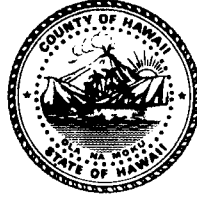


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 11 67 BILL NO. 59

AN ORDINANCE AMENDING ORDINANCE NO. 03-82 WHICH AMENDED SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, 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 WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-035:061.

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

SECTION 1. Ordinance No. 03-82 is amended as follows:

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

Beginning at a point at the northeast corner of this parcel of land, being also the southeast corner of a portion of Lot 8, Block 23, Grant 12,773 to Margaret C. Adrian and the westerly side of Kanoelehua Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Halai" being 1363.00 feet south and 11,062.50 feet east and running by azimuths measured clockwise from true south:

- | | | | |
|----|----------|--------|---|
| 1. | 0° 00' | 100.00 | feet along the west side of Kanoelehua Avenue; |
| 2. | 90° 00' | 210.50 | feet along a portion of Lot 12, Grant 11,393 to John G. Perreira; |
| 3. | 180° 00' | 100.00 | feet along Lot 9, Grant 10,766 to Yoshio Kodani; |

4. 270° 00' 210.50 feet along a portion of Lot 8, Grant 12,773 to Margaret C. Adrian to the point of beginning and containing an area of 21,050 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:

- (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. 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 ninety 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~~] by June 5, 2013. Final Plan Approval by the Planning Director in accordance with the Zoning Code shall be secured by the applicant prior to the commencement of construction.

Development plans shall identify existing and proposed structures, fire protection measures, paved driveway accesses and parking stalls, and other improvements associated with the proposed use. Landscaping shall be included in the development plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements).

- D. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval. A copy of the approved plan shall be submitted to the Planning Department prior to the issuance of Final Plan Approval.
- E. 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. 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.
- F. The applicant shall [~~connect to the existing County sewer lateral within Kino'ole Street prior to the issuance of a certificate of occupancy~~] dispose of development-generated wastewater in a manner meeting with the approval of the State Department of Health.
- G. The applicant shall install a backflow preventer (reduced pressure type) meeting with the approval of the Department of Water Supply prior to the issuance of the certificate of occupancy.
- H. All plans for work within the State highway Right-of-Way (ROW) and all driveway connections to Kanoelehua Avenue shall comply with State Highways Division design standards.

- I. The applicant shall comply with all applicable laws, rules, regulations and requirements of the affected agencies for the proposed development.
- J. Should the Hawai'i County 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. 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.
- 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 applicants, 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 Director shall submit the applicant's request to the County Council for appropriate action.

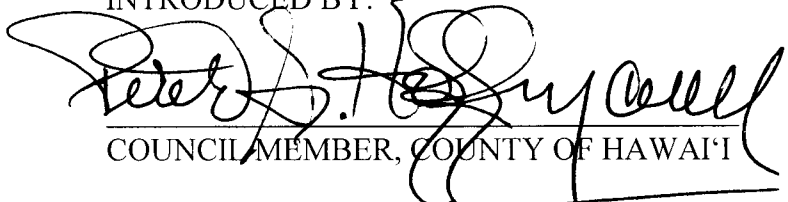
M. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject area to its original or more appropriate designation.”

SECTION 2. Material to be deleted is bracketed and struck through and material to be added is underscored.

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.

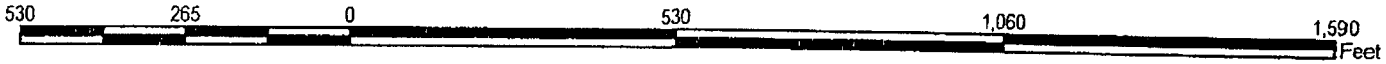
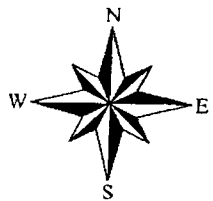
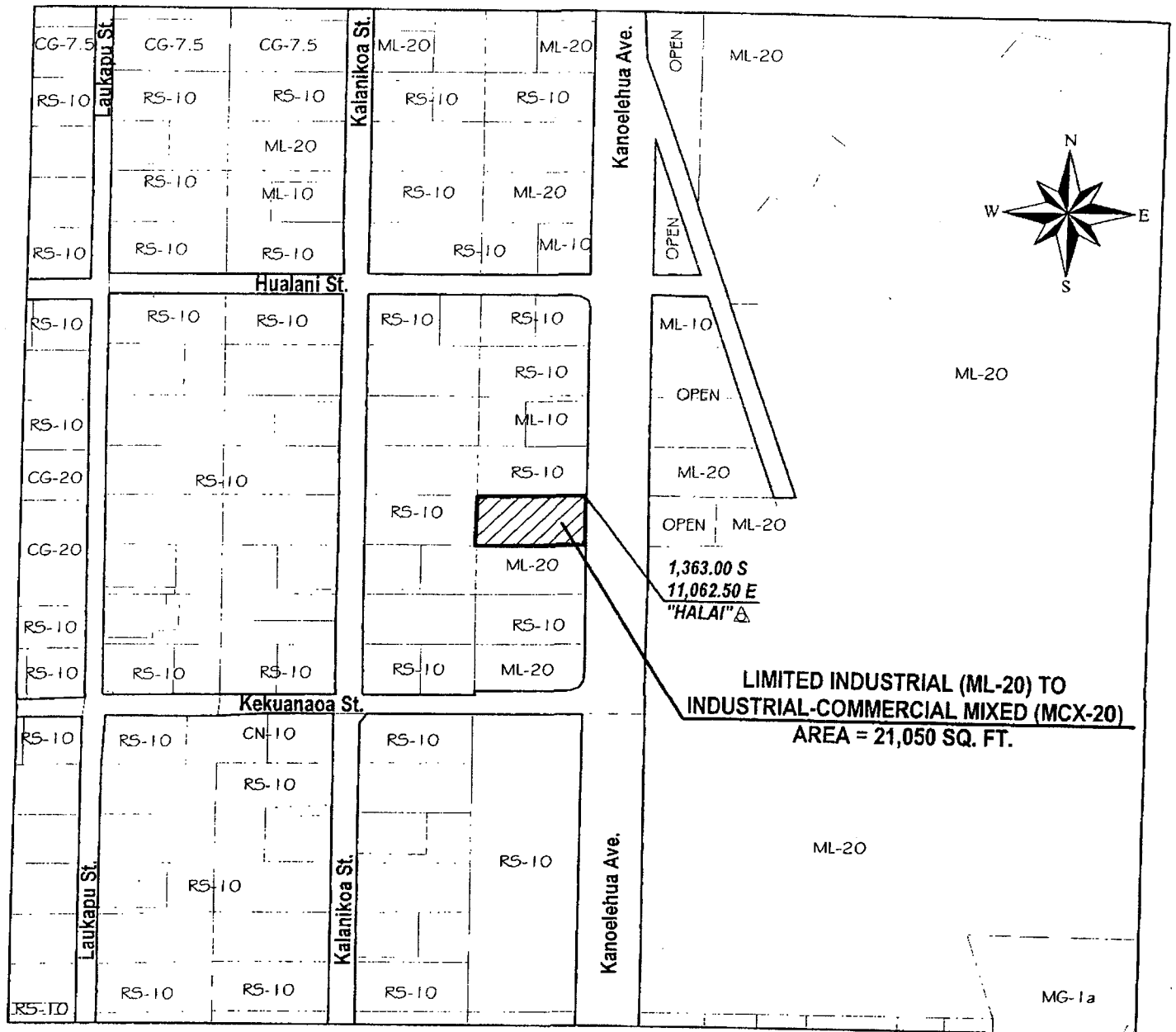
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

 Kona , Hawai'i

Date of Introduction: July 7, 2011
Date of 1st Reading: July 7, 2011
Date of 2nd Reading: July 22, 2011
Effective Date: August 17, 2011

REFERENCE: ~~Comp.~~ 225



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,
 BY CHANGING THE DISTRICT CLASSIFICATION FROM
 LIMITED INDUSTRIAL (ML-20) TO INDUSTRIAL-COMMERCIAL MIXED (MCX-20)
 AT WAIAKEA HOUSE LOTS, HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

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

Introduced By: Pete Hoffmann
Date Introduced: July 7, 2011
First Reading: July 7, 2011
Published: N/A

REMARKS: _____

Second Reading: July 22, 2011
To Mayor: August 2, 2011
Returned: August 17, 2011
Effective: August 17, 2011
Published: August 27, 2011

REMARKS: _____

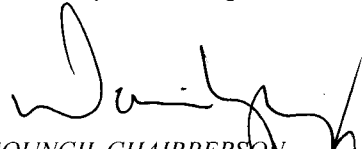
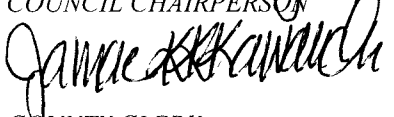
| ROLL CALL VOTE | | | | |
|----------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Blas | X | | | |
| Ford | X | | | |
| Hoffmann | X | | | |
| Ikeda | X | | | |
| Onishi | X | | | |
| Pilago | | | | |
| Smart | X | | | |
| Yagong | X | | | |
| Yoshimoto | X | | | |
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| ROLL CALL VOTE | | | | |
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| | AYES | NOES | ABS | EX |
| Blas | X | | | |
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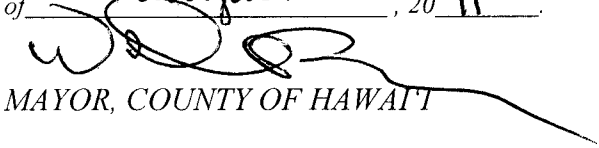
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII
Date AUG - 9 2011


COUNCIL CHAIRPERSON

COUNTY CLERK

Bill No.: 59
Reference: C-225/PC-22
Ord No.: 11 67

Approved/Disapproved this 17th day
of August, 2011

MAYOR, COUNTY OF HAWAII

RECEIVED

2011 AUG 17 AM 10 30

COUNTY CLERK
COUNTY OF HAWAII