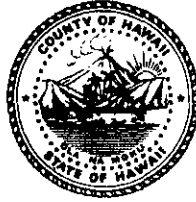


## COUNTY OF HAWAI'I



## STATE OF HAWAI'I

ORDINANCE NO. **06 50** BILL NO. 223

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM OPEN (O) TO GENERAL INDUSTRIAL (MG-15a) AT KALAOA 1<sup>ST</sup>-4<sup>TH</sup>, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-3-49:36 AND 37.

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

SECTION 1. Section 25-8-3, Article 8, Chapter 25 (Zoning Code) of the Hawai'i 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 Kalaoa 1<sup>st</sup>-4<sup>th</sup>, North Kona, Hawai'i, shall be General Industrial (MG-15a):

PARCEL 36:

Beginning at a nail in "+" in concrete at the northwest corner of this parcel of land and on the northeast corner of Keahole Substation Site, the coordinates of said point of beginning referred to Government Survey Triangulation Station "AKAHIPUU" being 6972.44 feet South and 20,389.20 feet West, thence running by azimuths measured clockwise from True South:

1. Along Government Land on a curve to the left with a radius of 3063.86 feet, the chord azimuth and distance being:  
264° 41' 22" 533.09 feet to a nail in concrete;
2. 259° 41' 55" 312.39 feet along Government Land to a nail in "+" in concrete;
3. 9° 19' 55" 940.46 feet along Government Land to a ½-inch pipe in concrete;
4. 99° 19' 55" 810.00 feet along Lots 6 and 5, Keahole Agricultural Park, Phase I, File Plan 1691 and along the north end of Pukiawe Street to a nail in concrete;

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

Introduced By: Virginia Isbell  
Date Introduced: April 5, 2006  
First Reading: April 5, 2006  
Published: April 16, 2006

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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Second Reading: April 19, 2006  
To Mayor: April 21, 2006  
Returned: May 3, 2006  
Effective: May 2, 2006  
Published: May 11, 2006

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

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	
	7	0	2	0

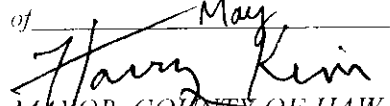
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik			X	
	8	0	1	0

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

APPROVED AS TO  
FORM AND LEGALITY:

  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date 4/25/06

Approved/Disapproved this 2<sup>nd</sup> day  
of May, 20 06  
  
MAYOR, COUNTY OF HAWAII

  
COUNCIL CHAIRMAN

  
COUNTY CLERK

Bill No.: 240  
Reference: C-733/FC-253  
Ord No.: 06 53

5. 189° 19' 55" 700.75 feet along Lot 5, Keahole Agricultural Park, Phase 1, File Plan 1691 and Keahole Substation Site, to the point of beginning and containing an AREA OF 14.998 ACRES.

PARCEL 37:

Beginning at a nail in "+" in concrete at the northeast corner of this parcel of land and at the northwest corner of Keahole Diesel Generation Site, the coordinates of said point of beginning referred to Government Survey Triangulation Station "AKAHIPUU" being 6972.44 feet South and 20,389.20 feet West, thence running by azimuths measured clockwise from True South:

1. 9° 19' 55" 198.81 feet along Keahole Diesel Generation Site to a spike in concrete;
2. 99° 19' 55" 150.00 feet along Lot 5, Keahole Agricultural Park, Phase I, File Plan 1691 to a ¾-inch pipe in concrete;
3. 189° 19' 55" 177.10 feet along Lot 5, Keahole Agricultural Park, Phase I, File Plan 1691 and along Government Land to a ¾-inch pipe in concrete;
4. Thence along Government Land on a curve to the left with a radius of 3063.86 feet, the chord azimuth and distance being: 271° 05' 51.5" 151.57 feet to the point of beginning and containing an AREA OF 0.645 ACRE.

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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant shall comply with all conditions of approval of the State Land Use Commission's Decision and Order (Docket No. A03-743) dated November 7, 2005.
- C. Construction of the proposed development shall be completed within ten (10) 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 Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and proposed structures, fire protection measures, paved driveway accesses and parking stalls, and other improvements associated with the proposed use. Landscaping shall be included in the development plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements).
- D. The applicant shall maintain the additional landscaping as set forth in the Landscape Concept Plan.
- E. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
- F. If the site is converted from a power generation facility to another use or uses allowed in the General Industrial (MG) zone, the owner shall make improvements

to Pukiawe Street and/or Reservoir Road deemed necessary by the Planning Director in consultation with the Department of Public Works.

- G. A Solid Waste Management Plan shall be prepared and submitted for approval to the Department of Environmental Management prior to submitting plans for Plan Approval review. Approved recommendations and mitigation measures shall be implemented in a manner meeting with the approval of the Department of Environmental Management.
- H. An Emergency Response Plan shall be submitted to the Civil Defense Agency for review and approval, prior to the issuance of a Certificate of Occupancy.
- I. 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 Administrator of the Office of Housing and Community Development prior to issuance of a Certificate of Occupancy for the industrial development.
- J. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls 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 is found that sufficient mitigation measures have been taken.
- K. Comply with all other applicable County, State and Federal laws, rules, regulations and requirements.

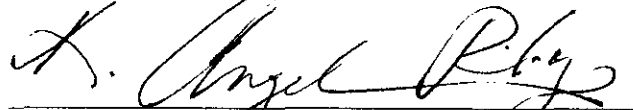
- L. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of this ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Director acknowledges that further reports are not required.
- M. 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 Department shall submit the applicant's request to the County Council for appropriate action.

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning 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.

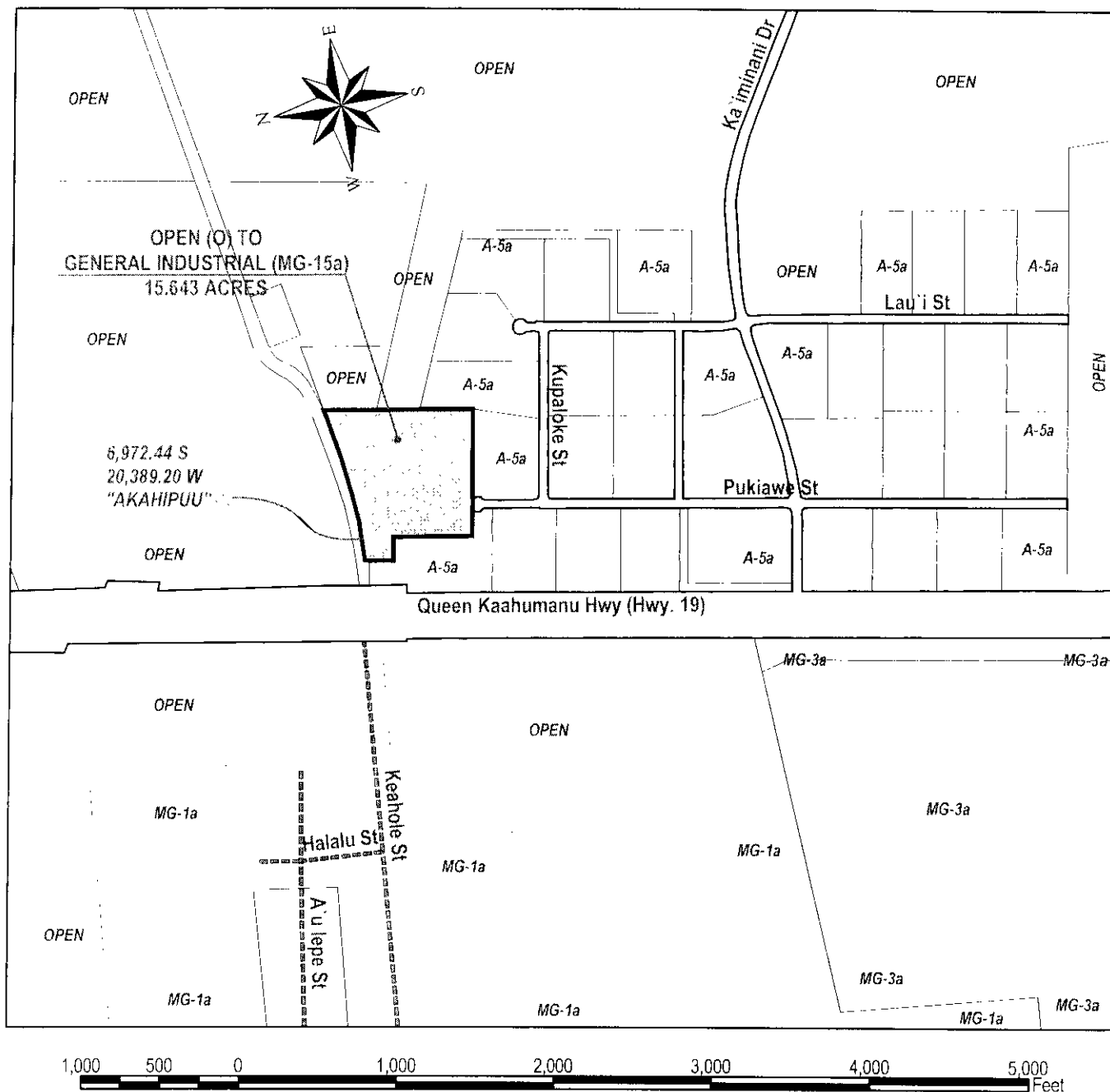
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: April 5, 2006  
Date of 1st Reading: April 5, 2006  
Date of 2nd Reading: April 19, 2006  
Effective Date: May 2, 2006

OFFICE: Comm. 686



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA 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 GENERAL INDUSTRIAL (MG-15a)  
 AT KALAOA 1st-4th, NORTH KONA, 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  
Date Introduced: April 5, 2006  
First Reading: April 5, 2006  
Published: N/A

REMARKS: \_\_\_\_\_  
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Second Reading: April 19, 2006  
To Mayor: April 21, 2006  
Returned: May 3, 2006  
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REMARKS: \_\_\_\_\_  
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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	
	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:

M. Keith Kuel. 2006  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date April 25, 2006

Approved Disapproved this 5<sup>th</sup> day  
of May, 2006  
Harry I  
MAYOR, COUNTY OF HAWAII

[Signature]  
COUNCIL CHAIRMAN

Constance R. Kiuin  
COUNTY CLERK

Bill No.: 223

Reference: C-686/PC-56

Ord No.: 06 50