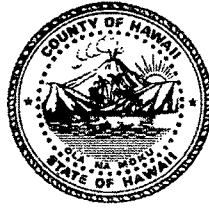


From the office of -  
Council Member  
District 3 - Hilo and Puna



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**SUSAN L.K. LEE LOY**

25 Aupuni Street, Hilo, Hawai'i 96720

2019 MAR - 8 AM 11: 38  
COUNTY CLERK  
COUNTY OF HAWAII

TO: Aaron S.Y. Chung, Chair  
and Members of the Hawai'i County Council

FROM: Sue Lee Loy, Council Member

DATE: March 8, 2019

SUBJECT: Proposed Amendments to Resolution No. 92; Resolution granting a variance from Chapter 3, Section, 3-6 (b) (3), 3-58 (b), 3-58 (c) and 3-60 (a), Hawai'i County Code 1983 (2016 edition, as amended), to allow two wall signs and two directional signs on 75-146 Sarona Road, TMK Number (3) 7-5-007:009 (zoned "U" CG-20, Kailua Village Special Design District).

Please see below proposed amendments to Resolution No. 92. These amendments 1) provide clarity as to the nature of the variances sought; 2) require the applicant to provide an updated application to the Council and the Kailua Village Design Commission; and 3) correct multiple formatting issues.

The proposed amendments are illustrated below in Ramseyer format with respect to the contents of Resolution No. 92. Material to be deleted is bracketed and stricken; new material is underscored.

1. The title of Resolution No. 92 is amended to read as follows:

**"A RESOLUTION GRANTING A VARIANCE FROM CHAPTER 3, ARTICLE 1, DIVISION 4, SECTION 3-6(b)(3), [SECTION, 3-6 (b) (3), 3-58 (b), 3-58 (c) AND 3-60 (a),] AND CHAPTER 3, ARTICLE 2, DIVISION 2, SECTIONS 3-58(b), 3-58(c), AND 3-60(a) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED), TO ALLOW TWO WALL SIGNS AND TWO DIRECTIONAL SIGNS ON 75-146 SARONA**

Comm. No. 155.1  
Ref. To: PIPWMT  
Ref. Date MAR 12 2019

**ROAD, TMK NUMBER (3) 7-5-007:009 [(ZONED “U” CG-20, KAILUA VILLAGE SPECIAL DESIGN DISTRICT)].”**

2. The first WHEREAS clause is amended to read as follows:

“**WHEREAS**, Kona Hospitality LLC, the owner (hereinafter “Applicant”) of a business on the property identified as TMK No. (3) 7-5-007:009, located at street address 75-146 Sarona Road, Kailua-Kona, Hawai‘i, 96740 (hereinafter the “Subject Property”), has submitted to the Director of the County Department of Public Works, an Application for a variance dated April 9, 2014 (hereinafter “Application”)[;] from [(1) the nine inch height limitation of] Section [3-58 (b),] 3-58(b), “In any case, the total area allowed shall not exceed twelve square feet for any sign not fronting a public street or vehicular access or for any sign located within the Kailua Village Core”; Section 3-58(c), “Any lettering or symbol, including free-standing letters, shall not exceed nine inches in height”; [number of wall and ground sign limitation of Section 3-6 (b) (3),] Section 3-6(b)(3), “Only one ground sign shall be permitted per lot, even if the lot is occupied by multiple businesses”; and [3-60 (a),] Section 3-60(a), “Only one sign for any business or one sign for any street or vehicular access on which a building has frontage shall be permitted” as provided in the Hawai‘i County Code 1983 (2016 Edition, as Amended), for the Subject Property; and”

3. The second WHEREAS clause is amended to read as follows:

“**WHEREAS**, said Application is complete and current with all information and attachments and fees paid as required under Sections 3-22 and 3-24, Hawai‘i County Code 1983 (2016 Edition, as Amended); and”

4. A new WHEREAS clause is inserted as the third clause to read as follows:

“**WHEREAS**, said complete and current Application has received an updated recommendation from the Kailua Village Design Commission; and”

5. The fourth WHEREAS clause is amended to read as follows:

“~~WHEREAS, the Subject Property [is a retail commercial/office]~~ includes a hotel building located at 75-146 Sarona Road, Kailua-Kona, Hawai‘i, 96740, ~~[which]~~ and has in excess of one hundred twenty (120) linear feet of frontage along Sarona Road; and”

6. The fifth WHEREAS clause is amended to read as follows:

“~~WHEREAS, the two (2) proposed [two (2)] wall signs will be placed on the building as follows: Sign 1 will be located above the main entrance at the second floor along the Sarona Road frontage; and Sign 2 will be located approximately three (3) feet above the third floor level along the east property frontage at the south end of the building[-]; and~~”

7. The sixth WHEREAS clause is amended to read as follows:

“~~WHEREAS, the two (2) proposed [two (2)] ground directional signs will be placed at a maximum height of [48"] forty-eight (48) inches above the ground at the two property access points along the Sarona Road[-]; and~~”

8. The seventh WHEREAS clause is deleted:

~~[WHEREAS, under Section 3-23(a), Hawai‘i County Code 1983 (2016 Edition, as Amended), the variance may be granted where: (1) the variance is necessitated by the peculiarity of the Applicant's outside sign requirements, (2) the adjacent tenants will not be adversely affected inasmuch as they have approved the Applicant's request, (3) the granting of the variance will not unreasonably violate the interest, safety, convenience, or general welfare of the public inasmuch as the proposed sign will identify the location of the Applicant's business premises for the public and no other outside identification exists for the Applicant's business along any street frontage, (4) a strict application of the terms of the County Code to the Applicant would work an unnecessary hardship and practical difficulty on the Applicant inasmuch as another larger sign has already obtained a variance for placement on the same wall along the same street frontage, (5) granting the variance will not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical ordinances, statutes, or rules, inasmuch as the variance would allow the applicant the same general privileges enjoyed by other~~

businesses and commercial/industrial uses in the County; other Kailua Village uses are highly visible from the public rights of way and are of a scale and setback appropriate for restricted signage and, (6) the limited variance allowing an increase from one to two signs for this business. Sign 1 letters shall be no more than 8" tall, and the "H" monogram logo shall be no larger than 16" tall with a total area no greater than 20 square feet. Sign 2 letters shall be no more than 6" tall, and the "H" monogram logo shall be no larger than 25" tall with a total area no greater than 14 square feet and will comply with all other requirements of the County Code; and]

9. The following clause becomes the seventh WHEREAS clause and is amended to read as follows:

**"WHEREAS**, under Section 3-22(a), Hawai'i County Code 1983 (2016 Edition, as Amended), the Hawai'i County Council is authorized to grant, by resolution, a request for a variance from any provision of [the] Chapter 3 if the request meets the standards of Division 6 of Chapter 3 of the County Code; [~~now, therefore,~~] and"

10. A new WHEREAS clause is inserted as the eighth clause to read as follows:

"WHEREAS, pursuant to Section 3-23 of the County Code, the Council finds that the six conditions that must be satisfied to grant each of the four variances are resolved as follows:

1. Granting the variance is necessitated by peculiar physical conditions not ordinarily found in most districts, because of the peculiarity of a business, or as a result of a special event or circumstance: The international franchise brand being represented by the Applicant has established standards regarding the size and placement of signs;
2. Granting the variance will not adversely affect the rights of adjacent property owners or tenants: The adjacent tenants have approved the Applicant's request;
3. Granting the variance will not unreasonably violate the interest, safety, convenience, or general welfare of the public: The proposed sign will identify the location of the Applicant's business premises for the public and no other outside identification exists for the Applicant's business along any street frontage;

4. A strict application of the terms of this chapter would work unnecessary hardship and practical difficulty upon the applicant or the community: Another larger entity has obtained a variance for placement on the same wall along the same street frontage;
5. Granting the variance will not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical ordinances, statutes, or rules: The variance would allow the Applicant the same general privileges enjoyed by other businesses and commercial/industrial uses in the County;
6. The application is complete: A complete and current application has been transmitted to the Council prior to consideration of this resolution; and”

11. A new WHEREAS clause is inserted as the ninth clause to read as follows:

“WHEREAS, Sign 1 letters shall be no more than eight (8) inches tall, and the “H” monogram logo shall be no larger than sixteen (16) inches tall with a total area no greater than twenty (20) square feet. Sign 2 letters shall be no more than six (6) inches tall, and the “H” monogram logo shall be no larger than twenty-five (25) inches tall with a total area no greater than fourteen (14) square feet and will comply with all other requirements of the County Code; now, therefore.”

12. The enacting clause is amended to read as follows:

**“BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I,** in accordance with Hawai‘i County Code Section 3-22(a), that the Application of Kona Hospitality LLC, for a variance from Hawai‘i County Code [~~Section 3-58(c) be and hereby is,~~] Section 3-6(b)(3), Section 3-58(b), Section 3-58(c), and 3-60(a) is hereby GRANTED, subject to the following conditions:

1. The variance shall allow for two wall signs and two ground/directional signs substantially as represented in the Application as to size, design, location, construction and other material characteristics.
2. The variance shall run with the land and remain in force for so long as the Applicant or a successor shall continue its business at the Subject Property.

3. Should Applicant's business operations at the Subject Property cease, the variance shall terminate.
4. For other good cause, the variance may be terminated by resolution of the Hawai'i County Council, upon notice to the Applicant and adjacent tenants and hearing as would be required for an Application for a variance under the Hawai'i County Code."

13. The final enacting clause is amended to read as follows:

**"BE IT FINALLY RESOLVED** that the County Clerk [~~of the County of Hawai'i is directed to~~] shall transmit [~~copies~~] a copy of this resolution to the Mayor [~~of the County of Hawai'i; the Department~~] Director of Public Works [~~; the Office of the~~], the Corporation Counsel [~~;~~], and [~~to~~] Kona Hospitality LLC [~~; Applicant~~]."

A draft copy of the draft 2 of this bill that would result if these proposed amendments are adopted is attached.

SL/ps

Att.

**A RESOLUTION GRANTING A VARIANCE FROM CHAPTER 3, ARTICLE 1, DIVISION 4, SECTION 3-6(b)(3), AND CHAPTER 3, ARTICLE 2, DIVISION 2, SECTIONS 3-58(b), 3-58(c), AND 3-60(a) OF THE HAWAI‘I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), TO ALLOW TWO WALL SIGNS AND TWO DIRECTIONAL SIGNS ON 75-146 SARONA ROAD, TMK NUMBER (3) 7-5-007:009.**

**WHEREAS**, Kona Hospitality LLC, the owner (hereinafter “Applicant”) of a business on the property identified as TMK No. (3) 7-5-007:009, located at street address 75-146 Sarona Road, Kailua-Kona, Hawai‘i, 96740 (hereinafter the “Subject Property”), has submitted to the Director of the County Department of Public Works, an Application for a variance dated April 9, 2014 (hereinafter “Application”) from Section 3-58(b), “In any case, the total area allowed shall not exceed twelve square feet for any sign not fronting a public street or vehicular access or for any sign located within the Kailua Village Core”; Section 3-58(c), “Any lettering or symbol, including free-standing letters, shall not exceed nine inches in height”; Section 3-6(b)(3), “Only one ground sign shall be permitted per lot, even if the lot is occupied by multiple businesses”; and Section 3-60(a), “Only one sign for any business or one sign for any street or vehicular access on which a building has frontage shall be permitted” as provided in the Hawai‘i County Code 1983 (2016 Edition, as Amended), for the Subject Property; and

**WHEREAS**, said Application is complete and current with all information and attachments and fees paid as required under Sections 3-22 and 3-24, Hawai‘i County Code 1983 (2016 Edition, as Amended); and

**WHEREAS**, said complete and current Application has received an updated recommendation from the Kailua Village Design Commission; and

**WHEREAS**, the Subject Property includes a hotel building located at 75-146 Sarona Road, Kailua-Kona, Hawai‘i, 96740, and has in excess of one hundred twenty (120) linear feet of frontage along Sarona Road; and

**WHEREAS**, the two (2) proposed wall signs will be placed on the building as follows: Sign 1 will be located above the main entrance at the second floor along the Sarona Road frontage;

and Sign 2 will be located approximately three (3) feet above the third floor level along the east property frontage at the south end of the building; and

**WHEREAS**, the two (2) proposed ground directional signs will be placed at a maximum height of forty-eight (48) inches above the ground at the two property access points along the Sarona Road; and

**WHEREAS**, under Section 3-22(a), Hawai'i County Code 1983 (2016 Edition, as Amended), the Hawai'i County Council is authorized to grant, by resolution, a request for a variance from any provision of Chapter 3 if the request meets the standards of Division 6 of Chapter 3 of the County Code; and

**WHEREAS**, pursuant to Section 3-23 of the County Code, the Council finds that the six conditions that must be satisfied to grant each of the four variances are resolved as follows:

1. Granting the variance is necessitated by peculiar physical conditions not ordinarily found in most districts, because of the peculiarity of a business, or as a result of a special event or circumstance: The international franchise brand being represented by the Applicant has established standards regarding the size and placement of signs;
2. Granting the variance will not adversely affect the rights of adjacent property owners or tenants: The adjacent tenants have approved the Applicant's request;
3. Granting the variance will not unreasonably violate the interest, safety, convenience, or general welfare of the public: The proposed sign will identify the location of the Applicant's business premises for the public and no other outside identification exists for the Applicant's business along any street frontage;
4. A strict application of the terms of this chapter would work unnecessary hardship and practical difficulty upon the applicant or the community: Another larger entity has obtained a variance for placement on the same wall along the same street frontage;
5. Granting the variance will not constitute a grant of personal or special privilege inconsistent with the limitations upon other properties under identical ordinances, statutes, or rules: The variance would allow the Applicant the same general privileges enjoyed by other businesses and commercial/industrial uses in the County;

6. The application is complete: A complete and current application has been transmitted to the Council prior to consideration of this resolution; and

**WHEREAS**, Sign 1 letters shall be no more than eight (8) inches tall, and the "H" monogram logo shall be no larger than sixteen (16) inches tall with a total area no greater than twenty (20) square feet. Sign 2 letters shall be no more than six (6) inches tall, and the "H" monogram logo shall be no larger than twenty-five (25) inches tall with a total area no greater than fourteen (14) square feet and will comply with all other requirements of the County Code; now, therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAI'I**, in accordance with Hawai'i County Code Section 3-22(a), that the Application of Kona Hospitality LLC, for a variance from Hawai'i County Code Section 3-6(b)(3), Section 3-58(b), Section 3-58(c), and 3-60(a) is hereby GRANTED, subject to the following conditions:

1. The variance shall allow for two wall signs and two ground/directional signs substantially as represented in the Application as to size, design, location, construction and other material characteristics.
2. The variance shall run with the land and remain in force for so long as the Applicant or a successor shall continue its business at the Subject Property.
3. Should Applicant's business operations at the Subject Property cease, the variance shall terminate.
4. For other good cause, the variance may be terminated by resolution of the Hawai'i County Council, upon notice to the Applicant and adjacent tenants and hearing as would be required for an Application for a variance under the Hawai'i County Code.

**BE IT FINALLY RESOLVED** that the County Clerk shall transmit a copy of this resolution to the Mayor, the Director of Public Works, the Corporation Counsel, and Kona Hospitality LLC.