

ORDINANCE NO. 10 107 BILL NO. 300  
(DRAFT 3)

AN ORDINANCE AMENDING SECTION 25-8-4 (SOUTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE-FAMILY RESIDENTIAL – 15,000 SQUARE FEET (RS-15) TO NEIGHBORHOOD COMMERCIAL – 20,000 SQUARE FEET (CN-20) AT HALEKI'I AND KANĀUEUE, SOUTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 8-1-025:011.

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

SECTION 1. Section 25-8-4, 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 Haleki'i and Kanāueue, South Kona, Hawai'i, shall be Neighborhood Commercial – 20,000 square feet (CN-20):

Beginning at the southeast corner of this parcel of land, being also the southwest corner of Lot "A" (portion of L.C. Aw. 387, Part 4, Section 2 to the American Board of Commissioners for Foreign Missions), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU OHAU" being 2373.56 feet North and 12341.73 feet East and running by azimuths measured clockwise from True South:

1. 94° 33' 30" 156.86 feet along the remainder of a portion of L.C. Aw. 387, Part 4, Section 2 to the American Board of Commissioners for Foreign Missions;
2. 99° 30' 45.00 feet along Lot 14 (portion of L.C. Aw. 387, Part 4, Section 2 to the American Board of Commissioners for Foreign Missions);
3. 95° 28' 95.79 feet along same;
4. 90° 19' 30" 17.60 feet along same;
5. 84° 05' 30" 298.35 feet along the remainder of a portion of L.C. Aw. 387, Part 4, Section 2 to the American Board of Commissioners for Foreign Missions;

6.	181° 00'	291.51	feet along Lot 1 (portion of L.C. Aw. 387, Part 4, Section 2 to the American Board of Commissioners for Foreign Missions);
7.	272° 55'	19.66	feet along Kona Hospital Site;
8.	266° 55'	52.00	feet along Kona Hospital Site;
9.	274° 26'	39.00	feet along Kona Hospital Site;
10.	269° 02'	169.00	feet along Kona Hospital Site;
11.	265° 15'	42.00	feet along Kona Hospital Site;
12.	272° 00'	105.00	feet along Kona Hospital Site;
13.	270° 25'	54.87	feet along Kona Hospital Site;
14.	270° 24' 30"	66.44	feet along Kona Hospital Site;
15.	348° 44'	296.15	feet along Lot "A" (portion of L.C. Aw. 387, Part 4, Section 2 to the American Board of Commissioners for Foreign Missions) to the point of beginning and containing an area of 3.671 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 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. Construction of the proposed development shall be completed within five (5) years from the effective date of this 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 access and parking stalls associated with the proposed development. As represented by the applicant, the project shall follow the design criteria or guidelines for Leadership in Energy and Environmental Design (LEED) -Silver. Landscaping shall 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) and Chapter 25 (Zoning Code), Hawai‘i County Code. Landscaping, walls, or fencing, or a combination thereof, shall be incorporated along the southern and makai perimeter of the project site, as required, to: 1) ensure that night light, sound, and dust from the hospital and applicant’s building are contained; 2) reduce the chance of flooding; and 3) prevent the neighbor’s property from being used as an access to other businesses from the applicant’s property. If chain link fencing is used as perimeter fencing, it shall be a minimum of six-feet high and shall be screened at least on the neighbors’ sides by vegetation, such as Malay dwarf bamboo, which grows to 20 feet high, or other plants with similar growth pattern.

- D. Prior to submittal of plans for Plan Approval, the applicant, its successors or assigns shall secure by public meeting the input of the Kealakekua community, particularly those within the Keala Plantation Estates, regarding the placement of all proposed structures, wastewater system, parking areas including those buildings with parking spaces underneath them, landscaping plans, which shall conceptually incorporate the majority of eucalyptus trees located at the southwestern corner of the subject site, subject to access to buildings and parking areas and reasonable safety considerations for the applicant's and adjoining properties and removal of any other trees creating potential safety issues for the applicant or the neighbors; fence and/or barriers between the subject property and adjacent properties; drainage; and construction mitigation. A report of this meeting shall be submitted in conjunction with the Plan Approval application.
- E. All construction activity involving the use of heavy equipment or machinery related to the development of the project and any structures thereon shall be prohibited on Sundays, provided further that no construction activity shall occur on any day before 7:00 a.m. and after 5:00 p.m.
- F. Access to the subject property shall be from a 30-foot wide easement from Haukapila Street, as identified in Document No. 77-109267 by the Bureau of Conveyances.
- G. A traffic signal at the intersection of Māmalahoa Highway and Haukapila Street with appropriate synchronization with the traffic signal lights at the intersection of Māmalahoa Highway and Haleki'i Street and improvements to the Māmalahoa/Haukapila intersection as recommended by the Department of Public Works shall be installed. The traffic signal light and intersection improvements shall be completed prior to the issuance of a Certificate of Occupancy for the proposed project, provided that in no event shall a Certificate of Occupancy for any portion of the project be issued within three years from the effective date of this ordinance. Furthermore, the applicant shall cooperate with appropriate

governmental agencies and, if deemed necessary by said agencies, contribute its pro rata share of improvements to Haukapila Street, if required.

- H. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. A drainage study, including proposed on-site drainage improvements which may include pervious or porous asphalt, shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of Final Plan Approval. To reduce storm water passing through the subject property, the proposed on-site, sub-area(s) drainage improvements shall have a capacity equal to or greater than 120% of the calculated on-site development generated runoff. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.
- I. The project shall install a wastewater system meeting with the approval of the Department of Health prior to issuance of a Certificate of Occupancy. The project shall install a wastewater system meeting with the approval of the Department of Health prior to issuance of a Certificate of Occupancy. As represented by the applicant, instead of a singular septic system, the project shall be serviced with multiple septic systems or any equivalent system(s) meeting with the approval of the Department of Health.
- J. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to issuance of Final Plan Approval.
- K. If the applicant(s), successor(s), or assign(s) develops residential units on the subject property, the applicant(s) shall make its (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 **\$7,738.48** per multiple family residential unit (**\$12,059.55** 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. **\$3,817.17** per multiple family residential unit (**\$5,815.33** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$120.64** per multiple family residential unit (**\$280.53** per single family residential unit) to the County to support police facilities;
3. **\$371.11** per multiple family residential unit (**\$554.09** per single family residential unit) to the County to support fire facilities;
4. **\$165.40** per multiple family residential unit (**\$242.59** per single family residential unit) to the County to support solid waste facilities; and
5. **\$3,264.15** per multiple family residential unit (**\$5,167.02** 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.

- L. 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.
- M. 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.
- N. 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-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- O. The applicant(s) shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- P. 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(s), successors or assigns, and that are not the result of their fault or negligence.

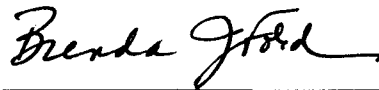
2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
4. The time extension granted shall be for a period not to exceed the period originally granted 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) 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 Director may initiate rezoning of the 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:

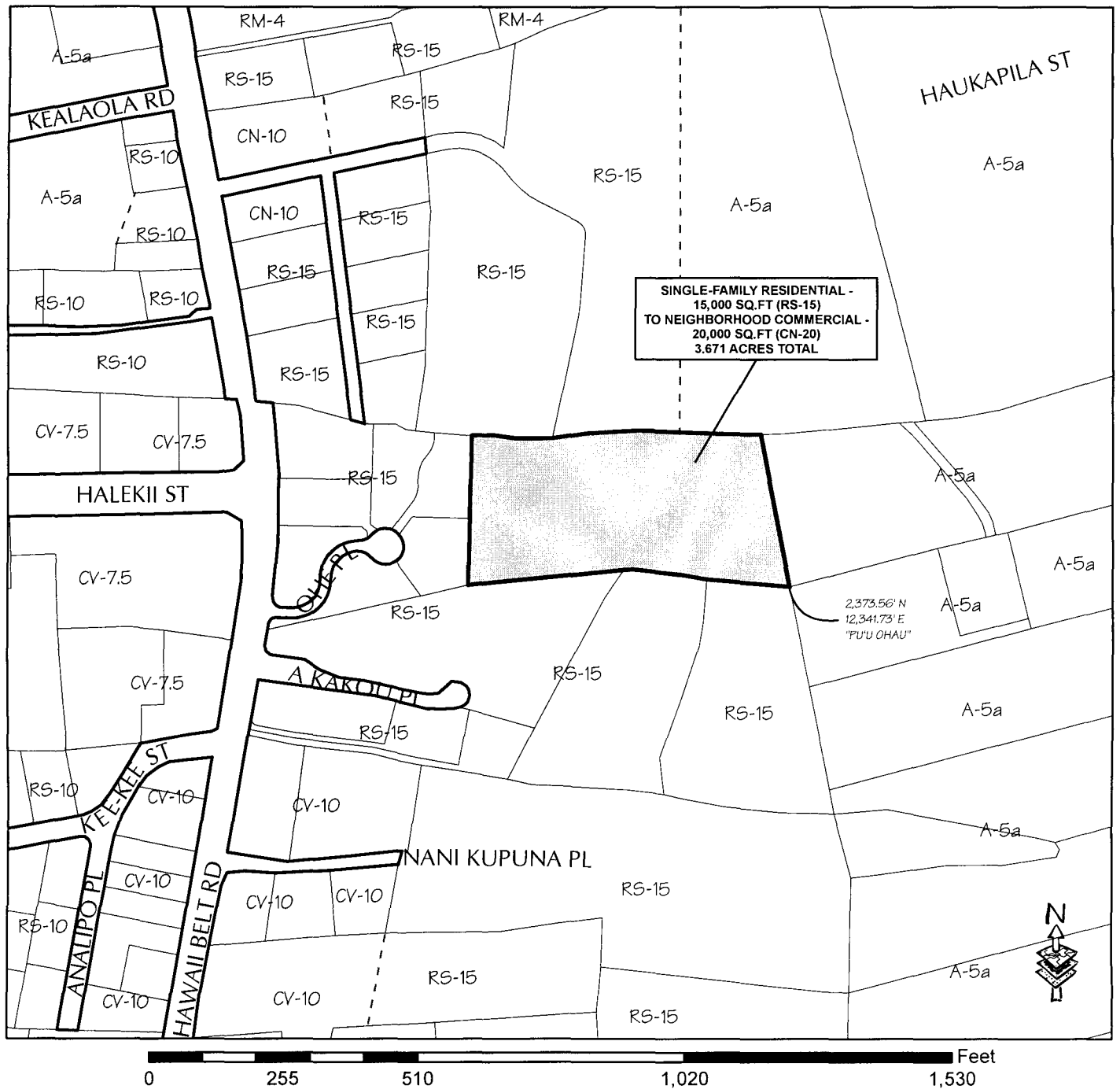


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COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i  
Date of Introduction: October 6, 2010  
Date of 1<sup>st</sup> Reading: October 6, 2010  
Date of 2<sup>nd</sup> Reading: October 20, 2010  
Effective Date: November 4, 2010

REFERENCE: Comm. 943.13





# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-4 (SOUTH KONA 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 - 15,000 SQUARE FEET (RS-15)  
 TO NEIGHBORHOOD COMMERCIAL - 20,000 SQUARE FEET (CN-20)  
 AT HALEKI'I AND KANĀUEUE, SOUTH KONA, HAWAII

MAP PREPARED BY:  
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

(Draft 2)

Introduced By: Brenda Ford  
 Date Introduced: October 6, 2010  
 First Reading: October 6, 2010  
 Published: October 14, 2010

REMARKS: \_\_\_\_\_  
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Second Reading: October 20, 2010  
 To Mayor: October 28, 2010  
 Returned: November 4, 2010  
 Effective: November 4, 2010  
 Published: November 12, 2010

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

2010 NOV 3 21  
 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			
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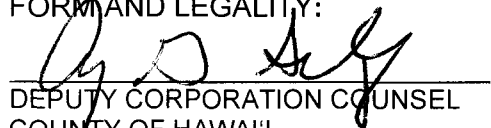
(Draft 3)

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			
	9	0	0	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 NOV - 4 2010



COUNCIL CHAIRMAN



COUNTY CLERK

Bill No.: 300 (Draft 3)  
 Reference: C-943.13/PC-96  
 Ord No.: 10 107

Approved/Disapproved this 4<sup>th</sup> day  
 of November, 2010

  
 MAYOR, COUNTY OF HAWAII