

ORDINANCE NO. 23 2 BILL NO. 229

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 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – FIVE ACRES (A-5a) TO RESIDENTIAL AND AGRICULTURAL – TWO ACRES (RA-2a) AT KAWAIHAE, SOUTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY: 6-2-009:015.

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 (2016 Edition, as amended) is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kawaihae, South Kohala, Hawai'i, shall be Residential and Agricultural – Two Acres (RA-2a):

Beginning at a 1/2 inch pipe (found) at the Northwesterly corner of this parcel of land, being also the Northeasterly corner of Lot 17-A-1 and being a point on the Southerly side of Kawaihae Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PU'U PA" being 12,210.89 feet North and 12,140.42 feet West and running by azimuths measured clockwise from True South:

- 1. 274° 01' 40" 272.45 feet along the Southerly side of Kawaihae Road to a 1/2 inch pipe (found);

Thence, following along the Westerly side of Ouli Street on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:

- 2. 321° 56' 50" 29.69 feet to a 1/2 inch pipe (found);

3. 9° 52' 720.72 feet along the Westerly side of Ouli Street to a 1/2 inch pipe in concrete (found);

Thence, following along the Westerly side of Ouli Street on a curve to the left with a radius of 175.00 feet, the chord azimuth and distance being:

4. 358° 03' 22" 71.64 feet to a rebar (found);

Thence, for the next three (3) courses following the remainder of Royal Patent 2237, Land Commission Award 8518-B, Apana 1 to James Young Kanehoa:

5. 76° 14' 44" 316.16 feet along Lot 16 of Kanehoa Subdivision (File Plan 1845) to a 1/2 inch pipe (found);
6. 94° 01' 40" 18.16 feet along Lot 18 of Kanehoa Subdivision (File Plan 1845) to a 1/2 inch pipe (found);
7. 189° 52' 911.55 feet along Lot 17-B-1 and Lot 17-A-1 of Kanehoa Subdivision to the point of beginning and containing an area of 5.848 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 1983 (2016 Edition, as amended), 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, its successors or assigns (“Applicant”) shall be responsible for complying with all of the stated conditions of approval.
- B. The Applicant 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 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 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. Prior to issuance of Final Subdivision Approval, the Applicant shall designate in writing which lot within the proposed subdivision will be assigned the existing water service, show the existing meter locations with the meter numbers on the plat map submitted for subdivision review, and, if necessary, relocate the existing water meter or service lateral, meeting with the approval of the Department of Water Supply.
- F. Final Subdivision Approval of the subject property shall be secured within five (5) years from the effective date of this ordinance.
- G. All earthwork activities including grading, grubbing, and stockpiling shall

conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.

- H. The Applicant shall comply with the Department of Health's Hawai'i Administrative Rules (HAR) Chapter 11-55, rules regarding Water Pollution Control, which requires a National Pollutant Discharge Elimination System permit for certain construction activities.
- I. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- J. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the Department of Land and Natural Resources- State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- K. Should any state or federally listed or endangered species be found on the subject property, the Applicant shall comply with all applicable requirements of Department of Land and Natural Resources- Division of Forestry and Wildlife and/or the US Fish and Wildlife Service.
- L. Should the County 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.

M. The Applicant shall comply with all applicable County, State and Federal codes, laws, rules, regulations and requirements for the proposed development.

N. 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 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 should require an additional extension of time, the Planning Director shall submit the Applicant's request to the County Council for appropriate action.

O. 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. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall take effect upon its approval.

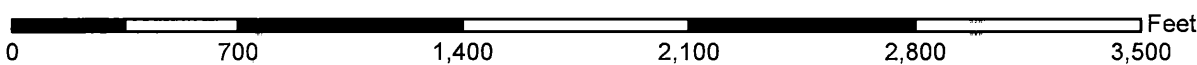
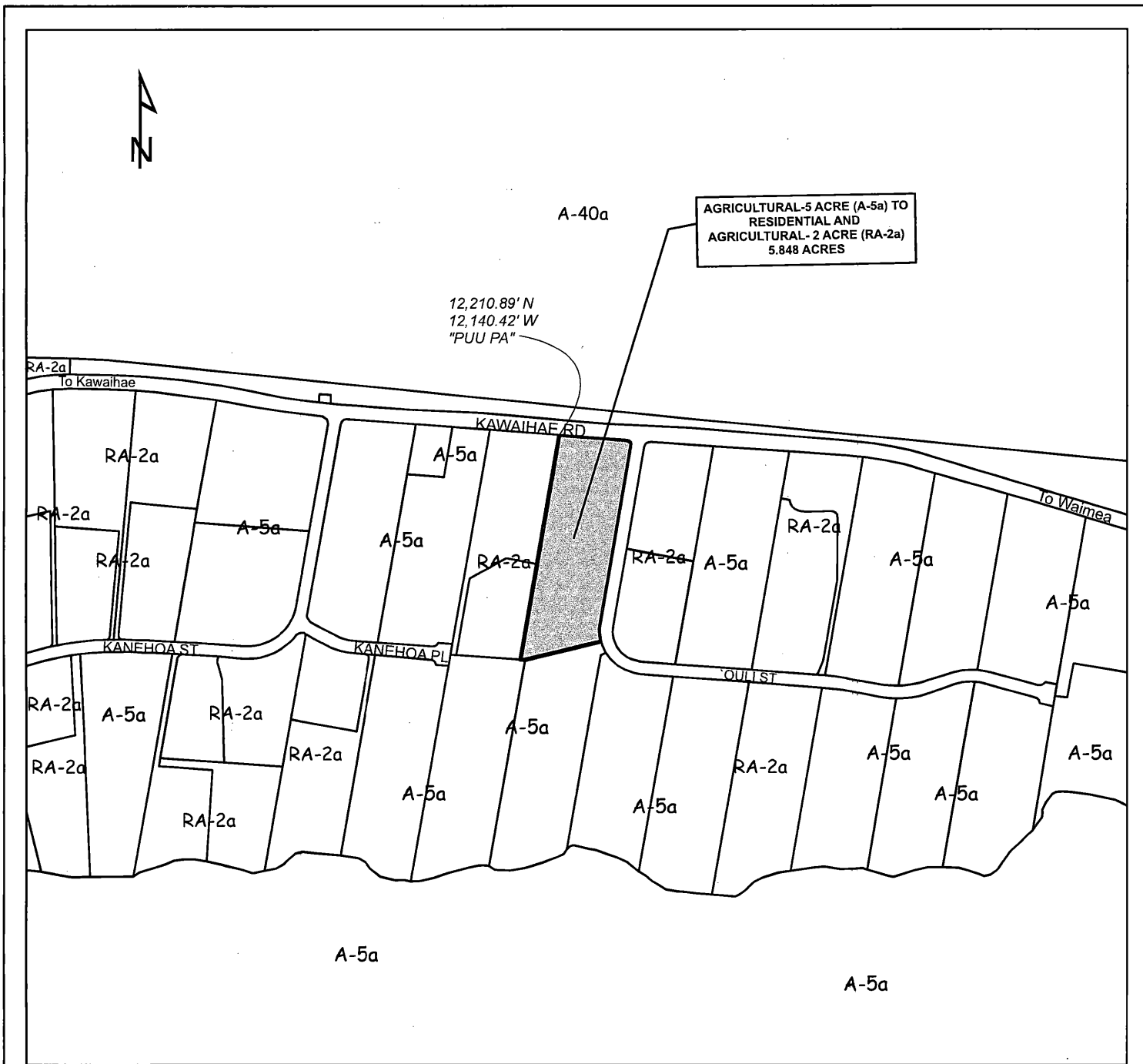
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i
Date of Introduction: November 16, 2022
Date of 1st Reading: November 16, 2022
Date of 2nd Reading: December 21, 2022
Effective Date: January 3, 2023

REFERENCE Comm. 1054



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL - 5 ACRES (A-5a) TO RESIDENTIAL AND AGRICULTURAL - 2 ACRES (RA-2a) AT KAWAIHAE, SOUTH KOHALA, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 6-2-009:015

DATE: August 3, 2022

EXHIBIT "A"

Arte McCollough
 Map: 1445

OFFICE OF THE COUNTY CLERK **COUNTY CLERK**
 County of Hawai'i **COUNTY OF HAWAII**
Kona, Hawai'i

2023 JAN -4 PM 4: 04

Introduced By: Ashley L. Kierkiewicz (B/R)
 Date Introduced: November 16, 2022
 First Reading: November 16, 2022
 Published: December 2, 2022

REMARKS: _____

Second Reading: December 21, 2022
 To Mayor: December 29, 2022
 Returned: January 4, 2023
 Effective: January 3, 2023
 Published: January 20, 2023

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung			X	
David	X			
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy			X	
Richards				
Villegas			X	
	5	0	3	0


ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Evans	X			
Galimba	X			
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Villegas	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 3rd day
 of January, 2023.


 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRPERSON


 COUNTY CLERK

Bill No.: 229
 Reference: C-1054/PC-85
 Ord No.: 23 2