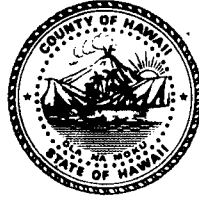


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **12 156** BILL NO. 309

AN ORDINANCE AMENDING ORDINANCE NO. 02 64 WHICH AMENDED SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – 5 ACRES (A-5a) TO SINGLE FAMILY RESIDENTIAL – 20,000 SQUARE FEET (RS-20) AT KALAOA 4TH, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-3-005:030.

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

SECTION 1. Ordinance No. 02 64 is amended as follows:

“SECTION 1. Section 25-8-3, Article 8, Chapter 25 (Zoning Code) of the [Hawaii] 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 Kalaoa 4th, North Kona, [Hawaii] Hawai'i, shall be Single Family Residential – 20,000 square feet (RS-20):

Beginning at the northwest corner of this parcel of land at the southerly boundary of Grant 1606 to Kanehailua the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 6,066.14 feet south and 9568.31 feet west and running by azimuths measured clockwise from true South:

- | | | | |
|----|--------------|--------|--|
| 1. | 272° 03' | 111.67 | feet along stonewall, Grant 1606 to Kanehailua, Kona Coast View Subdivision; |
| 2. | 279° 19' | 319.45 | feet along same; |
| 3. | 262° 37' 30" | 387.60 | feet along same; |
| 4. | 265° 00' 30" | 81.43 | feet along same; |
| 5. | 285° 45' | 81.14 | feet along same; |
| 6. | 271° 33' | 58.37 | feet along same; |

7.	286°	15'	30"	38.18	feet along same;
8.	263°	06'		39.01	feet along same;
9.	344°	23'		30.39	feet along road remnant, [Mamalahoa <u>Māmalahoa</u> Highway;
10.	311°	30'		44.00	feet along same;
11.	338°	52'		65.05	feet along same;
12.	89°	06'	30"	224.10	feet along stonewall, Lot 2;
13.	88°	09'		156.00	feet along same;
14.	92°	55'		252.80	feet along same;
15.	88°	22'	30"	101.06	feet along same;
16.	93°	36'		153.94	feet along Lot 5;
17.	93°	12'		282.00	feet along same;
18.	179°	58'		120.70	feet along same to the point of beginning and containing an area of 136,289 square feet or 3.13 acres, more or less.

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

SECTION 2. The County Council finds the following conditions are (1) necessary to prevent circumstances which may be adverse to the public health, safety and welfare; and (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. In this case, these conditions are imposed because of concerns over the overall density of the proposed subdivision and to mitigate potential impacts upon public facilities and infrastructure servicing the affected area. Therefore, this change in district classification is conditioned upon the following:

- 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 for the development shall be submitted to the Department of Water Supply in accordance with its “Water Commitment Guidelines Policy” within [90] 180 days from the effective date of this amended ordinance.
- C. Lots within the proposed subdivision shall not exceed the number of units of water which are available and have been committed to the subject property by the Department of Water Supply. Any further development shall occur only when sufficient County water becomes available by construction of on- and off-site water system improvements. All water system improvements shall meet with the requirements of the Department of Water Supply prior to the issuance of Final Subdivision Approval.
- D. Final Subdivision Approval of the proposed subdivision shall be secured from the Planning Director within five (5) years from the effective date of this amended ordinance.
- E. Roadway and access to all lots within the proposed subdivision shall meet with the approval of the Department of Public Works.
- F. The extension of Leimomi Street and any other roadway within the proposed subdivision shall be constructed to County dedicable standards and dedicated to the County of [~~Hawaii~~] Hawai‘i upon request by the Department of Public Works. The applicant shall consult with the Department of Public Works regarding additional roadway connections to adjoining parcels, prior to the submittal of plans for subdivision review.

- G. A drainage study for the project site shall be conducted by the applicant and approved by the Department of Public Works, prior to the submittal of plan for subdivision review. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works in conjunction with the issuance of Final Subdivision Approval.
- H. Restrictive covenants in the deeds of all proposed residential lots shall prohibit the construction of a second dwelling unit on each lot. A copy of the proposed covenant(s) to be recorded with the 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 approved covenant(s) shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances for any portion of the subject property. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- 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 – State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
- J. 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~~] Hawai'i County Code relating to Affordable Housing Policy. This requirement shall be approved by the County Housing Agency prior to final subdivision approval.

~~[The applicant shall make its fair share contribution to mitigate potential regional impacts of the subject project with respect to roads, parks and recreation, fire, police and solid waste disposal facilities. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of proposed residential lots in each such increment. The fair share contribution, in a form of cash, land, facilities or any combination thereof, acceptable to the director in consultation with the affected agencies, shall be determined by the County Council. The fair share contribution shall have a maximum combined value of \$7,876.20 per single family residential unit. Based upon the applicant's representation of intent to develop up to four (4) residential units, the indicated total of fair share contribution is \$31,504.80 for single family residential limits. However, the total amount shall be increased or reduced in proportion with the actual number of units according to the calculation and payment provisions set forth in this Condition K. The fair share contribution shall be allocated as follows:~~

- ~~1. — \$3,798.04 per single family residential unit for an indicated total of \$15,192.16 to the County to support park and recreational improvements and facilities;~~
- ~~2. — \$183.22 per single family residential unit for an indicated total of \$732.88 to the County to support police facilities;~~
- ~~3. — \$361.88 per single family residential unit for an indicated total of \$1,447.52 to the County to support fire facilities;~~
- ~~4. — \$158.43 per single family residential unit for an indicated total of \$633.72 to the County to support solid waste facilities; and~~

~~5. — \$3,374.63 per single family residential unit for an indicated total of \$13,498.52 to the State or County to support road and traffic improvements.~~

~~The fair share contributions described above shall be adjusted annually beginning three years after the effective date of the change of zone, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute 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 approval of the director. The cost of providing and constructing the improvements required in Condition F shall be credited against the sum specified in Condition K (5) for road and traffic improvements. For purposes of administering Condition K, the fair market value of land contributed or the cost of improvements required or made in lieu of the fair share contribution shall be subject to review and approval of the director, upon consultation with the appropriate agencies.~~

~~Upon approval of the fair share contributions or in lieu contributions by the director, the director shall submit a final report to the Council for its information that identifies the specific approved fair share and/or in lieu contributions, as allocated, and further implementation requirements.~~

K. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the development with respect to roads, parks and recreation, fire, police and solid waste disposal facilities. 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 \$12,772.64 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. \$6,159.19 per single family residential unit to the County to support park and recreational improvements and facilities;
2. \$297.12 per single family residential unit to the County to support police facilities;
3. \$586.85 per single family residential unit to the County to support fire facilities;
4. \$256.93 per single family residential unit to the County to support solid waste facilities; and
5. \$5,472.55 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.

[K.] L. [The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed subdivision within the subject property.] Comply with all applicable County, State and Federal laws, rules, regulations and requirements.

[L.] M. Should the Hawai'i County 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. 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.]~~

N. If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission and County Council for appropriate action.

~~[N.]~~ O. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject 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.

AGRICULTURAL (A-5a) TO
SINGLE FAMILY RESIDENTIAL (RS-20)

AREA = 3.129 Acs.



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, BY CHANGING THE DISTRICT
CLASSIFICATION FROM AGRICULTURAL (A-5a) TO SINGLE FAMILY REDSIDENTIAL (RS-20)
AT KALAOA 4TH, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK :7-3-005:030

NOV. 30, 2001

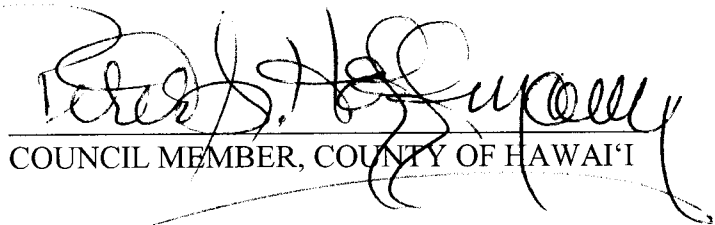
EXHIBIT "A"

(Garver-1054)

FOR REFERENCE ONLY

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

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawaii

Date of Introduction: November 9, 2012
Date of 1st Reading: November 9, 2012
Date of 2nd Reading: November 21, 2012
Effective Date: December 14, 2012

REFERENCE Comm. 856

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

7:00 PM 11/14/12 3:00

Introduced By: Pete Hoffmann
Date Introduced: November 9, 2012
First Reading: November 9, 2012
Published: November 17, 2012

REMARKS: _____

Second Reading: November 21, 2012
To Mayor: November 30, 2012
Returned: December 14, 2012
Effective: December 14, 2012
Published: December 29, 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			
	7	0	2	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			
	6	1	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 _____

Approved/Disapproved this 14th day
of December, 20 12

MAYOR, COUNTY OF HAWAII

COUNCIL CHAIRPERSON

COUNTY CLERK

Bill No.: 309
Reference: C-856/PC-67
Ord No.: 12 156