

BILL NO. 54

(DRAFT 5)

ORDINANCE NO. 11 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: 7-3-051:065.

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 Northwest corner of this parcel of land, being the Northeast corner of Lot B-2 on the South side of Hina Lani Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 16,816.57 feet South and 22,135.74 feet West and running by azimuth measured clockwise from True South:

Thence, along the Southerly side of Hina Lani Street, along a curve to the right with a radius of 2,460.00 feet, the chord azimuth and distance being:

1. 260° 08' 18" 140.64 feet to a point;

Thence, along the West side of Kamanu Street, along a curve to the right having a radius of 30.00 feet, the chord azimuth and distance being:

2. 305° 19' 29" 41.34 feet to a point;

- | | | | |
|----|--------------|-------------|---|
| 3. | 348° 52' 24" | 293.26 feet | along Kamanu Street to a point;

Thence, along Olowalu Street along a curve to the right having a radius of 30.00 feet, the chord azimuth and distance being: |
| 4. | 33° 52' 24" | 42.43 feet | to a point; |
| 5. | 78° 52' 24" | 139.18 feet | along the Northerly side of Olowalu Street to a point; |
| 6. | 168° 53' 19" | 356.33 feet | along Lot B-2 to the point of beginning and containing an area of 59,669 square feet. |

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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.

- B. Should the applicant require additional water beyond the committed two (2) units of water (maximum daily usage of 1,200 gallons per day), the applicant shall submit estimated daily water usage calculations, prepared by a licensed engineer for review and approval by the Department of Water Supply.

- C. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance.
- D. Final Plan Approval for the proposed industrial-commercial development and its related improvements shall be secured from the Planning Director in accordance with the Zoning Code, Section 25-2-71 prior to the alteration or extension of the existing building, or the construction of any additional structures, or the establishment of any use on the subject property. Plans shall identify existing and proposed structures, fire protection measures, access driveway(s), parking area(s) and landscaping associated with the proposed development.
- E. Plans submitted for Final Plan Approval review shall contain a detailed landscaping plan prepared in accordance with the requirements of Planning Department Rule No. 17 relating to Landscaping and the Design Manual for Kaloko Light Industrial Park.
- F. Direct access to Hina-Lani Street shall be prohibited.
- G. Roadway, Curb, Gutter, Sidewalk, Drainage, and Driveway Improvements
 - (1) Left turns to and from the subject property shall be prohibited within 75 feet of the intersection of Olowalu Street and Kamanu Street right-of-way tangents. The applicant shall either close off the approach to Olowalu Street mauka driveway or install a median barrier within Olowalu Street to prevent left turns to and from the mauka driveway, until a new driveway entrance shall be constructed on Oluwalu Street, 75 feet or greater from said intersection, meeting with the approval of Department of Public Works, at no cost to the County. Completion of the new driveway intersection shall be completed within 6 months of the effective date of this ordinance.
 - (2) A sight distance easement, in accordance with relevant provisions of Chapter 22 of the Hawai'i County Code 1983 (2005 Edition, as amended), and meeting with the approval of the Department of Public Works shall be

provided and recorded along the property frontage with Olowalu Street and Kamanu Street within 6 months of the effective date of this ordinance. Any sight distance obstructions shall be removed, within the subject property, to establish and maintain adequate sight distance in accordance with current standards of the Department of Public Works.

- (3) The applicants shall provide a 5-foot-wide sight distance easement that shall be recorded and maintained along the Kamanu Street frontage from Hina Lani Street to the existing driveway entrance on Kamanu Street, allowing no obstructions within the easement between the height of 3 feet to 8 feet above the nearest finished street grade.
- (4) Access to Kamanu Street shall be limited to right-in and right-out movements only, meeting with the approval of the Department of Public Works including provision of adequate sight distance.

- H. All new driveway connections to the property from Olowalu Street and Kamanu Street shall conform to the current Chapter 22, County Streets, of the Hawai'i County Code.
- I. 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.
- J. The applicant shall obtain an Underground Injection Control (UIC) permit from the State Department of Health prior to installing drywells on the subject property.

- K. The applicant shall comply with the applicable requirements of Chapter 11-55, Water Pollution Control, Hawai'i Administrative Rules, Department of Health that may require an NPDES permit for certain construction activities.

- L. 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.

- M. 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.

- N. 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.

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

- P. 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:

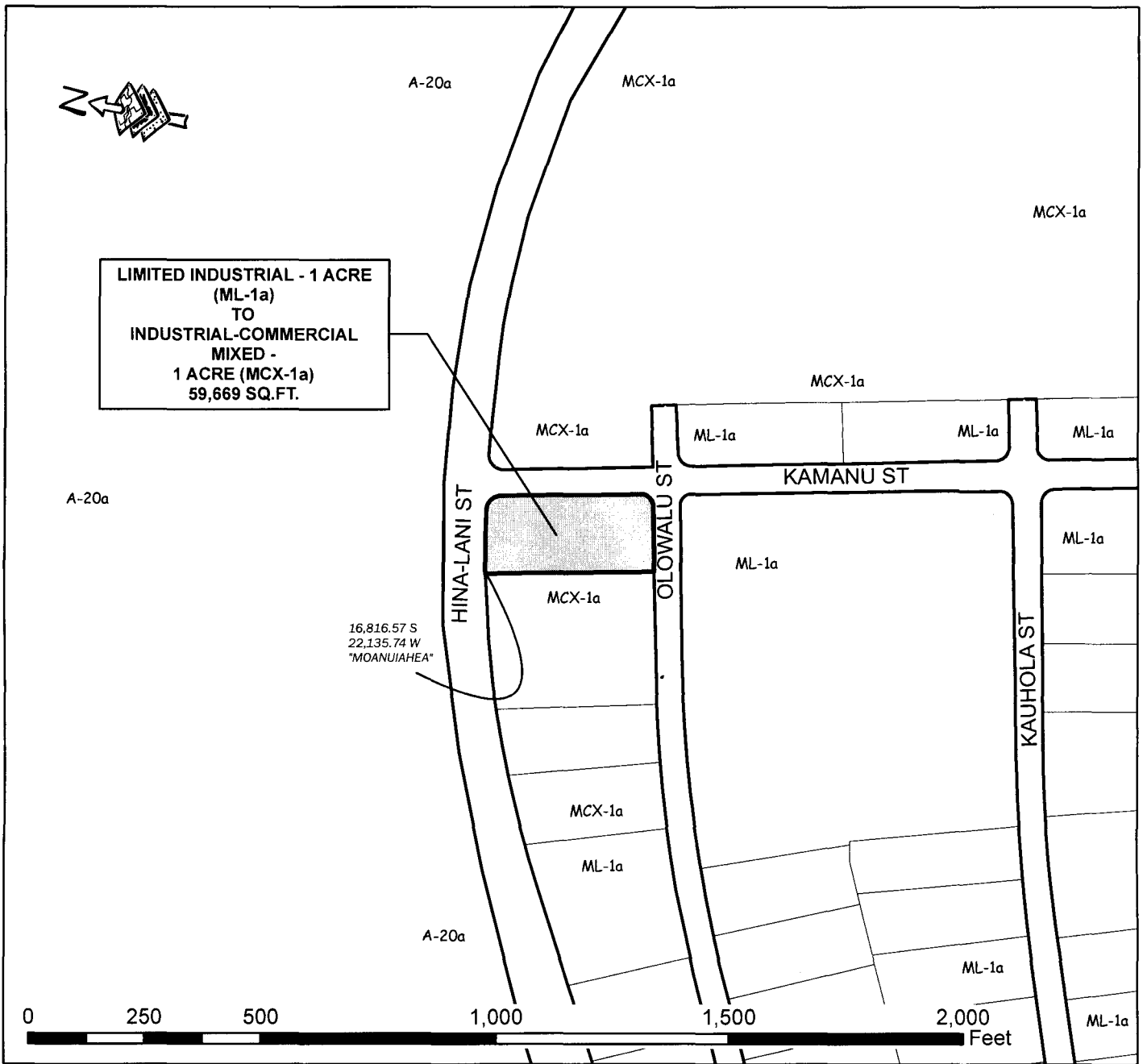


COUNCIL MEMBER, COUNTY OF HAWAI'I

_____ Kona _____, Hawai'i

Date of Introduction: July 22, 2009
Date of 1st Reading: November 17, 2010
Date of 2nd Reading: December 15, 2010
Effective Date: January 3, 2011

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

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

(Draft 5)

Introduced By: Donald Ikeda
Date Introduced: July 22, 2009
First Reading: November 17, 2010
Published: N/A

REMARKS: July 22-2009 - Deferred
August 5, 2009 - Postponed
August 19, 2009 - Postponed
October 21, 2009 - Postponed

Second Reading: December 15, 2010
To Mayor: December 27, 2010
Returned: January 4, 2011
Effective: January 3, 2011
Published: January 8, 2011

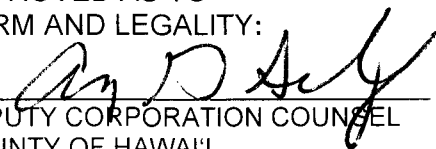
REMARKS: _____

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

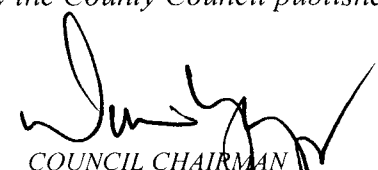
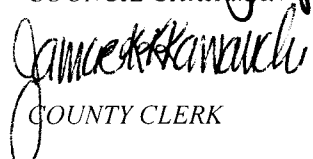
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann	X			
Ikeda	X			
Onishi	X			
Pilago	X			
Smart	X			
Yagong	X			
Yoshimoto	X			
	9	0	0	0

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

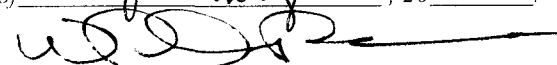
APPROVED AS TO
FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date: DEC 29 2010


COUNCIL CHAIRMAN

COUNTY CLERK

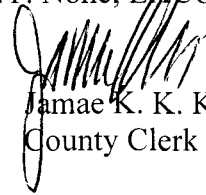
Bill No.: 54 (Draft 5)
Reference: C-3/PC-37 & 37A
Ord No.: 11 1

Approved/Disapproved this 3rd day
of January, 20 11

MAYOR, COUNTY OF HAWAII

Ordinance Number 11-1

I hereby certify that the following Ordinance passed second and final reading at the meeting of the County Council on December 15, 2010, by vote, as listed below.

Ordinance 11-1 (Bill 54, Draft 5): 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: 7-3-051:065. AYES: Council Members Blas, Ford, Hoffmann, Ikeda, Onishi, Pilago, Smart, Yoshimoto, and Chair Yagong – 9; NOES: None; ABSENT: None; EXCUSED: None.



Jamae K. K. Kawauchi
County Clerk

(Hawai'i Tribune-Herald – January 8, 2011)
(West Hawai'i Today – January 8, 2011)

Note: The original Digest/Affidavit is attached.