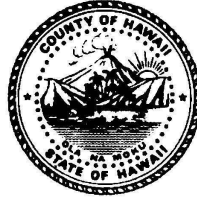


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **20 64** BILL NO. 180

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) 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 HOUSELOTS 2ND, WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-021:008.

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

SECTION 1. Section 25-8-33, 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 Houselots 2nd, Waiākea, South Hilo, Hawai'i, shall be General Commercial – 20,000 square feet (CG-20):

Beginning at a pipe at the East corner of this lot, the South corner of Lot 16, Block 62, and on the North side of road (60 feet wide), the coordinates of the said point of beginning referred to Government Survey Triangulation Station "HALAI" being 2,044.74 feet South and 6,046.25 feet East, as shown on Government Survey Registered Map No. 2705, and running by true azimuths:

1. 58° 10' 86.0 feet along road (60 feet wide);
2. 148° 10' 242.0 feet along Lots 14 and 13;
3. 238° 10' 86.0 feet along Lot 10;

4. 328° 10' 242.0 feet along Lot 16 to the point of beginning and containing an area of 20,812 square feet more or less.

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. 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.

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.

- C. 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, its successors or assigns are responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full. The applicant shall construct necessary water system improvements as required by the DWS.
- D. The applicant, successors, or assigns 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. The applicant, successors, or assigns shall implement any improvements required by the Fire Department and/or Department of Water Supply to ensure that fire protection requirements can be met for commercial zoning.
- 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 Lanihuli Street frontage consisting of, but not limited to consisting of, but not limited to, pavement widening with concrete curb, gutter, and sidewalk, drainage improvements, and any required utility relocation, meeting the requirements of the Americans with Disabilities Act and the approval of the Department of Public Works.

- G. Driveway connection(s) to Lanihuli Street and construction within the Lanihuli Street Right-of-Way shall conform to Chapter 22, County Streets, of the Hawai‘i County Code.
- H. 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.
- I. 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 applicant 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.
- J. 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.
- K. 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.
- L. 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.

M. 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 \$9,366.52 per multiple family residential unit (\$14,596.67 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. \$4,620.24 per multiple family residential unit (\$7,038.77 per single family residential unit) to the County to support park and recreational improvements and facilities;
2. \$146.02 per multiple family residential unit (\$339.55 per single family residential unit) to the County to support police facilities;
3. \$449.18 per multiple family residential unit (\$670.66 per single family residential unit) to the County to support fire facilities;

4. \$200.20 per multiple family residential unit (\$293.62 per single family residential unit) to the County to support solid waste facilities; and
5. \$3,950.87 per multiple family residential unit (\$6,254.07 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, successors or assigns shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- Q. 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.
- R. 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:

A handwritten signature in black ink, appearing to be 'O. Miller B/R', written over a horizontal line.

COUNCIL MEMBER, COUNTY OF HAWAI'I

        Kona        , Hawai'i  
Date of Introduction: August 5, 2020  
Date of 1st Reading: August 5, 2020  
Date of 2nd Reading: August 19, 2020  
Effective Date: September 2, 2020

REFERENCE Comm.         990



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

COUNTY CLERK  
 COUNTY OF HAWAII

2020 SEP -2 AM 11: 44

Introduced By: Ashley L. Kierkiewicz (B/R)  
 Date Introduced: August 5, 2020  
 First Reading: August 5, 2020  
 Published: August 14, 2020

REMARKS: \_\_\_\_\_  
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Second Reading: August 19, 2020  
 To Mayor: August 28, 2020  
 Returned: September 2, 2020  
 Effective: September 2, 2020  
 Published: September 11, 2020

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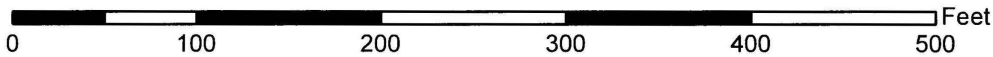
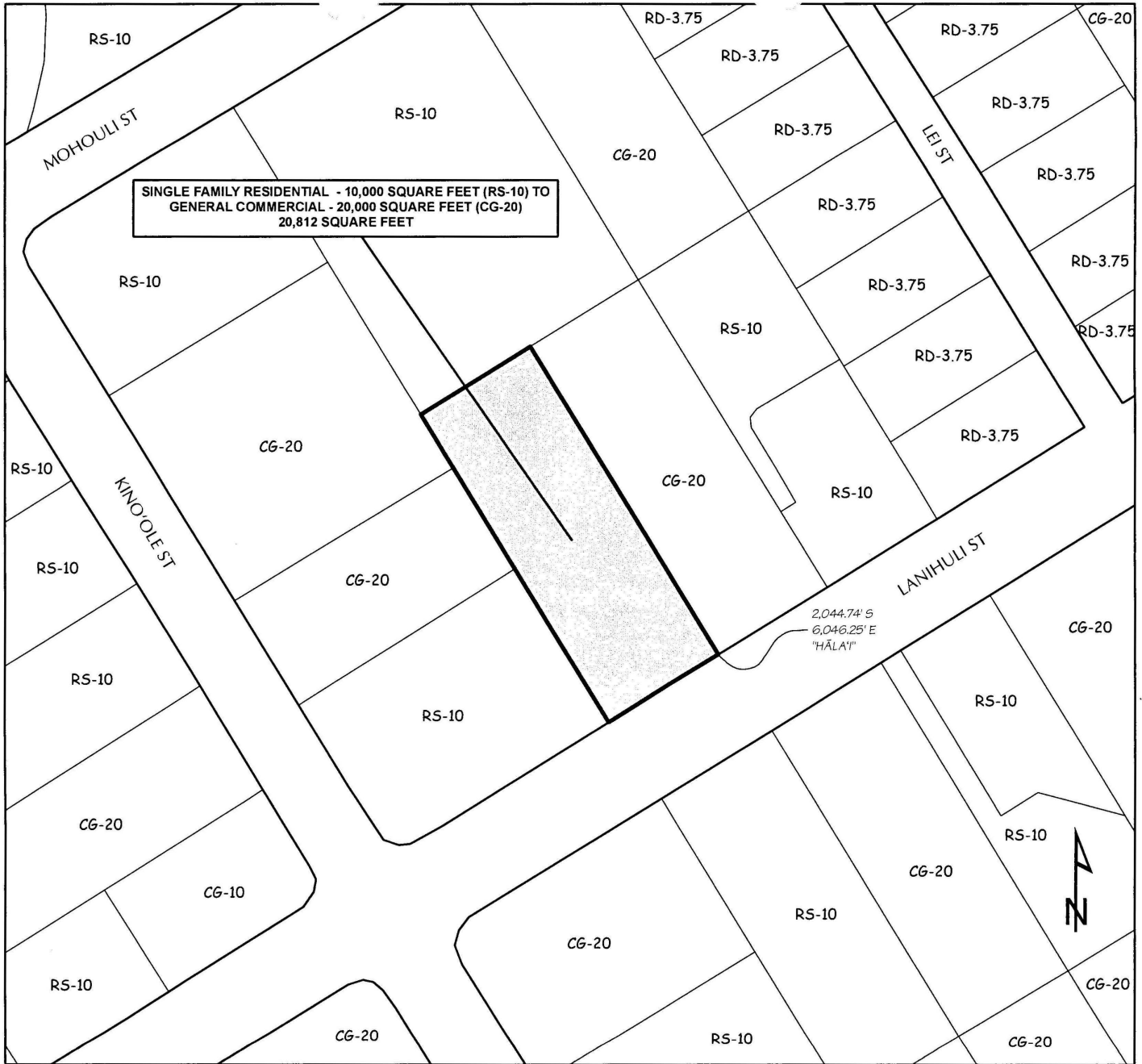
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

Approved/Disapproved this 2nd day  
 of September, 2020.

  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 180  
 Reference: C-990/PC-50  
 Ord No.: 20 64



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP) ARTICLE 8,  
 CHAPTER 25 (ZONING) OF THE HAWAII 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 HOUSELOTS 2ND, WAIĀKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:  
 COUNTY OF HAWAII, PLANNING DEPARTMENT