

**COUNTY OF HAWAII STATE OF HAWAII**

**BILL NO. 174**

**ORDINANCE NO. 96 3**

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, ORDINANCE 93-38, WHICH RECLASSIFIED LANDS FROM OPEN (O) TO LIMITED INDUSTRIAL (ML-40a) AND GENERAL INDUSTRIAL (MG-5a) AT HONOKOHAU 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-4-08:PORTIONS OF 26 AND 49.

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

SECTION 1. Ordinance No. 93-38 is amended as follows:

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

- A. The applicant, its successors or assigns shall comply with all of the stated conditions of approval.
- B. Final plan approval for the project and related improvements shall be secured from the Planning Department within eighteen (18) months from the effective date of this approval. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five (45) days prior to the date for which plan approval must be secured. Plans shall indicate proposed structures, landscaping, the buffer and landscaping area approved by Housing Finance Development Corporation, parking and interior traffic circulation.
- C. Construction shall commence within eighteen (18) months from the date of receipt of Final Plan Approval and be completed within two years thereafter.

- D. A comprehensive landscaping/buffer plan, including visual analysis from the Queen Kaahumanu Highway and surrounding properties, shall be submitted to the Planning Department for review and approval prior to submittal of plans for plan approval review. The plan shall include, but not be limited to, landscaping improvements along the zoned area's western, northern and southern boundaries, interior landscaping, and provisions for maintenance. Identified priority landscaped areas shall be established prior to issuance of a certificate of occupancy for any portion of the development.
- E. As required by the State Land Use Commission's Decision and Order, a plan for a buffer and its maintenance along the southern boundary with the Kealakehe lands shall be submitted to and approved by the Housing Finance and Development Corporation prior to submittal of plans for plan approval review.
- F. In the design and review of any improvements, due consideration shall be given to the minimization of noise and adverse visual impacts through appropriate siting, height, bulk, color schemes, signage, and landscaping.
- G. An interim method of sewage disposal shall meet with the approval of the appropriate governmental agencies. Sewer lines shall be installed within the project site for eventual hookup to the municipal sewer system.
- H. A drainage system shall be installed meeting with the approval of the Department of Public Works.
- I. As required by the State Land Use Commission's Decision and Order, a drainage and erosion control plan shall be prepared to control drainage within

the property and to maintain ocean water quality. Said plan and construction of the drainage improvements shall meet with the approval of the Department of Health and/or the Department of Public Works, as appropriate.

- J. A 60-foot wide dedicable road shall be constructed to commercial standards within the project site [and on state lands connecting to the Kealakehe Parkway] to the south property line prior to the issuance of a certificate of occupancy for any portion of the proposed development. [The 60-foot wide road and its] This road shall be constructed to connect to future Road "G" connection to Kealakehe Parkway and shall meet with the approval of the Department of Public Works [and the Department of Transportation].
- K. As required by the State Land Use Commission's Decision and Order, the applicant shall participate in the funding and construction of local and regional transportation improvements on a pro rata basis as determined by the State Department of Transportation. A letter of compliance with this condition shall be submitted prior to issuance of a certificate of occupancy for any portion of this development.
- L. As required by the State Land Use Commission's Decision and Order, a letter from the Department of Health shall be submitted prior to the issuance of a certificate of occupancy for any portion of the development indicating that participation with the air quality monitoring program has been executed.
- M. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be

encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.

- N. Comply with all applicable laws, rules, regulations and requirements, including those of the Housing Finance and Development Corporation, Departments of Public Works, Health and Fire and Hawaii Electric Light Company.
- O. 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.
- P. The applicants, its successors, or assigns of the development on the above described Parcel 2, designated in the MG-5 zoned district, shall be required to take appropriate measures as required by the state Land Use Commission's Decision and Order to control and minimize any environmental conditions which include, but are not limited to odor, dust, noise and nuisances caused by the operation of a ready-mix concrete batching plant. It is the county's intent that the use of Parcel 2 shall be limited to the construction and operation of a ready-mix concrete batching plant and its subordinate accessory uses. In the event that either (1) the ready-mix concrete batching plant is not constructed and in operation within two years of the effective date of this bill or (2) the ready-mix concrete batching plant terminates its operations or fail to comply

with any provisions as required by the state Land Use Commission's Decision and Order and the Conditions of Approval, the Planning Director shall initiate rezoning to its original or more appropriate designation.

- Q. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this Change of Zone. The report shall address 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 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. 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 2. Material to be deleted is bracketed. New material is underscored.

SECTION 3. In the event that any portion of the 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:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: December 15, 1995  
Date of 1st Reading: December 15, 1995  
Date of 2nd Reading: January 3, 1996  
Effective Date: January 12, 1996  
REFERENCE: Comm. 820

APPROVED AS TO FORM AND LEGALITY:

  
DEPUTY CORPORATION COUNSEL

DATED: 1/5/96

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo

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Introduced By: Takashi Domingo  
 Date Introduced: December 15, 1995  
 First Reading: December 15, 1995  
 Published: N/A

REMARKS:

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OFFICE OF THE COUNTY CLERK

ROLL CALL VOTE				
COUNTY OF HAWAII	AYES	NOES	ABS	EX
Arakaki	X			
Bonk-Abramson	X			
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Rath			X	
Ray	X			
Smith	X			
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Second Reading: January 3, 1996  
 To Mayor: January 4, 1996  
 Returned: January 12, 1996  
 Effective: January 12, 1996  
 Published: January 24, 1996

REMARKS:

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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Bonk-Abramson	X			
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Rath	X			
Ray	X			
Smith	X			
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I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council and published as indicated above.

  
 COUNCIL CHAIRMAN  
  
 COUNTY CLERK

Approved/Disapproved this 12 day  
 of December January, 19 96.

  
 MAYOR, COUNTY OF HAWAII

Bill No.: 174  
 Reference: C-820/PC-90  
 Ord. No.: 96 3