

ORDINANCE NO. 05 1

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 2-2-49:26.

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 set at the northeast corner of this parcel of land, also being the northwest corner of Lot 3, Block 47, and on the south side of Lanikaula Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 3,493.00 feet South and 10,852.00 feet East and thence running by azimuths measured clockwise from true South:

- 1. 0° 00' 00" 200.00 feet along Lot 3, Block 47, Waiakea House Lots, to a pipe set;
- 2. 90° 00' 00" 111.50 feet along Lots 6 and 5, Block 47, Hawaiian Business Lots, to a pipe found;
- 3. 180° 00' 00" 200.00 feet along Lot 1, Block 47, Waiakea House Lots, to a nail set;

4. 270° 00' 00" 111.50 feet along the south side of Lanikaula Avenue to the point of beginning and containing an area of 22,300 Sq. Ft., more or less.

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 ninety (90) days from the effective date of this ordinance.
- C. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Chapter 25-2-70,

Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans to mitigate any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).

- D. Access to the subject property from Lanikaula Street shall meet with the approval of the Department of Public Works.
- E. All driveway connections to Lanikaula Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
- F. Provide improvements to the entire frontage of Lanikaula Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements and any required utility relocation, meeting with the approval of the Department of Public Works. The improvements shall be located within a five-foot road widening strip along the Lanikaula Street frontage and be dedicated to the County of Hawaii prior to the issuance of a Certificate of Occupancy.
- G. Streetlights and traffic control devices shall be installed as required by the Traffic Division, Department of Public Works.
- H. A drainage study of the subject property shall be prepared and submitted to the Department of Public Works for review and approval, prior to submittal of plans for Plan Approval review. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works 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. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- K. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources – State Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- L. 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.
- M. The applicant shall comply with all applicable County, State, and Federal laws, rules, requirements, and regulations for the proposed development.
- N. 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 the extent to which the conditions of approval have been satisfied. 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.

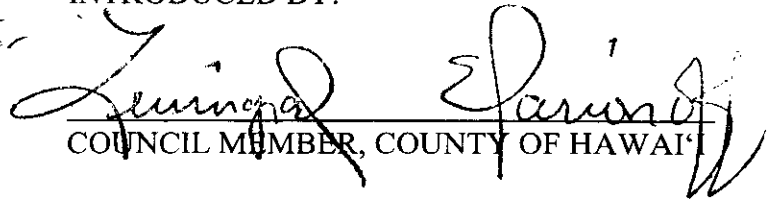
- O. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors 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).
- P. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning 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:

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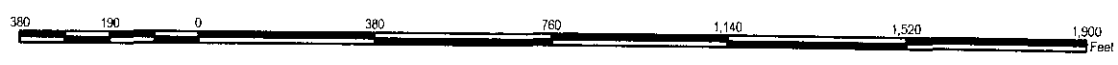
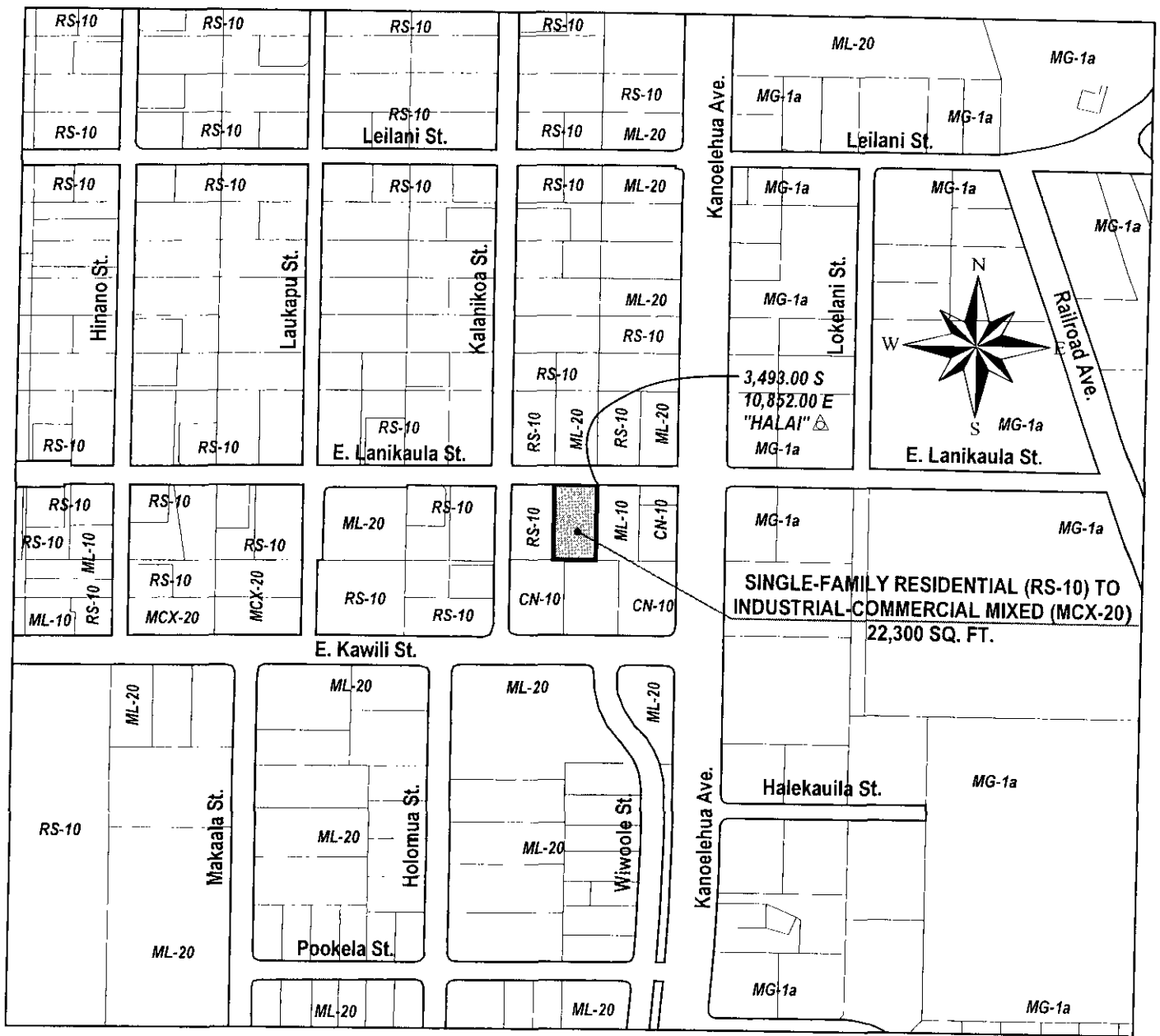


COUNCIL MEMBER, COUNTY OF HAWAII

 Hilo , Hawai'i

Date of Introduction: November 24, 2004
Date of 1st Reading: November 24, 2004
Date of 2nd Reading: January 5, 2005
Effective Date: January 11, 2005

REFERENCE: Comm. 822.1



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 Hawai'i
Hilo, Hawai'i

Introduced By: Leningrad Elarionoff
Date Introduced: November 24, 2004
First Reading: November 24, 2004
Published: N/A

REMARKS: _____

Second Reading: January 5, 2005
To Mayor: January 6, 2005
Returned: January 12, 2005
Effective: January 11, 2005
Published: January 16, 2005

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson	X			
Reynolds	X			
Safarik			X	
Tulang	X			
Tyler	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh			X	
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	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:

Myrleitha L. Todd
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 1/11/05

[Signature]

COUNCIL CHAIRMAN

Christina K. Allen
COUNTY CLERK

Bill No.: 357 (Draft 2)

Reference: C-822.1/PC-118

Ord No.: 05 1

Approved/Disapproved this 11th day

of January, 20 05

Harry Kim
MAYOR, COUNTY OF HAWAII