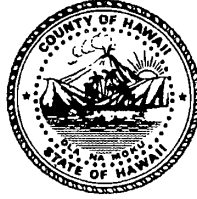


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 18 97 BILL NO. 179

AN ORDINANCE AMENDING ORDINANCE NO. 08 20, WHICH RECLASSIFIED LANDS FROM SINGLE FAMILY RESIDENTIAL - 10,000 SQUARE FEET (RS-10) TO NEIGHBORHOOD COMMERCIAL - 10,000 SQUARE FEET (CN-10) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-036:025 AND 026.

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

SECTION 1. Section 2 of Ordinance No. 08 20 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 180 days from the effective date of this ordinance~~] prior to securing Final Plan Approval for a commercial use (including a bed and breakfast).

- C. Commencement of a commercial use, including [Conversion of the existing dwelling to] office uses beyond a Home Occupation or a bed and breakfast operation, shall be completed within five (5) years from the effective date of this amended ordinance. Prior to commencement of an office use beyond a Home Occupation, the applicant shall secure and finalize a change of use building permit. Prior to [~~conversion and/or construction~~] commencement of a commercial use (including a bed and breakfast), 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 paved 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).
- D. The applicant shall either consolidate parcels 25 and 26 prior to receipt of [~~final plan approval~~] Final Plan Approval for any development on the property or shall establish cross-easements to permit a traffic circulation between TMK 2-2-36: 25 and 26 that would be implemented in connection with the establishment of a commercial use, any construction of new buildings or any subdivision of the properties. Any access points other than the existing driveways shall meet with the approval of the Department of Public Works.

- E. Not more than two (2) lots shall be created from the subject properties (TMK 2-2-36: 25 and 26).
- F. ~~[Upon construction of any new buildings]~~ Prior to commencement of any commercial operation (including a bed and breakfast) on Parcel 26, the applicant shall provide improvements to the entire frontage of ~~[Hinano]~~ Hinano Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any required utility relocation. ~~[All roadway improvements to Hinano Street shall be completed prior to a Certificate of Occupancy.]~~
- G. The applicant shall ~~[provide]~~ maintain a solid wall not to exceed six feet in height as a buffer along the common boundary of TMK (3) 2-2-36: 26 and TMK (3) 2-2-36: 149.
- H. Prior to securing Final Plan Approval for any commercial operation (including a bed and breakfast), ~~[A]~~ a “No Left Turn” sign shall be installed at each of the two existing driveways along ~~[Kekuanāoa]~~ Kekūanāo‘a Street. All driveway connections shall conform to Chapter 22, Streets and Sidewalks, of the Hawai‘i County Code.
- I. The existing hedge on the corner of ~~[Kekuanāoa]~~ Kekūanāo‘a Street and Manono Street shall be ~~[limited to]~~ maintained at a height of no more than three feet.
- J. Install street lights and traffic controls as required by the Traffic Division, Department of Public Works.
- K. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared by a

licensed civil engineer and submitted to the Department of Public Works prior to issuance of a Final Plan Approval. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy or commencement of a commercial use.

L. 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~~] receipt of Final Plan Approval for any commercial use on the subject properties.

M. If the applicant, successors, or assigns develops residential units on the subject property(ies), the applicant shall make its fair share contribution to mitigate the potential regional impacts 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 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 combined value of [~~\$7,043.62~~] \$9,195.34 per multiple family residential unit (~~[\$10,976.69]~~ \$14,329.89 per single family residential 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 unit) shall be allocated as follows:

1. ~~[\$3,474.42]~~ \$4,535.80 per multiple family residential unit (~~[\$5,293.15]~~ \$6,910.13 per single family residential unit) to the County to support park and recreational improvements and facilities;
2. ~~[\$109.81]~~ \$143.36 per multiple family residential unit (~~[\$232.42]~~ \$333.35 per single family residential unit) to the County to support police facilities;
3. ~~[\$337.78]~~ \$440.97 per multiple family residential unit (~~[\$504.33]~~ \$658.40 per single family residential unit) to the County to support fire facilities;
4. ~~[\$150.55]~~ \$196.54 per multiple family residential unit (~~[\$220.80]~~ \$288.25 per single family residential unit) to the County to support solid waste facilities; and
5. ~~[\$2,971.05]~~ \$3,878.67 per multiple family residential unit (~~[\$4,703.06]~~ \$6,139.77 per single family residential 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.

- 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 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 shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- Q. All proposed structures shall connect to the public sewer in accordance with Section 21-5 of the Hawai'i County Code prior to the commencement of any commercial operation (including a bed and breakfast).
- ~~[Q.]~~ 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 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 Director may initiate rezoning of the area to its original or more appropriate designation.”

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:

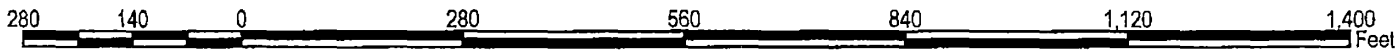
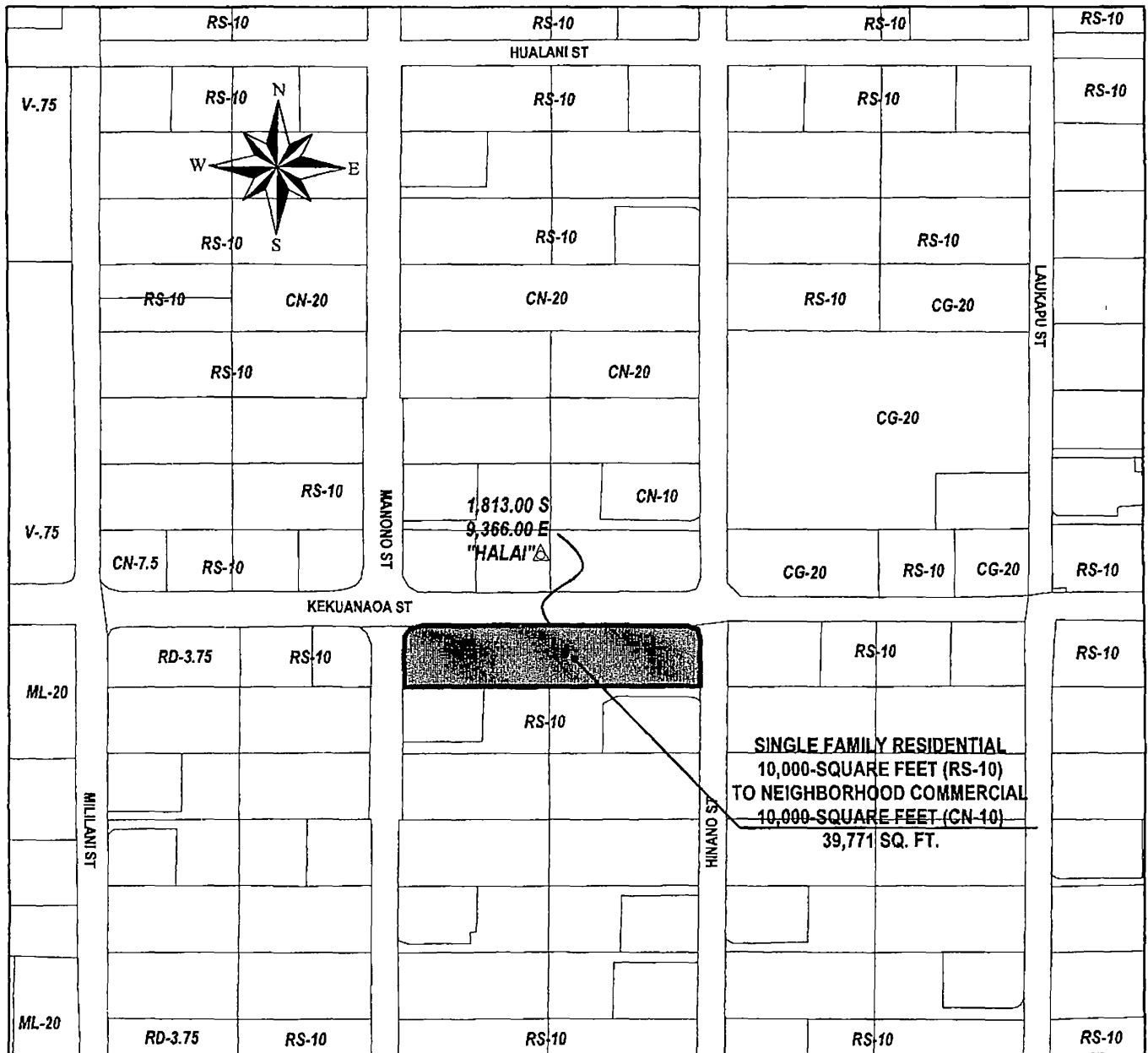


COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona , Hawai'i

Date of Introduction: September 5, 2018
Date of 1st Reading: September 5, 2018
Date of 2nd Reading: September 19, 2018
Effective Date: October 1, 2018

REFERENCE Comm. 1026



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 NEIGHBORHOOD COMMERCIAL 10,000-SQUARE FEET (CN-10)
 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

2018 OCT -2 AM 8:49

Introduced By: Karen Eoff (B/R)
 Date Introduced: September 5, 2018
 First Reading: September 5, 2018
 Published: September 15, 2018

REMARKS: _____

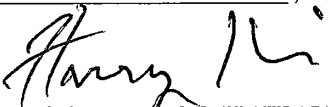
Second Reading: September 19, 2018
 To Mayor: September 27, 2018
 Returned: October 2, 2018
 Effective: October 1, 2018
 Published: October 13, 2018



REMARKS: _____

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	
	8	0	1	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	
	7	0	2	0

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

Approved / Disapproved this 1st day
 of October, 2018

 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRPERSON

 COUNTY CLERK

Bill No.: 179
 Reference: C-1026/PC-71
 Ord No.: 18 97