

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 647

ORDINANCE NO. 92 103

AN ORDINANCE AMENDING SECTION 25-95C (HAWI-KAPAAU 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 KAPAAU, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-4-05:PORTION OF 58.

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

SECTION 1. Section 25-95C, 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 Kapaau, North Kohala, Hawaii, shall be Village Commercial (CV-10):

Beginning at the Northeasterly corner of this parcel of land, being also a point bearing 8° 11' 130.03 feet from the Northeasterly corner of Lot 4-A-3 and being the Southeasterly corner of the area presently zoned CV-10, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE" being 10,731.99 feet North and 15,140.17 feet East and running by azimuths measured clockwise from True South:

1.        8° 11'                                96.47 feet along Lot 3 and along the remainder of Royal Patent 4888, Land Commission Award 8087 to Haaheo to a point;
2.        96° 14'                                256.45 feet along the remainder of Lot 4-A-3 and along the remainder of Royal Patent 4888, Land Commission Award 8087 to Haaheo to a point;

3. 188° 38' 30" 96.50 feet along Lot 6 and along the remainder of Royal Patent 4888, Land Commission Award 8087 to Haaheo to a point;
4. 276° 14' 255.68 feet along the remainder of Lot 4-A-3, along Lot 2 and along the remainders of Lot 4-A-3 and Royal Patent 4888, Land Commission Award 8087 to Haaheo to the point of beginning and containing an area of 24,688 Square Feet.

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 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. Plans to be submitted shall indicate existing and proposed structures, parking, driveway circulation, landscaping, and all off-site improvements. Structures shall be sited and landscaping provided for the purpose of mitigating noise and visual impacts to adjacent properties; (C) construction shall commence within

one year from the date of receipt of Final Plan approval and shall be completed within two years thereafter; (D) access to the development shall meet with the approval of the Department of Public Works and the State Department of Transportation. The Hawi-Niulii Road frontage of the property shall be improved with curb, gutter and sidewalk improvements, exclusive of driveway access, in accordance with the requirements of the State Department of Transportation prior to the issuance of a certificate of occupancy. Preliminary plans for these improvements shall be submitted simultaneously with development plans for Plan Approval review; (E) drainage improvements shall meet with the approval of the Department of Public Works. No work shall be permitted within and no additional runoff shall be directed to the stream located along the western boundary of the property, unless otherwise approved by Department of Public Works; (F) the method of sewage disposal shall meet with the approval of the Department of Health; (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) all other applicable laws, rules, regulations and requirements shall be

complied with; (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 the performance in accordance with the requirements of the Unified Impact Fees Ordinance; (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 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 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 the 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 the 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:

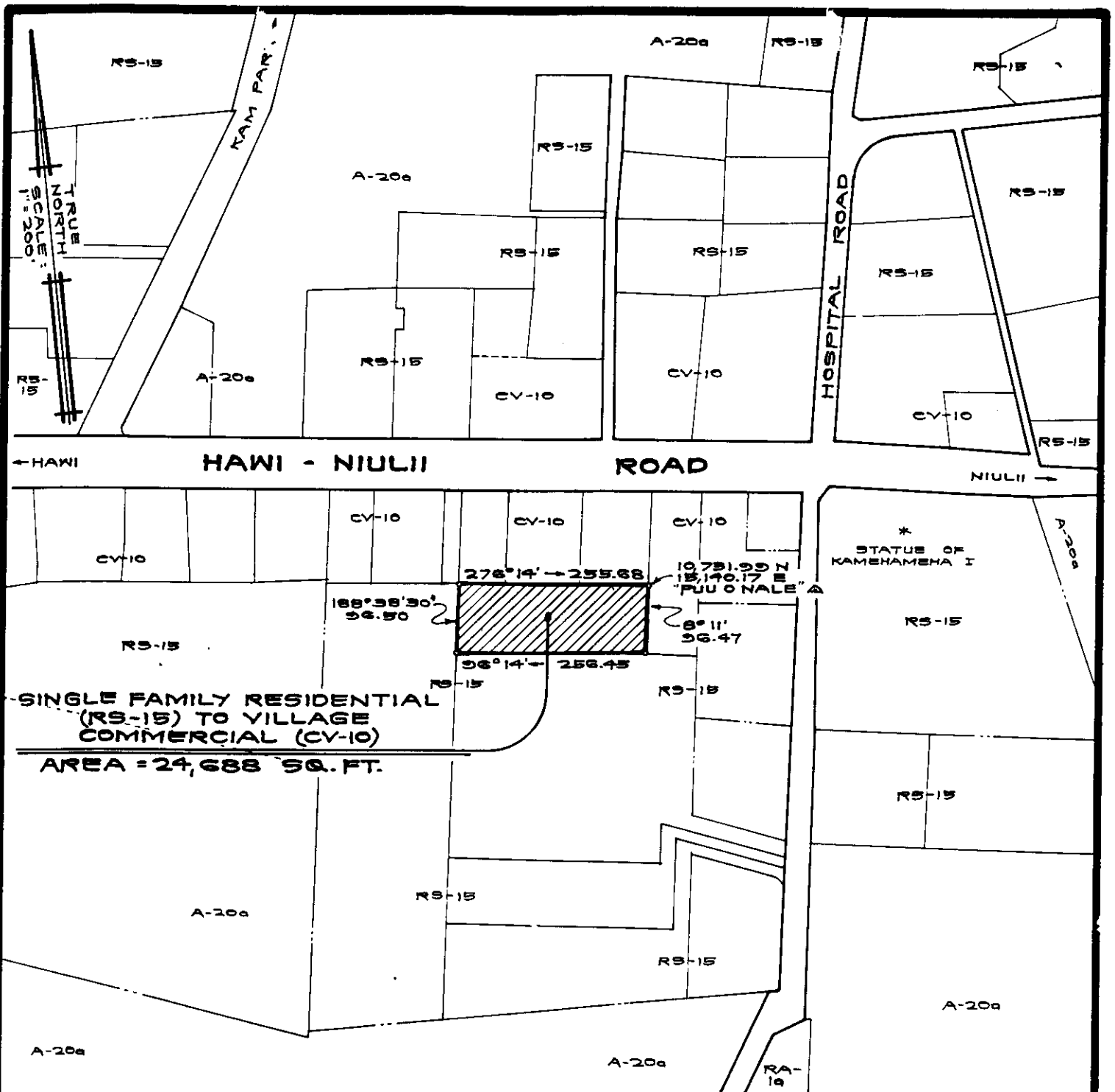
  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: August 19, 1992  
Date of 1st Reading: August 19, 1992  
Date of 2nd Reading: September 2, 1992  
Effective Date: September 11, 1992

APPROVED AS TO FORM AND LEGALITY:

  
DEPUTY CORPORATION COUNSEL  
DATED: JUL 13 1992



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-95 C (HAWI-KAPAAU 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 KAPAAU, NORTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK : 5-4-05 : PORTION OF 58

JUNE 9, 1992

EXHIBIT "A"

(TOMMY TINKER/CYNTHIA SMITH)