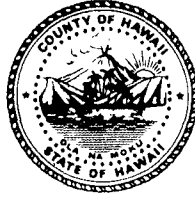


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 12 11 BILL NO. 2

AN ORDINANCE AMENDING SECTION 25-8-11 (LĀLĀMILO-PU'UKAPU 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 RESIDENTIAL AND AGRICULTURAL – 0.5 ACRE (RA-.5) AT PU'UKAPU HOMESTEADS 1<sup>ST</sup>, SOUTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY 6-4-001:099.

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 Homesteads 1<sup>st</sup>, South Kohala, Hawai'i, shall be Residential and Agricultural – 0.5 acre (RA-.5):

Beginning at the northeast corner of this parcel of land and on the west side of a 15-foot Government Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "EAST BASE" being 4,029.11 feet North and 6,235.65 feet West and running by azimuths measured clockwise from True South:

Following along a 15-foot Government Road for the next five (5) courses, the azimuths and distances between points being:

- |    |          |        |       |
|----|----------|--------|-------|
| 1. | 351° 45' | 181.00 | feet: |
| 2. | 264° 25' | 75.90  | feet: |
| 3. | 317° 03' | 32.85  | feet: |

4. 26° 39' 141.57 feet;
5. 352° 16' 30" 26.59 feet;
6. 73° 56' 77.40 feet along the north side of Hawai'i Belt Road;
7. Thence along a 30-foot Road, along a curve to the right having a radius of 20.00 feet, the chord azimuth and distance being: 121° 13' 29.39 feet;
8. 168° 30' 350.98 feet along a 30-Foot Road;
9. 264° 05' 30" 106.08 feet along Lot 3-B to the point of beginning and containing an area of 1.004 acres.

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 required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within 180 days from the effective date of this ordinance. The applicant shall comply with all requirements in the Department of Water Supply's August 28, 2012 letter, including the construction of all necessary water improvements prior to final subdivision approval to include the extension of approximately 120 feet of 6-inch water main along proposed Kakanihia Road, construction of service laterals to accommodate a 5/8-inch meter fronting the additional lot, relocation of the existing service lateral to front the appropriate lot, cut and plug the existing lateral at the main, and relocate and adjust the Department's affected water system facilities if necessary.
- C. The applicant, successors, or assigns shall notify prospective purchasers, tenants, or lessees of all lots that farming operations and practices on adjacent or contiguous land in the State Land Use Agricultural District are protected under Hawai'i Revised Statutes Chapter 165, the Hawai'i Right to Farm Act. This notice shall be included in any disclosure required for the sale or transfer of all of the proposed lots.
- D. Any action that would interfere with or restrain farming operations on adjacent or contiguous properties shall be prohibited under Hawai'i Revised Statutes Chapter 165, the Hawai'i Right to Farm Act; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the Agricultural District.
- E. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.

- F. Direct vehicular access to the individual lots shall be prohibited from Māmalahoa Highway.
- 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 shall not be directed toward any adjacent properties.
- 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(s) 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 Subdivision Approval. The fair share contribution for each lot shall be based on the actual number of residential units developed. The fair share contribution in a 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 combined value of **\$12,772.64** 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 single family residential unit shall be allocated as follows:

1. **\$6,159.19** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$297.12** per single family residential unit) to the County to support police facilities;
3. **\$586.85** per single family residential unit) to the County to support fire facilities;
4. **\$256.93** per single family residential unit) to the County to support solid waste facilities; and
5. **\$5,472.55** per single family residential unit) to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicants 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.

- L. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawai'i 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 Subdivision Approval.
- 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. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- O. 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, 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 Planning Commission and 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:

 B/R  
 \_\_\_\_\_  
 COUNCIL MEMBER, COUNTY OF HAWAII

    Kona    , Hawai'i  
 Date of Introduction: **January 9, 2013**  
 Date of 1st Reading: **January 9, 2013**  
 Date of 2nd Reading: **January 23, 2013**  
 Effective Date: **February 13, 2013**

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

Introduced By: Zendo Kern (B/R)  
Date Introduced: January 9, 2013  
First Reading: January 9, 2012  
Published: January 19, 2013

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

Second Reading: January 23, 2013  
To Mayor: January 31, 2012  
Returned: February 14, 2013  
Effective: February 13, 2013  
Published: February 21, 2013

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

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	X			
Yoshimoto	X			
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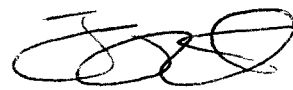

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter			X	
Wille	X			
Yoshimoto	X			
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I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.


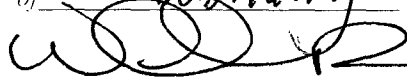
APPROVED AS TO  
FORM AND LEGALITY:

  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

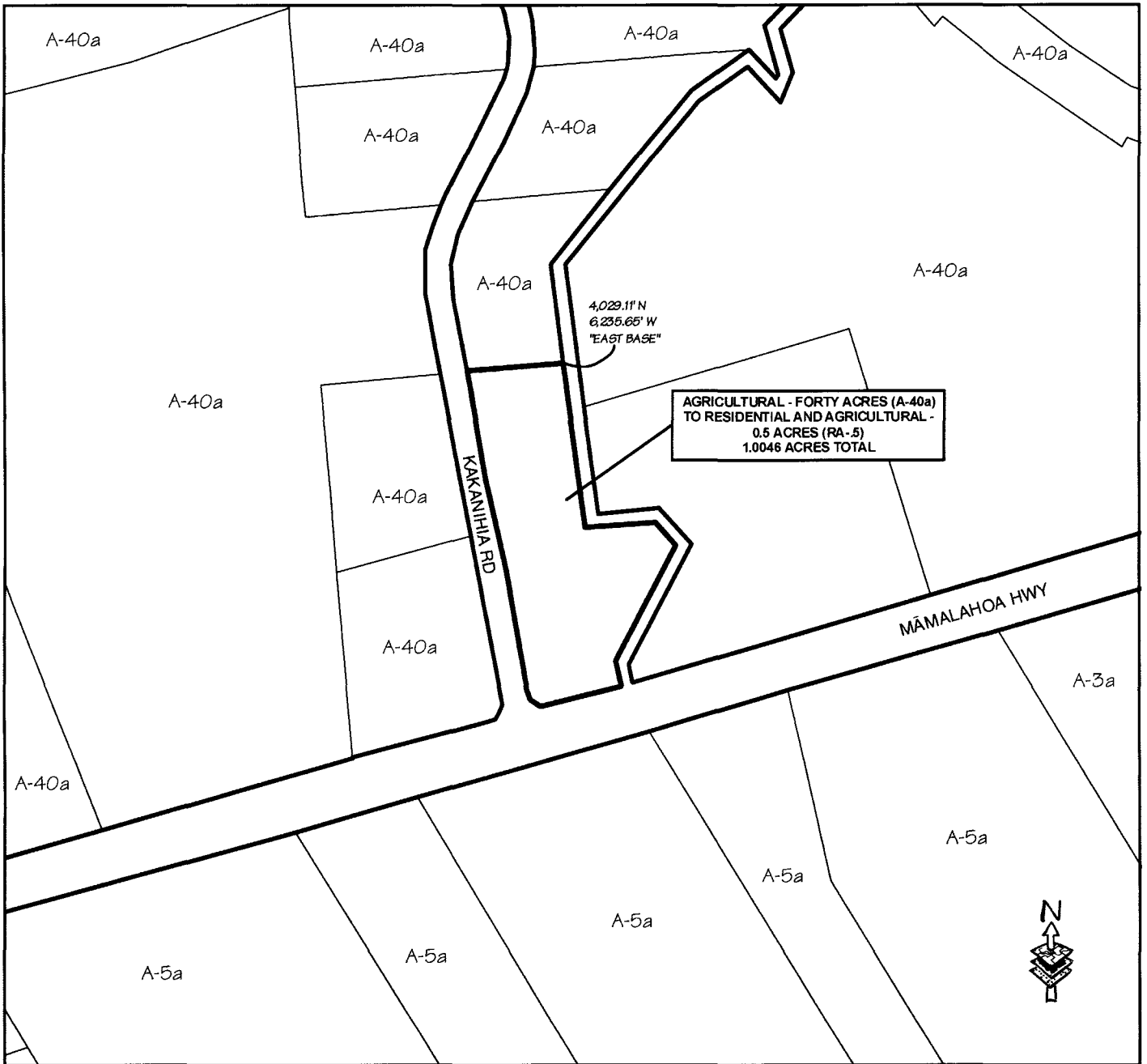
Date FEB - 6 2013

  
COUNCIL CHAIRPERSON  
  
COUNTY CLERK

Bill No.: 2  
Reference: C-6/PC-2  
Ord No.: 13 11

  
Approved/Disapproved this 13<sup>th</sup> day  
of February, 2013  
  
MAYOR, COUNTY OF HAWAII





# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-11 (LĀLĀMILO-PU'UKAPU 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 RESIDENTIAL AND AGRICULTURAL - 0.5 ACRE (RA-.5), AT PU'UKAPU HOMESTEADS 1st, SOUTH KOHALA, HAWAI'I

MAP PREPARED BY:  
COUNTY OF HAWAI'I, PLANNING DEPARTMENT