

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 616

ORDINANCE NO. 92 70

AN ORDINANCE AMENDING SECTION 25-107 (PAHOA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-15) TO VILLAGE COMMERCIAL (CV-10) AT NANAWALE HOMESTEADS, PUNA, HAWAII, COVERED BY TAX MAP KEY 1-5-14:7, 8 AND 23 (POR.).

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

SECTION 1. Section 25-107, Article 3, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of properties described hereinafter as follows:

The district classification of the following area situated at Nanawale Homesteads, Puna, Hawaii, shall be Village Commercial (CV-10):

Beginning at the southeast corner of this parcel of land and on the northeasterly side of Puna Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PAHOA," being 1,820.89 feet South and 1,791.15 feet East, thence running by azimuths measured clockwise from true South:

1. 126° 20' 80.00 feet along Puna Road;
2. 133° 11' 168.91 feet along Puna Road;
3. 210° 13' 298.00 feet along the remainder of Grant 4453 to Samuel Smithers (Lot A);

4. 313° 11' 172.02 feet along the remainder of Grant 4453 to Samuel Smithers (remainder of Lot B);
5. 30° 48' 61.95 feet along the remainder of Grant 4453 to Samuel Smithers (Lot 14);
6. 307° 25' 102.71 feet along the remainder of Grant 4453 to Samuel Smithers (Lot 14);
7. 36° 20' 232.33 feet along the remainder of Grant 4453 to Samuel Smithers (Lot 1B) to the point of beginning and containing an area of 1.625 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, successors, or assigns shall be responsible for complying with all of the stated conditions of approval; (B) the applicant shall secure Final Consolidation Approval of the subject properties within one year of the effective date of the zone change; (C) the applicant shall secure Final Plan Approval for the proposed development within one year from the date of receipt of Final Consolidation Approval. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted to the Planning Department a minimum of forty-five days prior to the date by which Final Plan Approval must be secured. Plans to be submitted shall indicate existing and proposed structures, parking associated

with the proposed commercial uses, driveway circulation and landscaping. The applicant shall site the proposed commercial structures and provide landscaping for the purpose of mitigating noise and visual impacts to adjacent properties;

(D) construction of the proposed development shall commence within one year from the date of receipt of Final Plan Approval and be completed within one year thereafter; (E) access to the proposed development from the Keaau-Pahoa Road shall meet with the approval of the Department of Public Works; (F) should any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the affected area shall cease and the Planning Department immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken; (G) all other applicable laws, rules, regulations, and requirements shall be complied with; (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 applicants' election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance; (I) should an Improvement District be implemented for improvements to that portion of the Keaau-Pahoa Road within the Pahoa Town proper, the applicant(s), its successors or assigns shall automatically be a participant in

the Improvement District; (J) 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 (K) 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 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; 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:

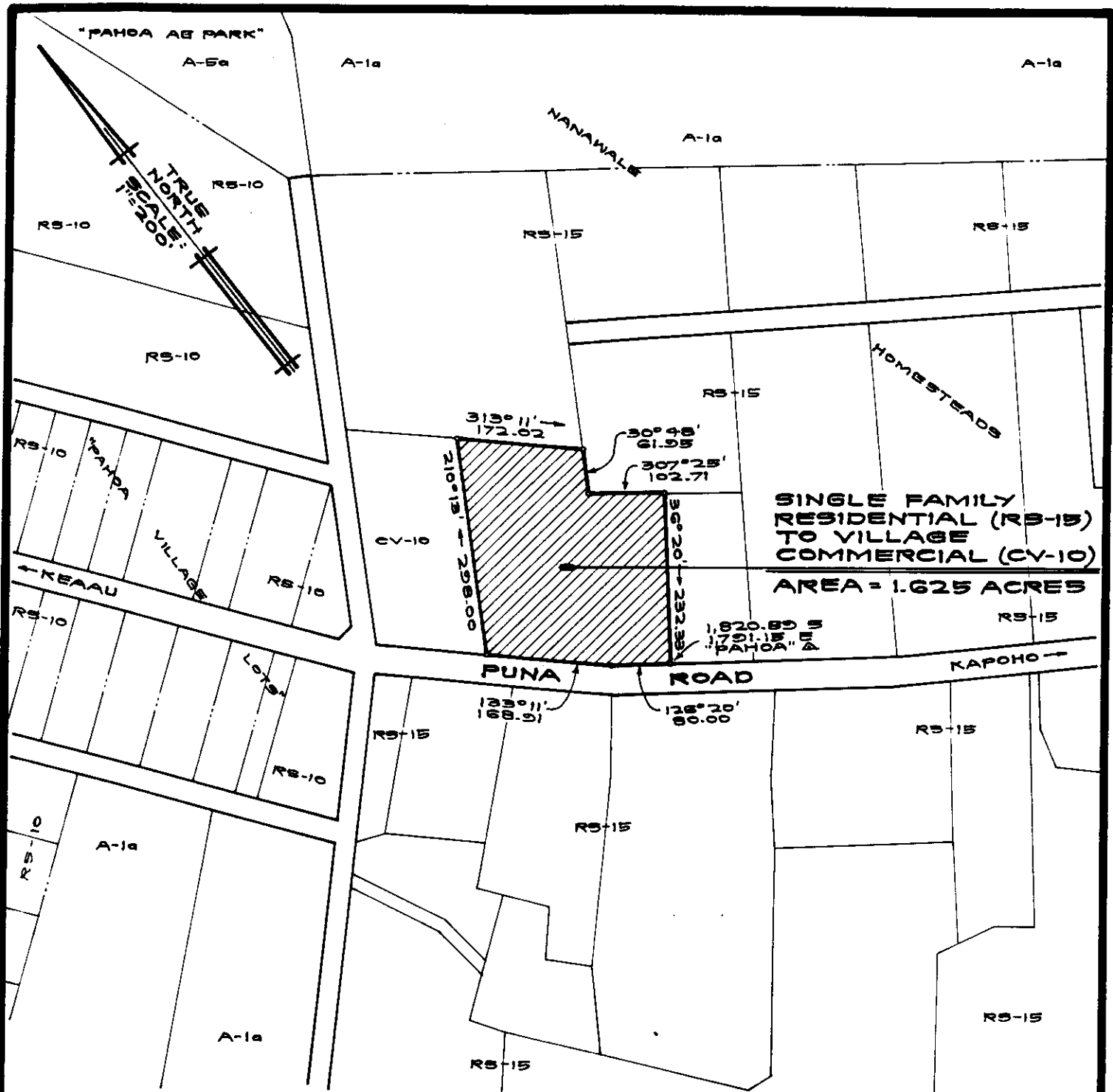
Harry S Ruddle
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: May 20, 1992
Date of 1st Reading: May 20, 1992
Date of 2nd Reading: June 3, 1992
Effective Date: June 15, 1992

APPROVED AS TO FORM AND LEGALITY:

Gerald Johnson
CORPORATION COUNSEL
DATE: JUN 9 1992



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-107 (PAHOA ZONE MAP) ARTICLE 3, CHAPTER 28 (ZONING CODE) OF THE HAWAII COUNTY CODE BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-15) TO VILLAGE COMMERCIAL (CV-10) AT NANAWALE HOMESTEADS, PUNA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 1-5-14 : 7, 8 AND 23 (POR.)

FEB. 13, 1992

EXHIBIT "A"

(WALTER T. YAMAGUCHI)