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PLANNING DEPT.
COUNTY OF HAWAII

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 113
(Draft 3)

ORDINANCE NO. 99 114

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) AND RESIDENTIAL (RS-15) TO RESIDENTIAL AND AGRICULTURAL (RA-.5a) AT PUUKAPU, WAIMEA, SOUTH KOHALA , HAWAII, COVERED BY TAX MAP KEY 6-4-01:124 AND PORTION OF 140.

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 Residential and Agricultural (RA-.5a):

Parcel 1:

All of that certain parcel of land, being Lot G-3, situated on the southeasterly side of Homestead Road at Puukapu, Waimea, South Kohala, Island of Hawaii, Hawaii, being a portion of Grant 4210 to Elizabeth W. Lyons; being also a portion of Lot G of the subdivision of Lot 53 of Puukapu Homesteads, 1st Series.

Beginning at the north corner of this parcel of land, on the southeasterly side of Homestead Road, the coordinates of which referred to Government Survey Triangulation Station "West Base" being 80.89 feet north and 137.89 feet east and running by azimuths measured clockwise from true south:

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|----|--------------|--------|---|
| 1. | 327° 30' 30" | 546.14 | feet along remainder of Grant 4210 to Elizabeth W. Lyons; |
| 2. | 70° 21' | 133.93 | feet along remainder of Grant 4210 to Elizabeth W. Lyons; |

- | | | | |
|----|----------|--------|---|
| 3. | 149° 07' | 500.70 | feet along remainder of Grant 4210 to Elizabeth W. Lyons; |
| 4. | 229° 45' | 117.61 | feet along the southeasterly of Homestead Road to the point of beginning and containing an area of 64,707 square feet of 1.486 acres. |

Parcel 2:

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Land Patent Grant Number 4210 to Elizabeth W. Lyons) situate, lying and being at Puukapu, Waimea, District of South Kohala, Island and County of Hawaii, State of Hawaii, being LOT F-4-B-1, same being a portion of Lot 53 of the "PUUKAPU HOMESTEADS, FIRST SERIES", and thus bounded and described as per survey of Jerry S. Nakagawa, Registered Professional Surveyor, dated February 23, 1981, to-wit:

Beginning at a pipe at the south corner of this parcel of land, the coordinates of which referred to Government Survey Triangulation Station "WEST BASE" being 358.62 feet south and 99.66 feet east and running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|--|
| 1. | 149° 07' | 36.80 | feet along Grant 8961, Apana 1 to Board of Hawaiian Evangelical Association to a pipe; |
| 2. | 239° 07' | 50.00 | feet along remainder of Grant 4210 to Elizabeth W. Lyons (along cemetery) to a fence corner post; |
| 3. | 149° 07' | 50.00 | feet along remainder of Grant 4210 to Elizabeth W. Lyons (along cemetery) to a fence corner post; |
| 4. | 59° 07' | 35.00 | feet along remainder of Grant 4210 to Elizabeth W. Lyons (along cemetery) to a fence corner post; |
| 5. | 149° 07' | 101.00 | feet along remainder of Grant 4210 to Elizabeth W. Lyons (along the northeasterly side of a 15-foot wide roadway); |

6.	243° 13'	127.69	feet along remainder of Grant 4210 to Elizabeth W. Lyons;
7.	329° 07'	197.00	feet along remainder of Grant 4210 to Elizabeth W. Lyons;
8.	67° 30'	125.70	feet along remainder of Grant 4210 to Elizabeth W. Lyons;
9.	59° 07'	18.00	feet along remainder of Grant 4210 to Elizabeth W. Lyons to the point of beginning and containing an area of 23,277 square feet, more or less.

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, their 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.
- E. Access to the subject property from Mamalahoa Highway Road shall meet with

the requirements of the Department of Public Works.

- F. Should any remains of historic sites, such as 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.
- G. The applicant shall make its fair share contribution to mitigate potential regional impacts of the subject project 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 four (4) residential units, the indicated total of fair share contribution is **\$28,956.64** 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 G. The fair share contribution

shall be allocated as follows:

1. \$3,490.85 per single-family residential unit for an indicated total of **\$13,963.40** to the County to support park and recreational improvements and facilities;
2. \$168.40 per single-family residential unit for an indicated total of **\$673.60** to the County to support police facilities;
3. \$332.61 per single-family residential unit for an indicated total of **\$1,330.44** to the County to support fire facilities;
4. \$145.62 per single-family residential unit for an indicated total of **\$582.48** to the County to support solid waste facilities; and
5. \$3,101.68 per single-family residential unit for an indicated total of **\$12,406.72** 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 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 G, 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.

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

- H. Upon the final subdivision of the subject parcels, the existing parcel identified by TMK: 6-4-1:124 shall retain the two existing single-family dwellings and no further residential development shall be allowed on that parcel. Restrictive covenants in the deeds of all other lots shall restrict the residential development to a density of no more than one dwelling unit for each half-acre of land area per the approved zoning. A copy of the proposed covenant(s) to be recorded with the Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision Approval. A copy of the approved covenant(s) shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances for any portion of the subject property. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- I. The applicants shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed subdivision with the subject property, including the Department of Health.
- J. 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.
- K. 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.
 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).
- L. 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.

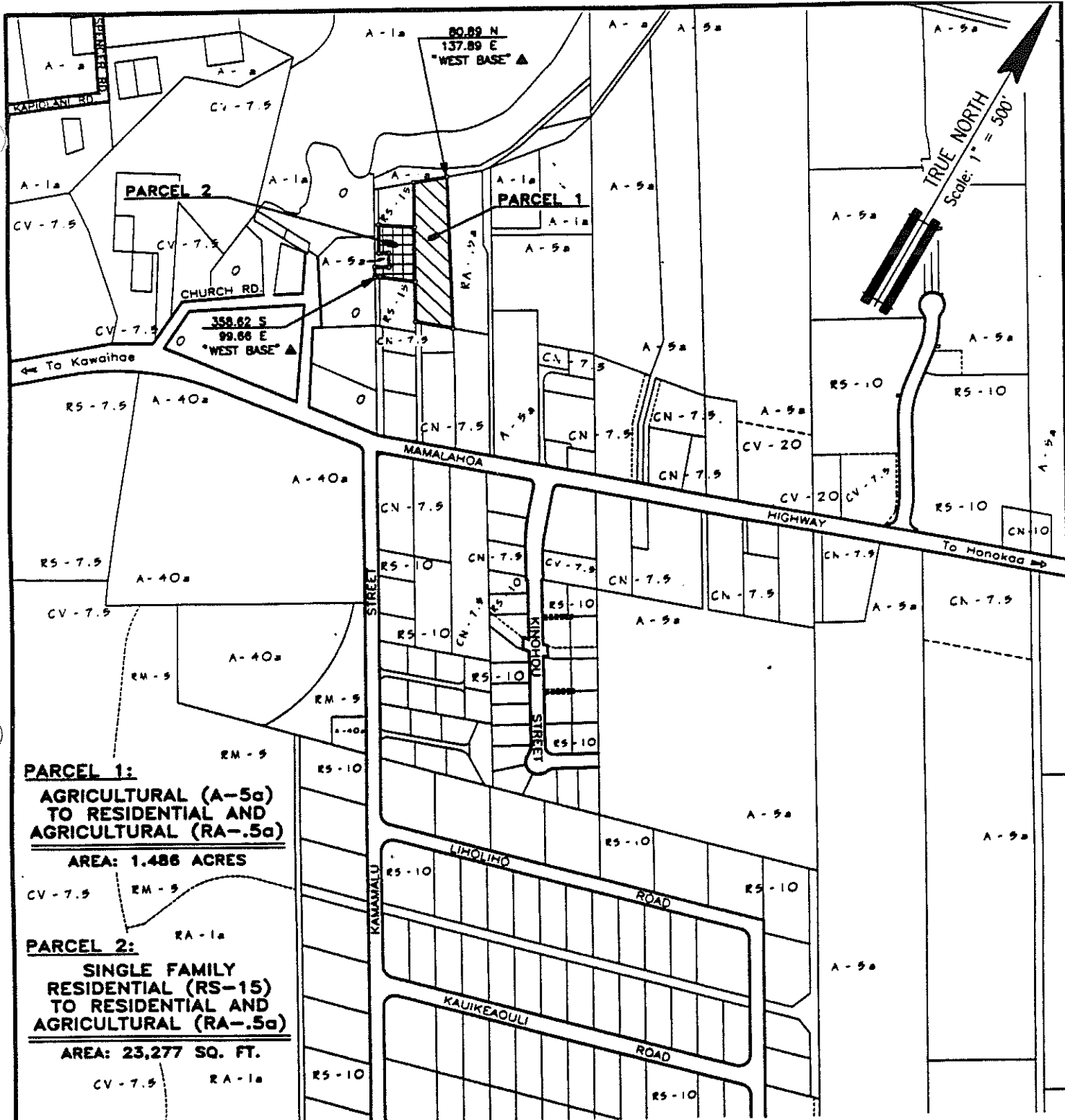
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: September 9, 1999
Date of 1st Reading: September 9, 1999
Date of 2nd Reading: September 22, 1999
Effective Date: October 8, 1999

APPROVED AS TO FORM AND LEGALITY

CORPORATION COUNSEL
DATED: 9/27/99



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 SINGLE FAMILY RESIDENTIAL (RS-15) AND AGRICULTURAL (A-5a) TO 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)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: September 9, 1999
 First Reading: September 9, 1999
 Published: September 19, 1999 (HTH & WHT)
September 20, 1999 (RFD Publ.)

REMARKS: _____

Second Reading: September 22, 1999
 To Mayor: September 24, 1999
 Returned: October 8, 1999
 Effective: October 8, 1999
 Published: October 18, 1999

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	
	8	0	1	0

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			
	8	0	1	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:

Fredrick Hansen
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 9/27/99

[Signature]
 COUNCIL CHAIRMAN
[Signature]
 COUNTY CLERK

Approved/Disapproved this 8 day
 of October, 19 99

[Signature]
 MAYOR, COUNTY OF HAWAII

Bill No.: 113 (Draft 3)
 Reference: C-392.002/PC-49
 Ord. No.: 99 114

