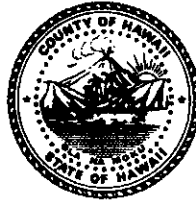


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **06 146** BILL NO. 335

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 2-2-36:64.

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):

PARCEL "A":

Beginning at the Southwest corner of this parcel of land, being also the Southeast corner of Lot "B" and on the North side of Lanikaula Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 3,443.00 feet South and 10,246 feet East and running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|--------|--|
| 1. | 180° 00' | 125.00 | feet along Lot "B", being the remainder of Lot 14, Block 37 of the Waiakea House Lots, 1 st Series, Grant 10,318; |
| 2. | 270° 00' | 103.20 | feet along same; |
| 3. | 360° 00' | 125.00 | feet along Lot 15, Block 37 of the Waiakea House Lots, 1 st Series, Grant 10,165; |

- | | | | |
|----|---------|--------|---|
| 4. | 90° 00' | 103.20 | feet along the North side of Lanikaula Avenue to the point of beginning and containing an area of 12,900 Square Feet, more or less. |
|----|---------|--------|---|

PARCEL "B":

Beginning at the Southeast corner of this parcel of land, being also the Southwest corner of Lot "A" and on the North side of Lanikaula Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 3,443.00 feet South and 10,246 feet East and running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|--------|--|
| 1. | 90° 00' | 11.30 | feet along the North side of Lanikaula Avenue; |
| 2. | 180° 00' | 200.00 | feet along Lot 13, Block 37 of the Waiakea House Lots, 1 st Series, Grant 9935; |
| 3. | 270° 00' | 114.50 | feet along Lot 11-B, Block 37 of the Waiakea House Lots, 1 st Series, Grant 10,652; |
| 4. | 360° 00' | 75.00 | feet along Lot 15, Block 37 of the Waiakea House Lots, 1 st Series, Grant 10,165; |
| 5. | 90° 00' | 103.20 | feet along Lot "A", being the remainder of Lot 14, Block 37 of the Waiakea House Lots, 1 st Series, Grant 10,318; |
| 6. | 360° 00' | 125.00 | feet along the same to the point of beginning and containing an area of 10,000 Square Feet, 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 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. Parcels 64 and 134 shall be consolidated within one year from the effective date of this ordinance.
- E. Access to the project site from Lanikaula Street shall meet with the approval of the Department of Public Works.
- F. Provide full improvements to the entire frontage of Lanikaula 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 a five-foot road widening strip along the Lanikaula Street frontage and be dedicated to the County of Hawaii prior to the issuance of a Certificate of Occupancy.
- G. Streetlights and traffic control devices shall be installed as required by the Traffic Division, Department of Public Works.
- H. 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 submitted to the Department of Public Works prior to the issuance of Final Plan Approval. If required, any drainage improvements shall be constructed, meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
- I. The project shall connect to the existing County sewerline prior to the issuance 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. 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.
- L. 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.
- M. The applicant shall comply with all County, State and Federal laws, rules, regulations and requirements.
- N. 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.
- O. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:

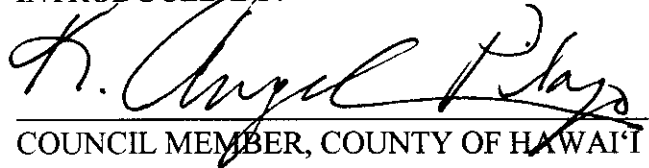
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
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.

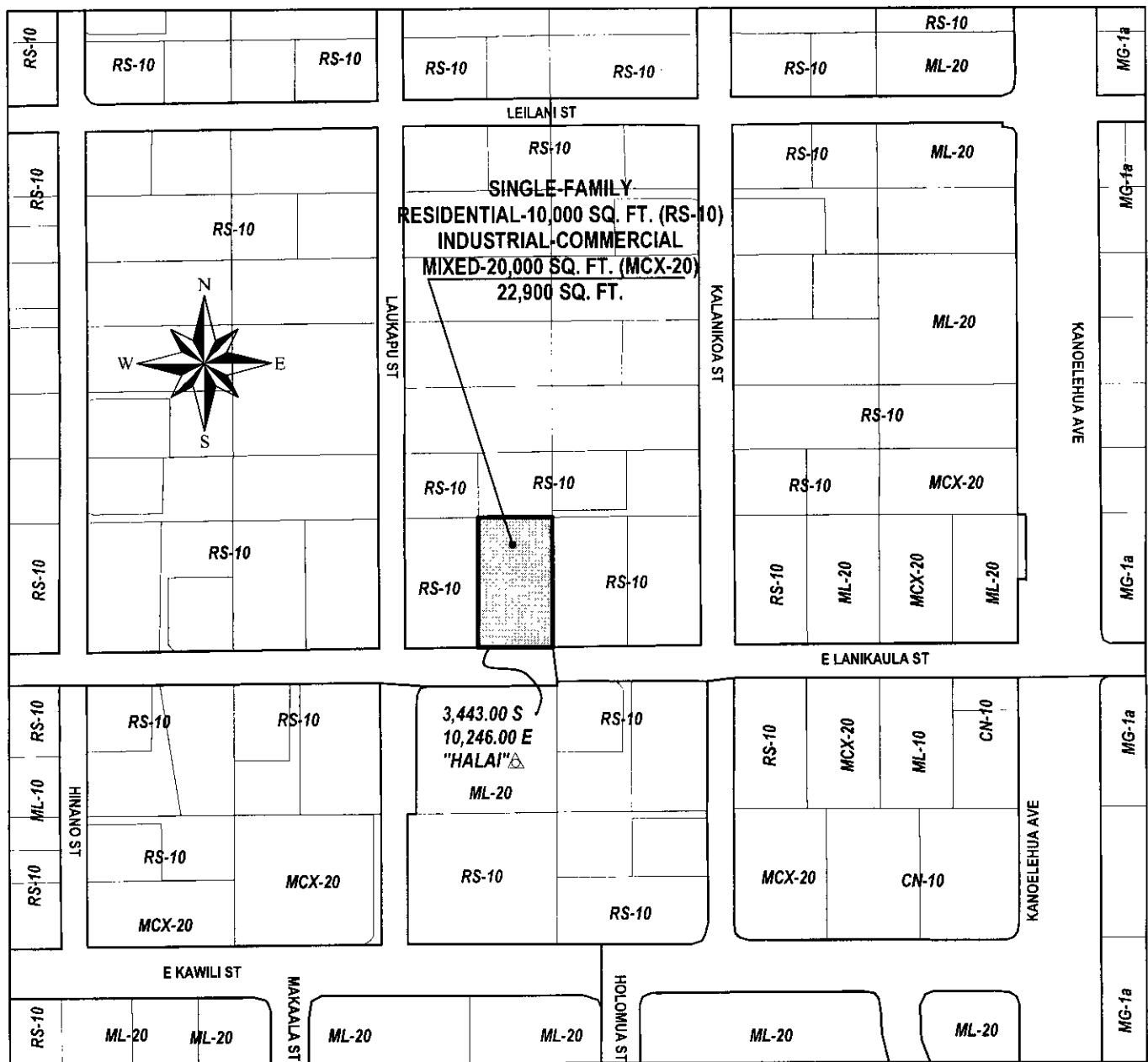
INTRODUCED BY:


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. 1048



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

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: _____

2006 HILU COUNCIL VOTE 12 50				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann			X	
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
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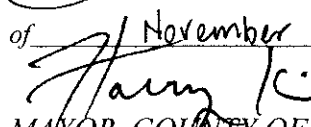
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa			X	
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik			X	
	7	0	2	0



I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date November 27, 2006

Approved/Disapproved this 28th day
of November, 2006

MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 335
Reference: C-1048/PC-117
Ord No.: 06 146