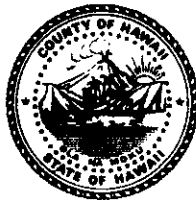


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 07 134

BILL NO. 125
(DRAFT 2)

AN ORDINANCE AMENDING ORDINANCE NO. 93 101, WHICH RECLASSIFIED LANDS FROM OFFICE COMMERCIAL – 20,000 SQUARE FEET (CO-20) TO GENERAL COMMERCIAL – 20,000 SQUARE FEET (CG-20) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-021:007 (FORMERLY 2-2-021:007 AND 046).

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

SECTION 1. Ordinance No. 93 101 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 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 Waiakea, South Hilo, Hawai'i, shall be General Commercial – 20,000 square feet (CG-20):

SECTION 2. [~~This change in district classification is conditioned upon the following:~~]
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. ~~[t]~~The applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval;
- B. ~~[f]~~Final Plan Approval for the proposed commercial building and related improvements shall be secured from the Planning Director within one year from the effective date of ~~[the change of zone ordinance]~~this amendment. To assure adequate time for plan approval review and in accordance with Chapter 25-~~[244]~~2-70, (Zoning Code), plans shall ~~[be submitted a minimum of forty five (45) days prior to the date for which plan approval must be secured. Plans shall include a landscaping buffer along the project site's common boundaries with adjoining properties for the purpose of mitigating any potential adverse noise and visual impacts]~~ identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) and Section 25-5-117 (Landscaping of Yards in the CG District). Parking spaces for the proposed commercial building and related improvements shall meet the requirements of Section 25-4-51(a)(3), Hawai'i County Code, (Required number of parking spaces);
- C. ~~[e]~~Construction of the proposed commercial development shall be completed within three (3) years from the date of issuance of Final Plan Approval;
- D. ~~[a]~~Access to the subject property from Lanihuli Street shall meet with the approval of the Department of Public Works;
- E. ~~[r]~~Roadway improvements to Lanihuli Street, to include curb, gutter and sidewalk improvements and required pavement transition areas, shall be constructed along the project site's entire Lanihuli Street frontage in a manner meeting with the approval of the Department of Public Works, prior to the issuance of a ~~[e]~~Certificate of ~~[o]~~Occupancy for any portion of the proposed development;

- F. ~~[d]~~ Drainage improvements, if required, shall be installed in a manner meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy for any portion of the proposed development;
- G. ~~[w]~~ Wastewater generated by the proposed development shall be disposed of in a manner meeting with the approval of the Department of Health;
- H. ~~[s]~~ Should any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall be encountered, work within the affected area shall cease and the Planning Director immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken;
- I. ~~[comply with all applicable laws, rules, regulations and requirements of the affected agencies]~~ The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements;
- J. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, if applicable, the applicants 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 or final subdivision approval for any new residential structures;
- K. 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.

L. If the applicants, successors, or assigns develop residential units on the subject property, the applicants 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;

~~[J. an annual progress report shall be submitted to the Planning Director prior to the anniversary date of this ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are complied with. 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;]~~

~~[K.]~~ M. [s] 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 may shall be credited towards the requirements of the Unified Impact Fees Ordinance;

~~[L.]~~ N. [a] 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) ~~[t]~~ 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 or their fault or negligence;

- 2) [~~g~~]Granting of the time extension would not be contrary to the general plan or zoning code;
- 3) [~~g~~]Granting of the time extension would not be contrary to the original reasons for granting of the change of zone; and,
- 4) [~~t~~]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) [~~H~~]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.

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

SECTION 2. Material to be deleted is bracketed and stricken. New material 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:

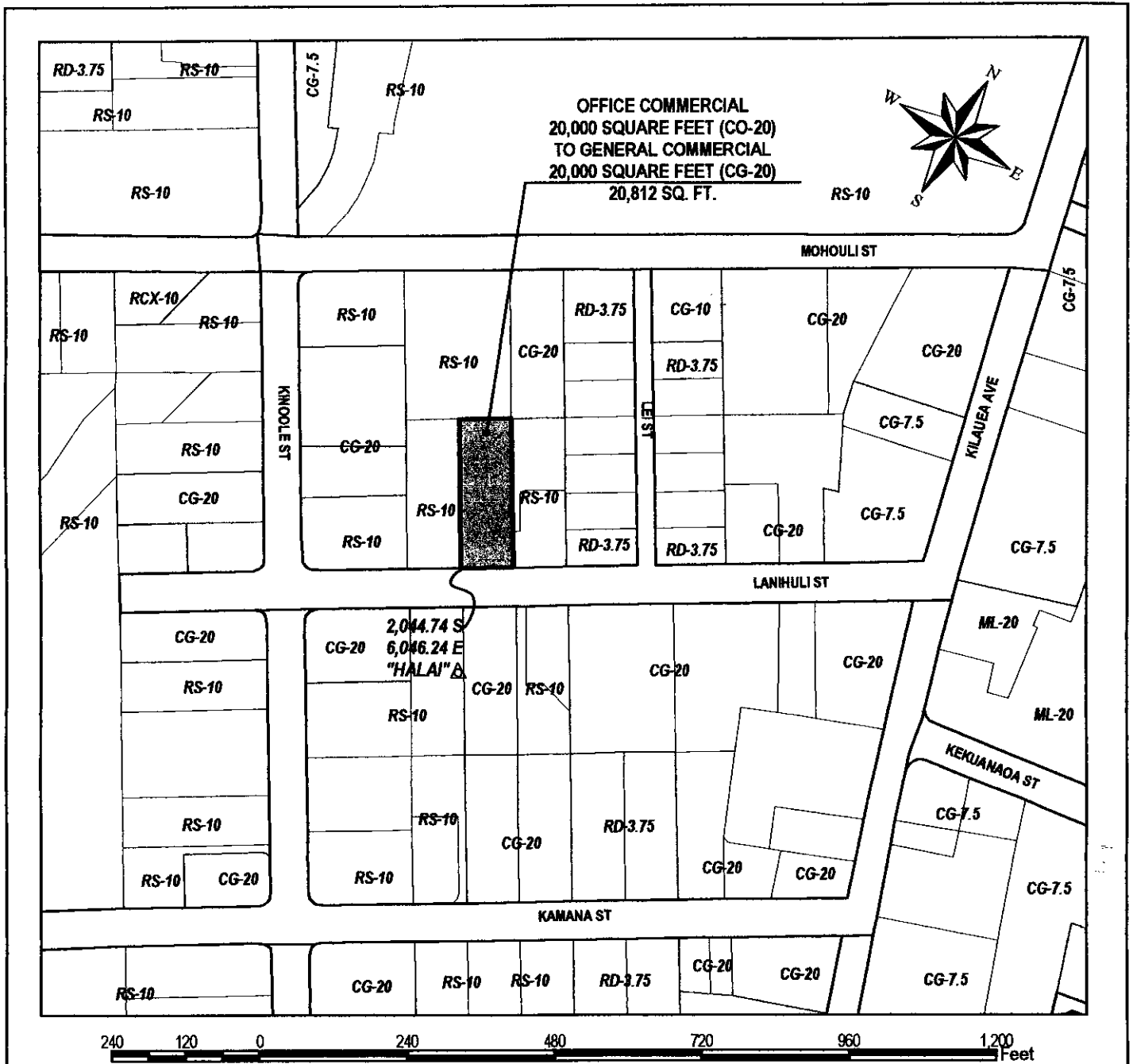


COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i

Date of Introduction: September 6, 2007
Date of 1st Reading: September 6, 2007
Date of 2nd Reading: September 19, 2007
Effective Date: October 10, 2007

REFERENCE: Comm. 508.2



AMENDMENT TO THE ZONING CODE

AN ORDINANCE AMENDING ORDINANCE 93-101
 AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE
 1983 (2005 EDITION), WHICH RECLASSIFIED THE DISTRICT CLASSIFICATION
 FROM OFFICE COMMERCIAL 20,000 SQUARE FEET (CO-20)
 TO GENERAL COMMERCIAL 20,000 SQUARE FEET (CG-20)
 AT WAIAKEA, SOUTH HILO, HAWAII
 COVERED BY TAX MAP KEY 2-2-021:007 (FORMALLY 2-2-021:0074 AND 046)

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

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

(Draft 2)

Introduced By: K. Angel Pilago
Date Introduced: September 6, 2007
First Reading: September 6, 2007
Published: September 15, 2007

REMARKS: _____

Second Reading: September 19, 2007
To Mayor: September 27, 2007
Returned: October 10, 2007
Effective: October 10, 2007
Published: October 18, 2007

REMARKS: _____

ROLL CALL VOTE 10 8 20				
	AYES	NOES	ABS	EX
Ford	X			
Higa	X			
Hoffmann	X			
Ikedo	X			
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong			X	
Yoshimoto	X			
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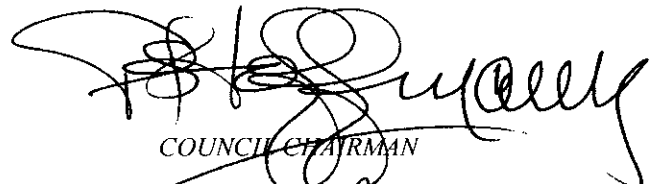

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa	X			
Hoffmann	X			
Ikedo	X			
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto	X			
	9	0	0	0

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

APPROVED AS TO
FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date OCT - 2 2007

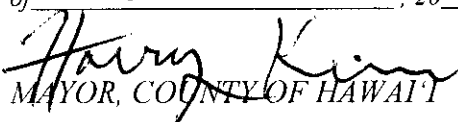

COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 125 (Draft 2)

Reference: C-508.2/PC-39

Ord No.: **07 134**

Approved/Disapproved this 10th day
of October, 2007


MAYOR, COUNTY OF HAWAII

**Ordinances Numbered 07-134, 07-135, 07-136, 07-137, 07-138,
07-139, 07-140, 07-141, 07-142, 07-143, 07-144, 07-145, 07-146, & 07-147**

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on September 19, 2007, by vote, as listed below:

Ordinance 07-134 (Bill 125, Draft 2): An Ordinance Amending Ordinance No. 93 101, Which Reclassified Lands from Office Commercial – 20,000 Square Feet (CO-20) to General Commercial – 20,000 Square Feet (CG-20) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-021:007 (Formerly 2-2-021:007 and 046). AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 07-135 (Bill 126): 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 – 3 Acre (A-3a) to Family Agricultural – 2 Acre (FA-2a) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-5-040:018. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 07-136 (Bill 137): 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 Single Family Residential – 10,000 Square Feet (RS-10) to Industrial-Commercial Mixed – 20,000 Square Feet (MCX-20) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-036:090. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.

Ordinance 07-137 (Bill 138, 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 Neighborhood Commercial – 20,000 Square Feet (CN-20) at Ponahawai, South Hilo, Hawai'i, Covered by Tax Map Key 2-3-037:009. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.

Ordinance 07-138 (Bill 141): 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 Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.

Ordinance 07-139 (Bill 142): 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, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.

Ordinance 07-140 (Bill 143): 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, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.

Ordinance 07-141 (Bill 145): An Ordinance Amending Chapter 18, Article 4, Division 1, Subsection 18-90(H), Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Public Transportation. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.

Ordinance 07-142 (Bill 146): 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 Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.


Ordinance 07-143 (Bill 147): 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 Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.

Ordinance 07-144 (Bill 148): 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 Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.

Ordinance 07-145 (Bill 149): 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 Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.

Ordinance 07-146 (Bill 150, Draft 2): An Ordinance Amending Chapter 32, Articles 2, 5 and 6 of the Hawai'i County Code 1983 (2005 Edition, as Amended) Relating to Community Facilities Districts. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.

Ordinance 07-147 (Bill 166): 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 Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Yagong – 1; EXCUSED: None.


Casey Jarman
County Clerk

(Hawai'i Tribune-Herald – October 18, 2007)
(West Hawai'i Today – October 18, 2007)

Note: The original Digest/Affidavit is attached to Ordinance No. 07-134.

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