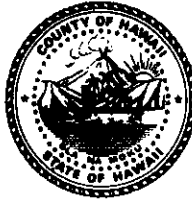


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 08 20 BILL NO. 217

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 NEIGHBORHOOD COMMERCIAL 10,000 SQUARE FEET (CN-10) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-036:025 AND 026.

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 Neighborhood Commercial 10,000 square feet (CN-10):

Lot 1-A:

Beginning at the South West Corner of this parcel of land and the North West corner of Lot 3-A-1, a portion of Lot 3, Block 27, Grant 8707 to Kitaro Takahashi and on the East side of Manono Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 1,903.00 feet South and 9,146.00 feet East, as shown on Government Survey Registered Map No. 2566, and running by azimuth measured clockwise by true South:

1.	180° 00'	60.00	feet along the East side of Manono Street;
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Thence, along the same on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being:

2.	225° 00'	42.43	feet;
3.	270° 00'	190.00	feet along the South side of Kekuanaoa Street;
4.	360° 00'	90.00	feet along Lot 2-A, Block 27, Grant 8706 to Kenjiro Kodama of Waiakea House Lots, 1 st Series;
5.	90° 00'	220.00	feet along Lots 3-A-1 and 3-B-1 a portion of Lot 3, Block 27, Grant 8707 to Kitaro Takahashi of Waiakea House Lots, 1 st Series to the point of beginning and containing an area of 19,607 square feet, more or less.

Lot 2-A:

Beginning at the North West Corner of this parcel of land and the North East corner of Lot 1-A, and on the South side of Kekuanaoa Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 1,813.00 feet South and 9,366.00 feet East, as shown on Government Survey Registered Map No. 2566, and running by azimuth measured clockwise by true South:

1.	270° 00'	205.00	feet along the South side of Kekuanaoa Street;
			Thence, along the same on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:
2.	315° 00'	28.28	feet;
3.	360° 00'	70.00	feet along the West side of Hinano Street;
4.	90° 00'	225.00	feet along Lot 4, Block 27, Grant 8828 to Kametaro Fujimoto of Waiakea House Lots, 1 st Series;

5. 180° 00' 90.00 feet along Lots 1-A, being a portion of Lot 1, Block 27, Grant 8726 to Kinuko Sakamoto of Waiakea House Lots, 1st Series to the point of beginning and containing an area of 20,164 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 180 days from the effective date of this ordinance.
- C. Conversion of the existing dwelling to office uses shall be completed within five (5) years from the effective date of this ordinance. Prior to conversion and/or

construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and paved 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).

- D. The applicant shall either consolidate parcels 25 and 26 prior to receipt of final plan approval for any development on the property or shall establish cross-easements to permit a traffic circulation between TMK 2-2-36: 25 and 26 that would be implemented in connection with any construction of new buildings or any subdivision of the properties. Any access points other than the existing driveways shall meet with the approval of the Department of Public Works.
- E. Not more than two (2) lots shall be created from the subject properties (TMK 2-2-36: 25 and 26).
- F. Upon construction of any new buildings on Parcel 26, the applicant shall provide improvements to the entire frontage of Hinano Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any required utility relocation. All roadway improvements to Hinano Street shall be completed prior to a Certificate of Occupancy.
- G. The applicant shall provide a solid wall not to exceed six feet in height as a buffer along the common boundary of TMK (3) 2-2-36: 26 and TMK (3) 2-2-36: 149.

- H. A "No Left Turn" sign shall be installed at each of the two existing driveways along Kekuanaoa Street. All driveway connections shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
- I. The existing hedge on the corner of Kekuanaoa Street and Manono Street shall be limited to a height of three feet.
- J. Install street lights and traffic controls as required by the Traffic Division, Department of Public Works.
- K. 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 by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.
- L. 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.
- M. If the applicant, successors, or assigns develops residential units on the subject property(ies), the applicant shall make its fair share contribution to mitigate the potential regional impacts of the property 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 combined value of **\$7,043.62** per multiple family residential unit (**\$10,976.69** 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 unit) shall be allocated as follows:

1. **\$3,474.42** per multiple family residential unit (**\$5,293.15** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$109.81** per multiple family residential unit (**\$232.42** per single family residential unit) to the County to support police facilities;
3. **\$337.78** per multiple family residential unit (**\$504.33** per single family residential unit) to the County to support fire facilities;
4. **\$150.55** per multiple family residential unit (**\$220.80** per single family residential unit) to the County to support solid waste facilities; and
5. **\$2,971.05** per multiple family residential unit (**\$4,703.06** 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.

- N. 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.
- O. 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.
- 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.

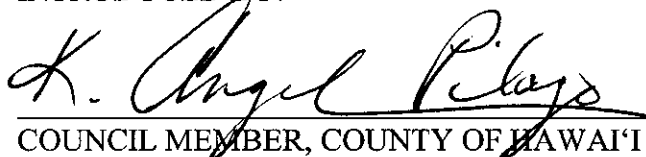
3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for 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 County Council for appropriate action.

Should any of the conditions not be met or substantially complied with in a timely fashion, the 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.

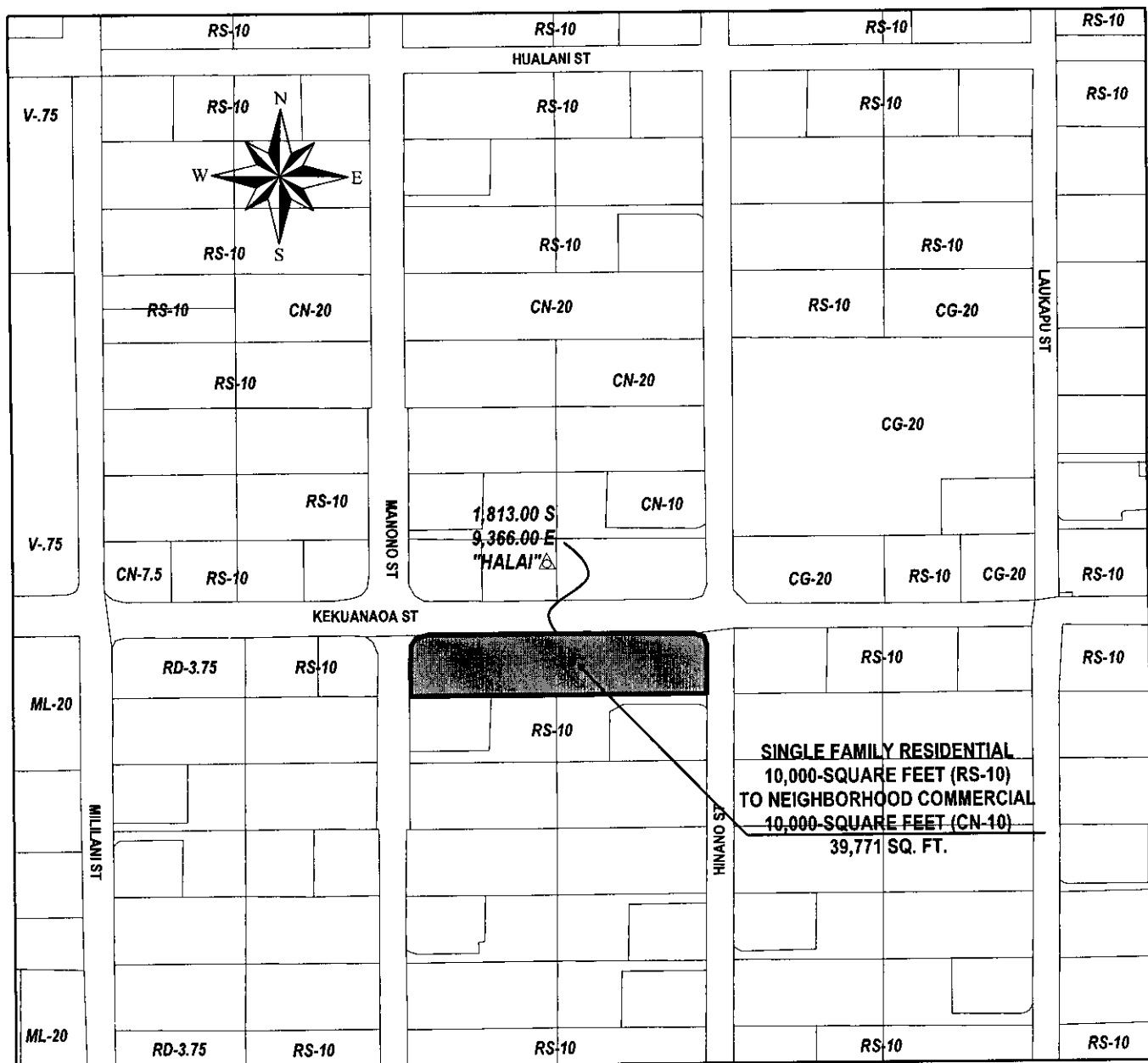
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i

Date of Introduction: February 6, 2008
Date of 1st Reading: February 6, 2008
Date of 2nd Reading: February 21, 2008
Effective Date: March 10, 2008

REFERENCE: ~~Comm~~ 913 ~~_____~~



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 NEIGHBORHOOD COMMERCIAL 10,000-SQUARE FEET (CN-10)
 AT WAIAKEA, SOUTH HILO , HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

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

RECEIVED

Introduced By: K. Angel Pilago
Date Introduced: February 6, 2008
First Reading: February 6, 2008
Published: February 16, 2008

REMARKS: _____

Second Reading: February 21, 2008
To Mayor: February 29, 2008
Returned: March 10, 2008
Effective: March 10, 2008
Published: March 17, 2008

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	
	8	0	1	0

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	
	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:

Ray D. Selig
DEPUTY CORPORATION COUNSELLOR
COUNTY OF HAWAII

Date MAR - 3 2008

Casey Jarman
COUNCIL CHAIRMAN
Casey Jarman
COUNTY CLERK

Bill No.: 217
Reference: C-913/PC-62
Ord No.: 08 20

(Approved) Disapproved this 10th day

of March, 2008
Harry Lee
MAYOR, COUNTY OF HAWAII

**Ordinances Numbered 08-20, 08-21, 08-22, 08-23, 08-24,
08-25, 08-26, 08-27, 08-28, 08-29, & 08-30**

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on February 21, 2008, by vote, as listed below:

Ordinance 08-20 (Bill 217): 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 Neighborhood Commercial 10,000 Square Feet (CN-10) at Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-036:025 and 026. AYES: Council Members Ford, Higa, Jacobson, Naeole, Pilago, Yagong, and Chair Hoffmann – 7; NOES: None; ABSENT: Council Members Ikeda and Yoshimoto – 2; EXCUSED: None.

Ordinance 08-21 (Bill 218, Draft 3): An Ordinance Amending Chapter 14, Article 13 of the Hawai'i County Code 1983 (2005 Edition, as Amended), Related to a Ban on Soliciting for Money or Objects of Value. AYES: Council Members Ford, Higa, Naeole, Pilago, Yoshimoto, and Chair Hoffmann – 6; NOES: Council Members Jacobson and Yagong – 2; ABSENT: Council Member Ikeda – 1; EXCUSED: None.

Ordinance 08-22 (Bill 219, Draft 2): An Ordinance Amending the Parks and Recreational Facility Schedule, Chapter 15, Article 8, Section 15-68.1, Hawai'i County Code 1983 (1995 Edition, as Amended), by Renaming the Kona Scenic Park, in Honor of Clarence Lum Won, [~~THE~~] "Clarence Lum Won Park." AYES: Council Members Ford, Higa, Jacobson, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 7; NOES: None; ABSENT: Council Members Ikeda and Naeole – 2; EXCUSED: None.

Ordinance 08-23 (Bill 220): An Ordinance to Amend Ordinance No. 07-82, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2008. AYES: Council Members Ford, Higa, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Ikeda – 1; EXCUSED: None.

Ordinance 08-24 (Bill 221): An Ordinance Amending Ordinance No. 07-83, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2007 to June 30, 2008. AYES: Council Members Ford, Higa, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Ikeda – 1; EXCUSED: None.

Ordinance 08-25 (Bill 222, Draft 2): An Ordinance Amending Ordinance No. 07-83, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2007 to June 30, 2008. AYES: Council Members Ford, Higa, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Ikeda – 1; EXCUSED: None.


Ordinance 08-26 (Bill 226): An Ordinance Amending Ordinance No. 07-83, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2007 to June 30, 2008. AYES: Council Members Ford, Higa, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Ikeda – 1; EXCUSED: None.

Ordinance 08-27 (Bill 227): An Ordinance to Amend Ordinance No. 07-82, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2008. AYES: Council Members Ford, Higa, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Ikeda – 1; EXCUSED: None.

Ordinance 08-28 (Bill 232): An Ordinance to Amend Ordinance No. 07-82, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2008. AYES: Council Members Ford, Higa, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Ikeda – 1; EXCUSED: None.

Ordinance 08-29 (Bill 233): An Ordinance to Amend Ordinance No. 07-82, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2008. AYES: Council Members Ford, Higa, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Ikeda – 1; EXCUSED: None.

Ordinance 08-30 (Bill 234): An Ordinance to Amend Ordinance No. 07-82, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2008. AYES: Council Members Ford, Higa, Jacobson, Naeole, Pilago, Yagong, Yoshimoto, and Chair Hoffmann – 8; NOES: None; ABSENT: Council Member Ikeda – 1; EXCUSED: None.


Casey Jarman
County Clerk

(Hawai'i Tribune-Herald – March 17, 2008)
(West Hawai'i Today – March 17, 2008)

Note: The original Digest/Affidavit is attached to Ordinance No. 08-20.