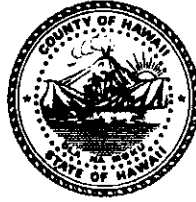


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **06 155** BILL NO. 340

AN ORDINANCE AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – 5 ACRES (A-5a) TO RESIDENTIAL AND AGRICULTURAL – 2 ACRES (RA-2a) AT OULI, SOUTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY 6-2-11:20.

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 1983 (2005 Edition), 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 – 2 acres (RA-2a):

Beginning at the Northeasterly corner of this parcel of land, being also the Northwesterly corner of Lot 19-B of Anekona Estates, and being a point on the Southerly side of Kanehoa Street (Private Road), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 10,988.02 feet North and 15,602.55 feet West and running by azimuths measured clockwise from True South:

1. 2° 06' 753.78 feet along Lot 19-B 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 in the middle of Keanuio mano Stream;

Thence, following along the middle of Keanuio mano Stream and along Government Land (State of Hawaii):

2. 97° 28' 40" 347.74 feet to a point;

3. 190° 35' 746.87 feet along Lot 21 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;

Thence, from a tangent azimuth of 280° 35' following along the Southerly side of Kanehoa Street (Private Road) on a curve to the left with a radius of 1,600.00 feet, the chord azimuth and distance being:

4. 276° 20' 30" 236.68 feet to the point of beginning and containing an area of 5.003 Acres.

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

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 (2005 Edition), 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. 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.
- F. 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.
- G. The applicant(s) shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

- H. 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.
- I. 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.

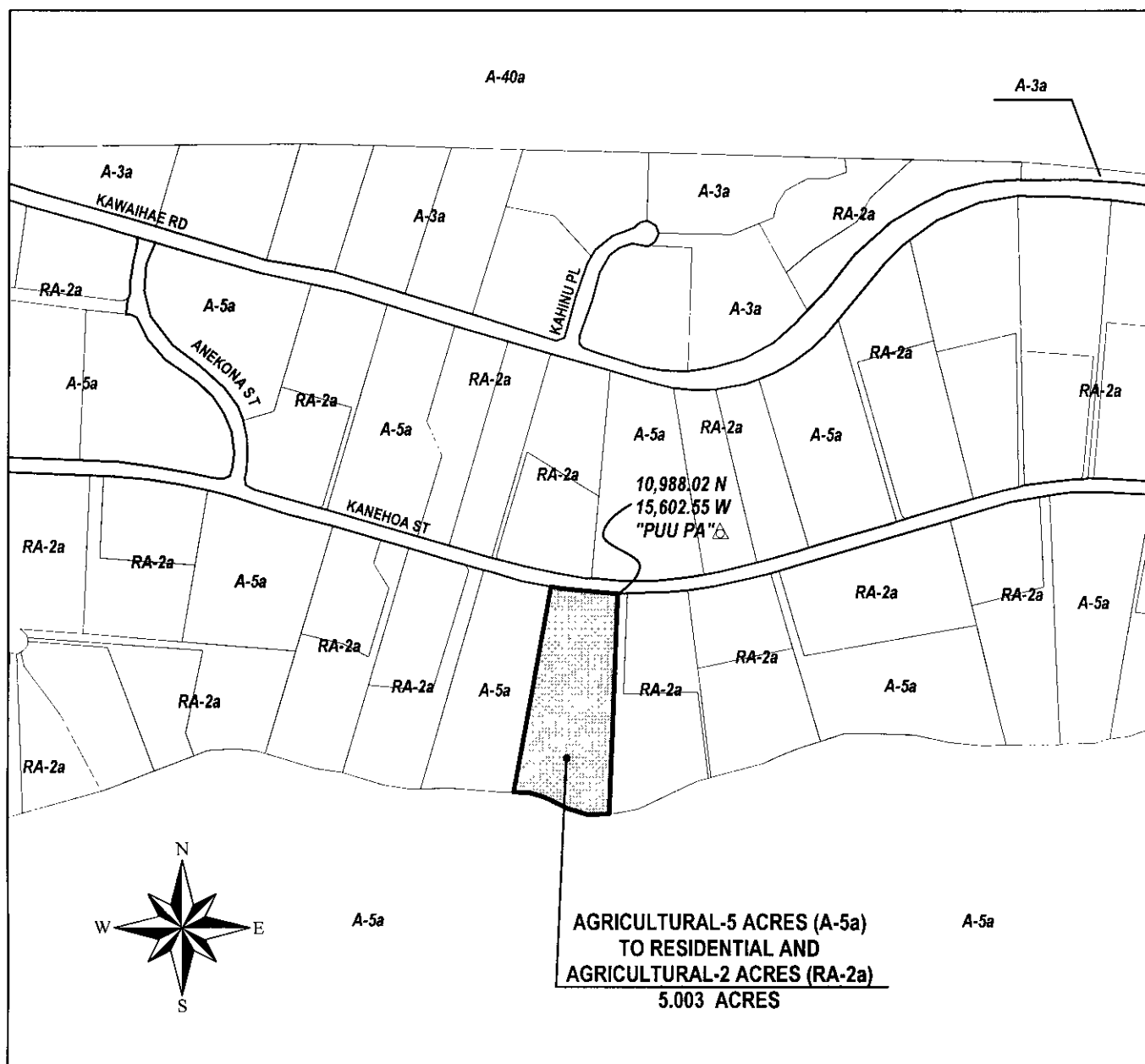
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: Novmeber 15, 2006
Date of 1st Reading: November 15, 2006
Date of 2nd Reading: November 29, 2006
Effective Date: December 7, 2006

REFERENCE: Comm: 1081



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA ZONE MAP)
ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE
1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
FROM AGRICULTURAL-5 ACRES (A-5a)
TO RESIDENTIAL AND AGRICULTURAL-2 ACRES (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: K. Angel Pilago
Date Introduced: November 15, 2006
First Reading: November 15, 2006
Published: N/A

REMARKS: _____

Second Reading: November 29, 2006
To Mayor: December 1, 2006
Returned: December 7, 2006
Effective: December 7, 2006
Published: December 22, 2006

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa				
Hoffmann		X		
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson		X		
Pilago		X		
Safarik	X			
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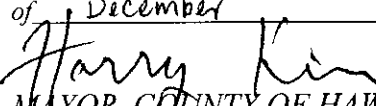
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
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Ikeda	X			
Isbell	X			
Jacobson		X		
Pilago		X		
Safarik	X			
	6	3	0	0



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 12/1/06

Approved/Disapproved this 7th day
of December, 2006

MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 340
Reference: C-1081/PC-121
Ord No.: 06 155