

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 10 76 BILL NO. 262

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 WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-034:082.

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

Beginning at the northwest corner of this parcel of land, said corner being the northwest corner of Lot 13-A-1 as shown on the map of Kekuaaoa-Manono Traffic Signal Improvements, Project No. T-2903, Hawai'i County Public Works, prepared by Ronald M. Matsumura, PLS 5630, dated December 28, 1990 and filed at the Hawai'i County Planning Office as Subdivision Map No. 6261A, said Point of Beginning referred to Government Survey Triangulation Station "HALAP" being 1,563.00 feet South and 9,146.00 feet East, thence running by azimuths measured clockwise from true South:

1. 270° 00' 00" 110.00 feet along the south boundary of Lot 11-A;
2. 00° 00' 00" 88.00 feet along the west boundary of Lot 13-B-1;
3. 90° 00' 00" 105.00 feet along the north boundary Lot 13-B-1 to the beginning of a tangent curve to the right having a radius of 10.00 feet, the direct chord azimuth and distance being;
4. 105° 00' 00" 5.18 feet;

Thence along the arc of said curve 5.24 feet to the southeast corner of Parcel 2 as shown on said map;

5. 180° 00' 00" 86.66 feet along the east boundary of Parcel 2, being the right-of-way of Manono Street, 60 feet wide, to the Point of Beginning, enclosing an area of 9,678 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), successors or assigns shall be responsible for complying with all of the stated conditions of approval.
  
- B. The applicants shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter on private property, which must be inspected and approved by the Department of Water Supply prior to issuance of a Certificate of Occupancy.

- C. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, 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. 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.
- D. Driveway access from Manono Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawai'i County Code.
- E. 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.
- F. The project shall connect to the County sewerline fronting the property.
- 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 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 **\$7,738.48** per multiple family residential unit (**\$12,059.55** 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. **\$3,817.17** per multiple family residential unit (**\$5,815.33** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$120.64** per multiple family residential unit (**\$280.53** per single family residential unit) to the County to support police facilities;
3. **\$371.11** per multiple family residential unit (**\$554.09** per single family residential unit) to the County to support fire facilities;
4. **\$165.40** per multiple family residential unit (**\$242.59** per single family residential unit) to the County to support solid waste facilities; and

5. **\$3,264.15** per multiple family residential unit (**\$5,167.02** 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. 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. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the enactment of the ordinance. The report shall include, but not be limited to, the status of the development and compliance with conditions. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

- L. The applicant(s) shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- 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(s), 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 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.

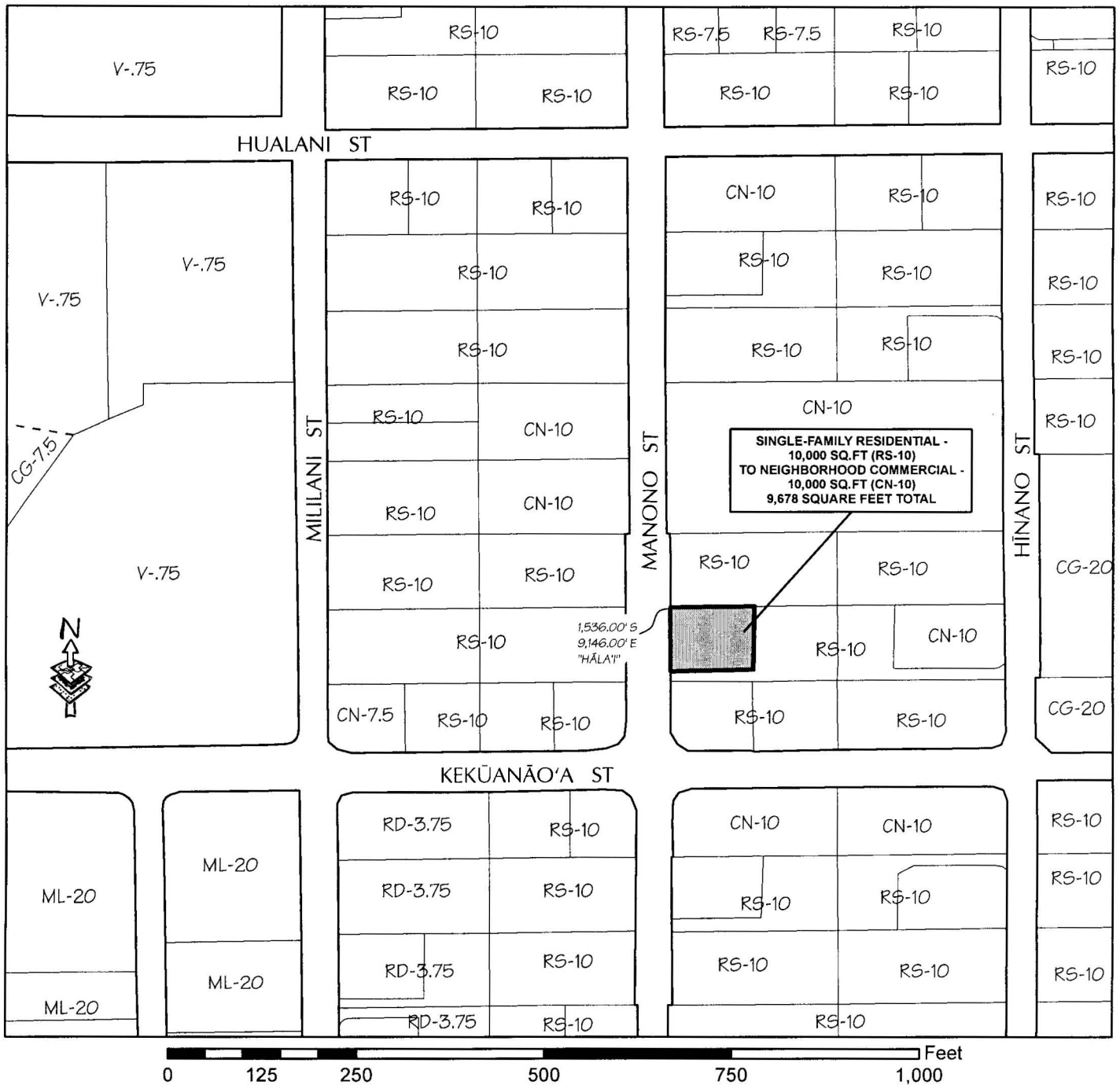
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

          Kona          , Hawai'i  
Date of Introduction: August 3, 2010  
Date of 1st Reading: August 3, 2010  
Date of 2nd Reading: August 18, 2010  
Effective Date: September 2, 2010

REFERENCE: Comm.           841



# 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 WAIĀKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:  
COUNTY OF HAWAII, PLANNING DEPARTMENT



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

RECEIVED

Introduced By: Donald Ikeda  
Date Introduced: August 3, 2010  
First Reading: August 3, 2010  
Published: August 13, 2010

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

Second Reading: August 18, 2010  
To Mayor: August 30, 2010  
Returned: September 2, 2010  
Effective: September 2, 2010  
Published: September 14, 2010

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

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

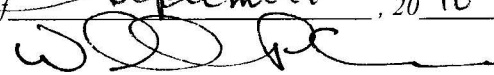
*I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.*

APPROVED AS TO  
FORM AND LEGALITY:  
  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAI'I  
Date SEP - 1 2010

  
COUNCIL CHAIRMAN

  
COUNTY CLERK

Bill No.: 262  
Reference: C-841/PC-86  
Ord No.: 10 76

Approved/Disapproved this 2nd day  
of September, 2010  
  
MAYOR, COUNTY OF HAWAI'I

## Ordinances Numbered 10-76 & 10-77

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on August 18, 2010, by vote, as listed below:

**Ordinance 10-76 (Bill 262):** 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 Waiākea, South Hilo, Hawai'i, Covered by Tax Map Key: 2-2-034:082. AYES: Council Members Enriques, Ford, Greenwell, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 8; NOES: Council Member Hoffmann – 1; ABSENT: None; EXCUSED: None.

**Ordinance 10-77 (Bill 265):** An Ordinance Amending Section 25-8-3 (North Kona Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification From Agricultural – Five Acres (A-5a) to Family Agricultural – Two Acres (FA-2a) at Honokōhau 2<sup>nd</sup>, North Kona, Hawai'i, Covered by Tax Map Key 7-4-006:022. AYES: Council Members Enriques, Ford, Greenwell, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 8; NOES: Council Member Hoffmann – 1; ABSENT: None; EXCUSED: None.



Kenneth G. Goodenow  
County Clerk

(Hawai'i Tribune-Herald – September 14, 2010)  
(West Hawai'i Today – September 14, 2010)

**Note:** The original Digest/Affidavit is attached to Ordinance 10-76.