

COUNTY OF HAWAII STATE OF HAWAII



2002 SEP 4 PM 2 34

PLANNING DEPARTMENT COUNTY OF HAWAII

BILL NO. 237 (Draft 4)

ORDINANCE NO. 02 99

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) AT PUUKAPU, WAIMEA, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-4-24:23.

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):

Beginning at the Northeasterly corner of this parcel of land, being also the Northwesterly corner of portion of Grant 4268 to Paakiki (being known as parcel 22 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. 329° 07' 270.01 feet along the remainders of Lot 13 of the Puukapu Homesteads, 1st Series and Grant 4268 to Z. Paakiki to a point;
2. 53° 30' 79.90 feet along Lot 1-A as shown on Map 4 of Land Court Application 1252 to a point;
3. 149° 45' 293.00 feet along Lot 1-A as shown on Map 4 of Land Court Application 1252 to a point;
4. 250° 21' 77.77 feet along the Southerly side of Mamalahoa Highway to the point of beginning and containing an area of 21,934 Square Feet.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code, the County Council finds the following conditions are:

(1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

(2) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:

(A) Protection of the public from the potentially deleterious effects of the proposed use, or

(B) Fulfillment of the need for public service demands created by the proposed use.

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

B. Final Plan Approval for the proposed development shall be secured from the Planning Director in accordance with Chapter 25-2-70 of the Zoning Code. Plans shall identify existing and proposed structures, a ten-foot wide road widening strip along the property's Mamalahoa Highway frontage, driveway circulation, paved driveway access, and parking stalls associated with the proposed use. Design concepts from the Waimea Design Plan and comments from the Waimea Community Association shall be considered in the development of plans to be submitted for Plan Approval review. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).

- C. Construction of the new proposed development shall be completed within five (5) years from the effective date of this Ordinance.
- D. At the option of the applicant, the applicant shall either prepare a Traffic Impact Analysis Report for review and approval by the Department of Public Works prior to submittal of plans for Final Plan review or provide a left-turn storage lane within the Mamalahoa Highway. All improvements recommended in the approved Traffic Impact Analysis Report shall be provided by the applicant prior to the issuance of a Certificate of Occupancy for the proposed commercial development.
- E. When required by the Planning Director, in consultation with the Department of Public Works, 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 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.
- F. Prior to the issuance of a certificate of occupancy for any commercial structure, parking along the frontage of Mamalahoa Highway of the adjoining parcel (TMK: 6-4-24:22) shall be eliminated.
- G. Prior to the issuance of a certificate of occupancy, a drainage and/or flood study shall be prepared, if required, and any improvements required by the Department of Public Works shall be constructed meeting their approval.
- H. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval. A copy of the approved plan shall be submitted to the Planning Department prior to the issuance of Final

Plan Approval.

- I. 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.
- J. 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.
- K. Should any unidentified sites or remains, such as lava tubes, artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls 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.
- L. Should an improvement district or similar arrangement be initiated in the future for curb, gutter, sidewalk, drainage, sewer, and related improvements to Mamalahoa Highway, the property owner(s) shall participate automatically in such an arrangement.
- M. Should the Hawai'i County 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.
- N. 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).
  5. If the applicants require an additional extension of time, the Planning Director shall submit the applicants' request to the County Council for appropriate action.
- O. 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.

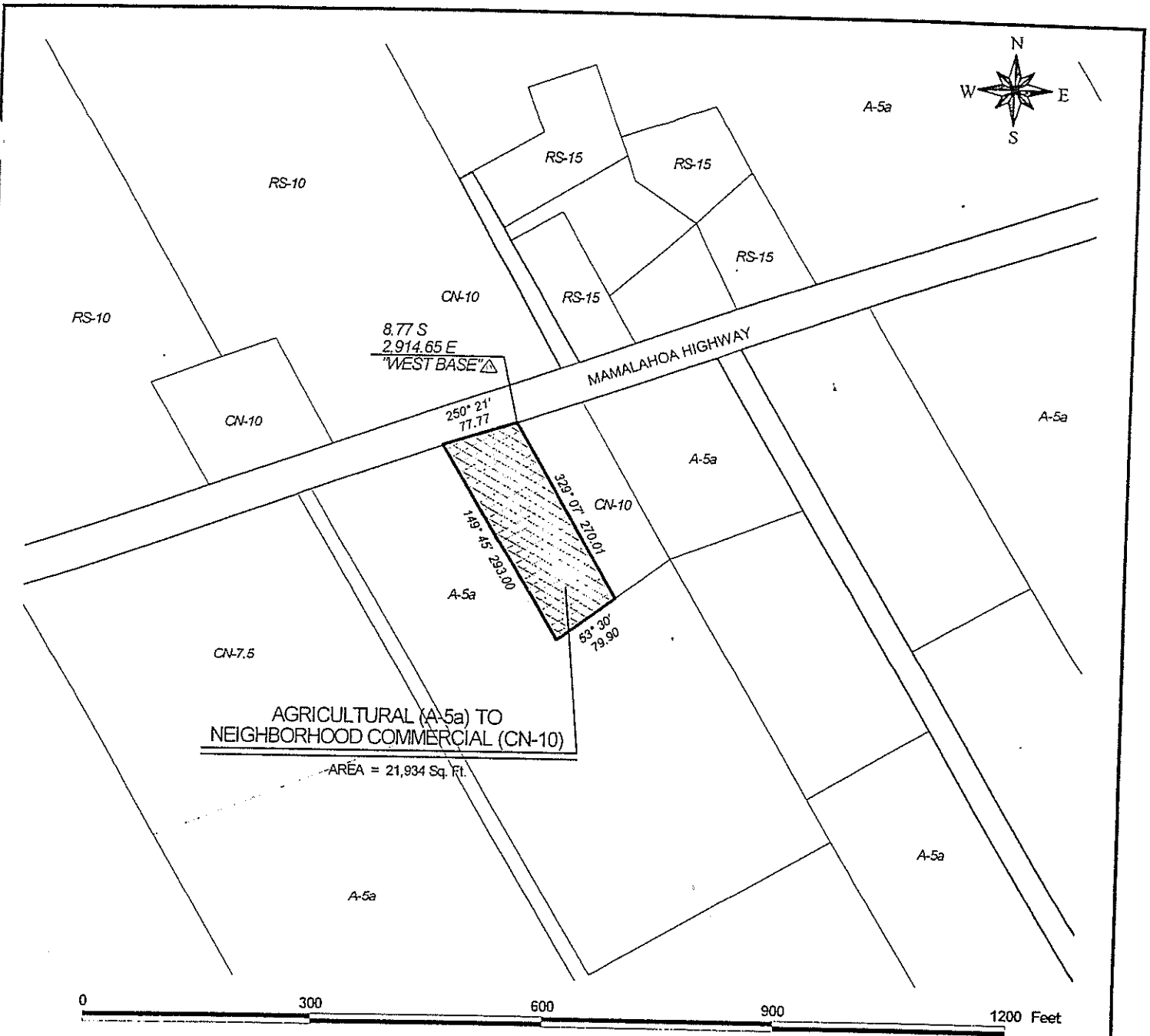
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

                    Hilo                    , 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.           678.3



# 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) AT PUUKAPU, WAIMEA, SOUTH KOHALA, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK: 6-4-024:023

EXHIBIT "A"

MARCH 19, 2002

(Toisan Assoc.-1053)

OFFICE OF THE COUNTY CLERK  
 County of Hawaii  
Hilo, Hawaii

(DRAFT 3)

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

REMARKS:

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	
	7	0	2	0

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

REMARKS:

(DRAFT 4)

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 R. O'Connell  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date 9/20/02

[Signature]  
 COUNCIL CHAIRMAN  
[Signature]  
 COUNTY CLERK

Bill No.: 237 (Draft 4)  
 Reference: C-678.3/PC-95  
 Ord No.: 02 99

Approved/Disapproved this 28<sup>th</sup> day  
 of August, 2002

[Signature]  
 MAYOR, COUNTY OF HAWAII