

ORDINANCE NO. 97 3

AN ORDINANCE AMENDING ORDINANCE NO. 92-103 WHICH CHANGED THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-15) TO VILLAGE COMMERCIAL (CV-10) AT KAPAAU, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-4-05:88 (FORMERLY PORTION OF 58).

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

SECTION 1. Ordinance No. 92-103 is amended as follows:

"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] Final Plan Approval of the proposed development within the subject property shall be secured from the Planning [Department] Director 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] be completed within five years from the effective date of this amendment;

- (D) access to the development within the subject property shall meet with the approval of the Department of Public Works and the State Department of Transportation. The Hawi-Niulii Road frontage of the subject 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 subject 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] Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning [Department] Director 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] shall be credited towards 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] subject property to its original or more appropriate designation."

SECTION [3]2. 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]3. This ordinance shall take effect upon its approval.


INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

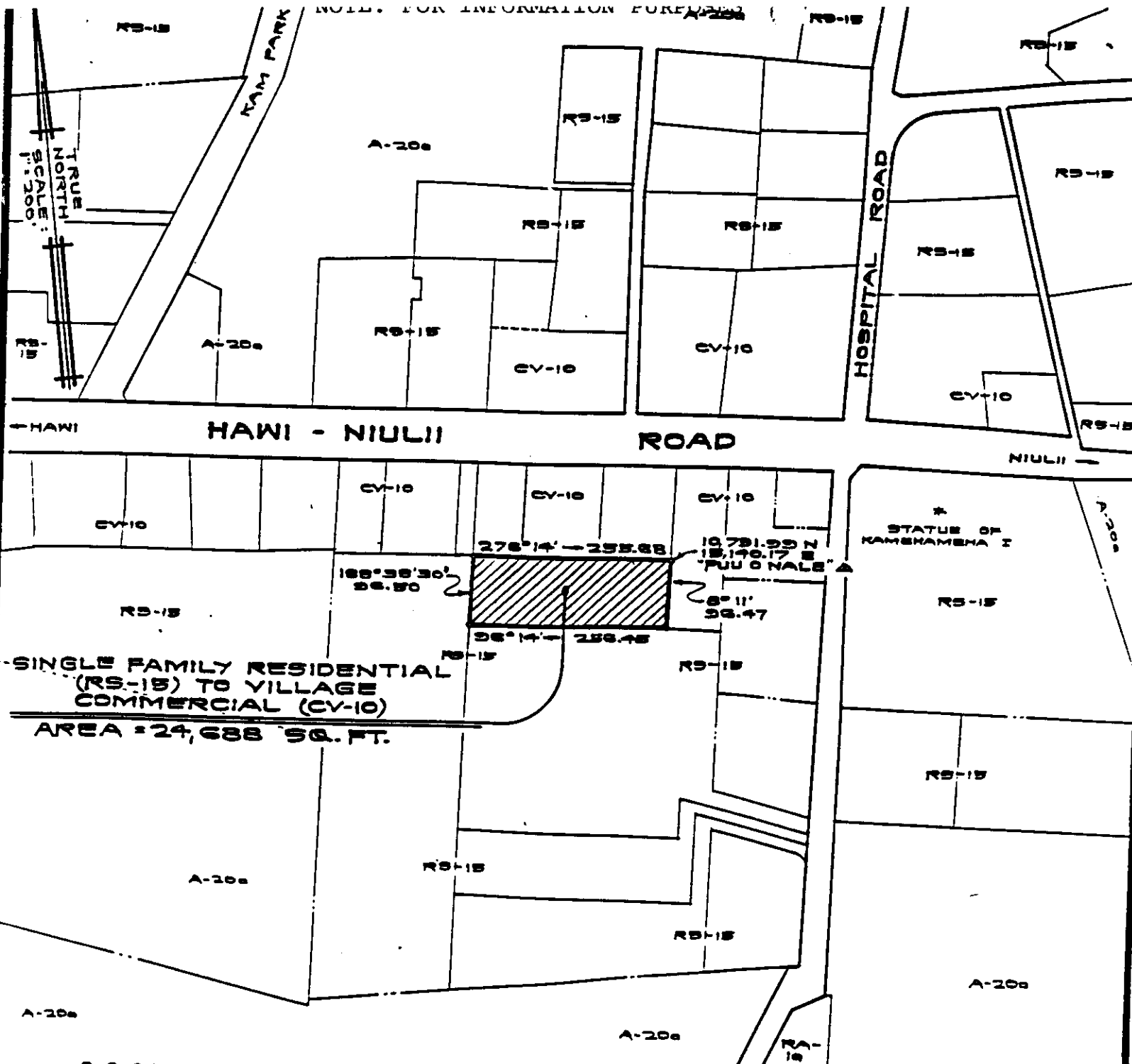
Date of Introduction: December 18, 1996
Date of 1st Reading: December 18, 1996
Date of 2nd Reading: January 8, 1997
Effective Date: January 20, 1997

APPROVED AS TO FORM AND LEGALITY


CORPORATION COUNSEL
DATED: JAN 15 1997.

DEPUTY

REFERENCE: Comm. 19



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 WALKER / CYNTHIA SMITH)

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii RECEIVED

1997 JAN 21 AM 8 36
(DRAFT 2)

Introduced By: Takashi Domingo
 Date Introduced: December 18, 1996
 First Reading: December 18, 1996
 Published: N/A

REMARKS:

OFFICE OF THE COUNTY CLERK COUNTY OF HAWAII				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray			X	
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	0	1	0


Second Reading: January 8, 1997
 To Mayor: January 9, 1997
 Returned: January 21, 1997
 Effective: January 20, 1997
 Published: January 28, 1997


REMARKS:

(DRAFT 2)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

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



 COUNCIL CHAIRMAN


 COUNTY CLERK

Approved/Disapproved this 20 day
 of January, 1997.



 MAYOR, COUNTY OF HAWAII

Bill No.: 362 (Draft 2)
 Reference: C-1439/PC-173
 Ord. No.: 97 3