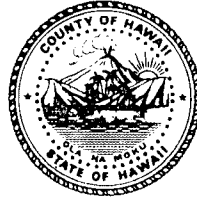


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 09 167 BILL NO. 176

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 – 20,000 SQUARE FEET (MCX-20) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-032:024.

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

Beginning at the southwest corner of this parcel of land at the intersection of Kalanikoa and Kuawa Streets, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 1,684.91 feet north and 10,633.00 feet east and running by azimuths measured clockwise from true south:

1. 180° 00' 260.94 feet along Kalanikoa Street;
2. 270° 00' 201.03 feet along Government Land;
3. 360° 00' 260.94 feet along Lot 2 (remainder of Grant 11766:1 to American Factors, Limited);
4. 90° 00' 201.03 feet along Kuawa Street to the point of beginning and containing an area of 52,457 Sq. Ft.

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 prior to the issuance of Final Plan Approval for the construction of any new commercial structures.

- C. The applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of the water meter on private property, which must be inspected and approved by the Department of Water Supply prior to the issuance of a Certificate of Occupancy for any new commercial uses of the building.

- D. Conversion of the portions of the existing warehouse structure into office and/or retail spaces shall be completed within five (5) years from the effective date of this ordinance. Prior to conversion and/or 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), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and paved 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. The applicant shall provide improvements to the project's frontage along Kalanikoa Street consisting of, but not limited to, concrete curb, gutter and sidewalk, drainage improvements and any required utility relocation, meeting the approval of the Department of Public Works. Such improvements shall be completed prior to the issuance of a Certificate of Occupancy for any new commercial structure on the property.

- F. Access to the project shall meet with the approval of the Department of Public Works. All driveway connections shall conform to Chapter 22 (County Streets) of the Hawai'i County Code. If required by the Department of Public Works, the current driveway access from Kuawa Street shall be relocated.

- G. Install street lights and traffic control devices as may be required by the Traffic Division, Department of Public Works.

- H. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and submitted to the Department of Public Works prior to the issuance of Final Plan Approval for any new structures. Any drainage improvements shall be constructed, meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
- I. The project shall connect to the existing County sewerline 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 the issuance of 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:

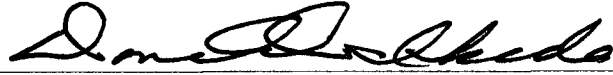
1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
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(s) should require an additional extension of time, the Planning Department shall submit the applicants' 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:

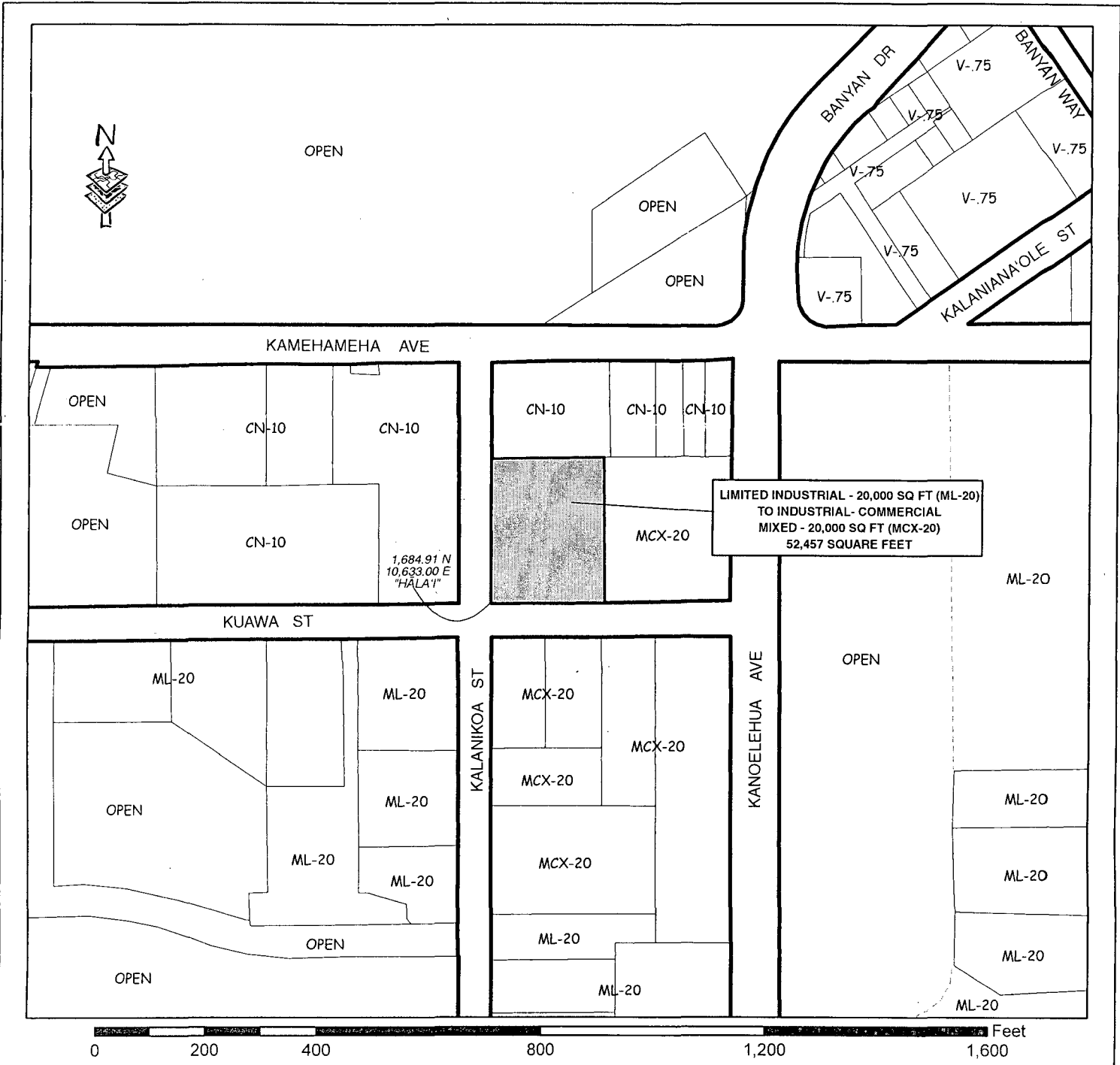


COUNCIL MEMBER, COUNTY OF HAWAI'I

 Kona , Hawai'i

Date of Introduction: December 2, 2009
Date of 1st Reading: December 2, 2009
Date of 2nd Reading: December 16, 2009
Effective Date: December 30, 2009

REFERENCE: ~~Comps:~~ 620



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 SQUARE FEET (ML-20) TO INDUSTRIAL-COMMERCIAL MIXED - 20,000 SQUARE FEET (MCX-20) AT WAIĀKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

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

RECEIVED

Introduced By: Donald Ikeda
 Date Introduced: December 2, 2009
 First Reading: December 2, 2009
 Published: N/A

REMARKS: _____

Second Reading: December 16, 2009
 To Mayor: December 24, 2009
 Returned: December 30, 2009
 Effective: December 30, 2009
 Published: January 8, 2010

REMARKS: _____

2009 DEC 30 PM 4:25 ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann	X			
Ikeda	X			
Naeole-Beason	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-Beason	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 DEC 28 2009

[Signature]

COUNCIL CHAIRMAN

[Signature]

COUNTY CLERK

Bill No.: 176
 Reference: C-620/PC-55
 Ord No.: 09 167

Approved/Disapproved this 28th day
 of December, 2009

[Signature]
 MAYOR, COUNTY OF HAWAII