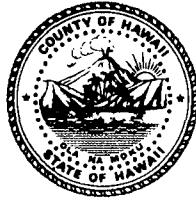


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 09 166 BILL NO. 175  
(DRAFT 2)

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 GENERAL COMMERCIAL – 20,000 SQUARE FEET (CG-20) AT WAIĀKEA HOUSELOTS, SECOND SERIES, WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-022:008.

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, Second Series, Waiākea, South Hilo, Hawai'i, shall be General Commercial – 20,000 square feet (CG-20):

Beginning at a pipe at the south corner of this lot and at the corner of Kino'ole Street and Kamana Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HĀLA'I", being 2,628.01 feet south and 6,130.59 feet east and running by azimuths measured clockwise from true South:

Thence along a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:

- 1. 103° 10' 28.28 feet;
- 2. 148° 10' 100.00 feet along the east side of Kino'ole Street;
- 3. 238° 10' 170.00 feet along Lot 12;
- 4. 328° 10' 120.00 feet along Lot 14;

5. 58° 10' 150.00 feet along the north side of Kamana Street to the point of beginning and containing an area of 20,314 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 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 prior to the issuance of Final Plan Approval for the construction of any commercial structures.
  
- C. The applicant 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 prior to the issuance of a Certificate of Occupancy for any commercial uses of the building.

- D. The property shall be converted for commercial use within five (5) years from the effective date of this ordinance. Prior to conversion of the property for commercial use, the applicants, 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 and 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), Chapter 25 (Zoning Code), Hawai'i County Code.
- E. Access(es) to the project site shall meet with the approval of the Department of Public Works. All driveway connections to Kino'ole Street or Kamana Street shall conform to Chapter 22 (County Streets) of the Hawai'i County Code.
- F. The applicant shall provide improvements to the project's frontage along Kamana 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. The improvements shall be completed within five (5) years from the effective date of this ordinance.
- G. Full width concrete sidewalks along the property's entire Kino'ole Street frontage shall be provided within five (5) years from the effective date of this ordinance.

- H. Streetlights and traffic control devices shall be installed, if required by the Traffic Division, Department of Public Works.
- I. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. If required, 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.
- J. The project shall connect to the existing County sewerline prior to the issuance of a Certificate of Occupancy for any commercial structure.
- K. 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.
- L. 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-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- M. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant, successors or assigns 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.

- N. If the applicant(s), successor(s), or assign(s) develops residential units on the subject property, the applicant(s) shall make its (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.

- A. 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.

- O. 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.
- P. The applicants shall comply with all 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 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:

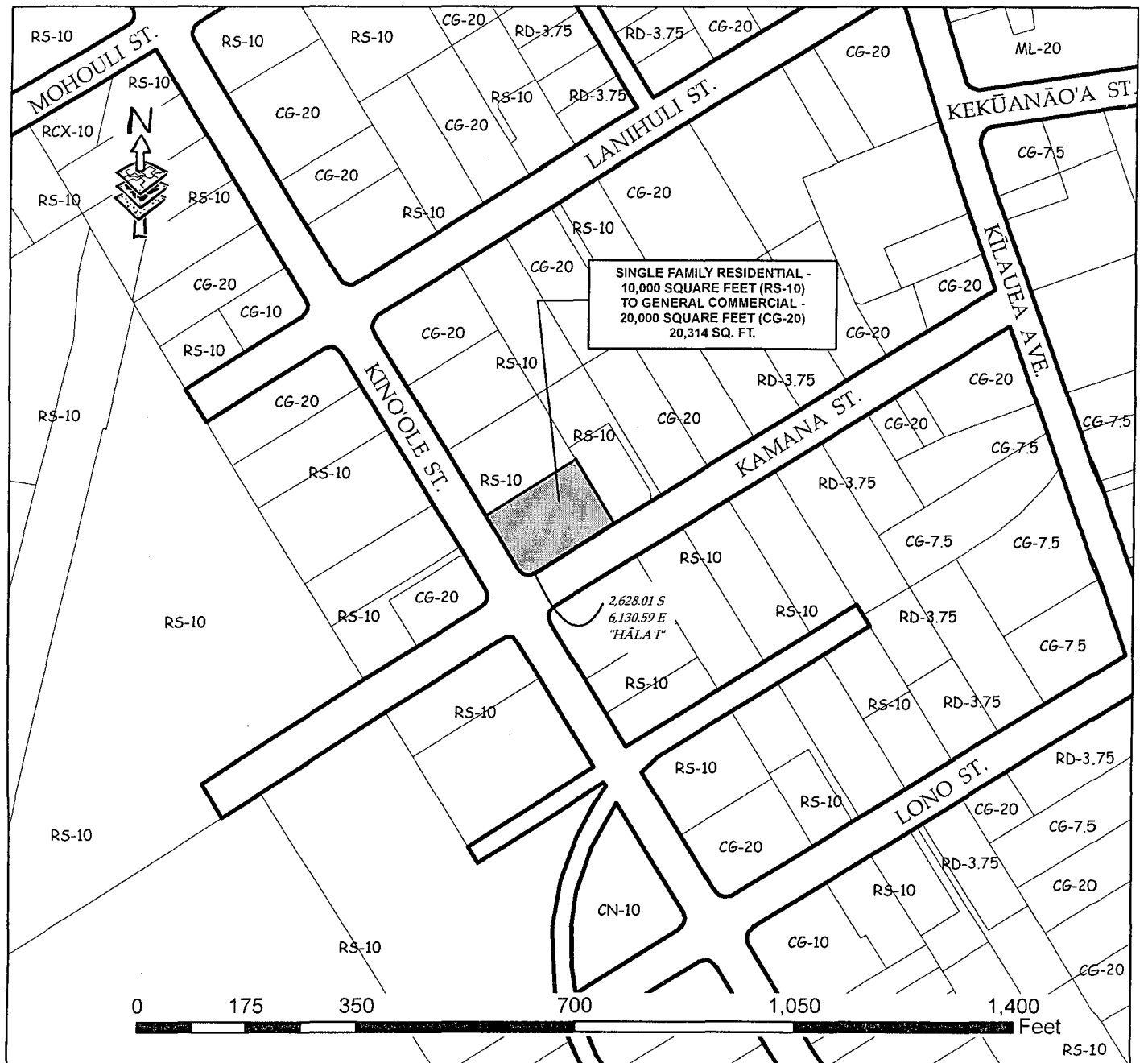


\_\_\_\_\_  
COUNCIL MEMBER, COUNTY OF HAWAI'I

\_\_\_\_\_  
Kona, Hawai'i

Date of Introduction: December 2, 2009  
 Date of 1st Reading: December 2, 2009  
 Date of 2nd Reading: December 16, 2009  
 Effective Date: December 30, 2009

REFERENCE: ~~Comms~~ 619.2



# **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 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL - 10,000 SQUARE FEET (RS-10) TO GENERAL COMMERCIAL - 20,000 SQUARE FEET (CG-20) AT WAIĀKEA HOUSE LOTS, SECOND SERIES, WAIĀKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:  
COUNTY OF HAWAII, PLANNING DEPARTMENT



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

(Draft 2)

RECEIVED

Introduced By: Donald Ikeda  
 Date Introduced: December 2, 2009  
 First Reading: December 2, 2009  
 Published: December 12, 2009

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Second Reading: December 16, 2009  
 To Mayor: December 24, 2009  
 Returned: December 30, 2009  
 Effective: December 30, 2009  
 Published: January 8, 2010

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2009 DEC 30 PM 4:25

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques				
Ford	X			
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Nacole-Beason	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			
Nacole-Beason	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 DEC 28 2009



COUNCIL CHAIRMAN



COUNTY CLERK

Bill No.: 175 (Draft 2)  
 Reference: C-619.2/PC-54  
 Ord No.: 09 166

Approved/Disapproved this \_\_\_\_\_ day

of December, 2009

  
 MAYOR, COUNTY OF HAWAII