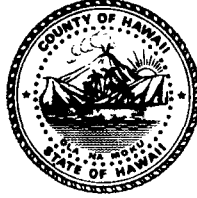


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 12 7 BILL NO. 136

AN ORDINANCE AMENDING SECTION 25-8-30 (NĀ'ĀLEHU 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 VILLAGE COMMERCIAL – 10,000 SQUARE FEET (CV-10) AT KAWALA, KA'Ū, HAWAI'I, COVERED BY TAX MAP KEY: 9-5-025:033.

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

SECTION 1. Section 25-8-30, 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 Kawala, Ka'ū, Hawai'i, shall be Village Commercial – 10,000 square feet (CV-10):

Beginning at a point at the southwest corner of this parcel of land, being also the remainder of R.P. 1377 to D. F. Sanford and on the northerly side of Māmalahoa Highway the coordinates of said point of beginning referred to Government Survey Triangulation Station "STEIN 2" being 101.17 feet north and 3,039.57 feet west and running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|--|
| 1. | 168° 23' | 165.00 | feet along the remainder of R. P. Grant 1377 to D. F. Sanford; |
| 2. | 257° 50' | 123.16 | feet along the remainder of R. P. Grant 1377 to D. F. Sanford; |
| 3. | 347° 03' | 165.00 | feet along Lot B, Nā'ālehu Village – Sixth Series to a point at the northerly side of the Māmalahoa Highway; |

4. 77° 49' 50" 127.00 feet along the northerly side of the
Māmalahoa Highway to the point of
beginning and containing an area of
20,637 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. 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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Plans for conversion of the single-family dwelling shall be submitted for Plan Approval from the Planning Director within one (1) year from the effective date of this ordinance. Plans shall identify fire protection measures, access roadway, driveway and paved parking stalls. The applicant shall provide landscaping in

accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements), Chapter 25 (Zoning Code), Hawai'i County Code.

- C. The commercial development shall utilize the existing dwelling. Renovations and improvements which are generally consistent with the current appearance of the existing home shall be allowed.
- D. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the estimated maximum daily water usage calculations, prepared by a professional engineer licensed in the State of Hawai'i, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within 180 days from the effective date of this ordinance.
- E. Access to the property from the Māmalahoa Highway (Highway 11) shall meet with the approval of the Department of Transportation.
- F. The method of sewage disposal shall meet with the requirements of the Department of Health.
- G. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
- H. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
- I. 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 - Historic Preservation Division (DLNR-HPD) shall be immediately notified.

Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigation measures have been taken.

- J. If the applicant, successors or assigns develop residential units on the property, 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 the 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 maximum combined value of **\$7,903.35** per multiple family residential unit (**\$12,316.47** 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. **\$3,898.50** per multiple family residential unit (**\$5,939.22** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$123.21** per multiple family residential unit (**\$286.51** per single family residential unit) to the County to support police facilities;
3. **\$379.01** per multiple family residential unit (**\$565.89** per single family residential unit) to the County to support fire facilities;

4. **\$168.93** per multiple family residential unit (**\$247.75** per single family residential unit) to the County to support solid waste facilities; and
5. **\$3,333.69** per multiple family residential unit (**\$5,277.10** 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.

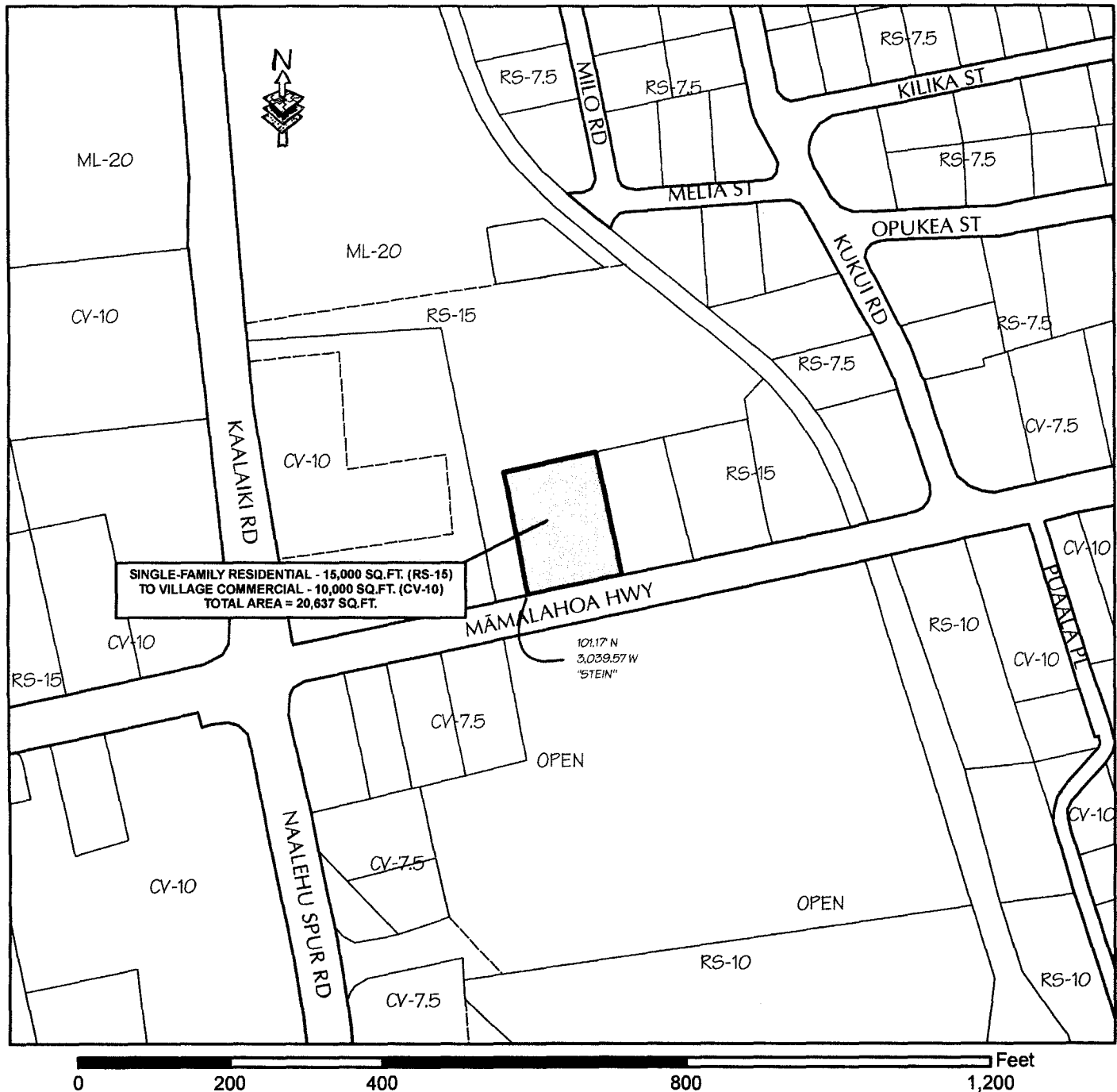
- K. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, if required, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to Final Plan Approval.
- 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 applicant 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 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.

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



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-30 (NA'ALEHU 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 SQ.FT. (RS-15) TO
 VILLAGE COMMERCIAL - 10,000 SQ.FT. (CV-10),
 AT KAWALA, KA'Ū, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

COUNTY CLERK
COUNTY OF HAWAII

2012 JAN 23 PM 4:14

Introduced By: Pete Hoffmann
Date Introduced: December 21, 2011
First Reading: December 21, 2011
Published: December 31, 2011

REMARKS: _____

Second Reading: January 4, 2012
To Mayor: January 13, 2012
Returned: January 23, 2012
Effective: January 23, 2012
Published: February 10, 2012

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann		X		
Ikeda	X			
Onishi	X			
Pilago	X			
Smart	X			
Yagong	X			
Yoshimoto	X			
	8	1	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann		X		
Ikeda	X			
Onishi	X			
Pilago			X	
Smart	X			
Yagong	X			
Yoshimoto	X			
	7	1	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:

[Signature]
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date JAN 18 2012

[Signature]
COUNCIL CHAIRPERSON
[Signature]
COUNTY CLERK

Approved/Disapproved this 23rd day
of January, 20 12
[Signature]

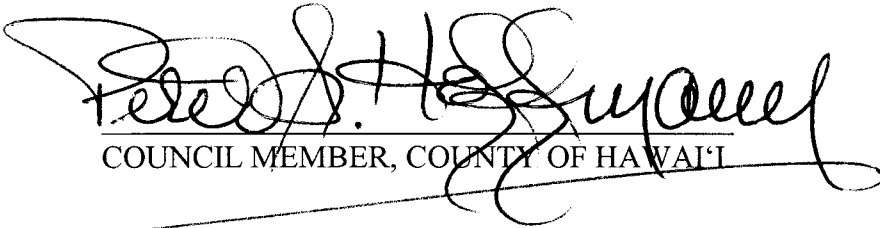
MAYOR, COUNTY OF HAWAII

Bill No.: 136
Reference: C-449/PC-34
Ord No.: 12 7

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: December 21, 2011
Date of 1st Reading: December 21, 2011
Date of 2nd Reading: January 4, 2012
Effective Date: January 23, 2012

REFERENCE: Comm. 449