

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 07 11 BILL NO. 1

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 LIMITED INDUSTRIAL - 1 ACRE (ML-1a) TO INDUSTRIAL-COMMERCIAL MIXED 1-ACRE (MCX-1a) AT KALOKO, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-3-51:96.

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 Kaloko, North Kona, Hawai'i, shall be Industrial-Commercial Mixed 1-acre (MCX-1a):

Beginning at the southwest corner of this parcel of land, being the northwest corner of Lot C-36 on the east side of Kamanu Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 19,019.69 feet south and 21,468.97 feet west and running by azimuths measured clockwise from true South:

1. 168° 52' 24" 320.01 feet along the east side of Kamanu Street to a point;

Thence, along Road Lot C-41, along a curve to the right having a radius of 30.00 feet, the chord azimuth and distance being:

2. 213° 52' 24" 42.43 feet to a point;

3. 258° 52' 24" 102.68 feet along Road Lot C-41 to a point;

4. 348° 52' 24" 350.01 feet along Lot F to a point;

5. 78° 52' 24" 132.68 feet along Lot C-36 to the point of beginning and containing an area of 46,246 square feet, more or less.

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.
1. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
 2. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within 180 days from the effective date of this ordinance.
 3. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance.
 4. Direct access to Kamanu Street shall be prohibited.
 5. A 10-foot wide future road-widening setback shall be provided along the entire

Kamanu Street frontage and be dedicated to the County upon request and at no cost to the County.

6. All driveway connections to Maiiau Street shall conform to Chapter 22, County Streets, of the Hawaii County Code.
7. All development generated run-off shall be disposed of on-site and shall not be directed toward any adjacent properties. If required, 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, if required, shall be constructed, meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
8. 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.
9. 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-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD after sufficient mitigation measures have been taken.
10. 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.

11. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

12. 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.

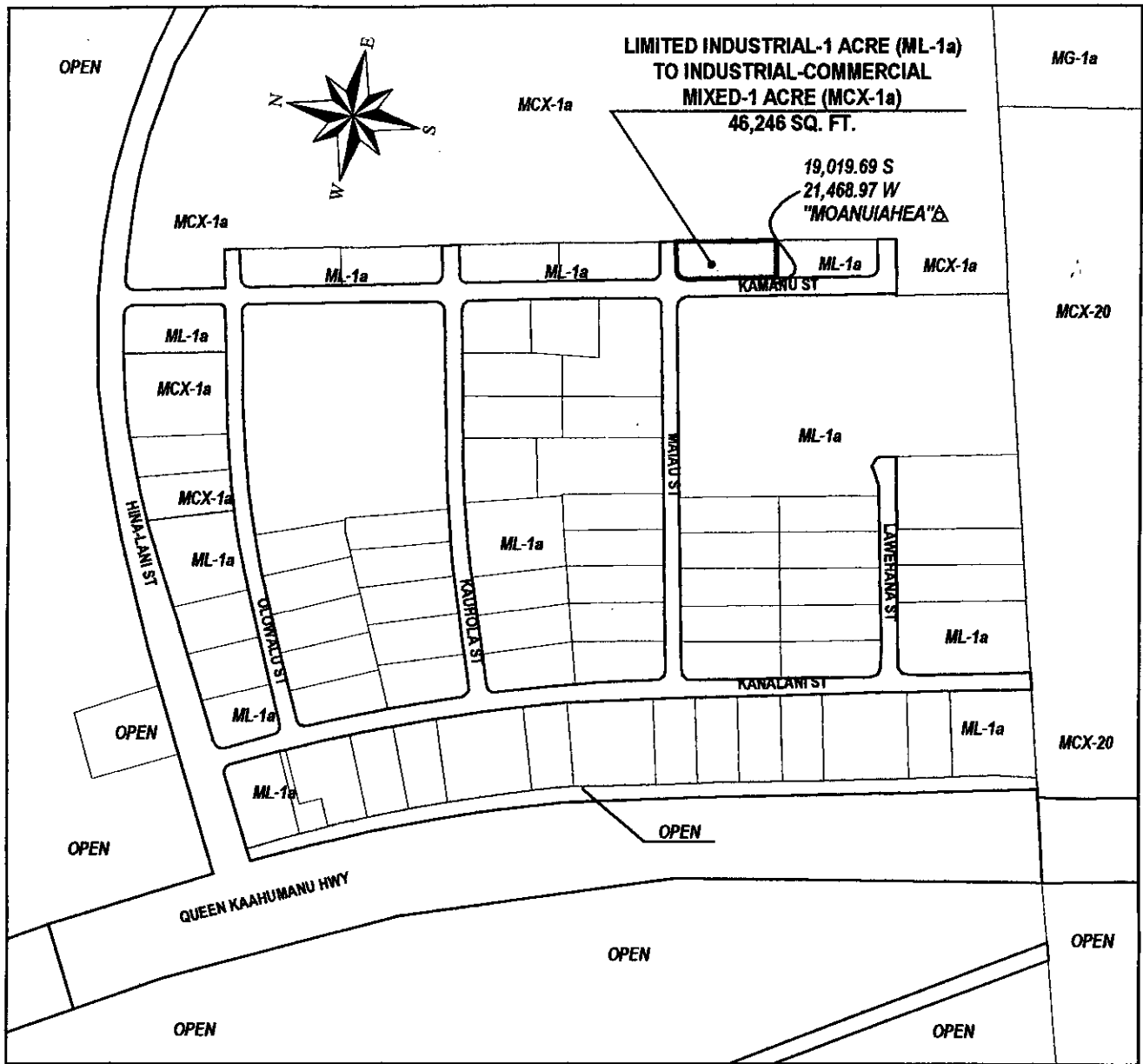
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Kona , Hawai'i

Date of Introduction: January 4, 2007
Date of 1st Reading: January 19, 2007
Date of 2nd Reading: February 7, 2007
Effective Date: February 21, 2007

REFERENCE: Comm. 3



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 LIMITED INDUSTRIAL-1 ACRE (ML-1a)
 TO INDUSTRIAL-COMMERCIAL MIXED-1 ACRE (MCX-1a)
 AT KALOKO, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

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

Introduced By: K. Angel Pilago
Date Introduced: January 4, 2007
First Reading: January 19, 2007
Published: N/A

REMARKS: Postponed - January 4, 2007

Second Reading: February 7, 2007
To Mayor: February 14, 2007
Returned: February 21, 2007
Effective: February 21, 2007
Published: March 2, 2007

REMARKS: _____

| ROLL CALL VOTE | | | | |
|----------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Ford | | X | | |
| Higa | X | | | |
| Hoffmann | X | | | |
| Ikeda | X | | | |
| Jacobson | | X | | |
| Naeole | X | | | |
| Pilago | | X | | |
| Yagong | X | | | |
| Yoshimoto | X | | | |
| | 6 | 3 | 0 | 0 |



| ROLL CALL VOTE | | | | |
|----------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Ford | | X | | |
| Higa | X | | | |
| Hoffmann | X | | | |
| Ikeda | X | | | |
| Jacobson | | X | | |
| Naeole | | | X | |
| Pilago | | X | | |
| Yagong | X | | | |
| Yoshimoto | X | | | |
| | 5 | 3 | 1 | 0 |

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

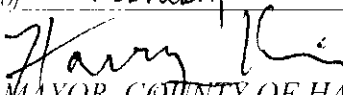
APPROVED AS TO
FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date FEB 16 2007


COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 1
Reference: C-3/PC-1
Ord No.: 07 11

Approved/Disapproved this 21st day
of February, 2007

MAYOR, COUNTY OF HAWAII