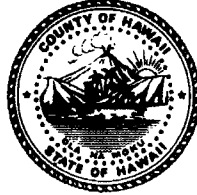


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 11 33 BILL NO. 184

AN ORDINANCE AMENDING ORDINANCE NO. 02 49 WHICH RECLASSIFIED LANDS 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, HAWAI'I, COVERED BY TAX MAP KEY 2-2-022:005.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Ordinance No. 02 49 is amended as follows:

“SECTION 1. Section 25-8-33, Article 8, Chapter 25 (Zoning Code) of the [Hawaii] 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~~] Waiākea House Lots Second Series, [~~Waiākea~~] Waiākea, South Hilo, [~~Hawaii~~] Hawai'i, shall be General Commercial – 20,000 square feet (CG-20):

Beginning at a pipe at the East corner of this lot, the South corner of Lot 17, Block 72, and on the North side of Street (60 feet wide), the coordinates of said point of beginning referred to Government Survey Trig. Station "Halai" being 2412.80 feet South and 6477.21 feet East, as shown on Government Survey Registered Map No. 2705, and running by true azimuths:

- | | | | |
|----|----------|-------|---|
| 1. | 58° 10' | 86.0 | feet along North side of Street (60 feet wide); |
| 2. | 148° 10' | 240.0 | feet along Lot 15, Block 72; |
| 3. | 238° 10' | 86.0 | feet along Lot 7, Block 72; |
| 4. | 328° 10' | 240.0 | feet along Lot 17 to the point of beginning. |

Area 20,640 Square Feet.

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

SECTION 2. [~~This change in district classification is conditioned upon the following:~~] In accordance with Section 25-2-44, Hawai'i County Code 1983 (2005 Edition), the County Council finds the following conditions are:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
- (2) 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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.~~

~~B. Final Plan Approval for the proposed development shall be secured from the Planning Director in accordance with Chapter 25-2-70 of the Zoning Code within two (2) years from the effective date of this ordinance. Plans shall identify existing and proposed structures, paved driveway access and parking stalls associated with the proposed use. 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).~~

~~C. All driveway connections to Kamana Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.~~

~~D. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval. A copy of the approved~~

~~plan shall be submitted to the Planning Department prior to the issuance of Final Plan Approval.~~

- ~~E. — If required, a drainage study shall be prepared and any drainage improvements shall be constructed meeting with the approval of the Department of Public Works prior to the issuance of a certificate of occupancy.~~
- ~~F. — Prior to the issuance of a certificate of occupancy for a new commercial structure, the applicant shall construct full improvements to the entire frontage along Kamana Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any required relocation of utilities, meeting with the approval of the Department of Public Works.~~
- ~~G. — Should an improvement district or similar arrangement be initiated in the future for curb, gutter, sidewalk, drainage, sewer and related improvements to Kamana Street, the property owner(s) shall participate automatically in such an arrangement.~~
- ~~H. — The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development.~~
- ~~I. — Should the Hawaii County 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. — 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, its 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.~~
- K. ~~Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject area to its original or more appropriate designation.]~~
- A. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant shall install a reduced pressure type backflow prevention assembly on private property within five (5) feet of any water meter(s) serving the proposed development, which must be inspected and approved by the Department of Water Supply before water service can be activated.
- C. Construction of the proposed development shall be completed within five (5) years from the effective date of this amended ordinance. Prior to construction, the applicant(s), successor(s) or assign(s) 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 structure(s), 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).

- D. All driveway connections to Kamana Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
- E. Prior to the issuance of a certificate of occupancy for a new commercial structure, the applicant shall construct full improvements to the entire frontage along Kamana Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any required relocation of utilities, meeting with the approval of the Department of Public Works.
- F. A drainage study of the project site, if required, shall be prepared for review and approval by the Department of Public Works, prior to the submittal of plans for Final Plan Approval. Drainage improvements, if required, shall be constructed in a manner meeting with the approval of the Department of Public Works prior to the issuance of certificate of occupancy.
- G. The applicant shall connect to the existing County sewer lateral meeting with the approval of the Department of Environmental Management prior to the issuance of a certificate of occupancy.
- H. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
- I. 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 \$8,394.57 per multiple family residential unit (\$13,081.99 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:

- \$4,140.80 per multiple family residential unit (\$6,308.37 per single family residential unit) to the County to support park and recreational improvements and facilities;
- \$130.87 per multiple family residential unit (\$304.32 per single family residential unit) to the County to support police facilities;
- \$402.57 per multiple family residential unit (\$601.06 per single family residential unit) to the County to support fire facilities;
- \$179.43 per multiple family residential unit (\$263.15 per single family residential unit) to the County to support solid waste facilities; and
- \$3,540.90 per multiple family residential unit (\$5,605.09 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.

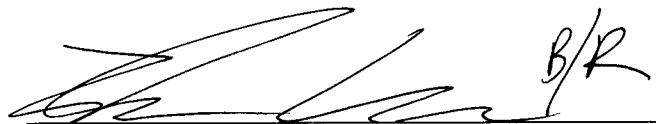
- J. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- K. To ensure that the Goals and Policies of 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 County Housing Agency prior to 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-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 shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development.
- N. 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.
- O. 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 2. Material to be deleted is bracketed and stricken. New material is underscored.

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

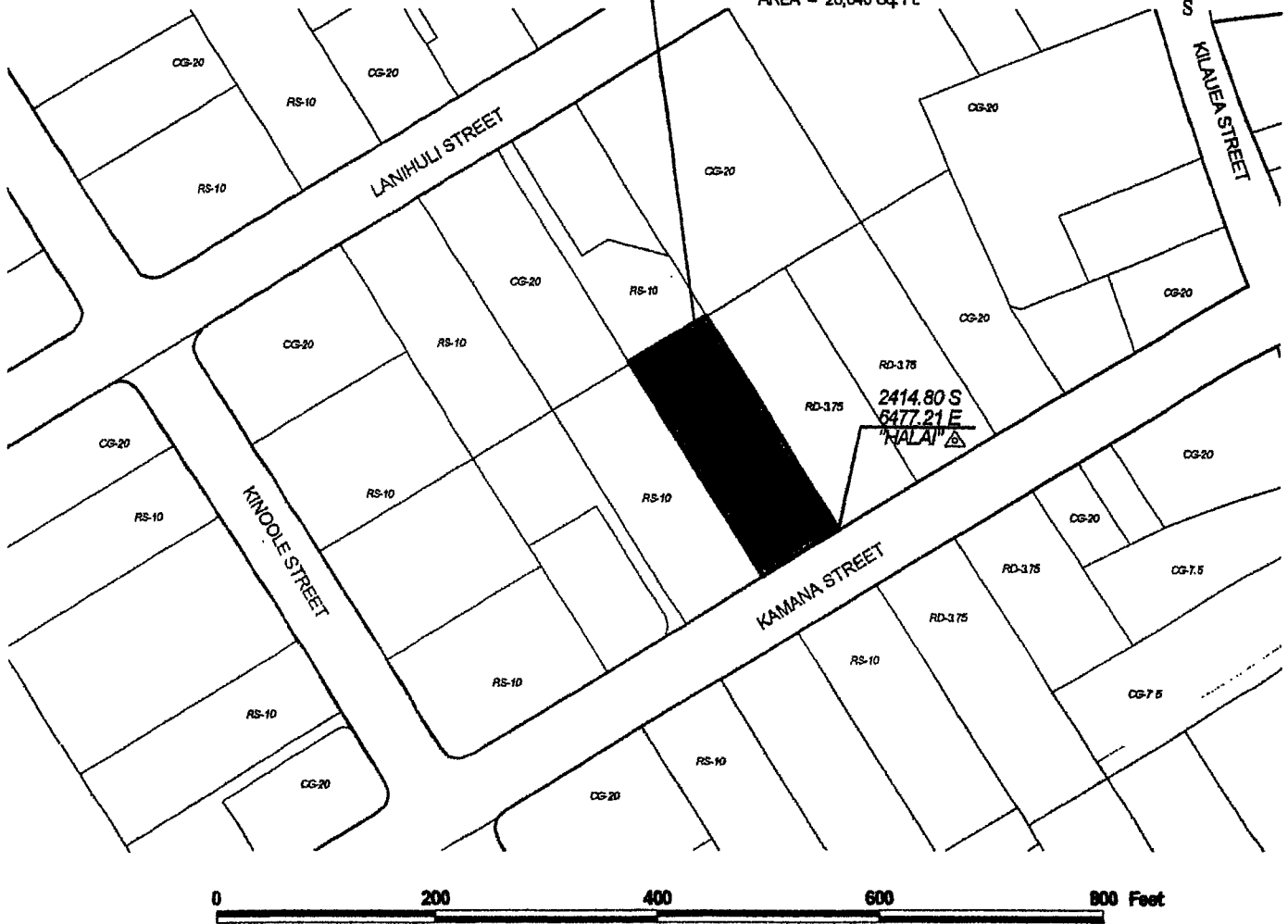
Kona, Hawai'i

Date of Introduction: February 5, 2014
Date of 1st Reading: February 5, 2014
Date of 2nd Reading: February 19, 2014
Effective Date: March 12, 2014

REFERENCE Comm. 606

**SINGLE FAMILY RESIDENTIAL (RS-10)
TO GENERAL COMMERCIAL (CG-20)**

AREA = 20,640 Sq. Ft.



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, BY CHANGING THE DISTRICT
CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-10)
TO GENERAL COMMERCIAL (CG-20)
AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 2-2-22:005

NOV. 21, 2001

EXHIBIT "A"

FOR REFERENCE ONLY

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

COUNTY CLERK
 2014 MAR 12 PM 3:07

Introduced By: Zendo Kern (B/R)
 Date Introduced: February 5, 2014
 First Reading: February 5, 2014
 Published: February 15, 2014

REMARKS: _____

Second Reading: February 19, 2014
 To Mayor: February 27, 2014
 Returned: March 12, 2014
 Effective: March 12, 2014
 Published: March 20, 2014

REMARKS: _____


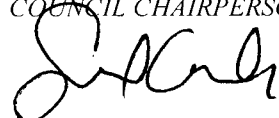
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern			X	
Onishi	X			
Poindexter	X			
Wille	X			
Yoshimoto	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	X			
Yoshimoto	X			
	9	0	0	0

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

Approved/Disapproved this 12th day
 of MARCH, 2014


 MAYOR, COUNTY OF HAWAI'I


 COUNCIL CHAIRPERSON

 COUNTY CLERK

Bill No.: 184
 Reference: C-606/PC-53
 Ord No.: 14 33