

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 16 18 BILL NO. 131

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 – FIVE ACRES (A-5a) TO RESIDENTIAL AND AGRICULTURAL – TWO ACRES (RA-2a) AT KĀNEHOA SUBDIVISION, SOUTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY: 6-2-009:013.

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 Kānehoa Subdivision, South Kohala, Hawai'i, shall be Residential and Agricultural – Two Acres (RA-2a):

Beginning at a pipe found at the Northeast corner of this parcel of land. Said point of beginning also being the Northwest corner of Lot 11 Kānehoa Subdivision (File Plan 1845) being also a point on the South boundary 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 12,167.25 feet North and 11,520.63 feet West and running by true Azimuths measured clockwise from true South:

- 1. 189° 52' 886.42 feet along the West boundary of Lot 11 Kānehoa Subdivision (File Plan 1845) and along the remainder of Royal Patent 2237, L.C. Aw. 8518-B Apana 1 to James Young Kānehoa to a point;

2. 94° 01' 40" 138.00 feet along the North boundary of Ouli Street, Kānehoa Subdivision (File Plan 1845) and along the remainder of Royal Patent 2237, L.C. Aw. 8518-B Apana 1 to James Young Kānehoa to a point;

Thence along a curve to the right having a radius of 175.00 feet the direct chord azimuth and distance being;

3. 141° 56' 50" 185.55 feet along the Northeast boundary of Ouli Street, Kānehoa Subdivision (File Plan 1845) and along the remainder of Royal Patent 2237, L.C. Aw. 8518-B Apana 1 to James Young Kānehoa to a point;

4. 189° 52' 729.92 feet along the East boundary of Ouli Street, Kānehoa Subdivision (File Plan 1845) and along the remainder of Royal Patent 2237, L.C. Aw. 8518-B Apana 1 to James Young Kānehoa to a point;

Thence along a curve to the right having a radius of 20.00 feet the direct chord azimuth and distance being;

5. 231° 56' 50" 26.81 feet along the East boundary of Ouli Street, Kānehoa Subdivision (File Plan 1845) and along the remainder of Royal Patent 2237, L.C. Aw. 8518-B Apana 1 to James Young Kānehoa to a point;

6. 274° 01' 40" 258.37 feet along the South boundary of Kawaihae-Waimea Road (F.A.P. NRH 11-C) to the point of beginning and containing an area of 5.497 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:

- (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(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. A portion of 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.
- 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 construct necessary water system improvements as required by the Department of Water Supply, which may include, but not be limited to a service lateral and an additional water meter, prior to Final Subdivision Approval.
- I. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.

- J. All earthwork (including grubbing) and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawai'i County Code.
- K. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- L. 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.
- M. 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.
- N. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements.
- O. 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.

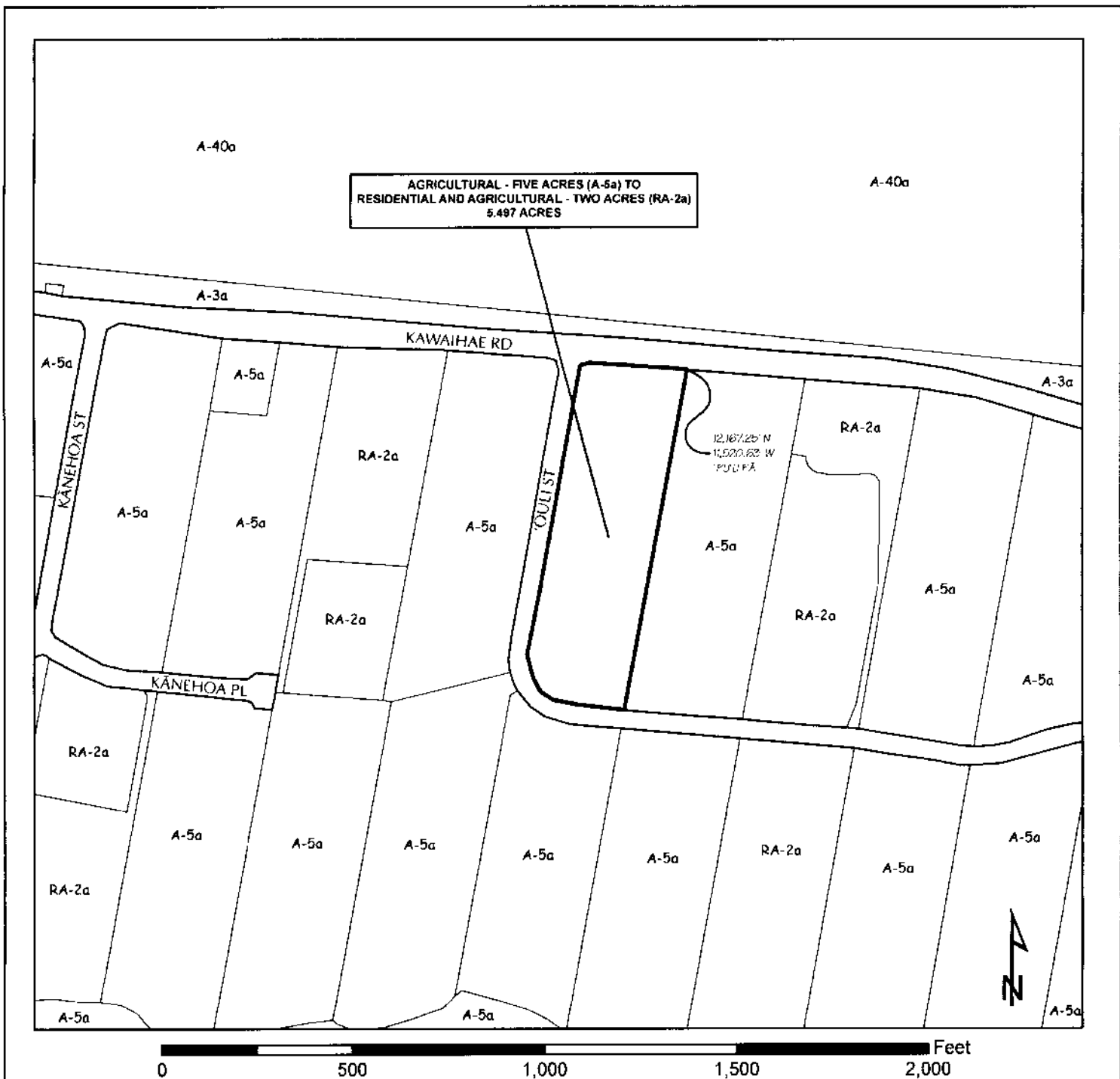
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i
Date of Introduction: February 17, 2016
Date of 1st Reading: February 17, 2016
Date of 2nd Reading: March 2, 2016
Effective Date: March 16, 2016

REFERENCE Comm. 616



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 - FIVE ACRES (A-5a) TO
RESIDENTIAL AND AGRICULTURAL - TWO ACRES (RA-2a)
AT KANEHOA SUBDIVISION, SOUTH KOHALA, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 6-2-009:013

DATE: August 19, 2015

EXHIBIT "A"

Shively
Map: 1366

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

2016 MAR 17 AM 10:44

Introduced By: Greggor Ilagan (B/R)
 Date Introduced: February 17, 2016
 First Reading: February 17, 2016
 Published: February 27, 2016

REMARKS: _____

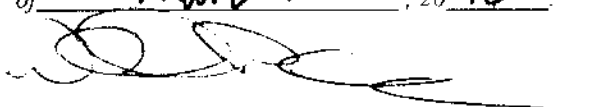
Second Reading: March 2, 2016
 To Mayor: March 10, 2016
 Returned: March 17, 2016
 Effective: March 16, 2016
 Published: March 26, 2016


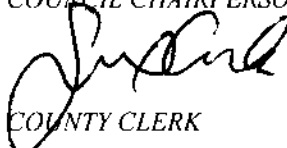
REMARKS: _____

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

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	AYES	NOES	ABS	EX
Chung	X			
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Paleka	X			
Poindexter	X			
Wille	X			
	9	0	0	0

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

Approved/Disapproved this 16th day
 of March, 2016

 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRPERSON

 COUNTY CLERK

Bill No.: 131
 Reference: C-616/PC-48
 Ord No.: 16 18