

BILL NO. 255
(DRAFT 3)ORDINANCE NO. 12 140

AN ORDINANCE AMENDING ORDINANCE NO. 08-150 WHICH AMENDED ORDINANCE NO. 465, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 1 ACRE (A-1a) TO NEIGHBORHOOD COMMERCIAL – 7,500 SQUARE FEET (CN-7.5) AT KEALAKEKUA, SOUTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 8-2-013:PORTION OF 002.

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

SECTION 1. Ordinance No. 08-150 is amended as follows:

“SECTION 1. Section 25-8-4, 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~~] Tax Map Key: 8-2-013:Portion of 002 situated at Kealakekua, South Kona, Hawai'i, shall be Neighborhood Commercial – 7,500 square feet (CN-7.5) [÷] .

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. 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. Construction of the proposed development shall be completed within three (3) 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 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. For construction and operation of the visitor education center, the applicant may secure a shared access from the Department of Parks and Recreation through the parking lot of the Arthur Greenwell Park and Yano Hall. The applicant shall not compromise the future improvement of the road lot to dedicable standards meeting with the approval of the Department of Public Works.
- E. ~~[This amendment to change the district classification of property is limited to a visitor center and related and accessory uses of a visitor center in substantial conformance to the description in the current application for reasons of public health, safety, and welfare due to flood hazards in the area.]~~
For commercial uses, other than the visitor education center that may operate seven days per week and a farmers' market that shall operate for two days a week or less, the applicant shall provide the improvements to the road lot that runs along the entire length southeast frontage of the subject property, consisting of an intersection with the Māmalahoa Highway, a 20-foot wide road pavement lane, concrete curb, gutter, and sidewalk, drainage improvements, and any relocation of

utilities meeting the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy. For the purpose of this condition, the farmers' market shall be limited to the sale of local fresh and/or raw produce, plant life, fish and local homegrown and homemade products.

- F. With the exception of the visitor center and the farmer's market as described in Condition E, should the applicants, successors or assigns develop a land use which the Planning Department, in consultation with the Department of Public Works, determines will generate over 50 peak hour trips, a Traffic Analysis Impact Report (TIAR) shall be submitted for review and approval by the Department of Public Works prior to Final Plan Approval. The applicants shall implement, when required by the Department of Public Works, and at no cost to the County, any road and traffic improvements that may be deemed necessary by the Department of Public works based on an approved TIAR.

- [~~F.~~] G. Any direct access from Mamalahoa Highway shall comply with the Department of Public Works and may require an exclusive left turn lane on Mamalahoa Highway and other improvements including but not limited to pavement widening, curb, gutter and sidewalk, drainage improvements, utility relocations, signs and markings at no cost to the County. Access to Mamalahoa Highway shall be limited to one approach.

- [~~G.~~] H. All driveway connections to a County Road shall conform to Chapter 22, Streets and Sidewalks, of the Hawai'i County Code and the County of Hawai'i Standard Details.

- [~~H.~~] I. Install street lights, signs and markings as required by the Department of Public Works-Traffic Division.

- [~~I.~~] J. 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 receipt of a Certificate of Occupancy.

[~~J~~] K. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.

[~~K~~] L. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.

[~~L~~] M. If the applicant, successors, or assigns develops residential units on the subject 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 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]~~ Ordinance No. 08-150, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a combined value of ~~[\$7,383.36]~~ \$8,196.06 per multiple family residential unit (~~[\$11,506.13]~~ \$12,772.64 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 shall be allocated as follows:

1. ~~[\$3,642.00]~~ \$ 4,042.89 per multiple family residential unit (~~[\$5,548.46]~~ \$ 6,159.19 per single family residential unit) to the County to support park and recreational improvements and facilities;
2. ~~[\$115.11]~~ \$127.78 per multiple family residential unit (~~[\$267.66]~~ \$297.12 per single family residential unit) to the County to support police facilities;
3. ~~[\$354.08]~~ \$393.05 per multiple family residential unit (~~[\$528.66]~~ \$ 586.85

per single family residential unit) to the County to support fire facilities;

4. [~~\$157.81~~] \$715.19 per multiple family residential unit (~~[\$231.45]~~ \$ 256.93 per single family residential unit) to the County to support solid waste facilities; and
5. [~~\$3,114.36~~] \$ 3,457.16 per multiple family residential unit (~~[\$ 4,929.90]~~ \$ 5472.55 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.

[~~M~~] N. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

[~~N~~] O. 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, Hawaii 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.

[~~O~~] P. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

[~~P~~] Q. If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission and the Hawaii County Council for appropriate action.

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

SECTION 2. Material to be deleted is bracketed and stricken. New material 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: October 3, 2012
Date of 1st Reading: October 3, 2012
Date of 2nd Reading: October 17, 2012
Effective Date: October 25, 2012

REFERENCE Comm. 706.5

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

(DRAFT 3)

7:00 PM 10/26/12 11:17

Introduced By: Brenda Ford
Date Introduced: October 3, 2012
First Reading: October 3, 2012
Published: October 13, 2012

REMARKS: _____

Second Reading: October 17, 2012
To Mayor: October 19, 2012
Returned: October 26, 2012
Effective: October 25, 2012
Published: November 7, 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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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:

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date OCT 24 2012

Approved/Disapproved this 25th day
of October, 20 12

MAYOR, COUNTY OF HAWAII

COUNCIL CHAIRPERSON

COUNTY CLERK

Bill No.: 255 (Draft 3)

Reference: C-706.5/PC-66

Ord No.: 12 140