

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 111

ORDINANCE NO. 93 90

AN ORDINANCE AMENDING SECTION 25-95E (LALAMILO-PUUKAPU ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO MODIFICATIONS OF CONDITION B OF ORDINANCE NO. 90-009, WHICH RECLASSIFIED 26,962 SQUARE FEET OF LAND FROM OPEN (O) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIMEA, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-5-07:81.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Ordinance No. 90-009 is amended as follows:

"SECTION 1. Section 25-95E, Article 3, 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 Waimea, South Kohala, Hawaii, shall be Single Family Residential (RS-10):

Beginning at a pipe at the East corner of this parcel of land, the coordinates of which referred to Government Survey Triangulation Station "WEST BASE" being 1,052.05 feet South and 3,430.247 feet West, and running by azimuths measured clockwise from True South:

- 1. 52° 46' 30" 250.51 feet along remainder of Grant 6295 to John Lindsey, Jr. to a pipe;
- 2. 114° 20' 7.00 feet along Grant 6302 to Kamaki Lindsey to a pipe;
- 3. 187° 30' 190.90 feet along Grant 6296 to John Lindsey to a pipe;

4. 235° 09' 125.28 feet along Grant 6874 to Tama Yamaguchi to a pipe;
5. 325° 09' 136.71 feet along remainder of Grant 6295 to John Lindsey, Jr. to the point of beginning and containing an area of 26,962 square feet.

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

SECTION 2. This change in district classification is conditioned upon the following: (A) the applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval; (B) subdivision plans shall be submitted within one year from the effective date of the zone change. Final subdivision approval shall be secured within one year from the effective date of [receipt of tentative subdivision approval] this amendment; (C) a drainage system meeting with the approval of the Department of Public Works shall be installed, including the following requirements:

- 1) all of the improvements delineated on the construction plans prepared by the applicant's consulting engineer dated November 14, 1988, and revised on January 20, 1989, shall be constructed prior to receipt of final subdivision approval;
- 2) the drainage swales and retention basin on the proposed lots be encumbered by drainage easements and denoted on the final subdivision plat map; 3) a deed covenant be recorded with the State Bureau of Conveyances prior to receipt of final

subdivision approval advising the potential lot owners that maintenance of any drywell and retention basin on the property should be the lot owner's responsibility in perpetuity. Said deed covenant shall be reviewed by the Department of Public Works, Corporation Counsel, and Planning Department prior to recordation; 4) the final floor elevation for all habitable rooms of dwellings on the proposed lots shall be a minimum of 96 feet as referenced on the previously mentioned construction plans; 5) provide off-site improvements which include the construction of an earth swale extending within the existing drainage easements through TMK parcels 6-5-7:78, 79, and 80 prior to receipt of final subdivision approval; and 6) construct a roadway shoulder swale alongside Lindsey Road to enhance and maintain the general direction of historic and natural storm flow towards the drainage easement earth swales and proposed new ponding basin as shown on the aforementioned construction plans. Further, the applicant shall indemnify and hold the County harmless from and against any and all liability, loss, or damage the County may suffer as a result of any claim, demand, suit, costs, or judgment for personal injury or property damage against the County by reason of the development of or the drainage facilities within the subject property, including but not limited to any claim, demand, suit, costs, or judgment by reason of the County's approval of the subdivision plans for the subject property or the County's

approval of the improvements constructed within the subject property; (D) a single family dwelling shall be constructed on one of the proposed lots within three years from the date of receipt of Final Subdivision approval; (E) as required by Ordinance No. 831, the applicant shall participate in the paving of Lindsey Road to a width of twenty feet from the Lindsey Road-Kawaihae Road intersection to the northwestern end of the subject property meeting with the approval of the Chief Engineer prior to the issuance of final subdivision approval. Participation shall be in the form of roadway improvement fee paid to the Finance Director of the County of Hawaii. The amount of said fee shall be the approximate equivalent of the applicant's share of a privately initiated improvement district for Lindsey Road, covering roadway, drainage, and related improvements, as determined by the Chief Engineer. Further, should an Improvement District or similar arrangements be initiated for the improvement of Lindsey Road, the applicant shall automatically participate in such an arrangement. Should the individual share for the Improvement District exceed the amount originally contributed by the applicant, then the applicant shall contribute towards the difference; (F) all other applicable laws, rules, regulations and requirements be complied with; (G) should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included

herein may, at the developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance; (H) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the zone change. The report shall address the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required; and, (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 applicants, 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); and 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. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the area to its original or more appropriate designation."

SECTION 2. Material to be deleted is bracketed. New material is underscored.

SECTION 3. In the event that any portion of the ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

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

INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

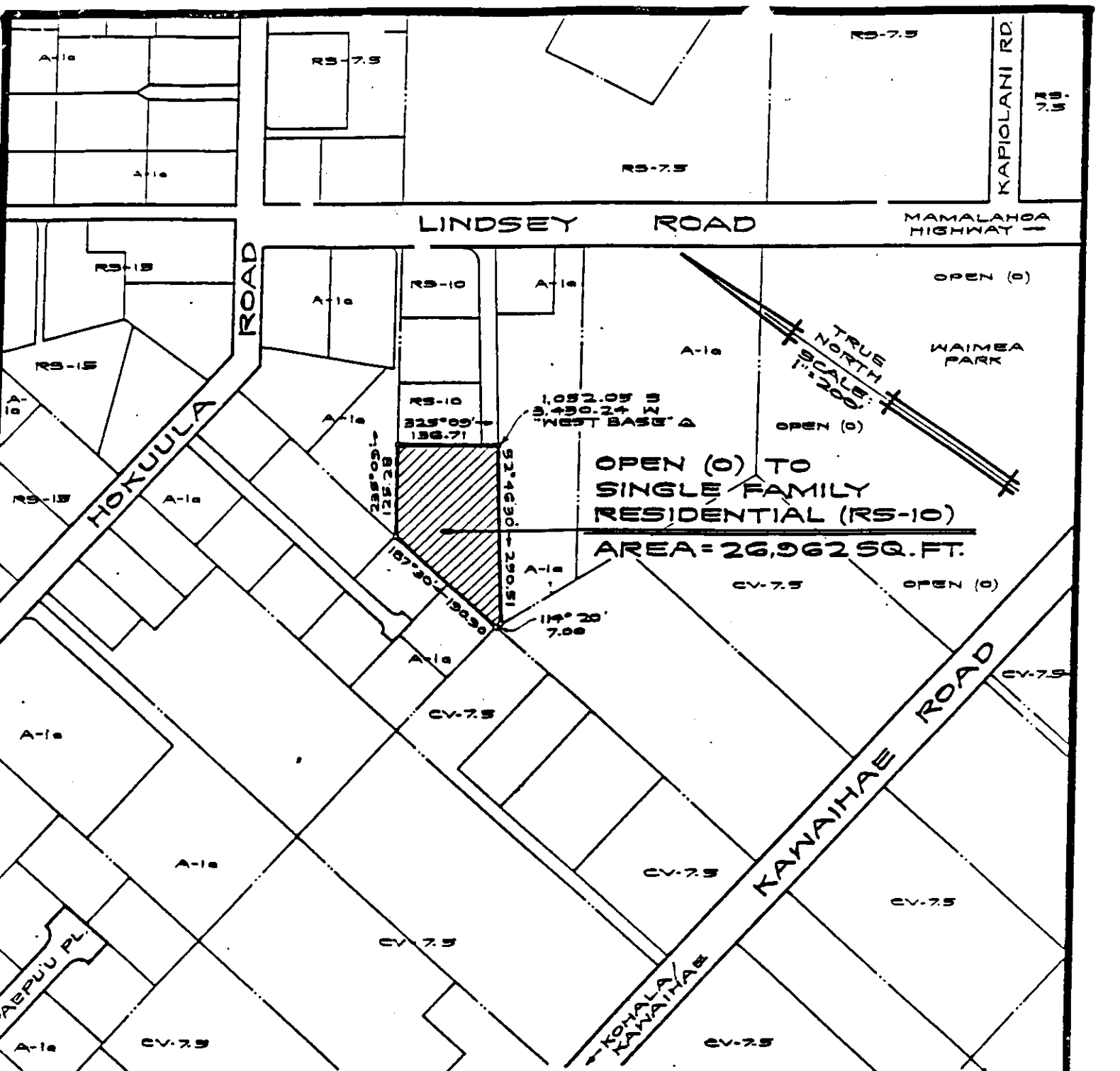
Hilo, Hawaii

Date of Introduction: August 25, 1993  
Date of 1st Reading: August 25, 1993  
Date of 2nd Reading: September 8, 1993  
Effective Date: September 22, 1993

APPROVED AS TO FORM AND LEGALITY:

  
DEPUTY CORPORATION COUNSEL

DATED: 7/14/93



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-95 E (LALAMILO-PUUKAPU ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM OPEN (0) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIMEA, SOUTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
 COUNTY OF HAWAII

TMK : 6-5-07 : 81

APRIL 4, 1989