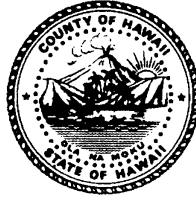


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 18 115 BILL NO. 200
(DRAFT 2)

AN ORDINANCE AMENDING ORDINANCE NO. 04 110 WHICH RECLASSIFIED LANDS FROM OPEN (O) TO INDUSTRIAL-COMMERCIAL MIXED (MCX-20) AND GENERAL INDUSTRIAL (MG-1a) AT HONOKŌHAU 1ST AND 2ND, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-4-008:013 & 030.

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

SECTION 1. Section 2 of Ordinance No. 04 110 is amended as follows:

“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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant shall comply with all conditions of approval of the State Land Use Commission's Decision and Order (Docket No. A00-730) dated September 26, 2003.

C. ~~[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.]~~ The applicant, successors or assigns shall maintain valid water commitments to support the proposed development until such time that the required water facilities charges are paid in full. Moreover, the applicant, successors or assigns shall construct the necessary water system improvements as required by the agreements between Lanihau Properties, other parties and the Water Board.

D. The subject area shall be zoned in multiple increments:

1. The first increment shall consist of Parcel 2 (MG zoned area) and Parcel 3 (9.9-acre MCX zoned area) whose zoning ~~[shall be]~~ was effective upon adoption of ~~[this ordinance]~~ Ordinance No. 04 110 on October 12, 2004.
2. Zoning increments within Parcel 1 (186.7-acre MCX zoned area) shall be identified by the applicant as part of future subdivision applications. The effective date of these future zoning increments shall be upon completion of construction or acceptance of financial assurance thereof, by bond or other means, meeting with the approval of the Planning Director, whichever occurs first, for the portion of road improvements as shown on the approved circulation plan within each increment. The incremental zoning boundaries shall be identified on the subdivision maps and shall be along the portions of the roads proposed to be improved and shall not include large lots, as described in Section 23-28, Chapter 23, Hawai‘i County Code, or any remainder lot that is designated by the applicant on its subdivision plans.

- E. Prior to construction on the proposed lots, 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/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also 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)] the Landscaping Master Plan approved by the Planning Department on December 1, 2009 and/or any approved amendments thereto.
- F. ~~[An overall landscaping master plan, including a minimum 50-foot wide landscaping buffer along the property's frontage on Queen Ka'ahumanu Highway shall be submitted to and approved by the Planning Department prior to the issuance of Final Plan approval for any development within Lots 1 and 3. The Landscaping Master Plan shall reflect the proposed landscaping concept depicted in Figure 4-4g of the petitioner's Final Environmental Impact Statement dated April 2003 and shall include, but not necessarily limited to, plant species list, identification of view corridors from within and outside of the project area and maintenance program.]~~ The applicant, successors or assigns shall implement landscaping improvements as required by the Landscaping Master Plan approved by the Planning Department on December 1, 2009 and/or any approved amendments thereto. The required landscaping improvements shall be installed in conjunction with the development of immediate surrounding areas.
- G. An updated Traffic Impact Analysis Report (TIAR) certified by a licensed engineer shall be submitted for review and approval to the Planning Director ~~[and]~~ in consultation with the Department of Public Works and the State Department of Transportation, if warranted by a significant change in circumstances or if required by the Department of Public Works during the design and review of construction plans for future road segments. ~~[prior to receipt of Final Subdivision Approval. The TIAR shall be updated to include the~~

~~increase in the MCX-zoned area and the inclusion of interior intersections along the South Access Road and Honokōhau Street. The revised TIAR shall also evaluate impacts to the Kamanu Street and Kealakehe Parkway intersection.~~] The improvements identified in the updated TIAR shall be provided in an appropriate design year or phased in with the needed right-of-way provided. Mitigation measures called for in the revised TIAR that are reasonably related to ~~[the]~~ project impacts shall be implemented ~~[meeting]~~ in a manner that meets with the approval of the Planning Director in consultation with the Department of Public Works and the State Department of Transportation.”

- H. ~~[All access and intersection improvements along Queen Ka‘ahumanu Highway shall be constructed meeting with all the requirements and approval of the State Department of Transportation.]~~ Access to Parcel 1 from Queen Ka‘ahumanu Highway shall be limited to the North Access Road and ~~[, after construction of the National Park Service/Lanihau (South Access Road)]~~ the South Access Road signalized intersection ~~[, to the National Park Service/Lanihau (South Access Road) intersection and to the North Access Road]~~ under such terms and conditions required by the Department of Transportation.
- I. ~~[Prior to the granting of Tentative Subdivision Approval for any lot within the subject area, the applicant shall prepare an]~~ The applicant, successors or assigns shall implement the approved overall Roadway Circulation Plan submitted as Figure 2 with the November 2017 TIAR showing the major road corridors within the project area. [for review and approval by the Planning Department, in consultation with the Department of Public Works and] Driveways within the North and South Access Roads between Queen Ka‘ahumanu Highway and Kanalani Street shall meet with the approval of the Department of Public Works in consultation with the State Department of Transportation.
- J. Prior to the issuance of a Certificate of Occupancy of any structure within the project area, except as provided in Conditions K, L and M below, Kamanu Street Extension shall be constructed and available for use across the entire project area. The applicant shall

construct Kamanu Street extending from the north property boundary to the south property boundary meeting with the approval of the Department of Public Works. At its sole discretion, the applicant may construct Kamanu Street Extension in stages, the first of which shall consist of preliminary vehicular access (hereinafter defined as road improvements constructed to non-dedicable standards) meeting with the safety and design requirements of the Department of Public Works, suitable for through-vehicular travel. Construction of the first stage shall be completed prior to the ~~[issuance of the]~~ County's issuance of a Certificate of Occupancy for any portion of the subject property, except as provided herein. The second stage shall consist of upgrading the preliminary vehicular access to dedicable standards including curbs, gutters and sidewalks, meeting with the approval of the Department of Public Works, which shall be constructed in conjunction with Final Subdivision Approval for any lands along the roadway improvements constructed in the first stage, excluding large lots or remainder lots. In the event that Kamanu Street is constructed with County or other government funding or financing, the applicant shall dedicate the Kamanu Street right-of-way to the County at no cost, and the Kamanu Street improvements shall be improved to County dedicable standards, including curb, gutter and sidewalks, prior to the issuance of a Certificate of Occupancy within the subject property, except as provided in Conditions K, L and M herein. In this event, prior to the granting of Final Subdivision approval for lots fronting Kamanu Street, other than bulk or remainder lots, the applicant shall reimburse or otherwise contribute to the appropriate agency for the cost of construction. Provided that reimbursement shall occur within five years of completion of construction, or if reimbursement is by way of the applicant taking over bond payments, such repayment shall begin within four years of completion of construction. Reimbursement of the cost of construction of Kamanu Street shall not include any costs in excess of those necessary for a County-dedicable road serving the project area only.

- K. ~~[Prior to the issuance of a Certificate of Occupancy for improvements within an approximately 10-acre portion of Parcel 1 along Kanalani Street Extension between the~~

~~north property boundary and North Access Road, Kanalani Street Extension from the north property boundary to the North Access Road and the construction of improvements within the North Access Road/Queen Kaahumanu Highway intersection and North Access Road, as provided in the TIAR, shall be completed to County dedicable standards.]~~ Prior to the issuance of a Certificate of Occupancy for development within an approximately 48.4-acre portion of parcel 1 (Initial Project Area, as indicated in Exhibit 3a of the November 22, 2017 amendment application), the applicant, successors or assigns shall construct the following roadway improvements to County dedicable standards: the Kanalani Street Extension from the north property boundary to the South Access Road; and the North and South Access Roads between Queen Ka'ahumanu Highway and the Kanalani Street Extension.

- L. Prior to the issuance of a Certificate of Occupancy for improvements within Parcel 2 other than for uses or improvements permitted or allowed as part of the on-going quarry and related activities, Kamanu Street Extension shall be constructed and available for use across the entire project area as provided in Condition J above.
- M. Prior to the issuance of a Certificate of Occupancy within Parcel 3, the applicant shall improve the north side of Honokōhau Street, meeting with the approval of the Department of Public Works.
- N. Street lights, traffic signals and applicable traffic control devices shall be installed as required by the Department of Public Works as warranted pursuant to the Manual on Uniform Traffic Control Devices.
- O. In order to address and mitigate potential impacts from non-point source pollutants, the applicant shall participate with the County of Hawai'i in a pilot storm drainage program for roadways within the Kaloko-Honokōhau region. This pilot program may potentially include other developments within the County and apply to all other government and

private developments. The applicant shall participate by constructing all roadways within the proposed industrial-commercial park to County dedicable standards with paved swales. The drainage system within the road rights-of-way shall, if required by the County of Hawai'i, include storm drain filtration devices which meet with the approval of the Department of Public Works, in consultation with the National Park Service, and the applicable permitting requirements of the Underground Injection Control (UIC) of the Federal Safe Drinking Water Act and the National Pollutant Discharge Elimination System of the Federal Clean Water Act. The roadway and related improvements covered herein shall be considered eligible for dedication to the County of Hawai'i.

P. An Emergency Response Plan shall be submitted to the Civil Defense Agency for review and approval prior to the issuance of a Certificate of Occupancy.

Q. ~~[An Archaeological Preservation and Burial Treatment Plan shall be submitted for the review and approval of the Planning Director, in consultation with the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD). Proposed mitigation treatment for the burial sites within the subject property shall be approved by the SHPD's Hawai'i Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Archaeological Preservation and Burial Treatment Plan shall be submitted to the Planning Director for its files prior to submitting plans for Final Plan Approval, Final Subdivision review or prior to the issuance of any land alteration permit, whichever comes first.]~~ The applicant, successors or assigns shall fully comply with the provisions stipulated in the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) approved Archaeological Preservation Plan and Burial Treatment Plan.

R. ~~[Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-~~

~~Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it is found that sufficient mitigation measures have been taken.]~~ In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651.

- S. 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, Hawai'i County Code, relating to Affordable Housing Policy.
- T. 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.
- U. Comply with all other applicable laws, rules, regulations and requirements of other affected agencies.
- V. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the enactment of ~~the~~ this amended ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Director, acknowledges that further reports are not required.

W. 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).

X. 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 2. Material to be repealed is bracketed and stricken. New material is underscored.

SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

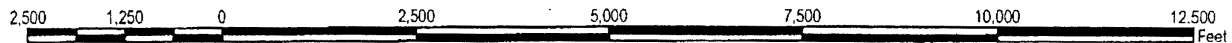
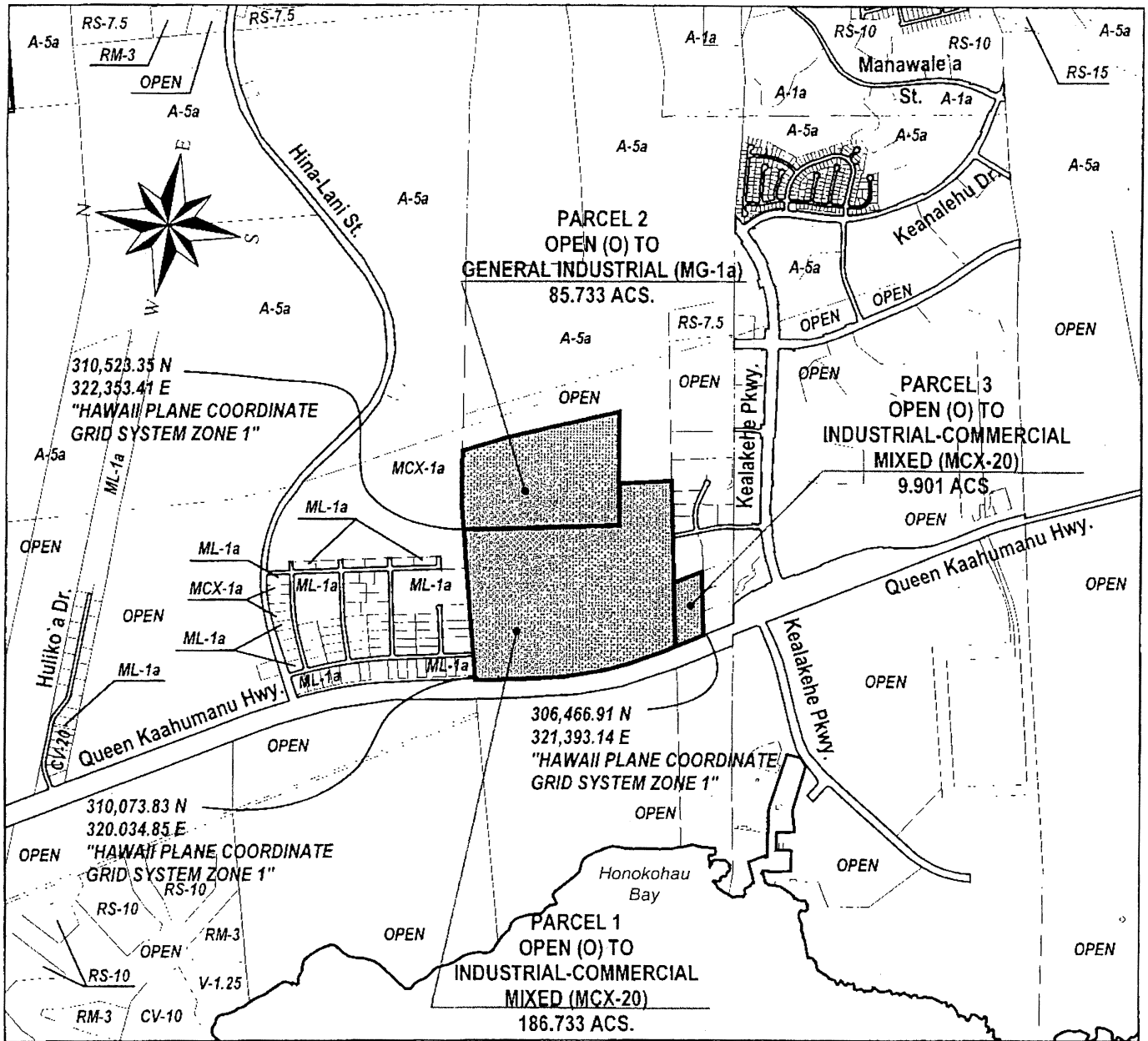
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Karen E. Holt B/R
COUNCIL MEMBER, COUNTY OF HAWAI'I

 Kona, Hawai'i
Date of Introduction: November 2, 2018
Date of 1st Reading: November 2, 2018
Date of 2nd Reading: November 20, 2018
Effective Date: December 5, 2018

REFERENCE Comm. 1098.2



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE,
 BY CHANGING THE DISTRICT CLASSIFICATION
 FROM OPEN (O)
 TO INDUSTRIAL-COMMERCIAL MIXED (MCX-20)
 AND GENERAL INDUSTRIAL (MG-1a)
 AT HONOKOHAU 1st, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

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

COUNTY CLERK
COUNTY OF HAWAII

2018 DEC -6 AM 9:00

(Draft 2)

Introduced By: Karen Eoff (B/R)
Date Introduced: November 2, 2018
First Reading: November 2, 2018
Published: November 10, 2018

REMARKS: _____

Second Reading: November 20, 2018
To Mayor: November 29, 2018
Returned: December 6, 2018
Effective: December 5, 2018
Published: December 15, 2018

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	
	6	0	3	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kanuha				
Lee Loy	X			
O'Hara	X			
Poindexter	X			
Richards				X
Ruggles			X	
	6	0	1	1

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 5th day
of December, 20 18
of Harry Kim

MAYOR, COUNTY OF HAWAII

Bill No.: 200 (Draft 2)

Reference: C-1098.2/PC-75

Ord No.: **18 115**