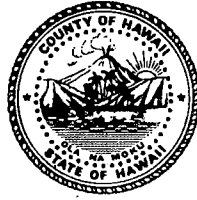


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 102
(DRAFT 2)

ORDINANCE NO. 16 45

AN ORDINANCE AMENDING ORDINANCE NO. 10-110, WHICH AMENDED ORDINANCE NO. 08-39, WHICH RECLASSIFIED LANDS FROM SINGLE-FAMILY RESIDENTIAL - 10,000 SQUARE FEET (RS-10) TO NEIGHBORHOOD COMMERCIAL - 20,000 SQUARE FEET (CN-20) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-040:121.

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

SECTION 1. Ordinance No. 10-110 is amended as follows:

“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 - 20,000 square feet (CN-20):

Beginning at the southeast corner of this parcel of land, also being the northeast corner of Lot 13-A, Block 502, and on the west side of Kīlauea Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station “HALAI” being 8,570.69 feet South and 9,735.36 feet East and thence running by azimuths measured clockwise from true South:

- | | | | |
|----|--------------|-------------|---|
| 1. | 85° 40' 00" | 242.00 feet | along Lot 13-A, Block 502; |
| 2. | 175° 40' 00" | 97.35 feet | along Lot 14, Block 502; |
| 3. | 265° 40' 00" | 242.00 feet | along Lot 15, Block 502; |
| 4. | 355° 40' 00" | 97.35 feet | along the east side of Kīlauea Avenue to the point of beginning and containing an area of 23,559 Sq. Ft., more or less. |

All as shown on the map attached hereto, marked Exhibit "A" and by reference made 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 applicants, its 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 amended ordinance.
- C. The applicants shall install a fire hydrant fronting the subject property, and shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter on private property, which must be inspected and approved by the Department of Water Supply prior to issuance of a Certificate of Occupancy.
- D. Construction of the proposed improvements shall be completed within five (5) years from the effective date of this amended ordinance. This time period shall include securing Final Plan Approval from the Planning Director in accordance with the Zoning Code. Plans shall identify proposed structure(s), fire protection measures, access roadway, driveway and parking stalls. Landscaping shall be

indicated on the plans for the purpose of mitigating any potential adverse noise or visual impacts to adjoining parcels. 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.

- E. Access to Kīlauea Avenue shall be limited to a single location and shall conform to Chapter 22, Streets and Sidewalks, of the Hawai'i County Code.
- F. A 10-foot wide future road-widening strip along Kīlauea Avenue shall be delineated on the plans submitted for Plan Approval review. The 10-foot future road widening section and roadway improvements along Kīlauea Avenue shall be subdivided and dedicated to the County of Hawai'i within five (5) years from the effective date of the original ordinance.
- G. The applicants shall provide their pro-rata share for the construction of full improvements to the entire property frontage along Kīlauea Avenue consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any required utility relocation, meeting with the approval of the Department of Public Works. This pro-rata share for roadway improvements specified in this condition shall be determined by the Department of Public Works and shall become due and payable to the County of Hawai'i within six (6) months from the date that formal notice is served upon the applicant, its successors or assigns by the Department of Public Works regarding a program for the installation of curb, gutter and sidewalk improvements along the frontage of Kīlauea Avenue in proximity to the subject property.
- H. The applicants shall also install street lights and traffic controls as required by the Traffic Division, Department of Public Works. The applicants shall be responsible for the design, purchase, and installation of such devices. These improvements to Kīlauea Avenue shall be completed prior to a Certificate of Occupancy.

- I. The height limit shall be 35 feet as allowed in the Single-Family Residential (RS) district.
- J. 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 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.
- K. The applicants shall install an individual wastewater system meeting with the requirements of the Department of Health prior to the issuance of a Certificate of Occupancy.
- L. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval.
- M. 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 **\$7,738.48** per multiple family residential unit (**\$12,059.55** 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. **\$3,817.17** per multiple family residential unit (**\$5,815.33** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$120.64** per multiple family residential unit (**\$280.53** per single family residential unit) to the County to support police facilities;
3. **\$371.11** per multiple family residential unit (**\$554.09** per single family residential unit) to the County to support fire facilities;
4. **\$165.40** per multiple family residential unit (**\$242.59** per single family residential unit) to the County to support solid waste facilities; and
5. **\$3,264.15** per multiple family residential unit (**\$5,167.02** 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.

- N. 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.
- O. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, if applicable, the applicants 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.

- P. An Emergency Response Plan shall be submitted to the Hawai'i County Civil Defense Agency for review and approval prior to the issuance of a Certificate of Occupancy.
- Q. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- R. 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 Planning Commission and County Council for appropriate action.

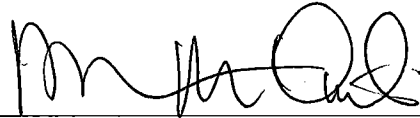
S. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the area to its original or more appropriate designation.”

SECTION 2. Material to be deleted is bracketed and stricken through. New material is underscored.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

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 20, 2016
Date of 1st Reading: April 20, 2016
Date of 2nd Reading: May 4, 2016
Effective Date: May 23, 2016

REFERENCE Comm. 495.4

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

COUNTY CLERK
 COUNTY OF HAWAII

2016 MAY 23 PM 1:03

Introduced By: Dennis "Fresh" Onishi
 Date Introduced: April 20, 2016
 First Reading: April 20, 2016
 Published: April 30, 2016

REMARKS: _____


Second Reading: May 4, 2016
 To Mayor: May 12, 2016
 Returned: May 23, 2016
 Effective: May 23, 2016
 Published: June 4, 2016



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 MAY, 20 16

 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRPERSON

 COUNTY CLERK

Bill No.: 102 (Draft 2)
 Reference: C-495.4/PC-51
 Ord No.: 16 45