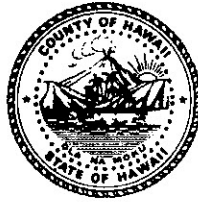


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 10 44 BILL NO. 227

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I 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, HAWAI'I, COVERED BY TAX MAP KEY: 2-3-037:014.

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

SECTION 1. Section 25-8-33, Article 8, Chapter 25 (Zoning Code) of the Hawai'i 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 Ponahawai, South Hilo, Hawai'i, shall be Neighborhood Commercial – 20,000 square feet (CN-20):

Beginning at a point at the northeast corner of this parcel of land being also the northwest corner of Lot 6 and on the southeasterly side of Ponahawai Street the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 893.70 feet South and 565.39 feet East and running by azimuths measured clockwise from true South:

1. 322° 30' 882.81 feet along Lot 6 to a point in the middle of Alenaio Stream; thence along the middle of Alenaio Stream along R. P. 5706, L. C. Aw. 8521-B for the next ten (10) courses, the direct azimuths and distances being:
2. 88° 06' 43" 23.63 feet;
3. 49° 22' 28" 35.51 feet;
4. 68° 08' 40" 18.79 feet;

- |     |              |        |  |
|-----|--------------|--------|--|
| 5.  | 99° 10'      | 50.20  | feet;  |
| 6.  | 62° 05'      | 49.86  | feet;  |
| 7.  | 74° 04'      | 49.99  | feet;  |
| 8.  | 97° 40'      | 26.57  | feet;  |
| 9.  | 59° 55'      | 29.50  | feet;  |
| 10. | 84° 14' 52"  | 65.50  | feet;  |
| 11. | 55° 15' 30"  | 72.32  | feet;  |
| 12. | 153° 10'     | 328.29 | feet along Lot 13 and Lot 12;  |
| 13. | 240° 15'     | 150.11 | feet along Lot 9;  |
| 14. | 234° 34' 55" | 144.38 | feet along Lot 8;  |
| 15. | 142° 30'     | 425.00 | feet along Lot 8, thence along Lot 8, along a curve to the left having a radius of 20.00 feet, the chord azimuth and distance being: |
| 16. | 97° 30'      | 28.28  | feet;  |
| 17. | 232° 30'     | 45.00  | feet along the southeasterly side of Ponahawai Street to the point of beginning and containing an area of 3.258 Acres.               |

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 applicants 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 applicants shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property, which must be inspected and approved by the Department of Water Supply prior to issuance of a Certificate of Occupancy.
  
- D. Prior to the issuance of a Certificate of Occupancy, the applicants shall upgrade the existing County water system as required by the Department of Water Supply and Fire Department in order to provide a minimum theoretical fire flow of 2,000 gallons per minute to the site for fire protection.
  
- E. The applicants shall relocate and adjust the Department of Water Supply’s water system facilities that are affected by construction of improvements within the Ponahawai Street right-of-way fronting the subject property that are required by this permit.

- F. 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.
- G. Development of the property shall be designed and constructed in a way to minimize obstruction of the scenic views of Hilo Bay from Komohana Street.
- H. Prior to issuance of Final Plan Approval, the applicants shall grant a minimum 30-foot wide access easement on the subject property, in favor of the adjacent landowner(s) (TMK: 2-3-37:06), in order to connect the access at Ponahawai Street on TMK 2-3-37:06 to the access at Ponahawai Street on the subject property for the purpose of providing internal traffic circulation between the two properties.
- I. Access connection to Ponahawai Street shall conform to Chapter 22 (County Streets) of the Hawai'i County Code. Should the adjacent property (TMK: 2-3-37:13) be rezoned in the future to allow commercial or multiple-family residential uses, the driveways shall be consolidated into one access at Ponahawai Street.
- J. Streetlights and traffic control devices, as may be required by the Traffic Division, Department of Public Works, shall be installed by the applicants at no cost to the County.
- K. Should the applicants 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 applicants 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.

- L. Any construction within either of the designated FEMA flood zones and buffer zone (within 50 feet of Flood Zone AE) shall comply with the requirements of Chapter 27, Floodplain Management, of the Hawai'i County Code.
- M. 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.
- N. 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.
- O. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
- P. Comply with Chapter 11-55, Water Pollution Control, Hawai'i Administrative Rules, Department of Health, which requires a NPDES permit for certain construction activity.
- Q. Construction activities must comply with the provisions of Hawai'i Administrative Rules, Chapter 11-46, "Community Noise Control."
- R. The applicants shall install a septic system(s) meeting with the requirements of the Department of Health prior to the issuance of a Certificate of Occupancy. In the future, should a public sewer system be installed in Ponahawai Street fronting the subject property, the applicants shall connect to the sewer system.

- S. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to Final Plan Approval.
- T. 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.
- U. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicants 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.
- V. If the applicants, 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 applicants 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

- W. 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.

- X. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- Y. 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 applicants, 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 applicants should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.



Z. 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.

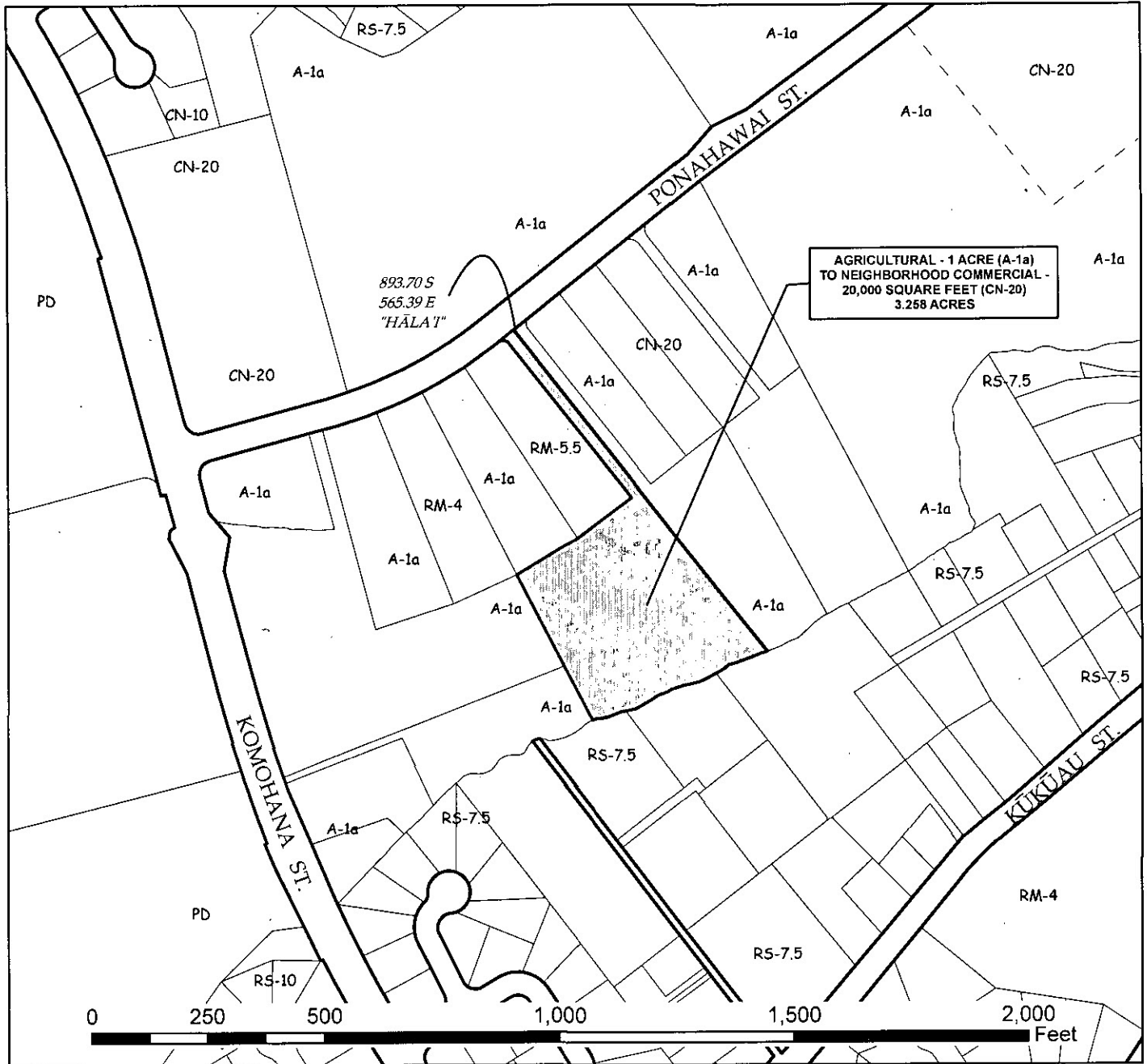
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

          Kona          , Hawai'i  
Date of Introduction: April 20, 2010  
Date of 1st Reading: April 20, 2010  
Date of 2nd Reading: May 5, 2010  
Effective Date: May 20, 2010

REFERENCE: Comm.           754



# **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 - 1 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  
 Kona, Hawai'i

RECEIVED

Introduced By: Donald Ikeda  
 Date Introduced: April 20, 2010  
 First Reading: April 20, 2010  
 Published: April 30, 2010

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
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Second Reading: May 5, 2010  
 To Mayor: May 13, 2010  
 Returned: May 20, 2010  
 Effective: May 20, 2010  
 Published: May 27, 2010

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2010 MAY 20 11 12 AM HONOLULU HI 19

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



ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell			X	
Hoffmann			X	
Ikeda	X			
Naeole-Beason			X	
Onishi	X			
Yagong	X			
Yoshimoto	X			
	6	0	3	0

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 MAY 14 2010

  
 Approved/Disapproved this 20<sup>th</sup> day  
 of May, 20 10  
  
 MAYOR, COUNTY OF HAWAII



COUNCIL CHAIRMAN



COUNTY CLERK

Bill No.: 227  
 Reference: C-754/PC-76  
 Ord No.: 10 44