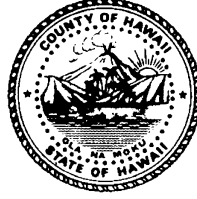


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 19 26 BILL NO. 15

AN ORDINANCE AMENDING ORDINANCE NO. 97 13, WHICH RECLASSIFIED LANDS 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: 2-2-023:012.

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

**SECTION 1.** Section 1 and Section 2 of Ordinance No. 97 13 is amended as follows:

“SECTION 1. [~~Section 25-114, Article 3, Section 25-8-3, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2016 Edition as amended)~~], 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, Hawaii, shall be General Commercial – 20,000 square feet (CG-20):

Beginning at the westerly corner of this parcel of land and on the northeasterly side of Kinoole Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 2,706.52 feet South and 6,155.80 feet East and running by azimuths measured clockwise from True South:

1. Following along a curve to the right having a radius of 20.00 feet, the chord azimuth and distance being:  
193° 10' 28.28 feet;
2. 238° 10' 150.00 feet along the southeast side of Kamana Street;
3. 328° 10' 125.00 feet along Lot 10, Block 82 of Waiākea Houselots, 2nd Series;

- |    |          |        |   |
|----|----------|--------|---|
| 4. | 58° 10'  | 170.00 | feet along Lot 12, Block 82 of Waiākea Houselots, 2nd Series;   |
| 5. | 148° 10' | 105.00 | feet along northeasterly side of Kinoole Street to the point of beginning and containing an area of 21,164 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 (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(s), its successors or assigns shall be responsible for complying with all of the stated conditions of approval.~~

~~B. The applicant(s) shall submit daily water usage calculations and the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Policy" within 90 days from the effective date of this ordinance.~~

- ~~C. Construction of the proposed commercial development shall be completed within five (5) years from the effective date of this ordinance. Prior to the start of construction, Final Plan Approval for the proposed commercial development and related improvements shall be secured from the Planning Director. Plans shall identify structures, fire protection measures, paved parking stalls and paved driveway and other improvements associated with the proposed use. Plans shall include landscaping along property boundaries, for the purpose of mitigating any potential adverse noise and visual impacts to adjoining parcels and the intersection.~~
- ~~D. Driveway access to the subject property from Kamana Street shall meet with the approval of the Department of Public Works. No access shall be permitted from Kino'ole Street. Kamana Street shall be provided along the entire frontage of the property, with the exception of access points, with commercial standard concrete curb, gutter and sidewalk along with pavement widening and transition, meeting with the approval of the Department of Public Works, prior to the issuance of certificate of occupancy for the proposed commercial development.~~
- ~~E. The applicant shall comply with the County's Solid Waste Management Plan.~~
- ~~F. Upon compliance with applicable conditions of approval, prior to the establishment of any new use or opening of the proposed development, the applicant shall submit a final status report, in writing, to the Planning Director.~~
- ~~G. 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.~~

H. ~~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. ~~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).~~

I. ~~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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.

B. The applicants, its successors, or assigns shall provide the maximum daily water usage calculations prepared by a professional engineer licensed in the State of Hawai'i, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" shall be submitted to the Department of Water

Supply prior to the submittal of plans for Plan Approval review by the Planning Department. Based upon the calculations, if required, the applicants shall install a larger or additional service lateral or meter, and remit the prevailing facilities charge to the Department of Water Supply. The applicants are responsible for maintaining valid water commitments to support the proposed development until such time that required water facilities charges are paid in full.

C. Construction of the proposed commercial development shall be completed within five (5) years from the effective date of this amended ordinance. Prior to the start of construction, Final Plan Approval for the proposed commercial development and related improvements shall be secured from the Planning Director. Plans shall identify structures, fire protection measures, paved parking stalls and paved driveway and other improvements 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 17 (Landscaping Requirements), Chapter 25 (Zoning Code), Hawai'i County Code.

D. Driveway access to the subject property from Kamana Street shall meet with the approval of the Department of Public Works. No access shall be permitted from Kino'ole Street. The proposed development driveway shall be located away from the intersection. The applicants shall provide improvements to the project's frontage along Kamana 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, prior to Certificate of Occupancy for the proposed commercial development.

- E. The applicants shall provide full width concrete sidewalks along the property's entire Kino'ole Street frontage (replace the existing planter area with concrete), meeting with the approval of the Department of Public Works, prior to Certificate of Occupancy for the proposed commercial development.
- F. 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 Kamana Street that may be deemed necessary by the Department of Public Works.
- G. The project shall connect to the existing County sewerline prior to the issuance of a Certificate of Occupancy for proposed commercial development. The applicants shall conduct a sewer study in accordance with the applicable wastewater design standards prior to approval to connect to the County sewer system. The applicants shall provide such sewer line or other facility improvements as the Director of the Department of Environmental Management may reasonably require, which the sewer study may indicate are advisable for mitigation of impacts of the proposed project.
- H. In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the

immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

I. 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. 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 the amendment to the ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). The fair share contribution shall have a maximum combined value of \$9,195.34 per multiple family residential unit (\$14,329.89 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 unit) shall be allocated as follows:

1. \$4,535.80 per multiple family residential unit (\$6,910.13 per single family residential unit) to the County to support park and recreational improvements and facilities;
2. \$143.36 per multiple family residential unit (\$333.35 per single family residential unit) to the County to support police facilities;

3. \$440.97 per multiple family residential unit (\$658.40 per single family residential unit) to the County to support fire facilities;
4. \$196.54 per multiple family residential unit (\$288.25 per single family residential unit) to the County to support solid waste facilities;
5. \$3,878.67 per multiple family residential unit (\$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.

- J. 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.
- 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 Administrator of the Office of Housing and Community Development prior to Final Plan Approval.
- L. The applicants shall comply with all County, State and Federal laws, rules, regulations and requirements.



M. 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. 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).
5. If the applicants should require an additional extension of time, the Planning Department shall submit the applicants' 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.

**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.** [~~In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.~~] 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.

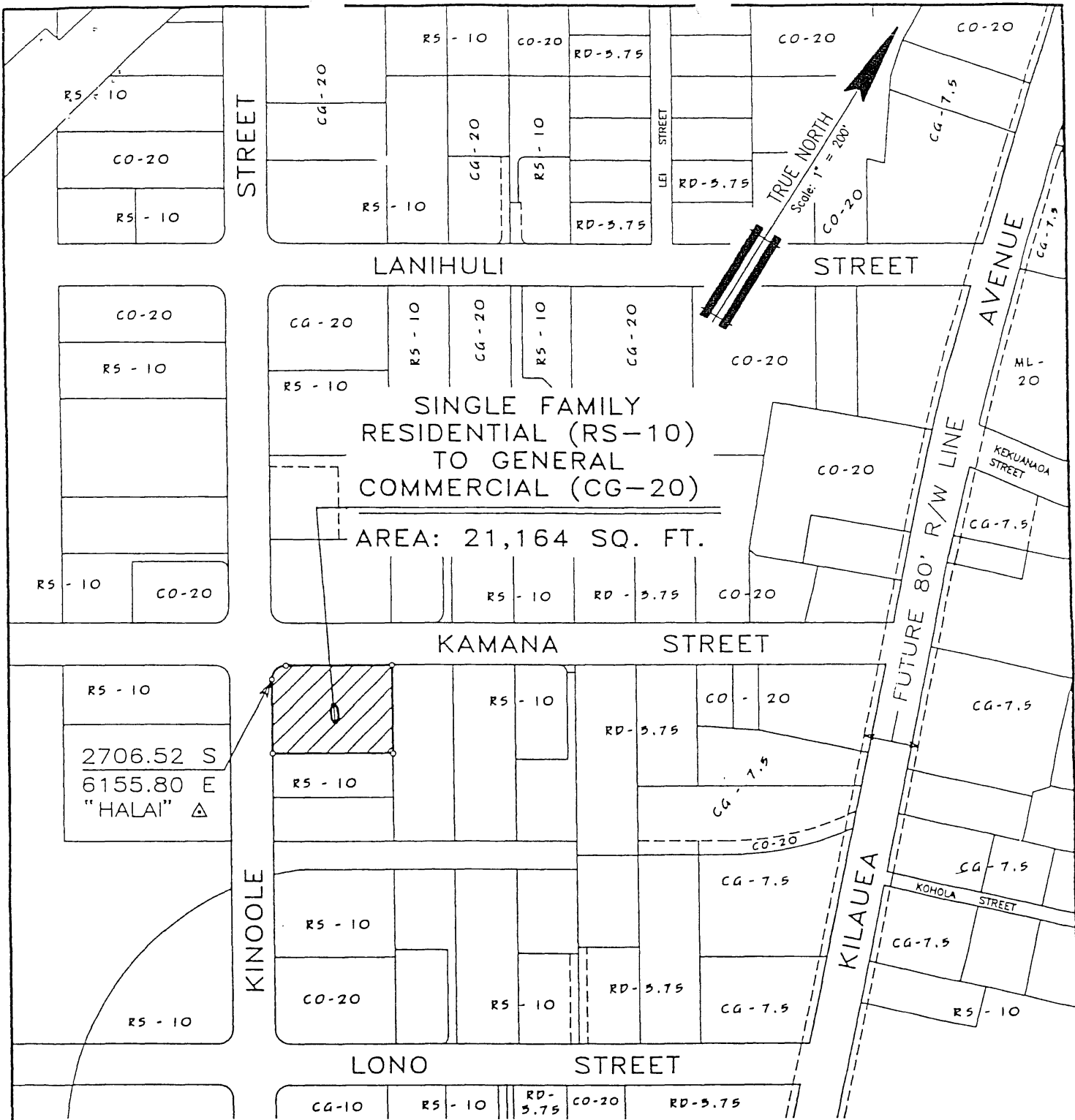
INTRODUCED BY:

  
\_\_\_\_\_  
COUNCIL MEMBER, COUNTY OF HAWAI'I

\_\_\_\_\_Hilo\_\_\_\_\_, Hawai'i

Date of Introduction: February 20, 2019  
Date of 1st Reading: February 20, 2019  
Date of 2nd Reading: March 13, 2019  
Effective Date: March 25, 2019

REFERENCE Comm. 63



SINGLE FAMILY  
RESIDENTIAL (RS-10)  
TO GENERAL  
COMMERCIAL (CG-20)  
AREA: 21,164 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-20) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

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

COUNTY CLERK  
 COUNTY OF HAWAII

2019 MAR 27 AM 8:41

Introduced By: Ashley Kierkiewicz (B/R)  
 Date Introduced: February 20, 2019  
 First Reading: February 20, 2019  
 Published: March 2, 2019

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
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Second Reading: March 13, 2019  
 To Mayor: March 21, 2019  
 Returned: March 27, 2019  
 Effective: March 25, 2019  
 Published: April 6, 2019

REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter	X			
Richards	X			
Villegas	X			
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter			X	
Richards			X	
Villegas	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 25<sup>th</sup> day  
 of March, 2019.

*Harry Kerin*  
 MAYOR, COUNTY OF HAWAII

*[Signature]*  
 COUNCIL CHAIRPERSON

*[Signature]*  
 COUNTY CLERK

Bill No.: 15  
 Reference: C-63/PC-5  
 Ord No.: 19 26