

COUNTY OF HAWAI'I STATE OF HAWAI'I

BILL NO. 234

ORDINANCE NO. 04 48

AN ORDINANCE AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICTS ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM OPEN (O) TO LIMITED INDUSTRIAL (ML-1A) AT WAIKOLOA, SOUTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY 6-8-2:PORTION OF 33.

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

SECTION 1. Section 25-8-7, 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 Waikoloa, South Kohala, Hawai'i, shall be Limited Industrial (ML-1a):

Beginning at the Southernmost corner of this parcel of land, said point of beginning bearing 149° 12' 21" 1,486.72 feet from the Southernmost corner of Lot 3-B, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HINAI" being 4,605.29 feet North and 6,247.22 feet West and running by azimuths measured clockwise from True South:

Thence, for the next four (4) courses following along the remainders of Lot 3-B of Waikoloa Development and Royal Patent 5671, Land Commission Award 8521-B, Apana 1 to G. D. Hueu:

- 1. 136° 30' 30" 1,390.00 feet to a point;
- 2. 226° 30' 30" 467.00 feet to a point;
- 3. 316° 30' 30" 1,390.00 feet to a point;
- 4. 46° 30' 30" 467.00 feet to the point of beginning and containing an area of 14.902 Acres.

5/12/04
615

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. Prior to applying for Plan Approval, the applicant shall submit documentation indicating that there is sufficient water available for the project site and anticipated developments for the site.
- C. Construction of the proposed development shall be completed within five (5) years from the effective date this ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director, and any additional components of the development, in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in

accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).

- D. The access to Waikoloa Road shall meet with the approval of DPW and conform to current recommendations of the AASHTO Policy on Geometric Design of Highways and Streets. The intersection shall be realigned to intersect normal to Waikoloa Road at the stubbout mauka of the existing intersection on the TMK map. The approach to Waikoloa Road may be located within the subject property provided that the access is allowed to the adjoining mauka property (TMK: 6-8-003:032) for a common approach to Waikoloa Road.
- E. The applicant shall provide improvements to the intersection of the private access road with Waikoloa Road including but not limited to, pavement, concrete curb, gutter and sidewalk, drainage improvements, and any relocation of utilities meeting with the approval of DPW. Right and left turn deceleration and storage bays for ingress and a refuge/storage bay for egress shall be provided on Waikoloa Road. Separate lanes shall be provided for northbound left and right turning traffic from the private road. Streetlights, signs and markings meeting with the approval of DPW, Traffic Division shall be installed. The applicant shall construct all improvements at no cost to the County.
- F. The applicant shall have the private access road and approaches evaluated by a professional engineer, in consultation with DPW, for alignment, sight distance, roadside hazards and drainage. Additional road/traffic improvements, to mitigate impacts to the private access road and approaches, if warranted, shall be provided by the applicant at no cost to the County.
- G. If required by the Planning Director, in consultation with DPW, a Traffic Impact Analysis Report (TIAR) prepared by a licensed professional traffic engineer shall

be submitted for review and approval prior to plan approval. Additional road/traffic improvements, to mitigate impacts to Waikoloa Road, if warranted, shall be provided by the applicant at no cost to the County.

- H. 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 issuance of Final Plan Approval. Any drainage improvements shall be constructed meeting with the approval of the Department of Public Works prior to the issuance of a certificate of occupancy.
- I. The applicant shall construct a septic system meeting with the requirements and approval of the State Department of Health for each component of the project.
- J. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval for any use. A copy shall be submitted to the Planning Department for their files.
- K. The applicant shall place fire resistant vegetation and/or fire or fuel breaks around the project site to protect it after the construction phase of the initial development.
- L. The applicant shall prepare an erosion control plan to protect areas from potential runoff associated with rainfall events, dust and soil blowing that may occur during any construction activity for the proposed project site. A copy of the approved plan shall be submitted to the Planning Department for their files.
- M. Prior to plan approval for any portion of the project, the applicant shall submit a housing needs assessment in compliance with the requirements of Chapter 11 of

the Hawaii County Code, and shall implement any affordable housing conditions required by the County housing agency in conformance with Chapter 11.

- N. 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.
- O. Comply with all other applicable rules, regulations and requirements of the affected agencies for the proposed development.
- P. 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.

Q. 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.

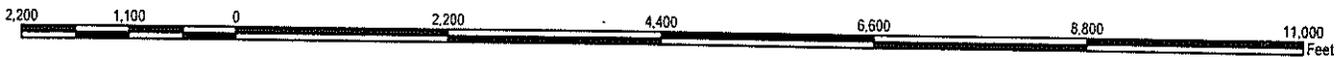
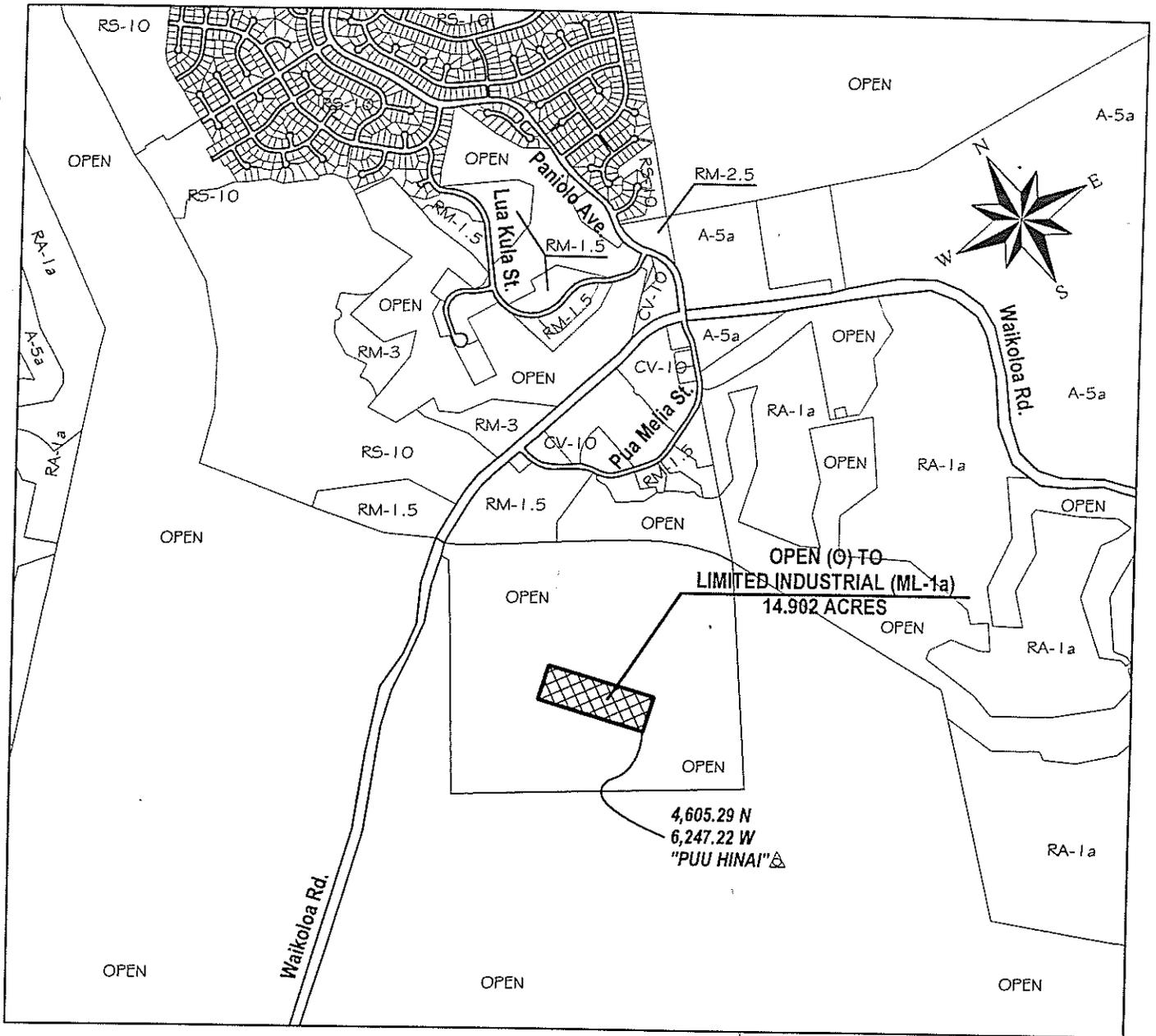
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Hilo , Hawai'i

Date of Introduction: April 7, 2004
Date of 1st Reading: April 7, 2004
Date of 2nd Reading: April 21, 2004
Effective Date: April 27, 2004

REFERENCE: Comm. 514



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICT ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE,
 BY CHANGING THE DISTRICT CLASSIFICATION
 FROM OPEN (O) TO
 LIMITED INDUSTRIAL (ML-1a)
 AT WAIKOLOA, SOUTH KOHALA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
 County of Hawaii
Hilo, Hawaii

RECEIVED

2004 APR 27 PM 2:36

Introduced By: Leningrad Elarionoff
 Date Introduced: April 7, 2004
 First Reading: April 7, 2004
 Published: N/A

REMARKS: _____

Second Reading: April 21, 2004
 To Mayor: April 22, 2004
 Returned: April 27, 2004
 Effective: April 27, 2004
 Published: May 4, 2004

REMARKS: _____

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			
	8	0	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			
	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:
[Signature]
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 4/20/04

[Signature]
 COUNCIL CHAIRMAN
[Signature]
 COUNTY CLERK

Bill No.: 234
 Reference: C-514/PC-81
 Ord. No.: 04 48

Approved/Disapproved this 27th day

of April, 2004

[Signature]
 MAYOR, COUNTY OF HAWAII