

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 294
(Draft 3)

ORDINANCE NO. 97 9

AN ORDINANCE AMENDING SECTION 25-95E (LALAMILO - PUUKAPU ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-1a) TO SINGLE FAMILY RESIDENTIAL (RS-15) AT WAIMEA, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-5-08:32.

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

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-15):

Beginning at the north corner of this parcel of land, being the east corner of Lot 12-B and on the southwesterly side of Lot 11-B-2, a portion of Grant 6283 to J. Vierra, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WEST BASE" being 137.46 feet North and 2,987.77 feet West, thence running by azimuths measured clockwise from True South:

1. 325° 09' 346.60 feet along Lot 11-B-2 and Lot 11-B-1, being portions of Grant 6283 to J. Vierra;
2. 55° 09' 200.00 feet along Hokuula Road;
3. 145° 09' 346.60 feet along Lot 6, Lot 7 and Lot 18, being portions of Grant 7244 to Manuel Vierra;
4. 235° 09' 200.00 feet along Lot 12-B to the point of beginning and containing an area of 69,320 square feet or 1.591 acres.

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 applicants, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of the change of zone ordinance.
- C. Final Subdivision Approval of the proposed subdivision development shall be secured within five (5) years from the effective date of this change of zone ordinance.
- D. The driveway access(es), including the provision of adequate sight distance at Hokuula Road, shall be constructed in a manner meeting with the approval of the Department of Public Works.
- E. All grading and grubbing activities shall meet with the approval of the Department of Public Works.
- F. Drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
- G. The wastewater treatment and disposal system shall meet with the approval of the Department of Health.

- H. Fire apparatus access roads and a water supply capable of supplying required fire flow for fire protection shall be installed and approved by the Fire Department prior to the issuance of Final Subdivision Approval.

- I. Restrictive covenants in the deeds of all the proposed residential lots shall prohibit the construction of an ohana dwelling or a second dwelling unit on each lot. A copy of the covenant with this requirement shall be submitted to the Planning Department for review and approval prior to Final Subdivision Approval. A copy of the approved covenant shall be recited in an instrument executed by the applicant and the County prior to Final Subdivision Approval for any portion of the subject property. The Planning Director shall promptly deliver such document for the Bureau of Conveyances for recordation. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.

- J. Should any unidentified sites or remains such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls 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 sufficient mitigative measures have been taken.

- K. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject property with respect to parks and recreation, fire, police, solid waste and disposal facilities, and roads. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject

property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of proposed residential lots in each such increment. The fair share contribution may be in a form of cash, land, facilities, or any combination thereof acceptable to the director in consultation with the affected agencies. The fair share contribution shall have a maximum combined value of **\$7,239.16 per lot**. Based upon the applicant's representation of intent to subdivide and develop up to four (4) residential lots, the indicated total fair share contribution is **\$14,478.32**, however, the total amount shall be increased or reduced in proportion with the actual number of subdivided lots according to the calculation and payment provisions set forth in this Condition K. The fair share contribution shall be allocated as follows:

1. **\$3,490.85** per lot for an indicated total of **\$6,981.70** to the County to support park and recreational improvements and facilities;
2. **\$168.40** per lot, for an indicated total of **\$336.80** to the County to support police facilities;
3. **\$332.61** per lot, for an indicated total of **\$665.22** to the County to support fire facilities;
4. **\$145.62** per lot, for an indicated total of **\$291.24** to the County to support solid waste facilities; and
5. **\$3,101.68** per lot, for an indicated total of **\$6,203.36** to the State or County to support road and traffic improvements.

The fair share contributions described above shall be adjusted annually beginning three years after the effective date of the change of zone, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of

paying the fair share contribution, the applicant may construct and contribute land, improvements/facilities related to parks and recreation, fire, police, solid waste disposal facilities, and roads within the region impacted by the proposed development, subject to the approval of the director. For purposes of administering Condition K, the fair market value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be subject to the review and approval of the director, upon consultation with the appropriate agencies.

- L. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall secure the concurrence of the Office of Housing and Community Development that the applicant's affordable housing requirements, if any, have been mutually agreed to prior to Final Subdivision Approval for any portion of the subject property.
- M. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the easements of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- N. Comply with applicable laws, rules, regulations and requirements of other affected agencies for approval of the development.
- 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. 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).
- P. 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 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:

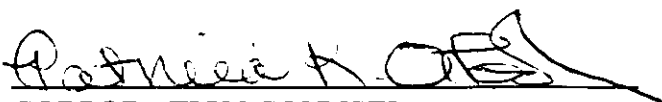


 COUNCIL MEMBER, COUNTY OF HAWAII

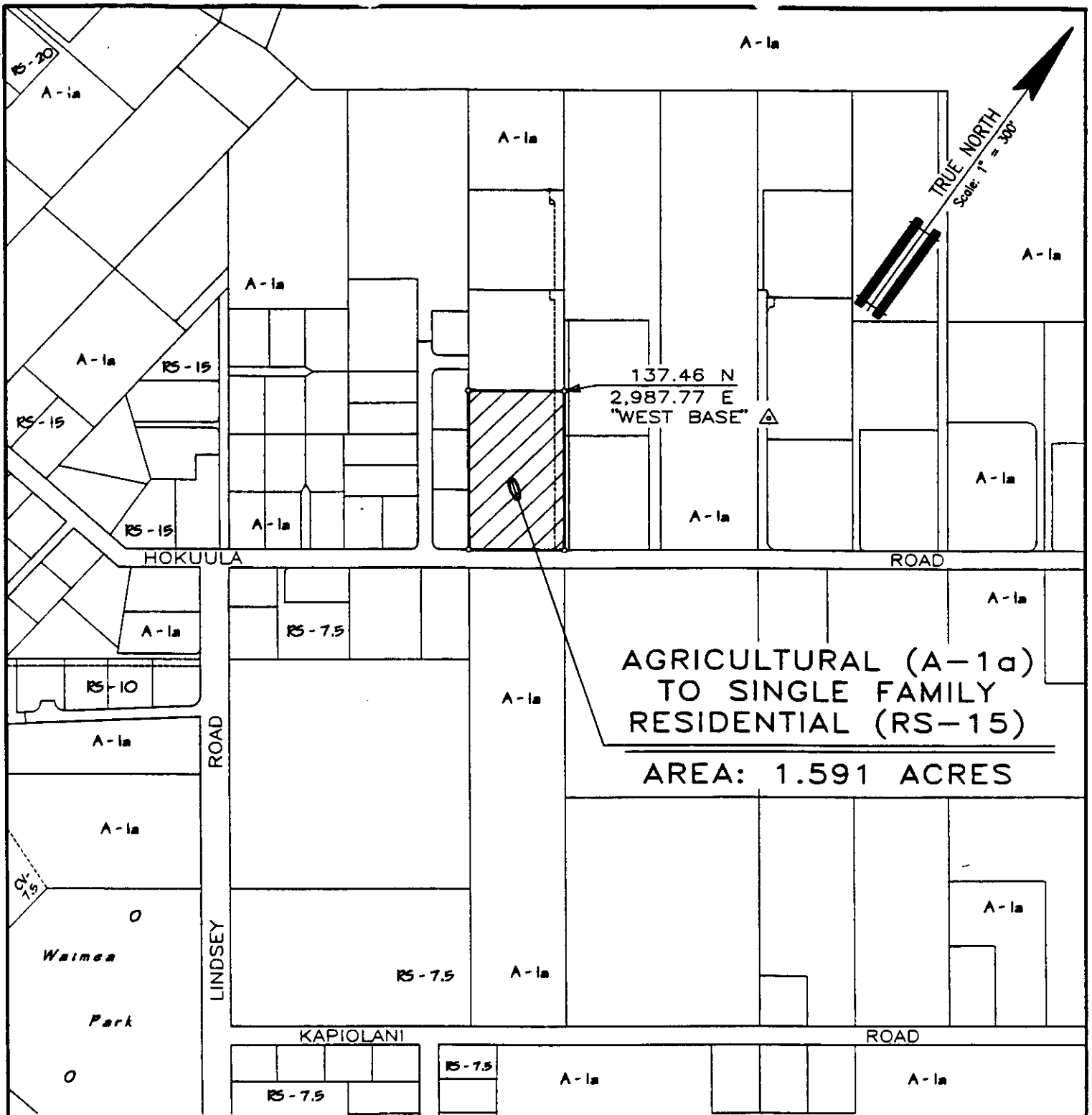
Hilo, Hawaii

Date of Introduction: December 18, 1996
 Date of 1st Reading: December 18, 1996
 Date of 2nd Reading: January 8, 1997
 Effective Date: January 20, 1997

APPROVED AS TO FORM AND LEGALITY



 DEPUTY CORPORATION COUNSEL
 DATED: JAN 17 1997



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-95E (LALAMILO - PUUKAPU ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-1a) TO SINGLE FAMILY RESIDENTIAL (RS-15) AT WAIMEA, SOUTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

(DRAFT 2) 97 JAN 21 AM 8 36

Introduced By: Takashi Domingo
 Date Introduced: December 18, 1996
 First Reading: December 18, 1996
 Published: N/A

REMARKS:

ROLL CALL VOTE				
OFFICE OF COUNTY CLERK COUNTY OF HAWAII	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray			X	
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	0	1	0


Second Reading: January 8, 1997
 To Mayor: January 13, 1997
 Returned: January 21, 1997
 Effective: January 20, 1997
 Published: January 28, 1997


REMARKS:

(DRAFT 3)

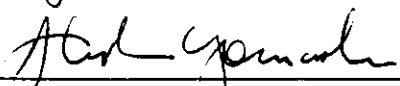
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

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



 COUNCIL CHAIRMAN


 COUNTY CLERK

Approved/Disapproved this 20 day
 of January, 1997.


 MAYOR, COUNTY OF HAWAII

Bill No.: 294 (Draft 3)
 Reference: C-1271.03/PC-175
 Ord. No.: 97 9