ORDINANCE NO. 16 82BILL NO. 210

AN ORDINANCE AMENDING ORDINANCE NO. 889, (FORMERLY KAMUELA ZONE MAP, CURRENTLY LALAMILO PU'UKAPU ZONE MAP) WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – FORTY ACRES (A-40a) TO AGRICULTURAL – FIVE ACRES (A-5a) AT PU'UKAPU HOMESTEADS, 2ND SERIES, SOUTH KOHALA, HAWAI'I COVERED BY TAX MAP KEY 6-4-017:023, 064-067 AND 078 (FORMERLY 6-4-017:023).

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

SECTION 1. Ordinance No. 889 is amended as follows:

“Section 1. Section [7.09] 25-8-11, Article [2] 8, Chapter [8] 25 (Zoning Code) of the [Hawaii] Hawai'i County Code 1983 (2005 Edition), [as] is amended, [~~is further amended to add a new subsection, to read~~] to change the district classification of property described hereinafter as follows:

[“7.09 (r).] The district classification of the following area situated at [Puukapu] Pu'ukapu Homesteads, 2<sup>nd</sup> Series, South Kohala, [Hawaii] Hawai'i, shall be Agricultural – 5 acres (A-5a):

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.

~~[This subsection is conditioned upon the following:]~~

(A) the petitioner, successors or its assigns shall be responsible for complying with all of the stated conditions of approval;

(B) the area be zoned in two increments. The first increment shall consist of a maximum of seventeen contiguous acres, and the second, the remaining area;

~~[(C) rezoning of the second increment shall only become effective upon subdivision of the previous increment and upon the establishment of appropriate agricultural activity, as determined by the Planning Department who shall forward the basis of said determination to the Council on each of the lots within the first increment. For the purpose of this condition "agriculture" shall be defined as the cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timber; game propagation; raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are propagated for economic or personal use. An agricultural activity will be considered appropriate (1) if such activity is intensively utilizing a minimum of fifty percent of the usable land area of the affected property(ies); or (2) if it provides a major source of income to the person(s) utilizing on the property; or (3) if a level of production, greater than or equal to that which could be achieved on fifty percent of the usable land area, is achieved on a smaller area through alternative production technology;]~~

(C) The applicant, successors or assigns shall be responsible for complying with all requirements of Chapter 205, Hawai'i Revised Statutes, relating to permissible uses within the State Land Use Agricultural District.

(D) subdivision plans for the first increment shall be submitted within one year from the effective date of this ordinance. Final subdivision plans for the first increment shall be submitted within one year from the effective date of tentative subdivision approval;

(E) subdivision plans for the second increment shall be submitted within one year from the effective date of the zoning for that increment. Final subdivision plans for the second increment shall be submitted within one year from the effective date of tentative subdivision approval;

(F) access(es) for the proposed subdivision shall meet with the approval of the Chief Engineer;

(G) a drainage improvement plan, meeting with the approval of the Chief Engineer, shall be developed;

~~[(H) restrictive deed covenants for each lot shall be recorded with the Bureau of Conveyances together with any recordation of final subdivision plat maps. The covenants shall include a mandatory agricultural use provision for each lot as previously defined in Condition C. The covenants shall require all dwellings to meet the definition of farm dwelling below. Furthermore the covenant shall restrict the area devoted to all dwellings to a maximum of one-half acre per lot. "Farm dwelling" as used herein means a single family dwelling located on and in connection with a farm or where agricultural activity provides income to the family occupying the dwelling. The remaining portion of the lot shall be used for agricultural purposes only. The restrictive covenants contained herein shall run with the land and shall be incorporated into any deed, lease, agreement of sale, mortgage, or other instrument of conveyance executed for the subject property(ies);] and~~

~~[(H)]~~ (H) all other applicable rules, regulations and requirements shall be complied with. Should any of the forgoing conditions not be met, rezoning of the area to its original or more appropriate designation may be initiated."

**SECTION 2.** Material to be repealed is bracketed and stricken. Material to be added is underscored. In re-printing this ordinance, the brackets, bracketed and stricken material, and underscoring need not be included.

**SECTION 3.** Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

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

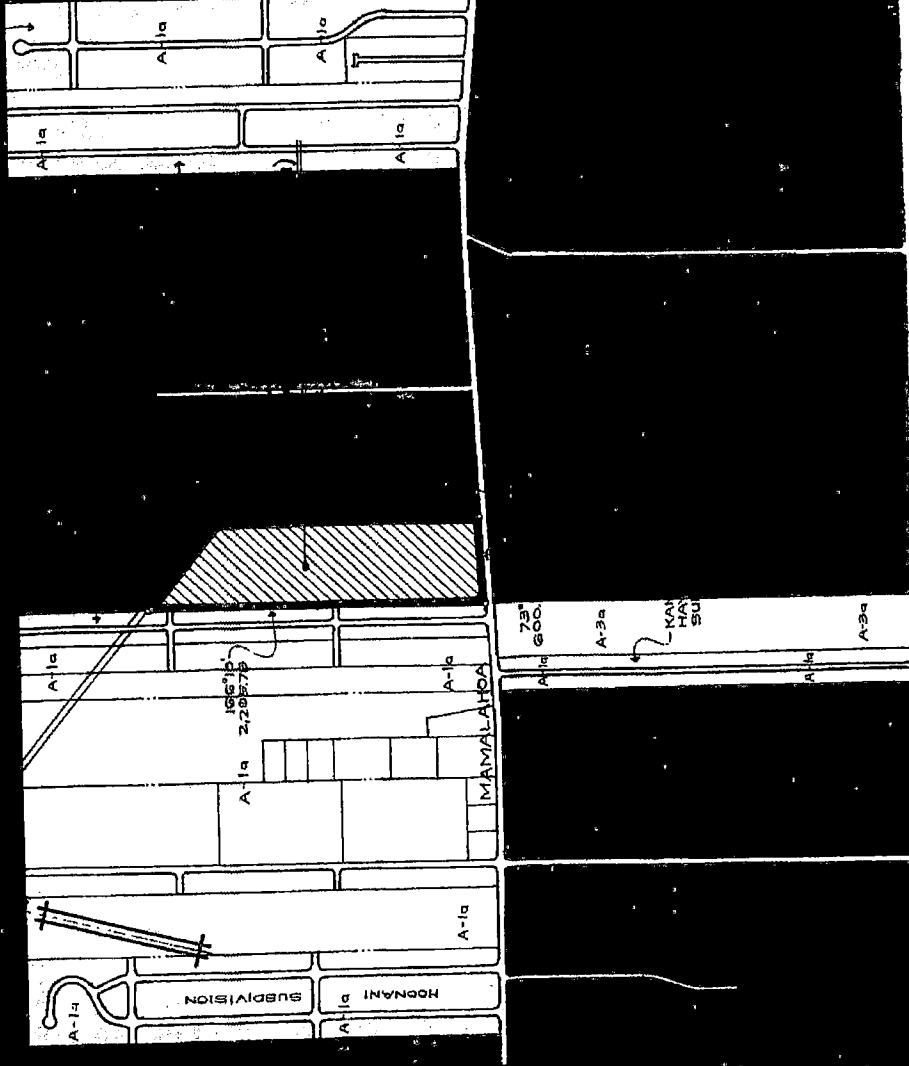
INTRODUCED BY:

  
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COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i  
Date of Introduction: June 15, 2016  
Date of 1<sup>st</sup> Reading: June 15, 2016  
Date of 2<sup>nd</sup> Reading: August 3, 2016  
Effective Date: August 18, 2016

REFERENCE Comm. 889

KOHALA FOREST RESERVE



# AMENDMENT TO THE ZONING CODE

AMENDMENT NO. 18 TO SECTION 709 (THE KAMUELA ZONE MAP) ARTICLE 2, CHAPTER 8 (ZONING CODE) OF THE HAWAII COUNTY CODE, AS AMENDED, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-40a) TO AGRICULTURAL (A-5a) AT PUUKAPU HOMESTEADS, 2ND SERIES, SOUTH KOHALA, HAWAII.

DATE OF PUBLIC HEARING: JAN. 25, 1983 & MARCH 2, 1983  
 EFFECTIVE DATE: JUNE 21, 1983  
 ORDINANCE NUMBER: 889  
 PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII

REVISED:  
 MARCH 15, 1983  
 JAN. 11, 1983

TMK: G-4-17: 23

EXHIBIT "A"  
 FOR REFERENCE ONLY  
 JAMES TRUMP

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

COUNTY CLERK  
COUNTY OF HAWAII

2016 AUG 18 PM 4:14

Introduced By: Greggor Ilagan (B/R)  
Date Introduced: June 15, 2016  
First Reading: June 15, 2016  
Published: July 2, 2016

REMARKS: July 7, 2016 - Postponed

Second Reading: August 3, 2016  
To Mayor: August 11, 2016  
Returned: August 18, 2016  
Effective: August 18, 2016  
Published: September 3, 2016

REMARKS:

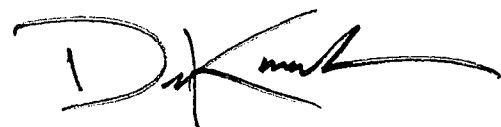
ROLL CALL VOTE				
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Chung	X			
David	X			
Eoff	X			
Ilagan	X			
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Onishi	X			
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ROLL CALL VOTE				
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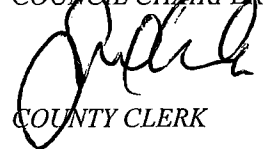
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

Approved/Disapproved this 18<sup>th</sup> day  
of AUGUST, 2016

  
MAYOR, COUNTY OF HAWAII



COUNCIL CHAIRPERSON

  
COUNTY CLERK

Bill No.: 210

Reference: C-889/PC-67

Ord No.: 16 82