

COUNTY OF HAWAII STATE OF HAWAII

2002 SEP 4 PM 2 34

PLANNING DEPARTMENT  
COUNTY OF HAWAII

BILL NO. 236  
(Draft 2)

ORDINANCE NO. 02 98

AN ORDINANCE AMENDING ORDINANCE NO. 94 56, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL (A-5a) TO NEIGHBORHOOD COMMERCIAL (CN-10) ZONED DISTRICT AT PUUKAPU, WAIMEA, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-4-24:22.

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

SECTION 1. Ordinance No. 94 56 is amended as follows:

“SECTION 1. Section [25-95-E] 25-8-11, Article [3] 8, Chapter 25 (Zoning Code) of the Hawai‘i 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, Hawai‘i, shall be Neighborhood Commercial (CN-10):

[Beginning at a pipe at the North East corner of this parcel of land, at the North West corner of Lot 15 of Puukapu Homesteads – 2nd Series and on the Southerly side of Mamalahoa Highway, the coordinates of said point of beginning referred to Government Triangulation Station “WEST BASE” being 25.31 feet North and 3,016.47 feet East and running by azimuths measured clockwise from true South:

- 1. 329° 05' 30" 238.18 feet along Lot 15 of Puukapu Homesteads to Lot 1-A of Land Court Application No. 1252 and a (found) pipe;
- 2. 53° 12' 30" 105.86 feet along Lot 1-A of Ld. Ct. App. No. 1252 to a (found) pipe;
- 3. 149° 07' 30" 269.92 feet along the remainder of Land Patent Grant No. 4268 to Z. Paakiki to the Southerly side of Mamalahoa Highway and a (found) railroad spike;

4. 250° 19' 30" 107.20 feet along the Southerly side of Mamalahoa Highway to the point of beginning and containing 26,732 square feet, more or less.]

Beginning at the Northwesterly corner of this parcel of land, being also the Northeasterly corner of portion of Grant 4268 to Paakiki (being known as parcel 23 of Tax Map Key: 6-4-24) and being a point on the Southerly side of Mamalahoa Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WEST BASE" being 8.77 feet South and 2.914.65 feet East and running by azimuths measured clockwise from True South:

1. 250° 21' 106.50 feet along the Southerly side of Mamalahoa Highway to a point;

2. 329° 07' 239.00 feet along Lot 15 of Puukapu Homesteads, 1st Series and along Grant 5992 to George Bell to a point;

3. 53° 30' 104.96 feet along Lot 1-A as shown on Map 4 of Land Court Application 1252 to a point;

4. 149° 07' 270.01 feet along the remainders of Lot 13 of the Puukapu Homesteads, 1st Series and Grant 4268 to Z. Paakiki (being known as parcel 23 of Tax Map Key: 6-4-24) to the point of beginning and containing an area of 26,585 Square Feet.

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 applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval;
- (B) Final Plan Approval, pursuant to Section [25-242] 25-2-71 of the Zoning Code, shall be secured from the Planning Director for any new development on the

property including the remodeling of existing improvements. Plans shall indicate existing and proposed structures, parking, driveway circulation, landscaping, and a 10-foot wide road widening strip along the property's Mamalahoa Highway frontage. Structures shall be sited and landscaping provided for the purpose of mitigating noise and visual impacts to adjacent properties and from Mamalahoa Highway;

[(C)] construction of the new proposed development shall be completed within five years from the effective date of this Ordinance;]

[(D)] (C) the applicant shall provide street lighting and curb, gutter and sidewalk improvements along the Mamalahoa Highway frontage meeting the approval of the Department of Public Works and shall dedicate the road widening strip and improvements to the County prior to issuance of a certificate of occupancy for any new development on this property[;], that would require the demolition of the old Fukushima Store;

[(E)] (D) drainage system improvements for any new development, if required, shall be constructed in a manner meeting with the approval of the Department of Public Works. In addition, as portions of the subject property are within the Flood Zone "AE" with floodways, all new construction on the subject parcel shall meet with the requirements of the Department of Public Works;

[(F)] (E) water demand calculations shall be submitted to the Department of Water Supply for review and approval, prior to the issuance of Final Plan Approval for the new proposed development;

[(G)] (F) the applicant shall utilize design and landscaping guidelines of the Waimea Design Plan and recommendations from the Waimea Community Association for

any new development;

[(H)] (G) the applicant shall comply with all other applicable laws, rules, regulations and requirements of the affected agencies, including those of the Department of Health, Fire Department, Public Works and Department of Water Supply;

[(I)] (H) should any unidentified sites or remains, such as lava tubes, artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall be encountered, work in the affected area shall cease and the Planning Department immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken;

[(J)] (I) 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;

[(K)] (J) upon securing final plan approval for the new development, a status report shall be submitted to the Planning Director. Subsequently, an annual report shall be submitted prior to the anniversary date of the effective date of the change of zone and shall address 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 and the Planning Director acknowledges that further reports are not required; and

[(L)] (K) an 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 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 the 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); and
- 5) 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.

(L) Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation.”

SECTION 2. Material to be deleted is bracketed. New material is underscored.

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.

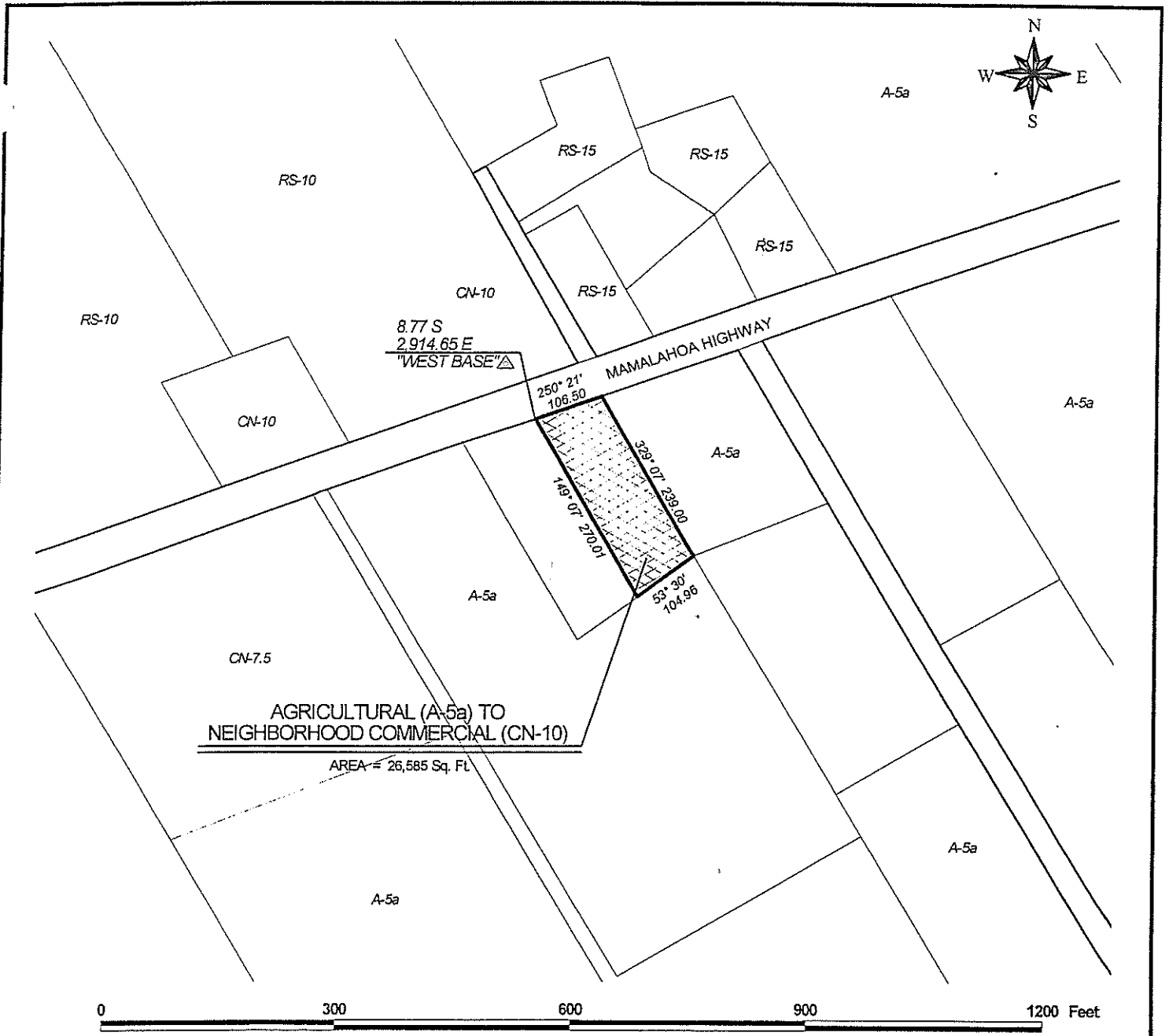
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: July 31, 2002  
Date of 1st Reading: July 31, 2002  
Date of 2nd Reading: August 14, 2002  
Effective Date: August 28, 2002

REFERENCE: Comm: 677.1



# AMENDMENT TO THE ZONING CODE

AN ORDINANCE AMENDING ORDINANCE NO. 94 56, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL (A-5a) TO NEIGHBORHOOD COMMERCIAL (CN-10) ZONED DISTRICT AT PUUKAPU, WAIMEA, SOUTH KOHALA, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd  
 Date Introduced: July 31, 2002  
 First Reading: July 31, 2002  
 Published: N/A

REMARKS: \_\_\_\_\_  
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Second Reading: August 14, 2002  
 To Mayor: August 23, 2002  
 Returned: August 28, 2002  
 Effective: August 28, 2002  
 Published: September 11, 2002

REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Safarik			X	
Tyler	X			
Yagong			X	
	6	0	3	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Safarik	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:

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

Date 8/16/02

[Signature]  
 COUNCIL CHAIRMAN  
[Signature]  
 COUNTY CLERK

Bill No.: 236 (Draft 2)  
 Reference: C-677.1/PC-94  
 Ord No.: 02 98

Approved/Disapproved this 28<sup>th</sup> day  
 of August, 20 02

[Signature]  
 MAYOR, COUNTY OF HAWAII