

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 148
(Draft 3)

ORDINANCE NO. 93 122

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 1ST, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-04:19.

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 Lanihou 1st, North Kona, Hawaii, shall be General Commercial (CG-20):

Beginning at the Southeasterly corner of this parcel of land, being also a point on the Northeasterly side of Hawaii Belt Road (F. A. P. No. 11A-03-69) and being the Southwesterly corner of Ololi Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 1,038.06 feet North and 1,088.07 feet East and running by azimuths measured clockwise from True South:

1. 115° 51' 474.27 feet along the Northeasterly side of Hawaii Belt Road (F.A.P. No. 11A-03-69) to a 3/4 inch pipe (found);

Thence, for the next four (4) courses following along
Royal Patent 6851, Land
Commission Award 8452,
Apana 12 to A. Keohokalole
(Certificate of Boundaries
No. 45):

2. 232° 53' 20" 391.37 feet to a 1/2 inch pipe
(found) and passing over a
3/4 inch pipe (found) at
28.07 feet;
3. 232° 56' 30" 219.63 feet to a P.K. nail
(found);
4. 233° 07' 320.60 feet to a "+" (found);
5. 236° 25' 495.90 feet partially along
stonewall to a spike
(found) at the North face
of stonewall;
6. 316° 07' 30" 15.89 feet along the remainder
of Royal Patent 7456, Land
Commission Award 8559-B,
Apana 11 to William C.
Lunalilo (Certificate of
Boundaries No. 25) to a
point;
7. 332° 54' 108.06 feet along the remainder
of Royal Patent 7456, Land
Commission Award 8559-B,
Apana 11 to William C.
Lunalilo (Certificate of
Boundaries No. 25) to a
point;

Thence, for the next ten (10) courses following along
the Northwesterly side of
Ololi Road:

8. 41° 12' 192.72 feet to a point;

Thence, following on a curve to the right with a
radius of 590.00 feet, the
chord azimuth and distance
being:

9. 43° 59' 57.30 feet to a point;
10. 46° 46' 122.13 feet to a point;

Thence, following on a curve to the left with a radius of 335.00 feet, the chord azimuth and distance being:

- 11. 37° 55' 103.08 feet to a point;
- 12. 29° 04' 34.22 feet to a point;

Thence, following on a curve to the right with a radius of 185.00 feet, the chord azimuth and distance being:

- 13. 41° 05' 77.03 feet to a point;
- 14. 53° 06' 219.53 feet to a point;

Thence, following on a curve to the left with a radius of 280.00 feet, the chord azimuth and distance being:

- 15. 40° 59' 117.55 feet to a point;
- 16. 28° 52' 312.31 feet to a point;

Thence, following on a curve to the right with a radius of 125.00 feet, the chord azimuth and distance being:

- 17. 29° 09' 46" 1.29 feet to the point of beginning and containing an area of 8.096 Acres.

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) the applicant shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal

injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this ordinance or relating to or connected with the granting of this change of zone; (C) 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. Buildings shall conform to all requirements of codes and statutes pertaining to building construction. 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; (D) construction shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within two years thereafter; (E) a detailed archaeological mitigation plan shall be prepared and submitted to 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 plans submitted for plan approval and/or subdivision approval; (F) 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; (G) The extension of Henry Street between Queen Kaahumanu Highway and Palani Road, hereafter called the Henry Street extension, shall be improved by the applicant as an eighty (80) foot right-of-way with curb, gutter and sidewalk improvements meeting with the requirements of the Department of Public Works prior to the 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; provided that the segment between the applicant's northern boundary and Palani Road be improved within the existing thirty (30) foot right-of-way with a twenty four (24) foot wide pavement. When all necessary rights-of-way are dedicated to the County of Hawaii, the Ololi Road portion of Henry Street shall be improved by the applicant to the eighty (80) foot right-of-way with signalization and curb, gutter and sidewalk improvements, meeting with the requirements of the Department of Public Works. The applicant shall dedicate to the County of Hawaii the Henry Street improvements which extend north (mauka) until it intersects Palani Road upon its completion. Palani Road shall be improved by the applicant as a signalized "T" intersection with a left turn lane in conjunction with a certificate of occupancy for any portion of the commercial project or in conjunction with final subdivision approval of the property,

whichever occurs first. Any access off of the Henry Street extension shall be approved by the Planning Director in consultation with the Chief Engineer; (H) as agreed by the applicant, the approximately 0.847 acre Ololi Road remnant owned by the County of Hawaii, shall be exchanged for a subdivided 1.0 acre parcel zoned CG-20 south of the proposed Henry Street extension within the subject development, and that the parties agree that for the purpose of this exchange, both parcels are of "substantially equal" value; (I) construction of the access to the property, including the schedule outlining the roadway and infrastructure improvements, with all utilities being placed underground, shall meet with the approval of the Department of Transportation and/or the Department of Public Works. All interior subdivision roadway(s) within the property shall be constructed by the applicant with curb, gutter and sidewalk improvements meeting the approval/requirements of the Department of Public Works. Any improvements to the Queen Kaahumanu Highway frontage shall be constructed by the applicant in accordance with the requirements of the Department of Transportation. These roadway improvements shall be constructed prior to the 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 Final Plan Approval or Final Subdivision Review which ever occurs first; (J) the applicant shall provide at least one sixty (60) foot

right-of-way constructed to dedicable standards, including curb, gutter, and sidewalk improvements, off its Henry Street extension to the parcel(s) abutting the subject property's eastern boundary; (K) in lieu of the actual construction of improvements as required in Conditions G, I, and J, the applicant may enter into an agreement with the Planning Director to assure the County of Hawaii that the improvements will be constructed by way of a surety bond, certified check or other security acceptable to the Corporation Counsel and the Planning Director; (L) an overall landscaping master plan, which includes landscaping along the property's frontages along Henry Street, the interior subdivision roadway 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, prior to the issuance of Final Subdivision Approval and/or Final Plan Approval, whichever occurs first; (M) prior to securing Final Plan Approval from the Planning Director, the applicant shall prepare a drainage study and a drainage system meeting the approval of the Department of Public Works shall be installed. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. The applicant shall also comply with all grubbing, grading, and other developmental requirements determined by the Department of Public Works; (N) the applicant shall comply with all the requirements of the Department of Water Supply; (O) the applicant shall install sewer lines to connect with the Kealakehe Wastewater Treatment Plant. The applicant

shall contact the Department of Public Works Wastewater Division for approval of specific plans with regard to sewage disposal; (P) prior to securing Final Plan Approval from the Planning Director, the applicant shall prepare a solid waste management plan meeting the approval of the Department of Public Works. At a minimum, the plan shall include (1) an analysis of anticipated solid waste volume and composition, and (2) a waste reduction component which analyzes techniques to be employed to achieve a reduction goal of 25% by 1995 and 50 % by 2000 which is consistent with the County's Solid Waste Management Plan; (Q) all other applicable requirements, rules and regulations shall be complied with; (R) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the change of zone. 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; (S) 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 shall be credited towards the requirements of the Unified Impact Fees Ordinance; and (T) 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 applicants, successors or assigns, 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); and 5) 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 shall initiate rezoning of the area to its original or more appropriate designation.

SECTION 3. In the event that any portion of the 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: November 17, 1993
Date of 1st Reading: November 17, 1993
Date of 2nd Reading: December 1, 1993
Effective Date: December 8, 1993

APPROVED AS TO FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL

DATED: 12-6-93

