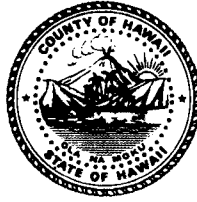


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **11 11** BILL NO. 5

AN ORDINANCE AMENDING SECTION 25-8-28 (KA'Ū DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – ONE ACRE (A-1a) TO INDUSTRIAL-COMMERCIAL MIXED – 3 ACRES (MCX-3a) AT KAHUKU, KA'Ū, HAWAI'I, COVERED BY TAX MAP KEY: 9-2-082:002.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-28, 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 Kahuku, Ka'ū, Hawai'i, shall be Industrial-Commercial Mixed – 3 acres (MCX-3a):

Beginning at the Northeasterly corner of this parcel of land, being also the Southeasterly corner of Lot 21-B-1 of this subdivision and being a point on the Westerly side of Hawaii Boulevard, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KAMAOA" being 2,932.66 feet North and 7,267.55 feet West and running by azimuths measured clockwise from True South:

1. 19° 34' 52" 222.90 feet along the Westerly side of Hawaii Boulevard to a point;

Thence, following along the Westerly side of Hawaii Boulevard on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:

2. 64° 34' 52" 28.28 feet to a point;

3. 109° 34' 52" 655.00 feet along the Northerly side of Hawaii Belt Road to a point;

Thence, following along the Northerly side of Hawaii Belt Road on a curve to the right with a radius of 11,960.00 feet, the chord azimuth and distance being:

4. 109° 36' 02" 8.12 feet to a point;

Thence, for the next six (6) courses following along the remainder of Grant 2791 to C. C. Harris:

5. 199° 35' 117.89 feet along Lot 13 of Block 67 of Hawaiian Ocean View Estates (File Plan 738) to a point;
6. 251° 01' 30" 303.00 feet along Lot 17 of Block 67 of Hawaiian Ocean View Estates (File Plan 738) to a point;
7. 341° 01' 30" 140.00 feet along Lot 21-A of Block 67 of Hawaiian Ocean View Estates to a point;
8. 312° 41' 30" 50.00 feet along Lot 21-B-1 of this subdivision to a point;
9. 294° 00' 179.21 feet along Lot 21-B-1 of this subdivision and along the remainders of Lots 21-B and 21-C to a point;
10. 259° 05' 155.79 feet along Lot 21-B-1 of this subdivision and along the remainder of Lot 21-C to the point of beginning and containing an area of 3.183 Acres.

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. The applicant shall develop sufficient water storage to meet the requirements of the Department of Health and the Fire Department for sanitation and firefighting purposes for the proposed development. The water storage facility shall be completed prior to Certificate of Occupancy and kept filled with enough water to meet the applicable Department of Health and Fire Department requirements.

- C. Construction of the proposed development shall be completed within five (5) years from the effective date 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), Hawai'i County Code.

- D. A Traffic Impact Analysis Report (TIAR) shall be required if any additional uses are proposed other than the mini storage facility consisting of three (3) structures totaling approximately 7,800 square feet in size. The applicant will submit the TIAR for review and approval by the DOT. The applicant shall construct any improvements as recommended by the DOT review of the TIAR. The TIAR may be waived if the DOT determines that the additional uses do not warrant a TIAR.

- E. Access to the subject property shall be restricted to Hawai'i Boulevard. Direct access to and from the Hawai'i Belt Highway to the subject property shall be prohibited.
- F. The applicant shall construct all recommended improvements to the Hawai'i Belt Highway at the intersection of Hawai'i Boulevard if required by the State Department of Transportation prior to the issuance of a Certificate of Occupancy for any portion of the proposed development.
- G. 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 by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt 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 Final Plan Approval.
- 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-Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
- J. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing Policy. This

requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to final plan approval for any new residential structures.

- K. 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.
- L. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- M. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
- 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(s), its 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 Director shall submit the applicant's request to the Planning Commission and County Council for appropriate action.
- O. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the subject 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: January 20, 2011
Date of 1st Reading: January 20, 2011
Date of 2nd Reading: February 2, 2011
Effective Date: February 23, 2011

REFERENCE: Comm. 26



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-28 (KA'Ū DISTRICT ZONE MAP) ARTICLE 8,
CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION),
BY CHANGING THE DISTRICT CLASSIFICATION FROM
AGRICULTURAL - ONE ACRE (A-1a) TO
INDUSTRIAL-COMMERCIAL MIXED - THREE ACRES (MCX-3a)
AT KAHUKU, KA'Ū, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

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

FILED
 2011 FEB 23 PM 3 12

Introduced By: Pete Hoffmann
 Date Introduced: January 20, 2011
 First Reading: January 20, 2011
 Published: N/A

REMARKS: _____

Second Reading: February 2, 2011
 To Mayor: February 11, 2011
 Returned: February 23, 2011
 Effective: February 23, 2011
 Published: March 4, 2011

REMARKS: _____

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			
	7	0	2	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			
	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:

A. D. Kelly
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date FEB 15 2011

[Signature]
 COUNCIL CHAIRPERSON
[Signature]
 COUNTY CLERK

Bill No.: 5
 Reference: C-26/PC-5
 Ord No.: 11 11

Approved/Disapproved this 23rd day
 of February, 20 11
[Signature]
 MAYOR, COUNTY OF HAWAII