

10/29/03 Greg Mowers

Rec. from Deputy
(fell thru cracks)

COUNTY OF HAWAII

STATE OF HAWAII

BILL NO. 121

(Draft 2)

ORDINANCE NO. 03 120

AN ORDINANCE AMENDING SECTION 25-8-12 (KAWAIHAE-PUAKO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM RESORT (V-1.25) TO SINGLE-FAMILY RESIDENTIAL (RS-10) AT WAIMEA, LALAMILO, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-9-3:15.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-8-12, Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Waimea, Lalamilo, South Kohala, Hawaii, shall be Single Family Residential (RS-10):

Beginning at a 1 inch pipe (found) at the Southwesterly corner of this parcel of land, being also the Southeasterly corner of Lot 75 of Puako Beach Lots (H.T.S. Plat 414-B) and being a point on the Northerly side of Puako Beach Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUAKO" being 1,445.57 feet South and 3,261.15 feet West and running by azimuths measured clockwise from True South:

- 1. 164° 29' 201.89 feet along Lot 75 of Puako Beach Lots (H.T.S. Plat 414-B) and along Land Patent Grant S-13,751 to Manuel Cardozo Rapozo, Jr. and Adelida Ramos Rapozo to a point;

Thence, for the next six (6) courses following along the shoreline as certified by the State Department of Land and Natural Resources on July 26, 2002:

- 2. 246° 58' 18.87 feet to a point;
- 3. 322° 39' 20.03 feet to a point;

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| 4. | 296° 26' | 24.73 | feet to a point; |
| 5. | 269° 18' | 19.67 | feet to a point; |
| 6. | 256° 26' | 32.30 | feet to a point; |
| 7. | 234° 31' | 33.89 | feet to a point; |
| 8. | 351° 40' | 182.69 | feet along Lot 77 of Puako Beach Lots (H.T.S. Plat 414-B) and along Land Patent Grant S-13,670 to Arthur Charles William Ireton, Jr. to a point; |

Thence, following along the Northerly side of Puako Beach Road on a curve to the left with a radius of 838.51 feet, the chord azimuth and distance being:

- | | | | |
|----|-------------|--------|--|
| 9. | 78° 04' 30" | 105.06 | feet to the point of beginning and containing an area of 20,660 Square Feet. |
|----|-------------|--------|--|

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, 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. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of this ordinance. Comply with all requirements of the Department of Water Supply regarding potable water.
- C. Final Subdivision Approval of the proposed subdivision shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- D. Restrictive covenants in the deeds of all the proposed lots within the subject property 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.
- E. Should the minimum building site average width for the proposed subdivision not be met, the applicant shall file a variance application with the Planning Department.
- F. Driveway connections to Puako Beach Road shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
- G. Improvements to that portion of Puako Beach Road fronting the subject property shall be completed prior to the issuance of Final Subdivision Approval. The

improvements shall include a paved shoulder along the entire parcel frontage, if required by the Department of Public Works. Provide pavement transitions, signs and markings, drainage improvements and relocation of utilities if required, meeting with the approval of the Department of Public Works, Traffic Division. Any encroachments or obstructions within the County right-of-way shall be removed. Any vehicular driveway security gate shall be set back a minimum of 20 feet from the edge of the pavement.

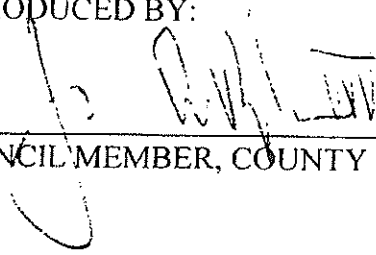
- H. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources – State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- I. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed subdivision within the subject property.
- J. 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.
- K. 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 County Council for appropriate action.
- L. Should any of the conditions not be met or substantially complied with in a timely fashion, the 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:

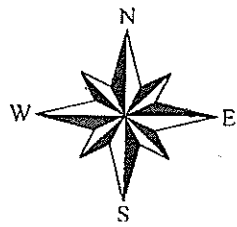
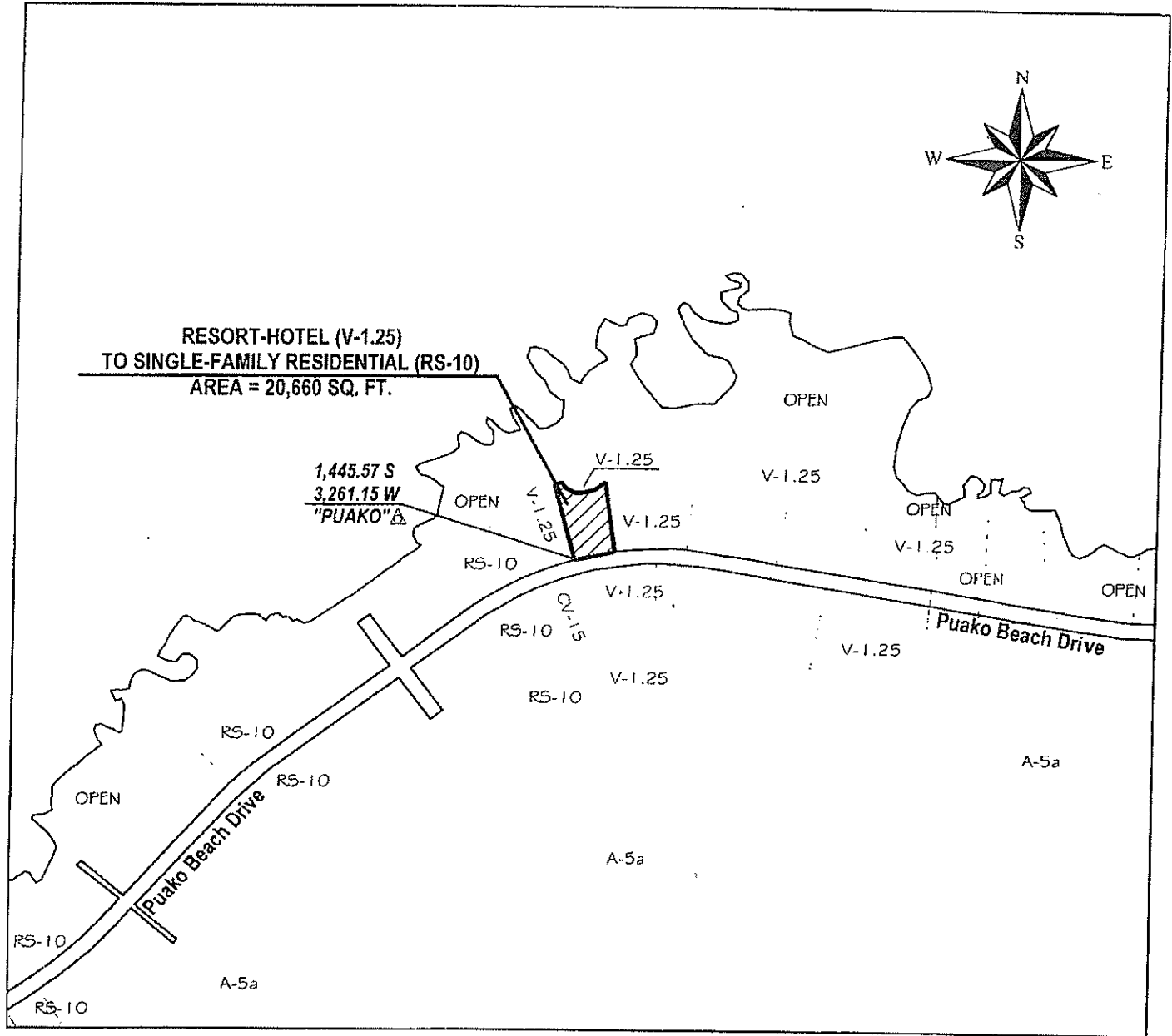


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: August 6, 2003
Date of 1st Reading: August 6, 2003
Date of 2nd Reading: August 20, 2003
Effective Date: August 27, 2003

REFERENCE: Comm. 277.2



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-12 (KAWAIHAE-PUAKO ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE,
 BY CHANGING THE DISTRICT CLASSIFICATION
 FROM RESORT-HOTEL (V-1.25)
 TO SINGLE-FAMILY RESIDENTIAL (RS-10)
 AT WAIMEA, LALAMILO, SOUTH KOHALA, HAWAII
 PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
 County of Hawaii
 Hilo, Hawaii

RECEIVED

(DRAFT 2) 03 AUG 27 PM 4 06

Introduced By: J. Curtis Tyler III
 Date Introduced: August 6, 2003
 First Reading: August 6, 2003
 Published: N/A

REMARKS: _____

Second Reading: August 20, 2003
 To Mayor: August 21, 2003
 Returned: August 27, 2003
 Effective: August 27, 2003
 Published: September 7, 2003

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Holschuh	X			
Jacobson	X			
Reynolds	X			
Safarik	X			
Tyler	X			
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson	X			
Reynolds	X			
Safarik	X			
Tyler	X			
	8	0	0	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 21 2003

[Signature]
 COUNCIL CHAIRMAN
[Signature]
 DEPUTY COUNTY CLERK

Bill No.: Bill 121 (Draft 2)
 Reference: C-277.2/PC-47
 Ord No.: 03 120

Approved/Disapproved this 27th day
 of August, 2003

[Signature]
 MAYOR, COUNTY OF HAWAII