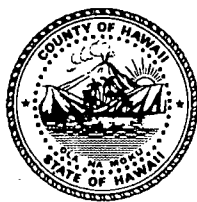


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 176 BILL NO. 257
(DRAFT 2)

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 SINGLE FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO VILLAGE COMMERCIAL – 10,000 SQUARE FEET (CV-10) AT WAIAKAHIULA, PUNA, HAWAI'I, COVERED BY TAX MAP KEY: 1-5-002:027 AND 1-5-114:020 (PORTION).

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 Waiakahiula, Puna, Hawai'i, shall be Village Commercial – 10,000 square feet (CV-10):

PARCEL "A"

Beginning at the west corner of this parcel of land, being also the southwest corner of Lot 8-A, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PĀHOA", being 3,255.90 feet South and 4,214.60 feet East, thence running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|---|
| 1. | 212° 28' | 197.04 | feet along the remainder of R.P. 8095, L.C. Aw. 11,216, Ap. 40, Part 2 to Kekauonohi (Lot 3); |
| 2. | 302° 28' | 82.08 | feet along the remainder of R.P. 8095, L.C. Aw. 11,216, Ap. 40, Part 2 to Kekauonohi (Lot 8-A); |

3.	55° 05'	213.45	feet along same to the point of beginning and containing an area of 8,087 Square Feet.
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PARCEL "B"

Beginning at the east corner of this parcel of land and on the southwesterly side of Puna Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PĀHOA", being 3,091.19 feet South and 4,563.52 feet East, thence running by azimuths measured clockwise from true South:

1.	58° 00'	152.00	feet along the remainder of R.P. 8095, L.C. Aw. 11,216, Ap. 40, Part 2 to Kekauonohi (remainder of Lot 8-A);
2.	54° 00'	224.92	feet along same;
3.	141° 37'	61.29	feet along the remainder of R.P. 8095, L.C. Aw. 11,219, Ap. 40, Part 2 to Kekauonohi;
4.	235° 05'	353.45	feet along the remainder of R.P. 8095, L.C. Aw. 11,219, Ap. 40, Part 2 to Kekauonohi;
5.	302° 28'	70.05	feet along Puna Road to the point of beginning and containing an area of 21,750 Square Feet.

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. Prior to submitting plans for Plan Approval, the applicant shall secure Final Consolidation Approval to consolidate Tax Map Key Nos. 1-5-002:027 and 1-5-114:020 into one parcel.

- C. Construction of the proposed development, as substantially represented by the Applicant, or as permitted by its zoning district classification, shall be completed within five (5) years from the effective date of this ordinance. Plan Approval shall be required prior to the construction or installation of any new structure or development, or any addition to an existing structure or development according to Section 25-2-71(a) of the Zoning Code. All application(s) for plan approval and sign permit(s) shall be reviewed for consistency with the Pāhoa Village Design Guidelines according to Section 25-7-42 of the Zoning Code. The future road widening strip described in Condition H shall be delineated on the plan submitted for Plan Approval, which shall be prepared by a professional surveyor licensed in the State of Hawai'i.

- D. Prior to submitting plans for Plan Approval, the applicant shall submit for all uses on the property, the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i to the Department of Water Supply (DWS). A water commitment deposit shall be paid to the DWS prior to issuance of Final Plan Approval in accordance with Rule 5 of

the Department of Water Supply's Rules and Regulations. The applicant shall construct necessary water system improvements as required by the DWS, which may include, but not be limited to, installing an additional or larger water meter.

- E. The applicant 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. Installation of the backflow prevention assembly and relocation and adjustment of the Department of Water Supply's water system facilities, should they be necessary, shall take into consideration the future road widening strip along Pāhoa Village Road.
- F. The applicant shall implement any improvements required by the Fire Department and/or Department of Water Supply to ensure that fire protection requirements can be met for commercial zoning.
- G. Should the applicant, successors or assigns develop a land use 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 system improvements to Pāhoa Village Road that may be deemed necessary by the Department of Public Works.
- H. A future road widening strip along the property's Pāhoa Village Road frontage shall be subdivided and dedicated, at no cost to the County, when required by the Department of Public Works. The future road widening strip shall be measured 25

feet from the existing centerline of the road and shall be delineated on the plan submitted for Plan Approval, which shall be prepared by a professional surveyor licensed in the State of Hawai‘i.

- I. The applicant shall provide their pro-rata share for the construction of full improvements to the properties’ frontage along Pāhoa Village Road 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 (DPW). The pro-rata share for roadway improvements specified in this condition shall be determined by the DPW and shall 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 DPW regarding a program for the installation of curb, gutter and sidewalk improvements along the frontage of Pāhoa Village Road in proximity to the subject property.
- J. Driveway connection(s) to Pāhoa Village Road shall conform to Chapter 22, County Streets, of the Hawai‘i County Code.
- K. The method of sewage disposal shall meet with the requirements of the Department of Health.
- L. 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.

M. If the applicant, successors, or assigns develop residential units 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 unit 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 **\$8,754.58** per multiple family residential unit (**\$13,672.20** 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:

- **\$4,318.39** per multiple family residential unit (**\$6,608.08** per single family residential unit) to the County to support park and recreational improvements and facilities;
- **\$136.48** per multiple family residential unit (**\$317.37** per single family residential unit) to the County to support police facilities;
- **\$419.84** per multiple family residential unit (**\$626.84** per single family residential unit) to the County to support fire facilities;
- **\$187.12** per multiple family residential unit (**\$274.44** per single family residential unit) to the County to support solid waste facilities; and

- **\$3,692.75** per multiple family residential unit (**\$5,845.47** 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.

- 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. The applicant, successors or assigns shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- P. An initial extension of time for the performance of conditions within the ordinance may be granted by the 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 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.

Q. 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.

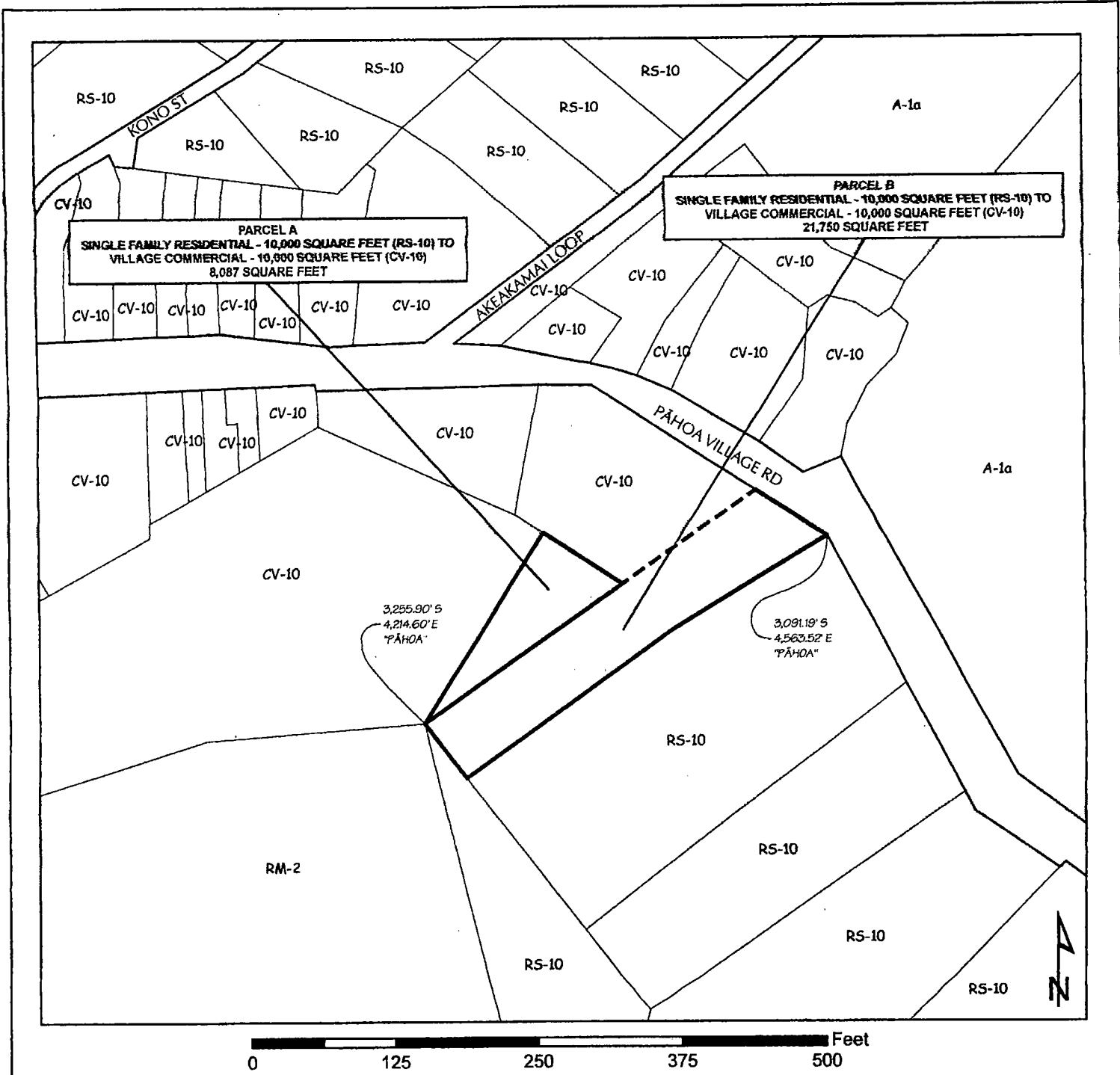
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i
Date of Introduction: December 21, 2016
Date of 1st Reading: December 21, 2016
Date of 2nd Reading: January 5, 2017
Effective Date: January 20, 2017

REFERENCE Comm. 1153.2



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-26 (PĀHOA 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
 VILLAGE COMMERCIAL - 10,000 SQUARE FEET (CV-10)
 AT WAIAKAHIULA, PUNA, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 1-5-002:027 and
 1-5-114:020 (portion)

DATE: June 29, 2016

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

COUNTY CLERK
COUNTY OF HAWAI'I
RECEIVED
Time 9:15 am By JR
Date JAN 20 2017

Introduced By: Greggor Ilagan
Date Introduced: December 21, 2016
First Reading: December 21, 2016
Published: December 31, 2016

REMARKS: _____

Second Reading: January 5, 2017
To Mayor: January 13, 2017
Returned: January 20, 2017
Effective: January 20, 2017
Published: January 28, 2017

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kanuha	X			
Lee Loy	X			
O'Hara	X			
Poindexter	X			
Richards	X			
Ruggles	X			
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung			X	
David	X			
Eoff	X			
Kanuha	X			
Lee Loy	X			
O'Hara	X			
Poindexter	X			
Richards	X			
Ruggles	X			
	8	0	1	0

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

Salome J. Poindexter

COUNCIL CHAIRPERSON

Julia

COUNTY CLERK

Approved/Disapproved this 20th day
of January, 2017

Harry Kim

MAYOR, COUNTY OF HAWAI'I

Bill No.: 257 (Draft 2) (2014-2016)

Reference: C-1153.2/PC-81

Ord No.: 17 6