

ORDINANCE NO. 04 97

AN ORDINANCE AMENDING ORDINANCE NO. 93 62, WHICH RECLASSIFIED LANDS FROM LIMITED INDUSTRIAL (ML-20) TO GENERAL INDUSTRIAL (MG-1a) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-1-7:9.

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

SECTION 1. Ordinance No. 93 62 is amended as follows:

"SECTION 1. Section [~~25-114~~] 25-8-33, Article [~~3~~] 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 General Industrial (MG-1a):

SECTION 2. This change in district classification is conditioned upon the following.

- (A) the applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval;
- (B) the applicant shall secure Final Consolidation Approval of Parcels 9 and 10 within one year from the effective date of this ordinance. A 5-foot road widening setback along the project site's Ocean View Drive frontage shall be indicated on plans submitted for consolidation review and shall be dedicated to the County of Hawaii upon its request;

- (C) Final Plan Approval for the proposed development shall be secured from the Planning Department within one year from the date of receipt of Final Consolidation Approval. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of 45 days prior to the date by which plan approval must be secured. Plans shall identify all existing and proposed structures, landscaping, interior driveway circulation, fire protection measures, and paved parking stalls and loading stalls associated with the proposed development;
- (D) construction of the proposed development shall be completed (certificate of occupancy) within two years from the date of issuance of Final Plan Approval;
- (E) the required water commitment payment for the development shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the date of approval of the change of zone;
- (F) access to the subject property shall meet with the approval of the Department of Public Works. Curb, gutter and sidewalk improvements shall be installed along the Kalaniana'ole Avenue frontage [~~and along the Ocean View Drive frontage~~] of Parcel 9 and Parcel 10 in accordance with the requirements of the Department of Public Works, prior to the issuance of a certificate of occupancy for the proposed development;
- (G) landscaping shall be provided along the Kalaniana'ole Avenue frontage and along the Ocean View Drive frontage of parcel 9 and Parcel 10 for the purpose of mitigating noise and visual impacts to Kalaniana'ole Avenue, to Ocean View Drive, and to adjacent properties. A landscaping plan including a program for the maintenance of the landscaping shall be submitted to the Planning Director for

review and approval prior to issuance of certificate of occupancy for the proposed development;

- (H) should any unidentified sites or remains, such as lava tubes, artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall be encountered, work in the affected area shall cease and the Planning Department immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken;
- (I) comply with all other applicable laws, rules, regulations and requirements;
- (J) should the Council adopt a Unified Impact Fees ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance;
- (K) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the Change of Zone. 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 and the Planning Director acknowledges that further reports are not required; and
- (L) 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 the 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; and
- (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.

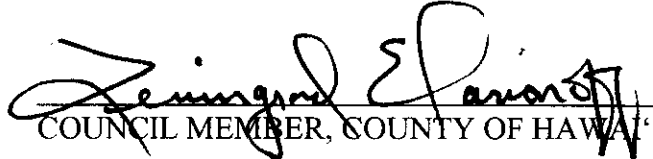
Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation.”

SECTION 2. Material to be deleted is bracketed and material to be added is underscored.

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.

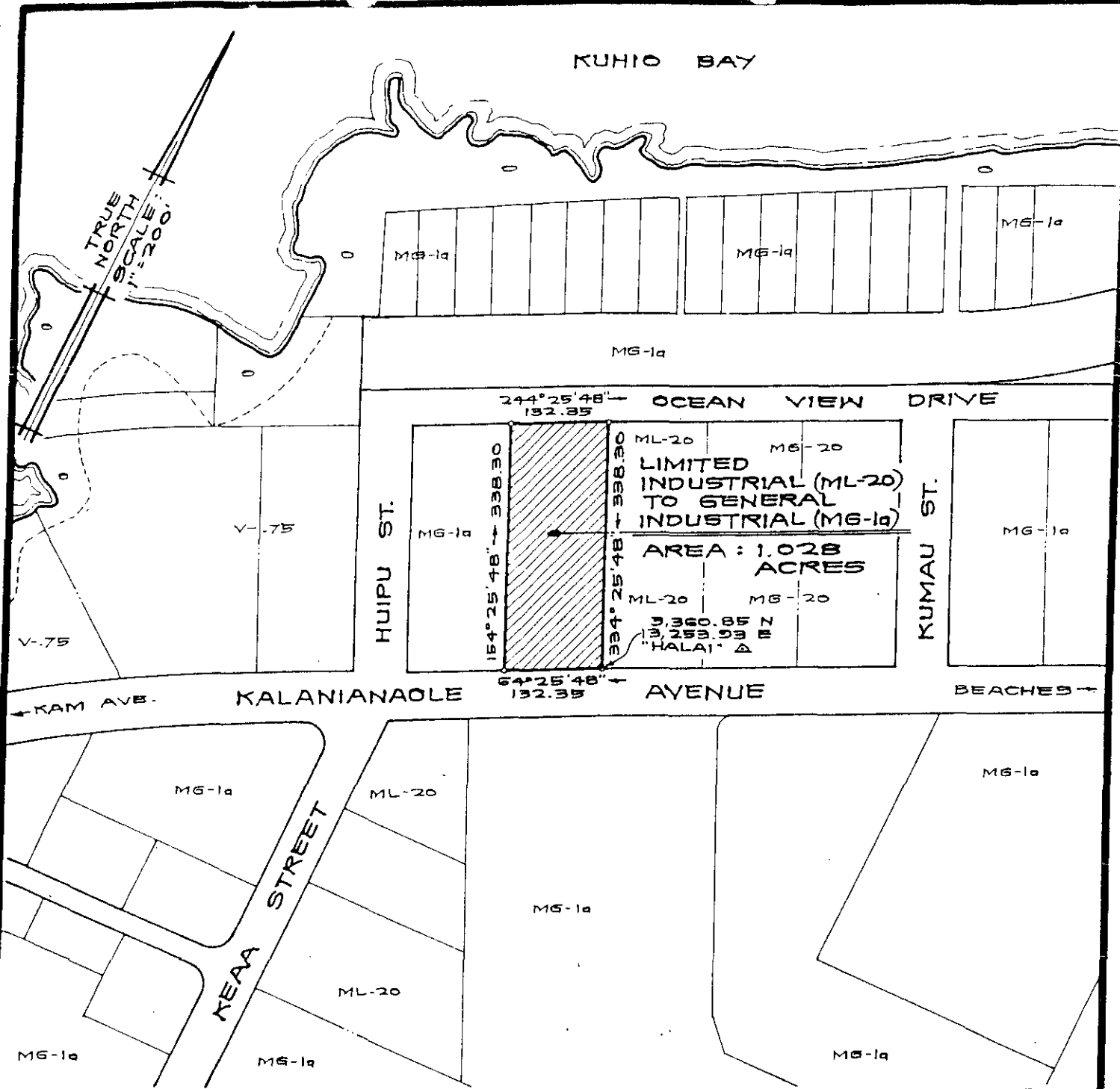
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i
Date of Introduction: August 4, 2004
Date of 1st Reading: August 4, 2004
Date of 2nd Reading: August 18, 2004
Effective Date: August 26, 2004

REFERENCE: Comm. 687



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-114 (CITY OF HILO ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE BY CHANGING THE DISTRICT CLASSIFICATION FROM LIMITED INDUSTRIAL (ML-20) TO GENERAL INDUSTRIAL (MG-1a) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 2-1-07 : 9

FEB. 16, 1993

OFFICE OF THE COUNTY CLERK
County of Hawaii

Hilo, Hawaii 2004 AUG 26 PM 4 12

Introduced By: Leningrad Elarionoff
Date Introduced: August 4, 2004
First Reading: August 4, 2004
Published: _____

REMARKS: _____

Second Reading: August 18, 2004
To Mayor: August 23, 2004
Returned: August 26, 2004
Effective: August 26, 2004
Published: September 1, 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			
	8	0	1	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:

B.J. Keithhead Todd
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 8/24/04

Approved/Disapproved this 26th day
of August, 2004.

Harry Keim
MAYOR, COUNTY OF HAWAII


COUNCIL CHAIRMAN


COUNTY CLERK

Bill No.: 295
Reference: C-687/PC-100
Ord: 04 97