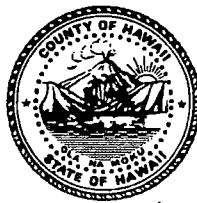


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 16

(DRAFT 2)

ORDINANCE NO. 25 30

AN ORDINANCE AMENDING ORDINANCE NO. 06 28, WHICH AMENDED SECTION 25-8-33 (CITY OF HILO ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED) BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-1a) TO NEIGHBORHOOD COMMERCIAL (CN-20) AT PONAHAWAI, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-3-036:018 (POR).

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

SECTION 1. Section 2 of Ordinance No. 06 28 is amended as follows:

“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. ~~[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 90 days from the effective date of this ordinance]~~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. ~~[In accordance with the Department of Water Supply's 2002 *Water System Standards*, the existing 8-inch waterline in Ponahawai Street shall be upgraded to obtain the 2,000-gallons per minute fire flow requirement for the proposed uses.]~~The Applicant shall construct, or cause to be constructed, necessary water system improvements meeting with the approval of the Department of Water Supply.
- D. Construction of the proposed improvements shall be completed within ~~[five (5)]~~ ten (10) years from the effective date of this amended ordinance. The time during which required plans, reports, studies, or relevant permit applications are under review for approvals by government agencies shall not count towards the deadline established in the ordinance. To justify this tolling, the applicant shall provide evidence of the excluded time period to the planning department for its review and approval, which shall consist of dates obtained from a government agency website, permitting program, or office indicating when the required plans, reports, studies, or permit applications were submitted, approved, denied, or returned by the government agency. [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).]

- E. The time period specified in Condition D 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).
- ~~[E.]~~F. The [a]Applicant shall provide full improvements to the project's frontage along Ponahawai Street 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.
- ~~[F.]~~G. ~~[Access to the property shall be limited to a single location along Ponahawai Street. The]~~ All access ~~[connection]~~ connection(s) to Ponahawai Street shall meet with the approval of the Department of Public Works and conform to Chapter 22 (Streets) of the Hawai'i County Code. A dedicated left turn lane into the property from Ponahawai Street, and any other access improvements required by the Department of Public Works, shall be provided [prior to the issuance of an occupancy permit.] within five (5) years from the effective date of this ordinance.
- ~~[G.]~~H. The access road(s) within the project site shall be constructed to dedicable standards with concrete curb, gutters, and sidewalks within a minimum 60-foot right-of-way.
- ~~[H.]~~I. Install street lights and traffic control devices as required by the Traffic Division, Department of Public Works.
- ~~[I.]~~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 and the recommended drainage system shall be constructed, meeting the approval of the Department of Public Works.

- [J.]K. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- [K.]L. All earthwork activity including grading, grubbing, and stockpiling shall conform to Chapter 10, Erosion and Sedimentation Control, of the ~~[Hawaii]~~Hawai'i County Code.
- M. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- [L.]N. 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.~~[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.]O. Should the Council adopt a~~[n]~~ 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.

[N.]P. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the [a]Applicant shall comply with the requirements of Chapter 11, Article 1, [Hawaii]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 or final subdivision approval for any new residential structures.

[O.]Q. If the [applicant, successors, or assigns develop] Applicant develops residential units on the subject property, the [a]Applicant shall make its 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 maximum combined value of [~~\$6,411.25~~]\$11,018.76 per multiple family residential unit ([~~\$9,991.20~~]\$17,171.48 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 units) shall be allocated as follows:

1. [~~\$3,162.49~~]\$5,435.24 per multiple family residential unit ([~~\$4,817.93~~]\$8,280.39 per single family residential unit) to the County to support park and recreational improvements and facilities;

2. ~~[\$99.95]~~\$171.78 per multiple family residential unit
(~~[\$232.42]~~\$399.45 per single family residential unit) to the County
to support police facilities;
3. ~~[\$307.46]~~\$528.42 per multiple family residential unit
(~~[\$459.06]~~\$788.96 per single family residential unit) to the County
to support fire facilities;
4. ~~[\$137.04]~~\$235.52 per multiple family residential unit
(~~[\$200.98]~~\$345.41 per single family residential unit) to the County
to support solid waste facilities; and
5. ~~[\$2,704.31]~~\$4,647.80 per multiple family residential unit
(~~[\$4,280.82]~~\$7,357.27 per single family residential unit) to the
County to support road and traffic improvements.

In lieu of paying the fair share contribution, the [a]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 pursuant to Section 2-162.1(a) of Hawai'i County Code.

[P-]R. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

[Q-]S. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval have been satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.

~~[R.]T.~~ An initial extension of time for the performance of conditions within this amended ordinance may be requested in accordance with Section 25-2-44, subsections (c) and (d), of the Hawai'i County Code.~~[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, 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 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 Planning Director may initiate rezoning of the subject area to its original or more appropriate designation.]~~

U. If the Applicant fails to fulfill any conditions of the zone change within the specified time limitations, the Planning Director or County Council may initiate the process for enactment of an ordinance reverting the affected property back to its original zoning designation or a more appropriate zoning designation in accordance with Section 25-2-43 of the Hawai'i County Code.

V. If any conditions have not been completed by the deadline, or if a time extension request has not been submitted in accordance with Section 25-2-44(c) of the Hawai'i County Code, the Planning Department shall inform the applicant that


this ordinance is null and void without further action by the County. In that event, the zoning designation of the property affected by this ordinance shall automatically revert to its immediate prior zoning designation.”

SECTION 2. Material to be deleted is bracketed and stricken. 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, 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.

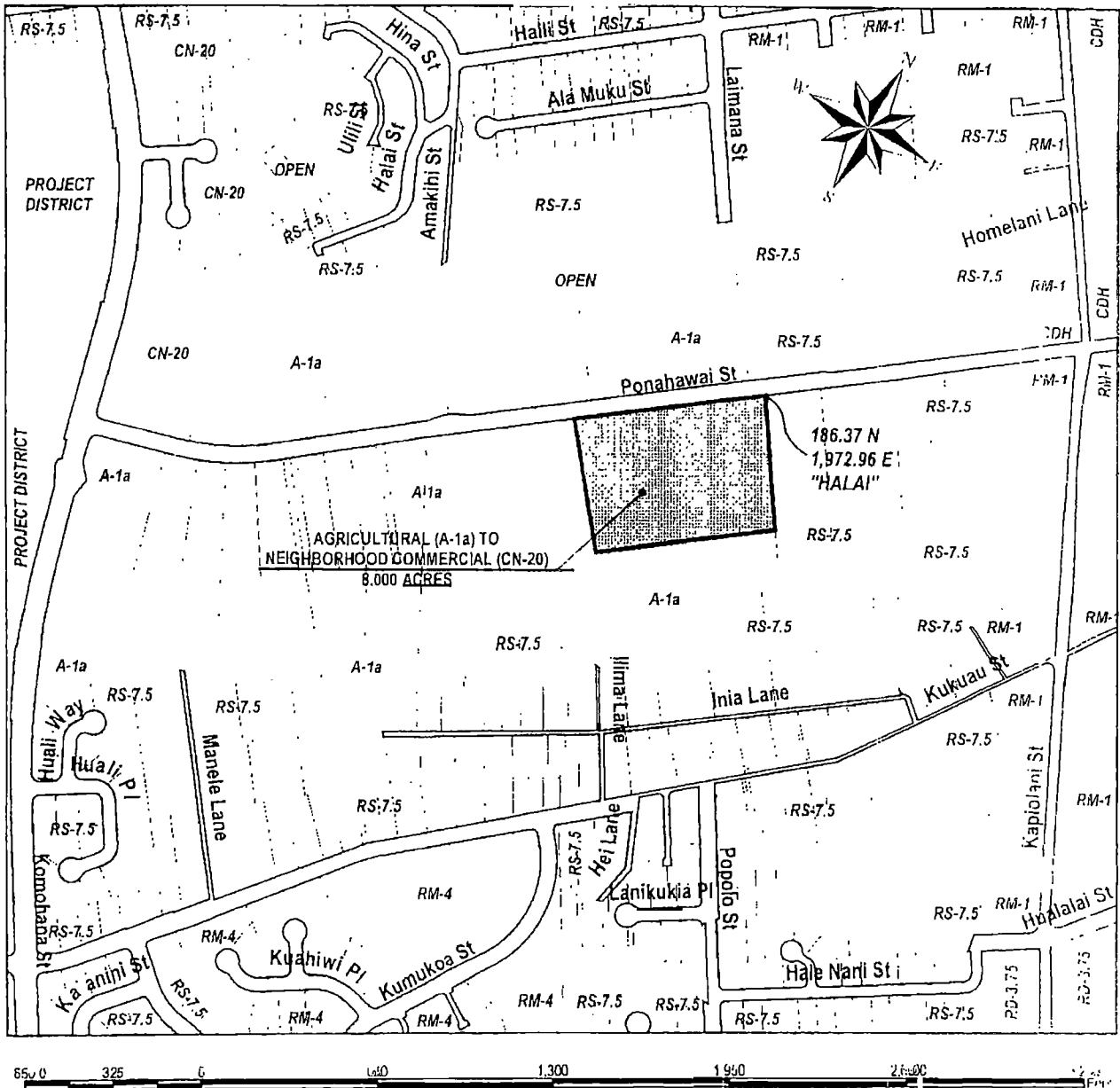
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i
Date of Introduction: February 19, 2025
Date of 1st Reading: February 19, 2025
Date of 2nd Reading: March 7, 2025
Effective Date: March 24, 2025

REFERENCE Comm. 76.4



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 AGRICULTURAL (A-1a)
 TO NEIGHBORHOOD COMMERCIAL (CN-20)
 AT PONAHAWAI, SOUTH HILO, HAWAII
 PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

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

COUNTY CLERK
COUNTY OF HAWAII

2025 MAR 24 PM 12: 20

(Draft 2)

Introduced By: Heather L. Kimball (B/R)
Date Introduced: February 19, 2025
First Reading: February 19, 2025
Published: February 28, 2025

REMARKS: _____

Second Reading: March 7, 2025
To Mayor: March 19, 2025
Returned: March 24, 2025
Effective: March 24, 2025
Published: April 4, 2025

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Galimba	X			
Hustace	X			
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Onishi	X			
Villegas	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Evans	X			
Galimba	X			
Inaba	X			
Kagiwada	X			
Kāneali'i-Kleinfelder			X	
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Villegas	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 24th day
of March, 2025


MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRPERSON


COUNTY CLERK

Bill No.: 16 (Draft 2)
Reference: C-76.4/LAAC-8
Ord No.: 25 30