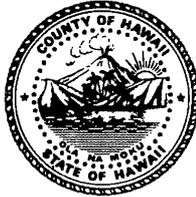


COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

ORDINANCE NO. 17 32 BILL NO. 22
(DRAFT 3)

AN ORDINANCE AMENDING SECTION 25-8-13 (PUAKŌ-‘ANAHEHO‘OMALU ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI‘I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – FIVE ACRES (A-5a) TO INDUSTRIAL – COMMERCIAL MIXED – 20,000 SQUARE FEET (MCX-20) AT WAIKOLOA, SOUTH KOHALA, HAWAI‘I, COVERED BY TAX MAP KEY: 6-8-001:058.

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

SECTION 1. Section 25-8-13, Article 8, Chapter 25 (Zoning Code) of the Hawai‘i County Code 1983 (2016 Edition, as amended) is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Waikoloa, South Kohala, Hawai‘i, shall be Industrial-Commercial Mixed – 20,000 square feet (MCX-20):

Beginning at a found "MAG" nail for the Southwest corner of this herein described parcel of land, being also a corner of Lot C, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU HINAI" being 14,940.20 feet North and 25,570.74 feet West and thence running by azimuths measured clockwise from true South:

Thence along the remainder of R.P. 5671, L.C. Aw. 8521-B, Apana 1 to G.D. Hucu, with the following six (6) courses:

- | | | | |
|----|--------------|--------|---|
| 1. | 145° 19' 00" | 271.64 | feet along Lot C, to a found spike at the South Line of Hoohana Street; |
| 2. | 247° 04' 00" | 0.25 | feet along Hoohana Street to set ½" iron rebar; |

Thence along a curve to the left with a radius of 1,030.00 feet, the chord azimuth and distance being:

| | | | | | |
|----|------|-----|-----|--------|--|
| 3. | 241° | 11' | 30" | 210.86 | feet along Hoohana Street, to a found ½" iron pipe; |
| 4. | 235° | 19' | 00" | 90.00 | feet along Hoohana Street, to a found ½" iron pipe for the Northeast corner of this herein described parcel of land; |
| 5. | 325° | 19' | 00" | 250.00 | feet along Lot A, to a found "MAG" nail for the Southeast corner of this herein described parcel of land; |
| 6. | 55° | 19' | 00" | 300.00 | feet along Lot 31 and Lot C, to the point of beginning and containing an area of 1.756 Acres, more or less. |

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 (2016 Edition, as amended), 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. Construction of Phase One of the proposed development, as substantially represented by the applicant, or as permitted by the zoning district classification, shall be completed within five (5) years from the effective date of 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. Plans shall identify all existing and proposed structure(s), paved driveway access and parking stalls associated with the proposed development, with the appropriate yard setbacks, and the 15-foot archaeological site buffer as required by Condition J. 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.
- C. The applicant shall submit maximum daily water usage calculations as recommended by a professional engineer licensed in the State of Hawai'i, including total estimated daily water usage in gallons per day and the estimated peak flow in gallons per minute. Based upon the calculations, if required, the applicant shall install an appropriate sized meter, and remit the prevailing facilities charge to the Department of Water Supply.
- D. Should the applicant require additional water, they will need to obtain an allocation of units from Tokyu Corporation, subject to the written consent of the Hawai'i County Water Board.

- E. The applicant shall install a reduced pressure type backflow prevention assembly within five (5) feet of the existing water meter and any additional water meters on private property, which must be inspected and approved by the Department of Water Supply.
- F. Prior to occupancy, the applicant shall provide pavement widening along the project frontage to a total of 18 feet from the existing centerline meeting with the approval of the Department of Public Works. Existing drainage and utilities may be maintained.
- G. Should the applicant, successors or assigns develop a land use, which the Planning Department, in consultation with the Department of Public Works, determines will generate over 50 peak hour trips, a Traffic Impact Analysis Report (TIAR) shall be submitted for review and approval by the Department of Public Works prior to Final Plan Approval. The applicant shall implement any transportation system improvements that may be deemed necessary by the Department of Public Works.
- H. 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.
- I. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- J. The applicant shall be responsible for the maintenance of the chain-link fence that serves to delineate a 15-foot buffer for the archaeological preserve as it occurs on the south-west corner of the subject property as required by Use Permit No. 72.

Should the applicant wish to implement a different form of mitigation for the archaeological preserve written approval from the State Historic Preservation Division and concurrence from the Planning Director will be required prior to implementation.

- K. 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 – State 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 mitigation measures have been taken.
- 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.

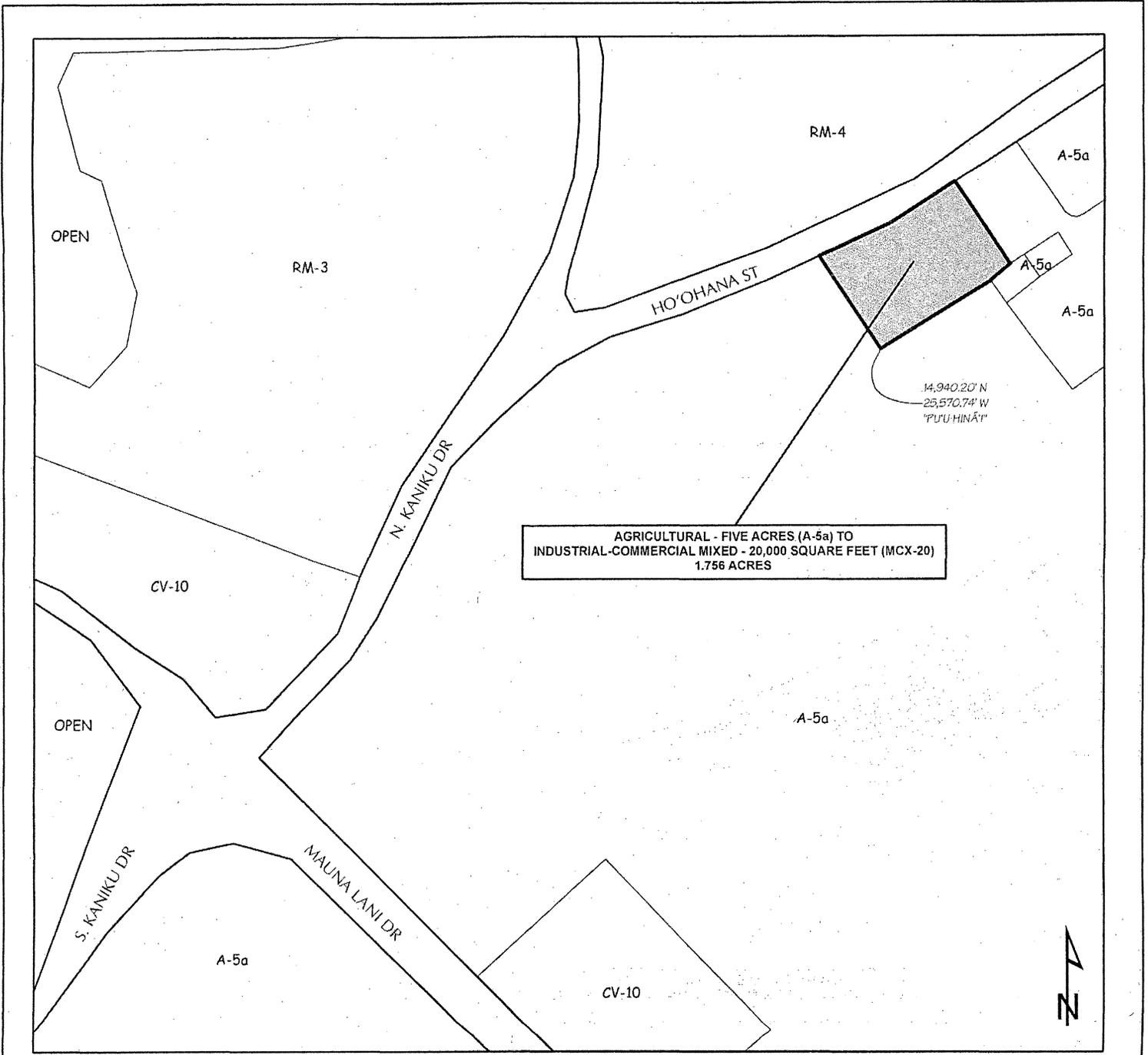
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

_____ Kona, Hawai'i
Date of Introduction: April 19, 2017
Date of 1st Reading: April 19, 2017
Date of 2nd Reading: May 3, 2017
Effective Date: May 15, 2017

REFERENCE Comm. 181.5



AGRICULTURAL - FIVE ACRES (A-5a) TO
 INDUSTRIAL-COMMERCIAL MIXED - 20,000 SQUARE FEET (MCX-20)
 1.756 ACRES

14,940.20' N
 25,570.74' W
 "PU'U HINĀ"

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-13 (PUAKŌ-'ANAHO'OMALU ZONE MAP) ARTICLE 8,
 CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED),
 BY CHANGING THE DISTRICT CLASSIFICATION FROM
 AGRICULTURAL - FIVE ACRES (A-5a) TO
 INDUSTRIAL-COMMERCIAL MIXED - 20,000 SQUARE FEET (MCX-20)
 AT WAIKOLOA, SOUTH KOHALA, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 6-8-001:058

DATE: December 1, 2016

EXHIBIT "A"

RB2 Investors LLC
 Map: 1386

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

COUNTY CLERK
 COUNTY OF HAWAII

(Draft 2)

2017 MAY 16 PM 1:30

Introduced By: Karen Eoff (B/R)
 Date Introduced: April 19, 2017
 First Reading: April 19, 2017
 Published: April 29, 2017

REMARKS: _____

Second Reading: May 3, 2017
 To Mayor: May 11, 2017
 Returned: May 16, 2017
 Effective: May 15, 2017
 Published: May 27, 2017

REMARKS: _____

| ROLL CALL VOTE | | | | |
|----------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Chung | X | | | |
| David | X | | | |
| Eoff | X | | | |
| Kanuha | X | | | |
| Lee Loy | X | | | |
| O'Hara | X | | | |
| Poindexter | X | | | |
| Richards | X | | | |
| Ruggles | X | | | |
| | 9 | 0 | 0 | 0 |

(Draft 3)

| ROLL CALL VOTE | | | | |
|----------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Chung | X | | | |
| David | X | | | |
| Eoff | X | | | |
| Kanuha | X | | | |
| Lee Loy | X | | | |
| O'Hara | X | | | |
| Poindexter | X | | | |
| Richards | X | | | |
| Ruggles | X | | | |
| | 9 | 0 | 0 | 0 |

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

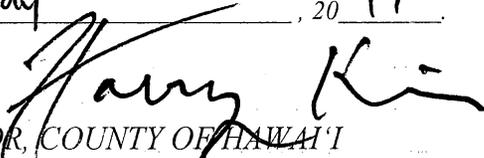


COUNCIL CHAIRPERSON



COUNTY CLERK

Approved/Disapproved this 15th day
 of May, 20 17



MAYOR, COUNTY OF HAWAII

Bill No.: 22 (Draft 3)

Reference: C-181.5/PC-10

Ord No.: 17 32