

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 15 41 BILL NO. 26

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 HOUSE LOTS, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-036:042.

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

Beginning at a spike set at the northeast corner of this parcel of land, also being on the southwest corner of the intersection of Kekūanaō'a Street and Laukapu Street, as shown on the map of Waiākea House Lots, 1st Series, filed as Registered Map No. 2566 in the State of Hawai'i D.A.G.S., the coordinates of said Point of Beginning referred to Government Survey Triangulation Station "HALAI" being 1,803.00 feet South and 10,081.00 feet East and thence running by azimuths measured clockwise from true South:

1. 00° 00' 00" 100.00 feet along the east line of Laukapu Street, 40 feet wide, to a 1/2' pipe set, thence;
2. 90° 00' 00" 225.00 feet along the north boundary of Lot 4 to a 1/2" pipe found, thence;
3. 180° 00' 00" 100.00 feet along the east boundary of Lot 1 to a 1-1/2" pipe found, thence;

4. 270° 00' 00" 225.00 feet along the south line of Kekūanaō'a Street, 40 feet wide, to the Point of Beginning, enclosing an area of 22,500 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 (DWS), the applicant(s) shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i to the DWS. A water commitment deposit shall be paid to the DWS within 180 days from the effective date of this ordinance in accordance with Rule 5 of the Department of Water Supply's Rules and Regulations. The applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full.

- C. The applicant(s) 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.
- D. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant(s), successor(s) or assign(s) 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 structure(s), 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) standards for CN zones adjoining a RS zone.
- E. Driveway access from Kekūanaō'a Street and Laukapu Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawai'i County Code.
- F. Access to the subject property from Kekūanaō'a Street shall be restricted to a right-in, right-out access accompanied by a physical barrier(s) to prevent left turns meeting with the approval of the Department of Public Works.
- G. A ten-foot road widening strip along the entire Kekūanaō'a Street frontage and a five-foot wide 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.

- H. A minimum 20-foot corner radius (property line) shall be provided at the intersection of Kekūanaō'a Street and Laukapu Street.
- I. 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.
- J. The project shall connect to the County sewer line fronting the property.
- 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 **\$8,542.61** per multiple family residential unit (**\$13,312.70** 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. **\$4,213.83** per multiple family residential unit (**\$6,419.62** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$133.18** per multiple family residential unit (**\$309.68** per single family residential unit) to the County to support police facilities;
3. **\$409.67** per multiple family residential unit (**\$611.66** per single family residential unit) to the County to support fire facilities;
4. **\$182.59** per multiple family residential unit (**\$267.79** per single family residential unit) to the County to support solid waste facilities; and
5. **\$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.

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

- O. 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:

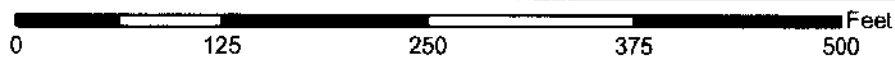
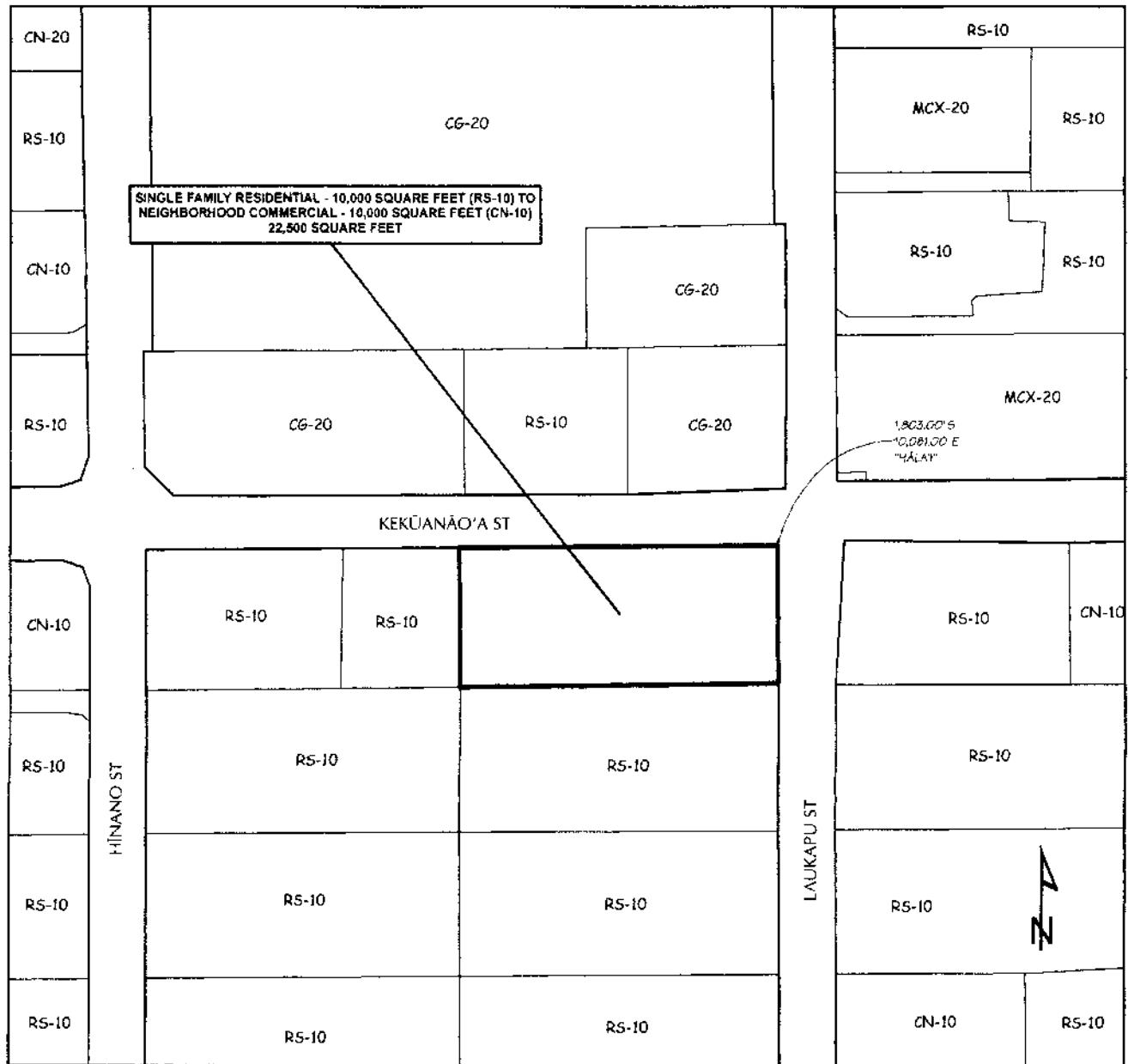


COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i

Date of Introduction: April 1, 2015
Date of 1st Reading: April 1, 2015
Date of 2nd Reading: April 15, 2015
Effective Date: May 4, 2015

REFERENCE Comm. 132



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 HOUSELOTS, SOUTH HILO, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

DATE: Rev. FEBRUARY 6, 2015

TMK: (3) 2-2-036:042

EXHIBIT "A"

Moe
 Map: 1353

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

Introduced By: Greggor Ilagan
Date Introduced: April 1, 2015
First Reading: April 1, 2015
Published: April 11, 2015

REMARKS: _____

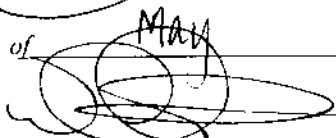
Second Reading: April 15, 2015
To Mayor: April 23, 2015
Returned: May 4, 2015
Effective: May 4, 2015
Published: May 9, 2015


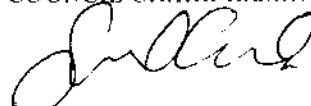
REMARKS: _____

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	
	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 4th day
of MAY, 2015

MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRPERSON

COUNTY CLERK

Bill No.: 26
Reference: C-132/PC-16
Ord No.: 15 41