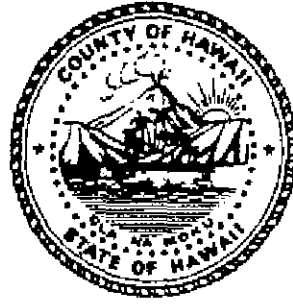


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 09 91 A BILL NO. 89A

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 SINGLE FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO INDUSTRIAL-COMMERCIAL MIXED – 20,000 SQUARE FEET (MCX-20) AT WAIĀKEA HOUSELOTS, WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-035:006.

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

Beginning at a pipe found at the northwest corner of this parcel of land, also being the southwest corner of Lot 3 and on the east side of Laukapu Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 1,163.00 feet South and 10,121.00 feet East and thence running by azimuths measured clockwise from true South:

1. 270° 00' 00" 229.00 feet along Lot 3, Block 22, Waiakea House Lots, to a nail found;
2. 00° 00' 00" 100.00 feet along Lot 6-B, Block 22, Waiakea House Lots, to a spike found;
3. 90° 00' 00" 229.00 feet along Lot 7, Block 22, Waiakea House Lots, to a pipe found;

4. 180° 00' 00" 100.00 feet along the east side of Laukapu Avenue to the point of beginning and containing an area of 22,900 Sq. Ft., 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:

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (1) 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. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within one hundred and eighty (180) days from the effective date of this ordinance.
- C. The applicant shall install a reduced pressure type backflow prevention assembly within five feet of the water meter on private property, which must be inspected and approved by the Department of Water Supply.

- D. Construction of the proposed development, including the improvements listed in Condition G, 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 Chapter 25-2-70, Chapter 25 (Zoning Code), Hawai'i 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) and Chapter 25 (Zoning Code), Hawai'i County Code.
- E. Access(es) to the property shall meet with the approval of the Department of Public Works. All driveway connections to Laukapu Street shall conform to Chapter 22 (County Streets) of the Hawai'i County Code.
- F. A five-foot wide future road widening strip along the Laukapu Street frontage shall be subdivided and dedicated to the County within five (5) years from the effective date of this ordinance.
- G. The applicant shall provide full improvements to the property's frontage along Laukapu Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any required utility relocation, meeting the requirements of the Department of Public Works. The improvements shall be located within the future road widening setback.
- H. Streetlights shall be installed as may be required by the Traffic Division, Department of Public Works.

- I. 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.
- J. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to Final Plan Approval.
- K. 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.
- L. 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.
- M. The applicant shall comply with all County, State and Federal laws, rules, regulations and requirements.
- N. 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 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:

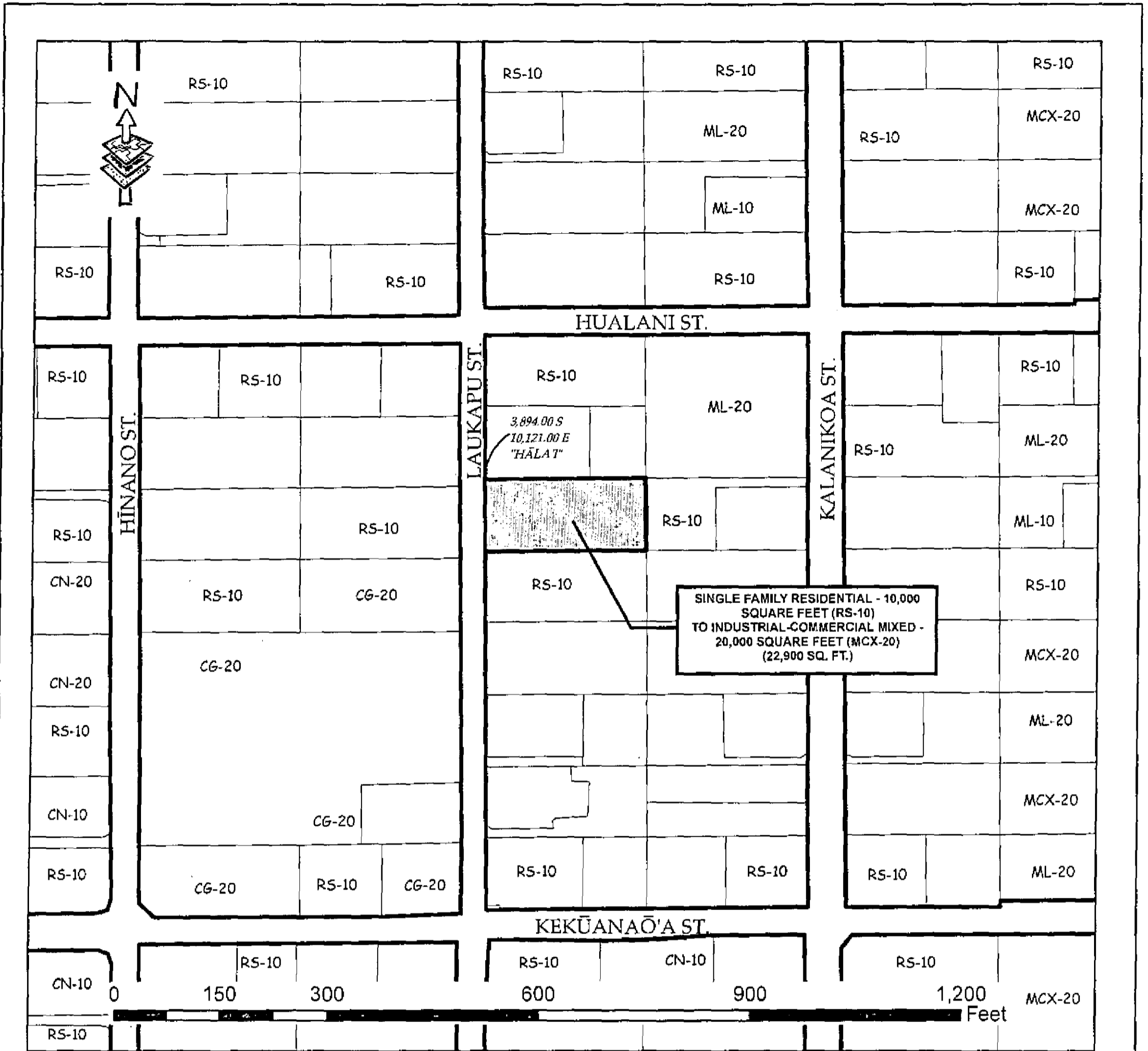


COUNCIL MEMBER, COUNTY OF HAWAI'I

    Kona    , Hawai'i

Date of Introduction: August 5, 2009  
Date of 1st Reading: August 5, 2009  
Date of 2nd Reading: August 19, 2009  
Effective Date: September 2, 2009

REFERENCE Comm.     364



# 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 SINGLE FAMILY RESIDENTIAL - 10,000 SQUARE FEET (RS-10) TO INDUSTRIAL-COMMERCIAL MIXED - 20,000 SQUARE FEET (MCX-20) AT WAIĀKEA HOUSELOTS, WAIĀKEA SOUTH HILO, HAWAII

MAP PREPARED BY:  
COUNTY OF HAWAII, PLANNING DEPARTMENT

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

2009 SEP 3 2009 54

Introduced By: Donald Ikeda  
 Date Introduced: August 5, 2009  
 First Reading: August 5, 2009  
 Published: N/A

REMARKS: A re-vote for first and second reading was taken due to lawsuit (W. Hawaii v. County of Hawai'i) re the Council mtg. held on 6-16-09. A copy of the original certification sheet re this measure is attached.

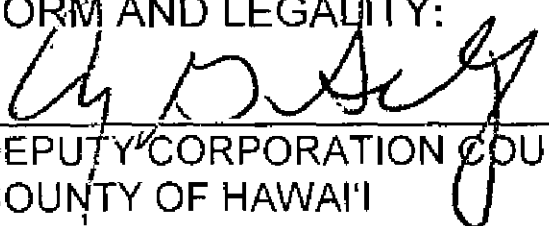
Second Reading: August 19, 2009  
 To Mayor: August 28, 2009  
 Returned: September 3, 2009  
 Effective: September 2, 2009  
 Published: September 16, 2009

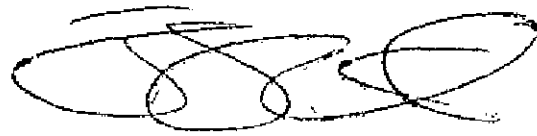
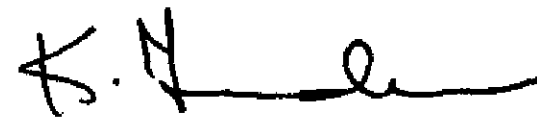
REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

ROLL CALL VOTE 54				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann	X			
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	9	0	0	0

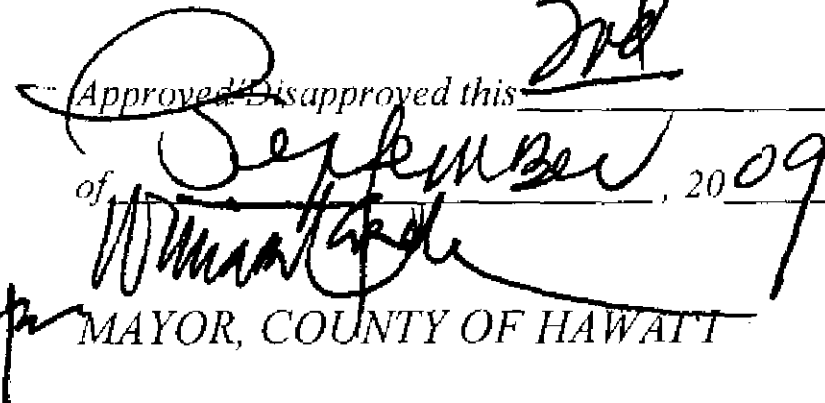
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann	X			
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	9	0	0	0

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 AUG 31 2009

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 89A  
 Reference: C-364/PC-34  
 Ord No.: 09 91A

Approved/Disapproved this 2nd day  
September, 2009  
  
 MAYOR, COUNTY OF HAWAII



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

Introduced By: Donald Ikeda  
Date Introduced: June 16, 2009  
First Reading: June 16, 2009  
Published: N/A

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

Second Reading: July 8, 2009  
To Mayor: July 16, 2009  
Returned: July 22, 2009  
Effective: July 22, 2009  
Published: July 30, 2009

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

22 JUL 2009 12:52

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell			X	
Hoffmann	X			
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong	X			
Yoshimoto	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann	X			
Ikeda	X			
Naeole	X			
Onishi	X			
Yagong			X	
Yoshimoto	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:

*[Signature]*  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date JUL 21 2009

*[Signature]*  
COUNCIL CHAIRPERSON

*[Signature]*  
COUNTY CLERK

Bill No.: 89

Reference: C-364/PC-34

Ord No.: 09 91

Approved/Disapproved this 22nd day  
of July, 2009  
*[Signature]*  
MAYOR, COUNTY OF HAWAII