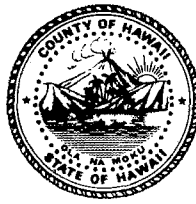


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 275

ORDINANCE NO. 12 123

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, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-024:005.

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 General Commercial – 20,000 square feet (CG-20):

Beginning at a pipe at the south corner of this lot, the west corner of Lot 16, Block 92 and on the east side of Kino'ole Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 3,555.00 feet south and 6,682.58 feet east as shown on Government Survey Registered Map No. 2705 and running by true azimuths:

- |    |          |        |   |
|----|----------|--------|---|
| 1. | 148° 10' | 84.00  | feet along east side of Kino'ole Street;  |
| 2. | 238° 10' | 240.00 | feet along Lot 14;  |
| 3. | 328° 10' | 84.00  | feet along pipe line right-of-way (5-feet wide);  |
| 4. | 58° 10'  | 240.00 | feet along Lot 16 to the point of beginning and containing an area of 20,160 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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Construction of the development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction (i.e. renovation), the applicant shall secure Final Plan Approval for the 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, fire protection measures, 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 Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.

- C. The applicant shall submit estimated maximum daily water usage calculations prepared by a professional engineer licensed in the State of Hawai'i to the Department of Water Supply within 180 days from the effective date of this ordinance. If required by the Department of Water Supply, the applicant shall provide a water commitment deposit, prevailing facilities charge and appropriate service lateral and water meter prior to commencing the proposed development on the property.
- D. The applicant shall install a fire hydrant fronting the subject property meeting with the requirements of the Department of Water Supply.
- E. 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.
- F. 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 Kino'ole Street that may be deemed necessary by the Department of Public Works.
- G. Driveway connection(s) to Kino'ole Street shall conform to Chapter 22, County Streets, of the Hawai'i County Code.

- H. The applicant shall provide improvement to the subject property's entire Kino'ole Street frontage consisting of a "full width" concrete sidewalk of 10-foot width meeting with the requirements of the Americans with Disabilities Act and the approval of the Department of Public Works. The improvements shall be completed within five (5) years from the effective date of this ordinance.
- I. If required by the Director of the Department of Environmental Management, a sewer study shall be submitted if development of the property is expected to increase wastewater flows to the public sewer system.
- 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. 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 **\$8,196.06** per multiple family residential unit (**\$12,772.64** 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:

**\$4,042.89** per multiple family residential unit (**\$6,159.19** per single family residential unit) to the County to support park and recreational improvements and facilities;

**\$127.78** per multiple family residential unit (**\$297.12** per single family residential unit) to the County to support police facilities;

**\$393.05** per multiple family residential unit (**\$586.85** per single family residential unit) to the County to support fire facilities;

**\$175.19** per multiple family residential unit (**\$256.93** per single family residential unit) to the County to support solid waste facilities; and

**\$3,457.16** per multiple family residential unit (**\$5,472.55** 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. 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 the Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to Final Plan Approval.
- P. The applicant, successors or assigns shall comply with all applicable 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 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.

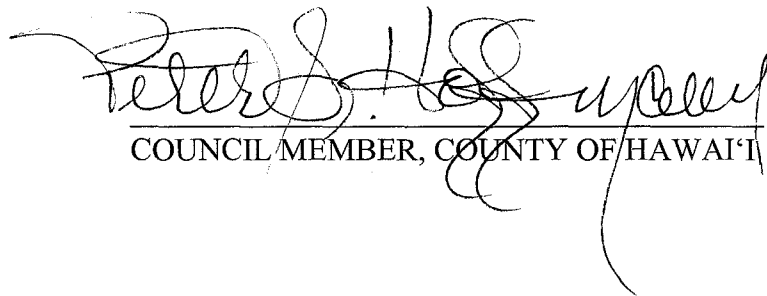
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
5. If the applicant should require an additional extension of time, the Planning Director 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.

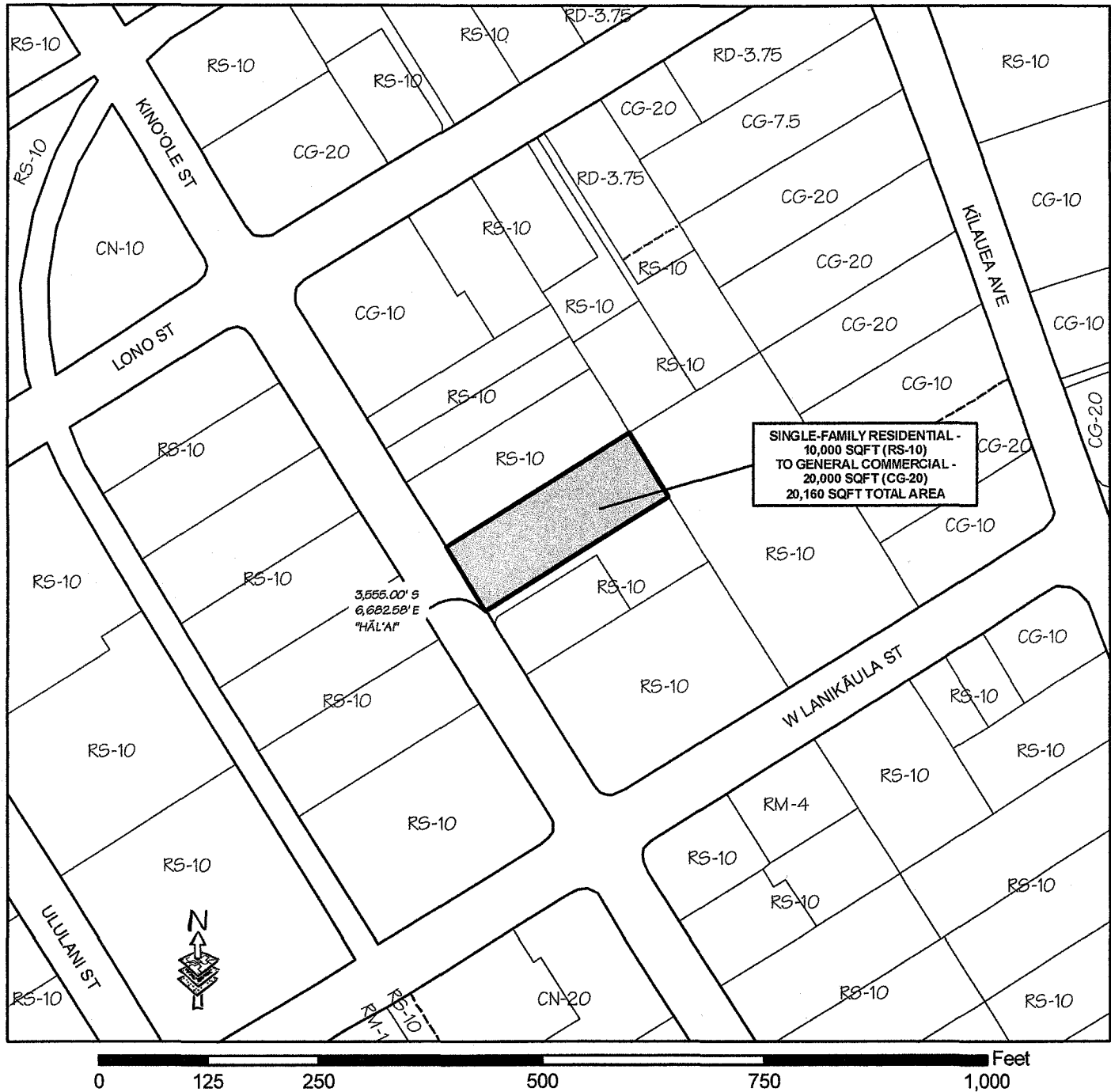
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i

Date of Introduction:	August 1, 2012
Date of 1st Reading:	August 1, 2012
Date of 2nd Reading:	August 15, 2012
Effective Date:	September 6, 2012

REFERENCE: Comm: 768



# 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  
GENERAL COMMERCIAL - 20,000 SQFT (CG-20),  
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

COUNTY CLERK  
COUNTY OF HAWAII

2012 SEP 11 PM 12:11

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

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

Second Reading: August 15, 2012  
To Mayor: August 24, 2012  
Returned: September 11, 2012  
Effective: September 6, 2012  
Published: September 18, 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			
	9	0	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			
	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 HAWAII

Date AUG 28 2012

  
COUNCIL CHAIRPERSON

COUNTY CLERK

Bill No.: 275

Reference: C-768/PC-59

Ord No.: 12 123

Approved/Disapproved this 6<sup>th</sup> day

of September, 20 12

  
MAYOR, COUNTY OF HAWAII