

COUNTY OF HAWAI‘I PLANNING DEPARTMENT
RECOMMENDATION

JACK VANDERHOFF, JR. AND SAU-YIN YEUNG
CHANGE OF ZONE APPLICATION NO. PL-REZ-2024-000072

Upon careful review of the request against the guidelines for granting a change of zone, the Planning Director is recommending that **a favorable recommendation of the Change of Zone request be forwarded to the County Council.** Since this recommendation is made without the benefit of public testimony, the Planning Director reserves the right to modify and/or alter this position based upon additional information presented at the public hearing. This favorable recommendation is based on the following findings:

The applicants are requesting a Change of Zone from a Single-Family Residential-10,000 square feet (RS-10) zoning district to a Neighborhood Commercial-10,000 square feet (CN-10) zoning district for a 19,500-square-foot parcel of land. The CN zoning district, with a minimum area required for each building site of 10,000 square feet, would allow a maximum density of one building site (lot). In addition, although the applicants propose to convert the existing dwelling to use as an accounting business office, any permitted use in the CN-zoning district can be established on the property should the change of zone request be approved, including the potential maximum density of 15 multiple family residential units.

The applicants propose to convert the existing, single-story, 1,100-square foot single-family dwelling to accommodate an accounting business operated by one of the applicants, Ms. Sau-Yin Yeung. An existing paved driveway will provide access from Manono Street to designated parking areas, including an existing 2-car carport, 2 new parking stalls proposed at the front of the property and 6 new parking stalls at the rear of the property. The applicants anticipate completing the proposed interior renovations to change the occupancy of the existing structure within about 3 years of the approval date of the Change of Zone, at an estimated cost of \$100,000.

In order to consider an area for any type of zoning designation, the applicable goals, policies, and standards of the General Plan must be adequately addressed. It is only through such a comprehensive policy analysis approach that evaluations and decisions

can be made to better time and stage developments to achieve growth determined by the General Plan and related planning documents. The implications of these evaluations and decisions must also be considered as they may have an impact on similar areas in the County.

The change of zone request from a Single-Family Residential-10,000 square feet (RS-10) zoning district to a Neighborhood Commercial-10,000 square feet (CN-10) zoning district conforms to applicable goals, policies, and standards of the General Plan. The subject, 19,500-square foot property is rectangularly shaped, level, and located at the 20-foot elevation level. The property has been developed with an existing single-family dwelling built in 1962, driveway and landscaping.

Surrounding lands are zoned Single-Family Residential (RS-10), Double-Family Residential (RD-3.75), Multi-Family Residential (RM-1), Neighborhood Commercial (CN-10 and CN-7.5), and Limited Industrial (ML-20). Existing surrounding land uses include residential, commercial, retail, office, and industrial uses.

According to the Zoning Code, the CN district applies to strategically located centers suitable for commercial activities which shall be of such size and shape as will accommodate a compact shopping center which supplies goods and services to a residential or working population on a frequent need or convenience basis. This district is distinguished from a central commercial district which provides general business and broad services to a city or region. The proposed development is consistent with providing services to a residential or working population; thus, the request is consistent with the surrounding land use pattern and the intent of the zoning designation.

The General Plan is intended to be used as a policy guide for the coordinated growth and development of all sectors of the County. It sets forth goals, policies, standards, and courses of action to accommodate growth without congestion, to designate and preserve the lands needed for residential use, commercial and visitor services, industry, agriculture, and open space, and to coordinate these uses with the County's service and circulation systems. The overall goals, policies and standards are set forth to physically plan the lands in the County in the best interest of the island's residents. Land Use is one of the principal focal points of public concern and policy. The Land Use Element provides the primary basis for direct control and guidance of publicly and

privately owned resources. The request conforms to the following goals and policies of the General Plan Land Use Element:

- *Allocate appropriate requested zoning in accordance with the existing or projected needs of neighborhood, community, region and County.*
- *Zoning requests shall be reviewed with respect to General Plan designation, district goals, regional plans, State Land Use District, compatibility with adjacent zoned uses, availability of public services and utilities, access, and public need.*
- *Achieve a broader diversification of local industries by providing opportunities for new industries and strengthening existing industries.*
- *Provide for commercial developments that maximize convenience to its users.*
- *Provide commercial developments that complement the overall pattern of transportation and land usage within the island's regions, communities, and neighborhoods.*

The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County.

The subject property is designated Medium Density Urban (mdu) by the LUPAG Map which includes uses such as village and neighborhood commercial and single family and multiple family residential and related functions (multiple family residential - up to 35 units per acre). As a neighborhood commercial use, the accounting business office will provide services to single-family and multiple-family residents in the surrounding area.

The Hilo Community Development Plan (CDP) identifies the area as Single-Family Residential -10,000 square feet (RS-10); however, this area is transitioning to higher-density commercial type uses. The proposed change of zone would allow for the establishment of a commercial use that would be in alignment with the commercial developments in the surrounding area.

Based on the preceding and with recognition of the fact that the Hilo CDP has not been updated since 1975, the proposed CN-10 zoning would be consistent with the General Plan.

All essential utilities and services are available to the site. Access to the subject property is from Manono Street, a County-owned and maintained collector road improved with full curb, gutters, and sidewalks and an approximately 32-foot-wide pavement within a 60-foot-wide right-of-way. The applicants originally proposed to limit access to right-in, right-out movements only, due to the current traffic striping configuration on Manono Street, fronting the subject property. However, according to the Department of Public Works (DPW), Engineering Division, as long as the property is limited to one access point, there is no objection to allowing full movements at the access drive. Thus, no such limitation will be conditioned.

Additionally, DPW notes that new striping may be required for the middle lane divider on Manono Street and the driveway location may be restricted to the north end of the property in order to provide for a longer turn lane pocket. Conditions of approval will be included to address the preceding.

County water is available to the property from an existing 8-inch waterline within the Manono Street and the subject parcel is currently served by a 1-inch service lateral capable of accommodating a 5/8-inch meter, which is limited to an average daily usage of 400 gallons. DWS will determine the appropriate water commitment deposit, prevailing facilities charge, appropriate service lateral and meter size required once the applicants provide estimated maximum daily water usage calculations, including irrigation use, prepared by a licensed engineer. The DWS also requires a reduced pressure type backflow prevention assembly be installed. Finally, according to DWS, the existing 8-inch waterline within Manono Street is looped, and thus is adequate to provide the required 2,000-gallons per minute of flow for fire protection as per DWS standards. The preceding will be added as conditions of approval.

The subject property is serviced by the County's sewer system with an existing connection to the sewer main located within Manono Street. A condition of approval will require that wastewater disposal for any new development on the property to connect to the County sewer system in compliance with Section 21-5 of Hawai'i County Code.

Solid waste will be handled by a commercial hauler and disposed of at authorized

landfill sites or transfer stations, all essential utilities are available to the property and police, fire and medical facilities are located nearby in Hilo. A condition of approval will be included to require the applicants to meet all applicable County, State and Federal laws, rules, regulations, and requirements.

There are no severe geological or topographical problems for the property that cannot be properly rectified, or which would render the land unusable. The subject property is in an area designated as Zone “X”, an area determined to be outside the 500-year flood plain, on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). A condition of approval will be added to require that all development generated runoff will be disposed of on-site and not directed toward any adjacent properties and all earthwork activity, including grading, grubbing, and stockpiling, and the project will conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai‘i County Code. Thus, the proposed change of zone meets this criterion.

The request is not contrary to Chapter 205A, Hawai‘i Revised Statutes, relating to Coastal Zone Management Area. The subject property is located approximately 6,000 feet from the nearest shoreline, is not situated within the Special Management Area and will not be impacted by coastal hazards and beach erosion. There is no designated public access to the mountains or the shoreline that runs through the property. The proposed use will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai‘i Revised Statutes.

The request will not have a significant adverse impact to traditional and customary Hawaiian Rights. In view of the Hawai‘i State Supreme Court’s “PASH” and “*Ka Pa‘akai O Ka‘Aina*” decisions, the issue relative to Native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

- Investigation of valued resources: As the subject property has been impacted by ground-disturbing activities associated with previous residential development since 1962, no formal archaeological reconnaissance survey, oral history of kama‘āina accounts of the area, historical survey of documentary records, or

floral/faunal studies were included in the application.

- The valued cultural, historical, and natural resources found in the rezoning area:

No known archeological or historical features exist on the subject property nor is the property listed as a historic site on the State or National Register of Historic Places. According to the applicants, it is not known whether the subject property or immediate surrounding area has been used in the recent past for the gathering of plants by Native Hawaiians.

Finally, the likelihood of any rare or endangered animal species, habitat or flora on the property is remote given the long developed, urban nature of the property and surrounding area.

- Possible adverse effect or impairment of valued resources: Native plants and/or endangered species are unlikely to be impacted by the proposed development due to the already impacted property and the applicants' intention to develop within the footprint of existing structures. According to the State Historic Preservation Division (SHPD), no historic properties will be affected by the proposed change of zone, however, as recommended, a condition of approval will be included to protect subsurface historic resources, should they be found.

- Feasible actions to protect native Hawaiian rights: To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights.

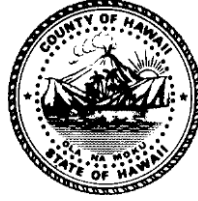
Lastly, this recommendation is made with the understanding that the applicants remain responsible for complying with all other applicable governmental requirements in connection with the proposed use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the preceding findings, the request to rezone the property from a Single-Family Residential-10,000 square feet (RS-10) zoning district to a Neighborhood

Commercial-10,000 square feet (CN-10) zoning district would result in an appropriate land use pattern that would further benefit the general public.

The accompanying draft bill to amend Section 25-8-33 (City of Hilo District Zone Map), Article 8, Chapter 25 (Zoning) of the Hawai‘i County Code, is provided for your favorable consideration. Please note the proposed conditions of approval attached to the draft bill.

COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

BILL NO. _____

ORDINANCE NO. _____

Planning Department

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAI‘I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE ZONE MAP CLASSIFICATION FROM SINGLE-FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO NEIGHBORHOOD COMMERCIAL – 10,000 SQUARE FEET (CN-10) AT WAIĀKEA, SOUTH HILO, HAWAI‘I, COVERED BY TAX MAP KEY: 2-2-036:113.

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 (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 Waiākea, South Hilo, Hawai‘i, shall be Neighborhood Commercial – 10,000 square feet (CN-10).

Beginning at the Northeast corner of this parcel of land and Southeast corner of Lot 12-A and on the West side of Manono Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station “HĀLA‘I”, being 2,403.00 feet South and 9,083.00 feet East, thence running by azimuths measured clockwise from true South:

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|----|---------|--------|--|
| 1. | 0° 00' | 100.00 | feet along the West side of Manono Street; |
| 2. | 90° 00' | 195.00 | feet along Lot 16-A and 16-B, being portions of Lot 16, Block 26 of Waiākea House Lots, 1 st Series and Grant 8678 to Esther Kahawai; |

- | | | | |
|----|----------|--------|---|
| 3. | 180° 00' | 100.00 | feet along Lot 13, Block 26 of Waiākea House Lots, 1 st Series, Grant 8704 to Sanuske Onishi; |
| 4. | 270° 00' | 195.00 | feet along Lot 12-A, being portions of Lot 12, Block 26 of Waiākea House Lots, 1 st Series and Grant 8703 to Herman N. Kamai to the point of beginning and containing an area of 19,500 square feet, 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.

SEE ATTACHED CONDITIONS

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 HAWAI'I

_____, Hawai'i
Date of Introduction:
Date of 1st Reading:
Date of 2nd Reading:
Effective Date:

JACK VANDERHOFF, JR. AND SAU-YIN YEUNG
CHANGE OF ZONE APPLICATION NO. PL-REZ-2024-000072
CONDITIONS OF APPROVAL

- A. The applicant(s), its successor(s), or assign(s) (“Applicants”) 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 (DWS), the Applicants shall submit the anticipated maximum daily water usage calculations 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 in accordance with Rule 5 of the Department of Water Supply’s Rules and Regulations. The Applicants are responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full.
- C. The Applicants shall construct necessary water system improvements as required by the Department of Water Supply (DWS), which includes, but may not be limited to, the installation of a reduced pressure type backflow prevention assembly, within 5 feet of the meter on private property, meeting with the approval of DWS.
- D. Construction of the proposed development shall be as substantially represented by the Applicants, or as permitted by the zoning district classification, and shall be completed within five (5) years from the effective date of this 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 Applicants 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. Any request for tolling shall be verified and approved in writing by the director prior to the deadline established by the

ordinance. The director shall notify the council of any approval of a request for tolling within thirty days of such approval.

- E. Prior to construction, Applicants 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 existing and/or proposed structure(s), paved driveway access and 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) and Chapter 25 (Zoning Code), Hawai'i County Code.
- F. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentary Control, of the Hawai'i County Code.
- G. Access from Manono Street shall be restricted to one (1) driveway access point which shall be situated at the north end of the subject property and allowed full movements. If required by the Department of Public Works (DPW), the Applicants will be required to install new striping for the middle lane divider fronting the subject property on Manono Street, subject to the approval of the DPW, prior to issuance of a Certificate of Occupancy for any commercial use.
- H. All driveway connections and construction within Manono Street shall conform to Chapter 22, County Streets, of the Hawai'i County Code. Driveway access plans shall be submitted for the review and approval of the Department of Public Works and shall include the provision of adequate site distances. The required and/or appropriate mitigation(s) shall be in place prior to issuance of a Certificate of Occupancy for any commercial use.
- I. All development-generated runoff shall be disposed of onsite and shall not be directed toward any adjacent properties. Additionally, a drainage study shall be prepared prior to Plan Approval, and the recommended drainage system shall be constructed meeting the approval of the Department of Public Works, Engineering Division, prior to the issuance of a Certificate of Occupancy.

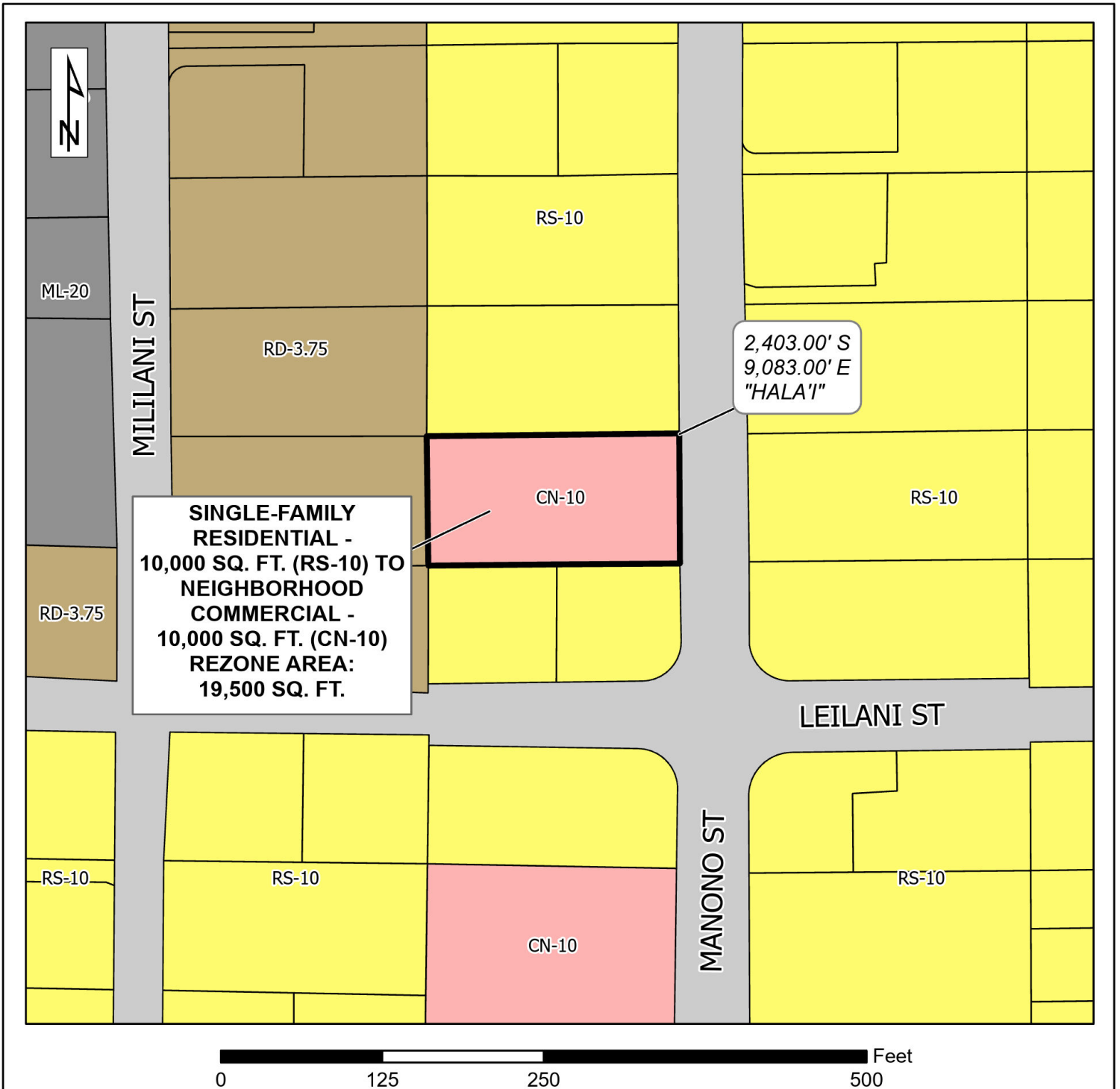
- J. All uses on the subject property shall be served by the public sewer in accordance with Section 21-5 of the Hawai'i County Code.
- K. Should the Applicants develop residential units on the subject property, the Applicants shall make its fair share contribution to mitigate the potential regional impacts of the development with respect to parks and recreation, fire, police, solid waste disposal facilities and roads for the additional residential units to be created. The fair share contribution shall become due and payable prior to receipt of Final Plan Approval, and shall be based on the actual number of additional residential units 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 **\$11,018.76** per multiple family residential unit. The total amount shall be determined with the actual number of residential units according to the calculation and payment provisions set forth in this condition. The fair share contribution per multiple family residential unit shall be allocated as follows:
1. **\$5,435.24** per multiple family residential unit to the County to support park and recreational improvements and facilities;
 2. **\$171.78** per multiple family residential unit to the County to support police facilities;
 3. **\$528.42** per multiple family residential unit to the County to support fire facilities;
 4. **\$235.52** per multiple family residential unit to the County to support solid waste facilities; and
 5. **\$4,647.80** per multiple family residential unit to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the Applicants 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.

- L. 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.
- M. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, 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.
- 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 Applicants shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the department of Land and Natural Resources- State Historic Preservation Division (DLNR-SHPD) 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.
- O. The Applicants shall comply with all applicable County, State and Federal codes, laws, rules, regulations, and requirements.
- P. An initial extension of time for the performance of conditions within this ordinance may be requested in accordance with Section 25-2-44, subsections (c) and (d), of the Hawai‘i County Code.
- Q. 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), the planning department shall inform the Applicants that the ordinance is null and void without further action by the County. In that event, the zoning designation of

the property(s) affected by the ordinance shall automatically revert to its immediate prior zoning designation.



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE ZONE MAP CLASSIFICATION FROM SINGLE-FAMILY RESIDENTIAL - 10,000 SQ. FT. (RS-10) TO NEIGHBORHOOD COMMERCIAL - 10,000 SQ. FT. (CN-10) AT WAIĀKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 2-2-036:113

DATE: December 6, 2024

EXHIBIT "A"

Jack Vanderhoff & Sau-Yin Yeung
Map: 24-72