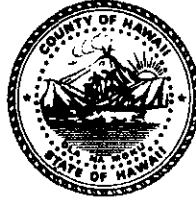


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 07 40 BILL NO. 30

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO 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 – 20,000 SQUARE FEET (ML-20) TO INDUSTRIAL-COMMERCIAL MIXED USE – 20,000 SQUARE FEET (MCX-20) AT WAIAKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-35:47.

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 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 Waiakea, South Hilo, Hawai'i, shall be Industrial-Commercial Mixed Use - 20,000 square feet (MCX-20):

Beginning at the Northeast corner of this lot, the Southeast corner of Lot 12, Block 16, and on the West side of Kanoelehua Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAP", being 723.00 feet South and 11,075.00 feet East and running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|--------|---|
| 1. | 360° 00' | 100.00 | feet along the west side of Kanoelehua Avenue; |
| 2. | 90° 00' | 223.00 | feet along Lot 16, Block 16; |
| 3. | 180° 00' | 100.00 | feet along Lot 13, Block 16; |
| 4. | 270° 00' | 223.00 | feet along Lot 12, Block 16 to the point of beginning and containing an area of 22,300 square feet, more or less. |

Excepting and reserving therefrom, that certain parcel of land conveyed to the State of Hawaii by instrument dated September 26, 1952, recorded in the Bureau of Conveyances in Book 2636 at Page 408, containing an area of 1,250 square feet, more or less, leaving a net area of 21,050 square feet, more or less.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made 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 180 days from the effective date of this ordinance.
- C. 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 Section 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), Chapter 25 (Zoning Code), Hawaii County Code.

- D. Ingress and egress to the subject property from Kanoelehua Avenue shall meet with the approval of the Department of Transportation. Any improvements, if required, shall meet with the approval of the Department of Transportation.
- E. The applicant shall submit a completed FAA (Federal Aviation Administration) Form 7460-1 to the FAA for review. A copy of the completed form shall also be submitted to the Planning Director prior to Final Plan Approval.
- F. All development generated runoff 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.
- G. The project shall connect to the existing County sewerline prior to the issuance of a Certificate of Occupancy.
- H. 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.

- I. 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.
- J. 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.
- K. The applicant shall comply with all County, State and Federal laws, rules, regulations and requirements.
- 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 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 Planning Commission 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 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.

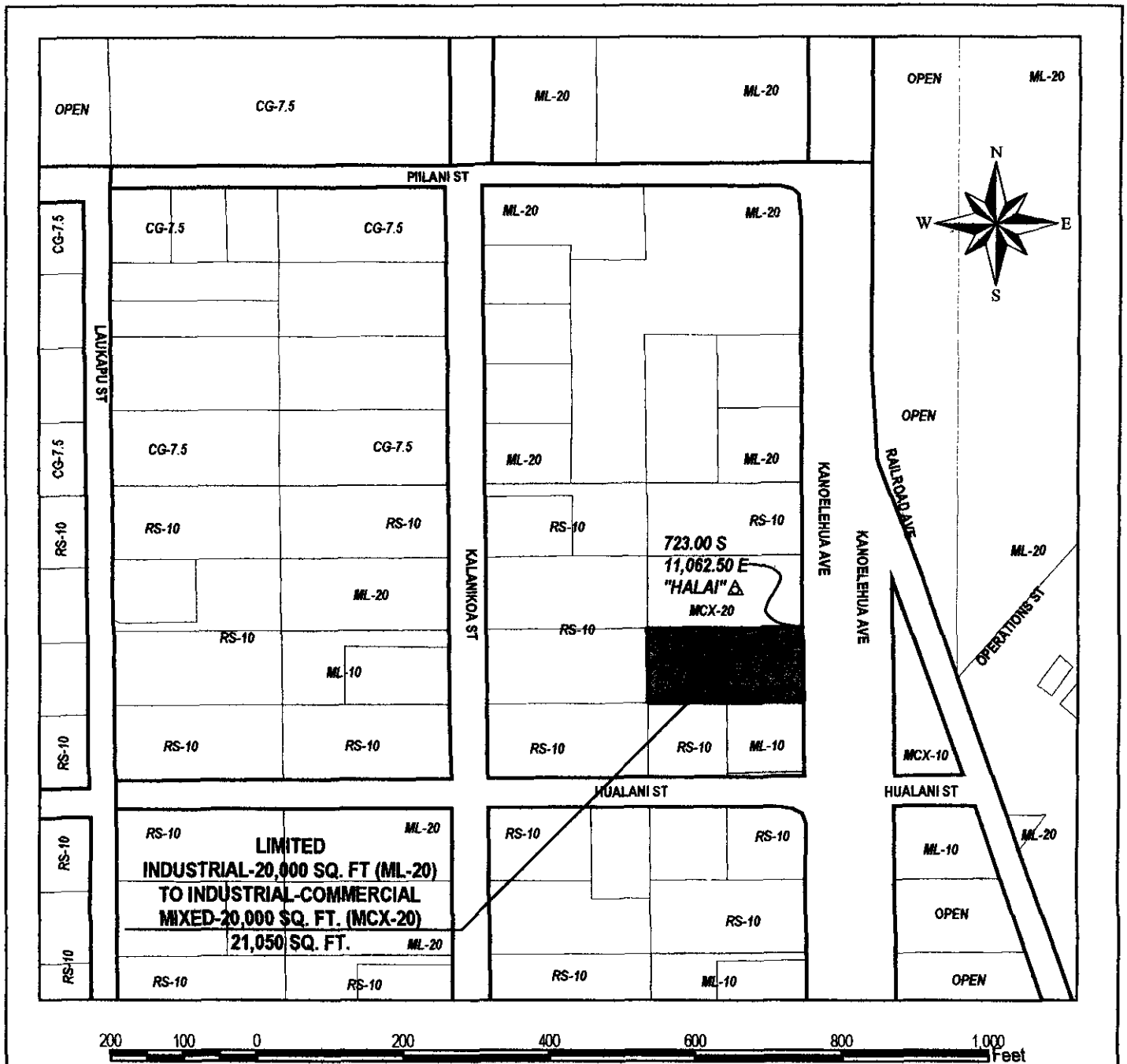
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: March 9, 2007
Date of 1st Reading: March 9, 2007
Date of 2nd Reading: March 21, 2007
Effective Date: April 4, 2007

REFERENCE: Comm. 104



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
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
 FROM LIMITED INDUSTRIAL-20,000 SQ. FT. (ML-20)
 TO INDUSTRIAL-COMMERCIAL MIXED-20,000 SQ. FT. (MCX-20)
 AT WAIAKEA, SOUTH HILO, 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: March 9, 2007
First Reading: March 9, 2007
Published: N/A

REMARKS: _____

Second Reading: March 21, 2007
To Mayor: March 28, 2007
Returned: April 4, 2007
Effective: April 4, 2007
Published: April 23, 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			
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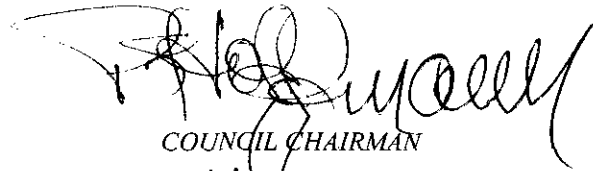
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa	X			
Hoffmann	X			
Ikeda	X			
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto	X			
	9	0	0	0

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

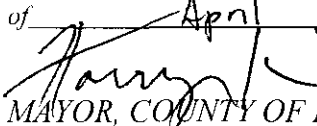
APPROVED AS TO
FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date MAR 30 2007


COUNCIL CHAIRMAN

COUNTY CLERK

Approved/Disapproved this 4th day
of April, 2007

MAYOR, COUNTY OF HAWAII

Bill No.: 30
Reference: C-104/PC-15
Ord No.: 07 40