

ORDINANCE NO. 05 4

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 RESIDENTIAL – COMMERCIAL MIXED USE (RCX-10) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-21:30.

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 Residential Commercial Mixed Use (RCX-10):

Beginning at the southeast corner of this parcel of land, being also along the northwest boundary of Grant 9337 to Goo Fong, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAP" being 1,954.36 feet South and 5,424.09 feet East and running by azimuths measured clockwise from True South:

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|----|-------------|--------|---|
| 1. | 58° 10' | 72.05 | feet along Parcel 28-B, being portions of Lot 5, Block 63 of the "Waiakea Houselots, 2 nd Series and Grant 9337 to Goo Fong; |
| 2. | 148° 10' | 83.71 | feet along Grant 11522 to Hikotaro Ohara and Koshina Ohara; |
| 3. | 239° 00' | 153.68 | feet along the southeasterly side of Mohouli Street; |
| 4. | 13° 12' 58" | 115.32 | feet along Parcel 27, being the remainder of Lot 6, Block 63 of the Waiakea Houselots, 2 nd Series and Grant 9174 to Loo Fat Ahuna |

to the point of beginning and containing an area of 9,367 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. 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. Final Plan Approval shall be secured from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code within five (5) years from the effective date of this ordinance. 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).
- C. All driveway connections to Mohouli Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.

- D. If required, a drainage study 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.

- 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. Prior to the issuance of a Certificate of Occupancy for a new office or commercial structure that increases the area of non residential uses, the applicant shall construct full improvements to the entire frontage along Mohouli Street 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.

- G. 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 automatically participate in such an arrangement.

- H. 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.

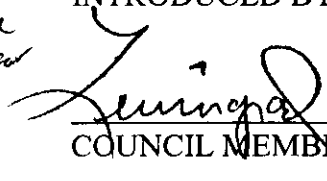
- I. Should the County Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- J. The applicant shall comply with all applicable County, State, and Federal laws, rules, requirements, and regulations for the proposed development.
- K. 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).

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.

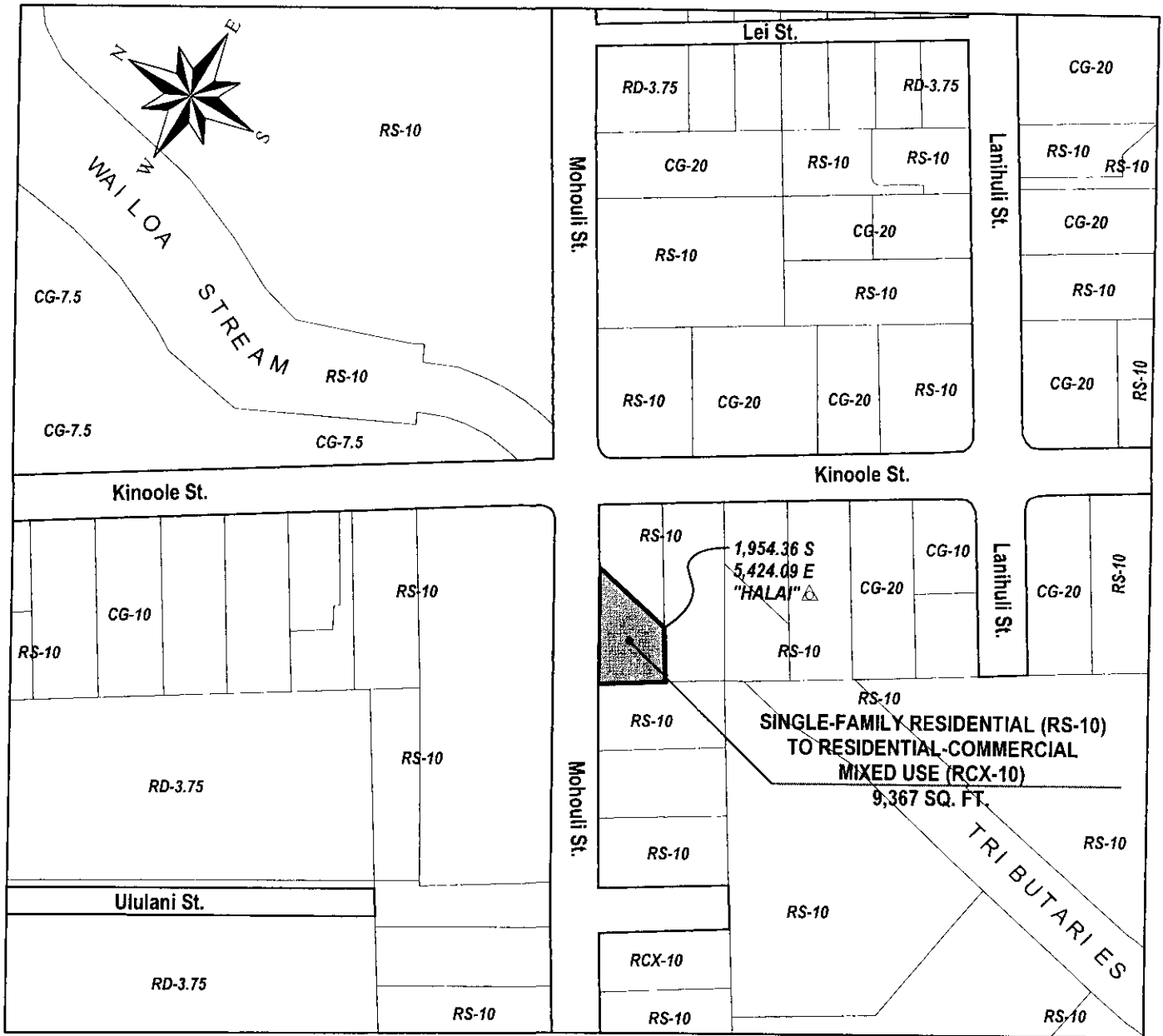
INTRODUCED BY:

AK
Pd

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. 825.1



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 RESIDENTIAL-COMMERCIAL MIXED USE (RCX-10)
 AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
 County of Hawai'i
 Hilo, Hawai'i

2005 JUN 12 09:08 AM
 COUNTY CLERK

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:

B. J. Keith
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date January 11, 2005

Approved/Disapproved this 11th day
 of January, 2005

Harry Kim
 MAYOR, COUNTY OF HAWAII

[Signature]
 COUNCIL CHAIRMAN

Constance R. Quinn
 COUNTY CLERK

Bill No.: 360 (Draft 2)
 Reference: C-825.1/PC-121
 Ord No.: 05 4