BILL NO. 282

Draft 2

ORDINANCE NO. **06 114**

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 – 10,000 SQUARE FEET (RS-10) TO GENERAL COMMERCIAL – 20,000 SQUARE FEET (CG-20) AT WAIAKEA HOUSELOTS, HAWAI'I, COVERED BY TAX MAP KEY 2-2-34:66, 78 AND 79.

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:

PARCEL "A":

The district classification of the following area situated at Waiakea Houselots, Hawai'i, shall be General Commercial – 20,000 square feet (CG-20):

Beginning at the southwest corner of this lot and the northeast corner of Hinano and Kekuanaoa Avenues, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 1763.0 feet south and 9631.0 feet east, as shown on Government Survey Registered Map No. 2566 and running by true azimuths:

- | | | | |
|----|----------|-------|---|
| 1. | 180° 00' | 100.0 | feet along the east side of Hinano Avenue; |
| 2. | 270° 00' | 225.0 | feet along Lot 13, Block 21; |
| 3. | 360° 00' | 100.0 | feet along Lot 16, Block 21; |
| 4. | 90° 00' | 225.0 | feet along the north side of Kekuanaoa Avenue to the point of beginning and containing an area of 22,500 square feet. |

EXCEPTING AND RESERVING from the above described parcel of land all that portion thereof conveyed to the COUNTY OF HAWAII by Deed dated August 29, 1967, recorded in Liber 5791 at Page 245, described as follows:

Being a Portion of Lot 15, Block 21,
Grant 9225 to Sadawo Sakamoto
Waiakea House Lots, First Series
Waiakea, South Hilo, Hawaii

Beginning at the southeast corner of this parcel of land, on the north side of Kekuanaoa Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 1763.00 feet south and 9651.0 feet east and running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|-------|---|
| 1. | 90° 00' | 20.00 | feet along the north side of Kekuanaoa Street; |
| 2. | 180° 00' | 20.00 | feet along the east side of Hinano Street; |
| 3. | 315° 00' | 28.28 | feet to the point of beginning and containing an area of 200 square feet. |

PARCEL "B":

The district classification of the following area situated at Waiakea Houselots, Hawai'i, shall be General Commercial – 20,000 square feet (CG-20):

Beginning at a point at the Southeast corner of this parcel of land and the Westerly side of Laukapu Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 1,663.00 feet South and 10,081.00 feet East and running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|--------|--|
| 1. | 90° 00' | 140.00 | feet along Lot 16, Block 21, Waiakea Homesteads, First Series to a pipe; |
| 2. | 180° 00' | 85.00 | feet to a pipe; |
| 3. | 270° 00' | 140.00 | feet to a pipe on the Westerly side of Laukapu Avenue; |
| 4. | 360° 00' | 85.00 | feet along the Westerly side of Laukapu Avenue to the point of beginning and containing an area of 11,900 square feet, more or less. |

PARCEL "C":

The district classification of the following area situated at Waiakea Houselots, Hawai'i, shall be General Commercial (CG-20):

Beginning at the northeast corner of this lot, the southeast corner of Lot 14, and on the west side of Laukapu Avenue, the coordinates of said point of beginning referred

to Government Survey Triangulation Station "HALAI" being 1,663.00 feet south and 10,081.00 feet east, as shown on Government Survey Registered Map No. 2566, and running by true azimuths:

1. 360° 00' 100.00 feet along west side of Laukapu Avenue;
2. 90° 00' 112.50 feet along north side of Kekuanaoa Avenue;
3. 180° 00' 100.00 feet along the remainder of this lot;
4. 270° 00' 112.50 feet along Lot 14 to the point of beginning and containing an area of 11,250 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 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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within 90 days from the effective date of this ordinance.

- C. Construction of the proposed improvements shall be completed within five (5) years from the effective date of this ordinance. This time period shall include securing Final Plan Approval from the Planning Director in accordance with the Zoning Code. Plans shall identify proposed structure(s), fire protection measures, access roadway, driveway and parking stalls. Landscaping shall be indicated on the plans for the purpose of mitigating any potential adverse noise or visual impacts to adjoining parcels. Landscaping shall be provided in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).
- D. A five-foot wide future road widening strip along the Hinano Street and Laukapu street frontages and a 10-foot wide future road widening strip along the Kekuanaoa Street frontage shall be subdivided and dedicated to the County within five (5) years from the effective date of this ordinance.
- E. The applicant shall provide full improvements to the project's frontage along Kekuanaoa Street and Laukapu 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 the future road widening setback.
- F. Provide a minimum 20-foot corner radius (property line) at the intersection of the future road widening setback lines along Kekuanaoa Street and Laukapu Street. Provide a 33-foot corner radius (conforming to the back edge of the existing sidewalk) at the intersection of the future road widening setback lines along Kekuanaoa Street and Hinano Street.
- G. Access shall be prohibited from Kekuanaoa Street, except for access to the two existing homes until they are demolished.

- H. Install streetlights 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.
- 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 the recommended drainage system shall be constructed, meeting the approval of the Department of Public Works prior to the receipt 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. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawaii County Code.
- L. 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-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- M. Should the Council adopt an 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.
- N. To ensure 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 prior to final plan approval for any new residential structures.

O. If the applicant, successors, or assigns develop residential units on the subject properties, the applicant shall make its fair share contribution to mitigate the potential regional impacts of the properties 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 maximum combined value of **\$6,411.25** per multiple family residential unit (**\$9,991.20** per single 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 (single family residential units) shall be allocated as follows:

1. **\$3,162.49** per multiple family residential unit (**\$4,817.93** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$99.95** per multiple family residential unit (**\$232.42** per single family residential unit) to the County to support police facilities;
3. **\$307.46** per multiple family residential unit (**\$459.06** per single family residential unit) to the County to support fire facilities;

4. **\$137.04** per multiple family residential unit (**\$200.98** per single family residential unit) to the County to support solid waste facilities; and
5. **\$2,704.31** per multiple family residential unit (**\$4,280.82** per single 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.

- P. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- Q. 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 satisfied and the Planning Director acknowledges that further reports are not required.
- R. 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 Director 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 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.

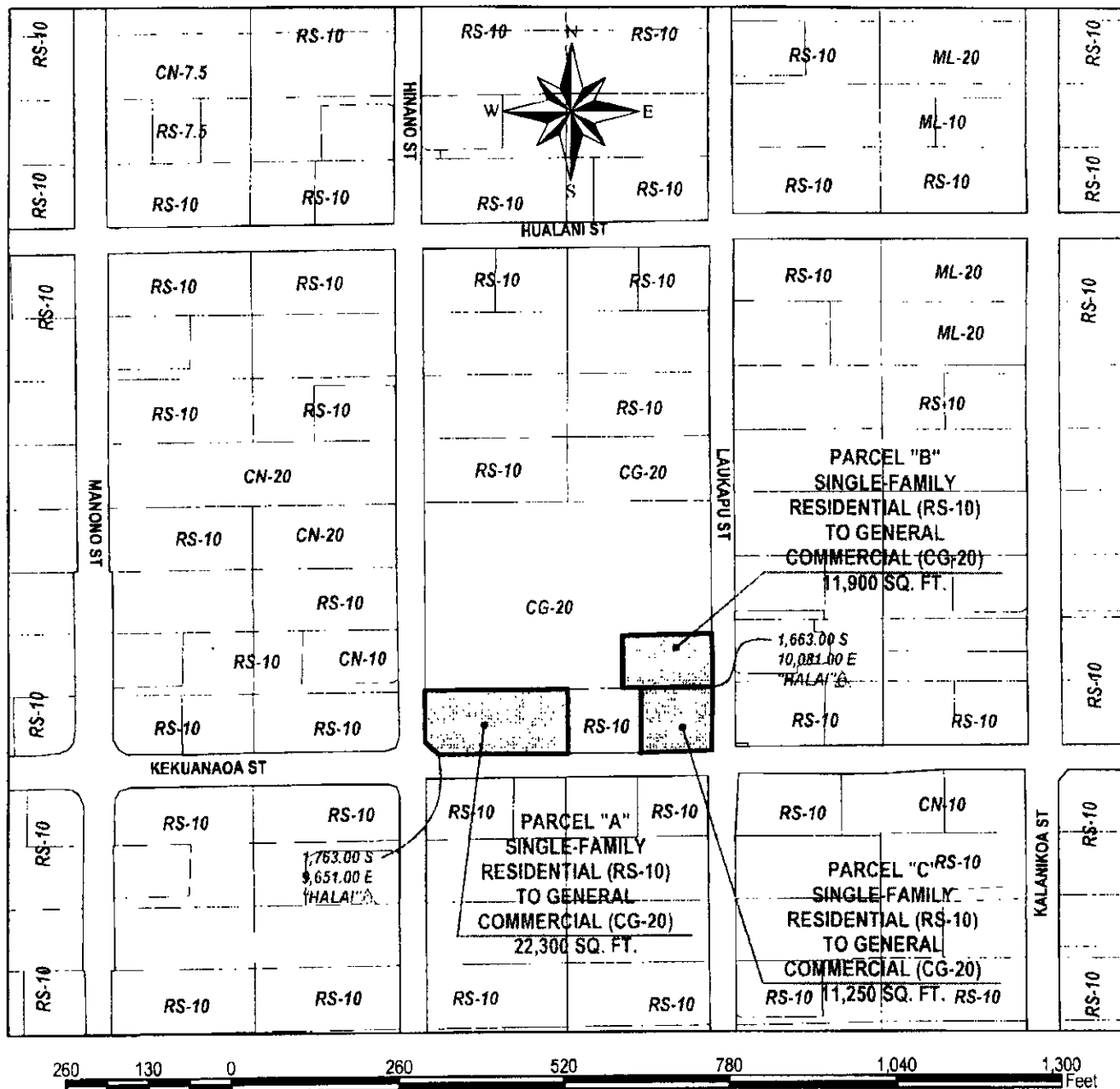
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: July 19, 2006
Date of 1st Reading: July 19, 2006
Date of 2nd Reading: August 1, 2006
Effective Date: August 8, 2006

REFERENCE: Comm. 884.1



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
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
 FROM SINGLE-FAMILY RESIDENTIAL (RS-10)
 TO GENERAL COMMERCIAL (CG-20)
 AT WAIAKEA HOUSE LOTS, FIRST SERIES, 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: Stacy K. Higa
Date Introduced: July 19, 2006
First Reading: July 19, 2006
Published: July 28, 2006

REMARKS: _____

Second Reading: August 1, 2006
To Mayor: August 2, 2006
Returned: August 9, 2006
Effective: August 8, 2006
Published: August 15, 2006

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			
	9	0	0	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			
	9	0	0	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 AUG 03 2006

Approved/Disapproved this 8th day
of August, 2006
[Signature]
MAYOR, COUNTY OF HAWAII

[Signature]
COUNCIL CHAIRMAN

[Signature]
COUNTY CLERK

Bill No.: 282 (Draft 2)
Reference: C-884.1/PC-94
Ord No.: 06 114