

ORDINANCE NO. **05 159**

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM NEIGHBORHOOD COMMERCIAL (CN-10) TO INDUSTRIAL-COMMERCIAL MIXED (MCX-20) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-2-49:24.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-8-33, Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code 1983 (2005 Edition), 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, Hawaii, shall be Industrial-Commercial Mixed (MCX-20):

Beginning at the southeast corner of this parcel of land, and on the north side of Kawili Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 3893.00 feet South and 10770.75 feet East and running by azimuths measured clockwise from True South:

1. 90° 00' 121.75 feet along the north side of Kawili Street;
2. Thence along the intersection of Kawili and Kalanikoa (not constructed) Streets, along a curve to the right, having a radius of 20.00 feet, the chord azimuth and distance being:
135° 00' 28.28 feet;
3. 180° 00' 180.00 feet along the east side of Kalanikoa Street (not constructed);
4. 270° 00' 141.75 feet along Lot 1 (Grant 12693 to Kenneth H.K. Young) and Lot 2 (Grant 12695 to Eliza C.Y.C. Young);

5. 360° 00' 200.00 feet along Lot 6 to the point of beginning and containing an area of 28,264 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 1983 (2005 Edition), 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 applicant shall install a backflow preventer by a licensed contractor, meeting with the approval of the Department of Water Supply.
- C. Access to the property from Kawili Street shall meet with the approval of the Department of Public Works.
- D. All driveway connections to Kawili Street shall conform to Chapter 22 (County Streets) of the Hawaii County Code. Each existing driveway shall be limited to ingress or egress only.

- E. Provide improvements to the entire frontage of Kawili 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, prior to the construction of any new structures or change in the use of structures.

- F. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. If required, a drainage study shall be prepared and submitted to the Department of Public Works prior to the issuance of Final Plan Approval for any new structures. 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.

- G. 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 for any new structures.

- 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 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. Comply with all County, State and Federal laws, rules, regulations and requirements.

- K. Landscaping shall be provided in accordance with the requirements of the Planning Department's Rule No. 17 (Landscaping Requirements) along with the construction of any new structures.

- L. 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).

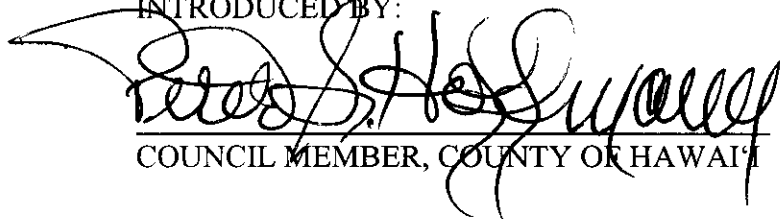
 - 5. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the County Council for appropriate action.

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:


COUNCIL MEMBER, COUNTY OF HAWAII

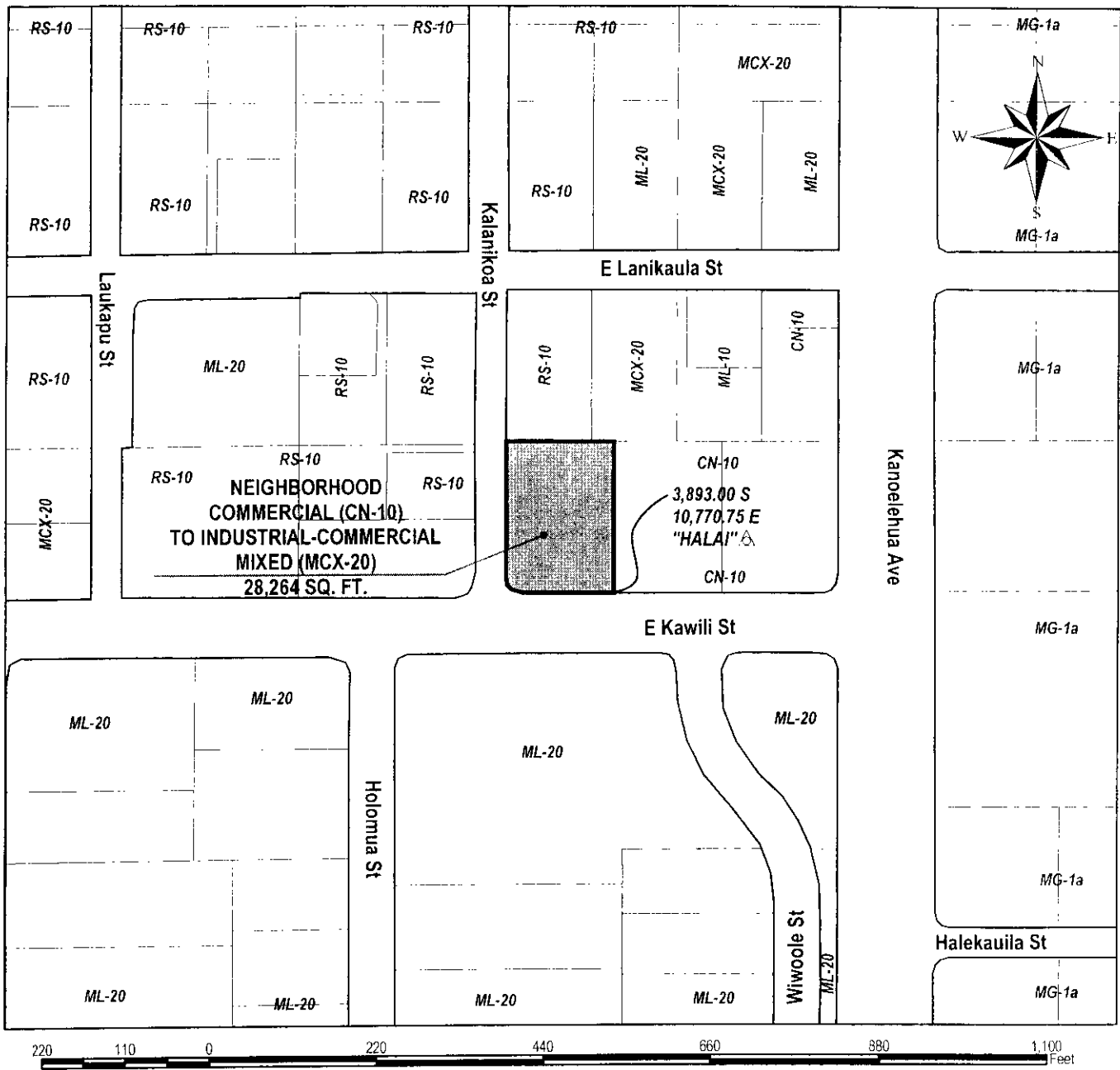
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Kona , Hawai'i

Date of Introduction: November 22, 2005
Date of 1st Reading: November 22, 2005
Date of 2nd Reading: December 7, 2005
Effective Date: December 15, 2005

REFERENCE: Comm. 494



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
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
 FROM NEIGHBORHOOD COMMERCIAL (CN-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
 Kona, Hawai'i

10015 11 23

Introduced By: Pete Hoffmann/K. Angel Pilago
 Date Introduced: November 22, 2005
 First Reading: November 22, 2005
 Published: N/A

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


REMARKS: _____



Second Reading: December 7, 2005
 To Mayor: December 9, 2005
 Returned: December 15, 2005
 Effective: December 15, 2005
 Published: December 22, 2005

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			
	9	0	0	0

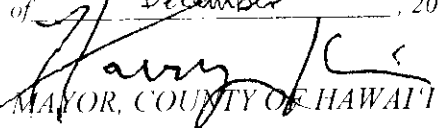
REMARKS: _____

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 12/13/05


 COUNCIL CHAIRMAN

 COUNTY CLERK

Bill No.: 163
 Reference: C-494/PC-42
 Ord No.: 05 159

Approved/Disapproved this 15th day
 of December, 2005

 MAYOR, COUNTY OF HAWAII