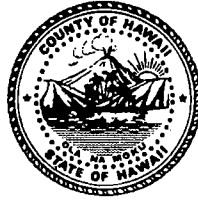


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 17 7 BILL NO. 258

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 WAI'AKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-040:004.

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 Wai'akea, South Hilo, Hawai'i, shall be Neighborhood Commercial - 10,000 square feet (CN-10):

Beginning at the northwest corner of this parcel of land and on the east side of Kilauea Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HĀLA'I" being 9,367.25 feet South and 9,845.83 feet East and running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|--------|------------------------------------------------------------------------------|
| 1. | 265° 40' | 242.00 | feet along Lots A and B, being a portion of Grant 10442 to Antoni F. Martin; |
| 2. | 355° 40' | 180.00 | feet along Lot A-1, being a portion of Grant 10551 to Edward Kazuo Fujimoto; |
| 3. | 85° 40' | 242.00 | feet along Lot A-1, being a portion of Grant 10551 to Edward Kazuo Fujimoto; |

4. 175° 40' 180.00 feet along the east side of Kīlauea Avenue to the point of beginning and containing an area of 1.000 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:

- (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. Construction of the proposed development, as substantially represented by the applicant, or as permitted by the zoning district classification, shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant, successors or assigns 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 proposed structure(s), paved driveway access and parking stalls associated with the proposed development, with the appropriate yard setbacks

taken from road widening as specified in Condition G. 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 an RS zone.

- C. Prior to the issuance of a water commitment by the Department of Water Supply (DWS), the applicant shall submit the anticipated maximum daily water usage calculations for all water uses on the property 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.
- D. Based on the water usage calculations, the applicant shall install all improvements deemed necessary by the Department of Water Supply.
- 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 Kīlauea Avenue.
- F. 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 Kīlauea Avenue that may be deemed necessary by the Department of Public Works.

- G. A ten (10) foot wide future road widening strip along the property's Kīlauea Avenue frontage shall be subdivided and dedicated, at no cost to the County, when required by the Department of Public Works. The applicant 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 the approval of the Department of Public Works (DPW). This pro-rata share for roadway improvements specified in this condition shall be determined by the DPW 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 DPW 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. Driveway connection(s) to the Kīlauea Avenue shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
- I. The applicant shall be responsible for the design, purchase, and installation of streetlights and traffic control devices as may be required by the Traffic Division, Department of Public Works.
- 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 Planning Department prior to Final

Plan Approval. 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 method of sewage disposal shall meet with the requirements of the State 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 applicants, 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. 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.
- P. The applicant, successors or assigns shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- Q. 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.

R. 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. 1154



AMENDMENT TO THE ZONING CODE

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 WAI'AKEA, SOUTH HILO, HAWAI'I

MAP PREPARED BY:
 COUNTY OF HAWAI'I, PLANNING DEPARTMENT

TMK: (3) 2-2-040:004

DATE: September 7, 2016

EXHIBIT "A"

Oshiro
 Map: 1379

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

COUNTY CLERK
 COUNTY OF HAWAI'I
 RECEIVED
 Time 9:15 am By JH
 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			
	8	0	1	0

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.

Talana J. Poindexter

COUNCIL CHAIRPERSON

J. Ilagan

COUNTY CLERK

Approved/Disapproved this 20th day
 of January, 2017

Harry Keim

MAYOR, COUNTY OF HAWAI'I

Bill No.: 258 (2014-2016)

Reference: C-1154/PC-82

Ord No.: 17 7