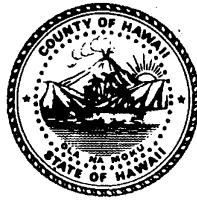


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 19 34 BILL NO. 24  
(DRAFT 2)

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO GENERAL COMMERCIAL – 20,000 SQUARE FEET (CG-20) AT WAIĀKEA HOUSE LOTS 2ND SERIES, WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-024:003.

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

SECTION 1. 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 House Lots 2<sup>nd</sup> Series, Waiākea, South Hilo, Hawai'i, shall be General Commercial – 20,000 square feet (CG-20).

Beginning at a pipe on the east side of Kino'ole Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 3,697.74 feet south and 6,771.18 feet east, as shown on Government Survey Registered Map No. 2705, and running by true azimuths:

- |    |          |        |  |
|----|----------|--------|--|
| 1. | 148° 10' | 84.00  | feet along east side of Kino'ole Street;           |
| 2. | 238° 10' | 240.00 | feet along Lot 16;                                 |
| 3. | 328° 10' | 168.20 | feet along Grant 9172 to R. Wong;                  |
| 4. | 58° 10'  | 220.00 | feet along the Northwest side of Lanikāula Street; |

5. Thence along the intersection of Lanikāula and Kino'ole Streets, on a curve to the right with a radius 20.00 feet, the chord azimuth and distance being:  
  
103° 10' 28.28 feet;
6. 148° 10' 64.20 feet along the East side of Kino'ole Street to the point of beginning and containing an area of 40,282 Sq. Ft.

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

SECTION 2. 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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
  - B. Construction of the proposed development, as substantially represented by the applicant, or as permitted by the zoning district classification, shall be completed within five (5) years from the effective date of this ordinance. To mitigate potential adverse noise and visual impacts to adjacent properties, as represented by the applicant, the applicant, successors or assigns shall construct a natural-stone-faced, concrete masonry wall, which

shall have a maximum height of no more than five-foot-nine inches (5'9"), along the northern and eastern boundaries of the property terminating, or tapering to a lesser height, no less than ten (10) feet from their intersection with Kino'ole Street and Lanikāula Street to afford safe vehicular and pedestrian sight distance. Prior to construction, 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 proposed structure(s), paved driveway access and parking stalls associated with the proposed development. The stone-faced, concrete masonry wall, which shall have a maximum height of no more than five-foot-nine inches (5'9"), and 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) standards for CG zones adjoining a RS zone.

- C. Prior to issuance of Final Plan Approval, the applicant, successors or assigns shall obtain Final Consolidation Approval for consolidation of the three (3) lots of record within the subject parcel.
- D. Prior to submitting plans for Plan Approval, the applicant shall submit for all uses on the property, the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai'i to the Department of Water Supply (DWS). A water commitment deposit shall be paid to the DWS prior to issuance of Final Plan Approval in accordance with Rule 5 of the Department of Water Supply's Rules and Regulations. The applicant shall construct necessary water system improvements as required by the DWS.
- E. The applicant 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.

- F. Prior to issuance of a Certificate of Occupancy for a commercial use on the property, the applicant, successors, or assigns shall provide improvements to the subject property's entire Kino'ole Street and West Lanikāula Street frontages consisting of a "full width" concrete sidewalk of 10-foot width meeting with the requirements of the Americans with Disabilities Act and the approval of the Department of Public Works.
- G. Driveway connection(s) to Kino'ole Street and West Lanikāula Street shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
- H. No earlier than one year after issuance of an occupancy permit for the proposed project and any time thereafter, should the County Department of Public Works determine that the West Lanikāula Street access be modified and limited to right in, right out movements only to address impacts at the intersection of West Lanikāula Street and Kino'ole Street directly attributable to left turn movements into the site from West Lanikāula Street, the access shall be so modified in accordance with the requirements of the Department of Public Works at the applicant's and/or its successors cost within six (6) months of receipt of such a notification.
- I. The applicant shall be responsible for the design, purchase, and installation of streetlights and traffic control devices as may be required by the Traffic Division, Department of Public Works.
- J. Should the applicant, successors or assigns develop an additional 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 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. A drainage study shall be prepared by a licensed civil engineer and submitted to the Planning Department prior to 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.
  
- L. The applicant, successors, or assigns shall conduct a sewer study prior to connection to the County sewer system. The applicant shall provide 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. 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.
  
- N. 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.
  
- O. Should the applicant, successors, or assigns develop residential units on the subject property, 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 for each unit shall be based on the actual number of residential units developed and shall become due and payable

prior to receipt of Final Plan Approval. 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 **\$9,195.34** per multiple family residential unit (**\$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. **\$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; and
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.

- P. 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.
  
- Q. 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.
  
- R. The applicant, successors or assigns shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
  
- S. An initial extension of time for the performance of conditions within the ordinance may be granted by the 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 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.
- T. 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 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:

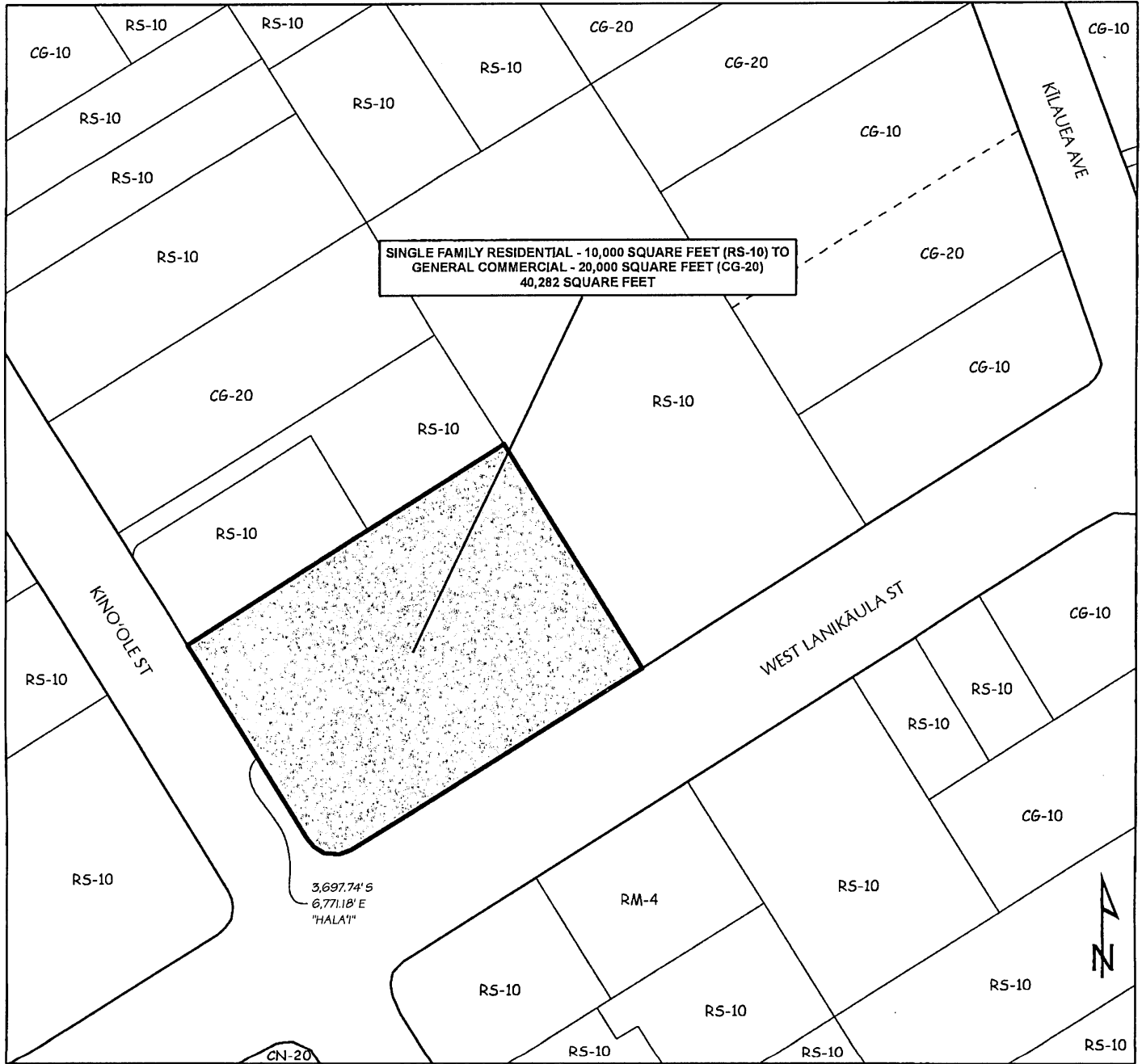


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COUNCIL MEMBER, COUNTY OF HAWAI'I

          Kona          , Hawai'i  
Date of Introduction: March 13, 2019  
Date of 1st Reading: March 13, 2019  
Date of 2nd Reading: March 28, 2019  
Effective Date: April 8, 2019

REFERENCE Comm.           94.2





# **AMENDMENT TO THE ZONING CODE**

AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP) ARTICLE 8,  
CHAPTER 25 (ZONING) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED),  
BY CHANGING THE DISTRICT CLASSIFICATION FROM  
SINGLE FAMILY RESIDENTIAL - 10,000 SQUARE FEET (RS-10) TO  
GENERAL COMMERCIAL - 20,000 SQUARE FEET (CG-20)  
AT WAIĀKEA HOUSE LOTS 2ND SERIES, WAIĀKEA, SOUTH HILO, HAWAI'I

MAP PREPARED BY:  
COUNTY OF HAWAI'I, PLANNING DEPARTMENT

TMK: (3) 2-2-024:003

DATE: October 2, 2018

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

COUNTY CLERK  
 COUNTY OF HAWAII  
 2019 APR -8 PM 1: 50

(Draft 2)

Introduced By: Ashley Kierkiewicz (B/R)  
 Date Introduced: March 13, 2019  
 First Reading: March 13, 2019  
 Published: March 23, 2019

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
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Second Reading: March 28, 2019  
 To Mayor: April 5, 2019  
 Returned: April 8, 2019  
 Effective: April 8, 2019  
 Published: April 20, 2019


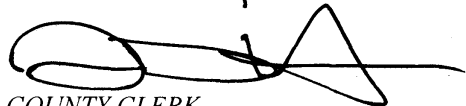
REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter			X	
Richards			X	
Villegas	X			
	7	0	2	0

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			
	8	0	1	0

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

Disapproved this 8<sup>th</sup> day  
 of April, 2019.  
  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 24 (Draft 2)  
 Reference: C-94.2/PC-10  
 Ord No.: 19 34