

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 395
(Draft 3)

ORDINANCE NO. 91 91

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 VILLAGE COMMERCIAL (CV-1a) AT HOLUALOA 1ST AND 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-6-08:PORTION OF 10.

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 Holualoa 1st and 2nd, North Kona, Hawaii, shall be Village Commercial (CV-1a):

Beginning at the Northeasterly corner of this parcel of land, being also an angle point on the Northerly side of an existing 12-ft. wide trail, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 8,317.45 feet South and 15,425.88 feet East and running by azimuths measured clockwise from True South:

1. 358° 54' 30" 12.07 feet across the existing 12-ft. wide trail to a point;
2. 6° 44' 30" 67.12 feet along stonewall and along the remainders of Allotment 63 of the Holualoa 1st and 2nd Hui Partition and Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu to a point;

3. 8° 49' 30" 56.82 feet along stonewall and along the remainders of Allotment 63 of the Holualoa 1st and 2nd Hui Partition and Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu to point;
4. 9° 20' 20.95 feet along the Westerly side of an existing roadway to a point;

Thence, for the next six (6) courses following along the remainders of Allotment 63 of the Holualoa 1st and 2nd Hui Partition and Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu:

5. 82° 33' 30" 241.43 feet to a point;
6. 172° 33' 30" 166.92 feet, passing across the existing 12-ft. wide trail, to a point;
7. 262° 33' 30" 145.00 feet to a point;
8. 263° 12' 47.28 feet along stonewall to a point;
9. 267° 16' 30" 30.51 feet along stonewall to a point;
10. 274° 21' 59.75 feet along stonewall to the point of beginning and containing an area of 1.000 Acre.

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, successors or assigns shall be responsible for complying with all of the stated conditions of approval; (B) final Plan Approval for the development shall be secured from the Planning Department

within one year from the effective date of the change of zone. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), Hawaii County Code, as amended, plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall provide for heavy landscaping for the purpose of preserving the green belt and open space;

(C) construction shall commence within one year from the date of receipt of Final Plan Approval and shall be completed (certificate of occupancy) within two years thereafter; (D) a drainage system shall be installed meeting with the requirements of the Department of Public Works; (E) access to the development shall be restricted to one driveway from Mamalahoa Highway. This access shall be provided over Tax Map Key Nos: 7-6-8:24 and 27, unless an equivalent or better access (i.e., sight distance, topography, hazards) can be utilized meeting with the approval of the Departments of Public Works and Planning. The driveway access shall be improved with a minimum 20-foot wide pavement from Mamalahoa Highway to the development meeting with the approval of the Department of Public Works. These improvements shall be completed prior to issuance of a certificate of occupancy for any part of the development; (F) sight distance, including pavement widening along the frontage of TMK: 7-6-8:05, shall meet with the requirements of the Department of Public Works. These

improvements shall be completed prior to issuance of a certificate of occupancy for any part of the development;

(G) should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings 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;

(H) comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health, Water Supply, and Public Works; (I) 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 developers' election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance; (J) the applicant, his successors, assigns or heirs shall not seek an increase in density beyond the maximum of five units until the existing infrastructure on Hualalai Road and Mamalahoa Highway has been improved to acceptable standards. The applicant shall submit restrictive deed covenants for the subject property to the planning department for its review and approval prior to the submittal to the State of Hawaii, Bureau of Conveyances for recordation with the final plat maps. These covenants shall be included in the deed and will require that there be no increase

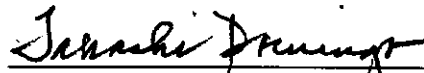
in density on the subject properties until such time as the infrastructure on Hualalai Road and Mamalahoa Highway has been improved to an acceptable standard meeting with the approval of the planning department and department of public works. Once those conditions have been met, this covenant may be extinguished; (K) 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 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 and the Planning Director acknowledges that further reports are not required; and, (L) an 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, 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 permit; 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 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.

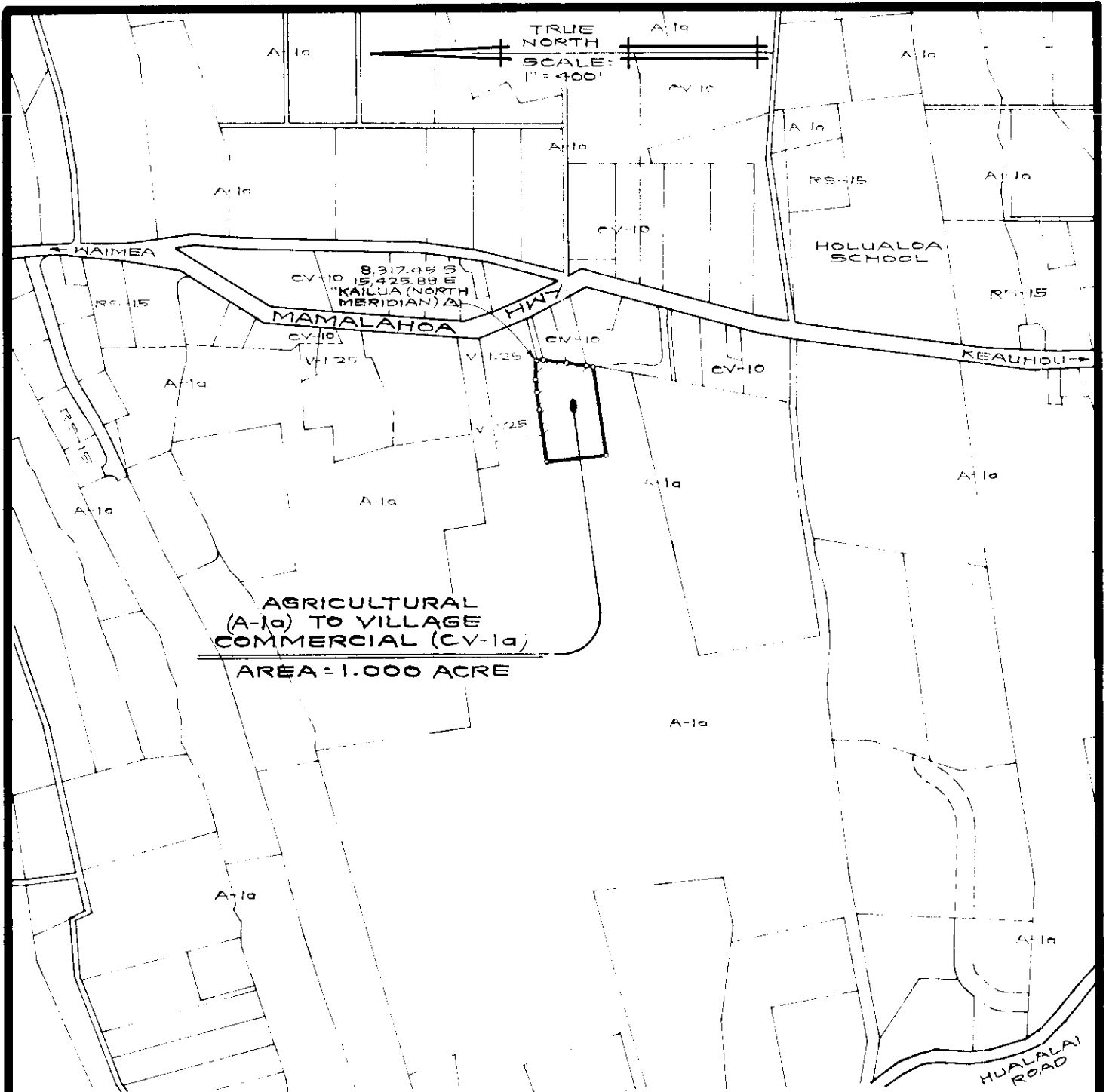
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction:	August 21, 1991
Date of 1st Reading:	August 21, 1991
Date of 2nd Reading:	September 4, 1991
Effective Date:	September 12, 1991



AMENDMENT TO THE ZONING CODE

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 VILLAGE COMMERCIAL (CV-1a) AT HOLUALOA 1ST AND 2ND, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 7-6-08 : 10 (PORTION)

DEC. 28, 1990