

ORDINANCE NO. 09 138 BILL NO. 144

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 WAIĀKEA HOUSELOTS, WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-035:034.

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 Waiākea Houselots, Waiākea, South Hilo, Hawai'i, shall be Industrial-Commercial Mixed – 20,000 square feet (MCX-20):

Beginning at a ½" pipe set at the northwest corner of this parcel of land, being also the southwest corner of Lot 11, Block 16, Grant 10,993 to Isami Ito and the easterly side of Kalanikoa Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Halai" being 723.00 feet south and 10,629.00 feet east and running by azimuths measured clockwise from true south:

- 1. 270° 00' 223.00 feet along Lot 11, Block 16, Grant 10,993 to Isami Ito to a ½" pipe set;
- 2. 0° 00' 100.00 feet along a portion of Lot 14, Block 16, Grant 11,554 to Alfred Tavares Jr. and Julia L. Tavares to a ½" pipe found;
- 3. 90° 00' 223.00 feet along Lot 15, Block 16, Grant 12,517 to Tsuruno Miyamoto to a nail set on the easterly side of Kalanikoa Street;

4. 180° 00' 100.00 feet along the easterly side of Kalanikoa Street to the point of beginning and containing an area of 22,300 square feet more or less.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a 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:

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (1) 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(s), 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 applicants 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. The applicants shall install a reduced pressure type backflow prevention assembly within five (5) feet of the water meter on private property, which must be inspected and approved by the Department of Water Supply before water service can be activated.

- D. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant(s), 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. Plans shall identify all existing and/or proposed structures, paved driveway access, parking stalls and loading zones 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 Rule No. 17 (Landscaping Requirements), Chapter 25 (Zoning Code), Hawai‘i County Code.
- E. All driveway connections to Kalanikoa Street shall conform to Chapter 22 (County Streets) of the Hawai‘i County Code.
- F. The applicants shall provide improvements to the properties frontage along Kalanikoa Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements and any required utility relocation, meeting the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
- G. Streetlights and traffic control devices, as may be required by the Traffic Division, Department of Public Works, shall be installed by the applicants.
- H. 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 and submitted to the Department of Public Works prior to the issuance of Final Plan Approval. Any drainage improvements, if required, shall be constructed meeting

the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.

- I. The project shall connect to the existing County sewerline prior to the issuance of a Certificate of Occupancy.
- J. 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.
- K. 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-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- 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.
- M. The applicants shall comply with all County, State and Federal laws, rules, regulations and requirements.
- N. 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(s) should require an additional extension of time, the Planning Department 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.

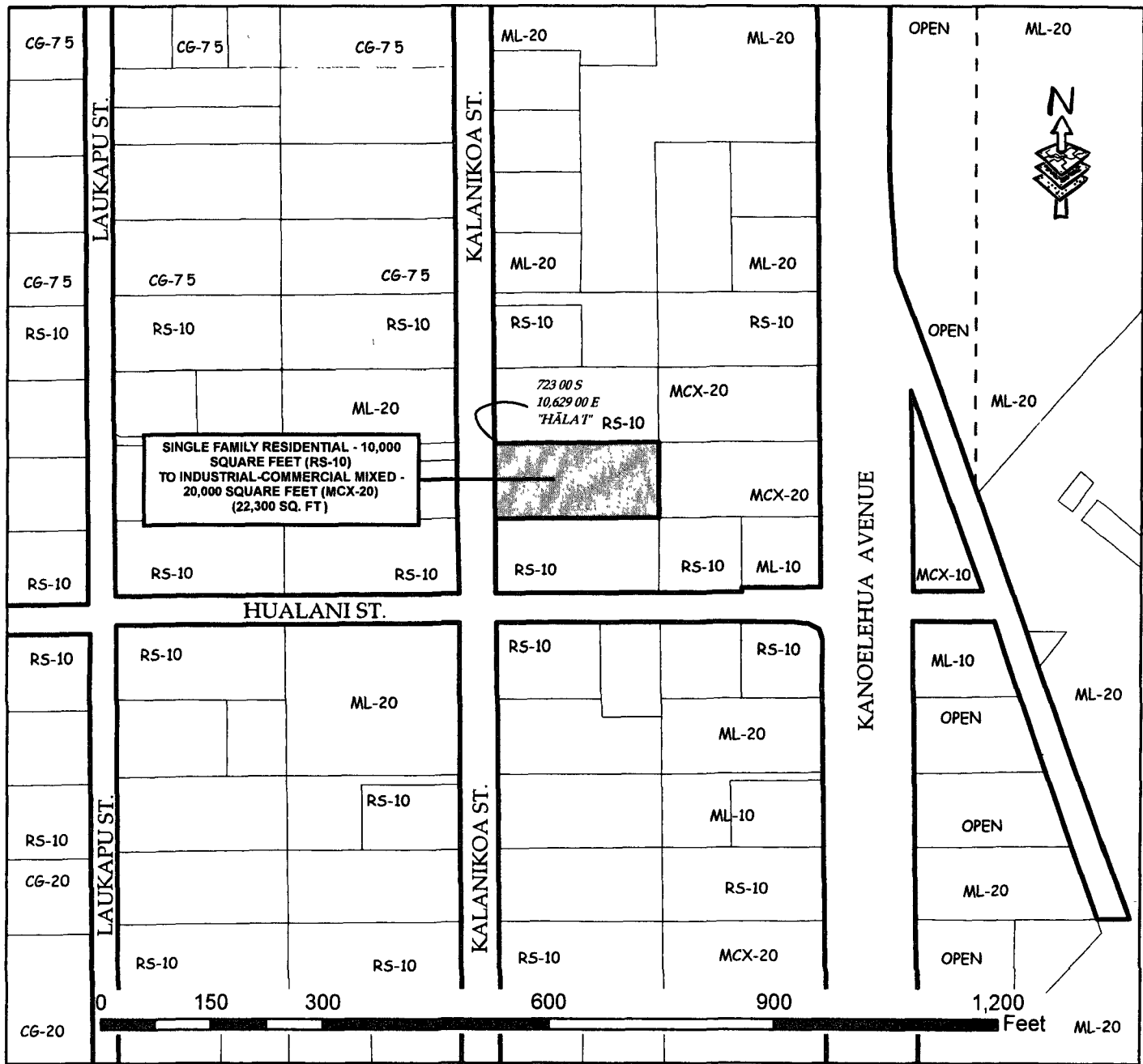
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

 Hilo , Hawai'i

Date of Introduction: October 7, 2009
Date of 1st Reading: October 7, 2009
Date of 2nd Reading: October 21, 2009
Effective Date: November 4, 2009

REFERENCE: Comm. 514



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 WAIĀKEA HOUSELOTS, WAIĀKEA 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: October 7, 2009
 First Reading: October 7, 2009
 Published: N/A

REMARKS _____

Second Reading: October 21, 2009
 To Mayor: October 29, 2009
 Returned: November 4, 2009
 Effective: November 4, 2009
 Published: November 12, 2009


REMARKS _____

2009 NOV. 11 P.M. 4.08

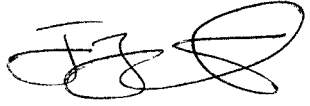

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Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann			X	
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
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	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell			X	
Hoffmann	X			
Ikeda	X			
Naeole	X			
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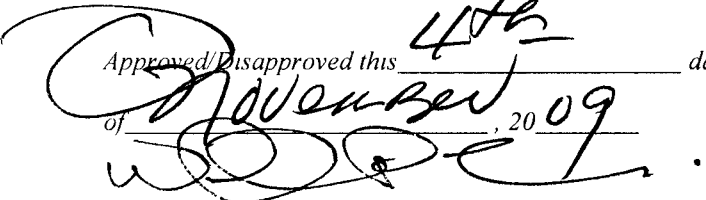
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
 FORM AND LEGALITY:

 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date NOV 2 2009


 COUNCIL CHAIRMAN

 COUNTY CLERK

Bill No.: 144
 Reference: C-514/PC-47
 Ord No.: 09 138

Approved/Disapproved this 4th day
November, 2009

 MAYOR, COUNTY OF HAWAII