

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 391
(Draft 2)

ORDINANCE NO. 97 79

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM UNPLANNED (U) TO VILLAGE COMMERCIAL (CV-7.5) AT KAHALUU, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-8-10:PORTION OF 2 (FORMERLY PORTION OF 4).

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

SECTION 1. Section 25-87, 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 Kahaluu, North Kona, Hawaii, shall be Village Commercial (CV-7.5):

Beginning at the South corner of this parcel of land, on the Westerly side of Kamehameha III Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAUHOU COAST" being 6,933.27 feet North and 2,151.99 feet East, thence running by azimuths measured clockwise from True South:

- | | | | | | |
|----|------|-----|-----|--------|---|
| 1. | 127° | 00' | 25" | 549.15 | feet along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu; |
| 2. | 221° | 43' | | 144.00 | feet along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu; |
| 3. | 180° | 00' | | 245.00 | feet along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu; |
| 4. | 253° | 32' | | 200.00 | feet along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu; |
| 5. | 211° | 03' | | 194.00 | feet along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu; |
| 6. | 270° | 00' | | 404.92 | feet along the remainder of R.P. 6856, L.C. Aw. 7713, Apana 6 to V. Kamamalu; |
| 7. | 353° | 17' | | 40.58 | feet along the Westerly side of Kamehameha III Road; |
| 8. | 9° | 17' | | 393.00 | feet along the Westerly side of Kamehameha III Road; |

9. Thence along the Westerly side of Kamehameha III Road, on a curve to the right with a radius of 450.00 feet, the chord azimuth and distance being:
23° 08' 42.5" 215.62 feet;
10. 37° 00' 25" 350.00 feet along the Westerly side of Kamehameha III Road to the point of beginning and containing an Area of 10.375 Acres, more or less.

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 comply with all of the stated conditions of approval;
- (B) an SMA Use Permit application for the proposed development within the subject property shall be submitted to the Planning Department within one year from the effective date of the change of zone;
- (C) the required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within 90 days of the effective date of the change of zone ordinance;
- (D) Construction of the commercial office building shall be completed within five years from the effective date of this change of zone ordinance, which shall include securing Final Plan Approval for the proposed commercial office building from the Planning Director. Plans shall identify structures, fire protection measures, landscaping and maintenance plan, paved parking stalls and driveway and other improvements associated with the proposed uses;
- (E) access to the subject property shall meet with the approval of the Department of Public Works. The applicant shall design and construct the interior driveway and circulation improvements to interconnect with the existing adjoining commercial properties south of the subject property, meeting with the approval of the Department of Public Works. The applicant shall establish

and record deed covenants for the subject property and the adjoining properties owned by the applicant which covenants shall assure that the interconnected driveway and circulation improvements are maintained and kept open during the regular business hours of the interconnected properties. All roadway improvements shall be constructed meeting with the approval of the Department of Public Works prior to the establishment of any new use or the issuance of a certificate of occupancy for any portion of the proposed development within the subject property;

- (F) curbs, gutters and sidewalks shall be constructed along the frontage of the subject property on Kamehameha III Road meeting with the approval of the Department of Public Works. These improvements shall be completed prior to issuance of a certificate of occupancy for any portion of the commercial development within the subject property;
- (G) a drainage system shall be installed meeting with the approval of the Department of Public Works;
- (H) the applicant shall prepare a Solid Waste Management Plan prior to securing Final Plan Approval for the proposed development within the subject property meeting with the approval of the Department of Public Works;
- (I) the applicant shall connect to it existing sewage treatment plant near Heeiea Bay meeting with the requirements of the appropriate agency;
- (J) two copies of an archaeological data recovery plan shall be submitted for review and approval to the Planning Director in consultation with the Department of Land and Natural Resources-Historic Preservation Division prior to submitting plans for plan approval. Appropriate mitigation measures shall be implemented prior to land alterations of the subject property;
- (K) 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 Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an

archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken;

(L) comply with all other applicable laws, rules, regulations and requirements;

(M) 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 shall be credited towards the requirements of the Unified Impact Fees Ordinance;

(N) 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;

(O) 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 permit;
- 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

P. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the subject property 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:



COUNCIL MEMBER, COUNTY OF HAWAII

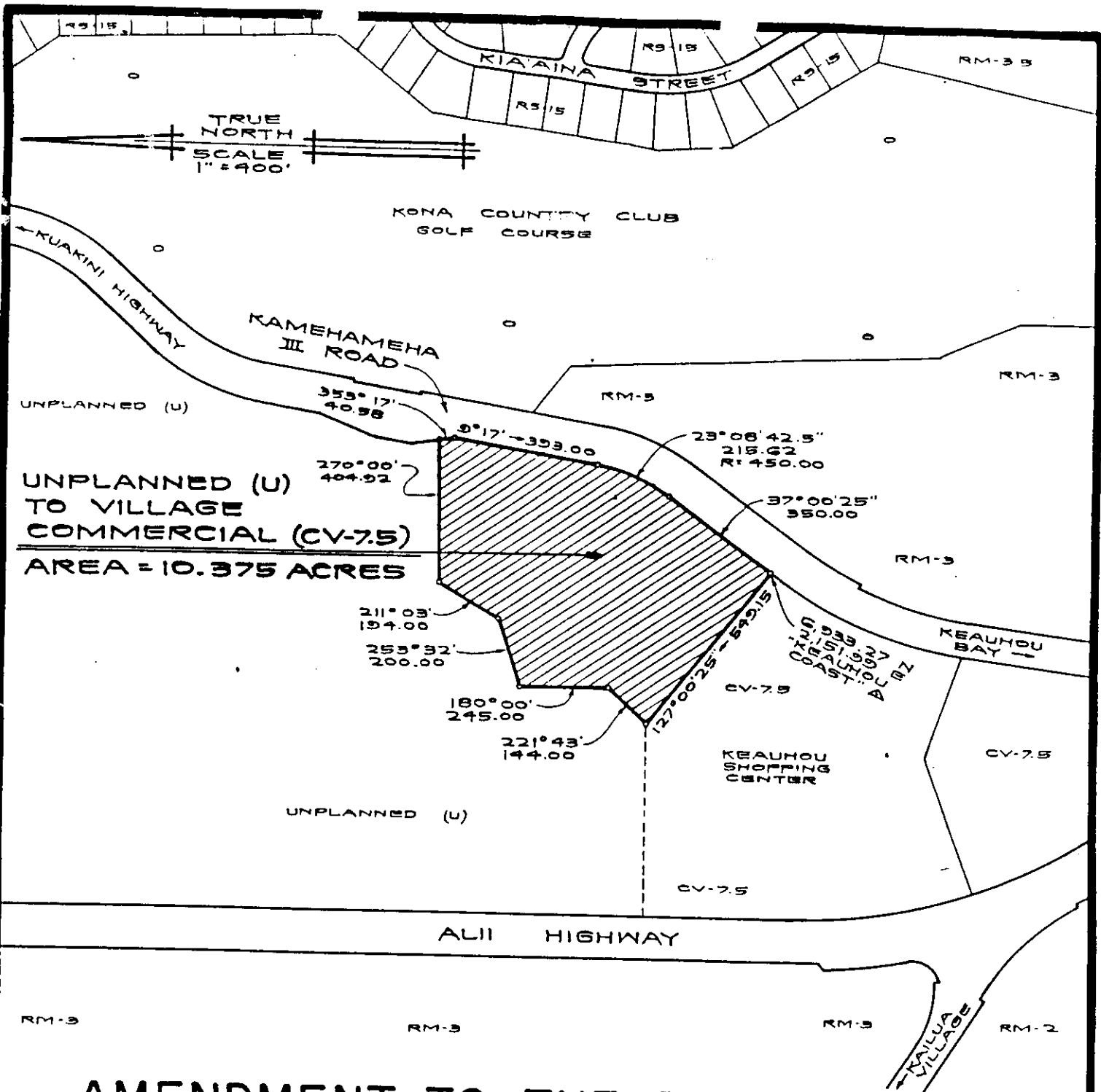
Hilo, Hawaii

Date of Introduction: March 6, 1991
Date of 1st Reading: March 6, 1991
Date of 2nd Reading: May 20, 1997
Effective Date: June 9, 1997

APPROVED AS TO FORM AND LEGALITY


DEPUTY CORPORATION COUNSEL

DATED: 6/4/97



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-87 (NORTH KONA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE BY CHANGING THE DISTRICT CLASSIFICATION FROM UNPLANNED (U) TO VILLAGE COMMERCIAL (CV-7.5) AT KAHALUU, NORTH KONA, HAWAII.

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

Introduced By: Takashi Domingo
 Date Introduced: March 6, 1991
 First Reading: March 6, 1991
 Published: _____

ROLL CALL VOTE

	AYES	NOES	ABS	EX
ARAKAKI	X			
DE LIMA	X			
DOMINGO	X			
HALE	X			
KOKUBUN	X			
LAI	X			
MAKUAKANE			X	
RUDDLE	X			
SCHUTTE	X			
	8	0	1	0

REMARKS:
Approve & adopt Bill on first reading &
refer to PC - 3/6/91

Second Reading: May 20, 1997
 To Mayor: N/A
 Returned: N/A
 Effective: N/A
 Published: N/A

ROLL CALL VOTE

(DRAFT 2)

	AYES	NOES	ABS	EX
ARAKAKI	X			
CHUNG	X			
IEIUEAD-TODD	X			
RAY	X			
REYNOLDS	X			
SANTANGELO	X			
SMITH			X	
TYLER	X			
YAGONG	X			
	8	0	0	0

REMARKS:
05/20/97 - Defer to next Council meeting for
a third reading vote, due to length between
1st and 2nd reading, and new Councilmembers.

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 _____ day
 of _____, 19 _____

MAYOR, COUNTY OF HAWAII

Bill No.: 391 (Draft 2)
 Reference: C-254.01/2257/1991/PC-51
 Ord. No.: _____

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

97 JUN 9 AM 10 49

Introduced By: _____
 Date Introduced: _____
 First Reading: _____
 Published: _____

REMARKS:

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

Third Reading: June 2, 1997
 To Mayor: June 3, 1997
 Returned: June 9, 1997
 Effective: June 9, 1997
 Published: June 17, 1997

REMARKS:

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	
	8	0	-1	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:

[Signature]

DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 6/4/97

Approved/Disapproved this 7 day
 of June, 1997

[Signature]
 MAYOR, COUNTY OF HAWAII

[Signature]

COUNCIL CHAIRMAN

[Signature]
 COUNTY CLERK

Bill No.: 391 (Draft 2)

Reference: C-254.01/2257/1991/PC-51

Ord. No.: 97 79