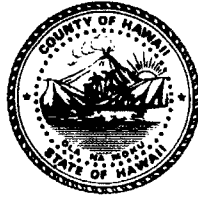


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 14 32 BILL NO. 183

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 SINGLE-FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO NEIGHBORHOOD COMMERCIAL – 10,000 SQUARE FEET (CN-10) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-036:053.

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 Waiākea, South Hilo, Hawai'i, shall be Neighborhood Commercial – 10,000 square feet (CN-10):

Beginning at the Northwest corner of this parcel of land on the easterly side of Laukapu Avenue, being also the southwest corner of Grant Number 10085 to Cho Hen Chun, the coordinates of which referred to Government Survey Triangulation Station "Halai" being 2,103.00 feet south and 10,121.00 feet east and running by azimuths measured clockwise from true South:

- 1. 270° 00' 134.00 feet along Grant 10085 to Cho Hen Chun;
- 2. 360° 00' 88.00 feet along remainder of Grant 9996 to Lawrence W. H. Chock;
- 3. 90° 00' 124.00 feet along remainder of Grant 9996 to Lawrence W. H. Chock;

Thence along remainder of Grant 9996 to Lawrence W. H. Chock, on curve to the right with a radius of 10.00 feet, the chord azimuth and distance being:

- 4. 135° 00' 14.14 feet, thence;
- 5. 180° 00' 78.00 feet along the easterly side of Laukapu Avenue to the point of beginning and containing an area of 11,771 square feet, more or less.

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 commercial use of the property shall be established (certificate of occupancy) within five (5) years from the effective date of this ordinance. Prior to establishment, 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.

Landscaping shall be provided in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) standards for CN zones adjoining a RS zone.

- D. Driveway access from Laukapu Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawai'i County Code.
- E. A five-foot wide future road widening strip along the entire Laukapu Street frontage of the subject property shall be subdivided and dedicated to the County, at no charge, within five (5) years from the effective date of this ordinance. Such dedication shall include improvements within the road widening strip consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements and any required utility relocation, meeting the approval of the Department of Public Works and conforming to the requirements of the Americans with Disabilities Act.
- F. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. If required, a drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. 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.
- G. The project shall connect to the County sewerline fronting the property.

- H. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- I. 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 **\$8,394.57** per multiple family residential unit (**\$13,081.99** 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. **\$4,140.80** per multiple family residential unit (**\$6,308.37** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$130.87** per multiple family residential unit (**\$304.32** per single family residential unit) to the County to support police facilities;

3. **\$402.57** per multiple family residential unit (**\$601.06** per single family residential unit) to the County to support fire facilities;
4. **\$179.43** per multiple family residential unit (**\$263.15** per single family residential unit) to the County to support solid waste facilities; and
5. **\$3,540.90** per multiple family residential unit (**\$5,605.09** 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.

- J. 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.
- K. 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.
- L. The applicant(s) shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

M. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:

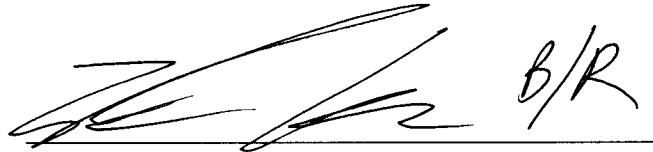
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant(s), successors or assigns, and that are not the result of their fault or negligence.
2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
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:

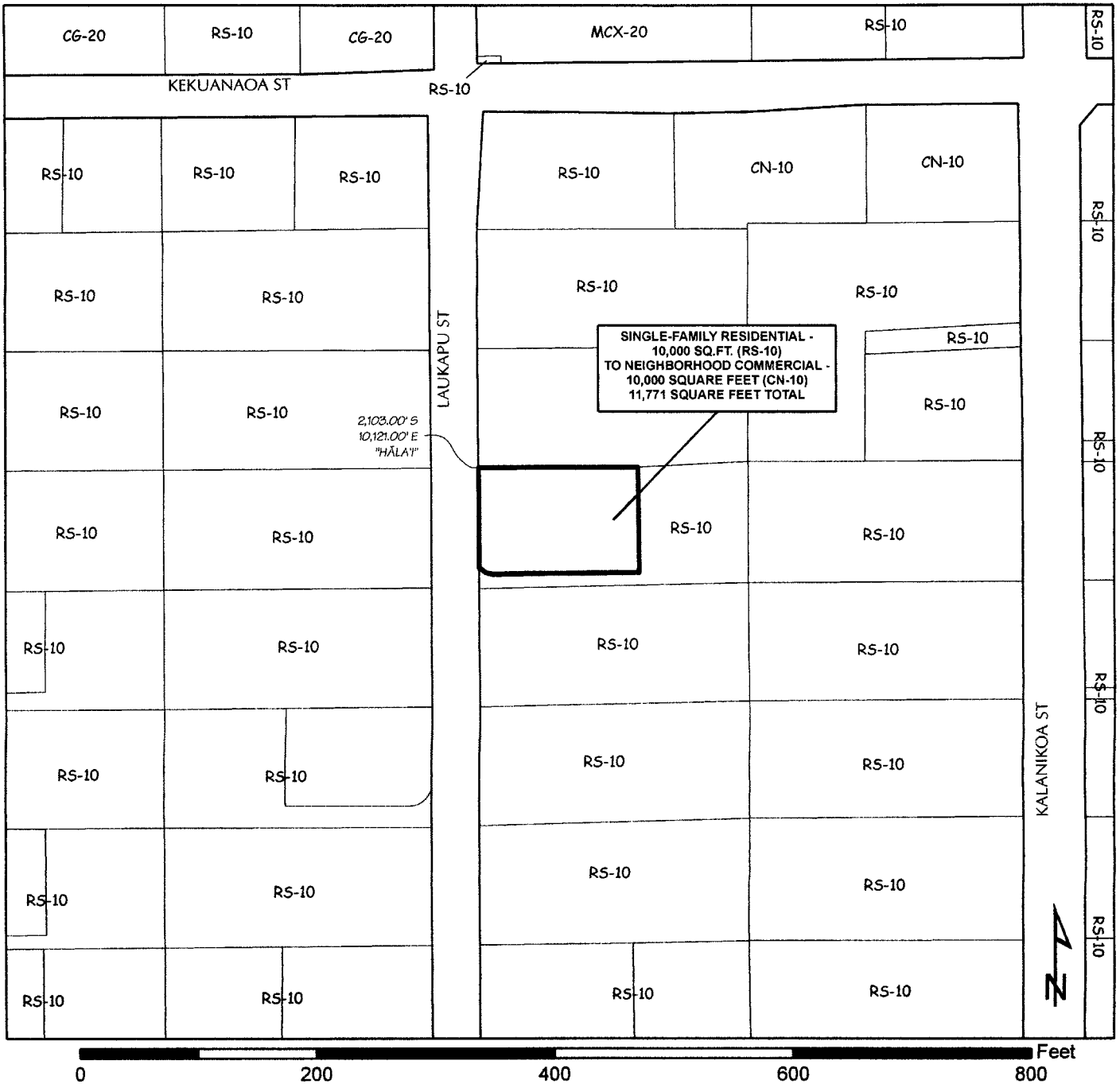
A handwritten signature in black ink, consisting of several fluid, overlapping strokes. To the right of the signature, the letters "B/R" are written in a similar cursive style.

COUNCIL MEMBER, COUNTY OF HAWAI'I

 Kona , Hawai'i

Date of Introduction: February 5, 2014
Date of 1st Reading: February 5, 2014
Date of 2nd Reading: February 19, 2014
Effective Date: March 12, 2014

REFERENCE Comm. 605



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 - 10,000 SQUARE FEET (RS-10)
 TO NEIGHBORHOOD COMMERCIAL - 10,000 SQUARE FEET (CN-10)
 AT WAIĀKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

COUNTY CLERK
 2014 MAR 12 PM 3:07

Introduced By: Zendo Kern (B/R)
 Date Introduced: February 5, 2014
 First Reading: February 5, 2014
 Published: February 15, 2014

REMARKS: _____

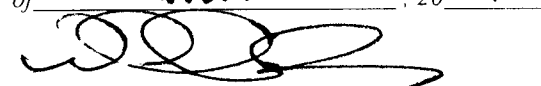
Second Reading: February 19, 2014
 To Mayor: February 27, 2014
 Returned: March 12, 2014
 Effective: March 12, 2014
 Published: March 20, 2014

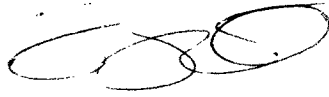
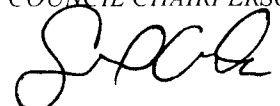
REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern			X	
Onishi	X			
Poindexter	X			
Wille	X			
Yoshimoto	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	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/Disapproved this 12th day
 of March, 2014

 MAYOR, COUNTY OF HAWAI'I


 COUNCIL CHAIRPERSON

 COUNTY CLERK

Bill No.: 183
 Reference: C-605/PC-52
 Ord No.: 14 32