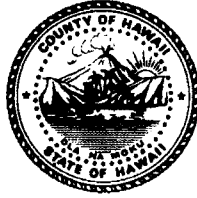


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 12 33 BILL NO. 167

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 RESIDENTIAL-COMMERCIAL MIXED – 20,000 SQUARE FEET (RCX-20), AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-038:028.

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 Residential-Commercial Mixed – 20,000 square feet (RCX-20):

Beginning at an iron pipe at the West corner of this lot and the South corner of Lot 6, Block 302, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 5591.5 feet South and 8224.6 East, as shown on Government Survey Registered Map No. 2600 and running by true azimuths:

- | | | | |
|----|----------|-------|--|
| 1. | 238° 10' | 242.0 | feet along Lot 6, Block 302, to an iron pipe; |
| 2. | 328° 10' | 180.0 | feet along the West side of Volcano Road to an iron pipe; |
| 3. | 58° 10' | 242.0 | feet along Lot 4, Block 302, to an iron pipe; |
| 4. | 148° 10' | 180.0 | feet along Lot 14, Block 302, to the point of beginning and containing an area of 1.00 acre. |

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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant, 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 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) and Chapter 25 (Zoning Code), Hawai‘i County Code.
- C. 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

prepared by a professional engineer licensed in the State of Hawai‘i, 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.

- D. The applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property, which must be inspected and approved by the Department of Water Supply. Installation of the backflow prevention assembly and relocation and adjustment of the Department of Water Supply’s water system facilities, should they be necessary, shall take into consideration the future road widening strip along Kīlauea Avenue.
- E. Should the applicant, successors or assigns develop a land use which the Planning Department, in consultation with the Department of Public Works, determines will generate over 50 peak hour trips, a Traffic Impact Analysis Report (TIAR) shall be submitted for review and approval by the Department of Public Works prior to Final Plan Approval. The applicant shall implement, when required by the Department of Public Works, at no cost to the County, any transportation system improvements to Kīlauea Avenue that may be deemed necessary by the Department of Public Works.
- F. To provide for future road widening improvements, a ten (10) foot wide future road widening strip along the property’s Kīlauea Avenue frontage shall be delineated on the plans submitted for Plan Approval review and dedicated, at no cost to the County, upon its request.
- G. Prior to issuance of a Certificate of Occupancy for any commercial use on the property, the applicant shall provide improvements to the property’s frontage

along Kīlauea Avenue consisting of, but not limited to, reconstruction of the existing concrete curb and sidewalk (from curb face to property line) and any required utility relocation, meeting the requirements of the Americans with Disabilities Act and standards of the Department of Public Works.

- H. Driveway connection(s) to the Kīlauea Avenue shall conform to Chapter 22, Streets and Sidewalks, of the Hawai‘i County Code.
- I. The method of sewage disposal shall meet with the requirements of the Department of Health.
- J. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
- K. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai‘i County Code.
- 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-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- M. If the applicant, successors, or assigns develop residential units on the subject property, the applicant, successors or assigns shall make its fair share contribution to mitigate the potential regional impacts of the development 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 maximum combined value of **\$7,903.35** per multiple family residential unit (**\$12,316.47** per single family residential unit). The total amount shall be determined by 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 units) shall be allocated as follows:

\$3,898.50 per multiple family residential unit (**\$5,939.22** per single family residential unit) to the County to support park and recreational improvements and facilities;

\$123.21 per multiple family residential unit (**\$286.51** per single family residential unit) to the County to support police facilities;

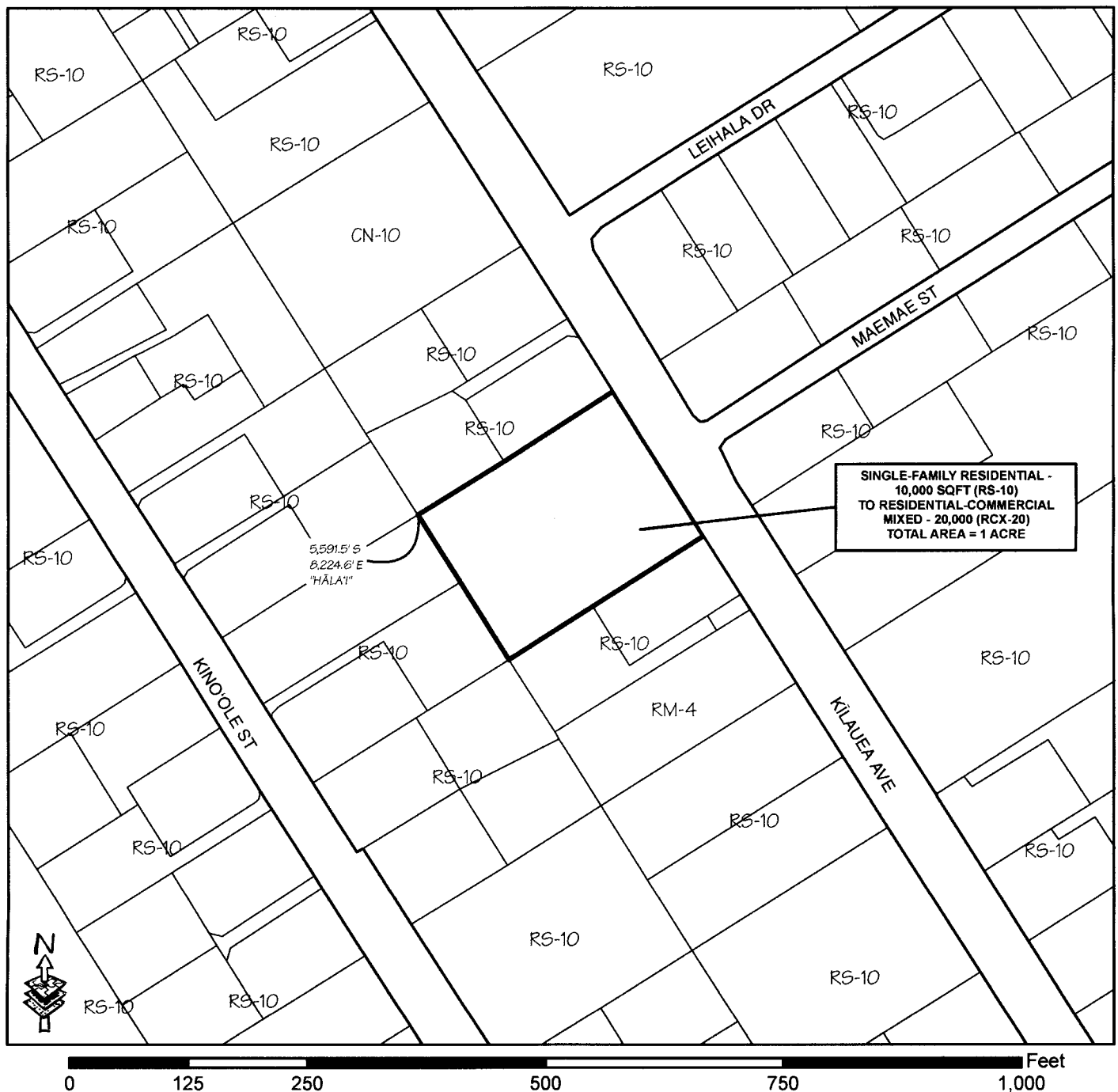
\$379.01 per multiple family residential unit (**\$565.89** per single family residential unit) to the County to support fire facilities;

\$168.93 per multiple family residential unit (**\$247.75** per single family residential unit) to the County to support solid waste facilities; and

\$3,333.69 per multiple family residential unit (**\$5,277.10** per single family residential unit) to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicant, successors or assigns 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.

- N. 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.
- O. The applicant, successors or assigns shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- P. 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.



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 SQFT (RS-10) TO
RESIDENTIAL-COMMERCIAL MIXED - 20,000 SQFT (RCX-20),
AT WAIĀKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

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.

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the subject 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 HAWAII

Hilo, Hawai'i

Date of Introduction: February 1, 2012
Date of 1st Reading: February 1, 2012
Date of 2nd Reading: February 15, 2012
Effective Date: March 6, 2012

REFERENCE: Comm. 525

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

COUNTY CLERK
COUNTY OF HAWAII

2012 MAR -6 AM 10: 58

Introduced By: Pete Hoffmann
Date Introduced: February 1, 2012
First Reading: February 1, 2012
Published: February 11, 2012

REMARKS: _____

Second Reading: February 15, 2012
To Mayor: February 24, 2012
Returned: March 6, 2012
Effective: March 6, 2012
Published: March 15, 2012

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann		X		
Ikeda	X			
Onishi	X			
Pilago	X			
Smart	X			
Yagong	X			
Yoshimoto	X			
	8	1	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann		X		
Ikeda	X			
Onishi			X	
Pilago	X			
Smart	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

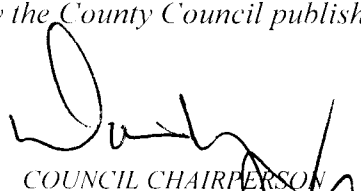

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII


Date FEB 29 2012

Approved/Disapproved this 6th day

of March, 20 12


MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRPERSON


COUNTY CLERK

Bill No.: 167

Reference: C-525/PC-38

Ord No.: 12 33