

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 343
(Draft 4)

ORDINANCE NO. 96 159

AN ORDINANCE AMENDING SECTION 25-114 (CITY OF HILO ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-10) TO NEIGHBORHOOD COMMERCIAL (CN-7.5) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-2-44:3, 31, 32, 35 AND 37.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-114, Article 3, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Waiakea, South Hilo, Hawaii, shall be Neighborhood Commercial (CN-7.5):

Beginning at the northwest corner of this parcel of land, being also the northwest corner of Lot 2-A and at the southeast corner of the intersection of Kanoelehua Avenue and Kahaopea Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 9,712.77 feet South and 10,610.05 feet East, thence running by azimuths measured clockwise from true South:

1. 265° 42' 384.00 feet along Kahaopea Street;
2. 355° 42' 444.24 feet along Lots 3 and 4;
3. 38° 45' 122.06 feet along Lot 4;
4. 265° 42' 108.06 feet along Lot 4;
5. 355° 42' 130.51 feet along Lot 4;
6. 265° 42' 75.25 feet along Lot 4;

7.	355° 42'	236.06 feet	along Grant 13,091 to Hanichi and Chiye Masuda Matsumoto;
8.	85° 42'	474.00 feet	along Grant 10,461, Part 2 to Mrs. Hatsuyo Kawahara Ihori (Lot 21, Roadway Lot A, Lots 10 and 11, Ruthie Subdivision);
9.	175° 42'	50.00 feet	along Kanoelehua Avenue;
10.	265° 42'	248.45 feet	along Lot 1-B;
11.	155° 12'	206.89 feet	along Lot 1-B;
12.	94° 42'	188.31 feet	along Lot 1-B;
13.	175° 42'	626.75 feet	along Kanoelehua Avenue to the point of beginning and containing an area of 322,414 Square Feet.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. This change in district classification is conditioned upon the following:

- A. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The anticipated maximum daily water usage shall be submitted and the required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of the rezoning.
- C. Final Subdivision Approval of the proposed consolidation/resubdivision of the subject property shall be secured within five (5) years from the effective date of

the rezoning. The subdivision plans shall delineate a 10-foot road widening strip along the Kahaopea Street frontage.

- D. In conjunction with the submittal of plans for subdivision review or plan approval review, a master plan for the subject property shall be filed with the Planning Director. Final Plan Approval for the subject property and related improvements shall also be secured from the Planning Director. Plans to be submitted for final subdivision approval or final plan approval shall also comply with the approved master plan and all conditions of approval set forth in this ordinance. The purpose of the master plan is to provide comprehensive principles and guidelines for the commercial and residential development within the subject property in order to assure that the development is compatible with the surrounding area. The master plan shall include, but not be limited to, standards and guidelines relative to open space, architecture building controls (appearance, siting, heights, building materials, signs, etc.), terrain, topography, off-street parking, landscaping, setbacks from property lines and buildings, lot coverage ratio, etc. and enforcement procedures. Plans shall include landscaping along property boundaries, for the purpose of mitigating any potential adverse noise and visual impacts to adjoining parcels and the intersection. Multiple-family residential structures shall be designed to be in keeping with the single family residential character of the surrounding area. To ensure that uses of the subject property meet the intent of the "Low Density" designation of the General Plan Land Use Pattern Allocation Guide Map, all commercial uses, with the exception of any required parking, shall be limited to the land area between the proposed extension of Awapuhi Street and the Kanoelehua Highway. Further, the maximum residential density shall be three thousand square feet of land area for each dwelling unit.

- E. A Traffic Impact Analysis Report shall be submitted for review and approval by the Department of Public Works and the Department of Transportation prior to the submittal of plans for subdivision review. Prior to the issuance of the certificate of occupancy for any portion of the subject property, the applicant shall be responsible for constructing and/or paying for its pro rata share of intersection improvements at the intersection of Kanoelehua Avenue and Kahaopea Street subject to the traffic mitigation measures required by the Traffic Impact Analysis Report for the subject property.

- F. A Solid Waste Management Plan for the subject property shall be submitted for review and approval to the Department of Public Works in conjunction with the submittal of subdivision plans or plan approval to the Planning Director.

- G. The applicant shall obtain, if required, a FEMA letter of Map Revision (LOMR) for the subject property prior to securing Final Subdivision Approval or final plan approval, whichever occurs first.

- H. Drainage improvements, if required, shall be constructed in a manner meeting with the approval of the Department of Public Works prior to securing Final Subdivision Approval or final plan approval for the subject property, whichever occurs first.

- I. The applicant shall construct an extension of Awapuhi Street across the subject property to Kahaopea Street and shall dedicate the street extension to the County upon its completion. The street extension shall be constructed to county dedicable standards or to such other standards as may be specified in a planned unit development permit.

- J. Prior to securing final subdivision approval or the issuance of certificate of occupancy for the subject property, which ever occurs first, Kahaopea Street shall be improved and widened with the construction of curb, gutter and sidewalk improvements (with pavement widening and transitions) fronting the subject property meeting with the approval of the Department of Public Works and shall be dedicated to the County upon its request.
- K. Accesses to the property and all roadways within the subject property shall meet with the requirements and approval of the Department of Public Works and/or the State Department of Transportation. The applicant shall close the existing driveway access on Kahaopea Street and access to the subject property shall be by way of the Awapuhi Street extension.
- L. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies.
- M. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall secure the concurrence of the Office of Housing and Community Development that the applicant's affordable housing requirements for the residential development of the subject property, if any, have been mutually agreed to prior to Final Subdivision Approval for any portion of the subject property.
- N. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject property with respect to parks and recreation, fire, police, solid waste disposal facilities, and roads. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential units proposed to be developed by the amounts allocated hereinbelow for each such unit, and shall become due and payable prior to final subdivision

approval or final plan approval for any portion of the subject property or its increments. If the subject property is developed in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval or final plan approval of each increment shall be a sum calculated in the same manner according to the number of additional proposed residential units in each such increment. The fair share contribution may be in a form of cash, land, facilities, or any combination thereof acceptable to the director in consultation with the affected agencies. The fair share contribution shall have a maximum combined value of **\$4,645.29 per multiple-family residential unit** and **\$7,239.16 per single-family residential unit**. Based upon the applicant's representation of intent to develop up to 37 residential units, the indicated total fair share contribution is **\$116,132.25** for the multiple family residential units and **\$86,869.92** for single-family residential units, whichever is applicable. However, the total amount shall be increased or reduced in proportion with the actual number of units according to the calculation and payment provisions set forth in this Condition N. The fair share contribution shall be allocated as follows:

1. **\$2,291.39** per multiple-family residential unit for an indicated total of **\$57,284.75** and **\$3,490.85** per single-family residential unit for an indicated total of **\$41,890.20** to the County to support park and recreational improvements and facilities;
2. **\$72.42** per multiple-family residential unit for an indicated total of **\$1,810.50** and **\$168.40** per single-family residential unit for an indicated total of **\$2,020.80** to the County to support police facilities;
3. **\$222.77** per multiple-family residential unit for an indicated total of **\$5,569.25** and **\$332.61** per single-family residential unit for an indicated total of **\$3,991.32** to the County to support fire facilities;

4. \$99.29 per multiple-family residential unit for an indicated total of **\$2,482.25** and \$145.62 per single-family residential unit for an indicated total of **\$1,747.44** to the County to support solid waste facilities;
5. \$1,959.42 per multiple-family residential unit for an indicated total of **\$48,985.50** and \$3,101.68 per single-family residential unit for an indicated total of **\$37,220.16** to the State or County to support road and traffic improvements.

The fair share contributions described above shall be adjusted annually beginning three years after the effective date of the change of zone, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute 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 approval of the director. The cost of providing and constructing the improvements required in Conditions E, I, L and K shall be credited against the sum specified in Condition N(5) for road and traffic improvements. For purposes of administering Condition N, the fair market value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be subject to the review and approval of the director, upon consultation with the appropriate agencies.

- O. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

P. 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; and
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).

Q. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the 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.

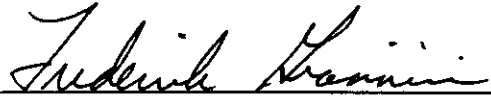
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

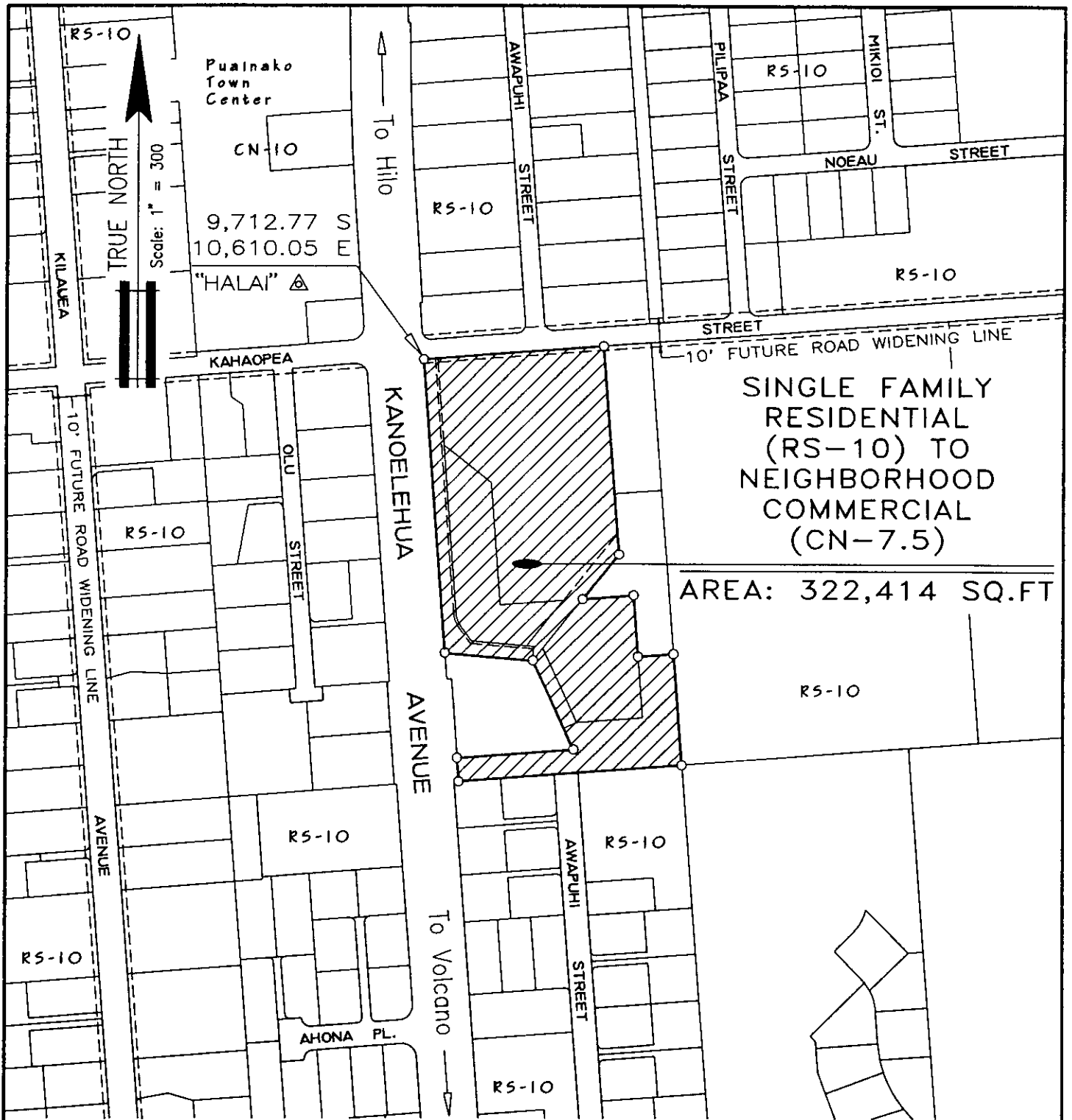
Date of Introduction: October 16, 1996
Date of 1st Reading: October 16, 1996
Date of 2nd Reading: November 6, 1996
Effective Date: December 5, 1996

APPROVED AS TO FORM AND LEGALITY



DEPUTY CORPORATION COUNSEL

DATED: 11/26/96



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-114 (CITY OF HILO ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-10) TO NEIGHBORHOOD COMMERCIAL (CN-7.5) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

103 DEC 5 11 00

Introduced By: _____
 Date Introduced: _____
 First Reading: _____
 Published: _____

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki				
Easley				
Childs				
De Lima				
Domingo				
Osorio				
Van De Car				
Ray				
Smith				

Reconsideration: _____
~~Second Reading:~~ November 21, 1996
 To Mayor: November 25, 1996
 Returned: December 5, 1996
 Effective: December 5, 1996
 Published: December 13, 1996

REMARKS:
11/21/96 - Reconsideration of Bill 343, Draft 4.

(DRAFT 4)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Easley	X			
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Van De Car	X			
Ray	X			
Smith	X			
	9	0	0	0

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




 COUNCIL CHAIRMAN



 COUNTY CLERK

Approved / ~~Disapproved~~ this 5 day
 of December, 1996.



 MAYOR, COUNTY OF HAWAII

Bill No.: 343 (Draft 4)
 Reference: C-1382/PC-161
 Ord. No.: 96 159

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 3)

Introduced By: Takashi Domingo
 Date Introduced: October 16, 1996
 First Reading: October 16, 1996
 Published: October 23, 1996

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Easley			X	
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Van De Car	X			
Ray	X			
Smith	X			
	8	0	1	0


(DRAFT 4)


Second Reading: November 6, 1996
 To Mayor: November 7, 1996
 Returned: November 14, 1996
 Effective: N/A
 Published: N/A

REMARKS:
11/14/96-Returned from Mayor's Office for
reconsideration.

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Easley	X			
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Van De Car		X		
Ray	X			
Smith	X			
	8	1	0	0

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



 COUNCIL CHAIRMAN


 COUNTY CLERK

Approved / Disapproved this _____ day
 of _____, 19_____.

 MAYOR, COUNTY OF HAWAII

Bill No.: 343 (Draft 4)
 Reference: C-1382/PC-161
 Ord. No.: 96 159