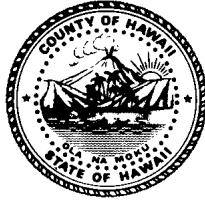


Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



County of Hawai'i
PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

May 2, 2022

Mr. William L. Moore
William L. Moore Planning, Inc.
159 Halai Street
Hilo, HI 96720
VIA EMAIL

Dear Mr. Moore:

SUBJECT: Amendment to Change of Zone Ordinance No. 18 115 (REZ 1049)
Applicant: West Hawai'i Business Park, LLC
Request: Amendment to Condition J (Delete Language Related to Alternative Financing and Phasing of the Construction of Kamanu Street Extension and Adding Reference to Conditions N and O as Exceptions to the Requirement), Add New Condition N (Roadway/Driveway Requirements Related to Development of Parcel 77), and Add New Condition O (Ownership Transfer and Development of Parcel 90)
Tax Map Key: (3) 7-4-008:013, 030, 074, 076-078, 084, 085 & 090-100

For your information, attached please find Ordinance No. 22 34, effective April 21, 2022, amending Ordinance No. 18 115 that reclassified the subject lands at Honokōhau 1st and 2nd, North Kona, Hawai'i.

Sincerely,

DocuSigned by:
Maija Jackson for
D86CAF078B58431...5/2/2022

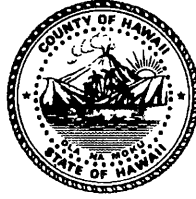
ZENDO KERN
Planning Director

C:\Users\insauer\Documents\PC\2021 COR\2021-12-16\Ordinances\LWHBPAmendREZ1049Ord22-34

Attachment: Ordinance No. 22 34

cc w/att. via email: Mr. Riley Smith

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 22 34 BILL NO. 107
(DRAFT 2)

AN ORDINANCE AMENDING ORDINANCE NO. 18 115 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, 074, 076-078, 084, 085 & 090-100 (FORMERLY TMK: 7-4-008:013 & 030).

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

SECTION 1. Section 2 of Ordinance No. 18 115 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 (Applicant) shall be responsible for complying with all of the stated conditions of approval.

- B. The ~~[applicant]~~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. The ~~[applicant, successors or assigns]~~Applicant 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]~~Applicant 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 was effective upon adoption of 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]~~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]~~Applicant on its subdivision plans.

- E. Prior to construction on the proposed lots, the [~~applicant, successors or assigns~~] Applicant 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 the Landscaping Master Plan approved by the Planning Department on December 1, 2009, and/or any approved amendments thereto.
- F. The [~~applicant, successors or assigns~~] Applicant 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 by the Planning Director in consultation with the Department of Public Works and the State Department of Transportation, if warranted by a significant change in circumstances or as may be required by the Department of Public Works during the design and review of construction plans for future road segments. 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 project impacts shall be implemented 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. Access to Parcel 1 from Queen Ka'ahumanu Highway shall be limited to the North Access Road and the South Access Road signalized intersection under such terms and conditions required by the Department of Transportation.
- I. The ~~[applicant, successors or assigns]~~ Applicant 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. 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, N, and O, below, Kamanu Street Extension shall be constructed and available for use across the entire project area. The ~~[applicant]~~ Applicant shall construct Kamanu Street extending from the north ~~[property]~~ project boundary to the south ~~[property]~~ project boundary except as provided in Condition N, below, 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 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 development within an approximately 48.4-acre portion of [~~parcel~~]Parcel 1 (Initial Project Area, as indicated in Exhibit 3a of the November 22, 2017 amendment application), the [~~applicant, successors or assigns~~]Applicant shall construct the following roadway improvements to County dedicable standards: the Kanalani Street Extension from the north [~~property~~] project 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]~~ Applicant shall improve the north side of Honokōhau Street, meeting with the approval of the Department of Public Works.
- N. Provided that there is no further subdivision of Tax Map Key (TMK): 7-4-008:077 (Parcel 77), prior to the issuance of a Certificate of Occupancy for any structure within Parcel 77, the Applicant shall construct the following roadway/access improvements: the Kamanu Street Extension from the existing pavement within TMK: 7-4-024:013 to the southern boundary of TMK: 7-4-008:078 to dedicable standards; and internal access improvements with a minimum 20-foot pavement width, meeting with approval of the Department of Public Works, connecting the terminus of Kanalani Street at the northern boundary of Tax Map Key: 7-4-008:078 to the Kamanu Street right-of-way, which shall be open to the public during normal business hours. Should Parcel 77 be further subdivided, prior to Final Subdivision Approval, Kamanu Street Extension shall be constructed and available for use across the entire project area as required by Condition J.
- O. Upon transfer of ownership to the County of Hawai‘i by the Applicant, development and issuance of a Certificate of Occupancy within TMK: 7-4-008:090 shall not require any improvements to Kamanu Street pursuant to Condition J, above.
- ~~[N.]~~ P. 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.]~~ Q. In order to address and mitigate potential impacts from non-point source pollutants, the ~~[applicant]~~ 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]~~ 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.]~~ R. 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.]~~ S. The ~~[applicant, successors or assigns]~~ Applicant 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. Prior to crossing the Honokōhau Trail, for which the State of Hawai'i has made a claim of ownership, the Applicant shall enter into an agreement with the State as to such crossing, or secure a perpetual, non-exclusive access easement from the DLNR-Land Division with approval from the State Board of Land and Natural Resources.

~~[R.]~~ T. 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, the Applicant shall 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.] U. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the Applicant [~~applicant, successors or assigns~~]Applicant shall comply with the requirements of Chapter 11, Article 1, Hawai'i County Code, relating to Affordable Housing Policy.

[F.] V. 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.] W. Comply with all other applicable laws, rules, regulations and requirements of other affected agencies.

[V.] X. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the enactment of 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.] Y. 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~~]Applicant, 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.]~~ Z. 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. Material to be deleted is bracketed and stricken. New material is underscored.

SECTION 4. 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 5. This ordinance shall take effect upon its approval.

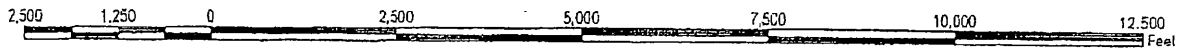
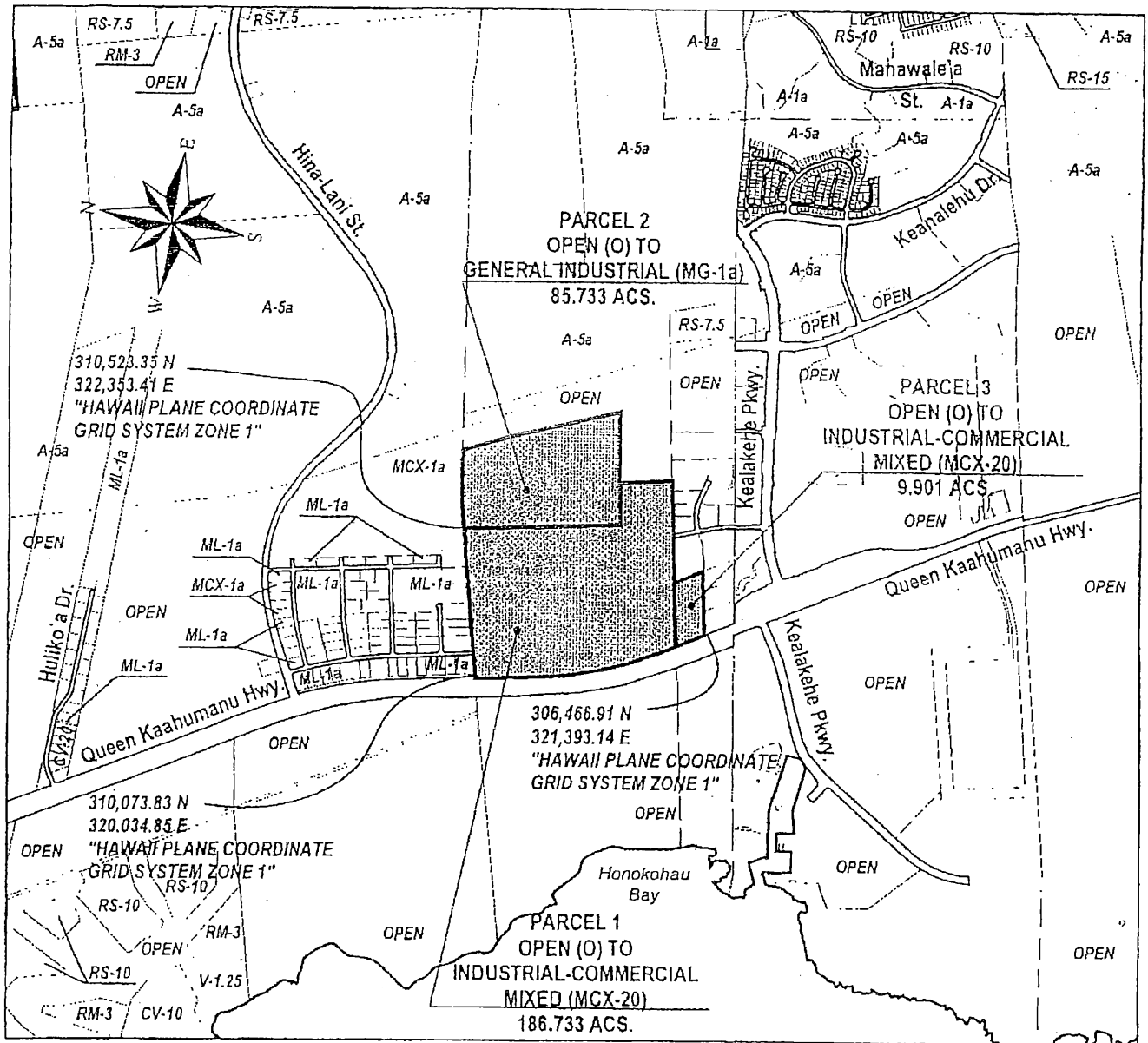
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i
Date of Introduction: March 23, 2022
Date of 1st Reading: March 23, 2022
Date of 2nd Reading: April 6, 2022
Effective Date: April 21, 2022

REFERENCE Comm. 575.2



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

TMK: 7-4-8:Por. 13 & 30

Date: June 7, 2004

EXHIBIT "A"

FOR REFERENCE ONLY

(West Hawaii Business Park, LLC:1127)

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

COUNTY CLERK
 COUNTY OF HAWAII
 2022 APR 26 AM 11:54

Introduced By: Ashley L. Kierkiewicz (B/R)
 Date Introduced: March 23, 2022
 First Reading: March 23, 2022
 Published: April 1, 2022

REMARKS: _____

Second Reading: April 6, 2022
 To Mayor: April 14, 2022
 Returned: April 26, 2022
 Effective: April 21, 2022
 Published: May 6, 2022

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Richards	X			
Villegas	X			
	9	0	0	0

(Draft 2)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Richards	X			
Villegas	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 21st day
 of April, 2022.



MAYOR, COUNTY OF HAWAII

Bill No.: 107 (Draft 2)
 Reference: C-575.2/PC-47
 Ord No.: 22 34