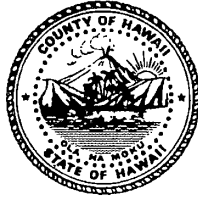


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 18 96

BILL NO. 178

AN ORDINANCE AMENDING ORDINANCE NO. 07 166, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – ONE ACRE (A-1a) TO MULTIPLE FAMILY RESIDENTIAL – 5,500 SQUARE FEET (RM-5.5) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-3-037:015.

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

SECTION 1. Section 2 of Ordinance No. 07 166 is amended as follows:

“SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 ([2005] 2016 Edition, as amended), 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(s), successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. [~~The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within 180 days from the effective date of this ordinance.~~] The applicant shall maintain valid water

commitments to support the proposed use until such time that the required water facilities are paid in full, as well as construct the necessary water system improvements and satisfying the conditions of the Department of Water Supply.[’s letter dated November 22, 2017.]

- C. Construction of the proposed improvements shall be completed within five (5) years from the effective date of this amended ordinance. [~~This time period shall include securing Final Plan Approval from the Planning Director in accordance with the Zoning Code. Plans shall identify proposed structure(s), fire protection measures, access roadway, driveway and parking stalls. Plans shall also identify the drainage easements (“D-6” and “D-7”), as well as the portion of the property designated Flood Zone “A” by the Flood Insurance Rate Map (0880C September 16, 1988). Landscaping shall be indicated on the plans for the purpose of mitigating any potential adverse noise or visual impacts to adjoining parcels. Landscaping shall be provided in accordance with the requirements of Planning Department’s Rule No. 17 (Landscaping Requirements).~~]
- D. No structural improvements shall be allowed within the designated drainage easements (“D-6” and “D-7”) and areas designated Flood Zone “A” on the Flood Insurance Rate (FIRM) map.
- E. Notwithstanding Section 25-4-51(a)(5), the project shall provide a minimum of two parking spaces for each unit, or the requirements of Section 25-4-51, whichever is greater.
- F. The applicant shall provide full improvements to the project’s frontage along Ponahawai Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any required utility relocation, meeting with the approval of the Department of Public Works, prior to receipt of a Certificate of Occupancy.

- G. Access to the subject parcel shall be limited through the Road and Utility Easement (“RU-3”) and shall conform to Chapter 22, County Streets, of the Hawai‘i County Code.
- H. Install street lights and traffic control devices as may be required by the Traffic Division, Department of Public Works.
- I. The applicant shall install a wastewater disposal system meeting with the requirements of the Department of Health.
- J. The applicant shall allow unrestricted access through the 15-foot wide road and utility easement (“RU-3”) within the property to the owner of TMK 2-3-37: 16. The applicant shall also allow unrestricted access through the 25-foot wide road and utility easement (“RU-7”) within its other property identified as TMK 2-3-37: 10 to the owners of TMK: 2-3-37: 8 and 9, as well as any other property that is supposed to have any easement over any of the applicant’s properties within lots created by and required by Subdivision No. 7389.
- K. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and the recommended drainage system shall be constructed, meeting the approval of the Department of Public Works, prior to receipt of a Certificate of Occupancy.
- 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.]~~
~~[All outdoor lighting shall be fully shielded so the bulb can only be seen from below bulb height and only use when necessary in order to avoid seabird disorientation, fallout, injury or mortality. The applicant shall avoid nighttime construction during the seabird fledging period (September 15 through December 15).]~~ 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 in the State of Hawai‘i.

- M. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
- N. ~~[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-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.]~~ In the unlikely event that any surface or subsurface historic properties and/or resources, such as lava tube openings, concentrations of artifacts, structural remains or human skeletal remains are found during construction activities, the applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and immediately contact the State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651 for further guidance. The applicant shall also notify the Planning Department immediately after contacting the DLNR-SHPD. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- 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, 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 Final Plan Approval for any new residential structures, or before issuance of building permits for any single-family residential structures.
- P. ~~[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, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a maximum combined value of ~~\$6,653.40~~ per multiple family residential unit (~~\$10,368.57~~ 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 (single family residential units) shall be allocated as follows:

1. ~~\$3,281.93~~ per multiple family residential unit (~~\$4,999.91~~ per single family residential unit) to the County to support park and recreational improvements and facilities;
2. ~~\$103.73~~ per multiple family residential unit (~~\$241.20~~ per single family residential unit) to the County to support police facilities;
3. ~~\$319.07~~ per multiple family residential unit (~~\$476.39~~ per single family residential unit) to the County to support fire facilities;
4. ~~\$142.21~~ per multiple family residential unit (~~\$208.57~~ per single family residential unit) to the County to support solid waste facilities; and
5. ~~\$2,806.46~~ per multiple family residential unit (~~\$4,442.50~~ 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.] 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 for the additional lots to be created. The fair share contribution shall become due and payable prior to receipt of Final Subdivision Approval. The fair share contribution shall

be based on the actual number of additional lots 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 combined value of **\$14,329.89** 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:

1. **\$6,910.13** per single family residential unit to the County to support park and recreational improvements and facilities;
2. **\$333.35** per single family residential unit to the County to support police facilities;
3. **\$658.40** per single family residential unit to the County to support fire facilities;
4. **\$288.25** per single family residential unit to the County to support solid waste facilities; and
5. **\$6,139.77** per single family residential unit to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicant(s) 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.

- Q. Should the Council adopt a[n] 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.
- R. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- S. ~~[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.]~~

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 Hawai'i County Council for appropriate action.

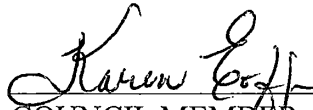
Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the subject area to its original or more appropriate designation.”

SECTION 2. Material to be repealed is bracketed and stricken. New material is underscored. In printing this ordinance, the brackets, bracketed and stricken material, and underscoring need not be included.

SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

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

INTRODUCED BY:

 ^{B/R}

COUNCIL MEMBER, COUNTY OF HAWAI'I

_____ Kona, Hawai'i

Date of Introduction: September 5, 2018
Date of 1st Reading: September 5, 2018
Date of 2nd Reading: September 19, 2018
Effective Date: October 1, 2018

REFERENCE Comm. 1025

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

COUNTY CLERK
 COUNTY OF HAWAII

2018 OCT -2 AM 8:49

Introduced By: Karen Eoff (B/R)
 Date Introduced: September 5, 2018
 First Reading: September 5, 2018
 Published: September 15, 2018

REMARKS: _____

Second Reading: September 19, 2018
 To Mayor: September 27, 2018
 Returned: October 2, 2018
 Effective: October 1, 2018
 Published: October 13, 2018

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kanuha	X			
Lee Loy	X			
O'Hara	X			
Poindexter	X			
Richards	X			
Ruggles			X	
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kanuha	X			
Lee Loy	X			
O'Hara	X			
Poindexter	X			
Richards			X	
Ruggles			X	
	7	0	2	0

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

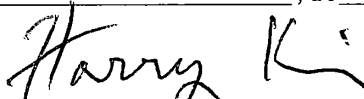


COUNCIL CHAIRPERSON



COUNTY CLERK

Disapproved this 1st day
 of October, 2018.



MAYOR, COUNTY OF HAWAII

Bill No.: 178
 Reference: C-1025/PC-70
 Ord No.: 18 96