

COUNTY OF HAWAI'I PLANNING DEPARTMENT
RECOMMENDATION

NIMR Y. TAMIMI

CHANGE OF ZONE APPLICATION NO. PL-REZ-2024-000067

Upon careful review of the request against the guidelines for granting a change of zone, the Planning Director is recommending that **a favorable recommendation of the Change of Zone request be forwarded to the County Council.** Since this recommendation is made without the benefit of public testimony, the Planning Director reserves the right to modify and/or alter this position based upon additional information presented at the public hearing. This favorable recommendation is based on the following findings:

The applicant is requesting a Change of Zone from a Single-Family Residential-10,000 square feet (RS-10) zoning district to an Industrial-Commercial Mixed-20,000 square feet (MCX-20) zoning district for a 22,900-square-foot parcel of land. The MCX zoning district, with a minimum area required for each building site of 20,000 square feet, would allow a maximum density of 1 building site.

The applicant, who owns an engineering consulting firm on the adjacent property to the east, proposes to expand their office space by converting an existing, 2,716 square foot dwelling on the subject property into an office building to house up to 10 employees (half of which will be relocated from the existing business next door). The applicant will need to secure a change of use building permit from the Department of Public Works to comply with requirements for a change in occupancy and Final Plan Approval from the Planning Department to comply with on-site parking and landscaping requirements. The preceding will be added as conditions of approval.

The applicant anticipates to immediately apply for a change of use building permit with the Department of Public Works as soon as the Change of Zone is approved. This process will determine what improvements to the building/property may be necessary to meet the requirements of the proposed new building occupancy, which will in turn determine the additional cost and timeframe necessary to complete the conversion of the structure from a dwelling to an office building. Based on the preceding, the Director is recommending a condition allowing a 10-year timeframe to complete

conversion of the dwelling to an office use to allow for any unforeseen development complications.

In order to consider an area for any type of zoning designation, the applicable goals, policies, and standards of the General Plan must be adequately addressed. It is only through such a comprehensive policy analysis approach that evaluations and decisions can be made to better time and stage developments to achieve growth determined by the General Plan and related planning documents. The implications of these evaluations and decisions must also be considered as they may have an impact on similar areas in the County.

The change of zone request from a Single-Family Residential-10,000 square feet (RS-10) zoning district to an Industrial-Commercial Mixed-20,000 square feet (MCX-20) zoning district conforms to applicable goals, policies, and standards of the General Plan. The subject, 22,900-square foot property is rectangularly shaped, level, and located at the 75-foot elevation level. The property is improved with an existing, 2-story, 2,716 square foot residence built in 1935 and a 324 square foot, detached garage built in 1948.

Surrounding lands are zoned Single-Family Residential 10,000-square feet (RS-10), Industrial-Commercial Mixed-20,000 square feet (MCX-20), Limited Industrial-20,000 square feet (ML-20), and Neighborhood Commercial 10,000-square feet (CN-10), Existing surrounding land uses include residential, commercial, retail, office, and light industrial uses. The adjacent property to the east was rezoned to MCX-20 in 2006 and is the site of the applicant's engineering consulting firm, which is planned to expand should this change of zone request be approved. The adjacent property to the east was rezoned to MCX-20 in 2006 with Ordinance No. 06-146 and is the site of the applicant's engineering consulting firm, which is planned to expand should this change of zone request be approved. Several other properties in the surrounding area have similarly been rezoned to MCX-20 in the last 20 years, including a concentration of four MCX-20 zoned properties to the south, across East Lanikaula Street.

According to the Zoning Code, the purpose of the MCX (industrial-commercial mixed use) district is to allow mixing of some industrial uses with commercial uses. The intent of this district is to provide for areas of diversified businesses and employment opportunities by permitting a broad range of uses, without exposing nonindustrial uses to

unsafe and unhealthy environments. This district is intended to promote and maintain a viable mix of light industrial and commercial uses. The proposed development is consistent with promoting a mix of commercial and light industrial uses; thus, the request is consistent with the surrounding land use pattern and the intent of zoning designation.

The General Plan is intended to be used as a policy guide for the coordinated growth and development of all sectors of the County. It sets forth goals, policies, standards, and courses of action to accommodate growth without congestion, to designate and preserve the lands needed for residential use, commercial and visitor services, industry, agriculture, and open space, and to coordinate these uses with the County's service and circulation systems. The overall goals, policies and standards are set forth to physically plan the lands in the County in the best interest of the island's residents. Land Use is one of the principal focal points of public concern and policy. The Land Use Element provides the primary basis for direct control and guidance of publicly and privately owned resources. The request conforms to the following goals and policies of the General Plan Land Use Element:

- *Allocate appropriate requested zoning in accordance with the existing or projected needs of neighborhood, community, region and County.*
- *Zoning requests shall be reviewed with respect to General Plan designation, district goals, regional plans, State Land Use District, compatibility with adjacent zoned uses, availability of public services and utilities, access, and public need.*
- *Designate and allocate industrial areas in appropriate proportions and in keeping with the social, cultural, and physical environments of the County.*
- *Achieve a broader diversification of local industries by providing opportunities for new industries and strengthening existing industries.*
- *Locate industrial areas convenient to transportation facilities, and provide a variety of industrial zoned districts and lot sizes, depending on the needs of the industries and the communities.*
- *Improve the aesthetic quality of industrial sites and protect amenities of adjacent areas by requiring landscaping, open spaces, buffer zones, and design guidelines.*
- *Industrial development shall be located in areas adequately served by transportation, utilities, and other essential infrastructure.*

- *Industrial-commercial mixed use districts shall be provided in appropriate locations.*
- *Require developers to provide basic infrastructure necessary for development.*

The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County.

The subject property is designated Industrial by the LUPAG Map which includes uses such as manufacturing and processing, wholesaling, large storage and transportation facilities, light industrial and industrial-commercial uses. The proposed use is compatible with evolving commercial and light industrial uses in this area.

The Hilo Community Development Plan (CDP) identifies the area as Multiple-Family Residential (RM-) zoning designation; however, this area is transitioning to higher-density commercial/light industrial type uses. The proposed change of zone would allow for the establishment of a relevant commercial use that would be in alignment with the commercial and industrial developments in the surrounding area. Based on the preceding and with recognition of the fact that the Hilo CDP has not been updated since 1975, the proposed MCX-20 zoning would be consistent with the General Plan.

All essential utilities and services are available to the site. As the subject property is located at the corner of Laukapu Street and East Lanikaula Street, the applicant is proposing to retain driveway access from Laukapu Street but is interested in possibly adding an access driveway from East Lanikaula Street in the future. Laukapu Street is a County-owned and maintained road with approximately 20-foot-wide pavement and 10-foot-wide grassed shoulders within a 40-foot-wide right-of-way and has no sidewalk fronting the subject parcel. East Lanikaula Street is also a County-owned and maintained road with approximately 32-foot-wide pavement and an 18-foot-wide grassed shoulder and no sidewalk fronting the subject property, within a 55-foot-wide right-of-way.

According to the Department of Public Works (DPW), Engineering Division, all driveway connections and construction shall conform to Hawai'i County Code, Chapter 22, County Streets, and that the applicant shall include the provision of adequate sight

distances, meeting with the approval of DPW. Additionally, DPW notes that since East Lanikaula Street is an existing collector road, only one driveway access is recommended, with limited right-in and right-out access. Based on subsequent staff conversation with DPW, a full turn movement access from Laukapu Street would also be allowed. The preceding will be added as conditions of approval.

DPW recommends that the applicant provide improvements to the subject property's Laukapu and East Lanikaula Street frontages consisting of, but not limited to, pavement widening with concrete sidewalk, drainage improvements and any required utility relocation, meeting with the requirements of the Americans with Disabilities Act. The improvements shall be located within a 5-foot-wide road widening setback and Laukapu Street and East Lanikaula Street and dedication of the widening and improvements should be at no cost to the County. Finally, DPW recommends that the applicant provide a 20-foot corner radius incorporating the preceding road widening setbacks. While these improvements are usually constructed prior to initiation of a commercial or industrial use on an MCX zoned lot, the applicant requested an extended timeframe to amortize the cost of the improvements over a longer period. In response, the director supports a 5-year timeframe within which the applicant will be required to construct the required roadway improvements and dedicate them to the County. Conditions of approval will be included to address the preceding.

According to the Department of Water Supply (DWS), the subject parcel is currently served by an existing 5/8-inch meter, which is limited to an average daily usage of 400 gallons per day. DWS requests that the applicant submit estimated maximum daily water usage calculations for the proposed use including the total estimated daily water usage in gallons per day and the estimated peak flow in gallons per minute, including irrigation use. Upon receipt of the water usage calculations, if the existing 5/8-inch meter is cannot accommodate the additional estimated demand, a larger or additional meter will need to be installed and remittance of the prevailing facilities charge will be required. Additionally, DWS notes that the proposed zoning requires the installation of a reduced pressure type backflow prevention assembly, within 5 feet of the meter on private property, meeting with the approval of DWS before water service can be granted. Finally, DWS notes that 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. Conditions of approval will require the applicant to meet potable and fire suppression water requirements of DWS and the Fire Department.

A condition of approval will require any development on the property to connect to the County sewer in accordance with Section 21-5 of Hawai'i County Code.

Solid waste will be handled by a commercial hauler and disposed of at authorized landfill sites or transfer stations, all essential utilities are available to the property and police, fire and medical facilities are located nearby in Hilo. A condition of approval will be included to require the applicants to meet all applicable County, State and Federal laws, rules, regulations, and requirements.

There are no severe geological or topographical problems for the property that cannot be properly rectified, or which would render the land unusable. The subject property is in an area designated as Zone "X", an area determined to be outside the 500-year flood plain, on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). A condition of approval will be added to require that all development generated runoff will be disposed of on-site and not directed toward any adjacent properties and all earthwork activity, including grading, grubbing, and stockpiling, and the project will conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code. Thus, the proposed change of zone meets this criterion.

The request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management Area. The subject property is located approximately 1.3 miles from the nearest shoreline, is not situated within the Special Management Area and will not be impacted by coastal hazards and beach erosion. There is no designated public access to the mountains or the shoreline that runs through the property. The proposed use will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai'i Revised Statutes.

The request will not have a significant adverse impact to traditional and customary Hawaiian Rights. In view of the Hawai'i State Supreme Court's "PASH"

and “*Ka Pa‘akai O Ka‘Aina*” decisions, the issue relative to Native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

- Investigation of valued resources: No formal archaeological reconnaissance survey, oral history of kama‘āina accounts of the area, historical survey of documentary records, or botanical study was included in the application as the subject property was completely cleared, graded, and developed for residential use since 1935.
- The valued cultural, historical, and natural resources found in the rezoning area: No archeological or historical features are known to exist on the subject property nor is the property listed as a historic site on the State or National Register of Historic Places. According to the applicants, it is not known whether the subject property or immediate surrounding area has been used in the recent past for the gathering of plants by Native Hawaiians.

The site’s vegetation consists of a grass lawn and some ornamental and fruit trees and animal species present are common birds such as dove, Japanese White-eye, house finch and myna, domestic cats and dogs, and feral species such as rats and mongoose. Given the long-standing residential use of the subject property and surrounding urban development of the area, it is unlikely there are endangered species of plants or animals on the subject property.

- Possible adverse effect or impairment of valued resources: Native plants and/or endangered species are unlikely to be impacted by the proposed development due to the already impacted property as mentioned above.
- Feasible actions to protect native Hawaiian rights: As there is no evidence of any valued cultural, historical, archaeological resources, there is no action to be taken. A condition of approval will be added to address inadvertent archaeological finds (e.g., should any remains of historic sites, (e.g., rock walls, terraces, platforms, marine shell concentrations or human burials) be encountered.

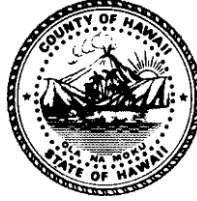
Lastly, this recommendation is made with the understanding that the applicants remain responsible for complying with all other applicable governmental requirements in connection with the proposed use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of

building permits, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the preceding findings, the request to rezone the property from a Single-Family Residential-10,000 square feet (RS-10) zoning district to an Industrial-Commercial Mixed-20,000 square feet (MCX-20) zoning district would result in an appropriate land use pattern that would further benefit the general public.

The accompanying draft bill to amend Section 25-8-33 (City of Hilo District Zone Map), Article 8, Chapter 25 (Zoning) of the Hawai'i County Code, is provided for your favorable consideration. Please note the proposed conditions of approval attached to the draft bill.

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. _____ BILL NO. _____
(Planning Dept.)

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO 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 SINGLE-FAMILY RESIDENTIAL 10,000 SQUARE FEET (RS-10) TO INDUSTRIAL – COMMERCIAL MIXED – 20,000 SQUARE FEET (MCX-20) AT CITY OF HILO, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-2-036:065

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

SECTION 1. Section 25-8-33, 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 City of Hilo, South Hilo, Hawai'i, shall be Industrial-Commercial Mixed – 20,000 Square Feet (MCX-20):

Beginning at the Southwest corner of this parcel of land, and on the northeasterly corner of the intersection of East Lanikaula and Laukapu Streets, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 3,443.00 feet South and 10,121.00 feet East, as shown on Registered Map No. 2566, thence running by azimuths measured clockwise from True South.

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|----|------|-----|-----|--------|------------------------------------|
| 1. | 180° | 00' | 00" | 200.00 | feet along Laukapu Street, thence; |
| 2. | 270° | 00' | 00" | 114.50 | feet along Lot 11-A, thence; |
| 3. | 360° | 00' | 00" | 200.00 | feet along Lot 14-A, thence; |

4. 90° 00' 00" 114.50 feet along East Lanikaula Street to the Point of Beginning and containing an area of 22,900 Square Feet more or less.

SECTION 2. In accordance with Section 25-2-44, Article 8, Chapter 25 (Zoning Code) of the 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.

SEE ATTACHED CONDITIONS

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:

COUNCIL MEMBER, COUNTY OF HAWAI'I

_____, Hawai'i
Date of Introduction:
Date of 1st Reading:
Date of 2nd Reading:
Effective Date:

NIMR Y. TAMIMI

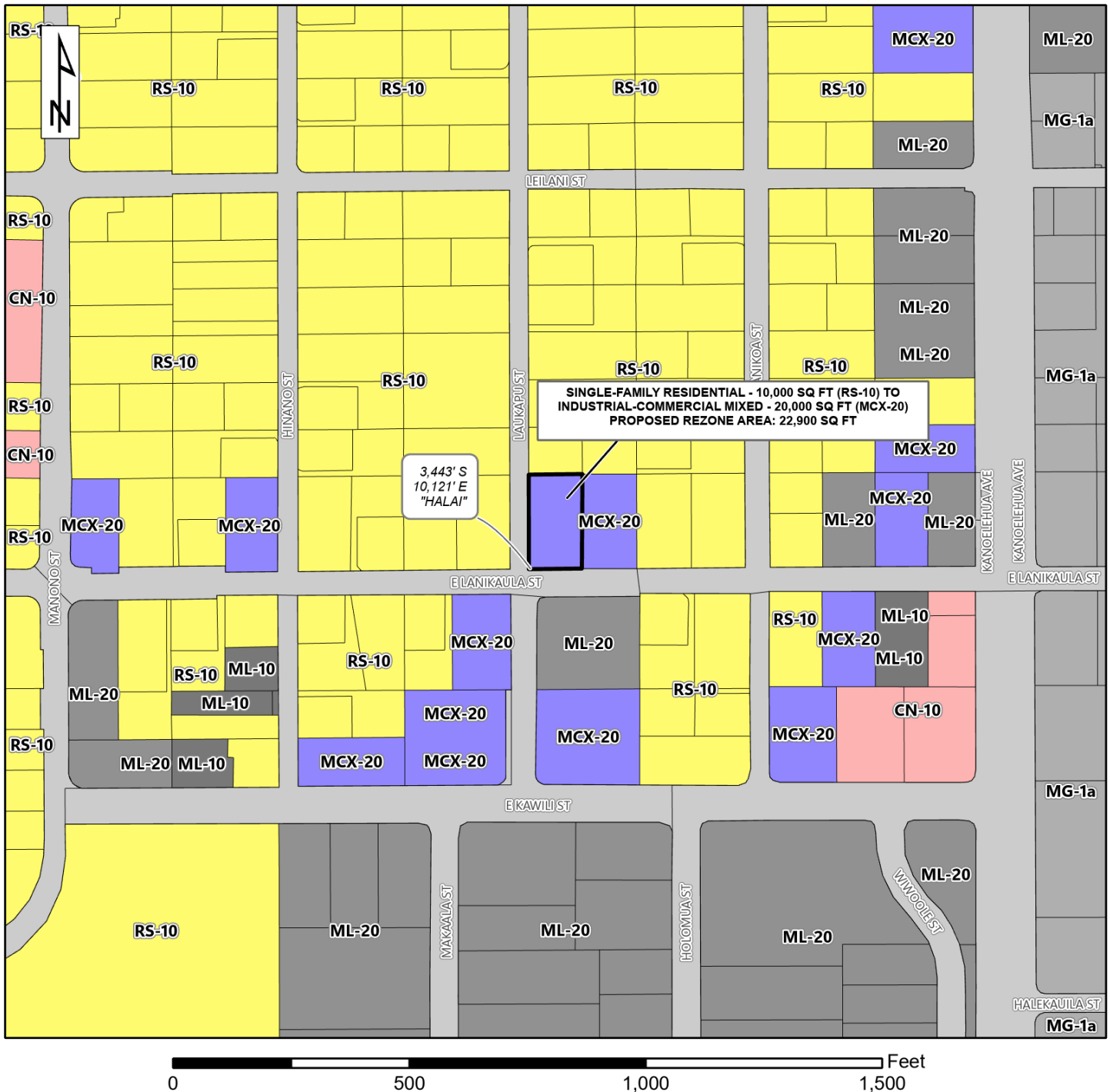
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CONDITIONS OF APPROVAL

- A. The applicant(s), its successor(s), or assign(s) (“Applicant”) shall be responsible for complying with all of the stated conditions of approval.
- B. Construction of the proposed development shall be as substantially represented by the Applicant, or as permitted by the zoning district classification, and shall be completed within ten (10) 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 25-2-70, Chapter 25 (Zoning Code), Hawai‘i County Code. Plans shall identify all existing and/or proposed structure(s), paved driveway access and parking stalls 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. Prior to the issuance of a Certificate of Occupancy, the Applicant shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai‘i to the Department of Water Supply (DWS) to determine if an additional or larger meter is necessary.
- D. The Applicant shall construct necessary water system improvements as required by the Department of Water Supply (DWS), which may include, but not be limited to, the installation of a reduced pressure type backflow prevention assembly, within 5 feet of the meter on private property, meeting with the approval of DWS.
- E. Prior to the issuance of a Certificate of Occupancy, the Applicant shall implement any improvements required by the Fire Department and/or Department of Water Supply to ensure that fire protection requirements can be met for the MCX zoning.

- F. Prior to the issuance of a Certificate of Occupancy, the Applicant shall secure and finalize all building permits as required by the Department of Public Works Building Division
- G. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentary Control, of the Hawai'i County Code.
- H. A five (5)-foot-wide future road widening strip along the subject property's Laukapu Street frontages and East Lanikaula Street frontage shall be subdivided and dedicated, at no cost to the County. The Applicant shall provide improvements to the property's frontage along Laukapu Street and East Lanikaula Street consisting of, but not limited to, pavement widening with concrete sidewalk, drainage improvements and any required utility relocation, meeting the requirements of the Americans with Disabilities Act and the approval of the Department of Public Works. The improvements shall be located within the required future road widening strips. These improvements shall be completed within five (5) years of the effective date of this ordinance.
- I. A minimum 20-foot corner radius (property line) shall be provided at the intersection of East Lanikaula Street and Laukapu Street incorporating the future road widening setbacks referenced in Condition H.
- J. Since East Lanikaula Street is an existing collector road, access shall be limited to one driveway access with limited right-in and right-out access for any future development.
- K. All driveway connections and construction within Laukapu Street and East Lanikaula Street shall conform to Chapter 22, County Streets, of the Hawai'i County Code and include the provision of adequate sight distances that shall meet with the approval of the Department of Public Works Engineering Division.
- L. All development-generated runoff shall be disposed of onsite and shall not be directed toward any adjacent properties. Additionally, a drainage study shall be prepared prior to Plan Approval and the recommended drainage system shall be constructed meeting the approval of the Department of Public Works, Engineering Division, prior to the issuance of a Certificate of Occupancy.

- M. Any use permitted by the zoning district classification on the subject property shall connect to the public sewer in accordance with Section 21-5 of the Hawai‘i County Code prior to issuance of a Certificate of Occupancy.
- N. In the 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 department of Land and Natural Resources- State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- O. The Applicant shall comply with all applicable County, State and Federal codes, laws, rules, regulations, and requirements.
- P. An initial extension of time for the performance of conditions within this ordinance may be requested in accordance with Section 25-2-44, subsections (c) and (d), of the Hawai‘i County Code.
- Q. If the Applicant fails to fulfill any conditions of the zone change within the specified time limitations, the Planning Director or County Council may initiate the process for enactment of an ordinance reverting the affected property back to its original zoning designation or a more appropriate zoning designation in accordance with Section 25-2-43 of the Hawai‘i County Code.



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-33 (CITY OF HILO 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
SINGLE-FAMILY RESIDENTIAL - 10,000 SQ FT (RS-10) TO
INDUSTRIAL-COMMERCIAL MIXED - 20,000 SQ FT (MCX-20)
AT CITY OF HILO, SOUTH HILO, HAWAI'I

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

DATE: October 8, 2024

TMK: (3) 2-2-036:065

EXHIBIT "A"

Tamimi
Map: 1466