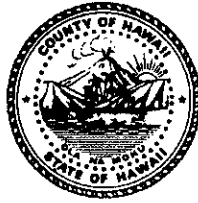


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **08 160** BILL NO. 370

AN ORDINANCE AMENDING SECTION 25-8-21 (LAUPAHOEHOE-NINOLE 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 – 15,000 SQUARE FEET (RS-15) TO SINGLE FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) AT MANOWAIOPAE, NORTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 3-6-008:002.

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

SECTION 1. Section 25-8-21, 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 Manowaiopae, North Hilo, Hawai'i, shall be Single Family Residential – 10,000 square feet (RS-10):

Being the consolidation and resubdivision of Lots 17-A and 17-B
Situating on the Southwest side of Homestead Road,
(40-foot wide) near Kilau Place,
At Manowaiopae, North Hilo, Hawaii, State of Hawaii

Beginning at a ¾" pipe (found) at the North corner of this parcel of land, being also the North corner of Lot 17 and the East corner of Lot 18 of the Manowaiopae Homesteads and on the Southwest side of Homestead Road (40-Foot wide), the coordinates of said point of beginning referred to Government Survey Triangulation Station "MANOWAIOPAE" being 5.27 feet South and 2,469.23 feet West, and thence running by azimuths measured clockwise from true South:

1. 298° 35' 122.00 feet along the Southwest side of
 Homestead Road, (40-Foot Wide) to
 a 2" pipe (found);

Thence along Lot 17-D on a curve to the right with a radius of 10.00 feet, the chord azimuth and distance being:

- | | | | |
|----|----------|-------------|---|
| 2. | 343° 35' | 14.14 feet | to a pipe; |
| 3. | 28° 35' | 159.60 feet | along Lot 17-D to a pipe; |
| 4. | 118° 35' | 132.00 feet | along Lot 17-D to a pipe; |
| 5. | 208° 35' | 169.60 feet | along Lot 18 (Grant 8483 to Carlos Nobriga) of the Manowaiopae Homesteads to the point of beginning and containing an area of 22,366 Square feet. |

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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. A water commitment deposit in accordance with the "Water Commitment Guidelines Policy" of the Department of Water Supply shall be submitted to the

Department of Water Supply within 180 days from the effective date of this ordinance.

- C. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.
- D. A 10-foot wide future road widening setback shall be provided mauka of Puualaea Homestead Road. This setback shall be denoted on the subdivision plat map.
- E. Lot 17-C-1 shall have a minimum net area (excluding the future road widening setback) of 10,000 square feet.
- F. All driveway connections to Puualaea Homestead Road shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
- G. Restrictive covenants in the deeds of all the proposed lots 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 owners of the property may also impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State of Hawaii 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 its receipt from the Bureau of Conveyances.
- H. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. If required by the Department of Public Works, a drainage study shall be prepared by a licensed civil engineer and

submitted to the Department of Public Works prior to issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to issuance of a construction permit.

- I. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Subdivision Approval.
- J. 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 DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- K. 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 Subdivision Approval. The fair share contribution shall be for the additional lot to be created. 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 combined value of **\$11,506.13** for the additional single family residential unit. The fair share contribution per single family residential unit shall be allocated as follows:

1. **\$5,548.46** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$267.66** per single family residential unit to the County to support police facilities;
3. **\$528.66** per single family residential unit to the County to support fire facilities;
4. **\$231.45** per single family residential unit to the County to support solid waste facilities; and
5. **\$4,929.90** 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.

- 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.

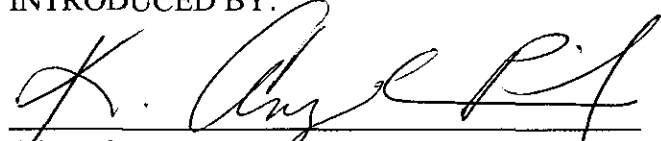
- M. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- N. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:
1. The non-performance 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. 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 applicants should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission and 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 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.

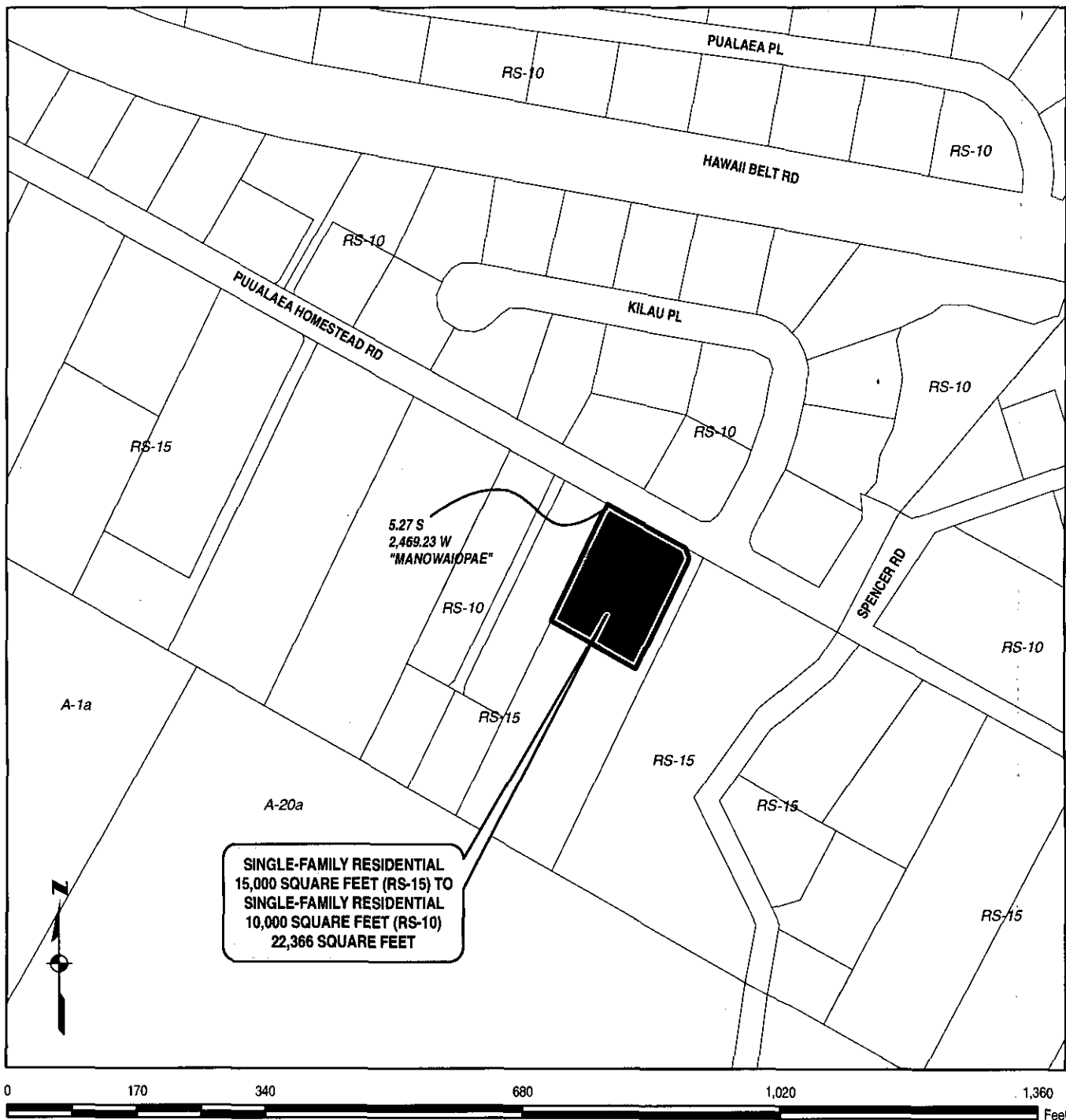
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Kona , Hawai'i

Date of Introduction: October 22, 2008
Date of 1st Reading: October 22, 2008
Date of 2nd Reading: November 7, 2008
Effective Date: November 1, 2008

REFERENCE: Comm. 1471



AMENDING SECTION 25-8-21 (LAUPAHOEHOE-NINOLE ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
 FROM SINGLE-FAMILY RESIDENTIAL 15,000 SQUARE FEET (RS-15)
 TO SINGLE-FAMILY RESIDENTIAL 10,000 SQUARE FEET (RS-10)
 AT MANOWAIOPAE, NORTH HILO, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: 3-6-008:002

EXHIBIT "A"

DATE: June 4, 2008

(Raymond & Jane Otomo:1247)

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

Introduced By: K. Angel Pilago
Date Introduced: October 22, 2008
First Reading: October 22, 2008
Published: November 1, 2008

REMARKS: _____

Second Reading: November 7, 2008
To Mayor: November 18, 2008
Returned: November 20, 2008
Effective: November 20, 2008
Published: December 1, 2008

REMARKS: _____

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2008 NOV 20 10 16 AM

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			
	8	0	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			
	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:

Asst. Clerk
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date NOV 19 2008

Robert S. Hoffmann
COUNCIL CHAIRMAN
Casey Jarman
COUNTY CLERK

Approved/Disapproved this 20th day

of November, 20 08

Harry I
MAYOR, COUNTY OF HAWAII

Bill No.: 370
Reference: C-1471/PC-97
Ord No.: 08 160

Ordinances Numbered 08-155, 08-156, 08-157, 08-158, 08-159, 08-160, 08-161, & 08-162

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on November 7, 2008, by vote, as listed below:

Ordinance 08-155 (Bill 148, Draft 3) (2004-2006): An Ordinance Amending Chapter 25 (Zoning Code) of the Hawai'i County Code, Related to Agricultural Tourism. AYES: Council Members Ford, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Higa – 1; EXCUSED: None.

Ordinance 08-156 (Bill 323, Draft 3): An Ordinance Amending Chapter 19, Article 7, Sections 19-53, 19-58.1 and 19-58.2, Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Real Property Taxes-Nonspeculative Residential Use. AYES: Council Members Ford, Ikeda, Jacobson, Naeole, Pilago, Yoshimoto, and Chair Hoffmann – 7; NOES: Council Member Yagong – 1; ABSENT: Council Member Higa – 1; EXCUSED: None.

Ordinance 08-157 (Bill 366, Draft 2): An Ordinance Amending Chapter 2 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Relating to Parity Liens. AYES: Council Members Ford, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Higa – 1; EXCUSED: None.


Ordinance 08-158 (Bill 367): An Ordinance Amending Ordinance No. 08-79, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2008 to June 30, 2009. AYES: Council Members Ford, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Higa – 1; EXCUSED: None.

Ordinance 08-159 (Bill 369): An Ordinance Adopting the County of Hawai'i South Kohala Community Development Plan. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 08-160 (Bill 370): An Ordinance Amending Section 25-8-21 (Laupahoehoe-Ninole 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 – 15,000 Square Feet (RS-15) to Single Family Residential – 10,000 Square Feet (RS-10) at Manowaiopae, North Hilo, Hawai'i Covered by Tax Map Key 3-6-008:002. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 08-161 (Bill 371): An Ordinance to Amend Ordinance No. 08-78, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2009. AYES: Council Members Ford, Higa, Ikeda, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 9; NOES: None; ABSENT: None; EXCUSED: None.

Ordinance 08-162 (Bill 372, Draft 2): To Amend Ordinance No. 01-118 of the County of Hawai'i, Relating to Certain Matters Concerning the County's Outstanding Improvement District No. 17, Kaloko Subdivision, 2001 Special Assessment Refunding Bonds. 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 – December 1, 2008)
(West Hawai'i Today – December 1, 2008)

Note: The original Digest/Affidavit is attached to Ordinance 08-155.