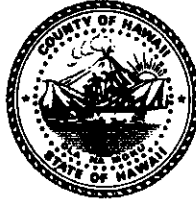


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **06 123** BILL NO. 303

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 RESIDENTIAL-COMMERCIAL MIXED USE – 20,000 SQUARE FEET (RCX-20) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-25:18.

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 Residential-Commercial Mixed Use - 20,000 square feet (RCX-20):

Beginning at a pipe found at the south corner of this parcel of land, also on the northwest side of Olono Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 4,563.98 feet South and 6,959.37 feet East and thence running by azimuths measured clockwise from true South:

- | | | | |
|----|--------------|-------------|--|
| 1. | 148° 10' 00" | 86.60 feet | along a 30-foot railroad right-of-way to a pipe found; |
| 2. | 238° 10' 00' | 237.00 feet | along Lot 2, Block 103, to a pipe found; |
| 3. | 328° 10' 00" | 66.60 feet | along the west side of Kinoole Street to a pipe found; |

Thence, on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:

- | | | | |
|----|-------------|-------------|--|
| 4. | 13° 10' 00" | 28.28 feet | along Kinoole Street and Olona Street to a pipe found; |
| 5. | 58° 10' 00" | 217.00 feet | along the northwest side of Olona Street to the point of beginning and containing an area of 20,438 Sq. Ft., more or less. |

All as shown on the map attached hereto, marked Exhibit "A" and by reference made 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. If required, the required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the effective date of this ordinance.
 - C. The applicant shall install a backflow preventer (reduced pressure type) subject to the approval of the Department of Water Supply, prior to the issuance of a

Certificate of Occupancy. The installation and assembly of the backflow preventer shall be inspected and approved by the Department of Water Supply.

- D. Conversion of the existing dwelling to a medical office shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant, successors, or assigns shall secure Final Plan Approval from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code within one (1) year 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).
- E. The height limit shall be 35 feet as allowed in the Single-Family Residential (RS) district.
- F. All driveway connections to Olona Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
- G. Access to the property from Olona Street shall meet with the approval of the Department of Public Works.
- H. The applicant shall construct full improvements to the entire frontage along Olona Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk and any required relocation of utilities, meeting with the approval of the Department of Public Works within five (5) years of issuance of a Certificate of Occupancy.

- I. If required, 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.
- J. The project shall connect to the County sewer system.
- K. Street lights and traffic control devices shall be installed as required by the Traffic Division, Department of Public Works.
- 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-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.
- M. 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.
- 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. 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:

- **\$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;
- **\$99.95** per multiple family residential unit (**\$232.42** per single family residential unit) to the County to support police facilities;
- **\$307.46** per multiple family residential unit (**\$459.06** per single family residential unit) to the County to support fire facilities;
- **\$137.04** per multiple family residential unit (**\$200.98** per single family residential unit) to the County to support solid waste facilities; and

- **\$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 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.

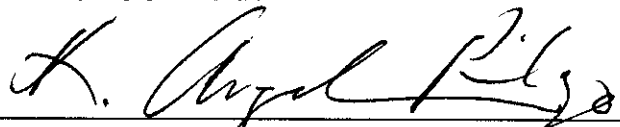
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
5. If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission 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.

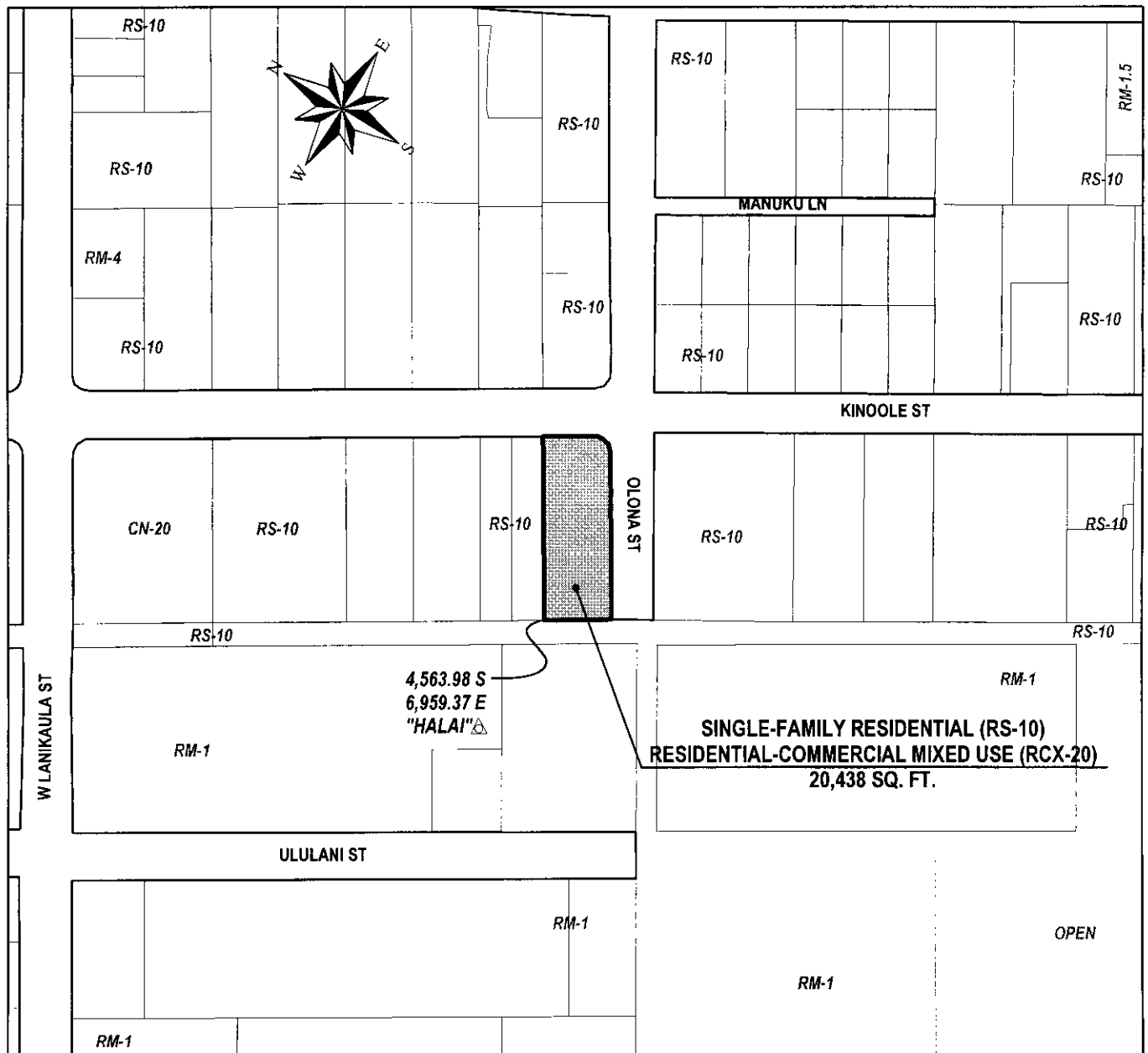
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: August 23, 2006
Date of 1st Reading: August 23, 2006
Date of 2nd Reading: September 7, 2006
Effective Date: September 19, 2006

REFERENCE: Comm. 951



240 120 0 240 480 720 960 1,200 Feet

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 RESIDENTIAL-COMMERCIAL MIXED USE (RCX-20)
 AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

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

Introduced By: K. Angel Pilago
Date Introduced: August 23, 2006
First Reading: August 23, 2006
Published: September 1, 2006

REMARKS: _____

Second Reading: September 7, 2006
To Mayor: September 11, 2006
Returned: September 19, 2006
Effective: September 19, 2006
Published: September 25, 2006

REMARKS: _____

ROLL CALL VOTE				
2006 SEP 19 6:08 36	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:

Amy D. Self
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 9/12/06

Approved/Disapproved this 19th day

of September, 20 06

Maellor
MAYOR, COUNTY OF HAWAII

[Signature]
COUNCIL CHAIRMAN

Constance R. Ciri
COUNTY CLERK

Bill No.: 303

Reference: C-951/PC-102

Ord No.: 06 123