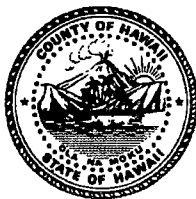


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 15 72 BILL NO. 53

AN ORDINANCE AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – THREE ACRES (A-3a) TO RESIDENTIAL AND AGRICULTURAL – ONE AND ONE-HALF ACRE (RA-1.5a) AT WAIMEA LANDMARK ESTATES UNIT 1, OULI, WAIMEA, SOUTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY: 6-2-005:008.

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 Waimea Landmark Estates Unit 1, Ouli, Waimea, South Kohala, Hawai'i, shall be Residential and Agricultural – One and One-Half Acre (RA-1.5a):

Beginning at the northwest corner of this piece of land, being the northeast corner of Lot 7, Waimea Landmark Estates, Unit 1, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 12,462.08 feet North and 22,938.59 feet West, and running by azimuths measured clockwise from true south:

1. 273° 13' 40" 272.93 feet along Government Land;
2. 355° 40' 10" 484.51 feet along Lot 9, Waimea Landmark Estates, Unit 1;

Thence along the northerly side of Kawaihae Road on a curve to the left having a radius of 603.00 feet, the chord azimuth and distance being:

3. 88° 06' 24" 201.92 feet:

Thence along the northerly side of Kawaihae Road on a curve to the right having a radius of 25.00 feet, the chord azimuth and distance being:

4. 117° 46' 43" 31.68 feet:

Thence along the northeasterly side of Waiemi Place on a curve to the left having a radius of 250.00 feet, the chord azimuth and distance being:

5. 147° 00' 22" 87.54 feet:

6. 175° 40' 10" 418.17 feet

along the east side of Lot 7, Waimea Landmark Estates, Unit 1 to the point of beginning and containing an area of 3.000 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 1983 (2005 Edition), the County Council finds the following conditions are:

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (1) 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(s), its 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. The applicant, successors, or assigns shall notify prospective purchasers, tenants, or lessees of all lots that farming operations and practices on adjacent or contiguous land in the State Land Use Agricultural District are protected under Hawai'i Revised Statutes Chapter 165, the Hawai'i Right to Farm Act. This notice shall be included in any disclosure required for the sale or transfer of all of the proposed lots.
- D. Any action that would interfere with or restrain farming operations on adjacent or contiguous properties shall be prohibited under Hawai'i Revised Statutes Chapter 165, the Hawai'i Right to Farm Act; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the Agricultural District.
- E. The subject property is identified as a Formerly Used Defense Site (FUDS) by the U.S. Army Corps of Engineers, who will manage the investigation, clean-up and long-term monitoring on lands formerly used as an artillery firing range. For more information, please contact Honolulu District Public Affairs, US Army Corps of Engineers 808-835-4004/4002, <http://www.poh.usace.army.mil/Missions/Environmental/FUDS.aspx> or www.poh.usace.army.mil.

- F. Final Subdivision Approval of the subject property shall be secured within five (5) years from the effective date of this ordinance. The applicant shall show the natural intermittent watercourse that traverses the property and provide a drainage easement on the preliminary and final subdivision plat.
- G. 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.
- H. The applicant shall install a County water service fronting the proposed lot prior to Final Subdivision Approval.
- I. The existing and future lots shall use the same access driveway to Waiemi Place. This driveway approach to Waiemi Place shall be paved and constructed to conform to Chapter 22, Streets and Sidewalks, of the Hawai'i County Code and County Standard Details R-37 and R-38.
- J. A ten-foot wide "No Vehicle Access and Planting Screen Easement" shall be established along the Kawaihae Road frontage of the property and shall be shown on the preliminary and final subdivision plat.
- K. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.

- L. Any alteration to the natural shallow intermittent watercourse on the property shall conform to Chapter 27, Floodplain Management, of the Hawai'i County Code.
- M. All earthwork (including grubbing) and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawai'i County Code.
- N. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- O. 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 – State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- P. 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.
- Q. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- R. 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, 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).

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the property 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.

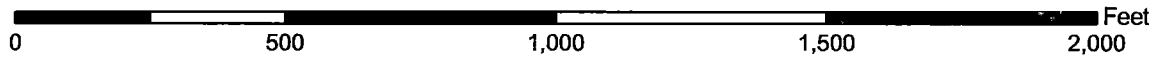
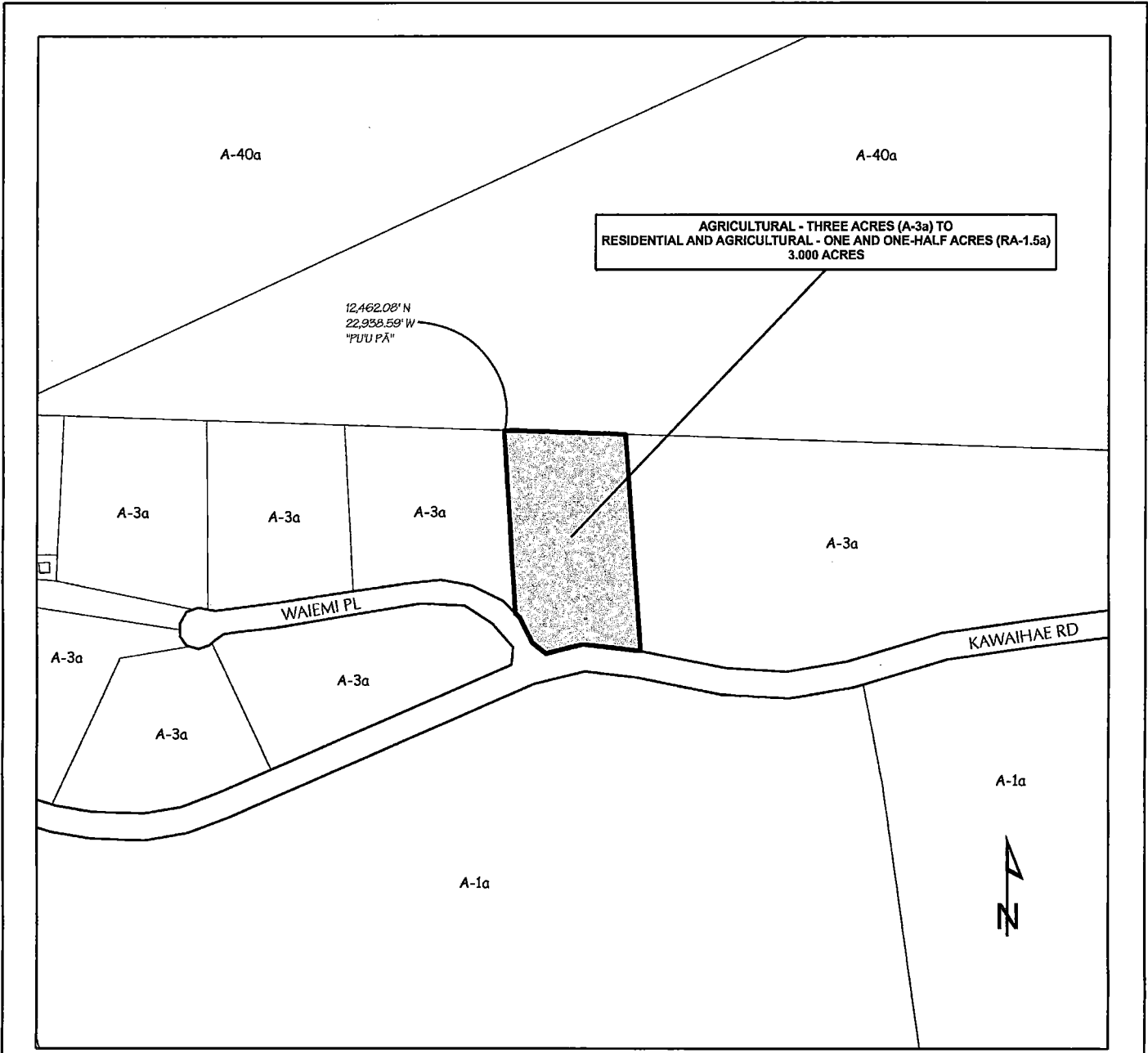
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: June 16, 2015
Date of 1st Reading: June 16, 2015
Date of 2nd Reading: July 1, 2015
Effective Date: July 20, 2015



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 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL - THREE ACRES (A-3a) TO RESIDENTIAL AND AGRICULTURAL - ONE AND ONE-HALF ACRES (RA-1.5a) AT WAIMEA LANDMARK ESTATES UNIT I, OULI, WAIMEA, SOUTH KOHALA, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 6-2-005:008

DATE: JANUARY 26, 2015

EXHIBIT "A"

Waieimi LLC
Map: 1356

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

COUNTY CLERK
 COUNTY OF HAWAII

2015 JUL 21 AM 11:44

Introduced By: Greggor Ilagan (B/R)
 Date Introduced: June 16, 2015
 First Reading: June 16, 2015
 Published: June 27, 2015

REMARKS: _____

Second Reading: July 1, 2015
 To Mayor: July 10, 2015
 Returned: July 21, 2015
 Effective: July 20, 2015
 Published: July 29, 2015

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Ilagan	X			
Kanuha	X			
Onishi	X			
Paleka	X			
Poindexter	X			
Wille	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Ilagan	X			
Kanuha	X			
Onishi	X			
Paleka	X			
Poindexter	X			
Wille			X	
	8	0	1	0

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

Approved/Disapproved this 20th day
 of JULY, 2015

[Signature]
 MAYOR, COUNTY OF HAWAII

[Signature]
 COUNCIL CHAIRPERSON
[Signature]
 COUNTY CLERK

Bill No.: 53

Reference: C-308/PC-22

Ord No.: 15 72