

ORDINANCE NO. 04 2

AN ORDINANCE AMENDING SECTION 25-8-22 (PUNA DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO LIMITED INDUSTRIAL (ML-20) AND AGRICULTURAL (A-5a) AT KEAAU, PUNA, HAWAI'I, COVERED BY TAX MAP KEY 1-6-3:99.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-22, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, is amended to change the district classification of property described hereinafter as follows:

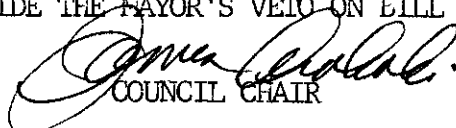
The district classification of the following area situated at Keaau, Puna, Hawai'i, shall be Limited Industrial (ML-20):

Parcel A:

Beginning at the northwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "OLAA" being 11,305.27 feet North and 8,061.53 feet East and running by azimuths measured clockwise from True South:

- 1. 262° 22' 464.04 feet along Lot 2;
- 2. 172° 22' 40.00 feet along Lot 2;
- 3. 227° 58' 140.26 feet along Lot 2;
- 4. 172° 40' 145.13 feet along Lot 2;
- 5. 262° 31' 149.55 feet along Lot 1;
- 6. 343° 15' 40" 275.27 feet Lot 34-E, Land Court Application 1053, and Lot 3-A, Land Court Application 1689;

THIS WILL VERIFY THAT TWO-THIRDS OF THE MEMBERSHIP OF THE HAWAII COUNTY COUNCIL VOTED TO OVERRIDE THE MAYOR'S VETO ON BILL 160, DRAFT 3.

  
COUNCIL CHAIR

7. Thence along Lot 3-A, Land Court Application 1689, along a curve to the left having a radius of 530.00 feet, the chord azimuth and distance being:  
338° 34' 20" 86.65 feet;
8. 333° 53' 130.00 feet along Lot 3-A, Land Court Application 1689;
9. 77° 44' 240.00 feet;
10. 12° 16' 136.69 feet;
11. 77° 44' 175.83 feet;
12. 347° 44' 840.00 feet;
13. 39° 48' 170.13 feet along the north side of Milo Street Extension;
14. 48° 09' 239.90 feet along the north side of Milo Street Extension;
15. 167° 44' 1469.43 feet to the point of beginning and containing an area of 14.901 acres.

SUBJECT, However to Easements A-2 (Being a Portion of Easement A) and B to install, maintain, operate, repair, remove and replace any and all pipes of other structures in, over, and across the said easements in favor of the Water Commission of the County of Hawaii as shown on map dated May 9, 1990 prepared by Mr. Nobuchika Santo, Land Surveyor No. 1360.

ALSO, Subject, However to Easements G and 4, a perpetual, non-exclusive easement appurtenant to the Power Plant Site for purposes of access to ingress and egress, over and along the said easement in favor of Hawaii Electric Light Company, Inc. as shown on map dated May 9, 1990 prepared by Mr. Nobuchika Santo, Land Surveyor No. 1360.

PARCEL B:

Beginning at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "OLAA" being 11,202.89 feet North and 8,918.24 feet East and running by azimuths measured clockwise from True South:

1.	333° 53'	529.40	feet along Lot 3-A, Land Court Application 1689;
2.	42° 33'	502.30	feet along the north side of Milo Street Extension;
3.	35° 10'	133.60	feet along the north side of Milo Street Extension;
4.	39° 48'	114.77	feet along the north side of Milo Street Extension;
5.	167° 44'	840.00	feet;
6.	257° 44'	175.83	feet;
7.	192° 16'	136.69	feet;
8.	257° 44'	240.00	feet to the point of beginning and containing an area of 8.724 acres.

SUBJECT, However to Easements C to install, maintain, operate, repair, remove and replace any and all pipes of other structures in, over, and across the said easement in favor of the Water Commission of the County of Hawaii as shown on map dated May 9, 1990 prepared by Mr. Nobuchika Santo, Land Surveyor No. 1360.

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. Final Subdivision Approval of the subject property shall be secured within five (5) years from the effective date of this ordinance.
- C. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within ninety days from the effective date of this ordinance.
- D. If a Home Improvement Center is proposed, a Traffic Impact Analysis Report (TIAR) shall be prepared by the applicant, successors or assigns and submitted for review and approval by the Department of Public Works. Mitigation measures recommended by the TIAR shall be installed prior to issuance of a certificate of occupancy for the Home Improvement Center.
- E. Commencement of uses permitted under the Limited Industrial zoned district except those allowed under the existing Agricultural zoned district is prohibited until the completion of construction of the required roadway, water and wastewater improvements.
- F. Landscaping shall be provided in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).
- G. Access to the subject property shall be from the Milo Street extension under the easement agreement as agreed to by the applicant and W.H. Shipman, Ltd.
- H. ML-20 District: The applicant shall comply with the standards outlined in Standard Details for Public Works Construction R-34 (revised-top of page) and

shall provide improvements, including shoulders and continued berm treatment, to the Milo Street extension frontage of the ML-20 zoned portion of the property.

ML-20 and AG-5a Districts: The applicant, successors or assigns shall dedicate its ½ section of the Milo Street extension frontage (total 60-foot right-of-way) of the subject property at no charge to the County at the County's request. Further, prior to dedication, the ½ section of the ML-20 roadway frontage shall be improved to full dedicable standards at no cost to the County. A copy of the proposed covenant(s) to be recorded with the Bureau of Conveyances containing this dedication provision shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision Approval. A copy of the approved covenant(s) shall be recited in an instrument executed by the applicant and recorded with the Bureau of Conveyances and shall be provided to the Planning Director.

- I. All roadway(s) within the proposed development shall be constructed to County dedicable standards, meeting with the approval of the Department of Public Works.
- J. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and submitted to the Department of Public Works prior to the issuance of Final Subdivision Approval. Any drainage improvements shall be constructed, meeting with the approval of the Department of Public Works.
- K. Install street lights and traffic control devices as required by the Traffic Division, Department of Public Works.
- L. A Solid Waste Management Plan shall be approved by the Department of Public Works in conjunction with Final Subdivision Approval.

- M. The method of sewage disposal shall meet with the approval of the State Department of Health.
- N. Should any remains of historic sites such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
- O. The applicant shall comply with all other applicable laws, rules, regulations and requirements of affected agencies, including the Department of Public Works, Fire Department, Department of Health and HELCO for the development of the subject property.
- P. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.
- Q. 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.
- R. 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 applicants, 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).
- S. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may 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:

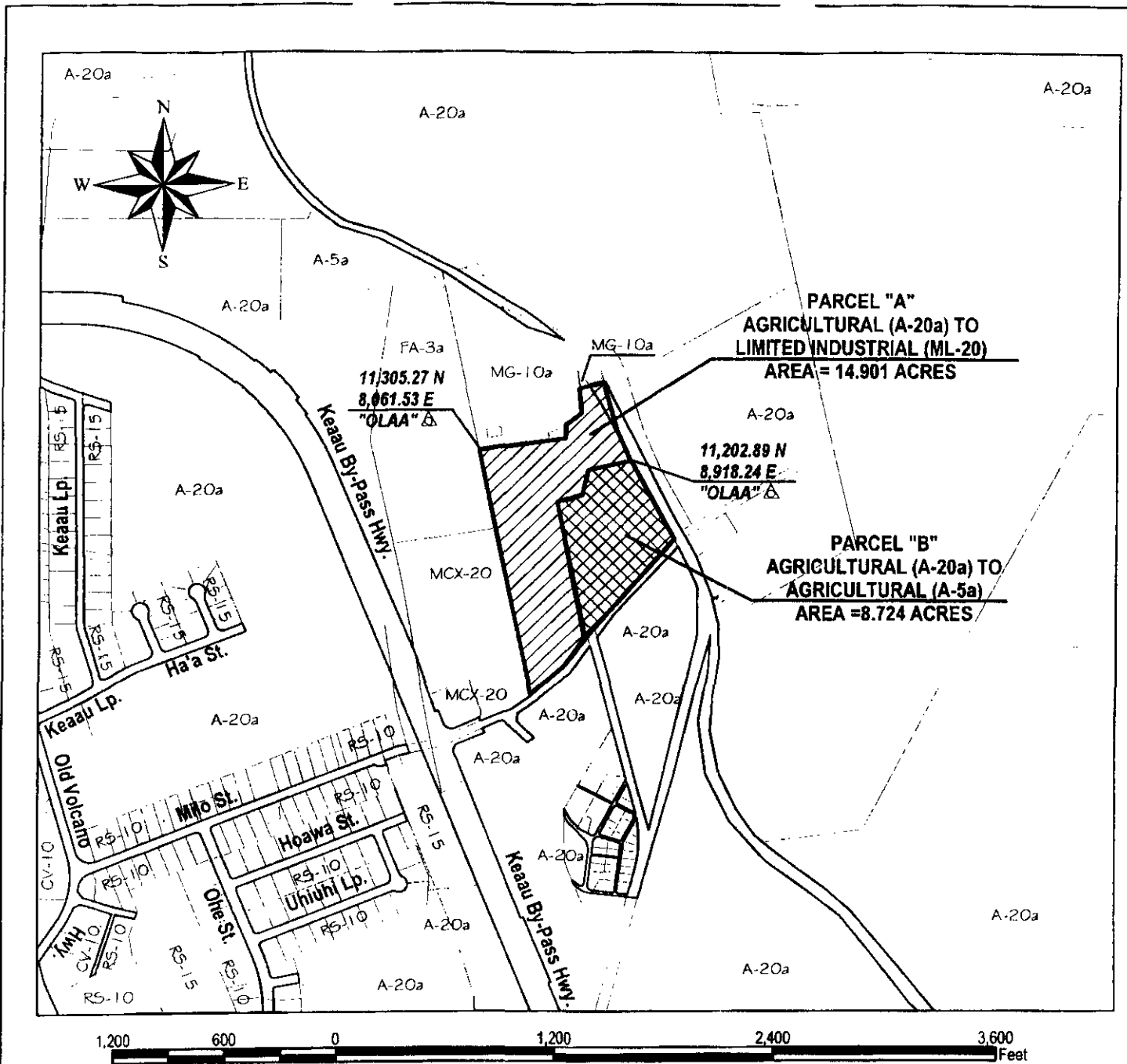


COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i

Date of Introduction: November 19, 2003  
 Date of 1st Reading: November 19, 2003  
 Date of 2nd Reading: December 3, 2003  
 Effective Date: January 7, 2004

REFERENCE: Comm. ~~370.2~~



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-22 (PUNA DISTRICT ZONE MAP)  
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE,  
 BY CHANGING THE DISTRICT CLASSIFICATION  
 FROM AGRICULTURAL (A-20a)  
 TO LIMITED INDUSTRIAL (ML-20) AND AGRICULTURAL (A-5a)  
 AT KEAAU, PUNA, HAWAII

PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK

County of Hawaii

Kona, Hawaii

(DRAFT 3)

RECEIVED

Introduced By: James Y. Arakaki  
 Date Introduced: November 19, 2003  
 First Reading: November 19, 2003  
 Published: N/A

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

Second Reading: December 3, 2003  
 To Mayor: December 9, 2003  
 Returned: December 19, 2003  
 Effective: January 7, 2004  
 Published: N/A

REMARKS: \_\_\_\_\_  
Mayor veto - December 16, 2003  
 \_\_\_\_\_  
 \_\_\_\_\_

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung				
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Reynolds	X			
Safarik	X			
Tulang	X			
Tyler		X		
	6	2	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Reynolds	X			
Safarik			X	
Tulang	X			
Tyler		X		
	6	2	1	

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

APPROVED AS TO FORM AND LEGALITY:

Richard Todd  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date DEC 15 2003

Michael O'Connell  
 COUNCIL CHAIRMAN

[Signature]  
 COUNTY CLERK

Bill No.: Bill 160 (Draft 3)

Reference: C-370.2/PC-61

Ord. No.: \_\_\_\_\_

Approved/Disapproved this 19<sup>th</sup> day  
 of December, 2003

Harry Kim  
 MAYOR, COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

Introduced By: \_\_\_\_\_  
 Date Introduced: \_\_\_\_\_  
 First Reading: \_\_\_\_\_  
 Published: \_\_\_\_\_

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

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki				
Chung				
Elarionoff				
Holschuh				
Jacobson				
Reynolds				
Safarik				
Tulang				
Tyler				

Override vote: \_\_\_\_\_  
 Second Reading: January 7, 2004  
 To Mayor: N/A  
 Returned: December 19, 2003  
 Effective: January 7, 2004  
 Published: January 22, 2004

REMARKS: \_\_\_\_\_  
 Reconsidered - 1/7/04  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Reynolds	X			
Safarik	X			
Tulang	X			
Tyler		X		
	7	2	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 \_\_\_\_\_

Approved/Disapproved this \_\_\_\_\_ day  
 of \_\_\_\_\_, 20\_\_\_\_\_.

MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRMAN

  
 COUNTY CLERK

Bill No.: 160 (Draft 3)  
 Reference: C-370.2/PC-61  
 Ord. No.: 04 2