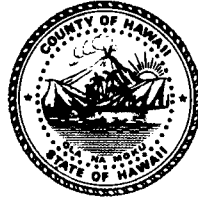


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 10 109 BILL NO. 229

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 – 7,500 SQUARE FEET (RS-7.5) TO MULTIPLE-FAMILY RESIDENTIAL – 2,500 SQUARE FEET (RM-2.5) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-4-028:009.

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 Waiākea, South Hilo, Hawai'i, shall be Multiple-Family Residential – 2,500 square feet (RM-2.5):

Beginning at the southeast corner of this parcel of land and along the northerly boundary of Lot 39, Hualalai Subdivision and along the southwesterly side of Hualalai Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 1,227.51 feet South and 3,637.22 feet East, thence running by azimuths measured clockwise from true South:

1. 58° 10' 433.93 feet along the remainders of L.P. 8063, L.C. Aw. 2663 to Kahue and R.P. 6790, L.C. Aw. 2402 to Keaniho (Lots 39, 38, 37, 36, 35, 34 and 33, Hualalai Subdivision);
2. 148° 10' 68.38 feet along the remainder of R.P. 6790, L.C. Aw. 2402 to Keaniho (Lot 31, Hualalai Subdivision);
3. 76° 08' 45" 303.03 feet along the remainder of R.P. 6790, L.C. Aw. 2402 to Keaniho (Lots 30, 29 and 28, Hualalai Subdivision);

4.	184° 30'	324.02	feet along Lot 144, 143 and 142 of Land Court Application 1205 (Map 51);
5.	277° 12'	320.40	feet along Lots 9-L-19 and 9-L-15 of Land Court Application 1205 (Map 9) and Lot 169 of Land Court Application 1205 (Map 72);
6.	255° 46'	154.80	feet along Lot 169 of Land Court Application 1205 (Map 72);
7.	243° 28'	32.33	feet along Lot 169 of Land Court Application 1205 (Map 72);
8.	328° 10'	121.35	feet along the remainder of L.P. 8063, L.C. Aw. 2663 to Kahue (Lot 1);
9.	238° 10'	120.00	feet along the remainder of L.P. 8063; L.C. Aw. 2663 to Kahue (Lot 1);
10.	349° 02'	19.67	feet along Hualalai Street;
11.	348° 02'	33.62	feet along Hualalai Street to the point of beginning and containing an area of 3.292 Acres.

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

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

(1) 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), its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within one hundred and eighty (180) days from the effective date of this ordinance.
- C. Prior to the issuance of a Certificate of Occupancy, the applicant shall extend approximately 260 lineal feet of 8-inch waterline from the existing 8-inch waterline within Kapi'olani Road to the subject property.
- D. The applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of the water meter on private property, which must be inspected and approved by the Department of Water Supply prior to the issuance of a Certificate of Occupancy.
- E. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, paved driveway accesses 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). The applicant shall comply with landscaping requirements for RM zoning.

- F. All driveway connections to Hualālai Street shall conform to Chapter 22, County Streets, of the Hawai‘i County Code.
- G. Streetlights and traffic control devices, as may be required by the Traffic Division, Department of Public Works, shall be designed, purchased and installed by the applicant.
- H. 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 submitted to the Department of Public Works prior to the issuance of Final Plan Approval. Any drainage improvements, if required, shall be constructed, meeting the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
- I. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai‘i County Code.
- J. The applicant shall complete and submit to the Department of Environmental Management a sewer study for the proposed development prior to Final Plan Approval. Should the existing sewer system in Hualālai Street require upgrading due to development of the property, the applicant shall bear the cost of the upgrade. Additionally, the applicant shall install sewer lines within the development to connect with the County's sewer system, meeting with the

approval of the Department of Environmental Management, prior to the issuance of a Certificate of Occupancy.

- K. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval.
- L. 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-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
- 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 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 combined value of **\$7,698.11** per multiple family residential unit (**\$11,996.63** 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 unit) shall be allocated as follows:

1. **\$3,797.26** per multiple family residential unit (**\$5,784.99** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$120.01** per multiple family residential unit (**\$279.07** per single family residential unit) to the County to support police facilities;
3. **\$369.17** per multiple family residential unit (**\$551.20** per single family residential unit) to the County to support fire facilities;
4. **\$164.54** per multiple family residential unit (**\$241.32** per single family residential unit) to the County to support solid waste facilities; and
5. **\$3,247.12** per multiple family residential unit (**\$5,140.06** 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.

- N. 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 the Affordable Housing Policy.

Compliance with Chapter 11 shall be approved by the Administrator of the Office of Housing and Community Development prior to receipt of Final Plan Approval and/or Final Subdivision Approval.

- 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. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- Q. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. 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.
- R. 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.
- S. 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.

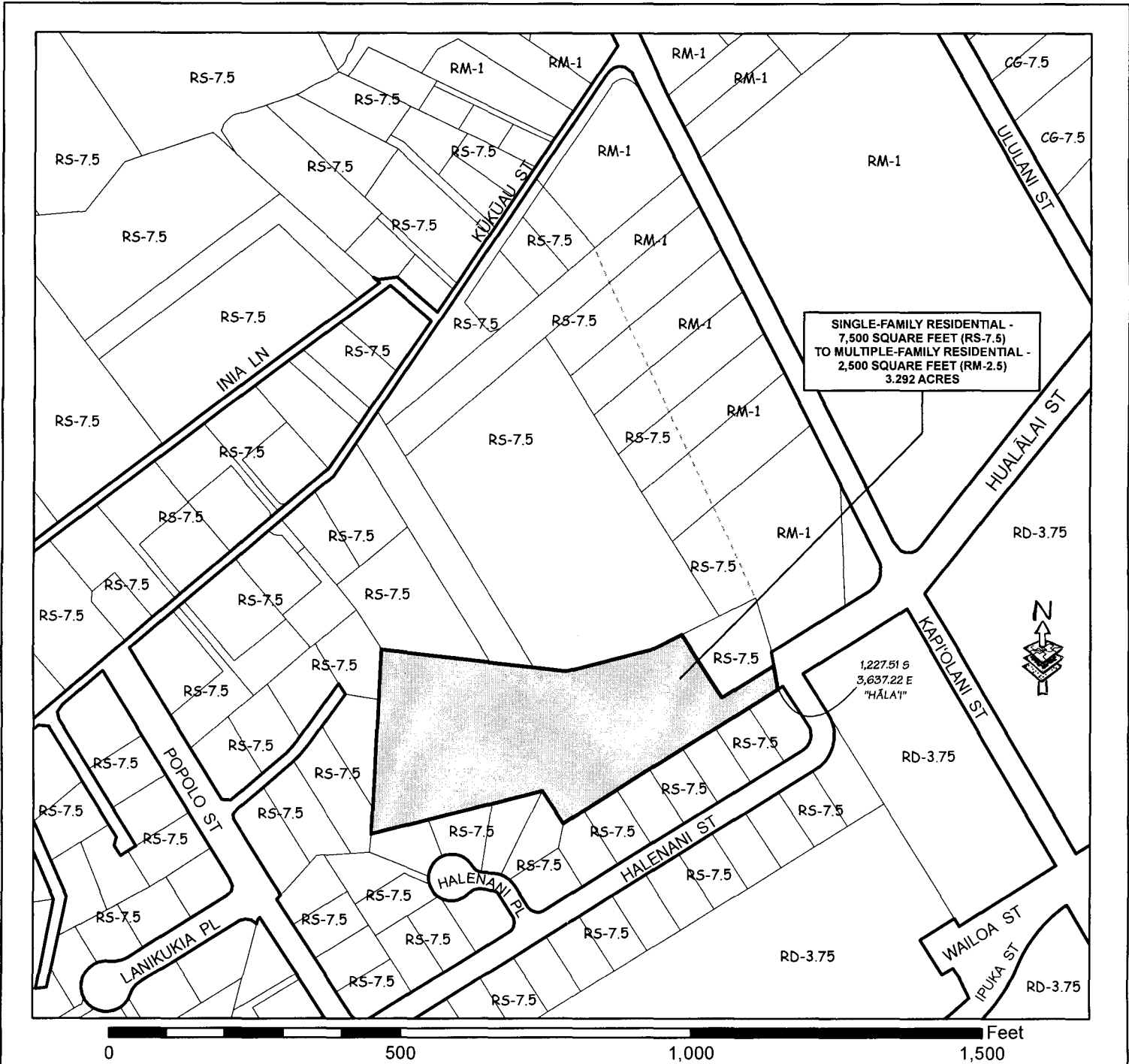
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i
Date of Introduction: April 20, 2010
Date of 1st Reading: October 20, 2010
Date of 2nd Reading: November 4, 2010
Effective Date: November 24, 2010

REFERENCE: Comm. 756



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
 SINGLE-FAMILY RESIDENTIAL - 7,500 SQUARE FEET (RS-7.5)
 TO MULTIPLE-FAMILY RESIDENTIAL - 2,500 SQUARE FEET (RM-2.5)

AT WAIĀKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

Introduced By: Donald Ikeda
 Date Introduced: April 20, 2010
 First Reading: October 20, 2010
 Published: October 30, 2010

REMARKS: _____
April 20, 2010 - Postponed to the
Call of the Chair

Second Reading: November 4, 2010
 To Mayor: November 16, 2010
 Returned: November 24, 2010
 Effective: November 24, 2010
 Published: December 3, 2010

REMARKS: _____

2010 NOV 24 PM 1:18

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford		X		
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole-Beason	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	7	2	0	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			
	5	2	2	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:

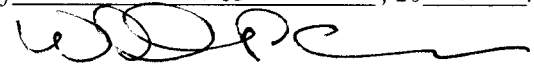

 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date NOV 22 2010


 COUNCIL CHAIRMAN


 COUNTY CLERK

Bill No.: 229
 Reference: C-756/PC-73
 Ord No.: 10 109

Approved/Disapproved this 24th day
 of November, 2010

 MAYOR, COUNTY OF HAWAII

Ordinances Numbered 10-109, 10-110, 10-111, 10-112, & 10-113

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on November 4, 2010, by vote, as listed below:

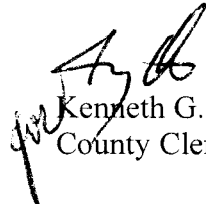
Ordinance 10-109 (Bill 229): An Ordinance Amending Section 25-8-33 (City of Hilo Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification From Single-Family Residential – 7,500 Square Feet (RS-7.5) to Multiple-Family Residential – 2,500 Square Feet (RM-2.5) at Waiākea, South Hilo, Hawai'i, Covered by Tax Map Key: 2-4-028:009. AYES: Council Members Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 5; NOES: Council Members Ford and Hoffmann – 2; ABSENT: Council Members Enriques and Greenwell – 2; EXCUSED: None.

Ordinance 10-110 (Bill 302): An Ordinance Amending Ordinance No. 08 39 Which Reclassified Lands 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 Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 5; NOES: Council Members Ford and Hoffmann – 2; ABSENT: Council Members Enriques and Greenwell – 2; EXCUSED: None.

Ordinance 10-111 (Bill 303): An Ordinance Amending Ordinance No. 10-60, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2010 to June 30, 2011. AYES: Council Members Ford, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 7; NOES: None; ABSENT: Council Members Enriques and Greenwell – 2; EXCUSED: None.

Ordinance 10-112 (Bill 312): An Ordinance Amending Ordinance No. 10-60, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2010 to June 30, 2011. AYES: Council Members Ford, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 7; NOES: None; ABSENT: Council Members Enriques and Greenwell – 2; EXCUSED: None.

Ordinance 10-113 (Bill 313): An Ordinance Amending Ordinance No. 10-60, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2010 to June 30, 2011. AYES: Council Members Ford, Hoffmann, Ikeda, Naeole, Onishi, Yagong, and Chair Yoshimoto – 7; NOES: None; ABSENT: Council Members Enriques and Greenwell – 2; EXCUSED: None.


Kenneth G. Goodenow
County Clerk

(Hawai'i Tribune-Herald – December 3, 2010)
(West Hawai'i Today – December 3, 2010)

Note: The original Digest/Affidavit is attached to Ordinance 10-109.