

Rec. 12/15/05
Gilbert

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 157

ORDINANCE NO. 05 153

AN ORDINANCE AMENDING SECTION 25-8-12 (KAWAIHAE-PUAKO DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM OPEN (O) TO INDUSTRIAL-COMMERCIAL MIXED (MCX-1a) AT KAWAIHAE 1ST, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-1-3:15.

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

SECTION 1. Section 25-8-12, Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code 1983 (2005 Edition), is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kawaihae 1st, South Kohala, Hawaii, shall be Industrial-Commercial Mixed (MCX-1a):

Beginning at the north corner of this parcel of land and on the southwest side of Akoni Pule Highway (Kawaihae Wharf Approach, Federal Aid Project 11-D), the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU KAMALII 2" being 3022.81 feet South and 3744.32 feet West, thence running by azimuths measured clockwise from True South:

1. Along the southwest side of Akoni Pule Highway (Kawaihae Wharf Approach, Federal Aid Project 11-D) on a curve to the left with a radius of 2894.79 feet, the chord azimuth and distance being:
316° 25' 22" 254.95 feet;
2. 39° 11' 152.24 feet along Public Recreational Purposes Site, Governor's Executive Order 4042;
3. 107° 11' 155.20 feet along Public Recreational Purposes Site, Governor's Executive Order 4042;

- | | | | |
|----|----------|--------|---|
| 4. | 151° 11' | 199.20 | feet along Public Recreational Purposes Site, Governor's Executive Order 4042; |
| 5. | 243° 27' | 184.15 | feet along Kawaihae Lighthouse Reservation, Presidential Executive Order 7665 dated July 17, 1937 to the point of beginning and containing an area of 1.32 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 1983 (2005 Edition), 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 commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within 90 days from the effective date of this ordinance.
 - C. A Special Management Area Use Permit shall be secured within five (5) years from the effective date of this ordinance.

- D. As agreed to by the applicant, the following numbered uses under Chapter 25 (Zoning Code), Article 5, Division 13 (MCX, Industrial-Commercial Mixed Districts), Section 25-5-132 shall not be permitted on the property: (1) Agricultural products processing, minor; (4) Automobile sales and rentals; (5) Automobile service stations; (7) Broadcasting stations; (9) Car washing; (11) Cemeteries and mausoleums; (14) Commercial parking lots and garages; (23) Laboratories, medical and research; (24) Manufacturing, processing and packaging establishments, light; (34) Repair establishments, minor; (41) Self-storage facilities; (42) Telecommunications antennas; (47) Warehousing; and (48) Wholesaling and distribution operations
- E. All driveway connections to the Akoni Pule Highway shall conform to the requirements of the State Department of Transportation Highways Division.
- F. A drainage study of the property shall be prepared and submitted to the Department of Public Works for review and approval, prior to submittal of plans for Plan Approval review. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
- G. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties.
- H. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- I. 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 for any development on the site.

- J. 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.
- K. 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.
- L. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, if applicable, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawaii County Code relating to Affordable Housing Policy. This requirement shall be approved by the County Housing Agency prior to the receipt of Final Plan Approval.
- M. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- N. 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.

O. 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).

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.

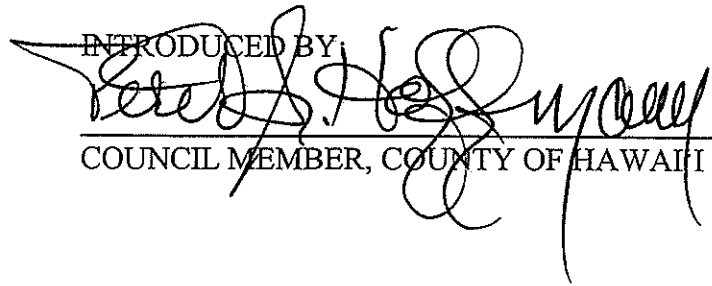
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

INTRODUCED BY:

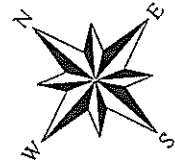


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: November 9, 2005
Date of 1st Reading: November 9, 2005
Date of 2nd Reading: November 22, 2005
Effective Date: December 2, 2005

REFERENCE: Comm. 464

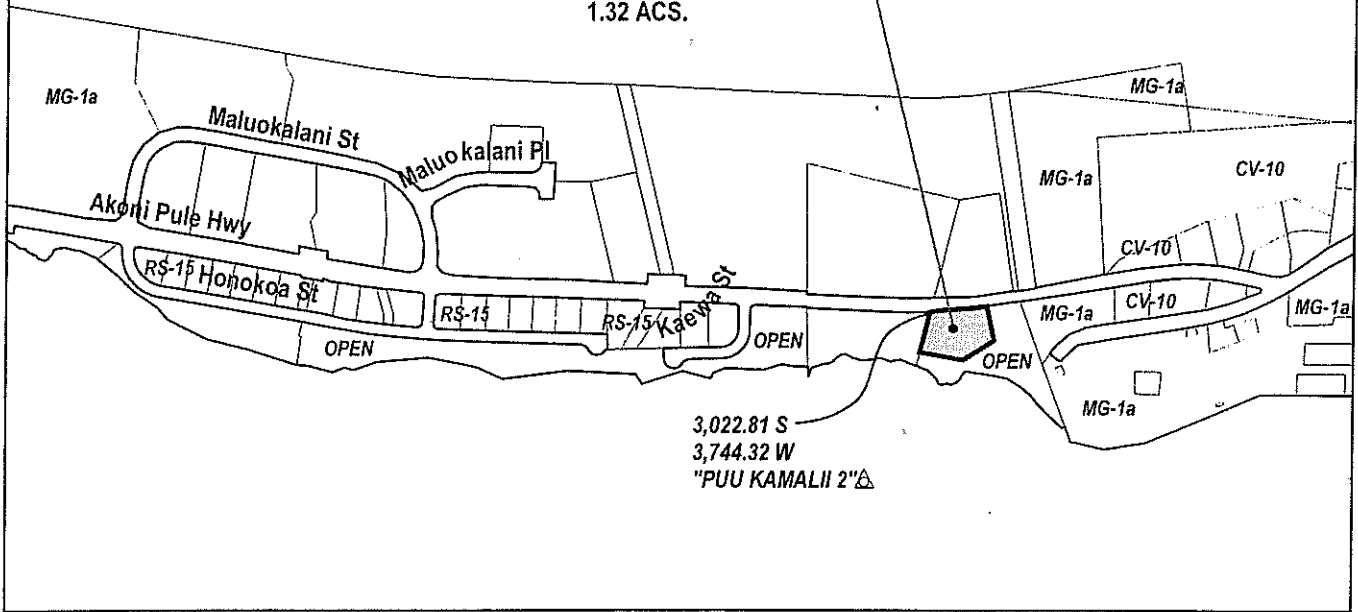


A-40a

A-40a

A-40a

OPEN (O) TO
INDUSTRIAL-COMMERCIAL MIXED (MCX-1a)
1.32 ACS.



3,022.81 S
3,744.32 W
"PUU KAMALII 2" \triangle

960 480 0 960 1920 2880 3840 4800 Feet

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-12 (KAWAIHAE-PUAKO ZONE MAP)
ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE
1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
FROM OPEN (O)
TO INDUSTRIAL-COMMERCIAL MIXED (MCX-1a)
AT KAWAIHAE 1st, SOUTH KOHALA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Hilo, Hawai'i

Introduced By: K. Angel Pilago/Pete Hoffmann
Date Introduced: November 9, 2005
First Reading: November 9, 2005
Published: N/A

REMARKS: _____

Second Reading: November 22, 2005
To Mayor: November 23, 2005
Returned: December 2, 2005
Effective: December 2, 2005
Published: December 9, 2005

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki			X	
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	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:

Amy D. Self
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII
Date NOV 30 2005

[Signature]
COUNCIL CHAIRMAN
Emstace R. Kiu
COUNTY CLERK

Approved / Disapproved this 2nd day
of December, 20 05
[Signature]
MAYOR, COUNTY OF HAWAII

Bill No.: 157
Reference: C-464/PC-37
Ord No.: 05 153