

COUNTY OF HAWAI'I

STATE OF HAWAI'I

BILL NO. 17
(Draft 4)

ORDINANCE NO. 03 - 44

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-10) TO GENERAL COMMERCIAL (CG-20) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-40:14 AND 69.

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, 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, Hawai'i, shall be General Commercial (CG-20):

Beginning at the northwest corner of this parcel of land, being also the southeast corner of the intersection of Kanoelehua Avenue and Puainako Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 7,859.60 feet South and 10,683.19 feet East, thence running by azimuths measured clockwise from true South:

- 1. 265° 40' 271.09 feet along Puainako Street;
- 2. 355° 40' 692.28 feet along Hawaiian Home Lands;
- 3. 85° 40' 197.41 feet along the remainder of Grant 10,210 to Mario Mayeshiro;
- 4. 2° 25' 209.17 feet along the remainder of Grant 10,210 to Mario Mayeshiro;
- 5. 85° 40' 224.36 feet along Grant 10,706 to John Helekahi (Awapuhi Street and Lot 5-B);

6. Thence along Kanoelehua Avenue on a curve to the right with a radius of 5667.08 feet, the chord azimuth and distance being:
185° 53' 14" 714.20 feet;
7. 189° 30' 203.00 feet along Kanoelehua Avenue to the point of beginning and containing an area of 6.640 Acres.

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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. 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 this ordinance. An anticipated maximum daily water usage shall also be submitted to the Department of Water Supply.
- C. Final Consolidation Approval of the properties shall be secured from the Planning Director within one (1) year from the effective date of this ordinance.
- D. All structures and non-structural commercial uses and their associated required parking shall be limited to those areas designated "X" on the Flood Insurance Rate Map. Only surplus parking with permeable surface, landscaping, and utility and road improvements shall be allowed within those areas designated "AE" on the Flood Insurance Rate Map.
- E. Development of the property shall be completed within five (5) years from the effective date of this ordinance. This time period shall include the securing of

Final Plan Approval from the Planning Director for the commercial development.

Plans shall identify structures no closer than sixty (60) feet from the existing property line fronting Puainako Street and seventy (70) feet along the eastern property line, waste and trash bins no closer than one hundred (100) feet from any residential zone, fire protection measures, landscaping and maintenance plan, paved and striped parking stalls and driveway and other improvements, including access to Kanoelehua Avenue, associated with the proposed uses. Plans shall include landscaping, and if appropriate, wall or fence along the eastern and southern boundaries for the purpose of mitigating any potential adverse noise and visual impacts to surrounding properties.

Prior to submittal of plans for Plan Approval, the applicant shall secure the input of the immediate adjoining residential homeowners through a community meeting.

- F. If required by the Department of Public Works, the applicant shall obtain a FEMA Conditional Letter of Map Revision (CLOMR) prior to Final Plan Approval and a FEMA Letter of Map Revision (LOMR) prior to issuance of a certificate of occupancy for any development within the subject properties.

- G. Access to the subject site shall be limited to Kanoelehua Avenue and Puainako Street. Access improvements along Kanoelehua Avenue shall consist of:
 - a) a right-in/right-out design, with its location to be as far as possible to the Volcano side of the subject site;
 - b) the extension of a right-turn deceleration lane into Puainako Street from Kanoelehua Avenue;
 - c) a right-turn deceleration lane into the subject site; and
 - d) appropriate traffic controls adjustments, including signs and markings, meeting with the approval of the State Department of Transportation. The driveway access from Puainako Street shall be limited to right-turn in movements

only and be located as far away as possible from Kanoelehua Avenue. All traffic improvements shall be completed prior to issuance of any commercial occupancy permit for the subject site.

Prior to the submittal of any design plans relating to the required roadway improvements to Kanoelehua Avenue and Puainako Street, a Traffic Impact Analysis Report (TIAR) shall be submitted to the State Department of Transportation and the County Department of Public Works. Should the TIAR indicate that the development contributes to the need for future improvements to the Puainako Street/Kanoelehua Avenue and Pilipaa Street/Puainako Street intersections, other than what is already required herein, the applicant shall pay its fair share for the improvements as determined by the State Department of Transportation and the County Department of Public Works.

- H. The applicant shall construct roadway improvements on the south side of Puainako Street along the subject properties' frontage, consisting of pavement widening for the approach into the driveway with adequate sight distance for vehicles entering the subject site, concrete curb, gutter, and sidewalk including drainage improvements within the road widening setback area. The road widening sections and the roadway improvements shall be subdivided and dedicated to the County of Hawai'i upon their completion. If required, utilities shall be relocated, and street lights, signs and traffic markings shall be installed, meeting the approval of the Department of Public Works, Traffic Division.

Access from Awapuhi Street through the subject site shall be provided. Said access, however, shall be barricaded and made available only for emergency access purposes through the subject site from Awapuhi Street.

Additionally, if deemed appropriate by the Department of Public Works, Traffic Division, the applicant or its successors shall be responsible for the installation of

or cost of installing two (2) speed humps within Pilipaa Street within one year from the effective date of this ordinance.

Except for the installation of the speed humps, all of the roadway and related improvements described herein shall be completed prior to issuance of occupancy permit for any commercial development on the subject site.

- I. Notwithstanding the CG-20 zoning, any residential use of the property shall not exceed a density of one unit per 10,000 square feet of land. Further, all structures within the area designated "X" on the Flood Insurance Rate Map as of the effective date of this ordinance shall be limited to a gross area of 24,000 square feet. In the event the Zone "X" area on the Flood Insurance Rate Map on the subject site is further expanded, no development shall be allowed until an updated Traffic Impact Analysis Report (TIAR) is prepared for the review and approval of the State Department of Transportation and County Department of Public Works and appropriate mitigations have been taken by the developer.
- J. A drainage study shall be prepared and submitted for approval to the Department of Public Works together with any plans for the development or subdivision of the subject properties. Any required drainage system shall be constructed prior to or in conjunction with Final Plan Approval or issuance of a certificate of occupancy, meeting with the approval of the Department of Public Works.
- K. A Solid Waste Management Plan shall be submitted for review and approval to the Department of Public Works in conjunction with the submittal of plans for Final Plan Approval to the Planning Director.
- L. A wastewater system for the proposed development shall be constructed, meeting with the approval of the Department of Health.

- M. Upon compliance with applicable conditions of approval, prior to the establishment of any new use or the opening of the proposed development, the applicant shall submit a final status report, in writing, to the Planning Director.
- N. Comply with all other applicable rules, regulations and requirements of the affected agencies for the development of the subject properties.
- O. 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.
- 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.
 - 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.

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

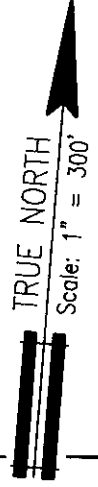
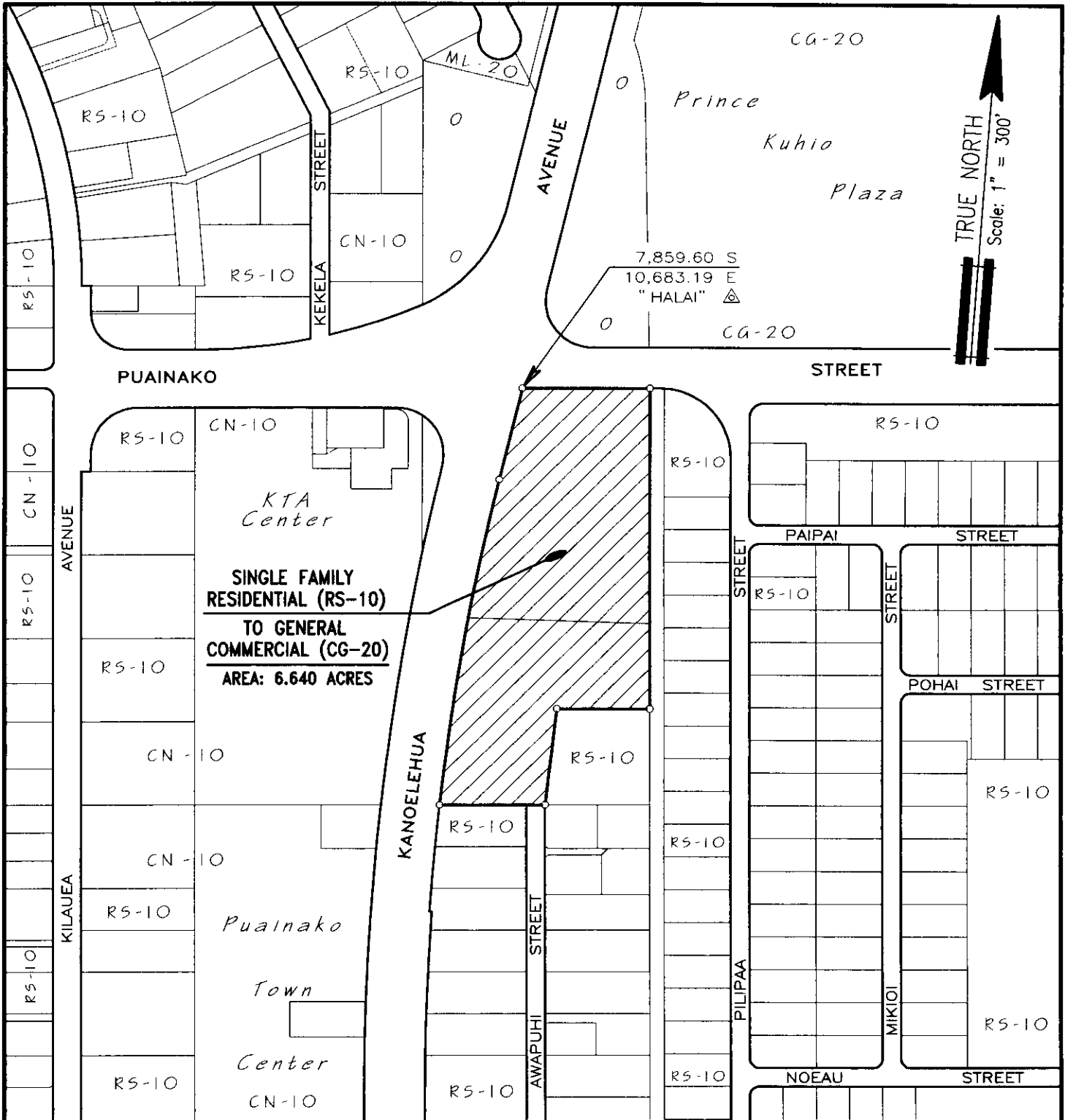
Date of Introduction: February 20, 2003
Date of 1st Reading: February 20, 2003
Date of 2nd Reading: March 7, 2003
Effective Date: March 17, 2003

REFERENCE: Comm. 110.10

APPROVED AS TO FORM AND LEGALITY

CORPORATION COUNSEL

DATED: _____



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, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-10) TO GENERAL COMMERCIAL (CG-20) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 3)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: February 20, 2003
 First Reading: February 20, 2003
 Published: N/A

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Leithead-Todd	X			
Reynolds	X			
Safarik	X			
Tyler		X		
	7	2	0	0

(DRAFT 4)

Second Reading: March 7, 2003
 To Mayor: March 11, 2003
 Returned: March 17, 2003
 Effective: March 17, 2003
 Published: April 1, 2003

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Leithead-Todd	X			
Reynolds	X			
Safarik			X	
Tyler		X		
	6	2	1	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:

Justin Inada
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date March 13, 2003

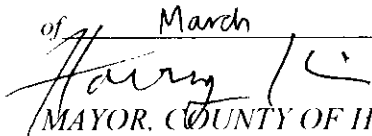

 COUNCIL CHAIRMAN


 COUNTY CLERK

Bill No.: 17 (Draft 4)
 Reference: C-110.10/PC-20
 Ord No.: 03 44

Approved Disapproved this 17th day

of March, 2003


 MAYOR, COUNTY OF HAWAII