

COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 89
(DRAFT 3)

ORDINANCE NO. 08 36

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-15) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-4-14:42.

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, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Waiākea, South Hilo, Hawai'i, shall be Single Family Residential (RS-10):

Beginning at an iron found at the southeast corner of this parcel of land, also being the northeast corner of Lot 28, the coordinates of this point of beginning referred to Government Survey Triangulation Station "HALAI" being 8,335.73 feet South and 5,986.88 feet East and thence running by azimuths measured clockwise from true South:

- | | | | | | |
|----|------|-----|-----|--------|--|
| 1. | 85° | 40' | 00" | 222.00 | feet along Lot 28 to a spike found on the right-of-way of Kanoelani Drive; |
| 2. | 175° | 40' | 00" | 120.00 | feet along the right-of-way of Kanoelani Drive to a pipe set at the right-of-way of Puainako Street; |
| 3. | 265° | 40' | 00" | 222.00 | feet along the right-of-way of Puainako Street to a drill hole in a wall; |
| 4. | 355° | 40' | 00" | 120.00 | feet along Lot 513-B to the point of beginning and containing an area of 26,640 square feet, more or less. |

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

SECTION 2. This change in district classification is conditioned upon the following:

- A. The applicant, its successors, or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Final Subdivision Approval of the proposed subdivision development shall be secured within five (5) years from the effective date of this ordinance.
- C. Access for the proposed vacant lot shall be limited to Kanoelani Street and meet with the approval of the department of public works. All driveway connections to county roads shall conform to chapter 22, Streets and Sidewalks, of the Hawai'i County Code.
- D. Restrictive covenants in the deeds of all proposed lots within the property shall give notice that the terms of the zoning ordinance prohibit the construction of a second dwelling unit and condominium property regimes on each lot. This restriction may be removed by amendment of this ordinance by the County Council. The owner of the property may also, in addition, impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State 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 recorded document shall be filed with the Planning Department upon receipt from the Bureau of Conveyances.
- E. The applicant shall provide a 5-foot future road widening strip along Kanoelani Street. In addition, the applicant shall also provide a minimum 30 feet radii future road widening setback along Kanoelani Street meeting with the approval of the Department of Public Works.
- F. The applicant shall comply with all applicable laws, rules, regulations and requirements of the affected agencies for approval of the proposed development within the subject property.

G. The applicant shall make its fair-share contribution to mitigate potential regional impacts of the subject project with respect to roads, parks and recreation, fire, police and solid waste disposal facilities. 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 due and 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 proposed residential lots in each such increment. The fair share contribution, in a form of cash, land, facilities or any combination thereof, acceptable to the director in consultation with the affected agencies, shall be determined by the County Council. The fair share contribution shall have a maximum combined value of **\$7,876.20** per single-family residential unit. Based upon the applicant's representation of intent to develop up to one (1) residential unit, the indicated total of fair share contribution is \$7,876.20 for single-family residential units. However, the total amount shall be increased or reduced in proportion with the actual number of units according to the calculation and payment provisions set forth in this Condition F. The fair share contribution shall be allocated as follows:

1. \$3,798.04 per single-family residential unit for an indicated total of **\$3,798.04** to the County to support park and recreational improvements and facilities;
2. \$183.22 per single-family residential unit for an indicated total of **\$183.22** to the County to support police facilities;
3. \$361.88 per single-family residential unit for an indicated total of **\$361.88** to the County to support fire facilities;
4. \$158.43 per single-family residential unit for an indicated total of

- \$158.43** to the County to support solid waste facilities; and
5. **\$3,374.63** per single-family residential unit for an indicated total of **\$3,374.63** to the State or 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. For purposes of administering Condition F, the fair market value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be subject to review and approval of the director, upon consultation with the appropriate agencies.

Upon approval of the-fair share contributions or in lieu contributions by the director, the director shall submit a final report to the Council for its information that identifies the specific approved fair share and/or in lieu contributions, as allocated, and further implementation requirements.

- H. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- I. 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. 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.

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

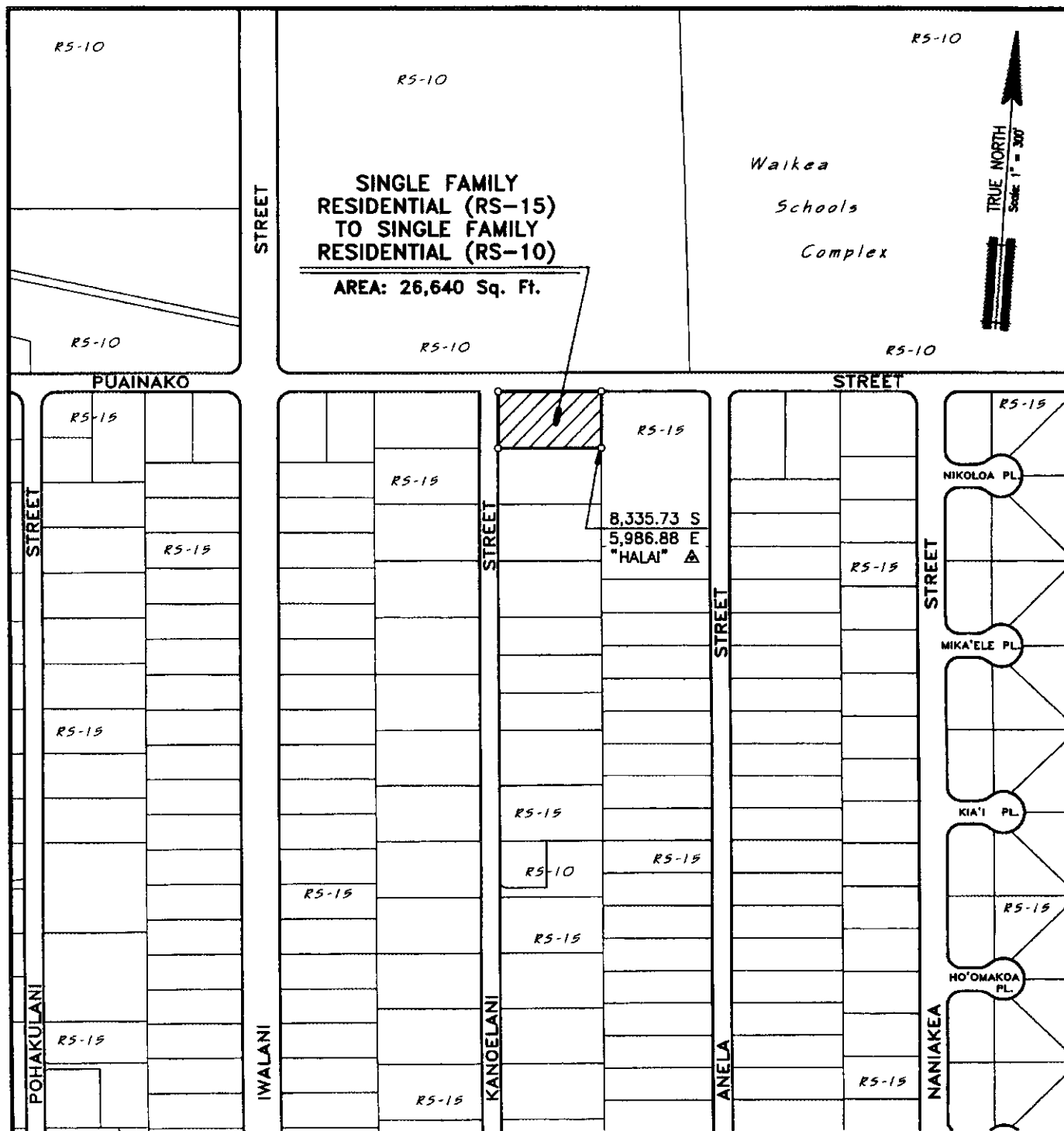
SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i
Date of Introduction: March 12, 2008
Date of 1st Reading: March 12, 2008
Date of 2nd Reading: March 25, 2008
Effective Date: April 11, 2008



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, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-15) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIKEHA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 2-4-14: 42

JULY 9, 2001

(OKUTAU, LLC)

EXHIBIT "A"



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

RECEIVED

Introduced By: K. Angel Pilago
Date Introduced: March 12, 2008
First Reading: March 12, 2008
Published: March 22, 2008

REMARKS: _____

Second Reading: March 25, 2008
To Mayor: April 3, 2008
Returned: April 11, 2008
Effective: April 11, 2008
Published: April 19, 2008

REMARKS: _____

2008 APR 11 AM 10 15
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	0	2	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			
	6	0	3	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:

[Signature]
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date APR - 4 2008

[Signature]
COUNCIL CHAIRMAN

[Signature]
COUNTY CLERK

Bill No.: 89 (Draft 3)

Reference: C-856.4/PC-74

Ord No.: 08 36

Approved Disapproved this 11th day

of April, 2008

[Signature]
MAYOR, COUNTY OF HAWAII

**Ordinances Numbered 08-36, 08-37, 08-38, 08-39, 08-40,
08-41, 08-42, 08-43, 08-44, 08-45, 08-46, & 08-47**

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on March 25, 2008, by vote, as listed below:

Ordinance 08-36 (Bill 89, Draft 3) (2000-2002): An Ordinance Amending Section 25-8-33 (City of Hilo Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by Changing the District Classification from Single Family Residential (RS-15) to Single Family Residential (RS-10) at Waiākea, South Hilo, Hawai'i, Covered by Tax Map Key 2-4-14:42. AYES: Council Members Ford, Jacobson, Naeole, Pilago, Yoshimoto, and Chair Hoffmann – 6; NOES: None; ABSENT: Council Members Higa, Ikeda, and Yagong – 3; EXCUSED: None.

Ordinance 08-37 (Bill 225, Draft 3): An Ordinance Amending Chapter 2, Article 36, Hawai'i County Code 1983 (2005 Edition, as Amended), Renaming and Redefining the Geothermal Relocation Program to the Geothermal Relocation and Community Benefits Program. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 08-38 (Bill 238): 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 Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 08-39 (Bill 239): 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 Neighborhood Commercial 20,000 Square Feet (CN-20) at Waiākea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-040:121. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 08-40 (Bill 242): An Ordinance Amending Chapter 24, Article 11, Division 2, Section 24-308, Schedule 12, of the Hawai'i County Code 1983 (2005 Edition, as Amended), Vehicles and Traffic, Relating to Through Streets. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 08-41 (Bill 243): An Ordinance Amending Chapter 24, Article 10, Division 5, Section 24-279, Schedule 27, of the Hawai'i County Code 1983 (2005 Edition, as Amended), Vehicles and Traffic, Relating to Parking on Pavement Prohibited at All Times. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 08-42 (Bill 244): An Ordinance Amending Ordinance No. 07-170 Establishing a New Article Relating to a Hawai'i County Cultural Resources Commission. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.


Ordinance 08-43 (Bill 245, Draft 2): An Ordinance Amending Chapter 24 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Vehicles and Traffic. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 08-44 (Bill 246, Draft 2): An Ordinance Amending Chapter 24 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Vehicles and Traffic. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 08-45 (Bill 247, Draft 2): An Ordinance Amending Chapter 24 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Vehicles and Traffic. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 08-46 (Bill 256): An Ordinance Amending Chapter 25, Article 5, Division 16, Section 25-5-162, Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Permitted Uses Within the Open District. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 08-47 (Bill 264): 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 Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.


Casey Jarman
County Clerk

(Hawai'i Tribune-Herald – April 19, 2008)
(West Hawai'i Today – April 19, 2008)

Note: The original Digest/Affidavit is attached to Ordinance No. 08-36.