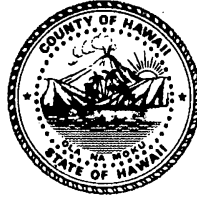


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 17 65 BILL NO. 60

AN ORDINANCE AMENDING SECTION 25-8-22 (PUNA DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – TWENTY ACRES (A-20a) TO GENERAL INDUSTRIAL – 20,000 SQUARE FEET (MG-20) AT KEA'AU, PUNA, HAWAI'I, COVERED BY TAX MAP KEY: 1-6-141:002.

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 (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 Kea'au, Puna, Hawai'i, shall be General Industrial – 20,000 square feet (MG-20):

LOT 9677:

Being a Portion of Land Court Application 1053 as Shown on Map 559 Situated at Kea'au, Puna, Island of Hawai'i, Hawai'i

Beginning at the southwest corner of this parcel of land and running by azimuths measured clockwise from True South:

- 1. 183° 24' 04" 99.08 feet along Lot A-31-A-2 of Land Court Application 1053 as shown on Map 134;

Thence along Lot 1092-E of Land Court Application 1053 as shown on Map 81 for the next thirteen (13) courses, the azimuths and distances between points being:

- |     |   |     |     |        |       |
|-----|---|-----|-----|--------|-------|
| 2.  | 196°  | 06' | 14" | 74.02  | feet; |
| 3.  | 271°  | 01' | 14" | 45.01  | feet; |
| 4.  | 242°  | 06' | 14" | 105.03 | feet; |
| 5.  | 279°  | 01' | 14" | 45.01  | feet; |
| 6.  | 216°  | 01' | 14" | 95.03  | feet; |
| 7.  | 241°  | 31' | 14" | 40.01  | feet; |
| 8.  | 303°  | 31' | 14" | 48.02  | feet; |
| 9.  | 269°  | 21' | 14" | 44.01  | feet; |
| 10. | 214°  | 01' | 14" | 130.04 | feet; |
| 11. | 264°  | 21' | 14" | 316.10 | feet; |
| 12. | 243°  | 01' | 14" | 173.06 | feet; |
| 13. | 208°  | 31' | 14" | 55.02  | feet; |
| 14. | 239°  | 12' | 14" | 119.98 | feet; |
| 15. | Thence along Lot 3 of Land Court Application 1689, along a curve to the left<br>having a radius of 1,168.28 feet, the chord<br>azimuth and distance being:        |     |     |        |       |
|     | 358°  | 13' | 45" | 200.83 | feet; |
|     | Thence along Lot 9678 of Land Court<br>Application 1053 as shown on Map 559 for<br>the next four (4) courses, the azimuths and<br>distances between points being: |     |     |        |       |
| 16. | 56°   | 01' | 18" | 286.59 | feet; |
| 17. | 43°   | 19' | 56" | 218.81 | feet; |
| 18. | 16°   | 25' |     | 100.00 | feet; |

19. 90° 40' 32" 644.86 feet to the point of beginning and containing an area of 6.505 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 (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 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 shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-71, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structure(s), paved driveway access and parking stalls, fire department access, and landscaping associated with the proposed development.

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, its successors or assigns shall not use water from the County system for distilling, brewing, or other similar water bottling production facilities.
- D. The applicant shall provide maximum daily water usage calculations prepared by a professional engineer licensed in the State of Hawai'i and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" shall be submitted to the Department of Water Supply prior to the submittal of plans for Plan Approval review to the Planning Department. Based upon the calculations, if required, the applicant shall install a larger or additional 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 development until such time that required water facilities charges are paid in full.
- E. Prior to receipt of a Certificate of Occupancy, the applicant shall provide a fire hydrant within 150 feet of the property, and either upgrade the existing 4-inch waterline to a 12-inch waterline for a distance of approximately 800 feet or provide a private water system capable of providing a minimum flow of 2,000-gallons per minute for a 2-hour duration and a pipeline velocity of less than 10 feet per second.
- F. Should a larger water meter be required, a reduced pressure type backflow prevention assembly must be installed within five (5) feet of the meter on private property and must be inspected by the Department before water service can be activated.

- G. Subject to other agencies' requirements to construct improvements within the road right-of-way fronting the property affected by the proposed development, the applicant shall be responsible for the relocation and adjustment of the Department's affected water system facilities, should they be necessary, which may include conveying the water system improvements and necessary easements to the Water Board.
- H. All driveway connections to Slaughter House Road shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
- I. The applicant shall provide a 10-foot wide road and utility easement along the subject property frontage of Slaughter House Road. The easement shall provide reciprocal rights for access to all lots along Slaughter House Road. Prior to receipt of a Certificate of Occupancy, the applicant shall improve the road and utility easements over TMK's 1-6-141:001, 024, 027 and 028 to provide road improvements meeting the County Department of Public Works Standard Details R-33 and R-34 to include paved travel lanes, shoulders and drainage swales within a 60-foot wide right of way. The improvements within the 60-foot wide right-of-way shall be privately owned and maintained unless a road lot is created and dedicated to the County of Hawai'i.
- J. All development-generated runoff shall be disposed of on site and shall not be directed towards any adjacent properties.
- K. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawai'i County Code.
- L. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.

- M. The applicant shall meet the requirements of Chapter 50, Food Safety Code, of the Department of Health rules related to food manufacturing (including water bottling).
- N. The method of sewage disposal shall meet with the requirements of the Department of Health.
- O. To protect any Hawaiian hoary bats in the vicinity of the property, barbed wire fencing shall not be used in the permit area and woody vegetation over 15 feet in height shall not be disturbed, trimmed or removed during bat birthing and pup rearing season of June 1st to September 15th without first conducting surveys for bat nests and coordinating with US Fish and Wildlife Service (USFWS) if nests are found. Surveys shall be conducted by a qualified biologist.
- P. To protect any Hawaiian hawks in the vicinity of the property, ground clearing, grubbing activities and construction shall not occur in the permit area during hawk breeding season of March to September without first conducting surveys for hawk nests and coordinating with USFWS if nests are found. Surveys shall be conducted by a qualified ornithologist.
- Q. To protect any seabirds (Hawaiian petrels, Newell's shearwaters and band-rumped storm petrel) in the vicinity of the property, any lighting shall be fully shielded so that the bulb can only be seen from below bulb height. The lights shall be turned off when human activity is not occurring in the lighted area.
- R. 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 mitigative measures have been taken.

- S. 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.
- T. 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 of the Hawai'i County Code relating to the Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to the issuance of Final Plan Approval.
- U. The applicant, its successors or assigns shall comply with all other applicable laws, codes, rules, regulations and requirements of affected agencies for the development of the subject property.
- V. 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(s) should require an additional extension of time, the Planning Department shall submit the applicant's request to the County Council for appropriate action.

Should any of the conditions not be met or substantially complied with in a timely manner, 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.

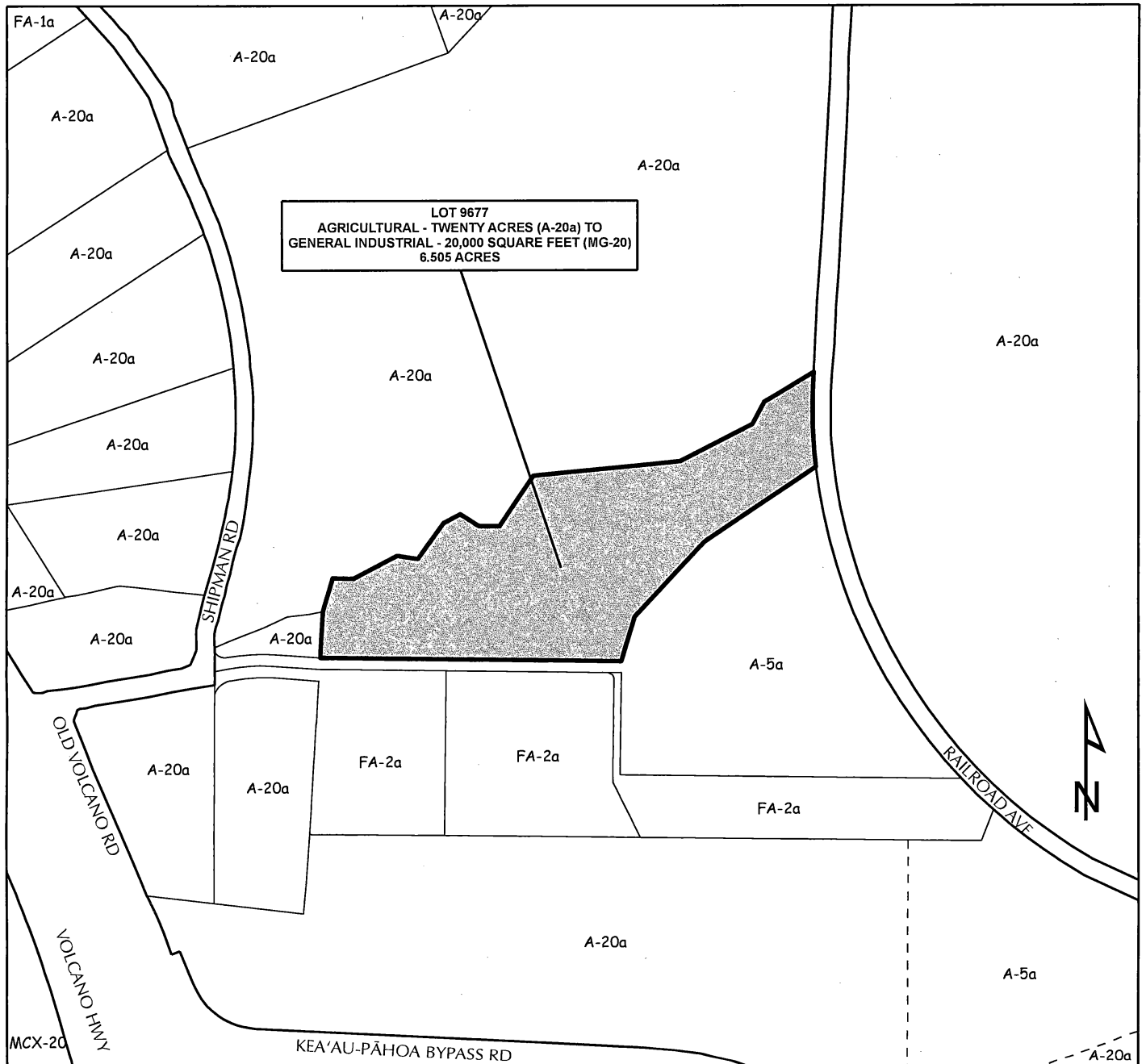
INTRODUCED BY:

 (B/R)  
\_\_\_\_\_  
COUNCIL MEMBER, COUNTY OF HAWAII

\_\_\_\_\_, Kona, Hawai'i  
Date of Introduction: September 7, 2017  
Date of 1st Reading: September 7, 2017  
Date of 2nd Reading: September 20, 2017  
Effective Date: September 29, 2017

REFERENCE Comm. 386





# **AMENDMENT TO THE ZONING CODE**

AMENDING SECTION 25-8-22 (PUNA DISTRICT ZONE MAP) ARTICLE 8,  
 CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED),  
 BY CHANGING THE DISTRICT CLASSIFICATION FROM  
 AGRICULTURAL - TWENTY ACRES (A-20a) TO  
 GENERAL INDUSTRIAL - 20,000 SQUARE FEET (MG-20)  
 AT KEA'AU, PUNA, HAWAII

MAP PREPARED BY:  
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 1-6-141:002

DATE: March 30, 2017

**EXHIBIT "A"**

Hawaii Island Distilling  
 Map: 1389

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

COUNTY CLERK  
 COUNTY OF HAWAII

2017 SEP 29 PM 4:11

Introduced By: Karen Eoff (B/R)  
 Date Introduced: September 7, 2017  
 First Reading: September 7, 2017  
 Published: September 16, 2017

REMARKS: \_\_\_\_\_  
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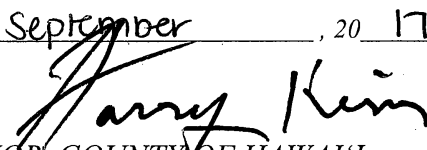
Second Reading: September 20, 2017  
 To Mayor: September 28, 2017  
 Returned: September 29, 2017  
 Effective: September 29, 2017  
 Published: October 14, 2017


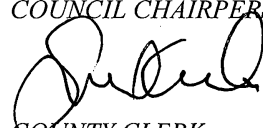
REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung			X	
David	X			
Eoff	X			
Kanuha	X			
Lee Loy	X			
O'Hara	X			
Poindexter	X			
Richards	X			
Ruggles	X			
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ROLL CALL VOTE				
	AYES	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.

~~Approved~~ Disapproved this 29<sup>th</sup> day  
 of September, 20 17  
  
 MAYOR, COUNTY OF HAWAII

  
 COUNCIL CHAIRPERSON  
  
 COUNTY CLERK

Bill No.: 60  
 Reference: C-386/PC-25  
 Ord No.: 17 65