

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 264  
(Draft 3)

ORDINANCE NO. 94 102

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM OPEN (O) TO VILLAGE COMMERCIAL (CV-20) AND LIMITED INDUSTRIAL (ML-1a) AND FROM UNPLANNED (U) TO LIMITED INDUSTRIAL (ML-1a) AT KOHANAIKI, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-09:15.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-87, Article 3, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of properties described hereinafter as follows:

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii, shall be Village Commercial (CV-20):

PARCEL 1:

Beginning at the Southeasterly corner of this parcel of land, being also a point on the Southerly boundary of Parcel 3 and being a point on the Northerly boundary of Lot 7-A-1, the coordinates of said point of beginning referred to Hawaiian Plane Coordinate Grid System, Zone 1 being 315,868.04 feet North and 318,244.53 feet East and running by azimuths measured clockwise from True South:

1. 91° 59' 35" 856.53 feet along Lot 7-A-1 and along the remainder of Grant 2942 to Hulikoa to a point;
2. 149° 36' 30" 500.00 feet along the Easterly side of Queen Kaahumanu Highway (Kailua-Kawaihae Road, Section II) (Project No. BD-65-352) to a point;

3. 271° 59' 35" 1,124.33 feet along Parcel 1 and along the remainder of Grant 2942 to Hulikoa to a point;
4. 1° 59' 35" 422.24 feet along the remainders of Parcel 3 and Grant 2942 to Hulikoa to the point of beginning and containing an area of 9.600 Acres. (Refer to Parcel 1 as shown on Exhibit "A".)

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii, shall be Limited Industrial (ML-1a):

PARCEL 2:

Beginning at the Southwesterly corner of this parcel of land, being also a point on the Southerly boundary of Parcel 3 and being a point on the Northerly boundary of Lot 7-A-1, the coordinates of said point of beginning referred to the Hawaiian Plane Coordinate Grid System, Zone 1 being 315,868.04 feet North and 318,244.53 feet East and running by azimuths measured clockwise from True South:

Thence, for the next four (4) courses following along the remainder of Grant 2942 to Hulikoa:

1. 181° 59' 35" 422.24 feet along the remainder of Parcel 3 to a point;
2. 271° 59' 35" 3,213.96 feet along Parcel 1 to a point;
3. 343° 55' 30" 444.14 feet along the remainder of Parcel 3 to a point;
4. 91° 59' 35" 3,351.71 feet along Lot 7-A-1 to the point of beginning and containing an area of 31.821 Acres. (Refer to Parcel 2 as shown on Exhibit "A".)

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii, shall be Limited Industrial (ML-1a):

PARCEL 3:

Beginning at the Southeasterly corner of this parcel of land, being also the Southeasterly corner of Parcel 3 and being an angle point on the Northerly boundary of Lot 7-B-1, the coordinates of said point of beginning referred to Hawaiian Plane Coordinate Grid System, Zone 1 being 315,645.33 feet North and 324,644.52 feet East and running by azimuths measured clockwise from True South:

Thence, for the next four (4) courses following along the remainder of Grant 2942 to Hulikoa:

1. 91° 59' 35" 3,052.15 feet along Lots 7-B-1 and 7-A-1 to a point;
2. 163° 55' 30" 444.14 feet along the remainder of Parcel 3 to a point;
3. 271° 59' 35" 2,922.10 feet along Parcel 1 to a point;
4. 329° 36' 30" 500.00 feet along Lots 7-B-1 to the point of beginning and containing an area of 28.955 Acres. (Refer to Parcel 3 as shown on Exhibit "A".)

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

SECTION 2. These changes in district classification are conditioned upon the following:

- A. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.

- B. The effective date of the change of zone shall be upon the acceptance by the Department of Water Supply of the required water commitment payment in accordance with its "Water Commitment Policy" within one-hundred-eighty (180) days from the effective date of this ordinance.
- C. Final Subdivision Approval of the subject property shall be secured and approved by the Planning Director within five (5) years from the effective date of the rezoning as determined in Condition B.
- D. An overall landscaping master plan, which includes a fifty foot wide open landscaped buffer at the western boundary along the Queen Kaahumanu Highway frontage of the subject property, landscaping along the interior subdivision roadways, and a program for the maintenance of the landscaping master plan, shall be submitted to the Planning Director for review and approval, prior to the issuance of Final Subdivision Approval and/or Final Plan Approval, whichever occurs first.
- E. A development design manual for the proposed commercial and industrial subdivision of the subject property shall be prepared and submitted to the Planning Director for approval prior to Final Subdivision Approval or Final Plan Approval, whichever occurs first. The purpose of the manual is to provide comprehensive principles and guidelines for the development of the commercial and limited industrial lots in order to achieve a high standard of quality for the proposed development. The manual shall include, but not be limited to, standards and guidelines relative to open space, architecture building controls (appearance, siting, heights, building materials, signs, etc.), terrain, topography, off-street parking, on-site landscaping, loading and unloading docks, setbacks from

property lines and buildings, lot coverage ratio, etc. and enforcement procedures.

- F. Plans to be submitted for Final Plan Approval shall be required to comply with the approved development design manual requirements and all conditions of approval as required by this change of zone. Buildings shall conform to all requirements of codes and statutes pertaining to building construction. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning code), plans shall be submitted within a minimum of forty five days prior to the date by which Final Plan Approval must be secured.
- G. A wastewater disposal system shall be constructed in a manner meeting with the approval of the State Department of Health and the Department of Public Works.
- H. A detailed drainage study shall be prepared by the applicant for review and approval by the Department of Public Works in conjunction with plans submitted for plan approval review or subdivision review whichever occurs first. A drainage system shall be installed meeting with the approval of the Department of Public Works, prior to issuance of Final Subdivision Approval for the subject property or prior to any land alteration whichever occurs first.
- I. An archaeological mitigation plan shall be prepared and submitted for approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division, prior to submitting plans for plan approval review or subdivision review, whichever occurs first. Recommended mitigation measures shall be incorporated into plans submitted for plan approval and/or subdivision approval.

- J. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
- K. A solid waste management plan shall be prepared meeting with the approval of the Department of Public Works prior to submitting plans for plan approval review or subdivision review, whichever occurs first. The plan shall include, but not be limited to, the management of solid waste generated from the construction and operating phase of the proposed development. Approved recommendations and mitigation measures shall be implemented at a time and in a manner meeting with the approval of the Department of Public Works.
- L. Intersection improvements at the Queen Kaahumanu Highway intersection shall be installed in a manner meeting with the approval of the State Department of Transportation. Curb, gutter and sidewalk improvements shall be installed within the commercial zoned portion of the subject property in accordance with the requirements of the County Department of Public Works, prior to the issuance of a certificate of occupancy or Final Plan Approval for any portion of the commercial zoned area of the subject property, whichever occurs first. The applicant shall provide for paved swales and paved shoulders within the ML-1a zoned portion of the subject property in accordance with the requirements of the County Department of Public Works, in conjunction with Final Subdivision Approval for any portion of the ML-1a zoned area of the subject

property. Subdivision plans shall include road stub outs to the north and south, meeting with the requirements of the Department of Public Works, and the alignment delineated within the subject property for the "Mid-Level Road" with a maximum right-of-way width of 120 feet which is consistent with the roadway plan for the Keahole to Kailua Development Plan and which shall be approved by the Department of Public Works and the Planning Department. The applicant shall dedicate to the County of Hawaii upon its request the all roadways, including the road stub outs and the 120-foot "Mid-Level Road" right-of-way.

- M. The Planning Director in consultation with the Chief Engineer shall delineate a one-hundred-twenty (120) foot wide right-of-way within the ML-1a zoned portion of the subject property for the "Mid-Level Road" identified in the Keahole to Kailua Development Plan prior to the applicant submitting plans for preliminary subdivision approval, or within one-hundred-eighty (180) days of the effective date of this ordinance, whichever occurs last. Should the Planning Director in consultation with the Chief Engineer be unable to establish the right-of-way alignment for the "Mid-Level Road" by that time period, the applicant shall delineate the "Mid-Level Road" right-of-way at approximately the 325-foot elevation of the subject property and which shall be depicted on the subdivision plat map.
- N. In lieu of actual construction of infrastructural improvements as required herein, the applicant may enter into an agreement with the Planning Director to assure the County that the infrastructural improvements will be constructed together with the appropriate bond, surety or other security deemed acceptable to the Planning Director and the Corporation Counsel. Upon execution of such

agreement and/or filing of the security with the County, final subdivision approval for the subject property or portions thereof shall be granted prior to the actual construction of required infrastructural improvements.

- O. The applicant shall comply with all applicable laws, rules, regulations and requirements, including those of the Department of Health, Fire Department, and the Department of Water Supply for the development of the subject property.
- P. 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.
- Q. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this change of zone. The report shall address in detail the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
- R. An extension of time for the performance of conditions within the ordinance, with the exception of Condition C, 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, its 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. Should the Applicant request an additional extension of time, the Planning Director shall submit the Applicant's request to the County Council for appropriate action.

Further, 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 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

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

INTRODUCED BY:

  
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COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: August 24, 1994  
Date of 1st Reading: August 24, 1994  
Date of 2nd Reading: September 7, 1994  
Effective Date: September 13, 1994

APPROVED AS TO FORM AND LEGALITY:

  
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CORPORATION COUNSEL

DATE: 9/9/94



OFFICE OF THE COUNTY CLERK  
 County of Hawaii  
Hilo, Hawaii

RECEIVED

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(DRAFT 3) OFFICE OF COUNTY CLERK

Introduced By: Takashi Domingo  
 Date Introduced: August 24, 1994  
 First Reading: August 24, 1994  
 Published: N/A

REMARKS:

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COUNTY OF HAWAII ROLL CALL VOTE				
	AYES	NOES	ABS	EX
ARAKAKI	X			
BONK-ABRAMSON	X			
CHILDS	X			
DE LIMA	X			
DOMINGO	X			
HALE	X			
RATH	X			
ROSEHILL	X			
SCHUTTE	X			
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Second Reading: September 7, 1994  
 To Mayor: September 7, 1994  
 Returned: September 13, 1994  
 Effective: September 13, 1994  
 Published: September 19, 1994

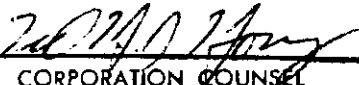
REMARKS:


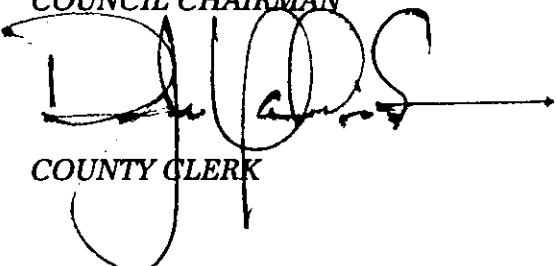
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(DRAFT 3)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
ARAKAKI	X			
BONK-ABRAMSON	X			
CHILDS	X			
DE LIMA	X			
DOMINGO	X			
HALE	X			
RATH	X			
ROSEHILL	X			
SCHUTTE	X			
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I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council and published as indicated above.

APPROVED as to  
 FORM and LEGALITY  
  
 ASSISTANT CORPORATION COUNSEL  
 COUNTY OF HAWAII  
 Date 9/12/94

  
 COUNCIL CHAIRMAN  
  
 COUNTY CLERK

Approved/Disapproved this 12 day  
 of September, 1994

  
 MAYOR, COUNTY OF HAWAII

Bill No.: 264 (Dr. 3)  
 Reference: C-1130/PC-130  
 Ord. No.: 94 102