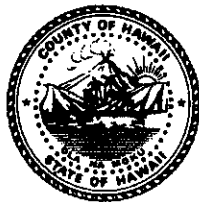


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 07 136 BILL NO. 137

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 2-2-036:090.

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 rebar found at the southwest corner of this parcel of land, also being on the southeast corner of Lot 15 and on the northern right-of-way of Lanikaula Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 3,443.00 feet South and 9,478.50 feet East and thence running by azimuths measured clockwise from true South:

- | | | | |
|----|--------------|-------------|--|
| 1. | 180° 00' 00" | 200.00 feet | along Lot 15, Block 35 to a found pipe; |
| 2. | 270° 00' 00" | 112.50 feet | along Lot 12, Block 35 to the right-of-way of Hinano Street to a set pipe; |
| 3. | 0° 00' 00" | 200.00 feet | along the right-of-way of Hinano Street to a pipe found; |
| 4. | 90° 00' 00" | 112.50 feet | along the right-of-way of Lanikaula Street to the point of beginning and |

containing an area of 22,500 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. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within one hundred and eighty 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. Access to the project site shall meet with the approval of the Department of Public Works.
- E. The applicant shall provide full improvements to the entire frontage of Lanikaula Street and Hinano 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 five-foot future road widening strips along the Lanikaula Street and Hinano Street frontages and be dedicated to the County of Hawaii prior to the issuance of a Certificate of Occupancy.
- F. The applicant shall provide a minimum 20-foot corner radius (property line at the intersection of Lanikaula Street and Hinano Street) incorporating the 5-foot future road widening setbacks.
- G. Streetlights and traffic control devices shall be installed as required by the Department of Public Works.

- H. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
- I. 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.
- J. The project shall connect to the existing County sewerline prior to the issuance of a Certificate of Occupancy.
- K. 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.
- 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 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. The applicant shall comply with all County, State and Federal laws, rules, regulations and requirements.

- O. 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.

- P. 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).

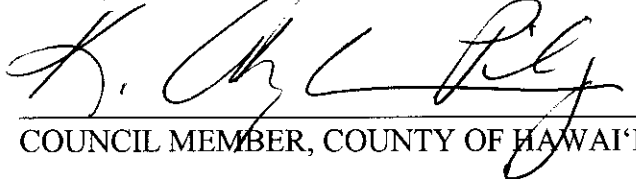
5. If the applicants should require an additional extension of time, the Planning Director shall submit the applicants' request to the County Council for appropriate action.

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the 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.

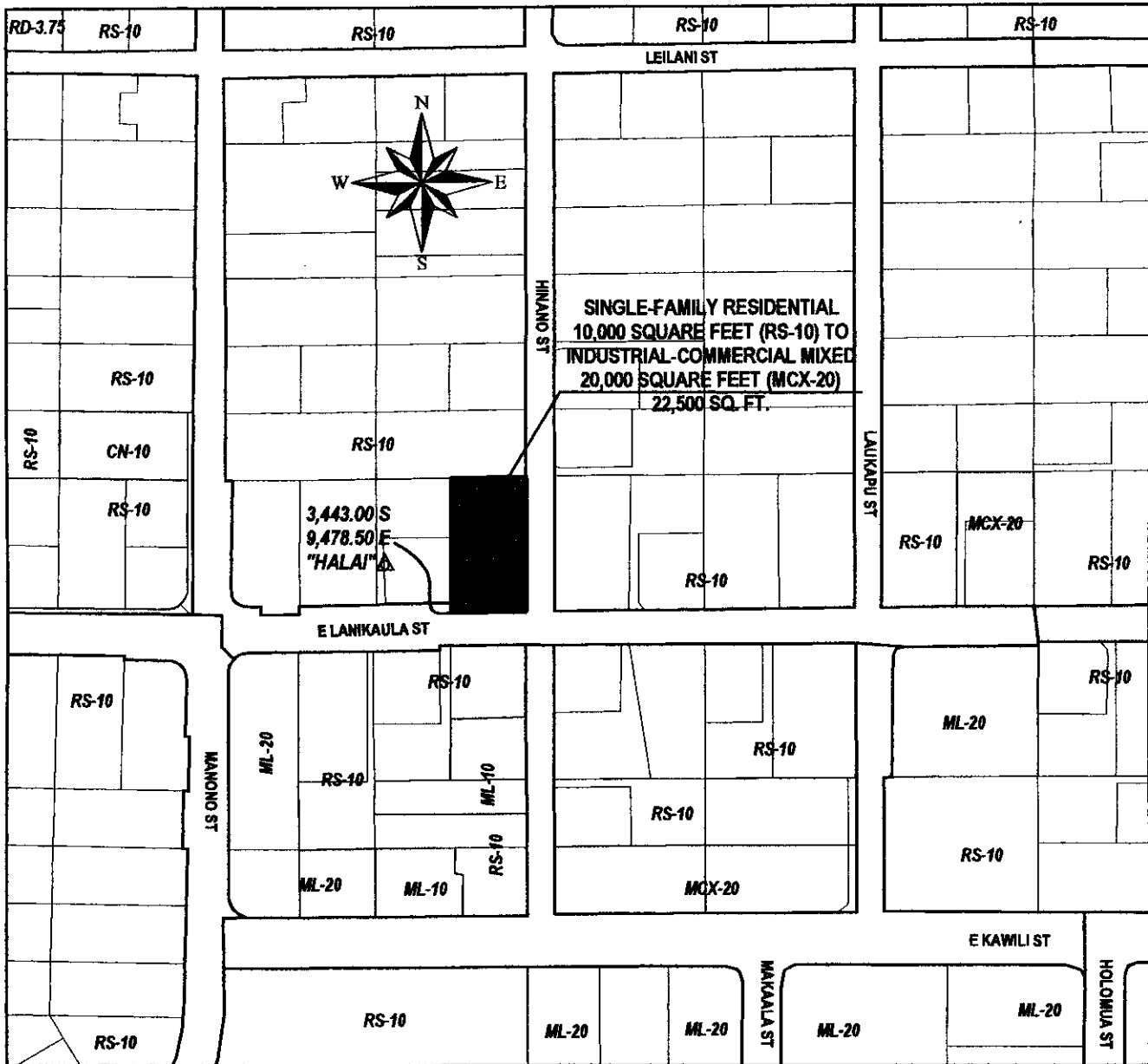
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i

Date of Introduction: September 6, 2007
Date of 1st Reading: September 6, 2007
Date of 2nd Reading: September 19, 2007
Effective Date: October 10, 2007

REFERENCE: Comm. 563



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 SQUARE FEET (RS-10)
 TO INDUSTRIAL-COMMERCIAL MIXED 20,000 SQUARE FEET (MCX-20)

AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

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

Introduced By: K. Angel Pilago
Date Introduced: September 6, 2007
First Reading: September 6, 2007
Published: N/A

REMARKS: _____

Second Reading: September 19, 2007
To Mayor: September 27, 2007
Returned: October 10, 2007
Effective: October 10, 2007
Published: October 18, 2007

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa	X			
Hoffmann	X			
Ikeda	X			
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong			X	
Yoshimoto	X			
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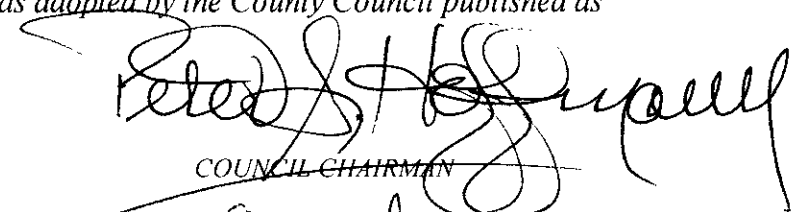

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa	X			
Hoffmann	X			
Ikeda	X			
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong			X	
Yoshimoto	X			
	8	0	1	0

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 OCT - 2 2007


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 137
Reference: C-563/PC-41
Ord No.: **07 136**

Approved/Disapproved this 10th day
of October, 2007


MAYOR, COUNTY OF HAWAII