

BILL NO. 139
Draft 3

ORDINANCE NO. 05 140

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 NEIGHBORHOOD COMMERCIAL (CN-10) AT WAIĀKEA, SOUTH HILO, HAWAI‘I, COVERED BY TAX MAP KEY 2-2-027:042.

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 Waiākea, South Hilo, Hawai‘i, shall be Neighborhood Commercial (CN-10):

Beginning at the Southeast corner of this parcel of land, being also the Southwest corner of Parcel 5, the coordinates of which referred to Government Survey Triangulation Station "HALAI" being 3,243.00 feet South and 9,086.00 feet East and running by azimuths measured clockwise from True South:

- | | | | | |
|----|----------|--------|------|--|
| 1. | 90° 00' | 195.00 | feet | along Lot 16-B, Grant 8718 to Duke G. Jardine and Lot 15, Grant 8754 to Anthony Markiewitch; |
| 2. | 180° 00' | 100.00 | feet | along Lot 11-B, Grant 9427 to Marie Martins; |
| 3. | 270° 00' | 195.00 | feet | along Lot 10, Grant 8969 to Lizzie K. Watson, to the northwest corner of Parcel 5; |

4. 0° 00' 100.00 feet along the remainder of Lot 12, Grant 8751 to Annie K. Heen to the point of beginning and containing an area of 19,500 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(a), 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. Plans for conversion of the building shall be submitted for Plan Approval within one (1) year from the effective date of this ordinance.
 - C. Access to Manono Street shall be limited to a single location. All driveway connections to Manono Street shall conform to Chapter 22, County Streets, of the Hawaii County Code.
 - D. The applicant shall provide full improvements to the entire frontage along Manono 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.
 - E. The applicant shall also install street lights and traffic controls as required by the Traffic Division, Department of Public Works. The applicant shall be responsible for the design, purchase, and installation of such devices. All of the roadway improvements to Manono Street shall be completed prior to a Certificate of Occupancy.
 - F. 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.

- G. If the applicant, successors, or assigns develops residential units on the subject property in excess of the one (1) unit allowed by the current RS-10 zoning, the applicant shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall become due and payable prior to receipt of Final Plan Approval. The fair share contribution for each lot shall be based on the actual number of residential units developed. The fair share contribution in a form of cash, land, facilities or any combination thereof shall be determined by the County Council. The fair share contribution may be adjusted annually beginning three years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a combined value of **\$6,410.55** per multiple family residential unit. The total amount shall be determined with the actual number of units according to the calculation and payment provisions set forth in this condition.

The fair share contribution per multiple family residential unit shall be allocated as follows:

1. **\$3,162.49** per multiple family residential unit to the County to support park and recreational improvements and facilities;
2. **\$99.25** per multiple family residential unit to the County to support police facilities;
3. **\$307.46** per multiple family residential unit to the County to support fire facilities;
4. **\$137.04** per multiple family residential unit to the County to support solid waste facilities; and
5. **\$2,704.31** per multiple family residential unit to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicant may contribute land and/or construct improvements/facilities related to parks and recreation, fire, police, solid waste disposal facilities and roads within the region impacted by the proposed development, subject to the review and recommendation of the Planning Director, upon consultation with the appropriate agencies and approval of the County Council.

- H. 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.

- I. The applicant shall comply with all applicable County, State and federal laws, rules, regulations and requirements.
- J. 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.
- 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 its 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.
- L. The following uses shall be prohibited:
 1. Automobile service stations;
 2. Community buildings;
 3. Convenience stores;
 4. Day care centers;
 5. Farmers markets;
 6. Mortuaries;

- 7. Restaurants;
- 8. Retail establishments;
- 9. Schools;
- 10. Theaters; and
- 11. Crematoriums.

M. Should any of the conditions not be met or substantially complied with in a timely fashion, the 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:

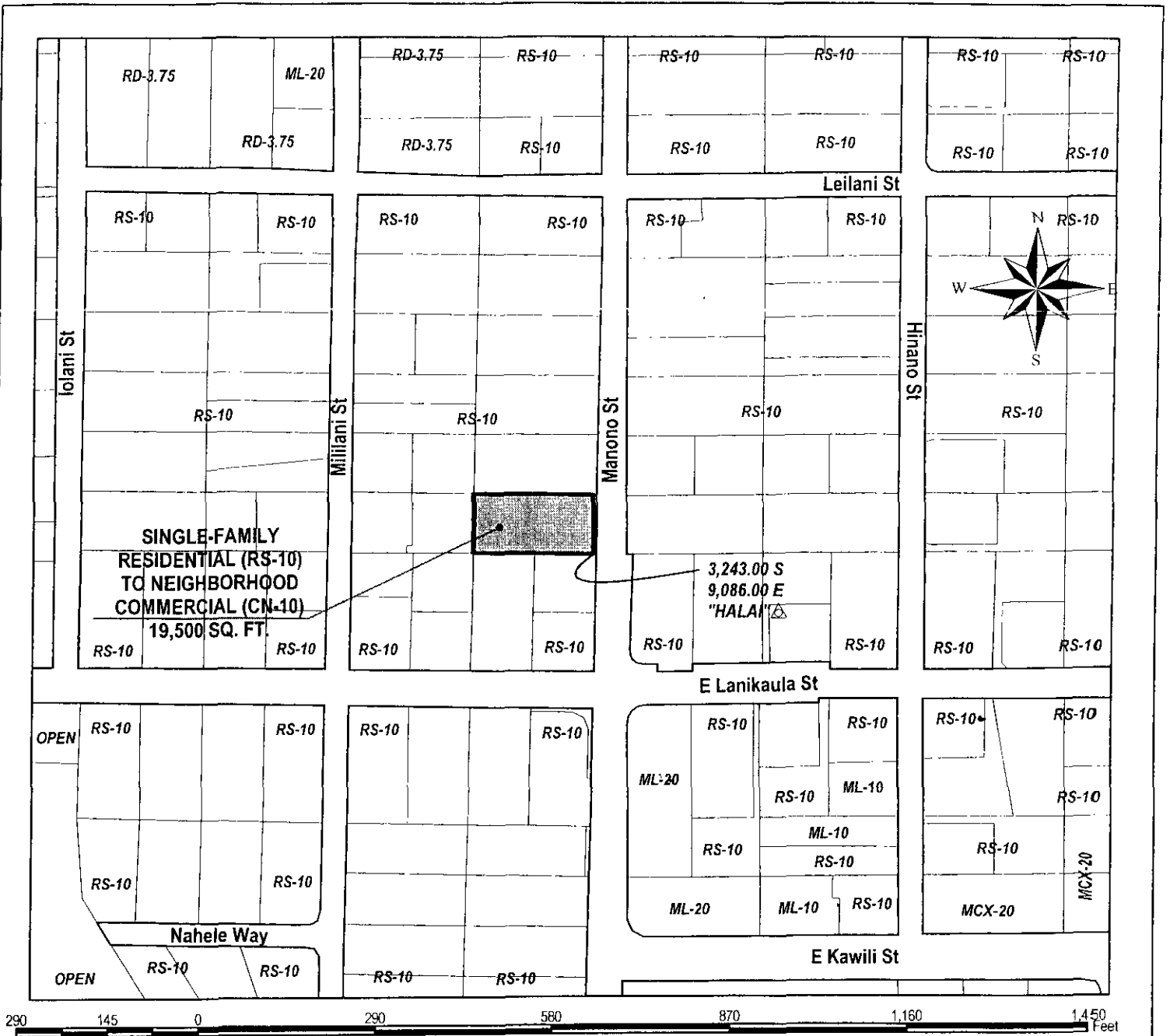


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: September 21, 2005
Date of 1st Reading: September 21, 2005
Date of 2nd Reading: October 5, 2005
Effective Date: October 11, 2005

REFERENCE: Comm. 408.2



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 NEIGHBORHOOD COMMERCIAL (CN-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

(Draft 3)

Introduced By: Stacey K. Higa
 Date Introduced: September 21, 2005
 First Reading: September 21, 2005
 Published: October 2, 2005

REMARKS: _____

Second Reading: October 5, 2005
 To Mayor: October 6, 2005
 Returned: October 12, 2005
 Effective: October 11, 2005
 Published: October 18, 2005

REMARKS: _____

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			
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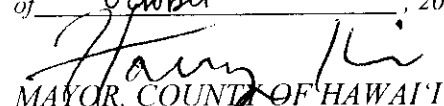
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann			X	
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago			X	
Safarik	X			
	7	0	2	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
 FORM AND LEGALITY:


 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 10/7/05

Disapproved this 11th day
 of October, 2005

 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRMAN


 COUNTY CLERK

Bill No.: 139 (Draft 3)
 Reference: C-408.2/PC-33
 Ord No.: **05 140**