

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 297

ORDINANCE NO. 90 109

AN ORDINANCE AMENDING SECTION 25-89 (KAILUA URBAN ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO MODIFICATIONS OF CONDITION C OF ORDINANCE NO. 87 95, WHICH RECLASSIFIED 0.706 ACRE OF LAND FROM AGRICULTURAL (A-1a) to GENERAL COMMERCIAL (CG-20) AT LANIHAU 1ST, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-04:29 (PORTION).

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

SECTION 1. Ordinance No. 87 95 is amended as follows:

"SECTION 2. This change in district classification is conditioned upon the following: (A) the applicants shall submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the date of approval of the change of zone. The zoning of the property shall not be in effect until the water commitment payment is accepted by the Department of Water Supply; (B) the applicants, successors or assigns shall be responsible for complying with all of the stated conditions of approval; (C) [plans for the development of the property shall be submitted for plan approval review within one year from the effective date of the change of zone] final Plan Approval shall be secured from the Planning Department within one year from the effective date of this amendment. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the


date by which plan approval must be secured; (D) construction of any improvements shall commence within one year from the date [or] of receipt of final plan approval and be completed within two years thereafter; (E) no direct access to the property shall be allowed for the Queen Kaahumanu Highway extension. Access shall be from an interior roadway system which accesses onto Palani Road[,] and shall meet[s] with the approval of the Department of Public Works; (F) a drainage system in accordance with the requirement of the Department of Public Works shall be installed; [and,] (G) 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; (H) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the zone change. The report shall address the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required; and, (I) all other applicable rules, regulations and requirements shall be complied with. An 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, and 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] shall initiate rezoning of the area to its original or more appropriate designation."

SECTION 2. Material to be deleted is bracketed. New material is underscored.

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.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: August 15, 1990
Date of 1st Reading: August 15, 1990
Date of 2nd Reading: September 5, 1990
Effective Date: September 14, 1990