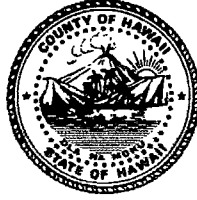


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 16 86 BILL NO. 216

AN ORDINANCE AMENDING ORDINANCE NO. 04 56, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – FIVE ACRES (A-5a) TO SINGLE FAMILY RESIDENTIAL – 7,500 SQUARE FEET (RS-7.5) AT PUAPUAA 2ND, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 7-5-020:071 AND 072.

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

SECTION 1. Ordinance No. 04 56 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:

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 successor or assigns shall be responsible for complying with all stated conditions of approval.

- B. Final subdivision approval shall be secured within five (5) years from the effective date of this amended ordinance.
- C. The applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full.
- D. Prior to receipt of Final Subdivision Approval or Final Plan Approval, the applicant shall revise the Traffic Assessment dated March 28, 2016 as recommended by the Department of Public Works. Should the revised study determine that the level-of-service (LOS) of any movements at study intersections currently operate worse than LOS "D" or are projected to operate worse than LOS "D" during the five year period of the revised study, occupancy of the residential units/ lots within the development shall be delayed until mitigation, as defined and required by Section 25-2-46 of the Zoning Code, is satisfied.
- ~~[C.]E.~~ Only one access from ~~[Alii]~~ Ali'i Drive shall be allowed for the proposed subdivision meeting with the approval of the Department of Public Works. The subdivision roadway from ~~[Alii]~~ Ali'i Drive shall provide a minimum of 45 feet of storage and turnaround on the ~~[Alii]~~ Ali'i Drive side of any gated vehicle access. The roadway connection with ~~[Alii]~~ Ali'i Drive shall conform to Chapter 22, County Streets [and Sidewalks], of the ~~[Hawaii]~~ Hawai'i County Code.
- ~~[D.]F.~~ A 5-foot wide no vehicular access planting screen easement shall be delineated along all lots fronting ~~[Alii]~~ Ali'i Drive. Vehicular access to the individual lots shall not be permitted from ~~[Alii]~~ Ali'i Drive.
- ~~[E.]G.~~ A 10-foot future road widening strip along the length of ~~[Alii]~~ Ali'i Drive shall be dedicated to the County prior to receipt of final subdivision approval.

[F.]H. A paved shoulder extending to the property line along the [Alii] Ali'i Drive frontage of the property shall be provided meeting with the approval of the Department of Public Works. The paved shoulder improvements may include pavement transitions, signs, markings, drainage improvements, and relocation of utilities. Utility meter and pressure reducing valve vaults shall also be located outside of the right-of-way in accordance with the requirements of the Department of Public Works.

[G.]I. The existing two-way left turn lane on [Alii] Ali'i Drive fronting the adjacent property to the north shall be extended to serve the roadway entry of the subject property in accordance with the requirements of the Department of Public Works. The necessary improvements for the extension of the two-way left turn lane, which shall consist of, but not be limited to, pavement widening, drainage improvements, streetlights, signs and markings, and relocation of utilities shall be provided in accordance with the requirements of the Department of Public Works. These improvements shall be constructed and dedicated at no cost to the County.

[H.]J. Any additional right-of-way necessary for the Kahului to Keauhou Parkway (aka [Alii] Ali'i Highway) shall be as determined by the Department of Public Works within four months of the effective date of this ordinance or action on any Planned Unit Development (PUD) permit for the subject project, whichever is sooner, and shall be dedicated at no cost to the County in conjunction with the subdivision of the subject property and/or be dedicated upon request by the Department of Public Works. A vehicular egress from the project onto the Parkway shall be allowed, unless deemed inappropriate by the Department of Public Works. Said egress shall also be made available to the general public in times of emergency.

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

- [~~J.~~]L. A drainage study shall be prepared for review and the recommended drainage system shall be constructed meeting with the approval of the Department of Public Works. The drainage improvements shall be constructed or bonded prior to receipt of final subdivision approval.
- [~~K.~~]M. The proposed subdivision shall connect to the County sewer system.
- [~~L.~~]N. Comply with Chapter 11-55, Water Pollution Control, [~~Hawaii~~] Hawai'i Administrative Rules, Department of Health, which requires an NPDES permit for certain construction activity.
- [~~M.~~]O. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of [~~Hawaii~~] Hawai'i.
- [~~N.~~]P. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the [~~Hawaii~~] Hawai'i County Code.
- [~~O.~~]Q. The U.S. Department of Army Corps of Engineers shall be contacted to identify whether a Federal Permit (including a Department of Army permit) is required for this project. The Planning Director shall be notified in writing as to whether such permit is required for the development of the project.
- [~~P.~~]R. [~~An archaeological inventory survey shall be submitted to the State of Hawaii Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) for acceptance. The applicant shall obtain approval of a Preservation and Mitigation Plan, which shall include a Burial Treatment Plan,~~

~~from the DLNR-HPD.]~~ The applicant shall include all of the DLNR-HPD mitigation measures and conditions specified in the Preservation and Mitigation Plan, including the Burial Treatment Plan, into the plans for the project, which shall be conditions of subdivision approval.

~~[Q.]~~S. The archaeological features on the mauka end of the project site shall be preserved and made a part of the project's approximately one-half-acre landscaping/open space buffer from the Kahului to Keauhou Parkway (~~[Ahi]~~ Ali'i Highway). The burial site (16116) consisting of two burial platforms shall be preserved "as is." A landscaped buffer shall be placed surrounding the burial site, and the burial site shall be incorporated into the project's landscaping/open space feature. Access to the burial site by descendants shall be allowed, consistent with the requirements of the Preservation and Mitigation Plan and Burial Treatment Plan approved by the State of ~~[Hawaii]~~ Hawai'i Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD).

~~[R.]~~T. 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.

~~[S.]~~U. The applicant, its successors or assigns, shall be responsible for ensuring that the proposed passive park site is preserved, maintained, and cared for in perpetuity.

~~[T.]~~V. The applicant shall purchase and install an Emergency Outdoor Warning Siren, acceptable to the ~~[Hawaii]~~ Hawai'i County Civil Defense Agency, provided that the cost of these improvements shall be credited against the applicant's fair share

requirement for fire, police, and if needed, road and traffic improvements outlined in Condition V. [~~An Emergency Response Plan shall be submitted to the Hawaii County Civil Defense Agency for review and approval prior to receipt of final subdivision approval.~~]

~~[U.]~~W. The applicant shall comply with the County of Hawai'i Affordable Housing Policy pursuant to Chapter 11, Article 1, Hawai'i County Code.

~~[V.]~~X. The applicant shall pay its fair share contribution to address potential regional impacts of the project with respect to roads, park, fire, police and solid waste disposal facilities. 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/unit counts are adjusted. The fair share contribution shall become due and payable prior to final subdivision approval/ final plan approval/ completion of a condominium property regime (whichever is applicable) for [of] any portion of the subject property [or within five (5) years from the effective date of this change of zone ordinance, whichever occurs first]. The fair share contribution for each lot/unit shall be based on a maximum density for each lot/unit 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 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 [~~\$9,472.12~~] \$13,672.20 per single family residential lot/unit. Fair share contributions shall be allocated as follows:

1. [~~\$4,567.62~~] \$6,608.08 per single family residential lot/unit [~~for an indicated total of \$264,921.96~~] to the County to support park and recreational improvements and facilities;

2. ~~[\$220.34]~~ \$317.37 per single family residential lot/unit [~~for an indicated total of \$12,779.72]~~ to the County to support police facilities;
3. ~~[\$435.21]~~ \$626.84 per single family residential lot/unit [~~for an indicated total of \$25,242.18]~~ to the County to support fire facilities;
4. ~~[\$190.54]~~ \$274.44 per single family residential lot/unit [~~for an indicated total of \$11,051.32]~~ to the County to support solid waste facilities;
5. ~~[\$4,058.41]~~ \$5,845.47 per single family residential lot/unit [~~for an indicated total of \$235,376.18]~~ to the State or County to support road and traffic improvements;

In lieu of paying the fair share contribution, the applicant may construct such facilities related to park, fire, police and solid waste disposal facilities subject to the review and recommendation of the Planning Director, upon consultation with the appropriate agencies and approval of the [~~Hawaii~~] Hawai'i County Council.

~~[W.]~~Y. 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 Fee Ordinance.

~~[X.]~~Z. Comply with all applicable laws, rules, regulations and requirements of other affected agencies, including the Department of Water Supply.

~~[Y.]~~AA. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of this change of zone ordinance. The report shall include, but not be limited to, the status of the development and compliance with the

conditions of approval. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.

~~[Z. — An initial extension of time for the performance of conditions within this 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).]~~

BB. Should the applicant require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission and the Hawai'i County Council for appropriate action.

~~[AA.]~~CC. 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 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:

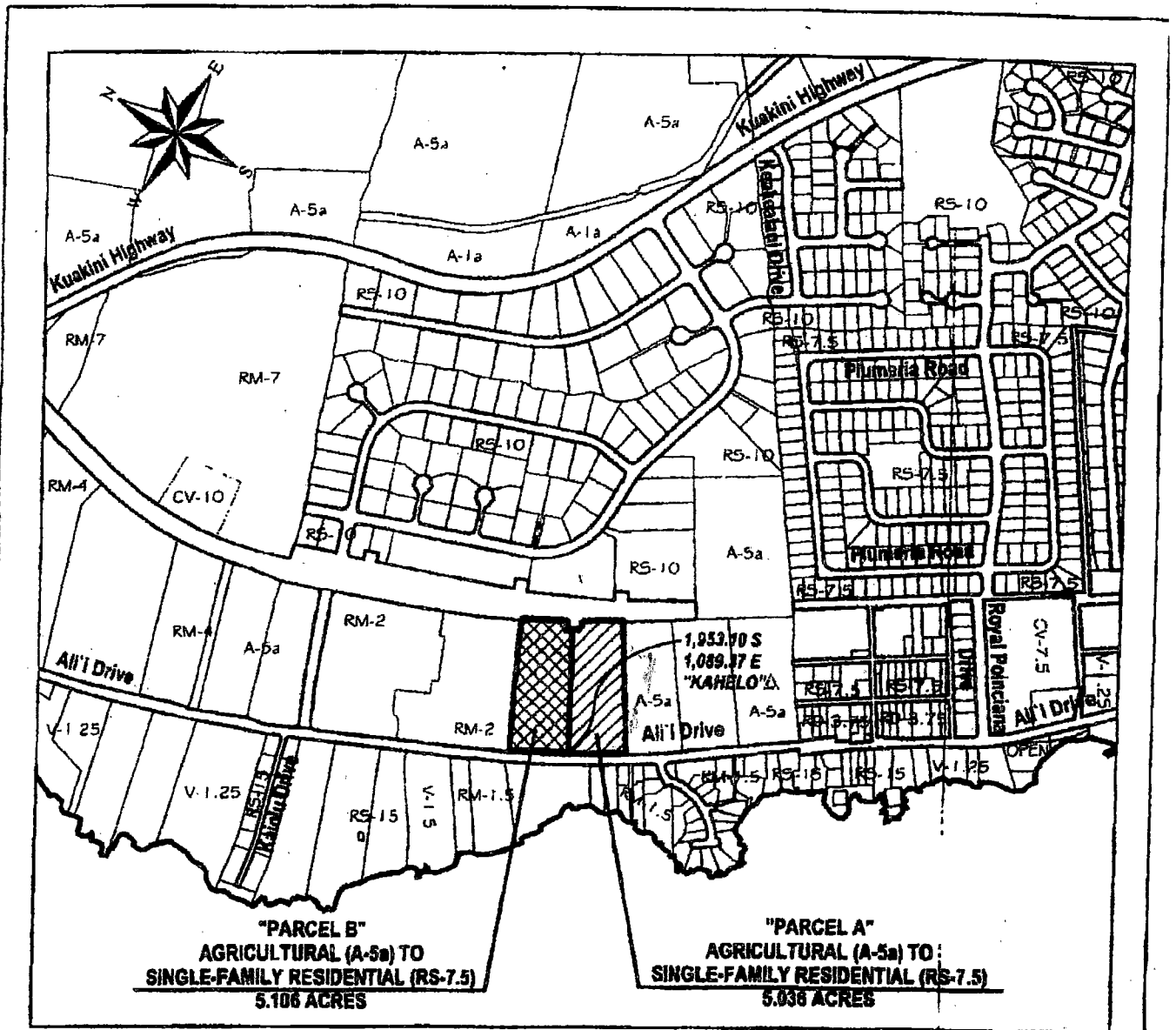


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: July 19, 2016
Date of 1st Reading: July 19, 2016
Date of 2nd Reading: August 3, 2016
Effective Date: August 18, 2016

REFERENCE Comm. 911



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 RESIDENTIAL (RS-7.5)
 AT PUAPUAA 2nd, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

TMK: 7-5-020-071 & 072
 EXHIBIT "A"

Date: November 25, 2003
 (Lehua Lani, LLC 1117)

ALII PALMS LLC

FOR REFERENCE ONLY

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

COUNTY CLERK
 COUNTY OF HAWAII

2016 AUG 18 PM 4:15

Introduced By: Greggor Ilagan (B/R)
 Date Introduced: July 19, 2016
 First Reading: July 19, 2016
 Published: July 30, 2016

REMARKS: _____

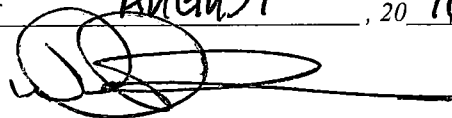
Second Reading: August 3, 2016
 To Mayor: August 11, 2016
 Returned: August 18, 2016
 Effective: August 18, 2016
 Published: September 3, 2016


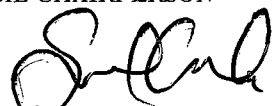
REMARKS: _____

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			
	9	0	0	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			
	9	0	0	0

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

Approved/Disapproved this 18th day
 of AUGUST, 20 16

 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRPERSON

 COUNTY CLERK

Bill No.: 216
 Reference: C-911/PC-70
 Ord No.: 16 86