

# COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 107  
(Draft 2)

## ORDINANCE NO. 95 101

AN ORDINANCE AMENDING SECTION 25-104 (VOLCANO-MT. VIEW ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-20) TO VILLAGE COMMERCIAL (CV-10) AT OLAA, PUNA, HAWAII, COVERED BY TAX MAP KEY 1-9-04: PORTION OF 6.

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

SECTION 1. Section 25-104, 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 Olaa, Puna, Hawaii, shall be Village Commercial (CV-10):

Beginning at a point at the south corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KULANI" being 32,022.7 feet South and 23,907.0 feet East and running by azimuths measured clockwise from true South:

1. 149° 31' 358.41 feet along Lot 8, Grant 5475 to Maria Willfong;
2. 239° 31' 308.30 feet along the remainders of Lot 9, Grant 5370 to Mary Deyo and Lot 10, Grant 5371 to Frances Wetmore;
3. 329° 31' 358.41 feet along Lot 11, Grant 5693 to Hana Iopa;
4. 59° 31' 308.30 feet along the remainders of Lot 10, Grant 5371 to Frances Wetmore and Lot 9, Grant 5370 to Mary Deyo to the point of beginning and containing an

area of 2.537 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. Final Consolidation/Resubdivision Approval for Parcels 55 and Parcel 6 shall be secured within one year from the effective date of the Change of Zone Ordinance.
- C. Restrictive covenants in the deed for the subject property shall require that the subject property:
  - (1) Provide a water catchment system and storage capacity, meeting with the requirements of the Planning Department, the Fire Department, the Department of Water Supply, and the State Department of Health based on a formula using median annual rainfall and daily usage of gallons per day per unit as determined by the Planning Department in consultation with the appropriate agencies;
  - (2) Provide easy fire department hose hook-up in an accessible location for fire equipment for unrestricted use of the water storage in case of fire emergency;

- (3) Provide disclosure and waiver provisions relating to the lack of a private or municipal water system meeting with the requirements of the Department of Water Supply, and which shall also include that the County of Hawaii shall not be responsible to provide water, at any time, to the development of the subject property, regardless of the situation.

A copy of the covenants with the above requirements shall be submitted to the Planning Department for review and approval and a copy of the approved covenants shall be recited in an instrument executed by the applicants and the County prior to final consolidation/resubdivision approval for any portion of the subject property. The Planning Director shall promptly deliver such document to the Bureau of Conveyances for recordation. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.

- D. General public and guest access for the entire development shall be restricted to the Old Volcano Road.
- E. For the purpose of bicycle and pedestrian safety, the applicants shall construct 4'-wide paved shoulders fronting the subject property and painted with a white edge of pavement marking, meeting with the approval of the Department of Public Works prior to the issuance of a certificate of occupancy for any portion of the subject property. In lieu of constructing 4'-wide shoulders, the applicant may

contribute a monetary fee in the sum of **\$8,060.00** prior to the certificate of occupancy for any portion of the subject property.

- F. Final Plan Approval for the new accommodations and related improvements shall be secured from the Planning Department. Plans shall identify all existing and proposed structures, landscaping, parking stalls and access driveway(s) associated with the proposed use. Landscaping, as represented by the applicant on site plans, shall be included to maintain the rural character of the area.
- G. Construction for the new accommodations and related improvements shall be completed within five years from the date of securing Final Plan Approval.
- H. Should any unidentified sites or remains, such as lava tubes, artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall 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.
- I. Should the Council adopt a Unified Impact-Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

- J. 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 addition year).
- K. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may 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:

*Ishodi Dominguez*  
COUNCIL MEMBER, COUNTY OF HAWAII

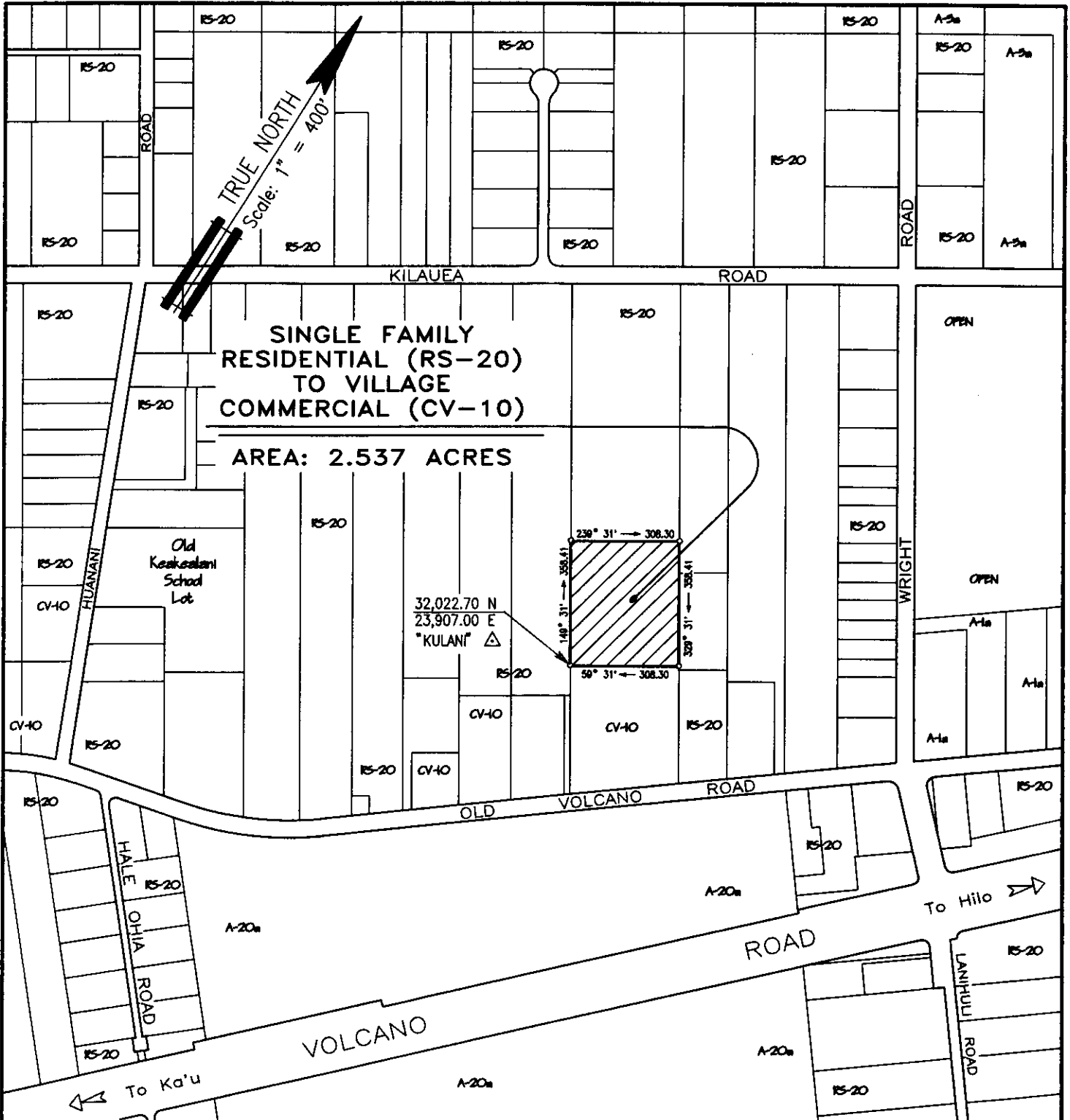
Hilo, Hawaii

Date of Introduction: August 2, 1995  
Date of 1st Reading: August 2, 1995  
Date of 2nd Reading: August 16, 1995  
Effective Date: August 23, 1995

APPROVED AS TO FORM AND LEGALITY:

*Fredrick Mann*  
**DEPUTY** CORPORATION COUNSEL

DATED: 8/21/95



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-104 (VOLCANO - MT. VIEW ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-20) TO VILLAGE COMMERCIAL (CV-10) AT OLA, PUNA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 2) 95 Nov 20 11:11 53

Introduced By: Takashi Domingo  
 Date Introduced: August 2, 1995  
 First Reading: August 2, 1995  
 Published: N/A

REMARKS:  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Bonk-Abramson	X			
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Rath			X	
Ray	X			
Smith	X			
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Second Reading: August 16, 1995  
 To Mayor: August 17, 1995  
 Returned: August 23, 1995  
 Effective: August 23, 1995  
 Published: August 31, 1995


REMARKS:  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Bonk-Abramson	X			
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Rath	X			
Ray	X			
Smith	X			
	9	0	0	0

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council and published as indicated above.

APPROVED as to  
 FORM and LEGALITY  
  
 CORPORATION COUNSEL  
 COUNTY OF HAWAII  
 Date AUG 22 1995

  
 COUNCIL CHAIRMAN

  
 COUNTY CLERK

Approved/Disapproved this 23 day  
 of August, 1995.

  
 MAYOR, COUNTY OF HAWAII

Bill No.: 107 (Draft 2)  
 Reference: C-520/PC-60  
 Ord. No.: 95 101