


COUNTY OF HAWAII STATE OF HAWAII

Bill No. 195

ORDINANCE NO. 90 010

AN ORDINANCE AMENDING SECTION 25-89 (KAILUA URBAN ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO MODIFICATIONS OF CONDITIONS B, E, F AND G OF ORDINANCE NO. 86 49, WHICH RECLASSIFIED CERTAIN LANDS FROM MULTIPLE FAMILY RESIDENTIAL (RM-2) TO VILLAGE COMMERCIAL (CV-7.5) AT HIENALOLI 5TH AND 6TH, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-23:64 & 67

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

SECTION 1. Ordinance No. 86 49 is amended as follows:

"SECTION 2. This change in district classification is conditioned upon the following: (A) the petitioners, successors or their assigns shall be responsible for complying with all of the stated conditions of approval; (B) [plans for the proposed development shall be submitted for Plan Approval within one year from the effective date of the zone change] Revised Final Plan Approval shall be secured from the Planning Department within one year from the effective date of this amendment. 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; (C) construction of the proposed improvements shall commence within one year from the date of receipt of final plan approval and be completed within two years thereafter; (D) a drainage system shall be installed in accordance with the requirements of the Department of Public Works; (E) curbs, gutters and sidewalks shall be provided along the length of Hualalai Road fronting

the subject property meeting with the requirements and standards of the Department of Public Works. [These improvements shall be constructed prior to the granting of final subdivision approval or a bond and agreement for these improvements, which shall be determined by the Department of Public Works with the concurrence and approval of the Planning Director and Corporation Counsel, shall be submitted to the Planning Department and approved prior to receipt of Final Subdivision approval;] These improvements shall be constructed prior to the issuance of any occupancy permit or prior to the granting of final subdivision approval, whichever comes first. A bond and agreement for the construction of these improvements may be entered into prior to final subdivision approval; provided however, the improvements shall be installed prior to the issuance of any occupancy permit on the subject properties. (F) a five-foot wide road widening strip along Hualalai Road shall be delineated on the plans submitted for subdivision and/or for plan approval review. No structural improvements shall be allowed within this road widening strip, provided however, any required landscaping may be permitted within this strip. Further, applicable setbacks shall be taken from the 5-foot future road widening strip line; [F] (G) all other applicable rules, regulations and requirements shall be complied with.; and (G) the Planning Director may administratively grant extensions to the foregoing time conditions. Further, should any of the foregoing conditions

not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the area to its original or more appropriate designation.]; (H) 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; (I) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the zone change. The report shall address 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 Planning Director acknowledges that further reports are not required; (J) 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; and 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 2. Material to be deleted is bracketed. New material is underscored.

SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: January 16, 1990
Date of 1st Reading: January 16, 1990
Date of 2nd Reading: February 7, 1990
Effective Date: February 13, 1990