

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 544

ORDINANCE NO. 92 15

AN ORDINANCE AMENDING SECTION 25-111 (NAALEHU ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO THE MODIFICATION OF CONDITION D OF ORDINANCE NO. 90-129, WHICH RECLASSIFIED 17,207 SQUARE FEET OF LAND FROM SINGLE FAMILY RESIDENTIAL (RS-7.5) TO VILLAGE COMMERCIAL (CV-7.5) ZONED DISTRICT AT POUPOUWELA AND KOWALA, KA'U, HAWAII, COVERED BY TAX MAP KEY 9-5-24:77.

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

SECTION 1. Ordinance 90-129 is amended as follows:

"This change in district classification is conditioned upon the following: (A) the applicant, successors, or assigns shall comply with all of the stated conditions of approval; (B) Final Plan Approval of the proposed 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), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured; (C) construction (renovations) shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter; (D) [curbs, gutters, sidewalks and pavement improvements shall be provided within the Mamalahoa Highway right-of-way along the frontage of the

property meeting with the approval of the Department of Public Works prior to receipt of a certificate of occupancy for any portion of the development] the property owner shall maintain the abutting county property which is used as a sidewalk, pursuant to Chapter 22-58 of the Hawaii County Code relating to Streets and Sidewalks; (E) all other applicable laws, rules, regulations, and requirements shall be complied with; (F) should the council adopt a Unified Impact Fee 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; (G) 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 with and the Planning Director acknowledges that further reports are not required; and, (H) 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 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); 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. 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: January 22, 1992
Date of 1st Reading: January 22, 1992
Date of 2nd Reading: February 5, 1992
Effective Date: February 18, 1992

APPROVED AS TO FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL

DATED: NOV 29 1991

