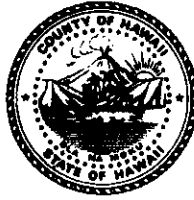


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 07 160 BILL NO. 164
(DRAFT 2)

AN ORDINANCE AMENDING ORDINANCE NO. 97 56, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 5 ACRE (A-5a) TO SINGLE FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) AT KALAOA 4TH, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-3-028:082 – 102 (FORMERLY 7-3-010:037).

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

SECTION 1. Ordinance No. 97 56 is amended as follows:

“SECTION 1. Section 25-8-3, 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:

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. The applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval.

- B. The required water commitment payment for the proposed second increment shall be submitted to the Department of Water Supply in accordance with its “Water Commitment Guidelines Policy” within ~~[ninety (90)]~~ one hundred and eighty (180) days from the effective date of this [~~ordinance~~]amendment.
- C. The subject property shall be subdivided in two increments. The first increment shall consist of a maximum of twenty-four (24) lots based upon the units of water available and committed to the applicant by the Department of Water Supply. Subdivision of the second increment shall be submitted only after the Department of Water Supply grants to the applicant the necessary water commitments for each of the proposed lots of the second increment. No variance from the minimum water requirements for any portion of the subject property shall be granted.
- D. Final Subdivision Approval of the proposed [~~residential subdivision~~]second increment within the subject property shall be secured from the Planning Director within five (5) years from the effective date of this [~~ordinance~~]amendment.
- E. Restrictive covenant in the deeds of all the proposed residential lots within the subject property shall prohibit the construction of an ohana dwelling or a second dwelling on each lot. A copy of the proposed covenant 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 approved covenant shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances in conjunction with the issuance of Final Subdivision Approval for any portion of the subject property. A copy of the recorded document shall be provided to the Planning Department upon its receipt from the Bureau of Conveyances.
- F. In conjunction with Final Subdivision Approval for any portion of the subject property, Holoholo Street shall be extended through the subject property to

connect with Nana Street and constructed to dedicable standards with paved swales, meeting with the approval of the Department of Public Works. This roadway connection from the dedicated portion of Holoholo Street to Nana Street shall be dedicated to the County of Hawaii upon completion.

- G. Access to all lots within the proposed subdivision shall meet with the approval of the Department of Public Works. Improvements within the proposed subdivision shall include underground utilities.
- H. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works in conjunction with Final Subdivision Approval.
- I. 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-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 mitigative measures have been taken.
- J. 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 amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a

sum calculated in the same manner according to the number of additional proposed residential lots in each such increment. The fair share contribution may be in a form of cash, land, facilities, or any combination thereof acceptable to the director in consultation with the affected agencies. The fair share contribution shall have a maximum combined value of [~~\$7,239.16 per lot~~]\$10,368.57 per single-family residential unit. [~~Based upon the applicant's representation of intent to subdivide and develop up to thirty-four (34) residential lots, the indicated total fair share contribution is \$246,131.44, however, the total amount shall be increased or reduced in proportion with the actual number of subdivided lots according to the calculation and payment provisions set forth in Condition J. The fair share contribution shall be allocated as follows:~~] 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 single-family residential unit shall be allocated as follows:

1. [~~\$3,490.85 per lot, for an indicated total of \$118,688.90~~]\$4,999.91 per single-family residential unit to the County to support park and recreational improvements and facilities;
2. [~~\$168.40 per lot, for an indicated total of \$5,725.60~~]\$241.20 per single-family residential unit to the County to support police facilities;
3. [~~\$332.61 per lot, for an indicated total of \$11,308.74~~]\$476.39 per single-family residential unit to the County to support fire facilities;
4. [~~\$145.62 per lot, for an indicated total of \$4,951.08~~]\$208.57 per single-family residential unit to the County to support solid waste facilities;

5. ~~[\$3,101.68 per lot, for an indicated total of \$105,475.12]~~ \$4,442.50 per single-family residential unit to the County to support road and traffic improvements.

The fair share contributions described above shall be adjusted annually beginning three years after the effective date of the change of zone, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute 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 approval of the director. The cost of providing and constructing the segment of roadway which establishes a roadway connection between Holoholo and Nana Streets (exclusive of interior subdivision roads), as set forth in Condition[s] F, shall be credited against the sum specified in Condition J(5) for road and traffic improvements. For purposes of administering Condition J, the fair market value of land contributed for such roadway segment and the cost of constructing its improvements shall be subject to the review and approval of the director, upon consultation with the appropriate agencies.

- K. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall secure the concurrence of the Office of Housing and Community Development that the applicant's affordable housing requirements, if any, have been mutually agreed prior to Final Subdivision Approval for any portion of the subject property.
- L. Should the Council adopt a Unified Impact-Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

M. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements;

[M]N. ~~[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. ~~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. ~~2. Granting of the time extension would not be contrary to the General Plan or Zoning Code;~~
3. ~~3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.~~
4. ~~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).]~~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.

[N]O. 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.

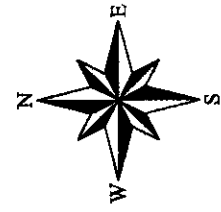
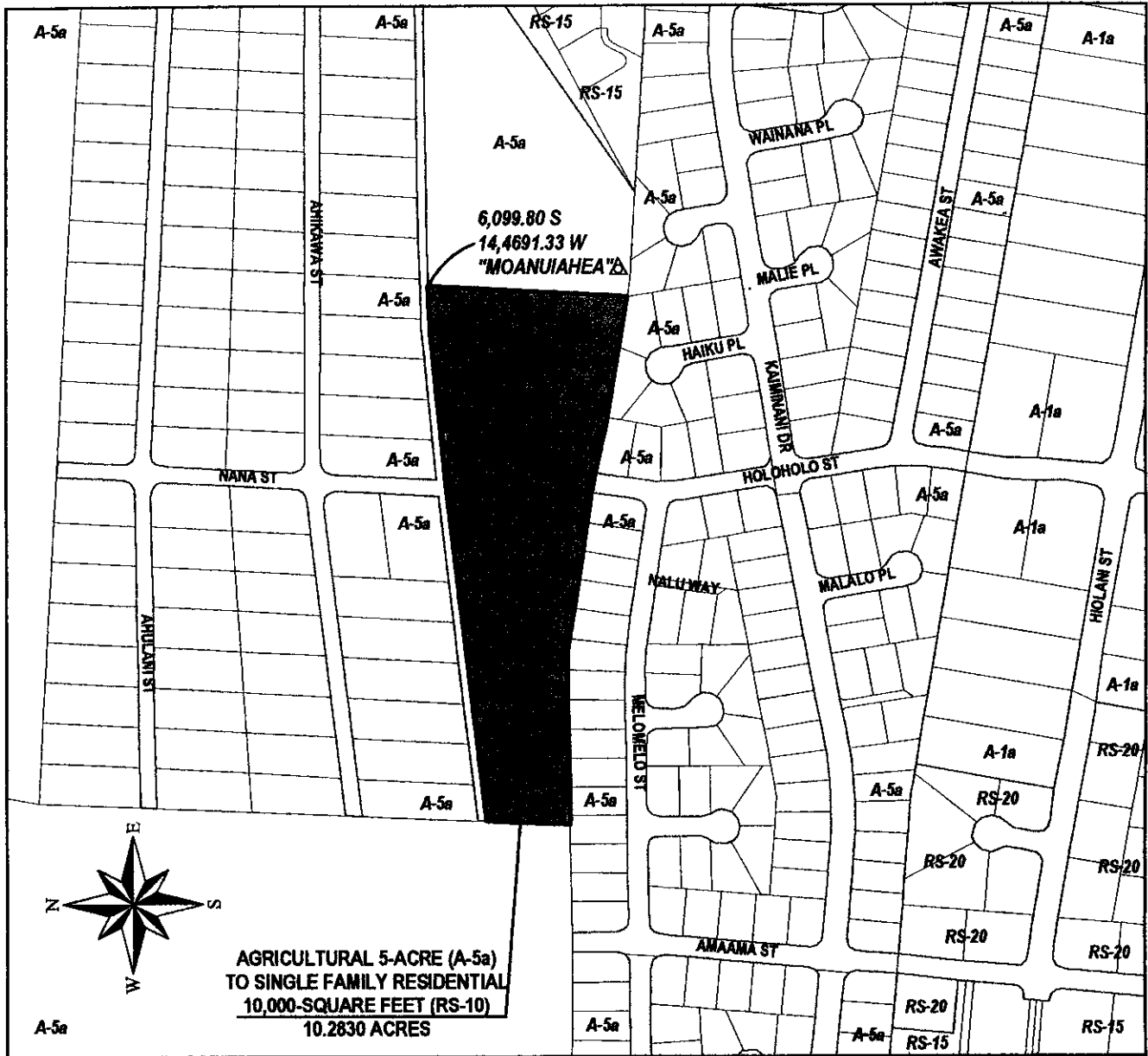
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

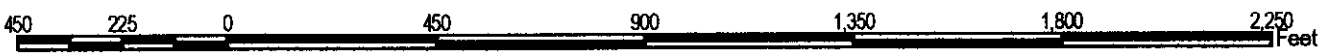
Hilo, Hawai'i

Date of Introduction: September 19, 2007
Date of 1st Reading: September 19, 2007
Date of 2nd Reading: October 3, 2007
Effective Date: October 19, 2007

REFERENCE: Comm. 633.2



AGRICULTURAL 5-ACRE (A-5a)
 TO SINGLE FAMILY RESIDENTIAL
 10,000-SQUARE FEET (RS-10)
 10.2830 ACRES



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
 FROM AGRICULTURAL 5-ACRE (A-5a)
 TO SINGLE FAMILY RESIDENTIAL 10,000-SQUARE FEET (RS-10)
 AT KALAOA 4th, NORTH KONA, 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: September 19, 2007
First Reading: September 19, 2007
Published: September 30, 2007

REMARKS: _____

Second Reading: October 3, 2007
To Mayor: October 11, 2007
Returned: October 19, 2007
Effective: October 19, 2007
Published: October 27, 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			
	7	2	0	0

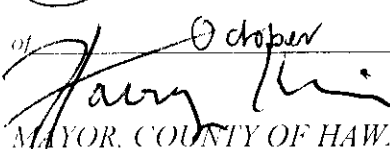
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford		X		
Higa	X			
Hoffmann	X			
Ikeda	X			
Jacobson		X		
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto	X			
	7	2	0	0

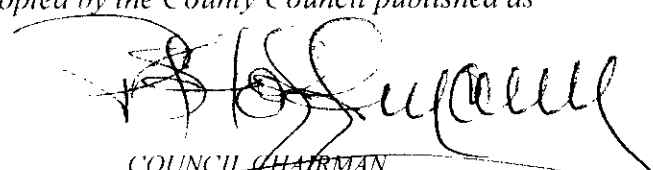
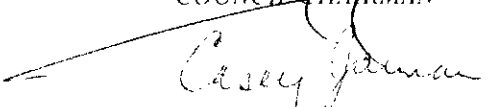
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 10-15-07

Approved/Disapproved this 19th day
of October, 2007

MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 164 (Draft 2)
Reference: C-633.2/PC-45
Ord No.: 07 160