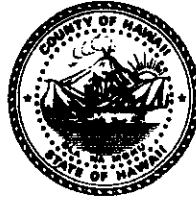


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 334  
(Draft 2)

ORDINANCE NO. 06 145

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 INDUSTRIAL-COMMERCIAL MIXED – 20,000 SQUARE FEET (MCX-20) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-35:63.

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 Industrial-Commercial Mixed - 20,000 square feet (MCX-20):

Beginning at a nail set at the northeast corner of this parcel of land, also being at the southeast corner of Lot 12, Block 23, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 1,563.00 feet South and 11,075.00 feet East and thence running by azimuths measured clockwise from true South:

- |    |              |             |   |
|----|--------------|-------------|---|
| 1. | 00° 00' 00"  | 100.00 feet | along the west side of Kanoelehua Avenue to a nail found; |
| 2. | 90° 00' 00"  | 210.50 feet | along Lot 16-A-1, Block 23, to a spike found;             |
| 3. | 180° 00' 00" | 100.00 feet | along Lot 13, Block 23, to a pipe found;                  |

4.      270°   00'   00"      210.50 feet      along Lot 12, Block 23, to the point  
of beginning and containing an area  
of 21,050 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. 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) days from the effective date of this ordinance.
- C. Construction of the proposed development 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 for the proposed development from the Planning Director in accordance with Chapter 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 proposed 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) and Section 25-5-137 (Landscaping of Yards in the MCX District).

- D. Ingress and egress to the subject property from Kanoelehua Avenue shall meet with the approval of the Department of Transportation. Any improvements, if required, shall meet with the approval of the Department of Transportation.
- E. The height of any structure on the project site shall be limited to thirty-five (35) feet.
- F. Streetlights and traffic control devices shall be installed as required by the Traffic Division, Department of Public Works.
- G. 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. Any 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.
- H. The project shall connect to the existing County sewerline prior to the issuance of a Certificate of Occupancy.
- I. 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.

- J. 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.
- 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 Fees Ordinance.
- L. The applicant shall comply with all County, State and Federal laws, rules, regulations and requirements.
- M. 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.
- N. 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.

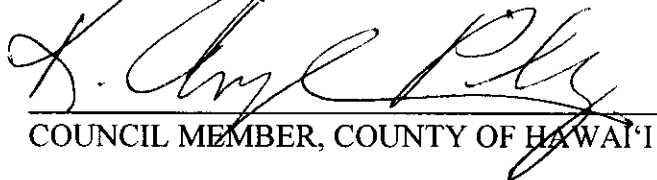
2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
4. The time extension granted shall be for a period not to exceed the period originally granted 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 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.

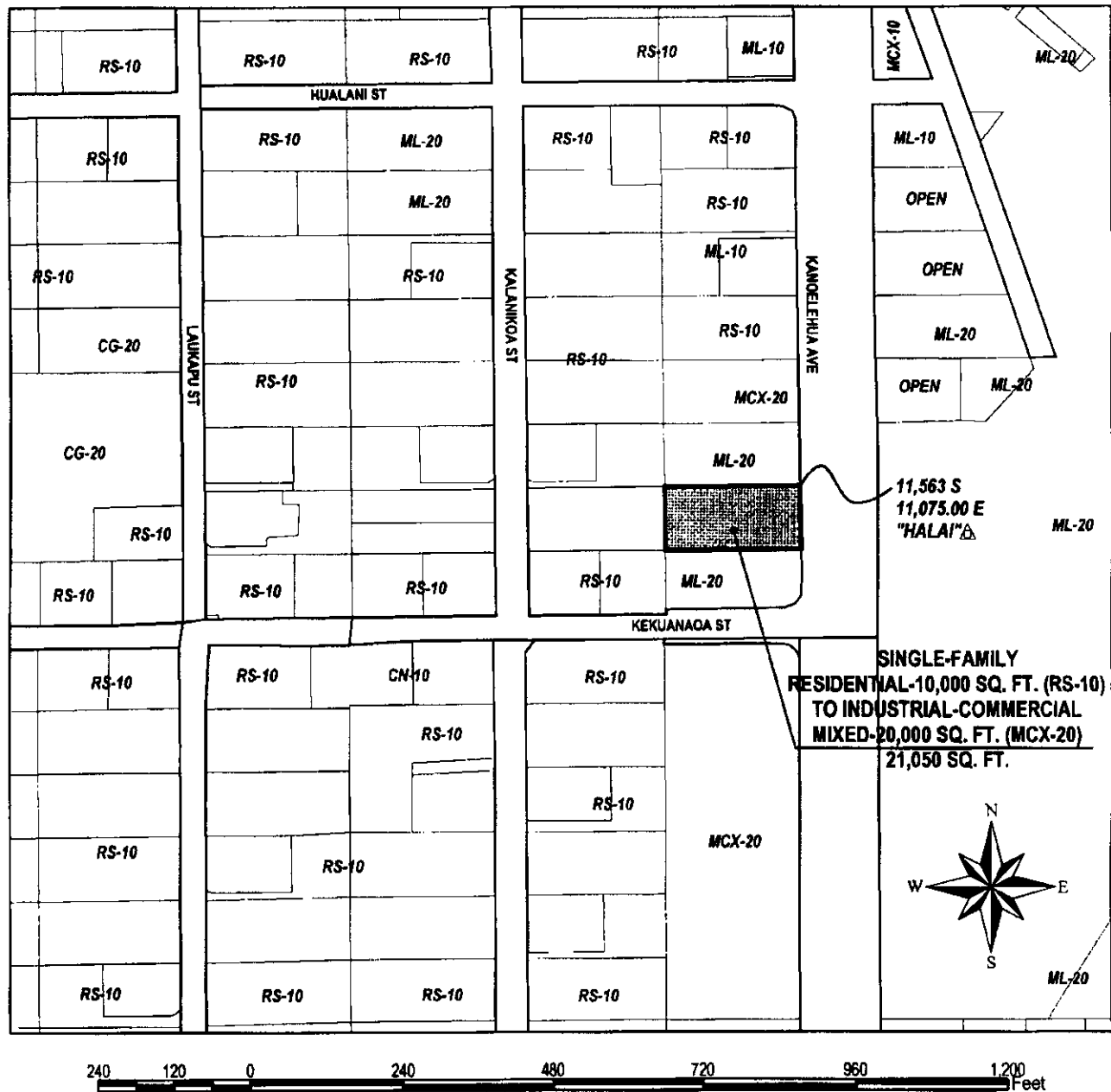
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

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

REFERENCE: Comm: 1047.1



# 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-10,000 SQ. FT. (RS-10)  
 TO INDUSTRIAL-COMMERCIAL MIXED-20,000 SQ. FT. (MCX-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

RECEIVED

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: \_\_\_\_\_  
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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			
	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	
	7	0	2	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:

A. D. Sely  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date November 27, 2006

Approved/Disapproved this 28<sup>th</sup> day  
of November, 2006

Harry Kim  
MAYOR, COUNTY OF HAWAII

Stephen K. Kim  
COUNCIL CHAIRMAN  
Christopher R. Kim  
COUNTY CLERK

Bill No.: 334 (Draft 2)  
Reference: C-1047.1/PC-116  
Ord No.: 06 145