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COUNTY OF HAWAII STATE OF HAWAII

BILL NO. .154  
(Draft 3)

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PLANNING DEPT.  
COUNTY OF HAWAII

ORDINANCE NO. 99 148

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-10) AND SINGLE FAMILY RESIDENTIAL (RS-10 AND RS-20) AT PUUKAPU, WAIMEA, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-4-1:PORTION OF 41.

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-10):

Parcel 1

Beginning at the southeast corner of this parcel of land and along the northerly side of Mamalahoa Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WEST BASE", being 29.09 feet South and 2,686.16 feet East, thence running by azimuths measured clockwise from true South:

- 1. 149° 07' 150.00 feet along the remainder of Grant 4565 to H. Akona;
- 2. 250° 21' 135.45 feet along the remainder of Grant 4565 to H. Akona;
- 3. 239° 07' 178.86 feet along the remainder of Grant 4565 to H. Akona;
- 4. 329° 07' 185.52 feet along Grant 4961 to Samuel L. Spencer;

5. 70° 21' 317.80 feet along Mamalahoa Highway to the point of beginning and containing an area of 1.146 Acres.

The district classification of the following area situated at Puukapu, Waimea, South Kohala, Hawaii, shall be Single Family Residential (RS-10):

Parcel 2

Beginning at the northwest corner of this parcel of land and along the easterly boundary of Grant 4564 to Kaanaana, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WEST BASE", being 663.49 feet North and 2,186.22 feet East, thence running by azimuths measured clockwise from true South:

1. 239° 07' 167.60 feet along the remainder of Grant 4565 to H. Akona;
2. 329° 07' 87.95 feet along same;
3. Thence along same on a curve to the right with a radius of 45.00 feet, the chord azimuth and distance being:  
239° 07' 50.00 feet;
4. 149° 07' 60.57 feet along the remainder of Grant 4565 to H. Akona;
5. 239° 07' 167.67 feet along same;
6. 329° 07' 700.00 feet along Grant 4961 to Samuel L. Spencer;
7. 59° 07' 178.86 feet along the remainder of Grant 4565 to H. Akona;
8. 70° 21' 210.45 feet along same;
9. 149° 07' 686.38 feet along Grant 4564 to Kaanaana to the point of beginning and containing an area of 6.136 Acres.

The district classification of the following area situated at Puukapu, Waimea, South Kohala, Hawaii, shall be Single Family Residential (RS-20):

Parcel 3

Beginning at the southwest corner of this parcel of land and along the easterly boundary of Grant 4564 to Kaanaana, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WEST BASE", being 663.49 feet North and 2,186.22 feet East, thence running by azimuths measured clockwise from true South:

1. 149° 07' 440.00 feet along Grant 4564 to Kaanaana;
2. 239° 07' 182.60 feet along the remainder of Grant 4565 to H. Akona;
3. 329° 07' 67.49 feet along same;
4. 239° 07' 20.00 feet along same;
5. 149° 07' 40.11 feet along same;
6. 239° 07' 182.67 feet along same;
7. 329° 07' 440.00 feet along Grant 4961 to Samuel L. Spencer;
8. 59° 07' 167.67 feet along the remainder of Grant 4565 to H. Akona;
9. 329° 07' 60.57 feet along same;
10. Thence along same on a curve to the left with a radius of 45.00 feet, the chord azimuth and distance being:  
59° 07' 50.00 feet;
11. 149° 07' 87.95 feet along the remainder of Grant 4565 to H. Akona;
12. 59° 07' 167.60 feet along same to the point of beginning and containing an area of 3.946 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, its successors or assigns, shall be responsible for complying with all conditions of the change of zone ordinance.
- 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 this 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 Neighborhood 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 and commercial lots shall access from the interior roadways. No direct vehicular access from Mamalahoa Highway shall be allowed for the proposed lots along the highway, unless approved by the Department of Public Works and is limited to right-turn in and right-turn out.

- G. A Traffic Impact Analysis Report (TIAR) shall be prepared and submitted for review and approval to the Department of Public Works and Planning Department, prior to any Plan Approval in the Neighborhood Commercial zoned area, and any required road implementation prior to issuance of a Certificate of Occupancy in the Neighborhood Commercial zoned area.
- H. Should road improvements, if required, under Condition G 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 Neighborhood Commercial zoned area.
- I. A Drainage Study shall be prepared and submitted for review and approval to the Department of Public Works, in conjunction with the 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.
- 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. A copy of the approved plan shall be submitted to the Planning Department for its files.
- K. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicants 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 the mutual self-help or other

programs of the applicants who meet the prevailing income criteria for an affordable home.

- L. Restrictive covenants in the deeds of all the proposed residential lots within the subject property shall prohibit the construction of a second dwelling unit on each lot. 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.
  
- M. 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. 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 the mutual self-help or other programs of the applicants who meet the prevailing income criteria for an affordable home with respect to roads, parks, 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 seven (7) residential units, the indicated total of fair share contribution is **\$50,674.12** 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 N. The fair share contribution shall be allocated as follows:

1. **\$3,490.85** per single-family residential unit for an indicated total of **\$24,435.95** to the County to support park and recreational improvements and facilities;
2. **\$168.40** per single-family residential unit for an indicated total of **\$1,178.80** to the County to support police facilities;
3. **\$332.61** per single-family residential unit for an indicated total of **\$2,328.27** to the County to support fire facilities;
4. **\$145.62** per single-family residential unit for an indicated total of **\$1,019.34** to the County to support solid waste facilities; and
5. **\$3,101.68** per single-family residential unit for an indicated total of **\$21,711.76** 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. The cost of providing and constructing the improvements required in Conditions E, and F shall be credited against the sum specified in Condition N (5) for road and traffic improvements. For purposes of administering Condition N, 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 that exceed the fair share requirement of this proposed development shall, at the applicant's request be credited towards any of the applicant's future 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. Should the Council adopt a Unified Impact Fees 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 Fees Ordinance.
- P. Comply with all other applicable laws, rules, regulations and requirements of



the affected government agencies for the proposed development.

- Q. 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. 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 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 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).
  5. If the applicants should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.

- S. 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:

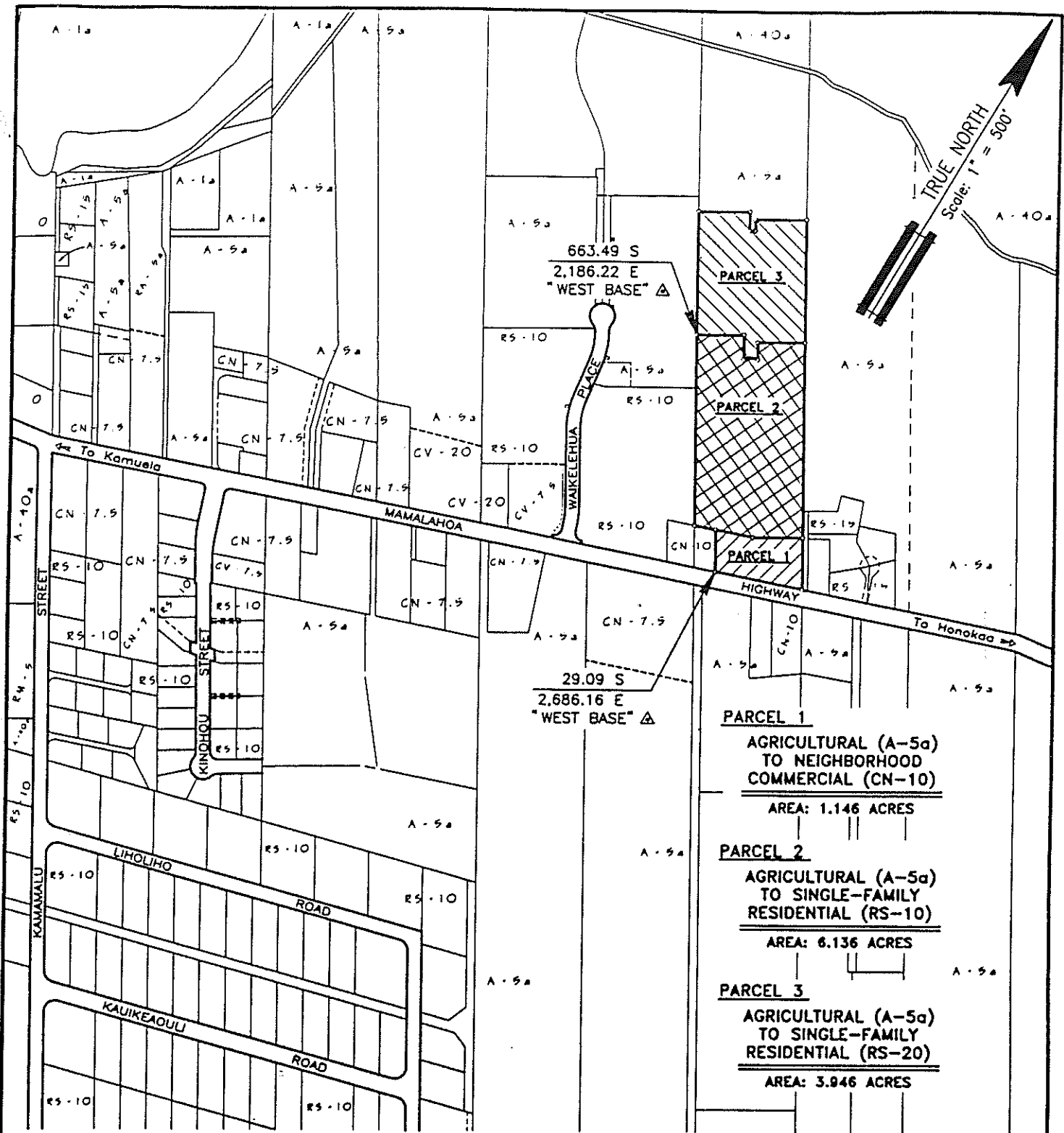
*Bryce Head Todd*  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: November 17, 1999  
Date of 1st Reading: November 17, 1999  
Date of 2nd Reading: December 1, 1999  
Effective Date: December 10, 1999

APPROVED AS TO FORM AND LEGALITY

*Patricia K. O'Hara*  
CORPORATION COUNSEL  
DATED: \_\_\_\_\_



- PARCEL 1**  
AGRICULTURAL (A-5a)  
TO NEIGHBORHOOD COMMERCIAL (CN-10)  
 AREA: 1.146 ACRES
  
- PARCEL 2**  
AGRICULTURAL (A-5a)  
TO SINGLE-FAMILY RESIDENTIAL (RS-10)  
 AREA: 6.136 ACRES
  
- PARCEL 3**  
AGRICULTURAL (A-5a)  
TO SINGLE-FAMILY RESIDENTIAL (RS-20)  
 AREA: 3.946 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-10), SINGLE FAMILY RESIDENTIAL (RS-10) AND SINGLE FAMILY RESIDENTIAL (RS-20) 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: November 17, 1999  
 First Reading: November 17, 1999  
 Published: November 26, 1999 (HTH & WHT)  
November 29, 1999 (RFD Publ.)

REMARKS: \_\_\_\_\_  
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Second Reading: December 1, 1999  
 To Mayor: December 6, 1999  
 Returned: December 10, 1999  
 Effective: December 10, 1999  
 Published: December 20, 1999

REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff				
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	1	0	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	1	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:

Patricia K. O'Neil  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date DEC 7 1999

[Signature]  
COUNCIL CHAIRMAN  
[Signature]  
COUNTY CLERK

Approved/Disapproved this 10 day  
December, 1999

Hepler Yamashiro  
MAYOR, COUNTY OF HAWAII

Bill No.: 154 (Draft 3)

Reference: C-504.003/PC-63

Ord. No.: 99 148