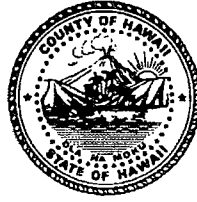


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 109

ORDINANCE NO. ~~15~~ **117**

AN ORDINANCE AMENDING ORDINANCE NO. 94 6, WHICH RECLASSIFIED LANDS FROM SINGLE – FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO GENERAL COMMERCIAL – 10,000 SQUARE FEET (CG-10) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-024:008.

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

SECTION 1. Ordinance No. 94 6 is amended as follows:

“SECTION 1. [~~Section 25-114, Article 3,~~] 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 [~~Waiakea~~] Waiākea, South Hilo, [~~Hawaii~~] Hawai'i, shall be General Commercial – 10,000 square feet (CG-10):

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) the applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this ordinance or relating to or connected with the approval of this ordinance;~~
- ~~(C) the applicant shall submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Policy" prior to submittal of plans for Plan Approval or Subdivision review, whichever is applicable;~~
- ~~(D) Final Plan Approval for the proposed commercial development and related improvements shall be secured from the Planning Director. Plans shall include landscaping along the project site's northeastern and southeastern boundaries for the purpose of mitigating any potential adverse noise and visual impacts to adjoining parcels;~~
- ~~(E) construction of the proposed commercial development shall be completed within three (3) years from the effective date of this ordinance;~~
- ~~(F) access to the subject property from Kinoole and/or Lono Streets shall meet with the approval of the Department of Public Works;~~

- ~~(G) — roadway improvements to Lono Street, to include curb, gutter and sidewalk improvements for a 60 foot wide right of way, shall be provided along the project site's entire Lono Street frontage, with the exception of access points, in a manner meeting with the approval of the Department of Public Works, prior to the issuance of a certificate of occupancy for any portion of the proposed commercial development or the issuance of Final Subdivision Approval, whichever is applicable;~~
- ~~(H) — drainage improvements, if required, shall be installed in a manner meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy for any portion of the proposed commercial development or the issuance of Final Subdivision Approval, whichever is applicable;~~
- ~~(I) — the proposed commercial development shall be connected to an existing sewerline located along Kinole Street for the purpose of wastewater disposal. Sewerline connection shall be accomplished in a manner meeting with the approval of the Department of Public Works, prior to the issuance of a certificate of occupancy for the proposed commercial development;~~
- ~~(J) — should any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall be encountered, work in the affected area shall cease and the Planning Director immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken;~~
- ~~(K) — comply with all applicable laws, rules, regulations and requirements of the affected agencies;~~

- (L) — an annual progress report shall be submitted to the Planning Director prior to the anniversary date of this ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. 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;
- (M) — should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance; and,
- (N) — 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); and
 - 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 Director shall initiate rezoning of the area to its original or more appropriate designation.]~~

- A. The applicants, 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 (DWS), the applicant(s) shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i to the DWS. A water commitment deposit shall be paid to the DWS within 180 days from the effective date of this ordinance in accordance with Rule 5 of the Department of Water Supply's Rules and Regulations. The applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full.

- C. The applicant shall construct necessary water system improvements as required by the Department of Water Supply, which may include, but not be limited to installing a larger or additional water meter.

- D. The applicants 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.

- E. Construction of the proposed commercial development shall be completed within five (5) years from the effective date of this amended ordinance.

- F. Final Plan Approval No. 2987, issued February 15, 1995, is void. 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. 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) and Chapter 25 (Zoning Code), Hawai'i County Code.

G. All driveway connections to Kino'ole Street and Lono Street shall conform to Chapter 22, County Streets, of the Hawai'i County Code.

H. Roadway improvements to Lono Street, to include curb, gutter and sidewalk improvements for a 60-foot wide right-of-way, shall be provided along the property's entire Lono Street frontage, with the exception of access points, in a manner meeting with the approval of the Department of Public Works, prior to the issuance of a Certificate of Occupancy for any portion of the proposed commercial development or the issuance of Final Subdivision Approval, whichever is applicable.

I. The applicants shall improve Kino'ole Street with a "full width" (10-foot wide up to the existing curb) concrete sidewalk along the property's entire Kino'ole Street frontage complying with the Department of Public Work's Standard Detail R-34.

J. Should the applicants, 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 applicants shall implement, when

required by the Department of Public Works, at no cost to the County, any transportation system improvements to Kino'ole Street and/or Lono Street that may be deemed necessary by the Department of Public Works.

- K. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. Drainage improvements, if required, shall be installed in a manner meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy for any portion of the proposed commercial development or the issuance of Final Subdivision Approval, whichever is applicable.
- L. The property shall connect to the public sewer in accordance with Section 21-5 of the Hawai'i County Code prior to issuance of a Certificate of Occupancy. If required by the Director of the Department of Environmental Management (DEM), the applicants shall conduct a sewer study in accordance with the then applicable wastewater system design standards prior to approval to connect to the County sewer system. Applicants shall provide such sewer line or other facility improvements as the Director of DEM may reasonably require, which the sewer study may indicate are advisable for mitigation of impacts of the proposed project.
- M. 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) and Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from SHPD when it finds that sufficient mitigation measures have been taken.

N. The applicants shall make a fair share contribution to mitigate the potential regional impacts of development 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 Subdivision Approval or Final Plan Approval, whichever is applicable. 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 \$13,506.70 per single-family residential unit and \$8,667.10 per multiple-family dwelling 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 units) shall be allocated as follows:

1. \$6,513.17 per single-family residential unit and \$4,275.24 for multiple-family dwelling unit to the County to support park and recreational improvements and facilities;
2. \$314.20 per single-family residential unit and \$135.12 for multiple-family dwelling unit to the County to support police facilities;
3. \$620.58 per single-family residential unit and \$415.64 for multiple-family dwelling unit to the County to support fire facilities;
4. \$271.70 per single-family residential unit and \$185.25 for multiple-family dwelling unit to the County to support solid waste facilities; and

5. \$5,787.06 per single-family residential unit and \$3,655.85 for multiple-family dwelling 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 exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- P. 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 Subdivision Approval or Final Plan Approval, whichever is applicable.
- Q. The applicants shall comply with all applicable County, State and Federal laws, rules, regulations, and requirements.
- R. 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 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 us 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.


S. 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 2. Material to be deleted is bracketed and struck through and material to be added 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.

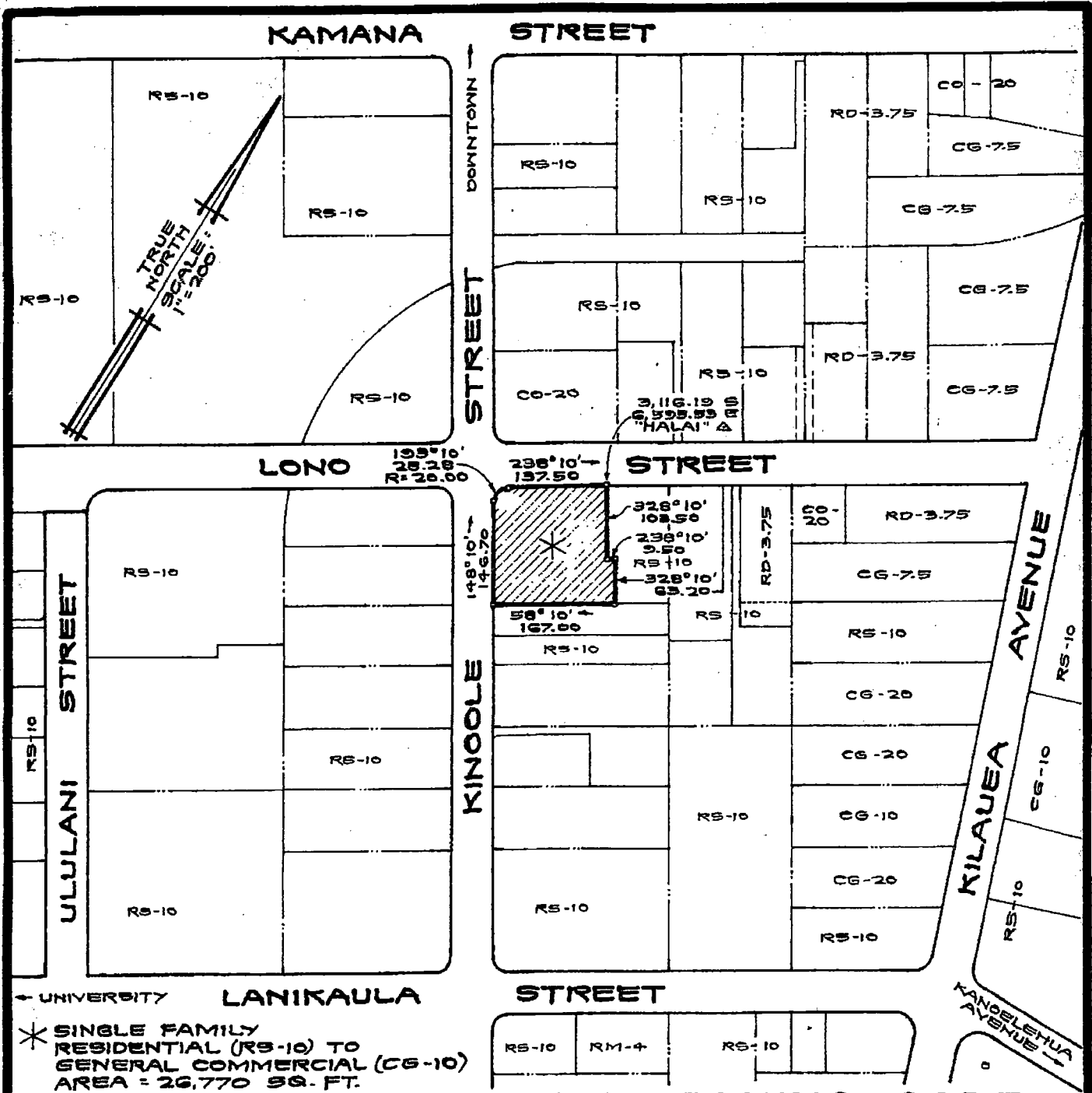
INTRODUCED BY:

 (B/R)

COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i
Date of Introduction: November 18, 2015
Date of 1st Reading: November 18, 2015
Date of 2nd Reading: December 2, 2015
Effective Date: December 22, 2015

REFERENCE Comm. 524



* SINGLE FAMILY RESIDENTIAL (RS-10) TO GENERAL COMMERCIAL (CG-10) AREA = 26,770 SQ. FT.

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-114 (CITY OF HILO ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-10) TO GENERAL COMMERCIAL (CG-10) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY - PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 2-2-24 : 8

SEPT. 29, 1993

EXHIBIT "A"

FOR REFERENCE ONLY

(ERIC AND JOSLYN HOOTA)

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

COUNTY CLERK
 COUNTY OF HAWAII
 2015 DEC 23 PM 4:23

Introduced By: Greggor Ilagan (B/R)
 Date Introduced: November 18, 2015
 First Reading: November 18, 2015
 Published: November 28, 2015

REMARKS: _____


Second Reading: December 2, 2015
 To Mayor: December 10, 2015
 Returned: December 23, 2015
 Effective: December 22, 2015
 Published: January 9, 2016

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Ilagan	X			
Kanuha	X			
Onishi	X			
Paleka	X			
Poindexter	X			
Wille	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Ilagan	X			
Kanuha	X			
Onishi			X	
Paleka	X			
Poindexter	X			
Wille	X			
	8	0	1	0

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

Approved/Disapproved this 22nd day
 of December, 2015

 MAYOR, COUNTY OF HAWAII



COUNCIL CHAIRPERSON



COUNTY CLERK

Bill No.: 109

Reference: C-524/PC-35

Ord No.: 15 117