

COUNTY OF HAWAII STATE OF HAWAII



2000 SEP 20 PM 3 02

PLANNING DEPARTMENT  
COUNTY OF HAWAII

BILL NO. 293  
(Draft 3)

ORDINANCE NO. 00 104

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-40a) TO AGRICULTURAL (A-5a) AT LANIKEPU, WAIMEA, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-2-1:91.

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 Lanikepu, Waimea, South Kohala, Hawaii, shall be Agricultural (A-5a):

Beginning at the Northwesterly corner of this parcel of land, on the Southerly side of Kohala Mountain Road, F.A.P. No. E-11-A, the coordinates of which referred to Government Survey Triangulation Station "PUU PA" being 14,921.49 feet North and 607.66 feet West and running by azimuths measured clockwise from True South:

Along the Southerly side of Kohala Mountain Road, F.A.P. No. E-11-A, on a curve to the left with a radius of 426.20 feet, the chord azimuth and distance being:

- |    |              |             |  |
|----|--------------|-------------|--|
| 1. | 269° 03' 21" | 263.25 feet | thence;  |
| 2. | 251° 04'     | 1.60 feet   | along the Southerly side of Kohala Mountain Road, F.A.P. No. E-11-A; |
| 3. | 274° 00'     | 180.00 feet | along the Southerly side of Kohala Mountain Road, F.A.P. No. E-11-A; |

- |     |              |  |             |  |
|-----|--------------|--|-------------|--|
| 4.  | 290° 30'     |  | 221.70 feet | along the Southerly side of Kohala Mountain Road, F.A.P. No. E-11-A;   |
| 5.  | 307° 02'     |  | 274.50 feet | along the Southerly side of Kohala Mountain Road, F.A.P. No. E-11-A;<br>thence along the Southerly side of Kohala Mountain Road, F.A.P. No. E-11-A, on a curve to the left with a radius of 440.30 feet, the chord azimuth and distance being:   |
| 6.  | 296° 39' 30" |  | 158.59 feet | thence;  |
| 7.  | 286° 17'     |  | 440.30 feet | along the Southerly side of Kohala Mountain Road, F.A.P. No. E-11-A;<br>thence along the Southerly side of Kohala Mountain Road, F.A.P. No. E-11-A, on a curve to the right with a radius of 570.00 feet, the chord azimuth and distance being:  |
| 8.  | 289° 42'     |  | 67.94 feet  | thence;  |
| 9.  | 314° 11'     |  | 89.00 feet  | along Deed: State of Hawaii to Jesse E. Blackwell and Cynthia G. Blackwell, dated March 24, 1975 and recorded in Liber 10554, page 92, to the middle of Lanikepu Gulch;<br>thence along the middle of Lanikepu Gulch for the next four (4) courses, the direct azimuths and distances between points along said middle of gulch being: |
| 10. | 17° 33' 30"  |  | 73.87 feet  | along Grant 15231 to Jesse E. and Cynthia G. Blackwell (C.S.F. No. 16941);   |

11.	29° 40'	165.60 feet	along Grant 13,706 to Richard Smart;
12.	89° 10'	620.00 feet	along Grant 13,706 to Richard Smart;
13.	50° 19' 30"	240.98 feet	along Grant 15,228 to Bruce A. Tegman, et al., thence;
14.	70° 15'	571.79 feet	along Grant 13,706 to Richard Smart and Government Land (along Lots 50 and 51 of Lalamilo House Lots, Second Series);
15.	83° 10'	354.45 feet	along Government Land (along Lots 51 and 52 of Lalamilo House Lots, Second Series);
16.	190° 30'	955.00 feet	along the Land of Ouli, along R.P. 2237, L.C. Aw. 8518-B, Ap.1 to James Young Kanehoa;
17.	197° 02' 42"	213.13 feet	along the Land of Ouli, along R.P. 2237, L.C. Aw. 8518-B, Ap. 1 to James Young Kanehoa, to the point of beginning and containing an area of 27.17 Acres, 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:

1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.

2. 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.
3. 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 this ordinance.
4. Access to the subject property from Kohala Mountain Road shall meet with the requirements of the State Department of Transportation. The applicant shall be responsible for the design and construction of highway improvements as may be required by the State Department of Transportation.
5. Roadway and access to all lots within the proposed subdivision shall meet with the approval of the Department of Public Works. The applicant shall be responsible for the design and construction of highway improvements as may be required by the Department of Public Works.
6. A drainage study shall be prepared and submitted to the Department of Public Works for its review and approval, and the recommended drainage system, if required, meeting with the approval of the Department of Public Works shall be constructed in conjunction with Final Subdivision Approval. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
7. The applicant shall conform to Chapter 27, Flood Control, of the Hawaii County Code. If required, the applicant shall submit a flood study, prepared by a licensed professional civil engineer, meeting with the approval of the Department of Public Works prior to Final Subdivision Approval.

8. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawaii County Code.
9. Restrictive covenants in the deeds of all proposed lots shall prohibit the construction of a second dwelling unit on each lot; and prohibit the planting of any vegetation taller than three feet within 15 feet of the state right-of-way. 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 of Hawaii through the Planning Director, 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. The applicant will not increase the density of the subject parcel beyond the permitted five single family dwellings, which includes the prohibition of Condominium Property regimes.
10. An Archaeological Inventory Survey Report, Archaeological Data Recovery Plan and Preservation Plan shall be submitted for review and approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD). The Preservation Plan shall include an interpretation/mitigation plan, which shall include buffer zones, signage and long-range preservation measures. Proposed mitigation treatment (preservation in place or disinterment/reinterment) for the burial site within the subject property shall be approved by the State Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for this site. A copy of the approved Final Archaeological Inventory Survey Report, Final Archaeological Data Recovery Plan and Preservation Plan, including an approved

Burial Treatment Plan, shall be submitted to the Planning Director prior to Final Subdivision Approval or prior to any approvals for any land alteration permits, whichever occurs first.

11. 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.
12. Comply with all applicable laws, rules, regulations and requirements of affected agencies, including the State Department of Health. The applicant shall dispose of wastewater into septic tank systems because the subject property is located within the Critical Wastewater Disposal Area.
13. A Solid Waste Management Plan shall be prepared and submitted for approval to the Department of Public Works prior to submitting plans for subdivision approval. Approved recommendations and mitigation measures shall be implemented in a manner meeting with the approval of the Department of Public Works.
14. 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 Fees Ordinance.
15. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following

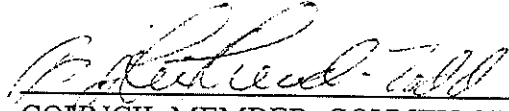
circumstances:

- A. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, its successors or assigns, and that are not the result of their fault or negligence.
  - B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
  - C. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
  - D. 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).
  - E. If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.
16. 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

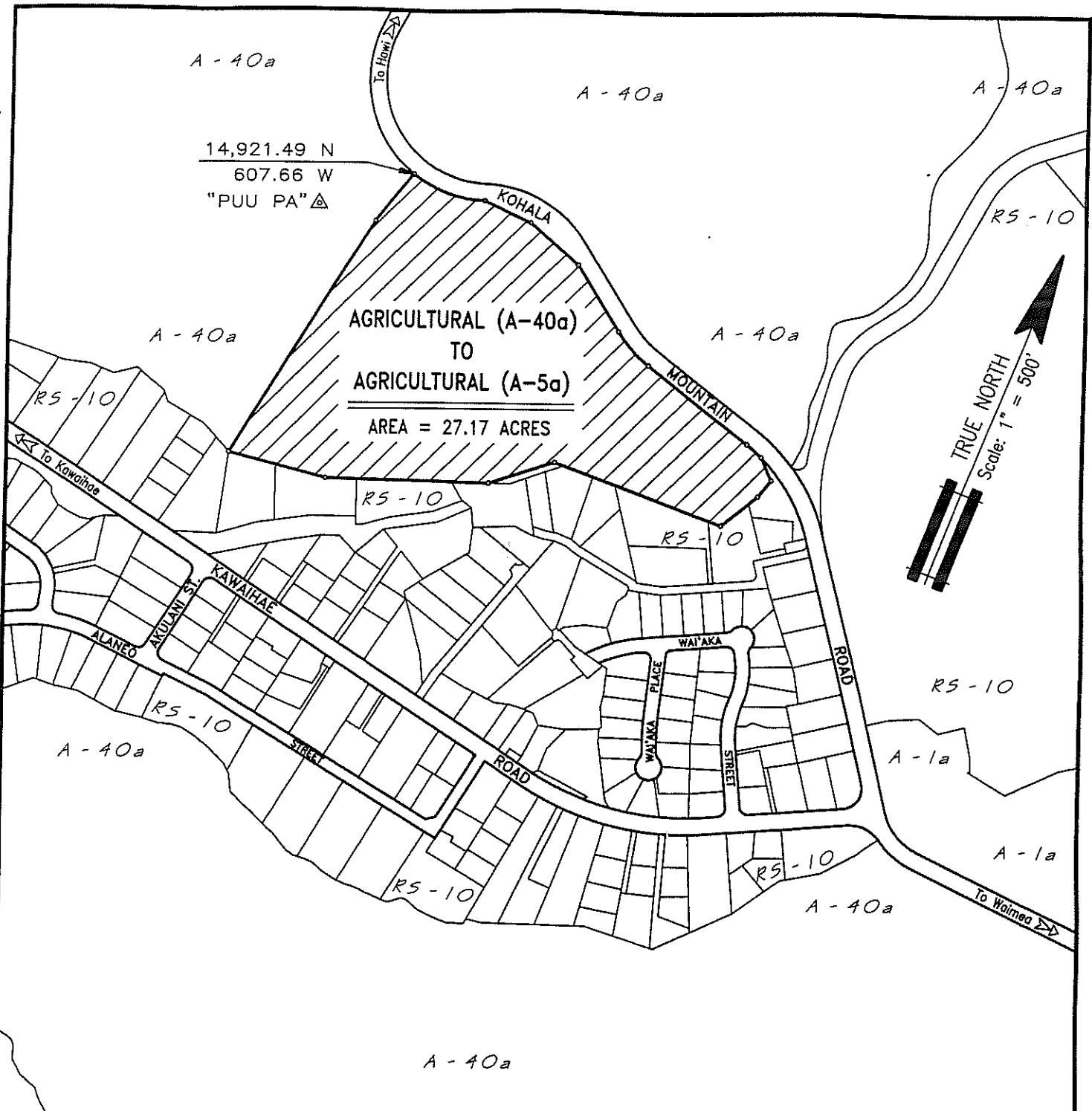
Date of Introduction: August 23, 2000  
Date of 1st Reading: August 23, 2000  
Date of 2nd Reading: September 7, 2000  
Effective Date: September 18, 2000

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CORPORATION COUNSEL

DATED: \_\_\_\_\_





# 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-40a) TO AGRICULTURAL (A-5a) AT LANIKEPU, WAIMEA, SOUTH KOHALA, HAWAII.

PREPARED BY: PLANNING DEPARTMENT  
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(Draft 2)

200 09 18 13 2 00

Introduced By: Bobby Jean Leithead-Todd  
 Date Introduced: August 23, 2000  
 First Reading: August 23, 2000  
 Published: N/a

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

Second Reading: September 7, 2000  
 To Mayor: September 11, 2000  
 Returned: September 18, 2000  
 Effective: September 18, 2000  
 Published: October 2, 2000

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			
	7	1	1	0

(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	
	7	1	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:

  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date 9/13/00

  
 COUNCIL CHAIRMAN

  
 COUNTY CLERK

Approved/Disapproved this 18 day  
 of September, 2000

  
 MAYOR, COUNTY OF HAWAII

Bill No.: 293 (Draft 3)  
 Reference: C-867.001/PC-110  
 Ord. No.: 00 104