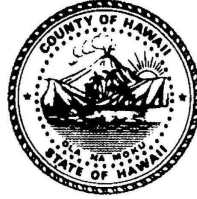


COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

ORDINANCE NO. 20 65 BILL NO. 182

AN ORDINANCE AMENDING ORDINANCE NO. 09 159 WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 5 ACRES (A-5a) TO MULTIPLE FAMILY RESIDENTIAL – 30,000 SQUARE FEET (RM-30) AT KEAUKOU, NORTH KONA, HAWAI‘I, COVERED BY TAX MAP KEY: 7-8-010:101.

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

**SECTION 1.** Section 2 of Ordinance No. 09 159 is amended as follows:

“SECTION 2. In accordance with Section 25-2-44, Hawai‘i County Code 1983 [~~2005 Edition~~)] (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, its successor or assigns shall be responsible for complying with all stated conditions of approval.
  - B. [~~Prior to the issuance of a water commitment by the Department of Water Supply, the applicant, its successors or assigns shall submit the anticipated~~

~~maximum daily water usage calculations as recommended by a registered engineer and a water commitment deposit in accordance with the “Water Commitment Guidelines Policy” to the Department of Water Supply within 180 days from the effective date of this ordinance.]~~ The applicant, successors, or assigns are responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full.

- C. The applicant, successors, or assigns shall install and construct [~~the~~] necessary water system improvements [outlined in the Department of Water Supply’s July 29, 2009 memorandum addressed to the Planning Director] meeting with the requirements of the Department of Water Supply prior to the issuance of a Certificate of Occupancy.
  
- D. Construction of the proposed development shall be completed within five (5) years from the effective date of [~~the~~] this amended ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai‘i County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department’s Rule No. 17 (Landscaping Requirements), Chapter 25 (Zoning Code), Hawai‘i County Code. An updated traffic assessment shall be submitted in conjunction with the plans for Plan Approval. Should the assessment, subject to concurrence by the Planning Director and Public Works Director, conclude that the project is anticipated to generate fifty or more peak hour trips, then a Traffic Impact Analysis Report (TIAR) pursuant to the concurrency requirements of Section 25-2-46(d), Chapter 25 (Hawai‘i County Code) shall be prepared

and submitted for the review and approval of the Planning Director and the Public Works Director. All recommended traffic mitigation outlined in the TIAR shall be implemented prior to issuance of a Certificate of Occupancy for the first residential unit within the project area.

- E. Plans submitted for Plan Approval shall reflect a minimum 10-foot wide emergency evacuation access route that extends from the project's easterly boundary, through the existing golf course identified by TMK:7-8-10:051, and up to any point along Ali'i Drive. As this access traverses an existing golf course and will be used only for emergency evacuation purposes, it need not be paved but will be reasonably compact enough to accommodate vehicles leaving the project site. The right of access across the emergency evacuation access route, including the terms of its use, maintenance, relocation, and related matters, will be recorded as an easement burdening TMK: 7-8-10:051 in favor of TMK: 7-8-10:101. The improvements of this emergency evacuation access route, if necessary, will be completed and the necessary easement will be recorded prior to issuance of a Certificate of Occupancy for the first residential unit within the project area.
- F. Access to the development shall meet with the approval of the Department of Public Works. The roadway easement from the Māmalahoa Highway Bypass to the project shall be constructed to County dedicable standards, including curbs, gutters and sidewalks, meeting with the approval of the Department of Public Works, and dedicate it to the County upon request.
- G. Any vehicular security gate shall be set back approximately 60 feet from any County dedicated road. Whenever in use, the security gate shall be staffed to facilitate access by emergency vehicles and personnel.
- H. All wastewater generated shall be disposed into the Keauhou Resort's

sewer system owned and maintained by the Keauhou Community Services, Inc., it's successors or assigns.

- I. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
- J. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works. The recommended drainage improvements shall be constructed, meeting with the approval of the Department of Public Works, prior to issuance of a Certificate of Occupancy for the first residential unit within the project area.
- K. 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 Hawai'i.
- L. Earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawai'i County Code.

~~[M. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval.]~~

[N] M. ~~[An updated Archaeological Inventory Survey, including proposed mitigation measures, shall be submitted for the review and approval of the State Department of Land and Natural Resources – Historic Preservation Division (DLNR-HPD) prior to submittal of plans for Plan Approval.]~~ The applicant, successors or assigns shall adhere to the commitments made in the Archaeological Inventory Survey approved by the State Department of Land and Natural Resources – Historic Preservation Division (DLNR-HPD) throughout the life of the development.

[~~Θ~~] N. [~~The four archaeological sites identified in the Archaeological Inventory Survey prepared by Cultural Surveys Hawai'i and identified on the proposed development plan and any other sites identified for preservation in an updated Archaeological Inventory Survey shall be preserved. The appropriate Preservation Plan, Data Recovery Plan, and Monitoring Plan shall be prepared and submitted to the State Department of Land and Natural Resource—Historic Preservation Division (DLNR-HPD) for review and approval. The Burial Treatment Plan shall be prepared and submitted to the Hawai'i Island Burial Council for review and approval. These plans shall be approved prior to the issuance of any land disturbance permits proximate to or affecting the archaeological features and/or burials required for preservation.~~] The applicant(s), successors, or assigns shall comply with all provisions of the Archeological Preservation Plan, Archeological Data Recovery Plan and Archaeological Monitoring Plan approved by the State Department of Land and Natural Resources – Historic Preservation Division (DLNR-HPD) and the Burial Treatment Plan approved by the Hawai'i Island Burial Council throughout the life of the development.

[~~P.~~—A completed Cultural Impact Assessment Report shall be submitted for review and approval by the DLNR-HPD prior to the submittal of plans for Plan Approval.]

[~~Q~~] O. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant, successors or assigns 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.

[R] P. The applicant, successors or assigns 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 unit shall be based on the actual number of residential units developed exceeding twenty-nine (29) units. 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 [~~\$7,383.36~~] \$9,366.52 per multiple family residential unit (~~[\$11,506.13]~~ \$14,596.67 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:

- [~~\$3,642.00~~] \$4,620.24 per multiple family residential unit (~~[\$5,548.46]~~ \$7,038.77 per single-family residential) unit to the County to support park and recreational improvements and facilities;
- [~~\$115.11]~~ \$146.02 per multiple family residential unit (~~[\$267.66]~~ \$339.55 per single-family residential unit) to the County to support police facilities;
- [~~\$354.08]~~ \$449.18 per multiple family residential unit (~~[\$528.66]~~ \$670.66 per single-family residential unit) to the County to support fire facilities;

- ~~[\$157.81]~~ **\$200.20** per multiple family residential unit (~~[\$231.45]~~ **\$293.62** per single-family residential unit) to the County to support solid waste facilities;
- ~~[\$3,114.36]~~ **\$3,950.87** per multiple family residential unit (~~[\$4,929.90]~~ **\$6,254.07** 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.

- [S] Q. 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 Fees Ordinance.
- [F] R. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- [U] S. An annual progress report shall be submitted to the Planning Director prior to the anniversary of the effective date of ~~[the]~~ this amended 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.

[V] T. ~~[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).~~
- 5.] If the applicant(s), successors, or assigns should require an additional extension of time, the Planning Department shall submit the request for the amendment to the change of zone and the SMA Use Permit to the Planning Commission and the County Council for appropriate action.

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

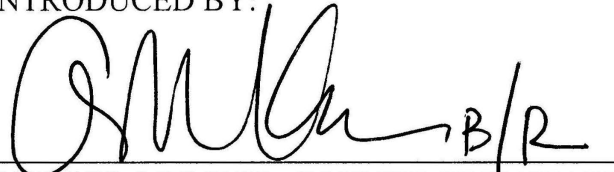


**SECTION 2.** Material to be deleted is bracketed and stricken. New material is underscored.

**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.

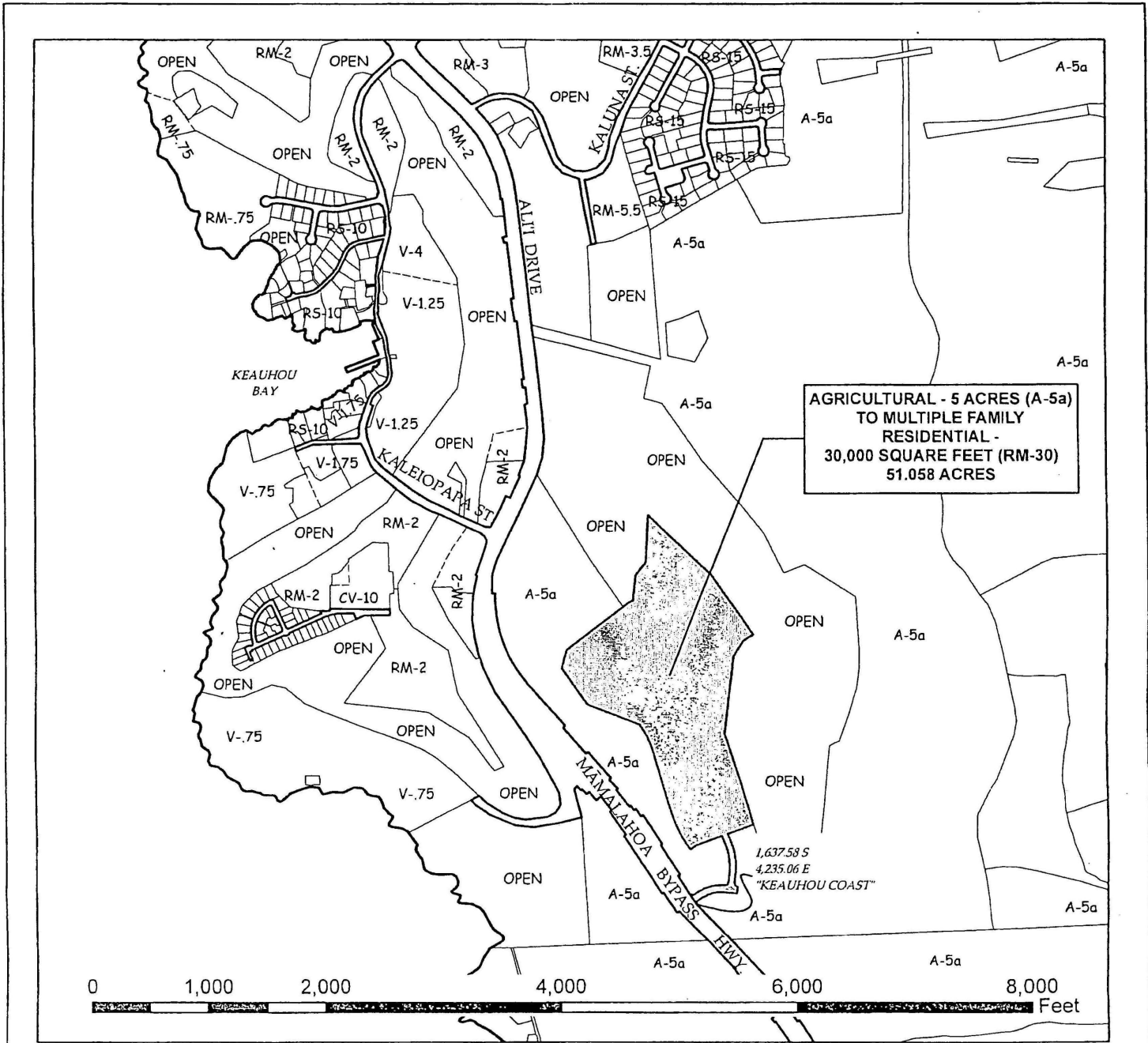
INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'SMC B/R', written over a horizontal line.

COUNCIL MEMBER, COUNTY OF HAWAII

    Hilo    , Hawai'i  
Date of Introduction: August 19, 2020  
Date of 1st Reading: August 19, 2020  
Date of 2nd Reading: September 2, 2020  
Effective Date: September 15, 2020

REFERENCE Comm.     1019



# 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 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL - 5 ACRES (A-5a) TO MULTIPLE FAMILY RESIDENTIAL - 30,000 SQUARE FEET (RM-30) AT KEAUHOU, NORTH KONA, HAWAII

MAP PREPARED BY:  
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: 7-8-10:101

DATE: June 25, 2009

EXHIBIT "A"

FOR REFERENCE ONLY

(Kona Country Club, Inc - Map 1268)

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

COUNTY CLERK  
 COUNTY OF HAWAII

2020 SEP 15 PM 1:14

Introduced By: Ashley L. Kierkiewicz (B/R)  
 Date Introduced: August 19, 2020  
 First Reading: August 19, 2020  
 Published: August 28, 2020

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
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Second Reading: September 2, 2020  
 To Mayor: September 11, 2020  
 Returned: September 15, 2020  
 Effective: September 15, 2020  
 Published: September 25, 2020

REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter			X	
Richards	X			
Villegas	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter	X			
Richards	X			
Villegas	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 15<sup>th</sup> day  
 of September, 20 20.

  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON

  
 COUNTY CLERK

Bill No.: 182  
 Reference: C-1019/PC-51  
 Ord No.: **20 65**