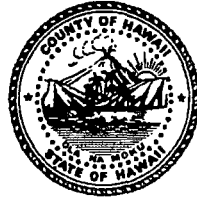


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 15 50 BILL NO. 38

AN ORDINANCE AMENDING ORDINANCE NO. 08 115, WHICH AMENDED ORDINANCE NO. 93 36, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 20 ACRES (A-20a), AGRICULTURAL – 10 ACRES (A-10a), AND AGRICULTURAL – 3 ACRES (A-3a) TO RESIDENTIAL AND AGRICULTURAL – 1 ACRE (RA-1a) AT KŪKŪAU 1ST, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEYS: 2-4-082:001-56, 58-61 (FORMERLY 2-4:008:PORTIONS OF 014 AND 026).

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

SECTION 1. Ordinance No. 08 115 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 [~~Kukūau~~]Kūkūau 1st, South Hilo, Hawai'i shall be Residential and Agricultural – 1 acre (RA-1a):

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, successors or assigns shall be responsible for complying with all of the stated conditions of approval[;].
- B. The required water commitment payment for the remaining phases of development shall be submitted to the Department of Water Supply in accordance with its “Water Commitment Guidelines Policy” within 180 days from the [~~date of approval of the amended change of zone~~] execution of the construction contract for the Pi‘ihonua-Kūkūau Transmission Line project by the Department of Water Supply and the Water Board. The applicant shall pay installation and facilities charges as required by the Department of Water Supply[;].
- C. Final Subdivision Approval for the remaining phases of the development shall be secured within five (5) years from the [~~effective date of this amendment, provided further, that for the construction of the Kupulau Street extension, final subdivision approval shall be granted upon the developer posting a construction bond of \$3.5 million, after it has been determined by the Planning Director, in consultation with the Department of Public Works, that the topography allows the construction of the Kupulau Street extension without significant changes to the construction plans for the remaining subdivision infrastructure, and that upon approval of firm construction estimates for the Kupulau Street extension, the bond amount shall be increased or decreased accordingly,~~] completion and acceptance of the Pi‘ihonua-Kūkūau Transmission Line project by the Department of Water Supply and Water Board or ten (10) years from the effective date of this amendment, whichever occurs first.
- D. The Kawaihāni Street extension affecting the subject property shall be delineated on preliminary and final subdivision plans to allow for a right-of-way. This street extension shall be [~~fully graded at a vertical alignment meeting with the approval~~

~~of the Department of Public Works]~~ constructed to County dedicable standards in conjunction with Final Subdivision Approval affecting this phase of the subdivision. The right-of-way and improvements therein shall be dedicated, at no cost, to the County. The portion of the Kupulau Street extension [from Puainako Street to the southern property line] within the subject property and up to the drainage easement adjacent to the Puainako Street extension shall be constructed to county dedicable standards meeting with the approval of the Department of Public Works [and shall serve as an additional ingress/egress for the subdivision] in conjunction with Final Subdivision Approval affecting this phase of the subdivision. The applicant shall dedicate the land area (TMK 2-4-075:070) for the proposed Kupulau St. extension between Puainako [St.] Street and Puloku [St.] Street to the County at no cost, when required by the Department of Public Works. The right-of-way, including that portion of the drainage easement adjacent to the Puainako Street extension, and improvements therein shall be dedicated to the County at no cost. The applicant shall be relieved from this condition if the General Plan is amended to remove Kupulau Street or Kawaiiani Street as future collector roads.

E. As represented by the applicant, the applicant shall secure and dedicate the land area within TMK 2-4-082:061 for that undeveloped portion of the Kūkūau Street extension between Sunrise Estates Subdivision and the Puainako Street Extension to the County at no cost, when required by the Department of Public Works.

~~E.]~~F. As represented by the applicant, restrictive covenants in the deeds of all the proposed 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 Department for review and approval prior to final subdivision approval. ~~[A copy of the approved covenant~~

~~shall be recited in an instrument executed by the applicant and the county and recorded with the Bureau of Conveyances likewise prior to final subdivision approval;~~ A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.

[F.]G. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, if applicable, 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 Administrator of the Office of Housing and Community Development prior to receipt of final subdivision approval[;].

[G.]H. Access to the development shall meet with the approval of the Department of Public Works. No lots shall have direct access from Puainako Street.

[H.]I. 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 Subdivision Approval [~~or within five years from the effective date of this amended change of zone ordinance, whichever occurs first~~] for that phase of development. 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 \$~~[11,506.13]~~ 13,312.70 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 single-family residential unit shall be allocated as follows:

\$~~[5,548.46]~~ 6,419.62 per single-family residential unit to the County to support park and recreational improvements and facilities;

\$~~[267.66]~~ 309.68 per single-family residential unit to the County to support police facilities;

\$~~[528.66]~~ 611.66 per single-family residential unit to the County to support fire facilities;

\$~~[231.45]~~ 267.79 per single-family residential unit to the County to support solid waste facilities;

\$~~[4,929.90]~~ 5,703.94 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, provided however, that the estimated cost of constructing the ~~[Kupulau Street extension on the subject property in the amount of \$3.5 million as provided in Conditions "C" and "D",]~~ improvements provided in Condition D and E shall be credited to offset the full amount of the fair share for the road and

traffic improvements for that phase of development by the Planning Director, without further approval of the County Council[;]. At the time of Final Subdivision Approval for the remaining phases, if the General Plan no longer identifies the Kupulau Street extension or Kawaiiani Street extension as future roadways, the applicant shall not receive a credit to offset fair share for roads and traffic improvements.

[I.]J. Drainage improvements shall meet with the approval of the Department of Public Works[;].

[J.]K. The method of sewage disposal shall meet with the approval of the Department of Health[;].

L. Pursuant to Hawai'i County Code, Section 25-2-46(o) (Concurrency Requirements), the applicant shall provide a civil defense siren and associated maintenance access easements on the subject property as required by the State Civil Defense prior to issuance of Final Subdivision Approval for Phase 2.

[K.]M. ~~[Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken;]~~ 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.

[~~L.~~]N. Comply with all applicable County, State and Federal laws, rules, regulations and requirements[;].

[~~M.~~]O. 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 shall be credited towards the requirements of the Unified Impact Fees Ordinance[;].

[~~N.~~]P. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the change of zone. The report shall address the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required[; and;].

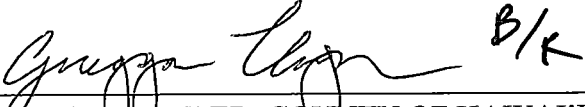
[~~O.~~]Q. [~~if~~] If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission and County Council for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director [~~shall~~] may initiate rezoning of the area to its original or more appropriate designation."

SECTION 2. Material to be deleted is bracketed and stricken through. 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:

 B/K

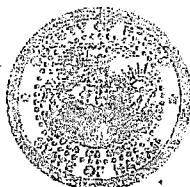
COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i

Date of Introduction: May 6, 2015
Date of 1st Reading: May 6, 2015
Date of 2nd Reading: May 19, 2015
Effective Date: June 12, 2015

REFERENCE Comm. 232

ROBIN J. YAHIKU
County Clerk



CONSTANCE R. ERRO
Deputy County Clerk

HARRY A. TAKAHASHI
Legislative Auditor

COUNTY COUNCIL

County of Hawaii
Hawaii County Building
25 Aupuni Street
Hilo, Hawaii 96720

NOTE

On Bill No. 3 (Draft 3), Ordinance No. 93-36,
reference is made to a map attached hereto, marked
Exhibit "A".

Said Exhibit is not part of the duplicate copies of
this ordinance, due to its size, but is available for
viewing in the Office of the County Clerk.

If further information is needed, call 961-8255.

Robin J. Yahiku
COUNTY CLERK

FOR REFERENCE ONLY

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

COUNTY CLERK
COUNTY OF HAWAI'I
RECEIVED
Time 1:30 pm By ST
Date 6/12/15

Introduced By: Greggor Ilagan (B/R)
Date Introduced: May 6, 2015
First Reading: May 6, 2015
Published: May 16, 2015

REMARKS: _____

Second Reading: May 19, 2015
To Mayor: May 28, 2015
Returned: June 12, 2015
Effective: June 12, 2015
Published: June 20, 2015

REMARKS: _____



ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Ilagan	X			
Kanuha	X			
Onishi	X			
Paleka	X			
Poindexter			X	
Wille	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Ilagan	X			
Kanuha	X			
Onishi			X	
Paleka	X			
Poindexter	X			
Wille	X			
	8	0	1	0

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

Approved/Disapproved this 12th day
of June, 20 15


MAYOR, COUNTY OF HAWAI'I


COUNCIL CHAIRPERSON

COUNTY CLERK

Bill No.: 38
Reference: C-232/PC-19
Ord No.: 15 50