

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 67 (Draft 4)

ORDINANCE NO. 01 69

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 1ST, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-3:19.

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

All of that certain parcel of land (being a portion of Royal Patent 7456, Land Commission Award 8559-B, Apana 11 to William C. Lunalilo, [Certificate of Boundaries No. 25]), being LOT A, situated on Old Honokohau Road, about one-half mile Northeast of Kailua, Kona, Hawaii, at Lanihou 1st, North Kona, Island, County and State of Hawaii, and more particularly described as follows:

BEGINNING at a cross on rock on the North boundary of this parcel of land on the South boundary of the land of Keahuolu, the coordinates of which referred to Government Survey Triangulation Station "KAILUA" being 2217.67 feet North and 2024.75 feet East and running by azimuths measured clockwise from true South:

- 1. 237° 25' 580.00 feet along Land Commission Award 8452, Apana 12 to A. Keohokalole to a pipe;

2.	327° 25'	304.29 feet	along remainder of Land Commission Award 8559-B, Apana 11 to William C. Lunalilo to a pipe;
3.	57° 25'	718.87 feet	along remainder of Land Commission Award 8559-B, Apana 11 to William C. Lunalilo to a pipe;
4.	146° 24'	110.00 feet	along remainder of Land Commission Award 8559-B, Apana 11 to William C. Lunalilo to a nail in concrete;
5.	125° 46'	112.00 feet	along remainder of Land Commission Award 8559-B, Apana 11 to William C. Lunalilo to a nail in concrete;
6.	118° 54'	118.00 feet	along remainder of Land Commission Award 8559-B, Apana 11 to William C. Lunalilo; along East side of Old Honokōhau Government Road to a pipe in concrete;
7.	236° 25'	104.00 feet	along Land Commission Award 8452, Apana 12 to A. Keohokalole to the point of beginning and containing an area of 5.083 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 shall be responsible for complying with all of the stated conditions of approval.

- B. The applicant shall substantially comply with the representations made in its change of zone application for the proposed commercial development.
- C. Potable water shall be provided to the subject property in a manner meeting with the approval of the Department of Water Supply prior to the issuance of Final Subdivision Approval or Final Plan Approval for any use or structure on the subject property, whichever is applicable.
- D. 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 existing and proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements). Plans shall also indicate the location and type of signage for archaeological features located within the project site as may be deemed appropriate by the State Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD).

As represented by the applicant, restrictive covenants in the deeds of all the proposed lots within the subject property shall limit the building height to a maximum of 45 feet. A copy of the proposed covenant(s) to be recorded with the Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance of Final Plan Approval and/or Final Subdivision Approval. A copy of the approved covenant(s) shall be recited in an instrument executed by the applicant and recorded with the Bureau of Conveyances for any portion of the subject property. A copy of the recorded document(s) shall be filed

with the Planning Department prior to the issuance of the certificate of occupancy.

- E. Access to the subject property from Henry Street within the existing 60-foot wide easement located on TMK: 7-5-03: 27 shall be constructed to County-dedicable commercial standards meeting with the requirements of Chapter 23, Subdivision Code. These roadway improvements shall include, at a minimum, concrete curbs, gutters, and sidewalks in areas of pedestrian traffic and consideration for the proper turn-around of vehicles. These roadway improvements, which shall also include the installation of a dry sewer line for the future connection of the subject property to the County's sewer system, shall be constructed in a manner meeting with the approval of the Department of Public Works, prior to the issuance of Final Subdivision Approval or Final Plan Approval, whichever occurs first.
- F. The applicant shall provide channelization improvements to Henry Street in a manner meeting with the approval of the Department of Public Works, prior to the issuance of Final Subdivision Approval or Final Plan Approval.
- G. The applicant shall install street lights, signs and markings within Henry Street and the project's access roadway within the 60-foot wide easement located on TMK: 7-5-03: 27 in a manner meeting with the approval of the Department of Public Works, Traffic Division. These improvements shall be installed prior to the issuance of Final Subdivision Approval or Final Plan Approval, whichever occurs first.
- H. The applicant shall prepare a Traffic Impact Analysis Report (TIAR) for the subject property upon any additional development or use of the subject property beyond the conversion of the two existing single family dwellings to office use. Any traffic improvements that may be required by the approved TIAR shall be provided by the applicant at no cost to the County of Hawai'i, prior to the

issuance of Final Subdivision Approval or Final Plan Approval of subsequent commercial development.

- I. Wastewater generated by the dwelling-to-office conversions shall be disposed of in a manner meeting with the approval of the State Department of Health. The subject property shall be connected to the County's sewer system to accommodate any additional development or use of the subject property beyond the conversion of the two existing single family dwellings to office use with the applicant providing, at no cost to the County of Hawai'i, all necessary improvements to facilitate the connection of the subject property to the County's sewer system prior to the issuance of Final Subdivision Approval or Final Plan Approval of subsequent commercial development, whichever occurs first.
- J. The applicant shall submit a solid waste management plan for the development to the Department of Public Works for its review and approval. A copy of the approved plan shall be submitted to the Planning Department prior to the issuance of Final Subdivision Approval or Final Plan Approval, whichever occurs first.
- K. If required, the applicant shall comply with the State Department of Health's requirements for underground injection systems and secure NPDES permits for discharges into State waters.
- L. Should any previously unidentified burials, archaeological or historic sites such as artifacts, marine shell concentrations, charcoal deposits, or stone platforms, pavings or walls be found, the applicant shall stop work in the immediate vicinity and the DLNR-HPD shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that mitigative measures have been implemented to its satisfaction.

- M. Comply with all applicable laws, rules, regulations and requirements of other affected agencies for approval of the proposed development within the subject property.
- N. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment 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 the anniversary date of the approval of the ordinance. 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.
- P. 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 applicant, its 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).
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.

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:

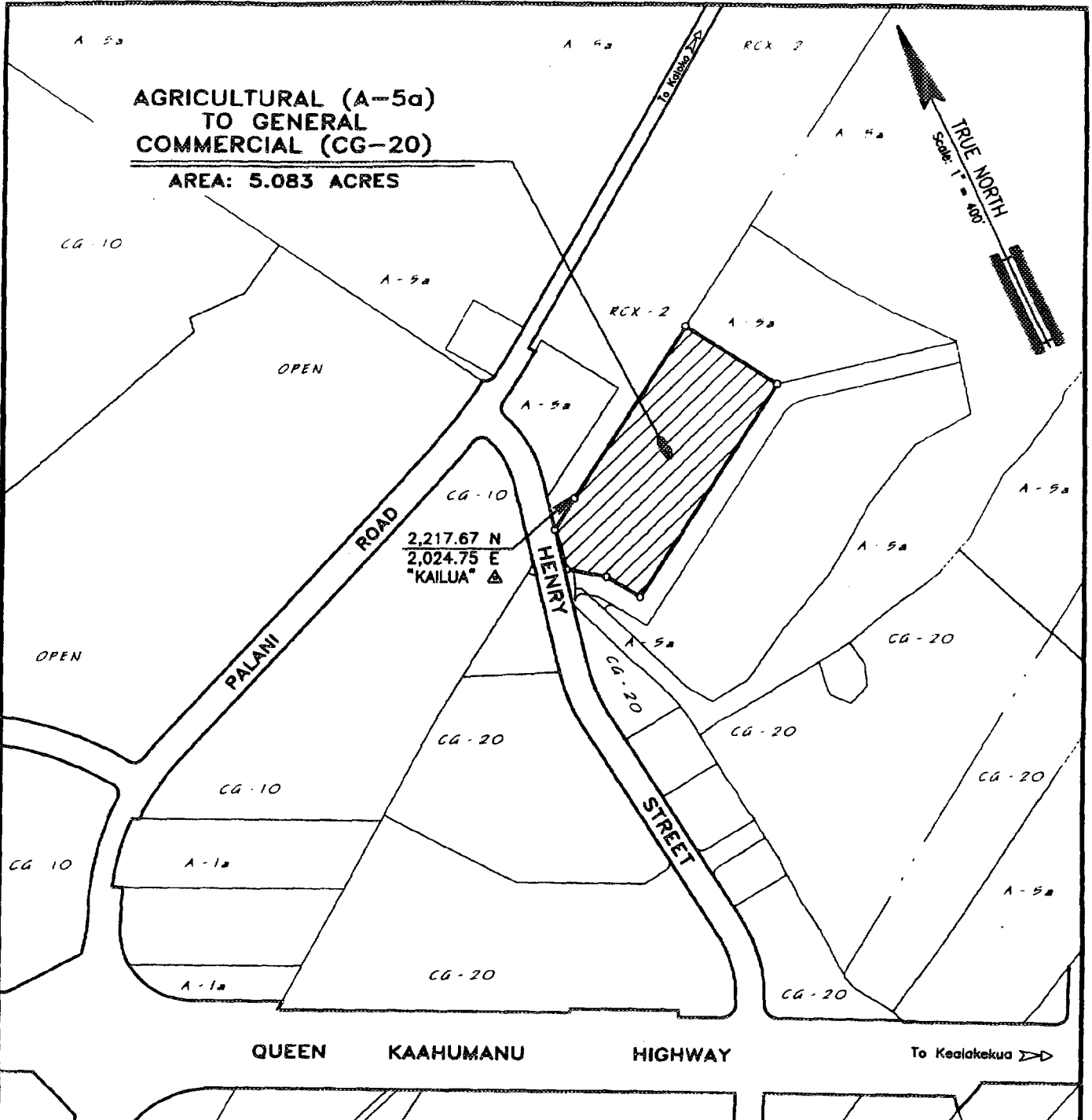
  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: June 20, 2001  
Date of 1st Reading: June 20, 2001  
Date of 2nd Reading: August 15, 2001  
Effective Date: 229.5 August 24, 2001  
REFERENCE: Comm. 229.5

APPROVED AS TO FORM AND LEGALITY

  
DEPUTY CORPORATION COUNSEL  
DATED: 8/22/01



# AMENDMENT TO THE ZONING CODE

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 LANIHAU 1st, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK : 7-5-3: 19

APRIL 26, 2001

EXHIBIT "A"

(EHP CORP.)





OFFICE OF THE COUNTY CLERK  
 County of Hawaii  
Hilo, Hawaii

(DRAFT 2)

Introduced By: Bobby-Jean Leithead-Todd  
 Date Introduced: June 20, 2001  
 First Reading: June 20, 2001  
 Published: N/A

REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong			X	
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(DRAFT 4)

Second Reading: August 15, 2001  
 To Mayor: August 16, 2001  
 Returned: August 24, 2001  
 Effective: August 24, 2001  
 Published: September 9, 2001

REMARKS: \_\_\_\_\_  
 Deferred - July 6, 2001  
 Deferred - July 31, 2001  
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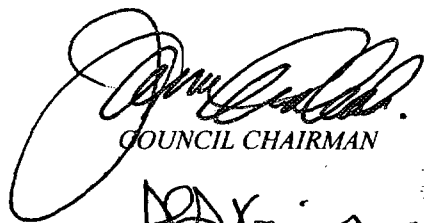

ROLL CALL VOTE				
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Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong	X			
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I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO  
 FORM AND LEGALITY:

  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

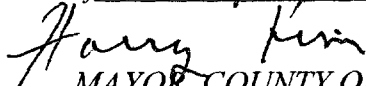
Date 8/22/01

  
 COUNCIL CHAIRMAN  
  
 COUNTY CLERK

01 AUG 29 09 11 59  
 RECEIVED

~~Approved~~ Disapproved this 24<sup>th</sup> day

of August, 2001

  
 MAYOR, COUNTY OF HAWAII

Bill No.: 67 (Draft 4)  
 Reference: C-229.5/FC-25  
 Ord No.: 01 69