

BILL NO. 92
(Draft 2)

ORDINANCE NO. 05 110

AN ORDINANCE AMENDING ORDINANCE NO. 92 7, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL (A-3a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-4-3:POR. 21.

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

SECTION 1. Ordinance No. 92 7 is amended as follows:

"SECTION 1. Section [~~25-114~~] 25-8-33. Article [~~3~~] 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 area situated at Waiakea, South Hilo, Hawai'i, shall be Single Family Residential (RS-10):

SECTION 2. This change in district classification is conditioned upon the following.

- A. the applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval;
- B. [~~the applicant shall submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the date of approval of the change of zone~~] the required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the effective date of this amendment;
- C. [~~subdivision plans shall be submitted within one year from the effective date of the zone change. Final Subdivision Approval shall be secured within two years from the date of receipt of tentative subdivision approval~~] Final Subdivision Approval of the proposed subdivision development shall be secured within five (5) years from the effective date of this amendment;

- D. access to the proposed lots shall meet with the approval of the Department of Public Works. All driveway connections to Kawaihāni Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code. Interior subdivision roads shall be provided with curbs, gutters, and sidewalks meeting the approval of the Department of Public Works;
- E. underground utilities shall be constructed;
- F. a 10-foot wide road widening strip along the Kawaihāni Street frontage of the property shall be set aside and delineated on the subdivision plans. All structural setbacks shall be taken from this future road widening line;
- G. ~~[drainage improvements shall meet with the approval of the Department of Public Works]~~
A drainage study of the property, if required, shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works;
- H. The method of sewage disposal shall meet with the approval of the appropriate government agencies;
- I. all development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties;
- 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-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;
- K. the applicant 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 be initially based on the

representations contained within the change of zone application and may be increased or reduced proportionally if the lot counts are adjusted. The fair share contribution shall become due and payable prior to receipt of Final Plan Approval or within five years from the effective date of this amended change of zone ordinance, whichever occurs first. The fair share contribution for each lot shall be based on a maximum density for each lot as determined by the zoning resulting from this change of zone. The fair share shall apply to all lots in excess of two lots allowed by current zoning. 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 the amendment to the ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a maximum combined value of \$9,671.44 per single-family residential unit. Based upon the applicant's representation of intent to develop a total of nineteen (19) single-family residential units, the indicated total of fair share contribution is \$183,757.36 for the single-family residential units. However, 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:

- \$4,663.74 per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of \$88,611.06 to the County to support park and recreational improvements and facilities;
- \$224.98 per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of \$4,274.62 to the County to support police facilities;
- \$444.36 per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of \$8,442.84 to the County to support fire facilities;
- \$194.55 per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of \$3,696.45 to the County to support solid waste facilities;

- \$4,143.81 per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of \$78,732.39 to the County to support road and traffic improvements;

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 County Council.

- M. 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.

- ~~[H.] N.~~ to ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, ~~[the applicant shall work with the Office of Housing and Community Development and the Planning Department to formulate a housing plan for the development, which shall be consistent with the interim affordable housing policy of the County as contained in the Hawaii County Housing Agency Resolution No. 65. This housing plan shall be approved by the County Housing Agency prior to final subdivision; provided that the applicant shall notify the County Housing Agency of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the property prior to visible commencement of construction on the property; provided further that the applicant may transfer ownership in the property to an affiliate or in a manner consistent with prior representations to the County Housing Agency]~~ 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 final subdivision approval;

- ~~[J.] O.~~ restrictive covenants in the deeds of all residential zoned lots shall prohibit the construction of ~~[ohana dwelling units]~~ 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 owner of the property may also, in addition, impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State Bureau of Conveyances shall be submitted to the Planning Department for review and approval prior to the issuance of final subdivision approval. [Written assurance for implementation of this condition, which has met with the approval of the Planning Department, shall be submitted to the Planning Department prior to final subdivision approval.] A copy of [a typically recorded] the recorded covenant shall be filed with the Planning Department [within one year from the date of final subdivision approval] upon its receipt from the Bureau of Conveyances;

P. there shall be no construction of single-family dwellings and related improvements, other substantial buildings, or subdivision roads within areas designated "AE", "AH" or "shaded" Zone "X" by the Flood Insurance Rate Maps (FIRM) except that subdivision roads can be built in "shaded" Zone "X". Restrictive covenants in the deeds of all lots shall give notice of the terms of this rezoning condition. No residential lots may be created which lack a buildable area. This restriction may be removed by amendment of this ordinance by the County Council. A copy of the proposed covenant(s) to be recorded with the 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.

~~[K.]~~ Q. should any infrastructure improvements related to Kawaiiani/Komohana intersection be required of future developers, the applicants, successors or assigns of this project shall work with the Planning Department to pay for their pro rata share of improvements. The pro rata share determination and its implementation shall be approved by the Planning Department in consultation with the Department of Public Works or any County agency having jurisdiction over any future infrastructure improvements;

~~[L.]~~ R. the applicant, successors or assigns shall be responsible for paying any additional real property taxes owed as a result of withdrawing the property from dedicated agricultural use to residential use prior to the sale of any lot;

~~[M.] S.~~ ~~[all other applicable laws, rules, regulations, and requirements shall be complied with] the applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements;~~

~~[N.] T.~~ should the council adopt a Unified Impact Fees ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein may, at the applicants' election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance;

~~[O.] U.~~ an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the amendment to the [change of zone] ordinance. The report shall ~~[address]~~ include, but not be limited to, the status of the development and the extent to which [compliance with] the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required; and

~~[P.] V.~~ ~~[an 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 the 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; and~~
- ~~(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.]~~

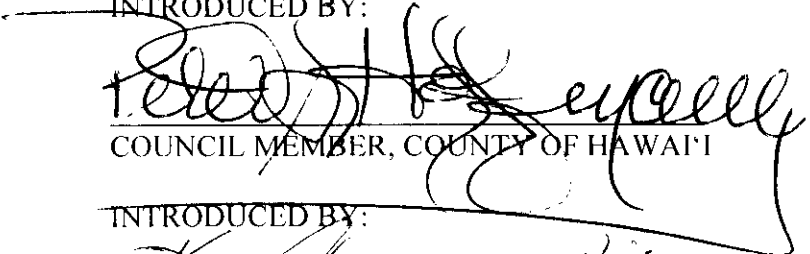
[Further, should] Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director [~~shall~~] may initiate rezoning of the area to its original or more appropriate designation.”

SECTION 2. Material to be deleted is bracketed and material to be added is underscored.

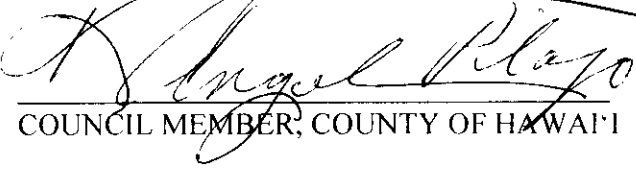
SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

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

INTRODUCED BY:

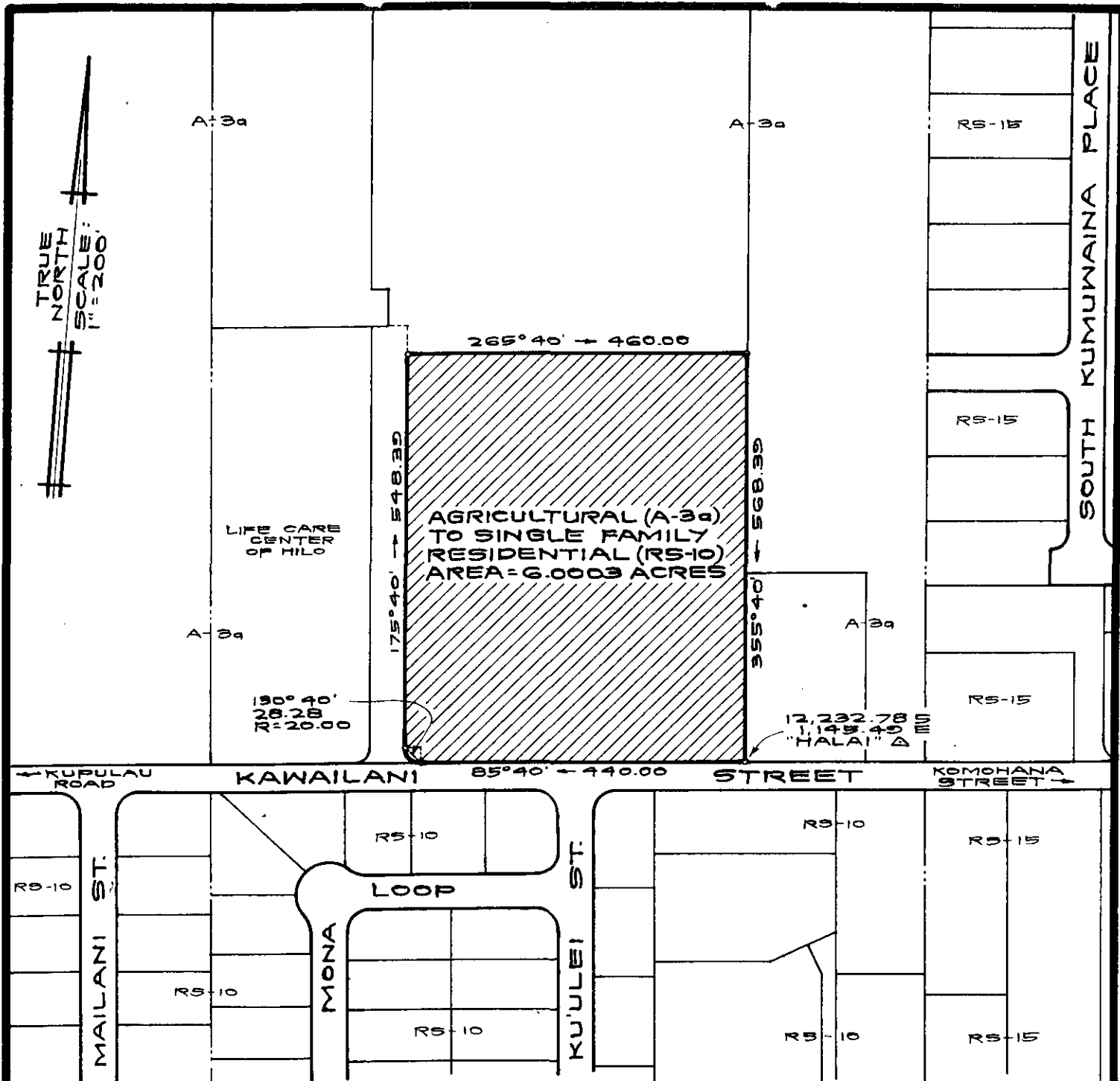

COUNCIL MEMBER, COUNTY OF HAWAII

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i
Date of Introduction: June 15, 2005
Date of 1st Reading: June 15, 2005
Date of 2nd Reading: July 7, 2005
Effective Date: July 13, 2005

REFERENCE: Comm. 241.1



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-114 (CITY OF HILO ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-3a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK = 2-4-03 : 21 (PORTION)

OCT. 21, 1991

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

Introduced By: Pete Hoffmann/K. Angel Pilago
Date Introduced: June 15, 2005
First Reading: June 15, 2005
Published: June 26, 2006

REMARKS: _____

Second Reading: July 7, 2005
To Mayor: July 8, 2005
Returned: July 14, 2005
Effective: July 13, 2005
Published: July 20, 2005

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik			X	
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	9	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:

Robin Hood Todd
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date July 12, 2005

Angel Pilago
COUNCIL CHAIRMAN

Constance R Kuni
COUNTY CLERK

Bill No.: 92 (Draft 2)

Reference: C-241.1/PC-23

Ord No.: 05 110

Approved Disapproved this 13th day
of July, 2005

Maaila
ACTING MAYOR, COUNTY OF HAWAII