

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 240
(Draft 2)

ORDINANCE NO. 02 103

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM LIMITED INDUSTRIAL (ML-20) TO INDUSTRIAL-COMMERCIAL MIXED USE (MCX-20) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-2-32:95.

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

SECTION 1. Section 25-8-33, 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 Waiakea, South Hilo, Hawaii, shall be Industrial-Commercial Mixed Use (MCX-20):

Beginning at a 1/2" pipe in concrete at the southeast corner of this parcel of land, being the northeast corner of Lot 3, on the west side of Kanoelehua Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 1,077.15 feet North and 11,061.50 feet East and running by azimuths measured clockwise from True South:

- 1. 90° 00' 130.50 feet along Lot 3, a portion of Grant 11766, Parcel 2 to Amfac, Inc. to a spike in concrete;
2. 180° 00' 547.76 feet along Lot 4-A, Lot 6, Lot 5 and Lot 4, all being portions of Grant 11,766, Parcel 2, to Amfac, Inc. to a spike;
3. 270° 00' 130.50 feet along the south side of Kuawa Street to a MAG nail;
4. 360° 00' 547.76 feet along the west side of Kanoelehua Avenue to the point of beginning and containing an area of 71,483 square feet or 1.641 Acres.

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, 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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The required water calculations shall be submitted to the Department of Water Supply within ninety (90) days from the effective date of this ordinance.
- C. Final Plan Approval for the existing development shall be secured from the Planning Director in accordance with Chapter 25-2-70 of the Zoning Code, within one year from the effective date of the change of zone. Plans shall identify all structures, paved driveway accesses and parking stalls associated with the use. Best efforts shall be made to comply with landscaping requirements, using Rule 17 as a guideline, and shall also be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties.
- D. All open building permits shall be closed within six months from the effective

date of this change of zone.

- E. All water improvements shall be constructed and installed meeting with the requirements of the Department of Water Supply within one year from the effective date of the change of zone.
- F. The applicant shall construct roadway improvements to commercial and/or industrial standards along the subject property's Kuawa Street frontage, meeting with the approval of the Department of Public Works and Department of Transportation – Highways Division (Hilo). If required by the Department of Public Works, the applicant shall also install street lights, signs and traffic markings fronting the subject property.

All roadway improvements to Kuawa Street shall be completed within three (3) years from the effective date of this change of zone ordinance and dedicated to the County of Hawai'i upon its completion. The applicant shall coordinate roadway improvements with the adjacent landowners on TMK: 2-2-32: 23, 101 and 103.

- G. In the lease or rental of any portion of the existing building, the applicant shall disclose to all present and future tenants that there are existing industrial uses proximate to the subject building that may produce possible odor, noises or other nuisance that could impact the tenant's use and enjoyment of the subject property.
- H. A final status report shall be submitted to the Planning Director upon compliance with all conditions of approval of this change of zone.
- I. Comply with all other applicable rules, regulations and requirements of the affected agencies for the proposed development.

- J. 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, 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.
- K. 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.

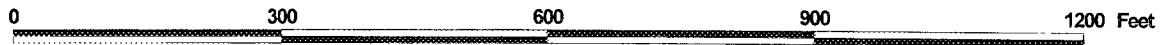
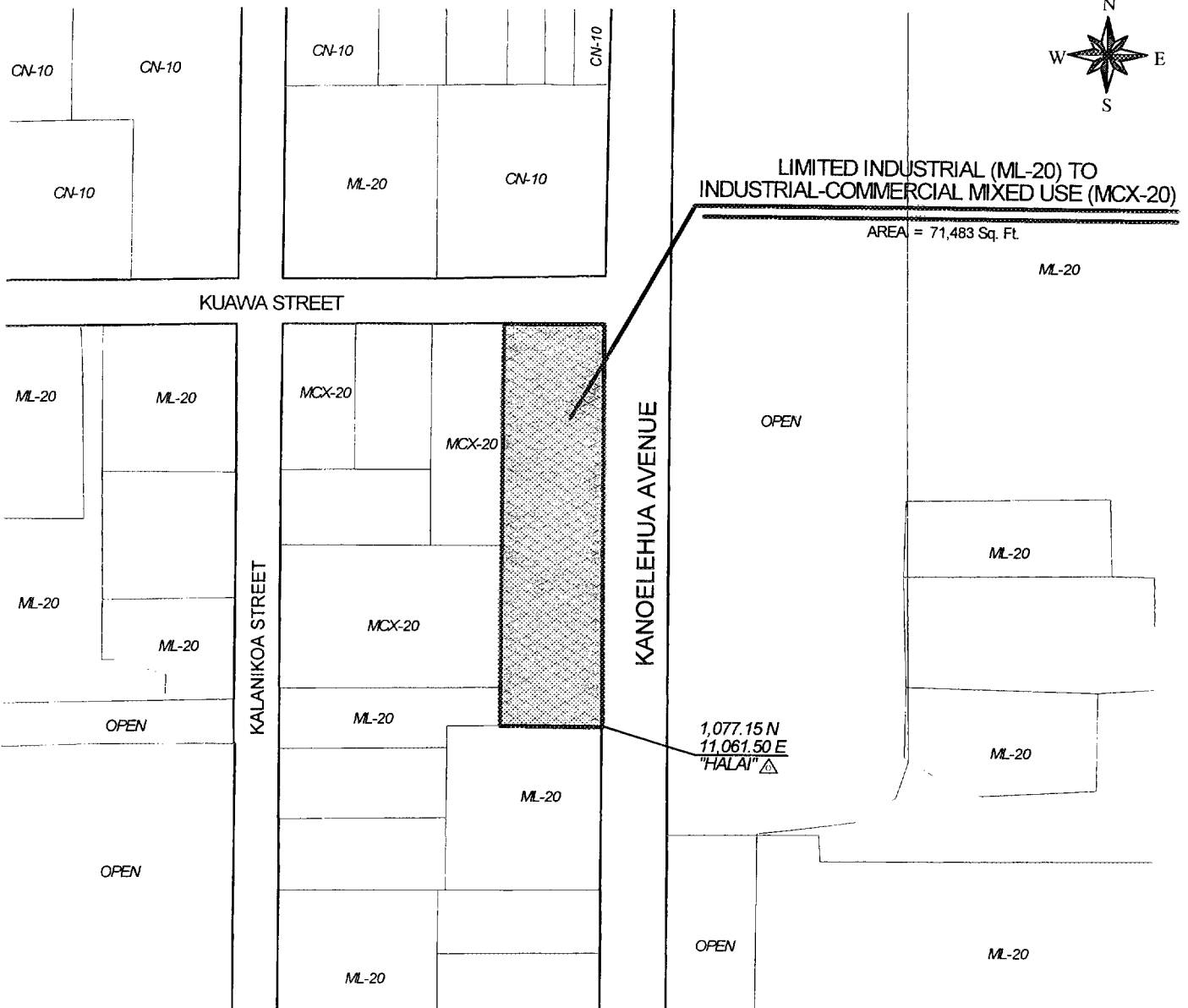
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo _____, Hawai'i

Date of Introduction: August 14, 2002
Date of 1st Reading: August 14, 2002
Date of 2nd Reading: August 28, 2002
Effective Date: September 12, 2002

REFERENCE: Comm. 683.1



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP) ARTICLE 8, CHAPTER 25
(ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT
CLASSIFICATION FROM LIMITED INDUSTRIAL (ML-20) TO
INDUSTRIAL-COMMERCIAL MIXED USE (MCX-20)
AT WAIAKEA, HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd
Date Introduced: August 14, 2002
First Reading: August 14, 2002
Published: N/A

REMARKS: _____

Second Reading: August 28, 2002
To Mayor: September 4, 2002
Returned: September 12, 2002
Effective: September 12, 2002
Published: September 26, 2002

REMARKS: _____

| 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 | | | |
| | 8 | 1 | 0 | 0 |

| 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:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date September 10, 2002


COUNCIL CHAIRMAN


COUNTY CLERK

Bill No.: 240 (Draft 2)
Reference: C-683.1/PC-96
Ord No.: 02 103

Approved/Disapproved this 12th day
of September, 20 02.


MAYOR, COUNTY OF HAWAII