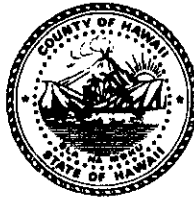


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **06 47** BILL NO. 219  
(Draft 2)

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-10) TO GENERAL COMMERCIAL (CG-10) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-28:30, 32, 33.

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 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, Hawai'i, shall be General Commercial (CG-10):

Beginning at the northwest corner of this parcel of land and along the northeasterly side of Kilauea Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 3,225.31 feet South and 7,301.91 feet East, thence running by azimuths measured clockwise from true South:

1. 253° 06' 30" 256.93 feet along the remainder of Grant 4777 to T. Clive Davies;
2. 340° 34' 79.12 feet along Lots 3 and 1;
3. 358° 00' 30.84 feet along the remainder of Grant 4777 to T. Clive Davies;
4. 74° 25' 76.92 feet along the remainder of Grant 4777 to T. Clive Davies;
5. 70° 45' 30" 169.75 feet along the remainder of Grant 4777 to T. Clive Davies;

6. 160° 06' 114.20 feet along Kilauea Avenue to the point of beginning and containing an area of 28,002 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.
1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The proposed development shall be established within one (1) year from the effective date of this ordinance. This time period shall include securing Final Plan Approval for the conversion of the single family dwellings into offices from the Planning Director in accordance with Section 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 development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).

3. All structures on the properties shall comply with the height limit requirements and setback requirements for the RS-10 district at the time of issuance of the building permit.
4. Construction activities on the properties shall be limited to 7 a.m. to 5 p.m., Mondays through Saturdays.
5. A 10-foot wide future road-widening strip along Kilauea Avenue shall be delineated on the plans submitted for Plan Approval review. No structural improvements shall be allowed within this road-widening strip, provided however, that any required landscaping may be permitted within this strip. Further, applicable setbacks shall be taken from the 10-foot future road widening strip line.
6. Access to Kilauea Avenue shall be limited to a single location, and no left turn shall be permitted from the commercial property on to Kilauea Avenue. All driveway connections to Kilauea Avenue shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
7. The applicant shall also install street lights and traffic control devices 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 Kilauea Avenue shall be completed prior to receipt of a Certificate of Occupancy.
8. The applicant shall provide reconstruction improvements to the curb and sidewalk fronting the subject properties along Kilauea Avenue in a manner meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.

9. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
10. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.
11. Construction within the designated flood zone shall conform to Chapter 27, Flood Control, of the Hawaii County Code. No additional structure shall be built in the AE zone or shaded Zone X Flood Zones. Such construction in the areas currently mapped in the AE or shaded X Flood Zones shall be allowed if the owner secures a letter of map revision.
12. Sewer lines shall be installed within the development to connect with the County's sewer system, meeting with the approval of the Department of Environmental Management, and prior to the issuance of a Certificate of Occupancy.
13. 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.
14. 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 Resource -- State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from

DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

15. If the applicant, successors, or assigns develop residential units on the subject properties in excess of the units 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 **\$6,411.25** 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. **\$99.95** 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.

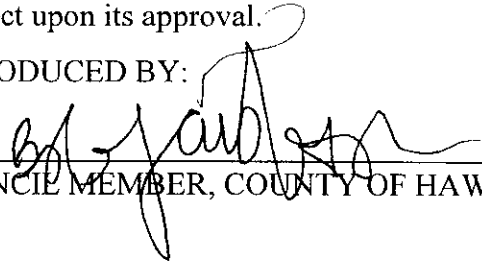
16. To insure that the goals and policies of the housing element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawaii County Code, relating to affordable housing policy. This requirement shall be approved by the administrator of the Office of Housing and Community Development.
17. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
18. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

19. 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.
20. 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:

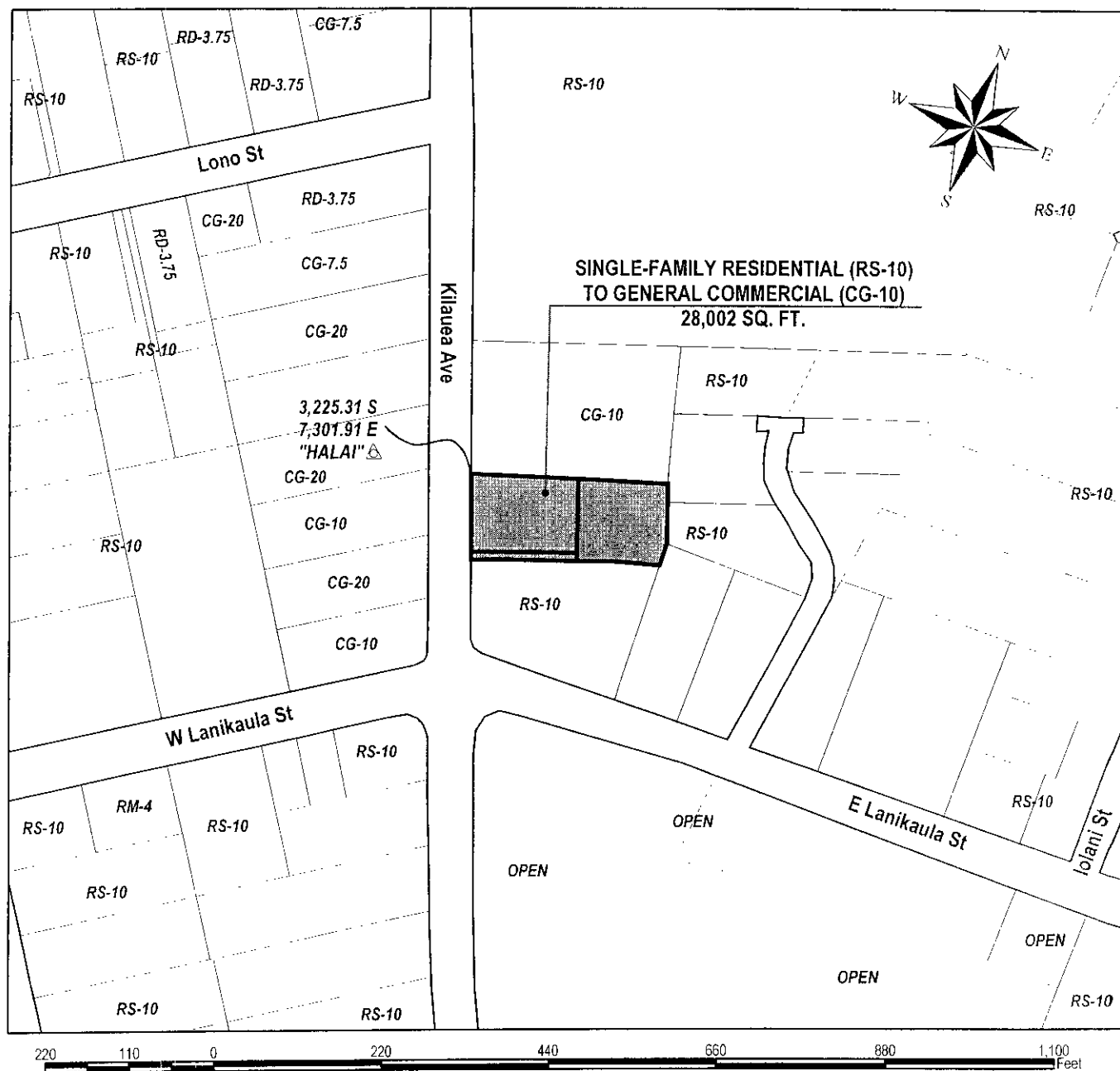
  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: March 22, 2006  
Date of 1st Reading: March 22, 2006  
Date of 2nd Reading: April 5, 2006  
Effective Date: April 12, 2006

REFERENCE: Comm. 679.2





# 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  
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION  
 FROM SINGLE-FAMILY RESIDENTIAL (RS-10)  
 TO GENERAL COMMERCIAL (CG-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 2)

Introduced By: Bob Jacobson  
Date Introduced: March 22, 2006  
First Reading: March 22, 2006  
Published: April 2, 2006

REMARKS: \_\_\_\_\_  
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Second Reading: April 5, 2006  
To Mayor: April 6, 2006  
Returned: April 12, 2006  
Effective: April 12, 2006  
Published: April 21, 2006

REMARKS: \_\_\_\_\_  
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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	1	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			
	7	1	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:

[Signature]  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date April 12, 2006

Approved/Disapproved this 12<sup>th</sup> day

of April, 2006  
[Signature]  
MAYOR, COUNTY OF HAWAII

[Signature]

COUNCIL CHAIRMAN

[Signature]  
COUNTY CLERK

Bill No.: 219 (Draft 2)  
Reference: C-679.2/PC-55  
Ord No.: 06 47