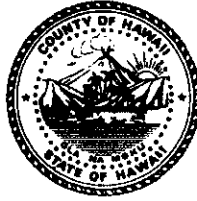


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **06 144** BILL NO. 333

AN ORDINANCE AMENDING ORDINANCE NO. 98 98, WHICH RECLASSIFIED LANDS FROM SINGLE FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO INDUSTRIAL COMMERCIAL MIXED – 20,000 SQUARE FEET (MCX-20) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-037:029.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Ordinance No. 98 98 is amended as follows:

“SECTION 1. Section 25-8-3, 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:

SECTION 2. [~~This change in district classification is conditioned upon the following:~~] 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 required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ~~[ninety (90)]~~one hundred and eighty (180) days from the effective date of this ~~[ordinance]~~amendment.
- C. Construction of the proposed development and related improvements within the subject property shall be completed within five (5) years from the effective date of this ~~[ordinance]~~amendment. This time period shall include securing Final Plan Approval from the Planning Director for the development within the subject property. Plans shall identify structures, fire protection measures, paved and striped parking stalls and driveway and other improvements associated with the proposed uses. Plans shall include a landscaping buffer along the northern, western, and southern boundaries of the subject property.
- D. An overall landscaping plan and maintenance plan, which includes landscaping along the side property boundaries of the subject property, shall be submitted to the Planning Director for review and approval prior to the issuance of Final Plan Approval.
- E. Driveway access and sidewalk improvements along Kanoelehua Avenue shall meet with the approval of the Department of Transportation and the Department of Public Works, whichever is applicable.
- F. A Solid Waste Management Plan shall be submitted for review and approval to the Department of Public Works in conjunction with the submittal of plans for Plan Approval.
- G. A drainage system, if applicable, shall be installed, meeting with the approval of the Department of Public Works.


- H. Sewer line connections shall be installed meeting with the requirements of the Department of Public Works.
- I. Comply with all other applicable rules, regulations and requirements of the affected agencies for the development of the subject property.
- J. Upon compliance with applicable conditions of approval, prior to the opening of the proposed development, the applicant shall submit a final status report, in writing, to the Planning Director.
- K. 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 Fee Ordinance.
- L. ~~[An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstance:~~
 - 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 granting of the permit.~~
 - 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)]~~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.

- M. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject property to its original or more appropriate designation.”

SECTION 3. Material to be deleted is bracketed and struck-through. New material is underscored.

SECTION 4. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

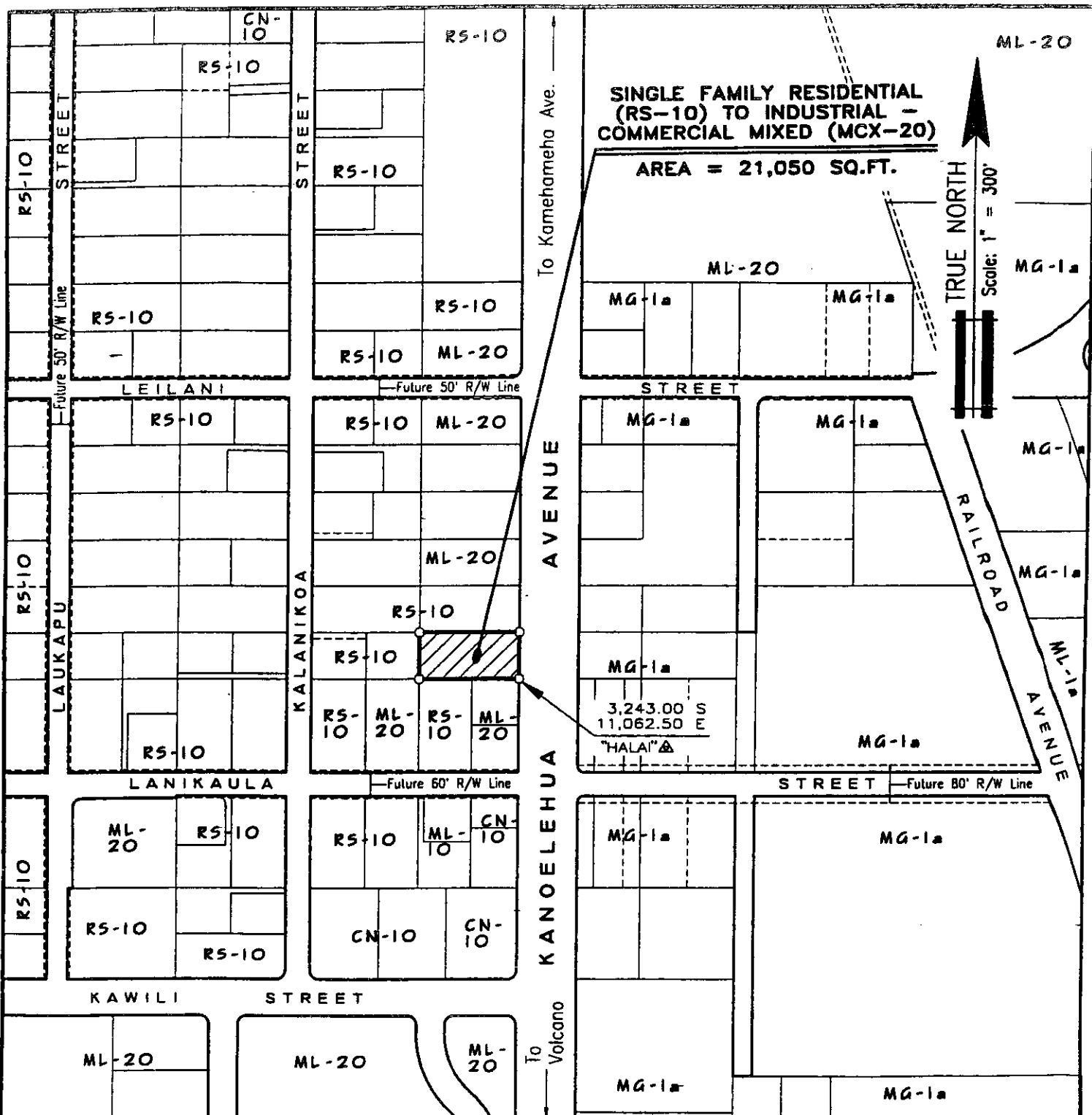
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: October 31, 2006
Date of 1st Reading: October 31, 2006
Date of 2nd Reading: November 15, 2006
Effective Date: November 28, 2006

REFERENCE: Comm: 1046



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 INDUSTRIAL-COMMERCIAL MIXED (MCX-20) AT WAIKAE, 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: October 31, 2006
First Reading: October 31, 2006
Published: N/A

REMARKS: _____

Second Reading: November 15, 2006
To Mayor: November 17, 2006
Returned: November 30, 2006
Effective: November 28, 2006
Published: December 15, 2006

REMARKS: _____

5:35 NOV 30 PM 12:43
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

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	
	6	0	3	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:

Ang D. Selig
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date November 27, 2006

Approved/Disapproved this 28th day
of November, 2006
Harry L.
MAYOR, COUNTY OF HAWAII

Michael H. ...
COUNCIL CHAIRMAN
Constance R. Klein
COUNTY CLERK

Bill No.: 333
Reference: C-1046/PC-115
Ord No.: 06 144