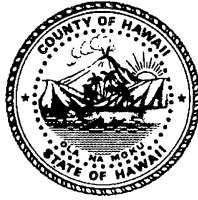


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 17 70 BILL NO. 67

AN ORDINANCE AMENDING ORDINANCE NO. 07 136, WHICH RECLASSIFIED LANDS FROM SINGLE-FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO INDUSTRIAL-COMMERCIAL MIXED – 20,000 SQUARE FEET (MCX-20) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-036:090.

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

**SECTION 1.** Section 2 of Ordinance No. 07 136 is amended as follows:

“SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code 1983 ([2005] 2016 Edition, as amended), 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. [~~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~~]

~~as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within one hundred and eighty days from the effective date of this ordinance.]~~

The applicant shall install a reduced pressure type backflow prevention assembly by a contractor licensed in the State of Hawai'i, within five (5) feet of the water meter on private property. The installation of the backflow prevention assembly(s) must be inspected and approved by the Department of Water Supply before commencement of water service. Subject to other agencies' requirements to construct improvements within the road right-of-way fronting the property affected by the proposed development, the applicant shall be responsible for the relocation and adjustment of the Department's affected water system facilities, should they be necessary.

- 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, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Chapter 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. 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) and Section 25-5-137 (Landscaping of Yards in the MCX District).]~~
- D. Access to the project site shall meet with the approval of the Department of Public Works.

- E. The applicant shall provide full improvements to the entire frontage of Lanik[ā]ula Street and H[ī]nano Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements and any required utility relocation, meeting with the approval of the Department of Public Works. The improvements shall be located within five-foot future road widening strips along the Lanik[ā]ula Street and H[ī]nano Street frontages and be dedicated to the County of Hawai'i prior to the issuance of a Certificate of Occupancy.
- F. The applicant shall provide a minimum 20-foot corner radius (property line at the intersection of Lanik[ā]ula Street and H[ī]nano) incorporating the 5-foot future road widening setbacks.
- G. Streetlights and traffic control devices shall be installed as required by the Department of Public Works.
- H. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
- I. ~~[A drainage study shall be prepared and submitted to the Department of Public Works prior to the issuance of Final Plan Approval.]~~ If required, 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.
- J. The project shall connect to the existing County sewer line prior to the issuance of a Certificate of Occupancy.
- K. 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.

- 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-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- M. 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.
- N. The applicant shall comply with all County, State and Federal laws, rules, regulations and requirements.
- O. ~~[An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval have been satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.]~~  
If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission and the Hawai'i County Council for appropriate action. Further, 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.

[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.
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 applicants should require an additional extension of time, the Planning Director shall submit the applicants' request to the County Council for appropriate action.] ”

**SECTION 2.** Material to be repealed is bracketed and stricken. New material is underscored. In printing this ordinance, the brackets, bracketed and stricken material, and underscoring need not be included.

**SECTION 3.** Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

**SECTION 4.** This ordinance shall take effect upon its approval.

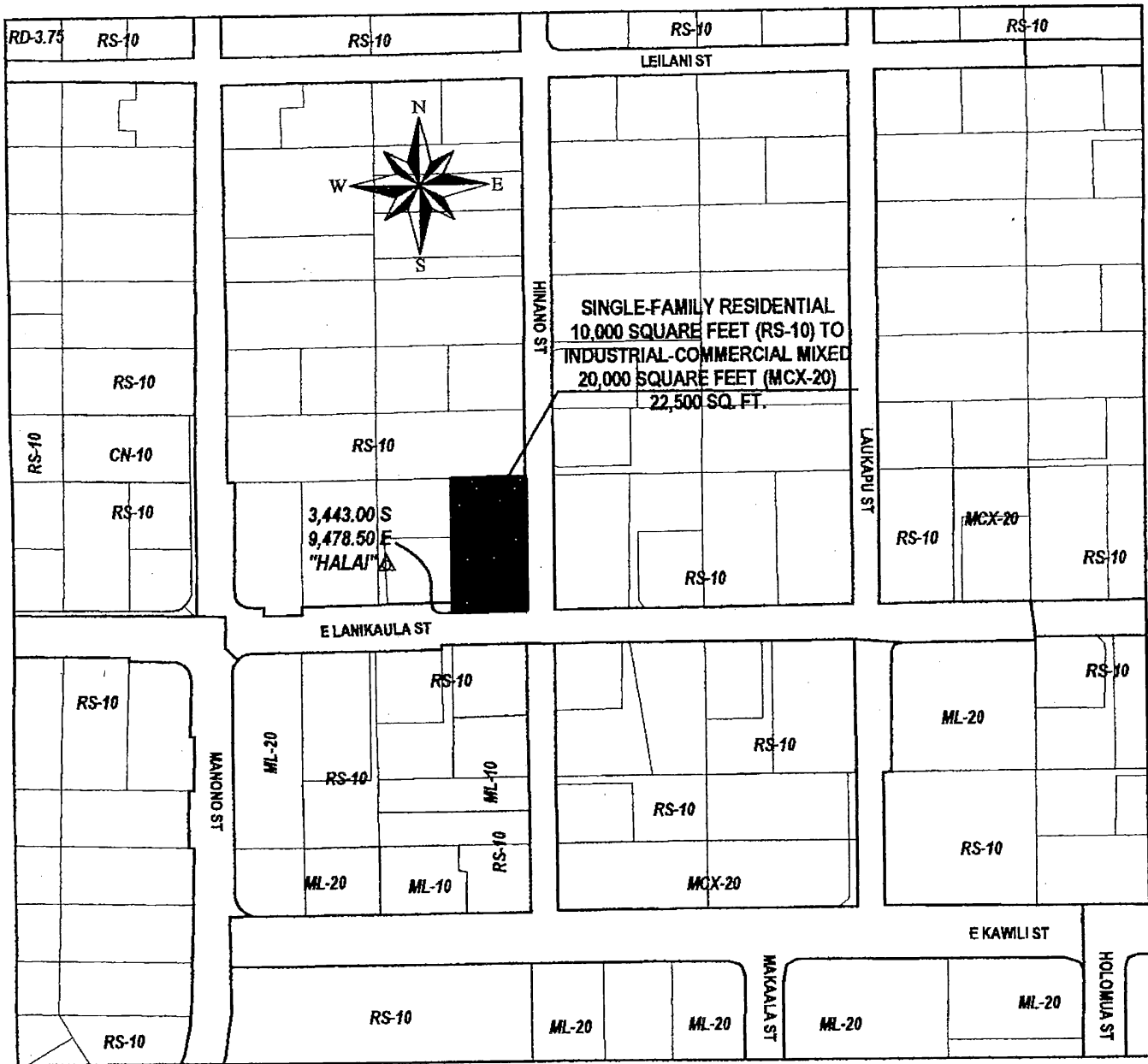
INTRODUCED BY:

*Karen Leff* B/R  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i

Date of Introduction: October 4, 2017  
Date of 1st Reading: October 4, 2017  
Date of 2nd Reading: October 18, 2017  
Effective Date: November 1, 2017

REFERENCE Comm. 443



# 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 INDUSTRIAL-COMMERCIAL MIXED 20,000 SQUARE FEET (MCX-20)  
 AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII

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

COUNTY CLERK  
 COUNTY OF HAWAII

2017 NOV -1 AM 11: 07

Introduced By: Karen Eoff (B/R)  
 Date Introduced: October 4, 2017  
 First Reading: October 4, 2017  
 Published: October 14, 2017

REMARKS: \_\_\_\_\_  
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Second Reading: October 18, 2017  
 To Mayor: October 26, 2017  
 Returned: November 1, 2017  
 Effective: November 1, 2017  
 Published: November 11, 2017

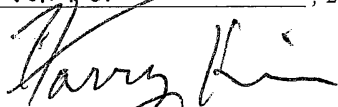
REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kanuha	X			
Lee Loy	X			
O'Hara	X			
Poindexter	X			
Richards	X			
Ruggles	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kanuha	X			
Lee Loy	X			
O'Hara	X			
Poindexter	X			
Richards			X	
Ruggles	X			
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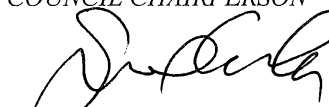
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

Disapproved this 1st day  
 of November, 2017

  
 MAYOR, COUNTY OF HAWAII



COUNCIL CHAIRPERSON

  
 COUNTY CLERK

Bill No.: 67  
 Reference: C-443/PC-31  
 Ord No.: 17 70