

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 170

ORDINANCE NO. 02 42

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-10) TO RESIDENTIAL-COMMERCIAL MIXED USE (RCX-10) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-4-023:028.

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

SECTION 1. Section 25-8-33, Article 8, 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 Residential-Commercial Mixed Use (RCX-10):

Beginning at the north corner of this lot and the south corner of Mohouli and Ululani Streets, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 2,090.58 feet south and 5,032.01 feet east, as shown on Government Survey Registered Plat 911, and running by azimuths measured clockwise from true south:

- 1. 328° 10' 169.53 feet along the southwest side of Ululani Street;
- 2. 58° 10' 80.14 feet;
- 3. 148° 10' 170.69 feet along Lot 2, Block 65, to the southeast side of Mohouli Street;
- 4. 239° 00' 80.15 feet along the southeast side of Mohouli Street to the point of beginning and containing an area of 13,633 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. The County Council finds the following conditions are (1) necessary to prevent circumstances which may be adverse to the public health, safety and welfare; and (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. In this case, the change in zoning designation would allow for a higher density use and increase traffic in the area. This change in district classification is conditioned upon the following:

- A. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Final Plan Approval for the proposed development shall be secured from the Planning Director in accordance with Chapter 25-2-70 of the Zoning Code within two (2) years from the effective date of this ordinance. Plans shall identify existing and proposed structures, paved driveway access and parking stalls associated with the proposed use. Landscaping shall also 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).
- C. All driveway connections to Mohouli Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
- D. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval. A copy of the approved plan shall be submitted to the Planning Department prior to the issuance of Final Plan Approval.

- E. The applicant shall install a septic system meeting with the requirements of the Department of Health prior to the issuance of a certificate of occupancy.
- F. If required, a drainage study shall be prepared and any drainage improvements shall be constructed meeting with the approval of the Department of Public Works prior to the issuance of a certificate of occupancy.
- G. Prior to the issuance of a certificate of occupancy for a new office or other commercial structure that increases the area of nonresidential uses, the applicant shall construct full improvements to the entire frontage along Mohouli Street and up to the driveway entrance of Ululani Street Extension consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any required relocation of utilities, meeting with the approval of the Department of Public Works.
- H. Prior to the issuance of a certificate of occupancy for a new office or other commercial structure that increases the area of nonresidential uses, if the projected water usage for new construction exceeds 1,200 gallons per day, wastewater disposal shall be connected to the County's sewer system, meeting with the rules and regulations of the Department of Environmental Management.
- I. Should an improvement district or similar arrangement be initiated in the future for curb, gutter, sidewalk, drainage, sewer, and related improvements to Mohouli Street, the property owner(s) shall participate automatically in such an arrangement.
- J. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development,

including the Department of Water Supply.

- K. Should the Hawaii County 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.

- L. 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, its 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.

M. Should any of the conditions not be met or substantially complied with in a timely fashion, the 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.

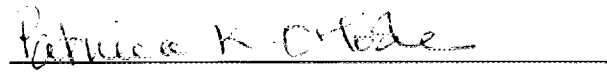
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Kona,, Hawaii

Date of Introduction: March 8, 2002
Date of 1st Reading: March 8, 2002
Date of 2nd Reading: March 20, 2002
Effective Date: March 27, 2002
REFERENCE: Comm. 507

APPROVED AS TO FORM AND LEGALITY


CORPORATION COUNSEL
DATED: March 27, 2002

OFFICE OF THE COUNTY CLERK
County of Hawaii
Kona, Hawaii

Introduced By: Bobby Jean Leithead-Todd
Date Introduced: March 8, 2002
First Reading: March 8, 2002
Published: N/A

REMARKS:

Second Reading: March 20, 2002
To Mayor: March 22, 2002
Returned: March 27, 2002
Effective: March 27, 2002
Published: April 10, 2002

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong			X	
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong	X			
	9	0	0	0

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

APPROVED AS TO
FORM AND LEGALITY:

Patricia K. Ortoledo
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date March 27, 2002

[Signature]
COUNCIL CHAIRMAN

[Signature]
Deputy COUNTY CLERK

Bill No.: 170
Reference: C-507/PC-63
Ord No.: 02 42

Approved/Disapproved this 27th day
March, 2002

[Signature]
MAYOR, COUNTY OF HAWAII