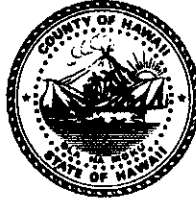


COUNTY OF HAWAII



STATE OF HAWAII

ORDINANCE NO. 07 183 BILL NO. 191

AN ORDINANCE AMENDING ORDINANCE NO. 94 98 WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 1 ACRE (A-1a) AND OPEN (O) TO SINGLE FAMILY RESIDENTIAL -15,000 SQUARE FEET (RS-15) AT KEAUHOU, KA’U, HAWAII, COVERED BY TAX MAP KEY 9-9-006:PORTION 008.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Ordinance No. 94 98 is amended as follows:

“SECTION 1. Section ~~[25-109]~~ 25-8-28, Article ~~[3]~~ 8, Chapter 25 (Zoning Code) of the Hawaii 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 Keauhou, Ka’u, Hawaii, shall be Single Family Residential – 15,000 square feet (RS-15):

“SECTION 2. ~~[This change in district classification is conditioned upon the following:]~~
In accordance with Section 25-2-44, Hawaii 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 its assigns shall be responsible for complying with all of the stated conditions of approval;
- B. ~~[subdivision plans shall be submitted within one year from the effective date of the change of zone.]~~ Final subdivision approval shall be secured within ~~[one year]~~ five years from the effective date of this amendment ~~[receipt of tentative subdivision approval]~~ ;
- C. ~~[restrictive covenants in the deeds of all of the proposed residential lots within the subject properties shall be submitted to the Planning Department for review and approval prior to 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 likewise prior to final subdivision approval. The restrictive covenants in the deeds of all the proposed residential lots of the subject properties shall require that each lot:~~
- ~~1. — shall be provided with a water catchment system and storage capacity, meeting with the requirements of the Planning Department, the Fire Department, the Department of Water Supply and the State Department of Health based on a formula using median annual rainfall and daily usage of gallons per day per dwelling as determined by the Planning Department in consultation with the appropriate agencies;~~
 - ~~2. — shall construct water storage tank(s) in an accessible location for fire equipment with easy fire department hose hook up for unrestricted use of the water storage in the case of fire emergency;~~
 - ~~3. — shall provide disclosure and waiver provisions relating to the lack of a private or municipal water system meeting with the requirements of the~~

~~Department of Water Supply, and which shall also include that the County of Hawaii shall not be responsible to provide water, at any time, to the subdivided residential lots of the subject property, regardless of the situation; and~~

4. ~~shall prohibit the construction of an ohana dwelling or a second dwelling unit.]~~

Property owners in the Volcano Golf & Country Club, Unit V Subdivision shall comply with the restrictive covenants in Document No(s). 96-155291 recorded at the State Bureau of Conveyances on October 30, 1996.

- D. a wastewater disposal system shall be constructed in a manner meeting with the approval of the State Department of Health and/or the Department of [~~Public Works~~] Environmental Management, whichever is applicable;
- E. ~~a solid waste management plan shall be prepared meeting with the approval of the Department of Public Works prior to submitting plans for subdivision review. The Plan shall include, but not be limited to, the management of construction solid waste as well as operating and domestic solid waste generated by the subject property. Approved recommendations and mitigation measures shall be implemented at a time and in a manner meeting with the approval of the Department of Public Works; Comply with the Solid Waste Management Plan approved by the Department of Public Works on January 22, 1996 and the Planning Department on March 7, 1996.~~
- F. 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 approval of the development 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, however, 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;~~ 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~~] Administrator of the Office of Housing and Community Development prior to final subdivision approval;

- G. a drainage system shall be installed meeting the requirements of the Department of Public Works;
- H. access to the subject property from Mamalahoa Highway via Piimauna Drive shall be improved meeting with the requirements of the Department of Public Works and the State Department of Transportation prior to Final Subdivision Approval of the subject properties. These improvements shall include stabilizing the roadway crossing the "Great Crack" and the grading of shoulders;
- I. should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken;

- J. comply with all other applicable County, State and Federal laws, rules, regulations and requirements [of the affected agencies, including those of the Departments of Health, Education, Water Supply, Public Works and Fire Department];
- K. 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;
- L. an annual progress report shall be submitted to the Planning Director prior to the anniversary of the effective date of the change of zone. The report shall address the status of the development and the compliance with the conditions of approval. 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~~
- M. 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 within five years from the effective date of this amended change of zone ordinance. 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 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 \$10,976.69 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 single-family residential unit shall be allocated as follows:

- \$5,293.15 per single-family residential unit to the County to support park and recreational improvements and facilities;
- \$255.34 per single-family residential unit to the County to support police facilities;
- \$504.33 per single-family residential unit to the County to support fire facilities;
- \$220.80 per single-family residential unit to the County to support solid waste facilities;
- \$4,703.06 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.

~~[Ø] N. [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 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 permit;~~

- 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 applicants should request an additional extension of time, the Planning Director shall submit the applicants' request to the County Council for appropriate action.]~~

If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission and County Council for appropriate action.

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

SECTION 2. Material to be deleted is bracketed and struck through. 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.

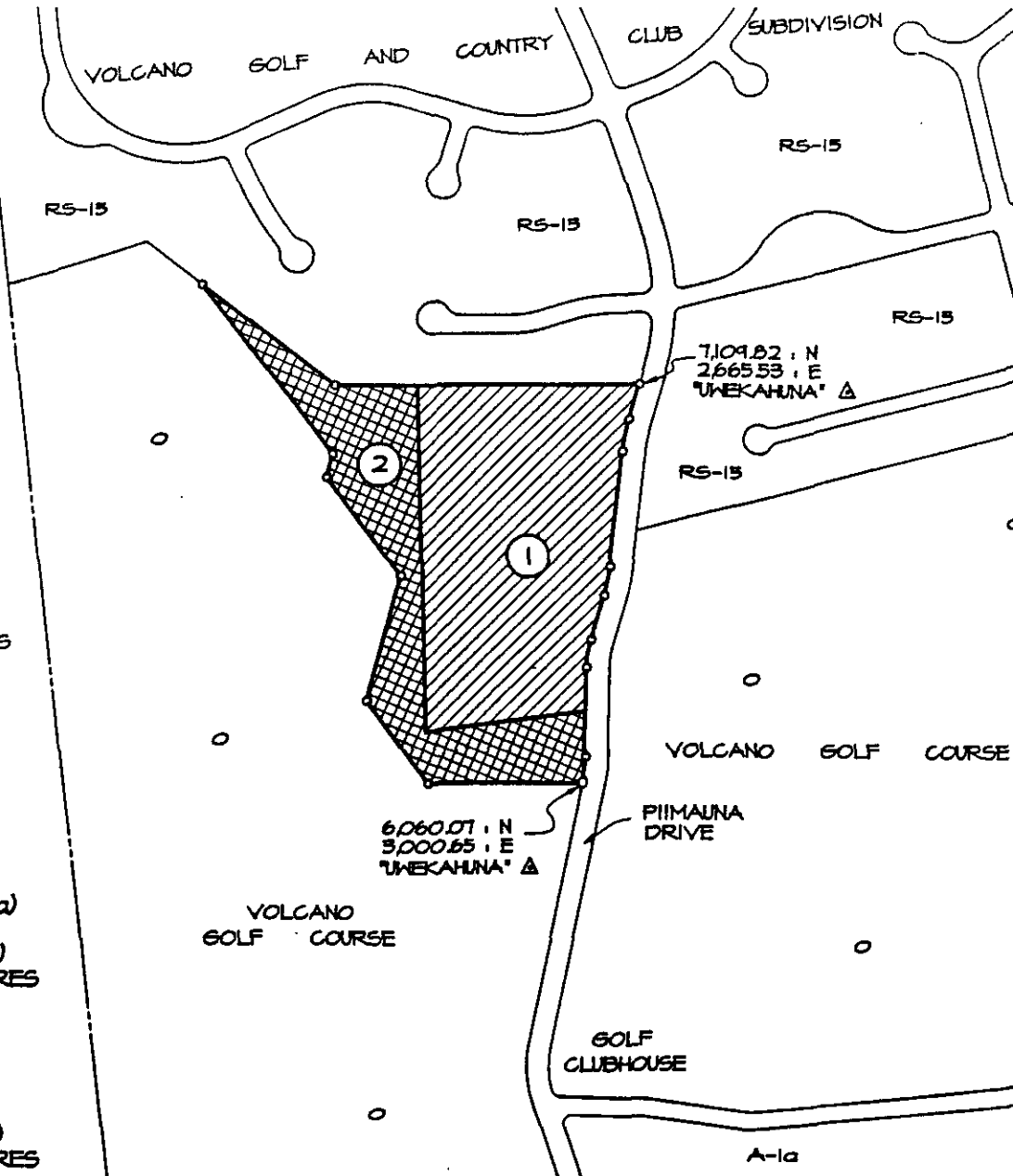
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: November 20, 2007
Date of 1st Reading: November 20, 2007
Date of 2nd Reading: December 5, 2007
Effective Date: December 26, 2007

TRUE NORTH
Scale, 1" = 500'



HAWAII VOLCANOES NATIONAL PARK

① PARCEL 1
AGRICULTURAL (A-1a)
TO SINGLE FAMILY
RESIDENTIAL (RS-15)
AREA = 10.7421 ACRES

② PARCEL 2
OPEN (O) TO
SINGLE FAMILY
RESIDENTIAL (RS-15)
AREA = 6.0392 ACRES

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-109 (KA'U DISTRICT ZONE MAP)
ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII
COUNTY CODE BY CHANGING THE DISTRICT CLASSIFICATION
FROM AGRICULTURAL (A-1a) AND OPEN (O) TO
SINGLE FAMILY RESIDENTIAL (RS-15) AT KEAUKOU,
KAU, HAWAII.

FOR REFERENCE ONLY

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

RECEIVED

Introduced By: K. Angel Pilago
Date Introduced: November 20, 2007
First Reading: November 20, 2007
Published: November 30, 2007

REMARKS: _____

Second Reading: December 5, 2007
To Mayor: December 13, 2007
Returned: December 27, 2007
Effective: December 26, 2007
Published: January 3, 2008

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			
	5	3	1	0


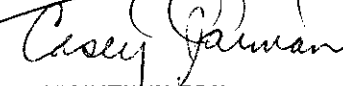
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford		X		
Higa	X			
Hoffmann	X			
Ikeda			X	
Jacobson		X		
Naeole	X			
Pilago		X		
Yagong	X			
Yoshimoto	X			
	5	3	1	0

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

APPROVED AS TO
FORM AND LEGALITY:

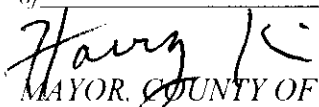

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date DEC 14 2007


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 191
Reference: C-753/PC-52
Ord No.: 07 183

Approved/Disapproved this 26th day
of December, 2007


MAYOR, COUNTY OF HAWAII