

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 314  
(Draft 3)

ORDINANCE NO. 98 129

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO GENERAL COMMERCIAL (CG-20) AT LANIHOU 2ND AND MOEAUOA 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-3:PORTIONS OF 6 AND 7.

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

SECTION 1. Section 25-8-3, Article 8, 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 2nd and Moeauoa 2nd, North Kona, Hawaii, shall be General Commercial (CG-20):

Beginning at the Southwesterly corner of this parcel of land, being on the East side of Lot 3, the coordinates of said point of beginning referred to Government Survey Triangulation Station KAILUA (NORTH MERIDIAN) being 511.32 feet North and 2,210.50 feet East and running by azimuths measured clockwise from True South.

Thence, along the Great Wall of Kuakini, along the Crossroads Subdivision for the following 27 courses;

- |    |      |     |     |             |                         |
|----|------|-----|-----|-------------|-------------------------|
| 1. | 147° | 02' | 00" | 126.60 feet | along Lot 1 to a point; |
| 2. | 163° | 43' | 00" | 40.60 feet  | along Lot 1 to a point; |
| 3. | 191° | 45' | 00" | 4.80 feet   | along Lot 1 to a point; |
| 4. | 175° | 26' | 00" | 41.65 feet  | along Lot 1 to a point; |
| 5. | 179° | 32' | 00" | 62.00 feet  | along Lot 1 to a point; |
| 6. | 167° | 59' | 00" | 8.10 feet   | along Lot 1 to a point; |

7.	179°	25'	00"	34.69 feet	along Lot 1 to a point;
8.	171°	57'	00"	54.32 feet	along Lot 1 to a point;
9.	171°	57'	00"	7.83 feet	along Lot 2 to a point;
10.	172°	08'	00"	38.40 feet	along Lot 2 to a point;
11.	179°	09'	00"	50.80 feet	along Lot 2 to a point;
12.	172°	19'	00"	10.40 feet	along Lot 2 to a point;
13.	174°	48'	00"	25.06 feet	along Lot 2 to a point;
14.	174°	48'	00"	6.35 feet	along Lot 3 to a point;
15.	182°	04'	00"	40.78 feet	along Lot 3 to a point;
16.	174°	23'	00"	50.90 feet	along Lot 3 to a point;
17.	170°	26'	00"	23.45 feet	along Lot 3 to a point;
18.	170°	26'	00"	26.81 feet	along the end of a 60-foot wide roadway to a point;
19.	176°	02'	00"	33.27 feet	along the end of a 60-foot wide roadway to a point;
20.	176°	02'	00"	1.32 feet	along Lot 4 to a point;
21.	169°	10'	00"	56.20 feet	along Lot 4 to a point;
22.	176°	00'	00"	39.80 feet	along Lot 4 to a point;
23.	169°	01'	00"	45.80 feet	along Lot 4 to a point;
24.	174°	07'	00"	48.96 feet	along Lot 4 to a point;
25.	174°	07'	00"	10.34 feet	along Lot 5 to a point;
26.	173°	34'	00"	33.10 feet	along Lot 5 to a point;
27.	174°	13'	00"	49.90 feet	along Lot 5 to a point;

Thence, along a stonewall, along L.C. Award 8559-B, Apana 11, along Lanihau 1st, for the following four (4) courses;

28.	256°	46'	05"	63.22 feet	to a point;
29.	270°	28'	00"	29.75 feet	to a point;
30.	263°	08'	10"	191.54 feet	to a point;
31.	263°	34'	29"	110.11 feet	to a point;

Thence, around the archeology site, along the remainder of R.P. Grant 1861, Apana 1 to Kahiamoe for the following five (5) courses;

32.	06°	41'	00"	95.78 feet	to a point;
33.	318°	43'	00"	65.01 feet	to a point;
34.	247°	38'	00"	70.01 feet	to a point;
35.	196°	18'	00"	64.81 feet	to a point;
36.	169°	31'	00"	71.56 feet	to a point;

Thence, along a stonewall, along L.C. Award 8559-B, Apana 11, along Lanihau 1st, for the following five (5) courses;

37.	254°	24'	43"	157.32 feet	to a point;
38.	259°	06'	00"	42.83 feet	to a point;
39.	262°	04'	00"	20.74 feet	to a point;
40.	256°	08'	00"	99.98 feet	to a point;
41.	244°	30'	40"	86.00 feet	to a point;

- 42. 338° 00' 00" 557.92 feet along Lot 6-B to a point;
- 43. 48° 15' 35" 160.19 feet to a point;
- 44. 58° 05' 05" 121.80 feet to a point;
- 45. 57° 39' 40" 369.99 feet to a point;
- 46. 57° 53' 10" 215.19 feet to a point;
- 47. 60° 56' 18" 213.75 feet to the point of beginning and containing an area of 17.060 acres to a point.

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 petitioner, its successors or assigns, shall be responsible for complying with all conditions of the change of zone.
- B. The petitioner, its successors or assigns, shall be responsible for complying with applicable conditions of the State Land Use Boundary Amendment Decision and Order in Docket No. A94-705. The petitioner, its successors or assigns shall provide a minimum 20-foot buffer from the property line along the Great Wall of Kuakini, and shall remove the rocks from the wall by other than mechanical means.
- C. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of the change of zone ordinance.
- D. Final Subdivision Approval shall be secured within five (5) years from the effective date of this change of zone ordinance.

- E. Construction of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Prior to commencing construction, Final Plan Approval for the proposed development shall be secured from the Planning Director in accordance with Chapter 25-2-70 of the Zoning Code. Plans shall identify the proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use. Landscaping shall also be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties.
- F. All roadways within the proposed development shall be improved with curbs, gutter and sidewalk improvements meeting with the approval of the Department of Public Works.
- G. All accesses, including intersection improvements, shall meet with the approval of the Department of Public Works.
- H. The additional left-turn lane for the west-bound traffic turning south onto Queen Ka`ahumanu Highway shall be accommodated by converting the existing through lane into a shared left-turn/through lane, along with re-striping to the intersection and changing the existing signalization, subject to the approval of the Department of Public Works and the State Department of Transportation.
- I. Install sewer lines to connect with the Kealakehe Wastewater Treatment Plant, meeting with the approval of the Department of Public Works.
- J. A Drainage Study shall be prepared for review and approval by the Department of Public Works. The drainage study shall be submitted to Federal Emergency Management Agency (FEMA) and a letter of map revision (LOMR) or a Physical Map Revision (PMR) shall be issued prior to construction, if required.

- K. A Solid Waste Management Plan for the proposed development within the subject property shall be prepared and submitted for approval to the Department of Public Works prior to securing Final Subdivision Approval or Final Plan Approval, whichever occurs first. A copy of the approved plan shall be submitted to the Planning Department for its files.
  
- L. An overall landscaping plan, which includes landscaping along the interior subdivision roadway 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 or Final Plan Approval, whichever occurs first.
  
- M. Comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the proposed development.
  
- N. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or assessments of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
  
- O. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this change of zone. The report shall address in detail 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 Director acknowledges that further reports are not required.
  
- P. An initial extension of time for the performance of conditions within the ordinance may be granted by the 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 applicant, 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 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).

Q. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject 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.

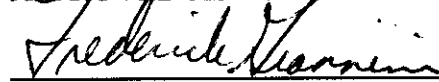
INTRODUCED BY:

  
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 COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: November 6, 1998  
 Date of 1st Reading: November 6, 1998  
 Date of 2nd Reading: November 18, 1998  
 Effective Date: December 7, 1998

APPROVED AS TO FORM AND LEGALITY

  
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 CORPORATION COUNSEL  
 DATED: 11/25/98





OFFICE OF THE COUNTY CLERK  
County of Hawaii  
Hilo, Hawaii

Introduced By: Bobby Jean Leithead-Todd  
Date Introduced: November 6, 1998  
First Reading: November 6, 1998  
Published: N/A

REMARKS:

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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	0	1	0

Second Reading: November 18, 1998  
To Mayor: November 24, 1998  
Returned: December 7, 1998  
Effective: December 7, 1998  
Published: December 21, 1998

REMARKS:

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( DRAFT 3 )

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds			X	
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	0	1	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council and published as indicated above.

APPROVED AS TO  
FORM AND LEGALITY:

Ludwick Hanover  
DEPUTY CORPORATION COUNSEL  
COUNTY OF HAWAII

Date 11/25/98

Approved/Disapproved this 7 day  
of December, 19 98

Steph Yamahiro  
MAYOR, COUNTY OF HAWAII

Donald Shida  
COUNCIL CHAIRMAN  
Donald Shida  
COUNTY CLERK

Bill No.: 314 (Draft 3)  
Reference: C-1016/PC-156  
Ord. No.: 98 129