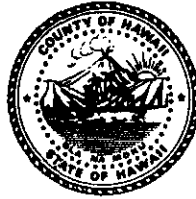


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 07 166 BILL NO. 179

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 – 5,500 SQUARE FEET (RM-5.5) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-3-37:15.

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 Waiakea, South Hilo, Hawai'i, shall be Multiple Family Residential – 5,500 square feet (RM-5.5)

Beginning at a point at the north corner of this parcel of land being also the northwest corner of Lot 7 and on the southeasterly side of Ponahawai Street the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 921.09 feet south and 529.69 feet east and running by azimuths measured clockwise from true South:

- |    |             |        |   |
|----|-------------|--------|---|
|    |             |        | Thence along Lot 7, along a curve to the right having a radius of 20.00 feet, the chord azimuth and distance being: |
| 1. | 277° 30'    | 28.28  | feet;   |
| 2. | 322° 30'    | 425.00 | feet along Lot 7;   |
| 3. | 54° 34' 55" | 144.38 | feet along Lot 7;   |
| 4. | 147° 20'    | 445.00 | feet along Lot 9 to a point at the southeasterly side of Ponahawai Street;  |

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:

5. 234° 55' 86.86 feet to the point of beginning and containing an area of 1.278 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. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within 180 days from the effective date of this ordinance.
- C. 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 easements ("D-6" and "D-7"), 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).

- D. No structural improvements shall be allowed within the designated drainage easements (“D-6” and “D-7”) and areas designated Flood Zone “A” on the Flood Insurance Rate (FIRM) map.
- E. Notwithstanding Section 25-4-51(a)(5), the project shall provide a minimum of two parking spaces for each unit, or the requirements of Section 25-4-51, whichever is greater.
- 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, prior to receipt of a Certificate of Occupancy.
- G. Access to the subject parcel shall be limited through the Road and Utility Easement (“RU-3”) and shall conform to Chapter 22, County Streets, of the Hawaii County Code.
- H. Install street lights and traffic control devices as may be required by the Traffic Division, Department of Public Works.
- I. The applicant shall install a wastewater disposal system meeting with the requirements of the Department of Health.
- J. The applicant shall allow unrestricted access through the 15-foot wide road and utility easement (“RU-3”) within the property to the owner of TMK 2-3-37: 16. The applicant shall also allow unrestricted access through the 25-foot wide road

and utility easement (“RU-7”) within its other property identified as TMK 2-3-37: 10 to the owners of TMK: 2-3-37: 8 and 9, as well as any other property that is supposed to have any easement over any of the applicant’s properties within lots created by and required by Subdivision No. 7389.

- 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 for each lot 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 units) 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 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.

- Q. 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.
- 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 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 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 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 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.

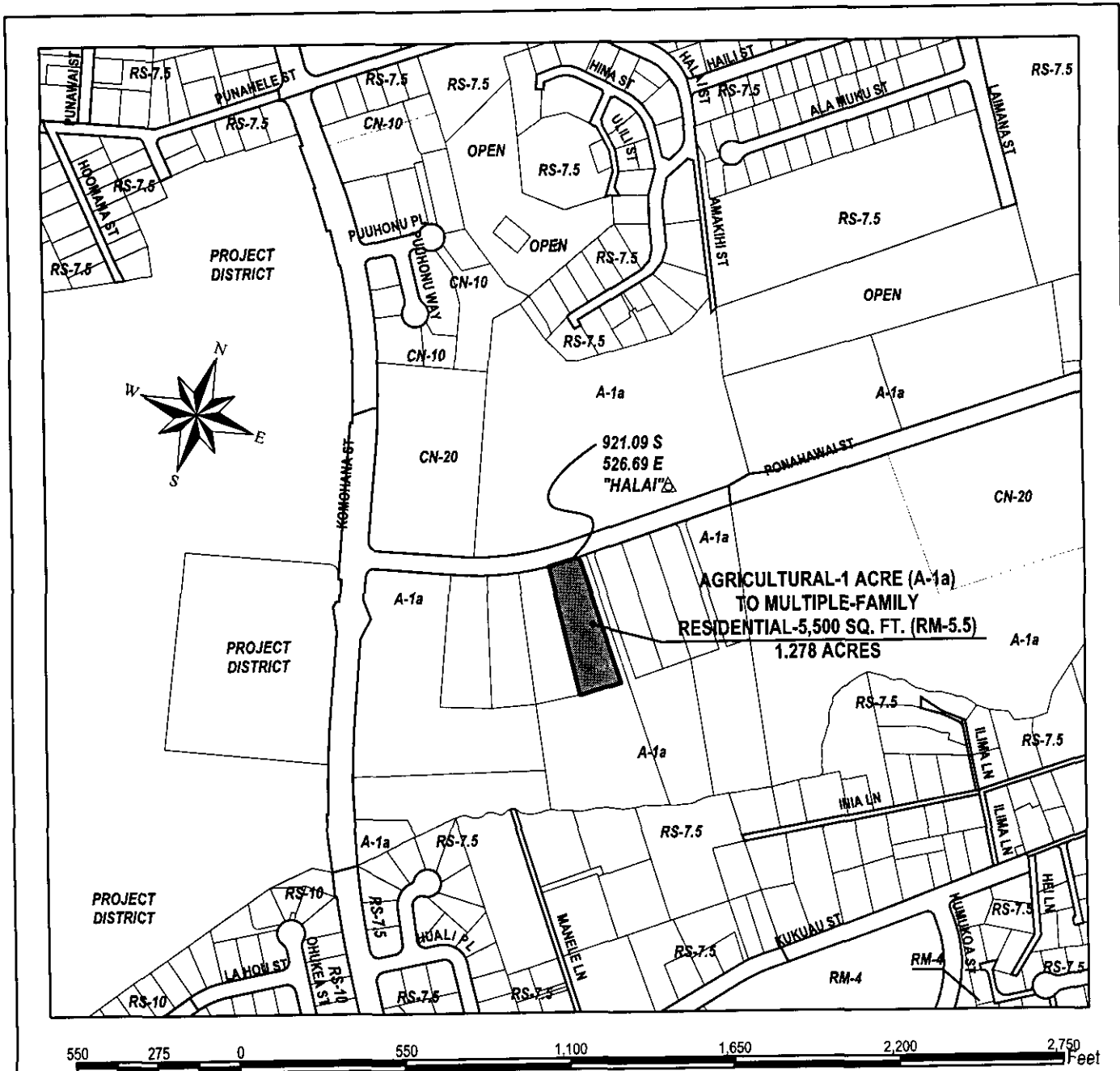
INTRODUCED BY:

  
\_\_\_\_\_  
COUNCIL MEMBER, COUNTY OF HAWAII

\_\_\_\_\_  
Kona, Hawai'i

Date of Introduction: October 3, 2007  
Date of 1st Reading: October 3, 2007  
Date of 2nd Reading: October 17, 2007  
Effective Date: November 2, 2007

REFERENCE: Comm: \_\_\_\_\_ 690 \_\_\_\_\_



# 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-5,500 SQ. FT. (RM-5.5)  
 AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII



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

Introduced By: Donald Ikeda  
Date Introduced: October 3, 2007  
First Reading: October 3, 2007  
Published: October 12, 2007

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

Second Reading: October 17, 2007  
To Mayor: October 25, 2007  
Returned: November 2, 2007  
Effective: November 2, 2007  
Published: November 13, 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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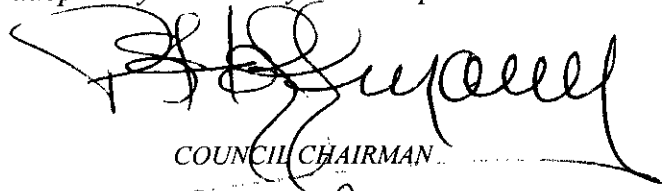
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford		X		
Higa	X			
Hoffmann	X			
Ikeda	X			
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong			X	
Yoshimoto	X			
	7	1	1	0

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

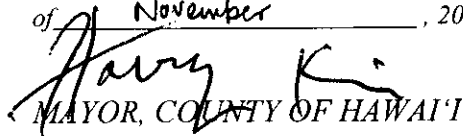
Date 10-30-07

  
COUNCIL CHAIRMAN

  
COUNTY CLERK

Bill No.: 179  
Reference: C-690/Council  
Ord No.: 07 166

Approved/Disapproved this 2nd day  
of November, 2007

  
MAYOR, COUNTY OF HAWAII