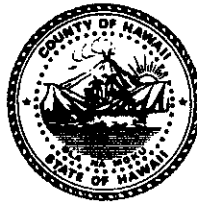


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 07 181 BILL NO. 184

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 40-ACRES (A-40a) AND LIMITED INDUSTRIAL – 20,000 SQUARE FEET (ML-20) TO VILLAGE COMMERCIAL – 7,500 SQUARE FEET (CV-7.5) AT WAIKOLOA, WAIMEA, HAWAI'I, COVERED BY TAX MAP KEY 6-7-002:020 AND PORTION 051.

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 Waikoloa, Waimea, Hawai'i, shall be Village Commercial – 7,500 square feet (CV-7.5):

PARCEL 1

Beginning at the West corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WEST BASE" being 2,011.55 feet North and 3,224.62 feet West, thence running by azimuths measured clockwise from True South:

- | | | | |
|----|-------------|--------|---|
| 1. | 220° 40' | 229.70 | feet along the remainder of R.P. 5671, L.C. Aw. 8521-B, Apana 1 to G.D. Hueu; |
| 2. | 248° 28' | 162.46 | feet along R.P. 5671, L.C. Aw. 8521-B, Apana 1 to G.D. Hueu; |
| 3. | 25° 59' 30" | 80.49 | feet along the remainder of L.C. Aw. 4037 to A.D. Allen; |

4.	25° 48'	305.78	feet along the remainder of L.C. Aw. 4037 to A.D. Allen and along Deed: Hawaiian Homes Commission to Richard Smart dated July 7, 1956 and recorded in Liber 3138, Page 426;
5.	130° 40'	174.62	feet along the remainder of R.P. 5671, L.C. Aw. 8521-B, Apana 1 to G.D. Hucu to the point of beginning and containing an Area of 0.947 Acre.

PARCEL 2

Beginning at the Southwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WEST BASE" being 1,914.06 feet North and 3,084.29 feet West, thence running by azimuths measured clockwise from True South:

1.	205° 48'	287.67	feet along R.P. 5671, L.C. Aw. 8521-B, Apana 1 to G.D. Hucu and the remainder of L.C. Aw. 4037 to A.D. Allen;
2.	205° 59' 30"	80.49	feet along the remainder of L.C. Aw. 4037 to A.D. Allen;
3.	248° 28'	11.54	feet along Deed: Hawaiian Homes Commission to Richard Smart dated July 7, 1956 and recorded in Liber 3138, Page 426;
4.	250° 30'	280.25	feet along Deed: Hawaiian Homes Commission to Richard Smart dated July 7, 1956 and recorded in Liber 3138, Page 426;
5.	339° 00'	427.26	feet along Deed: Hawaiian Homes Commission to Richard Smart dated July 7, 1956 and recorded in Liber 3138, Page 426;

6.	79° 30'	164.40	feet along Deed: Hawaiian Homes Commission to Richard Smart dated July 7, 1956 and recorded in Liber 3138, Page 426;
7.	151° 48'	113.00	feet along the remainder of L.C. Aw. 4037 to A.D. Allen;
8.	67° 50'	54.18	feet along the remainder of L.C. Aw. 4037 to A.D. Allen;
9.	79° 30'	195.05	feet along the remainder of L.C. Aw. 4037 to A.D. Allen;
10.	151° 48'	78.50	feet along Deed: Hawaiian Homes Commission to Richard Smart dated July 7, 1956 and recorded in Liber 3138, Page 426;
11.	39° 51' 30"	147.30	feet along the remainder of Deed: Hawaiian Homes Commission to Richard Smart dated July 7, 1956 and recorded in Liber 3138, Page 426 to the point of beginning and containing an Area of 3.137 Acres.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made 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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Prior to the issuance of a water commitment by the Department of Water supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within 180 days from the effective date of this ordinance.
- C. Construction of the proposed development shall be completed within five (5) years from the effective date this ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. 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) and Chapter 25 (Zoning Code), Hawaii County Code.
- D. Access to the property from Pukalani Road shall meet with the approval of the Department of Public Works.
- E. The applicant shall provide the necessary street signs and markings on Pukalani Road to provide a dedicated left turn lane opposing the existing turn lane markings to the shopping center, meeting with the approval of the Department of Public Works, Traffic Division. The left turn lane signs and markings shall be installed prior to the issuance of a Certificate of Occupancy.

- F. Wastewater shall be disposed into the Waimea Wastewater Company sewer system.
- G. Perpetual access to Koki Cemetery (TMK: 6-7-2: 10) shall be provided through the project site.
- H. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
- I. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- J. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawaii County Code.
- K. 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 mitigation measures have been taken.
- L. If the applicant, successors or assigns develops residential units on the property, the applicant shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall become due and payable prior to receipt of Final Plan Approval. The fair share contribution for each lot shall be based on the actual number of residential units

developed. The fair share contribution in the form of cash, land, facilities or any combination thereof shall be determined by the County Council. The fair share contribution may be adjusted annually beginning three years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a maximum combined value of **\$6,653.40** per multiple family residential unit (**\$10,368.57** per single family residential unit). The total amount shall be determined with the actual number of units according to the calculation and payment provisions set forth in this condition. The fair share contribution per multiple family residential unit (single family residential unit) shall be allocated as follows:

1. **\$3,281.93** per multiple family residential unit (**\$4,999.91** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$103.73** per multiple family residential unit (**\$241.20** per single family residential unit) to the County to support police facilities;
3. **\$319.07** per multiple family residential unit (**\$476.39** per single family residential unit) to the County to support fire facilities;
4. **\$142.21** per multiple family residential unit (**\$208.57** per single family residential unit) to the County to support solid waste facilities; and
5. **\$2,806.46** per multiple family residential unit (**\$4,442.50** per single family residential unit) to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicant may contribute land and/or construct improvements/facilities related to parks and recreation, fire,

police, solid waste disposal facilities and roads within the region impacted by the proposed development, subject to the review and recommendation of the Planning Director, upon consultation with the appropriate agencies and approval of the County Council.

- M. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, if required, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawaii County Code relating to Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to Final Plan Approval.
- N. 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.
- O. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- P. 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 Director shall submit the applicant's request to the Planning Commission and 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 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.

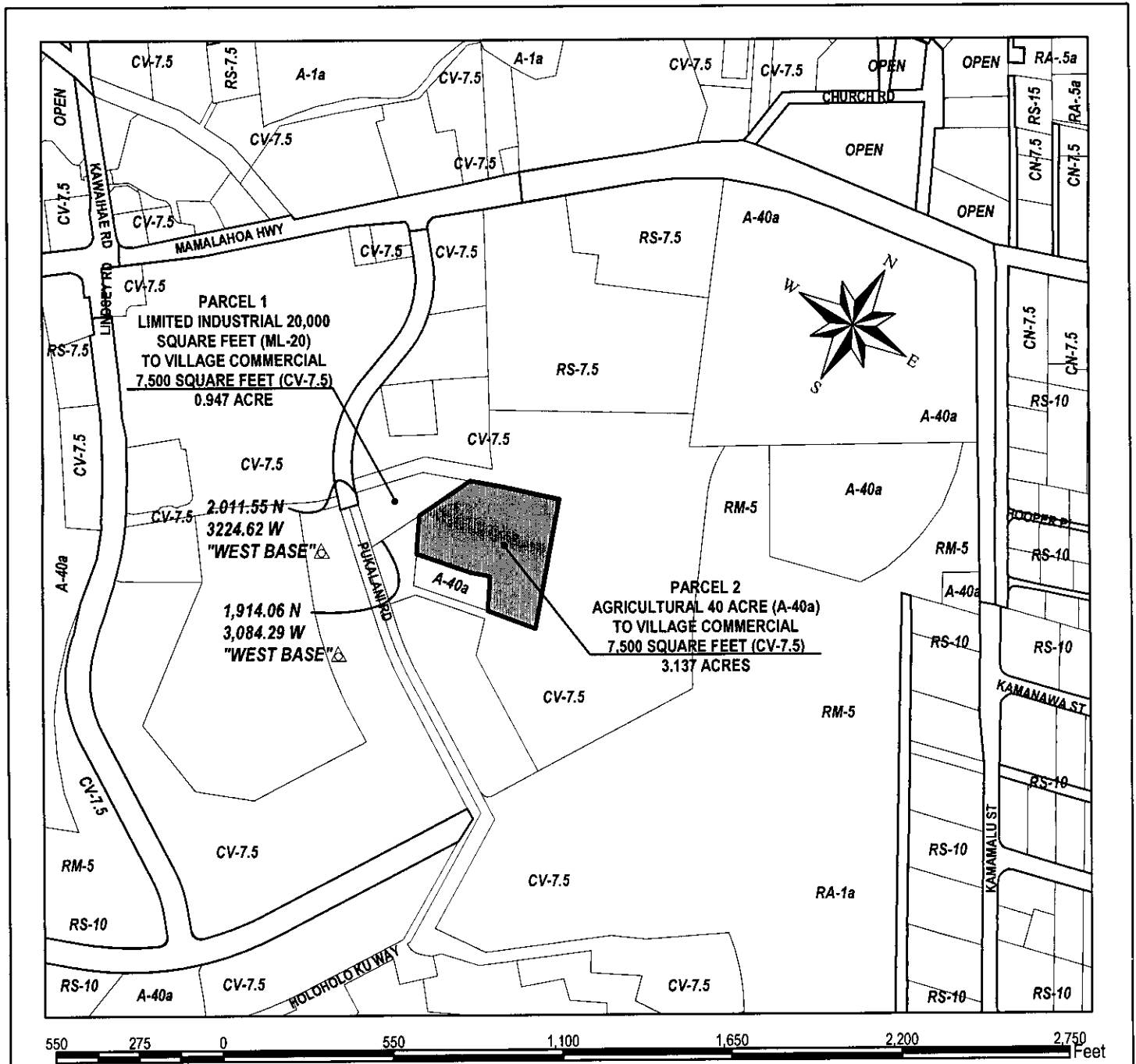
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: November 20, 2007
Date of 1st Reading: November 20, 2007
Date of 2nd Reading: December 5, 2007
Effective Date: December 26, 2007



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 40 ACRES (A-40a) AND
 LIMITED INDUSTRIAL 20,000 SQUARE FEET (ML-20)
 TO VILLAGE COMMERCIAL 7,500 SQUARE FEET (CV-7.5)
 AT WAIKOLOA, WAIMEA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

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

RECEIVED

2007 DEC 27 AM 10 07

Introduced By: K. Angel Pilago
Date Introduced: November 20, 2007
First Reading: November 20, 2007
Published: November 30, 2007

	AYES	NOES	ABS	EX
Ford				
Higa	X			
Hoffmann	X			
Ikeda	X			
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong			X	
Yoshimoto	X			
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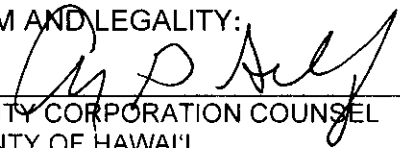
REMARKS: _____


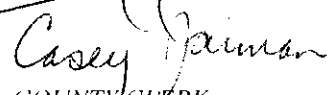
Second Reading: December 5, 2007
To Mayor: December 13, 2007
Returned: December 27, 2007
Effective: December 26, 2007
Published: January 3, 2008

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa	X			
Hoffmann	X			
Ikeda			X	
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto	X			
	8	0	1	0

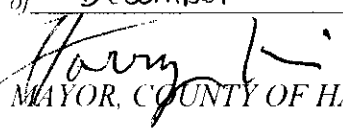
REMARKS: _____

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

APPROVED AS TO
FORM AND LEGALITY:

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII
Date DEC 14 2007


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 184
Reference: C-701/PC-55
Ord No.: 07 181

Approved/Disapproved this 26th day
of December, 2007

MAYOR, COUNTY OF HAWAII