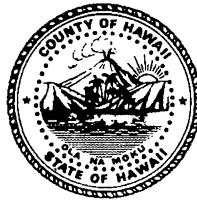


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 17 50

BILL NO. 38

AN ORDINANCE AMENDING SECTION 25-8-11 (LĀLĀMILO-PU'UKAPU ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – FIVE ACRES (A-5a) TO FAMILY AGRICULTURAL – TWO ACRES (FA-2a) AT PU'UKAPU, WAIMEA, SOUTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY: 6-4-001:152.

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 (2016 Edition, as amended) is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Pu'ukapu, Waimea, South Kohala, Hawai'i, shall be Family Agricultural – Two Acres (FA-2a):

Beginning at a ½ inch pipe at the southeasterly corner of this parcel of land, the coordinates of which referred to Government Survey Triangulation Station "WEST BASE" being 499.99 feet north and 2,284.01 feet east, and running by azimuths measured clockwise from true South:

1. 59° 07' 306.80 feet along the remainder of Grant 4564 to Kaanaana to a ½ inch pipe;
2. Thence along the remainder of Grant 4564 to Kaanaana, on a curve to the right with a radius of 150.00 feet, the chord azimuth and distance being:
3. 70° 51' 30" 61.05 feet to a ½ inch pipe, thence;

4. 172° 36' 61.20 feet along the remainder of Grant 4564 to Kaanaana to a ½ inch pipe;
5. Thence along the remainder of Grant 4564 to Kaanaana, on a curve to the left with a radius of 325.00 feet, the chord azimuth and distance being:
160° 51' 30" 132.38 feet to a ½ inch pipe;
6. Thence along the remainder of Grant 4564 to Kaanaana, on a curve to the right with a radius of 40.00 feet, the chord azimuth and distance being:
169° 10' 34.5" 27.44 feet to a ½ inch pipe;
7. Thence along the remainder of Grant 4564 to Kaanaana, on a curve to the left with a radius of 45.00 feet, the chord azimuth and distance being:
141° 03' 2.5" 67.08 feet to a ½ inch pipe, thence;
8. 149° 07' 392.33 feet along the remainder of Grant 4564 to Kaanaana to a ½ inch pipe;
9. 239° 07' 315.27 feet along the remainder of Grant 4564 to Kaanaana to a ½ inch pipe;
10. 329° 07' 682.58 feet along Grant 4565 to H. Akona to the point of beginning and containing an area of 5.001 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 (2016 Edition, as amended), 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, 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.

- 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. If required by the Department of Water Supply, the applicant shall relocate the existing meter(s) so that each meter fronts the appropriate lot. Additional farm dwellings, if approved by the Planning Department, shall be serviced by individual water meters as approved by the Department of Water Supply.
- F. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.
- G. All driveway connections to Waikelehua Place shall conform to Chapter 22, Streets, of the Hawai'i County Code.
- H. All development generated runoff shall be disposed of on site and 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. The applicant shall comply with the requirements of the approved Burial Treatment Plan for the Pu'ukapu Cemetery, which was included as Appendix A within the Change of Zone application dated December 2016.
- 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 – State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- L. Comply with all applicable County, State and Federal Laws, rules, regulations and requirements.

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.

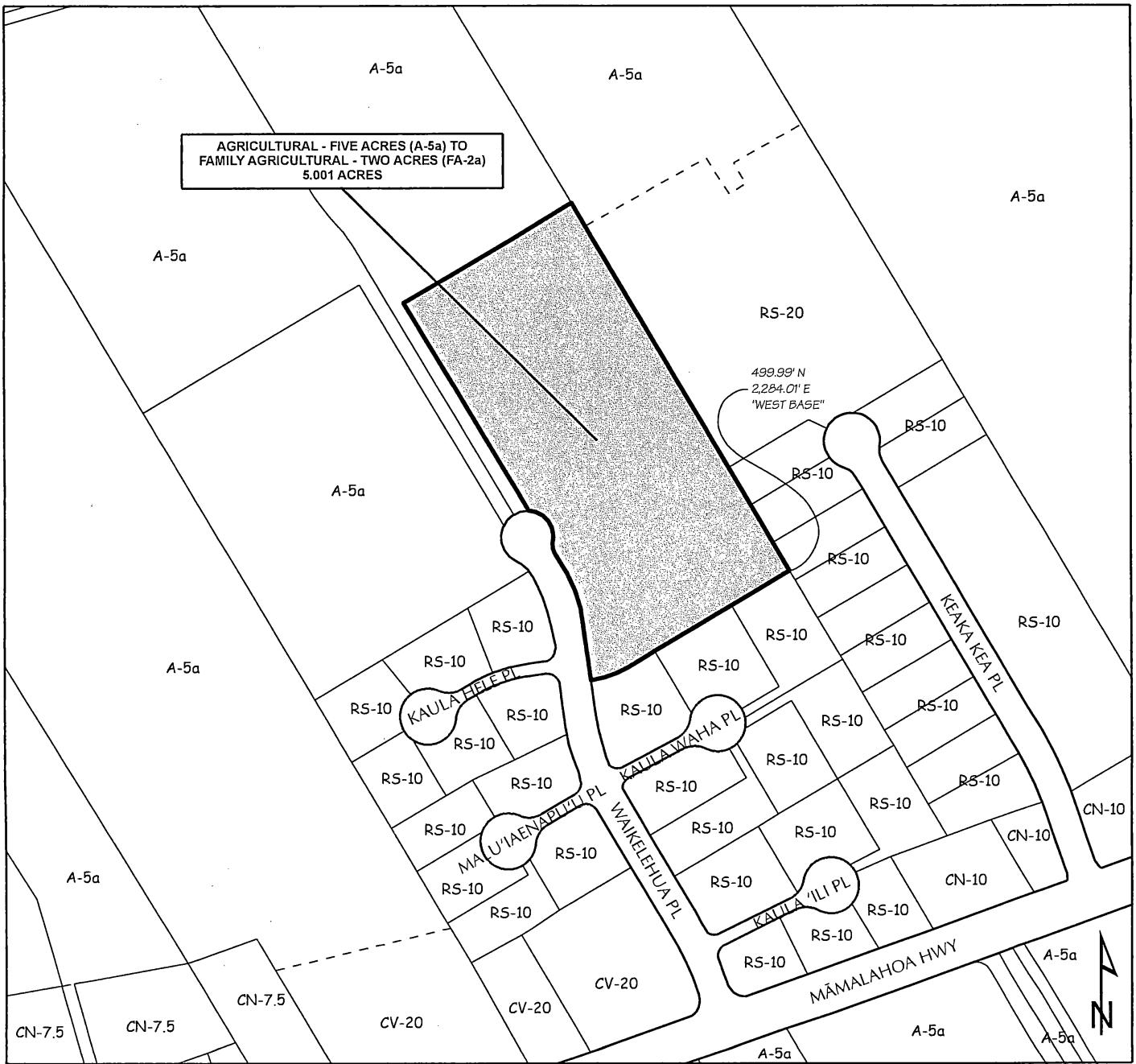
INTRODUCED BY:

Karen Gott

COUNCIL MEMBER, COUNTY OF HAWAII

 Hilo , Hawai'i
Date of Introduction: June 23, 2017
Date of 1st Reading: June 23, 2017
Date of 2nd Reading: July 7, 2017
Effective Date: July 18, 2017

REFERENCE Comm. 291



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-11 (LĀLĀMILO-PU'UKAPU ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL - FIVE ACRES (A-5a) TO FAMILY AGRICULTURAL - TWO ACRES (FA-2a) AT PU'UKAPU, WAIMEA, SOUTH KOHALA, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 6-4-001:152

DATE: January 10, 2017

EXHIBIT "A"

In
Map: 1388

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

COUNTY CLERK
 COUNTY OF HAWAII

2017 JUL 18 PH 3:02

Introduced By: Karen Eoff
 Date Introduced: June 23, 2017
 First Reading: June 23, 2017
 Published: July 1, 2017

REMARKS: _____

Second Reading: July 7, 2017
 To Mayor: July 17, 2017
 Returned: July 18, 2017
 Effective: July 18, 2017
 Published: July 29, 2017

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kanuha	X			
Lee Loy	X			
O'Hara	X			
Poindexter			X	
Richards	X			
Ruggles	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kanuha	X			
Lee Loy	X			
O'Hara	X			
Poindexter	X			
Richards	X			
Ruggles	X			
	9	0	0	0

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

Disapproved this 18th day
 of July, 2017

Harry Keim
 MAYOR, COUNTY OF HAWAII

Alfred J. Poindexter

COUNCIL CHAIRPERSON

Judith
 COUNTY CLERK

Bill No.: 38
 Reference: C-291/PC-17
 Ord No.: 17 50