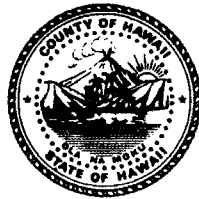


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 15 2 BILL NO. 304

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: 2-3-037:012.

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 4 AND ON THE SOUTHEASTERLY SIDE OF PONAHAWAI STREET THE COORDINATES OF SAID POINT OF BEGINNING REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "HALAI" BEING 817.60 FEET SOUTH AND 664.56 FEET EAST AND RUNNING BY AZIMUTHS MEASURED CLOCKWISE FROM TRUE SOUTH:

1. 322° 30' 445.00 FEET ALONG LOT 4;
2. 52° 30' 100.00 FEET ALONG LOT 6;
3. 142° 30' 425.00 FEET ALONG LOT 6; THENCE ALONG LOT 6 ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET, THE CHORD AZIMUTH AND DISTANCE BEING;

- | | | | |
|----|----------|-------|--|
| 4. | 187° 30' | 28.28 | FEET TO A POINT AT THE
SOUTHEASTERLY SIDE OF
PONAHAWAI STREET; |
| 5. | 232° 30' | 80.00 | FEET ALONG THE SOUTHEASTERLY
SIDE OF PONAHAWAI STREET TO THE
POINT OF BEGINNING AND
CONTAINING AN AREA OF 1.020
ACRES, 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 applicants shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai‘i. The required water commitment payment shall be submitted to the Department of Water Supply (DWS) in accordance with its “Water Commitment Guidelines Policy” 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 implement any improvements required by the Fire Department and/or DWS to ensure that fire protection requirements can be met for commercial zoning.
- 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 ordinance.
- F. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicants shall secure 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 existing and/or proposed structures, paved driveway access and 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's Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.
- G. All driveway connections to Ponahawai Street shall conform to Chapter 22 (County Streets) of the Hawai'i County Code.
- H. The applicants shall provide improvements to the property's entire frontage along Ponahawai Street 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. These improvements shall be completed prior to issuance of a Certificate of Occupancy for any commercial use or when required by the Department of Public Works, whichever occurs first.

- I. 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.
- J. Should the applicants submit plans to establish 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.
- K. 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.
- L. 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.

- M. All earthwork activity, including grading and grubbing, 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. Construction activities must comply with the provisions of Hawai‘i Administrative Rules, Chapter 11-46, “Community Noise Control.”
- P. The applicants shall install a septic system 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.
- Q. 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.
- R. 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 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 for any new residential development.

S. If the applicants, successors, or assigns develop residential units on the subject property, the applicants shall make its 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 for the additional lots or units created. 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 **\$8,542.61** per multiple family residential unit (**\$13,312.70** 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 unit) shall be allocated as follows:

- **\$4,213.83** per multiple family residential unit (**\$6,419.62** per single family residential unit) to the County to support park and recreational improvements and facilities;
- **\$133.18** per multiple family residential unit (**\$309.68** per single family residential unit) to the County to support police facilities;
- **\$409.67** per multiple family residential unit (**\$611.66** per single family residential unit) to the County to support fire facilities;
- **\$182.59** per multiple family residential unit (**\$267.79** per single family residential unit) to the County to support solid waste facilities; and

- **\$3,603.34** per multiple family residential unit (**\$5,703.94** 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.

- T. 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.
- U. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- V. 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.
- W. 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:

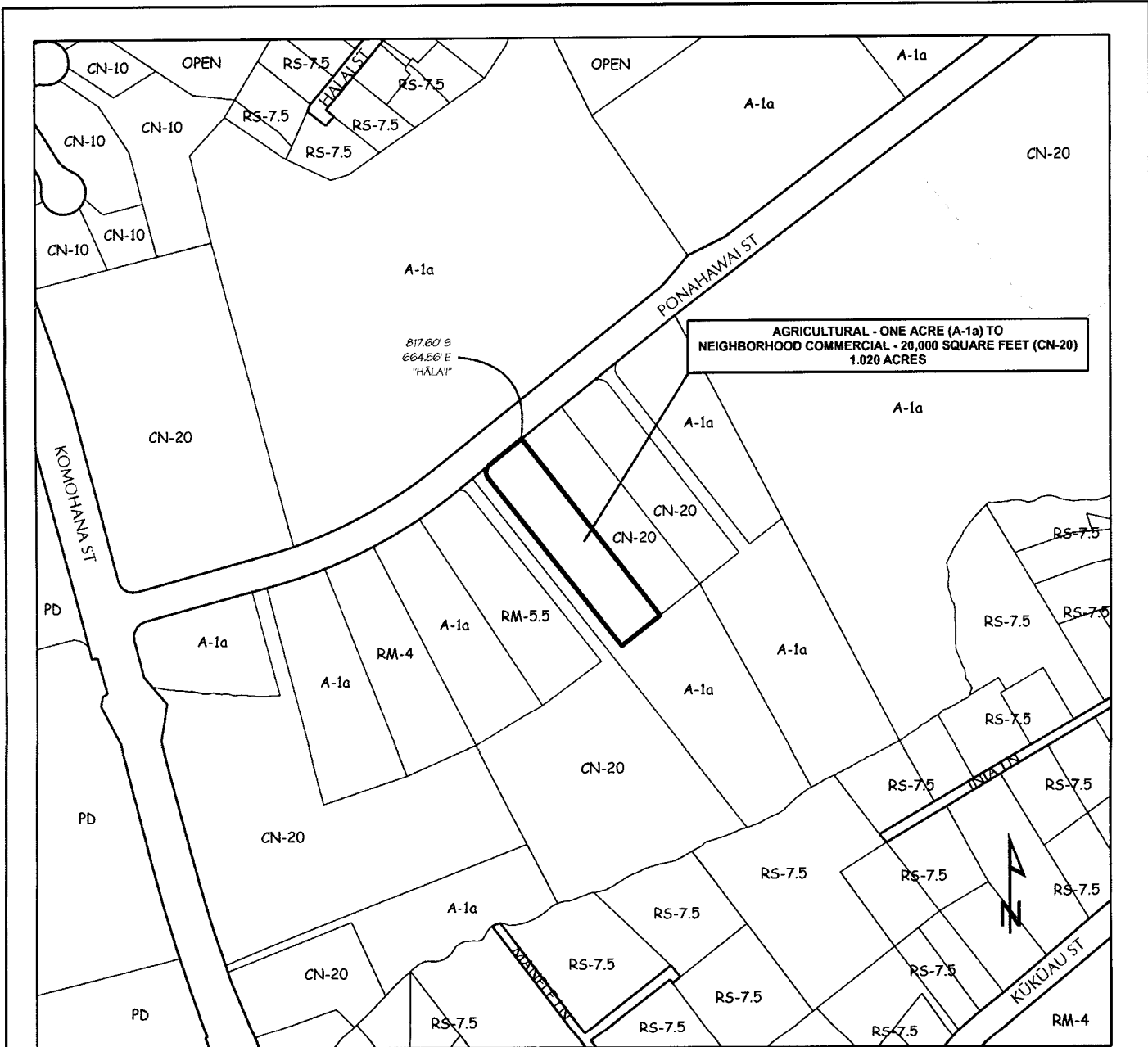
 B/R

COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i

Date of Introduction: November 19, 2014
Date of 1st Reading: November 19, 2014
Date of 2nd Reading: December 17, 2014
Effective Date: January 9, 2015

REFERENCE Comm. 1095



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 PONAHAUAI, SOUTH HILO, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 2-3-037:012

DATE: May 30, 2014

EXHIBIT "A"

Camacho
 Map: 1347

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

COUNTY CLERK
 COUNTY OF HAWAII

2015 JAN -9 PM 11:24

Introduced By: Zendo Kern (B/R)
 Date Introduced: November 19, 2014
 First Reading: November 19, 2014
 Published: December 13, 2014

REMARKS: _____

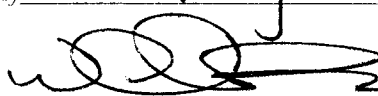
Second Reading: December 17, 2014
 To Mayor: December 26, 2014
 Returned: January 9, 2015
 Effective: January 9, 2015
 Published: January 17, 2015



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
Chung	X			
David	X			
Eoff	X			
Ilagan	X			
Kanuha	X			
Onishi			X	
Paleka	X			
Poindexter	X			
Wille	X			
	8	0	1	0

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

Approved/Disapproved this 9th day
 of January, 2015

 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRPERSON

 COUNTY CLERK

Bill No.: 304 (2012-2014)
 Reference: C-1095/PC-80
 Ord No.: 15 2