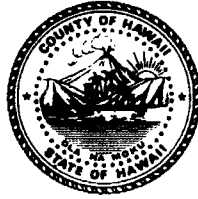


COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

ORDINANCE NO. 13 98 BILL NO. 104

AN ORDINANCE AMENDING ORDINANCE NO. 05 110 WHICH AMENDED ORDINANCE NO. 92 7, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 3 ACRES (A-3a) TO SINGLE FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) AT WAIĀKEA, SOUTH HILO, HAWAI‘I, COVERED BY TAX MAP KEY 2-4-003:POR. 021.

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

SECTION 1. Ordinance No. 05 110 is amended as follows:

"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 [~~Waiakea~~] Waiākea, South Hilo, Hawai‘i, shall be Single Family Residential – 10,000 square feet (RS-10):

SECTION 2. [~~This change in district classification is conditioned upon the following.~~]

In accordance with Section 25-2-44, Hawai‘i County Code 1983 (2005 Edition), the County Council finds the following condition is:

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. ~~[t]~~The applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval;
- B. ~~[t]~~The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the effective date of this amendment;
- C. Final Subdivision Approval of the proposed subdivision development shall be secured within ~~[five (5)]~~seven (7) years from the effective date of this amendment;
- D. ~~[a]~~Access to the proposed lots shall meet with the approval of the Department of Public Works. All driveway connections to Kawaiiani Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code. Interior subdivision roads shall be provided with curbs, gutters, and sidewalks meeting the approval of the Department of Public Works;
- E. ~~[u]~~Underground utilities shall be constructed;
- F. ~~[a]~~A 10-foot wide road widening strip along the Kawaiiani Street frontage of the property shall be set aside and delineated on the subdivision plans. All structural setbacks shall be taken from this future road widening line;
- G. A drainage study of the property, if required, shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works;

- H. The method of sewage disposal shall meet with the approval of the appropriate government agencies;
- I. ~~[a]~~All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties;
- J. ~~[s]~~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 mitigation measures have been taken;
- K. ~~[t]~~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 be initially based on the representations contained within the change of zone application and may be increased or reduced proportionally if the lot counts are adjusted. The fair share contribution shall become due and payable prior to receipt of Final ~~[Plan]~~Subdivision Approval ~~[or within five years from the effective date of this amended change of zone ordinance, whichever occurs first]~~. The fair share contribution for each lot shall be based on a maximum density for each lot as determined by the zoning resulting from this change of zone. 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 the amendment to the ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a maximum combined value of ~~[\$9,671.44]~~\$13,081.99 per single-family residential unit. Based upon the

applicant's representation of intent to develop a total of nineteen (19) single-family residential units, the indicated total of fair share contribution is ~~[\$183,757.36]~~\$248,557.81 for the single-family residential units. 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. The fair share contribution per single-family residential unit shall be allocated as follows:

- ~~[\$4,663.74]~~\$6,308.37 per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of ~~[\$88,611.06]~~\$119,859.03 to the County to support park and recreational improvements and facilities;
- ~~[\$224.98]~~\$304.32 per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of ~~[\$4,274.62]~~\$5,782.08 to the County to support police facilities;
- ~~[\$444.36]~~\$601.06 per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of ~~[\$8,442.84]~~\$11,420.14 to the County to support fire facilities;
- ~~[\$194.55]~~\$263.15 per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of ~~[\$3,696.45]~~\$4,999.85 to the County to support solid waste facilities;
- ~~[\$4,143.81]~~\$5,605.09 per single-family residential unit for the nineteen (19) single-family residential units for an indicated total of ~~[\$78,732.39]~~\$106,496.71 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.]~~L. 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.]~~M. ~~[‡]~~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 County Housing Agency prior to final subdivision approval;

~~[O.]~~N. ~~[‡]~~Restrictive covenants in the deeds of all residential zoned lots shall 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 owner of the property may also, in addition, impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State Bureau of Conveyances shall be submitted to the Planning Department for review and approval prior to the issuance of final subdivision approval. A copy of the recorded covenant shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances;

~~[P.]~~Q. ~~[†]~~IThere shall be no construction of single-family dwellings and related improvements, other substantial buildings, or subdivision roads within areas designated “AE” , “AH” or “shaded” Zone “X” by the Flood Insurance Rate Maps (FIRM) except that subdivision roads can be building in “shaded” Zone “X”. Restrictive covenants in the deeds of all lots shall give notice of the terms of this rezoning condition. No residential lots may be created which lack a buildable area. This restriction may be removed by amendment of this ordinance by the County Council. 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 recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances;

~~[Q.]~~P. ~~[s]~~Should any infrastructure improvements related to Kawaiiani/Komohana intersection be required of future developers, the applicants, successors or assigns of this project shall work with the Planning Department to pay for their pro rata share of improvements. The pro rata share determination and its implementation shall be approved by the Planning Department in consultation with the Department of Public Works or any County agency having jurisdiction over any future infrastructure improvements;

~~[R.]~~Q. ~~[†]~~The applicant, successors or assigns shall be responsible for paying any additional real property taxes owed as a result of withdrawing the property from dedicated agricultural use to residential use prior to the sale of any lot;

~~[S.]~~R. ~~[†]~~The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements;

~~[T] 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 may, at the applicants' election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance;]~~

~~[U.]S.~~ [a] An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the amendment to the ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being satisfied. 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; and

~~[V.]T.~~ 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.

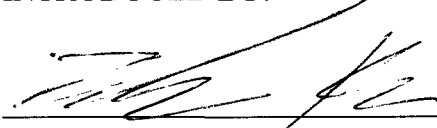
Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the area to its original or more appropriate designation.”

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.

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

INTRODUCED BY:

 B/R

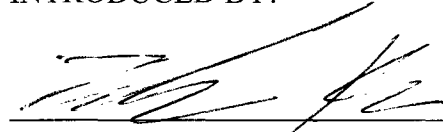
COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i
Date of Introduction: September 5, 2013
Date of 1st Reading: September 5, 2013
Date of 2nd Reading: September 18, 2013
Effective Date: October 9, 2013

REFERENCE Comm. 368

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

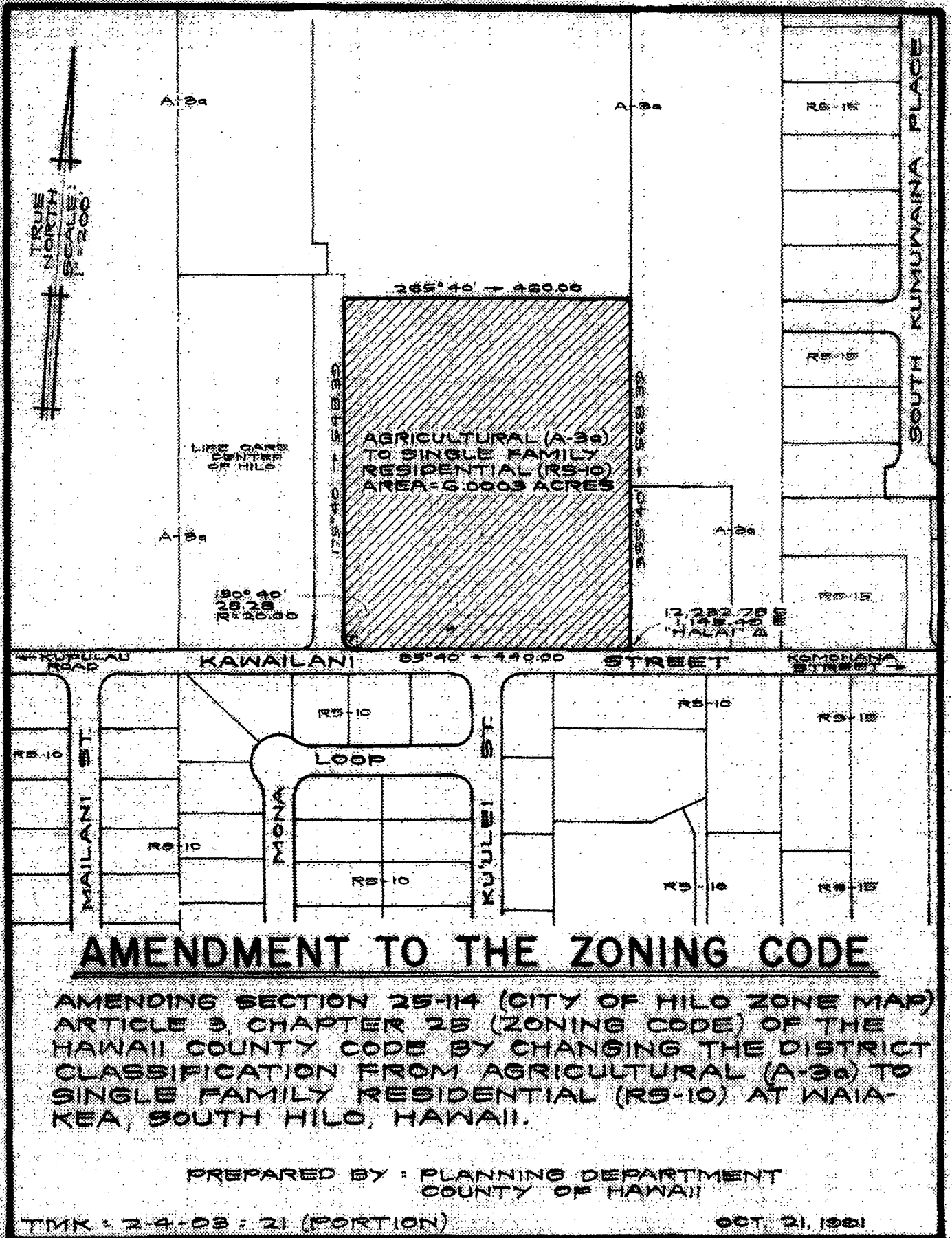
INTRODUCED BY:

 B/R

COUNCIL MEMBER, COUNTY OF HAWAII

 Hilo , Hawai'i
Date of Introduction: September 5, 2013
Date of 1st Reading: September 5, 2013
Date of 2nd Reading: September 18, 2013
Effective Date: October 9, 2013

REFERENCE **Comm.** 368



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-14 (CITY OF HILO ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-9a) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 2-4-05 : 21 (PORTION)

OCT 21, 1981

EXHIBIT "A"

FOR REFERENCE ONLY

KRISTILEE & HENRY CORREA JR. TRUST
REZ 705 (90-000044) (Amendment to Ordinance
No. 05 110 which amended Ordinance No. 92 7)

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

COUNTY CLERK
 COUNTY OF HAWAII

2013 OCT -9 PM 3: 22

Introduced By: Zendo Kern (B/R)
 Date Introduced: September 5, 2013
 First Reading: September 5, 2013
 Published: September 14, 2013

REMARKS: _____

Second Reading: September 18, 2013
 To Mayor: September 26, 2013
 Returned: October 9, 2013
 Effective: October 9, 2013
 Published: October 17, 2013

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	X			
Yoshimoto	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille			X	
Yoshimoto	X			
	8	0	1	0

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



COUNCIL CHAIRPERSON



COUNTY CLERK

Approved/Disapproved this 9th day
 of October, 2013.



MAYOR, COUNTY OF HAWAII

Bill No.: 104

Reference: C-368/PC-42

Ord No.: 13 98