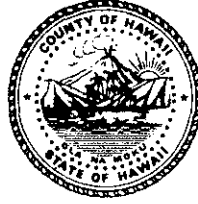


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 09 44 BILL NO. 32

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 HOUSELOTS, WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-034:036.

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 Houselots, Waiakea, South Hilo, Hawai'i, shall be Neighborhood Commercial - 10,000 square feet (CN-10):

Beginning at the southwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 623.00 feet South and 9,141.00 feet East and running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|--------|--|
| 1. | 180° 00' | 100.00 | feet along the east side of Manono Street; |
| 2. | 270° 00' | 225.00 | feet along Lot 7, (Grant 8781 to Mrs. Mary Lau On); |
| 3. | 360° 00' | 100.00 | feet along Lot 10 (Grant 8777 to Akira Kazusa); |
| 4. | 90° 00' | 225.00 | feet along Lot 11 (Grant 8784 to Shozo Murakami) to the point of |

beginning and containing an area of 22,500 square feet.

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 applicants, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. If required by the Department of Water Supply, prior to the issuance of a water commitment, 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), Hawai'i County Code.

- D. A five-foot future road widening strip along Manono Street shall be delineated on the plans submitted for Plan Approval review. The five-foot wide future road widening section with roadway improvements shall be subdivided and dedicated to the County within five (5) years from the effective date of this ordinance.
- E. The applicant(s) shall provide improvements to the entire frontage of Manono Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any required utility relocation, meeting the requirements of the Department of Public Works. All roadway improvements to Manono Street shall be completed prior to a Certificate of Occupancy.
- F. 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.
- G. 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.
- H. If the applicants, successors, or assigns develops residential units on the subject property, the applicants shall make their 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 **\$7,383.36** per multiple family residential unit (**\$11,506.13** 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. **\$3,642.00** per multiple family residential unit (**\$5,548.46** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$115.11** per multiple family residential unit (**\$267.66** per single family residential unit) to the County to support police facilities;
3. **\$354.08** per multiple family residential unit (**\$528.66** per single family residential unit) to the County to support fire facilities;
4. **\$157.81** per multiple family residential unit (**\$231.45** per single family residential unit) to the County to support solid waste facilities; and

5. **\$3,114.36** per multiple family residential unit (**\$4,929.90** per single family residential unit) to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicants 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

- I. 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.
- J. 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, Hawai'i 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.
- K. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- L. 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.

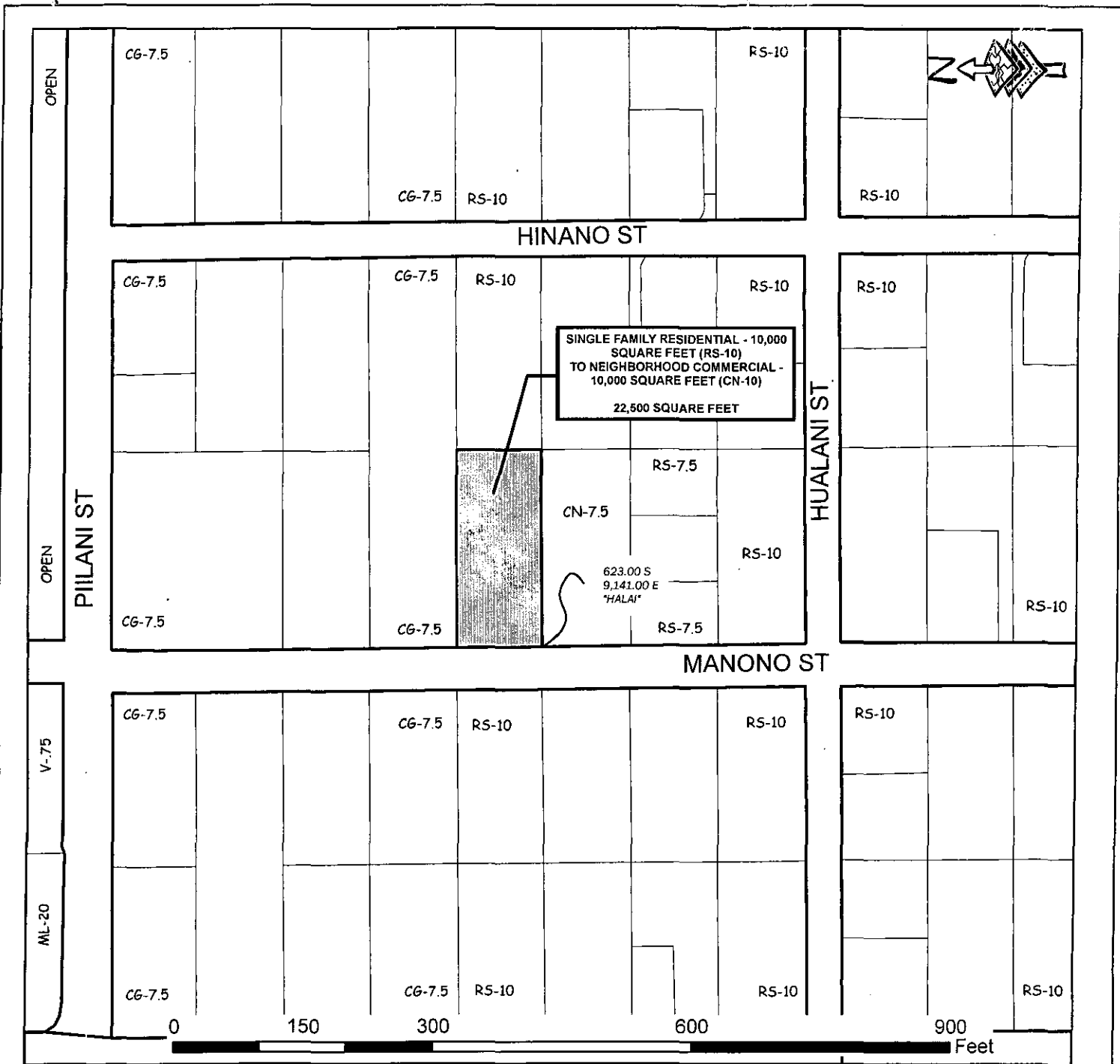
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: March 18, 2009
Date of 1st Reading: March 18, 2009
Date of 2nd Reading: April 8, 2009
Effective Date: April 23, 2009



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 HOUSELOTS, WAIAKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

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

RECEIVED

Introduced By: Donald Ikeda
 Date Introduced: March 18, 2009
 First Reading: March 18, 2009
 Published: March 27, 2009

REMARKS: _____

Second Reading: April 8, 2009
 To Mayor: April 17, 2009
 Returned: April 23, 2009
 Effective: April 23, 2009
 Published: April 30, 2009

REMARKS: _____

ROLL CALL VOTE

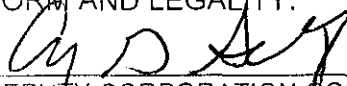
2009 APR 23 PM 1:00

	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	8	1	0	0

ROLL CALL VOTE

	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole			X	
Onishi	X			
Yagong			X	
Yoshimoto	X			
	6	1	2	0

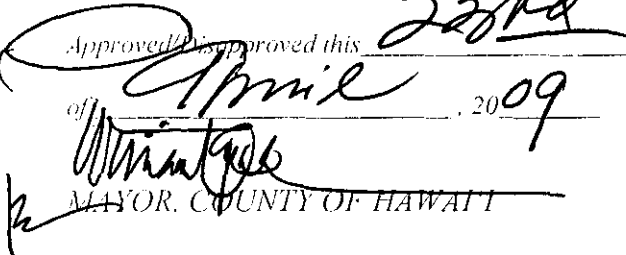
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
 FORM AND LEGALITY:

 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date APR 22 2009


 COUNCIL CHAIRPERSON


 COUNTY CLERK

Approved/Disapproved this 22nd day
 of April, 2009

 MAYOR, COUNTY OF HAWAII

Bill No.: 32
 Reference: C-147/PC-7
 Ord No.: 09 44

Ordinances Numbered 09-44, 09-45, 09-46, & 09-47

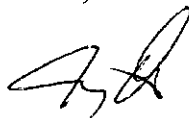
I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on April 8, 2009, by vote, as listed below:

Ordinance 09-44 (Bill 32): 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 Houselots, Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-034:036. AYES: Council Members Enriques, Ford, Greenwell, Ikeda, Onishi, and Chair Yoshimoto – 6; NOES: Council Member Hoffmann – 1; ABSENT: Council Members Naeole and Yagong – 2; EXCUSED: None.

Ordinance 09-45 (Bill 33): 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 Houselots, Waiakea, South Hilo, Hawai'i, Covered by Tax Map Key 2-2-034:088. AYES: Council Members Enriques, Ford, Greenwell, Ikeda, Onishi, and Chair Yoshimoto – 6; NOES: Council Member Hoffmann – 1; ABSENT: Council Members Naeole and Yagong – 2; EXCUSED: None.

Ordinance 09-46 (Bill 38): An Ordinance to Amend Ordinance No. 08-78, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2009. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Onishi, and Chair Yoshimoto – 7; NOES: None; ABSENT: Council Members Naeole and Yagong – 2; EXCUSED: None.

Ordinance 09-47 (Bill 52): An Ordinance Amending Ordinance No. 08-79, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2008 to June 30, 2009. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Onishi, and Chair Yoshimoto – 7; NOES: None; ABSENT: Council Members Naeole and Yagong – 2; EXCUSED: None.


for Kenneth G. Goodenow
County Clerk

(Hawai'i Tribune-Herald – April 30, 2009)
(West Hawai'i Today – April 30, 2009)

Note: The original Digest/Affidavit is attached to Ordinance 09-44.