

BILL NO. 56
(DRAFT 2)

ORDINANCE NO. 09 60

AN ORDINANCE AMENDING ORDINANCE NO. 00-31 WHICH RECLASSIFIED LANDS FROM SINGLE FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO NEIGHBORHOOD COMMERCIAL – 20,000 SQUARE FEET (CN-20) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-034:084 (FORMERLY TAX MAP KEY: 2-2-034:085 AND 093).

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Ordinance No. 00 31 is amended as follows:

“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~~] Waiākea, South Hilo, Hawai'i, shall be Neighborhood Commercial – 20,000 square feet (CN-20):

SECTION 2. [~~This change in district classification is conditioned upon the following:~~]

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. Construction of the proposed improvements and related improvements shall be completed within five (5) years from the effective date of this ~~[ordinance]~~amendment. This time period shall include securing Final Consolidation Approval and Final Plan Approval from the Planning Director for the commercial development. Plans shall identify structures, fire protection measures, landscaping and maintenance plan, paved and striped parking stalls and driveway and other improvements associated with the proposed uses. Plans shall include landscaping along property boundaries for the purpose of mitigating any potential adverse noise or visual impacts to surrounding properties. Landscaping shall be provided in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) standards for CN zones adjoining a RS zone. Plans shall also indicate a 5-foot future road widening setback along the properties' Manono Street frontage.
- C. Driveway accesses from Manono Street and [~~Hinano~~] Hinano Street shall meet with the approval of the Department of Public Works.
- D. The applicants shall construct the following roadway improvements along the subject property's Manono Street frontage, meeting with the approval of the Department of Public Works:
1. A half-section of roadway improvements on the east side of Manono Street consisting of a 21-foot wide A.C. pavement with concrete curb, gutter, and sidewalk and drainage improvements within the future road widening setback area established as one-half the distance between the existing right-of-way and 60 feet.
 2. A half-section of roadway improvements on the west side of [~~Hinano~~] Hinano Street consisting of a 16-foot wide A.C. pavement with concrete

curb, gutter, and sidewalk and drainage improvements in the area established as one-half the distance between the existing right-of-way and 50[-]feet.

3. If required, installation of street lights, signs, and traffic markings meeting with the approval of the Department of Public Works, Traffic Division.

All roadway improvements to Manono Street and [~~Hinano~~] Hīnano Street shall be completed within five (5) years from the effective date of [~~the change of zone ordinance~~]this amendment or in conjunction with the County's road widening improvements, which ever occurs first.

- E. The 5-foot wide future road widening section fronting the subject property along Manono Street and roadway improvements on [~~Hinano~~] Hīnano Street shall be subdivided and dedicated to the County of Hawai'i.

~~[F. A Solid Waste Management Plan shall be submitted for review and approval to the Department of Public Works in conjunction with the submittal of plans for Plan Approval to the Planning Director.]~~

- F. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval.

- G. Sewer line connections shall meet with the requirements of the Department of [~~Public Works~~]Environmental Management.

- H. If the applicant, successors, or assigns develop residential units on the subject property, 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 \$7,383.36 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 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.

I. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, if applicable, 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.

~~[H.]~~J. Upon compliance with applicable conditions of approval, prior to the establishment of any new use or the opening of the proposed development, the applicants shall submit a final status report, in writing, to the Planning Director.

~~[I.]~~K. Comply with all other applicable rules, regulations, and requirements of the affected agencies for the development of the subject property.

~~[J.]~~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.

~~[K.]~~M. ~~[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 Planning Commission and County Council for appropriate action.] 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.~~

[~~E~~]N. 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 2. Material to be deleted is bracketed and stricken. New material is underscored.

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:

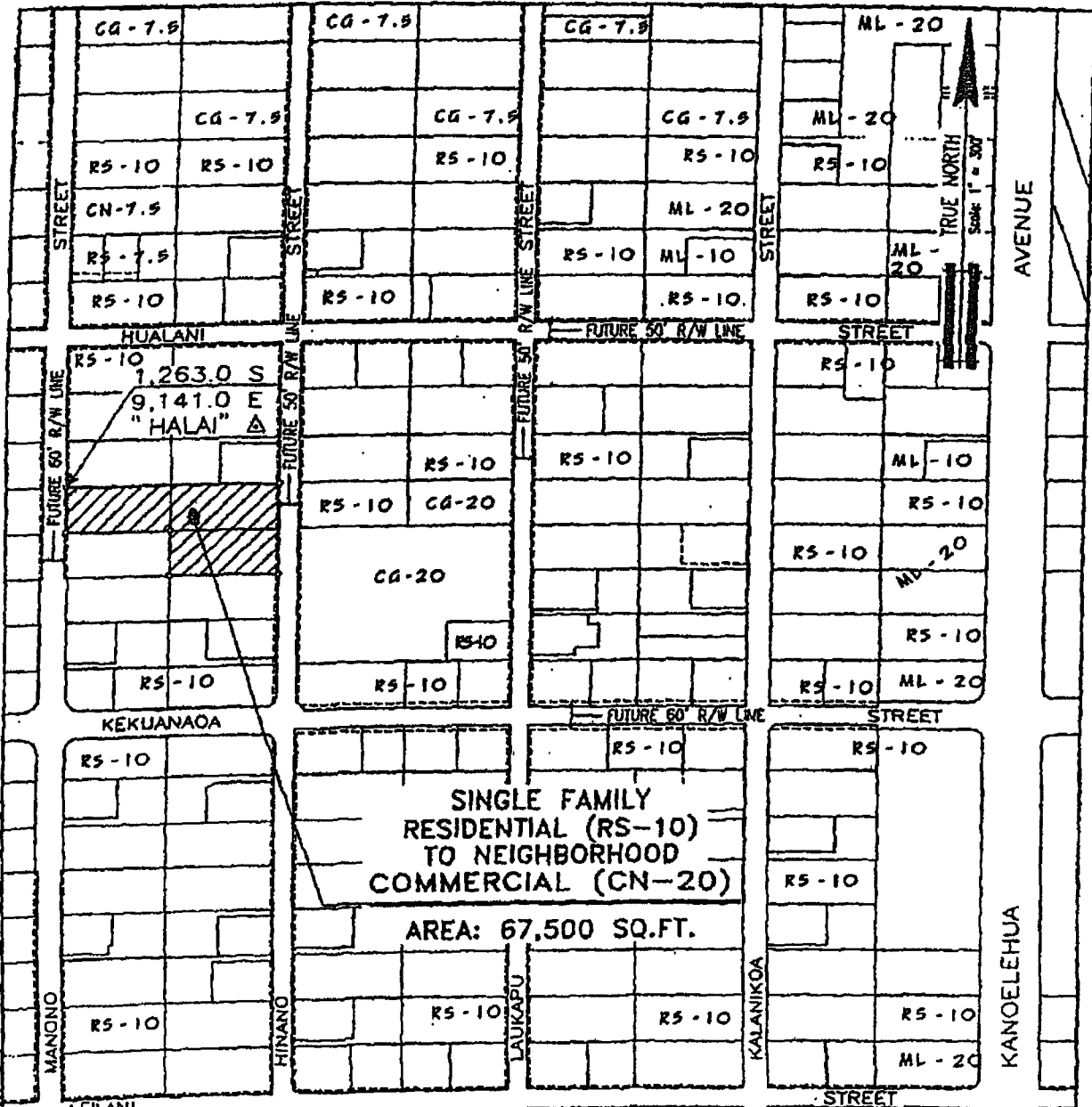


COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i

Date of Introduction: April 22, 2009
Date of 1st Reading: April 22, 2009
Date of 2nd Reading: May 6, 2009
Effective Date: May 22, 2009

REFERENCE: Comm: 218.2



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, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-10) TO NEIGHBORHOOD COMMERCIAL (CN-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

(Draft 2)

Introduced By: Donald Ikeda
Date Introduced: April 22, 2009
First Reading: April 22, 2009
Published: May 1, 2009

REMARKS _____


Second Reading: May 6, 2009
To Mayor: May 14, 2009
Returned: May 22, 2009
Effective: May 22, 2009
Published: June 2, 2009

REMARKS _____

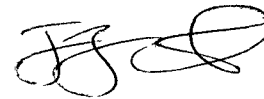
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	8	1	0	0

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			
	7	1	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

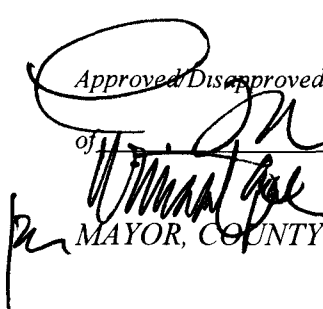
Date MAY 19 2009



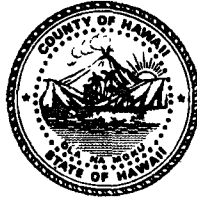
COUNCIL CHAIRPERSON


COUNTY CLERK

Bill No.: 56 (Draft 2)
Reference: C-218.2/PC-26
Ord No.: 09 60

Approved/Disapproved this 22nd day
of May, 2009

MAYOR, COUNTY OF HAWAII

COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 56

ORDINANCE NO. _____

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SECTION 2. [~~This change in district classification is conditioned upon the following:~~]

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
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 - (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. Construction of the proposed improvements and related improvements shall be completed within five (5) years from the effective date of this ~~[ordinance]~~ amendment. This time period shall include securing Final Consolidation Approval and Final Plan Approval from the Planning Director for the commercial development. Plans shall identify structures, fire protection measures, landscaping and maintenance plan, paved and striped parking stalls and driveway and other improvements associated with the proposed uses. Plans shall include landscaping along property boundaries for the purpose of mitigating any potential adverse noise or visual impacts to surrounding properties. Landscaping shall be provided in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) standards for CN zones adjoining a RS zone. Plans shall also indicate a 5-foot future road widening setback along the properties' Manono Street frontage.
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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.~~
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INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

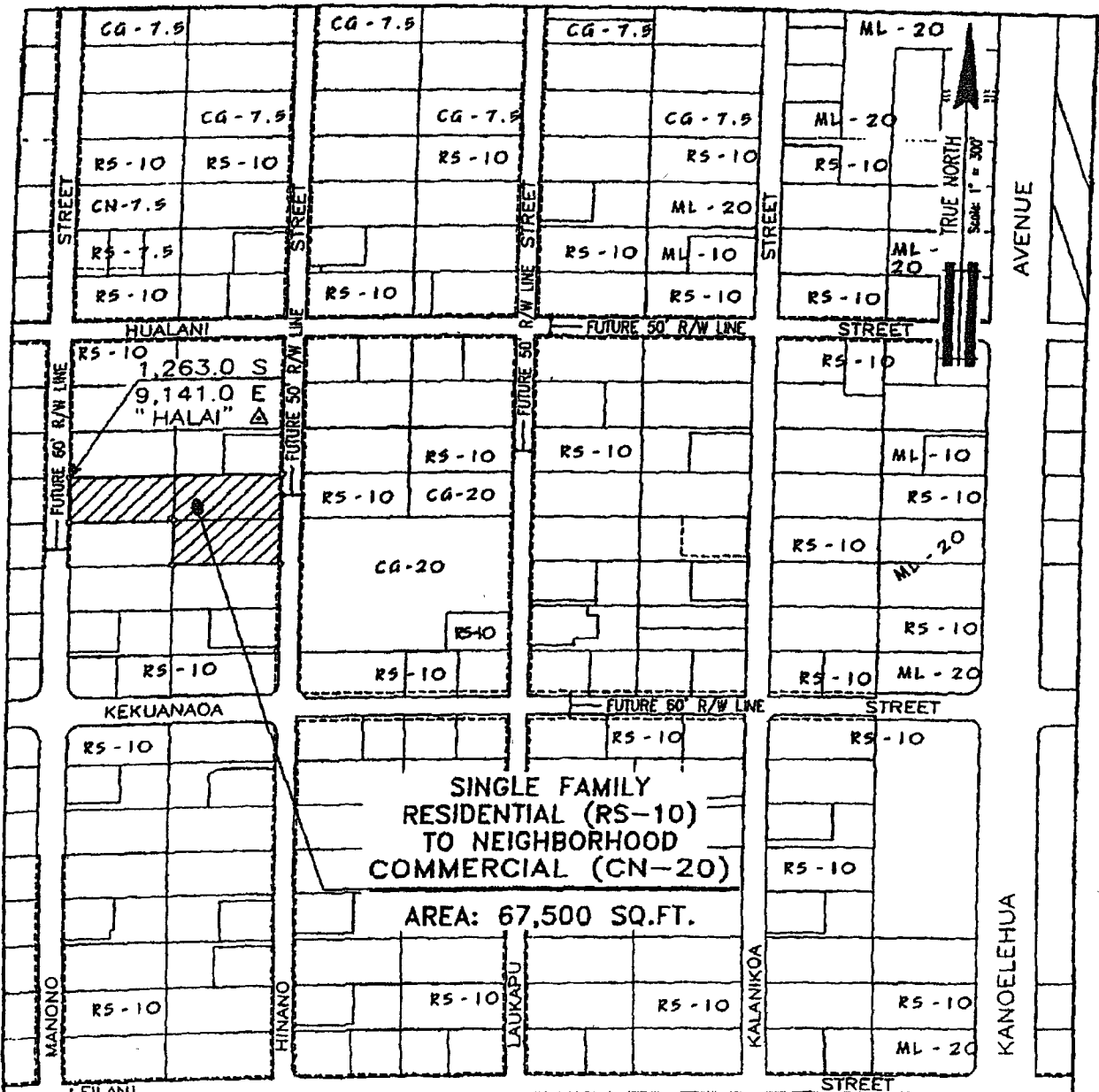
Date of Introduction:

Date of 1st Reading:

Date of 2nd Reading:

Effective Date:

REFERENCE: Comm: 218



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PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

