

ORDINANCE NO. 99 89

AN ORDINANCE AMENDING ORDINANCE NO. 93-38 (AMENDED BY ORDINANCE NOS. 96-3 AND 97-118) AND SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM LIMITED INDUSTRIAL (ML-40a) AND GENERAL INDUSTRIAL (MG-5a) TO LIMITED INDUSTRIAL (ML-1a) AND GENERAL INDUSTRIAL (MG-5a) AT HONOKOHAU 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-4-8:PORTIONS OF 26 AND 49.

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

SECTION 1. Ordinance No. 93-38 (Amended by Ordinance Nos. 96-3 and 97-118) is amended as follows:

"SECTION 1. Section 25-8-3, Article 8 [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 Honokohau 2nd, North Kona, Hawaii, shall be Limited Industrial (ML-40a):

PARCEL 1:

Beginning at an angle point on the Northerly boundary of this parcel of land, being also the Northwesterly corner of the Proposed Change of Zone from "O" to "MG" and being a point on the Southerly boundary of Land Commission Award 11,216, Apana 36 to M. Kekauonohi, the coordinates of said point of beginning referred to The Hawaii State Plane Coordinate System, Zone 1 being 307,363.43 feet North and 323,586.32 feet East and running by azimuths measured clockwise from True South:

Thence, for the next five (5) courses following along the remainder of Parcel VII of the Honokohau Partition and Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku:

1. 348° 15' 10" 600.00 feet along the remainders of Lots 7-A and 7-B to a point;

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|-----|------|-----|-----|----------|--|
| 2. | 258° | 15' | 10" | 340.32 | feet along the remainder of Lot 7-B to a point; |
| 3. | 169° | 56' | | 60.90 | feet along the remainder of Lot 7-B to a point; |
| 4. | 195° | 16' | | 142.00 | feet along the remainders of Lots 7-B and 7-A to a point; |
| 5. | 170° | 43' | 30" | 413.00 | feet along the remainder of Lot 7-A to a point; |
| 6. | 258° | 15' | 10" | 443.09 | feet along Land Commission Award 11,216, Apana 36 to M. Kekauonohi to a point; |
| 7. | 349° | 30' | 28" | 937.23 | feet along the remainders of Lots 7-A and 7-B and along the remainder of Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku to a point; |
| 8. | 79° | 32' | 41" | 575.50 | feet along Government Land (State of Hawaii) to a point; |
| 9. | 80° | 03' | 53" | 1,438.58 | feet along Government Land (State of Hawaii) to a point; |
| 10. | 148° | 10' | | 935.44 | feet along Parcels IX and VIII of the Honokohau Partition and along the remainder of Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku to a point; |
| 11. | 258° | 15' | 10" | 1,487.49 | feet along Land Commission Award 11216, Apana 36 to M. Kekauonohi to the point of beginning and containing an area of 40.001 Acres. (Refer to Parcel 1 as shown on Exhibit "A".) |

The district classification of the following area situated at Honokohau 2nd, North Kona, Hawaii, shall be General Industrial (MG-5a):

PARCEL 2:

Beginning at the Northwesterly corner of this parcel of land, being also a point on the Northerly boundary of Lot 7-A and being a point on the Southerly boundary of Land Commission Award 11,216, Apana 36 to M. Kekauonohi, the coordinates of said point of beginning referred to the Hawaii State Plane Coordinate System, Zone 1 being 307,363.43 feet North and 323,586.32 feet East and running by azimuths measured clockwise from True South:

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|----|------|-----|-----|--------|--|
| 1. | 258° | 15' | 10" | 424.42 | feet along Land Commission Award 11,216, Apana 36 to M. Kekauonohi to a point; |
|----|------|-----|-----|--------|--|

Thence, for the next five (5) courses following along the remainders of Parcel VII of the Honokohau Partition and Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku:

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|----|------|-----|-----|--------|--|
| 2. | 350° | 43' | 30" | 413.00 | feet along the remainder of Lot 7-A to a point; |
| 3. | 15° | 16' | | 142.00 | feet along the remainders of Lots 7-A and 7-B to a point; |
| 4. | 349° | 56' | | 60.90 | feet along the remainder of Lot 7-B to a point; |
| 5. | 78° | 15' | 10" | 340.32 | feet along the remainder of Lot 7-B to a point; |
| 6. | 168° | 15' | 10" | 600.00 | feet along the remainders of Lots 7-B and 7-A to the point of beginning and containing an area of 5.500 Acres. (Refer to Parcel 2 as shown on Exhibit "A".)] |

The district classification of the following area situated at Honokohau 2nd. North Kona, Hawaii, shall be Limited Industrial (ML-1a):

PARCEL 1

Beginning at the Northwesterly corner of this parcel of land, being also the Northwesterly corner of Lot 7-A, the Northeasterly corner of Parcel VIII and being a point on the Southerly boundary of Lot A-1, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHUOLU" being 9,236.75 feet North and 3,906.39 feet East and running by azimuths measured clockwise from True South:

1. 258° 04' 55" 1,424.51 feet along Lot A-1 and along Royal Patent 7587, Land Commission Award 11216, Apana 36 to M. Kekauonohi (Certificate of Boundaries No. 138) to a point:

Thence, for the next six (6) courses following along the remainder of Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku (Certificate of Boundaries No. 27):

2. 348° 05' 431.97 feet along the remainder of Lot 7-A to a point:

3. 284° 30' 85.76 feet along the remainders of Lots 7-A and 7-B to a point:

Thence, following along the remainder of Lot 7-B on a curve to the left with a radius of 45.00 feet, the chord azimuth and distance being:

4. 267° 43' 17" 25.98 feet to a point:

Thence, following along the remainder of Lot 7-B on a curve to the right with a radius of 45.00 feet, the chord azimuth and distance being:

5. 296° 47' 02" 64.57 feet to a point:

6. 259° 50' 342.00 feet along the remainder of Lot 7-B to a point:

7. 168° 05' 525.30 feet along the remainders of Lots 7-B and 7-A to a point:

<u>8.</u>	<u>258°</u>	<u>04'</u>	<u>55"</u>	<u>435.88</u>	<u>feet along Lot A-1 and along Royal Patent 7587, Land Commission Award 11216, Apana 36 to M. Kekauonohi (Certificate of Boundaries No. 138) to a point;</u>
<u>9.</u>	<u>349°</u>	<u>22'</u>		<u>937.26</u>	<u>feet along the remainders of Lots 7-A and 7-B and Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku (Certificate of Boundaries No. 27) to a point;</u>
<u>10.</u>	<u>79°</u>	<u>22'</u>	<u>20"</u>	<u>574.41</u>	<u>feet along Lot 2 of The Villages of La'i'opua, Phase 1 (File Plan 2128) and along the Government Land of Kealakehe to a point;</u>
<u>11.</u>	<u>79°</u>	<u>53'</u>	<u>50"</u>	<u>1,439.11</u>	<u>feet along Lot 2 of The Villages of La'i'opua, Phase 1 (File Plan 2128) and along the Government Land of Kealakehe to a point;</u>
<u>12.</u>	<u>147°</u>	<u>59'</u>	<u>20"</u>	<u>935.44</u>	<u>feet along Parcels 1X-A and VIII and along the remainder of Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku (Certificate of Boundaries No. 27) to the point of beginning and containing an area of 39.783 Acres.</u>

The district classification of the following area situated at Honokohau 2nd, North Kona, Hawaii, shall be General Industrial (MG-5a):

PARCEL 2

Beginning at the Southwesterly corner of this parcel of land, being also the Southeasterly corner of Proposed Lot 7 and being a point on the Northerly side of Proposed Road "A" of this subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHUOLU" being 9,108.27 feet North and 5,389.39 feet East and running by azimuths measured clockwise from True South:

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|-----------|---------------------|---------------|---|
| <u>1.</u> | <u>168° 05'</u> | <u>431.97</u> | <u>feet along Proposed Lot 7 of this subdivision and along the remainders of Lot 7-A and Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku (Certificate of Boundaries No. 27) to a point;</u> |
| <u>2.</u> | <u>258° 04' 55"</u> | <u>494.65</u> | <u>feet along Lot A-1 and along Royal Patent 7587, Land Commission Award 11216, Apana 36 to M. Kekauonohi (Certificate of Boundaries No. 138) to a point;</u> |
| <u>3.</u> | <u>348° 05'</u> | <u>525.30</u> | <u>feet along Proposed Lot 13 of this subdivision and along the remainders of Lots 7-A and 7-B and Royal Patent 6855, Land Commission Award 9971, Apana 9 to W.P. Leleiohoku (Certificate of Boundaries No. 27) to a point;</u> |
| <u>4.</u> | <u>79° 50'</u> | <u>342.00</u> | <u>feet along Proposed Lot 9 of this subdivision and along the remainders of Lot 7-B and Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku (Certificate of Boundaries No. 27) to a point;</u> |

Thence, for the next three (3) courses following along the Northerly side of Proposed Road "A" of this subdivision:

Thence, following on a curve to the left with a radius of 45.00 feet, the chord azimuth and distance being:

- | | | | |
|-----------|---------------------|--------------|-------------------------|
| <u>5.</u> | <u>116° 47' 02"</u> | <u>64.57</u> | <u>feet to a point;</u> |
|-----------|---------------------|--------------|-------------------------|

Thence, following on a curve to the right with a radius of 45.00 feet, the chord azimuth and distance being:

- | | | | |
|-----------|--------------------|--------------|-------------------------|
| <u>6.</u> | <u>87° 43' 17"</u> | <u>25.98</u> | <u>feet to a point;</u> |
|-----------|--------------------|--------------|-------------------------|

7. 104° 30' 85.76 feet to the point of beginning and containing a gross area of 5.713 Acres.

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 comply with all of the stated conditions of approval. :

B. Final Subdivision Approval or Final Plan Approval, whichever occurs first, shall be secured within five (5) years from the effective date of this ordinance.

[B.] C. [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 for Final Plan Approval shall indicate proposed structures, landscaping, the buffer and landscaping area approved by Housing Finance Development Corporation or its successor, 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 or its successors 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 to the south property line prior to the issuance of Final Subdivision Approval or a certificate of occupancy for any portion of the proposed development, whichever occurs first. 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.

- 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 Final Subdivision Approval or a certificate of occupancy for any portion of this development, whichever occurs first.
- 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 Final Subdivision Approval or a certificate of occupancy for any portion of the development, whichever occurs first, 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 five years of the effective date of this amendment 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 may initiate rezoning of 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 may 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 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:



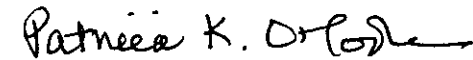
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: July 8, 1999
Date of 1st Reading: July 8, 1999
Date of 2nd Reading: July 28, 1999
Effective Date: August 12, 1999

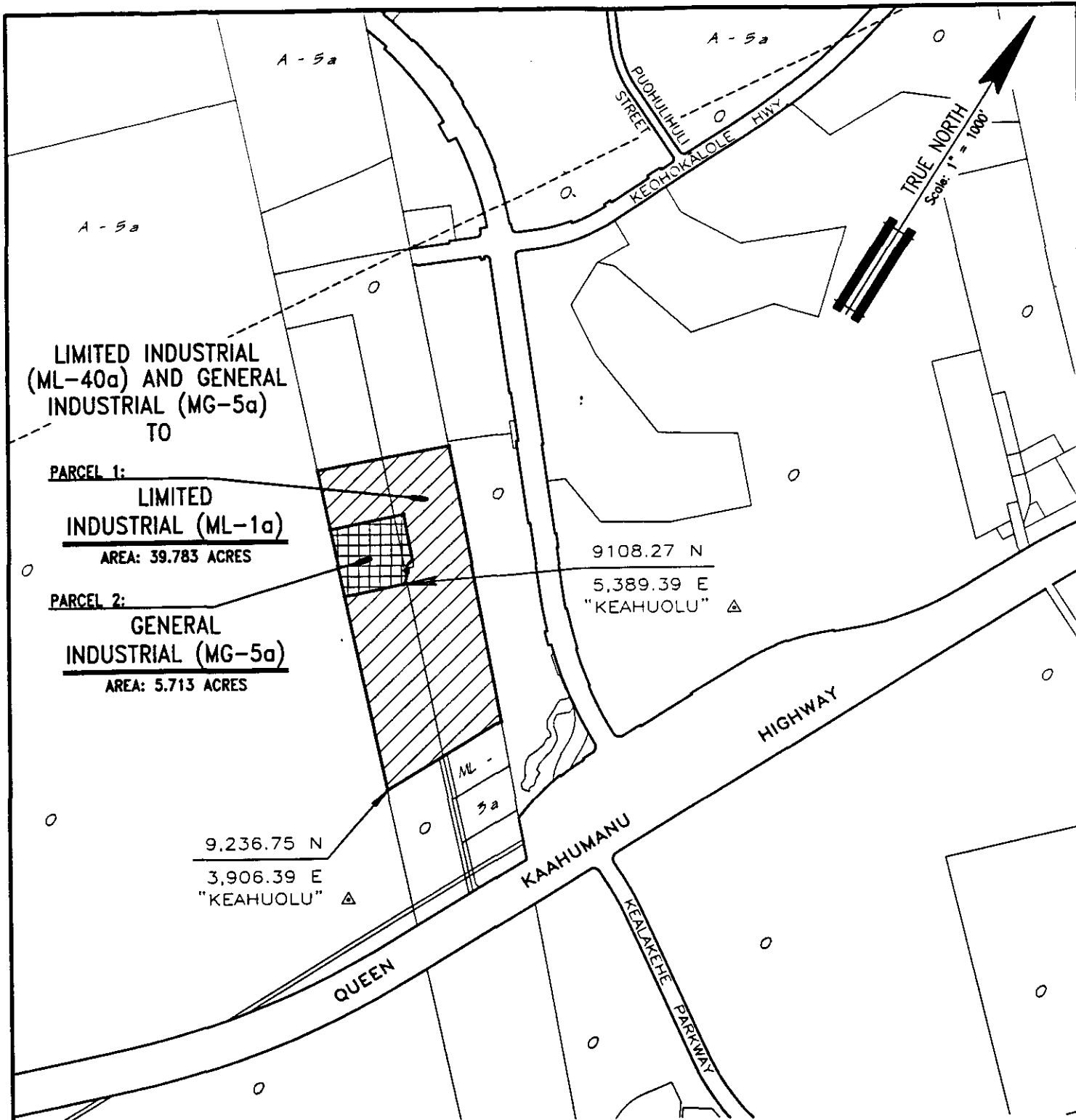
REFERENCE: Comm. 327

APPROVED AS TO FORM AND LEGALITY



CORPORATION COUNSEL

DATED: _____



AMENDMENT TO THE ZONING CODE

AMENDING ORDINANCE NO. 93-38 (AMENDED BY ORDINANCE NOS. 96-3 AND 97-118) AND SECTION 25-8-3 (NORTH KONA ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM LIMITED INDUSTRIAL (ML-40a) AND GENERAL INDUSTRIAL (MG-5a) TO LIMITED INDUSTRIAL (ML-1a) AND GENERAL INDUSTRIAL (MG-5a) AT HONOKOHAU 2ND, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
 County of Hawaii
Hilo, Hawaii

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: July 8, 1999
 First Reading: July 8, 1999
 Published: N/A

REMARKS: _____

Second Reading: July 28, 1999
 To Mayor: July 30, 1999
 Returned: August 12, 1999
 Effective: August 12, 1999
 Published: August 23, 1999

REMARKS: _____

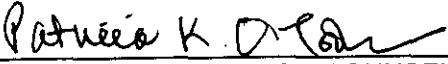
RECEIVED
 ROLL CALL VOTE



	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff				
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	0	1	0

ROLL CALL VOTE

	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd			X	
Pisicchio	X			
Smith			X	
Tyler	X			
Yagong	X			
	6	1	2	0

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

APPROVED AS TO
 FORM AND LEGALITY:

 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII
 Date AUG 3 1999


 COUNCIL CHAIRMAN

 COUNTY CLERK

Approved/Disapproved this 12 day
 of August, 1999


 MAYOR, COUNTY OF HAWAII

Bill No.: 91
 Reference: C-327/PWPC-36
 Ord. No.: 99 89