

ORDINANCE NO. 04 144

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL 1-ACRE (A-1a), NEIGHBORHOOD COMMERCIAL - 40,000 SQUARE FOOT (CN-40), SINGLE-FAMILY RESIDENTIAL - 7,500 SQUARE FOOT AND 10,000 SQUARE FOOT (RS-7.5 AND RS-10) AND OPEN (O) TO PROJECT DISTRICT AT SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-3-44:19, 2-3-49:53 AND 2-3-37:1.

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

SECTION 1. Section 25-8-33, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following areas situated at South Hilo, Hawai'i shall be Project District:

**LOT A:**

Beginning at the South corner of this parcel of land on the northeast side of Mohouli Street Extension, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 3550.79 feet south and 3067.04 feet west and running by azimuths measured clockwise from true south:

- 1. 119° 41' 180.00 feet along Mohouli Street Extension;
- 2. 29° 41' 30.00 feet along Mohouli Street Extension;
- 3. 119° 41' 170.00 feet along Mohouli Street Extension;
- 4. 29° 41' 5.00 feet along Mohouli Street Extension;
- 5. 119° 41' 250.00 feet along Mohouli Street Extension;

6.	29° 41'	5.00	feet along Mohouli Street Extension;
7.	119° 41'	540.00	feet along Mohouli Street Extension;
8.	209° 41'	210.35	feet along Lots 75 to 78, inclusive of Kaumana Gardens Subdivision Unit 2, File Plan 935;
9.	254° 30'	368.44	feet along Lots 56-A, 56-B, and 3 of Crescent City Heights Subdivision;
10.	324° 40'	50.00	feet along Liko Lehua Street;
11.	54° 40'	101.37	feet along Lot 58;
12.	324° 40'	363.00	feet along Lot 58;
13.	234° 40'	518.55	feet along Lots 58, 57, D, and C;
14.	144° 40'	262.53	feet along Lots C, B, and A;
15.	254° 30'	981.48	feet along Lots 35 to 47, inclusive and Lot 50 of Crescent City Heights Subdivision;
16.	136° 15'	200.00	feet along Lots 50 and 49 of Crescent City Heights Subdivision;
17.	226° 15'	50.00	feet along Wiliwili Street;
18.	136° 15'	5.98	feet along Wiliwili Street;
19.	226° 15'	325.00	feet along Roadway Lot and Lot 4;
20.	136° 15'	371.76	feet along Lots 4, Lot 60-E, Lot 59-E;
21.	236° 50'	289.92	feet along Lots 14, 15, 16, and 17;
22.	316° 15'	65.70	feet along Omao Street;
23.	226° 15'	50.00	feet along Omao Street;
24.	243° 20'	146.46	feet along Lot 26;

25.	136° 15'	525.97	feet along Lots 26, 25, 23, 21, and 19;
26.	243° 20'	1324.47	feet along Lot 17, Hualilili Street, Lots 18 and 20, Malanai Street, Lots 16 and 18, Spring Street, Lots 15 and 16, Hoomana Street and Lot 16;
27.	304° 00'	270.00	feet along the remainder of Grant 252 to Benjamin Pitman;
28.	227° 00'	210.00	feet along the remainder of Grant 252 to Benjamin Pitman;
29.	317° 00'	210.00	feet along the remainder of Grant 252 to Benjamin Pitman;
30.	227° 00'	120.00	feet along the remainder of Grant 252 to Benjamin Pitman;
31.	199° 02'	170.15	feet along the remainder of Grant 252 to Benjamin Pitman;

Thence along Komohana Street on a curve to the right with a radius of 1960.00 feet, the chord azimuth and distance being:

32.	338° 45' 59"	334.85	feet;
33.	73° 40'	10.00	feet along Komohana Street;

Thence along Komohana Street on a curve to the right with a radius of 1950.00 feet, the chord azimuth and distance being:

34.	344° 40'	68.06	feet;
35.	345° 40'	443.23	feet along Komohana Street;

Thence along Lot B on a curve to the left with a radius of 32.00 feet, the chord azimuth and distance being:

36.	120° 40'	45.25	feet;
37.	75° 40'	285.75	feet along Lot B;
38.	345° 40'	668.26	feet along the remainder of Lot B;

39. 255° 40' 334.33 feet along Lot B;

Thence along Komohana Street on a curve to the left with a radius of 3040.00 feet, the chord azimuth and distance being:

40. 340° 26' 50" 153.56 feet;

41. 69° 00' 5.00 feet along Komohana Street;

Thence along Komohana Street on a curve to the left with a radius of 3045.00, the chord azimuth and distance being:

42. 337° 54' 45" 115.58 feet;

43. 64° 20' 2302.53 feet along the remainder of Grant 252 to Benjamin Pitman;

44. 30° 00' 70.00 feet along the remainder of Grant 252 to Benjamin Pitman;

45. 156° 00' 500.00 feet along the remainder of Grant 252 to Benjamin Pitman;

46. 66° 00' 400.00 feet along the remainder of Grant 252 to Benjamin Pitman;

47. 336° 00' 450.00 feet along the remainder of Grant 252 to Benjamin Pitman;

48. 66° 00' 700.00 feet along the remainder of Grant 252 to Benjamin Pitman to the point of beginning and containing an area of 112.129 Acres.

**LOT B:**

Beginning at the north corner of this parcel of land, also being the east corner of Lot 57 on the south side of Liko Lehua Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 2769.81 feet south and 3573.93 feet west and running by azimuths measured clockwise from true south:

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|----|----------|--------|--|
| 1. | 324° 40' | 363.00 | feet along Lot 57;   |
| 2. | 54° 40'  | 120.00 | feet along the remainder of Grant 252 to Benjamin Pitman;  |
| 3. | 144° 40' | 363.00 | feet along the remainder of Grant 252 to Benjamin Pitman;  |
| 4. | 234° 40' | 120.00 | feet along the remainder of Grant 252 to Benjamin Pitman and along Liko Lehua Street to the point of beginning and containing an area of 1.000 Acre. |

**LOT C:**

Beginning at the west corner of this parcel of land on the northeast side of Mohouli Street Extension, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 3550.79 feet south and 3067.04 feet west and running by azimuths measured clockwise from true south:

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|----|----------|---------|---|
| 1. | 246° 00' | 700.00  | feet along the remainder of Grant 252 to Benjamin Pitman; |
| 2. | 156° 00' | 450.00  | feet along the remainder of Grant 252 to Benjamin Pitman; |
| 3. | 246° 00' | 400.00  | feet along the remainder of Grant 252 to Benjamin Pitman; |
| 4. | 336° 00' | 500.00  | feet along the remainder of Grant 252 to Benjamin Pitman; |
| 5. | 210° 00' | 70.00   | feet along the remainder of Grant 252 to Benjamin Pitman; |
| 6. | 244° 20' | 2302.53 | feet along the remainder of Grant 252 to Benjamin Pitman; |

Thence along Komohana Street on a curve to the left with a radius of 3,045.00 feet, the chord azimuth and distance being:

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|----|--------------|--------|-------|
| 7. | 335° 46' 41" | 111.27 | feet; |
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8. 83° 10' 67.64 feet along Lot 12 of Sunrise Ridge Subdivision Unit 1-B, File Plan 1693;

Thence following along the middle of Alenaio Stream along Lot 14 of Sunrise Ridge Subdivision Unit 1-B, File Plan 1693, the direct azimuth and distance being:

9. 44° 30' 155.00 feet;
10. 35° 17' 960.00 feet along Lots 15, 16, 20, and 21 of Sunrise Ridge Subdivision Unit 1-B and Lots 27 and 20, inclusive of Sunrise Ridge Subdivision Unit 2-B, File Plan 1693;
11. 59° 01' 27" 1633.86 feet along Government Land;
12. 65° 46' 26" 260.53 feet along Government Land;
13. 119° 41' 199.44 feet along Mohouli Street Extension;
14. 209° 41' 25.00 feet along Mohouli Street Extension;
15. 119° 41' 750.00 feet along Mohouli Street Extension to the point of beginning and containing an area of 45.287 Acres.

**LOT D:**

Beginning at the southeast corner of this parcel of land on the southwest side of Komohana Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAP" being 1837.52 feet south and 21.68 feet west and running by azimuths measured clockwise from true south:

1. 75° 40' 334.33 feet along the remainder of Grant 252 to Benjamin Pitman;
2. 165° 40' 668.26 feet along the remainder of Lot B;
3. 255° 40' 285.75 feet along the remainder of Grant 252 to Benjamin Pitman;

Thence following along the remainder of Grant 252 to Benjamin Pitman on a curve to the right with a radius of 32.00 feet, the chord azimuth and distance being:

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|-----|----------|--------|-----------------------------|
| 4.  | 300° 40' | 45.25  | feet;                       |
| 5.  | 345° 40' | 12.24  | feet along Komohana Street; |
| 6.  | 255° 40' | 10.00  | feet along Komohana Street; |
| 7.  | 345° 40' | 73.40  | feet along Komohana Street; |
| 8.  | 54° 00'  | 11.48  | feet along Komohana Street; |
| 9.  | 10° 30'  | 18.00  | feet along Komohana Street; |
| 10. | 333° 00' | 83.14  | feet along Komohana Street; |
| 11. | 345° 40' | 248.93 | feet along Komohana Street; |

Thence along Komohana Street on a curve to the left with a radius of 3040.00 feet, the chord azimuth and distance being:

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| 12. | 343° 46' 50" | 200.11 | feet to the point of beginning and containing an area of 5.000 Acres. |
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**LOT E:**

Beginning at the north corner of this parcel of land, also being the east corner of Lot 2 on the southwest side of Komohana Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 109.52 feet north and 797.67 feet west and running by azimuths measured clockwise from true south:

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|----|----------|--------|-----------------------------|
| 1. | 320° 40' | 42.10  | feet along Komohana Street; |
| 2. | 50° 40'  | 10.00  | feet along Komohana Street; |
| 3. | 320° 40' | 146.28 | feet along Komohana Street; |
| 4. | 50° 40'  | 5.00   | feet along Komohana Street; |

Thence along Komohana Street on a curve to the right with a radius of 1945.00 feet, the chord azimuth and distance being:

- 5. 322° 51' 30" 148.76 feet;
- 6. 235° 03' 10.00 feet along Komohana Street;

Thence along Komohana Street on a curve to the right with a radius of 1955.00 feet, the chord azimuth and distance being:

- 7. 326° 50' 30" 122.25 feet;
- 8. 238° 38' 5.00 feet along Komohana Street;

Thence along Komohana Street on a curve to the right with a radius of 1960.00 feet, the chord azimuth and distance being:

- 9. 331° 14' 59" 178.94 feet;
- 10. 19° 02' 170.15 feet along the remainder of Grant 252 to Benjamin Pitman;
- 11. 47° 00' 120.00 feet along the remainder of Grant 252 to Benjamin Pitman;
- 12. 137° 00' 210.00 feet along the remainder of Grant 252 to Benjamin Pitman;
- 13. 47° 00' 210.00 feet along the remainder of Grant 252 to Benjamin Pitman;
- 14. 124° 00' 270.00 feet along the remainder of Grant 252 to Benjamin Pitman;
- 15. 153° 14' 30" 100.63 feet along Lot 16;
- 16. 136° 15' 120.00 feet along Lots 15 and 14;
- 17. 226° 15' 125.00 feet along Lot 17;
- 18. 136° 15' 60.00 feet along Lot 17;
- 19. 226° 15' 165.00 feet along Waipuna Place and Lot 10;



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| 20. | 316° 15' | 5.00   | feet along Lot 11;   |
| 21. | 232° 49' | 135.25 | feet along Lots 11 and 12;   |
| 22. | 322° 49' | 5.00   | feet along Lot 1;  |
| 23. | 232° 49' | 184.44 | feet along Lots 1 and 2 to the point of beginning and containing an area of 8.088 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, 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. This project area shall be called the University Terrace Project District.
  - C. The University Terrace Project District shall consist of not more than 172 acres for single-family and multi-family residential, office and retail commercial, open space and recreational uses, and ancillary related improvements.

- D. The maximum number of residential units allowed shall be 500 units, which includes a maximum of 150 multi-family residential units.
- E. The maximum square footage of the commercial and office uses shall be 180,000 square feet. No single commercial business may contain more than 45,000 square feet in gross floor area.
- F. The minimum lot size for single-family residential units shall be 7,500 square feet.
- G. A minimum of 49 acres shall be used for open space and recreational uses.
- H. The uses disclosed in the application, as listed below, and those required as conditions to this Ordinance will be allowed in the University Terrace Project District. The provision of other uses not listed will require an amendment to this Project District Ordinance.
  - 1. All uses allowed as a matter of right in the RS, RM and CN zoned districts.
  - 2. Open space and recreational uses, including ball fields, linear park, and pedestrian and bikeways.
  - 3. Infrastructure improvements.
- I. A detailed Master Plan of the Project District, which includes the location and number of residential lots and units, commercial uses, open space and recreational areas, pedestrian and bikeways, landscaping, parking, and other related

improvements on the property, shall be submitted to the Planning Director within one year from concurrence of a Drainage Master Plan cited in Condition BB, or prior to submission of plans for plan approval or subdivision approval, whichever occurs first. Prior to any construction, a landscaped buffer shall be established and planted along the north boundary of the project where commercial or multi-family residential uses are proposed, which conforms to specifics determined through the landscaping master plan, in consultation with the neighboring residents and the applicant. Commercial uses and multi-family buildings shall be no closer than 200' from existing residential lots adjoining the Project District. A landscaping buffer shall be utilized between commercial buildings, multi-family units and single-family residential units.

a. The commercial area shall be located as far away as possible from existing neighborhoods. The multi-family units shall be used as buffers or “block walls” around commercial areas to mitigate noise and other negative ambient conditions that are associated with commercial activity. All the machinery, operational equipment for said commercial area and multi-family units and parking shall be located in the space between the two areas to further mitigate noise, odors, etc., for the surrounding development and existing neighborhoods.

J. The applicant shall comply with the Department of Water Supply's rules and regulations that shall include entering into a water development agreement. The applicant shall also construct all water system improvements as required by the Department of Water Supply through its standards. These improvements may include but not be limited to additional source, transmission, storage and booster pump facilities.

- K. The applicant shall pay applicable water commitment deposits in accordance with the water commitment guideline policy to the Department of Water Supply within ninety (90) days from the effective date of the project district ordinance.
- L. Construction of the proposed multi-family residential and commercial developments shall commence within five (5) years of the effective date of the Project District Ordinance. Construction of an extension of Ponahawai Street from Komohana Street to Mohouli Street and related intersection improvements shall commence within five (5) years of the effective date of the Project District Ordinance, and shall be completed within ten (10) years of the effective date of the Project District Ordinance, or before issuance of a Certificate of Occupancy for any structure within the Project District, or before Final Subdivision Approval for any residential subdivision within the Project District, whichever occurs first. Completion of construction may be assured by a sufficient surety bond, meeting with the approval of the Department of Public Works and Office of Corporation Counsel. Final Plan Approval shall be secured in accordance with the requirements of the Chapter 25 (Zoning Code), Hawaii County Code, prior to the commencement of construction of the stated uses. Development plans shall identify existing and proposed structures, fire protection measures, paved driveway accesses and parking stalls, and other improvements associated with the proposed uses. Landscaping shall be included in the development plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements).
- M. The following design standards shall apply:
1. An overall landscaping master plan for the project area shall be prepared and submitted to the Planning Director for review and approval prior to the

issuance of Final Plan Approval for any portion of the proposed development. The goals of the landscaping master plan shall be to (1) visually filter parking areas from adjacent roadways and properties, (2) ensure that buildings are framed in settings that include trees, shade parking areas, and moderate the overall appearance of parking areas, (3) create a landscaped area long the Komohana Street and Mohouli Extension and roads adjoining the project area, and (4) visually filter the view of the project area from the Komohana Street, where topography provides extensive views into the project area from Hilo-bound motorists on Mohouli Extension. To achieve these goals, the landscaping master plan, at a minimum shall (1) require landscaping of all slopes from the Mohouli Extension, the proposed Ponahawai Street Extension, and Komohana Street to the parking areas, (2) screen parking areas from the Mohouli Extension, and proposed Ponahawai Street Extension using hedges, berms, or other visual buffers, except where slopes create an effective visual barrier, and (3) make extensive use of trees. The standards of Planning Department Rule 17, at minimum, shall apply.

2. The height limit for structures within the project shall not exceed the following:

- a. Single-family Residential Development: thirty-five (35) feet.
- b. Multi-family Residential Development: thirty-five feet (two stories), provided approval is granted by the Planning Director as part of the approval of the site plan in accordance with Section 25-6-46, Chapter 25 (Zoning Code), Hawaii County Code.

- c. Office and Retail Commercial Development: forty (40) feet, provided approval is granted by the Planning Director as part of the approval of the site plan in accordance with Section 25-6-46, Chapter 25 (Zoning Code), Hawaii County Code.
3. The minimum yards (setback) shall be as follows:
- a. Single-family Residential Development:
    - (1) On a building site with an area of 7,500 square feet to and including 9,999 square feet:
      - (a) Front and rear yards: 15 feet; and
      - (b) Side yards: 8 feet for a one-story building, 10 feet for a two-story building.
    - (2) On a building site with an area of 10,000 square feet to and including 19,999 square feet:
      - (a) Front and rear yards: 20 feet; and
      - (b) Side yards: 10 feet.
    - (3) On a building site with an area of 20,000 square feet or more:
      - (a) Front and rear yards: 25 feet; and
      - (b) Side yards: 15 feet.

b. Multi-family Residential Development:

(1) Front and rear yards: 20 feet; and

(2) Side yards: 8 feet for a one-story building, 10 feet for a two-story building.

c. Office and Retail Commercial Development:

(1) Front and rear yards: 15 feet; and

(2) Side yards: none, except where the side yard adjoins the side yard of a building site used for purposes allowed in RS or RM zones, the yard setback appropriate for the RS or RM district shall be used.

4. The minimum off-street parking and loading space requirements of Chapter 25, Hawaii County Code shall be complied with. The American Disabilities Act (ADA) requirements shall also be complied with.

N. All project utility lines shall be underground.

O. Sewer lines shall be installed within the development to connect with the County's sewer system, meeting with the approval of the Department of Environmental Management, and prior to the issuance of a Certificate of Occupancy.

P. The extension of Ponahawai Street to Mohouli Street (referred to hereafter as the "Ponahawai Street extension") shall be a minimum right-of-way width of sixty

(60) feet and built to County dedicable standards, including the provision of curbs, gutters, sidewalks, and bike paths and be built on an alignment meeting with the approval of the Department of Public Works. Upon its completion, the roadway shall be dedicated at no cost to the County.

Q. The Ponahawai Street extension shall be the only roadway access allowed from Komohana Street or from Mohouli Street. The location and design of the roadway access with Komohana Street and Mohouli Street shall meet with the approval of the Department of Public Works.

R. The following improvements (#1 through #6) shall be made by the applicant concurrently with the completion of the Ponahawai Street extension:

1. Provide separate left-turn, through, and right-turn lanes on makai bound Ponahawai Street extension at Komohana Street.
2. Widen Komohana Street to provide exclusive left-turn and right-turn lanes to the Ponahawai Street extension in the northbound and southbound directions, respectively.
3. Modify the traffic signal system at the intersection of Ponahawai Street and Komohana Street to include the Ponahawai Street extension.
4. Provide stop control on Ponahawai Street to Mohouli Street, with separate left-turn and right-turn lanes to Mohouli Street.
5. Widen Mohouli Street at Ponahawai Street to provide an exclusive left-turn lane and a median shelter lane in the makai bound direction.



6. Widen the mauka leg of Mohouli Street to provide a mauka bound auxiliary acceleration lane to mitigate the LOS "F" condition on right-turn movement from Ponahawai Street, during the PM peak hour with the proposed project.

The following improvements (#7 through #11) shall be made by the applicant, according to a schedule meeting with the approval of the Department of Public Works:

7. Widen the northwest bound approach of Mohouli Street to provide dual left-turn lanes to mauka bound Kaumana Drive.
  8. Widen the mauka leg of Kaumana Drive to provide an auxiliary merging lane in the mauka bound direction.
  9. Modify the traffic signal system to provide a protected left-turn phase on Mohouli Street.
  10. Widen westbound Mohouli Street to provide dual left-turn lanes to southbound Komohana Street.
  11. Modify the traffic signal system to provide a protected left-turn phase on westbound Mohouli Street from Komohana Street.
- S. All accesses to the property shall meet with the approval of the Department of Public Works. No more than two vehicular accesses from existing streets in the Kaumana area may be allowed or required by the Planning Director, in consultation with the Department of Public Works, provided that such connection shall be for emergency access only. A barricade shall be placed at the terminus of the existing streets and the newly constructed streets, such barriers shall be paid for by the applicant and approved by the Department of Public Works.

- T. No lots shall have direct access from either Komohana Street or Mohouli Street. Further, no single-family residential lots shall have direct access from the Ponahawai Street Extension and other proposed arterial streets.
- U. Unless otherwise specified by the Planning Director in consultation with the Department of Public Works, all streets within the project shall be constructed to dedicable standards, including the provision of curbs, gutters and sidewalks.
- V. Duct lines for future traffic signals shall be installed at the intersection of Ponahawai and Mohouli Streets meeting with the approval of the Department of Public Works.
- W. Streetlights and traffic control devices shall be installed as required by the Department of Public Works.
- X. A revised Traffic Impact Analysis Report (TIAR) certified by a licensed engineer shall be submitted prior to receipt of a Certificate of Occupancy or Final Subdivision Approval for the project, whichever occurs first. All additional mitigation measures called for in the revised TIAR shall be implemented.
- Y. Because of potential roadway noise, there shall be a minimum 70-foot setback from the Komohana Street right-of-way, and a 90-foot setback from the Mohouli Street right-of-way, for any residential structures.
- Z. A minimum five-acre area, meeting with the approval of the Planning Director and the Department of Parks and Recreation, shall be developed as a passive neighborhood park prior to the issuance of a certificate of occupancy for any multi-family residential development, or the occupancy of any single-family

homes. The park shall include a restroom facility. The park may be dedicated to the County of Hawaii or retained in private ownership, but in either case, shall be made open to the general public.

- AA. 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, Hawaii County Code, relating to Affordable Housing Policy. This requirement shall be approved by the County Housing Agency prior to issuance of a Certificate of Occupancy for the multi-family residential development or the occupancy of the first single-family dwelling, whichever occurs first.
  
- BB. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. A Drainage Master Plan certified by a licensed engineer, shall be prepared and submitted to the Department of Public Works for concurrence prior to the submittal of the Project District Master Plan, prior to issuance of Final Plan Approval or Final Subdivision Approval, whichever occurs first. The Drainage Master Plan shall address the difference between the Corps of Engineers and FEMA mapping of the Alenaio Stream flood plain. The applicant shall pay for the hiring of an engineer by the County of Hawaii to independently evaluate the completed Drainage Plan. The applicant shall propose any changes to the FEMA Maps that are shown as warranted by the detailed Drainage Master Plan, unless a letter of map revision has already been approved. Drainage improvements shall be constructed, meeting with the approval of the Department of Public Works. The applicant shall maintain the two major floodways free of debris and obstructions, including trees that could be uprooted and clog the culverts during storms. The subject property shall continue to accommodate existing drainage from the Crescent City Heights Subdivision, Omao Street Subdivision, Kaumana Gardens Subdivision and the Hilo Boarding School Ditch.

- CC. Any construction within the Federal Emergency Management Agency (FEMA) designated flood zones shall conform to Chapter 27, Flood Control, of the Hawaii County Code.
- DD. There shall be no construction of residential structures and related improvements or other substantial buildings, or subdivision roads (unless the roads are protected from flooding in a manner meeting with the approval of the Department of Public Works) within areas designated Zone "AE" or "A" on the Flood Insurance Rate Map. Restrictive covenants in the deeds of all lots shall give notice of the terms of this rezoning condition. This restriction may be removed by amendment of this Project District Ordinance by the County Council. A copy of the proposed covenant(s) to be recorded with the State of Hawaii Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to 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. No residential lots may be created which lack a buildable area. As represented by the applicant, the main Alenaio Stream drainageway shall be kept as an open space area, except for drainage improvements which may be required pursuant to the Drainage Plan, and park improvements, including bicycle and pedestrian paths.
- EE. An Emergency Preparedness and Response Plan shall be submitted for review by the Planning Department in consultation with the Fire Department, Police Department, Department of Public Works and the Civil Defense Agency prior to the issuance of a Certificate of Occupancy for any residential unit. The plan shall be limited to a review of the emergency road network, emergency contact people or association, and use of the emergency evacuation shelter or shelters as required below.

- FF. The applicant, in conjunction with the Civil Defense Agency, shall designate appropriate commercial units within the Project District for use as an emergency evacuation shelter or shelters, which shall be operated in accordance with Civil Defense Agency policies and procedures.
- GG. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawaii County Code.
- HH. The applicant shall contact the U.S. Department of Army Corps of Engineers to identify whether a Federal permit is required for any possible work involving the discharge of fill material into wetlands or Alenaio Stream.
- II. The applicant shall contact the State Department of Health as to whether a National Pollutant Discharge Elimination System (NPDES) general permit is required for this project. One or more siltation basins may be incorporated into a water quality plan to prevent further degradation of the water quality of Hilo Bay or the Wailoa Estuary. These and other pollution prevention measures may be incorporated if deemed necessary by the State of Hawaii, Department of Health.
- JJ. A Solid Waste Management Plan shall be prepared and submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- KK. An archaeological inventory survey of TMK: 2-2-37:1 shall be conducted and the findings submitted to the Department of Land and Natural Resources - State Historic Preservation Division (DLNR – SHPD) prior to any construction or land disturbance activity on this eight-acre parcel.

- LL. An archaeological mitigation plan, which includes data recovery and preservation components, shall be prepared for the archaeological site identified as Site 14947 (portion of Hilo Boarding School and Old Mission Ditch). This plan shall be approved by DLNR – SHPD and the Planning Director. The plan shall be implemented prior to issuance of a grading or grubbing permit.
  
- MM. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources – State Historic Preservation Division (SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the SHPD when it is found that sufficient mitigation measures have been taken.
  
- NN. Pu'u Honu shall be preserved as a natural feature.
  
- OO. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject 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 final plan approval of that phase of the increment to be 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 (HCPJ). In lieu of paying the fair share contribution, the applicant 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 Hawaii County Council. The applicant shall be given credit against the fair share assessment for any improvements to the road system in the immediate vicinity (Komohana Street, Mohouli Street, and Kaumana Drive) to mitigate deficiencies that would have occurred without the project, as identified in the revised TIAR.

The fair share contribution shall have a maximum combined value of **\$9,671.44** per single-family residential unit and **\$6,078.25** per multi-family residential unit. The total amount shall be increased or reduced in proportion 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. **\$4,663.74** per single-family residential unit to the County to support park and recreational improvements and facilities;
2. **\$224.98** per single-family residential unit to the County to support police facilities;
3. **\$444.36** per single-family residential unit to the County to support fire facilities;
4. **\$194.55** per single-family residential unit to the County to support solid waste facilities;
5. **\$4,143.81** per single-family residential unit to the State or County to support road and traffic improvements.

The fair share contribution per multi-family residential unit shall be allocated as follows:

1. **\$2,998.18** per multi-family residential unit to the County to support park and recreational improvements and facilities;
  2. **\$94.76** per multi-family unit to the County to support police facilities;
  3. **\$291.48** per multi-family unit to the County to support fire facilities;
  4. **\$129.92** per multi-family unit to the County to support solid waste facilities;
  5. **\$2,563.91** per multi-family unit to the State or County to support road and traffic improvements;
- PP. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- QQ. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- RR. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of this Project District Ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being 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.



SS. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:

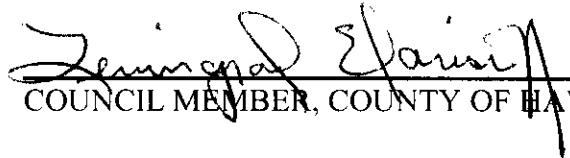
- (1) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
- (2) Granting of the time extension would not be contrary to the General Plan or Zoning Code.
- (3) Granting of the time extension would not be contrary to the original reasons for the granting of the Project District.
- (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 foregoing 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 \_\_\_\_\_, Hawaii

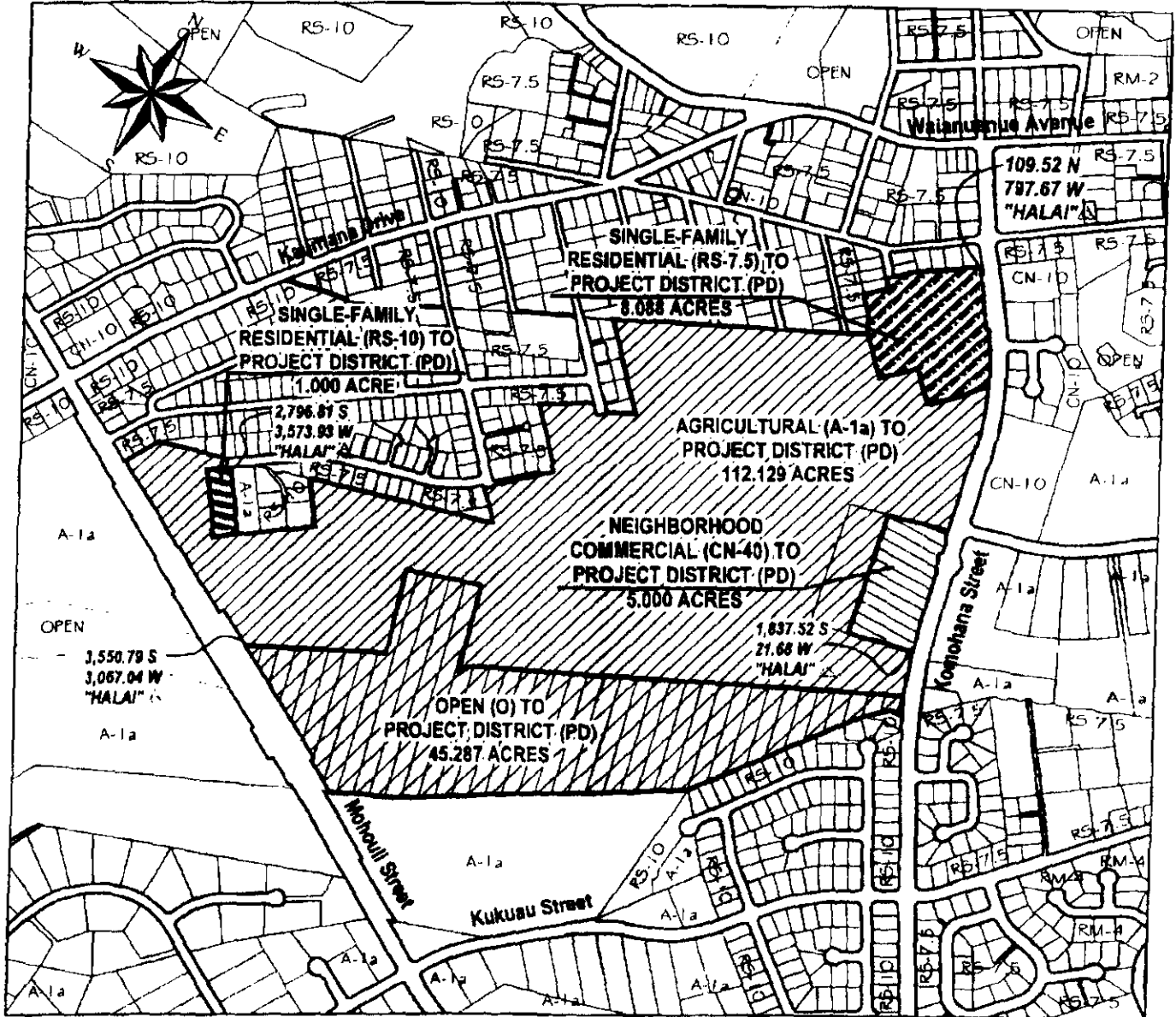
Date of Introduction: November 10, 2004

Date of 1st Reading: November 10, 2004

Date of 2nd Reading: November 24, 2004

Effective Date: December 8, 2004

REFERENCE: Comm. 560.46



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP)  
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE,  
 BY CHANGING THE DISTRICT CLASSIFICATION  
 FROM AGRICULTURAL (A-1a), NEIGHBORHOOD COMMERCIAL (CN-40),  
 SINGLE-FAMILY RESIDENTIAL (RS-7.5), SINGLE-FAMILY RESIDENTIAL (RS-10),  
 AND OPEN (O) TO PROJECT DISTRICT (PD)  
 AT PUNAHOA 1st AND 2nd, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK  
County of Hawaii  
Kona, Hawaii

Introduced By: Leningrad Elarionoff  
Date Introduced: November 10, 2004  
First Reading: November 10, 2004  
Published: November 21, 2004

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

Second Reading: November 24, 2004  
To Mayor: November 29, 2004  
Returned: December 9, 2004  
Effective: December 8, 2004  
Published: December 15, 2004

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

(Draft 5)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Reynolds	X			
Safarik			X	
Tulang	X			
Tyler	X			
	7	1	1	0

(Draft 6)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Reynolds	X			
Safarik		X		
Tulang	X			
Tyler	X			
	7	2	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:

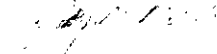
  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date 11/30/04

Approved  Disapproved this 8<sup>th</sup> day  
of December, 20 04

  
MAYOR, COUNTY OF HAWAII

  
COUNCIL CHAIRMAN

  
DEPUTY COUNTY CLERK

Bill No.: 248 (Draft 6)  
Reference: C-560.46/PC-117  
Ord: 04 144