

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 664 (Draft 2)

ORDINANCE NO. 92 118

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-1a) TO GENERAL COMMERCIAL (CG-20) AT LANIHOU 2ND, MOEAUOA 1ST, MOEAUOA 2ND AND KEOPU 1ST, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-04:43.

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

SECTION 1. Section 25-87, 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, Moeauoa 1st, Moeauoa 2nd and Keopu 1st, North Kona, Hawaii, shall be General Commercial (CG-20):

Beginning at the Westernmost corner of this parcel of land, being also a point on the Southerly boundary of Royal Patent 7456, Land Commission Award 8559-B, Apana 11 to W. C. Lunalilo (Certificate of Boundaries No. 25) and being a point on the Northeasterly side of Hawaii Belt Road (F.A.P. No. 11A-03-69), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 1,007.77 feet North and 1,150.61 feet East and running by azimuths measured clockwise from True South:

- 1. 237° 35' 34" 477.83 feet along Royal Patent 7456, Land Commission Award 8559-B, Apana 11 to W. C. Lunalilo (Certificate of Boundaries No. 25) to a "+" on pahoehoe;

2. 249° 04' 537.17 feet along Royal Patent 7456, Land Commission Award 8559-B, Apana 11 to W. C. Lunailo (Certificate of Boundaries No. 25) to a "+" on pahoehoe;

Thence, for the next seven (7) courses following along the middle of the Great Wall of Kuakini:

3. 352° 34' 30" 368.55 feet along Grant 1861, Apana 1 to Kahiamoe to a point;

4 357° 02' 122.85 feet along Grant 1861, Apana 1 to Kahiamoe to a point;

5. 355° 11' 195.95 feet along Grant 1861, Apana 1 to Kahiamoe to a point;

6. 357° 46' 116.23 feet along Grant 1861, Apana 1 to Kahiamoe and along the remainder of Royal Patent 8126, Land Commission Award 9971, Apana 27 to W. P. Leleiohoku (Certificate of Boundaries No. 26) to a point;

7. 343° 43' 40.60 feet along the remainder of Royal Patent 8126, Land Commission Award 9971, Apana 27 to W. P. Leleiohoku (Certificate of Boundaries No. 26) to a point;

8. 327° 02' 126.60 feet along the remainder of Royal Patent 8126, Land Commission Award 9971, Apana 27 to W. P. Leleiohoku (Certificate of Boundaries No. 26) to a point;

9. 339° 31' 36.73 feet along the remainder of Land Commission Award 11216, Apana 39 to M. Keakauonohi to a point;

Thence, for the next five (5) courses following along the Northeasterly side of Hawaii Belt Road (F.A.P. No. 11A-03-69):

10. 115° 51' 628.48 feet to a point;
11. 205° 51' 20.00 feet to a point;
12. 115° 51' 300.00 feet to a point;
13. 25° 51' 10.00 feet to a point;
14. 115° 51' 268.39 feet to the point of beginning and containing an area of 10.98 Acres, more or less.
- feet to a point;
12. 115° 51' 300.00 feet to a point;
13. 25° 51' 10.00 feet to a point;
14. 115° 51' 268.39 feet to the point of beginning and containing an area of 10.98 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 applicant, its successors or assigns be responsible for complying with all of the stated conditions of approval; (B) final Plan Approval shall be secured from the Planning Department within one year from the effective date of approval of the change of zone. Plans to be submitted for Final Plan Approval shall include all conditions of approval as required by the change of zone. 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. Plans shall identify structures, landscaping, and parking stalls associated with the proposed development; (C) construction shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within three years thereafter; (D) an archaeological mitigation plan shall be reviewed and approved by the Planning Department, in consultation with the State Department of Land and Natural Resources-Historic Preservation Division, prior to submitting plans for plan approval review or subdivision review, whichever occurs first. Recommended mitigation measures shall be incorporated into the plans submitted for plan approval and/or subdivision approval; (E) should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken; (F) access to the property shall meet with the approval of the Department of Transportation and/or the Department of Public Works. Curbs, gutters and sidewalk improvements shall be constructed within the Henry Street right-of-way within the property meeting with the approval of the Department of Public Works. Improvements

to the Queen Kaahumanu Highway and Henry Street intersection shall be constructed in accordance with the requirement of the State Department of Transportation-Highways Division, and/or the Department of Public Works. These improvements shall be constructed prior to issuance of a certificate of occupancy for any portion of the commercial project or in conjunction with final subdivision approval of the property, whichever occurs first. Plans for these improvements shall be submitted simultaneously with plans for Plan Approval or final subdivision review; (G) [the applicant shall meet with the requirements of the Department of Transportation-Highways Division, which include the design and construction of the Henry Street-Queen Kaahumanu Highway intersection modifications, construction of the Palani Road-Queen Kaahumanu Highway intersection, and establishment of future rights-of-way]An overall landscaping master plan, which includes landscaping along the property's frontages along Henry Street and Queen Kaahumanu Highway and a program for the maintenance of the landscaping master plan, shall be submitted to the Planning Director for review and approval, in consultation with the Chief Engineer prior to the issuance of final subdivision approval and/or final plan approval, whichever occurs first; (H) a drainage system shall be installed meeting with the approval of the Department of Public Works; (I) comply with all applicable laws, rules, regulations and requirements, including those of the Department of Health, Fire, and the Department of Water Supply; (J) an annual


progress report shall be submitted to the Planning Director prior to the anniversary date of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. 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; (K) 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, (L) 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. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation.

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.

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

INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: October 7, 1992  
Date of 1st Reading: October 7, 1992  
Date of 2nd Reading: October 21, 1992  
Effective Date: November 2, 1992

APPROVED AS TO FORM AND LEGALITY:

  
CORPORATION COUNSEL

DATE: October 5 1992

