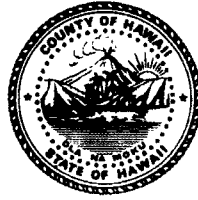


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 13 116 BILL NO. 121

AN ORDINANCE AMENDING ORDINANCE NO. 03 109 WHICH RECLASSIFIED LANDS FROM SINGLE-FAMILY RESIDENTIAL – 10,000 SQUARE FEET (RS-10) TO INDUSTRIAL-COMMERCIAL MIXED - 20,000 SQUARE FEET (MCX-20) AT WAIĀKEA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-2-050:037 AND 038.

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

**SECTION 1.** Section 2 of Ordinance No. 03 109 is amended as follows:

“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. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its “Water Commitment Guidelines Policy” within ninety (90) days from the effective date of this ordinance. Prior to this payment, water calculations with anticipated maximum daily water usage as recommended by a registered engineer shall be submitted to the Department of Water Supply.
- C. Construction of the proposed development shall be completed within five (5) years from the effective date of this amended ordinance. Prior to the start of construction, Final Plan Approval for the proposed development shall be secured from the Planning Director in accordance with the Zoning Code. Plans shall identify proposed structures, fire protection measures, paved driveway and parking stalls, common access easement, and other improvements associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any potential adverse noise or visual impacts to adjoining parcels. A continuous landscape buffer shall be provided along the entire northern property boundary. The landscaping shall be provided in accordance with the requirements of Planning Department’s Rule No. 17 (Landscaping Requirements).
- D. A common access easement with the adjoining parcel identified by Tax Map Key 2-2-50:14 shall be provided along Kawili Street, meeting the approval of the Department of Public Works. This common access shall be limited to ingress traffic movements only.
- E. A full movement vehicular access from Laukapu Street shall be located at the northern corner of each of the subject properties, meeting with the approval of the Department of Public Works. Vehicular access to the property identified by Tax Map Key: 2-2-050: 038 may be situated at any other location of said

property, provided that it also serves as the only Laukapu Street access to the adjoining property identified by Tax Map Key: 2-2-050: 037.

- F. The driveway connection to the subject parcel from Kawili Street and Laukapu Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawai‘i County Code and meet with the approval of Department of Public Works.
- G. The applicant shall construct roadway improvements to the entire frontage, exclusive of access points, along Kawili Street and Laukapu Street consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, curb ramp, drainage improvements, and any required relocation of utilities. Said improvements shall be completely constructed in accordance with the requirements and approval of the Department of Public Works prior to the issuance of a certificate of occupancy for any portion of the proposed development.
- H. A 10-foot wide future road widening strip along the subject property’s Laukapu Street frontage shall be delineated on the plans submitted for Plan Approval review. The 10-foot wide future road widening strip, including all improvements required by Conditions F and G, shall be subdivided and dedicated to the County prior to the issuance of a certificate of occupancy for any portion of the proposed development.
- I. To decrease further traffic concerns at the intersection of Kawili Street and Maka‘ala Street, the applicant shall coordinate its vehicular access movements with the landowners of the adjoining parcel identified by Tax Map Key 2-2-50:14 to provide internal traffic circulation between the proposed developments.

- J. A drainage study shall be prepared and 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 for any portion of the proposed development.
- K. The applicant shall connect to the existing County sewer lateral meeting with the approval of the Department of Environmental Management prior to the issuance of a certificate of occupancy.
- L. 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.
- M. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
- N. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development.
- O. An annual progress report shall be submitted to the Planning Department prior to the anniversary date of the effective date of the zone change. The report shall address the status of the development and the compliance with the conditions of approval. 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.
- P. 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.

- Q. [~~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, 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 should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.~~
- R. 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 2.** Material to be deleted is bracketed and stricken. New material 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

Hilo, Hawai'i

Date of Introduction: October 16, 2013  
Date of 1st Reading: October 16, 2013  
Date of 2nd Reading: November 6, 2013  
Effective Date: November 26, 2013

**REFERENCE Comm. 410**

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

COUNTY CLERK  
 COUNTY OF HAWAII

2013 NOV 26 PM 3: 32

Introduced By: Zendo Kern (B/R)  
 Date Introduced: October 16, 2013  
 First Reading: October 16, 2013  
 Published: N/A

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

Second Reading: November 6, 2013  
 To Mayor: November 15, 2013  
 Returned: November 26, 2013  
 Effective: November 26, 2013  
 Published: December 5, 2013


REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	X			
Yoshimoto	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	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 By:  approved this 26<sup>th</sup> day  
 of November, 20 13.

  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 121  
 Reference: C-410/PC-48  
 Ord No.: 13 116