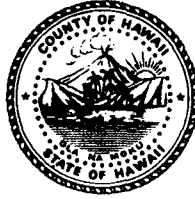


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 11 73 BILL NO. 66  
(DRAFT 2)

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 – FORTY ACRES (A-40a) TO AGRICULTURAL – FIVE ACRES (A-5a) AT PU'UKAPU, SOUTH KOHALA DISTRICT, HAWAI'I, COVERED BY TAX MAP KEY: 6-4-017:042.

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 Pu'ukapu, South Kohala District, Hawai'i, shall be Agricultural – Five Acres (A-5a):

Beginning at a pipe at the Southeast corner of this parcel of land, on the Northerly side of Māmalahoa Highway, the coordinates of which referred to Government Survey Triangulation Station "EAST BASE" being 6046.70 feet North and 786.60 feet East then running by azimuths measured clockwise from True South:

1. 76° 58' 149.90 feet along the Northerly side of Māmalahoa Highway;
2. 166° 10' 1162.38 feet along the remainder of Grant 6857 to John Cheseboro;
3. 76° 58' 149.90 feet along the remainder of Grant 6857 to John Cheseboro;
4. 166° 10' 2014.62 feet along the remainder of Grant 6857 to John Cheseboro to General Lease 3362 to Anna L. Perry – Fiske;
5. 256° 10' 299.80 feet along General Lease 3362 to Anna L. Perry – Fiske to Grant 7222 to Frances S.E.S. Kaaua;

6. 346° 10' 3181.20 feet along Grant 7222 to Frances S.E.S. Kaaua to Point of Beginning and containing 17.88 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:

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

- (1) 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. The driveway connection to the Māmalahoa Highway shall conform to Chapter 22, Streets, of the Hawai'i County Code. No more than one lot will be permitted to have a driveway taking direct access from the Māmalahoa Highway. All other proposed lots shall be provided with access via a subdivision roadway

that meets the minimum requirements of Chapter 23, Subdivisions, Hawai'i County Code and constructed in a manner meeting with the approval of the Department of Public Works.

- E. The applicant shall provide a 15-foot wide future road widening setback along the entire property frontage of Māmalahoa Highway.
- F. The applicant shall provide a 50-foot roadway and utility easement for the future extension of Hauhoa Street to the western boundary of the property (adjoining TMK: 6-4-017:43).
- 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 Hawai'i 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. All development generated runoff shall be disposed of on-site and not be directed toward any adjacent properties. A drainage study, including proposed on-site drainage improvements which may include pervious or porous asphalt, shall be prepared by a licensed civil engineer and submitted to and approved by the Department of Public Works prior to or in conjunction with any building permit or land disturbance permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public works prior to receipt of final occupancy or certificate of occupancy permit, as the case may be.

- 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. The applicant shall 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.

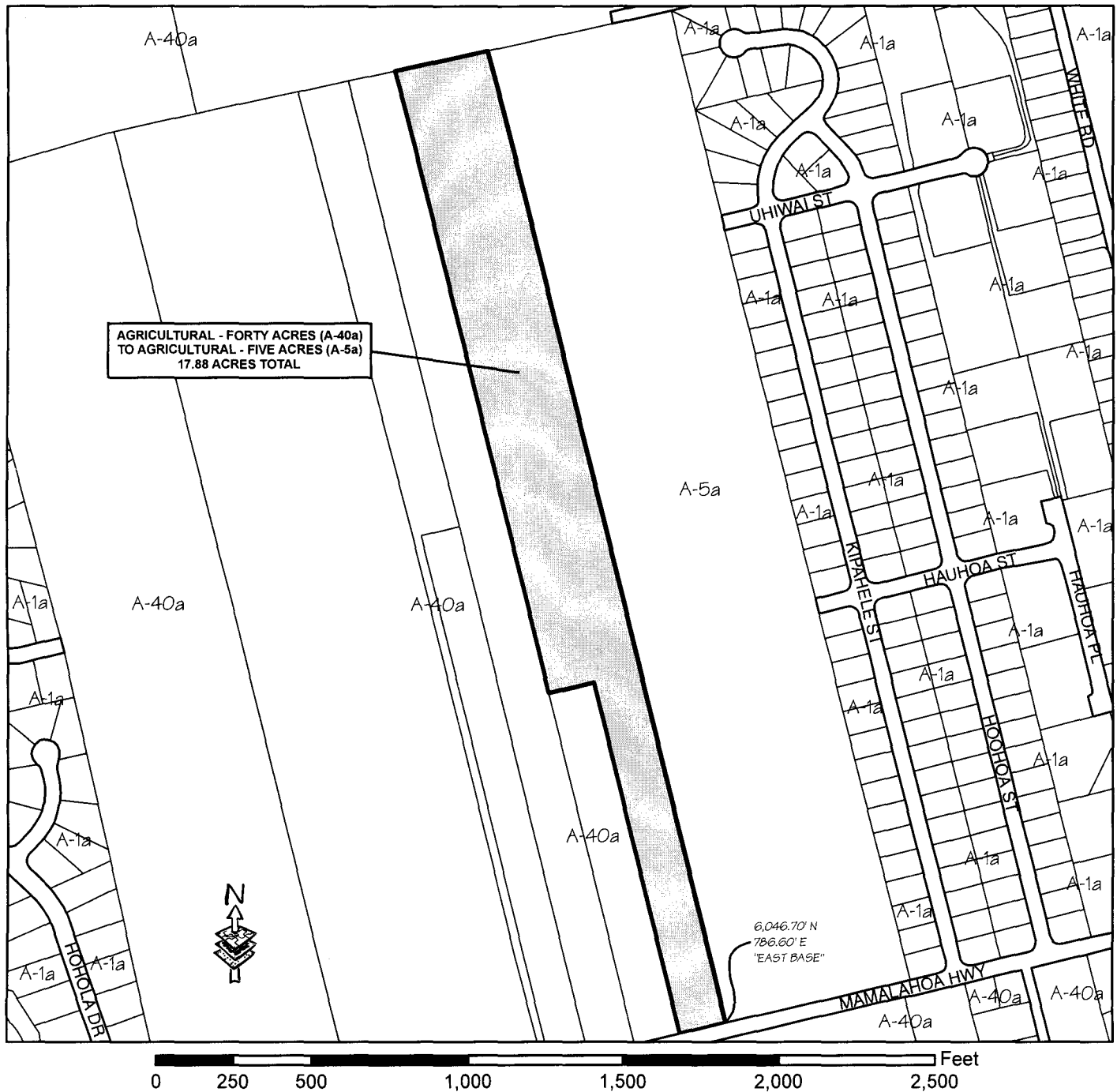
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i  
Date of Introduction: August 3, 2011  
Date of 1st Reading: August 3, 2011  
Date of 2nd Reading: August 17, 2011  
Effective Date: September 1, 2011

REFERENCE: Comm. 257.2



# 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 - FORTY ACRES (A-40a) TO AGRICULTURAL - FIVE ACRES (A-5a)  
AT PU'UKAPU, SOUTH KOHALA DISTRICT, HAWAII

MAP PREPARED BY:  
COUNTY OF HAWAII, PLANNING DEPARTMENT

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

RECEIVED

2011 SEP 1 AM 4 20

(Draft 2)

Introduced By: Pete Hoffmann  
 Date Introduced: August 3, 2011  
 First Reading: August 3, 2011  
 Published: N/A

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Second Reading: August 17, 2011  
 To Mayor: August 26, 2011  
 Returned: September 1, 2011  
 Effective: September 1, 2011  
 Published: September 16, 2011

REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann	X			
Ikeda	X			
Onishi	X			
Pilago	X			
Smart	X			
Yagong	X			
Yoshimoto	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann	X			
Ikeda	X			
Onishi	X			
Pilago			X	
Smart	X			
Yagong	X			
Yoshimoto	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:

[Signature]  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date AUG 29 2011

[Signature]  
 COUNCIL CHAIRPERSON  
[Signature]  
 COUNTY CLERK

Bill No.: 66 (Draft 2)  
 Reference: C-257.2/PC-26  
 Ord No.: 11 73

Approved/Disapproved this 1st day  
 of September, 2011  
[Signature]  
 MAYOR, COUNTY OF HAWAII