

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 07 111 BILL NO. 111
(DRAFT 2)

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL 1-ACRE (A-1a) TO MULTIPLE FAMILY RESIDENTIAL – 4,000 SQUARE FEET (RM-4) AT PONAHAWAI, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-3-037:017.

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 1983 (2005 Edition), is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Ponahawai, South Hilo, Hawai'i, shall be Multiple Family Residential – 4,000 square feet (RM-4):

Beginning at a point at the northwest corner of this parcel of land being also the northeast corner of Lot 11 and on the southeasterly side of Ponahawai Street the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 1,065.52 feet south and 271.79 feet east and running by azimuths measured clockwise from true South:

Thence along the southeasterly side of Ponahawai Street along a curve to the left having a radius of 1,030.00 feet, the chord azimuth and distance being:

- | | | | |
|----|----------|--------|--------------------|
| 1. | 246° 05' | 104.82 | feet; |
| 2. | 333° 10' | 445.00 | feet along Lot 9; |
| 3. | 66° 05' | 150.11 | feet along Lot 12; |

4. 159° 00' 445.00 feet along Lot 11 to the point of beginning and containing an area of 1.298 acres, more or less.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made part hereof.

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.
- A. The applicant(s), successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Prior to the issuance of a water commitment by the Department of Water Supply, the applicants shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within 180 days from the effective date of this ordinance.
- C. In accordance with the Department of Water Supply's Standards, the applicant shall connect to the existing 6-inch or 8-inch waterline within Ponahawai Street.
- D. Construction of the proposed improvements shall be completed within five (5)

years from the effective date of this ordinance. This time period shall include securing Final Plan Approval from the Planning Director in accordance with the Zoning Code. Plans shall identify proposed structure(s), fire protection measures, access roadway, driveway and parking stalls. Plans shall also identify the drainage easement ("D-4"), as well as the portion of the property designated Flood Zone "A" by the Flood Insurance Rate Map (0880C September 16, 1988). Landscaping shall be indicated on the plans for the purpose of mitigating any potential adverse noise or visual impacts to adjoining parcels. Landscaping shall be provided in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).

- E. No structural improvements shall be allowed within the designated drainage easement ("D-2") and areas designated Flood Zone "A" on the Flood Insurance Rate Map (FIRM).

- F. The applicant shall provide full improvements to the project's frontage along Ponahawai Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any required utility relocation, meeting with the approval of the Department of Public Works.

- G. No direct access to the property shall be allowed from Ponahawai Street except that access shall be limited through the Road and Utility Easement (RU-5) and shall conform to Chapter 22, County Streets, of the Hawaii County Code. This access point shall be shared with the adjoining parcel (TMK: 2-3-37: 18).

- H. Notwithstanding Section 25-4-51(a)(5), the project shall provide a minimum of two parking spaces for each dwelling unit plus one guest parking space for each two dwelling units, or the requirements of Section 25-4-51, whichever is greater. The minimum off-street parking spaces for this project shall initially be 20 spaces.

- I. Install street lights and traffic control devices as required by the Traffic Division, Department of Public Works.
- J. The applicant shall install a septic system meeting with the requirements of the Department of Health, prior to receipt of a Certificate of Occupancy.
- K. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and the recommended drainage system shall be constructed, meeting the approval of the Department of Public Works, prior to receipt of a Certificate of Occupancy.
- L. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- M. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawaii County Code.
- N. 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-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- O. 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 Administrator of the Office of Housing and Community Development prior to Final Plan Approval for any new residential

structures, or before issuance of building permits for any single-family residential structures.

P. 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 become due and payable prior to receipt of Final Plan Approval. The fair share contribution shall be based on the actual number of residential units 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 (HCPI). The fair share contribution shall have a maximum combined value of **\$6,653.40** per multiple family residential unit (**\$10,368.57** per single family residential unit). The total amount shall be determined with the actual number of units according to the calculation and payment provisions set forth in this condition. The fair share contribution per multiple family residential unit (single family residential unit) shall be allocated as follows:

1. **\$3,281.93** per multiple family residential unit (**\$4,999.91** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$103.73** per multiple family residential unit (**\$241.20** per single family residential unit) to the County to support police facilities;
3. **\$319.07** per multiple family residential unit (**\$476.39** per single family residential unit) to the County to support fire facilities;
4. **\$142.21** per multiple family residential unit (**\$208.57** per single family residential unit) to the County to support solid waste facilities; and

5. **\$2,806.46** per multiple family residential unit (**\$4,442.50** per single family residential unit) to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicants 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.

- Q. Should the Council adopt an 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.
- R. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- S. 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 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 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 applicants should require an additional extension of time, the Planning Director shall submit the applicants' 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 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.

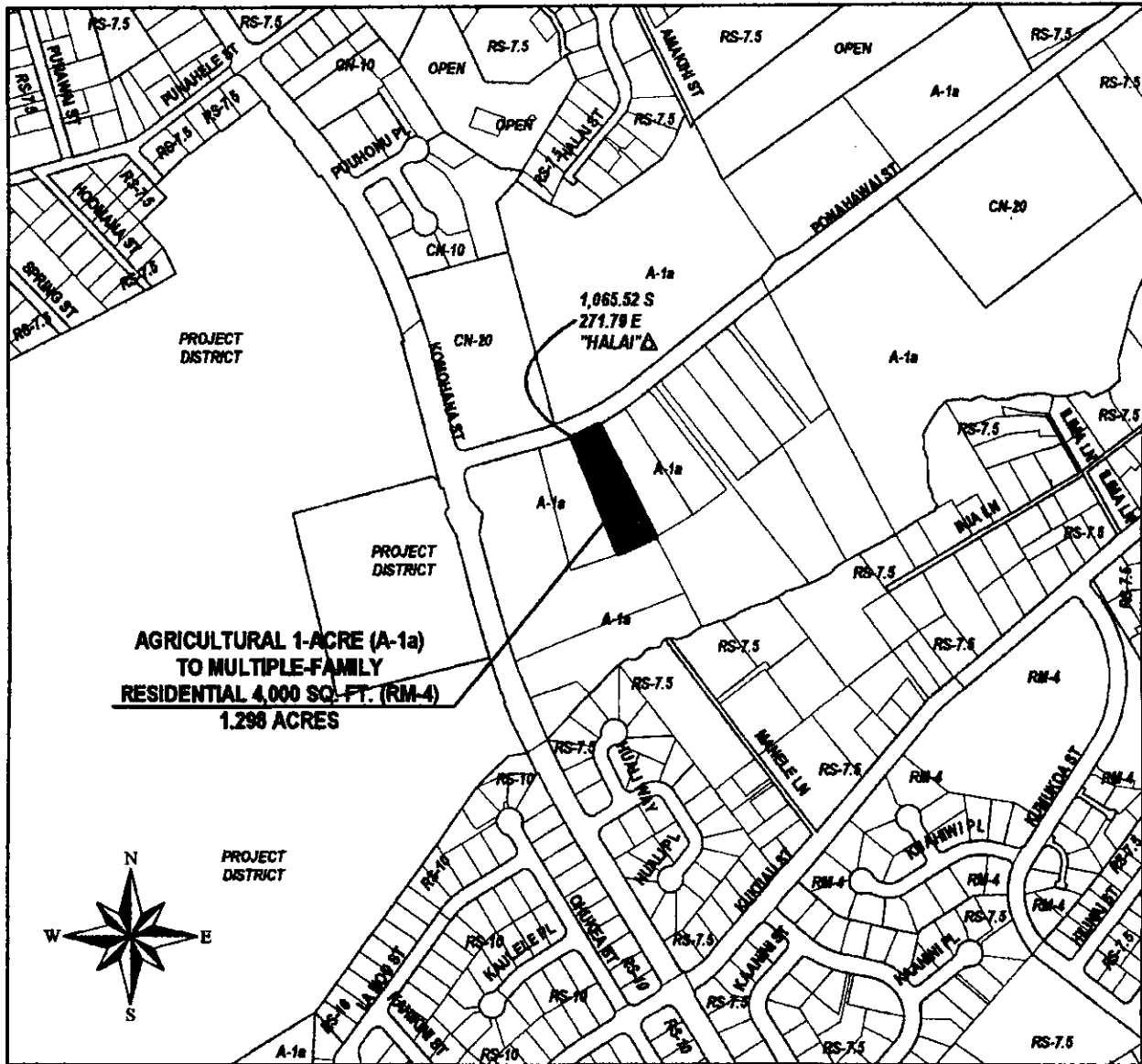
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

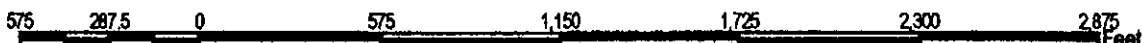
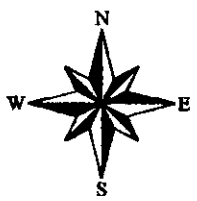
_____ Hilo _____, Hawai'i

Date of Introduction: July 25, 2007
Date of 1st Reading: July 25, 2007
Date of 2nd Reading: August 22, 2007
Effective Date: September 11, 2007

REFERENCE: Comm. 457.3



**AGRICULTURAL 1-ACRE (A-1a)
TO MULTIPLE-FAMILY
RESIDENTIAL 4,000 SQ. FT. (RM-4)
1.298 ACRES**



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
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
 FROM AGRICULTURAL 1-ACRE (A-1a)
 TO MULTIPLE-FAMILY RESIDENTIAL 4,000 SQ. FT. (RM-4)
 AT PONAHAHAWAI, SOUTH HILO, HAWAII
 PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

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

Introduced By: K. Angel Pilago
Date Introduced: July 25, 2007
First Reading: July 25, 2007
Published: August 4, 2007

REMARKS: _____


Second Reading: August 22, 2007
To Mayor: August 30, 2007
Returned: September 12, 2007
Effective: September 11, 2007
Published: September 20, 2007

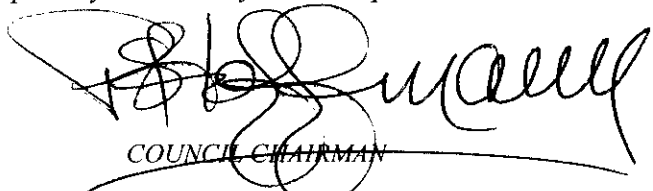

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa	X			
Hoffmann	X			
Ikeda	X			
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto	X			
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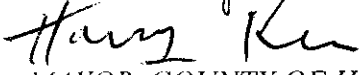
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford		X		
Higa	X			
Hoffmann	X			
Ikeda	X			
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto			X	
	7	1	1	0

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 7/10/07


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 111 (Draft 2)
Reference: C-457.3/PC-38
Ord No.: **07 111**

Approved/Disapproved this 11th day
of September, 2007

MAYOR, COUNTY OF HAWAII

**Ordinances Numbered 07-111, 07-112, 07-113, 07-114, 07-115, 07-116,
07-117, 07-118, 07-119, 07-120, 07-121, 07-122, 07-123, 07-124, 07-125, & 07-126**

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on September 6, 2007, by vote, as listed below:

Ordinance 07-111 (Bill 111, Draft 2): An Ordinance Amending Section 25-8-33 (City of Hilo Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification from Agricultural 1-Acre (A-1a) to Multiple Family Residential – 4,000 Square Feet (RM-4) at Ponahawai, South Hilo, Hawai'i, Covered by Tax Map Key:2-3-037:017. AYES: Council Members Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, and Chair Hoffmann – 7; NOES: Council Member Ford – 1; ABSENT: Council Member Yoshimoto – 1; EXCUSED: None.

Ordinance 07-112 (Bill 114): An Ordinance Amending Section 25-8-7 (North and South Kohala District Zone Map) and Section 25-8-11 (Lalamilo-Puukapu Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification from Agricultural – 40 Acre (A-40a) and Agricultural – 1 Acre (A-1a) to Agricultural – 400 Acre (A-400a) at Waimea, South Kohala, Hawai'i, Covered by Tax Map Key:6-5-001:020. AYES: Council Members Ford, Ikeda, Jacobson, Naeole, Pilago, Yoshimoto, and Chair Hoffmann – 7; NOES: None; ABSENT: Council Members Higa and Yagong – 2; EXCUSED: None.

Ordinance 07-113 (Bill 116): An Ordinance Amending Chapter 5, Article 1, Subsection 5-1.0.12(d) (Building), Chapter 9, Article 5, Division 2, Section 9-42 (Electricity), and Chapter 17, Article 2, Division 5, Section 17-28 (Plumbing), Hawai'i County Code 1983 (2005 Edition), as Amended, to Exempt Habitat for Humanity Construction Projects from Building, Electrical, and Plumbing Permit Fees. AYES: Council Members Ford, Ikeda, Jacobson, Naeole, Pilago, Yoshimoto, and Chair Hoffmann – 7; NOES: None; ABSENT: Council Members Higa and Yagong – 2; EXCUSED: None.

Ordinance 07-114 (Bill 117): An Ordinance to Amend Ordinance No. 07-82, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2008. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yoshimoto, and Chairman Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.

Ordinance 07-115 (Bill 118): An Ordinance to Amend Ordinance No. 07-82, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2008. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chairman Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 07-116 (Bill 119): An Ordinance Amending Ordinance No. 07-83, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2007 to June 30, 2008. AYES: Council Members Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chairman Hoffmann – 8; NOES: None; ABSENT: Council Member Ford – 1; EXCUSED: None.

Ordinance 07-117 (Bill 120): An Ordinance to Amend Ordinance No. 07-82, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2008. AYES: Council Members Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chairman Hoffmann – 8; NOES: None; ABSENT: Council Member Ford – 1; EXCUSED: None.

Ordinance 07-118 (Bill 121): An Ordinance Amending Chapter 24, of the Hawai'i County Code 1983 (2005 Edition), Relating to Vehicles and Traffic. AYES: Council Members Higa, Ikeda, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 7; NOES: Council Member Jacobson – 1; ABSENT: Council Member Ford – 1; EXCUSED: None.

Ordinance 07-119 (Bill 122): An Ordinance Amending Ordinance No. 07-83, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2007 to June 30, 2008. AYES: Council Members Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chairman Hoffmann – 8; NOES: None; ABSENT: Council Member Ford – 1; EXCUSED: None.

Ordinance 07-120 (Bill 123): An Ordinance Authorizing the Issuance of General Obligation Bonds of the County of Hawai'i for the Purpose of Funding Costs of the Waikoloa Workforce Housing Project; Fixing the Form, Denominations, and Certain Other Details of Such Bonds and Providing for the Sale Thereof; and Authorizing the Taking of Other Actions Relating to the Issuance and Sale of the Bonds. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chairman Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 07-121 (Bill 124): An Ordinance Amending Chapter 7 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Civil Defense, Relating to Loitering. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chairman Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.


Ordinance 07-122 (Bill 127): An Ordinance Amending Ordinance No. 07-83, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2007 to June 30, 2008. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chairman Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 07-123 (Bill 133): An Ordinance to Amend Ordinance No. 07-82, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2008. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chairman Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 07-124 (Bill 134): An Ordinance Amending Chapter 14, Article 10, of the Hawai'i County Code 1983 (2005 Edition), Relating to Exceptional Trees. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chairman Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 07-125 (Bill 135): An Ordinance Amending Chapter 14, Article 10, of the Hawai'i County Code, as Amended, Relating to Exceptional Trees. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chairman Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 07-126 (Bill 136): An Ordinance Amending Chapter 14, Article 10, of the Hawai'i County Code, as Amended, Relating to Exceptional Trees. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chairman Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.


for Casey Jarman
County Clerk

(Hawai'i Tribune-Herald – September 20, 2007)

(West Hawai'i Today – September 20, 2007)

Note: The original Digest/Affidavit is attached to Ordinance No. 07-111.

*Serving the Interests of the People of Our Island
Hawai'i County is an Equal Opportunity Provider and Employer*