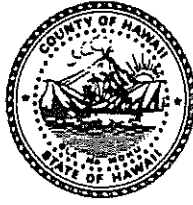


Gilbert
1/9/06 GB

COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 162
Draft 3

ORDINANCE NO. 05 169

AN ORDINANCE AMENDING SECTION 25-8-11 (LALAMILO-PUUKAPU ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-40a) TO AGRICULTURAL (A-5a) AT WAIMEA, SOUTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY 6-4-17:40.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-11, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Waimea, South Kohala, Hawai'i, shall be Agricultural (A-5a):

Beginning at the southeast corner of this parcel of land, being the south corner of Lot 1, of the Hoonani Subdivision, Increment "A" (File Plan 1380) and on the northerly side of Mamalahoa Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "EAST BASE" being 6,182.00 feet North and 202.20 feet West, thence running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|----------|---|
| 1. | 76° 58' | 600.06 | feet along Mamalahoa Highway; |
| 2. | 166° 10' | 3,181.12 | feet along a portion of Lot 99, Grant 6857 to J. Chesebro; |
| 3. | 256° 10' | 600.00 | feet along Puukapu Pasture Lots – Section 2; |
| 4. | 346° 10' | 3,189.50 | feet along Hoonani Subdivision, Increment "B" (File Plan 1384) and Hoonani Subdivision, Increment "A" (File Plan 1380) to the point of beginning and containing an area of 43.88 Acres, more or less. |

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 1983 (2005 Edition), 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 applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
 - B. The applicant shall submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of this change of zone.
 - C. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.
 - D. All driveway connections to Mamalahoa Highway shall conform to Chapter 22, Streets, of the Hawaii County Code. No more than two lots can front Mamalahoa Highway and take direct access from the highway. Such access shall be from a single access point meeting with the approval of the Department of Public Works, except that the driveway to the existing home may remain as a second access until the home is no longer used.

- E. The applicant(s) shall provide a 15-foot wide future road widening setback along the entire property frontage of Mamalahoa Highway.
- F. The applicant(s) shall provide a 50-foot wide roadway easement for the possible extension of Hauhoa Street to the western boundary of the property, meeting with the approval of the Department of Public Works.
- G. Restrictive covenants in the deeds of all the proposed lots shall give notice that the terms of the zoning ordinance prohibit the construction of a second dwelling unit and condominium property regimes on each lot. This restriction may be removed by amendment of this ordinance by the County Council. The owners of the property may also impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State of Hawaii 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 recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- H. Prior to submittal of a subdivision application for the subject property, the applicant shall, upon consultation with surrounding property owners and other concerned public agencies, prepare and submit a drainage plan relating to the proposed subdivision for review and approval of the Department of Public Works. The approved drainage plan shall reflect all development generated runoff to be retained or disposed of on-site and shall not alter any existing water courses that may be entering or exiting the subject property, or be directed toward any adjacent properties. Furthermore, the approved drainage plan shall be implemented prior to or in conjunction with the issuance of final subdivision approval.

- I. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- J. 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 – State Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- K. Comply with all applicable County, State and Federal Laws, rules, regulations and requirements.
- L. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval have been satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.
- M. 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 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 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 applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the County Council for appropriate action.

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the 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:

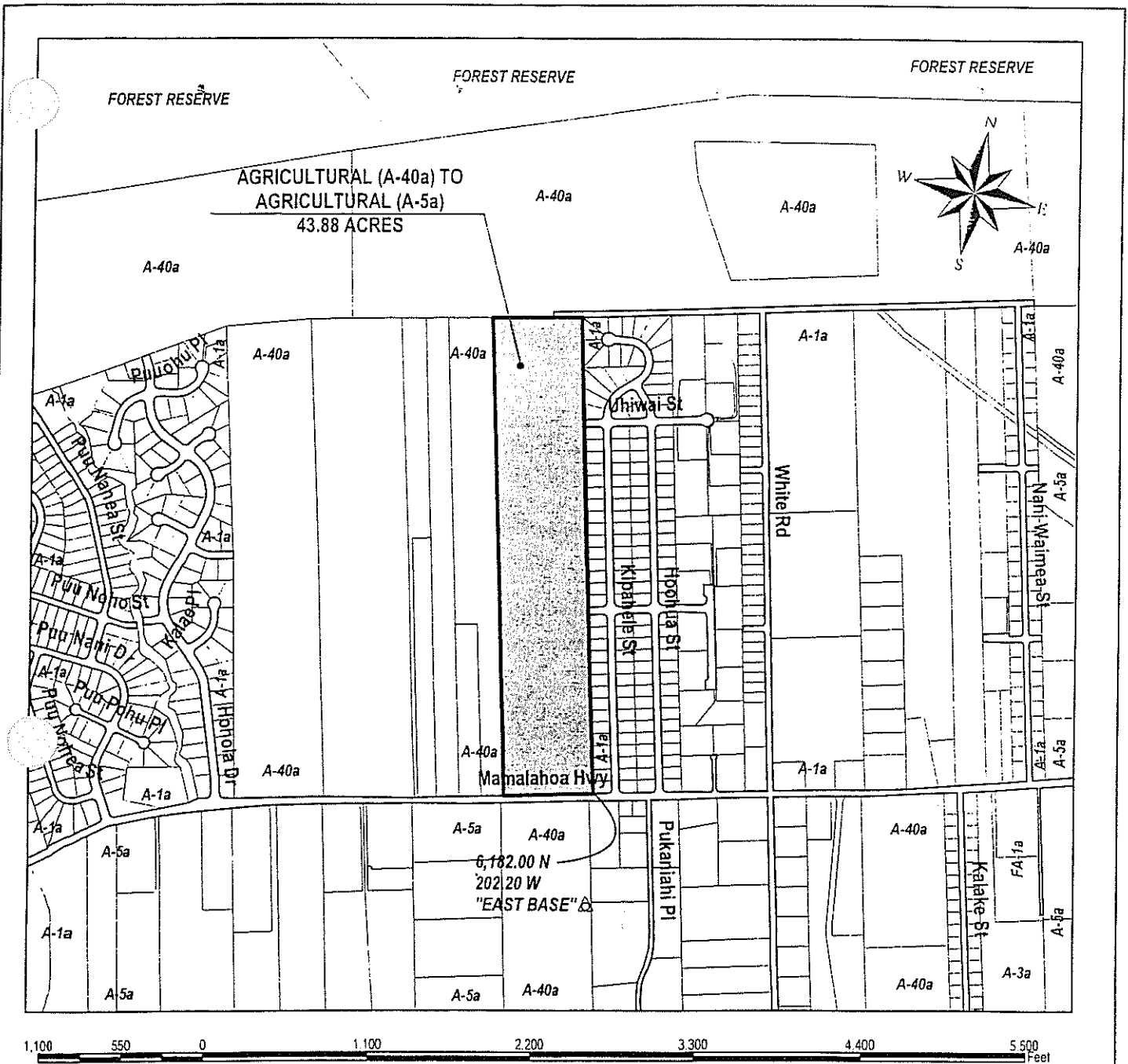


 COUNCIL MEMBER, COUNTY OF HAWAI'I

 Hilo, Hawai'i

Date of Introduction: November 22, 2005
 Date of 1st Reading: November 22, 2005
 Date of 2nd Reading: December 21, 2005
 Effective Date: December 27, 2005

~~12/21/05~~ Comp. 493.5



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
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
 FROM AGRICULTURAL (A-40a)
 TO AGRICULTURAL (A-5a)
 AT WAIMEA, SOUTH KOHALA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Hilo, Hawai'i

Introduced By: James Y. Arakaki
Date Introduced: November 22, 2005
First Reading: November 22, 2005
Published: N/A

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann		X		
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson		X		
Pilago		X		
Safarik	X			
	6	3	0	0

REMARKS: _____
December 7, 2005 - Amended to
Draft 3 and postponed (pending
Public Hearing to be held on
December 19, 2005)

Second Reading: December 21, 2005
To Mayor: December 21, 2005
Returned: December 28, 2005
Effective: December 27, 2005
Published: January 5, 2006

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann		X		
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson		X		
Pilago		X		
Safarik	X			
	6	3	0	0

REMARKS: _____

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

Amy D. Self
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date _____

[Signature]
COUNCIL CHAIRMAN

Constance R. Keim
COUNTY CLERK

Bill No.: 162 (Draft 3)

Reference: C-493.5/PC-41

Ord No.: 05 169

Approved/Disapproved this 27th day
of December, 2005

Harry Keim
MAYOR, COUNTY OF HAWAII

