

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 60 (Draft 4)

ORDINANCE NO. 01 65

AN ORDINANCE AMENDING 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-1a) TO INDUSTRIAL-COMMERCIAL MIXED (MCX-20) AT KEAHUOLU, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-4-8:PORTION OF 2, 68, 69 AND 70.

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

SECTION 1. Section 25-8-3, Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Keahuolu, North Kona, Hawaii, shall be Industrial-Commercial Mixed (MCX-20):

Beginning at the southeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (North Meridian)" being 233.58 feet South and 2,583.43 feet West, thence running by azimuths measured clockwise from True South:

- 1. Along the northerly side of Kuakini Highway, on a curve to the right with a radius of 716.20 feet, the chord azimuth and distance being: 103° 05' 13" 304.24 feet;
2. 115° 21' 1,422.00 feet along Proposed State Park (Governor's Executive Order 2876);
3. 182° 05' 1,219.78 feet along the remainder of R.P. 6851, L.C. Aw. 8452, Apana 12 to A. Keohokalole;
4. 199° 10' 974.00 feet along the remainder of R.P. 6851, L.C. Aw. 8452, Apana 12 to A. Keohokalole;
5. 215° 20' 881.68 feet along the remainder of R.P. 6851, L.C. Aw. 8452, Apana 12 to A. Keohokalole;

6. Thence along Parcel 10 of Queen Kaahumanu Highway Widening, Kailua to Keahole, Project No. 19AB-02-97, on a curve to the left with a radius of 4,620.00 feet, the chord azimuth and distance being: 307° 57' 47.2" 1,074.34 feet;
7. 211° 17' 10.4" 15.00 feet along Parcel 10 of Queen Kaahumanu Highway Widening, Kailua to Keahole, Project No. 19AB-02-97;
8. Thence along Parcel 10 of Queen Kaahumanu Highway Widening, Kailua to Keahole, Project No. 19AB-02-97, on a curve to the left with a radius of 4,605.00 feet, the chord azimuth and distance being: 299° 38' 35.2" 264.09 feet;
9. 298° 00' 124.19 feet along Parcel 10 of Queen Kaahumanu Highway Widening, Kailua to Keahole, Project No. 19AB-02-97;
10. 25° 41' 395.64 feet along Parcel 9 of Queen Kaahumanu Highway Widening, Kailua to Keahole, Project No. 19AB-02-97 and Lot 1-B;
11. Thence along Lot 1-B, on a curve to the left with a radius of 5,440.00 feet, the chord azimuth and distance being: 299° 26' 02.65" 131.16 feet;
12. 28° 44' 36" 60.00 feet along the northwesterly end of Luhia Street;
13. Thence along Lot 7 of Kona Industrial Subdivision -- Unit 2 (File Plan 1321), on a curve to the right with a radius of 5,500.00 feet, the chord azimuth and distance being: 119° 15' 22.7" 98.48 feet;
14. 25° 41' 729.46 feet along Lots 7, 6, 5, 4, 3 and 2 of Kona Industrial Subdivision -- Unit 2 (File Plan 1321);
15. 19° 10' 471.31 feet along Lots 2 and 1 of Kona Industrial Subdivision -- Unit 2 (File Plan 1321) and Lot 8 of Kona Industrial Subdivision -- Unit 1 (File Plan 1129);

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|-----|--------------|--------|---|
| 16. | 1° 00'       | 576.81 | feet along Lots 7, 6 and 5 of Kona Industrial Subdivision – Unit 1 (File Plan 1129);  |
| 17. | 344° 21' 30" | 617.05 | feet along Lots 4, 3, 2 and 1 of Kona Industrial Subdivision – Unit 1 (File Plan 1129) to the point of beginning and containing an area of 100.757 acres. |

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

SECTION 2. This change in district classification is 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 applicant shall substantially comply with the representations made in its change of zone application for the industrial-commercial mixed-use development.
- C. The applicant shall participate, on a fair share basis, in the funding and construction of adequate water source, storage, and transmission facilities and improvements to accommodate the proposed project as determined by the County Department of Water Supply. Compliance with Condition C shall be satisfied prior to the applicant's submittal of the required water commitment payment in Condition D.
- D. The applicant shall submit the additional water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" prior to the issuance of final subdivision approval or final plan approval for Phase 3, if required by the Department of Water Supply.
- E. The property shall be zoned in three phases. Phase 1 shall consist of approximately 35 acres. Final subdivision approval of all increments within

Phase 1, or final plan approval for all developments within Phase 1, whichever is applicable, shall be secured within ten (10) years from the effective date of this change of zone ordinance. Phase 2 shall consist of approximately 25 acres and shall be developed within ten (10) years from the completion of Phase 1 development, as determined by the Planning Director. Phase 3 shall consist of approximately 30 acres and shall be developed within ten (10) years from the completion of Phase 2 development, as determined by the Planning Director.

- F. The applicant shall adhere to the overall landscaping master plan and development design manual approved by the Planning Director in accordance with Ordinance No. 92-85.
  
- G. The applicant shall install a conduit and loop detectors for a traffic signal and channelization at the intersection of Makala Boulevard and Luhia Street concurrent with the development of Phase 1 if required by the County Department of Public Works (DPW) or the State Department of Transportation (DOT). The applicant will monitor traffic conditions at the Makala Boulevard and Luhia Street intersection throughout the development of Phase 1 and will install a traffic signal light when conditions are warranted. Additionally, following the State's widening of Queen Kaahumanu Highway to a four-lane highway, the applicant will complete further channelization of Makala Boulevard, at its intersection with Queen Kaahumanu Highway, including a second left-turn lane on the mauka bound approach.
  
- H. Prior to the development of Phases 2 and/or 3, upon request by the DPW or the DOT, the applicant shall submit a current Traffic Impact Analysis Report (TIAR) for approval by the Planning Director in consultation with the requesting agency(ies), recommending mitigation for level of service (LOS) deficiencies LOS E and F and projecting traffic impacts from the proposed phase(s). Construction of improvements within the project area, including the intersection

of Makala Boulevard and the Old Airport Road, as recommended by the TIAR and/or required by the Planning Director in consultation with the DPW or the DOT shall be a condition of development of either or both phases. If it is determined by the TIAR or the Planning Director in consultation with DPW and/or DOT that project-generated traffic, together with traffic generated from other sources, warrant off-site roadway improvements, the applicant shall participate, on a fair share basis, in the funding and construction of these improvements concomitant with development of the project area.

- I. The applicant shall install bike lanes or routes throughout the project where required by the Planning Director in consultation with the Chief Engineer as a matter of pedestrian and bicyclist safety.
- J. Should there be any roadway improvement projects fronting the project area along the present alignment of the Old Airport Road (Kuakini Highway extension), the applicant shall pay its fair share toward the roadway improvements. Fair share contributions may include lands acquired from the applicant for the improvement project.
- K. All roadways within the proposed development shall be constructed to County dedicable standards meeting with the requirements of Chapter 23, Subdivision Code. Roadway improvements within the proposed subdivision shall include concrete curbs, gutters and sidewalks. Roadway improvements shall be constructed concomitant with the development of any parcel within the project area. For the purposes of this condition, development shall mean application for subdivision or plan approval, whichever is applicable.
- L. No direct accesses to individual lots shall be allowed from the Queen Kaahumanu Highway and the Old Airport Road.

- M. Install street lights, signs and markings meeting with the approval of the Department of Public Works, Traffic Division. These improvements shall be installed concomitant with the development of the project area.
- N. Prior to the commencement of development of Phase 2, the applicant shall extend Eho Street in the Kona Industrial Subdivision to Queen Kaahumanu Highway meeting with DPW approval.
- O. Prior to dedication of a street or portion of a street, all utilities servicing lots abutting the street or portion thereof to be dedicated shall be placed underground.
- P. The applicant shall fund, on a fair share basis, the design and construction of drainage improvements required as a result of the development and meeting with the approval of the County Department of Public Works. A drainage study of the subject property, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed or bonded meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval for all phases of the development.
- Q. The applicant shall submit a solid waste management plan for the development to the Department of Public Works for its review and approval. A copy of the approved plan shall be submitted to the Planning Department prior to the issuance of final subdivision approval or final plan approval.
- R. The applicant shall construct all on site sewer system improvements required by the County Department of Public Works and the State Department of Health. The applicant shall fund, on a fair share basis, the design and construction of off site sewer improvements required as a result of the development and meeting with the approval of the County Department of Public Works and the State Department of

Health.

- S. If required, the applicant shall comply with the State Department of Health's requirements for underground injection systems and secure NPDES permits for discharges into State waters.
- T. As required by the State Department of Health, the applicant shall conduct periodic monitoring of ocean water.
- U. The applicant shall consult with the Army Corps of Engineers to determine if any permits are required for the development.
- V. The applicant shall abide by all applicable State and County air quality and noise level control standards during the pre-construction and construction phases of the project.
- W. The applicant shall preserve the burial site on the subject property with a 30 foot-wide buffer zone, as recommended by the Hawai'i Island Burial Council and accepted by the State Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD). The applicant shall submit a detailed long-range preservation plan for the burial site on the subject property to the DLNR-SHPD for its review and approval. The applicant shall submit a copy of the approved preservation plan, as well as written verification from the DLNR-SHPD that the plan has been successfully executed, to the Planning Director for the Department's files prior to conducting any land altering activities in the area of the burial site.
- X. During land altering and construction activities, barrier fences shall be erected around the burial site buffer zone and construction firms working within the development shall be briefed as to the presence of the burial site, and the fact that

substantial fines and seizure of equipment can result from damage to the site.

- Y. Should any previously unidentified burials, archeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, or stone platforms, pavings or walls be found, the applicant shall stop work in the immediate vicinity and the DLNR-SHPD shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that mitigative measures have been implemented to its satisfaction.
- Z. Comply with all applicable laws, rules, regulations and requirements of other affected agencies for approval of the proposed development within the subject property.
- AA. 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.
- BB. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. 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.
- CC. An initial 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, 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. 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.
- DD. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject 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, Hawai'i

Date of Introduction: June 20, 2001  
Date of 1st Reading: July 6, 2001  
Date of 2nd Reading: July 31, 2001  
Effective Date: August 8, 2001

REFERENCE: Comm. ~~219 5~~  
APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CORPORATION COUNSEL  
DATED: \_\_\_\_\_



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

(DRAFT 3)

Introduced By: Bobby Jean Leithead-Todd  
 Date Introduced: June 20, 2001  
 First Reading: July 6, 2001  
 Published: N/A

REMARKS: Deferred - June 20, 2001

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong	X			
	9	0	0	0

Second Reading: July 31, 2001  
 To Mayor: August 2, 2001  
 Returned: August 9, 2001  
 Effective: August 8, 2001  
 Published: August 19, 2001

REMARKS: \_\_\_\_\_

(DRAFT 4)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong	X			
	9	0	0	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:

Patricia K. Ortolano  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date AUG 7 2001

[Signature]  
 COUNCIL CHAIRMAN  
[Signature]  
 COUNTY CLERK

~~Approved~~ Disapproved this 8<sup>th</sup> day  
 of August, 2001

Harry Kim  
 MAYOR, COUNTY OF HAWAII

Bill No.: 60 (Draft 4)  
 Reference: C-219.5/PC-23  
 Ord. No.: 01 65