 25-A and 25-B of Kanehoa Subdivision to a point; |
| 5. | 9° 52' | 429.07 | feet along Lot 22-B of Kanehoa Subdivision to a point; |

Thence, for the next two (2) courses following along the middle of Keanuiomano Stream in all its meanderings, the direct azimuths and distances being:

- | | | | |
|----|-------------|--------|--|
| 6. | 74° 09' | 30.78 | feet to a point; |
| 7. | 89° 01' 50" | 497.67 | feet to a point; |
| 8. | 189° 52' | 905.32 | feet along Lot 14 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 5.312 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. The applicant shall identify the Keanuiomano Stream drainage easement boundaries on all site plans.
- E. 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.
- 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 applicant(s) shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- 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(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.

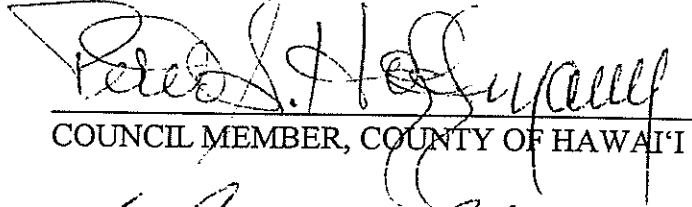
3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for 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.

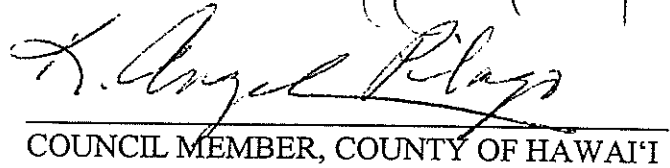
Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the subject area to its original or more appropriate designation.

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:

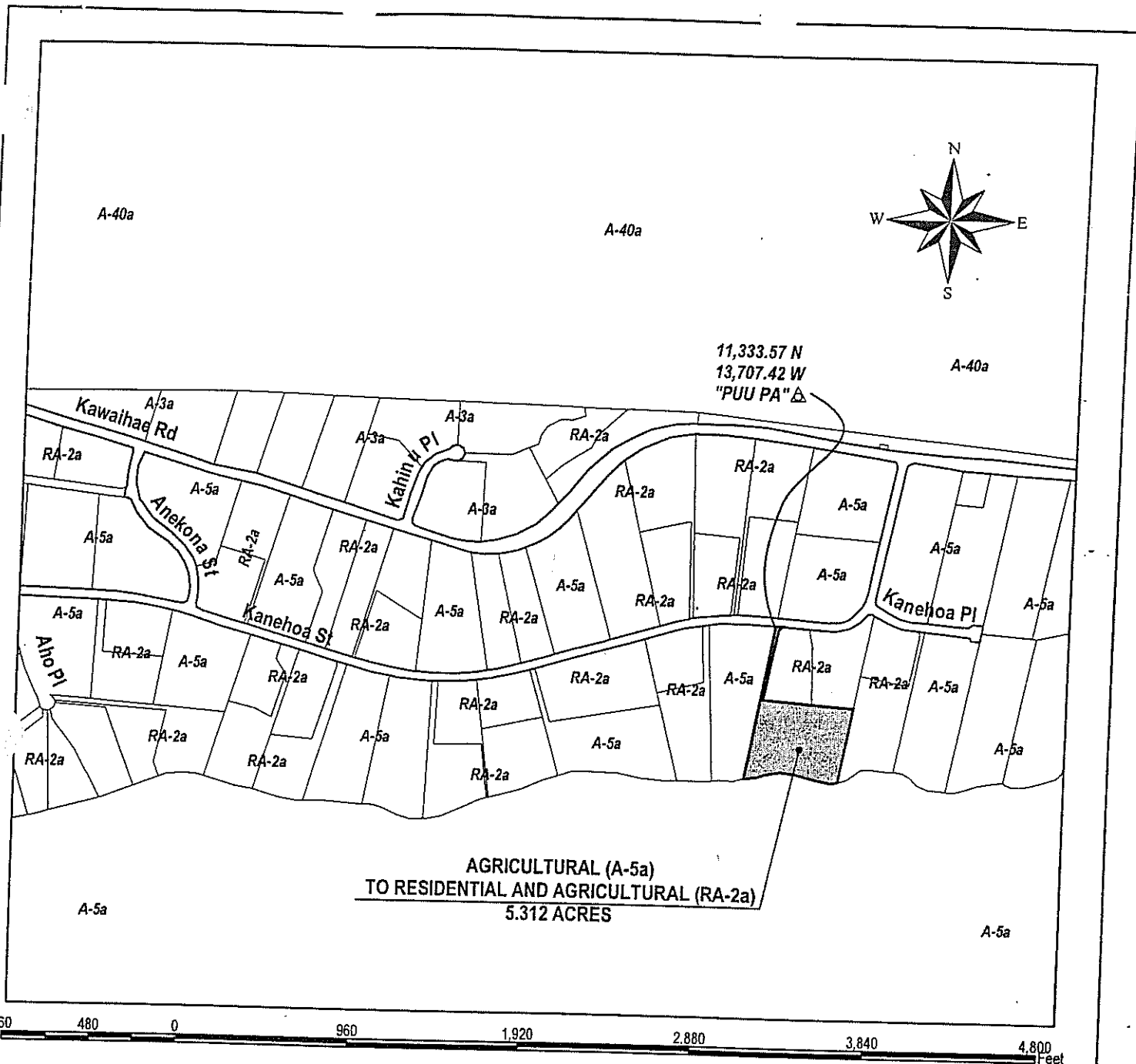

COUNCIL MEMBER, COUNTY OF HAWAII


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: July 22, 2005
Date of 1st Reading: July 22, 2005
Date of 2nd Reading: August 17, 2005
Effective Date: August 25, 2005

REFERENCE: Comm: 308.2



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

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

2005 AUG 25 AM 8 23

Introduced By: Pete Hoffmann/K. Angel Pilago
 Date Introduced: _____
 First Reading: _____
 Published: _____

REMARKS: _____

Reconsideration
 Reading: August 17, 2005
 To Mayor: August 22, 2005
 Returned: August 25, 2005
 Effective: August 25, 2005
 Published: September 1, 2005

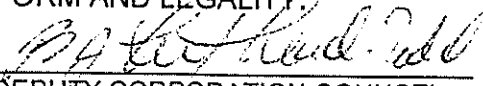
REMARKS: _____

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

(Draft 2)

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	0	1	0

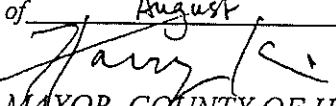
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
 FORM AND LEGALITY:

 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII
 Date August 23, 2005


 COUNCIL CHAIRMAN

 COUNTY CLERK

Bill No.: 114 (Draft 2)
 Reference: C-308.2/PC-30
 Ord No.: 05 120

Approved/Disapproved this 25th day
 of August, 2005

 MAYOR, COUNTY OF HAWAII

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

Introduced By: Pete Hoffmann/K. Angel Pilago
Date Introduced: July 22, 2005
First Reading: July 22, 2005
Published: N/a

REMARKS: _____

Second Reading: August 3, 2005
To Mayor: August 4, 2005
Returned: _____
Effective: _____
Published: _____

REMARKS: Note: Due to an error in the bill (a portion of the metes and bounds description missing), Mayor returned the bill via Communication 308.1 for Council's reconsideration.

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

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			
	9	0	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:

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date _____

Approved/Disapproved this _____ day
of _____, 20_____.

MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRMAN


COUNTY CLERK

Bill No.: 114
Reference: C-308/PC-30
Ord No.: _____

