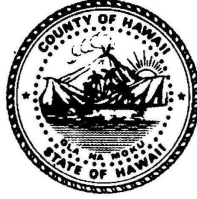


COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

ORDINANCE NO. **21 17**

BILL NO. 6

AN ORDINANCE AMENDING ORDINANCE NO. 10 32 WHICH RECLASSIFIED LANDS BY CHANGING THE DISTRICT CLASSIFICATION FOR SINGLE-FAMILY RESIDENTIAL – 1,000 SQUARE FEET (RS-7.5) AND MULTIPLE-FAMILY RESIDENTIAL – 1,000 SQUARE FEET (RM-1) TO MULTIPLE-FAMILY RESIDENTIAL – 1,500 SQUARE FEET (RM-1.5) AT KŪKŪAU 1ST, SOUTH HILO, HAWAI‘I, COVERED BY TAX MAP KEY: 2-4-025:048, 053 AND 080.

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

SECTION 1. Section 2 of Ordinance No. 10 32 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(s), its successors or assigns shall be responsible for complying with all of the stated conditions of approval.

B. Prior to the issuance of a water commitment by the Department of Water Supply (“DWS”), the applicant 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 one hundred and eighty days from the effective date of this ordinance.~~] as prepared by a professional engineer licensed in the State of Hawai‘i to the DWS. A water commitment deposit shall be paid to the DWS within 180 days from the effective date of this ordinance in accordance with Rule 5 of the Department of Water Supply’s Rules and Regulations. 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.

C. The applicant[s] shall install a reduced pressure type backflow prevention assembly within five (5) feet of the water meter on private property, which must be inspected and approved by the Department of Water Supply prior to the issuance of a Certificate of Occupancy.

~~[D. The applicant shall secure Final Subdivision Approval to consolidate tax map key numbers 2-4-25:48, 2-4-25:53 and 2-4-25:80 within two (2) years from the effective date of this ordinance.]~~

~~[E.]~~ D. Construction of the proposed development, shall be completed within five (5) years from the effective date of this amended ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director 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 accesses and parking stalls associated with the proposed development. The applicant shall develop parking spaces associated with the proposed development in accordance with the required parking spaces pursuant to Sections 25-4-51 and 25-4-52, Chapter 25 (Zoning Code), Hawai‘i County Code. In addition, the applicant shall develop

additional parking spaces up to a maximum of 60% of the required spaces for the total residential units to be built within the proposed development. Should the property be developed as an affordable rental housing project as represented by the applicant, this additional parking requirement shall be 1.5 parking spaces per multiple family residential unit developed. 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). The applicant shall comply with landscaping requirements for RM zoning.

~~[F. — The applicant shall grant drainage easement(s) through the subject properties to the County of Hawai'i. The easement(s) shall be granted and shall meet with the approval of the Department of Public Works.]~~

~~[G.]~~ E. The applicant shall subdivide and dedicate to the County a ten (10)-foot wide future road widening strip along the entire Kapi'olani Street frontage of Parcel 53, ~~[prior to Final Subdivision Approval for the lot consolidation described in Condition D]~~ within twelve (12) months from the effective date of this amended ordinance.

~~[H.]~~ F. Access at Kapi'olani Street shall be limited to right-turn in and right-turn out movements only.

~~[I.]~~ G. All driveway connections to Kūkūau Street and Kapi'olani Street shall conform to Chapter 22, County Streets, of the Hawai'i County Code.

~~[J. — Streetlights and traffic control devices, as may be required by the Traffic Division, Department of Public Works, shall be installed by the applicant.]~~

~~[K.]~~ H. 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 submitted to the Department of Public Works prior to the issuance of Final Plan Approval. Any drainage

improvements, if required, shall be constructed, meeting the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.

[~~L.~~] I. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai‘i County Code.

[~~M.~~] J. The project shall connect to the existing County sewer line prior to the issuance of a Certificate of Occupancy. [~~H.~~] As required by the Director of the Department of Environmental Management (“DEM”), the applicant shall conduct a sewer study in accordance with the then applicable wastewater system design standards prior to approval to connect to the County sewer system. The [~~A.~~] applicant shall provide such sewer line or other facility improvements as the Director of DEM may reasonably require, which the sewer study may indicate are advisable for mitigation of impacts of the proposed project.

[~~N.~~] K. 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.

[~~O.~~] L. [~~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 mitigative measures have been taken.~~] In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

[P-] M. Should the property be developed as an affordable rental housing project as represented by the applicant, no fair share contribution shall be required. Should the project not be developed as an affordable rental housing project as represented by the applicant, [F]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 or Final Subdivision Approval. The fair share contribution for each lot or unit 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 combined value of \$[7,698.11]9,645.17 per multiple family residential unit (\$[11,996.63]15,030.92 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 unit) shall be allocated as follows:

1. \$[3,797.26]4,757.69 per multiple family residential unit (\$[5,784.99]7,248.17 per single family residential unit) to the County to support park and recreational improvements and facilities;
2. \$[120.04]150.37 per multiple family residential unit (\$[279.07]349.65 per single family residential unit) to the County to support police facilities;
3. \$[369.17]462.54 per multiple family residential unit (\$[551.20]690.61 per single family residential unit) to the County to support fire facilities;

4. \$~~164.54~~206.16 per multiple family residential unit (\$~~241.32~~302.36 per single family residential unit) to the County to support solid waste facilities; and

5. \$~~3,247.12~~4,068.41 per multiple family residential unit (\$~~5,140.06~~6,440.12 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. This condition shall not apply to any housing units constructed within the subject properties to meet the affordable housing requirement in Chapter 11 (Housing), Section 11-4(b), Hawai‘i County Code, and so certified by the County Office of Housing and Community Development, excluding any units constructed for excess housing credits.

~~[Q.]~~ N. 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 the Affordable Housing Policy. Compliance with Chapter 11 shall be approved by the Administrator of the Office of Housing and Community Development prior to receipt of Final Plan Approval and/or Final Subdivision Approval.

~~[R.]~~ O. Should the property be developed as an affordable rental housing project as represented by the applicant, the Unified Impact Fees Ordinance, if adopted shall not be required. Should the Project not be developed as an affordable rental housing project as represented by the applicant and [S]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.

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

[T.] Q. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of ~~[the]~~ this amended ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. 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.

[U.] R. ~~[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.

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 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.

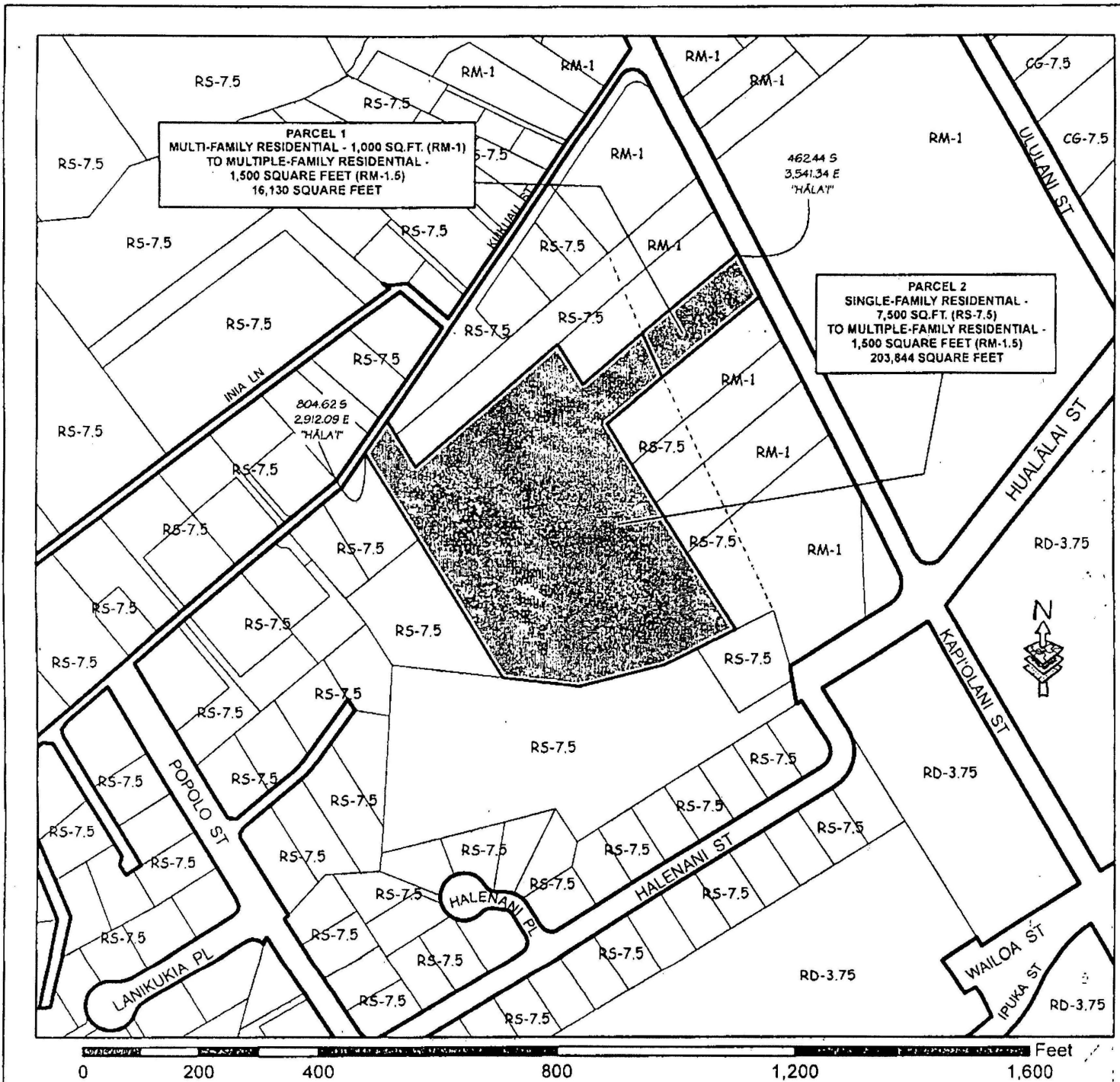
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Kona , Hawai'i
Date of Introduction: January 20, 2021
Date of 1st Reading: January 20, 2021
Date of 2nd Reading: February 17, 2021
Effective Date: March 1, 2021

REFERENCE Comm. 18



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP) ARTICLE 8,
 CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION),
 BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE-FAMILY RESIDENTIAL - 7,500
 SQUARE FEET (RS-7.5) AND MULTIPLE-FAMILY RESIDENTIAL - 1,000 SQUARE FEET (RM-1)
 TO MULTIPLE-FAMILY RESIDENTIAL - 1,500 SQUARE FEET (RM-1.5)
 AT KUKUAU 1ST, SOUTH HILO, HAWAII

FOR REFERENCE ONLY

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

COUNTY OF HAWAII
 2021 FEB -1 PM 2:44

Introduced By: Ashley L. Kierkiewicz (B/R)
 Date Introduced: January 20, 2021
 First Reading: January 20, 2021
 Published: January 29, 2021

REMARKS: Postponed: February 3, 2021

Second Reading: February 17, 2021
 To Mayor: February 25, 2021
 Returned: March 1, 2021
 Effective: March 1, 2021
 Published: March 19, 2021

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Richards	X			
Villegas	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	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.


 COUNCIL CHAIRPERSON


 COUNTY CLERK

Approved Disapproved this 1st day
 of March, 2021

Acting Lee E. Ford
 MAYOR, COUNTY OF HAWAII

Bill No.: 6
 Reference: C-18/PC-1
 Ord No.: 21 17