

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 15 35 BILL NO. 18

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA DISTRICT 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 – 10,000 SQUARE FEET (CV-10) AT HŌLUALOA, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 7-6-013:017

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

SECTION 1. Section 25-8-3, 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 Hōlualoa, North Kona, Hawai'i, shall be Village Commercial – 10,000 square feet (CV-10):

Beginning at the east corner of this parcel of land, being also the north corner of Lot 1, Portion of R. P. 4475, L. C. Aw. 7713, Apana 43 to V. Kamamalu, on the southwesterly side of Kailua-Keauhou Middle Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Kailua (North Meridian)" being 11,002.18 feet South and 9,895.73 feet East, and running by azimuths measured clockwise from True South:

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|----|----------|--------|---|
| 1. | 57° 54' | 275.48 | feet along Lot 1, Portion of R. P. 4475, L. C. Aw. 7713, Apana 43 to V. Kamamalu; |
| 2. | 154° 11' | 278.91 | feet along Hawaii Belt Road, FAP Route 11, Project No. 11A-03-69; |
| 3. | 244° 11' | 10.00 | feet along Hawaii Belt Road, FAP Route 11, Project No. 11A-03-69; |
| 4. | 154° 11' | 121.55 | feet along Hawaii Belt Road, FAP Route 11, Project No. 11A-03-69; |

- | | | | |
|-----|--------------|--------|---|
| 5. | 310° 54' 30" | 46.49 | feet along Kailua-Keauhou Middle Road; |
| 6. | 307° 19' | 78.54 | feet along Kailua-Keauhou Middle Road; |
| 7. | 311° 45' | 135.88 | feet along Kailua-Keauhou Middle Road; |
| 8. | 300° 03' | 18.97 | feet along Kailua-Keauhou Middle Road; |
| 9. | 287° 07' 30" | 11.43 | feet along Kailua-Keauhou Middle Road; |
| 10. | 280° 48' | 154.37 | feet along Kailua-Keauhou Middle Road; |
| 11. | 291° 21' | 22.34 | feet along Kailua-Keauhou Middle Road to the point of beginning and containing an area of 1.002 acre. |

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. Tax Map Keys 7-6-013:017 and 035 shall be consolidated within one hundred and eighty (180) days from the effective date of this ordinance.

- C. The applicant shall secure Final Plan Approval for the parking lot from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code within one hundred and eighty (180) days from the effective date of this ordinance. Plans shall identify 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.
- D. Prior to the construction of any new structure on the property in the future, the applicant shall secure Final Plan Approval from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code.
- E. Walua Road shall not be used as vehicular access to the project site.
- F. As agreed to by the applicant, all structures on the project site shall be limited to one story and a maximum of 20 feet in height.
- G. All driveway connections to a County road shall conform to Chapter 22 (County Streets) of the Hawai'i County Code.
- H. Should the applicant 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 applicant 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.
- I. 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.

- J. During any 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.
- K. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
- L. Comply with Chapter 11-55, Water Pollution Control, Hawai'i Administrative Rules, Department of Health, which requires a NPDES permit for certain construction activity.
- M. Construction activities must comply with the provisions of Hawai'i Administrative Rules, Chapter 11-46, "Community Noise Control."
- 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-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.
- O. 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 for any new residential development.
- P. If the applicant, successors, or assigns develop residential units on the subject property, the applicant 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 for the residential units. 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 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.

- Q. 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.
- R. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- S. 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, 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.
- T. 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:

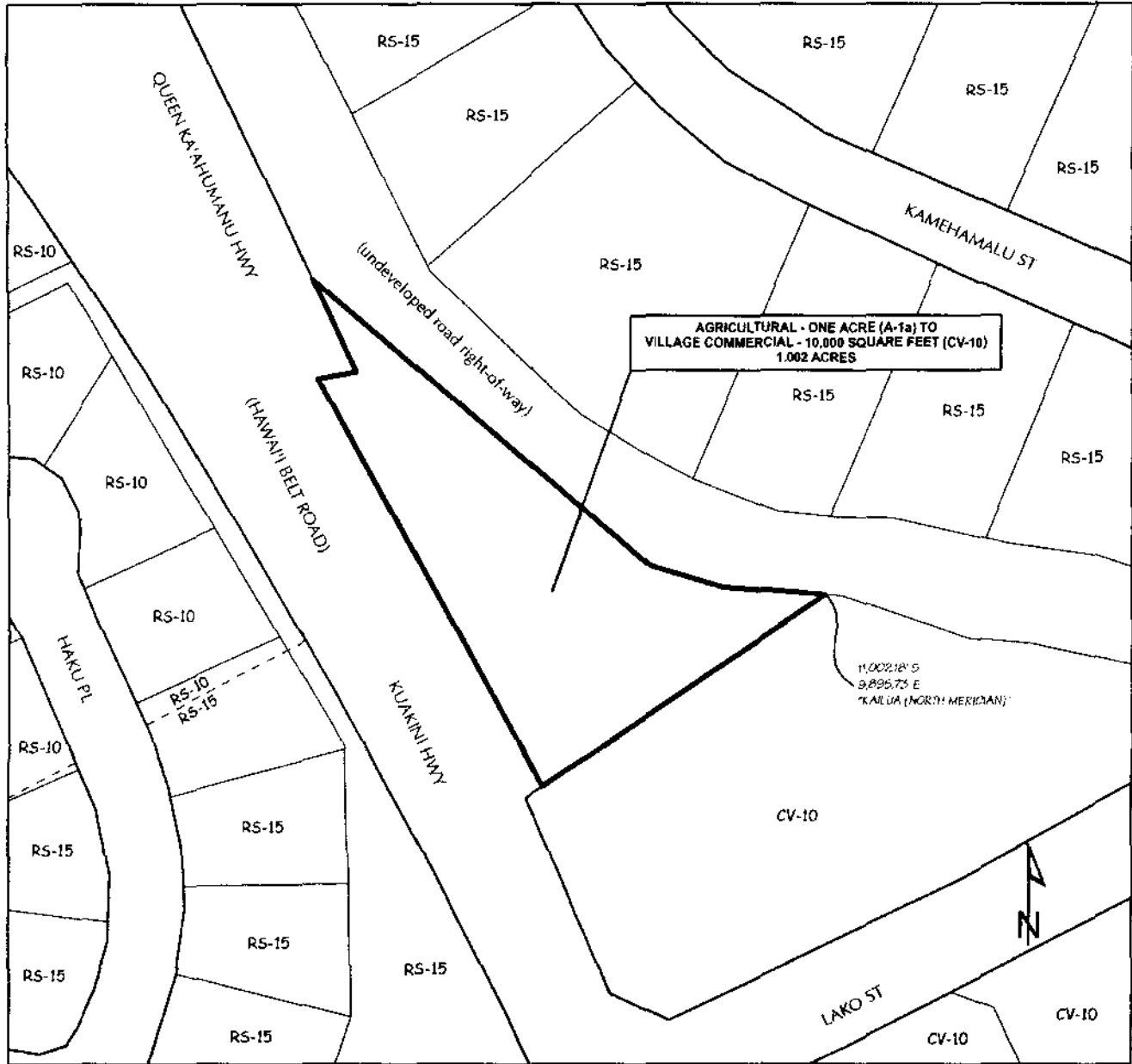
 B/R

COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: February 18, 2015
Date of 1st Reading: February 18, 2015
Date of 2nd Reading: March 4, 2015
Effective Date: March 23, 2015

REFERENCE Comm. 64



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA DISTRICT 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
 VILLAGE COMMERCIAL - 10,000 SQUARE FEET (CV-10)
 AT HŌLUALOA, NORTH KONA, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 7-6-013:017

DATE: JULY 23, 2014

EXHIBIT "A"

Orchid Isle Auto Center
 Map 1349

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

COUNTY CLERK
COUNTY OF HAWAII

2015 MAR 24 AM 11: 07

Introduced By: Greggor Ilagan (B/R)
Date Introduced: February 18, 2015
First Reading: February 18, 2015
Published: February 28, 2015

REMARKS: _____


Second Reading: March 4, 2015
To Mayor: March 12, 2015
Returned: March 24, 2015
Effective: March 23, 2015
Published: April 4, 2015



REMARKS: _____

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			
	9	0	0	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			
	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 23rd day
of March, 2015

MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRPERSON

COUNTY CLERK

Bill No.: 18
Reference: C-64/PC-5
Ord No.: 15 35