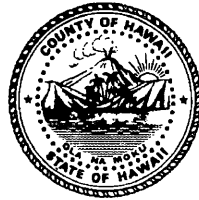


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 22 27 BILL NO. 113

AN ORDINANCE AMENDING SECTION 25-8-26 (PĀHOA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE-FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO VILLAGE COMMERCIAL DISTRICT – 20,000 SQUARE FEET (CV-20) AT WAIAKAHIULA, PUNA, HAWAI'I, COVERED BY TAX MAP KEY: 1-5-003:037.

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 (2016 Edition, as amended) 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 District – 20,000 square feet (CV-20):

Beginning at a 2" pipe found at the east corner of this parcel of land, being also the north corner of Lot 1, Land Court Application 1,479, Map 2 and on the southerly side of PĀHOA-KAPOHO ROAD, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PĀHOA" being 3,931.19 feet South and 5,827.95 feet East and running by azimuths measured clockwise from True South:

- |    |          |        |  |
|----|----------|--------|--|
| 1. | 38° 19'  | 548.29 | feet along Lot 1, Land Court Application 1,479, Map 2 to a 1" pipe found;  |
| 2. | 189° 30' | 467.63 | feet along the easterly side of the KEA'AU-PĀHOA ROAD, F.A.S.P. NO. RS-0130 (18) to a ½" pipe found; thence along the southerly side of the KEA'AU-PĀHOA |

ROAD, F.A.S.P. NO. RS-0130 (18), along a curve to the right having a radius of 40.00 feet, the chord azimuths and distance being:

- |    |          |        |  |
|----|----------|--------|--|
| 3. | 238° 00' | 59.92  | feet to a ½" pipe found;   |
| 4. | 286° 30' | 221.05 | feet along the southerly side of the KEA 'AU-PĀHOA ROAD, F.A.S.P. NO. RS-0130 (18) and the southerly side of the PĀHOA-KAPOHO ROAD to the point of beginning and containing an area of 1.545 Acres 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 (2016 Edition, as amended), 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 (Applicant) shall be responsible for complying with all of the stated conditions of approval.

- B. The Applicant shall submit estimated maximum daily water usage calculations, prepared by a professional engineer licensed in the State of Hawai‘i to the Department of Water Supply (DWS). The water usage calculations should include the estimated peak flow in gallons per minute and the total estimated maximum daily water usage in gallons per day, including all irrigation use. 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 installing a larger or additional water meter, if required, and maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full. This condition shall be implemented prior to the issuance of a certificate of occupancy for any new use on the property.
- C. The Applicant shall install a reduced pressure type backflow prevention assembly by a licensed contractor, within five (5) feet of the meter on private property. If a larger or additional meter is required, a backflow prevention assembly will also be required for the larger or additional meter. The installation of the backflow prevention assembly(s) must be inspected and approved by the Department of Water Supply before the commencement of water service.
- D. Site layout and building design of the proposed development shall adhere to the established Pāhoa Village Design Guidelines and are subject to review and approval by the Pāhoa Village Design Review Committee prior to securing Final Plan Approval.
- E. 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 commencing construction, the Applicant 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 paved 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) bufferyard requirements for the Village Commercial (CV) zone adjoining a Single-Family Residential (RS) zone.

- F. Prior to commencement of any commercial use within the existing community building structures on the property, the Applicant shall secure and finalize all required building permits from the Department of Public Works-Building Division, including change of use building permits if necessary.
- G. 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 Village Commercial zoning.
- H. Access to the subject property shall be prohibited from the Pāhoa-Kalapana Road (Highway 130).
- I. Access to the subject property shall be limited to Pāhoa-Kapoho Road (Highway 132) and conform to the requirements of Chapter 22, County Streets, of the Hawai'i County Code and access improvements, including the provision of adequate site distances, shall meet with the approval of the Department of Public Works.
- J. Streetlights and traffic control devices at the project's driveway along Highway 132, as may be required by the Traffic Division, Department of Public Works, shall be installed by the Applicant at no cost to the County, prior to the issuance of certificate of occupancy for any portion of the project.

- K. The Applicant shall provide improvements within the subject property's entire Pāhoa-Kapoho Road (Highway 132) frontage consisting of an ADA compliant, minimum 8-foot wide, paved pedestrian path that shall be encumbered by a nonexclusive pedestrian public access easement meeting with the approval of the Planning Director, in consultation with the Department of Public Works, to be recorded with the Bureau of Conveyances prior to the receipt of certificate of occupancy for any portion of the project site. This public access easement shall allow for unrestricted public access until such time that construction of sidewalk improvements within the Pāhoa-Kapoho Road (Highway 132) right-of-way directly fronting the subject property has been completed, upon which this public access easement shall be terminated.
- L. Should the Applicant develop a land use which the Planning Department, in consultation with the Department of Public Works and the State Department of Transportation, 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 and the State Department of Transportation prior to Final Plan Approval. The Applicant shall implement any transportation system improvements to Pāhoa-Kapoho Road (Highway 132) and Pāhoa-Kalapana Road (Highway 130) that may be deemed necessary by the Department of Public Works and State Department of Transportation prior to securing a Certificate of Occupancy for the land use.
- M. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
- N. 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.

- O. Prior to receipt of a Certificate of Occupancy, an individual wastewater system shall be installed meeting with the requirements of the Department of Health.
  
- P. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
  
- Q. Should the Applicant develop residential units on the subject property, the Applicant 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 or Final Subdivision Approval, whichever is applicable, and shall be based on the actual number of additional residential units or lots created. 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 **\$9,662.28** per multiple family residential unit or lot (**\$15,057.57** per single family residential unit or lot). The total amount shall be determined with the actual number of residential lots according to the calculation

and payment provisions set forth in this condition. The fair share contribution per multiple family residential unit or lot (single family residential unit or lot) shall be allocated as follows:

1. **\$4,766.13** per multiple family residential unit or lot (**\$7,261.03** per single family residential unit or lot) to the County to support park and recreational improvements and facilities;
2. **\$150.63** per multiple family residential unit or lot (**\$350.27** per single family residential unit or lot) to the County to support police facilities;
3. **\$463.37** per multiple family residential unit or lot (**\$691.83** per single family residential unit or lot) to the County to support fire facilities;
4. **\$206.52** per multiple family residential unit or lot (**\$302.89** per single family residential unit or lot) to the County to support solid waste facilities; and
5. **\$4,075.63** per multiple family residential unit or lot (**\$6,451.55** per single family residential unit or lot) 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.

- R. 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.

- S. 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.
- T. The Applicant shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements.
- U. 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.

V. 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. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does 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 severable.

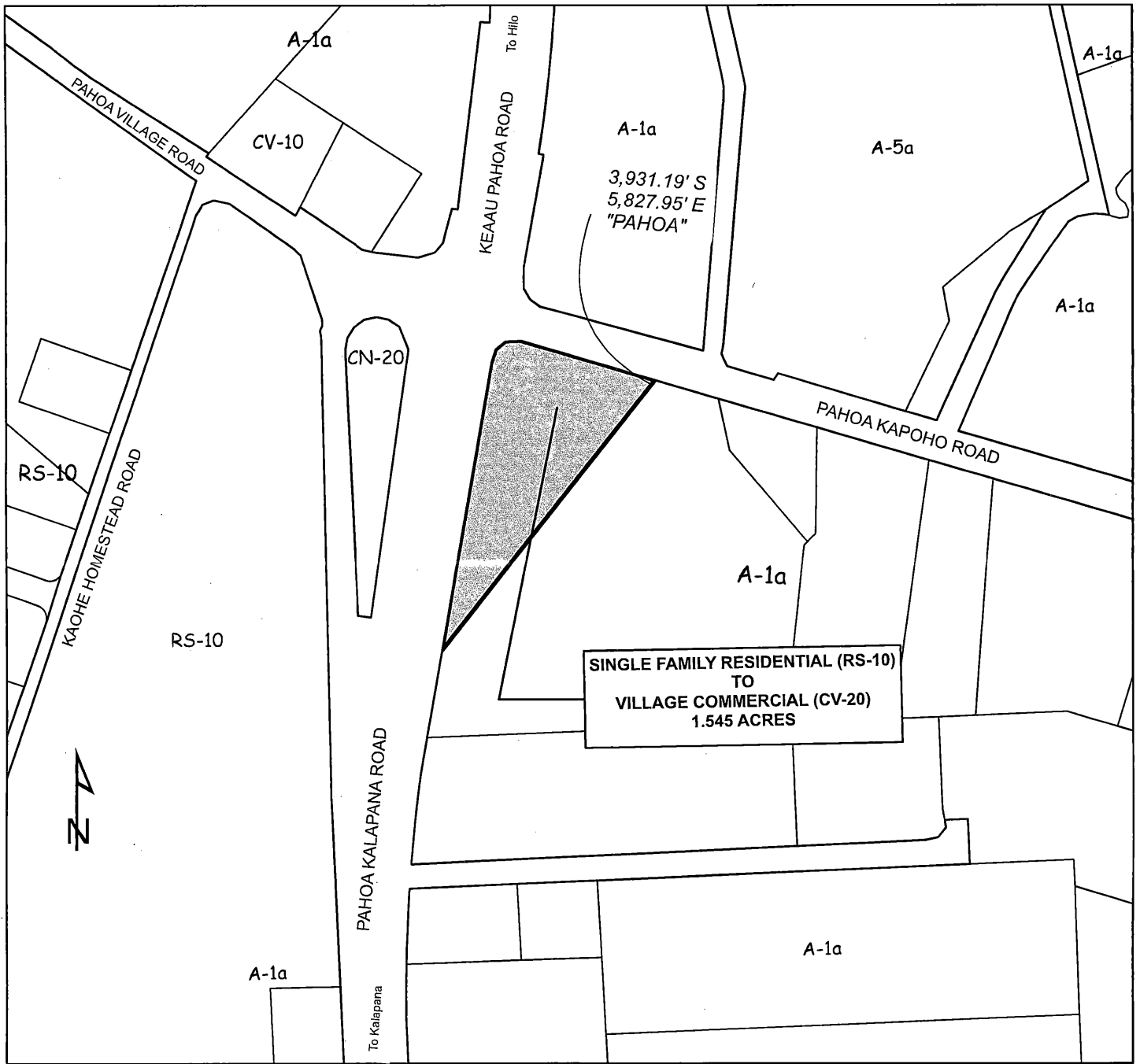
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

 B/R  
\_\_\_\_\_  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i  
Date of Introduction: February 23, 2022  
Date of 1st Reading: February 23, 2022  
Date of 2nd Reading: March 9, 2022  
Effective Date: March 23, 2022

REFERENCE Comm. 596



SINGLE FAMILY RESIDENTIAL (RS-10)  
TO  
VILLAGE COMMERCIAL (CV-20)  
1.545 ACRES

# **AMENDMENT TO THE ZONING CODE**

AMENDING SECTION 25-8-26 (PAHOA ZONE MAP) ARTICLE 8,  
CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED),  
BY CHANGING THE DISTRICT CLASSIFICATION FROM  
SINGLE-FAMILY RESIDENTIAL (RS-10) TO  
VILLAGE COMMERCIAL (CV-20)  
AT WAIAKAHIULA, PUNA, HAWAII

MAP PREPARED BY:  
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 1-5-003:037

DATE: September 7, 2021

EXHIBIT "A"

Aguinaldo 4, LLC.  
Map: 1432

**COUNTY CLERK**  
**COUNTY OF HAWAII**  
 OFFICE OF THE COUNTY CLERK  
 County of Hawaii  
 Hilo, Hawaii

2022 MAR 24 PM 1: 52

Introduced By: Rebecca Villegas (B/R)  
 Date Introduced: February 23, 2022  
 First Reading: February 23, 2022  
 Published: March 4, 2022

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Second Reading: March 9, 2022  
 To Mayor: March 17, 2022  
 Returned: March 24, 2022  
 Effective: March 23, 2022  
 Published: April 8, 2022

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

| ROLL CALL VOTE        |      |      |     |    |
|-----------------------|------|------|-----|----|
|                       | AYES | NOES | ABS | EX |
| Chung                 | X    |      |     |    |
| David                 | X    |      |     |    |
| Inaba                 | X    |      |     |    |
| Kāneali'i-Kleinfelder | X    |      |     |    |
| Kierkiewicz           |      |      |     | X  |
| Kimball               | X    |      |     |    |
| Lee Loy               | X    |      |     |    |
| Richards              | X    |      |     |    |
| Villegas              | X    |      |     |    |
|                       | 8    | 0    | 0   | 1  |

| ROLL CALL VOTE        |      |      |     |    |
|-----------------------|------|------|-----|----|
|                       | AYES | NOES | ABS | EX |
| Chung                 | X    |      |     |    |
| David                 | X    |      |     |    |
| Inaba                 | X    |      |     |    |
| Kāneali'i-Kleinfelder | X    |      |     |    |
| Kierkiewicz           |      |      |     | X  |
| Kimball               | X    |      |     |    |
| Lee Loy               | X    |      |     |    |
| Richards              | X    |      |     |    |
| Villegas              | X    |      |     |    |
|                       | 8    | 0    | 0   | 1  |

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



COUNCIL CHAIRPERSON



COUNTY CLERK

Approved/Disapproved this 23<sup>rd</sup> day  
 of March, 2022



MAYOR, COUNTY OF HAWAII

Bill No.: 113  
 Reference: C-596/PC-45  
 Ord No.: 22 27