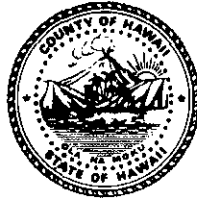


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 09 50 BILL NO. 31
(DRAFT 2)

AN ORDINANCE AMENDING ORDINANCE NO. 06 138, WHICH AMENDED ORDINANCE NO. 90 010, WHICH AMENDED ORDINANCE NO. 86 49, WHICH RECLASSIFIED LANDS FROM MULTIPLE FAMILY RESIDENTIAL – 2,000 SQUARE FEET (RM-2) TO VILLAGE COMMERCIAL – 7,500 SQUARE FEET (CV-7.5) AT HIENALOLI 5TH AND 6TH, NORTH KONA, HAWAII, TAX MAP KEY: 7-5-10:PORTION OF 13 (FORMERLY 7-5-23:64 AND 67).

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

SECTION 1. Section 2 of Ordinance No. 06 138 is amended as follows:

- 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 shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within [~~ninety (90)~~] one hundred eighty (180) days from the effective date of this amendment.
- C. Construction of the proposed development shall be completed within five (5) years from the effective date of this additional amendment. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the amended proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code [~~within two (2) years of the effective date of this amendment. Plans shall~~

~~identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements)].~~

- D. A future road widening strip along the [~~Hualalai~~] Hualālai Road project frontage as determined by the Department of Public Works shall be subdivided and dedicated to the County within two years from the effective date of this amendment.

- E. The applicant shall realign and provide collector street improvements to the entire project frontage along [~~Hualalai~~] Hualālai Road consisting of, but not limited to, right-of-way and pavement reconstruction and widening with concrete curb, gutter and sidewalk, drainage improvements, streetlights, signs and markings and any relocation of utilities, meeting with the approval of the Department of Public Works. The widened and improved area shall provide for opposing left turn lanes along with any necessary pavement transitions. The applicant shall construct the additional improved street right-of-way at no cost to the County, prior to receipt of a Certificate of Occupancy.

- F. Access to [~~Hualalai~~] Hualālai Road shall be limited to one approach, located as approved by the Department of Public Works. An additional gated access should be provided at the mauka end of the property to the existing County flood control access road for emergency access purposes and be gated. The applicant shall provide a left turn storage lane on [~~Hualalai~~] Hualālai Road to the subject property prior to the issuance of a Certificate of Occupancy. All sight distances to the approach shall meet the requirements of the Hawai'i Statewide Uniform Design Manual (AASHTO).

- G. Any utility poles in the road right-of-way shall be installed as shown on DPW Standard Detail R-35 (Revised). The applicant shall provide any necessary easements for installation of such utilities.
- H. Any vehicular security gate shall be located a minimum of 60 feet (exclusive of gate swing) from the proposed [~~Hualalai~~] Hualālai Road right-of-way with a turnaround on the County road side of the gate. This 60-foot requirement shall not apply to the emergency access.
- I. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
- J. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works. The recommended drainage system shall be constructed, meeting with the approval of the Department of Public Works, prior to the issuance of a Certificate of Occupancy.
- K. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management prior to the issuance of a Certificate of Occupancy.
- L. ~~The project shall connect to the County sewer system, meeting with the approval of the Department of Environmental Management.~~ The Department of Environmental Management requires the submittal of a sewer study by the applicant to the County of Hawai'i, Wastewater Division (COH-WWD). The sewer study is intended to define the wastewater flow contribution from the proposed development, evaluate the impact to the existing County-owned sewer

system and if necessary, propose an upgrade of the private 8-inch sewer line serving the proposed development based on the results of the sewer study. The sewer study shall be prepared in accordance with the City & County of Honolulu Design Standards. If applicable, design plans for construction of a new sewer extension shall also be submitted to the COH-WWD for review and approval. If the private sewer line is intended to be dedicated to the County of Hawai'i, as-built plans of the private 8-inch line and details of the new connection to the sewer line shall be submitted to the COH-WWD for review and approval. Documents shall be prepared in accordance with Hawai'i County Code, Chapter 21 – Sewers, Hawai'i Administrative Rules, Title 11, Chapter 62 – Wastewater Systems, and COH-WWD Sewer Standards.

- M. 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.

- N. 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 or within five years from the effective date of this amended change of zone ordinance, whichever occurs first. 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 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 ~~[\$6,653.40]~~ \$7,383.36 per multiple family residential unit (~~[\$10,368.57]~~ \$11,506.13 per single family residential unit). The total amount shall be determined by 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 unit) shall be allocated as follows:

1. ~~[\$3,281.93]~~ \$3,642.00 per multiple family residential unit (~~[\$4,999.91]~~ \$5,548.46 per single family residential unit) to the County to support park and recreational improvements and facilities;
2. ~~[\$103.73]~~ \$115.11 per multiple family residential unit (~~[\$241.20]~~ \$267.66 per single family residential unit) to the County to support police facilities;
3. ~~[\$319.07]~~ \$354.08 per multiple family residential unit (~~[\$476.39]~~ \$528.66 per single family residential unit) to the County to support fire facilities;
4. ~~[\$142.21]~~ \$158.81 per multiple family residential unit (~~[\$208.57]~~ \$231.45 per single family residential unit) to the County to support solid waste facilities;
5. ~~[\$2,806.46]~~ \$3,114.36 per multiple family residential unit (~~[\$4,442.50]~~ \$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 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; provided however, that the cost of providing and constructing the improvements required in Conditions D and E may be credited against the sum specified in Condition N(5) for road and traffic improvements.

- O. 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;
- P. 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, Hawai'i 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.
- Q. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this amendment. The report shall address the status of the development and the extent to which the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.
- R. Comply with all applicable County, State and Federal laws, rules, regulations and requirements.

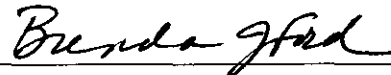
Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the area to its original or more appropriate designation.

SECTION 2. Material to be deleted is bracketed and struck through, and material to be added 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:

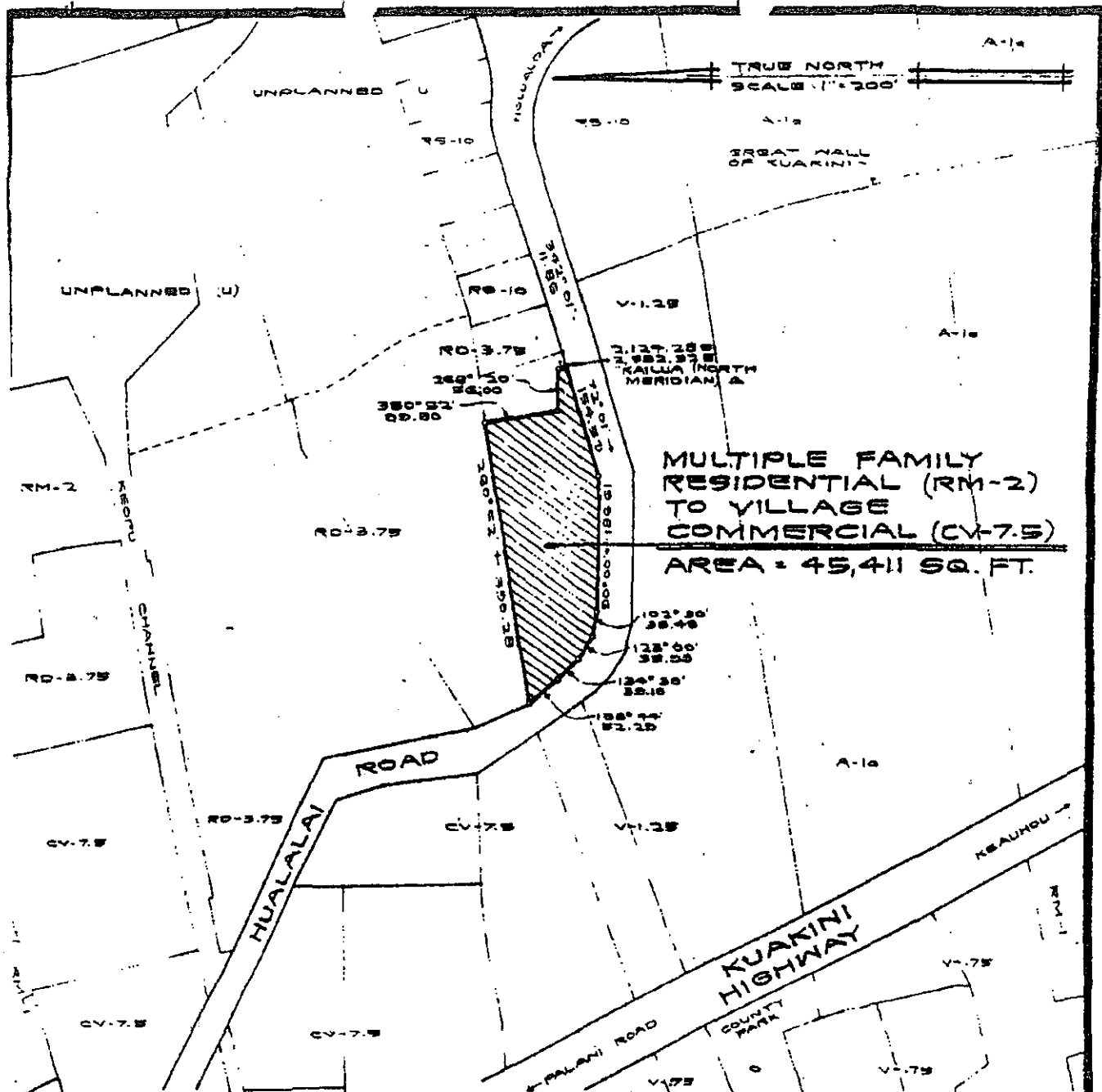


COUNCIL MEMBER, COUNTY OF HAWAII

 Kona , Hawai'i

Date of Introduction: April 8, 2009
Date of 1st Reading: April 8, 2009
Date of 2nd Reading: April 22, 2009
Effective Date: May 11, 2009

REFERENCE: Comm. 146.4



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-89 (KAILUA URBAN ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM MULTIPLE FAMILY RESIDENTIAL (RM-2) TO VILLAGE COMMERCIAL (CV-7.5) AT HIENALOLI 5TH AND 6TH, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

SAMSON LLC

TMK : 7-5-23 : G4 AND G7

JAN. 29, 1986

EXHIBIT "A"

Comm. 146 (Bill 31)

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

(Draft 2)

RECEIVED

Introduced By: Brenda Ford
 Date Introduced: April 8, 2009
 First Reading: April 8, 2009
 Published: April 17, 2009

REMARKS: _____

Second Reading: April 22, 2009
 To Mayor: April 30, 2009
 Returned: May 12, 2009
 Effective: May 11, 2009
 Published: May 19, 2009

REMARKS: _____

2009 MAY 12 PM 7:41

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques				
Ford				
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole			X	
Onishi	X			
Yagong	X			
Yoshimoto	X			
	7	1	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	8	1	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:

King D. Selig
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date MAY - 8 2009

J. J. E.

COUNCIL CHAIRMAN

F. H. H.

COUNTY CLERK

Approved/Disapproved this 11th day
May, 2009
[Signature]
 MAYOR, COUNTY OF HAWAII

Bill No.: 31 (Draft 2)
 Reference: C-146.4/PC-23
 Ord No.: 09 50