

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 630

ORDINANCE NO. 92 91

AN ORDINANCE AMENDING SECTION 25-114 (CITY OF HILO ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO MODIFICATIONS OF CONDITIONS C, D AND L OF ORDINANCE NO. 89-50, WHICH RECLASSIFIED 47,680 SQ. FT. OF LAND FROM SINGLE FAMILY RESIDENTIAL (RS-10) TO GENERAL COMMERCIAL (CG-10) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-2-28:29.

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

SECTION 1. Ordinance No. 89-50 is amended as follows:

"SECTION 1. Section 25-114, 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 Waiakea, South Hilo, Hawaii, shall be General Commercial (CG-10):

Beginning at a point at the southwest corner of this parcel of land and on the easterly side of Kilauea Avenue, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 3,225.31 feet South and 7,301.99 feet East and running by azimuths measured clockwise from True South:

- 1. 160° 06' 176.60 feet along the easterly side of Kilauea Avenue;
- 2. 251° 31' 272.48 feet along the remainder of Grant 4777 to T. Clive Davies;

3. 345° 02' 184.03 feet along Lot 5 and Lot 3, being a subdivision of remainder of Grant 4777 to T. Clive Davies;
4. 73° 06' 30" 256.93 feet along the remainder of Grant 4777 to T. Clive Davies to the point of beginning and containing an area of 47,680 Square Feet.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. These changes in district classification are 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 submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Policy" within ninety days from the effective date of the change of zone ordinance; (C) [subdivision plans shall be submitted for tentative approval within one year from the effective date of the change of zone. Final subdivision approval shall be secured within one year from the date of receipt of tentative subdivision approval; (D)] Final Plan Approval [for the development of the rear lot] shall be secured within one year from the effective date of [Final Subdivision Approval] 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;

[(E)] (D) construction shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter; [(F)] (E) access shall meet with the approval of the Department of Public Works. The sidewalk fronting the subject property along Kilauea Avenue shall be reconstructed in a manner meeting with the Department of Public Works prior to issuance of any occupancy permit or Final Subdivision Approval, whichever comes first; [(G)] (F) a ten-foot wide road widening strip along Kilauea Avenue shall be delineated on the plans submitted for subdivision and 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 10-foot future road widening strip line; [(H)] (G) a drainage system shall be installed in accordance with the requirements of the Department of Public Works; [(I)] (H) all applicable County and State laws, rules, regulations and requirements shall be complied with; [(J)] (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 developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance; [(K)] (J) an annual progress report

shall be submitted to the Planning Director prior to the anniversary date of the effective date of 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; and, ~~[(L)]~~ (K) 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 ~~[g]General~~ ~~[p]Plan~~ or ~~[z]Zoning~~ ~~[c]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 [may] 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 adoption.

INTRODUCED BY:

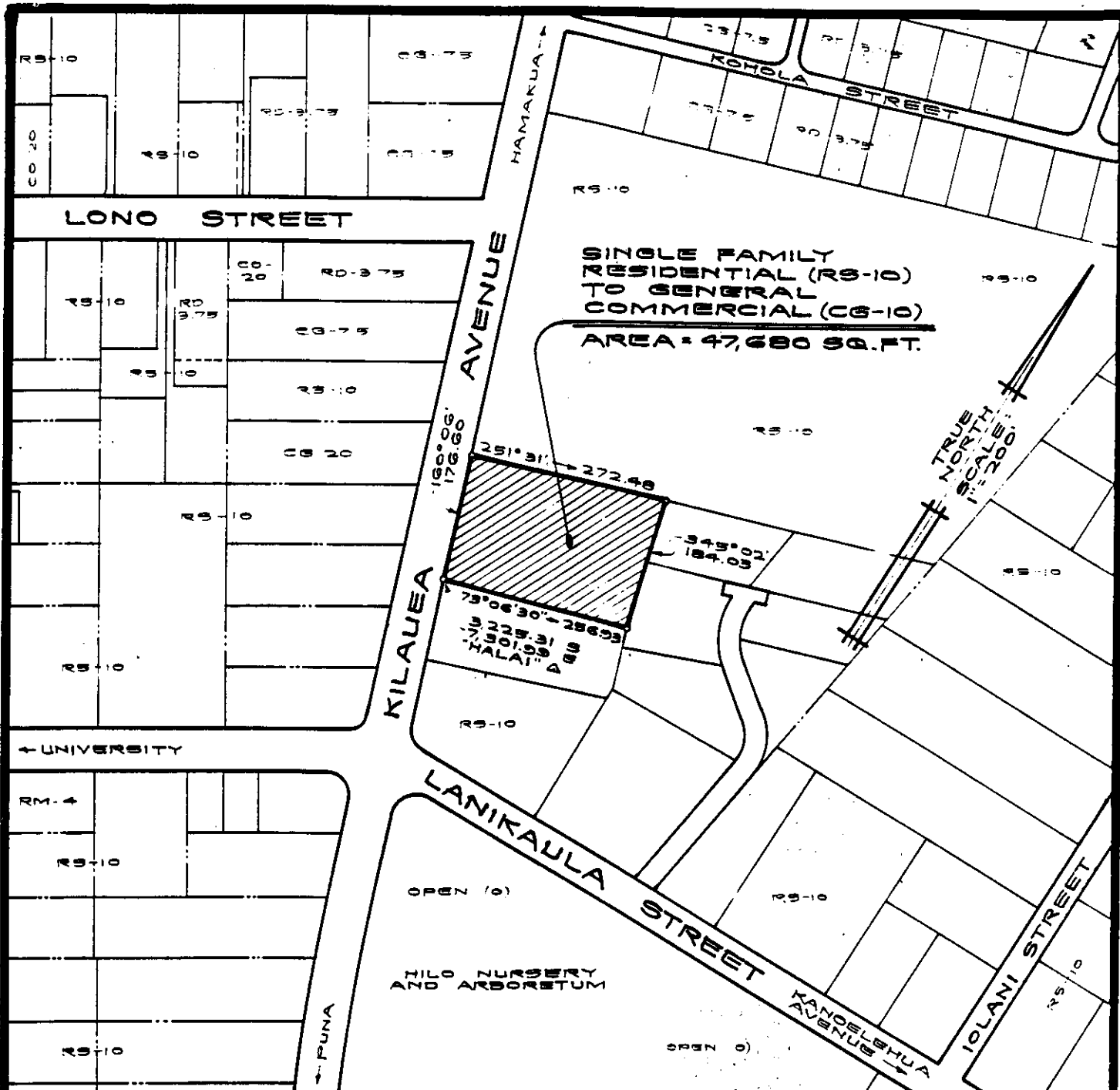
Isabel Domingo
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: July 15, 1992
Date of 1st Reading: July 15, 1992
Date of 2nd Reading: August 5, 1992
Effective Date: August 18, 1992

APPROVED AS TO FORM AND LEGALITY:

Gerald Johnson
DEPUTY CORPORATION COUNSEL
DATE: JUL - 2 1992



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-114 (CITY OF HILO ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-10) TO GENERAL COMMERCIAL (CG-10) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK: 2-2-28 : 29

DEC. 7, 1988