

COUNTY OF HAWAII STATE OF HAWAII

2002 SEP 18 PM 2 50

BILL NO. 246

PLANNING DEPARTMENT COUNTY OF HAWAII

ORDINANCE NO. 02 107

AN ORDINANCE REPEALING ORDINANCE NO. 93 65 WHICH AMENDED SECTION 25-95E, CURRENTLY SECTION 25-8-11, THE LALAMILO-PUUKAPU ZONE MAP, ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, 1983 (1995 EDITION), AND CHANGED THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO NEIGHBORHOOD COMMERCIAL (CN-7.5) AT PUUKAPU, WAIMEA, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-4-24:PORTION OF 27. UPON THE REPEAL OF ORDINANCE NO. 93 65, THE DISTRICT CLASSIFICATION OF THE SUBJECT AREA SHALL BE AGRICULTURAL (A-5a).

SECTION 1. Ordinance No. 93 65, which amended Section 25-95E, currently Section 25-8-11, the Lalamilo-Puukapu Zone Map, Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code, as amended, is hereby repealed in its entirety.

[SECTION 1. Section 25-95E, Article 3, 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-7.5):

Beginning at the north corner of this parcel of land, being also the west corner of Land Court Application 1252 and on the southerly side of Mamalahoa Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "West Base" being 106.74 feet South and 2,646.08 feet East, thence running by azimuths measured clockwise from True South:

- 1. 329° 07' 350.60 feet along Land Court Application 1252;
2. 70° 21' 392.80 feet along the remainder of Grant 4598 to Estate of David Koki (remainder of Lot 11-A);
3. 149° 07' 350.60 feet along Grant 4566 to C. Luiki;

9/18/02

4. 250° 21' 392.80 feet along Mamalahoa Highway to the point of beginning and containing an area of 3.101 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 applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval; (B) if required, the applicant shall submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Policy" within ninety (90) days from the effective date of this ordinance; (C) final Subdivision Approval of the proposed commercial subdivision shall be secured within three (3) years from the effective date of this ordinance. Plans shall indicate the dedication of a 10-foot road widening strip along the subject property's entire Mamalahoa Highway frontage; (D) Final Plan Approval for the proposed development shall be secured within one year from the date of receipt of tentative Subdivision Approval. The plan shall indicate existing and proposed structures, parking, driveway circulation, landscaping, a 10-foot road widening strip along the property's Mamalahoa Highway frontage to be dedicated to the County, and all off-site improvements. Structures shall be sited and landscaping provided for the purpose of mitigating noise and visual impacts to adjacent properties and from Mamalahoa Highway; (E) Construction of the proposed development shall be completed within three years from the date of receipt of Final Plan Approval; (F) the applicant shall provide the following roadway/intersection improvements in a manner meeting with the approval of the Department of Public Works, prior to the issuance of Final Subdivision Approval: a) a left-turn pocket on Mamalahoa Highway for westbound traffic, b) separate left-turn and right-turn lanes for traffic exiting the project site, and c) provide curbs, gutters and sidewalk improvements along the project site's Mamalahoa Highway frontage and project's interior roadway system. These improvements shall be constructed and dedicated to the County when and as required by the Department of Public Works; (G) the applicant shall provide street lights and signalization of the project site's Mamalahoa Highway intersection, meeting with the approval of the Department of Public Works. In

the event that the applicant conveys ownership, leasehold, or controlling development interest in the land prior to receiving its initial subdivision approval for the proposed project, an in-lieu monetary fee for the cost of constructing these improvements, to be determined by the Department of Public Works shall be due and payable on or before the issuance of a building permit for any commercial structure; (H) drainage system improvements, if required, shall be constructed in a manner meeting with the approval of the Department of Public Works, prior to the issuance of Final Subdivision Approval; (I) water demand calculations for the individual commercial uses proposed within the project site shall be submitted to the Department of Water Supply for review and approval, prior to the issuance of Final Plan Approval for these commercial uses; (J) the applicant shall utilize design and landscaping guidelines of the Waimea Design Plan; (K) the applicant shall comply with all other applicable laws, rules, regulations and requirements of the affected agencies, including those of the Department of Health and the Fire Department; (L) should any unidentified sites or remains, such as lava tubes, artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walks 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; (M) 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; (N) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the change of zone. The report 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, (O) 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 the performance (i.e. a condition to be performed within one year may be extended for up to one addition 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. 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. The subject area shall be reclassified back to its original Agricultural (A-5a) zoned district as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 3. Material to be repealed is bracketed.

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

INTRODUCED BY:

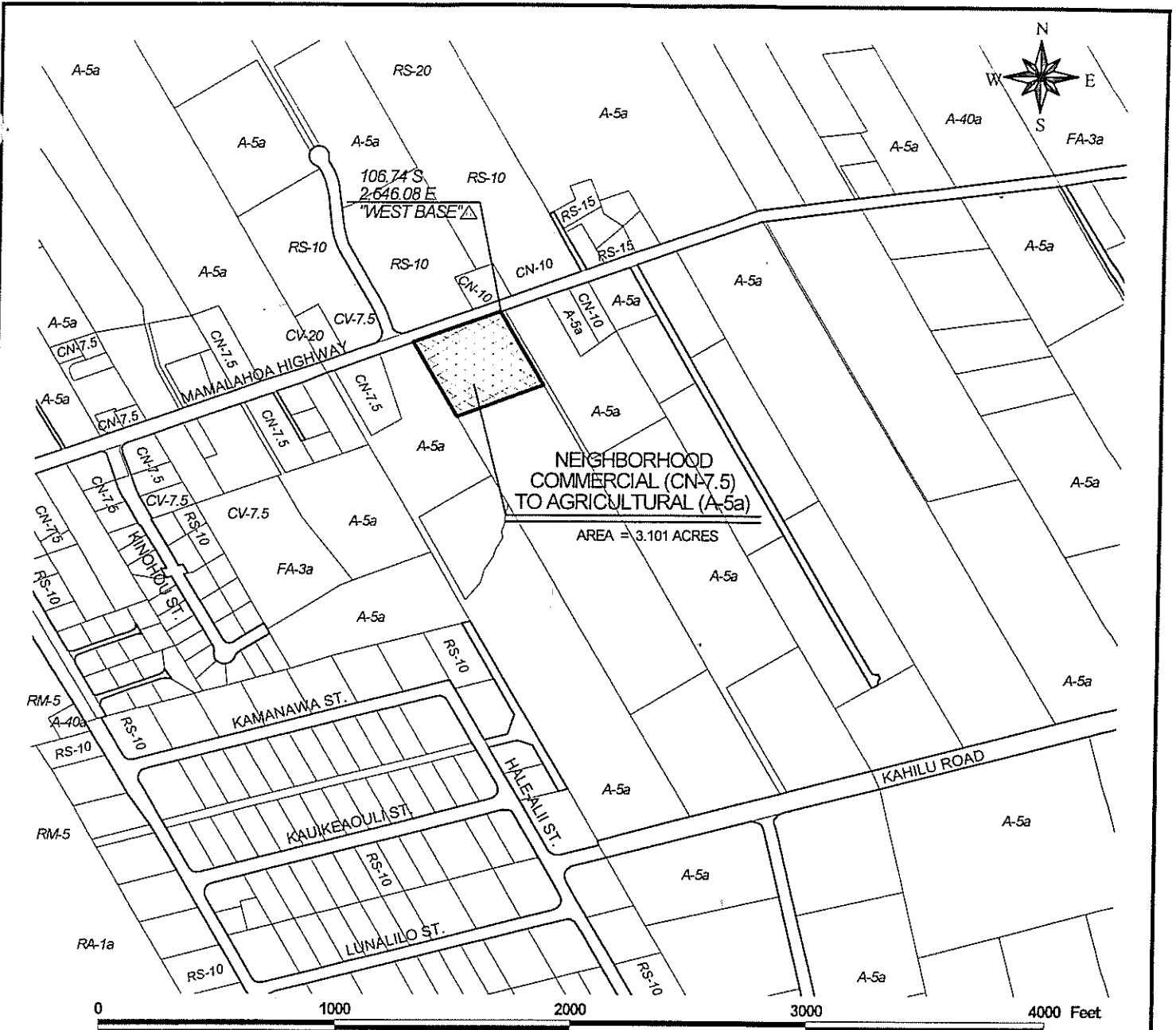


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo _____, Hawaii

Date of Introduction: August 14, 2002
Date of 1st Reading: August 14, 2002
Date of 2nd Reading: August 28, 2002
Effective Date: September 12, 2002

REFERENCE: Comm. 692



AMENDMENT TO THE ZONING CODE

AN ORDINANCE REPEALING ORDINANCE NO. 93 65 WHICH AMENDED SECTION 25-95E, CURRENTLY SECTION 25-8-11, THE LALAMILO-PUUKAPU ZONE MAP, ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, 1983 (1995 EDITION), AND CHANGED THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO NEIGHBORHOOD COMMERCIAL (CN-7.5) AT PUUKAPU, WAIMEA, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-4-24:PORTION OF 27. UPON THE REPEAL OF ORDINANCE NO. 93 65, THE DISTRICT CLASSIFICATION OF THE SUBJECT AREA SHALL BE AGRICULTURAL (A-5a).

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

Introduced By: Bobby Jean Leithead-Todd
Date Introduced: August 14, 2002
First Reading: August 14, 2002
Published: N/A

REMARKS: _____

Second Reading: August 28, 2002
To Mayor: September 4, 2002
Returned: September 12, 2002
Effective: September 12, 2002
Published: September 26, 2002

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			
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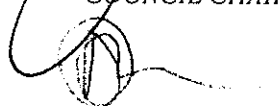
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong	X			
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I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

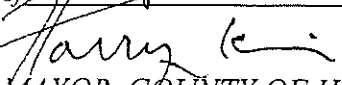
APPROVED AS TO
FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date September 10, 2002


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 246
Reference: C-692/PC-99
Ord No.: 02 107

Approved/Disapproved this 12th day
of September, 2002

MAYOR, COUNTY OF HAWAII