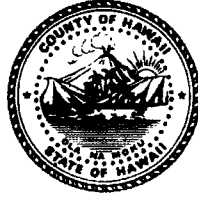


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 212

ORDINANCE NO. 14 54

AN ORDINANCE AMENDING SECTION 25-8-26 (PĀHOA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – 1 ACRE (A-1a) TO VILLAGE COMMERCIAL – 20,000 SQUARE FEET (CV-20) AT KEONEPOKO HOMESTEAD LOTS, PUNA, HAWAI'I, COVERED BY TAX MAP KEY: 1-5-007:061.

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

SECTION 1. Section 25-8-26, 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 Keonepoko Homestead Lots, Puna, Hawai'i, shall be Village Commercial – 20,000 square feet (CV-20):

Beginning at the west corner of this lot, being also the north corner of Lot 8-C-2 of the subdivision of Lot 8-C and on the southeast side of Kahakai Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAHOA" being 756.35 feet north and 976.51 feet east, and thence running by azimuths measured clockwise from true South:

- |    |          |        |   |
|----|----------|--------|---|
| 1. | 250° 34' | 198.12 | feet along the southeast side of Kahakai road;  |
| 2. | 340° 34' | 219.87 | feet along Government Land;   |
| 3. | 70° 34'  | 198.12 | feet along Lot 8-B of the subdivision of Lot 8 of Keonepoko Homestead Lots;   |
| 4. | 160° 34' | 219.87 | feet along Lot 8-C-2 of the subdivision of Lot 8-C to the point of beginning and containing an area of 1.00 acre, 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:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
  - (2) 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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Site layout and building design for any new structure within the proposed commercial development shall adhere to any design guidelines established for Pāhoa Village when plans are submitted for Final Plan Approval.
- 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 construction, the applicant shall secure Final Plan Approval for the 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, fire protection measures, paved driveway access and paved parking stalls associated with the proposed development. 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 Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.

- D. The applicant shall submit estimated maximum daily water usage calculations prepared by a professional engineer licensed in the State of Hawai‘i, 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. The water usage calculations should include the total estimated maximum daily water usage in gallons per day and the estimated peak flow in gallons per minute. Should the estimated water usage exceed the current water availability, extensive improvement will be required, including, but not limited to additional source, storage and booster pump facilities.
- E. The applicant shall install a reduced pressure type backflow prevention assembly on private property within five (5) feet of any water meter(s) serving the proposed development, which must be inspected and approved by the Department of Water Supply before water service can be activated.
- F. The applicant shall be responsible for the relocation and adjustment of the Department of Water Supply’s affected water system facilities, including the installation of a fire hydrant fronting the subject property, should they be necessary.
- G. A five (5) foot wide future road widening strip along the property’s frontage on Kahakai Boulevard shall be subdivided, improved and dedicated, at no cost to the County, to facilitate the widening and improvement of Kahakai Boulevard along the subject property’s frontage as detailed in Condition H.
- H. The applicant shall provide improvements to the property’s frontage along Kahakai Boulevard consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements and any required utility relocation, meeting the requirements of the Americans with Disabilities Act

and the approval of the Department of Public Works, within five (5) years from the effective date of this ordinance.

- I. Should the applicant submit plans to develop a land use beyond that proposed in the application, and 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 and Department of Transportation prior to Final Plan Approval. When required by the Department of Public Works, the applicants shall implement, at no cost to the County, any transportation improvements deemed necessary by the Department of Public Works.
- J. The driveway connection to Kahakai Boulevard shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
- K. Install street lights and traffic control devices as may be required by the Traffic Division, Department of Public Works. The applicant shall be responsible for the design, purchase, and installation of such devices.
- L. Any new construction, exterior renovation of existing structures and signage shall conform to any design guidelines established by the Pāhoa Village Design Guidelines.
- M. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
- N. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.

- O. The method of sewage disposal shall meet with the requirements of the Department of Health.
- P. 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.
- Q. If residential units are developed on the subject property, the applicant, successors or assigns shall make its fair share contribution to mitigate the potential regional impacts of the development 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 maximum 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 by 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 units) shall be allocated as follows:

- **\$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;
- **\$130.87** per multiple family residential unit (**\$304.32** per single family residential unit) to the County to support police facilities;
- **\$402.57** per multiple family residential unit (**\$601.06** per single family residential unit) to the County to support fire facilities;
- **\$179.43** per multiple family residential unit (**\$263.15** per single family residential unit) to the County to support solid waste facilities; and
- **\$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, successors or assigns 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. 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 the Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to Final Plan Approval.
- T. The applicant, successors or assigns shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the Department of Health.
- U. An initial extension of time for the performance of conditions within the ordinance, with the exception of Condition H, 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:

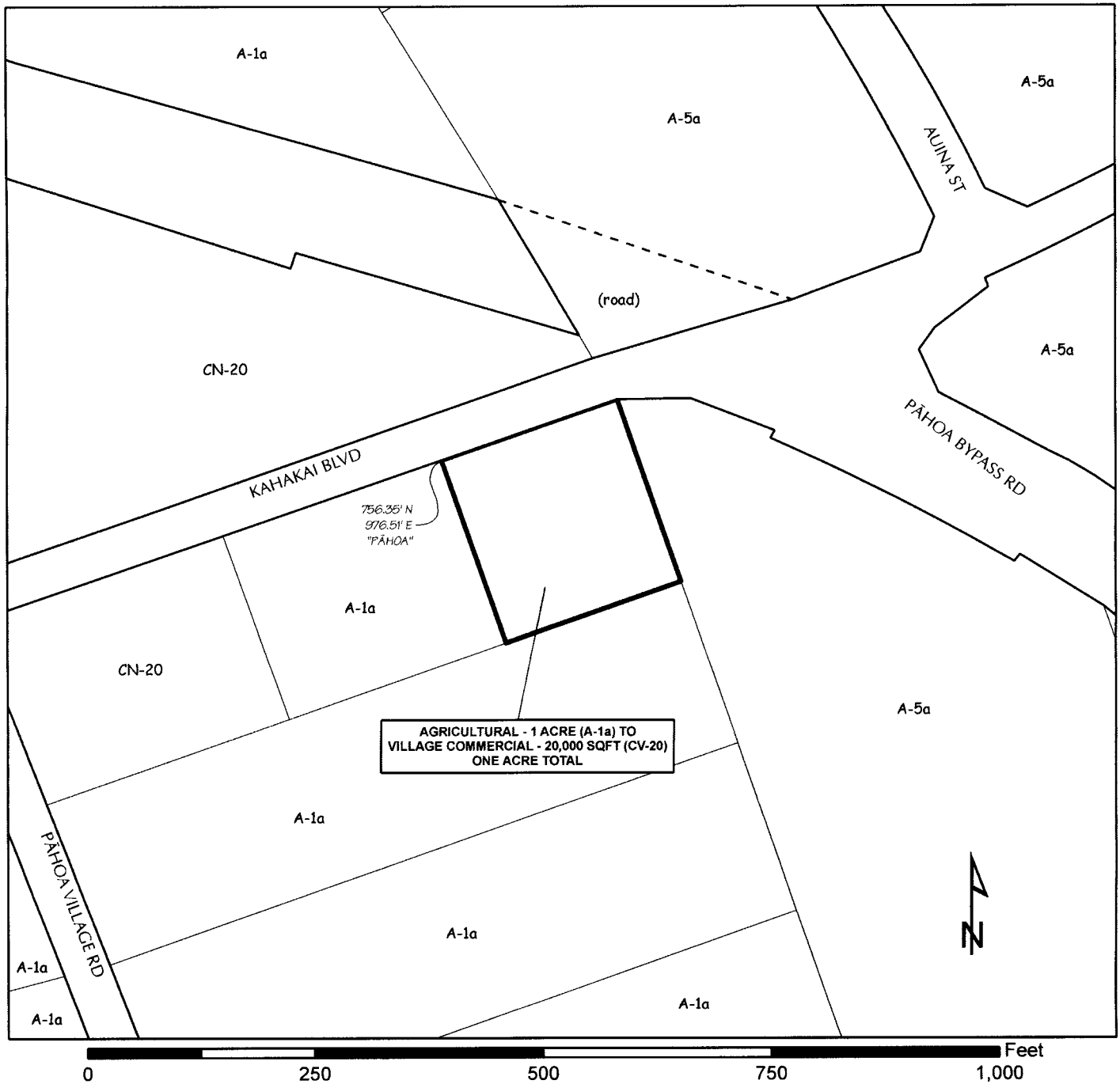
  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i

Date of Introduction: April 1, 2014  
Date of 1st Reading: April 1, 2014  
Date of 2nd Reading: April 16, 2014  
Effective Date: May 12, 2014

REFERENCE Comm. 716





# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-26 (PĀHOA ZONE MAP) ARTICLE 8,  
 CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION),  
 BY CHANGING THE DISTRICT CLASSIFICATION FROM  
 AGRICULTURAL - 1 ACRES (A-1a) TO VILLAGE COMMERCIAL - 20,000 SQFT (CV-20)  
 AT KEONEPOKO HOMESTEAD LOTS, PUNA, HAWAI'I

MAP PREPARED BY:  
 COUNTY OF HAWAI'I, PLANNING DEPARTMENT

TMK: (3)1-5-007:061

DATE: Nov. 6, 2013

EXHIBIT "A"

Jerry and Erlinda Souza  
 Map: 1342

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

COUNTY CLERK  
COUNTY OF HAWAII

2014 MAY 12 PM 3:32

Introduced By: Zendo Kern (B/R)  
Date Introduced: April 1, 2014  
First Reading: April 1, 2014  
Published: April 12, 2014

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			
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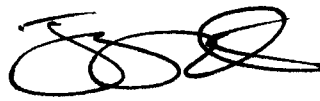
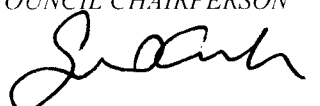
REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
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Second Reading: April 16, 2014  
To Mayor: April 28, 2014  
Returned: May 12, 2014  
Effective: May 12, 2014  
Published: May 21, 2014

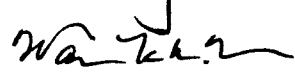
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	X			
Yoshimoto	X			
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REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

  
COUNCIL CHAIRPERSON  
  
COUNTY CLERK

Bill No.: 212  
Reference: C-716/PC-59  
Ord No.: 11 54

Approved Disapproved this 12th day  
of May, 2014  
  
MAYOR, COUNTY OF HAWAII