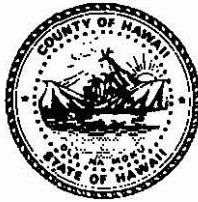


COUNTY OF HAWAII



STATE OF HAWAII

ORDINANCE NO. 10 19 BILL NO. 196

AN ORDINANCE 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 AGRICULTURAL – ONE ACRE (A-1a) TO NEIGHBORHOOD COMMERCIAL – 20,000 SQUARE FEET (CN-20) AT PONAHAWAI, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY: 2-3-037.019.

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

SECTION 1. Section 25-8-33, Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code 1983 (2005 Edition), is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Ponehawai, South Hilo, Hawaii, shall be Neighborhood Commercial 20,000 square feet (CN-20):

Beginning at a point at the southeast corner of this parcel of land being also the southwest corner of Lot 13-B and at the easterly side of Komohana Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 1,995.29 feet South and 120.78 feet east and running by azimuths measured clockwise from true South:

Thence, along the easterly side of Komohana Street along a curve to the right having a radius of 2,960.00 feet, the chord azimuth and distance being:

1. 159° 31' 41" 144.18 feet;
2. 249° 08' 264.20 feet along Lot 13-A-2;
3. 335° 03' 169.95 feet along Lot 13-A-2, to a point in the middle of Alenaio Stream;

4	45° 27'	85.73	feet along the middle of Alenaio Stream, being also Lot 20, Komohana Heights Subdivision;
5.	135° 27'	59.36	feet along Lot 13-B;
6	70° 54'	175.03	feet along Lot 13-B to the point of beginning and containing an area of 43,560 square feet.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 (2005 Edition), the County Council finds the following conditions are:

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (1) 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 Prior to the issuance of a water commitment by the Department of Water Supply, 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 180 days from the effective date of this ordinance.

- C The applicant 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.

- D Construction of the proposed improvements shall be completed within five (5) years from the effective date of this ordinance. This time period shall include securing Final Plan Approval from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all proposed structure(s), fire protection measures, paved driveway access, parking stalls and loading zones. 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).

- E. Development of the property shall be designed and constructed in a way to minimize obstruction of the scenic views of Hilo Bay and the Puna shoreline from Komohana Street.

- F. Prior to the issuance of a Certificate of Occupancy, the applicant shall provide full improvements to the property's frontage along Komohana 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.

- G Access shall be through Road and Utility Easement RU-11 at Komohana Street and shall be limited to right-turn in and right-turn out movements only. The access connection to Komohana Street shall conform to Chapter 22 (County Streets) of the Hawai'i County Code. Prior to the issuance of a Certificate of Occupancy, the applicant shall install "no left-turn" sign(s) and a triangular-shaped raised concrete barrier at the property access to

prevent left-turns into and out of the access driveway. All improvements shall meet with the approval of the Department of Public Works.

- H. Should the applicant submit plans to develop a land use beyond what is proposed in the application, which the Planning Department in consultation with the Department of Public Works determines will generate over 50 peak hour trips, a Traffic Impact Analysis Report (TIAR) shall be submitted for review and approval by the Department of Public Works prior to Final Plan Approval. The applicant shall implement when required by the Department of Public Works, at no cost to the County, any transportation improvements deemed necessary by the Department of Public Works.
- I. Streetlights and traffic control devices, as may be required by the Traffic Division, Department of Public Works, shall be installed by the applicant.
- J. The applicant shall install wastewater disposal system(s) meeting with the requirements of the Department of Health prior to the issuance of a Certificate of Occupancy.
- K. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to Final Plan Approval.
- L. 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 with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
- M. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.

- N. Comply with Chapter 11-55, Water Pollution Control, Hawai'i Administrative Rules, Department of Health, which requires a NPDES permit for certain construction activity.
- O. 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 the DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- P. 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 or final subdivision approval for any new residential structures.
- Q. If the applicant, successors, or assigns develops residential units on the subject property, the applicant shall make their 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 combined value of **\$7,698.11** per multiple family residential unit (**\$11,996.63** 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** per multiple family residential unit (**\$5,784.99** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$120.01** per multiple family residential unit (**\$279.07** per single family residential unit) to the County to support police facilities;
3. **\$369.17** per multiple family residential unit (**\$551.20** per single family residential unit) to the County to support fire facilities;
4. **\$164.54** per multiple family residential unit (**\$241.32** per single family residential unit) to the County to support solid waste facilities; and
5. **\$3,247.12** per multiple family residential unit (**\$5,140.06** 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

- R . 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.
- S The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

1. 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 subject area to its original or more appropriate designation.

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:

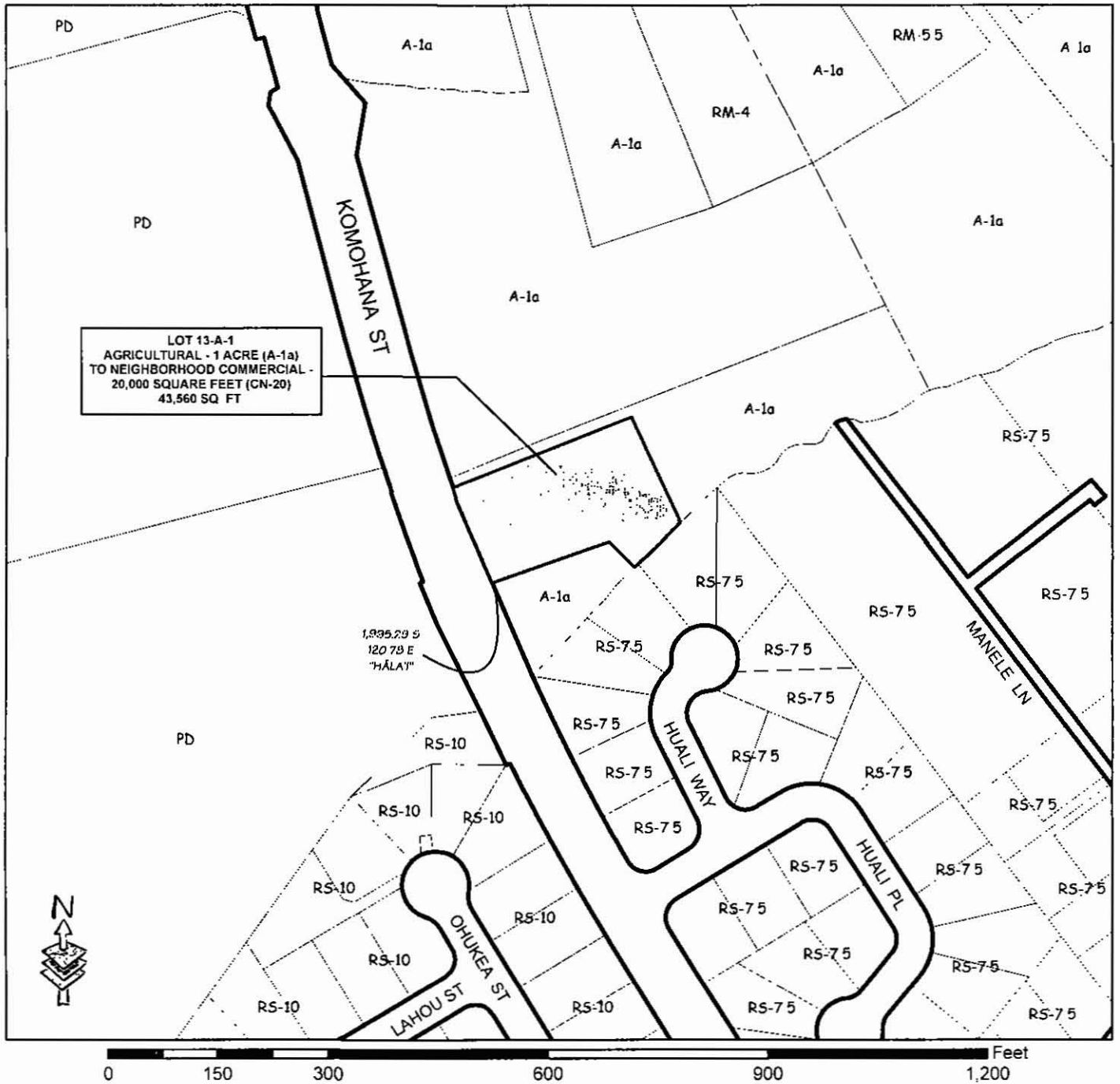


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: February 18, 2010
Date of 1st Reading: February 18, 2010
Date of 2nd Reading: March 3, 2010
Effective Date: March 18, 2010

REFERENCE: Comm. 672



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 AGRICULTURAL - ONE ACRE (A-1a) TO
 NEIGHBORHOOD COMMERCIAL - 20,000 SQUARE FEET (CN-20)
 AT PONAHAWAI, SOUTH HILO, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

RECEIVED

2010 MAR 18 AM 1 29

Introduced By Donald Ikeda
 Date Introduced February 18, 2010
 First Reading February 18, 2010
 Published February 27, 2010

	AYES	NOES	ABS.	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Nacole-Beason	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	8	1	0	0

REMARKS _____

Second Reading March 3, 2010
 To Mayor March 11, 2010
 Returned March 18, 2010
 Effective March 18, 2010
 Published March 25, 2010

ROLL CALL VOTE				
	AYES	NOES	ABS.	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Nacole-Beason	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	8	1	0	0

REMARKS _____

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

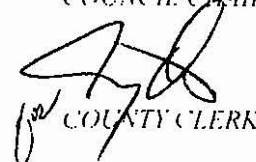
APPROVED AS TO
 FORM AND LEGALITY:


 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date MAR 12 2010



COUNCIL CHAIRMAN


 COUNTY CLERK

Approved/Disapproved this 18th day

of March 2010


 MAYOR, COUNTY OF HAWAII

Bill No 196
 Reference C-672/2C-64
 Ord No 10 19