

COUNTY OF HAWAI'I

STATE OF HAWAI'I

BILL NO. 109

(Draft 2)

ORDINANCE NO. 03 108

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 INDUSTRIAL-COMMERCIAL MIXED (MCX-20) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-50:14.

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 Industrial-Commercial Mixed (MCX-20):

Beginning at a pipe at the northwest corner of this parcel of land, being also the southwest corner of Lot A, portion of Lot 5, Block 45, portion of Grant 10,582 to T.E.M. Osorio and the east side of Hinano Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Halai" being 3,793.00 feet south and 9,631.00 feet east and running by azimuths measured clockwise from true south:

- 1. 270° 00' 225.00 feet along Lot A and Lot B, being portions of Lot 5, Block 45, portion of Grant 10,582 to T.E.M. Osorio, to a nail;
- 2. 0° 00' 100.00 feet along Lot 8, portion of Grant 12,861 to Charles T. and Miyuki Suetaki Otani, to a pipe on the north side of Kawili Street;
- 3. 90° 00' 225.00 feet along the north side of Kawili Street to a pipe;

4. 180° 00' 100.00 feet along the east side of Hinano Street to the point of beginning and containing an area of 22,500 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. 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. Prior to this payment, water calculations with anticipated maximum daily water usage as recommended by a registered engineer shall be submitted to the Department of Water Supply.
- C. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to the start of construction, Final Plan Approval for the proposed development shall be secured from the

Planning Director in accordance with the Zoning Code. Plans shall identify proposed structures, fire protection measures, paved driveway and parking stalls, common access easement, and other improvements associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any potential adverse noise or visual impacts to adjoining parcels. A continuous landscape buffer shall be provided along the entire northern property boundary. The landscaping shall be provided in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).

- D. A common access easement with the adjoining parcel identified by Tax Map Key 2-2-50:37 shall be provided along Kawili Street, meeting the approval of the Department of Public Works. This common access shall be limited to ingress traffic movements only.
- E. To decrease further traffic concerns at the intersection of Kawili Street and Maka'ala Street, the applicant shall coordinate with the landowners of the adjoining parcels identified by Tax Map Key 2-2-50:37 and 38 to provide internal traffic circulation between the proposed developments.
- F. The driveway connection to the subject parcel from Kawili Street and Hinano Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawai'i County Code and meet with the approval of Department of Public Works.
- G. The applicant shall construct roadway improvements to the entire frontage, exclusive of access points, along Kawili Street and Hinano Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, curb ramp, drainage improvements, and any required relocation of utilities. Said improvements shall be completely constructed in accordance with the requirements and approval of the Department of Public Works prior to the

issuance of a certificate of occupancy for any portion of the proposed development.

- H. A 10-foot wide future road widening strip along the subject property's Hinano Street frontage shall be delineated on the plans submitted for Plan Approval review. The 10-foot wide future road widening strip, including all improvements required by Conditions F and G, shall be subdivided and dedicated to the County prior to the issuance of a certificate of occupancy for any portion of the proposed development.
- I. 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 for any portion of the proposed development.
- J. The applicant shall connect to the existing County sewer lateral meeting with the approval of the Department of Environmental Management prior to the issuance of a certificate of occupancy.
- K. 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.
- L. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.

- M. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development.

- N. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the zone change. The report shall address the status of the development and the compliance with the conditions of approval. 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.

- O. 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.

- 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, 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.

Q. 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.

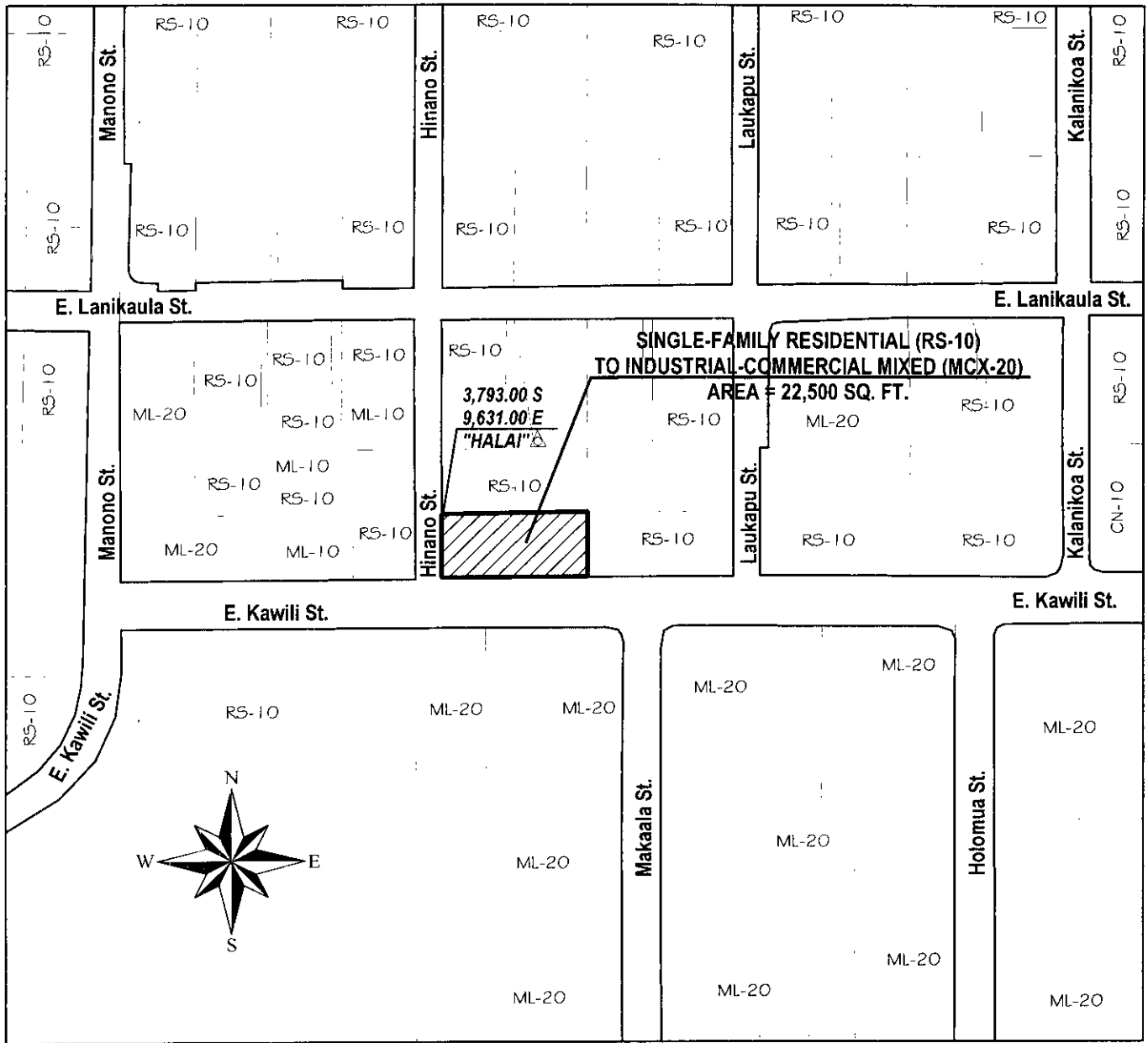
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: June 18, 2003
Date of 1st Reading: June 18, 2003
Date of 2nd Reading: July 2, 2003
Effective Date: July 9, 2003
REFERENCE: Comm. 248.3



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 INDUSTRIAL-COMMERCIAL MIXED (MCX-20)
 AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
 County of Hawaii
Hilo, Hawaii

RECEIVED
 Time 2:07 p.m. By ag
 Date 07/09/03
 County Council

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: June 18, 2003
 First Reading: June 18, 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	0	2	0

Second Reading: July 2, 2003
 To Mayor: July 8, 2003
 Returned: July 9, 2003
 Effective: July 9, 2003
 Published: July 20, 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	0	3	

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. O'Rode
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

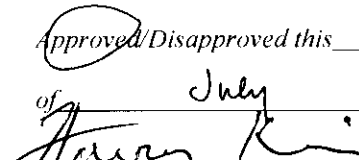
Date 7/8/03


 COUNCIL CHAIRMAN

 COUNTY CLERK

Bill No.: 109 (Draft 2)
 Reference: C-248.3/PC-40
 Ord No.: 03 108

Approved/Disapproved this 9th day

of July, 2003


 MAYOR, COUNTY OF HAWAII