

COUNTY OF HAWAII STATE OF HAWAII



1009 MAR 12 10 59 AM '99  
COUNTY OF HAWAII

BILL NO. 329  
(Draft 3)

ORDINANCE NO. 99 24

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 SINGLE-FAMILY RESIDENTIAL (RS-10) AND VILLAGE COMMERCIAL (CV-7.5) AT PUUKAPU, WAIMEA, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-4-01:PORTION OF 42.

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 Single-Family Residential (RS-10):

Parcel 1

Beginning at a 1/2-inch pipe at the Southeasterly corner of this parcel of land, on the Northerly side of Mamalahoa Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WEST BASE" being 87.94 feet South and 2,521.35 feet East, thence running by azimuths measured clockwise from True South:

1. 70° 21' 423.69 feet along the Northerly side of Mamalahoa Highway;
2. 160° 21' 10.00 feet along the remainder of Grant 4834 to Kahoohanohano;
3. Thence along the remainder of Grant 4834 to Kahoohanohano, on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being:  
205° 21' 42.43 feet;

4. 160° 21' 30.40 feet along the remainder of Grant 4834 to Kahoohanohano;
5. Thence along the remainder of Grant 4834 to Kahoohanohano, on a curve to the left with a radius of 275.00 feet, the chord azimuth and distance being: 154° 44' 53.83 feet;
6. 149° 07' 146.54 feet along the remainder of Grant 4834 to Kahoohanohano;
7. 59° 07' 305.25 feet along the remainder of Grant 4834 to Kahoohanohano to a rebar in concrete (found);
8. 149° 07' 488.35 feet along Grant 4736 to Hee Akou;
9. 239° 07' 404.02 feet along the remainders of Grant 4834 to Kahoohanohano and Grant 4564 to Kaanaana;
10. Thence along the remainder of Grant 4564 to Kaanaana, on a curve to the left with a radius of 40.00 feet, the chord azimuth and distance being: 121° 59' 55.5" 18.00 feet;
11. Thence along the remainder of Grant 4564 to Kaanaana, on a curve to the right with a radius of 45.00 feet, the chord azimuth and distance being: 239° 07' 68.82 feet;
12. Thence along the remainder of Grant 4564 to Kaanaana, on a curve to the left with a radius of 40.00 feet, the chord azimuth and distance being: 349° 10' 34.5" 27.44 feet;
13. Thence along the remainder of Grant 4564 to Kaanaana, on a curve to the right with a radius of 325.00 feet, the chord azimuth and distance being: 340° 51' 30" 132.28 feet;
14. 352° 36' 61.20 feet along the remainder of Grant 4564 to Kaanaana;

15. Thence along the remainder of Grant 4564 to Kaanaana, on a curve to the left with a radius of 150.00 feet, the chord azimuth and distance being:  
250° 51' 30" 61.05 feet;
16. 239° 07' 306.80 feet along the remainder of Grant 4564 to Kaanaana;
17. 329° 07' 495.87 feet along Grant 4565 to H. Akona to a 1/2-inch pipe;
18. 70° 21' 100.00 feet along the remainder of Grant 4564 to Kaanaana to a 1/2-inch pipe;
19. 329° 07' 150.00 feet along the remainder of Grant 4564 to Kaanaana to the point of beginning and containing an area of 10.303 Acres.

The district classification of the following area situated at Puukapu, Waimea, South Kohala, Hawaii, shall be Village Commercial (CV-7.5):

Parcel 2

Beginning at a 1/2-inch pipe at the Southwesterly corner of this parcel of land, on the Northerly side of Mamalahoa Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WEST BASE" being 284.84 feet South and 1,969.90 feet East, thence running by azimuths measured clockwise from True South:

1. 149° 07' 231.79 feet along the remainder of Grant 4834 to Kahoohanohano to a spike;
2. 239° 07' 207.17 feet along the remainder of Grant 4834 to Kahoohanohano;
3. 329° 07' 146.54 feet along the remainder of Grant 4834 to Kahoohanohano;
4. Thence along the remainder of Grant 4834 to Kahoohanohano, on a curve to the right with a radius of 275.00 feet, the chord azimuth and distance being:  
334° 44' 53.83 feet;

5. 340° 21' 30.40 feet along the remainder of Grant 4834 to Kahoohanohano;
6. Thence along the remainder of Grant 4834 to Kahoohanohano, on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being: 25° 21' 42.43 feet;
7. 340° 21' 10.00 feet along the remainder of Grant 4834 to Kahoohanohano;
8. 70° 21' 161.86 feet along the Northerly side of Mamalahoa Highway to the point of beginning and containing an area of 1.166 Acres.

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 petitioner, its successors or assigns, shall be responsible for complying with all conditions of the change of zone.
- 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 shall be secured within five (5) years from the effective date of this ordinance.
- D. Prior to commencing construction in the Village Commercial zoned area, Final Plan Approval for the proposed commercial development shall be secured from the Planning Director in accordance with Chapter 25-2-70 of the Zoning Code. Plans shall identify the proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use. Landscaping shall

comply with the Planning Department's Rule No. 17 relating to Landscaping Requirements for the purpose of mitigating any adverse noise or visual impacts to adjacent properties.

- E. Access to the subject property from Mamalahoa Highway 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.
- F. All proposed residential lots shall access from the interior roadways. No direct vehicular access other than a right turn in from Mamalahoa Highway and a right turn out from the subject property onto Mamalahoa Highway shall be allowed for the proposed commercial lots along the highway, as may be approved by the Department of Public Works.
- G. Mamalahoa Highway shall be improved with a channelized intersection meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy in the Village Commercial zoned area.
- [H. The subject property's Mamalahoa Highway frontage in the Village Commercial zoned area shall be improved with curb, gutter and sidewalks, drainage improvements, and relocation of utilities along the Mamalahoa Highway meeting with the approval of the Department of Public Works, prior to issuance of a certificate of occupancy in the Village Commercial zoned area. In lieu of constructing these improvements, the applicant may pay a fee in an amount equivalent to the cost of the required improvements to the County of Hawaii. Said fee shall be used by the County for the construction of similar improvements along Mamalahoa Highway in the vicinity of the project area, as determined by the County.]

- [I] H. Should the road improvements under the terms of G [and H] qualify as a federally funded project, in lieu of the actual construction, the applicant shall deposit with the County an amount equal to the cost of construction which shall be paid in a manner meeting with the approval of the Finance Director and the Chief Engineer prior to the issuance of a Certificate of Occupancy in the Village Commercial zoned area.
- [J] I. A Drainage Study shall be prepared and submitted for review and approval to 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] J. A Solid Waste Management Plan for the subject property shall be prepared and submitted for approval to the Department of Public Works prior to securing Final Subdivision Approval.
- [L] K. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawaii County Code, relating to Affordable Housing, for all residential lots that are not set aside for employees of the applicant who meet the prevailing income criteria for an affordable home.
- [M] 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-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been

taken.

[N] M. [The applicant shall make its fair share contribution to mitigate the potential regional impacts of the residential lots within the project which are not set aside for employees of the applicant who meet the prevailing income criterion for an affordable home with respect to roads, parks and recreation, fire, police and solid waste disposal facilities. The fair share contribution shall be initially based on the representations contained within the change of zone application and may be increased or reduced proportionally if the applicable lot counts are adjusted. The fair share contribution shall become due and payable prior to final subdivision approval of any portion of the single family residential zoned lands or its increments. The fair share contribution for each single family residential lot shall be based on a maximum density for each applicable lot as determined by the zoning resulting from this change of zone. The fair share contribution in a form of cash, land, facilities or any combination thereof shall be determined by the County Council. The fair share contribution may be adjusted annually beginning three years after the effective date of this ordinance, 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 improvements/facilities related to roads, park, fire, police and solid waste disposal facilities within the region impacted by the proposed development with the approval of the appropriate agency(ies). Any contributions required by this ordinance and Ordinance No. 96-117 relating to the Parker Ranch 2020 project that exceed the fair share requirement of these proposed developments shall, at the applicant's request, be credited towards any of the applicant's developments that require infrastructural impact contributions.]

The applicant shall make its fair share contribution to mitigate potential regional impacts of the residential lots within the project which are not set aside for employees of the applicant who meet the prevailing income criterion for an

affordable home with respect to roads, parks and recreation, fire, police and solid waste disposal facilities. 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, in a form of cash, land, facilities or any combination thereof, acceptable to the director in consultation with the affected agencies, shall be determined by the County Council. 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 eight (8) residential units, the indicated total of fair share contribution is \$57,913.28 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 \$27,926.80 to the County to support park and recreational improvements and facilities;
2. \$168.40 per single-family residential unit for an indicated total of \$1,347.20 to the County to support police facilities;
3. \$332.61 per single-family residential unit for an indicated total of \$2,660.88 to the County to support fire facilities;
4. \$145.62 per single-family residential unit for an indicated total of \$1,164.96 to the County to support solid waste facilities; and



5. \$3,101.68 per single-family residential unit for an indicated total of \$24,813.44 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 (HCPD). In lieu of paying the fair share contribution, the applicant may construct and contribute 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. The cost of providing and constructing the improvements required in Conditions E, F and G 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 review and approval of the director, upon consultation with the appropriate agencies.

Any contributions required by this ordinance and Ordinance 96-117 relating to the Parker Ranch 2020 project that exceed the fair share requirement of these proposed developments shall, at the applicant's request, be credited towards any of the applicant's developments that require infrastructural impact contributions.

Upon approval of the fair share contributions or in lieu contributions by the director, the director shall submit a final report to the Council for its information that identifies the specific approved fair share and/or in lieu contributions, as allocated, and further implementation requirements

[O] N. Should the Council adopt a Unified Impact Fee Ordinance setting forth criteria

for the imposition of exactions or assessments of impacts fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fee Ordinance.

[P] Q. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the proposed development.

[Q] P. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this change of zone. The report shall address in detail 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 Director acknowledges that further reports are not required.

[R] Q. An initial extension of time for the performance of conditions within the ordinance may be granted by the 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 shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed

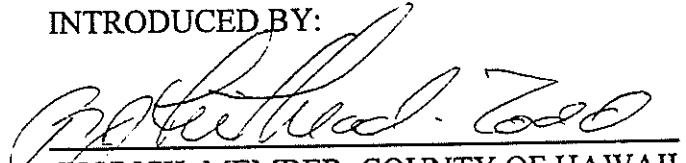
within one year may be extended for up to one additional year).

[S] R. 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

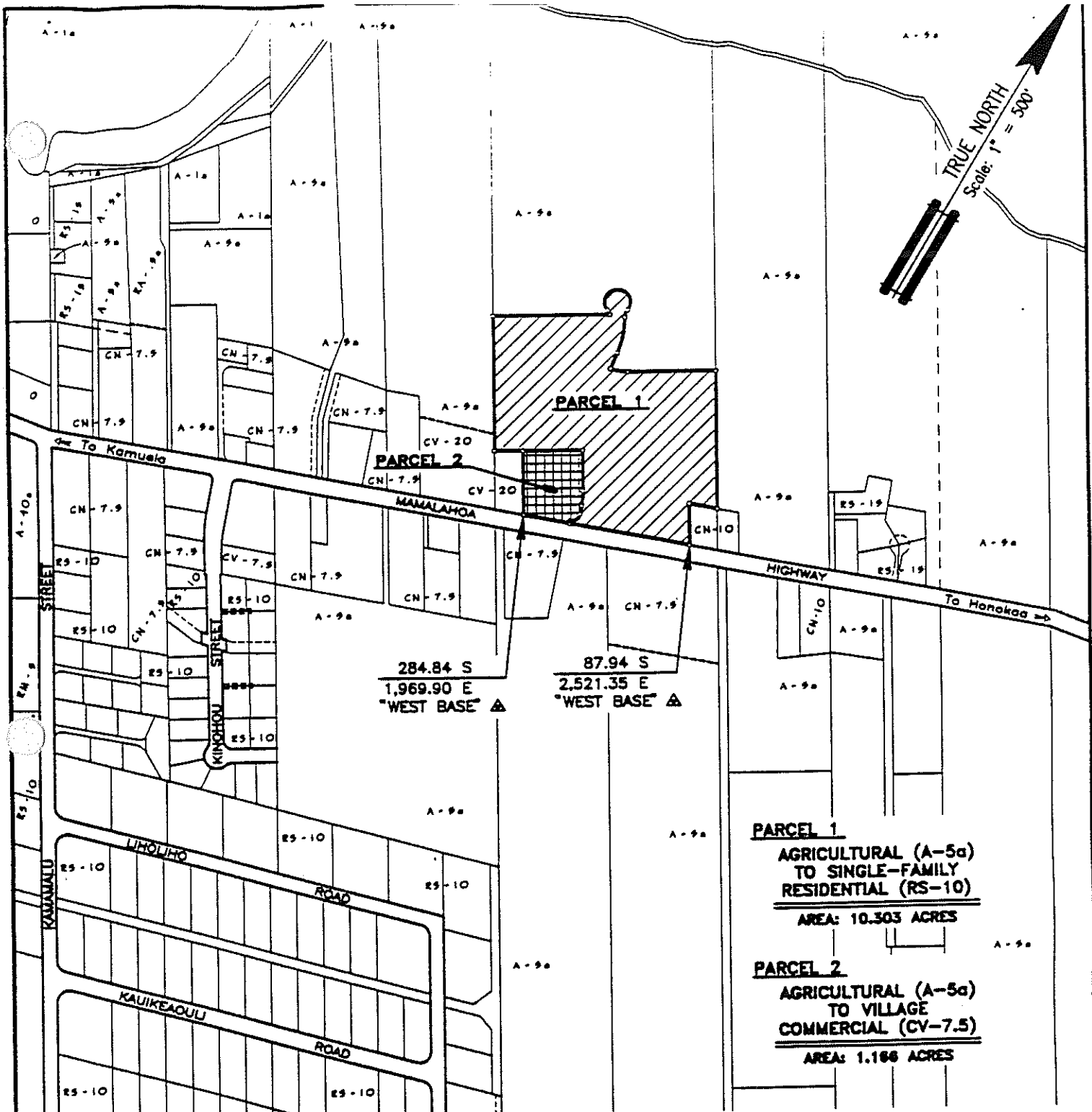
Hilo, Hawaii

Date of Introduction: November 18, 1998  
Date of 1st Reading: November 18, 1998  
Date of 2nd Reading: February 17, 1999  
Effective Date: February 28, 1999  
REFERENCE: Comm. 1048.02

APPROVED AS TO FORM AND LEGALITY

  
CORPORATION COUNSEL

DATED: 2/23/98



284.84 S  
1,969.90 E  
"WEST BASE" Δ

87.94 S  
2,521.35 E  
"WEST BASE" Δ

**PARCEL 1**  
 AGRICULTURAL (A-5a)  
 TO SINGLE-FAMILY  
 RESIDENTIAL (RS-10)  
 AREA: 10.303 ACRES

**PARCEL 2**  
 AGRICULTURAL (A-5a)  
 TO VILLAGE  
 COMMERCIAL (CV-7.5)  
 AREA: 1.166 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 SINGLE-FAMILY RESIDENTIAL (RS-10) AND VILLAGE COMMERCIAL (CV-7.5) AT PUUKAPU, WAIMEA, SOUTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK  
County of Hawaii  
Hilo, Hawaii

Introduced By: Bobby Jean Leithead-Todd  
Date Introduced: November 18, 1998  
First Reading: November 18, 1998  
Published: November 30, 1998

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

Second Reading: February 17, 1999  
To Mayor: February 19, 1999  
Returned: March 4, 1999  
Effective: February 28, 1999  
Published: March 10, 1999

REMARKS: Deferred - 12/23/98  
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\_\_\_\_\_  
\_\_\_\_\_

(DRAFT 3)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	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 published as indicated above.

APPROVED AS TO  
FORM AND LEGALITY:

Frederick K...  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date 2/23/99

[Signature]  
COUNCIL CHAIRMAN  
[Signature]  
COUNTY CLERK

Approved/Disapproved this 28 day  
of February, 1999

[Signature]  
MAYOR, COUNTY OF HAWAII

Bill No.: 329 (Draft 3)  
Reference: PC-161/C-1048  
Ord. No.: 99 21



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