

BILL NO. 283
(DRAFT 2)ORDINANCE NO. 15 45

AN ORDINANCE AMENDING CHAPTER 25, ARTICLE 2, DIVISION 7 AND ARTICLE 6, DIVISION 1 OF THE HAWAII COUNTY CODE 1983 (2005 EDITION, AS AMENDED), RELATING TO REVIEW OF DEVELOPMENT PROJECTS PROPOSED WITHIN A SPECIAL DISTRICT.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Purpose and Findings. The Council finds that it is both desirous and appropriate for the establishment of a process for the review of development projects within a special district under Article 7 of Chapter 25, HCC, as amended, for consistency with any design guidelines and/or standards adopted by the Council, either by ordinance or resolution, for said special district and that provides local communities with an opportunity to review and comment on the design and compatibility of development projects within their respective communities.

Community Development Plans adopted since 2008, and those yet to be adopted, often identify specific local communities with a rich historical and architectural heritage that residents routinely identify as a defining community characteristic that should be preserved and enhanced. As local communities actively pursue and secure the adoption of guidelines and/or standards devised to foster their sense of identity, now and for future generations, a process allowing for the systematic review of all development projects subject to adopted design guidelines and/or standards becomes necessary.

The purpose of this ordinance is to incorporate a process within Chapter 25 that requires the Planning Director and/or the applicable planning commission to review all development within a special district for consistency with any applicable adopted design guidelines and/or standards, and to establish a process whereby an appropriately recognized local organization(s) may create a local design review committee that shall be routinely provided with the opportunity to review and comment to the Planning Director on applications for plan approval or a planned unit development for consistency with said adopted design guidelines and/or standards.

SECTION 2. Chapter 25, article 2, division 7, section 25-2-71 of the Hawaii County Code 1983 (2005 Edition, as amended), is amended to read as follows:

“Section 25-2-71. Applicability; plan approval required.

- (a) Plan approval shall be required prior to the construction or installation of any new structure or development or any addition to an existing structure or development in all districts except in the RS, RA, FA, A and IA districts, and except for the construction of one single-family dwelling and any accessory buildings per lot, unless required elsewhere in this chapter.

- (b) Plan approval shall be required in all districts prior to the change of the following uses in existing buildings:
 - (1) Residential to commercial use;
 - (2) Warehouse and manufacturing to retail use.
- (c) Plan approval shall be required in all applicable districts prior to the construction or establishment of the following improvements and uses:
 - (1) Public uses, structures and buildings and community buildings, as permitted under section 25-4-11.
 - (2) Telecommunication antennas and towers, as permitted under section 25-4-12.
 - (3) Temporary real estate offices and model homes, as permitted under section 25-4-8.
 - (4) Utility substations, as authorized under section 25-4-11.
- (d) Plan approval shall be required in the RA and FA district prior to the construction or installation of any new structure or development, or of any addition to an existing structure or development which is to be used for minor agricultural products processing.
- (e) Plan approval shall be required in the A district prior to the development of any trailer park or major agricultural products processing facility. The director shall determine whether an agricultural products processing facility shall be considered major or minor at the time of building permit review, or earlier at the applicant's request.
- (f) Plan approval may be required as a condition of approval of any use permit, variance, or other action relating to a specific use, in which case the use or development so conditioned may not be established until plan approval has been secured.
- (g) Plan approval shall be required for the establishment of any agricultural tourism activity, as permitted under section 25-4-15(b).
- (h) Plan approval shall be required prior to the construction or installation of any new structure or development, any enlargement of an existing structure or development, or alterations to the exterior appearance of any existing structure or development in any special district established under this chapter for which design guidelines and/or standards have been adopted and as prescribed by the applicable special district requirements, excluding any special district having adopted design guidelines and/or standards established under this chapter prior to adoption of this sub-section."

SECTION 3. Chapter 25, article 2, division 7, section 25-2-73 of the Hawai'i County Code 1983 (2005 Edition, as amended), is amended to read as follows:

"Section 25-2-73. [Reserved.] Plan approval application and processing requirements for special districts with design guidelines and/or standards.

- (a) In addition to the application requirements for plan approval contained in section 25-2-72, an application for plan approval for the construction, installation, enlargement, or alteration to the exterior appearance of a building or structure that is subject to design guidelines and/or standards adopted by the council for any special district established under article 7 of this chapter shall include:

- (1) Complete and accurate exterior elevations of all facades, drawn at a scale adequate to show clearly the appearance of all proposed buildings and structures;
- (2) A description of exterior siding, roofing, and finish materials;
- (3) Exterior door and window specifications;
- (4) Description, location, and renderings for any exterior signage;
- (5) A streetscape rendering of the project site and adjacent properties suitable for evaluating the immediate spatial relationships. Photographic images may be substituted provided those images are adequate to serve the same purpose;
- (6) Other descriptive information as the director finds necessary to determine consistency of the proposed project with the design guidelines and/or standards adopted for the special district in which the project building site is located.
- (b) Within five days of acceptance of an application for plan approval the director shall provide the respective design review committee with a copy of the application and plans along with a request for their review and comments on the consistency of the project with the adopted design guidelines and/or standards.
- (c) The written recommendations and plans stamped "Reviewed by" with the date and signature of the chair of the respective design review committee affixed shall be submitted to the director within twenty-five calendar days of receipt by the design review committee of the director's request for design review.
- (d) Except as otherwise provided in this section, the director shall withhold rendering a decision on a plan approval application until having received the written recommendations and stamped and signed plans from the chair of the respective design review committee for the application.
- (e) By written request to the director, the chair of the respective design review committee may request an extension of time to complete the design review and to submit the recommendations of the design review committee, which the director may grant only with the written approval of the applicant for plan approval.
- (f) In the event that no design review committee is established, or if the design review committee, for whatever reason, fails to respond within the time limit prescribed in subsection (b), the director shall provide design review against the relevant design guidelines and/or standards as adopted by the council and waive the requirements under subsection (c)."

SECTION 4. Chapter 25, article 2, section 25-2-76 of the Hawai'i County Code 1983

(2005 Edition, as amended), is amended to read as follows:

"Section 25-2-76. Action on plan approval application.

- (a) The director may issue plan approval subject to conditions or changes in the proposal which, in the director's opinion, are necessary to carry out and further the purposes of this chapter and the considerations contained in section 25-2-77.
- (b) The director may only issue plan approval for a telecommunication antenna or tower if the proposed use meets all of the conditions contained in sections 25-2-77 and 25-4-12, and if the applicant provides all verification required under section 25-2-74.

- (c) The director may only issue plan approval for a temporary model home or real estate office if the proposed use meets all of the conditions in section 25-2-77 and 25-4-8.
- (d) The director shall render a decision to either approve or deny a plan approval application, other than for an agricultural tourism facility[;] or any special district with adopted design guidelines and/or standards, within thirty days after acceptance of the application. If the director fails to render a decision within the thirty-day period, the application shall be considered approved without further certification by the director. For an agricultural tourism facility, the department shall conduct a site inspection prior to issuing plan approval within sixty days after acceptance of the application. If the director fails to render a decision within the sixty-day period, the application shall be considered approved without further certification by the director. For any plan approval application within a special district with adopted design guidelines and/or standards, the director shall render a decision to either approve or deny the plan approval application within forty-five days after acceptance of the application. If the director fails to render a decision within the forty-five-day period, the application shall be considered approved without further certification by the director."

SECTION 5. Chapter 25, article 2, section 25-2-77 of the Hawai'i County Code 1983 (2005 Edition, as amended), is amended to read as follows:

"Section 25-2-77. Review criteria and conditions of approval.

- (a) In reviewing a plan approval application, the director shall consider the proposed structure, development or use in relation to the surrounding property, improvements, streets, traffic, community characteristics, natural features, and may require conditions or changes to assure:
 - (1) Adequate light and air, and proper siting and arrangements are provided for all structures and improvements;
 - (2) Existing and prospective traffic movements will not be hindered;
 - (3) Proper landscaping is provided that is commensurate with the structure, development or use and its surroundings;
 - (4) Unsightly areas are properly screened or eliminated;
 - (5) Adequate off-street parking is provided to serve the structure, development or use, regardless of the otherwise minimum requirements of this chapter;
 - (6) Access to the parking areas will not create potential accident hazards;
 - (7) Within reasonable limits, any natural and man-made features of community value are preserved; ~~[and]~~
 - (8) Dust, noise, and odor impacts are mitigated[;]; and
 - (9) Compliance with any design guidelines or standards adopted by the council.
- (b) The director shall require any conditions or changes in the proposal which, in the director's opinion, are necessary to carry out the purposes of this chapter and the considerations contained in subsection (a) above."

SECTION 6. Chapter 25, article 6, division 1, section 25-6-3 of the Hawai'i County Code 1983 (2005 Edition, as amended), is amended to read as follows:

"Section 25-6-3. Application for P.U.D. permit; requirements.

An application for a P.U.D. permit shall be on a form prescribed for this purpose by the director on behalf of the commission and shall be accompanied by:

- (1) A filing fee of \$500.
- (2) A written description of the proposed project, including the following information:
 - (A) A description of the property in sufficient detail to determine the precise location of the property involved;
 - (B) A statement of objectives and reasons for the requested P.U.D. permit, including an analysis of how the request satisfies the standards contained in section 25-6-10;
 - (C) A list of all requested deviations from the requirements of chapter 23 (subdivisions) and chapter 25 (zoning), Hawai'i County Code;
 - (D) A schedule for the timetable of the proposed development; and
 - (E) An analysis of the relationship of the proposed development to the general plan ~~[and any applicable community development plan.]~~, any adopted community development plan, other adopted master plan, and if applicable, any other adopted design guidelines and/or standards affecting the project area.
- (3) Drawings and plans comprising a general development plan covering the entire area of the P.U.D., and providing the following information:
 - (A) Uses, dimensions, and locations of proposed structures;
 - (B) Widths, alignments, and improvements of proposed streets and pedestrian and drainage ways;
 - (C) Any proposed subdivision of property for individual parcel sale;
 - (D) Parking areas;
 - (E) Public areas and uses; and
 - (F) Landscaping and open spaces.
- (4) Architectural drawings for all buildings demonstrating the design and character of the proposed buildings and uses. If the project area is within a district established under article 7 of this chapter for which design guidelines and/or standards have been adopted that are applicable to single-family dwellings, architectural drawings shall be required for all buildings including single-family dwellings.
- (5) A list of the names, addresses and tax map key numbers of all surrounding owners and lessees of property interests in property within the boundaries established by section 25-2-4.
- (6) Any other information or plans required by rules adopted by the commission in accordance with chapter 91, Hawai'i Revised Statutes."

SECTION 7. Chapter 25, article 6, division 1, section 25-6-7 of the Hawai'i County Code 1983 (2005 Edition, as amended), is amended to read as follows:

"Section 25-6-7. [Reserved] P.U.D. permit application and processing requirements located within special districts with design guidelines and/or standards.

- (a) In addition to the application requirements for a P.U.D. contained in section 25-6-3, an application for a P.U.D. in any special district established under article 7 of this chapter for which design guidelines or standards have been adopted by the council, excluding any special district having adopted design guidelines and/or standards established under this chapter prior to adoption of this subsection, shall include:
- (1) Complete and accurate exterior elevations of all facades, drawn at a scale adequate to show clearly the appearance of all proposed buildings and structures;
 - (2) A description of exterior siding, roofing, and finish materials;
 - (3) Exterior door and window specifications;
 - (4) Description, location, and renderings for any exterior signage;
 - (5) A streetscape rendering of the project site and adjacent properties suitable for evaluating the immediate spatial relationships. Photographic images may be substituted provided those images are adequate to serve the same purpose;
 - (6) Other descriptive information as the director, on behalf of the commission, finds necessary to determine consistency of the proposed project with the design guidelines and/or standards adopted for the special district in which the project building site is located.
- (b) The P.U.D. application and plans shall be subject to review and comment by the design review committee established under the respective special district section under article 7 for consistency with the adopted design guidelines and/or standards.
- (c) The director, on behalf of the commission shall, within five days of acceptance of a P.U.D. application, provide the respective design review committee with a copy of the application and plans along with a request for their review and comments on the consistency of the project with the adopted design guidelines and/or standards.
- (d) The written recommendations and plans stamped "Reviewed by" with the date and signature of the chair of the respective design review committee affixed shall be submitted to the director, on behalf of the commission within twenty-five calendar days of receipt by the design review committee of the final plans for any partial or full approval of a P.U.D. application as provided in subsections 25-6-6(c) or (d) above.
- (e) Except as otherwise provided in this section, the director shall withhold providing a recommendation to the commission on any partial or full approval of a P.U.D. application until having received the written recommendations and stamped and signed plans from the chair of the respective design review committee for the application.
- (f) By written request to the director on behalf of the commission, the chair of the respective design review committee may request an extension of time to complete the design review and to submit the recommendations of the design review committee, which the director on behalf of the commission may grant only with the written approval of the applicant for P.U.D.
- (g) In the event that no design review committee is established, or if the design review committee, for whatever reason, fails to respond within the time limit prescribed in subsection (d), the director shall provide design review against the relevant design guidelines and/or standards as adopted by the council."

SECTION 8. Chapter 25, article 6, division 1, section 25-6-10 of the Hawai'i County Code 1983 (2005 Edition, as amended), is amended to read as follows:

"Section 25-6-10. Criteria for granting a P.U.D. permit.

A P.U.D. permit may be granted by the commission upon finding that:

- (a) The construction of the project can begin and be completed within a reasonable period of time from the date of full approval.
- (b) The proposed development substantially conforms to the general plan ~~[and any applicable community development plan]~~, any adopted community development plan, other adopted master plan, and if applicable, any adopted design guidelines and/or standards affecting the project area.
- (c) Any residential or agricultural development shall constitute an environment of sustained desirability and stability for the district that is in harmony with the character of the surrounding area, that results in an intensity of land use no higher than that otherwise specified for the district, and that maintains the standards of open space at least as high as that otherwise specified for the district in which the development occurs.
- (d) Any commercial development shall not create traffic congestion which exceeds that which would have been produced under conventional development patterns. practices and standards in the district or interfere with any projected public improvements, shall provide for proper entrances and exits along with proper provisions for internal traffic and parking, and be an attractive center which does not adversely impact upon adjacent and surrounding existing or prospective developments.
- (e) Any industrial development shall be in conformity with desirable performance standards and shall constitute an efficient and well organized development with adequate provisions for freight service and necessary storage, and shall not adversely impact upon adjacent and surrounding existing or prospective development.
- (f) The development of a harmonious, integrated whole justifies exceptions, if required, to the normal requirements of this chapter, and the contemplated arrangements or use make it desirable to apply regulations and requirements differing from those ordinarily applicable under the district regulations."

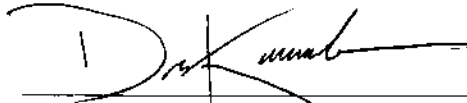
SECTION 9. Material to be repealed is bracketed and stricken. Material to be added is underscored. In printing this ordinance, the brackets, bracketed and stricken material, and underscoring need not be included.

SECTION 10. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such 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 to be severable.

SECTION 11. This ordinance shall take effect upon its approval.

INTRODUCED BY:

A handwritten signature in black ink, appearing to read 'D. K. ...', is written over a horizontal line.

COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: March 4, 2015

Date of 1st Reading: March 4, 2015

Date of 2nd Reading: May 6, 2015

Effective Date: May 28, 2015

REFERENCE Comm. 259.3

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

COUNTY CLERK
COUNTY OF HAWAII
RECEIVED
Time 4:18 p.m. By dy
Date 5-28-15

Introduced By: Zendo Kern (B/R)
Date Introduced: March 4, 2015
First Reading: March 4, 2015
Published: March 14, 2015

REMARKS: _____

Second Reading: May 6, 2015
To Mayor: May 14, 2015
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Effective: May 28, 2015
Published: June 6, 2015

REMARKS: March 18, 2015 - Postponed;
April 1, 2015 - Postponed;
April 15, 2015 - Amended to Draft 2
and Postponed

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			
	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 28 day
of May, 20 15

Mayor
MAYOR, COUNTY OF HAWAII

Chairman

COUNCIL CHAIRPERSON

Clerk
COUNTY CLERK

Bill No.: 283 (Draft 2) (2012-2014)

Reference: C-259.3 /PC-7

Ord No.: 15 45