

COUNTY OF HAWAI'I

STATE OF HAWAI'I

BILL NO. 88

(Draft 3)

ORDINANCE NO. 03 83

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 WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-24:12.

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 a point at the northeast corner of this parcel of land, being also the southeast corner of Lot 7, Block 92, Grant 9442 to Juichi Fukumoto and the westerly side of Kīlauea Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Halai" being 2,970.80 feet south and 7,145.85 feet east and running by azimuths measured clockwise from true south:

- 1. 340° 06' 85.85 feet along the west side of Kīlauea Street;
- 2. 58° 10' 274.00 feet along Lot 5, Grant 9049 to John D. Souza;
- 3. 148° 10' 84.00 feet along Lot 9, portion of Grant 9872 to Henry K. Martin;
- 4. 238° 10' 291.75 feet along Lot 7, Grant 9442 to Juichi Fukumoto to the point of beginning and containing an area of 23,761 square feet.

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, 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, its successors or assigns 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.
- C. The applicant shall install a backflow preventer (reduced pressure type) meeting with the approval of the Department of Water Supply prior to the issuance of the certificate of occupancy.
- D. Construction of the proposed development shall be completed within five years from the effective date of this ordinance. Final Plan Approval by the Planning Director in accordance with the Zoning Code shall be secured by the applicant prior to the commencement of construction. Development plans shall identify

existing and proposed structures, fire protection measures, paved driveway accesses and parking stalls, and other improvements associated with the proposed use. Landscaping shall be included in the development plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements). A continuous landscape buffer shall be provided along the entire west property boundary.

- E. 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.
- F. The 10-foot wide future road widening strip along Kīlauea Avenue shall be delineated on the plans submitted for Plan Approval review. No structural improvements shall be allowed within this road widening strip, provided however, that any required landscaping may be permitted within this strip. Further, applicable setbacks shall be taken from the 10-foot future road widening strip line.
- G. The driveway connection to Kīlauea Avenue shall conform to Chapter 22, Streets and Sidewalks, of the Hawai'i County Code.
- H. The applicant shall connect to the existing County sewer lateral within Kīlauea Avenue prior to the issuance of a certificate of occupancy.
- I. 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 submitted to the Department of Public Works prior to the issuance of Final Plan Approval. 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.

- 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 and Department of Public Works.
- K. Should the Hawai'i 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 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 to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
- M. 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.

N. 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.

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.

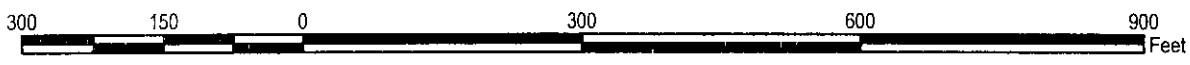
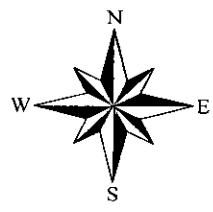
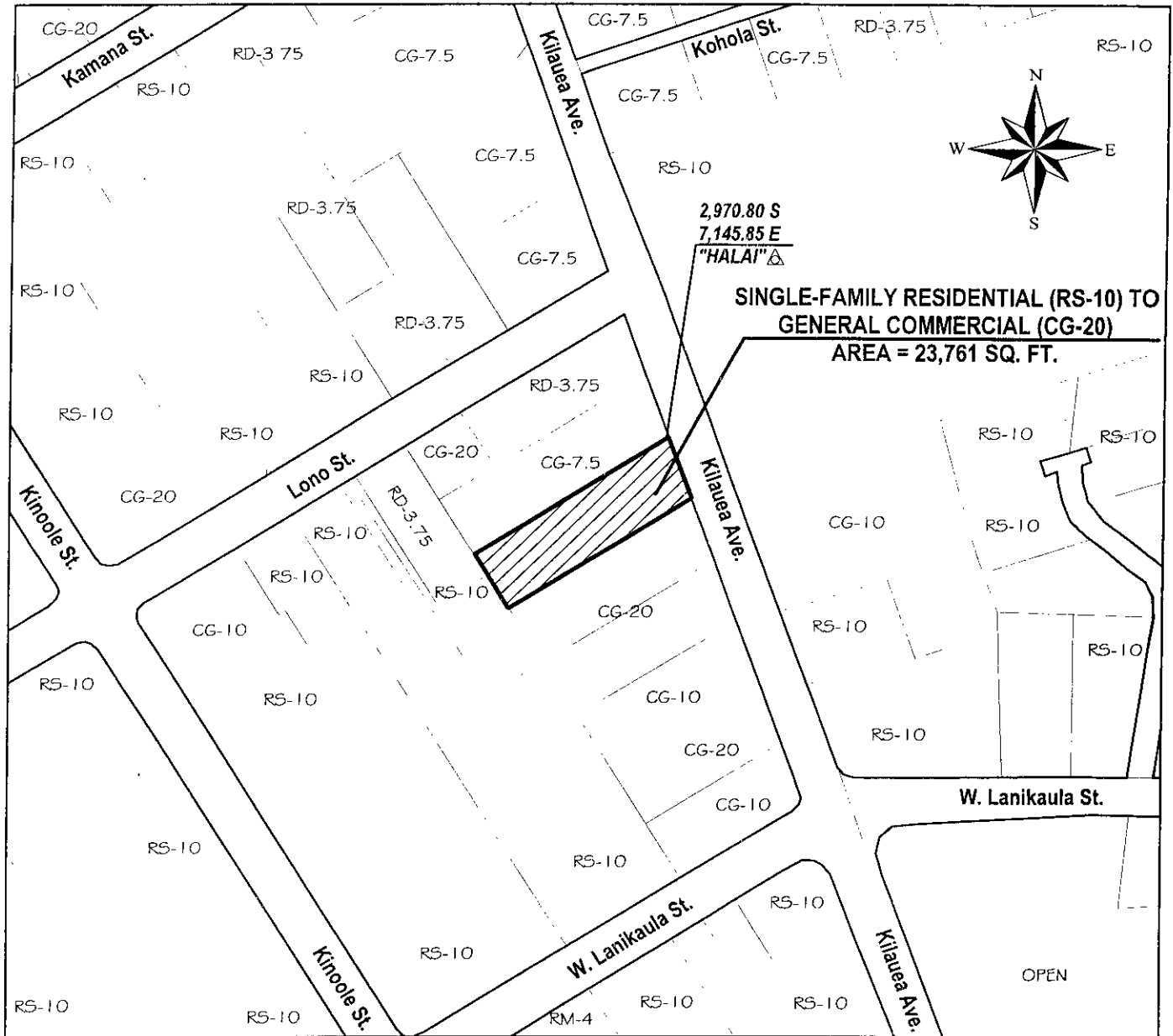
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 HiLo, Hawai'i

Date of Introduction: May 7, 2003
Date of 1st Reading: May 7, 2003
Date of 2nd Reading: May 21, 2003
Effective Date: June 5, 2003

REFERENCE: Comm. 194.3



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

Introduced By: Gary Safarik
 Date Introduced: May 7, 2003
 First Reading: May 7, 2003
 Published: May 18, 2003

REMARKS:

RECEIVED
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 COUNTY CLERK
 COUNTY OF HAWAII

Second Reading: May 21, 2003
 To Mayor: May 29, 2003
 Returned: June 9, 2003
 Effective: June 5, 2003
 Published: ~~June 24, 2003~~ July 2, 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			
	7	0	2	0

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			
	8	0	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:

[Signature]
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 6/9/03

[Signature]

COUNCIL CHAIRMAN

[Signature]
COUNTY CLERK

Bill No.: 98
 Reference: C-217/CHA
 Ord No.: 03 89

Approved/Disapproved this 5th day

of June, 2003

[Signature]
MAYOR, COUNTY OF HAWAII