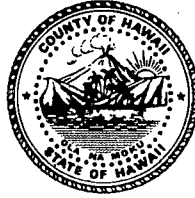


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 16 48 BILL NO. 167
(DRAFT 2)

AN ORDINANCE AMENDING SECTION 25-8-22 (PUNA 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 – TWENTY ACRES (A-20a) TO LIMITED INDUSTRIAL – 20,000 SQUARE FEET (ML-20) AT KEA'AU, HAWAI'I, COVERED BY TAX MAP KEY: 1-6-152:020.

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

SECTION 1. Section 25-8-22, 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 Kea'au, Hawai'i, shall be Limited Industrial – 20,000 square feet (ML-20):

Beginning at the south corner of this parcel of land, being the southeast corner of Lot 26-A-1, Land Court Application 1053 (Map 622) and on the northwesterly boundary of Lot 1-D, Land Court Consolidation 213 (Map 2), the coordinates of said point of beginning referred to Government Survey Triangulation Station " 'ŌLA'A" being 9,636.95 feet North and 8,406.40 feet East, thence running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|--------|---|
| 1. | 132° 37' | 140.00 | feet along Lot 26-A-1, Land Court Application 1053 (Map 622); |
| 2. | 180° 29' | 43.89 | feet along Lot 26-A-1, Land Court Application 1053 (Map 622); |
| 3. | 236° 44' | 112.94 | feet along Lot 26-A-1, Land Court Application 1053 (Map 622); |

- | | | | |
|----|----------|--------|---|
| 4. | 228° 09' | 245.81 | feet along Lot 26-A-1, Land Court Application 1053 (Map 622); |
| 5. | 219° 48' | 144.84 | feet along Lot 26-A-1, Land Court Application 1053 (Map 622); |
| 6. | 344° 59' | 274.95 | feet along Lot 9, Land Court Application 1689 (Map 1); |
| 7. | 58° 10' | 398.85 | feet along Lot 1-D, Land Court Consolidation 213 (Map 2) to the point of beginning and containing an area of 2.082 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:

- (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 applicant, successors, or assigns shall notify prospective purchasers, tenants, or lessees of all lots that farming operations and practices on adjacent or contiguous land in the State Land Use Agricultural District are protected under

Hawai'i Revised Statutes Chapter 165, the Hawai'i Right to Farm Act. This notice shall be included in any disclosure required for the sale or transfer of all of the proposed lot.

- C. Any action that would interfere with or restrain farming operations on adjacent or contiguous properties shall be prohibited under Hawai'i Revised Statutes Chapter 165, the Hawai'i Right to Farm Act; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the Agricultural District.
- D. The applicant shall submit maximum daily water usage calculations as recommended by a professional engineer licensed in the State of Hawai'i, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply prior to the submittal of plans for Plan Approval review for any change of occupancy from the existing agricultural packing and processing operation to an industrial use. Based upon the calculations, if required, the applicant shall install a larger service lateral or meter, and remit the prevailing facilities charge to the Department of Water Supply. The applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full.
- E. If required by the Department of Water Supply and/or the Fire Department, the applicant shall install a fire hydrant fronting the subject property to provide the required fire flow and fire protection within five (5) years from the effective date of this ordinance.
- F. Final Plan Approval shall be required prior to the establishment of any industrial use on the property in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed

structure(s), paved driveway access and paved parking stalls associated with the proposed development, and the 10-foot future road widening setback along with the roadway improvements. Landscaping shall 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.

- G. Should the County initiate steps to acquire the dedication of Milo Street in the future, the applicant shall comply with the standards outlined in Standard Details for Public Works Construction R-34 (revised) by providing paved shoulder and swale improvements consisting of drainage improvements and any required utility relocation that connect to the existing Milo Street roadway pavement fronting the subject property meeting with the approval of the Department of Public Works. The improvements shall be located within a 10-foot wide future road widening setback and within the unpaved portion of Milo Street prior to dedication to the County. The applicant shall cooperate with the County's effort to acquire dedication of Milo Street by subdividing and dedicating the 10-foot road widening setback and the full dedicable standard improvements, at no cost to the County.
- H. If the owner of the private roadway fronting the subject property (TMK: 1-6-152: 019) initiates a roadway improvement and maintenance program for the improvement and maintenance of Milo Street, the applicant shall be required to pay their fair share costs to the road owner for the program.
- I. 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 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. 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 DLNR-SHPD 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.

- 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 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.

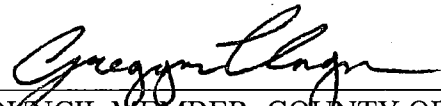
3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
5. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission and 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: April 20, 2016
Date of 1st Reading: April 20, 2016
Date of 2nd Reading: May 4, 2016
Effective Date: May 23, 2016

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

COUNTY CLERK
COUNTY OF HAWAII

2016 MAY 23 PM 1:03

Introduced By: Greggor Ilagan
Date Introduced: April 20, 2016
First Reading: April 20, 2016
Published: April 30, 2016

REMARKS: _____

Second Reading: May 4, 2016
To Mayor: May 12, 2016
Returned: May 23, 2016
Effective: May 23, 2016
Published: June 4, 2016

REMARKS: _____

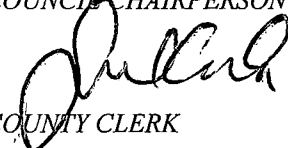
| ROLL CALL VOTE | | | | |
|----------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Chung | X | | | |
| David | X | | | |
| Eoff | X | | | |
| Ilagan | X | | | |
| Kanuha | X | | | |
| Onishi | X | | | |
| Paleka | X | | | |
| Poindexter | X | | | |
| Wille | X | | | |
| | 9 | 0 | 0 | 0 |

| ROLL CALL VOTE | | | | |
|----------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Chung | X | | | |
| David | X | | | |
| Eoff | X | | | |
| Ilagan | X | | | |
| Kanuha | X | | | |
| Onishi | X | | | |
| Paleka | X | | | |
| Poindexter | X | | | |
| Wille | X | | | |
| | 9 | 0 | 0 | 0 |


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



COUNCIL CHAIRPERSON



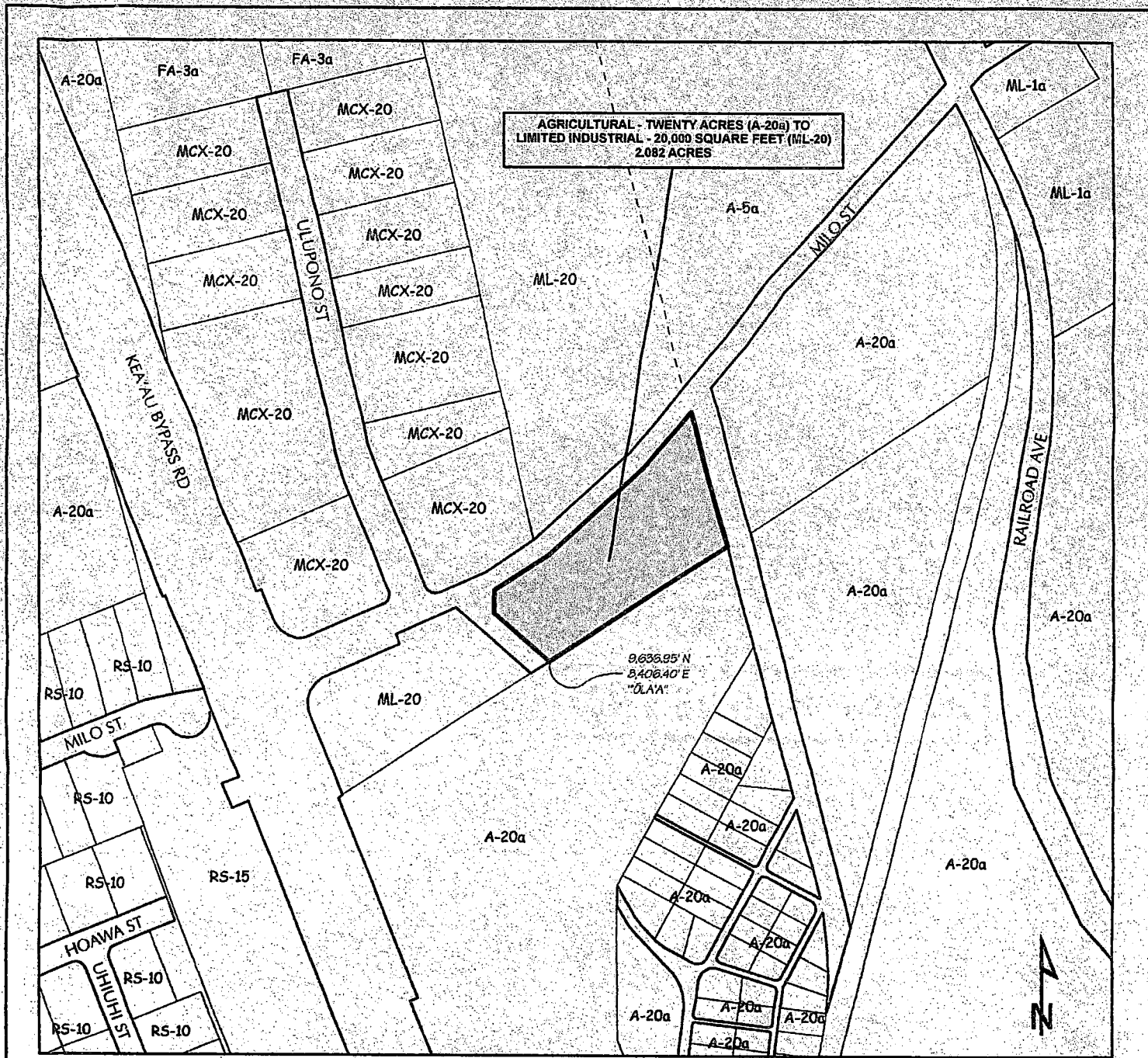
COUNTY CLERK

Approved/Disapproved this 23rd day
of May, 20 16

MAYOR, COUNTY OF HAWAII

Bill No.: 167 (Draft 2)

Reference: C-753.2/PC-54

Ord No.: 16 48



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-22 (PUNA 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 - TWENTY ACRES (A-20a) TO
 LIMITED INDUSTRIAL - 20,000 SQUARE FEET (ML-20)
 AT KEA'AU, PUNA, HAWAI'I

MAP PREPARED BY:
 COUNTY OF HAWAI'I, PLANNING DEPARTMENT

TMK: (3) 1-6-152-020

DATE: October 7, 2015

EXHIBIT "A"

Milo Street Ventures, Inc.
 Map: 1367