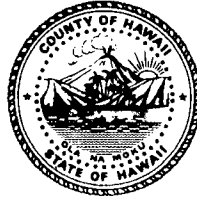


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **09 114** BILL NO. 117

AN ORDINANCE AMENDING ORDINANCE NO. 01 34 WHICH RECLASSIFIED LANDS FROM SINGLE FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO GENERAL COMMERCIAL – 10,000 SQUARE FEET (CG-10) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-020:007.

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

SECTION 1. Ordinance No. 01 34 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 General Commercial – 10,000 square feet (CG-10):

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. Final Plan Approval shall be secured from the Planning Director within two (2) years from the effective date of this [~~ordinance~~]amendment, in accordance with the Zoning Code Sections 25-2-72 and 25-5-117 and the Planning Department's Rule 17 (Landscaping Requirements) for the commercial development within the subject property. Plans shall identify structures, fire protection measures, landscaping, 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 and visual impacts to surrounding properties.
- C. Prior to the issuance of the Certificate of Occupancy, the applicant shall reconstruct the existing concrete driveway and provide full-width concrete sidewalk along the subject property's entire Kino'ole Street frontage to meet the requirements of the Hawai'i County Code and the Americans with Disabilities Act (ADA), meeting with the approval of the Department of Public Works.
- D. [~~A Solid Waste Management Plan shall be submitted for review and approval to the Department of Public Works. A copy of the approved Plan shall be submitted to the Planning Department prior to issuance of a Certificate of Occupancy.~~] 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.
- E. Prior to the issuance of a Certificate of Occupancy for the proposed development, the applicant shall submit a final written report to the Planning Director stating that all conditions have been met.

F. 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 \$7,698.11 per multiple family residential unit (\$11,996.63 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. \$3,797.26 per multiple family residential unit (\$5,784.99 per single family residential unit) to the County to support park and recreational improvements and facilities;
2. \$120.01 per multiple family residential unit (\$279.07 per single family residential unit) to the County to support police facilities;
3. \$369.17 per multiple family residential unit (\$551.20 per single family residential unit) to the County to support fire facilities;
4. \$164.54 per multiple family residential unit (\$241.32 per single family residential unit) to the County to support solid waste facilities; and
5. \$3,247.12 per multiple family residential unit (\$5,140.06 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.

G. 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.

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

~~[G.]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.

~~[H.]J.~~ ~~[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 applicants, 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.

[~~F~~]K. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject property 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:

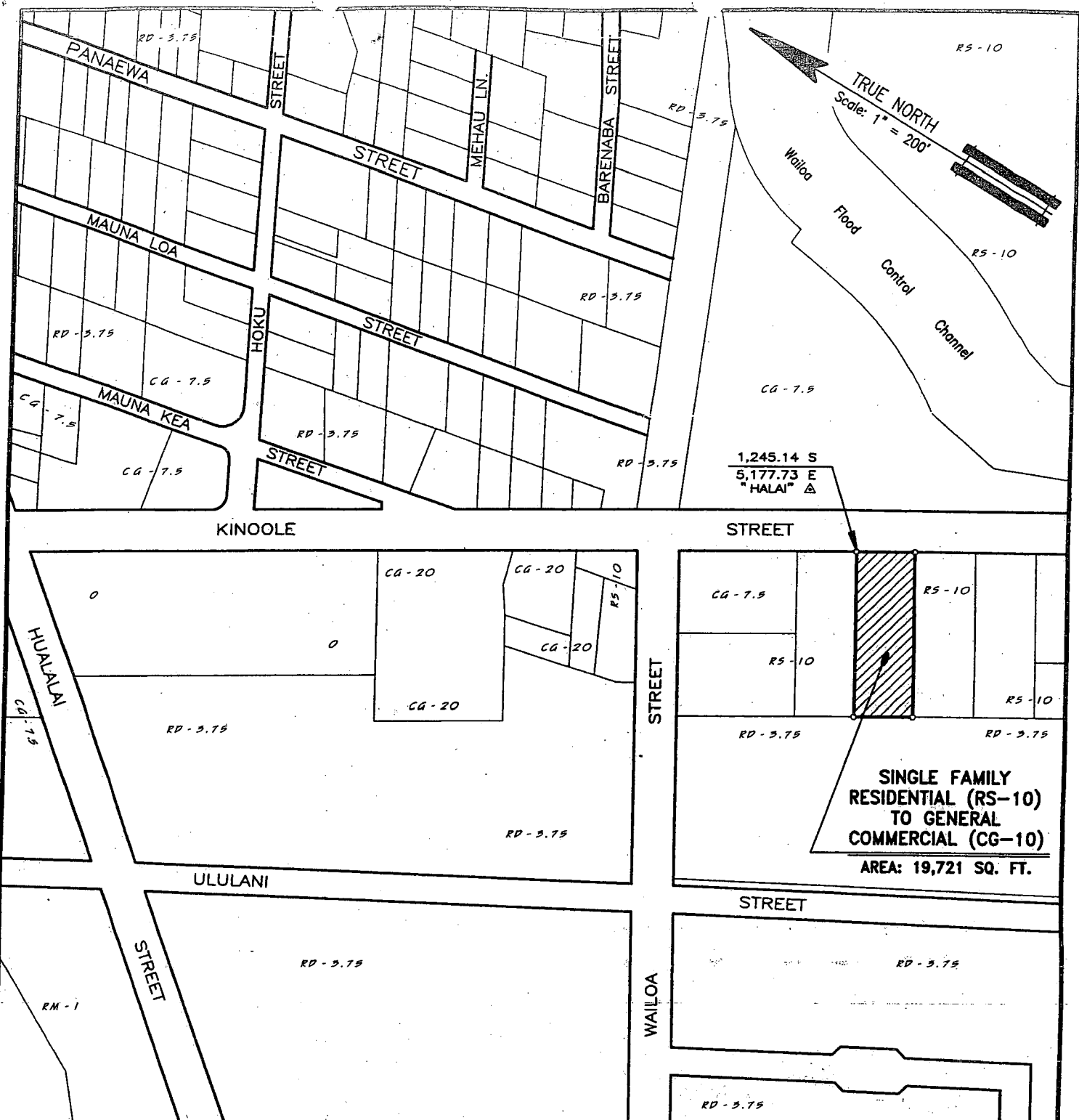


COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i

Date of Introduction: August 19, 2009
Date of 1st Reading: August 19, 2009
Date of 2nd Reading: September 2, 2009
Effective Date: September 23, 2009

REFERENCE: Comm. 453



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 GENERAL COMMERCIAL (CG-10) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

FOR REFERENCE ONLY

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

Introduced By: J Yoshimoto
Date Introduced: August 19, 2009
First Reading: August 19, 2009
Published: August 29, 2009

REMARKS: _____

Second Reading: September 2, 2009
To Mayor: September 11, 2009
Returned: September 23, 2009
Effective: September 23, 2009
Published: September 30, 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

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 SEP 21 2009



COUNCIL CHAIRMAN



COUNTY CLERK

Bill No.: 117
Reference: C-453/PC-40
Ord No.: 09 114

Approved/Disapproved, this 23rd day

September, 2009


MAYOR, COUNTY OF HAWAII