

COUNTY OF HAWAI'I

STATE OF HAWAI'I

BILL NO. 266

Draft 2

ORDINANCE NO. J4 80

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM OPEN (O) TO INDUSTRIAL-COMMERCIAL MIXED (MCX-10) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-35:73.

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

SECTION 1. Section 25-8-33, 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 Waiakea, South Hilo, Hawai'i, shall be Industrial-Commercial Mixed (MCX-10):

Beginning at the southwest corner of this parcel of land, also at the northeast corner of Kanoelehua and Hualani Avenues, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 923.00 feet South and 11,187.50 feet East and running by azimuths measured clockwise from True South:

- 1. 180° 00' 272.53 feet along the east side of Kanoelehua Avenue;
- 2. 341° 00' 288.24 feet along the westerly side of Road Reserve;
- 3. 90° 00' 93.84 feet along the north side of Hualani Avenue to the point of beginning and containing an area of 12,787 square feet.

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 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 (90) days from the effective date of this ordinance.
- C. Survey the existing road in the vicinity of the subject property and dedicate any portion that encroaches on the subject property to the County, or relocate the roadway at no cost to the County.
- D. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Chapter 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).

- E. Access to the subject property shall be limited to the Railroad Avenue side of the property. The property's access to Kanoelehua Avenue shall be by Hualani Street, not by Railroad Avenue.
- F. All driveway connections to Railroad Avenue shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
- G. Prior to the issuance of occupancy permit for the subject site, the applicant shall provide improvements to the entire frontage of Hualani Street and to any portion of Railroad Avenue used for access to the project consisting of a 21-foot wide asphalt/concrete pavement, along with any required utility relocation and drainage improvements. The applicant shall include a provision in the deed of the subject property requiring its obligation to construct a curb, gutter and sidewalk improvements fronting the subject property in conjunction with any similar improvements on the south side of Hualani Street or east side of Railroad Avenue fronting the subject site.
- H. Provide a minimum 20-foot property line curve radius at the intersection of Kanoelehua Avenue and Hualani Street and a minimum 25-foot property line curve radius at the intersection of Hualani Street and Railroad Avenue. The curve radii shall incorporate the future road widening setback.
- I. Streetlights and traffic control devices shall be installed as required by the Traffic

Division, 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 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.
- K. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- L. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- M. 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 – State Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- 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. The applicant shall comply with all applicable laws, rules, regulations and

requirements of the affected agencies for the proposed development.

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 have been satisfied. 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.

Q. 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).

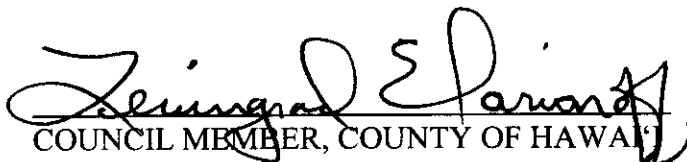
R. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the area to its original or

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.

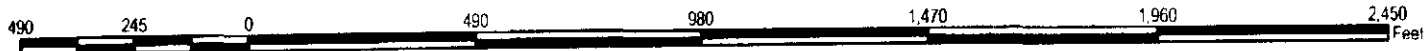
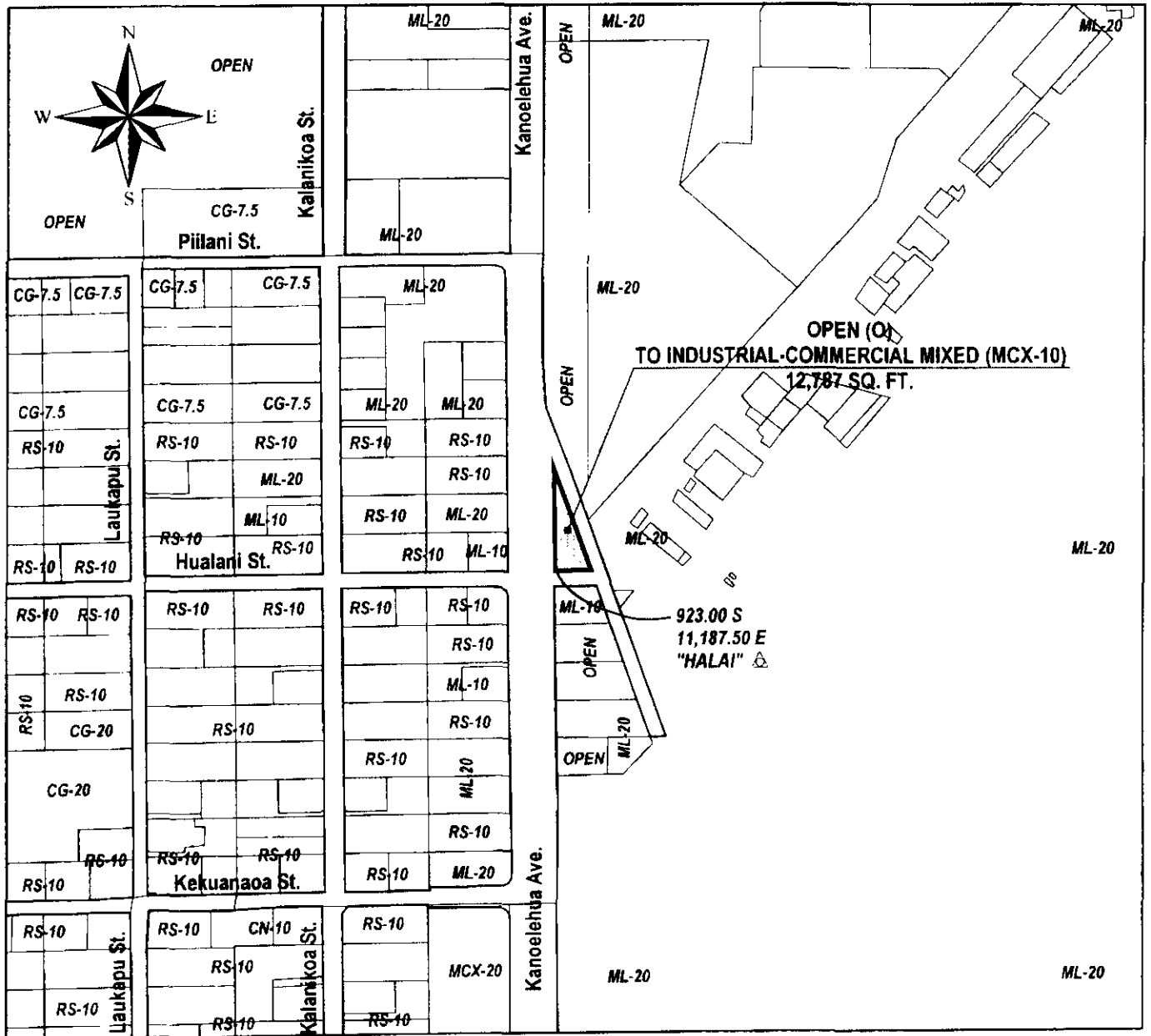
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Kona , Hawai'i

Date of Introduction: June 2, 2004
Date of 1st Reading: June 2, 2004
Date of 2nd Reading: June 16, 2004
Effective Date: July 6, 2004

REFERENCE: Comm. 610.1



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 OPEN (O)
 TO INDUSTRIAL-COMMERCIAL MIXED (MCX-10)
 AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Kona, Hawaii

2004 JUL 7 AM 8 30

Introduced By: Leningrad Elarionoff
 Date Introduced: June 2, 2004
 First Reading: June 2, 2004
 Published: N/A

REMARKS: _____

Second Reading: June 16, 2004
 To Mayor: June 29, 2004
 Returned: July 7, 2004
 Effective: July 6, 2004
 Published: July 11, 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			
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(Draft 2)

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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:



 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 7/6/04

Approved Disapproved this 6th day of July, 2004.


 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRMAN


 COUNTY CLERK

Bill No.: 266 (Draft 2)
 Reference: C-610.1 /PC-93
 Ord: 04 80