

COUNTY OF HAWAII STATE OF HAWAII



Bill No. 689
(Draft 3)

ORDINANCE NO. 89 31

AN ORDINANCE AMENDING SECTION 25-89 (KAILUA URBAN ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM RESORT-HOTEL (V-1.25) TO GENERAL COMMERCIAL (CG-20) AT LANIHAU 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-04:11.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Section 25-89, Article 3, Chapter 25 (Zoning Code) of the Hawaii County code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Lanihau 2nd, North Kona, Hawaii, shall be General Commercial (CG-20):

Beginning at the northwest corner of this parcel of land, on the southerly side of the Old Honokohau-Kailua Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA" being 51.77 feet north and 56.44 feet west and running by azimuths measured clockwise from True South:

1. 226° 25' 30" 297.29 feet along Parcel C on the southerly side of the old Honokohau-Kailua Road and along R. P. 7456, L. C. Aw. 8559-B, Apana 11 to Wm. C. Lunalilo (Certificate of Boundaries No. 25);
2. 331° 11' 30" 144.69 feet along Parcel C and along remainder of Grant 1861, Apana 2 to Kahiamoe;

3.	330° 14'	250.37	feet along Parcel C and along remainder of Grant 1861, Apana 2 to Kahiamoe;
4.	50° 38'	268.38	feet along Lot 5 and Grant 1854 to Ipunui;
5.	132° 15' 10"	220.88	feet along Parcel A and remainder of Grant 1861, Apana 2 to Kahiamoe;
6.	149° 03' 30"	150.89	feet along remainder of Grant 1861, Apana 2 to Kahiamoe to the point of beginning and containing an area of 2.701 Acres, more or less.

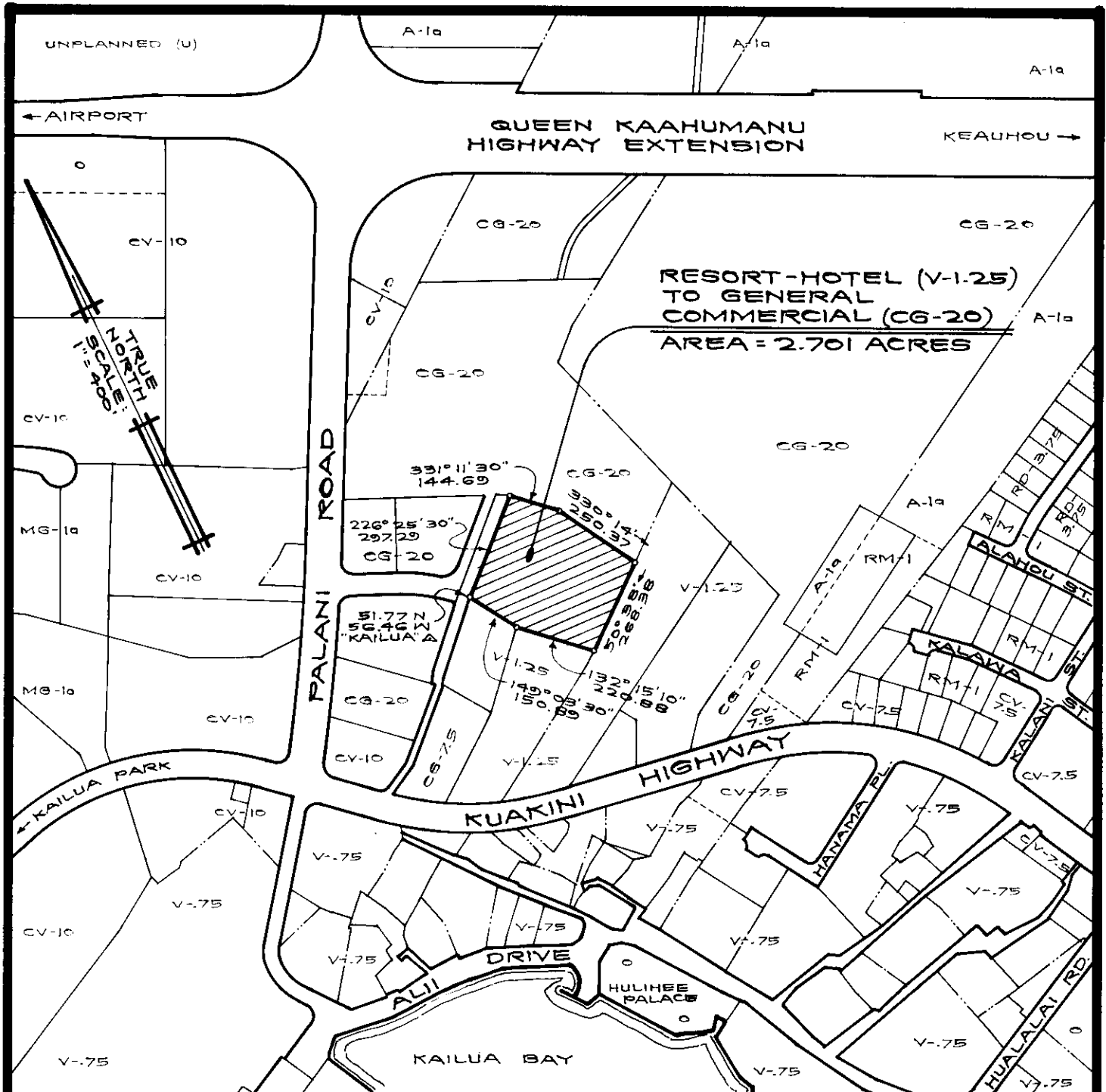
All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. This change in district classification is conditioned upon the following: (A) The applicants, successors or assigns shall comply with all of the stated conditions of approval; (B) Plans for the proposed shopping center and related improvements, including a detailed landscaping plan, shall be submitted for Plan Approval review within one year from the effective date of the change of zone approval; (C) Construction shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter; (D) A drainage system shall be installed in accordance with the requirements of the Department of Public Works; (E) Curbs, gutters, and sidewalks shall be provided along Kopiko Street fronting the subject property meeting with

the approval of the Department of Public Works. Additionally, the left-turn storage lane along Palani Road leading into Kopiko Street shall be improved in a manner meeting with the approval of the Department of Public Works. One year after the issuance of the initial certificate of occupancy for the proposed project, the petitioner, its assigns or heirs shall submit a traffic monitoring study to the Department of Public Works. Said department shall then determine the need for any additional, reasonable off-site road improvements, if appropriate, upon receipt of the study. The petitioner, its assigns or heirs shall provide a \$100,000 surety in the form of cash or cash equivalent such as a performance bond to the County Finance Department who in turn shall deposit it in an interest bearing account prior to the issuance of an occupancy permit for the proposed development. Should the Department of Public Works determine that additional off-site roadway improvements are needed within three months of receipt of the aforementioned traffic monitoring study, then the petitioner, its assigns or heirs shall use the surety and make such improvements within the limits of said surety within twelve months of said determination. Any balance, inclusive of the interest, shall be returned to the petitioner, its assigns or heirs. Should the desired level of additional off-site roadway improvements exceed the surety amount plus interest, then said surety plus interest, shall be surrendered in its entirety to

the County for use with other possible forthcoming private funds and/or improvements from developments in the area for traffic-related improvements. Should the Department of Public Works determine that no additional off-site roadway improvements are needed within three months of receipt of the aforementioned traffic monitoring study, then, said surety, plus interest, shall be returned to the petitioner, its assigns or heirs; (F) Submit a report documenting an archaeological survey of the site for review and acceptance by the Planning Department in consultation with the State Department of Land and Natural Resources. If any significant historic sites are present, submit an archaeological mitigation plan for review and acceptance of the Planning Department in consultation with the State Department of Land and Natural Resources; (G) Should any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, paving or walls be encountered, work in the area affected shall cease and the Planning Department immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigating measures have been taken; (H) All applicable County and State rules, regulations and requirements shall be complied with; (I) Should the council adopt a Unified Impact Fees ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions

included herein may, at the developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance; and, (J) An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: a) 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; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone; d) 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); and e) if the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the area to its original or more appropriate designation.



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-69 (KAILUA URBAN ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM RESORT-HOTEL (V-1.25) TO GENERAL COMMERCIAL (CG-20) AT LANIHAI 2ND, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 7-5-04 : 11

OCT. 11, 1988

EXHIBIT "A"