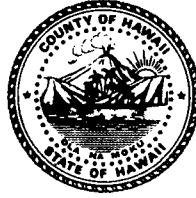


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 12 76 BILL NO. 219
(DRAFT 2)

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – 1 ACRE (A-1a) TO SINGLE-FAMILY RESIDENTIAL – 20,000 SQUARE FEET (RS-20) AT HOLUALOA 1ST AND 2ND (MAUKA), NORTH KONA DISTRICT, HAWAI'I, COVERED BY TAX MAP KEY: 7-6-004:018.

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

SECTION 1. Section 25-8-3, 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 Holualoa 1st and 2nd (Mauka), North Kona District, Hawai'i, shall be Single-Family Residential – 20,000 square feet (RS-20):

Beginning at the Southwest corner of this parcel of land, at the Southeast corner of 25 Foot Road, being the Northwest corner of 12 Foot Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MAHIPALI" being 1,816.35 feet South and 428.31 feet West, and running by azimuths measured clockwise from True South:

- | | | | |
|----|--------------|--------|--|
| 1. | 194° 35' | 132.57 | feet along 25 Foot Road; |
| 2. | 270° 00' | 358.81 | feet along Allotment 15; |
| 3. | 360° 00'' | 124.84 | feet along 12 Foot Road; |
| 4. | 89° 29' 40'' | 392.20 | feet along 12 Foot Road to the point of beginning and containing an area of 1.090 Acres, 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, its successor or assigns shall be responsible for complying with all 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 one hundred eighty (180) days from the effective date of this ordinance.
- C. Final Subdivision Approval for the proposed development shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- D. Access to the lots shall conform to Chapter 22, County Streets, of the Hawai'i County Code and be limited to Old Government Road.
- E. The applicant shall dedicate an additional 12.5 feet of right-of-way width along the property's Old Government Road frontage at no cost to the County.

- F. On the preliminary plat map reflecting the proposed subdivision of the subject property, a 5-foot wide future road widening setback, with no access permitted along the private roadway (known as Homestead Road) shall be clearly delineated and labeled in a manner meeting with the approval of the Department of Public Works.
- 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, a drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works. The recommended drainage improvements shall be constructed, meeting with the approval of the Department of Public Works prior to Final Subdivision Approval.
- I. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the development 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 maximum combined value of **\$12,316.47** 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 single family residential unit shall be allocated as follows:

1. **\$5,939.22** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$286.51** per single family residential unit to the County to support police facilities;
3. **\$565.89** per single family residential unit to the County to support fire facilities;
4. **\$247.75** per single family residential unit to the County to support solid waste facilities; and
5. **\$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.

- J. The method of sewage disposal shall meet with the requirements of the Department of Health.

- K. Should any undiscovered 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.
- 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(s) should require an additional extension of time, the Planning Department 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 property 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.

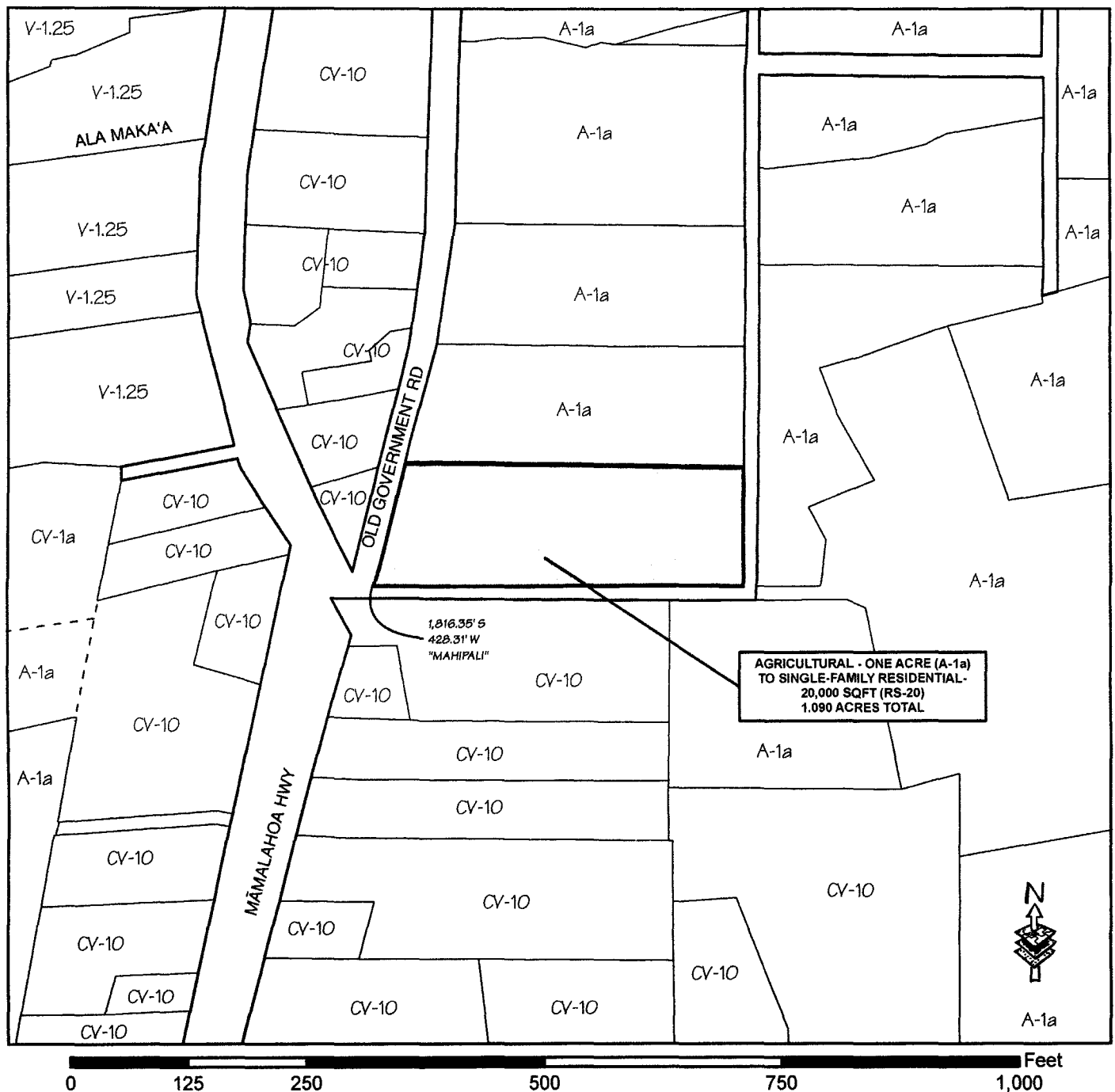
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i
Date of Introduction: April 17, 2012
Date of 1st Reading: April 17, 2012
Date of 2nd Reading: May 2, 2012
Effective Date: May 16, 2012

REFERENCE: Comm. 647.5



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP) ARTICLE 8,
CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION),
BY CHANGING THE DISTRICT CLASSIFICATION FROM
AGRICULTURAL- 1 ACRE (A-1a) TO
SINGLE-FAMILY RESIDENTIAL - 20,000 SQFT (RS-20),
AT HOLUALOA 1ST and 2ND (MAUKA), NORTH KONA, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

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

(Draft 2)

COUNTY CLERK
COUNTY OF HAWAII

2012 MAY 16 PM 2: 28

Introduced By: Donald Ikeda
Date Introduced: April 17, 2012
First Reading: April 17, 2012
Published: April 26, 2012

REMARKS: _____

Second Reading: May 2, 2012
To Mayor: May 11, 2012
Returned: May 16, 2012
Effective: May 16, 2012
Published: May 24, 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			
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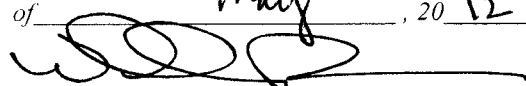
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Pilago	X			
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Yagong	X			
Yoshimoto	X			
	6	3	0	0

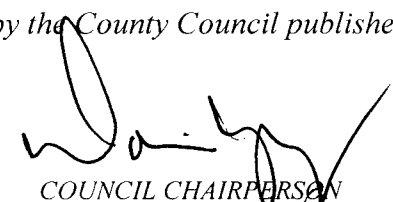
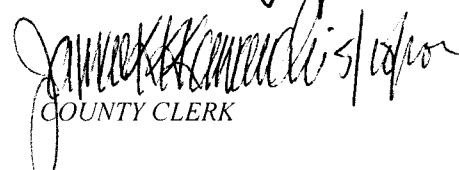
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date MAY 15 2012

 Approved/Disapproved this 16th day
of May, 20 12

MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRPERSON

COUNTY CLERK

Bill No.: 219 (Draft 2)

Reference: C-647.5/PC-46

Ord No.: 12 76