

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 183
(Draft 3)

ORDINANCE NO. 98 23

AN ORDINANCE AMENDING SECTION 25-8-11 (LALAMILO - PUUKAPU ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO NEIGHBORHOOD COMMERCIAL (CN-7.5) AND RESIDENTIAL AND AGRICULTURAL (RA-.5a) AT PUUKAPU, WAIMEA, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-4-01:92.

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

SECTION 1. Section 25-8-11, Article 8, 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 Puukapu, Waimea, South Kohala, Hawaii, shall be Neighborhood Commercial (CN-7.5):

Beginning at the Northwesterly corner of this parcel of land, being also a point on the Westerly boundary of Lot H, the Southeasterly corner of Lot G-3 and being the Northeasterly corner of Lot G-2, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WEST BASE" being 379.77 feet South and 431.26 feet East and running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|--------|--|
| 1. | 250° 21' | 127.02 | feet along the remainders of Lot H, Lot 53 of the Puukapu Homesteads, 1st Series and Grant 4210 to Elizabeth W. Lyons to a point; |
| 2. | 329° 07' | 436.00 | feet along the Westerly side of an existing Roadway to a point; |
| 3. | 70° 21' | 121.95 | feet along the Northerly side of Mamalahoa Highway to a point; |
| 4. | 149° 07' | 260.00 | feet along Lot G-1 and along the remainders of Lot 53 of the Puukapu Homesteads, 1st Series and Grant 4210 to Elizabeth W. Lyons to a point; |

5. 147° 30' 30" 177.06 feet along Lots G-1 and G-2 and along the remainders of Lot 53 of the Puukapu Homesteads, 1st Series and Grant 4210 to Elizabeth W. Lyons to the point of beginning and containing an area of 1.207 Acres. (Refer to Parcel 1 as shown on Exhibit "A.")

The district classification of the following area situated at Puukapu, Waimea, South Kohala, Hawaii, shall be Residential and Agricultural (RA-.5a):

Beginning at the Southwesterly corner of this parcel of land, being also a point on the Westerly boundary of Lot H, the Southeasterly corner of Lot G-3 and being the Northeasterly corner of Lot G-2, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WEST BASE" being 379.77 feet South and 431.26 feet East and running by azimuths measured clockwise from True South:

1. 147° 30' 30" 546.14 feet along Lot G-3 and along the remainders of Lot 53 of the Puukapu Homesteads, 1st Series and Grant 4210 to Elizabeth W. Lyons to a point;
2. 229° 45' 126.59 feet along the Southerly side of Homestead Road to a point;

Thence, for the next three (3) courses following along the Westerly side of an existing Roadway:

3. 329° 07' 268.00 feet to a point;
4. 302° 33' 33.54 feet to a point;
5. 329° 07' 293.28 feet to a point;
6. 70° 21' 127.02 feet along the remainders of Lot H, Lot 53 of the Puukapu Homesteads, 1st series and Grant 4210 to Elizabeth W. Lyons to the point of beginning and containing an area of 1.632 Acres. (Refer to Parcel 2 as shown on Exhibit "A.")

All as shown on the map attached hereto, marked Exhibit "A" and by reference

made a part hereof.

SECTION 2. These changes in district classification are conditioned upon the following:

- A.** The applicants, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B.** The applicants, successors or assigns shall be responsible for complying with all requirements of Chapter 205, Hawaii Revised Statutes, relating to permissible uses within the State Land Use Rural District.
- C.** 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 this ordinance.
- D.** Final Subdivision Approval of the proposed subdivision within the subject property shall be secured from the Planning Director within five (5) years from the effective date of the Change of Zone ordinance.
- E.** A traffic impact analysis report shall be submitted to the Department of Public Works for review and approval prior to submittal of plans for subdivision review.
- F.** Access to the subject property from Mamalahoa Highway Road shall meet with the requirements of the Department of Public Works. The entrance roadway sight distance shall meet the requirements of the Statewide Design Manual.
 - 1.** Access to the commercial zoned area from Mamalahoa Highway shall be on the eastern (Hamakua) side of the subject property.
 - 2.** Access to the RA zoned area from Mamalahoa Highway shall be from the private road located on the eastern side of the subject property.
- G.** Mamalahoa Highway shall be improved with a left turn pocket or a double-left turn median, if required by the Department of Public Works in conjunction with Final Subdivision Approval.
- H.** Prior to securance of a certificate of occupancy for the neighborhood commercial zoned area, the subject property's Mamalahoa Highway frontage shall be improved with curb, gutter and sidewalk construction, drainage

improvements, and relocation of utilities along the Mamalahoa Highway meeting with the approval of the Department of Public Works.

- I. Should the road improvements under items G and H qualify as an ISTEA (federally funded) project, in lieu of actual construction, the applicants shall deposit with the County an amount equal to the cost of construction. The amount shall include a pro-rata share of the development costs and shall be paid in a manner meeting with the approval of the Finance Director and the Chief Engineer prior to the issuance of Final Subdivision Approval.
- J. A drainage study of the project site, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
- K. A Solid Waste Management Plan for the subject property shall be submitted for review and approval to the Department of Public Works prior to securing Final Subdivision Approval.
- L. Should any unidentified sites or remains such as artifacts, shell, bone, 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.
- M. 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 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 units proposed to be developed by the amounts allocated hereinbelow for each such unit, and shall become due and payable prior to final

subdivision approval or final plan approval for any portion of the subject property or its increments. If the subject property is developed in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval or final plan approval of each increment shall be a sum calculated in the same manner according to the number of additional proposed residential units 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 single-family residential unit**. Based upon the applicant's representation of intent to develop up to three residential units, the indicated total fair share contribution is **\$21,717.48** for single-family residential units. However, the total amount shall be increased or reduced in proportion with the actual number of units according to the calculation and payment provisions set forth in this Condition M. The fair share contribution shall be allocated as follows:

1. **\$3,490.85** per single-family residential unit for an indicated total of **\$10,472.55** to the County to support park and recreational improvements and facilities;
2. **\$168.40** per single-family residential unit for an indicated total of **\$505.20** to the County to support police facilities;
3. **\$332.61** per single-family residential unit for an indicated total of **\$997.83** to the County to support fire facilities;
4. **\$145.62** per single-family residential unit for an indicated total of **\$436.86** to the County to support solid waste facilities;
5. **\$3,101.68** per single-family residential unit for an indicated total of **\$9,305.04** 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 improvement/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. The cost of providing and constructing the improvements required in Condition H shall be credited against the sum specified in Condition M(5) for road and traffic improvements. For purposes of administering Condition M, 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.

- N. 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 Fee Ordinance.
- 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 applicants, its 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; and
 - 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 subject 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

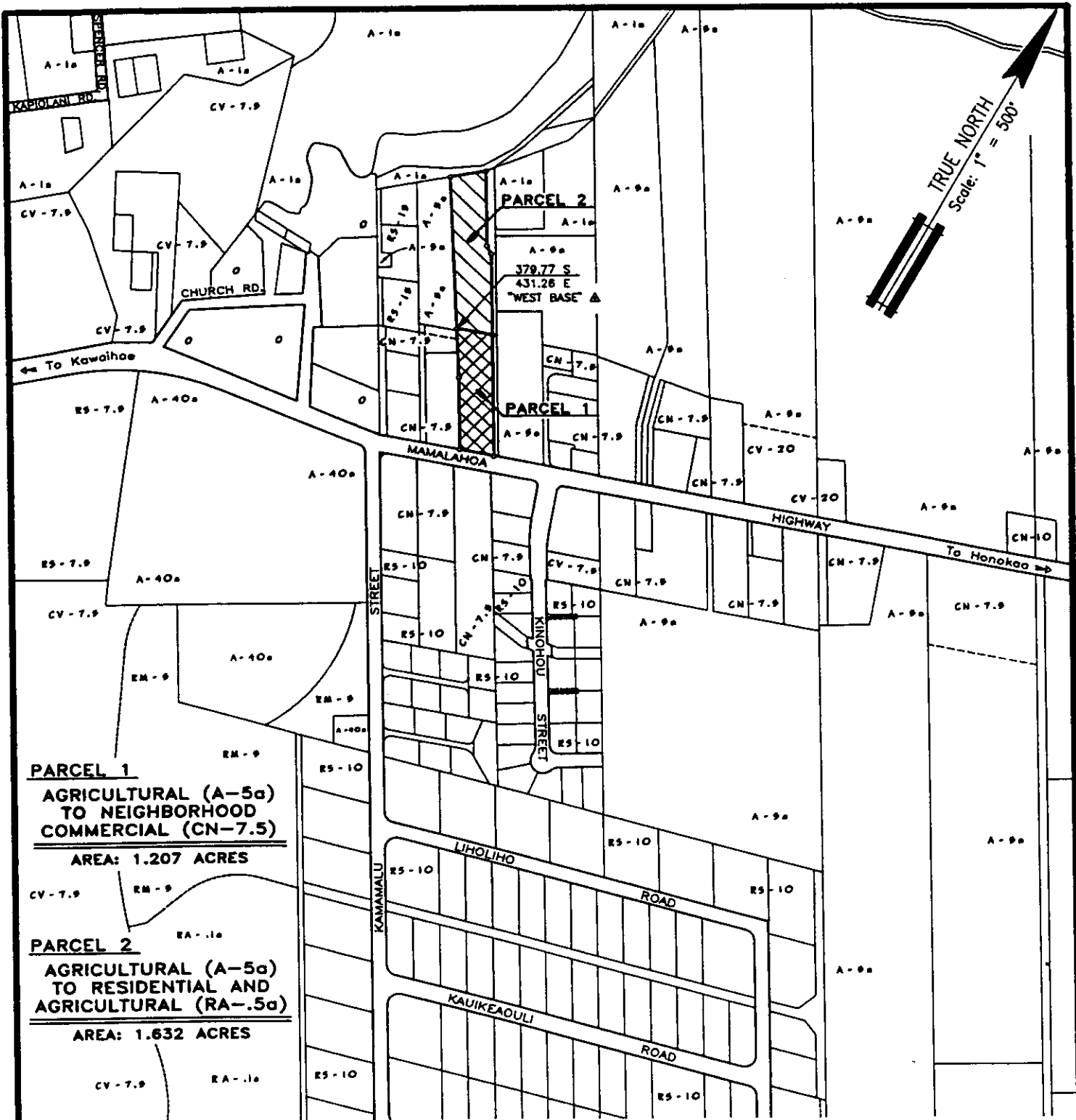
Date of Introduction: February 18, 1998
Date of 1st Reading: February 18, 1998
Date of 2nd Reading: March 6, 1998
Effective Date: March 16, 1998

APPROVED AS TO FORM AND LEGALITY



DEPUTY CORPORATION COUNSEL

DATED: 3/11/98



PARCEL 1
AGRICULTURAL (A-5a)
TO NEIGHBORHOOD
COMMERCIAL (CN-7.5)

AREA: 1.207 ACRES

PARCEL 2
AGRICULTURAL (A-5a)
TO RESIDENTIAL AND
AGRICULTURAL (RA-.5a)

AREA: 1.632 ACRES

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-11 (LALAMILO - PUUKAPU ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO NEIGHBORHOOD COMMERCIAL (CN-7.5) AND RESIDENTIAL AND AGRICULTURAL (RA-.5a) AT PUUKAPU, WAIMEA, SOUTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
 County of Hawaii
Hilo, Hawaii

(DRAFT 3) 202 86

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: February 18, 1998
 First Reading: February 18, 1998
 Published: February 26, 1998

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	1	0

REMARKS:

Second Reading: March 6, 1998
 To Mayor: March 10, 1998
 Returned: March 17, 1998
 Effective: March 16, 1998
 Published: March 23, 1998

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo			X	
Smith	X		X	
Tyler	X			
Yagong	X			
	7	0	2	0

REMARKS:

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

FORM AND LEGALITY:

Fredrickson
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 3/11/98

Approved/Disapproved this 16 day
 of March 19 98

Steve Yamada
 MAYOR, COUNTY OF HAWAII

Donald Heida
 COUNCIL CHAIRMAN
Donald Heida
 COUNTY CLERK

Bill No.: 183 (Draft 3)
 Reference: C-645/PC-94
 Ord. No.: 98 23